

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY

SC Court of Appeals

Roger L. Couch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER LEE EMMONS,

APPELLANT

APPELLATE CASE NO. 2013-002018

RECORD ON APPEAL

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1 (WHEREUPON, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right. Are there any pretrial motions
4 from the State in this case?

5 SOLICITOR FULMER: No, Your Honor.

6 THE COURT: From the defense.

7 MS. JONES: Yes, sir, there are several matters. The
8 first matter I'd ask, I ask the Court to address---

9 THE COURT: Just one second.

10 MS. JONES: Sure.

11 (Pause.)

12 THE COURT: I'm sorry. Go ahead.

13 MS. JONES: Your Honor, in this case, I anticipate,
14 both by Officer Fraley's presence on the witness list as
15 well as his physical presence in the courtroom, that they'll
16 be some information that the State will attempt to introduce
17 and present to the jury about a K-9 search or tracking on
18 the night of the alleged crime. And, Your Honor, I would,
19 at this point, I'd make an argument -- well, I would ask
20 Your Honor to conduct a briefing in camera inquiry about
21 that because I'm not sure, as the K-9 incident report has
22 been written up, I'm not sure of the results of that search
23 or that track is actually relevant.

24 THE COURT: Was it a search or was it was -- was the
25 K-9 put on the trail and tracked somebody?

1 I'm not sure---

2 MS. JONES: well -- and it---

3 THE COURT: ---in your argument what---

4 MS. JONES: ---appears it was put -- it was a tracking.

5 THE COURT: It was a tracking.

6 MS. JONES: And to summarize from the report or to give
7 you a little background --

8 THE COURT: Sure.

9 MS. JONES: -- this is an incident that allegedly took
10 place in Mr. Harrison's driveway.

11 THE COURT: Sure.

12 MS. JONES: And Mr. Harrison, I assume, will testify
13 that one assailant approached him he thought to rob him.
14 So, he shot and killed him in his driveway, and he -- it's
15 his contention that a second assailant fled.

16 well, once the K-9 officer arrived, based on what I
17 don't know, other than an, a hearsay statement in the
18 report, someone told him that the, the second person had
19 last been seen, had last been seen near the entrance sign to
20 the subdivision. So, according to the report of Fraley, he
21 takes the dog directly to the entrance sign and then let's
22 the dog track, and the dog goes to Wal-Mart, and I'm not
23 sure -- because there was, was no one found, there was, as
24 best I can tell, unless he wrote it up wrong, he never gave
25 him a known scent. I don't know who the dog was tracking.

1 THE COURT: well, let me, let me hear from Mr. Fulmer,
2 what, what that was all about.

3 SOLICITOR FULMER: Judge, Deputy Fraley is here. I'll
4 be happy to put him on the stand and question him about how
5 he developed a track and the details of that crime.

6 THE COURT: All right. I understand that.

7 But do you intend to use him in the case?

8 SOLICITOR FULMER: I did intend to call him to testify
9 that his dog did pick up the track and he took that to
10 Wal-Mart.

11 THE COURT: All right. well, you already know that.

12 All right. He followed a scent to Wal-Mart.

13 MS. JONES: Yes, sir, but my argument goes to the
14 actual definition of relevance. I'm not sure -- because we
15 don't know whose scent it was, how is that relevant to this?

16 THE COURT: Mr. Fulmer.

17 SOLICITOR FULMER: Can I speak---

18 THE COURT: You may need to put him up.

19 Is that what you're telling me?

20 SOLICITOR FULMER: well, can I speak to him just
21 briefly first and then I'll make that decision?

22 THE COURT: Yes, sir.

23 (Pause.)

24 SOLICITOR FULMER: Judge, the deputy can testify, but I
25 think he would testify to the fact that, when he arrived on

1 scene, the supervisor pointed out an area near the entrance
2 to the subdivision as the last known uncontaminated spot
3 that the defendant has seen, was seen standing, and that he
4 went to that location, and the dog picked up on a scent and
5 followed that scent to Wal-Mart, Your Honor.

6 THE COURT: Is that, in anyway, tied to this defendant?

7 SOLICITOR FULMER: There will be testimony that this
8 defendant went to Wal-Mart after the shooting occurred, Your
9 Honor.

10 THE COURT: Okay. Might be of some relevance.

11 Would you like for me to hear from him?

12 MS. JONES: Yes, sir, Your Honor. Especially as to the
13 statement that that was the last uncontaminated spot at the
14 subdivision sign. I'm not sure what the basis of that
15 statement is.

16 THE COURT: Well, that may be the information he was
17 given and that may of been what was in his mind at the time.
18 I'll be glad to hear from him.

19 I've got a question from the jury in the case ahead of
20 you. I'm gonna ask you to stand down for just a minute.
21 I'm gonna have to deal with them and then we'll take
22 testimony on this as soon as we're finished.

23 (WHEREUPON, a short recess was taken in this case at
24 this time.)

25 THE COURT: All right. Mr. Fulmer, do you wish to

Brian Fraley - Direct examination
by Solicitor Fulmer

1 offer testimony concerning the question?

2 SOLICITOR FULMER: I will, Your Honor. Yes, sir.

3 THE COURT: All right, sir. Come forward and be sworn
4 over here to my left please.

5 BRIAN FRALEY, being first duly
6 sworn, testified as follows:

7 THE COURT: Thank you, sir. Have a seat, and once
8 you're seated, state your name for me.

9 THE WITNESS: My name's Brian Fraley.

10 THE COURT: Thank you.

11 All right. Mr. Fulmer, your witness.

12 SOLICITOR FULMER: Thank you, judge.

13 DIRECT EXAMINATION

14 BY SOLICITOR FULMER:

15 Q Deputy Fraley, where do you work?

16 A I'm employed with the Spartanburg County Sheriff's
17 office.

18 Q And what do you do at the Sheriff's office?

19 A I'm currently assigned as a K-9 unit.

20 Q Were you on duty August the 28th, 2011?

21 A I was called in that night, yes, Your Honor, sir.

22 Q Did you respond out to [REDACTED]

23 A Yes, I did.

24 Q And what did you do there on Cottage Mill?

25 Excuse me.

Brian Fraley - Direct examination
by Solicitor Fulmer

1 A Once I arrived on scene I was advised by on-scene
2 officers to start a track from the entrance sign, which is
3 at the front of the neighborhood a few houses up from the
4 incident location.

5 Q Did they tell you why that would be a place,
6 appropriate place to start your track?

7 A They told me that was the last known---

8 MS. JONES: Your Honor, I object. I'm gonna object.
9 This is hearsay.

10 THE COURT: Can you maybe qualify---

11 Q Did you have a reason---

12 THE COURT: ---who he talked to and maybe what he did
13 as a result of the conversation?

14 Q Do you recall which supervisor directed you to the
15 subdivision entrance?

16 A I don't recall the exact supervisor. It was one of the
17 on-scene supervisors.

18 Q Can you tell the court the reason why you started at
19 the subdivision entrance?

20 A They told me that was the last place that a person was
21 seen running that was uncontaminated by the other people
22 that were on the scene.

23 Q Did they say that the person would at least be the
24 suspect---

25 A Yes, sir.

Brian Fraley - Direct examination
by Solicitor Fulmer

1 Q ---at that time?

2 Okay. Did your dog begin to track at that location?

3 A Yes, he did.

4 Q And where did that track lead?

5 A Once I started there, we then -- he began to pull along
6 the grass on Rainbow Lake Road. We followed that wall until
7 it stopped and then turned right, and went a short
8 distance -- by the way, Lando is my K-9 I'm currently
9 assigned and was working that night.

10 Lando went a short distance until the trail stops and
11 then turned back to the left, came out the back yard of 404
12 Carrington Drive. We then went toward the front yard, cross
13 over Carrington Drive into 405 Carrington. We continued
14 through the yard and came out in the mortuary, went across
15 the property, and back onto the grass on the side of Rainbow
16 Lake Road.

17 We continued on the grass until the park, a drainage
18 ditch, which is at the side of Wal-Mart. Lando turned right
19 into the parking lot into Wal-Mart. We crossed the parking
20 lot and went to the front of the stores. Once at the front
21 of the store I did stop my track due to my dog being a bite
22 dog and being other civilians and other people in the area.

23 Q What's the approximate distance between where the track
24 started and where it ended at Wal-Mart?

25 A Five, six hundred yards.

Brian Fraley - Direct examination
by Solicitor Fulmer

1 Q Thank you.

2 A Approximately.

3 Q That's all the questions I have. Please answer any Ms.
4 Jones may have for you.

5 THE COURT: Ms. Jones.

6 CROSS-EXAMINATION

7 BY MS. JONES:

8 Q Officer Fraley, you said that the spot you went to was
9 relayed to you as being the spot, last spot that was
10 uncontaminated by the people on the scene that, that the
11 other suspect had been seen at?

12 Is that what you said?

13 A Yes, ma'am.

14 Q Okay. And it's -- that's a pretty big distinction
15 between the uncontaminated by people on the scene.

16 You have no idea how -- well, do you have any idea how
17 many people live in this subdivision?

18 A No, ma'am, I do not.

19 Q Do you have any, any idea how many dogs there are in
20 this subdivision?

21 A No, ma'am, I have no idea.

22 Q Okay. Do you have any idea how many kids there are in
23 this subdivision?

24 A No, ma'am.

25 Q Okay. So, on the average day, including that

Brian Fraley - Cross-examination
by Ms. Jones

1 particular day, you would have no way of knowing how many
2 homeowners or friends of homeowners or children of
3 homeowners or neighbors of homeowners might of walked from
4 that subdivision to wal-Mart?

5 A Well, the only, the only thing I could say besides
6 that, my dog -- we usually train on about an hour, hour and
7 a half on tracks. I do not try to run anything that's
8 usually over two hours.

9 Q I, I'm, I'm afraid I didn't understand that.

10 A My dog's not trained to run a track that's more, much
11 more than two hours old because---

12 Q Okay.

13 A ---a scent is dissipating and stuff. So, we don't
14 train on trails any longer than that.

15 Q So -- but still, you do not know that in the, in the --
16 let's say even with that window --

17 A Yes, ma'am.

18 Q -- you can not say that someone else had not walked,
19 not even a person, maybe even a dog, had walked that path
20 that your dog followed?

21 A I can say it was not a dog, but I can not say no, it
22 was not a person.

23 Q Well, how do you know it wasn't a dog?

24 A Cause my dog is trained to ignore animal odor on
25 tracks.

Brian Fraley - Cross-examination
by Ms. Jones

1 Q Okay. But the fact that the dog tracked from that sign
2 to Wal-Mart, in no way whatsoever, tells you what track,
3 whose track he was following, correct?

4 A No, ma'am.

5 Q You have no way of knowing that.

6 So, you have absolutely no way to tie that to this
7 individual?

8 A I do not, no, ma'am.

9 MS. JONES: Okay. That's all, Your Honor.

10 THE COURT: All right. You may step down, sir.

11 Now, Mr. Fulmer, I don't know. Is the supervisor
12 present?

13 SOLICITOR FULMER: I'm not sure the identity -- the
14 supervisor's not present, Your Honor. He will not be
15 testifying.

16 THE COURT: All right. Well, I'll, I'll -- okay.

17 SOLICITOR FULMER: I would have a couple of other
18 witnesses. Mr. Harrison, who would testify that that
19 entrance to the subdivision area was the last place that he
20 saw---

21 THE COURT: Well, why, why don't we -- I'll be happy to
22 hear that testimony if you want to present it.

23 SOLICITOR FULMER: Thank you, Your Honor.

24 THE COURT: Come forward, sir, and be sworn.

25 JACKIE HARRISON, being first duly

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 sworn, testified as follows:

2 THE COURT: Sir, have a seat. Once you're seated,
3 state your name please, sir.

4 THE WITNESS: Jackie Dale Harrison.

5 THE COURT: Thank you, sir.

6 Mr. Fulmer, your witness.

7 SOLICITOR FULMER: Thank you, Judge.

8 DIRECT EXAMINATION

9 BY SOLICITOR FULMER:

10 Q Mr. Harrison, where do you live?

11 A [REDACTED]

12 Q And were you at that location on the night of August
13 the 28th, 2011?

14 A Yes, sir.

15 Q As you pulled into your driveway that night, were there
16 other people present?

17 A Yes, sir.

18 Q Can you tell the judge what happened?

19 A I just pulled in and cut my car off when a car come by
20 real slow, and I heard one jump out and start running up my
21 driveway. And when I was leaning up, I seen the one running
22 up my driveway coming around the side of my car around the
23 back towards the side-view mirror. And when I raised the
24 rest of the way up -- the reason I was bent over, I was
25 getting my pistol out of the glove compartment when I heard

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 somebody running up on me.

2 When I was raising up, looked through the rearview
3 mirror, and I seen a guy coming through the bushes about
4 halfway up the driveway. He come up the driveway beside
5 mine and then cut through the bushes about even with the
6 back of my car.

7 Q So, there were---

8 A Anyway, I spun and shot the one that was standing next
9 to me inside my door. And as he spun around backwards over
10 the jet skis, I spun out of my car and took a shot and then
11 the defendant froze and -- probably two seconds cause I
12 squared back up in his chest with my pistol in case he made
13 any advances, and he froze about two seconds and then turned
14 around and run straight towards the exit of the housing
15 development. He run basically right down the middle of the
16 front yard next, next door going out.

17 I lived the third house out, third house from the exit
18 or the entrance of the housing development. I would say
19 probably a hundred yards to Rainbow Lake Road.

20 Q So, the housing -- the entrance and exit to your
21 subdivision, is that the last place you saw the defendant as
22 he was running away?

23 A Yes.

24 Q Is that why that the trailer was notified that would be
25 a good place to start his track to your knowledge?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Yes.

2 Q Please answer any questions Ms. Jones would have.

3 THE COURT: Ms. Jones.

4 CROSS-EXAMINATION

5 BY MS. JONES:

6 Q Mr. Harrison, you gave a statement on the night of this
7 event, didn't you?

8 A Yes, ma'am.

9 Q Do you -- have you reviewed it recently?

10 A No, ma'am.

11 Q Okay. The -- I'll let you look at it.

12 Let's mark this for identification as Exhibit 1.

13 (WHEREUPON, the statement was marked as Defendant's
14 Exhibit No. 1 for identification purposes only at this
15 time.)

16 Q Mr. Harrison, I'm gonna show you a document that's been
17 marked for identification as No. 1. Review that if you
18 would.

19 A (Witness complies.)

20 Yes, ma'am.

21 Q Okay. Do you have anything in there about seeing him
22 run past the entrance sign and then he ran away?

23 A No, I ended, I ended -- he ran and I reached back and
24 grabbed my cell phone to call 9-1-1.

25 Q Okay. And, in fact, you even told the officers that,

Jackie Harrison - Cross-examination
by Ms. Jones

1 when you shot at him, he was only halfway up the driveway,
2 correct?

3 A Yeah.

4 Q Okay. And the -- he was at the entrance -- at the
5 driveway and he took off running.

6 Now, when did you see him at this sign, before you got
7 on the phone or while you were on the phone?

8 A Well, after he took off running, I sit there and
9 watched him to make sure he didn't turn around. I didn't
10 know if he had a weapon or not. If he had stopped and
11 turned around I would of shot him.

12 Q Okay. But you said you looked at him, you, and you got
13 a clear look at him, but now you don't know if he had a
14 weapon?

15 A Yeah, I got a good look at him.

16 Q Okay. But---

17 A If I'd seen a weapon I would of killed him right then.

18 Q Okay. So --

19 A I seen---

20 Q In your statement that I don't know, I didn't know if
21 he had a weapon is not accurate?

22 A No, I don't know if he had one or not. I mean he could
23 of had one in his pocket or anywhere on his person. I
24 knowed the other one had a; a tire tool wrapped up in his
25 hoodie thing, and all I could see was the end of it. It

Jackie Harrison - Cross-examination
by Ms. Jones

1 looked like a 12-gauge shotgun. So, I killed him right
2 then.

3 Q Okay. And although this is not really the issue we're
4 here about, there's nothing in here either about watching
5 the, seeing the car drive by real slow before anybody came
6 up there---

7 A That's---

8 Q ---is there?

9 A That's just a general statement of what happened that
10 night.

11 Q Okay. But -- and they asked you to tell them what
12 happened, and you left out seeing the car drive by and pull
13 up slow and stop and all that, right?

14 A Yeah, that's obvious the car was still sitting there.
15 They run and left.

16 Q That was not the question.

17 The question was did you leave out that part about
18 seeing the car drive by?

19 A I got I heard a car stop and then heard footsteps
20 running up the driveway.

21 Q Okay. But you didn't tell them anything about it
22 driving by slowly?

23 Is it in the statement?

24 A Oh.

25 Q That's all I'm asking you.

Jackie Harrison - Cross-examination
by Ms. Jones

1 A It's not in the statement, no.

2 Q Okay. Thank you.

3 You were not the one who directly conveyed any
4 information to the deputy with the dog about how the track
5 should be conducted?

6 A No, I did not talk to the deputy there.

7 MS. JONES: Okay. That's all I have.

8 THE COURT: All right. Anything further, Mr. Fulmer?

9 REDIRECT EXAMINATION

10 BY SOLICITOR FULMER:

11 Q Mr. Harrison, did you put everything that happened that
12 night in your statement?

13 A No, sir. No, sir.

14 Q Thank you.

15 THE COURT: All right. Anything further?

16 MS. JONES: Not on this point.

17 THE COURT: All right. You may step down. Thank you,
18 sir.

19 THE WITNESS: Thank you.

20 THE COURT: Any other witnesses, Mr. Fulmer, on, on
21 this issue?

22 SOLICITOR FULMER: Judge, I think I have one more. EMT
23 Erin Reid also saw a white male matching the description of
24 the defendant running along the course of the dog track.
25 So, she would also tie him to that dog track.

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 THE COURT: All right. Who you said was doing this?

2 SOLICITOR FULMER: Ms. Erin Reid.

3 THE COURT: Oh, call, call the witness up.

4 SOLICITOR FULMER: Please step up, ma'am.

5 ERIN REID-WISE, being first duly
6 sworn, testified as follows:

7 THE COURT: Ma'am, once you're seated, state your name
8 please.

9 THE WITNESS: Well, my name now is Erin Wise. I got
10 married about a month after this happened. It's Erin
11 Reid-Wise.

12 THE COURT: Thank you.

13 All right. Mr. Fulmer.

14 SOLICITOR FULMER: Thank you.

15 DIRECT EXAMINATION

16 BY SOLICITOR FULMER:

17 Q Ma'am, you were on-duty back on August the 28th of
18 2011?

19 A Yes, sir, I was.

20 Q As an EMT?

21 A Yes, sir.

22 Q Where were you stationed at that time?

23 A On Medic 10, which is right there on Rainbow Lake --
24 well, when we look out at our bay, we see the storage
25 buildings that are right beside the neighborhood that the

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 defendant or the victim lives in.

2 Q This would be the area we've been talking about?

3 A Yes.

4 Q So, out of your station you're looking at Rainbow Lake
5 Road?

6 A Uh-huh. (Affirmative).

7 Our bay, our truck is backed in every time we are at
8 the station, and when we get in the truck and look out the
9 front windshield we see Rainbow Lake Road.

10 Q And were you asked to respond out to Cottage Mill Run
11 that night?

12 A Yes, sir.

13 Q Can you tell the court what happened when you got that
14 call?

15 A Well, we got our call -- we got in our truck. All we
16 got told was that it was a shooting. A homeowner had shot.
17 Somebody tried to rob him. Didn't say how many people or
18 anything.

19 We got in our truck, me and my partner. He was in the
20 driver's seat. I was in the passenger's seat. We cut our
21 lights, headlights on and I noticed a white male walking
22 beside Rainbow Lake Road right in front of where our bay
23 looks out at with no shirt on and a dark colored pants.

24 Q And the person that you saw, does he generally fit the
25 description of the defendant in the courtroom today?

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 A Yes, sir.

2 Q As you heard Deputy Fraley testify, is the area where
3 you're testifying that you saw this person walking, is that
4 the same area as he described in his dog track?

5 A Yes, sir, cause he was walking down facing towards
6 Highway 9 walking.

7 Q Would that also be towards Wal-Mart?

8 A Yes.

9 Q And would this be between Cottage Mill Run where that
10 intersects with Rainbow Lake Drive and Wal-Mart?

11 A Yes, sir.

12 Q Thank you. Please answer any questions Ms. Jones may
13 have.

14 CROSS-EXAMINATION

15 BY MS. JONES:

16 Q Okay. You were part of a, a medic team or a medic
17 pare?

18 A There's two of us.

19 Q Two of you?

20 A Yes, ma'am.

21 Q Were you the driver?

22 A No, ma'am, I was the passenger.

23 Q Okay. And you got into the vehicle and you said the
24 lights came on, and this person is basically standing in the
25 driveway?

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 Is that what you're saying?

2 A No, ma'am, when my partner got in the driver's seat and
3 turned the headlights on, our station -- like I said, our
4 truck looks out directly at Rainbow Lake Road, and across
5 the street, right across from where our entrance to our
6 station is, there was a white male walking towards Highway
7 9.

8 Q Okay. And that is in, in the direction toward the
9 Wal-Mart or toward the subdivision?

10 A Towards Wal-Mart.

11 Q Okay. You said this person generally fits the
12 description of that individual, and how is he in common --
13 how is he common to that general description?

14 He's a male?

15 A He's white and he's generally that -- he was that size.

16 Q Okay.

17 A He was not a heavy set male or anything like that.

18 Q But you're not sitting here saying that you can
19 positively identify this person as that person you saw
20 walking?

21 A One hundred percent, no, cause I did not see him up
22 close.

23 Q Okay. Did you notice anything distinctive about the
24 person?

25 A I did notice that he was, like I said, a white male.

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 He had, had his shirt over his shoulder and he had a buzz
2 cut hair, like short hair.

3 Q And that's all distinctive you noticed about him?

4 A Yes, ma'am.

5 MS. JONES: Okay. That, that's all.

6 SOLICITOR FULMER: No questions, Your Honor.

7 THE COURT: You may step down. Thank you, ma'am.

8 All right. Now, any other witnesses?

9 SOLICITOR FULMER: No, no witnesses, Your Honor.

10 THE COURT: Let me make sure I understand what
11 objection you have to the testimony of the dog track.

12 MS. JONES: Your Honor, my objection is that, excuse
13 me, Your Honor, that under the definition of relevance, it
14 has to go to prove or disprove a matter that's at issue.

15 THE COURT: Uh-huh. (Affirmative).

16 MS. JONES: The fact that this dog followed a track
17 from a point at this scene to wal-Mart in no way ties it to
18 this individual.

19 THE COURT: Oh, I understand that. But Mr. Fulmer
20 indicated that there would be testimony that would tie your
21 client to wal-Mart that, being at wal-Mart that night.

22 Can you give me the nature of what that testimony might
23 be?

24 SOLICITOR FULMER: Yes, sir, Your Honor.

25 It will be a witness named Landon Bridges, who is an

1 acquaintance of the defendant, and based on his statement,
2 he would testify that he was in wal-Mart at the same time as
3 this shooting, and this defendant came into the wal-Mart or
4 into the parking lot, but they did come together right there
5 at wal-Mart, and the defendant asked Mr. Bridges if he could
6 have a shirt so that he could change clothes.

7 They went in wal-Mart, walked around, and they were
8 captured on video walking around together. They then smoked
9 some marijuana, and then, during the course of the
10 conversation, Mr. Bridges is gonna testify that the
11 defendant admitted to him that he had just involved, been
12 involved in a lick, and that the law enforcement that was
13 responding were responding to that lick.

14 THE COURT: Okay. I assume that statement is been
15 given to the defense?

16 SOLICITOR FULMER: It has, Your Honor.

17 THE COURT: All right. Yes, ma'am.

18 MS. JONES: well, Your Honor, as to this particular
19 argument, back to the, to the relevance, I, I think that --
20 I just don't think that what the dog did is tied back to the
21 client. Independently, there may be some, some---

22 THE COURT: well, doesn't that go though to, to the
23 weight of the, of the testimony about the track and as
24 opposed to its admissibility?

25 I'm trying to, trying to determine why it would not --

1 other than you're saying it's not relevant. I understand
2 that. But if there is a statement from a witness who the
3 State intends to produce which places the defendant at that
4 location, Wal-Mart, that night, and the track went from the
5 scene to the Wal-Mart that night, it would seem to be some
6 relevance here. It goes -- it would offer some evidence as
7 to some issue that's in controversy in this case.

8 MS. JONES: Well, Your Honor---

9 THE COURT: And whether or not it ought to be given a
10 lot of weight or not, that's a whole different matter.

11 MS. JONES: Well, Your Honor, that---

12 THE COURT: That's up to the jury.

13 MS. JONES: Well, obviously it's, it's gonna be the
14 subject of intense cross-examination if it's Your Honor's
15 ruling that it is relevant when pieced together with all
16 these other circumstances. I think---

17 THE COURT: Well, that's what -- you have to look at it
18 in the totality of the circumstances that will be presented
19 by the State. Now, that's assuming that they somehow do
20 produce the evidence, you know, the foundation that I'm
21 talking about.

22 MS. JONES: Yes, sir, and---

23 THE COURT: And you can reserve objections to that time
24 if they don't.

25 MS. JONES: Yes, sir, with---

1 THE COURT: You're asking me to rule on it ahead of the
2 trial in a motion in limine?

3 MS. JONES: Yes, sir.

4 THE COURT: And I'm saying right now I don't see a
5 reason to exclude it.

6 MS. JONES: Yes, sir, and I respect that ruling at this
7 point. I -- and as a product of this discussion, based on
8 the fact that the, at least two of the things they're gonna
9 try to use to tie in, tie the track to Wal-Mart and Wal-Mart
10 and the track to my client, Your Honor, I do have some other
11 kind of interrelated discovery type issues at this point.

12 THE COURT: Well now's the time to raise them.

13 MS. JONES: Your Honor, in this particular case, I have
14 been told -- and I want, I want the record to be clear it's
15 only because I asked. It wasn't -- I -- the solicitor
16 wasn't forthcoming with this information with me on his own.
17 I had to ask a question to prompt it.

18 It's my understanding now that Mr. Harrison has, is
19 going to testify to a great deal more information and detail
20 than was ever provided to law enforcement or was provided to
21 me. The matters that I believe the solicitor knew and I
22 should of been told, and in, in preparation for trials, and
23 I've been on their side, in preparations for trials you
24 interview witnesses, and when witnesses supplement,
25 subtract, or change their stories, you have a duty to convey

1 that information to the other, to the other side.

2 THE COURT: Now, you've received the -- you know about
3 cause you're---

4 MS. JONES: I only know---

5 THE COURT: ---telling me.

6 MS. JONES: ---briefly about some of it. I'm not even
7 sure how big it's gonna get based on what Mr. Fulmer said,
8 but, but he told me that Mr. Harrison is now, who had, has
9 never been asked to identify, they've never tried to have
10 him identify my client, he is now, two years and one month
11 later, going to be able to identify my client. He also is
12 adding details such as watching, watching this car drive
13 slowly past his house after following him home and
14 watching---

15 THE COURT: Well, you just heard about that in the
16 statement he gave in Court just now?

17 MS. JONES: Well, Mr. Fulmer told me about that just in
18 response to a question I asked earlier. What is he saying
19 now is my question, which almost really I intended it more
20 about what was he saying about what he wanted and it's not
21 what, what's his version of the story. He also told me that
22 he -- Mr. Harrison believes that he's being, he was being
23 followed by my client and two other males and a female and
24 seen him following him in the Wal-Mart on one or more
25 occasion, and thought they had been working on this plan for

1 two or three weeks. I have never heard that.

2 THE COURT: well, I don't know that that's -- will be
3 relevant.

4 MS. JONES: I don't know if he's gonna get into that.

5 THE COURT: well, if it's speculation, well, that may
6 not be relevant.

7 MS. JONES: I just, at this point, you know, I don't
8 know if it's proper for Your Honor to let the victim give an
9 in camera of all this new information that we've never heard
10 about, and I told Mr. Fulmer, I said, you know, this -- it's
11 incumbent on you guys to learn this stuff and tell us
12 because my job is impacted on, on what kind of
13 recommendations I've made to my client on how to deal with a
14 case. You know, as a bare bones little statement is as I
15 know he's gonna say, and then it balloons into something
16 that's much more damaging. You have a difficult time---

17 THE COURT: well, Mr. Fulmer, what, what do you intend
18 to offer at trial?

19 SOLICITOR FULMER: Judge, I'd first just like to say
20 the information she's referring to I received maybe a
21 quarter till 2:00. This afternoon Mr. Harrison came in and
22 we were talking about what was gonna happen this afternoon.
23 we were briefly talking about his testimony, and he
24 volunteered this information to me. I was not withholding
25 this in anyway from Ms. Jones.

1 THE COURT: And you informed her when?

2 MS. JONES: Maybe about two o'clock, five till 2:00.

3 THE COURT: Okay.

4 SOLICITOR FULMER: So, that was brand new information
5 to me.

6 With regard to his ID that she mentioned, this is two
7 and a half years later. Ms. Jones has known for at least
8 six months that he intended to identify this victim. The
9 arrest on the victim -- I'm sorry. The defendant. It was
10 not made on the basis of his identification. It was made on
11 the basis of the voluntary statement or the confession that
12 he made, Mr. Landon Bridges, which you're gonna hear from.

13 Mr. Harrison then later saw the arrest on the news, saw
14 some information on, through the media. He then went to the
15 jail website and checked the jail website of inmates and saw
16 him, and said hey, yeah, that's the guy who, in fact, robbed
17 me that night.

18 I had not intended to elicit any information about a
19 conspiracy heading up to it. My, my questioning of
20 Mr. Harrison is gonna be with regard to the shooting, and
21 the immediate events surrounding that, Your Honor, and the
22 fact that he can identify him.

23 THE COURT: well, it would, it would be my ruling as
24 well that any alleged or supposed or believed conspiracy, I
25 would not allow that testimony to come in unless it was

1 somehow supported in some other fashion.

2 well, the duty to answer under Rule 5 continues until
3 the time of trial, and they, according to Mr. Fulmer, what
4 information he received today he is told you about. So,
5 it's been received. The, the -- now the question on the
6 I.D., he indicates that that was something that came up some
7 time ago.

8 MS. JONES: That is correct, Your Honor. He did --
9 that portion of it that he thought he could identify he
10 brought up in February earlier this year.

11 THE COURT: Okay.

12 MS. JONES: And I, I, at that point, had some comment
13 to make about it. It will also be the subject of another
14 pretrial motion in just a minute, Your Honor.

15 But as to the continuing duty, you know, I'm not here
16 to attack anybody's prep style at all. But, you know,
17 there, there was an offer made to this young man of common
18 law robbery a year ago that, if I had known this victim was
19 gonna that -- be this detailed and might ultimately be
20 allowed to, to identify him, and, Your Honor, we would of
21 had a different conversation about that then. That, that
22 is -- that's the problem with withholding information, and
23 I'm gonna say it again---

24 SOLICITOR FULMER: Your Honor, I have not withhold
25 (sic) any information.

1 MS. JONES: I had to ask the question, Your Honor. He
2 didn't come to me.

3 THE COURT: I understand that. But, again, it's,
4 it's -- is it -- do you have any proof that he had knowledge
5 of this additional information before today, the State had
6 possession of that?

7 MS. JONES: No, Your Honor. I can -- I will take him
8 at face value that he just talked to the man 15-minutes
9 before we came downstairs.

10 THE COURT: Okay.

11 MS. JONES: I, I'm -- perhaps I think perhaps he had a
12 duty to do it sooner than that, but that, that's not my
13 place to say --

14 THE COURT: Okay.

15 MS. JONES: -- except it negatively impacts my client
16 and my ability to adequately represent Mr. Emmons, and make,
17 and make recommendations to him on, on offers that are
18 rendered in a timely manner and we need, you know, we need
19 the facts at that point.

20 THE COURT: I don't disagree and I do note that the,
21 the administrative order in place in this circuit requires
22 that discovery be presented prior to first appearances.

23 MS. JONES: Well, Your Honor, and on this point I'm
24 gonna go ahead and bring up another issue. This is actually
25 gonna raise a potential charge I would like Your Honor to

1 give about spoliation of evidence. There, there -- from the
2 very beginning of this case, even when Mr. Fulmer didn't
3 have it, the paperwork in this case is been an absolute
4 nightmare.

5 when I first had the preliminary hearing over -- well,
6 just under two years ago -- there was so little information
7 provided to me at the prelim I couldn't even tell how they,
8 how they connected it up to Mr. Emmons. On that particular
9 day, down in Magistrate's Court, whoever the Court
10 coordinator at the time was, it might of been Mr. Powers
11 back then, but someone put me on the phone with the chief
12 investigator, and he made the statement, I have it directly
13 quoted in here, oh, you don't have, you don't have the right
14 file.

15 well, Your Honor, it's only been -- I guess in May I
16 finally got a packet that I think finally gave me almost
17 everything in this case. I followed up that, that exchange
18 with Zach and said there's another file out there. This --
19 the file that they, they had at prelims had nothing to do
20 with the homicide, it's all gonna be intermingled, you're
21 gonna need to give it to me. Still didn't get it.

22 Mr. Fulmer got the case. I recounted the exact same
23 thing forward in saying some of the same messages. Got
24 nothing. And as a matter of fact, in February, around the
25 same time he told me about the I.D., he scheduled a meeting

1 to go see Loren Williams because we still both felt like we
2 did not have the whole file. It resulted in a Court order
3 for continuance cited he did not have the complete file,
4 and, chiefly now, there's a, there's a video from Wal-Mart
5 missing.

6 The night of this case, once his dog tracked over here
7 to Wal-Mart, Detective Williams or Detective Gary asked the
8 Wal-Mart folks to pull a surveillance tape. They did that.
9 It's documented in here that they pulled the tape.

10 They -- of the -- with the tape, they pulled stills off
11 of it. They created one of those media releases, and I have
12 six or eight stills that came off of it. Now the video's
13 gone.

14 The only times that are attributable to these
15 particular stills and the events on them are handwritten by
16 somebody that will show the time of the, not one, but two
17 trips, two times Mr. Emmons was in Wal-Mart that night.
18 He's visible on the video. Well now that they've lost it,
19 it can't be recreated.

20 Your Honor, that video may very well have created an
21 alibi for him. He could of even been in the store at the
22 time of this shooting. And, so, Your Honor, I'm very
23 concerned about it. They only even have two stills in
24 evidence. I was provided about four through discovery.

