

21405

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JABRIEL L. SINGLETON,

APPELLANT

APPELLATE CASE NO. 2013-000543

RECORD ON APPEAL

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1 qualified as n expert?

2 A Sixty-one times.

3 Q Sixty-one?

4 A Yes, ma'am.

5 MS. SIMPSON: Your Honor, at this item I
6 would offer John Roberts as an expert in trace
7 evidence to include gunshot residue.

8 THE COURT: All right Mr. Sutherland?

9 MR. SUTHERLAND: No objections.

10 THE COURT: All right. And again, ladies
11 and gentlemen, you've heard my charge several times
12 concerning expert witnesses. This witness will be
13 allowed, Mr. Agent John Roberts, will be qualified
14 by the Court as an expert in the field of trace
15 evidence and gunshot residue to give opinion
16 testimony in those areas. That does not mean that
17 you must accept the opinion; but it is evidence for
18 you, the jury, to use in any way you see fit.

19 Thank you, Solicitor. You may continue.

20 MS. SIMPSON: Thank you, Your Honor.

21 BY MS. SIMPSON:

22 Q And just so we're clear I want to back up a
23 little bit. The gunshot residue will only exist
24 once the gun is fired, right?

25 A Usually, yeah. You can get it by picking up a

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1 gun that's recently been fired. You don't have to
2 be shooting to get it on you. There are basically
3 three ways you get gunshot residue on your hands.
4 You shoot a gun, you're near a gun when it goes off,
5 or you pick up one that's been recently fired. So
6 yes and no. It does have to be fired to be
7 produced; but if I shoot my gun and lay it down on
8 the table, somebody can come by who had not fired
9 that gun and pick it up and get it on their hands.

10 Q Okay. And with respect to gunshot residue, does
11 the proximity or location of an item matter in
12 determining as to whether GSR may be found on a
13 person?

14 A Yes, ma'am. The closer you are to the gun the
15 more you're going to get on you. If you're standing
16 40 feet backwards of me while I'm shooting, you're
17 probably not going to get gunshot residue on you
18 unless I'm shooting into a 45 mile an hour headwind;
19 and even then, it would be chancy at best for me to
20 detect that. If you're standing on the opposite end
21 of my gun and you've got your hands up and I shoot
22 at you, you're gonna get gunshot residue on you if
23 you're close to that gun if you're within, say,
24 8 feet, 9 feet, something like that. You're going
25 to get gunshot on you. If you're standing off to

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1 the side, gunshot residue comes out of a cloud
2 around the mid-section of a firearm and you can get
3 gunshot residue just by standing off to one side or
4 the other.

5 Q Okay. And so if -- so within 8 to 10 feet if I'm
6 within that cloud then when a gun is fired you will
7 potentially have gunshot residue on you?

8 A That's correct.

9 Q And can the range or distance vary depending
10 upon, I guess, different circumstances or factors?

11 A It can. It's --it's dependent a lot on caliber.
12 You get a lot less gunshot residue from a 22, which
13 is a tiny, tiny little caliber versus a 44 magnum,
14 which is huge caliber. Not only are they different
15 sized bullets, but the primmers that are used are
16 different so the amount of explosive contained in
17 that primer would be greater or less depending on
18 the caliber. It also depends on the weapon. If I
19 shoot a really expensive match grade 22 target
20 pistol that's locked up tight, it's not going to
21 produce gunshot residue out of the mid-section of it
22 like a really cheap revolver and a cheap revolver
23 may have gaps and holes that where the gunshot
24 residue can leak out and get on your hand a little
25 bit better rather than a really expensive target

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1 pistol that's all it's doing is generating enough
2 power to get that bullet down range. So the
3 caliber, type of firearm, will make the gunshot
4 residue amount dependent.

5 Q All right. And along that same vein, can the
6 number of shots, could that make a difference in, I
7 guess, the amount of gunshot residue or the range
8 for?

9 A It will make a difference on the amount.

10 Q Okay.

11 A If I fire one item, I've only got one bullet's
12 worth of residue on there. If I fire 19 times, I've
13 got 19 bullets' worth of gunshot residue.

14 Q So essentially, and I believe you said this, but
15 a person who didn't fire a gun for instance, would
16 they necessarily have gunshot residue?

17 A Depends on where they were in relation to the
18 weapon when it's fired. Like I said, if you're
19 standing close to me you could possibly get it on
20 you. If you're in a different county then no,
21 you're not going to get it on you.

22 Q So I could have not fired the gun but still had
23 gunshot residue on my hands?

24 A That's correct.

25 Q Now within that cloud, I guess -- and I know

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1 we've talked about a lot of variables that gunshot
2 residue seems to be dependent upon -- if a gun is
3 shot in the direction or most of the shooting occurs
4 in a car, for instance, would that affect the range
5 of GSR or the amount?

6 A It'll affect the -- if it's fired inside the
7 vehicle it'll affect the amount that gets out of the
8 vehicle. If the windows are shut you're gonna have
9 the majority of that gunshot residue trapped inside
10 the vehicle. If the windows are open, you're gonna
11 get some escape. If you're standing outside the
12 vehicle and fire in, that's dependent as well. I
13 mean, you could still get gunshot residue inside the
14 vehicle if you're standing on the outside firing in
15 depending on how close the weapon is to the car.

16 Q And with respect to gunshot residue, how is it --
17 how does it come to you, how is it collected?

18 A It's collected on two different sampling types.
19 We give out gunshot residence kits to anybody who
20 asks for them as long as they're police. And there
21 are swabs and there are particles. A couple of
22 witnesses before me explained about particle lifts.
23 They're just aluminum disks with double sided carbon
24 sticky tape on them and you dab your surface like a
25 pickup dagger to pick up the gunshot residue.

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1 Swabs are cotton swabs that are treated
2 with aluminium nitric acid, and they are white on
3 the areas to be sampled. And generally, they are
4 only wiped on hands, the front and right palm, right
5 and back of left palm and left back. We generally
6 do not sample inanimate objects with swabs.

7 Q Okay. So the swabs are used for people, I guess,
8 hands and the particle lifts are used for objects or
9 items?

10 A The particle lifts are used for both.

11 Q Okay, for both. So you can use particle lifts on
12 a person as well?

13 A Yes, ma'am, that's right.

14 Q And is there a difference in what is tested or
15 what the swabs test for versus what a particle lift
16 will show you?

17 A We test for the same thing. With the swabs we're
18 testing for an amount, a number, of parts per
19 whatever, of lead, barium, antimony. The particle
20 lifts we're actually looking for the actual pieces
21 of gunshot residue if it's...

22 Q And as far as factors that may affect the ability
23 to collect GSR from an item, what are some of those?

24 A The state of the item as its collected. I go out
25 and shoot and I haven't washed my shirt for a couple

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1 of days you will probably find gunshot residue on
2 that shirt. If I go out and shoot and then I wash
3 my shirt immediately, you're not gonna to find
4 gunshot residue on it. You can remove it by washing
5 it. On people's hands, what we found is after six
6 hours you may still have some of these metals on
7 your hands, but they're not gonna be in amounts that
8 we associate with gunfire.

9 Q Okay. And so can GSR be easily removed or rubbed
10 off?

11 A Yes, ma'am. Simply wiping your hands on
12 something, if you've ever baked, dusted your hands
13 with flour, you know it gets everywhere. If you
14 touch something all of a sudden it's got flour on
15 it. Gunshot residue is much the same. You go
16 shooting and then stick your hands in your pockets,
17 now your pockets have gunshot residue on them. Or,
18 if you don't stick your hands in your pockets and
19 you jump in your car, now anything that you touch in
20 your car has gunshot residue on it. So it's removed
21 by touch; it's removed by washing.

22 Q So it's transferred easily as well?

23 A Yes, ma'am.

24 Q All right. And can -- after I think you said six
25 hours you may still find it, but is there a period

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1 of time in which GSR may just wear off an item?

2 A Yes, ma'am, that's the six hour time window. If
3 you shoot a gun a couple of times and you just sit
4 there, don't touch anything and just sit there and
5 breathe, your body will observe the metals all by
6 itself in about six hours. That's where our six
7 hour window comes in. After six hours we don't find
8 it in the quantities that we associate with a
9 gunfire on a living person. Now if you're deceased,
10 your heart stopped beating and you've stopped
11 breathing and your body stopped absorbing materials
12 so it will stay where it is and tell us remove
13 either biological or sampling.

14 Q Okay. And with respect to the time period and I
15 guess your collection and testing at SLED, do you
16 all have certain standards for which you can
17 actually take an item into custody and test it as
18 far as timing goes?

19 A No. If the kit has been collected within the six
20 hours on a living person, it doesn't much matter
21 when you submit. You can take the collection in
22 January and submit the kit in October of the same
23 year and the material would still be where it is.

24 Q So the GSR, once it's actually collected is
25 maintained no matter how long it takes to test it?

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1 A Yes, ma'am.

2 Q But would you all actually -- I guess, would it
3 even be, I guess, productive to even attempt to
4 collect GSR from somebody after a period of six
5 hours?

6 A It could be collected; we would not analyze it.

7 Q Okay. So you all have standard -- like, over the
8 six hour time period you all will not analyze it?

9 A On a living person normally the six hour time
10 period we don't even -- I mean, when it comes in, we
11 see that it's over six hours; and we'll write a
12 report and say no analysis performed, samples were
13 collected beyond the six hour time period in which
14 probative evidence would be recovered.

15 Q But a deceased victim, that's indefinitely?

16 A Yes, ma'am.

17 Q Did you actually receive some items in this case?

18 A I did.

19 Q Okay. And I'm gonna -- what were those items?

20 A I received the set of eight particle lifts from
21 2002 Suzuki Atari with South Carolina tag . I
22 received the set of three particle lifts from a
23 black glove found at the incident location, and I
24 received a gunshot residue kit from Dashawn Jones.

25 Q Okay. I'm gonna show you what's in evidence as

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1 State's Exhibits 181, 198, and 157. Are these the
2 GSR kits that you received?

3 A State's Exhibit 181 is my item number five. It
4 is a set of eight particle lifts from the 2002
5 Suzuki Atari. When we get evidence in the lab we
6 assign it a lab number that's a unique identifier to
7 that particular case. Each piece of evidence is
8 getting its own item. In this case my lab number is
9 L121128 and this is item number five. That's
10 identified throughout its lifetime at the lab, and
11 then it's identified in my report. And in this case
12 item five was a set of a particle lifts from the
13 vehicle.

14 Q Okay.

15 A And that's 189, is that what that was?

16 Q Oh, 181.

17 A 181.

18 Q Yes, sir.

19 A State's Exhibit 181. State's Exhibit 198 is my
20 item number six which was set of three particle
21 lifts from a black glove found at the incident
22 location. It also has the same lab number and
23 number six on it.

24 Q Oh, 157, yeah.

25 A State's Exhibit number 157 is my item number 7

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1 which was a gunshot residue kit from Dashawn Jones,
2 also has the same lab number, item number on it.

3 Q And were these the only three items that you
4 received for testing?

5 A Yes, ma'am.

6 Q Please tell us about what you did when you
7 received the GSR kit from Dashawn Jones and what was
8 actually contained in it.

9 A The gunshot residue kit from Dashawn kit was what
10 we call a combo kit. It had both swabs and particle
11 lifts in it. What happens is, the evidence comes in
12 the log and placed in SLED. They give it the lab
13 number. They give it the -- all of the unique
14 identifiers that we need when we put it in the box.
15 Then somebody from my lab comes downstairs, picks up
16 all the evidence, and brings it upstairs. And in
17 this case what happened is, item number 7 was
18 processed. And when I say processed, the swabs were
19 taken out and they were prepared for analysis for
20 gunshot residue. They were put on an instrument. I
21 ran the instrument; I generated the data.

22 Q Once you had generated the data from those -- and
23 let me back up. The swabs that you received, what
24 portions of the victim's hands are indicated?

25 A The --

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1 Q Or ---

2 A The swabs are right palm, right back, left palm
3 and left back. It's the back of the hand when I say
4 right back, left back, it's the back of the hand.

5 Q So it's a total of four swabs within one kit?

6 A It's four samples. It was ---

7 Q Okay.

8 A If I'm reading this right, two swabs per sample
9 so eight and control so at least nine, if not ten.

10 Q And what is the control that you're referring to?

11 A The control is taking from an area on the body
12 that's not exposed to, or should not be exposed to
13 gunfire. Somebody wearing long pants and you take a
14 gunshot residue kit from their hands, you're gonna
15 take control from maybe the back of the leg or
16 something like that so that you can get a baseline
17 or levels of metals that may be present already and
18 the control is compared to the four samples from the
19 hands area.

20 Q Okay, and so once you generated the results with
21 respect to the GSR kit on Dashawn Jones, what were
22 you able to do then?

23 A It generates, the instrument generates a series
24 of numbers, and it tells me how much lead, how much
25 barium, and how much antimony are on each sample.

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1 Q Okay. And knowing these numbers, did you
2 actually come to any conclusions or any results with
3 respect to your analysis?

4 A I did. And they are the same for all areas so
5 the right palm/right back, left palm/left back,
6 point of metals found may be associated with gunshot
7 residue. I found levels of lead and barium, lead,
8 barium, and antimony, that we associate with being
9 near a gun when it goes off, handling a firearm, or
10 shooting a firearm.

11 Q So just hypothetically speaking, if a person
12 shoots a gun where would you most -- or if a person
13 is the shooter holding a gun, where would you most
14 likely expect to find the gunshot residue or where
15 would it be more heavily indicated?

16 A What we look for or what we -- the conclusion
17 that we draw when we're asked if, is this person a
18 shooter or not, is whether they had it on palms and
19 back of their hands. Generally if you just stick a
20 gun up and just don't have it on the palms of your
21 hands because nobody picks up a gun like
22 (indicating). You don't -- your fingers don't bend
23 the right way if you got it with the backs of your
24 hands. You pick it up with your fingers and the
25 palm which is one of the places that we test for

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1 gunshot residue. So if a person has kind of just
2 threshold amounts of gunshot residue on their palms,
3 that's more indicative to somebody that just picks
4 one up. If they have it on the palms and backs,
5 that's a little more indicative to somebody that's
6 shooting because the backs of your hands are exposed
7 so the gunpowder — or gunshot residue when you're
8 firing the firearm.

9 Q All right. And would you always — if the person
10 is in close range or in the presence of a gun when
11 it's fired can they also have gunshot residue on the
12 palms and the backs of their hands?

13 A Yes, ma'am. Depending on how the hands are
14 positioned when the gun goes off, you can get it on
15 the palms and backs. What we look for is just if
16 somebody's standing directly in front of the gun
17 with their hands up in front of their face, they're
18 gonna have huge, huge, huge amounts of lead, barium,
19 antimony on the palms of their hands and maybe not
20 so much on the back. So we can draw some
21 conclusions about large amounts on one area versus
22 the other and maybe how it relates to their posture
23 at the time that the gun was fired.

24 Q Okay. And so you can essentially be the shooter
25 or not the shooter and have gunshot residue on palms

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1 and backs?

2 A Yes, ma'am.

3 Q And can you please tell us about the process that
4 you used to test item five, the lifts from the car?

5 A Taking lifts from a car is much simpler than the
6 processing of swabs. In this case they were taken
7 out and it was noted where they came from. The
8 lifts were re-labeled as to the places on the car
9 where the particles were taken from. And then I
10 took them and put them on the microscope that I use
11 to look for gunshot residue and run them over how
12 long it takes to run those little particle lifts and
13 then I generated a report. In this case there were
14 eight lifts, if you give me a second I can tell you
15 exactly where they were from. I had a lift from the
16 driver's door, one labeled above driver's door, one
17 labeled rear driver's side door, one labeled above
18 rear driver's side door, one labeled front pass side
19 door, one labeled above front pass side door, one
20 labeled rear pass side door, and one labeled above
21 rear pass side door.

22 Q And were you able to make any determinations with
23 respect to each of those lifts, or are they, I
24 guess, reported as one lift or eight individual
25 lifts?

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1 A I work them one at a time. When I write the
2 report on vehicles and clothing I report either the
3 vehicle or clothing depending on what I've got. In
4 this case I reported the whole vehicle so all eight
5 lifts were reported on them once collected so the
6 eight particle lifts from the 2002 Suzuki car and
7 samples collected from that vehicle gunshot residue
8 was found.

9 Q Okay. Now can you explain that result, gunshot
10 residue was found versus other result are indicated?

11 A Sure. When I say gunshot residue was found,
12 that's exactly what I mean. I found round particles
13 that contained lead, barium, and antimony in that
14 vehicle. Round particles that contained lead,
15 barium, and antimony are indeed gunshot residue.
16 They don't come from making fishing weights, they
17 don't come with changing your brake pads, they come
18 from gunfire.

19 Q All right. And I guess with that result can you
20 also have GSR found on a person if it's not a
21 particle lift?

22 A No. With a person, the strongest positive result
23 I can give is metals associated with gunshot residue
24 were found. In certain cases we will take a
25 person's particle lifts and run them; and if I find

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1 gunshot residue on those particles lifts that's
2 belonging to that person, then I can say on Billy
3 Bob Evans gunshot residue was found on one palm.

4 Q And can you please tell us about, I guess, what
5 the item was, item 6, and the process that you used
6 on that?

7 A Item six was particle lifts, three particle lifts
8 taken from the glove found at the scene. Same
9 processing mode as the particle lifts from the
10 vehicle except there was only three instead of
11 eight. Ran them on the same microscope and in this
12 case got the same results. The three samples that
13 were collected from the glove, gunshot residue was
14 found.

15 Q All right. And those were actually -- you said
16 three lifts were taken from inside the glove or --

17 A They were --

18 Q --or three lifts were taken -- I'm sorry, it's
19 late. Three lifts were taken from the glove?

20 A Yes, ma'am. And if you'll give me a second I can
21 tell you exactly where they were taken from. I had
22 one lift from the palm, one lift from the back, and
23 one lift from the inside of the glove.

24 Q Okay. And was GSR found on all of those lifts?

25 A No, ma'am. I found gunshot residue particles on

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1 the palm and the back. And I found a round lead
2 particle of barium, a lead barium particle on --
3 particle lift from the inside so a particle I
4 associated with gunshot residue but it's not unique
5 to gunshot residue.

6 Q So the glove would have had gunshot residue on
7 both the palm and hands?

8 A Yes, ma'am.

9 Q Correct?

10 A Yes, ma'am.

11 Q Kind of similar to the victim's hand but the palm
12 and the front of the hands similar ---

13 A Similar that ---

14 Q Or back and palm, I'm sorry?

15 A Similar as to being positive, yes, ma'am.

16 MS. SIMPSON: Beg the Court's indulgence
17 one moment.

18 (Pause.)

19 BY MS. SIMPSON:

20 Q Okay. This is another, I guess, hypothetical.
21 If a person is seated in a car and is shot at close
22 range being close range around the gun when it's
23 fired, is there a chance that that person can have
24 gunshot residue on both the fronts, or palms and
25 backs of the hand?

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1 A Yes, ma'am.

2 Q All right, thank you.

3 A You're welcome.

4 THE COURT: Mr. Sutherland.

5 MR. SUTHERLAND: May it please the Court.

6 **CROSS - EXAMINATION**

7 **BY MR. SUTHERLAND:**

8 Q How are you?

9 A I'm doing well.

10 Q That's good, that's good. We will be relatively
11 brief here.

12 A Take your item.

13 Q My understanding of your testimony is that if
14 lead, barium, and antimony are together on you, that
15 that's gunshot residue?

16 A If they're together in one particle and it's
17 spherical as gunshot residue, yes, sir.

18 Q And you don't get it from fishing or, fishing
19 weights or any of that?

20 A No, sir, you do not.

21 Q Okay. And very quickly, just, I believe I heard
22 you distinguish between swabs and particle lifts and
23 that particle lifts and tests for presence and swabs
24 test for amounts. Did I hear that correctly or?

25 A That's basically what it is.

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1 Q Yes, sir.

2 A The swabs test for how much lead, barium, and
3 antimony is there. I can't tell you that, I can't
4 tell you conclusively that that lead, barium, and
5 antimony found in that area is gunshot residue.
6 With particle lifts, however, if I found a round
7 particle lift that has all three of those metals in
8 it I can tell you conclusively that that is gunshot
9 residue.

10 Q Okay, okay. So, effectively you did find gunshot
11 residue inside the vehicle where those tabs were
12 pulled from above the doors. Is that all the tabs
13 inside the vehicle?

14 A Not on every single one of them.

15 Q Okay.

16 A Put on several of them I found gunshot residue.

17 Q Okay. And I think your testimony was that if
18 somebody is sitting inside the vehicle and they're
19 discharging a firearm it has to escape through the
20 windows or something?

21 A It can escape through the windows, otherwise,
22 it's contained in them -- I mean, it's like shooting
23 a gun inside the box. Everything is going to be
24 inside the box.

25 Q And if someone is outside the vehicle shooting in

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1 the vehicle is not necessarily going to be in there,
2 the vehicle?

3 A It can be; but depending on how far away and the
4 position of the gun and all of that other stuff, it
5 can be.

6 Q All right. And again, let's see, you did find
7 gunshot residue on the gun ---

8 A Yes.

9 Q --on some of it? And then the metals associated
10 with gunshot residue were on the right palm, right
11 back, left palm, and left back of Dashawn Jones.

12 A That's right.

13 Q No further questions, thank you.

14 A You're welcome.

15 THE COURT: Redirect?

16 MS. SIMPSON: Briefly, Your Honor.

17 **REDIRECT EXAMINATION**

18 **BY MS. SIMPSON:**

19 Q If a person is standing within a foot or 2 feet
20 from a vehicle, shooting inside that vehicle
21 (indicating), arm up, close range, gun is close to
22 an opened door, would you expect to find that cloud
23 of gunshot residue kind of within inside that box?

24 A I would expect to find gunshot residue in the
25 vehicle, yes, ma'am.

SW - J. ROBERTS - CROSS

1 Q Okay. Thank you.

2 MR. SUTHERLAND: Nothing further, sir.

3 THE COURT: Thank you. Thank you very
4 much. You may step down. You may be excused.

5 All right. Perhaps now would be a good
6 time for us to take our evening recess. Mr.
7 Foreman, ladies and gentlemen of the jury, I would
8 remind you once again, do not talk about this case
9 or discuss this case with anyone including your
10 fellow jurors, family, friends, or anyone else. If
11 anyone tries to talk with you about the case please
12 let me know. Also, remember my instructions
13 concerning your use of your computer, cellular
14 phone, or other electronic device, communication
15 capabilities to obtain or disclose any information
16 about the case when you're not in court.
17 Information about the case include but is not
18 limited to the following information about a party,
19 a witness, an attorney, or a court officer, news
20 accounts of the case, information collected through
21 your research on any topic, race, or testimony
22 offered by any witness or information collected
23 through juror research on any other topic the juror
24 might think with be helpful in deciding the case.
25 I'm sure y'all understand your instructions. Decide

1 the case based on the evidence and testimony you
2 hear in the courtroom and the law as I tell you the
3 law is.

4 With that being said, you're now excused
5 for the evening. I would ask you please be back at
6 9:30 in the morning. If you'd leave your notes the
7 clerk's office will secure them for the evening.
8 Hope y'all have a pleasant evening. Thank you very
9 much.

10 (The jury is removed from the courtroom at
11 5:43 p.m., and the following proceedings
12 commenced.

13 THE COURT: All right. How many more
14 witness you have, Solicitor?

15 MS. CAVANAUGH: Beg the Court's
16 indulgence, Your Honor. We have -- Your Honor, we
17 have probably eight but only five are going to be,
18 you know, of substance as far as time frame.

19 THE COURT: You got DNA. You got the
20 pathologist.

21 MS. CAVANAUGH: We have two more
22 investigators, Your Honor, and then we have a
23 firearms expert.

24 THE COURT: Then you have one of those
25 investigators ---

1 MS. CAVANAUGH: One of those is our lady
2 investigator, and then potentially another lay
3 witness.

4 THE COURT: You're going to rest tomorrow,
5 Solicitor?

6 MS. CAVANAUGH: We fully anticipate
7 resting tomorrow.

8 THE COURT: Resting when?

9 MS. CAVANAUGH: Tomorrow.

10 THE COURT: All right. Keep that in mind,
11 Mr. Sutherland.

12 MR. SUTHERLAND: Yes, sir.

13 THE COURT: All right, thank you. If
14 y'all have any requests to charge, although I
15 realize that we're at the directed verdict stage, I
16 understand that. What I would like is the
17 opportunity to begin thinking through any requests
18 to charge you may have provided to me in the morning,
19 something like that.

20 MS. CAVANAUGH: Thank you, Your Honor.

21 THE COURT: Anything further the State
22 before we take our recess?

23 MS. CAVANAUGH: No, Your Honor.

24 THE COURT: Defense?

25 MR. SUTHERLAND: Just briefly. Your

1 Honor, I understand I'm about to receive some more
2 discovery. I've told the State that I'll review it
3 tonight, and if I have any objection I'll make the
4 objection in the morning.

5 THE COURT: I tell you what, we'll be here
6 at 9:15, okay?

7 MR. SUTHERLAND: All right, that'd be
8 perfect.

9 THE COURT: Thank you so much. Thank you.
10 (Whereupon, court was adjourned to resume
11 on March 7, 2013 at 9:15 a.m.)

12 THE COURT: Solicitor, anything before we
13 bring in our jury from the State?

14 MS. CAVANAUGH: Your Honor, Mr. Sutherland
15 indicated to me last night that he has no issues
16 with the bench notes that we turned over yesterday
17 regarding the firearms analysis so has no problems
18 there. We did go through several, almost close to
19 probably over 50 autopsy photos that we plan on
20 introducing. We showed, we narrowed it down as best
21 that we could. We showed them to Mr. Sutherland.
22 He does have issues with the ones that show the
23 actual gunshot wounds. We'll be happy to —

24 THE COURT: All right. Do you have them
25 marked for identification, Solicitor?

1 MS. CAVANAUGH: I do not at this point.

2 THE COURT: Go ahead and mark them for
3 identification and hand them up to Mr. Sutherland.

4 MS. CAVANAUGH: Yes, sir.

5 MR. SUTHERLAND: If I may, Your Honor, I
6 have cleared early on a motion to exclude such
7 photographs and also included some crime scene
8 photographs which the State ended up not attempting
9 to admit so there is some discussion in my motion of
10 crime scene photos, but it generally revolves around
11 the particular issue of autopsy photos.

12 THE COURT: All right, thank you.

13 MR. SUTHERLAND: And a copy has been
14 provided to the State.

15 THE COURT: All right, thank you.

16 (WHEREUPON, State Exhibits Nos. 214
17 through 220 were marked for identification
18 only.)

19 MS. CAVANAUGH: Your Honor, I hand up
20 State's Exhibits 214 to 220.

21 MR. STEADMAN: When will the pathologist
22 be testifying?

23 MS. CAVANAUGH: Doctor Durso is coming
24 this morning at 10 a.m.

25 THE COURT: All right. Mr. Sutherland.

1 MR. SUTHERLAND: Sir, I -- I do believe
2 that the State's capacity to establish material
3 facts with respect to the injuries lies in competent
4 testimony. They also have a diagram of, of these
5 injuries, which was submitted by the pathologist and
6 the diagram shows the injuries. She can testify
7 about the nature of the injuries. I don't see the
8 probative value with respect to those photos of the
9 deceased where they have a black and white diagram
10 which shows the precise same injuries but do not
11 show them in the context of an autopsy. I just, I
12 believe it will be more prejudicial than probative
13 where they have an easier and frankly less
14 distracting means of-- and Your Honor, if I may hand
15 up the diagram that they turned over from the
16 pathologist.

17 THE COURT: Yes, sir. Is it going into
18 evidence?

19 MS. CAVANAUGH: Yes, Your Honor, I think
20 it will.

21 THE COURT: I'll be glad to look at if you
22 mark it for identification purposes.

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: Or is it being offered into
25 evidence?

1 MR. SUTHERLAND: The very injuries
2 depicted on the photograph are depicted on the
3 diagram which the State has informed the Court that
4 they intend to introduce the diagram so those
5 photographs would be cumulative and prejudicial.
6 That's my sincere belief, sir. I don't think
7 there's any need for them to introduce them. They
8 can do more harm than good.

9 THE COURT: All right, thank you.
10 Solicitor.

11 MS. CAVANAUGH: Thank you, Your Honor. We
12 believe that these photographs of the gunshot wounds
13 are extremely probative of our case and are not
14 substantially outweighed by the danger of unfair
15 prejudice under Rule 403. All of the cases that
16 Mr. Sutherland has cited in his motion discuss
17 gruesome photographs. As far as State v. Edwards
18 under State v. Waits which is a 1953 case, they're
19 specifically referring to crime scene photos of the
20 deceased taken in the boiler room of a parish house.
21 State v. Middleton which is also cited multiple
22 times in Mr. Sutherland's motion, that refers to
23 autopsy photos that depicted scalp, a scalp pulled
24 away from the victim's skull as well as a photo that
25 showed a surgically opened vagina cavity exposing

1 seminal fluid. Clearly, these are -- and we've
2 redacted them to the best of our ability as well as
3 narrowed them down. Clearly these are not photos in
4 the gruesome nature as described in these cases that
5 Mr. Sutherland cited, as well as a central issue is
6 that photographs in the guilt phase of the trial,
7 which I assume this is what we're in, photographs
8 should only be excluded if calculated to arouse a
9 jury's sympathy or prejudice and we're not, we're
10 not trying to do that. Mr. Sutherland has made a
11 self-defense an issue in this case through his
12 opening and through the cross-examination of some of
13 the witnesses. While we don't know exactly what his
14 defense is, that is where he's headed. These photos
15 are important to show the number of gunshot wounds
16 that the victim suffered, the diagram that Mr.
17 Sutherland referred to is not drawn to-scale. They
18 do not -- the diagram does not show exactly where on
19 the body these wounds are located as the photos do.

20 Specifically, also in Mr. Sutherland's
21 cross-examination of the gunshot residue expert, he
22 made an issue about the closeness of the range of
23 the shooter. Gunshot number or mark number eight
24 shows the stippling (indicating). That is the only
25 gunshot wound where range was able to be determined.

1 The difference between that wound and the other
2 wounds are relevant to our case, and we believe that
3 we need those photos to be admitted because one of
4 the elements in our — that we have to prove in
5 murder is malice. And so it is an issue in our
6 case; and it is material to our case, Your Honor.

7 THE COURT: All right. Well, the most
8 recent guidance that I have read on photographs is
9 State v. Collins offered by Justice, Judge Few,
10 concerning the fact of a child — by dangerous dog
11 that ended up not only taking the child's life but
12 eating the child or parts thereof and there's a full
13 and complete analysis in that particular case by the
14 appellate court of probative value and the
15 prejudicial effect, and the danger of unfair
16 prejudice and the balance that the Court must go
17 through between the probative value and the unfair
18 prejudice. I think that's contingent upon the
19 pathologist's testimony. Number one, I think I
20 would have to hear her testimony as to these wounds
21 and while I don't question the solicitor at all and
22 respect to the court but what the probative value to
23 the expert witness would have. These are number
24 one.

25 Number two, it appears the Solicitor has

1 handed me up 214 for identification which has A, or
2 215 for identification which has B. There's also a
3 hand in the photograph. Is that the -- whose hand
4 is that, Solicitor?

5 MS. CAVANAUGH: That is the victim's hand.

6 THE COURT: And 216 for identification has
7 the C on it, and 217 appears to be the same wound in
8 a different angle. 217 for identification has the
9 scale; 216 does not. Where it has the scale only to
10 the extent, 216 has a scale to the extent that the C
11 placard has the scale on it, but there's a different
12 type of scale on 217.

13 D shows a wound to the right clavicle area
14 (indicating) and also shows a, some type of defect,
15 red mark, above and to the right of the left breast.

16 E, 219-E shows what appears to be a
17 gunshot wound. Where is this located on the body,
18 Solicitor, 219?

19 MS. CAVANAUGH: Which marker did you refer
20 to?

21 THE COURT: Placard E. You can look at it
22 here, Solicitor.

23 MS. CAVANAUGH: Is that -- that's a
24 closeup, Your Honor. E, E is actually the right,
25 the right shoulder.

1 THE COURT: All right. I thought it would
2 be right upper arm. I couldn't tell. I believe the
3 right arm is F.

4 MS. CAVANAUGH: I believe the right arm is
5 F.

6 THE COURT: F appears to be the forearm.
7 All right. Well, we'll hear from the pathologist.
8 I'll take it under advisement.

9 MR. SUTHERLAND: Thank you.

10 THE COURT: Anything further before we
11 bring in the jury?

12 MR. SUTHERLAND: Your Honor, if I may,
13 this morning right before we began I was presented
14 with another stack of papers. These, the State
15 informed me they don't intend to introduce.

16 THE COURT: I don't understand why you
17 keep getting papers, Mr. Sutherland.

18 MR. SUTHERLAND: It's beginning to wear on
19 me, sir. These, the State says they don't intend to
20 introduce but they intend to publish them to the
21 jury. Now somewhere the witness is supposed to
22 explain basically triangulation as far as the cell
23 phone towers. I mean, I can understand it
24 demonstrative in that respect because it's kind of
25 complicated, and I'll probably draw something up on

1 the board myself. But with respect to actual
2 analysis and pinpointing locations and times on a
3 map which they intend to show to the jury, handing
4 it to me before we're starting and we're going to be
5 doing other things and then taking it back, I'd have
6 to object to them publishing. And frankly, I can't
7 remember because I only had a few seconds to look at
8 it but I would just object to them publishing these
9 maps, publishing the times and all that that are
10 supposed to be tracking locations and people's cell
11 phones. I mean, even if they have given it to me
12 last night I could have taken a look at it last
13 night and been more prepared to address the Court
14 about the items that they intend to publish. I'm
15 just in the dark right now and I'd ask that they not
16 be allowed to publish. I'd have to look through
17 them one more time to solidify my objection to them,
18 again, because I've only seen them for a few seconds
19 Your Honor.

20 THE COURT: Thank you. Solicitor.

21 MS. SIMPSON: Your Honor, and I gave
22 counsel the opportunity. He actually handed these
23 back to me. What he's referring to, the phone
24 records which one set of the records are in
25 evidence. Our custodian of records will be

1 testifying as to the other set of cell phone
2 records. All of those records were provided in
3 discovery to Defense. There's nothing in this
4 demonstrative as far as information goes with
5 respect to tower locations, calling numbers,
6 duration, all the information contained in this
7 power point is within the records itself. However,
8 with phone records, you know, they are voluminous.
9 This is the way our witness intends to explain
10 what's contained in the phone records to the jury,
11 you know, the sorting of them. We are going to
12 qualify him as an expert witness or attempt to
13 qualify him, but there is no additional information.
14 And as I said, we are only seeking to introduce this
15 as a demonstrative piece of and not into actual
16 evidence to go back with the jury. It's one way for
17 the witness to relay the information that will be
18 most, to help the jury understand what these records
19 mean and what this information is.

20 MR. SUTHERLAND: If I may, sir, if ---

21 THE COURT: Why don't you e-mail him the
22 power point?

23 MS. SIMPSON: The actual power point is
24 being brought. I don't have a copy of the power
25 point.

1 THE COURT: Why don't you give him a copy
2 of the power point.

3 MS. SIMPSON: Oh, here's the...

4 MR. SUTHERLAND: Sorry, Your Honor, the
5 rational for not giving me the copy was that they
6 didn't intend to introduce it.

7 MS. SIMPSON: And Your Honor, it's the
8 State's position that while we don't think we're
9 required to actually turn this over to the Defense,
10 I'm happy to provide it at Your Honor's direction;
11 but we do intend to publish this to the jury.

12 THE COURT: Well, I'm not trying -- your
13 witness has not yet been offered is going to offer
14 records?

15 MS. SIMPSON: Yes, Your Honor.

16 THE COURT: And I take it this is the
17 Verizon witness?

18 MS. SIMPSON: No, this is another witness
19 who analyzed the cell phone records. The records
20 will come through in through the Verizon custodian.

21 THE COURT: And then the records, -- that
22 if they're introduced, they're allowed into
23 evidence, the records contain a great deal of
24 information part of which what has been extracted

25 ---

1 MS. SIMPSON: Yes, Your Honor, that's ---

2 THE COURT: ---for this power point.

3 MS. SIMPSON: That's correct.

4 THE COURT: To the power point.

5 MS. SIMPSON: We -- yes.

6 THE COURT: That's what you're saying?

7 MS. SIMPSON: Yes, Your Honor.

8 THE COURT: So there's nothing in the
9 power point that is not contained within the cell
10 phone records?

11 MS. SIMPSON: Correct. There is one slide
12 about just demonstrating how the cell phone works;
13 but everything else -- the substantive portion of
14 this is the phone records, Your Honor.

15 MR. SUTHERLAND: And I wouldn't have any
16 objection to that. I mean, it's often helpful -- I
17 draw pictures all the time. It's helpful;
18 demonstratives are helpful. But just as an example,
19 at 1355 they've got a triangulation on a particular
20 location on the map. I don't have the time -- we're
21 trying a case. I don't have the time to go back to
22 those records and see if that's accurate. It will
23 be -- he will be on the stand and he will be
24 testifying about it and I've got these -- cell phone
25 records which ultimately, again, if they had given

1 them to me yesterday or yesterday evening, I'd have
2 probably lost a couple more hours of sleep, but I
3 would have had time to look at it. I'm just
4 reaching a tipping point with respect to receiving
5 documents from the State during a murder trial, sir.
6 Sorry.

7 MS. SIMPSON: And Your Honor, if I may
8 just briefly address. With respect to the locations
9 and the times, and yes, a substantial amount of
10 phone records were provided in discovery a while ago
11 to Defense. As far as relevant particular times I
12 think it's clear that we're going to be focused on
13 this very limited frame from the time this incident
14 occurred and a short time after that incident
15 occurred and just a short time before it, which is
16 clear through all the discovery. And this
17 information is in the phone records. And based on
18 the 1355 and the tower locations, you know, counsel
19 can verify that fairly easily with the records that
20 were provided.

21 MR. SUTHERLAND: I -- Your Honor, I'll
22 just stand on my arguments thus far.

23 THE COURT: Well, I've heard your
24 arguments and let me ask you think, what are you
25 asking me to do?

1 MR. SUTHERLAND: Your Honor, I'm actually
2 arguing that this is a discovery violation. They
3 say they intend to publish it, but they don't intend
4 to introduce it. It just seems to me to be just
5 skirting around the requirement to turn things over
6 to me of significance so that I can review and
7 analyze them and I've prepared cross-examining
8 witnesses. She -- sorry, the State has offered that
9 it's, quite easy, and it may or may not be. All I
10 have seen is this (indicating). I haven't had time
11 to really -- had time other than to see that there
12 are times and locations on there to, to analyze any
13 further for its accuracy, whether there could be
14 other interpretations. It's, again, I don't have a
15 problem with demonstratives and them talking about
16 the way radio signals work. I mean, that's part of
17 this thing, and I do have some experience in the
18 military as far as signals intelligence. I
19 understand they need to show people how they
20 triangulate to find the location. My problem is
21 that they're handing this to me right before they
22 want to show it to the jury, and I'd just like to --
23 to have had the opportunity to see if it's accurate.
24 We have to try this murder case today. If is it
25 going to be during lunch that I might have the

1 opportunity to run over and look through this where
2 often times I have other things -- and I need to go
3 home and get my vitamin. I've got to take my
4 vitamin during lunch today, Your Honor. I just feel
5 like these are things that could have been turned
6 over long ago, even a short while ago, and I
7 wouldn't be as with the ballistics evidence that was
8 turned over to me yesterday afternoon I had the --
9 or last evening. I had the opportunity to review
10 that, and I don't have a problem with them turning
11 that over to me. I have a problem with it, but it's
12 not going to impact the defense in any way. That
13 was my analysis of it; therefore, I had no objection
14 to it. I'm just unable at this time still to state
15 exactly what it is that they've turned over to me
16 other than what they're telling me it is; and you
17 know, my capacity to look in the few seconds and
18 sort of figure out what it is that I'm looking at.
19 I mean, there just wouldn't have been time. If I
20 had had last night I'd have been able to go through
21 it and ---

22 THE COURT: How much time you need?

23 MR. SUTHERLAND: I mean, if -- if they
24 would call the witness tomorrow, Your Honor.

25 THE COURT: I intend on the State resting

1 today so it's going to be fairly difficult to call
2 the witness tomorrow.

3 MR. SUTHERLAND: Yes, sir.

4 COURT: And when I say intend, you know,
5 6:30 might be early.

6 MR. SUTHERLAND: Yes, sir, and ---

7 THE COURT: I'll give you the opportu---
8 with that being said, many times what I intend to do
9 is not what ended up being happening.

10 MR. SUTHERLAND: Yes, sir.

11 THE COURT: You understand that? I -- my
12 intentions are very different from what the reality
13 world would offer me. How much time do you need to
14 look at it?

15 MR. SUTHERLAND: I think perhaps an hour.
16 And if -- I really don't have an answer for the
17 Court and because I just found out about this.

18 THE COURT: Well, based on what's been
19 presented to me at this time it's not a discovery
20 violation if all the material was included within
21 that which was turned over.

22 MR. SUTHERLAND: Yes, sir.

23 THE COURT: If it was included in the
24 T-mobile and Verizon and other, it's clearly not a,
25 not a discovery violation. And under Rule 1006 of

1 the South Carolina Rules of Evidence the contents of
2 voluminous writings, recordings, photographs which
3 cannot conveniently bound in form of a chart,
4 summary, or a calculation provided the underlying
5 data was admissible into evidence. Of course, the
6 rules of evidence were written prior to power point.

7 MR. SUTHERLAND: Yes, sir.

8 THE COURT: I've tried cases prior to the
9 rules of evidence so with that being said, they can
10 certainly extract and present it in a summary
11 fashion which is as, you know, and all good trial
12 lawyers know, that's how you want to present
13 evidence to the jury to focus on, focus on that
14 which is, which is relevant to the case.

15 Solicitor, let me ask you this, when do
16 you want to do explanation or the power point?

17 MS. SIMPSON: Your Honor, we have -- he's
18 scheduled to be here at 10:30 but that's just
19 because that's when we have our last round of
20 witnesses. He's probably fourth in our lineup. And
21 just briefly, I did leave out one thing, Your Honor,
22 with respect to power locations that defense counsel
23 seems surprised by, in our investigative reports
24 that were turned over, Investigator Unger as well as
25 Lieutenant Scott McDonald who is the witness who

1 will be testifying on this point, you know, tower
2 locations are is made an issue. They are addressed
3 in the investigative reports in addition to the
4 actual records that are provided. But, yes, fourth
5 in the lineup, that is -- we have --

6 THE COURT: Well, I'm going to give, as I
7 say, I do not find it's a discovery violation but
8 I'll give Mr. Sutherland an opportunity to review
9 that item and the power point prior to the
10 presentation of the witness.

11 MS. SIMPSON: Thank you, Your Honor.

12 THE COURT: All right. Thank you,
13 Solicitor.

14 MR. SUTHERLAND: And if I may out of
15 abundance of caution, I'd like to inquire of the
16 State if there are any other discovery or anything
17 else that they -- since it's happening every day, is
18 there anything else that they have please give it to
19 me now.

20 THE COURT: All right, Solicitor.

21 MS. CAVANAUGH: No, Your Honor.

22 MR. SUTHERLAND: Thank you, sir.

23 THE COURT: So you won't be getting
24 anymore discovery. There is no more discovery,
25 correct?

1 MS. CAVANAUGH: Well, Judge, since we are,
2 Your Honor, since we are with demonstrative evidence
3 at this point we do have some charts, a chart, that
4 summarizes the DNA result; but again, that's
5 demonstrative. It's contained in the DNA report
6 that he already has. That would be the only piece
7 of paper I know that we plan on publishing to the
8 jury that we haven't turned over to him.

9 MR. SUTHERLAND: I would like, I would
10 like to see it —

11 THE COURT: All right.

12 MR. SUTHERLAND: ---ultimately just -- I
13 mean, I know what the DNA evidence is in the case; I
14 know what the testimony's going to be but...

15 MS. SIMPSON: And Your Honor, as I said,
16 these are use of demonstrative only, and they are
17 the exact results as they're indicated. The
18 language is exactly the same. Again, this is just
19 for purposes of relaying the information to the
20 jury. I will be happy to let Defense counsel review
21 them, but there's nothing in this that's absence the
22 report.

23 MR. SUTHERLAND: And I don't have a
24 problem with this one (indicating). This is
25 actually the substance of the report that I

1 received.

2 THE COURT: Are those are just
3 enlargements ---

4 MR. SUTHERLAND: Yes, sir.

5 THE COURT: --and a redacted report?

6 MR. SUTHERLAND: They just divided it up
7 to, and I don't have a problem with that at all.

8 THE COURT: Any others, you have any other
9 demonstrative evidence? How about ballistics or ---

10 MS. SIMPSON: No, we don't have, Your
11 Honor.

12 THE COURT: ---fingerprints or anything
13 else?

14 MS. CAVANAUGH: No, Your Honor. No, that
15 would be it.

16 THE COURT: Thank you, sir.

17 All right. Y'all ready for the jury,
18 Solicitor?

19 MS. CAVANAUGH: Yes, Your Honor.

20 MR. SUTHERLAND: Yes, sir.

21 (The jury was returned to the courtroom at
22 9:58 a.m.)

23 THE BAILIFF: Your Honor, the jury's all
24 present.

25 THE COURT: Thank you. Thank you very

1 much, Mr. Bailiff.

2 Mr. Foreman, ladies and gentlemen of the
3 jury, good morning. Welcome back. I apologize for
4 the delay. I had some matters to take up with the
5 attorneys. As I tell you every morning and it's
6 correct every morning, the attorneys were not on
7 time; they were early. They were working very
8 diligently in an attempt to move the case along
9 efficiently throughout the trial of the case. I
10 hope you've all had a — I hope y'all had a pleasant
11 evening. We're continuing the trial of this case
12 burr the presentation of evidence and testimony by
13 the State in its case and chief.

14 Solicitor, you may call your next witness.

15 MS. CAVANAUGH: Thank you, Your Honor.

16 The State calls Corporal Randy Hayhurst.

17 THE COURT: All right, if you'd come
18 around and be sworn please.

19 WHEREUPON,

20 **RANDY HAYHURST,**

21 after having been duly sworn, testified as follows:

22 THE WITNESS: Corporal Raymond Hayhurst,
23 H-A-Y-H-U-R-S-T, Richland County Sheriff's
24 Department Fugitive Task Force.

25 **DIRECT EXAMINATION**

SW - R. HAYHURST - DIRECT

1 **BY MS. CAVANAUGH:**

2 Q Corporal Hayhurst, how long have you been with
3 the.

4 Richland County Sheriff's Department?

5 A Been with the Sheriff's Department 15 years
6 coming up.

7 Q And how long have you been on the fugitive team?

8 A I worked the majority of my time with the
9 Sheriff's Department. I spent about a
10 year-and-a-half on the road.

11 Q Okay. I'm going to take your attention to
12 January 25th of 2012. Did you go to Hor Hill
13 Road, or at least the surrounding area that day?

14 A Yes, ma'am.

15 Q And why did you go to this location?

16 A We were looking for the suspect Mr. Singleton.

17 Q Okay, Jabriel Singleton?

18 A Yes, ma'am.

19 Q And at this time when you went to this location
20 did you know what the defendant was charged with?

21 A Yes, ma'am.

22 Q And what was that?

23 A Murder, ma'am.

24 Q State's Exhibit 193, do you recognize this area?

25 A Yes, ma'am.

SW - R. HAYHURST - DIRECT

1 MS. CAVANAUGH: And permission for the
2 witness to step down, Your Honor.

3 THE COURT: Yes, sir, just keep your voice
4 up when you're away from the microphone.

5 (Witness steps down.)

6 BY MS. CAVANAUGH:

7 Q What does this area show?

8 A This area shows the area off Hor Hill Road and
9 Cross Hill Road in Hopkins.

10 Q You want to use that pointer so you don't have
11 to -- Okay. And upon arriving at this location
12 where did y'all, where did y'all first park your
13 vehicles?

14 A We came in on Cross Hill. We came in this
15 driveway here at these residence and exited the
16 vehicle. The vehicle I was in was on this side of
17 this residence here.

18 Q What happened once y'all exited your vehicles?

19 A As we're exiting the vehicle to look for
20 Mr. Singleton I exited the vehicle. When I came out
21 I came out of the right side of the vehicle, right
22 rear of the vehicle looking in the direction of the
23 adjacent house and the wood line; and when I did,
24 there was a black male average height, average size
25 coming out of the wood line to the backyard looking

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1 to appear to be a little startled when he seen us,
2 wearing a black hood type jacket. I did focus my
3 attention back on the residence and other officers
4 for obvious safety reasons until we determined what
5 was going on.

6 Q Okay, you can sit back down. After you saw that
7 gentleman man and you said he appeared to look --
8 how did you say his demeanor to you?

9 A A little startled that because of the presence of
10 law enforcement is coming out the wood lines,
11 shocked to see us.

12 Q Okay. And what happened -- you said you had to
13 direct your attention somewhere else?

14 A Yes, ma'am.

15 Q And why was that?

16 A They were making the contact at the residence
17 there, and the residence behind that residence so I
18 was trying to focus on covering those officers so if
19 they come in contact with everybody we have the
20 scene secured safe.

21 Q And at that point you didn't know whether that
22 individual you saw was the defendant or not; is that
23 correct?

24 A No, ma'am.

25 Q Now as y'all were arriving to this location had

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1 you seen anybody else around the area?

2 A On the Cross Hill, on the other side of Cross
3 Hill, there were some people out doing some yard
4 work, meddling around in their yards. They didn't
5 pay much attention to us, what we were doing.

6 Q So this is the only individual that appeared
7 startled to you?

8 A Yes, and he was in the rear of the residence.
9 Like I said, he was coming out of a wooded area.

10 Q Okay. And what happened next?

11 A We made initial contact there, went around to the
12 address that was on Hor Hill, I believe his father's
13 address, of Mr. Singleton. And after surrounding
14 that area we fanned back and I recalled seeing the
15 suspect. So there's like a cut, I guess, the wooded
16 area, we kind of milled that wooded area looking
17 over it, and that's when we found the black jacket
18 matching the description of the jacket that the
19 gentleman was wearing and there was a cell phone
20 with the jacket.

21 Q Okay. And did the use of his phone number, did
22 y'all determine that was, in fact, his phone?

23 A As far as I remember, yes, ma'am.

24 Q And did that phone and the jacket appear to have
25 been there very long?

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1 A No, ma'am. It was not full of dirt. It was
2 clean, and it didn't appear like it had been laid
3 out on the road for any period of time.

4 Q Okay. And can you point to the area of the wood
5 line that that was located?

6 A Yes, ma'am, this -- excuse me. This is the
7 (indicating) father's residence.

8 Q Yes.

9 A And this is the wood line. It was in this area
10 (indicating) of the wood line.

11 Q Was that close to where you saw that individual
12 standing previously?

13 A Yes, ma'am.

14 Q Did y'all try to locate the subject that day?

15 A Yes, ma'am. From the point of where we found
16 that material and jacket and cell phone actually
17 came out, we did a track from there to the back,
18 checked all of those residences, knocked on a couple
19 of doors and continued down across another roadway,
20 searched the big wooded area and all over. We ended
21 up on another adjacent street as we were tracking
22 him ---

23 Q And were you successful in apprehending the
24 defendant on that day?

25 A Not that day, no, ma'am.

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1 Q The next day did you assist in locating the
2 defendant?

3 A Yes, ma'am.

4 Q And what was your involvement the next day?

5 A The next day we got some information in a hotel
6 behind the Hardees on Garners Ferry Road and Veteran
7 Road. We ended up at that location, ended up
8 interviewing some of the cleaning people, other
9 people there, ended up basically knocking on every
10 door that was supposed to have individuals in it.
11 And we ended up at one final room which we could not
12 get any initial contact. And at that point there's
13 a breezeway and the corner of the room was adjacent
14 to that breezeway. Several officers were there,
15 eventually made contact in that room with the
16 suspect.

17 Q And you actually didn't -- you weren't present at
18 the immediate arrest point, were you, in the room,
19 actual room?

20 A I was not in the room. I was -- I did not enter
21 the room until after the suspect was in custody and
22 being removed from the room. There was also a
23 female in the room.

24 Q Okay. And did you have any information on who
25 this female was at the time?

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1 A The female was the -- the black female was
2 believed to be the girlfriend of Mr. Singleton.

3 Q Okay, and did you -- how was she -- when the
4 officer went into the room how was she, I guess for
5 lack of a better term, how as she removed from the
6 room?

7 A When they made contact with the two individuals
8 in the hotel room she was -- there was a chain of
9 officers that went in, in chain formation. She was
10 passed between those officers back to safety. She
11 was then given to me. After they cleared the room I
12 ended up going in the room and sitting with her.

13 Q So you sat with her?

14 A Yes, ma'am.

15 Q Okay. And what's the purpose-- I mean, is this
16 -- when you say, when you speak of the chain
17 formation, is this policy when y'all are making
18 entry into a room such as this?

19 A Depending on that officer, you got going to
20 stack. It lessens your view to the suspect if shots
21 were fired. It gives each other coverage entering a
22 room. You can then cover the room at any adjacent
23 rooms. If you're clearing a house that's very
24 common practice for us to stack up and go in. If we
25 enter in a doorway which we call it a fatal funnel,

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1 it's our job just to get as many people in that room
2 and fanned, out. Cover the room as much as
3 possible. That's the easiest method to do it.

4 Q So when she's passed along it's not in an
5 aggressive manner or anything like that?

6 A No, ma'am, she had no weapon. She had just past
7 back separate her from the individual and to secure
8 both of them.

9 Q What was her demeanor like as you were sitting
10 with her?

11 A She was very upset and very shaken. I tried to
12 reassure her and calm down and tell her everything
13 would be okay.

14 Q Okay. And you didn't actually talk to her that
15 day, you were just waiting for the investigators; is
16 that right?

17 A Yes, ma'am. I just basically sat with her until
18 the investigators came.

19 Q You said she was upset?

20 A Yes, she appeared to be shaking.

21 MS. CAVANAUGH: Beg the Court's
22 indulgence. All right, thank you. There's no
23 further questions.

24 **CROSS - EXAMINATION**

25 **BY MR. SUTHERLAND:**

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1 Q Just briefly I wanted to back over to Hor
2 Hill. I believe you had said that you'd gotten out
3 of the rear door of the vehicle and you were
4 focusing on a particular residence.

5 A There's a group of three houses that we got out
6 at. I was just a cover officer. I was not the lead
7 investigator on the case or the lead fugitive
8 investigator in the case. I was actually covering,
9 I was there to cover the area and the officer.

10 Q And so you were keeping an eye out for the other
11 officers?

12 A Yes, sir.

13 Q And you had testified that you saw an individual
14 walking out of the edge of a wood line; is that
15 correct?

16 A Yes, sir.

17 Q And that he looked startled so I guess y'all
18 looked at one another?

19 A When I exited the right rear of the vehicle I was
20 facing in that direction. He caught my attention.
21 It seemed odd from my experience, and his demeanor
22 just seemed odd. Caught my attention briefly, then
23 I focused back on the task at hand with the officer.

24 Q All right. And then once you all had done what
25 you were there to try to do you just turned back and

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1 this individual was not there anymore; is that
2 correct?

3 A Correct.

4 Q Okay, thank you.

5 A Thank you.

6 MR. SUTHERLAND: No further questions.

7 THE COURT: Redirect, Solicitor?

8 **REDIRECT EXAMINATION**

9 **BY MS. CAVANAUGH:**

10 Q But again, the defendant's phone was found in the
11 area that you saw that person before he fled; is
12 that correct?

13 A Yes, ma'am.

14 Q Thank you.

15 THE COURT: Recross?

16 MR. SUTHERLAND: No, sir. Thank you.

17 THE COURT: Thank you. Thank you very
18 much, officer. You may step down.

19 MS. SIMPSON: Yes, Your Honor. May we
20 approach?

21 THE COURT: Yes, ma'am.

22 (Whereupon, there was on off-the-record
23 Bench conference held.)

24 THE COURT: Mr. Foreman, ladies and
25 gentlemen of the jury, please leave your notes and

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1 step out. Do not discuss the case with anyone.

2 (The jury was removed from the courtroom
3 at 10:14 a.m.)

4 THE COURT: All right, Solicitor.

5 MS. CAVANAUGH: Yes, Your Honor. Our
6 firearms analyst, David Collins, came into the
7 courtroom. He indicated to us as soon as he
8 recognized the juror number 219, Keith Ringer, he
9 recognized him as having gone to high school with
10 him. I'm guessing that was ---

11 MR. COLLINS: Class of 1980.

12 MS. CAVANAUGH: The class of 1980, and
13 has, doesn't have any interaction with that juror;
14 however, he did want to bring that to our attention
15 and we felt it necessary to bring it to Your Honor's
16 attention.

17 THE COURT: All right, thank you.
18 Mr. Sutherland?

19 MR. SUTHERLAND: Yes, sir. I just wonder
20 what the nature of the relationship is today if
21 Investigator Collins can inform the Court. I
22 understand -- I'd just like to see how well they
23 know each other, if he'd walk in and recognized him.

24 THE COURT: What you're asking me to do?

25 MR. SUTHERLAND: Just to question

1 Investigator Collins.

2 THE COURT: Y'all can question him in my
3 presence. I'm not going to question him.

4 MR. SUTHERLAND: Yes, sir.

5 THE COURT: Call him to the stand.

6 MR. SUTHERLAND: Yes, sir. If I may call
7 Investigator Collins to the stand.

8 WHEREUPON,

9 **DAVID COLLINS,**

10 after having been duly sworn, testified as follows:

11 THE CLERK: Thank you. Please have seat
12 in the witness stand.

13 **DIRECT EXAMINATION**

14 **BY MR. SUTHERLAND:**

15 Q Sir, good morning.

16 A Good morning.

17 Q First of all, I appreciate your bringing this to
18 the Court's attention and the Solicitor's attention.

19 You went to high school with this Keith Ringer?

20 A I did.

21 Q And I mean, you recognized him right off the back
22 when you came in?

23 A Oh, yes. I have seen him since high school at a
24 few social functions at a mutual friend's house, but
25 we don't have any direct social interaction.

1 Q So you've seen him since at a few social
2 functions at friend's house?

3 A Yeah, at a mutual friend's.

4 Q Okay. You recall the last time you saw him?

5 A I would say it would be approximately
6 one-and-a-half to two years ago at the same mutual
7 friend's house.

8 Q But you all through high school and I guess
9 through your mutual friend have known each other
10 since?

11 A Yes.

12 Q Well, '80, if you graduated in '80, since the
13 70s?

14 A Since the late 70s, yes, sir.

15 Q Okay, thank you sir. I don't have anymore
16 questions.

17 THE COURT: You have any questions,
18 Solicitor?

19 MS. CAVANAUGH: Yes, Your Honor, just
20 briefly.

21 **CROSS - EXAMINATION**

22 **BY MS. CAVANAUGH:**

23 Q Would you describe your relationship with Mr.
24 Ringer as a close personal relationship?

25 A No.

1 MS. CAVANAUGH: No, Your Honor. Nothing
2 further, Your Honor.

3 THE COURT: Thank you. You may step down,
4 Mr. Collins. Yes, sir.

5 MR. SUTHERLAND: May it please the Court,
6 sir. I just point out to the Court that, that juror
7 219 failed to bring it to the Court's attention that
8 he knew Investigator Collins socially. And also, I
9 was wondering -- I'd ask that the juror be excused,
10 sir.

11 THE COURT: All right. Thank you.
12 Solicitor?

13 MS. CAVANAUGH: Your Honor, I -- at this
14 point we haven't inquired as to the juror of his
15 knowledge of Mr. Collins. I doubt that it's
16 anything intentional on his part. Clearly we've had
17 some juror issues in this case, particularly with
18 the last one just not recognizing the names as they
19 were called.

20 Your Honor, at this point I guess the best
21 thing to do probably to inquire of the juror. But
22 based on Mr. Collins' testimony about his
23 relationship with Mr. Ringer, number 219, there's no
24 basis at this point to excuse that juror. That's
25 the State's position.

1 THE COURT: Thank you. Thank you,
2 Solicitor.

3 All right, if you'd bring me juror number
4 219 please, 219.

5 (Juror No. 219 was returned to the courtroom.)

6 THE COURT: Good morning, sir. I wanted
7 to ask you a couple of questions.

8 THE JUROR: Yes, sir.

9 THE COURT: You're juror 219?

10 THE JUROR: Yes, sir.

11 THE COURT: I read the list of names at
12 the beginning of the trial when we went through ---

13 THE JUROR: Yes, sir.

14 THE COURT: ---jury qualifications. I
15 think I read 63 names ---

16 THE JUROR: Yes, sir.

17 THE COURT: ---of potential witness in the
18 case. Did you recognize any of those names?

19 THE JUROR: I recognized one, but when you
20 said it was Richland County that didn't, didn't go
21 with me, yes, sir.

22 THE COURT: And what name did you
23 recognize?

24 THE JUROR: Was it David Collins?

25 THE COURT: All right.

1 THE JUROR: But I think he works for SLED.

2 THE COURT: All right. So you recognized
3 the name David Collins?

4 THE JUROR: Uh-huh.

5 THE COURT: But associated that name with
6 Richland County. That did not -- you remembered a
7 David Collins that worked for SLED so---

8 THE JUROR: Yes, sir.

9 THE COURT: ---that would not be the David
10 Collins that you knew?

11 THE JUROR: That's what I thought, yes,
12 sir.

13 THE COURT: All right, that's what you
14 thought. Do you know a David Collins that worked
15 for SLED?

16 THE JUROR: I do. I went to high school
17 with David Collins. I think he told me he worked
18 for SLED. That's a -- I don't see him that much.

