

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Aiken County

Honorable Edgar W. Dickson, Circuit Court Judge

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S.C. SUPREME COURT

TEVON MICHAEL JACKSON,

RESPONDENT/PETITIONER

V.

STATE OF SOUTH CAROLINA,

PETITIONER/RESPONDENT

APPELLATE CASE NO. 2017-000790

JOINT APPENDIX

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
APPLICANT’S EXHIBIT NO. 17 (Timeline Poster Board)**

Jasper Humbert - Direct examination
by Solicitor Weeks

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1 MS. ALVES: Yes, sir.

2 THE COURT: All right. He'll be qualified to give
3 opinions regarding DNA analysis.

4 Q Jasper, were you submitted items from Lisa McReynolds
5 with regard to testing for DNA content in this case?

6 Oh, I'm sorry. Adrinne Riley.

7 A She had handled some of the items I believe, yes.

8 Q State's Exhibit No. 32, cigarette butts, were -- can
9 you identify that item?

10 A Yes, I can.

11 Q And were you submitted those two items on your sheet,
12 14 and 15, but were you submitted those for testing?

13 A Yes, I can tell because I put my case number and the
14 items numbers and I put my initials on the envelope.

15 Q And did you receive those via or by way of Adrinne
16 Riley Hefney?

17 A Well, they went to a storage bin first according to
18 the chain, and then I got them from that storage bin.

19 Q And did she put them in the storage bin based on the
20 testimony about y'all transferring cases earlier?

21 A Yes, she did. It went from Adrinne Riley to DNA
22 storage drawer 12(b), and I got them from that storage
23 drawer.

24 Q Okay. State's Exhibit No. 40.

25 A This is State's Exhibit 40 you said?

Jasper Humbert - Direct examination
by Solicitor Weeks

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- 1 Q State's Exhibit 40 or it's eight.
- 2 A Okay. All right.
- 3 Q Did you receive that, those items at some point in
- 4 time?
- 5 A Yes, I did.
- 6 Q Okay.
- 7 A I signed the evidence pouch when I sealed it back
- 8 after testing.
- 9 Q And that, likewise, was retrieved from the storage
- 10 department you mentioned earlier?
- 11 A That's correct.
- 12 Q State's Exhibit 43, two items contained in 43, which
- 13 would be your 21 or 22.
- 14 A Yes.
- 15 Q All right. Did you receive those the same way you
- 16 received the other items?
- 17 A That's correct.
- 18 Q All right. And, lastly, State's Exhibit 33, which
- 19 would be your Item 40 I believe.
- 20 A Yes.
- 21 Q And did you receive those from Sheree Brown?
- 22 A I received them from a storage drawer 8(D). Sheree
- 23 Brown placed them in that storage drawer.
- 24 Q Okay. Now, Jasper, the items I've submitted to you,
- 25 what did you do with those items upon receipt of them?

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ANDERS

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STATE OF SOUTH CAROLINA

In The Court of Appeals

No Respondent's Brief Filed
NO DEFENDANT'S BRIEF

APPEAL FROM AIKEN COUNTY

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TEVON JACKSON,

APPELLANT

RECORD ON APPEAL

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SC Court of Appeals

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Jasper Humbert - Direct examination
by Solicitor Weeks

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1 A Well, basically, when I receive an item, I put it
2 into my custody. So, when I worked at SLED, I had a bar
3 code that was for myself, and I would take the evidence,
4 and when I'm about to do, you know, get ready to test it,
5 I'll take it into my custody and I'll scan it into my
6 custody. When I -- basically what I would do with an item
7 is I would try to take the item like, you know, if it's a
8 swab, I would cut it with some scissors. I would take
9 that swab and cutting and extract DNA from it and then try
10 to get a DNA profile from whatever I swab basically for
11 testing.

12 Q Jasper, you're gonna have to give us a little
13 education in just what DNA is and what you're looking for.

14 A DNA basically is the blueprint for who we are. So,
15 like we get half our DNA from our mom and half from our
16 dad, and it basically determines who we are.

17 The way that I used it in the crime lab, when I was
18 there at the DNA lab, was that I would test certain parts
19 of a person's DNA and I would basically get a set of
20 numbers from testing those, that DNA. One number would
21 come from mom, one from dad, but that's not really
22 important for my testing, but basically I would test the
23 DNA to get a DNA profile from it, which is just a series
24 of numbers I would get from testing the DNA.

25 Q And were you able to obtain DNA profiles from any of

Jasper Humbert - Direct examination
by Solicitor Weeks

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1 the items submitted to you?

2 A Yes, I was.

3 Q Which items?

4 A I can get the final report. I was able to develop
5 DNA profiles from DNA standards in this case and from
6 several of the evidence items.

7 Q Okay. When you said DNA standards, what are those?

8 A Those are basically like known samples from a person.
9 So, if you want to compare an item to a person, you can
10 take a swab from that person, from like inside of their
11 mouth or their blood, that is known, that someone has
12 collected from them and knows it's from them, and you can
13 develop a DNA profile from that, from that standard and
14 then you can compare it to items that you're testing in a
15 case like this.

16 Q Okay. And were you submitted that type of evidence
17 swabs?

18 A I was submitted some swabs and also some cigarette
19 butts.

20 Q And were you also submitted a blood standard or did
21 you develop a profile from a blood standard?

22 A I received a blood standard, yes, from a Marcus
23 Finklin.

24 Q Okay. And what do you do when you receive blood like
25 that or---

Jasper Humbert - Direct examination
by Solicitor Weeks

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1 A With blood when it comes in, it's typically poured
2 onto paper where it can dry because it's stable for long
3 periods of time if it's dried on paper. So, you basically
4 pour it on to a special type of paper, and then it dries,
5 and then it can be stored for years at room temperature.
6 If you leave it in the liquid form, you don't want to
7 leave it at room temperature for very long because it will
8 break down.

9 Q Were you able to develop a DNA profile for Marcus
10 Finklin?

11 A Yes, I was.

12 Q From that blood stain?

13 A Yes, I was.

14 Q Were you able to develop a DNA profile from Tevon
15 Jackson?

16 A Yes, I was.

17 Q I'm sorry. He coughed about that time.
18 Was that a yes?

19 A Yes, I was.

20 Q Were you able to develop a DNA profile from testing
21 of the cigarette butts that you were submitted?

22 A Yes, I was.

23 Q And how many cigarette butts were you submitted?

24 A According to my paperwork, I see two.

25 Q All right. Did you do or were you able to develop a

Jasper Humbert - Direct examination
by Solicitor Weeks

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1 DNA profile from those cigarette butts?

2 A Let's look at my chart. Yes, I was.

3 Q And what were the DNA profiles you developed?

4 A I can give you my results for those items. The DNA
5 profile developed from Item 14 matches the DNA profile of
6 Marcus Finklin.

7 Q And what is Item 14 in your records?

8 A Item 14 was a cigarette butt. One of the cigarette
9 butts.

10 Q Did it have anybody else's DNA on it that you
11 developed?

12 A There was not another DNA profile on it.

13 Q How about Item 15?

14 A I will have to look at one of my later reports.

15 Q The other cigarette butt.

16 A The DNA profile developed from Item 15 matches the
17 DNA profile of Tevon Jackson.

18 Q Jasper, when you first developed the profiles from
19 the two cigarette butts, did you have a profile from Tevon
20 Jackson to compare?

21 A Not originally. I didn't have a standard from Tevon
22 Jackson.

23 Q And did you indicate that in your report that you did
24 not have a---

25 A Yes, in my original report I stated that the DNA

Jasper Humbert - Direct examination
by Solicitor Weeks

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1 profile developed from Item 15 is from an unidentified
2 male individual, and I also said please submit a DNA
3 standard from Tevon Jackson because he was listed in the
4 case as a person of interest.

5 Q Were you then submitted that?

6 A At a later date I was submitted a DNA standard from
7 Tevon Jackson.

8 Q Were you able to compare it to the profile developed
9 from the cigarette butt you described?

10 A I was able to, yes.

11 Q Okay. And were you able to reach any kind of
12 conclusion or do you have an opinion as to the profiles or
13 the analysis of those two items?

14 A The DNA profile developed from Item 15 matches the
15 DNA profile of Tevon Jackson.

16 Q Okay. And, Jasper, if you could, describe to me how
17 y'all correlate matches and statistics and probabilities.

18 A Okay. Well, I can go ahead and give -- I will go
19 ahead and describe what I say by match is that if I
20 develop a DNA profile from an item and a standard and all
21 the numbers match, I'll call it a match.

22 Q When you say all the numbers, that's how many
23 different locations?

24 A That's 15, 15 different locations plus basically the
25 sex chromosome. So, 16 total.

Jasper Humbert - Direct examination
by Solicitor Weeks

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1 Q All right.

2 A If it's a match, then---

3 Q Are you able to correlate that to some statistical
4 analysis?

5 A Because there's been studies to see how common these
6 numbers are in the population, once you get a DNA profile,
7 you can develop basically a statistic on what the
8 probability of someone having it is. So, at the first
9 location, let's say one number has a ten percent amount in
10 the population, the other one has ten percent, it would be
11 like one in a hundred people would expect to have that
12 combination at that location. You basically -- you do
13 that at every location.

14 So, if the first one is one in a 100, the next one's
15 one in 50, you basically, because they're all independent
16 at different places, you can multiply them together. So,
17 that would be one in a hundred times 150, one in 5,000,
18 and you keep going and doing that at every location, and
19 that will give you the probability of someone having that
20 profile basically randomly.

21 Q What was the probability you determined of an
22 unrelated individual having the DNA profile you were able
23 to obtain?

24 A The probability of randomly selecting an unrelated
25 individual having a DNA profile matching this item, which

Jasper Humbert - Direct examination
by Solicitor Weeks

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1 is Item Number 15, is approximately one in
2 260 quadrillion.

3 Q I'm not sure how many zeros that is, but that's very
4 high?

5 A Yes, it's a very high number.

6 Q And that was the only profile developed from the
7 cigarette butt you described as Item 15?

8 A That's correct.

9 Q Okay. Were you able to develop a profile on the
10 other cigarette butt?

11 A Yes, I was.

12 Q And did you have any standard to compare that one to?

13 A I did.

14 Q And were you able to reach any conclusion about --?

15 A Yeah, the DNA profile developed from the other
16 cigarette butt, which was Item 14, matches the DNA profile
17 of Marcus Finklin.

18 Q And when you say matches it, was it the same match
19 you just described about the cigarette butt with
20 Mr. Jackson's profile on it?

21 A Yes, the DNA profile from 14 matched Marcus Finklin.

22 Q Okay. And did you develop a statistical probability
23 of anybody in regard to that cigarette butt?

24 A The probability of randomly selecting an unrelated
25 individual having a DNA profile matching this profile is

Jasper Humbert - Direct examination
by solicitor weeks

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1 one in 1.8 quadrillion.

2 Q And the number you were describing, 14 and 15, what
3 did that number come from?

4 A Those were the numbers that the items were assigned
5 when they came into SLED.

6 Q And they were assigned by SLED or by the
7 investigating agency that brought them to you?

8 A I believe they're assigned when they get to SLED as
9 they come in the door. That's correct.

10 Q And did you generate a report regarding that analysis
11 of the cigarette butt containing Tevon Jackson's DNA?

12 A I generated a report saying that the DNA profile from
13 Item 15 was a match to the DNA profile of Tevon Jackson.

14 Q And you did that written report and sent it to the
15 law enforcement agency?

16 A I believe so, yes.

17 Q In September of 2010?

18 A I don't see the date on it. It was around the date,
19 yes.

20 SOLICITOR WEEKS: Your Honor, I'd move to introduce
21 State's No. 32, 43, 40, and 33.

22 THE COURT: Any objection, ma'am?

23 MS. ALVES: No, sir.

24 THE COURT: Thank you. Without objection.

25 Anything else, Mr. Weeks?

Jasper Humbert - Direct examination
by Solicitor Weeks

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1 (WHEREUPON, State's Exhibit Nos. 32, 33, 40, and 43
2 were received into evidence at this time.)

3 Q I was just wondering, in your statistics, do you know
4 how many people are on earth?

5 A There are around six billion people on earth now.

6 Q 260 quadrillion, that's more people than are on the
7 earth?

8 A Yeah, that's a bigger number than the people that are
9 on earth.

10 Q Thank you.

11 THE COURT: Ms. Alves, let me see you and Mr. Weeks
12 over here.

13 (WHEREUPON, a bench conference was held out of the
14 hearing of the jury at this time.)

15 THE COURT: Ms. Alves, you may go ahead.

16 CROSS-EXAMINATION

17 BY MS. ALVES:

18 Q Now, where are the items you were looking at?

19 A I believe they were there.

20 Q Okay. Now, for State's 32, I want to show you that.

21 A Okay.

22 Q When you received that item -- you said you do
23 cuttings?

24 Do you do your own cuttings?

25 A From cigarette butts, I do, yes.

Jasper Humbert - Cross-examination
by Ms. Alves

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1 Q So, those are the cuttings that you made from the
2 cigarette butts or are those the cigarette butts?

3 A These are the cigarette butts.

4 Q And you made cuttings from those cigarette butts,
5 those butts in order to do your analysis?

6 A That's correct.

7 Q All right. And from your analysis, were you able to
8 tell how old they were?

9 A No, I can't tell how old the cigarette butts are.

10 Q And were you given any information about those?

11 A Just what my paperwork says, cigarette butt.

12 Q So, you were just told they were cigarette butts.
13 You weren't told where they were found?

14 A I'm not. No, not really. I mean I usually, I
15 typically just get them and whatever it says on my
16 paperwork I have to assign a SLED number to that item, and
17 I go forth with it.

18 Q Okay. And does it, does your DNA results -- they
19 tell us anything about when the cigarette butt might have
20 been placed where it was found?

21 A I can't tell you when items were placed.

22 Q Okay. Did your results tell you how it got there?

23 A No, it doesn't.

24 Q What about what circumstances it got there under?

25 A No.

Jasper Humbert - Cross-examination
by Ms. Alves

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1 Q So, the only thing that your analysis can tell us is
2 that, based on your experience, you found that one of the
3 cigarette butts matched the DNA standard of Mr. Jackson
4 and the other matched Mr. Finklin?

5 A That's correct. That the DNA profile developed from
6 those match those two---

7 Q Okay.

8 A ---people.

9 Q And you were given -- you were given the -- you were
10 given standards from other people to match?

11 A I was given standards from also a Jose Serrano I
12 believe and a Joseph Dicks.

13 Q Okay. Are you referring to your report?

14 A Yeah.

15 Q Let me see which one.

16 A I have three of them.

17 Q Yes, sir.

18 A They are going to be on the original one. They're
19 with the original. I'll give you it because it's got
20 most---

21 Q All right. The first report you did is dated when?

22 A February 8th, 2010.

23 Q Okay.

24 A That should be most of it.

25 Q You generated this report based on the items that

Jasper Humbert - Cross-examination
by Ms. Alves

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1 were submitted to you?

2 A Based on the items that I tested.

3 Q Based on the items that you tested?

4 A That's correct.

5 Q Now -- you can hang on to that. I have a copy.

6 Thank you.

7 Now, according to your report, how many items -- you
8 were, you were submitted 37 items, isn't that correct?

9 A I have 25 listed to me. I mean some of the other
10 items may have been submitted to other departments or
11 something like that.

12 Q All right. Well, let me ask you this.

13 You, you did do a report based on the testimony that
14 you gave earlier?

15 A That's correct.

16 Q And you were referring to that report when you gave
17 your testimony?

18 A Yes.

19 Q And in your report, it's, it's titled -- well, it's
20 titled serology analysis?

21 A That's correct.

22 Q And it talks about items that were submitted.

23 A That's correct.

24 Q And it's signed by you?

25 A Yes, it is.

Jasper Humbert - Cross-examination
by Ms. Alves

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1 Q And it shows that you were submitted items numbering
2 8 through 38?

3 A That's correct.

4 Q That would be 30 items?

5 A Well, I did not get 16, 17, 18, 19, and let me see on
6 the chain, from my chain now. Yeah, I personally did not
7 get Item 16.

8 Q Okay. So, how many did you get?

9 I'll take your number. Just count, count how many
10 items you got.

11 A Twenty-five listed that---

12 Q Okay.

13 A ---I have in my report.

14 Q You got 25 items submitted for analysis?

15 A That were submitted, that's correct, and I can look
16 through the whole chain if you want me to confirm it.

17 Q I'm, I'm going with your report.

18 A Okay.

19 Q And of those 25 items, one of them -- was one of them
20 the blood standard for Mr. Finklin?

21 A Yes, that's correct.

22 Q And from your report from February of 2000, of 2010,
23 two of the items were the buccal swabs from Jose Serrano
24 and Joseph Dicks?

25 A That's correct.

Jasper Humbert - Cross-examination
by Ms. Alves

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1 Q So, that, that brings -- those two---

2 A Twenty-one and twenty-two.

3 Q Yes, sir.

4 So, that brings us to 22 items that are left to be
5 analyzed?

6 A If that's what the total is left after that.

7 Q You said 25 minus the blood, the blood standard and
8 the two?

9 A So, it would be 22, yes.

10 Q Yes, sir, 22 items to be analyzed.

11 How many did you actually analyze?

12 A Of the other items?

13 Q Yes, sir.

14 A Well, in this original investigation it would be,
15 let's see -- I'll just do -- this will be the easiest way.
16 Ten items total. So, those three standards and seven
17 evidence items or seven items.

18 Q You analyzed seven evidentiary items?

19 A And three DNA standards.

20 Q Okay. You got 25 items, 22 of them were for
21 analysis, you analyzed seven.

22 That's all?

23 A That is what I analyzed in that original submission,
24 yes.

25 Q And then there were actually two other items were

Jasper Humbert - Cross-examination
by Ms. Alves

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1 returned without examination, isn't that correct?

2 A Let's see.

3 Q I'm referring to Page 3 of your report.

4 A That is correct.

5 Q So, in total, there were not 25, but 27 items total?

6 A Well, I never received 16, 17, but those items were
7 not analyzed by me anyway.

8 Q Okay. But you included there -- you included
9 reference to them in your report?

10 A Yeah, I referenced them to let it be known that I
11 returned them without examining them.

12 Q Okay. So, you had them in your---

13 A No, I did not get them. They were returned
14 without examination. Sorry.

15 Q Okay. So, you actually had 22 items for analysis and
16 then there were two additional that were just returned
17 without being analyzed by you?

18 A That's correct. That were submitted.

19 Q And, so, the 15 items that were not analyzed, what
20 happened to those?

21 A They were returned.

22 Q Returned to who?

23 A To the agency.

24 Q Okay. And those items, those would be the swabs --
25 I mean those items would be the swabs from the open

1 Crystalline bottle returned without analysis?

2 A Okay. No analysis performed.

3 Q Swabs from the open Aquafina bottle?

4 A There was no analysis performed on that item there.

5 Q What about the swabs from the white styrofoam cup?

6 A No analysis performed.

7 Q And the swabs from the red white straw?

8 A No.

9 Q No analysis?

10 A No analysis was performed.

11 Did you want me to do all of them?

12 I can read them.

13 Q Yes, sir, please.

14 A Individually.

15 Q Yes, sir.

16 A So, after the red white straw, Item 28, 29, 30, 31,
17 32.

18 Q Well, no, sir, I need you to tell what they are. The
19 key -- Number 28 is the key chains that were not analyzed?

20 A Okay. Swabs from key chain keys, no analysis
21 performed. Twenty-nine, swabs from, from Margarita glass,
22 no analysis performed. Thirty, swabs from Powerade
23 bottle, no analysis performed. Thirty-one swab, swabs, no
24 analysis performed.

25 Q And those were from a silver Nokia cell phone?

Jasper Humbert - Cross-examination
by Ms. Alves

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1 A Yeah, silver, silver Nokia cell phone face.

2 Thirty-two was another swab or swabs from a silver Nokia

3 cell phone face, no analysis was performed. Item 33 was

4 swab, swabs from a gray Blackberry face. I'm just gonna

5 read -- all of the ones I'm gonna read to you are gonna be

6 the ones that had no analysis performed.

7 Q Yes, sir.

8 A Is that fine?

9 Q Yes, sir.

10 A Thirty-four, swabs from a silver Samsung cell phone

11 face, swab from a Sigsauer slide, swab from a Sigsauer

12 trigger guard, swabs from Sigsauer grip, swabs, swab from

13 Sigsauer magazine.

14 Q Okay. So, none of those were analyzed?

15 A Those were not analyzed.

16 Q And those were just returned?

17 A Yes.

18 Q Now, there were -- there's three other items -- there

19 were three other items mentioned on your report. You're

20 report still from February 8th, 2010. Those will be Items

21 10, 12, and 13 on your report.

22 A That's correct.

23 Q And those are the swabs -- those are swabs from the

24 car, swabs from the driver's door handle, swabs from the

25 rear driver's passenger door handle, and a swab from the

1 rear passenger side door handle. Excuse me. I'm sorry.

2 Swab from the passenger door handle.

3 A That looks to be correct.

4 Q Those would be 10, 12 and 13?

5 A Yes.

6 Q And your report says see DNA analysis, but in your
7 finding you did not actually develop a profile?

8 A Yeah, no DNA profile was developed from those items.

9 Q Okay. And in, in one of the items, Number 11, was a
10 swab from the rear driver passenger door handle. There
11 was a profile developed, but it wasn't sufficient for you
12 to make an identification of anybody.

13 Is that correct?

14 A That is correct. There was only one number in the
15 whole profile and it, it's not enough to make any
16 conclusion with.

17 Q Okay. But in the other three swabs from the, from
18 the car, there was no profile developed?

19 A That's correct.

20 Q And you compared -- and you got the blood standard of
21 Mr. Marcus Finklin, and you also, and you also said you
22 had the buccal swabs of Mr. Serrano and Mr. Dicks, and you
23 did compare all three of those to the items that you
24 tested?

25 A That is correct.

Jasper Humbert - Cross-examination
by Ms. Alves

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1 Q Okay. Thank you. No further questions.

2 THE COURT: Mr. Weeks, anything on follow up?

3 SOLICITOR WEEKS: Just briefly.

4 REDIRECT EXAMINATION

5 BY SOLICITOR WEEKS:

6 Q On that initial report that you did, did you identify
7 some other items in the car or another item in the car as
8 belonging to Marcus Finklin, develop a DNA profile?

9 A That is correct. Item 9. Let me make sure I get it
10 correct. It was a swab from a passenger seat.

11 Q And that was developed as a profile---

12 A Yeah.

13 Q ---or profile of Marcus Finklin?

14 A Yeah, the DNA profile developed from Item 9 matches
15 the DNA profile of Marcus Finklin.

16 A And 10, 12, 13, you just weren't able to get a
17 profile?

18 A That is correct.

19 Q And when you can't get a profile, what does that
20 mean?

21 A That means I have no DNA profile, and, therefore,
22 since there's no DNA profile, I can't match or do anything
23 with it. It's useless.

24 Q You're not able to get enough DNA out of it to make a
25 profile?

Jasper Humbert - Redirect examination
by Solicitor Weeks

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1 A That's correct. I was not able to develop a DNA
2 profile from those items.

3 Q Okay. And it was after that report where you
4 identified Marcus Finklin as a match on one cigarette
5 butt?

6 A My memory serves me of that, yes, and I can read you
7 my result from my report. Okay. All right. If I can
8 find it.

9 THE COURT: Show it to him, Mr. Weeks.

10 THE WITNESS: You got it with you in front of you?
11 Sorry.

12 Do you have the next report?

13 It is hiding in my other paperwork. Yeah, that's
14 fine. There you go. Here is the other one back.

15 All right. Yes, I was able to develop a DNA profile
16 from his standard later.

17 Q From whose standard?

18 A From Tevon Jackson.

19 Q Okay. And that was from a swab submitted to you?

20 A Yes.

21 Q But when you made your initial report, you didn't
22 have that?

23 A No, I did not.

24 Q And you said in that report to submit a standard
25 because you had an unknown person?

Jasper Humbert - Redirect examination
by Solicitor Weeks

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1 A Yeah, I had an unidentified profile from the item.
2 So, I said please submit a standard from the other person
3 listed.

4 Q And when that was done, there was a match?

5 A It was a match, correct. The DNA profiles matched.

6 Q And that was from the cigarette butt?

7 A That's correct.

8 Q The first cigarette butt you analyzed was Marcus
9 Finklin?

10 A Number 14 matched to Marcus Finklin, that cigarette
11 butt, and the other one, Number 15, matched to Tevon
12 Jackson.

13 Q Thank you. No further questions.

14 THE COURT: All right. You may step down.

15 THE WITNESS: Okay.

16 Mr. Weeks, Ms. Alves?

17 (WHEREUPON, a bench conference was held out of the
18 hearing of the jury at this time.)

19 THE COURT: All right. Mr. Foreman, ladies and
20 gentlemen, we still got some testimony to go. We'll play
21 it by ear tomorrow. We'll see where we are when we finish
22 all of the testimony. Then I will let y'all make some
23 decisions.

24 Okay? Fair enough?

25 Breakfast in the morning please, sausage and syrup?

1 Are you going to make it in?

2 THE BAILIFF: I'll make it up.

3 THE COURT: You don't want to make them sick.

4 What's your pleasure in the morning?

5 You had biscuits twice. Do you want something
6 different in the morning?

7 I think they are going to want sausage biscuits.
8 Choices are doughnuts, muffins, and things like that or
9 fruit or sausage biscuits.

10 THE JUROR: Doughnuts.

11 THE COURT: Just tell him when you go back there.

12 Don't discuss the case tonight, don't deliberate, and
13 don't let anybody discuss it with y'all. I'll see you at
14 9:30.

15 Is that fair?

16 9:30 in the morning. We'll start at 9:30. Bring
17 your jacket.

18 Thank y'all very much.

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

21 THE COURT: Mr. Weeks, anything before we break for
22 the evening?

23 SOLICITOR WEEKS: No, Your Honor.

24 THE COURT: Ms. Alves?

25 MS. ALVES: No, sir.

1 THE COURT: All right. Ladies and gentlemen, if you
2 want any special charge, I need to get it first thing in
3 the morning so I can look at it. I doubt it. I don't
4 know of anything special. But if you want anything, Ms.
5 Alves, let me know.

6 MS. ALVES: Yes, sir.

7 THE COURT: And, likewise, simple verdict form. Two
8 verdict forms, murder and possession of a weapon during
9 the commission of a violent crime, not guilty, guilty. No
10 lesser included. I mean it's---

11 MS. ALVES: Yes, sir.

12 THE COURT: Ma'am?

13 MS. ALVES: I agree.

14 THE COURT: You agree?

15 MS. ALVES: Yes, sir.

16 THE COURT: Okay. Everyone have a pleasant evening.
17 I'll see you bright and early in the morning.

18

19 (Whereupon, Court was in recess for the evening.)

20

21

22

23

24

25

February 25th, 2011

(WHEREUPON, State's Exhibit Nos. 49 through 54 were marked for identification purposes only at this time.)

THE COURT: Mr. Weeks, anything for the record before we start?

SOLICITOR WEEKS: No, Your Honor.

THE COURT: Ms. Alves?

MS. ALVES: No, sir.

THE COURT: All right. For the record, let it be known that I had an in-chambers conference with both lawyers. I am excusing Juror Number 82 for reasons which were expressed in chambers which I will put on the record at an appropriate time and I will elevate Juror Number 95, Sharon L. Iles, I-L-E-S, as a member on the jury panel.

And, for the record, I explained the situation to both lawyers. Neither the State nor the defendant had any objection to my decision after the explanation, the explanation that was given with one of the bailiffs present who had brought the situation to my attention.

Anything else?

SOLICITOR WEEKS: Not from the State, Your Honor.

MS. ALVES: Not from the defense, Your Honor.

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

1 THE COURT: Good morning. Everyone okay?

2 Juror Number 95, is it Iles?

3 THE JUROR: Yes, sir.

4 THE COURT: I have now elevated you to the regular
5 jury. Thank you.

6 You may call your next witness.

7 SOLICITOR WEEKS: The State would call Chiquita
8 Ingram.

9 CHIQUITA INGRAM, after being duly
10 sworn, testified as follows:

11 THE CLERK: Have a seat in the witness box stating
12 your full name spelling your last for the Court please.

13 THE WITNESS: Chiquita Latrinia Ingram, I-N-G-R-A-M.

14 DIRECT EXAMINATION

15 BY SOLICITOR WEEKS:

16 Q Ms. Ingram, how old are you?

17 A Fine.

18 Q How old are you?

19 A Twenty.

20 Q And what -- do you live in the New Ellenton area?

21 A Yes,

22 Q And on June of 2008, did you live in the New Ellenton
23 area then?

24 A Yes, I stayed on

25 Q Okay. Did you know Marcus Finklin?

Chiquita Ingram - Direct examination
by Solicitor Weeks

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- 1 A Yes.
- 2 Q Did you know when he got killed?
- 3 A Yeah, I heard, I heard about it in the news media.
- 4 Q Had you seen Marcus Finklin the night before or the
5 night before you heard he got killed?
- 6 A Yes.
- 7 Q Where had you seen him?
- 8 A I saw him at his house earlier. Then later on that
9 night I saw him pass by in his car.
- 10 Q You saw him pass by in his car?
- 11 A (Witness nods affirmatively.)
- 12 Q How did you know it was his car?
- 13 A Cause he always drove it.
- 14 Q Okay. And---
- 15 THE COURT: What?
- 16 THE WITNESS: He always drove it.
- 17 Q Where were you at when you saw him?
- 18 A I was on Nondrum Street.
- 19 Q And what were you doing there?
- 20 A I was standing in the yard with my friend.
- 21 Q You were what?
- 22 A Standing in the yard with my friend.
- 23 Q Okay. And where did you see him?
- 24 A I saw him pass by on Road.
- 25 Q And which direction was he headed?

Chiquita Ingram - Direct examination
by Solicitor Weeks

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- 1 A To his house.
- 2 Q And why did you remember that?
- 3 A Because I---
- 4 Q Why did you remember it?
- 5 A Because I had called him and then he called me back a
6 few minutes after?
- 7 Q You called him that night?
- 8 A Yes.
- 9 Q When you saw him pass by?
- 10 A Yes.
- 11 Q And what did you tell him?
- 12 A I told him I saw a white car behind him and then he
13 called back and he was like it was the police -- he said
14 it was the police and they had turned off on Ann Drive.
- 15 Q And Ann Drive is past where you were standing, but
16 more towards Marcus' house?
- 17 A Yes.
- 18 Q Chiquita, what was your phone number that you were
19 using at the time?
- 20 A It was a
- 21 Q Speak that again please.
- 22 A
- 23 Q ?
- 24 A Yes.
- 25 Q And you called Marcus on that phone?

Chiquita Ingram - Direct examination
by Solicitor Weeks

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1 A Yes.

2 Q Did he call you back?

3 A Yes.

4 Q Okay. And how long after you called him?

5 A About a minute.

6 Q Okay. Do you remember about what time that was,
7 Chiquita?

8 A Probably I think about 12:00 something.

9 Q 12:00 something?

10 A Uh-huh. (Affirmative).

11 Q And at some point in time did the police question you
12 after Mark died?

13 A No.

14 Q Did you write a statement for them?

15 A Investigator, yeah.

16 Q An investigator?

17 A Yes.

18 Q Did you tell them that too?

19 A Yes.

20 Q Okay. Thank you.

21 THE COURT: Ms. Alves.

22 MS. ALVES: No questions.

23 THE COURT: You may step down.

24 Next witness.

25 SOLICITOR WEEKS: Your Honor, the State would recall

Chiquita Ingram - Direct examination
by Solicitor Weeks

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1 Clay Adams.

2 THE COURT: Mr. Adams, come around. You're still
3 under oath.

4 CLAY ADAMS, being previously sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR WEEKS:

8 Q Mr. Adams, in -- I asked you on direct the first time
9 about taking a bunch of pictures.

10 Other than these, did you take more photographs than
11 I introduced?

12 A Yes, sir.

13 Q And did you take them at the crime scene?

14 A Yes, sir.

15 Q And at the Sheriff's Department when you were
16 processing?

17 A Yes, sir.

18 Q I'm gonna hand you what's marked State's 52 and 53,
19 and ask if you can identify those photographs.

20 A Yes, sir.

21 Q What is depicted in those scenes, 52 first?

22 A State's Exhibit 52 is a picture at the crime scene,
23 interior shot of the vehicle from the driver's door with
24 the driver's door open with the victim still inside the
25 vehicle.

Clay Adams - Direct examination
by Solicitor Weeks

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1 Q And 53?

2 A Fifty-three is a shot at the crime scene. It's an
3 interior shot from the passenger side towards the, the
4 victim.

5 Q Okay. And those photographs, are they true and
6 accurate copies of the ones you took that day or the scene
7 that was depicted that day?

8 A They are.

9 Q Now, I hand you what's marked State's 50 and 51, and
10 ask you if you can identify what's contained in those two
11 photographs, yes or no?

12 A Yes, sir.

13 Q And what is it?

14 A State's Exhibit 50 is a picture of the headliner
15 region of the interior of the vehicle taken at the
16 sheriff's office depicting the overhead light.

17 Q All right. And what's 51?

18 A Fifty-one is just a close-up picture of that interior
19 light and headliner.

20 Q Okay. And are they true and accurate copies of what
21 they purport to show?

22 A They are.

23 Q And are you familiar with the scene depicted in both
24 of these photographs?

25 A Yes, sir.

Clay Adams - Direct examination
by Solicitor Weeks

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1 SOLICITOR WEEKS: I move to introduce these
2 photographs, Your Honor.

3 MS. ALVES: No objection.

4 THE COURT: Without objection.

5 SOLICITOR WEEKS: It's State's 52, 53, 50, and 51.

6 (WHEREUPON, State's Exhibit Nos. 50 through 53 were
7 received into evidence at this time.)

8 Q Clay, when you testified the first time and talked
9 about processing the crime scene, did you find any drugs
10 at the crime scene?

11 A Yes, sir.

12 Q Where were they?

13 A They were in the vehicle around the driver, around
14 the victim.

15 Q Okay. And where specifically?

16 What kind -- can you describe what you found?

17 A Yes, sir.

18 Q In fact, State's 52, does that indicate something
19 along those lines?

20 A Yes, sir, it does. I located two plastic corner
21 baggies containing a white powder substance under the
22 right side or on the right side of the body, and then on
23 the left side was one small corner plastic baggy of a
24 white powder substance.

25 Q Okay. And I believe one of the photographs documents

Clay Adams - Direct examination
by Solicitor Weeks

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1 one of those items?

2 A Yes, sir, it does.

3 Q Where were the other two little baggies found in
4 relation to the body as depicted in State's Exhibit 53?

5 Can you see them in that photograph?

6 Is that a photograph of his right side?

7 A It is a photograph of his right side.

8 Q And they don't -- you can't see them in that
9 photograph?

10 A I can't see them in the photograph, no, sir.

11 Q Okay. After the body was removed, did you find two
12 baggies there?

13 A Yes, sir.

14 Q Okay. And you took those to y'all's drug lab?

15 A Yes, sir.

16 Q And they found that they were cocaine, didn't they?

17 A Yes, sir.

18 Q Now, State's Exhibit 53 depicts a red stain on the
19 passenger seat, is that correct?

20 A Yes, sir.

21 Q And what was your impression of what that was at the
22 crime scene?

23 A That is blood.

24 Q And did y'all swab that passenger seat and send that
25 swab to SLED?

Clay Adams - Direct examination
by Solicitor Weeks

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1 A We did.

2 Q All right. And State's 53 also indicates something
3 with regard to the glove box.

4 What does that---

5 A The glove box is in the open position.

6 Q All right. And the CD's that are strung over that
7 front seat, are some of them over the top of the blood?

8 A They are.

9 Q Investigator Adams, I'm handing you what's marked
10 State's Exhibit 32, and can you identify what that was
11 that's in evidence?

12 A Yes, sir, State's Exhibit 32 are the two cigarette
13 butts collected from around the car.

14 Q And did the envelopes indicate or do you know where
15 those cigarette butts were collected from?

16 A Yeah, cigarette butt is marker number two, which will
17 be on the passenger side of the vehicle. Cigarette butt
18 marker number one is on the driver side of the vehicle.

19 Q And how did you identify cigarette marker or
20 cigarette butt in marker number one in your photograph?

21 A It is marked with one of our evidence markers. It
22 has a numerical number one, but it was identified as a New
23 Port brand cigarette.

24 Q How did you identify it as a New Port brand?

25 A It was printed on the cigarette butt.

1 Q And the other one?

2 A It did not have a, a brand marker.

3 Q Okay. And will you -- those items are sent to SLED.
4 Do they assign new numbers?

5 A Yes, sir.

6 Q And are those numbers indicated on those envelopes?

7 A They are.

8 Q And the cigarette butt on the passenger side was
9 indicated as what number?

10 A Cigarette butt, cigarette butt marker number two is
11 identified as SLED Item Number 15.

12 Q And the other one?

13 A Cigarette marker -- cigarette butt marker number one
14 is identified as SLED Number 14.

15 Q Okay. And both of these item were contained in
16 State's Exhibit No. 32?

17 A That is correct.

18 Q Mr. Adams, answer any questions that Ms. Alves has.
19 Thank you.

20 MS. ALVES: I beg the Court's indulgence one moment
21 please.

22 CROSS-EXAMINATION

23 BY MS. ALVES:

24 Q Now, Investigator Adams, we've heard some testimony
25 about the car keys in this case. There's some testimony

Clay Adams - Cross-examination
by Ms. Alves

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1 yesterday that there were keys in the car.

2 Do you know whether they were the keys to the car?

3 A I believe they were, yes, ma'am.

4 Q And where were they found?

5 A Let's see. Item Number 29 on my chain of custody was
6 identified as vehicle keys with bulldog key chain and blue
7 clip was under the driver's seat.

8 Q Under the driver's seat?

9 A At, at the floorboard.

10 Q Now, once the -- were you present when the coroner
11 removed Marcus' body from the car?

12 A Yes, ma'am.

13 Q And after they removed the body, did they move -- was
14 anything moved around in the car?

15 A As in was the car processed or searched?

16 Q No.

17 Was, was anything that was in the car moved around
18 after the body was removed?

19 A At the crime scene?

20 Q Yes, sir.

21 A Not to my knowledge, no, ma'am.

22 Q Investigator Adams, do you recognize this picture?

23 A Yes, ma'am.

24 Q And it's a picture of, depicting the driver's side of
25 the car?

Clay Adams - Cross-examination
by Ms. Alves

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1 A Yes, ma'am, it is.

2 Q After Mr. Finklin's body had been removed?

3 A Yes, ma'am.

4 Q Does that picture accurately reflect how the car
5 looked after the coroner removed Mr. Finklin's body?

6 A Yes, ma'am.

7 Q And that's an accurate depiction of how it looked
8 that day after the body was moved?

9 A Yes, ma'am, after the body was removed.

10 MS. ALVES: Your Honor, I'd like to introduce this as
11 Defense Exhibit No. 1.

12 SOLICITOR WEEKS: No objection.

13 (WHEREUPON, the photograph was marked as Defendant's
14 Exhibit No. 1 and received into evidence at this time.)

15 Q I'm showing you Defense Exhibit No. 1.

16 In that picture, the keys are in the, in the seat of
17 the car?

18 A Yes, ma'am.

19 Q And they would of been located in the area where
20 Mr. Finklin's body had been?

21 A Yes, ma'am.

22 Q And how did the keys -- and they were then -- and,
23 and nobody had moved anything around in the car, taken the
24 body out yet?

25 Nobody moved the keys as far as you know?

Clay Adams - Cross-examination
by Ms. Alves

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1 A As far as I know. However, in this picture it
2 appears to be a different set of keys than what I was
3 referring to.

4 Q Okay. But there was -- so, there was another set of
5 keys that he was, that he was, that would have been
6 underneath Mr. Finklin's body?

7 A There was a set of keys that were at, underneath the
8 driver's seat --

9 Q Okay.

10 A -- at the floorboard.

11 Q And those keys would of been underneath the driver's
12 body?

13 A These would have, yes, ma'am.

14 (WHEREUPON, a photograph was marked as Defendant's
15 Exhibit No. 2 for identification purposes only at this
16 time.)

17 Q Okay. And I'm showing you what's marked as Defense
18 Exhibit No. 2.

19 Do you recognize that?

20 A Yes, ma'am, I do.

21 Q And that is a picture of Mr. Finklin's body in the
22 car taken from I believe the driver's side?

23 A Yes, ma'am, from the driver's side.

24 Q And does that accurately reflect how the body
25 appeared in the car on the morning of June the 4th?

Clay Adams - Cross-examination
by Ms. Alves

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1 A Yes, ma'am.

2 Q Excuse me. June the 4th, 2008.

3 A Yes, ma'am.

4 MS. ALVES: At this time I'd like to introduce
5 Defense Exhibit No. 2.

6 SOLICITOR WEEKS: No objection, Your Honor.

7 (WHEREUPON, Defendant's Exhibit No. 2 was received
8 into evidence at this time.)

9 Q Okay. Let me talk to you about this picture for a
10 minute.

11 A Okay.

12 Q And that's referring to Defense Exhibit No. 2.

13 In Defense Exhibit No. 2, it shows blood on
14 Mr. Finklin going towards the left side of his face, going
15 down and toward the left?

16 A Yes, ma'am, it depicts blood coming down the bridge
17 of the nose to the left side of the face.

18 Q And on his shirt, it shows several drops of blood
19 going down?

20 A Yes, ma'am.

21 Q And some of the direction of some of those drops
22 appears to be going up and to the right, is that correct?

23 THE COURT: Are you asking him to render an opinion
24 or---

25 MS. ALVES: No, sir, I'm just asking what -- to look

Clay Adams - Cross-examination
by Ms. Alves

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1 at the pictures.

2 THE COURT: It speaks for itself.

3 MS. ALVES: Yes, sir.

4 SOLICITOR WEEKS: I have no objection to her
5 questioning him on this subject.

6 THE COURT: Very well.

7 A Ms. Alves, will you, will you ask that question again
8 please?

9 Q I'm asking you do some of the drops of the blood
10 appear to be going up and to the left?

11 A The direction of the blood itself appears to be going
12 in a downward position.

13 Q Okay. And in this picture it shows the -- you can
14 see part of the right side of Mr. Finklin's head?

15 A Yes, ma'am.

16 Q His forehead here?

17 A Yes, ma'am, both the right eyebrow.

18 Q And the blood appears to be in the picture showing
19 that it's going -- and, and did you see that there was --
20 was that -- did you, did you -- do you know whether this
21 was tested to determine whether that was blood on the side
22 of it, the right side of his head?

23 A No, ma'am, we didn't test blood on him.

24 Q Okay. But you did observe the blood on him?

25 A Yes, ma'am.

Clay Adams - Cross-examination
by Ms. Alves

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1 Q Okay. And on these -- and you, and you testified on
2 direct that the spot on the, on the seat was swabbed and
3 sent for DNA because it appeared to be blood?

4 A Yes, ma'am.

5 Q And these items that are all found in the car next to
6 Mr. Finklin's body, they're all on top of the spot, aren't
7 they?

8 A Yes, ma'am.

9 Q And, in fact, some of these items themselves had
10 blood on them?

11 A I don't recall.

12 Q You don't recall?

13 And were any of these items down here that were on
14 the seat swabbed for blood or swabbed for DNA purposes for
15 blood?

16 A I don't know. I didn't process it.

17 Q Okay. And do you know, were any of them actually
18 tested?

19 Do you know whether any of the items were tested?

20 A The swabs?

21 Q Yes, or the stuff on the seat.

22 A Other than referring to the SLED lab report, no,
23 ma'am, I can't tell you.

24 Q Okay. So, you don't know of anything other than what
25 was testified to yesterday?

Clay Adams - Cross-examination
by Ms. Alves

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1 A Correct.

2 MS. ALVES: Okay. I beg the Court's indulgence one
3 moment.

4 (Pause.)

5 Q You testified yesterday about your experience in
6 processing crime scenes.

7 Did you have any concerns regarding the items that
8 were found on top of the, of the blood stain on the seat?

9 A I don't understand what you mean by concerns.

10 Q I'm sorry.

11 What did, what did that suggest to you when you saw
12 the items that were on top of the blood stain?

13 A It appeared to me that they were not in the original
14 position.

15 Q The items were not in their original position?

16 A Correct. At the time of depositing of the blood.

17 Q Okay. So, the items would of been placed there after
18 the blood was there?

19 A That's what it appeared to us, yes, ma'am.

20 Q Thank you. I don't have any further questions.

21 THE COURT: Redirect, if any?

22 SOLICITOR WEEKS: Thank you. Just briefly, Your
23 Honor.

24 REDIRECT EXAMINATION

25 BY SOLICITOR WEEKS:

Clay Adams - Redirect examination
by Solicitor Weeks

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1 Q Clay, all this was at eight o'clock, nine o'clock,
2 ten o'clock in the morning on June the 4th?

3 A Yes, sir.

4 Q The case investigation after that, does that have any
5 play in the, what's saved and what's kept and what's
6 analyzed?

7 A I'm sorry.

8 Q Does the investigation that takes place after you
9 take these crime scene photographs, does it have any
10 impact on what's saved, what's analyzed, what's preserved?

11 A Yes, sir.

12 Q And when you got to the Sheriff's Department, did you
13 insert a set of keys into the ignition?

14 A Yes, sir.

15 Q And on State's Exhibit No. 50, did you cut that light
16 on?

17 A No, sir.

18 Q When did that light appear?

19 A When the keys were put into the ignition and turned
20 to the on position.

21 Q Okay. Ms. Alves asked you about the CD's being over
22 the top of the blood.

23 What did that appear had happened after Mr. Finklin
24 had been shot?

25 A It had appeared that that area had been dealt with

Clay Adams - Redirect examination
by solicitor Weeks

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1 after his death.

2 Q Rifled, ransacked?

3 A Yes, sir.

4 Q All right. And anybody else shot in that car?

5 A No, sir.

6 Q And the -- apparently the picture you took at the
7 crime scene, does it show the glove box open?

8 A It does I believe.

9 Q Do you know whether those CD's were first in the
10 glove box, were on the floor, or where they originated to
11 start with?

12 A No, sir.

13 Q Okay. One further thing.

14 The pictures that Ms. Alves put into evidence you
15 took, didn't you?

16 A Yes, sir, I believe.

17 Q And all those pictures were given to the defense,
18 weren't they?

19 A Yes, sir.

20 Q And the -- if he's laying head down on the passenger
21 side of the seat, would that make -- you think that would
22 impact the direction blood was flowing?

23 A Yes, sir, definitely.

24 Q And would it, could it have smeared the blood on his
25 forehead that's present there?

Clay Adams - Redirect examination
by Solicitor Weeks

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1 A Yes, sir.

2 SOLICITOR WEEKS: That's all, Your Honor.

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

4 Next witness.

5 SOLICITOR WEEKS: The State would call Aleshia Parks.

6 ALESHIA PARKS, after being duly sworn,
7 testified as follows:

8 THE CLERK: Have a seat in the witness box stating
9 your full name spelling your last for the Court please.

10 THE WITNESS: Aleshia Ann Parks. P-A-R-K-S.

11 DIRECT EXAMINATION

12 BY SOLICITOR WEEKS:

13 Q Ms. Parks, where do you work?

14 A New Ellenton Police Department.

15 Q And what's your position there?

16 A Chief of police.

17 Q And back in June or back in January of this year,
18 were you chief of police?

19 A Yes, sir.

20 Q And at some point in time in January of this year was
21 Detroit Spires working for the police department while you
22 were there?

23 A Yes, sir.

24 Q Was he working in June of 2008?

25 A Yes, sir.

Aleshia Parks - Direct examination
by Solicitor Weeks

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1 Q I'm gonna hand you what's marked State's Exhibit
2 No. 45 for identification and ask if you ever had
3 possession of that item.

4 A I had possession of the box.

5 Q And where did you get possession from?

6 A From out of our evidence locker at the New Ellenton
7 Police Department.

8 Q Okay. And did the box, at the time, contain any
9 bullets or do you know?

10 A According to the evidence sheet it did.

11 Q Okay. And State's Exhibit 44 contained some bullets.
12 Do you know if they were located with it?

13 A All the items were inside the box.

14 Q Okay. Now, how did you get possession of that box?

15 A I went into the evidence locker and obtained it from
16 the evidence locker.

17 Q And did you turn it over to Chris Johnson with the
18 Sheriff's Department?

19 A Yes, sir.

20 Q Okay. And did you do that on December the 15th?
21 Do you know the date you did it?

22 A I'm not sure of the date.

23 Q Whenever Chris came down there is when you did it?

24 A Yes, sir.

25 Q Okay. Thank you.

Aleshia Parks - Direct examination
by Solicitor Weeks

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1 And how did the gun and the bullets get into the
2 evidence locker?

3 A It was placed in the evidence locker by Corporal
4 Spires, Detroit Spires.

5 Q Did you, while it was in your possession, alter,
6 amend, or change, or do anything to that?

7 A No, sir.

8 Q Okay. Is your evidence locker secure?
9 Who has access to it besides you and Detroit?

10 A Myself and Corporal Spires are the only two who have
11 keys to the evidence locker.

12 Q Okay. Thank you. Answer any questions that Ms.
13 Alves may have.

14 MS. ALVES: I don't have any questions.

15 THE COURT: You may step down.

16 Next witness.

17 SOLICITOR WEEKS: State would call Detroit Spires.

18 DETROIT SPIRES, after being duly
19 sworn, testified as follows:

20 THE CLERK: Have a seat in the witness box stating
21 your full name spelling your last for the court please.

22 THE WITNESS: Corporal Detroit Spires. S-P-I-R-E-S.

23 DIRECT EXAMINATION

24 BY SOLICITOR WEEKS:

25

Detroit Spires - Direct examination
by Solicitor Weeks

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1 Q Corporal Spires, where are you employed?

2 A With the New Ellenton Police Department..

3 Q And how long you been employed there?

4 A About three years now.

5 Q Were you employed there in January of 2010?

6 A I was.

7 Q And did you have an occasion, on January 1st of 2010,
8 to encounter Mr. Joey Serrano?

9 A I did.

10 Q And what were you encountering Mr. Serrano for?

11 A It was a traffic stop.

12 Q I hand you what's marked State's Exhibit 45 and 44,
13 and ask if you can identify what's contained in those
14 items.

15 A Yes, sir, these are the items that I removed from
16 Mr. Serrano's vehicle that evening.

17 Q And what did you do with those items?

18 A I secured them in my patrol vehicle, and then once I
19 returned from Aiken County Detention Center, I secured
20 them in the evidence locker at the New Ellenton Police
21 Department.

22 Q Okay. And did you charge Mr. Serrano with violation
23 of the law concerning that weapon?

24 A I did.

25 Q Detroit, were you working for the City of New

Detroit Spires - Direct examination
by Solicitor Weeks

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1 Ellenton as a police officer on June the 4th of 2008?

2 A I was.

3 Q And did you have an opportunity to observe or follow
4 a vehicle that night?

5 A Yes, sir, I did.

6 Q Describe what happened.

7 A I---

8 Q what did you do?

9 A I observed a late model square body style gray in
10 color Crown Victoria with dark tinted windows. I had been
11 advised earlier that evening that the car may possibly
12 contain some form of narcotics or drugs. I observed the
13 vehicle around the area of St. Paul Methodist Church. It
14 was proceeding northbound on main street in the city
15 limits of New Ellenton.

16 I followed the vehicle. It didn't commit any kind of
17 traffic violations. Myself and the vehicle both made a
18 left turn on to from 19. I followed the
19 vehicle, and about where Ann Drive came I made a left turn
20 on to Ann Drive.

21 Q Ann Drive?

22 A Yes, sir, and the Crown Vic actually continued down
23

24 Q Okay. And do you know what time it was?

25 A I, I can't recall the exact time, sir.

Detroit Spires - Direct examination
by Solicitor Weeks

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1 Q And describe your police car at the time.

2 A At the time I was driving a white unmarked 2000 Crown
3 Vic, Ford Crown Victoria.

4 Q Okay. And after Marcus Finklin's body was
5 discovered, did you let your chief know that you had had
6 that opportunity to observe---

7 A Yes, sir.

8 Q ---that vehicle?

9 A I did the next day.

10 Q You didn't make any stops or anything of that vehicle
11 that day?

12 A No, sir.

13 Q And, so, you don't know who was in it, do you?

14 A No, sir.

15 Q Answer any questions Ms. Alves has for you, Detroit.

16 CROSS-EXAMINATION.

17 BY MS. ALVES:

18 Q You said that was in June of 2008?

19 A Which, which incident, ma'am?

20 Q When you were following the vehicle.

21 A Yes, ma'am.

22 Q How do you remember?

23 A How do I remember following?

24 Q How do you remember when it, when it was.

25 A Because I remember I actually told the chief the next

Detroit Spires - Cross-examination
by Ms. Alves

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1 day after the incident happened that I followed that
2 vehicle that night.

3 Q Okay. So, it was at night when you followed it?

4 A Yes, ma'am.

5 Q Was it early in the evening or late in the evening?

6 A To the best of my knowledge I would say later in the
7 evening.

8 Q I mean can you give an approximate time?

9 A I can't recall an approximate time, an exact time.

10 Q Okay. Why did you mention it to the chief?

11 A Because I had received a tip that that vehicle may
12 possibly contain any kind of form of drugs and that's why
13 I was actually letting the chief know at the time that we
14 may be, want to be on the look out for that car.

15 Q Okay. Did you, did you talk to anybody else about
16 that vehicle?

17 A No, ma'am.

18 Q When's the next time you ever mentioned following
19 that vehicle to anybody else?

20 A That morning when I came in and spoke to the chief.

21 Q I mean after that.

22 A I told the chief and I spoke to, at the time it was
23 Captain Parks, that evening when she came to work.

24 Q Uh-huh.

25 A And that was it.

Detroit Spires - Cross-examination
by Ms. Alves

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1 Q Well, after that -- other than today, when is the
2 next, when is the next time you mentioned that vehicle
3 after you spoke with Chief Parks about it?

4 A I can't recall.

5 Q Was it that year?

6 A Possibly.

7 Q I mean did you talk to any investigators concerning
8 Mr. Finklin's murder case about that vehicle?

9 A I don't recall speaking to any investigators.

10 Q Okay. So, you didn't speak to any investigators
11 involving this case regarding this?

12 A No.

13 Q Well, who have you talked to about this?

14 A The only person I spoke to was, at the time, Chief
15 Hamilton.

16 Q I mean since then.

17 A I spoke to the Solicitor's Office.

18 Q That's it?

19 A That's it.

20 Q Would that be recently?

21 A Yes, ma'am.

22 Q When?

23 A Once I believe this case started.

24 Q Okay. So, this week?

25 A Yes, ma'am.

Detroit Spires - Cross-examination
by Ms. Alves

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1 Q Okay. So, other than in June of 2008, the next time
2 you mentioned this to anybody other than your captain is
3 to the solicitor this week?

4 A Yes, ma'am.

5 Q But -- and you didn't do a report on it?

6 A No, ma'am.

7 Q How do you know what day it was?

8 A I just recall because I was advised the next day of
9 what actually occurred that night on Court by
10 Chief Hamilton the next day.

11 Q And, so, that jogged your memory about following that
12 car?

13 A I came in to advise Chief Hamilton about that
14 vehicle.

15 Q Were you aware that the vehicle that your, that that
16 vehicle might be the one, the one that was involved in the
17 crime on Court?

18 A I didn't have any knowledge of the crime on Dry
19 Branch until Chief Hamilton advised me.

20 Q But you didn't make any connection?

21 A Not until I told him exactly what vehicle I had
22 followed. That's when it kind of hit that that was the
23 vehicle that I was actually following.

24 Q You told who?

25 A Chief Hamilton.

Detroit Spires - Cross-examination
by Ms. Alves

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1 Q Okay. So, you found that there was a connection in
2 June of 2008, that there might be a connection because you
3 were following a vehicle that was, might be involved in a
4 crime on Court, is that right?

5 A Yes, sir. Yes, ma'am, I mean it was the next day.

6 Q But you never talked to the investigators concerning
7 this who were investigating this?

8 A No, ma'am.

9 Q And you didn't talk to anybody until you talked to
10 the solicitor this week?

11 A Correct.

12 Q Thank you. No further questions.

13 THE COURT: Redirect.

14 REDIRECT EXAMINATION

15 BY SOLICITOR WEEKS:

16 Q Corporal Spires, did you get a subpoena from the
17 defendant in December?

18 A I did. I did, sir.

19 Q Do you recall having any conversation with me when
20 you received that subpoena from the defendant in December?

21 A Yes, sir.

22 Q Do you recall whether or not you told us, at that
23 time, that you had been behind a car that night?

24 A Yes, sir.

25 Q And Chief Hamilton's dead, isn't he?

Detroit Spries - Redirect examination
by Solicitor Weeks

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1 A Yes, sir, he is.

2 Q Okay. Did you make a statement to Chief Hamilton the
3 next day, a written statement?

4 A I did.

5 Q Have you been able to locate it?

6 A No, sir, we haven't.

7 Q But it was in December after you got a subpoena from
8 the defense --

9 A Yes, sir.

10 Q -- that you told us about that?

11 A Yes, sir.

12 Q Did you make it up?

13 A No, sir.

14 Q Thank you.

15 THE COURT: You may step down.

16 Next witness.

17 SOLICITOR WEEKS: Lawrence Baker.

18 LAWRENCE BAKER, after being duly
19 sworn, testified as follows:

20 THE CLERK: Have a seat in the witness box stating
21 your full name spelling your last.

22 SOLICITOR WEEKS: Could we have five minutes, judge?

23 This is a witness who was on my list, but I haven't
24 had the opportunity to speak to him, and Ms. Alves needs
25 to talk to him. Be a good time to take a ten minute break

Lawrence Baker - Direct examination
by Solicitor Weeks

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1 if you would.

2 THE COURT: You said five.

3 SOLICITOR WEEKS: Five minute break.

4 THE COURT: The lawyers say five and they want ten.
5 What do we do with them. They've been very good. I can't
6 fuss at them.

7 Let's take a real quick five. Don't discuss, don't
8 deliberate. I like your garnet and black.

9 THE JUROR: Thank you. Carolina all the way.

10 (WHEREUPON, the following takes place outside the
11 presence of the jury.)

12 THE COURT: All right. We'll stand at ease for about
13 seven minutes.

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

15 THE COURT: Mr. Weeks, anything before I bring the
16 jury back?

17 SOLICITOR WEEKS: No, sir.

18 THE COURT: Ms. Alves?

19 MS. ALVES: No, sir.

20 THE COURT: Bring the jury in.

21 (WHEREUPON, the following takes place within the
22 presence of the jury.)

23 THE COURT: Mr. Weeks.

24 SOLICITOR WEEKS: Thank you, Your Honor.

25 I call Lawrence Baker.

Lawrence Baker - Direct examination
by Solicitor Weeks

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1 LAWRENCE BAKER, having been previously
2 sworn, testified as follows:

3 THE WITNESS: Lawrence Frank Lynn Baker, Junior.

4 THE COURT: Has he been sworn?

5 THE CLERK: Yes, sir.

6 DIRECT EXAMINATION

7 BY SOLICITOR WEEKS:

8 Q Mr. Baker, where are you employed?

9 A Aiken Electric Cooperative Incorporated.

10 Q And what do you do for the co-op?

11 A I'm over the engineering department there.

12 Q And what, what all kind of duties does that involve?

13 A We have the staking and design work for member
14 service extensions, new services to homes in the Aiken
15 district area. We also maintain and operate the
16 substations of Aiken Electric Cooperative over all three
17 districts. We're pretty much a support department to the
18 cooperative.

19 Q And how long have you been there?

20 A Approximately 27 years.

21 Q And in your capacity there, do you maintain the
22 computer records and records of membership?

23 A Yes, sir.

24 Q And are they something you do in the ordinary course
25 of your business there?

Lawrence Baker - Direct examination
by Solicitor Weeks

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- 1 A Yes, sir.
- 2 Q Do you constantly refer to them and rely on them?
- 3 A Very much so, yes, sir.
- 4 Q Do y'all know where every pole is on the co-op
- 5 system?
- 6 A We have a very extensive mapping system, very
- 7 detailed mapping system. We try to keep account of each
- 8 and every pole, yes, sir.
- 9 Q All right. And do you maintain billing records for
- 10 each and every account?
- 11 A Yes, sir.
- 12 Q Are those things you use everyday in the ordinary
- 13 course of business?
- 14 A Yes, sir.
- 15 Q Mr. Baker, did I call you and give you a couple of
- 16 numbers off the poles?
- 17 A Yes, sir.
- 18 Q And what did you do when I called you to inquire
- 19 about those poles?
- 20 A First researched the longevity or length of time
- 21 those poles had been in service.
- 22 Q How are the poles identified?
- 23 How would I know to call you about a pole?
- 24 A We have coordinate tags on our poles. It's a fairly
- 25 long number and it corresponds back to a coordinate system.

Lawrence Baker - Direct examination
by Solicitor Weeks

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1 on the maps. They are actually labeled in the field with
2 those numbers, and they can be traced back to the paper
3 maps.

4 Q Okay. And the two numbers I called you about,
5 what -- did you pull the records for those two poles?

6 A Yes, sir.

7 Q And did you examine the billing records for those two
8 poles?

9 A Yes, sir.

10 Q What kind of poles were they?

11 A They were treated wood.

12 Q That's, that's pretty precise.

13 What, what is the significance of those two types of
14 poles?

15 A Those two poles are for the purpose of supporting
16 security lights at the location.

17 Q Okay. And how would -- how do the co-op's lights
18 work when they come on or off?

19 A They're dusk to dawn lights. They have photo cells
20 on them and that's -- about dusk dark they come on, and at
21 early light they go back off.

22 Q Okay. And are members or customers of Aiken Electric
23 Co-op billed for those lights separately --

24 A Yes, sir.

25 Q -- or is it all part of the power bill, but it is

Lawrence Baker - Direct examination
by Solicitor Weeks

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1 itemized separately?

2 A It is itemized separately.

3 Q And how much are these light or how much was it in
4 2008?

5 A In 2008, the security lights that were supported by
6 those poles were \$8.25 I believe.

7 Q Each?

8 A Each per month.

9 Q Per month.

10 Do your records go back and reflect that those lights
11 were being billed in June of 2008?

12 A Yes, sir.

13 Q And how long had those lights been being billed out?

14 A They had been billed and in service since prior to
15 '74. That was about as far as I could go back.

16 Q And when I called you to research the records of
17 whether they were in existence on June of 2008, what did
18 your records show?