25 So, at the appropriate time, my client's been very

1 concerned. He continues to ask me about the video, and when
2 we're gonna get it, and I keep saying I think they've lost
3 it, and---

4 THE COURT: Where, where is the video?

5 SOLICITOR FULMER: Your Honor, I've never had
6 possession of the video. The file does read like it was
7 taken into evidence. Mr. -- Investigator Williams tells me
8 it's not in evidence. There are some stills in evidence.
9 what was brought over today, the two stills from the video,
10 are not as much as I have in my file and Ms. Jones has in
11 her file. So, I, I can't speak to where they went, Your
12 Honor. I can only say that they were not brought over to
13 court today.

14 THE COURT: well, let's back up just a little bit.

15 Did I gather from you, Ms. Jones, that stills were put
16 on television media somewhere?

17 MS. JONES: Yes, sir.

18 THE COURT: By who?

19 who did---

20 MS. JONES: The Sheriff's Office.

21 THE COURT: who released them to the media?

22 MS. JONES: The Sheriff's Office.

23 THE COURT: And they were taken from the video at
24 wal-Mart?

25 MS. JONES: Yes, sir. It's on their letterhead.

1 SOLICITOR FULMER: That's correct, Your Honor.

2 MS. JONES: Ran on TV. Potentially in the newspapers.
3 I can't verify that, but I do know it was televised.

4 THE COURT: At the appropriate time I'll consider a
5 motion to include a charge on spoliation of evidence. If
6 they had evidence in their possession -- when I say they,
7 that includes the police as well as the solicitor. If it's
8 in the hands of the police, it's in the hands of the
9 solicitor as far as the law's concerned. And it -- not
10 present at trial and can't be produced, you may very well be
11 entitled to a charge on that point.

12 MS. JONES: Your Honor?

13 THE COURT: So, I'm not disagreeing with you. I'll see
14 what the evidence shows as we go along.

15 MS. JONES: Yes, sir, Your Honor. I just wanted to
16 raise it at this point to confirm that, again, as he's told
17 me repeatedly, Mr. Fulmer doesn't have it and he can't put
18 his hands on it.

19 THE COURT: He tells me he does not have it.

20 MS. JONES: Also, Your Honor, now that we've raised the
21 issue over media coverage, the media being utilized with
22 still pictures, I would like -- I think we also need to have
23 a Neal versus Biggers hearing about any potential in-Court
24 identification that Mr. Harrison is going to attempt as to
25 what the basis is and---

1 THE COURT: well, I'm not having it because I guess
2 I -- what I will need to determine is whether it was State
3 action involved in the identification. So, if you'd like to
4 do that we'd be happy to take the testimony.

5 MS. JONES: Your Honor, it's my understanding that
6 there was never any attempt by the State to have him
7 identify anyone. So --.

8 THE COURT: well, we're running into this more and
9 more---

10 MS. JONES: Yes, sir.

11 THE COURT: ---because what you have is you have
12 jailbirds. You have TV stations. Everybody gets arrested,
13 their picture's available to the public these days. And,
14 so, I mean the real issue is whether or not the State
15 conducts a, an investigation, an identification process
16 that's overly suggestive and is not fair to the defendant.
17 I'll be glad to hear it. I haven't heard you state that the
18 State made any effort whatsoever to conduct an
19 identification process in this matter.

20 MS. JONES: There -- it -- to my knowledge, they never
21 made any effort to, and, Your Honor, and I may be going out
22 into an area where there's not yet case law, but I think, if
23 the State -- if the police decide not to attempt that, and
24 then open the door, whether just passively or by actual
25 suggestion, open the door to the created type of

1 identification that Mr. Harrison is going to use, I think
2 that's as wrong as engaging in a suggestive lineup.

3 They, they -- you know, they ought to have some kind of
4 duty to lock this person in or attempt it and not just let
5 them go off and self-educate themselves, and then the Court,
6 the Court can say well, it wasn't the police, he's doing it
7 himself. It's very, it's very dangerous and---

8 THE COURT: well, I'm not aware of a case yet that says
9 though that an individual can't look at whatever media is
10 available to that person and, from that, make an
11 identification. Now, I've, I've dealt with this issue three
12 or four times already.

13 MS. JONES: Yes, sir.

14 THE COURT: And -- not, not just in this circuit, but
15 in others. And I've researched it and thus far I haven't
16 seen a case that says that somehow the State is responsible
17 for victims or witnesses or other people involved in the
18 case independently on their own seeking information and
19 making an identification from that without the State urging
20 them to do it or somehow sponsoring them or, or conducting
21 the identification process.

22 So, again, I'll be happy to take the testimony if you
23 think I should, but my understanding is that the purpose, in
24 the Neal/Biggers inquiry is to determine whether or not the
25 state conducted an unfair overly suggestive identification

1 process. And if you're telling me they've conducted no
2 identification process in this case, I'm not sure what there
3 is for me to decide.

4 MS. JONES: Yes, sir, and I think -- well, I'm not
5 aware of State action. So---

6 THE COURT: well, again, if you'd like me to take
7 testimony, I'll take testimony as to how the identification
8 came about.

9 MS. JONES: And I think with---

10 THE COURT: If that's what you'd like to do.

11 MS. JONES: Yes, sir, I think with Mr. Harrison --
12 quite honestly, I think we need to nail him down right now
13 before---

14 THE COURT: All right. Let's, let's do that.

15 Mr. Fulmer, I'd like for you to call Mr. Harrison back
16 to the stand, and let's inquire as to how he went about
17 making whatever identification he made.

18 Mr. Harrison, you've already been put under oath. If
19 you'll have a seat. I'll remind you that you're still under
20 oath.

21 Do you acknowledge that fact?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right, sir. Have a seat.

24 Mr. Fulmer.

25 SOLICITOR FULMER: Thank you, Judge.

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 JACKIE HARRISON, being first duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY SOLICITOR FULMER:

5 Q Mr. Harrison, on the night of August 28th, 2011, two,
6 two men approached you in your driveway, is that right?

7 A Yes, sir.

8 Q Did you have an opportunity to look at those men?

9 A Yes, sir.

10 Q Can you tell the Court about your engagement with those
11 two fellows, especially with regard to Mr. Emmons who's here
12 today, how you were able to see him that night?

13 A When I was retrieving the gun out of the glove box, I
14 seen him in the rearview mirror coming.

15 Q When you say him, you're referring to Mr. Emmons?

16 A The defendant, yes, sir. They -- my driveway is right
17 next to the lady that lives next door. We have a flower bed
18 in-between. He was coming through the bushes and the flower
19 bed right there about halfway out the driveway when I shot
20 the one guy that was standing in my door, and I spun out and
21 turned and looked straight at him.

22 Q And when you turned and looked at him, this is at
23 nighttime, is that correct?

24 A Yes, sir.

25 Q How was he lit?

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 A They's a street light. It's one house down and across
2 the road, and where he was standing, there's a street light
3 picked him up. where I was at it was pitch dark because
4 it's in the shadow of the house blocked. It blocked a
5 street light and all. But where he happened to be standing,
6 the street light shined on him.

7 Q And during that time, when you held your gun on him and
8 shot at him or in his direction, were you able to clearly
9 see his face?

10 A Yes, sir.

11 Q Do you have any doubt that the defendant in the room,
12 courtroom today is the man you saw that night?

13 A No, sir, no doubt.

14 Q After this happened, were you ever offered a lineup by
15 law enforcement?

16 A No, sir.

17 Q How did you come to know that the man that you saw in
18 your driveway that night was known as Chris Emmons?

19 A When I seen it -- the news showed the wal-Mart video.
20 I knowed that was him right there walking with the other
21 guy, and then Sheriff Loren called me and gave me his name.
22 He said they arrested him and I looked it up on the jail
23 roster or whatever you call it, and I knowed -- and looked
24 at his picture and knowed that was him.

25 And I believe that's when I went to pick up my pistol,

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 the sergeant at the desk at the county, I told her that was
2 him in the video from Wal-Mart. And she was -- told me she
3 would leave a note for the investigator. I don't know if
4 she did or not.

5 Q So, Mr. Emmons arrest, it was not made as a result of
6 your identification of him?

7 A No, sir. No, sir.

8 Q He was in custody at the time you came to know who he
9 was?

10 A Yes, sir.

11 Q Would that be right?

12 A Yes, sir.

13 Q At any time did law enforcement approach you in anyway
14 and offer an identification procedure or lineup or a show-up
15 or a photo?

16 A No, sir.

17 Q Please answer any questions Ms. Jones may have.

18 THE COURT: Yes, Ms. Jones.

19 MS. JONES: Thank you.

20 CROSS-EXAMINATION

21 BY MS. JONES:

22 Q Mr. Harrison, did you ever ask them, the night of the
23 event, anything about do you want me to look at any
24 photographs, any lineups, or any of that?

25 A No, sir. No, ma'am.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Did you ever tell them you got a clear look dead in the
2 eye for a few seconds and you could identify him?

3 A I don't know if I did or not. I don't know if I was
4 ever asked.

5 Q Well, it's pretty important, isn't it?

6 Don't you think it could of helped them to identifying
7 and thereafter charge him?

8 A It would of helped them identify him, yes --

9 Q Okay.

10 A -- I would think.

11 Q And you know, without that, they had to rely on
12 somebody that's got a rap sheet that wanted to come to them
13 and talk once he got locked up in jail?

14 That's all -- the only reason why he came forward, the
15 guy from Wal-Mart, he gave him a ride supposedly.

16 You know that, right?

17 A Well, I heard that about 15 till 2:00---

18 Q Okay.

19 A ---when I saw---

20 Q So, you recognized -- do you recognize it would of made
21 this case a whole lot stronger if you had just stepped up to
22 the plate that night and said, you know, I -- that light was
23 in the right place, I got a very good look at him, let, let
24 me, let me try to identify him, y'all bring me some
25 pictures?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Do you know how scrambled your mind is after you just
2 killed somebody?

3 Q Well -- and that's a very good point.

4 Your mind was really scrambled, but---

5 A Afterwards, yes.

6 Q You said you had the presence of mind to, after
7 spinning around everywhere and shooting one, to get your
8 phone, and you can still see that he's at the sign, and he's
9 under the light, and you've got a good view for two or three
10 seconds.

11 Is it---

12 A Uh-huh. (Affirmative).

13 Q ---the reason why you didn't tell the officers you
14 could identify him was you were so scrambled you weren't
15 sure you could?

16 A No.

17 Q And it was only after you got a good look at him and
18 somebody suggested that this was the person that now you are
19 convinced that's who that is?

20 A No, I seen the Wal-Mart video when they released it. I
21 knowed that was him.

22 Q Okay. Mr. Harrison, let's talk about the lighting of
23 your neighborhood.

24 Now, the car, what kind of vehicle were you in?

25 A A Mitsubishi little --

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Little silver car?

2 A Yes, ma'am.

3 Q You weren't in the truck that was in the driveway?

4 A No, ma'am.

5 Q Okay. You're -- and your car is actually right up next
6 to the jet skis, right?

7 A Yes, ma'am.

8 Q It's a small car?

9 It's about like a Honda Civic, isn't it?

10 A Yes.

11 Q And next to your car was a big white truck, wasn't it?

12 A Yes.

13 Q Okay. And you've got the jet skis over here. Your
14 little coupe car, little small one, the big white truck over
15 here.

16 where's the street light?

17 A Across the road.

18 Q Which way?

19 A And down, down one house.

20 Q Down that way?

21 A Yes, ma'am.

22 Q So, it's on the other side of the big white truck?

23 A Yeah, across the road that direction down.

24 Q Okay. What number house is yours?

25 A The third on the left.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q No, the street number. I'm sorry. I wasn't specific.

2 A [REDACTED]

3 Q Okay. The vehicle that stopped and the man who was
4 killed got out of the car where it was parked when it's all
5 said and done?

6 A You're holding the pictures up of the housing---

7 Q I'm asking you.

8 where was the car?

9 A The driveway that runs parallel to mine, right on the
10 back bumper was about where her driveway meets the road.

11 Q Okay. Do you know what her house number is?

12 A No, ma'am.

13 Q Okay. And the street light is on that side of the
14 road, the mailbox side?

15 A No, it's on the opposite -- other -- across the road.
16 I know there's one on up the road towards the exit I believe
17 that's on that side of the road.

18 Q Okay. So, if you're standing in your driveway at the
19 bottom of your driveway and you look to the left, you're
20 gonna see that blue car that the assailant got out of,
21 robber?

22 A I'm standing at the end of my driveway?

23 Q Yeah, down here where this curb runs into the street.

24 A The car will be on the right.

25 Q It's on this side?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Yes, ma'am.

2 Q Okay. Now, doing -- being in the direction we're in,
3 where's the street light?

4 A On the left side across the road and one house down.

5 Q Okay. So, the car involved that they arrived in is up
6 here, but you say the individual is down over there?

7 A No, ma'am, the individual would of been on my right.

8 Q Well, how is he lit from the street light is what I'm
9 getting at?

10 A The same way anybody else would be lit, by one if they
11 in the, in the street light.

12 Q So, is he under the street light that's to the left?

13 A No, but that's the street light that's giving enough
14 light so I could see him.

15 Q Okay. How far away from the street light was he?

16 A The street light would be about 50-foot behind me.

17 Q Okay. And when you're in the car, it's actually over
18 your left shoulder, isn't it, one house down?

19 A You keep talking car left and right.

20 Q Okay. Let me back up. I'm changing my---

21 A You need to specify where I'm at.

22 Q I am. That's what I was getting ready to do. I
23 apologize.

24 A When you talk about being at the end of the driveway---

25 Q Okay.

Jackie Harrison - Cross-examination
by Ms. Jones

- 1 A Okay. If I'm standing at the end of the driveway
2 looking at the house across the road, the light is on the
3 left of me --
- 4 Q Okay.
- 5 A -- about 50-foot---
- 6 Q Good.
- 7 A ---across on the other side of the road.
- 8 Q Okay.
- 9 A Now then you asked me---
- 10 Q Let me, let me clarify for you.
- 11 A ---how could I see him, where he was at.
- 12 Q Okay.
- 13 A well, he was back up about halfway back up the
14 driveway. I mean you're jumping around too much.
- 15 Q Okay.
- 16 A So, that would put him behind me if I was standing at
17 the end of my driveway to the right. The reason I could see
18 him is from the street light across the road was shining on
19 him. He had been about 5-foot to the right. From where he
20 was standing, he would be dead right now because I would not
21 have been able to see him too clearly.
- 22 Q Okay. When you saw him, were you seated in your car?
- 23 A The -- that night?
- 24 Q That's, that's what I mean. The night of the
25 incident---

Jackie Harrison - Cross-examination
by Ms. Jones

1 A And I was raising up. The one I killed, I seen him in
2 my side passenger mirror on the door, and when I raised on
3 up with the pistol in my hand, I looked in my rearview
4 mirror, and he was directly behind my car coming through
5 the, between the driveways coming through the bush right
6 there. I spun. The guy's standing about right there with a
7 tire tool next to my head, give it up. I spun, I spun, hit
8 him, knocked that gun, what I thought was a gun away from my
9 head.

10 The first shot, the gun was in my stomach. I do not
11 know where I shot. I heard later it's twice in the heart.
12 I do not care. I shot one shot in my, when the gun was
13 right here in my lap. The next one I shot was right there
14 because I remember the gun powder coming back in my face. I
15 spun directly behind---

16 Q Okay. Can I---

17 A ---where he was at.

18 Q Okay. Let me ask you a question now.

19 who was coming through the bushes before you started---

20 A He was.

21 Q ---all the spinning?

22 Okay. And you -- did you shoot from a seated position?

23 A Two shots. The one when I killed the guy standing in
24 my door.

25 Q Okay. After that, you apparently stood up?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A I spun out just like that.

2 Q Okay. When you did that, where was this second person?

3 A He was right in the middle of the two driveways in the
4 flower bed where he was coming.

5 Q How far away?

6 A About from me to you.

7 Q Okay. And where was he in relation to the big white
8 truck that's parked next to your car?

9 THE COURT: I don't mean to interrupt, Mr. Jones. I
10 don't know how much longer you want, you need to go. I've
11 gotten a verdict in my other case, and---

12 MS. JONES: Yes, sir, we can---

13 THE COURT: Is this gonna take a lot longer or are you
14 about to wrap it up?

15 I'm not trying to hurry you. I'm just trying to decide
16 what I'm going to do.

17 MS. JONES: I'm not sure that, that I would say I'm
18 about to wrap it up. So, if Your Honor needs to tend to the
19 verdict---

20 THE COURT: All right. Well, why don't we take a short
21 recess while I take the verdict in the other case, and then
22 we'll get back in to this.

23 Sir, I'm gonna caution you, don't discuss your
24 testimony while you step down.

25 Thank you.

Jackie Harrison - Cross-examination
by MS. Jones

1 THE WITNESS: Thank you, sir.

2 THE COURT: We'll take a short recess in this case.

3 (WHEREUPON, a short recess was taken at this time.)

4 THE COURT: All right. I suspect, I heard earlier, I
5 know we've had to stop a couple of times for the other case,
6 but I thought that -- but I suspect we're gonna have a
7 difficult time getting started this afternoon with the jury.
8 I'm gonna bring them in and release them, and that way we
9 can just continue and get everything done.

10 Do you think we'll be able to finish this afternoon?

11 MS. JONES: Oh, yes, sir.

12 THE COURT: Okay. All right. Mr. Bailiff, if you'll
13 bring the other jury in please.

14 THE BAILIFF: Yes, sir.

15 THE COURT: I'm gonna release them for the afternoon.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE COURT: All right. Ladies and gentlemen, I want to
19 thank you for your patience thus far.

20 As I told you, I had another jury out, and while you
21 were waiting, that jury came back with a verdict. So, I had
22 to get back on that case and wrap that case up. And, so,
23 that has slowed us in trial preparation through this case,
24 the one that you're on.

25 So, rather than have you continue to wait, it's already

Jackie Harrison - Cross-examination
by Ms. Jones

1 4:30, I'm gonna send you home for the evening. Ask that you
2 be back in the jury room that's in use for this trial at
3 nine o'clock in the morning. We should then have the trial
4 preparation completed in this case and be ready to start
5 shortly thereafter.

6 Let me caution you about a couple of things while
7 you're away from the courthouse. When you come back, you're
8 going to take an oath. That oath will be that you will
9 decide this case based upon the law and the evidence
10 presented in this case. The only place you're going to hear
11 evidence in this case is in this courtroom from this witness
12 stand from witnesses who have been sworn to tell the truth
13 who will be testifying in front of you during the trial, and
14 whatever documents or other evidence goes into the record of
15 the case through the testimony of those witnesses.

16 I'm telling you that because any information that you
17 might get outside of this courtroom should not be considered
18 by you in any manner whatsoever in trying to reach a verdict
19 in this case. For that reason it would be highly improper
20 for you to try to gather information about this case on your
21 own from any source.

22 I realize that we live in an information age, and with
23 the swipe of your finger or the push of a button you can get
24 information on just about anything in the world. I will
25 assure you that some of the information that's available in

Jackie Harrison - Cross-examination
by Ms. Jones

1 the public domain, I hate to break it to you, but it's not
2 true. Also, some of the information that's in the public
3 domain is not admissible in a Court of law, and cannot be
4 used by a jury in any fashion in determining the questions
5 that are gonna be placed before you.

6 So, don't try to gather any information about the case
7 on your own. I've cautioned you already about talking about
8 the parties or the charges or the information you've already
9 gotten in this case with anyone. It's okay to tell family
10 or friends that you've been selected as a juror, that you're
11 gonna be sitting on a case. That's where the discussion
12 ought to end. Tell them you'll be happy to talk about it
13 perhaps when the case is over. That will be your decision
14 to make. But don't discuss what the case is about or
15 anything involved or when or where this may of occurred
16 because, again, it will be improper for you to begin
17 discussions about this case.

18 Now, if anybody contacts you about your service on the
19 jury, jury tampering is a felony in this state. It's a
20 crime. And if someone tries to call you or try to influence
21 your decision in this case in any manner whatsoever, I'm
22 gonna ask that your report that to the Court when you
23 return. I can assure you I take those matters extremely
24 seriously. I'll see that the proper investigations are
25 begun to take care of that situation.

Jackie Harrison - Cross-examination
by Ms. Jones

1 So, I guess, to put it in a nutshell, I don't want you
2 to watch, listen to, or read media reports. I don't want
3 you to try to gather information on your own. I'm
4 instructing you not to discuss the case with anyone. Don't
5 allow anyone to discuss the case with you, and report any
6 contact that you might have with anyone about this case when
7 you return.

8 Now, when you come back I'll be asking you whether or
9 not you've been able to comply with my instructions. So,
10 please do so and arrive in the morning with an open mind
11 ready to hear the evidence in this case according to your
12 oath that you're gonna take.

13 I want to thank you again for your patience this
14 afternoon. The bailiffs will show you the jury room to
15 report to. Be there at nine o'clock in the morning, and we
16 should be in a position to start shortly thereafter.

17 Again, thank you for your help today. You're free to
18 go for the evening.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: Mr. Harrison, you were on the stand. You
22 may resume the stand again please. I'll remind you you're
23 still under oath.

24 Do you understand that, sir?

25 THE WITNESS: Yes, sir.

Jackie Harrison - Cross-examination
by Ms. Jones

1 THE COURT: Thank you. Have a seat please.

2 (Witness returns to the stand.)

3 THE COURT: Ms. Jones, we interrupted your examination
4 of the witness.

5 You may proceed.

6 MS. JONES: Thank you, Your Honor.

7 CONTINUED CROSS-EXAMINATION

8 BY MS. JONES:

9 Q Mr. Harrison, let's go back. Specifically we were
10 talking about the lighting because we're questioning or
11 addressing your ability to see and thereby identify anyone
12 in the conditions that existed that night.

13 Did you get it squared away now?

14 A Yes, ma'am.

15 Q I think the mic fell on him.

16 You indicated that you were in the car where -- excuse
17 me.

18 Were you in the car when you first realized there was a
19 second individual?

20 A Yes, I was still in my car.

21 Q Seated?

22 A Yes, ma'am.

23 Q Okay. Tell me again where that person came from.

24 A Directly behind my car through -- the, the two
25 driveways, mine and the one right beside of me, run parallel

Jackie Harrison - Cross-examination
by Ms. Jones

1 with each other with a flower bed and trees in-between the
2 two. He was coming through the trees directly behind my
3 car.

4 Q Okay.

5 A The bushes.

6 Q He was coming -- and the, the common flower bed that
7 you're talking about, is it on, as you're sitting in your
8 car, is it on the, the left side of the vehicle or the right
9 side of the vehicle?

10 A Well, I'm parked facing---

11 Q I, I---

12 A ---the garage.

13 Q I got that.

14 A You mean when I'm pulling in, in my drive?

15 Q As you're sitting in your car, right before this thing
16 happens, is the flower bed over here?

17 A It's directly behind me.

18 Q Okay. Well, let's go ahead and use the picture. I
19 think that's the only way we're gonna be able to accomplish
20 it.

21 I want to mark this for identification.

22 (WHEREUPON, a photograph was marked as Defendant's
23 Exhibit No. 2 for identification purposes only at this
24 time.)

25 Q Mr. Harrison, I'm handing you a small picture that's

Jackie Harrison - Cross-examination
by Ms. Jones

1 been or a small copy of a picture that's been marked
2 defendant's Exhibit for identification No. 2.

3 A Yes, ma'am.

4 Q Look at it. It's kind of dark. See if you can
5 identify what that is. In general what it is.

6 A That would be the, where the mailbox is.

7 Q Is that your house?

8 That's what I mean.

9 A That's the driveway, yes, ma'am.

10 Q Driveway. That's what I meant first of all. That's
11 your driveway.

12 where is this flower bed you keeping talking about?

13 A It runs right here.

14 Q Okay. Can you even see the silver car in that picture?

15 A I see the reflectors on the jet skis are right there.
16 That looks like it might be the taillight.

17 Q Okay. So, the silver car is right there---

18 A Yes.

19 Q ---with the bulk of it hidden by the truck, correct?

20 A Yes, ma'am.

21 Q Okay. Where's that street light that's lighting that
22 driveway?

23 A If it's this road that runs --

24 Q Uh-huh. (Affirmative).

25 A -- down, they's a house directly across from me, and

Jackie Harrison - Cross-examination
by Ms. Jones

1 then the one right beside it.

2 Q Okay. So, it's---

3 A That light would probably be about right here.

4 Q Okay. Is it lighting the driveway?

5 A Not this area, no.

6 Q Okay. And the area you just pointed to is where the
7 cars are, isn't it?

8 A Yes, ma'am.

9 Q Where you were?

10 A Yes, ma'am.

11 Q Okay.

12 A Yes, ma'am, I was on the other side of the truck.

13 Q Okay.

14 A Cause that's when that guy was in my door, I---

15 Q Okay.

16 A I couldn't even -- I mean it's pitch dark.

17 Q Okay.

18 A And the way the light shines, it shines---

19 Q Turn it. I can see it.

20 THE COURT: I can see.

21 Q The judge needs to see it.

22 THE COURT: Go ahead.

23 Q Okay.

24 THE COURT: Just hold it right where you had it.

25 A The way it, the way the light shines, the light's over

Jackie Harrison - Cross-examination
by Ms. Jones

1 here. So, the house blocks it that way.. He -- by this
2 picture, he would, would of been standing back over here.

3 Q And that back over there is lighted?

4 A Yeah.

5 Q Okay.

6 A You can see.

7 MS. JONES: Your Honor?

8 THE COURT: That's okay. I saw it.

9 Q How far away were you from this individual when you got
10 the two separate looks that you said you got dead, dead on
11 the face?

12 A About from me to you. Thirty foot.

13 Q Okay. And what is between the two of you when you have
14 that look?

15 A Nothing.

16 Q The jet skis aren't in the way?

17 A No, ma'am.

18 Q The bushes aren't in the way?

19 A No, ma'am, he had done come through them.

20 Q Okay. Was he on the driveway proper?

21 A Was he on the driveway?

22 Q Was he on your driveway?

23 A No, ma'am.

24 Q What, what---

25 A He's still in the flower bed---

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Okay. Where was he---

2 A ---part.

3 Q These raised shrubs?

4 A Yes, ma'am.

5 Q Okay. And do you recollect talking to Ms. Reid, and I
6 forgot her married name now, the EMT that talked or
7 testified earlier, and telling her that, when the second
8 suspect ran off, you are unsure of the direction of travel?

9 A No, ma'am.

10 Q Do you even remember talking to her that night?

11 A Yes, they had -- they pulled on in as soon as I got
12 there.

13 Q Okay. So -- but you don't remember telling her that,
14 that she wrote in her report?

15 A No, ma'am.

16 Q Okay. You were pretty rattled up, weren't you?

17 I don't know that that was your expression. But you
18 had some expression for being discombobulated that night
19 because of what had happened to you.

20 A Well, when they was doing DNA on me, I guess to see I
21 fired the gun, then the two detectives come up talking. She
22 was trying to explain to me what DNA she was taking. I
23 believe it's the coroner. They had like four people there
24 asking questions.

25 Q Okay.

Jackie Harrison - Cross-examination
by Ms. Jones

1 A And that, that -- that's what confused me.

2 Q And the direction from which this individual came from
3 the shrubs, were -- was that at the same direction where the
4 blue vehicle was?

5 A No, the vehicle was still parked in the road.

6 Q Okay.

7 A He had run about half-way up the driveway, the lady's
8 next door that runs parallel to my driveway.

9 Q So you believe the blue car was in a driveway?

10 A No, it was parked on the road.

11 Q Okay. And is that on the same side of your car as the
12 bushes through which the individual emerged?

13 A I don't understand.

14 Q You -- I'm trying to get your spatial layout of your
15 driveway. Okay. I showed you a picture.

16 A Yeah, it wasn't too much of a picture as far as the
17 neighborhood. They---

18 Q How did you---

19 A They pictures of the neighborhood. Bring one of them
20 up and I'll be more than happy to show you where the car was
21 parked.

22 Q I've got a picture of your car.

23 What I want you to tell me is when the individual, when
24 you saw the individual, was he on the same side of your
25 vehicle as the shrub bed?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Yes, both of them was behind me.

2 Q Okay. Same side of your vehicle as the blue car?

3 A The car they was driving?

4 Q The blue car, correct.

5 A was on the other -- they two driveways there.

6 Q Okay.

7 A It was parked on -- like it drove past my driveway,
8 drove past her driveway, and then stopped.

9 MS. JONES: Let's mark this one too please.

10 (WHEREUPON, a photograph was marked as Defendant's
11 Exhibit No. 3 for identification purposes only at this
12 time.)

13 Q Mr. Harrison, look at State's No. 3 for identification.

14 A Yes, ma'am.

15 Q Okay. Right up front on the right side of that is a
16 driveway, is a mailbox.

17 whose mailbox is that?

18 A That's my mailbox right there.

19 Q okay. So, that mailbox, in relation to this driveway,
20 is where?

21 Can you do that for me?

22 Is it on this side?

23 A Yes, ma'am, right there.

24 Q Okay. Let's put it over here then.

25 A well---

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Line it up.

2 A The mailbox's right down here.

3 Q Okay. Do you see a blue vehicle in the picture?

4 A Yes, ma'am.

5 Q No. 3.

6 Okay. Where's the shrub bed you're talking about?

7 A This is just the corner of it. Right there is the
8 shrub bed.

9 Q It's right there.

10 So, when you saw the individual, he was on the same
11 side of your driveway as the blue car?

12 A Yes, looking at this direction.

13 Q Okay. Good.

14 Now, looking in that picture, where's the street light?

15 That's, again, No. 3.

16 A It's like over to---

17 Q Well, the---

18 A Over here.

19 Q You, you didn't take the photo.

20 So, you don't know if that's not a flash, do you --

21 A No.

22 Q -- or headlights of a vehicle?

23 Look beyond this light. Look at the cars. It's not
24 lit up.

25 There's no light over there, is there?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A I can see the tag and the---

2 Q Okay.

3 A ---background.

4 Q But do you see a street light in there?

5 A No, they might be one way on up---

6 Q Way on up there?

7 A The corner.

8 Q Okay.

9 A The corner that shines on him cause on the opposite
10 side of the street and one house down.

11 Q But, but he's on this side of the flower bed?

12 A Yes, ma'am, he's back up here.

13 Q Okay. Right over there near that little thing?

14 A Uh-huh. (Affirmative).

15 Q Okay. Thank you.

16 Does Your Honor need the second photograph?

17 THE COURT: No, I stood up and looked at it. I saw
18 what you were talking about.

19 MS. JONES: Okay. Your Honor, that's all I'd have for
20 him at this point with regard to his ability to see and
21 thereby identify.

22 THE COURT: All right. Any further questions?

23 REDIRECT EXAMINATION

24 BY MR. HARRISON:

25 Q Just to be clear, Mr. Harrison, is there sufficient

Jackie Harrison - Redirect examination
by Mr. Harrison

1 lighting in the driveway to be able to see the face of Mr.
2 Emmons?

3 A Yes, sir.

4 Q Do you---

5 A where he was standing.

6 Q Yes, sir.

7 Did you, in fact, see the face of Mr. Emmons at that
8 time?

9 A Yes, sir.

10 Q Thank you.

11 Nothing further.

12 THE COURT: All right. Anything further?

13 MS. JONES: No, sir.

14 THE COURT: You may step down.

15 MS. JONES: No questions.

16 THE COURT: You may step down.

17 All right. Anything further on this issue?

18 MS. JONES: Your Honor, I would just argue that and I
19 anticipate Your Honor's decision, but I would argue, based
20 on the darkness shown in the photographs, at least to me, I
21 don't think it's possible to do what he said he was doing.

22 THE COURT: All right. well, it appears that those
23 photographs were taken with flash photography. It's
24 difficult to tell, tell what the ambient or surrounding
25 lighting might of been when they used the flash bulbs. So,

1 I understand what you're saying.

2 But at any rate, I'm gonna find that the -- I will not
3 exclude the identification based on the testimony I've
4 heard. I did not find that there was any State sponsorship
5 or activity involved in the identification, and, therefore,
6 I will allow him to testify. And, of course, you certainly
7 have the right to question his identification by all means.

8 Anything else we need to take up concerning pretrial
9 issues?

10 MS. JONES: One last issue, and I do---

11 THE COURT: Yes, ma'am.

12 MS. JONES: I suspect it will be pretty brief. It's
13 with regard to Landon Bridges. In light of -- well, let's
14 just say this.

15 THE COURT: Mr. Bridges is the other gentleman at
16 Wal-Mart?

17 MS. JONES: Yes, sir.

18 THE COURT: All right.

19 MS. JONES: I don't know -- I've not been provided any
20 information indicating he's, he is going to or in the past
21 has received consideration for cooperating with the
22 Solicitor's Office and the Sheriff's Office. Mr. Bridges is
23 in, depicted in the same photograph that was shown or that
24 was released based on the Wal-Mart video, and some two weeks
25 after that, this event he was actually arrested on ten

1 as juries, jurors, it's your duty to take the law as I give
2 it to you. Then you should apply that law to the facts as
3 you decide the facts to be. That should put you in a
4 position to make, render a just and a true and a fair
5 verdict in this case.

6 But if you came into the courtroom with some idea as to
7 what the law is, and you have an opinion as to what the law
8 ought to be, I will tell you that, under the oath that you
9 have taken, you should leave those notions and opinions
10 outside of the jury room before you begin deliberations.
11 Again, it's your job to take the law exactly as I give it to
12 you since I'm the sole judge of the law, and apply it to the
13 facts as you determine the facts to be since you are the
14 sole judges of the facts in the case.

15 Now, in doing your job of finding the facts, it's gonna
16 be necessary that you determine the credibility or the
17 believability of the testimony you hear, and that's what
18 credibility means. It means believability.

19 I'm gonna tell you that every single day of your life
20 you use your own good common sense and decide what you
21 choose to believe and what you choose not to believe. Today
22 is no different than any other day. I'm gonna ask you to
23 use your common sense in making decisions as to what
24 testimony you choose to believe and what testimony you
25 choose not to believe.

1 As the sole judges of the facts, you have the right to
2 believe all of, part of, or none of what a witness may
3 testify to during the trial. You also have the right to
4 believe one witness against all the other witnesses who
5 testify or you can bring -- believe all the others against
6 one. You're the sole judges of facts in this case, and that
7 makes you the sole judges of the weight, the truth, and the
8 believability of the testimony that you hear.