19 THE COURT: Where did y'all go to high
20 school?

21 THE JUROR: Carter Newman.

22 THE COURT: So there are more than just me
23 that's Carter Newman graduates. I'm so happy to
24 know that.

25 THE JUROR: Yes, sir.

1 THE COURT: It was such a small class in
2 my time. I didn't finish in '80.

3 THE JUROR: Yes, sir.

4 THE COURT: So you and Mr. Collins were
5 both in that class?

6 THE JUROR: Yes, sir.

7 THE COURT: All right. Well, let's —

8 THE JUROR: And I think you — sir, excuse
9 me. I think with what you told us with a close
10 friend —

11 THE COURT: Yes, sir.

12 THE JUROR: Yes, sir, I don't — I don't
13 see Mr. Collins but maybe once every couple of
14 years, one year or something. So I'm, you know,
15 we're not — but when I heard that name I said, well
16 that seems familiar; and when you said Richland
17 County I said I think he told me he worked for SLED,
18 yes, sir.

19 THE COURT: All right. Well, let's say
20 given the fact that the witness, that David Collins
21 that is going to testify and that David Collins you
22 finished high school with —

23 THE JUROR: Yes, sir.

24 THE COURT: —formerly worked for SLED,
25 now works for Richland County Sheriff's Office.

1 THE JUROR: Okay, I'm sorry, yes, sir.

2 THE COURT: You didn't know that?

3 THE JUROR: No, sir.

4 THE COURT: Could you still be a fair and
5 impartial juror in the trial of this case for both
6 Mr. Singleton and the State?

7 THE JUROR: Absolutely, sir.

8 THE COURT: All right. Anything you'd
9 like to add to that?

10 THE JUROR: No, sir, I'm sorry. I would
11 have, I would have said something if I would have
12 thought that was it.

13 THE COURT: Thank you. Thank you very
14 much. Would you just step outside in the hallway
15 —

16 THE JUROR: I will.

17 THE COURT: —momentarily for me.

18 THE JUROR: Thank you.

19 THE COURT: Juror number 219 will just
20 remain with the bailiff.

21 (Juror is removed from the courtroom.)

22 THE COURT: All right, would like any
23 additional voir dire, Mr. Sutherland?

24 MR. SUTHERLAND: Your Honor, just into the
25 nature of the social events perhaps. I mean, he

1 testified that they'd seen each other every year or
2 two. That's consistent with what Investigator
3 Collins testified. I mean, I -- I don't know that it
4 would be any different that in something social
5 functions through mutual friends so I can't say ---

6 THE COURT: If you want me to ask him
7 about where he would see him in the last
8 year-and-a-half, two years or?

9 MR. SUTHERLAND: I believe it's gonna be
10 -- I'll be sure it's gonna be consistent with what
11 Investigator Collins said, and I just -- in that, in
12 that light, Your Honor, I don't know that it's
13 necessary to put the question to the juror. I don't
14 see why their answers would be any different
15 frankly. I would ask that juror be excused and just
16 on the basis that they've known one another for 30
17 years. He testified that it's not a close, you
18 know, personal relationship. They see each other
19 every year or two. Investigator Collins testified
20 that when they see each other every year or two it's
21 at social engagements through mutual friends, and I
22 would have moved to strike the juror had I had the
23 information available to me during jury selection,
24 sir. And I'm just terribly uncomfortable with the
25 juror being, who's known an officer for some 30

1 years, deliberating on a case. I'd ask the Court to
2 excuse the juror.

3 THE COURT: Thank you. So let me make
4 sure I'm clear, you do not want me to voir dire the
5 juror any further?

6 MR. SUTHERLAND: It's in Your Honor's
7 discretion. I don't have any reason to believe the
8 answers would be any different.

9 THE COURT: All right, thank you.
10 Solicitor.

11 MS. CAVANAUGH: Thank you, Your Honor.
12 First of all, I think the issue here is the juror
13 said that he could be fair and impartial in light of
14 that fact. With respect to defendant strike count,
15 he used all ten of his strikes, Your Honor, and I'm
16 assuming he had valid reasons for all of those. But
17 I did, you know, do not feel that based on this
18 juror's or voir dire of this juror nothing was
19 intentional. He stated he could be fair and
20 impartial. And we also have the testimony from
21 Lieutenant David Collins as well on this issue so,
22 you know, and excusing the juror at this point too,
23 Your Honor, leaves us with no alternates as well.

24 THE COURT: Thank you, Solicitor.

25 MR. SUTHERLAND: Just briefly —

1 MS. CAVANAUGH: Or we have no alternates.

2 MR. SUTHERLAND: With respect to my having
3 used all my strikes juror 219 was the first juror
4 seated.

5 THE COURT: I understand. All right,
6 anything further?

7 MR. SUTHERLAND: That's all, sir.

8 THE COURT: All right. Well, looking for
9 guidance in case of State versus Burgess, I don't
10 have the actual site. It's opinion 4765,
11 37-58-15(12) (b) Court of Appeals. In that
12 particular case a member of the jury had notified
13 the deputy clerk of court that he recognized a lady
14 in the audience. The lady in the audience was the
15 estranged wife of David Slice who was the victim and
16 the sister of a man the juror supervised as well.
17 The judge asked the juror if he could still be a
18 fair and impartial juror to both the State and
19 Defense in which the juror responded, yes, sir,
20 so absolutely. Outside the juror's presence the
21 judge asked if either side wanted additional voir
22 dire. I have asked that question; both sides
23 declined that offer.

24 This case goes on to state, this case of
25 burglary, the fact that the juror has some

1 relationship with the victim does not automatically
2 require the trial judge to remove the juror. Citing
3 State v. Jones, the mere fact that the person is a
4 friend or acquaintance of the victim does not render
5 him incompetent as a juror. Citing the State v.
6 Wells, affirming qualification of a juror who is
7 directly employee of the victim a year or more prior
8 to trial. Citing State v. Hilton, there is no rule
9 of common law. In other words, there the statue
10 disqualifying the juror on the account of his
11 relationship to the witness either by affinity or
12 consanguinity -- I probably mispronounced that --
13 within any degree although it doesn't cite State v.
14 Elmore. I think in State versus Elmore is a friend
15 of the assistant solicitor who happened to be the
16 daughter of the solicitor who was on that jury.

17 Second, the juror did not conceal any
18 information requested during voir dire. You can see
19 I thought that this particular juror is -- says, you
20 know, that name struck a bell David Collins, but the
21 David Collins that I knew I believed he told me he
22 worked at SLED so that bell stopped ringing when I
23 said Richland County Sheriff's Department. As we
24 know Mr. Collins did work for SLED one time, now
25 works for Richland County Sheriff's department. But

1 that shows the effort in which the juror was putting
2 into the voir dire process himself.

3 He further does state that he can be fair
4 and impartial. It is very different from the case
5 that's cited in Burgess versus Stone verse State v.
6 fronting week doubt when the juror conceals
7 information during voir dire which is not the case
8 here. Further, he, he the juror, 219, states that I
9 believe your question was close, personal friends.
10 It appears that they graduated from high school 23
11 years ago probably this May. Is that right? 10,
12 20, 33 years ago. I guess I was trying to lose a
13 decade or add a decade for Mr. Collins. And have
14 not seen each other socially in the last
15 year-and-a-half or two years. That's corroborated
16 also by the witness's testimony. I find that this
17 juror would be a fair and is a fair and impartial
18 juror and takes his oath seriously and I decline to
19 remove him from the jury.

20 Anything further before we bring our jury
21 back in from the State?

22 MS. SIMPSON: Briefly, Your Honor, back to
23 the point with the power point, and this is — my
24 apologizes, Lieutenant Scott McDonald came in.
25 There are two additional slides which are not in the

1 packet that I have that I provided to defense
2 counsel so I just wanted to add those to them.
3 Again, the information is all within the records as
4 far as tower locations and things of that nature,
5 but I did want to make sure he had everything before
6 he went to review it.

7 THE COURT: Thank you.

8 MR. SUTHERLAND: And thank you for your
9 consideration on the motion with respect to the
10 juror, Your Honor. And I would say I swear I heard
11 them say they didn't have anymore documents or
12 anything for me so...

13 THE COURT: Mark those and let me look at
14 them and I'll take it under advisement as whether
15 or not I will allow them to use it.

16 MR. SUTHERLAND: Yes, sir. I'll just copy
17 them during the break.

18 THE COURT: Yes, sir. Thank you.
19 Anything further before we bring in our jury,
20 Solicitor?

21 MS. CAVANAUGH: No, Your Honor.

22 THE COURT: Mr. Sutherland?

23 MR. SUTHERLAND: No, sir, thank you.

24 THE COURT: I think I need a break. We'll
25 take about a ten minute recess. I apologize, about

1 ten minutes. Thank you.

2 (Whereupon, a recess was taken.)

3 THE COURT: All right. Anything before we
4 bring in our jury from the State?

5 MR. SUTHERLAND: Nothing from the Defense
6 or -- sorry.

7 THE COURT: From the State?

8 MS. SIMPSON: Nothing from the State,
9 Your Honor.

10 THE COURT: From the ---

11 MR. SUTHERLAND: Can I go ahead and mark
12 these, Your Honor?

13 THE COURT: Yes, sir. I believe you can
14 bring us our jury.

15 (The juror was returned to the courtroom
16 at 10:51 a.m.)

17 THE BAILIFF: Your Honor, the jury's
18 present.

19 THE COURT: Thank you. Thank you very
20 much.

21 Welcome back, ladies and gentlemen of the
22 jury. I apologize for the delay. I had a legal
23 issue I had to take up. I assure that this delay
24 was not caused by either of the parties in this
25 case. We're continuing the trial of the case by the

1 presentation of evidence and testimony by the State
2 in its case and chief. If you'd please continue to
3 give the parties your complete and undivided
4 attention.

5 Solicitor, you may call your next witness.

6 MR. STEADMAN: The State calls Patrice
7 McKnight.

8 WHEREUPON,

9 **PATRICE MCKNIGHT,**

10 after having been duly sworn, testified as follows:

11 THE CLERK: Please have a seat in the
12 witness stand and state your full name for the
13 record.

14 THE WITNESS: I'm sorry?

15 THE CLERK: State your full name for the
16 record.

17 THE WITNESS: Patrice McKnight.

18 **D I R E C T E X A M I N A T I O N**

19 **BY MR. CAVANAUGH:**

20 Q Good morning, ma'am, where are you employed?

21 A Verizon wireless.

22 Q And how long have you been employed there?

23 A Eleven years.

24 Q What do you do for Verizon wireless?

25 A I am the executive relations analyst.

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1 Q And as executive relations analyst, does that
2 include being responsible for records of the
3 business?

4 A Yes.

5 Q And are phone records created and used in the
6 ordinary course of Verizon wireless' business?

7 A Yes.

8 Q And is it part of your position to go to courts
9 and testify about those records?

10 A Yes.

11 Q How are those records created?

12 A They are created once a subpoena or a request by
13 law enforcement is made our law enforcement resource
14 team gathers those records and submits them either
15 via fax to the court mail or CD.

16 Q And are they created electronically?

17 A Yes.

18 Q I'm showing you what's been marked for
19 identification purposes as State's Exhibit 239.
20 Please take a look at that.

21 THE COURT: Tell me that number again.

22 MR. STEADMAN: 239, Your Honor.

23 BY MR. CAVANAUGH:

24 Q And what are those?

25 A These are our records for our subscriber

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1 (803 -5892.

2 Q And have those records been changed or altered in
3 any way since their creation?

4 A No.

5 Q And once again, are they created and used in the
6 ordinary course of Verizon Wireless' business?

7 A Yes.

8 MR. STEADMAN: Your Honor, at this time
9 the State offers Exhibit 239 into evidence.

10 MR. SUTHERLAND: No objection.

11 THE COURT: State's 239 is in evidence
12 without objection.

13 (State's Exhibit No. 239 was admitted into
14 evidence.)

15 MR. STEADMAN: Thank you, ma'am. No
16 further questions.

17 THE COURT: All right, Mr. Sutherland.

18 MR. SUTHERLAND: No questions for this
19 witness, Your Honor.

20 THE COURT: Thank you. Thank you very
21 much. You may step down. You may excused.

22 All right, you may call your next witness,
23 Solicitor.

24 MS. CAVANAUGH: The States calls Doctor
25 Amy Durso.

SW - P. MCKNIGHT - DIRECT

1 WHEREUPON,

2 **AMY DURSO,**

3 after having been duly sworn, testified as follows:

4 THE CLERK: Thank you. Please have a seat
5 on the witness stand and state your full name for
6 the record and please spell your last name.

7 THE WITNESS: Doctor Amy Durso, D-U-R-S-O.

8 **DIRECT EXAMINATION**

9 **BY MS. CAVANAUGH:**

10 Q Good morning, Doctor Durso.

11 A Good morning.

12 Q What is your occupation?

13 A I'm a forensic pathologist.

14 Q And where are you employed?

15 A I'm employed by Professional Pathology Services.
16 I generally do autopsies for the Richland County
17 crimes office.

18 Q And are you a duly licensed physician and surgeon
19 as well?

20 A I'm ---

21 Q Board licensing, I'm sorry.

22 A I'm Board certified in anatomic pathology,
23 criminal pathology, and forensic pathology.

24 Q And in what states, or is it ---

25 A I'm Board certified out of North Carolina and

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1 South Carolina medical license to practice medicine
2 in those states.

3 Q And how long have you been licensed to practice
4 your profession?

5 A I've been Board certified for three years.

6 Q Okay. And where did you receive your training in
7 pathology.

8 A I completed my residency in anatomic and clinical
9 pathology at Wake Forest University, and then I did
10 an additional year of training in forensic pathology
11 also at Wake Forest.

12 Q And when was that training received?

13 A 2005 through 2010.

14 Q And as a forensic pathologist what are your
15 duties, what are your responsibilities?

16 A A pathologist is specifically trained to perform
17 autopsies on deceased individuals to determine the
18 cause of death so by doing that we do an autopsy.
19 An autopsy is basically the examining of a deceased
20 individual starting with an external examination, so
21 looking at the outside of the body and documenting
22 any kind of injuries or identifying marks or
23 anything that we notice. And then we make a long
24 sheath incision that comes from the chest down to
25 the sternum and reflect the skin and look at all the

SW - A. DURSO - DIRECT

1 internal organs and then we remove them one by one
2 weighing them and again closely examining them for
3 injury or illness.

4 Q One of your main responsibilities is to determine
5 the cause of death?

6 A Yes.

7 Q During our experience how many autopsies would
8 you estimate you've performed?

9 A Over a thousand.

10 Q And are you on any boards or any organizations
11 related to your field?

12 A Yeah, I serve on the South Carolina Child
13 Fatality Committee as well as the South Carolina
14 Vulnerable Adult Fatality Committee peer review
15 which we review cases in those areas.

16 MS. CAVANAUGH: Your Honor, at this time
17 the State would ask that Doctor Amy Durso be
18 qualified as an expert in the field of forensic
19 pathology.

20 MR. STEADMAN: Just briefly, Your Honor,
21 the number of times the witness has testified?

22 MS. CAVANAUGH: May I ask the question?

23 THE COURT: Or you can ask, whoever, I
24 don't care me.

25 VOIR DIRE EXAMINATION

SW - A. DURSO - DIRECT

1 BY MR. SUTHERLAND:

2 Q Ma'am, how many times have you testified?

3 A As an expert witness, once before.

4 MR. SUTHERLAND: I still believe that
5 knowledge and experience has been met so.

6 THE COURT: All right, thank you. Thank
7 you very much, Mr. Sutherland.

8 Again, ladies and gentlemen of the jury
9 panel, you've heard this instruction before.
10 Normally a witness cannot give opinion testimony.
11 Normally a witness can only testify as to what they
12 saw, heard, or sensed by smell or something of that
13 nature. However, there is an exception. When the
14 witness is qualified as an expert in some particular
15 field, art, science, or profession. This witness
16 will be qualified in the field of forensic
17 pathology. Is that what you're offering Doctor
18 Durso in forensic pathology?

19 MS. CAVANAUGH: Yes, Your Honor.

20 THE COURT: In the field of forensic
21 pathology to give opinions in that area. That does
22 not mean that you must accept those opinions, but it
23 is evidence for you, the jury, to use in any way you
24 see fit.

25 Thank you, Solicitor, Mr. Sutherland. You

1 may continue, Solicitor.

2 MS. CAVANAUGH: Thank you, Your Honor.

3 BY MS. CAVANAUGH:

4 Q Doctor Durso, you briefly went through your
5 training and responsibilities. What exactly is
6 meant by the term autopsy, what is that?

7 A Again, autopsy is we examine a deceased person.
8 It's very methodical, and it starts with an external
9 examination and then goes into an internal
10 examination like I mentioned with the cuts on the
11 body. We look at all the organs in place and then
12 we remove them documenting any kind of injury or
13 illness and also removing the brains examining that
14 as well. At the end we make a report with all of
15 our findings.

16 Q And again, it's to determine the cause of death

17 ---

18 A Yes.

19 Q ---of the deceased person?

20 A Yes.

21 Q And where do you conduct your autopsies?

22 A At Palmetto Richland Memorial there.

23 Q Okay. And when the cause of death is a suspected
24 homicide, who is actually present with you during
25 the autopsy?

SW - A. DURSO - DIRECT

1 A A representative from the Richland County
2 coroner's office, my autopsy assistant, and usually
3 some investigator from either the police or sheriffs
4 department that conduct the investigation.

5 Q And what's the purpose of the investigator to be
6 there?

7 A They usually take photographs of the decedent,
8 and they also break down the ---

9 Q They collect any evidence that you might remove
10 from the decedent?

11 A Yes.

12 Q And you say they usually take photographs as
13 well?

14 A Yes, they do, as well as the coroner's office.

15 Q And ideally what do photographs taken usually
16 show?

17 A It shows any injuries or significant findings
18 that we find during the autopsy so they can be
19 reviewed later.

20 Q And what are your initial steps when performing
21 an autopsy? What are your first steps?

22 A Well, the first step is to identify the body to
23 make sure we have the correct body; and then from
24 there we just look at the outside of the body, both
25 the front and the back and we'll -- and then I

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1 document any findings as well as identifying marks,
2 scars, eye color, hair color, all of those things,
3 height and weight.

4 Q And were you involved in the autopsy of Dashawn
5 Jones?

6 A Yes.

7 Q And when did you -- when did you perform that
8 autopsy?

9 A On January 25th, 2012.

10 Q Okay. And what type of information did you have
11 about Dashawn before you began your autopsy?

12 A I was just told that he was found on the driver
13 seat of a car with multiple put gunshot wounds and
14 that he was pronounced at the scene, had not
15 received any further medical care.

16 Q What was, what was the victim's date of birth at
17 the time you performed autopsy?

18 A The date of birth I was given as 27th,

19 .

20 Q So how old was he?

21 A Twenty-four.

22 Q What item did you begin your autopsy on this
23 individual?

24 A 8:30 in the morning.

25 Q And what -- on the 25th?

SW - A. DURSO - DIRECT

1 A Yes.

2 Q And when was he actually pronounced dead?

3 A On the day before on January 24th, 2012. It was
4 reported to me as 2:15 in the afternoon.

5 Q So a little over 12 hours before, 18 hours
6 before?

7 A Yes.

8 Q And is it typical to perform an autopsy within
9 that short period of time?

10 A Usually within 24 to 48 hours, yes.

11 Q And we'll go further in detail to each individual
12 gunshot wound, but what did you determine was his
13 cause of death?

14 A Multiple gunshot wounds involving the head and
15 chest and abdomen.

16 Q And what was his height and weight?

17 A He was 71-and-a-half inches tall and he weighed
18 257-pounds.

19 Q That's about 5'11?

20 A Yes -- well, actually, yeah.

21 Q Did you begin by examination of his external
22 body?

23 A Yes.

24 Q And what did you observe about -- what
25 observation did you make about that?

SW - A. DURSO - DIRECT

1 A There were multiple gunshot wounds to the body
2 involving the head, chest, abdomen, arm, his right
3 arm and his leg.

4 Q Okay.

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

6 BY MS. CAVANAUGH:

7 Q When you complete an autopsy do you also complete
8 a diagram?

9 A I do, yes.

10 Q I'm gonna show you what's marked as State's
11 Exhibit 240. Do you recognize this?

12 A I do.

13 Q And what is that?

14 A That's the diagram of the external findings I
15 found when I did the autopsy on Dashawn Jones.

16 MS. CAVANAUGH: And Your Honor, at this
17 time we ask that State's 240 be admitted into
18 evidence.

19 MR. SUTHERLAND: No objection, sir.

20 THE COURT: State's 240 is in evidence
21 without objection.

22 (State's Exhibit 240 was admitted into
23 evidence.)

24 BY MS. CAVANAUGH:

25 Q And Doctor Durso, I'm gonna ask you step down

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1 from the witness stand.

2 THE COURT: Doctor, if you'd please keep
3 your voice up for me.

4 BY MS. CAVANAUGH:

5 Q We'll begin by going through each of the gunshot
6 wounds ---

7 A Okay.

8 Q ---that you observed on the victim starting with
9 number one.

10 A Okay.

11 Q Can you please describe where is that depicted on
12 the actual diagram?

13 A So the entrance wound is here (indicating) and
14 labeled gunshot A. That's a essential part of the
15 forehead.

16 Q And what was -- what did you note about this
17 injury, what was the significance about this injury?

18 A Well, this entrance wound in particular had what
19 we call stippling which are these tiny little
20 abrasions around the entrance wound, and that gives
21 us an idea of how far the gun was from the skin at
22 the time that the gun was fired. And so in order to
23 have stippling, which is basically it's the
24 gunpowder from the gun that actually abrades and
25 scrapes the skin so you have to be usually within

SW - A. DURSO - DIRECT

1 18-inches to have stippling around a wound. And
2 usually, if you don't see any soot that's usually
3 between 6 to 18 inches.

4 Q Okay, did you see soot?

5 A No, I did not.

6 Q And what does that mean, the fact you didn't see
7 soot?

8 A That it's 6 to 18 inches from —

9 Q From the firearm?

10 A From the firearm, from the gun to the — his head
11 where he was shot.

12 Q And that went through the forehead?

13 A Yes.

14 Q Where did you — was it an exit wound?

15 A No, it did not exit. It went through the brain,
16 the right side of the brain, and we actually
17 recovered the bullet from the soft tissue in the
18 right side of the neck.

19 Q Was there hemorrhaging of the brain?

20 A Yes, there was hemorrhage around the brain and
21 obliteration of part of her brain where the bullet
22 traveled.

23 Q And what does that mean exactly?

24 A That means the brain was partially destroyed
25 where the bullet traveled through it.

SW - A. DURSO - DIRECT

1 Q And what was the trajectory of, of that wound, of
2 the bullet?

3 A Right, so it was going from his left to right
4 (indicating). It was going front to back and it was
5 also going downwards.

6 Q And so it was from left to right?

7 A Right.

8 Q And it —

9 A Was left to his right (indicating).

10 Q And again, this is one the one you determined to
11 be within the 6 to 18 inches of the firearm?

12 A Yes, it is.

13 Q Moving on to gunshot wound number two?

14 A Yes.

15 Q Can you describe that for us?

16 A Yeah, the entrance wound I've labeled here is
17 gunshot wound K. It's on the right upper part of
18 the scalp (indicating) up here. And that wound did
19 not have any soot or stippling so I could not tell
20 exactly how far the firearm was from his head when
21 that one was discharged. That one also went through
22 the brain, and it actually ended up becoming —
23 actually this projectile right here (indicating)
24 that I've outlined, that's gunshot D. I could
25 actually feel the bullet underneath the skin so it

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1 went from the back of his head over here
2 (indicating) into the soft tissue of the neck after
3 traveling through the brain.

4 Q And again, what were the associated injuries of
5 this travel of the bullet?

6 A The same thing. There was hemorrhaging around
7 the brain, and there was obliteration of the brain
8 material as the bullet went through.

9 Q And what was the trajectory of this bullet wound?

10 A To this wound actually going from right to left.
11 It was going front to back and downwards.

12 Q So downwards again?

13 A Downwards and also front to back like the last
14 one but going right to left instead of like the last
15 one.

16 Q And in fact, the one, the first one that you
17 mentioned was the only one that was from left to
18 right?

19 A I believe so, yes.

20 Q And that was a close range ---

21 A Right.

22 Q ---gunshot wound?

23 A Yes.

24 Q Moving to number three, what did you note about
25 --- where was this wound?

SW - A. DURSO - DIRECT

1 A This one I labeled as gunshot wound C, the
2 entrance wound that's going right around his right
3 clavicle which is his shoulder right here.

4 Q And what did you note about this particular
5 wound?

6 A It was somewhat atypical. Usually the entrance
7 wounds are kind of frontal because when the bullet
8 travel it's spinning but the nose is going forward;
9 but if the bullet or projectile hits something
10 first, it will start tumbling and so it doesn't make
11 a nice, round entrance wound, it's kind of atypical.
12 But the other thing it can also make, a wound look,
13 an entrance wound will look atypical if it's over
14 kind of a bloody surface so that can end up being
15 another entrance wound. I couldn't tell the
16 difference from my autopsy.

17 Q And again, was -- was there anything noted about
18 a brown fragments in that particular wound?

19 A There were some brown foreign fragments that we
20 thought possibly may have come from the necklace
21 that he had been wearing.

22 Q And again, did you -- did you state the
23 trajectory of this?

24 A Yes, the -- we found the bullet right within the
25 clavicle within the actual bone so it didn't travel

SW - A. DURSO - DIRECT

1 very far and so the trajectory for was from front to
2 back.

3 Q Okay. But the entrance was from the front?

4 A Yes.

5 Q And number four, what did you note about that
6 particular gunshot wound?

7 A So this is gunshot wound D is the entrance wound
8 would have been here on the right shoulder up here;
9 and so this one, again, this one did not have any
10 soot or stippling so there's no way for me to tell
11 the distance from the gun to the decedent in this
12 case. It actually goes into the chest and it goes
13 through the left lobes of the lung and it goes
14 through the diaphragm which is kind of what
15 separates your chest from your abdominal cavity.
16 And then it hit a major vein called a vena cave
17 which kind of brings all the blood from the lower
18 half of your body so it's kind of a large vessel.
19 It perforated that. And then it actually went
20 through the liver which is up here in the right
21 upper part of your abdomen. Then it went through
22 the stomach and then it actually -- we actually
23 found the projectile just around his pancreas over
24 on the left side of his abdomen.
25 Q And what was the trajectory of this bullet?

SW - A. DURSO - DIRECT

1 A It was from right to left and downwards.

2 Q Again, the entrance wound was to the front of his
3 right shoulder?

4 A Yes.

5 Q Okay. Moving on to the gunshot wound you noted
6 number five, what observations did you note about
7 that?

8 A Number five is to the -- the entrance here is
9 gunshot wound E to this right lower arm, and so it
10 goes in back here. And then it actually exited
11 through the front of his arm so that one exited the
12 soft tissues of his right arm.

13 Q So there's no actual projectile in the arm?

14 A No.

15 Q And you note that that's posterior to anterior?

16 A That's only in anatomical position so the way my
17 diagrams are is they're in anatomical position so it
18 doesn't mean that he was standing in anatomical
19 position when he was shot. It's possible his arm
20 could have been up in the air really in the air.

21 Q So entrance wound you said was located --

22 A On the back of his arm here (indicating) so.

23 Q So could have been consistent with his arm being
24 up like this (indicating)?

25 A Yes.

SW - A. DURSO - DIRECT

1 Q Again, from right to left?

2 A Kind of depends where his arm was.

3 Q Okay.

4 A I can't really say right to left.

5 Q Right. You actually didn't know the trajectory
6 on that?

7 A No.

8 Q Number six?

9 A Yes.

10 Q What — can you describe that gunshot wound for
11 us?

12 A Yes, this I describe as on the entrance wound as
13 gunshot wound I over here on the right back
14 (indicating) on the torso here. Again, there's no
15 soot or stippling is identified on the entrance
16 wound so I can't tell you what the stuff is on out
17 either, but it perforated through the small bowels
18 of the intestines and then actually exits right here
19 (indicating) where I labeled gunshot wound G, the
20 left abdomen.

21 Q And where was the entry point?

22 A It was here (indicating) on the right back so it
23 goes in here (indicating) and comes out here.

24 Q And again, could that be consistent with someone
25 sitting facing this way but twisting kind of to

SW - A. DURSO - DIRECT

1 shield themselves?

2 A Yes.

3 Q And what was the trajectory of this bullet?

4 A This was from right to left, from back to front
5 and very slowly downwards.

6 Q Moving on to number seven which, how did you
7 describe that gunshot wound?

8 A This is another gunshot wound to the abdomen.
9 This is the entrance wound, gunshot wound J here
10 (indicating) to the lower back just below where I
11 previously described is where the bullet went in.
12 Again, no soot or stippling identified so I can't
13 figure the distance on that one, and the projectile
14 actually became lodged in the L-4 of the vertebral
15 body which is the big bones in your spine.

16 Q Was number seven similar to gunshot wound number
17 six?

18 A Yeah, it was the same trajectory, yes.

19 Q Okay, so again, consistent with twisting far?

20 A Yeah.

21 Q Could it be consistent with twisting away?

22 A It can be, yes.

23 Q And you noted that that was right to left as
24 well?

25 A Yes, right to left.

SW - A. DURSO - DIRECT

1 Q And slightly downwards?

2 A Yes, and back to front.

3 Q And finally, as far as the individual gunshot
4 wounds number eight, can you describe that for us
5 please?

6 A Yes, so this one was to the left upper leg so the
7 entrance wound I start is gunshot wound eight here
8 on the left upper thigh. Again, no soot or
9 stippling is identified on the skin so I can't give
10 you the distance on that one. It was somewhat
11 atypical like the one over the clavicle; but again,
12 this was not over a bony surface so I -- I concluded
13 this is likely a re-entrance wound and it kind of
14 lined up with the exit wound in the abdomen so I
15 thought perhaps that he had been sitting, it could
16 have exited here and re-entered gunshot wound H
17 here. And it just went to the soft tissue of the
18 left leg and actually recovered the projectile in
19 the soft tissue of .

20 Q So that was on -- the wound was in the front of
21 the leg?

22 A Yes.

23 Q And what was the trajectory path of that bullet?

24 A It was very slightly right to left. It was
25 downwards and it was slightly front to back.

SW - A. DURSO - DIRECT

1 Q Okay. You can, you can have a seat.

2 A (Witness complies.)

3 Q I would like to bring your attention back to
4 gunshot wound number one.

5 A Okay.

6 Q And you on page 6 of your report you have a
7 section marked as microscopic descriptions?

8 A Yes.

9 Q Did you write anything under that heading related
10 to gunshot wound number one?

11 A Yes, I actually took a section of a skin around
12 the entrance wound on the forehead where I saw the
13 stippling to look at under the microscope and I did
14 notice some what we call black particular,
15 particular matter, which is soot of gunpowder which
16 is, again, consistent with true stippling so.

17 Q And again, this is the one where you're able to
18 determine the range?

19 A Yes.

20 Q And that range was 6 to 18 inches; is that right?

21 A Yes.

22 Q When you were -- you mentioned projectiles being
23 recovered. How many projectiles did you actually
24 recover in this case?

25 A I recovered six.

SW - A. DURSO - DIRECT

1 Q And did you also recover a fragment?

2 A Yes.

3 Q And those were for all of the non-exiting gunshot
4 wounds; or, is that correct?

5 A Say that one more item.

6 Q Those were -- you mentioned eight gunshot wounds?

7 A Yes.

8 Q But only six projectiles were going?

9 A Yes.

10 Q And what does that indicative of?

11 A The other two exited and there were six that
12 stayed in the body so previous described I thought
13 two of them can have possibly been re-entrance
14 wounds so he was shot at least six times.

15 Q And as you labeled each gunshot wound one through
16 eight, does that order have any significance
17 necessarily?

18 A No, it's just an order I go through. I try to
19 start from top and work downward. It doesn't mean
20 which is worse or doesn't have anything to which the
21 order in which they occurred.

22 Q So it has nothing to do with the timing of the
23 bullet ---

24 A No.

25 Q ---of the gunshot wounds? And it has nothing to

SW - A. DURSO - DIRECT

1 do with the level of severity?

2 A No, it does not.

3 Q Which one of the gunshot wounds were actually
4 fatal to this, to Mr. Jones?

5 A Gunshot wound one went through the head would
6 have been fatal. Gunshot wound number two which
7 also went through the head would have been fatal.
8 The one through the clavicle could not have been
9 fatal. The one that went through his lung, the vena
10 cava, that means your vein and his liver would have
11 been fatal. The ones to his arm was not necessarily
12 fatal. Let's see, the one that went through the
13 small intestine without medical treatment could have
14 been fatal, but it would have not been immediately
15 fatal. And the one that lodged in his throat was
16 not fatal, the one through his leg was not fatal so
17 the one to his head, the one to his chest and
18 possibly the one to his abdomen.

19 Q And before we move to your internal examination
20 did you make any notations about his external
21 examination, specifically where you can just go to
22 observations as relates to external examination, not
23 including the gunshot wounds?

24 A Oh. Is there anything in particular you wanted
25 me to?

SW - A. DURSO - DIRECT

1 Q Yes, specifically, specifically about his right
2 eye.

3 A It was -- I describe it as a (inaudible) which
4 means that it's just full of fluids so if he had
5 been kind of leaning towards his right side with all
6 of the gunshot wounds to his head there was the
7 initial fluid under that 'caused his eyes to swell.

8 Q Okay. So it was fluid, not ---

9 A Yes.

10 Q Okay. Were x-rays actually taken of this, of
11 Mr. Jones?

12 A Yes, prior to starting our autopsy we had an
13 x-ray technician come down and x-ray the entire body
14 so we knew where to find the projectiles and they
15 noted six projectiles that we were able to recover.

16 Q I show you what's marked State Exhibit --

17 MS. CAVANAUGH: Beg the Court's
18 indulgence.

19 MR. SUTHERLAND: These would be without
20 objection, sir.

21 THE COURT: All right.

22 MS. CAVANAUGH: Durso, I'm gonna show you
23 what's marked as State's Exhibit 230 through 234. I
24 ask you to look at those and see if you recognize
25 them.

SW - A. DURSO - DIRECT

1 A Yes. They're the x-rays that we took when we
2 begin our autopsy.

3 MS. CAVANAUGH: Your Honor, at this time I
4 move State's Exhibits 230 through 234 into evidence.

5 THE COURT: That's without objection,
6 correct?

7 MR. SUTHERLAND: Yes, sir.

8 THE COURT: All right. State's 230
9 through 234 is in evidence without objection.

10 (State's Exhibit Nos. 230 through 234 were
11 admitted into evidence.)

12 BY MS. CAVANAUGH:

13 Q And what does this particular x-ray reveal?

14 A So you can see some — there's a projectile her
15 and a projectile here (indicating) so those are two
16 of the bullets that we removed from the body.

17 Q That's of the head and the neck area?

18 A Yes.

19 Q As far as — it's a little bit hard to see.
20 State's Exhibit 231, what is that an x-ray of?

21 A This is the abdomen and the lower abdomen, and I
22 believe this is the projectile. You can kind of see
23 it there T.hat was lodged kind of in the back of the
24 spine.

25 Q Okay. And 232, what is this an x-ray of?

SW - A. DURSO - DIRECT

1 A This is another one of including the ribs up here
2 so that the lower chest extend down through the
3 pelvis and there's the one that recovered in the
4 soft issue of the pancreas and there's the
5 projectile that we recovered, again, from the
6 vertebral body.

7 Q And 233, that is an x-ray of his femur; is that
8 correct?

9 A Yes, that's the left upper leg and there's the
10 projectile here. You can see that we recovered from
11 the soft tissue in his left leg (indicating).

12 Q And finally, State's Exhibit 234, what is that
13 an x-ray of?

14 A That's a x-ray of his right arm. This is the
15 upper arm or his lower arm.

16 Q And what was, again, significant about his arm in
17 this case?

18 A It was the -- it was actually the lower arm where
19 it had --

20 Q It was entry and exit?

21 A Entrance and exit, yes.

22 Q And these projectiles that you -- that are
23 depicted in some of those x-rays, were they -- you
24 said they were recovered?

25 A Yes, we recovered all of them during the autopsy.

SW - A. DURSO - DIRECT

1 Q Once they're recovered from the -- removed from
2 the body parts, what occurs after that, who do you
3 turn, what do you do with those?

4 A We take pictures of them and then we turn them
5 over to the investigating officer that's attending
6 the autopsy.

7 MS. CAVANAUGH: Beg the Court's
8 indulgence.

9 MR. SUTHERLAND: No objection to these,
10 sir.

11 BY MS. CAVANAUGH:

12 Q Doctor Durso, I want to ask you to take a look
13 welcome at that and see if you -- well, State's 221,
14 223 through 229 then 235. I'd ask if you recognize
15 those?

16 A Yes. These are the projectiles that were
17 recovered from the autopsy.

18 MS. CAVANAUGH: Your Honor, at this time I
19 ask 221, 223 through 229 and 235 be submitted into
20 evidence.

21 THE COURT: Without objection?

22 MR. SUTHERLAND: Yes, sir.

23 THE COURT: All right. State's 221,
24 State's 223, 229 through 235 are in evidence
25 without objection.

SW - A. DURSO - DIRECT

1 MS. CAVANAUGH: Thank you, You Honor.
2 (State's Exhibit Nos. 221, 223 through 229
3 and 235 were marked for identification and
4 admitted into evidence.)

5 BY MS. CAVANAUGH:

6 Q And do these actually, these photographs of the
7 projectiles, are they — do they show the
8 measurements that are taken?

9 A Yeah. If there's a ruler, there are pictures
10 that shows you the size.

11 Q And are they marked as far as where they were
12 recovered?

13 A Yes.

14 Q And there's also what appears to be a fragment.
15 Was a fragment recovered in this case in this —

16 A Yeah, in the right lung and then it went through
17 the arm and traveled through the chest. A little
18 fragment had broken off and we recovered it from the
19 right chest cavity.

20 Q Okay.?

21 MS. CAVANAUGH: Beg the Court's
22 indulgence.

23 BY MS. CAVANAUGH:

24 Q As far as your examination of the other different
25 systems of the body, the digestive system, the

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1 central nervous, other than injuries that were
2 caused by the gunshot wound, did you notice anything
3 else that was abnormal?

4 A No, there were no other natural diseases or
5 illnesses that I found at autopsy.

6 Q And did you also take samples of Mr. Jones's
7 blood?

8 A Yes.

9 Q As well as ---

10 A We usually take brain, liver, kidney, as well as
11 blood to send for toxicology testing.

12 Q And did you also obtain a DNA card?

13 A Yes.

14 Q And what's the purpose of that?

15 A The DNA card?

16 Q Yes, ma'am.

17 A Just in case the investigator's office need to
18 compare the DNA with the decedent to compare with
19 any evidence they might have.

20 Q Okay. Do you remember approximately how long
21 this autopsy took you?

22 A Approximately like two or three hours.

23 Q Okay. And did you, did you a the report of your
24 findings?

25 A I did.

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1 Q And did you summarize your findings?

2 A I did.

3 Q And turn to page 8 of your report. Approximately
4 -- oh, I apologize, it's not page 8. How many
5 gunshots -- page 7. How many total gunshot wounds
6 were there?

7 A So there were a total of eight gunshot wounds.

8 Q You stated six projectiles were recovered?

9 A Yes.

10 Q Along with a fragment?

11 A Yes.

12 Q Not all of these were necessarily fatal wounds
13 but at least four of them were --

14 A Yes.

15 Q ---correct? And again, just to summarize the
16 wound that you were able to determine the distance,
17 which one was that?

18 A That was the one that entered the central aspect
19 of the forehead.

20 Q And all of the others come from an indeterminate
21 range?

22 A Right.

23 Q And what is meant by indeterminate? Does that
24 mean more than 18-inches?

25 A It could mean more than 18 inches, but there was

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1 a lot of thick clothing or it could have gone to
2 something else first that might absorb the soot and
3 the gunpowder so it's possible it could have been
4 closer but I have no way of telling unless I see
5 soot or stippling exactly how close the gun was.

6 Q And except for the ones that you cannot determine
7 the trajectory because of the entry or exit the
8 re-entry, possible re-entry ---

9 A Yes.

10 Q ---all of the trajectories that you were able to
11 determine were from right to left except for one; is
12 that correct?

13 A Yes.

14 Q And that one was, was that the gunshot wound to
15 one of the ones to the forehead?

16 A Yes, that was one that was (indicating), one that
17 had the stippling on the forehead. That went, I
18 think it went from left to right.

19 Q And did all of these wounds have a downward
20 trajectory?

21 A Um ---

22 Q Or ---

23 A Yes.

24 Q And would those be consistent of the vehicle
25 sitting in the vehicle and the individual firing

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1 over him?

2 A Yes.

3 Q You mentioned ---

4 MS. CAVANAUGH: Beg the Court's
5 indulgence.

6 BY MS. CAVANAUGH:

7 Q Doctor Durso, I'm gonna show you what's marked as
8 State's 214.

9 MR. SUTHERLAND: If may Your Honor, I --
10 may we approach, sir?

11 THE COURT: Yeah, yes, sir.

12 (Whereupon, there was an off-the-record
13 Bench conference.)

14 THE COURT: Mr. Foreman, ladies and
15 gentlemen, if you'd please leave your notes. Do not
16 discuss the case during this brief recess.

17 (The jury was removed from the courtroom
18 at 1:35 p.m.)

19 THE COURT: All right, Mr. Sutherland, you
20 have an objection?

21 MR. SUTHERLAND: Yes, sir, the photographs
22 that had been discussed earlier with respect to the
23 autopsy photos, there are x-rays that have been
24 entered into evidence. Also, we had the testimony
25 and the diagram. The diagram has been introduced

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1 into evidence. I just don't see the value versus
2 prejudicial effect of the actual photos where we've
3 had such a description and we've had this diagram,
4 everything has been laid out for the jury, the
5 position of the wounds, where they were coming from
6 and which angle. I mean, they won't be able to tell
7 which angle or — they wouldn't be able to tell
8 these things themselves as laypersons. The diagram
9 covers the direction from which the shots were fired
10 and it covers the injuries and the x-rays show the
11 position of the projectiles so I don't see any need
12 whatsoever for the State to introduce those photos,
13 sir.

14 THE COURT: All right, thank you.

15 Solicitor.

16 MS. CAVANAUGH: Your Honor, if I may
17 respond, these photos are probative to our case and
18 they — the probative value substantially outweighs
19 the prejudicial value as she has testified
20 extensively about the fact the she can only make a
21 determination of the range of the shot from the one
22 bullet wound, where the one bullet traveled left to
23 right (indicating). And she's able to make that
24 determination based on the stippling of the
25 particular wound which is admissible in this photo.

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1 The others which we have redacted and narrowed down
2 to make sure that they're the least prejudicial to
3 the defendant, show no stippling, and again, it
4 corroborates the pathologist's testimony as far as
5 the reasons that she can't determine the range of
6 the shots. So the forehead shot is significantly
7 different than the other shots. The Defense has
8 attacked the credibility of our witness, also
9 Jonathan Frazier, and this also corroborates the
10 State's version of events.

11 THE COURT: It's going to be up to the
12 witness to testify as to whether or not this is
13 corroborative with the autopsy reports. You need to
14 ask her those questions, Solicitor, in camera.

15 MS. CAVANAUGH: Yes, Your Honor.

16 BY MS. CAVANAUGH:

17 Q 214, 216, 219, 281, 220 you recognize these
18 photographs?

19 A Yes, I do.

20 Q And what are they photographs of?

21 A They're photographs of several of the gunshot
22 wounds to the decedent's body.

23 Q And specifically directing your attention to
24 Exhibits 216 and 217. What do those indicate?

25 A Those show the entrance from to the central

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1 forehead that have the stippling that I was
2 describing.

3 Q And is -- and is the stippling depicted in these
4 pictures?

5 A Yes.

6 Q As far as the other wounds are concerned, is
7 there any evidence of stippling in these wounds that
8 you note?

9 A No, there's not.

10 Q And those are the other areas of the body?

11 A Yes.

12 Q And you're not able to determine the range of
13 those wounds?

14 A That's correct, yes.

15 Q And that was the lack of stippling?

16 A Yes.

17 MS. CAVANAUGH: Beg the Court's
18 indulgence.

19 THE COURT: All right. May I see them
20 please, Solicitor?

21 (Pause.)

22 THE COURT: All right. I understand the
23 State's position as to the probative value of the
24 photographs is that photograph 216 for
25 identification and 217 for identification shows the

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1 stippling around the wound which would indicate the
2 distance?

3 MS. CAVANAUGH: Yes, Your Honor.

4 THE COURT: That the end of the weapon was
5 from the forehead of the victim?

6 MS. CAVANAUGH: That's correct.

7 THE COURT: Is that correct?

8 MS. CAVANAUGH: Your Honor.

9 THE COURT: Any other probative value as
10 to 216 and 217?

11 MS. CAVANAUGH: Yes, Your Honor. The
12 closeness of that -- and I'll get the testimony out
13 -- well, I should have asked her this question as
14 well. The fact that she was able to determine that
15 range, there was testimony from the, from Jonathan
16 Frazier, that at one point he woke up to the
17 defendant standing on that side, the driver's side
18 of the car, which would put him at a close range to,
19 to the deceased victim. Also, that trajectory was
20 the only one from the left to right, which would
21 again indicate that he was on the left side of the
22 car. That is -- obviously that came from Jonathan
23 Frazier, but that was -- that's part of the
24 probative value of that photo. Also, the deceased
25 was found lying with his head to the right

1 (indicating) in the vehicle which has been testified
2 to, which once again, could be because of the
3 closeness of that, the firearm to his forehead when
4 he was shot, which she is testifying to as well.

5 THE COURT: All right. And then what,
6 what about as to the probative value of 214, 218,
7 219 and 220?

8 MS. CAVANAUGH: Beg the Court's
9 indulgence. The probative value of those other
10 wounds is that they do not show, they do not show
11 the stippling and the stiffness -- the sooting that
12 she described that's in the photograph, that's in
13 injury marked A, which again would corroborate
14 testimony that's been discredited by defense counsel
15 from our victim who says that most of the shots that
16 he remembered were from his side of the car which
17 would therefore indicate that it was at more at a
18 longer range consistent with him being on the other
19 side of the car at that point. In addition, those
20 trajectories that she's already testified to are all
21 from the right to left.

22 THE COURT: All right. Thank you, Ms.
23 Solicitor.

24 Mr. Sutherland.

25 MR. SUTHERLAND: In my recollection of the

1 testimony is that all of the testimony about a
2 firearm being discharged was that the firearm was
3 discharged from the passenger's side of the vehicle.
4 With respect to the photograph showing that the
5 stippling with respect to the distance, that's been
6 testified to. That's been covered in the
7 pathologist's testimony. There's been no issue made
8 with respect to the credibility of that statement.
9 The testimony was I could make a determination
10 because the stippling was on this particular wound,
11 I couldn't make a determination with respect to the
12 rest of them because there was no stippling, there
13 was no soot. I don't see where photographic
14 bolstering of that testimony which hasn't been
15 challenged or veracity credibility of that testimony
16 hasn't been challenged, I believe that the testimony
17 of Doctor Bynoe should suffice in conjunction with
18 the x-rays and in conjunction with the sketch, sir.

19 THE COURT: All right, thank you. Well,
20 as initial matter of the photographs, generally
21 autopsy photographs have specifically always raised
22 issues that perhaps other types of photographic
23 evidence does not. I would note as a initial matter
24 214, 218, 217, 220, 216 and 219, none of them appear
25 are gruesome photographs. The more gruesome the

1 photographs, the more detailed can be the analysis
2 although the analysis is always the same. The
3 photographs are relevant. There's no question about
4 that, the relevancy of the photographs. The
5 objectiveness under Rule 403, although relevant
6 evidence may be excluded the probative value is
7 substantially outweighed by the danger of unfair
8 prejudice. Probative means tending to prove or
9 disprove. Probative value is the measure of the
10 importance of that tendency to the outcome of a
11 case. It is the weight that the piece of relevant
12 evidence will carry helping the trier of facts
13 decide the issues. The more essential the evidence,
14 the greater it's probative value; thus, a court
15 analyze probative value considers the importance of
16 the evidence and significance and the issues to
17 which the evidence relates. Photographs calculated
18 to arouse the sympathy or prejudice of the jury
19 should be excluded if they are not necessary to
20 substantiate any material facts or conditions. The
21 evaluation of probative value cannot be made in the
22 abstract, but should be made in the practical
23 context of the issues that state in the trial of
24 each case. In balancing the danger of unfair
25 prejudice against the probative value the

1 determination must be based on the entire record and
2 return on the facts of each case.

3 The probative value of the photos must be
4 valued against the danger of unfair prejudice.
5 Prejudice that is unfair is distinguished from the
6 legitimate impact all evidence has on the out come
7 of the case. Unfair prejudice does not mean damage
8 to a defendant's case that results from the
9 legitimate probative force of the evidence; rather,
10 it refers to evidence which tends to suggest a
11 decision on an improper basis. It is photographs
12 pose a danger of unfair prejudice when they have an
13 undue tendency to suggest a decision on an improper
14 basis commonly, though not necessarily, an emotional
15 one. It is when the prejudice is such that it lures
16 the fact finder from declaring guilt on the ground
17 different from proof specific to the offense charge.

18 And I have reviewed the cases both handed
19 up cases, State versus Collins and the State versus
20 Gerald which was homicide by child abuse, and State
21 versus Holder, also a homicide by child abuse.
22 Those photographs were much more graphic and
23 gruesome. These are not graphic, nor do I find them
24 gruesome. Photograph number -- numbers 216 and 217,
25 there is a defect which it appears that would be a

1 bullet hole in the forehead of the victim. There
2 are two different scales therein. It does show
3 stipulating. It does corroborate not only the
4 testimony of the pathologist, but also the testimony
5 of who had been presented by the State as the only
6 living, only living eyewitness known presented by
7 the State and that would be Mr. Frazier. Also, I've
8 seen defects such as these and worse on a football
9 field, on a little league baseball field; they're
10 not gruesome. They're not unduly suggestive. They
11 don't lure the jury to make a decision unlike the
12 photographs did in Collins when you have a child's
13 near eaten body by a hungry dog where his face is
14 sheared, his years are sheared, you know, he had
15 become food for these animals; it's so different.
16 In this case the State has to prove malice. When
17 you look at it against that background malice
18 aforethought, not only the stippling but closeness
19 of the wounds and the number of wounds on the body.
20 None of them, with the exception of State's Number
21 219, appears to be actively bloody or bleeding.
22 State's 219, I will take that out of the -- it's
23 disqualified for gravity or something of that
24 nature. So I'm gonna allow all of them in except
25 State's 219 and abundance of caution on the -- I do

1 not think there's any unfair prejudice to the
2 photographs that came with corroboration in
3 testimony. I also take that in comparing it to the
4 enlargement, a diagram doesn't give a jury either
5 non-trained medical personal. It's not to scale the
6 exact location on the body to where various wounds
7 are at. I don't know exactly the number -- how many
8 wounds are they say is fatal?

9 MS. CAVANAUGH: Four.

10 THE COURT: Four of eight wounds are
11 fatal. So you come not only to malice, you come to
12 some max of malice or something like that with
13 number of wounds so they're admissible. Any other
14 objections?

15 MR. SUTHERLAND: No, sir. Thank you, Your
16 Honor.

17 THE COURT: Thank you. Thank you very
18 much. All right, bring us our jury please.

19 MR. SUTHERLAND: May it please the Court,
20 Your Honor, I believe since the matter was argued
21 that I would need to renew on the record.

22 THE COURT: I do not -- you know, I never
23 know what to tell an attorney to do in that regard.
24 You may want to say subject to my previous objection
25 anyway.

1 MR. SUTHERLAND: Yes, sir.

2 THE COURT: I never know what an
3 appellate court may do.

4 MR. SUTHERLAND: Yes, sir. Thank you,
5 Your Honor.

6 THE COURT: All right. And I will never
7 find out firsthand.

8 (The jury was returned to the courtroom at
9 1:53 p.m.)

10 THE COURT: We're continuing the
11 examination, direct examination of the doctor by the
12 State.

13 Solicitor, you may proceed, subject to my
14 rulings and Defense' previous objections.

15 MS. CAVANAUGH: Thank you, Your Honor.

16 BY MS. CAVANAUGH:

17 Q Doctor Durso, I'm gonna show you several
18 photographs marked as State's Exhibit 216, 217, 214,
19 218 and 220. I ask you to look at those and see if
20 you recognize them.

21 A Yes, these are all photos of several of the
22 gunshot wounds on the outside of the decedent.

23 MS. CAVANAUGH: Your Honor, at this time I
24 move that State's 216, 217, 214, 218 and two nine--
25 220, I'm sorry, be introduced into evidence.

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1 THE COURT: All right.

2 MR. SUTHERLAND: Just renew my previous
3 objection.

4 THE COURT: Subject to previous objections
5 they are admissible.

6 MS. CAVANAUGH: Hank you, Your Honor.

7 (State's Exhibit No. 214, 216, 217, 218
8 and 220 were admitted into evidence.)

9 BY MS. CAVANAUGH:

10 Q Doctor Durso, you mentioned that these were from
11 the autopsy of Dashawn Jones? And again, who was
12 actually taking these photographs?

13 A The coroner, the representative who was from the
14 coroner's office as well as the representative at
15 the Sheriff's Department. They were both there
16 taking photos.

17 Q And the Sheriff's Department, are those the
18 Sheriff's Department actual markings?

19 A Yes.

20 Q Okay. Markers?

21 A Yes.

22 Q As far the letters that are ---

23 A Yes. They don't match the letters that I used.
24 They used their markings, yes.

25 Q So they do not match ---

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1 A No. No, they do not.

2 Q ---what's on your diagram? Okay. Now, I'm gonna
3 show you the photo, photograph that's marked 216 and
4 State's Exhibit 217, and ask you to tell this jury
5 what this is a photograph of?

6 A So this is the gunshot wound to the central
7 aspect of the forehead here. And as you can see,
8 you can see the central rounded defect. That's
9 where the bullet entered. And all around here you
10 can see these tiny little dots, these tiny little
11 abrasions, and that's what I refer to as stippling
12 which is the gunpowder kind of braising the skin
13 which tells me that -- and there's no soot todabbing
14 soot. That's how it's deemed that the gun was
15 approximately 6 to 18 inches away from this
16 decedent's head at the time the gun was fired.

17 Q And this is the one that had, the only one that
18 had the left to right trajectory; is that correct?

19 A Yes, that's correct.

20 Q Okay. And the other -- and those are not all the
21 wounds, is that correct?

22 A No, these don't show all of them, no.

23 Q Where is marker A?

24 A That's the upper left leg so this is the entry
25 wound to the, to the left thigh (indicating), the

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1 interior side there. And this is the one I
2 described as somewhat atypical so it's not a
3 perfectly round wound that nice little what we call
4 abrasion color surrounding it so I thought it was
5 likely that the bullet was already tumbling, had
6 already gone through something else and was possibly
7 a re-entrance wound when entered his leg her.

8 Q And does that have the stippling that you
9 mentioned?

10 A No, it does not.

11 Q And the marker D, that's backwards but what's —
12 that's on State Exhibit 218. What is that a
13 photograph of?

14 A That's the entrance wound here to the right
15 column. Pulling again, (indicating) it's not a nice
16 clear round wound with a nice, you know, abrasion
17 going around it up so this — I also describe it as
18 an atypical entrance wound and as I previously
19 stated it's either because it's such a bony surface
20 m regular bony surface, or it could have been
21 possibly a re-entrance wound from the one in his arm
22 (indicating).

23 Q And finally State's Exhibit 220. What is that a
24 photograph of?

25 A That's the, what we recall the posterior aspect

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1 of the back of his right arm, and this is an
2 entrance wound. You can see it's a nice round wound
3 with the little abrasions around the edges so it's
4 not atypical as what a normally entrance wound looks
5 like and there is no soot or stippling.

6 Q And this is, this is the top of the arm down
7 here; is that correct?

8 A Yes, this is -- his elbow would be down here and
9 his arms come up off like this (indicating).

10 Q And this is the one that's consistent with the
11 shielding his head?

12 A Yeah, I thought perhaps that it had exited, it
13 was the reason for the atypical entrance wound over
14 the clavicle.

15 Q Okay. And again, other than the photo of the
16 bullet wound to the forehead there is no stippling
17 present in those photos?

18 A No, there's not.

19 Q And one more question, Doctor Durso, did you --
20 other than the gunshot wound did you determine, did
21 you see any other fresh abrasions or fresh wounds on
22 Mr. Jones's body?

23 A No, I did not.

24 Q You did mention that there was some scarring, but
25 that appeared to be old; is that correct?

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1 A Yes, it was already scarred so they were not
2 fresh or any time recent.

3 Q Okay. Thank you, Doctor Durso. Please answer
4 any questions from the Defense.

5 THE COURT: Mr. Sutherland, cross.

6 **CROSS - EXAMINATION**

7 **BY MR. SUTHERLAND:**

8 Q Just briefly, the Solicitor was testifying that,
9 you know, X consists of a Y on a particular wound.
10 I believe that's in pointing out -- if I can grab
11 this thing. I believe that is pointing out the
12 wounds that are sort of inconsistent with the rest
13 of them. Here, (indicating) I believe, that your
14 testimony was -- let's see, gunshot wound I, right
15 to left, back to front, slightly downwards. And in
16 terms of slightly downward, there's downward, and
17 then there's, is it fair (indicating)?

18 A I mean, yeah, slightly downwards.

19 Q And slightly downward?

20 A Yes.

21 Q Whether or not someone was turned or someone was,
22 you know, sitting a certain way and someone was
23 directly them, I mean, you wouldn't have any way to
24 know that?

25 A No.

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1 Q Okay. And with respect to gunshot wound C
2 (indicating), that was the one, the atypical ---

3 A The clavicle, yes.

4 Q ---wound of atypical. That was --- you listed
5 that as front to back?

6 A Yes.

7 Q Because it was ---

8 A Because it just went in and stopped at the
9 clavicle.

10 Q And it was stopped by bone. And again, for
11 people with atypical wounds it could be bone or it
12 could be passing through something, ---

13 A Right.

14 Q ---another ---

15 A (Inaudible.)

16 Q ---something that would make a projectile move a
17 little bit?

18 A Yes.

19 Q Okay. And let's see, and that could be it.
20 Okay, the range of the trajectories is from one
21 front to back, one slightly downward to some that
22 are down --- or a number I guess that are slightly
23 downward and a number that are downward?

24 A Yes.

25 Q Okay, thank you.

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1 MR. SUTHERLAND: No further questions,
2 Your Honor.

3 THE COURT: Redirect, Solicitor?

4 MS. CAVANAUGH: No.

5 THE COURT: Thank you. Thank you very
6 much, Doctor. You may step down. You may be
7 excused.

8 Solicitor, you may call your next witness.

9 MS. CAVANAUGH: The State calls David
10 Collins.

11 THE COURT: All right, if you'd come down
12 to be sworn please.

13 WHEREUPON,

14 **DAVID COLLINS,**
15 after having been duly sworn, testified as follows:

16 THE CLERK: Thank you. Please have a seat
17 in the witness stand and state your full name for
18 the record.

19 THE WITNESS: David Collins,
20 C-O-L-L-I-N-S.

21 **D I R E C T E X A M I N A T I O N**

22 **BY MS. CAVANAUGH:**

23 Q Good afternoon?

24 A Good afternoon.

25 Q Where do you work, Mr. Collins?

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1 A I work for the Richland County Sheriff
2 Department.

3 Q And what is your position there?

4 A I work in the forensic science laboratory as a
5 firearms and tool marks examiner.

6 Q And are you, actually you're titled investigator
7 or are you just David Collins?

8 A I go by investigator and David Collins.

9 Q But you are an investigator?

10 A Yes.

11 Q And how long have you been at the Sheriff's
12 Department?

13 A I've been there since September of 2002.

14 Q And how long have you been — what did you say
15 your position was again, in the firearms?

16 A Firearms and tool mark examiner.

17 Q Okay, how long have you been with the firemarks
18 [sic] and tool marks division?

19 A I've been in that position since I came to the
20 Sheriff's Department to establish the lines of a
21 laboratory in 2002.

22 Q Okay, so you helped establish that laboratory?

23 A Yes.

24 Q And what are your duties as a firearm examiner?

25 A A firearms examiner is responsible for the

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1 forensic analysis of firearms and ammunition or any
2 type of firearms that encompass it. This can
3 involve the comparison of fired cartridge cases,
4 projectiles to specific firearms or to each other
5 microscopically in order to determine if they have
6 the same origin. It would also involve other
7 specialized examination such as serial number
8 restorations in cases where number are obliterated,
9 function testing of firearms, tool mark analysis
10 which goes beyond shield firearms analysis, or any
11 silver specialized ---

12 Q And does that include that identification,
13 examination of projectiles, cartridge casings, and
14 unfired cartridges?

15 A Yes.

16 Q And what makes these examinations possible?

17 A When a firearm is manufactured, various machine
18 processes that are employed to perform most parts of
19 the firearm. Two particular areas that we are
20 interested in are the barrel and the chamber area of
21 the firearm. The barrel of the firearm will
22 typically have spiraling grooves that form in them
23 to -- this spiraling groove is there to cause the
24 bullet to spin or leave the firearm stabilized. The
25 process that forms that will leave behind

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1 microscopic defects in the barrel of the firearm
2 that will transfer certain scratch marks on the
3 surface of any bullet that's fired through the
4 barrel. The patterns, the scratch marks are
5 striation (inaudible) is unique to that particular
6 firearm. No two firearms will leave the exact same
7 pattern of striation on the surface of a bullet. We
8 like to compare that similarly to a fingerprint.
9 We're saying that the bullet that's being marked in
10 a way fingerprint unique. The chamber area of a
11 firearm is just where the cartridge case is held
12 during the firing process. It's also formed by a
13 variety of issuing processes: The firing pin, the
14 breech face, the extractor, the ejector of the
15 chambers almost themselves, all in this area. They
16 have a potential to leave similar markings unique to
17 that firearm cartridge case is firing the firearm.
18 Q And have you received any specialized training
19 related to your field?