19 A That, in fact, they were.

20 Q And does your computer schematics and your records
21 there show you where those two poles were located?

22 A Yes, sir.

23 Q And where were they located?

24 A They were located on the north side of a location
25 with the address of Broadway Street.

Lawrence Baker - Direct examination
by Solicitor Weeks

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1 Q Thank you. And answer any questions Ms. Alves has
2 for you.

3 THE COURT: Ms. Alves, any questions?

4 MS. ALVES: No, sir.

5 THE COURT: Thank you. You may step down.
6 May he be released from his subpoena?

7 MS. ALVES: I'm so sorry. I do have a question. One
8 question.

9 THE COURT: That's all right.
10 Hold on a second.

11 One question.

12 MS. ALVES: Thank you.

13 THE COURT: Hold on one second.

14 CROSS-EXAMINATION

15 BY MS. ALVES:

16 Q Mr. Baker, do you have any records of whether those
17 lights were actually operational or actually working on
18 June the 4th, 2008?

19 A No, ma'am.

20 Q Thank you. No further questions.

21 THE COURT: You may step down and released from his
22 subpoenas?

23 SOLICITOR WEEKS: He is, Your Honor.

24 THE COURT: Thank you very much for coming.

25 THE WITNESS: Thank you, sir.

Lawrence Baker - Cross-examination
by Ms. Alves

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1 SOLICITOR WEEKS: Your Honor, the State would call
2 Investigator Norwood Bodie.

3 NORWOOD BODIE, after being duly
4 sworn, testified as follows:

5 THE CLERK: Have a seat in the witness box stating
6 your full name and spelling your last for the Court
7 please.

8 THE WITNESS: Norwood Andrew Bodie. B-O-D-I-E.

9 DIRECT EXAMINATION.

10 BY SOLICITOR WEEKS:

11 Q Norwood, if you would, tell us what your job is.

12 A I'm an investigator with the Solicitor's Office here
13 in Aiken.

14 Q How long have you been an investigator with the
15 Solicitor's Office?

16 A With the Solicitor's Office, it's been since December
17 of '97.

18 Q And prior to that, what was your job?

19 A I worked at the Sheriff's Office between 1986 and '97
20 when I came here.

21 Q And when you left the Sheriff's Department, were you
22 -- what was your position there?

23 A Actually when I left I was a road officer, road
24 sergeant, and I had that position for about six months,
25 and prior to that I had been in investigations since 1992.

Q Doing what kind of investigations?

1 A Criminal investigations.

2 Q And since I joined the Solicitor's Office in '99,
3 have you been assigned to me?

4 A Yes, sir.

5 Q Norwood, have you been assigned to the case against
6 Tevon Jackson since the beginning?

7 A Yes, sir.

8 Q And have you participated with me in interviewing
9 witnesses?

10 A Yes, sir.

11 Q Going to the crime scene?

12 A Yes, sir.

13 Q Taking pictures?

14 A Yes, sir.

15 Q Getting maps?

16 A Yes, sir.

17 Q Is that something we do in every case?

18 A Yes, it is.

19 Q You heard Mr. Baker talk about two numbers.

20 Can you tell me where I got those numbers to give to
21 him?

22 A You got them from me. I got them off of the poles.

23 Q I'm gonna hand you what's marked State's Exhibit
24 No. 1, and ask if you can identify that photograph.

25 A This is a photograph of the---

Norwood Bodie - Direct examination
by Solicitor Weeks

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1 Q Yes or no?

2 A Yes.

3 Q And what is contained in it?

4 A This is a photograph of the two light poles that bear
5 the numbers that were provided to the co-op.

6 Q And where are those light poles located?

7 A This is all the way up on the end of Broadway Street
8 in the area.

9 Q Okay. And is this photograph a true and accurate
10 copy of what it purports to show?

11 A Yes, sir.

12 Q Okay. Your Honor -- Norwood, when did we take these
13 photographs?

14 A That was taken last week or week before.

15 Q And were we getting in preparation for trial?

16 A Yes, sir.

17 Q When we got those numbers, we called Aiken Electric
18 Co-op?

19 Okay. Your Honor, I would move to introduce State's
20 No. 1.

21 MS. ALVES: Your Honor, I'd object to State's No. 1.
22 There was no testimony from the gentleman at Aiken Co-op
23 about what the specific numbers were on the light pole,
24 and there's only a question from Mr. Weeks regarding that
25 he had given him some numbers. There was no testimony as

Norwood Bodie - Direct examination
by Solicitor Weeks

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1 to what the exact numbers were, and there's no testimony
2 from -- so, I can't say that those are the light poles
3 reflected in the picture and I would object.

4 THE COURT: Thank you, ma'am. Overruled.

5 (WHEREUPON, State's Exhibit No. 1 was received into
6 evidence at this time.)

7 Q Norwood, did we take numbers off of any other poles?

8 A No, sir.

9 Q Now, if you have been involved in this investigation
10 from the beginning, did you acquire these maps for me?

11 A Yes, sir, I did.

12 Q If you would, stand down here if it's all right with
13 the Court.

14 Now, judge, if this thing collapses on me, it's
15 Merk's fault.

16 (Witness comes down from the stand.)

17 THE COURT: No, sir, you're the captain of the ship.
18 It'd be your fault and Ms. Alves's fault. But I am proud
19 of you lawyers for being able to operate that simple
20 easel. That is an accomplishment.

21 Q Norwood, I hand you -- put on the easel here State's
22 Exhibit 48.

23 Did you acquire this photograph for me?

24 A Yes, I did.

25 Q And what's it a photograph depicting?

Norwood Bodie - Direct examination
by Solicitor Weeks

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1 A It is a satellite image depicting the area of Dry
2 Branch Road, which runs from Highway 19 down to --
3 actually this is Highway 19 down to China Bell Church
4 Road.

5 Q All right. And in our investigation of this case,
6 did we drive that road?

7 A Yes, we did.

8 Q Do you know how many times?

9 A Several.

10 Q Okay. And what -- did we go to the locations that
11 have been testified to in this trial?

12 A Yes, sir, we did.

13 Q Can you locate where the defendant, Mark, or the
14 victim, Mark Finklin, was living at the time of his death?

15 A You want me to circle it?

16 Q Yes.

17 A He was staying in this trailer park almost to China
18 Bell Church Road.

19 Q Just put a big V in the middle.

20 (Witness complies.)

21 Q Okay. And do you know the location where his body
22 was found?

23 A His body was found in this cul-de-sac right here.

24 Q Put scene on that if you would.

25 (Witness complies.)

Norwood Bodie - Direct examination
by Solicitor Weeks

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1 Q The photograph I just introduced, where was it taken
2 at?

3 A That photograph was taken in the back of this yard
4 right here.

5 Q Put lights up underneath it.

6 (Witness complies.)

7 Q And while we're at it, show me where Nondrum Street
8 is in relation to that.

9 A This is Nondrum Street right here.

10 Q Speak up now.

11 A This is Nondrum Street right there.

12 Q And the witness, Joseph Dicks, who's testified, we
13 went to his house, didn't we?

14 A Yes, we did.

15 Q Where is that located?

16 A Right here on Nondrum Street.

17 Q Can you put M.M. right there for Meat Man?

18 A Okay.

19 Q And Ms. Ealy that testified, where does she live?

20 A Ms. Ealy lives in this house right here.

21 Q Can you put M.E. right there?

22 (Witness complies.)

23 Q They testified about a dirt road, where was that dirt
24 road that they were testifying about?

25 A The dirt road runs right there and right here.

Norwood Bodie - Direct examination
by Solicitor Weeks

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- 1 Q Okay. And the---
- 2 A Oh, I'm sorry.
- 3 Q ---the other road---
- 4 A Other dirt road?
- 5 Q Yeah.
- 6 A Is right in there. It runs back behind.
- 7 Q Okay. And indicate on here where -- which direction
- 8 is New Ellenton?
- 9 A New Ellenton is down this way.
- 10 Q Okay. Is this Highway 19 here?
- 11 A Yes, sir.
- 12 Q And if you take a left, New Ellenton is up here.
- 13 Q Yes, sir.
- 14 A Take a left on Road, that would take you
- 15 down that way?
- 16 A Yes, sir.
- 17 Q All right. Mr. Spires testified about Ann Drive.
- 18 Do you know where that's located?
- 19 A It starts right here on and, and is back
- 20 into the city.
- 21 Q Now, just put a big Ann Drive instead of that little
- 22 tiny Ann Drive that's on there.
- 23 (Witness complies.)
- 24 Q And the intersection of Nondrum and is
- 25 where?

Norwood Bodie - Direct examination
by Solicitor Weeks

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1 (Witness points.)

2 Q Put a plus right there.

3 (Witness complies.)

4 Q And the intersection of Court and Dry
5 Branch Road?

6 A Plus sign as well?

7 Q Yes.

8 (Witness complies.)

9 Q Now, at some point in preparation for the trial of
10 this case did we walk from right here indicating---

11 THE COURT: Investigator, can you move back just a
12 little bit?

13 Q ---walk from the crime scene to where those lights
14 were?

15 A Yes, sir.

16 Q And when -- how did we do that?

17 A We parked up in the cul-de-sac. There's a little cut
18 that goes right up in through here. These trees are a
19 little thinner, but we just walked straight across the
20 woods around the back of these houses.

21 Q And came out where?

22 A At the top of Broadway---

23 Q And if you follow---

24 A ---where the light poles are.

25 Q Okay. And if we followed Broadway Street down, where

Norwood Bodie - Direct examination
by Solicitor Weeks

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1 did it come out at?

2 A Broadway comes straight down into at
3 Nondrum Street.

4 Q And if you cross across Nondrum Street, Meat Man
5 lives right here at the end of Nondrum?

6 A Right there on the left, yes, sir.

7 Q Do you know or can you point out on this map, this
8 map where Tevon was living at the time?

9 A I believe it's one of these four houses I think.

10 THE COURT: Speak up.

11 Q All right. How about Joey, did we go by his house?

12 A This is Joey Serrano's house right here.

13 Q Okay. Put a J.S.

14 (Witness complies.)

15 Q All right. You can have a seat back there.

16 (Witness returns to the stand.)

17 Q Norwood, have you ever tried a case with me where we
18 didn't go to the murder scene?

19 A No, sir.

20 Q Have you ever tried a case where we didn't go out and
21 ride all the roads and do our own investigation?

22 A No, sir.

23 Q Now, during the pendency of this thing since we first
24 got the file, can you tell me what's happened about the
25 DNA?

1 A As far as?

2 Q Well, tell me, did -- at some point after these
3 warrants were placed against Mr. Jackson did we attempt to
4 get some DNA?

5 MS. ALVES: Objection, Your Honor. We need a side
6 bar.

7 (WHEREUPON, a bench conference was held out of the
8 hearing of the jury at this time.)

9 Q Norwood, as a result of a call from the DNA analyst
10 that testified yesterday, did we send up something from
11 Tevon Jackson?

12 A Yes, we did.

13 Q And was that for purposes of analyzing it against the
14 cigarette butt?

15 A Yes, it was.

16 Q And that was some time last year?

17 A Yes, sir.

18 Q How many times have we got this case ready for trial
19 and interviewed the witnesses?

20 A Two or three times.

21 Q Did we talk to every single witness that we've put on
22 the stand?

23 A Yes, sir.

24 Q Some of them have changed their testimony as was
25 indicated during the testimony, is that correct?

Norwood Bodie - Direct examination
by Solicitor Weeks

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1 A Yes, sir.

2 Q Every time -- is it true that every time I talk to a
3 witness you were present?

4 A Yes, sir.

5 Q And did I tell them what to say in this trial?

6 A No, sir, only to tell the truth.

7 Q And in our preparation for this trial and the others
8 that you've helped me with the last 11 years, do we always
9 try to talk to the witnesses?

10 A Yes, sir.

11 Q Norwood, just to be specific, and I know that people
12 get confused with maps -- step down here for me one more
13 time.

14 THE COURT: Does that have a number on it?

15 SOLICITOR WEEKS: Yes, sir, I'm putting on the easel
16 State's 47 that's in evidence.

17 Norwood, if you could, I asked you to draw the dirt
18 road that there was some testimony about Mr. Jackson
19 walking down from early on in the evening.

20 Where is that dirt road?

21 MS. ALVES: Objection, Your Honor. It wasn't -- I
22 don't believe that any witness specified exactly where the
23 dirt road is and it would be improper for Mr. Bodie to
24 speculate on what any witness might of thought.

25 MR. WEEKS: I'll rephrase.

Norwood Bodie - Direct examination
by solicitor Weeks

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1 Where did Mr. Serrano write on that other map that
2 Tevon walked down?

3 MS. ALVES: Objection, Your Honor. I think what
4 Mr. Serrano testified to when he wrote on the map speaks
5 for itself. Mr. Bodie has not yet testified to that.

6 THE COURT: overruled.

7 A He indicated that he walked down this street.

8 Q Who did?

9 A Tevon Jackson.

10 Q All right. Put me a green arrow.

11 (Witness complies.)

12 Q And where is Meat Man's house?

13 A Right here.

14 Q Okay. Put him there.

15 (Witness complies.)

16 Q This is a blow-up of the other State's Exhibit I just
17 handed you.

18 A Yes, sir.

19 Q And Ms. Ealy's house and driveway?

20 A Right here. This is her drive.

21 Q And the Broadway.

22 A Right here.

23 Q Thank you. You can have a seat.

24 (Witness returns to the stand.)

25 Q Norwood, there's been some testimony about who tells

Norwood Bodie - Direct examination
by solicitor Weeks

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1 who what to do.

2 After an arrest is made and the file comes to our
3 office, who's directing the show?

4 A You are.

5 Q And did I do that in this case?

6 A Yes, sir.

7 Q Now, you've been here through all the testimony of
8 the witnesses?

9 A Yes, sir.

10 Q Have you examined the phone records that were
11 introduced as State's 36?

12 A Yes, sir.

13 Q Is that the phone records that we've been working
14 with here?

15 A Yes, sir.

16 Q I'm gonna hand you what's marked State's Exhibit
17 No. 54, and ask you if you can identify that.

18 A Yes, sir, these are basically the same thing. I've
19 blown this one up just a little bit to make it a little
20 larger, and I've added in the names of the people who have
21 given us their numbers.

22 Q Is the names next to the numbers that they've
23 testified to in trial here today?

24 A Yes, sir.

25 Q Okay. And is this an exhibit you prepared this week

1 after hearing the testimony?

2 A Yes, sir.

3 Q And you have Tevon Jackson's name listed beside one.
4 What number is that?

5 MS. ALVES: Judge, I object. I'd like to see it
6 before there's testimony from that document.

7 THE COURT: Very well.

8 (Pause.)

9 Q Did you place Tevon Jackson's name by a number?

10 A Yes, I did.

11 Q And where -- why did you put his name by that number?

12 A That number was given to investigators during the
13 course of the investigation as his number.

14 Q And that's what Agent Perry testified to?

15 A Yes, sir.

16 SOLICITOR WEEKS: Your Honor, I'd move to introduce
17 State's No. 54.

18 MS. ALVES: No objection.

19 (WHEREUPON, State's Exhibit No. 54 was received into
20 evidence at this time.)

21 Q Investigator Bodie, as part of our file, did we have
22 all of the property receipts from the Aiken County
23 Sheriff's Department?

24 A Yes, sir.

25 Q Do we have all of the chain of custodies---

Norwood Bodie - Direct examination
by Solicitor Weeks

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1 A Yes, sir.

2 Q ---eventually?

3 A Yes, sir.

4 Q And did we have all the evidence that had gone to
5 SLED?

6 A Yes, sir.

7 Q And all that had come back?

8 A Yes, sir.

9 Q Did we direct them to send any more up there of the
10 item that's been talked about here in Court?

11 A We did direct a few items to go to SLED, yes, sir.

12 Q The buccal swab?

13 A Yes, sir.

14 Q But the CD's and all that other stuff, we didn't ask
15 SLED to analyze any more of that stuff, did we?

16 A No, sir.

17 Q Answer any questions that Ms. Alves has.

18 THE COURT: Ms. Alves.

19 CROSS-EXAMINATION

20 BY MS. ALVES:

21 Q Investigator Bodie, you could have directed that SLED
22 analyze other items?

23 A Yes, other items could have been directed to have
24 been analyzed, yes.

25 Q And, and you testified that, in fact, you did ask

Norwood Bodie - Cross-examination
by Ms. Alves

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1 that they analyze other items after, after they already
2 sent items back?

3 A After going through the case file and the information
4 in the case file, we sent up additional items that we
5 thought would be pertinent to the investigation in this
6 case.

7 Q Okay. And you could have sent more?

8 A We could have sent more, yes, ma'am.

9 Q Okay. And you testified that you talked to the
10 witnesses?

11 A Yes, ma'am.

12 Q And that some of them did -- some of them did change
13 their story?

14 A Yes, ma'am.

15 Q Before I get to the stories of the witnesses, you
16 testified earlier that you walked, you and, you and
17 Mr. Weeks walked in the area from the cul-de-sac to the
18 light pole.

19 Do you remember when that was?

20 A A week or so ago.

21 Q February of this year?

22 A I believe so, yes. It could of been January, late
23 January.

24 Q Some time early this year?

25 A Yes.

Norwood Bodie - Cross-examination
by Ms. Alves

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1 Q Do you know how the area looked in June of 2008?

2 A I've not been down there. So, no.

3 Q You hadn't been through that area down through that,
4 in the cul-de-sac after the, the area, the area where you
5 say the light poles are?

6 A Not in the 2008 time frame. I had been down there
7 numerous times in the past.

8 Q Okay. But not in June of 2008?

9 A No.

10 Q And when you talk about witnesses changing their
11 testimony, in fact, you talked to Joseph Dicks?

12 A I did.

13 Q And you talked to Joseph Dicks about the .32 gun?

14 A Yes, ma'am.

15 Q .32 caliber gun?

16 A Yes, ma'am.

17 Q And didn't he initially tell you that he had bought
18 that gun on the street?

19 A No, ma'am, I don't believe he told us that.

20 Q Do you recall having a conversation with me,
21 Mr. Weeks, and Ms., and Assistant, Assistant solicitor
22 Young on Monday this week?

23 A I do recall talking to y'all this Monday.

24 Q And at that point we discussed the changes in
25 Mr. Dicks' story?

Norwood Bodie - Cross-examination
by Ms. Alves

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1 A Yes, ma'am.

2 Q At that point didn't y'all tell me that -- didn't
3 you, in fact, say that he had originally told you that the
4 gun was stolen?

5 I mean -- I'm sorry. That the gun -- I'm sorry.

6 That the gun was, that he had bought the gun on the
7 street?

8 A He had bought a gun on the street that he was -- that
9 was taken off of him in Jackson.

10 Q Okay. And then he changed history to say that he,
11 that he gave the .32 to a friend who threw it in the
12 woods?

13 A Yes, ma'am.

14 Q But he also changed his story to say, well, he got
15 the .32 and it might have been stolen?

16 He had the .32 and the .32 might have gotten stolen?

17 A Might have gotten stolen, yes, ma'am.

18 Q And then last Monday, February the 14th, he told you
19 that well, he really got that .32 from Tevon?

20 A Yes, ma'am. Actually I think he told us that a few
21 days prior to that conversation with you.

22 Q But it was -- you met with me this Monday, the 21st?

23 A Yes.

24 Q And, so, you think that conversation was -- when he
25 changed his story and told you that Tevon had actually

Norwood Bodie - Cross-examination
by Ms. Alves

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- 1 given him this .32, that was after Monday, the 14th?
2 A No, before.
3 Q Before Monday, the 14th?
4 A Yes.
5 Q Do you remember when?
6 A It could have been the Friday before.
7 Q Could have been Friday?
8 A I talked to him several times.
9 Q Okay. Do you recall telling me this Monday that it
10 was on the 14th that he told you this?
11 A The 14th we didn't have Court. We talked to you I
12 guess on Tuesday, is that correct?
13 Q You testified -- you talked to me Tuesday, right?
14 A Then it would have been---
15 Q Tuesday, the 27th?
16 A Then it would have been Monday, the day before.
17 Q Yes.
18 So, you talked to him when, Monday?
19 A Monday, the day before we talked to you.
20 Q Okay. You don't recall telling me it was on the
21 14th?
22 A That was Monday the 14th I think, wasn't it?
23 Q No, you talked to me on the 22nd.
24 A Okay.
25 Q Is that correct?

Norwood Bodie - Cross-examination
by Ms. Alves

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1 Tuesday, the 22nd.

2 So, you talked to him on Monday, the 14th.

3 A I talked to him on several occasions including Monday
4 ,the 14th or whatever day the 14th was.

5 Q Well, do you remember exactly what day he changed his
6 story to say Tevon gave him that?

7 A It was a Monday or a Friday, and it was the day that
8 we had him and Joey Serrano in the same room.

9 Q And at that time Mr. Dicks was telling you something
10 different from Mr., from what Mr. Serrano had told you?

11 A Mr. Dicks was telling us something different and
12 Mr. Serrano told him to tell us the truth of where he had
13 got the gun.

14 Q Because Mr. Serrano had a different story from
15 Mr. Dicks?

16 A Yes.

17 Q And, so, Mr. Dicks -- let me ask you this. So, you
18 met with two witnesses in the room together in the
19 conference room?

20 A I think it was in Mr. Week's office.

21 Q In Mr. Week's office.

22 You met with those two witnesses in Mr. Week's
23 office?

24 A Yes.

25 Q Who else was present?

Norwood Bodie - Cross-examination
by Ms. Alves

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- 1 A Ms. Young.
- 2 Q Solicitor Young right here?
- 3 A Uh-huh. (Affirmative).
- 4 Q And who else?
- 5 A Greg Savell with the Sheriff's Office.
- 6 Q And this was in Mr. Week's office?
- 7 A Yes.
- 8 Q Mr. Weeks's office is pretty small, isn't it?
- 9 A It is.
- 10 Q Very small?
- 11 A It is.
- 12 Q Most of the room is taken up by a big desk?
- 13 A That's right.
- 14 Q And it's got bookcases and he's only got two chairs,
- 15 two chairs regularly in there besides his?
- 16 A Yes.
- 17 Q And, so, you, Mr. Weeks, Ms. Young, Investigator
- 18 Savell, and Mr. Serrano, and Mr. Dicks were all in that
- 19 small office, is that correct?
- 20 A That is correct.
- 21 Q And at some point prior to the 22nd -- about some
- 22 time in the week prior to the 22nd, is that correct?
- 23 A Yes.
- 24 Q And Mr. Dicks was telling a story different from
- 25 Mr. Serrano, is that correct?

Norwood Bodie - Cross-examination
by Ms. Alves

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1 A Mr. Weeks was telling---

2 Q Mr. Dicks was telling a story different from
3 Mr. Serrano?

4 A Yes.

5 Q And Mr. Serrano leaned over and told them to tell the
6 truth?

7 A He said tell them, tell them where you got the gun.

8 Q And then Mr. Dicks changed his story, is that
9 correct?

10 A Yes.

11 Q And his story then confirmed to what Mr. Serrano
12 said?

13 A I don't think Mr. Serrano had knowledge of the
14 complete interactions with the guns.

15 Q His story changed -- his story changed now that Tevon
16 gave him the gun?

17 A Yes.

18 Q Thank you. No further.

19 THE COURT: Mr. Weeks, follow up?

20 REDIRECT EXAMINATION

21 BY SOLICITOR WEEKS:

22 Q Norwood, have I requested a bigger office?

23 A No, sir, but you need one.

24 THE COURT: Next witness.

25 SOLICITOR WEEKS: Your Honor, the State rests at this

1 point.

2 THE COURT: All right. Mr. Foreman, ladies and
3 gentlemen of the jury, that concludes the testimony that
4 the State is presenting. I need to talk with the lawyers
5 just a few minutes and see where we are. I'm gonna let
6 you go back to your jury room.

7 Mr. Whittle, my wonderful bailiff, has got you a menu
8 from The Bowery. We're gonna order lunch. So, when you
9 get ready to start deliberating our lunch will be here.

10 Would that suit y'all better than going out?

11 It will be a little more efficient. He'll give you
12 menus, we'll order in today, and I'll come back and get
13 you as quickly as I can. It won't be that long.

14 Don't discuss the case. Don't deliberate. Thank
15 you.

16 Everybody else remain seated and quiet.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 THE COURT: Mr. Weeks, anything before we proceed?

20 THE COURT: Ms. Alves?

21 MS. ALVES: Yes, sir.

22 THE COURT: Glad to hear from you.

23 MS. ALVES: Your Honor, taking the evidence in the
24 light most favorable to the State, I don't believe that
25 the State has presented any evidence upon which the jury

1 could find a verdict of guilty against Mr. Jackson for the
2 charges of murder and possession of a firearm during the
3 commission of a, of a violent crime.

4 Your Honor, specifically the only evidence that, of
5 Mr., of Mr. Jackson's commission of this crime appears to
6 be a, a cigarette butt in a location which Mr. Jackson
7 told the police he had been earlier in the evening, and a,
8 and two statements from two witnesses who have admitted to
9 changing their stories and who have, who have evidence of
10 clear bias in favor of the State in regard to this case.

11 Both -- in particular, Mr. Dicks did testify that he
12 was afraid that he was a suspect in this matter, and he
13 and Mr. Serrano have, in fact, corroborated, have, have,
14 in fact, corroborated each other's story, and, in fact,
15 the State has -- and as the testimony most recently shows
16 Mr. Serrano, Mr. Serrano has, in fact, even assisted the
17 State in helping to corroborate, helping to get Mr. Dicks'
18 story to corroborate his. I'm not saying that the
19 solicitor was involved in that in any way whatsoever.
20 They just happen to deal with the case they're dealt. I
21 don't think that the State has presented any credible
22 witnesses whatsoever that would support a verdict of
23 guilty against Mr. Jackson.

24 THE COURT: Thank you, ma'am.

25 Well, the credibility of the witnesses is a function

1 for the jury and the weight of the evidence is a function
2 for the jury. There is evidence in the case, that if a
3 jury believes, it would certainly lead to the conviction
4 of your client. Therefore, I respectfully deny your
5 motion.

6 Anything else?

7 MS. ALVES: No, Your Honor.

8 THE COURT: All right. Please tell me who you intend
9 to call, if anybody, in your defense.

10 MS. ALVES: One second.

11 (Pause.)

12 MS. ALVES: Your Honor, the defendant.

13 THE COURT: Ma'am?

14 MS. ALVES: The defendant.

15 THE COURT: All right. Mr. Jackson, would you stand
16 please and raise your right hand.

17 (WHEREUPON, the defendant was placed under oath at
18 this time.)

19 THE COURT: Mr. Jackson, we've reached the stage of
20 the trial now where obviously you can present your own
21 defense. During that, obviously, you have a right to call
22 witnesses to testify on your behalf. You have a right to
23 present any relevant exhibits. You also have the right to
24 testify your own self. You can actually testify. You
25 have the right to testify.

1 However, you also can claim the protections given to
2 you by the Fifth Amendment to the Constitution of the
3 United States which says that no person shall be
4 compelled, in any criminal case, to be a witness against
5 himself. So, what that means is you can claim your
6 privilege not to testify. If you do that -- if you don't
7 testify, then I will tell the jury, when I instruct them,
8 that they cannot hold the fact that you did not testify
9 against you in any manner whatsoever, and, in fact, I will
10 instruct them that they can't even consider the fact,
11 discuss the fact, let it enter into their deliberations
12 the fact that you didn't testify. No prejudice can be
13 given to you because you did not testify.

14 Do you understand that?

15 I will strongly charge them that. However, if you do
16 testify, then obviously you'll be subjected to the same
17 rules that govern every other witness. You'll be
18 subjected to cross-examination by the State.

19 Does he have a record, Mr. Weeks, for impeachment
20 purposes?

21 MS. ALVES: He has a juvenile record for simple
22 possession of marijuana.

23 SOLICITOR WEEKS: He was 17 or 18. I do not believe
24 he has one.

25 THE COURT: Well, that would not be impeachable.

1 MS. ALVES: He was 17 when that happened.

2 THE COURT: So, you'll be subjected to
3 cross-examination by the State, and obviously you'll have
4 to answer their questions. So, the decision as to whether
5 or not you want to testify must be your decision and your
6 decision only. Obviously you have the right to talk to
7 your lawyers and anybody else you want to talk to, family
8 or whatever. But in the end result, you have to make that
9 decision.

10 Do you understand everything I've told you?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Any questions you want to ask me about
13 your right to remain silent?

14 THE DEFENDANT: No, sir.

15 THE COURT: All right, sir. You need to tell me
16 whether or not you're going to testify.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Thank you. You may be
19 seated.

20 Ms. Alves, will you have any additional witnesses
21 other than the defendant?

22 MS. ALVES: No, sir.

23 THE COURT: Have you explained to your client that if
24 he testifies that he will lose the right and---

25 MS. ALVES: I've already lost it, judge.

1 THE COURT: That's right. You introduced evidence.

2 MS. ALVES: Can I have a few minutes?

3 THE COURT: All right. I'll take about five more
4 minutes.

5 MS. ALVES: Thank you.

6 THE COURT: Five minutes.

7 MS. ALVES: Yes, sir. Thank you.

8 THE COURT: We'll stand at ease for five minutes.

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

10 THE COURT: Mr. Weeks, are you ready to proceed?

11 SOLICITOR WEEKS: The State's ready, Your Honor.

12 THE COURT: Ms. Alves?

13 MS. ALVES: Yes, sir.

14 (WHEREUPON, the following takes place within the
15 presence of the jury.)

16 THE COURT: Ms. Alves, you may call your first
17 witness.

18 MS. ALVES: Mr. Jackson.

19 THE COURT: Come around, Mr. Jackson

20 TEVON JACKSON, after being duly
21 sworn, testified as follows:

22 THE CLERK: Have a seat in the witness box stating
23 your full name spelling your last for the Court please.

24 THE WITNESS: Tevon Michael Jackson. J-A-C-K-S-O-N.

25 DIRECT EXAMINATION

Tevon Jackson - Direct examination
by Ms. Alves

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1 BY MS. ALVES:

2 Q Now, Tevon, you're the, you're the Tevon Jackson
3 we've been hearing about during this trial?

4 A Yes, ma'am.

5 Q And you are the defendant on trial?

6 A Yes, ma'am.

7 THE COURT: Speak up.

8 Q You need to speak loud, okay?

9 Speak loud so everybody can hear you.

10 Tevon, how old are you?

11 A Twenty.

12 Q And when is your birthday?

13 A

14 Q And do you remember the day you were arrested for
15 this crime?

16 A Yes, ma'am.

17 Q How old were you that day?

18 A Seventeen.

19 Q And at that time who were you living with?

20 A My mother and my two little brothers.

21 Q What's your mother's name?

22 A Sandra Smith.

23 Q And where did you live with your mom?

24 A On Road,

25 Q Excuse me?

Tevon Jackson - Direct examination
by Ms. Alves

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1 A Road.

2 Q Okay. I need you to speak loud and clear, okay?

3 And you said you lived with your mom and your two
4 little brothers at Road?

5 A Yes, ma'am.

6 Q What is your little brother's name?

7 A Well, my oldest little brother, he 11. We call him
8 but his name My, my youngest
9 brother, he nine. His name

10 Q And what's your dad's name?

11 A Michael Jackson.

12 Q And where is Mr. Jackson?

13 A He's in the military stationed in California in the
14 Marines.

15 Q In the Marines?

16 A Yes, ma'am.

17 Q Your parents are divorced?

18 A They were never married.

19 Q Never married.

20 And you lived with your mom all your life?

21 A Yes, ma'am. Well, I stay with my grandma while I was
22 young, but --.

23 Q Lived with your mom right before you got arrested for
24 this charge?

25 A Yes, ma'am.

Tevon Jackson - Direct examination
by Ms. Alves

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- 1 Q And were you in school before you got arrested for
2 this charge?
- 3 A It was summertime, but yes, ma'am.
- 4 Q Yeah, I'm sorry.
5 Right before that, were you in school?
- 6 A Yes, ma'am.
- 7 Q And where did you go to school?
- 8 A South Aiken.
- 9 Q And what grade were you in?
- 10 A Eleventh.
- 11 Q And did you know Marcus Finklin?
- 12 A Yes, ma'am.
- 13 Q How did you know Marcus?
- 14 A We grew up together.
- 15 Q What was your relationship with him?
- 16 A Well, the older and older we got, the more and more
17 closer we got. We were real close friends.
- 18 Q And you've been in the courtroom for all of the
19 testimony?
- 20 A Yes, ma'am.
- 21 Q And there was testimony yesterday from Jamar Green.
22 Do you remember him?
- 23 A Yes, ma'am.
- 24 Q Do you know him?
- 25 A Very well.

1 Q How do you know Jamar?

2 A I grew up with him all my life, too, right there on
3 Kalmia Street.

4 Q Excuse me?

5 A He stayed next to my cousin, stayed next to my aunt,
6 Auntie Carrie, on Kalmia street. That's where I knew him
7 from. We grew up together.

8 Q Okay. And Jamar testified that you drive for Marcus?

9 A Yes, ma'am.

10 Q Did you drive for Marcus?

11 A On occasion.

12 Q So, why would -- why -- so, whose car would you
13 drive?

14 A His car. He, he might ride with me some time, but
15 most of the time it would be his car.

16 Q And why would you drive for him?

17 A He ain't had a license.

18 Q Do you have a license?

19 A Yes, ma'am.

20 Q So, would he ask you to drive -- ask, ask you to have
21 him drive every time he wanted to go somewhere.

22 A Not every time. We was just riding around in New
23 Ellenton. You know, if we go to Aiken or Augusta or
24 somewhere, I drive.

25 Q Okay. He would ride around New Ellenton you said?

Tevon Jackson - Direct examination
by Ms. Alves

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- 1 A Yes, ma'am.
- 2 Q But if you were going out, out, further out, you
3 would drive?
- 4 A Yes, ma'am.
- 5 Q And do you know Joseph Dicks?
- 6 A Yes, ma'am.
- 7 Q Do you also call him Meat Man?
- 8 A Yes, ma'am.
- 9 Q How do you know Joseph Dicks?
- 10 A That's my first cousin, my mother's nephew.
- 11 Q Your mother's nephew.
- 12 And how do you -- do you know Jose Serrano?
- 13 A Yes, ma'am.
- 14 Q How do you know Jose Serrano?
- 15 A Him and my, him and my cousin real close.
- 16 Q Who?
- 17 A Oh, him and, him and Joseph Dicks, they're real
18 close.
- 19 Q And how long have you known Jose Serrano?
- 20 A Some months.
- 21 Q A few months?
- 22 A Yeah, I knew, I knew of him, but I ain't never really
23 got to know him. A couple of months.
- 24 Q Okay. So, you met him a few months?
- 25 A Yeah, a few months.

1 Q That's how you got to know him?

2 A Playing a game. He used to be around my cousin a
3 lot.

4 Q Playing the games?

5 A Yeah, he used to be around my cousin a lot, you know.

6 Q Okay. And what games were you playing?

7 A Most time, Madden, NBA Live. That's the only two.

8 Q Was that on X-Box or---

9 A No, we played the Play Station II.

10 Q And how long did you know Joseph?

11 A All, all my life.

12 Q All your life.

13 Okay. And, so, you said you would, would you -- how
14 often would you hang out with Joseph?

15 How often would you get together with him?

16 A When I go down to -- like where he stay at, there's a
17 lot of other people that stay in the area, and most of the
18 time I tell my mother I'm going down to the Meat Man
19 house. Truthfully I just say Meat Man house because I
20 don't want to tell her I'm gonna go out and hang in the
21 street. You know, so, I would go and tell her I'm going
22 down to Meat Man house. I would stop by there, say what's
23 up with his mother, Deon. Might play the game for a
24 little bit. Most of the time I'm, I'm at my cousin Casey
25 house. I stay up the road. Might be getting a haircut

Tevon Jackson - Direct examination
by Ms. Alves

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1 or, or go around the corner you know.

2 Q Okay. So, you would tell your mom you're going to
3 Meat Man's house, you would go hang with Meat Man for a
4 little bit, and then go hang with other people that you
5 wanted to---

6 A Yeah.

7 Q ---preferred to hang with?

8 So, did your cousin Casey who lived around the
9 corner?

10 A Yeah.

11 Q And anybody else?

12 A As far, far as staying with my cousin Casey or what
13 you mean?

14 Q No, anybody else that you hang in that area.

15 A Oh, I, I might hang with Chris Parker. He stayed on
16 the, on the dirt road.

17 Q What dirt road?

18 A I don't, I don't even know the name of it. It's
19 right there. It's right there though. Okay. At the end
20 of -- right there at the end of Nondrum Street it's right
21 there on the right where Parks stay at.

22 Q At the end of Nondrum Street coming up from Dry
23 Branch?

24 A Yeah, coming up from is right there. I
25 think it's Familiar Avenue or something. I can't remember

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by Ms. Alves

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1 the name of it. It's somewhere---

2 Q So, you're talking about -- is that the dirt road
3 that you're going past Joseph Dicks house?

4 That's the dirt road at the end of the street?

5 A Yes, ma'am.

6 Q You had a friend who lived on that road?

7 A Yes, ma'am.

8 Q And you would hang out with him sometimes?

9 A Yes, ma'am.

10 Q And did your mother have a problem with your friends?

11 A Yes, ma'am.

12 Q What was your mother's, what was your mother's
13 problem with your friends?

14 A You know, bad environment. You know, she didn't feel
15 like they was, you know, the best people to hang around,
16 you know. A lot of them got in trouble or was out there
17 in the streets, you know, doing drugs, selling drugs, you
18 know.

19 Q But, but you would -- but you wanted to hang out with
20 those kind of people?

21 A Yes, ma'am.

22 Q And you're telling us today that you did, on
23 occasions, mislead your mother about where you were going
24 or who you were hanging out with?

25 A Yeah, a lot of times I have to because if not she

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1 wouldn't, she wouldn't let me go.

2 Q She wanted better for you than you were doing, than
3 you were doing at that time?

4 A Yes, ma'am.

5 Q And what were her feelings about Joseph Dicks and
6 Joey Serrano?

7 A She didn't agree with them.

8 Q And what were your mother's rules about people being
9 in her home?

10 A She didn't really have a problem, had a problem with
11 people coming over, but them -- she, she didn't like --
12 you know, she ain't put up with my cousin Meat Man anyway.
13 He -- his reputation preceded himself, you know, where he
14 always get in trouble and stuff. You know, he always --
15 me and Meat Man grow up together. We ain't grow up
16 together cause he was never around. He was always in
17 trouble or doing this or doing that, you know.

18 Q And, so, your mother didn't want you to hang out with
19 those two boys?

20 A No, ma'am.

21 Q And on June the 3rd you were hanging out with those
22 two boys?

23 A Yes, ma'am.

24 Q Speak up loud, okay?

25 A Yes, ma'am.

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- 1 Q And do you remember when you met up with those two?
- 2 A Yeah. Well, they came to my house. I ain't meet up
- 3 with them. They came to my house---
- 4 Q All right.
- 5 A ---to play the game a little bit until I, until I get
- 6 ready to put my clothes on and stuff.
- 7 Q Do you remember what time it was?
- 8 A Sometime that day. I can't really remember.
- 9 Q Okay. Well, at some point during the day you were
- 10 hanging out with those two?
- 11 A Yes, ma'am.
- 12 Q Anybody else there?
- 13 A No, ma'am.
- 14 Q Okay. And you said you were playing the game?
- 15 A Yes, ma'am.
- 16 Q Play Station?
- 17 A Yes, ma'am.
- 18 Q And what happened?
- 19 A I think, while I was in the shower, I think my mama
- 20 came home and I heard the car. So, I hopped out the
- 21 shower and peeked out the bathroom window and I seen her.
- 22 I knew it was gonna be some trouble then, but, you know, I
- 23 tried to tell them, you know, just slide out the back door
- 24 till I, till I get ready, you know what I'm saying. But
- 25 they, they didn't move fast enough. She was already at,

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1 at the front porch when I heard her anyway.

2 Q She was pretty mad?

3 A Yes, ma'am.

4 Q Then what happened after that?

5 A (No response.)

6 Q Well, what did you do after your mom came home?

7 A Oh, got dressed. She hollered at me. You know, she,
8 she was, she was teaching summer school then.

9 Q Your mother's a school teacher?

10 A Yes, ma'am.

11 Q And, so, after you got dressed, did you stay home or
12 did you go out?

13 A No, no, I left.

14 Q And where did you go?

15 A I think I stopped by Joey and them's house that day.

16 Q And do you remember what time you got there?

17 A No, I'm not sure. Hold up. I went down to Meat Man
18 house first, but he wasn't there. I figured he was still
19 with Joey. So, I came back to Joey house to see was he
20 there.

21 Q And where were they?

22 A At Jose Serrano's.

23 Q And do you remember what time you got to Jose
24 Serrano's house?

25 A It was sometime that day. 1:00, maybe, I don't know.

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1 Q Okay. And what did you do at Jose Serrano's house?

2 A We ain't stayed there long. I think I was just
3 sitting in the room, just sitting, sitting in the, in the,
4 the little den area they had, and I think it, I think his
5 bothers was there at the time and they in there watching
6 cartoons. I was just sitting there on that couch. That's
7 all.

8 Q And how long did you stay there?

9 A We, we didn't stay there long. I think Joey might
10 have been charging up his phone or something. He was
11 doing something. We ain't stay that long.

12 Q From there where did you go?

13 A Went down to Meat Man's house.

14 Q And how long did you stay at Meat Man's house?

15 A I was, I was in that area the whole time. At Meat,
16 at Man house himself for a good little minute. For
17 probably about a couple of hours.

18 Q Okay. I want to be clear now.

19 In, at, at -- when you're at Meat Man's house and
20 then you walk up to the dirt road, isn't that an area
21 where a lot of people hang out?

22 A Where, where, where are you at?

23 Q Is that, is that an area where you know a lot of
24 people?

25 A Oh, yes, ma'am.

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by Ms. Alves

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1 Q A lot of people you know hang out there?

2 A In the area.

3 Q Just in the area?

4 A Yes, ma'am.

5 Q Okay. So, when you say you're at Meat Man's house,
6 are you actually inside Meat Man's house or are you---

7 A I ain't never actually in the house.

8 Q You're in the yard in the area?

9 A Yeah, in the yard, in the area, on that street.

10 Q Okay. And you said -- and who else was there with
11 you?

12 A At, at, at my cousin's house?

13 Q At Meat Man's house.

14 A Me, Meat Man, Joey, I think Deon might have been
15 there.

16 Q Who?

17 A His mother.

18 Q His mother.

19 A Deon.

20 Q Okay. And you said -- how long, how long did you
21 stay there?

22 A I stayed in a area for a couple of hours. I mean --
23 well, really I was in the area all day. I stayed in his
24 yard probably like an hour or so. We was out there on the
25 porch.

1 Q And then where were you other than in his yard?

2 A Up and down the street. It -- usually right in front
3 of his house there's some older folks that stay right
4 there in front of his house. There usually be people who
5 stay right out there on the picnic table. I probably
6 sitting out there for a little bit.

7 Q Okay. But you were in that area?

8 A Yes.

9 Q Do you remember what time you left that area?

10 A I didn't leave that area until like -- I think it
11 might have been later on that night.

12 Q When you left that area, where did you go?

13 A I walked down the road towards my house.

14 Q Towards your house?

15 A Towards my house.

16 Q Do you remember seeing Tracy Serrano at Meat Man's
17 house that day?

18 A Yeah, she was there that night.

19 Q Do you remember walking with her?

20 A Sometime that night, yeah. She, we -- me and Meat
21 Man and Joey, she wanted us to walk her home, which I mean
22 I don't know why. I know her and Deon had been drinking
23 earlier that day, and I don't know why she wanted us to
24 walk behind us. But she was walking ahead of us, but we,
25 we followed her to the house.

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1 Q Okay. Now, you've heard testimony that you made a
2 statement saying that you were going to rob Marcus.

3 You heard that testimony?

4 A Yes, ma'am.

5 Q When did you say that?

6 A I never said that.

7 Q Do you remember what you were talking about?

8 Do you remember, do you remember what you might have
9 been talking about that day?

10 A During the walk?

11 Q Yes.

12 A Pretty sure nothing cause I remember a lot of people
13 was on the phone.

14 Q Okay.

15 A It wasn't too much being said cause a lot of people
16 was on the, on the phone.

17 Q Okay. Were you on the phone?

18 A I can't really remember. I remember, I remember, I
19 remember Tracy being on the phone ahead of us and I
20 remember Joey being on the phone. I don't, I don't know
21 if -- me and Meat Man might have been talking. I'm not
22 for sure, but a lot of people was on the phone.

23 Q Okay. And you remember walking Tracy to her house?

24 A Uh-huh. (Affirmative).

25 Q And do you remember what happened after she, you got

Tevon Jackson - Direct examination
by Ms. Alves

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1 to Tracy's house?

2 A She screamed about some, some money and a pack of
3 cigarettes or some money was left and a pack of cigarettes
4 or something.

5 Q And then what did you do?

6 A She asked Joey and them to go look for it. So, we
7 went back, walked the way we went. I think, I think they
8 found it in the yard. I know they found it.

9 Q Found what?

10 A The cigarettes and the money.

11 Q They did find it?

12 A Yeah, it was retrieved. I can't remember where at,
13 though.

14 Q But -- Okay. But you did walk back to Joseph Dicks'
15 house with Mr. Serrano and Mr. Dicks?

16 A Yes, ma'am.

17 Q And what happened after you got back to the house?

18 A I know I -- we didn't stay too long because a little
19 bit after that I got, I got, I got with Mark. I know I
20 talked to him that night before he came and got me. I
21 talked to him. I happened just to be calling him just to
22 say, just to say what's up, to see what he was doing that
23 night cause I ain't had nothing to do. But it just so
24 happened he wanted me to go with him to Georgia.

25 So, I told him to come pick me at my house. But I

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1 ain't never made it to my house cause he -- I heard his
2 car. I heard, I heard, I heard his music. So, I stopped.
3 I stopped where I was at. I ain't even walk no more cause
4 I knew it was him coming.

5 Q Let me ask you this.

6 How did you know it was him?

7 A The music.

8 Q Okay. He played his, he played his music loud?

9 A Yeah.

10 Q Yes.

11 A Yes, ma'am.

12 Q Now, before we get to that, you said you talked to
13 Mark.

14 Do you remember around what time you talked to him?

15 A I'm not -- I'm not for sure. It might have been -- I
16 know it was, it was, it was late, late night, early
17 morning.

18 Q Was it before or after the three of you walked Tracy
19 home?

20 A That was after.

21 Q After.

22 Do you know where Mark was at that time?

23 A Where he was coming from?

24 Q Yes.

25 A No, ma'am.

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by Ms. Alves

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1 Q Had you seen his car that day when you were walking
2 Tracy home?

3 A I don't remember seeing his car.

4 Q Okay.

5 A Cause I would, I would of stopped him then if I would
6 of seen him. I would of got in the car with him then.

7 Q Okay. Now, did you have a cell phone back then?

8 A I had, I had a cell phone.

9 Q Do you remember the number?

10 A I knew it was a 508 number. I'm not for sure. I
11 knew it was an Alltel number. Everybody had them Alltel
12 phones at that time, them little cheap little \$20 phones.

13 Q Okay. Yesterday there was testimony from
14 Investigator Perry that you told him your number was
15 508-5038.

16 Do you remember that testimony?

17 A Yes, ma'am.

18 Q Do you remember talking to Investigator Perry?

19 A I remember talking to him.

20 Q That would be one of the first investigators you
21 talked to when you gave your statement.

22 A I don't remember the investigator's name, but I
23 remember talking to him.

24 Q You remember talking to the investigators?

25 A Yeah, I remember talking to him.

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by Ms. Alves

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1 Q And, at that time, when they asked you your address
2 and phone number you gave them the information that you
3 had?

4 A Yes, ma'am.

5 Q So, would you -- so, you agree that that was your
6 number?

7 A If I gave it to them, yes, ma'am, that's my number.

8 Q Okay. Now, do you -- did you use that phone to talk
9 to Marcus?

10 A No, that phone was dead. I can't remember what phone
11 I used that night to talk to him before he picked me up.

12 Q How did you charge your phone?

13 A Oh, the phone charger at Meat Man's house. I plugged
14 the phone up at Meat Man house and charge it.

15 Q Were you using any other phones at that time?

16 A Yeah, I used a lot of other phones that day. I can't
17 remember cause my phone, my phone was -- it was not free
18 during the daytime. So, I didn't use it during the
19 daytime. So, I tried to use, you know, a house phone or
20 something like that. I ain't, I ain't really talk except
21 for at night time.

22 Q Okay. But at night when you talked to Marcus, you
23 and he arranged to meet at your house?

24 A That was the original agreement.

25 Q So, you might have talked to him at some point

1 earlier on another phone?

2 A Yes, ma'am.

3 Q But when you talked to him you specifically -- at
4 some point when you talked to him on some phone you did
5 agree to meet with him at your house?

6 A Yes, ma'am.

7 Q And what did you -- so -- and this was around the
8 time that you were at -- you said around the time that you
9 were at Joseph Dicks' house?

10 A Yeah, I talked to him the first time?

11 Q That you talked to him -- yes, that you talked to him
12 at all.

13 A Yeah, it was in the, it was in the area. I don't
14 know if I was at his house for sure. I could have been, I
15 could have been in that area using somebody else's phone.
16 I'm not for sure.

17 Q Okay. But you agree that you told him that you would
18 meet him at your house?

19 A Yes, ma'am.

20 Q And what did you do after arranging to meet Marcus at
21 your house?

22 A I started walking towards my house on but
23 I can't remember where he picked me up at, but I, I ain't
24 make it too far before he picked me up.

25 Q Okay. Now, how did -- and, so, you were in the area

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by Ms. Alves

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1 at Meat Man's house?

2 A Yes, ma'am.

3 Q And how did you -- you said you started walking down

4

5 A Yes, ma'am.

6 Q And how did you get to

7 A I cut through. I cut through right in front of Meat

8 Man house, right in front of Meat Man house. I says -- I

9 can't remember who exactly, but right through his yard,

10 you got Casey, you got Casey's house like right in front

11 of him.

12 Q In front of Meat Man's house?

13 A Yeah, it's not, it's not right in front, but it's

14 right in front of me cause---

15 Q okay. So, you cut through somebody's yard to get

16 from Nondrum Street to?

17 A To

18 Q

19 A Yes, ma'am.

20 Q At what point did you walk down the dirt road leaving

21 from Joseph Dicks' house?

22 A I ain't never walked down that dirt road. I had, I

23 had on some, on some fresh J's. I don't like to walk down

24 no dirt road.

25 Q Fresh J's?

1 A Oh, I had on a fresh pair of sneakers. I wasn't
2 about to walk on that dirt road.

3 Q You had on new sneakers and you didn't want to walk
4 on a dusty dirt road?

5 Is that what you're saying?

6 A Yes, ma'am.

7 Q And you said you started to walk towards your house,
8 is that right?

9 A Yes, ma'am.

10 Q And then what happened?

11 A I heard them coming down the road. Plus I seen the,
12 I seen the lights and it looked, it looked like his car.
13 So, I just stopped and it was him. He stopped and picked
14 me up.

15 Q And what happened after he picked you up?

16 A We -- he say he was going -- he say we was going to
17 go pay Bo some money. I don't know, you know. I can't
18 remember what time he said, but I know he gave him a time.
19 He say he wanted to go, he say he wanted to go to Georgia.
20 We wanted me to drive for him.

21 So, I told him that was cool and I made sure I had my
22 license on me. I had my license on me. So, we pulled in.
23 He said he had to make a, make a sale. So, we pulled in
24 on Court and turned around. That's usually
25 where we chilled at, where me and him chilled at.

Tevon Jackson - Direct examination
by Ms. Alves

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1 Q That's where the two of you hung out?

2 A Yeah, that's where we chilled at.

3 Q On Court?

4 A Yes, ma'am.

5 Q Where is that at on Court?

6 A All the way in the end. Nobody stay back there. It
7 was a dead-end.

8 Q You mean on the cul-de-sac?

9 A Yeah, the cul-de-sac.

10 Q Okay. And how long were you back there?

11 A As soon as he put the car in park, he put it, he put
12 it back, he put it back in drive and, and took off again.
13 We didn't stay. The first time we went we didn't stay
14 that long. We stopped and then he went back out on the
15 road. He said -- he was talking on the phone with
16 somebody. The whole time I was in the car he was on the
17 phone.

18 Q You know with who?

19 A I thought, I thought it was a female. I thought he
20 was talking -- I heard him. I seen him cheasing. I seen
21 him smiling real hard and talking. So, I figured he was,
22 he was talking with one of his females.

23 Q Okay. And you said you went -- he told you -- what
24 did he tell you?

25 why did you go up to Court?

Tevon Jackson - Direct examination
by Ms. Alves

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1 A That's, that's usually where he -- that's where we
2 hang at, you know, if we want to go back there. He
3 usually make sales back there. That's what he, you know,
4 use it for.

5 Q After he left Court, what happened?
6 What did you do?

7 A When he left Court, he pulled out and he
8 said he was going -- I think he said he was going to meet
9 somebody at my house. I ain't for sure. But I told him I
10 said no, don't do that. You know, I ain't know, I ain't
11 know if my mother was home or not. I told him, I told him
12 don't do that. But we ain't never make it. As soon as we
13 turned out of Court, he met up with, with
14 Stephanie, Stephanie, Stephanie first.

15 Q So, you met up with Stephanie?

16 A Yeah, right there on Court.

17 Q Right there?

18 A As soon as you turn off Court right there
19 on Court.

20 Q And what happened with Stephanie?

21 A She came, she came and got what she wanted.

22 Q He made a drug sale to Stephanie?

23 A Yes, ma'am.

24 Q Okay. And you heard Stephanie's testimony yesterday
25 about how you were ducking and trying to hide from her?

Tevon Jackson - Direct examination.
by Ms. Alves

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- 1 A Yes, ma'am.
- 2 Q All right. Do you know Stephanie?
- 3 A Very well.
- 4 Q How long have you known her?
- 5 Do you know?
- 6 A As I can remember, we---
- 7 Q You've known her for a while?
- 8 A Yeah.
- 9 Q Does she know who you are?
- 10 A Yes, ma'am.
- 11 Q And why were you ducking and trying to hide from
- 12 Stephanie?
- 13 A I had no reason to duck and hide from Stephanie. I
- 14 was inside the car already and I don't speak to Stephanie,
- 15 and she don't speak to me. She don't speak to my family,
- 16 you know. So, I had no reason to even talk to her.
- 17 Q All right. After the sale with Stephanie, what did
- 18 you do?
- 19 A He went down to his house and he made another sale.
- 20 Q To who?
- 21 A To Jabari.
- 22 Q And how long did y'all stay at his house?
- 23 A Not long. He made the sale. I think he might have
- 24 hollered out the window to Jamar or somebody like that
- 25 that was in the yard and we took back off. We ain't never

Tevon Jackson - Direct examination
by Ms. Alves

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1 got out of the car.

2 Q And where did you go?

3 A We went, went back to Court and he pulls
4 up again in the cul-de-sac, but we ain't stayed long then
5 either. He said he had to make another run. So, we shot
6 out again, and---

7 Q Why did you go back to Court?

8 A He was suppose to meet somebody on that road. I
9 don't know what happened or who he, who he was supposed to
10 meet, but he ain't never get to meet that person on, on
11 that road. But I don't know if he -- I think he say he
12 going -- he say he was going to do something. I don't
13 know. He's a grown man. I don't get in his business.
14 So, I'm not for sure what he was going to do.

15 Q Okay. Do you know what time this was, around what
16 time this was?

17 A Early morning. You know, maybe 12:00, 1:00,
18 something. I'm not sure.

19 Q Something like that?

20 A Yeah.

21 Q You own a watch?

22 A I don't wear watches.

23 Q Excuse me?

24 A You said watches?

25 Q Do you own a watch?

Tevon Jackson - Direct examination
by Ms. Alves

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- 1 A No, I don't wear a watch.
- 2 Q Okay. You don't know exactly what time it was?
- 3 A No, ma'am.
- 4 Q Just sometime in the early morning?
- 5 A I know it was sometime in the early morning.
- 6 Q All right. And after you left Court the
7 second time, where did you go?
- 8 A He dropped me off at my house.
- 9 Q And did -- what arrangements did you have with Marcus
10 about going to Georgia at that point?
- 11 A He said he had to go make a run. So, I don't see why
12 he dropped me off, you know. He always, you know -- so, I
13 figured he was going to see a female or something maybe.
14 You know, I don't know. But he say he was going to come
15 back and pick me up so we could head to Georgia. I
16 figured he wasn't leaving out the area because he needed
17 me to drive for him.
- 18 Q Okay. But he told you he had to make a run?
- 19 A Yes, ma'am.
- 20 Q And then what did you -- what happened after he
21 dropped you off?
- 22 Did you go in the house?
- 23 A No, I was hoping my mother was there, but she wasn't
24 there. So, I went and looked to see if I had left the key
25 up under there and I ain't left the key up under there.

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by Ms. Alves

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1 So, I figured I left the key in the house. So, I waited
2 outside my house for a minute trying to see if she would
3 pull up or something before I left. I ain't wanted to
4 walk all the way down there and have to walk all the way
5 back, but I stayed there for a little minute, and she
6 ain't never come back. She ain't never come to the house.

7 So, I just -- I walked down to Meat Man's house and
8 that's when I called, that's when I called Mark and told
9 him to pick me up from Meat Man house when he come back.
10 I wasn't gonna be at my house no more.

11 Q And did you talk to him?

12 A I'm pretty sure I talked to him telling him to pick
13 me up at Meat Man's house.

14 Q And then did he ever come get you?

15 A No, he ain't never come get me. I tried to call him
16 a couple of times after that night, you know, to see where
17 he was at. When I talked to him, he told me he was going
18 to be right back. So, I went down to Meat Man's house. I
19 ain't want to stay there, you know. So, I called them. I
20 was trying to go to Georgia. I like to drive. So, I was
21 trying to drive. So, I kept calling and he ain't never
22 picked up. So, I wound up, I wound up staying there that
23 night waiting on him, but he ain't never come. So, I
24 wound up staying there that night.

25 Q So, you stayed at Meat Man's house?

Tevon Jackson - Direct examination
by Ms. Alves

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- 1 A Yes, ma'am.
- 2 Q Did you walk from the cul-de-sac, the cul-de-sac on
- 3 Court to Meat Man's house?
- 4 A No, ma'am.
- 5 Q You walked from, from there?
- 6 A I walked, I walked from my house.
- 7 Q And how did you walk from your house?
- 8 You said you lived -- you told us you live at Dry
- 9 Branch Road.
- 10 How did you walk from your house to Meat Man's house,
- 11 down what streets?
- 12 A Straight down Street. Straight down Dry
- 13 Branch Road.
- 14 Q Down
- 15 A Yeah, I always walk the main -- most of the time I
- 16 always walk the main road.
- 17 Q The main roads?
- 18 A (Witness nods affirmatively.)
- 19 Q Yes?
- 20 A Yes, ma'am.
- 21 Q Now, at what point were you walking through the
- 22 wooded area between Court cul-de-sac and the
- 23 areas with the light pole that were testified to by
- 24 Investigator Bodie?
- 25 When were you there?

Tevon Jackson - Direct examination
by Ms. Alves

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- 1 A walking through the woods between Court?
- 2 Q And the, and the, and the -- when, when were you
- 3 walking in that wooded area that, that night?
- 4 A I ain't walk in no woods that night. I wouldn't even
- 5 walk on the dirt road. I know I wasn't about to walk in
- 6 no woods.
- 7 Q And when was the last time you saw Marcus?
- 8 A After he dropped me off. He, he turned right out my
- 9 yard and he shot down like he was heading back to the main
- 10 road.
- 11 Q He turned out of your yard?
- 12 A Yeah, and went like he was going back to the main
- 13 road.
- 14 Q Went back to---
- 15 A Towards, towards like Meat Man house.
- 16 Q He went towards Meat Man's house on Road?
- 17 A Yes, ma'am.
- 18 Q Now, Tevon, you've been charged with killing Marcus
- 19 and having a gun---
- 20 A Yes, ma'am.
- 21 Q ---during the commission of that crime, is that
- 22 right?
- 23 A Yes, ma'am.
- 24 Q When did you do that?
- 25 A Never. Never would.

Tevon Jackson - Direct examination
by Ms. Alves

619

- 1 Q You did not kill Marcus?
- 2 A No, ma'am, I did not kill Marcus.
- 3 Q Now, you talked -- you testified that you talked to
- 4 the police in this case?
- 5 A Yeah, I talked to my family about it and they felt
- 6 like it was best for me to go ahead and talk to the
- 7 police, you know, might try and help them out or something
- 8 you know.
- 9 Q You were trying to help the police out?
- 10 A Trying to, but I guess, I guess I made a mistake I
- 11 guess. I was trying to. I mean --.
- 12 Q So, you went in on -- do you remember, do you
- 13 remember going on June the 5th to talk to the police?
- 14 A Yes, ma'am.
- 15 Q And you told them -- did -- what did you tell them?
- 16 A I, I just told them a summary of what we did that
- 17 night or early that morning. It didn't last too long,
- 18 but, you know, I told them what he wanted me to do for
- 19 him.
- 20 Q Okay. And were you under arrest?
- 21 A No, ma'am.
- 22 Q Did they tell you that they had, that you had to talk
- 23 to them?
- 24 A No, ma'am.
- 25 Q You just chose to talk to them?

Tevon Jackson - Direct examination
by Ms. Alves

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- 1 A I went up there to the Sheriff's Department myself.
- 2 Q And when you talked to the police, did you tell them
- 3 the truth or a lie?
- 4 A I told them the truth.
- 5 Q And your testimony here, is that consistent with what
- 6 you told the police?
- 7 A It should be. I ain't changed nothing. It should be
- 8 the same. I ain't---
- 9 Q Is today the truth or a lie?
- 10 A The truth.
- 11 Q And you told the police about being with Marcus while
- 12 he was selling to Stephanie and Jabari?
- 13 A Yes, ma'am.
- 14 Q And you told him about how you and him were going
- 15 back and forth to Court?
- 16 A Yes, ma'am.
- 17 Q And you told him about, about the times that you
- 18 remember when you were doing your activity that you
- 19 testified to?
- 20 A Yeah, I tried the best I could. I tried the best I
- 21 could. They told me to make a best estimate of time I
- 22 could. I tried. I don't know how good I was, but I
- 23 tried.
- 24 Q Okay. That night, were you looking at your -- were
- 25 you looking at the time when you were hanging out with

Tevon Jackson - Direct examination
by Ms. Alves

621

1 your friends?