9 You have the right, using your common sense, to
10 consider such factors as whether or not a witness has a
11 stake in the outcome of the trial, whether or not you
12 believe a witness may be biased or prejudiced in favor of
13 one side or the other. You also have a right to decide
14 whether or not a witness actually had the ability to know
15 what the witness is testifying about, and some people think,
16 most importantly of all -- I've been in the law profession
17 for about 38 years or so, and I've never been in a courtroom
18 where the, the witness stand wasn't right in front of the
19 jury box.

20 The reason for that is that allows the jury to watch
21 the witnesses as they testify, how they deliver their
22 testimony, the way they speak. You have the right to
23 consider anything that's in the record in making your
24 decisions as to what testimony you choose to believe and
25 what you choose not to believe.

1 So, again, pay close attention to what's being said,
2 how it's being said. You have the right to consider
3 anything that's going on in the courtroom in making your
4 decision in this matter.

5 So, again, pay close attention to what's being said.
6 Watch what's being said, and use your good common sense to
7 determine the weight, the value, and the truth of the
8 evidence that you're going to hear in this trial.

9 Now, I'm going to tell you that, during the trial,
10 there may be times when I get into discussions with the
11 lawyers about whether or not evidence should be put into the
12 record of the case. If it's my belief that, that those
13 discussions may include a discussion about something or some
14 matter that's not admissible, and the question of whether
15 some thing is admissible, admissible or not is determined by
16 the rules of evidence that, that have been established for
17 many years. So, it's my job to determine whether or not
18 that evidence is properly admissible under the rules that
19 govern those things.

20 If I believe that discussion is going to be -- include
21 a discussion of something that may not be admissible into
22 evidence, under the rules that govern those things, I may
23 ask you to leave the room while I have those discussions.
24 Don't think I'm trying to influence your decision on the
25 facts when I do that. It's simply me doing my job and my

1 statements, and the opening statement first given by the
2 State.

3 Mr. Fulmer, you may proceed at this time.

4 SOLICITOR FULMER: Thank you, Judge.

5 THE COURT: Yes, sir.

6 SOLICITOR FULMER: Good morning, ladies and gentlemen
7 of the jury. My name's Danny Fulmer. I'm the prosecutor in
8 this case. It's my job to put before you a set of facts
9 about what happened.

10 This is a case of an attempted armed robbery. It
11 happened back in August, August the 28th, 2011, up in
12 Boiling Springs on Cottage Mill Run. That's a street in a
13 neighborhood located behind Wal-Mart up on Highway 9 if
14 you're familiar with Boiling Springs.

15 Mr. Jackie Harrison lives on Cottage Mill Run. He's
16 the victim in the case. He came home that evening, after
17 dark in the evening from visiting with his parents, and
18 pulled into his driveway of his home. He was approached by
19 two men, and one of those men was armed with what he
20 believed at the time to be a shotgun. He demanded money.

21 You'll see today that we only have one defendant
22 because the man that first approached Mr. Harrison was shot
23 and killed by Mr. Harrison in self-defense. The other man
24 that's seated across the courtroom this morning, Mr. Chris
25 Emmons, he was also there in the driveway. You'll hear from

1 Mr. Harrison about what he saw happened.

2 Ultimately he ran away. The State believes that he ran
3 down the street to Wal-Mart where he met up with an
4 acquaintance and you're gonna hear from that acquaintance.
5 His name is Landon Bridges. He asked for a shirt to change
6 into. They spoke for a while. They walked around Wal-Mart.

7 Ultimately, this defendant admitted to Mr. Bridges that
8 he had hit a lick, those are his words, and I'll let you
9 hear from Landon Bridges as to what he believed that the
10 defendant meant by hit a lick. Based on the testimony from
11 Mr. Bridges, Mr. Chris Emmons was ultimately arrested and
12 charged with armed robbery and they's why we're here today.

13 You'll hear from the victim. You'll hear from Mr.
14 Bridges and some other witnesses. All I ask is that you
15 listen carefully and use your good judgment as to who you
16 think is telling the truth in this case.

17 Thank you.

18 THE COURT: Ms. Jones, for the defense.

19 MS. JONES: Thank you, Your Honor.

20 THE COURT: Yes, ma'am.

21 MS. JONES: Good morning.

22 I'm Beverly Jones. I am a Public Defender for
23 Spartanburg County and today it's my honor, as it has been
24 now for two years, to represent Chris Emmons.

25 As His Honor has told you in his opening comments, you

1 bare the responsibility of deciding what the facts are in
2 this case. Mr. Emmons, as His Honor has told you, comes
3 into the courtroom an innocent man, and he remains an
4 innocent man up until and only if the State meets their
5 burden and establishes, beyond a reasonable doubt, that he
6 is, in fact, guilty of the attempted armed robbery of
7 Mr. Harrison back in August of 2011.

8 You will hear, as Mr. Fulmer said, you'll hear from
9 witnesses. I'm certain, cause you're very, seem to be a
10 very attentive group, and pay attention to what you hear,
11 but on behalf of Mr. Emmons, Mr. Emmons and I ask that you
12 also pay attention to what you do not hear.

13 The trial of this case is going to be as much about
14 what was not done, what is not here as it is, what you will
15 hear from the witness stand, and that's, first and foremost,
16 important because the State has the burden of proving,
17 proving my client guilty. He has nothing he has to prove.
18 And if they can not prove, by what they bring in and what
19 they can not and do not bring in, tell you or present
20 through witnesses, then they've not met their burden.

21 The situation, as you will hear about that happened in
22 August of 2011, is tragic. The event itself, Mr. Harrison's
23 reaction to the event, led to the death of an individual.

24 Please pay attention. Mr. Emmons trusts you. You've
25 taken an oath and honor that oath because to not pay

1 attention, not put the State to its burden, require them, if
2 they can convince you beyond a reasonable doubt or a doubt
3 which will cause you to hesitate to act when you begin to
4 deliberate and rush to judgment would be an even greater
5 tragedy, tragedy for Mr. Emmons.

6 Thank you.

7 THE COURT: Mr. Fulmer, the State may call its first
8 witness.

9 SOLICITOR FULMER: Thank you, Judge.
10 State calls Jackie Harrison.

11 THE COURT: Sir, if you'll come forward to my left and
12 be sworn please.

13 JACKIE HARRISON, being first duly
14 sworn, testified as follows:

15 THE COURT: Have a seat, sir, and once you're seated,
16 state your name please.

17 THE WITNESS: Jackie Dale Harrison.

18 THE COURT: Thank you.

19 Mr. Fulmer, your witness.

20 SOLICITOR FULMER: Thank you, Judge.

21 DIRECT EXAMINATION

22 BY SOLICITOR FULMER:

23 Q Mr. Harrison, where do you live?

24 A At [REDACTED]

25 Q How long have you lived there?

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 A Eleven years.

2 Q What do you do for a living?

3 A I'm a tool and die maker working automotive at
4 Spartanburg Steel.

5 Q How long have you had that job?

6 A About 27 years.

7 Q Do you recall the evening of August the 28th, 2011?

8 A Yes, sir.

9 Q What, what happened to you that evening?

10 Let's, let's start with leaving your parent's house and
11 tell the jury what happened.

12 A Well, on Sunday, as I go by to eat dinner with my
13 parents, we was watching a football game. I left. It was
14 about 11:30. I stopped by the ATM at the bank up between --
15 my parents live about two miles from me in Boiling Springs.
16 And stopped by the ATM, and went on home.

17 When I pulled in my driveway, I cut the car off, and I
18 noticed a car slowly coming up the road, and I done opened
19 my door. I had one window down and I cut the inside light
20 off so I could see out and I noticed the car hitting its
21 breaks stopping.

22 And about the time it stopped, I heard footsteps
23 running up the driveway. And I was leaned over looking out
24 the passenger window and kept my pistol in the glove box.
25 So, I, I opened it. When I was coming back up with my gun,

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 I noticed, in the door mirror on the passenger side, the one
2 I killed, was coming around the back corner of my car.

3 When I raised on up I noticed the defendant coming
4 through the bushes between the driveways directly behind my
5 car. And when I turned, the one I killed had his tire tool,
6 I found out, you know, when the ambulance got there when
7 they shined the light up there, looked like a 12-gauge
8 barrel. He had it kind of rolled up in his hoodie, and it
9 was about right there. And I glanced and seen it and
10 smacked it with my hand and shot him.

11 Q Now, at this point, are you still seated in your car?

12 A Yes, sir, I was sitting about like that one leg out the
13 car and right here. I smacked that. The first shot was
14 about at my stomach. The second shot I raised up because I
15 remember the flash of gun powder coming back in my face.

16 Q Did this man say anything to you before you shot him?

17 A He, he -- when he ran up he said give it up, and that's
18 it, and all I could think about was that shotgun, if it went
19 off, it wouldn't be too good. So, I smacked it, shot him
20 twice, and they's a set of jet skis right outside me. Kind
21 of trapped myself in-between my door and the jet skis behind
22 that car.

23 And when I shot him, he went over, spun around over the
24 jet skis, and that's when I had -- I already had one leg
25 out, spun around, cause he was running up straight behind

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 me, spun around and took a shot at him, and they just kind
2 of froze. And I sit there and held the gun on him two
3 seconds, and he turned around and run off.

4 Q And during that two seconds while you held the gun on
5 him, did you have an opportunity to see his face clearly?

6 A Yes, sir, cause that's when I pulled the gun up, I,
7 I -- if I had to shoot him I was gonna shoot him here. So,
8 I was looking down the barrel of the gun at him.

9 Q How far away was he from you at that time?

10 A About from here to where he is now.

11 Q And, at this point in time, you were standing in your
12 driveway?

13 A Yes, sir.

14 Q And was he in your driveway at that point in time?

15 A He was in the flower bed. They -- my driveway and the
16 lady that lives next door, they run parallel with each
17 other. They's a flower bed with bushes and trees
18 in-between. It's about in the middle of it. Just come
19 through the bushes.

20 SOLICITOR FULMER: May I approach the witness, Judge?

21 THE COURT: You may.

22 Q I'm gonna show you what's been marked as State's
23 Exhibit 6, and ask you to identify what you see in that
24 picture.

25 A That's a picture of a housing development.

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 Q Is your house shown in that picture?

2 A Yes, sir.

3 Q Also -- is the neighbor's house with the driveway
4 parallel to yours, is that also shown in the picture?

5 A Yes, sir.

6 SOLICITOR FULMER: Judge, I'd like to move this into
7 evidence and publish it to the jury.

8 THE COURT: Objections?

9 MS. JONES: No, sir, Your Honor.

10 THE COURT: All right. Without objection it will be
11 admitted into evidence as it's been marked.

12 He's asked to publish it to the jury. That's lawyer
13 talk for show it to you.

14 So, we'll allow you to do that, Mr. Fulmer. You may
15 proceed.

16 (WHEREUPON, State's Exhibit No. 6 was received into
17 evidence at this time.)

18 SOLICITOR FULMER: Thank you, Judge.

19 THE COURT: Donnie, lower the lights for us please.

20 (The bailiff complies.)

21 THE COURT: Thank you.

22 Q Mr. Harrison, I'm gonna hand you a pointer. Mash that
23 button to make it come on.

24 Could you use that pointer and show the jury where your
25 house is?

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 A Right there.

2 Q Okay. And you mentioned a neighbor's house had a
3 driveway parallel to yours.

4 Can you point out where you're speaking of?

5 A Yes, sir, that's the neighbor's house and there's the
6 bushes and there's two driveways.

7 Q Okay. So, your, your driveway and your neighbor's
8 driveway run into Cottage Mill Run?

9 A Yes, sir.

10 Q Is that right?

11 And then Cottage Mill Run comes out on Rainbow Lake
12 Road?

13 A Yes, sir, Rainbow Lake Road is there. My house is the
14 third house.

15 Q If you go south in this picture down Rainbow Lake Road,
16 where does that go?

17 A To Wal-Mart.

18 Q To Wal-Mart.

19 What's the location of Wal-Mart?

20 What's the intersection?

21 Do you know that?

22 A Highway 9 and Rainbow Lake.

23 Q Okay. And about how far is Wal-Mart from your house?

24 A I'd say about five, six hundred yards.

25 Q Could you use the pointer and point out where -- when

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 you pulled in your driveway and stopped your car, where was
2 that car located?

3 A They was -- I have a white Chevrolet truck. It was
4 parked there. I was driving the little Mitsubishi, small
5 car. I pulled it in-between the jet skis right there and
6 the truck, and I pulled in like I was gonna pull in to the
7 garage facing the house. The car was facing the house.

8 Q And this is a satellite photo.

9 The two things at the end of your driveway, those are
10 the jet skis you're talking about?

11 A Yes, sir.

12 Q Okay. And when you pulled in behind those jet skis,
13 would you have been facing your house?

14 A Yes, sir.

15 Q The nose of your car would be facing the house?

16 A Yes, sir, and the car come up the road real slow, and
17 I, I heard one jump out, come running up my driveway. The
18 car stopped right there. Another one come running through,
19 right through there.

20 Q Okay. So, that dark area, that's the flower bed or
21 hedges---

22 A Yes, sir.

23 Q ---that you were referring to?

24 A Yes, sir.

25 Q Okay. So, the man you shot then was the man that came

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 up your driveway?

2 A Yes, sir.

3 Q Okay.

4 A And the reason the car was still parked there, and it
5 was aimed going out toward Rainbow Lake Road, cause when he
6 run, they left the car. So, it was still there.

7 Q Can you show the jury approximately where you would of
8 been standing when you shot at Mr. Emmons?

9 A Right between my car and the jet skis.

10 Q And where do you recall Mr. Emmons standing?

11 A Right there.

12 Q What time of night was this?

13 A I'm not really sure. I think about 11:30.

14 Q It was dark outside?

15 A Yes, sir.

16 Q Okay. Can you describe the lighting in your driveway
17 and around that area to the jury?

18 A Okay. There's a street light right there, and there's
19 a street light right there, and it was pitch black right in
20 through here. I mean real dark because the house blocks the
21 street light there. It throws a shadow on the drive right
22 in there, and where he was standing he just happened to hit
23 the light. If he had been a little further back or over to
24 the right over this way, he would of been in the shadows and
25 I'd of shot him.

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 He just happened to hit the light right, and I could
2 see his hands down, and he was still far enough away he
3 wasn't a direct threat for me to shoot at him and because
4 the closest street light would be right there. And all
5 that, the shadow of the house, all this would of been lit up
6 from that angle with -- a real dark spot would be from there
7 to there. And where he was standing, a street light could
8 pick him up there.

9 Q Now, you told the jury that you shot at him talking
10 about Mr. Emmons now?

11 A Yes, sir.

12 Q Can you kind of go step-by-step through your mind, if
13 you can recall, as to what you did in terms of seeing him
14 and shooting at him and then apparently not shooting again
15 once you were able to see him clearly?

16 A When I spun out of, out of the car and turned backwards
17 facing where he's coming from, I was already half squeezing
18 the trigger when I was spinning cause I knowed they was two
19 because I seen them coming when I was raising up in the
20 mirror. And when I turned, like I said, he hit the light.
21 I mean that's how lucky in one sense cause he's not dead.
22 But that also gives me opportunity to see him and identify
23 him. So, I guess that's the only look I have.

24 But anyway, turn around and spun and he, he froze. I
25 guess he seen the other one fall and realized I was the one

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 with a gun trying to shoot and he froze. Both his hands was
2 down beside me and I didn't see nothing in them. I don't
3 know if I was spinning and shot too quick to miss him or I
4 noticed -- cause, in my mind, I noticed his hands and just
5 barely flipped off of him when I pointed the trigger. Then
6 I turned back around and squared up on him again in case he
7 come towards me or if he pulled a weapon on me.

8 Q From the time you first noticed the men approaching you
9 until the time you were standing face-to-face with Mr.
10 Emmons, what -- how many seconds was that do you think?

11 A When I heard him, when I first heard the footsteps, I'd
12 say it took two seconds for him to come, two or three
13 seconds by the time he -- the one I killed round the back of
14 the car. And as far as the shooting, well, the one I shot
15 and killed, he's like bam, bam. I mean that fast.

16 And when he spun and slumped over the jet skis, that's
17 when I spun out the car, and fired a shot at him, and he
18 stopped. All together I'd say about six seconds as far as
19 when I first pulled the trigger to him running.

20 Q During this time, were you in fear for your life?

21 A Yes, sir, I was worried about the shotgun going off,
22 you know.

23 Q So, you believed that the first man that approached you
24 had a gun in his hand?

25 A Yeah, he had -- it looked like a 12-barrel (sic)

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 shotgun. He had a lug wrench and where it fits over the lug
2 on the tire on the rim, a lug nut, about the size of a
3 12-gauge shotgun. That's what it looked like cause it's so
4 dark where he was standing because the shadow of the house
5 right in that area, and it looked just like a 12-gauge
6 shotgun cause I remember, when I was turning around, I mean
7 it's right there. I remember just trying to see what
8 exactly it was.

9 Q You were never charged with a crime, were you?

10 A No, sir.

11 Q The police determined this to be self-defense?

12 A Yes, sir.

13 Q Had you ever seen Mr. Chris Emmons before that night?

14 A At the time that the detective asked me if knowed him I
15 said no, and about three weeks before that---

16 MS. JONES: Objection, Your Honor.

17 A ---later, over---

18 THE COURT: I'm gonna ask the witness to be responsive
19 to the question. The question, I believe, is did he
20 previously know the gentleman.

21 SOLICITOR FULMER: Yeah.

22 Did you know this man?

23 A No, sir.

24 THE COURT: All right. Move on to the next question.

25 SOLICITOR FULMER: Thank you, Judge.

Jackie Harrison - Direct examination
by Solicitor Fulmer

1 Did you know Mr. Fowler---

2 A No, sir.

3 Q ---the man you killed?

4 A No, sir.

5 Q How did you -- Cottage Mill Run, is that in Boiling
6 Springs?

7 A Yes, sir.

8 Q Is that located in Spartanburg County?

9 A Yes, sir.

10 Q Please answer any questions Ms. Jones may have for you.

11 THE COURT: Your witness, Ms. Jones.

12 MS. JONES: Thank you.

13 SOLICITOR FULMER: It may take a minute to cool down
14 before it turns off.

15 CROSS-EXAMINATION

16 BY MS. JONES:

17 Q Mr. Harrison, you have indicated that you had been off
18 at your parent's home that night and came in, and as you
19 pulled in your driveway, you perceived or at least believed
20 somebody was following you.

21 Is that what you said?

22 A No, the car was at the bottom of the hill going slow.
23 I noticed, when I was turning in my driveway, the lights
24 flipped on, and it was slowly coming up the road.

25 Q Okay. Now, ultimately when all of this activity is

Jackie Harrison - Cross-examination
by Ms. Jones

1 said and done and unfortunately this individual is there in
2 the driveway deceased, do -- you got on your phone and you
3 called 9-1-1, didn't you?

4 A Yes, ma'am.

5 Q Okay. When you pulled onto your street and you saw
6 that car driving slowly and then it turned its lights on, as
7 you pulled in, did you ever think about calling 9-1-1?

8 You obviously -- did you have a heightened sense of
9 suspicion or danger or something at that point?

10 A I never had a car following me. It's just when I was
11 pulling in, turning in my drive I noticed that about I think
12 it's two houses or three houses down, and the car flipped
13 its lights on and then started up the road.

14 Q Okay. Well, you noticed---

15 A No, it's just when it got right there to me, the brakes
16 squeaked a little bit. I heard them hitting their brakes,
17 and I cut the inside light off so I could see out the
18 passenger window.

19 Q Okay. Exactly.

20 At that point in time you have a heightened sense or a
21 sense of something is not right, something's going on here?

22 A Yes, ma'am.

23 Q And we know you have a cell phone cause you used it
24 when it was over with to call 9-1-1.

25 Did you think about doing that at that point rather

Jackie Harrison - Cross-examination
by Ms. Jones

1 than the same amount of time and energy it took to flick the
2 inside light on your car off, which some of us may not even
3 really know how to do that with our cars these days, you
4 could of hit 9-1-1?

5 A No, it took me a while to open the phone and dial
6 9-1-1.

7 Q Pardon me?

8 A It would of took me longer to open my phone and dial
9 9-1-1.

10 Q Did you think about doing that though?

11 A No.

12 Q Okay. Your instinct was to turn the light off---

13 A And try to see what was going on.

14 Q ---sit and wait and get your gun out of the glove box?

15 A Yeah, when I heard footsteps running up my driveway.

16 Q Okay. Well, let's talk about that. Now, this is
17 August 28th.

18 Do you drive with your windows down?

19 A No, I believe it was -- I don't know if it was down or
20 not.

21 Q But you could hear footsteps?

22 A Uh-huh. (Affirmative).

23 Yeah, 11:30 at night, yeah.

24 Q Okay. Did you have your air on?

25 A No, the car was cut off.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Okay.

2 A And my door was opened.

3 Q Okay.

4 A I was getting ready to get out when I noticed the car
5 easing up through there and then I heard it stop.

6 Q So, you say you're getting ready to get out, but you're
7 demonstrating one leg out of the car?

8 A Yes, ma'am.

9 Q Okay. So---

10 A I'm still sitting in my seat. I opened the door and
11 was getting ready to get out. I had my seat belt off,
12 getting ready to get out, and I seen it and heard the car
13 stopping, reached up, cut the inside light off -- this is
14 the door. And leaned over to look out after I cut the light
15 off and looking out the passenger window.

16 Q And getting your gun?

17 A No, when I heard the footsteps start running, the glove
18 box right here, popped it open, and got my gun. And when
19 I's coming up, seeing, seeing the two. When I turned, he
20 was standing right there on me.

21 Q Okay. Now, let's, let's talk about that.

22 You are inside what kind of a vehicle?

23 A It's a Mitsubishi Eclipse.

24 Q That's a small car, isn't it?

25 A Yeah.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q It's about the size of a Honda Civic, Honda Accord
2 maybe?

3 A Yeah.

4 Q Sits pretty low to the ground too, doesn't it, compared
5 to that big white truck you've got?

6 A Yes, ma'am.

7 Q Okay. And you heard something.

8 As you're leaning over, just now you say you looked in
9 the passenger mirror?

10 A When I was raising up after I---

11 Q Okay.

12 A ---heard the---

13 Q What did you see there?

14 A In the door/mirror?

15 Q Uh-huh. (Affirmative).

16 A The defendant that I killed, he was starting around the
17 back corner of the car.

18 Q Okay. And that's Mr. Fowler, right?

19 A Yes.

20 Q You've never called him by name, Mr. Fowler?

21 A Yes, ma'am.

22 Q Okay. You saw him all the way at the very tail end of
23 your car?

24 A Yes, ma'am.

25 Q Okay. Is that all you saw?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Out that mirror, yes.

2 Q Uh-huh. (Affirmative).

3 A And when I started raising up with the gun, the
4 rearview mirror right there -- cause I'm kind of tall
5 sitting in that car. So -- cause a lot of times at red
6 lights you kind of got to look under the mirror. When I was
7 raising up, I noticed that another one, the defendant,
8 coming through the bushes directly behind my car.

9 Q Okay. And, so, it's your position, the way you were
10 parked in your driveway, the shrub bed, the shrub wall that
11 divides your driveway from I believe next door --

12 A Yes, ma'am.

13 Q -- was directly behind your car, not off to the side?

14 A Well, if I -- say that's the shrub bushes, bushes, my
15 car would of maybe not directly, but kind of. I mean it's
16 so close to being straight that --.

17 Q Okay. So, they're not, in fact, on the left side of
18 the car.

19 You considered them directly behind the car --

20 A Yes, ma'am.

21 Q -- as opposed to the driveway being directly behind the
22 car?

23 A Yes, ma'am.

24 Q Okay. Now, so, at that point you indicate you're
25 seeing another individual who is running where?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A The one's coming around the back of the car, and the
2 other one was coming through the bushes in the flower bed---

3 Q Okay.

4 A ---behind the---

5 Q And---

6 A Behind me.

7 Q ---how do you know he's coming through the bushes and
8 the flower bed?

9 A Cause I seen him in the rearview mirror when I was
10 coming up, raising up.

11 Q Okay. The -- you mentioned a number of times that it's
12 very dark in your driveway?

13 A Yes, ma'am, right where my car was parked, yes.

14 Q Okay. And where you were parked it was dark?

15 A Yes, ma'am.

16 Q Were the jet skis dark?

17 A They was two different or three jet skis. The outside
18 one, the furthest, it might of been lit.

19 Q Okay. But you indicated that when an EMS officer,
20 maybe this young lady that's in the courtroom, got there and
21 shined the flashlights around, that's when you were able to
22 see the, the item you perceived to be a weapon when the
23 person charged you at the door?

24 A Yes, ma'am.

25 Q Okay. So, it's pretty dark where the jet skis are?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Right.

2 Q Okay.

3 A Right in that area.

4 Q Okay. And the jet skis -- the layout of the driveway,
5 you've got the garage of your house, your big white truck is
6 parked over here to the farthest right, then this small
7 Mitsubishi, and then three jet skis lined up right beside
8 each other, correct?

9 A Yes, ma'am.

10 Q Okay. And it's dark there?

11 A Yes, ma'am.

12 Q Beside -- behind the jet skis is the shrub row or
13 hedgerow that we keeping talking about that separates your
14 driveway from the next door neighbor?

15 A Well, the jet skis run this way and the drive -- I'm
16 parked here and the jet skis run this way. The shrubs would
17 be this way.

18 Q Okay. Behind the jet skis are the shrubs?

19 A Well, if I'm sitting in the car to the left of the jet
20 skis.

21 Q Okay. Not from your prospective, but the jet skis are
22 in front of the shrub row, correct?

23 A Well, the jet skis are here and the shrubs is here. I
24 don't --.

25 Q Okay. The -- where is the closest street light?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Probably a hundred foot.

2 Q In which direction?

3 A In front of the house and then one's on the opposite
4 side of the road in front of the house where I showed on
5 the---

6 Q Okay.

7 A ---map.

8 Q But you do not have a street light directly in front of
9 your home?

10 A No.

11 Q They're one or two houses away both to the right and to
12 the, excuse me, to the right and to the left?

13 A well, the one to the right will be the next yard over
14 at the road, and the one across the road from my house will
15 be the house in front of me at the corner of it---

16 Q Okay.

17 A ---in the road.

18 Q Where was the blue car?

19 The car that rolled up and stopped, was it a blue car,
20 was it not?

21 A Yes, ma'am.

22 Q Where was it?

23 A Past the driveway going out from my subdivision. My
24 driveway and then the lady's that runs right next to it just
25 as they passed her driveway.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Okay. So, the blue vehicle is beyond the hedgerow in
2 the road at the next door neighbor's driveway?

3 A Yeah, just passed her driveway.

4 Q Okay. Where did you hear the footsteps coming from
5 when you heard them?

6 A One run up -- the one I killed run up my driveway. You
7 could hear his feet smacking the concrete, and the -- what
8 was the question?

9 Q Okay. Those are the footsteps you heard, correct?

10 A Yes, ma'am.

11 Q The -- and that night after you heard the footsteps
12 smacking the concrete, which that's a pretty good
13 description, you've gotten one leg out of the car, you've
14 managed to get your weapon -- what kind of gun was it?

15 A A Ruger 9-millimeter.

16 Q Okay. How long have you had that gun?

17 A My ex-wife bought it for me for my birthday or
18 Christmas. I probably had it ten, ten years.

19 Q Okay.

20 A Fifteen.

21 Q Are you pretty good with it, proficient with it?

22 A Yes, ma'am.

23 Q Okay. You practice, don't you?

24 A Well, I'd shot that gun about ten times to make sure it
25 fired when I first got out, and it had been in the house or

Jackie Harrison - Cross-examination
by Ms. Jones

1 in my glove box since then, and I don't know if I shot it
2 before then or not. But no, I've just always been good with
3 a pistol I mean.

4 Q Okay. You sensed or heard that someone was coming up
5 to the vehicle and could you see that person?

6 A Well, what do you mean see him?

7 Q The person that you refer to as the one I killed, Mr.
8 Fowler --

9 A Uh-huh. (Affirmative).

10 Q -- could you see him?

11 A Yes, ma'am, I shot him and killed him, yes.

12 Q Well, that doesn't mean you could see him.

13 A It pretty much does.

14 Q Okay. Did you know where you shot him?

15 A Not exactly, no.

16 Q So, you really couldn't see him?

17 A Yeah, I could see him. It ain't like TV.

18 Q Okay.

19 A When you shoot somebody and blood and all, it ain't
20 like that. You can't see where a bullet enters somebody
21 from the front especially at night. You might could see the
22 bloodstains after they laid there, but it's not like TV.
23 Especially a 9-millimeter, which is a high velocity bullet,
24 I believe both bullets went all the way through him cause
25 one was in the seat of the jet ski behind him.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q why did you shoot him two times?

2 A Make sure -- I tried to kill him as quick as I could.

3 Q well, you did that. We know that.

4 A Because the shotgun there. He pulled that trigger, my
5 head's gone. My mama and daddy wouldn't even be able to
6 realize -- even open my casket. I made up mind, if I die,
7 at least they gone be able to bury him too instead of my
8 mama and daddy wondering who killed me.

9 Q Okay. Could you see---

10 A They got what they deserved.

11 Q Let me, let me ask you a question.

12 Could you see his facial features?

13 A I glanced up at it as I was pulling the trigger.

14 Q Were you -- just now looked, looked up like you're
15 looking in the rearview mirror.

16 A well, I'm still sitting down.

17 Q Okay. So---

18 A He was standing here and---

19 Q You shot him once from a seated position?

20 A I shot him twice from a seated position.

21 Q Okay.

22 A And when I spun and shot at him, when he fell, he fell
23 on the third casing. That's how quick it was.

24 Q Okay.

25 A So, in other words, I fired three shots---

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Now, let me, let me ask that.

2 A ---before he hit the ground.

3 Q Do you -- were you involved in the forensic collection
4 that night?

5 A They done tests to make sure I fired the gun.

6 Q Okay. But you weren't right there with all the, you
7 know, I guess probably half a dozen sheriff's deputies at
8 least end up coming, in addition to two EMT's including this
9 young lady who's here with us?

10 where did they take you when they got there?

11 You weren't still sitting in your car?

12 A Well, I unloaded or pulled the de-cock on the gun, sat
13 it in the front seat. When the ambulance pulled up, I sat
14 on back of the ambulance.

15 Q So, they got you out of the, what they call the crime
16 scene, right?

17 Moved you back there, sat you down?

18 A I was -- well, the ambulance pulled in behind the cars.
19 I sat in the back of it.

20 Q Okay. So, any of the, where the casings are, how far
21 they're from this place, they're under this, something's in
22 the seat of the so-and-so, all of that is not anything you
23 had any involvement in collecting?

24 You just hear things, go investigate things, and that's
25 how you're able to tell these men and women about that?

Jackie Harrison - Cross-examination
by Ms. Jones

1 It's not something you discovered directly?

2 A No, when the ambulance got there, and they shined a
3 flashlight, that's when I seen his tire tool.

4 Q Okay. Okay. So---

5 A And then the---

6 Q When they got there, they took you out of your car,
7 asked you to step out?

8 They didn't take you out.

9 A No, I was standing out.

10 Q Okay. They took you out of the driveway and, in fact,
11 they performed at least one test on you cause they weren't
12 quite sure what they were gonna do with you at that point?

13 Do you remember that test?

14 A They done a test to see if I fired the gun.

15 Q That's right.

16 They did a test where they swabbed you---

17 A Uh-huh. (Affirmative).

18 Q ---and all that---

19 A Yeah.

20 Q ---to see what you had on your hands and you stayed out
21 of the crime scene, didn't you?

22 A It's according to what do you call being out. I mean I
23 was---

24 Q You're at the ambulance?

25 A I was -- I was at -- where they done the test on my

Jackie Harrison - Cross-examination
by Ms. Jones

1 hands, the gun powder residue test, I was standing on the
2 back of my truck or behind my truck cause she was putting
3 stuff on the bed of my truck, which is covered. It's got a
4 cover on it. Using it like a table.

5 Q Okay. Now, nobody asked you that night if you could
6 participate in, in any kind of a lineup or identification
7 process, did they?

8 A No, ma'am.

9 Q Okay. Nobody quizzed you about whether you could work
10 with a sketch artist or anything like that?

11 A No, ma'am.

12 Q Okay. So, did you tell them yeah, I think I know who
13 it is, yeah, I can pick this person out of the lineup, hey,
14 why don't you let me try to give you a description?

15 A No, ma'am.

16 Q Okay. Nobody even asked you to describe the person,
17 did they?

18 A No, I told them he'd run through the front yard of the
19 neighbor's house going out there.

20 Q Okay. Well, my question was nobody even asked you to
21 describe him.

22 So, as far as they knew from you, this could of been a
23 black female?

24 A No, because when they was doing a forensic test the---

25 Q They who?

Jackie Harrison - Cross-examination
by Ms. Jones

1 Don't just say they.

2 A Law enforcement. It's a lady police officer doing a
3 forensic, doing the gun powder residue. Detectives
4 Williams, and then he had another detective with him, and
5 then the coroner, all of them was asking me questions at the
6 same time, and he asked me what color they were.

7 Q He who?

8 A The detective.

9 Q Which detective?

10 A The one sitting right there at the table.

11 Q Okay.

12 A Mr. -- and finally I told him he was white because I --
13 they was four of them asking me questions. I, I said I
14 don't know, I don't know, and then when he started to walk
15 off I said he's white.

16 Q Okay. So, they really didn't seem concerned in having
17 you describe this person at all, did they?

18 You had to kind of catch them as they were walking off,
19 didn't you?

20 A Yeah, I mean --.

21 Q Okay. So, there was no attempt to get you to sketch
22 anybody. There was no attempt to have you describe with
23 anything other than white male, height, skin tone, any,
24 anything distinctive, hair color, any physical problems or
25 anything like that, correct?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A No, ma'am.

2 Q Okay. Did anybody ever ask you to do that?

3 A No, ma'am.

4 Q Ever?

5 A No, ma'am.

6 Q Okay. And did that seem like the proper thing to you?

7 A I figured they had their investigation and---

8 Q Okay.

9 A ---that they---

10 Q Well, I guess, at some point, you didn't -- weren't
11 satisfied with the fact that, that nobody asked you that,
12 and at some point afterwards, within weeks and months later,
13 you went looking for things, didn't you?

14 A Yes, ma'am.

15 Q Okay. You made it your business to go find a picture
16 of the person they had charged, without any help from you,
17 and now you're here saying the person you saw in that
18 picture is that same person who is in your dark driveway?