20 A Yes.

21 Q And can you through that?

22 A I begun my employment in law enforcement at the
23 State Law Enforcement Division of SLED where I
24 worked in forensics laboratory beginning in 1990. I
25 went immediately to the firearms laboratory there

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1 and was trained at the SLED laboratory in a process
2 that's much like apprenticeship. It takes
3 approximately two to three years to complete. I was
4 certified by SLED as a fire examiner in 1993 and
5 began doing case work on my own. I have received
6 continuing education in the field much of which
7 comes from a professional association which is
8 called the Association of Firearm and Tool Marks
9 Examiner. I received education and training in the
10 area throughout my career.

11 Q And have you testified previously in the field of
12 firearms identification and examination? Have you
13 testified as an expert in court in that field?

14 A Yes. I testified in excess of 250 times in the
15 state court of South Carolina. I've also testified
16 in the state courts of North Carolina and Georgia
17 and the federal court system and the military court
18 system.

19 MS. CAVANAUGH: Your Honor, at this time
20 I'm gonna ask that investigator David Collins be
21 qualified as an expert in the field of firearms
22 examination and identification.

23 MR. SUTHERLAND: No objection.

24 THE COURT: All right. Again, ladies and
25 gentlemen, you recall a witness may give opinion

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1 testimony if the Court qualifies him as an expert.
2 This witness, Investigator David Collins will be
3 qualified as an expert in firearms identification
4 analysis, is that the area, Solicitor?

5 MS. CAVANAUGH: Firearms examination and
6 identification, yes, sir.

7 THE COURT: Examination and identification
8 to give opinion testimony in those areas. It does
9 not mean that you must accept the opinion, but it is
10 evidence for you the jury to use in any way you see
11 fit.

12 Thank you, Solicitor, you may continue.

13 BY MS. CAVANAUGH:

14 Q Investigator Collins, were you involved in the
15 case that we're here for today, State versus
16 Jabriel Singleton?

17 A Yes, ma'am.

18 Q And what were you asked to do in this case?

19 A I received two different submissions of evidence
20 to the laboratory. One of them consisted of a total
21 of seven fired 38 special caliber cartridge cases
22 and one unfired 357 magnum cartridge. The second
23 submission consisted of a total of six fired bullets
24 and one fired bullet fragment.

25 MS. CAVANAUGH: Beg the Court's

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1 indulgence. I'm looking for those.

2 (Pause.)

3 BY MS. CAVANAUGH:

4 Q Okay. So there are two separate, two separate
5 pieces of evidence as far as types of evidence you
6 were asked to examine?

7 A That's correct.

8 Q And we'll go through the fired cartridge and the
9 unfired cartridge cases that you mentioned first.
10 What is meant, what is that evidence bag marked
11 with, Investigator Collins? Is that State's Exhibit
12 —

13 A This is marked State's Exhibit 156.

14 Q Okay, and that's how it's listed in evidence.
15 What is actually in 156?

16 A Based on the packing information that would
17 contain the seven fired .38 special caliber
18 cartridge cases, and one unfired 357 magnum
19 cartridge. The package also bears a seal and
20 evidence indicating tamper -- indicating seal. It
21 bears my initials and the date of seal.

22 Q So these are the items that you examined in this
23 case?

24 A Yes.

25 Q And what is actually meant by the term cartridge,

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1 fired cartridge casing?

2 A When a cartridge or a single unit of unfired
3 ammunition is fired in a gun, one of the waste
4 products, if you will, that results is a fired
5 cartridge case. The cartridge case is either a case
6 of semi-automatic firing objective from a gun at the
7 scene or a case of a revolver that would remain
8 behind in the cylinder of the barrel until it's
9 removed later. This cartridge case before firing
10 contained the powder and projectile that came from
11 the gun.

12 Q And how many fired cartridge cases did you
13 receive?

14 A I received a total of seven.

15 Q You said one unfired?

16 A And one unfired 357 magnum cartridge.

17 Q Okay. Now, when you are -- before you test them
18 are they already usually swabbed for DNA and tested
19 for fingerprints?

20 A Usually they are, yes.

21 Q And why is important?

22 A It's important because when I receive this
23 evidence in the laboratory I'm going to handle it a
24 great deal doing microscopic analysis. And my
25 testing process is, unless I wear gloves, would

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1 potentially contaminate or would contaminate those
2 items for any future collection of fingerprint DNA
3 materials. We typically do not like to wear gloves
4 in our part of the laboratory as it reduces our
5 manual dexterity in handling the items of evidence
6 under the microscope.

7 Q And can you describe your actual examination of
8 these items?

9 A The first thing that we do when we receive items
10 of evidence in the laboratory is that we examine it
11 visually. We take notes as its condition. We take
12 notes as, in the case of cartridge cases, we'll make
13 notes as to the caliber, the brand, which is
14 information we can gather from visual analysis of
15 the items themselves. We may perform stereoscopic
16 analysis of them to search for any potential DNA --
17 excuse me, for any potential trace evidence that may
18 have been there on these items that we would collect
19 before we went any further. After we've done this
20 initial visual examination of the items we will then
21 perform microscopic comparisons on them with each
22 other. In a case where we do not have a firearm
23 submitted to compare items to, we will compare the
24 items with each other looking for those microscopic
25 markings that were left by the firearm in which they

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1 were fired. In order to determine if the cartridge
2 cases were fired in one gun or in multiple firearms
3 and by virtue of this we can sometimes determine how
4 many, how many firearms were used at the scene.

5 Q Okay. What were you able to determine about the
6 fired cartridge cases that were located at the
7 scene?

8 A Of the seven fired .38 special caliber cartridge
9 cases that were at the scene, I was able to
10 determine the -- imagining individual
11 characteristics or unique characteristics that were
12 present and if they were of sufficient quality and
13 quantity for me to be able to determine if these,
14 all of these firearms of the .38 special cartridge
15 cases were fired by one gun.

16 Q Okay. So one gun; is that correct?

17 A That's correct.

18 Q And as far as item number 13 which is the one
19 unfired casing or cartridge that was located, what
20 were you able to determine about that?

21 A My initial analysis of it would be on the unfired
22 357 magnum caliber cartridge, this is a different
23 caliber cartridge than the others that were
24 submitted. However, it is not uncommon for .38
25 Special ammunition to be fired in a 357 magnum kind

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1 of a gun. It was of a different brand than the
2 fired .38 special caliber cartridges; and it, again,
3 was unfired, and therefore, no microscopic analysis
4 or comparison was performed on it versus the other
5 items.

6 Q But it could be loaded in the same firearm that
7 all of those were fired from?

8 A Potentially. In this case we do not have a
9 firearm submitted and as the .38 Special firearm --
10 .38 Special at issue can be fired in a 357 magnum
11 firearm. The reverse is not true. You cannot fire
12 a 357 magnum if the firearm is truly a .38 special.
13 It will not fit in the chamber and will not close on
14 that particular cylinder revolver. But if a 358
15 magnum firearm is used, or had been used in this
16 particular case again that particular cartridge
17 would fit in that firearm.

18 Q Okay, again, that was an unfired --

19 A Yes.

20 Q ---cartridge? Is it unusual in your experience
21 that a person might have several different brands of
22 ammunition on them?

23 A Not unusual.

24 Q What condition -- did you make any notes in your
25 report about the conditions that those casings and

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1 the unfired cartridge were in when you made your
2 analysis?

3 A Yes. I make a general condition note as to
4 whether there's any particular damage or other
5 defects on the cartridge casings and no such damage
6 was indicated on these cartridges according to my
7 notes.

8 Q And when you conduct your analysis do you have
9 any information about the case beforehand as far as
10 where those were located, specifically at the scene
11 or anything like that?

12 A It varied which is often no.

13 Q So usually they're just marked as the crime scene
14 investigator had marked them?

15 A Yes, I would have -- they will be referenced
16 often to a marker that the crime scene investigator
17 used at the scene. In this particular case I would
18 have them cross reference with the item number that
19 our computerized evidence system assigns them to the
20 evidence envelope in which I would receive them
21 whether it's forensics evidence marked A, B, C, etc.
22 That does not tell me where they were located at the
23 scene.

24 Q Now, did you have an occasion in this case to
25 actually examine projectiles?

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1 A I did.

2 Q And what are projectiles? What is meant by that
3 term?

4 A Projectiles is the actual item that is fired from
5 the gun and exits from the muzzle or with the
6 barrel. It is in this case a bullet and a
7 projectile may also be a fragment of a bullet. When
8 a bullet strikes something it has the potential to
9 be fragmented in multiple items which would also
10 consider projectiles. Anything that is fired from
11 the barrel of the firearm is technical projectile.

12 Q And when you were looking at that during your
13 examination did you have knowledge of where these
14 were recovered from?

15 A I did have knowledge in that the packaging in
16 which they were received did indicate wherefrom they
17 had been recovered as far as the part of the body.

18 Q So they were actually marked with reference to
19 on, of the body?

20 A Yes, they're marked on the envelope.

21 Q And how many did you receive to examine?

22 A I received a total of six fired bullets. There
23 were -- by that I mean they were in tact enough for
24 me to determine that they were the majority of the
25 portion of the projectile and bullet so I considered

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1 it them to a bullet by themselves. But also, one
2 fragment of a bullet was received so it's a total of
3 seven individual items.

4 Q Okay. And because these are from the body of a
5 person, are they cleaned before you actually examine
6 them?

7 A Yes. The first thing that I do when I receive
8 these is I do wear gloves when I handle them
9 initially and do a visual general analysis for
10 appearance. I look for anything that may need to be
11 collected before they are cleaned and as far as
12 trace materials, fibers, or other items. Then they
13 are placed into a solution of water and bleach for a
14 few minutes to foz them or decontaminate from any
15 biohazards or items that may be present or any viral
16 or bacterial problems that are present. After that
17 cleansing we can then handle them without gloves for
18 purpose of future or particular marks.

19 Q And what were your findings as they relate to the
20 projectiles in this case?

21 A After doing my essential visual analysis of them
22 we took measurements and weight of them to determine
23 first of all what caliber firearm we're dealing
24 with. The different types of firearms can be in
25 different calibers and so what you will look for

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1 first is the diameter of the bullet and that can
2 tell you the general caliber of the firearm. Then
3 you can look at the physical characteristics of the
4 bullet which may tell you more as to a specific
5 caliber such as .38 special, 9 millimeter, or 45
6 revolver. In this particular case I examined the
7 fired bullets and was able to determine that of
8 them, five were consistent with full metal jacket
9 bullets commonly found in a .38 special caliber
10 ammunition. One of them was consistent with being a
11 -- the sixth projectile rather was consistent with
12 being a jacketed soft point or jacketed hollow point
13 bullet which also could have come from a .38 Special
14 or a 357 magnum of caliber cartridge. The fragment
15 itself was too badly damaged to determine what
16 caliber it was.

17 Following doing that analysis and that
18 note taking process I forwarded a microscopic
19 comparison of these items other the comparison
20 microscope laboratory. Again, I'm looking for
21 microscopic markings left on these bullets by the
22 barrel when they were fired through the barrel in
23 order to try to determine if they were fired from
24 the same gun or not. And I was able to determine
25 that all of the items had been fired from a gun,

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1 including the fragment. There was enough
2 information present on the fragment for me to be
3 able to match it to the other bullets present.

4 Q So all of those projectiles you determined were
5 from the same -- were fired from the same firearm?

6 A I was able to determine they were all fired from
7 the same firearm. The fragment itself, I attempted
8 to do what we call a physical fracture match back to
9 the jacket, hollow point jacket, soft point bullet,
10 which had lost part of its jacket during the
11 process. I was trying to determine if it was part
12 of that bullet originally, and I was unable to make
13 a determination.

14 Q And could those projectiles, are those consistent
15 with ammunition that can be loaded into a 357
16 revolver?

17 A Yes.

18 Q And are you able to determine whether the
19 projectiles and the cartridge casings such as the
20 fire cartridge casings that you analyzed, are you
21 able to make a determination as to whether those
22 came from the same firearm?

23 A No, I was not, not without having the firearm
24 present for analysis. The firearm itself is leaving
25 marks on the cartridge casings from a different part

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1 of the gun that leaves the marks on the bullet; so
2 therefore, unless I have the gun present, I can't
3 tell you whether the same gun that fired the bullets
4 also fired the cartridge casings.

5 Q And in this case to your knowledge the firearm
6 was not recovered?

7 A To the best of my knowledge, no.

8 Q And is that necessarily unusual that you're not
9 able to compare projectiles to the actual cartridge
10 casings?

11 A It's a fairly frequent occurrence that we receive
12 fired evidence to the bullets and cartridge cases
13 and do not have a firearm and never have a firearm
14 that was using the cartridge.

15 Q And again, you stated that item number 69 which I
16 believe is one of the projectile recovered from the
17 upper chest. You say that there was something
18 slightly different about that than the other
19 projectiles?

20 A Yes. It was a, again, fired jacketed hollow
21 point or jacketed soft point bullet which means the
22 jacketed material, the copper material, did not
23 fully enclose the bullet and had expanded somewhat
24 as this type of ammunition is designed to do. And
25 it was a different type of ammunition product that

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1 was represented by the other fired bullets and which
2 were full metal jacketed bullets which are totally
3 encapsulated, or at least the front portion of them,
4 are totally encapsulated jacket too.

5 Q But again, your determination was still that they
6 were fired from the same firearm?

7 A Yes, they -- I was able to make the determination
8 that they were -- that that particular bullet was
9 fired from the same that fired the other
10 projectiles.

11 Q And as far item number 70 which was removed from
12 the right shoulder, what did you note about item
13 number 70?

14 A Item 70 was item that was missing a portion of
15 the jacket material. It had -- it was somewhat
16 damaged.

17 Q But you were still able to make your analysis
18 despite that?

19 A Yes, there's been -- there was enough microscopic
20 information there for me to be able to make a
21 determination.

22 Q Can you describe to us about a revolver in
23 general. How do you load and reload that?

24 A A revolver is loaded by pressing a lever or
25 pressing a button on the side of the firearm which

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1 then allows you to swing the cylinder open. You
2 would then load the individual chambers in the
3 cylinder with as many rounds as it's capable to
4 hold. You don't have to fully load it. It's up to
5 you, but it can hold the maximum number of
6 cartridges that is determined by the number of
7 chambers holding the cylinder. Once we've loaded it
8 we close the cylinder with the latch in place, and
9 at that point you would fire the gun. You'll fire
10 the gun once each time you pull the trigger until
11 you have expended all of your ammunition. At that
12 point on time you have to manually remove the fired
13 cartridge cases from the revolver which is done in a
14 similar process pressing the cylinder latch or
15 button from the side of the firearm swinging the
16 cylinder open. And then you would press down on a
17 rod which forces the fired cartridge cases out of
18 the chambers on the cylinder. Once that occurs they
19 would fall to the ground or fall -- if you hold your
20 hand under them, capture them in your hand, then
21 reload the firearm and begin that process.

22 Q And how many chambers do revolvers typically
23 have?

24 A The most common number that we encounter is five
25 or six in the case of .38 Specials and 357 magnum

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1 caliber firearms. The -- there are some 357 magnum
2 caliber firearms that are available with more than
3 six.

4 Q And does that include a 357 revolver?

5 A Yes.

6 Q You're speaking of a 357 revolver?

7 A Yes.

8 Q Okay. So does it actually take effort to reload
9 this firearm?

10 A It is a process that you have to go through.
11 Just like any firearm, even a semiautomatic pistol,
12 there's a process you have to go through as far as
13 removing the magazine, reinserting the magazine and
14 all of that. It does take a certain amount of
15 operator involvement to load a revolver. You have
16 to -- there are certain steps you have to go
17 through.

18 Q Now what other -- is there another type of gun
19 that could have, other than like you said a 357
20 revolver, that could have fired those, those
21 projectiles?

22 A It's in my report. I indicate that they are most
23 consistent with having a .38 Special 357 magnum type
24 of firearm. Due to the fact that these bullets are
25 of the diameter that is similar to, for instance,

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1 nine millimeters and other types of firearms there's
2 always the remote possibility that this type of
3 ammunition, these bullets came from a different
4 caliber of ammunition that had been perhaps loaded
5 with this type of bullet. However, based on the
6 weight and their design, they are most consistent
7 with being either from a 357 magnum or .38 Special
8 calibration.

9 Q And is the .38 special, is that also a revolver?

10 A In most cases, yes. There are actually a rare
11 number of semiautomatic pistols that will fire a .38
12 Special and 357 magnum calibrated ammunition. At
13 this point in time I would like to clarify, before I
14 mentioned I was trying to do a physical match with a
15 fragment at the scene in one of the bullets that was
16 recovered from the body. It was actually my item 70
17 I was trying to compare it back to. That is not --
18 that is one of the full metal jacket bullets that
19 had been damaged during the process.

20 Q Okay, you're just clarifying something earlier
21 about ---

22 A Yes.

23 Q Okay.

24 A What item number it was.

25 Q And you actually made an amended, a corrected

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1 report in this case?

2 A Yes, I did.

3 Q And that was, what was the reason for that?

4 A It was a matter of wording in the report. It was
5 just an incorrect word that was more or less a typo
6 in the original report that we discovered during our
7 quality audit of our laboratory and I just issued
8 that corrected report.

9 Q So it simply was just a typo?

10 A Yes.

11 Q Did someone actually review your finding?

12 A Yes, in the laboratory it is our policy that any
13 type of report and all the documentation of notes is
14 reviewed by another qualified examiner before a
15 result is issued. Additionally, any of our
16 microscopic comparison results, all of those are
17 also reviewed by another competent examiner before
18 that result is issued.

19 Q And just to summarize, all the casings that you
20 analyzed in this case were fired from the same
21 firearm; is that correct?

22 A All the cartridge cases that I examined, the
23 fired cartridge cases, were fired in one gun.

24 Q And the unfired cartridge could have been loaded
25 in a 357 revolver; is that correct?

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1 A Yes.

2 Q And once again, the projectiles that you
3 analyzed, were those all fired from the same
4 firearm?

5 A Yes, from one gun.

6 MS. CAVANAUGH: Beg the Court's
7 indulgence.

8 BY MS. CAVANAUGH:

9 Q You briefly touched on a .38 special
10 semiautomatic?

11 A Yes.

12 Q Now as far as what -- can you describe that gun a
13 little bit further as far as when it's fired, where
14 do the casings --

15 A The casings on the particular firearm will be
16 ejected from the gun when it is fired. The
17 particular firearm that referring to is a Smith and
18 Wesson revolver semiautomatic pistol which is used
19 for some competition purposes. It is designed by
20 what we call lock cover ammunition, and to the best
21 of my knowledge it would not be capable of firing
22 these types of bullets found in the body because of
23 the length. It's specifically designed for lock
24 covering.

25 MS. CAVANAUGH: Beg the Court's

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1 indulgence.

2 BY MS. CAVANAUGH:

3 Q And when a semi-automatic gun is actually fired
4 are the casings are then scattered everywhere?

5 A It will be ejected typically to the right of the
6 firearm depending on the design of the firearm, to
7 the right, maybe slightly to the rear. All this is
8 dependent on the firearm's design. If the gun is
9 moving as it's being fired the angle of the gun in
10 relationship with the direct with it being fired is
11 changing, that would -- that will have impact as far
12 the approximately the same location it will tend to
13 deposit it most cases in an area that may be
14 somewhat particular.

15 Q And again, when you have to unload a revolver
16 would finding five concentrated in a row, in an
17 area, would that be consistent with unloading a
18 revolver?

19 A That could be consistent with dropping the fired
20 cartridge, cartridge cases out of the cylinder
21 during the loading process.

22 Q And again, in order to -- once all the chambers
23 are used in that revolver you have to reload?

24 A You have to reload the gun in order to fire it.

25 Q You have to unload first?

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1 A Yes.

2 Q Thank you, Investigator Collins. Please answer
3 any questions from the defense.

4 THE COURT: Thank you, Solicitor.

5 Mr. Sutherland.

6 **CROSS - EXAMINATION**

7 **BY MR. SUTHERLAND:**

8 Q Sir, I think that the semi-automatic, is it a
9 target pistol or ---

10 A Yes.

11 Q ---something? When those are --- we're talking
12 about a revolver here basically?

13 A It's my opinion that we're talking about a
14 revolver. During my 22 years in doing this type of
15 analysis I've never examined that particular make of
16 model .38 caliber.

17 Q There's just something about that particular kind
18 of ammunition with the way its slide works or
19 something, automatic?

20 A Yes, it's a specialized rare item.

21 Q Thank you. Expensive too?

22 A Yes.

23 Q Okay. Just briefly go over a couple of things.
24 You've testified that reloading a revolver is a
25 process?

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1 A Yes.

2 Q And reloading a semi-automatic handgun is a
3 process?

4 A That is correct.

5 Q You testified that you can link the cartridge
6 cases to one another?

7 A Correct.

8 Q And the projectiles to one another?

9 A Yes.

10 Q But without the firearm you can't link them
11 together?

12 A I cannot determine that the bullets in this case
13 and the cartridge cases all come from the same
14 firearm.

15 Q Okay. Thank you, sir. I have no further
16 questions.

17 THE COURT: Redirect?

18 MS. CAVANAUGH: No, Your Honor.

19 THE COURT: Thank you. Thank you,
20 Investigator Collins. You may step down.

21 All right, Solicitor, about how long is
22 your next witness?

23 MS. CAVANAUGH: Your Honor, our next
24 witness will be somewhat lengthy. It includes the
25 records custodian.

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1 THE COURT: All right. Thank you. Well
2 perhaps now will be a good time to take our lunch
3 recess. Mr. Foreman, ladies and gentlemen of the
4 jury, we're going to take our lunch recess at this
5 time. Again, I remind you do not discuss the case
6 with anyone, your fellow jurors. In fact, y'all can
7 repeat that; can't you. Lunch mates, family,
8 friends, or anyone else. Do not any investigation
9 or any investigation. Remember to keep an open
10 mind. Do not begin your deliberations until you're
11 instructed to do by the Court. With that being
12 said, let's say 2:00. If you'd be back promptly at
13 2 p.m.

14 (The jury is removed from the courtroom at
15 12:35 p.m.)

16 THE COURT: Anything else from the State?

17 MS. CAVANAUGH: No, Your Honor.

18 THE COURT: Defense?

19 MR. SUTHERLAND: No, sir.

20 THE COURT: Will this give you adequate
21 time to review the documentation?

22 MR. SUTHERLAND: I believe I can get up to
23 speed.

24 THE COURT: Court will be in recess until
25 1400 hours.

1 (Whereupon, a lunch break was taken.)

2 THE COURT: All right. Anything from the
3 State before we bring in our jury, Solicitor?

4 THE BAILIFF: Briefly, Your Honor, if we
5 may approach.

6 THE COURT: Yes, ma'am.

7 (Whereupon, an off-the-record Bench
8 conference was held.)

9 THE COURT: All right. Anything further
10 from the State before we bring in our jury,
11 Solicitor?

12 MS. SIMPSON: Your Honor, it's just that
13 our next witness is coming from the holding cell so
14 there will be a little bit of process getting him
15 out.

16 THE COURT: All right. Is he here now?

17 MS. CAVANAUGH: Yes, Your Honor. Yes,
18 sir.

19 THE COURT: Bring him on out.

20 THE BAILIFF: Okay.

21 THE COURT: Anything from the Defense?

22 MR. SUTHERLAND: Nothing at all, sir.

23 THE COURT: Can you just leave him over
24 there, Sheriff, until he's called to the stand?
25 Thank you.

1 (The jury is returned to the courtroom at
2 2:08 p.m.)

3 THE BAILIFF: Your Honor, the jury is
4 present.

5 THE COURT: Thank you, Mr. Bailiff. Thank
6 you.

7 Welcome back, ladies and gentlemen of the
8 jury panel. I hope y'all had a pleasant lunch.
9 We'll continue with the trial of the case by
10 presentation of evidence and testimony by the State
11 in its case in chief. If you would please continue
12 to give the parties your undivided attention.

13 Solicitor, you may call your next witness.

14 MS. CAVANAUGH: Thank you. The State
15 calls Robert Jeter.

16 THE COURT: Come around, Mr. Jeter. If
17 you'd come around and be sworn for us please.

18 THE BAILIFF: Come on up here.

19 THE WITNESS: I don't need the Bible; I'm
20 Muslim.

21 THE COURT: Excuse me?

22 THE BAILIFF: He said he didn't need the
23 Bible, Judge.

24 THE COURT: All right. Well, he does not
25 have to. If you look under the history of oaths he

1 does not have to swear on the Bible or affirm. He
2 can affirm if he understands that he has a duty and
3 responsibility when you're called to the witness
4 stand to tell the truth —

5 THE WITNESS: Okay. I'm trying to figure
6 out what I'm in here for. I don't know what's going
7 on right now.

8 THE COURT: All right. Well, here's my
9 question, if a question is put to you are you going
10 to tell the truth?

11 THE WITNESS: Sure I'm gonna tell the
12 truth, but if I don't remember nothing ain't nothing
13 I can do about that.

14 THE COURT: Let me finish. And you
15 understand, if you don't tell the truth you could be
16 charged with perjury. Do you understand that?

17 THE WITNESS: All right. How many days
18 that is in jail?

19 THE COURT: Sir?

20 THE WITNESS: How many days that is in
21 jail?

22 THE COURT: How many days?

23 THE WITNESS: Yeah.

24 THE COURT: That would be up to me.

25 THE WITNESS: Oh, okay.

1 THE COURT: All right. But you're gonna
2 tell the truth?

3 THE WITNESS: Yeah, I'm gonna tell the
4 truth. I'm gonna tell them what I remember. I
5 don't...

6 THE COURT: All right. Well, you don't
7 have to swear on the bible.

8 THE WITNESS: All right.

9 THE COURT: All right. But you affirm
10 that you're going to tell the truth?

11 THE WITNESS: Tell the truth. But I don't
12 know nothing; that's what I'm saying. Yeah, I'm
13 gonna tell the truth though.

14 WHEREUPON,

15 **ROBERT JETER,**
16 affirmed to testify as follows:

17 THE COURT: All right. Come around here,
18 Mr. Jeter. Go ahead and have a seat. Lean up where
19 you can talk into the microphone please.

20 THE WITNESS: Coat got my pants.

21 THE COURT: Oh, sorry, I'm sorry. That's
22 my bad. I'll take that one.

23 THE WITNESS: Yea.

24 THE COURT: I didn't realize that you had
25 those ankle bracelets on.

1 THE WITNESS: Yes, sir.

2 THE COURT: This lady is going to ask you
3 some questions. You answer the questions as
4 truthfully as you can. You understand?

5 THE WITNESS: Yes, sir.

6 THE COURT: All right. Speak up where
7 they can hear you.

8 All right, Solicitor.

9 **D I R E C T E X A M I N A T I O N**

10 **BY MS. CAVANAUGH:**

11 Q Mr. Jeter, were you served with a subpoena to
12 appear in court for this case?

13 A Yes, ma'am.

14 Q And did you appear as instructed?

15 A No, I had forgot. I forgot the court date 'cause
16 I had other dates with other things I had to do so.

17 Q Okay.

18 A I forgot the date.

19 Q So because you failed to appear a bench warrant
20 was issued ---

21 A Uh-huh.

22 Q ---for your arrest; is that correct?

23 A Uh-huh.

24 Q And you don't want to be here, that's clear, is
25 that correct?

SW - R. JETER - DIRECT

1 A Man, I don't want to be on this either, period,
2 so I don't know why in here, shit.

3 Q In April of 2012 did you write Investigator David
4 Unger a letter?

5 A I don't remember.

6 Q So you did not write him a ---

7 A I don't remember. I was on medicine and
8 everything else then. I don't remember none of
9 that. I was on medicine. They had me on medicine.
10 That's why I say I don't remember none of that.

11 Q Okay. On November 19th of 2012, so about four
12 months ago, did you give a statement to Investigator
13 Unger?

14 A I don't remember. I was on medication in the
15 county and I can prove it to you I was on some
16 medication that had me high like, like right now,
17 you know what I'm saying. So I don't remember none
18 of that.

19 Q I'm gonna show you what's marked for I.D.
20 purposes as State's Exhibit 241.

21 A I ain't trying to be smart but ---

22 Q Do you recognize this?

23 A ---that ain't, that ain't, that right there. I
24 don't remember none of that.

25 Q Do you -- is that your signature right there?

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1 A I got about 30 signatures.

2 Q So on November 19th, 2012, did you give a
3 statement to Investigator Unger?

4 A I don't remember.

5 Q Do you remember meeting him at your probation
6 office?

7 A Yeah, I remember, I remember meeting him down
8 there then.

9 Q But just don't remember giving him the statement?

10 A No, I don't remember giving him no kind of
11 statement, none of that.

12 Q Do you remember telling him that you had
13 information —

14 MR. SUTHERLAND: His testimony is he
15 doesn't remember. He's not denying the statement.

16 THE WITNESS: Yeah, I'm not denying —

17 THE COURT: I understand, but she can
18 under rule 607 anyone can impeach and she can ask
19 questions.

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: All right. Thank you.

22 BY MS. CAVANAUGH:

23 Q Mr. Jeter, do you remember telling Investigator
24 Unger that you spoke with Jabriel Singleton?

25 A No, ma'am.

SW - R. JETER - DIRECT

1 Q So you're denying that you told him?

2 THE COURT: No.

3 THE WITNESS: Like I said, I'm not denying
4 nutin'. I don't remember. That's the point. I
5 don't remember so you can't make me. I don't
6 remember nothing.

7 BY MS. CAVANAUGH:

8 Q Okay. Did you tell him that -- did he tell you
9 -- did you tell Investigator Unger that Jabriel
10 Singleton told you he killed one guy and shot the
11 other guy in the neck?

12 A No, he didn't tell me nothing like that.

13 Q So you're denying that --

14 A Yeah, we barely talk in the county jail. He
15 ain't -- at least I don't remember. He didn't tell
16 me nothing like that, but I don't remember nothing.
17 That just about no statement. I don't remember
18 writing no statement or none of that. That's what
19 I'm saying, I don't remember. I'm thinking somebody
20 else done wrote the statement and put my name on
21 something. That what I'm thinking now.

22 Q So you're denying saying that?

23 A Yeah, I'm -- I'm denying all that. I don't know
24 nothing about that. I don't know nothing about this
25 here, you know what I'm saying. All I want is to go

SW - R. JETER - DIRECT

1 somewhere, anywhere besides here.

2 Q So you're denying making this statement to
3 Investigator Unger on November 19th, 2012?

4 A I don't remember. I don't remember that. I
5 don't remember that. It's a difference from denying
6 and remembering, see what I'm saying.

7 Q Do you want me to refresh — would you like to
8 look at this to refresh your memory?

9 A Naw, I already seen it. They showed it to me a
10 thousand times.

11 Q Did you look at it?

12 A Yeah, I looked at it..

13 Q Did you read it?

14 A Yes, ma'am. Looked all the way through it.

15 Q Okay.

16 A Back and forth.

17 Q Do you remember him telling you that he robbed
18 these two guys?

19 A Nope.

20 Q Do you remember him saying that he robbed them,
21 that it was a rip off?

22 A Nope.

23 Q Do you remember telling him that they were riding
24 with his girlfriend and they dropped him off at
25 Zaxby's?

SW - R. JETER - DIRECT

1 A Nope.

2 Q Do you remember telling him that the weed that
3 they got out of the motel was the weed that he
4 ripped them off of?

5 A Nope.

6 Q Do you -- are you -- did you tell him that he
7 told me he shot the driver and the passenger did not
8 die?

9 A I don't remember none of that.

10 Q You don't remember it or you didn't say it?

11 A No, I didn't say none of that. I don't remember
12 none of that. I don't remember none of that.

13 Q Do you remember telling Investigator Unger --

14 A I --

15 Q Did you tell Investigator Unger that Jabriel
16 Singleton said he would bond you out of jail if you
17 would kill the guy that got shot in the neck?

18 A Nope.

19 Q You didn't say that?

20 A Nope, I don't remember none of that.

21 Q Did you tell Investigator Unger that Jabriel
22 Singleton told you that he knew where the guy lived
23 and would give you the address?

24 A Nope.

25 Q You didn't say that?

SW - R. JETER - DIRECT

1 A Nope.

2 Q Do you remember telling Investigator Unger that
3 you told Jabriel Singleton you would do it if he
4 would get you out of jail?

5 A I don't remember that.

6 Q You didn't say it or you don't remember it?

7 A Don't remember.

8 Q Do you remember telling Investigator Unger that
9 Jabriel Singleton told you that he would pay you a
10 thousand dollars to get out if you would kill him?

11 A Huh-uh.

12 Q You didn't say that?

13 A Huh-uh.

14 Q You didn't say that to Investigator Unger?

15 A I don't remember.

16 Q Did you tell Investigator Unger that Jabriel told
17 you he shot the guy in the neck?

18 A Huh-uh.

19 Q You didn't, you didn't say that?

20 A I don't remember. I do not remember none of
21 that.

22 MR. SUTHERLAND: Your Honor, if I may, the
23 Solicitor's leading, the Solicitor's testifying.
24 He's already said he doesn't remember any of this,
25 know anything about what's in the statement so.

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1 THE COURT: Well, I don't know if he said
2 that or not because that question in that form has
3 not been put to the witness. But again, under 607
4 she may proceed. Under 611 she may proceed, and
5 then there could ultimately be an issue under rule
6 613(b). And I think she has to continue in this
7 manner. I mean, if you want to be heard outside the
8 presence of the jury I'll be glad to hear you.

9 MR. SUTHERLAND: I respect the Court's
10 ruling on that.

11 THE COURT: Sir?

12 MR. SUTHERLAND: I respect the Court's
13 ruling on the matter.

14 THE COURT: All right, thank you. Thank
15 you very much.

16 BY MS. CAVANAUGH:

17 Q Did you tell Investigator Unger that Jabriel told
18 you he had to get rid of the guy that called his
19 name?

20 A I don't remember none of that.

21 Q Did you tell Investigator Unger that this is what
22 the plan was?

23 A I don't remember none of that.

24 Q Did you tell Investigator Unger that Jabriel
25 Singleton told you the State would have no case if

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- 1 he was dead?
- 2 A I don't remember none of that.
- 3 Q Do you remember telling Investigator Unger that
- 4 Jabriel told you the guy was from New York?
- 5 A I don't even remember. The investigator,
- 6 officer, I have not seen him until now. A thousand
- 7 dollar I don't know the man.
- 8 Q You're denying some of it but say you don't
- 9 remember the other?
- 10 A I ain't denying nothing. I don't remember none
- 11 of that. I been intoxicated, I been on medication,
- 12 they had me drugged up. I don't remember none of
- 13 that. Now you check the records and all. You check
- 14 my records and all. I was all pillled up steady on
- 15 drugs so I don't remember none of that so I don't
- 16 know what's going on right now, man. I'm confused
- 17 for real.
- 18 Q And again, in April of 2012 do you remember
- 19 writing Investigator Unger a letter telling him you
- 20 have information about this case?
- 21 A Huh-uh, I don't remember.
- 22 Q So you're denying that as a result of your letter
- 23 they came and spoke to you in November ---
- 24 A I said I don't remember.
- 25 Q ---in 2012?

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1 A I said I don't remember that. I say I don't
2 remember that so you going to make me remember?

3 Q I'm attempting to refresh your memory through
4 this written statement ---

5 A But I don't remember.

6 Q ---that you signed?

7 A Because I don't remember. I tell you I was
8 drugged up on pills. Every time they put me on
9 pills I forgot everything. Make me feel like I have
10 to get I don't want to know about nothing, nothing,
11 nothing.

12 Q So you don't remember writing Investigator Unger
13 a letter ---

14 A No, I don't even want to live right now. You
15 talking about a piece of paper. Man, I'm trying to
16 get my life back. I don't remember none of that. I
17 don't remember none of that. Please, I do not
18 remember that. Please, please, I don't remember
19 none of that. Please, I don't remember none of
20 that.

21 Q So you don't remember Jabriel Singleton having a
22 conversation with you ---

23 A No, ma'am, 'cause you're driving me crazy and I
24 swear to God 'cause I don't remember none of that.

25 Q I'm asking you a question.

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1 A Okay, go ahead, ask it.

2 Q You're denying -- you're saying you do not
3 remember Jabriel offering to pay you a thousand
4 dollars ---

5 A No, ma'am. I do not remember that. I do not, I
6 do not remember that. I do not remember -- listen,
7 I do not remember that. I do not remember nothing.
8 I just told you I do not remember none of that.
9 You're asking the same question over and over again
10 and you're going to get the same answer.

11 Q As a result of your letter you wrote on
12 April 2012, did an investigator not come and talk to
13 you in November of 2012?

14 A I don't remember.

15 MS. CAVANAUGH: Beg the Court's
16 indulgence.

17 BY MS. CAVANAUGH:

18 Q And you stated earlier that you do remember
19 talking to ---

20 A Yeah, I remember talking to him at the probation
21 office.

22 Q In November?

23 A I don't know when, I don't know what month it was
24 but.

25 Q Was it a couple of months ago?

SW - R. JETER - DIRECT

1 A See, I don't know. I thought it was yesterday or
2 something.

3 Q So when you met Investigator Unger you were out
4 of jail. Is that at least a correct statement?

5 A He came to the probation office, ain't it?

6 Q That's what I'm asking you. You were out of
7 jail; is that correct?

8 A Didn't he tell you that. He tell he came to see
9 me, right?

10 Q No, I'm asking you the question. Did you meet
11 him outside of jail at the probation office?

12 A Oh, yeah, yeah -- no, we met inside the probation
13 office.

14 Q But that's not at the jail, is it?

15 A Shit, might as well say it is.

16 Q It's not at the Alvin S. Glenn Detention Center?

17 A Smell like it.

18 Q Is it on Greg Street?

19 A Yeah.

20 Q And you've been arrested before; is that correct?

21 A Who?

22 Q You have been arrested before; is that correct?

23 A Uh-huh.

24 Q And you have spent time in prison?

25 A That ain't got nothing to do -- that ain't got

SW - R. JETER - DIRECT

1 nothing to do with my life story. You want to know
2 about my life right now this ain't dealing with me,
3 right?

4 Q I'm just asking you a question. Have you spent
5 time in jail?

6 A I said I don't want to put my information out
7 there now.

8 Q Okay.?

9 MS. CAVANAUGH: Beg the Court's
10 indulgence. A few more questions.

11 BY MS. CAVANAUGH:

12 Q A couple of more questions. In 1998 were you
13 convicted for larceny of a bicycle?

14 A Yep.

15 Q And in 1999 were you convicted of second-degree
16 burglary?

17 A Yep.

18 Q As well as grand larceny?

19 A You win, ain't it?

20 Q Excuse me?

21 A You win; ain't it? You win all the packet. You
22 win, beat me down there.

23 Q As well as another burglary in 1999?

24 A Nope, I don't remember. Well, yeah, yeah,
25 everything, whatever you say, yeah, yeah, yeah. I

SW - R. JETER - DIRECT

1 remember, yeah, yeah, yeah, I know, yeah, yeah,

2 What else you got, yeah.

3 Q As well as a storing of an unlawful shotgun —

4 A Yeah, yeah.

5 Q —in 1999?

6 A Yeah, yeah, yeah. I almost shot my head off with
7 it, yeah, all that had it.

8 Q Back in 1999?

9 A Yeah, 1999, I was locked up with the shotgun in
10 the jail house. Shotgun in 1999, ain't it.

11 Q And then it appears that in August of 2012 you
12 were also convicted of assault and battery in the
13 second-degree; is that right?

14 A I don't remember.

15 Q Please answer any questions from Mr. Sutherland.

16 **CROSS - EXAMINATION**

17 **BY MR. SUTHERLAND:**

18 Q As far as you know you're the State's witness
19 here today; is that correct?

20 A I don't even know what, man, I don't know what
21 the State witness mean, man.

22 Q Okay. They brought you here?

23 A For nothing, I don't know why.

24 Q I have to ask you a few questions, okay. They
25 talked to you about a period of time and you're

SW - R. JETER - CROSS

1 saying you don't remember around the period of time.

2 A I don't remember. I ain't going to remember.

3 Q Okay.

4 A I don't want to remember.

5 Q I understand. I'm just going to go through these
6 things and then we should done here. At the time
7 that they're saying that you were in communication
8 with them, were you ---

9 A I ain't never had -- they -- what I remember was
10 they try to get me to tell a lie about some shit.
11 though, about some shit trying to use me to tell a
12 lie about some shit though about the case if, you
13 feel what I'm saying.

14 Q Okay, I understand. Just very briefly I just ---

15 A Yeah.

16 Q I have to do this. It's my duty to do this. At
17 the time of these communications that you don't
18 remember, but when you were in jail you were charged
19 with burglary first degree; is that correct?

20 A Yes.

21 Q And that carries 15 to life?

22 A Yeah.

23 Q Is that right?

24 A Yeah, yeah.

25 Q You were charged with kidnapping; is that

SW - R. JETER - CROSS

1 correct?

2 A Yeah.

3 Q And that carries up to 30 years; is that correct?

4 A Yeah, yeah.

5 Q You were charged with assault and battery first,
6 two counts; is that correct?

7 A Uh-huh.

8 Q Those were ten years a piece so that adds up to
9 20 years. So during the period of time that these
10 communications that you don't remember -- and that's
11 fine; that's your testimony -- when you were alleged
12 to be communicating with them, by them, you were
13 looking at life plus 50 years; is that correct?

14 A No, no, nope, nope.

15 Q Adding your sentences up --

16 A No, I wasn't.

17 Q Okay?

18 A No, I wasn't.

19 Q Go ahead and tell me why not.

20 A I was looking at nothing. I don't remember the
21 time and all that. You just told me. I forgot
22 about the kidnapping and all stuff on the record I
23 and I forgot about that, man.

24 Q Okay.

25 A Yeah, see there.

SW - R. JETER - CROSS

1 Q There were some very serious charges pending ---

2 A Yes.

3 Q ---against you at that time?

4 A But my charge -- no, my charge was already
5 through. It was already through.

6 Q Okay. Then just briefly ---

7 A You trying to say they use me.

8 Q We can just ---

9 A No.

10 Q We can be done here very shortly and you can get
11 on about your business if they will leave you alone.

12 A Right, right.

13 Q You were facing very serious charges at that
14 time?

15 A Uh-huh.

16 Q And now you are home, is that correct? Or you're
17 on probation as I understand?

18 A Yeah.

19 Q Okay. No further questions, Your Honor.

20 A I like that.

21 **REDIRECT EXAMINATION**

22 **BY MS. CAVANAUGH:**

23 Q That letter that you wrote Investigator Unger,
24 can you read that envelope for me?

25 A (The witness shakes head.)

SW - R. JETER - REDIRECT

1 Q Does it say David Unger?

2 A You can throw that in the trash.

3 Q Does it say 5623 Two Notch Road?

4 A You know it time to get my medication, right?

5 Q Is it —

6 A No, for real, I got to have my medicine. For
7 real, I got to have my medicine.

8 Q Can you read the return —

9 THE COURT: We'll be through in a few
10 minutes.

11 BY MS. CAVANAUGH:

12 Q Can you read the return?

13 A No, I can't read nothing. I don't want to read
14 that.

15 Q Does it say Robert Jeter?

16 A That what it say? Let me see, yeah, it say that.

17 Q Okay, that's your name, right?

18 A I don't remember. I don't remember. Somebody
19 else can write that. I ain't write Robert Jeter.

20 Q And again, you did not make this statement to
21 Investigator Unger?

22 A No, man, no. I don't remember that. I don't
23 remember that. Y'all trying to make me remember
24 that. Stop trying to aggravate me, man. Stop that.
25 You done asked me that.

SW - R. JETER - REDIRECT

1 THE COURT: Mr. Jeter.

2 THE WITNESS: Come on, man. You see, she
3 asking me the same questions over and over. I just
4 tell her that.

5 THE COURT: Come on, man, you don't to
6 have be disrespectful ---

7 THE WITNESS: I ain't being disrespectful.

8 THE COURT: If you can't answer the
9 question ---

10 THE WITNESS: All right.

11 THE COURT: Then just move on, all right.
12 Then we'll be through here shortly.

13 Go right ahead, Solicitor.

14 BY MS. CAVANAUGH:

15 Q You just stated that your charges in August of
16 2012 were done, is that correct? You applied to
17 your charges?

18 A I just remember.

19 Q You just said that?

20 A Yeah, that what he just said. That what he just
21 told me.

22 Q And you met with Investigator Unger three months
23 later in November?

24 A I don't remember that, man. I don't remember
25 that.

SW - R. JETER - REDIRECT

1 Q What does this date say?

2 A I don't remember. I don't remember.

3 Q Does that not say November ---

4 A I don't remember. I don't remember. I don't
5 remember.

6 Q ---2012?

7 A I don't remember. I don't remember. I don't
8 remember.

9 MS. CAVANAUGH: No further questions.

10 THE COURT: You have any further
11 questions, Mr. Sutherland?

12 MR. SUTHERLAND: Nothing at all, sir.

13 THE COURT: Thank you so much for being
14 with us.

15 THE WITNESS: You're welcome, man.

16 THE COURT: I appreciate it and ---

17 THE WITNESS: All right.

18 THE COURT: Good luck to you.

19 THE WITNESS: All right.

20 THE COURT: Yes, sir.

21 All right, Solicitor, you may call your
22 next witness.

23 MS. SIMPSON: Your Honor, the State calls
24 Lieutenant Scott McDonald.

25 THE COURT: Thank you, Solicitor. Thank

SW - R. JETER - REDIRECT

1 you Mr. Sutherland.

2 Excuse me just a moment.

3 (Whereupon, an off-the-record Bench
4 conference was held.)

5 WHEREUPON,

6 **SCOTT McDONALD,**

7 after having been duly sworn, testified as follows:

8 THE CLERK: Thank you. Please have a seat
9 in the witness stand. State your full name for the
10 record.

11 THE WITNESS: Scott McDonald.

12 **DIRECT EXAMINATION**

13 **BY MS. SIMPSON:**

14 Q Lieutenant McDonald, where are you employed?

15 A I'm employed at the Richland County Sheriff's
16 Department.

17 Q And what is your position there?

18 A I'm a lieutenant in the major crimes unit in the
19 criminal investigative division.

20 Q And as a lieutenant what do your duties include?

21 A To supervise and help investigate all assaults,
22 robberies, homicides in Richland County. I'll come
23 up on 25 years in another week.

24 Q Twenty-five years?

25 A Yes, 24 years and a few days, almost 25.

SW - S. McDONALD - DIRECT

1 Q Can you tell the jury a little bit about your
2 work experience, education and training?

3 A I graduated from USC with a BS in criminal
4 justice May of 1986. I attended the South Carolina
5 Criminal Justice Academy beginning in January of
6 1989. Since then I've completed numerous seminars
7 and classes on all aspects of law enforcement,
8 investigations, interrogations, and specifically
9 into cell phones and cell phone investigations.

10 Q And with respect to cell phone investigations do
11 you specialize in that, for lack of a better term,
12 with the Sheriff's Department?

13 A I do. I've been involved with those
14 investigations since November 2001. Since that time
15 I've attended numerous seminars, classes, court
16 certified to testify in these type investigations.

17 Q Okay. So you actually continue -- do you
18 participate in continuing educational courses to
19 kind of stay up to date?

20 A Yes, I do.

21 Q And how, how has the use of cell phones kind of
22 impacted law enforcement and investigations with
23 respect to today's modern society?

24 A It's huge, especially in today's society. Just
25 about everyone has a cell phone. And if you have

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1 cell phone in my experience you generally have it
2 with you, must like a wallet for the man or the
3 purse for the woman. And through these cell phones
4 we're able to show correspondence with others,
5 specifically defendants and victims in crimes
6 oftentimes, and also be able to place geographical
7 locations of that phone during specific incidents of
8 time around specifically of the crime scene, things
9 like that.

10 Q Okay. And what kind of information do you
11 utilize when I guess, conducting cell phone analysis
12 and things of that nature?

13 A Call detail records from the cell phone companies
14 themselves, and there's a host of different records
15 we can get depending on the type of phone it is.
16 Today's smart phones are -- there's data
17 information, there's text messaging information, and
18 there's voice communication as well. All those
19 leave a trail that can be tracked and plotted on
20 maps to show where people generally were at a
21 certain date and time.

22 Q And I believe you stated you've been doing this
23 type of investigation since 2001?

24 A That's correct.

25 Q How many, how many cases would say you've been

SW - S. McDONALD - DIRECT

1 involved with respect to the cell phone?

2 A Probably close to a hundred.

3 Q And you've testified as an expert before in cell
4 phone analysis?

5 A I have five other times, yes.

6 MS. SIMPSON: Your Honor, at this time,
7 the State would offer Lieutenant Scott McDonald as
8 an expert in cell phone analysis.

9 MR. SUTHERLAND: Just briefly, with
10 respect to general cell phone analysis of the
11 direction finding aspect, I mean?

12 MS. SIMPSON: To include the investigation
13 and examination of phone records as well as tower
14 locations and anything related to cell phones.

15 MR. SUTHERLAND: Okay, no objection.

16 THE COURT: All right. Mr. Foreman,
17 again, ladies and gentlemen, again, this witness,
18 Lieutenant Scott McDonald, will be qualified as an
19 expert in cell phone analysis including
20 investigation of phone records and tower locations
21 and other matters. In that regard, it does not mean
22 he can give opinion testimony. That does not you
23 must accept those opinions; but it is evidence for
24 you, the jury, to use in way you see fit.

25 Thank you, Solicitor.

SW - S. MCDONALD - DIRECT

1 MS. SIMPSON: Thank you, Your Honor.

2 BY MS. SIMPSON:

3 Q Lieutenant McDonald, did you have — did you
4 become involved many case?

5 A Yes, I did. Last year January 24th, 2012, in
6 early afternoon hours I became aware of a shooting
7 incident on the lower side of the county, was later
8 updated that this type was homicide and attempted
9 murder of a second subject as well.

10 Q And were you advised just about the nature of the
11 investigation as it kind of went along at this
12 point?

13 A I did. Part of my duties were to make sure we
14 had investigators arrive to the scene. The evening
15 shift investigators were coming on duty around this
16 same time. I conversed with their sergeant as well
17 as several of the investigators that were responding
18 to the scene, to the hospital, trying to gather as
19 much information as possible as to what had
20 happened.

21 Q Okay. And during the course of this did you
22 learn that they developed a possible suspect by the
23 name of Jabriel Singleton from the Hopkins area?

24 A Yes, I did.

25 Q And what did do you once you had the suspect's

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1 name?

2 A Let me back up just a little bit. We -- once we
3 identified the victims in this incident we ordered
4 phone records from the two different cell phone
5 companies that their phones were with to try to
6 establish a link between possible suspects that may
7 have talked to them, one or both. In a case that we
8 would develop as a suspect, as we did in this case,
9 Jabriel Singleton, that if we could locate his cell
10 phone number we might be able to insert that and see
11 the relationship and then clock locations. Once
12 Mr. Jabriel Singleton's name was brought to our
13 attention and we got his cell phone, we ordered cell
14 phone records specific for the day in question -- I
15 believe a day or two, probably either way from that
16 particular date as well. And we were able to
17 connect him through a series of conversations with
18 the deceased on the incident date and also place him
19 geographically in the same area as the incident
20 occurred.

21 Q All right. And so let me back up just a little
22 bit. In your investigation, initially did you have
23 a number for Jabriel Singleton?

24 A No, I did not.

25 Q At some point did you have -- you said you

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1 requested the records for Dashawn Jones?

2 A That's correct.

3 Q And what was the phone number associated with
4 those records?

5 A With Mr. Jones?

6 Q Yes.

7 A The cell phone number was (803) -5892, which
8 was a Verizon phone number.

9 Q And what about the number for Mr. Frazier?

10 A (803) -5760 which was an ATT cell phone number.

11 Q And both of those records were requested, I
12 guess, with the expediency of ---

13 A We do an exigent request form which in the case
14 of murder or other life threatening emergencies, the
15 cell phone companies are able to provide us these
16 records within the hour of our request so we can
17 immediately begin working on a case like this.

18 Q And so when you had Dashawn Jones and Jonathan
19 Frazier's numbers, were you just kind of looking for
20 things at that point because -- let me fix my
21 question a little bit. Did you develop some names
22 based on those records not Jabriel Singleton, that
23 were not Jabriel Singleton?

24 A I did. I usually -- traditionally when you have
25 an incident like this and you have an approximate

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1 time that the incident occurred I'm focusing on that
2 time of the incident and the time just prior to that
3 or maybe just after that to see who's, who's talking
4 on that phone and who that person is talking to and
5 conversing with. And I begin cross reference those
6 numbers through a different, series of different
7 data bases that are available to us to try to
8 identify the subscribers on this phones because all
9 these could be potential suspects in this case. So
10 once I got these two phone records in these two
11 different companies, I then set out getting on the
12 internet, getting all internal data bases we have to
13 try to identify who those phones may belong to.

14 Q Okay. And once you identified certain
15 individuals did you turn those names and information
16 over to other investigators to investigate?

17 A I did.

18 Q But you became aware that Jabriel Singleton was
19 the primary suspect in this case?

20 A I did. In fact, I learned of his cell phone
21 number the following morning at morning briefing on
22 the homicide, and it was one of the numbers I had
23 not been able to cross-reference up to that point
24 and I had noticed the frequency of that number being
25 called or receiving calls from our victim, deceased

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1 victim in this case, throughout the day on the day
2 of the incident.

3 Q And what was that number for Jabriel Singleton?

4 A It was (803) -3525. It was a T-mobile cell
5 phone number.

6 Q T-mobile. And you requested an expedient —

7 A I did.

8 Q —search warrant for that as well?

9 A Yes, I did.

10 Q Did you actually receive those records?

11 A Yes, I did.

12 Q And what — what did do you once you received
13 them?

14 A I once again looked at them. We have several
15 bits of software or data bases that we can import
16 these into that make looking at them easier than —
17 when we receive them from T-mobile or Verizon we
18 have a number of columns usually on Excel
19 spreadsheet. There may be hundreds of calls.
20 Through some of the software we can import those
21 into the software, and it will auto-populate. If I
22 have known subscribers, a place in the software will
23 auto-populate the subscribers so at a glance I'm
24 able to look and see who some of these calls are
25 being placed to. And also lets me know if it's

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1 incoming or outgoing phone call, things like that.

2 Q Okay. And on these records -- I'm gonna show you
3 what's in evidence as State's 203 already in
4 evidence. Do you recognize those?

5 A Yes, I do. These are the cell phone records I
6 requested from T-mobile with reference to Jabriel
7 Singleton's phone.

8 Q And I don't see them handy -- oh, here we go.
9 I'm also gonna show you what's marked as State's
10 Exhibit 239. Are these a portion of the records
11 that you received for Dashawn Jones?

12 A Yes.

13 Q And were there actually more records as well?

14 A The problem you have when you try to print these
15 records out, they may have 10 or 15 columns wide.
16 When you print it out you get, you know, seven or
17 eight columns on one sheet, seven or eight on
18 another one. It's very cumbersome to try to
19 compare. Usually that's done on a computer where
20 it's easier to view.

21 Q Okay. And so once you had all the phone numbers
22 you began your analysis, correct?

23 A That's correct.

24 Q And you mentioned, or you may have mentioned
25 tower location. Did you have those available to you

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1 as well?

2 A Those are provided by the cell phone companies
3 themselves, usually included some of it for the
4 State of South Carolina or for the switch that's
5 being used in this particular incident. Sometimes
6 it's a nationwide tower data base. Usually we
7 request that and all cell phone records.

8 Q And did you create -- were you able to kind of
9 analyze and create a document as a result of your
10 examination?

11 A Yes, I was. I generally do this for
12 demonstrative purposes to illustrate. It's much
13 easier to show you these locations and sit here and
14 talk about them so I usually do a presentation to
15 show.

16 Q I'm gonna show you what's marked as State's
17 Exhibit 251 for identification purposes only. Do
18 you recognize this?

19 A Yes, that's a CD that I put this power point
20 presentation on.

21 Q And all the information contained in this power
22 point, was that actual information in the records
23 that you received with respect to this case?

24 A The information that's provided in the record,
25 some of the, what you'll see displayed could be from

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1 a data base where I've imported these records or
2 they may be the actual records themselves. And then
3 some of the mapping is gonna be from software,
4 mapping software.

5 Q But the tower location and information, that
6 comes from the cell phone companies ---

7 A That comes from the company; that's correct.

8 Q ---and the records?

9 MS. SIMPSON: Your Honor, at this time
10 permission to publish? Or State's 251.

11 THE COURT: 251?

12 MR. SUTHERLAND: No objection, sir.

13 THE COURT: All right.

14 MS. SIMPSON: And it may -- may we
15 approach.

16 THE COURT: Yes, ma'am.

17 (Whereupon, there was an off-the-record
18 Bench conference held.)

19 (State's Exhibit No. 251 was admitted into
20 evidence.)

21 THE COURT: All right. Well, Mr. Foreman,
22 ladies and gentlemen, the -- well, let me ask you
23 this, Solicitor, can you go into other matters or
24 since you're warming up or you just want ---

25 MS. SIMPSON: They will be extremely

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1 brief, Your Honor, but I can go ahead and move along

2 ---

3 THE COURT: All right.

4 MS. SIMPSON: ---and see where we're.

5 THE COURT: All right, just let me know.

6 BY MS. SIMPSON:

7 Q Did you have the opportunity to prepare a photo
8 lineup in this case?

9 A Yes, I did.

10 Q And who was that photo lineup for?

11 A For Investigator Unger. It was -- Jabriel
12 Singleton was placed in photo lineup along with five
13 other candidates.

14 Q And do you often help create and develop photo
15 lineups?

16 A Yes, I do.

17 Q And what was the date that photo lineup was
18 developed?

19 A That would be on January 25th, 2012.

20 Q So the date after this incident?

21 A That's correct.

22 Q At some point did you receive information with
23 respect to an arrest warrant that had been obtained
24 for Jabriel Singleton?

25 A Yes, I did. I was made aware also this a witness

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1 had positively identified Mr. Singleton in this
2 photo lineup resulting in creation of the arrest
3 warrant.

4 Q And once you learned of the arrest warrant, was
5 he immediately arrested or what occurred?

6 A No. A fugitive investigation began with
7 investigators involved in the case as well as our
8 Richland County fugitive squad assisting and try to
9 help locate.

10 Q And did you go out there to assist —

11 A Yes, I did.

12 Q ---in this search? And outside of the
13 presentation and the information that we've
14 discussed, was that the extent of your involvement
15 with this case?

16 A It was. I had a prescheduled out of town
17 engagement the following day I believe on the 26th.
18 That would be the end of my involvement in the case.

19 Q Okay.?

20 MS. SIMPSON: Your Honor, I believe we
21 have about two, three minutes.

22 THE COURT: All right.

23 (Pause.)

24 MS. SIMPSON: And Your Honor, permission
25 for Lieutenant McDonald to step down.

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1 THE COURT: Yes, you may step down. Just
2 keep your voice up when you're away from the
3 microphone.

4 BY MS. SIMPSON:

5 Q Stand on that side so the court reporter can hear
6 you.

7 THE COURT: Can I slip by you?

8 MS. SIMPSON: Okay. We may be having some
9 issues, Your Honor.

10 THE COURT: Haw i the.

11 MS. SIMPSON: We do.

12 THE COURT: At the break I'll fix it if
13 you don't.

14 MS. SIMPSON: All right, thank you.

15 THE COURT: I'll have y'all step out.
16 Please do not discuss the case during the brief
17 recess. Thank you very much.

18 (The jury is removed from the courtroom at
19 2:52 p.m.)

20 MS. SIMPSON: Yes, Your Honor, it actually
21 looks like it just came up.

22 THE COURT: I told you I would fix it.

23 MS. SIMPSON: We're finally operational
24 now.

25 (The jury was returned to the courtroom at

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1 2:55 p.m.)

2 THE BAILIFF: Your Honor, the jury is
3 present.

4 THE COURT: Thank you. Thank you,
5 Mr. Bailiff, I appreciate it.

6 All right, Solicitor, may proceed.

7 MS. SIMPSON: Thank you, Your Honor.

8 BY MS. SIMPSON:

9 Q All right, Lieutenant McDonald, is this your
10 power point presentation that you developed?

11 A Yes, it is.

12 Q And can you tell us a little bit about how a cell
13 phone works.

14 A Basically when your phone is in the on position
15 it's always scanning for the strongest signal in
16 anticipation of a call being made or a call being
17 received, so your phone is constantly seeking out
18 this information. When cell phone A as you see in
19 the picture here, decides she's gonna make a phone
20 call, it's already knows what tower it's going to go
21 to by the strongest signal at that particular time.
22 It goes through that tower into a switch. And part
23 of the switch's job is to verify, number one, that's
24 a valid active number, subscriber. And once that
25 has been established, it then sends out the signal

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1 after verifying that caller B's phone is a
2 subscriber as well, an actual legitimate phone. It
3 then sends out a signal trying to locate that
4 particular phone, wherever it may be. And once
5 again, that phone is constantly seeking the
6 strongest cell phone tower that's serving it so the
7 call can be completed. And all this happens, you
8 know, in microseconds, the call is completed.

9 Q Quick question on the tower issue and the
10 strength of the signal, what kind of things will
11 affect maybe the strength of signal?

12 A There's a number of things. There's vegetation
13 from the fall to the summer, just leaves on a tree
14 cuts down on some of the reception. Tall buildings,
15 mountains, structures like that, they can block
16 these signals, sometimes hamper them. Low flat
17 land, the signals can go for miles and, miles. More
18 populated areas or like a downtown area like this
19 with the tall towers, the signal is sufficiently
20 weakened by this type of interference.

21 Q What are you demonstrating here?

22 A Specifically we're dealing with the T-mobile cell
23 phone records of Mr. Singleton here, but all the
24 companies in general are very similar. Each tower
25 has three sides and they're generally broken down in

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1 120-degree sectors, sector A, sector B, sector C.
2 Sometimes you'll see it sector 1, 2, or 3. And in
3 general, that's how all of these towers are set up.
4 Some areas due to high call volumes, you may have a
5 little wider than 120 degree or a little narrower.
6 If it's an area like facing like out into a lake
7 where maybe it's not as important for the cell phone
8 company to get the maximum number of users on that
9 tower, they may widen one of the other sectors. But
10 in general, you have 120-degree sector completing
11 the 360 degrees of the tower.