2 A No, ma'am.

3 Q No.

4 So, you did the best you could on the times?

5 A I did the best I could.

6 Q And you -- but you told them who you were with?

7 A Yes, ma'am.

8 Q And what you were doing?

9 A Yes, ma'am.

10 MS. ALVES: I beg the Court's indulgence one moment.

11 (Pause.)

12 Q Now, Tevon, there was some, there was some testimony
13 from Joseph Dicks and Jose Serrano --

14 A Yeah.

15 Q -- about a statement that you made when you went back
16 to Meat Man's house that night.

17 Do you remember hearing them?

18 A Yes, ma'am.

19 Q You heard them testify?

20 A Yes, ma'am.

21 Q All right. Now, you testified that you went back to
22 Meat Man's house after you couldn't get into your house
23 when Marcus dropped you off, is that right?

24 A Yes, ma'am.

25 Q And did you go straight to Meat Man's house?

Tevon Jackson - Direct examination
by Ms. Alves

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1 A After I left my house?

2 Q Yes.

3 A Yes, ma'am.

4 Q Did you see anybody else?

5 A Casey.

6 Q Casey?

7 A My cousin, Casey. Well, I call him my cousin. I
8 might have stopped, I might have stoped by his house first
9 before I went to Meat Man house. I might have stopped in
10 the yard cause it's right there. That's where I usually
11 cut through at.

12 Q Cut through to get to Casey -- it's a little bit of a
13 short cut from---

14 A It's, it's cutting the corner, it's cutting the
15 corner right there at Nondrum and His house
16 is right here. So, it's just a cut through.

17 Q Okay. So, you stopped at Casey's house maybe. You
18 maybe recall stopping at Casey's house.

19 A Maybe so.

20 Q And do you remember meeting up with anyone else?

21 A That night, no, ma'am.

22 Q All right. And when you got -- but at some point did
23 you get to Meat Man's house?

24 A Yes, ma'am.

25 Q And was anybody else there?

Tevon Jackson - Direct examination
by Ms. Alves

623

- 1 A Meat Man and Joey. I think his mother was asleep.
2 His mother might of been in there asleep.
3 Q Okay. But Meat Man and Joey were there?
4 A Yes, ma'am.
5 Q Yes?
6 A Yes, ma'am.
7 Q And you heard their testimony that you came up and
8 you pulled out guns, drugs, and money---
9 A Yes, ma'am.
10 Q ---and told them that you had shot Marcus.
11 You heard that testimony?
12 A Yes, ma'am.
13 Q When did that happen?
14 A Never.
15 Q Never.
16 what did you tell them about guns, drugs, and money?
17 A I never owned it. I never, I never had a gun in my
18 possession. I never owned a gun.
19 Q You never owned a gun?
20 A No.
21 Q And did you have -- did you have, did you have a gun
22 and shoot Marcus?
23 A No, ma'am, I never had a gun.
24 Q Well, did you have a gun planning a robbery on the
25 pizza man?

Tevon Jackson - Direct examination
by Ms. Alves

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1 A I don't rob people. I never had -- I never needed
2 money. My mother always took good care of me. Plus I got
3 a lot of family that, that, you know, we're a close knit
4 family. I never needed for money. I'm not about to go
5 out and rob nobody like I need it. I'm not, I'm not --
6 that's not me robbing people. That ain't me.

7 Q Okay. Now, you said you were a close knit family.
8 Do you have other family in the area?

9 A In?

10 Q In New Ellenton.

11 A Yeah, that's, that's where a lot of my family is at.
12 My mother -- well, my mother's side of the family at,
13 family at New Ellenton.

14 Q Aunts/uncles?

15 A You know uncles, uncles stay in Aiken, you know---

16 Q Okay.

17 A ---on the south side, but most of my aunties and
18 uncles and cousins.

19 Q Aunts and uncles.

20 Okay. And they testified that you told them that you
21 shot Marcus and smoke come out of his mouth.

22 Do you remember them, do you remember them saying
23 that?

24 A I remember them saying that.

25 Q When did you tell them that?

Tevon Jackson - Direct examination
by Ms. Alves

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1 A Never. Never would shoot Marcus. He was like my
2 brother. We were real close.

3 Q So, you never told them those statements?

4 A No, ma'am.

5 Q Is any of what they testified -- is any of that, is
6 any of that happen?

7 A No, ma'am.

8 Q And who was at -- you said that there was three of
9 you at the house and his mom was asleep, is that right?

10 A Yes, ma'am.

11 Q And how long did you stay?

12 A It was early that morning, and I know I woke up again
13 when his mother, when his was leaving for, to go to work.
14 She, she worked at the dry cleaners or something, and I
15 talked to Deon for a little minute.

16 Q A little minute -- by a little minute you mean?

17 A While she was getting ready. It wasn't long. She,
18 she was jetting out the door. I know she leave early in
19 the morning like 4:30, 5:00.

20 Q Okay. So, you were -- you spent the night at the
21 house?

22 A Yes, ma'am.

23 Q And then you said -- so, you were up when Ms. Deon
24 was leaving?

25 A Yes, ma'am.

Tevon Jackson - Direct examination
by Ms. Alves

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1 Q And then did you leave after, when she, when she
2 left?

3 A I dozed, I dozed off again.

4 Q And then do you remember when you woke up?

5 A No, my cousin, David, woke me up.

6 Q Who's David?

7 A Meat Man, Meat Man older brother. Me and David are
8 real close.

9 Q And do you remember what time that was?

10 A I'm not sure even what time I woke up. I know he
11 woke me up, and he told, he told me Marcus was killed.

12 Q Excuse me?

13 A He told me Marcus got killed.

14 Q David woke you up?

15 A Yes, ma'am.

16 Q And told you that Marcus was dead?

17 A Yes, ma'am.

18 Q And you don't remember exactly what time that was?

19 A No, ma'am, I knew it was morning time cause my mother
20 called me and told me. She told me she wanted to talk to
21 me.

22 Q Uh-huh.

23 A Then when I got there, that's, you know, that's when
24 she told me about it. She was kind of emotional because
25 she know I be with Mark. She was saying I could of been

Tevon Jackson - Direct examination
by Ms. Alves

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1 with him that night, you know, I could of, I could of got
2 hurt also. I was with him a lot and I drive for him a
3 lot. So, you know, she kind of got, you know, kind of got
4 to her a little bit and told me I needed to stay out the
5 streets, you know.

6 Q But you didn't know Marcus was dead until David told
7 you and then your mom told you?

8 A No, I ain't believe David at first. I thought, I
9 thought it was just a joke.

10 Q You thought he was what?

11 A I thought he was, I thought he was just messing, you
12 know, just messing with me or something. I ain't believe
13 him. I couldn't believe it.

14 Q And between the time that you saw -- between the time
15 that you last saw -- let me ask you this.

16 When was the last time you've been home before --
17 actually into your house before -- did you go back home
18 after you, after you were at Meat Man's house and found
19 out about Marcus?

20 A No, no, I don't think so. I'm not for sure. I
21 could've. I'm not sure.

22 Q Okay. And other than -- before this, when was the
23 last time you have been in your house?

24 A Before that?

25 Q Yes.

Tevon Jackson - Direct examination
by Ms. Alves

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- 1 A Early that day.
- 2 Q When you were in the shower and your mom came and
3 caught you and your friends?
- 4 A Yeah, I can't remember if I went home back after
5 that. I can't remember.
- 6 Q Had you gone into the house at all?
- 7 A After, after me and my mom---
- 8 Q After your mom caught your friends.
- 9 A No, I don't remember going back in the house.
- 10 Q Okay.
- 11 A I think I went back in the yard and got something out
12 of the car.
- 13 Q But not into the house?
- 14 A No.
- 15 Q And, Tevon, what do you say about these charges
16 against you?
- 17 Are you guilty of killing Marcus Finklin?
- 18 A I never killed Mark. Never would kill him. Never
19 thought about it.
- 20 Q And did you have a gun on the morning of June the
21 4th, 2008, that you used to shoot Marcus Finklin with?
- 22 A Never had a gun.
- 23 Q Thank you. I don't have any further questions,
24 Tevon. Please answer any the solicitor might have, okay?
- 25 A All right.

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 THE COURT: Mr. Weeks.

2 CROSS-EXAMINATION

3 BY SOLICITOR WEEKS:

4 Q Mr. Jackson, if I understand it right, you were in
5 Marcus' car a lot?

6 A Yes, sir.

7 Q All the time really, weren't you?

8 A No, sir.

9 Q Huh?

10 A On occasion.

11 Q On occasion driving him to Georgia, driving him up
12 and down

13 A I never drove him up and down

14 Q Never drove him up and down

15 Drive him to Georgia?

16 A Except when we was leaving or coming back from a,
17 from a distance.

18 Q Driving him to Georgia, you'd had of been in the car,
19 wouldn't you?

20 A whenever I drove him?

21 Q Yeah.

22 A Yeah.

23 Q whenever you drove him, you were in the car?

24 A He was in the car, too.

25 Q Okay. So, you were in the car on a regular basis,

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 weren't you?

2 A On occasion. I mean not, not every day thing. It's
3 not -- cause I, I owned my own car. So, no.

4 Q I appreciate that.

5 But there's no question you would of been in Marcus'
6 car regularly before he got killed?

7 A That day?

8 Q Yeah.

9 A I was not with him earlier that day.

10 Q I thought you said he picked you up.

11 A Hi picked me up that night. You said earlier that
12 day.

13 Q All right. Earlier that day you weren't in the car?

14 A No.

15 Q But you'd been in the car before that, hadn't you?

16 A Before, on occasion, yes, sir.

17 Q And you had stayed at Marcus' house before, hadn't
18 you?

19 A Stayed like?

20 Q At the trailer, stayed with Marcus?

21 A Like slept in, under his roof?

22 Q Yes.

23 A For overnight period?

24 Q Yes.

25 A Maybe once or twice.

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 Q Okay. And you were aware that Marcus had had this
2 car for a period of time before he got killed?

3 A No, sir.

4 Q Well---

5 A I was not around, sir.

6 Q Before he got killed, you were aware he was driving
7 that car, weren't you, because you drove it?

8 A That car before, yes, sir.

9 Q Yeah.

10 A I didn't know how long he had it.

11 Q All right. Well, he had it long enough for you to be
12 in it a few times, didn't he?

13 A A couple times; yes, sir.

14 Q And there were other people that were in it during
15 the time that Marcus was alive, wasn't it?

16 Girlfriends?

17 A A lot of people I'm pretty sure. I don't know.

18 Q A lot of people.

19 Now, the night leading up to you say you finding out
20 Marcus got killed, the next morning, you didn't go home,
21 did you?

22 You didn't go to your house?

23 A What morning?

24 Q The morning you found out that Marcus had gotten
25 killed.

Tevon Jackson - Cross-examination
by Solicitor Weeks

632

1 A Okay. June, June 5th or June 4th, you're saying that
2 morning, that day?

3 Q You didn't go home -- from the time you left, you
4 didn't go inside the house, if I understood your
5 testimony, from the time your mother came home and caught
6 you guys in there playing games?

7 A Not -- no, not from my memory I can't recall going
8 back to the house.

9 Q Didn't go home at all?

10 A No, sir, I went back in the yard. I didn't go in the
11 house.

12 Q You went in the yard, but didn't go in the house at
13 all from earlier that day until the following morning?

14 A I'm pretty sure I didn't.

15 Q So, your mama didn't know where you were?

16 A I didn't talk to her.

17 Q Okay. And that's not the first time you stayed out
18 away from the house, is it?

19 A Like -- I mean it was summertime. So, I'm pretty
20 sure, you know.

21 Q Pretty sure what?

22 Did you stay away from the house?

23 A What is your question?

24 Q My question is were you sleeping over any other
25 places during that period of time?

Tevon Jackson - Cross-examination
by Solicitor Weeks

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- 1 A Most of the time I stayed at the house.
- 2 Q But you didn't the night Marcus was killed?
- 3 A No, sir.
- 4 Q And if I understood your testimony, from the time you
- 5 say Marcus dropped you off until you saw Meat Man and Joey
- 6 at Meat Man's house, nobody saw you?
- 7 A Nobody saw me?
- 8 Can you repeat the question?
- 9 Q You said Marcus dropped you off at your house that
- 10 night?
- 11 A He dropped me off.
- 12 Q After he dropped you off and between that time and
- 13 seeing Meat Man and Joey, nobody else saw you, did they?
- 14 A No, wasn't nobody on the road when I was walking down
- 15 the road.
- 16 Q Okay. Now, you added to your statement that you gave
- 17 the police that day. You'd agree to that, wouldn't you?
- 18 A Added?
- 19 what I added?
- 20 what are you, are you saying I added?
- 21 Q Do you agree or disagree that you added stuff to your
- 22 statement that you gave to the police on June the 5th?
- 23 A When did I add it?
- 24 When was I supposed to add it?
- 25 Q Do you agree or disagree that your testimony here

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 today is different from that statement?

2 A It should be, it should be the same.

3 Q Well, do you remember telling the police that you had
4 new kicks or new shoes and you weren't going to walk on
5 any dirt portion?

6 You didn't say that to them that day, did you?

7 A They didn't ask me about my shoes.

8 Q Okay. You didn't tell them that you cut through the
9 woods by Casey's house to cut over to Meat Man's house,
10 did you?

11 A Cut through the woods?

12 There's no woods.

13 Q Well, there's dirt, isn't there?

14 A That's a yard, grass.

15 Q Okay. And it wasn't a paved road, but you didn't
16 mention going that way back to Meat Man's house in your
17 statement, did you?

18 A No, they ain't asked me.

19 Q Do you remember?

20 A No, they hadn't walk up and down -- I told them I
21 walked up and down

22 Q Okay. But you didn't mention Casey?

23 THE COURT: Hold on. Mr. Weeks, move over.

24 All right. Ladies and gentlemen of the audience, if
25 you can't behave leave now. I don't want to see any more

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 facial expressions, laughter, or anything. If you are,
2 get out now.

3 Go ahead.

4 Q You didn't mention cutting through behind Casey's
5 house until you testified here today, did you?

6 A No, I didn't, I didn't, I didn't put that in the
7 statement.

8 Q Okay. And there's no question that you and your
9 lawyer have been talking about this case for two years, is
10 it?

11 A I didn't have no two years. I done, I had three
12 different defenders since, since, since I got here.

13 Q Okay. And you talked to all of them about the case?

14 MS. ALVES: I would ask that he let him finish his
15 question, let him finish his answer.

16 A I just, I just received Alves not too long ago. I
17 had two -- I had Jessie Mims and David Mauldin before.
18 So, I didn't have her for no two years. I only been here
19 almost for three years. I ain't have her but two years.

20 Q Well, you've talked to all three of those lawyers
21 while this case has been pending, haven't you?

22 I ain't saying there's anything wrong with talking to
23 your lawyer, but you spent time talking to them, haven't
24 you?

25 A Yeah, some. David Mauldin, yes.

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 Q You hadn't talked to Ms. Alves at all?

2 A I talked to Alves a couple times.

3 Q Okay. Now, the day after Marcus is killed, you give
4 a statement to the Sheriff's Department, is that correct?

5 A Yes, sir.

6 Q And after that you take off to Columbia, don't you?

7 A No, sir.

8 Q Did you go back home?

9 A Did I go back home?

10 Yes, sir.

11 Q How long did you stay there?

12 A I stayed that, I stayed that night.

13 Q All right. Where did you go after that?

14 A Down to my grandma house for a little bit. We got,
15 we got -- during the, during the time before I got
16 arrested or just ahead?

17 Q The time before you got arrested.

18 A I stayed the night. I stayed the night in Columbia
19 with my cousin, Tasha, one time, but other than that I was
20 in the area of Aiken, New Ellenton area.

21 Q You weren't on

22 A During that time, no.

23 Q Okay. And you kind of knew the heat was on, didn't
24 you?

25 A From what, from what the neighborhood put on me. I

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 mean my house got shot at and everything.

2 Q Now, you've talked about -- and your testimony you
3 keep referring to you were somewhere for a minute, you
4 were somewhere for a minute, and that's an expression I've
5 heard during this trial.

6 You would agree it's kind of an expression for a
7 period of time?

8 A Yes, sir.

9 Q And when you gave your statement to the police on
10 June the 5th, would you agree or disagree that the last
11 time you said you were at the spot, you were talking about
12 Dry Branch Court, weren't you?

13 A Yes, sir.

14 Q And you said you were there not even a minute.
15 Now, how much time is that?

16 A Less than a minute.

17 Q Less than 60 seconds?

18 A Sixty seconds is a minute, sir.

19 Q Okay. Well, that's what I call a minute, but the
20 testimony here and your testimony, a minute seems to be a
21 little longer period of time. So, I'm just trying to
22 figure out how long you were saying you were at
23 court.

24 A A couple seconds both times.

25 Q Okay. And you don't remember the number you were

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 using last, that night to call Marcus?

2 A No, sir.

3 Q Is the reason you don't remember is cause it wasn't
4 your phone?

5 A I can't remember the number. I'm pretty sure it
6 wasn't my phone.

7 Q It was?

8 A It wasn't my phone I was using the first time to talk
9 to him.

10 Q It wasn't your phone?

11 Whose phone was it?

12 A Somebody -- it could have been anybody. I'm not for
13 sure. It could have been anybody in the area.

14 Q All right. During this period of time, according to
15 you, you were hanging in the streets lying to your mother?

16 A I ain't talked to my mother that day.

17 Q I'm talking about during June the 4th of '08 as I
18 understood your testimony.

19 A I never lied to my mother that day. I never told her
20 where I was going.

21 Q But your mother didn't want you hanging with these
22 guys down the street, did she?

23 A Down the street?

24 Q Uh-huh.

25 A As in who?

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 Q Well, I'm referring back to your direct testimony.

2 A I said, I said she didn't like a lot of my friends.

3 I never gave no specific names except for George, Meat

4 Man.

5 Q And you would admit -- you just testified that you

6 would lie to your mother about where you were going?

7 A I always go where I say I was gonna go for the most

8 part. I stay for a little minute. If I say I'm going to

9 Meat Man house, I go to Meat Man house. Most of the time

10 I'm out in the yard or on the same street as his house in

11 that area.

12 Q Well, where did you tell your mother you were going

13 to spend the night the night Marcus got killed?

14 A Where did I tell her I was going to spend the night?

15 Q Yeah.

16 A I didn't talk to her that night.

17 Q Okay. Now, when you gave the police that statement

18 on June the 5th, it's because you knew that they were

19 looking at you, weren't they?

20 A No, sir.

21 Q Or that you thought people were looking at you?

22 A No, sir.

23 Q Well, you went up there because your house got shot

24 at or something, didn't you?

25 A No, sir.

Tevon Jackson -- Cross-examination
by Solicitor Weeks

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1 Q When did that happen?

2 A My house got shot at after the fact.

3 Q All right. When was that?

4 A It was probably around about it's -- I'm not for
5 sure, 7th, 8th, something like that.

6 Q Okay. But you told the police that you had been with
7 Marcus Finklin when he sold drugs to Stephanie Green?

8 A Yes, sir.

9 Q And you also saw Jimmy Dunbar out there that day,
10 didn't you?

11 A No, sir.

12 Q With Stephanie?

13 A No, sir.

14 Q Jimmy wasn't driving Stephanie?

15 A I didn't see him.

16 Q You didn't see him?

17 A No, sir.

18 Q Stephanie was driving a car?

19 A I seen Stephanie get out of the car. I don't know
20 who was driving it.

21 Q You don't know who was driving the car that you saw
22 Stephanie got out of?

23 A No, sir, because I don't talk to her. So, I wouldn't
24 of known.

25 Q All right. And you told the police the next day

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 after Marcus was killed that you were there when he made a
2 drug deal to Jabari?

3 A Yes.

4 Q And do you agree that Jabari spoke to you?

5 A He, he probably did. Me and Jabari know each other.

6 Q Okay. And you told the police that you ended up
7 spending the night at Meat Man's house?

8 A Yes, sir.

9 Q And did, did you tell them that Joey had left?

10 A I can't recall. I don't think so. I don't, I don't
11 know.

12 Q Well, you weren't trying to lay any blame on Joey or
13 Joseph Dicks on the 5th of June 2008, were you?

14 A No, sir, I was just letting them know what me and
15 Mark did that night.

16 Q Okay. And based on your testimony, Joey and Meat Man
17 weren't with Mark all night, were they?

18 A Joey and Meat Man with Mark?

19 Q They weren't with Mark, were they?

20 A I don't know if they was with Mark. I'm not for
21 sure. I can't say. When I went to sleep, I don't know,
22 you know, what happened with them or where they was at.
23 Most -- during that day, no, I was moving around. So, I
24 don't -- I'm not for sure where they was at, no.

25 Q During that night they weren't with Mark, were they?

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 A Not during the time I was with him.

2 Q That's what I'm asking you.

3 From the time you were with him, nobody else was with
4 him, were they?

5 A No, sir.

6 Q You sold drugs to Stephanie, sold drugs to Jabari,
7 and after that you say Mark took you home?

8 A Dropped me off in my yard.

9 Q But nobody saw you after that until you saw Meat Man
10 and Joey?

11 A Casey. My cousin, Casey, seen me.

12 Q Casey saw you.

13 That's the first time you've ever mentioned that
14 other than today in your direct testimony, is that right?

15 A Saying that he seen me?

16 Q (Nods affirmatively.)

17 A Probably so. I mean I was cutting through his yard.
18 I just, you know, he might have seen me. I know he
19 came---

20 Q All right. When you say---

21 A Go ahead.

22 Q When you say Casey might have seen you, was Joey
23 Serrano there?

24 A I can't remember.

25 Q You can't remember that?

Tevon Jackson - Cross-examination
by Solicitor Weeks

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1 A I can't remember.

2 Q And best you know, from hearing testimony, after
3 Stephanie testified or after Stephanie Green gave a
4 statement to the police was after you, right?

5 A Yes, sir.

6 Q So, you told the police Stephanie Green bought drugs?

7 A Yes, sir.

8 Q And you told the police that Jabari bought drugs?

9 A Yes, sir.

10 Q And you told the police you were riding around with
11 Marcus while he was selling drugs?

12 A Yes, sir.

13 Q And when you drive him over to Georgia, you're making
14 drug runs with him, aren't you?

15 A No, sir.

16 Q You drive him over to Georgia for what?

17 A We drive to Georgia and I go to the Augusta Mall,
18 something like that.

19 Q But there was no question you were riding with Marcus
20 when he was selling drugs that night, is that right?

21 A There's no question I was.

22 Q Okay. But when you told the police that Sandra was
23 buying drugs---

24 A Who?

25 My mother don't buy drugs.

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1 Q I'm sorry. I misstated. I'm getting my names
2 confused.

3 You told the police that Stephanie was buying drugs,
4 Stephanie Green. You told the police that Jabari was
5 buying drugs. You never said that---

6 THE COURT: Answer yes or no.

7 THE WITNESS: Yes, sir, both times. Yes, sir.

8 Q You never said that Joey Serrano or Meat Man were
9 having anything to do with Marcus Finklin, did you?

10 A No, sir.

11 Q No questions.

12 THE COURT: Ms. Alves, anything on redirect?

13 REDIRECT EXAMINATION

14 BY MS. ALVES:

15 Q Were you selling drugs that night?

16 A No, ma'am.

17 Q And when Marcus dropped you off at your house, you
18 tried to get into your house?

19 A I tried.

20 Q But you didn't, you didn't have your key?

21 A No, ma'am.

22 Q And why did you go in and talk to the police on the
23 5th?

24 A Me and my family, we talked it over. We sat down
25 with my grandmama and granddaddy, and we talked it over and

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1 felt like it was best, you know, to try to help out.

2 Q For you to go tell what you knew?

3 A Tell, tell, call -- I told all I could tell him, you
4 know, at the time. You know, all I knew.

5 Q And you wrote a statement for the police?

6 A Yes, ma'am.

7 Q Did they ask you questions?

8 A They asked me a lot of questions.

9 Q They asked you a lot of questions?

10 A Yes, ma'am.

11 Q Is that the, is that the statement that you wrote?

12 I gave you State's No. 26.

13 Is that the statement that you wrote?

14 A Yes, ma'am.

15 Q Okay. Did you know who else they had talked to at
16 that point?

17 A They told me that they hadn't talked to nobody. They
18 didn't even know who I was.

19 Q The police didn't know who you were?

20 A What's his name?

21 I do remember one. The first dude I talked to, his
22 name was -- I can't remember. He had a real big mustache.
23 I can't remember his name.

24 Q Okay. But that was---

25 A He told me I was -- you know, he didn't even know who

1 I was until I told him, you know.

2 Q And, so, you were one of the first people that -- you
3 thought you were one of the first people that talked?

4 A Yeah, from my understanding.

5 Q Did you know anybody had said anything about a dirt,
6 that you being on a dirt road at that time?

7 A No, ma'am.

8 Q Did you know anything about somebody saying that you
9 had cut through some woods and come out on a dirt road?

10 A No, ma'am.

11 Q Or walked up the dirt road behind Joseph Dicks'
12 house?

13 A No, ma'am.

14 Q All right. And what shoes did you have on that day?

15 A I had on some Jordan's. I can't remember. I can't
16 remember really what kind. I had a lot of shoes at that
17 time.

18 Q You were happy with those sneakers?

19 A Oh, yeah, they were -- yes, ma'am.

20 Q They were new?

21 A Yes, ma'am.

22 Q Did anybody ask you whether you'd walked on the dirt
23 road?

24 A No, ma'am.

25 Q And did you think that was important to tell them, to

Tevon Jackson - Redirect examination
by Ms. Alves

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1 tell the police where, what, you know, exactly what route
2 you took to every single destination you made that day?

3 A No, ma'am.

4 Q Did you tell the police everything that you
5 remembered doing with Marcus?

6 A Yes, ma'am.

7 Q Now, you said that you had somebody else's phone that
8 evening?

9 A Yeah, I was using somebody else's phone.

10 Q Okay. How long had you had that phone?

11 A Not long. I was just -- I used it to talk to Mark.
12 I can't remember whose phone I used. I know, I know I
13 used a phone that night to talk to Mark the first time.

14 Q Who's -- where did you get the phone from?

15 A Somebody in the area. It couldn't have been -- it
16 could have been anybody.

17 Q Okay. But that was the phone you were using?

18 A Yes, ma'am.

19 Q And at some point after your statement people -- did
20 people -- do you know whether people found out that you
21 had given a statement?

22 SOLICITOR WEEKS: Objection.

23 Q Did anybody talk to you about, anybody in the
24 neighborhood, make reference to you having given a
25 statement?

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1 SOLICITOR WEEKS: Objection.

2 THE COURT: What is it?

3 SOLICITOR WEEKS: That's all hearsay.

4 MS. ALVES: Your Honor, it's not going to prove the
5 fact of any matter asserted.

6 THE COURT: You can answer.

7 Did anybody tell you who made a statement?

8 THE WITNESS: Ask the, ask the question again.

9 Q Do you know whether anybody knew you had given a
10 statement?

11 THE COURT: Well, that's objectionable.

12 Q Did anybody -- yes, sir.

13 Did anybody talk to you about your statement, anybody
14 in the neighborhood?

15 THE COURT: Not what they said.

16 Q Yes.

17 THE COURT: But just talked to you about your
18 statement.

19 Q Yes. This is yes or no.

20 Did anybody talk to you about having, knowing that
21 you gave a statement?

22 A Meat Man and Joey knew I gave a statement.

23 Q Okay. And at some point after you gave your
24 statement you said that you felt that people in the
25 neighborhood were believing that you might have committed

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- 1 the crime?
- 2 A Yes, ma'am.
- 3 Q And at some point after you gave your statement you
- 4 said that somebody fired a shot into your mom's house?
- 5 A Yes, ma'am.
- 6 Q Tevon, do you know who killed Marcus Finklin?
- 7 A No, ma'am.
- 8 Q Were you present when Marcus Finklin was killed?
- 9 A No, ma'am.
- 10 Q Thank you.
- 11 No further questions.
- 12 THE COURT: All right. You may step down.
- 13 Next witness.
- 14 Step down please.
- 15 Next witness.
- 16 MS. ALVES: Nothing further, Your Honor.
- 17 THE COURT: Ma'am?
- 18 MS. ALVES: Nothing further. Defense rests.
- 19 THE COURT: Anything in reply by the State?
- 20 SOLICITOR WEEKS: No, Your Honor.
- 21 THE COURT: Hold on one second.
- 22 (Pause.)
- 23 THE COURT: Is the food here?
- 24 THE BAILIFF: Yes, sir.
- 25 THE COURT: Mr. Foreman, ladies and gentlemen of the

1 jury, that concludes all the testimony. What we have left
2 is for the lawyers -- I said to keep him out. All the
3 lawyers have to do their final arguments. Of course, I
4 have to charge you. I suspect their arguments are 30, 45
5 minutes a piece. I'm not sure, somewhere in that
6 neighborhood.

7 MS. ALVES: I would say 45.

8 THE COURT: Ma'am?

9 MS. ALVES: Forty-five probably.

10 THE COURT: You want to eat your sandwich before we
11 start all of that or do you want -- let's, let's take 30
12 minutes.

13 Is that enough time for y'all?

14 All right. We're going to take a 30 minute lunch
15 break. That means we'll start back at ten minutes till
16 1:00.

17 Is that okay for y'all?

18 Everybody else remain seated.

19 Don't discuss, don't deliberate. Enjoy your lunch.

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

22 THE COURT: Mr. Weeks, anything for the record before
23 we do final arguments?

24 SOLICITOR WEEKS: I'm not aware of anything, judge,
25 other than the State's going to waive opening on the law.

1 THE COURT: Sure.

2 Ms. Alves, anything?

3 MS. ALVES: Your Honor, taking the evidence in the
4 light most favorable to the State, I'd move again for a
5 directed verdict on behalf of Tevon Jackson.

6 THE COURT: Thank you, ma'am. For the same reasoning
7 as expressed earlier, I respectfully deny the same.

8 Anything else?

9 All right. We'll start back at ten minutes till
10 1:00.

11 (WHEREUPON, Court was in recess for the lunch break.)

12 THE COURT: Y'all ready?

13 MS. ALVES: We're getting the exhibits in order.

14 (Pause.)

15 MS. ALVES: Yes, sir.

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

18 THE COURT: All right. Ladies and gentlemen of the
19 jury panel, we're now going to hear final arguments from
20 the lawyers. As I said earlier, as opening statements is
21 not evidence in the case, neither are final arguments.
22 You've heard all the evidence that's going to be presented
23 in the case. Now the lawyers will make their final
24 arguments. Obviously they're adversaries for their
25 respective sides. So, they will argue the evidence as it

1 suits them. Please listen carefully, but it is not
2 evidence in the case.

3 MS. ALVES.

4 MS. ALVES: May it please the Court?

5 THE COURT: Yes, ma'am.

6 MS. ALVES: Ladies and gentlemen, I had to stop and
7 think what could I say about this case?

8 What could I tell you about this case?

9 I think that actually the words of one of the
10 witnesses sums it up best. Minimalist.

11 Now, if you remember, the person that said that word
12 was Investigator Clay Adams who is sitting right there.
13 Now, he told you that this was a minimalist crime scene,
14 and when the solicitor asked him what did that mean, he
15 said well, there wasn't a whole lot of evidence outside
16 the car. Very minimal amount of evidence.

17 Well, not only was there a minimal amount of
18 evidence, according to Investigator Adams, there was also
19 a very minimalist effort made and a minimalist
20 investigation into what happened to Marcus Finklin.

21 Ladies and gentlemen, the police in this case got one
22 suspect, one person, and they rushed to judgment solely
23 based on the word of two people who I think were
24 established in this court to be a thief and a liar, and
25 because of that thief and liar's word, that man's life has

1 been on hold for three years while he waits for his day in
2 court. Almost three years.

3 Now, I guess you're wondering well, why am I saying
4 this is so minimalist?

5 Look at all this -- look at all this evidence we have
6 up here. Look at all this stuff we have up here.

7 well, let's talk about the investigation. The first
8 day -- that first day when the police came, because of the
9 call that there was a dead body in the cul-de-sac on the

10 Court, they found Mr. Finklin laying in his car
11 dead. Now, you're gonna see the pictures of how

12 Mr. Finklin looked, the pictures of his body where he was
13 slumped to the left against the driver's side door.

14 You're going to see the pictures of how his, how his face
15 looked, how his, how the car looked, and you're going to
16 have the pictures back there that were in evidence based
17 on what the scene looked like.

18 Now, the first thing that I, that strikes me, and I,
19 by no means am I a forensic investigator or a forensic
20 anything. I'm just a person with some common sense, and I
21 look at the pictures and I say, hey, he's slumped to the
22 left.

23 Now, remember Doctor Ross testified that he, he, he
24 might have lived for a few minutes, but he died from the
25 head wound, and there's the -- there's going to be the --

1 you're gonna have the diagram from the autopsy showing the
2 location of the bullet, and remember she testified that
3 the bullet went into the back, back of his head and down
4 to the right, and the x-rays -- the picture, the x-rays
5 shows that the bullet was lodged in his brain. I think
6 that common sense, as well as the doctor's testimony,
7 tells us that that was a fatal wound and that Mr. Marcus
8 Finklin wasn't moving around after that happened.

9 And remember the testimony from the gunshot residue
10 expert. She testified that oh, it's easy -- remember they
11 had a six hour window in which you can take gunshot
12 residue from a person's hands, but because, you know,
13 we're moving around, you're touching things, you're
14 washing your hands, going to the bathroom, she talked
15 about all that, however, for a dead person, they're not
16 moving around. So, that's why it's okay to take the GSR
17 from their hands because they, their hands have been still
18 for that time.

19 So, I think we can agree that Mr. Finklin was not
20 moving after he got shot in the head. Yet -- okay. And,
21 and, so, Mr. Finklin's head is slumped to the side. That
22 makes sense to why the blood is going that direction, and
23 you're gonna look at the picture and see. But I have some
24 concerns about the blood is going down that way and why
25 does some of it appear to be going up.

1 Now, that's just my interpretation of the pictures,
2 and I'm looking at the pictures, and common sense tells me
3 it looks like it's going two different directions.

4 Well, how could that of happened?

5 And he's bleeding leaning to the left, or excuse me,
6 to the left, my left.

7 Then why is there a blood smear, not like blood
8 running down, but why is there a blood smear on his right?

9 And that's how the scene looked. I'm looking at
10 these pictures and I'm like, hey, that doesn't look right.

11 What, what happened there?

12 Well, if you look at the other pictures, you see that
13 on the seat, on the passenger seat next to Mr. Finklin was
14 a big red spot. It could have been from the, from this
15 Kool-Aid looking beverage, Powerade I believe that is
16 right there, or not. And the Powerade looks like a lot
17 lighter color. That looks like blood, and Investigator
18 Adams testified that it was blood or that it appeared that
19 it was blood and they swabbed it, and, that -- and of
20 course, remember when the solicitor asked him the question
21 did anybody else get shot in that car?

22 No.

23 Mr. Finklin's blood is on the seat, and look at the
24 other pictures. Look carefully at the other pictures and
25 ask yourself questions, common sense questions. You don't

1 have to be forensic scientists to, to ask these questions.

2 was there other blood in the car?

3 was there, was there blood along the side when the
4 person shot him?

5 was there any blood swipe?

6 would the person have gotten blood on them?

7 would they, would they have touched something?

8 Because, let's face reality, according to the
9 evidence, and look at it. You're gonna have all the
10 pictures back there in the jury room. The top of the
11 blood on the seat, on top of Marcus's blood are, is
12 property that was in the car.

13 And then you have to ask yourself, well, how did
14 Marcus get in that position?

15 How did he get from blood getting all over the seat
16 right there to being back leaning against the driver's
17 side door?

18 Well, the only explanation for that is that somebody
19 moved Marcus after his head was laying on the seat causing
20 the seat to get soaked in the blood, and that person was
21 most likely the person who killed him. I wasn't out there
22 that day. I don't know what happened.

23 THE COURT: Ms. Alves?

24 MS. ALVES: Yes, sir.

25 THE COURT: Hold on one second.

1 (Pause.)

2 THE COURT: I apologize, Ms. Alves. He was---

3 MS. ALVES: Yes, sir.

4 THE COURT: ---distressed.

5 MS. ALVES: Yes, sir.

6 As I said -- as I'm saying, I don't know what
7 happened, but I would have what the police had, the
8 evidence, the scene. All I can look at is the pictures
9 cause I wasn't out there. But the pictures tell me that
10 somebody was in the car. You see the smears there. And
11 if you look at all the pictures, that there's others --
12 there's smears in the other pictures. Look carefully.
13 There's smeared blood.

14 Somebody touched these items and touched Marcus' body
15 after he was laying there and had to push him up, and had
16 to push him up. That -- Marcus's body, with all this
17 blood, running from the gunshot to his head, yet they're
18 saying that Tevon Jackson is the one who did it, that they
19 provided you with no evidence other than the word of two
20 people whose credibility is severely in question, and a
21 cigarette butt that was found at the scene.

22 Now, what was done in this investigation?

23 Well, all these items, you've heard testimony, they
24 were all -- they were processed, they were processed at
25 the scene, and they picked up three items. Investigator

1 Adams, Adams told you that they find items that might be
2 of particular importance.

3 Now, you're going to have the pictures of the scene.
4 You're going to be able to look at these pictures and see
5 all the trash that was laying around. This is an
6 abandoned cul-de-sac with an abandoned trailer sitting on
7 it. There's lots of trash and other items there. But
8 they said there were only three items of significance that
9 they could see, the cup, and two cigarette butts. The
10 other two items they collected from the actual scene were
11 the car and Marcus's body.

12 And what did they do with that evidence?

13 Well, they took it to the Solicitor's, excuse me, to
14 the Sheriff's Department. They logged it in, put it into,
15 into the evidence to determine what should they do with
16 it.

17 Should they do DNA?

18 Should they do fingerprints?

19 Are they able to do both?

20 They make that decision, then they log it in, and
21 then they put it in a category to decide what's to be done
22 with it later.

23 And then what else did they do?

24 They took the car to the Sheriff's Department,
25 inventoried everything in the car. You heard there were

1 at least 112 items, inventory from the car.

2 And what do they do with them?

3 Well, some of them are fingerprinted. Remember
4 Investigator Adams testified that he had 40 latent
5 fingerprint lifts and, of those lifts, some of them were
6 determined to be appropriate to enter into the A.F.I.S.
7 Computer. Remember the computer system where they can
8 search for fingerprints that might match the ones they
9 have, and they came back with two people, Daphne Parker
10 and Marcus' brother.

11 Who is Ms. Parker and what's her involvement in this
12 case?

13 We don't know.

14 Did any investigator ever look into her?

15 We don't know.

16 And isn't it awfully strange that even though the
17 fingerprints were run back in 2008, Investigator Adams
18 testified the report wasn't generated until December of
19 2010.

20 So, were fingerprints even considered back in 2008?

21 No, not from any testimony in this courtroom.

22 Also, of those 40 lifts that were taken, some of them
23 had insufficient detail to be identified. A lot of
24 them -- some of them did come back to Marcus. Of course,
25 it's his car. You'd expect his fingerprints. No

1 question.

2 But on those 40 fingerprints, many of them came back
3 insufficient to put in the A.F.I.S. system, and if you
4 remember, I asked Investigator Adams whether or not, even
5 if they are in, insufficient for putting into the
6 computer, could he still have looked at them with his
7 expertise in fingerprints and determined whether or not a
8 match could be made and he said yes.

9 He had the fingerprints of Jose Serrano, Joseph
10 Dicks, my client, and Marcus Finklin.

11 Did he look at those fingerprints in comparison to
12 the items that were insufficient to put into A.F.I.S.?

13 No, he did not.

14 So, all we have is some fingerprints that were found
15 in a computer system but nobody actually eye-balled it and
16 did any further work on them and that's it. Okay. Fine.
17 No fingerprints. No more fingerprints.

18 And then let's talk about what other evidence did
19 they get. Well, fingerprints and DNA. And you, and you
20 have to look at the DNA and remember we heard from
21 Investigator Mary Francis O'Grady-Watts, everybody called
22 her Sage, and she told you that well, better safe than
23 sorry when I asked well, why would you swab all those, who
24 told you to do that. Nobody told her to do it, but better
25 safe than sorry because you have to make sure you preserve

1 the evidence.

2 In this case, she wanted to make sure the evidence
3 was preserved so that just in case it was tested we might
4 be able to find out what happened, who was in the car, who
5 was with Marcus.

6 And what happened to that evidence?

7 Well, according to Jasper Humbert from SLED, the DNA
8 expert who testified yesterday he received, in his
9 possession, 22 items to be tested, plus two additional
10 items which were sent back to the agency without being
11 tested. No explanation as for that. And of the 22 -- and
12 remember he also received, originally, he received the
13 blood standard from Marcus Finklin from the autopsy, and
14 he also received the buccal swabs from Jose Serrano and
15 Joseph Dicks. At some point later he received a buccal
16 swab from Tevon Jackson to test against whatever items.

17 And what did he find on the 22 items that were
18 submitted to him?

19 Of the 112 plus items, 22 were submitted, excuse me,
20 24 were submitted for analysis. Two were sent back
21 without even being considered. Of the 22 left, seven were
22 tested. Seven. And then of those seven, four of them
23 were insufficient to get a DNA profile from.

24 So, now we're down to three items being tested that
25 we can look for DNA, and it was the two cigarette butts

1 and another item from the car that came from Marcus
2 Finklin.

3 And what did they find?

4 Well, the cigarette butts, one came back to Tevon,
5 one came back to Marcus, and the other item came back to
6 Marcus.

7 So now what?

8 Case closed?

9 Well, not really because the police didn't even have
10 that information until two February, February of 2010 is
11 when they got the initial information about the cigarette
12 butt even though there was testimony that the items went
13 to SLED in 2008 shortly after Marcus died.

14 What's with the delay?

15 We don't know. Nobody cares. Justice delayed. No
16 problem.

17 And what about the other items?

18 Well, I know we heard a lot about well, State Law
19 Enforcement Division, SLED, we've been referred to as
20 SLED, they have -- they're having budget cuts. They're
21 having personnel problems. They're having -- they work
22 for too many counties. They can't do all of our work.
23 So, we can only take five items at a time.

24 Well, you heard the testimony about how many items
25 were sent to SLED. You heard all of the witnesses.

1 You've, you've seen the procedure that, that has to be
2 gone through in order to take evidence anywhere. You
3 can't just grab it up, throw it in your pocket, and walk
4 it down. You heard all the witnesses. You have to, you
5 have to get the evidence, log it into the computer,
6 remember it gets a bar code. Other people have bar codes
7 which are scanned showing that they received the evidence.
8 It has to go from person-to-person and they all have to
9 sign for it, and there has to be a chain, a link at each
10 step, showing who took it when and where. I know it's a
11 lot of details, a lot of minutia, but it's important. You
12 see what has to be done.

13 I can't just walk up there and say, hey, this needs
14 to go to SLED. Let me take it to SLED. No, I can't do
15 that. It's up to the State to do that. It's up to the
16 State to present the evidence to you, and in this case
17 they didn't do it. And you heard testimony from
18 Investigator Norwood Bodie from the Solicitor's Office.

19 Well, once the Sheriff's Office finishes their
20 investigation, it goes to the, it goes to the solicitor.
21 Well, initially the lead investigator on the case is the
22 one who is supposed to take the evidence to SLED, and/or,
23 excuse me, is suppose to assign the evidence to go to
24 SLED. He is the person that says what is done. After the
25 solicitor gets it, the solicitor decides what is done.

1 Well, what did anybody do in the past two and a half
2 years?

3 Absolutely nothing. Because you heard evidence went
4 in June of 2009 -- 2008. Some evidence was returned back
5 later in 2008. Evidence went in 2010. Okay. We can only
6 take five items at a time. You can get five back and take
7 five more. Take some time to get your case to court, but
8 you do what you got to do. Nobody did anything here.

9 2009, you heard every single witness up here
10 testifying about when they touched evidence in this case.
11 Tell me one who said they touched evidence in 2009. Tell
12 me somebody who said they got their five, five additional
13 items back in 2010. Solicitors were sending stuff up to
14 SLED. They told you they needed something tested, they
15 sent it to SLED.

16 Well, when did they send the other things?

17 When did they send -- when did they tell Jasper, you
18 missed 15 items, test them?

19 It's important. We need to know if the right person
20 is going to be on trial. We need to know if we're putting
21 our faith in the wrong people. Test the items. They
22 didn't say that because they had their story and they were
23 satisfied with it.

24 The one thing they want to claim is a cigarette butt.
25 Okay. We have a cigarette butt. Two years plus after the

1 crime you get a cigarette butt and you think that's
2 sufficient.

3 If they had tested the items, how many more fingers
4 would we be able to point?

5 And what else happened in their investigation?

6 Well, remember what Investigator Perry said. He was
7 from SLED. He came in to assist the Sheriff's Department
8 in their investigation. He comes in, he said, around
9 nine o'clock on the morning of June the 4th. That
10 morning, the first thing -- he's out there questioning
11 people and talking to people, getting some information,
12 the first thing he hears is Bo Chavous. Bo Chavous had a
13 problem with the victim. Bo Chavous drives a white car
14 like a police car. A white car was seen following Bo
15 Chavous. That's the first piece of information.

16 Well, what was done about Bo?

17 Problem with the victim, white police car following
18 the victim.

19 What investigation was done about Bo?

20 Now, I know Investigator, excuse me, Officer Spires
21 came today and testified, well, he was the white police
22 car that was following Marcus Finklin that day because he
23 thought Mark, and rightly so, that Marcus might have drugs
24 in his car. But since he didn't have a traffic stop or
25 anything, he didn't stop him, but that was the white car.

1 Okay. That's fine. But back June the 4th of 2008
2 the police had information that Bo was a suspect in this
3 case. They didn't find out about Officer Spires until
4 December of 2010.

5 Remember, the solicitor made a big point of telling
6 you I served Officer Spires with a subpoena in December.
7 For some reason, after Officer Spires was served with my
8 subpoena, all of a sudden the State had this information
9 about this police car. Two years and a half -- two years
10 after Tevon was arrested.

11 What to do about Bo?

12 Absolutely nothing. Nobody followed up on anything.

13 And let's go back to the DNA because Jasper yesterday
14 -- that was like a broken record. No analysis performed.

15 What about the cup, the cup that was so important you
16 only picked up three pieces of evidence?

17 Three pieces.

18 You had the cup and straw, what did Jasper say?

19 No analysis performed.

20 What about the item in the car?

21 No analysis performed.

22 You really mean to tell me that -- remember that all
23 the witnesses testified that Tevon -- everybody testified,
24 everybody's story changed in exactly the same way when
25 they got on the stand this week. Tevon was sweating and

1 acting crazy. Remember. Nobody had said anything about
2 sweating before. But all of a sudden, when he's selling
3 drugs to Stephanie, he's sweating and acting crazy. Then
4 when he's walking down the street, Joseph and Jose,
5 sweating and acting crazy.

6 So, you're telling me that this boy, who was
7 sweating, who had all that, had no DNA whatsoever on top
8 of the items, particularly some of the items that might
9 have had blood on them that were sitting on top of Marcus'
10 blood on the passenger seat?

11 You're telling me there was nothing?

12 Well, if they had checked we might know something.

13 Somebody moved that body. Look at the evidence.
14 Look at the pictures. Marcus has been moved. His hand is
15 partially under his, under his thigh. He's sitting on
16 keys. He is partially, he is partially seated on a
17 bottle.

18 What man sits in his, sits in a car sitting on top of
19 keys, sitting on top of a bottle, with his hand partially
20 under his leg like that?

21 A body that's been moved.

22 Yet, they want you to believe that Tevon Jackson did
23 that, didn't get a drop of blood on himself, and didn't
24 leave a spec of DNA or maybe or they can't tell you
25 whether he did because they didn't test.

1 They can't tell you whether Jose Serrano or Joseph
2 Dicks did it because they can't test. They can't tell you
3 whether Bo was really there because nothing was analyzed.

4 The only thing they can tell you is that Marcus was
5 shot through the driver's side door. That's what the
6 woman from, with the GSR, with the GSR expert said. It
7 wasn't tested. They didn't even test the spot where the
8 blood is. It wasn't tested. I mean common sense.

9 I'm like is that blood?

10 Why are the keys under him?

11 Why are the keys under the seat?

12 Now, they want to make a big to do about this
13 cigarette butt, and look at the picture. Look at the area
14 where this happened. It is a cul-de-sac. It's not overly
15 big. It's a secluded area, and Tevon testified and told
16 you, let's face reality, we didn't need that testimony, we
17 knew what it was. That's a drug dealing spot. Let's face
18 reality.

19 We didn't hear nothing about the bulk of this
20 neighborhood and let's face it, and that, and that
21 cul-de-sac on Court is probably where dirty
22 business happens most likely, and Tevon testified that's
23 where Marcus does his dealing. Good spot to do it, and
24 the way his car is positioned, look at that. That's
25 probably where he sits every time he goes up in that spot.

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1 Look at the, look at the area. If there's a -- it's
2 significant where the car is parked because, while it's
3 gray asphalt all around, it's darker in the middle and the
4 area where he was center, where his car was seated was
5 centered straight down where he could see down
6 Court.

7 If you're a drug dealer, are you parking over on the
8 corner further especially if the police are behind you or
9 Bo's behind you in that white police car that we didn't
10 know was spires until today or where anybody can come,
11 come up or are you gonna sit right in the center where you
12 can see down the road and get down there quickly?

13 And that means that maybe the person who killed him
14 took the keys out. But the keys were sent up -- but
15 remember Jasper said no DNA analysis were performed on the
16 keys. So, we don't even know who might of touched his
17 keys.

18 Now, I know that the solicitor is going to tell you,
19 oh, I'm making a big to do about all this DNA and
20 fingerprints. But had they found Tevon's DNA and
21 fingerprints in the car, then I would be sitting up here
22 arguing well, Tevon drove him around, he's in the car with
23 him.

24 Let's face reality. That's what, that's what, that's
25 what he would say, that there was a black -- I would, I

1 would have to say that if there was evidence there. But
2 we don't know that because they didn't test anything. We
3 don't know if anybody who says they weren't in the car
4 were in the car. Mr. Serrano and Mr. Dicks say they
5 weren't there. Well, maybe we could prove that they were
6 if something was tested.

7 But, despite this lack of evidence, the State has
8 charged with this, with this crime solely based on the
9 words of Tracy Serrano, Mother of the Year, Tracy. A
10 shoplifting cocaine user, a thief, and a liar.

11 Now, we all know this neighborhood. We've heard a
12 lot about this neighborhood. It's a small neighborhood
13 and everybody knew everybody else's business.

14 Tevon gave a statement to the police, and you have
15 his statement. Look at it. It is 100 percent consistent
16 with what he said here today except he did add more facts
17 and more details here today.

18 He talked to the police on June the 5th of his own
19 volition after telling his family what he knew about
20 Marcus. He said I want to go tell the police what
21 happened, and he went down there and give a voluntary
22 statement to the officers, and the officers will tell
23 you -- and the -- and Investigator Perry told you exactly
24 what he said because he did give other facts and details
25 to Investigator Perry that are not in his statement, and

1 Investigator Perry testified to you about all of those
2 details. And if you remember the testimony, Investigator
3 Perry told you that he said that he went to Casey's, that
4 he saw, he saw Jose at Casey's house and then walked down
5 the street to Joseph. That's what Investigator Perry told
6 you.

7 And Tevon told you. People knew he gave a statement.
8 He knew he told -- Jose and Joseph knew he gave a
9 statement. People knew. People were talking about it.
10 People considered him a suspect. Remember his mama's
11 house got shot. He was -- I mean everybody in the street,
12 everybody in the street was talking about this, and isn't
13 it funny that everybody who was named in his statement
14 seems to know all of tiny minor details about Marcus'
15 death, and everybody who's named in his statement seemed
16 to come running up in here to give testimony against him
17 and to add facts to their testimony against him.

18 Now, the first one is Jabari, drug dealer, Jabari.
19 Remember him?

20 But let's call a spade a spade. If you give drugs --
21 if you're giving cocaine to somebody else, you're a drug
22 dealer. That's, that's plain and simple.

23 He testified that he doesn't really know Tevon.
24 Tevon's younger than him. He sees him at the club every
25 now and again. He doesn't really know Tevon. Yet, oh,

1 Tevon, was acting really strange.

2 How do you know?

3 You don't know him.

4 How do you know he was acting strange?

5 Maybe that was normal for him however he was acting
6 that night. But I don't know what Jabari said except to
7 corroborate Tevon's statement that yes, Jabari bought
8 drugs that night from Marcus and Tevon was with Marcus.

9 And what about Stephanie's statement?

10 Stephanie came into this courtroom, put her hand on
11 this Bible, swore that she would tell the truth, sat on
12 that stand and told whopper after whopper. According to
13 Stephanie, she, on June the 4th, 2008, at 1:13 in the
14 morning had a sudden urge, for the first time in her
15 entire life, to smoke crack, cocaine, excuse me, snort
16 cocaine and called up a dealer and asked to buy a dime
17 bag. That's the first time she ever did it. So she says.

18 Then she says, testified well, she was suppose to
19 meet Marcus at, at one place. Then she's supposed to meet
20 Marcus at another place. She's supposed to meet him at
21 his house. No, she's supposed to meet him at, at, at, in
22 front of Tevon's mother house. No, now she's buying from
23 him in front of Barbara's house.

24 Then she wants to know, well, what big deal is it if
25 she was a shoplifter because what does it have to do with

1 this?

2 Well, it has a lot to do with this because a thief is
3 a liar and a liar is a thief, and her credibility is
4 highly in question here today. And I'm gonna tell you,
5 her credibility is shaken because look at the evidence
6 that the State has provided. I want to show you State's
7 No. 36. That's the telephone line.

8 We have Stephanie's number. She told you what her
9 number was. Remember, she was all proud and she knew
10 exactly what time she called. 1:13.

11 Who knows the exact time they do something?

12 I called a relative yesterday. It was around 12:00.
13 I can't tell you exactly what time it was because I don't
14 know. She knew, in her statement to the police, the exact
15 time. Remember she said 1:18, but she clarified it was
16 1:13.

17 How did she show that?

18 The police had to have told her.

19 How would Stephanie know that she made a call exactly
20 at 1:13?

21 And the same, how would Jabari know that he made a
22 call exactly at 1:25?

23 But they come in here and testify to that because
24 somebody had to tell them.

25 Now, Stephanie says she called him twice. Oh, yeah,

1 she called, she called her drug dealer twice to go make
2 her dime bag purchase because the first time she was
3 supposed to meet him at her house, I mean at his house,
4 but then he changed because he was driving down the road,
5 and she called him again and he had to meet her at, in
6 front of Sandra's house, Tevon's house.

7 well, then you're like well, why?

8 That doesn't make any sense, and I'm sure you're
9 wondering well, why was I so picky on these details.
10 Because it's important. Let's get the story straight,
11 and, more importantly, look at the records. Stephanie
12 told you her phone number is 522-4812. She testified to
13 that. If you look at the report that Investigator Norwood
14 Bodie wrote that he did, remember he testified that he had
15 done one with the names on the side, it shows it bigger,
16 522-4812. Yeah, I made two phone calls, two phone calls
17 because we were gonna change the location.

18 No, she didn't. She lied. She made one phone call.
19 Remember, she testified, oh, no, she always uses that,
20 that cell phone and she always calls Marcus on this same
21 number. That's the only number she ever uses to call her
22 dealer.

23 Really?

24 well, she lied. She only made one phone call.

25 Why is that important?

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1 Because that one phone call tells you where they were
2 supposed to meet, in front of Sandra's trailer.

3 Who is Sandra?

4 Tevon's mother.

5 And why were they meeting in front of Tevon's
6 mother's house?

7 Because that's where Tevon and Marcus had arranged to
8 meet when Tevon called Marcus, according to the State's
9 own exhibit, at 1:11, two minutes before he talked to
10 Stephanie.

11 Why is that important?

12 Because it shows that Tevon is consistent in his
13 story and his story is supported by what everybody else
14 says.

15 Now, going on to Stephanie, if we can, still want to
16 believe anything she says because she's lying about her
17 crack, her usage of drugs, the location where she was
18 supposed to meet, what she was doing, how many phone calls
19 she made. Now, she's saying oh, Tevon was acting all
20 suspicious. Then she adds it to say oh, now he's sweaty.
21 The same detail everybody else has.

22 So, he's acting suspicious, he's ducking and dodging,
23 why?

24 Number one, he was already in the car previously
25 cause he had walked down from his house to meet when he

1 heard Marcus' car. Remember he said so. And, more
2 importantly, Stephanie knows Tevon and Tevon knows
3 Stephanie.

4 Why are you hiding from somebody you know?

5 It makes no sense. The person Tevon should have been
6 hiding from was his mother because she, at that point, he
7 hadn't gone and knocked on his door. He didn't go home
8 and try to get in his house until after he came back from
9 hanging out with Marcus. Remember. Before he went
10 hanging out with Marcus, he never went to try to get in
11 the house. That was the person that Tevon should of been
12 dodging from. And if you believe, if you believe
13 Stephanie that he was, that's the person he was dodging
14 from. That's the person he wasn't doing right by, the
15 mother, who is a school teacher who's knocking her head
16 against the wall trying to get that boy to do right and he
17 doesn't. I bet she told him repeatedly, and your mama's
18 told you repeatedly, no good will come if you hang out
19 with a bad crowd, and he's finding that out in spades
20 today.

21 And that brings us to -- and I just want to remind
22 you that the judge told you at the beginning of the trial,
23 and he'll tell you again, that you're the, you're the, you
24 are the judges of the credibility of the witnesses.
25 You're gonna be the judges of the facts. It's gonna be

1 you to determine whether the State has provided credible
2 witnesses upon which you can find Mr. Jackson guilty of
3 these charges. And even if you believe, like I said, even
4 if you believe he was ducking and dodging, I'm not saying
5 that Tevon is, is anybody's choir boy. He told you point
6 blank he's not.

7 He leaves his mother, he goes over to his cousin's
8 house who she doesn't approve of, has his friends in the
9 house she doesn't approve of, he rides around with a drug
10 dealer. I'm not saying that he's anybody's angel.
11 However, the State has not proven him guilty of murder.

12 And then they have the statements of Jose Serrano and
13 Joseph Dicks. Let's see. Mr. Serrano, gun toting robber.
14 Mr. Dicks, a liar. He admitted he changed his story to
15 the solicitors. He changed his story to the police. He
16 changed his story to us.

17 And when did he change his story?

18 Last week right before trial.

19 Now, Mr. Dicks -- and now there was testimony and
20 they're both saying that the solicitors haven't promised
21 them anything and there's no doubt. They don't have to
22 have promises. What they want is hope.

23 Mr. Dicks clearly hopes to get this, a benefit out of
24 his testimony here because there was -- you heard the
25 testimony that he's got pending charges in Jackson. This

1 Solicitor's Office has nothing to do with those charges.
2 Yet, for some reason, when he's going to court in Jackson,
3 he drops Mr. Weeks' name to the officer. Oh, wait, no, he
4 didn't drop Mr. Weeks' name to the officer. Oh, yes, he
5 did. No, he didn't know his name. Maybe he did.

6 And why did he do it?

7 No, he wanted a dismissal. No, wait. No, he just
8 wanted to get his money back. Either way, he doesn't want
9 to get convicted of those charges and he thought maybe he
10 could drop the solicitor's name and his involvement in
11 this case to get a deal in his other charges.

12 Now, is that a big deal?

13 No, but it's a big deal to him.

14 And isn't it awfully funny that, after his other
15 charges when he changes his story, five minutes before
16 trial, and isn't it awfully strange that how his story
17 changed. Mr. Serrano's going talking to the solicitors
18 and he's telling some different facts from what he told
19 previously, and the solicitors like that story because it
20 fits more with their theory that they don't have to do any
21 more work on the case. They can just push the right case,
22 back the right person in jail. That's enough.
23 Mr. Serrano's story supports that, and Mr. Dicks is not on
24 board.

25 So, what do they do?

1 Do they go into a nice big comfy conference room?

2 No.

3 Do they go into a neutral place?

4 No.

5 They go into a teeny office in the solicitor's
6 office. They cram in Mr. Weeks, Solicitor Young,
7 Investigator Bodie, Investigator Savell and Serrano, and
8 then all of a sudden Mr. Dicks comes in. He tells his
9 version of the story. That's not good enough because it
10 doesn't match Serrano and next thing you know Dicks is
11 told to change. Tell the truth.

12 Well, the truth according to Serrano because the two
13 of them don't forget they had been in connection the whole
14 time. They said that they talked the day after and
15 compared stories on what Tevon told them about the crime.
16 They said that they -- and they had been, they had been in
17 contact.

18 And what's new about their stories?

19 Well, when they first gave their statements to the
20 police, they both said they never saw any drugs or any,
21 any drugs or guns. Dicks said he never saw any drugs,
22 guns, or money. Yet, all of a sudden, now, yeah, there
23 was drugs, guns, and money. Dicks says first, when
24 they're talking to him, something about however he got
25 this gun. Yet, now, all of a sudden, Tevon gave him the

1 gun and then Tevon switched it out for another gun even
2 though Mr. Dicks knew that he was considered a suspect in
3 this case, and he knew Tevon had been talking to the
4 police. He might not have known exactly what Tevon had
5 said. He might not have known who else put him in what
6 way, and he was clearly afraid that he'd be convicted.

7 Now, I don't know why Mr. Dicks and Mr. Serrano got
8 their story like this, but only they can tell you the
9 truth about that. I can tell you it wasn't heard from
10 them yesterday or the day before. They've had -- they had
11 -- Tevon went to the police on the 5th, the day after
12 Marcus' death. They had four days, after Tevon went to
13 the police, to get their stories straight. They had two
14 and a half years to get their details straight, and let me
15 tell you, all of a sudden, oh, Tevon was coming down the
16 road sweating and then Investigator Bodie puts up all this
17 evidence, I mean testimony about oh, these light poles.

18 Really?

19 Well, let me tell you, don't get confused about some
20 light pole evidence because nobody testified that those
21 lights even worked that day. In fact, Mr. Baker
22 specifically said he didn't even know if the lights worked
23 that day and nobody testified that it was light out. Jose
24 Serrano never said there was light shining on Tevon from
25 the light pole. Not one person testified to that. So, I

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1 don't even know where that's, where that's coming in.

2 Are they gonna say, oh, the light pole was there, the
3 bill was being paid, the lights must have been done?

4 That's a lot of assumption.

5 Are you gonna just find somebody guilty based on
6 assumptions?

7 Now, we get to Tracy. Tracy says that when they were
8 walking home, Tevon said oh, I'm gonna go and rob that
9 nigga.

10 Really?

11 She didn't even take that serious. Remember, that
12 was just them talking, and then she went back to talking
13 on her phone. It wasn't nothing -- no big deal if you can
14 be, believe her. If you can even believe her that that
15 was what was said, it wasn't any big deal. She didn't
16 even consider it. And when the others got, those three
17 boys got back to the house, none of them in their original
18 statements ever said that he was off to do a lick, he was
19 going off to do a robbery. Yet, all of a sudden in here,
20 he's specifically going off to rob Marcus.