19 A Well, when, when it come out on the news, showed the
20 video at Wal-Mart, and when Detective Williams called me and
21 said they had a warrant for Mr. Emmons, I told him that was
22 the guy in the video, and then when I went to pick up my
23 pistol, they take your pistol and called the sheriff to go
24 get my pistol, I told the desk sergeant at the county office
25 that that was the man they showed on the video coming out of

Jackie Harrison - Cross-examination
by Ms. Jones

1 Wal-Mart.

2 Q Okay.

3 A And she---

4 Q After they had already arrested that person and
5 publically declared that that was the person, you said oh,
6 yeah, that's right, that's him?

7 You never identified him before?

8 A No, them two -- them two incidents, the videos, was way
9 before he ever told me who it was, who it was cause he
10 called, when they done the warrant for his arrest, asked me
11 if I knowed Christopher Emmons or Emmons.

12 Q So, the first time anybody tries to determine if you
13 have any idea who this is, this other person who allegedly
14 fled, they already give you his name.

15 Now, do you, do you have a computer at home?

16 A Yes, ma'am.

17 Q Okay. And with somebody's name, it's pretty easy these
18 days to get a picture of them, isn't it?

19 A well, I didn't know how to do it. My oldest son pulled
20 it.

21 Q Okay. well, y'all -- is that the same son that had a
22 little problem at the waffle House?

23 MS. JONES: Objection, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, at this
25 point in time I'm gonna ask you to step back to the jury

Jackie Harrison - Cross-examination
by Ms. Jones

1 room. Don't begin any discussions until I've asked you to
2 do so.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: Objection, Mr. Fulmer?

6 SOLICITOR FULMER: Your Honor, that's, that's an
7 entirely unrelated irrelevant matter. It's intended to sway
8 and bias the jury against his testimony, Your Honor.

9 THE COURT: Ms. Jones.

10 So you say it's not relevant.

11 MS. JONES: Your Honor, I think it is relevant because
12 of this whole pattern of behavior of going out, and, and
13 finding a photograph, and thereafter being able to, to
14 identify as he was able to do yesterday. Although, in the
15 absence of the police not doing that with him, Your Honor,
16 is -- I think that's a line I can inquire about his
17 motivation for that, and, Your Honor, the fact that this
18 situation is strikingly similar to something that his son
19 was involved in where there was exactly the same kind of
20 identification issue. I think it's something I ought to be
21 allowed to explore.

22 He just said himself I didn't ask about the son. He
23 just said my oldest -- I didn't know how to do it, but my
24 older son. I don't even know if it's the same son at this
25 point.

Jackie Harrison - Cross-examination
by Ms. Jones

1 THE COURT: I don't either.

2 SOLICITOR FULMER: And it's not relevant, Your Honor.

3 THE COURT: Beg your pardon?

4 SOLICITOR FULMER: It's not relevant, Your Honor, to
5 the waffle House shooting, which occurred much later in
6 time. There's no connection between that incident and this
7 incident.

8 THE COURT: Which one happened first?

9 MS. JONES: This---

10 THE WITNESS: Mine did.

11 MS. JONES: ---event happened first. The overlap --
12 cause as Your Honor knows cause Your Honor tried the case,
13 and that's---

14 THE COURT: I tried the other case.

15 MR. JONES: That's the one you mentioned---

16 THE COURT: I can't remember the exact date it
17 happened.

18 MS. JONES: One of the many that you've mentioned that
19 you've dealt with this issue.

20 THE COURT: Oh, I've dealt with it in Conway too.. It's
21 not just here. It's all over.

22 MS. JONES: Your Honor, that case is---

23 THE COURT: I tried, I tried an armed robbery down
24 there, and, and the identifications there were made on --
25 not an armed -- a house breaking/burglary, and the

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by Ms. Jones

1 identification there was made by two unconcerned people
2 working two miles down the road that were looking for
3 something else on Jailbird's and ran across this guy on
4 Jailbird's. So, I mean it's happened. The Internet's out
5 there. I can't take it down.

6 MS. JONES: Yes, sir.

7 THE COURT: Now, my question is though---

8 MS. JONES: Yes, sir.

9 THE COURT: ---did this particular identification --
10 this identification happened before or after the
11 identification in the Waffle House case?

12 MS. JONES: The first time I learned that he thought he
13 could identify was in February, Your Honor. The Waffle
14 House case -- I guess I should ask the other attorney.

15 THE COURT: I think it happened this year.

16 MS. JONES: It did.

17 THE COURT: 2013.

18 THE CLERK: It was January 21st of 2012.

19 MS. JONES: So, the shooting---

20 THE COURT: When the shooting took place?

21 THE CLERK: That's when he was arrested, yes, sir.

22 THE COURT: All right.

23 MS. JONES: Your Honor, I will just say the way the
24 case's moved through the system, they overlap, so that I
25 think that may of influenced this.

Jackie Harrison - Cross-examination
by Ms. Jones

1 THE COURT: Well, what I'll do is I'll let you ask him
2 some questions to see if there was any police involvement in
3 the identification. I think we went through this yesterday.
4 But we'll -- you know, if you think there's something else
5 to proffer on this, I'll be glad to. I think what you're
6 arguing is that somehow the State is using public media to
7 get people to identify people.

8 MS. JONES: At---

9 THE COURT: Is that what you're saying?

10 MS. JONES: No, sir, at this particular moment that I
11 asked the question, and he said his son, my direction was
12 going to be---

13 THE COURT: He said he didn't know how to get on the
14 Internet---

15 MS. JONES: Right.

16 THE COURT: ---and his son helped him do it.

17 MS. JONES: Was what influence what the son did and
18 thereafter was able to do impacted him to contact the
19 solicitor and say he can identify---

20 THE COURT: Well, I'll let you ask him if his son
21 somehow directed him to this person or pointed him out or
22 something like that. But, again, generally, in
23 identification issues, we deal with when the State is
24 involved in the suggestive or unfair identification. I
25 don't know whether or not I have the right to suppress an

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by Ms. Jones

1 identification when a private citizen goes out and looks at
2 available documents and/or media and makes an independent
3 identification on their own, and I'm not sure that the -- I
4 know of a case where that's been suppressed by a Court.

5 MS. JONES: Your Honor, and---

6 THE COURT: I'm willing to listen.

7 MS. JONES: Yes, sir, and I'm not -- I understand that
8 is your, your ruling and that's really not where I was
9 going. I'm not, I'm not being very artful this morning as a
10 lawyer obviously.

11 I was going towards his motivation in the lack of
12 proper police protocol. We, I think, laid some foundation
13 in opening that they messed this up.

14 THE COURT: Well, I don't know if they did or not.
15 That's not, that's not the question. Again, what the Courts
16 are concerned with is when the State, the prosecuting
17 authority, takes steps to, to create situations where there
18 are suggestive or unfair identification, and, and I, you
19 know, I haven't heard that alleged in this particular case,
20 but---

21 MS. JONES: Yes, sir.

22 THE COURT: Is there something else you want to ask him
23 to develop whatever line of questioning you'd like to
24 develop?

25 MS. JONES: Yes, sir.

Jackie Harrison - Cross-examination
by Ms. Jones

1 THE COURT: I'm willing to listen to it.

2 MS. JONES: I'm going toward his motivation at how he
3 came upon the identification. Not what the State told him.

4 MS. JONES: I'll give you a chance to ask him.
5 Go ahead.

6 MS. JONES: Okay.

7 CONTINUED CROSS-EXAMINATION

8 BY MS. JONES:

9 Q You said your older son helped you get on the Internet.
10 Is this the same son that was involved and ultimately
11 killed somebody in a Waffle House?

12 A Yes, ma'am.

13 Q Okay.

14 A Self-defense. Two guys come in and tried to rob him
15 and---

16 Q We don't have to get into the facts of that.

17 A Yes, we do. Yes, we do.

18 Q That's not what we're here about, but I wanted to
19 identify -- don't know the young man's name. I did know his
20 last name was Harrison.

21 But is he the one that showed you how you could find a
22 picture of the person that they had charged in this case?

23 A When they -- the detective called and said they had an
24 arrest warrant, and then they called back and said they had
25 arrested him and told me his name. I didn't know how to

Jackie Harrison - Cross-examination
by Ms. Jones

1 pull up the jail site or whatever. And, so, my oldest son
2 pulled it up. I told him the name and he put the name in---

3 Q Okay.

4 A ---there.

5 Q And had you and your oldest son talked about the fact
6 that there had been no identification by you---

7 A No.

8 Q ---to the police yet?

9 A No, we did not discuss it.

10 Q Okay.

11 A That had nothing to do with it.

12 Q So, you pulled the picture up. You looked at it.

13 What did you say -- was your son there when you looked
14 at it?

15 A My son made a copy of it and gave it to me or left it
16 on the counter.

17 Q So, you have a physical photograph in your, from that
18 point forward in your possession of the jail photograph of
19 Mr. Emmons?

20 A Yes, ma'am.

21 Q Okay. And when was that?

22 A Guessing -- I guess it's like three or four months
23 after this had happened.

24 Q Okay. Do you still have the photograph?

25 A I think it's in one of the drawers at the house.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Okay. But it still exists.

2 Have you looked at it other than that night?

3 A I haven't looked at it in over a year. I mean --.

4 Q Okay. Now, what prompted you, in February of this
5 year -- or let me back up. That's assuming something.

6 When was the first time you told Mr. Fulmer, your
7 prosecutor, that you could identify Mr. Emmons?

8 A When he called four months ago maybe and we was talking
9 cause the trial kept getting put off, and we was talking and
10 he asked me if I could identify him and I told him yes, sir.

11 Q Okay. So, he asked you that question?

12 Not -- you didn't just tell him---

13 A That's---

14 Q ---oh, yeah, I, I can identify him?

15 A That was the first time anybody had asked me since that
16 night.

17 Q And you think that was four months ago?

18 A I believe probably.

19 Q Okay. Did he ever do anything with regard to showing
20 you any photographs?

21 A Just when I went and talked to him yesterday right
22 before Court he showed me the photographs of the house and
23 the neighborhood and the, where the two men were coming out
24 of Wal-Mart.

25 Q So, he showed you that, that surveillance video again

Jackie Harrison - Cross-examination
by Ms. Jones

1 prior to you being able to come in here today and pick Mr.
2 Emmons out in the courtroom?

3 A Well, it wasn't a video. It was pictures.

4 Q It's a still from a video. I apologize---

5 A Yes, ma'am.

6 Q ---for misstating that.

7 So, he did show you that, and what did he tell you when
8 he showed it to you?

9 A He just put the pictures out and I said yeah, that's
10 the one right there.

11 Q Okay. That wasn't the first time you'd seen that
12 picture though, was it?

13 A No, I seen it on TV.

14 Q It was all over the TV for a while?

15 A Yes, ma'am.

16 Q Okay. And he didn't try to show you a different group
17 of pictures with no marks on them or anything, just single
18 photographs, and asked you if you could pick Mr. Emmons out
19 from among other photographs, did he?

20 A No, ma'am.

21 Q Okay. When he asked you four months ago if you could
22 identify him and you told him yes, I think I can, did he ask
23 you how or why you could do that now?

24 A No.

25 Q What did he say?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Well, I think he asked me if I'd been on the Internet.

2 THE COURT: Now, now we're getting back into what we
3 went through yesterday.

4 MS. JONES: Yes, sir.

5 THE COURT: And I gave you ample opportunity to go into
6 that yesterday. You said you wanted to inquire as to his
7 participation---

8 MS. JONES: I did.

9 THE COURT: ---of his son.

10 MS. JONES: Yes, sir, and I have---

11 THE COURT: I think you---

12 MS. JONES: Yes, sir, I've directed---

13 THE COURT: Have you completed that now?

14 MS. JONES: Yes, sir.

15 THE COURT: Okay. Do you wish to ask any questions of
16 the witness on this particular issue?

17 SOLICITOR FULMER: I don't have any questions, Your
18 Honor.

19 THE COURT: Okay. Now, concerning the question of
20 whether or not we get into the other shooting involving the
21 son or to what extent we go there, where do you intend to
22 go, Ms. Jones?

23 MS. JONES: Based on his answers, I'm not gonna go
24 there at all now cause I don't think it's fruitful.

25 THE COURT: Okay. I don't guess I need to sustain the

Jackie Harrison - Cross-examination
by Ms. Jones

1 objection.

2 SOLICITOR FULMER: We would object to any reference to
3 the waffle House shooting.

4 THE COURT: All right. We'll take about a five minute
5 break now that we're at this stage and the jury's out. I
6 will caution the witness not to discuss his testimony during
7 the break.

8 THE WITNESS: Yes, sir.

9 THE COURT: You may step down and move around.
10 Court will be in recess for about five to ten minutes.

11 (WHEREUPON, a short recess was taken at this time.)

12 THE COURT: Mr. Harrison, you can resume the stand.

13 (Witness returns to the stand.)

14 THE COURT: Thank you, sir.

15 All right. Bring the jury in.

16 I assume the question's been withdrawn?

17 MS. JONES: Yes, sir.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: All right. The record will reflect the
21 jury has returned to the courtroom.

22 The last question has been withdrawn.

23 You may proceed, Ms. Jones.

24 MS. JONES: Thank you.

25 CONTINUED CROSS-EXAMINATION

Jackie Harrison - Cross-examination
by Ms. Jones

1 BY MS. JONES:

2 Q Mr. Harrison, before the break we were talking about
3 the method by which you went about identifying Mr. Emmons as
4 the person you say is the second individual involved in the
5 incident in your driveway.

6 The -- with the help of a member of your family you
7 were able to go on the Internet, look up, what was it, the
8 jail website, Sheriff's Office website, or what?

9 A Yes, ma'am, jail website.

10 Q Okay. And that -- you did that after you were provided
11 a name by someone?

12 A Yes, after they had, had arrested him.

13 Q Okay. And was it Detective Williams that told you the
14 name of an individual they had arrested, you went, looked up
15 a picture associated or attributed to that person, and
16 that's when you said oh, yeah, I can identify him, I do know
17 him, he's the second person from my driveway or the bushes?

18 A No, that, that was the man they arrested. I --.

19 Q Okay. But prior to that, nobody had ever shown you
20 random photographs of individuals without telling you this
21 is the man we have arrested, please tell me if you can
22 identify someone?

23 A Not until the solicitor called me four or five months
24 ago.

25 Q Ago.

Jackie Harrison - Cross-examination
by Ms. Jones

1 This year?

2 A Yes, ma'am.

3 Q Two years after the fact?

4 A Well, year and a half.

5 Q Okay. And at that point did he ask you if you could
6 identify somebody?

7 A Yes, he asked me could I identify him.

8 Q Identify who?

9 A Christopher Emmons.

10 Q So, he, he said did -- can you identify Mr. Emmons?

11 A (Witness nods affirmatively.)

12 Q He didn't say do you think you can identify the second
13 person from your driveway?

14 A Well, I -- he had asked if I got on the Internet or I
15 told him I pulled up the picture---

16 Q Okay. Once you---

17 A ---of the---

18 Q ---knew who, who they had arrested, you went on your
19 own, found the picture of that person, and, and looked at
20 it?

21 A Yes, ma'am.

22 Q Okay. But prior to four months ago you had never
23 communicated with anybody that you'd done that?

24 A Well, I told the police officer, the detective, when he
25 first called, and I would say a month after the shooting, I

Jackie Harrison - Cross-examination
by Ms. Jones

1 said they had an arrest warrant for the defendant, and I
2 told him then one, one of them come on the video coming out
3 of Wal-Mart, that was him.

4 Q Okay. So, you had already seen a photograph they had
5 prepared and produced as suspects in this case---

6 A I seen---

7 Q ---and you looked at it and said that---

8 A I seen it on the news.

9 Q Okay.

10 A And, so --.

11 Q Now, let me make sure I'm clear on this.

12 No one ever asked you to look at photographs, without
13 identifying them or it having been identified by being on a
14 website, that this person is going to be charged or this
15 person is a suspect, and they never gave you just blank
16 pictures or pictures of people and said does, do any of
17 these people look familiar to you?

18 A No, ma'am.

19 Q Okay. The only time you've ever identified this
20 individual is when -- after you've known this person has
21 already been charged with a crime?

22 A No, I told the police detective, when he called and
23 said they had an arrest warrant, I told him then, before I
24 ever seen a picture of Mr. Emmons, that that was him in the
25 Wal-Mart news clip.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Okay. And the news clip says if you know anything
2 about this, these are possible suspects in a crime, please
3 call us.

4 Already been identified as suspects, right?

5 A I believe so.

6 Q Okay. So, there's never been a time, without a
7 suggestion that this person is a suspect, is a named
8 defendant, has been arrested, they're trying to arrest him,
9 that you've ever identified him?

10 All that took place after you knew they considered him
11 a suspect?

12 A Well, when that come out on the news I knowed that was
13 him.

14 Q Because it says -- and it says these are suspects in
15 the crime, did it not?

16 A They was persons of interest from the Boiling Springs
17 shooting I think what the news states.

18 Q Okay. Persons of interest, suspects, same thing.

19 Okay. Now, you indicated earlier that the time -- when
20 I asked you if you ever told anybody there at the scene let
21 me see some pictures, I -- let me give a description or
22 don't you need me to give a description -- you said there
23 were four different people talking to you at one time.
24 Somebody was even swabbing your hands for the GSR, gunshot
25 residue.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Were you confused?

2 A At that time I was starting to -- I mean --.

3 Q It's a lot going on.

4 A Yeah, because my -- I know, when I killed the one guy
5 that I killed, I knowed my mother and father lost a son when
6 we was teenagers, and that bothered me to know I put another
7 family through mourning the death of their son. I mean he's
8 26 or 28.

9 Q Okay. And a lot of people asked you various details of
10 what happened, where anybody -- if you knew anything about
11 where this second person went, correct?

12 A The -- I told them he had run straight through the
13 neighbor's yard going out of the neighborhood.

14 Q Okay. Do you remember this nice EMT lady asking you if
15 you knew where the second person went and you said an
16 unknown --

17 A I don't recall that.

18 Q -- travel -- path of travel?

19 A I don't recall that.

20 Q Okay. So, you, you were telling people all kind of
21 things, weren't you?

22 A I don't know.

23 Q Okay. Do you remember telling one of the sheriff's
24 deputies that you were aware that the car was following you
25 slowly, and it rolled past your house, rolled down a road a

Jackie Harrison - Cross-examination
by Ms. Jones

1 little bit as you pulled into the driveway, and you sat in
2 the driveway waiting to see what was gonna happen?

3 A No, because the car was already in the neighborhood
4 when I pulled in.

5 Q Okay. But you don't remember telling anybody that the
6 car rolled -- went down and you saw the car go past your
7 driveway before it stopped?

8 A Yeah, I said that when it was coming back, but it was
9 coming back up the road like it was pointed to going out the
10 driveway.

11 Q Okay. So -- and now you remember that you -- you first
12 realized the car was there before you heard the squeak of
13 the brakes?

14 A Well, when he touched his brakes, I started squeaking
15 when he's slowing down.

16 Q Okay. So, you were aware the car was there before you
17 heard the squeak of the brake and the slap of the footsteps
18 up the concrete?

19 A Yeah.

20 Q Right?

21 A I seen headlights, yes --

22 Q Okay.

23 A -- and the car coming up the road slow.

24 Q Now, as to the lighting, Mr. Harrison, you said the
25 driveway near the jet skis is very dark?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A Yes, ma'am, where I was parked.

2 Q Okay.

3 A Right in that area.

4 Q And you say there are street lights that are one to two
5 houses away on each side of your driveway?

6 A Yes, ma'am, one house. One yard.

7 Q And there's a large hedgerow next to or behind the jet
8 skis between your driveway and the house next door?

9 A Yeah, bushes.

10 Q Okay.

11 A Small knee high bushes.

12 Q And you say you told the solicitor that, for a couple
13 of seconds I believe, you looked at -- you said the second
14 person froze?

15 A Yes, ma'am.

16 Q And you had your gun pointed at him. For two seconds
17 you held the gun and you saw his face clearly.

18 what was the source of light that was lighting that
19 person?

20 A Street light that's across the road in front of the
21 house.

22 Q Not your house?

23 A No, ma'am, right across the road.

24 Q Okay. It's across the road down a house?

25 A Well, it's -- it would be like at the end of my yard

Jackie Harrison - Cross-examination
by Ms. Jones

1 across the road.

2 Q Okay. And, so, that light is shining down from behind
3 on to this person?

4 A That---

5 Q Correct?

6 A They's a light on the other side -- when he took off
7 running through the yards, that's why I couldn't see him,
8 there's a light on the other side of the yard.

9 Q So, the one or two seconds you froze and saw him is not
10 when you got this -- the look to identify him is when he
11 turns and runs away and runs toward the other light?

12 That's when you can identify him?

13 A No, I seen him both. When he was facing me, that's the
14 way I knowed which direction he ran because of the light --

15 Q Okay.

16 A -- down the road.

17 Q So, if you couldn't see who, identify him based on
18 cause he's so far away?

19 A Yeah, I held my gun on him till he got out of range and
20 made sure he didn't turn around and fire a shot at me.

21 Q But he's running away from you?

22 A Yes, ma'am.

23 Q So, you're not seeing the person?

24 A No, he---

25 Q And---

Jackie Harrison - Cross-examination
by Ms. Jones

- 1 A He had done turned and started running.
- 2 Q Okay. So, he's running away from you, correct?
- 3 A At that point, yes.
- 4 Q Yeah.
- 5 Okay.
- 6 A After he froze.
- 7 Q And you indicate -- well, excuse me.
- 8 what was the closest this person ever got to you?
- 9 A About from me to him now.
- 10 Q Him who?
- 11 A The defendant.
- 12 Q Okay. Mr. Emmons is who you're referring to, correct?
- 13 A Yes, ma'am.
- 14 Q Okay. The -- it's the closest he ever got to you and
- 15 he was in the hedges at that point?
- 16 A Well, he had come through them. About knee high, the
- 17 hedges are.
- 18 Q So, he's standing in the bushes?
- 19 A No, he's done cleared this side of the bushes.
- 20 Q Okay.
- 21 A He come through the bushes.
- 22 Q Is he in the mulch or is he on the driveway?
- 23 A He's still on the mulch.
- 24 Q Okay. So, he's not even on the driveway proper?
- 25 A No.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q Okay. And he is lighted from behind?

2 A No, he's lighted from the light across the road in
3 front of my house.

4 Q Okay. And you are still at or near the, the small
5 silver car?

6 A Yes, ma'am.

7 Q Okay. How tall are you?

8 A 6'1".

9 Q Okay. You've described your movements that night as
10 spinning, you spun out of the car. I guess a 6'1" person's
11 gonna have a hard time spinning out of a little coupe.

12 You mean you got out?

13 A The adrenaline pumps so much. You'll be surprised.

14 Q Okay. It's a small car.

15 Now, this is previously 2. I'm gonna offer it.

16 Let me show you a photograph.

17 State's Exhibit No. 2, Your Honor, I'd offer that into
18 evidence. He's identified it.

19 THE COURT: Any objection, Mr. Fulmer?

20 SOLICITOR FULMER: No, Your Honor.

21 THE COURT: Without objection it will be admitted as
22 it's been marked.

23 (WHEREUPON, State's Exhibit No. 2 was received into
24 evidence at this time.)

25 THE COURT: You may proceed.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q We've talked about before, all the things that were
2 happening around you when they were asking you questions.
3 They're swabbing your hands for gun residue. There were
4 people taking pictures, picking up items of stuff.

5 Is that correct?

6 A Yes, ma'am.

7 Q Cause there's a dead guy in your driveway and the
8 police react to that, and they want to figure out what
9 happened, figure out if the evidence that's found there is
10 consistent with what you say happened, right?

11 A Yes, ma'am.

12 Q Okay. Part of what they were doing was they took
13 pictures, didn't they?

14 A Yes, ma'am.

15 Q Okay. I'm gonna show you State's Exhibit No. 2. It's
16 a small photograph. I didn't blow it up.

17 Can you tell what's in that?

18 A Yes, that's a picture of my driveway.

19 Q At night?

20 That night?

21 A Yes, ma'am.

22 Q Okay. Can you see the vehicles that are in the, in the
23 driveway?

24 A Yes, ma'am.

25 Q Okay. What all is in the driveway?

Jackie Harrison - Cross-examination
by Ms. Jones

1 A The jet skis, my truck, and the car.

2 Q Okay. It's pretty dark, isn't it?

3 A Yes, ma'am.

4 Q Okay. There's no street light visible in that picture,
5 is it?

6 THE COURT: It's been introduced. You can pass it
7 around. Thank you.

8 Q There's no street light visible in that picture, is
9 there?

10 A Not in that picture, no, ma'am.

11 Q Okay. The -- no one from the police department ever
12 showed you any photographs to assist you in trying to help
13 identify who the second individual was, did they?

14 A No, ma'am.

15 Q You went and found pictures based on a name given to
16 you and that's how you have identified Mr. Emmons, isn't it?

17 A Well, I knowed that's -- I pulled it up on the
18 Internet.

19 Q That's right.

20 And you saw the picture --

21 A Yes, sir.

22 Q -- months and months and months ago?

23 Did you get frustrated at all in this case and try to
24 help the Sheriff's Office?

25 A No.

Jackie Harrison - Cross-examination
by Ms. Jones

1 Q You don't remember back, gosh, within six or eight days
2 of this happening, showing up over at the Sheriff's
3 Department to the front desk and trying to give them some
4 information?

5 You gave them some names of somebody that I don't even
6 know.

7 A Yeah.

8 Q What, if any, connection did that have to do with
9 anything?

10 A A friend that seen it on the news said that might be
11 the two.

12 Q Okay. So, you were trying to help them, weren't you?

13 A Yes, I mean --.

14 MS. JONES: Okay. That's all.

15 THE COURT: Mr. Fulmer, your witness.

16 SOLICITOR FULMER: Thank you, Judge.

17 REDIRECT EXAMINATION

18 BY MS. JONES:

19 Q After Mr. Emmons ran away, did you call 9-1-1?

20 A Yes, sir.

21 Q Was it immediately afterward?

22 A Well, he took off running. I watched him, I guess it
23 would be two yards, guessing about from here to outside the
24 front door here as far as the distance. As soon as he got
25 out of range, I didn't worry about him turning around maybe

Jackie Harrison - Redirect examination
by Ms. Jones

1 shooting at me. As soon as he turned around, got out of
2 range, I walked by the jet skis and glanced through the
3 backyard, made sure when the car was coming up, somebody
4 didn't get out down below my house and was coming around the
5 back. Didn't see nobody.

6 So, went back. Had to cut the inside light on in my
7 car and find my phone in the front seat, and it's black and
8 you couldn't -- as far as she's talking about calling 9-1-1,
9 it would of took a lot longer than I --.

10 Q Do you recall how long it took somebody to respond to
11 your house from the time you called?

12 A The rescue come out -- I would say I was on the phone
13 with 9-1-1 from talking to them, and that -- I'd say two
14 minutes cause it's on Rainbow Lake Road between my house and
15 Wal-Mart. It's --.

16 Q And you testified earlier that this whole span of
17 events took maybe eight to ten seconds you think?

18 A Yeah, from the time everything started as far as
19 jumping out the car and running up.

20 Q So, if your reaction had been to call 9-1-1 instead of
21 defend yourself, you might not be here today?

22 A That's a great possibility, yes, sir.

23 Q Ms. Jones referred to the area we're talking about as a
24 crime scene, but this was your home, was it not?

25 A Yes, sir.

Jackie Harrison - Redirect examination
by Ms. Jones

1 Q You didn't approach two men in public and threaten
2 them, did you?

3 A No, sir, they come at me. I mean --.

4 Q In the driveway of your home?

5 A Yes, sir.

6 Q I want to go over just briefly, if we could, the, the
7 lighting and where you're saying the street lights are and
8 how they illuminated Mr. Emmons that night.

9 A Yes, sir.

10 Q If you could just point out where your best estimation
11 on here where the street lights are and where Mr. Emmons was
12 standing that night.

13 A Okay. The shooting, the shooting happened right there.
14 That's my house. One street light is right there, which is
15 across the road, and the other street light where I seen him
16 running and could see him as he ran, knowing which way he
17 ran, is right there in that road. The shadow of the house
18 blocks from that light pretty well on a straight line to be
19 right there. That's pitch dark that, that night right in
20 through here. And the street lights shine, that's about
21 where he was standing right there.

22 Q So, he's standing on the lit side of the shadow line?

23 A Yes, sir.

24 Q Okay. And at that point was he facing your house?

25 A Yes, sir, he was directly behind my car coming

Jackie Harrison - Redirect examination
by Ms. Jones

1 through -- he was standing -- here's the bushes. He was
2 standing on this side of the bush right there at the edge of
3 the --.

4 Q So, would it be fair to say his face was illuminated by
5 the street light?

6 A By that light.

7 Q Okay.

8 A And then when he was running, that light illuminated
9 which way -- he ran straight across the front yard.

10 Q And you mentioned the bushes between the driveway.
11 were those tall enough to obscure your view of him as
12 you stood there?

13 A No, they were knee high.

14 SOLICITOR FULMER: Judge, can I have the witness mark
15 on the photo as to where he estimates those light poles are?

16 THE COURT: Any objection?

17 That's already in evidence?

18 MS. JONES: No, sir.

19 THE COURT: All right. Yes, sir, I'll allow it.

20 SOLICITOR FULMER: I'm gonna hand this up to Mr.
21 Harrison.

22 THE COURT: He can step down there and mark it while
23 the jury's watching you if you'd like.

24 SOLICITOR FULMER: Okay.

25 THE COURT: Sir, step down with the machine.

Jackie Harrison - Redirect examination
by Ms. Jones

1 THE WITNESS: Okay.

2 (Witness comes down from the stand.)

3 Q Just make a small X or small -- a small circle.

4 THE COURT: Leave the lights back down just a second,
5 Mr. Bailiff.

6 THE COURT: Thank you, sir.

7 A Can you see that?

8 Q I think they'll be able to.

9 I mean could you mark as well just where your estimate
10 of the shadow line is as it would come across your driveway
11 there.

12 A Here's the corner of the house.

13 Q Yes, sir.

14 A This photo is taken during the daytime cause the
15 shadows run that way. Here's the corner of the house. That
16 light would be basically right there.

17 Draw a line?

18 Q If you would, sir.

19 A (Witness complies.)

20 Q Okay. Thank you.

21 (Witness returns to the stand.)

22 A That would be the shadow part right in through here,
23 and the lighted part was -- would be all in through here.

24 Q Good.

25 Okay. Thank you. You can have a seat.

Jackie Harrison - Redirect examination
by Ms. Jones

1 A (Witness returns to the stand.)

2 THE COURT: Is that got an exhibit number?

3 SOLICITOR FULMER: It does, Your Honor. It's State's
4 Exhibit 6.

5 THE COURT: Thank you.

6 You may proceed.

7 Q And as you drew that line, then you would of been in
8 the shadow basically, maybe coming out of that?

9 would that be fair?

10 A Yeah, I was standing in the shadow.

11 Q And Mr. Emmons would be on the lighted side of that
12 shadow line?

13 A Yes, sir.

14 Q Please answer any questions Ms. Jones may have for you.

15 THE COURT: Ms. Jones, recross.

16 MS. JONES: Thank you, Your Honor.

17 RECROSS EXAMINATION

18 BY MS. JONES:

19 Q Mr. Harrison, the night this happened you gave a
20 written statement to the police, didn't you?

21 A Yes, ma'am.

22 Q Okay. Is -- I will show you an item marked as
23 Defendant's No. 1 at this point for identification.

24 Would you review that, look at it, and see if you
25 recognize what it is?

Jackie Harrison - Recross examination
by Ms. Jones

1 A Yes, ma'am, that's the statement I wrote down.

2 Q Okay. And at the bottom of that, the last complete
3 sentence starts with the other person -- wait. No, I'm
4 sorry. That's not right.

5 Start with I fired.

6 You indicated that, in the statement, you fired two
7 shots at one person and one shot at the other person, and
8 tell me what, what you indicated in this statement was the
9 location of the other person when you shot him.

10 A Halfway up the driveway.

11 Q No, it's says halfway coming up the driveway. You
12 don't say anything in here about somebody coming out of the
13 bushes.

14 You've got them coming up the driveway, right?

15 A Halfway---

16 Q Coming up the driveway.

17 A Up the driveway.

18 Q So, it doesn't say anything about the bushes, and then
19 you said coming up the driveway and he ran.

20 what do you say he did after you shot at him and he
21 ran?

22 A And he ran. I reached back in and grabbed my cell
23 phone and called 9-1-1.

24 Q Okay. Did you tell anybody that night that you
25 basically walked the perimeter of your house and walked

Jackie Harrison - Recross examination
by Ms. Jones

1 around looking for other cars or any of that before you
2 called 9-1-1?

3 A No, I just walked to the end of the jet skis right
4 there and made sure nobody was coming around the back of the
5 house.

6 Q Okay. So, saying you walked around outside your house
7 is kind of an overstatement of it, isn't it?

8 A Yes, ma'am.

9 Q You just walked to the jet skis?

10 A Yeah, I went to here and looked through the backyard to
11 make sure nobody was running through.

12 Q There were a lot of officers there that night, and at
13 least one of them was taking photographs.

14 Do you know if they ever took any photographs of these
15 street lights that seem to be at so much issue now?

16 A I don't know.

17 Q Okay. Thank you. That's all I have.

18 THE COURT: Sir, you may step down. Thank you very
19 much.

20 State may call its next witness.

21 SOLICITOR FULMER: Thank you.

22 Judge, the State calls Erin Reid Wise.

23 THE COURT: Come forward to my left and be sworn
24 please.

25 ERIN REID-WISE, being first duly

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 sworn, testified as follows:

2 THE COURT: Be seated please and state your name once
3 you're seated.

4 THE WITNESS: Erin Reid-Wise.

5 THE COURT: Thank you.

6 Mr. Fulmer, your witness.

7 SOLICITOR FULMER: Thank you, Judge.

8 DIRECT EXAMINATION

9 BY SOLICITOR FULMER:

10 Q Ms. Wise, where do you work?

11 A Spartanburg County EMS.

12 Q How long have you worked there?

13 A This August will be about three years or this past
14 August.

15 Q So, you were working with EMS back on August the
16 28th, 2011?

17 A Yes, sir.

18 Q Were you on duty that day?

19 A Yes, sir.

20 Q Do you recall getting a call that day?

21 A I do.

22 Q Did you respond out to [REDACTED] that
23 night?

24 A Yes, sir.

25 SOLICITOR FULMER: Judge, may I approach?

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 THE COURT: You may.

2 Q I'm gonna hand you an aerial photograph and ask you to
3 look at it, and see if you recognize that.

4 A I do.

5 Q What does that show?

6 A It shows Rainbow Lake Road in Boiling Springs, that
7 intersection where Wal-Mart and Lowe's and our station and
8 all that is.