12 Q And so that's tower range is what you're, or what
13 ---

14 A That's ---

15 Q Wrong terminology?

16 A Well, when you place a call, let's say I'm over
17 here (indicating), it will hit on this side of the
18 tower or in that sector there so we can say
19 somewhere in this general area that phone was when
20 that call was placed.

21 Q Okay. And I think it may be a little bit off the
22 screen. What is it, is this an actual phone record?

23 A Part of this is an actual phone record. The last
24 two columns I've inserted part of a working file.
25 But when the records came into me short of this

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1 (indicating), this is how they came in. Like I
2 said, this is an Excel spreadsheet. You can have a
3 range of number here that may not mean anything to
4 you, but each column has a title at the top and some
5 of that may not make sense to you. What I've done
6 at the bottom is kind of put it in layman's terms,
7 that MSISDN number is a target number or the phone
8 number we're searching, which in this case
9 (803) -3525 number is Mr. Singleton's number. The
10 next column is the call direction, and you see MTC
11 and MOC. Well, what does that mean? Well, they
12 send us a cheat sheet or a instruction sheet on what
13 these abbreviations stand for. The MTCs are inbound
14 calls. The MOCs are outbound calls meaning the call
15 was originating from this phone or receiving on this
16 phone.

17 The next column is the date and time of
18 the phone call pretty self-explanatory. The first
19 cell tower and the last cell tower, the next two
20 columns, and that's just a number. When we get
21 these we have tower numbers, and we have switch
22 numbers, which I'll talk about in a minute. A
23 switch number you can think of kind of as a regional
24 or general area, and within that general area or
25 region you're gonna have sometimes hundreds of cell

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1 phones and that's how the company set these up. So
2 when we get the records we're looking at the switch
3 and then the tower number, and from there it gives
4 us a longitude and latitude area from where cell
5 phone tower is located. The last digit in this
6 number here, 2, 1, 3, that's a signal. 1, 2, or 3,
7 that's how T-mobile has theirs set up. So when I'm
8 referring to sector 2, sector 3 over here at this
9 particular tower (indicating), that's where that
10 information is obtained from.

11 Q And the sectors are the information we just saw
12 on the previous side?

13 A Right, which side of the tower the phone call is
14 bouncing off. Of course, the number of calling,
15 that can either be a target number calling out to
16 someone or the number calling in to the target
17 number. Number called, first switch and last
18 switch.

19 In general this is gonna always be the
20 same. But sometimes when you're traveling,
21 especially if you're in a remote area, you may go
22 from one switch into another switch.
23 Hypothetically, if I'm going on the road from 77 to
24 Charlotte, I may go from the Columbia switch and
25 start hitting off the Charlotte switch as I

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1 approach Charlotte so that's a regional type thing.
2 This is a call duration, how long the phone call was
3 placed for, and then it's just broken down in
4 minutes. You can see the decimal point there.

5 Q And going to call duration, what may be the
6 reason for this zero in those places?

7 A Those could be call wasn't completed. Some of
8 these were you don't see a tower. Those are gonna
9 be text messages. They don't register a tower; they
10 just show the time.

11 Q All right.

12 A And of course, the last, these two columns I
13 created, they're kind of for my working file so I
14 can look at a glance and see at this particular time
15 which tower and which sector was that phone hitting
16 off, which becomes more important as we'll see.

17 Q All right.

18 A These are the cell phone records of our victim in
19 this particular case, Dashawn Jones. That's his
20 cell phone number. Once I receive these records
21 from his cell phone company, I've talked about the
22 software we import this into. That helps us look at
23 a glance subscriber info, whether it's an inbound or
24 outbound call, the date and the time. These little
25 last, you may be saying, well what are these funny

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1 little things. All that is showing is that ASIS,
2 which is the software we're using, recognizes that
3 as a phone number that's been imported from the
4 phone records. So what I do when I'm
5 cross-referencing these records, I'm importing them
6 into this software so when these records are dumped
7 in there, it gets dumped in and it says, oh, that
8 number has been entered as Janice Williams, that
9 number's been entered as Jabriel Singleton. So at a
10 glance we quickly look and see this is on the day of
11 the incident beginning at 3:23 in the morning when
12 you first see Mr. Jabriel Singleton calling
13 Mr. Jones. Actually the other way around, Mr. Jones
14 called him as an outbound call.

15 Q And how are you able to tell it's an outbound
16 call?

17 A Right here, the I and the O.

18 Q Okay.

19 A Then as the day progresses you see of course
20 right up leading to the time of this incident you
21 see a flurry of these type calls back and forth,
22 which is very common in these type cases. We see
23 drug related crimes, things like that, where they're
24 trying to get together with one another and meet.

25 Q In going back, those calls right before the high

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1 frequency, what is the time on that?

2 A 12:16 p.m. which is just after noon, 12:17,
3 12:18, 19, 12:28, 12:29 all leading right up, I
4 believe the last call is at 1300 which will be
5 1:00 p.m.

6 Q So 1:00. So after 1:00 Jabriel Singleton was no
7 longer calling his phone?

8 A No.

9 Q And also I noticed you have Jonathan Frazier on
10 here as well.

11 A He's the other victim in this case, the surviving
12 victim. And these are calls at 9:50 and 11:04 in
13 the morning where Mr. Frazier initially had an
14 inbound coming call in to Dashawn Jones at 9:49 and
15 then Mr. Jones called him back at one 11:04 with an
16 outbound call.

17 Q So this had -- prior to having Jabriel
18 Singleton's phone number associated with a number
19 you noticed the significance based on the
20 frequencies of those calls?

21 A Right. I can do a call frequency report and put
22 in, you know, a minimum of two calls of frequency
23 for this time frame; and you know, overwhelmingly
24 this number looked to be at the top of the list as
25 frequency. But that number was received or received

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1 from a call during this time.

2 Q Okay. What do we have here?

3 A This is a rough outline without getting into the
4 sectors just yet; but again, this is Mr. Jabriel
5 Singleton's cell phone and the location his cell
6 phone was hitting off beginning at 1324 hours on the
7 day of this incident. It was at 1:24 p.m. It's
8 hitting off a tower right here at 3869 Eastburg
9 Road. From there, the next time he hits off a tower
10 is at 1342 hours and 1355 hours all the way up until
11 1423, which will be 2:23 in the afternoon. He's
12 hitting off this tower right here at 5676 Lower
13 Richland Boulevard. This particular tower is 2.67
14 miles from the crime scene which is important. Then
15 the third tower hits off at 1784 Rich Road. He's
16 sitting off at 1352 hours, 1424, and 1433 hours.
17 These two towers are the last two towers he hits off
18 around the time of this incident, and that
19 particular tower is 4.09 miles away from the crime
20 scene on Prioleau Road.

21 Q And what is this road directly here?

22 A This is 378 or Garners Ferry Road right there.

23 Q And do you also have Hor Hill Road indicated on
24 the map?

25 A Right here (indicating).

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1 Q So it's very close to this other tower at the ---

2 A Right.

3 Q ---1784 bridge?

4 A Right. And sometimes you'll see a little overlap
5 and you'll see that in later slides. Sometimes the
6 towers will overlap slightly as well.

7 Q Okay. And so just so we're clear, on the 24th at
8 1:24 the defendant's cell phone is hitting off a
9 tower that's closer to the Columbia area and later
10 on in the afternoon, correct?

11 A That's correct.

12 Q So then a short time later at 1:42 and between
13 1:55 and 2:23 he's down in the Hopkins area?

14 A That's correct.

15 Q Hitting off the tower that's 2.67 miles ---

16 A That's correct.

17 Q ---from the crime scene?

18 A That's correct. This is a little different look
19 at it, but this is where we get into the sectors and
20 how the sectors become so important in these type
21 incidents. When we import these records into some,
22 this software I was talking about, this particular
23 software is called Penguin and it helps illustrate
24 the towers involved in the sectors so we just talked
25 about these two tower right here at 5676 Lower

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1 Richland and 1784 Ridge Road in Hopkins. At 1423
2 and 1424 which is 2:23 and 2:24 p.m., he's hitting
3 off this tower and then he's hitting off this tower.
4 And you see these kind of pie shaped wedges here.
5 These are done for demonstrative purposes only. 2.9
6 or 3.09 in miles in range, actual range may be
7 slightly more or slightly less. But what we can say
8 is in general that cell phone was somewhere in this
9 area around that time. That's the crime scene right
10 there (indicating).

11 Q Okay, and what do we have here?

12 A This is just a transparency view using
13 (inaudible) showing the same thing without the
14 overlap. This is the tower at 5676 Lower Richland
15 Boulevard at 1423 hours. There's the crime scene
16 there. We can say from these records that that
17 phone is somewhere in this general area here. This
18 is where the second tower circles over it. 1423,
19 1424 again, somewhere in this general area that
20 phone was at that time.

21 Q So he's around both the Prioleau Road area and
22 the Coral Hill ---

23 A That's correct.

24 Q --location? What do we on this slide?

25 A I was asked to represent the location of Mr.

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1 Singleton's girlfriend's residence which is on Daly
2 Street which is right here (indicating) just off of
3 Leesburg Road. And then the two closest towers to
4 that residence is the tower at 3869 Leesburg Road
5 and another tower down here (indicating) at 3208
6 Leesburg Road showing the rough location where those
7 two particular towers are in reference to her house.

8 Q Okay, and her house is, is it located in what
9 would be considered the Columbia area of the Hopkins
10 area?

11 A I believe this to be considered Columbia 'cause
12 they were around Leesburg Road right here.

13 Q And neither of these two towers were indicated
14 earlier?

15 A No, they're on the records from earlier. You'll
16 see Leesburg Road, 3869 Leesburg Road, 124 I believe
17 it was. And there it moves down to the Hopkins
18 area.

19 Q And what do we have on this slide?

20 A I was also asked to illustrate on the night this
21 incident occurred later that evening between 8:14
22 p.m. and 11:14 p.m. I was told the defendant gave a
23 statement indicating he was at Club Crush in
24 Columbia. What you see is illustrated up here 3722
25 River Drive. From his cell phone records he was no

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1 where near. He was still down in the Hopkins area
2 (indicating) between those times.

3 Q And River Drive, that's over here near Broad
4 River ---

5 A That's right (indicating).

6 Q ---area? Close to downtown?

7 A Yeah. So he's half a county away from where he
8 says he was.

9 Q Okay. And these are between the hours of ten --
10 I guess 10:14 and ---

11 A 8:14 and 11:14.

12 Q Oh, sorry, yeah.

13 A And this is just a representative view of -- this
14 is just a T-mobile cell phone towers in this area.
15 This isn't the Verizon and Sprint and everyone else
16 combined. These are just T-mobile. Out of all
17 these towers in this area around the time of this
18 incident, these two towers right here (indicating)
19 are the towers he's hitting off. Just kind of
20 alarming when you see that. Out of all the other
21 towers it could be he was found around those two.

22 Q And those are all T-mobile towers?

23 A That's just T-mobile towers.

24 Q Thank you. You can have a seat.

25 A (Complies.)

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1 Q Now Lieutenant McDonald, now with respect to a
2 person's phone hitting off a tower, is it the most
3 likely tower that they'll be hitting off of? Is
4 that tower going to generally be the one they're
5 closest to?

6 A Well, it's the strongest signal. And in general
7 that will be the closest tower but not always, due
8 to things we talked about earlier; if there was a
9 large building or any large hill. In an area of one
10 tower, even though it may be closer may not be the
11 one serving that particular call due to some other
12 reason. But in general, in low lying areas where
13 there's not a lot of interference from other things
14 like that it should be in general the closest tower.

15 Q So your rural areas, you're not gonna have as
16 many obstructions potentially as you would, say, in
17 downtown Columbia with buildings and multiple
18 towers?

19 A Right.

20 Q And when you do your initial analysis or of the
21 cell phones, does the importance and relevance to an
22 investigation, can it become more significant as
23 that investigation continues, ---

24 A Certainly.

25 Q ---those phone records?

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1 A Certainly it can. I can think of numerous
2 occasions during an interview with a suspect where
3 he'll deny being in a general area or something like
4 that and we'll present these records to him and
5 illustrate on the map where these records indicate
6 he was, and many times that will generate a
7 confession at that point once they see that we can
8 place them in that general area.

9 Q Thank you.

10 THE COURT: Thank you, Ms. Simpson.
11 Mr. Sutherland.

12 **CROSS - EXAMINATION**

13 **BY MR. SUTHERLAND:**

14 Q Sir, ultimately — I'm gonna ask you some
15 questions about the presentation that you had up
16 there. Just very quickly I, you know, I've seen a
17 lot of this for the first time today; but I noticed
18 something about the different towers and everything,
19 maybe try to draw an illustration about
20 triangulation. Now I have a little bit of
21 experience in this area so when there's a signal
22 signals they travel in a straight line?

23 A Uh-huh.

24 Q There's a wave from would be the communication
25 basically that's contained within the signal but

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1 they travel in a straight line?

2 A In general, I mean...

3 Q Well, bouncing off stuff, but...

4 A Yeah.

5 Q So when you have an antenna that's similar to a
6 switch, when you're getting a signal sort of like
7 the switch is from this direction that means it's
8 coming from that way?

9 A Right.

10 Q Is that correct? So say if here in Purlin you
11 are getting a signal from this direction?

12 A Well, when you say getting a signal I might be
13 getting confused here.

14 Q Okay.

15 A You have a cell phone ---

16 Q Right.

17 A ---that's searching for the strongest signal for
18 service and that could be anywhere in the 306 figure
19 range. The strongest signal will serve that. And
20 if there's a call made or placed or received, it
21 will lock in on that particular side of whatever
22 tower it is.

23 Q Sure. And let's say that this is -- what I'm
24 trying to do is just take radio signals, radio
25 communications with those principles and apply it

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1 to cell phones.

2 A Okay.

3 Q So, if let's say this is similar to a side of a
4 cell tower.

5 A (The witness nodded head.)

6 Q And then we have up here, say, Denmark. We'll
7 get a line going this way (indicating) and, say,
8 over here Alsborg we get a line going this way. And
9 basically what that is is just getting three
10 readings to triangulate and get a location.

11 A All right. Let me -- the cell phone records we
12 get from a cell phone company is not based on
13 triangulation. I can't say that phone was at this
14 particular spot right here when that call was made.
15 I can say it's in this general area.

16 Q All right, because that's what I did notice and
17 that's what I did notice from your testimony but it
18 seemed like there were straight lines, and you know,
19 we'll put it up and take a look at it.

20 A All right.

21 Q But it seemed like you can get an idea, you know,
22 the more tower hits you get with pulling you in. I
23 mean, you have a general vicinity but you also have
24 direction.

25 A No, we just have the one direction provided by

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1 the cell phone company.

2 Q Right.

3 A We don't have multiple like triangulation type
4 things, multiple points like you would on a GPS
5 receiver.

6 Q Okay.

7 A That isn't what receive.

8 Q Okay. So when you were doing the overlap, the
9 overlap wasn't hitting this tower (indicating) and
10 that tower (indicating). You weren't getting
11 readings off of two towers simultaneously. You were
12 stabbing the readings from two towers at different
13 times?

14 A You have the towers back and forth around that
15 one or two minute time span, 1423, 1424, where it's
16 hitting Lower Richland and then it switches to Ridge
17 Road and Hopkins. So you're getting some of that,
18 you know, a couple of things could answer that. The
19 signal was stronger here so it switched over here or
20 the phone was in motion, you know. It changed
21 locations, that's why that tower picked it up versus
22 this tower.

23 Q Okay. So where you had the area that seemed like
24 it was shaded sort of a darker shade of blue —

25 A Right.

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1 Q ---that wasn't of any significance then when you
2 had the two, when you had basically the two wedges
3 were overlapped and there was a darker shade of blue
4 with the overlap of the two wedges. You weren't
5 saying it was in that particular area here?

6 A It's somewhere between those, in those two wedges
7 that you might want to call it. It wasn't
8 specifically in that darker area. That's just
9 showing the overlap.

10 Q Okay, that's -- what I was trying to figure out
11 is the way that y'all are putting it together and
12 just what I noticed on some of the diagrams to see
13 if this was the way that you were doing it.

14 A Right.

15 Q But it's just generally the unit and direction
16 ---

17 A Yeah, it's a point in time which side of that
18 tower it was hitting off. And sometimes you'll have
19 it bounce between a couple of towers in a certain
20 time frame like we had here within a minute it's
21 hitting on two different towers. So there, like I
22 said, there could be a number of reasons. The
23 phone's in motion, it's leaving one area into
24 another, one signal is getting weaker as it may be
25 getting towards the power reaches of that boundary,

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1 then the next tower picks it up to keep the call
2 current and keep it going on. So there's a number
3 of items that can cause this. But in general, that
4 phone was somewhere in that shaded area.

5 Q And that's the word because it is in general that
6 120-degree or whatever?

7 A Right.

8 Q All right. Now I hate to do this to Dana, but
9 I'd like to ask you about the phone records that you
10 were going through. This should not take long. All
11 right. During your direct testimony the Solicitor
12 had asked you questions you had answered that there
13 were multiple telephone calls and that the telephone
14 calls sort of started picking up speed at a certain
15 point. I was wondering if you'd just go through
16 each individual phone call. For example, it looks
17 like here (indicating) is an outgoing call to
18 Jabriel Singleton; but here (indicating), is an
19 incoming call from Jabriel Singleton.

20 A That's correct.

21 Q I was wondering if you could just go through
22 those and just tell who was calling whom at which
23 time.

24 A You just want the victim and Jabriel or?

25 Q Jabriel and the victim, yes. Yes.

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1 A All right. First call at 3:23 a.m. on 24th, 1387
2 seconds long, it was outbound call from Dashawn to
3 Mr. Singleton's phone.

4 Q All right, just head on down.

5 A The next one will be at 11:04 a.m. on the 24th.
6 23 second call outbound Mr. Jones calling
7 Mr. Singleton.

8 Q Okay.

9 A Then a call at 11:05 for 44 seconds. That's an
10 inbound call on Mr. Singleton calling in to
11 Mr. Jones.

12 Q Okay.

13 A And it skips ahead down here till 12:16, a 20
14 second phone call, outbound phone call from
15 Mr. Jones to Mr. Singleton.

16 Q All right.

17 A Another outbound call at 12:17 26 seconds from
18 Mr. Jones to Mr. Singleton.

19 Q Okay.

20 A At 12:18 another 20 second — 26 second outbound
21 call to Mr. Singleton.

22 Q All right.

23 A 12:19, a 21 second call outbound from Mr. Jones
24 to Mr. Singleton. 12:28, 20 second phone call
25 outbound from Mr. Jones to Mr. Singleton. 12:29, a

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1 25 second outbound call from Mr. Jones to Mr.
2 Singleton. 12:29, a 27 second outbound from Mr.
3 Jones to Mr. Singleton.

4 Q All right.

5 A At 12:49, a 30 second phone call outbound from
6 Mr. Jones to Mr. Singleton. 12:58, a 36 second call
7 outbound from Mr. Jones to Mr. Singleton. And at
8 1:20 on at 1300 hours which is 1:00 p.m., a 19
9 second call outbound from Mr. Jones to
10 Mr. Singleton.

11 Q Okay. And so basically the point that's clear
12 from this is that it looks like Mr. Singleton called
13 him one time and that he called Mr. Singleton 12
14 times? Or I think it's 12.

15 A That's correct.

16 Q Okay, thanks. Just a second, let me see if I got
17 more. Actually, I think that's it. Thank you.

18 MR. SUTHERLAND: No further question, Your
19 Honor.

20 THE COURT: Thank you, Mr. Sutherland.
21 Redirect, Solicitor?

22 MS. SIMPSON: Brief redirect.

23 **R E D I R E C T E X A M I N A T I O N**

24 **BY MS. SIMPSON:**

25 Q The high volume of outbound calls, who was trying

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1 to reach -- or what would that imply with respect to
2 who was trying to reach who?

3 A You talking about specifically ---

4 Q Is Dashawn calling ---

5 A He's calling Mr. Singleton.

6 Q Okay. And these calls are back to back within a
7 short period of time?

8 A They are. Yes.

9 Q Right. And the last call between any of them,
10 outbound or ingoing, between Dashawn Jones and
11 Jabriel Singleton is at?

12 A 1300 hours, which is 1:00 p.m.

13 Q 1 p.m.

14 A On the 24th.

15 Q And the high frequency of calls inbound and
16 outbound begins around 12:17 p.m., correct?

17 A Yes, that's correct.

18 Q So we have a fairly short time frame?

19 A About a 45 minute window there where you have
20 numerous calls, yes.

21 Q Okay, thank you.

22 THE COURT: Mr. Sutherland, recross?

23 **RECROSS - EXAMINATION**

24 **BY MR. SUTHERLAND:**

25 Q And all those calls during that time period were

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1 from Mr. Jones' cell phone calling Mr. Singleton;
2 is that correct?

3 A That's correct.

4 THE COURT: Thank you very much. You may
5 step down.

6 How long will your next witness be?

7 MS. SIMPSON: Very short.

8 THE COURT: All right. You can go on and
9 call them.

10 MS. SIMPSON: All right. The State calls
11 Christine Barrickman.

12 THE COURT: All right, if you'd come
13 around and be sworn please.

14 WHEREUPON,

15 **CHRISTINE BARRICKMAN,**
16 after having been duly sworn, testified as follows:

17 THE CLERK: Thank you. Please have a seat
18 in the witness stand. State your full name for the
19 record and please spell your last name.

20 THE WITNESS: Christine Barrickman,
21 B-A-R-R-I-C-K-M-A-N.

22 **D I R E C T E X A M I N A T I O N**

23 **BY MS. SIMPSON:**

24 Q Ms. Barrickman, where are you employed?

25 A Richland County Sheriff's Department.

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1 Q And what do you do there?

2 A I work in the DNA laboratory.

3 Q And what do you in the laboratory?

4 A I assist the analyst with the preparation of case
5 work.

6 Q Okay. And what's included in the preparation of
7 case work?

8 A I evaluate the DNA requests that come in for case
9 work. I pick up those cases, inventory the
10 evidence, process it. If it's swabs it's — I
11 either swab the evidence or half swabs and I cut
12 that and it goes into a tube. Those tubes go into a
13 rack and turned it's over to the analyst to run the
14 instrumentation.

15 Q All right. And did you have the opportunity to
16 handle some items of evidence in this case?

17 A I did.

18 Q And did you take possession of a buccal swab from
19 Jabriel Singleton at one point?

20 A I did.

21 Q And was it properly sealed and packaged when you
22 received it?

23 A It was.

24 Q And did you tamper with it in any way absent
25 processing?

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1 A No.

2 Q And what did you do with that item once it was
3 processed?

4 A I turned the sample over to the analyst to run
5 instrumentation. I repackaged the evidence and
6 sealed it back up and returned it down to the
7 evidence room.

8 Q Okay. And moving -- did you also process, I
9 believe, what's in State's Exhibit 171?

10 A I did.

11 Q And what are those items of evidence?

12 A It's a group -- swab from a group of fired
13 cartridges, swab from unfired cartridge, swab from
14 a cigarette lighter, swab from Newport cigarette
15 pack, swab from a Food Lion plastic bag, swab from
16 a Winchester .38 special, swab from another
17 Winchester .38 Special?

18 Q And were they properly sealed and packaged when
19 you received them?

20 A Yes.

21 Q And what did do you with those specific items
22 when you got them?

23 A I inventoried them and I opened them and cut
24 them. Each one of them they're already swabbed so I
25 cut the tips off and put them in the tube and turned

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1 it over to the analyst to run instrumentation.

2 Q And was that the extent of your handling of those
3 items on 1 through 7?

4 A Yes.

5 Q And did you also have the opportunity to handle
6 items, I believe, 116, a pair of tennis shoes in
7 this case?

8 A I did.

9 Q As well as 118 and 119?

10 A I did.

11 Q What were those items?

12 A Item 116 is black and white tennis shoes. Item
13 118 is a plastic room key, and item 119 is a
14 Hennessy empty bottle.

15 Q Okay. With those items what type of processing
16 or testing did you do?

17 A 118 and 119 was in the package but I did not
18 actually process those.

19 Q Okay. Did you do any type of serology testing
20 with respect to the shoes?

21 A On the shoes I did.

22 Q Can you tell the jury what a serology test, or
23 what is serology I guess?

24 A It's — well, I mean, in this case I'm looking at
25 tennis shoes to see if I see any stains that could

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- 1 possibly be blood on them so I visually examine
2 them. If I see something that I feel needs to be
3 tested I take a swab and add phenolphthalein which
4 is a presumptive test for blood. I add that and if
5 it turns pink, then it's blood. Then I collected
6 that and did the same process.
- 7 Q Okay. And on the serology testing, I guess, that
8 you did, were the results negative or positive?
- 9 A I tested a few spots. Everything was negative.
- 10 Q Okay. And did you also have the opportunity --
11 I'm gonna show you State's Exhibit 196. Did you
12 take control of this item at some point?
- 13 A I did.
- 14 Q And what is that?
- 15 A This is a swab from a plastic bag with a GPM in
16 it which is presumptive marijuana.
- 17 Q Okay. And when you received it was it properly
18 sealed and packaged?
- 19 A Yes.
- 20 Q So it hadn't been tampered with or altered in any
21 way?
- 22 A No.
- 23 Q What did you do with it once you received it?
- 24 A Again, this is a swab so I cut the tip off of it,
25 put it into a tube and put it into a rack that was

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1 turned over to the analyst to run instrumentation.

2 Q Okay. Who was the analyst in this case?

3 A Rachel Grant.

4 Q All right. Okay, thank you.

5 THE COURT: Mr. Sutherland.

6 MR. SUTHERLAND: No questions for this
7 witness, Your Honor.

8 THE COURT: Thank you. Thank you very
9 much. You may step down.

10 All right. Solicitor, how long is your
11 next witness?

12 MS. SIMPSON: Our next — did you ask me
13 how long, I'm sorry? It's going to be fairly
14 extensive. It's the DNA analyst.

15 THE COURT: All right. We'll take our
16 afternoon recess.

17 Ladies and gentlemen, we'll take about a
18 15 minute recess. Do not discuss the case during
19 the brief recess and Mr. Foreman, will you let me
20 know how late the jury is willing to work tonight?

21 THE FOREMAN: Yes, sir.

22 (The jury is removed from the courtroom at
23 3:33 p.m.)

24 THE COURT: All right. Court will be in
25 recess 15 minutes. Thank you.

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1 (Whereupon, court was in recess.)

2 MS. SIMPSON: Briefly, Your Honor, with
3 respect to Rachel Grant, we had a pretrial motion
4 regarding our motion to suppress any mention with
5 respect to Jonathan Frazier being a suspect in other
6 crimes. It is noted in her bench notes. We would
7 renew that objection now.

8 MR. SUTHERLAND: I believe, Your Honor,
9 that we had discussed having her take the stand and
10 just tell us what she found out, what this was all
11 about, sir.

12 THE COURT: All right. Well, you want to
13 call her Mr. Sutherland?

14 MR. SUTHERLAND: Sure. I'd like to call
15 Rachel Grant to the stand.

16 WHEREUPON,

17 RACHEL GRANT,
18 after having been duly sworn, testified as follows:

19 THE CLERK: Please have a seat.

20 THE WITNESS: Rachel Grant.

21 P R O F F E R E X A M I N A T I O N

22 BY MR. SUTHERLAND:

23 Q And how are you?

24 A Good, how are you?

25 Q I'm doing well. I want to ask you, I've got a

1 thing that says cover technical review sheet.

2 A Yes.

3 Q Have they made you aware sort of what I'm going
4 to be asking you about?

5 A Yes.

6 Q Okay. There's a notation that says 7/25/, 12 per
7 Investigator Unger Jonathan Frazier is a suspect in
8 other cases. And I can't ---

9 A Well, that's the notation that says into local.

10 Q Into local?

11 A And basically what that means is that ---

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

13 MR. SUTHERLAND: Sorry.

14 THE WITNESS: Basically that means at our
15 system we have a local system data base. And once
16 we learn of an individual -- I always inquire of the
17 investigator that person is possibly a suspect; and
18 if they are, anything else we'll enter them in our
19 system data base. So basically that is a notation
20 that I inquire whether or not he was a suspect in
21 another case and he was so he went to the local data
22 base.

23 BY MR. SUTHERLAND:

24 Q Okay. But you didn't do any sort of analysis
25 comparing him to other cases or anything?

1 A No. I mean, his profile is in that data base so
2 if anything were to come through it would make the
3 hit to him. But as far as I'm aware of, I don't
4 know of any other hit at this point.

5 Q Okay, thank you.

6 MR. SUTHERLAND: I have no further
7 questions, Your Honor.

8 THE COURT: Solicitor.

9 MS. SIMPSON: None from the State, Your
10 Honor.

11 THE COURT: Thank you. Thank you very
12 much. You can step down.

13 MR. SUTHERLAND: If it please the Court I
14 won't be asking about that obviously.

15 THE COURT: All right. Thank you.

16 MS. SIMPSON: Thank you.

17 THE COURT: Anything further, Solicitor?

18 MS. SIMPSON: No, just briefly s Your
19 Honor is aware. We do have one more chain
20 witness -- it slipped my mind prior to the break --
21 but he will be short that we're calling first.

22 THE COURT: All right, that's fine. Thank
23 you. Anything else?

24 MR. SUTHERLAND: No, sir.

25 (The jury was returned to the courtroom at

1 3:49 p.m.)

2 THE BAILIFF: Your Honor, the jury's
3 present.

4 THE COURT: Thank you.

5 All right, Solicitor, you may call your
6 next witness.

7 MS. SIMPSON: The State calls John Barron.

8 THE COURT: Come around to be sworn.

9 WHEREUPON,

10 **JOHN BARRON,**

11 after having been duly sworn, testified as follows:

12 THE CLERK: Please have a seat. State
13 your full name for the record.

14 THE WITNESS: My name is John Barron,
15 B-A-R-R-O-N.

16 **D I R E C T E X A M I N A T I O N**

17 **BY MS. SIMPSON:**

18 Q Mr. Barron, where are you employed?

19 A Richland County Sheriff Department.

20 Q And what do you do there?

21 A I'm a DNA analyst at the Richland County
22 Sheriff's Department.

23 Q How long have you been with the Sheriff's
24 Department?

25 A Since 2004.

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1 Q Okay. And as a DNA analyst what do you do?

2 A Our job is to pick up evidence and process it if
3 necessary or we have a technician to do it. Take
4 that evidence, extract it for DNA, purify it for
5 DNA, quantify the DNA, and then copy the portion of
6 the DNA molecule involved in the identification,
7 compare it to known victims, suspects, other
8 possible triggers to DNA crime scene. We will be
9 analyzing both evidence and samples from
10 individuals.

11 Q Can you tell the jury just a little bit about
12 your educational background?

13 A Yes, I have a Bachelor of Science degree in
14 microbiology from Clemson University. I became
15 involved in DNA analysis at SLED, South Carolina Law
16 Enforcement Division in 1999. During my training
17 period I also attended and completed two additional
18 graduate level courses in statistics and molecular
19 biology at the University of South Carolina. At the
20 completion of my training period in the year 2000 I
21 completed a competency test and became qualified to
22 do DNA analysis on evidence in criminal cases. In
23 2004 myself and another DNA analyst from SLED came
24 to Richland County to set up the DNA laboratory at
25 the Sheriff's Department.

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1 Q Okay. So as an analyst you don't just process
2 evidence, you actually analyze the DNA, correct?

3 A I do both.

4 Q You do both. And in t his case did you obtain a
5 buccal swab from the defendant Jabriel Singleton?

6 A Correct. I received the cutting from the buccal
7 swab that Ms. Barrickman testified earlier that she
8 cut out.

9 Q And was it maintained properly when it came to
10 you?

11 A It was.

12 Q And did you alter or tamper with it in any way
13 except to do your testing?

14 A No, I pulled the DNA out of the swab.

15 Q Okay. And once you had the buccal swab what did
16 do you?

17 A As I said earlier, just like any other piece of
18 evidence or sample from an individual, I extracted
19 the DNA, I purified it and quantitated it, and then
20 I amplified certain portions of DNA molecule that
21 involved human identification that would create a
22 profile that would be unique to the individual whose
23 buccal swab came from.

24 Q And did you actually develop a profile in this
25 case?

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1 A Yes, I did.

2 Q Who was that profile for?

3 A This was for Jabriel Singleton.

4 Q Okay. And that profile you indicated that's Mr.
5 Singleton's actual profile, correct?

6 A That's correct. That would be unique to
7 Mr. Singleton. If you test his DNA today it'd be
8 the same result. You can test any tissue in his
9 body it would give you the same result. So we would
10 do blood or the cheek swabs, you know, from the
11 individual's mouth which is less invasive. Either
12 one would give us the same result; but I mean, if a
13 person was missing we could take their hair from
14 their hair brush or tooth brush and get the same
15 result that would be that DNA from the individual.
16 And of course, could be compared to evidence in a
17 case to link evidence to that person. In this
18 particular case all I did was test the buccal swab
19 from Mr. Singleton. I did it separate and distinct
20 from any evidence in the case so there's no
21 possibility any cross contamination.

22 Q And his profile is unique to him, correct?

23 A Correct, unless he has an identical twin.

24 Q Okay. And the profile you developed, is that
25 essentially what would be turned as a known standard

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1 at this point?

2 A That's correct. That would be used to compare to
3 evidence in a case, a criminal case.

4 Q All right, thank you.

5 THE COURT: Mr. Sutherland?

6 MR. SUTHERLAND: No questions of this
7 witness.

8 THE COURT: Thank you. Thank you very
9 much, sir. You may step down.

10 All right, Solicitor, you may call your
11 next witness.

12 MS. SIMPSON: The State calls Rachel
13 Grant.

14 WHEREUPON,

15 **RACHEL GRANT,**

16 after having been duly sworn, testified as follows:

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

19 THE WITNESS: Rachel Grant.

20 **DIRECT EXAMINATION**

21 **BY MS. SIMPSON:**

22 Q Ms. Grant, what is your profession?

23 A I am a DNA analyst with the Richland County
24 Sheriff's Department.

25 Q And how long you have you been employed by the

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1 Richland County Sheriff's Department?

2 A Five years.

3 Q And as a DNA analyst what do your duties and
4 responsibilities include?

5 A Like Investigator Barron said, basically our job
6 is to obtain evidence either we process ourselves or
7 the deputy technicians will process for us. We will
8 extract the DNA from those items. We will
9 quantitate it. We will get copies of it from all
10 its profiles, and then from them we make comparisons
11 verses known standards and make sure -- and report
12 on those findings as well.

13 Q And can you tell the jury a little bit about your
14 educational background and training?

15 A Yes. I have a Bachelor's of Science degree in
16 biology with a minor from Winthrop University. I
17 have a Masters degree in forensic serology and DNA
18 from the University of Florida. I have undergone
19 extensive serology and DNA training, and I attend
20 yearly training and continuing education courses
21 yearly. I also assist with the allegation of kids
22 and profile laboratory and I have successfully
23 completed competencies set forth by FBI and DNA
24 advisory board.

25 Q And is the use of DNA typing to establish the

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1 identity of an individual actually backed up by
2 science and publications?

3 A That is correct, yes.

4 Q And in your education and training have you had
5 the opportunity to work hands-on with these
6 different types of DNA testing?

7 A Yes.

8 Q Can you please tell us about the lab that you
9 work in?

10 A Our laboratory at the Richland County Sheriff's
11 Department is accredited by ASCLAD which means
12 American Society of Crime Lab Directors.
13 International accreditation is what we have. It's
14 probably the highest accreditation so that allows us
15 or actually makes us have thorough tech reviews, 100
16 tech reviews. We have several checks and balances
17 put in place to allow us our work to be efficient
18 and correct every time.

19 Q All right. And are all labs accredited or is it
20 somewhat difficult to obtain?

21 A It is difficult to obtain; but every lab wants to
22 be accredited, yes.

23 Q And how long has Richland County been accredited?

24 A I believe we received our ASCLAD certification
25 back in 2006.

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1 Q And do you have -- I believe you mentioned you
2 have checks and balances in place. Are those
3 considered kind of quality, assurance or control,---

4 A Yeah.

5 Q ---quality control programs that you have?

6 A Yes, we do. We have several in place within our
7 laboratory. We have several set in place also
8 within the analysis. We have positive, negative
9 controls that run alongside our evidence samples to
10 make sure there's no contamination of any sort
11 throughout the analysis.

12 Q And you indicated that your work was tech
13 reviewed, I guess peer reviewed as well. Do you
14 undergo proficiency testing as well?

15 A Yes, we do.

16 Q How often do you undergo that testing?

17 A DNA analysts are required to be competency review
18 tested twice a year.

19 Q And have you performed DNA typing on DNA
20 extracted evidence from crime scene?

21 A Yes, I have.

22 Q And have you had the opportunity to compare that
23 to known standards and individuals?

24 A Yes, I have.

25 Q Have you every been qualified as an expert in DNA

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1 analysis before?

2 A Yes.

3 Q About how many times?

4 A Eight.

5 Q Eight times?

6 MS. SIMPSON: Your Honor, at this time the
7 State would offer Rachel Grant as an expert in DNA
8 analysis.

9 MR. SUTHERLAND: No objection.

10 THE COURT: All right. Again, ladies and
11 gentlemen, the Court will qualify this witness
12 Rachel Grant as an expert in DNA analysis. She
13 will be permitted to give opinion testimony in that
14 regard. It does not mean you must accept those
15 opinions; but it is evidence for you, the jury, to
16 use in any way you see fit. Thank you.

17 Solicitor.

18 MS. SIMPSON: Thank you, Your Honor.

19 BY MS. SIMPSON:

20 Q What exactly is DNA?

21 A DNA stands for deoxyribonucleic acid. It is a
22 organic material that comes from the development.
23 Present in every nuclear cell meaning every cell has
24 a nucleus. You knew that from biology class.
25 Everybody gets half of their DNA from their mother;

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1 the other half from their father. And like
2 Investigator Barron said, everyone's DNA item of
3 with the exception of identical twins.

4 Q And where is DNA found on the human body? I
5 think you said cells, is that every cell?

6 A No, every nuclear cell. That has to have a
7 nucleus. So for example, in blood there's red blood
8 cells, and platelets. The DNA is actually found in
9 the white blood cells because cells in blood.

10 Q And why is DNA important? Like what does it help
11 you to identify or establish?

12 A In forensics the locations of DNA that we're
13 looking at are very discriminating so by looking at
14 several locations anatomical we're able to -- these
15 individual, every individual has unique gene type
16 characteristics on their DNA so it helps us to
17 identify the individual.

18 Q And what are some of the sources of DNA evidence?
19 How might you be able to find DNA or collect it?

20 A Well, body fluids are an excellent source of DNA
21 so blood, saliva, semen, those -- all of those body
22 fluids have DNA cells in them. And also, technology
23 is so sensitive now that touch DNA so basically if
24 someone were to touch a surface, any epithelial
25 cells or skin cells that slough off at that point we

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1 can combine, then swab, and get the DNA off of those
2 items.

3 Q And are some sources such as blood or semen, such
4 as touch DNA, are they considered to be better
5 sources of DNA or just with respect to their ability
6 to develop a profile?

7 A Body fluids are better for developing DNA just
8 because there's profiles -- there seems to be a lot
9 more there. Also sweat is also good source of DNA
10 but it really just depends on how much is left there
11 and also what type of environment it's been left in.
12 If it's been out in the sun, if it's been there for
13 a long period of time, heat, moisture, all those
14 things affect whether or not DNA will survive.

15 Q And are there different methods used to test for
16 DNA, or within your DNA testing do you utilize
17 different methods?

18 A Every -- in forensics DNA analysis is basically
19 the same, but there are difficult kits available to
20 allow us to look at different sections of DNA. We
21 have one kit specifically that's specific to just
22 males of the DNA strand of Y chromosome only. So
23 basically, overall protocol is the same, but there
24 are different kits to allow us to look at different
25 things.

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1 Q Okay, and is there a kit that you use more
2 frequently of quite often?

3 A There is. We -- we have several but basically we
4 have our main kit -- I will use the word standard.
5 Our standard kit looks at 16 loci locations of DNA
6 strand.

7 Q Okay. What are loci?

8 A Loci are just the locations that we're looking
9 at. DNA is an euchromosome which is just a long
10 genetic molecule so loci is basically just those
11 locations of those segments that we're looking at.

12 Q And when you engage in your testing do you have a
13 control in place to ensure, I guess, the accuracy of
14 your testing?

15 A Yes, we have several, yes.

16 Q Okay. Can you tell the jury a little bit about
17 those.

18 A When we start any type of analysis we will start
19 the extraction process; and with that, we will
20 always have sample the and basically we use this
21 the extraction on all of the different sample there
22 all individual tubes just that okay that bopper
23 Allen. That control follow along the evidence the
24 entire process, and it has to be blank at the end or
25 in order we can't say that those are items that

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1 potential that something is contaminated that the
2 one control that we have in place.

3 Another control we have during the
4 instrument process is it's positive called the 947A,
5 and basically that is a known standard that rise
6 along the evidence in its own separate tube and then
7 at the end it should give us a known answer. We
8 know the answer to this, should be what we get at
9 the end. And if we don't, we know something has
10 gone wrong with the process so. Then on top of that
11 we also have the peer review. Every case, every
12 information requiring extraction integrity reviewed
13 by another qualified analyst.

14 Q Okay. And in your lab as a whole, I guess along
15 the lines of the accreditation process, do you have
16 standards in place in which you may actually report
17 results on an item and circumstances in which you
18 want to report it?

19 A We do. We have some standards that are set in
20 place. Every discipline is specific to their --
21 it's a very specific discipline; but yes, we do have
22 a set of standards that we have to adhere to.

23 Q Okay. And does the DNA if it's properly
24 collected and stored, that sample, will it degrade
25 over time or change at all?

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1 A It won't change. If it's properly packaged it
2 necessarily degrade, but you know -- no, it does not
3 change to answer your question if properly packaged.

4 Q And under what circumstances are you generally
5 asked to analyze DNA?

6 A Any, any type of criminal case that comes along
7 that there is some type of volatile material
8 possibly found at the scene or some clothing swabs
9 that were taken. Anything that potentially would
10 end up being a profile on it the DNA, we'll get a
11 request for those items.

12 Q We talked a lot about identifying an individual.
13 Does your testing, are you sometimes able to exclude
14 individuals as a source for DNA?

15 A Absolutely, yes.

16 Q Tell the jury a little bit about what is meant by
17 a frequency. What is frequency?

18 A Basically when we are looking at these unique
19 gene types for these individuals. These gene types,
20 the characteristic which are called remedial (ph),
21 they are, they are in the population at a certain
22 frequency or a certain amount. The FBI has
23 generated a population data base that they oversee
24 that they have these frequencies in data basis that
25 allow us to do these calculations to see how unique

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1 a person's gene type or remedials are in the
2 population.

3 Q Okay, and are you always able to determine a
4 frequency or are there certain circumstances in
5 which you can and which you cannot?

6 A Well, we interpret profiles as a whole, but we do
7 have certain criteria that will either allow us or
8 not allow us to use those numbers or those
9 statistics. If we have a profile that's very, very
10 weak or locus where we can't see a whole lot, we're
11 not going to put numbers to that particular
12 location, if that makes sense.

13 Q It does sort of. I want to turn your attention
14 to the case at hand. Did you receive some items or
15 were some items submitted to you for testing in this
16 case?

17 A Yes.

18 Q When did you receive most of those items?

19 A I started my analysis on January 25 and on the
20 26th.

21 Q So January 25th?

22 A Yes. January 25th, I was -- Chris Barrickman,
23 came with -- she had picked up some evidence, got
24 some things for me, then I started some cuttings on
25 the 26th.

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1 Q Okay. And I'm gonna show you what's been marked
2 for identification purposes as State's Exhibit 194.
3 Is this the buccal swab that you received from the
4 defendant Jabriel Singleton?

5 A No, I actually did not run this particular buccal
6 swab. this was run by analyst John Barron.

7 Q Oh, okay. And moving to State Exhibit 200, did
8 you receive this?

9 A Yes, I did.

10 Q And who is that a buccal swab for?

11 A This is for Jonathan Frazier.

12 Q Okay. And that second item, State's 197, did you
13 also receive that buccal swab as well?

14 A I did.

15 Q And who is that buccal swab for?

16 A This is for Jonathan Frazier.

17 Q And in this case are you aware of why you have
18 two buccal swabs for Mr. Frazier?

19 A I am.

20 Q Can you tell the jury about that?

21 A Sure. When I received Jonathan Frazier's buccal
22 the first time I ran it through the whole entire
23 process. When I realized, when I looking at his
24 profile that in order to tell male or female you
25 have an X chromosome and a Y chromosome. Well, I

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1 realized his profile, his Y chromosome was gone so
2 immediately I knew that there was something amiss.
3 I knew I had gotten information from the
4 investigator this individual was a male so I
5 requested another buccal swab to have him run again.
6 And when I ran it again, once again I got a female.
7 So basically, at this point I ran a male specific
8 kit. I did get a profile so in Mr. Frazier's
9 particular case he has what we deem as hyperbionzite
10 (ph) mutation on his antigen gene which is gonna
11 cause that Y to drop out so that's why I actually
12 got -- I wanted to confirm that's what was really
13 going on.

14 Q Okay. And briefly --

15 MS. SIMPSON: May we approach, Your Honor,
16 just for a moment.

17 THE COURT: Yes, ma'am.

18 (Whereupon, an off-the-record Bench
19 conference was held.)

20 MS. SIMPSON: Your Honor, at this time the
21 State would offer State's 197 and State's 200 into
22 evidence.

23 MR. SUTHERLAND: Subject to limitation.

24 THE COURT: All right, State's 197 and
25 State's 200 is in evidence is subject to limitation.

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1 Thank you.

2 (State's Exhibit Nos. 197 and 200 were
3 admitted into evidence.)

4 BY MS. SIMPSON:

5 Q Did you also receive DNA standard from the victim
6 in this case, Dashawn Jones, the deceased victim?

7 A Yes, I did.

8 Q And did you also receive a known standard for the
9 defendant as well?

10 A No.

11 Q Okay. Or obtain it for purposes of testing?

12 A No, I -- because in this period I had already run
13 his profile I was able to look at his data.

14 Q Okay.

15 A So I did not run Mr. Jabriel Singleton.

16 Q Okay. So are all of these items, profile,
17 considered to be known standards --

18 A Yes.

19 Q --used for comparison?

20 A Yes.

21 Q What other items did you have available to you?

22 A You want me to just read the list?

23 Q That'd be great.

24 A Okay. Item 1 is swab from fired cartridges A and

25 B. Item 2 is swab from unfired cartridges of the

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1 357. Item 3 was swab from cigarette lighter. Item
2 4 was swab from Newport cigarette. Item 5 was swab
3 from the Food Lion plastic bag. Item 6 was a swab
4 from the Winchester .38 Special evidence G. Item 7
5 was swab from Winchester .37 Special, evidence H.
6 Item 29 is a swab from the exterior driver's door
7 handle. Item 30 was swab from exterior driver's
8 door handle above handle below window. Item 31 was
9 swab from exterior rear driver's side door handle.
10 Item number 32 was swab from exterior driver's side
11 door handle above handle below window. Item 33 was
12 swab from passenger side rear door handle opener.
13 Item 34 was swab from passenger side rear door
14 handle. Item 35 was swab from passenger side front
15 door handle opener. Item 36 was swab from passenger
16 side front pull handle. Item 37 was swab from
17 driver's side rear door handle opener. Item 38,
18 swab from driver's side rear pull handle. Item 39,
19 swab from driver's door handle opener. Item 40,
20 swab from driver's pull handle. Item 41, swab from
21 steering wheel (ph). Item 42, swab from gear shift.
22 Item 43, swab from steering wheel. Item 63 was swab
23 from Dashawn Jones. Item 84 was cigarette butt from
24 front yard. Item 85 was a black glove in the front
25 yard. Item 86 was a buccal swab from Jonathan

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1 Frazier. Item 116 were black and white tennis
2 shoes. Item 117 was a gray hoodie sweat shirt.
3 Item 118, a plastic room key. Item 119, a Hennessy
4 bottle that was empty. Item 145 was swab in plastic
5 bag with GPM. And then item 147 was a buccal swab
6 from Jonathan Frazier.

7 Q And one you received these items did you actually
8 conduct any type of testing?

9 A Yes.

10 Q And did you make any results or conclusions with
11 respect to your testing?

12 A Yes.

13 Q And did you formulate those findings in a report?

14 A I did.

15 Q And I'm gonna show you what's been marked for
16 identification purposes as State's Exhibits 252,
17 253, and 254. Are these summarizing your results
18 only in a bigger chart form?

19 A Yes.

20 Q Would it assist you in your testimony if you
21 could utilize this chart and stand down in front of
22 the jury?

23 A Sure.

24 MS. SIMPSON: Your Honor, permission to
25 publish these items to the jury.

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1 THE COURT: What are those numbers?

2 MS. SIMPSON: 252, 253 and 254.

3 THE COURT: All right.

4 MR. SUTHERLAND: No objection, sir.

5 THE COURT: All right.

6 (State Exhibit Nos. 252, 253, and 254 were
7 admitted into evidence.)

8 BY MS. SIMPSON:

9 Q I believe these go in order. I'm showing you
10 what's been marked as State's 252. With respect to
11 items 1 through 5, can you explain to the jury what
12 you did and what conclusion you made?

13 A Yes, item 1 through 5, every sample that comes
14 through our laboratory has to go through the
15 extraction process and quantitation process so
16 basically at the end of the quantitation process
17 we're gonna know if there's any DNA that's been
18 extracted. So any time that you see no DNA
19 extracted that means in that process I didn't have
20 any DNA present so items 1 through 5 no DNA was
21 extracted.

22 Q Okay, and does your testing end at that point?

23 A It does on those items that were finished.

24 Q All right. And moving to item 6 and 7, I believe
25 the swab from Winchester .38 Special evidence G, and

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1 the swab from Winchester .38 Special Evidence H.
2 Can you tell us what you did with respect to those
3 and explain your conclusions?

4 A Yes. In those cases after the quantitation
5 process I did get some DNA so it goes to the next
6 step which is often to go through the annotation
7 process and adult profile. But even though
8 sometimes if we get DNA we may not get a profile so
9 in this case these items went through the extraction
10 and quantitation and edification and I still didn't
11 get anything so those went through the three steps
12 instead of two.

13 Q Okay. And again, we have, I believe, item 29,
14 swab exterior driver's side door handle. What was
15 your conclusion with respect to that?

16 A No DNA was extracted so those went through the
17 extraction quantitation process and I didn't get
18 anything.

19 Q Okay. And then moving to item 30, this is the
20 swab from the exterior driver's door handle above
21 the handle and below the window. What did you do
22 and what was your result?

23 A I went through the entire process with the
24 sample. As a result of this particular item I got a
25 mixture which is basically having more than one

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- 1 contributor to a DNA profile. And in this case I
2 had what's called a sum of a mixture meaning that I
3 can look at a major contributor and a minor
4 contributor. They were similar enough that the
5 major contributor was an unknown male individual.
6 That means that somebody that I didn't have a
7 standard for to compare to, hey, this matches this
8 person, so he's unknown, this major contributor.
9 And the minor contributor, the other person I saw
10 was too weak to live interpret and that's common.
11 Q Okay. So it was there, you just couldn't
12 interpret it or report it?
13 A Right, I — it's too weak to live interpret it so
14 at that point I can't tell you much about it.
15 Q And when you refer to an unknown male, that's
16 some unknown male other than Jabriel Singleton,
17 Dashawn Jones, and Jonathan Frazier?
18 A Correct.
19 Q Those are the known males that you had?
20 A Yes.
21 Q Moving to both 31 and 32, swab from exterior rear
22 driver's door handle and a swab from exterior
23 driver's rear door. Explain your, why it indicates
24 that no analysis was performed.
25 A Those items were not performed by the laboratory.

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1 We get results -- we get the list from the
2 investigators on the items they would like analyzed.

3 In that case they didn't request those items.

4 Q Okay. And backing up just a little bit, with
5 respect to your testing I believe you said you
6 received the items on the 25th---

7 A Yes.

8 Q --or 26th? And this incident occurred on the
9 24th, correct, is that your understanding?

10 A That is my understanding.

11 Q Did investigator, did one of the investigators
12 put essentially a rush on this testing as well?

13 A Yes.

14 Q Or expedite it?

15 A Yes.

16 Q Moving to item 33, the swab from the passenger
17 side rear door handle, the opener portion?

18 A So this, this particular result I got a result as
19 well, meaning there was more than one person
20 present. Dashawn Jones, Jonathan Frazier, and
21 Jabriel Singleton are all eliminated so they can't
22 be included in that mixture.

23 Q And moving to the swab from the passenger side
24 rear door handle item 34.

25 A That's essentially the same thing. I had a

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1 mixture of more than one person, and Jones, Frazier
2 and Singleton were all eliminated.

3 Q I show you State's Exhibit 253. Here we have
4 items 35 and 36, the swab from the passenger's side
5 front door, handle as well as the passenger's side
6 front pull handle, again, no analysis was
7 performed. Are those the same circumstances as
8 the —

9 A Yes.

10 Q —previous item?

11 A Yes.

12 Q On 37, what is that and what did you conclude?

13 A That is the swab from the driver's side rear door
14 handle opener, and from there I had a mixture as
15 well which means more than one person there. My
16 statement reads no DNA unlike that of the victim
17 Dashawn Jones who was the major contributor of this
18 mixture, and the minor contributor is too weak to
19 rely and interpret. So basically what that means is
20 that I have a two person mixture, my major
21 contributor is my victim, and my minor contributor
22 is too weak to rely and interpret.

23 Q Okay. And then on .38 the swab from the driver's
24 side rear pull handle?

25 A I have a mixture of one but Jones, Frazier, and

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1 Singleton are all eliminated from that mixture.

2 Q Okay. And how you are able to actually eliminate
3 someone from a mixture?

4 A Basically we look at the evidence item that
5 profiles the mixture and particular -- the
6 particular gene types are unique to those
7 individuals, we'll look at those versus their
8 standard. And if there are -- if those particular
9 characteristics are not in that mixture, then they
10 are automatically eliminated. They are not present
11 in those or those are not there in that mixture so
12 they're eliminated.

13 Q And again we have items 39, 40, 41, 42, 43 no
14 analysis performed and that was at the request of
15 Investigator Unger?

16 A Correct.

17 Q Right. Then 84, can you tell us about that item
18 and what the result was?

19 A It is a cigarette but documented to be from the
20 front yard and it was a partial DNA from an unknown
21 female so that's an unknown female that I don't have
22 a standard for.

23 Q Okay. And why is it reported as a partial DNA
24 profile?

25 A When we get the data we look at several

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1 locations; and if there's dropouts or the lack of
2 these characteristics showing up at any part
3 throughout this profile then we call it a partial
4 because it's not 100 percent so we just -- that's
5 how we reported it.

6 Q And moving to State's 254, item 85, the black
7 glove indicated from the front yard. Can you tell
8 us about your testing on this item as well as the
9 result?

10 A Yes. Any time that you have clothing that we
11 want to try to establish who the wearer of that
12 clothing is, we will do what's called a kind of a
13 scrapping method. We will turn that item basically
14 inside out, take a sterile blade and scrape the
15 inside. Depending on what it is, if it's a shirt,
16 we'll scrape the inside of the collar, underneath
17 the arm pits if that person has a little sweat. And
18 basically our goal is to retrieve epithelial cells
19 that have sloughed off or possibly dried sweat on
20 those items. In this particular instance the black
21 glove, because it was a knit glove, I turned it
22 inside/out, took a blade, scraped it down, took
23 those kind of scrapings and swabbed it, and put it
24 in a tube.

25 Q And what was -- once you had the scrapings and

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1 the swab, what was the result of your testing?

2 A From this item I did have a mixture so I had more
3 than one person. The major contributor matched

4 Mr. Singleton, and every time we have a match we put
5 a statistic to it to show the weight of that match.

6 Because this was a discernable mixture meaning that
7 I had a major contributor that I could fully see, I
8 have a statistic that's called the match

9 probability and it reads based on genetic results
10 obtained the frequency of seeing this population in
11 the Caucasian population is approximately 170
12 million and then African-American population 185
13 million.

14 Q Okay. And then?

15 A Yeah, and then, because it also is a mixture as
16 well we can do what's called a probability of
17 exclusions statistic. And this is the percentage of
18 population that can be excluded from the mixture as
19 a whole. So based on genetic results obtained
20 greater than 99.999 percent of the Caucasian
21 population would be excluded from the mixture and
22 greater than 99.999 percent of African-American
23 would be excluded.

24 Q And that's from the DNA swabs from inside the
25 buc-- or scrape as well?

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1 A Yes.

2 Q And just -- we have several, several different
3 things with respect to terminology so when you
4 determine that the mixture matches what exactly are
5 you indicating by a match?

6 A Well, it's the major contributor of that match
7 meaning that the wheels that are related to -- that
8 Mr. Singleton has in common they were also seen in
9 this mixture so the major contributor matches
10 Mr. Singleton.

11 Q Okay. And 99.9 percent of the Caucasian
12 population would be excluded as a contributor to the
13 major?

14 A No, that ---

15 Q I'm sorry.

16 A This is just to the mixture.

17 Q To the mixture?

18 A To the mixture.

19 Q Okay.

20 A So I have a single source statistic and then you
21 have a mixture statistic because it is a mixture and
22 we are able to pull out the single source as well.

23 Q And then you have the other -- that's your single
24 source, the one in 70 million?

25 A Uh-huh, yes.

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1 Q All right. And then I believe items 116 and 117,
2 the serology testing, was that done by Ms.
3 Barrickman it was?

4 A It was.

5 Q But you still reported ---

6 A Yes.

7 Q ---that no blood was indicated. Moving to 145,
8 the swab form the plastic bag with GPM. Can you
9 tell us what that item is, what testing you did, and
10 your result?

11 A Same results, the same type of testing, the same
12 result that was a mixture so I had more than one
13 person. Because this wasn't a term mixture I could
14 not tell the major from minor. That I can look at
15 it and either include or exclude an individual by
16 looking at their particular standard. And in this
17 case Mr. Singleton could not be eliminated and also
18 because he cannot be eliminated I can do a
19 probability exclusion statistic. In this case 74.91
20 percent of the Caucasian can be excluded and 86.77
21 percent of the African-American would be excluded
22 and then Jones and Frazier are eliminated from this
23 mixture.

24 Q All right. And I believe that is all of the
25 items that you tested?

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1 A Correct.

2 Q You can have a seat. And after you do your
3 testing and make your findings are they reviewed by
4 another analyst?

5 A Yes, they are.

6 Q And in this case we have the DNA matched from
7 Jabriel on item 85, the glove, correct?

8 A Correct.

9 Q And then he also cannot be eliminated from item
10 145, these swabs from the GPM?

11 A Correct.

12 Q Okay.?

13 MS. SIMPSON: Beg the Court's indulgence.

14 BY MS. SIMPSON:

15 Q Moving back a little bit with respect to DNA, are
16 you able to time how a source or when that DNA
17 source occurred?

18 A No, huh-uh.

19 Q Okay. So DNA is not a timed event?

20 A No.

21 Q All right, thank you.

22 THE COURT: Thank you, Solicitor.

23 Mr. Sutherland.

24 MR. SUTHERLAND: May it please the Court.

25 **CROSS - EXAMINATION**

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1 **BY MR. SUTHERLAND:**

2 Q Hello again.

3 A Hey.

4 Q I'd like to -- I'm gonna try -- these numbers can
5 be so staggering when people, I mean, if people hear
6 75 percent three out of four, then they think, wow,
7 that's a lot. And then they hear something in 185
8 million, they think, wow, that's a lot?

9 A Uh-huh.

10 Q Often times, most oftentimes and these numbers
11 can --

12 MS. SIMPSON: Objection, Your Honor, can I
13 just -- if counsel has a question.

14 MR. SUTHERLAND: This -- that was the
15 question.

16 THE COURT: Well, go right ahead. Put it
17 the form of a question.

18 **BY MR. SUTHERLAND:**

19 Q Okay. Oftentimes you will have results where
20 it's like 5 quintillion to 1 that this is the
21 individual?

22 A Correct, yes.

23 Q And the problem here you mentioned that there's a
24 different statistic, or statistical process I guess,
25 where mixtures are involved?

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1 A Yes, we have several different types of
2 statistics that we use. Some single source and then
3 a few others for mixtures, yes.

4 Q And would you regard mixtures as being
5 problematic just with respect to your job?

6 A Yes. Any time our -- one thing that we -- yes,
7 they are. A lot of times if we get a profile that
8 has several contributors to it you've got a lot of
9 overlapping wheels that we call peek and balance,
10 and it can get confusing. Yes, they are. It can be
11 problematic for us.

12 Q Because some people will have in different
13 locations, they'll have the same, the same wheels
14 there?

15 A We---

16 Q Well, there's a -- I've been looking at the
17 electropherograms --

18 A Okay.

19 Q And looking at the profile for Mr. Singleton
20 there's I'll just call it victor whiskey alt is the
21 location or the locus. And there's 15 and there's a
22 17 listed under that there.

23 A Uh-huh.

24 Q And again, this is the number of times of the
25 repeat, is that correct --

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- 1 A Yes.
- 2 Q —as far the repeating?
- 3 A (The witness nodded head.)
- 4 Q The strength tandem repeat?
- 5 A It's short tandem repeat.
- 6 Q Okay, there we go.
- 7 A Yes.
- 8 Q So this is 15 times repeat and that's 17 times
- 9 repeat?
- 10 A Correct.
- 11 Q And then for delta three, that's an S, Sierra,
- 12 1358, we just have the number 15?
- 13 A Correct.
- 14 Q And that's homozygous —
- 15 A It is.
- 16 Q That's the signal there for both parents?
- 17 A Yes, uh-huh.
- 18 Q So, and the way that these calculations are
- 19 figured, is this where you take, you multiply these
- 20 probabilities together and then square it? Is that
- 21 —
- 22 A It depends on your statistic.
- 23 Q Okay, well —
- 24 A And also, we don't write statistics from known
- 25 standards. You always contribute to the evidence.