21 Gun toting Jose Serrano, who was considered a suspect
22 by the police. Let's face reality. He knows he was. Him
23 and, him and Dicks both. They were both suspects.
24 There's no question.

25 You know how you know that?

1 Because there was testimony all over that, from, all
2 over this record that their DNA was taken, their
3 fingerprints were taken.

4 Why?

5 They were suspect.

6 And not only that, Jose's guns were taken.

7 Why would they go get Jose's guns if they didn't
8 think Jose had something to do with it?

9 And even more importantly, then, when Jose gets
10 arrested from his .357, they take his gun to SLED.
11 Remember. They couldn't be bothered to take all the DNA
12 but to SLED, but they took Jose's .357 because you heard
13 from Mr. Black on the stand yesterday that the gun, the
14 bullet was a .38 caliber bullet, it could have been fired
15 from a .38 caliber gun or a .357 caliber gun. Jose
16 here -- he's all of a sudden caught with the police with a
17 .356 caliber gun with bullets in his shoe and here they
18 take his stuff to SLED.

19 Now, I know, the solicitor, I can tell you what he's
20 gonna say again. I'm not a psychic. I just know. He's
21 going to tell you well, if they hadn't tested the bullets,
22 the gun, then I'd be sitting up here carrying on about
23 Jose having a gun that they didn't test. Sure I would.

24 But you know what?

25 They had faith in their witness. They would of just

1 let me yammer on.

2 And if I had -- if what I had to say had so much
3 control, then why didn't they test the evidence?

4 Test the evidence, analyze the DNA is what I have to
5 say has so much to carry on what they do.

6 Now, I want to tell you that -- oh, and I also want
7 to talk about Kenisha Jackson. Now, she knew about the
8 police car, but her statement -- her testimony, her
9 testimony also is inaccurate, and that -- again, we have
10 to go back to the phone records that were put into
11 evidence by the State. Kenisha Jackson testified that her
12 phone number is 552-8535, and now, looking at State's 54,
13 which is the blow-up that Investigator Bodie did, you'll
14 see that she called several times.

15 Now, remember, she said she was calling back and
16 forth because sometimes he didn't answer, and, remember,
17 she said that she would often call from her cousin's 706
18 cell phone number. She couldn't remember the number, but
19 it was 706. That she would call Marcus to try to get him,
20 and she said she was calling from that 706 phone number
21 that night.

22 Look at the records. That's not true. If she says
23 oh, he was calling -- remember she said I only call him on
24 this phone because the other phones in the car don't work.
25 Well, she doesn't know because she's not the girlfriend.

1 She is just the baby's mother, and he is with somebody
2 else, Felicia, who was living next door to Melissa. She
3 doesn't know. She thinks she knows, but she doesn't. She
4 knows that he's got other girls. She -- remember she said
5 he was trying to get back, and maybe he was trying to get
6 back with her. But she wasn't dialing from a 706 number.
7 The only 706 numbers on these records are outgoing calls.
8 No incoming to, to Kenisha.

9 But Kenisha's important for another point, and for
10 that I want to discuss a timeline. I did prepare a
11 timeline based on the State's evidence in this case. Not
12 based on what I say the evidence is, but going straight
13 from what the State's witnesses told you as well as what
14 the witnesses testified to, and specifically -- and I'm
15 sorry. I just need to pull out this.

16 Looking at the timeline based on the State's own
17 evidence, I think it's pretty clear what happened here.
18 At 12:48, according to the -- I mean I think that we can
19 pretty much take the word of the Verizon cell phone
20 records because I don't think a computer has anything to
21 gain or lose here in this case. And if you look at these
22 records, at 12:48, Marcus, at 12:48:02, Marcus has an
23 outgoing call to Felicia. Excuse me. I'm sorry. To
24 Kenisha. That call lasts 2,199 seconds.

25 Now, remember there was testimony from the Verizon

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1 representative, Mr. William Hare, that you can have more
2 than one call at the same time because of call waiting and
3 call forwarding and three way calling, but the records are
4 clear. 12:48, Marcus called Kenisha. At 12:54, Tevon
5 called Marcus. At 1:11, Tevon called Marcus again.

6 Now, neither one of Joseph Dicks or Jose Serrano said
7 anything about Tevon talking to Marcus on the phone, which
8 either means Tevon was out of their hearing. Remember he
9 said he was at their house or outside or he was already on
10 his way elsewhere. But he was not with them at this time
11 and remember, in their original statements to the police,
12 both of them said the same exact thing, that Tevon left
13 the house and came back 30 to 35 minutes later.

14 Now, I know times are approximate, and the
15 Investigator Perry talked about that, and not everybody
16 knows the same exact time. But 30 to 35 minutes was
17 written in both statements. Thirty to thirty-five.
18 Joseph Dicks testified 30 to 35. Yet here we are with --
19 and then Joseph, Jose Serrano oh, maybe it was more.
20 Well, yeah, because 30 to 35 doesn't fit the State's
21 evidence.

22 Tevon called Marcus at 1:11 and then Stephanie called
23 Marcus at 1:13. That's critical, I told you. Stephanie
24 was always going to meet Marcus at Tevon's house.

25 why?

1 Because Tevon talked to Marcus at 1:11 according to
2 the Verizon cell phone records. You can see right here,
3 1:11, and Stephanie talked to him two minutes later. He
4 already made arrangements to meet Marcus, to meet Tevon at
5 Tevon's house. He met -- and that's why he told Stephanie
6 to meet over there. Stephanie's lying in her statement.
7 I don't know why. But the truth has willed out solely
8 based on the cell phone records because she was never
9 supposed to meet Marcus at his house. She was going to
10 Barbara's house. She was always supposed to meet in front
11 of Tevon's house, Sandra's trailer, remember, and we know
12 that because Tevon says he talked to her.

13 Why do we take Tevon's word for it?

14 Because Tevon's the only person who hasn't changed
15 his story and there's more. Tevon's story is supported by
16 the cell phone records. He talks to Jabari at 1:25.

17 Now, had Jabari had the exact time?

18 Don't know. But there's no question Marcus talked to
19 Jabari at 1:25. Around 1:30 Marcus sold cocaine to
20 Jabari. No question. We know what time he talked to
21 Jabari. It's on the cell phone records that the State
22 gave you.

23 Two o'clock, Melissa saw Marcus in the driveway. She
24 has no question. Let me tell you, Melissa didn't act like
25 she had an axe to grind with anybody. She had nothing to

1 gain or lose. She was just testifying to what she knows
2 based on her living in the area. She knows the car. It
3 comes into her driveway.

4 what did she say, several times a week?

5 He was there quite often because he's dating her next
6 door neighbor, Felicia.

7 And what did he do?

8 His car runs loud. Tevon testified too he's got a
9 noisy car. He plays his music loud, and shines, he
10 shines -- he's shown the light into the neighbor's
11 driveway, excuse me, into the neighbor's window. Melissa
12 knew the car and she saw the car at two o'clock.

13 At 2:17, Tevon called Marcus. No question. See the
14 records. Tevon told you he's calling Marcus so Marcus can
15 come pick him up at Dicks' house instead of his house
16 because the mama wasn't home and he had no way to get in
17 the house. Three o'clock, Jose Serrano told you he went
18 home at 3:00.

19 So -- and by, by the time -- Jose, Jose told you that
20 he was adamant, yeah, every other thing he was shaky on,
21 but he was adamant he went home at three o'clock.

22 Adamant.

23 why is that important?

24 Because Tevon was talking to Marcus or actually he
25 talked to him according to the Verizon cell phone records

1 to tell him to come pick him up, and he was calling,
2 trying to call him at between, at 2:17. Three o'clock,
3 Jose Serrano goes home. But according to Jose' testimony,
4 he had already spoken to, to Tevon. Tevon had already
5 come and told them the story about how he committed this
6 crime. One of -- and don't forget, let's talk about the
7 story now.

8 Joseph Dicks says that Tevon told him he was standing
9 up, went to the side of the car, acted like he was gonna
10 pee, and shot him. Joseph Dicks says he and Serrano were
11 together when Tevon told him this story. Serrano says no,
12 no, he told me that he, he crouched down, acted like he
13 was gonna make a drug buy, and then he shot him.

14 Well, they hadn't gotten that part of the story
15 straight before they got to the cops. But 2:17 to
16 three o'clock.

17 So, that is the State's timeline. That is not mine.
18 It's all from the State's evidence and their witness, and
19 the sate would have you believe that in this 43 minutes,
20 43, maybe a little less because don't forget, Jose says it
21 takes him five minutes to walk to his house. He's home at
22 3:00. Forty-three minutes, Tevon was able to kill Marcus,
23 ransack this car, move that body that was bleeding from a
24 head wound, go through all of these items, and look, look
25 what else they did.

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1 Pulled out some -- they're saying he was able to pull
2 out Marcus' pockets. You see the pockets inside out.
3 Look at the pictures. Go through all of the items in this
4 car. Obviously you have to wash and change clothes
5 because you would of had blood on you. Clean the blood
6 off, duck the neighbors who might of heard the gunshot and
7 who are looking out the window, sneak through some woods,
8 go to Casey's house, meet up with Jose Serrano, take Jose
9 Serrano back to Joseph Dicks house, brag about doing this
10 murder, and showing off money and drugs, hang out for a
11 little while, and then Jose walk home. Forty-three
12 minutes.

13 Now, the solicitor's made a big point to ask him
14 well, nobody saw you. No, nobody saw him walking down the
15 road. But we're talking about 43 minutes. Time to do all
16 that and change your clothes and get the blood off of you
17 because there had to be blood on him. Look at the car.
18 Look at the side of the car. Look at the side where he
19 is. Imagine the bleeding that would have been done from a
20 head wound. Look at where the head is laying on, laying
21 on the seat. Look at how disshelved he is.

22 How did the keys get under him?

23 He was moved. Yet, not one person says Tevon had a
24 drop of blood on him. Not a drop. One single drop of
25 blood because, you know, if they had thought about it,

1 they would have said it. And they didn't mention Tevon
2 being on the phone with Marcus because they didn't know.
3 They didn't see it. They didn't know. They couldn't put
4 that detail in there because that would of been true and
5 they didn't know about that, and Tevon told you, and his
6 story has been the most consistent. Remember, even to the
7 point where, when he was talking to, when he was in the
8 car with Marcus, he said he was on the phone with a girl.

9 If Tevon -- okay. Look at this phone call. He
10 talked to Kenisha right here for 2,199 minutes. Excuse
11 me. 2,199 seconds. I'm sorry. My math stinks. I used
12 the calculator this time. That call ended at 1:25:01
13 because that, in seconds, comes out to end at 1:25. She
14 knew somebody else was in the car. She doesn't know when
15 they got in. You see, they're several other calls in and
16 out. He was already in the car when he bought from
17 Stephanie. So, you know, at the latest when Stephanie
18 bought from Marcus, at the latest he was in the car at
19 1:38 at the latest.

20 That puts us -- that's absolutely at the latest, and,
21 according to their story, the State's witnesses, 30 to 35
22 minutes after he left he was back with the money, drugs,
23 and guns.

24 Really?

25 well, that would put the murder somewhere in the

1 range between 1:45 and two o'clock, and we know that
2 didn't happen because Melissa was positive.

3 Do you know why she was positive?

4 She's the one person who actually looked at the
5 clock?

6 Remember, she looked at the clock to see how late it
7 was cause she was going to the bathroom. She is the one
8 person who is positive about her time because she looked
9 at the time. Two o'clock, Marcus was still alive. That
10 is inconsistent with what Jose said and, and Joseph. It's
11 inconsistent with the State's theory of this case, and I
12 think it proves reasonable doubt.

13 That, that brings me to the topic of reasonable
14 doubt, and the judge is going to tell you that a
15 reasonable doubt is a doubt that would cause a reasonable
16 person to hesitate before taking action. You have to be
17 set -- you, you -- he is going to tell you that you have
18 to be firmly convinced that the State has met their
19 burden, beyond a reasonable doubt, in order for you to
20 find Tevon guilty. But if you are satisfied, then it's
21 gonna be your burden to, to find Tevon guilty. But if
22 you're not firmly convinced, it's going to be your duty to
23 find Tevon not guilty. That's just not my wish. That's
24 not my hope. That's what the judge is going to tell you.

25 The State has the burden here. The defense never has

1 the burden to do anything. But in this case, I felt
2 compelled to point out the inconsistencies in the evidence
3 to the state's case.

4 Look at the evidence. Remember what the witnesses
5 say. See who has a reason -- who has something to gain or
6 lose. And, like I said, once again, which witness is
7 biased.

8 Now, like I said, has the State promised Mr. Serrano
9 anything?

10 No.

11 Does Mr. Serrano hope for a deal?

12 He better. He's facing not only the possibility of
13 jail time for his new charges, but the possibility of jail
14 time for his parole revocation for having a gun.

15 And who's the gun toter here?

16 The only person that -- the two big gun toters around
17 here seem to be Jose and Joseph. And all of a sudden, now
18 that Tevon's not around to defend himself, oh, yes, Tevon
19 gave him the gun on the eve of trial.

20 Now, ladies and gentlemen, it's up to you now to
21 decide what the facts in this case are. It's up to you to
22 decide has the State met their burden.

23 Have they proven this case to you beyond a reasonable
24 doubt?

25 Are you satisfied that you can make a decision,

1 beyond a reasonable doubt, that Tevon Jackson is guilty
2 based on the word of a crack head shoplifter, a thief,
3 Jose Serrano, who was convicted of strong armed robbery
4 and who the State clearly considered a suspect as late as
5 December, a liar who changed his story the week before
6 trial?

7 Is that enough for you to convict Tevon of murder and
8 of possession of a firearm within, within, I mean during
9 the commission of a violent crime.

10 Like I said, ladies and gentlemen, if the State has
11 proven to you and you are firmly convinced that they have
12 met their burden to prove to you Tevon's guilty beyond a
13 reasonable doubt, well, then it is your duty to find him
14 guilty. But I ask you to look at all the evidence. Look
15 at the pictures. Go through your own timeline. You don't
16 have to take my word for it. You have the -- this is just
17 a blow-up of the State's Exhibit. You're going to have
18 all the evidence that you have back there or at least what
19 they were able to provide back there.

20 And it's up to you to decide, with this minimalist
21 effort, sufficient for you to make this decision because,
22 ladies and gentlemen, if you find that this is
23 insufficient effort, insufficient evidence, then it will
24 be your burden to find Tevon Jackson not guilty.

25 Thank you for listening to me.

1 THE COURT: One of you gentlemen help her move that.

2 MS. ALVES: I'll get it. I've got it. Thank you.

3 THE COURT: Mr. Foreman, ladies and gentlemen, we got
4 one more argument by the State.

5 Everybody okay, bathroom?

6 Everybody fine?

7 (Jurors respond affirmatively.)

8 THE COURT: Mr. Weeks.

9 MS. ALVES: that's not evidence, is it?

10 MS. ALVES: No, sir, those were mine -- that's my
11 paperwork. I left them up there.

12 THE COURT: I just saw a red sticker on one.

13 MS. ALVES: I'll double check.

14 SOLICITOR WEEKS: Please the Court, Your Honor?

15 MS. ALVES: Oh, I'm sorry.

16 THE COURT: Mr. Weeks.

17 SOLICITOR WEEKS: Over the last three days we've
18 traveled through an area that, you know, probably all of
19 you are thinking you probably don't ever want to go again
20 in your life if you've ever happened to have been down Dry
21 Branch Road, and I'm sorry about that. I told you, in
22 opening statements, that this was gonna be a case about
23 greed. It's gonna be a case about cowardness. I think
24 it's also been apparent, throughout the trial, it's kind
25 of a case about laziness. Not good hard work amongst some

1 of this crowd was probably a unique thing, but what it was
2 not a case of is lack of evidence.

3 You know, I told you in opening that when the police
4 go and find a dead body in the middle of an empty
5 cul-de-sac, and it's described as a minimal crime scene,
6 all of that's just plain truth. They scatter out from
7 there trying to get people to talk that they don't have
8 any right to make talk and I don't have any right to make
9 talk.

10 I can subpoena them all day. I can yell their names
11 up and down the hallway, but I can't make them say a word
12 from that stand. I can't do it. She knows the law don't
13 allow that.

14 So, when they come in here voluntarily and testify,
15 she knows why they're here. She also knows that the
16 evidence, from day one, was started by Tevon Jackson.
17 That's who started this whole process.

18 And you know why he started it, ladies and gentlemen?
19 You heard it on the stand today. He met with his
20 grandmama and his mama and you better go up there and talk
21 to the police.

22 well, guess what he did?

23 He got his whole story lined out. But what he didn't
24 know and what he had no way of knowing was gonna come in
25 evidence later he didn't want to talk about at all today.

1 He wasn't asked about the cigarette butt. The only person
2 that's been talking about that cigarette butt all week is
3 me and Ms. Alves.

4 When Ms. Alves wanted to insinuate to the DNA guy
5 that it's some mysterious number 15, you know, and she
6 wants to talk about it in closing like it don't mean
7 anything.

8 Well, it does mean something. It means something
9 because Jose Serrano, Joey Serrano, Joseph Dicks, Billy
10 Fleury, Mike Perry, Norwood Bodie, Bill Weeks, we have no
11 idea, on June the 10th when Tevon Jackson is arrested,
12 that there will be a cigarette butt that comes back
13 outside of the car, two cigarette butts on this whole durn
14 cul-de-sac that Marcus Finklin's supposed to be making all
15 of his deals on, two cigarette butts, and there's an empty
16 pack of cigarettes in the picture there, there's only two.
17 Marcus Finklin smoked his last cigarette right there in
18 that spot, and Tevon Jackson smoked a cigarette with him.

19 Now, does Joey Serrano know that?

20 Does Joseph Dicks?

21 None of us know what that DNA will hold.

22 But what did we know on June the 5th?

23 We knew that that man had been all over inside and
24 outside of that car. He'd driven it to Georgia. He had
25 driven Marcus around. He was participating in these dope

1 deals by being there.

2 So, Ms. Alves just goes on and on and on jabbering,
3 as she said, about the lack of evidence.

4 MS. ALVES: Objection. Improper argument.

5 THE COURT: That's the word you used. No personal
6 arguments. Come on.

7 SOLICITOR WEEKS: About the lack of evidence.

8 Well, her own client got on the stand and said
9 they're a lot of people in that car, a lot of people.

10 I can just see it now, taking one of those CD's and
11 Tu Pac Sacure or whatever been dead for five years, guess
12 whose DNA shows up on it?

13 Guess whose fingerprint shows up on it?

14 It's not relevant because of the crime scene.

15 Now, if we were trying to prove, trying to find out,
16 trying to discover somebody that had been in that car that
17 night, that's a different thing. We keep sending evidence
18 to SLED until they cry uncle and close the building. But
19 we didn't have that. That's not what we had in this case.

20 We had Tevon Jackson saying, on June the 5th, that I
21 was all over that car with Marcus Finklin and that he made
22 a dope deal to Stephanie, we made a dope deal to Jabari,
23 and oh, guess what, I don't know what happened to me after
24 that. Oh, he knows now.

25 who's had three years to practice their testimony

1 with three lawyers?

2 Now, even in practicing it, oh, he just remembered
3 Casey's name. He just remember Casey. Just remembered he
4 had on new kicks and he didn't want to get them dirty.
5 You can look at the picture of the area that he's talking
6 about. If he didn't want to get them dirty, he didn't
7 want to walk on any dirt roads.

8 Well, Nondrum Street, that whole area looks like beef
9 cattle has been herded through there. That's just not
10 reasonable. By his own testimony, he can't even make his
11 mama an alibi cause she wasn't home. By his own
12 testimony, he can't tell you where he was during the time
13 or he doesn't tell you. He could. He doesn't tell you
14 where he was during the time when we feel like Marcus was
15 murdered.

16 I told you it wasn't a slam against Ms. Alves talking
17 about New York City. I mentioned New York City in my
18 opening arguments because I just read that they installed
19 like 6,000 new video cameras. Well, Aiken County will
20 never install a video camera on Court, folks.
21 I'm pretty well -- they won't do it in my lifetime
22 probably. We're not gonna have that capability.

23 But even if we did, I can assure you it would be
24 fuzzy or it would be grainy or there'd be some reason that
25 the defendant would say I can't -- that's not clear, it's

1 fuzzy, it's garbled, you know, there's a bush in the way
2 or whatever. There's not anybody that's worth having a
3 law license that can't critique the police. It's classic.
4 It's just classic.

5 When you don't have anything to do or don't have a
6 defense, attack the police, attack the process, attack
7 what they didn't do rather than get y'all to talk about
8 what they did. And that's just so classic, but it's a --
9 it's just terrible here because what Ms. Alves here is the
10 fact that comes from the witness stand are different than
11 I think y'all heard them come from the witness stand, and
12 it's not right to misrepresent those in that fashion
13 because I think that the pictures speak for themselves.

14 Ms. Alves was not at the scene. I wasn't at the
15 scene. Those police officers wasn't at the scene. None
16 of the witnesses were at the scene, but one, and that's
17 Tevon Jackson.

18 And do we think that the evidence suggests that
19 Marcus Finklin's body was moved?

20 Dah, yes. It's not somewhere hiding.

21 But can we say it was moved?

22 No, but we can put you the picture up there that
23 looks like it was moved.

24 We put the gunshot residue in there.

25 We put -- where did we get the gunshot residue from?

1 The driver's door column, on the driver's headrest.

2 where did we get the swab that matches Marcus Finklin
3 off of the other seat that she wants you to say is some
4 sort of red Kool-Aid or whatever?

5 Well, the Kool-Aid's got a top on it in there anyway.
6 But it's his blood, and the swab by the chemist or the, or
7 the DNA guy said it came back to Marcus Finklin on the
8 passenger seat.

9 well, he took a bullet in the side of his head,
10 ladies and gentlemen. You're allowed to bring common
11 sense in here. You're allowed to, to project that if
12 you're shot in the head you're gonna bleed, and you're
13 gonna bleed. You might splatter. It might not. But
14 there's no indication in this whole entire investigation
15 that anybody else's blood was in that car besides the
16 deceased, Marcus Finklin.

17 Tevon is with him. Alibis Marcus Finklin the entire
18 night in his statement the next day that he's practiced
19 with his grandma and mama. But Marcus Finklin and Tevon.
20 Marcus Finklin and Tevon. Stephanie, Jabari.

21 You know, it's, it's amazing when they try to make
22 something out of the fact that Stephanie Green came in
23 here and testified to breaking the law. Marcus or Jabari
24 Johnson came in here and testified as to breaking the law.
25 I can't make them do that. She can't make them do that.

1 They have to do that.

2 But who started it?

3 Who named them?

4 Who named all of the people in this case that now he
5 wants to blame?

6 He did.

7 They didn't talk to Stephanie Green until after they
8 talked to him. They didn't talk with Jabari until after
9 they talked to him. They didn't even talk to Meat Man or
10 Serrano or Tracy Serrano until after they had talked to
11 him.

12 So, the concept that, oh, I haven't changed my
13 statement, but all of these other people are liars was
14 disproved on the witness stand when he testified cause he
15 admitted to lying. He admitted to lying to his mother
16 about where he goes. He admitted to hanging out on the
17 street. He ain't been hanging out the last three years,
18 and that's probably the only reason he doesn't have
19 charges, but he ain't been doing that.

20 Now, did we have charges against the witnesses?

21 Yes, we did. We have charges against them and we
22 brought you that evidence in here to show you.

23 And why did we go through all that trouble to call
24 all that SLED people, to call -- I know y'all got tired of
25 seeing me up there. I got tired of asking them about it

1 to show the chain of custody, to show that nobody has
2 manipulated it.

3 Ladies and gentlemen, after 30 years, if I was gonna
4 make up evidence, by God I could get some good evidence.
5 If I was going to lie about the evidence and, and put
6 words in people's mouth, I promise you I can come up with
7 some good stuff.

8 Well, what we put to you was the truth and that's why
9 we called those half a dozen SLED witnesses to say we do
10 this on every case. We don't tamper with it. We seal it.
11 We take it up there. That's why we put in guns that don't
12 have a dag gum thing to do with Marcus Finklin.

13 But you know why those guns are important?

14 The guns are important because nobody knew, nobody
15 knew when Joey Serrano volunteers that .380, 9-millimeter
16 other than Joey Serrano. He knows he didn't kill nobody
17 with it. The police didn't know he didn't kill anybody
18 with it. Joseph Dicks doesn't know he doesn't kill
19 anybody with the gun, but he knows he's got it and that's
20 what he told the police to start with, that Tevon had
21 borrowed that gun and gave it back at sometime, and he
22 didn't know when.

23 Well, gosh, if you're gonna make up a story about a
24 gun, make it a good one. Make him have target practice
25 and, you know, zero it in or whatever. Let's lie. If

1 we're gonna lie, let's make up a good one. But that's all
2 the state does is just lie. They put up witnesses that
3 lie, and they lie to you about what their investigation
4 is.

5 why are the guns important?

6 Because on January, June the 5th when Tevon puts
7 himself right in the middle of Court cu1-de-sac
8 for a minute, they didn't know what caliber of weapon,
9 class of weapon made the bullet hole in Marcus Finklin's
10 head and made the bullet that they retrieved out at
11 autopsy. It wasn't until David Black takes the gun that
12 Joey Serrano had told them where it was and compares
13 against this bullet that they had a gun to compare it
14 against.

15 It is clear and uncontradicted testimony that none of
16 the guns up here are the gun that fired the fatal shot
17 that killed Marcus Finklin. None of that is
18 contradictory. But the fact that we put those guns in
19 there is sinister or conspiracy or whatever. It's telling
20 it all, telling all the evidence. Telling it because we
21 can show you that those guns weren't the one used to kill
22 him. We don't have the gun that killed him.

23 Do we need it to prosecute him for murder?

24 No, we don't.

25 I told you in the opening that I tried in my bumbling

1 way to tell you that there was gonna be a lot of different
2 types of witnesses in this case, that there was gonna be a
3 lot of different types of evidence, and I think I've
4 fumbled through and shown you that there is in this case.

5 But the important thing is that when you get back
6 there, you'll have these pictures to look at, and one of
7 the reasons I called Norwood Bodie to the stand was to set
8 it all up for what we did when we put together all the
9 statements, we knew what we knew about the case so that we
10 could come up here and show you. Marcus Finklin can't
11 come in and testify as to where he was living, but
12 everybody talked about it was down the road. That's a
13 good little piece there. But I'm saying, you know, you
14 could walk it in a minute.

15 Well, Tevon lives right here at the end of
16 Court right in here. Those initials were put there. Meat
17 Man over here where M&M is. All within, I don't know, I'd
18 call that half a minute. Pretty close.

19 Court's right here. We'll just lay that
20 over here. Do the math. It's not a quarter of a mile
21 down there.

22 Why did we put the pictures in?

23 Because it would be -- if we had ten people saying
24 they saw Tevon Jackson walking down Court
25 headed that way, they'd be in here arguing why would he go

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1 by that way, that's too long. He could of cut through the
2 woods and gone right here. We put those pictures up to
3 show that probably, in the nighttime of June of 2008, that
4 was like two beacons in the night and he knows these
5 woods. He grew up here. He just walks there and walks
6 right down.

7 why is it significant?

8 Cause all of the witnesses testified that, that
9 that's where he appeared, right there on that dirt portion
10 on Broadway, which is up to hill, which is next to Casey
11 Johnson's house, which is right there at Meat Man's house,
12 and even, even after three years of going over the times,
13 meeting with his lawyers, he still can't tell you the
14 time. It's unaccounted for between when he says he was
15 dropped off by Mark Finklin at his house, nobody saw him,
16 and he says he went and met up with Joey and with Meat
17 Man.

18 You know, likewise, ever since we've had them,
19 they've had the phone records to go over and analyze. And
20 if you look at the phone records in terms of the names of
21 the people that testified, I promise y'all I don't expect
22 y'all to remember everybody's phone number. But I do good
23 to remember mine at the end of the day. But we put the
24 names beside them just to show the pattern, and she's
25 right.

1 The one thing that really doesn't lie is the phone
2 time. The content of the phone call, who answered it, who
3 was on the other end, all of that is subject to
4 interpretation, but why, when nobody there by everybody's
5 admission carried any clocks around their neck, why is
6 time important?

7 Well, the State's theory is Marcus Finklin died and
8 didn't answer Kenisha Jackson's last phone calls, that he
9 was dead by the time Joey Serrano walked back to his house
10 that night, but all of this time, by Tevon's statement,
11 he's right in this area.

12 If Joey Serrano is gonna walk up there and kill him,
13 who's gonna know it?

14 If Meat Man's gonna leave his house and somehow
15 manage to get down here to this cul-de-sac and kill Marcus
16 Finklin, Tevon's hanging right in here the whole night.
17 He's up and down the road as he said. He's chilling.
18 He's hanging, walking always on the paved road.

19 But he don't say that. But his lawyer's trying to
20 convict him. You can bet you she's trying to convict
21 them, and there was not one shred of evidence that the
22 prosecution ever had or the State ever had that they were
23 the ones that killed Marcus Finklin.

24 I don't care that Joey Serrano and Joseph Dicks are
25 bad guys. That's all I deal with is bad guys. It doesn't

1 bother me a bit to talk to them. I can promise you they
2 ain't scared of me either.

3 So, whether I got them hemmed up in my little old
4 office downstairs, and, incidentally, I got the biggest
5 one down there, or I got them, you know, at the Sheriff's
6 Department in the conference room, wherever I got them, I
7 can't make them do a thing. I can't make them do a thing.

8 Now, it's really important that you don't miss out on
9 something with all of the discussion that was going on
10 about the statements. It's really important that you
11 remember the statement made on June the 9th by Joey
12 Serrano, June the 9th of '08, before he knows anything
13 about the telephone records, before he's ever met me,
14 before he's got anything to add to the testimony in this
15 case that he talks about a .38.

16 Now, all of the guns that have been mentioned, and
17 all of the guns that's been brought in, none of them are a
18 .38. He's very specific that the gun that night was a
19 .38. He don't know that the autopsy gonna show that that
20 was a .38. He don't know that. And you're gonna say,
21 well, maybe that's because he killed him. well, there's
22 not one shred of evidence on June the 9th of 2009 that he
23 killed him or that Meat Man killed him. The only evidence
24 is those two statements right at that point in time.

25 Now, what happens is the State does what we do in

1 every case. We take the case and investigate it and tear
2 it apart, and a couple of things throughout the trial of
3 this case have just been dodged completely by the
4 cross-examination and by the arguments.

5 One is the location of Tevon Jackson's cigarette
6 butt. Of course, Tevon Jackson's statement is they stayed
7 there a minute, which I'm still not sure how long a minute
8 is. I get more and more confused the more questions I ask
9 up here about how long a minute is.

10 But, number two, right outside the door here. The
11 crack opened door of Marcus Finklin's car. Number two is
12 right here. You'll see the photograph that number one is
13 just on the other side. You don't see a photograph of any
14 other cigarette butt in this supposedly drug hang-out in
15 the entire thing. And if it was there, it would be blown
16 up. There aren't any. Those cigarette butts were the
17 last cigarettes smoked right there by that car and the
18 last one smoked was Tevon Jackson on the passenger side,
19 and, on the driver's side, that New Port was smoked by
20 Marcus Finklin.

21 They want to insinuate that because Tevon says, on
22 June the 5th, that they had been up there earlier, why is
23 he gonna tell the police that?

24 Guess what?

25 He knows that people have seen him riding up and down

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1 the road. He knows that he's been up on Court
2 with Marcus. He knows Marcus has been on the phone the
3 entire night with a girl because he's cheesing or whatever
4 he's doing, grinning I'm thinking he's saying. That's
5 what I understood it was. Grinning.

6 So, he knows all that. He knows all that when he
7 goes in and gives his statement that doesn't lock him in
8 to any times and they want to talk about some Bo guy, some
9 Bo guy, some Bo guy. There's been no testimony at all
10 that gives any kind of credibility to that. The
11 mysterious Bo guy that they thought was a white Crown Vic
12 following him down Road. Rut ro (phonetic).
13 That was a police officer.

14 And they want to get all this commotion built up
15 because we called a police officer in there, but on
16 June the 4th of 2008, Chiquita Ingram told them that. She
17 told them she was on the phone with Marcus and that, hey,
18 she was standing on Nondrum. He is headed down towards
19 his house. She told him. She called him on the phone.
20 That's why her name's on those phone records. She called
21 them from her daddy's phone. Her name's right there.
22 That's the time frame when Detroit Spires was behind him.

23 But they act like that's sudden news. That's just
24 not credible, ladies and gentlemen. They had June the 4th
25 know that Chiquita was saying hey, I hollered at Mark and

1 told him that the police were behind him.

2 He's right about Ms. Ealy. She's unimpeachable.

3 None about that testimony forever. We don't think that
4 Marcus Finklin got killed in her yard. We don't suggest
5 the evidence suggests that. We suggest that there is
6 something credible about the fact that he just kind of
7 sits there. She hears the car, you know, tunes on the car
8 or whatever, and then he turns and goes whichever way he
9 goes.

10 But why is that significant?

11 Joey Serrano and Joseph Dicks don't know that when
12 they give their statements to the police about where
13 people come from and where they go that night on June the
14 9th of 2008. Ms. Ealy's statement is -- this is Ms.
15 Ealy's house. We pull back here, sat there for a while.
16 I hollered at him when he first went there. He leaves
17 around 12:00, comes back at some point around 2:00, pulls
18 up, sits here for a while, then he pulls up here and sits
19 for a little while and then he turns and goes.

20 Well, that's Court right there.

21 Where does he go from right here and who was with him
22 at that point?

23 Well, who left right here and went walking this way?

24 Who had said earlier in the day that he was going to
25 rob the pizza man?

1 Who had told Joey Serrano that he was gonna hit
2 Little Mark, that he was gonna get Little Mark with that
3 .38 that he showed?

4 All of that -- Serrano and Dicks don't know that day,
5 that night when they give statements. But it's shown by
6 the physical evidence. Even Tevon, who's had three years
7 of practice, says he cuts through here to Casey's house to
8 cut over to Meat Man's house in his new kicks.

9 Well, if there ain't dirt there, then, you know, I'm
10 just blind. But that's what he says.

11 From day one in this investigation the police have
12 been up front with people. You didn't hear anything about
13 the police beating up on people. You didn't hear anything
14 about the police threatening people. What you did hear
15 about, though, was the police, us, the State, seeking to
16 corroborate, seeking to prove, beyond a reasonable doubt,
17 that Tevon Jackson was the one that killed Marcus Finklin,
18 and I was -- through the years, I've toyed with different
19 examples about reasonable doubt, but one of the ones that
20 keeps coming back to me because it's really true is if the
21 judge told me before I started this trial that I would
22 have to prove to y'all beyond a reasonable doubt that I
23 used to play basketball, your first look at me, you would
24 think, hu, he sure is big, but he sure is fat. He's been
25 sweating up here all week. He ain't in very good shape.

1 And if I had to prove to y'all, beyond a reasonable doubt,
2 that I used to play basketball, I'd think how would I do
3 that.

4 When I use to play, they had rolls and rolls of tapes
5 and my coach loved them because he could like replay them,
6 replay them, and if I trip and fall or do something
7 stupid, we had to watch that back and forth over and over.
8 So, I know I can't bring you in videotapes to play to you
9 that I use to play basketball.

10 So, how would I prove it to you?

11 Just because I'm tall, that don't mean that I play
12 basketball. But that doesn't get me very far. That
13 causes you to hesitate.

14 Well, call my teammate. Even as old as I am, some of
15 them are still alive. Some of them have been in trouble.
16 I've done divorces for someone. I've represented some of
17 them in criminal court. Lots of things have happened in
18 their life, but they were the ones that I hung around when
19 I played basketball. That was my boys. That was my
20 group.

21 You know, if I got desperate, I could probably call
22 some people from the other team who were, you know,
23 Augusta State or Payne College or Citadel and those
24 places, and they might remember me fouling them the entire
25 game that I use to play basketball, but they'd look at me

1 and say man, he sure has gained a lot of weight, he sure
2 is getting old, he sure does sweat a lot. But they know.
3 But I can't put video up there to prove to people beyond a
4 reasonable doubt. I have to call the people that were
5 around and that's what we've done.

6 I can't make them come testify, but I can call them
7 to put up. We have to put in the physical evidence that
8 we have. If I was proving, beyond a reasonable doubt, I
9 might, I might go get newspaper clippings out of my attic
10 or I might put a picture into evidence that shows me with
11 big helmet hair and side burns down to my knees and really
12 a whole lot skinnier. But you'd say well, that's just --
13 you could have posed for that. That don't prove nothing
14 or those newspaper clippings, you know, how do we know
15 that's you, Bill Weeks. If it says 6'8" giant from
16 Jackson, South Carolina in the newspaper clippings, that
17 might be a little bit.

18 But when it's all over and I wanted to prove to you,
19 beyond a reasonable doubt, that I played basketball, I
20 believe, when you saw the totality of the circumstances,
21 even though you were hammering and cynical of my witnesses
22 or hammering or cynical, hammering or cynical -- gosh, my
23 is mouth dry. Cynical of my physical evidence, when I put
24 the total picture in front of you, I believe I could
25 convince you that I played basketball.

1 Well, beyond a reasonable doubt is that kind of
2 proof. It's not absolute certainty. It's not perfect.
3 There's no such thing as a perfect case. If there was,
4 there'd be a defense lawyer finding a hole in it, finding
5 an argument about it, arguing about a hole in it.

6 Well, there's no reasonable doubt in this case when
7 you look at the totality of the picture here, and you look
8 at what people knew, when they knew it, and, you know, I
9 can tell you this, that half of the witnesses that
10 testified, you really don't even need to think about
11 again. Those are kind of legal things I had to show you
12 to get the end testimony in, the end testimony of Ira
13 Parnell, the end testimony of David Black, the end
14 testimony of the DNA expert, all of those SLED witnesses
15 that testified about hoops they jumped through to make
16 sure stuff is reliable to bring to you. I mean
17 truthfully, you can kind of ignore all of that.

18 Now, where it is important is, if for some reason, I
19 wanted to tear that car of Marcus Finklin into little tiny
20 quarter inch strips or if I wanted to take truly complete
21 DNA, I think I'd probably have to dissolve the car in some
22 solution, and the DNA that builds that, that builds me,
23 that builds people, people is complex, stays around for
24 God knows how long, but it's not the no all cure all of
25 evidence. What it is is corroboration. It is

1 corroboration and it's unexplainable how dead between
2 those two cigarette butts, unexplainable when you compare
3 it to Tevon Jackson's statement on June the 5th, and the
4 reason he gave that statement is because he knows he'd
5 been up there, and knows that people had probably seen
6 him.

7 You can't explain that cigarette butt. I could have
8 14 CD's covered in his DNA and it wouldn't prove a thing
9 because she is absolutely right. They would be up here
10 saying he plugged in the CD's. He got them out of the
11 glove box. He's been playing them for two weeks. That's
12 another thing.

13 Tevon Jackson was not gonna admit to me -- I couldn't
14 snatch it out of him how many times he'd been in that car.
15 But what he did tell me was that a lot of people had been
16 in that car.

17 Well, a lot of people ain't the people that killed
18 Marcus Finklin that night. The person that killed Marcus
19 Finklin that night was the person that said he was in the
20 exact same spot where Marcus Finklin's body was found. He
21 was in the exact same time frame when he got killed, when
22 his baby's mama, when girls would call him on the phone,
23 and he's answering, well, he's alive. When he stops
24 answering, he's dead. He's dead.

25 Forty-three minutes, I just -- I don't understand

1 where that came from because, in 43 minutes, as fat as I
2 am, I could probably walk to, you know, Applebee's and
3 back. I could go a ways. And if I'm in a hurry and I
4 just shot somebody, I could probably get a little move on
5 it even better.

6 So, the time frame, there's no question Tevon
7 Jackson, by his own statement, didn't see anything. He
8 didn't see Joey Serrano. He didn't see his mama. He
9 didn't see anybody that, you know -- he said something
10 about Casey thrown in at the end. But nobody to alibi
11 him, and he don't have to prove anything. But, you know,
12 if he came in here with ten people that said oh, he
13 couldn't have shot him cause we saw him at the Hot Spot in
14 New Ellenton. That ain't what he came in here saying.

15 And, so, you can look at his credibility on the
16 stand, too, and, you know, if she wants to talk about the
17 liars and thieves and crooks and gun toters that testified
18 for the State who were the witnesses, she's got to look at
19 her client too and judge his credibility.

20 Now, I know, as soon as I sit down, I'll think about
21 something I really wanted to talk about cause it's never
22 happened to me that I didn't. But there are a couple of
23 things I wanted to close with that I think jump out in
24 this case that take you beyond any kind of hesitation you
25 may have.

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1 One is the cigarette butt. That can't be explained.
2 Tevon didn't explain when he was on the witness stand. He
3 didn't want to touch that. You can't explain it from the
4 statement, physical evidence of two cigarette butts on
5 either side of that car where Marcus Finklin's dead body
6 was found in the driver's seat were inexplicable. No
7 mention, no run over. The ash on that cigarette demands
8 attention. That means it's fresh, reasonably fresh.

9 It hadn't been run over. It hadn't been wind blown.
10 It hadn't been rained blown. It hadn't been put there in
11 ten seconds or less. I don't believe you could smoke a
12 cigarette that fast. I ain't a big cigarette smoker, but
13 that's pretty fast if you're going to smoke one in ten
14 seconds.

15 But what is credible and what stands out is that
16 story.

17 If they're going to make up a story like that, why is
18 it that he gets out to take a leak, goes around, and
19 shoots him from that window?

20 Why not just pull out the gun and bam?

21 Well, for one thing he ain't gonna get all that blood
22 on him that they're talking about shot from outside of the
23 car.

24 Is he gonna have to push him back up?

25 Is he gonna get the keys from the ignition and go

1 check the trunk?

2 Uh-huh.

3 He don't know where all the money is.

4 Is he gonna empty his pockets trying to get the
5 money?

6 Yes, he's going to do that. You can see his pockets
7 are pulled out or turned out. Not pulled out, but turned
8 out like you got something out of it.

9 But the whole issue about whether or not Tevon knew
10 about the crime scene is the last statement that he gave
11 to Investigator Mike Perry that he didn't put in this
12 statement that he knew that the window of Marcus Finklin
13 was half down.

14 Now, how in the world did he know that?

15 Just didn't roll it up?

16 No, there's no testimony about that. He knew that
17 because that's the way it was when he killed Marcus
18 Finklin. He just didn't realize that once the forensics
19 looked at it, and once we started comparing the DNA on the
20 outside of the car along with the GSR, I don't know if he
21 knew about GSR, that it would line up with that.

22 Marcus was shot one time, uncontroverted that it was
23 with a .38 caliber weapon, and left very distinct lands
24 and grooves by these experts. So, that bullet -- if there
25 is a gun ever found that matches that, they ought to be

1 able to match up the bullet to it, but don't think for a
2 minute that we don't, hadn't shown you motive for Tevon
3 Jackson, and we don't have to show you motive. We have
4 shown motive.

5 Greed is a hell of a motivation for most people. Not
6 working, hanging in the streets. I don't know why he
7 killed his friend. I got to -- I don't get to vote on
8 cases. You vote on them. You have to judge the
9 credibility of these witnesses, but I suggest to you that
10 maybe Tevon had a little bit of I'm gonna be a bigger guy
11 kind of complex going on, and that's the way he may have
12 appeared on the stand to you.

13 Think about the, the things I've talked about that
14 these witnesses wouldn't have known that were in the
15 police, and even the police wouldn't have known when these
16 statement were given.

17 Does it bother you that, that people meet with me or
18 meet with the prosecution or meet with law enforcement to
19 go over their testimony?

20 Well, I suggest to you I'd be guilty of malpractice
21 if I didn't meet with witnesses.

22 Do witnesses add details to their questions when they
23 get close to trial?

24 I suggest to you that's entirely reasonable.

25 Do they even add things they just didn't want to talk

1 about then?

2 I suggest to you they do. If it's getting close to
3 the truth, you're going to get up under oath and put your
4 hand on the Bible and testify in front of a bunch of
5 people, some of which may know whether you're fibbing.
6 There is a lot of pressure put on people to do that, but
7 there's also a lot of pressure to lie when you're charged
8 with a crime.

9 So, the fact that he's asked for a jury trial is his
10 constitutional right. It's a constitutional right to have
11 a lawyer and to ask for a jury trial, guilty or innocent.

12 Well, I suggest to you that the evidence is shown
13 that the State has presented that Tevon Jackson is guilty
14 of murder and guilty of possession of that weapon. When
15 you go back to the jury, take your time. Look at all
16 these exhibits and think about the police never looked,
17 not before they give their statements, not before they
18 arrested Tevon Jackson, Joey Serrano and Joseph Dicks have
19 never been suspects in the murder of Marcus Finklin.
20 Nobody puts them with Marcus Finklin. Nobody says they're
21 buying dope from Marcus Finklin. I'm not sure they could
22 have rubbed two nickels together at that time. But nobody
23 does.

24 So, why is the police suppose to charge them?

25 Well, their theory is they're supposed to charge them

1 because they're testifying against the defendant. Their
2 testimony, I'll tell you, it troubles me. The testimony
3 troubles me because they're all committing crimes out
4 there. But the testimony doesn't trouble me that they're
5 saying we didn't kill, and said it on June the 10th when
6 first approached about it, we didn't kill Marcus Finklin.
7 But I'm afraid I got to say my cousin told me he did and
8 my cousin wasn't in our sight and low and behold they
9 don't know he's given that statement or the details of it.
10 He wants to make out like he knew or he told Joey and
11 Joseph all about his epiphany to the police.

12 Well, he couldn't even tell me where he went after
13 the interview. When I asked him about going to Columbia,
14 oh, no. Oh, yeah, I did. It's not credible.

15 Now, please take all this evidence, consider it with
16 the seriousness that it is, and find him guilty of murder.

17 THE COURT: Mr. Foreman, ladies and gentlemen, my
18 charge is about ten, twelve, fifteen minutes. Let's take
19 a quick bathroom break. Don't deliberate. Don't start
20 discussing it.

21 As soon as you finish in the restroom, Mr. Foreman,
22 knock on the door so I can get you right back out and
23 finish up and you'll get the case.

24 Everybody else remain seated just for a second.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right. We'll stand at ease for about
3 five minutes.

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

5 THE COURT: Mr. Weeks, anything before I give my
6 charge?

7 MR. WEEKS: Not from the State, Your Honor.

8 THE COURT: Ms. Alves?

9 MS. ALVES: No, sir.

10 THE COURT: All right. Anybody that needs -- there's
11 one other person. Let them in. Anybody needs to leave,
12 you can't leave while I'm doing this. So, if you need to
13 leave, leave now.

14 All right. Bring the jury in.

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

17 THE COURT: All right. Mr. Foreman, ladies and
18 gentlemen of the jury, what we're gonna do now is what we
19 call the charge or instructions on the law. The first
20 part of the charge deals with general criminal law. I go
21 all over the State trying cases, and whether it be a
22 murder case or a failure to stop for a blue light case,
23 anything in-between, the first part of the charge deals
24 with general propositions of criminal law, and then, at
25 the very end, we'll talk about the two specific

1 indictments in this case.

2 Let me remind you, once again, that the fact that the
3 defendant was arrested, charged, and indicted in the case
4 is not evidence in the case and cannot be considered by
5 you as evidence of guilt in this case nor does it create
6 any presumption or inference of guilt. The indictments
7 are simply the charging documents by which the case comes
8 into the courtroom.

9 They're two indictments in the case. Obviously one
10 is for murder, and the other one is for possession of a
11 weapon during the commission of a violent crime. You'll
12 decide each one of them separately and apart from the
13 other. The -- and, of course, the State has to prove each
14 of the indictments to you beyond a reasonable doubt.

15 Now, in this case, the defendant has pled not guilty
16 to both indictments and a plea of not guilty puts the
17 burden on the State of South Carolina to prove the
18 defendant guilty beyond a reasonable doubt. A person
19 charged with committing a criminal offense in South
20 Carolina is never, never required to prove himself
21 innocent.

22 I charge or instruct you that it is an important rule
23 of constitutional law that a defendant, in a criminal
24 trial, no matter how serious the charge may be, will
25 always be presumed to be innocent of the crime or crimes

1 for which the indictments were issued unless guilt has
2 been proven by evidence satisfying you of that guilt
3 beyond a reasonable doubt.

4 The presumption of innocence does not end when you
5 begin your deliberations, your deliberations, but it stays
6 with the defendant throughout the trial until you reach a
7 verdict of guilt based on evidence satisfying you of that
8 guilt beyond a reasonable doubt. The presumption of
9 innocence is not a mere legal theory. It's not just a
10 legal phrase. It is a substantial constitutional right to
11 which every defendant is entitled unless you, the jury,
12 are satisfied, from the evidence, of the defendant's guilt
13 beyond a reasonable doubt.

14 Our South Carolina Supreme Court has defined
15 reasonable doubt very simply. A reasonable doubt is the
16 kind of doubt that would cause a reasonable person to
17 hesitate to act. A reasonable doubt is the kind of doubt
18 that would cause a reasonable person to hesitate to act.

19 Proof of -- proof beyond a reasonable doubt is proof
20 that leaves you firmly convinced of the defendant's guilt.
21 There are very few things in the world that we know with
22 absolute certainty, and in criminal cases, the law does
23 not require proof that overcomes every possible doubt.
24 If, based on your consideration of the evidence, you are
25 firmly convinced that this defendant is guilty of the

1 crime charged, then you must find the defendant guilty.
2 However, on the other hand, if you think there's a real
3 possibility that he is not guilty, you must give the
4 defendant the benefit of the doubt and find him not
5 guilty.

6 I remind you, once again, that during the trial of
7 this case that you and I have had certain duties to
8 perform. My duties have been to rule on the admissibility
9 of the evidence, and my other duty is now to charge you on
10 the law.

11 Obviously, your duties are much more important than
12 mine because you are the judges of the facts in the case.
13 You determine what the true facts are in the case. So,
14 if, at any time during the trial of the case, I may have
15 rolled my eyes or did something that you thought I had an
16 opinion about the facts, please disregard it. It gets
17 tired sitting up here sometimes and I have to make some
18 kind of facial expression, but, seriously, I cannot have
19 any opinion about the facts. The law does not allow me to
20 do that. That is your sole job. So, please do not infer
21 from anything that I've done throughout the trial that I
22 have an opinion about the facts. You are the judges of
23 the facts in this case. You and you, you alone.

24 There are two types of evidence which are generally
25 presented during a trial. What we call direct evidence

1 and circumstantial evidence.

2 Direct evidence is the testimony of a person who
3 claims to have actual knowledge of a fact such as an eye
4 witness. It is evidence which immediately establishes a
5 main fact to be proved.

6 Circumstantial evidence is a proof of a chain of
7 facts and circumstances indicating the existence of a
8 fact. The law makes absolutely no distinction between the
9 weight or value to be given to either direct or
10 circumstantial evidence nor is a greater degree of
11 certainty required with circumstantial evidence than of
12 direct evidence.

13 You should weigh all of the evidence in the case, and
14 after weighing all of the evidence, if you're not
15 convinced of the guilt of the defendant beyond a
16 reasonable doubt, then you must find him not guilty.
17 Direct evidence is, is, if you walk outside and it's
18 raining and you get wet, that's direct evidence that it's
19 raining. If you walk outside and there's mud puddles
20 everywhere, mud puddles, water in the road, cloudy sky,
21 hear thunder, then that's circumstantial, but you don't
22 get wet, that's circumstantial evidence that it has
23 rained. So, that's the two types of evidence in a case.

24 Obviously, to perform your duty as the finders of the
25 facts, the judges of the facts in the case, you must

1 determine the credibility of the witnesses who have
2 testified in this case. And as I told you at the
3 beginning of the case, and this case is proven true, you
4 will hear all versions of facts, different versions of
5 facts. So, it becomes your duty to determine the
6 credibility of the witnesses.

7 Credibility simply means believability, who do you
8 believe, what testimony do you believe. It is your duty,
9 as jurors, to analyze and to evaluate the evidence and
10 determine which evidence convinces you of its truth.

11 In determining the believability or credibility of
12 witnesses who have testified in the case, you have the
13 right to believe one witness over several, several over
14 one. You can disbelieve everything somebody says. You
15 can believe everything somebody says. You can believe a
16 part of what they say, disregard a part of what they say.

17 So, you have the right to look at those people and
18 determine who's telling the truth. Use your common sense.
19 As I told you, in the opening statements, how you deal
20 with people on a day-to-day basis, use that in determining
21 who told the truth in this case.

22 You have the right to consider whether any witness
23 has exhibited to you any interest, bias, prejudice, or
24 other motive in their case, and you may also consider how
25 the witness acted on the stand and how he appeared on the

1 stand. So, you have -- you can use any of your normal
2 human senses in determining what the truth was in this
3 case, and, obviously, you take the true facts as you find
4 them to be, and you apply it to the law as I give it to
5 you, and you'll be in a position to render a verdict in
6 the case. That's how the system works.

7 We had a number of witnesses. We had a pathologist,
8 a DNA and firearm experts, and several others who were
9 allowed to give opinions in the case. Rules of evidence
10 ordinarily do not allow or permit witnesses to testify to
11 opinions or conclusions.

12 We have an exception to this rule, which we call the
13 expert witness exception. A witness, who by education and
14 experience, has become expert in some science, profession,
15 or art may state an opinion as to relevant and material
16 matters in which the witness is or claims to be the
17 expert. You should consider any expert opinion received
18 in evidence in this case, and like any other evidence,
19 give it the weight you think it deserves.

20 If you decide the opinion of an expert is not based
21 on sufficient education and experience, or if you conclude
22 the reasons given in support of the opinion are not sound
23 or that the opinion is outweighed by other evidence, you
24 may disregard the opinion entirely. An expert witnesses,
25 witnesses testimony is to be given no greater weight than

1 that of any other witness simply because the witness is an
2 expert. Further, you're not required to accept an
3 expert's opinion even though it's not contradicted.

4 We had some witnesses who had past criminal records.
5 A person who has a past criminal record is competent to
6 testify during a trial. A past record does not effect the
7 ability of that witness to testify. The past record may
8 only be considered by you, if at all, in determining the
9 credibility or believability of that witness. Remember,
10 you're the sole judges of the facts and the believability
11 of any and all the witnesses is your job and your duty in
12 this case.

13 All right. Mr. Foreman, ladies and gentlemen, that
14 sort of concludes the general broad areas. Let's turn to
15 what we are, what we have in this case.

16 In this case, Mr. Tevon Jackson, in one indictment,
17 is charged with the offense of murder. The State must
18 prove, beyond a reasonable doubt, that the defendant
19 killed another person with malice aforethought. They must
20 prove, beyond a reasonable doubt, that the defendant
21 killed another person with malice aforethought.

22 Malice is defined in our law as hatred, ill will, or
23 hostility towards another person. It is the intentional
24 doing of a wrongful act without just cause or excuse and
25 with an intent to inflict an injury or under circumstances

1 that the law will infer an evil intent. Malice
2 aforethought does not require that malice exist for any
3 particular time before the act is committed, but malice
4 must exist in the mind of the defendant just before and at
5 the time the act is committed. Therefore, there must be
6 some combination of a previous evil intent and the act.

7 Malice aforethought may be expressed or inferred.
8 The terms expressed and inferred do not mean different
9 kinds of malice, but merely the manner in which malice may
10 be shown to exist. That is either by direct evidence or
11 the inference from conduct of the defendant.

12 Express malice is shown when a person speaks words
13 which express hatred or ill will for another person or
14 when the person prepared beforehand to do the act which
15 was later accomplished. Malice also may be inferred from
16 conduct showing a total disregard for human life.

17 So, the statutory offense and elements of murder is
18 pretty simple. The State must prove, beyond a reasonable
19 doubt, that the defendant killed another person with
20 malice aforethought, and I've defined to you the term
21 malice and the term aforethought.

22 If you find the defendant guilty of murder, if you
23 find that the State has proven, beyond a reasonable doubt,
24 the elements of murder, then obviously you would then
25 consider the offense or the indictment where he is charged

1 with possession of a weapon during the commission of a
2 violent crime. That's codified in section 16-23-490.

3 He's charged with possession of a weapon during the
4 commission of a violent crime. The State must prove,
5 beyond a reasonable doubt, that the defendant was in
6 possession or displayed a firearm during the commission of
7 a violent crime. Obviously a firearm is defined as any
8 type of gun, revolver, or pistol.

9 In order to find the defendant guilty of possession
10 of a weapon during the commission of a violent crime,
11 obviously you must first find the defendant guilty of
12 committing a violent crime, i.e., in this case murder.
13 Murder is defined as a violent crime in the State of South
14 Carolina.

15 Mr. Foreman, ladies and gentlemen of the jury, we
16 have two verdict forms. We have first the verdict form
17 for the murder case or the murder charge. You need to
18 consider that first. If you find him not guilty of
19 murder, then obviously the, he wouldn't have been in the
20 possession of a weapon during the commission of a violent
21 crime because there would not be any conviction of a
22 violent crime. If you find him guilty of murder, then
23 obviously you would consider the possession of a weapon
24 during the commission of a violent crime.

25 Your verdict must be unanimous as to both. All 12 of

1 you must agree. The verdict form is very simple. It's a
2 not guilty or guilty. Whatever your verdict is, you
3 simply check that, sign it as the foreperson.

4 You cannot base your verdict on feeling sorry for
5 anybody, trying to reward anybody. You have no friends to
6 reward, no enemies to punish. Your verdict must be based
7 solely on what you heard in this courtroom, and when you
8 decide what the true facts are, you apply it to the
9 definition of murder and possession of a weapon during the
10 commission of a violent crime tempered with those other
11 propositions of criminal law that I gave you.

12 If, at any time during your deliberations, you have a
13 question, please write it out on a piece of paper. You'll
14 have some paper in there, knock on the door, and Mr. Bill
15 or one of the bailiffs will bring it to me. Sometimes I
16 can answer it, sometimes I can't. It just depends on what
17 the question is. We will address it. If I can't answer
18 it, I'll tell you I can't answer it.

19 I'm gonna ask you now to return to your jury room.
20 I'm going to ask you do not start deliberating. I have to
21 make sure I have all the exhibits. When I get those all
22 collected, which won't take but just a couple of minutes,
23 I will send that in there to you with a verdict form and
24 you may start deliberating. If, at any time during the
25 deliberations, someone needs to take a bathroom break or

1 whatever, please stop your deliberations until they return
2 to the group. It needs to be a full group discussion the
3 whole time. If you have any questions, just let me know.

4 Everybody else remain seated.

5 (WHEREUPON, the following takes place outside the
6 presence of the jury.)

7 THE COURT: Mr. Weeks, any requested addition or
8 deletions to the charge?

9 SOLICITOR WEEKS: no, sir.

10 THE COURT: Ms. Alves?

11 MS. ALVES: No, Your Honor.

12 THE COURT: Would you both please come, review the
13 verdict form, and make sure we have all of the exhibits.

14 (Pause.)

15 THE COURT: Let the record reflect that both Ms.
16 Alves and Mr. Weeks have reviewed all exhibits, and they
17 have accounted for each one. They both reviewed the
18 verdict form. They are in agreement with it.

19 MS. ALVES: I haven't seen it. I'm sorry.

20 (Pause.)

21 THE COURT: All right. Ladies and gentlemen, we're
22 going to stand at ease while the jury deliberates.

23 (WHEREUPON, the jury began deliberations at 3:07 and
24 returned with a verdict at 9:21.)

25 THE COURT: All right. Ladies and gentlemen, I have

1 no earthly idea what the verdict is. Obviously it's been
2 a long week for all of us.

3 So, I'm warning you, if you can not continue to show
4 good behavior, you've been a wonderful, wonderful audience
5 all week. I know this is an emotional situation. So, if
6 you can not control your emotions, I will not have any
7 clapping, cheering, crying, whaling, or anything else.
8 So, if you can not do that, I'm gonna ask that you now
9 please leave. If I have any disturbance whatsoever, I
10 have the courtroom surrounded by officers, and you will be
11 escorted out. I will deal with you on Monday for contempt
12 of court.

13 So, fair warning. If you can not continue to behave
14 like you've done all week, I'm gonna ask that you please
15 step out. And, once again, I thank both sides, both
16 families for controlling and conducting yourself as
17 complete ladies and gentlemen all week.

18 Defendant ready to receive the verdict?

19 MS. ALVES: Yes, sir.

20 THE COURT: All right.

21 (WHEREUPON, the following takes place within the
22 presence of the jury.)

23 THE COURT: Mr. Foreman, have y'all reached a
24 verdict?

25 THE FOREPERSON: We have.

1 THE COURT: Will you hand it to the bailiff please?

2 (Foreman complies.)

3 THE COURT: All right. You want to stand please.

4 (Parties comply.)

5 THE CLERK: Your Honor, we have State of South
6 Carolina, County of Aiken versus Tevon Jackson, Indictment
7 Number 2009-GS-02-83, as to the offense of murder, we, the
8 jury, find the defendant guilty. We unanimously agree.
9 Signed by foreperson, Thomas Folk, February 25th, 2011.

10 Your Honor, we have State of South Carolina, County
11 of Aiken versus Tevon Jackson, Indictment Number
12 2009-GS-02-84, as to the offense of possession of firearm
13 during commission of a violent crime, we, the jury, find
14 the defendant guilty. We unanimously agree, signed by
15 foreperson, Thomas Folk, February 25th, 2011.

16 Ladies and gentlemen of the petit jury, if this is
17 your verdict, please indicate by raising your right hand.

18 (WHEREUPON, all jurors raise their hands at this
19 time.)

20 THE CLERK: All hands are raised, Your Honor.

21 THE COURT: Thank you.

22 Anything further for the jury, Ms. Alves?

23 MS. ALVES: Yes, sir, I request polling.

24 THE COURT: All right. Let's poll them.

25 Ladies and gentlemen of the jury, what that means is

1 I will ask, I will call your name and ask you is this your
2 verdict and is it still your verdict. If it is, please
3 say I do.

4 (WHEREUPON, the jurors were polled at this time and
5 all jurors answer in the affirmative that this was and is
6 still their verdict.)

7 THE COURT: All right. The jury's been polled, and
8 they've all responded in the affirmative.

9 Anything else, Ms. Alves?

10 MS. ALVES: No, sir.

11 THE COURT: You may be seated.

12 (WHEREUPON, the jury was dismissed at this time.)