9 Q So, your station is shown in that picture there?

10 A Yes, sir.

11 Q Okay. Is the -- is Cottage Mill Lane also shown on
12 there?

13 A Yes, sir, it's not marked, but it's --.

14 SOLICITOR FULMER: Judge, I'd like to enter this into
15 evidence.

16 THE COURT: Any objection?

17 MS. JONES: No, sir, Your Honor.

18 THE COURT: Without objection it will be admitted into
19 evidence as marked.

20 (WHEREUPON, State's Exhibit No. 7 was received into
21 evidence at this time.)

22 THE COURT: You may publish.

23 SOLICITOR FULMER: Thank you, Judge.

24 Mr. Seay, bring the lights down for us.

25 (Bailiff complies.)

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 THE COURT: Thank you.

2 Q Ms. Wise, I'm gonna hand you this pointer, and if you
3 would point out to the jury where the location of your EMS
4 station is.

5 A It is right there. That's a church and this is Lowe's
6 and we are directly in-between the two.

7 Q And what's across the street from Lowe's?

8 A Wal-Mart.

9 Q That big black huge building is Wal-Mart?

10 A Uh-huh. (Affirmative).

11 Q Okay. And can you point out where you responded to the
12 night of August the 28th?

13 A The -- there's the first road right here. The second
14 one right there.

15 Q Okay. And you responded out to the home of Mr. Jackie
16 Harrison?

17 A Yes, sir.

18 Q Okay. Tell the jury what you, what you saw and what
19 you heard that night from the point of getting the call to
20 respond.

21 A Okay. I'm not sure whether me or my partner -- we were
22 sitting in the station, and we got a call. And when they
23 dispatch you, they just tell you the general thing, you're
24 getting sent out to a shooting. So, once our radios went
25 off, we went out and got in the truck. I got in the

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 passenger's seat. My partner got in the driver's seat, and
2 our map -- our computer shows where the call's at. So, it
3 shows it was very close to our station.

4 And once I saw that, you know, we got in the truck, I
5 saw the map, I looked up cause it dawned on me it's so close
6 you kind of start looking around. When I looked up out of
7 the windshield, I saw a white male standing across the
8 street with no shirt on, dark colored pants, and, at the
9 time, you know, I didn't know if it was anything to do with
10 the shooting, but I just observed that.

11 We pulled out of the station, went to the house. We
12 proceeded in without waiting on police to get there because
13 the comments in our call said that the homeowner had shot.
14 So, we didn't feel there was a threat.

15 So, when we got there we pulled to the end of the
16 driveway. Me and my partner got out, and we saw Mr.
17 Harrison standing by his car. We walked up to him, and
18 where his car was was kind of dark, and we asked him, you
19 know, are you the homeowner, and he said yes. We asked him,
20 you know, are you the one that fired the gun, and he said
21 yes.

22 We asked him where the gun was, and he said sitting in
23 the front seat of his car. We looked in the car. We
24 noticed the gun was sitting there. We asked him if it was
25 still loaded and he said no.

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 We then looked over to the left. Laying right beside
2 the car -- he said this is the man I shot. We looked down.
3 we shined the flashlight on him cause you couldn't see every
4 detail of him. We shined the flashlight down there so we
5 could bend down and check for, to see if he had a pulse, and
6 at that time we checked he did not.

7 And once you looked down, you know, you could see stuff
8 around him. We didn't notice any blood. So, we had no idea
9 where he was shot at, and the homeowner didn't either. He
10 said he just shot twice. He was unsure. And then he said
11 there was another suspect that he did shoot at, was unsure
12 if he hit him or not.

13 Q Did you see a tire iron or something that looked like a
14 tire iron at the scene?

15 A There was something laying beside the, the guy that had
16 been shot. I didn't -- I don't know the exact shape of it.
17 I don't remember the exact shape, but there was something
18 dark colored laying beside him.

19 Q So, there wasn't enough visible blood for you to
20 determine where he had been shot?

21 A No, sir, me and my partner actually did not know where
22 he had been shot until after the coroner got there and did
23 their investigation. We actually helped the coroner put the
24 male that had been shot into the body bag to take to the
25 morgue, and when we did that, that's when the morgue -- the

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 coroner told us where he had been shot at.

2 Q Let's go back to the, the white male you saw.

3 Could you point out for the jury where he is in
4 relation to your station?

5 A Okay. Our station is that building right there.

6 There's a storage room or storage building right across the
7 street, directly across the street.

8 When we got into the truck and I looked out the
9 windshield, right there where the grass meets the entrance
10 to that storage building is where the white male was
11 standing. So, directly in front of us.

12 Q Was he walking?

13 A He was walking towards Highway 9, towards Wal-Mart.

14 Q So, in this picture you would look at the street?

15 A Yes, sir.

16 Q Can you say whether or not the man you saw that night
17 is the defendant?

18 A I can not one hundred percent say that was him cause I
19 was not close enough to see his face. The male does have
20 the same frame and, you know, height as the male in this
21 courtroom.

22 Q He's consistent with the person you saw, but you can't
23 say that that's him or not?

24 A Yes, sir.

25 Q Would that be fair?

Erin Reid-Wise - Direct examination
by Solicitor Fulmer

1 A That's fair to say.

2 Q You gave a statement that night to police, is that
3 right?

4 A Yes, sir.

5 Q I've read your statement, and, at the end of that
6 statement, you, you put in there victim was not moved.
7 caller stated of a, of a second suspect that ran off, and
8 then you wrote unsure of direction.

9 Did Mr. Harrison tell you that he was unsure of the
10 direction the person ran off?

11 A I do not remember directly if I asked him specifically
12 if he ran off. I do remember him saying there was a second
13 suspect that he did shoot at that he did -- wasn't sure if
14 he hit. I just put unsure of direction cause I didn't know
15 which direction it was he ran.

16 Q Okay.

17 A I do not recall a hundred percent asking him where he
18 ran.

19 Q So, you were giving the state of your knowledge at that
20 point in time?

21 A Yes.

22 Q Okay. Thank you. Please answer any questions Ms.
23 Jones has for you.

24 THE COURT: You want the lights up, Ms. Jones?

25 MS. JONES: Please.

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 THE COURT: All right. Mr. Seay, please turn the
2 lights up for her.

3 (Bailiff complies.)

4 THE COURT: Thank you, sir.

5 You may proceed.

6 CROSS-EXAMINATION

7 BY MS. JONES:

8 Q Where are you employed now, Ms. Wise?

9 A Spartanburg County EMS.

10 THE COURT: Just one second, Ms. Jones.

11 We're gonna take a short break, about a five minute
12 break.

13 I'll ask the jury to step back to the jury room. Don't
14 begin any discussions at this time about this case. Thank
15 you very much.

16 (WHEREUPON, the following takes place outside the
17 presence of the jury.)

18 THE COURT: During the break I'll caution you not to
19 discuss your testimony with anyone.

20 We'll take a short break. I'll remain on the bench.

21 (WHEREUPON, a short recess was taken at this time.)

22 THE COURT: All right, ma'am. You may resume the
23 stand.

24 (Witness returns to the stand.)

25 THE COURT: State ready?

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 SOLICITOR FULMER: Yes, sir, Your Honor.

2 THE COURT: Defense ready?

3 MS. JONES: Yes, sir.

4 THE COURT: Bring the jury in.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 THE COURT: All right. The jury has returned to the
8 courtroom.

9 Mr. Fulmer, I believe you were in the process of your
10 questioning, is that right?

11 SOLICITOR FULMER: I had finished, Your Honor.

12 THE COURT: Ms. Jones.

13 SOLICITOR FULMER: It's Ms. Jones.

14 THE COURT: All right. Ms. Jones, you may proceed.

15 MS. JONES: Thank you, Your Honor.

16 CONTINUED CROSS-EXAMINATION

17 BY MS. JONES:

18 Q Ms. Wise, are you still employed with -- are you
19 employed with -- by the county or the hospital system?

20 A I'm not a hundred percent sure. I know that our
21 paychecks come from Spartanburg Regional. So, part of our
22 money comes from Regional, but we are funded by the county
23 too. So --.

24 Q Okay. What medic station are you out of now?

25 A This rotation -- this week I'm at Medic 21, which is up

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 at New Prospect by Lake Bowen.

2 Q Okay. You must of been off yesterday and today cause
3 you've been---

4 A Well, I was working yesterday. They just shut that
5 truck down and had my partner go with somebody else while I
6 was here.

7 Q Okay. You indicated that you did talk to Mr. Harrison
8 and thereafter somebody with the Sheriff's Office asked you
9 to give a statement?

10 A They did.

11 Q Do you often give statements as a result of a call-out
12 for your unit?

13 A A lot of times if there's suspicious or any kind of
14 questionable thing the police will ask us to give
15 statements, and I -- that's fine with me. I, I give
16 statements if they need it.

17 Q Okay. And at issue is the, the -- basically the last
18 page, last line of your statement where you said caller.

19 Why do you refer to him as caller?

20 Is that what he was to you, the actual person that
21 called, resulted in you being there?

22 A Yes, ma'am, he was the one that called 9-1-1. So, we
23 call him the caller.

24 Q Okay. Caller stated of a second suspect that ran off.
25 Unsure of direction.

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 You indicated you don't really remember if he told you
2 what direction?

3 A No, ma'am, I don't a hundred percent know if I even
4 asked him what direction.

5 Q Okay. But do you understand, because of the way you
6 wrote it up, it gives the impression that he told you he was
7 unsure of the direction?

8 A Going back looking at it, yes, ma'am.

9 Q Okay.

10 A That's what it---

11 Q And documentation in your line is about as important as
12 it is with a doctor, isn't it?

13 A True.

14 Q Cause, you know, hindsight, how many -- you go on
15 thousands of calls---

16 A Probably---

17 Q ---in a year?

18 A ---ten or fifteen calls a day.

19 Q Yeah.

20 So, the -- to go back and recollect what even happened
21 at an incident, you're almost one hundred percent dependent
22 on, unless it was really odd, you're dependent on your
23 written notes, right?

24 A Unless there's something that was, like I said, odd
25 that stuck out to me, yes.

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 Q Okay. So, because you don't remember, you can't say
2 that it wasn't necessarily his word that he wasn't certain
3 where he went?

4 A No, ma'am, I can't say that. I know that that was -- I
5 was uncertain which direction he went cause I wasn't
6 there -- I mean that to me --.

7 Q Okay. And -- but, again, you can't say that that's
8 also not what Mr. Harrison told you that he was uncertain?

9 A A hundred percent, no.

10 Q Okay.

11 A Cause I don't remember.

12 Q And when you talked about getting in, getting a call
13 and getting in the truck, do y'all, y'all have computers in
14 the truck?

15 A Yes, ma'am, we have a computer that gives us -- we have
16 two screens. They -- when our dispatch comes out, it shows
17 a screen of the address and comments from the call, and then
18 it also gives us a map and shows us, kind of like a GPS
19 system and gives you a red line and shows you which to go
20 to -- the quickest way to get to the call.

21 Q Okay. You were not the driver?

22 A No, ma'am, I was the passenger.

23 Q Okay. As the passenger, it's part of your job to look
24 at the map and help navigate?

25 A Yes, ma'am, usually---

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 Q That's---

2 A ---if we---

3 Q ---why you were looking at the map?

4 A Yes, ma'am, cause usually the partner gets in the, the
5 passenger, they look at the map. The driver---

6 Q He drives?

7 A ---gets in the car, you know, to get ready to flip
8 lights on and drive. So --.

9 Q Okay. So, your job, in getting in, was to concentrate
10 of where you were going. You saw the address. You knew it
11 was somewhere nearby, and you just, as happenstance, you
12 look out and it's nighttime, right?

13 A Yes, ma'am.

14 Q And you see an individual walking on the street.

15 No, I believe, to begin with, you said you saw him
16 standing in the grass?

17 A Yes, when we -- when I looked up I didn't see feet
18 walking in front of one another. They were both stopped
19 side-by-side. So --.

20 Q Okay.

21 A I guess, technically, he was standing.

22 Q Okay. And then you indicate this person was walking?

23 A And he was---

24 Q walking?

25 A I assumed he was walking. I guess assumed---

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 Q You never saw him move though, did you?

2 A I didn't actually -- I mean I'm too far away to
3 actually see if, you know, the feet moving.

4 Q Okay. You just -- so --.

5 A I know that he was facing towards Wal-Mart when I
6 looked up.

7 Q And you got a glimpse of somebody that, in general, the
8 most general descriptive terms, matches Mr. Emmons and he
9 was---

10 A His frame---

11 Q ---in the grass?

12 A Yes, ma'am, his frame matches the defendant.

13 Q Okay. And that's all you---

14 A And he was a white male. Well, I noticed he was a
15 white male. He didn't have a shirt. He had dark colored
16 pants and he had a short haircut cause he didn't have long
17 hair or anything.

18 Q Okay. Did you notice anything else about him that was
19 distinctive?

20 A No, ma'am, cause, like I said, I was -- he was across
21 the street. So --.

22 Q And you're not really -- your job, at that moment, is
23 navigate your driver to a call?

24 A Yes, ma'am.

25 Q Not to size him so to speak?

Erin Reid-Wise - Cross-examination
by Ms. Jones

1 A Yeah, I -- so, I wasn't paying attention to, like, huge
2 detail. I just noticed there was a shooting, and, when I
3 looked up, you know, the shooting was close by and there was
4 a white male standing outside. I just thought it was kind of
5 odd cause you get a shooting that close to your station, you
6 kind of start observing things.

7 Q Okay. You're also very close to a Wal-Mart, correct?

8 A Yes, ma'am.

9 Q That is a pretty busy business area, isn't it?

10 A Yes, ma'am.

11 Q Okay. Is -- and there's foot traffic probably a lot
12 through there, is there not?

13 A Probably. I mean I would assume, yes.

14 Q Yeah.

15 Cause it's -- I mean it's a Wal-Mart?

16 A Yeah.

17 Q I can't even estimate how many times a day people go
18 into Wal-Marts around the world---

19 A Yeah.

20 Q ---or the country at least.

21 Thank you. That's all.

22 THE COURT: Redirect?

23 SOLICITOR FULMER: No, sir.

24 THE COURT: All right. Ma'am, you may step down.

25 Thank you very much.

1 MS. JONES: No, sir.

2 THE COURT: All right. She's free to go. Thank you.

3 THE WITNESS: Thank you.

4 SOLICITOR FULMER: Thank you, Judge.

5 (WHEREUPON, Court was in recess for the lunch hour.)

6 THE COURT: State ready to go forward?

7 SOLICITOR FULMER: We are, Your Honor. The defense and
8 State have agreed to stipulate on four photos for evidence
9 purposes.

10 THE COURT: Yes, sir.

11 SOLICITOR FULMER: They would be State's Exhibit 1 and
12 2 and the other two photos are being marked right now, Your
13 Honor.

14 THE COURT: All right. Let's go ahead and get them
15 marked then.

16 MS. JONES: Your Honor, also a follow-up to a
17 discussion yesterday, Mr. Fulmer---

18 THE COURT: She's not gonna be able to mark them if
19 you're talking. Let her mark them.

20 MS. JONES: Oh, I'm sorry.

21 THE COURT: Then we'll be able to do that in just a
22 second.

23 (WHEREUPON, two photographs were marked as State's
24 Exhibit Nos. 8 and 9 for identification purposes only at
25 this time.)

1 THE COURT: And what number's are those?

2 COURT REPORTER: Eight and nine.

3 THE COURT: Eight and none.

4 I'm sorry. Now you can go forward.

5 MS. JONES: Yes, thank you, Your Honor. I forget that,
6 Your Honor.

7 The -- we had a discussion yesterday about whether Mr.
8 -- the Solicitor's Office had given Mr. Landon Bridges any
9 consideration on his, any pending charges or any past
10 charges.

11 THE COURT: And I asked the solicitor to find out and
12 report to you.

13 Has he done that?

14 MS. JONES: He has done that. He said he checked with
15 Mr. Hunter. It's my understanding Mr. Bridges doesn't have
16 anything pending now.

17 SOLICITOR FULMER: He's pled to all the charges I'm
18 aware of. There's nothing pending in our office.

19 MS. JONES: Well, he pled to some and a number of them
20 were dismissed, it appears, as part of a plea agreement.

21 THE COURT: I see.

22 MS. JONES: But I don't -- he indicates he doesn't even
23 think Mr. Hunter even knew of Mr. Bridges' involvement in
24 this case. So, it would not have impacted it.

25 THE COURT: I see.

1 So, they are indicating there was not any formal
2 arrangement to obtain his testimony?

3 SOLICITOR FULMER: No formal or informal.

4 THE COURT: Okay. All right. Very good. That's on
5 the record.

6 Now, anything -- those photos he's offering, do you
7 object to the photos?

8 MS. JONES: No, sir.

9 THE COURT: Okay. So they'll be admitted as marked.

10 (WHEREUPON, State's Exhibit Nos. 1, 2, 8, and 9 were
11 received into evidence at this time.)

12 THE COURT: Anything else, Mr. Fulmer, before we bring
13 the jury in?

14 SOLICITOR FULMER: No, sir.

15 THE COURT: Ms. Jones.

16 MS. JONES: No, sir.

17 THE COURT: All right. Bring the jury in.

18 And I'll inform the jury that you've agreed on those
19 exhibits when they come in.

20 One and two and---

21 COURT REPORTER: Eight and nine.

22 (WHEREUPON, the following takes place within the
23 presence of the jury.)

24 THE COURT: All right. The record will reflect the
25 jury's returned to the courtroom.

1 I trust everyone had a good lunch.

2 If there was anyone who had any difficulty in complying
3 with my instructions during your absence from the
4 courthouse, please stand.

5 (No response.)

6 THE COURT: It appears that all jurors have been able
7 to comply with my instructions thus far.

8 We started a little bit late cause we took care of a
9 couple of evidence issues. I will tell you that state's
10 Exhibits 1 and 2 and 8 and 9, which are photos, have been
11 agreed to by both parties, and those are now in evidence.

12 At this point in time the State may call it's next
13 witness.

14 SOLICITOR FULMER: Thank you, Judge.

15 State calls Deputy Brian Fraley.

16 THE COURT: Come forward, sir, and be sworn please.

17 BRIAN FRALEY, being first duly sworn,
18 testified as follows:

19 THE COURT: Have a seat, sir, and state your name once
20 you're seated.

21 THE WITNESS: My name is Brian Fraley.

22 THE COURT: Thank you.

23 Mr. Fulmer, it's your witness.

24 SOLICITOR FULMER: Thank you, Judge.

25 DIRECT EXAMINATION

Brian Fraley - Direct examination
by Solicitor Fulmer

1 BY SOLICITOR FULMER:

2 Q Deputy Fraley, where do you work?

3 A Spartanburg County Sheriff's Office.

4 Q How long have you worked there?

5 A Coming up on 15 years.

6 Q Prior to working at the Sheriff's Office, did you have
7 any other military or law enforcement experience?

8 A I was also a reserve officer with the Sheriff's Office
9 for four years prior to that.

10 Q What do you do now for the Sheriff's Office?

11 A Currently assigned, for almost the last eight and a
12 half years, as a K-9 handler with the Sheriff's Office.

13 Q And do you have any certifications or training with
14 regard to that?

15 A Yes, sir, I am currently working my second canine now
16 at the Sheriff's Office. I am certified through NEFWATER
17 (phonetic), which is a national organization that certifies
18 police canines for tracking, drug detection, article
19 searches, and aggression work.

20 Q What's the name of your canine partner?

21 A Lando.

22 Q Is that the partner that you had back on August the
23 28th, 2011?

24 A Yes, it is.

25 Q And were you called out on that date to work a

Brian Fraley - Direct examination
by Solicitor Fulmer

1 location?

2 A Yes, I was.

3 Q What, what time was that incident?

4 A The incident or my time of call out, sir?

5 Q Both.

6 A I have the incident time as twenty -- 10:43 at night.

7 They notified me and dispatched me at 11:17 at night and I
8 arrived on scene at 12:04.

9 Q What did you do when you arrived on scene?

10 A I was advised by the on-scene supervisors to start a
11 K-9 track from the entrance sign of the neighborhood.

12 Q Okay. And what neighborhood would that be or what,
13 what street would it be?

14 A It was at Cottage Mill Run and Rainbow Lake Road.

15 Q Okay. When you say start a track, can you tell the
16 jury how your dog works and what it's alerting to or --?

17 A Sure.

18 When we get an incident location where we are told to
19 start from, we will cast our dog. My dog is designed -- he
20 is trained to pick up on human scent that's left both from
21 skin follicles and stuff falling from a body. Also crushed
22 vegetation or anything after it's been freshly stamped down.
23 He is given a command to start that, to find the human
24 scent, and once he does he will continue to track along
25 human scent.

Brian Fraley - Direct examination
by Solicitor Fulmer

1 Q And did your dog track, find a scent that night?

2 A Yes, he did.

3 Q And what happened?

4 A Once I approached the entrance sign, Lando was given a
5 track command. He began to pull me along. There was a
6 brick wall that was marking the entrance of the
7 neighborhood. He pulled me along the brick wall in the
8 grass, which is on the side of Rainbow Lake Road.

9 We followed the wall until it stopped and he then
10 turned right. Lando went a short distance until the scrubs,
11 shrubs stopped. He then went toward -- we then came out in
12 the backyard of [REDACTED] We went through the
13 backyard and toward the front yard crossing over Carrington
14 Drive going into the yard of [REDACTED]. We went
15 back onto the grass on the side of the -- Rainbow Lake Road.
16 We continued on the grass until we got to a drainage ditch,
17 which is actually inside the parking lot to Wal-Mart on
18 Rainbow Lake Road.

19 Lando then made a right turn into the parking lot. We
20 crossed the parking lot and went in front of the store.
21 Lando went by the first entrance and then came to the second
22 entrance to Wal-Mart. At that time Lando actually turned to
23 go into Wal-Mart and I stopped him at that point due to he
24 is trained for aggression work, and me not knowing who all
25 was in the store. So, at that time I did stop my track at

Brian Fraley - Direct examination
by Solicitor Fulmer

1 the entrance to Wal-Mart.

2 Q So, was there a continuous track then from your
3 starting point---

4 A Yes.

5 Q ---at the subdivision entrance?

6 A Yes, sir, I went continuously from one -- from the
7 entrance there to the door of Wal-Mart.

8 Q Okay. I'm gonna show you what's been marked State's
9 Exhibit 7 and is now in evidence.

10 THE COURT: You can bring the lights down, Donnie.

11 (Bailiff complies.)

12 THE COURT: Thank you, sir.

13 Q There's Highway 9 and Rainbow Lake Road.

14 Can you show the jury the beginning of your track, the
15 course of that track and then where you ended up?

16 A I would of started -- I can't tell from the map, but I
17 believe it was the entrance there to this --.

18 THE COURT: You want to step down and take a look?

19 THE WITNESS: Yes, sir, I just can't see.

20 THE COURT: That might help you.

21 (Witness comes down from the stand.)

22 Q Use this map.

23 A We would of started approximately right here.

24 Q And gone where?

25 If you'll trace your track.

Brian Fraley - Direct examination
by Solicitor Fulmer

1 A We started approximately here, came down along the
2 brick wall, went into the neighborhood on Carrington,
3 crossed back over the road, came back out the mortuary,
4 continued then along down the grass on Rainbow Lake Road,
5 and then made a right into the parking lot of Wal-Mart, and
6 that -- that's where he stopped.

7 Q Okay. Thank you, deputy.

8 A (Witness returns to the stand.)

9 Q Based on your dog's work and your investigation, you
10 don't have any way of identifying who may have made that
11 track, do you?

12 A No, I do not.

13 Q Okay. Do you have an estimate of how old that track
14 may or may not have been?

15 A Based on my dog's training and stuff, usually a track
16 will -- I don't usually attempt tracks that are much over
17 two hours long. Usually most of my tracks are within that
18 hour to two hour window.

19 Q Is your dog trained to alert only on fresher tracks?

20 A Yes.

21 Q Please answer any questions Ms. Jones may have for you.

22 THE COURT: You need the lights down or up, Ms. Jones?

23 MS. JONES: Up please.

24 THE COURT: Bring them up, Mr. Seay.

25 (Bailiff complies.)

Brian Fraley - Direct examination
by Solicitor Fulmer

1 THE COURT: Thank you.

2 All right. Your witness.

3 MS. JONES: Thank you, Your Honor.

4 THE COURT: Yes, ma'am.

5 CROSS-EXAMINATION

6 BY MS. JONES:

7 Q How long have you worked with dogs?

8 A About eight and a half years, ma'am.

9 Q Okay. And you work with the Sheriff's Office, correct?

10 A Yes, ma'am, I do.

11 Q Okay. Are you familiar with the inside of this
12 Wal-Mart at all?

13 A I -- just vaguely.

14 Q Do you know if there's actually a Sheriff's Department
15 substation in there?

16 A I believe there is, but I'm not for sure.

17 Q Okay. But you -- as an employee, you understand that
18 y'all operate a substation inside there?

19 A We do have substations all over the county, yes, ma'am.

20 Q Okay. The -- now, in this particular case -- and you
21 said, at the conclusion of your, of the questioning by
22 Mr. Fulmer, that you can't personalize this track.

23 Was there a way -- isn't your dog trained, let's say,
24 you know, you get an article of mine, my clothing, my shoe,
25 whatever, can you let the dog sniff it and pick-up my scent

Brian Fraley - Cross-examination
by Ms. Jones

1 and then go find a track of mine?

2 A No, ma'am.

3 Q Okay. Are there dogs trained to do that?

4 A Yes, ma'am.

5 Q But yours is not?

6 A No, ma'am.

7 Q Does the Sheriff's Office have any dogs like that?

8 A We do currently have three bloodhounds that work for
9 us, yes, ma'am.

10 Q Okay. So, on this particular night there were other
11 dogs out there that could have perhaps come to the scene,
12 gotten into a vehicle that these supposed assailants had
13 been in, and maybe picked up a scent to go find one of them?
14 A We would of -- regardless of which dog we have, we
15 would not have allowed one to track inside a Wal-Mart.

16 Q No, I don't mean to go in the Wal-Mart.

17 A Okay.

18 Q I'm sorry.

19 A I'm sorry.

20 Q I'm just talking about are -- do you recollect enough
21 of the, the scene of where you took your dog this night to
22 remember there being a car?

23 A I never went on the actual scene, ma'am.

24 Q Okay. Well, if there were, was a vehicle that someone
25 you were looking for had supposedly recently ridden in, and

Brian Fraley - Cross-examination
by Ms. Jones

1 you had one of the bloodhounds that was trained to track the
2 other way, could you have let that dog smell the seat or the
3 inside of that car and then let him do what he's trained to
4 do to go find that person?

5 A There was none currently working that night. So --.

6 Q Well, let's, let's just talk in a hypothetical though.
7 Is that what they're trained to do?

8 A Yes, ma'am, that's what they're trained to do, yes.

9 Q Okay. And there weren't any working that night?

10 A No, ma'am.

11 Q Okay. They couldn't be called in to do that?

12 A I don't know if they were in town or not, ma'am. That
13 was two years ago.

14 Q Okay.

15 A I was the K-9 handler on call. So, therefore, I always
16 stay in town when I'm on call.

17 Q Okay. And your dog then is not trained to
18 particularize a track then, is he, if that's the right word
19 for that?

20 A I don't understand what you're asking, ma'am.

21 Q Okay. Your dog is not trained to smell an article of
22 my clothing or someone else, an item someone's handled, then
23 go sniff around to see if they can track for that person?

24 A No, ma'am, my dog is trained to start at a known
25 starting location and continue on that track until the end.

Brian Fraley - Cross-examination
by Ms. Jones

1 Q Okay. So, you -- and not to take away from the dogs.

2 I understand they're remarkable creatures.

3 But he really can only find a track that we don't know
4 whose it is, but I'm sure he's dedicated, once he gets it,
5 he follows it?

6 A Yes, ma'am.

7 Q But we don't -- we have no way of specifying who that
8 was?

9 A No, ma'am.

10 Q Okay. That's all.

11 SOLICITOR FULMER: No questions, Your Honor.

12 THE COURT: Sir, you may step down.

13 Do you wish to excuse the witness?

14 SOLICITOR FULMER: Please, Your Honor.

15 THE COURT: Any objection?

16 MS. JONES: No, sir, Your Honor.

17 THE COURT: You're free to go at this time. Thank you
18 for coming, sir.

19 THE WITNESS: Thank you, sir.

20 THE COURT: You may call your next witness.

21 SOLICITOR FULMER: Thank you, Judge.

22 The State calls Landon Bridges.

23 THE COURT: Come forward, sir, to my left and be sworn
24 please.

25 LONDON BRIDGES, being first duly

Landon Bridges - Direct examination
by Solicitor Fulmer

1 sworn, testified as follows:

2 THE COURT: Have a seat, sir, and once you're seated,
3 state your name please.

4 THE WITNESS: Landon Robert Bridges.

5 DIRECT EXAMINATION

6 BY SOLICITOR FULMER:

7 Q Mr. Bridges, where do you live?

8 A [REDACTED] in South Carolina.

9 Q Is it Boiling Springs?

10 A Uh-huh. (Affirmative).

11 Q How long have you lived in Boiling Springs?

12 A All my life.

13 Q Do you know who the defendant is?

14 A I do.

15 Q How do you know him?

16 A Just casual acquaintance.

17 Q Did you have an occasion to meet up with him on August
18 the 28th, 2011?

19 A That being the date of the incident?

20 Q Yes.

21 A No.

22 Q You didn't see him that day?

23 A Yes, that night.

24 Q Okay. That's what I was asking.

25 Did you have an occasion to meet with him?

Landon Bridges - Direct examination
by Solicitor Fulmer

- 1 A Oh, yes.
- 2 Q Meet up with him?
- 3 A Yes.. Yes.
- 4 Q Okay.
- 5 A I thought you meant planned.
- 6 Q Oh, no.
- 7 Okay. On that day, where did you see him?
- 8 A Inside wal-Mart.
- 9 Q which wal-Mart is that?
- 10 A The one on Rainbow Lake Road and Number 9.
- 11 Q The one that's just shown on the map?
- 12 A Yes, sir.
- 13 Q what time of day was this?
- 14 A 10:45, eleven o'clock at night probably.
- 15 Q And what were you doing at wal-Mart?
- 16 A I was looking at fishing equipment.
- 17 Q Tell the, tell the jury how you came to meet with him
- 18 and what transpired.
- 19 A I went in wal-Mart to look at fishing gear. Realized I
- 20 didn't have my wallet in my pocket. Went to walk back out
- 21 to the car and get it. Mr. Emmons approached me almost when
- 22 I was going out the door, and asked if I could give him a
- 23 ride home, which I said sure. I knew he, he didn't have a
- 24 car, and I consider myself a nice guy. So, I said sure, and
- 25 want out to my car, got in.

Landon Bridges - Direct examination
by Solicitor Fulmer

1 I got my wallet. I think we drove around, may of
2 smoked a piece of blunt I had in the car. Came back -- I
3 came back in Wal-Mart looking for fishing gear, went back
4 out to the car, got back in the car, proceeded to take him
5 home, and he said something about trying to hit a lick, and
6 he shot him.

7 I didn't pay much attention because I, honestly I
8 thought that it was just him saying something to look big,
9 and dropped him off, went home, went to bed, got up the next
10 morning and had 15, 20 missed calls on my phone from family
11 members saying hey, your picture's all over the news and in
12 the paper.

13 Q Okay. Now, can you repeat again what he told you the
14 hit a lick part?

15 What was that?

16 A Something to the, to the key of tried to hit a lick and
17 he shot him.

18 Q He shot him?

19 A Yes.

20 Q And what did you take him to mean by hit a lick?

21 A Rob somebody.

22 Q And after he said that, what did you say to him?

23 A I honestly didn't pay it a whole lot of attention. It
24 was kind of like a really, you know, type thing.

25 Q Did you take him home?

Landon Bridges - Direct examination
by Solicitor Fulmer

1 A I did.

2 Q The next day, when you had people calling you, what did
3 you do?

4 A I -- of course I was worried because here's my name
5 thrown in the middle of a big old mess where somebody's lost
6 their life, and, you know, I talked to my mother. She and I
7 agreed that hey, we might as well go ahead and get out in
8 front of this thing, and we went down to the Sheriff's
9 Department. I tried to talk to somebody. Nobody was there
10 to talk to me. I left them my name, address, and phone
11 number, and was never contacted.

12 Q But, at some point, you did talk to the police about
13 this, right?

14 A Yes.

15 Q Okay. How did that come to happen?

16 A It's while I, while I was incarcerated.

17 Q Why were you in jail?

18 A I had been arrested for a number of charges.

19 Q And what, what was the nature of those charges?

20 A Weapons possessions, manufacturing, distribution,
21 narcotics, possession of narcotics.

22 Q Okay. So while you're in jail, you come to have a
23 conversation with the police?

24 A They came and pulled me out of the pod I was in and sat
25 me down and wanted to talk to me.

Landon Bridges - Direct examination
by Solicitor Fulmer

1 Q Is what you told the police that day substantially what
2 you've said here today?

3 A Yep.

4 Q Do you have any doubt that the man you met in Wal-Mart
5 that night is the defendant?

6 A No.

7 SOLICITOR FULMER: May I approach, Your Honor?

8 THE COURT: You may.

9 Q I'm gonna show you some pictures. These have been
10 marked State's Exhibit 2, and do you recognize that picture?

11 A Yes, sir.

12 Q Okay. Who's in that picture?

13 A That is me, myself, and Mr. Emmons.

14 Q Okay. What color shirt are you wearing?

15 A The black one.

16 Q Okay. And Mr. Emmons is in the kind of olive shirt?

17 A Yes.

18 Q Where was that photograph taken?

19 Do you know?

20 A Right there at the, the exit.

21 Q In Wal-Mart?

22 A Yes, sir.

23 Q Okay. Was it taken on the night that we've been
24 referring to?

25 A Yes, sir.

Landon Bridges - Direct examination
by Solicitor Fulmer

1 Q When Mr. Harrison had to defend himself in a robbery?

2 A Yes, sir.

3 Q Okay. Was it taken on the same night as Mr. Emmons
4 told you that he had hit a lick and there was a shooting?

5 A Yes, sir.

6 Q Yes?

7 A Yes, sir.

8 Q Okay. And what about that picture -- do you recognize
9 that picture?

10 A Yes, sir.

11 Q And who is that?

12 A It's Mr. Emmons.

13 Q Is that from the same Wal-Mart?

14 A Yes, sir.

15 Q Same night?

16 A Yes, sir.

17 Q I show you a couple others. Now, these are State's
18 Exhibits 8 and State's Exhibit 9. These are black and
19 whites.