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1 Q Okay, but if -- let's say the probability of this
2 allele appearing at this location is .111?

3 A Okay.

4 Q And the probability of this allele appearing at
5 this location is .281?

6 A Once again, it depends on your system. Are you
7 in a single source or are you in probable exclusion
8 or mixture?

9 Q Just a single source this person versus that
10 particular person?

11 A Then no, that's not right. It's the -- do you
12 mind?

13 Q Sure, sure, please.

14 A For heterozygote (ph) the question is $2P$ squared
15 ---

16 Q That's it.

17 A --Q and for homozygote it's P square plus P , plus
18 P beta.

19 Q So this is $2PQ$. This is P , and this is Q ?

20 A Uh-huh.

21 Q And you multiply these together and then multiply
22 by 2?

23 A Yes.

24 Q Okay. And then you're end up with -- well, I
25 think I round it to .06. Now, for here this is

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1 considerably more complicated. I had this P
2 squared.

3 A Well, that's the right formula that we use.

4 Q Oh, okay, all right. So if this appears in the
5 population, say, .262 times?

6 A Okay.

7 Q How would that figure in this calculation? In
8 other words, what would be the end number as far as
9 probability, you know, we get .06 up here?

10 A Uh-huh.

11 Q And if this is 26.2 percent of the population,
12 what would be the end number here?

13 A I, I mean, I don't know. Basically that P value
14 is going to follow P.

15 Q Yes.

16 A You do that. But you have to do every allele,
17 every locus in that band then you have to do -- so
18 it's a lot of math. I've done it several times by
19 hand. It takes time so I can't answer your
20 question.

21 Q Well, that's where you end up, how you end up
22 with these trillions and trillion, you know, if it
23 were 4 quadrillion, 15 quadrillion with respect to
24 one person something that's not a mixture?

25 A Right.

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1 Q And bear with me please, I'm not a scientist.

2 A Uh-huh.

3 Q Now if you would look at Jonathan Frazier's
4 profile under victor whiskey alpha, he has a 15 and
5 17 also; is that correct?

6 A That is correct.

7 Q And under the delta 3 sierra 1358, he also has a
8 15; is that correct?

9 A He does.

10 Q So is that highly unusual or?

11 A No, because we are looking at 16 locations?

12 Q Yes.

13 A We have to interpret the entire profile as a
14 whole so it is common that people will have common
15 alleles at the same places especially people that
16 are related who have alleles passed down from mom
17 and dad so it's not uncommon.

18 Q Okay. Yes, okay. Now if I'm starting to get
19 into the weeds here, if you'll bear with me. The
20 problem with respect to mixtures is let's say that
21 you have both of these individuals in the mixture,
22 they would occupy sort of the same portion of the
23 mixture with respect to these two leads; is that
24 correct?

25 A I'm not sure I follow your question.

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1 Q Okay. Well, let's try to look at, is it item 85
2 I think. All right. So here in say, Victor
3 Whiskey, Alpha, we have 14, 15, 17 and 16?

4 A Uh-huh.

5 Q Now if you knew that these two were individuals
6 that you were looking at, then you would, you know,
7 take the 15 and 17 for those two individuals. But
8 the different combinations for different people I
9 guess is what I'm opening and looking at and what's
10 problematic about this, there could be somebody
11 whose, you know, homozygous here who takes -- what
12 would you say the number of contributors would be to
13 that?

14 A There's at least, at least three people within
15 this mixture.

16 Q At least three?

17 A Yes.

18 Q And when you have at least three people in the
19 mixture the numbers go down, if I'm saying this
20 correctly, go down, you know, from the quadrillions
21 and trillions down to around 185 million; is that
22 the basis?

23 A No. Basically, we're looking at this entire
24 profile as a whole. And what we do is we'll take a
25 stand full, and we'll go through and look at, see if

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1 that produces with it. In this particular situation
2 I have a major contributor.

3 Q Yes.

4 A Now when I put a specific weight to a conclusion
5 or a match in this case, I am only using both side
6 that are going to show me that major contributor is
7 very clear, and also I can't use low side that have
8 allele to be below 150 RFU (inaudible).

9 Q So that's -- and that's the number that's out on
10 the side of these?

11 A Yes.

12 Q So these here ---

13 A Yeah, that's the number below the repeats number.

14 Q So, but 150 -- 15 is the standard?

15 A Yes.

16 Q Now is -- are you comfortable with anything above
17 150? Let's say, 300 is here, there's 280 there?

18 A But ---

19 Q 260?

20 A But you have to pull out the major contributor.
21 It has to -- the person including the matches you
22 have to pull it has to line up because use that
23 number on a particular locus that's that if there is
24 peak and balance. It has to be that major
25 contributor. We just have if that makes sense.

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1 Q Yes. And so that, but that individual's DNA
2 should have -- would the strength be consistent
3 throughout as far as the relative fluorescent units?

4 A It should be; but there are, there are things
5 such -- I mean, some profiles examination mean that
6 DNA exactly is actually breaking into los side see
7 so you've got profiles and each is starting to slant
8 and then also majorly that's our biggest issue that
9 we have with that. But basically too, because those
10 larger low sides doing the copying process sometimes
11 they don't copy as much so there are things that can
12 effect it. But we look at profile in entirety we
13 look at 16 locations and we compare that to
14 standard. So if that person is included and if
15 there major contributor in that mixture then from
16 there we can put statistic to it.

17 Q Okay. And there was another, I think it was item
18 145?

19 A Okay.

20 Q And if you could look -- I'll just go ahead and
21 show it to you. It's down here in the corner. It's
22 delta 19 SCO 433.

23 A Okay.

24 Q And there are one, two, three, four, five, six
25 different alleles and so would this be similar to

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1 the last one we talked about? It looks like there
2 are a number of alleles in a lot of places here?

3 A Yes.

4 Q So at least three people have contributed to this
5 also or?

6 A I would probably say there's at least four or
7 five in this one.

8 Q So four to five?

9 A Yeah, and this one -- but once again, we're
10 looking at all the alleles; but with this I couldn't
11 do a single source so I had to do combination of
12 okays lugs so that's where I got the 74 percent and
13 that 89 percent and I couldn't do a single source on
14 the particular one.

15 Q So that was really my next question.

16 A Uh-huh.

17 Q So as a result of this and the number of
18 contributors in the constraint of everything, that's
19 where it gets down to 64 percent or 94 percent for?

20 A Correct. And to -- and with this particular
21 profile, because I had so many and because I had big
22 levels I only gave high of percentage so that will
23 tell you where the number kind of falls as well.

24 Q Okay. And which locus did you use?

25 A I believe it was D-2.

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- 1 Q Okay.
- 2 A I will double check. Yes.
- 3 Q So you were able to base your calculation on this
- 4 one locus here?
- 5 A Uh-huh.
- 6 Q And what was the process, the -- was this, you
- 7 know, the P where the 2PQ?
- 8 A No, this is a different one.
- 9 Q Yes.
- 10 A This takes the -- you take the frequencies and
- 11 you sum them together for each allele and then once
- 12 you have all the sums all together you multiply them
- 13 together. We have FBI has a data base. This is
- 14 what they over see and this is where we have these
- 15 frequencies and this is where it's come up okays
- 16 collision.
- 17 Q All right. Well, I hope that wasn't too
- 18 convoluted or confusing.
- 19 A No, huh-uh.
- 20 Q But in your opinion, as far as your just, your
- 21 regular work and with respect to these numbers in
- 22 particularly the 74 percent and the 99 percent; but
- 23 maybe even the, you know, 185 million whatever it
- 24 is, these aren't -- the strength of the statistics
- 25 or the numbers that your, that are usual, ordinary,

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1 that I might see in evidence in a case ---

2 MS. SIMPSON: Objection, Your Honor.

3 MR. SUTHERLAND: That ---

4 THE COURT: Overruled, she's an expert.

5 MS. SIMPSON: Okay.

6 BY MR. SUTHERLAND:

7 Q Usually much, much higher though?

8 A Honestly, I can't tell you that because we get
9 them all over the spectrum. I've had cases where I
10 had one point and it just depends on the strength of
11 the profile it depends on what loci I can get so
12 actually all across the board so I can't say that,
13 you know, It just depends on the evidence but when
14 anyone.

15 Q And so when something is a match and you research
16 those probabilities so you all, I guess, you all say
17 that there's a one in 40 chance of the -- I'm
18 talking about, you know, just evidence in a general
19 criminal case.

20 A Uh-huh.

21 Q Ordinarily the numbers are pretty high of those
22 that are admitted in court of those that are
23 admitted in a courtroom setting?

24 A Not necessarily. It just depends, I mean, to be
25 truthful we have a lot of cases there may not be any

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1 DNA on.

2 Q Sure, sure.

3 A So yes, the stat can come from every special it
4 just depends on the evidence, how strong it is, what
5 loci we can use so.

6 Q All right. Well, thank you very much.

7 A No problem.

8 MR. SUTHERLAND: No further questions at
9 this time, Your Honor.

10 MS. SIMPSON: Redirect, Solicitor.

11 **R E D I R E C T E X A M I N A T I O N**

12 **BY MS. SIMPSON:**

13 Q How is that you determine a major contributor
14 again, to a mixture?

15 A Okay. The mixture has to be discernable meaning
16 that I have some alleles or the alleles are stronger
17 than other alleles at this particular location. So
18 if I look at a profile as a whole and I see that
19 there's one -- each individual is going to be either
20 contributed to alleles or one allele, their
21 homozygous to a particular location. So if I see
22 that there's a major contributor theme throughout
23 this entire profile, then that's discernable enough
24 for me to compare to something.

25 Q Okay. And on item 85, the black glove found in

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1 the front yard, you were able to discern the
2 mixture, correct?

3 A Yes.

4 Q And you indicated a major contributor?

5 A Yes.

6 Q Who was the major contributor to this mixture?

7 A Mr. Singleton.

8 Q And you indicated that it matched Jabriel
9 Singleton?

10 A Yes, the major contributor.

11 Q And this means that he's present and included?

12 A Yes.

13 Q And that's from the black glove which you scraped
14 from the inside of the glove?

15 A Correct.

16 Q And the same -- and on -- just briefly. Item
17 145, swab from the bag with the GPM, here is also a
18 mixture, correct?

19 A It is.

20 Q But in this one it indicates that he cannot be
21 eliminated as a contributor to the mixture?

22 A Correct.

23 Q How is that different than a match?

24 A Well, basically because that mixture is
25 distinguishable where I can identify that mixture

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1 and put a statistic with that different stat. So
2 with this one it's not distinguishable so I can't --
3 I can't pull out that major but looking at the that
4 are present I can say that cannot be excluded from
5 the mixture.

6 Q But on item 85 he is included, he is a match?

7 A Yes.

8 Q All right, thank you.

9 THE COURT: Recross?

10 MR. SUTHERLAND: No further questions,
11 thank you.

12 THE COURT: Thank you. Thank you very
13 much. You may step down.

14 All right, Mr. Foreman, ladies and
15 gentlemen, I believe we'll take our evening recess.
16 I must remind you during the recess do not discuss
17 this case with others. As you previous heard me
18 say, do not read, listen, or watch any news reports
19 about the case. Do not use your computer or
20 cellular phones or any other electronic device or
21 communication capability to obtain, disclose any
22 information. Do not do any investigation on your
23 own or on the internet. With that being said,
24 you're now released. I ask you please be back at
25 9:30 in the morning. Please be back at 9:30 in the

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1 morning. If you'd leave your notes the clerk's
2 office will secure them when you leave.

3 (The jury is removed from the courtroom at
4 4:48.)

5 THE COURT: Anything further from the
6 State, Solicitor?

7 MS. SIMPSON: Beg the Court's indulgence.
8 Nothing at this time, Your Honor.

9 THE COURT: Defense?

10 MR. SUTHERLAND: Nothing from Defense.

11 THE COURT: Thank you very much. Court
12 will be in recess till 9:30 in the morning.

13 (Court was adjourned to resume on March 8th, 2013
14 at 9:30 a.m.)

15 THE COURT: Ready to bring out the jury?

16 MS. SIMPSON: No, Your Honor. We do have
17 some requested charge. We're actually making some
18 copies of a couple more do you want us just to
19 submit them all together once, after the next
20 witness?

21 THE COURT: That will be fine.

22 MS. SIMPSON: All right, thank you, Your
23 Honor.

24 MR. SUTHERLAND: Your Honor, I had
25 submitted mine by e-mail again, and I'm sure it was

1 around midnight.

2 THE COURT: All right.

3 MR. SUTHERLAND: And the were
4 substantially the same as the first one.

5 THE COURT: Will the next witness,
6 Solicitor, be your last witness?

7 MS. CAVANAUGH: Yes, Your Honor.

8 THE COURT: Is our jury here, all jurors
9 present?

10 THE BAILIFF: Yes, sir.

11 THE COURT: All right, bring them in.

12 (The jury was returned to the courtroom at
13 9:35 a.m.)

14 THE BAILIFF: The jury is seated, Your
15 Honor.

16 THE COURT: Thank you very much, Mr.
17 Bailiff.

18 Mr. Foreman, ladies and gentlemen of the
19 jury, good morning. I hope you all had a pleasant
20 evening. We are continuing the trial of the case by
21 the presentation of evidence and testimony by the
22 State in its case in chief. And with that being
23 said, if you would please continue to give the
24 parties your complete and undivided attention.

25 Solicitor, you may call your next witness.

1 MS. CAVANAUGH: Thank you, Your Honor.

2 The State calls Investigator David Unger.

3 THE COURT: All right, if would have come
4 around and be sworn for us please.

5 WHEREUPON,

6 **DAVID UNGER,**

7 after having been duly sworn, testified as follows:

8 THE CLERK: Thank you. Please have a seat
9 in the witness stand. State your full name for the
10 record and please spell your last name.

11 THE WITNESS: It's David Unger, U-N-G-E-R.

12 **D I R E C T E X A M I N A T I O N**

13 **BY MS. CAVANAUGH:**

14 Q Good morning.

15 A Good morning.

16 Q Where are you employed?

17 A The Richland County Sheriff's Department.

18 Q And how long have you been employed by the
19 Sheriff's Department?

20 A Just under ten years.

21 Q And what is your current position?

22 A Currently a senior agent with the Richland County
23 narcotics unit.

24 Q And how long you been in that unit?

25 A Just under a year.

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1 Q And where were you before that? What unit were
2 you in there before that?

3 A I was in major crimes division and I was a
4 primary on site investigator.

5 Q And was that your position in January of 2012?

6 A Yes, ma'am, I was.

7 Q I'm gonna bring your attention to this case.
8 What was your role in the shooting and death of
9 Dashawn Jones that ended in the murder of Jonathan
10 Frazier?

11 A I was assigned by Sergeant Ellis as the primary
12 on-site investigator. I got the call from Sergeant
13 Ellis. It was about 2:45 in the afternoon, told me
14 that there was a shooting that took place on Masonry
15 Circle, which is in Hopkins, and told me to start
16 heading that way. Our office is on Two Notch Road,
17 if y'all are familiar with Two Notch Road, and the
18 scene was out in Hopkins so it was gonna take me
19 even a little extra time, a few minutes to go ahead
20 there so I started heading that way.

21 Q And you said 2:45. What time was 9-1-1 called
22 and notified about this incident?

23 A 9-1-1 was called at 2:31 by Ms. Howell.

24 Q And which victim were you first notified about?

25 A I was notified that a individual who had been

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1 individual as Jonathan Frazier had been shot and was
2 found on the steps of Masonry Circle.

3 Q And when, when did you find out about the
4 deceased victim Mr. Jones?

5 A As I was driving down, as I stated a few minutes
6 ago, it's a long drive so there's a lot of radio
7 chatter. I had my radio on, and during that drive
8 down I was notified via radio that they found the
9 deceased victim at Prioleau Road.

10 MS. CAVANAUGH: Beg the Court's
11 indulgence.

12 (WHEREUPON, State Exhibit No. 255 was
13 marked for identification only.)

14 BY MS. CAVANAUGH:

15 Q Investigator Unger, I'm gonna show you what's
16 marked as State's Exhibit 255. Do you recognize
17 this area?

18 A Masonry Circle and Prioleau Road.

19 MS. CAVANAUGH: And Your Honor, at this
20 time I'd like to introduce State's Exhibit 255 into
21 evidence.

22 MR. SUTHERLAND: No objection, sir.

23 THE COURT: State's 255 is in evidence.

24 (State's Exhibit No. 255 was admitted into
25 evidence.)

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1 BY MS. CAVANAUGH:

2 Q So this, which road is this, Prioleau Road?

3 THE WITNESS: May I stand?

4 THE COURT: Yes, sir, certainly.

5 THE WITNESS: This right here is Prioleau

6 road And road right here is Masonry Circle

7 (indicating) and this is Minervaville Road right

8 here. And this is Masonry Circle. This would be

9 Monica Howell's house. You guys heard earlier

10 Monica Howell, that's her junk. Frazier was found

11 on the steps. This right here is Prioleau Road, and

12 this right here will be Prioleau Road.

13 BY MS. CAVANAUGH:

14 Q And are both of these locations in Richland

15 County?

16 A Yes, ma'am, they are.

17 Q So you first responded to Masonry Circle?

18 A No, I went to Prioleau Road.

19 Q I apologize, you were first notified about

20 Masonry Circle?

21 A Yes, ma'am.

22 Q And then you found out about Prioleau Road?

23 A Yes, ma'am.

24 Q Now did the responding officers have a name of a

25 suspect before you arrived?

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1 A They did. Again, that was put over radio traffic
2 that Jonathan Frazier had told Deputy Ellis that
3 Jabriel had shot him so at which time I notified --
4 I called Investigator Caldwell and said, hey, will
5 you do me a favor and start researching anybody from
6 the Hopkins area with the name Jabriel.

7 Q What did you first observe once you arrived at
8 Prioleau Road?

9 A First think I did after I got my briefing,
10 Corporal Windsor told me that the living victim,
11 Jonathan Frazier, was found on the steps of
12 Masonry. He said there were multiple gunshots and
13 he had already been transported to the hospital. He
14 then gave me what they observed there, which was the
15 blue vehicle backed into Prioleau at which time
16 after I received my briefing, I went in to the crime
17 scene which I signed in, and I walked the entire
18 crime scene. I started obviously with the vehicle.

19 Q And what did you observe about Dashawn Jones in
20 the vehicle?

21 A I observed, like I said, it was a dark blue 2002
22 Suzuki which was backed in probably -- and I didn't
23 do the picture in this crime scene -- probably 10 or
24 15 feet off of the house adjacent to the house. I
25 saw that the victim who was later identified as

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1 Dashawn Jones. He was laying in the driver's seat
2 slumped down a little bit and on the driver's seat
3 with his head leaning over (indicating).

4 Q And what -- you said it was a blue Suzuki; is
5 that right?

6 A Yes, ma'am, a blue Suzuki with a South Carolina
7 tag,

8 Q And by using that tag number were y'all able to
9 locate the owner?

10 A Yes, ma'am, we located Ms. Rosemary Williams with
11 an address of Sandwood Drive.

12 Q What did you observe about the actual, the
13 exterior of the car as far the windows?

14 A I observed that the driver's side front window
15 where the driver was sitting in was shattered. That
16 door was also opened. I observed again, right off
17 of the vehicle a couple of feet -- again, I didn't
18 do the measurements at the crime scene, didn't do
19 measurements -- a group up of shell casings laying
20 on the ground. You want me to keep going with the
21 crime scene?

22 Q Yes.

23 A All right. I continued to walk around. I
24 observed a lighter, a Newport pack of cigarettes,
25 and another spot off where those shell casings were.

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1 I didn't touch anything because that's what our
2 crime scene does, but I did bend down and look at
3 the shell casings. I observed they appeared to be
4 either 38 or 357. That's just from my knowledge of
5 what -- again, I didn't pick anything up at the
6 crime scene. I continued to walk it, just
7 methodically walking the crime scene looking for
8 anything else, and that's where we saw the other
9 unspent 357, which at the time I didn't identify it
10 as a 357, it was just an unspent bullet. And at
11 that time Investigator Polis from crime scene
12 arrived.

13 Q Okay. Did you, did you or the other -- and there
14 are many other officers within that crime scene at
15 that point?

16 A Yes, ma'am.

17 Q And it's secure?

18 A Yes, ma'am.

19 Q And everyone signed in the log before they
20 entered; is that correct?

21 A Yes, ma'am.

22 Q Now as far as Mr. Jones, did you know his
23 identity when you went to Prioleau Road?

24 A No, ma'am, we had not identified him yet.

25 Q And when did you actually determine that it was,

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1 in fact, Dashawn Jones?

2 A We, -- through the investigation with
3 Investigator Caldwell, going over and talking to the
4 different parties that he testified to earlier, we
5 got a possible preliminary name of Dashawn Jones but
6 we couldn't verify that until his prints were rolled
7 by the crime scene and then transported up to our
8 headquarters by Investigator Baker. And later that
9 evening probably, let me give you a time, just a
10 minute. It was later in the evening probably right
11 before it started getting dark that we got word from
12 the crime scene up at headquarters that it was
13 Dashawn Jones through the fingerprint rolls.

14 Q Okay. Did you and -- before I move away from the
15 crime scene, what did you notice about the area
16 surrounding Prioleau Road?

17 A Everything around is heavily wooded. You
18 can -- may I stand?

19 THE COURT: Yes, sir.

20 THE WITNESS: If you look, you have
21 Masonry, you have a heavy wooded area here and then
22 everything everywhere else is heavily wooded. You
23 do have a kind of open area that can get back and to
24 where Masonry is all around here, but you still have
25 heavy woods everywhere around the crime scene at

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1 Prioleau.

2 BY MS. CAVANAUGH:

3 Q Did you go with a member of the coroner's office
4 the next day to notify Mr. Jones' next of kin?

5 A It was the same day.

6 Q Same day?

7 A Yes, ma'am.

8 Q And who did you speak to?

9 A We went -- I went with Deputy Porter Jane Powell.
10 It's their job to notify next of kins on deaths.

11 But I wanted to be with her during that
12 notification, so I went with her to 617 Quail Hills
13 which is Peggy Jones. That's Dashawn Jones'
14 grandmother, for that notification.

15 Q And is that where he lived?

16 A Yes, ma'am.

17 Q With his grandmother?

18 A Yes, ma'am.

19 Q At that point did you learn anything about the
20 relationship between the two victims Mr. Frazier and
21 Mr. Jones?

22 A I did. I learned that they were inseparable. I
23 learned that they were best friends, had been for a
24 few years.

25 Q And did Mr. Frazier's mom actually come to

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1 Ms. Jones's house at that point?

2 A She did.

3 Q Now at this point Mr. Frazier is in the hospital;
4 is that correct?

5 A That's correct.

6 Q One more -- a couple of more things about the
7 car. When you came to the crime scene how was the
8 -- you mentioned the glass shattering on the
9 driver's side door?

10 A Yes, ma'am.

11 Q How was the passenger front door? Was it opened
12 or closed?

13 A It was closed.

14 Q It was closed?

15 A Yes, ma'am.

16 Q Can you look at your notes?

17 A I apologize, the passenger's front door was open.

18 Q I believe at some point actually Investigator
19 Polis testified that the wind shut the door?

20 A That's correct. Both doors ended up shutting and
21 it was just the wind.

22 Q For the passenger side?

23 A Yes, ma'am.

24 Q Now you mentioned that you saw the glove at the
25 scene next to some shell case, cartridge casings?

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1 A Yes, ma'am. When Investigator Polis arrived, we
2 continued to walk the crime scene. She was taking
3 photographs. And as we expanded out we located a
4 black glove with two spent shell casings close to
5 the road, but still on the property.

6 Q And did you later learn that that glove had
7 significance to this case?

8 A It did, had Jabriel Singleton's DNA on the inside
9 and had gunshot residue.

10 Q The defendant, does he -- throughout this
11 investigation did you ever learn that he had a twin?

12 A No, no, ma'am. There's no knowledge of anything.
13 All the research we did didn't have a twin.

14 Q Okay. And as far as the number of shell casings
15 that were located at this scene, what significance
16 did that have to you?

17 A Yes, ma'am. Again, I'm just a investigator, I'm
18 not a firearms expert. But through my course of
19 being in law enforcement for the last 18 years,
20 pretty good knowledge that a 38 revolver or 38
21 caliber shell casings are for revolvers only. I
22 know we've heard testimony that there's some
23 competition semi-automatic stuff, but most of the
24 time it's just, it comes from a revolver. Revolvers
25 we know normally only fit six and seven, six or

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1 seven bullets at a time, which indicates that the
2 suspect of this crime had to take time to reload.
3 And that's important because you're showing somebody
4 that is taking the time to reload and then continue
5 firing.

6 Q And while you're at the crime scene did you --
7 did K-9 units also come to the scene?

8 A Yes, ma'am. I requested two separate types of
9 K-9 units. I requested one for track of human,
10 looking for the suspect. I wanted those that team
11 which was our deputy Pierce and Deputy Cilcoin to
12 actually try to track and find the track where the
13 suspect ran. We had preliminary knowledge that he
14 ran down Masonry Circle towards Minervaville, and we
15 set them on that track. I don't get involved in the
16 K-9; they do their thing, which they ended up not
17 finding anyone.

18 The second K-9 unit I had come was what we
19 call an article search. We got Deputy McLamb. And
20 what I was looking for in article search, I'm
21 looking for guns or any other evidence that may have
22 been left during the course of the crime. And I had
23 Deputy McLamb start at Masonry Circle. I want
24 him to walk from there backwards towards the crime
25 scene because that would have covered both the

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1 suspect and the victims if the victims may have had
2 any kind of weapon or anything, I wanted to know.
3 It's, you know, finding the have facts; it doesn't
4 matter which way. So we had him track backwards
5 through that area and he didn't find any weapons at
6 all.

7 Q Because at this point of your knowledge is with
8 multiple gunshot wounds, Jonathan Frazier, traveling
9 from the crime scene to Masonry Circle (indicating)?

10 A Yes, ma'am.

11 Q And this actually, this distance appears fairly
12 lengthy on this map, but it's really ---

13 A It's not that long. I know that looks large, but
14 I walked it numerous times. It's not that far.
15 It -- I believe Mr. Sutherland said earlier it's
16 less than, less than a half mile in distance.

17 Q And again, there is no evidence located on the
18 24th; is that correct?

19 A That's correct.

20 Q As far as the actual location of the crime scene
21 Prioleau Road, who owned that property?

22 A Mr. Prioleau who we later identified through
23 finding out that Mr. Prioleau owned it, and at that
24 time I dispatched Investigator Carver to try get in
25 contact with Mr. Prioleau and find out who was

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1 renting the property 'cause he stated he didn't live
2 there.

3 Q And did you find out who rented the property?

4 A We did, Joe Singleton.

5 Q And is Mr. Singleton in any way related to the
6 defendant?

7 A No. I spoke with Mr. Singleton in detail.

8 Mr. Singleton told me that he's only been in the
9 Columbia area for a year and drives trucks. He told
10 me he's got a sister who lives in Columbia and his
11 three kids and that's it. And his oldest child is
12 14 years old so.

13 Q And did he also give you permission to search
14 home?

15 A He did. Myself, Sergeant Ellis, and Investigator
16 Preston, we stayed there until he arrived home. He
17 was in actually -- I can't remember. He was far
18 away driving trucks, it took him a while to get
19 back. And we waited for him, and we explained
20 everything that had happened in his, in his
21 property, and asked him if he won't mind if we went
22 inside to look for any evidence of a shooting and he
23 had no problem with that.

24 Q And what was his -- did you say what his job was,
25 what his occupation was?

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1 A He was A long distance truck driver.

2 Q He was there that day?

3 A No, ma'am.

4 Q Were there any other cars located at this
5 property that day?

6 A No, ma'am.

7 Q Is this pretty much the extent of what you did on
8 the 24th as far as it relates to the crime scene?

9 A As far as the crime scene, yes, ma'am.

10 Q Who was responsible for actually going to the
11 hospital to first speak with Jonathan Frazier?

12 A We had dispatched Investigator Goff.

13 Q And why was it important for someone or talk to
14 him before he went in to surgery?

15 A To get as much as information as we can. You
16 never know what's going to happen. He was in
17 critical condition with a gunshot in a very vital
18 area of the body which is the neck, and we wanted to
19 get any information we could just in case.

20 Q Okay. At that point he had life threatening
21 injuries; is that correct?

22 A That's correct.

23 Q At this point were you able to get a possible
24 phone number for the suspect Jabriel Singleton?

25 A Yes, ma'am, just through research Investigator

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1 Karl actually came up with the phone number for
2 Mr. Singleton.

3 Q Okay, and why is this important?

4 A Any time we can get a possible suspect's phone
5 number we can, one, get subscriber information on
6 that. What that means is it's, it just tells us who
7 that phone belongs to. Two, we can get tower
8 information. You heard earlier, Lieutenant McDonald
9 testified that tower information, that's very
10 important for us. That helps us with the course of
11 the investigation so that number that we got was
12 803- -3525 and that was immediately forwarded to
13 Lieutenant McDonald who did an extending
14 circumstance-- or extensive search warrant on the
15 phone number.

16 Q Okay. And that came back as Jabriel Singleton's
17 phone number?

18 A That's correct.

19 Q Including the T-mobile records subscriber
20 information?

21 A Yes, ma'am.

22 Q And did those cell phone records including the
23 cell tower information turn out importantly in this
24 investigation?

25 A Very important. Through both Dashawn Jones' cell

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1 phone records and Jabriel Singleton's cell phone
2 records, as we testified earlier you saw that there
3 was numerous calls, I believe 13, leading up to the
4 time of meeting that those two were going to have.

5 Q And then also the locations?

6 A Absolutely. Put them — and again, in a wedge,
7 but put him in the area where the crime scene was
8 and where that whole area is. I can't, but I can't,
9 like I said, you can't pinpoint it but he was there
10 or not, other places.

11 Q Okay. Did you also learn anything about who
12 called 9-1-1 that afternoon?

13 A Yes, ma'am, I learned that Monica Howell was the
14 person who called 9-1-1.

15 Q And who actually spoke to her?

16 A Who interviewed her?

17 Q Yes, sir.

18 A Sergeant Ellis.

19 Q And were Mr. Frazier's clothes still on her porch
20 later that evening?

21 A Yes, ma'am, they were.

22 Q And how were they removed?

23 A They were removed through our crime scene.

24 Lieutenant Pritchard stayed there until our crime
25 scenes come process Prioleau, which takes a lot of

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1 time, and then when they were done there they went
2 over to Masonry Circle and collected those items.

3 Q And to your knowledge was there a phone located
4 with his clothing?

5 A No, ma'am.

6 Q Was there ever an additional phone located where
7 you traveled?

8 A No, we never located his phone.

9 Q And speaking of phones, there were photographs
10 taken of two phones that were in the victim's car?

11 A Yes, ma'am.

12 Q Did those turn out to be significant in any way?

13 A Well, we don't, we couldn't -- we did search
14 warrants and for download on them; and there was a
15 Motorola Droid phone, an Apple I-pod and HTC Touch.
16 We only have so much capability when it comes to
17 these phones. If we can't get into them we can't
18 get into them. And they were -- the Motorola Droid
19 was locked with a pure corp key needed; that's
20 password. The Apple I-pod, there was no information
21 located, and the HTC Touch was locked, pure corp key
22 needed which means password. And we just don't have
23 the technology to break those passwords so we were
24 unable to get into those phones.

25 Q To your knowledge did any of those phones belong

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1 to Jonathan Frazier?

2 A No, ma'am.

3 Q Did other investigators speak to witnesses around
4 the area that could have possibly heard anything or
5 seen anything?

6 A Yes, ma'am, numerous investigators.

7 Q Was anyone else able to provide any other
8 information as to relates to what they observed?

9 A No, ma'am.

10 Q Did these witness relay that some of them, that
11 they heard gunshots?

12 A Yes.

13 Q But they didn't see anything?

14 A No, ma'am.

15 Q And the responding -- who was the responding
16 officer again in this case?

17 A That is what deputy?

18 Q Yes.

19 A Deputy Ellis.

20 Q And there was some mention when she was on the
21 stand about a Mark Patterson. Can you explain that
22 please?

23 A Yes. Our records, when you -- if you've ever had
24 to file an incident report with Richland County,
25 everything goes to our records department. At the

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1 time in January of 2012, we used a program called
2 Visions, and it was a older, dated Visions program.
3 Now an incident report is generated and sent down
4 there. Any time that we're working a case like this
5 there may be what's called a supplemental report
6 done; and all that is, is another brief incident
7 that's related to the crime, it's done by another
8 officer. In this incident Mark Patterson, a couple
9 of days later, had recovered a, two driver's
10 licenses in somebody's yard out in the Hopkins area
11 and ---

12 MR. SUTHERLAND: That is, that is hearsay,
13 that maybe Mark Patterson ---

14 THE COURT: I sustain that objection.

15 THE WITNESS: Deputy Patterson had filed a
16 report related to this homicide. When he did that
17 it got turned in in 2012. It automatically updates
18 the indicate report, puts his name at the bottom
19 even though he didn't write the original report.
20 And at that time listed a suspect which at the
21 beginning was not so automatically generated that
22 suspect's name. That has been fixed; it doesn't
23 happen anymore. But at that time with that
24 record's program so -- the original incident is
25 still the original incident report. It was just

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1 updated with the additional report added to it which
2 put that other deputy's name on it. It was just a
3 error that the computer programming did in 2012.

4 BY MS. CAVANAUGH:

5 Q And the information — the supplemental report
6 that he filed didn't really have much significance
7 in this case, did it?

8 A No, ma'am.

9 Q Did someone actually speak to Rosemary Williams
10 about the owner of that car?

11 A Yes, I did.

12 Q Okay. And who did she — who did she tell you
13 was driving her car that day?

14 A She told me that her boyfriend, a Breeze or Tyler
15 Edward was driving that car.

16 Q So she knew him as Tyler Edwards?

17 A That's correct?

18 Q She also knew him by his nickname.

19 A Breeze.

20 Q And was she the only person that you were aware
21 of that knew him by Tyler Edwards?

22 A Through the entire investigation she's the only
23 person that knew him by the name of Tyler Edwards.

24 Q And this was just — this was his girlfriend?

25 A That's correct.

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1 Q Now did she give you consent to search her
2 vehicle?

3 A She did, in a written from.

4 Q And did she also take you to where he lived, or
5 lived previous?

6 A She did take Investigator Caldwell.

7 Q Okay. Now why is it important that she gave
8 consent to search the vehicle?

9 A Time. If she gives consent to her vehicle, she's
10 the owner, she has a right to say, no, I don't want
11 you to search the vehicle. With her giving consent,
12 they can immediately start processing the vehicle.
13 If we had to get a search warrant which we they had
14 to issue doing, it just delays time. It would have
15 been a few hours or maybe the next day before we'd
16 start processing the vehicle.

17 Q And to your knowledge did Dashawn drive this car
18 often?

19 A According to Rosemary he did.

20 Q And speaking of the processing of the car, there
21 was a name that came up, a Grover Belton?

22 A Yes, ma'am.

23 Q Who, who is that in relation to this
24 investigation?

25 A He's not related. We got a fingerprint on the

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1 outside of the vehicle of a Grover Belton. Grover
2 Belton is a 56 year old man that through our course
3 of investigation we learned had just -- he had
4 nothing to do with the case, nothing that ruled or
5 put us toward him that had anything to do with this
6 case. He was ruled out as a player, ruled out and
7 that was that. You know, any time you park your car
8 anywhere there's a chance somebody touches your car
9 or. You know, right now we're leaving fingerprints
10 here, we're leaving fingerprints anywhere. I
11 believe they testified to that; it just happens. So
12 we ruled that Grover Belton was -- I'm sorry,
13 Garfield Belton was not part of this case at all.

14 Q Before you left Hopkins -- I believe this is on
15 the 25th, is that right, when you spoke to Rosemary?

16 A No, I spoke to her on the 24th.

17 Q Okay. Before you left Hopkins that day did you
18 go anywhere? Did you go to a recording studio?

19 A I did. That's exactly Columbia.

20 Q Okay.

21 A Sandwood, which is where Rosemary lived, she's --
22 Rosemary had told me that Tyler or Breeze, her
23 boyfriend was a rapper, that he did a lot of
24 recording and she told me that the recording studio
25 was at the corner of Sandwood at the end. Sandwood

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1 is a L so you come in and you know, you have
2 Sandwood here (indicating) and you have Sandwood
3 here (indicating). The recording studio is right on
4 the corner of Sandwood and Elmwood. I stopped
5 there. There was no address on it, but identified
6 it at the corner of Sandwood and Elmwood. I spoke
7 to numerous people there, asked them if they knew
8 Breeze, asked them if they knew Crash. Dashawn
9 Jones, his name is Crash. And they said they knew
10 him but they were very uncooperative and —
11 Q Did you meet Jonathan Frazier's name was Crash?
12 A Yeah, Jonathan Frazier's nickname was Crash and
13 Dashawn Jones Breeze or King Breeze 6000.
14 Q So no one spoke to you about anything from the
15 recording studio; is that right?
16 A No, ma'am.
17 Q Did you find out later on this day whether
18 Jabriel actually knew Dashawn Jones?
19 A I did. I got on Facebook and just typed in both
20 their names, and I did realize — I did learn that
21 Dashawn Jones on Facebook was friends with Jabriel
22 Singleton.
23 Q And were other investigators also working with
24 the victims' cell phone records in this case?
25 A Yes, ma'am. This may — Investigator McDonald,

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1 he did almost all of our cell phone research on this
2 case.

3 Q And again, you already -- what was noticed about
4 the number of phone calls between Jonathan and
5 Jabriel?

6 A Jonathan and Jabriel?

7 Q Yes.

8 A There was no phone calls between those two.

9 Q And what about Dashawn and Jabriel?

10 A That morning there was 13.

11 Q On the morning of January 25th what did you do?

12 A The first thing we do, we come in and we have a
13 command staff just like, you know, our senior
14 leaders. We did a briefing of command staff just
15 kind of going over the course of investigation,
16 where we're going on that investigation. That's the
17 first thing we did.

18 Q Okay. And were you notified about Mr. Frazier's
19 status?

20 A I was. I sent one of our victim advocates down
21 to the hospital just to wait; and if Jonathan
22 Frazier was to wake up he could call me so we could
23 go out and see if we can interview him. And I did
24 receive a call from Deputy Ryan who was our victim
25 advocate that Mr. Frazier had woken up.

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1 Q Okay, and did you also speak to his nurse before
2 you spoke to him?

3 A I did. I responded, myself and Investigator
4 Preston went to Richland Memorial. He was in the
5 ICU trauma room 527. We got there about 10:30 in
6 the morning, and we spoke to his nurse Amanda
7 McVickers.

8 Q Okay. And were you able to speak to Jonathan at
9 this point?

10 A I was. Jonathan was awake. He was in critical
11 condition. He couldn't talk. He had a tube in his
12 mouth and in his neck (indicating); and he -- there
13 was no way, his mouth was also wired shut so there
14 was no way he could talk. But I asked -- I
15 introduced myself. I told him who I was; and he
16 recognized, he could see that. I went on and asked
17 him, I was gonna ask him some yes and no questions.
18 I asked him if he could shake his head, and he said
19 he could. He shook his head up or down, or left or
20 right. Obviously the up and down being no and right
21 or left being yes. Excuse me, the other way round.
22 So at that time I started, I talked to him.

23 Q Again, did he tell you who shot him?

24 A He did.

25 Q And did you also show him a photo lineup this

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1 day?

2 A I did.

3 Q And did you necessarily show -- did you tell him
4 that shooter was in that lineup?

5 A No. When we show a photographic lineup we show a
6 six picture photographic lineup. And what we do is
7 when we present it to the person that we're showing
8 it to you we tell them that, I'm showing you six
9 pictures. I say, the person who shot you may or may
10 not be in here so I want you to look at each picture
11 individually, go through it, and if you see the
12 person that shot you please point him out.

13 Q Was he able to do that?

14 A After he was -- his hands were tied down, and
15 they do that because they don't want them pulling
16 out the trach. So the nurse untied his hands at
17 which time he was able to show me.

18 Q Okay. And who did he identify?

19 A Jabriel Singleton.

20 Q And was he able to answer a few of your questions
21 through nodding his head or shaking his head about
22 limited details related to the case?

23 A Yes, ma'am.

24 Q That was because he just couldn't speak at that
25 point; is that right?

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1 A Correct.

2 Q At this time did you also take a, what's called a
3 buccal swab, from him?

4 A I did. All that is is a long Q-tip and all you
5 do is you take it and you do it on the inside of
6 their cheeks. What we did, just one on the inside
7 of his cheeks, placed into a cardboard box, it was
8 labeled and marked and then sealed.

9 Q Okay. And why is it important to do that ---

10 A We ---

11 Q ---to the victim?

12 A Anyone that we consider a player in the crime
13 whether victim, suspect, or witness, we try to get
14 swabs so we can eliminate their standard when it
15 comes to running DNA. Y'all heard that long spill
16 on DNA. Basically we want -- it's their stuff in
17 the car or their stuff, we want to know that its
18 theirs.

19 Q And after you left the hospital what, what did
20 you do next?

21 A I called Sergeant Ellis who was, again, my
22 supervisor at the time, draft a search warrant for
23 Jabriel Singleton's known address which was
24 Saskatoon and also ask him to draft arrest warrants
25 for murder and attempted murder of Dashawn Jones,

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1 attempted murder of Jonathan Frazier, which he did
2 inform me. Even emailed to Judge Michael Davis,
3 myself and Preston, and went down to the judge's
4 office, we reviewed those and signed them.

5 Q And when you say -- did it turn out that he lived
6 at his mother's house?

7 A No. We did serve that search warrant and we
8 found -- spoke with his mother, told her why we were
9 there, what's going on, conducted a search and we
10 didn't find anything so and she said he didn't live
11 there.

12 Q And what area of town is Saskatoon Drive?

13 A I believe Saskatoon is still considered Hopkins.

14 Q Okay.

15 A It's on the Leesburg side kind of in, but I
16 believe the -- I have check but I believe the
17 address is technically Hopkins.

18 Q Okay. And what else did Sergeant Ellis do for
19 you at that point?

20 A At that point he just typed out those warrants
21 and e-mailed them to the judge for me.

22 Q Okay. What happened next with the investigation
23 on the 25th?

24 A We learned through information that -- first
25 thing I did I notified the fugitive team that we had

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1 signed warrants for Jabriel. They had already -- we
2 had already called previously, let them know that
3 there was a possibility so they could start their
4 workup. But once we had the signed warrants I
5 called to notify them so they could start their --
6 their job at which time I called them, they called
7 me and they said they believe that Jabriel was out
8 in the Hopkins area near Hor Hill, which we knew
9 that his dad lived at Hor Hill. At that time I
10 went with the fugitive team. We converged on that
11 area and set up a large perimeter between Crosshill
12 and Hor Hill.

13 Q And so you said at that point there was already
14 an arrest warrant issued for Jabriel Singleton?

15 A Yes, ma'am.

16 Q So at that point what all did you have about
17 Jabriel Singleton?

18 A We had -- at that point we had a photographic
19 pick from the victim; and through a yes or no
20 question that the victim told us that Jabriel
21 Singleton was the person that shot him.

22 Q And also phone records?

23 A And phone records placing Jabriel.

24 Q And you mentioned the fugitive team. Why is it
25 important that the fugitive team assist you with the

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1 arrest of the defendant?

2 A Well, there's two reasons. One, the fugitive
3 team, that's their job. We have a crime of murder
4 at which and as far as I know is the worst possible
5 crime you can have, the suspects a lot of items are
6 dangerous they're armed. And they're on the run and
7 when you're on the run a lot of times you become
8 even more dangerous. Those guys are trained to
9 track those people and find them and arrest them
10 without, without major injuries. So that's why we
11 use them. I want them to go out and find this
12 person for me.

13 The second reason is, it allows me to
14 continue the investigation because I know those guys
15 out there looking for the person that I have a
16 warrant for. It allows me to continue doing what I
17 need to do to come to a conclusion of this case.

18 Q Because your investigation does not end just
19 because there's an arrest warrant?

20 A Oh, no, it just starts normally then.

21 Q Did you actually go to Hor Hill Road that
22 day with the fugitive team?

23 A Yes, ma'am, I did.

24 Q Okay. And what happened once y'all arrived
25 there?

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1 A We arrived and set up the perimeter. As was
2 testified earlier, one of the fugitive team members
3 Heyers actually saw a male in the wood line. When
4 we converged that person took off. We all gave
5 chase towards that area. And at that point where we
6 located the hoodie, black hoodie, and the cell phone
7 which we identified as Jabriel Singleton's cell
8 phone.

9 Q And that was through this phone number; is that
10 correct?

11 A That's correct.

12 Q I'm gonna show what's marked as State Exhibit 193
13 that's already been introduce into evidence. Is
14 that the area that your went to locate the defendant
15 on the 25th?

16 A It is.

17 Q And where -- you say K-9 units actually
18 responded.

19 A That's correct. K-9 -- we had numerous K-9
20 units. We had road deputies, line deputies
21 responding. We had a members of the fugitive team,
22 members of homicide out there.

23 Q And again, where did K-9 actually attempt to
24 track the defendant?

25 A May I stand, Your Honor?

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1 THE COURT: Yes, sir, currently.

2 THE WITNESS: This is, this right here
3 (indicating) is the area that we converged and then
4 set up a perimeter right here. This is the wood
5 line right here where the jacket, the male was seen,
6 jacket and the phone were recovered. K-9 units
7 tracked here all the way up through this area
8 (indicating). This was a long manhunt. It was --
9 we were in the woods for hours looking for this, put
10 a helicopter up. And K-9 eventually ended their
11 track at a trailer at the end of Stagmont. The
12 address was Stagmont.

13 BY MS. CAVANAUGH:

14 Q So that's where the track ended?

15 A Yes, ma'am.

16 Q Did an investigator initially talked to the
17 person who lived at Stagmont?

18 A I did.

19 Q Was she able to provide any information?

20 A No, she said she was the only person that lived
21 there. She said that she was at work all day up
22 until 8:00 at night, and she was able to provide me
23 a note from her work. So she, again, we don't
24 believe anything further than the K-9's tracking at
25 Stagmont. We don't believe there's any other

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1 connection to that.

2 Q And did the helicopter actually go out this day
3 to assist with the search?

4 A It did. As a matter of fact, the helicopter and
5 SLED's helicopter came out as well so they could
6 switch off with fuel because helicopters only have a
7 couple of hours of fuel so one would come down and
8 the other would come up.

9 Q Again, the defendant was not located on this
10 afternoon?

11 A No, ma'am.

12 Q Was the search warrant completed for Hor
13 Hill, his father's address?

14 A Yes.

15 Q And what was located in the, in the home?

16 A We located paperwork that indicated that Jabriel
17 was living there. There was no evidentiary for the
18 murder, but we did locate paperwork indicated that
19 Jabriel was living at .

20 Q And did it appear that he had a bedroom from that
21 location?

22 A Yes, ma'am.

23 Q What was your next step in this investigation?

24 A The next step was, later that evening we received
25 a message from the road supervisor that a person had

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1 called and said they had given Jabriel a ride into
2 the city, City of Columbia area, at which time we
3 went out to his address, Joe Wilson's address as he
4 testified earlier. He gave Jabriel a ride off, on
5 to Patricia Drive.

6 Q And did he actually contact the sheriff's
7 department voluntarily?

8 A Yes, ma'am, he saw on the news -- he knew nothing
9 about the crime --

10 MR. SUTHERLAND: Sorry, it if please the
11 Court, this is hearsay, Your Honor.

12 THE COURT: All right. I will sustain the
13 objection.

14 BY MS. CAVANAUGH:

15 Q But he reached out to, to law enforcement?

16 A Yes, ma'am.

17 Q And but he didn't know anything about the crime
18 itself?

19 A That's correct.

20 Q The next morning were you notified about possible
21 whereabouts of the defendant?

22 A I was. I notified by Investigator Britt who was
23 a part of the fugitive team that they had received
24 information investigator that night attempt to come
25 in Jabriel --

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1 MR. SUTHERLAND: Sorry, Your Honor, it's
2 hearsay.

3 THE COURT: It's already in the record.

4 MR. SUTHERLAND: Investigator Britt?

5 THE COURT: All right. Any testimony of
6 Investigator Britt hearsay, thank you. Sustained.

7 BY MS. CAVANAUGH:

8 Q Did you receive information related to possible
9 whereabouts?

10 A I did. I received information from the fugitive
11 team that he was at the American Best Value Hotel
12 on, possibly at America Best Value Hotel on 131
13 Veteran's Road. And units from the fugitive team
14 were attempting to locate him at that place.

15 Q Okay. Did you -- while they were doing -- you
16 did not respond to America's Best Inn, did you?

17 A No, ma'am, I did not.

18 Q While they were actually attempting to locate him
19 at the inn, what were you doing?

20 A I was -- I did, I did a search warrant on
21 Singleton's cell phone for a talk, which we never
22 could 'cause we couldn't get into it. Again, pass
23 code. I also met with Rachel Grant, our DNA
24 technician, to figure out the run of DNA that we
25 were going to do on this case, at least initially.

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1 Q Okay. And were you notified later that morning
2 after noon, mid-morning, that Jabriel Singleton had
3 been arrested?

4 A I was notified at 12:57. It was 12:57 right
5 after noon, that he had been arrested at room 119 at
6 the hotel.

7 Q And was he, was he — was he the listed person on
8 that room receipt?

9 A He was not.

10 Q And what dates were the room — was the room
11 actually rented?

12 A The room was rented by Randall Dandy, and the
13 dates were for the 25th and the 26th.

14 Q So this would be the day after the murder?

15 A Yes, ma'am. Paid cash on both days, number of
16 guests are listed as 50-dollars each day.

17 Q And did you actually speak to Randall Dandy?

18 A I did.

19 Q Was he in any way cooperative?

20 A He was not.

21 Q Did you ever show him the photo of the defendant?

22 A I did.

23 Q Did he say that he'd never seen him before?

24 A He did.

25 Q But he rented the room that Jabriel Singleton was

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1 found in?

2 A He did.

3 Q Was he located in the room?

4 A He was not.

5 Q Was the defendant transported to headquarters
6 that day?

7 A He was.

8 Q And upon arriving at headquarters where did,
9 where did he go?

10 A He was brought to me, and I placed him in one of
11 our supervisor's offices as our offices are huge.
12 They're not very private, and they're not -- and
13 it's very loud so. All the supervisors have closed
14 offices, better place for an interview. So I used
15 Sergeant Robinson's office which was a office, and
16 we -- I took him in there. I took his handcuffs off
17 and sat him down.

18 Q And what time was this?

19 A He arrived at headquarters at 13:10 which is
20 1:10.

21 Q You say you took the handcuffs off?

22 A I did.

23 Q What did you do when he first sat down?

24 A First thing we did is we -- first thing we did
25 before we talked to any person that's under arrest

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1 because he was under arrest, is we advise him of
2 Miranda warnings, or their Fifth Amendment rights.

3 Q And how is that actually done?

4 A We do it for the most part in a setting like that
5 we do it on written form.

6 MS. CAVANAUGH: Beg the Court's
7 indulgence.

8 BY MS. CAVANAUGH:

9 Q I'm gonna show you what's been marked as State's
10 Exhibit 3 for identification purposes only. Do you
11 recognize this document.

12 A Yes, ma'am, that's the form I used for his advice
13 of rights.

14 Q And did he -- what is the date on this?

15 A The date is the 26th.

16 Q And what time does it say on there?

17 A We began the advisement of rights at 13:14 which
18 is 1:14.

19 Q And is your signature on this document?

20 A It is.

21 Q And is Jabriel Singleton's signature on this
22 document?

23 A It is.

24 MS. CAVANAUGH: Your Honor, at this time
25 I'd move to introduce State's Exhibit 3 into

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1 evidence.

2 MR. SUTHERLAND: No objection as to
3 waivers.

4 THE COURT: State's 3 is in evidence.
5 (State's Exhibit No. 3 was admitted into
6 evidence.)

7 BY MS. CAVANAUGH:

8 Q Investigator Unger, can you explain in detail how
9 you actually read him his rights?

10 A Yes, ma'am. The way I do it, the first thing to
11 do is I put demographic information on top, name,
12 which would be Jabriel Singleton, the place which is
13 5623 Two Notch Road -- that's our office. The
14 officers that are involved, at this time it was
15 myself and Investigator Preston, the date which is
16 the date that I started this, January 26, 2012. And
17 the time, the time I started, not the time I finish.
18 The time I started was 1314 or 1:14.

19 The first thing we do is we have what is
20 your rights. And what I do is, there's numerous
21 sentences. I read each sentence individually. I
22 then ask that person if they understand. If they
23 indicate that they understand that sentence to me, I
24 put a check mark by it.

25 Q Okay. Can you go through individually each one

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1 of the rights that you read?
2 A Yes, ma'am. Word for word, "your rights, before
3 we ask you any questions you must understand your
4 rights." I then ask if he understands. He
5 indicated that he did. I put a check mark next to
6 it. The next line is: "You have the right to
7 remain silent." Again, I asked him if he
8 understood. He indicated he did, put a check mark
9 next to it. "Anything you say can be used against
10 you in court." Same thing, I asked him if he
11 understood; he indicated he did. I put a check mark.
12 "You have a right to talk to a lawyer for advice
13 before we ask you any questions and have a lawyer
14 with you during any questioning." I asked him if he
15 understood that; he said he did. Put the check mark
16 next to. "If you cannot afford a lawyer one will be
17 appointed for you before any questioning, if you
18 wish." Again, I indicated -- he indicated he
19 understood. I put a check mark next to it. "If you
20 decide to answer any questions now without a lawyer
21 present, you still have the right to stop answering
22 at any time. You also have the right to stop
23 answering any time until you talk to a lawyer." I
24 asked if he understood that; he indicated he did.
25 Q And did he indicate at the time that he wanted to

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1 talk to you?

2 A He did.

3 Q And how did — how did that memorialize?

4 A It was memorialized with his signature.

5 Q And that's under the waiver of rights?

6 A Yes, ma'am, it's actually under your rights
7 there's a signature. Then there's another one on
8 the waiver of rights.

9 Q So you — did he begin speaking to you at that
10 point?

11 A First thing we had to do was have him read his
12 waiver of rights.

13 Q Oh, okay, and can you read that for us?

14 A Yes. Once we read the rights, then I'll read him
15 his waiver of rights. His waiver of rights is: "I
16 have read this statement of my rights. I understand
17 what my rights are. I am willing to talk and answer
18 questions. I understand and know what I'm doing.
19 No promises have been made to me, no pressure or
20 coercion of any kind as been used against me." I
21 asked him if he understood that. He indicated he
22 did, and he signed it.

23 Q Okay. And did he appear aware of what he was
24 doing?

25 A Yes, ma'am.

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1 Q Did he appear under the influence of any type of
2 drugs or alcohol?

3 A He did not.

4 Q Did he indicate that he wanted to speak with you?

5 A He did.

6 Q And he waived his rights voluntarily?

7 A Yes, ma'am.

8 Q And willingly?

9 A Yes, ma'am.

10 Q Now have -- is he aware of what he's charged with
11 --

12 A He is. We --

13 Q ---at this point?

14 A We advised him he was under arrest for the murder
15 of Dashawn Jones and the attempted murder of
16 Jonathan Frazier.

17 MS. CAVANAUGH: Beg the Court's
18 indulgence.

19 BY MS. CAVANAUGH:

20 Q Investigator Unger, how did you proceed with the
21 interview after he indicated he wanted to speak to
22 you?

23 A The first thing we do is I asked him what
24 happened that day. I want to hear it verbally. I
25 want him to tell me what happened. I'm not writing

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1 anything down; I'm just listening at this point.
2 Once he goes through that and I determine we're done
3 with this, with that portion, then I'll put it down
4 on paper. I'll tape it for the person. I tell him
5 that I'm gonna type it for him. I'll tell him that
6 I'm a pretty slow typer so I'm gonna stop you a lot.
7 That's what I tell them. So I'm gonna stop you.
8 I'm not trying to be rude, I just need to write what
9 you say word for word and then we'll put it down on
10 paper.
11 Q And during that verbal conversation what did,
12 what did he tell you?
13 A I asked him to tell me about what happened that
14 day of the murder, January 24th, 2012. I told him,
15 tell me what his relationship and what he, what he
16 knows about Dashawn Jones and Jonathan Frazier. He
17 told me that he met them at the recording studio,
18 the one we talked about earlier on Sandwood. He
19 said they were there. He went on to say they were
20 smoking weed together. He said there was quite a
21 few people there as well. He said they were
22 chilling and smoking weed inside and outside the
23 studio, and he stated that he left there around 12
24 to 1, 1200 to 1300 hours. He said he went to his
25 girlfriend's house, Kenyatha Hickman. Then he said

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1 that house was off Leesburg Road which we later
2 identified as Daly Street. Singleton say that
3 while he was at her house he was there all day. He
4 said that he did not leave until later that evening.
5 He stated that he went later that evening he went to
6 Club Crush. Club Crush was a -- it's closed now --
7 was a adult club off of River Drive which is right
8 there on Broad River. I asked if he left his
9 girlfriend's house at all before going to Club Crush
10 that evening, and stated no. He stated that he left
11 between 21 and 2200 hours which is 9 or 10:00 at
12 night to go to Club Crush. I asked if he spoke with
13 Breeze or Crash or whoever Breeze is, Dashawn Jones,
14 Crash, Jonathan Frazier. And after he left the
15 studio he stated that Breeze called him wanting to
16 buy some weed. He told Breeze that he did not have
17 any weed yet. Singleton stated it would be a few
18 minutes; he might have some. Singleton stated that
19 he called back again, that Dashawn Jones called back
20 again, asking him if he had meet yet and told him
21 that he was not was not giving him enough time to
22 get it.

23 I asked if he was at Hopkins at all during
24 the day, during the afternoon; he said he was not.
25 I asked if he killed Breeze and shot Crash. He

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1 stated he did not. I printed -- at that item we
2 went ahead, I memorialized it into a written
3 statement. I printed the statement out.

4 Q So that was the verbal conversation and then you
5 went through a question and answer typed --

6 A Yes, ma'am.

7 Q --typed statement?

8 A Yes, ma'am.

9 Q I'm gonna show you what's marked as State's
10 Exhibit 4. Do you recognize that document?

11 A Yes, ma'am.

12 Q What is that a document of?

13 A That's the written statement that I took.

14 Q Okay. And this is the actual typed statement
15 that you did off your situation with the defendant?

16 A Yes, ma'am.

17 Q And what's the date on there?

18 A January 26, 2012.

19 Q And the time?

20 A 1322, which is 1:22 in the afternoon.

21 Q And did you actually -- so can you describe the
22 process of a written statement one more item?

23 A Yes, ma'am. After I get the verbal statement
24 from him I then put it -- I then put it in writing.
25 What I'll do, I'll explain it to him, I want you to

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1 tell me the exact story again, I'm gonna type it
2 word for word. I'm gonna stop you because I'm a
3 slow typer. I'm a slow typer. So I'll stop him
4 numerous times. But what I'll do is, I start at the
5 beginning of the statement. At the top of
6 statement, all it is is statement of Jabriel
7 Singleton, Saskatoon Drive, Hopkins, South
8 Carolina, 29061. I put his date of birth which is
9 October the 3rd, 1991 under that. Made at Columbia,
10 South Carolina this January 26, 2012 13:22 in the
11 presence of Investigator Unger/Preston of the
12 Richland County Sheriff's Department. The next line
13 is: "I, Jabriel Singleton, understand that I have a
14 right to remain slight. Anything I say can be used
15 against me in court. I have the right to talk to a
16 lawyer for advice before you ask me any questions
17 and that lawyer with me during any questioning. If
18 I cannot afford a lawyer, one will be appointed
19 before any questioning if I wish. If I decide to
20 answer questions now without a lawyer present, I
21 still have the right to stop answering them at any
22 time. I also have ---

23 MR. SUTHERLAND: If I may interrupt you,
24 sir. I believe it's in the form of a report.

25 THE COURT: Sorry?

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1 MR. SUTHERLAND: I believe it's in the
2 form of a report. He's presenting it as a
3 statement.

4 THE COURT: Step up here. I can't
5 understand what you're saying.

6 MR. SUTHERLAND: Yes, sir.

7 (Whereupon, an off-the-record Bench
8 conference was held.)

9 THE COURT: Thank you, Mr. Sutherland,
10 Solicitor.

11 You may continue, Detective.

12 THE WITNESS: "I also have the right to
13 stop answering questions any time until I talk to a
14 lawyer."The next line is, do make the following
15 statement. The first question is my name and
16 Preston's name with a question mark. The next one
17 is answer, Singleton. It's just identifying whose
18 asking the questions and who's doing the answering.

19 First question I ask is: "Tell me about
20 your day. "On January 24, 2012 you were with
21 Dashawn Breeze Jones and Jonathan Crash Frazier."
22 Answer: "I had to meet -- I had a meeting. After
23 that I went to a studio on Sandwood Drive. Breeze
24 and Crash were at the studio, Nick and some others,
25 there were so many people. We were hanging out and

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1 smoking weed and chilling. I was outside and
2 inside. I left the studio at 1201. I went to my
3 girlfriend Kenyatta Hickman's house off Leesburg
4 Road. I was over there all day. I did not leave
5 there until later that night. I went to Club Crush
6 later that evening."

7 Next question: Did you leave your
8 girlfriend's house at all before going to Club Crush
9 in the evening?" The answer is no. The question:
10 "What time in the evening did you go to Club Crush?"
11 Answer: "9 or 10 p.m." Question: "Did you speak
12 with Breeze or Crash after you left the studio?"
13 Answer: "Yes, he called me and asked me to buy some
14 weed. I told him that I did not have any yet. I
15 told him it would be a few minutes and I might have
16 some. He called back again. It did not take him
17 long to call me back. It seemed like he was in a
18 hurry to do something. I told him that he was not
19 giving me enough time to get it. It seemed like he
20 was in a hurry to make a play." Question: "Did you
21 go to Hopkins at all that afternoon?" Answer, "No."
22 Question: "Did you kill Breeze and shoot Crash?"
23 Answer: "No, sir." Question: "Is there anything
24 else you want to add to your statement?" Answer:
25 "No, sir."

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1 BY MS. CAVANAUGH:

2 Q Did you ask -- did you present that statement to
3 the defendant?

4 A I did. After we take the statement I print it
5 and then I present it to Jabriel for him to read
6 over it.

7 Q And did he read over it?

8 A He did.

9 Q And what did he say to you?

10 A I said I'm not signing anything.

11 Q What did you do next?

12 A After he told me he wasn't signing anything I
13 continued to interview him. I told him that I
14 believed he was lieing. I told him that I had a
15 photographic lineup for that indicated he was the
16 shooter, and I told him that his cell phones hit
17 towers in Hopkins during the time of the homicide.

18 Q And what was his response when you confronted him
19 with the cell phone?

20 A He told me that his cell phone was at his
21 father's house.

22 Q All day that day?

23 A Yeah. And my response to that, I asked him if
24 his father's house was moving.

25 Q Because his phone was hitting off multiple

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1 towers?

2 A Correct.

3 Q And he told you that after he had already told
4 you that he had been on the phone with Dashawn
5 earlier that day; is right?

6 A Yes, ma'am.

7 Q So he didn't have a response to you about his
8 cell phone moving?

9 A No.

10 Q What did he say -- did he say anything after
11 that?

12 A He did. Next thing he said is that there is not
13 a self-defense law in South Carolina and then after
14 that he didn't make anymore statements.

15 Q When he was in the office talking to you, did you
16 observe any injuries on him?

17 A I saw no injuries.

18 Q Did he mention any injuries on him?

19 A He did not.

20 Q And again, you asked him if there was anything
21 else he wanted to add to his statement; is that
22 correct?

23 A Yes, ma'am, both verbally and written.

24 Q And what did he say?

25 A No.

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1 Q Was he given water or asked if he wanted food or
2 anything?

3 A Somebody was giving him water at 14:35, which is
4 2:35, and used the bathroom at 2:54.

5 Q So this was approximately about an hour and some
6 minutes after he first got to headquarters; is that
7 right?

8 A Yes, ma'am.

9 Q What happened after he went to the bathroom?

10 A He was -- he brought back and read his warrants
11 at which time they were signed by Investigator
12 Preston, and he was transported out to the detention
13 center.

14 Q And what was his demeanor like to you during the
15 conversation?

16 A Like we're having normal conversation, very cold,
17 no emotion whatsoever.

18 Q Did you also obtain buccal swab from the
19 defendant?

20 A We did.

21 Q And I think you described that process earlier.
22 How was that done?

23 A Yeah, it's very easy. All it is, we take a Q-tip
24 it's a Q-tip with a long stick. We have the person,
25 in this case being Jabriel Singleton, put it in his

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1 mouth, both sides of the cheek, swirl it around in
2 there at which time they put it into a cardboard
3 box, seal the box and label it, seal it in our
4 evidence bag and then turn it over to evidence.

5 Q Did he give you consent to do that?

6 A He did.

7 Q I'm gonna show what's marked as State Exhibit 194
8 for I.D. purposes only. Do you recognize that?

9 A Yes, ma'am.

10 Q And is that the DNA swab that you took, the
11 buccal swab from Jabriel Singleton?

12 A It is.

13 Q And it says collected by you; is that correct?

14 A It does.

15 MS. CAVANAUGH: Your Honor, at this time
16 we move to introduce State's Exhibit 194 into
17 evidence.

18 MR. SUTHERLAND: Subject to limitation,
19 Your Honor.

20 THE COURT: All right. 194 is in evidence
21 subject to previous ruling.

22 (State's Exhibit No. 194 was admitted into
23 evidence.)

24 BY MS. CAVANAUGH:

25 Q Did you learn -- the motel room that the

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1 defendant was located in on the 26th, did you learn
2 that the -- did they get a search warrant, other
3 investigators get a search warrant for that room?

4 A Yes.

5 Q And were they -- did you learn they were finished
6 with their search of that room at some point?

7 A I did, yes.

8 Q And what, to your knowledge, was recovered in
9 that room?

10 A Out of that room recovered from that bed was a
11 black square D bag with two ziplock bags with a
12 green leafy material and an empty ziplock bag inside
13 found on the night stand shelf to the right of the
14 bed; a digital weight, digital scale from the night
15 stand to the right of the bed; empty Hennessy cognac
16 bottle found on the night stand to the right of the
17 bed; a rolled cigar with green, leafy material found
18 between the headboard and the wall; pair of black
19 sized eight-and-a-half Air Jordans with clear bag,
20 baggie, with a green, leafy material inside the left
21 shoe found on the floor; open box, empty; two
22 ziplock sandwich bags found on the table; gray
23 sweatshirt and hoodie found on the chair; and a room
24 key to 118 found on the night stand.

25 Q So the Air Jordans were located on the right

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1 side of the bed; is that right? Does it say?

2 A A pair of black sized eight-and-a-half Air
3 Jordans with clear bag and green leafy inside the
4 left shoe found on the floor on the right side of
5 the bed.

6 Q And the other bag of marijuana was on the right
7 side of the bed too?

8 A Night stand shelf to the right of the bed.

9 Q Okay. And was the weapon actually located in
10 this hotel, motel room?

11 A No weapon was located.

12 Q And in your experience as an investigator two
13 days after a murder, is that necessarily unusual?

14 A No, it's not unusual at all.

15 Q During this investigation did you meet with
16 Rachel Grant with the DNA lab?

17 A I did.

18 Q And did you ask about certain items of evidence
19 to be processed for DNA?

20 A I did. Each one individually ---

21 Q Yes.

22 A I asked for 18 separate items to be run. The
23 first one was a swab of a group of fired cartridges,
24 A, B, C, D, and E. The second was a swab of unfired
25 cartridges from a 357 Magnum, swab of cigarette

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1 lighter, swab of Newport cigarette pack, a swab of a
2 Food Lion plastic bag, a swab of the Winchester .38
3 Special, a swab of a Winchester .38 Special, a swab
4 of the exterior door handle, a swab of the exterior
5 driver's door above handle below window, a swab of
6 passenger side rear door handle, a swab of driver's
7 side rear door handle rear pull handle, a DNA
8 standard for Dashawn Jones, a cigarette butt found
9 in the front area, the black glove found in the
10 front yard, the small plastic bag containing GPM,
11 the black and white tennis shoes, and gray hoodie.
12 Jonathan Frazier's standard was also requested.

13 Q Okay. And also the defendant's room?

14 A Yes, ma'am.

15 Q And was this actually -- how many items, total
16 items of evidence in this case were collected?

17 A There were a total at the time we were looking
18 over it was 119 at that time, but it ended up being
19 151 items.

20 Q Okay. And is it necessarily unusual that every
21 single item is not -- every single swab taken of
22 every single item collected processed for evidence

23 ---

24 A No.

25 Q ---I mean, DNA?

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1 A No. When we sit down with DNA, analyst person
2 that's actually going to run the DNA, we go through
3 the list methodically. A couple of things you don't
4 know about DNA that they don't tell you: One, it's
5 very expensive to run. \$100 a swab or somewhere
6 around there, for the kit itself. That doesn't
7 include the machines and the payment for the people
8 actually running it. Two, we have our own DNA lab.
9 We're one of just a few in the state, and they run a
10 lot of DNA. We're -- our road deputies are
11 instructed to take DNA on anything they can so we
12 take DNA on everything from a shoplifting to larceny
13 to burglaries, arm robberies, aggravated assaults,
14 obviously homicides and things of that nature so
15 they have a lot of DNA that they run. So we have to
16 have go through the list, and we sit down. The
17 techs say this is going to be best swabs that we
18 need to run to find out what we need to find out.
19 That's what we did on this. Now if we have to go
20 back in later date and put additional ones in, we
21 can, but this is the ones that we picked.

22 Q Okay. And was it also important that this DNA be
23 run very quickly?

24 A Yeah, we -- any homicide, to include this
25 homicide, we put a rush on it. A rush, all it means

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1 is that the analysts start working immediately and
2 they run it through the machine immediately. And
3 again, normally a machine they wait for 100, 100
4 swabs to be processed and we'll run it. When we use
5 a homicide that all goes out, they run what we need
6 to run and that's all we'll run.

7 Q On January 27th, 2012 the next day, did you go to
8 the hospital again to speak with Jonathan Frazier?

9 A I did.

10 Q And once again, was he able to provide details
11 surrounding the shooting?

12 A He was. Again, he was, he still could not talk
13 because he still had the trachea in and still had
14 his jaws wired shut, but much — he was in much
15 better condition, still in critical but he was in
16 much better condition and again through yes and no
17 we were able to talk to him.

18 Q Okay. How was he still in critical condition you
19 said?

20 A Yes.

21 Q But did he seem better?

22 A Much better.

23 Q Okay. Through the questions that you asked him,
24 did he indicate anyone else was present other than
25 himself, Dashawn, and the defendant that day?

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1 A No, it was directly asked of him. He said it was
2 just those three.

3 Q Did he ever tell you that there was any other car
4 ---

5 A No.

6 Q ---around?

7 A No, never.

8 Q Did you also, again, show him a photographic
9 lineup?

10 A I did.

11 Q And was it the same lineup that you showed him
12 two days before?

13 A It was, it was the same one.

14 Q And when a lineup is actually constructed, what's
15 important about the photos in that lineup?

16 A We try to have the overall appearance of each
17 person, nothing out of the ordinary. If -- we try
18 to do tattoos then we try no tattoos. Obviously
19 race and sex same, and we try to get the physical
20 features fairly similar. If one person has a goatee
21 coming down to their neck, obviously we don't want
22 to put that in the same picture with somebody that
23 has no facial hair whatsoever. So we try to
24 construct it -- we don't want everybody to look
25 exactly the same, but we want it to look generally,

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1 general characteristics to be same for the lineup.

2 Q And I'm gonna show you State's Exhibit 1 that's
3 already introduced into evidence. Is this the
4 lineup that you showed Jonathan Frazier on the 27th?

5 A Yes, ma'am, it is.

6 Q And was he able to identify anyone in this
7 lineup?

8 A He did. He identified Jabriel Singleton as the
9 person who shot him.

10 Q And again, you didn't necessarily tell him that
11 the shooter was in that lineup?

12 A No, I said the same thing I told him. I told him
13 that I was gonna show him six photographs. The
14 person who shot you may or may not be in this. Look
15 at each photograph individually, if you see the
16 person that shot you, please point it out.

17 Q Now earlier on, did he at first seem a little bit
18 hesitant to tell you that they were, that Dashawn
19 and he were there for Dashawn to buy some weed?

20 A Sure, yeah, he didn't. I mean, he didn't want to
21 tell me he was there for a criminal act.

22 Q Okay. Did he eventually tell you later --

23 A Yes.

24 Q --what they were there for?

25 A Yeah.

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1 Q Did he think he was going to get in trouble?

2 A Yeah, and when we're investigating a crime of
3 this nature, a little weed is not big to us; it
4 doesn't matter we. We want what's going on so I
5 tell them, you're not going to get in trouble if you
6 were there for the purpose of buying or selling
7 anything, that's not what we're here for. When we
8 tell him that, it relaxed him and he was obvious.

9 Q And were you planning on getting a more detail
10 written statement from him at a later point?

11 A Yes, ma'am, I told him when we left that day, I
12 said, when you're able to talk with me I'm gonna
13 come back and we're gonna do a detailed written
14 statement.

15 Q And did you, were you able to do that?

16 A I did. It was done on February 6, 2012.

17 Q On February 6 you said?

18 A Yes, ma'am.

19 Q That's when you would go to actually speak?

20 A Yes, ma'am.

21 Q On January 31, 2012 did you meet with
22 investigators again about this case?

23 A Actually we met on the 30th.

24 Q Okay.

25 A And we, again, we did another review, said hey,

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1 what do we need to do, what do we need to look at on
2 this case to continue it on. At that time we, we
3 needed to go to Stagmont which we talked about
4 earlier and see if that person was home; and if they
5 were, interview them. And I needed to interview
6 Randall Dandy. And we needed to reinterview Jabriel
7 Singleton's girlfriend Kenyatta Hickman.

8 Q Okay.

9 A And we needed to interview Jonathan Frazier and
10 wanted to walk the crime scene again.

11 Q Kenyatta Hickman had already provided the
12 statement at this point; is that correct?

13 A Yes, ma'am. The day Jabriel was arrested she was
14 at the hotel room with him and she provided a
15 written statement to Sergeant Ellis.

16 Q Okay, but she needed to be reinterviewed?

17 A She needed to be reinterviewed.

18 Q And the person that lived at Stagmont, what was
19 her significance again? That was where---

20 A Once I -- we went back to Stagmont; no one
21 answered. I left a card on the door. She called
22 back and we learned through the investigation she
23 was of no significance.

24 Q Okay, and you actually interviewed Randy Dandy?

25 A Yes, ma'am.

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1 Q You already spoke about Randall?

2 A Yes.

3 Q When you spoke -- when you got a more detailed
4 statement on February 6 of 2013, where did you meet
5 him, where did you meet Mr. Frazier?

6 A I went to -- he was now moved to a normal room,
7 741 at Palmetto Richland, and I interviewed him and
8 Investigator Caldwell was with me.

9 Q And did he write it or did you write it?

10 A I wrote it.

11 Q And why that was?

12 A We write all of our statements whether it's
13 handwritten or on a computer. Our policy is the
14 detective/investigator will write that or I will
15 write that statement which I will present it to the
16 person that's giving us a statement. They will read
17 it over and then they sign it.

18 Q And did that happen in this, in this case?

19 A It did.

20 Q And did he sign his statement?

21 A He did.

22 Q Did you learn that on February the 6th that
23 anything about that glove? Again, did that glove
24 turn out to be to significant?

25 A I actually learned that on the 31st.

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1 Q From Jonathan or from ---

2 A Oh, I'm sorry, yes. I learned that he -- I
3 learned it was very significant, the glove.

4 Q And Jonathan saw it?

5 A Jonathan saw it that day.

6 Q And did you have to take another swab from
7 Jonathan?

8 A I did. I had to take a second swab from
9 Jonathan.

10 Q And that was -- Rachel Grant asked you to do
11 that; is that correct?

12 A She did, yes. When she testified yesterday that
13 there was anomaly -- I don't know the terminology,
14 but she needed another one to make sure that it was
15 right.

16 Q Okay. You mentioned earlier that Kenyatta
17 Hickman needed to be interviewed again?

18 A That's correct.

19 Q Did he -- did you attempt to reach out to her on
20 February the 6th?

21 A We did. I called her letting her know that we
22 needed to reinterview her, and she did not want to
23 come back. She did not want to give us anything.
24 She was uncooperative at that point.

25 Q Okay. And that was based on the course of your

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1 investigation ---

2 A Yeah.

3 Q ---that that determination was made?

4 A That's correct.

5 Q Did you actually have to obtain a warrant for her
6 arrest?

7 A I did. I had to obtain a warrant for obstruction
8 of justice.

9 Q And did she turn herself in the next day?

10 A She did.

11 Q When she came in did you advise her of her
12 rights?

13 A She was Mirandized the same way that Jabriel was.

14 Q And without giving the details of the actual
15 statement, what she said to you that day, did she
16 give you a second statement?

17 A She did give me a second statement.

18 Q And was she subsequently transported to the Alvin
19 S. Glenn Detention Center?

20 A She was.

21 MS. CAVANAUGH: Beg the Court's
22 indulgence.

23 BY MS. CAVANAUGH:

24 Q At some point later in April of 2012 did you
25 receive a letter?

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- 1 A I did.
- 2 Q And who was that letter from?
- 3 A Robert Jeter.
- 4 Q Was that the person we saw yesterday?
- 5 A He was the one that came on the stand yesterday.
- 6 Q Okay. And where did he write you a letter from?
- 7 A He was an inmate, or he was detained at the Alvin
- 8 S. Glenn Detention Center.
- 9 Q Okay. And due to a miscommunication, did you
- 10 actually not speak to him until much later?
- 11 A That's correct. I did not speak to him until
- 12 November.
- 13 Q Okay. And where was he in November of 2012?
- 14 A I spoke with him at his probation office, in the
- 15 actual office of his probation officer at 1221 Greg
- 16 Street, Columbia.
- 17 Q And so he was out of jail?
- 18 A He was out of jail.
- 19 Q Did, did the fact that he was out of jail,
- 20 doesn't have absolutely anything to do with this
- 21 case?
- 22 A No, no.
- 23 Q So no investigator had spoken to him before
- 24 November of 2012 to your knowledge?
- 25 A No.

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1 Q So he really had absolute no reason to talk to
2 you at that point?

3 A No, no reason whatsoever.

4 Q And did he give you a written statement?

5 A He did.

6 Q And did he provide you with details about this
7 case?

8 A He did.

9 Q And did he provide information that only a person
10 familiar with the details of this case would be able
11 to provide?

12 MR. SUTHERLAND: That's hearsay she's
13 asking for.

14 THE COURT: I'm sorry?

15 MR. SUTHERLAND: She's asking for hearsay,
16 Your Honor.

17 THE COURT: Rephrase your question,
18 Solicitor.

19 MS. CAVANAUGH: I'm not asking him to
20 actually tell us what -- I'll rephrase the question.

21 THE COURT: All right, just restate it.

22 BY MS. CAVANAUGH:

23 Q You said that he provided a written statement?

24 A He did.

25 Q And did it include details related to this crime?

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1 A Intimate details.

2 Q Did you confirm that earlier in 2012 Mr. Jeter
3 was in contact with Mr. Singleton?

4 A Yes.

5 Q And did they actually share a dormitory ---

6 A They were in the same dorm, rooms next to each
7 other.

8 Q After Mr. Singleton was arrested for this crime?

9 A Yes.

10 Q And Investigator Unger, do you recognize the
11 person in this courtroom that is charged with murder
12 and attempted murder?

13 A I do.

14 Q And can you identify him?

15 A Jabriel Singleton right there (indicating).

16 Q And that's the person you spoke to in your
17 office, or in Sergeant Robinson's office?

18 A Yes, ma'am.

19 Q On January 26, 2012?

20 A Yes, ma'am.

21 Q And who denied having anything do with this
22 whatsoever?

23 A Yes, ma'am.

24 Q Thank you.

25 MR. SUTHERLAND: May it please the Court.

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1 THE COURT: Thank you, Solicitor.

2 Yes, sir.

3 **CROSS - EXAMINATION**

4 **BY MR. SUTHERLAND:**

5 Q Investigator Unger?

6 A Sir?

7 Q This is just going to seem like a little slap
8 dash 'cause what I'm gonna do is try to just hit
9 particular points ---

10 A Yes, sir.

11 Q ---without going over everything for the
12 fifteenth time?

13 A Yes, sir.

14 Q Okay. You testified about the telephone calls on
15 the day of the incident?

16 A Correct.

17 Q And 12 of those calls were from King Breeze to
18 Mr. Singleton and one was from Mr. Singleton to King
19 Breeze?

20 A I believe so. I -- looking at the records
21 yesterday, yes.

22 Q Okay. So I -- and jumping to the K-9 Deputy
23 McLamb ---

24 A Uh-huh.

25 Q His testimony basically echoed his report that he

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1 had searched the back yard of, is it Masonry
2 Circle, and a grassy area but not the surrounding
3 woods?

4 A That's what he testified to.

5 Q Okay, there it is. Okay. And again, gosh, I'll
6 have to jump -- okay, I'm just gonna stay focused
7 here. Ms. Garfield Belton, I have no idea who this
8 person is, but the person's prints were compared by
9 Tricia Odom?

10 A Correct.

11 Q Now in order, if she's going to compare a print
12 card ---

13 MS. CAVANAUGH: Objection.

14 THE COURT: I didn't hear the question.

15 BY MR. SUTHERLAND:

16 Q You would, you would ask her to compare this set
17 of prints to the other?

18 A No.

19 THE COURT: You have an objection to that,
20 Solicitor?

21 MS. CAVANAUGH: No, Your Honor, not the
22 way he rephrased the question.

23 BY MR. SUTHERLAND:

24 Q So you didn't ask her to compare Ms. Garfield
25 Belton to the prints that were taken?

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1 A That all happened through the fingerprint unit.

2 I had nothing to do with that.

3 Q Okay, so this was something in and of themselves

4 for ---

5 A To my understanding.

6 Q ---for their own purposes?

7 A To my understanding, and I don't work in that
8 section.

9 Q Sure.

10 A The lab, the processing guys, the CSI guys, Holt,
11 Polis, Cavanagh, and Richards. I don't know which
12 ones did the actual -- I can't remember which ones
13 did the actual fingerprints. They pull off prints
14 from the card that they say have enough ridge detail
15 to turn in. And again, I don't work in that section
16 so my terminology might be a little off. These are
17 turned in and then they are, they are looked at by
18 either Trish Collins or whoever is working
19 fingerprints at that time. They said this one, the
20 one that you're talking about, had enough ridge
21 detail to go into a computer program, it's a
22 computer program. That's as far as I know.

23 Q Okay. So there it is. And so when they
24 basically get this report, that particular report
25 back, they went and pulled the card?

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1 A That's right.

2 Q Okay. And they're just — I just didn't know so
3 thank you. Oh, you had testified about the visions
4 system with the ---

5 A That's correct.

6 Q ---mysterious report earlier?

7 A It's not mysterious.

8 Q Your testimony is it's a computer glitch?

9 A That's right.

10 Q Okay, fair enough. You went to the studio; that
11 was your testimony. And how many people were there?
12 Were there people milling about?

13 A Yes.

14 Q And no one was cooperative at the studio?

15 A No.

16 Q Did — without asking -- did you inform why you
17 there, what you were investigating?

18 A I did.

19 Q And everyone just walked away from you or just
20 wouldn't speak with you?

21 A They acknowledged that they knew King Breeze or
22 Crash, but nobody wanted to talk to me which is not
23 uncommon.

24 Q Oh, and the Solicitor had asked you about when
25 you were speaking with Frazier and that he thought

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1 he was gonna get in trouble so he didn't talk about
2 the weed earlier on?

3 A Uh-huh.

4 Q I believe that was the substance of y'all going
5 back and forth. But his testimony earlier just to
6 be clear, he testified he did talk about the weed.

7 A He did talk about the weed. He did talk about
8 the weed.

9 Q Right, okay, all right. And now you know, we'll
10 just go around the statement and we should pretty
11 much be wrapped up here.

12 A Okay.

13 Q You've already testified to a lot about just for
14 context and want to just go over it a little bit?

15 A Are we talking about Jabriel's?

16 Q Yes, yes.

17 A Okay.

18 Q Let's see, he told you that he was with Crash and
19 King Breeze earlier in the day but was somewhere
20 else when that happened?

21 A At the recording studio.

22 Q Yes, but was somewhere else when the incident
23 happened —

24 A Yes.

25 Q —is that correct? You did not believe that

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1 obviously?

2 A Correct.

3 Q Now I'll just ask you what the Solicitor asked
4 you though, is it unusual for people to dissemble or
5 not be honest first go around first statement in
6 your experience with interviews?

7 A Yes.

8 Q It is unusual for ---

9 A I'm sorry, you asked if it's unusual?

10 Q It's ---

11 A No, no.

12 Q How ---

13 A It's usual.

14 Q Okay, great, great, great. All right, let's see.
15 And you testified that you informed Mr. Singleton
16 that you believed he was lieing and, you know, this
17 is just a process that you do when you're trying to
18 get information. I know this, you're not telling
19 ---

20 MS. CAVANAUGH: Objection, not in the form

21 ---

22 THE COURT: What's the basis of the
23 objection?

24 MS. CAVANAUGH: Not in the form of a
25 question, just making side comments.

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1 THE COURT: Overruled.

2 BY MR. SUTHERLAND:

3 Q And this is just a process they do when you're
4 interviewing people. You have information here, you
5 don't necessarily — you don't tell people
6 everything that you know at the outset of an
7 interview that's — when you're calling them on a
8 particular thing, you're saying — well, for
9 example, when the phone was moving.

10 A (The witness nodded head.)

11 Q So it's just a process that you go through with
12 people and going over details with them and
13 revealing over time details that you know; is that
14 correct?

15 A Yes.

16 Q And that, and that's just an attempt on your part
17 to I believe they call it the breathing technique or
18 something; but ultimately that's a way for you to
19 get, you know, to try to get to the truth, try to
20 get the information that you want?

21 A The bottom line is to try and get the truth, yes.

22 Q Okay. Now the things had broken down I believe
23 you testified previous that, you know, we were done
24 at the point once with the signature and the refusal
25 to sign. I believe you testified previously, you

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1 know, at that point we were done. Do you recall?

2 A Can you rephrase that?

3 Q Okay. I -- you know what, I'll withdraw that
4 question. The interview was effectively winding
5 down at the point where you were accusing him of
6 lying and ---

7 A (Nods head.)

8 Q ---and all that?

9 A Yes.

10 Q And the last thing that he said to you was that
11 there's no self-defense law in South Carolina?

12 A He made that comment, yes.

13 Q And that's, that's sufficient, do you agree? Or
14 no?

15 A I -- I don't know, is it?

16 Q Well, you're -- I'm just asking. If you disagree
17 that's fine.

18 A It was just a comment.

19 Q Okay, all right. And we may -- we are. Thank
20 you. No further questions.

21 THE COURT: Redirect, Solicitor.

22 **R E D I R E C T E X A M I N A T I O N**

23 **BY MS. CAVANAUGH:**

24 Q Investigator Unger, you don't force people to
25 sign their statements, do you?

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1 A No, ma'am.

2 Q And had he denied even being in Hopkins up until
3 point to you?

4 A That's correct.

5 Q Did you ask him if he wanted to add anything to
6 his statement?

7 A Yes.

8 Q And what did he indicate to you?

9 A No.

10 Q After he made the comment about there's no
11 self-defense law in South Carolina, did he followup
12 with that at all?

13 A That -- that was it. That was the last thing he
14 said.

15 Q And did he tell you anything else?

16 A No.

17 MS. CAVANAUGH: Beg the Court's
18 indulgence. Thank you.

19 THE COURT: Anything else?

20 MR. SUTHERLAND: No further questions,
21 Your Honor.

22 THE COURT: Thank you very much, Detective
23 Unger. You may step down.

24 All right, Solicitor, you may call your
25 next witness.

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1 MS. CAVANAUGH: Your Honor, at this time
2 the State rests.

3 THE COURT: Thank you. Thank you very
4 much, Solicitor.

5 Mr. Foreman, ladies and gentlemen of the
6 jury panel, perhaps now will be a good time for us
7 to take our morning recess. I will remind you
8 during this recess again, do not discuss this case
9 with anyone including your fellow jurors. Remember
10 to keep an open mind until you've heard all of the
11 evidence, all of the testimony, closing arguments by
12 the attorneys, the instructions and the law by the
13 court. If you'd please leave your notes upside down
14 on your chairs. You may now go with the bailiff to
15 the jury room. Thank you very much.

16 (The jury is removed from the courtroom at
17 1:07 p.m.)

18 THE COURT: All right, Mr. Sutherland, do
19 you have any motions?

20 MR. SUTHERLAND: Yes, sir. Briefly, Your
21 Honor, at this time as I must, I'd like to move for
22 a directed verdict on the basis that the evidence is
23 insufficient to support a guilty verdict that no
24 reasonable juror could find him guilty of this
25 crime, sir, and renewing all previous motions and

1 objections.

2 THE COURT: Thank you. Solicitor.

3 MS. SIMPSON: Thank you, Your Honor, may
4 it please the Court. The State has presented what I
5 would offer is more than sufficient to survive a
6 directed verdict motion in this case with respect to
7 the murder charge and the death of Dashawn Jones.
8 Again, the elements of murder are the person is
9 guilty of it if he kills — if he unlawfully kills
10 another with malice either expressed or implied. We
11 have direct evidence and testimony from Jonathan
12 Frazier in this case who indicated that the
13 defendant was the shooter in this case. And as we
14 have it now there are at least nine shots. The
15 defendant attempted to reload the gun in the middle
16 of the shooting, and Dashawn Jones remained in the
17 car. There was no evidence that this was anything
18 but a murder in this case.

19 With respect to the attempted murder,
20 similarly we have the direct evidence of Jonathan
21 Frazier who indicated who shot him, who attempted to
22 kill him, and who backed him up into the car and
23 shot again, fired. That testimony along with the
24 forensic evidence in this case, we have shell
25 casings found at the scene. We have the defendant

1 identified by Jonathan Frazier. His DNA is at the
2 scene in the glove near some spent shell casings.
3 That glove has been indicated by Mr. Frazier has
4 having been with the defendant at the time of the
5 shooting. That glove also has gunshot residue in
6 this case. Your Honor, those are just a few of the
7 pieces of the evidence that the State has put forth
8 to prove our case.

9 Again, Your Honor, with respect to the
10 directed verdict motion I believe Your Honor's --
11 the testimony and what Your Honor is concerned with
12 is the existence or nonexistence of evidence and not
13 its weight, and I think we have sufficient evidence
14 in this case.

15 THE COURT: All right, thank you. You
16 care to respond, Mr. Sutherland?

17 MR. SUTHERLAND: Nothing further, Your
18 Honor.

19 THE COURT: Thank you. Thank you very
20 much. I will respectfully deny the motion for
21 directed ---

22 MR. SUTHERLAND: Thank you, sir.

23 THE COURT: ---verdict on both the murder
24 and the attempted murder. I think there is
25 substantial direct and substantial circumstantial

1 evidence as to both, both charges by the
2 indictments.

3 Anything further, Mr. Sutherland?

4 MR. SUTHERLAND: No, sir, Your Honor.

5 THE COURT: Does the Defense intend to
6 present any evidence or testimony?

7 MR. SUTHERLAND: Yes. Yes, we do, Your
8 Honor. We do intend to have Mr. Singleton take the
9 stand, sir.

10 THE COURT: Any other witnesses?

11 MR. SUTHERLAND: I don't anticipate any
12 other witnesses. If there are they will be sitting
13 in the courtroom, sir.

14 THE COURT: Would you, would you want me
15 to interview Mr. Singleton as to his rights.
16 Concerning his right to testify?

17 MR. SUTHERLAND: While he and I had the
18 discussion I believe that would be appropriate, sir.

19 THE COURT: All right. If would you come
20 around, Mr. Singleton, to the microphone please.

21 THE CLERK: Please raise your right hand.
22 WHEREUPON,

23 **JABRIEL SINGLETON,**
24 after having been duly sworn, testified as follows:

25 THE CLERK: Thank you.

1 THE COURT: I need to go over some things
2 with you at this stage of the trial. I do this with
3 all individuals that are on trial, and I want their
4 responses to be under oath and that's why I had the
5 clerk place you under oath. Tell me your full name
6 please.

7 THE DEFENDANT: Jabriel Singleton.

8 THE COURT: And how old are you,
9 Mr. Singleton?

10 THE DEFENDANT: 21.

11 THE COURT: And how much education do you
12 have?

13 THE DEFENDANT: I got a GED.

14 THE COURT: We have reached the state of
15 the trial where the State has rested and your side,
16 the defense, now has the opportunity to present
17 evidence for the jury to consider. Do you
18 understand where we're at in the trial?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: In that regard you may call
21 witnesses to testify. If you choose to testify
22 yourself you may do so. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: No one can force you to
25 testify. You have the absolute right to remain

1 silent. And if you choose not testify I will tell
2 this jury that they cannot hold your silence against
3 you in any way. I will tell them that they are not
4 to discuss that in the jury room in any manner. Do
5 you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: If your side offers no
8 evidence at all, in other words, if neither you or
9 anyone on your behalf testifies or offer any
10 exhibits, then your attorney Mr. Sutherland will get
11 to make the last argument to the jury. Otherwise,
12 the prosecutor, the Solicitor, gets to make the last
13 argument. Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Sutherland, Solicitor,
16 does the defendant have a prior criminal record that
17 would subject him to impeachment under rule 609?

18 MR. SUTHERLAND: I do not believe so, Your
19 Honor. There is a juvenile the defendant does have.

20 MS. CAVANAUGH: Beg the Court's
21 indulgence, Your Honor. He has several arrests, but
22 he does not have any convictions to impeach him.

23 THE COURT: All right, so he does not?

24 MR. SUTHERLAND: No, sir.

25 THE COURT: All right. That would not be

1 an issue.

2 The decision about whether you testify or
3 not, Mr. Singleton, is your decision to make; it's
4 your call. It's your decision alone. I expect that
5 you conferred with your attorney and perhaps others
6 whose opinions you value on important matters; but
7 again, the decision about whether you testify or not
8 is your call to make, your decision. Do you
9 understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Has anyone exercised to you
12 any undue influence over you to get you to choose to
13 testify or not to testify?

14 THE DEFENDANT: No, sir.

15 THE COURT: Today are you under the
16 influence of any drugs, medication, alcohol, or
17 anything that negatively affects your thinking
18 ability?

19 THE DEFENDANT: No, sir.

20 THE COURT: Do you suffer from any mental,
21 emotional, or physical disorders or problems that
22 affect your thinking today?

23 THE DEFENDANT: No, sir.

24 THE COURT: Do you have any questions you
25 would like to ask me about your right to testify or

1 not to testify?

2 THE DEFENDANT: No, sir.

3 THE COURT: Whatever decision you have
4 made about whether to testify or not to testify, is
5 it your decision?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Made of your own free will and
8 accord?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Nobody's twisted your arm or
11 forcing you make the decision that you have made?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. I make a finding
14 that Mr. Singleton appears to be an intelligent
15 young man, that whatever decision he has made to
16 testify or not to testify, is his free, knowing, and
17 voluntarily decision.

18 What is your decision, Mr. Singleton? Are
19 you going to testify?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right, thank you. Thank
22 you very much. You may return to your seat.

23 MR. SUTHERLAND: Thank you, Your Honor.

24 THE COURT: Anything further from the
25 State before we take our recess, Solicitor?

1 MS. SIMPSON: Your Honor, there proposed
2 jury charges.

3 THE COURT: All right.

4 MS. SIMPSON: I'm providing a copy to
5 Defense.

6 THE COURT: Thank you. Anything further
7 from the Defense?

8 MR. SUTHERLAND: No, sir, not from the
9 Defense.

10 THE COURT: All right, thank you very
11 much. Court will be in recess 15 minutes.

12 (Whereupon, a break was taken.)

13 THE COURT: Anything from the State before
14 we bring out the jury, Solicitor?

15 MS. SIMPSON: Your Honor, I just renew our
16 requests for Rule 5 at this time.

17 MR. SUTHERLAND: And we have nothing else.

18 THE COURT: All right. Anything from the
19 Defense?

20 MR. SUTHERLAND: No, sir.

21 (The jury was returned to the courtroom at
22 1:31 p.m.)

23 THE BAILIFF: The jury's seated.

24 THE COURT: Thank you, Mr. Bailiff. Thank
25 you very much.

1 Mr. Foreman, ladies and gentlemen of the
2 jury, welcome back. You heard before the break the
3 State has rested. You have heard all of the
4 evidence and all of the testimony you're going to
5 hear from the State in its case and chief. The
6 defendant may now if he choose to do so present
7 evidence or testimony; however, a defendant in South
8 Carolina, no matter the seriousness of the charges,
9 is never required to prove himself or herself
10 innocent. The criminal defendant is always presumed
11 to be innocent unless and until the State presents
12 proof beyond a reasonable doubt convincing you, the
13 jury, of the defendant's guilt beyond a reasonable
14 doubt. As I say though, a defendant may present
15 evidence or testimony if he or she desires to do so.
16 So we will now turn our attention to the defendant
17 and ask Mr. Sutherland.

18 Does the defendant intend to present any
19 evidence or testimony, Mr. Sutherland?

20 MR. SUTHERLAND: Yes, sir, Your Honor, the
21 defendant would like to testify.

22 THE COURT: All right. You may call your
23 first witness please.

24 MR. SUTHERLAND: If it please the Court,
25 the Defense would call Jabriel Singleton to the

1 stand.

2 THE COURT: Come around and be sworn
3 please, Mr. Singleton.

4 WHEREUPON,

5 **JABRIEL SINGLETON,**

6 after having been duly sworn, testified as follows:

7 THE CLERK: Thank you. Please have seat
8 on the witness stand and state your full name for
9 the record.

10 THE WITNESS: Jabriel Singleton.

11 **DIRECT EXAMINATION**

12 **BY MR. SUTHERLAND:**

13 Q Okay. Mr. Singleton, I'd like to ask you what
14 actually happened that day. A good place to start
15 would be at the recording studio.

16 A All right. On that day I went to the studio.

17 THE COURT: Speak up a little bit for me
18 please.

19 THE WITNESS: On that day I went to the
20 studio. As usual everybody was just sitting around
21 just chilling. We was smoking. I said hey to
22 everybody and I shook hands with everybody.

23 **BY MR. SUTHERLAND:**

24 Q Okay. Let me stop you. I just, I'm gonna stop
25 you from time to time. So when you arrived were

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1 there a bunch of people there?

2 A Yes, there was quite a few people.

3 Q Okay. And you testified that everybody was just
4 sitting chilling, would that include ---

5 A Some people was making music. A few people was
6 playing cards.

7 Q Playing cards?

8 A (The witness nodded head.)

9 Q Okay. And then you had went around and said
10 hello to everybody basically?

11 A Yeah, I went around shook hands with everybody
12 and said hello to everybody.

13 Q Okay. Then what happened?

14 A After I said hey to everybody, shook hands with
15 everybody, I went back to the front where everybody
16 was smoking and playing cards at. It wasn't nothing
17 but three people playing so I asked them could I
18 jump like everybody gambling. So I jumped in and
19 gamble, and as I gambling it was quite a few people
20 around watching. And the person who I rode there
21 with, which his name, we call him D but his name is
22 Derrick. I'm not familiar with his last name. He
23 came in and he told me, like, he couldn't stay state
24 too long, he had to leave after a while. So I
25 started gambling. I say I won about up to 500, 700

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1 dollars.

2 Q Now I'm gonna go ahead and stop you. When you
3 said, say that you were gambling, you were playing
4 cards, what, is there a -- what kind of cards were
5 you playing? There's poker, there's blackjack, what
6 kind, what was the cards?

7 A We were playing a card game called tonk.

8 Q Tonk, T-O-N-K?

9 A Yeah, Tonk.

10 Q Okay. And. is that similar to poker or?

11 A No, it's not like -- it's not like poker.

12 Q Okay. But this is a card game where people are
13 betting money?

14 A Yes, sir.

15 Q Okay. All right, then what happened?

16 A So I won about up to 500 to 700 dollars. And
17 after I feel like I had got hot and I ain't want to
18 lose, that's when I stopped. But as I was stopping
19 anyway David had informed me it was about time to go
20 so I went back and shook hands with everybody, tell
21 them I'll be back later on. As I went outside
22 Breeze and a few other people were outside talking
23 and I ---

24 Q Okay.

25 A And as he was I seen -- I know I seen a gun in

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1 his hand with black and brown in color. I couldn't
2 really see exactly what kind it was, but I know I
3 seen him showing somebody a gun and he was putting
4 it under the seat. And he called me over. As he
5 called me over he asked me about can I get him any
6 weed.

7 Q Okay.

8 A I told him ---

9 Q I'm just going to go ahead and stop, you know,
10 just to be clear. So you saw Breeze out there.
11 That's how you knew him?

12 A Yes, sir.

13 Q You didn't know him as Tyler Edwards or Dashawn
14 Jones?

15 A No, I known him as Breeze, and yeah, Dashawn
16 Jones.

17 Q Okay. You did know Dashawn Jones, okay. And so
18 you saw him out there with a group of people and you
19 say you did see a firearm?

20 A Yes, sir.

21 Q Okay. And he called you over and then what
22 happened?

23 A To ask me I can get him any weed. I told him
24 yeah, but clear he'd have to give me a little while
25 and I let him know whenever I get it. So as I told

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1 him that, he told me okay, just call him whenever I
2 get it. So I got in the truck with Derrick. And as
3 I left I went to a friend name Tim's house who I
4 usually get the weed from. And as I sat in the yard
5 waiting on him because he wasn't home, I called a
6 few people, like, to try to hurry up and go get the
7 weed so I could do what I had to do with him. And
8 as I was waiting, that's when Breeze called back and
9 asked me, 'cause he called me and asked me if I had
10 anything yet. I had told him not yet, give me a
11 little while, I'll call you and let you know.

12 Q Okay. So at this point you had spoken within
13 Breeze about getting marijuana. Do you remember the
14 amount you all talked about?

15 A He wanted a couple of ounces.

16 Q Okay. And your testimony was that you had gone
17 to Tim house?

18 A Yes, sir.

19 Q And that you were there and you were waiting on
20 Tim and had called a couple of other people?

21 A Yes, sir.

22 Q Then what happened?

23 A So as I was waiting on Tim he finally pulled up
24 so as he pulled up me and him, we was associating
25 for a little while, talked to him. And I had

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1 basically told him what I wanted, got what I wanted
2 for him; but as I was getting what I was supposed to
3 get from him breeze called back and he told me that
4 another friend wanted to get some too so.

5 Q Okay, again, and sorry. So you had gotten the
6 original marijuana and then you had gotten a call
7 back asking for more?

8 A Yes, sir.

9 Q Okay. And so you had the -- you had the
10 marijuana on you, the original stuff?

11 A Yes, sir, I was purchasing it at the time.

12 Q Okay. And then what happened?

13 A So as I was purchasing what he wanted he called
14 back and told me another friend wanted some. I
15 asked him how much. He told me basically the same
16 thing that he wants so I told him, okay, I'll have
17 that and more for him so I got that.

18 Q Okay. And so the same amount which is a couple
19 more ounces?

20 A Yes.

21 Q So we're talking four ounces?

22 A Yes, he wanted a quarter pound.

23 Q Quarter a pound, okay.

24 A Yes, he asked for four ounces.

25 Q Okay. If I may, hold on for the second. I

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1 think...

2 MR. SUTHERLAND: Beg the Court's
3 indulgence, sir.

4 THE COURT: Yes, sir.

5 BY MR. SUTHERLAND:

6 Q Let's see what they did with this. Okay, now
7 this has been introduced into evidence as 189,
8 State's 189, as a green plant like material. Is
9 this what you had gotten?

10 A Yes, it's some of it.

11 Q Some of it, okay. Now, okay, and we're at the
12 point with the additional, so the order for the
13 additional order for marijuana, and then what
14 happened?

15 A That's when I tell he had called me and told me
16 somebody else wanted some. I said okay, I'll get
17 that. I'll get what you want, and I'll get what he
18 wanted. So after I got that I was still sitting
19 around for a minute talking with Tim, and me and
20 Derrick, we was also smoking. I was over at Tim's
21 house, and he had called a few times. I had
22 answered at first, but then he kept calling so I
23 answered. And I told him, you know what saying,
24 just give me a while, everything will be straight, I
25 got you.

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1 Q Okay. And I'm gonna stop you there. So your
2 testimony is that he had called and he was
3 repeatedly calling you but you weren't answering for
4 a while?

5 A Yes, sir.

6 Q Okay. And was your testimony that you all were
7 sitting around smoking and just talking?

8 A Yes, sir.

9 Q Okay. Then what happened?

10 A So as I told him that, I sat a little while.
11 After he call back and asked me where I been. I
12 said I told you I was coming, you ain't give me
13 enough time, I got it, you know what I'm saying. I
14 told him, you ain't got to rush me, I ain't in no
15 hurry and you shouldn't be in a hurry either.

16 Q All right.

17 A But he was sounding like he had something to do
18 like he was going to do something so I told him I'd
19 be there in a minute, just meet me at my girlfriend
20 house. So after me and Derrick left, he had dropped
21 me off at my girlfriend house. Breeze and Crash,
22 they was sitting in the yard waiting and I was like
23 right around the corner with it. They beat me there
24 so I guess they was already in the area, could be,
25 or something like that so.

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1 Q So your testimony is that they were already there
2 when you got there ---

3 A Yes, sir.

4 Q ---at your girlfriend's house, okay? And then
5 what happened?

6 A So as I got out -- as Derrick dropped me off and
7 I got out the truck I went and said, what's up to
8 them. They was just sitting there and they had the
9 music on, I guess, just talking a little bit so I
10 told them I'd be right back out. I went in the
11 house. As I went in the house I already knew my
12 girlfriend had an interview, and she needed a ride.
13 She was supposed to catch the bus because she was
14 already running kind of late so ---

15 Q So she had -- your girlfriend had a job
16 interview?

17 A Yes, sir.

18 Q You remember where it was?

19 A At Zaxby's.

20 Q Okay. So you went inside and then what happened?

21 A So as I went inside and I told her -- and she was
22 already running late. She was getting ready. She
23 was getting ready and she was supposed to catch the
24 bus. I told her that I see if they would give her
25 ride there so she won't be late. So I went outside

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1 and I asked them, they said yeah. So I went back
2 in, told her they'll give that her a ride, she need
3 to hurry up and come on.

4 Q Okay. And was anybody else there that went along
5 to Zaxby's?

6 A Her and her friend name Tishay (ph). Her name is
7 Tishay.

8 Q So it's your girlfriend and another female?

9 A Yes, sir.

10 Q Okay, and so you're at the house and then what
11 happens?

12 A So they were getting ready. Shakeen was getting
13 dressed. That's when we went outside and all of us
14 got in the back seat.

15 Q Okay. And let me stop you there. So all of
16 y'all got in the back seat so there's you and the
17 two females in the back and Breeze and Crash in the
18 front?

19 A Yes, sir.

20 Q Okay. And then what happened?

21 A So that's when we, we road and they went and
22 dropped her off Zaxby's. As we was dropping her off
23 she asked me to give her some money to get something
24 to eat so I gave her some money to get something to
25 eat. I gave her a kiss and stuff and gave her the

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1 money and give her a kiss and that's when they got
2 out the truck and they went in to Zaxby's.

3 Q Let me stop you briefly. The money that you gave
4 her, was this the money that you won earlier?

5 A Yeah, it was some of it. I already had money on
6 me and some that I won.

7 Q Okay. So she gave you a kiss. Did her female
8 friend go in with her to Zaxby's?

9 A Yes, sir.

10 Q Okay. So you all had gone from your girlfriend's
11 house, two people in the car, two females, and to
12 Zaxby's and the females get out. Then what
13 happened?

14 A So they got out and went in Zaxby's. That's when
15 he told me he wanted to meet -- his friend and
16 whoever else wanted to meet so I told him okay. So
17 we was riding. They rode up. If guess they already
18 had a little bit of weed. They rode up and had
19 smoked, but I also rolled up a blunt of weed that I
20 had got too because I had got some for him and his
21 friend, and like I said, I told him I had more too
22 just in case they want more so I rolled up some of
23 what I had where they could see what it smoke like.
24 So we was riding down to the country ---

25 Q Let me stop you. So you said to see what it

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1 smokes like. So is this sort of testing what you
2 had, what you had brought?

3 A Yes, sir.

4 Q Okay. Please continue.

5 A So we was riding down to the country 'cause he
6 said that's where his friend supposed to meet us at,
7 at his house or somewhere down in the country
8 wherever it's at. So as we was riding down there
9 was we smoking. We got into the county and we
10 stopped at the store on the back road. We stopped
11 at the store, he got out the store -- I mean, he got
12 out the car, went into the store, and like before he
13 got into the store though he was talking to somebody
14 outside. I'm not sure, I don't know who he was but
15 he was talking to somebody outside and me and Crash
16 was just sitting in the truck. We was waiting on
17 him to come back to get in the truck. He talked to
18 him for a few minutes and then he came back to the
19 truck, and that's when we went down the road --

20 Q Okay. Let me stop you again, sorry to keep
21 interrupting. But you all had gone to the store and
22 he was speaking with somebody for a few minutes?

23 A Yeah, for a --

24 Q You and Crash were still in the vehicle?

25 A Yes, sir.

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1 Q Did you know the person he was talking to?

2 A No, sir, I don't know him.

3 Q Okay. And then y'all started heading down the
4 road, then what happened?

5 A So after we headed down the road we turned on a
6 little back road, and we turned down the back road
7 that lead into a dirt road, and that's when we was
8 starting, coming up the dirt road, that's when he
9 pulled into the house, I guess, the house that we
10 was at and backed in.

11 Q Is this the house that they'd been talking about
12 throughout the process here?

13 A Yes, sir.

14 Q Okay. Now how did -- I mean, how did he, did he
15 pull up by the house or turn around or?

16 A Yeah, turned into the yard and just backed in and
17 backed up and backed up and like that.

18 Q Okay. Turned in the yard and backed in. Okay,
19 then what happened?

20 A So as he backed in he had cut the car off and
21 just -- then he kept the radio on so we was sitting
22 in there listening to the radio. And we was sitting
23 there, like, when we was riding down towards the
24 country like we was talking, had a little
25 conversation. Then we got there, it was a little

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1 more quieter, we was just sitting in the car like
2 supposedly waiting I guess.

3 Q And you said supposedly waiting, so you're just
4 sitting there waiting on?

5 A The friend to arrive I guess.

6 Q And did you have — did he identify who his
7 friend was or anything, did he say there's a guy,
8 what did he say?

9 A He just said there was a guy that wanted some.

10 Q Okay, then what happened?

11 A So as we was sitting there we was waiting. I
12 asked him how long it'll be before he get there. He
13 said it should be there in a minute. So that's when
14 he got out the truck and I guess he got on the phone
15 to see where he was supposed to be at. So as he was
16 on the phone I was just sitting in the back of the
17 truck listening to music. And Crash was also in the
18 truck too; he was smoking a cigarette. So we were
19 just sitting there waiting, and as we sitting there
20 waiting Crash got out the truck to talk to him so

21 —

22 Q Okay. So briefly, when he was out he was on the
23 phone. Do you know whether he was really on the
24 phone? I mean, he just had the phone up to his ear?

25 A Yeah, I don't know if he was on phone.

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1 Q And then that was for a few minutes, and you
2 testified that Crash than got out went up to him?

3 A Yes, sir.

4 Q Okay. And then what happened?

5 A So as Crash went up and talked to him, you know,
6 like they was, had their backs turned to me. I
7 couldn't really hear exactly what they was talking
8 about because of the music was on in the car and
9 like they was a little distance from the truck.

10 Q You looked a little uncomfortable. Did you start
11 feeling weird or something at that time or was it
12 later?

13 A Yeah, like only time I start feeling some type of
14 way is like when they was -- he was supposed to be
15 on the phone, he as supposed to be on the phone but
16 he was really like talking to Crash seem more like
17 to me. Then I seen --

18 Q Okay, so what you're saying is he has the phone
19 up here but he's actually talking to Crash?

20 A Yeah, it seem like he -- I could see their lips
21 moving kind of back and forth on the side.

22 Q And did they, anybody turn around or anything or
23 look at you or?

24 A No, that's when Crash, he like, he just like
25 peeked back at me to see what I was doing.

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1 Q Okay.

2 A I was just sitting there. So as he peeked back
3 at me I got back in the truck, and he was just
4 sitting there so that's went Breeze supposedly -- I
5 guess, he got off the phone. When he got off the
6 phone he came back and sat in the truck. The door
7 was like still kind of opened but he was turned
8 back, like talking to him. He asked me if I got
9 anything for me. I was like, I got what you wanted
10 and what the other person want. He was like, what
11 else you got for me. I was like, you --

12 Q Okay, let me stop you. So he turned around to
13 you and he said that you have everything for me?

14 A Yeah.

15 Q And he was talking about that green plant like
16 material?

17 A Yes, sir.

18 Q Okay. And then he said what else you got for me.
19 Then what happened?

20 A After he asked me what else you got for me, I
21 asked him, I was like, what you mean, I was, all you
22 wanted was the quarter pound, right.

23 Q Okay. So you said, what do you mean all, you
24 just asked for a quarter pound?

25 A Yes.

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1 Q So you still thought at that time that he was
2 asking if there was anymore weed?

3 A Yeah, I didn't —

4 Q Okay.

5 A I wasn't too sure.

6 Q Okay. And then what happened?

7 A So as he asked me, after he asked me what else I
8 got for him and I told him all you wanted was a
9 quarter pound, I got what you wanted and what the
10 other person wanted, he was like, naw, what else you
11 got in your pockets for me. That's about when he,
12 he like jumped, he like jumped up in his seat, like
13 he was kind of up in the seat, (indicating). He
14 grabbed at for my neck. I was reaching trying to
15 hold him down and go in my pocket and stuff like
16 that; he was trying to do that.

17 Q Okay. And let me stop you there, you might need
18 to place that a little bit. You at that point you
19 turned around. You said he had grabbed you, but you
20 also said something about your pockets. So just if
21 you could, just take us through. You say he turned
22 around and grabbed you?

23 A Yeah, turned around and grabbed me like by the
24 neck.

25 Q By your neck?

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1 A Then he grabbed me by my neck first trying to pin
2 me down.

3 Q He was trying to pin you down? Was he a big
4 fellow?

5 A Yeah, he a big fellow.

6 Q Okay. And then what happened?

7 A So he was — as he grabbed me by my neck with his
8 hands hurting I was like trying to grab his hands
9 and like push him off, you know what I'm saying. I
10 was kind of in shock, like, what was going on. So
11 as I was trying to push his hands off, he used his
12 arms to try to like pin me down like trying to grab
13 for my pockets with his hand and lift up 'cause I
14 was trying to grab my, pull up like my shirt and
15 stuff like this.

16 Q So if I can stop you right there. And just to be
17 clear, so you're saying that he had you pinned down
18 and he was attempting to go through your pockets?

19 A Yeah, my pockets that I had, that I had the weed.
20 I had like sitting on my lap.

21 Q Just sitting on your lap?

22 A Yeah.

23 Q Okay. And then what happened?

24 A So as he was doing that Crash got from out the
25 front seat and came and try to open the back door.

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1 I guess he was ---

2 Q Now which back door?

3 A He got out, came try to open the passenger side
4 back door.

5 Q Okay.

6 A So I guess it was locked so he came back and
7 jumped in the front; and as he jumped in the front,
8 he also got up in the seat and grabbed me too. As
9 he grabbed me he got trying to hit me in head and
10 stuff like that so as he was ---

11 Q Okay. So let me stop you right there. So both
12 guys had their hands on you at this point?

13 A Yeah.

14 Q Okay. Then what happened?

15 A So they was hitting me in the head. I was
16 struggling to keep them off, like, they couldn't
17 really get in my pockets. The car was, it was kind
18 of small anyway so it was kind of -- I was kind of
19 pushed up however they was trying to do it so they
20 couldn't really get me how they wanted to. I
21 couldn't really get them off me like I want to, but
22 I was able to keep them off me a little bit. So
23 they see they couldn't really get me how they wanted
24 to, that's when Breeze had turned around and I seen
25 him reach down the seat and I remembered from

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1 earlier that day that he was showing somebody a gun.
2 He put it down the seat so as he was reaching under
3 the seat ---

4 Q Let me stop you real quick there again. So are
5 they both still got a hold of you or -- you said
6 that he reached under the seat. Did he take his
7 hands off of you or what happened?

8 A Yeah, he kind of like took his hands off me and
9 turned a little bit to reach under the seat. Crash
10 still had his hands on, was trying to like, he was
11 holding me trying to like pin me down too.

12 Q Okay, what you saw again?

13 A So as I seen Breeze turn, like, reach under the
14 seat that's when I kind of pushed Crash off me
15 'cause I feel like he was going to reach for the
16 gun. I got scared. I knew I seen him put it under
17 there. I ain't know exactly what he was doing, but
18 I knew the gun was under that seat earlier that day
19 when I seen him put it there. I don't know if he --
20 I don't know whether he still had it or not, but I
21 seen it.

22 Q Okay, now that's important though. You saw him
23 reach and you said that you had seen a firearm; but
24 you're saying, you're being straight forward, you
25 didn't know for sure. You'd just seen him one there

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1 earlier, but you didn't know for sure whether it was
2 still, there was a firearm there?

3 A Yeah.

4 Q Okay, fair enough. Then what happened?

5 A So as he was reaching under the seat I kind of
6 pushed Crash off me because I got scared, I ain't
7 know what to do. I kind of like got him off me a
8 little bit and I like raised up in the seat
9 (indicating) where he couldn't really grab me. And
10 as I raised up, that's when I pulled out my firearm
11 and they just kind of turned back around and ---

12 Q Okay.

13 A ---as he ---

14 Q So you got --- and where was your firearm on your
15 person?

16 A I had it like tucked on my side like
17 (indicating).

18 Q Was it like in the belt in your pants or
19 something?

20 A Yeah, like in the pants on the side.

21 Q Okay. And so you testified as he started turning
22 around that's when you had the firearm?

23 A Yeah, I was like raising up in the seat trying to
24 like get like all the way back as far as ---

25 Q Oh, I see. So raising and trying to go back

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1 (indicating) but there's no way to go, is there?

2 A Huh-uh.

3 Q Okay, I see. Okay, then what happened?

4 A So as I pulled out my firearm I just basically,
5 as I was raising up in the seat I just turned my
6 head and, like, I just started shooting until the
7 gun, until the gun clipped and as I was shooting I
8 was moving towards the back, the back driver's side
9 door and that's when I opened it. When I opened it
10 I fell out, like, I fell out on my back.

11 Q Okay. So let me stop you there again. So as you
12 were getting back up in the vehicle your testimony
13 is that you discharged the firearm until it was
14 empty?

15 A Yeah, yeah.

16 Q And at that time you fell out of the driver's
17 side of the vehicle?

18 A Yeah, I got to that side.

19 Q Okay, and then what happened?

20 A So as I fell out my leg kind of got, it kind of
21 got caught like in the car as I fell on by back.
22 And like, I was looking up, and as I seen Crash, he
23 was looking at me like from the front seat like he
24 was in shock. And I wasn't pretty sure what Breeze
25 was doing so I was like, I thought he was going to

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1 get out the car in case he would come back and try
2 to attack me again while he had the gun so I tried
3 to hurry up and reload. That's when I dumped out
4 the shells I had put as many as I could in. As I
5 put them in ---

6 Q Do you remember how many or?

7 A I eventually -- you know, I don't remember
8 exactly how many, but I think it probably -- if I
9 didn't full it all it was pretty much all the way,
10 almost all the way full up.

11 Q Okay.

12 A 'Cause I was, I was trying to reload. I seen
13 Crash like reaching towards the seat like he was
14 going to -- like under the driver's seat too, like
15 was Breeze when I seen him lean over. So as he
16 leaned over I was about to finish reloading, and I
17 had pushed the little thing back in as you reload.
18 As I pushed it back in I was trying to -- I got my
19 leg out and like ---

20 Q Okay, so your leg was still in the car, or in the
21 SUV?

22 A Yeah.

23 Q So the door was open?

24 A Yeah, the door was open 'cause the seat was far
25 back. The seat was like pushed back on it but I had

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1 fell out so I couldn't really get all the way out.

2 Q Okay, and then what happened?

3 A So as I got my leg out, I kind of, I pushed the
4 door. I was still on the ground I pushed the door
5 close to see where Breeze was at, to see if he was
6 getting out the truck. But after I pushed the door
7 closed to see where he was at, Crash had already, I
8 guess he already got out. I could see his feet
9 coming as I was getting up. I seen a firearm in his
10 hand like he was about ready to go. I just fired
11 one time and seen him about to raise the firearm up,
12 and he dropped the gun. After he fell to the ground
13 and as he got up and I -- I had ran, like I ran
14 towards the woods. As I was running towards the
15 woods the firearm dropped so I didn't stop to grab
16 it, I just kept running. I came out.

17 Q Okay. So, again, so your testimony is that he
18 got out of the passenger side of the vehicle and was
19 coming around the front side of the vehicle?

20 A Yes.

21 Q Now you just testified that you saw, you said
22 that saw the firearm at this time?

23 A Yes, sir.

24 Q You did see it?

25 A Yes, sir.

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1 Q Okay. And it was in his hand?

2 A Yes, sir.

3 Q Okay. And then you testified that he fell?

4 A Yes, sir.

5 Q And that you got up and ran into the woods?

6 A Yes, sir.

7 Q Okay. What happened -- we've -- what happened
8 after that?

9 A As I ran through the woods, like I say, my
10 firearm, it had like dropped out my pants, and I was
11 still too scared. I ain't know whether he was going
12 to get up and still try to come for me or not so
13 ain't turn around to get that. I kept running
14 through the woods.

15 Q Now when you say it dropped out of your pants,
16 were your pants sort of -- a lot of men wear them
17 sort of, is that what you mean by that?

18 A Yeah.

19 Q Okay, the baggy pants thing?

20 A Yeah, kind of big.

21 Q Okay. And so you're running in those woods
22 around there, and then what happens?

23 A So I was running through the woods and I came out
24 and ended up in somebody's yard. I don't know whose
25 yard it was, but I ran into their yard. I came out

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- 1 on the road. I'm not sure what road it was so I
2 looked around to see if I was familiar with
3 whichever road it was, and I went to the end so I
4 had went straight up the road. As I was going
5 straight up the road I started seeing like, I seen
6 like, I see like, a part of Cabin Creek that I knew
7 so I kept going straight up and that was Cabin Creek
8 Road. And as I got on Cabin Creek Road there was a
9 house that I knew, and I seen a car coming out.
10 That's when I had flagged him down and asked him
11 could I get a ride and he gave me ride to my house.
12 Q Okay. So once you had come off this dirt road,
13 you said you were on the dirt road and you saw part
14 of Cabin Creek?
15 A As I went through the woods.
16 Q Okay.
17 A And went through, like, people yard, whatever
18 yard it was that the woods dead to, that's when I
19 came, I went up toward the road, and I was trying to
20 look and see where I was at. I wasn't too familiar
21 with where I was at right then and there. As I kept
22 going up that's when it looked like I saw Cabin
23 Creek so I kept going up and that was Cabin Creek
24 Road.
25 Q Okay. And now Cabin Creek Road you know?

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1 A Yes.

2 Q And it turns, I mean, it turns out that this is
3 -- well, I mean, you knew you were out in the
4 country?

5 A Yes, sir.

6 Q But your testimony is just that, that particular
7 --

8 A Yeah, that particular back road I didn't know
9 that road.

10 Q Okay. And you testified that you got a ride from
11 somebody?

12 A Yes, sir.

13 Q And where did you go?

14 A I went to my house.

15 Q Okay, and went home. And as far as everything
16 with respect to this incident, this incident was
17 concluded. At that point there was no more
18 violence, there was no more craziness, you had
19 gotten away from the scene?

20 A Yes, sir.

21 Q Okay. Now later on -- Investigator Unger
22 testified that you didn't tell him the truth when
23 you told him you weren't there; do you remember
24 that?

25 A Yes, sir.

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1 Q And you obviously didn't tell him the truth. Is
2 there — what was the reasoning?

3 A I was scared. I didn't know — like I told him,
4 I ain't thought we had a self-defense law down in
5 South Carolina. I ain't want to be in trouble for
6 basically trying to fend myself when I fear for my
7 life. I thought that something was going to happen
8 to me. I was trying to protect myself. I didn't
9 want to get locked up for it. I was just scared.
10 and I felt uncomfortable when I was in there.

11 Q So your testimony is that you were uncomfortable
12 and that you were scared because you didn't think
13 there was a self-defense law in South Carolina?

14 A Yes, sir.

15 Q Okay. And they came to that hotel room. Do you
16 remember that?

17 A Yes, sir.

18 Q And they came and arrested you?

19 A Yes, sir.

20 Q Okay. And it was from there that they took you
21 to speak with Investigator Unger?

22 A Yes, sir.

23 Q I just — I don't, really don't think I have
24 anymore questions for you at this time so I'm gonna
25 go ahead and turn it over to the government lawyers.

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1 MR. SUTHERLAND: No further questions at
2 this time.

3 THE COURT: Solicitor.

4 **C R O S S - E X A M I N A T I O N**

5 **BY MS. CAVANAUGH:**

6 Q Where do you live, Jabriel?

7 A Hor Hill Road.

8 Q And is that -- is that in Hopkins?

9 A Yes, ma'am.

10 Q Whose house is that?

11 A My father.

12 Q And where did you grow up?

13 A I grew up right there at Hor Hill Road?

14 Q In Hopkins?

15 A Yes, ma'am.

16 Q Is Hopkins a pretty big area of Columbia?

17 A Yes, it's a pretty nice sized area.

18 Q Oh, it is, okay. And does your mom also live in
19 Hopkins?

20 A Yes, ma'am, she stay in part of Hopkins too.

21 Q Do you have any, any of your other family live in
22 Hopkins?

23 A Yes, ma'am, a few other family members.

24 Q Like who?

25 A My auntie. I got an auntie stay down there, and

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1 my grandma stay down but she had passed away.

2 Q Okay. And you have any friends that live in
3 Hopkins?

4 A Yes, ma'am.

5 Q And who are they, just name a few.

6 MR. SUTHERLAND: Objection, relevance,
7 Your Honor.

8 THE COURT: Overruled.

9 MR. SUTHERLAND: Yes, sir.

10 THE WITNESS: Like, I got a few people I
11 know as, goes by the name Rondell, Terrance, and
12 Tommy. The person who I grew up with, the person
13 who gave me the ride.

14 BY MS. CAVANAUGH:

15 Q What's his name?

16 A His name is Junior.

17 Q Okay. Where did you go to high school?

18 A Lower Richland.

19 Q Did you graduate?

20 A No, ma'am.

21 Q What grade did you go up to?

22 A Tenth.

23 Q And where have you been since you were arrested
24 for this crime?

25 A Since I been arrested for this crime?

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1 Q Uh-huh.

2 A Alvin S. Glenn Detention Center.

3 Q And before this you knew Dashawn Jones pretty
4 well; is that right?

5 A Yes, ma'am.

6 Q About how long?

7 A I'd say I knew him since back when I was in
8 probably middle school.

9 Q Okay. And so y'all were pretty close?

10 A Yes, ma'am.

11 Q In fact, were you pretty upset that you couldn't
12 go to his funeral?

13 A Yeah, I would have gone. If I could have went
14 there, I would. I probably would have went. I
15 wouldn't say I was upset because of what had
16 happened, but we all can forgive and, yes, ma'am.

17 Q So you were upset or you weren't upset, I'm
18 sorry?

19 A I'm not gonna say I was upset. I was -- I felt
20 bad for what had happened; but I, like, 'cause I
21 didn't mean for what happened to happen. But I felt
22 bad for what happened.

23 Q So are you saying that a couple days after the
24 funeral you did not say to your mom, and I quote, my
25 dog Breeze, I can't even go to his funeral?

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1 A I don't remember, but I probably could have said
2 it but I don't remember saying that.

3 Q Okay. Do you remember also in that conversation
4 saying to your mom, I want to know who did it too?

5 A I don't remember. I don't remember saying that
6 either.

7 Q I really want to know more than them?

8 A I don't ---

9 Q That was a couple of days after you were arrested
10 on January 28, 2012. You made a phone call around
11 4:25. Do you remember that?

12 A No, ma'am.

13 Q Okay. In fact, a couple of days later
14 January 31, 2012 around 11 p.m. ---

15 MR. SUTHERLAND: Your Honor, may we
16 approach briefly?

17 THE COURT: Yes, sir.

18 (Whereupon, there was an off-the-record
19 Bench conference.)

20 THE COURT: Thank you, Mr. Sutherland.
21 Solicitor, you may continue.

22 BY MS. CAVANAUGH:

23 Q And you just stated that you've been in jail
24 since you were arrested for the crime; is that
25 right?

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1 A Yes, ma'am.

2 Q And are you aware that every single phone call
3 that you make is recorded?

4 A Yes, ma'am.

5 Q In fact, that recording actually is played before
6 you make any call; is that correct?

7 A Yes, ma'am.

8 Q So once again, on January 31, 2012, a couple of
9 days after you were arrested, didn't you tell your
10 mom you always go over there and chill with Breeze's
11 mom?

12 A No, I don't remember saying that either.

13 Q Didn't you ask your mom in that same situation to
14 go talk to her to see if she would talk in court on
15 your behalf?

16 A I don't remember that ether.

17 Q Okay. Now let's go back to when you started.
18 You said you started at the recording studio?

19 A Yes, ma'am.

20 Q What were y'all doing there again?

21 A Like a few people was making music. A lot of
22 people was chilling; some people were gambling.
23 That's when I had jumped in and started gambling
24 too.

25 Q And Breeze and Crash were outside talking?

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- 1 A They was inside at first when I was leaving out.
2 Breeze was outside talking to a few people.
3 Q Breeze was outside and where was crash?
4 A I'm not sure where he was at at that time.
5 Q Were they playing cards with you?
6 A No, they weren't playing cards.
7 Q And at that point you said that Breeze wanted to
8 buy some weed from you; is that right?
9 A Yes, ma'am, I can get some (inaudible).
10 Q Okay. And you agreed to sell it to him?
11 A Yes, ma'am.
12 Q And -- I'm sorry, I wasn't following you. What
13 did you say happened after that? Someone else
14 wanted to buy weed from you?
15 A Yes. As I had left and I went to the person
16 house where I usually get weed from, he had called
17 and told me that somebody else wanted to purchase
18 some too.
19 Q Who called you?
20 A Breeze.
21 Q That someone else wanted to buy it from you too?
22 A Yes, ma'am.
23 Q Who was that?
24 A Someone he knew. I'm not too sure of the name.
25 He just said somebody else wanted some.

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1 Q And you stated you eventually went to your
2 girlfriend's house and met them there; is that
3 right?

4 A Yes, ma'am.

5 Q Because you told them to meet you there, them
6 there; is that right?

7 A Yes, ma'am.

8 Q And who is your girlfriend?

9 A Kenyatta Hickman.

10 Q Is she still your girlfriend?

11 A Yes, ma'am.

12 Q In fact, she's visited almost every week; isn't
13 that correct?

14 A Yes, she would visit.

15 Q And she was pretty stressed out over this, right?

16 A Yes, ma'am.

17 Q You initially tried to use her as an alibi?

18 A Yes, ma'am.

19 Q And she tried to help you with that too; didn't
20 she?

21 A Yes, ma'am.

22 Q And she was charged in this case as well. Are
23 you aware of that?

24 A Yes, ma'am.

25 Q You were pretty scared when you found out that

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1 she had a warrant for her arrest; weren't you?

2 A When I found out she had a warrant for her
3 arrest?

4 Q (Nodded head.)

5 A I'm not gonna say that I was, that I was scared,
6 but I didn't like the fact that she had a warrant
7 for her arrest too.

8 Q You knew that they had video at Zaxby's; didn't
9 you?

10 A I didn't know they had video; but after I think I
11 found that out after -- I think after she after, I
12 had talked to her and she told me, like, she had
13 talked to the investigator. That's when I think I
14 found out about the video.

15 Q And at that point when you found out about the
16 video you knew -- you knew that you were going to be
17 in trouble, right?

18 A After I knew they had a video?

19 Q Uh-huh?

20 A Pretty much, yes, ma'am.

21 Q Because you had stated that you were at her house
22 all day?

23 A Yes, ma'am.

24 Q And you knew that video, if it existed, would
25 potentially show you in the car?

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1 A Yes, ma'am.

2 Q So you were scared they would catch you in
3 one of your lies?

4 A Scared of what?

5 Q That they would catch you in one of your lies?

6 A What do you mean?

7 Q You tried to give yourself an alibi, correct?

8 A Yes, ma'am.

9 Q You said were at Kenyatta's house all afternoon?

10 A Yes, ma'am.

11 Q But when you find out they might have a video you
12 got nervous; is that correct?

13 A No, I didn't get nervous about they might have a
14 video. The only reason I just didn't tell what
15 happened is because I felt we didn't have
16 self-defense law. I was just scared. I didn't want
17 to get locked up, like I said, trying to defend
18 myself when I had fear for my life.

19 Q And in fact, you were still trying to tell your
20 mom early February that you were never in that car
21 dropping Kenyatha; is that -- isn't that right?

22 A I don't -- I'm not sure of that.

23 Q So February 7th, 2012, that was when your
24 girlfriend was arrested, right?

25 A I don't remember exactly when she was arrested.

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1 Q Weren't you still telling your mom that you were
2 at her house?

3 A I'm not sure; I don't remember.

4 Q That you didn't leave until you went to Club
5 Crush?

6 A I don't remember telling her that I was still at
7 her house, and I don't remember telling her I was to
8 Club Crush either. I don't think me and her even
9 talked about what really happened.

10 Q You and who?

11 A Me and my mom. I don't think we really talked
12 about it much.

13 Q That was because you were still denying to her
14 that yo u had anything to do with the shooting;
15 isn't that correct?

16 A I'm not sure. I'm probably was at the beginning
17 because like I said, I didn't -- I was scared. I
18 thought we didn't have no self-defense law, and I
19 was just trying to defend myself in fear for my
20 life. I know the phone recorded and I didn't want
21 to basically just let it all out over the phone
22 without -- and I was, I hadn't talked to my lawyer
23 either. I basically wanted to talk to my lawyer
24 first and let him know everything that happened.

25 Q You found out that Kenyatta was scared about her

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1 arrest warrant; didn't you?

2 A I'm pretty sure she was, but I ---

3 Q You're pretty sure she was?

4 A Yeah, because I know she ain't never been to jail
5 before.

6 Q So she didn't call you on February the 8th at --
7 or you didn't call her February the 8th around 2:31
8 after she got out of jail and she was sobbing to you
9 on the phone? You don't remember that?

10 A No, ma'am.

11 Q You don't remember telling her when she was
12 sobbing to you on the phone, now it looks bad for
13 me, you're basically my alibi?

14 A No, ma'am.

15 Q You don't remember saying that?

16 A No, ma'am.

17 Q That same conversation you don't remember saying,
18 shit is looking bad for me now?

19 A No, ma'am.

20 Q Didn't she beg you to tell them what you have to
21 tell them?

22 A She what?

23 Q Wasn't she begging you to tell them, tell the
24 police, what you have to tell them?

25 A I'm not, you know, I'm not sure of that. She

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1 probably -- if she was -- I don't remember her
2 telling me that, but if she was she probably just
3 wanted me to just go ahead and just probably tell
4 them. She didn't know what happened but she just
5 want me, me and her -- me and her basically straight
6 for them to leave her alone.

7 Q You knew police were looking for you; didn't you?

8 A Not at first, no, ma'am.

9 Q When did you first know they were looking for
10 you?

11 A Basically later on that night after I seen a lot
12 of them, I seen a lot them down when they came to
13 search for me down at my father's house later on
14 that night when I seen them on the news.

15 Q Oh, so that wasn't you in the woods that ran that
16 day?

17 A No, I didn't run through the woods.

18 Q That wasn't you that ran through the woods that
19 dropped your phone and the jacket?

20 A Like, well the jacket and phone that was a cut.
21 I had sat my jacket down like on a bucket. That was
22 on a cut that we usually sit on. I never ran
23 through no cut or nothing because I had, I had went
24 to a friend house who house been cut. I had walked
25 over there. I was walking. As they were searching

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1 and stuff I walked straight through. I was just --
2 I was looking at them as they was searching, and
3 that's when I walked across the street to a friend
4 house. After a while I had got a ride and I had
5 left from around there.

6 Q So your phone just randomly ended up in the wood
7 line where someone was seen running?

8 A My phone was in the jacket. I guess I had left
9 it in the jacket, and I didn't go back to get it
10 after all them left because where it was, that's a
11 cut way we used a lot sit right there, just be
12 chilling right there.

13 Q But you weren't running?

14 A No, ma'am.

15 Q So your jacket and phone, you just happened to
16 leave it there that day when eight members of
17 fugitive team were looking for you?

18 A The sun had come kind of down (inaudible). I sat
19 on one of the buckets that we usually will sit on.
20 We got chairs and buckets back there that we would
21 sit on, and I just sat it on the bucket. And as I
22 sat there I seen all of them, I got up and walked to
23 a cut to go to my friend house to talk to them about
24 what was going on, now all of them was around there.

25 Q But you didn't know they were looking for you?

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1 A No, ma'am.

2 Q Later that afternoon you rented a hotel room?

3 A Yes, ma'am.

4 Q Why did you go stay at the motel?

5 A Because I seen it on the news that they was
6 looking for me; and I was basically trying to get,
7 trying to get my mind right. I was scared of what
8 was going on. I had knew what happened. I was just
9 scared of what was going on, was trying to think of
10 what I should do.

11 Q Who's Randal Dandy?

12 A I don't, I don't know Randal Dandy too. I don't
13 know him too well.

14 Q He rented a room for you?

15 A No, he rented the room for somebody else that I
16 knew and they was at the room when I went there.

17 Q Who's that?

18 A They call him little B.

19 Q Who?

20 A Little B.

21 Q Okay. How long did — I'm sorry, I can't hear
22 you. What's his name?

23 A We call him Little B.

24 Q Little B?

25 A Yes, ma'am.

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- 1 Q How long did Little B stay with you in the room?
- 2 A He stayed for a while. He stayed for a little
- 3 minute.
- 4 Q What did y'all do?
- 5 A We was just sitting there.
- 6 Q Just sitting there?
- 7 A Yes, ma'am, just sitting in the room.
- 8 Q And when did Kenyatta come?
- 9 A She came a little bit after I came.
- 10 Q And she was your girlfriend?
- 11 A Yes, ma'am.
- 12 Q Did you call her to come?
- 13 A Like before I had went to the room I had went to
- 14 her house, and she told, she wanted to come where I
- 15 was at. She told me to send somebody to get her.
- 16 Q Okay. So somebody went to go get her?
- 17 A Yes, ma'am.
- 18 Q And she was your girlfriend?
- 19 A Yes, ma'am.
- 20 Q And you knew that the police were looking for
- 21 you?
- 22 A At that time, yes, ma'am.
- 23 Q And you loved her?
- 24 A Yes, ma'am.
- 25 Q And you care about her?

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1 A Yes, ma'am.

2 Q But you had her, knowing that the sheriff's
3 department was looking for you, in the hotel room
4 with you?

5 A I didn't want to, but she just insisted on
6 coming, and she just wanted to come.

7 Q In fact, you tried to hide behind her when the
8 police were coming to look for her?

9 A No, I wasn't hiding behind her. They say we was
10 in the shower, but I was sitting like on the toilet
11 seat. I was sitting on the toilet seat smoking a
12 cigarette. She was kneeling there on the floor.

13 Q She was ---

14 A She was there on the floor like right beside me,
15 a little bit in front of me.

16 Q She was kneeling on the floor?

17 A Yes, ma'am.

18 Q What was she doing?

19 A Basically just talking to me. She was scared how
20 they was at the door. Both of us just, we were just
21 scared, you know, nervous.

22 Q Did you hear the police knocking on the door?

23 A Yes, ma'am.

24 Q And you were just sitting on the toilet smoking a
25 cigarette?

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1 A Yes, ma'am.

2 Q So they're lieing about you being behind the
3 shower?

4 A Yes, ma'am.

5 Q Does Kenyatta smoke marijuana?

6 A No, she don't -- no, she don't smoke marijuana.

7 Q Okay. And does she -- does she know that you do?

8 A Yes, ma'am.

9 Q Were you -- you were still trying to that the
10 weed that was found in the motel room was even yours
11 to her later on; weren't you?

12 A No, ma'am.

13 Q You weren't so -- again, you didn't make a phone
14 call to her on January 29th of 2012 and still you
15 were denying to her that that weed was even yours?

16 A No, ma'am, I don't remember that.

17 Q Okay. You remember giving a statement to
18 Investigator Unger?

19 A I remember. Yeah, I remember some of it.

20 Q Okay. Do you remember when he went through this
21 form with you?

22 A Yes, ma'am.

23 Q You remember him reading your rights?

24 A Yes, ma'am.

25 Q You remember him checking off each one as he read

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1 them to you?

2 A Yes, ma'am.

3 Q Do you remember signing the waiver?

4 A Yes, ma'am.

5 Q And did you agree to talk to him?

6 A Yes, ma'am.

7 Q And he didn't force you to talk to him?

8 A No, ma'am.

9 Q And you remember giving him -- talking to him
10 about what you did that day?

11 A Yes, ma'am.

12 Q And you told him about the recording studio?

13 A Yes, ma'am.

14 Q Did you mention anything to him about the
15 gambling?

16 A I'm not too sure. I probably don't remember. I
17 probably did because as I had told before,
18 everything wasn't in there that me and him talked
19 about. We talked about -- he questioned me about a
20 lot of stuff but most of it wasn't in there, what he
21 say he questioned me about.

22 Q So you didn't tell him a key piece of information
23 that you're telling this jury today?

24 A I'm not sure. I probably did.

25 Q But you don't remember?

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1 A I don't remember. I can't remember exactly what
2 all I said that day so.

3 Q Don't you think it's pretty important to tell him
4 that you had 500 to 700 dollars on you?

5 A That could be important; but like I said, I was
6 uncomfortable, I was nervous. And I -- I had been
7 smoking that day and all. I basically just
8 uncomfortable and nervous. I don't remember exactly
9 what I told him that day. That was a while back.

10 Q You told him that you were never in Hopkins area
11 that afternoon; didn't you?

12 A Yes, ma'am, I did say this.

13 Q You told him that you were at Kenyatta's house
14 all afternoon?

15 A Yes, ma'am.

16 Q While she was at Zaxby's?

17 A Yes, ma'am.

18 Q And then he confronted you about your cell phone?

19 A Yes, he asked me about the cell phone.

20 Q And he asked you, how is it that you weren't in
21 Hopkins but your cell phone is bouncing off towers
22 in Hopkins?

23 A Yeah, I remember when he asked me that, but I
24 tried to tell them they had confused me with that
25 one. When he asked me if my phone was at the house

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1 I was talking about the day when they came looking
2 for me when the phone was sitting on the bucket that
3 was in the woods.

4 Q So you didn't tell him when he confronted you
5 with your first lie that your cell phone was at your
6 dad's house?

7 A I didn't mean it for that day. That's what I'm
8 saying, that they confused me about. I was talking
9 about that day that they came looking for me that it
10 was sitting in the woods.

11 Q And then you told them that you didn't leave your
12 girlfriend's house until you went to Club Crash
13 that night; is that right?

14 A Yes, ma'am.

15 Q And once again, the phone records don't show that
16 you went anywhere near Club Crash?

17 A I went there that night. If you'll check
18 probably later on, I did go there that night.

19 Q You said 9 to 10:00 to Investigator Unger?

20 A It could have been later than what time I have,
21 but I did go that night.

22 Q Okay. But you didn't go at 9 or 10:00?

23 A I probably -- I know it was somewhere probably in
24 that time. It could have been a little bit after
25 that.

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1 Q But didn't you go to your girlfriend's house
2 after midnight?

3 A No, I went to her house after -- I told him that
4 I was at her, went to her house after I had left
5 Club Crush.

6 Q Let's talk about this glove, okay. That's one
7 that you did not mention earlier. You recognize
8 this?

9 A Yes, ma'am.

10 Q It's a knit black glove with a star on it?

11 A Yes, ma'am.

12 Q How do you recognize it?

13 A That's her -- that's my girlfriend's glove. She
14 left it in the truck that day, and I was supposed to
15 grab it for her I guess. There was another one --
16 it supposed to been another one too.

17 Q Oh, really, it just fell?

18 A I guess so, as I was, I guess as I was leaving
19 from the scene I guess it fell.

20 Q Right by the cartridge casing, it just fell right
21 there?

22 A It was out there; I guess it fell.

23 Q Right where you unloaded the gun?

24 A I don't know where I was at.

25 Q So when did you actually grab it for her?

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1 A As I was in the truck as we were riding she got
2 out, and I noticed that she got out and we was
3 riding heading to wherever we was supposed to be
4 going for the other person who wanted the marijuana.
5 That's when I had grabbed them and put it like in my
6 hoodie pocket.

7 Q Okay. Did you ever wear it?

8 A No, ma'am.

9 Q But your DNA is on the inside of it?

10 A I be playing with her. I never like wore it.

11 Q When you were playing with it?

12 A As I was in the truck when I grabbed it I was
13 just messing around with it.

14 Q When you left the car that afternoon, where was
15 everyone?

16 A When?

17 Q When you left?

18 A What you mean?

19 Q When you left Prioleau Road, where was
20 Dashawn?

21 A Oh, I'm not sure. What do you mean? As I left
22 Prioleau Road?

23 Q Yes.

24 A At the scene?

25 Q Yes.

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1 A Oh, I don't know. As I took off running -- I was
2 scared. I didn't know where Breeze was at, what
3 happened.

4 Q And what about Jonathan Frazier?

5 A He had, as I said, as I fired one time he fell to
6 the ground and dropped the gun. That's when I took
7 off and just running.

8 Q So you don't know where Dashawn was, but you
9 noticed that Crash dropped the gun as you were
10 leaving?

11 A Yes, ma'am. Everything was just moving so fast
12 and all. Like I said, I was scared and I was
13 shocked at what was going on. I didn't know where I
14 was. I couldn't really focus on everything that was
15 going on especially once I seen get out the truck
16 and was coming around with a gun, I couldn't really
17 focus. I was paying attention to where he was at
18 when I seen him come around with a gun. That's all
19 I was thinking about.

20 Q And you stated that you had fallen out of the
21 back seat?

22 A Yes, ma'am.

23 Q The door of the back seat?

24 A Yes, ma'am.

25 Q How does that, how did that happen?

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1 A Like as I was firing I was going to open the odor
2 and I had opened it up. Like I had my head turned,
3 and i just started, like just I just started just
4 shooting. You know, when I had my head turned and I
5 was grabbing for the door. As I opened the door I
6 still was just shooting until the tape done fell
7 out.

8 Q And so you're falling out of the door
9 (indicating), right?

10 A Yes, ma'am.

11 Q Still shooting?

12 A I'm not sure if I was still shooting at that
13 time. I was peeking at that time.

14 Q You just said you were though?

15 A No, I said I was falling. I said I was shooting
16 as I was reaching for the door.

17 Q And what's going on right now while you're
18 shooting?

19 A Like, as I pushed, like I had pushed him back I
20 was like kind of up in the seat and I turned my head
21 as he was -- as Breeze was about to turn back around
22 I just start, I was just shooting like as I was up
23 in the seat leaning towards trying to get out of the
24 truck 'cause I had kind of pushed Crash back off.
25 I had a little space where I can wiggle out and try

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1 to get from out as I started shooting.

2 Q And where, where is Breeze at this point?

3 A He was still in the front at this point, I guess.

4 He was still in the front.

5 Q And that's when you were firing all your shots?

6 A Yeah, I was shooting.

7 Q And Crash was where?

8 A I had pushed him off me a little bit I guess. He
9 was still in the front too.

10 Q And you said -- what happened when you fell out
11 of the, fell out the front door?

12 A When I fell out the back?

13 Q Uh-huh.

14 A My leg, as I fell out, my leg got kind of got
15 caught and as my leg got caught and I was trying to
16 get it I seen him looking at me, looking kind of
17 shocked ---

18 Q Who, who is him?

19 A Crash. I seen Crash looing at me. He was
20 looking kind of shocked. So as I seen him looking

21 ---

22 Q Kind of what?

23 A He was looking like shocked.

24 Q Shocked?

25 A Yes, ma'am.

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1 Q Okay.

2 A And like as he was looking at me I was still
3 thinking like where Breeze could be, if he could
4 have a gun. That's how I knew about get out the
5 truck. So that's when I try to hurry up and reload.
6 But as I was reloading and was putting the bullet
7 back in, I guess Crash kind of came too. That's
8 when I seen him reaching like go under the driver
9 seat when Breeze was reaching out to where I
10 remember him putting the gun at.

11 Q So when did -- so as you're falling out the car
12 you're also able to reload the gun; is that right?

13 A As I fell out I had started reloading.

14 Q Okay, but you had to empty out all your fired
15 cartridges already?

16 A I had -- no, I had to empty them out like to
17 reload.

18 Q By that door?

19 A Right where I fell out, yes, ma'am.

20 Q So right by the door?

21 A Yeah, I guess by the door.

22 Q Uh-huh. And that's literally as you're falling
23 in the back of the car, out the back of the car?

24 A No, not while I'm falling out, as I hit the
25 ground. That when I said I saw him looking at me

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1 and he looking shocked. And I thought that Breeze
2 could be getting out with the gun. I didn't know
3 where he was at. That's when I started reloading.

4 Q And so what -- so did you ever see Dashawn moving
5 after that?

6 A I wasn't really paying attention. Everything was
7 going so fast I was just scared. My mind was just,
8 you know, it was just racing. I didn't know what to
9 think.

10 Q And you're shooting all throughout the front as
11 you're leaning back falling out?

12 A No, I was up in the seat. No, I'm not pretty
13 sure if I shooting. I was falling out -- I was
14 looking at the time 'cause I was up in the seat
15 reaching for the door, I was just shooting.

16 Q Just random shots?

17 A Yeah, just shooting. I was basically trying to
18 keep them off from me, and I ain't know if he
19 grabbed the gun or not. I was just, I was scared.

20 Q You never even saw the gun? You never saw them
21 try to shoot at you?

22 A I seen Crash once he went around the truck. I
23 seen Breeze reaching under the seat, and I knew he
24 had put the gun there earlier that day.

25 Q So let me get this straight, you see Breeze

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1 reaching up the seat?

2 A Yes, ma'am.

3 Q You pull out your gun?

4 A Yes, ma'am.

5 Q And you just start firing?

6 A Yes, I leaned up in the seat, then I seen him out
7 turning around, getting up, yeah, and just start
8 shooting.

9 Q And then you fall out of the car?

10 A Yeah, I fell out after I opened the door.

11 Q And you reload -- you unload?

12 A Yeah, I unload and then reload.

13 Q Right there?

14 A Yeah, while I was on the back, yes, ma'am.

15 Q And then what?

16 A After I reloaded?

17 Q Uh-huh.

18 A That's when Crash had came. Like, I had closed
19 the door like to see if Breeze was like getting out
20 of, getting out of the truck too. I seen Crash
21 coming around. And as he was coming around I seen
22 the gun in his hand. Like, before he hit me as I
23 was getting up I already had mine, like pointing.
24 As he was coming around that's when I just fired one
25 time before he lift the gun. I fired one time. He

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1 fell and dropped the gun, and that's when I feel I
2 had enough time to run and get away so I just ran.

3 MS. CAVANAUGH: Beg the Court's
4 indulgence.

5 THE COURT: Yes, ma'am.

6 BY MS. CAVANAUGH:

7 Q All right. You're describing the shoulder,
8 right, and you said that earlier there was the bag
9 of marijuana on your lap; is that correct?

10 A Yes, ma'am.

11 Q What happened to that during the struggle?

12 A The bag of marijuana?

13 Q Uh-huh?

14 A Like it basically, how I had it in my lap like, I
15 like tuck it -- I had like tucked my pants like some
16 of it in the lap like hanging out, like I had tucked
17 it in my pants.

18 Q Did you run with it after while you were running
19 from the scene?

20 A Yeah, it was still like hooked to my pants.
21 That's how I always carry it like it just sit right
22 there (indicating).

23 Q So the marijuana stayed with you but the glove
24 dropped?

25 A 'Cause the glove was in my pocket. The marijuana

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1 was in -- it was like in my pants where I usually
2 keep it at.

3 Q And those -- you had your gun on you at the
4 studio; is that right?

5 A Did I have it with me? Yes, I had it at the
6 time, but nobody new. I don't just go around
7 broadcasting it and showing it.

8 Q You mentioned a guy named Tim. Where does he
9 live?

10 A He stay off Leesburg.

11 Q It's -- you said you grew up in Hopkins, right?

12 A Yes, ma'am.

13 Q And Breeze was the one who was directing you
14 where to go this day?

15 A Yes, ma'am.

16 Q Not you?

17 A No, ma'am.

18 Q You didn't think that Jonathan Frazier was gonna
19 live, did you?

20 A I didn't know whether he was or he wasn't.

21 Q In fact, you thought that it was just gonna be
22 his word against yours; didn't you?

23 A As I was coming to court? I didn't, I didn't
24 know.

25 Q You didn't know what -- you didn't know what?

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1 A If it was going to be his words against mine.

2 Q You didn't know anything until today, is that
3 what you're saying?

4 A Like basically, as I was locked up and you live
5 or not, I heard about what he was trying to say what
6 I did, I basically knew he would come to court
7 but...

8 Q And so you didn't never — you never told your
9 mom that you don't wish death on no one, but it's
10 his word against mine and he doesn't need to make
11 it?

12 A I don't remember saying that.

13 Q On January 26, 2012 at 5:30, you didn't make that
14 call to your mom and say that?

15 A I don't remember saying that.

16 Q And on January 30th, 2012 at 10:22, again on the
17 phone to your mom, didn't you say Crash is on all
18 kinds of drugs, he can't say that's me?

19 A No, I don't remember saying that.

20 Q And again, that same conversation, they don't
21 know, they don't — they know they don't got
22 nothing, they just want to pin it on someone?

23 A I don't remember saying that either.

24 Q So once again, this glove with the DNA and GSR on
25 was randomly dropped in the front yard that day?

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1 A Yes, ma'am.

2 Q And you were not running from the police the next
3 day, right?

4 A No, ma'am.

5 Q Your phone just happened to be left right where
6 they saw you running, right?

7 A I was running, but it was left where we usually
8 sit and chill like in a little area. We had chairs
9 and buckets and all that we sit on back there.

10 Q And you went to the hotel that afternoon but you
11 were running, right?

12 A I went to the hotel after I seen it on the news.
13 I caught a ride to the Leesburg area.

14 Q And the room was put in Randall Dandy's name?

15 A Yeah, his name was Dandy. I seen him after that.

16 Q But you weren't running?

17 A No, ma'am, not that day.

18 MS. CAVANAUGH: Beg the Court's
19 indulgence.

20 BY MS. CAVANAUGH:

21 Q And you never told Investigator Unger where you
22 could find -- where he could find the firearm that
23 you bought for your protection, right?

24 A No, ma'am, I probably didn't.

25 Q Probably didn't?

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1 A Yeah, I — no, I didn't tell him that.

2 Q You probably didn't or you didn't?

3 A No, I didn't tell him where he could find it at.

4 MS. CAVANAUGH: Nothing further.

5 THE COURT: Redirect?

6 MR. SUTHERLAND: No redirect, sir. No

7 further questions.

8 THE COURT: Thank you, Mr. Singleton. You
9 may step down. All right, Mr. Sutherland, does the
10 Defendant intend to offer any additional evidence or
11 testimony?

12 MR. SUTHERLAND: No more witnesses, sir,
13 no more testimony.

14 THE COURT: The Defense rests?

15 MR. SUTHERLAND: The Defense does rest,
16 Your Honor.

17 THE COURT: Renew all motions?

18 MR. SUTHERLAND: Renewing all motions.

19 THE COURT: Noted for the record.

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: Thank you.

22 Does the State intend to offer any
23 evidence or testimony in reply?

24 MS. CAVANAUGH: No, Your Honor.

25 THE COURT: All right, thank you. Thank

1 you very much.

2 With that being said, ladies and
3 gentlemen, you've heard all of the evidence, all of
4 the testimony you're going to hear from the State
5 and from the Defense and the trial of the case.

6 We've now at the point of closing arguments by the
7 attorneys. I think what will be prudent for us to
8 do now is take our lunch recess. We'll start the
9 closing argument process upon y'all's return.

10 Please remember my instruction to you. Do not
11 discuss this case with anyone, your fellow jurors,
12 lunch mates, family, friends or anyone else. Do not
13 do any independent investigation or any
14 investigation on the internet in any manner.

15 Remember to keep an open mind. Do not begin your
16 deliberations until you're instructed to do so by
17 the Court. I would ask you to please be back
18 promptly at 2:00, at 1400 hours, 2:00. Leave your
19 notes on the chair. They will be secured by the
20 clerk's office. Thank you very much. Hope y'all
21 have a pleasant lunch.

22 (The jury was removed from the courtroom
23 at 12:45 p.m.)

24 THE COURT: All right. As far as the
25 requests to charge handed up from the State, the

1 first one, the charge on malice I think that will be
2 covered in the general charge. The second one
3 voluntary intoxication, how is that relevant?

4 MS. CAVANAUGH: Your Honor, if I may, I
5 believe there has been testimony, even the defendant
6 himself testified that he'd been smoking weed, that
7 they'd been smoking weed that day. Although it's
8 not drunkenness, it still is intoxication or under
9 the influence.

10 THE COURT: The third one on the Victor --
11 I'll charge that, Solicitor.

12 The third one on Victor versus Nebraska I
13 charge those. Victor versus Nebraska I need a name.
14 And then the fourth one, how is that relevant?

15 MS. CAVANAUGH: And I apologize, mine are
16 not in order. Is this the felony murder charge?

17 THE COURT: Yes, ma'am.

18 MS. CAVANAUGH: Your Honor, there has been
19 testimony -- and this is where the State's case and
20 Defense's case diverge greatly -- that there was,
21 possibly that this could have been initially an
22 armed robbery by the defendant. He clearly based on
23 the State's case and the evidence presented in the
24 State's case, he went out there, he was directing
25 where to go. They were supposed to meet up with T

1 man is what he was telling Jonathan Frazier and
2 Dashawn. Based on those. He did not have the
3 marijuana on him at the time. It was clear that
4 Dashawn was the buyer and that he was the seller.
5 He -- there's nothing to show from the State's case
6 that he was ever going to sell the marijuana. And
7 Jonathan Frazier's testimony that he was tossing,
8 that Dashawn was tossing the money to the defendant
9 in the midst of all of the shooting. That money was
10 never recovered or found. So if you are to believe
11 the State's version of events conceivably from the
12 testimony it could be that he went to rob them; and
13 in the course of that robbery the homicide, the
14 murder, was committed as well.

15 THE COURT: I decline to charge that
16 felony murder charge. Were there any other requests
17 to charge from the State, Solicitor?

18 MS. CAVANAUGH: No, Your Honor.

19 THE COURT: All right. And the Defense,
20 what are your requests, Mr. Sutherland?

21 MR. SUTHERLAND: Oh, Your Honor, I had --
22 I'm sorry Your Honor doesn't have a copy. I tried
23 to submit them in two forms. And just on the law of
24 murder, the State versus Johnson language: Murder
25 is unlawful killing but rather, with malice

1 aforethought. Self-defense as far as acting on
2 appearance. On State v. Starnes one may act on
3 appearance. He may be mistaken, the law does not --
4 and this is where his testimony was, that he
5 believed there was a gun under the seat at that
6 time, but he did not know. Let's see, the law does
7 not form to a refined assessment of the danger.
8 Ultimately I believe that that's appropriate under
9 these facts. The self-defense, that is effectively
10 just that the elements of self-defense in State
11 versus Davis. I believe that's appropriate. The
12 State versus Hendrix language I think is significant
13 with respect to self-defense because the way that I
14 understand the State, you know, this was an
15 execution, this was a straight malice murder in that
16 that regard, intent to kill, murder. And they've
17 made, as well as they should, they talked about four
18 fatal shots. He talked about the number of
19 projectiles that was recovered in the deceased, in
20 Mr. Johnson, and I believe that this is an
21 appropriate charge of when a person has just fired a
22 firearm the first shot is justified in continuing to
23 shoot until it is apparent that the danger to his
24 life and body has ceased from State versus Hendrix.
25 The State versus Wiggins language, sir,

1 the State's required to disprove self-defense once
2 raised by defendant beyond a reasonable doubt. And
3 their -- they had the larger Victor versus Nebraska
4 charge and I had the Manning charge. And lets see,
5 I believe with respect to malice, what they had
6 presented didn't seem too objectionable. The Court
7 had indicated that what the State had presented was
8 contained in the Court's general charge on malice so
9 we'll be satisfied with the Court's general charge
10 on malice.

11 THE COURT: Thank you. Solicitor, do you
12 have any objection to any of the charges the Defense
13 requested?

14 MS. SIMPSON: Beg the Court's indulgence.

15 THE COURT: Yes, ma'am.

16 MS. SIMPSON: Your Honor, we would object
17 to self-defense being charged in this case. The
18 self-defense law requires that the defendant is
19 without fault in bringing on the difficulty; that
20 the defendant actually believed he was in imminent
21 danger of losing his life or sustaining serious
22 bodily injury and that a reasonably prudent person
23 of ordinary firmness and courage would have
24 entertained the same belief than he had essentially
25 no other means of avoiding the danger. In this

1 case, and it's our understanding of the law, that
2 all four prongs of self-defense must be met. We
3 believe that the defendant has failed on the first
4 prong with respect to being without fault in
5 bringing on the difficulty. He is the one who
6 brought the gun to the location and was engaging in
7 the selling of marijuana. So we would just ask that
8 self-defense not be charged in this case.

9 THE COURT: I think it's an issue for the
10 jury, Solicitor. I agree with you on those prongs.
11 I was sitting here trying to remember a couple of
12 those cases -- of course, there's no testimony that
13 he was unlawfully armed; There's no testimony he
14 was. No testimony he was a concealed weapon permit
15 holder or not a concealed weapon permit holder. I
16 was thinking of those Castle cases and such when a
17 person arms themselves for self-defense and realize
18 there are different factors.

19 As I understand his testimony, he's gonna
20 assist in providing or selling marijuana to
21 Mr. Jones, Mr. Frazier. And after these phone calls
22 and such and they get together and they drive down
23 to the country area of Hopkins, and I believe his
24 testimony was they were going to see how it smoked.
25 I guess it's kind of like test driving a used car to

1 see how it smokes. So, they're clearly all engaged
2 in a unlawful activity of the possession and use of
3 marijuana. He testifies that where they were
4 driving it was being, he Mr. Singleton testifies
5 that where they were -- that Mr. Singleton testifies
6 that Mr. Jones was driving, and he's kind of
7 directing where to go. Now I realize Mr. Frazier
8 testifies the opposite. He testifies that
9 Mr. Singleton is directing where they're driving to.
10 He then says that there in the front he'd seen the
11 gun earlier that day under the seat is his
12 testimony. I'm not here as a finder of fact or an
13 arbiter of the credibility at this point or any
14 point. Then he says sitting there waiting on this
15 additional buyer that Mr. Jones said wanted to buy.
16 He's in the back seat and then his basic testimony
17 becomes he's been attacked, he's been attacked by
18 Mr. Jones who thereafter he's assisted by Mr. Jones,
19 thereafter assisted by Mr. Frazier. He says that
20 Mr. Jones releasing Mr. Frazier, continues to
21 contain him and he sees Mr. Jones reaching under the
22 seat where he had seen this firearm earlier that
23 day. I'm just relating his testimony, of course. I
24 don't think -- I don't think the mere fact that a
25 person smoking, possessing marijuana overrides a

1 person's self-defense rights, if he has it, if he
2 has it. I think it's a jury issue, Solicitor.

3 MS. SIMPSON: Thank you, Your Honor.

4 THE COURT: And I -- anything further,
5 Solicitor?

6 MS. CAVANAUGH: Nothing from the State.

7 THE COURT: All right. And anything
8 further from Defense?

9 MR. SUTHERLAND: No, sir.

10 THE COURT: You know, I -- I'm gonna look
11 back at Hendrix. Hendrix was an interesting case.
12 I think the Supreme Court offered a directed verdict
13 of not guilty in that case so that doesn't happen
14 often where you just reverse and remand it back.
15 But I think that was actually a direct gun battle by
16 a round of the muzzle of a shotgun went into the
17 barrel and was pretty direct. They were shooting at
18 each other.

19 MR. SUTHERLAND: Interesting names of the
20 heritage.

21 THE COURT: Solicitor, I neglected to
22 address two of yours. We've got this one, motive is
23 not an element of murder; and therefore, the State
24 would not prove motive. Typically I don't charge
25 that. Do you have an objection to that,

1 Mr. Sutherland? I certainly know that's the law. I
2 just typically don't charge it.

3 MR. SUTHERLAND: Briefly ---

4 COURT: Hawkins also bears interest in the
5 case that the current opinion by the Chief Justice
6 in Sanders about the word express. Not as good as
7 the rules of Queensberry but it's very good current
8 opinion.

9 MR. SUTHERLAND: Sir, I would just see it
10 as sort of almost superfluous. I mean, it's you
11 know, the instruction of malice, murder, unlawful
12 killing, malice, and just, there's no talk of motive
13 and I don't believe, of course, you know, you talk
14 about why would somebody do something or something
15 else. Maybe it's just not the element of it and the
16 jury I would imagine would be looking at certain
17 elements on their own when fulfilling their oath,
18 sir.

19 THE COURT: All right, Solicitor.

20 MS. SIMPSON: Just briefly with respect to
21 the jury and certain elements of their own, I mean,
22 that is kind of the purpose of the charge on the law
23 as Your Honor is to give it. We would just ask that
24 this is the law that it is not anything that would
25 be considered cumulative. I mean, you know, jurors -

1 have a lot of common misconceptions about things and
2 definitions and there are a lot of legal terminology
3 and the fact of the matter is that motive does not
4 have to be proven by the State. So yes, while
5 malice addresses kind of the motive and
6 premeditation or in indirect way I think this
7 language is clear it's not inappropriate and can be
8 charged in this case.

9 THE COURT: All right, I'll look at that
10 part. And then the last one I believe is covered by
11 my general charge. I'll look at that about the
12 intersection of evil act, evil intent, and the act
13 reducing the result. I believe that's part of the
14 charge. All right, anything further?

15 MS. CAVANAUGH: Nothing from the State.

16 THE COURT: Is the State going to open?

17 MS. CAVANAUGH: We are.

18 THE COURT: All right. And then
19 Mr. Sutherland then the final. All right. How long
20 y'all need to argue?

21 MR. SUTHERLAND: I would for me 30, 45 --
22 maybe, I kind of intend to get the pin on things,
23 but maybe 30, 40 minutes.

24 MS. CAVANAUGH: Your Honor, with respect
25 to the State, we anticipate with both the law

1 portion and the fact portion of our case, a total of
2 maybe 45 minutes.

3 THE COURT: All right, thank you. Thank
4 you very much. I don't start tapping my pen or
5 anything. I just like to get an idea. Thank you.
6 Thank you very much. Court will be in recess until
7 2:00.

8 (Whereupon, a lunch recess was taken.)

9 THE COURT: Anything from the State before
10 we bring in our jury? I will charge that motive.

11 MS. CAVANAUGH: Okay.

12 THE COURT: Anything additional,
13 Solicitor?

14 MS. CAVANAUGH: No, Your Honor, nothing
15 from the State.

16 THE COURT: Defense.

17 MR. SUTHERLAND: Nothing from the Defense,
18 sir.

19 THE COURT: All right. For those of you
20 in the courtroom, spectators, I do not allow any
21 movement in and out during the time of which an
22 attorney is addressing the jury. You may certainly
23 leave between the arguments. In other words, the
24 Solicitor is going to open on the law. When the
25 Solicitor sits down before Mr. Sutherland begins,

1 you may step out, will not be able to come back
2 until Mr. Sutherland has completed his closing
3 argument or you may leave after Mr. Sutherland's.
4 That will also hold true for my charge to the jury,
5 but we'll probably have a break between the
6 arguments and the charge I do believe so please keep
7 that in mind.

8 All right, bring us our jury please.

9 (The jury was returned to the courtroom at
10 2:07 p.m)

11 THE BAILLIFF: The jury's seated, Your
12 Honor.

13 THE COURT: Thank you. Thank you very
14 much, thank you very much, Mr. Bailiff.

15 Welcome back, ladies and gentlemen of the
16 jury panel. I hope y'all had a pleasant lunch. We
17 not as you know, in the stage of closing arguments
18 to be presented to you by the attorneys. Closings
19 arguments are different from the opening statement.
20 They are true arguments. The attorneys may argue
21 the facts, reasonable inferences to be drawn from
22 the facts, the law, and how the facts apply to the
23 law in this case. The procedure we follow is the
24 Solicitor will open first briefly on the law,
25 thereafter followed by Mr. Sutherland on behalf of

1 his client Mr. Singleton, then followed by the
2 closing argument in full by the Solicitor. After
3 the closing arguments of the attorneys I would then
4 charge you or instruct you on the law in the case.
5 I would ask you again to please give the parties
6 your complete and undivided attention as you have
7 done throughout the trial of this case.

8 With that being said, Solicitor, you may
9 address the jury.

10 MS. CAVANAUGH: Thank you. May it please
11 the Court.

12 Make no mistake about it, the only people
13 who should have been able to come in this courtroom
14 and take this witness stand and say they were acting
15 in self-defense are Dashawn Jones and Jonathan
16 Frazier.

17 MR. SUTHERLAND: Objection, she's arguing
18 the facts, Judge, versus the law.

19 THE COURT: Yes, sir, I think it's
20 appropriate.

21 MR. SUTHERLAND: Yes, sir.

22 THE COURT: Thank you.

23 You may continue, Solicitor.

24 MS. CAVANAUGH: The only people who had
25 the right to act in self-defense are Dashawn Jones

1 and Jonathan Frazier, but Dashawn never had a chance
2 to act or react in self-defense. And Jonathan
3 Frazier at the moment, he did try to act in
4 self-defense; it was too late because he was no
5 match for the defendant and his gun. Now this is
6 contrary to what the Defense would have you believe.
7 They would have you believe that Mr. Singleton is
8 the victim in this case. He is the victim of
9 Dashawn Jones. He is the victim of Jonathan
10 Frazier. But that's not all, he's the victim of the
11 State. He's the victim of government, law
12 enforcement and every witness that took that stand.
13 Poor, poor, Mr. Singleton. No, that is simply not
14 true and that is not the case. This is not a case
15 of self-defense. This is a case of cold-blooded
16 murder.

17 Now I want to take this time to thank you
18 again for your time, your patience, and your service
19 in this case. I'm sure when you got your notice for
20 jury duty you probably had plenty of other things
21 that you wanted to do, plenty of other things that
22 you needed to do, but you came and you were selected
23 and you have been very attentive throughout this
24 case and you've been patient as you've been shuffled
25 in and out the courtroom confined to a small place

1 with people you don't know. So I thank you because
2 this is an important case. And in a few moments
3 this case is going to be turned over to you for a
4 decision, and you must decide whether the defendant
5 is guilty of murder and guilty of attempted murder.

6 Now you've heard all the evidence that you
7 can consider, the testimony from the witness stand,
8 and the physical evidence that you will be able to
9 take back with you to your jury room to deliberate.
10 And you must base your verdict on that evidence.
11 Now what your verdict must not be based on questions
12 or commentary by the attorneys in this case or
13 conjecture, speculation, or just plain old wishful
14 thinking. Now I have this opportunity to talk to
15 you about the law in the case, and if I misquote the
16 law or misstate the law in any way, it is not
17 intentional. You are to take the law as His Honor
18 gives it to you. But with that said, if either
19 side, State or Defense, mischaracterizes the facts
20 in this case, you remember because you heard from
21 right here on this witness stand.

22 Now criminal cases are somewhat unique
23 because the defendant has the absolute
24 constitutional right, as he should, to confront each
25 and every witness against him. And what that means

1 is that as the State we must produce live testimony
2 from this witness stand. And you've heard reference
3 to a number of reports or statements in this case,
4 but we just couldn't produce a report by an officer
5 or investigator or by the experts in this case. We
6 had to bring them to appear before you so that you
7 could judge their credibility. Those reports, those
8 statements are not admissible.

9 Now, members of the jury, as I told you
10 earlier we bear the burden of proof in this case.
11 Now the defendant is presumed guilty -- I mean,
12 innocent, until proven guilty beyond a reasonable
13 doubt. And we've talked a little bit about
14 reasonable doubt, and the judge will instruct you
15 further. So what is proof beyond a reasonable
16 doubt? Well, our courts have said that proof beyond
17 a reasonable doubt is proof that would cause a
18 reasonable person to hesitate to act. Now our
19 courts have gone further and said that proof beyond
20 a reasonable doubt is proof that leaves you firmly
21 convinced of the defendant's guilt.

22 Now there are very few things that we know
23 in this world with absolute certainty. In criminal
24 cases the law does not require proof that overcomes
25 every possible doubt or all doubt. And if based on

1 your consideration of the evidence you are firmly
2 convinced that the defendant is guilty of this
3 crime, you must find him guilty. If on the other
4 hand you think there's a real possibility that he is
5 not guilty, then you must give him the benefit of
6 doubt and find him not guilty.

7 So what must we prove? As I stated to you
8 before, murder is one of our most serious offense,
9 but it has a very short definition. Murder is the
10 killing of any person, unlawful killing of any
11 person with malice aforethought ether expressed or
12 inferred. Now attempted murder is very similar. It
13 is unlawful for a person with the intent to kill to
14 attempt to kill another person with malice
15 aforethought either expressed or implied or
16 inferred.

17 Now one term in there that you heard is
18 malice. So what exactly is malice? Well, our law
19 has defined malice. Malice is considered a hatred,
20 ill will, or hostility towards another person. It
21 is the intentional doing a wrongful act that is
22 without just cause or excuse and with intent to
23 inflict an injury or under circumstances that the
24 law will infer an evil intent. Now, expressed
25 malice is when a person speaks words which express

1 hatred or ill will for another or when a person
2 prepared to do the act beforehand. That, just to
3 give you an example, is essentially when a person
4 says I'm going to kill you, and he or she does. Or
5 when they lie in wait hiding, prepared to kill
6 another and they do. That's expressed malice. But
7 our law recognizes that in most cases, in a lot of
8 cases, you're not going to have expressed malice so
9 they've gone a little further and said that malice
10 may be inferred from conduct showing a total
11 disregard for human life.

12 Malice does not necessarily impart ill
13 will toward the individual injured, but signifies
14 whether a malignant recklessness of the lives and
15 safety of others are a condition of the mind which
16 shows a heart regardless of social duty and fatally
17 bent on mischief. As I said earlier, this case
18 wreaks of malice.

19 When you go back to that jury room and you
20 consider the testimony that you've heard, you pay
21 attention to Dashawn Jones who couldn't take this
22 witness stand. You look at his injuries. At least
23 six gunshots, eight gunshot wounds. Malice.
24 Jonathan Frazier, almost shot to death. His injury
25 would have been fatal had he not received help.

1 Malice.

2 MR. SUTHERLAND: Sorry, objection, Your
3 Honor. She's applying the facts to the law without
4 the law.

5 THE COURT: All right. I will allow it in
6 this regard, Mr. Sutherland.

7 MR. SUTHERLAND: Yes, sir.

8 MS. SIMPSON: Thank you, Your Honor.

9 Aforethought. Now as said, malice
10 aforethought. Now aforethought generally some
11 people may be inclined to think this means
12 premeditation, but it does not mean premeditation.
13 We don't have to prove premeditation in this case.
14 And our law says that malice must accompany the act
15 and that it does not have to exist for any
16 appreciable time, length of time, before the act
17 occurs. Malice may be conceived at the moment the
18 act occurs or at the moment the fatal blow is
19 struck.

20 Mr. Singleton didn't have to get in that
21 car that day and say I'm gonna kill him and intend
22 to kill him. It's when he picked up that a trigger
23 and began shooting that gun did he have malice in
24 his heart, and he did. Two unarmed men in the car
25 and he emptied the gun and reloaded it and fired

1 some more. And what'd he do? He ran. Malice.

2 As I said, what we don't have to prove is
3 motive. Maybe there is motive in this case; maybe
4 there isn't. But malice is not motive, although
5 here I submit that he was never going to sell them
6 that marijuana. And let's be clear, he is the
7 dealer by his own account. That marijuana was never
8 in that car that day and Dashawn threw money at him.
9 Maybe he was going to take their money or maybe he
10 just wanted to kill them. Whatever the case, malice
11 was in his heart.

12 Now the judge is going to instruct you
13 that there are two types of evidence. We call them
14 direct evidence and circumstantial evidence. Now
15 direct evidence is the testimony from a person who
16 asserts of claims to have actual knowledge of a
17 fact, such as an eyewitness. Well here you have
18 Jonathan Frazier, our living victim. He took the
19 stand and he told you what happened. And he's told
20 a number of people what happened; that's direct
21 evidence. You also heard from Monica Howard. She
22 is the one who Jonathan was able to get help from.
23 She's the one who called 9-1-1. She's the one who
24 saw the subject running away from the scene. That
25 is direct evidence.

1 But there's another type of evidence and
2 circumstantial evidence is considered to be a proof
3 of a chain of facts and circumstances that indicate
4 the existence of the facts. Now the law makes
5 absolutely no distinction between the two, between
6 weight or value to be given to either one. Nor is a
7 greater degree of certainty required of
8 circumstantial evidence than of direct evidence.
9 You should weigh all the evidence in this case. And
10 after weighing all the evidence, if you are not
11 convinced of the defendant's guilt beyond a
12 reasonable doubt, you must find him not guilty.
13 However, if on the other hand you are convinced of
14 the defendant's guilt beyond a reasonable doubt,
15 then you must find him guilty.

16 Now one of the examples that's often used
17 to kind of illustrate circumstantial evidence is
18 this: Essentially I go to sleep and it's not
19 snowing outside and there's snow on the ground, but
20 when I wake up, the fields outside my house, the
21 yard covered in snow. I can assume that it snowed
22 last night. That's the way circumstantial evidence
23 works. I submit to you it's more the silent
24 witnesses in the case, the forensics in this case,
25 the shell casings found at the scene, the DNA inside

1 the glove, the gunshot residue inside the car, and
2 on that glove that the defendant admits to, a short
3 distance away from the car, those types of things
4 are circumstantial evidence. And the law makes no
5 distinction between the two.

6 Now another thing that the State must
7 prove is criminal intent. In order to establish
8 criminal liability criminal intent is required. For
9 example, the mental state required to be proven by
10 the State for a particular crime might be some
11 purpose, some specific intent, knowledge of certain
12 facts or recklessness. Criminal intent must be
13 proven by the State beyond a reasonable doubt. It
14 is always a matter for you, the jury, to determine
15 from the circumstances surrounding the situation.
16 Now there's no way to prove intent to a mathematical
17 certainty. There's no way medical science can
18 dissect a person's brain and determine what that
19 person had in his mind. So the law says that
20 criminal intent may be inferred from the
21 circumstances shown to have -- shown to have
22 existed. This is how you make the determination of
23 whether or not this element was present. Criminal
24 intent simply a mental state, a conscious
25 wrongdoing, and it is up to you to determine what

1 the defendant intended to do.

2 Here I think you will find that it's
3 clear. Now one of the things you can consider when
4 considering the facts and circumstance of the case
5 is evidence of flight as evidence of guilt. This is
6 considered to be a circumstance surrounding the case
7 so ask yourselves, are the defendant's actions
8 consistent with someone acting in self-defense. He
9 fled from the crime scene. He fled from the police
10 at his dad's house; and even in his own testimony,
11 tried to say, oh, I wasn't fleeing, I wasn't
12 running, my stuff just ended up there. I was even
13 watching them search but I didn't know they were
14 there for me. Really? Hotel in another person's
15 name, the day after this occurred. He got a room in
16 another person's name and where -- this hotel room,
17 it's away from the crime scene, away from Hopkins.
18 He is fleeing. And in that time, mind you, he's not
19 arrested until two days later, he had plenty of time
20 to get rid of the evidence in this case. And he
21 thought he'd gotten rid of Jonathan Frazier.
22 Finally he was hiding in the hotel bathroom behind
23 his girlfriend Kenyatta Hickman. You can consider
24 evidence of flight as evidence of guilt.

25 And I will touch briefly on this because

1 as the State we must prove identification to you
2 beyond a reasonable doubt and that is simply that
3 the defendant is the person who did this crime.
4 Well you have Jonathan Frazier who picked him out
5 and who identified him, and he knew the defendant.
6 And the defendant admitted on the stand he knew
7 Jonathan, he new Dashawn, and he has admitted that
8 he is the shooter so I submit we have proven
9 identification beyond a reasonable doubt.

10 Now there was testimony on the defendant's
11 statement in this case, and I'm not referring yet to
12 his testimony from the witness stand, but the
13 testimony regarding the statement that he gave to
14 Investigator Unger. And one of the things you must
15 consider is the voluntariness of that statement.
16 Before you may consider it as evidence for any
17 purpose you must determine four questions: Did the
18 defendant make the statement; was the defendant
19 warned of his constitutional rights -- those are the
20 Miranda rights, that is what the investigator
21 advised him of -- did the defendant knowingly and
22 intentionally waive his constitutional rights; was
23 the statement given freely and voluntary. You also
24 have his demeanor on the witness stand. He seems to
25 understand things pretty well. Now was he advised

1 of his rights? Yes. Did he waive those rights?
2 Yes. And did he give the statement freely and
3 voluntarily? Yes. But what was that statement?
4 Self-defense, I had to do it, they came at me. They
5 were attacking me so I had to shoot at least nine
6 times emptying my gun and reloading it? Poor me,
7 I'm so scared, I was just terrified. No. In that
8 statement he says, I wasn't in Hopkins that day at
9 all. I was at my girlfriend's house until I went
10 over to the club off Broad River; I didn't do this.
11 I was nowhere there. is that consistent with someone
12 acting in self-defense? You'll be able to judge his
13 credibility.

14 Now you've also heard from the expert
15 witnesses in this case. Now the rules of evidence
16 ordinarily do not permit witnesses to testify to
17 opinions or conclusions. An exception to this rule
18 exists for witnesses we call expert witnesses. A
19 witness who by education and experience has become
20 an expert in some art, profession, or calling may
21 state an opinion as to relevant material matter in
22 which the witness claims to be an expert and may
23 also state the reasons for the opinion. You should
24 consider the expert opinion received in evidence in
25 this case, and like any other evidence give it the

1 weight you think it deserves. If you decide that
2 the opinion of an expert witness is not based on
3 sufficient education on experience or if you
4 conclude that the reasons given in support of the
5 opinion are not sound, you don't have to find it
6 creditable.

7 You heard from a number of the expert
8 witnesses. You're gonna hear more about their
9 testimony later, but you heard from John Roberts,
10 the gunshot residue expert in this case. You heard
11 from Lieutenant Scott McDonald, who analyzed the
12 cell phone records in this case and testified about
13 the importance of cell phone records in today's
14 investigation. You also heard from Rachel Grant,
15 the DNA expert. There was a lot of math on the
16 board and a lot of stuff during cross, but she is an
17 expert in DNA analysis. And the defendant's DNA was
18 found on that glove and it was found on that
19 marijuana, that marijuana that was in his hotel room
20 that he claims he ripped off, or didn't sell, excuse
21 me, but was managed to get away from the crime scene
22 with that bag of marijuana and that's just some of
23 what was in that bag by the time the police get to
24 it. And Dashawn Jones and Jonathan Frazier, they're
25 eliminated from the DNA on that marijuana, even with

1 all that struggling, punching, pinning, grabbing of
2 the neck. Expert witnesses.

3 Now you've heard some testimony about
4 smoking marijuana. Now we don't have any alcohol in
5 this case, but our law has said that voluntary
6 intoxication is not, is never an excuse or defense
7 to a crime. A person who voluntarily renders
8 himself intoxicated is no less responsible for his
9 acts while in such a condition. If a person
10 voluntarily drinks intoxicating liquor or takes
11 drugs and becomes intoxicated and if while in that
12 condition commits an act which would be a crime if
13 it had been committed by a sober person, the fact of
14 drunkenness or intoxication would not relieve the
15 intoxicated person from responsibility.

16 Now finally, close to finally, the judge
17 is going to instruct you on self-defense. Now
18 self-defense -- I pause here -- because as the
19 State, when we prepare a case we try to anticipate
20 what any defense may be. You know, sometimes it's
21 that a person didn't do it so identity is an issue.
22 Or maybe it's -- I don't know -- alibi which is what
23 initially was the defense in this case when he gave
24 the statement to Investigator Unger. I wasn't
25 there, I was somewhere else, that's alibi. But

1 today we heard about self-defense. Now self-defense
2 isn't just some thought of, oh, I was acting in
3 self-defense.

4 Our law is very particular in its
5 definition. And our law as defined as self-defense
6 or a person in acting self-defense, the only way he
7 can be acting in self-defense is if he was without
8 fault in bringing on the difficulty and he actually
9 believed that he was in imminent danger of losing
10 his life or sustaining seriously, serious bodily
11 injury, or that he was in danger and that a
12 reasonable prudent man of ordinary firmness and
13 courage would have entertained the same belief and
14 that duty to retreat; that he had no other probable
15 means of avoiding the danger.

16 Now he's raised this defense but the
17 burden of proof is still on the State, and we must
18 prove to you this beyond a reasonable doubt. Here,
19 and I note the ands, each of these prongs must be
20 met in order to claim self-defense, in order to
21 relieve the defendant for shooting Dashawn Jones and
22 shooting Jonathan Frazier. Well, he fails on every
23 prong. First, he was without fault in bringing on
24 the difficulty. He brought the gun. He's the
25 seller of the drugs. Jonathan Frazier, unarmed;

1 Dashawn Jones unarmed. And in a little bit we're
2 gonna get to credibility because you do have the
3 defendant's version of events. He was not acting
4 without fault and, and, he actually believed that he
5 was in imminent danger of losing his life or
6 sustaining serious bodily injury. Well, I submit
7 from the State's case, he didn't believe he was in
8 danger; he had the gun. He carries it with him
9 often, always. The recording studio. He had it
10 that day when he went to Tim's house, whoever Tim
11 may be, when he got the weed. And when he was in
12 the car picking up with Dashawn and Jonathan as they
13 picked up his girlfriend. He was never in danger.
14 And as you heard Jonathan testify, everything was
15 fine, everything was good. And that a reasonably
16 prudent man of ordinary firmness and courage would
17 have entertained the same belief. This is
18 essentially just a reasonable person. Would a
19 reasonable person have been in fear of their life.
20 In the State's case, absolutely not, and we'll get
21 to the defendant's case, and that he had no other
22 probable means of avoiding the danger. Here's that
23 duty to retreat. And I submit even by his own
24 account, he could have left; he should have left.
25 But you heard Jonathan Frazier testify. There was

1 one person that had that gun that day, and that is
2 the defendant. He is the only person who had a gun
3 that day. He's the one who fired all the shots. He
4 was calling out the shots, directing them. And oh,
5 even after that first round of shots when he could
6 have easily ran away, now he's in his hometown, this
7 is his town. His family's around nearby. His dad's
8 only a few miles away. His friends live there. But
9 rather than leave or call for help, he reloads his
10 gun. And this is a revolver; it takes effort. It's
11 a process. No, members of the jury, there is no
12 self-defense in this case.

13 Credibility of witnesses, and this is key.
14 Credibility as the judge will instruct you is
15 essentially believability. And I told you in
16 opening that there were several things we wanted you
17 to consider, and that's still true. The demeanor of
18 the witness on the stand. And you look back. This
19 is where defense counsel and I get agree. We want
20 you to pay attention to the case. Go back to the
21 testimony, remember these witnesses who took the
22 stand. What was their demeanor? Was that witness
23 hesitant or forthright when testifying? Was the
24 testimony of that witness consistent? Was the
25 testimony of that witness corroborated? Did that

1 witness have any reason to be biased or prejudiced
2 in this case?

3 Now the defendant has the right not to put
4 up a case; but when he does, when he chooses to take
5 that stand and put up witnesses and put up evidence,
6 you judge his evidence by the same standards that
7 you would the State. I beg you, I implore you, was
8 the testimony of that witness consistent? I submit
9 the defendant's was not. But look back to Jonathan
10 Frazier, look back to Monica Howell, look back to
11 the investigators in this case. Was the testimony
12 of the witness corroborated? Again, look at
13 Jonathan Frazier's testimony, look at it carefully,
14 because you don't have to just believe him, although
15 I submit that would be enough. You can believe the
16 forensic evidence. I submit you even look at the
17 defendant's own statement, his credibility. But
18 Jonathan Frazier is corroborated. The phone records
19 in this case, look at it. And also look at the
20 defendant, is his testimony corroborated did he
21 have any reason, does he have any reason to be
22 biased or prejudiced in this case? Absolutely.

23 And when you're assessing credibility of
24 witnesses, consider the defendant's story. It's not
25 only improbable but it's impossible. Circumstances

1 of ending up on Prioleau Road, consider those. The
2 description of the shooting, and pay close attention
3 here. Pay very close attention here, and my
4 cocounsel is gonna talk to take you more about that.
5 Leaving the scene. Even from the time he exits
6 Prioleau Road to the time he's apprehended, every
7 step of the way, pay attention to what he said.
8 Does it make sense? Never really fleeing from
9 police, just watching them search but doesn't know
10 they're looking for him. Really? Ask yourselves
11 these questions. Yes, pay attention to the
12 testimony in this case.

13 And I ask that you find the defendant
14 guilty because when you apply the law to the facts
15 in this case I submit the verdict will be clear,
16 what happened will be clear. And I say facts, I
17 mean credible, believable testimony and facts in
18 this case. No man is above the law. No man is
19 below it. And we ask no man's permission when we
20 require them to obey it. This was not self-defense.
21 It was cold blooded murder. Thank you.

22 THE COURT: Thank you. Thank you very
23 much, Solicitor.

24 Mr. Sutherland.

25 MR. SUTHERLAND: Ladies and gentlemen,

1 rather than be scribbling up on the board there,
2 some of these things are actually what I was gonna
3 to talk to you about. Okay, you may have noticed --
4 and first before I start launching this, I do agree
5 with the Solicitor about thanking people for being
6 here. We've all been here. I imagine there's a
7 degree of, you know, being tired and paying
8 attention and everything, but we all got kids
9 they're where are we at, what are you doing. I
10 agree with the Churchill quote from the beginning
11 where the Solicitor talked about, you know,
12 greatest service that an individual in offering
13 peacetime in society to serve on a jury, I agree
14 with that. You know, I was an army guy before but
15 it really is important. It's, you know, the
16 context, we live our daily lives, we have certain
17 freedoms, you know, we sort of go about, we don't
18 really think about it. You know, we don't think
19 about our people overseas. We don't think about the
20 constitution. We don't think about the protections
21 that we all have until those protections are engaged
22 generally right in front of us. Maybe, each -- we
23 don't know each other very well because of limited
24 voir dire. Maybe everybody reads, you know, this
25 sort of publication or that or has particular

1 interest put this is really where the rubber meets
2 the road as far as the constitution is concerned. I
3 cant appreciate it enough, and I will as you may
4 have noticed I tend to cut right to the point so I
5 will not sit up here all afternoon. There are just
6 a few things I have to go through. Obviously there
7 are things I'd like to point out. And it's been my
8 hope throughout this process that by not belaboring
9 everything and going over every little thing, that
10 it actually draws closer attention to the particular
11 things that — that I'm concerned about that I
12 believe are relevant facts with respect to the case.

13 I just don't believe in the scatter shot approach
14 where, you know, what are you talking about, what
15 have you been up here talking about, you know, just
16 a certain number of things. And this is a pretty
17 one to get to obviously.

18 Let's see, self-defense which I would have
19 write it up there, and I appreciate them letting me
20 use their material. You do have to be without fault
21 in bringing on the difficulty. Now the State
22 apparently believes that someone who's sitting in
23 the back of an SUV, whether there's dope, whether
24 there's guns, whether there's money, whether there's
25 drugs afoot, you know, whether people are selling

1 weed to one another, or at least people are saying
2 they want to purchase some weed, that somehow, you
3 know, they're at fault in these circumstances that
4 pop up. That's just not the case. His testimony is
5 pretty clear; Mr. Frazier's testimony is pretty
6 clear. You got to decide, you know, which do you
7 believe, which is more credible. Just keep in mind
8 in making that comparison that the government spent
9 this entire week trying to convince you that his
10 testimony is credible so please give Mr. Singleton
11 his due. All he can do is just get up there and
12 tell the parties what he knows and tell the truth as
13 he knows it. He's not at fault in bringing on the
14 difficulty. His testimony, his testimony was that
15 they wanted some weed. They met earlier around a
16 card game or whatever, just a studio and this is
17 where people hang out and they smoke weed. Most
18 people don't, but this is just what these young
19 people do. And somehow in their conversation with
20 one another this weed deal comes up; and when they
21 take off in pursuit of this thing, ultimately when
22 it reaches its fruition, there's another fellow
23 that's supposed to go out and meet at the end of
24 the road. The Solicitor's tab over there says, you
25 know, not just improbable but impossible. Well,

1 what's impossible about it? If you're think about
2 the distinctions between the stories they're pretty
3 much -- they're very similar except with respect to
4 what took place out there.

5 Now, Mr. Frazier had testified that there
6 was no weed. Beg the Court's indulgence.

7 Now because, well, there's more in there.
8 Because the government didn't lay the proper
9 foundation for this, it's green plant like material
10 for the purposes of this trial. It looks -- you may
11 want to believe that it's weed; it's up to you. But
12 this, you know, just didn't appear out of thin air.
13 If there was no weed, then what is this and where
14 did it come from? And it's the evidence in the case
15 that everyone has to consider as far as where this
16 came from. The evidence in the case is they asked
17 him to get it; he went and got it. They called and
18 asked for some more, he got some more. Guess what?
19 Here it is. That's called corroboration. That's in
20 addition to what they were saying about the
21 pathologist and, you know, you got to pay attention
22 to what comes up with the pathologist. I want to
23 talk about that a little bit. But this is
24 corroboration that he is telling the truth, and he
25 doesn't have, you know, 50 government agents up hear

1 trying to get you to believe him. He just has
2 himself; he's an American citizen. That's just the
3 way it is.

4 He actually believed he was in imminent
5 danger of -- and this is pretty close but the judge
6 will instruct everybody on the law but this is just
7 about -- it's close enough. Actually believed he
8 was in imminent danger of losing life or sustaining
9 serious bodily injury. You know, the difference is
10 that belief or actually was. You know, either
11 someone is in the danger or they believe that
12 they're in the danger. Well, his testimony was
13 candid on this point: He said he'd seen a gun
14 earlier in the day, but he said he had not seen a
15 gun when he was in the vehicle and they were trying
16 to man handle him. He admitted, I had not seen the
17 gun in the car; I believed it was there. That would
18 go for the belief. And then there's actual imminent
19 danger where he said I saw a firearm. So there --
20 really there's a division here, and he actually
21 meets both sides of that division for self-defense
22 because at one point he couldn't be certain but he
23 believed it and at another point he saw a firearm.
24 That a reasonable prudent man of ordinary firmness
25 and courage -- it might be an older case. But a

1 reasonable person would have entertained the same
2 belief. Is it reasonable -- sometimes it just comes
3 down to plain English questions. Is it reasonable
4 to believe with 257-pounds, now I've lost a
5 considerable amount of weight during this trial, but
6 I was up around that area. You know, a big old
7 fella has a hold of you and his buddy has a hold of
8 you also. You believe there's a firearm under the
9 seat because you saw it earlier in the day at this
10 place where people are playing cards and smoking
11 weed and all that stuff. So is it reasonable under
12 those circumstances when you're being man handled,
13 his testimony was, you know, about that he was being
14 roughed around basically grabbed. I believe he did
15 testify about some punches or something. And the
16 Solicitor may come up and say, well, you know,
17 nobody said anything about any injuries. Well,
18 nobody said anything about tazer holes in his back
19 either. I asked several officers so it's not in
20 evidence. You know, maybe there were, maybe there
21 weren't. Lawyers questions aren't evidence, but I
22 did try to elicit that information. They do have
23 his medical records. They did not submit the
24 medical records. I'll leave it at that.

25 No other probable means of avoiding the

1 danger. This, I think, the Solicitor says he has a
2 duty to retreat; he has a duty to run away. The
3 circumstances are they're sitting there. He did
4 testify that he — that things were getting a little
5 bit weird, but he did not testify that they had
6 directly threatened him or had touched him in any
7 way until King Breeze turns around and says, what
8 have you got. He says, what do you mean, this is
9 everything that you asked for. He says, what else
10 do you got for me? What do you mean and then he is
11 seized. It is at that point, that point when he's
12 under the control of the driver. He's effectively
13 under control of Crash who was aiding and abetting
14 the driver in this assault on him. How could he
15 avoid the danger? How could he fulfill this duty to
16 retreat that they speak about? Well, he did testify
17 that he was pushing back and pushing back in the
18 vehicle and it sounded to me like he was almost
19 climbing with his hindquarters or something getting
20 up as far as he could to get back away from these
21 two men to get control of the situation. And it
22 happened very suddenly and it's an emergency for
23 him. They make fun of him for saying this is what
24 happened. All he could do is sit here and tell you
25 that this happened. You can look at, look through

1 the evidence in this case. I mean, the weed isn't
2 the only example over there. You all heard the
3 testimony. You all heard the individual witnesses.
4 You all are gonna make the decision. I can't make
5 it for you, and I don't even wish that I could
6 honestly, just because of the way that this country
7 is supposed to operate. But that is self-defense;
8 and frankly, I don't think they have a leg to stand
9 on in trying to knock out any of these prongs. And
10 the they're all in hands and then they're all, at
11 least to me -- you all have to decide -- they're all
12 clearly met.

13 Now I may, I may, actually have to write
14 some stuff up there. Well, okay. Their witness
15 credibility poster here, okay, what was the demeanor
16 of the witnesses on the stand? I told you earlier
17 on, I asserted it, I believe it's completely up to
18 you, every government agent who testifies in these
19 cases with a few exceptions is here for one
20 particular purpose, that is just me arguing to you
21 about their basis and, you know, their credibility.
22 Well, his demeanor on the stand to me, this is the
23 first time, you know, he's been in here all week
24 right in front of you butt his is the first time
25 y'all have been able to listen to him and to hear,

1 in my sincere belief, what actually happened but
2 what they would call his version of events that
3 they're continually making fun of and I imagine
4 they're gonna continue doing that. But I mean, how
5 did he seem? He was answering questions. I was
6 interrupting him, saying let me take you back, make
7 sure everybody hears, you know, this particular part
8 and that particular part. That's a judgment that
9 you have to make. Was he forthright or hesitant? I
10 didn't sense any hesitation. That's your call;
11 that's your decision to make. Was it consistent
12 now, the Solicitor has a point because he said
13 initially, I wasn't there, and they probably will
14 continue to go to great lengths to belabor this
15 point. He did say, I wasn't there, you know, I was
16 at my girlfriend's house and I went to some club
17 later, I wasn't anywhere near there. And then he
18 says, there's no defense law, no self-defense law in
19 South Carolina. This is their evidence. They're
20 gonna make a big deal about how the warrants come
21 out on the 25th and he didn't get arrested until the
22 26th. Mat Ellis said that's very common. I mean, I
23 should have followed up; but I imagine warrants can
24 sit out there for days, weeks, months, even years in
25 some cases. But was it consistent with that first

1 statement? No. He gets on the stand and he says,
2 this is why I did not tell him the trust initially.
3 Now is that corroborated by anything? Despite the
4 fact that admittedly Investigator Unger said he
5 didn't believe him for a second, that that was a
6 false statement. Well, it actually is. Something
7 that he told investigator Unger the same day, the
8 very same day. As soon as this business, well, you
9 know it was your dad's house moving, and I wasn't
10 trying to say that Investigator Unger was coercing
11 him or anything. Police officers got a job to do,
12 and they know how to it. You're lieing to me
13 because next, facts out there frankly that's how
14 they get the job done. I'm not saying that he was
15 trying to coerce him. I where I do have a little
16 bit of difficulty is where we brought up that issue
17 of self-defense. People have a right to remain
18 silent in this country and the government can't make
19 us stop, it's not Pakistan or any place that.
20 People have a right to remain silent. He wasn't
21 remaining silent. He was saying there's no
22 self-defense law in South Carolina. And there's
23 just no followup after a continuing, you know,
24 series of questions about whether you're lieing
25 because of X, you're lieing because of Y, you're

1 lieing because of Z. Well, there's not self-defense
2 law in South Carolina and that's the end of it.
3 Well, it seems to me, and hopefully you all might
4 consider whether this is a, something that may been
5 something to follow up on when he was interviewing
6 him. You all heard his testimony, and it's just a
7 decision that you're gonna have to make.

8 Did he have a reason to be biased or
9 prejudiced? Well, I suppose they could say that
10 because they're saying he's a murderer and he's
11 saying, no, I'm not. So you know, depending on what
12 you believe the truth is -- and everyone is
13 self-interested by the way -- it's not, it's just I
14 don't know any other way to say it except that he
15 just got up there and told the truth the best he
16 could. They go and say, well didn't you tell your
17 mom on the phone you didn't do it? He said, I knew
18 I was being recorded. And aside from that I was
19 thinking to myself, you know, maybe it's not
20 something you want to talk to your mom about on the
21 phone from jail being recorded; I don't know. They
22 didn't introduce any telephone calls into evidence
23 so those are lawyers words. When I was
24 cross-examining Mr. Frazier about his prior story
25 that didn't match about following down the dirt road

1 and him getting out, and you know, confronting them
2 with the firearm, that — I followed up with
3 Investigator David Goff who said actually, yes. He
4 said these very things. He said no, I did not say
5 that. So you know, there's a contradiction right
6 there. Solicitor likes to make a point, well,
7 because he's because he scared, you know, he liked
8 about the weed or X, Y, Z. I mean, that's all well
9 and good. You know, this wasn't really — these
10 weren't misstatements about the weed; these were
11 misstatements about the material facts of the case.
12 His credibility is put into evidence by that; and
13 frankly, Mr. Singleton's credibility is put into
14 issue by his original statement. How do, does each
15 person in your mind best mitigate that initial
16 silencing. Ms. Simpson gave you a reason; he said
17 he was afraid, no self-defense. Mr. Frazier didn't
18 give you any reason; he denied it outright. His
19 contradiction is supported by Investigator Goff and
20 decide the credibility between those two witnesses
21 that and among other things that you heard. They'll
22 come up and speak about the pathologist. And when
23 they were examining the pathologist I remember
24 them — you know, whenever the government starts to
25 say something is consistent with something else,

1 consistent with means watch out, okay. I've got
2 keys in my pocket here. That's consistent with
3 driving a truck. It's consistent with driving a
4 car. It's consistent with driving a motorcycle.
5 It's consistent with driving a boat. It's
6 consistent with driving a RV. I happen to have a
7 Dodge Ram, but it's consistent with all of those
8 other things. Whenever anyone says something is
9 consistent with something you can bet that it's also
10 inconsistent at the same time. The reason for the
11 consistent language is, because to fit the theory of
12 their case some of the injuries could not have
13 occurred the way that in accordance with the
14 pathologist's testimony. Their testimony, the only
15 testimony they have in this case is a f firearm was
16 discharged in this case. It was discharged from the
17 passenger side of the vehicle into the vehicle.
18 That's their only evidence. That's their only
19 testimony about a firearm being discharged in this
20 case. You will be able to look at the SUV C and see
21 the position of everything. Frankly if there's a
22 front back wound here. Doctor Durso talked about
23 it. It's front to back. It's not side to side;
24 it's not up or down. It came from this direction.
25 It hit the top of the wound and became what's

1 called, the wound became atypical because it's
2 misshapen because originally when a bullet injures,
3 well any substance, it just keeps moving until it's
4 stopped. And there it was stopped by the clavicle.
5 There was other testimony about an atypical wound
6 down here above the waist line talking about that,
7 and I am gonna have to speak about things that are
8 uncomfortable. If there was a shot, you'd have
9 pictures of this. You'd have a doctor's diagram to
10 this injury of the forehead. And other people say,
11 you know, well, there's one angle or another angle
12 or twisting that's to explain the trajectory of the
13 back wounds was. It was consistent with someone
14 twisting away in terror or twisting away cowering,
15 you know, something to that effect. You have
16 experts sometimes come across a little bit
17 uncomfortable with this. Well, sure it's consistent
18 with that but they're trying to mold the actual
19 physical facts of forensic evidence in this case
20 that their theory of all these projectiles being
21 fired from here instead of being fired from inside
22 the vehicle which is where Mr. Singleton says they
23 were fired from. There was something else that was
24 consistent. Gunshot residue, the guy from Texas
25 A&M, Robins, he testified about gunshot residue. He

1 said if barium, lead, and antimony are on your hands
2 you have gunshot residue on your hands. That
3 combination of those three metals, you don't get
4 anywhere else. I think he said maybe fishing
5 weights and several others, and you have gunshot
6 residue on your hands. He also testified you have
7 to, you know -- trust your recollection on this over
8 anything that I would say -- that if you have
9 gunshot residue on the front palm, if you have
10 gunshot residue on the back you have discharged a
11 firearm. That's the testimony I recall. Just
12 recall as best you can. That's what he said on the
13 stand. At that point the Solicitor Says, well,
14 also isn't that consistent with someone, you know,
15 being in a car and maybe with their hands up or
16 something to that effect, and a firearm being
17 discharged very close to them. Well, what he said
18 was, sure but the gunshot residue would be on the
19 front. That was his testimony in that regard. I
20 mean, you all can review the record, you know, to
21 whatever degree you want. Review all the record or
22 anything you want. You can look at this green plant
23 material; you can smell it, it's sticky. I'm not
24 saying that type of thing but y'all have access to
25 all the evidence and just use your best judgment.

1 Never, never, let the government substitute their
2 judgment for yours on matters. Their judgment,
3 frankly, doesn't matter anymore. This is a
4 constitutional matter. You're here to scrutinize
5 their evidence, their accusation of murder on the
6 most great offenses in the history of mankind.
7 They're making it. They got to prove it beyond a
8 reasonable doubt, and they have to disprove this
9 self-defense beyond a reasonable doubt. They've got
10 a very high burden; there's good reason for that.
11 When anyone's liberty is impacted by an injustice,
12 it affects everyone, all of us. It may not be
13 today; it may not be tomorrow. He was innocent
14 then, he didn't kill anybody, he acted in
15 self-defense. And I'm gonna leave it there. Thank
16 you for your time. Thank you for your consideration
17 and just do your best, please do your best. Thank
18 you.

19 THE COURT: Thank you, Mr. Sutherland.

20 MR. SUTHERLAND: Thank you, sir.

21 THE COURT: All right, Solicitor.

22 MS. CAVANAUGH: May it please the Court.

23 Make no mistake about it, ladies and
24 gentlemen, on January 24, 25 and 26th Richland
25 County Sheriff's Department were looking for an

1 armed and dangerous individual. Yes, they did bring
2 out every research they possibly could in this case
3 to look for this defendant because this defendant
4 had just shot Dashawn Jones execution style bullet
5 to the forehead 6 to 18 inches away, downward
6 trajectory, shot him dead and left him in that car
7 for dead along with five, at least five additional
8 gunshot wounds. And he left Jonathan Frazier in
9 that passenger seat to die with three gunshot
10 wounds, one to the neck that could have killed him
11 and that I submit the defendant thought killed him.

12 Make no mistake about it, this was indeed
13 a coldblooded murder. Dashawn Jones never even had
14 the chance to give the defendant his couple of
15 hundred dollars before he was shot dead. After he
16 suffered numerous gunshot wounds he tried to give it
17 to him; and he did give it to him, but that wasn't
18 enough. The defendant walked around to the front of
19 the car, the driver's side of the car, unloaded his
20 revolver, loaded it back up, and make sure he
21 finished the job. Made sure that he shot Dashawn
22 Jones in forehead so that he would die. Jonathan
23 Frazier wakes up. He's laying, as he stated, over
24 the console. And the forensic evidence will over
25 this, over the console wakes up to see the defendant

1 on the driver's side.. He's unconscious. He did not
2 see that last shot to his friend Dashawn Jones. He
3 knows what's about to happen to him. He knows his
4 best friend is dead in that front seat, and he knows
5 he doesn't have a chance. The defendant is
6 reloading his gun right before his eyes. He does
7 get up; he's already been shot. He's weak. He goes
8 around the front of that car, tries to get that gun
9 from the defendant, but the defendant is the only
10 one with a weapon in this case. He's got it; he
11 pushes him back around the front, pushing him back
12 into that car with that gun. He says give me the
13 keys, give me your phone, I've got to get out of
14 here, I got to get out of here. Jonathan knows if
15 he reaches for that, his keys, he's gone. He's got
16 to turn his keys; he's gone. So he doesn't. The
17 defendant fires another time, another two times, his
18 hand goes up, he shakes, and he falls back. The
19 defendant thinks that Jonathan Frazier is dead; he
20 flees the scene. And he drops that glove along with
21 those cartridges cases on his way to the woods.

22 Now you would think someone who is able to
23 evade the police for two days and who is able to
24 hide his firearm from the Richland County Sheriff's
25 Department who's been searching all over for him

1 would not be careless enough to leave that glove
2 behind; However, I submit he realized that he left
3 this glove behind and came back to get that glove
4 and that's when he noticed Jonathan Frazier was no
5 longer in that car. He might have even seen
6 Jonathan Frazier down Prioleau Road at this time.
7 He's going after him to finish the job, but he
8 doesn't get him in time. He knows that the police
9 are on the way. He has just fired nine shots;
10 someone has heard those shots. So he has to leave
11 the glove behind and he runs in the direction that
12 he knows to go because he's from Hopkins, has
13 friends there, he has family there. But he also
14 knows he has some time because he knows that he
15 doesn't really know Jonathan very well. He only
16 knows, he knows Jonathan only knows him by his first
17 name. And I submit he might think Jonathan is not
18 going to make it because he knows he shot him to the
19 neck, thought he was dead in that car. So he goes
20 to his dad's house and then he realizes the next day
21 when he realizes the next day when everything's been
22 released to the news and police is surrounding his
23 house, that they've got him. So once again he runs.
24 And he gets someone, Randal Dandy to take him to the
25 hotel or motel, wants to stay there for two days,

1 again, to hide from the police, even having Randal
2 Dandy put that room in his name.

3 The defense in his opening stated
4 something that, that's -- this is the American --
5 this is the government trying to go after this
6 America citizen. That is, that is true; however,
7 this particular citizen has just shot Dashawn Jones
8 execution style in the middle of the afternoon on a
9 Tuesday when school children are getting ready to
10 come home from school, the middle of the afternoon
11 broad daylight. This particular citizen has left
12 Jonathan Frazier in that passenger car to die. And
13 this particular citizen actually tried to come back
14 multiple times, the State submits, to make sure that
15 he finishes the job but he was unsuccessful. And I
16 apologize if myself or either of my cocounsel have
17 offended you or irritated you in any way throughout
18 this trial. Yes, we had to piece evidence after
19 evidence after evidence, witness after witness after
20 witness, because this government system thank,
21 goodness, has to prove this defendant guilty beyond
22 a reasonable doubt. We have to prove each element
23 of this offense to you beyond a reasonable doubt.
24 And this is the perfect example of why as
25 Investigator Unger said, the investigation does not

1 end at arrest.

2 We have no idea what the defendant is
3 going to say when he takes the stand at trial. He
4 can say anything he wants. And we to have prepare
5 for that so that is exactly why we get evidence,
6 piece of evidence after evidence in front of you,
7 because we don't know which one will actually prove
8 to be necessary for our case and thank goodness
9 because as I'll get to in just a minute, there is
10 all of the forensic evidence in this case
11 corroborates every single thing that Jonathan
12 Frazier said and absolutely none of it corroborates
13 the defendant.

14 Now the first element other than the
15 unlawful killing which I'll get to in a minute, the
16 first element is murder and attempted murder that we
17 have to prove to you is malice. And malice is
18 hatred, ill will, or hostility towards another
19 person. It is the intentional doing of a wrongful
20 act without just cause or excuse and with intent to
21 inflict an injury or under circumstances that the
22 law will infer an evil intent. Expressed malice is
23 shown when a person speaks words which express
24 hatred or ill will for another or when the person
25 prepared beforehand to do the act. Malice may be

1 inferred from conduct showing a total disregard for
2 human life. And as my cocounsel said we have malice
3 all over this case, ladies and gentlemen.

4 As it relates to the victim Dashawn Jones
5 who's not here to speak for himself, gunshot wound
6 to the forehead, 6 to 18 inches away, eight total
7 gunshot wounds, six projectiles recovered.

8 Trajectories, all of them that she could determine
9 were downwards consistent with twisting away. Other
10 side of the car, gunshot to the back, twisting away.

11 Ladies and gentlemen, use your common sense. If
12 someone is shooting from the passenger side of the
13 car outside, the person is going to twist away to
14 protect themselves. One of the shots went through
15 the arm. Again, as Doctor Durso said, consistent
16 with protecting oneself.

17 As relates to Jonathan, Dashawn is already
18 dead. He's reloading the gun on the other side of
19 the car. He's pushing him back into the car with
20 the gun. Give me the keys. Jonathan says, look
21 what you did to my cousin, look what you did. He
22 reloads, gets those projectiles in the gun and he
23 was having a hard time doing, there you go. Give me
24 your phone, I've got to get away. More shots. The
25 State submits he comes back to finish the job when

1 he realizes that Jonathan Frazier is still alive.
2 That's why he was seen running down Prioleau Road
3 right beside Monica's house in the opposite
4 direction. Gunshot wound to the neck without an
5 airway only able to survive five minutes. As Monica
6 Howell told you, there was a lot of blood, a trail
7 of blood leading up to her driveway.

8 We use this term aforethought, malice
9 aforethought. What does that mean and how is it
10 shown in this case? Brings gun, 357 revolver, seven
11 total chambers potentially six to seven chambers;
12 and he has, we know, at least nine shots were fired
13 so multiple pieces of ammunition. He drives around
14 for 30 minutes, finds -- and he's directing; he is
15 directing. Dashawn drives around for 30 minutes and
16 just happens to direct them to this remote area
17 which is surrounded by woods. Malice aforethought,
18 opportunity to get away. 2:30 in the afternoon,
19 doesn't even bother to ask Dashawn for the money
20 before he shoots him, just starts shooting. And
21 again, after he gets the money, doesn't even stop
22 there, reloads to finish the job. Again, malice
23 wreaks all over the case. You have the 9-1-1 tape,
24 you will be able to listen to that.

25 Monica Howell calls at 2:31. You can

1 listen to her recording. She's calling the police.
2 9-1-1 because Jonathan Frazier has left a extreme
3 amount of blood; he is dieing before her eyes. She
4 sees Jabriel running down Prioleau Road. You have
5 the phone records. You can see Jabriel Singleton's
6 phone records. His phone calls, the one that are
7 seven right in a row, they don't start until 2:30.
8 I submit that is after he sees that Jonathan Frazier
9 is still alive. He doesn't start those frantic
10 phone calls until after he realizes he's in trouble,
11 Jonathan Frazier is alive. The only living witness
12 who sees what happened is still alive; that's when
13 he starts to panic. Defendant's phone records,
14 2:30, 2:31, 2:31 2:33, 2:34, 2:35, 2:36, 2:48, none
15 are this consistent before he sees that Jonathan
16 Frazier is alive. We know that because Monica
17 called 9-1-1 at 2:31. That is on the 9-1-1 CD.
18 None after, at least none this frantic, outgoing
19 after 2:48 because somehow he's gotten away. He
20 doesn't start panicking until he realizes that he
21 didn't finish the job.

22 Ms. Simpson spoke about credibility of the
23 witnesses and Mr. Sutherland as well. I'm fixing to
24 go over those again. Demeanor of the witness on the
25 stand, was the witness forthright or hesitant, was

1 the testimony of the witness consistent, was
2 testimony of the witness corroborated, did witness
3 have reason to be biased or prejudiced. And I'm
4 gonna focus on these last three. Consistent,
5 Jonathan Frazier was consistent. And the evidence
6 in the case which I'm about to go through -- and
7 don't worry, not all of those -- I picked out the
8 ones that are extremely relevant to this case. The
9 evidence in this case corroborates every single
10 thing that Jonathan Frazier says. Did the witness
11 have reason to be biased or prejudiced. Why in the
12 world is Jonathan Frazier still maintaining what
13 happened on January 24th, 2012. He has no reason
14 to. The defendant has every single reason in the
15 world to. And I realize that you're not gonna be
16 able to read this. This helps me go through
17 Jonathan Frazier's statement because this is key.
18 He always maintains that Dashawn is the one who
19 wants to buy the marijuana; and as you can see from
20 the phone records, that is consistent with the
21 testimony because Dashawn is one what's making the
22 phone calls to the defendant or Jabriel to Dashawn.
23 And remember, Dashawn is -- and Dashawn is also
24 waiting for the defendant at the girlfriend's house
25 for 30 minutes. So he is sitting there waiting, of

1 course he's gonna call the defendant over and over
2 again. He's at his girlfriend's house waiting for
3 him to show up.

4 And you'll have the phone records. You'll
5 see where within that 30 minute time frame that
6 Jonathan -- and remember this about Jonathan
7 Frazier, this is key, Jonathan Frazier spends two
8 weeks in the hospital. He has no idea what is going
9 on with the forensic testing of evidence. He's in a
10 trauma unit; he's in critical condition.

11 Investigator Unger is not coming to him and giving
12 him updates on the case. Investigator Unger is
13 going to him to get his -- to get what details of
14 what happened that day so he can investigate the
15 case. But Jonathan Frazier is not aware of the DNA
16 testing. Jonathan Frazier is not aware of the GSR
17 testing. Jonathan Frazier is not aware of the
18 latent print testing. He has no idea what's going
19 on; he's in the hospital.

20 Jabriel was sitting in the back behind me.
21 When he got out the car I heard him say, I want --
22 you want to shoot my gun. Okay, let's look at the
23 windows of the car. Again, corroboration,
24 credibility. The back window, down, consistent with
25 Jabriel sitting behind him. The other window is not

1 open, and you'll have an angle of that. The other
2 back passenger window is not open. I was sitting
3 in -- Jonathan Frazier sitting in the front, window
4 half way down. I heard Jabriel say, you want to
5 shoot my gun. The window is down; of course, he
6 heard that. Corroboration.

7 Told me it was a 357 revolver up to 7--
8 the forensic evidence according to the firearms
9 analyst can -- a 335 revolver can hold up to seven
10 chambers. We know at least there was at least nine
11 fired bullets. According to David Collins, firearm
12 analyst, all fired projectiles are from that same
13 weapon. All fired cartridge cases came from the
14 same weapon. The unfired cartridge found at the
15 scene can load a 357 revolver. Again,
16 corroboration.

17 Woke up -- I woke up to see Jabriel
18 reloading, what appeared to be reloading on the
19 driver's side of the vehicle. Five fired cartridge
20 casings on the driver's side of the vehicle. Close
21 range gunshot wound, only one left to right.
22 Remember, Jonathan Frazier was passed out for a
23 period of time. He said he woke up to find himself
24 laying over the center console. At that point he
25 saw the defendant on that side of the car. That

1 could have been when the defendant fired that last
2 shot to take care of Dashawn. Jonathan Frazier's
3 hat located on Monica's porch, blood around the
4 head. He was never shot in the head. Again,
5 leaning over his friend who has blood all over him,
6 corroboration consistent with the evidence.

7 Jonathan Frazier says Dashawn never got
8 out of the car. Doctor Annie Durso, all of the
9 trajectory patterns that she could determine except
10 for the ones that were consistent with someone
11 twisting away from gunshots front to back, downward
12 trajectories, standing up shooting at someone
13 sitting in the car. And Jonathan Frazier doesn't
14 try to tell what you he did not see. Glove, I saw
15 it in the back by him. He's not trying to say it
16 was on him. He says he saw it in the back. Again,
17 he is shot multiple times. It is a black glove. He
18 is unconscious. He might not have noticed the glove
19 when he's getting ready to die, but he sure did
20 notice it before he was shot. Sure, not that glove
21 proved to be extremely sufficient in the case.
22 Found at the scene defendant's DNA and GSR located
23 on that glove. Again, on the inside of the glove as
24 well. Two weeks in the hospital, no idea what's
25 going on with DNA testing, and just happens to

1 mention that glove?

2 We were waiting -- we went over this. We
3 were waiting for him at the girlfriend's house.
4 Yes, you will have the phone records and the
5 continuous period of phone call for 25 minutes. The
6 phone calls stop around 1 p.m. which is when
7 Mr. Frazier says Jabriel came to his girlfriend's
8 house to meet him. He was on the phone while in the
9 car. Jonathan says Jabriel was on the phone while
10 he was in the car. The phone records will indicate
11 that every couple of minutes after 1 p.m. up until
12 the shooting, there are phone calls being made.

13 Second round of shots. And this is where it gets --
14 I mean, this, pay attention to the evidence. Second
15 round of shots my hand went up (indicating). Not
16 outside the car, okay, not outside the car. Inside
17 the car my hand went up. Well, low and behold --
18 I'm not trying to be smart here. This is the
19 passenger side photo of where Jonathan Frazier was
20 sitting. There is blood marked by T right there.

21 Monica Howell, he was holding a pack of
22 cigarettes to his hand because he had a poor size
23 hole in it. Found on the porch Jonathan Frazier
24 cigarettes, consistent, corroboration. I saw him
25 running down Prioleau Road. This is the view Monica

1 Howell's front porch. I saw him running down
2 Prioleau Road back out towards Masonry Circle.
3 Monica Howell sees this too, corroboration,
4 consistent. He told me give me your phone, I've got
5 to get out of here. No phone was found on the front
6 porch with the rest of the clothes. and again, EMT
7 cut off, took off his clothes and they need treat
8 him as he was laying there dying on the front porch.
9 Clothes all around, no weapon, no phone,
10 corroboration, consistent. I was in the front seat.
11 I crawled out of the car to get help. Police
12 arrived. The front passenger — Deputy Ellis and
13 Investigator Unger testified to this and
14 Investigator Polis. Police arrived, front passenger
15 side door opened. He's crawling for help. He gets
16 on his feet once he realizes he can walk; but again,
17 out the passenger side door. Corroboration ration
18 by other witnesses, consistent.

19 Fibers on the clothes. You remember
20 Investigator Holt testified that he removed several
21 fibers from Dashawn, actual deceased victim Dashawn
22 Jones' upper body, both at the autopsy and at the
23 stand. Jonathan Frazier, Dashawn never got out of
24 the car before the first shots were fired — excuse
25 me, Jonathan Frazier never got out of the car until

1 after the first shots were fired. Holes are in his
2 jacket, royal blue knit jacket. Same color fibers
3 are pulled from Dashawn Jones' upper body. Again,
4 consistent with someone shooting from the passenger
5 side while Jonathan Frazier with the bright blue
6 jacket is sitting in the passenger seat and Dashawn
7 Jones is on the other seat. Fibers lay right on his
8 stomach because of the explosion of the weapon. I
9 won't show you them all; but again, blue jacket,
10 blue fibers located on the deceased victim.

11 And I will briefly go through each of the
12 witnesses that you heard; and once again, the reason
13 we brought in witness after witness after witness is
14 because we have no idea what the defendant is gonna
15 testify to. That is why Investigator Unger said the
16 case does not end at the arrest. All that forensic
17 evidence, all this (indicating) comes into play
18 today. This is a perfect example of why the case
19 does not end after the defendant is arrested.

20 You heard from Deputy Kristen Ellis.
21 Jabriel, Jabriel, that is who shot me and he has
22 never, ever swayed from that. Monica Howell,
23 Jonathan Frazier kept telling me he wasn't gonna
24 hurt me, he wasn't gonna hurt me, he was trying to
25 hide. You'll have the 9-1-1 tape, and I want you to

1 think about this. He -- the defendant's testimony
2 is that Jonathan had the gun after Dashawn was
3 already dead. Jonathan had the gun, and that's why
4 he shot him again. Jonathan suffers a bullet wound
5 to the neck, to the back, and to the hand; but yet,
6 he has a wherewith all to have that weapon that he
7 supposedly had? The defendant never testified he
8 tried to take it away from him so as he's crawling
9 for help, as he's about to die, he has the wherewith
10 with all to hide the weapon? Listen to that 9-1-1
11 tape, remember the testimony from the doctor, and
12 you decide if that is credible.

13 Investigator Kristen Polis five fired
14 cartridge casings by the driver's car, two fired
15 casings by the road right near that glove, the glove
16 that just so happens to have the defendant's DNA and
17 GS -- and gunshot residue on it. It just so happens
18 to be located right by those casings where the
19 defendant fled from the scene which he now today for
20 the first time has an answer for. Investigator Sam
21 Richards and Investigator Anna Cavanagh processed
22 that car with extreme care, conducted gunshot
23 residue testing. And that's interesting that
24 Mr. Sutherland brought up the gunshot residue on the
25 deceased victim's hand who is not here to speak for

1 himself because even according to the defendant's
2 own testimony Dashawn Jones never even held a gun so
3 why does it matter? According to the defendant's
4 testimony why does it even matter that gunshot
5 residue was on Dashawn Jones' hand. According to
6 him he never fired a weapon. That is more
7 consistent with the State's case because as you
8 heard from John Roberts, if someone is firing at a
9 close range into a vehicle that cloud is not gonna
10 be able to leave the car so, yes, he does have
11 gunshot residue on his hand but it's not because he
12 handled a weapon or fired a weapon. It's because he
13 was in the car when he was shot and killed brutally.
14 You heard from Trish Collins they did everything
15 they could to fingerprint. Yes, they found a random
16 palm print from Grover Belton who is 60, almost 60
17 years old. His name never came up in the case
18 again. Of course, that's not unusual when you're
19 talking about the outside of a car, especially
20 someone who lets her boyfriend drive it around any
21 time he wants. It's not unusual, could have been
22 anybody. And you want to know what John Roberts
23 about it too, even according to the defendant's own
24 story it helps our case more than anything. And
25 again, GSR, which apparently now the defendant has a

1 story for, is on this glove, all over it.

2 Doctor Raymond Bynoe testified that
3 Jonathan Frazier had life threatening gunshot
4 wounds. He was in the trauma unit. He spent two
5 weeks in the hospital. Again, think about how that
6 relates to the statement two weeks later. He has no
7 idea what has been going on with the testing; but
8 yet, every single piece of evidence that I just went
9 through corroborates each part of his story.

10 Investigator Collins, all of the cartridge casings
11 fired -- excuse me, oh, and this is actually key.
12 All of the cartridge casings and unfired cartridges
13 can fit in the same weapon. The ones that were
14 fired, same weapon, six projectiles recovered from
15 the victim, one fragment, all fired from the same
16 weapon.

17 MR. SUTHERLAND: Objections, misstatement
18 of the facts and evidence, sir.

19 MS. CAVANAUGH: Excuse me, the cartridge
20 casings fired from the same weapon was not able to
21 compare the two because he was unable to get the
22 firearm, but no other shots were fired that day,
23 only the defendant ---

24 THE COURT: Excuse me, Solicitor, does
25 that resolve that issue, Mr. Sutherland?

1 MR. SUTHERLAND: It does, Your Honor, I
2 withdraw the objection.

3 MS. CAVANAUGH: I apologize.

4 THE COURT: That's all right. Excuse me,
5 Solicitor, for interrupting. You may continue.

6 MS. CAVANAUGH: Sergeant Caldwell and
7 Corporal Hagood with the Sheriff's Department, we
8 saw him standing at the wood line or what we
9 believed to be him. He ran, he dropped the phone
10 behind. We later located him at the motel hiding in
11 the shower behind his girlfriend. Of course today
12 the defendant has a story about that phone.
13 Coincidentally the day after the murder he sees a
14 bunch of investigators, doesn't really concern him
15 that much 'cause he doesn't know they're looking for
16 him. And he just happens to forget his phone as he
17 is -- wait a minute -- walking casually through
18 these woods. Somehow despite the fact that there
19 was about eight or nine investigators out there, if
20 not, more K-9 units tracking him, they could not get
21 him but he was just walking casually through those
22 woods and just coincidentally forgot his phone that
23 day.

24 Again, it's your job to judge the
25 credibility of these witnesses in this case. Now

1 you heard from Investigator David Goff who the
2 Defense bought up a couple of times in his closing.
3 Jonathan Frazier was in critical condition with an
4 oxygen mask on as he's trying to talk to
5 Investigator Goff. Is it actually possible that
6 Investigator misheard or misinterpreted ed what he
7 said? We were following Jabriel. Is it a
8 possibility that they were following his directions?
9 Yes, of course, that is a possibility.

10 You heard from Lieutenant Scott McDonald.
11 He's key in this case. As you heard from
12 Investigator Unger the defendant tried to deny he
13 was even in Hopkins that day. Cell phone was around
14 the incident location at the time of the murder.
15 Cell phone later that night at 9 or 10:00 was
16 nowhere near Club Crush. Concentrated period of
17 phone calls all from Dashawn to Jabriel, except for
18 one, on the run. Seven phone calls made from
19 Jabriel Singleton's phone in six minutes all
20 bouncing on the towers in Hopkins because he
21 realizes that Jonathan Frazier is still alive.

22 Again, another element that we have to
23 prove is that the victim died as a proximate may
24 result of a gunshot wanted wound. There is no
25 mistake about that, ladies and gentlemen. Gunshot

1 wound number one, -- and I want you to think about
2 this very carefully in terms of what the defendant
3 said today. Remember what he said, he started
4 shooting -- this is key. He started shooting as he
5 is falling out of the driver's side rear door.
6 That's when he starts shooting. So how is it that
7 most of these trajectories, right to left, downward
8 position. That makes no sense. Gunshot wound
9 number one, this is the only one that's been left to
10 right. It once again corroborates what Jonathan
11 Frazier said. He passed out, he wakes up, sees the
12 defendant on the other side of the car. It could be
13 that that is when the last shot was fired, left to
14 right. Again, downwards. And this is the one that
15 is the only one where she's able to determine the
16 intermediate range, right above the driver's window,
17 six to eighteen inches away. And you have that
18 photo. You can see the stippling that she talks
19 about. Again, pathology report consistent with
20 Jonathan Frazier's testimony. Definitely not the
21 victim's, I mean, excuse me, definitely not the
22 defendant's. How in the world does Dashawn Frazier
23 [sic] sustain a gunshot wound to his central
24 forehead that goes left to right (indicating) as
25 Jabriel Singleton is shooting from the back in

1 random directions. That makes no sense. Downward
2 trajectory.

3 Gunshot wound number two, indeterminate
4 range, that means more than 18 inches. Again, on
5 the passenger side of the car. Trajectory, right to
6 left, passenger side of the car. And I'm talking
7 about outside of it.

8 Gunshot wound number three, right
9 clavicle, that's the one that she believed -- I
10 believe it was a re-- you heard the testimony, but I
11 believe she thought that was a atypical wound
12 because it was a reentry wound from another, another
13 entry wound. But again, trajectory, front to back.
14 Again, shooting from the back seat firing. How in
15 the world does that go front to back. Gunshot wound
16 number four, right shoulder, chest, abdomen.
17 Indeterminate range, again, more than 18 inches
18 consistent with being on the passenger, outside the
19 passenger car, trajectory right to left, downwards.
20 Gunshot wound number five, right lower arm -- this
21 is I believe what she says. His arm could have been
22 in this direction. Trajectory posterior/anterior
23 which means it was up like this (indicating).
24 Again, indeterminate range more than eighteen inches
25 consistent with shooting from the passenger side of

1 the vehicle, not from the back of the car.

2 Gunshot wound number six, abdomen,
3 indeterminate range, more than eighteen inches,
4 trajectory right to left slightly downwards back the
5 front. Again, consistent with twisting
6 (indicating), passenger side of the vehicle outside
7 of the car more than eighteen inches. Gunshot wound
8 number seven, indeterminate range, more than
9 eighteen inches, right to left, slightly downwards.
10 Again, outside of the car, passenger side. Left
11 upper thigh, more than eighteen inches, slightly
12 right to left, slightly front to back. According to
13 the defendant's own version of the story, how could
14 these gunshot wounds have traveled in this direction
15 according to his own version of events; it is
16 impossible.

17 Let's -- I apologize; it has been a long
18 week. Let's get to his story. All right.
19 Investigator Unger, when he's arrested January 26,
20 2012, his first lie, at girlfriend's house all day,
21 did not leave her house until nine -- excuse me,
22 after Zaxby's and after driving, after the recording
23 studio -- well, he doesn't even mention Zaxby's.
24 I'm sorry, I'm getting this story all confused.
25 After the recording studio he went to the

1 girlfriend's house all day. He did not leave until
2 9 or 10 to go to Club Crush. He does admit that
3 Dashawn Jones wanted to buy marijuana from him. He
4 admits to that at least; but yet, he's not in
5 Hopkins at all that afternoon. He did not shoot
6 Dashawn or Jonathan. Investigator Unger confronts
7 him on that. He says, well, that's not probable
8 because you're making several phone calls throughout
9 the day and your phone is hitting off cell towers in
10 Hopkins. And then he says well, I must have left it
11 at father's house. That's after -- at my father's
12 house. That's after he says he's at his
13 girlfriend's house all day. Again, he's making
14 phone calls. Clearly Breeze called him several
15 times. He admits to that and buying marijuana. But
16 when he's confronted with the fact that his cell
17 phone is hitting in Hopkins because, again, neither
18 of these places are in Hopkins. That's when he
19 says, oh, I left it at my father's house. Fifth
20 lie, anything else -- well, not a lie, anything else
21 you want to add. At that point he says no. No, I
22 don't want to tell you about the self-defense right
23 now. No, I don't want to tell you that I was
24 actually there. No, I don't want to tell you
25 anything else. He had ample opportunity.

1 The next day when Richland County
2 Sheriff's Department has a warrant for his arrest
3 and they're coming to look for him, they see him
4 fleeing through the wood line toward the opposite
5 direction. His phone is left behind right where
6 they saw him, and I submit that is so he — they
7 cannot find him. He knows they are using his phone
8 to locate him. He leaves it behind so that he can
9 continue to run. That afternoon, once he reallies
10 that the police are on to him and they are going to
11 arrest him, he goes to the motel rented by someone
12 else in someone else's name, again evidence
13 of guilt. He's hiding in the shower behind the
14 girlfriend when the police come.

15 Today for the first time we hear that he
16 was actually gambling that morning at the recording
17 studio and won 500 to 700 dollars. When I asked him
18 why he didn't tell Investigator Unger that, he said,
19 or whether he even told Investigator that, he says
20 he doesn't remember. Clearly that would be a key
21 piece of information to tell Investigator Unger
22 during his interview. Today for the first time we
23 hear that Breeze had a gun under his seat earlier
24 that afternoon. Today for the first time we hear
25 that Breeze was the one who was making decisions

1 about where they were going to go, not him. Today
2 for the first time we hear that he thought Breeze
3 was reaching for a gun. Today for the first time we
4 hear that he was firing as he was following out of
5 the car. But see, this is where he messes up,
6 because he cannot keep up with all of his lies.

7 MR. SUTHERLAND: I'm sorry, Judge, I
8 object, facts not in evidence. He didn't say he was
9 firing as he was falling out the car.

10 THE COURT: All right.

11 Ladies and gentlemen, the jury finders,
12 the determination of the facts are in evidence
13 solely for, you the jury, to decide based on your
14 individual and collective memory in that regard.
15 All right, thank you, Mr. Sutherland.

16 MR. SUTHERLAND: Yes, sir.

17 THE COURT: Solicitor, you may continue.

18 MS. CAVANAUGH: You remember what he said.
19 He said he was falling, as he was falling out of the
20 car, as he was getting out of the car that's when he
21 was shooting like crazy. That's the first time we
22 heard it today. And again, this is where he starts
23 to mess up because he cannot keep up with all of the
24 forensic evidence. He can make up lies about the
25 easy stuff. He can make up lies about the black

1 glove. He can make up lies about things that he's
2 able to get around fairly easy, such as, I
3 accidentally left the phone in the back when all the
4 fugitive team was coming to arrest me. But he
5 cannot keep up with the forensic evidence, ladies
6 and gentlemen. I was unloading and reloading as I
7 was falling out of the car. And I want you to look
8 at those photos, and you can see that the five
9 concentrated area of the cartridge casings are
10 actually pretty far away from where the back seat is
11 so I'm not even sure that's even possible to do.
12 But you have the picture, you can see. That is when
13 Crash comes around with the gun, and that's when we
14 shoots him again and then he runs because he was
15 scared. For the first time we hear all of that
16 today.

17 Credibility, he's got an answer for
18 everything, at least he tries to give an answer for
19 everything. I dropped the glove accidentally; but
20 yet, he managed to take the marijuana with him. He
21 dropped the phone in the woods; but yet, he
22 coincidentally left the phone that day when the
23 fugitive team was looking for him with his jacket,
24 but he wasn't running. He cannot keep up with what
25 the evidence actually proves 'cause I submit he's

1 trying to make it up as he goes along and as he
2 hears the evidence in this case. Even then it
3 doesn't work.

4 As Ms. Simpson stated earlier in this
5 case, two witnesses that we did not call are human
6 nature and common sense. Ladies and gentlemen,
7 please don't forget that when you go back to the
8 jury room. Human nature and common sense. Common
9 sense, has an answer for everything. Human nature,
10 has every reason to lie. But I'm also asking you to
11 look beyond your common sense and beyond your human
12 nature because you have the forensic evidence in
13 this case. I just went through every piece of
14 evidence; not every, but the ones that are critical
15 to this case that corroborate Jonathan Frazier's
16 statement and that do not corroborate, actually
17 contradict the defendant's statement.

18 Today is the first day that we ever hear
19 anything about self-defense as far as other than his
20 brief comment to Investigator Unger after he can't
21 continue to make up lies anymore. Today's the first
22 day. But ladies and gentlemen, he is trying to
23 evade his guilt just like he was for two days after
24 this brutal murder. Hold him responsible for his
25 actions that day. Do not let him get away with the

1 lives that he put up with for the first time today.
2 Dashawn Jones is not here to speak for himself;
3 Jonathan Frazier is. I'm asking you to hold Jabriel
4 Singleton responsible for the murder of Dashawn
5 Jones and the attempted murder of Jonathan Frazier.
6 Find the defendant guilty. Do not let him continue
7 to evade justice. Thank you.

8 THE COURT: Thank you. Thank you,
9 Solicitor.

10 Mr. Foreman, ladies and gentlemen of the
11 jury, why don't we take about a 15 minute recess.
12 Leave your notes during this brief recess. Do not
13 discuss this case in any manner. Thank you very
14 much. You may go with your bailiff.

15 (The jury is removed from the courtroom at
16 3:54 p.m.)

17 THE COURT: Court will be recess 15
18 minutes.

19 (Whereupon, there was a break in the
20 proceedings.)

21 THE COURT: Mr. Sutherland, when I review
22 Hendrix ---

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: Hendrix indicates that there's
25 an additional part. It says the rule is that

1 ordinarily one is not justified in shooting or
2 employing a deadly weapon after the additur has been
3 disarmed or disabled. The rule is also that when a
4 person is justified in firing the first shot, he is
5 justified in continuing to shoot until it is
6 apparent that the danger to the life and body has
7 ceased. Both of them citing 40 CFJ homicide section
8 131(b) at 1020 so I'm gonna charge the totality ---

9 MR. SUTHERLAND: Yes, sir. Thank you,
10 Your Honor, and it wasn't intentional.

11 THE COURT: No, no, I didn't take it, I
12 didn't take it as that. It's all in one paragraph
13 and the Court's decision.

14 MR. SUTHERLAND: Yes, sir.

15 THE COURT: So I'm gonna charge that whole
16 paragraph.

17 MR. SUTHERLAND: Thank you, sir.

18 THE COURT: All right, thank you. Bring
19 us our jury please.

20 (The jury was returned to the courtroom at
21 4:09 p.m.)

22 THE BAILIFF: The jury's seated, Your
23 Honor.

24 THE COURT: Thank you. Thank you,
25 Mr. Bailiff.

1 Mr. Foreman, ladies and gentlemen of the
2 jury, it not becomes my responsibility to charge or
3 instruct you on the law that you must apply to the
4 facts in this case. I will advise you at the outset
5 it's wrote, it's routine, it's very important. The
6 procedure I follow in instructing a criminal jury is
7 I charge the general criminal law that applies to
8 all criminal trials in South Carolina. I will
9 usually tell you the subject matter at the beginning
10 of the paragraph, that area I'm fixing to cover.
11 But when I change from one area to another I will
12 give you the subject matter so I follow the general
13 criminal law first. I will then cover the specific
14 charges in two indictments, murder and attempted
15 murder. Thereafter I will charge self-defense.
16 Finally I will charge forms of the verdict. If you
17 will please give me your complete and undivided
18 attention.

19 The charge, arrest, indictment is not
20 evidence. The indictments in this case charge the
21 defendant with murder and attempted murder. I will
22 remind you again that the fact the defendant was
23 arrested, charged, and indicted in this case is not
24 evidence in this case and cannot be considered by
25 you as evidence of guilty; nor does it create any

1 presumption or inference of guilty. These
2 documents. these indictments, are simply the written
3 instruments which contain the charges made against
4 the defendant. They are the formal documents by
5 which this case is brought into court. There are
6 multiple charges.

7 The indictments in this case allege
8 different offenses against the defendant, murder and
9 attempted murder. Each indictment charges a
10 separate and distinct offense. You must decide each
11 indictment separately on the evidence and the law
12 applicable to it uninfluenced by your decision as to
13 the other indictment. The defendant may be
14 convicted or acquitted on any or all of the offenses
15 charged. You'll be asked to write a separate
16 verdict of guilty or not guilty for each indictment.

17 Presumption of innocence. The defendant
18 has pled not guilty to these indictments and that
19 plea puts the burden on the State to the defendant
20 guilty. A person charged with committing a criminal
21 offense in South Carolina is never required to prove
22 himself innocent. I instruct you that it is a
23 important rule of the law that a defendant in a
24 criminal trial, no matter what the seriousness of
25 the charge may be, will always be presumed to be

1 innocent of the crime for which the indictment was
2 issued unless guilt has been proven by evidence
3 satisfying you, the jury, of that guilt beyond a
4 reasonable doubt. This presumption of innocence
5 does not end when you begin your deliberations, but
6 it accompanies the defendant throughout the trial
7 until you reach a verdict of guilt based on the
8 evidence satisfying you of that guilt beyond a
9 reasonable doubt. The presumption of innocence is
10 like a robe of righteousness placed about the
11 shoulders of the defendant which remain with the
12 defendant until it has been stripped from the
13 defendant by evidence satisfying you of the
14 defendant's guilt beyond a reasonable doubt. The
15 presumption of innocence is not a mere legal theory.
16 It is not a just legal phrase. It is a substantial
17 right to which every defendant is entitled unless
18 you, the jury, are satisfied from the evidence of
19 the defendant's guilt beyond a reasonable doubt.

20 What is a reasonable doubt in the law? A
21 reasonable doubt is the kind of doubt that would
22 cause a reasonable person to hesitate to act. The
23 State has the burden of proving the defendant guilty
24 beyond a reasonable doubt. Some of you may have
25 served as jurors in the past in civil cases where

1 you were told that it is only necessary to prove
2 that a fact is more likely true than not true such
3 as by the greater weight or a preponderance of the
4 evidence. In criminal cases the State's proof must
5 be more powerful than that. It must be proof beyond
6 a reasonable doubt. Proof beyond a reasonable doubt
7 is proof that leaves you firmly convinced of the
8 defendant's guilt.

9 There are very few things that we know in
10 this world with absolute certainty and in criminal
11 cases the law does not require proof that overcomes
12 every possible doubt. If based on your
13 consideration of the evidence, you are firmly
14 convinced that the defendant is guilty of the crime
15 or crimes charged, you must find the defendant
16 guilty. If on the other hand you think there is a
17 real probability that the defendant is not guilty,
18 you must give the defendant the benefit of the doubt
19 and find him not guilty.

20 Duties of the jury and trial judge. I
21 remind you that during this trial you and I have
22 certain duties to perform. As the trial judge it is
23 my responsibility to preside over the trial in this
24 case, and I also have the duty to rule on the
25 admissibility of the evidence offered during this

1 trial. You are to consider only the competent
2 evidence before you. You are to consider only the
3 testimony which has been presented from the witness
4 stand and any exhibits which have been made a part
5 of the record. I have the additional duty to
6 instruct you on the law that applies in this case.
7 As the presiding judge I am the sole judge of the
8 law of the case, and it is your duty as jurors to
9 accept and apply the law as I now state it to you.
10 If you already have any idea as to what that the law
11 is or what the law ought to be and it does not agree
12 with what I now tell you the law is, you must
13 abandon your idea because you are sworn. You have
14 taken an oath to accept the law and apply the law
15 exactly as I state it to you.

16 In every case tried in this court before a
17 jury the jury becomes the sole and exclusive judge
18 of the facts in a case. A trial judge cannot
19 intimate, state, comment on, or make any statement
20 to a trial jury about the facts in a case. Since
21 you, the jury, are the sole judge of the facts in
22 this case you are not to infer from what I have said
23 during the progress of this trial in ruling upon the
24 admissibility of evidence, or otherwise, or anything
25 that I say now during the course of this instruction

1 to you that I have any opinion about the facts in
2 this case. The law does not allow me to have an
3 opinion about the facts in this case. That is a
4 matter solely for you, the jury, to determine. As
5 jurors it is your duty to determine the effect, the
6 value, the weight, the truth of the evidence that
7 has been presented during this trial.

8 Direct and circumstantial evidence. There
9 are two types of evidence which are generally
10 presented during a trial, direct evidence and
11 circumstantial evidence. Direct evidence is the
12 testimony of a person who claims to have actual
13 knowledge of a fact such as an eyewitness or an ear
14 witness. It is evidence which immediately
15 establishes the main fact to be proved.
16 Circumstantial evidence is proof of a chain of facts
17 and circumstances indicating the existence of a
18 fact. It is evidence which immediately establishes
19 a collateral fact or facts from which the main fact
20 may be inferred. Circumstantial evidence is based
21 on inference and not on personal knowledge or
22 observation.

23 The law, our law, makes absolutely no
24 distinction between the weight or the value to be
25 given to either direct or circumstantial evidence.

1 Nor, is there a greater degree of certainty required
2 of circumstantial evidence than of direct evidence.
3 You, the jury, should weigh all of the evidence in
4 the case. After weighing all of evidence if you're
5 not convinced of the guilt of a defendant beyond a
6 reasonable doubt you must find that defendant not
7 guilty.

8 Credibility of a witness. Necessarily you
9 must determine the credibility of the witnesses who
10 have testified in this case. As you all know,
11 credibility simply means believability. It becomes
12 your duty as jurors to analyze and evaluate the
13 evidence and determine which evidence convinces you
14 of its truth. In determining the believability of
15 witnesses who have testified in this case you may
16 believe one witness over several or several over
17 one. You may believe a part of the testimony of a
18 witness and reject the remaining part of the
19 testimony of that same witness. You may believe the
20 testimony of a witness in its entirety or reject the
21 testimony of a witness in its entirety. You may
22 consider whether any witness has exhibited to you
23 any interest, any bias, any prejudice, or other
24 motive in this case. You may consider the demeanor,
25 the manner of the witness on the witness stand,