13 THE COURT: All right. Ladies and gentlemen, we have
14 a double week of court, two week term of court. It's
15 late. I know everyone's tired. I will sentence on
16 Monday.

17 Mr. Weeks, Ms. Alves, y'all talk to the respective
18 families, whatever time suits them. We'll interrupt
19 whatever we're doing. I'll do it early that morning or
20 two o'clock or whatever. So, just let me know when I get
21 here at nine o'clock on Monday.

22 At this time, I'm gonna ask the family over here --
23 I'll tell you what. Let's let the defendant's family go
24 first. You want to hold up until the jury gets out.

25 THE POLICE OFFICER: Yes, sir, please.

1 THE COURT: All right, sir. I'm gonna go back into
2 my chambers. I'm turning the courtroom over to our
3 security for exit of the courthouse, and I'll leave it up
4 to you.

5 Anything I can do for the lawyers?

6 SOLICITOR WEEKS: I'm all right, judge.

7 MS. ALVES: Fine, Your Honor. Thank you.

8 THE COURT: And let me commend the lawyers. I know
9 it was a tough case. You were both super adversaries for
10 your particular side. I appreciate the efforts that you
11 put forth.

12

13 (Whereupon, Court was in recess for the evening.).

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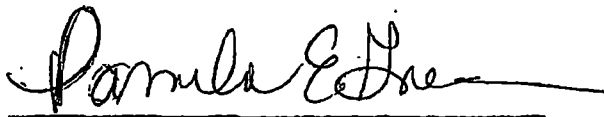
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Aiken County, South Carolina, on the 22nd through the 25th days of February, 2011, as reported by Lisa Davenport and transcribed by myself.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 3rd, 2011

A handwritten signature in cursive script, reading "Pamela E. Green", is written over a horizontal line.

PAMELA E. GREEN, Court Reporter

State of South Carolina }
County of Aiken } Court of General Sessions
 } 2009-GS-02-00083,00084

The State of South Carolina }
 } Plaintiff
 } vs.
Tevon Jackson }
 } Defendant } Transcript of Record

February 28, 2011
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

John W. Weeks, Assistant Solicitor
Attorney for the Plaintiff

Wallis A. Alves, Esq.
Attorney for the Defendant

Lisa H. Davenport, RPR
Official Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>

(none offered)

1 (Whereupon, on February 28, 2011 the following
2 proceedings were held:)

3 THE COURT: All right. Miss Alves, are you ready to
4 proceed with the sentencing phase in the State versus
5 Tevon Jackson who was found guilty by the Aiken County
6 petit jury on last Friday night, February 25, 2011 at
7 approximately 9:30 PM.

8 Is the state ready to proceed?

9 MR. WEEKS: The state is ready, Your Honor.

10 THE COURT: And Miss Alves?

11 MISS ALVES: Your Honor, prior to the sentencing I
12 would like to make a motion for a new trial. Your Honor,
13 taking the evidence in the light most favorable to the
14 state I would move for a new trial on behalf of
15 Mr. Jackson for the two charges he was convicted of. I
16 base this motion on the objections made during trial.

17 Also, I think that, obviously, credibility of the
18 state's witnesses was a big part of this case and looking
19 at all of the evidence that was presented by the state --
20 in particular looking at the testimony of the two
21 witnesses Mr. Serrano and Mr. Dicks which admittedly
22 changed in the past week to make an even stronger case for
23 the state and looking at their testimony in light of the
24 other evidence that the state presented I don't believe
25 that there was sufficient credible evidence upon which the

1 jury could have based their verdict and I would move for a
2 new trial.

3 THE COURT: I can hardly remember any objections made
4 during the trial. I am trying to think. Light pole
5 maybe.

6 MISS ALVES: There were a few.

7 THE COURT: There weren't many.

8 MISS ALVES: No, sir.

9 THE COURT: Obviously, Miss Alves, you and I have
10 been doing this a long time. We all know that my function
11 is I am the judge of the law. The jury is the judge of
12 the facts. That necessarily makes them judge of the
13 credibility of the witnesses and so that is their
14 function. They chose to believe those witnesses. So,
15 that is their function. So, I respectfully deny your
16 motion.

17 MISS ALVES: Yes, sir.

18 THE COURT: Mr. Weeks, anything from the state before
19 I pass on sentencing?

20 MR. WEEKS: A couple of things, Your Honor. Your
21 Honor has heard all of the facts in this case, have heard
22 the testimony of the variety of witnesses that we called
23 as well as the SLED expert analysis of various items in
24 the case. Your Honor, the state's position in this trial
25 has been all along that this was an extremely serious

1 matter.

2 As I indicated in my opening arguments Marcus Finklin
3 had been dealing drugs, but this was not a drive-by
4 shooting. This was not a rival gang hit. This was not a
5 drug killing in the sense that that's why he was killed.
6 He was killed for greed. He was killed for money and it's
7 not the typical kind of drug case where we've seen them go
8 in and have a home invasion and shoot up the drug dealer.
9 We took it as an out-and-out murder and that's exactly
10 what it was. There was no reason for Marcus Finklin to be
11 killed that night by Tevon Jackson except for just plain
12 out-and-out greed.

13 We feel like the court has the discretion in this
14 case to send a message to Tevon Jackson that this was a
15 killing motivated by greed and not just a drug killing as
16 the case may go.

17 All of these witnesses that testified there was some
18 drug sales being made that night from the deceased Marcus
19 Finklin, but this was not a situation where Tevon Jackson
20 was involved in the drug business with Marcus Finklin. He
21 just took the opportunity to brutally murder this young
22 man.

23 Your Honor, we have three people who I believe --
24 Carla, if you'd come on up. We have Mrs. Adams, the
25 mother of Marcus Finklin, who would like to give an oral

1 statement to the court and we have ---

2 THE COURT: Let's let her hold on just a second, if
3 you don't mind.

4 MR. WEEKS: Thank you, Your Honor.

5 THE COURT: Miss Alves, I'll be glad to hear from you
6 or anyone on your behalf.

7 MISS ALVES: Your Honor, may it please the court.

8 Your Honor, Mr. Jackson is now 20 years old. He's been in
9 jail since June 10 of 2008 and when he went to jail he was
10 17. As you heard from the testimony he lived with his
11 mother and his two younger brothers. His father is
12 currently stationed in California in the marines. During
13 the pendency of his trial his father actually went
14 overseas. He was actually stationed in Afghanistan for a
15 period of time during the time that Mr. Jackson has been
16 in jail.

17 He was -- he had just finished the 11th grade in high
18 school and he was -- from what everybody says I know that
19 there was some testimony and it was clear that Tevon had
20 some issues with his mother's authority, but he doesn't
21 come from a bad family, Your Honor. This is not somebody
22 who was raised poorly. You heard his mother is a school
23 teacher. His father is a -- his father, as you heard, is
24 in the marines and even his stepfather -- his former
25 stepfather is involved with law enforcement. This is not

1 a boy who came from a bad family, Your Honor, but he just
2 fell into doing bad things with a bad crowd, I mean, and
3 sometimes that bad crowd is family members. Sometimes
4 not.

5 But you heard his testimony how his mother wanted him
6 to stay home and his mother didn't want him to associate
7 with inappropriate people, but he chose not to -- he was
8 honest with you about that. I know hindsight is 20/20 for
9 Tevon, but now he is saying that his mother is right that
10 the crowd he was hanging out with come to a bad end.

11 He's maintained his innocence on this and, Your
12 Honor, if -- and he's adamantly 100 percent denied this.
13 I know he said he told the court that he had three
14 attorneys during the pendency of this case and that is
15 true. The other two attorneys left the Public Defender's
16 office and I got his case the beginning of last year. So,
17 he has had to deal with three attorneys, but during the
18 entire time for all the attorneys he's maintained his
19 innocence on this and it's a shame that due to his
20 association with people that he shouldn't have been
21 hanging out with that that is what's brought him here
22 today.

23 The only thing I can say on his behalf is he is a
24 young man. He knows that that he's facing a serious
25 sentence of 30 years to life and I would ask you to

1 consider the minimum 30 on that. Your Honor, that's not
2 -- the minimum of 30 on this sentence wouldn't necessarily
3 be a lenient sentence for Tevon and I know that Marcus is
4 no longer here to take advantage of the next 30 years, but
5 that's not a lenient sentence for Tevon because he would
6 have to do those 30 years every single day. Thirty times
7 365. And from his age of 17 that would put him at 47
8 years minimum of getting out on that particular sentence.

9 That would take a substantial portion of his life
10 away and I think that would be harsh punishment indeed and
11 I know that is the minimum that Your Honor can do and so I
12 would ask Your Honor to consider the minimum. I would
13 like to hand up this letter that was given to me on his
14 behalf from a family friend Tasha Latreece Quattlebaum who
15 did want to address the court on his behalf so she sent a
16 letter and I do have -- His mother would like to speak on
17 his behalf as well as his uncle who is a deacon at his
18 church.

19 THE COURT: Well, this is his former teacher; right?

20 MISS ALVES: Yes, sir.

21 THE COURT: She, too, like his mother warned him when
22 he began choosing friends who did not share his character
23 or temperament -- rebelled, hung around individuals who
24 did not have his best interest at heart. I'll be glad to
25 hear from his mom.

1 MISS ALVES: Yes, sir, Your Honor. I'd like to say
2 this. I didn't know Tevon right before this happened, but
3 I did know Tevon when he was a lot younger. I knew his
4 family socially when he was a lot younger and he was
5 always a very smart, outgoing child. As I said, he comes
6 from a good quality family.

7 THE COURT: I watched his family all week -- both
8 sides.

9 MISS ALVES: Yes, sir.

10 THE COURT: They are nice, nice, nice people.

11 MISS ALVES: Yes, sir, and, I mean, it's shocking to
12 me that somebody like Tevon who does have advantages that
13 he could get into trouble like this. Obviously, it's
14 possible in anybody's family no matter how hard the
15 parents try and this is a hard lesson for him to learn
16 that his mom was right and it is a lesson that he's had to
17 learn and that he will have to learn for at least the next
18 27 and a half years minimum depending on your sentence.

19 That's all I really have to say about him. Like I
20 said, I didn't know him in recent years, but he was always
21 a very smart, outgoing child. He's always been --

22 THE COURT: No, ma'am. The minimum I can sentence
23 him is 30 years and he does that day for day. Well, yea,
24 he's already done three of them.

25 MISS ALVES: Yes, sir.

1 MRS. SANDRA SMITH: Sandra Smith.

2 THE COURT: Yes, ma'am? First of all, let me say

3 I've watched you all last week and your family as well as

4 the young man who is no longer with us -- his family. It

5 is a tragic situation, obviously, for both families, but

6 unfortunately, the Solicitor's Office, the Sheriff's

7 Office, and me, Miss Alves, every one of us -- Everywhere

8 we go now it's these young men -- I don't understand

9 what's going on with these guns and this way of conducting

10 themselves. Please tell me what you want to tell me.

11 MRS. SANDRA SMITH: Thank you. My name is Sandra

12 Smith. I am the mother of Tevon Jackson. My request here

13 today is to ask for the minimum sentence of my son. First

14 I would like to say to the victim's family that I'm truly

15 sorry for their loss and my wishes are for them to

16 understand that my request today for the minimum sentence

17 for my son should not be seen as a reflection of me not

18 realizing the great loss that they have and what they have

19 been going through. I am here as a mother who loves her

20 son. I am here as I feel any mother who loves and cares

21 for the wellbeing of their son would be to share insight

22 into the type of young man that my son Tevon is.

23 As I stand before you and speak these words to you it

24 is the realization that this is the first time anyone in

25 almost three years has been given the opportunity to tell

1 you about the good characteristics that Tevon had. So I
2 beg your indulgence, sir, to give me a little time just to
3 tell you some the things about my son because to me as the
4 trial went on it just seemed for some reason that we ran
5 out of time.

6 There were witnesses here. There were people here
7 that were wanting to confirm the story of his whereabouts
8 and give him an alibi character witness, but no one was
9 called and given the time to speak. I was actually
10 shocked when the defense did rest. So, I do beg your
11 indulgence just for a few moments to talk about my son.
12 There are a few things I've been wanting to say and
13 express and misconceptions that I wanted to address for
14 almost three years.

15 First, I would like to address the issue that Tevon
16 had friends that I did not want him to hang around. We
17 all knew this, but he still made his choices to involve
18 himself with these boys. This is an issue that many of us
19 or all of us are familiar with. When we were young we
20 didn't always do what our parents wanted us to do, but as
21 we grow older and have children of our own and went
22 through certain experiences we began to realize that our
23 parents were not trying to be mean to us but they had our
24 best interest at heart and they were trying to help us and
25 to guide us in the right way.

1 I recall many discussions with Tevon that I had
2 concerning the friends he had. I would often tell him
3 that people who you think are your friends really are not
4 your friends. I would often tell him that people that
5 when the tough -- when things get tough and they feel that
6 turning on them will keep themselves out of trouble they
7 will do it. You will see your true friends for who they
8 are.

9 I come to the realization that Tevon just saw the
10 good in people. He didn't see the bad things that I saw.
11 He had a type of blind faith and trust in people. He has
12 a firm belief that if you tell the truth and you treat
13 people right they will be truthful and treat you right.
14 He believed that if you just tell the truth that
15 everything would be okay because the true statement would
16 never change. A lie has a tendency to change and felt
17 that people will see this and he would be okay.

18 At this time when everybody knew that I did not want
19 him to be around Joseph which is my nephew or Joe
20 Serrano -- those -- Everybody know that. I was very aware
21 of Joseph's background because he is my nephew. So, I
22 knew the type of things that he did. I was aware of Jose
23 Serrano's background because a school officer informed me
24 of his background and I actually had all three of these
25 boys in my classroom at one period of time. I have taught

1 all of them. So that was my basis for not wanting him to
2 be around those boys because I was given information about
3 their background.

4 I have on occasion gone and got Tevon from Marcus'
5 house and brought him home. I never told Marcus he
6 couldn't come to my house. Even though I did not want
7 Tevon around Marcus and the things they did, I did feel
8 that he was a respectful young man. I will say that. I
9 feel he was a respectful young man and he would not come
10 in my home and disrespect my home in any type of way, but
11 I did not want my son in an environment. So, I have in --
12 All three of these young men I have told him that those
13 are not people that I wanted him to be associating with.
14 and I just wanted to explain why that was so.

15 Tevon now knows and he sees. It was hard for him to
16 realize it and it's hard for young people to realize a lot
17 of times when their parents tell them that, you know,
18 these are not friends for you and I really truly feel that
19 Tevon now sees and he understands and he realizes the
20 mistake that he made and the decisions that he decided to
21 do.

22 Next I want to talk about a word and I heard it today
23 also and I a hundred percent do not agree with this word
24 that I have heard being addressed to my son and that word
25 is greed. I heard it all last week. I heard it today.

1 Given a minute I want to explain to you why I do not agree
2 with that word greed being associated with my son.

3 Tevon is not a greedy person. I recall times when I
4 would take him school shopping and I would want to buy him
5 a hundred-plus-dollar shoes. I wanted my kids to look
6 nice. I wanted people to know that I took care of my
7 kids, you know. Tevon would never let me. He was not an
8 extravagant young man. He didn't ask for me to buy
9 expensive things for him.

10 He was a simple young man who did not ask for or
11 needed or wanted extravagant things and he could have had
12 more than what he did have, but he never wished -- He
13 never was a greedy person. He never requested. He never
14 asked for me more than what he needed and I wanted to make
15 that clear. He never asked me for more than what he
16 needed. If he needed ten dollars to put on a phone card
17 he just asked he for ten dollars. He didn't ask me for
18 \$20 and pocket the other 10. That's not my son. He is
19 not at all greedy.

20 I remember when Tevon had his fast-food job. I never
21 asked Tevon to pay a bill at my house, but he would often
22 volunteer to pay the water bill, buy groceries with his
23 little money that he had. He was very helpful around the
24 house. I really miss that.

25 He loves to drive as was stated and he would help me

1 a lot by taking his younger brothers to activities that
2 they had. He would wash clothes, fold clothes, wash my
3 car, wash my mother's car -- just things that people
4 didn't know that he did. He would cut my grass. He would
5 cut my mom's grass. He even helped me grade papers --
6 multiple choice with his left-handed check mark. I still
7 recall his left-handed check mark. He would help me grade
8 papers.

9 I want to talk to you very briefly and I can go
10 through this part really fast, but his brothers really
11 love him and miss him. They would wrestle around with
12 him. You know, he would do things with them. He would
13 take them places that they needed to go. has
14 followed certain things that Tevon did as far as his
15 shoes. Tevon loved to keep his shoes clean and now I
16 notice that my son -- he recalls Tevon always having
17 a toothbrush, cleaning his shoes. Sometimes I think they
18 clean their shoes more than they clean themselves, but
19 even now when gets a new pair of shoes he would take
20 an old pair of shoes in his bookbag to school because he
21 don't want to dirty up his new shoes outside and he will
22 actually take two pair of shoes to school at times because
23 that's just something that's been so ingrained from
24 watching Tevon take care of his shoes.

25 You know, they love their brother. All last week

1 was -- every time we would come home from
2 court they would say, Is Tevon coming home today? And
3 said that if Tevon come home that -- He had the
4 bigger bed -- that Tevon could get it and that he could
5 have his TV. He also overheard us talking about we were
6 going to bring clothes for him to wear. He said, Mom, I
7 have the cotton shirt that you bought me is too big.
8 Maybe Tevon can have it. His brother every day is
9 saying, Is this the day that Tevon comes home?

10 I would like to talk real quick -- I know I'm taking
11 some time. I would like to talk about Tevon's demeanor.
12 Tevon was always a calm child. He liked to sing. He
13 liked to play the piano and drums. His father did all
14 those three things. He had goals and dreams of following
15 in one of our career paths.

16 He was on course of graduating on time and was
17 looking to joining the service like his father, but
18 recently he had started leaning towards my side and he had
19 started talking with me about his uncle about a program
20 that they have for African American male teachers because
21 there was a shortage of them in our educational system.

22 He was laid back, always joking and happy. One thing
23 he was not was violent. It is hard for me to recall a
24 time when I have ever seen my son angry or saying anything
25 bad about anyone. People around him knew that. They did

1 not see him as a violent person.

2 This part right here I wasn't sure if I wanted to say
3 it, but please let me say this. I don't want to sit down
4 regretting that I didn't say anything that I needed to say
5 because this is my son's life. I want to try to get out
6 everything I can. So, please, if you don't mind. I don't
7 want to step on anybody's shoes with what I am about to
8 say and I don't want to go out of line with anything, but
9 I feel it needs to be said. It is along the lines of
10 people thinking that he is a violent person.

11 I recall back when the things were happening and I
12 received a phonecall from Tracey Serrano and she said, I
13 heard the things that they are saying about our boy and I
14 don't believe he did any of that. That was Tracey
15 Serrano. Tevon wanted to show his condolences to the
16 family and Marcus was his friend and he wanted to go to
17 the family and show his condolences, but during that
18 period of time with the things that were going on as far
19 as the rumors he was afraid to. He didn't know, well,
20 what reaction Brenda would have for him or how she felt.
21 He would hope that she would think he didn't do it, but he
22 did not know and he was afraid to go back and so he sent
23 me.

24 Me and my brothers, his uncle, went to the family's
25 home and I told her -- I said, Tevon wanted to come. She

1 said, I noticed that Tevon didn't come through. He wanted
2 to come, but he was just afraid of what you would think
3 and your reaction. He didn't know what your mind was
4 about the whole situation and she told me that if anybody
5 ever told her that Tevon did this she would not believe it
6 and for me to tell Tevon to come by and see her.

7 Joseph Dicks had made statements previous to this
8 that he did not believe he did that and even in the
9 courtroom last week one of the last things he said after
10 he said everything he said -- if everybody can recall one
11 of the last things that stands out in my mind that he said
12 was, My cousin has never ever did a violent thing in his
13 life. If y'all can recall him saying that, he said, My
14 cousin has never did a violent thing in his life, and this
15 is after he done said all he had to say.

16 Tevon has never pointed a finger at anyone even
17 though I feel they were led to believe that he did. He
18 said -- It was said that he put himself in this picture
19 and he did trying to be helpful. It was said that he
20 got his story together with me and my mom, and if you
21 knew my mother that would not be a statement you would
22 make. If you knew my mother or knew her mother or you
23 knew her father she is a Godly woman and loves the
24 church. Me and my mom didn't even know he was going to
25 the police.

19

1 I heard words like cowardly act and fleeing because
2 the heat was on him. My son is not a coward and he did
3 not flee. It takes a brave person to come forward and
4 tell what he knew and what he did when he was with Marc.
5 Nobody picked him up and took him to the police. He went
6 on his own -- not to cover himself and place blame, but
7 just to help to do the right thing.

8 Tevon didn't flee. As a matter of fact, Tevon would
9 say that I don't have to be afraid of anyone bothering me;
10 I didn't do anything. He didn't want to go anywhere.
11 There goes that blind faith that he has again. He was
12 never afraid or a coward. We were afraid for him and the
13 rumors because they had been stated and, you know, it's a
14 small community and when people get things in their head
15 you can't tell them otherwise.

16 He didn't stay in Columbia as stated. The truth is
17 he was just with family in Aiken. Fleeing Aiken County
18 police? No, he actually got closer to them, and the only
19 reason he agreed to do that was not for concern for
20 himself. He said he was concerned for us. He didn't want
21 anyone hurting me or his brothers trying to hurt him and
22 we all know that that turned out to be a valid concern
23 because my home was shot into.

24 If anybody flee, I fled. My son is a lot braver than
25 me. I just came to the realization that if someone wanted

1 to bother you a gated community won't stop them and
2 because I wanted my son there with me. I didn't want to
3 be separated from him. I felt we would be okay there. He
4 never got to see that place.

5 Even now my son is more concerned with me than
6 himself. He said if nothing else can be afforded to do
7 for me he understands. That's a greedy child? He is not
8 even asking me to do anymore. He told me, Mama, be
9 strong. Don't break down. And I'm trying hard for him.
10 He's concerned about me and to keep that promise to you, I
11 am going to hurry up and sit down, but I just wanted to
12 write a few things down.

13 I started not to write a few things down, but I
14 thought about it and I didn't want to look back and say
15 this is my son's life here and I didn't want to leave here
16 saying that -- feeling that I had said something or
17 regret, you know, forgetting to say something that needed
18 to be said and I do regret a lot of things that has
19 happened in the past, especially that day.

20 One thing I would like for you to understand about
21 our family is that we are the type of family that we
22 believe that if you tell the truth and you pray God will
23 take care of the rest and I can sometimes see now maybe
24 where some of that blind faith does come in because
25 sometimes you feel like all you need to do is just tell

1 the truth and pray and things will work themselves out and
2 along the lines of why I'm saying that is because we never
3 sat down. We never sat down with Tevon and spoke into
4 detail any of the actual facts of this -- of this case,
5 you know, and that's one of the main things that I regret
6 right now to this day is that we did not sit down with
7 Tevon because when I was sitting there on Friday and I
8 listened to his testimony he said something that struck
9 me.

10 See, when -- The following day when Marcus had -- I
11 found out that Marcus had passed and I know that Tevon
12 said that was his friend. I said, Tevon, how are you
13 feeling? Are you okay? You know, I heard about Marcus,
14 and he had tears in his eyes and he said, Mama, you know
15 that was my boy, and I hugged him and, you know, a part of
16 me actually felt honestly -- I am going to tell you the
17 feeling I had. I actually felt that Marcus looked out for
18 him. I felt that Marcus dropped him off for a reason
19 because he was -- Tevon was -- Marcus said he needed to go
20 do something that I couldn't go with him. And I really
21 felt that Marcus -- I actually was like, Thank you,
22 Marcus, for dropping off my son. Thank you for not
23 keeping him in that car with you.

24 I really felt he looked out for Tevon, and when I was
25 sitting there listening to him, you see, this goes on to

1 show you that we did not sit down in detail. We're not
2 the type of family who was going to try to get a story
3 straight or figure out how we're going to cover what
4 somebody did or figure out a way to get around something
5 or you say this or you say that or we're going to get
6 together and we're going to say this. That's not us.

7 When my son said he got dropped off and he never saw
8 Marcus again and that he walked down to Little Joe's house
9 I believe my son and I never asked him for any more
10 details into that and God knows I regret that and the
11 reason why I say that is because on the stand on Friday
12 when I was sitting there listening to him he said
13 something that struck me that I had never heard him say --
14 and I am not saying that to say he added to his story. I
15 am saying because at the time those issues was not having
16 to be addressed. He was the first one to come forward so
17 all he was talking about was things he did with Marcus.
18 He wasn't going into a lot of details about before and
19 after and all that.

20 He didn't know that was necessary at the time, but
21 when he was on the stand he said, Marcus pulled up in the
22 yard and dropped me off and I went to the mat and looked
23 up under the mat for the key and it was not there and I
24 sat on the porch and I waited for my mom to come home for
25 a little while and then I walked, and, Your Honor, that

1 was the first time that I heard that my son had -- that I
2 heard him say he looked up under the mat for a key and
3 that he sat on the porch waiting on me and I was like, Oh
4 my God. He was dropped off. And the reason why I say
5 that is because as we know the chain of events that
6 happened that day I came home and the boys ran out the
7 back because they know they weren't supposed to be there
8 and as you know -- I got into Tevon for having the boys
9 there. They know they weren't supposed to be there, and I
10 got on to him and I was angry with him for having those
11 boys in my house and later on when he left and I had to
12 leave -- and I know people were saying, well, she wasn't
13 home.

14 Just really quick -- anybody who knows me know in the
15 past I shoot billiards -- pool -- and I'm a very good
16 shooter, and that night I was in the pool league. I was
17 the number one female pool shooter and those can be
18 lengthy and I did not realize how lengthy a tournament
19 could be if you get to the finals. I never intended to be
20 gone that long. I didn't know a tournament can last that
21 long, but what I regret is that when I left -- after he
22 left and I got ready to go, Your Honor, I took the key
23 from under the mat. That key has always been there and
24 that day I took it because I was angry at my son for
25 having those boys in my house and I did not want him to

1 come back before I got back home and have them back in
2 there again; and when Tevon said that he looked under the
3 mat and did not see a key I said, My son was there,
4 because every other day there normally is one and I have
5 to live with that.

6 I wish I had not taken it. I wish -- I'm sorry. I
7 am going to finish up. All I'm asking, sir, I can't go
8 back and change what I did. I regret not leaving the key.
9 I regret not being there so my son could come in the
10 house. I can't change it. All I can ask for you, Your
11 Honor, is to please put the key back under the mat for me.
12 That's all I can ask for. Please put the key back under
13 the mat for me.

14 I beg you to have mercy on my son. He has made bad
15 decisions. He is not a bad child. He is not a bad
16 person. I know the seriousness of the crime and I know
17 that he has made bad decisions. I just beg for leniency
18 for my son.

19 There's a lot in Tevon. There is a lot of talents in
20 Tevon. Tevon is a smart man. He made bad decisions, but
21 he is a smart man. He has a story that he can tell with
22 the things he's gone through. He can help others to let
23 them know that, Hey, this is what happens when you hang
24 around the wrong people. When you make bad decisions and
25 sometimes you don't listen to your parents the way that

1 they tell you things to try to help you, this is where you
2 can end up. Tevon can do those types of things.

3 He deserves to be given the opportunity to get back
4 into society because there are things that he can do,
5 people that he can help. Please just give my son the
6 minimum sentence.

7 THE COURT: Anybody else?

8 MISS ALVES: One more person. Mr. Dunbar.

9 THE COURT: Miss Alves, please tell him to have his
10 remarks towards this young man. I don't need a sermon.

11 Good morning, sir.

12 MR. DAVID DUNBAR, SR.: Good morning. Judge, my name
13 is David Dunbar, Sr. Tevon Jackson is my great nephew. I
14 have been knowing Tevon ever since he's been born. I have
15 known that he is a fellow that had a lot of caring and
16 respect. I know it because I can remember a lot of
17 instances, but I just want to you to remember one -- the
18 respect that he had and I don't know if he forgotten it,
19 but I never forgot it. He may have, too, but I just want
20 to bring it back to his memory.

21 He was coming by my house at the time -- him and a
22 young lady -- a young girl at the time. Tevon must have
23 been about 13. I am standing in the yard out there doing
24 some working in the yard. While I'm doing the work in the
25 yard they came down the road and the young lady -- young

1 girl was just -- she was kind of loud like, but he knew I
2 was in the yard and he saw -- because I was his great
3 uncle he saw that, you know, that is my uncle in the yard.
4 I could hear him say that that. He said, There's my uncle
5 in the yard over there. So, he saw respect for me just to
6 show that I was part of the family and he had respect just
7 for the family and everything.

8 So, I am just so glad I can say some things about
9 Tevon. It is a lot longer list and I don't have the time
10 today, but I know Tevon is a good fellow, a good young
11 person. He just got caught up with the wrong group of
12 fellows and I am today just asking you to have mercy and
13 leniency on this -- on his sentence today and just may
14 everything just work out and just let him get back out and
15 let him learn a lesson whatever sentence you pin on him.

16 MISS ALVES: Nothing further. You want to say
17 anything?

18 THE COURT: Tevon, anything you want to tell me, son?

19 THE DEFENDANT: I mean, there ain't much I can say.

20 THE COURT: I understand.

21 THE DEFENDANT: My Mama ain't making it easy for me.
22 I told her not do that. She did it anyway.

23 THE COURT: Well, you know what? She loves you more
24 than anybody in the world.

25 THE DEFENDANT: I know. I am trying to be strong for

27

1 my family, you know, but I made a bad decision, you know,
2 but, you know, to Marc's family, I mean, I can't say it no
3 more. I mean, I got found guilty, but I ain't kill him.
4 You know what I mean?

5 THE COURT: Thank you. All right. I'll hear from
6 the victim's mother.

7 MRS. ADAMS: Good morning, Your Honor.

8 THE COURT: Good morning.

9 MRS. ADAMS: Your Honor, I thank you for allowing me
10 to come up and speak. I have a few things for you and I
11 wrote this because I just wanted to make sure I didn't
12 miss the important facts, but I won't be long and take up
13 your time.

14 THE COURT: No, ma'am. This is not a time deal. You
15 take what time you need.

16 MRS. ADAMS: Your Honor, this week you all have heard
17 about this young man called Marcus Finklin. You also
18 heard other names such as Marc, Little Marc. He was
19 referred to as the body and the drug dealer. I would like
20 to tell you about the Marcus Finklin you didn't hear
21 about.

22 Everyone in the community knew Marcus as a very good
23 basketball player. Basketball was his life. All he
24 talked about was going pro. Everywhere he went he had his
25 basketball. You knew he was coming down the road because

1 you would hear him bouncing the ball before you saw him.
2 Somehow those dreams got sidetracked. The role models in
3 the community saw to that.
4 Marcus was always a hard worker. He started working
5 at the Reids Grocery Store bagging groceries. He loved
6 that job. During the summer he started helping his
7 stepfather. He always wanted to work, buy the clothes and
8 the shoes that he liked to have. Marcus at the time was
9 employed as a brick mason laborer for his stepfather.
10 Marcus was a hard worker. His stepfather always bragged
11 about that, but, you see, Marcus had not worked for four
12 days for whatever his reasons was. I guess he knew he
13 wasn't going to get fired.

14 Marcus had just turned 21 two weeks before he was
15 murdered. He had just become a father two months before
16 that. He was so proud that he had become a father. I
17 could see the change in him. He was buying diapers, milk,
18 baby clothes, a car seat. He said to me, Mama, what are
19 you going to buy me for my birthday? I said, Nothing. I
20 said, You're going to buy that baby a baby swing for your
21 birthday. And he did.

22 I'm not trying to paint Marcus as an angel because he
23 wasn't. Marcus was well known in our community -- not as
24 a drug dealer, but because he was respectful to others as
25 a young man. Yes, ma'am. No, ma'am. Yes and no. Not

1 hold your head down. You look at them and you say what
2 you have to say. He did that.

3 He also saw the need to give others what he thought
4 they needed. He thought he could feed. He thought he
5 could clothe. He thought he could give everybody a place
6 to stay. Marcus was a type of person that would give you
7 the shirt off his back and he did just that.

8 Your Honor, Marcus' death have affected us
9 tremendously. Some of us had serious counseling and some
10 of us thought that as the time passed we would heal. It
11 haven't. His daughter is now two and a half and all she
12 knows about her father is the picture she sees.

13 Your Honor, no matter what they say no one deserved
14 to die in the hands of a coward, and I pray, Your Honor,
15 that you will give him the maximum sentence of what the
16 South Carolina law say you can give, and I also have one
17 other thing to say that I had no intentions of saying, but
18 I want to elaborate on something I heard this morning.

19 She did come to my home when it happened and she told
20 me she knew he didn't do it. I will never do that because
21 I don't know what Marcus would do, but I'll tell you this.
22 I asked her -- I said, If he didn't do it and he was
23 Marcus' friend, where is he at? I don't see him. She
24 said he had threats on his life. The first thing I told
25 her -- I didn't threaten him. He could have called me. I

1 didn't see him at the funeral. Never heard from him. To
2 this very day all I heard was about him. Nobody said I'm
3 sorry about Marcus. I finally heard it today.

4 I know you heard the testimony about how somebody
5 shot in his mother's house. Somebody did they said. The
6 only person I saw when that happened was 2:30 in the
7 morning when my doorbell rang and it was Tevon. I could
8 see. I had a big, huge glass in the door. I could see
9 who it was before I opened the door, but my thoughts was
10 he finally is coming to talk to me and I opened that door,
11 and he didn't say I'm sorry about Marcus. All he said
12 was, Mrs. Brenda, somebody shot in my Mama's house, and I
13 came here to see who is man enough to do it to me while
14 I'm here.

15 I said, If somebody shot in your Mama's house, why
16 are you here at Marc's Mama's house? I said, You just
17 passed the police station. Go there. His words was,
18 Okay. He turned around and he left.

19 Your Honor, I'll never stand here and tell you what
20 Marcus didn't do or what he did do because I don't know,
21 but I'll tell you this. I have no regrets as a mother
22 because I did all I was supposed to do as a parent. You
23 go around that community and they can tell you that. They
24 can tell you how many times I ran him off the corner.
25 They can tell you how many times I went in the club.

1 They can even tell you about the importance in my
2 house was education. All of my kids -- They are well
3 educated and they still pursuing their goals because they
4 know it is a neverending thing.

5 Your Honor, I have some pictures here that I'd like
6 to show you. This is a picture of at the cemetery. I
7 also purchased my headstone and put it right next to his
8 and on that headstone it says, Broken-Hearted Mother.
9 That's what I am.

10 This is a picture of all his sisters and brothers.
11 This is at -- We started a foundation. I wasn't supposed
12 to talk about it, but we did -- in memory of Marcus and
13 that's going to be to help young kids -- not like Tevon --
14 just like Tevon, but like Marcus, too, to keep them off
15 the street and see what we can't do to get them to get an
16 education. That's important.

17 This is a picture of Marcus holding his baby -- the
18 only picture we have of him holding his baby. He was so
19 proud of her. And I know everybody seen this picture.
20 This is the picture of his baby. He took it around in his
21 car. He was proud of it.

22 This is a picture of Marcus holding up his hand that
23 his brother-in-law took. He was holding up his hand
24 because he said, Hold it, I ain't ready yet. My
25 son-in-law told me that. So I put it on his obituary

1 saying the same thing. I ain't ready yet.

2 This is a picture of his daughter on her first
3 birthday rode up in her brand new Mustang. She was
4 telling everybody, Don't touch it. This is a picture of
5 my kids at their brother's funeral and up there it says,
6 We love you, Marcus.

7 This is a picture that everybody knew. Old Marcus.
8 Playing basketball. Everybody just knew Marcus was going
9 to go somewhere.

10 Your Honor, this is one of the very many medallions
11 that Marcus had. He got this one from Atlanta, Georgia in
12 a tournament. He started going playing all kind of
13 tournaments getting medallions and all kinds of trophies.

14 Your Honor, this is a picture of him and his
15 daughter. That wasn't real. He wasn't really standing
16 over her because he was gone by the time she got this age.
17 So we had that done. This is his prom picture. That's
18 that little happy girl. She is still happy. Even though
19 she don't know her daddy she is still happy and this is
20 the picture of his little girl's room. It is done up like
21 the princess and the frog. She is only there on the
22 weekends but she knows she's got a place she can go.

23 Your Honor, this is in his daughter's room. I am
24 probably going to have to change it because during my
25 grieving process I had it like a shrine and I know I have

1 to change it, but it's her daddy's pictures, basketball,
2 t-shirt, some of the many trophies he have.

3 And this is the first anniversary of Marcus' death.
4 We all didn't want to be in town. So we went to Seaworld.
5 Your Honor, thank you.

6 THE COURT: Thank you, ma'am.

7 THE VICTIM ADVOCATE: Your Honor, I believe his
8 brother also wanted to address the court. Patrick.

9 In the meantime I also have two letters from two of
10 his sisters that I'd like to briefly read. He was the
11 youngest, I believe, of six. He has four sisters and one
12 brother here, but I'm going to go ahead and read these two
13 letters. One is from Sonya. There is Sonya, Dominique,
14 and Laron, Sylvia, Jemmalee, and -- Did I get everybody,
15 sisters?

16 This letter is from Dominique. It says, "Your Honor,
17 I want to express to you how much of a void there is
18 without Marcus in our lives. Marcus has been gone for
19 almost three years and I still cannot look at his pictures
20 without crying. When I look at his pictures and see how
21 happy he was and the love and positive energy that was
22 around him then I quickly come back to reality and I know
23 I no longer would be able to share that with him. I want
24 to be able to see him, joke with him, hug him, or create
25 any other memories.

1 I began to wonder where he is now, why I wasn't there
2 to protect him, and how I no longer can. After his death
3 nothing has been the same. I am no longer the same. I
4 find myself not wanting to fully enjoy things in life
5 because he can no longer. I find myself restless waking
6 to what I believe is Marcus whispering my name or dreams
7 of him here when I know he is no longer.

8 I miss him and I know I want to be able to fully heal
9 because I will never understand why someone could ever
10 have so much hatred against Marcus especially knowing him
11 to take him from our lives."

12 And just another brief letter from his other sister
13 Sonya. "Your Honor, my name is Sonya Finklin. I am the
14 oldest sister of Marcus. My brother has made some bad
15 decisions in life. However, he was learning to be a
16 better person. He was a great little brother. He was
17 always smiling and loved to joke. He would come to his
18 nephew's baseball and football games. He was also a
19 loving father to my niece Taya. He didn't deserve to die.
20 He deserved to live his life so that he could be a little
21 brother, a great uncle, and caring father. His life has
22 touched so many. He will be missed so much."

23 This is Patrick Finklin. This is Marcus' older
24 brother.

25 MR. PATRICK FINKLIN: Your Honor, Marcus -- He was my

1 baby brother and my only brother. I live in the house of
2 five other siblings. Marcus was one of them and I was
3 next to the oldest and growing up every time my mom would
4 come back from the hospital when she was pregnant I would
5 wait by the phone to hear, you know, whether or not it was
6 a girl or boy, and after two or three times she finally
7 calls and said I had a baby brother, but I feel like that
8 was taken from me and I can't get it back.

9 Me and my brother was just alike and one of the
10 things that we were guilty of is trusting too many people,
11 keeping a lot of people around us. I learned from my
12 mistakes by experience and age, but Marcus -- He was just
13 learning and he didn't have time to learn from his
14 mistakes because by trusting people it's not always a good
15 thing. Sometimes you can have a genuine person around you
16 and sometimes it's just people there just like a wolf in
17 sheep's clothing, Your Honor, but, I mean, it's obvious by
18 sitting in court all week, you know, that I believe it was
19 done by somebody he trusted and it's not fair.

20 You talk about greed. Greed is not just by what
21 you're wearing, how much money you have. It could be
22 anything -- money, power, respect, and I do think it was
23 the case with the murder of my brother. Sitting through
24 court I'd say what would I do if I was in somebody else's
25 shoes and somebody was like my brother and you accused me

1 of doing that and I know without a doubt that it wasn't
2 me? There is nothing you could do to keep me from this
3 courthouse, from the police station, from telling
4 information that I do know, that I don't know, but the
5 past three years it was just going by what people think
6 until now, and I'm glad that, you know, me and my family
7 finally has closure on this situation.

8 It's not -- It's going to get better. It's -- I
9 mean, it is never going to heal, but, you know, but it is
10 an opportunity that we can have closure and to know. I
11 mean, it was a hard week, but I just want to speak on my
12 brother's behalf and show you what kind of person he was
13 to us. Thank you.

14 THE VICTIM ADVOCATE: Thank you, Your Honor.

15 THE COURT: Anything else, Mr. Weeks?

16 MR. WEEKS: No, Your Honor.

17 THE COURT: Miss Alves?

18 MISS ALVES: Nothing.

19 THE COURT: This is particularly troublesome because
20 as all of us are in law enforcement or in the judiciary or
21 the solicitor's side or the public defender's side it is
22 sort of a unique case because when you look out in the
23 audience last week and this week Marcus comes from an
24 admirable family -- a mother loving all of her children
25 and making sure they all get educated and going into the

1 clubs and bars or whatever and yanking them out when they
2 needed to be, and you look over at Mr. Jackson's side and
3 I have never heard a more eloquent plea by a mom in
4 connection with her son. She didn't try to make excuses,
5 but she, obviously, told us of her love for him. As I
6 tell everybody, nobody loves you like your mama, but that
7 was an example beyond anything I've seen in a while.

8 What's so troubling is you got these two kids coming
9 from -- when I say kids, they were young people coming
10 from families that we preach that that is what you ought
11 to have, but we have a common thread here. We've got
12 these young people. You got drugs involved. You got guns
13 involved. You got somewhat of lack of education involved,
14 and you got too much time on the hands. You got them
15 hanging with bad crowds, and you got what I have been
16 seeing and I call it the gangster mentality where -- I
17 don't understand, but so many of the young people now are
18 turning to violence as opposed to just getting into an
19 argument or shoving each other. Now it is solved with
20 guns. You saw all of the guns involved in this case. It
21 is a sad situation. If only the boys had followed their
22 mothers' advice we would not be here today.

23 I commend Marcus' family for the foundation.
24 Hopefully, that will keep other young people off the
25 streets and perhaps they'll listen to their mom and dads

1 and not be in this situation where we have one young man
2 dead and another young man who is facing a substantial
3 period of time in jail.

4 The law allows me in this situation to sentence this
5 young man anywhere from 30 years to life in prison. The
6 reason for that is that we have all types of killings and
7 murders that perhaps these families don't see, but
8 Mr. Weeks, Mr. Thurmond, the Sheriff, Miss Alves, we all
9 see it unfortunately on a day-in and day-out basis. We
10 have people who kill multiple people, mutilate them, shoot
11 them a number of times, slice their throats. We have
12 killings where people are involved in burglaries. We have
13 killings like this that is just unexplained,
14 unexplainable.

15 On behalf of the Fickling family, ma'am, I don't
16 think this is the kind of case that deserves a life
17 sentence and please do not think from the sentence that I
18 impose that it means that I have any less disregard for
19 Marcus. It is just that you got two young people who
20 weren't listening to their family with the wrong crowd
21 with drugs involved and there is no winner.

22 So, Mr. Jackson, as to indictment 2009-GS-02-083 --
23 and before I sentence Mr. Jackson I'm well warning
24 everyone in advance that if you cannot control yourself
25 when this sentence is read I am going to ask that you

1 leave now. You have been a remarkable audience. I have
2 had no trouble whatsoever. I don't expect any now, but if
3 you can't control yourself emotionally I will ask that you
4 please step out. I will not tolerate any untoward
5 behavior. So please leave now.

6 As to the offense of murder, Mr. Tevon Jackson, the
7 sentence of this court is that you be committed to the
8 State Department of Corrections for a period of 30 years.
9 As to the weapon during the commission of a violent crime
10 that's a five-year sentence to run concurrent. You'll be
11 given credit for your time served. Good luck. We'll
12 stand it ease for 10 minutes.

13 (End of Transcript of Record.)
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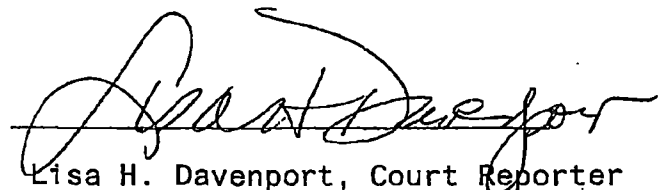
CERTIFICATE OF REPORTER

State of South Carolina)
County of Aiken)

I, Lisa H. Davenport, Official Court Reporter for the
Second Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Aiken County, South Carolina, on the 28th day of February,
2011.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

September 11, 2011


Lisa H. Davenport, Court Reporter

WITNESSES

L. Ghant, A.C.S.O.

FILED January 16, 2009

J. L. Ghant
J.C.C.P. & G.S.Shannon Thompson
Deputy Clerk**ARREST WARRANT NUMBER**

K-331185

ACTION OF GRAND JURY

True Bill

S. A. Wood
Foreperson of Grand Jury
Date: January 15, 2009**VERDICT**Foreperson of Petit Jury
Date:DOCKET NO. 2009-GS-02- 83**The State of South Carolina**

County of Aiken

COURT OF GENERAL SESSIONS

January 19, Term 2009

THE STATE

vs.

TEVON JACKSON**Indictment for****MURDER**SC Code 16-3-10
CDR Code 116
Class FEL-EXM

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

At a Court of General Sessions, convened on January 19, 2009, the
Grand Jurors of Aiken County present upon their oath:

MURDER

That TEVON JACKSON did in Aiken County on or about June 4, 2008,
feloniously, wilfully and with malice aforethought, then and there kill and murder Marcus
Finklin by means of shooting Marcus Finklin with a handgun and that the victim did die
in Aiken County at Dry Branch Court as a proximate result thereof on the 4th day of
June, 2008. All in violation of Section 16-3-10 of the South Carolina Code of Laws
(1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken
STATE VS.
Tevon JacksonINDICTMENT/CASE#: 2009GS0200083A/W#: K331185Date of Offense: 6/4/2008S.C. Code § : 16-03-0010; 16-03-0020CDR Code #: 0116

AKA: _____

Race: 2 Sex: 20DOB: ██████

Addr _____

City, State, Zip: AIKEN, SC 99999

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / MurderSENTENCE SHEET 30 years - Life☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116☐ 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...

ATTORNEY

John W. Weeks
Weeks, John W. "Bill"5989
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 30 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.☐ 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>
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk Shanna ThayerCourt Reporter: Lisa H. Davenport

SCCA017 (06/01/10)

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: _____

☐ Condition Discharge, § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge Mr. CochranJudge Code: 0130Sentence Date: Feb 28, 2011

786

WITNESSES

L. Ghant, A.C.S.O.

FILED

January 16 2009
L. Ghant
A.C.S.O.
Shannon Thompson
Deputy Clerk

ARREST WARRANT NUMBER

K-331192

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date: January 15, 2009

VERDICT

Foreperson of Petit Jury
Date:

782

DOCKET NO. 2009-GS-02- 84

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JANUARY 19, TERM 2009

THE STATE

vs.

TEVON JACKSON

**Indictment for
POSSESSION OF FIREARM
DURING COMMISSION OF A
VIOLENT CRIME**

SC Code: 16-23-490

CDR Code: 549

Class FEL-F

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF AIKEN)

At a Court of General Sessions, convened on January 19, 2009, the Grand Jurors of Aiken County present upon their oath:

POSSESSION OF FIREARM DURING COMMISSION
OF A VIOLENT CRIME

That TEVON JACKSON did in Aiken County on or about June 4, 2008, possess or visibly display a firearm during the commission of a violent crime, to wit: Murder, all in violation of Section 16-23-490, 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.


J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Aiken
STATE VS.
Tevon Jackson

AKA:

Race: 2 Sex: M Age: 20

DOB: [REDACTED]

Address: Road

City, State, Zip: Aiken, SC 99999

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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.

ATTORNEY

Weeks, John W. "Bill" 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 5 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: 09-65-02-83
☐ 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.☐ 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	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
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§ 50-21-114 (DUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS0200084

A/W#: K331192

Date of Offense: 6/4/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

5 years

Presiding Judge

Judge Code: 0730

Sentence Date: Feb 28, 2011

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 18, 2012.



Breen Richard Stevens
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

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

RECEIVED
MAY 18 2012
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TEVON JACKSON,

APPELLANT

ANDERS BRIEF OF APPELLANT

BREEN RICHARD STEVENS
Appellate DefenderSouth Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court reversibly erred by admitting testimony, over Appellant's hearsay objection, that indicated the decedent drug dealer was not worried about another individual with whom he previously had disagreements and to whom he owed money?

STATEMENT OF THE CASE

Appellant Tevon Jackson was indicted on January 15, 2009, by the Aiken County Grand Jury for murder and possession of a firearm during the commission of a violent crime. R. 13, ll. 7-12; R. 779—R. 780; R. 782—R. 783. Appellant's case proceeded to trial before the Honorable Doyet A. Early, III, and a jury from February 22 through 26, 2011. Wallis Alves (Counsel) and Michael Routzong represented Appellant, while the State was represented by John W. Weeks and Elizabeth B. Young. R. 1; R. 739.

The jury found Appellant guilty as charged. R. 735, ll. 5-15. On February 28, 2011, the trial court imposed concurrent sentences of thirty years for murder, and five years for possession of a firearm during the commission of a violent crime. R. 777, ll. 6-11.

ARGUMENT

The trial court reversibly erred by admitting testimony, over Appellant's hearsay objection, that indicated the decedent drug dealer was not worried about another individual with whom he previously had disagreements and to whom he owed money.

Appellant was accused of shooting Marcus Finklin during the early morning hours of June 4, 2008. R. 780. Finklin, a known drug dealer, was found later the same morning in the driver's seat of his car that was parked in the cul-de-sac at the end of Dry Branch Road; a single gunshot wound was in the left side of his head. R. 64, ll. 14-23; R. 75, ll. 21-22; R. 211, ll. 9-15; R. 286, ll. 5-7. Although Appellant admitted to riding with Finklin on two occasions the night of the incident, he consistently denied shooting Finklin, being present when Finklin was shot, or even knowing of the shooting until he was told by another person upon waking later in the morning. R. 156, ll. 2-20; R. 618, ln. 18—R. 619, ln. 2; R. 623, ln. 7—R. 625, ln. 7; R. 626, ln. 10—R. 627, ln. 8; R. 628, ll. 15-22; R. 649, ll. 6-9; R. 765, ll. 3-4.

During trial, testimony was elicited indicating Finklin intended to go to Georgia the night he was killed because he was supposed to pay another person known as "Bo" Chavous (Bo). R. 156, ll. 8-9; R. 161, ll. 7-12; R. 610, ll. 16-20. Testimony also indicated that Finklin previously had disagreements with Bo within a few weeks of the present incident. R. 161, ll. 16-17; R. 288, ln. 23—R. 289, ln. 2; R. 291, ll. 14-16. Further, it was revealed not only that Bo "drove a white car that looked like a police car," but also that Finklin was followed by a white car that looked like the police during the early morning hours of June 4, 2011, on Dry Branch Road not far from the location

where Finklin's car and body were later discovered.¹ R. 161, ll. 13-15; R. 526, ln. 8—R. 527, ln. 14;

Ms. Kenisha Shontell Jackson was the mother of Finklin's daughter, and testified as a witness for the State. On cross-examination, Jackson likewise acknowledged that Finklin had problems with Bo, and that Bo drove a white car that looks like a police car. R. 288, ll. 16-25. Jackson also testified that she spoke with Finklin over the phone on the night of June 3rd to 4th, 2008, and she was aware that a car similar to Bo's was seen driving behind Finklin. She indicated Finklin said it was police. R. 289, ll. 3-16.

On redirect examination, Jackson said the phone conversation regarding the car that followed Finklin occurred between midnight and 1:00 am. R. 291, ll. 1-9. Moreover, she acknowledged again that Finklin had disagreements with Bo, but "assumed that was over." R. 291, ll. 11-18. The State then asked, "*Did [Finklin] indicate he was worried about Bo Chavous?*" to which Jackson immediately responded, "*Not at all.*" R. 291, ll. 19-20 (emphasis added). Counsel objected on the basis of hearsay. R. 291, ln. 21. However, the objection was overruled. R. 291, ln. 22.

The trial court abused its discretion by overruling Counsel's objection to Jackson's statement, as it constituted impermissible hearsay.² "'Hearsay' is a statement, other than

¹ Officer Detroit Spires of the New Ellenton Police Department also testified that he followed Finklin's vehicle the night of the incident. Spires stated he drove a white unmarked 2000 Ford Crown Victoria. R. 548, ln. 3—R. 549, ln. 3. However, Spires also admitted that he never told the investigators in this case about this information; rather, he spoke with the prosecutor's office regarding the matter "once . . . this case started." R. 551, ll. 7-24.

² *State v. Garner*, 389 S.C. 61, 65, 697 S.E.2d 615, 617 (Ct. App. 2010) ("Evidentiary rulings are within the sound discretion of the trial court, and such rulings will not be reversed absent an abuse of discretion or the commission of legal error that prejudices the defendant.").

one made by the declarant while testifying at trial, offered in evidence to prove the truth of the matter asserted.” Rule 801(c), SCRE. Generally, hearsay is inadmissible. Rule 802, SCRE.

In the present case, the response of Jackson to the State’s improper question constituted hearsay because it confirmed information Jackson allegedly received from a conversation with Finklin regarding Finklin’s relationship with Bo. As such, it should be deemed acknowledgment of a statement other than one made by the declarant while testifying at trial. Further, the information was offered to prove the truth of the matter asserted. The State’s inquiry clearly sought to prove Finklin had no concerns regarding Bo in order to counter any impressions the jury may harbor that Finklin’s death was the result of violence between a known drug dealer, and another to whom he owed money. Therefore, this constituted impermissible hearsay, and the trial court erred in failing to sustain Counsel’s objection. Rule 801(c), SCRE; Rule 802, SCRE.

Furthermore, not only was the admission of this statement erroneous, but it was also highly prejudicial to Appellant’s case. “No definite rule of law governs [a finding of harmless error]; rather the materiality and prejudicial character of the error must be determined from its relationship to the entire case. Error is harmless when it could not reasonably have affected the result of the trial.” See, e.g., State v. Byers, 392 S.C. 438, 448, 710 S.E.2d 55, 60 (2011) (quoting State v. Reeves, 301 S.C. 191, 193-94, 391 S.E.2d 241, 243 (1990)). “Whenever hearsay *which has some probative value as to a material fact* is erroneously admitted into evidence, prejudice is presumed.” Orangeburg County Dept. of Soc. Servs. v. Schlins, 291 S.C. 477, 479, 354 S.E.2d 388, 390 (1987) (emphasis added).

In the case at bar, the fact that Bo was a creditor to whom Finklin owed money and with whom Finklin had a dispute was critical to Appellant's defense. Likewise critical to Appellant's defense were sightings of a white that car matched the description of Bo's which followed Finklin on the early morning hours of June 4, 2008, on the same street where Finklin's car and remains were later found. Taken together, these facts readily suggest what the State sought to deny: that Finklin could have been killed by Bo rather than Appellant. See, e.g., Holmes v. South Carolina, 547 S.C. 319, 331, 126 S.Ct. 1727, 1735 (2006) (discussing the rule regarding admission of evidence of third-party guilt).³ Thus, the erroneously admitted hearsay was probative as to a material fact in Appellant's case. Accordingly, Appellant was prejudiced by the trial court's admission of the improper hearsay as it could reasonably have affected the result of the trial.

³ The Holmes Court also addressed the relationship between the strength of the prosecution's case and the evidence of third party guilt:

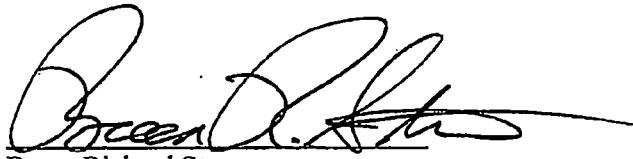
Just because the prosecution's evidence, *if credited*, would provide strong support for a guilty verdict, it does not follow that evidence of thirdparty guilt has only a weak logical connection to the central issues in the case. And where the credibility of the prosecution's witnesses or the reliability of its evidence is not conceded, the strength of the prosecution's case cannot be assessed without making the sort of factual findings that have traditionally been reserved for the trier of fact and that the South Carolina courts did not purport to make in this case.

Id. 547 S.C. at 330, 126 S.Ct. at 1734 (emphasis in original). In the present case, the credibility of the State's key witnesses—Joseph Dicks and Jose Serrano—was weak, as both were impeached based on their prior convictions and pending charges. R. 249, ln. 5—R. 251, ln. 8; R. 426, ln. 5—R. 430, ln. 24. These were the only two witnesses who indicated Appellant admitted his guilt to them the night of the incident. R. 233, ln. 21—R. 237, ln. 22; R. 408, ln. 5—R. 411, ln. 21; R. 431, ll. 7-13. However, the credibility and reliability of these and other witnesses was contested throughout the trial by the defense. R. 254, ln. 19—R. 270, ln. 20; R. 431, ln. 23—R. 439, ln. 16; R. 652, ln. 11—R. 693, ln. 6.

CONCLUSION

For the foregoing reasons, Appellant Tevon Jackson respectfully requests reversal of his convictions, and remand for a new trial.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Breen Richard Stevens", with a long horizontal flourish extending to the right.

Breen Richard Stevens
Appellate Defender

ATTORNEY FOR APPELLANT

This 18th day of May, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TEVON JACKSON,

APPELLANT

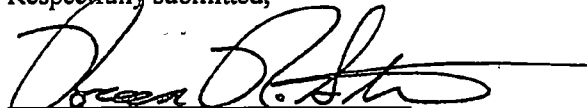
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Tevon Jackson states:

1. He is an Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Doyet A. Early, III, which was held on February 25, 2011, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Tevon Jackson.

Respectfully submitted,



Breen Richard Stevens
Appellate Defender

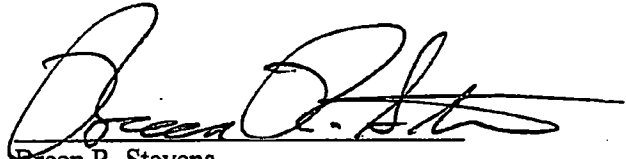
ATTORNEY FOR APPELLANT

This 18th day of May, 2012.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 18, 2012.

A handwritten signature in black ink, appearing to read "Breen R. Stevens", with a long horizontal flourish extending to the right.

Breen R. Stevens
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

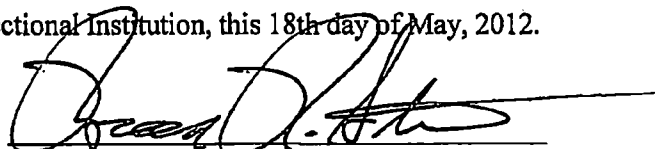
V.

TEVON JACKSON,

APPELLANT

CERTIFICATE OF SERVICE

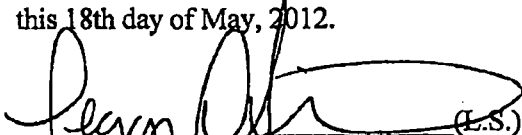
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and on Tevon Jackson, #344982 at Lee Correctional Institution, this 18th day of May, 2012.



Breen Richard Stevens
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 18th day of May, 2012.



(L.S.)

Notary Public for South Carolina

My Commission Expires: December 4, 2017

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Tevon Jackson, Appellant.

Appellate Case No. 2011-187507

Appeal From Aiken County
Doyet A. Early, III, Circuit Court Judge

Unpublished Opinion No. 2013-UP-024
Submitted December 3, 2012 – Filed January 16, 2013

APPEAL DISMISSED

Appellate Defender Breen Richard Stevens, of Columbia,
for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, and Senior
Assistant Deputy Attorney General Salley W. Elliott, all
of Columbia; and Solicitor J. Strom Thurmond, Jr., of
Aiken, for Respondent.

PER CURIAM: Dismissed after review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.¹

APPEAL DISMISSED.

SHORT, KONDUROS, and LOCKEMY, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

K33185
K33192
FORM 5

2013-CP-02-02693 805
2009-GS-02-00883 +0084

Filed November 27, 2013

Lyndee
C.C.C.B. & G.S. - Aiken County
Trial Judge: *David A. Early III*
Trial Atty: *Michael M. Mays*
Court Reporter: *Lisa Davenport*
Sec: PCR Petitioner * Solicitor
General Sessions * Atty. Gen.
Appointed Atty.

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)
Tevon Michael Jackson, 344982,)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010
2. Name and location of Court which imposed sentence Aiken County Court of General Sessions, 109 Park Ave. SE, Aiken, SC 29801
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-02-0083: murder
 - (b) 2009-GS-02-0084: possession of a weapon during the commission of a violent offense
 - (c) _____

5. The date upon which sentence was imposed and the terms of the sentence:
- (a) February 28, 2011: 30 years
 - (b) February 28, 2011: 5 years concurrent
 - (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
 - (b) after a plea of not guilty X
 - (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. South Carolina Court of Appeals
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. Appeal Dismissed.
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. January 16, 2013
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. Unpub. Op. No. 2013-UP-024
 - ii. _____
 - iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
 - (b) _____
 - (c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of trial counsel.
 - (b) Ineffective assistance of appellate counsel.
 - (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Failure to prepare and investigate.
 - (b) Failure to call witnesses at trial.
 - (c) Failure to raise all meritorious issues on appeal.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No.
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No.
 - (d) any other petitions, motions or applications in this or any other Court? No.
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (c) the disposition thereof:
 - i. _____
 - ii. _____

- iii. _____
- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- 14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
No.
- 15. If you answered "yes" to (14) identify:
 - (a) which grounds have been presented:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the proceedings in which each ground was raised:
 - i. _____
 - ii. _____
 - iii. _____
- 16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
 - (a) PCR is the proper forum.
 - (b) _____
 - (c) _____
- 17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? Yes.
- (c) your sentencing? Yes.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes.
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Wallis Alves, 2nd Circuit Public Defender's Office, PO Drawer 2247, Aiken, SC 28012
 - ii. Michael Routzong, 2nd Circuit Public Defender's Office, PO Drawer 2247, Aiken, SC 28012
 - iii. Breen Richard Stevens, Office of Appellate Defense, 1330 Lady Street, Suite 401, Columbia, SC 29201
- (b) the proceedings at which each such attorney represented you:
 - i. Trial.
 - ii. Trial.
 - iii. Appeal.

19. State clearly the relief you seek in filing this application:

A new trial.

20. Are you now under sentence from any other court that you have not challenged?

No.