20 But do you recognize those?

21 A Yes, sir.

22 Q Okay. What are those pictures of?

23 A Myself and he.

24 Q When you -- when you say he, you mean Mr. Emmons?

25 A Yes, sir.

Landon Bridges - Direct examination
by Solicitor Fulmer

1 Q Okay. Were those also taken inside a Wal-Mart?

2 A Yes, sir.

3 Q This same night?

4 A Yes, sir.

5 Q The night we been talking about today?

6 A Yes, sir.

7 Q Okay. Do you recall -- based on what you can see in
8 those photos, were those taken during the time period -- the
9 first time you were in Wal-Mart or the second time you
10 were---

11 A That would be the second.

12 Q Okay. All, all four of those are from that same time
13 period?

14 A Yes, sir.

15 Q Okay. Well, it looks like, in a couple of these
16 pictures, you were wearing a short sleeve shirt.

17 A These, these are from the first time, from the first
18 time period.

19 Q Okay.

20 A These are from the second.

21 Q Do you know why Mr. Emmons is wearing two different
22 shirts in those pictures?

23 A He had gotten one -- the one I had in the car.

24 Q Okay. Did he ask you for a shirt?

25 A Yeah, his was dirty. So --.

Landon Bridges - Direct examination
by Solicitor Fulmer

1 Q I'm sorry?

2 A Yeah, his was dirty. So, I gave him a shirt. I
3 usually kept extra clothes in my car. So, yeah.

4 Q Okay. Did you notice his shirt was dirty or tell me
5 how he came to have one of your shirts?

6 A I mean not really. I mean he, he took it off and kind
7 of sweat it up I guess, and said well, here, have a shirt.

8 Q So, you offered him a shirt?

9 A Sure.

10 Q Okay. Would you have considered yourself to be friends
11 at this point?

12 I'm talking about back in 2011.

13 A No. Acquaintances, yeah. Friends, no. Been around
14 him twice.

15 Q But you knew him well enough to give him a ride home if
16 he needed one?

17 A Yeah, I mean I knew, I knew he didn't have a car, and,
18 like I said, I considered myself a nice guy so that -- yeah.

19 Q I think you mentioned earlier that, while you were in
20 your car in-between those visits to Wal-Mart, that you
21 smoked a blunt or --?

22 A A piece of one or something, yeah.

23 Q A piece of one?

24 A Yeah.

25 Q Can you tell the jury what you're talking about when

Landon Bridges - Direct examination
by Solicitor Fulmer

1 you say that?

2 A It's marijuana rolled up in a cigar.

3 Q So, he -- you're in wal-Mart, you're together, you come
4 out to the car -- you meet him actually on the way out to
5 come out to the car and smoke.

6 Do you drive around at that point?

7 A Yeah, we just made a circle up the road or something
8 like that. I can't recall that.

9 Q At any point did you see law enforcement responding to
10 that area?

11 A I saw some blue lights in the distance. I didn't pay
12 it a whole lot of attention cause that's pretty normal in
13 Boiling Springs.

14 Q well, did -- you're saying you saw some blue lights in
15 the distance.

16 would that have been during the period you're in the
17 car?

18 A Yeah.

19 Q Okay. And then you're back into wal-Mart?

20 A Uh-huh. (Affirmative).

21 Q Okay. And what do you do when you go back in?

22 A walk to the wal-Mart, walked around the fishing gear,
23 looked at it, left.

24 Q And you go directly from wal-Mart to where?

25 A To drop him off.

Landon Bridges - Direct examination
by Solicitor Fulmer

1 Q Okay. And do you recall where you dropped him off?

2 A Somewhere off Rainbow Lake Road. I mean -- excuse me.

3 Old Furnace.

4 Q Old Furnace Road?

5 A Yeah.

6 Q Please answer any questions Ms. Jones may have for you.

7 A Yes, sir.

8 THE COURT: Ms. Jones, your witness.

9 MS. JONES: Thank you, Your Honor.

10 THE COURT: Yes, ma'am.

11 CROSS-EXAMINATION

12 BY MS. JONES:

13 Q Mr. Bridges?

14 A Yes, ma'am.

15 Q Do you remember seeing Mr. Emmons' girlfriend that
16 night?

17 A I don't.

18 Q Do you know who she is?

19 A I don't.

20 Q Okay. Have you ever been to their home?

21 A No.

22 Q Pardon me?

23 A No, ma'am.

24 Q You don't remember that you, if you've ever been or
25 you're certain you've never been?

Landon Bridges - Cross-examination
by Ms. Jones

1 A I'm pretty certain that---

2 Q But you took him home, right?

3 A Yes, ma'am.

4 Q So, you have been to the home?

5 A Well, he was in the car with me. Therefore, he could
6 direct me to the house.

7 Q Oh, that's what I mean.

8 Have you ever been there with him?

9 Not on your own.

10 A No.

11 Q Okay. So, the riding around that you did between the
12 two different trips into the Wal-Mart didn't include going
13 to the duplex off Old Furnace that he and his girlfriend and
14 his infant child share?

15 A No, ma'am.

16 Q Okay. Now, the -- you stated to the solicitor that you
17 don't necessarily consider Mr. Emmons a friend.

18 You're just acquaintances?

19 A Yes, ma'am.

20 Q Did you say to him you had only met him a few times,
21 been around him a few times?

22 A Say to Mr. Fulmer?

23 Q Yeah.

24 In response to one of his questions, did you say -- how
25 often have you been around Mr. Emmons?

Landon Bridges - Cross-examination
by Ms. Jones

1 A Probably twice.

2 Q Twice.

3 A Yes, ma'am.

4 Q That's what I was getting at.

5 Okay. And yet -- well -- and he -- when he made the
6 statement to you about trying to hit a lick, and he shot
7 someone, you didn't take that very seriously, did you?

8 A No, ma'am.

9 Q Okay. Cause if you'd taken it seriously, you -- would
10 you have continued to ride around with him?

11 A Probably not.

12 Q Drop him off?

13 A Probably not.

14 Q Loan him a shirt?

15 A Probably not.

16 Q Okay. You didn't, in fact, take it serious, any of
17 this -- you kind of blew it off until your phone started
18 blowing up about why are you on the news, right?

19 A Yes, ma'am.

20 Q Okay. And -- now, when you went to the Sheriff's
21 Department, how many days was it after this trip to Wal-Mart
22 that included Mr. Emmons?

23 A I believe it was the very next day.

24 Q Okay. And why were you not able to talk to anybody?

25 A The officer at the desk said that there was no

Landon Bridges - Cross-examination
by Ms. Jones

1 detective to help me. I left my name, address, and phone
2 number with them for someone to contact me, and I was never
3 contacted.

4 Q Okay. So, if this -- do you remember what day of the
5 week this was that you were at Wal-Mart?

6 A No, ma'am.

7 Q So, if that proved to be a Sunday and the following day
8 was a Monday working day, would it have seemed unusual that
9 there were no detectives available that day?

10 A I'm sorry. I don't understand what you're saying.

11 Q Monday's kind of busy not to have any officers that
12 could talk to someone who knows about a big crime, isn't it?

13 A Right.

14 Q Okay. You didn't get the name of anybody you talked to
15 when you went to the Sheriff's Office trying to pass on this
16 information?

17 A No, ma'am, I asked who was in charge. He informed --
18 the officer that was on duty at the desk informed me that he
19 did not know, but he would take my information and have
20 someone contact me.

21 Q Okay.

22 A And I left my information with him.

23 Q And then -- let's see. On the 10th, maybe ten or
24 eleven days later, you got locked up on 11 charges, correct?

25 A Yes, ma'am.

Landon Bridges - Cross-examination
by Ms. Jones

1 Q Okay. Then -- within three days of being locked up,
2 you got a detective pulling you out of the pod wanting to
3 talk to you?

4 A No, it was not within three days of me being locked up
5 on it.

6 Q Okay.

7 A It might -- I don't think it was three days.

8 Q Do you remember giving a written statement?

9 A I do.

10 Q Okay. If it is dated the 14th of September, would that
11 surprise you?

12 A Then it was three days later.

13 Q It was three days later.

14 And in that statement you indicate he mentioned hitting
15 a lick earlier, and that someone started shooting. That's
16 different from trying to hit a lick and he shot him.

17 A Same difference to me.

18 Q Well, it's the same difference to you even though
19 one -- in the written statement you said someone started
20 shooting. You say now he told you he shot somebody.

21 A You're saying that I, I said that Mr. Emmons said he
22 himself shot somebody?

23 Q That's what you testified to.

24 A No, that's not -- that's not what I'm saying.

25 Q You said he was trying -- that he had tried to hit a

Landon Bridges - Cross-examination
by Ms. Jones

1 lick and he shot me?

2 A No, I said -- no, you're twisting my words here.

3 Q Okay. why don't you tell me what it is that he told
4 you?

5 A No, no. What I said was he said something about they
6 tried to hit a lick and he shot him, he shot him.

7 Q Okay. He shot him, he shot him. You just said it. He
8 shot him.

9 A No, I'm saying that that's what he said. I'm not
10 saying that, that -- I'm not, I'm not saying that he shot
11 anybody.

12 Q Okay. I appreciate that.

13 So, are you trying to tell me that you think Mr. Emmons
14 is saying he as in referring to another person?

15 A As in referring to the victim.

16 Q That -- do you believe what he said was he was telling
17 you that he himself shot the victim?

18 A No.

19 Q who, who do you think he's referring to as he?

20 A The person that was being attempted to be robbed.

21 Q The person they were attempting to rob shot him?

22 Okay. Explain -- tell me again what was said.

23 Tell me how you took it.

24 okay?

25 A How I took it?

Landon Bridges - Cross-examination
by Ms. Jones

1 Q Yeah, tell me the words you say he told you.

2 A Well, it was two years ago. So, I mean I can't---

3 Q I understand. I'm sorry to---

4 A ---quote it verbatim.

5 Q I'm sorry to keep pressing you on it, but it's an
6 important issue.

7 A No, I understand that completely.

8 Q Okay. Tell us again what Mr. Emmons said.

9 A He said something about them trying to hit a lick and
10 he shot him.

11 Q Okay. Who, in making that statement to you---

12 A Who did I infer that he was speaking of when he said he
13 shot him?

14 Q Correct.

15 A I assumed the victim of the attempted robbery.

16 Q Shot whom?

17 A I assumed, I assumed the, the -- his accomplice.

18 Q Okay. Okay. Now, again, you did -- did you -- you
19 didn't take this seriously?

20 A No, I had other things on my mind. I --.

21 Q Okay. And, again, what was your reason for going in
22 the wal-Mart that time of the night?

23 A I was going to look at some fishing gear.

24 Q Okay. Do you remember, in your statement, that you
25 said you went there cause you were having trouble sleeping?

Landon Bridges - Cross-examination
by Ms. Jones

1 A Yeah, I was having trouble sleeping.

2 Q Okay.

3 A I had some things going on at home at the time.

4 Q And at the time you are using methamphetamine?

5 A Sure.

6 Q Okay. So that probably contributed to the what was
7 going on and the lack of sleep?

8 A Possibly.

9 Q That -- was that, in fact, the true reason for being at
10 Wal-Mart?

11 A Was what the true reason?

12 Q Going to hook up with somebody for some meth.

13 A No.

14 Q Okay. What was the point in going back the second
15 time?

16 A Because the whole reason I walked out of Wal-Mart the
17 first time was to go get my wallet and come back.

18 Q Okay. And the reason, when you walked out, that you
19 didn't just get your wallet right then and come back was
20 what?

21 A Ride around and burn something.

22 Q Okay. You just prolonged buying the fishing equipment
23 to go smoke?

24 A (Witness nods affirmatively.)

25 Q Okay. And you don't recollect, that night or any

Landon Bridges - Cross-examination
by Ms. Jones

1 night, going to the duplex that Mr. Emmons lives in with his
2 girlfriend and their infant child?

3 A No, ma'am.

4 Q Okay. Thank you.

5 A Yes, ma'am.

6 THE COURT: Mr. Fulmer, you may redirect.

7 SOLICITOR FULMER: No questions, Your Honor.

8 THE COURT: You may step down, sir.

9 You wish to excuse the witness?

10 Any objections?

11 SOLICITOR FULMER: That will be fine.

12 MS. JONES: No, sir.

13 THE COURT: All right. You're free to go, sir. Thank
14 you.

15 THE WITNESS: Thank you.

16 THE COURT: The State may call its next witness.

17 SOLICITOR FULMER: Thank you, Judge.

18 The State calls Loren Williams.

19 THE COURT: Come forward, sir, to be sworn.

20 LOREN WILLIAMS, being first duly
21 sworn, testified as follows:

22 THE COURT: Sir, have a seat up on the stand, and once
23 you're finished -- once you have a seat, state your name.

24 THE WITNESS: My name is Loren Williams.

25 THE COURT: Thank you.

Loren Williams - Direct examination
by Solicitor Fulmer

1 Mr. Fulmer, your witness.

2 SOLICITOR FULMER: Thank you, Judge.

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION

5 BY SOLICITOR FULMER:

6 Q Investigator Williams, where do you work?

7 A I'm currently employed with the Spartanburg County
8 Sheriff's Office.

9 Q How long have you been there?

10 A I've been at the Sheriff's Office since 2005.

11 Q Prior to that were you involved in law enforcement?

12 A I was. I started in Landrum in 1993.

13 Q Is that the extent of your experience or anything
14 before that?

15 A No, I started in law enforcement in '93.

16 Q What are your duties at the Sheriff's Office?

17 A I'm assigned to the violent crime division of the
18 Sheriff's Office. We handle homicide and anything related
19 to person crimes of a violent nature.

20 Q Were you involved in the incident that we've been
21 talking about here today?

22 A Yes, sir, I was.

23 Q Did you respond out to the scene on August the 28th,
24 2011?

25 A I did.

Loren Williams - Direct examination
by Solicitor Fulmer

1 Q What time did you arrive out there?

2 A The original call was dispatched -- it looks like it
3 was at 10:43 in the evening. I would of gotten there within
4 30 minutes.

5 Q When you arrived on scene, what did you see?

6 A There were, there were a lot of patrol vehicles there.
7 They had blocked the road and had, had a scene set up. The
8 EMS was still there. The Coroner's Office had gotten there,
9 and before I approached the residence I met with the patrol
10 supervisors over there to get an idea of what information
11 they had already gathered.

12 Q All right. Did you see Mr. Harrison there?

13 A Yes.

14 Q Did you see the, the body of another man there?

15 A I did.

16 Q Can you describe for the jury what position he was in
17 and where he was?

18 A You've seen the overhead. I think it's been a little
19 bit confusing to everybody talking about the driveways and
20 the, the shrubbery and everything.

21 Mr. Harrison's driveway, if you can imagine turning
22 left into a drive and going up, his garage sits sideways on
23 the house. So, the top side of his driveway kind of widens
24 out to where you could make a turn and then turn right into
25 his drive. He had a truck and his vehicle that he was

Loren Williams - Direct examination
by Solicitor Fulmer

1 riding that night that were parked outside of the carport.

2 So, if you went up his drive and swung wide to park
3 that truck, the car would of been parked on the other side
4 of it. Actually the, the rear of his vehicles would have
5 been facing the other house and, and not back down to the
6 road of the subdivision.

7 There were some jet skis that were just beyond the
8 parking area kind of like on the edge of the grass, and the
9 decedent -- where the, the door on Mr. Harrison's car was
10 opened, the decedent had fallen backwards and actually hit
11 onto those jet skis, but then fell and his head and all up
12 to probably right around his shoulder area was actually
13 under the jet skis.

14 Q And did you see a weapon or anything around his body?

15 A There was a -- what it wound up being was a tire tool.
16 More like what you would see in a kit under the hood of a
17 car, not the four way lug wrenches or anything like that,
18 but the old kind of L-shaped tire tool.

19 Q So, that was still laying at the scene when you
20 arrived?

21 A Yes, sir, it was.

22 Q Okay. Tell the jury how you came to develop Mr. Emmons
23 as a suspect then.

24 A We had gotten information from a K-9 track that there
25 was a possibility that the suspect had run up Rainbow Lake

Loren Williams - Direct examination
by Solicitor Fulmer

1 Road. Especially after talking to EMS and they had seen a
2 white male headed in that direction.

3 So, one of our uniform patrol deputies went to
4 wal-Mart. They have loss prevention people that are in
5 wal-Mart pretty much all the time. They dress in plain
6 clothes and just kind of walk around and do whatever. He
7 was able to locate one of them. They had taken him into the
8 security office, and they had gone by the time of the
9 incident, backed it up, and had seen an individual come into
10 wal-Mart, and then a short time later the same individual
11 left with who you had heard Mr. Bridges. At that time we
12 didn't know who Mr. Bridges was, and really and truly we
13 didn't know if they had anything to do with it.

14 So, what we had done was taken the photographs from
15 the, the video and had done what we call a person of
16 interest request that was sent to the media. A lot of times
17 you'll see that on the TV. It will pop up there and it will
18 say wanted for questioning by or ever how they word it. But
19 that was the reason that the two pictures showed up on the
20 news as persons of interest in, in this incident on Cottage
21 Mill Run.

22 Q Okay. And at some point after that you came to speak
23 with Landon Bridges?

24 A I did. I was notified that Mr. Bridges was in the
25 county jail, that he possibly had some information on the

Loren Williams - Direct examination
by Solicitor Fulmer

1 Cottage Mill Run shooting. I went to the jail, and I filled
2 out a -- there's, there's a form there that we request to
3 speak to the inmates. They will bring them out into the
4 booking area of the jail. There's a small nurses station
5 there that we use for an interview room, and met with
6 Mr. Bridges there, and was able to get a statement from him.

7 Q Based on that statement from Mr. Bridges, did you get
8 an arrest warrant?

9 A Well, he was not able to give me Mr. Emmons last name.
10 He knew him as Chris. He told us about where he lived. He
11 said it was on Old Furnace Road, it was a duplex, and he, he
12 gave us directions to get there.

13 He described Mr. Emmons and described him as having a
14 large quantity of tattoos, sleeve tattoos, or had, had a lot
15 of tattoos. We went to the Old Furnace Road area about
16 where the duplexes were. It's -- if you're familiar with
17 Old Furnace, as you're leaving the Highway 9 going back
18 towards Asheville Highway, there's a subdivision on the
19 right there that actually you can get to it from there or
20 you can get to it right across from Wal-Mart.

21 There's duplexes across from that. We had actually
22 just started going towards old -- and we found out who the
23 landlord was and we described Mr. Emmons, and they said
24 yeah, there was a guy that lived there, had a lot of
25 tattoos, walked with a baby in a stroller and his wife up

Loren Williams - Direct examination
by Solicitor Fulmer

1 and down Old Furnace Road all the time.

2 We were able to get in touch with the landlord of the
3 duplexes, and he actually furnished us with Mr. Emmons name.
4 We took the name and was able to get a picture from -- and I
5 can't remember if it was from the Department of Motor
6 Vehicles or if it was from the jail, the mugshots, but,
7 anyway, was able to get that picture, took it back to the
8 jail to let Mr. Bridges look at the picture. He identified
9 that yes, that is, that is Chris. That's the guy that was
10 with me in Wal-Mart, and, at that time, we had determined
11 there was enough probable cause to, to seek a warrant for
12 him for the attempted armed robbery.

13 Q So, your warrant was issued independent of any I.D.
14 from Mr. Harrison?

15 A Absolutely, yes, sir.

16 Q And that was based on information you received from
17 Landon Bridges?

18 A That -- that is correct.

19 Q Please answer any questions Ms. Jones may have.

20 THE COURT: Your witness, Ms. Jones.

21 MS. JONES: Thank you.

22 CROSS-EXAMINATION

23 BY MS. JONES:

24 Q Now, let's go ahead and start with Mr. Bridges.

25 Is it unusual for people, when they are locked up, to

Loren Williams - Cross-examination
by Ms. Jones

1 instantly become fountains of useful information to the
2 Sheriff's Office?

3 Is that a pretty common thing to receive information
4 from someone who's incarcerated who wants to tell you
5 something, help you out?

6 A Sure it is.

7 Q And they -- and most often those conversations include
8 conversations or questions by the person supplying the
9 information who's locked up about what can you do for me?

10 A Sure.

11 Q What can you give me for that?

12 A Sure. A lot of times it is.

13 Q Okay. What, what part did -- was that part of your
14 conversation with Mr. Bridges?

15 A No, it was not because Mr. Bridges, the best of my
16 recollection, was in there on some narcotics charges, and I
17 don't, I don't deal with dope. The majority of what we deal
18 with, like I told you earlier, is violent crimes, and
19 there's no way that I could have offered him anything or, or
20 even told him I could offer him anything. I had to talk to
21 somebody else.

22 Q Okay.

23 A So, that wasn't something that was offered.

24 Q Did you consider, in this case, talking to someone else
25 for him?

Loren Williams - Cross-examination
by Ms. Jones

1 A No, ma'am, not at that time. No, ma'am.

2 Q Have you ever considered talking to anybody to help him
3 out---

4 A No.

5 Q ---in his situation?

6 A Not, not in this situation. We got the statement.
7 Everything was as he had, as he had put it, and we were able
8 to corroborate that information, and, no, ma'am, it was not
9 followed up with.

10 Q Okay. Now, you're the detective in charge of this
11 case.

12 So, you're -- you were also the person in charge of the
13 investigation into the death of the other individual?

14 I believe his name is Fowler or Foster?

15 A Fowler.

16 Q Fowler.

17 A That's correct.

18 Q That you -- was that part of the same investigation or
19 did you kind of split it up?

20 A It is all in one.

21 Q Okay. Now, this is a death scene. It's a homicide
22 scene.

23 Granted somebody in your department or maybe
24 Mr. Fulmer's boss decided Mr. Harrison would never be
25 charged, but did you go through the same steps you do with

Loren Williams - Cross-examination
by Ms. Jones

1 normal homicides to investigate that case?

2 A We did to a, to a certain point. There -- there's two
3 different, if you can call it, two different kinds of
4 homicides.

5 Okay. It's all the same thing except some are who done
6 its, which means you've got a body there, and you, you don't
7 have a clue who did it. And then you've got the ones that
8 are, that are not a who done it. They -- they're witnesses.
9 You know who did that.

10 Well, in situations like this, where the crime occurred
11 in someone's homes or at someone's home, it's not a who done
12 it. It's basically a matter of trying to figure out what
13 led up to it and what, who caused that situation. You know,
14 was, was the victim in that situation at fault for the
15 outcome of that situation, and in, and in this circumstance,
16 there was nothing that, that indicated whatsoever that Mr.
17 Harrison was in anyway at fault for what had occurred.

18 So, there were certain things that would not be done on
19 that case that would be done on a stranger crime or stranger
20 on victim or who done it or something where they're not
21 known or it's not at a home where the actual suspect in this
22 case is the victim.

23 Q The -- as a result of your work there and being in
24 charge with the scene, you encountered a, a blue in color
25 cavalier that was in the roadway out in front of Mr.

Loren Williams - Cross-examination
by Ms. Jones

1 Harrison's neighbor's house, correct?

2 A Yes, ma'am.

3 Q Okay. And do you recollect if that's the vehicle he
4 indicated he thought the assailants had arrived in?

5 A That's correct. He --.

6 Q Okay. Now, as a result -- now, you've, you've given a,
7 a -- given some information to the jury about this not being
8 a who done it, but, in fact, it really was because there was
9 only one decedent there. Mr. Harrison consistently says
10 there were two people involved in this.

11 So, there had to be, did there not, some component of
12 this to try to determine who this second person was who had
13 been there?

14 A That's correct. But that was on the second part of it.
15 The---

16 Q Okay.

17 A You asked about the homicide portion of it.

18 Q Well, as part of the homicide and then the number two
19 who done it, was the blue car processed?

20 A Yes, it was.

21 Q Okay. And tell, tell the jury what I mean or what we
22 mean in this world when we say processed.

23 A Well, typically there's two ways to process a vehicle.
24 Depending on the scene, depending on the circumstances,
25 depending on the time of day, it can be processed on the

Loren Williams - Cross-examination
by Ms. Jones

1 scene. Sometimes we choose not to do it on the scene.
2 we'll have it moved from the scene to the county shop where
3 it can be put inside where our I.D. guys will go over and
4 collect evidence or process the car.

5 This car was moved to the county shop, and it was
6 processed there, and I don't know -- I'd have to refer back
7 to my notes and look at their, their reports. But nothing
8 was ever relayed to me that anything was obtained from
9 processing the car other than what we knew. It was a blue
10 car and it was registered to Mr. Fowler who was dead on the
11 scene.

12 Q Do you, do you recollect that there were some
13 fingerprints of Mr. Fowler's found in the car, which
14 wouldn't be abnormal?

15 A No, ma'am, not right off the top of my head I don't
16 recall.

17 Q Okay. Do you recollect there were, there were no
18 forensic findings of any kind developed from the car that
19 could be tied back to Mr. Emmons?

20 A No, and like I said, if it had -- if something had been
21 developed from the car, it would have been sent to me that,
22 you know, something out of the normal, which it being Mr.
23 Fowler's car, that wouldn't be out of the normal that his
24 prints would of been located.

25 Q Okay. But can you -- do you feel comfortable, based on

Loren Williams - Cross-examination
by Ms. Jones

1 your review of your files, saying there were no fingerprints
2 of Mr. Emmons found in the vehicle?

3 A No, I'm, I'm very comfortable with that.

4 Q Okay. No other forensic materials can -- that could be
5 connected to Mr. Emmons from the vehicle at all?

6 A That's correct.

7 Q Okay. And explain why you did not ever try to get a
8 description of any kind from Mr. Harrison.

9 A Well, I was, I was listening when you were questioning
10 him about the, about his statement, and I can't answer that
11 other than the fact of, you know, the dynamics of what was
12 going on that was there that night, you know, that they had,
13 they had said that they'd seen a white male in front of the
14 EMS station. We knew that the dog had tracked to Wal-Mart.
15 You know, we've got the video from Wal-Mart. Some of it, I
16 suppose, would be an assumption, you know, on my part that
17 we were looking for a white male. But other than that, I
18 can't answer that, you know---

19 Q Okay.

20 A ---why he specifically wasn't asked, I can't answer
21 that.

22 Q Okay. That -- and you will concede that was a mistake?

23 A Yes, ma'am.

24 Q Okay. And you just made a very, very good point that a
25 number of assumptions were made here. There, there was an

Loren Williams - Cross-examination
by Ms. Jones

1 assumption that whatever track the dog followed that his
2 handler very honestly and competently said I have no,
3 absolutely no way of, to use my phrase, particularizing that
4 track to anyone.

5 So, it's an assumption to draw the conclusion that Mr.
6 Emmons was tracked to Wal-Mart, is it not?

7 A It's an assumption, but it would be the totality of
8 everything that was going on. You know, after the fact,
9 after it -- because the warrants were signed that night. It
10 was not until---

11 Q Well, that wasn't the question. I'm not asking you why
12 you signed the warrant. I'm asking you is there--

13 THE COURT: Now, ma'am, I'm gonna ask you to let him
14 answer the question.

15 MS. JONES: Okay. Thank you.

16 THE COURT: You cut him off. I'm gonna let him respond
17 and then I'll let you ask your next question.

18 MS. JONES: Okay.

19 THE COURT: Finish your answer, sir.

20 THE WITNESS: I kind of got confused myself, Judge.
21 Can you repeat the question and I'll answer it?

22 Q Okay. Isn't it an assumption that the track the dog
23 followed was Mr. Emmons?

24 A Sure.

25 Q Okay.

Loren Williams - Cross-examination
by Ms. Jones

1 A Sure.

2 Q And isn't it a, an assumption that the person that the
3 EMT identified or saw and can't even clearly identify is Mr.
4 Emmons?

5 A Assumption or huge coincidence. One or the other.

6 Q Okay. Isn't it an assumption?

7 A You can say it's an assumption.

8 Q Cause she did not sit where you are saying -- and say
9 that is Mr. Emmons, did she?

10 A No, she did not.

11 Q She said I can't say that?

12 A Sure. Sure.

13 Q Okay. Whose decision was it not to find a bloodhound
14 that night?

15 A That would of been the on-call supervisor. It would of
16 been Deputy Fraley, him being on call. He made the comment
17 we've got three bloodhounds. We do now. I don't know that
18 we had all three of them then because I know two of them are
19 relatively young.

20 But the road -- the bloodhounds are just like the, the
21 narcs, the violent crime guys, everybody else. You know
22 there's only so many days in a week and everybody's got to
23 sleep sometime. There's not enough dogs for every shift to
24 have a dog. There's not enough dogs for every shift to
25 have, you know, a bloodhound and an apprehension dog or a

Loren Williams - Cross-examination
by Ms. Jones

1 drug dog.

2 So, it's kind of split up, and, and they put them on an
3 on-call rotation. Brian drew short straw that night. He,
4 he was the one that had to come, and why a bloodhound never
5 was called, I, I can't answer that.

6 Q Okay. But do you consider that a mistake or just the
7 price of doing business?

8 A I do not consider it a mistake. I've had the
9 opportunity to work with, with the majority of those dogs,
10 and, you know, I've got, I've got full faith and confidence
11 in those dogs. If the dog said he went to wal-Mart, you
12 know, that's the reason we followed up with the video.

13 Q Well, with regard to a bloodhound, as the chief
14 detective, wouldn't it have been nice to have the kind of
15 dog that y'all could of put in that blue car and let him get
16 a scent and let him go somewhere?

17 A I, I don't know all the ends and outs of the dogs. I
18 learned a little bit today. You know, as far as article
19 searching and the, and the way that the bloodhound works,
20 but no, ma'am, I'd of never questioned that.

21 Q Okay. The -- where did the video from wal-Mart go?

22 A I have no idea.

23 Q Do you have any idea?

24 A No, ma'am.

25 Q So, that is a mistake?

Loren Williams - Cross-examination
by Ms. Jones

1 A I, I -- it is a mistake of, you know, huge proportions.
2 I can't answer that. I know it was collected. I know it
3 was taken to the office. I know that it was reviewed. I
4 know that that's where all these still photographs that
5 y'all are seeing came from. I have the documentation of who
6 got it, and who did the photography work, but there's no
7 documentation of who put it in evidence.

8 Q Okay.

9 A So---

10 Q So, other---

11 A ---I can't answer that.

12 Q So, other than the few pictures that y'all chose to
13 print-out---

14 A Sure.

15 Q ---we have no way of knowing how many white males of
16 similar build to Mr. Emmons went in and out of the Wal-Mart
17 that night, correct?

18 A You're absolutely correct.

19 Q Okay. That's all. Thank you.

20 THE COURT: Mr. Fulmer.

21 SOLICITOR FULMER: No questions, Your Honor.

22 THE COURT: You may step down, sir.

23 THE WITNESS: Thank you.

24 THE COURT: State may call its next witness.

25 SOLICITOR FULMER: Your Honor, the State rests.

1 THE COURT: All right. Ladies and gentlemen of the
2 jury, that completes the presentation of evidence by the
3 state in this matter. There's some matters I have to take
4 up with the attorneys before we move on to the next phase of
5 the trial.

6 So, again, I'm gonna ask you to step back to the jury
7 room, and, as always, my instruction is to not begin any
8 discussion until I've asked you to do so.

9 You may retire.

10 (WHEREUPON, the following takes place outside the
11 presence of the jury.)

12 THE COURT: All right. Anything as far as motions are
13 concerned?

14 MS. JONES: Yes, sir, Your Honor.

15 I'd like to make a standard motion for directed verdict
16 at this point, and also reiterate all my previously argued
17 motions and stated objections.

18 THE COURT: All right. Those motions will be noted and
19 the motions are denied. The case will go to the jury.

20 Has the State informed the defense of any prior
21 convictions that the State may intend to use in
22 cross-examining the defendant---

23 SOLICITOR FULMER: We have.

24 THE COURT: ---as far as for credibility?

25 SOLICITOR FULMER: We've provided her with a record,

Alexandria Schubert - Direct examination
by Ms. Jones

1 witnesses.

2 You may call your first witness.

3 SOLICITOR FULMER: Alexandria Schubert.

4 THE COURT: Come forward please.

5 ALEXANDRIA SCHUBERT, being first duly
6 sworn, testified as follows:

7 THE COURT: Have a seat please, and once you're seated,
8 state your name.

9 THE WITNESS: Alexandria Schubert.

10 THE COURT: Thank you.

11 Ms. Jones, your witness.

12 MS. JONES: Okay.

13 DIRECT EXAMINATION

14 BY MS. JONES:

15 Q I'm gonna need for you to speak up. You're kind of
16 soft spoken. You might want to pull the chair a little
17 closer --

18 A Okay.

19 Q -- so you don't have to lean in so hard.

20 Can you tell me how old are you?

21 A Twenty-five.

22 Q Okay. And do you know Christopher Emmons?

23 A Yes, ma'am.

24 Q Okay. How do you know Chris Emmons?

25 A He's my fiance.

Alexandria Schubert - Direct examination
by Ms. Jones

- 1 Q Okay. And how long have you known Chris Emmons?
- 2 A For four and a half years.
- 3 Q Okay. And do you live together?
- 4 A Yes, ma'am.
- 5 Q How long have you actually lived together?
- 6 A For four and a half years besides---
- 7 Q Four and a half years.
- 8 Okay. Do you have children?
- 9 A Yes, ma'am.
- 10 Q How many do you have?
- 11 A One.
- 12 Q And how old is that child?
- 13 A Two and a half.
- 14 Q What's that child's name?
- 15 A Christopher Emmons.
- 16 Q Okay. So, it's a little boy?
- 17 A Yes.
- 18 Q Okay. Is he actually in the back being babysat --
- 19 A Yes, ma'am.
- 20 Q -- while waiting on you?
- 21 A Yes, ma'am.
- 22 Q So, let's go back in time if you would.
- 23 Back in August of 2011, specifically August 28th,
- 24 2011, do you remember where you and Mr. Emmons lived at that
- 25 point?

Alexandria Schubert - Direct examination
by Ms. Jones

1 A Yes, [REDACTED]

2 Q Okay. Again, speak up. I'm gonna go back here and
3 make sure I can hear you so I know they can hear you.

4 A Okay. [REDACTED]

5 Q Okay.

6 A Boiling Springs.

7 Q Do you recollect how old your son was at that point?

8 A He was about eight months---

9 Q When was he---

10 A ---old.

11 Q When was he born?

12 A December 26th.

13 Q Okay. So, yeah, he was eight or nine by then, months
14 old.

15 Do you remember if Mr. Emmons had a job and where?

16 A Yes, he had a job. He was working on a horse farm with
17 Chuck Marshall.

18 Q Okay. And did you work?

19 A Yes, ma'am.

20 Q Okay. What did you do?

21 A I worked at Subway.

22 Q Subway?

23 A Yes, ma'am.

24 Q Okay. And the home you lived in, was that a, a single
25 home, a duplex, or what?

Alexandria Schubert - Direct examination
by Ms. Jones

1 A It was a duplex.

2 Q And it was on Old Furnace?

3 A Yes, ma'am.

4 Q How far, if you can estimate, was that home from
5 Wal-Mart?

6 A About a mile and a half or more.

7 Q Okay. And back then, in August, did you and Chris
8 Emmons have a vehicle?

9 A No, ma'am.

10 Q Okay. So, y'all did a lot of walking, didn't you?

11 A Yes, ma'am.

12 Q Okay. Did -- do you remember how Chris got to work
13 each day?

14 A His boss come and picked him up.

15 Q Okay. Did he have a regular Monday to Friday job?

16 A No, it was, it was different days, but it was mostly
17 five days a week. But it was different days. Sometimes on
18 the weekend and during the week.

19 Q Okay. Worked on a horse farm?

20 A Yes, ma'am.

21 Q What kind of -- do you know what kind of work he did on
22 the farm?

23 A Hedging bushes, feeding the horses, fixing fences.

24 Q Okay. So, just manual like farmers helper kind of
25 stuff?

Alexandria Schubert - Direct examination
by Ms. Jones

1 A Yes, ma'am.

2 Q Okay. Now, August 28th, 2011, was a Sunday.

3 Do you remember -- do you happen to recollect if Chris
4 did some work that day?

5 A Yes, ma'am, because he came home with work clothes and
6 work boots and everything on.

7 Q Okay. Was he -- did he look like he'd been doing farm
8 work?

9 A Yes, ma'am. Yes, ma'am.

10 Q Okay. And at -- do you remember when he got home or do
11 you recollect?

12 A No, ma'am.

13 Q Okay.

14 A No, ma'am, because it varied -- the times varied when
15 he'd get home.

16 Q Okay. And when he got home, do you remember anytime
17 later that night if he left the house again?

18 A Yes, he left the house about 10:15/10:30 that night.

19 Q Okay. Do you know why he left?

20 A He left to go meet a guy named O to buy some weed.

21 Q Weed?

22 You mean marijuana?

23 A Marijuana.

24 Q Okay. Do you know where he was going to do that?

25 A To Wal-Mart.

Alexandria Schubert - Direct examination
by Ms. Jones

1 Q In the store or do you know that?

2 A I don't know that.

3 Q Okay. How did, how did he leave to go do that?

4 A He---

5 Q Did O come pick him up?

6 A No, he walked to met, meet him.

7 Q Okay. Did y'all walk to Wal-Mart regularly?

8 A Yes, ma'am.

9 Q Okay. Do you remember, on the times you walked up
10 there from where you lived, how long it took you to walk up
11 there?

12 A With a stroller it took a while to walk up there.

13 Q Okay. Even -- well, let's say -- did you ever go
14 without the stroller?

15 Can you estimate that time?

16 You never went without---

17 A No.

18 Q ---Little Chris?

19 A Not without Little Chris.

20 Q Okay. If you went with the stroller, are we talking an
21 hour, are we talking 15 minutes, or what?

22 A About 45 minutes to an hour to walk there with a
23 stroller.

24 Q Pushing the stroller?

25 A Yeah, cause there's no sidewalks.

Alexandria Schubert - Direct examination
by Ms. Jones

- 1 Q Okay. Okay. So, Chris left.
2 You know, whether it's good or bad, he left to go get
3 some marijuana?
4 A Yes, ma'am.
5 Q And do you remember how long it was before he came
6 back?
7 A Forty-five minutes, give or take.
8 Q Okay. Did he walk back?
9 A No.
10 Q Okay. How did he get back to the house?
11 A Landon brought him home.
12 Q Landon?
13 A Uh-huh. (Affirmative).
14 Q Brought him home?
15 A Yes, ma'am.
16 Q Do you know Landon's last name?
17 A Bridges.
18 Q Okay. How well did you know Landon?
19 A I'd only met him once.
20 Q Okay. Did you -- was he somebody you liked having in
21 your house?
22 A No, ma'am.
23 Q Why not?
24 A Because he was on meth real bad at the time, and I
25 don't like that in my house.

Alexandria Schubert - Direct examination
by Ms. Jones

1 Q Okay. Okay. well -- and -- well, we're about to get
2 to it.

3 But when Landon brought him home, did you actually see
4 Landon to know that it was Landon?

5 A Yes, ma'am.

6 Q Okay. Did they come in the house?

7 A No, ma'am.

8 Q What did they do?

9 A They stood outside out front and smoked a joint.

10 Q Okay. Do you allow that in your house?

11 A No, ma'am.

12 Q Okay. Do you even allow cigarettes to be smoked inside
13 the house?

14 A No, ma'am.

15 Q Okay. But you're certain you saw Landon there.

16 So, you know Landon was there that night?

17 A Yes, ma'am.

18 Q Okay. Now, was there a point at which Landon and/or
19 Chris left again?

20 A Landon and Chris left again.

21 Q Do you know why they left?

22 A Because he was suppose to go pick up something at
23 Wal-Mart.

24 Q He who?

25 A Landon.

Alexandria Schubert - Direct examination
by Ms. Jones

- 1 Q Okay. Do you know what it was?
- 2 A No, I didn't find out until after that, after they went
3 to Wal-Mart---
- 4 Q Okay.
- 5 A ---and came back.
- 6 Q The -- so, when they left, they left how?
- 7 A In the car.
- 8 Q Landon's car?
- 9 A Yes.
- 10 Q Cause Chris doesn't have a car?
- 11 A No.
- 12 Q Okay. And do you remember anything or did you discover
13 anything after they left unusual -- well, anything about
14 Chris, something he forgot to take with him?
- 15 A He forgot to take his shirt.
- 16 Q He forgot to take his shirt?
- 17 A Yes, ma'am.
- 18 Q Now, explain how somebody forgets to take their shirt.
- 19 A He never wears his shirt. So, he's always lost his
20 shirt and everything. So, he never wears a shirt.
- 21 Q Okay. So, did, did you -- were you aware -- did they
22 leave abruptly or did---
- 23 A Landon got a text message and asked Chris if he wanted
24 to ride to Wal-Mart. So, they left and they got in the car
25 and left.

Alexandria Schubert - Direct examination
by Ms. Jones

1 Q Okay. How did you realize that Chris -- did you see
2 him leave?

3 A Yes, ma'am.

4 Q Did you catch -- were you able to catch him and say
5 here's your shirt, it's on the rail?

6 A No, I didn't realize it until I got done smoking with
7 my cigarette.

8 Q Okay. But where was -- what's the shirt he had on?

9 A Laying on the porch.

10 Q Outside?

11 A Yes, ma'am.

12 Q Okay. So, they left.

13 How long were they gone this trip?

14 A Probably about 15, 20 minutes.

15 Q Okay. When they came back the next time, did Landon
16 come in?

17 A No, ma'am.

18 Q Did he just drop Chris off?

19 A Yes, ma'am.

20 Q Okay. Now, in any of this time he left the first time
21 and then came back, and at anytime did Chris seem upset or
22 aggravated or--

23 A No, ma'am, he was hisself.

24 Q ---nervous?

25 A He was hisself.

Alexandria Schubert - Direct examination
by Ms. Jones

1 Q Okay. Did he mention any problem he'd run into or any
2 trouble he might be in?

3 A No, ma'am.

4 Q Okay. And during that time, you were both working,
5 was -- were you having any money trouble?

6 A No, ma'am.

7 MS. JONES: Okay. One second if you don't mind, Your
8 Honor.

9 THE COURT: That's fine.

10 (Pause.)

11 Q Thank you for answering my questions. Please answer
12 any that Mr. Fulmer's gonna have for you.

13 THE COURT: Mr. Fulmer, your witness.

14 SOLICITOR FULMER: Thank you, Judge.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY SOLICITOR FULMER:

18 Q I think you testified that your fiance left around
19 10:15 the first time to go to Wal-Mart?

20 A Between 10:15 and 10:30.

21 Q You didn't go with him, did you?

22 A No, sir.

23 Q So, you really don't know where he went?

24 A No, sir, I don't keep tabs.

25 Q You only know where he told you he was going?

Alexandria Schubert - Cross-examination
by Solicitor Fulmer

- 1 A No, sir.
- 2 Q Never seen that?
- 3 A No, not until he got home later.
- 4 Q Oh, so, when he came home he was wearing that t-shirt?
- 5 A Yes, sir, the second time.
- 6 Q Okay. But you do recognize that as him in Wal-Mart?
- 7 A Yes, sir.
- 8 Q Okay. This also?
- 9 A Yes, sir.
- 10 Q Do you recognize the man he's with?
- 11 A Yes, sir.
- 12 Q Who is that?
- 13 A Landon Bridges.
- 14 Q All right. Describe for the jury how you would get
15 from your house on Old Furnace to Wal-Mart.
16 what path, road would you take?
- 17 A We would go down Old Furnace and then across from a
18 body shop there was a side road and we'd go back through the
19 side road and go around to Wal-Mart.
- 20 Q All right. And would you approach Wal-Mart from on
21 Highway 9 or Rainbow Lake Road?
- 22 A Highway 9.
- 23 Q Was he able to buy some marijuana while he was gone the
24 first trip?
- 25 A Yes, sir.

Alexandria Schubert - Cross-examination
by Solicitor Fulmer

1 Q Is that what they were smoking when they got back to
2 your house?

3 A Yes, sir.

4 Q By they I mean Chris Emmons and Landon Bridges?

5 A Yes, sir.

6 Q Do you love Chris Emmons?

7 A Yes, very much.

8 Q Would you lie for Chris Emmons?

9 A No, sir.

10 Q You would not?

11 A No, sir.

12 Q He's the father of your child?

13 A Yes.

14 SOLICITOR FULMER: That's all I have. Thank you.

15 THE COURT: Redirect.

16 MS. JONES: Thank you.

17 REDIRECT EXAMINATION

18 BY MS. JONES:

19 Q You indicated, when he left, he didn't, the second
20 time, he didn't have a shirt on?

21 A Uh-huh. (Affirmative).

22 Q Is Chris pretty tattooed?

23 A Yes.

24 Q Tell me, on yourself, where all he's got tattoos.

25 A He's got a tattoo on his chest.

Alexandria Schubert - Redirect examination
by Ms. Jones

1 Q what is it?

2 Is it a big one, I guess?

3 A Yeah, a big balloon.

4 Q That's my question.

5 A And then he's got a sleeve down through here, and then
6 he's got tattoos on his neck.

7 Q Okay. You can see those with his shirt off?

8 A Yes.

9 Q If he was across the room you could see those with his
10 shirt off?

11 A Yes, sir.

12 Q Right.

13 Okay. Thank you. That's all I've got.

14 THE COURT: Mr. Fulmer, recross?

15 SOLICITOR FULMER: No questions, Your Honor.

16 THE COURT: All right, ma'am. You may step down.

17 Ladies and gentlemen of the jury, there's something
18 that I have to take up with the attorneys outside of your
19 presence at this time. I'll ask you to step back in the
20 jury room. As always, don't begin any discussion until I
21 ask you to do so.

22 (WHEREUPON, the following takes place outside the
23 presence of the jury.)

24 THE COURT: All right. At this time I'll inquire of
25 the defendant concerning his rights under the Fifth

1 Don't listen to, watch, or read media reports. Don't
2 discuss the case with anyone. Don't allow anyone to discuss
3 it with you, and should anyone try to contact you about your
4 service on the jury, please report that upon your return to
5 the courthouse.

6 Be back in the jury room that's in use for this trial,
7 be there at nine o'clock and we should be in a position to
8 start shortly thereafter.

9 Thank you for your cooperation. You're free to go.
10 Have a good evening.

11 (WHEREUPON, the following takes place outside the
12 presence of the jury.)

13 THE COURT: All right. Let's talk a little bit about
14 the charge.

15 Any specific request for charge from the State?

16 SOLICITOR FULMER: No, Your Honor.

17 THE COURT: From the defense?

18 MS. JONES: No, sir, none that I, at this point, can
19 think of.

20 THE COURT: Okay. Not asking for spoliation of
21 evidence?

22 MS. JONES: Well, yes, sir. I was afraid Your Honor
23 might interpret the -- or lack of objection to the two
24 photographs, four photographs as a waiver of that. If Your
25 Honor doesn't---

1 THE COURT: well, I don't find it as a waiver of that.
2 I think it does affect what prejudicial effect it may have
3 on you since there are portions of the photographs that are
4 available and have been put into evidence.

5 MS. JONES: But also, as to the other point, and I
6 think I addressed this with Detective Williams, that the
7 absence of the -- the absence of the video deprives us of
8 the argument of look how many other people who match this
9 generic description went in during that same time period.
10 So -- and for that reason, yes, sir, I would request it.

11 THE COURT: I did -- the only evidence I heard placed
12 in during the trial concerning the cause for the absence of
13 the video was we don't know.

14 Is there any evidence that would indicate otherwise,
15 that there was a, some type of bad faith on the part of the
16 prosecutor or the police or is there any evidence of
17 negligence or gross negligence in, in the handling or
18 intention on their part?

19 MS. JONES: First of all, I, I have never had any
20 indication that the Solicitor's Office is ever had it. They
21 have been kind of boot stepping with me as we, we've been
22 trying to find it through this case. I would say the fact
23 that -- just the fact that they have mishandled it, and it
24 is negligent. I don't know that it was intentional, but it
25 is negligent.

1 THE COURT: All right. I'll hear from the State on
2 this matter.

3 SOLICITOR FULMER: Thank you, Judge.

4 I'll say that I have no information or evidence or
5 knowledge of any bad faith. I can't understand where Ms.
6 Jones is coming from. The mere fact that it's missing I
7 think indicates a certain minimal level of negligence. It's
8 the police's prerogative to control that evidence.

9 THE COURT: Well, is the State opposing my making --
10 and I'll tell you what the charge would say so that you'll
11 understand what I'm considering if I decide to give it.

12 Just one second and let me get to it.

13 (Pause.)

14 THE COURT: The charge would say, in this case, there
15 are allegations of expoliation or destruction of evidence.
16 The State not only has the burden of proof of guilt, but
17 also has the burden of producing evidence which could
18 establish the innocence of the defendant. When evidence is
19 lost or destroyed by a party, you may infer from -- that the
20 evidence which was lost or destroyed by that party would
21 have been adverse to that party. If you first find that the
22 evidence was spoiled or destroyed, and if you further find
23 that the evidence could help establish the innocence of the
24 defendant, you then may consider those facts in deciding
25 whether or not the State has met its burden of proof.

1 That would be the extent of the charge.

2 SOLICITOR FULMER: The State would oppose that charge,
3 Your Honor.

4 THE COURT: Okay. All right. All right. Well, here's
5 where I'm hung up, and I'll, and I'll -- I've got some
6 research that I've gotten, and what I've been able to
7 determine thus far is that the, that the State of South
8 Carolina, I don't know that there's ever been a, a case that
9 has specifically authorized the charge of spoliation of
10 evidence in a criminal setting. It was mentioned in the
11 case of State versus Cheeseboro in 2001. But they did an
12 analysis in that as to whether or not the spoliation of
13 evidence, in that case it was the loss of the gun or
14 destruction of a gun, constituted a breach of due process.

15 There are other states -- and they go both ways. Some
16 of them require different levels of proof as to what caused
17 the loss, and in some cases it has to be shown that it was
18 intentionally done by the prosecution. Some cases it has to
19 be shown that the evidence did, in fact, have exculpatory
20 information, and that there would then be an inference.
21 Some cases simply say the fact that negligence appears to
22 have happened or occurred is sufficient for the, for the
23 charge to be guilty.

24 So, there's a wide variety of, of standards that have
25 been used, and South Carolina has yet to authorize it or, or

1 comment on it other than to say that it hasn't been done
2 yet. It hasn't been proved yet.

3 So, I'll take a look at those other cases and I'll
4 announce what I'm gonna do about it before you argue in the
5 morning so you'll have some idea of what I'm going to, to
6 say in that regard.

7 All right. Anything else concerning the charge?

8 I do intend to charge, I'll let you know, hand of one
9 is the hand of all in the case. I do intend to charge
10 concerning what an attempt is. I'll be -- I can't think of
11 anything else that would be any different than a normal
12 charge in an attempted armed robbery case. I will be
13 intending, charging hand of one is the hand of all.

14 All right. Thank you very much. We'll be in recess
15 until nine o'clock in the morning.

16

17 (WHEREUPON, Court was in recess for the evening.)

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1 Friday, September 13th, 2013

2
3 THE COURT: All right. Good morning.

4 I told you that I would announce my decision concerning
5 the charge on spoliation of evidence.

6 I've reviewed the cases that we've been able to find on
7 this subject. I do note that the issue's not been decided
8 in South Carolina prior to this time. There is reference to
9 the issue in the State versus Cheesboro case from 2001, and
10 in that case they indicated that while it is, it is the law
11 in South Carolina that the State is not under a duty to
12 preserve evidence, however, those cases also note that the
13 State is under a duty to produce evidence to the defense
14 under Rule 5.

15 In looking at the cases, it struck me that to require
16 the defendant to prove what happened to evidence in the
17 possession of the State is somewhat a burden shifting
18 situation where the State is required to -- I mean the
19 defense is required to prove something that is almost
20 impossible to prove.

21 Looking at the evidence in this case, it's clear that
22 the evidence was in the possession of the State at some
23 point in time, in the possession of the police at least, and
24 that it was not, in fact, preserved and was not produced
25 under Rule 5. Portions of it were. And, in that regard,

1 the prejudice that might, might result is -- from the loss
2 of the tape was lessened.

3 However, the defense has pointed out that the tape
4 could be of some use to them in establishing the number of
5 people of similar description that may of entered wal-Mart
6 at the same time and location. So, it would be of some use
7 to the defense and it perhaps have some exculpatory value.
8 we'll never know cause we don't have it.

9 And, so, for that reason I have decided to charge the
10 charges of spoliation of evidence, and, however, will
11 comment to the jury only to the extent that it's an
12 evidentiary fact that they can take into consideration along
13 with all the other evidence and give it the weight that they
14 think it deserves. My charge will indicate that they do
15 have to find that the evidence was lost or destroyed by the
16 state, and, further, they would have to determine that the
17 evidence could help establish the innocence of the defendant
18 before they can consider that fact.

19 So, I do intend to offer that charge to the jury. So,
20 if that affects your closing arguments, I'll may -- give you
21 that note.

22 All right. Are there any other matters that we need to
23 take up before we begin closing arguments from the state's
24 prospective?

25 SOLICITOR FULMER: No, sir, Your Honor.

1 MS. JONES: Thank you, Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. JONES: Good morning.

4 Ladies and gentlemen of the jury, I hope you've had a
5 pleasant evening. On behalf of Mr. Emmons and myself, and
6 I'm sure the Court personnel as well, we'd like to thank you
7 for your attention. This hasn't been a terribly long case.
8 But this case is extremely important, especially to my
9 client, Mr. Emmons, cause these last few days are the most
10 important days of his life.

11 He stands charged and accused by the State with
12 committing a crime, the crime of attempted armed robbery,
13 and the determination of whether the State has met their
14 burden and produced enough evidence to convince you, beyond
15 a reasonable doubt, that -- the decision lies completely
16 within your hands.

17 In the next hour or so, perhaps not even that long,
18 you'll be asked by the Court, after getting some
19 instructions about the law and procedure, to return to your
20 jury room and decide what you believe the State has proven,
21 and in making that determination, the judge will have
22 instructed you what the elements or what the aspects of the
23 case, the different items that the State must prove beyond a
24 reasonable doubt in order to convince you that my client is
25 guilty.

1 And, Your Honor -- excuse me. Ladies and gentlemen of
2 the jury, in considering what you've heard, I want you to
3 remember back to something that I said in my opening. I
4 told you, at the conclusion of the case, I was going to ask
5 you to examine what you have heard and then examine and
6 consider what you have not heard. At this point, not only
7 am I gonna ask you to think about, consider, and examine
8 what you have not heard, but think about, examine, and
9 question what you have not received or been provided. Both
10 physical items and information or other evidence.

11 It was an interesting discussion or answer to a
12 question from the lead investigator in this case that I
13 think sets the tone for the overall procedural development
14 by the Sheriff's Office of this case.

15 If you'll recall, when I was standing there and
16 Detective Williams was here, I asked him this was a, in
17 part, a murder case, was it not?

18 You had a lot of officers there, four, five, six. I
19 think I might of quantified or guessed and said working this
20 like a murder scene. Well, and then he said, well, they're
21 two kinds of cases. There's the kind of case where you know
22 who did it and you're just trying to figure if that person
23 was at fault or here whether Mr. Harrison was justified in
24 his actions based on his telling of what he was confronted
25 with in his driveway, and then the other kind of case, which

1 he said this was not, was a who done it where you don't know
2 who did it, and I hope you will remember that. And I think
3 that was the point at which His Honor asked me not to
4 interrupt the witness cause I said well, wait a minute.

5 Is this not in part a who done it?

6 Cause as it pertains to person number two, it was a who
7 done it. But already it sounds like, from the answer of
8 Mr., of Detective Williams, he had already solved that crime
9 when it -- Mr. Harrison told them how he was confronted by
10 the person he killed. I believe we finally figured out his
11 name was Fowler. And that person was there, that person was
12 deceased. They saw some sort of a weapon that corresponded
13 roughly to what Mr. Harrison said he thought he saw in his
14 hand when he felt like he was forced to react the way that
15 he did.

16 well, at that point, ladies and gentlemen, it's my
17 position, on behalf of Mr. Emmons, that they really just
18 kind of stopped. Detective Williams did not, on his own nor
19 did the solicitor, produce anybody else from that scene to
20 tell you about anything they tried to do forensically,
21 through police procedure at the scene to figure out who that
22 second person was.

23 They never got a description from the victim. Nobody
24 never so such much as asked him to give a general,
25 approximately 5'6" 180, white, black, male, female, Asian.

1 Nobody ever did that.

2 And it's only because I asked Detective Williams, what
3 did you find in the car that matched Mr. Emmons, did he tell
4 you, in response to my question, not the State's, we didn't
5 find anything at all that connected Mr. Emmons to the car.
6 We found the victim's fingerprints in his car. Found
7 nothing that connected Mr. Emmons to the car.

8 So, as you go through and you recollect this case, with
9 its several witnesses, and I'll touch on those briefly, go
10 back and ask yourself the question, what didn't they bring
11 us?

12 Why don't we have the A, the B, the C?

13 And I'm gonna tell you some of the things you need to
14 wonder about. And if those things, when you start
15 deliberating, make you think well, woa, woa, wait a minute,
16 I think I need to -- I think they should of told me about
17 that, that might change my mind, that is exactly the kind of
18 thing, as His Honor will give you the definition of
19 reasonable doubt, that could potentially make you hesitate
20 to act and not convict Mr. Emmons.

21 Now, if you'll excuse me for flipping through my notes,
22 but, like I said, procedurally, this was a shooting case.
23 Went out as a shooting. EMS gets there. Somehow they're --
24 they determined, from talking -- I think they determined,
25 from talking to Mr. Harrison, another person has fled, and

1 that's all we know at that point. A second person has fled.

2 Someone tells them well, the -- and the person went by
3 the entrance sign. So then we get this officer with the
4 dog, and we get the, the dog walking a track, which we're
5 gonna talk about that in a minute, but the dog walking a
6 track, and that's how we get over to the Wal-Mart.

7 well, the first question that I don't know the answer
8 to, and on behalf of Mr. Emmons I would suggest we probably
9 need to know the answer to this, so they get to Wal-Mart.

10 why is this picture that gets circulated to the media
11 the picture of these two guys?

12 The guys that are, including Mr. Emmons, who's there
13 to, unfortunately, get some weed from somebody and
14 Mr. Bridges is there killing time until his meth connection
15 comes through probably.

16 But in any event, why did we focus on them?

17 We don't even have a description yet at that point,
18 and, and that gives rise to one of the biggest things, back
19 to my question what -- look at what you have and question
20 why you don't have what you don't have.

21 His Honor is gonna give you a lot of instructions here.
22 But within that 20 or so minute instruction he's gonna give
23 you is it's gonna be an instruction about spoliation of
24 evidence. That's a fancy word that just means the State,
25 government, the police lost something. Because they lost

1 something, Mr. Emmons has been deprived of the ability to
2 use it to show you how many other people went into the
3 Wal-Mart that night, and he's going to tell you the State
4 has, the State and the government and the police have a duty
5 to preserve evidence, and if it's evidence that could
6 exculpate or prove not guilty a defendant, they've got the
7 duty to give it to me.

8 Okay. Here we were able to eke out enough of it.
9 They're people pulled off some stills once they decided, for
10 whatever reason, that these two guys they're going for minor
11 drug activity are important. We've got this much of it, but
12 we don't have any of the rest of it. You know, hours of
13 video was destroyed.

14 Now, let's talk about the witnesses a little bit.
15 There really weren't that many of them. First let's just go
16 ahead and talk about the dog.

17 I got a little bit of an education in here. I had
18 heard the expression track dog, but I didn't know all that
19 dog does is pick-up a smell and go somewhere.

20 Okay. The dog they sent was not the kind of dog that
21 could of gone in the car they say two people got out of,
22 follow that person's scent to wherever they went.

23 Okay. So, this dog is remarkable. You have to admire,
24 you know, what they can teach them to do. But all we know
25 from that dog is that somebody, somebody -- we know it's

1 human because he said human scent. A human walked from the
2 entrance sign around a kind of twisty path, but over to
3 wal-Mart. That's all we know. A human.

4 We don't know age. We don't know race. We don't know
5 sex. We don't know when really within the parameters that
6 he set.

7 Okay. It's a subdivision. Relatively decent size even
8 of the diagram we saw. Lots of people live there. I'm sure
9 those people have friends and have kids, and it's about a
10 half a mile from a wal-Mart, and in addition to the evidence
11 that you've heard here, any physical evidence in the judge's
12 instruction, you're gonna take probably, and most
13 importantly, your common sense into the back now. There
14 doesn't have to be any testimony about how busy a wal-Mart
15 is. Everybody knows that.

16 Okay. Somebody walked to wal-Mart.

17 Let's talk about the female EMT. She is a -- the
18 navigator, so to speak, of her team. She doesn't drive.
19 She sits there and works one of two or both computer
20 screens. She said they're in the car, and they're quick.
21 They're fast. Not a lot of time passes between when an EMT
22 station gets a call and they get out and get gone.

23 She just happens to recollect that, when the lights
24 came on, she saw a white male of the general size of Mr.
25 Emmons standing across the street in the grass. At first

1 she said walking. She told the solicitor walking, and I got
2 up and I said walking intending to draw a comparison to
3 running. But, in fact, she backed it up even slower and she
4 said no, I didn't even see his feet move. I never saw him
5 take a step.

6 So, how brief a glance did she get at this person?

7 She was very honest though. She sat right here and
8 told you she can not identify him. General size and build,
9 guy had his shirt off, nothing distinctive.

10 Well, we know there's something distinctive about Chris
11 Emmons when he takes his shirt off. He's got sleeve tats
12 and a big tat, I think his girlfriend said here, on his
13 chest that you can not miss from across a room. They're
14 visible. Take that for what it's worth.

15 And next is Landon Bridges. Perhaps it was just my
16 perception, but Landon Bridges did not want to be here.
17 Landon Bridges got arrested September 14th, 15 days after
18 this event -- well, sorry. I don't think I did the math
19 right. Seventeen days after this event on 11 charges
20 including drug charges and weapons charges.

21 He was in jail -- excuse me. He got arrested on the
22 11th. On the 14th, three days later, he was
23 theoretically or figuratively knocking on Detective
24 Williams' door saying I got some information, which is
25 common, according to Detective Williams. People are locked

1 up. They're looking for relief. They're trying to figure
2 out who can help them cause they're locked up and they don't
3 like it and they want out.

4 So, he says let me tell you what happened, and he, he
5 tells Detective Williams that he runs into him, to Mr.
6 Emmons at the Wal-Mart, and Mr. Emmons, after riding around
7 and smoking a joint with him, a blunt I think is what he
8 called it, tells him I just tried to hit a lick, and
9 somebody started shooting is I believe what the statement
10 says. In here he said we tried to hit a lick and he shot
11 him.

12 Okay. Mr. Bridges, when asked -- well, in response to
13 questions, said, well, yeah, I tried to go up there.
14 Remember I -- he -- it was almost kind of humorous the way
15 he described waking up the next morning after this and his
16 phone had blown up I think was the expression. It was
17 loaded with 15 or 16 phone calls.

18 Why are you on the news?

19 He says he and his mama decided. That's probably mama
20 told him you've got to go over there and see what this is
21 about. He says nobody's there. They don't want to talk to
22 him. Took his name and number.

23 Detective Williams didn't tell you anything about that,
24 did he?

25 Okay. First thing Detective -- first time Detective

1 William hears about this is the 14th.

2 So, Mr. Bridges, interesting, very interestingly said
3 oh, I didn't pay it any attention. I didn't even believe
4 him, and that is consistent with the way he acted because he
5 tells you he learned that and continued to ride around. In
6 his version, ride around with, and even go, go back to the
7 store with and provide a shirt to someone who has told him
8 he's just been involved in a crime.

9 Now, His Honor's gonna tell you one of the things you
10 do, as a juror, is it's your job to assess somebody's
11 credibility, believability. Their behavior as they testify.
12 Their motive. Just how much of what they tell you do you
13 believe. Were they believable.

14 well, first and foremost, in assessing Landon Bridges
15 credibility, remember he told you he was going through a lot
16 of family problems, and I said yeah, and you're smoking a
17 lot of meth, weren't you, and he said yes. Landon had a
18 meth problem.

19 Landon said he went to Wal-Mart to get fishing
20 equipment. But, in fact, like his statement said, he
21 couldn't sleep because he has a meth problem. He didn't
22 even remember the fact that, the little blunt, part of a
23 blunt that they smoked. It wasn't smoked in the car. It
24 was smoked at Mr. Emmons' house with his wife, with his
25 girlfriend there who saw him and testified and told you he

1 was there.

2 Landon got a text. Your hook-up's here. We got to go.
3 They leave so quickly that Mr. Emmons doesn't even put his
4 shirt on, and he ends up getting the shirt from Mr. Bridges
5 who really can't remember now exactly how we got his shirt.
6 At first it was he wanted to change because he was dirty or
7 it was all sweated up and he wanted another shirt. Neither
8 one of those makes sense.

9 You have to assess his credibility. You've seen he
10 doesn't remember this. He's admitted to you he was on
11 drugs, and he told you the statement he says that was made
12 to him. He didn't believe it anyway, and his actions bear
13 that out because he continued to associate and ride around
14 back to Wal-Mart with Mr. Emmons.

15 Now, a couple of things in general. If Chris Emmons
16 was charged with buying marijuana and smoking marijuana,
17 your job would be very easy, but that's not what he's
18 charged with. That information was provided to you to tell
19 you what happened that night, to explain to you why Chris
20 Emmons was at Wal-Mart the first time, comes in alone, meets
21 up with Landon. Hey, man, can I get a ride home. They're
22 leaving.

23 They get in Landon's car. Alexandria tells you they
24 come home, smoke a little bit, Landon gets the text. Ten
25 minutes later they come back, and then they leave 11 to 12

1 minutes after that.

2 Ladies and gentlemen, whoever -- assuming there is a
3 second person that was involved in this at Mr. Harrison's
4 house, whoever, do you really believe that a person who
5 flees a scene after being a participant in a crime where
6 their cohort has been gunned down, and they have been shot
7 at, is going to -- they run away. Clearly they want to get
8 away, avoid detection, get away from the scene.

9 Do you really think that somebody who's just been
10 involved in a shooting is gonna stroll into Wal-Mart?

11 Not only one of the busiest places in this county,
12 especially in this part of town, but it's also one of the
13 most heavily surveilled. They got cameras in here that
14 rival banks.

15 You've just been involved in something where your buddy
16 dies and you've committed a crime, and you're gonna go hot
17 foot it right over to Wal-Mart?

18 Might as well smile for the camera when you're coming
19 in.

20 Now, as I told you, you should examine what you do
21 have.

22 what do we know for certain in this case?

23 We know for certain that the man that died, Mr. Fowler,
24 was shot and killed in Mr. Harrison's driveway and had some
25 kind of a tool implement near him.

1 Okay. And we know Chris Emmons was at Wal-Mart. Not
2 once, but twice. And we know there was absolutely no
3 forensic evidence that puts Chris Emmons in Mr. Harrison's
4 driveway or in the car that brought Mr. Fowler, the deceased
5 man.

6 And we know that Mr. Harrison never gave any kind of
7 description to the police ever. He only communicated with
8 the solicitor, he says with the detective, but you didn't
9 hear the detective say that, after he knew a name to look up
10 on the jail website as Mr. Emmons, after he knew Mr. Emmons
11 had been charged in this case.

12 Now, let's talk about what we don't know at the scene.

13 Okay. Well, first of all, we do know this is a Sunday,
14 it's August, and it's in the summer.

15 Okay. What do we not know?

16 Was there anybody else in Mr. Harrison's house that
17 night that might of known, heard, or seen any part of this?

18 We don't know the answer to that.

19 What about the neighbor with the flower bed?

20 Were they at home?

21 Do they know anything?

22 What did they hear?

23 What about the neighbor across the street?

24 There's five houses around this house. We don't know
25 anything about anybody else. As far as we know right now,

1 this crime was committed in a vacuum of Mr. Harrison's
2 driveway.

3 Okay. Do we know if the car they got, that Mr. Fowler
4 and the other person got out of, was it left running?

5 Was -- are either of the doors opened?

6 One or two?

7 That will tell you if there was even a second person
8 potentially.

9 Did they find anything else in it?

10 Well, they know, forensically, there's nothing in it.
11 But they don't tell you anything about, about what's in it.

12 What about the people who live at [REDACTED] or [REDACTED]
13 [REDACTED]?

14 Remember those addresses?

15 Those are the two yards that Officer Fraley and his dog
16 wondered through.

17 Well, that's an interesting question.

18 Why, the person that the dog tracked, cut through those
19 two yards?

20 We don't know who lives there, how many people live
21 there, were they home that night, what did they see, what
22 did they hear. We haven't -- we don't know any of that.