STATE OF SOUTH CAROLINA

County of Lee

)
)
)

VERIFICATION

I, Tevon Michael Jackson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



SWORN to and subscribed before me this 22
day of November, 2013.



(L.S.)

Notary Public

My Commission Expires: 4/12/2016

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Tevon Michael Jackson. #344982

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

2013-CP-02-02693

RETURN

The Respondent, making its Return to the application for post-conviction relief filed November 27, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was true bill indicted at the January 2009 term of the Aiken County Grand Jury for Murder and Possession of a Firearm During Commission of a Violent Crime (2009-GS-02-83; -84). Wallis Alves and Michael Routzong, Esquire, represented the Applicant. Applicant proceeded to a jury trial before the Honorable Doyet A. Early, III. Applicant was subsequently convicted as indicted on all counts. Judge Early sentenced Applicant to thirty years imprisonment for Murder and five years imprisonment for Possession of a Weapon During the Commission of a Violent Crime with all sentences to run concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected by Breen Stevens, Esquire. The South Carolina Court of Appeals affirmed the Applicant's conviction and sentence. State v. Jackson, Tevon, Op. No. 2013- UP- 024 (Ct. App. filed

1 of 5

FILED 5/14 20014
Shi Hadard
C.C.P. & G.S.
12:20 Breen Stevens
12/27/2013

January 16, 2013). The Remittitur was issued on February 4, 2013.

Attached herewith and incorporated herein are the records of the Aiken County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, Appellate Records, and the transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. "Failure to prepare and investigate."
 - b. "Failure to call witnesses at trial."
2. Ineffective Assistance of Appellate Counsel.
 - a. Failure to raise all meritorious issues on appeal

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts

v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523 (1990). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983). Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

The Applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, at 537; Gilchrist v. State, 364 S.C. 173, 612 S.E.2d 702 (2005); Anderson v. State, 354 S.C. 431, 581 S.E.2d 834 (2003). When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

The Respondent contends that the Applicant's appellate attorney rendered effective assistance of counsel. However, this ground for relief may raise factual issues that are not conclusively refuted by the record. The Respondent requests an evidentiary hearing on this allegation.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

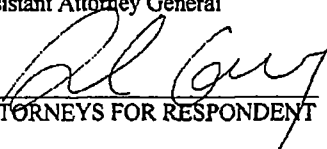
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Deputy Attorney General

DANIEL GOURLEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

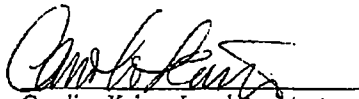
May 13, 2014.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	
	)	
	)	2013-CP-02-02693
TEVON MICHAEL JACKSON, #344982,	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tricia A. Blanchette, Esquire
 Law Office of Tricia A. Blanchette, LLC
 PO Box 12725
 Columbia, SC 29211

DATED this the 13th day of May, 2014.


 Caroline Kaiser, Legal Assistant
 For Respondent

FILED 5/14 200 14
 Eric Kadard
 J.C.P. & G.S.
 12:30 5/14/14

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN)	SECOND JUDICIAL CIRCUIT
Tevon Michael Jackson, #344982,)	
Applicant,)	2013-CP-02-2693
v.)	
State of South Carolina,)	MOTION FOR DISCOVERY
Respondent.)	

COMES NOW Applicant, by and through his undersigned attorney, and requests that this Court enter an Order for Production of Discovery pursuant to S.C. Code Ann. §17-27-150(a) (2008). This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on November 27, 2013. The State filed a Return on May 13, 2014.

On behalf of Applicant, undersigned counsel has reviewed and received a copy of Applicant's file from the Aiken County Public Defender's Office and a copy of Applicant's file from the State Law Enforcement Division. Upon review of said files and in order to properly prepare and present his PCR Application, Applicant is seeking the services of a ballistics and/or crime scene expert. To ensure that such an expert has all materials that are needed for his review and to ensure that counsel has all materials needed to properly prepare for an evidentiary hearing, Applicant would also ask for the opportunity to issue subpoenas to the appropriate offices or agencies for the production of his case materials pursuant to S.C. Code Ann. §17-27-150(a) (2008):

1. A complete copy of the Aiken County Sheriff's Department's file and the opportunity to review any evidence maintained at the Aiken County Sheriff's Department.
2. If the Aiken County Public Defender's Office is unable to provide a copy, a copy of the disc containing Applicant's calls from the Aiken County Detention Center from Applicant's file at the Aiken County Solicitor's Office.

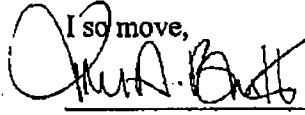
FILED 3 December 4
Rej. Hedard
 J.C.C.P. & G.S.
Opio Bracco
 12:45pm

3. A complete copy of the trial exhibits.
4. A complete copy of the Coroner's file.

The Applicant, through undersigned counsel, submits that the above listed documents and case materials are necessary for counsel, his retained private investigator and above referenced expert to properly prepare his case and to present his claims. Furthermore, the Applicant, through counsel, submits that this request is not being made as a fishing expedition, but it is only being submitted to the Court due to the importance of the requested materials in Applicant obtaining "one full bite of the apple."

THEREFORE, based upon the foregoing the Applicant respectfully requests that this Court hold a hearing and/or enter an Order for Discovery for the above requested case materials that are necessary for the presentation of Applicant's case.

December 1, 2014
Columbia, SC

I so move,


Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
Attorney for Applicant

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

Tevon Michael Jackson, #344982,)
 Applicant,)

2013-CP-02-2693

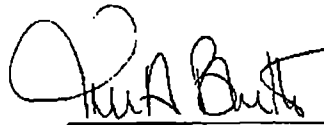
v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
 Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 1st day of December 2014, a copy of a Motion for Discovery, to Daniel Gourley of the Attorney General's Office, at:

Office of the Attorney General
 Att: Daniel Gourley, Ast. AG
 PO Box 11549
 Columbia, SC 29211



Tricia A. Blanchette
 PO Box 12725
 Columbia, SC 29211
 (803) 988-0008

December 1, 2014

FILED 3 December 2014

Shirley Godard
 J.C.P. & G.S.

April O. Bracco
 Deputy Clerk 12:45pm

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Tevon Michael Jackson, #344982,)
Applicant,)

2013-CP-02-2693

v.)

ORDER FOR DISCOVERY

State of South Carolina,)
Respondent.)

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on November 27, 2013. The State filed a Return on May 13, 2014. On January 12, 2015, a motion hearing was held at the Aiken County Courthouse in front of the Honorable D. Craig Brown. Applicant was present and represented by Tricia A. Blanchette, Esquire. The State was represented by Daniel Gourley.

Via written motion and at the motion hearing, Applicant's counsel explained that she had reviewed and received a copy of Applicant's file from the Aiken County Public Defender's Office and a copy of Applicant's file from the State Law Enforcement Division. Applicant's counsel also explained that discovery requests were being made since the requested items were not in the Public Defender's or SLED's file and were necessary to properly prepare Applicant's case for an evidentiary hearing. The State did not oppose the discovery requests.

Therefore, for good cause shown this Court finds that Applicant, through counsel, may issue subpoenas to the appropriate offices or agencies for the production of his case materials, listed below, pursuant to S.C. Code Ann. §17-27-150(a) (2008):

1. A complete copy of the Aiken County Sheriff's Department's file and the opportunity to review any evidence maintained at the Aiken County Sheriff's Department.

FILED

1:20 2015

Liz Hadard
C.C.P. & G.S.
[Signature]
Deputy Clerk

2. If the Aiken County Public Defender's Office is unable to provide a copy, a copy of the disc containing Applicant's calls from the Aiken County Detention Center from Applicant's file at the Aiken County Solicitor's Office.
3. A complete copy of the trial exhibits.
4. A complete copy of the Coroner's file.

IT IS THEREFORE ORDERED:

1. That Counsel for Applicant is permitted to serve a subpoena and/or submit a written request, along with a copy of this Order, upon the above listed agencies or entities for the production of the above listed files
2. That any parties in receipt of a subpoena pursuant to this Order may file a timely objection, which will be addressed by this Court.

AND, IT IS SO ORDERED this 13 day of January, 2015.

Aiken, South Carolina


Honorable D. Craig Brown
Circuit Court Judge

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Tevon Michael Jackson, #344982,)
Applicant,)

2013-CP-02-2693

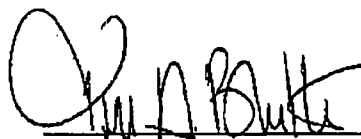
v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 16th day of January 2015, a copy of an Order for Discovery, to Daniel Gourley of the Attorney General's Office, at:

Office of the Attorney General
Att: Daniel Gourley, Ast. AG
PO Box 11549
Columbia, SC 29211

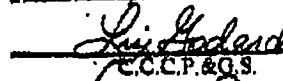


Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
(803) 988-0008

January 16, 2015

FILED

1.20 2015


C.C.P. & G.S.


Deputy Clerk

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Tevon Michael Jackson, #344982,)
Applicant,)

2013-CP-02-2693

v.)

State of South Carolina,)
Respondent.)

**AMENDMENT TO APPLICATION
FOR POST CONVICTION RELIEF**

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on November 27, 2013. The State filed a Return on May 13, 2014. Applicant would amend his original Application by alleging the following specific claims of ineffective assistance of trial and appellate counsel:

1. Ineffective assistance of trial counsel for failure to properly prepare and investigate prior to trial, which resulted in prejudice to Applicant.
2. Ineffective assistance of trial counsel for failure to utilize witnesses at trial, which resulted in prejudice to Applicant.
1. Ineffective assistance of trial counsel in preparation for and at trial for failure to do the following, which resulted in prejudice to Applicant:
 - a. Failure to fully cross-examine and/or impeach the State's witnesses.
 - b. Failure to pursue available defenses, including but not limited to alibi, third party guilt and exonerating evidence.
 - c. Failure to properly prepare and utilize Applicant as a witness at trial.
2. Ineffective assistance of trial counsel for failure to fully put the State's case to the test and/or fully refute the State's theory of the case with available evidence and witnesses, which resulted in prejudice to Applicant.
3. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal.
4. Pursuant to Rule 15(b), SCRCP, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

FILED

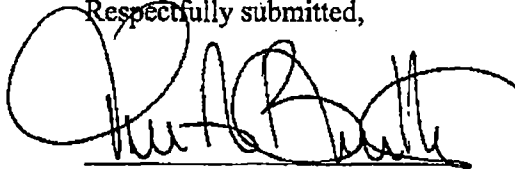
8.10.15

CLERK OF COURT

Deputy Clerk

August 7, 2015
Columbia, SC

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tricia A. Blanchette', written over a horizontal line.

Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
Attorney for Applicant

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

Tevon Michael Jackson, #344982,)
 Applicant,)

2013-CP-02-2693

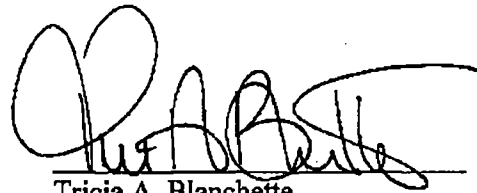
v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
 Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 7th day of August 2015, a copy of an Amendment to Application for Post Conviction Relief, to Daniel Gourley of the Attorney General's Office, at:

Office of the Attorney General
 Att: Daniel Gourley, Ast. AG
 PO Box 11549
 Columbia, SC 29211



Tricia A. Blanchette
 PO Box 12725
 Columbia, SC 29211
 (803) 988-0008

August 7, 2015

FILED

8.10.15

Tricia Blanchette
 C.C.P. & C.S.

Vernice S. Smith 12:45pm
 Deputy Clerk

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)
)
 Tevon Michael Jackson, #344982,)
 Applicant,)
 v.)
)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

2013-CP-02-2693

**AMENDMENT TO APPLICATION
 FOR POST CONVICTION RELIEF**

FILED August 13, 2015
 J. L. Shepard
 Clerk of Court
 J. L. Shepard
 12:45pm

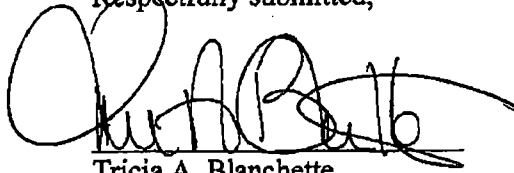
This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on November 27, 2013. The State filed a Return on May 13, 2014. Applicant would amend his original Application by alleging the following specific claims of ineffective assistance of trial and appellate counsel¹:

1. Ineffective assistance of trial counsel for failure to properly prepare and investigate prior to trial, which resulted in prejudice to Applicant.
2. Ineffective assistance of trial counsel for failure to utilize witnesses at trial, which resulted in prejudice to Applicant.
3. Ineffective assistance of trial counsel in preparation for and at trial for failure to do the following, which resulted in prejudice to Applicant:
 - a. Failure to fully cross-examine and/or impeach the State's witnesses.
 - b. Failure to pursue available defenses, including but not limited to alibi, third party guilt and exonerating evidence.
 - c. Failure to properly prepare and utilize Applicant as a witness at trial.
 - d. Failure to disclose to Applicant representation by counsel of Jamar Green, witness for the State at trial.
 - e. Failure to make contemporaneous objections and/or move to suppress irrelevant evidence and testimony.
4. Ineffective assistance of trial counsel for failure to fully put the State's case to the test and/or fully refute the State's theory of the case with available evidence and witnesses, which resulted in prejudice to Applicant.
5. Ineffective assistance of appellate counsel for failure to raise all meritorious issues on appeal.
6. Pursuant to Rule 15(b), SCRPC, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

¹ On August 7, 2015, Applicant, through counsel, submitted an Amendment. The instant Amendment is being filed subsequently due to typographical errors and omissions.

August 11, 2015
Columbia, SC

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tricia A. Blanchette', written over a horizontal line.

Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
Attorney for Applicant

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

Tevon Michael Jackson, #344982,)
 Applicant,)

2013-CP-02-2693

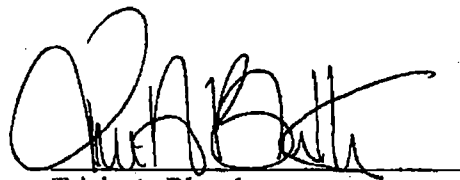
v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
 Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 11th day of August 2015, a copy of an Amendment to Application for Post Conviction Relief, to Daniel Gourley of the Attorney General's Office, at:

Office of the Attorney General
 Att: Daniel Gourley, Ast. AG
 PO Box 11549
 Columbia, SC 29211



Tricia A. Blanchette
 PO Box 12725
 Columbia, SC 29211
 (803) 988-0008

August 11, 2015

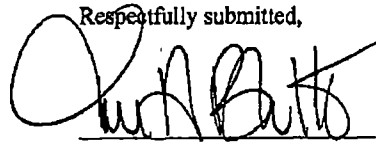
FILED August 13 200 15
 by Tricia Blanchette
 Clerk of Court
12:45pm

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN)	SECOND JUDICIAL CIRCUIT
Tevon Michael Jackson, #344982,)	2013-CP-02-2693
Applicant,)	
v.)	
State of South Carolina,)	AMENDMENT TO APPLICATION
Respondent.)	FOR POST CONVICTION RELIEF

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on November 27, 2013. The State filed a Return on May 13, 2014. Applicant would amend his original Application and add to his prior Amendments by alleging the following specific claims of ineffective assistance of trial and/or prosecutorial misconduct:

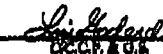
1. Ineffective assistance of trial counsel for failure to move to suppress and/or object to the phone records admitted as State Exhibit #54 and any testimony pertaining to such records. Failure to impeach the State's witnesses with evidence obtained from the victim's cell phone.
2. Prosecutorial misconduct and/or Brady violation for failing to disclose the interview and investigation into Kalyn Floyd prior to and/or during Applicant's trial based upon information received from Joseph Dick's that she provided Applicant with the murder weapon. Alternatively, if said information was not subject to disclosure by the State, ineffective assistance of trial counsel for failure to investigate the matter, locate Kalyn Floyd and utilize her as a witness for the defense.

Respectfully submitted,



Tricia A. Blanchette
PO Box 12725
Columbia, SC 29211
Attorney for Applicant

August 2nd, 2015
Columbia, SC

FILED 8.31.15

 Linda L. Hester
 Deputy Clerk

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Tevon Michael Jackson, #344982,)
Applicant,)

2013-CP-02-2693

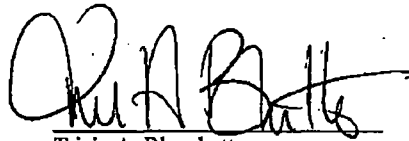
v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 27th day of August 2015, a copy of an Amendment to Application for Post Conviction Relief, to Daniel Gourley of the Attorney General's Office, at:

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August 27, 2015

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Deputy Clerk

1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2013-CP-02-02693

3
4 TEVON JACKSON,
Applicant,

5 -vs-

TRANSCRIPT OF RECORD

6 STATE OF SOUTH CAROLINA,
7 Respondent.

8
9 Post-Conviction Relief Hearing

10 Heard on Thursday, September 10, 2015

11 Aiken, South Carolina

12
13 BEFORE:

14 THE HONORABLE EDGAR W. DICKSON

15
16
17 APPEARANCES:

18 Counsel on Behalf of the Applicant:
Tricia A. Blanchette, Esq.

19
20 Counsel on Behalf of the Respondent, State of SC:
Daniel F. Gourley, II, Esq.

21
22 Cheri L. Young, RPR
23 Circuit Court Reporter
24 P O Box 5232
Aiken, SC 29803-5232
25

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1 ON THURSDAY, SEPTEMBER 10, 2015 AT 9:54 A.M.:

2 THE COURT: Ms. Blanchette, about how many
3 amendments in the application do we have; three?

4 MS. BLANCHETTE: Three, Your Honor, yes.
5 But one superceded the other. I had some
6 typographical errors. My numbers did not number
7 correctly so there's actually only two we're
8 going forward on.

9 THE COURT: Which two?

10 MS. BLANCHETTE: And I have a clean copy of
11 both of those for you, Your Honor, if you don't
12 have them.

13 THE COURT: I think I've got them. If you
14 would just give me the dates.

15 MS. BLANCHETTE: It's the amendment filed
16 August 13th that has the clerk's stamp on it from
17 August 13th.

18 THE COURT: Well, I have one dated August
19 7th, August 27th and August 11th.

20 MS. BLANCHETTE: Your Honor, I have a copy
21 of the filed ones if you'd like those for your
22 record.

23 THE COURT: Sure. I'll go with that.

24 MS. BLANCHETTE: I have the one here filed
25 August 13th and then the one here filed August

1 31st.

2 THE COURT: Okay.

3 MS. BLANCHETTE: Because one is redundant.

4 I just fixed some typographical errors.

5 THE COURT: So the August 11th and August
6 27th then?

7 MS. BLANCHETTE: Yes, Your Honor.

8 THE COURT: Mr. Gourley, do you want to
9 call the case?

10 MR. GOURLEY: Yes, Your Honor.

11 This is Tevon Jackson versus the State of
12 South Carolina, Docket Number 2013-CP-02-02693.
13 Presently confined in the South Carolina
14 Department of Corrections pursuant to orders of
15 commitment of the Aiken County Clerk of Court.
16 True bill indicted January 2009 term of the Aiken
17 County Grand Jury for murder and possession of a
18 firearm during the commission of a violent
19 crime. Ms. Alves represented him.

20 He proceeded to a jury trial before the
21 Honorable Doyet A. Early the Third, was
22 subsequently convicted as indicted on all
23 counts. Judge Early sentenced him to a 30-year
24 term of imprisonment for murder and a five-year
25 term of imprisonment for possession of a weapon

1 during the commission of a violent crime. Those
2 sentences would run concurrently.

3 A timely notice of appeal was filed on
4 Applicant's behalf. An appeal was perfected by
5 Ms. Stephens. South Carolina Court of Appeals
6 affirmed the Applicant's conviction and sentence
7 and remittitur was issued on February 5th, 2013.

8 He filed a timely application for post-
9 conviction relief on November 27th, 2013,
10 alleging various claims of ineffective assistance
11 of counsel.

12 Your Honor, the State filed its return on
13 May 13th, 2014. And he's represented here today
14 by Ms. Blanchette.

15 THE COURT: All right. Ms. Blanchette?

16 MS. BLANCHETTE: Thank you, Your Honor.
17 May it please the Court.

18 Tricia Blanchette here today on behalf of
19 the Applicant, Tevon Jackson. Just one matter
20 that I have addressed with the Assistant Attorney
21 General prior to today. It's in the second
22 amendment, issue number two that deals with
23 prosecutorial misconduct and/or a Brady
24 violation.

25 THE COURT: Uh-huh.

1 MS. BLANCHETTE: We are still as of today,
2 I believe, trying to flush out exactly what that
3 is or may be. So there was one additional clause
4 I needed to add to that claim. So it should
5 read: Prosecutorial misconduct and/or a Brady
6 violation for failing to disclose the interview
7 and investigation into Kalyn Floyd prior to
8 and/or during Applicant's trial based upon
9 information received from Joseph Dicks, that she
10 provided Applicant with the murder weapon.
11 Alternatively if said information was not subject
12 to disclosure by the State and/or was, was
13 disclosed by the State, ineffective assistance of
14 trial counsel for failure to investigate the
15 matter, locate Kalyn Floyd and utilize her as a
16 witness for the defense.

17 THE COURT: Okay.

18 MS. BLANCHETTE: And, Your Honor, just as a
19 matter of introduction, I didn't plan to go
20 through the whole case unless Your Honor would
21 like me to give you a factual overview.

22 But I'm going to call a number of witnesses
23 that deal with the facts and the time line in
24 this case. In closing argument the defense
25 counsel focused on the time line that was

1 presented by the defense and whether or not it
2 was plausible that Tevon Jackson could have
3 committed this murder within the time line.

4 So the majority of our witnesses today are
5 going to go to that issue of time line. What I
6 have done and I plan to use this just as an
7 exhibit for Your Honor, if you can see it, which
8 I know being in this courtroom is going to be a
9 little bit different. When I get to it I'll
10 bring it up here and I'll keep it out of the way
11 of the witnesses for the time being. I've
12 already put the time line that the defense
13 counsel used in her closing on here.

14 And if you go through the witnesses I'm
15 going to just add to it based upon what they
16 say. It may be easiest to have it right here,
17 just kind of see how everybody walks in here with
18 the first witness as an explanation for this.

19 Also just some names that you're going to
20 hear. When you use nicknames I always like to
21 let the Court know ahead of time. In this case
22 the State had two key witnesses that were with
23 Tevon Jackson on the night in question. That is
24 Jose or Joey Serrano, he's referred to throughout
25 the transcript and the investigation, and the

1 second is Joseph Dicks. And most of the
2 witnesses and investigation refer to him as Meat
3 Man. So I didn't want there to be any confusion
4 as to who Meat Man may be.

5 THE COURT: M-E-A-T?

6 MS. BLANCHETTE: M-E-A-T and man, M-A-N.

7 THE COURT: Okay.

8 MS. BLANCHETTE: And so when I hear things
9 like that I also like to let the Court know so
10 there's no confusion as to who would be
11 referencing with that. In this case Mr. Jackson
12 did not have any co-defendants. Those were just
13 witnesses for the State.

14 THE COURT: Okay.

15 MS. BLANCHETTE: And, Your Honor, if the
16 Court would like, I'm prepared to call my first
17 witness in this case.

18 THE COURT: All right.

19 MS. BLANCHETTE: I would call Kalyn Floyd.

20 KALYN SHANTAY FLOYD, having been duly
21 sworn, was examined and testified as follows:

22 THE CLERK: Have a seat in the witness box
23 and state your name, spelling your last.

24 THE WITNESS: Kalyn Shantay Floyd.
25

KALYN FLOYD - DIRECT BY BLANCHETTE

DIRECT EXAMINATION

BY MS. BLANCHETTE:

Q. And, can you spell your first name for us?

A. K-A-L-Y-N.

Q. And, Kalyn, how was it that you know Tevon Jackson?

A. We stay on the same street.

Q. And where do you currently live?

A. Atlanta, Georgia.

Q. Okay. And are you here voluntarily?

THE COURT: We're going to have to do one thing different and that is, Ms. Floyd, you got to speak loudly.

THE WITNESS: Okay.

THE COURT: Okay. Because the fan is on, your back is to me which is, that's okay but you got to speak loudly.

THE WITNESS: Okay.

THE COURT: Okay. And I don't believe people in the back can hear too. So I know we got a crowd in here so I think everybody wants to hear.

MS. BLANCHETTE: Do we have a mic?

THE COURT: We can go with just talking loud. Okay? Go ahead, Ms. Floyd. You were telling us how you know Mr. Jackson. Wasn't that

KALYN FLOYD - DIRECT BY BLANCHETTE

1 the question?

2 THE WITNESS: We grew up on the same
3 street.

4 THE COURT: Okay. I tell you what. I'm
5 going to let you turn, turn the chair facing the
6 court reporter and then move her out just a
7 little bit.

8 MS. BLANCHETTE: You want to put it right
9 out about here?

10 THE COURT: You're the first one. You're
11 going to be -- we're going to move you around six
12 or eight times. All right.

13 BY MS. BLANCHETTE:

14 Q. Where is it that you currently reside?

15 A. Atlanta, Georgia.

16 Q. And are you here voluntarily today?

17 A. Yes.

18 Q. Okay. Now, Kalyn, let me take you back to the time
19 shortly before Tevon Jackson was tried in 2011. Did you
20 come into contact with law enforcement in this case?

21 A. Yes, I did.

22 Q. Okay. And what happened with that?

23 A. I was subpoenaed to go talk to the solicitor. And
24 I went to go talk to him. He asked me what happened
25 because Meat Man said I brought Tevon the murder gun but

KALYN FLOYD - DIRECT BY BLANCHETTE

1 I was actually out of town that whole week. And I had to
2 give him my cell phone number so he could track my towers
3 of where I was and I was never called.

4 Q. Okay. So shortly before the trial is when you
5 remember it, you were contacted that you had to go to the
6 solicitor's office. Were you concerned when they
7 contacted you?

8 A. Yes.

9 Q. Okay. And did you know what it was about at that
10 point?

11 A. Yes.

12 Q. Okay. You talked to them, you provided them cell
13 phone records?

14 A. Yes.

15 Q. And as a result, what did they tell you? Did they
16 tell you those showed you were involved or did they give
17 you any information back?

18 A. They said they was going to give me a call if I
19 needed to take the stand, but I never received a call.

20 Q. Okay. And did you ever get a subpoena during the
21 course of the week of trial and think that you were going
22 to be needed to be there?

23 A. No. Just when I had to go talk to the solicitor.

24 Q. Okay. So just when you had to talk to the
25 solicitor?

KALYN FLOYD - DIRECT BY BLANCHETTE

1 A. Yes.

2 Q. And where did that meeting take place as far as you
3 remember?

4 A. At the Aiken County, I guess, the Detention Center
5 on Hampton Avenue.

6 Q. Okay. So that's where you went to talk to
7 someone. Do you specifically remember the people's names
8 that you talked to?

9 A. I don't remember names.

10 Q. Has anybody talked to you about this incident but
11 for about within the last month here? Have you talked to
12 anybody? Has anybody ever contacted you about it since
13 then?

14 A. Other than you, no.

15 Q. Okay. Now, did you ever hear from someone
16 representing themselves as the Aiken County Public
17 Defenders Office or somebody working with on Tevon's
18 behalf for his trial?

19 A. Other than you, no.

20 Q. Okay. And at the time of trial you never heard
21 from his attorney; is that correct?

22 A. No, correct.

23 Q. If you would have heard from somebody saying they
24 were representing the defense and they needed to talk to
25 you, would you have been willing to talk to them?

KALYN FLOYD - DIRECT BY BLANCHETTE

1 A. Yes.

2 Q. Would you have been willing to come and testify at
3 the trial for the defense in this case?

4 A. Yes.

5 Q. Now I'm just going to reference what was testified
6 to at trial. On pages 233 through 235, for the Court's
7 reference, Joseph Dicks testifies that you came or Kayla
8 came and dropped off a .38 for the Defendant and then he
9 gave it to the Defendant. Did that happen?

10 A. No.

11 Q. He also testifies on pages 260 through 261 that the
12 Defendant had told him to wait for Kayla. Kayla showed
13 up on Nondron Street and gave him the weapon. Did you
14 show up that night on Nondron Street?

15 A. No.

16 Q. And you're clear that you know the night that we're
17 talking about is the night of June 3rd into June 4th of
18 2008?

19 A. Yes, because I was out of town that whole week.

20 Q. Okay. And you said that you provided your cell
21 phone records to prove that. Did you also have any other
22 witnesses that could have established that for you?

23 A. Yes. I have somebody -- like, I was out of town
24 with someone.

25 Q. Okay. And you were willing to give the information

KALYN FLOYD - CROSS BY GOURLEY

1 of those people to verify that you were out of town?

2 A. Yes, I gave the solicitor his name.

3 Q. Kayla, just an obvious question. Were you ever
4 charged in this case?

5 A. No.

6 Q. Okay. Your Honor, if I could beg the Court's
7 indulgence one moment?

8 (Pause.)

9 MS. BLANCHETTE: Your Honor, I have no
10 further questions of this witness.

11 THE COURT: Mr. Gourley..

12 MR. GOURLEY: Yes, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. GOURLEY:

15 Q. Ms. Floyd, you said you met with somebody at the
16 Aiken County Detention Center?

17 A. Yes.

18 Q. All right. You met with the solicitor's office?

19 A. Yes.

20 Q. Were any officers there? Sheriff's office, no one
21 like that?

22 A. No.

23 Q. Did you give a statement?

24 A. Yes.

25 Q. Did they write something down?

KALYN FLOYD - CROSS BY GOURLEY

- 1 A. Yes.
- 2 Q. Okay. Did you sign it?
- 3 A. Yes.
- 4 Q. Okay. Was there a notary there or anybody like
- 5 that to make it official?
- 6 A. I can't remember if there was.
- 7 Q. Okay. Did you write the statement or did somebody
- 8 else write the statement?
- 9 A. I wrote the statement.
- 10 Q. Okay. Do you have a copy of that statement?
- 11 A. No.
- 12 Q. And you said you were out of town that weekend?
- 13 A. Yes.
- 14 Q. Where were you?
- 15 A. I was actually in Augusta, Georgia -- well, not in
- 16 town but was in Augusta, Georgia.
- 17 Q. Who was with you?
- 18 A. Kayla Murray.
- 19 Q. Is she here today?
- 20 A. No.
- 21 Q. All right. And they said that you were accused of
- 22 giving the gun to Tevon?
- 23 A. Right.
- 24 Q. But, again, you don't have a copy of the statement,
- 25 right?

KALYN FLOYD - CROSS BY GOURLEY

1 A. No.

2 Q. You don't have Kayla Murray here to testify that
3 you were out of town, right?

4 A. No.

5 Q. Do you have any cell phone records to show that you
6 were out of town?

7 A. No. I actually provided them two of my cell phone
8 numbers and they said they was going to track the cell
9 towers to see exactly where I was at that time but I
10 never heard back from them.

11 Q. Do you remember what the cell phone numbers were?

12 A. No, I can't remember.

13 Q. Okay. When did you go give them this statement?

14 A. The first day of the trial is when I was
15 subpoenaed. I went the next day after.

16 Q. Okay. So you were subpoenaed for trial?

17 A. I was subpoenaed to go talk to the solicitor. He
18 was, like, if he needed me to take the stand he would
19 call me but I never received a call.

20 Q. Okay. And when did you receive the subpoena to go
21 talk to the solicitor?

22 A. The first day of the trial.

23 Q. The first day of the trial?

24 A. Yes.

25 Q. And you went to the Aiken County Detention Center

KALYN FLOYD - REDIRECT BY BLANCHETTE

1 at what time to talk to the solicitor?

2 A. It had to be about five, maybe, that afternoon.

3 Q. That afternoon?

4 A. Yes.

5 Q. At that point you gave a statement?

6 A. Yes.

7 Q. Okay. All right.

8 No other questions, Judge.

9 THE COURT: All right. Anything on
10 redirect?

11 MS. BLANCHETTE: Very briefly.

12 REDIRECT EXAMINATION

13 BY MS. BLANCHETTE:

14 Q. Ms. Floyd, do you remember where you were when you
15 got that subpoena?

16 A. I was at home.

17 Q. Okay. And home is where?

18 A. Dry Branch Road.

19 Q. Is that your mother's?

20 THE COURT: I'm sorry. I'm sorry. She's
21 got to say that again. Home is where?

22 THE WITNESS: 246 Dry Branch Road.

23 BY MS. BLANCHETTE:

24 Q. And you vividly remember that day when they arrived
25 with a subpoena?

1 A. Yes. My mother answered the door.

2 MS. BLANCHETTE: Your Honor, if I could beg
3 the Court's indulgence. (Pause.)

4 Your Honor, I have no further questions of
5 this witness.

6 THE COURT: Okay. Hold on. All right
7 Mr. Gourley.

8 MR. GOURLEY: Yes.

9 RECROSS-EXAMINATION

10 BY MR. GOURLEY:

11 Q. Ms. Floyd, do you have a copy of the subpoena that
12 you were served with?

13 A. No.

14 Q. Is your mother here today to testify that they
15 served you with a subpoena?

16 A. No.

17 MR. GOURLEY: I have no other questions,
18 Judge.

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

20 MS. BLANCHETTE: Your Honor, as I mentioned
21 previously and as she's stated, she's come from
22 Atlanta today. She has work this afternoon and
23 she's not under subpoena. So I would just like
24 to put everyone on notice that I'll be releasing
25 her at this point unless she's further needed.

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

1 THE COURT: Any problem?

2 MR. GOURLEY: No, judge. Thank you.

3 THE COURT: Ms. Floyd, you're free to go.

4 Just don't run. Who's next?

5 MR. GOURLEY: Your Honor, I would call

6 Latika Elliott to the stand.

7 LATIKA SHEVONE ELLIOTT, having been duly

8 sworn, was examined and testified as follows:

9 THE CLERK: Have a seat on the witness
10 stand and state your name for the record.

11 THE WITNESS: Latika Shevone Elliott.

12 DIRECT EXAMINATION

13 BY MS. BLANCHETTE:

14 Q. And can you spell that for Madam Court Reporter?

15 THE COURT: Hold on one second. How do you
16 spell your first name?

17 THE WITNESS: L-A-T-I-K-A, S-H-E-V-O-N-E,
18 E-L-L-I-O-T-T.

19 THE COURT: That was a test. All right.
20 Mrs. Blanchette?

21 MS. BLANCHETTE: Thank you, Your Honor.

22 Q. Ms. Elliott, where do you currently reside?

23 A. Augusta, Georgia.

24 Q. Okay. And you're here voluntarily today; is that
25 correct?

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

1 A. Yes, ma'am.

2 Q. Okay. I just want to take you back to 2008 when
3 the victim was murdered in this case and ask you about
4 some events that transpired back at that time.

5 Did you come into contact with law enforcement the
6 day, the day after he was murdered in the early-morning
7 hours?

8 A. Yes, ma'am.

9 Q. How did you come in contact with law enforcement
10 that day?

11 A. My phone. They said something about my cell phone
12 number was in one of his phones around three o'clock in
13 the morning.

14 Q. Okay. And did they then speak with you and ask you
15 to give a statement in the case?

16 A. Yes, ma'am.

17 Q. Okay. I'm going to hand you what's been previously
18 marked as Applicant's Number One. Can you look over that
19 for a minute for me? Do you recognize that?

20 A. Yes, ma'am.

21 Q. Is that the statement that you gave to law
22 enforcement back on June 4th of 2008?

23 A. Yes, ma'am.

24 MS. BLANCHETTE: Your Honor, at this time I
25 would move to admit this statement as Applicant's

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

1 Number One.

2 THE COURT: June 4, 2001?

3 MS. BLANCHETTE: 2008.

4 THE COURT: 2008.

5 MR. GOURLEY: Judge, I don't have any
6 objection.

7 THE COURT: Applicant's One is in without
8 objection.

9 MS. BLANCHETTE: Your Honor, would you like
10 a copy?

11 THE COURT: I would. Thank you, ma'am.

12 MS. BLANCHETTE: Uh-huh.

13 (Applicant's Exhibit No. 1, Latika
14 Elliott's statement, received into evidence.)

15 BY MS. BLANCHETTE:

16 Q. Now you just said that you spoke with law
17 enforcement because they had said that you called Mark on
18 one of his phones. And what is the information that you
19 gave them, the information that's in the statement about
20 that phone call?

21 A. That he called me and told me he was coming to my
22 house, that he never showed up.

23 Q. Okay. And at what time was that phone call that's
24 recorded in that statement and that was in your phone?

25 A. At 3:01.

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

1 Q. Okay. And so you left them know that you had
2 spoken to him at 3:01 a.m. and he didn't show up. Did
3 they speak with you further in this case?

4 A. No, ma'am.

5 Q. Okay. They asked you about the phone call. Did
6 they ask you about what type of relationship you had with
7 Mark?

8 A. Yes, ma'am.

9 Q. Okay. And what questions did they ask you about
10 that and what information did you give them?

11 A. They asked me why would he be calling me three
12 o'clock in the morning. And I told them that I had
13 something at my house of his and he said he was coming to
14 get it. But the solicitors, that's who I talked to, but
15 they said that, no, if someone was calling you three
16 o'clock in the morning it had to be sex involved. But it
17 was no sex.

18 Q. Okay. And what did you tell them that you were
19 holding for them, for him?

20 A. Drugs.

21 Q. Okay. And you told that to law enforcement?

22 THE COURT: Wait a minute. What?

23 THE WITNESS: Drugs.

24 THE COURT: Drugs. Okay.

25 BY MS. BLANCHETTE:

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

1 Q. And you told that to law enforcement when they were
2 investigating this case; is that correct?

3 A. Yes, ma'am.

4 Q. And did you also tell them about information you
5 had about people that were out to get Mark, for lack of
6 better words, regarding drugs?

7 A. No. They asked me did I know anything about the
8 conflict him and Bo Chavis had going on. I told him I
9 couldn't tell him directly what went on because I wasn't
10 there but I told him what was said about the little
11 conflict.

12 Q. Okay. And did you also have information about some
13 items recently being stolen from Mark's house?

14 A. Yes, I have.

15 Q. Okay. And what was that information that you gave
16 them?

17 A. I told them that -- they asked me about the drugs
18 and I told them the only reason why I was holding the
19 drugs because he had several boys staying with him and
20 every time something was coming up missing, somebody was
21 stealing his money, somebody was stealing his drugs, but
22 he couldn't pinpoint who it was because it was so many
23 young men around. So he asked me to hold it for him.

24 Q. Okay. And did you give law enforcement your cell
25 phone number at that time?

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

- 1 A. Yes, ma'am.
- 2 Q. And do you remember what that was?
- 3 A. 803-508-2430.
- 4 Q. Okay. And were they ever able to show you where
- 5 that came up on actual cell phone records, or was it just
- 6 a cell phone that they were referring to?
- 7 A. Just his cell phone.
- 8 Q. Just his cell phone. Okay. Now what did you know
- 9 about Mark's relationship with Tevon or kind of Tevon and
- 10 Mark's interaction?
- 11 A. They was cousins from what I understood.
- 12 Q. Okay. Did you see it as a positive relationship,
- 13 or -- or were there -- or did you have any concerns about
- 14 Tevon being a threat to Mark?
- 15 A. No, ma'am.
- 16 Q. Okay. Did anyone back in 2008 up to the time of
- 17 the trial in 2011 ever contact you, Latika, about your
- 18 statement that was helping out Tevon or was part of his
- 19 defense team?
- 20 A. No, ma'am.
- 21 Q. Did you ever talk to any private investigators
- 22 before Pete Skidmore contacted you as part of the PCR
- 23 case?
- 24 A. No, ma'am.
- 25 Q. Okay. If they would have contacted you, would you

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

1 have been willing to talk to the defense in this case?

2 A. Yes, ma'am.

3 Q. Okay. And you would have been willing to tell them
4 everything you told us here today?

5 A. Yes, ma'am.

6 Q. Were you subpoenaed for trial?

7 A. I don't remember if I was subpoenaed but I was told
8 by the solicitors that I had to be here --

9 Q. Okay.

10 A. -- through the trial which was Bill Weeks, I
11 believe.

12 Q. Yeah. Mr. Weeks let you know he was trying the
13 case and that you needed to be present?

14 A. Yes, ma'am.

15 Q. Okay. And were you present during the course of
16 the trial?

17 A. Yes, ma'am.

18 Q. And did you sit and listen to the whole trial?

19 A. Yes, ma'am.

20 Q. Were you ever called as a witness at that trial?

21 A. No, ma'am.

22 Q. Did you wonder why you weren't called as a witness?

23 A. Yes, ma'am.

24 Q. What information did you feel like you could offer
25 that would have been helpful to Tevon's case or that

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

1 should have been heard by the jury in this case?

2 A. That Tevon couldn't have did what they say he did.

3 Q. Okay. And did you have concerns when you heard,
4 specifically, the testimony of Stephanie Green? There
5 was an extensive cross-examination on her, whether or not
6 she'd ever used drugs before that night, because she
7 testified about purchasing drugs from Mark. Did you have
8 any first-hand knowledge that could have refuted
9 Stephanie Green's statement that she did not use drugs?

10 A. Yes, ma'am.

11 Q. Go ahead. And what is that?

12 A. She do use drugs.

13 Q. And you had first-hand knowledge of that?

14 A. Yes, ma'am.

15 Q. And you would have been willing to testify about
16 that if the defense would have called you?

17 A. Yes, ma'am.

18 Q. Okay. And, Latika, just to make sure I'm correct.
19 You said that you talked to Mark at 3:01 a.m.; is that
20 right?

21 A. Yes, ma'am.

22 Q. Okay. So I'm going to make a mark here on this
23 time line that you spoke to him at 3:01 -- or, I'm
24 sorry. You spoke to him, and what did he tell you at
25 3:01 a.m.?

LATIKA ELLIOTT - DIRECT BY BLANCHETTE

1 A. He was coming by my house to get something.

2 Q. And did he ever show up?

3 A. No, ma'am.

4 MS. BLANCHETTE: Your Honor, if I could beg
5 the Court's indulgence one moment.

6 (Pause.)

7 BY MS. BLANCHETTE:

8 Q. Would you characterize the relationship between
9 Tevon and Mark as a good relationship, a positive
10 relationship?

11 A. Yes, ma'am.

12 Q. Okay. So you called Mark at 3:01. You talked to
13 him and he never shows up, correct?

14 A. Yes, ma'am.

15 Q. So my marking here for 3:01, that would be correct
16 as far as your memory; is that correct?

17 A. Yes, ma'am.

18 Q. Okay.

19 Your Honor, is there some place I can put this
20 where you can see it?

21 THE COURT: I can see it back there.

22 MS. BLANCHETTE: Is it good there? Oh, you
23 can see it back there?

24 THE COURT: Yeah, yeah.

25 MS. BLANCHETTE: Your glasses are better

LATIKA ELLIOTT - CROSS BY GOURLEY

1 than my glasses.

2 THE COURT: I have good glasses just bad
3 eyes.

4 MS. BLANCHETTE: Your Honor, I have no
5 further questions of this witness.

6 THE COURT: Mr. Gourley.

7 CROSS-EXAMINATION

8 BY MR. GOURLEY:

9 Q. Ms. Jackson, how often do you hold onto drugs for
10 people? I mean, not Ms. Jackson. Ms. Elliott. I'm
11 sorry. I don't know where I got Jackson -- Tevon.

12 Ms. Elliott, how often do you hold onto drugs for
13 people?

14 A. Not often.

15 Q. Do you make it a habit?

16 A. No, sir.

17 Q. Okay. Do you use drugs?

18 A. Yes, sir.

19 Q. Okay. And in this situation, you were just holding
20 onto drugs for the victim, right?

21 A. Yes, sir.

22 Q. Okay. How long had you been holding onto drugs
23 for?

24 A. That was my first time doing it.

25 Q. Okay. And, maybe I didn't hear you right. Did

LATIKA ELLIOTT - CROSS BY GOURLEY

1 Marcus call or you called Marcus?

2 A. He called me.

3 Q. He called you at 3:01. What number did -- go
4 ahead. I'm sorry. He called you?

5 A. Yes, sir.

6 Q. What number did he call you from; do you remember?

7 A. I know it was a 335 number.

8 Q. 335 number?

9 A. Yes, sir.

10 Q. Do you have any cell phone records or the records
11 that you gave the solicitor's office?

12 A. No, sir.

13 Q. You don't have any of that? Do you still have the
14 same phone you had back in the day?

15 A. No, sir.

16 Q. And do you remember your number back in the day?

17 A. Yes, sir.

18 Q. What was it?

19 A. 803-508-2430.

20 Q. 2330?

21 A. 2430.

22 Q. 2430. Okay. And that was at 3:01?

23 A. Yes, sir.

24 MR. GOURLEY: Beg the Court's indulgence,

25 Your Honor.

LATIKA ELLIOTT - CROSS BY GOURLEY

1 THE COURT: Take your time.

2 (Pause.)

3 BY MR. GOURLEY:

4 Q. And you said Tevon couldn't have done what he did,
5 right?

6 A. No, sir.

7 Q. And why is that?

8 A. He's not the type of person that would do that.

9 Q. Did you see Tevon that night?

10 A. No, sir.

11 Q. Okay. So you don't know where Tevon was?

12 A. No, sir.

13 Q. Okay. You're just going off of your personal
14 knowledge of Tevon and your experiences with him, right?

15 A. Yes, sir.

16 Q. Do you ever do drugs with Tevon?

17 A. No, sir.

18 Q. Did you see Tevon do anything violent?

19 A. No, sir.

20 Q. But you were present during the trial?

21 A. Yes, sir.

22 Q. Did you see his defense attorney there?

23 A. Yes, sir.

24 Q. Did you ever talk to her?

25 A. No, sir.

LATIKA ELLIOTT - CROSS BY GOURLEY

1 Q. Had this important information that you felt the
2 jury should hear, but you never went up and talked to
3 her, his defense counsel?

4 A. They told me somebody was going to contact me. The
5 only thing I was doing was waiting on a phone call. Only
6 person I ever talked to throughout the whole case was the
7 solicitor.

8 Q. Okay. But you saw his defense attorney sitting
9 there by him, right?

10 A. Yes, sir.

11 Q. Friends with Tevon?

12 A. I wouldn't say friends.

13 Q. Know him, acquaintances?

14 A. Yes, sir.

15 Q. Okay. And you felt like he didn't do this, right?

16 A. Yes, sir.

17 Q. And you didn't feel that it was important enough to
18 go up to his defense attorney and say, hey, I got this
19 important information that you need to get known to the
20 jury?

21 A. No, sir.

22 Q. And you said you were here voluntarily today?

23 A. Yes, sir.

24 Q. Did you get subpoenaed?

25 A. No, sir.

LATIKA ELLIOTT - CROSS BY GOURLEY

1 Q. Didn't get a subpoena?

2 A. No, sir.

3 MR. GOURLEY: All right. Your Honor, I
4 don't have any other questions.

5 THE COURT: I want to ask a question though
6 if you don't mind. What kind of drugs were you
7 holding? What drugs were you holding?

8 THE WITNESS: Cocaine.

9 THE COURT: Cocaine. How much cocaine?

10 THE WITNESS: I couldn't tell you.

11 THE COURT: Ma'am?

12 THE WITNESS: I couldn't tell you how much
13 it was. It was just a zip-lock bag.

14 THE COURT: A little zip-lock sandwich
15 bag?

16 THE WITNESS: Yes, sir.

17 THE COURT: Filled?

18 THE WITNESS: No, sir.

19 THE COURT: Okay. Have you seen cocaine
20 since then?

21 THE WITNESS: No, sir.

22 THE COURT: That's the only time you've
23 ever seen cocaine?

24 THE WITNESS: Besides the TV and stuff like
25 that.

LATIKA ELLIOTT - CROSS BY GOURLEY

1 THE COURT: Ma'am?

2 THE WITNESS: Besides TV and stuff like
3 that.

4 THE COURT: I'm not talking about TV. I'm
5 talking about real.

6 THE WITNESS: No, sir.

7 THE COURT: Okay. That's the only time?

8 THE WITNESS: Yes, sir.

9 THE COURT: So how much cocaine was in
10 there?

11 THE WITNESS: I couldn't tell you, like,
12 the exact amount. It was just, like, a sandwich
13 bag with a side of the corner, you know.
14 Probably, like, maybe the size of a gum ball.

15 THE COURT: Okay. All right. And how do
16 you know Tevon?

17 THE WITNESS: Sir?

18 THE COURT: How do you know Tevon?

19 THE WITNESS: I grew -- we all grew up in
20 the same neighborhood.

21 THE COURT: Okay. So you've known him
22 pretty much all of his life?

23 THE WITNESS: Yes, sir.

24 THE COURT: And other than just knowing
25 him, any kind of relationship with him or

LATIKA ELLIOTT - CROSS BY GOURLEY

1 anything like that?

2 THE WITNESS: No, sir.

3 THE COURT: Are you older than him?

4 Younger than him?

5 THE WITNESS: Yes, sir. Older.

6 THE COURT: How much older?

7 THE WITNESS: I think probably were -- I'm
8 trying -- how old are you?

9 THE COURT: Well, you can't -- I appreciate
10 you asking.

11 THE WITNESS: Sir?

12 THE COURT: I appreciate you asking him how
13 old he is, but y'all can't really do that.

14 THE WITNESS: I'm sorry.

15 THE COURT: Just how much older do you
16 think you are?

17 THE WITNESS: I was going to say about six
18 or seven years.

19 THE COURT: Six or seven years older?

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay. So how much interaction
22 would you have had with him if you're six or
23 seven years older?

24 THE WITNESS: I knew him as growing up in
25 New Ellenton and also on Dry Branch.

LATIKA ELLIOTT - REDIRECT BY BLANCHETTE

1 THE COURT: All right. Ms. Blanchette?

2 MS. BLANCHETTE: One question in response
3 to the State's questions, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. BLANCHETTE:

6 Q. When law enforcement questioned you about the phone
7 call, did you actually have your physical phone that you
8 showed them --

9 A. Yes, ma'am.

10 Q. -- the phone call? You didn't have any paper phone
11 records that day though?

12 A. No, ma'am.

13 MS. BLANCHETTE: And, Your Honor, if I
14 could ask one question just in response to the
15 questions you asked.

16 THE COURT: Oh yeah. That's why I asked it
17 before you did.

18 BY MS. BLANCHETTE:

19 Q. Okay. Latika, this area where you grew up and
20 where Tevon grew up where this murder occurred, is it at
21 small couple of streets around the Dry Branch Road area?

22 A. Yes, ma'am.

23 Q. Okay. And does everybody know each other and kind
24 of hang out outside their homes and interact there?

25 A. Yes, ma'am.

ERNEST BUSH - DIRECT BY BLANCHETTE

1 Q. Okay. And so that's how you knew Tevon was he
2 lived in close proximity to you?

3 A. Yes, ma'am. Walking distance.

4 Q. Okay. And you saw him on a regular basis?

5 A. Yes, ma'am.

6 MS. BLANCHETTE: Your Honor, I have no
7 other questions.

8 THE COURT: Anything on recross?

9 MR. GOURLEY: No, Your Honor.

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

11 Thank you, ma'am.

12 MS. BLANCHETTE: Your Honor, I would -- if
13 I may approach very briefly?

14 THE COURT: Sure.

15 ERNEST BUSH, having been duly sworn, was
16 examined and testified as follows:

17 THE CLERK: Please have a seat. State your
18 name for the record.

19 THE WITNESS: Ernest Bush.

20 DIRECT EXAMINATION

21 BY MS. BLANCHETTE:

22 Q. And, Mr. Bush, how do you spell your last name?

23 A. B-U-S-H.

24 Q. Okay.

25 Your Honor, may I approach the witness? I've been

ERNEST BUSH - DIRECT BY BLANCHETTE

1 forgetting to ask.

2 THE COURT: Uh-huh.

3 BY MS. BLANCHETTE:

4 Q. I'm going to show you there what's been previously
5 marked as Applicant's Number Two. Do you recognize that
6 document?

7 A. Yes.

8 Q. And is that a statement that you gave to law
9 enforcement back on June 9th of 2008?

10 A. Yes.

11 MS. BLANCHETTE: Your Honor, at this time I
12 would move the statement and his name is written
13 here as Ernest B-U-A-L, it looks like, on June
14 9th of 2008 as Applicant's Number Two.

15 THE COURT: Any objection?

16 MR. GOURLEY: No, Your Honor.

17 THE COURT: All right. It's in without
18 objection.

19 (Applicant's Exhibit No. 2, Ernest Bush's
20 statement, received into evidence.)

21 MS. BLANCHETTE: Your Honor, if I could beg
22 the Court's indulgence.

23 THE COURT: Yes, ma'am.

24 (Pause.)

25 BY MS. BLANCHETTE:

ERNEST BUSH - DIRECT BY BLANCHETTE

1 Q. Looking over your statement there, were you
2 contacted by law enforcement on June 9th of 2008,
3 regarding the murder of Mark or he's also called Marcus
4 Finklin?

5 A. Yes, ma'am.

6 Q. Okay. And did you give them information about
7 seeing several individuals on Dry Branch Road that
8 morning?

9 A. Yes.

10 Q. Okay. And what time did you tell them that you saw
11 these individuals?

12 A. I had got off work around 2:30. So it take me
13 about 15 minutes or 20 minutes to get on Dry Branch. So
14 around about 2:45, three o'clock.

15 Q. Okay. And here in your statement you told them it
16 was after, about three a.m. that you saw them. And do
17 you recall seeing three black men walking --

18 A. Yes.

19 Q. -- down the road at that time?

20 A. Coming down Dry Branch Road past the church, coming
21 down the hill. As I get toward Ms. Mary Lee and BooBoo
22 house you can see coming off the hill. I seen three guys
23 come off the hill and walking on the side of the road.
24 When I got past there was four of them. They turned
25 towards the wood. So I didn't think nothing about it

ERNEST BUSH - DIRECT BY BLANCHETTE

1 And so I went on to my girlfriend house. The next
2 day I get to work and I'm talking to Lynn Holly and
3 Germane Patterson and they said, Mark got killed. I
4 said, Mark got killed and they told me what time. I said
5 I seen three dudes coming off the hill around that time
6 and the next day the police came to me.

7 Q. Okay. And Dry Branch Road is a straight road that
8 runs and then Dry Branch Court is a turn off of it; is
9 that correct?

10 A. Uh-huh.

11 Q. And at the end of Dry Branch Court is where Mark
12 was murdered; is that correct?

13 A. I guess. I never knew.

14 Q. Okay. But that Dry Branch Court ends in a cul-de-
15 sac?

16 A. Yes.

17 Q. And you saw these individuals coming down Dry
18 Branch Road; is that correct?

19 A. I seen them coming off the hill, like, going across
20 the road.

21 Q. So they would have been coming from Dry Branch
22 Court down onto Dry Branch Road?

23 A. Yes, yes.

24 Q. So you found, you saw them coming from the
25 direction where Mark was murdered?

ERNEST BUSH - DIRECT BY BLANCHETTE

1 A. Yes.

2 Q. Okay. And you gave that statement to law
3 enforcement --

4 A. Yes.

5 Q. -- that you have in front of you there on June 9th
6 of 2008?

7 A. Yes.

8 Q. Were you ever subpoenaed for court?

9 A. No.

10 Q. Okay. Were you ever contacted by anybody
11 representing themselves as the Aiken County Public
12 Defenders Office, or that they were the attorney or
13 investigator for Tevon Jackson?

14 A. No. Well, yesterday was the first time I heard
15 anything.

16 Q. Okay. So that was the first time you'd been
17 contacted again about this case?

18 A. Yes, yes.

19 Q. Would you have been willing to talk to defense
20 counsel if they would've contacted you prior to his trial
21 in 2011?

22 A. Yes.

23 Q. And would you have been willing to testify for the
24 defense --

25 A. Yes.

ERNEST BUSH - CROSS BY GOURLEY

1 Q. -- at the trial? And do you know Tevon Jackson?

2 A. Not really. I know his mom and his people.

3 Q. And is that because that area around Dry Branch, is
4 that a small community there in New Ellenton?

5 A. Yes. He's young so I didn't know him.

6 Q. So you didn't have any personal connection to him?

7 A. No.

8 Q. Let me just -- here, I'm marking on this time
9 line. You said in your statement it was after three a.m.
10 that you see three black males and you get their
11 description?

12 A. I didn't know who it was. I seen their clothes.
13 One of them had a lot of, like, colors on him.

14 Q. So you provided a description there in your
15 statement of what you saw them wearing --

16 A. Yeah.

17 Q. -- after three a.m. coming down Dry Branch Road?

18 MS. BLANCHETTE: Your Honor, if I could beg
19 the Court's indulgence one moment.

20 (Pause.)

21 MS. BLANCHETTE: Your Honor, I have no
22 further questions of this witness.

23 THE COURT: Mr. Gourley?

24 MR. GOURLEY: Thank you, Judge.

25

ERNEST BUSH - CROSS BY GOURLEY

CROSS-EXAMINATION

BY MR. GOURLEY:

Q. Mr. Bush, so you said around three a.m. you were coming down, getting off work and you saw three black males?

A. Yes.

Q. How far away were you? You know what I mean. How far away from you were them?

A. At what point?

Q. At any point in time. How close did you get to them? How about that?

A. Probably about from here to the second chair right there. They was walking on the side of the road.

Q. About 10, 15 feet?

A. Yes.

Q. Did you ID any of them?

A. No, they turned their backs.

Q. Never saw their face?

A. No.

Q. No height description, nothing like that?

A. One of them was kind of tall.

Q. Okay. And you saw some of their clothes. You said they were wearing dark-colored clothes. It was three o'clock in the morning. It was dark outside, right?

A. Yes.

ERNEST BUSH - CROSS BY GOURLEY

1 Q. Are you from that area?

2 A. Yes.

3 Q. Okay. Do you go hang out at Joseph Dicks' yard at
4 any time?

5 A. Yes.

6 Q. And you would agree with me that's kind of a
7 popular area where people go hang out at all hours of the
8 night?

9 A. Now, I don't know about that.

10 Q. Okay. Is it typical that you see people walking
11 down the street when you get off work?

12 A. Not like that.

13 Q. Not like that?

14 A. Not on that end.

15 Q. Not on that end?

16 A. No.

17 Q. You've never seen anybody walking down the street
18 ever?

19 A. Not at three in the morning. Not on that end.

20 Q. Okay. Did anybody typically hang out at Joseph
21 Dicks' yard at three in the morning?

22 A. We usually sitting in BooBoo's yard.

23 THE COURT: Who's yard?

24 THE WITNESS: BooBoo.

25 THE COURT: BooBoo's yard?

ERNEST BUSH - CROSS BY GOURLEY

1 THE WITNESS: Yeah.

2 THE COURT: Who is BooBoo?

3 THE WITNESS: I hope I remember that right.

4 THE COURT: What's BooBoo's right name?

5 THE WITNESS: Wilbert Moody, Jr.

6 THE COURT: Wilbert?

7 THE WITNESS: Yeah.

8 THE COURT: What was his last name?

9 THE WITNESS: Moody.

10 BY MR. GOURLEY:

11 Q. And --

12 THE COURT: Okay. I'm sorry. I needed to
13 make sure I knew who BooBoo's was.

14 BY MR. GOURLEY:

15 Q. Did you contact the police?

16 A. No, they came. They came to the job.

17 Q. Okay. They came to the job and talked to you and
18 you voluntarily went with them and gave a statement?

19 A. I gave a statement to them right then.

20 Q. Okay. And, again, you can't ID any of these three
21 men?

22 A. No.

23 Q. And all you saw was some of their clothing?

24 A. Yes.

25 Q. And that was at three o'clock in the morning?

1 A. Yes.

2 THE COURT: He says after three.

3 MR. GOURLEY: After three o'clock?

4 THE WITNESS: After, yeah.

5 MR. GOURLEY: Beg the Court's indulgence,
6 Your Honor.

7 (Pause.)

8 MR. GOURLEY: Your Honor, I don't have any
9 other questions.

10 THE COURT: Ms. Blanchette, again before
11 you ask any questions --

12 MS. BLANCHETTE: Yes, Your Honor.

13 THE COURT: That's because I just want to
14 give you things to do. All right.

15 Mr. Bush, you filled out the top of this
16 statement --

17 THE WITNESS: Yeah.

18 THE COURT: -- didn't you?

19 THE WITNESS: Yeah.

20 THE COURT: That's your handwriting?

21 THE WITNESS: Yeah.

22 THE COURT: Okay. Now the other question.
23 You said it was after three a.m.?

24 THE WITNESS: Yeah.

25 THE COURT: Okay. Now, you got off work

1 at -- what were you doing up at three a.m.?

2 THE WITNESS: I just got off work.

3 THE COURT: Okay. So what time did you get
4 off work?

5 THE WITNESS: 2:30.

6 THE COURT: Okay.

7 THE WITNESS: I work at AGY.

8 THE COURT: You got off work exactly at
9 2:30?

10 THE WITNESS: Probably. I don't know.
11 Probably sitting out there talking but it was
12 around that time.

13 THE COURT: And then you talked to some
14 people outside?

15 THE WITNESS: Yes.

16 THE COURT: Okay. And you lived in the
17 neighborhood?

18 THE WITNESS: Yes.

19 THE COURT: Okay. How far after three a.m.
20 was it? You said it was after three.

21 THE WITNESS: It's been so long I can't
22 even remember.

23 THE COURT: Okay. Did you go straight
24 home?

25 THE WITNESS: No.

1 THE COURT: What did you do? Did you go to
2 BooBoo's?

3 THE WITNESS: No, nobody was out there that
4 time.

5 THE COURT: Okay. So when did you get
6 home?

7 THE WITNESS: Well, I didn't go straight
8 home.

9 THE COURT: Okay. I understand that.
10 That's why I said: When did you get home?

11 THE WITNESS: I don't remember what time I
12 got back.

13 THE COURT: Okay. How do you happen to
14 remember it was three?

15 THE WITNESS: Because that's around the
16 time I get off work and I stopped at McDonald's,
17 got something to eat, coming down Whiskey Road.

18 THE COURT: Okay. Hold on one second. You
19 stopped at McDonald's after you got off work?

20 THE WITNESS: Yes.

21 THE COURT: And did you eat there?

22 THE WITNESS: No, no. I got it down the
23 road.

24 THE COURT: Huh?

25 THE WITNESS: Ride down the road eating.

ERNEST BUSH -- REDIRECT BY BLANCHETTE

1 Can't eat in there after two o'clock a.m.

2 THE COURT: Okay. And so you're just
3 figuring it's after three?

4 THE WITNESS: Yes, sir, around that time.

5 THE COURT: Could have been after 3:30?

6 THE WITNESS: No, it wasn't that late.

7 THE COURT: It wasn't that late?

8 THE WITNESS: No.

9 THE COURT: Okay. So you know it was
10 sometime after three.

11 THE WITNESS: Yes.

12 THE COURT: But not as late as 3:30?

13 THE WITNESS: No, it was not.

14 THE COURT: Was it as late as 3:15?

15 THE WITNESS: I'd say 2:45 to about 3:05,
16 coming to the door in Beech Island.

17 THE COURT: So it could have been from 2:45
18 to 3:05?

19 THE WITNESS: Yeah.

20 THE COURT: Not any earlier than quarter
21 till?

22 THE WITNESS: No.

23 THE COURT: Ms. Blanchette?

24

25

ERNEST BUSH - REDIRECT BY BLANCHETTE

REDIRECT EXAMINATION

BY MS. BLANCHETTE:

Q. Mr. Bush, I'm going to ask you just a couple questions about the neighborhood. Are you familiar with where Joseph Dicks's house is off Dry Branch Road, Meat Man's house?

A. Oh, yeah. He's right across from BooBoo's.

THE COURT, now he said he's right across from BooBoo's?

MS. BLANCHETTE: From BooBoo's.

THE COURT: Okay.

BY MS. BLANCHETTE:

Q. I was just going to do a little geography. Are those two houses on Nondron or Nodrum Street? Am I saying that right? Nondron Street. They sit on a road that intersects with Dry Branch Road?

A. I guess.

Q. As you're going away from those houses -- you have to go away from those houses to get down to Dry Branch Court; is that correct?

A. Yes.

Q. You're going away from BooBoo's and Meat Man's house. Are the houses more sparsely located on the street on Dry Branch Road?

A. Yes.

1 Q. Okay. So on that corner there where Nondron
2 intersects with Dry Branch, there's a couple of trailers
3 and houses right there where people congregate; is that
4 correct?

5 A. Yes.

6 Q. Where BooBoo's and Meat Man's house is. And then
7 if you drive away from that you come to Dry Branch Court
8 where Mark was murdered and where you see these three
9 individuals coming from; is that correct?

10 A. Yes.

11 MS. BLANCHETTE: Your Honor, I have no
12 further questions.

13 THE COURT: Anything on recross?

14 MR. GOURLEY: No, Judge.

15 THE COURT: Thank you, sir. You may step
16 down.

17 MS. BLANCHETTE: And, Your Honor, I had him
18 under subpoena. He needs to return to work. I
19 just want to make sure it's okay that he be
20 released from his subpoena.

21 THE COURT: Any problem with that,
22 Mr. Gourley?

23 MR. GOURLEY: No, Judge.

24 THE COURT: All right. Thank you, sir.
25 Appreciate it.

JEFF SMITH - DIRECT BY BLANCHETTE

1 MS. BLANCHETTE: Your Honor, I would call
2 Jeff Smith to the stand.

3 JEFF SMITH, having been duly sworn, was
4 examined and testified as follows:

5 THE CLERK: Have a seat. State your name.

6 THE WITNESS: I'm Jeff Smith.

7 DIRECT EXAMINATION

8 BY MS. BLANCHETTE:

9 Q. Mr. Smith, what is your current title?

10 A. I'm an investigator deputy coroner with the
11 coroner's office here in Aiken County.

12 Q. And if I could take you back to June of 2008. Do
13 you recall the case of Marcus Finklin? And what was your
14 involvement in that case?

15 A. I was the coroner's office investigator in this
16 case.

17 Q. And recently do you recall that I served a subpoena
18 on your office and you all turned over your case file for
19 the PCR case?

20 A. Yes.

21 Q. Okay. And I'm going to hand you what's been
22 pre-marked as Applicant's Number Three?

23 A. Okay.

24 Q. If you could just flip through that and see if you
25 recognize the documents that are contained in that.

JEFF SMITH - DIRECT BY BLANCHETTE

1 A. The top document is my original report that I would
2 have turned in to the office, and this is my notes, and
3 this is the final copy of the coroner's report. That is
4 the official coroner's record.

5 Q. There's one last page. If you could look at that
6 and identify that for me.

7 A. That's a copy of the death certificate.

8 Q. And those are all documents that were prepared in
9 this case and that were turned over to my office as part
10 of the discovery for the PCR action?

11 A. Yes.

12 MS. BLANCHETTE: Your Honor, at this time I
13 would move those portions of the coroner's file
14 in as Applicant's Number Three.

15 MR. GOURLEY: No objection, Judge.

16 THE COURT: Applicant's Number Three is in
17 without objection.

18 (Applicant's Exhibit No. 3, portions of
19 coroner's file, received into evidence.)

20 BY MS. BLANCHETTE:

21 Q. I'd just like to ask you first. Were you called as
22 a witness in the trial of Tevon Jackson?

23 A. No.

24 Q. Do you remember testifying in the case?

25 A. (Shakes head.)

JEFF SMITH - DIRECT BY BLANCHETTE

1 Q. Okay. And let me just -- Your Honor, if I may
2 provide a copy of the transcript to the witness here.

3 Just to refresh your memory. I'm providing you a
4 copy of the transcript from his trial.

5 A. Okay.

6 Q. And do you see here on page 355 where Jeff Smith,
7 the deputy coroner, testifies?

8 A. Yeah.

9 Q. Okay, does that refresh your memory?

10 A. I don't remember.

11 Q. Okay.

12 A. I testify in a lot of cases. So, I just don't
13 remember.

14 Q. That's what I was going to say. You're called to
15 testify in a number of case; is that correct?

16 A. (Nods head.)

17 Q. And I'm just to going to ask you about the
18 documents that you have there in front of you. On the
19 first page there where it says death occurred, what is
20 the first time listed as the estimated time?

21 A. 0315.

22 Q. Okay. And what would that mean to us common people
23 that don't prepare these type of reports?

24 A. Three o'clock in the morning.

25 Q. Okay. And then is there handwriting next to that

JEFF SMITH - DIRECT BY BLANCHETTE

1 entry?

2 A. Yes.

3 Q. And what does that handwriting say?

4 A. It says EST zero 200 per LE.

5 Q. Could you explain to us what that means?

6 A. That means that was -- and that's the coroner's
7 handwriting.

8 Q. Okay.

9 A. So that is an estimate that law enforcement give us
10 as a closer -- of what we call as a closer time line.

11 Q. Okay.

12 A. Because it's all just estimates.

13 Q. Correct. Okay. And then if could you turn -- I'm
14 sorry, I don't have this in that order, but to what you
15 indicated was the final report?

16 A. Uh-huh.

17 Q. And could you give me the time that was listed on
18 that final report as the time that the death occurred?

19 THE COURT: That's the last page, correct?

20 THE WITNESS: That would be kind of in the
21 middle.

22 MS. BLANCHETTE: It's the third-to-the-
23 last.

24 THE COURT: Okay.

25 THE WITNESS: Two a.m.

JEFF SMITH - DIRECT BY BLANCHETTE

1 BY MS. BLANCHETTE:

2 Q. So the time on that, on the final report is listed
3 as two a.m.?

4 A. Yes.

5 Q. Okay. And at trial if you would have been asked by
6 either side about those times you would have been willing
7 to testify to that information; is that correct?

8 A. Yeah. It's an estimate.

9 Q. Okay. So we have 3:15 as the original estimate; is
10 that correct?

11 A. Yes, ma'am.

12 Q. And then it was changed to two a.m.?

13 A. Yes, ma'am.

14 Q. Okay. Now, I'd like to ask you about the page that
15 you said were your notes. And if I could just direct you
16 to the bottom of that page.

17 A. Uh-huh.

18 Q. On the bottom there you have an entry regarding a
19 Doris Jackson. Do you remember talking with her and this
20 information that you jotted down here?

21 A. Yeah. I had a brief conversation with her. I
22 think I went to her mobile home right down the street
23 there and talked to her outside that morning. And she
24 told me that when she come in she could see, she seen a
25 car, seen the lights on in a car down in the cul-de-sac.

JEFF SMITH - DIRECT BY BLANCHETTE

1 Q. Okay. So she lived on the street, Dry Branch
2 Court, where this murder occurred?

3 A. Probably 100 yards, yeah.

4 Q. Okay. Within a hundred yards of where it
5 occurred. And she told you she saw a car, these notes
6 say, with lights on at 3:30 a.m.?

7 A. Yeah, uh-huh.

8 Q. Okay. Did you provide that information to law
9 enforcement?

10 A. I don't remember.

11 Q. Okay.

12 A. I don't know.

13 Q. Was there anything further in your duties as
14 working for the coroner's office that you did to follow
15 up on that information?

16 A. No.

17 Q. Okay. So she told you that at 3:30 a.m. --

18 A. Yes, ma'am.

19 Q. -- she sees a car in the cul-de-sac with the light
20 on.

21 Your Honor, if I could just beg the Court's
22 indulgence one moment.

23 THE COURT: Sure.

24 (Pause.)

25 BY MS. BLANCHETTE:

JEFF SMITH - CROSS BY GOURLEY

1 Q. Did Wallis Alves, and if I'm saying that wrong
2 please correct me, ever contact you from the public
3 defenders office about this case?

4 A. I don't remember. I don't know.

5 Q. Okay. Did you, in looking back over your file,
6 have any notes where it indicated that she had contacted
7 you?

8 A. No.

9 Q. Okay. And, if a request is typically received from
10 the public defenders office you all routinely turn over
11 your file; is that correct?

12 A. Yeah.

13 MS. BLANCHETTE: Your Honor, I have no
14 further questions of this witness.

15 THE COURT: Mr. Gourley?

16 MR. GOURLEY: Yes, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. GOURLEY:

19 Q. Mr. Smith, you can't with absolute certainty tell
20 us when Marcus Finklin died?

21 A. No.

22 Q. So the time was, between two o'clock and 3:15 was
23 the best you could do?

24 A. Absolutely. Pretty close window.

25 MR. GOURLEY: Yes. Absolutely.

KEVIN PARKER - DIRECT BY BLANCHETTE

1 Judge, I don't have any other questions.

2 Thank you, Mr. Smith.

3 THE COURT: All right. Ms. Blanchette,
4 anything?

5 MR. BLANCHETTE: I have nothing further,
6 Your Honor.

7 THE COURT: All right. Thank you.

8 MS. BLANCHETTE: And I had Mr. Smith here
9 under subpoena today. If he could be released.

10 THE COURT: Any problems with that?

11 MR. GOURLEY: No, sir, Judge.

12 THE COURT: Thank you, sir. You're
13 excused.

14 MS. BLANCHETTE: Your Honor, I would call
15 Kevin Parker to the stand.

16 KEVIN PARKER, having been duly sworn, was
17 examined and testified as follows:

18 THE CLERK: Please have a seat and state
19 your name for the record.

20 THE WITNESS: My name is Kevin Parker.

21 THE COURT: All right. Ms. Blanchette?

22 DIRECT EXAMINATION

23 BY MS. BLANCHETTE:

24 Q. Mr. Parker, where do you currently reside?

25 A. Dry Branch.

KEVIN PARKER - DIRECT BY BLANCHETTE

1 Q. Okay. And you've heard -- you've been in the
2 courtroom this morning?

3 A. (Nods head.)

4 Q. And you've heard some discussion of where Meat Man
5 lives and a BooBoo lives. Where -- do you reside with
6 your parents? First let me ask you that.

7 A. Yeah. I stay with my parents.

8 Q. Okay. And where is their house?

9 THE COURT: Hold on one second,
10 Mr. Parker. I know you can talk louder than
11 you're talking.

12 THE WITNESS: No, sir. Definitely. I
13 gotcha.

14 THE COURT: I need for you to talk a lot
15 louder. You know, she's standing close to you.
16 You hear how loud she's talking?

17 THE WITNESS: Uh-huh.

18 THE COURT: That's fine. I want you to
19 respond just like that.

20 MS. BLANCHETTE: It's okay to yell at me.

21 THE WITNESS: Okay.

22 THE COURT: That means I don't have to.

23 THE WITNESS: Okay.

24 THE COURT: Go ahead.

25 BY MS. BLANCHETTE:

KEVIN PARKER - DIRECT BY BLANCHETTE

1 Q. Mr. Parker, you reside with your parents currently?

2 A. Yes, ma'am.

3 Q. And where is their house in relation to where
4 Joseph Dicks and his mother reside?

5 A. Down the street.

6 Q. Okay. So can you see their houses from your home?

7 A. Not -- I can't see it unless you walk up the road
8 and then look left, then you can see everything. You can
9 see everything that's going on and stuff.

10 Q. Okay. And is that where people typically hang out
11 is the intersection of Dry Branch and where Joseph Dicks'
12 house is?

13 A. Some people. I mean, older people. I mean, not
14 me --

15 Q. Okay.

16 A. -- but --

17 Q. You see people hanging out there?

18 A. Yes.

19 Q. Okay. And your house, is it headed up Dry Branch
20 Road towards Dry Branch Court? Is that where you reside?

21 A. No, it's, like, Dry Branch Court, you got to come
22 down, cross the road. It's like a straight shot. You
23 see my house.

24 Q. So you're actually on Dry Branch Road?

25 A. Uh-huh.

KEVIN PARKER - DIRECT BY BLANCHETTE

1 Q. Okay. I just want to be clear where everybody's
2 located because this is a small community; is that right?

3 A. Yes, ma'am.

4 Q. Okay. And let me take you back to the late night
5 of June 3rd, 2008, to June 4th of 2008. What were you
6 doing late that evening?

7 A. I was working.

8 Q. And where do you work?

9 A. I was working at Hot Spot.

10 Q. At the Hot Spot?

11 A. At Hot Spot. It's a gas station.

12 Q. And is that pretty close in proximity to this area
13 of Dry Branch Road where you live?

14 A. I can't say it's pretty close but, you know, you
15 get in the car and it's right there. It don't take long
16 to get there. It's a straight shot to the gas station.

17 Q. Okay. Is it one of the closest gas stations to
18 this area on Dry Branch?

19 A. No, ma'am, but at around the time when I was
20 working that night, it was. The other gas station had
21 been closed.

22 Q. What was your shift that night; do you remember,
23 generally?

24 A. Late shift. Say, you have to work there till
25 morning times.

KEVIN PARKER - DIRECT BY BLANCHETTE

1 Q. Okay. What time would you have typically gone in
2 for that shift?

3 A. Probably around, like, eight, eight, seven,
4 something like that.

5 Q. Okay. And then what time did you work until?

6 A. To morning time.

7 Q. When you say morning time, do you mean, like,
8 two a.m. or five a.m.; do you know?

9 A. I'm talking something like eight, seven o'clock in
10 the morning.

11 Q. Okay. So you worked the midnight shift for lack of
12 better words?

13 A. Right.

14 Q. Okay. And going back to the night of June 3rd into
15 the early morning hours of June 4th, do you recall seeing
16 Mark or Marcus Finklin?

17 A. Yeah, I saw my cousin.

18 Q. Okay. And I was going to ask: How is it that you
19 know him?

20 A. He's family. I pretty much -- he used to be at my
21 house. We used to play basketball all the time.

22 Q. Okay. And a lot of people use the term cousin kind
23 of loosely. Are you all actually cousins, you're related
24 by blood?

25 A. That's a good question because I always wondered

KEVIN PARKER - DIRECT BY BLANCHETTE

1 that too, but I don't know.

2 Q. Okay. But you were raised as cousins?

3 A. Yeah.

4 Q. Okay. And it was your understanding that you had
5 family in common?

6 A. Uh-huh.

7 Q. Okay. And when you saw Mark that night, kind of
8 what was your interaction with him?

9 A. Me and him was doing the same thing we always do;
10 laugh, talk, play. And he was just, like, got to go make
11 him some money, I guess, or whatever. I asked him who
12 all was in the car with him. And, you know, I can't -- I
13 couldn't really see because I was inside the store.

14 Q. Uh-huh.

15 A. You know, I had walked from around the counter
16 playing with him and stuff.

17 Q. And did he indicate to you that Tevon Jackson was
18 in the car with him?

19 A. He said Tevon was in the front.

20 Q. Okay.

21 A. I asked him who the other guys was, he wouldn't
22 tell me. It was two more people in the back.

23 Q. Okay. So you saw Tevon Jackson in the car with
24 Mark. And did Mark show any concern about being with
25 Tevon that night?

KEVIN PARKER - DIRECT BY BLANCHETTE

1 A. No.

2 Q. Okay. So he was in good spirits when you saw him?

3 A. Yeah. He told me he had a baby on the way.

4 Q. Okay. And were you getting ready to have kind of a

5 life change yourself? Were you getting ready to go do

6 something?

7 A. Yeah, I getting ready to go -- I went -- it was,

8 like, I wasn't going to get ready to start. After this

9 situation went down I was just, like, man, I got to get

10 from around here and I went to the military.

11 Q. Okay. And did you try to kind of be -- live a

12 clean life and stay out of, you know, criminal activity?

13 A. Yeah, I just played basketball.

14 Q. Okay. And did Mark know that about you?

15 A. Yeah, because we played basketball together.

16 Q. Did he joke with you at all about bringing you back

17 some drugs that night or, you know, letting you know

18 about what he was doing with drugs that night?

19 A. No. He told me -- this was his exact words. He

20 was going to go ahead, he got to do this one last thing

21 with the drugs. And he didn't tell me exactly what it

22 was. He said he's going to do one last thing. And I

23 told him, I said, Cousin, I mean, you need to leave that

24 alone, man, get a job. You say you got a baby. Get a

25 job. I mean, that's how I talk. Get a job. I mean, and

KEVIN PARKER - DIRECT BY BLANCHETTE

1 he was just, like, Cuz, laughing, Cuz, right. I'm from
2 the start. I'm from the start. Ain't going to do it no
3 more. I'm, like, all right.

4 Q. And, from your conversation with him, was it your
5 understanding that he was doing one big thing that night?

6 A. I wouldn't say a big thing. He was just basically
7 like saying, like, this is it.

8 Q. Okay. Now, did law enforcement ever talk to you,
9 Kevin?

10 A. No, ma'am.

11 Q. Okay. Did anybody from the public defenders office
12 ever contact you on behalf of Tevon Jackson?

13 A. No, ma'am.

14 Q. Now if they would have come to you, would you have
15 let them know that you were working that night and that
16 you had seen Mark with Tevon and other individuals?

17 A. Of course.

18 Q. Okay. And it's my understanding from your
19 testimony you can't give us a specific time that you saw
20 him that night; is that correct?

21 A. No, ma'am.

22 Q. Okay. But if somebody would have contacted you on
23 June 4th, 2008, do you think you would have had a better
24 memory as to what time you saw him?

25 A. Yeah. See, we record everything. Everything was

KEVIN PARKER - DIRECT BY BLANCHETTE

1 recorded from inside the store to outside the store.

2 Q. Uh-huh.

3 A. They could have saw everything.

4 Q. So you could have assisted law enforcement for
5 getting footage of Tevon Jackson and Mark from that
6 night?

7 A. Yes, ma'am.

8 Q. Okay. But no one ever contacted you?

9 A. Nope. I don't think they even came to the store.

10 Q. Okay. And I'm just anticipating that the State's
11 going to ask you the question. Why didn't you volunteer
12 that information? Is there any reason that you didn't go
13 to law enforcement yourself and say, i have some
14 information?

15 A. I mean, one, I was hurt. I mean, I was hurt. And
16 I ain't going to sit in front of the Judge, I tell you
17 the truth. I was hurting for him because we thought it
18 was him. But, you know what I'm saying, you acting off
19 of anger, you know. We wasn't thinking, but I had to
20 realize something. He wouldn't never do nothing like
21 that. He wouldn't do it.

22 Q. And so you were immediately angry with Tevon
23 because you thought --

24 A. Yeah.

25 Q. -- that he had killed your cousin?

KEVIN PARKER - DIRECT BY BLANCHETTE

1 A. Yeah, but he kept -- I mean, he said he didn't do
2 it. I mean, he basically kept saying he wouldn't do it,
3 but the law is he wasn't going to tell -- he wasn't going
4 to -- I don't think he'd tell on nobody. I don't know.

5 Q. So you were no longer angry with him and believed
6 that he killed your cousin?

7 A. I'm always be angry but, you know, I can't -- you
8 can't do nothing about it. I can't do nothing about it.

9 Q. Were you subpoenaed by anyone to his trial three
10 years later in 2011?

11 A. I was in Iraq.

12 Q. Okay. So you were in Iraq at that time?

13 A. Yes, ma'am.

14 Q. If someone had contacted you and said, hey, we need
15 your testimony in some shape or fashion, would you have
16 been willing to work with them on that and work with the
17 military and being able to provide your testimony?

18 A. Of course. I would have came home.

19 Q. Okay. And why would you have come home? Is it due
20 to your relationship with Mark?

21 A. Yeah. I raised him. And if he won't with his mama
22 he was with me. I mean, I will fight for him.

23 Q. Okay. Were you familiar with his relationship with
24 Tevon?

25 A. Yeah.

KEVIN PARKER - CROSS BY GOURLEY

1 Q. Okay. And, you said immediately you were upset and
2 angry but once you thought about it based on that
3 relationship, did you think it was something that Tevon
4 could have done?

5 A. I don't think Tevon would do nothing like that. He
6 weak.

7 Q. And at the trial they brought in testimony about
8 whether or not Tevon was a violent person. Did you know
9 him to be a violent person?

10 A. No, he wasn't violent. Mark wasn't violent. I
11 mean, just like -- all we did was play ball, you know,
12 play games. I mean, that's what we did. That's the only
13 thing we did, play ball.

14 MS. BLANCHETTE: Your Honor, if I could beg
15 the Court's indulgence one moment.

16 THE COURT: Yes, ma'am.

17 (Pause.)

18 MS. BLANCHETTE: Your Honor, I have no
19 further questions of this witness.

20 THE COURT: Anything on cross?

21 MR. GOURLEY: Thank you, Judge.

22 CROSS-EXAMINATION

23 BY MR. GOURLEY:

24 Q. Mr. Parker, you said something right at the
25 beginning. You said that you don't hang out with Joey

KEVIN PARKER - CROSS BY GOURLEY

1 Dicks -- or Joey Serrano, BooBoo in Meat Man's yard,
2 right, you don't hang out there?

3 A. No, I don't hang out with no Serranos.

4 Q. Okay. Why not?

5 A. Bad people.

6 Q. Bad people? Okay. What about Joseph Dicks, is he
7 bad people?

8 A. Who's Joseph Dicks? You're talking about BooBoo?

9 Q. Meat Man.

10 A. Meat Man?

11 Q. Yeah.

12 A. Oh, you got to say Meat Man.

13 Q. Meat Man. I'm sorry. I'll use nicknames.

14 A. I mean, his yard over there. My mom and daddy yard
15 is over here.

16 Q. Right.

17 A. I'm the type of person I'm not going to go in your
18 yard and be in your business. I'm going to chill in my
19 yard. Now if you come over there and speak with me then
20 I show respect to every man.

21 Q. Yeah.

22 A. I show respect.

23 Q. But you didn't, like, really associate with these
24 people, hang out with these people, right, because they
25 were bad people?

KEVIN PARKER - CROSS BY GOURLEY

- 1 A. No, I ain't saying Meat Man was a bad person. I
2 said Serrano.
- 3 Q. Serrano was a bad person. Did Serrano hang out
4 with Meat Man?
- 5 A. I don't know.
- 6 Q. Okay. But Tevon hung out with Meat Man and
7 Serrano, didn't he?
- 8 A. I just told you I don't know. You just asked me
9 the question twice.
- 10 Q. I asked you did Meat Man hang out with Serrano.
- 11 A. I don't know.
- 12 Q. Okay. Did Tevon hang out with Meat Man and
13 Serrano?
- 14 A. I don't know. He hung out with Meat Man.
- 15 Q. He hung out with Meat Man?
- 16 A. I don't know.
- 17 Q. Okay. Did you know Tevon dealt drugs?
- 18 A. Who me?
- 19 Q. Yeah.
- 20 A. That's not my place to know.
- 21 Q. Okay. Did you know Marcus dealt drugs?
- 22 A. My cousin?
- 23 Q. Yeah.
- 24 A. Of course, he telled me.
- 25 Q. And Tevon was hanging out with Marcus, right?

KEVIN PARKER - CROSS BY GOURLEY

- 1 A. Okay. Yeah.
- 2 Q. So they dealt drugs together, right?
- 3 A. That don't mean they dealing drugs together.
- 4 Q. Okay. So Tevon was just riding around with Marcus
- 5 when he was selling drugs, right?
- 6 A. I don't know.
- 7 Q. Okay. You saw Tevon in the car with Marcus, right,
- 8 that night?
- 9 A. Yeah.
- 10 Q. But you don't remember what time you saw him?
- 11 A. It ain't like I looked at my watch and said, ok, I
- 12 saw Tevon at 12 o'clock. Sorry.
- 13 Q. What time did you work that night?
- 14 A. I told you. I started work around, like, seven or
- 15 eight and then I worked until the morning time.
- 16 Q. In the morning time. Do you know what time you got
- 17 off?
- 18 A. When the next person come in to relieve me.
- 19 Q. When was that?
- 20 A. Probably about 7:30. You got to make sure
- 21 everything is clean. You got to take the trash out.
- 22 Q. Right. Okay. So sometime between eight and 7:30
- 23 is when Marcus and Tevon and two other people rode up
- 24 in -- whose car, Marcus's car?
- 25 A. They was in Marcus car.

KEVIN PARKER - CROSS BY GOURLEY

- 1 Q. Okay. And you said you told Marcus to get a job.
2 Did Marcus have a job?
- 3 A. Not that I know of.
- 4 Q. Okay. So --
- 5 A. I told him to get a job.
- 6 Q. You're cousins with him, you play ball with him,
7 but you don't know if he has a job. What did he do
8 during the day?
- 9 A. Play ball.
- 10 Q. He didn't work at all?
- 11 A. We played ball.
- 12 Q. How did he get money?
- 13 A. We played ball.
- 14 Q. That's not my question. How did Marcus get money?
- 15 A. I just told you; play ball.
- 16 Q. Gambling?
- 17 A. We play ball. Hey, we play ball hard.
- 18 Q. I gotcha. How far was the gas station from this
19 area?
- 20 A. What gas station?
- 21 Q. That gas station that you work, from BooBoo's yard.
- 22 A. That's, like, a good -- if you get in your car, it
23 ain't going to take you nothing but, like, three minutes.
- 24 Q. So a quarter mile, half a mile, mile?
- 25 A. Yeah, something like that.

KEVIN PARKER - CROSS BY GOURLEY

1 Q. Something like that. Which one?

2 A. I don't know, man. You asking questions. I can't
3 answer that question. All I can tell you is time frame.

4 Q. So it takes about three minutes. How fast do you
5 drive when you go to the gas station? How fast are you
6 going?

7 A. Going about, like, 45, 35, depends because some
8 people slow down.

9 Q. All right. You never told law enforcement about
10 any of this, right?

11 A. How?

12 Q. What?

13 A. How am I going to tell law enforcement?

14 Q. I'm asking you a question. Did you tell law
15 enforcement about the fact that you saw your cousin the
16 night before he died?

17 A. No.

18 Q. Why not?

19 A. How?

20 Q. What do you mean, how? You can't pick up the
21 phone? You got a cell phone?

22 A. You're telling me to pick up the phone, call, like,
23 9-1-1?

24 Q. When did you learn that Marcus died?

25 A. I was laying on the floor at my wife's, me and

KEVIN PARKER - CROSS BY GOURLEY

1 wife. I was laying on the floor and I found out. At
2 first I didn't believe it.

3 Q. Right.

4 A. So I ran to where Mark was staying at.

5 Q. Okay.

6 A. And when I found out I just broke down, just full
7 of rage.

8 Q. Okay. And how long was that after Marcus had been
9 murdered? What day was that that you found out? Was it
10 the next morning, the morning of?

11 A. The morning of.

12 Q. So June 4th. And you saw him that night and you
13 were up -- enraged, right?

14 A. (Nods head.)

15 Q. And you knew Marcus had been killed, didn't know
16 who it was, and you knew you saw Marcus that night,
17 right?

18 A. Uh-huh.

19 Q. You got to say yes or no for the court reporter.

20 A. Oh. Yes.

21 Q. Okay. Thank you.

22 And you didn't feel it was important enough to pick
23 up the phone, your cell phone and call the cops, call
24 9-1-1 and say, hey, my cousin's been killed. I saw him
25 that night with these people, Tevon and these two

KEVIN PARKER - CROSS BY GOURLEY

1 mysterious people in the back of the car that I didn't
2 know. You didn't feel it was that important?

3 A. I felt like if the cops was doing their job and
4 they actually had the recordings which they did, they had
5 the recordings at Hot Spot, they were supposed to come to
6 me if they was doing their job.

7 Q. They had the recordings is what you're saying?

8 A. Yeah, they had everything at Hot Spot.

9 Q. But the police officers didn't have the
10 recordings. Who had the recordings? Who are you saying
11 had the recordings?

12 A. Hot Spot.

13 Q. Hot Spot. But the police officers didn't have the
14 recordings, did they?

15 A. I mean, if they was doing their job they would find
16 -- they would a actually went to the Hot Spot, they would
17 have saw I was working, came to me.

18 Q. Okay. Do police officers typically do their job in
19 your opinion?

20 A. Not really.

21 Q. Okay. So knowing that they don't typically do
22 their job, you didn't feel it was important enough for
23 your cousin who you were enraged about that he had just
24 been murdered to call the police?

25 A. I mean, I can't say that. All I can say is what I

KEVIN PARKER - CROSS BY GOURLEY

1 already done told you.

2 Q. Okay. I'm just a little confused as to why you
3 were enraged about your cousin's murder, saw him the
4 night before with three people, one of whom you
5 identified, and didn't feel it was important enough to
6 contact law enforcement on his behalf, or your family's
7 behalf to tell them about what you saw?

8 MS. BLANCHETTE: Your Honor, I'd object at
9 this time. I think the question's been asked and
10 answered several times.

11 THE COURT: I think I've got it. Okay.

12 MR. GOURLEY: All right, Judge.

13 Q. How often did you hang out with Tevon?

14 A. Tevon. I mean, if he down there at the park, if he
15 down at the park, like I say, we balling. Cousin Mark,
16 we play hard.

17 Q. Did you see him outside of playing ball?

18 A. Sometimes.

19 Q. Sometimes?

20 A. (Nods head.)

21 Q. Like, when?

22 A. Like, if he walking in the neighborhood, he come to
23 the house. I mean, he used to walk by my house all the
24 time. Like I say, I give him the what's up, how are you
25 doing, man, you good, you all right, stuff like that,

KEVIN PARKER - CROSS BY GOURLEY

1 yeah.

2 Q. Y'all best friends?

3 A. No, I don't have best friends.

4 Q. Okay. Y'all real good friends?

5 A. I have associates.

6 Q. Okay. So y'all are associates?

7 A. Yeah. That's what I call them. Associates.

8 Q. Okay. And did you hang out with him all the time
9 to know his tendencies and knew what he did on a daily
10 basis and everything like that?

11 A. I'm 32 years old with a child and a wife. Does it
12 feel like I can hang out, man?

13 Q. I understand but you're here to testify that he
14 wasn't a violent character. I'm just curious as to how
15 you're basing that opinion on. Just seeing him play ball
16 and saying what's up when he crosses the street?

17 A. I mean, you know who's violent in the hood.

18 Q. Okay. And he wasn't violent?

19 A. No. He wasn't violent.

20 Q. Okay. Who was violent in the hood?

21 A. Serrano.

22 Q. And he hung out with Serrano?

23 A. Serrano.

24 Q. Okay. And did you know Tevon hung out with
25 Serrano?

KEVIN PARKER - REDIRECT BY BLANCHETTE

1 A. I'm going to say it again. Serrano.

2 Q. I'm asking you a question.

3 A. But I already answered your question. Serrano.

4 THE COURT: Okay. Hold on. Hold on. All
5 right.

6 His question is: Do you know if Tevon hung
7 out with Serrano; yes or no.

8 THE WITNESS: No, I can't say anybody hung
9 out with anybody in the hood. Every now and
10 then.

11 MR. GOURLEY: I have no other questions.
12 Thank you.

13 THE COURT: Thank you. Anything on
14 redirect?

15 MS. BLANCHETTE: Yeah. Very briefly, Your
16 Honor.

17 REDIRECT EXAMINATION

18 BY MS. BLANCHETTE:

19 Q. Is it an accepted practice in your neighborhood to
20 volunteer information to law enforcement?

21 A. No. That's against the rules.

22 Q. Okay. And I met you approximately two weeks ago;
23 is that right?

24 A. Uh-huh.

25 Q. At your parents' house?

1 A. Uh-huh.

2 Q. And did you immediately provide me the information
3 you've given to me today?

4 A. Yeah.

5 Q. So if someone would have approached you and talked
6 to you about it, you would have been happy to provide
7 them that information?

8 A. Yeah. All they had to do is carry me -- go to a
9 certain place. You don't want to do it in front of
10 everybody because in the hood somebody -- everybody going
11 to be telling a story, and not every story is going to be
12 the truth. And, see, I don't lie. I could care less.
13 I'm going to tell the truth.

14 Q. And would your safety have been in question if you
15 had talked to law enforcement?

16 A. I wouldn't say my safety. I can say that person's
17 safety because he's coming after me.

18 MS. BLANCHETTE: Your Honor, I have no
19 further questions.

20 THE COURT: Anything on cross?

21 MR. GOURLEY: No, Judge.

22 THE COURT: Thank you sir.

23 MR. BLANCHETTE: And Mr. Parker's here
24 under subpoena. I'd ask that he be released.

25 THE COURT: Mr. Parker, you are free to go.

CHRISTY PARKER - DIRECT BY BLANCHETTE

1 Where are you working now?

2 THE WITNESS: I done retired out of the
3 military. Disability. Ain't no work for me.

4 THE COURT: Good luck to you.

5 CHRISTY PARKER, having been duly sworn, was
6 examined and testified as follows:

7 THE WITNESS: My name is Christy Parker.

8 DIRECT EXAMINATION

9 BY MS. BLANCHETTE:

10 Q. And do you mind spelling Christy since there's
11 several ways to spell that?

12 A. C-H-R-I-S-T-Y.

13 Q. Now, Ms. Parker, did you grow up in the Dry Branch
14 area?

15 A. Yes, ma'am.

16 Q. And how do you know Kevin Parker?

17 A. Kevin Parker?

18 Q. Uh-huh.

19 A. That's my brother.

20 Q. Okay. And did you reside at your parents' home
21 with him that he just testified about?

22 A. Talking about now or?

23 Q. Growing up. Did you reside at your parents' home
24 on Dry Branch Road?

25 A. Yes, ma'am.

CHRISTY PARKER - DIRECT BY BLANCHETTE

1 Q. Okay. And where do you live now?

2 A. I stay in Aiken.

3 Q. Okay. And, how is it that you knew Marcus Finklin?

4 A. That's my cousin. He grew up with us.

5 Q. Okay. And were you close to him?

6 THE COURT: Hold on one second. How did
7 you know Marcus?

8 THE WITNESS: That's our cousin. He grew
9 up with us.

10 THE COURT: Marcus is your cousin. Okay.
11 You need to speak a little louder if you don't
12 mind.

13 THE WITNESS: Okay.

14 THE COURT: Thank you, ma'am.

15 THE WITNESS: Uh-huh.

16 BY MS. BLANCHETTE:

17 Q. Do you recall law enforcement coming to you after
18 Marcus was murdered and giving a statement in this case?

19 A. Yes, ma'am.

20 MR. BLANCHETTE: Your Honor, may I approach
21 the witness?

22 THE COURT: You may.

23 BY MS. BLANCHETTE:

24 Q. Ms. Parker, I'm going to show you that. If you
25 could just briefly look over that and see if you

CHRISTY PARKER - DIRECT BY BLANCHETTE

1 recognize that.

2 A. Yes, ma'am. That's the statement I wrote.

3 Q. Okay. And what was the date on the bottom of that
4 statement that you gave?

5 A. The 9th day.

6 Q. June 9th?

7 A. Uh-huh.

8 Q. Okay. So that would be the day after Marcus was
9 murdered?

10 A. Huh-uh. That's the 9th day. Marcus wasn't
11 murdered on the 9th day of June.

12 Q. Right. He died on June 8th. And you would have
13 gave a statement on the following day?

14 A. Oh, yes. Right.

15 MS. BLANCHETTE: Your Honor, at this time I
16 would move the statement of Christy Parker in as
17 Applicant's Number Four.

18 MR. GOURLEY: No objection, Judge.

19 THE COURT: Applicant's Number Four is in
20 evidence without objection.

21 (Applicant's Exhibit No. 4, Christy
22 Parker's statement, received into evidence.)

23 BY MS. BLANCHETTE:

24 Q. And do you recall giving this statement and talking
25 to law enforcement back on June 9th of 2008?

CHRISTY PARKER - DIRECT BY BLANCHETTE

1 A. Yes, ma'am.

2 Q. And you can use the statement to refresh your
3 memory if needed. But in here you say that about
4 two a.m. you went to Marcus's house to give him a
5 graduation ticket?

6 A. Yes, ma'am.

7 Q. And was he home at that time?

8 A. No, he had left. He had left prior that night
9 because I was at his house that whole day.

10 Q. Okay. And so you went back about two a.m., and he
11 wasn't there?

12 A. He wasn't there.

13 Q. And then in the statement you say on your way back
14 home you saw Tevon, Joey and Meat Man standing in Meat
15 Man's yard. Do you remember that walk-back and seeing
16 them?

17 A. I drove.

18 Q. Oh, you drove?

19 A. Yes, ma'am.

20 Q. Okay.

21 A. They was standing on Meat Man's mother's porch.

22 Q. Okay. So at about two a.m., would that be right if
23 I put the time here, about two a.m. you were at Marcus's
24 house?

25 A. Yes, ma'am.

CHRISTY PARKER - DIRECT BY BLANCHETTE

1 Q. And he wasn't home?

2 A. No, ma'am. He had left earlier.

3 Q. You immediately came there and drive back to your
4 parents' house; is that correct?

5 A. I didn't immediately left because I was dating his
6 roommate at the time.

7 Q. Okay. But shortly after two a.m., is that when you
8 see Tevon Jackson, Meat Man and Serrano in Meat Man's
9 yard?

10 A. Yeah, like three, 3:11 because Tevon called my
11 phone.

12 Q. Okay. Well in your statement if you can look. You
13 said on your way back you saw them standing in the yard
14 and then he called about five minutes later at
15 3:11 a.m.?

16 A. Yes, ma'am. He called me off of Joey Serrano
17 phone.

18 Q. Okay. So at 3:11 he calls you off of Joey
19 Serrano's phone?

20 A. Uh-huh.

21 Q. And he asks you to get him a cigar?

22 A. He asked me if I had a cigar and I told him no. He
23 asked me was I coming back out the night and I was, like,
24 no.

25 Q. And did he indicate to you, as your statement says,

CHRISTY PARKER - DIRECT BY BLANCHETTE

1 that he was waiting on Mark?

2 A. He told me that the next day because I was on the
3 phone with Joey Serrano sister Jazz and she told he was
4 over there. So I asked him, have you seen my cousin..

5 Q. Okay. And did you question him about his
6 involvement in your cousin's murder?

7 A. Yes, I did.

8 Q. Okay. And did you try to question Meat Man about
9 that as well?

10 A. Yes, I did.

11 Q. And what was the end result of that conversation?

12 A. Meat Man claims to have been with Tevon. So I
13 said, so you was with Marcus too. And he was, like, no I
14 must be -- he was, like, no. I must be getting around
15 Tevon. I must be at home on the phone with my
16 girlfriend. But Tevon told me he was with Marcus earlier
17 and he was waiting for Marcus to come back with him a
18 cigar. And he said Marcus never came back with his
19 cigar.

20 Q. And you put all of that in the statement that you
21 gave law enforcement; is that correct?

22 A. Yes, ma'am.

23 Q. And you wanted to be as helpful as you could in,
24 you know, them getting to the bottom of who had murdered
25 your cousin, Mark?

CHRISTY PARKER - DIRECT BY BLANCHETTE

- 1 A. Yes, because I was with my cousin all the time.
2 And Tevon used to come over to his house all the time,
3 too.
- 4 Q. Were you familiar with Mark's relationship with
5 Tevon?
- 6 A. Yes.
- 7 Q. How would you describe it?
- 8 A. They was friends.
- 9 Q. Okay.
- 10 A. I mean, everybody chilled at Mark's house. So.
- 11 Q. And did you know Tevon to be a violent person?
- 12 A. No, he was always quiet.
- 13 Q. Did you know Mark to have any concerns about
14 Tevon?
- 15 A. No.
- 16 Q. Was he scared of him?
- 17 A. No.
- 18 Q. Okay. And you gave the statement on June 9th.
19 Were you ever contacted about testifying at his trial in
20 2011?
- 21 A. Yes, I was subpoenaed to be there.
- 22 Q. Okay. And do you remember which side, the State or
23 the defense, subpoenaed you?
- 24 A. The State.
- 25 Q. Okay. And were you called as a witness?

CHRISTY PARKER - DIRECT BY BLANCHETTE

1 A. No, ma'am. I was never called to the stand.

2 Q. Okay. And did you sit in the trial and watch it?

3 A. I came every day.

4 Q. Did you wonder why you never were called as a
5 witness?

6 A. Yeah.

7 Q. And what were you wondering about that? What were
8 your thoughts about that?

9 A. I figured maybe they didn't call me because I
10 talked to Tevon, because when Tevon got on the stand he
11 couldn't remember who he talked to that night.

12 Q. And you knew that it was you?

13 A. It was me.

14 Q. So you could have helped to verify what Tevon was
15 saying during his trial testimony?

16 A. Yes, ma'am.

17 Q. Okay. Did anybody for the defense or anybody
18 representing Tevon Jackson contact you prior to his
19 trial?

20 A. No, ma'am. Never talked to nobody.

21 Q. Okay. If somebody would have contacted you on
22 behalf of Tevon Jackson, would you have been willing to
23 come testify for the defense at trial?

24 A. Yes, ma'am.

25 Q. Okay. And you would have been willing to testify

CHRISTY PARKER - DIRECT BY BLANCHETTE

1 to everything you testified to today?

2 A. Yes, ma'am.

3 Q. Okay. And we have your statement here but I just
4 want to make sure I have it right. At two a.m., around
5 two a.m. you're at Marcus's trailer and he's not there.
6 You hang out for a good bit; is that correct?

7 A. Uh-huh.

8 Q. Then about five minutes before the 3:11 a.m. phone
9 call --

10 A. Uh-huh.

11 Q. -- you see Tevon Jackson, Joey Serrano, and Meat
12 Man hanging hanging out on Meat Man's porch; is that
13 right?

14 A. Meat Man's mother's porch.

15 Q. Meat Man's mother's porch. So that would be about
16 3:06 a.m. that you see those individuals. And then you
17 have a phone call with Tevon that you told law
18 enforcement about at 3:11 where he says that he's still
19 waiting for Mark to come show back up.

20 A. He told me the next day when I asked him. He said
21 that he was waiting for Mark to come back with his cigar.
22 He said, I gave Mark a dollar to bring me back a cigar.
23 And he said he never came back. And I asked him, did he
24 see Mark go up the road that Mark was found on and he
25 said, no, Mark left off Dry Branch Road. So he walked on

CHRISTY PARKER - CROSS BY GOURLEY

1 down to Meat Man house.

2 Q. Okay. And that's all the information -- you gave
3 that to law enforcement in your statement?

4 A. Yes, ma'am.

5 Q. Okay. Do you know anything about Joey Serrano?

6 A. Yes.

7 Q. Do you know his reputation in your small
8 community?

9 A. Yes. Him and his siblings always fighting and
10 stuff.

11 THE COURT: Say that again.

12 THE WITNESS: Him and his siblings always
13 fighting and always into stuff.

14 BY MS. BLANCHETTE:

15 Q. Do you consider him to be a violent person?

16 A. Yes.

17 Q. Is he somebody you'd be scared of?

18 A. I'm not scared of nobody. I'm sorry.

19 Q. All right. Your Honor, If I could just beg the
20 Court's indulgence one moment.

21 (Pause.)

22 MS. BLANCHETTE: Your Honor, I have no
23 further questions of this witness.

24 THE COURT: Mr. Gourley?

25

CHRISTY PARKER - CROSS BY GOURLEY

CROSS-EXAMINATION

BY MR. GOURLEY:

Q. Ms. Parker, so you said you were hanging out at Marcus's house because you had a boyfriend there?

A. Yeah.

Q. What time did you leave his house?

A. I left his house, huh, can't remember exactly what time I left. I know what time I went down there because my boyfriend caught me down there. And me and Mark was talking prior that day about my graduation. So I went ahead and took the ticket, why I was going back down there.

Q. And that was around two a.m.?

A. Yes.

Q. Okay. And you chilled for a minute. How long of a time lapse is that? What's chill for a minute? 15 minutes? 35? 45? What's your estimation?

A. No. Not -- I was down there about a good hour or so.

Q. Hour or so?

A. Yeah.

Q. So then you left Marcus's house, right, got in your car?

A. Uh-huh.

Q. And you were driving where?

CHRISTY PARKER - CROSS BY GOURLEY

1 A. Down Dry Branch Road, turn on our road, and go to
2 my mama's house.

3 Q. Okay. And on that route if you pass Meat Man's
4 mama's house?

5 A. I pass his mother house to get to my mother's
6 house.

7 Q. And you say that was around 3:11?

8 A. It was 3:11 Tevon called me off Joey's phone
9 because I had the, you know, the records on my phone to
10 prove that.

11 Q. Okay. And so Tevon was with Joey and Meat Man at
12 three-or-so o'clock --

13 A. Uh-huh.

14 Q. -- at Meat Man's mama's house?

15 A. Uh-huh. They were standing on his porch.

16 Q. And Marcus wasn't at home at two o'clock?

17 A. No, I was down at Marcus house that whole day. I
18 fell asleep on the couch. It was, like, maybe, like,
19 12-something Marcus had woke me up. He was, like, Cuz,
20 I'm going to go. He said, I'll be back later. I said,
21 okay.

22 Q. Did he say where he was going and what he was
23 doing?

24 A. I never asked him where, where he was going.

25 Q. And then you left, came back, and from two to three

1 you were at Marcus's house. So he wasn't there at that
2 point?

3 A. He wasn't back either. I asked his roommate, I
4 said, Marcus came back yet. He was, like, no. I was,
5 like, okay.

6 Q. All right. And do you have any other brothers?

7 A. Yeah, I have four brothers out there.

8 Q. Okay. Are any of them going to testify today?

9 A. No.

10 Q. Where are the other ones at?

11 A. Two are incarcerated and one is in Jacksonville,
12 Georgia.

13 Q. Are they Aiken County charges?

14 A. Uh-huh.

15 Q. Thank you.

16 I have no other questions. Thank you, Judge.

17 Thank you, Ms. Parker.

18 THE COURT: Anything on redirect?

19 MS. BLANCHETTE: No, Your Honor.

20 THE COURT: All right. May she be
21 excused?

22 MS. BLANCHETTE: That's fine. I have no
23 objection.

24 THE COURT: Any problem with it?

25 MR. GOURLEY: No, Judge.

1 THE COURT: Ms. Parker, you're excused from
2 your subpoena.

3 THE WITNESS: Okay.

4 THE COURT: We're going to take about a
5 10-minute break.

6 (Break taken at 11:14 a.m., at 11:33 a.m.,
7 the hearing of the matter resumed:)

8 THE COURT: All right. Ms. Blanchette?

9 MS. BLANCHETTE: And, just briefly, to keep
10 the Court apprised of some of the witnesses that
11 I have remaining. I plan next to call Sandra
12 Smith who's my client's mother. And then I was
13 going to call defense counsel and she probably
14 will be my lengthiest witness. And then the
15 private investigator that's worked on the PCR,
16 Pete Skidmore. And then Tevon Jackson will be
17 our last witness. So I just wanted to let the
18 Court know kind of for scheduling purposes ahead
19 of time.

20 And, Your Honor, at this time I call Sandra
21 Smith to the stand.

22 THE COURT: All right.

23 SANDRA SMITH, having been duly sworn, was
24 examined and testified as follows:

25 THE CLERK: Have a seat and state your name

SANDRA SMITH - DIRECT BY BLANCHETTE

1 for the record.

2 THE WITNESS: Sandra Priscilla Smith.

3 THE COURT: Ms. Smith, you know how hard it
4 is to hear you back there? You need to talk
5 loud. Okay?

6 THE WITNESS: Okay.

7 THE COURT: Thank you, ma'am.

8 DIRECT EXAMINATION

9 BY MS. BLANCHETTE:

10 Q. Sandra, did you give a middle name there?

11 A. Priscilla.

12 Q. Okay. I just wanted to make sure Madam Court
13 Reporter got that.

14 How is it that you know Tevon Jackson?

15 A. He's my son.

16 Q. Okay. And in preparation for his case, were you
17 notified that you were going to be a witness for the
18 defense?

19 A. I was told I could be called to be a witness.

20 Q. Okay. As far as preparing you to be a witness, did
21 you ever meet with anybody, an investigator from the
22 public defenders office, or his public defender, to
23 prepare you to testify?

24 A. No, ma'am.

25 Q. Okay. Now, you spoke at sentencing. And if you'd

SANDRA SMITH - DIRECT BY BLANCHETTE

1 like I can provide you a copy of the transcript. You
2 spoke at your son's sentencing.

3 Now you would confirm you weren't called as a
4 witness at his trial; is that right?

5 A. Correct.

6 Q. Did you wonder why you weren't called?

7 A. Yes.

8 Q. Okay. And you were willing to be called as a
9 witness; is that right?

10 A. Yes.

11 Q. Okay. Now I just want to go over essentially what
12 the Judge said to you and what you said during sentencing
13 and then I have some additional questions for you. But
14 you spoke at sentencing. And this is on page 775,
15 specifically lines three through seven. And this is at
16 the conclusion of what you have told the Court.

17 And do you recall Judge Early telling you that he
18 had never heard a more eloquent plea by a mother, and you
19 were an example beyond any that he had ever heard?

20 A. Yes.

21 Q. And did it come off to you as though he had been
22 impressed by what you had told him and he had seriously
23 considered it?

24 A. Yes.

25 Q. Okay. Now, let's go over what you did mention in

SANDRA SMITH - DIRECT BY BLANCHETTE

1 sentencing. If you want to flip back to page 749. And
2 if you look at line six through 14. And you've recently
3 read through it; is that correct?

4 A. Correct.

5 Q. So I'll just ask you questions and if you need me
6 to give you a specific cite, let me know.

7 But at 749, lines six through 14, you essentially
8 tell the Court at the beginning of your plea in
9 sentencing that it appears as though you guys ran out of
10 time. There were witnesses that were not called. What
11 was it that you were trying to convey to the Court with
12 those comments?

13 A. It basically to me at the time appeared that their
14 side had, you know, three days worth of, three or four
15 days, whatever, worth of witness statements being made.
16 Our side when we came up, they had Tevon come up there
17 and testify. Once he testified nobody else was brought
18 up. And the case was -- and that was it.

19 So I felt like, you know, I knew that there were
20 people there that could corroborate his story but they
21 weren't called.

22 Q. Okay. And you saw those people in the courtroom?

23 A. Yes, I did.

24 Q. And was one of those people Christy Parker?

25 A. Yes, she was there.

SANDRA SMITH - DIRECT BY BLANCHETTE

1 Q. And did you think it was your job to go up to the
2 defense attorney and say, hey, you need to call Christy
3 Parker, or, you need to call these people, or, call me as
4 a witness?

5 A. No, I felt like they should know how to do their
6 job, you know, and they should have called people. I
7 didn't know that was my place to tell you that. I
8 thought that's what they were going to do.

9 Q. And did you ever have an opportunity where defense
10 counsel approached you and said, hey, is there anybody
11 else you need me to call, or did you want to take the
12 stand? Did you ever have that discussion?

13 A. No, she never discussed that with me.

14 Q. Okay. Another thing that you mention on page 755,
15 on lines 11 through 14, you tell Judge Early that Tracy
16 Serrano had contacted you. And that's 755 lines 11
17 through 14. That Tracy Serrano had contacted you and
18 told you that she didn't believe that Tevon had done any
19 of it?

20 A. Correct.

21 Q. Now Tracy Serrano was one of the witnesses for the
22 State; is that correct?

23 A. Correct.

24 Q. And she testified and implicated essentially your
25 son in this crime?

SANDRA SMITH - DIRECT BY BLANCHETTE

1 A. Correct.

2 Q. And is that information you think the jury should
3 have known when they were evaluating the guilt of your
4 son?

5 A. Yes.

6 Q. And that's information you would have been willing
7 to testify to?

8 A. Yes. I definitely would have.

9 Q. Okay. Now on page 756, lines seven and eight, you
10 say there that Joseph Dicks made statements that he
11 didn't believe, essentially, that Tevon was involved?

12 A. Correct.

13 Q. Was that, again, information that you think the
14 jury should have had in determining the guilt of your son
15 in this case?

16 A. Yes.

17 Q. And were you present when Joseph Dicks testified
18 for the State and against your son?

19 A. Yes.

20 Q. Now on page 756, looking at the bottom at lines 19
21 through 25, you mention the fact that the State had
22 accused Tevon of getting his story together with you and
23 your mom. And you informed Judge Early there that did
24 not happen. Is that information you would have wanted to
25 testify to in front of the jury?

SANDRA SMITH - DIRECT BY BLANCHETTE

1 A. Yes, it was.

2 Q. Okay. And did you feel like your son was just kind
3 of left off by himself to try to explain that in response
4 to the solicitor's questions?

5 A. Yes. I just felt like my son was just put up there
6 to defend himself and nobody else was trying to help him.

7 Q. You verified that he didn't work on his story over
8 the course of the three years with you and your mother?

9 A. Correct.

10 Q. Okay. Now on page 757, looking at lines eight
11 through 23, you give a long explanation about how your
12 son didn't flee like the State was accusing him of doing,
13 that he went to stay with family in Aiken and it was for
14 your safety.

15 A. Correct.

16 Q. Now in response to the solicitor's questions to
17 your son about him fleeing, would you have wanted to
18 testify as to what you explained to Judge Early here on
19 page 757?

20 A. Yes, I definitely would have.

21 Q. Okay. And do you think that's information the jury
22 should have had in assessing the guilt of your son?

23 A. Yes.

24 Q. Now on page 759, if you look at lines 10 through
25 17, you had been explaining how close your son was to the

SANDRA SMITH - DIRECT BY BLANCHETTE

1 victim, Mark?

2 A. Correct.

3 Q. And you said that he actually cried out to you the
4 next day because they essentially had accused him of just
5 being indifferent and not showing remorse in the case.
6 Is that information you would have wanted to have the
7 opportunity to give to the jury?

8 A. Yes, I would've told them.

9 Q. And no one spoke on Tevon's behalf when the jury
10 was present about his relationship with Mark and how
11 upset he was when Mark was killed?

12 A. Correct. No one said nothing.

13 Q. And you would have been willing to provide that
14 testimony?

15 A. Yes.

16 Q. Now, continuing on page 759, at the bottom, lines
17 17 through 24, you actually say that Marcus looked out
18 for Tevon. And you think he was looking out for him that
19 night and you were grateful for that. Again, is that
20 information you would have wanted to tell to the jury?

21 A. Yes.

22 Q. Okay. And then the final question about what you
23 told Judge Early. On pages 760 through 761 you describe
24 how you ran into your son and his friends at the house
25 that day and they had run. And then when you left to go

SANDRA SMITH - DIRECT BY BLANCHETTE

1 to a pool tournament. And you explained that you're
2 pretty good at pool tournaments and you're out very
3 late. You had taken the key and that's why Tevon
4 couldn't get back in the house.

5 And the Judge has the transcript so he can read
6 through that, but Tevon explained essentially that same
7 factual scenario in his testimony, that he came back and
8 he couldn't find the key. And you actually say here on
9 page 761 that it was the first time you had heard that
10 Tevon couldn't find the key.

11 A. Yes.

12 Q. So that wasn't information that his public defender
13 had run by you before the trial? She didn't tell you
14 that Tevon was going to testify that he couldn't find the
15 key and ask if you could verify that?

16 A. No. No one ever asked me that prior to that.

17 Q. Would you have wanted to testify about the events
18 of that day?

19 A. Yeah, because I could have, you know, said that I
20 took the key.

21 Q. Okay.

22 A. And he couldn't get into the house. I would have
23 been able to, you know, verify what he had said.

24 Q. And you looked through on page 760 through 761, but
25 you could verify that you ran into him and his friends in

SANDRA SMITH - DIRECT BY BLANCHETTE

1 the house and they took off at that point?

2 A. Correct.

3 Q. Okay. And then you could verify that when you left
4 for the pool tournament you took the key?

5 A. Correct.

6 Q. And how late was it when you returned to the house
7 that night; do you remember?

8 A. It probably was between three, four in the morning.

9 Q. Okay. So prior to that, as Tevon was explaining,
10 if he tried to come home he wouldn't have access to the
11 house?

12 A. Correct.

13 Q. Okay. And you would have been willing to explain
14 that to the jury?

15 A. Yes.

16 Q. Okay. Now, Sandra, did every -- did every -- your
17 house is in pretty close proximity to where this murder
18 occurred; is that correct?

19 A. Correct.

20 Q. It's just, you go up to Dry Branch Road and you
21 take a turn on Dry Branch Court and Mark was killed at
22 the cul-de-sac at the end of that; is that correct?

23 A. Correct.

24 Q. Okay. Did anyone ever come and search your house
25 after this murder occurred?

SANDRA SMITH - DIRECT BY BLANCHETTE

1 A. No.

2 Q. Did you have in your possession at that time a car
3 that belonged to Tevon?

4 A. Yes. He had a car that he drove.

5 Q. Did anyone ever come and search that car?

6 A. No.

7 Q. And going back to the house, did Tevon have a room
8 in your house?

9 A. Yes.

10 Q. Did he -- did that ever get searched or anybody
11 ever come and tear that place apart?

12 A. No. No one ever came in my yard.

13 Q. When I say no one, did anyone from law enforcement
14 or the State come?

15 A. No.

16 Q. Did anyone from the public defenders office ever
17 come?

18 A. No.

19 Q. Did you ever see them -- anyone -- I'm sorry, the
20 State or the public defender inquiring about any
21 potential evidence on your property or at your house?

22 A. No.

23 Q. Is that something that raised a question for you?

24 A. Yes. I was wondering, you know, if they felt that
25 my son had did that and he was to possess a gun, that

SANDRA SMITH - DIRECT BY BLANCHETTE

1 they would have come to my home or searched my home and
2 searched his car.

3 Q. Okay. And did you have an opportunity to raise
4 that question to his public defender?

5 A. Did I ask her why didn't you come?

6 Q. Yeah. Were you ever -- did you ever get to have a
7 meeting with her where you could have asked her that?

8 A. Well, it was never -- I don't recall her ever
9 asking me -- are you saying, like, there was -- did I ask
10 her why they didn't come?

11 Q. Yeah. Did you ever have an opportunity to ask her
12 that question?

13 A. Maybe if we -- like, before the trial, you know
14 what I mean, you know, sitting out talking with them.

15 Q. Uh-huh.

16 A. But I would just felt that, you know, I didn't know
17 why they didn't never come. I mean, I was concerned
18 about it. You know, I'm pretty sure I probably -- I
19 don't know if I mentioned it to her or not, though. I
20 can't remember.

21 Q. Is that something that got brought up at trial,
22 that no one ever came to your house?

23 A. No, that wasn't brought up.

24 Q. Okay. Now during your son's testimony, and
25 actually it comes up with several different witnesses,

SANDRA SMITH - DIRECT BY BLANCHETTE

1 they talk about, he tries to explain that he loves his
2 shoes and that he would never walk on a dirt road as
3 they're accusing. He does not like to get his shoes
4 dirty.

5 And I may be mischaracterizing this but the
6 transcript's correct. The solicitor asked a couple of
7 questions to make that seem ridiculous.

8 What could you have testified to about your son's
9 care of his shoes?

10 A. He loved white Nikes. He loved white Nikes. He
11 would clean them with a toothbrush probably every day.
12 He cleaned his shoes. He kept his shoes clean. And, you
13 know, they were making statements of him walking through
14 grass, wet grass, or any kind of dirt. He wouldn't be
15 doing that in his shoes.

16 Q. And when he tried to explain that at trial, you
17 could have verified that about your son?

18 A. Oh, yes.

19 Q. And has his love of his shoes passed on to another
20 one of his siblings?

21 A. Yes.

22 Q. So he modeled that so much that now another one of
23 his siblings does that?

24 A. Yes, his brother does the same thing.

25 Q. Okay. And if his defense attorney would have said,

SANDRA SMITH - DIRECT BY BLANCHETTE

1 as part of Tevon's testimony, we're going to have him
2 explain that what they're saying he did, the paths that
3 he took, the places that he was at, that wasn't possible
4 because he didn't get his shoes dirty, you would have
5 been willing to testify, yeah, Tevon does not get his
6 shoes dirty?

7 A. Correct.

8 Q. Okay. I'm going to ask you about one more thing.
9 Were you part of a phone call with Meat Man or Joseph
10 Dicks while your son was incarcerated?

11 A. Yes.

12 Q. And, you were a party to that call; is that
13 correct?

14 A. Correct.

15 Q. Okay. And did your son try to get Joseph Dicks to
16 admit that he had given false information on him?

17 A. He basically wanted -- he just basically wanted to
18 ask him, you know, him what they tried to say, you know.
19 He said something about them.

20 Q. Uh-huh. He wanted to know why he had given a
21 statement --

22 A. Right.

23 Q. -- essentially?

24 A. Uh-huh.

25 Q. And Joseph Dicks made some response during that

SANDRA SMITH - CROSS BY GOURLEY

1 phone call; is that correct?

2 A. Correct.

3 Q. And, you're aware that your son asked his defense
4 attorney to get those phone calls, to get those
5 recordings?

6 A. Correct.

7 Q. And those were not used at trial to impeach Joseph
8 Dicks, were they?

9 A. No.

10 Q. Did you wonder why that phone call was not used to
11 impeach or question Joseph Dicks?

12 A. Yes.

13 Q. Okay. And from what you overheard, did it appear
14 that he gave incriminating information on himself that
15 you thought the jury should have heard?

16 A. Yes.

17 MS. BLANCHETTE: Your Honor, if I could beg
18 the Court's indulgence one moment.

19 THE COURT: Sure.

20 (Pause.)

21 MS. BLANCHETTE: Your Honor, I have no
22 further questions of this witness.

23 THE COURT: Anything on cross?

24 MR. GOURLEY: Yes.

25

SANDRA SMITH - CROSS BY GOURLEY

CROSS-EXAMINATION

BY MR. GOURLEY:

Q. Ms. Smith, how are you doing?

A. Good.

Q. All right. Ms. Smith, you're not an attorney, are you? You're actually a teacher?

A. Formerly a teacher.

Q. Formerly a teacher. Okay. Did you have any kind of experience in the courtroom, been in any kind of trials of this serious nature before?

A. No.

Q. Okay. You were talking about the fact that you felt like you wanted to testify about the shoes, the friends, all of that information, correct?

A. Correct.

Q. And everything pretty much that you said was basically backing up what your son, Tevon, said at trial, right?

A. Right.

Q. And you just wanted to testify to support what he said, correct?

A. Correct.

Q. But the jury heard everything that he said, right?

A. Yes.

Q. Okay. So everything that you would have testified

SANDRA SMITH - CROSS BY GOURLEY

1 to would have been bolstering what he said, right?

2 A. It would have been verifying it.

3 Q. Verifying it. Yes, ma'am. Now do you know where
4 your son was that night?

5 A. Only from what he told me.

6 Q. Only from what he told you. Okay. And as a matter
7 of fact, earlier that day you caught Tevon with Joey
8 Serrano and Meat Man, right, at the house?

9 A. Correct.

10 Q. And you did not approve of him hanging out with
11 those two people, right?

12 A. Correct.

13 Q. Why is that?

14 A. Because when I was a teacher I've had those -- I've
15 actually had all three of them as my students before.
16 And I've also been aware of the type of person I was told
17 by the school officer about the Serranos family and about
18 them being affiliated with gangs and always getting into
19 trouble.

20 Q. Yes, ma'am.

21 A. So by the school police officer telling me that I
22 didn't want my son to be around him.

23 Q. And did you repeatedly tell your son to stay away
24 from him?

25 A. Yes. I told him I didn't want him to be around

SANDRA SMITH - CROSS BY GOURLEY

1 him.

2 Q. And you don't know where your son was that night,
3 right?

4 A. I know what he told me.

5 Q. Okay. When was your son arrested? Do you remember
6 that date?

7 A. No. I think probably, maybe, two, three days
8 later, three days later.

9 Q. Three days later?

10 A. I'm not sure exactly.

11 Q. Okay. And did you know your son was hanging out
12 with Marcus?

13 A. Yes.

14 Q. Did you approve of that?

15 A. I didn't have a problem with him hanging out with
16 Marcus at my house.

17 Q. And did you know Marcus was a drug dealer?

18 A. I was told that he was.

19 Q. And you didn't have a problem with your son hanging
20 with drug dealers?

21 A. I said at my house. Marcus could come to my
22 house. I didn't want Tevon going to his.

23 Q. Okay. So you really didn't have a problem with
24 Marcus coming to your house?

25 A. No, because he never disrespected my house. I

SANDRA SMITH - CROSS BY GOURLEY

1 didn't feel like he would bring anything bad to my house.

2 He was always respectful when he came to my house.

3 Q. But you had a problem with your son hanging out
4 with Marcus outside of your house?

5 A. Outside of my home, yes. Outside of my eyesight,
6 yes.

7 Q. Okay. And just to clarify. From the hours of --
8 from the time that you left to go play pool was, what
9 time?

10 A. Time I left to shoot, play pool?

11 Q. What time was the last time that you saw your son
12 that day, June 3rd?

13 A. Was around the time when of all three of them was
14 at the house. And the other two, they ran out of the
15 back because they know that I didn't want them in my
16 house. They ran out --

17 Q. Okay. And then up until the time?

18 A. -- because I --

19 Q. I'm sorry. Go ahead. Finish your answer, please.

20 A. No. I'm just saying, I got off of work. I was a
21 teacher at Silver Bluff. And I got off work, I came
22 home.

23 Q. Okay. And what time was that?

24 A. I got home from school normally, normally, maybe --
25 see, I can't remember if it was a half day or a whole day

SANDRA SMITH - CROSS BY GOURLEY

1 that day, because I remember it was towards the end of
2 the school year. So I can't remember whether it was half
3 days or whole days. I know I came home after work.

4 Q. Okay. Well, what time did you leave for work? How
5 about that? What time did your son take off and you
6 leave for work that day? Let's start there.

7 A. In the morning?

8 Q. Yes, ma'am.

9 A. I probably left to go to work about, somewhere
10 between, about 7:30 in the morning maybe.

11 Q. 7:30 in the morning. And was Tevon still there or
12 had he already left?

13 A. He, I believe he was there.

14 Q. He was there?

15 A. (Nods head.)

16 Q. So was Joey and Meat Man still there or they had
17 already left?

18 A. You said that morning when I went to work Tevon was
19 there. When I came off, when I got home from work that's
20 when they were there.

21 Q. Oh. That's when they were there?

22 A. Yes.

23 Q. I gotcha. What time was that; do you remember?

24 A. I just said that it could have been a half day or a
25 whole day. If I came home it probably was -- if it was a

SANDRA SMITH - CROSS BY GOURLEY

1 whole day, I would have been getting home, probably,
2 four.

3 Q. Okay. And if it was a half day?

4 A. To tell you the truth, it probably always that, at
5 four. Even though we did have half days, we always had
6 to stay and work.

7 Q. Okay. So let's say around four o'clock.

8 A. Around four-something I got home.

9 Q. Okay. And, it's been a long time, right, your
10 memory's not that good?

11 A. I mean, I know I got off work. After work I went
12 straight home.

13 Q. So you got home around four. Tevon was there with
14 Joey and Meat Man, right?

15 A. Correct.

16 Q. And then Meat Man and Joey take off because you're
17 not happy that they're there, correct?

18 A. Yeah. They know they're not supposed to be there.

19 Q. Okay. And then what happened next?

20 A. I got upset with Tevon about having them there.

21 Q. Okay. And then what happened?

22 A. I told him to leave, too.

23 Q. You told Tevon to leave?

24 A. Yes.

25 Q. Do you know where he went?

SANDRA SMITH - CROSS BY GOURLEY

1 A. No. I wasn't with him. He left. So I don't know.
2 where he went.
3 Q. Okay. And what time did you leave your house?
4 A. Probably be around seven, seven or so.
5 Q. Okay.
6 A. I'm not sure.
7 Q. And you went to go play pool?
8 A. Right.
9 Q. And then you got back around three or four?
10 A. Yes.
11 Q. And Tevon wasn't there?
12 A. Right.
13 Q. So from the hours of four o'clock when you told
14 Tevon to leave from, to the hours of three to four
15 o'clock -- well, when did you actually see Tevon?
16 A. The next morning.
17 Q. What time was that?
18 A. I'm not sure.
19 Q. Okay. Well, a rough time estimate. Was it
20 sunlight? Was it still dark when you got home?
21 A. It was sunlight. I remember, I remember him coming
22 in. I remember -- as a matter of fact, had someone over
23 there. They was doing my hair when he came in. So she
24 can verify that, but it probably was afternoon time,
25 around afternoon.

SANDRA SMITH - REDIRECT BY BLANCHETTE

1 Q. Okay. Did you ever speak to Marcus between this
2 four o'clock the day before and mid-morning,
3 mid-afternoon that next day?

4 THE COURT: You mean Tevon?

5 MR. GOURLEY: Tevon. Yes, sir.

6 THE COURT: You said Marcus.

7 MR. GOURLEY: I'm sorry.

8 THE COURT: Just wanted to make sure.

9 BY MR. GOURLEY:

10 Q. Did you ever talk to Tevon between four o'clock
11 that afternoon when you kicked him out of the house until
12 11, 12 o'clock the next day?

13 A. No.

14 Q. Never talked to him at all?

15 A. No.

16 Q. And, again, you don't know where he was between
17 those hours through your own personal knowledge? Did you
18 ever see Tevon between four o'clock that afternoon to 12
19 o'clock that next day?

20 A. I just said no.

21 MR. GOURLEY: Okay. Thank you, ma'am.

22 THE COURT: Anything on redirect?

23 MS. BLANCHETTE: Briefly, Your Honor.

24

25

SANDRA SMITH - REDIRECT BY BLANCHETTE

REDIRECT EXAMINATION

BY MS. BLANCHETTE:

Q. The State asked you the question that if everything you said would just be bolstering or cumulative to what your son said. Your son wasn't part of the phone call that you told the Judge about with Tracy Serrano, was he?

A. No.

Q. Only you had knowledge of that, correct?

A. Correct.

Q. And, your son didn't testify about statements that Dicks had made that Tevon was involved, did he? The information you had that Dicks had made statements that Tevon wasn't involved, that's something that only you had knowledge of; is that correct?

A. Correct.

Q. You could have offered that testimony?

A. Yes.

Q. Okay. And then only you could have verified that you didn't work on your son's story with him; is that correct?

A. Correct.

Q. And, only you could have given the information that you gave to the Judge about removing the key from the mat and when you were gone to the pool tourney; is that correct?

SANDRA SMITH - RECROSS BY GOURLEY

1 A. Correct.

2 MR. BLANCHETTE: Your Honor, I have no
3 further questions.

4 MR. GOURLEY: Yes, Judge. just very
5 briefly.

6 RECROSS-EXAMINATION

7 BY MR. GOURLEY:

8 Q. Ms. Smith, your son testified that there was no key
9 under the mat, correct?

10 A. Correct.

11 Q. Your son testified that he was not fleeing from
12 Aiken down to Columbia, correct? That y'all didn't --
13 like, the State accused Tevon of conspiring with y'all
14 and making this story up and fleeing, right?

15 A. You said --

16 Q. The State said that, right?

17 A. The State said that. You said Tevon.

18 Q. I'm sorry. I'm getting my names confused.

19 A. You're confusing me. You changed the names.

20 Q. I'm sorry, Judge. Sorry, Ms. Smith.

21 The State accused Tevon of creating this story with
22 y'all, you and your grandmother, or, his grandmother,
23 collaborating, creating the story, right?

24 A. I just said that we did not do that.

25 Q. Okay. And the State asked Tevon about that, did

WALLIS ALVES - DIRECT BY BLANCHETTE

1 they not?

2 A. I'm not sure.

3 Q. Okay. Fair enough. Thank you, Ms. Smith.

4 THE COURT: All right.

5 MS. BLANCHETTE: Nothing, Your Honor. I
6 was just going to get the transcript back.

7 THE COURT: All right. Ms. Smith, you may
8 be excused. I doubt if you're going to leave.

9 Okay. Who's next?

10 MS. BLANCHETTE: Your Honor, I would call
11 defense counsel, Wallis Alves.

12 WALLIS ALVES, having been duly sworn, was
13 examined and testified as follows:

14 THE CLERK: Have a seat and state your name
15 for the record.

16 THE WITNESS: Wallis Alves.

17 DIRECT EXAMINATION

18 BY MS. BLANCHETTE:

19 Q. I apologize for the accommodations today. Do you
20 recall representing Tevon Jackson in the case that we're
21 here about today?

22 A. I do.

23 Q. Okay. And do you remember what number attorney you
24 were in this case?

25 A. Three.

WALLIS ALVES - DIRECT BY BLANCHETTE

1 Q. Okay. And this case actually took three years to
2 get to trial; is that right?

3 A. Yes.

4 Q. Okay. Approximately how long, how many of those
5 three years did you represent Tevon Jackson?

6 A. Based on the notes in the file I started
7 representing him sometime in 2010.

8 Q. Okay. And I'm just going to jump right in and kind
9 of go through each of our allegations with you. One of
10 the primary allegations that he has made in his
11 amendments and that we've been talking about today is
12 timing. And I have a copy of the transcript that I can
13 provide you here, but you don't have anywhere to put it.

14 THE COURT: I've got it. If you can refer
15 to pages.

16 MS. BLANCHETTE: Is it okay if I set that
17 there for her?

18 THE COURT: Yeah. I thought you were
19 handing it up to me.

20 MS. BLANCHETTE: Sorry. Just trying to
21 make do with what we have today.

22 Q. Specifically your closing argument. If you could
23 look at 684 through 688. You begin going through a time
24 line of what the State's evidence has shown. And I
25 apologize because I know you don't have a table or

WALLIS ALVES - DIRECT BY BLANCHETTE

1 anything in front of you.

2 A. That's fine.

3 Q. Would you want me to pull up a chair?

4 A. No, I can put it on my box.

5 Q. Okay. I'm going to hand you what has been
6 pre-marked as Applicant's Number Five. Do you recognize
7 that document?

8 A. I've got -- not really. I don't think I have a
9 copy of it. Did I make this?

10 Q. It was -- do you recognize this as a document that
11 may have been turned over when I got a complete copy of
12 your file?

13 A. I think I've seen it when I was going through my
14 file.

15 Q. Okay. And if you look at page 644 through -- or,
16 sorry, 684 through 688, you actually reference each one
17 of these items that's on this sheet that says time line.

18 A. Okay.

19 Q. Is this something that you would have prepared and
20 been using yourself as a note in going over the time
21 line?

22 A. Yes.

23 MS. BLANCHETTE: Your Honor, at this time
24 I'd like to move Applicant's Number Three in --
25 or I'm sorry, not Applicant's Number Three.

WALLIS ALVES - DIRECT BY BLANCHETTE

1 Five.

2 MR. GOURLEY: I don't have any objection to
3 it, Judge.

4 THE COURT: Applicant's Five is in without
5 objection.

6 (Applicant's Exhibit No. 5, time line,
7 received into evidence.)

8 BY MS. BLANCHETTE:

9 Q. Now is there any reason -- if you need to look over
10 your argument on 684 through 688 for a minute, I'd be
11 happy to give you the opportunity to do that. And just
12 let me know when you're done.

13 A. (Complying.) Okay.

14 Q. Is there any reason why you didn't make a visual
15 aid or actually introduce a time line for the jury to
16 see?

17 A. I don't know why I didn't.

18 Q. Okay. And there you ultimately say on page 688
19 that there was a window of time for this crime to be
20 committed. And that would be from 2:17 a.m. to
21 three a.m. and that it's 43 minutes. And then you argue
22 how that would have been implausible based on what they
23 were saying he did. It couldn't have been done in 43
24 minutes. Do you recall how you came up with that window
25 from 2:17 to three a.m.?

WALLIS ALVES - DIRECT BY BLANCHETTE

1 A. According to what I said in my closing, it says
2 that at 2:17 Tevon called Marcus according to the phone
3 records and then at three a.m. Jose Serrano goes home.

4 Q. Would it have been helpful to your case to show
5 that the State had put in evidence that Jose Serrano
6 walks home by himself at three a.m., and this murder
7 could have been committed by Jose Serrano after
8 three a.m.?

9 A. It might have been.

10 Q. Now in the State's opening, and I don't have a cite
11 because they just say it a couple times, they say this
12 murder occurred in the early-morning hours. Did you ever
13 feel that it would be important to this case to get a
14 definite time from the State as to when they were saying
15 this murder occurred?

16 A. Obviously I didn't, but it would have been.

17 Q. Okay. And I'm going to show you what I believe is
18 part of the Judge's packet. It's the arrest warrant.
19 And, in the arrest warrant, what approximate time did
20 they give for the murder occurring?

21 A. 1:30.

22 Q. Okay. So I'm going to add that to this time line
23 we've been working on today. That at 1:30 a.m. that is
24 when the arrest warrant says the murder occurred.

25 Now, I want to go back to that time line exhibit

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1 that I had given you there.

2 A. Okay.

3 Q. And what I've done just for the sake of saving a
4 little bit of time here today is I've put those entries
5 already on this board that I've been working on.

6 You have there that at 12:48 Marcus calls Kanisha;
7 is that correct?

8 A. Yes.

9 Q. And then you have at 12:54 that Tevon calls Marcus?

10 A. Yes.

11 Q. Then at 1:11 you have that Tevon calls Marcus?

12 A. Yes.

13 Q. At 1:13 that Stephanie calls Marcus?

14 A. Yes.

15 Q. At 1:35 that Jabari calls Marcus?

16 A. Yes.

17 Q. At 1:30 that Marcus sells cocaine to Jabari and
18 then at two a.m., Melissa sees Marcus in the driveway?

19 A. Yes.

20 Q. Okay. And at 2:17 Tevon calls Marcus?

21 A. Yes.

22 Q. And then finally at three a.m. Serrano goes home?

23 A. Yes.

24 Q. Okay. So those are the entries that you had on
25 your time line that you argued to the jury; is that

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1 correct?

2 A. Yes.

3 Q. Is there any reason why you didn't argue to the
4 jury that at 1:30 the arrest warrant says the murder
5 occurred?

6 A. I don't know why I didn't.

7 Q. Okay. Now, in the State's closings -- and this is
8 page 706 line seven through 11.

9 THE COURT: Page again?

10 MS. BLANCHETTE: 706, line seven through
11 11.

12 Q. The State argues that Marcus is dead by the time
13 Kanisha calls and by the time that Serrano walks home.
14 So we already have that Serrano walks home at three a.m.
15 You argued that to the jury?

16 A. Yes.

17 Q. But did you ever get the State or Kanisha to
18 pinpoint which phone call they were talking about that he
19 was dead by the time Kanisha calls? That's the time
20 frame they give, from when Kanisha calls -- he's dead by
21 the time Kanisha calls and Serrano walks home.

22 And you have, let's see. You have at 12:48 Marcus
23 called Kanisha. But did you ever identify the time when
24 they're saying that he's dead when he's calling her?

25 A. When she was calling him?

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1 Q. Yes. I'm sorry. When she was calling him.

2 A. I don't remember.

3 Q. Okay. I'm going to hand you what's been previously
4 marked as Applicant's Exhibit Six. And it was marked as
5 Applicant's Number 36 at trial. Do you recall that being
6 marked at trial?

7 THE COURT: State's Number 36.

8 MS. BLANCHETTE: Sorry.

9 Q. State's Number 36 at trial.

10 A. I don't remember it being marked at trial or put in
11 but, I mean, I believe I've seen this.

12 Q. Okay. And when they are talking about phone
13 records throughout trial, would you agree that these
14 would be the phone records that they're talking about?

15 A. I thought they were different -- whose phone? I
16 don't know whose phone records these are.

17 Q. Okay. The State moved to introduce these as the
18 Verizon phone records of Marcus Finklin as Number 36 at
19 trial. You actually objected to this item based upon
20 authenticity.

21 A. Okay.

22 Q. Would you agree that these were records that they
23 attempted to introduce as Marcus Finklin's records?

24 A. I don't dispute it.

25 MR. BLANCHETTE: Your Honor, at this time I

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1 would move State's Exhibit Number 36 from trial
2 as Applicant's Number Six.

3 THE COURT: In without objection. These
4 are supposed to be Marcus's Verizon --

5 MR. BLANCHETTE: Yes. They called a
6 Verizon records custodian and attempted to
7 introduce those and I'll get further into that
8 later.

9 THE COURT: Okay.

10 (Applicant's Exhibit No. 6, Verizon phone
11 records, received into evidence.)

12 BY MS. BLANCHETTE

13 Q. And then, Ms. Alves, I'm going to show you what was
14 marked as State's Exhibit 54 which was actually admitted
15 through one of the investigators at trial as Marcus
16 Finklin's cell phone records with some notations by the
17 side. Do you recall that being introduced at trial?

18 A. I don't.

19 Q. Okay. But, again, you wouldn't dispute that was
20 State's Exhibit Number 54 at trial?

21 A. I don't dispute it.

22 MR. BLANCHETTE: Your Honor, at this time I
23 would move State's Exhibit 54 from trial in as
24 Applicant's Number Seven.

25 MR. GOURLEY: No objection, Judge.

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1 THE COURT: Applicant's Number Seven is
2 admitted in evidence.

3 BY MS. BLANCHETTE:

4 Q. And I will refer you --

5 THE COURT: -- without objection.

6 (Applicant's Exhibit No. 7, Marcus
7 Finklin's cell phone records, received into
8 evidence.)

9 BY MS. BLANCHETTE:

10 Q. And I will refer you to State's Exhibit 54,
11 Applicant's Number Seven, and just ask you a couple of
12 questions there about Kanisha Jackson.

13 THE COURT: This is Kanisha's records?

14 MS. BLANCHETTE: These are Marcus Finklin's
15 records. And what we have on the side are some
16 notations that the State's witnesses testified
17 to.

18 THE COURT: Okay. So these are his
19 records. And if I see -- for example, I'm
20 looking about midway down the page, it looks like
21 Atlanta MTX 04 6403 700715, and it says Kanisha.
22 Go all the way across it says, it looks like a
23 phone call from Kanisha at that point?

24 MS. BLANCHETTE: Yeah, and that is what the
25 State's investigator testified to is that they

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1 went through and put these notations to the side
2 as to who these calls either came from or -- and
3 I will get into it later. I just kind of jumped
4 ahead a little bit with this about with what the
5 Verizon expert testified to.

6 THE COURT: There's nothing across this
7 page to help me?

8 MR. BLANCHETTE: There isn't. The Verizon
9 expert went into that. And I'll get into that in
10 just a couple minutes, Your Honor, if you could
11 bear with me right here.

12 THE COURT: All right.

13 BY MS. BLANCHETTE:

14 Q. If you could look at State's Exhibit 54. Kanisha
15 had testified that she was on and off the phone with
16 Marcus from 12 to one a.m., and then when she called him
17 she says eventually he didn't answer.

18 Now, if you could look on this on State's 54, they
19 have written Kanisha Jackson to the side for 2:02 a.m.,
20 2:20 a.m., 2:23 a.m., 6:33 a.m., 7:04 a.m., another one
21 at 7:04 a.m., and then it looks like 8:25 a.m.

22 Did you ever push Kanisha Jackson when she was on
23 cross-examination or argue that the State failed to show
24 which one of those phone calls Marcus was supposedly dead
25 by that time?

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1 A. I don't believe I did.

2 Q. Okay. And if this was admitted at trial the jury
3 would have had this exhibit to look at; is that correct?

4 A. Yes.

5 Q. So here they have all these entries for Kanisha
6 Jackson and no one ever told them which phone call that
7 specifically the State was referring to. Were you
8 present today when Latika Elliott took the stand?

9 A. Yes.

10 Q. Okay. And, she identified and I introduced a
11 statement that she said that she had talked with the
12 victim at 3:01 a.m. and that he said he was going to come
13 by and he never came by.

14 Why did you choose to not utilize her as a witness
15 to refute the State's time line in this case?

16 A. I don't remember.

17 Q. And you agree that that would have been helpful to
18 show that Marcus was still alive and speaking to somebody
19 at 3:01 a.m.?

20 A. Yes, it would have been.

21 THE COURT: I hate to keep interrupting.
22 These phone records are whose phone records?

23 MS. BLANCHETTE: Marcus Finklin, the
24 victim.

25 THE COURT: Okay. That's what I thought.

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1 And didn't the lady say that Marcus called her at
2 3:01?

3 MS. BLANCHETTE: Yes, and that she showed
4 her cell phone to verify it.

5 THE COURT: So that should show up on
6 here?

7 MS. BLANCHETTE: No. Actually, Your Honor,
8 we have evidence that he had five cell phones in
9 the vehicle. And we only have one cell phone
10 record introduced at trial.

11 THE COURT: Okay. Okay. All right.

12 BY MS. BLANCHETTE:

13 Q. So the 3:01 a.m. phone call, that falls outside the
14 State's time in which Marcus should have already been
15 deceased and what you were arguing; is that correct?

16 A. Yes.

17 Q. Okay. And did you get a copy of the preliminary
18 hearing transcript as part of your work in this case?

19 A. I have one in the file. I don't know if I got it
20 or one of the other attorneys.

21 Q. Let me hand you what's been pre-marked as
22 Applicant's Number Nine. Do you recognize that?

23 A. Yes.

24 MR. BLANCHETTE: Your Honor, at this time I
25 would move Applicant's Number Nine, the

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1 preliminary hearing transcript, in.

2 MR. GOURLEY: I don't have any objection to
3 this, Judge.

4 THE COURT: Would that be -- we skipped
5 Eight?

6 MS. BLANCHETTE: Yes, we did, for the
7 moment.

8 THE COURT: Okay.

9 MR. BLANCHETTE: Is that okay? I had
10 pre-marked these.

11 THE COURT: So this is the preliminary
12 hearing transcript?

13 MS. BLANCHETTE: Yes.

14 THE COURT: Applicant's Number Nine. Any
15 objection?

16 MR. GOURLEY: No, sir, Judge.

17 THE COURT: That's in without objection.

18 (Applicant's Exhibit No. 9, preliminary
19 hearing transcript, received into evidence.)

20 BY MS. BLANCHETTE:

21 Q. If you could turn to page nine. I've already
22 introduced Latika's statements. And you agree that's
23 something you would have had as part of the discovery in
24 this case?

25 A. I had it.

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1 Q. Okay. And could you also look at page nine
2 approximately line 13? Do they also state there at the
3 preliminary that Latika Elliott told them that she got a
4 phone call from Finklin at 3:01 in the morning?

5 A. It does say that.

6 Q. Okay. So that's information you had both from her
7 statement and from the preliminary hearing?

8 A. Yes.

9 Q. Okay. Were you present today when Kevin Parker
10 testified?

11 A. Yes.

12 Q. Is there any reason -- well, did you contact him in
13 preparation of this case?

14 A. He said I didn't, and I don't see any notes
15 reflecting that I did.

16 Q. Okay. And do you have any reason why you didn't
17 speak with him?

18 A. I can't say I did or I didn't. I mean, I'm going
19 with -- he says I didn't talk to him and I don't see any
20 place in my notes. But my notes are lacking because I
21 don't have all of the notes that I would have had, and I
22 don't have any of my investigator notes. So I'll have to
23 accept his word that I didn't talk to him.

24 Q. And you don't have a specific memory of talking to
25 him?

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1 A. I don't.

2 Q. And to be fair, you work for the public defenders
3 office. Approximately how many clients are you
4 representing at any given time?

5 A. At least 150 at any given time.

6 Q. Okay. So you don't have any specific memory of
7 talking to Kevin?

8 A. No.

9 Q. Or any reason why you would have utilized him as a
10 witness?

11 A. I don't know.

12 Q. Now Christy Parker. I introduced her statement.
13 That's something that you would have had in discovery; is
14 that correct?

15 A. I had it.

16 Q. Okay. And can you turn to the preliminary, page
17 13? And you see there beginning on line three where they
18 recount everything that she told Investigator Lagger?

19 A. Yes.

20 Q. So you had that information regarding Christy
21 Parker. Is there any reason you didn't utilize her as a
22 witness at trial?

23 A. I don't know.

24 Q. Okay. Now, were you here when Jeff Smith, the
25 deputy coroner, testified about notes that were in his

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1 file?

2 A. Yes.

3 Q. Okay. And would you have had the coroner's file as
4 part of the preparation in working on Tevon Jackson's
5 case?

6 A. Yes.

7 Q. Okay. And I will hand you what has been pre-marked
8 as Applicant's Number 11.

9 Again I apologize, Your Honor, I'm skipping a
10 number.

11 THE COURT: I see.

12 BY MS. BLANCHETTE:

13 Q. Can you identify that, please?

14 A. It's a letter from Tim Carlton, the head coroner,
15 to -- or excuse me. It's a letter from the solicitor's
16 office to Tim Carlton, the head coroner.

17 Q. Okay. And is this requesting the coroner's file?

18 A. Yes.

19 Q. And then in turn that would have been turned over
20 to you; is that correct?

21 A. Should have been.

22 MR. BLANCHETTE: Your Honor, at this time I
23 move to admit Applicant's Number 11

24 MR. GOURLEY: I have no objection, Judge

25 THE COURT: Applicant's 11 is in without

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1 objection.

2 (Applicant's Exhibit No. 11, solicitor's
3 letter to coroner, received into evidence.)

4 BY MS. BLANCHETTE:

5 Q. Let me show you what has been previously admitted
6 as Applicant's Number Three and ask you a couple of
7 questions about it. On the first page there Jeff Smith
8 testified that the original time of death had been listed
9 as 3:15 and then that was changed to two a.m.

10 When he was on the stand during trial is there any
11 reason you didn't ask him about that?

12 A. I don't remember what his testimony was so I can't
13 say I have any reason why I didn't ask him that.

14 Q. So if the transcript is absent of any testimony
15 from him about the time of death, you don't have a reason
16 as to why you didn't ask him about that?

17 A. I don't.

18 Q. Okay. And then I believe it's the third page
19 there, if you could turn to that. He testified today
20 about a note there regarding a Doris Jackson that says
21 she sees a car with a light on in the cul-de-sac at
22 3:30 a.m. If you had the coroner's file in your
23 possession, is there any reason you didn't follow up with
24 Doris Jackson to see what she had seen that night or to
25 ask her what she had seen that early morning?

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1 A. I don't -- I can't say I did or didn't follow up
2 with Doris Jackson. I don't know, and I don't have my
3 investigator's notes. I can't say whether or not I had
4 this. I would have to look.

5 Q. Okay. And finally the certificate of death in this
6 case lists the time of death as two a.m. Is there any
7 reason you didn't bring that out to the jury during the
8 course of the trial?

9 A. I don't know.

10 Q. Okay. And I can take that back from you.

11 I'm going to hand you what's been pre-marked as
12 Applicant's Number 10. And it says at the top it's a
13 voluntary statement of Ivory Jackson.

14 Would you agree this is a document that was turned
15 over to me as part of your file in this case?

16 A. I'm not going to dispute it. I don't remember
17 seeing it, but I don't dispute it.

18 Q. Okay. And the State would have turned over all the
19 statements to you in this case typically; is that
20 correct?

21 A. Yes.

22 Q. And in this statement it gives information that
23 Ivory Jackson at 156 Dry Branch Court --

24 MR. GOURLEY: Judge, I'm going to object.

25 If she's going to reference a statement she needs

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1 to introduce it.

2 THE COURT: Can you introduce it?

3 MR. BLANCHETTE: Your Honor, at this time I
4 would move this in as Applicant's Number 10.

5 MR. GOURLEY: Judge, I object to that.
6 It's hearsay. She needed to bring Ivory Jackson
7 in to authenticate it and talk about it.

8 MS. BLANCHETTE: This is one of my favorite
9 arguments that I get to make all the time now.

10 Your Honor, what I'm trying to go to here
11 is the fact that this was discovery that was
12 turned over. It was in defense counsel's
13 possession. It's something that she should have
14 considered and addressed as part of her case.
15 And I'm trying to ask her if she looked into it
16 in preparation of her case.

17 This goes to preparation investigation.
18 I'm not introducing it for the truth of the
19 matter asserted in this statement. I'm trying to
20 introduce it to show what investigation and
21 preparation was done in this case.

22 MR. GOURLEY: And, Judge, if she's not
23 introducing it for the truth of the matter
24 asserted she can introduce a blank piece of paper
25 because that's all it's worth at this point. In

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1 order to prove the prejudice prong under
2 Strickland, you need to consider the contents of
3 that document which are clearly hearsay and it
4 would be inappropriate for introduction and
5 consideration regardless of whether or not
6 Ms. Alves had it, considered it, looked at it.

7 If we're going to consider the contents of
8 the document, we need Ms. Jackson to authenticate
9 it.

10 THE COURT: I think her point though is
11 just that she had it.

12 MR. GOURLEY: Yes, sir. And that's fine.
13 I mean, if she had the document but in order to
14 prove the prejudice that because she had it and
15 she didn't act on it and she didn't call this
16 Ivory Jackson person to come testify at trial,
17 which I believe is her argument at this point in
18 time, to show that there was a dim light at 3:30,
19 we have to consider this document and the
20 contents of this document because Mr. Ivory
21 Jackson's not here to testify today.

22 MS. BLANCHETTE: Your Honor, I would
23 disagree based upon the recent decision of the
24 Fryberger case which I have a copy for this
25 Court. There they considered a letter and the

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1 contents of the letter and allowed witnesses to
2 be called about the letter. The author of letter
3 even though, I believe, he was deceased, was not
4 called.

5 But in there the PCR attorney was not
6 required to recall every witness or call every
7 witness that could have been called at trial to
8 merely introduce documents that were available to
9 both the State and the defense.

10 MR. GOURLEY: And, Judge, Fryberger's under
11 -- we're appealing that but even regardless, the
12 author in that letter, again, as Ms. Blanchette
13 said, was dead.

14 Furthermore, if you look at Banister V
15 State it clearly says the burden is on the PCR
16 applicant to bring in these witnesses for them to
17 be considered, their testimony to be considered.

18 What Ms. Blanchette is trying to do is say,
19 I read that to Ms. Wallis Alves, you didn't call
20 Ivory Jackson here. You should have called him
21 {sic} at trial to show that there was a dim light
22 at 3:30 in the morning. Why didn't you do that.

23 She's just trying to loop it around without
24 having him in here by introducing this document.

25 THE COURT: Isn't she now?

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1 MR. GOURLEY: Yes, sir. She very much is.

2 THE COURT: Well, what I'm going to do is
3 I'm going to let you proffer this --

4 MR. BLANCHETTE: Okay.

5 THE COURT: -- like this so it will be in
6 the record. And as far as -- is there any
7 reasons -- was Ms. Jackson unavailable?

8 MR. BLANCHETTE: She is. I was actually
9 going to call Pete Skidmore regarding his
10 investigation in trying to locate the witnesses
11 that we don't have located.

12 THE COURT: Okay.

13 MR. BLANCHETTE: So I can follow up with
14 him and ask about that.

15 THE COURT: Right now I'll take this as a
16 proffer and you can hand me those cases so I can
17 read them.

18 MR. BLANCHETTE: Thank you, Your Honor.

19 Q. Just as a proffer, Ms. Alves. In this statement it
20 says that at 3:30 she left her residence and she saw a
21 dim light in the circle but she didn't see a vehicle.

22 Do you recall if you tried you locate Ivory Jackson
23 and speak with her about this information?

24 A. I can't recall.

25 THE COURT: I didn't hear that.

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1 THE WITNESS: I cannot recall.

2 THE COURT: Okay.

3 BY MS. BLANCHETTE:

4 Q. And if she had not seen a vehicle at 3:30 a.m.,
5 wouldn't that have refuted the State's case that Marcus
6 was deceased and sitting in his car in the cul-de-sac at
7 3:30 a.m.?

8 A. That would have.

9 Q. Okay.

10 THE COURT: That's it for the proffer?

11 MS. BLANCHETTE: Yes, that's it, Your
12 Honor.

13 May I beg the Court's indulgence one
14 moment, Your Honor?

15 THE COURT: Okay.

16 (Pause.)

17 BY MS. BLANCHETTE:

18 Q. Ms. Alves, I'm going to hand you what has been
19 marked as Applicant's Number 12. Would you agree that
20 this was a document that was turned over to me when I
21 asked for a complete copy of your file?

22 A. I don't deny it. I'd have to double-check the
23 file. Do you want me to look?

24 Q. That's fine. If you're more comfortable there
25 finding it.

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1 THE COURT: Is this another one? I didn't
2 see it.

3 MR. GOURLEY: Who is it?

4 MR. BLANCHETTE: Do you want me to answer
5 it?

6 MR. GOURLEY: It's another one.

7 MS. BLANCHETTE: She is actually present in
8 the courtroom. I just was not able to call her.
9 I was just trying to keep things moving. She's
10 going to be here to testify.

11 MR. GOURLEY: And if she's going testify,
12 Judge --

13 MS. BLANCHETTE: I'll wait to admit it
14 through her.

15 THE WITNESS: I do have it. That is a
16 document you got from my file.

17 BY MS. BLANCHETTE:

18 Q. Okay. And regarding this document she gave
19 specific times that she saw Mark, she communicated with
20 Mark. Is there any reason -- or, do you remember
21 contacting her or do you have any notes about contacting
22 her and talking with her about the information she gave
23 to law enforcement in this case?

24 A. I have notes in here from talking to a Michelle
25 Stallings, but I don't know. They're not in my

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1 handwriting so I can't say -- I don't recall ever talking
2 to her or not. And I can't say whether someone else did
3 prior to me being the attorney, but there are notes where
4 someone talked to her. I just don't remember if it was
5 me or -- if I talked to her or if I talked to her with
6 someone else or if I didn't talk to her; I can't say.

7 Q. Okay. And let me show you what has been previously
8 marked as Applicant's Number Eight. Do you recognize
9 that as the Defendant's witness list in this case?

10 A. Yes.

11 MR. BLANCHETTE: Your Honor, at this time I
12 would move Applicant's Number Eight into
13 evidence.

14 MR. GOURLEY: No objection, Judge.

15 THE COURT: Number Eight is in evidence
16 without objection.

17 (Applicant's Exhibit No. 8, Defendant's
18 witness list, received into evidence.)

19 BY MS. BLANCHETTE:

20 Q. Do you see there number six, Felice Michelle
21 Stallings?

22 A. Yes.

23 Q. So when you were preparing this witness list, she
24 was a potential witness in your case?

25 A. She was. And I served her with a subpoena. I did

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1 serve her with a subpoena.

2 Q. Do you have a specific reason why she wasn't called
3 then as a witness in the case?

4 A. I don't remember.

5 Q. And then finally the victim's mother has testified
6 here today, Sandra Smith, and she spoke -- you had her
7 speak to the Judge at the sentencing proceeding?

8 A. Yes.

9 Q. And do you see where she's listed as number nine on
10 your witness list?

11 A. Yes.

12 Q. Okay. Do you have a specific recollection as to
13 why, what your reason was for not calling her as a
14 witness at trial?

15 A. I don't.

16 Q. And I'll take that from you so we don't lose it.

17 Now, I'm going to ask you some questions about the
18 witnesses that were called at trial. And do you have a
19 copy of the transcript there in front of you?

20 A. I do.

21 Q. Okay. Let me find my copy here.

22 If you could turn to page 528. There Chiquita
23 Ingram is on the stand. And if she testified at trial,
24 would the State have provided you a copy of her statement
25 prior to her testimony?

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1 A. Yes.

2 Q. And can you identify what's been previously marked
3 as Applicant's Number 13?

4 A. There are two statements given by Chiquita Ingram.

5 Q. Okay. And these statements would have been turned
6 over to you prior to her testimony; is that correct?

7 A. Yes.

8 Q. And they would have been available for you to use
9 in your cross-examination of her; is that correct?

10 A. Yes.

11 Q. Okay.

12 Your Honor, at this time I would move Applicant's
13 Number -- or I would move Applicant's Number 13 into
14 evidence.

15 MR. GOURLEY: Judge, I'm going to go
16 through the same objection as before. She's not
17 here to testify. It's hearsay.

18 THE COURT: Going back to the -- she was
19 called as a witness, right?

20 MS. BLANCHETTE: She was, Your Honor.

21 THE COURT: Now the first lady that you
22 were talking about, Ms. Ivory Jackson, was she
23 called as a witness?

24 MR. GOURLEY: No, sir.

25 THE COURT: So this lady was called as a

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1 witness?

2 MR. GOURLEY: She was, Judge.

3 THE COURT: And so those statements were
4 available. I'm going to overrule your objection
5 and going to let those in.

6 MR. GOURLEY: Yes, sir.

7 THE COURT: Okay. Applicant's 13 is in
8 over objection.

9 (Applicant's Exhibit No. 13, Chiquita
10 Ingram's statement, received into evidence.)

11 BY MS. BLANCHETTE:

12 Q. I'm going to hand you

13 THE COURT: Do you got a copy for me?

14 MR. BLANCHETTE: Yes, I do, Your Honor.
15 I'm sorry for not asking. I just forgot. Kind
16 of limited space.

17 THE COURT: I understand.

18 MR. BLANCHETTE: If I could beg the Court's
19 indulgence one moment.

20 THE COURT: Yes, ma'am.

21 (Pause.)

22 BY MS. BLANCHETTE:

23 Q. Now, Chiquita Ingram, she testified on 528 that she
24 had a phone call around 12 a.m. with the victim in this
25 case. And that's essentially where the State starts

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1 their time line is that he talks with Chiquita Ingram.

2 Now, if you could look at State's 54 that was
3 admitted and that the State made markings beside. And if
4 you could look at the entry for 12:38. Whose name is
5 actually written beside that? It's very tiny.

6 A. 12:38. The name beside it is Chiquita Ingram.

7 Q. And then at 12:39, whose name is beside that?

8 A. Chiquita Ingram.

9 Q. Now I checked the transcript. Is there any reason
10 why you didn't question her about that, the State's
11 exhibit that was introduced and the jury had, actually
12 indicates she spoke with him -- or that there were phone
13 calls transacted at 12:38 and 12:39 not 12 a.m.?

14 A. I don't know.

15 Q. Okay. So, if we are going off of the State's
16 exhibit at 12:38 and 12:39 there's calls with Chiquita
17 Ingram, not 12 o'clock?

18 A. That's right.

19 Q. But per her testimony it was 12 o'clock?

20 A. What page of her testimony says that?

21 Q. I will get that to you. At 528 line eight.

22 A. Yes. She says that she called him at 12
23 o'clock-something.

24 Q. Okay. And going back to your closing argument,
25 another argument that you make you -- one argument that

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1 you make is that the murder had to occur between 2:17 and
2 three a.m. The other is based upon what Serrano and
3 Dicks are saying that Tevon Jackson left sometime around
4 12:30 and was back in 30 to 45 minutes and had already
5 committed the murder.

6 So there the time frame would actually be 12:30 to
7 about 1:20. And if she's having phone calls with the
8 victim at 12:38 and 12:39, that would fit into the time
9 frame when Dicks and Serrano said the murder occurred; is
10 that correct?

11 A. Yes.

12 Q. If you could also look at her statement that we
13 have marked. I believe you still have it up there in
14 front of you.

15 A. I do.

16 Q. She indicates in her statement that she saw Mark's
17 brother PooPoo leave her house at around 11 p.m. dressed
18 in all black. He left the house walking and I never seen
19 him return. PooPoo was acting suspicious that night and
20 I always thought he was taking advantage of Mark.

21 Is there any reason why you didn't ask her about
22 that information in her statement?

23 A. I don't know.

24 Q. Okay. And on the preliminary hearing, page nine
25 lines 25 through 29, law enforcement gives that same

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1 information about Chiquita Ingram. So you would have
2 been aware that she had essentially said that she thought
3 PooPoo might have something to do with it.

4 A. What page are you asking?

5 Q. It's page nine lines 25 through 29.

6 A. That's right. That's what it says.

7 Q. Okay. Now I'm going to ask you next about Tracy
8 Serrano. Did you know Tracy Serrano prior to this trial?

9 A. Probably.

10 Q. Okay. Did you know anything about her reputation
11 or her sons' reputation?

12 A. I knew about all of the Serranos. They've all been
13 represented by the public defenders office and their
14 mother's been involved in their cases.

15 Q. So you had some prior --

16 THE COURT: I need for her to repeat that.

17 Ms. Alves, you need to speak up.

18 THE WITNESS: I'm sorry. I'll speak up.

19 THE COURT: Thank you.

20 THE WITNESS: I am familiar with all the
21 Serranos because they've all been represented
22 through the public defenders office, and they've
23 all been involved in multiple cases of mine
24 throughout the years.

25 THE COURT: Okay. Thank you, ma'am.

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1 BY MS. BLANCHETTE:

2 Q. And if I could beg the Court's indulgence. I'm
3 just going to try to clean up any of these things that
4 she doesn't need to have.

5 (Pause.)

6 Now Tracy Serrano testified and I'm going to have
7 you turn to page 182 of the transcript. In there she's
8 giving a time frame for when she first saw Tevon. And
9 she says it was between 12 and 12:30 on line 21; is that
10 correct?

11 A. Yes.

12 Q. Okay. And then she goes on and she continues to
13 testify. And she says that essentially around 12:30 that
14 they walked her home from Dicks' house. Her testimony
15 was that she met up with them, they walked her home, she
16 forgot something, the boys went back to retrieve it. And
17 this time frame that she gives is around 12:30. Do you
18 recall that?

19 A. Yes.

20 Q. Okay. She says on page 187, if you could turn
21 there, that as they were walking that Marcus Finklin
22 drove by and he was headed towards Felice's house. So
23 this -- she's testifying that at about 12:30 they're
24 walking to her house, Marcus Finklin drives by headed
25 towards Felice's house; is that correct?

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1 A. Yes. That's what she says.

2 Q. And I'm going to again show you what's been marked
3 as Applicant's Number 12. And this is a document that
4 you would have had in preparation of the case from the
5 solicitor's office; is that correct?

6 A. Yes.

7 Q. And if Felice Stallings had given information that
8 he was leaving her house at that time, is there any
9 reason that you didn't bring that out at trial?

10 A. I don't know.

11 Q. And was Tracy Serrano one of the key witnesses for
12 the State in this case?

13 A. I don't know. I don't know who they would have
14 thought was a key witness.

15 Q. Primarily were there three people that were with
16 Tevon that night that the State called: Tracy Serrano;
17 Joey Serrano; and Meat Man or Joseph Dicks. Do you
18 recall that?

19 A. Yes.

20 Q. Okay. And do you recall that the State spaced them
21 out between a bunch of different witnesses?

22 A. They're spaced out.

23 Q. Okay. And did you find -- and if you haven't
24 recently reviewed the transcript I don't know if you can
25 answer this, but do you recall finding their testimony

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1 inconsistent and potentially a smart move on the State to
2 space them out?

3 A. I don't remember what they testified to.

4 Q. Okay. Do you recall that one of your main
5 arguments was that they were not credible and should not
6 be believed in this case?

7 A. Yes.

8 Q. Okay. Now let me ask you a little bit about Joseph
9 Dicks. You heard his, Tevon Jackson's mother, Sandra,
10 testify about being on a jail call with Joseph Dicks and
11 her son, Tevon Jackson?

12 A. Yes.

13 Q. Do you recall Tevon requesting that you get the
14 jail call recordings from the detention center?

15 A. Yes.

16 Q. And do you recall why he asked you to do that?

17 A. Because he had conversations with Joseph Dicks.

18 Q. And do you recall reviewing those jail calls?

19 A. I do.

20 Q. Okay. Is there any reason why you did not ask
21 Joseph Dicks about those conversations or that
22 conversation when he was on the stand?

23 A. My recollection, I don't remember anything overly
24 incriminating about what was in the jail calls but I
25 would have to look back at my notes that I took from the

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1 jail calls to see exactly what was said.

2 My notes from the jail calls -- the one
3 specifically talking to Joseph Dicks, in that phone call,
4 based on the notes that I have, it appears that Tevon did
5 most of the talking and Meat Man didn't really say
6 anything. And I don't recall anything, any critical
7 information coming from the phone calls. There were
8 calls made to both Joey Serrano and Joseph Dicks, and
9 they were both very cautious according to my notes.

10 Q. Does it appear from your notes though that Meat
11 Man was asked, did law enforcement tell you essentially
12 that I told on you and he says, yeah?

13 A. My notes aren't really clear about that. It just
14 says something about -- my notes just say that, agreed
15 that the police told them and then I didn't finish what I
16 was -- obviously the thought. And then he was worried
17 about false information.

18 Q. So from your notes it's clear that he was worried
19 that he could get a false information charge. If he was
20 going to get a false information charge it would be
21 because he hadn't told the truth; is that correct?

22 A. Yes.

23 Q. And, again, is there any reason why you didn't ask
24 him about that phone call with Tevon Jackson when he was
25 on the stand?

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1 A. I don't know.

2 Q. Okay. Now I'm going to show you what has been
3 pre-marked as Applicant's Number 14. Can you identify
4 what that appears to be?

5 A. A statement from Joseph Dicks.

6 Q. And is that something that would have been turned
7 over to you prior to his testimony in this case?

8 A. Yes.

9 Q. Okay. And you have that there in your file?

10 A. I do.

11 MS. BLANCHETTE: Your Honor, at this time I
12 would move to introduce Applicant's Number 14,
13 the statement of Joseph Dicks.

14 THE COURT: Your same objection?

15 MR. GOURLEY: Judge, he testified at trial.

16 THE COURT: Okay. It's in without
17 objection.

18 (Applicant's Exhibit No. 14, Joseph Dicks'
19 statement, received into evidence.)

20 BY MS. BLANCHETTE:

21 Q. And if you could look about one, two, three, four,
22 exactly seven lines down. What time does he say exactly
23 they went back to his house?

24 A. About 12:40.

25 Q. And then on the next line, does he say how many

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1 minutes passed before Tevon came back and told him he had
2 committed the murder?

3 A. Thirty to 35 minutes pass -- wait a minute.

4 It says 30 to 35 minutes pass and then me and Joey
5 was still at my house and his cousin came over for a
6 beer. It doesn't say what time Tevon came back.

7 Q. Okay. During his testimony do you recall getting
8 him to say that Tevon was gone for approximately 30 to 35
9 minutes and that's why you argued that in closing
10 argument?

11 A. I don't remember what he said. I don't dispute
12 what the transcript says.

13 Q. Okay. My question then is: Why didn't you nail
14 him down on that 12:40 time and make a window for this
15 crime from 12:40 to 30 to 35 minutes later?

16 A. I don't know.

17 Q. At trial Joseph Dicks is never required to say what
18 time Tevon leaves. He really skirts around your
19 questions and, you know, says that they got back to his
20 house and he left within minutes. And this is on 237
21 through 238. And then he actually says he has no idea
22 what time all of that was.

23 A. I don't see that in the transcript but I don't
24 dispute what's in the transcript.

25 Q. Okay. But you don't have any reason why no one

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1 held Joseph Dicks to the time of 12:40 as being when they
2 returned and the time approximately when Tevon Jackson
3 left to commit the murder?

4 A. I don't know why I didn't question it. I don't
5 dispute what's in the transcript.

6 Q. Okay.

7 A. If I didn't question it, I didn't question it.

8 Q. When Joseph Dicks was on the stand you could have
9 asked him about his statement that says at 12:40 they had
10 returned and then Tevon left within minutes is what he
11 essentially says in his testimony.

12 A. I could have asked him, is that what your question
13 is?

14 Q. Yes. You could have asked him that; is that
15 correct?

16 A. I could have asked, yes.

17 Q. And if we're following what Joseph Dicks said, and
18 following your closing argument, Tevon left somewhere
19 close to 12:40 and was back per Serrano and Dicks
20 bragging that he had committed this murder. Would you
21 agree that falls nowhere in the time frame of 2:17 to
22 three a.m.?

23 A. I agree.

24 Q. Okay. Is there any reason why you didn't question
25 Dicks about multiple statements that were in the

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1 investigative file that he had told people that Tevon
2 Jackson was not involved in this crime?

3 MR. GOURLEY: Your Honor, I'm going to object to
4 that. I don't know of any such statements where Joseph
5 Dicks admits or says that Tevon Jackson wasn't in this
6 crime.

7 THE COURT: Do you got any?

8 MR. BLANCHETTE: Just one second, Your
9 Honor -- or, may I beg the Court's indulgence?
10 I'm sorry.

11 THE COURT: Sure. That works too. You're
12 looking at the preliminary?

13 MS. BLANCHETTE: Yes, Your Honor.

14 Q. If you could look at the preliminary hearing, page
15 12 lines 41 through 45. It says Carter stated that she
16 spoke with Joe Dicks and asked him if Tevon had anything
17 to do with the murder and he stated Tevon didn't have
18 anything to do with it.

19 MR. GOURLEY: That's hearsay, Judge. The
20 Carter person saying what Joseph Dicks told her
21 to somebody else.

22 THE COURT: I understand but it's in the
23 preliminary report. She had to have it.

24 MR. GOURLEY: Yes, sir.

25 THE COURT: So I'll let you ask the

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1 question.

2 THE WITNESS: I don't know why I didn't ask
3 her.

4 BY MS. BLANCHETTE:

5 Q. Okay. And just to be fair to you so you don't have
6 to look at the transcript. You just did question him
7 about his statement on cross-examination, you just didn't
8 go into the 12:40 time frame that he gave. Would you
9 agree that's what the transcript reflects?

10 A. I don't dispute anything that's in the transcript.

11 Q. If you could look at page 315 of the transcript.
12 There Stephanie Green is testifying and on your time line
13 you had a 1:13 where Stephanie calls Marcus. And then
14 the State had alleged essentially that between 1:13 and
15 the sale to Jabari at 1:30 Marcus had sold drugs to
16 Stephanie Green. And that's what she was testifying
17 about, this drug sale that took place and how she saw
18 Tevon at that.

19 If you could look at page 315 there for me. I
20 apologize. I'm turning there myself.

21 She had testified that it was the first time she
22 had ever smoked cocaine or done drugs. And you're
23 cross-examining her on that. We had a witness here today
24 that testified that she knew that Stephanie Green --
25 Latika Elliott testified that she knew Stephanie Green

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1 was a drug user.

2 Is there any reason you didn't call any witnesses
3 to refute this? Because you're trying to show pretty
4 hard here that she's not credible on that very stand.

5 A. I don't know if I knew about that.

6 Q. Another witness the State called was Melissa Ely.
7 And the transcript will reflect this accurately but just
8 to refresh your memory. Melissa Ely testified about --
9 and this is on, her testimony is on page 322, that the
10 victim had been seeing her tenant, Felice Stallings, and
11 he visited her tenant and she actually had a phone call
12 with him that night herself and they talked for a long
13 time. She says that on page 322, that they had this
14 11 p.m. long phone call.

15 Did you think it was odd that the State called
16 Melissa Ely to testify about what she saw going on over
17 at Felice Stallings' house instead of calling Felice
18 Stallings herself?

19 A. I don't remember what I thought about it.

20 Q. Okay. Now, like I said, on 322 she testifies that
21 they had one phone call and it was at 11 p.m. for a very
22 long time. Could you look at Applicant's Number Seven,
23 State's Exhibit 54? And if we're going from the bottom
24 of the page up, the first three entries say Melissa Ely.
25 One which would be in military time of 1109, one at 1132,

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1 I'm sorry, 1119 and one at 1123.

2 And the State's Verizon expert testified that the
3 last column was the seconds so the duration of the call.
4 So if that in fact were true, she spoke with him three
5 times; one for 33 seconds, one for 22 seconds and one for
6 36 seconds.

7 Now the State introduced this exhibit and the jury
8 had it. Is there any reason why you didn't cross-examine
9 Kanisha -- or, I'm sorry, Melissa on her testimony that
10 she talked to him one time for a very long time when the
11 records reflect that she talked to him three times for
12 very brief times?

13 A. I don't know.

14 Q. And on page 324 she said that she heard the
15 victim's motor running, loud music and she looked at her
16 clock and she was adamant that it was two a.m. That's
17 something that you actually put on your time line; is
18 that correct? On your original time lime that you argued
19 to the jury. And I apologize, I know this is --

20 A. That is correct.

21 Q. Okay. And if they're saying that Melissa sees him
22 at two a.m. in her driveway, any reason why you didn't
23 ask the coroner about changing the time of death to
24 two a.m.?

25 A. I don't know.

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1 Q. Is there any -- and Christy Parker, you didn't call
2 her as a witness. We already discussed that; is that
3 correct?

4 A. That's right.

5 Q. And she provided testimony today that she was at
6 Marcus's trailer at two a.m. And then after she leaves
7 at 3:11 a.m. she gets a phone call from Tevon and he's
8 with Jose and Joseph Dicks. And she had seen them all
9 together just minutes before.

10 And I apologize if this is a bad question and if
11 you need me to repeat, but wouldn't it have hurt the
12 State's case if you brought out the fact that Christy
13 Parker at those events and that she's seen Tevon with his
14 two co-defendants at a time when they're saying the
15 murder's already been committed, they have essentially
16 parted ways?

17 A. I agree it probably would have hurt their case.

18 MR. BLANCHETTE: If I could beg the Court's
19 indulgence one moment.

20 THE COURT: Go ahead.

21 (Pause.)

22 BY MS. BLANCHETTE:

23 Q. Do you recall what was your defense in this case?

24 A. To be brutally honest, I don't. I'm sorry.

25 Q. That's perfectly fine.

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1 Do you recall what if any work you did on the issue
2 of third-party guilt and why you did not make a motion to
3 raise third-party guilt?

4 A. I have research in my file indicating that I
5 considered that. I don't know why I didn't pursue that
6 if in fact I didn't; I don't remember.

7 MS. BLANCHETTE: Your Honor, I'm getting
8 ready to start into an issue about the phone
9 records. It gets a little complicated -- I mean,
10 it's going to take a couple minutes. I didn't
11 know if the Court need a break or anything. I
12 thought I'd ask.

13 THE COURT: You mean, like, for lunch?

14 MR. BLANCHETTE: I actually just looked at
15 the clock for the first time myself. But I just
16 figured before I went into another long session.

17 THE COURT: I think we are going to break
18 for lunch.

19 Ms. Alves, you know you can't talk to
20 anybody about your testimony right now.

21 THE WITNESS: Yes, sir.

22 THE COURT: And do you think you can be
23 back in here about two?

24 MR. GOURLEY: Yes, sir.

25 THE COURT: All right. We'll be back at

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1 two to start back.

2 MS. BLANCHETTE: Thank you, Your Honor.

3 THE COURT: Thank you.

4 (Luncheon recess taken at 12:51 p.m. At
5 2:07 p.m., the hearing of this matter resumed as
6 follows:)

7 MS. BLANCHETTE: Your Honor, I assume
8 they're going to let anyone that returns to that
9 courtroom to let them know where we're at.

10 THE COURT: Well, actually --

11 UNIDENTIFIED SPEAKER: They're behind you.

12 THE COURT: Charles, are you going to let
13 everybody know that we moved?

14 THE BAILIFF: Yes, sir.

15 THE COURT: Okay. Ms. Alves, you know
16 you're still under oath.

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. Ms. Blanchette?

19 BY MS. BLANCHETTE:

20 Q. Ms. Alves, do you still have a copy of the
21 transcript with you?

22 A. No.

23 MR. GOURLEY: Oh yes, ma'am. I didn't know
24 I had it.

25 MS. BLANCHETTE: Your Honor, may I approach

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1 with a copy of the transcript?

2 THE COURT: You may. This way you get more
3 exercise.

4 BY MS. BLANCHETTE:

5 Q. Ms. Alves, if you don't mind turning to page 143 of
6 the transcript. And that is where you are cross-
7 examining the State's witness from Verizon. And there at
8 the bottom of the page you asked him, beginning on line
9 20, if he's there to testify about the number from one
10 cell phone?

11 A. Yes.

12 Q. And you had indicated earlier there was testimony
13 about five potential cell phones.

14 A. Yes.

15 Q. Do you have the information for the other four?

16 A. Do I?

17 Q. Well, you asked him: Does he have the information
18 for the other four.

19 A. I did ask that.

20 Q. Okay. Now, prior to trial did you look into that
21 issue as to whether or not the State had gotten the cell
22 phone records for all of the phones that were found in
23 the victim's vehicle?

24 A. I don't remember.

25 Q. Okay.

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1 And, Your Honor, may I approach the witness?

2 THE COURT: You may.

3 BY MS. BLANCHETTE:

4 Q. Ms. Alves, I'm going to show you what's been
5 previously marked as Applicant's Number 15. And can you
6 identify what that appears to be for the record?

7 A. It's a property receipt for the sheriff's
8 department.

9 Q. Okay. And is this something you would have
10 typically been provided during the course of your
11 representation?

12 A. Yes.

13 Q. Okay. And who does it list as the victim for this
14 property receipt?

15 A. Marcus Finklin.

16 Q. And if you could look, does this list a number of
17 cell phones that were taken in this case?

18 A. It does.

19 Q. Okay. And they had actually testified at trial
20 about, it appears you said there are four other cell
21 phones, is that correct, that were found in his vehicle?

22 A. Five total.

23 Q. Okay. Now, at any point did you have any notes or
24 record of trying to obtain those records yourself?

25 A. I don't.

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1 Q. And you would agree that the only records that
2 you're asking this Verizon witness about here were
3 records from one cell phone that the victim had that
4 evening?

5 A. Yes.

6 Q. Okay. Now, let me talk with you a little bit about
7 the -- William Hair. He came from Verizon. And if you
8 could turn to page 139. He explains that he has brought
9 the records for the cell phone number

10 Now, prior to that he is asked, on page 138,
11 where's your location, where do you work. And he
12 responds that he works in Aiken. And then he's also
13 asked on page 138: Do you keep records of phone calls in
14 your ordinary business, and he says yes.

15 In looking at pages 137, 138, 139, from your
16 experience did the State properly qualify him as
17 someone -- as, one, a records custodian as, two, someone
18 who was qualified to testify about the records in this
19 case?

20 A. Well, obviously I didn't object to his testimony as
21 not being a records keeper but I guess we would have --
22 they would have had to establish that he was the person
23 who actually kept the records and would have referred to
24 the records.

25 Q. Okay. And the State then on the following pages

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1 attempts to introduce Exhibit 36. I believe that may be
2 in the stack of exhibits I've handed you.

3 A. Yes.

4 Q. And you objected to 36 based upon relevance. And
5 that was a one-page printout that they were having
6 Mr. Hair say were the telephone records of Marcus
7 Finklin.

8 Is there any other reason you didn't object on
9 other bases to those records coming in through Mr. Hair?

10 A. I can't recall.

11 Q. Okay. Now the State didn't admit 36 at that point
12 but Mr. Hair goes on to testify about the contents of
13 Exhibit 36. And if the record reflects that you did not
14 object, did you have any reason for not objecting to his
15 testimony?

16 A. I don't recall.

17 Q. Now, specifically, if you look at page 141 line 15,
18 Mr. Hair, who just merely has said that he works at
19 Verizon in Aiken with no other qualifications, he's
20 asked -- just a second here -- 141 line 15. Looking at
21 the code next to the call you can tell whether or not a
22 person received a call and he says yes. And then he goes
23 into an explanation of what the codes mean. The State
24 asks him specifically if he can tell if a call is
25 answered and he says yes by the amount of time and no

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1 answer is a BM which means voice mail.

2 Did you ever determine if he was qualified to be
3 giving that testimony in interpreting these records?

4 A. I did not.

5 Q. So according to what he's telling the jury a BM --
6 or, I'm sorry a voice mail is the MF stands for that and
7 that's how you know it wasn't called. He then is asked,
8 on page 141 lines five through seven, how the time is
9 recorded and he says in seconds.

10 Did you ever verify that he was qualified to
11 testify to that?

12 A. I did not.

13 Q. Then on page 141 lines 11 through 22, he goes on to
14 explain that MT means it's an incoming call and again MF
15 equals voice mail. Now, if you turn to page 144 during
16 your cross-examination, on lines three through eight
17 you're essentially asking him again: How can you tell
18 that a call is answered. And he says it's because it
19 shows an MT.

20 A. That's right.

21 Q. Now, looking at these records he has testified to
22 the jury that if there's seconds behind it it means it
23 was answered. But he also testified to the jury that if
24 it says MF it means it went to voice mail. Do you see
25 all the calls that are listed as MF that have seconds