23 We don't know how many rounds were recovered, how
24 many -- as in the bullet part. Spent round. We don't know
25 how many casings were found. We don't know where they were

1 found.

2 It's pretty helpful information. It tells you whether
3 the second individual was coming up the middle of the
4 driveway, like Mr. Harrison said in a statement, as opposed
5 to coming through the bushes like he testified to, and that
6 is incredibly important because of the, the lighting aspect.

7 As a related topic, let's talk about what do we not
8 have from the prosecutors. We do not have -- this, this is
9 it other than witnesses. This is the Wal-Mart, seeing them
10 coming and go, off the video, what survived of it, that they
11 have not lost or destroyed to our detriment, and we've got
12 two Google maps. These were -- are created on the computer.

13 We do not have, from the prosecutor, a single
14 photograph of Mr. Harrison's house, the bushes, the car, the
15 shells, the street lights, the tire iron. As a matter of
16 fact, the only photograph in evidence, it's marked as
17 State's Exhibit No. 2, is from Mr. Emmons and myself, and it
18 is a very -- it's small. But it's a very dark photograph of
19 the driveway.

20 There is as much the examination you conduct as --
21 should be as much about what you do not have that would of
22 been available as what you do have. Your job is not as
23 though you're putting a puzzle together that's a six piece
24 puzzle and the State gave you three pieces and they want you
25 to make a picture out of it for them. You can't put that

1 puzzle together until you have six pieces and they fit
2 together without a reasonable doubt. If that sixth piece
3 doesn't quite fit in there, you know how sometimes they're
4 off a little bit, that's a reasonable doubt.

5 Also, the things we don't know, why didn't they bring
6 the kind of dog that could of tracked from that car?

7 That's a piece over here. The fact that somebody
8 walked that path really doesn't prove anything because, in a
9 subdivision that close to a Wal-Mart, somebody's bound to be
10 walking that path constantly. That, that, by itself, is not
11 gonna be a piece of the puzzle that's gonna put that full
12 picture together.

13 The same thing with the EMT, you know, who has him
14 walking and then she backs up and slows down, and, and
15 admits, without saying it, her brief, her look at that
16 individual was so brief she didn't even see him take a step.
17 He was stationary for the time she saw him.

18 Finally, I remind you again of the instruction the
19 judge is going to give you about the lost videotape. The
20 State, if they have items in their possession that can
21 assist someone -- because Mr. Emmons has absolutely no duty
22 to prove anything in this case. If the State has evidence
23 that was destroyed or lost and you find and believe that
24 that evidence could of been helpful to some, to Mr. Emmons
25 in asserting his case and his innocence, then you can factor

1 that in as to whether the State's met their burden.

2 In this particular case, this is a puzzle that six
3 pieces, and you may have been given two of them. You
4 certainly have not been given six of them. And when you go
5 into the jury room with your common sense and you start
6 asking yourself the same questions and thinking about the
7 same issues I've raised, you'll be convinced that the State
8 hasn't met their burden, you will have a reasonable doubt,
9 and it will be your job to come in and acquit Mr. Emmons.

10 Thank you.

11 THE COURT: Mr. Fulmer, for the State.

12 SOLICITOR FULMER: Thank you, Judge.

13 THE COURT: You may proceed.

14 SOLICITOR FULMER: Good morning, ladies and gentlemen.

15 I want to start by saying Ms. Jones is exactly right.
16 Law enforcement lost a video that was a surveillance video
17 or a copy of a surveillance video from Wal-Mart that night,
18 and I'll say this, she's right too. Wal-Mart was probably
19 full of people. Some of those people were white. Some of
20 those people were males, and I would imagine a few of them
21 at least had similar builds to Mr. Emmons. We'll concede
22 that.

23 I'm not asking you to convict Mr. Emmons because he was
24 in Wal-Mart that night. I'm asking you to convict him based
25 on the evidence that you heard over the last day.

1 Ms. Jones talked a lot about what you didn't hear. I
2 want to go over some things that you did hear. First and
3 foremost, you heard from Mr., Mr. Jackie Harrison. He's the
4 victim in this case. He told you he lived here his entire
5 life. He'd been on the same job 27 years. He'd been in
6 that house many years.

7 He had come home from visiting his parents on a Sunday
8 night, getting ready to go to bed, and be up for work on
9 Monday morning. Pulls into his own driveway and is
10 approached by two men.

11 They threatened him. He thinks his life is in danger.
12 He defends himself and he tells you, in that moment, he's
13 forced to kill a man. He also tells you, that a moment
14 later, he sees the defendant. He comes face-to-face with
15 him.

16 He just shot a man. He told you that as he spun
17 towards this defendant, he shot in that direction, but, in
18 that moment, he was able to calm himself. He was able to
19 come to grips with what I think would be a terrifying
20 situation and switch from saving my own life and protecting
21 myself to being rational and reasonable, and he said look, I
22 saw his hands. I realized, in that moment, he was unarmed.
23 I didn't shoot him, but I did look right at him.

24 He told you that his driveway was well enough lit to
25 where he got a good look at him. He told you they looked at

1 each other for a couple seconds. I would suggest and submit
2 to you that, in that sort of a moment, in that instance
3 where you think you may, your life may end, that that burns
4 into your memory, and that that is a very credible memory
5 that Mr. Harrison has. That it wouldn't be like seeing
6 somebody on the street or passing them in a shopping center,
7 and then being able to identify them. This is a moment of
8 clarity brought to the front of your mind.

9 He talked about the lighting on the street. I would
10 ask you to use your own common sense and experiences in
11 life.

12 I mean how many of you live in subdivisions, in
13 neighborhoods?

14 There are street lights. It's not pitch black on your
15 street at night I would imagine. Certainly not on mine.

16 He told you that he was able to see the defendant and
17 identify him, and I think that carries great weight. That's
18 the lynchpin of our case. I would submit to you he has no
19 reason to lie to you. He's telling you what he saw that
20 night.

21 The next person you heard from or one of the people you
22 heard from was Landon Bridges. Ms. Jones didn't think much
23 of his credibility, and certainly I don't think his
24 testimony carries the same weight as Mr. Harrison's. But we
25 do have some other corroborating evidence that I think lends

1 weight and credibility to Mr. Landon's testimony.

2 He told you that he met up with Mr. Emmons that night
3 at Wal-Mart, and we know that's true because we have
4 pictures of them from that night in Wal-Mart together. So,
5 we know he wasn't lying about that.

6 He, he admitted to you he was using drugs. We know
7 that was true. Mr. Emmons fiance told you they were using
8 drugs that night. So, we know that that was true. His
9 testimony, as he sat before you, is being corroborated by
10 things that are not just coming from Mr. Bridges. We know
11 that they're true from other sources.

12 He puts Mr. Emmons in Wal-Mart shortly after this
13 incident, and he told you that he didn't remember the
14 precise words, but his recollection was he told me he hit a
15 lick, and there was a shooting. He shot him or there was a
16 shooting. He told you he wasn't quoting verbatim, but this
17 was the best of his recollection from that night.

18 He also testified that he gave Mr. Emmons a shirt. Now
19 that's important because there has to be some explanation as
20 to why, pretty close in time, Mr. Emmons is seen in Wal-Mart
21 in Boiling Springs wearing a black colored short sleeve
22 shirt. A few minutes before that he's wearing a darker
23 colored long sleeve t-shirt.

24 Now, that would be a strange event I would think. It
25 might be explained by the fact that they're trying to hide

1 their identity. It might be explained that you're trying to
2 change the way you look cause you just committed a crime. I
3 think that's a pretty good explanation.

4 We also heard from two other witnesses. We heard from
5 Ms. Erin Wise. She's the EMT. She has no reason to lie to
6 you. She said she got a call. She recognized it was close
7 by. They responded. She saw a white male roughly fitting
8 Mr. Emmons' description along the, the road between Mr.
9 Harrison's and Wal-Mart. She told you she thought he was
10 going in the direction of Wal-Mart.

11 That doesn't prove Mr. Emmons is guilty of anything,
12 but it is a piece of evidence that's consistent with the
13 theory of the case that I think the State is presented you
14 with. It's consistent with what Mr. Harrison told you, that
15 he saw Mr. Emmons run from his yard in the direction of
16 Rainbow Lake Road, which would lead him to Wal-Mart.

17 In and of itself, I wouldn't ask you to convict on
18 that. But it's just one more piece of evidence for you to
19 consider.

20 Deputy Fraley, he was the K-9 officer. He told you he
21 came out. He started a track at the beginning of the
22 subdivision where Mr. Harrison last saw Mr. Emmons, and he
23 found a recent human track leading from there to Wal-Mart.
24 In and of itself that doesn't prove anything, but it is
25 consistent with what Mr. Harrison told you, and it's

1 consistent with what you heard from Landon Bridges that he
2 met up with Mr. Emmons at Wal-Mart.

3 The last person you heard from was Ms. Schubert.
4 That's the fiance of Mrs. Emmons -- Mr. Emmons. She said
5 that he told her, hey, I'm going to Wal-Mart. It's Sunday
6 night. I need some weed. I'm gonna go down to Wal-Mart and
7 buy some.

8 She said he returned a little while later, left his
9 shirt, went back to Wal-Mart. She puts Landon and Mr.
10 Emmons together. So, there again, another piece of evidence
11 that Landon wasn't lying to you when he said he met up with
12 Mr. Emmons that night.

13 He has to tell you that he left his shirt at home
14 because it has to be consistent, her testimony, with the
15 fact that he's wearing two different shirts in, in Wal-Mart
16 that night. She has to -- there has to be some explanation
17 other than he's trying to change his appearance as to why
18 he's wearing two different shirts.

19 I asked her yesterday if she loved him and she said yes
20 and I believed her. They have a child together. Ms. Jones
21 mentioned that child yesterday.

22 I would submit to you that she would tell you what she
23 needed to tell you to protect her husband, and that I would
24 ask you to give her testimony the appropriate weight based
25 on that fact.

1 The judge is gonna instruct you on the law in just a
2 few minutes. One of the things he's gonna talk about is
3 accomplice liability. Here in South Carolina it's called
4 the hand of one, hand of all. That means, if you
5 participate in a crime, you may not be the one with the gun,
6 but if you're there participating, you're just as guilty.
7 If two people break into a house and one goes in and the
8 other just helps carry the goods out of the house, it's just
9 as guilty as the person who went in the house.

10 So, I would ask you to listen, listen carefully when
11 the judge charges you on the law. Just because Mr. Emmons
12 was not in possession of the tire iron that night doesn't
13 make him less guilty of attempting to rob Mr. Harrison that
14 night.

15 I thank you for your attention. I would just ask that,
16 as you deliberate, that you apply your common sense to, to
17 testimony that you've heard this week. The evidence
18 presented by the State, I think, proves to you that Mr.
19 Emmons participated in an attempted armed robbery that
20 night, that he's the man Mr. Harrison saw, that he ran to
21 Wal-Mart, he met up with a buddy, they did some drugs, and
22 he made an admission.

23 Maybe his mind was clouded by the marijuana. Maybe he
24 got a little loose lipped, but I believe Mr. Landon when he
25 made an admission that he'd just been involved in a lick.

1 So, I, for that reason, I'd ask you to find Mr. Emmons
2 guilty of attempted armed robbery.

3 Thank you.

4 THE COURT: Ladies and gentlemen of the jury, that
5 completes the closing arguments in the case. And I told you
6 that when we reached this stage of the proceedings it would
7 be my responsibility to charge you concerning the law to be
8 applied in this case.

9 You may recall that, when we began this case, I went
10 over with you the indictment in this matter, and I'm going
11 to do that again at this time. Again, an indictment is the
12 document that brings the case into the Court. It, it
13 informs the defendant of the charge that has been lodged
14 against the defendant. It informs this Court and us of the
15 charge to be tried.

16 The indictment in this case is Case Number
17 2012-GS-42-1023. That indictment is for the offense of
18 attempted armed robbery.

19 The indictment states that Christopher Emmons did, in
20 Spartanburg County, on or about August 28th of 2011, while
21 armed with a deadly weapon, being a tire tool, feloniously
22 attempt to take from the person or presence of Jackie
23 Harrison, by means of force or intimidation, goods or monies
24 of Jackie Harrison. Such goods or monies being described
25 as follows, a sum of money belonging to Jackie Harrison,

1 that every defendant is entitled to until and unless guilt
2 has been proven to you by proof that satisfies you of that
3 guilt beyond a reasonable doubt.

4 Now, you've heard me refer to proof beyond a reasonable
5 doubt on several occasions already in the charge. You
6 understand, I would think, that it's an important concept
7 under our law, and that is that the standard of proof in a
8 criminal trial is proof beyond a reasonable doubt.

9 So, you might ask yourself well, what does that phrase
10 mean?

11 what is a reasonable doubt?

12 I will tell you that a reasonable doubt has been
13 defined, under the law, as that kind of doubt that would
14 cause a reasonable person to hesitate to act, and the State
15 has the burden of proving the defendant's guilt beyond a
16 reasonable doubt.

17 Now, I want to make sure that you don't get confused
18 about one thing and just try to make a contrast for you. In
19 our legal system, there's two types of cases. There's what
20 we call civil cases and criminal cases.

21 Civil cases involve trials where someone's seeking
22 monetary damages. That can be because someone has failed to
23 live up to a contract or they haven't paid the debt that
24 they owed or perhaps someone has injured someone through
25 their negligence, and is responsible to pay their bills,

1 things of that nature. Those are civil cases where
2 someone's seeking money damages, monetary damages.

3 The standard of proof in civil cases is proof by the
4 greater weight of the evidence or the preponderance of the
5 evidence. It's referred to -- everybody's seen the scales
6 of justice tilting ever so slightly either in favor of a
7 plaintiff or in favor of a defendant. That's the standard
8 of proof in a civil case. That is not the standard of proof
9 in this case.

10 The standard of proof in the case is more powerful than
11 that. Again, it's proof beyond a reasonable doubt.

12 Now, I will tell you that the State is not required to
13 prove its case beyond any doubt whatsoever. There's very
14 few things that go on in human life that can ever be proven
15 beyond any doubt whatsoever, and that's not the standard of
16 proof that the State is required to meet.

17 What I will tell you is if, after your consideration of
18 all of the evidence, if you are firmly convinced of the
19 defendant's guilt, beyond a reasonable doubt, then you must
20 find the defendant guilty. However, on the other hand, if
21 you think there's a reasonable possibility, reasonable
22 possibility that the defendant is not guilty, you must give
23 the defendant the benefit of that doubt and find the
24 defendant not guilty.

25 Now, we've had separate duties in the trial and I'm

1 observation.

2 Now, the law doesn't make any distinction between the
3 weight or the value you, a jury, can give to either type of
4 evidence. That's up to you to decide. You decide the
5 weight that you give to the evidence that you hear in this
6 case.

7 There's not a greater degree of certainty required of
8 circumstantial evidence than that of direct evidence. I'll
9 tell you, as a jury, you should weigh all of the evidence in
10 this case. Both direct and circumstantial. And I'll tell
11 you if, after you've weighed all of the evidence, if you are
12 not convinced of the defendant's guilt beyond a reasonable
13 doubt, you must find the defendant not guilty. On the other
14 hand, if you're firmly convinced of the defendant's guilt
15 beyond a reasonable doubt, you must find the defendant
16 guilty.

17 Now, your job, as fact finders, will require that you
18 decide the credibility or the believability of the testimony
19 that you've heard. That's what credibility means. It means
20 believability. And I told you at the beginning of the
21 trial, I'm gonna reaffirm this now, use your own good common
22 sense in making the determination as to the credibility or
23 the believability of the testimony that you heard in this
24 case.

25 As the sole judges of the facts, you have the right,

1 again, to believe one witness against all the others. You
2 have the right to believe all the others against one. You
3 can believe all of, part of, or none of what a witness has
4 told you in the case.

5 You have the right to consider such factors as to
6 whether a witness exhibited a bias or prejudice in the case,
7 whether or not there was some other motive from testifying
8 in this matter. You can discuss, determine the manner in
9 which the testimony was given. In other words, use your
10 good common sense and make a determination as to the
11 credibility or the believability that you give to the
12 testimony. Also, the weight that you choose to give to any
13 of the testimony that you've heard in the case.

14 Now, a person testified in this case who has a past
15 criminal record, and I will tell you that a person, a
16 witness with a past criminal record is competent or is
17 allowed to testify during a trial. A past criminal record
18 doesn't affect the ability of the witness to testify. A
19 past criminal record can be considered by you, if at all,
20 only in determining the witness' believability or
21 credibility.

22 Remember, I'll remind you you're the sole judges of the
23 facts in this case. You're the sole judges of the
24 credibility and believability of all witnesses who've
25 testified during the trial.

1 Now, I'm going to instruct you and I'm gonna emphasize
2 to you that the fact that the defendant did not testify in
3 this case is not a factor to be considered by you in the
4 question of guilt or innocence. It must not be considered
5 by you in any manner whatsoever.

6 A defendant has a constitutional right to remain
7 silent. The assertion by a defendant of a constitutional
8 right should not be considered by you at all in your
9 deliberations. I repeat to you, that under the oath you've
10 taken as jurors, the fact that the defendant did not testify
11 should not even be discussed by you in your deliberations.

12 The burden of proof in this case is upon the State.
13 The defendant is not required to prove his innocence in this
14 case. The burden of proof remains upon the State throughout
15 the trial to prove the defendant's guilt beyond a reasonable
16 doubt.

17 Now, in this case there are also allegations of what's
18 called spoliation or destruction of evidence is an easier
19 word to understand. The State has -- not only has the
20 burden of proof of guilt, but also has the burden of
21 introducing evidence which could establish even the
22 innocence of the defendant. When the evidence is lost or
23 destroyed by a party, you may infer that the evidence which
24 was lost or destroyed by that party would of been adverse to
25 the party.

1 If you find that the evidence was spoiled or destroyed
2 and if you further find that the evidence could help
3 establish the innocence of the defendant, then you may
4 consider those facts in deciding whether or not the State
5 has met its burden of proof. This is simply an evidentiary
6 fact that you can consider along with all the other factors
7 in the case. You give it the weight that you think it
8 deserves. Again, you are the sole judges of the facts and
9 the weight and the effect of any evidence that you've heard
10 in this case.

11 Now, an issue in this case has been the identification
12 of the defendant as a person who committed the crime as
13 charged, and the State has the burden of proving the
14 identity, again, beyond a reasonable doubt. You must be
15 satisfied, beyond a reasonable doubt, of the accuracy of the
16 identification of the defendant before you can convict the
17 defendant.

18 Identification testimony is an expression or a belief
19 or an impression by a witness. You must determine the
20 accuracy of the identification of the defendant. You must
21 consider the believability of each identification witness in
22 the same way as all other witnesses as I've talked to you
23 about already.

24 You have the right to consider whether the witness had
25 an adequate opportunity to observe the offender at the time

1 of the offense. This will be affected by such things as how
2 long or short of time was available, how far or close the
3 witness was, lighting conditions, whether the witness had a
4 chance to see or know the person in the past.

5 Once again, I will instruct you the burden of proof is
6 upon the State. It extends to every element of the crime
7 charged. It also includes the burden of proving, beyond a
8 reasonable doubt, the identity of the defendant as the
9 person who committed the crime. If, after examining the
10 testimony, you have a reasonable doubt as to the accuracy of
11 the identification, you must find the defendant not guilty.

12 Also, in order to establish criminal liability,
13 criminal intent is required. Criminal intent is the mental
14 state on the part of a defendant for a particular crime to
15 exist, and that may involve, depending on the crime, and
16 later on when I go over the specific crimes involved here,
17 you should listen for words of intent, what is required for
18 a defendant to intend to do in order for the crime to exist.

19 Criminal intent must be proven by the State beyond a
20 reasonable doubt. Criminal intent is always a matter that's
21 determined, again, from the circumstances of the case.
22 It's -- it's done by inference.

23 The reason for that is there's no scientific way that
24 we can open up someone's head at the time they're committing
25 a crime, and look in their brain, and see what they're

1 All right. So, at this point in time, I'm going to ask
2 you to retire to the jury room. I'm going to ask you to
3 begin your deliberation.

4 Thank you very much. We'll deliver the evidence to you
5 shortly.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury.)

8 THE COURT: Could you get the evidence for me here,
9 sir?

10 Take it back to the jury room. Thank you.

11 (Bailiff complies.)

12 THE COURT: Any objection to my final instructions from
13 the State?

14 SOLICITOR FULMER: No, sir.

15 THE COURT: Any from the defense?

16 MS. JONES: No, sir, Your Honor.

17 THE COURT: All right. We'll be in recess until we
18 reach a verdict in the case.

19 Thank you very much.

20 (WHEREUPON, the jury began deliberations at 10:30AM and
21 returned with a verdict at 11:30AM.)

22 THE COURT: All right. I have been informed by the
23 bailiffs that a verdict has been reached.

24 Is the State ready to receive the verdict?

25 SOLICITOR FULMER: Yes, sir.

1 THE COURT: Defense ready?

2 MS. JONES: Yes, sir.

3 THE COURT: Bring the jury in.

4 (WHEREUPON, the following takes place within the
5 presence of the jury.)

6 THE COURT: Madam Forelady, the bailiffs have informed
7 me that a verdict has been reached.

8 Is that true?

9 THE FORELADY: Yes, sir.

10 THE COURT: Pass the form to the bailiff.

11 (Forelady complies.)

12 THE COURT: Thank you, ma'am.

13 Madam Clerk, you may publish the verdict.

14 THE CLERK: Yes, sir.

15 The State of South Carolina versus Christopher Emmons,
16 the Case Number's 2012-GS-42-1023, we, the jury, unanimously
17 find the defendant, Christopher Emmons, concerning the
18 offense of attempted armed robbery, guilty.

19 Signed by the foreperson dated September the 13th of
20 2013.

21 Ladies and gentlemen of the jury, is this your verdict
22 and still your verdict, if so, please raise your
23 right-hands?

24 (WHEREUPON, all jurors raise their hands at this time.)

25 THE CLERK: So say you-all.

1 THE COURT: Anything further from the State before I
2 release the jury?

3 SOLICITOR FULMER: No, Your Honor.

4 THE COURT: Anything further from the defense?

5 MS. JONES: The defense would request polling.

6 THE COURT: All right. Ladies and gentlemen, the
7 defense is requested polling. I'll have the clerk give you
8 some instructions. They'll be calling your names
9 individually and you'll need to answer the question.

10 You may instruct the jury, Madam Clerk.

11 THE CLERK: Yes, sir.

12 Ladies and gentlemen of the jury, I will pose a
13 question to you after which I will ask each of you to stand
14 and give me your verdict. The question being is this your
15 verdict and still your verdict.

16 (WHEREUPON, all jurors were polled at this time, and
17 answered in the affirmative that this was and is still their
18 verdict.)

19 THE CLERK: Your Honor, the jury has been polled.

20 THE COURT: Thank you.

21 Anything further from the defense before I release the
22 jury?

23 MS. JONES: No, sir.

24 THE COURT: All right.

25 (WHEREUPON, the jury was dismissed at this time.)

1 THE COURT: Are we ready to proceed?

2 MS. JONES: Your Honor, I, I do need, for the record,
3 to make post-trial motions as well.

4 THE COURT: Okay. You may do so at this time.

5 MS. JONES: Your Honor, at this point I'd like to make
6 a motion for a new trial based on the issues raised before
7 and prior objections and rulings on evidentiary issues and
8 throughout the course of the trial.

9 THE COURT: Those motions are noted and the Court will
10 make the same consistent rulings as it made before and
11 they've been denied.

12 You can be seated just a minute. Let me be sure they
13 checked the jury out before we proceed.

14 (Pause.)

15 MS. JONES: Your Honor, may I step out and see if I can
16 make a quick arrangement so that his fiance can be in here
17 for sentencing---

18 THE COURT: That will be fine.

19 MS. JONES: ---for the child?

20 THE COURT: Are you ready to proceed at this time?

21 MS. JONES: Yes, Your Honor.

22 THE COURT: All right. Approach the bar please.

23 Mr. Fulmer, if you would step up here. I'll need to
24 know -- if I need his prior record, I will need to go over
25 that again at this time.

1 Mr. Emmons, you have been found guilty by a jury of
2 your peers. At this point in time the Court will consider
3 sentencing in your case. I'm going to allow your attorney
4 to speak on your behalf. When she has finished I'll hear
5 from you and anyone else that would like to speak on your
6 behalf at this time.

7 Ms. Jones.

8 MS. JONES: Thank you, Your Honor.

9 Factually, Mr. Emmons was arrested in this case on
10 January 19th, 2012. He stayed in jail 14 months before he
11 bonded out. He is actually been out on bond now for the
12 last six or seven months. So, my calculation is he has 423
13 days of credit.

14 THE COURT: Any objection to that, Mr. Fulmer?

15 SOLICITOR FULMER: No, sir.

16 THE COURT: 423 you said?

17 MS. JONES: Yes, sir.

18 THE COURT: Thank you, ma'am.

19 MS. JONES: As Your Honor knows, his fiance has been in
20 attendance. She is actually here, but there is the issue of
21 the two and a half year old child and what would happen with
22 him while the mother was in here. Plus, quite honestly,
23 Your Honor, she's now so emotional I'm not sure she would be
24 in a position to actually say anything to the Court.

25 So, I -- she testified and she gave you a little bit of

1 background on them and their relationship. They've been
2 together for four and a half years. The child is two and a
3 half years old. At the time of this event, as you heard, he
4 was an infant, eight or nine months old.

5 At the time of this event, Mr. Emmons was, as he is
6 now, is gainfully employed. Your Honor, he continues to
7 work in -- well, first of all, once they bonded out, once he
8 bonded out, the family relocated to Florence. He has family
9 that lives in Florence. And, so, Your Honor, each time Your
10 Honor warned him about coming back, I almost mentioned to
11 Your Honor that, you know, he's, he's coming -- he's come up
12 here four times already since he's been on bond to wait in
13 town a week for his trial.

14 So, this is -- this makes him very atypical of a lot my
15 clients. A lot of my clients live right down the road and
16 they can't bother to come over here---

17 THE COURT: I understand.

18 MS. JONES: ---for Court.

19 He has been committed -- has always, has always been
20 consistent in the story that he has told me about this night
21 as has Ms. Schubert, the fiance.

22 He currently is employed now, and I'll pass up two
23 letters, with Allen's Lawn and Cleaning Service. It's a
24 family owned business in Florence, and he does general
25 construction, landscape, and repair work. So, he's, he's

1 not a young man that is adverse to hard work.

2 As some of the testimony indicated, the night this
3 occurred he was dressed in work clothes. I think you can
4 tell from the photograph he's got work boots on, work pants.
5 He had been working. He recollects he actually, even though
6 it's a Sunday, he had gone to his employer's farm and had
7 been cutting firewood all day. He was very dirty as he
8 recollects.

9 And, Your Honor, I would ask Your Honor to consider the
10 facts of this situation, and some of the issues that I drew
11 attention to before the jury, many of whom are now in here,
12 the identification issue, the way it came about, is, and I
13 respect Your Honor's ruling and I know what the law is, the
14 State didn't tell the victim to go find his own
15 identification and, quite honestly, in hindsight, I wish I
16 had hired an expert so that that issue could of been
17 explored because the manner and method that that was
18 undertaken is very suggestible, and I think it's -- an
19 expert could of probably helped this a lot.

20 The Public Defender and I had a conversation a little
21 while ago where he said yeah, if we're gonna have to start
22 encountering this over and over again, we've got to just get
23 some money. He said Pat Adams at the Office of Indigent
24 Defense is not gonna like it, but we've got to do this if
25 that's the way the solicitor's office is gonna continue to

1 present these case.

2 And, so, along those lines, that, and the fact that,
3 you know, a piece of evidence that was, could of been
4 critical in letting everyone know who all else was in there,
5 you know -- and I didn't argue this to the jury. I thought
6 about it in hindsight. But if you look at the picture of
7 Mr. Emmons as he's going in the store the first time, he
8 looks very happy go lucky. He does not look like someone
9 who has been shot at and chased a mile and a half or a half
10 a mile. Excuse me. And I really regret -- well, not
11 regret. I really hate that we didn't have that video
12 through the whole process cause this, this case could of
13 been completely different if we had the video. As I stated
14 in the record, on the record outside the presence of the
15 jury, I don't think that Mr. Fulmer had anything to do with
16 that cause he was as frustrated with that issue as I was.

17 But, Your Honor, I'd ask Your Honor to consider some of
18 those issues or all those issues in structuring a sentence.
19 This is a sentence, a statute that builds in the possibility
20 of some mercy because it's up to 20. It doesn't require the
21 minimum mandatory ten like an armed robbery does.

22 I hope Your Honor will also factor in the fact that
23 it's 85 percent time. Mr. Emmons knew that the other
24 morning when you were offering the few moments to try to
25 resolve this. I kept harking back to that with him, but he

1 is just been so adamant in his position that I couldn't, I
2 couldn't move him. At one point I thought I was gonna
3 convince him to come in here, but he was so reluctant that I
4 don't know that we would of made it through that plea.

5 So, Your Honor, at this point I think he probably does
6 want to speak to you. He's, he's a respectful person. Even
7 without me having to tell him, told him don't do like some
8 of my clients do, get in here and argue with the I'm not
9 guilty and start fussing and carrying on. This is not the
10 time. I don't know why I told Mr. Emmons that. He's not
11 the kind of guy that would do that anyways. He's smarter
12 than that. But I do think he wants to speak to the Court.

13 THE COURT: Yes, sir, I'll be happy to hear from you.

14 THE DEFENDANT: Yes, sir.

15 First of all, just want to say thank you for your
16 trial, the jury, solicitor.

17 She pretty much said a mouthful. I just want you to
18 take into consideration my son and the facts of the case
19 maybe, and I'm, I'm a hard worker. I like to work. I'm a
20 family man. I'm lost at words. I appreciate you guys.

21 THE COURT: Thank you.

22 Prior record.

23 SOLICITOR FULMER: He -- from South Carolina, he has a
24 couple recent driving offenses, but nothing other than that.

25 From the State of Florida, 2006, a fraud conviction and

1 a burglary which is stated as a burglary into a dwelling,
2 structure, or convenience while armed. He received a two
3 year active sentence for that.

4 I will tell you, Judge, I spoke with the -- Mr.
5 Harrison prior to this moment, and he, he told me he's, he's
6 not asking for the maximum. He would leave it to your
7 discretion. He told me that he was sorry this had to result
8 in somebody's death, and that this, for him, is a point of
9 vindication.

10 THE COURT: Thank you, sir.

11 I'll point out to the defense that I am making a
12 finding, as part of my sentence, that this crime did not
13 involve any criminal sexual conduct or additional violent
14 crime. So, that will be part of the sentence.

15 Mr. Emmons, it is the Sentence of this Court that you
16 be confined in the State Department of Corrections for a
17 period of ten years, and I have given you credit for the 423
18 days that you've served.

19 Good luck to you, sir.

20 THE DEFENDANT: Thank you, sir.

21 SOLICITOR FULMER: Thank you, Judge.

22 THE COURT: This will be made an exhibit for the Court
23 and Court is adjourned.

24 Thank you very much.

25 (WHEREUPON, a note was marked as Court's Exhibit No. 1

1 and received into evidence at this time.)

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4 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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CASE#	11081769	VOLUNTARY STATEMENT		PAGE of
STATEMENT OF:	Jackie D. Harrison	AGE:	48	DATE: 8-29-11
ADDRESS:	Boilvine Springs SC 29316			
PHONE:		DOB:		SSN:

left mom and dad's, was watching football game,
 on the way home I stopped by the teller machine
 at First National bank to get bank statement.
 Left there came home, pulled in driveway
 and heard a car stop and then heard
 foot steps running up driveway, reached
 over in the glove box and grab my gun, I
 saw someone through the rear window running
 around back of my car, when I turned
 with my gun he was standing in my door
 told me to give it up or hand it over, something
 like that, he looked like he was holding
 a shot gun and I was scared, I fired
 2 shots at him and I shot at the other
 person half way coming up driveway.
 He ran, I reached back in and grabbed up
 cell phone and call 911 — and of statement

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and
 nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.
 This statement was completed at 12:30 A M. on the 29 day of Aug. 2011.

WITNESS:

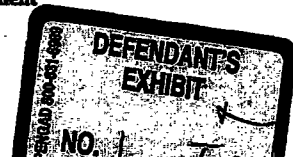
SWORN to before me this

29

day of

8, 2011

Jackie D. Harrison
 Signature of person giving voluntary statement



WITNESSES

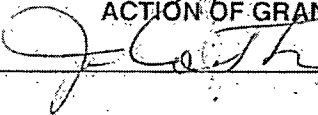
Spartanburg County Sheriff's Office


Spartanburg County Sheriff's Office

ARREST WARRANT NUMBER

M128480

ACTION OF GRAND JURY


True Bill

Foreperson of Grand Jury

Date:

FEB 23 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. **12-GS-42-1023**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 27 2012

TERM

THE STATE
vs.

Christopher Emmons

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: 16-11-330 (B)

CDR Code: 26

Class FEL/C

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2012 FEB 29 PM 2:10

M. HOPE BLACKLEY

2012

MD

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF SPARTANBURG)

FEB 23 2012

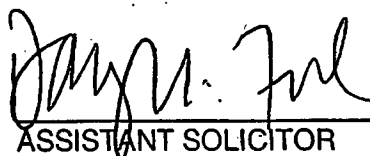
At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED ARMED ROBBERY

That Christopher Emmons, did in Spartanburg County on or about August 28, 2011, while armed with a deadly weapon, being a tire tool, feloniously attempt to take from the person or presence of Jackie Harrison, by means of force or intimidation goods or monies of Jackie Harrison, such goods or monies being described as follows: a sum of money belonging to Jackie Harrison, with intent to deprive the owner permanently of such property, in violation of §16-11-330 (B), *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.

Christopher Emmons

AKA:

Race: WHITE Sex: M Age: 27

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Florence SC 29506

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Robbery / Attempted armed, or allegedly armed, robbery

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4201023

A/W#: M128480

Date of Offense: 8/28/2011

S.C. Code § : 16-11-0330(B)

CDR Code #: 0026

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0330(B) of the S.C. Code of Laws, bearing CDR Code # 0026

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Hugh. [Signature] 15593 [Signature] [Signature] 07913
FULMER, DANNY N SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 423 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

PTUP

 days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other: Court finds that the crime did not involve any criminal sexual conduct or additional violent crime

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk: [Signature]
Court Reporter: P. Green

Presiding Judge: [Signature]
Judge Code: 2135
Sentence Date: 9-13-13

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 3, 2014


Carmen V. Ganjehsani
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT