

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions
Paul M. Burch, Circuit Court Judge

Appellate Case No. 2018-000144
Circuit Court Case No. 2002-GS-10-7745

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SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

ANTWON DEANGELO GOODWIN

APPELLANT.

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

vs.

Case No. 02-GS-10-7745

ANTWON DEANGELO GOODWIN,

Defendant.

TRANSCRIPT OF JURY TRIAL

The within Jury Trial was held January 6-9, 2003, before the Honorable Paul M. Burch in Courtroom 4B of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel, as follows:

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1 THE COURT: Next?

2 MR. SMILEY: The next Motion, Your
3 Honor, would have to do with the other witness,
4 Darrell Royal. Darrell Royal was a former
5 client of mine, Your Honor. I would first make
6 a Motion to exclude his testimony and, secondly,
7 if not that, in the alternative for a
8 continuance for me to develop whether I have a
9 conflict that would keep me from representing
10 Mr. Antwon Goodwin in this matter.

11 Mr. Royal was a named suspect in this
12 case in the beginning, Your Honor. He was never
13 followed up in this case. There were no
14 statements taken about Mr. Royal.

15 I received discovery on December 22nd
16 -- no, excuse me, December 12th, to prepare for
17 this case. In reading that discovery, Your
18 Honor, there was nothing that would indicate
19 that Mr. Royal would be on the witness stand.
20 There is nothing in there to indicate that he
21 has any relevant information and would be
22 testifying, so I did not see a conflict of
23 interest.

24 I represented Mr. Royal approximately
25 six months ago in Charleston County General

1 Sessions Court, and I've represented him in the
2 past. I have a great deal of attorney-client
3 information, and have specifically spoken with
4 him in this case, Your Honor,

5 THE COURT: Where is he now?

6 MR. SMILEY: He is downstairs in the
7 basement. I have not had an opportunity to
8 speak with him, but I understand that he got
9 here about 2:00 o'clock.

10 I understand that approximately seven
11 days ago, maybe a little longer than that, a
12 statement was taken from my client -- my client,
13 Mr. Royal -- while he was incarcerated at
14 Turbeville and that that statement is
15 inculpatory as to Mr. Goodwin.

16 Yesterday, Sunday, January the 5th, Mr.
17 Kent gave me a call and let me know about that
18 inculpatory statement. That was the first that
19 I knew about it. He had talked about bringing
20 Darrell down and talking to him before that but
21 hadn't indicated the substance of any of the
22 communications that he had had with Mr. Royal.
23 So I am perplexed on exactly how to proceed and
24 zealously represent the interests of Mr. Goodwin
25 and preserve inviolate the attorney-client

1 privilege that exists between me and my client.

2 And I do still, even though I don't
3 actively represent him at this time, I do
4 consider him my client. I've represented him
5 for the majority of his adult life. Darrell
6 Royal, Your Honor.

7 For that reason, I would ask that his
8 testimony, because of the late development in
9 this case, and the fact that it is hearsay --
10 well, that it meets the exception of party
11 opponent admission, I guess, that is how they
12 are trying to get it in. I would ask that his
13 testimony be excluded.

14 In the alternative, I would ask for a
15 continuance to develop whether there would be a
16 conflict of interest that would prohibit me from
17 zealously representing Mr. Antwon Goodwin, while
18 protecting my attorney-client relationship with
19 Mr. Royal.

20 THE COURT: Let me say this before I
21 get a response. The primary concern that I have
22 in a matter like this, first of all, is Mr.
23 Goodwin; second of all, is you; and third of all
24 would be this witness. So he's on the lower end
25 of the pecking order here. Okay?

1 MR. SMILEY: Yes, sir.

2 THE COURT: I am noting that you're
3 telling me that you don't presently represent
4 him. So what we're going to do, we're going to
5 take a recess at this time, unless the Solicitor
6 wants to be heard on anything that I am saying
7 now. I want you'all to go down, the two of
8 you'all to go down, -- of course, he has a right
9 to be present, too, so the bailiffs and sheriff
10 staff will have to take care of that for
11 whatever an appropriate meeting place is. But
12 that's his decision, that's between you and your
13 client. Okay?

14 MR. SMILEY: Yes, sir.

15 THE COURT: We are going to break
16 right now. You'all go down and see if there's a
17 potential problem here and then report back to
18 me.

19 While you'all are doing that,
20 Solicitor, I need for you to get Ms. Harrell and
21 Ms. Hubrich up here. They needed to meet with
22 me when we have a break.

23 You'all go take care of that, let me
24 meet with them, and then you'all report back to
25 me as soon as you find out something. Okay?

1 MR. SMILEY: I have one question,
2 Your Honor. I guess I was going too fast and
3 forgot it, but it's important. Because it
4 involves an attorney-client situation, I can't
5 have that conversation with the Solicitor in the
6 room.

7 THE COURT: No, you don't say
8 anything. All I want you'all to do is initially
9 determine from him if he discussed anything
10 about this client with you. Cut it off right
11 there. If you go any further than that, you
12 have a problem.

13 MR. SMILEY: He has indicated to the
14 Solicitor that he -- in fact, ---

15 THE COURT: That's why I want you
16 two to face him, to see.

17 MR. SMILEY: Be glad to.

18 MR. KENT: Your Honor, if I could,
19 I have actually talked with him. He told me the
20 substance of the conversation and he said -- I
21 talked to him just not too long ago, and he
22 said, 'I called Mr. Smiley and told him that my
23 name had been called in response to this
24 murder.' He said that he was worried about some
25 of the retaliation about some of the members of

1 the Freddie Green family, he called Mr. Smiley
2 and that Mr. Smiley then took it upon himself to
3 call members of the Freddie Green family and
4 told them to leave him alone. That's what he
5 told us and told us that after that he hasn't
6 talked to Mr. Smiley again, and that that was
7 all that he had to talk about.

8 THE COURT: All right.

9 MR. KENT: He volunteered that on
10 his own, so when we talk to him we should be
11 allowed to ---

12 THE COURT: All right, you're clear
13 on that. I just want you'all to go down there
14 and, face to face, find out if there is anything
15 else. Okay?

16 MR. KENT: Yes, sir.

17 THE COURT: Because I don't want a
18 problem over there because I know that you're
19 caught between a rock and a hard place.

20 Mr. Goodwin, you have a right to be
21 there. You can also waive that right. That's
22 totally up to you. Do you understand that that
23 is between you and your attorney?

24 DEFENDANT: (Affirmative nod).

25 THE COURT: Give me a preliminary

1 report back and see if we've got a problem. It
2 may be something that I can answer, or it may be
3 something that causes a total problem. Okay?

4 MR. SMILEY: (After sidebar with
5 Defendant), my client would like to be present.

6 THE COURT: Okay. Mr. Smiley, one
7 other thing in protection of you.

8 MR. SMILEY: Yes, sir.

9 THE COURT: If there is any problem
10 here, now, if it makes you feel better -- I
11 mean, it may resolve itself after you'all have
12 this very brief initial meeting, but if it makes
13 you feel better, if it looks like you're clear
14 of any problem area and we can go forward, I
15 will bring him up here and we will review this
16 while he is under oath, to give you further
17 protection under oath. Okay?

18 MR. SMILEY: I don't believe that is
19 going to be necessary but let us ---

20 THE COURT: All right. Give me
21 some guidance then.

22 (RECESS 4:00 - 4:50 P.M.)

23 (DEFENDANT NOT PRESENT)

24 THE COURT: All right, Counsel,
25 let's move on. Any other Motions before we get

1 to that?

2 MR. SMILEY: They are bringing Mr.
3 Goodwin up, Your Honor.

4 THE COURT: All right, while we're
5 waiting on the defendant, -- this doesn't apply
6 to him.

7 (DEFENDANT ENTERS COURTROOM)

8 THE COURT: All right, he is in the
9 courtroom at this time. I've been advised by
10 the security staff that there's been some talk
11 going on that's causing us some concern. I know
12 -- this is a serious case and I've got the
13 victim's family that is here, we've got friends,
14 relatives, people involved in several different
15 ways. We are not going to have any trouble out
16 of this matter, now. So everybody just as well
17 cool down and sit down and relax and let the
18 Court do it's work. We don't need any problems,
19 we don't need anybody getting hurt.

20 Now, this is a big courthouse and it
21 sits on quite an expansive lot of land. The
22 contempt powers of this Court are pretty clear
23 under the case law. I necessarily don't have to
24 hear any threat or mouthing going on with my
25 ears or see it with my eyes. All I have to have

1 JANUARY 7, 2003 9:30 A.M.

2

3 (DEFENDANT PRESENT)

4 THE COURT: We've got a couple of things
5 that we need to take care of.

6 Mr. Smiley, first of all, let's go
7 ahead and cover on the record the situation
8 about the potential conflict that was discussed
9 yesterday at the bench.

10 MR. SMILEY: Yes, sir.

11 THE COURT: I am going to let you
12 sort of -- if you don't mind, any Motion that
13 you may have or if you want to state the
14 problem, because as I see it, in discussing it
15 with you and the Solicitor, I am going to need
16 to talk to Mr. Goodwin a little bit after ---

17 MR. SMILEY: Yes, sir, if you would.
18 And I am going to try to summarize the situation
19 to begin with.

20 The situation begins this way, is that
21 Darrell Royal, who is a potential State's
22 witness in the case, it became aware to me that
23 he is a inculpatory witness on Sunday, January
24 the 5th, at about 2:30. So this isn't a
25 longstanding problem that we waited until Court

1 to take care of. It came up as the trial was
2 being called.

3 I represent Mr. Royal, represented him
4 in the past. In connection with this case,
5 Darrell Royal was a suspect in the beginning.
6 Darrell Royal had communications with me as his
7 attorney. Those are attorney-client

8 conversations. I don't know what in any form or
9 fashion that that attorney-client conversation
10 can be used in this courtroom but it does exist.

11 Mr. Goodwin, I have represented since
12 he was arrested in this case. This case -- the
13 incident took place on December 12th, 2000, and
14 he was arrested in August 2002. I received the
15 initial discovery in this case on December 12th,
16 2002. Then, as I said, the evidence concerning
17 the conflict in just the last forty-eight hours.

18 I have explained to Mr. Goodwin his
19 6th Amendment Rights, his 5th Amendment Rights.
20 I've explained to him what "attorney-client
21 privilege" means also, Your Honor.

22 And I have explained to him that my
23 job is to zealously represent him, and I've
24 explained how those are competing interests.

25 I asked my client, Mr. Goodwin, last.

1 night, to waive any potential conflict. Because
2 I didn't know if it would or could come up any
3 way, in any situation, whether there were other
4 attorneys sitting here or not. He certainly
5 knows that I am prepared and want to represent
6 him.

7 He is an indigent client, a client
8 that I took *pro bono*. I think that's important
9 in this case. I am not a retained attorney.
10 If I was not his attorney, he would rely on the
11 very qualified Public Defender's office for
12 Charleston County or an appointed attorney,
13 whatever the case may be.

14 After advising him of his rights, all
15 of his rights, his options -- and his options,
16 as I see them, are two:

17 That is, to waive any potential
18 conflict that may exist from his position; or

19 To not waive them and ask that I
20 be relieved.

21 He doesn't want to do either of those.
22 He says that he wishes that I continue to be his
23 attorney, but that he doesn't want to waive any
24 of his rights in a trial as important to his
25 life as this.

1 I am in a precarious position, Your
2 Honor, so I did not -- I did not go any further
3 than that. I want to tell you that I don't
4 think that he's playing any games with anybody.
5 I am clear on that. He's in a difficult
6 position, being advised by me in a very
7 difficult position. So any guidance that this
8 Court may be able to help us with, we would be
9 inclined to -- at this point, since he has not
10 signed that, I would ask, as I did yesterday,
11 first that the testimony of Darrell Royal be
12 excluded as hearsay evidence that would be
13 brought in through a party-opponent admission
14 -- or under Lyle, if it gets past that stage,
15 Your Honor.

16 In the alternative, I would ask that I
17 be relieved. I don't know any other way to
18 protect Mr. Goodwin's position and my position.

19 THE COURT: All right, well, I won't
20 grant the -- I mean, as far as Mr. Royal's
21 testimony, it may well not be admissible and I
22 will have to take care of that when that comes
23 up. But before I get into relieving you --
24 first of all, let me ask Mr. Goodwin, do you
25 understand everything that he just covered with

1 the Court, Mr. Goodwin?

2 DEFENDANT: Yes, sir,

3 THE COURT: Mr. Smiley, even if --
4 we are not saying that there is a conflict, but
5 let's suppose that there may be.

6 MR. SMILEY: Okay.

7 THE COURT: Even if you were
8 relieved at this time or Mr. Goodwin were to ask
9 me to remove you, then unless Mr. Royal makes
10 some waiver later on, the removal of you is not
11 going to help anything. Because even if he has
12 a new attorney and Mr. Royal doesn't waive any
13 rights from his prior attorney-client privilege,
14 it serves no purpose. In other words, you're
15 still bound by that. You can't -- you can't
16 release any information unless Mr. Royal lets
17 you.

18 MR. SMILEY: (Affirmative nod).

19 THE COURT: So ---

20 MR. SMILEY: The only other caveat to
21 that is, is that another attorney may be able to
22 obtain that information outside the attorney-
23 client privilege. If I were to obtain it, I'd
24 still be bound by the attorney-client privilege.
25 That's the only caveat to that.

1 THE COURT: But basically you'd
2 still be locked in.

3 MR. SMILEY: Yes, sir.

4 THE COURT: Yeah. If I were in Mr.
5 Goodwin's position that would make it somehow
6 more easier to make a decision.

7 I don't want to put you on the spot,
8 Mr. Goodwin. You know, you seem to get along
9 well with your attorney and I don't know what
10 your desires are, but I do need to know -- and
11 I don't want you to waive anything that you
12 don't want to waive. If you tell me that you
13 want to go forward and you understand what he
14 said, then I'm satisfied with it and he stays
15 as your attorney.

16 MR. SMILEY: Talk to the Judge.

17 DEFENDANT: I do want him to remain
18 my attorney but I would not like to waive my
19 rights.

20 THE COURT: That's fine. That's all
21 that I need to hear.

22 MR. KENT: Your Honor, just for the
23 record, the State would like to be heard for the
24 record.

25 THE COURT: Yes, sir, anything that

1 you would like to add.

2 MR. KENT: Our first contention is
3 that there is no conflict here. All we have is
4 some vagaries and inconsistencies and that ---

5 MR. SMILEY: Respectfully, Your
6 Honor, I don't know that the State has a dog in
7 that fight, any conflict between -- as far as
8 that goes.

9 MR. KENT: When I am done, ---

10 THE COURT: Well, you may well be
11 right but anything for the record that you'd
12 like to add, it may help later on.

13 MR. KENT: The case law that I have
14 reviewed and researched basically says that we
15 have to have more than, 'hey, there may be a
16 conflict.' The burden is actually on Jim Smiley
17 to prove that there's an actual conflict. He
18 can't prove that there is an actual conflict by
19 saying, 'I think that I have a conflict.' He
20 has to prove to the court, show a sufficient
21 proving, that there is a factual conflict inside
22 this case.

23 Now he is basically putting the burden
24 on the State by saying that we just told him
25 about Darrell Royal's statement on Sunday. If

1 you listened carefully to what he said, Darrell
2 Royal was a suspect in this case at the very
3 beginning, two years ago. Darrell Royal
4 contacted him two years ago. He knew that there
5 was a possible conflict two years ago. Just
6 because he got the statement that we gave him
7 on Sunday doesn't put any burden on the State
8 whatsoever.

9 He hasn't proven that there is an
10 actual conflict in the situation, and the
11 Supreme Court of South Carolina, as well as of
12 the United States, has said over and over again
13 the mere possibility of a conflict of interest
14 is insufficient to impugn a criminal conviction.

15 He has to go beyond what they're going
16 beyond right now. Basically all they are saying
17 is, 'Hey, we think that there's a conflict,
18 we're not sure. Can I get out of this case?'
19 That's just not enough.

20 THE COURT: Well, Mr. Goodwin has
21 told me that he understood everything that was
22 stated and I'm happy if that's what he wants to
23 do.

24 And nobody has said that there is a
25 conflict. Mr. Smiley has done exactly what he

1 was supposed to do under the Code of Ethics.
2 He has notified his client and he has notified
3 the Court that there is that potential. And his
4 client has told me that he understands that and
5 he wants to keep him. So I am going to abide by
6 that.

7 All right, next? Remember now, we've
8 got a jury back here, so let's move on with the
9 Motions that we have left.

10 MR. SMILEY: The next Motion, Your
11 Honor, I think would be my Motion. It is a
12 Motion in limine that the State provided me with
13 -- a Motion that -- the prior bad acts on their
14 404(b) yesterday, specifically the 1995
15 conviction or guilty plea that my client entered
16 in relation to a voluntary manslaughter. Of
17 course, Your Honor, I would ask that it be
18 excluded. I don't know that it fits under Lyle,
19 but it certainly is a Lyle issue or prior bad
20 act issue.

21 There has been a memo submitted by the
22 State which mentions that it not Lyle but that
23 it's a party opponent admission. That just
24 addresses whether it is hearsay.

25 It certainly is an admission by my

1 client and fits as an exception to the rules of
2 hearsay. Actually the rules say that it is not,
3 they say that it is a party-opponent admission.
4 Once we get past that, it doesn't make it
5 admissible in and of itself. We then have to
6 move for a Lyle analysis to determine whether
7 that prior bad act goes through all the hurdles
8 of a Lyle analysis, Your Honor. I think that it
9 fails in two if not three different areas.

10 Under a Lyle analysis, Your Honor,
11 first, as I understand the law, it has to fit
12 one of the exceptions. The exception they
13 intend to use would be that it shows intent.

14 Your Honor, the next thing that they
15 have to show is that -- this clear and
16 convincing guilty plea shows that crime is clear
17 and convincing as a prior bad act.

18 The next test is to show that it has a
19 close similarity to the act that we're trying
20 here today. I would argue first that it does
21 not.

22 Secondly, they have to show that it is
23 relevant, that while the statement showing
24 intent is not an essential element of the crime
25 charged. The law which, as you know, in Lyle

1 there's a zillion cases in Lyle that says that
2 -- I beg the Court's indulgence, while I look
3 for the wording.

4 Very briefly, from State v. Parker,
5 433 S.E. 2nd 831, it says that "necessary" is
6 synonymous with "relevance". (Reading): Thus,
7 evidence of other crime(s) is never admissible
8 unless relevant to establish a material fact or
9 element of the matter charged." Intent may be
10 shown by the State but it is not an essential
11 material element of the crime charged here. So
12 that's one place that I think there is a
13 problem, Your Honor.

14 The next place that I think is a
15 problem is the time. In any Lyle analyses, the
16 more remote in time, the less probative value
17 that it has. This case, this conviction took
18 place in 1995, if I am correct. The event
19 itself took place in 1994. Now we're talking
20 about an incident that happened in 2000 and now
21 we're in trial in 2002 -- 2003 -- Your Honor.
22 I think that it is too remote in time to have
23 very much probative value, which leads into the
24 most important part, the final part, of the Lyle
25 analysis -- to what weight that the probative

1 value that 1995 conviction would have to this
2 case versus the prejudicial effect. Of course,
3 the prejudicial is the unduly prejudicial. The
4 case law has clearly stated that evidence of a
5 prior crime should not be used to predispose the
6 jury. I think the evidence of a prior voluntary
7 manslaughter, a killing, in this case certainly
8 brings in facts from the incident from 1995,
9 that are too remote in time. What probative
10 value that they have in this case, I --
11 certainly is not going to outweigh the undue
12 prejudice an element that is not essential to
13 the crime; therefore, I would move that the
14 prior conviction be disallowed or used as a
15 prior bad act in this case. It would be
16 inadmissible, Your Honor.

17 There are several other areas of bad
18 acts that they intend to use that I would like
19 to address after you rule on that, Your Honor.

20 MR. KENT: Well, Your Honor, the
21 State's first argument would be, as set forth in
22 our memo, that it is simply an admission by a
23 party-opponent. What we have is an admission,
24 and Mr. Smiley even called it an admission, made
25 by a witness that we intend on using, before

1 this 2000 murder took place that if Freddie
2 Green or any of the Frazier Boys, as they're
3 called, comes over to the east side, where the
4 murder actually took place, that he would kill
5 them. Freddie Green turned out to be the first
6 person who went over to this side.

7 We are not saying that is it Lyle,
8 we're not saying that it is prior bad acts. The
9 State's position is that it is an admission by a
10 party opponent. He made an admission. The rule
11 is quite clear. He called it hearsay. This is a
12 hearsay exception that doesn't -- it doesn't
13 become hearsay if it is an admission by a party
14 opponent.

15 To get into his argument about Lyle.
16 Your Honor, first, we are saying that this is to
17 prove motive, nor prove intent. It shows the
18 entire motive in the entire killing that took
19 place.

20 I think that Mr. Smiley may have
21 misspoke or misread the Lyle analysis and the
22 Lyle case law. A "close similarity" is not
23 necessarily required to prove that the acts are
24 a motive. The reason that we are trying to use
25 it in this situation.

1 witness.

2 MR. PRICE: The State calls Mr.
3 George Pinckney to the stand.

4 (WITNESS TAKES STAND)

5 GEORGE PINCKNEY, being
6 duly sworn to tell the truth, the whole truth
7 and nothing but the truth, testified, as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. PRICE:

11 Q. Good morning, Mr. Pinckney.

12 A. How you doing, sir?

13 Q. Just fine. Mr. Pinckney, explain to the
14 jury a little about yourself. Where do you
15 live?

16 A. I live at 3801 Scarborough up in the north
17 area.

18 Q. How long have you lived there?

19 A. Oh, about a year, little over a year.

20 Q. Where did you live prior to living there?

21 A. I lived on Taylor Street. Taylor Street,
22 that's in the north area.

23 Q. Do you have any family?

24 A. Yeah.

25 Q. Do you still reside with any of them?

- 1 A. Not really. They get in contact with me
2 once in a while.
- 3 Q. What is your employment?
- 4 A. I run the Sweet Shop.
- 5 Q. That's George's Sweet Shop?
- 6 A. Yeah.
- 7 Q. And you're the George of George's Sweet
8 Shop?
- 9 A. Yes.
- 10 Q. How long have you owned George's?
- 11 A. I been there for about fourteen years.
- 12 Q. You've owned it and worked there for about
13 fourteen years?
- 14 A. Yeah.
- 15 Q. Tell me a little bit about George's. What
16 do you sell?
- 17 A. I sell the sweets, candies, beer, wine and,
18 uh, 'tater chips, stuff like -- sweet shop.
- 19 Q. Do you serve food?
- 20 A. No.
- 21 Q. Do you serve cigarettes and ---
- 22 A. Yes, cigarettes.
- 23 Q. Can you tell me a little bit about
24 George's, about your area, about what
25 time you open each afternoon?

1 A. About 7:00 o'clock, about 6:00 or 7:00.

2 Q. What time do you usually close?

3 A. 2:00.

4 Q. 2:00 in the morning?

5 A. Yeah.

6 Q. And how busy is your establishment? Is it
7 usually pretty busy?

8 A. From day to day, that would -- you never
9 know, you know.

10 Q. You just never know?

11 A. Yeah.

12 Q. I'm going to show you what has been
13 previously marked as State's Exhibit 1 for
14 identification purposes. Do you recognize
15 that picture?

16 A. (Upon review), Yeah.

17 Q. What is that a picture of?

18 A. My building.

19 Q. Of George's?

20 A. Uh-huh, (affirmative nod).

21 Q. I'm going to show you what's been marked
22 as State's Exhibit Number 2 and also Number 8.
23 Can you tell me what Number 2 indicates? What
24 is that picture of?

25 A. My business.

- 1 Q. That's the other corner of George's?
- 2 A. Uh-huh, (affirmative nod).
- 3 Q. How about this one?
- 4 A. My business.
- 5 Q. Okay. Let me move your attention back to
- 6 December 12, 2000. Do you remember that night?
- 7 A. Yeah, I remember.
- 8 Q. What do you remember from the night of
- 9 December 12, 2000?
- 10 A. About the fellow got killed.
- 11 Q. Yes, sir. What do you remember? Were
- 12 you working that night?
- 13 A. Yes, I was behind the bar.
- 14 Q. Was anyone else there with you at the
- 15 time?
- 16 A. Me and Ronnie.
- 17 Q. About how many people were inside the bar,
- 18 do you think?
- 19 A. About four or five.
- 20 Q. You're not too sure. Just people inside
- 21 shooting pool?
- 22 A. Yeah, I know there was two sets shooting
- 23 pool.
- 24 Q. About how many people were outside?
- 25 A. Oh, boy. They would be out there all the

1 time. I don't know how many, but I know they
2 come inside the place after the shooting.

3 Q. About 9:45 -- between 9:40 and 10:00, what
4 do you remember from that time?

5 A. After the shooting?

6 Q. What were you doing when you heard the
7 shooting occur?

8 A. Well, I heard a couple of shots and I
9 think Ronnie had gone outside and all, and he
10 tell me, say, "Somebody got shot." Said,
11 "Call the police." I called the police.

12 Q. When you heard the shots did you think
13 anything of it?

14 A. Well, I didn't want them to be shooting --
15 I didn't want nobody to get shot at the place.

16 Q. At the shop?

17 A. At the shop.

18 Q. But did you think they were gunshots when
19 they were fired?

20 A. Did I think?

21 Q. Did you think they were gunshots? But --
22 were you sure what you heard?

23 A. Well, I didn't pay attention to the -- it
24 isn't just bam, bam. It said bam, a few
25 minutes and then another shot. It didn't --

1 that's the reason, uh, -- I think Ronnie went
2 outside taking out the trash or whatever and
3 said somebody got shot.

4 Q. What did you do after you called 911?

5 You told the jury that you called 911 because
6 Ronnie told you to. What did you do after
7 that?

8 A. I closed up. I put the bar in the door.

9 Q. You put the bars on the door?

10 A. Yeah.

11 Q. And then about how much time lapsed until
12 you took the bar off the doors?

13 A. I was going outside to see who he was, but
14 I couldn't recognize the body.

15 Q. Did you see the body?

16 A. I seen him, but it was swelled up. The
17 head was swelled up and blood was coming, you
18 know, from the head. That's when the police
19 rolled up and tell them to back away.

20 Q. And what did you do after the police
21 arrived?

22 A. I went back inside.

23 Q. Did you stay open for the rest of the
24 evening?

25 A. Not for business. They told me that they

1 had to investigate.

2 MR. PRICE: Court's indulgence for
3 a moment, Your Honor.

4 DIRECT EXAMINATION RESUMED

5 BY MR. PRICE:

6 Q. I have just a couple more questions for
7 you, Mr. Pinckney. You stated that you called
8 911. What did you say on the tape, or what did
9 you say when you called 911?

10 A. I don't -- well, all I said was a fellow
11 got shot, I think. I'm pretty sure. I can't
12 remember, you know.

13 Q. Did you hear any yelling or anything from
14 anyone? Did you ever see anyone come into the
15 store? Did you ever hear any yelling or
16 anything when you were calling 911? Was it
17 loud?

18 A. A few womens, they come in. One of them
19 cried and, you know, that's when I put the bar
20 in the door because I didn't know, you know,
21 who was coming in and who was shooting and who
22 wasn't shooting.

23 Q. You say that once you put the bars up on
24 the door and you took them down and you went
25 outside to look at the body?

1 A. (Affirmative nod).

2 Q. Did you see anybody? Did you go look at
3 the body with anyone?

4 A. Well, by the time I got out there I tried
5 to identify the body, and that's when the
6 police rolled up and tell me to back away,
7 everybody to back away.

8 Q. I have just one or two more questions for
9 you. A moment ago I mentioned about the
10 gunshots and you said that at the first, when
11 you first heard them, you weren't -- I believe
12 your testimony was that you didn't think
13 anything of it. Are you not shocked to hear
14 gunshots?

15 A. They shoot around there all the time.

16 Q. I'm sorry. I didn't hear you.

17 A. Gunshots be flying around there all the
18 time.

19 Q. So you weren't shocked to hear gunfire out
20 there?

21 A. No.

22 Q. I have nothing further, Mr. Pinckney.
23 If you would please answer Mr. Smiley's
24 questions, I'd appreciate it.

25 CROSS EXAMINATION

1 BY MR. SMILEY:

2 Q. Mr. Pinckney, I'm Jim Smiley and I
3 represent Antwon, all right?

4 A. Um-humm.

5 Q. Did you see Mr. Goodwin there that night?
6 Do you remember?

7 A. Oh, lawd, --

8 Q. Hard to tell?

9 A. I couldn't tell you definitely that I seen
10 him.

11 Q. On your store -- there's two doors to your
12 store, right?

13 A. Yeah, the front and the back.

14 Q. I'm showing you what's State's Exhibit
15 Number 1. That's your front door?

16 A. Yes.

17 Q. And that's the one that stays open?

18 A. The one I put the bar on.

19 Q. Right. So when you close, you put the bar
20 on?

21 A. Uh-huh, (affirmative nod).

22 Q. You said Ronnie was taking out the trash
23 or somewhere like that?

24 A. Yes.

25 Q. Is there another door on your store?

- 1 A. A side door.
- 2 Q. I'm showing you what's marked State's
- 3 Exhibit Number 8. Is that the side door on
- 4 your store, over by the trash can?
- 5 A. Yes.
- 6 Q. And that's the side door?
- 7 A. Uh-huh, (affirmative nod).
- 8 Q. And that would be where Ronnie was taking
- 9 the trash out, right?
- 10 A. Uh-huh, (affirmative nod).
- 11 Q. That side door, there's two streets there,
- 12 right? There's Line?
- 13 A. Uh-huh, (affirmative nod).
- 14 Q. And there's Hanover, right?
- 15 A. Uh-huh, (affirmative nod).
- 16 Q. Your double doors is on the corner there
- 17 of Line and Hanover, right?
- 18 A. Uh-huh, (affirmative nod).
- 19 Q. Now, that side door, that's up the street
- 20 towards Hanover, right?
- 21 A. Uh-huh, (affirmative nod).
- 22 Q. When you look out that door, would this be
- 23 an accurate depiction sort of what you see,
- 24 right across at 72?
- 25 A. Yeah.

1 Q. 72 Hanover is right across the street.

2 A. Right.

3 Q. And the lady that lives in Hanover, is
4 that -- she usually parks her Saturn there,
5 too. It happens to be in that picture, right?

6 A. Yeah, when she's over there.

7 Q. Yeah. So that's the view out of that
8 door?

9 A. (Affirmative nod).

10 Q. So when these shots were fired Ronnie was
11 going out that door, right?

12 A. Yes, the side door.

13 Q. You said you heard two shots?

14 A. Yeah, I mean, I can't -- I don't -- it
15 was either two or three. You know, I can't
16 remember.

17 Q. It was more than one, though, right?

18 A. More than one. I know it was more than
19 one.

20 Q. I think your testimony is they weren't
21 bam, bam, right? It was more like bam, and
22 then a minute -- or as you said "a few
23 minutes", bam.

24 A. Not a minute.

25 Q. Sometime later, right?

1 A. Yeah.

2 Q. But you didn't see anybody with a gun that
3 night?

4 A. No.

5 Q. Did you see the victim, Mr. Green, that
6 night before the shooting?

7 A. Tony?

8 Q. No.

9 A. Who is Mr. Green?

10 Q. The young man that was laying in the
11 street, Freddie.

12 A. Oh, Freddie. I'll tell you the truth,
13 I've tried to place him, if he'd come in the
14 shop, but I -- (negative gesture).

15 Q. So you don't remember him being in or out
16 that night?

17 A. No, I couldn't tell you if he was in
18 there.

19 Q. Have you got pool tables in your store?

20 A. Yes.

21 Q. And there were people playing pool?

22 A. They continuously play pool there.

23 Q. When this was happening was there people
24 playing pool? Do you remember?

25 A. Yeah.

1 Q. And do you play music in your store?

2 A. Uh-huh.

3 Q. And that night there was music in your
4 store?

5 A. Oh, no, I couldn't tell you exactly.

6 Q. Well, let me ask it this way. Is it your
7 ordinary course of business -- ordinarily, do
8 you play music in your store?

9 A. Yeah, they play music. There's a jukebox
10 in there.

11 Q. Jukebox?

12 A. (Affirmative nod).

13 Q. Okay. Now, Hanover and Line, you told
14 this jury that hearing gunshots isn't that
15 unusual, right?

16 A. No.

17 Q. That happens all the time?

18 A. It is not uncommon in that area.

19 Q. It's a rough place, right?

20 A. Well, yeah.

21 Q. It can be, right?

22 A. Right.

23 Q. So there's gunfire there occasionally.

24 Would that be accurate, outside?

25 A. You can hear it. Open up one of these,

1 you could hear a lot of gunfire.

2 Q. Okay.

3 A. Okay.

4 Q. Now, you had an opportunity to go up and
5 see the young man laying in the street, right?

6 A. Yes.

7 Q. Do you remember if he was laying face down
8 or face up?

9 A. I think face up, I believe. Yeah, it was
10 face up.

11 Q. Were you the first one there, or were
12 there some other people already come to see
13 him?

14 A. No, no, no.

15 Q. There was a crowd of people, wasn't there?

16 A. Huh?

17 Q. There was a crowd of people, wasn't there?

18 A. Yeah, because I looked outside first and I
19 go on out there. By the time, like I say ---

20 Q. But you had got those front doors closed?

21 A. Because everybody got out of control
22 because there was a lot of people right around
23 the place.

24 Q. Now, that body, that person laying in the
25 street, he was right across from the door over

1 on Hanover Street, right?

2 A. (No response).

3 Q. Because you went out that side door to see
4 him, right?

5 A. Yeah.

6 Q. And he was right out in front of it,
7 wasn't he?

8 A. Not in front of it. He was sort of -- I
9 know he was in the street.

10 Q. Well, I am asking you.

11 A. He was in the street.

12 Q. In the street, but up towards this door,
13 right?

14 A. Yeah.

15 Q. Not down at the corner. He was up towards
16 that door?

17 A. Across the street from it.

18 Q. Right. Did you see whether his pockets
19 were turned inside-out or not?

20 A. I didn't check.

21 Q. Did you notice?

22 A. I didn't check.

23 Q. You didn't notice?

24 MR. SMILEY: Beg the Court's
25 indulgence.

CROSS EXAMINATION CONTINUED

BY MR. SMILEY:

Q. Mr. Pinckney, as soon as those gunshots were fired, Ronnie told you to lock those doors and you'all closed them, right?

A. (No response).

Q As soon as those shots were fired, right?

A. Well, I close the doors anytime I hear gunshots.

Q. Yeah. So nobody came in and out of that store at that point, right?

A. Well, before, -- I seen some people run in there. Yeah.

Q. After the shots?

A. Yeah. After I, you know -- I don't know what's going to happen, don't know what's what, you know, so I have to try to keep the people out as much as I could.

Q. Can you remember anybody in your store that night besides Ronnie?

A. Like I said, there was a few people, a few girls around in there.

Q. Right. Do you remember any fellows that were in your store?

A. They were shooting pool, but I can't

1 remember who it was.

2 Q. You didn't hear any arguments that night,
3 did you?

4 A. No, there wasn't no arguments.

5 MR. SMILEY: No further questions.

6 REDIRECT EXAMINATION

7 BY MR. PRICE:

8 Q. Mr. Pinckney, I just have a couple more
9 questions. You just testified that -- you said
10 that when the shooting occurred, some people
11 came running in the store. Do you know who
12 came running into the store?

13 A. Let's see -- well, I -- (pause).

14 Q. You're not sure?

15 A. No.

16 Q. Do you remember what she was saying?

17 A. Huh?

18 Q. Do you remember what she was saying when
19 she came running into the store?

20 A. Well, one girl was crying.

21 Q. Do you remember anything that she was
22 saying?

23 A. Hummm.

24 Q. What if I played the copy of the 911 tape?
25 Could that refresh your memory?

1 A. If you played it, it could. I guess.

2 I don't know.

3 MR. SMILEY: Your Honor, the defense
4 has no objection to the 911 tape.

5 MR. PRICE: Your Honor, I would like
6 to admit State's Exhibits 1, 2, 4, 5, 7 and 8
7 into evidence at this time.

8 MR. SMILEY: I don't think I have
9 any objection. If I could quickly -- (upon
10 review), no objection, Your Honor.

11 THE COURT: Entered without objection.

12 (SO ENTERED AS STATE'S EXHIBITS

13 1, 2, 4, 5, 7 AND 8)

14 MR. PRICE: Sorry, we're having
15 technical difficulties.

16 COURT REPORTER: Mr. Price,
17 (tenders portable tape recorder).

18 MR. PRICE: Thank you. \$10,000 worth
19 of equipment and we have to use this.

20 (911 TAPE PUBLISHED FOR JURY)

21 REDIRECT EXAMINATION CONTINUED

22 BY MR. PRICE:

23 Q. Mr. Pinckney, do you remember that a
24 little bit better. Do you remember what you
25 said now, after listening to the tape?

1 A. Not really, like I say, it was a while
2 back. I told them that the police needed to
3 come, somebody had got shot, and they was
4 asking me a lot of questions.

5 Q. Do you remember who that girl was in the
6 background yelling, or what she was screaming
7 in the background?

8 A. She was just crying. Said it was her
9 brother.

10 Q. She was saying what?

11 A. Her brother.

12 Q. She was screaming it was her brother?

13 A. Yeah.

14 Q. Do you know who the girl is?

15 A. I think that was Tasha.

16 Q. Does she go by any other name?

17 A. No.

18 Q. But you're not sure exactly who it was?

19 A. I'm pretty sure that was Tasha that was
20 crying. I know one was crying.

21 MR. PRICE: If there's no objection,
22 we'd like to admit the 911 tape into evidence.

23 MR. SMILEY: There's some other
24 information on that tape. But as far as that,
25 I have no objection.

1 THE COURT: That particular excerpt,
2 without objection?

3 MR. SMILEY: Without objection, Your
4 Honor.

5 THE COURT: Thank you.

6 (SO ENTERED AS STATE'S EXHIBIT 26)

7 MR. PRICE: That's all the State
8 has, Your Honor.

9 MR. SMILEY: I apologize, but there
10 was one new matter that he went into. If I
11 could just ask a quick question or two.

12 THE COURT: Go right ahead with your
13 questions.

14 RECROSS EXAMINATION

15 BY MR. SMILEY:

16 Q. You said a young lady named Tasha came in
17 saying, "My brother".

18 A. Yeah.

19 Q. Was that Tasha/Takesha Hayes? The Hayes
20 girl?

21 A. Yeah.

22 Q. You know her -- she's around there a lot,
23 right?

24 A. Yeah.

25 Q. The Hayes young lady is the one that came

1 in crying "my brother", right?

2 A. Uh-huh.

3 MR. SMILEY: No further questions.

4 MR. PRICE: That's all we have, Your
5 Honor. We ask that this witness be excused.

6 MR. SMILEY: I don't have him under
7 subpoena. I have no problem with him being
8 released, Your Honor.

9 THE COURT: Thank you, Mr. Pinckney.
10 You're excused.

11 (WITNESS STEPS DOWN)

12 MR. PRICE: The State calls Ronnie
13 Glover, please.

14 THE COURT: Mr. Glover, if you'll
15 come up to the witness stand, please.

16 (WITNESS TAKES STAND)

17 RONNIE GLOVER, being
18 duly sworn to tell the truth, the whole truth
19 and nothing but the truth, was examined and
20 testified, as follows:

21 DIRECT EXAMINATION

22 BY MR. PRICE:

23 Q. Could you just state your name for the
24 record and spell your last name, please?

25 A. My name is Ronnie Glover. I live on 68

1 Harry Street.

2 Q. Spell your last name for the court
3 reporter.

4 A. Uh, Mr. Glover.

5 Q. Mr. Glover, how are you doing this
6 afternoon?

7 A. I'm doing just fine.

8 Q. Good. I just have a couple of quick
9 questions for you. Where do you currently
10 reside?

11 A. Well, I work with George Pinckney, did at
12 that time.

13 MR. SMILEY: Your Honor, I need to
14 approach and interrupt. And I apologize.

15 SIDEBAR:

16 MR. SMILEY: I believe that the
17 sequestration order has
18 been violated. I am not
19 sure but I think -- and
20 I am not sure that the
21 deputies knew we'd, and
22 I don't want to make a
23 fuss at this time
24 because they may not
25 know.

1 THE COURT: Solicitor, if you would
2 doublecheck.

3 MR. SMILEY: I could be wrong. I
4 just want to make sure,
5 Your Honor.

6 (SIDEBAR CONCLUDED)

7 THE COURT: If we've got any
8 potential witnesses in the courtroom, we need
9 to get them to step out into the waiting room.

10 MR. SMILEY: Thank you, Your Honor.

11 THE COURT: Go ahead.

12 MR. PRICE: Sorry, Mr. Glover.

13 COURT REPORTER: The pending
14 question is, "Where do you currently reside?"

15 MR. PRICE: Thank you.

16 DIRECT EXAMINATION RESUMED

17 BY MR. PRICE:

18 Q. Where do you currently reside now, Mr.
19 Glover?

20 A. My last name is Mr. Glover.

21 Q. Where do you currently reside?

22 A. Well, I'm working for George Pinckney at
23 his house.

24 Q. How long have you been working for Mr.
25 Pinckney?

1 A. Almost three years.

2 Q. And what is your normal job or duties for
3 Mr. Pinckney?

4 A. Well, I retired off Market Street. I just
5 started working for Mr. Pinckney, you know.

6 I'm trying to help him control the crowd.

7 Q. Right. Is that what your normal job is,
8 is just to help Mr. Pinckney out?

9 A. I usually put the trash out, keep the
10 floor clean, sweep the pool tables. If
11 anybody comes in there acting unseemly, I try
12 to correct them to act correctly.

13 Q. Do you recall the night of December 12,
14 2002?

15 A. Right.

16 Q. What can you tell me about the night of
17 December 12, 2000?

18 A. (No response).

19 Q. Do you remember hearing the gunshots on
20 that evening?

21 A. Well, the night of 2000 I was putting the
22 trash out. And I put the trash in the back
23 yard, right next to Mr. Pinckney's place. And
24 I was coming back inside. And I sit down and I
25 talked to Mr. George for a little while. And I

1 heard one gunshot. And when I did, I jumped up
2 and I pushed the back door open with the --
3 it's a screen door.

4 I thought somebody had shot his tire out,
5 because in the past somebody had did that.

6 So I ran back inside and I said, 'George,
7 your car tire was not shot.'

8 Then I heard another shot and I ran back
9 outside. Then I looked again and I saw some
10 McDonald cup and some french fries. I ran back
11 inside.

12 Then when I looked around again, I saw a
13 body laying in the street. And I told George,
14 I said, 'Call the police.' And he said, 'For
15 what?' And I said a man got shot.

16 He hesitated for a while. While I was
17 telling him that, a crowd started coming in the
18 inside, and I told him, I said, 'Well, put the
19 bar on the door.'

20 Q. Because people were running inside the
21 store?

22 A. Right, people were running inside after
23 they heard the shot.

24 Q. You just stated you saw a body.

25 A. Yeah, I saw a body. You know, I saw a

1 body just laying in the street. So I ran back
2 in and said to call the police.

3 Q. Do you recall the location of the body?

4 A. The body was like laying -- like, you
5 know, on the face. And I couldn't see the
6 face, because the body was laying flat.

7 Q. Okay. Do you remember or recall anybody
8 or do you know anyone by name who was inside
9 of George's on that night?

10 A. Well, you know, it was a bunch of people
11 out there. But I can't say who was all out
12 there that night. I know it was a bunch of
13 crowd out there playing music and, you know.
14 Kids, you know.

15 But what got me so excited was when I saw
16 the body in the street. Like I said, I didn't
17 know who he was until the next day. And I told
18 George ---

19 Q. Do you recognize the defendant here?

20 A. Oh, yeah, I recognize him.

21 Q. What do you know him as?

22 A. Tony. Well, what I can say about Tony is
23 that when he's present around me, he's a good
24 kid. I can't give account when he is not with
25 me. But when he comes in George's, me and him

1 shoot pool, you know.

2 Q. But you do know the defendant by name?

3 A. Who? Tony?

4 Q. That's what he goes by, is Tony?

5 A. Yeah, we call him -- I call him Tony.

6 That's what I always called him, you know.

7 And we always, you know, we always talk normal.

8 Q. And how long have you known Tony?

9 A. Well, I've known Tony for a good little

10 while.

11 Q. "A good little while" meaning ---

12 A. Meaning like maybe five to ten years, you

13 know.

14 MR. PRICE: Court's indulgence for
15 a moment, Your Honor.

16 DIRECT EXAMINATION RESUMED

17 BY MR. PRICE:

18 Q. We don't have any more questions for you
19 right now, Mr. Glover. If you please would,
20 just answer any questions that Mr. Smiley would
21 have.

22 A. Okay.

23 CROSS-EXAMINATION

24 BY MR. SMILEY:

25 Q. Mr. Glover, I'm Jim Smiley and I represent

1 Antwon, "Tony", okay?

2 A. Okay.

3 Q. I just have two questions about things
4 that night. When you take out the trash you
5 go out that door on Hanover, right?

6 A. Right next door to our trash -- the
7 garbage can.

8 Q. I'm going to show you some pictures, all
9 right?

10 A. Okay.

11 Q. I show you what's State's Exhibit Number 7
12 entered into evidence at this point. Do you
13 recognize that picture?

14 A. Right.

15 Q. That's a picture of the side of George's
16 on Hanover Street, right?

17 A. Right, right.

18 Q. And that's the door you take the trash
19 out, right?

20 A. Right, go right here in the yard.

21 Q. And that's the one that you went in and
22 out of that night?

23 A. Right.

24 Q. I'm going to make sure the jury sees that.
25 That door is the one that you took the trash

1 out, right?

2 A. Right.

3 Q. Went back inside and you heard the shot,
4 right?

5 A. Right.

6 Q. And you went out, and the first time you
7 looked out and you saw just some McDonald's
8 stuff?

9 A. When I went back in and sit down I heard a
10 shot. Then I came back out and looked at his
11 car, because his car was parked right on the
12 side.

13 Q. Was George's car a red car that night?

14 A. Mr. George's car. His car was parked
15 right by it. You could see it from the back
16 door, right there.

17 Q. I'm going to give you some other pictures.

18 A. All right.

19 Q. Forgive me if this is a silly question.
20 I wasn't there that night, all right?

21 A. I understand.

22 Q. I'm going to show you what's been marked
23 State's Exhibit Number 21. Do you recognize
24 that red car?

25 A. That red car?

1 Q. Yeah, is that George's car? Because it's
2 got "George" on the front plate. Is that
3 George's car? Is that the one you're talking
4 about?

5 A. This is George's car. It's got George on
6 the front.

7 Q. Right. And that's where the McDonald's
8 stuff was that night?

9 A. The McDonald's and the bag, everything was
10 on top of the hood.

11 Q. Okay. So that's the car you are talking
12 about outside that night?

13 A. Right, because he keeps his car parked by
14 the door.

15 Q. When you look out that door on Hanover
16 Street does this accurately reflect what's
17 across the street?

18 A. Right, wires.

19 Q. Yeah, those guide wires are right across
20 the street?

21 A. Right across the street.

22 Q. And that house, 72 Hanover, is right
23 there?

24 A. Right.

25 Q. And as a matter of fact, the woman that

1 lives there, that's her car that's usually
2 parked there, too, isn't it?

3 A. Yeah, that's her car. But her car wasn't
4 parked there that night.

5 Q. That's right.

6 A. Her car wasn't parked there that night.

7 Q. Okay, very good. So that accurately
8 depicts in the daytime, whereas this was
9 nighttime. It happened at night.

10 A. It was night. Her car wasn't parked there
11 that night.

12 Q. Right.

13 A. This is daytime.

14 Q. Right. This is a daytime picture. It
15 wasn't taken that night. But that accurately
16 shows what you look out that door to, right?

17 A. Right.

18 Q. When you looked out that door you saw that
19 body laying right over there in the street,
20 right?

21 A. Right, I saw a body right there. That
22 night that body was there. It was a Mark V
23 right there.

24 Q. Right.

25 A. In front of the body was a Mark V.

1 Q. A Mark V?

2 A. It was a Mark V or either a Mark IV. I
3 know it was an old model. I think it was a
4 Mark IV or Mark V.

5 Q. Okay. There was a car in front of him?

6 A. Right. It was grey. I think it was a
7 grey one.

8 Q. A grey one.

9 A. Yeah, with a black rag top.

10 Q. A black rag top. And it was parked where

11 ---

12 A. Where her car was parked.

13 Q. --- where her car was parked. Okay. And
14 it was there when you saw the body laying
15 there, right?

16 A. I saw the body laying there.

17 Q. Okay. You heard one shot, right?

18 A. After I came back inside I heard one shot.

19 Q. And then some time went by and you heard a
20 second shot?

21 A. I'd gone back outside to check the car.

22 Q. When you heard the second one.

23 A. When I come back inside I heard a second
24 shot.

25 Q. I got you. You heard a first shot, went

1 outside, checked the car, had gone back inside
2 and heard a second shot. And that's when you
3 saw the body, right?

4 A. No, I saw the body on the first shot. I
5 saw the body after I went out on the first
6 shot.

7 Q. Okay. So you went out after the first
8 shot and saw the body and was going back in
9 and heard a second shot?

10 A. Right.

11 Q. I got you. Just make sure we've got it
12 clear, because that's a little confusing. You
13 didn't see Tony that night, did you?

14 A. No, I didn't saw him that night. But, you
15 know.

16 Q. You didn't see him with a gun that night,
17 did you?

18 A. I didn't saw him.

19 Q. You didn't see him shoot anybody that
20 night, did you?

21 A. No.

22 Q. And you were right there by that back
23 door, right?

24 A. Where the counter's at, I sits there and I
25 can see through the back door where his car at.

1 Because his car was abandoned (sic) the last
2 couple of times. So I sit there where I can
3 see everything that goes by ---

4 Q. And keep an eye on it?

5 A. And keep an eye on it, on the Hanover
6 Street side.

7 Q. You're seeing what's going on?

8 A. Yeah. Going down Hanover, I can see
9 everything.

10 Q. Okay. Did you go out and look at the
11 body?

12 A. Beg your pardon?

13 Q. Did you go out and get up close to the man
14 laying in the street?

15 A. Yeah. When the police showed up I was
16 looking at the body and trying to see who it
17 was. But I couldn't see who he was because he
18 was laying flat.

19 Q. He was laying on his face.

20 A. On his face. And the police showed up and
21 tell me back up. When I have already told
22 George earlier to call the police, understand?
23 But I walk across the street to see if I could
24 recognize him. But he was flat on his face.

25 Q. I got you. Were there other people around

1 looking at him?

2 A. Well, I was the only one. But other
3 people was in front of the door. And I
4 couldn't -- you know, because I was focused
5 on the guy that was laying flat on his face.

6 Q. I got you. All right. Now, when you were
7 looking out the door, saw the fellow laying
8 face down in the street, you didn't see any
9 cars speed off, did you?

10 A. Yeah, I saw ---

11 Q. People going everywhere?

12 A. --- some peoples getting in about three or
13 four cars. People was just pulling off. I
14 guess they was kind of afraid, you know, at
15 that time, so much excitement was going on.
16 Because right behind George's car -- right
17 behind George's car it was like three cars.
18 Like I think it was a Ford, one was an LTD and
19 was another Ford. Like it was three Fords.
20 And they just pulled off and go on straight
21 down Hanover Street.

22 Q. That was after the shooting?

23 A. That was after the shooting.

24 MR. SMILEY: Beg the Court's
25 indulgence, Your Honor.

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION RESUMED

3 BY MR. SMILEY:

4 Q. You didn't hear any argument that night,
5 did you?

6 A. No, I can't say I heard an argument. But
7 I know it was like two or three guys was inside
8 shooting pool.

9 Q. Right. Do you remember any of their
10 names?

11 A. No. They usually come there. I don't
12 remember their names, but I usually remember
13 they faces, you know.

14 Q. But you didn't hear any argument out in
15 the street that night?

16 A. No, because I was in the inside.

17 MR. SMILEY: No further questions.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 BY MR. PRICE:

21 Q. Mr. Glover, do you remember giving a
22 statement in this case?

23 A. Do I remember giving a statement?

24 Q. Yes, sir.

25 A. I may have.

1 Q. You do remember giving a statement?

2 A. I remember giving a statement to Miss
3 Hollie.

4 Q. The detective over here?

5 A. Miss Hollie. Yeah, it was going on that
6 night.

7 Q. Right. Do you remember in your statement
8 that you told her that you saw two beige-
9 colored vehicles, possibly a model Crown
10 Victoria?

11 A. Yeah, I told her. But this is three or
12 four or two years ago.

13 Q. But you do remember giving a statement?

14 A. (No response).

15 Q. And your statement was given -- your
16 statement was given that night, correct?

17 A. Right.

18 Q. And this happened two years ago. So your
19 statement would probably accurately reflect
20 what you remember from that evening?

21 A. Yeah, what I saw.

22 Q. Right. A couple more things, Mr. Glover.
23 You said that when you went outside that night
24 you saw George's car which you recognized,
25 which Mr. Smiley has already showed to the

1 jury, of the red car. This is State's Exhibit
2 Number 21 which you just saw. What actually is
3 that?

4 A. Well, right here, this is George's car,
5 parked right there.

6 Q. And that's what you saw that night when
7 you came out?

8 A. Right, I saw George's car.

9 Q. And this is the McDonald's that was laying
10 out there?

11 A. Yeah, that was what was on top of the --
12 like on top of the hood, you know, like
13 somebody was eating McDonald's fries and sodas.

14 Q. And that was State's Exhibit 22. And
15 State's Exhibit 18 shows the same thing just
16 run over, correct?

17 A. (Affirmative nod).

18 Q. And State's 19 and 20 have been previously
19 shown to you, and that's George's car as well
20 with the McDonald's?

21 A. Right.

22 Q. And also State's Exhibit Number 20 as
23 well. It just shows the cup on George's ---

24 A. On George's car.

25 MR. PRICE: If there's no

1 objections, Your Honor, I'd like to go ahead
2 and submit into evidence these?

3 MR. SMILEY: Without objection.

4 THE COURT: Without objection.

5 MR. SMILEY: If we could just get the
6 numbers.

7 MR. PRICE: 18, 19, 20, 21 and 22.

8 (SO ENTERED AS STATE'S EXHIBITS 18-22)

9 REDIRECT EXAMINATION RESUMED

10 BY MR. PRICE:

11 Q. Mr. Glover, just a couple more questions.
12 You said that you recognized the defendant in
13 this case, correct? Tony?

14 A. Tony, yeah.

15 Q. And you also stated that you've known Tony
16 for about five or ten years. Is that correct?

17 A. Well, that's what I always call him. I
18 hear everybody else call him "Tony", so I just
19 call him Tony.

20 Q. But you've known him for about five or ten
21 years?

22 A. (No response).

23 Q. Is that correct?

24 A. Yes.

25 Q. Do you also remember giving another

1 statement to Ms. Connolly that you stated that
2 you only knew street names -- such as "Tony",
3 "DJ", "Little Mike", "Mike", just street names?

4 A. Because all of them usually be coming in
5 George's.

6 Q. And that you couldn't identify if they
7 were in the sweet shop that night.

8 A. Well, like I say, I haven't seen DJ that
9 night at all.

10 Q. Okay.

11 A. But, you know, like I say, they usually
12 comes in and shoot pool, get with their guys.
13 And sometimes they do-and-go, you know. But
14 I know all of them, yeah.

15 Q. But you were asked could you identify
16 anyone that was in the Sweet Shop that night.
17 And you said that you knew that Little Mike,
18 Tony, the defendant, and DJ were in there that
19 night?

20 A. Earlier.

21 Q. Okay.

22 A. Earlier. Because I came to George's about
23 -- I usually come to George's between 9:00 --
24 between 9:00 o'clock.

25 Q. Okay.

1 A. Because I was living on the projects with
2 my daughter at that time. I usually come
3 between 9:00, or either sometimes a little ten
4 after 9:00.

5 Q. And you said that you did --

6 A. Earlier.

7 Q. Okay, -- earlier? Around 9:00.

8 A. You know, and everybody just leave.

9 Q. You saw Mike.

10 A. And everybody just leave.

11 Q. But you did see them there.

12 A. Right. And, of course, that just left me
13 and George and a few more of them others who
14 were shooting pool.

15 Q. Thank you, Mr. Glover.

16 MR. PRICE: I have no more questions
17 at this time, Your Honor.

18 RECROSS EXAMINATION

19 BY MR. SMILEY:

20 Q. You said you gave a statement to Detective
21 Connolly? Detective Hollie?

22 A. Oh, Miss Hollie. Miss Hollie, yeah.

23 Q. Did you remember signing the statement?

24 A. Do I remember signing the statement?

25 Q. Yeah.

1 A. That night? You know, when she -- when I
2 give it to her.

3 Q. Yeah, that night, on the 12th. Let me ask
4 you this way. Is that your signature?

5 A. Yeah, that's my signature.

6 Q. And you're sure you gave it to her and not
7 to Detective Burkhardt?

8 A. I don't know who Detective Burkhardt is.

9 Q. But you know Miss Hollie?

10 A. I know Miss Hollie.

11 Q. Right.

12 A. And I know one came after her.

13 Q. Right.

14 A. And talked to me. And I told them I
15 already gave her a statement. Because she
16 gave me her card.

17 Q. Right. And then did he write something
18 down for you to sign?

19 A. Well, all I know, I signed it when she
20 gave it to me because she wrote the -- that's
21 who I gave the statement.

22 Q. This statement contains the information
23 you gave the police?

24 A. Yeah, because I never gave the statement
25 to a male. I gave it to a female, Miss Hollie.

1 Q. Okay. But you only gave one statement,
2 right?

3 A. Yes.

4 MR. SMILEY: Beg the Court's
5 indulgence.

6 RECROSS EXAMINATION RESUMED

7 BY MR. SMILEY:

8 Q. You said that you had seen some other
9 fellows out there. You saw Michael Hayes that
10 night?

11 A. Beg your pardon?

12 Q. Little Mike?

13 A. I saw -- I saw -- like I say, I saw all
14 them that night, and then when they leave. But
15 I can't say I saw what they did on the outside.
16 I can't say.

17 Q. No, I'm not asking that. But you saw
18 Little Mike that night, Takesha Hayes' bother,
19 Little Mike?

20 A. Yeah.

21 Q. He was around that night?

22 A. Yeah, they all comes in -- like I say,
23 they all comes in and shoot pool. They all
24 come in at certain times and they leave at
25 certain times.

1 Q. All right.

2 MR. SMILEY: No further questions.

3 MR. PRICE: We have no further
4 questions of this witness, Your Honor. We ask
5 that he be excused.

6 THE COURT: Any objection?

7 MR. SMILEY: Your Honor, I actually
8 would ask that he be subject to recall. I may
9 call him.

10 THE COURT: Mr. Glover, if you will
11 step down and return to the room from which you
12 came. We need to ask you to stay, please.

13 (WITNESS STEPS DOWN)

14 MR. KENT: Your Honor, may we
15 approach?

16 SIDEBAR:

17 MR. KENT: Just for scheduling,
18 what time were you
19 thinking about lunch?

20 THE COURT: 1:00 o'clock. You got
21 short one?

22 MR. KENT: Yes, sir.

23 (SIDEBAR CONCLUDED)

24 THE COURT: Ladies and gentlemen of
25 the jury, let's take a ten-minute recess.

1 We'll come back. We'll work until about 1:00,
2 okay?

3 (JURY OUT @ 11:50 A.M.)

4 (BRIEF RECESS)

5 (DEFENDANT PRESENT)

6 THE COURT: Are we ready to
7 continue?

8 MR. KENT: Yes, sir.

9 MR. SMILEY: Yes, Your Honor.

10 THE COURT: Bring the jury in.

11 (JURY IN @ 12:05 P.M.)

12 THE COURT: Mr. Foreman, I got your
13 note. All witnesses are sequestered. No
14 witnesses are in the courtroom.

15 FOREMAN: Thank you, Your Honor.

16 THE COURT: Call your next witness,
17 Solicitor.

18 MR. KENT: Thank you, Your Honor.

19 The State calls Wilhemina Bailey to the stand.

20 (WITNESS TAKES STAND)

21 WILHEMINA BAILEY, being
22 duly sworn to tell the truth, the whole truth
23 and nothing but the truth, was examined and
24 testified, as follows:

25 DIRECT EXAMINATION

1 BY MR. KENT:

2 Q. Wilhemina, you seem like you're a little
3 out of breath. Do you want to catch your
4 breath? Did they have to come downstairs and
5 get you?

6 A. No, I'm alright.

7 Q. You're okay?

8 A. Yes, sir.

9 Q. Wilhemina, where are you from?

10 A. Charleston.

11 Q. How long have you been in Charleston?

12 A. Forty-eight years.

13 Q. Forty-eight years? Where do you live?

14 A. 90 Drake Street.

15 Q. And that's downtown Charleston?

16 A. Yes, sir.

17 Q. How long have you lived there?

18 A. Twenty-nine years.

19 Q. Do you have any family or friends or
20 anything that live around this area also?

21 A. A lot of friends.

22 Q. A lot of friends?

23 A. Yes.

24 Q. Family?

25 A. My daughter.

1 Q. What do you do for a living?

2 A. Nothing. I only babysit my five grands.

3 Q. You have five grandchildren?

4 A. Yes.

5 Q. You babysit all of them?

6 A. Yes.

7 Q. Wilhemina, I'm going to jump right to it.

8 I'm going to talk about the date of December

9 12, 2000, which was about two years ago; okay?

10 A. Uh-huh.

11 Q. Do you remember that date, the whole

12 reason we're here today?

13 A. Yes.

14 Q. Tell me a little bit about what you did

15 that day before you went to George's Sweet

16 Shop?

17 A. Well, I went -- I walk on Sheppard Street

18 to a friend's house. Then we started drinking

19 and doing other of those foolish things. Then

20 I left from Sheppard Street feeling real -- I

21 was real nice and -- I was real tight-up.

22 Q. And then what did you do?

23 A. Then by -- I went by George's.

24 Q. Do you remember about what time that was,

25 Wilhemina?

- 1 A. No, no.
- 2 Q. That's fine. That's fine. Tell me what
- 3 happened then? You went by George's.
- 4 A. I went by George. When I went by
- 5 George's, the back door of George's, four young
- 6 -- I think about four young men on the left-
- 7 hand side said "Good evening". I said, "Yo",
- 8 and I went inside George's.
- 9 Q. You said, "Yo".
- 10 A. Yes, I say "yo".
- 11 Q. Go ahead. What happened then?
- 12 A. Then I went in George's. And I ordered a
- 13 can of Busch beer.
- 14 Q. Okay.
- 15 A. And I was sitting -- and I moved from the
- 16 bar and I moved by the pool tables. I sat on
- 17 the left-hand side of one table. There's one
- 18 table you can sit. And I went to get --
- 19 Q. I don't want to stop you, and I hate to
- 20 interrupt you. Let's back up a little bit.
- 21 You said when you walked into George's, right
- 22 before you walked in, you saw four young black
- 23 men.
- 24 A. Yeah. They say, "Good evening" and I say,
- 25 "yo".

1 Q. Do you remember what they looked like?

2 Can you describe them at all?

3 A. No, no, sir. No, sir.

4 Q. Did you see anybody else out there? Did
5 you see any black females?

6 A. Yes, some young lady was in the corner.

7 Q. Go ahead. What happened?

8 A. I sat down on the left-hand side and I
9 drank my beer. And two young -- I think it was
10 about two young men was shooting pool. And
11 after that, me and these guys were talking.
12 And a young lady come in there and say

13 something about they shoot my cousin or brother
14 or something like that. And then after that,
15 then George closed up and they close the club.

16 Q. You say she came in there. Did she say it
17 that calm? Did she say somebody out there ---

18 A. She was yelling.

19 Q. She was shouting?

20 A. You know, she say, "Somebody killed my
21 brother!", like that -- oh, I didn't mean to do
22 that!

23 Q. How would she say it?

24 A. "Somebody shoot my cousin!" or "my
25 brother", I don't know. It could be one of

1 them, you know.

2 Q. Something like that?

3 A. Yeah.

4 Q. She said it very loud?

5 A. Yes, yes.

6 Q. Was it like she was screaming and crying
7 at the same time?

8 A. Yeah. That's when George dialed 911.

9 Q. What did you do at that point, when you
10 saw this girl standing there crying?

11 A. I was still drinking my Busch beer,
12 sitting on my left-side of the pool table.

13 Q. As a matter of fact, didn't you actually
14 go up to her and hug her and try to calm her
15 down?

16 A. Yes, I did. Yes, yes, yes, yes, yes.

17 Q. What happened? What were you doing?

18 A. I hugged her up and that's when -- she is
19 just busting, just fussing. So then I go back
20 and drink my Busch beer.

21 Q. You actually gave a description that
22 evening of the three black males that you saw
23 outside talking.

24 A. Yeah, with their hat on. They had on
25 black heavy coats. You know, how the younguns

1 dress in all black. It was all dark, so I
2 couldn't see none of their face.

3 Q. After this woman came inside and after you
4 were hugging on her and after she got done
5 screaming and crying, what happened?

6 A. Then I think he told George to call --
7 George called 911. And that's when the crowd
8 started up and George closed the club. told us
9 to get out of the club.

10 Q. Keep on. What did you do?

11 A. Still drinking my Busch beer.

12 Q. Were you locked inside the place?

13 A. Yes.

14 Q. Did you ever have an opportunity to go
15 from inside George's to outside George's? Did
16 you ever get to go outside?

17 A. Not right then. After the police come --
18 after that, (affirmative nod).

19 Q. Okay.

20 A. And then I went back to the back door.

21 Then we went to the back door and we see a
22 young man was laying stretched out on the --
23 face-down, stretched out.

24 Q. Did you recognize him?

25 A. No, I don't know him.

1 MR. KENT: Beg the Court's
2 indulgence for a moment.

3 DIRECT EXAMINATION RESUMED

4 BY MR. KENT:

5 Q. Do you remember giving a statement?

6 A. Uh-huh, (affirmative nod).

7 Q. Have you had an opportunity to read your
8 statement?

9 A. No, because I couldn't see the statement
10 without my glasses on.

11 Q. Do you have your glasses with you?

12 A. No.

13 Q. So if I gave it to you right now you
14 probably couldn't read it?

15 A. That's right, not without my glasses.

16 Q. Do you remember telling the officer when
17 you gave the statement that there was three or
18 four black males.

19 MR. SMILEY: Objection, Your Honor.
20 She hasn't said that she -- she's already given
21 a description.

22 MR. KENT: That's what I asked her.

23 MR. SMILEY: Then I'll withdraw the
24 objection.

25 DIRECT EXAMINATION RESUMED

1 BY MR. KENT:

2 Q. Do you remember telling the officer that
3 you saw the victim who had been shot standing
4 with the three or four black men?

5 A. No, no. I don't know him. No.

6 MR. KENT: Your Honor, may we
7 approach?

8 WITNESS: No, I don't know him.

9 SIDEBAR:

10 MR. KENT: Your Honor, I don't know
11 how to impeach her if
12 she can't read her own
13 statement.

14 THE COURT: We'll send the jury out
15 and you can review it
16 with her.

17 MR. KENT: That's fine.

18 (SIDEBAR CONCLUDED)

19 THE COURT: Ladies and gentlemen
20 of the jury, if you'all step out just for a
21 minute, please, and let me take care of a
22 matter.

23 (JURY OUT @ 12:20 P.M.)

24 THE COURT: Miss Bailey?

25 WITNESS: Yes, sir.

1 THE COURT: Did I understand you
2 to say that you'd be unable to read your
3 statement?

4 WITNESS: Yes, sir.

5 THE COURT: Solicitor, I've sent
6 the jury out. She can't read the statement
7 and review it. So you may publish it to her.

8 MR. KENT: Wilhemina, I'm going
9 to read the statement that you gave on January
10 3, 2001, okay?

11 WITNESS: Uh-huh.

12 MR. KENT: (Reading): "The night
13 of the shooting at George's Sweet Shop I walked
14 down Hanover Street to go to George's. I
15 passed several people. There was three or four
16 black males across the street from George's.
17 The young man that got shot was standing across
18 the street from George's with three other black
19 males. There was about three young ladies on
20 the corner of Hanover and Line Street. I went
21 inside George's and told George good evening,
22 Ronnie too. I got a beer. I went by the pool
23 table and listened to music. That's when I
24 heard gunshots, I think three shots. A young
25 black female ran into George's yelling and I

1 grabbed her. I hugged her because she was
2 yelling. She was yelling, "my brother, my
3 brother." She fell out and George asked her to
4 leave. She ran out and George locked up and
5 dialed 911."

6 Then there was some questions asked
7 and you answered them.

8 (Reading):

9 Q. Describe the three black males
10 talking to the victim.

11 A. One black male was approximately
12 17 years old, a little taller than me. He was
13 small, about 100 pounds.

14 Number 2: One black male was 18 to 19
15 years old, approximately 5-5 with a small
16 build. They all had hats on. They all had
17 dark clothes on.

18 Number 3: The person was a black
19 male, 18 to 19 years old. He was tall, about
20 the size of the victim.

21 Q. Did you see any vehicles?

22 A. I didn't notice any, but there
23 could have been one on Hanover near Sheppard
24 Street.

25 Q. Do you know the color of the car?

1 A. No. I didn't pay any attention.

2 Q. What did Ronnie and George do
3 after the shooting?

4 A. Ronnie was at the back door.
5 George was behind the counter.

6 Q. Did Ronnie say anything?

7 A. No.

8 Q. What happened then?

9 A. Me, Ronnie and George went to look
10 at the deceased.

11 Q. Was the deceased face up or was he
12 lying on his stomach?

13 A. Oh, no, he was lying on his back,
14 cause I looked at his face.

15 Q. Was his pockets inside or outside?

16 A. They were inside.

17 Q. When you first saw the victim and
18 the three black males, could you hear any
19 discussion?

20 A. No, I didn't hear any arguing.

21 Q. How long were you inside before
22 you heard the gunshots?

23 A. About 10 or 15 minutes.

24 Q. Had you seen the black males
25 before?

1 A. No.

2 Q. Did their coats have any writing
3 on them?

4 A. I didn't pay any attention.

5 Q. How many people were inside
6 George's when the shooting occurred?

7 A. Six or seven. It could have been
8 less than that.

9 Q. Did you know any of the girls?

10 A. No.

11 Q. How often do you go to George's?

12 A. Never. I went once when I was in
13 my twenties. I went to my friend's on Sheppard
14 Street. They weren't home. I walked to
15 George's and was going to drink one beer. But
16 I didn't get to drink that.

17 Q. Can you identify the three black
18 males if you saw them again?

19 A. No."

20 Each page is signed "Wilhemina
21 Bailey" and the witness is Detective Connolly.
22 Do you remember that statement now?

23 MR. SMILEY: Your Honor, he needs to
24 ask that question in front of the jury. He was
25 just refreshing her memory.

1 THE COURT: Ms. Bailey, did you hear
2 that?

3 WITNESS: Yes, sir. Yes, sir.
4 Yes, sir.

5 THE COURT: All right.

6 THE COURT: Bring the jury back.

7 (JURY IN @ 12:23 P.M.)

8 THE COURT: Thank you, Ladies and
9 Gentlemen. You may resume your questioning,
10 Solicitor.

11 DIRECT EXAMINATION RESUMED

12 BY MR. KENT:

13 Q. Okay, Wilhemina, now do you remember
14 actually giving a statement to officers on
15 January 3, 2001?

16 A. No.

17 Q. You don't?

18 A. Yes, yes, yes, yes. Right.

19 Q. Do you remember stating from hearing that
20 statement that you actually saw the victim,
21 Freddie Green, with the three black males who
22 approached you?

23 A. I can't say that. No, I can't. I can't
24 say that. Because it was ---

25 Q. But you do remember giving a statement?

1 A. I know it, yes. I said that. That's two
2 years ago. I can't say that. I don't know the
3 young man who it is now. I don't know him.

4 Q. Do you remember telling the officer ---

5 A. Yeah, but the officer was be like that. I
6 said yes. But the way she was stretching me at
7 the same time, too, now, I told her -- I would
8 tell her too, I ---

9 Q. Let me ask my question.

10 A. Go ahead. I sorry, Darling.

11 Q. Do you remember telling the officer that
12 you saw the victim with three black males that
13 evening?

14 A. No. All I told the officer I see four
15 young men. They all said "good evening" and I
16 said "yo". I'm still saying that.

17 BY MR. KENT: May I approach the
18 witness, Your Honor?

19 THE COURT: Yes, sir.

20 DIRECT EXAMINATION RESUMED

21 BY MR. KENT:

22 Q. I know you can't read, but I want to see
23 if you can at least see your signature.

24 A. I know, I know I may have told them that.

25 Q. Is that your signature on this statement,

1 on page one?

2 A. Yes, yes.

3 Q. Is that your signature on the statement,
4 on page two?

5 A. Yes.

6 Q. Is that your signature on the statement,
7 on page three?

8 A. Yes, yes, yes, yes, yes.

9 Q. Is that your signature on the statement,
10 on page four?

11 A. Yes, yes, yes, yes.

12 Q. So you did give a statement?

13 A. Yeah.

14 Q. And you did sign that statement?

15 A. Yes.

16 Q. What does that mean when you were signing
17 that statement?

18 A. What does that mean? I was telling her
19 what I seen. But I still say that I didn't
20 tell her about that I know the victim was with
21 the young men. I couldn't even see the young
22 men who tell me "good evening".

23 Q. Did the officer give you an opportunity to
24 read your statement after you gave it?

25 A. I don't think she did. I was drunk and

1 she wasn't asking me the same questions at the
2 same time.

3 MR. KENT: Your Honor, under Rule
4 607, the State would ask that she respond to
5 the direct question.

6 MR. SMILEY: I don't believe that she
7 is being obstinate. She's answered the
8 question. I would object.

9 THE COURT: Just a second. I
10 overrule the objection based on Rule 607,
11 I'll grant your relief on that.

12 MR. KENT: Thank you, Your Honor.

13 THE COURT: Also, you may want to
14 take a look at 613(b).

15 MR. KENT: The State or the
16 Defense?

17 THE COURT: Both of you, you may
18 want to take a look at. You may proceed.

19 MR. KENT: Thank you.

20 DIRECT EXAMINATION RESUMED

21 BY MR. KENT:

22 Q. Wilhemina, I'm going to ask you some more
23 questions, okay? And I'm going to need you to
24 answer them. You did, in fact, give a
25 statement on January 3, 2001, to Detective

1 Hollie Connolly with the Charleston Police
2 Department. Is that true?

3 A. Yes.

4 Q. You actually signed each page of that
5 statement.

6 A. Yes.

7 Q. And by signing each page of that statement
8 you were saying that everything inside that
9 statement was true. Isn't that correct?

10 A. (No response).

11 Q. By signing the statement were you saying
12 that everything in that statement was the
13 truth?

14 A. Yeah, yeah.

15 Q. So on January 3, 2001, when you gave the
16 statement with Hollie Connolly with the
17 Charleston Police Department, you were saying
18 everything that you were telling her that day
19 was true.

20 A. I wasn't at the Police Department when she
21 did that.

22 Q. But she got a statement telling her every-
23 thing you were saying was true.

24 A. I don't think I was at the police station.

25 Q. She came and talked to you. Is that

- 1 correct?
- 2 A. She tried to pick me up off ---
- 3 Q. Wilhemina, basically she took a statement
- 4 from you.
- 5 A. Yeah, but she didn't take me to the police
- 6 station.
- 7 Q. That's fine. But when she took that
- 8 statement you were telling her, by signing it,
- 9 that everything in that statement was true?
- 10 A. Yes.
- 11 Q. As a matter of fact, in that statement you
- 12 told her that the young man that got shot was
- 13 standing across the street from George's.
- 14 A. No, no, no.
- 15 Q. As a matter of fact, you also told her
- 16 that you, Ronnie and George went to look at
- 17 the deceased.
- 18 A. Yeah.
- 19 Q. You were asked was the deceased face-up or
- 20 was he lying on his stomach. You said, "he was
- 21 lying on his back".
- 22 A. He was face down.
- 23 Q. "Because I looked at his face."
- 24 A. Well, he might have been on his back then,
- 25 but he was on his face. Because I looked at

1 him and I wouldn't even touch him.

2 Q. So are you telling me the statement that
3 you gave that day was true or untrue?

4 A. Well, I won't say "untrue", but she
5 exaggerated half of it, too. From what I said.

6 Q. Are you scared to be here today?

7 A. No, I ain't. No, I ain't. No, I ain't!

8 Q. Do you know Antwon Goodwin?

9 A. No.

10 Q. Did you know Freddie Green?

11 A. No.

12 MR. KENT: May I beg the Court's
13 indulgence for a minute. May we approach the
14 Bench?

15 THE COURT: Approach.

16 SIDEBAR:

17 MR. KENT: I am not sure if I can
18 actually put that
19 statement into evidence
20 now or if I should ---

21 THE COURT: You can do what you
22 want to do.

23 MR. KENT: Well, then I am not
24 going to put it in now.

25 (SIDEBAR CONCLUDED)

1 MR. KENT: Your Honor, that's all
2 I have from this witness. Please answer any
3 questions Mr. Smiley might have.

4 WITNESS: Okay.

5 THE COURT: Your witness, counselor.

6 CROSS EXAMINATION

7 BY MR. SMILEY:

8 Q. Wilhemina, my name's Jim Smiley. I
9 represent Antwon Goodwin. You and I have never
10 met, have we?

11 A. No.

12 Q. I have never talked to you about this case
13 at all, have I?

14 A. No.

15 Q. I'm going to ask you some questions too,
16 okay?

17 A. Uh-huh, (affirmative nod).

18 Q. Let's just start with the statement.
19 Detective Connolly, she wrote the statement up
20 for you, right?

21 A. Uh-huh, (affirmative nod).

22 Q. Had you been drinking the night of the
23 incident and the day she took this statement?

24 A. Uh-huh, (affirmative nod). I had a
25 hangover when she was doing it.

1 Q. Okay. You said something important
2 earlier. That night when you were going to
3 George's it was dark, right?

4 A. Yes, yes, it was very dark.

5 Q. And Hanover and Line is dark.

6 A. It was moonlight and a light at George's
7 back doorway.

8 Q. When you're down there at Hanover and Line
9 you can hardly see people's faces until you're
10 right up on them.

11 A. Thank you, sir.

12 Q. When you saw those people on the corner
13 you didn't have no business with them, did you?

14 A. No.

15 Q. You just went by and said, "Yo."

16 A. They said "good evening" and I said "yo".

17 Q. And you went inside the store, right?

18 A. Yes.

19 Q. So you weren't paying no attention to
20 them?

21 A. No.

22 Q. And it was dark?

23 A. Yes, yes, sir.

24 Q. You couldn't see faces that far away,
25 could you?

1 A. Yes, sir.

2 Q. You could see their face or couldn't?

3 A. No, I couldn't see their face.

4 Q. Because it is dark out there?

5 A. Anybody standing there it looks very dark

6 on the left-hand side.

7 Q. Over there on that corner?

8 A. Right under that people's house, that

9 townhouse, where he got shot at.

10 Q. Yes.

11 A. That white house is a townhouse.

12 Q. Right. You heard more than one gunshot,

13 right?

14 A. Yes, I was in George's.

15 Q. You were sitting in George's. You hear a

16 gunshot and you hear another gunshot. You

17 heard three, right?

18 A. Yes.

19 Q. And a little girl came in screaming "my

20 brother".

21 A. A young lady came in screaming.

22 Q. A young lady. Okay.

23 A. Yes.

24 Q. A young lady came in screaming "my

25 brother, my brother", right?

1 A. Yes.

2 Q. And you testified today -- when you first
3 got up here they made you put your hand on the
4 Bible and swear to tell the truth, right?

5 A. Yes.

6 Q. You didn't put your hand on any Bible when
7 Ms. Connolly -- Detective Connolly took that
8 statement?

9 A. No, I didn't. No, sir. No, sir. No,
10 sir.

11 Q. And you're telling us the truth as best
12 you remember it?

13 A. Yes, sir.

14 MR. SMILEY: Beg the Court's
15 indulgence.

16 THE COURT: Yes, sir.

17 MR. SMILEY: Nothing further.

18 REDIRECT EXAMINATION

19 BY MR. KENT:

20 Q. How long do you babysit your five grand-
21 children for?

22 A. I ---

23 MR. SMILEY: Objection, Your Honor.
24 Beyond the scope of cross.

25 MR. KENT: A little latitude, Your

1 Honor.

2 THE COURT: Okay, just don't get too
3 far afield.

4 MR. KENT: Thank you, Your Honor.

5 WITNESS: What did you say?

6 REDIRECT EXAMINATION RESUMED

7 BY MR. KENT:

8 Q. How long do you babysit your grandchildren
9 for?

10 A. My oldest -- okay. My baby daughter, she
11 just be work at the College of Charleston. I'd
12 say she go in, humm, I think about 10:00 in the
13 morning until 5:00.

14 Q. So about 10:00 in the morning?

15 A. Uh-huh, (affirmative nod).

16 Q. And how long have you been babysitting?
17 Babysit them this year and last year?

18 A. I babysit every year. Every year. We
19 have one nine, eight, seven, six, five, four,
20 three and one.

21 Q. All those years.

22 A. All of them.

23 Q. This statement was given at 9:50 in the
24 morning. That would be ten minutes before you
25 start babysitting. Isn't that true?

1 A. When be -- I didn't have -- what day that
2 was? I wasn't babysitting that day. When she
3 come and pick me off Hanover, I was at my young
4 man's house.

5 Q. Do you generally start drinking at 9:15 in
6 the morning?

7 A. No, I had a hangover. I had a can of beer
8 twice, I had a terrible hangover.

9 Q. So you weren't drunk?

10 A. No, I had a terrible hangover.

11 Q. So you were lying when you said you'd been
12 drinking that morning?

13 A. No, I didn't -- I had a hangover, I had
14 one beer to cut the hangover.

15 Q. That's all I have. Thank you.

16 A. Oh.

17 MR. SMILEY: Nothing further.

18 THE COURT: You may step down.

19 Thank you.

20 WITNESS: Thank you, sir.

21 (WITNESS STEPS DOWN)

22 MR. SMILEY: I have no further use
23 for Ms. Bailey so I have no problem with her
24 being released, Your Honor.

25 MR. KENT: We have no use for Ms.

1 Bailey, Your Honor.

2 THE COURT: Witness may be excused.

3 MR. KENT: The State calls Danielle
4 Thompson to the stand.

5 (WITNESS TAKES STAND)

6 DANIELLE THOMPSON, being
7 duly sworn to tell the truth, the whole truth
8 and nothing but the truth, was examined and
9 testified, as follows:

10 DIRECT EXAMINATION

11 BY MR. KENT:

12 Q. Danielle, how are you doing?

13 A. Fine.

14 Q. Tell me a little bit about yourself,
15 Danielle. Where do you live?

16 A. On Harris Street.

17 Q. Where's Harris Street located at?

18 A. On the project, Green Street project.

19 Q. Green Street project?

20 A. Uh-huh, (affirmative nod).

21 Q. How long have you lived there?

22 A. I moved there 2000 January.

23 Q. Where did you live before that?

24 A. Redtop, Johns Island.

25 Q. And how long had you been over there?

- 1 A. Twenty years.
- 2 Q. Twenty years? You lived on Johns Island
- 3 for twenty years and moved in January of 2000?
- 4 A. Downtown.
- 5 Q. Who do you live with, if you don't mind my
- 6 asking?
- 7 A. Myself.
- 8 Q. You just live by yourself?
- 9 A. Uh-huh.
- 10 Q. Do you have any family around this area?
- 11 A. No, sir.
- 12 Q. Any children, any husband, anything like
- 13 that?
- 14 A. No, sir.
- 15 Q. Just you?
- 16 A. Uh-huh.
- 17 Q. Danielle, what do you do for a living?
- 18 A. I work at Roper Hospital.
- 19 Q. Tell me what you do over there?
- 20 A. I'm a patient escort.
- 21 Q. If you would, tell the jury a little about
- 22 what a patient escort does.
- 23 A. They assist patients inside the hospital,
- 24 taking them to different areas.
- 25 Q. And how long have you been there?

- 1 A. I've been there for five months.
- 2 Q. Five months?
- 3 A. Uh-huh.
- 4 Q. What did you do before that?
- 5 A. I was in school.
- 6 Q. Danielle, I'm going to direct your
7 attention to December 12, 2000. Do you
8 remember that date?
- 9 A. Uh-huh.
- 10 Q. That's the date we're talking about here
11 today.
- 12 A. (Affirmative nod).
- 13 Q. If you could for the jury, if you could
14 tell them a little bit about what you were
15 doing before you went to George's Sweet Shop.
- 16 A. I was at home.
- 17 Q. Tell everybody what was going on, what you
18 were doing before you went to George's.
- 19 A. At that point in time Lakesha Graham was
20 living with me. I was at home, really doing
21 nothing.
- 22 Q. What happened after that, after you were
23 doing nothing? When did you start doing
24 something?
- 25 A. After her and Takesha Hayes decided to go

1 to George's, they left. Like thirty minutes
2 later, I decided to go up there.

3 Q. Do you remember about what time it was?

4 A. No.

5 Q. Go on.

6 A. When I got up there I spoke to Lakesha
7 Graham. Lakesha Graham and I were standing
8 outside in front of George's.

9 Q. I don't mean to keep stopping you, but I
10 want to make sure the jury understands. So you
11 went to George's by yourself?

12 A. Uh-huh.

13 Q. Takesha Hayes was at George's before you,
14 about thirty minutes before you got there?

15 A. Uh-huh.

16 Q. And Lakesha Graham was already there when
17 you got there?

18 A. Yes.

19 Q. Go ahead.

20 A. Went inside for a minute. I'd say about
21 twenty, thirty or forty minutes, heard a gun
22 went off. Went outside. Saw someone lying on
23 the ground on the right-hand side. I got
24 Lakesha and Takesha and let them know that I
25 was leaving, and I went home.

1 Q. Let me stop you right there. Now, before
2 you went inside, tell me what the scene outside
3 George's was. Who was talking, was anyone
4 arguing? What was going on outside?

5 A. A lot of people was out there. I did saw
6 the guy who got killed arguing with some guys
7 at the end point of George's.

8 Q. Okay.

9 A. They was arguing. I went inside. Then
10 like fifteen minutes later, that's when I heard
11 the gun went off.

12 Q. Do you remember anybody else you saw
13 outside other than the person who was killed?

14 A. I saw Mr. Goodwin.

15 Q. Do me one favor. Would you just point him
16 out for the record and identify what he's
17 wearing right now?

18 A. He's right there, in a white shirt.

19 Q. Is he wearing a tie also?

20 A. Uh-huh.

21 Q. And how is his hair?

22 A. He had a afro.

23 Q. How is his hair right now?

24 A. It's shaved.

25 Q. Go on.

1 A. (No response).

2 Q. How long have you known Antwon Goodwin?

3 A. I didn't know him then. I just moved
4 around there in 2000. I just knew him from
5 seeing him.

6 Q. But just know him from seeing him around?

7 A. Uh-huh.

8 Q. He was definitely out there that evening?

9 A. Yeah, I did saw him.

10 Q. The victim was definitely out there that
11 evening?

12 A. Yes, sir.

13 Q. All right. So you heard some arguments?

14 A. Uh-huh.

15 Q. Why didn't you stay outside to see what
16 the argument was about?

17 A. That was none of my business.

18 Q. Not in that area. You don't stand around.

19 A. No.

20 Q. Then what happened? You went inside.

21 A. Uh-huh. Fifteen or twenty minutes later I
22 heard a gun went off.

23 Q. And then what happened?

24 A. Like I said, I gathered the two girls,
25 which Lakesha was staying with me at that point

1 in time, and me and her went home.

2 Q. So who went home with you that evening?

3 A. Lakesha.

4 Q. Did Takesha go home with you?

5 A. We all ran in the same direction. Takesha

6 Hayes ran somewhere. She was thinking that it

7 was her brother, when it wasn't, because he

8 nowhere around.

9 Q. So her brother was nowhere around.

10 A. No, he was not.

11 Q. But for some reason she thought it was her

12 brother?

13 A. Yeah. She was drunk inside to George's.

14 Q. Did you hear her screaming and crying and

15 carrying on?

16 A. When we was leaving she was screaming and

17 crying. She thought it was her brother.

18 Q. You didn't hear her screaming and crying

19 inside George's?

20 A. No, I don't remember.

21 Q. You don't remember?

22 A. (Negative gesture).

23 Q. You just don't remember?

24 A. I don't remember her screaming inside, but

25 I remember her outside screaming.

1 Q. You said that you heard an argument going
2 on?

3 A. (Affirmative nod).

4 Q. Do you remember where you were when you
5 heard this argument going on?

6 A. I was standing in front of George's.

7 Q. Do you remember if there was anything you
8 were standing near? Were you standing near
9 anything, a light post?

10 A. I was right there on the step part, right
11 when you walk inside the door.

12 Q. I'm going to show you what's been marked
13 State's Exhibit Number 1. Is this what you're
14 talking about?

15 A. Yeah, right there in front of the door.

16 Q. If you could put up a picture of State's
17 Exhibit 1. I'm going to put a picture up
18 behind you so you can explain to the jury where
19 you were and what was going on. Don't let me
20 shine this in your eyes. I'll scoot this over
21 for you. It might get in your eyes a little
22 bit.

23 A. I was standing right here. Mr. Green was
24 over here, in that area.

25 Q. Let me make sure I understand. You were

- 1 standing right about here?
- 2 A. Yeah. And he was right there.
- 3 Q. You went to the side door to see him?
- 4 A. Yeah, the door.
- 5 Q. And you saw Mr. Green, the victim, right
- 6 about here?
- 7 A. Yeah, over there at the part where the
- 8 door's at, the bar door.
- 9 Q. This thing right up here, what is this?
- 10 A. The light.
- 11 Q. The light?
- 12 A. Uh-huh, (affirmative nod).
- 13 Q. Was that light actually on?
- 14 A. Yeah. It do be on that night.
- 15 Q. So it was bright and you could see?
- 16 A. Uh-huh, (affirmative nod).
- 17 Q. Do you remember where you saw the
- 18 defendant, Tony, that evening?
- 19 A. He was standing on this side where the
- 20 phone booth is.
- 21 Q. So he was standing on this side when you
- 22 went in?
- 23 A. Uh-huh.
- 24 Q. You saw the argument going on over here
- 25 with this guy.

1 A. He wasn't over there.

2 MR. KENT: Beg the Court's
3 indulgence for a moment, Your Honor.

4 DIRECT EXAMINATION RESUMED

5 BY MR. KENT: ...

6 Q. What happened -- and I hate to keep
7 asking, Danielle. What happened when you came
8 outside the door, after you heard the shooting
9 and you came outside?

10 A. Everyone was leaving the scene.

11 Q. Did you see a body laying somewhere?

12 A. On the right-hand side by the apartments.

13 Q. Did you call 911?

14 A. No, I ran.

15 Q. Why didn't you call 911?

16 A. I was scared for myself.

17 Q. As a matter of fact, didn't you tell the
18 officer you didn't call 911 because you didn't
19 think it was that important?

20 A. Yeah, I did say that.

21 Q. You didn't think someone being killed was
22 that important?

23 A. I mean, I didn't say I didn't think it
24 wasn't important, but I went home.

25 Q. I want to make sure this is right.

- 1 Takesha Hayes did not come there that evening
2 with you. Is that correct?
3 A. Where?
4 Q. To George's. She was already there when
5 you got there?
6 A. Yeah.
7 Q. And Lakesha Graham was already there when
8 you got there?
9 A. Yes.
10 Q. You came by yourself?
11 A. Yes.
12 Q. And you left with Lakesha Graham?
13 A. Yes.
14 Q. Thank you, Danielle. That's all the
15 questions I have. Answer questions from Mr.
16 Smiley.

17 CROSS-EXAMINATION

18 BY MR. SMILEY:

- 19 Q. Hey, Danielle. I'm Jim Smiley, I
20 represent Antwon.
21 A. Uh-huh.
22 Q. Now, when you spoke to the police it was
23 sometime after this, right?
24 A. No, the only police I spoke to was
25 Connolly and it was in August or June.

1 Q. August or June of 2002, this year, right?

2 A. Yes.

3 Q. This past year?

4 A. Yeah, last year.

5 Q. Forgive me. It's 2003 now. And that's
6 the first time you talked to the police, right?

7 A. Yes.

8 Q. Now, that night that you were there, that
9 was December 12, of 2000, right?

10 A. Uh-huh.

11 Q. So a year and a half had gone by?

12 A. Yes.

13 Q. You came there from the Harris Street
14 Projects?

15 A. Uh-huh.

16 Q. So when you come up to George's, were you
17 walking up Line?

18 A. I walked through the park, across the
19 bridge and a street and went to Hanover.

20 Q. You're going to have to help me a little
21 bit here, if you would. I get turned around
22 down there, okay? If you don't mind, that
23 would be helpful.

24 MR. SMILEY: Your Honor, with your
25 permission I'm going to ask the witness to step

1 down.

2 THE COURT: All right.

3 CROSS-EXAMINATION RESUMED

4 BY MR. SMILEY:

5 Q. If you'll come over here, Danielle,
6 please. By the way, when you're coming down
7 here, you and I haven't ever talked before,
8 have we?

9 A. No.

10 Q. I'm going to see if I can get this set up
11 in the right direction here. This is Blake
12 Street, America Street, Cooper Street, Sheppard
13 Street, Line Street, Nassau. Meeting Street's
14 up here, right?

15 A. Right.

16 Q. So, for the record, I'm showing you a map
17 of the City of Charleston that the State and I
18 have agreed previously as being admissible when
19 it came up.

20 MR. SMILEY: Your Honor, I'm using it
21 for demonstrative purposes at this point, so it
22 is not numbered yet.

23 MR. KENT: It'll be State's 38.

24 CROSS-EXAMINATION RESUMED

25 BY MR. SMILEY:

1 Q. On this map it doesn't show Meeting
2 Street. But would it be accurate to say that
3 Meeting Street would run parallel to Nassau and
4 be at the top of this map?

5 A. Yes.

6 Q. And that this is the north side, and the
7 Cooper River bridges would be over on this end,
8 right?

9 A. Uh-huh.

10 Q. And that would mean that Calhoun would be
11 down that way. I'm just using general
12 landmarks. And East Bay would be down here
13 somewhere, right, just for orientation
14 purposes?

15 A. (Affirmative nod).

16 Q. And this is the corner of Hanover and Line
17 that I point to in the middle of the map,
18 right.

19 A. Uh-huh.

20 Q. And that's George's store, right?

21 A. Uh-huh.

22 Q. That night you were coming through the
23 park you said, right?

24 A. Right, and the Cooper River bridge is
25 there.

- 1 Q. Back this way?
- 2 A. Uh-huh.
- 3 Q. So you walked up on Hanover Street?
- 4 A. Yeah.
- 5 Q. So you walked up, right?
- 6 A. Yes. And George's would be right there.
- 7 Q. Actually, I made a mistake. I pointed to
- 8 the wrong corner. George's is on this other
- 9 corner, in that dark grey building.
- 10 A. Uh-huh.
- 11 Q. So you walked down Hanover Street, walking
- 12 away from Sheppard Street to get down there?
- 13 A. Uh-huh.
- 14 Q. And then you come to the entrance and went
- 15 inside?
- 16 A. Uh-huh.
- 17 Q. That's all I need on this map for now.
- 18 I'm going to leave that up there so we can --
- 19 we might have to come back. You can take the
- 20 witness stand.
- 21 A. (Witness complies).
- 22 Q. When you were coming up Hanover towards
- 23 Line Street ---
- 24 A. Uh-huh.
- 25 Q. I'm going to show you what's State's

1 Exhibit Number 8. Do you recognize that
2 picture?

3 A. (Upon review), Freddie was on that side.

4 Q. Right. And that's the side of George's
5 building?

6 A. Uh-huh.

7 Q. You said that you saw Freddie?

8 A. Uh-huh.

9 Q. By the way, how long have you known
10 Freddie?

11 A. I didn't. But I recognized him.

12 Q. You just recognized him? And he was
13 arguing with a couple other boys?

14 A. On the side of the building.

15 Q. Over near this door?

16 A. Uh-huh.

17 Q. And you just walked on past, right?

18 A. (Affirmative nod).

19 Q. It's pretty dark out there at night, isn't
20 it?

21 A. Yeah, so you can't really see anything.

22 Because George don't really have any light on
23 this side.

24 Q. Right. That's a dark street, isn't it?

25 And unless you're right up on somebody you

1 can't see faces, can you?

2 A. No, not standing by his door.

3 Q. And you walked to the front of the store.

4 And I'm trying to find one that's a good

5 picture here. And I'm showing you State's

6 Exhibit Number 1. Do you recognize that?

7 A. Uh-huh.

8 Q. Is that the front of George's store?

9 A. Yes.

10 Q. But the doors are closed. That night the

11 doors would have been open, right?

12 A. He don't never really keep his doors open.

13 Q. Okay, it was closed?

14 A. Uh-huh.

15 Q. And you saw Tony or Anthony Goodwin?

16 A. Uh-huh.

17 Q. Standing right here, right in this area?

18 A. That's where I was pointing.

19 Q. On the Line Street side, around the

20 corner?

21 A. Yes, uh-huh.

22 Q. So he wasn't in that argument that was

23 going on down the street?

24 A. No.

25 Q. And you don't recognize any of the people

- 1 that were arguing with him?
- 2 A. No, sir.
- 3 Q. Let me ask you if you know some people.
- 4 Do you know -- and I'm going to mispronounce
- 5 her name. That's why I'm hesitating --
- 6 Takesha Hayes?
- 7 A. Uh-huh.
- 8 Q. Because she went down there with Lakesha
- 9 Graham ---
- 10 A. Graham.
- 11 Q. --- first.
- 12 A. Yeah.
- 13 Q. Do you know her brother, Little Mike?
- 14 A. Yeah. He wasn't the one.
- 15 Q. He wasn't arguing?
- 16 A. No.
- 17 Q. You didn't see him arguing?
- 18 A. He wasn't even up there.
- 19 Q. Do you know a fellow named Darryl Royal?
- 20 A. Yes.
- 21 Q. "DJ", is that what they call him?
- 22 A. Uh-huh.
- 23 Q. Was he the one arguing with Freddie?
- 24 A. No, sir.
- 25 Q. Do you know Redando Burns?

1 A. No.

2 Q. So you couldn't say whether he was arguing
3 with him or not?

4 A. No.

5 Q. Needless to say, of the people you knew
6 down there, you didn't know any of them that
7 were arguing?

8 Oh, let me ask you another name, Theodore
9 Benjamin. Do you know him, Little Ben?

10 A. No.

11 Q. Okay, so you couldn't say whether he was
12 arguing with Freddie. But somebody -- a couple
13 of fellows were arguing with Freddie?

14 A. Yes, sir.

15 Q. And Tony wasn't part of that argument?

16 A. No, sir.

17 Q. He was standing near the front door?

18 A. On the side door, on Line Street.

19 Q. And that was about twenty minutes before
20 you heard any gunshot, right?

21 A. Yes, sir.

22 Q. And you didn't see Tony with a gun that
23 night?

24 A. No, sir.

25 Q. You didn't see Tony shoot Freddie, did

1 you?

2 A. No, sir.

3 Q. Okay. And that's why you didn't think it
4 was important to go to the police, right?

5 A. No, because I wasn't around there and I
6 didn't really know.

7 Q. You didn't see it?

8 A. No, sir.

9 Q. You didn't see anybody shoot Freddie, did
10 you?

11 A. No, sir.

12 Q. You were inside.

13 A. I was inside George's.

14 Q. How many shots did you hear?

15 A. I heard two.

16 Q. Two shots?

17 A. Uh-huh.

18 Q. Were they bam, bam? Or were they bam and
19 then later on?

20 A. It was a bam and later on. And I was
21 running outside. Because that's why I came
22 back inside.

23 Q. Because another shot went off.

24 A. Uh-huh.

25 Q. You went out those front doors, right?

1 A. Yes.

2 Q. So you saw Freddie laying on the ground?

3 A. On the right-hand side by the blue house.

4 Q. I'm going to show you a picture. I want
5 to show you State's Exhibit Number 4. Do you
6 recognize that?

7 A. Yeah. He was laying on that side in front
8 of the door.

9 Q. Is that 72 Hanover?

10 A. Yes.

11 Q. Is that across the street from that back
12 door of George's?

13 A. Yes, sir.

14 Q. And he was lying in the street in front of
15 that house?

16 A. Yes, sir.

17 Q. Did you go up close to Freddie laying on
18 the ground?

19 A. No, sir.

20 Q. You made it back inside. How long was it
21 before you came back out?

22 A. I didn't go back inside.

23 Q. Oh, you just took off?

24 A. Yeah. I went back that direction, going
25 home.

1 Q. The same thing?

2 A. (Affirmative nod).

3 Q. So you went past the body?

4 A. Uh-huh.

5 Q. In your statement they ask you a question.

6 They ask you, "Did you see Freddie walking or

7 driving?" And you told them you saw him in a

8 car, right?

9 A. Uh-huh.

10 Q. And he was sitting in a car with somebody

11 else?

12 A. Uh-huh.

13 Q. Was he in the passenger's seat or the

14 driver's seat?

15 A. If I am not mistaken, he was in the

16 passenger's seat. When I first walked up and

17 I was talking to Lakesha, the rental car pulled

18 out in front of us.

19 Q. And he was in that rental car?

20 A. Uh-huh.

21 Q. And that's when you first got down there?

22 A. Uh-huh.

23 Q. And then Freddie got out and immediately

24 got in an argument?

25 A. No, he was already out, just walking

1 around talking to people.

2 Q. So when the car pulled up he got in it?

3 A. (No response).

4 Q. Is that right?

5 A. No, he got out of the car when it pulled
6 up.

7 Q. I'm getting a little confused. Forgive
8 me. I'm not trying to confuse you. You're
9 walking down Hanover Street from Sheppard,
10 right?

11 A. Uh-huh.

12 Q. And before you get to Freddie, walking
13 down that street, you see the rental car pull
14 up?

15 A. No. I was already there talking to
16 Lakesha. As I said, once I came down Hanover I
17 stopped and talked to Lakesha over there by the
18 apartments. When I was standing over there
19 talking to her, I didn't really ---

20 Q. Lakesha Graham wasn't down by George's
21 then?

22 A. Lakesha Graham?

23 Q. Right.

24 A. No. Lakesha Graham came by George's to
25 get ---

1 Q. I thought you said you stopped at the
2 apartments to talk to --

3 A. The apartments is close to George's. I
4 mean, you can stand outside and it's right
5 there.

6 Q. That's this?

7 A. The blue apartments right there.

8 Q. The picture I showed you?

9 A. Yes.

10 Q. She was over there?

11 A. Yes.

12 Q. So you stopped to talk to her?

13 A. Yes, when I first got out there.

14 Q. When you first got there. When you first
15 got there that's when you saw the rental car?

16 A. They pulled up inside a rental car.

17 Q. And then while you were still outside
18 talking to them, Freddie got in an argument?

19 A. No.

20 Q. Okay.

21 A. When I first came up there Lakesha Graham
22 was standing on the right-hand side -- well,
23 the left-hand side as I was walking, where
24 those apartments is.

25 Q. Right.

1 A. While I was right there standing with her
2 I remember the rental car pulling up.

3 Q. Okay. My question is the argument took
4 place after the rental car got there, right?

5 A. Yes.

6 Q. All right.

7 A. But he didn't just come out of the car and
8 started arguing, no.

9 Q. You testified that you walked by the
10 argument, correct?

11 A. No, I was standing -- by them. I was
12 standing in front of George's. And if you
13 stand right there by the step, you can see
14 what's out there.

15 Q. Oh, so you had already gone inside and
16 were standing at the front doors and looked
17 down the street to see the argument?

18 A. Yes.

19 Q. Now we understand. So that was some time
20 after Freddie got there?

21 A. Yes.

22 Q. And at the time when you were standing at
23 the front door, the argument was going down the
24 street, in that dark street down there on
25 Hanover, where Freddie was talking to three or

1 four people?

2 A. Yes.

3 Q. Tony was minding his own business,
4 standing right there?

5 A. On the side of the building.

6 MR. SMILEY: No further questions,
7 Your Honor.

8 MR. KENT: Just housekeeping for
9 us, Your Honor. The State would ask that
10 State's Number 38 be admitted.

11 MR. SMILEY: Without objection, Your
12 Honor.

13 THE COURT: Without objection.

14 (SO ENTERED AS STATE'S EXHIBIT 38)

15 REDIRECT EXAMINATION

16 BY MR. KENT:

17 Q. Danielle, if you could turn around and
18 look at that picture, that thing way up in that
19 right corner, what is that?

20 A. Where?

21 Q. Do you see that thing he's pointing at,
22 right there?

23 A. Uh-huh.

24 Q. What is that?

25 A. A light.

1 Q. So there's a light out there, right?

2 A. Uh-huh.

3 Q. Did that light work that night, or do you
4 remember?

5 A. I don't remember.

6 Q. But they're underneath a big, 'ole light
7 right there?

8 A. Uh-huh.

9 Q. And there's another light right there?

10 A. Uh-huh.

11 Q. So it was there?

12 A. Yeah. I don't remember if that light was
13 light. But that light always be light when you
14 stand on the corner of George's.

15 Q. But you just don't remember. But those
16 both are lights there?

17 A. No.

18 Q. Danielle, that's actually all the
19 questions I have.

20 RECROSS EXAMINATION

21 BY MR. SMILEY:

22 Q. Let me follow up. It was dark out there
23 down the street, though. You testified to
24 that?

25 A. Yes.

1 Q. You've got to be up on somebody to see
2 them, right?

3 A. Yeah, on the side of George's there's no
4 light. The only light that he has is the one
5 right there in the front of the store.

6 Q. Let's make sure we're clear on that. It's
7 dark out there?

8 A. Yeah.

9 Q. Thank you.

10 MR. KENT: I ask that this witness
11 be excused.

12 MR. SMILEY: Nothing further.

13 THE COURT: Witness is excused.

14 (WITNESS STEPS DOWN)

15 MR. KENT: The State calls Lakesha
16 Graham to the stand.

17 THE COURT: How long will this
18 witness take? Let's stop here. It's right at
19 1:00. Let's take an hour and fifteen minutes
20 for lunch.

21 Ladies and gentlemen of the jury, I'm
22 going to dismiss you for lunch. You need to be
23 back in the jury room at 2:15.

24 Everybody else remain seated while the
25 jury departs.

1 (JURY OUT @ 1:00 P.M.)

2 THE COURT: Court's in recess until
3 2:15.. Who is your next witness?

4 MR. PRICE: We are rounding up our
5 next witness now, Your Honor.

6 (LUNCH RECESS 1:00 - 2:20 P.M.)

7 (DEFENDANT PRESENT)

8 THE COURT: Are we ready to
9 continue?

10 MR. KENT: Yes, Your Honor.

11 MR. SMILEY: Yes, sir.

12 THE COURT: Bring in the jury.

13 (JURY IN @ 2:25 P.M.)

14 THE COURT: The jury's back. We're
15 ready for the next witness. Who is the next
16 witness?

17 MR. KENT: The State calls Takesha
18 Hayes to the stand.

19 THE COURT: Ms. Hayes, if you will
20 come around up here to the witness stand,
21 please.

22 (WITNESS TAKES STAND)

23 TAKESHA HAYES, being
24 duly sworn to tell the truth, the whole truth
25 and nothing but the truth, was examined and

1 testified, as follows:

2 DIRECT EXAMINATION

3 BY MR. KENT:

4 Q. Takesha, how are you?

5 A. Fine, you?

6 Q. I'm going to ask you a little background
7 questions so the jury can find out who you are,
8 okay?

9 A. Yes.

10 Q. Speak loud enough so they can hear every
11 word you're going to say, okay? Scoot up so
12 you can use that microphone.

13 A. Yes.

14 Q. Your name is Takesha Hayes. Is that
15 correct?

16 A. Yes, sir.

17 Q. Takesha, where are you from?

18 A. Charleston, South Carolina.

19 Q. How long have you been in Charleston?

20 A. For my whole life.

21 Q. What part of Charleston?

22 A. Mid-section, downtown.

23 Q. Where do you live right now?

24 A. Downtown.

25 Q. You live in the downtown area. Could you

- 1 give us an address?
- 2 A. 75-I Andover Street (phonetic).
- 3 Q. What was the name of the street?
- 4 A. 75-I Andover Street.
- 5 Q. Where is that located?
- 6 A. Off of Meeting Street, housing.
- 7 Q. How old are you, Takesha?
- 8 A. Twenty-one.
- 9 Q. Do you have any family that lives in the
- 10 same area as you do?
- 11 A. I've got my great-grandmama lives on South
- 12 Street. One of my grandmamas lives further
- 13 down on Line Street. And another great-
- 14 grandmama live off of Meeting Street.
- 15 Q. Do you have any brothers or sisters?
- 16 A. Yeah.
- 17 Q. What are the names of your brothers and
- 18 sisters?
- 19 A. I've got a brother named Quincey. I've
- 20 got a brother named Michael and a sister named
- 21 Kendra and a sister named Dominique.
- 22 Q. Do you have a brother named Michael Hayes?
- 23 A. Yes.
- 24 Q. And a brother named Quincey Hayes?
- 25 A. His last name ain't Hayes. He's by my

1 daddy's side.

2 Q. What are the other ones' names?

3 A. Quincey's, Dominique and Kendra.

4 Q. I just need to go a little bit slower so I
5 can make sure the court reporter gets those
6 names right, okay?

7 A. Okay.

8 Q. She's trying to type, so she needs to get
9 every word you say. Don't speak too fast,
10 okay?

11 A. Okay.

12 Q. Takesha, I want to take your attention
13 back to the day of December 12, 2000, the event
14 that we're here talking about today. Do you
15 remember that date?

16 A. Uh-huh.

17 Q. I want you to tell the jury before you
18 actually went to George's Sweet Shop, what were
19 you doing that day?

20 A. I was home, drinking.

21 Q. Okay.

22 A. And as we crossed to my neighbor's, my
23 friend Danielle's house to get my other friend,
24 Polly. And I told her to come over to George's
25 so we could get something to drink. And then

1 when we get up there ---

2 Q. Let me stop you right there. What you're
3 telling the jury right now that you walked to
4 George's with Danielle Thompson?

5 A. Folly/Lakesha.

6 Q. One more time. I'm having trouble
7 understanding you. Who was that that you were
8 walking to George's with?

9 A. Lakesha Graham.

10 Q. So you and Lakesha Graham went to George's
11 together?

12 A. Yes, sir.

13 Q. And you mentioned a girl named Danielle.
14 Is that Danielle Thompson or Danielle ---

15 A. Danielle Thompson.

16 Q. So you're saying that you and Danielle
17 Thompson went to George's together?

18 A. Me and Lakesha Graham went to George's
19 together.

20 Q. Let me make sure I understand. Tell me
21 what happened. Go on.

22 A. We went to George's together. Then after
23 we get up there, we were going to get our beer
24 -- to go out in the store, to get our beer.
25 And we ended up staying up there for a little

1 while longer than we expected to stay. Then
2 Danielle meet us up there. And when I went in
3 the store, I was in the store and I walked back
4 outside by the store, like by the pole on the
5 corner by the front door.

6 When I was walking back in -- when I was
7 walking back in and I heard gunshots. And I
8 saw her crying and screaming, saying, "My
9 brother", and stuff like that. And I ran up to
10 George's. He had locked his door. He locked
11 his store door. He opened the door back up and
12 I ran straight down Hanover Street, like that.

13 Q. Before you get there, why don't you turn
14 around. I have that picture actually shining
15 in your face. If you could turn around and
16 look at that board behind you -- just turn
17 around.

18 A. Okay, I'll show you'all -- this little
19 space, this little space right here? I got on
20 the pole right here. There's a little space
21 right here about to go inside. I was about to
22 go inside the store, and I got just like a foot
23 into the store, about to walk in the store, I
24 heard the gunshot. Then I run and I saw her
25 screaming, "I want my brother," and "I want my

1 mama" and stuff. I ran to Mr. George. He
2 locked the door. After he locked the door, I
3 guess he called the police or whatever. And
4 after he called the police he unlocked the door
5 and I ran straight up -- like I was standing
6 here, like standing like this here. I ran
7 straight up Hanover and turned off on Line
8 Street and ran all the way home.

9 Q. I want to make sure I understand your
10 testimony. Stop me if I say anything wrong
11 from what you just testified.

12 A. Yes, sir.

13 Q. You went inside of George's. And you came
14 back out of George's.

15 A. I came outside. I already had went in.

16 Q. You'd already been in there before?

17 A. Yeah. And I came outside and stand right
18 here.

19 Q. Right here.

20 A. I was just, you know, just standing. Then
21 after I was done standing right there, I come
22 and stand right here. I believe I was standing
23 -- I think I had threw up there, I'm not sure.

24 Q. Okay.

25 A. But when I was going back in, when I put

1 my foot like this here on the step to go back

2 in ---

3 Q. Yes, ma'am.

4 A. --- that's when I heard the shot.

5 Q. You heard the shots when you were getting
6 ready to go back inside?

7 A. Yes.

8 Q. Your brother's name is Mike Hayes. Is
9 that correct?

10 A. Yes, sir.

11 Q. Did you see Mike Hayes out there at some
12 point?

13 A. Uh-uh, (negative nod). I see a lot of
14 people be outside.

15 Q. Did you see your brother Quincey out there
16 that evening?

17 A. My brother don't be downtown.

18 Q. So you didn't see Mike Hayes?

19 A. No, sir.

20 Q. And you didn't see Quincey?

21 A. No.

22 Q. What was your other brother's name that
23 you told us about earlier?

24 A. The other two are sisters.

25 Q. The other two are sisters. Did you see

1 either of them out there?

2 A. Uh-uh, (negative nod).

3 Q. So you saw none of your relatives out
4 there that evening?

5 A. No, sir.

6 Q. But you went inside yelling, "Where's my
7 brother? Where's my brother? I want my
8 brother."

9 A. Yeah.

10 Q. What happened when you went inside? What
11 happened after that?

12 A. When I went inside the store?

13 Q. Tell the jury exactly what happened when
14 you went inside of George's.

15 A. When I went inside the door that's when,
16 Mr. George, he come and lock up his store, and
17 I just went crazy?

18 Q. Why were you crazy?

19 A. Because I ain't used to being in no things
20 like that.

21 Q. Okay.

22 A. Then I went on the poolroom side and was
23 having a good time and moving, you know, good.

24 Then I hear that bang, and that can set you off
25 regardless.

- 1 Q. Did you know the victim, Freddie Green?
- 2 A. No, sir.
- 3 Q. Do you know Antwon Goodwin?
- 4 A. I done seen him plenty times. Not like
- 5 that, but I done see him plenty times.
- 6 Q. But you know who he is?
- 7 A. Do I know who he is?
- 8 Q. Yes. Have you seen him enough that you
- 9 know who he is?
- 10 A. No, not like that. I never had no
- 11 conversation like that with him like that.
- 12 I barely do, to tell you the truth.
- 13 Q. And you never saw your brother out there
- 14 at all?
- 15 A. No, sir.
- 16 Q. But you were screaming, "Where's my
- 17 brother?"
- 18 A. Yeah, because he be a little bit of
- 19 everywhere.
- 20 Q. But you didn't see him out there?
- 21 A. No, sir.
- 22 Q. You've actually been in trouble with the
- 23 law before. Isn't that true?
- 24 A. Yes, sir.
- 25 Q. Actually got in trouble for a lynching

1 charge back in -- actually this time last year,
2 2002? Isn't that correct?

3 A. 2002?

4 Q. Last year?

5 A. No.

6 MR. KENT: That's all I have.

7 WITNESS: Lynching. I don't get
8 in trouble no more -- (starts to leave witness
9 stand).

10 THE COURT: We've got a few more
11 questions.

12 WITNESS: Oh, okay.

13 CROSS EXAMINATION

14 BY MR. SMILEY:

15 Q. Takesha, my name's Jim Smiley and I
16 represent Tony.

17 A. Yes, sir.

18 Q. I'm going to ask you some questions now,
19 if that's all right.

20 A. Yes, sir.

21 Q. Your brother, Little Mike?

22 A. Yes, sir.

23 Q. He wears his hair out in a 'fro of some
24 sort, right? And if I describe it wrong, tell
25 me. But he doesn't have it closed shaved?

1 A. Humm -- no.

2 MR. KENT: May we approach?

3 THE COURT: Approach.

4 MR. KENT: I think we are getting
5 close to third party -- what I see happening
6 is, and I saw it a little bit earlier and I let
7 it go, but it seems to be that we're trying to
8 backdoor third-party guilt now. My case does
9 now need to ---

10 THE COURT: Why would ---

11 MR. KENT: What he is trying to do
12 is to show that Mike Hayes probably committed
13 this murder.

14 MR. SMILEY: I just want to find out
15 who the witnesses are.

16 THE COURT: I need to hear it to
17 give you an answer.

18 MR. KENT: Thank you, Your Honor.

19 (SIDEBAR CONCLUDED)

20 CROSS EXAMINATION RESUMED

21 BY MR. SMILEY:

22 Q. Back to your brother's hair.

23 A. Yes, sir.

24 Q. It's sort of full, right? Would you
25 describe it as full?

1 A. It's like, -- you see him yesterday?

2 Wasn't he here yesterday?

3 Q. Yeah, I did. But I need you to tell --
4 try to describe his hair for the jury. It's
5 sort of braided but sort of out (gesturing with
6 hands); right?

7 A. He look crazy.

8 Q. It looks crazy. That's what I was getting
9 out. Sort of wild, right?

10 A. Uh-huh, (affirmative nod),

11 Q. You see some pictures here. You just sit
12 still and I'll find a picture and we'll look at
13 it, all right?

14 A. Uh-huh, (affirmative nod).

15 Q. I'm going to show you what's State's
16 Exhibit Number 1 which was that picture they
17 put up on the wall. When you heard the shot
18 your foot was going in the door?

19 A. My foot was on this step right here.

20 Q. Yeah.

21 A. Like this (holding hand at an angle), and
22 I be pushing the door, about to go in.

23 Q. But the doors weren't open at the time?

24 A. They was open -- but it be cold, and he
25 had those doors closed.

1 Q. Okay. So you were heading in the store.
2 when you heard the shot. I think you said
3 "shots", right?

4 A. Yeah.

5 Q. It was more than one?

6 A. I think it was about two. It was about
7 two.

8 Q. Were they close together, Bam-Bam?

9 Or was it Bam! and then there was some time
10 before there was another one?

11 A. Hummmmm.

12 Q. Do you remember?

13 A. I don't remember how close. I know I
14 heard the shots.

15 Q. Okay. And you were pretty intoxicated
16 that night. You've already told us that,
17 right? You'd been drinking pretty good?

18 A. (Affirmative nod).

19 COURT REPORTER: Was that a "yes"?

20 WITNESS: Yes, sir.

21 EXAMINATION CONTINUED

22 BY MR. SMILEY:

23 Q. I'm sorry. You've got to answer out loud.

24 A. All right.

25 Q. We get to talking and I forget. You

1 didn't actually see anybody shoot anybody,
2 though?

3 A. No, sir.

4 Q. And you didn't actually see Freddie fall
5 to the ground, did you?

6 A. I didn't see none of that.

7 Q. You just heard a shot and you went on into
8 the -- back into George's, right?

9 A. Uh-huh, (affirmative nod), and started
10 bombing out.

11 Q. Saying, "my brother, my brother", right?

12 A. Yeah.

13 Q. Even though you didn't see him out there
14 that night, you were scared about your brother?

15 A. (Affirmative nod)

16 Q. You've got to answer for me. You've got
17 to say it out loud.

18 A. "Yes."

19 Q. Thanks. Sorry. I know -- you are used to
20 just talking with people, but we've got to talk
21 kind of loud here.

22 A. Okay.

23 Q. Did you actually see the body later on?

24 A. No, sir.

25 Q. You got out of there, right?

1 A. Yeah, I ran straight up the way that I was
2 showing you.

3 Q. You went back up Hanover?

4 A. I ran up Hanover, like Hanover, Columbus
5 Street. And I made that right and headed up
6 the Meeting Street way, cut off and was going
7 back to the projects.

8 Q. So you went down Hanover away from -- up
9 towards Sheppard Street or away from Sheppard
10 Street?

11 A. Away from Sheppard Street.

12 Q. The other way.

13 A. Yeah.

14 Q. I'm just trying -- you've got to remember
15 we're trying to make sure the jury understands.
16 I'm not down there every day and I don't know
17 if they are either. So when I ask you for
18 streets, we're just trying to get the right
19 orientation, okay?

20 A. Okay.

21 Q. So you went from Sheppard and you ran
22 away?

23 A. Right.

24 Q. So you never even saw any of that stuff?

25 A. No, sir.

1 Q. You said you hadn't seen your brother out
2 there that night. Had you seen Freddie out
3 there that night?

4 A. No, sir.

5 Q. Did you see Tony out there that night?

6 A. No, sir.

7 Q. When you got back to your house you met up
8 with your boyfriend, Damon?

9 A. Damon? I ain't have no boyfriend back
10 then, sir.

11 Q. Friend? I'm sorry.

12 A. No.

13 Q. No?

14 A. No, sir.

15 MR. SMILEY: Beg the Court's
16 indulgence.

17 CROSS EXAMINATION RESUMED

18 BY MR. SMILEY:

19 Q. 'Keshia?

20 A. Yes, sir.

21 Q. Do you go by "Keshia", because they keep
22 calling you that?

23 A. Yes, sir.

24 Q. Out there at George's that night, it was
25 pretty dark outside; wasn't it?

1 A. Yeah.

2 Q. And up that street -- up Hanover towards
3 Sheppard, up the street where the shots came
4 from, it's dark that way; isn't it?

5 A. (Affirmative nod), under the bridgeway.

6 MR. SMILEY: No further questions,
7 Your Honor.

8 WITNESS: I can get down?

9 MR. KENT: I have no other
10 questions, Your Honor.

11 THE COURT: Yes, ma'am. You may
12 step down.

13 (WITNESS STEPS DOWN)

14 MR. KENT: The State calls
15 Lakesha Graham to the stand.

16 (WITNESS TAKES STAND)

17 LAKESHA GRAHAM, being
18 duly sworn to tell the truth, the whole truth
19 and nothing but the truth, was examined and
20 testified, as follows:

21 DIRECT EXAMINATION

22 BY MR. KENT:

23 Q. Lakesha, how are you doing?

24 A. Fine.

25 Q. I want to get a little background for the

- 1 jury, to find out who you are. Where are you
2 from, Lakesha?
- 3 A. Huh?
- 4 Q. Where are you from?
- 5 A. Charleston.
- 6 Q. How long have you been in Charleston?
- 7 A. All my life.
- 8 Q. Your entire life?
- 9 A. (Affirmative nod).
- 10 Q. What areas of Charleston have you lived
11 in?
- 12 A. Right now I stay in West Ashley.
- 13 Q. Right now you live in West Ashley?
- 14 A. Uh-huh, (affirmative nod).
- 15 Q. Where did you live before you lived in
16 West Ashley?
- 17 A. North Charleston.
- 18 Q. In North Charleston?
- 19 A. (Affirmative nod).
- 20 Q. Do you have any family around here?
- 21 A. Not in downtown. Not anymore.
- 22 Q. Not in downtown? What about your family?
23 Tell me about any family you have in the
24 Charleston area.
- 25 A. My brother lives in West Ashley.

1 Q. Your brother lives in West Ashley? And
2 how old are you, Lakesha?

3 A. Twenty-two.

4 Q. Twenty-two?

5 A. (Affirmative nod).

6 Q. Do you work?

7 A. Yes.

8 Q. Where do you work?

9 A. Republic Parking System.

10 Q. I'm going to direct your attention to the
11 date of December 12, 2000, the reason that
12 we're here today. Do you remember that date?

13 A. Yes.

14 Q. If you would do me a favor, before you
15 actually went to George's Sweet Shop, if you
16 could, tell the jury exactly what you were
17 doing before you went?

18 A. I was staying with my friend, Danielle.
19 I was at her house. We left there to go by
20 George's.

21 Q. So your testimony is you and Danielle
22 Thompson were together before you went to
23 George's?

24 A. No, me and Takesha Hayes went together.
25 Danielle later metted us there.

1 Q. So who did you go to George's with?

2 A. Takesha Hayes.

3 Q. So you and Takesha Hayes went to George's?

4 A. Uh-huh, (affirmative nod).

5 Q. Tell me what happened when you got to
6 George's.

7 A. Everybody was standing around.

8 Q. Who'all did you see when you were out
9 there?

10 A. There was a lot of people out there.

11 Q. Tell me some of the people that you saw
12 while you were out there.

13 A. I can't remember. There was so much
14 people out there.

15 Q. You can't remember anybody you saw out
16 there?

17 A. Just people that usually hang around
18 there.

19 Q. Did you see Danielle out there at some
20 point?

21 A. Later on when she came out there.

22 Q. Do you know Freddie Green?

23 A. No, I don't.

24 Q. Do you know the defendant, Antwon Goodwin?

25 A. Yes, I do.

1 Q. Did you see Antwon Goodwin out there that
2 night?

3 A. Yes.

4 Q. So Antwon Goodwin was also out there?

5 A. Yes.

6 Q. Just if you could, just tell the jury
7 everything you did after that point, after you
8 got there, to the point that you left that
9 evening.

10 A. I was drinking.

11 Q. Okay.

12 A. Just drinking and standing around. I went
13 in the store.

14 Q. You were drinking. You went in the store.
15 Did you hear anybody talking? Did you see
16 anybody that was ---

17 A. No.

18 Q. All you remember is drinking that beer,
19 then you went out, then you went out after
20 drinking that beer and went home?

21 A. No.

22 Q. Then tell what you did.

23 A. I was just talking to my friends there,
24 and other people.

25 Q. At any point did you hear any shots while

1 you were out there?

2 A. Yeah, I heard one shot.

3 Q. You heard one shot?

4 A. (Affirmative nod).

5 Q. What happened before and after you heard
6 that one shot? Where were you? What did you
7 hear? Tell the jury.

8 A. I was standing outside talking to some-
9 body. I don't know who I was talking to. I
10 heard a gunshot.

11 Q. I don't want to shine that (projector) in
12 your face. If you could turn around and look
13 at that picture right behind you.

14 A. (Complies).

15 Q. Tell me exactly where you were standing
16 right before you heard the gunshot.

17 A. On the side.

18 Q. You were standing here? Right about this
19 area?

20 A. Over some more.

21 Q. Over some more? Tell me when to stop.
22 See this little red thing over here?

23 A. Uh-huh, (affirmative nod).

24 Q. You were all the way down here?

25 A. Yeah, near the apartments.

1 Q. So way down here when you heard the shots?

2 A. Uh-huh, (affirmative nod) ..

3 Q. So you were nowhere near to see anything?

4 A. No.

5 Q. And then immediately after you saw (sic)
6 the shots from way down there, down to this ---

7 A. I was standing there, near that fence
8 right there on the side.

9 Q. And what did you do after you heard the
10 shots?

11 A. Then I was looking around for Danielle,
12 and we ran.

13 Q. Which way did you run?

14 A. We ran down this way down Nassau Street,
15 took under the bridge and ran back on the
16 projects.

17 Q. Did you go with Takesha?

18 A. No, she ran somewhere else.

19 Q. So the person you came with, you didn't
20 leave with them?

21 A. (Negative gesture).

22 Q. You didn't try to find out where Takesha
23 was?

24 A. I didn't know where she ran.

25 Q. That's all the questions I have. Answer

1 any of Mr. Smiley's questions, please.

2 CROSS EXAMINATION RESUMED

3 BY MR. SMILEY:

4 Q. Lakesha, my name's Jim Smiley. I
5 represent Antwon, or "Tony" as you know him.

6 A. Uh-huh.

7 Q. I'm going to show you what's been marked
8 State's Exhibit Number 2. That was the last
9 picture you were looking at up there on the
10 thing. And you said you were standing over
11 here by the fence?

12 A. Uh-huh, (affirmative nod).

13 Q. And that's a bus stop that's across the
14 street there?

15 A. Uh-huh, (affirmative nod).

16 Q. Do you know a fellow named Edwin Middleton
17 that lives over on Ducs -- I can't pronounce
18 it, D-u-c-s Court?

19 A. No.

20 Q. You don't know him?

21 A. No, I don't.

22 Q. Did you see anybody standing over at that
23 bus stop when you were talking?

24 A. I wasn't really paying attention.

25 Q. You heard one gunshot?

1 A. Far as I can remember, I was drinking
2 that night.

3 Q. You were sort of intoxicated, right?

4 A. Uh-huh, (affirmative nod).

5 Q. Did you go back into George's once the
6 shot came?

7 A. No, I didn't go back in.

8 Q. Okay. And then you and Danielle took off?

9 A. Uh-huh, (affirmative nod).

10 Q. Got out of there?

11 A. (Affirmative nod).

12 Q. You said you saw Tony that night?

13 A. Yeah, earlier that night when we first
14 went up there.

15 Q. When you first went up there?

16 A. (Affirmative nod).

17 Q. About what time was that, roughly? I know
18 it's been a long time, but if you can remember.

19 A. I can't remember.

20 Q. If it'll help you, the shots were about
21 ten ---

22 MR. KENT: Objection, Your Honor.
23 She either knows or she doesn't.

24 MR. SMILEY: She obviously went up
25 there, Your Honor. She's testified to that

1 fact. I'm just trying to help her establish
2 what time that was.

3 THE COURT: I'll give you some
4 latitude. Go ahead.

5 CROSS EXAMINATION RESUMED

6 BY MR. SMILEY:

7 Q. If I told you what time the shots were,
8 would it help you to determine when you got up
9 there?

10 A. Sometimes.

11 Q. The shots were about 10:45. Were you
12 there an hour before?

13 A. It was like 8:00 o'clock, I guess.

14 Q. You got there about 8:00 o'clock?

15 A. Uh-huh.

16 Q. So when you first got up there is when you
17 saw Tony?

18 A. Uh-huh.

19 Q. Did you hear any argument out there that
20 night?

21 A. No, I didn't.

22 Q. You didn't see Tony arguing with anybody?

23 A. No.

24 Q. You didn't see Tony with a gun?

25 A. No.

1 Q. You didn't see Tony shoot anybody?

2 A. No.

3 Q. Now, when you saw Tony up there he was
4 just standing around, too, like everybody else?

5 A. Talking.

6 Q. Just talking?

7 A. Like everyone.

8 Q. When you're standing on that corner
9 looking up Hanover toward Sheppard, it's gets
10 pretty dark in there, doesn't it?

11 A. Uh-huh, (affirmative nod).

12 Q. It's hard to see people unless you're
13 right up on them, to see faces, right?

14 A. Uh-huh, (affirmative nod).

15 MR. SMILEY: No further questions,
16 Your Honor.

17 MR. KENT: I have nothing else for
18 this witness.

19 THE COURT: You may step down.
20 Thank you.

21 (WITNESS STEPS DOWN)

22 MR. KENT: The State calls Theodore
23 Benjamin to the stand.

24 (WITNESS TAKES STAND)

25 THEODORE BENJAMIN, being

1 duly sworn to tell the truth, the whole truth
2 and nothing but the truth, was examined and
3 testified, as follows:

4 DIRECT EXAMINATION

5 BY MR. KENT:

6 Q. Now, I'm going to ask you some questions,
7 Theodore. I want you to lean up far enough so
8 the jury can hear everything you're saying.
9 The lady right next to you has got to take down
10 everything you say, so make sure it's real
11 clear. She can't take down uh-huh's and uh-
12 uh's, so say "yes" and "no", okay?

13 A. Yes, sir.

14 Q. Do you go by "Theodore"? Is that the name
15 you actually go by?

16 A. Yes, sir.

17 Q. Do they also call you "Little Ben", or do
18 they call you "Ben"?

19 A. Yes, sir.

20 Q. I'm going to call you "Ben" if that's
21 okay.

22 A. (Affirmative nod)

23 Q. Ben, where are you actually from?

24 A. Charleston.

25 Q. And how long have you lived in Charleston?

- 1 A. My whole life.
- 2 Q. You've been here your entire life?
- 3 A. Yes, sir.
- 4 Q. And how old are you, Ben?
- 5 A. I turned twenty yesterday.
- 6 Q. So yesterday was your twentieth birthday?
- 7 A. Yes, sir.
- 8 Q. I'm just going to get right to it. Do you
- 9 remember the date of December 12, 2000, which
- 10 is the date that we're talking about here
- 11 today?
- 12 A. Yes, sir.
- 13 Q. Tell me what you were doing before you
- 14 actually went over to George's Sweet Shop that
- 15 day, if you can remember.
- 16 A. I was on Newton Street, Gaston Green
- 17 Projects.
- 18 Q. Who were you there with?
- 19 A. Me and a couple of my friends was just
- 20 standing out there, hanging out.
- 21 Q. All right. Who were the friends you were
- 22 out there with?
- 23 A. I can't really recall right now.
- 24 Q. That's fine. When was the first time that
- 25 you had an opportunity to talk to Freddie Green

1 that day? When's the first time you talked to
 2 Freddie Green on December 12, 2000?
 3 A. When he came and picked me up.
 4 Q. Freddie Green actually came and picked you
 5 up on December 12, 2000?
 6 A. (Affirmative nod)
 7 Q. Do you remember what time it was?
 8 A. No, I can't really say what time.
 9 Q. What did you'all do?
 10 A. We was riding around in the car he picked
 11 me up in.
 12 Q. Tell the jury what happens. Keep telling
 13 me everything that happened after he picked you
 14 up.
 15 A. Well, when he picked me up off of Newman
 16 Street we was just riding around smoking.
 17 Q. By "smoking", do you mean cigarettes?
 18 A. No.
 19 Q. What were you'all smoking?
 20 A. Marijuana.
 21 Q. Go on. What happened next?
 22 A. Okay, so -- say we rode around for about a
 23 good hour or two and then we came back where I
 24 was standing at, back on Newman Street. He
 25 dropped me back off.

1 Q. Okay.

2 A. I'd say about a good two -- two to about
3 three hours, he came back through and he asked
4 me if I wanted to get high again.

5 Q. Okay.

6 A. So we went -- we went to -- he said he
7 wanted to go over on the east side because
8 there wasn't no more weed around back on the
9 Green. So we went on the east side. So I gave
10 him the money.

11 Q. What side were you'all on before? I'm
12 confused.

13 A. On Gaston Green, Gaston Green.

14 Q. Green, is that the west side?

15 A. Yes, sir.

16 Q. So there's two different sides, the west
17 side and there's an east side?

18 A. Yes, sir.

19 Q. So you guys had been smoking some
20 marijuana and you'all decided you didn't have
21 any more marijuana. 'Let's go over to the east
22 side.'

23 A. Yes, sir.

24 Q. Okay.

25 A. So he drove over there and we went towards

1 -- I guess that's Hanover, toward George's
2 store.

3 Q. Okay.

4 A. We went there, and I gave him the money,
5 he got out of the car, ---

6 Q. How much money did you give him?

7 A. I gave him fifteen dollars, sir.

8 Q. Okay.

9 A. And I'd say about five minutes later, I
10 got out of the car and went into George's
11 store.

12 Q. Let me stop you right there. You sat in
13 the car for five minutes by yourself?

14 A. Yes, sir.

15 Q. What were you waiting on?

16 A. I was waiting on him to come back.

17 Q. Okay. Go ahead. Then what happened?

18 A. So I went into George's store to by a
19 lighter because there wasn't no lighter inside
20 of the car.

21 Q. Okay.

22 A. So I went inside George's. And before I
23 even could have come back out of George's,
24 that's when I hear the shots. So that's when
25 everybody started running into George's store.

1 So everybody was in there panicking, panicking.

2 So I said about ---

3 Q. I don't want to stop you. But you're not
4 from that area. Is that true?

5 A. No, sir.

6 Q. Did you know anybody who was around there
7 or out there? Did you recognize anybody?

8 A. I mean, I know people from around there
9 but I'm not from around there.

10 Q. Well, tell me who you recognized and who
11 you knew from being out there when you were
12 there.

13 A. Sheesh, there was a lot of people out
14 there.

15 Q. Okay. Give me some names.

16 A. (No response).

17 Q. We'll get back to that before you get too
18 confused. Okay?

19 A. Yeah.

20 Q. We'll move on.

21 A. I can't say.

22 Q. What happened after you heard the shots?

23 A. Everybody was running into the store, so
24 that's when the man -- the owner, George --
25 he put the bar up into the door, called the

1 police. So -- he started letting people out
2 of the side door, I ---

3 Q. Now, this whole time, you were still
4 inside of the store?

5 A. Yeah.

6 Q. Where was Freddie? Do you know where
7 Freddie was at all during this?

8 A. No, sir.

9 Q. Okay.

10 A. After he called the police he started
11 letting people out of the side door. So when
12 he started letting people out, finally I came
13 out and walked up the street and walked back
14 down looking for Freddie. So, I didn't see him
15 -- so I walked across the street to the car
16 where he parked it at, got in the car, ride
17 around the corner and went back to Gaston
18 Green Projects.

19 Q. So you took the person's car that you'd
20 rode with and you left?

21 A. Yes, sir.

22 Q. You didn't wait around to see where
23 Freddie was or anything like that?

24 A. Yes, I did, sir.

25 Q. You did look around but you couldn't find

1 Freddie?

2 A. Yes, sir.

3 Q. Did you look on the ground?

4 MR. SMILEY: Objection, Your Honor.

5 MR. KENT: That's fine.

6 THE COURT: Sustained.

7 DIRECT EXAMINATION RESUMED

8 BY MR. KENT:

9 Q. I'm going to have you turn around.

10 A. This way?

11 Q. Yes.

12 A. (Complies).

13 Q. Look at that picture right behind you.

14 Where exactly was your car parked, the car that

15 you were in with Freddie? Is it on that

16 picture anywhere? Can you see where it was?

17 A. No.

18 Q. Do you see that map?

19 A. Yes, sir.

20 Q. I'm going to ask you, just look at that

21 map for awhile, and I want you to try to

22 orientate yourself with it and see if you can

23 recognize what that's showing and what that is.

24 Basically, try to figure out where you were on

25 that map and what everything on that map is.

1 Here's an actual hard copy. If you want to
2 just look down on that one, it might be easier.
3 If you want to look on that and figure out
4 where everything is on that map (tendering).

5 A. (Review).

6 Q. Just tell me when you can figure out where
7 everything is on that map, okay?

8 A. (No response).

9 Q. Do you know where stuff is yet on that?

10 A. Yeah.

11 Q. Now turn around and look at that big map
12 over there, okay?

13 A. (Complies).

14 Q. A little bit earlier you testified that
15 you and Freddie drove up. Where did you'all
16 drive from on that map? Where were you'all
17 coming from, which direction, before you got
18 to George's?

19 A. Coming from up this -- from Hanover.

20 Q. Okay. Where did you'all park?

21 A. This is George's?

22 Q. This is George's right here (indicating).
23 You guys are coming down Hanover.

24 A. I don't think we come down Hanover.

25 Q. Take your time. Let us know.

1 A. That's Line Street. No, we came down Line
2 Street.

3 Q. Okay.

4 A. Because we turned and came up here besides
5 these apartments right here. Right?

6 Q. Okay, right on this side?

7 A. Yeah.

8 Q. Where, exactly, did you'all park? Did you
9 just park somewhere along this wall?

10 A. Yeah, out in that area somewhere.

11 Q. Up in this area right here somewhere?

12 A. Yes, sir.

13 Q. Is this where you're telling me you
14 parked, on the side next to these apartments
15 right here? This is 72 Hanover right here?

16 A. Yes, sir.

17 Q. So where exactly did you'all park?

18 A. It was up in this area, between these
19 apartments, right up in these apartments right
20 here.

21 Q. So it was in this area somewhere that you
22 and Freddie parked?

23 A. Yes, sir.

24 Q. And your testimony is you got out of the
25 passenger's seat and then what happened? You

1 went inside of George's.

2 A. Yes, sir.

3 Q. Then you came back out after you'd heard
4 some shooting, after George let you out the
5 side door, correct?

6 A. Yes, sir.

7 Q. And you looked up and down that road right
8 there for Freddie and couldn't see him
9 anywhere?

10 A. Yes, sir.

11 Q. And then you got in Freddie's car which
12 was parked right here and drove off?

13 A. Yes, sir.

14 Q. And you drove down this road?

15 A. Yes, sir.

16 Q. And didn't see Freddie?

17 A. No, sir.

18 Q. And you're here under subpoena?

19 A. (No response).

20 Q. Is that correct?

21 A. Yes, sir.

22 Q. You don't want to be here, do you?

23 A. No, sir.

24 Q. You've also got two prior convictions.

25 Isn't that correct? You were convicted in 2001

1 for possession of crack. Isn't that true?

2 A. Yes, sir.

3 Q. You were also convicted of possession with
4 intent to distribute marijuana in 2001?

5 A. Yes, sir.

6 Q. That's all I have. Answer any questions
7 from Mr. Smiley.

8 CROSS EXAMINATION

9 BY MR. SMILEY:

10 Q. Little Ben, I'm Jim Smiley. You don't
11 mind if I call you "Little Ben", do you?

12 A. (Negative gesture).

13 Q. That's what most people call you, right?

14 A. Yes, sir.

15 Q. I'm Jim Smiley, and I represent Antwon or
16 "Tony", all right?

17 A. Okay.

18 Q. I'm going to ask you some questions. Were
19 you driving or riding when you'all got there?

20 A. I was riding.

21 Q. You were riding?

22 A. Yes, sir.

23 Q. Freddie was driving?

24 A. Uh-huh, (affirmative nod).

25 Q. You'all came up Line, -- there was just

1 two of you'all in the car, right?

2 A. Yes, sir.

3 Q. And you'all had been in the car earlier
4 smoking?

5 A. Yes, sir.

6 Q. And you were going to get some more on the
7 eastside, right?

8 A. Yes, sir.

9 Q. Before we get to this eastside/westside
10 stuff, you weren't scared to go over to Hanover
11 and Line, were you?

12 A. No, sir.

13 Q. It wasn't like there was some dividing
14 wall and somebody from the Green goes over to
15 the eastside they're going to get hurt or
16 anything, right?

17 A. (Negative gesture).

18 Q. There wasn't any of that going on?

19 A. (No response).

20 Q. You weren't afraid, were you?

21 A. I mean, it was like that. But it was
22 certain peoples. You know what I'm saying?

23 Q. You felt fine over there, right?

24 A. Yeah, I felt fine.

25 Q. Okay. And when Freddie got out of the car

1 you sat in the passenger's seat?

2 A. Yes, sir.

3 Q. And Freddie was getting out to buy some
4 marijuana, right?

5 A. Yes, sir.

6 Q. And you had handed him fifteen dollars?

7 A. Yes, sir.

8 Q. Did he have any of his own money?

9 A. No, sir.

10 Q. So it was your money he was using?

11 A. Yes, sir.

12 Q. Did he take the car keys with him or leave
13 them in the car?

14 A. They was in the car when I got back in the
15 car, sir.

16 Q. Were they in the car when you got out?

17 A. Yes, sir.

18 Q. Now, after you couldn't find Freddie, you
19 jumped in the car and took off; right?

20 A. No, I didn't jump in the car and took off.

21 Q. After you couldn't find him, right?

22 A. Yes, sir.

23 Q. And it's dark out there, isn't it?

24 A. Yes, sir.

25 Q. At 10:30 or quarter to 11:00 at night

1 you've got to be right up on somebody to see
2 them, right?

3 A. Yeah, you could say that.

4 Q. And you were high and it was pretty
5 panicky and chaos out there that night, right?

6 A. Yes, sir.

7 Q. How many shots did you hear?

8 A. I think it was like two or three shots.

9 Q. Two or three?

10 A. (Affirmative nod).

11 Q. Were they close together or far apart, or
12 do you remember?

13 A. I can't really say because I was inside in
14 the store.

15 Q. In the store?

16 A. (Affirmative nod).

17 Q. Did you see -- once Freddie got out of the
18 car, you didn't see him no more?

19 A. No, sir.

20 Q. You didn't see him arguing with anybody?

21 A. No.

22 Q. You didn't see whether he went in the
23 store or anything like that, did you?

24 A. No.

25 Q. When you went in the store he wasn't in

1 there?

2 A. Uh-uh, (negative nod).

3 Q. Now, the Solicitor brought up that you've
4 been convicted for a crack charge, right?

5 A. Uh-huh, (affirmative nod).

6 Q. You actually got arrested the day after
7 this happened; right?

8 A. Not right after. I'd say about a couple
9 of months after it happened.

10 MR. SMILEY: Beg the Court's
11 indulgence.

12 CROSS EXAMINATION RESUMED

13 BY MR. SMILEY:

14 Q. You got arrested for distribution of crack
15 and pled to possession of crack?

16 A. Uh-huh, (affirmative nod).

17 Q. So, needless to say, it's fair to say that
18 you were smoking a lot of pot right around
19 then; right?

20 A. Yeah, you could say that.

21 Q. Selling a little crack here and there to
22 get by?

23 A. Yes, sir.

24 Q. Do you know Antwon, or "Tony"?

25 A. Yes.

1 Q. You didn't see him with a gun out there

2 that night, did you?

3 A. No.

4 Q. You didn't see him shoot Freddie, did you?

5 A. Uh-uh, (negative nod).

6 Q. Did you see him out there that night?

7 A. Yeah.

8 Q. When did you see him?

9 A. Right before I went in the store.

10 Q. Okay. He was back there near where you
11 went in the store?

12 A. In the back?

13 Q. Yeah.

14 A. No.

15 Q. Where did you see Tony?

16 A. He was standing -- he was walking out
17 around in front of the store when I went in
18 the store.

19 Q. I'm showing you State's Exhibit 1. Do
20 you recognize that as the front of the store?

21 A. (Affirmative nod).

22 Q. And that's where you saw Tony?

23 A. Uh-huh, (affirmative nod).

24 Q. I'm going to show you State's Exhibit
25 Number 5. Is that approximately where the car

1 was parked?

2 A. (Upon review), I can't say right there but
3 it was up in that area.

4 Q. It's sort of important, so if I could ---

5 MR. SMILEY: Your Honor, with the
6 Court's permission I'd ask the witness to step
7 down.

8 THE COURT: Very well.

9 CROSS-EXAMINATION RESUMED

10 BY MR. SMILEY:

11 Q. If you'd come around here.

12 A. (Complies).

13 Q. I'm showing you a map of downtown
14 Charleston. At the top of this map there would
15 be Meeting Street, okay? It runs parallel to
16 Nassau, right?

17 A. (No response).

18 Q. Do you agree?

19 A. (No response).

20 Q. Meeting Street, if it was on this map,
21 would be up here at the top of it, and running
22 parallel to Nassau and Hanover, right?

23 A. Uh-huh.

24 Q. And at the bottom would be Meeting Street,
25 that runs in the same direction, right?

- 1 A. Uh-huh.
- 2 Q. And then down on this end if you kept
- 3 going, you'd run into Calhoun, right?
- 4 A. (No response).
- 5 Q. Running this way, right?
- 6 A. Yeah.
- 7 Q. Okay. Then over here you've got Cooper
- 8 Street and the bridge, right?
- 9 A. Yeah.
- 10 Q. I just want to get everything oriented
- 11 right. So you'all came down Line Street, okay?
- 12 Is that right?
- 13 A. Uh-huh, (affirmative nod).
- 14 Q. And you pulled up here and parked on
- 15 Hanover, right?
- 16 A. (Affirmative nod).
- 17 Q. That's George's store.
- 18 A. Okay.
- 19 Q. So you'all parked out here on the street
- 20 somewhere, on the right-hand side?
- 21 A. Yeah.
- 22 Q. And, so, when you came out of George's
- 23 after you couldn't find Freddie, you came up
- 24 the street here and got in the car and drove
- 25 off, right?

1 A. I came out of George's store and walked up
2 the sidewalk, came right down and walked right
3 across the street to the car, got in the car
4 and left.

5 Q. But you had to walk -- you might have gone
6 back and forth but you walked from the corner
7 of Line and Hanover where the car was parked up
8 here and drove off?

9 A. I didn't walk all the way back to the
10 corner. I walked up about halfway.

11 Q. But you were walking up and down that
12 street before you got in the car, right?

13 A. Yeah.

14 Q. And you couldn't find Freddie?

15 A. No, sir.

16 MR. SMILEY: No further questions.
17 You can sit back down and see if Mr. Kent has
18 anything for you.

19 WITNESS: (Complies).

20 THE COURT: Redirect?

21 REDIRECT EXAMINATION

22 BY MR. KENT:

23 Q. If I'm not mistaken, when asked by Mr.
24 Smiley, you said right before you went in the
25 store is when you saw Antwon Goodwin?

1 A. Yes, sir.

2 Q. And on questioning from me you said it
3 wasn't long after you were inside the store
4 when you heard the single gunshot.

5 A. Yes, sir.

6 Q. Okay. And on another question posed by
7 Mr. Smiley during your cross-examination, he
8 was asking about this east/westside thing and
9 said it is not a very big deal. You actually
10 think it is a big deal. You just weren't
11 worried.

12 A. I mean, it was -- it -- I mean, before --
13 before I went to jail, it was kind of a big
14 thing. But, I mean, I didn't -- I didn't have
15 any problem with anybody like that.

16 Q. You didn't have a problem. There is a
17 little bit of a problem in eastside/westside.
18 You didn't have a problem?

19 A. Yeah.

20 MR. KENT: That's all I have. I
21 would ask that the witness be allowed to be
22 excused.

23 MR. SMILEY: He may be released?

24 THE COURT: Thank you, sir. You
25 may step down. You're excused.

1 (WITNESS STEPS DOWN)

2 MR. KENT: Your Honor, while we're
3 waiting, we'd like to move State's Exhibit
4 Number 3 into evidence.

5 MR. SMILEY: Without objection.

6 THE COURT: Okay.

7 (SO ENTERED AS STATE'S EXHIBIT 3)

8 (WITNESS TAKES STAND)

9 EDWIN MIDDLETON, being
10 duly sworn to tell the truth, the whole truth
11 and nothing but the truth, was examined and
12 testified, as follows:

13 DIRECT EXAMINATION

14 BY MR. KENT:

15 Q. All right, Edwin. I'm going to ask you
16 some questions. I need you to make sure that
17 you speak into that microphone loud enough for
18 the jury to hear you and so the court reporter
19 can hear you. The court reporter has to take
20 down every word that you say in here today.
21 Please make sure you say things very clearly so
22 she understands you, okay?

23 A. Uh-huh, (affirmative nod).

24 Q. And I need you to say "yes" or "no". She
25 can't write down "uh-huh's" and "uh-uh's".

- 1 A. "Yes."
- 2 Q. Your name is Edwin Middleton. Is that
- 3 correct?
- 4 A. Yes.
- 5 Q. Where are you from, Edwin?
- 6 A. Charleston, South Carolina.
- 7 Q. And how old are you?
- 8 A. Twenty-eight years old.
- 9 Q. And you're from Charleston?
- 10 A. Uh-huh.
- 11 Q. How long have you lived in Charleston?
- 12 A. Twenty-eight years.
- 13 Q. Twenty-eight years?
- 14 A. Yeah.
- 15 Q. You've been here your entire life?
- 16 A. Yes.
- 17 Q. Where exactly in Charleston do you live?
- 18 What's your address?
- 19 A. 8-A Ducs.
- 20 Q. Where is that?
- 21 A. Off of Line.
- 22 Q. Off of Line Street?
- 23 A. Yes.
- 24 Q. I see you're wearing that outfit. Where
- 25 do you work?

1 A. Doubletree Hotel.

2 Q. What do you do over at the Doubletree
3 Hotel?

4 A. Painter.

5 Q. And how long have you worked over at the
6 Doubletree Hotel?

7 A. Three years.

8 Q. Three years?

9 A. (Affirmative nod).

10 Q. Did you know the victim in this case,
11 Freddie Green?

12 A. Yes.

13 Q. How well did you know the victim in this
14 case?

15 A. I knew him and his brothers for five or
16 six years.

17 Q. So you'd known him for awhile?

18 A. Yes.

19 Q. What about the defendant in this case,
20 Antwon Goodwin? Do you know him?

21 A. Yes.

22 Q. And how well do you know Antwon Goodwin?

23 A. For the same period of time, five or six
24 years.

25 Q. Five or six years?

- 1 A. (Affirmative nod).
- 2 Q. You know him by sight, you know who he is?
- 3 A. Yes.
- 4 Q. I'm going to direct your attention to the
- 5 date of December 12, 2000, to the date that
- 6 we're talking about here today; okay?
- 7 A. Yes.
- 8 Q. Do you remember that date?
- 9 A. Yes.
- 10 Q. Tell me what was the first time that you
- 11 actually saw Freddie and Antwon.
- 12 A. A few days before.
- 13 Q. Okay. Tell the jury about that. And I
- 14 need to make sure you speak up. Speak into the
- 15 microphone so they can hear everything you say.
- 16 A. A few days before.
- 17 Q. Tell us about it. Where did you see them?
- 18 A. They were on Columbus and Hampstead by
- 19 Ernie's on Columbus.
- 20 Q. Columbus, is that on the east side or is
- 21 that on the west side?
- 22 A. It's on the east side.
- 23 Q. Okay, Columbus -- is that -- and I don't
- 24 know much about this area. Is that considered
- 25 neutral territory or anything like that?

1 MR. SMILEY: ~~Objection~~, Your Honor.

2 MR. KENT: I'll move on, Your
3 Honor.

4 THE COURT: Go ahead.

5 DIRECT EXAMINATION RESUMED

6 BY MR. KENT:

7 Q. So you saw them a couple of days earlier?

8 A. Yes.

9 Q. In the Columbus area?

10 A. Yes, sir.

11 Q. Do you know what they were talking about
12 or anything like that?

13 A. No.

14 Q. When was the next time you saw them?

15 A. I guess the night of the shooting.

16 Q. Tell me what you were doing immediately
17 before you went to George's Sweet Shop or going
18 towards there?

19 A. I was leaving home.

20 Q. And where were you going?

21 A. I was heading on -- by Ernie's on Columbus
22 Street.

23 Q. All right.

24 A. And I have to walk through there to get to
25 Ernie's.

1 Q. Were you by yourself?

2 A. Yes.

3 Q. All right. What time was it? Do you
4 remember?

5 A. It was dark, I don't know what time it
6 was.

7 Q. It was dark outside?

8 A. (Affirmative nod).

9 Q. Had you been to George's Sweet Shop
10 before?

11 A. Yes.

12 Q. How many times had you been to George's
13 Sweet Shop?

14 A. Basically every day just about.

15 Q. You were actually going inside it? Were
16 you actually going inside of George's Sweet
17 Shop that day?

18 A. No.

19 Q. You said you were going to Ernie's? Who
20 is Ernie?

21 A. It's another corner store, like on the
22 next block over.

23 Q. Now, when you got up there, before the
24 shooting, did you see anybody that you
25 recognized in that area?

1 A. (Affirmative nod), people I see every day.

2 Q. Can you tell us some of the names of the
3 people that you saw that you recognized?

4 A. It was a lot of people.

5 Q. Okay.

6 A. I can't pinpoint nobody, really. Locals.

7 A lot of locals, like people from both sides,
8 the project side and our side.

9 Q. You say -- that's very interesting. What
10 do you mean by "our side"?

11 A. Like the projects and the opposite side,
12 our side.

13 Q. All right. Did you see any women that you
14 recognized out there, any girls or any women?

15 A. A few of them.

16 Q. Tell us some of the names of the women
17 that you recognized who were out there.

18 A. Let's see. There was -- I think Danielle
19 was out there.

20 Q. You saw a girl named Danielle Thompson who
21 was out there?

22 A. I don't know her last name.

23 Q. Okay, so you saw a girl named Danielle out
24 there.

25 A. Probably Shamekia.

1 Q. And you saw a girl out there named
2 Shamekia also?

3 A. There was a lot of people out there. I
4 can't really remember exactly who was out
5 there. Everybody was all scattered out, all
6 sides of the corner.

7 Q. All right. If you will, if you could,
8 tell the jury everything that you saw when you
9 went out there and actually where you were when
10 you went out that evening as you were walking
11 towards Ernie's.

12 A. Well, I was on the opposite side of the
13 street, coming down Line. When this happened,
14 I saw like the back side of it. When they came
15 to the store, he walked in.

16 Q. By "he", who do you mean?

17 A. Mr. Goodwin.

18 Q. The defendant, Antwon Goodwin?

19 A. Yes. He walked in. Shortly behind him
20 was Freddie. And, like, he turned around and
21 walked back, like, toward the street. And he
22 came up behind him.

23 Q. I hate to keep interrupting you, but I
24 need to make sure this is very exact. What you
25 just said was Antwon walked inside of George's.

1 MR. SMILEY: Objection, Your Honor.

2 He's now restating his testimony. It's been
3 put in the record.

4 THE COURT: Okay, as long as he
5 doesn't lead him.

6 MR. SMILEY: Or as long as he
7 accurately restates what was said.

8 THE COURT: Yes. Well, a few
9 minutes ago there was some leading going on,
10 so be careful. But go ahead.

11 MR. KENT: Thank you, Your Honor.

12 DIRECT EXAMINATION RESUMED.

13 BY MR. KENT:

14 Q. Now, correct me if I'm wrong. But your
15 testimony was that Antwon Goodwin walked inside
16 of George's. Is that correct?

17 A. Yes.

18 Q. Tell us exactly what happened after that
19 point. Be real slow and real precise.

20 A. Freddie came to the door -- by then I was
21 like halfway to the corner -- and he turned
22 around, because he wasn't really in the store.
23 He turned around and walked back. He came up
24 shortly behind and walked up behind him, hold
25 up his hand and a little bright flash of light

1 and everybody started ducking and moving. I
2 turned around and moved up the street.

3 Q. You need to stop and -- I want to make
4 sure I understand all of this. What did you
5 see the defendant Antwon Goodwin do?

6 A. He just walked out of the store behind him
7 and lifted up his hand and I guess he shot him.

8 Q. You guess or you saw him shoot him?

9 A. There was a flash of light, so he shot
10 him. It was loud, too.

11 Q. And who did he shoot?

12 A. Freddie, in the back of ---

13 Q. And where did he shoot him?

14 A. Up high somewhere on the back, neck or
15 head, somewhere up in there.

16 Q. So up high. And by "back and neck", you
17 mean somewhere around this area?

18 A. I was far away. But it was up high.

19 Q. Okay, so you just saw up high?

20 A. (Affirmative nod)

21 Q. Okay. What did you see next?

22 A. I turned around and went back up towards
23 -- back the way I came.

24 Q. Did you see anything else? Did you see
25 any cars leaving or anything?

1 A. You could hear some cars squealing off,
2 but I didn't really see because everyone was
3 like scattered out across the street, and I was
4 looking back, so -- (pause).

5 Q. How many people were out there when all
6 this happened?

7 A. About, I guess, more than seventy or
8 seventy-five.

9 Q. So there was a bunch of people out there?

10 A. Yes.

11 Q. What did you do then?

12 A. I went back up the street the same way I
13 came. I turned around and went back up the
14 street.

15 Q. If you'll turn around, I want to show you
16 what's been marked State's Exhibit Number 3.
17 I'm going to give you a couple of minutes. If
18 you could look at that map, and I'm going to
19 give you this small map right here. If you
20 could look at that for a little bit and
21 orientate yourself with it, and let me know if
22 you realize where everything is and where you
23 were?

24 A. (Upon review), here.

25 Q. So you were walking down this road here.

- 1 That's correct?
- 2 A. Yes, and never made it to the corner.
- 3 Q. So you never made it to the corner?
- 4 A. (Negative gesture), I was right here.
- 5 Q. So you were about by this bus stop sign,
- 6 right there?
- 7 A. Yes.
- 8 Q. The shuttle bus stop sign.
- 9 A. Yeah.
- 10 Q. Okay. And where was everybody standing
- 11 that you saw? If you could point to that.
- 12 A. Church steps, these steps over here.
- 13 People on the side over here, over there.
- 14 Q. Everybody was in all these areas right
- 15 around here?
- 16 A. Uh-huh, (affirmative nod). Yes.
- 17 Q. If you could, one more time, show me where
- 18 everybody was -- where the people were.
- 19 A. The church steps, along this side of the
- 20 street here. On this step on this side. Some
- 21 people were back here, at this phone booth
- 22 right here.
- 23 Q. We'll use this red pen. Where were you
- 24 at?
- 25 A. Right here, somewhere.

1 Q. So somewhere in between that vicinity?

2 A. Yes.

3 Q. And where were you when you saw the
4 shooting that night? I hate to keep going over
5 it, but I need to be exact. Where were you
6 when you saw it?

7 A. Right here.

8 Q. And where was the individual that you saw
9 shoot?

10 A. Like, he came out this door here and was
11 up by this streetlight.

12 Q. Turn around for me one more time. I'm
13 showing you what's been marked State's Exhibit
14 Number 2. You were talking about a bus stop.
15 Is this the bus stop you're talking about,
16 right here?

17 A. Yes.

18 Q. So where were you exactly?

19 A. I wasn't past the bus stop, like somewhere
20 along here.

21 Q. Somewhere around here?

22 A. Yes, I was on the sidewalk.

23 Q. Where was Antwon Goodwin when you saw him
24 walk out of George's?

25 A. He came up this side and went that way.

1 down/ behind/ there.

2 Q. Where was he when you saw him shoot the
3 victim?

4 A. It was like -- I couldn't tell if he was
5 like right up on him or not, but I saw like
6 both of their backs.

7 Q. So they were somewhere -- where at, in
8 this picture, if you can tell?

9 A. Up here in the street off the sidewalk.

10 Q. And there's a light right here. Is that
11 correct?

12 A. Yes.

13 Q. So there was no doubt you saw what you
14 saw?

15 A. Yes.

16 Q. Did you call the cops right after you
17 heard it and when you saw this?

18 A. No.

19 Q. Why didn't you call the cops right after
20 you saw it?

21 A. You see stuff like that every day, just
22 about.

23 Q. So you didn't feel you need to call the
24 cops?

25 A. No. I wasn't really -- they ended up

1 calling the cops.

2 Q. When was the first time you actually
3 talked to police officers about this case?

4 A. When they picked me up on a warrant.

5 Q. Okay.

6 A. And, uh, ---

7 Q. Did they pick you up, or did you turn
8 yourself in?

9 A. I turned myself in.

10 Q. You turned yourself in on a burglary third
11 warrant, too. Isn't that correct?

12 A. It was a ---

13 Q. There was a warrant out there for you for
14 a burglary third?

15 A. Yes.

16 Q. And you turned yourself in?

17 A. Yes.

18 Q. What happened?

19 A. With that?

20 Q. You went to the police station?

21 MR. SMILEY: Objection, Your Honor,
22 it's a series of leading questions.

23 THE COURT: Sustained. Be careful
24 with the leading.

25 MR. KENT: Thank you, Your Honor.

DIRECT EXAMINATION RESUMED

BY MR. KENT:

Q. You've actually got some other convictions too, don't you, Edwin?

A. Yes.

Q. As a matter of fact, in 1996 you were convicted for possession of cocaine. Isn't that true?

A. Yes.

Q. In 1998, you were convicted of failure to stop for a blue light. Isn't that correct?

A. Yes.

Q. In 1998, you were also convicted of possession of a stolen motor vehicle?

A. (Affirmative nod)

Q. In 1998, you were also convicted of the sale of a pistol or possession of a pistol. Isn't that all true?

A. Not the car one. But the pistol is.

Q. Actually, currently the burglary third charge that we're talking about, that charge is still pending in our office. Isn't that correct?

A. Yes.

Q. Has anybody talked to you about that

1 charge?

2 A. No, not yet.

3 Q. Are you testifying today in hopes that
4 somebody's going to cut you a deal on that
5 charge?

6 A. No.

7 Q. Why are you testifying today?

8 A. Subpoena.

9 Q. Okay. So you don't want to be here, do
10 you?

11 A. No.

12 Q. How sure are you that you saw what you saw
13 that evening?

14 A. I'm sure.

15 Q. How sure are you? Seventy percent sure,
16 eighty percent sure?

17 MR. SMILEY: Objection.

18 THE COURT: You got to be careful,
19 now, with the leading. Sustained.

20 MR. SMILEY: I move to strike the
21 answer.

22 THE COURT: All right. I am going
23 to grant the Motion to strike that last answer
24 now. You've got to watch the leading. It's
25 easy to do, but be careful now.

1 MR. KENT: Yes, sir.

2 DIRECT EXAMINATION RESUMED

3 BY MR. KENT:

4 Q. When you went to that police station were
5 you shown anything?

6 A. Yes.

7 MR. SMILEY: Objection, Your Honor.
8 Leading again.

9 THE COURT: "When you went to the
10 station were you shown anything?"

11 MR. SMILEY: Yes, sir.

12 THE COURT: No.

13 MR. SMILEY: What happened at the
14 station?

15 THE COURT: No, the way that he
16 worded it, it doesn't suggest the answer.

17 MR. SMILEY: Yes, sir.

18 THE COURT: I'll overrule that one.

19 MR. SMILEY: Yes, sir.

20 DIRECT EXAMINATION RESUMED

21 BY MR. KENT:

22 Q. Were you?

23 A. Yes.

24 Q. What?

25 A. A picture graph.

1 Q. And what was that?

2 A. A picture graph with some faces on it.

3 One of them was his.

4 MR. SMILEY: Do I need to renew my
5 previous objection at this point in time?

6 THE COURT: Noted for the record on
7 that.

8 DIRECT EXAMINATION RESUMED

9 BY MR. KENT:

10 Q. And who showed that to you?

11 A. I think his name was Gaston. Gaston or
12 Goodrich. I don't remember the officer's name
13 or the detective's name.

14 Q. So you're not sure what officer showed it
15 to you?

16 A. No.

17 Q. I'm going to show you what's been marked
18 as State's Number 27 and Number 28. Do you
19 know what those are?

20 A. Pictures.

21 Q. What are they pictures of?

22 A. They're just mug shots.

23 MR. SMILEY: Your Honor, may we
24 approach?

25 THE COURT: Yes.

1 SIDEBAR:

2 MR. SMILEY: I understand that he is
3 showing him pictures of --

4 MR. KENT: I will be happy to take
5 a brief with him right now and call Mike Gordon
6 and get the evidence put in the way that he
7 wants ---

8 MR. SMILEY: I think he has to have
9 the officer put it together before it's shown
10 to him.

11 MR. KENT: I've got no problem with
12 putting Mike Gordon up, if you -- I don't think
13 I need to do that. I've gotten in through
14 witnesses before, but I've got Mike Gordon
15 here, ready to testify and I can put him up
16 next. Then I'd ask permission to recall this
17 witness. I've got no problem with that as long
18 as you explain to the jury what we're doing.

19 THE COURT: Okay. He does need to
20 be outside the courtroom, though.

21 (SIDEBAR CONCLUDED)

22 MR. KENT: Your Honor, at this
23 time, pursuant to request by Defense Counsel,
24 the State would ask that the witness, Edwin
25 Middleton, be excused and call Michael Gordon,

1 to put together the lineup situation and then
2 recall Mr. Middleton.

3 THE COURT: I will work with you
4 any way that I can. Both sides. I will be as
5 lenient as I can on how you call witnesses for
6 the convenience of everyone.

7 MR. KENT: Mr. Middleton, if you
8 will ---

9 THE COURT: Step down just for a
10 minute, Mr. Middleton. He does need to be
11 outside the courtroom.

12 (WITNESS STEPS DOWN)

13 THE COURT: The State calls Michael
14 Gordon.

15 (WITNESS TAKES STAND)

16 MICHAEL GORDON, being
17 duly sworn to tell the truth, the whole truth
18 and nothing but the truth, was examined and
19 testified, as follows:

20 DIRECT EXAMINATION

21 BY MR. KENT:

22 Q. Mike, who do you work for?

23 A. Charleston Police Department.

24 Q. What do you do over there?

25 A. I am assigned to the Violent Crimes unit.

1 Q. What is your official title?

2 A. Sergeant.

3 Q. Tell me about your history with the
4 Charleston Police Department? What all have
5 you done with them?

6 A. I've been there 25 years, 17 of which have
7 been involved in homicide investigation.
8 Previously I was a street supervisor and a
9 patrol officer, prior to going into the
10 Detective Division.

11 Q. And what was your title or what was your
12 function on December 12, 2000?

13 A. Same thing, Sergeant in the Violent Crime
14 unit.

15 Q. Did you actually have an opportunity to
16 investigate the case of Freddie Green?

17 A. I was involved in the investigation, yes,
18 I was.

19 Q. Tell me what you did throughout your
20 investigation. What did you actually do?

21 A. I was not working the night that it
22 occurred. I was advised about it the following
23 day by Detective Connolly. I went down to the
24 scene, met briefly with the Green family on
25 occasion, followed up some canvas in the area.

1 Q. By "canvas", what do you mean? Tell the
2 jury what that means.

3 A. A canvas is really a routine part of an
4 investigation where you return to the crime
5 scene and go door-to-door, stop people, talk to
6 as many people as you can. If it's in a
7 residential area, you literally are going door-
8 to-door, knocking on the door asking people if
9 they saw anything, if they heard anything,
10 things of that nature.

11 Q. You did that that evening or the next day?

12 A. I did that some the next day, yes, sir.

13 Q. What else did you do in regards to this
14 case?

15 A. Other than the general followup of leads
16 that came in from time to time, I met with
17 Edwin Middleton on the 29th of July, I believe.

18 Q. And where did you meet with Edwin
19 Middleton?

20 A. At the Charleston Police Department.

21 Q. Why were you meeting with Edwin Middleton?

22 A. He was under arrest on a charge of
23 burglary, and he had asked if he could speak to
24 a detective because he had some information in
25 reference to a homicide that had occurred in

1 the city.

2 Q. so you actually took a statement from him
3 that evening. Is that correct?

4 A. Yes, I did.

5 Q. And after you took a statement from him
6 what did you do?

7 A. Showed him a photographic lineup based on
8 the information he had given me. He had named
9 the identity of the person he had saw commit
10 the shooting. A photographic lineup was
11 compiled of which that person was included.

12 It was shown to Mr. Middleton, and he made an
13 identification.

14 Q. Now, had you ever done a photographic
15 lineup before?

16 MR. SMILEY: Note my objection again
17 for the record.

18 THE COURT: So noted.

19 DIRECT EXAMINATION RESUMED

20 BY MR. KENT:

21 Q. Had you ever done a photographic lineup
22 before or was this the first photographic
23 lineup you've ever done?

24 A. Many times.

25 Q. How often have you done them, would you

1 say?

2 A. I've been investigating murders for 17
3 years. I'm sure I've done a couple hundred of
4 them, I would guess.

5 Q. And what is the process that you actually
6 do to do a photographic lineup?

7 A. A series of photos are compiled.

8 Generally it's six photos; it can be more, but
9 generally we use six. Those photos are brought
10 up on a computer. They are selected, the ones
11 that you want to use in the lineup. They're
12 put on a form, brought out, printed out. That
13 form with the pictures on it is then shown to
14 the person that's going to view it. An
15 admonition form is read to him prior to him
16 viewing it.

17 Q. Explain to the jury what an admonition
18 form is, if you would.

19 A. An admonition form is really just a kind
20 of department policy that the Charleston Police
21 Department uses when we go to show somebody a
22 photographic lineup. We have a set phrase
23 that's printed out on a piece of paper that we
24 read to them prior to them viewing a lineup
25 that just details what they are going to see

1 and gives them a few clarifications, if you
2 may, about how the viewing process will go and
3 what they should key on and that sort of thing,
4 prior to looking at the lineup.

5 Q. Do you actually have a copy of that in
6 front of you?

7 A. Yes, I do.

8 Q. If you would, please read the admonition
9 that you read that evening.

10 A. The narrative that I read is worded,
11 (reading):

12 "I'm going to show you a group
13 of photographs that may or may not contain the
14 picture of a person who committed the above-
15 listed offense which is under investigation.
16 Keep in mind that the photos may show a
17 variance in complexion, hair, eyes, facial hair
18 or weight. If you recognize anyone in any
19 of the photos as the person who committed the
20 crime against you or you were a witness to, I
21 will ask you if you are positive in your
22 identification. I will then ask you to sign
23 and date the back of each of the photos. Upon
24 viewing these photos do not discuss the results
25 of this procedure with other witnesses."

1 In this case there were no other witnesses
2 to discuss it with, so ---

3 Q. So that's actually what you read to Mr.
4 Middleton before you gave him a copy of the
5 lineup?

6 A. Correct. That's read to everybody who
7 views the photographic lineup.

8 Q. And what's in front of you -- if I'm not
9 mistaken, that will be State's 27. Is that
10 the actual form that you presented to Edwin
11 Middleton on that day or a reasonable
12 depiction?

13 A. Yes, it appears to be.

14 Q. And how do you know that?

15 A. It has my signature on it -- excuse me, my
16 writing for the numbers of the photos listed in
17 the lineup, the date and Mr. Middleton's
18 signature in the appropriate places.

19 Q. Turn around for me.

20 A. (Complies).

21 Q. This is what you were just reading from.
22 Is that correct?

23 A. Yes, sir.

24 Q. So you read this?

25 A. Yes.

1 Q. And then after you read this, what do you
2 do?

3 A. He signs here (indicating).

4 Q. So you made sure he signed it before you
5 do anything else?

6 A. Right. He just signs it, to make sure
7 that he understands what I've shown him.

8 Q. What's the next thing you do?

9 A. Show him the lineup.

10 Q. If you look -- stapled behind State's
11 Exhibit 27 is State's Exhibit Number 28, is
12 that a reasonable depiction of what you
13 actually showed to Mr. Edwin Middleton?

14 A. Yes, sir.

15 Q. If you could, just for the record,
16 describe how any of those pictures look.

17 A. It's a photograph of six individuals,
18 black males, each with what I would call
19 longer-than-average length hair, generally of
20 the same complexion and generally with some
21 amount of facial hair on each.

22 Q. So when you try to do these pictures,
23 you try to make them all look as similar as
24 possible?

25 A. Right.

1 Q. Do you try to make all the pictures look
2 about the same?

3 A. Yeah, we don't want anybody particularly
4 outstanding in the photos. So we try to get
5 them, you know, of some consistency, yes, sir.

6 Q. Is there any actual writing on State's
7 Exhibit Number 28, which is the six pictures?

8 A. There's a signature of Mr. Middleton
9 beneath photo number two.

10 Q. Behind you, is that a depiction of what
11 you were talking about just now, State's
12 Exhibit Number 28?

13 A. That's correct.

14 Q. Those are the six individuals who were on
15 the picture that you gave to Edwin Middleton
16 that afternoon?

17 A. That's correct.

18 Q. And under the second picture, what is
19 that, that writing?

20 A. That's the signature of Edwin Middleton.

21 Q. And why do you have people do that? Why
22 are people asked to sign their name down there?

23 A. Basically to corroborate their identifica-
24 tion. They have six photographs to look at.

25 They're requested to sign beneath the photo-

1 graph they're identifying.

2 Q. Do you tell them anything after they sign?

3 Do you say, "That's him. We got him."

4 A. No, I didn't. I usually don't, no.

5 Q. So you don't say anything to them one way
6 or the other?

7 A. "Thanks."

8 Q. As a result of your conversation, -- if
9 I'm not mistaken, Edwin Middleton was arrested
10 for burglary or turned himself in on a burglary
11 third warrant?

12 A. That's correct.

13 Q. And said he had some information he wanted
14 to discuss with you?

15 A. Correct.

16 Q. At any point did he say, 'I want a deal?'

17 A. No.

18 Q. Did he ever say, 'I'm going to tell you
19 this stuff if you promise me to drop my
20 charges'?

21 A. Oh, no.

22 Q. Has he ever come back to you again and
23 said 'drop my charges and' ---

24 MR. SMILEY: Objection, Your Honor,
25 it's a leading question.

1 MR. KENT: Those are all the
2 questions I have, actually, Your Honor.

3 THE COURT: Okay.

4 CROSS EXAMINATION

5 BY MR. SMILEY:

6 Q. Sgt. Gordon?

7 A. Yes, sir.

8 Q. I don't need to introduce myself to you.
9 Of course, this is my client -- Antwon Goodwin.
10 Tony.

11 A. Yes, sir.

12 Q. You weren't the one that arrested Edwin
13 Middleton. Another officer arrested him. Is
14 that correct?

15 A. That's correct.

16 Q. And that officer called you up and said --
17 how did that happen?

18 A. No, I was told this by Captain Tillman.

19 Q. Captain Tillman told you 'there's a guy
20 here that wants to talk about some shootings;
21 right?

22 A. Yes, sir.

23 Q. He didn't at that point say, 'Hey, this
24 guy wants to talk about the Freddie Green
25 killing.' He said he wanted to talk about some

- 1 shootings. Correct?
- 2 A. I believe so. I believe murders,
- 3 specifically.
- 4 Q. Well, murders.
- 5 A. Yes, sir.
- 6 Q. So you met with Edwin Middleton?
- 7 A. (Affirmative nod).
- 8 Q. Let's make sure you're clear with the jury
- 9 when this was. That was on July the 29 of
- 10 2002, correct?
- 11 A. Yes, sir.
- 12 Q. You met with Edwin and he started telling
- 13 you about a killing that involved a fellow by
- 14 the name of Antonio Fishburn, or something
- 15 about that?
- 16 A. That's correct.
- 17 Q. And how it wasn't a fellow by the name of
- 18 Little Mike who did the shooting?
- 19 A. That's correct.
- 20 Q. And then you said, 'Since you're familiar
- 21 with that area, do you know anything about any
- 22 other shootings or the Freddie Lee Green
- 23 shooting?'
- 24 A. Yes, that's correct.
- 25 Q. And it's at that point he told you he was

- 1 a witness, right?
- 2 A. That's correct.
- 3 Q. 'Oh, yeah, I'm a witness.'
- 4 A. (Affirmative nod).
- 5 Q. So he didn't volunteer he was a witness.
- 6 It was only after you had directed his
- 7 attention to that, correct?
- 8 A. That's correct.
- 9 Q. And he told you he had known Tony for
- 10 about ten years?
- 11 A. I believe so. Yes, sir.
- 12 Q. So the photo lineup's sort of redundant,
- 13 because if he knows him, certainly he knows
- 14 him. Unless it's a different Tony that he
- 15 knew, he's certainly going to pick out somebody
- 16 he's known for ten years.
- 17 A. Correct, but I thought it the best course
- 18 of action to do a photographic lineup. Yes,
- 19 sir.
- 20 Q. Right. Now, you took a written statement
- 21 from Edwin Middleton?
- 22 A. Yes, sir.
- 23 Q. And you wrote that statement. Is that
- 24 correct?
- 25 A. Yes, I believe I did. Could I see it?

- 1 Q. Yes, certainly.
- 2 A. (Upon review), I'm almost positive I wrote
3 it.
- 4 Q. At his request, but in fact you did write
5 it?
- 6 A. Yeah, I wrote it. Yes, sir.
- 7 Q. I know your writing, too. That statement,
8 it's six pages long?
- 9 A. Yes, sir.
- 10 Q. I apologize, I don't have the original but
11 -- and his name is redacted, but that would be
12 where he would have signed on the bottom?
- 13 A. Yes, sir.
- 14 Q. Okay. After you'all wrote down this
15 statement, you then recorded it?
- 16 A. Yes, sir, I believe so.
- 17 Q. Before then you had not recorded it, any
18 of the conversation?
- 19 A. Well, between -- no, sir. I recorded the
20 statement after I had written it.
- 21 Q. After you got it written down you turned
22 the tape recorder on?
- 23 A. I turned it on?
- 24 Q. Well, you didn't use it before then.
25 Correct?

1 A. No, sir.

2 Q. But you were certainly in a place that
3 tape recording wouldn't have been a problem,
4 anytime prior to that?

5 A. Certainly.

6 Q. In fact, you'll interview and begin the
7 taping of some people but not others, right?

8 A. I'm sorry. Can you repeat that?

9 Q. You didn't -- you did not -- let's keep it
10 simple. You did not record the conversation
11 leading up to the statement with Edwin
12 Middleton?

13 A. No, I did not.

14 Q. However, you have recorded conversations
15 that led to statements or didn't lead to
16 statements. So it's not that you never do it.
17 You just didn't do it in this case, true?

18 A. Yeah, I'd say that's true.

19 Q. For instance, another fellow in this case,
20 Redando Burns, you recorded the whole interview
21 with him; correct?

22 A. Yes, sir.

23 Q. But in this case, you didn't record it
24 until after you got it written down, right?

25 A. That's correct, yes, sir.

1 Q. And then that tape recording is you
2 reading the statement and asking if that's what
3 he said, right?

4 A. Yes, sir.

5 Q. And that would be so later he can't say,
6 "I didn't say that." Because you're reading
7 each part of the statement while it's being
8 recorded, so that he can confirm that's exactly
9 what he's trying to say, correct?

10 A. Yes, sir, that's so that there's no
11 discrepancy.

12 Q. Right. So we are confident that he was in
13 agreement with this statement of six pages that
14 he gave that day?

15 A. Yes, sir.

16 MR. SMILEY: Beg the Court's
17 indulgence. Thank you, Your Honor.

18 CROSS EXAMINATION RESUMED

19 BY MR. SMILEY:

20 Q. Any particular reason you didn't record
21 the give-and-take before the statement was made
22 with Edwin Middleton?

23 A. No, sir. Generally when we take written
24 statements from people, the procedure that we
25 employ is just as I had done here: read the

1 statement back to the person on audio, record
2 it and submit it as evidence.

3 Q. When you start an interview you don't know
4 whether there's going to be a written statement
5 or not, do you?

6 A. No.

7 Q. That's why you have that conversation,
8 that back-and-forth, right?

9 A. Correct. I mean, if you're asking do I
10 record every conversation I have with a
11 potential witness or something, no, I do not.

12 Q. How do you determine which ones you're
13 going to record and which ones you're not?

14 A. Generally, it's a judgment call on my part
15 whether I think it should be recorded or
16 whether I think it should not. This one, I
17 thought was significant enough that I wanted
18 it recorded.

19 Q. But you didn't record the conversation?

20 A. No, not the conversation. I recorded
21 this.

22 Q. But we agree this is a significant
23 witness.

24 A. Correct.

25 Q. This is the only potential eyewitness that

1 had come forward some year and a half later,
2 right?

3 A. That's right.

4 Q. But you didn't think it was important to
5 record for this jury to hear how that statement
6 that you wrote down came about?

7 A. No, no, I didn't record that.

8 Q. How many suspects did you have in the
9 beginning of this case?

10 A. How many suspects?

11 Q. Multiple?

12 A. I'm not really clear on what your
13 terminology is as far as "suspects". We've
14 had -- you know, the investigation went on for
15 quite some time. There were various names
16 called throughout the investigation that were
17 investigated. So, I mean, -- I mean, certainly
18 there were, you know, a variety of names called
19 at one point or another, but there always are
20 in investigations.

21 Q. You didn't offer Edwin -- Edwin just, two
22 years later, out of good conscious, when he got
23 arrested was at the police station and decided
24 he wanted to talk about shootings?

25 A. He was brought to me. I didn't go seek

1 Mr. Middleton out. I mean, I was approached by
2 Captain Tillman and told that there was, you
3 know, a subject at the front desk that had some
4 information that we might be interested in
5 regarding murders.

6 Q. Was he at the front desk or in a holding
7 cell?

8 A. No, he was down at the front desk, I
9 believe, being booked in.

10 Q. Being booked in to be put in a holding
11 cell, correct?

12 A. Oh, yeah, that's the procedure. He wasn't
13 leaving.

14 Q. There wasn't any talk about helping him
15 out with a bond or anything like that?

16 A. No, sir. I told him up front there was no
17 way I could do that. It's against department
18 policy.

19 Q. It's against department policy ---

20 A. --- to recommend reductions in bonds, yes,
21 sir.

22 Q. But he asked about that?

23 A. No, no. I mean, it wasn't even an issue.
24 I can't do it.

25 MR. SMILEY: Nothing further.

1 THE COURT: Solicitor?

2 MR. KENT: Nothing further, Your
3 Honor. We'd just ask, other than the objection
4 made by Mr. Smiley, that State's Exhibit Number
5 27 and 28 be offered into evidence at this
6 time.

7 THE COURT: Subject to his prior
8 objection.

9 MR. SMILEY: Yes, sir.

10 THE COURT: They're in.

11 (SO ENTERED AS STATE'S EXHIBIT 27)

12 (SO ENTERED AS STATE'S EXHIBIT 28)

13 MR. KENT: We ask that this witness
14 be allowed to be excused, Your Honor.

15 MR. SMILEY: I would ask that he be
16 subject to recall, Your Honor.

17 THE COURT: We can let him go to the
18 back, but just stay available in case we need
19 to get ahold of you.

20 WITNESS: I'm supposed to go on
21 duty at 4:00. Can I leave the courtroom, or
22 should I stay here?

23 THE COURT: No, you can go on duty.
24 Just stay where we can get you.

25 (WITNESS STEPS DOWN)

1 MR. SMILEY: If I need him, it won't
2 be any rush thing.

3 MR. KENT: Your Honor, the State
4 would recall Edwin Middleton.

5 (WITNESS TAKES STAND)

6 EDWIN MIDDLETON, having been
7 previously sworn, testified as follows:

8 DIRECT EXAMINATION RESUMED

9 BY MR. KENT:

10 Q. Mr. Middleton, before we were interrupted,
11 I was asking you about the admonition that was
12 shown to you before the lineup by the officers
13 that evening. I'm going to have you look at
14 State's Exhibit 27 and State's Exhibit 28, and
15 see if you recognize that.

16 A. (Upon review), yes.

17 Q. What are they?

18 A. Photo lineups.

19 Q. Okay. Turn around.

20 A. (Complies).

21 Q. What is that?

22 A. My signature.

23 Q. Okay. And what is that right there?

24 A. My signature.

25 Q. So you signed this admonitions form,

1 State's Exhibit 27; is that correct?

2 A. Yes.

3 Q. Did you sign that after you were read this
4 paragraph right here? I'd have you read this
5 first paragraph. Was that read to you?

6 A. (Upon review), yes.

7 Q. Okay. Did you sign that after that
8 paragraph was read to you?

9 A. Yes.

10 Q. Tell me what happened after you were shown
11 that admonition and after the admonition was
12 read to you. What did the officer do next?

13 A. He read the front page. He showed
14 pictures and he asked me to circle, uh, to
15 circle it.

16 Q. Okay. You have State's Exhibit 28 in
17 front of you. That's a copy of it behind you,
18 you can turn around and look at that. What did
19 he have you do?

20 A. Circle it.

21 Q. So he had you circle what?

22 A. Circle the picture -- circle the picture
23 of the person.

24 Q. What person?

25 A. Mr. Goodwin.

1 Q. Did you -- did he say 'circle the picture
2 of Mr. Goodwin' or what did he say?

3 A. No, he was like, 'you see anyone in the
4 lineup' and I was, like, 'yeah.' I circled it.

5 Then he went back to the front and he was,
6 like, 'put your name by it.' Like that.

7 Q. So that's what you did, signed your name
8 underneath that?

9 A. Yes.

10 Q. After you looked at all those pictures?

11 A. Yes.

12 Q. How long did it take you?

13 A. First sight.

14 Q. So it didn't take you no time at all?

15 A. No.

16 Q. Now, the hair in that picture, is that the
17 same way that his hair looked on December 12th,
18 2000?

19 A. It was a little more wilder than that.

20 Q. Is that the way that his hair usually was
21 the times you'd see him?

22 A. Naw, it be braided down.

23 Q. It would be braided?

24 A. (Affirmative nod).

25 Q. Was it ever short/cropped?

1 A. No.

2 Q. Never?

3 A. No.

4 MR. KENT: I beg the Court's

5 indulgence, Your Honor. Thank you.

6 EXAMINATION RESUMED

7 BY MR. KENT:

8 Q. After they showed you that lineup, did
9 they tell you that they got it, that was the
10 person that they were looking for?

11 A. I don't really recall.

12 MR. KENT: That's all that I have.

13 If you could, please answer any questions that

14 Mr. Smiley has for you. Okay, Edwin?

15 WITNESS: Yes.

16 MR. SMILEY: With the Court's

17 permission, I am going to ask the witness to

18 step in front of the jury.

19 THE COURT: Sure.

20 CROSS EXAMINATION

21 BY MR. SMILEY:

22 Q. Edwin, come on down.

23 A. (Complies).

24 Q. Now, when you say that you saw what you

25 saw, you were walking back from Columbus

1 Street?

2 A. No, I was walking down right here.

3 Q. Now, you gotta talk loud for her (court
4 reporter) to hear. Okay?

5 A. Going down toward Aiken, I was going down.

6 Q. Here's a map of Charleston, that area.

7 A. I was coming down about here. I walked
8 this way.

9 Q. Right.

10 A. I was coming down, I was going to go up to
11 here and go by the apartments here.

12 Q. Where is Ernie's?

13 A. Right here.

14 Q. So had you gone to Ernie's when you saw
15 this?

16 A. I was on my way -- not yet.

17 Q. So you were walking down Line in a
18 southerly direction. Okay?

19 A. (No response).

20 Q. Walking down Line in a southerly direction
21 toward George's store -- trying to make sure
22 the jury can see it, where I am pointing to in
23 the middle -- and you were on the sidewalk
24 across from that?

25 A. Yes.

1 Q. When you say you saw what you saw?

2 A. Yeah.

3 Q. And you said that you were on this side?

4 A. Yeah.

5 Q. Walking -- and this was before you got to
6 the bus stop that you say you saw what you saw
7 over here; correct?

8 A. Yes, sir.

9 Q. Okay. Only it ain't that sharp on the
10 corner like that.

11 Q. Okay, I am going to show you some other
12 pictures. But that's where you're saying where
13 you were?

14 A. Yeah.

15 Q. I am going to show you what is State's
16 Exhibit 2. This would be that sidewalk,
17 correct?

18 A. Um-humm.

19 Q. And you were on the sidewalk before that
20 bus stop sign?

21 A. Right here.

22 Q. A few feet before you get to it?

23 A. (Affirmative nod).

24 Q. All right. And you were walking towards
25 the sign?

- 1 A. Yes.
- 2 Q. But you hadn't reached it yet?
- 3 A. Nope.
- 4 Q. Now, your testimony is that Tony stepped
5 out of the front door of George's?
- 6 A. After he walked in, (affirmative nod).
- 7 Q. So you saw him, when you were farther down
8 the street, walk in?
- 9 A. No. I was up on it and he was coming up
10 in and he was shortly behind -- the other guy
11 was right behind him.
- 12 Q. No, my question -- my question is this:
13 You were walking, is that correct?
- 14 A. Yes.
- 15 Q. You were walking down Line Street, towards
16 that bus stop?
- 17 A. Yes.
- 18 Q. And you saw Antwon Goodwin go into
19 George's Sweet Shop?
- 20 A. (Affirmative nod).
- 21 Q. You are still walking, you hadn't stopped?
- 22 A. No.
- 23 Q. And you see Antwon Goodwin come out of
24 George's, correct?
- 25 A. (Affirmative nod), wasn't in there more

1 than two or three seconds.

2 Q. Tony jumped in, jumped out?

3 A. Walked in and turned right around.

4 Q. And Freddie did the same?

5 A. He got to the door but he hadn't walked
6 in.

7 Q. Okay. And then Freddie turned to walk
8 away, Tony steps out and Pow!

9 A. Took a couple of steps.

10 Q. Couple of steps?

11 A. (Affirmative nod).

12 Q. They are right there at the front of that
13 store?

14 A. (Affirmative nod).

15 Q. Okay? That's what you remember? Right
16 there, in front of the store?

17 A. Not exactly in front of the store.

18 Q. But not too far from it?

19 A. It was in the street.

20 Q. Okay. Showing you State's Exhibit 1, you
21 say right in the street, was it right near this
22 power pole?

23 A. If you -- he walked back out to the side-
24 walk and the -- he was just coming out.

25 Q. Okay. So you were about twenty-five feet

1 away?

2 A. I didn't measure it.

3 Q. You were just right across the street?

4 A. I don't know the feet.

5 Q. Showing you what is marked as State's
6 Exhibit 3, entered into evidence, -- so --
7 that's the bus stop sign, right?

8 A. Right.

9 Q. You saw all this happen around this corner
10 and in the street?

11 A. (Affirmative nod).

12 Q. In the street, here?

13 A. (Affirmative nod).

14 Q. A few feet across the street?

15 A. More like in the middle of the street,
16 back there, like in here.

17 Q. Okay. Edwin, you can take the stand
18 again.

19 A. (Complies).

20 Q. Now, earlier you testified that you had
21 seen Edwin (sic) and Freddie together a few
22 days before?

23 A. Yes.

24 Q. And that was over there on Columbus
25 Street, is that correct?

1 A. Yes.

2 Q. That was your testimony here today?

3 A. Yes.

4 Q. Just a few days before?

5 A. Yes.

6 Q. And you realize that you're under oath?

7 A. Yes.

8 Q. Do you remember giving a statement to
9 Sergeant Gordon?

10 A. (No response).

11 Q. Do you remember giving a statement about
12 this case to the Police Department?

13 A. I remember them asking me about it.

14 Q. Do you remember signing a statement?

15 A. For those pictures and stuff.

16 Q. And you don't remember giving a six-page
17 statement at the Police Department?

18 A. (Negative gesture).

19 MR. SMILEY: Beg the Court's
20 indulgence -- if we could approach.

21 SIDEBAR:

22 MR. SMILEY: I would like to proffer
23 something that it not redacted.

24 MR. KENT: That's fine.

25 (SIDEBAR CONCLUDED)

1 CROSS EXAMINATION RESUMED

2 BY MR. SMILEY:

3 Q. So on July 29th, 2002, -- I am going to
4 show you a six-page document, (tendering).
5 See if you recognize the signature.

6 A. (Upon review), yeah.

7 Q. Is that your signature?

8 A. Yeah.

9 Q. Is that your signature?

10 A. Yeah.

11 Q. Is that your signature?

12 A. Yes.

13 Q. That your signature?

14 A. Yes.

15 Q. That your signature?

16 A. Yes.

17 Q. Is that your signature?

18 A. Yes, sir.

19 Q. So you gave -- you signed the bottom of
20 this six-page witness statement, correct?

21 A. Yes.

22 Q. And then Sergeant Gordon recorded it,
23 correct? Went over it and asked you if this
24 was correct, isn't that right?

25 A. Yes.

1 Q. You remember that?

2 A. I remember that.

3 Q. Okay. So this is your statement from that
4 day?

5 A. (No response).

6 Q. And in that statement you say that you saw
7 them on the same day, 12/12/00, at 3:00 or 4:00
8 in the afternoon. "I saw Antwon Goodwin and
9 Freddie Green"

10 MR. KENT: Objection, Your Honor.

11 CROSS EXAMINATION CONTINUING

12 BY MR. SMILEY:

13 Q. Isn't that what you said?

14 MR. KENT: Objection, Your Honor.

15 THE COURT: Approach.

16 SIDEBAR:

17 MR. KENT: Your Honor, the witness
18 should be given his statement. He hasn't been
19 asked if he remembers this or anything like
20 that.

21 MR. SMILEY: He said that he does.

22 MR. KENT: He hasn't said whether
23 he remembers it or not. The witness has the
24 right to say 'yes, I remember this.' Mr.
25 Smiley is just trying to beat him up on some

1 inconsistency. You can't use extrinsic
2 evidence yet. He hasn't said anything
3 inconsistent yet. He said that he didn't
4 remember seeing the statement. The proper
5 course now is to say, 'Can I give you something
6 that will refresh your memory?' If he
7 refreshes -- then he can ask him if he
8 remembers. You can't use extrinsic evidence to
9 try to impeach a witness who has not testified
10 inconsistently.

11 MR. SMILEY: I asked him if that was
12 the statement that he gave, asked him about his
13 signature on each page, if that was his
14 signature, and he said "yes".

15 THE COURT: I overrule the
16 objection.

17 MR. SMILEY: Thank you, Your Honor.

18 CROSS EXAMINATION RESUMED

19 BY MR. SMILEY:

20 Q. So on this statement that you signed your
21 name to, do you say that on the same day,
22 12/12/00, at 3:00 or 4:00 in the afternoon,
23 "I was down on Columbus Street and saw Antwon
24 Goodwin and Freddie Green"? Correct?

25 A. Yes, I saw them.

1 Q. So you were incorrect today when you said
2 that it was three or four days before?

3 A. It was a few days before, I thought it
4 was.

5 Q. So that's wrong?

6 A. I thought ---

7 Q. That's wrong on this?

8 A. That's wrong, but they were together.

9 THE COURT: Give him a chance now.

10 MR. SMILEY: Yes, sir.

11 CROSS EXAMINATION CONTINUED

12 BY MR. SMILEY:

13 Q. So the statement that you gave wasn't
14 right?

15 A. Well, a few days.

16 Q. Okay, a few days or the same day?

17 A. It wasn't the same day.

18 Q. It wasn't the same day?

19 A. (Negative gesture).

20 Q. A few days before?

21 A. (No response).

22 Q. When Sergeant Gordon first talked to you,
23 you were telling him about a murder to do with
24 Antonio Fishburn; weren't you?

25 A. No. He asked me about five different

1 murders.

2 Q. Okay. You didn't tell him -- it is your
3 testimony that you didn't tell him that Michael
4 Hayes didn't have anything to do with a
5 different murder?

6 A. No.

7 Q. So ---

8 A. He never called anybody's name. He was
9 asking me about the victims that were, all the
10 people that were from our side. I mean,
11 everybody know everybody.

12 Q. And when he brought up Freddie, you said
13 'Oh, I saw that one.' Right?

14 A. That's the only one that I was out there
15 to see.

16 Q. You didn't tell him, "I am a witness in
17 that case." He asked you and you go, 'Oh,
18 yeah.' After he asked you about it, you said
19 'Oh, yeah, that's one that I can tell you
20 about. That's one I was a witness, that's one
21 where I was twenty-five feet away.' Is that
22 correct?

23 A. Perhaps.

24 Q. You say in your statement that you were
25 better friends with Freddie Green than Tony; is

1 that correct?

2 A. No. I just knew him longer, that's all.

3 Q. I want to read to you, on page three of
4 your statement, (reading): "How long have you
5 known..." ---

6 MR. KENT: Your Honor, I would ask
7 that he allow the witness to read his own
8 statement. Then he can ask a question.

9 MR. KENT: I don't ---

10 WITNESS: Well, he can read it.
11 It don't make any difference.

12 MR. SMILEY: I would prefer to read
13 it myself and ask if that is correct, Your
14 Honor.

15 THE COURT: I am as liberal as I
16 can possible be with it as long as we don't get
17 too far afield. Go ahead.

18 CROSS EXAMINATION RESUMED

19 BY MR. SMILEY:

20 Q. Edwin, on page three of the statement
21 signed by you, does it say -- it says here,
22 (reading):

23 Q. How long have you known Freddie
24 Green?

25 A. Close to ten years, but I know

1 him better than I do Antonio (sic).

2 Did you say that?

3 A. Possibly.

4 Q. Possibly?

5 A. (Affirmative nod).

6 Q. So this statement really isn't worth what
7 it is written on, right?

8 A. That was a while ago, sir.

9 Q. So you wrote this statement in July of ---

10 A. I didn't write that. He wrote it.

11 Q. He wrote it and you signed it?

12 A. (Affirmative nod).

13 Q. And this was from the conversation that
14 you had with him in July of just this past
15 year, right?

16 A. (Affirmative nod).

17 Q. And that was a while ago, right?

18 A. Yes.

19 Q. Okay. Today is January the 7th, 2003;
20 right?

21 A. Yes.

22 Q. August 2002, September 2002, October 2002,
23 November 2002, December 2002, -- that was five
24 months ago, right?

25 A. (Affirmative nod).

1 Q. This incident that you're sure about, it
2 happened December 12th, 2000; isn't that
3 correct?

4 A. Yes.

5 Q. So we got all of 2002, correct?

6 A. (Affirmative nod).

7 Q. All of 2001, correct?

8 A. (Affirmative nod).

9 Q. That's twenty-four months and some days,
10 right?

11 A. Right.

12 Q. And you said that there were seventy-five
13 people out there?

14 A. Or more.

15 Q. Ducs Court is right around the corner from
16 there, isn't it?

17 A. No, it's down the street.

18 Q. It's within a block or so, wouldn't you
19 say?

20 A. Yeah.

21 Q. And in that area often, because you said
22 that you go to George's almost on a daily
23 basis; right?

24 A. Yeah, just about.

25 Q. When Detective Gordon asked you who you

1 recognized out there, who you knew that was out
2 there, you were only able to name four people;
3 right?

4 A. Yeah, because I wasn't out there all that
5 night. I was just walking by.

6 Q. So you were only able to see four people;
7 right?

8 A. And who'all came outside of the building?

9 Q. And that was like the four girls?

10 A. Yes, and I think like two of them was
11 going in the store. That's how come I saw
12 them, I saw those two when they walked up into
13 the light.

14 Q. Because it's dark out there, right?

15 A. Yes. But he has a light ---

16 Q. The only light right there is that one
17 single bulb light right there at the front of
18 the store, right?

19 A. Yes.

20 Q. But if you're out away from there, it's
21 dark. Right?

22 A. So-so.

23 Q. You've got to get up on somebody to see
24 their face, right?

25 A. Not really.

1 Q. Okay. You're a convicted felon?

2 A. Yes.

3 Q. You were convicted of failure to stop for
4 the police, right?

5 A. Yes.

6 Q. For selling a pistol?

7 A. No.

8 Q. I am going to go through your record,
9 Okay?

10 A. (No response).

11 MR. KENT: Objection, Your Honor.

12 MR. SMILEY: I am just looking for
13 the conviction.

14 MR. KENT: Objection, Your Honor.

15 THE COURT: Be careful. You may
16 proceed to look through your file.

17 CROSS EXAMINATION CONTINUED

18 BY MR. SMILEY:

19 Q. On April the 9th, 1999, by the City of
20 Charleston Police Department, you were arrested
21 for the unlawful carrying of a pistol, damage
22 to City property, and you pled guilty to the
23 sell of a pistol for which you received a one-
24 year sentence, suspended during probation.
25 Isn't that correct?

1 A. No.

2 Q. You're telling me that never happened?

3 A. I didn't sell no gun, sir.

4 MR. SMILEY: May we approach, Your
5 Honor?

6 SIDEBAR:

7 MR. SMILEY: I got a certified copy
8 of the conviction.

9 MR. KENT: I think it was for
10 possession.

11 THE COURT: Ask him.

12 (SIDEBAR CONCLUDED)

13 CROSS EXAMINATION RESUMED

14 BY MR. SMILEY:

15 Q. So you didn't sell a pistol, you just
16 illegally possessed a pistol. Is that correct?

17 A. Yes.

18 Q. I am not trying to trick you. I am just
19 trying to ask the questions. All right?

20 A. I can't tell. I cannot tell.

21 Q. So you think that I am trying to trick
22 you?

23 A. I don't know what you're doing.

24 Q. I am going to tell you what I'm doing. I
25 am asking you some questions that I want the

1 truth to. All right?

2 A. Um-humm. Yes.

3 Q. So your testimony is that Freddie Green
4 got shot in the street near the corner of
5 Hanover and Line. Is that correct?

6 A. It was slightly off the sidewalk.

7 Q. But other than that, would that be
8 correct?

9 A. Yes, slightly off the sidewalk.

10 Q. You saw this from the back?

11 A. Everything from the back, (affirmative
12 nod).

13 Q. And yet you did not go to the police until
14 you were arrested, correct?

15 A. I didn't go to the police. He asked the
16 question.

17 Q. It's your testimony that you didn't tell
18 the police that you wanted ---

19 A. After he asked the question.

20 Q. So your testimony then is that they came
21 to you and said, 'We want to talk to you about
22 some of the ---

23 A. Officer Gordon wasn't the one that brought
24 me in. It was Officer Smith that brought me
25 in, and he was asking me all of the questions.

1 Then he referred -- then he brought that guy
2 in.

3 Q. And that's when you told them that you
4 would talk about shootings that you had seen.
5 Is that correct? You told them that you would
6 talk about it?

7 A. Yes, when he asked me.

8 Q. So you volunteered it?

9 A. Like -- yes.

10 Q. A year and a half later, right?

11 A. Yes, when he asked me about it.

12 Q. And your memory is crystal clear?

13 A. No. No, it isn't.

14 MR. SMILEY: I beg the Court's
15 indulgence.

16 THE COURT: Okay.

17 MR. SMILEY: No further questions.
18 Thank you, Your Honor.

19 THE COURT: Redirect?

20 REDIRECT EXAMINATION

21 BY MR. KENT:

22 Q. Edwin, I know that you gave this statement
23 a while ago, so I am going to let you read it.
24 Why don't you do me a favor, let me get this
25 in order, and if you'll just read through it

1 and ---

2 MR. SMILEY: Your Honor, I am going
3 to object to him ---

4 THE COURT: He just said to read
5 through it. You didn't mean verbally, did you?

6 MR. KENT: No, just read what --
7 Mr. Smiley said there was so much stuff wrong
8 with it, I just wanted him to read through it
9 and see what's wrong with it.

10 MR. SMILEY: To refresh his memory,
11 Your Honor?

12 THE COURT: I guess.

13 REDIRECT EXAMINATION RESUMED

14 BY MR. KENT:

15 Q. Just read through it and if there is
16 anything in it that's incorrect or wrong,
17 just let us know.

18 A. (Upon review), okay.

19 Q. Have you read it all?

20 A. Yes.

21 Q. Other than what Mr. Smiley asked you, is
22 there anything else incorrect?

23 A. Just the first page of the days.

24 Q. Just the first page? That's what he was
25 asking you about?

1 A. (Affirmative nod).

2 Q. I think Mr. Smiley said over here, like in
3 some movie voice, he told you that he wanted
4 the truth. Were you telling the truth?

5 A. Yes.

6 Q. And he said, 'are we clear, are we crystal
7 clear'. Are you clear on everything that he
8 was asking you and everything that I am asking
9 you?

10 A. Yes.

11 Q. Okay. Now, when you went down to that
12 police station, who -- who brought up these
13 five murders, you or them?

14 A. Mr. Smitty, the guy who brought me in.

15 Q. The officer that ---

16 A. Smith, Smitty. I don't know his name. I
17 think his last night is Smith and they call him
18 Smitty. He was asking me as he was writing the
19 reports ---

20 MR. SMILEY: Objection, Your Honor.

21 Hearsay.

22 MR. KENT: That's fine.

23 THE COURT: Sustained.

24 REDIRECT EXAMINATION CONTINUED

25 BY MR. KENT:

1 Q. But you did not bring up those five
2 murders?

3 A. No.

4 Q. Do you know why they were asking you about
5 murders?

6 A. Yeah, because I --

7 MR. SMILEY: Objection, Your Honor.
8 Requires speculation.

9 THE COURT: I agree.

10 REDIRECT EXAMINATION CONTINUED

11 BY MR. KENT:

12 Q. Did you see what you say that you saw?

13 A. Yes.

14 Q. That was a "yes"?

15 A. Yes.

16 Q. Are you telling the truth?

17 A. Yes.

18 MR. KENT: That's all that I have.

19 MR. SMILEY: Nothing further.

20 THE COURT: You may step down.

21 (WITNESS STEPS DOWN)

22 THE COURT: Let's take a recess for
23 ten minutes. The jury may step back and relax.

24 (JURY OUT @ 4:23 P.M.)

25 (BRIEF RECESS 4:25 - 4:45 P.M.)

(DEFENDANT PRESENT)

THE COURT: Is the State ready to continue?

MR. KENT: Yes, sir.

THE COURT: Defense ready?

MR. SMILEY: Yes, Your Honor.

THE COURT: Bring the jury back in, please.

MR. KENT: May we approach?

SIDEBAR:

MR. KENT: We have one fairly short witness, Your Honor, and then I don't feel comfortable trying to get anybody else up today.

THE COURT: Okay. That's fine.

MR. KENT: And I don't want to bring this up now, but just so that I can tell Jim also, I just got word that Bill Nettles -- that he has given permission for myself and for Jim to talk to his client.

THE COURT: That's fine.

MR. KENT: He called up and said, 'Hey, you have permission to talk to him. Just whatever you use, don't use it against him.' Okay, no problem. He just wanted me to bring

1 that to your attention beforehand, in case we
2 needed to take a break, so that he'd have time
3 to do whatever he needed to do. I mean, ---

4 MR. SMILEY: Have you decided whether
5 you are going to call him or not?

6 MR. KENT: Well, --- I just wanted
7 to bring that to your attention and we can talk
8 it.

9 THE COURT: All right, we will talk
10 about it.

11 MR. KENT: I just wanted to mention
12 that.

13 THE COURT: Okay.

14 (SIDEBAR CONCLUDED)

15 THE COURT: Bring the jury in, if
16 they're ready.

17 (JURY IN @ 4:45 P.M.)

18 THE COURT: You may be seated.
19 Thank you, Ladies and Gentlemen. You may call
20 your next witness, Solicitor.

21 MR. KENT: The State calls Shamika
22 Milligan.

23 (WITNESS TAKES STAND)

24 SHAMEKIA MILLIGAN,
25 being duly sworn to tell the truth, the whole

1 truth and nothing but the truth, testified, as
2 follows:

3 DIRECT EXAMINATION

4 BY MR. KENT:

5 Q. Shamekia, how you doing today?

6 A. Fine.

7 Q. I will say to you the same thing that I've
8 told everybody else. I need to make sure that
9 you speak up loud enough so that the jury can
10 hear you and so that the court reporter can
11 write down everything that you say.

12 A. (Affirmative nod).

13 Q. I need for you to answer all my questions
14 "yes" or "no" because we can only understand
15 verbal responses. You can't shake your head,
16 say "um-humm" or "uh-uh", because we don't know
17 what that means. Okay?

18 A. Um-humm.

19 Q. Shamekia, where are you from?

20 A. Downtown Charleston?

21 Q. Where at?

22 A. Downtown Charleston.

23 Q. And how long have you lived in -- do you
24 live in downtown Charleston right now?

25 A. Yes, sir.

- 1 Q. Where do you live?
- 2 A. 78 Columbus Street.
- 3 Q. How long have you lived there?
- 4 A. About -- going on three years.
- 5 Q. Going on three years?
- 6 A. (Affirmative nod), yeah.
- 7 Q. Who do you live there with?
- 8 A. My mother.
- 9 Q. Does anyone else live with you'all?
- 10 A. My kids.
- 11 Q. Your kids?
- 12 A. (Affirmative nod).
- 13 Q. How many kids do you have?
- 14 A. Three.
- 15 Q. What are their ages and their names?
- 16 A. Adrian is seven years old.
- 17 Andrea is five years old.
- 18 Shakera is four.
- 19 Q. And how old are you?
- 20 A. Twenty-four.
- 21 Q. Do you work, Shamika?
- 22 A. Yes, sir.
- 23 Q. Where do you work at?
- 24 A. Holiday Inn Express on Isle of Palms.
- 25 Q. What do you do over there?

1 A. Housekeeping.

2 Q. How long have you worked at the Holiday
3 Inn?

4 A. About four months.

5 Q. Four months?

6 A. (Affirmative nod).

7 Q. Where did you work before that?

8 A. JaniKing Janitorial Cleaning Service.

9 Q. Shamika, did you know the victim in this
10 case, Freddie Green?

11 A. No, sir.

12 Q. Do you know Antwon Goodwin?

13 A. Yes, sir.

14 Q. How long have you known Antwon Goodwin?

15 A. Since we were kids.

16 Q. Since you guys were kids?

17 A. Um-humm.

18 Q. Did you'all grow up together?

19 A. Um-humm.

20 COURT REPORTER: Is that a "yes"?

21 WITNESS: Yes.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. KENT:

24 Q. Would you consider him a friend?

25 A. Yes, sir.

1 Q. I am going to take your attention back to
2 the date of December 12th, 2000? Okay?

3 A. Yes, sir.

4 Q. That's the day that we are talking about
5 today. Do you remember that day?

6 A. Yes, sir.

7 Q. Tell me what you were doing before --
8 before -- you went to George's Sweet Shop.
9 What were you doing that day?

10 A. I was never at George's Sweet Shop on
11 December 12th, 2000.

12 Q. It's your testimony that you were never at
13 George's Sweet Shop on that date?

14 A. Yes, sir.

15 Q. Tell me what you were doing that day?

16 A. At about between 3:00 and 4:00 o'clock,
17 I went to my cousin's house at 235-A Hanover
18 Street.

19 Q. Tell me what you did over there.

20 A. We were sitting down drinking.

21 Q. Who all was there?

22 A. Shamika Milligan, Delores Devereaux and
23 Fat Boy.

24 Q. Who is Fat Boy?

25 A. I don't know his real name.

1 Q. You don't know his real name?

2 A. (Negative gesture).

3 COURT REPORTER: Was that a "no"?

4 WITNESS: (Affirmative nod).

5 COURT REPORTER: Speak up for me,

6 please.

7 WITNESS: Okay. Sorry.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. KENT:

10 Q. How long were you over there?

11 A. Until about 11:00 or 11:30.

12 Q. Have you talked to anybody about your
13 testimony today?

14 A. No..

15 Q. Have you talked to anyone in the hallway
16 about your testimony today?

17 A. No.

18 Q. Shamika, do you know an individual by the
19 name of Patrick Cunningham?

20 A. Yes, sir.

21 Q. How do you know Patrick Cunningham?

22 A. Because we dated.

23 Q. How long did you date?

24 A. About two months.

25 Q. About two months?

1 A. (Affirmative nod).
2 Q. When did you date?
3 A. In 2000.
4 Q. Okay. Were you dating Patrick Cunningham
5 in December of 2000?

6 A. Yes, sir.
7 Q. Okay. When is the last time that you
8 talked to Patrick Cunningham?

9 A. A few months ago now.

10 Q. Before that?

11 A. About six or seven months.

12 Q. Shamika, did you ever talk to anyone about
13 the murder of Freddie Green on December 12th,
14 2000?

15 A. No, sir.

16 Q. Did you ever talk to Patrick Cunningham,
17 on December 17th of 2000, and told him what
18 happened in the murder on December 12th, 2000?

19 A. No, sir.

20 MR. KENT: May we approach, Your
21 Honor?

22 SIDEBAR:

23 MR. KENT: Just so that everybody
24 knows, at this time I've got a prior
25 inconsistent statement. I have a witness who

1 will testify that on December 17th, 2000, this
2 witness told him everything about the murder.
3 I think that should be treated as a prior
4 inconsistent statement. The only reason that
5 I stopped was just to be sure that everybody
6 knows it's my intention. I think I have a
7 right to confront her with that inconsistent
8 statement right now.

9 MR. SMILEY: With hearsay? What
10 somebody else said?

11 MR. KENT: It's her statement --
12 basically if she told somebody about it, I have
13 the right to ask her about it. She's denied it
14 and I ---

15 MR. SMILEY: I object, it's hearsay.

16 THE COURT: Okay.

17 (SIDEBAR CONCLUDED)

18 DIRECT EXAMINATION RESUMED

19 BY MR. KENT:

20 Q. Shamika, I am going to ask you something
21 and I want you to listen completely -- listen
22 to what I say completely before you answer it.
23 Okay?

24 A. (Affirmative nod),

25 Q. Isn't it true that on December 17th ---

1 MR. SMILEY: Objection, Your Honor.

2 That's a leading question.

3 MR. KENT: It's got to be leading.

4 MR. SMILEY: This isn't cross-
5 examination.

6 THE COURT: Just rephrase your
7 question. It can be a yes-or-no answer.
8 You can't suggest the answers.

9 MR. KENT: Actually, Your Honor,
10 may we approach?

11 SIDEBAR:

12 MR. KENT: How else do I confront
13 her with the inconsistent statement?

14 THE COURT: But you said "isn't it
15 true" and that suggests an answer.

16 MR. KENT: Oh, okay.

17 THE COURT: You have to ask her and
18 let her ---

19 MR. KENT: I was going to ask 'on
20 this date, didn't you tell this individual
21 this, this and this happened.' She'll say no
22 and then I will be able -- I haven't -- how
23 else do you suggest that I do it?

24 THE COURT: Don't suggest the
25 answer.

1 MR. SMILEY: If you say 'didn't you
2 tell Patrick that you saw this', then ---

3 MR. KENT: Yes, but if she says
4 that's not true, then I am stuck with the
5 answer. Jim? Are you just objecting to the
6 'isn't it true' language?

7 MR. SMILEY: Yeah.

8 THE COURT: I can rephrase it and
9 say, 'you told ---

10 THE COURT: Ask her.

11 (SIDEBAR CONCLUDED)

12 DIRECT EXAMINATION RESUMED

13 BY MR. KENT:

14 Q. Shamika, let me ask you this question and
15 then you can answer after I've asked you.

16 Okay?

17 A. Yeah.

18 Q. On December 17th, 2000, did you tell
19 Patrick Cunningham that you were out at
20 George's Sweet Shop, that you were out there
21 with the neighbors -- Miles, DJ, Little Mike,
22 Little Bly and Little Tony -- and then told
23 Patrick that Little Freddie put his arm around
24 Little Tony's neck, Little Tony pushed him away
25 and pulled out a gun and shot Little Freddie in

1 the head, and then told Patrick Cunningham that
2 he only shot him one time in the back of the
3 head?

4 A. No, sir, I did not.

5 MR. KENT: Your Honor, that's all
6 the questions that I have of this witness.

7 THE COURT: Any questions?

8 MR. SMILEY: Yes, sir.

9 CROSS EXAMINATION

10 BY MR. SMILEY:

11 Q. So you weren't out there?

12 A. No.

13 Q. You were having a beer somewhere else,
14 right?

15 A. Yes, sir.

16 Q. You and Patrick broke up?

17 A. Like probably like before the 12th or a
18 couple of days after that.

19 Q. Before Freddie got killed, you'all had
20 kind of broken up?

21 A. Yes.

22 MR. SMILEY: No further questions.

23 THE COURT: That it?

24 MR. KENT: I have no further
25 questions.

1 THE COURT: You may step down.

2 (WITNESS STEPS DOWN)

3 MR. KENT: Beg the Court's
4 indulgence one moment.

5 THE COURT: Okay.

6 MR. KENT: May we approach?

7 SIDEBAR:

8 MR. KENT: I just need the Court's
9 guidance on what I am and am not allowed to do.
10 Patrick Cunningham, is he now allowed to
11 testify that she told him this?

12 THE COURT: We can talk about this.
13 Let me cut the jury loose, so we don't keep
14 them waiting.

15 MR. KENT: Yes, sir, this would
16 be a good time to stop.

17 (SIDEBAR CONCLUDED)

18 THE COURT: Ladies and Gentlemen,
19 I ask you to be back in the jury room at 9:30
20 and we will resume the trial. Remember, don't
21 discuss the case with anyone. Should anybody
22 try to approach you, don't discuss it with
23 them. Also, the same instruction concerning
24 press coverage applies throughout the trial.
25 Thank you very much. We will see you all in

1 the morning.

2 (JURY OUT @ 5:00 P.M.)

3 THE COURT: Anything before we
4 recess?

5 MR. KENT: No, sir.

6 THE COURT: Mr. Smiley?

7 MR. SMILEY: Not at this time, Your
8 Honor.

9 (COURT IN RECESS @ 5:00 P.M.)

10 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 JANUARY 8, 2003 9:30 A.M.

2

3 (DEFENDANT PRESENT)

4 THE COURT: Are we ready?

5 MR. KENT: Yes, sir.

6 MR. SMILEY: I just didn't have the
7 EMS report, but they said that they will get
8 it to me. Defense is ready, Your Honor.

9 THE COURT: Ready?

10 MR. SMILEY: Yes, sir.

11 THE COURT: Bring them in.

12 (JURY IN @ 9:50 A.M.)

13 THE COURT: Good morning, Ladies
14 and Gentlemen. Solicitor, you may proceed.

15 MR. PRICE: Thank you, Your Honor.

16 The State calls Tim Smith.

17 (WITNESS TAKES STAND)

18 TIMOTHY SMITH, being
19 duly sworn to tell the truth, the whole truth
20 and nothing but the truth, testified as,
21 follows:

22 DIRECT EXAMINATION

23 BY MR. PRICE:

24 Q. Good morning, Mr. Smith. Thank you for
25 coming down here this morning. Mr. Smith,

1 where are you currently employed?

2 A. With EMS.

3 Q. Please explain to the jury why you're
4 being called this morning early. Are you on
5 duty right now?

6 A. Yes, sir.

7 Q. Is someone covering for you right now?

8 A. Yes, sir.

9 Q. Okay. I appreciate you coming down on
10 such short notice. Thank you.

11 A. (Affirmative nod).

12 Q. Mr. Smith, how long have you been with the
13 EMS?

14 A. This February will be six years.

15 Q. What are your normal duties and
16 obligations?

17 A. I'm a crew chief in charge of the medic
18 unit out of Ravenel right now.

19 Q. What are your normal shift hours? Explain
20 to the jury your normal shift hours on a day to
21 day basis?

22 A. Currently I'm working a 24/48 schedule.

23 Q. What is that?

24 A. That means that I work for twenty-four,
25 off for forty-eight.

1 Q. And what are your duties and obligations
2 when you're on duty for the twenty-four hours.
3 What area of Charleston do you have and what
4 are your basic duties here?

5 A. I am currently covering the Ravenel area,
6 and my duties to include 911 services.

7 Q. So you had to come over from Ravenel?

8 A. Yes.

9 Q. Were you with the same unit in 2000?

10 A. No.

11 Q. Explain to the jury what unit you were
12 with in 2000?

13 A. I was on Medic 12, which is based out of
14 North Charleston.

15 Q. And so you were in -- you were basically
16 on duty in North Charleston?

17 A. (Affirmative nod).

18 Q. December 12th, 2000, do you remember that
19 day?

20 A. Yes.

21 Q. Was that your jurisdiction?

22 A. No.

23 Q. Do you remember why you were called to the
24 scene on December 12th, 2000?

25 A. A lot of times we run calls to transport

1 downtown and they'll use the unit that's at the
2 hospital to respond to calls downtown.

3 Q. That was your unit?

4 A. Yes.

5 Q. On December 12th, 2000, did you make a
6 report that evening?

7 A. Yes.

8 Q. Do you have that report with you today?

9 A. Yes, I do.

10 Q. Okay. Who was your partner that evening?

11 A. Jason Nance.

12 Q. Did you have an opportunity that evening
13 to be dispatched to the corner of Line and
14 Hanover streets?

15 A. Yes, I did.

16 Q. When you arrived, what did you first
17 notice when you arrived on the scene?

18 A. The fire department was taking care of a
19 patient that was on the ground, laying on the
20 ground, when we first pulled up.

21 Q. When you first arrived, were you the first
22 or second -- what order of response were you at
23 that time?

24 A. We were the third ones to get -- actually
25 the fourth ones to get on scene.

1 Q. You were about the fourth to get on the
2 scene?

3 A. Yeah. The police department, then the
4 fire department and a Quick Response vehicle
5 that got there immediately before us.

6 Q. What did you immediately do when you
7 arrived?

8 A. We packaged up Mr. Green, fully
9 immobilized him, did some critical airway
10 things and transported him to Med U as quick
11 as possible.

12 Q. Tell the jury what you mean by fully
13 immobilized him and did some airway-type
14 procedures.

15 A. With a gunshot wound to the head, we put
16 him on a back-board and put a C-collar on him,
17 in case there was any neck injury, back
18 injuries, that type things, and then we loaded
19 him into the ambulance, started towards the
20 hospital. We incubated him, because he was not
21 breathing. We started some IV lines.

22 Q. Did you notice immediately that it was a
23 gunshot wound?

24 A. Yes, he had what appeared to be a gunshot
25 wound to his forehead.

1 Q. But did you later realize that it was a
2 gunshot wound to the ---

3 MR. SMILEY: Objection. Leading,
4 Your Honor.

5 MR. PRICE: I will rephrase, Your
6 Honor.

7 DIRECT EXAMINATION

8 BY MR. PRICE:

9 Q. When you say that you tried to do some
10 airway-type ventilations, is that a normal
11 procedure for you in a gunshot wound?

12 A. Somebody that is not breathing, as he was,
13 (affirmative nod). The fire department was
14 ventilating him prior to our arrival, so they
15 had already started that because he was not
16 breathing. We just went a step further to go
17 ahead and take care of his airway by placing a
18 tube down into his lungs.

19 Q. Even though he was not breathing, did he
20 have a pulse?

21 A. He did have a pulse and a blood pressure.

22 Q. Did you -- did you immediately -- how long
23 were you on the scene before you transported
24 him to the hospital?

25 A. Six minutes.

1 Q. Did you take him directly to the hospital?

2 A. Yes.

3 Q. What did you do then?

4 A. We turned him over to the trauma center
5 staff.

6 Q. How, did everything that you're reporting
7 here today occur here in Charleston County?

8 A. Yes, it did.

9 MR. PRICE: Court's indulgence for
10 a moment, Your Honor.

11 DIRECT EXAMINATION RESUMED

12 BY MR. PRICE:

13 Q. When you arrived on the scene, -- you said
14 you were fourth on the scene?

15 A. (Affirmative nod).

16 Q. Was there any type of perimeter set up?
17 Was the body shut off or was it just -- do you
18 recall, at any time, a perimeter being set up?

19 A. I do not recall.

20 Q. Again, also, you stated that when you --
21 when you arrived that the fire department was
22 already on the scene, attempting to
23 resuscitate.

24 A. (Affirmative nod).

25 Q. When you arrived, was he on his back or on

1 his face?

2 A. When we arrived, he was on his back.

3 That's how they ventilated him.

4 Q. And that's the reason why he was on his
5 back?

6 A. (Affirmative nod).

7 MR. PRICE: No further questions.

8 Thank you, Mr. Smith.

9 MR. SMILEY: Your Honor, before I
10 cross-examine, could I examine the report?

11 THE COURT: Yes, sir.

12 WITNESS: (Tenders).

13 CROSS EXAMINATION

14 BY MR. SMILEY:

15 Q. (Upon review), -- tough one to read, isn't
16 it?

17 A. Especially the faxed copy. That second
18 one is not my report.

19 Q. Excuse me?

20 A. That second one is not my report, it's a
21 copy of the Quick Response vehicle's report.

22 Q. Okay. What time did you arrive on the
23 scene?

24 A. We arrived on scene at 2251.

25 Q. For us laypeople, that's about ten minutes

1 of 11:00?

2 A. Yes, nine to 11:00.

3 Q. Nine minutes before 11:00 p.m., at night?

4 A. Yes, sir.

5 Q. Do you remember the scene that night,
6 other than referring to your report?

7 A. Once I looked over the report I remembered
8 running the call, yes.

9 Q. I am going to show you what has been
10 marked as State's Exhibit 5 and ask you to see
11 if this looks like the area where you found the
12 body.

13 A. That, I can't recall.

14 Q. You can't remember exactly where it was?

15 A. No.

16 Q. Well, let me ask you this question, it did
17 not appear that the body had been moved when
18 you arrived?

19 A. No, I couldn't tell in the amount of time.

20 MR. SMILEY: No further questions.

21 REDIRECT EXAMINATION

22 BY MR. PRICE:

23 Q. You just stated that you couldn't tell
24 whether the body had been moved. You're not
25 sure whether the body had been moved.

1 A. Exactly. I am not sure whether somebody
2 had moved it prior to us getting there.

3 MR. PRICE: Thank you. I have no
4 further questions. Your Honor, we ask that the
5 witness be excused.

6 MR. SMILEY: No objection.

7 THE COURT: The witness is excused.

8 (WITNESS STEPS DOWN)

9 THE COURT: Gentlemen, approach.

10 (BENCH CONFERENCE)

11 THE COURT: Ladies and Gentlemen of
12 the jury, I apologize but we're going to have
13 to interrupt this trial. I don't know how long
14 -- it may be that I can release you to do some
15 shopping or whatever you need to. But what I
16 am going to ask you to do, if you don't mind,
17 is step back to your room, and give us a little
18 time to figure out exactly how much break time
19 we will need.

20 One thing that I want to do, to help
21 your colleagues on the jury panel, is go ahead
22 and draw another jury for another case later on
23 this week so that we can free the majority of
24 the panel up, which will allow a lot of people
25 to get back to work and will save the county,

1 the taxpayers, a lot of money. We're prepared
2 to go ahead and do that so that we can free the
3 other jurors up. Of course, to do that, we've
4 got to inconvenience you'all at this time.
5 Please bear with us. Okay?

6 So if you all will step back and
7 relax, I will be back with you'all in just a
8 little bit with an update. Thank you.

9 (JURY OUT @ 10:10 A.M.)

10 (RECESS 10:10 - 11:30 P.M.)

11 (DEFENDANT PRESENT)

12 THE COURT: Okay, we are now back
13 to Mr. Goodwin. Counsel, is there anything
14 that we need to ---

15 MR. SMILEY: No, sir. I do think
16 that I knew to put on the record the stuff
17 about the Federal -- because I had made a prior
18 Motion. Your Honor, this morning, in relation
19 to a possible witness, Maurice Fields, I had
20 requested discovery in that matter. The State
21 made contact with the Assistant U.S. Attorney
22 in charge of that case, Sean Kittrell.

23 Sean was able to provide to Mr. Kent,
24 who in turn provided to me, approximately 31
25 pages of grand jury testimony at about 10:00

1 o'clock this morning. Your Honor gave me
2 approximately two hours, the time that I said
3 that I needed to prepare.

4 There was some other information that
5 I didn't receive. I went and talked to Mr.
6 Kittrell and he told me that that was just not
7 available, that no report was made of it.

8 Of course, I wish that I had more time
9 to track down all the people that were involved
10 in that, but I will say to the Court, based on
11 what I think that I need here today, I think
12 that I have everything that I need to go
13 forward, that I think that I'm entitled to.
14 think that there's a lot of investigation that
15 I could do. Whether it would be productive or
16 not, I do not know.

17 Based on that other Motion, I guess at
18 this point that I can't ask for a continuance
19 on the basis of the Federal witness.

20 THE COURT: I appreciate you'all
21 handling that and bearing with us and letting
22 the other matter go forward. Now, that last
23 witness, from EMS, that was Mr. Smith?

24 MR. KENT: That's correct, Your
25 Honor.

1 THE COURT: Are you ready for
2 another witness at this time?

3 MR. KENT: We are, Your Honor.

4 THE COURT: Bring the jury in, let's
5 go to work.

6 (JURY IN @ 11:35 P.M.)

7 THE COURT: Once again, Ladies and
8 Gentlemen, thank you for your patience. We
9 were able to take care of your colleagues and
10 we were also able to take care of some matters
11 on another case. We freed a lot of people up,
12 so -- now we're ready to get back to the
13 testimony. Solicitor?

14 MR. KENT: Thank you, Your Honor.
15 The State calls Darrell Royal to the stand.

16 (WITNESS TAKES STAND)

17 DARRELL ROYAL, being
18 duly sworn to tell the truth, the whole truth
19 and nothing but the truth, testified, as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. KENT:

23 Q. Why don't you go ahead and spell your last
24 name just to make sure that we get the spelling
25 correct?

1 A. Royal, R-o-y-a-l.

2 Q. I am going to ask you some questions.

3 A. Okay.

4 Q. Speak up loud so that everybody can hear
5 you and you need to speak slowly and clearly so
6 that the court reporter can take down
7 everything that you say. Okay?

8 A. (Affirmative nod).

9 Q. And I need to make sure that all your
10 answers are "yes" or "no", because she can't
11 take down head nods and sounds like uh-uh or
12 huh-uh. Okay?

13 A. Yes, sir.

14 Q. Just make sure that all of us hear
15 everything that you say. Speak into the
16 microphone.

17 A. Okay.

18 Q. How old are you?

19 A. Twenty-two.

20 Q. Twenty-two?

21 A. (Affirmative nod)

22 Q. You've got a brown outfit on. What does
23 that mean? What does that brown outfit mean?

24 A. I'm in Turbeville prison.

25 Q. In Turbeville, doing prison time?

1 A. (Affirmative nod).

2 Q. I will cut right to the chase. You've
3 actually been in trouble with the law before,
4 haven't you?

5 A. Yes, sir.

6 Q. In 2001, you were in trouble for failure
7 to stop for a blue light; isn't that correct?

8 A. Yes, sir.

9 Q. You were also in trouble in 2001 for
10 possession of a stolen motor vehicle?

11 A. Yes, sir.

12 Q. And possession with intent to distribute
13 cocaine in 2001?

14 A. Yes, sir.

15 Q. And for possession with intent to
16 distribute cocaine within a half mile of a
17 school?

18 A. Yes, sir.

19 Q. Distribution of cocaine in 2002?

20 A. Yes, sir.

21 Q. And distribution of cocaine within a half
22 mile of a school?

23 A. (Affirmative nod).

24 Q. Also in 2002?

25 A. Yes, sir.

1 Q. You've been in trouble before?

2 A. Yes, sir.

3 Q. Do you know where Turbeville is located?

4 A. No, sir.

5 Q. It's not --- it's nowhere in Charleston, is
6 it?

7 A. No, sir.

8 Q. Before you went to Turbeville, where did
9 you live?

10 A. North Charleston.

11 Q. Who did you live in North Charleston with?

12 A. My mama.

13 Q. What is your mama's name?

14 A. Cluonia Royal.

15 Q. Would you spell her first name for the
16 court reporter, please?

17 A. C-l-u-o-n-i-a.

18 Q. Darrell, who was the lawyer that
19 represented you on your charge of ---

20 MR. SMILEY: Objection, Your Honor.

21 May we approach?

22 SIDEBAR:

23 THE COURT: Where are you going?

24 MR. KENT: I think that it is

25 relevant. Jim was his lawyer.

1 THE COURT: How is that relevant?

2 MR. KENT: Because ---

3 THE COURT: Sustained.

4 (SIDEBAR CONCLUDED)

5 DIRECT EXAMINATION CONTINUED

6 BY MR. KENT:

7 Q. Darrell, do you know an individual by the
8 name of Freddie Green?

9 A. Yes, sir.

10 Q. How long did you know Freddie Green?

11 A. All my life.

12 Q. Do you know Antwon Goodwin?

13 A. Yes, sir.

14 Q. How do you know Antwon Goodwin?

15 A. I've known him all my life, too, by
16 playing -- just playing football and
17 everything.

18 Q. Okay. Would you describe Antwon Goodwin
19 as a friend?

20 A. Yes, sir.

21 Q. Is he a very good friend?

22 A. Yes, sir.

23 Q. He actually was your best friend?

24 A. Not the best but, I mean, he's a friend.

25 Q. Describe that relationship. Did you'all

1 hang out, play football? Just tell the jury
2 about that relationship.

3 A. Well, we hanged out. I mean, we didn't --
4 we did a lot of stuff together. We also went
5 to jail together, you hear me?

6 MR. SMILEY: Objection.

7 WITNESS: But he good people.

8 MR. SMILEY: Objection. May we
9 approach?

10 WITNESS: I'm going to be put in
11 the hole for this when I go back.

12 (BENCH CONFERENCE)

13 THE COURT: The jury is to disregard
14 that last testimony. That's not relevant to
15 this case. I need the witness to direct his
16 responses to the questions. Thank you.

17 DIRECT EXAMINATION CONTINUED

18 BY MR. KENT:

19 Q. Darrell, do you know why we're here today?

20 A. (Affirmative nod).

21 Q. We're here about the murder of Freddie
22 Green, do you understand that?

23 A. Yes, sir.

24 Q. You understand that's what we are here
25 for?

1 A. Yes, sir.

2 Q. I am going to ask you a very specific
3 question and I need for you to answer this
4 question very specifically -- okay?

5 A. Okay.

6 Q. Did you and Antwon Goodwin have any -- did
7 Antwon Goodwin tell you directly anything
8 directly about the murder of Freddie Green?

9 A. No, sir.

10 Q. At any point before the murder on December
11 12th, 2000, did Antwon Goodwin ever discuss
12 Freddie Green with you?

13 A. I have something to say, sir. I have
14 something to say. Let me -- I speaking about
15 -- the reason why I say this is because I feel
16 like my words, whatever, whatever they though I
17 say they put on the paper. I ain't had no
18 lawyer present, I was already in prison. You
19 hear me? So what they bring towards me, I
20 think I being charged and I gonna be prosecuted
21 on something I don't know about. So, I mean, I
22 had to go with the plan and come in here and
23 sit here and tell you'all what was going on. I
24 feel like that ain't right. You know what I
25 mean? If I gotta take time today, I take it.

1 You hear me? But I ain't to put something on
2 that boy and make him go to jail if I didn't
3 see it. I mean -- that's why I come in and
4 tell you the truth, why I come up here and tell
5 you the truth, you the judge.

6 THE COURT: Well, you have a 5th
7 Amendment right not to incriminate yourself.
8 You realize that?

9 WITNESS: (Affirmative nod).

10 THE COURT: But you do need to
11 directly answer his question. He didn't ask
12 you if you saw anything.

13 WITNESS: That's why I make the,
14 uh, when she first started asking -- when they
15 started asking me questions.

16 THE COURT: Well, -- are you
17 presently represented by any attorney?

18 WITNESS: I had an attorney, Jim
19 Smiley.

20 THE COURT: No, no, I am not talking
21 about -- are you presently represented by any
22 attorney?

23 WITNESS: No, sir.

24 THE COURT: Ladies and Gentlemen of
25 the jury, you'all will have to step out just a

1 minute and let me speak with the attorneys.

2 We'll be with you shortly.

3 (JURY OUT @ 12:53 P.M.)

4 THE COURT: Solicitor, are there any
5 pending charges in Charleston county against
6 this witness?

7 MR. KENT: There are no pending
8 charges against Mr. Royal. Nothing that he
9 says today on the stand will be used against
10 him. I informed him of that, I informed his
11 family of that. I have informed him and his
12 family that the only thing that could be held
13 against him is if he were not to tell the truth
14 today, any possible perjury charge.

15 THE COURT: Do you know of any
16 investigation that is under way by any of the
17 local law enforcement?

18 MR. KENT: There are no current
19 investigations, to my knowledge pending that
20 involve Mr. Darrell Royal.

21 THE COURT: Well, Mr. Royal, that
22 somewhat relieves the Court's anxiousness or
23 fear of any 5th Amendment violation, 5th
24 Amendment rights, that you should be concerned
25 of. The only thing that I can tell you at this

1 time, since you don't have representation in
2 this, is that you need to answer the questions
3 truthfully and as directly as you can. You are
4 not charged with anything at this point, so
5 there's no concern as far as the Court with any
6 5th Amendment problems unless something really
7 bizarre -- unless you were to admit to some
8 other crime that's not even under investigation
9 or whatever. You follow what I'm saying?

10 WITNESS: Yes, sir.

11 THE COURT: So in other words,
12 unless the question is asking you to admit to a
13 crime, you need to answer truthfully and as
14 directly as you can because you are under oath.
15 To not do so could result in charges of perjury
16 from that.

17 WITNESS: Yes, sir.

18 MR. SMILEY: Your Honor, I think
19 that I am obligated to renew my Motion
20 regarding a conflict of interest. I also ask,
21 in the alternative, for a curative instruction
22 so that there is not any underlying idea that
23 -- there's now been put out there this idea, by
24 his attorney, that there is some kind of
25 impermissible, I believe, -- not impermissible,

1 but underlying idea that somehow I would
2 prejudice his testimony, when in fact I do not
3 represent him right now. I tried to fashion,
4 think of what the curative instruction is. It
5 clearly creates an undue bias the testimony
6 against my client. Now, 'Jim Smiley is my
7 lawyer' doesn't ---

8 THE COURT: Well, not necessarily.
9 Not necessarily.

10 MR. SMILEY: Well, ---

11 THE COURT: You may look at it that
12 way, but ---

13 MR. SMILEY: Which is the truth. I
14 am not saying that wasn't the truth, Your
15 Honor. I'm just saying that because of the way
16 that it has come out, now the jury is looking
17 to me like I'm in control of this witness.
18 That's what I am concerned of.

19 THE COURT: In regards to that,
20 later on if things develop right, I don't know
21 if there is anything wrong with it coming out
22 that you represented him in the past. You
23 might not like it, but I don't think that there
24 is ---

25 MR. SMILEY: My concern is that

1 because of my representation of Darrell Royal
2 and my defense of Antwon Goodwin, how that
3 relationship affects the testimony, how it
4 plays out in this courtroom.

5 One of the instructions that you're
6 certainly going to read to the jury at the end
7 of this case is dealing with the credibility of
8 a witness, and any bias or prejudice that they
9 may have that would affect their testimony.

10 That would not have occurred had he had a
11 different attorney. Now I've got to somehow
12 deal with that, your honor, and it dovetails
13 into my potential conflict problem, which is a
14 whole other area. I don't believe that Mr.
15 Royal quite understands his position, but I
16 can't explain it to him at this point.

17 THE COURT: Okay. Well, I am not
18 going to -- I am not going to say anything
19 else. It's going to stand the way that it is.
20 I mean, I don't see anything that -- I know you
21 have got concerns about it because of the
22 position that you're in.

23 MR. SMILEY: (Affirmative nod).

24 THE COURT: But as far as the Court,
25 I don't know that there is anything that

1 — requires me to instruct the jury about anything
2 — right now.

3 MR. SMILEY: Please note my
4 objection. I certainly respect this Court's
5 decision, but I think I have an obligation to
6 bring it forth.

7 MR. KENT: And that's -- I just
8 want to -- where are we allowed to go?

9 THE COURT: Mr. Royal, the concerns
10 that have popped up resulted by your not
11 directly answering the questions. I am going
12 to ask you to please listen to the question
13 carefully and answer it just as plainly and
14 directly as you can. Okay?

15 WITNESS: Yes, sir.

16 MR. KENT: And the State's
17 position, Your Honor, we are still wondering if
18 we're allowed to get into the representation by
19 Mr. Smiley. Now, if there was any other
20 witness that goes on the stand, we're allowed
21 to attack his reason for bias, his reason for
22 prejudice.

23 THE COURT: I know of no reason --
24 I know that Mr. Smiley doesn't like it, but I
25 know of no reason, unless it would be some

1 prejudicial effect, that he has already argued,
2 that the Court would need to stop that. I
3 believe that you have a right to do that; you
4 know, after I thought about it awhile.

5 MR. KENT: Thank you, Your Honor.

6 MR. SMILEY: Your Honor, I would
7 argue that it's irrelevant. If the State's
8 position is relevance, then we're back to does
9 it have an effect on the bias or prejudice?

10 THE COURT: I understand your
11 position.

12 MR. SMILEY: Yes, sir.

13 THE COURT: Bring the jury in.

14 MR. KENT: Thank you, Your Honor.

15 (JURY IN @ 1:00 P.M.)

16 THE COURT: Thank you, Ladies and
17 Gentlemen. You may continue, Solicitor.

18 DIRECT EXAMINATION RESUMED

19 BY MR. KENT:

20 Q. Mr. Royal, I need to ask you a question.
21 You never saw Freddie Green murdered; is that
22 correct?

23 A. No.

24 Q. I didn't hear your answer. Would you
25 repeat it?

1 A. No, sir.

2 Q. So you never saw the murder?

3 A. No, sir.

4 Q. Did you and Antwon Goodwin ever have a
5 conversation about Freddie Green before
6 December 12th, 2000?

7 A. No, sir.

8 Q. At any point had you and Antwon Goodwin
9 ever talked about Freddie Green ---

10 A. No, sir.

11 Q. --- and his relationship with Antwon
12 Goodwin?

13 A. No, sir.

14 Q. Darrell, do you remember when Hollie
15 Connolly of the Charleston Police Department
16 and Bentley Price of the Solicitor's office
17 came to visit you on December 31st, 2002, at the
18 Turbeville Correctional Institute?

19 A. Yes, sir.

20 Q. Do you remember giving them a statement?

21 A. I remember giving them what they want to
22 hear, what they want me to put on there.

23 Q. Okay. I am showing you a copy of that
24 statement. That is actually the statement that
25 they had you write that day, isn't it?

1 A. (Upon review), yeah.

2 Q. Whose handwriting is that? Is that their
3 handwriting or your handwriting?

4 A. I can't remember.

5 Q. You can't remember if that's your
6 handwriting?

7 A. (Negative gesture).

8 Q. Whose signature is that? Is that your
9 signature or her signature?

10 A. I can't remember that either.

11 Q. You can't remember if that's your
12 signature?

13 A. (Negative gesture).

14 Q. You are not familiar with what your
15 signature looks like?

16 A. I mean, I take medication. I forget.
17 You know?

18 MR. KENT: Your Honor, at this
19 time, under Rule 607 and 611, the State would
20 ask that this witness be declared a hostile
21 witness, he's adverse to the State's position.

22 THE COURT: Do you want to be heard
23 on that?

24 MR. SMILEY: No, sir. It's your
25 decision.

1 THE COURT: You may proceed.

2 MR. KENT: Thank you, Your Honor.

3 DIRECT EXAMINATION RESUMED

4 BY MR. KENT:

5 Q. So you did give a statement on December
6 31st, 2002. That's correct?

7 A. Yeah.

8 Q. Do you remember the statement?

9 A. I can't remember the statement.

10 Q. All right, I am going to give it to you
11 and let you read it. I want you to take your
12 time, I want you to read every word. The
13 second that you're done reading it, let me
14 know.

15 A. (Reviewing).

16 MR. SMILEY: Your Honor, may we
17 approach?

18 THE COURT: Sure.

19 SIDEBAR:

20 MR. SMILEY: I don't know that he can
21 read.

22 THE COURT: Okay. Thank you.

23 (SIDEBAR CONCLUDED)

24 THE COURT: Mr. Royal, are you able
25 to read that statement?

1 WITNESS: No, sir.

2 THE COURT: Ladies and Gentlemen, of
3 the jury. If you'll will, step out and let me
4 publish the statement to him.

5 (JURY OUT @ 1:05 P.M.)

6 THE COURT: Solicitor, you will
7 publish the statement?

8 MR. KENT: Yes, sir.

9 THE COURT: Listen carefully, Mr.
10 Royal. We are going to verbally publish the
11 statement to you.

12 WITNESS: Okay.

13 MR. KENT: (Reading): "On the
14 day that Freddie Green die, I was on
15 Columbus Street selling drug's and before
16 dark between 6 and 7:00 pm, I was by
17 George Store selling dope and shooting
18 dice on the stone across from George
19 store, but about 8:00 p. a dopehead buy a
20 Wild Irish and Bull for me. I sneak in
21 the store drink and smoke a cigarette talk
22 to some girls that was in the store.
23 Keshia Hayes, Keshia Hamilton, Genorlido
24 Young and a lot more people. I was also
25 drunk at this time. I took two ecstasies

1 pills cause I suppose to go too a hotel
2 with one of me girls. A little while
3 later between 9:30 and 10:30 pm a fire
4 went off one time. Some people ran in the
5 store. Lil Ben, from back the green, my
6 sister ran in too cause her and my mommy
7 them was coming from Churchs. My momma
8 came get me out of the store cause I was
9 drunk and people was acting stupid. My
10 momma didn't want me involved with
11 nothing. But before I walk out of the
12 store, someone say that boy dead. We say
13 'who' and Keshia Hayes say Freddie. When
14 me and my momma walk out of the store, I
15 seen Freddie's legs cause I didn't see his
16 face only when me and my momma drive past
17 his body on the ground when the police and
18 EMS was out there. In 2001 after I got
19 out of the county jail in Charleston about
20 October November my cousin Jamile Harley
21 told me don't let Gale and Tony put know
22 murder on me. In 2001 me and Tony had a
23 discussion about being loyal and not
24 saying anything nothing about the murder
25 if someone ask me or come to my house say

- 1 I don't know nothing. If anybody cross
2 him in our street family he going to kill
3 them and they family. On Drake Street,
4 Gale Todd house, Tony mention if that
5 nigga cross me or try to take me out,
6 Freddie or the Frazier boy, I kill them
7 first. Ronyelle Wright, Joseph Hamilton,
8 Jamile Harley, Jamile Colman, Michael
9 Hayes, Kevin Coxaum, Maurice Fields, we
10 were all in the house when Tony said what
11 he say about the Frazier boys and Freddie.
12 Q. Did you ever see Shamika Milligan
13 inside or outside of George's the
14 night that Freddie Green was murdered?
15 A. Both, inside and outside.
16 Q. Did Shamika ever see you in the store?
17 A. Yea, she saw me out there.
18 Q. How long were you in the store before
19 the shots were fired?
20 A. About an hour and a half, between 9:20
21 and 10:20 p.m.
22 Q. Where were you when the shots were
23 fired?
24 A. Sitting across the counter in the
25 store at a table. I was sitting with

1 Pat, I don't know her last name.

2 Q. How many shots did you hear?

3 A. One.

4 Q. Who is your sister?

5 A. Kim Washington.

6 Q. In 2001 you had a conversation with

7 Jamile. Who is Gale?

8 A. Gale Todd, that's Tony's girlfriend.

9 Q. What type of vehicle does Tony drive?

10 A. He drive two cars, a white Crown Vic

11 and a beige Grand Marquis.

12 Q. What car was he driving the night

13 Freddie was killed?

14 A. He was driving the beige Grand Marquis

15 earlier in the day.

16 Q. Why would Jamile tell you not to let

17 Gale and Tony put the murder on you?

18 A. Jamile knew that Tony and Gale were

19 going to put this murder on me.

20 Q. In 2001, you and Tony had a

21 conversation about Freddie Green's

22 murder. Why would he tell you not to

23 say anything?

24 A. Because he knew that I knew he had

25 something to do with Freddie Green's

1 murder and that we had a conversation
2 about Tony getting either Frazier or
3 Freddie, whoever was first. This
4 conversation was in Gale's house on
5 Drake Street. This was in October or
6 November 2000, somewhere after
7 Halloween.

8 Q. Why does Tony want to kill Freddie or
9 the Frazier boys?

10 A. Stems from a long time ago. Tony was
11 looking for the Fraziers, whoever made
12 it first to this side of town was
13 going to get killed. Freddie hung out
14 at the Fraziers.

15 Q. Have you ever seen Freddie on this
16 side of town?

17 A. Yes.

18 Q. Why did Tony kill Freddie on December
19 12th, 2000?

20 A. He that type of person, if he feels
21 like he going to be harmed, he'll take
22 care of it. That's the type of person
23 he is.

24 Q. What do you mean he'll take care of
25 it?

1 A. He'll shoot them, beat them up,
2 whatever.

3 Q. How long or what rekindled the dispute
4 with the Frazier boys?

5 A. The Frazier boys' brother or family
6 member was killed by Tony in 1994.

7 The Fraziers found out where Tony was
8 staying and Tony was tired of running.

9 Q. Did Tony move from North Charleston to
10 the city to get away from the Frazier
11 boys?

12 A. Yes. The Frazier boys found out where
13 Tony was staying in 2000.

14 Q. Did you see Freddie and Tony talk in
15 mall park two weeks before the murder?

16 A. Yes.

17 Q. Do you know what they were talking
18 about?

19 A. No."

20 End of statement.

21 THE COURT: Mr. Royal, did you hear
22 all of that?

23 WITNESS: Yeah, I hear it. Yes,
24 sir.

25 THE COURT: All right, bring the

1 jury in.

2 (JURY IN @ 1:11 P.M.)

3 THE COURT: Thank you, Ladies and
4 Gentlemen of the jury. Solicitor, you may
5 proceed.

6 MR. KENT: Thank you, Your Honor.

7 DIRECT EXAMINATION RESUMED

8 BY MR. KENT:

9 Q. Darrell, when we sent the jury out, we
10 went over your statement with you. Now do you
11 remember that statement?

12 A. No, sir.

13 Q. You don't remember giving that statement?

14 A. No, sir.

15 Q. Did you actually give a statement?

16 A. I mean, I give a statement but I don't
17 remember saying none of that.

18 Q. I am going to go over this statement with
19 you and you tell me what you remember and what
20 you don't remember saying. Okay?

21 A. (No response)...

22 Q. I am going to start on the very first line
23 and every time I stop, you tell me if you
24 remember it or if you don't remember it.

25 Okay?

1 MR. SMILEY: (Stands)

2 THE COURT: Mr. Smiley, -- let me
3 indicate that he has entered an objection. I
4 have overruled that.

5 MR. SMILEY: And there are going to
6 be some other parts that I am going to have to
7 object to specifically.

8 THE COURT: Very well.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. KENT:

11 Q. (Reading): "On the day Freddie Green
12 die, I was Columbia Street selling drugs and
13 before dark, between 6:00 and 7:00 p.m.,
14 selling dope and shooting dice on the stone
15 across from George store, but about 8:00 p.m.,
16 a dopehead buy a Wild Irish and Bull for me.
17 I sneak in the store drink and smoke a
18 cigarette talk to some girls that was in the
19 store." Do you remember that?

20 A. (Affirmative nod).

21 Q. Please answer yes or no.

22 A. Yes, sir.

23 Q. You remember giving that part of the
24 statement to Detective Hollie?

25 A. Yeah.

1 Q. (Reading): "Hayes, Keshia Hamilton,
2 Genorlido Young and a lot more people. I was
3 also drunk at this time. I took two ecstasy
4 pills cause I suppose to go too a hotel with
5 one of me girls. A little while later between
6 9:30 and 10:30 pm a fire went off one time.
7 Some people ran in the store. Lil Ben, from
8 back the green, my sister ran in too..." --
9 do you remember that?

10 A. I remember the part about me taking the
11 pills and my sister came in the store.

12 Q. (Reading): "Her and my mommy them was
13 coming from Churchs. My momma came get me out
14 of the store cause I was drunk and people was
15 acting stupid." Do you remember that?

16 A. Yes, sir.

17 Q. (Reading): "My momma didn't want me
18 involved with nothing. But before I walk out
19 of the store, someone say that boy dead. We
20 say 'who' and Keshia Hayes say Freddie." Do
21 you remember that?

22 A. No, sir.

23 Q. So you do not remember saying that to
24 Hollie Connolly on December 31st, ---

25 A. No, sir.

1 Q. (Reading): "When me and my momma walk
2 out of the store, I seen Freddie's legs cause
3 I didn't see his face only when me and my
4 momma drive past his body on the ground when
5 the police and EMS was out there." Do you
6 remember that?

7 A. I remember seeing him dead.

8 Q. (Reading): "In 2001..." ---

9 MR. SMILEY: At this point, Your
10 Honor, there is a matter that I need to be
11 heard on.

12 THE COURT: Okay. Ladies and
13 Gentlemen of the jury, if you will, step out
14 please.

15 (JURY OUT @ 1:15 P.M.)

16 THE COURT: Yes, sir?

17 MR. SMILEY: Your Honor, I am going
18 to object to the next statement. If I could
19 go ahead and read it, "In 2001 after I got
20 out of the county jail in Charleston about
21 October November my cousin Jamile Harley told
22 me don't let Gale and Tony put know (sic)
23 murder on me." That's a hearsay statement,
24 Your Honor, that would not be admissible
25 otherwise. They are backdooring it in by

1 having this witness declared hostile. That
2 wouldn't come in if in fact it was being
3 offered as a consistent statement. It's being
4 backdoored in now, as hearsay.

5 MR. KENT: No argument, Your
6 Honor.

7 THE COURT: I agree with you.

8 MR. SMILEY: Yes, sir. So that --
9 we agree that that does not come in?

10 THE COURT: Right.

11 MR. SMILEY: Okay, so that we don't
12 have to run the jury in and out, there's a
13 couple more, Your Honor.

14 (Reading): In 2001 me and Tony had a
15 discussion about being loyal and not saying
16 anything nothing about the murder if someone
17 ask me." That, I don't believe, is an
18 admission by my ---

19 THE COURT: Read that again,
20 please.

21 MR. SMILEY: Yes, sir, (reading):
22 "In 2001, me and Tony" -- and I assume that
23 they are referring to my client Tony, -- "had
24 a discussion about being loyal and not saying
25 nothing about the murder if someone come ask

1 me or come to the house, to say that I don't
2 know nothing." I don't know that that is an
3 admission, a party-opponent admission by my
4 client. Therefore, I would say that it is
5 hearsay, Your Honor.

6 THE COURT: What says the State?

7 MR. KENT: That's about as clear
8 an admission by a party opponent as possible.
9 Not only is it an admission but it is also a
10 statement against penal issue. It comes in so
11 many other ways, not to mention the witness
12 testifying inconsistently. There's three ways
13 that statement can come in:

14 One, being that there is a prior
15 inconsistent statement this is simply
16 extrinsic evidence being allowed to prove that
17 inconsistent statement.

18 After that it comes in as an
19 admission by a party opponent. By admission,
20 all the Rule contemplates is that it is
21 something that a party opponent said. The
22 statement will be 'he said this', so it would
23 be allowed to come in.

24 And, three, it's a statement
25 against penal interests, very clearly, when a

1 defendant says "Don't say anything about this
2 murder if anybody comes to talk to you."
3 That's about as clear a statement against
4 penal interests as it gets.

5 THE COURT: I am going to have to
6 side with the State on that.

7 MR. SMILEY: Yes, sir. Further
8 down, Your Honor, is that part continued --
9 and I assume that will be the same ruling, but
10 I'll read it just to make sure.

11 THE COURT: Okay.

12 MR. SMILEY: (Reading): "If anybody
13 cross him in our street family he going to
14 kill them and they family." First, that's the
15 same Motion I had also in the Lyle as to that
16 being excluded as a bad act, because they
17 haven't shown by clear and convincing
18 evidence, haven't shown similarity of bad
19 acts. I don't know -- I would argue that it
20 should not be allowed.

21 THE COURT: I don't agree with you
22 on that.

23 MR. SMILEY: Yes, sir.

24 MR. KENT: It's well beyond it.

25 MR. SMILEY: And that would be my

1 statement under Lyle as to, "if that nigga
2 cross me or try to take me out, Freddie or the
3 Frazier boy, I kill them first" is also a
4 Lyle, prior bad act, uh, that I would argue is
5 not admissible.

6 MR. KENT: Our ---

7 THE COURT: Okay. I am going to
8 have to side with the State on that.

9 MR. SMILEY: But I need to put it
10 on the record, Your Honor.

11 MR. KENT: Where are we? What
12 part did you say was yes or no, Your Honor?

13 MR. SMILEY: The stuff on Jamile
14 Harley cannot come in. The stuff that came
15 from Tony, the judge, he overruled me on Lyle.
16 He also overruled me, that it is not hearsay
17 -- if I correctly stated that, Your Honor?

18 THE COURT: That's okay.

19 MR. SMILEY: I am just going to
20 quickly zip through here to make sure that
21 there is not -- when he asks, on page five of
22 the statement, Your Honor, "Why would Jamile
23 tell you not to let Gale and Tony put the
24 murder on you?" Your Honor, I believe that
25 requires speculation.

1 MR. KENT: No argument.

2 MR. SMILEY: And would be

3 inadmissible.

4 THE COURT: That's out.

5 MR. SMILEY: Okay. The next

6 question, (reading): "In 2001, you and Tony

7 had a conversation about Freddie Green's

8 murder. Why would he tell you not to say

9 anything?" That requires speculation, Your

10 Honor.

11 THE COURT: What was the answer to

12 that?

13 MR. SMILEY: "Because he knew I

14 knew he had something to do with Freddie

15 Green's murder."

16 MR. KENT: We have no problem with

17 that. But directly after that, Your Honor, he

18 says "then we had a conversation about Tony

19 getting either Frazier or Freddie." The

20 State's position is that it does come ---

21 THE COURT: That first part is

22 out, the second part is okay.

23 MR. SMILEY: Okay. Then the next

24 one is, (reading): "Why did Tony want to kill

25 Freddie or the Frazier boys?" I've got a

1 bunch of different reasons why -- first of
2 all, Your Honor, is that it is hearsay, it's
3 speculation. It's his knowledge of any prior
4 murders based or gained from hearsay.

5 THE COURT: Let me hear it.

6 MR. SMILEY: It says, "It stems from
7 a long time ago. Tony was looking for the
8 Fraziers. Whoever made it first to this side
9 of town was going to get killed. Freddie hung
10 out with the Fraziers." I think that's
11 hearsay, Your Honor.

12 THE COURT: I think we're treading
13 on thin ice with that, Solicitor.

14 MR. KENT: Your Honor, I would
15 ask that the -- the last sentence of that,
16 "Freddie hung out with the Fraziers". There's
17 nothing hearsay on that.

18 MR. SMILEY: I don't disagree with
19 that if he knows that from personal knowledge.

20 MR. KENT: Well, we're not using
21 it as personal knowledge, but as a prior
22 inconsistent statement.

23 MR. SMILEY: Yeah, I -- (pause).
24 Next question, on page six of the statement,
25 (reading): "Why did Tony kill Freddie on

1 December 12th, 2000?" I would say that's based
2 on speculation, He that type of person, if he
3 feels like he going to be harmed, he'll take
4 care of it. That's the type of person he is."

5 MR. KENT: Your Honor, I would
6 argue that would be reputation in the
7 community.

8 THE COURT: I agree with Mr.
9 Smiley on that.

10 MR. SMILEY: Thank you, Your Honor.
11 Next question, and this is part and parcel of
12 the first question: "What do you mean that he
13 will take care of it?" That's guessing.

14 MR. KENT: No argument.

15 MR. SMILEY: Okay.

16 THE COURT: Okay.

17 MR. SMILEY: Next question,
18 (reading):

19 Q. How long or what rekindled the
20 dispute with the Frazier boys?

21 A. The Frazier boys' brother or family
22 member was killed by Tony in 1994.

23 The Fraziers found out where Tony was
24 staying and Tony was tired of
25 running.

1 There are several basis of ---

2 MR. KENT: No argument.

3 MR. SMILEY: Okay. Out. The next
4 question is, (reading):

5 Q. Did Tony move from North
6 Charleston to the city to get
7 away from the Frazier boys?

8 A. Yes. The Frazier boys found out
9 where Tony was staying in 2000.

10 That's speculation and hearsay.

11 MR. KENT: I don't see a problem
12 with it, Your Honor. The question is simply
13 did Tony move from North Charleston into the
14 city to get away from the Frazier boys.
15 "Yes." This is prior inconsistent statement
16 and Jim is skipping that step. Now, the State
17 has eliminated a bunch of stuff and there's
18 nothing troubling about that statement.

19 THE COURT: I don't see a whole lot
20 of harm in that statement, I don't guess.

21 MR. KENT: We haven't put up a big
22 fight on a lot of the worst stuff, Your Honor.

23 THE COURT: I don't see that big a
24 deal with that, Mr. Smiley. I am going to ---

25 MR. SMILEY: All right. That is

1 the end of it.

2 MR. KENT: Just so that we can be
3 clear, if we could go back just one more time
4 to be sure that ---

5 MR. SMILEY: I don't have a
6 problem. Your Honor, if you don't mind if we
7 speak to each other in open court so that we
8 can get it right.

9 THE COURT: That's fine.

10 MR. SMILEY: The first thing that is
11 going to have to be struck is on page two, ---

12 MR. KENT: Starting with, "In
13 2001" down ---

14 MR. SMILEY: In 2001 down to where
15 he ---

16 MR. KENT: "murder on me"?

17 MR. SMILEY: Yeah -- "murder on
18 me".

19 MR. KENT: All right, I got it.

20 MR. SMILEY: Got it?

21 MR. KENT: (Affirmative nod).

22 MR. SMILEY: Then the next one, top
23 of page five, "Why would Jamile tell you not
24 to let Gale and Tony put no murder on you?"
25 That answer ---

1 MR. KENT: That's out.

2 MR. SMILEY: All right. The next
3 one, ---

4 MR. KENT: The only thing that is
5 wrong with the next one is the answer, the
6 first part of that answer, "Because he knew
7 that I knew he had something to do with
8 Freddie Green's murder."

9 MR. SMILEY: Yes.

10 MR. KENT: Then I have ---

11 MR. SMILEY: That part stays in,
12 "in that conversation" ---

13 MR. KENT: And that he had a
14 conversation about ---

15 MR. SMILEY: That next question is
16 out.

17 MR. KENT: The next question is
18 out but the answer "Freddie hung out with the
19 Fraziers" is ---

20 MR. SMILEY: That's fine. Next,
21 "Why did Tony kill Freddie?" That's out.

22 MR. KENT: That should be out all
23 the way into the last answer, "Frazier boys."

24 MR. SMILEY: Right, the question
25 down to where you get, "Did Tony move from

1 North Charleston into the city to get away
2 from the Frazier boys?"

3 MR. KENT: Okay.

4 MR. SMILEY: That's it. Thank you
5 very much.

6 MR. KENT: We're ready, Your
7 Honor.

8 MR. SMILEY: Thank you. And then
9 "In 2001, me and Tony had a discussion..." --

10 MR. KENT: Right.

11 MR. SMILEY: Okay.

12 THE COURT: All right. Bring them
13 in.

14 (JURY IN @ 1:26 P.M.)

15 THE COURT: Thank you, Ladies and
16 Gentlemen of the jury. I bet you'all haven't
17 played Musical Chairs that much since Vacation
18 Bible School.

19 Counsel and I went ahead and went
20 through everything for the next little while,
21 so hopefully we will be able to flow a little
22 more smoothly and won't have to keep sending
23 you in and out.

24 You may proceed, Solicitor.

25 MR. KENT: Thank you, Your Honor.

1 DIRECT EXAMINATION RESUMED

2 BY MR. KENT:

3 Q. Before the jury went out, I was going over
4 your statement. I am going to stop at certain
5 points and I want you to tell me what you
6 remember. I will read it and stop
7 periodically. Okay?

8 A. Yes, sir.

9 Q. (Reading): "In 2001 me and Tony had a
10 discussion about being loyal and not saying
11 anything nothing about the murder if someone
12 ask me or come to my house say I don't know
13 nothing." Do you remember that?

14 A. No, sir.

15 Q. (Reading): "If anybody cross him in our
16 street family he going to kill them and they
17 family." Do you remember saying that?

18 A. No, sir.

19 Q. (Reading): "On Drake Street, Gale Todd
20 house, Tony mention if that nigga cross me or
21 try to take me out, Freddie or the Frazier
22 boy, I kill them first." Do you remember
23 saying that?

24 A. No, sir.

25 Q. (Reading): "Ronyelle Wright, Joseph

1 Hamilton, Jamile Harley, Jamile Colman,
2 Michael Hayes, Kevin Coxaum, Maurice Fields,
3 we were all in the house when Tony said what
4 he say about the Frazier boys and Freddie."
5 Do you remember that?

6 A. No, sir.

7 Q. Then there were some questions asked of
8 you. I am going to ask the question and I am
9 going to say the word "answer" every time
10 where you answered. Okay?

11 A. Okay.

12 Q. (Reading):

13 Q. Did you ever see Shamika Milligan
14 inside or outside of George's the
15 night that Freddie Green was
16 murdered?

17 A. Both, inside and outside.

18 Do you remember that?

19 A. Yeah.

20 Q. (Reading):

21 Q. Did Shamika ever see you in the
22 store?

23 A. Yea, she saw me out there.

24 Do you remember that?

25 A. Yes, sir.

1 Q. (Reading):

2 Q. How long were you in the store before
3 the shots were fired?

4 A. About an hour and a half, between
5 9:20 and 10:20 p.m.

6 Do you remember that?

7 A. Yes, sir.

8 Q. (Reading):

9 Q. Where were you when the shots were
10 fired?

11 A. Sitting across the counter in the
12 store at a table. I was sitting with
13 Pat, I don't know her last name.

14 Do you remember that?

15 A. Yes, sir.

16 Q. (Reading):

17 Q. How many shots did you hear?

18 A. One.

19 Do you remember that?

20 A. Yes, sir.

21 Q. (Reading):

22 Q. Who is your sister?

23 A. Kim Washington.

24 Do you remember that?

25 A. Yes, sir.

1 Q. (Reading):

2 Q. In 2001 you had a conversation

3 with Jamile. Who is Gale?

4 A. Gale Todd, that's Tony's

5 girlfriend.

6 Do you remember that?

7 A. No, sir.

8 Q. (Reading):

9 Q. What type of vehicle does Tony

10 drive?

11 A. He drive two cars, a white Crown

12 Vic and a beige Grand Marquis.

13 Do you remember that?

14 A. Yes, sir.

15 Q. (Reading):

16 Q. What car was he driving the

17 night Freddie was killed?

18 A. He was driving the beige Grand

19 Marquis earlier in the day.

20 Do you remember that?

21 A. Yes, sir.

22 Q. (Reading):

23 Q. In 2001, you and Tony had a

24 conversation about Freddie

25 Green's murder. Why would he

1 tell you not to say anything?
2 A. ...and that we had a
3 conversation about Tony getting
4 either Frazier or Freddie,
5 whoever was first. This
6 conversation was in Gale's house
7 on Drake Street. This was in
8 October or November 2000,
9 somewhere after Halloween.
10 ...Freddie hung out with the
11 Fraziers."

12 Do you remember that?

13 A. No, sir.

14 Q. (Reading):

15 Q. Have you ever seen Freddie on
16 this side of town?

17 A. Yes.

18 Do you remember saying that?

19 A. Have I ever seen him 'round here?

20 Q. I will restate the question:

21 Q. Have you ever seen Freddie on
22 this side of town?

23 A. Yes.

24 Do you remember stating that?

25 A. Yes, sir.

1 Q. (Reading):

2 Q. Did Tony move from North
3 Charleston to the city to get
4 away from the Frazier boys?

5 A. Yes. The Frazier boys found out
6 where Tony was staying in 2000.

7 Do you remember that?

8 A. No, sir.

9 Q. (Reading):

10 Q. Did you see Freddie and Tony
11 talk in mall park two weeks
12 before the murder?

13 A. Yes.

14 Do you remember saying that?

15 A. No, sir.

16 Q. (Reading):

17 Q. Do you know what they were
18 talking about?

19 A. No.

20 Do you remember saying that?

21 A. No, sir.

22 Q. That's the end of the statement that you
23 gave. If I am correct, what you are saying
24 right now is that some of its true and some of
25 it was false. Is that what you're saying?

1 A. Yes, sir.

2 MR. KENT: May I approach the
3 witness, Your Honor?

4 THE COURT: You may.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. KENT:

7 Q. I am going to go through every page. At
8 the bottom it says "Darrell Royal",
9 (indicating). That's not your signature or
10 you're not sure?

11 A. I am not sure.

12 Q. On the bottom of page two where it says
13 "Darrell Royal", is that your signature or are
14 you not sure?

15 A. I am not sure.

16 Q. On the bottom of page three where it says
17 "Darrell Royal", is that your signature or are
18 you not sure?

19 A. I am not sure.

20 Q. On the bottom of page four where it says
21 "Darrell Royal", is that your signature or are
22 you not sure?

23 A. I am not sure.

24 Q. I need you to speak into the microphone.

25 A. I'm not sure.

1 Q. On the bottom of page five where it says
2 "Darrell Royal", is that your signature or are
3 you not sure?

4 A. I am not sure.

5 Q. On the bottom of page six where it says
6 "Darrell Royal", is that your signature or are
7 you not sure?

8 A. I am not sure.

9 Q. On the bottom of page seven where it says
10 "Darrell Royal", is that your signature or are
11 you not sure?

12 A. I am not sure.

13 Q. Let me make sure that I understand your
14 testimony correctly. Basically you are saying
15 that when you were giving this statement, that
16 Detective Connolly put some true stuff in
17 there and then she put some lies in there?

18 A. Yes, sir.

19 Q. So that's what she was doing -- if this is
20 your handwriting, then she must have stopped
21 and used perfect penmanship to copy your
22 handwriting to put some lies in there. That's
23 basically what you're saying, isn't it?

24 A. I mean, she lied.

25 Q. She lied?

1 A. (Affirmative nod).

2 Q. In your handwriting?

3 A. She really forced -- she forced me into
4 saying that, but what I'm saying is I didn't
5 wrote it, she wrote it.

6 Q. She forced you?

7 A. Yes, sir.

8 Q. Who is the first person that you told that
9 Hollie Connolly forced you to write all these
10 lies?

11 A. That would have been why I waited until I
12 come inside here, so that the judge will know,
13 because I -- a lawyer wasn't present with me,
14 so I couldn't tell no lawyer. Who else was I
15 going to tell?

16 Q. So you were saving it up? You were
17 waiting?

18 A. Yeah, I was waiting.

19 Q. Actually the first time -- let me stop
20 here. You and Antwon Goodwin are childhood
21 buddies, you grew up together, is that
22 correct?

23 A. Yes, sir.

24 Q. Who was your lawyer?

25 A. (No response).

1 Q. Who represented you when you went away to
2 prison? Who was your lawyer?

3 Q. Lori Proctor.

4 Q. Okay. Who represented you before that?

5 A. Smiley.

6 Q. Jim Smiley?

7 A. (Affirmative nod).

8 Q. Has Jim Smiley ever come to talk to you
9 about this case?

10 MR. SMILEY: Please note my
11 objection at this point, Your Honor.

12 THE COURT: Noted.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. KENT:

15 Q. Has Jim Smiley ever come and talked to you
16 about this case?

17 A. No, sir.

18 Q. Never?

19 A. (No verbal response).

20 Q. Isn't it true that Mr. Smiley came to talk
21 with you Monday of this week about this case?

22 A. He ain't -- no, sir. No, sir.

23 Q. Jim Smiley never came and talked to you
24 about this case?

25 A. Not about this case.

1 Q. Not about this case?

2 A. (Negative gesture), not about this case.

3 Q. Isn't it true that you told our
4 investigator, Matt Casey, that Jim Smiley did
5 come and talk to you on Monday of this week
6 about this very case?

7 A. No, he never came and talked to me about
8 no case.

9 Q. So he's lying too? So, so far we've got
10 Hollie Connolly that's a liar and Matt ---

11 MR. SMILEY: Objection, Your Honor.

12 THE COURT: Rephrase the question,
13 Solicitor.

14 MR. KENT: Yes, sir.

15 MR. SMILEY: Thank you, Your Honor.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. KENT:

18 Q. You don't want to be here, do you?

19 A. I rather be back doing my time, man.
20 That's where I would rather be.

21 Q. You're ready to what?

22 A. Finish my time out.

23 Q. Do you understand what perjury is?

24 A. No.

25 Q. You don't understand what perjury is?

- 1 A. (Negative gesture).
- 2 Q. No one has explained it to you?
- 3 A. (Negative gesture).
- 4 Q. Actually I explained it to you, haven't I?
- 5 A. I mean, you was talking to me about it.
- 6 Q. Okay. So now I'm lying?
- 7 A. (No response).
- 8 Q. Do you know what perjury is?
- 9 A. I don't know what perjury is.
- 10 Q. I never explained that to you?
- 11 A. I mean, you tried to explain it but I
- 12 still don't know what it is.
- 13 Q. Okay. Didn't I simply tell you that
- 14 perjury was lying on the stand?
- 15 A. I am not lying.
- 16 Q. Didn't I ---
- 17 A. Why should I lie?
- 18 Q. --- explain to you that perjury was lying
- 19 on the stand?
- 20 A. I don't have time for this here.
- 21 Q. You don't want to be here. You don't have
- 22 time for it?
- 23 A. (Negative gesture).
- 24 Q. You don't have time to answer my question?
- 25 A. (No response).

1 Q. Didn't I explain to you that perjury was
2 lying on the stand?

3 A. I am not lying, so I don't understand what
4 you ---

5 Q. Didn't I explain to you that perjury was
6 lying on the stand?

7 A. No!

8 Q. No, I didn't? Just another liar?

9 A. Yeah.

10 MR. SMILEY: Objection, Your Honor.
11 I move to strike from the record.

12 MR. KENT: That's fine, Your
13 Honor.

14 THE COURT: The jury is to
15 disregard that commentary, please.

16 WITNESS: He trying to threaten
17 me and stuff, man. I don't have time for this
18 shit, you know?

19 MR. KENT: Sir?

20 WITNESS: I say I don't have time
21 for this, sir. You hear me?

22 THE COURT: Ladies and Gentlemen,
23 if you'all will step outside, I have a matter
24 that I am going to take care of.

25 (JURY OUT @ 1:35 P.M.)

1 THE COURT: Mr. Royal, I have
2 plenty of time that I can deal with. You're
3 not coming into my courtroom using language
4 like that.

5 WITNESS: I ain't using no
6 language, sir. I mean, I don't like the way
7 that he approached me. He asked me the
8 question but he acting like he ready to come
9 down my throat. You hear me?

10 THE COURT: Madame Court Reporter
11 has got the record on it. I know what I
12 heard, and everybody else in the courtroom
13 heard it. Is there anything that you would
14 like to say before I sentence you for direct
15 contact?

16 WITNESS: No, sir.

17 THE COURT: You don't use that
18 kind of language in this courtroom. To deter
19 you from doing it in the future, I am finding
20 you in direct contempt.

21 And you don't want to talk to me
22 about the possible sentence, do you? Or do
23 you?

24 MR. SMILEY: Your Honor, I am in
25 a bad position right now.

1 THE COURT: Well, I'm not.

2 MR. SMILEY: I understand, Your
3 Honor.

4 THE COURT: I sentence you to six
5 months in the State Department of Corrections,
6 consecutive to what you're already doing.

7 Madame Clerk, if you will prepare a
8 sentence sheet, we'll send it back to the
9 Department of Corrections with him.

10 Let this be noted that this is all
11 outside the presence of the jury.

12 All right. Now, where do we stand?
13 Are you through with him?

14 MR. KENT: I am done with this
15 witness.

16 MR. SMILEY: Your Honor, I've got to
17 cross-examine him now and I'm concerned about
18 the chilling effect of him wanting to say a
19 word. I know that he is required to, but it
20 puts my job in a -- it makes a difficult
21 situation even more difficult.

22 I understand Your Honor and I respect
23 it. I am not disagreeing. I am just saying
24 that I -- this is a hard case for me to be in.

25 THE COURT: Just do what you've

1 got to do.

2 MR. SMILEY: Well, I ---

3 THE COURT: Do you need a break?

4 MR. SMILEY: Yes, sir, I do.

5 THE COURT: Let's take ten minutes.

6 (BRIEF RECESS)

7 (DEFENDANT PRESENT)

8 THE COURT: All right, we need the
9 witness back.

10 (WITNESS RESUMES STAND)

11 MR. SMILEY: I am ready to proceed,
12 Your Honor.

13 THE COURT: You alright?

14 MR. SMILEY: Yes, sir, I'm alright.

15 (FEMALE CRYING)

16 THE COURT: Let that woman step out
17 until she can settle down.

18 (WOMAN ESCORTED OUT)

19 THE COURT: All right.

20 MR. SMILEY: Before the jury is
21 brought in, if I could request -- because of
22 the possible chilling effect, if we could just
23 move for -- (sidebar with Mr. Kent).

24 MR. KENT: I have got no problem
25 with that.

1 THE COURT: Mr. Royal, I am just
2 discussing the matter with counsel up here. I
3 want you to understand that you have nothing
4 to worry about as long as you tell the truth.
5 So, be careful what you say. Now, I've got to
6 keep decorum in this courtroom.

7 WITNESS: Yes, sir.

8 THE COURT: In regards to what
9 happened a few minutes ago, is there anything
10 that you would like to tell me at this time?

11 WITNESS: (No response).

12 MR. SMILEY: I believe that he
13 would like to apologize, Your Honor. I just
14 don't know that he understood what was ---

15 WITNESS: Yes, sir, I would like
16 to apologize to the courtroom by me saying
17 something like street talk, or whatever, in
18 the courtroom when they was asking me a
19 question.

20 THE COURT: The attorney will ask
21 you a question or the court will ask you a
22 question and then the testimony or response
23 required, if that is what somebody else said,
24 that's permissible but you can't use that kind
25 of language in a courtroom.

1 WITNESS: Yes, sir.

2 THE COURT: We've got -- I don't
3 see any children back there but there are some
4 younger people and all, and we can't have that
5 going on.

6 WITNESS: Yes, sir.

7 THE COURT: I am going to
8 reconsider my sentence. I can't just pat you
9 on the back and let it go, but I am going to
10 reduce it to thirty days from six months.
11 Okay?

12 WITNESS: Yes, sir.

13 THE COURT: All right. Mr. Smiley,
14 are you ready to go?

15 MR. SMILEY: We are ready to go.

16 MR. KENT: State is ready.

17 THE COURT: All right, bring in
18 the jury.

19 (JURY IN @ 2:00 P.M.)

20 THE COURT: Thank you, Ladies and
21 Gentlemen of the jury. Mr. Smiley?

22 MR. SMILEY: May it please the
23 Court?

24 THE COURT: Yes, sir.

25 CROSS EXAMINATION

1 BY MR. SMILEY:

2 Q. Darrell, I am going to ask you some
3 questions. They will be pretty easy
4 questions. Okay?

5 A. Yes, sir.

6 Q. First of all let me ask a real easy
7 question. Out there at Hanover and Line
8 streets, at night, it's dark. Isn't it?

9 A. Yes, sir.

10 Q. It's hard to see people, isn't it?

11 A. Yes, sir.

12 Q. If you are going to see who they are,
13 you've got to be up in their face; right?

14 A. Yes, sir.

15 Q. Now, on New Years Eve, this past year,
16 2002, Detective Connolly and I believe this
17 young man, Solicitor Bentley Price, came to
18 see you. Right?

19 A. Yes, sir.

20 Q. And they -- from my understanding, they
21 told you that other people had said that you
22 had admitted to shooting Freddie Green.

23 A. Yes, sir.

24 Q. And that if you didn't tell them some-
25 thing that they were going to charge you?

- 1 A. Yes, sir.
- 2 Q. At that point in time, you decided that
- 3 you'd tell them whatever they wanted to hear.
- 4 Right?
- 5 A. Yes, sir.
- 6 Q. Let's get the truth here in this
- 7 courtroom. Did you see Tony shoot Freddie
- 8 Green?
- 9 A. No, sir.
- 10 Q. Did Tony ever tell you that he shot
- 11 Freddie Green?
- 12 A. No, sir.
- 13 Q. Did Tony ever tell you that he was going
- 14 to shoot Freddie Green?
- 15 A. No, sir.
- 16 Q. That just didn't happen?
- 17 A. No, sir.
- 18 Q. Now, on December 12th, 2000, out there on
- 19 Hanover and Line, you were pretty messed-up;
- 20 weren't you?
- 21 A. Yes, sir.
- 22 Q. You'd been drinking. Right?
- 23 A. Yes, sir.
- 24 Q. You'd been selling a little dope. Right?
- 25 A. Yes, sir.

1 Q. Playing some dice?

2 A. Yes, sir.

3 Q. And had had a couple of Ecstasy pills,
4 right?

5 A. Yes, sir.

6 Q. And, so, what went on out there would be a
7 pretty good blur; right?

8 A. Yes, sir.

9 Q. But after this happened -- and you heard
10 one shot, right?

11 A. Yes, sir.

12 Q. And you were inside when it happened?

13 A. Yes, sir.

14 Q. Your mama and your sister came and got
15 you. Right?

16 A. Yes, sir.

17 Q. Now, you're friends with Tony. Right?

18 A. Yes, sir.

19 Q. You also were an acquaintance or friends
20 with Freddie, right?

21 A. Yes, sir.

22 Q. You didn't have no beef with either of
23 them, did you?

24 A. No, sir.

25 Q. I need to ask you some questions that are

1 a little bit embarrassing. Okay?

2 A. (Affirmative nod).

3 Q. You've got a learning disability. Right?

4 A. Yes, sir.

5 Q. When you went to school you were in the
6 resource classes, right?

7 A. Yes, sir.

8 Q. You only made it to the 9th grade?

9 A. Yes, sir.

10 Q. So you have trouble reading. Right?

11 A. Yes, sir.

12 Q. When they stuck that statement in front of
13 you, you just signed it. Right?

14 A. I just signed it.

15 Q. You didn't get to read it -- you couldn't
16 really read it, right?

17 A. No, sir.

18 Q. And you put down what they wanted you to
19 put down?

20 A. Yes, sir.

21 Q. Now, ---

22 MR. SMILEY: I beg the court's
23 indulgence.

24 THE COURT: Yes, sir.

25 CROSS EXAMINATION RESUMED

1 BY MR. SMILEY:

2 Q. Darrell, have you ever been robbed?

3 A. No, sir.

4 Q. If you had been robbed, would you have
5 called the police?

6 A. Yes, sir.

7 Q. But you haven't ever been robbed?

8 A. No, sir.

9 Q. Never told anybody that you'd been robbed?

10 A. No, sir.

11 MR. SMILEY: Your Honor, subject to
12 my prior objection I have to go into a matter,
13 based on your ruling, to protect the record.

14 THE COURT: (Affirmative nod).

15 CROSS EXAMINATION CONTINUED

16 BY MR. SMILEY:

17 Q. I've been your lawyer before, right?

18 A. Yes, sir.

19 Q. And I came and saw you Monday night at the
20 jail. Right?

21 A. Yes, sir.

22 Q. We didn't particularly talk about the
23 facts relating to this case, did we?

24 A. No, sir.

25 Q. It was more about your general welfare and

1 what was going on with you. Correct?

2 A. Yes, sir.

3 Q. However, since then you and I have talked
4 about this case. Right?

5 A. Yes, sir.

6 Q. And all I told you was to tell the truth.
7 Right?

8 A. Yes, sir.

9 Q. I think it is fair to say that you trust
10 me?

11 A. Yes, sir.

12 Q. That I have taken care of you in the past?

13 A. Yes, sir.

14 Q. And that you consider me not only your
15 lawyer but your friend?

16 A. Yes, sir.

17 Q. But nothing I would ever say would make
18 you lie, would it?

19 A. No, sir.

20 Q. And you understand from the Solicitor that
21 if you came up here and lied that he could
22 charge you with a crime that carried up to
23 five years; right?

24 A. Yes, sir.

25 Q. You certainly aren't going to do that for

1 me, are you?

2 A. No, sir.

3 Q. You doing to do it for Tony?

4 A. No, sir.

5 Q. Your goal is to finish up your time and
6 come home as fast as you can?

7 A. Yes, sir.

8 MR. SMILEY: Darrell, I appreciate
9 you answering my questions.

10 WITNESS: Yes, sir.

11 THE COURT: Redirect?

12 MR. KENT: One moment, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. KENT:

15 Q. All right, Darrell, I am kind of confused.

16 So you did meet with Jim Smiley on Monday?

17 A. (Affirmative nod).

18 Q. And you did talk to him after that also?

19 A. Yes, sir.

20 Q. But when I was asking you questions it was

21 'no', that you'd never talked to Jim Smiley,

22 not this week, hadn't talked to him later this

23 week, hadn't talked to him about this case.

24 So which one is the truth?

25 A. I never did -- I didn't speak to him about

1 the case.

2 Q. Now, when Mr. Smiley asked you questions
3 on cross-examination you said that later on
4 this week that you actually did talk to him
5 about the case. Didn't you?

6 A. He asked me today.

7 Q. He asked you today? Before this?

8 A. Yeah, he asked me today.

9 Q. So you'all talked about the case?

10 A. No, he asked me if I'd known about the
11 case, what had happened. I tell him no, just
12 like I told you'all no.

13 Q. So you and Mr. Smiley talked about the
14 case after Monday of this week, actually
15 today?

16 A. Yeah.

17 Q. And you also talked to him on Monday?

18 A. Yeah.

19 Q. Did he ever bring the statement in there
20 with him?

21 A. No.

22 Q. Did he show you a copy of your statement?

23 A. No... No, sir.

24 Q. So basically what you're telling me --
25 what you told me in your direct testimony when

1 I asked you that question was a lie?

2 A. Today?

3 Q. Today.

4 A. Well, we spoke about Monday. I hadn't
5 spoken to him on Monday about no case. You
6 never asked me about today. You said Monday.

7 Q. You also talked about that -- Mr. Smiley
8 asked you on cross-examination, you talked
9 about these two individuals right here, and I
10 am pointing to Mr. Price and Ms. Connolly,
11 that they came up to talk to you.

12 A. (Affirmative nod).

13 Q. And I think you told us that they never
14 let you read your statement. This statement
15 is in your handwriting. Let me make sure that
16 you look at it now, (tendering).

17 A. (No response).

18 Q. Go ahead, look at it.

19 A. (No response).

20 Q. You are not sure if that is your
21 handwriting?

22 A. It ain't my handwriting.

23 Q. Well, let me give you a piece of paper so
24 that you can write and compare ---

25 MR. SMILEY: Objection, Your Honor.

1 THE COURT: Overruled. He can get
2 a second handwriting sampler.

3 REDIRECT EXAMINATION CONTINUED

4 BY MR. KENT: WEDNESDAY

5 Q. Do you know how to write?

6 A. (No response).

7 Q. You know what I want you to do? I want
8 you to copy that -- can you copy that right on
9 there, the first sentence?

10 A. (No response).

11 Q. Just write whatever you want to write.
12 Just write anything for me on that first line.

13 A. (Writing).

14 Q. What did you write?

15 A. "I'm ready to finish my time and come on
16 home to my family."

17 Q. You didn't have any problem reading that
18 just now. Why don't you compare for yourself

19 ---

20 MR. SMILEY: (Stands).

21 THE COURT: Solicitor.

22 MR. SMILEY: I --

23 THE COURT: He was wanting to
24 object. You have to be careful about the
25 commentary and editorial.

1 MR. KENT: Yes, Your Honor.

2 REDIRECT EXAMINATION CONTINUED

3 BY MR. KENT:

4 Q. Compare that handwriting on those two
5 pages. Is that your handwriting?

6 A. It's my handwriting where I wrote this
7 just now but that ain't my handwriting right
8 there.

9 Q. That is not your handwriting?

10 A. No.

11 MR. KENT: Your Honor, at this
12 time, I would ask that what he just wrote be
13 placed into evidence.

14 MR. SMILEY: (Upon review), that's
15 fine, Your Honor. I don't have any problem
16 with that.

17 MR. KENT: I think that's State's
18 Exhibit 38.

19 COURT REPORTER: State's Exhibit
20 39.

21 (SO ENTERED AS STATE'S EXHIBIT 39)

22 REDIRECT EXAMINATION CONTINUED

23 BY MR. KENT:

24 Q. Darrell, I want you to do me one other
25 favor, please. On State's Exhibit 39, would

1 you sign your name on there? Anywhere on
2 there.

3 A. (Complies).

4 Q. Thank you.

5 MR. KENT: Additionally, at this
6 time, we'd ask to place a redacted copy of Mr.
7 Royal's statement into evidence with
8 everything redacted with the exception of his
9 signature.

10 MR. SMILEY: May I see that?
11 Beg the Court's indulgence.

12 THE COURT: Take your time.

13 MR. SMILEY: (Upon review), I have
14 no ---

15 MR. KENT: That's fine.

16 THE COURT: Okay.

17 MR. KENT: That will be State's
18 Exhibit 40.

19 COURT REPORTER: Yes, sir.

20 MR. SMILEY: Subject to my objection
21 that you have already ruled on, Your Honor.

22 THE COURT: Very well.

23 (SO ENTERED AS STATE'S EXHIBIT 40)

24 REDIRECT EXAMINATION RESUMED

25 BY MR. KENT:

1 Q. Darrell, one last question. I keep
2 bringing up perjury and I kept telling you
3 about perjury. Isn't that simply because all
4 we want is for you to tell the truth today?

5 A. Yes, sir.

6 Q. That's all we have been asking you, is to
7 tell the truth.

8 A. Yes, sir.

9 MR. KENT: That's all that I have.

10 THE COURT: Mr. Smiley.

11 MR. SMILEY: Well, -- I beg the
12 Court's indulgence, Your Honor.

13 THE COURT: Yes, sir.

14 RECROSS EXAMINATION

15 BY MR. SMILEY:

16 Q. Just so that we are real clear. When Mr.
17 Kent was asking you questions, when he asked
18 you initially about seeing me and "talking
19 about the case" on Monday. We didn't talk
20 about the case ---

21 A. No, we didn't.

22 Q. And that's what you answered the question
23 about. Correct?

24 A. Yes, sir.

25 Q. So when he corrected it and said, 'Did you

1 see Mr. Smiley on Monday at the jail' and
2 didn't bring up the words "the case", you
3 answered him 'Yeah, I saw him.' Correct?

4 A. Yes, sir.

5 Q. He didn't ask you whether you had talked
6 to me about the case today, did he?

7 A. No, sir.

8 Q. But in fact during -- late this morning,
9 I came in and talked to you. Not about your
10 statement or anything specifically, but in
11 general. Correct?

12 A. Yes, sir.

13 MR. SMILEY: Nothing further.

14 MR. KENT: Nothing from the
15 State. We would ask that this witness be
16 excused.

17 THE COURT: All right.

18 WITNESS: What did he say?

19 (WITNESS STEPS DOWN)

20 THE COURT: You may call your next
21 witness.

22 MR. PRICE: The State calls
23 Officer A. Domingo, please.

24 (WITNESS TAKES STAND)

25 ARSENIO DOMINGO, JR.,

1 being duly sworn to tell the truth, the whole
2 truth and nothing but the truth, testified, as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. PRICE:

6 Q. Good afternoon, Officer Domingo. How are
7 you doing?

8 A. Pretty good.

9 Q. Thank you for coming in. Where are you
10 currently employed?

11 A. With the City of Charleston, Police
12 Department.

13 Q. What unit are you with?

14 A. Right now I am with the walking beat.

15 Q. Are you ---

16 A. Downtown.

17 Q. Downtown?

18 A. Yes, sir.

19 Q. Are you currently on duty right now?

20 A. Yes, sir, I am.

21 Q. You came in on duty?

22 A. Yes, sir.

23 Q. We appreciate your doing that.

24 A. (Affirmative nod).

25 Q. How long have you been a police officer?

1 A. Ten years.

2 Q. How long have you been with the Charleston
3 City Police Department?

4 A. Pretty much that time, sir.

5 Q. Pretty much all the ten years?

6 A. Yes, sir.

7 Q. Okay. What unit are you with currently,
8 today?

9 A. You mean with the City of Charleston
10 Police Department or ---

11 Q. What unit are you with?

12 A. Team 7.

13 Q. How long have you been with that unit?

14 A. Since April/May sometime.

15 Q. Let me direct your attention back to
16 December 12th, 2000. Do you remember that
17 date?

18 A. Yes, sir.

19 Q. From your report that you brought in here
20 with you today?

21 A. (Affirmative nod).

22 Q. What unit were you with at that time?

23 A. I was working in the Traffic, I was the
24 accident car, uh, accident investigator.

25 Q. Would that unit allow you to be at the

1 corner of Line and Hanover streets? Was that
2 your jurisdiction at the time?

3 A. Pretty much all the city of Charleston was
4 my beat during that time.

5 Q. The whole city of Charleston?

6 A. Yes.

7 Q. Okay. Were you on duty the night of
8 December 12th, 2000?

9 A. Yes, sir, I was.

10 Q. Were you with anyone? Did you have a
11 partner that day?

12 A. No, I wasn't.

13 Q. You were alone?

14 A. Yes, sir.

15 Q. Do you remember having an opportunity to
16 be dispatched to the corner of Line and
17 Hanover streets?

18 A. I wasn't dispatched, per se. I heard --
19 the call came out and I was in the area, and
20 that's when I ---

21 Q. So you reported to a call that came over
22 your radio?

23 A. Yes, sir.

24 Q. Do you -- when the call came over the
25 radio, do you know why you were dispatched?

1 Did they tell, like give you a code for what
2 you were being dispatched to or did you just
3 find out when you arrived on scene?

4 A. I -- can I refer to this?

5 MR. SMILEY: I am going to object.

6 MR. PRICE: I just asked him if he
7 knew what he was going to go on, what call was
8 he going to go to.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. PRICE:

11 Q. Did they say 'we have something' or
12 anything like that? Through dispatch, did you
13 know what you were going to arrive at the
14 scene to find?

15 A. Yes, sir. I believe so.

16 Q. What did you see when you arrived on the
17 scene?

18 A. I observed the body of a Black male, it
19 says here his name was Freddie Green, Jr. He
20 was lying in the middle of the street when I
21 observed him, and there was nobody else around
22 him. I pretty much had to look around. There
23 was, (I think), a bar or club right across the
24 street and there was a gentleman, he was an
25 employee of the bar, that I talked to. He

1 advised that there were two beige cars that
2 had been seen in the area prior to that, uh,
3 I guess, the shooting.

4 Q. Just so that the jury understands, and I
5 don't mean to interrupt.

6 A. Yeah.

7 Q. But you -- December 12th, 2000, was a long
8 time ago.

9 A. (Affirmative nod).

10 Q. So you're going by what you wrote on your
11 report as being correct?

12 A. Yes, sir, pretty much.

13 Q. Did you write that report that evening
14 while everything was still fresh in your mind?

15 A. This is not my report.

16 MR. SMILEY: I am going to object
17 to him referring to a report that he didn't
18 prepare himself, Your Honor. I was told that
19 was his report. If that is not his report, I
20 don't believe that he can use it to refresh
21 his memory.

22 (SIDEBAR BETWEEN COUNSEL)

23 DIRECT EXAMINATION RESUMED

24 BY MR. PRICE:

25 Q. Do you have any independent recollection

1 of what occurred that night, December 12th,
2 2000?

3 A. Pretty much after just reading this
4 because I -- I had left for over a year.

5 Q. Okay.

6 A. Then I came back.

7 Q. If I gave you your statement and you had
8 an opportunity to review it, would you be able
9 to refresh your recollection as to that
10 evening?

11 A. Yes, sir.

12 Q. Okay, (tendering). I give you an
13 opportunity to read over it. Let me know when
14 you've finished.

15 A. (Upon review), okay.

16 Q. Is that your signature at the bottom?

17 A. Yes, sir, it is.

18 Q. So that's your statement?

19 A. Yes, sir.

20 Q. Thank you.

21 MR. KENT: I apologize, Jim.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. PRICE:

24 Q. Do you now have a recollection of what
25 occurred that night, on December 12th, 2000?

1 A. After reading this, yes.

2 Q. You stated earlier -- did you see Freddie
3 Green, the victim in our case, down there when
4 you arrived?

5 A. Yes, sir. He was -- the victim was pretty
6 much lying down, he was down on the ground in
7 the middle of the street.

8 Q. Just about how long was it until the EMS
9 arrived? How long was it that you were on the
10 scene before the EMS or the first responder
11 after you was able to get there?

12 A. I could only guesstimate. It was within,
13 I'd say, five minutes or so.

14 Q. Okay. Who was the first to respond after
15 you had ~~already~~ arrived on the scene?

16 A. I believe -- I put down here Officer
17 Horton. I guess he was the second person on
18 the scene, that came after me.

19 Q. Did everything occur and transpire here in
20 Charleston county?

21 A. Yes, sir.

22 Q. Thank you.

23 MR. PRICE: I beg the Court's
24 indulgence for a minute, Your Honor.

25 THE COURT: All right.

1 MR. PRICE: No further questions.
2 Please answer anything that Mr. Smiley may
3 have.

4 MR. SMILEY: Your Honor, I haven't
5 gotten that statement. If I could briefly
6 review it. You've got the only copy in the
7 courtroom, I think. If you don't mind, I'd
8 like to look at it.

9 WITNESS: (Tenders).

10 MR. SMILEY: (Upon review), I'd like
11 to take a moment and let my client look at it
12 also.

13 (Upon review), thank you. I will hand
14 this back in case you need to refresh your
15 memory.

16 WITNESS: Thank you.

17 CROSS EXAMINATION

18 BY MR. SMILEY:

19 Q. Your only involvement in this case is that
20 you were the first one to arrive. Right?

21 A. Yes, sir.

22 Q. I looked at the report but it doesn't
23 indicate what time that you arrived, so you
24 don't know what time it was when you got
25 there?

1 A. 2241, I put that down there.

2 Q. 2241. That is about twenty minutes of
3 11:00 or nineteen minutes until 11:00?

4 A. Yes, sir.

5 MR. SMILEY: I beg the Court's
6 indulgence. Thank you. Nothing further from
7 this witness.

8 THE COURT: Solicitor?

9 MR. KENT: Just briefly, Your
10 Honor.

11 THE COURT: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. PRICE:

14 Q. From your statement that you have there in
15 front of you, Officer Domingo, where does it
16 say that the aforementioned place is?

17 A. Location is Line is Hanover.

18 Q. And Line and Hanover is located here in
19 Charleston county. Correct?

20 A. Yes, sir.

21 MR. PRICE: That's all from the
22 State, Your Honor. We ask that this witness
23 be excused to go back to work.

24 MR. SMILEY: No objection.

25 THE COURT: You may step down.

1 WITNESS: Thank you.

2 (WITNESS STEPS DOWN)

3 MR. SMILEY: May we approach?

4 SIDEBAR:

5 MR. SMILEY: The next witness is
6 going to be very lengthy. Could we take about
7 ten minutes?

8 THE COURT: Certainly.

9 (SIDEBAR CONCLUDED)

10 THE COURT: Ladies and Gentlemen of
11 the jury, the court staff needs a brief
12 recess. We will try to hold it five minutes.
13 If you would like to remain in the courtroom
14 or stretch, step back to your room, fine. We
15 will keep it to five minutes.

16 (JURY REMAINS SEATED 2:30 - 2:40 P.M.)

17 (BRIEF RECESS FOR COUNSEL)

18 (DEFENDANT PRESENT)

19 THE COURT: Thank you. Solicitor,
20 you may call your next witness.

21 MR. KENT: The State calls Maurice
22 Fields.

23 (WITNESS TAKES STAND)

24 MAURICE JAMILE FIELDS,
25 being duly sworn to tell the truth, the whole

1 truth and nothing but the truth, testified, as
2 follows:

3 DIRECT EXAMINATION

4 BY MR. KENT:

5 Q. Spell your middle name, please.

6 A. J-a-m-i-l.

7 Q. And your last name, spell it for the
8 record.

9 A. F-i-e-l-d-s.

10 Q. I am going to ask you questions and I need
11 to make sure that you listen to them carefully
12 and make sure that you understand them.

13 I need for you to speak loudly enough so
14 that all the members of the jury can hear you
15 and I need you to speak slowly enough so that
16 the court reporter can take down everything
17 that you are going to say. Okay?

18 A. Okay.

19 Q. And the other thing is, the court reporter
20 can only take down audible answers. She can
21 only take down "yes" or "no". She can't down
22 head nods and she can't take down "uh-uh" or
23 "huh-uh". Make sure everything is yes or no.
24 Okay?

25 A. Okay.

1 Q. First, I want to find out a little bit
2 about you, Maurice. How old are you?

3 A. Twenty-one (21).

4 Q. Where are you from?

5 A. Charleston.

6 Q. How long have you lived in Charleston?

7 A. All my life.

8 Q. What part of Charleston?

9 A. Downtown.

10 Q. You're wearing a brown jumpsuit. You're
11 currently in jail. Correct?

12 A. Yeah.

13 Q. Where are you in jail at right now?

14 A. Charleston County Detention Center.

15 Q. Where were you in jail before you got to
16 the Charleston County Detention Center?

17 A. Lexington County.

18 Q. As a matter of fact, you're in on Federal
19 charges; isn't that correct?

20 A. Yeah.

21 Q. That federal charge was? What is that
22 Federal charge that you are in on?

23 A. Convicted felon in possession of firearms.

24 Q. You were convicted of possession of crack
25 cocaine before?

1 A. Yeah, before the gun conviction.

2 Q. So before the gun conviction you had a
3 possession of crack charge?

4 A. (Affirmative nod)

5 Q. Then you were found with a gun?

6 A. (Affirmative nod)

7 Q. And you got possession of fireman in the
8 possession of a felon; is that correct?

9 A. Yeah.

10 Q. That's what got you your Federal time?

11 A. Yeah.

12 Q. Do you know Antwon Goodwin?

13 A. Yes.

14 Q. How long have you known Antwon Goodwin?

15 A. All my life.

16 Q. How do you know him? Are you guys
17 friends?

18 A. Cousins.

19 Q. So you guys are actually related?

20 A. Yeah.

21 Q. Would you still consider yourself, before
22 all this happened, friends?

23 A. Yeah.

24 Q. Did you talk?

25 A. How you mean?

1 Q. Would you guys talk occasionally, hang
2 out, do stuff together?

3 A. Yeah.

4 Q. I am going to ask you some questions and
5 the only answers that I want, I just want you
6 to tell the jury -- you know what we're here
7 to talk about today, isn't that correct?

8 A. Yeah.

9 Q. December 12th, 2000?

10 A. Yeah.

11 Q. The murder of Freddie Green?

12 A. Yeah.

13 Q. All I want to know, that I want you to
14 tell for the jury, in relation to that case
15 please tell the jury anything that the
16 defendant, Antwon Goodwin, directly told you
17 about that case. If you could, just tell that
18 to the jury.

19 A. Yes, uh, he told me that Mr. Green and him
20 was talking about a situation that occurred,
21 about Mr. Green and some other guys looking to
22 kill him.

23 Q. Okay. Keep on going.

24 A. And they was talking, and when the
25 conversation ended, Mr. Green ---

1 MR. SMILEY: Objection, requires a
2 hearsay response.

3 MR. KENT: Actually it doesn't.
4 He's testifying about what Mr. Goodwin told
5 him directly.

6 THE COURT: All right, but it's
7 got to be Mr. Goodwin and not somebody else.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. KENT:

10 Q. All I want to know is what he told you.

11 A. Yeah.

12 Q. Okay, keep going.

13 A. He said, uh, that Mr. Green and him had a
14 discussion and then when him -- when Mr. Green
15 turned to walk off, he said that he bust him
16 in the head.

17 Q. He said that he "bust him in the head"?

18 A. Yeah.

19 Q. So he hit him with a bottle?

20 MR. SMILEY: Objection.

21 MR. KENT: That's fine.

22 THE COURT: It wasn't answered but
23 I have to sustain the objection.

24 MR. KENT: That's fine, Your
25 Honor.

1 DIRECT EXAMINATION CONTINUED

2 BY MR. KENT:

3 Q. So he said to you that he bust him in the
4 head?

5 A. Yeah.

6 Q. When did this conversation happen?

7 A. I don't know the exact day but it was like
8 over the time when the person had died, Mr.
9 Green had died.

10 Q. So it was after he had died?

11 A. Yeah.

12 Q. How did this conversation come up?

13 A. I asked him what was going on.

14 Q. Tell me where it happened, give us as much
15 detail as possible. Tell the jury where this
16 conversation happened, how did it come up and
17 -- only tell me what he told you directly.

18 A. He came up the side his house. We was
19 standing on Drake Street.

20 Q. Okay. Keep going.

21 A. And I asked him what was going on, because
22 I had heard that he'd done something.

23 Q. Okay. Then what did he say?

24 A. He said that he and Mr. Green, that he was
25 inside George's Sweet Shop and Mr. Green came

1 in; that they walked out, had a discussion
2 about the situation about someone looking to
3 kill him. He said that Mr. Green turned back
4 to walk off and he bust him in the head.

5 Q. Okay. Who else was in that house? Do you
6 remember who else was in the house when this
7 conversation was going down?

8 A. Just me and him was in the kitchen.

9 Q. Who else was the house, though?

10 A. Darrell Royal, Redando Burns and Antonio
11 Campbell.

12 Q. All right. In regard to Mr. Green and
13 dealing with the events that occurred on
14 December 12th, 2000, -- listen to me very
15 carefully and if you don't understand
16 something, ask me to repeat it.

17 A. (Affirmative nod).

18 Q. But in regards to the incident that
19 happened on December 12th, 2000, did the
20 Defendant, Antwon Goodwin, say anything else
21 to you directly about that?

22 A. No.

23 Q. Before December 12th, 2000, -- okay? You
24 understand what I am saying?

25 A. (Affirmative nod).

1 Q. Before December 12th, 2000, in regards to
2 the incident between Freddie Green, did Antwon
3 Goodwin tell you anything about that? Did he
4 tell you anything else directly? ?

5 A. Yes, he told me that he heard that ---

6 MR. SMILEY: Objection, Your Honor.

7 DIRECT EXAMINATION CONTINUED

8 BY MR. KENT:

9 Q. I need you to listen very carefully now
10 and make sure that you understand what I am
11 saying. It's got to be what he told you.

12 A. No, no.

13 Q. Okay. Did Mr. Goodwin say anything to you
14 about telling what you just told, -- did he
15 tell you anything, say anything to you
16 directly about telling what you just told?
17 Did he tell you to tell people?

18 A. No.

19 Q. Did he tell you anything? What did he say
20 as far as that?

21 A. He said not to tell, that I might get in
22 trouble.

23 Q. Is that what he said, 'Don't tell anyone,
24 you'll get in trouble'?

25 A. Yeah.

1 Q. That was his exact words?

2 A. Yeah.

3 Q. "Don't tell, you'll get in trouble"?

4 MR. SMILEY: Asked and answered.

5 MR. KENT: It's my witness, Your
6 Honor.

7 MR. SMILEY: Still, Your Honor,
8 asked and answered.

9 THE COURT: Okay.

10 DIRECT EXAMINATION RESUMED

11 BY MR. KENT:

12 Q. What was the exact language that was used
13 by Mr. Goodwin when he told you what he told
14 you about the shooting?

15 MR. SMILEY: Objection, Your Honor,
16 already asked and answered.

17 THE COURT: What was the question,
18 please? I didn't hear it.

19 MR. KENT: May we approach, Your
20 Honor?

21 (SIDEBAR)

22 DIRECT EXAMINATION CONTINUED

23 BY MR. KENT:

24 Q. Maurice, you've actually testified under
25 oath about the things that you have testified

1 about, haven't you?

2 A. Yes.

3 MR. SMILEY: Objection, bolstering.

4 At this point in time he hasn't been ---

5 THE COURT: It's all right.

6 DIRECT EXAMINATION

7 BY MR. KENT:

8 Q. You have testified before?

9 A. Yes.

10 Q. Have you had a opportunity to review your
11 testimony?

12 A. No.

13 Q. Maurice, your testimony earlier, if I am
14 not mistaken, was that all that Mr. Goodwin
15 told you the evening at that house was that he
16 bust him in the head?

17 A. Yes, sir.

18 Q. Okay. He never said anything else?

19 A. No, sir.

20 Q. Isn't it actually true that when you
21 testified ---

22 MR. SMILEY: Objection, Your Honor.

23 Cross.

24 THE COURT: You want to let him
25 look at it first?

1 MR. KENT: That's fine.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. KENT:

4 Q. I am going to give you a copy of your
5 testimony, (tendering). What I want you to do
6 is read through it to refresh your memory.
7 Let me know when you're done. Read it to
8 yourself, not aloud.

9 A. (Reviewing).

10 MR. SMILEY: It was only three or
11 four lines, Your Honor.

12 THE COURT: Solicitor, could we
13 save a little time, could you be a little more
14 specific with him?

15 MR. KENT: I can.

16 THE COURT: He doesn't need to
17 read the whole thing.

18 MR. KENT: Yes, sir.

19 DIRECT EXAMINATION CONTINUED

20 BY MR. KENT:

21 Q. Go to page thirteen. I want you to read
22 pages thirteen and fourteen of your testimony.

23 A. (Reviewing).

24 Q. Have you had time to read it?

25 A. Yes, sir.

1 Q. Does that help to refresh your memory?

2 A. Yes, sir.

3 Q. Of what Antwon Goodwin actually told you?

4 A. Yeah.

5 Q. Okay. What did Antwon Goodwin actually
6 tell you that evening?

7 A. He said he bust him in his head, meaning
8 that when he turned to walk away, meaning that
9 he shot him in the head.

10 MR. SMILEY: Objection. Requires
11 speculation as to meaning. He didn't say
12 that.

13 THE COURT: I will let you cross-
14 examine him on that.

15 DIRECT EXAMINATION CONTINUED

16 BY MR. KENT:

17 Q. Actually when you testified, -- what else
18 did he say?

19 A. He said ---

20 Q. Only what he said to you.

21 A. Yes. He said that he shot him in the
22 head.

23 Q. Okay. Did he say anything else?

24 A. No.

25 Q. Actually didn't he say "lay" ---

1 A. Yeah, lay.

2 MR. SMILEY: Objection, Your Honor.

3 WITNESS: He say the boy lay ---

4 MR. SMILEY: Objection. Just a

5 minute.

6 (SIDEBAR)

7 DIRECT EXAMINATION CONTINUED

8 BY MR. KENT:

9 Q. Go ahead and tell us what you were saying.

10 A. Yes, he did say that the boy lay.

11 Q. What was that he said? Boy lay?

12 A. Um-humm.

13 Q. You don't want to be here today, do you?

14 A. Huh?

15 Q. Do you want to be here today?

16 A. (No response).

17 Q. Do you want to testify in this case?

18 A. Well, -- yeah.

19 Q. Why?

20 A. Because that's, uh, my plea agreement.

21 Q. Are you here to tell the truth?

22 A. The whole truth, (affirmative nod).

23 Q. Is it hard for you to testify against your

24 cousin, Antwon Goodwin?

25 A. No.

1 Q. Why not?

2 A. It ain't hard.

3 MR. KENT: Answer any questions
4 that Mr. Smiley may have.

5 CROSS EXAMINATION

6 BY MR. SMILEY:

7 Q. Do you know Jamie Lamont Frazier?

8 A. Yes.

9 Q. Do you remember testifying in front of a
10 Federal grand jury in regards to him?

11 A. Yes.

12 Q. In that -- before that Grand Jury, you
13 said that he had a gun. Right?

14 A. Yes.

15 Q. As a result of that, he was charged
16 with ---

17 MR. KENT: Objection. Relevance.

18 MR. SMILEY: I will be glad to
19 impeach him by showing that he lied.

20 THE COURT: I will give you some
21 latitude.

22 CROSS EXAMINATION CONTINUED

23 BY MR. SMILEY:

24 Q. So at the Federal Grand Jury, you
25 testified that Jamie Lamont Frazier had a gun,

1 correct?

2 A. Yeah.

3 Q. As a result of that, Jamie Lamont Frazier
4 was arrested for possession of a weapon by a
5 convicted felon; correct? The same charge
6 that you have?

7 A. Yeah.

8 Q. Right before his trial, you told us, the
9 Task Force officers, that you couldn't say
10 that it was a gun, that it was something
11 black. Correct?

12 A. It was a black object.

13 Q. And as a result, they dismissed those
14 charges. Right?

15 A. Yes.

16 Q. So -- that was about a year, it took about
17 a year. Right?

18 A. I do believe so, yes.

19 Q. Now, let's talk about your plea agreement.
20 You were charged with possession of a weapon
21 by a convicted felon in the Federal Court.
22 Correct?

23 A. Yes.

24 Q. And you were looking at a mandatory
25 minimum of five years, a maximum of ten.

1 Correct?

2 A. Not to my knowledge.

3 Q. You thought you were looking at more?

4 A. No.

5 Q. Less?

6 A. (No response).

7 Q. You didn't know?

8 A. I didn't know.

9 Q. Okay. But you certainly were facing going
10 to Federal prison, right?

11 A. Excuse me?

12 Q. You were certainly looking at a charge,
13 were facing going to Federal prison; correct?

14 A. Yes.

15 Q. As a result of that, you entered into an
16 agreement with the U.S. Government. Correct?

17 A. Yeah.

18 Q. And in that agreement, you would provide
19 them information about shootings and in turn
20 they would do what is called a downward
21 departure Motion for you. Correct?

22 A. Yeah.

23 Q. So that's when you gave them the
24 information about Jamie Lamont Frazier, Antwon
25 Goodwin, and many other things. Right?

1 A. Yes.

2 Q. And that information that you gave them
3 was stuff that you'd heard mostly, correct?

4 A. Yeah.

5 Q. Except for the exception of Mr. Frazier
6 that ---

7 A. Yeah.

8 Q. Because you were involved in getting shot
9 that night. Right?

10 A. Yeah.

11 Q. As a result of that, the Government did a
12 downward departure. Right?

13 A. Yeah.

14 Q. Your sentence was lessened. Right?

15 A. Yeah.

16 Q. Your sentence went down to one year and
17 one day. Right?

18 A. Yes.

19 Q. So they had you to testify in Federal
20 Court, but they got rid of that case. Right?

21 A. Yeah.

22 Q. Then the other part was to come down here.
23 Right?

24 A. Yeah.

25 MR. SMILEY: Beg the Court's

1 indulgence.

2 THE COURT: Yes, sir.

3 CROSS EXAMINATION CONTINUED

4 BY MR. SMILEY:

5 Q. Did you also tell the Federal -- when I
6 say Federal, you were talking to ATF. Right?

7 A. Yeah.

8 Q. The Task Force?

9 A. (Affirmative nod).

10 Q. Didn't you also tell them that D.J. said
11 that he shot him?

12 A. No, he told them that he took one at him
13 too.

14 Q. Okay. Now, you weren't at George's that
15 night, were you?

16 A. No, no.

17 Q. And you didn't see Tony shoot anybody?

18 A. No.

19 Q. You talked to the Task Force agents -- let
20 me make sure that I've got this right. The
21 thing at George's happened on December 12th,
22 2000. Right?

23 A. (No response).

24 Q. Is that right?

25 A. I don't know when it happened.

1 Q. You didn't know when it happened?

2 A. (Negative gesture).

3 Q. Okay. If I told you that it happened in
4 December of 2000, that would sort of fit?

5 A. Yeah.

6 Q. Okay. And you told the Feds or the Task
7 Force this information once you'd been
8 arrested and had gotten in trouble. Right?

9 A. Yeah.

10 Q. In March of 2002, right?

11 A. Right.

12 Q. March this past year?

13 A. Yeah.

14 Q. Okay. Now, today you said that Antwon
15 said "bust in the head", but when the
16 Solicitor refreshed your memory it changed to
17 "shot him" in the back of the head. Right?

18 A. He say both of them.

19 MR. SMILEY: I beg the Court's
20 indulgence.

21 CROSS EXAMINATION CONTINUED

22 BY MR. SMILEY:

23 Q. Now, you said that Antwon Goodwin is your
24 cousin. He's not really your cousin, though,
25 is he?

1 A. No, he's my brother's cousin.

2 Q. So he's your brother's cousin?

3 A. Yeah.

4 Q. So you'all really aren't cousins?

5 A. Yeah.

6 MR. SMILEY: Nothing further.

7 REDIRECT EXAMINATION

8 BY MR. KENT:

9 Q. On cross-examination, Mr. Smiley asked you
10 about D.J. and what D.J. may have said in that
11 house also. What did Darrell Royal say? Do
12 you remember exactly, verbatim?

13 A. He say that he put one -- that he went
14 over and put one on him too.

15 Q. Okay. As a result of that, do you
16 remember if Antwon Goodwin said anything else?

17 A. No.

18 Q. You don't remember?

19 A. No.

20 Q. Is there anything that could refresh your
21 memory?

22 A. I think he did say that he didn't ---

23 Q. Hold on, let me give you a copy ---

24 MR. SMILEY: Objection.

25 SIDEBAR:

1 MR. SMILEY: I object to that
2 statement, it's third-party admission.

3 THE COURT: Is it his statement?

4 MR. SMILEY: No, it's what somebody
5 else said.

6 MR. KENT: That is actually the
7 statement that ---

8 MR. SMILEY: No, it's not.

9 THE COURT: Okay.

10 (SIDEBAR CONCLUDED)

11 MR. SMILEY: Thank you.

12 MR. KENT: That's all that we have
13 of this witness. May he be excused?

14 THE COURT: Any objection?

15 MR. SMILEY: No objection.

16 THE COURT: You may step down.

17 (WITNESS STEPS DOWN)

18 THE COURT: Call your next
19 witness, Solicitor.

20 MR. KENT: The State calls Hollie
21 Connolly to the stand.

22 MR. SMILEY: Your Honor, may we
23 approach?

24 (SIDEBAR)

25 THE COURT: Ladies and Gentlemen

1 of the jury, I am going to ask you to step out
2 for just a second.

3 (JURY OUT @ 3:10 P.M.)

4 MR. SMILEY: Deputy Cotton informed
5 me that the gentleman that made the comments
6 from the gallery has been removed from the
7 courtroom and won't be allowed back in.

8 DEPUTY COTTON: Do you want him
9 retained outside?

10 THE COURT: I want to know from
11 the attorneys or any officer of the Court, law
12 enforcement officer, bailiff, attorney who can
13 tell me exactly what was said or who said it.

14 MR. SMILEY: I did not hear exactly
15 what was said. I just heard a tone that was
16 not pleasant.

17 DEPUTY: I don't know what he said,
18 he stood up and said something threatening.
19 Something about "you got to be yourself."

20 THE COURT: I don't know how to
21 take that. "You got to be yourself"?

22 MR. SMILEY: I don't know exactly
23 who he was directing it at, but the tone that
24 it was said in was not a friendly tone.

25 THE COURT: All right. I've

1 already warned you about it, but I am going to
2 go to extra lengths and say this one more
3 time. Every officer in this court, and that
4 includes the attorneys, the bailiffs, law
5 enforcement officer, clerk, Madame Court
6 Reporter, my law clerk, they are an extension
7 of the Court's eyes and ears. I am not going
8 to tolerate any threats, any foul language or
9 anything that may intimidate any witness or
10 any officer of this Court. I'm telling you,
11 if they come up here and they tell me they
12 heard any comments like that, see any action
13 or gesture -- you saw what happened to that
14 witness earlier this afternoon. You're going
15 to get the same treatment.

16 Counsel, I apologize for interrupting
17 you but we've got to keep the train of thought
18 of this trial. I know it's tough with
19 interruptions, and I apologize for that. But
20 I just want to let everybody know that I don't
21 necessarily have to hear it or see it. These
22 court officers are an extension of the court
23 and this goes all the way to the edge of the
24 courthouse grounds. Okay?

25 MR. SMILEY: And I'm sorry that I

1 interrupted the Court, but just out of an
2 abundance of caution, ---

3 THE COURT: That's fine. We will
4 go ahead and take a few minutes while the
5 jurors are out.

6 (BRIEF RECESS)

7 (DEFENDANT PRESENT)

8 THE COURT: All right, are you'all
9 ready to continue?

10 MR. SMILEY: Yes, sir.

11 MR. KENT: Yes, Your Honor.

12 THE COURT: Bring in the jury.

13 (JURY IN @ 3:24 P.M.)

14 THE COURT: Thank you, Ladies and
15 Gentlemen. Solicitor, call your next witness.

16 MR. KENT: Yes, sir, the State
17 calls Detective Hollie Connolly.

18 (WITNESS TAKES STAND)

19 HOLLIE CONNOLLY,
20 being duly sworn to tell the truth, the whole
21 truth and nothing but the truth, testified, as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. KENT:

25 Q. Good afternoon, Hollie. How are you

1 doing?

2 A. Good.

3 Q. You've been sitting here the entire trial.

4 A. Yes, sir.

5 Q. Just for the jury, please explain who you
6 are and what you do -- explain the reason why
7 you've been sitting in court.

8 A. Yes, sir. I'm a detective. I work with
9 the Charleston City Police Department. I've
10 been with them for nineteen years.

11 Q. Have you been a detective with the City
12 for nineteen years? Just explain to the jury
13 your entire nineteen years, everything that
14 you have done, what jobs you've held
15 throughout that time.

16 A. I've been with the Department for nineteen
17 years. I've been a detective for
18 approximately nine years.

19 I was -- I worked in Team 1 when I first
20 came on. I worked in Team 2, the downtown
21 area, -- Team 1 is basically referred to the
22 eastside, goes from Cannon Street and runs all
23 the way through Reed Street to East Bay, all
24 the way up to Meeting Street Extension.
25 That's the Team 1 area.

1 I also was assigned to Team 2, which is
2 from Cannon Street all the way up to south of
3 Broad.

4 I also worked in the vice squad for a
5 short period of time.

6 I was a team investigator.

7 I was also a Team 2 supervisor, street
8 supervisor on the street.

9 Then I was transferred to central
10 investigations.

11 I am currently assigned to the Violent
12 Crime unit.

13 Q. Have you had any training -- please
14 explain all the training that you have had,
15 not just being a detective but -- what
16 training have you had?

17 MR. SMILEY: Judge, I will be glad
18 to stipulate that she is a seasoned police
19 officer and a seasoned detective.

20 DIRECT EXAMINATION CONTINUED

21 BY MR. KENT:

22 Q. Could you please explain to the jury all
23 the training that you've had, what you've gone
24 through to get where you are?

25 A. I attended the Academy. I've attended

1 numerous schools within the Academy: Homicide
2 Investigations, any type of criminal
3 investigations, Domestic Violence, Rape
4 schools, -- gosh, there's just so much.

5 Q. Have you ever gotten any accommodations
6 or awards from what you've done?

7 A. Yes, sir. I've had many accommodations.
8 I've had accommodations from the Solicitor's
9 office for domestic violence work.

10 Q. Anything else?

11 A. Policeman of the year, of the month, those
12 type of awards.

13 Q. If you could, for the jury, and I know we
14 see a lot of this on TV, but what does a
15 detective actually do?

16 A. The main objective is to go out and figure
17 out who committed a crime. We go out, we are
18 in charge of a crime scene -- any type of
19 crime scene. We advise the crime scene
20 officers what we'd like them to do. We
21 interview numerous witnesses, suspects. We
22 also follow up on any type of evidence that
23 may or may not be there. We also request
24 polygraph examination, latents.

25 Q. Are there different detectives for

1 different divisions? Are there burglary
2 detectives or ---

3 A. Yes, sir.

4 Q. What kind of detective are you?

5 A. I'm with the Violent Crime unit.

6 Basically any violent crime against
7 individuals or crimes against the person.

8 Q. How long have you been doing that, again?

9 Is that for the entire nine years?

10 A. That's correct.

11 Q. I know you testified -- on December 12th,
12 2000, were you a detective with the Violent
13 Crimes unit for Charleston Police Department?

14 A. Yes, sir, I was.

15 Q. Let's back up a little bit. When you go
16 out to a scene, when you get a call, what do
17 you usually do?

18 A. We respond to the call. I am on call
19 twenty-four hours a day, seven days a week,
20 with the Violent Crime unit. If there is a
21 homicide, obviously we're notified
22 immediately. We respond to the area, we make
23 sure that the area is secured, evidence is
24 secured. We try to track down any witnesses
25 that are available.

1 Q. I don't mean to stop you, Hollie, but I
2 just want to be clear. What do you mean by
3 "secure the scene, secure evidence"? What
4 does all that mean?

5 Q. We certainly don't want the citizens to
6 walk through a crime scene and destroy it.

7 You know, there might be a cigarette butt
8 that the suspect threw down on the floor or on
9 the ground. After the crime, we certainly
10 wouldn't want someone to step on that. Also

11 if they step through blood spots -- that's a
12 transfer, that's a blood transfer on the
13 street or on a wall. Those types of things.

14 Q. A lot of times do you go through leads
15 that prove to be fruitless, that don't go
16 anywhere?

17 A. Definitely. Yes, sir.

18 Q. Again, why would you do something like
19 that?

20 A. Well, you have to -- you've got to start
21 somewhere and that's where we started, in the
22 very beginning.

23 There are some people that you might talk
24 to that may have information for you or may
25 not have information.

1 Q. Just going back to securing the scene, I
2 just want to be real careful. What does it
3 mean, securing the scene? A bunch of people
4 just stand there and say, 'don't go in there'
5 or what does it mean?

6 A. No, sir. The uniformed police officers
7 that are basically the first responders, we
8 have a yellow crime scene tape and we place it
9 around the scene, the perimeter of a crime
10 scene so that no one can enter or come out.

11 Usually anytime someone enters that crime
12 scene, their name is written down by an
13 officer and officers stand by securing that
14 and writing down the names of who enters and
15 who does not.

16 Q. This yellow tape that keeps the public
17 out, this is put down by the first or second
18 responding officers that get out there, or
19 when is that put down?

20 A. That is usually put down by the street
21 supervisor.

22 Q. Okay. Is that usually there before you
23 get there or are they there before you get
24 there, or ---

25 A. They are the first ones on the scene,

1 usually.

2 Q. When you get to the scenes, are you
3 usually in charge?

4 A. Yes, sir.

5 Q. By "in charge", what does that mean? What
6 do you usually do?

7 A. Basically we -- we go right up to the
8 crime scene. Once you determine what
9 particular crime you have, you indicate to the
10 crime scene unit what you want done, what
11 articles you want secured. You discuss it
12 with them. They may have some ideas for you
13 on what transpired.

14 Q. Okay. Well, I am going to take your
15 attention back to December 12th, 2000. Were
16 you working that day?

17 A. Yes, sir.

18 Q. You were a detective that day?

19 A. Yes, sir.

20 Q. Did you get a call at around 10:00 or
21 10:30 that evening, or later?

22 A. Yes, sir, I did.

23 Q. Was that call in reference to a homicide?

24 A. Not at that time. No, sir. It was in
25 reference to a shooting.

1 Q. All right. Please tell the jury, just
2 explain it, tell them everything that you did
3 from the point that you got that call to the
4 point that you left. I know that's going to
5 be kind of hard, but just make sure that they
6 understand exactly what you did.

7 A. When I arrived on the scene, there was a
8 victim lying on the street. EMS was around
9 him, working on the victim. He was also being
10 transported. They were preparing to move him
11 into the EMS truck.

12 At the same time, there was police
13 officers there on the scene and they put the
14 crime scene tape up.

15 Also there, that I observed, there was a
16 burgundy or red-type vehicle that was sitting
17 outside of George's, on that same street. On
18 the opposite side of that, there was also a
19 green Saturn. I didn't know if those things
20 were involved in the crime scene. I didn't
21 know if they had anything to do with the
22 crime. These are things that you have to
23 figure out.

24 Also sitting on that burgundy car was a
25 McDonald's cup. There was also a french fry

1 box that contained some french fries that was
2 lying in the middle of the street, in the
3 street; which there appeared to be a tire mark
4 that had gone through the french fries. So
5 there was an impression there of the tire.

6 There was also a McNugget box that was there.

7 On the outside of the street, near a
8 telephone pole, there was a pair of tennis
9 shoes. I didn't know if those shoes were
10 involved in this or what evidence was involved
11 and what wasn't. If you don't know, you take
12 it. You take it all because you don't know.
13 It could, later on, prove to have something to
14 do with this crime. If it doesn't, then
15 that's fine and you can eliminate that.

16 There was ---

17 MR. SMILEY: Your Honor, this has
18 become a narrative. this point, I would ask
19 that she respond to questions.

20 MR. KENT: Your Honor, I believe
21 that she is answering my question.

22 THE COURT: All right, go ahead.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. KENT:

25 Q. Please continue.

1 A. When I went down there, I also looked for
2 any spent casings, bullet casings, that would
3 indicate to me if it was a revolver or an
4 automatic. There were no such casings at the
5 scene, none that were located. There were

6 also no bullets that were found, no fragments.

7 Q. Let me stop you right there, Hollie, if
8 you don't mind. I want to back up a little
9 bit to some of the stuff that we were talking
10 about. When you got out there, did you direct
11 people as to what pictures to take?

12 A. To a certain point, I did. Jeff Miller
13 was the crime scene unit that responded.

14 While he was taking photographs, I was going
15 door to door also trying to speak with
16 potential witnesses.

17 Q. Could you describe what the scene looked
18 like when you actually got there that evening?

19 A. Yes, sir. The victim was lying on the
20 street. They were preparing to transport him
21 by EMS. There was a puddle of blood that was
22 in the street. A car, a burgundy car with
23 McDonalds substance that was -- the cup was on
24 top of the car, the french fries box was lying
25 on the street and there was a McNugget box

1 also.

2 Q. And if I am not mistaken, what you
3 testified to is that the victim was being
4 moved right when you got there?

5 A. That's correct. He was being transported
6 to MUSC.

7 Q. I want to show you some pictures which
8 are State's Exhibits 9 through 17, 18 through
9 22 -- so basically 9 through 22. If you
10 could, go through those pictures and, one, see
11 if you recognize them and, two, ---

12 A. Yes, sir.

13 Q. What does State's Exhibit 9 depict?

14 A. No. 9 is in front of 72 Hanover Street and
15 the number one, the section here, the "1" here
16 indicates a blood spot.

17 Q. What is the purpose of that number one?
18 Is that always out there or do you ---

19 A. Our crime scene indicates those. They
20 place those numbers on every piece of evidence
21 or articles that may be evidence out there at
22 the crime scene.

23 Q. Behind that, what is that number two? If
24 you turn around, on that picture I see a "2".

25 A. Yes, sir, that -- evidently someone had

1 stepped in the blood and made footprint
2 transfers.

3 Q. Joanne, would you put up No. 18? What is
4 that a depiction of?

5 A. That is, uh, that's going to be the
6 McDonald's french fries.

7 Q. Right here?

8 A. No. 1 is the blood spot,
9 No. 2 will be the footprint.

10 Q. So it is another picture of the one that
11 you've already told us about?

12 A. That's correct.

13 Q. What is this stuff? What is this and this
14 right here? Is that anything?

15 A. Not -- no.

16 Q. Joanne, if you will put up No. 41. Look
17 at that behind you, State's Exhibit 18, you
18 were talking about the french fry thing
19 earlier. Is that what you -- is that a
20 depiction of that?

21 A. Yes, sir. That's the french fries box
22 that contained some fries.

23 Q. Why did you take a picture of that?

24 A. Because a tire rolled through it. There
25 was a witness that indicated that they

1 observed two beige vehicles driving off ---

2 MR. SMILEY: Objection, Your Honor.

3 Hearsay.

4 THE COURT: Be careful with
5 hearsay now.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. KENT:

8 Q. So you took a picture of that?

9 A. Right.

10 Q. That's another depiction?

11 A. That's correct.

12 Q. And you mentioned that there were tire
13 tracks in the ---

14 A. Yes, sir.

15 Q. That's what those lines are right there,
16 that you were talking about?

17 A. That's correct.

18 Q. What did you do based on this information
19 from the tires that had run through the french
20 fries? What did you do with that?

21 A. I obtained a search warrant.

22 MR. SMILEY: Objection, Your Honor.

23 May we approach?

24 (SIDEBAR)

25 MR. SMILEY: Thank you, Your Honor.

1 DIRECT EXAMINATION RESUMED

2 BY MR. KENT:

3 Q. So basically that's a picture of the
4 french fry box that had been run through, that
5 left a tire impression, that you took and put
6 in evidence?

7 A. Our crime scene officer photographed and
8 also secured it. They took it.

9 Q. that is what No. 8 is, right there; is
10 that correct?

11 A. That's correct.

12 Q. Joanne, put up No. 45. Turn around and
13 look at State's Exhibit 12, No. 2, right
14 there. Is that a closeup of what you were
15 talking about earlier?

16 A. Yes, sir.

17 Q. What is that that you said that evidence
18 was?

19 A. Blood transfer.

20 Q. Please explain to the jury what a blood
21 transfer is.

22 A. If you -- say there's a puddle of blood
23 and you put your hand in it and you smudged on
24 a wall or you go through the wall and you
25 accidentally hit it, then you transfer it from

1 one location to the next.

2 Q. Next. Could you turn around, No. 2
3 actually depicts were that blood transfer was
4 found, is that correct?

5 A. That's correct.

6 Q. Which is State's 14?

7 A. Yes.

8 Q. If you could, zoom in on that, just on the
9 No. 2. This is the blood transfer that you
10 were talking about?

11 A. That's correct.

12 Q. Put up No. 31. This is State's Exhibit
13 16. You testified earlier about the yellow
14 police tape that you put up.

15 A. Yes, sir.

16 Q. Where is that police tape going from and
17 going to, if you can tell?

18 A. From the corner of Hanover and Line.

19 Q. From the corner of Hanover to Line Street?

20 A. Yes.

21 Q. So it was blocking?

22 A. The whole intersection.

23 Q. So no one could come in or out of that
24 intersection?

25 A. That's correct.

1 Q. You also testified that there was a
2 burgundy car out there.

3 A. Right.

4 Q. Is that the car that you were talking
5 about?

6 A. Yes, sir.

7 Q. There is actually a No. 7 right on that
8 car.

9 A. That's correct.

10 Q. What's the point of that?

11 A. The point is that there is a McDonald's
12 cup just sitting there, which indicates to me
13 that someone was either standing near the
14 vehicle or was sitting on top of the vehicle.

15 Q. Go to No. 33. This is another view of
16 that same thing that you were just talking
17 about?

18 A. That's correct.

19 Q. What is this right here?

20 A. The McDonald's ---

21 Q. And this one right here?

22 A. McDonalds.

23 Q. And this is a picture of the burgundy car
24 that you were talking about?

25 A. That's correct.

1 MR. KENT: At this time, Your
2 Honor, the State would ask to move State's
3 Exhibits 9 and 22 into evidence.

4 MR. SMILEY: Without objection,
5 Your Honor.

6 THE COURT: All right.
7 (SO ENTERED AS STATE'S EXHIBIT 9)
8 (SO ENTERED AS STATE'S EXHIBIT 22)

9 DIRECT EXAMINATION

10 BY MR. KENT:

11 Q. Hollie, I know it was painstaking to make
12 you go through all of that, but that's the
13 stuff that your officers go through anytime
14 that you deal with a crime scene; is that
15 correct?

16 A. That's correct.

17 Q. How long does that usually take?

18 A. That took quite a while, probably a couple
19 of hours.

20 Q. Who was the first person, if you can
21 remember, that you took a statement from that
22 evening?

23 A. A written statement?

24 Q. A written statement.

25 A. I don't believe I took a written statement

1 that evening, on the 12th.

2 Q. How many people did you talk to while you
3 were out there?

4 A. Uh, ---

5 Q. If you can remember,

6 A. Approximately four to five people that
7 were not police-related.

8 Q. If I am not mistaken, you testified that
9 you found no bullet and no bullet casing on
10 the scene?

11 A. That's correct.

12 Q. Is that odd?

13 MR. SMILEY: Objection, Your Honor.

14 THE COURT: She can answer that
15 from her own experience.

16 WITNESS: No, sir, that is not
17 odd.

18 DIRECT EXAMINATION CONTINUED

19 BY MR. KENT:

20 Q. Why is that not odd?

21 A. As I said before, it is an indication to
22 us if an automatic was used or a revolver. A
23 revolver, after you shoot the gun, the casings
24 stay in the gun. If it's an automatic and
25 it's shot, the casing would come out

1 disregarding a spent casing on the ground.

2 Q. Hollie, if you can, and you may or may not
3 know this through your experience in dealing
4 with the police department, but is a revolver
5 a high-caliber gun, a low caliber gun, a
6 medium caliber gun?

7 A. It just depends on what caliber it is.

8 Q. But you found no gun that evening?

9 A. No, sir.

10 Q. Did anyone come out there and dust for
11 fingerprints or do any fingerprint analyses
12 while they were out there?

13 A. They would collect the evidence and we do
14 have a latent examiner that would look at
15 those latents. Sometimes you just can't lift
16 a latent. Like on the McDonalds cup -- of
17 course, you have ice in a McDonalds cup, then
18 you have the water residue on the outside, so
19 you would actually have to dry the cup and
20 then they would photograph the print that was
21 on the cup, then they would try to lift it.
22 They would lift the print, then they would
23 read the print.

24 Q. I don't have a copy of a fingerprint
25 report. Was one done?

1 A. No, sir, one was not done. There were
2 latents that were lifted off the McDonald's
3 items. Unfortunately our latent examiner is
4 deceased.

5 Q. Can't we just give it to somebody else?

6 A. No, sir, that's against protocol.

7 Q. So those latents didn't come back matching
8 to anyone?

9 A. No, sir.

10 Q. What else did you do that evening out
11 there at the scene?

12 A. While I was there, I went to 72 Hanover
13 Street in the top apartment where I spoke with
14 a young woman. I don't know -- can I go?

15 Q. You just interviewed a bunch of folks
16 around there that evening?

17 A. That's correct.

18 Q. Okay.

19 A. And the owner and employee of George's.

20 Q. So the owner, employees, you just
21 interviewed a whole bunch of people?

22 A. That's correct.

23 Q. So what do you do when you take all this
24 information? What do you do with all this
25 information that you find? What do you do

1 with it?

2 A. Well, we -- I mean, the next -- obviously
3 we try to find out who the victim is. Once
4 you establish who the victim is, that's when
5 the investigation really begins. You can look
6 a little bit into their lives, what they do
7 and what they don't do, their habits. You
8 speak to the family. There's no one that
9 knows you better than a family member. And I
10 went to MUSC that night.

11 Q. What happened? Did you identify who he
12 was, that victim?

13 A. That's when I spoke with Mr. Freddie
14 Green, which would be the victim's father.
15 He indicated to me and to the security guards
16 that were at the hospital that he believed
17 that was his son, that he'd been advised that
18 his son had been shot. He identified his son
19 at the hospital, in the emergency room.

20 Q. As the person who had been shot and killed
21 that evening?

22 A. That's correct.

23 Q. Where is MUSC located?

24 A. I believe that's on President Street.

25 Q. Is President Street located in Charleston,

1 South Carolina?

2 A. Yes.

3 Q. Now, Hollie, you testified that you have
4 been doing this for about nineteen years.

5 Have you been in this general area for
6 nineteen years, doing it?

7 A. Pretty much. Yes, sir. I've never worked
8 West Ashley.

9 Q. You've investigated downtown murders?

10 A. Yes, sir.

11 Q. In the whole time that you have been
12 investigating murders that occurred downtown,
13 about how many have you done?

14 A. Fifty, sixty, I don't -- I don't know.

15 Q. So it's a lot?

16 A. Yeah.

17 Q. How many witness statements do you usually
18 get in all those murders that you have
19 investigated?

20 A. In one particular ---

21 MR. SMILEY: Objection, Your Honor.
22 Relevancy.

23 THE COURT: I will overrule that.
24 That's all right. Go ahead, it's general
25 information.

1 MR. KENT: Thank you, Your Honor.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. KENT:

4 Q. How many witness statements do you usually
5 do?

6 A. Lots.

7 Q. You've done a lot of witness statements?

8 A. Yes.

9 Q. You've talked to a lot of people in a lot
10 of murders?

11 A. Yes, sir.

12 Q. Hollie, in your experience from talking to
13 all these people, all these times, are people
14 generally eager to come talk to you about
15 murders?

16 A. No.

17 Q. They don't jump up and down, say 'I saw
18 it! I saw it!'

19 A. No, sir.

20 Q. So basically it is hard?

21 A. Very difficult.

22 Q. Did you have an opportunity to develop a
23 suspect in response to this case?

24 A. At what point?

25 Q. At any point?

1 A. Yes, we did.

2 Q. How long after the shooting did it take
3 you to develop a suspect in this case?

4 A. Two years later.

5 Q. Is that long, two years to develop a
6 suspect in a case?

7 A. It's not uncommon.

8 Q. Why is that?

9 A. The case dies down, people are more
10 willing to come forward after a number of
11 years. People aren't talking about ---

12 MR. SMILEY: Objection, Your Honor,
13 all of this is speculation.

14 MR. KENT: Your Honor, this is
15 from her nineteen years of experience in
16 talking with people in Charleston county.
17 Mr. Smiley said she was a seasoned officer, he
18 agreed with that. It's a seasoned officer
19 telling the stuff that she does.

20 THE COURT: It's general
21 information, but let's not get carried away
22 with it.

23 MR. KENT: We're not, Your Honor.

24 THE COURT: Okay.

25 MR. SMILEY: Her saying why it

1 takes years for somebody to come forward is
2 her speculating, Your Honor.

3 THE COURT: It is a generaliza-
4 tion. She is not being specific as to this
5 case.

6 DIRECT EXAMINATION RESUMED.

7 BY MR. KENT:

8 Q. So, Hollie, it took two years to develop
9 a suspect in this case?

10 A. That's correct.

11 Q. Who did you develop as a suspect?

12 A. Antwon Goodwin.

13 Q. How did you come to develop Antwon Goodwin
14 as a suspect in the murder of Freddie Green?

15 A. Mr. Gordon was notified by Captain Tillman
16 that there was ---

17 Q. Let me go back. Mr. Gordon, who is Mr.
18 Gordon?

19 A. Sergeant Gordon, he worked with me in the
20 violent crime unit.

21 Q. He is the detective that testified on
22 yesterday?

23 A. That's correct.

24 Q. Okay. Go on.

25 A. He was notified in reference to an

1 individual that turned himself in on a
2 previous charge and he had information, that
3 he wanted to talk about some murders.

4 Q. Okay. Did that conversation with -- that
5 individual's name was Edwin Middleton, if I am
6 not mistaken.

7 A. That's correct.

8 Q. He gave information as to what?

9 A. He gave information ---

10 MR. SMILEY: Objection, Your Honor.
11 She wasn't present.

12 THE COURT: That would be hearsay.

13 DIRECT EXAMINATION CONTINUED

14 BY MR. KENT:

15 Q. During the course of your investigation,
16 in discussing this with Mike Gordon, and
17 putting all of your information together,
18 Antwon Goodwin was developed as a suspect in
19 the murder ---

20 MR. SMILEY: Objection, Your Honor.
21 Leading at that point.

22 THE COURT: Rephrase the question.

23 MR. KENT: That's fine.

24 DIRECT EXAMINATION CONTINUED

25 BY MR. KENT:

1 Q. Who was developed as a suspect?

2 A. Antwon Goodwin.

3 Q. Actually when was the first time after the
4 murder of Freddie Green you were given the
5 opportunity to speak with Antwon Goodwin?

6 A. I believe that would have been on ---

7 MR. SMILEY: If the record could
8 reflect that she is referring to her notes.

9 THE COURT: All right.

10 MR. SMILEY: Which is fine, Your
11 Honor, I would just like for the record to
12 reflect that.

13 WITNESS: (Upon review), I
14 believe that was on December 15th, 2002.

15 DIRECT EXAMINATION RESUMED

16 BY MR. KENT:

17 Q. 2002?

18 A. Yes, sir.

19 Q. Could it have been 2000 that you first had
20 the opportunity to talk with Mr. Goodwin?

21 A. Uh, -- yes, sir.

22 Q. Okay.

23 A. Briefly, very briefly.

24 Q. How did this conversation come about?

25 A. I went to Paula Todd's residence and, uh,

1 -- when I knocked on the door, she opened up
2 the door. Antwon was there. I asked Antwon
3 if he would speak with me. He told me that I
4 needed to go through his attorney.

5 Q. And there's nothing wrong with that, is
6 there?

7 A. No, sir. No.

8 Q. Who was his attorney?

9 A. Mr. Smiley.

10 Q. Did you actually have an opportunity to
11 speak with Mr. Goodwin?

12 A. Yes, sir.

13 Q. Was Mr. Smiley present?

14 A. Yes, he was.

15 Q. Okay. Tell the jury about the
16 conversation that was held or the interview
17 or -- was it actually an interview, an
18 interrogation or were you just ---

19 A. No, sir. In fact, we were in my office
20 and present was Sgt. Gordon, myself, Mr.
21 Smiley and Mr. Goodwin.

22 Q. If you would, tell the jury about that
23 conversation.

24 A. Yes, sir. Mr. Goodwin advised me that
25 he'd gone to George's Sweet Shop. He saw his

1 cousin, Redando Burns, inside the
2 establishment and -- Mr. Goodwin didn't
3 indicate to me, didn't know, the time that he
4 went down to George's. He just indicated that
5 it was dark. He then went to Churchs, which
6 was located at Meeting and Line. He states
7 that he observed police units traveling down
8 Line Street. He advised that he went back
9 down to Hanover and Line and he observed the
10 victim lying on the ground, face-down.

11 I asked what type of vehicle that he drove and
12 he responded that it belonged to his
13 girlfriend's grandmother. He describe the car
14 as a gray -- sorry, beige -- a beige Marquis.

15 Q. Did he ever discuss with you if he saw
16 anybody down there while he was there?

17 A. His -- Redando Burns.

18 Q. Do you actually remember if he said that
19 he saw anyone else?

20 A. I don't believe -- Little Ben.

21 Q. Okay. So he also saw Little Ben while he
22 was down there?

23 A. That's correct.

24 Q. Let me make sure that I have this
25 statement correct. Tell me if I got anything

1 incorrect. When he met with you, he said 'I
2 was at George's, I left George's and went to
3 Churchs. While I was at Churchs, I saw a
4 bunch of police officers come past.'

5 A. That's correct.

6 Q. Then he left Churchs and walked toward
7 George's to see what was going on?

8 A. That's correct.

9 Q. Then he saw the body. Did he say the body
10 was face up or face down?

11 A. Face down.

12 Q. Face down?

13 A. (Affirmative nod).

14 Q. Did he indicate what he had to eat at
15 Churchs?

16 A. No.

17 Q. Did he actually say -- did he order
18 anything at Churchs?

19 A. I don't recall.

20 Q. You testified earlier about doing the
21 perimeter and putting up this yellow tape.

22 A. (Affirmative nod)

23 Q. Where was that yellow Caution tape at?

24 A. Hanover and Line.

25 Q. Would you have let anyone get past that

1 yellow Caution tape that wasn't an officer?

2 A. No, sir.

3 Q. You also stated that he told you that

4 he ---

5 MR. SMILEY: Your Honor, we are
6 going over testimony where she has already --
7 she has already answered these questions, Your
8 Honor. She's already given the substance of
9 this conversation.

10 THE COURT: Ask her once. You
11 don't need to ask her twice. Keep it moving.

12 MR. KENT: Yes, sir. Thank you.

13 DIRECT EXAMINATION RESUMED

14 BY MR. KENT:

15 Q. What did you do with that information that
16 evening about the beige Grand Marquis?

17 A. There was an arrest that had been made
18 of ---

19 Q. Let me stop you right there.

20 MR. SMILEY: May we approach?

21 (SIDEBAR)

22 DIRECT EXAMINATION CONTINUED

23 BY MR. KENT:

24 Q. Were you able to find a beige Marquis,
25 Grand Marquis matching the description that

1 - you had gotten from Antwon Goodwin?

2 A. Yes, sir.

3 Q. Where did you find that car?

4 A. It was in impound at Jennings.

5 Q. When you went there, what did you do? Or
6 did you actually go to Jennings?

7 A. Yes, sir.

8 Q. What did you do? Did you take any
9 pictures?

10 A. I obtained a search warrant and ---

11 Q. Okay.

12 A. --- I had a crime scene sergeant go over
13 and take photographs of the vehicle. Also if
14 there was any other type of evidence, which
15 included any type of blood, hair, bullets,
16 casing, GSR -- which is a gun powder residue
17 -- which might have been transferred from --
18 after firing a gun, if you get into a vehicle,
19 that's another type of transfer. Any type of,
20 uh, latents.

21 Q. So you did all of this with this car that
22 you found at the impound?

23 A. That's correct. But we also went back and
24 I had to do another search warrant because
25 they didn't take the casings, the cement

1 casings of the tire.

2 Q. You are going to have to explain to the
3 jury what that means, cement casings of a
4 tire. What does that mean?

5 A. What they do is like take a regular
6 casting -- like when you get your arm in a
7 cast? And they pour the casting cement and
8 they put the tire to it so that we can get the
9 tracks of the tire. That way, I might be able
10 to match the tire up to the imprint of the,
11 you know, the french fries box.

12 Q. Did that prove successful?

13 A. No, it wasn't.

14 Q. No offense, Detective Connolly, but that
15 sounds like one of those things you see on
16 C.S.I. -- is that something that is actually
17 done, trying to ---

18 A. Sometimes it is. I was trying to do
19 everything that I possibly could.

20 Q. That is the picture that we showed you
21 earlier, State's Exhibit 22?

22 A. That's correct.

23 Q. So you took the tire tracks from that
24 french fries box and you matched them up -- or
25 you tried to match them up with the cement

1 casings that you got from the vehicle that you
2 took pictures of. Is that correct?

3 A. That's correct.

4 Q. I am going to show you what has been
5 marked as State's Exhibits 30 through 37.

6 If you would, take your time and look through
7 those.

8 A. (Complies). Okay.

9 Q. What are those pictures of?

10 A. They are pictures of a ~~gray~~ Marquis.

11 Q. Are those actually the pictures of the
12 gray Marquis that you took pictures of when
13 you went to Jennings?

14 A. That's correct. Same vehicle.

15 Q. Did you ever find out who owned this
16 vehicle that you took these pictures of?

17 A. Yes, sir.

18 Q. Who owned this vehicle that you took
19 pictures of?

20 A. Paula Todd.

21 Q. If you could, speak into the microphone.

22 A. Paula Todd.

23 Q. During the course of that investigation,
24 did you find out who Paula Todd was?

25 A. Yes, sir.

1 Q. Who was Paula Todd?

2 A. Antwon Goodwin's girlfriend.

3 Q. During the course of your investigation,
4 did you find out that Antwon Goodwin had been
5 known to drive Paula Todd's vehicle?

6 A. Yes, sir.

7 Q. What did you find out?

8 A. That he drives the vehicle and he had that
9 vehicle on December 12th.

10 Q. Showing what has been marked as State's
11 Exhibit 31. If you could, turn it around for
12 the jury.

13 A. (Complies).

14 Q. Is that a picture of the car that you
15 actually took that afternoon?

16 A. Yes, sir.

17 Q. Showing you what has been marked as
18 State's Exhibit 32, what is that picture
19 depicting?

20 A. The inside of -- that would be the rear
21 passenger door.

22 Q. I show you what has been marked as State's
23 Exhibit 35. Now, that's a picture that was
24 actually taken?

25 A. Yes, sir.

1 Q. Why did you take that picture?

2 A. That crime scene unit took that picture
3 and notified me that they believed that was a
4 blood spot that was on the inside of the back
5 passenger door. So they took the whole door
6 panel off.

7 Q. They took the entire door panel off?

8 A. Yes, sir.

9 Q. What did they do with it?

10 A. They sent it to SLED with the victim's
11 standards.

12 Q. What do ---

13 A. I'm sorry.

14 Q. I just want to make sure what you mean by
15 the victim's standards.

16 A. The victim's standards would be his blood,
17 hair.

18 Q. What did you find as a result?

19 A. That that was not blood at all.

20 Q. Okay. So SLED contacted you back and
21 said, 'no, this isn't blood'?

22 A. That's correct.

23 Q. But this is still all a part of the
24 investigation that you have to go through?

25 A. Yes, sir.

1 MR. KENT: Your Honor, at this
2 time the State would move State's Exhibits 30
3 through 37 into evidence absent any objections
4 from the Defense?

5 MR. SMILEY: No objection.

6 THE COURT: In without objection.

7 (SO ENTERED AS STATE'S EXHIBITS 30 - 37)

8 DIRECT EXAMINATION CONTINUED

9 BY MR. KENT:

10 Q. Detective Connolly, we were talking about
11 the fact that you take statements from
12 witnesses and I want to go a little further.

13 What is the procedure that you generally
14 follow in taking a statement from a witness?

15 A. Well, I go up to the witness. I identify
16 myself, tell them who I am and why I am there.
17 Some of the witnesses are cooperative and some
18 aren't. I show them a copy of the witness'
19 statement, I read over the preliminary part
20 which would be their name, their date of
21 birth, where they live, their employment, what
22 this case is in reference to, and then at the
23 very bottom of that paragraph would be the
24 time, date and location where the statement
25 was taken.

1 Q. Okay. Then what happens?

2 A. I ask them to write the statement for me,
3 what they know about an incident.

4 Q. This is the procedure that you've done for
5 nineteen years in taking statements from
6 witnesses?

7 A. That's correct.

8 Q. And generally you always try to let the
9 witness write their own statements?

10 A. I try to. Yes, sir.

11 Q. And why is it that you do that?

12 A. Well, I allow them to write the statement
13 so that they can't say that I added or deleted
14 something from their statement.

15 Q. Did you actually have an opportunity to
16 take a witness from an individual by the name
17 of Darrell Royal?

18 A. Yes, sir.

19 Q. Where did you take that witness statement?

20 A. At Turbeville.

21 Q. Where is that located?

22 A. Up near Sumter.

23 Q. Who went with you when you took that
24 statement?

25 A. A member of your Solicitor's office, Mr.

- 1 Bentley Price.
- 2 Q. Tell me the process that you went thru in
- 3 taking this statement from Darrell Royal.
- 4 A. We sat down with Mr. Royal. I advised him
- 5 the reason why we were there and what we
- 6 wanted to discuss. I showed him a witness
- 7 statement and asked him to write what
- 8 transpired that night, what he knows about
- 9 this incident.
- 10 Q. Did he say, 'no, I am not going to do it'
- 11 or did he give you any problems?
- 12 A. No.
- 13 Q. Did he readily write down ---
- 14 A. Yes, sir, he did.
- 15 Q. Generally when you take statements, do you
- 16 like to see if people -- through the course of
- 17 your training, are you able to discern when a
- 18 person is under the influence of drugs and/or
- 19 alcohol?
- 20 A. Most of the time. If I can smell it,
- 21 (affirmative nod).
- 22 Q. You can tell if somebody is acting a
- 23 little different or a little odd?
- 24 A. Right.
- 25 Q. Do you generally try to get statements

1 from people when there is only ---

2 MR. SMILEY: Your Honor, a series
3 of leading questions.

4 THE COURT: All right.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. KENT:

7 Q. What do you do when you get a statement
8 and people are acting a little odd or you
9 smell the ---

10 A. Well, I don't take a statement if they are
11 intoxicated or if I think they are under the
12 influence of some type of narcotic.

13 Q. Okay. Did you add anything to Darrell
14 Royal's statement?

15 A. No, sir.

16 MR. SMILEY: Your Honor, objection.
17 This isn't ---

18 THE COURT: I am going to have to
19 sustain that.

20 MR. SMILEY: Thank you, Your Honor.

21 DIRECT EXAMINATION CONTINUED

22 BY MR. KENT:

23 Q. Could you describe the light outside of
24 George's? Do you remember what the lighting
25 was like when you were out there?

- 1 A. Yes, sir.
- 2 Q. Can you describe it for the jury, please?
- 3 A. Yes, sir. There was a light that was a
- 4 light bulb directly over George's Sweet Shop.
- 5 Across the street, at 72 Hanover Street,
- 6 there's a mailbox and above the mailbox there
- 7 was a light that is -- it's round and it's on
- 8 the building.
- 9 Q. Is that what you're talking about, right
- 10 there?
- 11 A. Yes, sir. You can tell in the photo that
- 12 that light is on.
- 13 Q. That light was on that evening?
- 14 A. Yes, sir.
- 15 Q. Okay. Where are there other lights out
- 16 there?
- 17 A. There is also a street light, a big street
- 18 light.
- 19 Q. Were you able to see when you got out
- 20 there?
- 21 A. Yes, sir.
- 22 Q. Did you have any problems?
- 23 A. No, sir.
- 24 Q. Did you have to use a flashlight?
- 25 A. No, sir, I didn't.

1 MR. KENT: I beg the Court's
2 indulgence one minute. Hollie, that is
3 actually all the questions that I have.
4 Please answer any questions that Mr. Smiley
5 may have for you.

6 WITNESS: Yes, sir.

7 CROSS EXAMINATION

8 BY MR. SMILEY:

9 Q. I've got so much that I need to do,
10 Detective Connolly. I am going to show you
11 what is marked as State's Exhibit 9. It
12 appears to be the crime scene's No. 1, that is
13 that spot of blood, correct?

14 A. That's correct.

15 Q. And that's where the body was found that
16 night, was being transported that night;
17 correct?

18 A. That's correct.

19 Q. Okay. And that No. 1 is in front of 72
20 Hanover. Correct?

21 A. (Affirmative nod), in the street.

22 Q. In the street?

23 A. (Affirmative nod).

24 Q. About six feet out?

25 A. (Affirmative nod).

- 1 Q. Okay, (displays photograph to jurors).
2 Now, you actually sent some stuff off to SLED.
3 Right?
4 A. The crime scene unit did.
5 Q. They put your name on stuff that they send
6 off to SLED?
7 A. Yes, sir, they do.
8 Q. You supply the information of what you
9 want Crime Scene to send off, though; correct?
10 A. Pretty much, yes, sir.
11 Q. And you would provide who the suspects
12 were to compare things to, who the victim was
13 and stuff like that. Correct?
14 A. That's correct.
15 Q. I am looking at what you had sent off to
16 SLED in relation to the blood and it shows
17 three suspects on there. Doesn't it?
18 MR. KENT: Objection, Your Honor.
19 May we approach?
20 (SIDEBAR)
21 CROSS EXAMINATION CONTINUED
22 BY MR. SMILEY:
23 Q. So -- and you found the document? So you
24 sent it off with three suspects, correct?
25 A. And the victim.

1 Q. And the victim?

2 A. (Affirmative nod)

3 Q. There were three suspects. And that was
4 sent off January 22nd, 2001?

5 A. That might be the date that they did that
6 report. I am not sure. I couldn't tell you.

7 Q. It was early -- it was late December 2000
8 or early December 2001 when this was
9 requested, correct?

10 A. It would have been after December 16th.

11 Q. Between December 16th and January 22nd,
12 right after this shooting the request was sent
13 up with three suspects and the victim about
14 the blood. Correct?

15 A. Correct.

16 Q. Three suspects right after the shooting,
17 correct?

18 A. (No response).

19 Q. Correct? Three suspects?

20 A. If you call them suspects. I also -- they
21 put "S" on them, I don't. I submit names that
22 are called or even witnesses. That might be a
23 witness list. I don't know.

24 Q. Well, you didn't have anybody indicate
25 that Michael Hayes had been down there, had

1 you?

2 A. I'm sorry?

3 Q. You didn't have anybody that had indicated
4 that Michael Hayes had been down there as a
5 witness, did you?

6 A. Someone had called previously that Little
7 Mike, which his real name is Michael Hayes,
8 was in the area. So I didn't know.

9 Q. So that "S" doesn't -- an "S" by the name
10 doesn't necessary mean "suspect"?

11 A. I don't put that there.

12 Q. But you pick out who you want to compare
13 them with. Right?

14 A. That's correct.

15 Q. And that was that red mark that was in the
16 back of the car that wasn't blood?

17 A. That's correct.

18 Q. Were the tire marks on the McDonald's
19 french fries, those didn't go with that
20 Marquis, did it?

21 A. I don't know. No, it came back negative.

22 Q. It came back negative?

23 A. (Affirmative nod).

24 Q. So it wasn't to that Marquis?

25 A. That's correct.

1 Q. I am going to show you State's Exhibit 18.
2 That's a picture of the french fries in the
3 middle of the road?

4 A. That's correct.

5 Q. And this is another picture, State's
6 Exhibit 22, of that?

7 A. Right.

8 Q. In this picture, State's Exhibit 18,
9 that's looking from the side of the street
10 that's on George's towards the far side of
11 Hanover?

12 A. Kind of at a diagonal.

13 Q. Diagonal?

14 A. (Affirmative nod).

15 Q. But if we are using just rough, rough
16 directions, not -- you'd be standing on the
17 corner looking north somewhat?

18 A. Correct.

19 Q. Across it, up -- across from George's
20 store across the street, diagonal?

21 A. Correct.

22 Q. That blue is part of the McDonald's bag on
23 the far side, towards Hanover?

24 A. (Reviewing).

25 Q. This picture might help you too.

1 A. Oh yeah, that's part of the -- yeah.

2 Q. But that's on the far side of the street,
3 the far side of this picture?

4 A. Right, from George's.

5 Q. And it shows the track going through it
6 sort of on the same diagonal that the picture
7 is taken. Correct?

8 A. That's correct.

9 Q. So the car that pulled out there pulled
10 out -- it appears, and I am not asking you for
11 an expert opinion, that the car that pulled
12 out there pulled out sort of from the same
13 angle that the picture is taken, from the left
14 side of the street as it pulled out. Correct?

15 A. Well, there -- if you look in those
16 pictures, it appears that there's two tracks.

17 Q. Two tracks. One of which came from the
18 left side of the street and pulled out?

19 A. That's correct.

20 Q. And the reason this is important to you,
21 why you thought that it might be evidence, is
22 because it was obviously that the french fries
23 were pretty fresh. Right?

24 A. (Affirmative nod).

25 Q. Now, you said that you didn't find any

1 casings at the scene and that would tend to
2 indicate a revolver. But no gun was ever
3 found, correct?

4 A. That's correct.

5 Q. And it doesn't necessarily make it a
6 revolver just because nobody found any
7 casings, correct?

8 A. No.

9 Q. Because it could have been an automatic
10 and you couldn't find them because somebody
11 picked them up. Correct?

12 A. Correct.

13 Q. You didn't find any bullets at the scene
14 either, did you?

15 A. No.

16 Q. Okay. And none was recovered, from your
17 investigation, from Freddie's body; correct?

18 A. That's correct.

19 Q. You had a good opportunity to walk through
20 that crime scene that night, because you were
21 searching for evidence. Right?

22 A. To a certain extent. I had our crime
23 scene officers down there. I was also
24 interviewing ---

25 Q. And the things that were marked were

1 important, and you try to get -- between you
2 and Crime Scene -- any blood and stuff like
3 that, have it marked and pictures taken?

4 A. Right.

5 Q. So the pictures that we have of blood is
6 what blood you were able to find out there.
7 Right?

8 A. That's correct.

9 Q. There is not any that you know of that you
10 missed? Right? And you'all looked hard for
11 it.

12 A. Yes.

13 Q. I want to show you what is State's Exhibit
14 12 and 14, and that's what you were talking
15 about as being transfer blood?

16 A. That's correct.

17 Q. That it appeared that it didn't come
18 directly from Freddie's head or the blood,
19 where ever it got there from, it didn't come
20 directly from this spot, that somebody walked
21 through blood and then tracked it. Is that
22 what it appears to be to you?

23 A. That is what it appears. —

24 Q. I am not asking you as an expert, but from
25 your -- Mr. Kent was kind enough to get all

1 your experience, -- and that's what it appears
2 to be from your experience, correct?

3 A. Yes, sir.

4 Q. That blood was located on the sidewalk
5 close to 72 Hanover Street?

6 A. That's correct.

7 Q. I am going to show you what has been
8 marked as State's Exhibits 16 and 17. Was
9 that more transfer blood that you'all were
10 able to find out there?

11 A. I believe so.

12 Q. Is that what it appears -- and it's hard
13 sometimes, looking at these pictures, -- this
14 is down there on the corner of Hanover and
15 Line, across the street from George's, on the
16 same side as those apartments. Correct?

17 A. That's correct.

18 Q. That corner. And if we were just using
19 general directions, the northwest corner?

20 A. That's correct.

21 Q. Again, that doesn't appear to be blood
22 that was dropped directly there but was
23 somehow transferred when you looked at it,
24 right?

25 A. Correct.

1 Q. And you haven't had anybody to tell you
2 otherwise or had it examined to say that it
3 was anything but transferred blood, correct?

4 A. No, from the witnesses that were inside
5 the store. They say they went out to the body
6 and ---

7 Q. Walked through the blood?

8 A. That's a possibility, yes, sir.

9 Q. Now, I am going to show you what has been
10 marked as State's Exhibits 1 and 2. This
11 depicts the corner of George's, I mean Hanover
12 and Line, George's store, looking in a
13 northerly direction, a north, northwesterly
14 direction. Correct?

15 A. That's correct.

16 Q. You searched, of course, in this area for
17 blood. Correct?

18 A. I did not, the Crime Scene did.

19 Q. Crime Scene did?

20 A. (Affirmative nod).

21 Q. But it was -- in front of George's Sweet
22 Shop was thoroughly scoured for blood,

23 correct?

24 A. Correct.

25 Q. And none was found?

1 A. Right.

2 Q. None was found in the street there near
3 the corner either.

4 A. No.

5 Q. Of course, if you had, you would have had
6 a little marker put next to it and had a
7 picture taken of that. Correct?

8 A. (Affirmative nod), they would have placed
9 that there.

10 Q. So no blood near the corner. Let's talk
11 about the street lights that are out there.
12 You had an opportunity to go down there, I'm
13 sure, that night and you're familiar with the
14 area. The street light that is on the corner
15 -- well, there is a flashing light there that
16 is a caution light. Right? A single light?

17 A. I believe so.

18 Q. Was it there in ---

19 A. No, I ---

20 Q. It wasn't there in December of 2000?

21 A. No.

22 Q. It's been put up since then?

23 A. Yes, sir.

24 Q. So it wasn't there?

25 A. No, sir.

1 Q. On the north corner of Hanover and Line,
2 that would have been diagonal across from
3 George's there is a street light. Correct?

4 A. That's correct.

5 Q. And up Hanover, past 72, some distance up
6 there there is another street light. Correct?

7 A. Yes, sir.

8 Q. Then there is the greeting light or door
9 light that you previously talked about,
10 pointed out. Then there is the regular light
11 bulb above George's. Correct?

12 A. That's correct.

13 MR. SMILEY: I beg the Court's
14 indulgence. Thank you.

15 CROSS EXAMINATION RESUMED

16 BY MR. SMILEY:

17 Q. You took some witness statements in this
18 case?

19 A. Yes, sir.

20 Q. One of those was Shameka Milligan?

21 A. Yes, sir.

22 Q. She testified consistent with the
23 statement that she gave you on December 14th,
24 in this courtroom yesterday?

25 A. Somewhat.

1 Q. She never admitted to being down there.
2 that night.

3 A. No, sir.

4 Q. And the statement from -- you took a
5 statement from Patrick Cunningham, right?

6 A. No, sir, I did not.

7 Q. You did not?

8 A. No, sir.

9 Q. Okay, then I will leave that alone. But
10 it is safe to say that Shameka never professed
11 a belief, in any form or fashion, that she was
12 down there?

13 A. No, sir.

14 Q. That's correct when I said that, -- you're
15 agreeing with me, correct?

16 A. Yes, sir.

17 Q. Would you be familiar with the distances
18 out there?

19 A. No, sir, I am terrible with distances.

20 Q. If you were able to look at something that
21 Crime Scene prepared for you, would that ---

22 MR. KENT: Objection, Your Honor.

23 MR. SMILEY: I was just asking her
24 if it would assist her if she looked at
25 something prepared by her department,

1 distances.

2 MR. KENT: Objection, Your Honor.

3 THE COURT: Overruled.

4 CROSS EXAMINATION CONTINUED

5 BY MR. SMILEY:

6 Q. Would this assist you, for distances?

7 A. (Upon review), no, sir.

8 Q. It would not?

9 A. No, sir, it wouldn't.

10 Q. Crime Scene didn't prepare this?

11 A. Yes, sir, they did but I didn't take the
12 measurements and I couldn't begin to tell you.

13 Q. In all your experience, you can't read
14 this Crime Scene ---

15 MR. KENT: Your Honor, objection.

16 THE COURT: You are being
17 argumentative now.

18 MR. SMILEY: Okay.

19 CROSS EXAMINATION CONTINUED

20 BY MR. SMILEY:

21 Q. So, it is my understanding that with all
22 your experience that you can't read the
23 distances prepared by Crime Scene ---

24 MR. KENT: Your Honor.

25 MR. SMILEY: I am just trying to

1 clarify, Your Honor. I will move on, Your
2 Honor.

3 THE COURT: Thank you.

4 MR. SMILEY: No further questions,
5 Your Honor.

6 THE COURT: Redirect?

7 REDIRECT EXAMINATION

8 BY MR. KENT:

9 Q. Detective Connolly, during the cross-
10 examination by Mr. Smiley, he was asking you
11 about the suspects and the letter "S" on
12 whatever it was that was sent to SLED. In a
13 homicide, is it normal in the very beginning
14 to have a number of suspects?

15 A. Yes, sir.

16 Q. And then generally are suspects narrowed
17 down?

18 A. Yes, sir.

19 Q. Was it narrowed down in this case?

20 A. Yes, sir.

21 Q. What was it narrowed down to?

22 A. One.

23 Q. Who was that one?

24 A. Antwon Goodwin.

25 Q. He also asked you a question about Shameka

1 Milligan, her statement and Patrick
2 Cunningham's statement. You did not take a
3 statement from Patrick Cunningham, is that
4 correct?

5 A. That's correct.

6 Q. But after that statement was taken from
7 Patrick Cunningham, did you have an
8 opportunity to approach him and try to get
9 another statement?

10 A. Yes, I did.

11 Q. Were you successful?

12 A. No, sir.

13 Q. What happened?

14 A. She told me to ---

15 MR. SMILEY: Objection.

16 MR. KENT: That's fine. I don't
17 have anything else.

18 MR. SMILEY: I just have one
19 question.

20 RECROSS EXAMINATION

21 BY MR. SMILEY:

22 Q. So there were three suspects? Because he
23 just said you narrowed them down to one.

24 Correct?

25 A. That's correct.

1 MR. SMILEY: Thank you.

2 MR. KENT: Your Honor, the State
3 would ask that State's Exhibit 30 through 37
4 at this time be put into evidence.

5 COURT REPORTER: They are in
6 evidence.

7 MR. SMILEY: Without objection,
8 Your Honor.

9 MR. KENT: I have no further
10 questions for this witness.

11 MR. SMILEY: As far as I am
12 concerned, she is free to leave.

13 (WITNESS STEPS DOWN)

14 THE COURT: Call your next witness,
15 Solicitor.

16 MR. KENT: The State calls
17 Ernestine Green to the stand.

18 (WITNESS TAKES STAND)

19 ERNESTINE MARIE GREEN,
20 being duly sworn to tell the truth, the whole
21 truth and nothing but the truth, testified, as
22 follows:

23 DIRECT EXAMINATION

24 BY MR. PRICE:

25 Q. Good afternoon, Ms. Green. How are you

1 doing?

2 A. Fine.

3 Q. Where do you currently live, Ms. Green?

4 A. 183 Romney Street.

5 Q. How long have you lived there?

6 A. Seven years.

7 Q. Where did you live prior to that?

8 A. 14 Dunwood Avenue.

9 Q. How long have you lived here in Charleston
10 county?

11 A. Forty-three years.

12 Q. If you could, for the jury, just give us a
13 little background on your family, your current
14 family now.

15 A. I have my husband, Freddie Green.

16 I have a son, Nichol Williams.

17 I have another son, Terry Richardson.

18 I have another son, Demekis Richardson.

19 I have another son, Deandre Richardson.

20 I have another son, Freddie who was

21 killed.

22 Q. Of those children that you have ---

23 A. And I have a daughter, Lateria Sims. One
24 daughter.

25 Q. Of those children, how many live with you

1 now?

2 A. Terry Richardson and Deandre Richardson,
3 and I have a godchild, two godchildren.

4 Q. Do they live with you?

5 A. Yes.

6 Q. Do you have any grandchildren?

7 A. Yes. Nine.

8 Q. Nine grandchildren?

9 A. Yeah.

10 Q. Do any of them live with you?

11 A. Yeah. No, none -- they all comes and go.

12 Q. They come and go, to see you?

13 A. Yeah.

14 Q. How many sons do you have in all, without
15 Freddie?

16 MR. SMILEY: Your Honor, may we
17 approach?

18 (SIDEBAR)

19 DIRECT EXAMINATION CONTINUED

20 BY MR. PRICE:

21 Q. I am going to direct your attention back
22 to December 12th, 2000. Do you remember that
23 date?

24 A. Yes.

25 Q. Could you tell me what you did on that

1 date, that afternoon, that morning and that
2 afternoon?

3 A. Most of my grandkids had been there, you
4 know. I had about three or four of them.

5 Q. They were just over there, hanging out?

6 A. Yeah.

7 Q. What did you do that afternoon?

8 MR. SMILEY: Objection, Your Honor.

9 May we approach? She is not a witness.

10 (SIDE BAR)

11 DIRECT EXAMINATION CONTINUED

12 BY MR. PRICE:

13 Q. I will direct your attention now to
14 December 12th, that night. What transpired
15 that night?

16 A. I went to Bible study. After Bible study,
17 I came -- before I went to Bible study,
18 Freddie had called -- (become emotional) -- he
19 called me -- (crying).

20 Q. That's okay. Take your time.

21 A. To tell me that he was ---

22 MR. SMILEY: Your Honor, I object.

23 Hearsay, Your Honor.

24 DIRECT EXAMINATION CONTINUED

25 BY MR. PRICE:

1 Q. That's okay. I need for you -- I just
2 need for you -- I understand. You talked to
3 Freddie on the phone?

4 A. (Affirmative nod).

5 Q. Okay. And you had just gotten back?

6 A. (Affirmative nod).

7 Q. Later on that night -- after you had
8 talked to Freddie on the phone, what happened
9 later on that night?

10 A. I had talked to Detective Connolly, she
11 was on her way to pick me up because I didn't
12 have a ride over there.

13 Q. Okay.

14 A. And when I was upstairs getting ready,
15 Tony's mother ---

16 Q. Hold on. Let me stop you right there.

17 A. Okay.

18 Q. That's fine. You okay?

19 A. (Emotional).

20 Q. Are you okay?

21 A. (Affirmative nod).

22 Q. I just want to keep us together. Okay?

23 A. (Affirmative nod).

24 Q. I know that you stated that that night you
25 were going to go down and -- which I am

1 assuming that you did, I know that you did.,

2 At any point in time, did you ever receive a

3 telephone call?

4 A. Yes.

5 Q. I don't need to know when. I just need to

6 know if you received a phone call?

7 A. Yes.

8 Q. Did, at any point in time, -- who called

9 you?

10 A. Tony's mother called me.

11 Q. Who else was on the phone?

12 A. Tony was in the background.

13 Q. Okay. Did Tony ever speak to you?

14 A. Yes.

15 Q. I need only to know what Tony told you.

16 Okay? Not what Tony's mother told you but

17 only what Tony told you. Okay?

18 A. (Emotional).

19 Q. If you can. Take your time.

20 A. He said that he was out there and he knew

21 who did it.

22 Q. Take your time.

23 A. But he said that he didn't do it, but he

24 was afraid to tell me who did it -- because I

25 asked him who did it.

1 Q. Okay.

2 A. He said that he was afraid that my boys
3 would retaliate ---

4 Q. Okay. That's fine.

5 A. --- against his family.

6 Q. Okay. Did he tell you anything else? Or
7 did he go into anything else?

8 A. No.

9 Q. Is that all that he said to you?

10 A. Yeah.

11 Q. Did he ever go into any other thing other
12 than that?

13 A. No.

14 MR. SMILEY: Asked and answered,
15 Your Honor.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. PRICE:

18 Q. That's fine.

19 A. He just tell me that he was out there.

20 Q. Okay. Aside from Tony calling you and
21 telling you what he told you, did anyone else
22 -- you don't have to tell me when -- did
23 anyone else call you concerning your son,
24 Freddie? Later? Maybe a couple of days
25 later, anything like that?

1 A. The next day ---

2 Q. Remember I just need to know who called
3 you?

4 A. He didn't call me, he came.

5 Q. He came?

6 A. (Affirmative nod), they called him Icky.

7 Q. Do you know his real name?

8 A. No, just by Icky --- from being with my
9 boys.

10 Q. If I said his real name, would you know
11 who I was speaking of?

12 A. I probably would.

13 Q. Are we referring to Redando Burns?

14 A. Yeah.

15 Q. So you're saying that Redando Burns came
16 to your house a couple of days later?

17 A. He came the next day.

18 Q. He came the next day?

19 A. (Affirmative nod).

20 Q. I only need you to tell the jury what
21 Redando told you.

22 MR. SMILEY: Objection. Hearsay.

23 MR. PRICE: What Redando told her?

24 MR. SMILEY: Redando is not a party
25 to this case.

1 MR. PRICE: Okay.

2 DIRECT EXAMINATION CONTINUED

3 BY MR. PRICE:

4 Q. So Redando came to your house and spoke
5 with you?

6 A. Yes.

7 Q. I don't need to know what he spoke to you
8 -- but he came to your house and spoke to you?

9 A. Yes, me and my husband.

10 Q. Okay. Did anyone other than Tony or
11 Redando ever come and speak to you about
12 Freddie.

13 A. A lot of people.

14 Q. I mean concerning Freddie's death?

15 A. Yes -- (emotional).

16 Q. Give me just a minute. Okay?

17 A. (Affirmative nod).

18 Q. Do you remember giving a statement in this
19 case to Detective Connolly?

20 A. Yes.

21 Q. Do you remember what you wrote in that
22 statement?

23 A. Not really.

24 Q. If I showed you the statement, would it
25 refresh your memory?

1 A. Yeah.

2 Q. Okay, (tenders). Just take your time and
3 read it.

4 A. (Upon review), yeah.

5 Q. Now that you have read your statement, can
6 you recall anything else that Tony told you?

7 A. Tony told me that he was the last one with
8 Freddie.

9 Q. Tony told you that he was the last one
10 with Freddie?

11 A. Yes, he said he was the last one with
12 Freddie.

13 Q. And did he just say it once?

14 A. He kept saying it over and over, and he
15 say that he did not do it.

16 MR. PRICE: Court's indulgence.

17 DIRECT EXAMINATION CONTINUED

18 BY MR. PRICE:

19 Q. I have just one more question, Ms. Green.

20 You're doing great. How many times did he
21 tell you, just from your recollection, that he
22 did not kill Freddie?

23 A. Three or four times.

24 Q. Over and over again?

25 A. Yeah.

1 MR. PRICE: Thank you. If you
2 could, please answer any questions that Mr.
3 Smiley may have for you.

4 MR. SMILEY: Ms. Green, I don't have
5 any questions.

6 MR. KENT: We would ask that this
7 witness be excused.

8 MR. SMILEY: No objection.

9 (WITNESS STEPS DOWN)

10 MR. SMILEY: Your Honor, I believe
11 that we are at a stopping point for today. I
12 need to take up a matter outside the presence
13 of the jury before you release them.

14 THE COURT: If you'all will step
15 out just a minute.

16 (JURY OUT @ 4:40 P.M.)

17 (BRIEF RECESS)

18 (DEFENDANT PRESENT)

19 (OFF RECORD DISCUSSION)

20 (JURY IN @ 4:50 P.M.)

21 THE COURT: All right, back on the
22 record. I have discussed this with counsel
23 and they have agreed through mutual agreement
24 -- there's been a request, which I am in
25 agreement to help them out with.

1 What we are going to ask you'all to
2 do is to report at 9:00 in the morning to the
3 jury room that you've been reporting to. At
4 9:00 o'clock, I'm ordering the sheriff to have
5 appropriate arrangements, hopefully they've
6 got a van or a bus that will handle all of
7 you, and the Sheriff's Department, along with
8 the bailiff staff that we need to assist, will
9 run you'all out to this alleged scene and let
10 you observe it. Then you will come back.

11 There won't be any testimony or
12 anything said, other than to take you out
13 there to that address and let you look at it.
14 Both counsel are going to follow out there to
15 observe, and will stay back so -- and just
16 watch you all observe.

17 Look at it, then come back and we
18 will resume. I think we've got one more
19 State's witness and then we go on with the
20 defense side and the other phases of trial
21 after that. Okay?

22 So report to your jury room at 9:00
23 in the morning. You'll get to go on a bus
24 ride. We will have the Sheriff's Department
25 go ahead and arrange that.

1 For the record, Counsel, you'all back
2 me up on this now, both sides waived oaths for
3 the bailiff staff and sheriff's staff to
4 accomplish this task. Is that correct?

5 MR. KENT: That's correct from the
6 State, Your Honor.

7 MR. SMILEY: That's correct from the
8 Defense, Your Honor.

9 THE COURT: Mr. Smiley, what about
10 the defendant?

11 MR. SMILEY: I have discussed it
12 with my client and he will waive his presence
13 there. I will be there with Mr. Kent, and
14 he's fine with that.

15 THE COURT: Do both sides waive
16 the court reporter and the judge having to be
17 there, or do you prefer that we do that?

18 MR. SMILEY: From the Defense's
19 perspective, I would waive Your Honor being
20 there. There's nothing that will be ruled on,
21 so there's nothing that the court reporter
22 needs to take down. We will be there mutually
23 as officers of the Court.

24 MR. KENT: The State also waives,
25 Your Honor.

1 THE COURT: Is that okay with you
2 Madame Reporter?

3 COURT REPORTER: That's fine.

4 THE COURT: All right. Anything
5 else?

6 MR. KENT: Nothing from the
7 State, Your Honor.

8 MR. SMILEY: Nothing from the
9 Defense, Your Honor.

10 THE COURT: Thank you, Gentlemen.
11 I appreciate you working together.

12 All right. The same instructions
13 concerning press coverage and that you're not
14 to discuss this case with anyone. We will see
15 you in the morning.

16 (JURY OUT @ 4:50 P.M.)

17 THE COURT: All right. They have
18 waived putting you'all under oath, but I still
19 need to talk to you just a minute. Nothing is
20 to be said when you are taking them out there.
21 Drive up as close as you can to the premises.
22 Let them get out, if they so desire, to take a
23 look. They may not even ask to get out, but
24 if they'd like to step out and look around,
25 that's fine. Nobody is to say anything to

1 them.

2 MR. SMILEY: And, Your Honor, if
3 they could walk -- the crime scene encompasses
4 all the way back to 72, which is about a
5 hundred feet in that direction, and then back
6 past the bus stop in the other direction.
7 Just so that they can walk around to get a
8 feel for ---

9 THE COURT: That's fine.

10 MR. KENT: If they want to get
11 out.

12 MR. SMILEY: If they want to, which
13 I think they will. And the other thing, Your
14 Honor, is -- I don't know that -- I know no
15 one is to talk to them but I don't think that
16 they can talk amongst themselves, because that
17 would be in fact deliberation. Just sort of a
18 silent procession for the jurors.

19 THE COURT: Right. I probably
20 should have said something to them. So with
21 your permission and the Solicitor's
22 permission, can we let the Sheriff make sure
23 that they don't talk amongst themselves?

24 MR. SMILEY: I am quite confident
25 that ---

1 THE COURT: They are not to
2 discuss the case. I don't know that there is
3 anything wrong with them just talking.

4 MR. SMILEY: As long as it doesn't
5 come to deliberation and investigation, Your
6 Honor. I withdraw my request.

7 THE COURT: Okay. It will all
8 work out.

9 DEPUTY: Are you giving them a
10 time limit?

11 THE COURT: The best way to handle
12 that is that you're to be back here -- help me
13 a little bit with that. If you leave here at
14 9:00, how long will it take you to get to this
15 place?

16 DEPUTY: Ten minutes, if that.

17 MR. SMILEY: Judge, do you know
18 where Church's Fried Chicken is on Meeting
19 Street? It's just a block behind there. Two
20 blocks at most.

21 THE COURT: They don't need over
22 ten minutes out there.

23 MR. SMILEY: Ten or fifteen.

24 THE COURT: Just subtly say, if
25 they start tarrying around, just say that the

1 judge wants us back at 9:30. Okay?

2 DEPUTY: Yes, sir.

3 THE COURT: Anything else?

4 MR. KENT: No, sir.

5 THE COURT: All right, you'all have
6 a good night. See you in the morning.

7 (COURT IN RECESS @ 5:00 P.M.)

8 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 JANUARY 9, 2003 9:00 A.M.

2
3 (JURY SITE VISIT)

4
5 THE COURT: Okay, I am informed
6 that the jury has returned to their jury room.

7 (OFF RECORD DISCUSSION)

8 (DEFENDANT PRESENT)

9 THE COURT: We are going to have
10 to get whoever it is in here and let me talk
11 to them to see what the problem is. Do you
12 want your client to hear me talk to him?

13 MR. SMILEY: My client says that
14 he's fine with him staying on there.

15 THE COURT: Mr. Bailiff, bring
16 Juror No. 28 in, please, sir.

17 (JUROR NO. 28 ENTERS COURTROOM)

18 THE COURT: Good morning. How do
19 you do?

20 JUROR NO. 28: Fine.

21 SIDEBAR:

22 THE COURT: You are Juror No. 28,
23 Mr. Brown?

24 JUROR NO. 28: Yes, sir.

25 THE COURT: You wrote this note?

1 JUROR NO. 28: Yes, sir.

2 THE COURT: I got your note and I
3 understand that you know someone that has been
4 sitting back there in the gallery?

5 JUROR NO. 28: I know a couple of
6 them.

7 THE COURT: That you have a
8 brother that may have been dating someone?

9 JUROR NO. 28: Yes, sir.

10 THE COURT: I have a simple,
11 straightforward question to ask you. Will
12 that affect your -- you may know the person
13 back there, but does that affect your ability
14 to be fair and impartial -- and if you
15 continued to serve on this jury, would you
16 continue to be fair and impartial to both the
17 State and the Defendant?

18 JUROR NO. 28: If it was them,
19 I'd rather not -- it would have.

20 THE COURT: If you'll step over
21 there with the bailiff and let me check in
22 with the attorneys.

23 JUROR NO. 28: Yes, sir.

24 (SIDEBAR CONCLUDED)

25 THE COURT: Gentlemen?

1 SIDEBAR:

2 MR. KENT: If there was a voir
3 dire that we could do to clear it up.

4 MR. SMILEY: We object, Your Honor.

5 THE COURT: The procedure under the
6 statute, it would take too long to figure out
7 -- I think out of an abundance of caution, we
8 should seat the first alternate.

9 MR. SMILEY: Would it make any
10 difference if he was mistaken and they are not
11 related?

12 THE COURT: No, I think he was
13 pretty clear.

14 MR. SMILEY: Yes, sir.

15 (SIDEBAR CONCLUDED)

16 THE COURT: Okay, we need him to
17 step back in.

18 (JUROR RETURNS TO COURTROOM)

19 THE COURT: Counsel, if I could
20 have your attention. Mr. Brown, we appreciate
21 you serving and especially appreciate you
22 being very open and honest with what happened
23 here, your response. What I am going to do, I
24 am going to relieve you at this time. We have
25 alternates that we will, of course, turn to

1 now.

2 JUROR NO. 28: Thank you.

3 THE COURT: We've got enough jurors
4 to go forward this afternoon if we call
5 another case, so I am going to go ahead and
6 let you go. Okay? You don't have to worry
7 about calling back in after 6:00, considering
8 that it is Thursday. Thank you, sir.

9 JUROR NO. 28: Thank you.

10 THE COURT: All right, so that we
11 will be clear on the record, the procedure now
12 is that we take the two alternates names, put
13 them in capsule, into the hopper, and the
14 Clerk will pick one out. Whoever the first
15 one out will be the person who will replace
16 Mr. Brown.

17 CLERK: Alternate No. 1, No. 163,
18 Graham Obern.

19 THE COURT: Graham Obern, he will
20 now be on the regular jury panel. Anything
21 before we bring the jury in?

22 MR. KENT: Two things before --
23 the State and the Defense have entered into a
24 stipulation. Some of the things that were put
25 into evidence, one of them was an x-ray of the

1 victim. We agree that may come in by way of
2 stipulation. I would just ask that before we
3 ~~call our next~~ witness, that you inform the
4 jury what a stipulation is. That will be
5 State's Exhibit 40.

6 MR. SMILEY: Without objection.

7 COURT REPORTER: That will be
8 State's Exhibit 41, Mr. Kent.

9 MR. KENT: Thank you.

10 MR. SMILEY: I'd rather it be a
11 court's exhibit.

12 THE COURT: We can make it a
13 Court's exhibit but you've both got to agree
14 that it comes in. We've got a lot of court
15 exhibits that don't go to the jury.

16 MR. SMILEY: As long as we are not
17 putting it in as evidence at this point, Your
18 Honor, I'm happy however it is treated.

19 MR. KENT: State's Exhibit 40
20 will be fine, Your Honor.

21 COURT REPORTER: State's Exhibit
22 41.

23 SO ENTERED AS STATE'S EXHIBIT 41)

24 MR. KENT: What was 40?

25 COURT REPORTER: State's Exhibit 40

1 is Mr. Royal's signature.

2 MR. KENT: Thank you.

3 MR. SMILEY: I previously objected
4 to the lineup and that's what ---

5 MR. KENT: Your Honor, at this
6 time the State would move State's Exhibit 6
7 into evidence.

8 MR. SMILEY: Without objection.
9 (SO ENTERED AS STATE'S EXHIBIT 6)

10 MR. KENT: State's Exhibit 27 and
11 No. 28, ---

12 MR. SMILEY: I previously objected
13 to the lineup and I renew my objection for the
14 record.

15 THE COURT: That's one I had
16 already ruled on, so I am not going to reverse
17 myself.

18 MR. KENT: State's Exhibit 39 and
19 40.

20 MR. SMILEY: Your Honor, I objected
21 to the handwriting sample being irrelevant and
22 would make a similar Motion at this time.

23 THE COURT: Okay.

24 MR. KENT: And State's Exhibit 41.

25 MR. SMILEY: No objection.

Jury Trial of January 6-9, 2003
before The Honorable Paul M. Burch

1 THE COURT: State is ready, Your
2 Honor.

3 MR. SMILEY: Yes, sir.

4 THE COURT: How did the trip go
5 this morning?

6 MR. SMILEY: Very good, sir.

7 THE COURT: Bring in the jury.

8 (JURY IN @ 10:40 A.M.)

9 THE COURT: Good morning, Ladies
10 and Gentlemen. Welcome back to the courthouse
11 this morning.

12 Just for the record, I want to
13 announce that Juror No. 163, Mr. Graham Obern,
14 is now a part of the jury of twelve. Who is
15 the other alternate?

16 ALTERNATE: (Raises hand).

17 THE COURT: You will now be
18 Alternate NO. 1. All right?

19 ALTERNATE: Yes, sir.

20 THE COURT: Now, counsel has
21 advised me that they have a matter that will
22 be published to you in just a second by the
23 Solicitor, that they have stipulated to,
24 marked as a State's Exhibit.

25 A stipulation means that both sides

1 agree that it can come in. If there's no
2 objection to it, then it comes into the record
3 as evidence. Go ahead.

4 MR. KENT: Thank you, Your Honor.
5 May it please the Court, (reading): "The
6 State and the Defense hereby stipulate that
7 the bullet that killed the victim, Freddie
8 Green, entered through the back of his head
9 and exited through the front of his head."
10 This is signed by myself and also signed by
11 Jim Smiley. It is marked as State's Exhibit
12 41.

13 THE COURT: You may call your next
14 witness, Solicitor.

15 MR. PRICE: Thank you, Your Honor.
16 The State calls Dr. Presnell.

17 (WITNESS TAKES STAND)

18 SUSAN PRESNELL, M.D.,
19 being duly sworn to tell the truth, the whole
20 truth and nothing but the truth, testified, as
21 follows:

22 DIRECT EXAMINATION

23 BY MR. PRICE:

24 Q. Good morning, Dr. Presnell. How are you
25 doing?

1 A. I'm good.

2 Q. We are just going to go over a lot of
3 background information for the jury in the
4 very beginning. Okay?

5 A. All right.

6 Q. Please tell the jury what is your
7 occupation.

8 A. I am Forensic Pathologist employed at the
9 Medical University of South Carolina right
10 down the road.

11 Q. Does that mean that you are duly-licensed
12 physician and surgeon?

13 A. Well, when you get licensed to practice
14 medicine, uh, they license you to practice
15 medicine and surgery. Yes, I am licensed to
16 practice medicine in South Carolina.

17 Q. Are you only licensed to practice in South
18 Carolina or are you licensed in other states,
19 as well?

20 A. No, I have only applied for a license in
21 South Carolina.

22 Q. How long have you been licensed to
23 practice here in South Carolina, in your
24 profession?

25 A. Well, I received my M.D. degree in 1993, a

1 temporary license that year and then a
2 permanent license the next year, 1994.

3 Q. You just mentioned that you'd gotten your
4 degree. Where did you receive your training
5 in Pathology?

6 A. Well, to become a pathologist, -- I will
7 just kind of go through the scenario.

8 Q. Okay.

9 A. First, you go to college and you get a
10 degree in whatever you decide to major in.
11 Then you go to medical school, which is a
12 four-year process, which I did here at the
13 University of South Carolina. After those
14 four years, you receive your M.D. Then you
15 have to choose what speciality of Medicine
16 that you want to go into, whether it be
17 surgery, OB-GYN, pediatrics, pathology.

18 I chose Pathology, which at the time was
19 a five-year training program, which I also did
20 here in Charleston at the Medical University.

21 After those five years of Pathology
22 training, I did a subspecialty year in
23 Forensic Pathology, also done here in
24 Charleston at the Medical University.

25 Q. Does the work that you do include

1 performing autopsies? As a pathologist, do
2 you also do autopsies?

3 A. Actually most pathologists, or the
4 majority of pathologist, don't do a whole lot
5 of autopsies -- usually.

6 Normally when we refer to pathologists,
7 we are referring to the person who will
8 examine any type of tissue that is taken from
9 a person -- like a biopsy or a Family doctor.
10 Skin biopsy, pap smear, breast biopsy. All
11 that tissue will go to a pathologist who
12 examines it under a microscope and comes up
13 with a diagnosis as to whether it's cancer,
14 benign, infectious, that type of thing.

15 Forensic Pathology is a subspecialty where
16 the bulk of our work are autopsies. Actually
17 that is what most people think of when you say
18 pathologists, is the forensic pathologist or
19 the autopsy pathologist. What we do, instead
20 of just looking at a single tissue, a biopsy
21 or a small piece of a human being, we examine
22 the whole entire body to -- with the intent or
23 determining disease processes, determining any
24 trauma, interpreting trauma and certainly any
25 cause of death.

1 Q. How many autopsies would you say that you
2 have performed over your years?

3 A. I haven't really counted, but I've kind of
4 estimated per year -- so it would be, easily
5 be over a thousand.

6 Q. Over a thousand?

7 A. Yes.

8 Q. And all of these are performed -- did you
9 perform them all at MUSC?

10 A. Occasionally I have done some at the VA
11 Hospital or at Roper, but most of them -- the
12 majority of them are at the Medical
13 University.

14 Q. I want to go into a little bit more of
15 your educational background. Are you a member
16 of any specialized medical or scientific group
17 or organization?

18 A. Yes. I'm a member of the National
19 Association of Medical Examiners, which is a
20 Forensic Pathology organization. I am also a
21 member of a number of just general pathology
22 organizations.

23 Q. What is the objective of some of these
24 organizations that you're a member of?

25 A. Well, the -- a lot of them have the same

1 purpose. A lot of them have the purpose of
2 education. Certainly the Association of
3 Medical Examiners, we have annual meetings
4 where there's a big educational program that
5 we attend. Some of the other specialties are
6 more politically oriented, that type of thing.

7 Q. Do you take specialized examinations or
8 any of that type of thing to be licensed as a
9 pathologist, forensic pathologist?

10 A. When you graduated medical school, you
11 receive your M.D. but you have to pass the
12 Board examination to be, you know, to apply
13 for your permanent license.

14 When you go through your specialty
15 training -- surgery, pediatrics, pathology, --
16 at the end of that, you take what they call
17 the Board examinations, national board
18 examinations in that specialty.

19 I took the Board examinations in
20 Pathology, Anatomic and Clinical Pathology in
21 1998, and passed that. Then in 1999, after my
22 fellowship, my subspecialty in Forensic, I
23 took the national Board in Forensic Pathology
24 and passed that.

25 Q. So you have gone well above and beyond

1 just medical school?

2 A. Yes, I'm certified as a Forensic

3 Pathologist.

4 Q. Okay. Are you an author? Have you
5 written any textbooks or done any other
6 extensive research outside of your job at
7 MUSC?

8 A. I published papers before. I do a lot of
9 publications. Like at these national
10 meetings, I have had -- I haven't written a
11 text but I have edited some chapters. No, I
12 haven't written a text.

13 MR. SMILEY: Your Honor, the
14 Defense stipulates that she is qualified as as
15 expert in Forensic Pathology.

16 THE COURT: Thank you, sir.

17 MR. PRICE: Thank you.

18 DIRECT EXAMINATION CONTINUED.

19 BY MR. KENT:

20 Q. During your years of experience, about how
21 many would you just say off the top of your
22 head of the autopsies which you have performed
23 was the cause of death a gunshot wound to the
24 head?

25 A. I'd say about ten percent are gunshot

1 wounds, maybe even more than that. So five
2 percent of the thousand? Maybe.

3 Q. So a fair amount?

4 A. Yes.

5 Q. Do you recall performing an autopsy on
6 Freddie Green, the victim in our case, on
7 December 13th, 2000?

8 A. Yes, we performed his autopsy.

9 Q. Did you prepare a report in conjunction
10 with that autopsy?

11 A. Yes, we prepare an autopsy report after
12 all the cases that we do. Yes.

13 Q. You just mentioned "we", who do you mean?
14 Did you actually perform the autopsy on
15 Freddie Green?

16 A. Yes, I did the autopsy. When I say "we",
17 we also have an autopsy technician that
18 assists us. At the time of this autopsy, we
19 had a person that was doing their subspecialty
20 training in Forensics, that would be there for
21 me to teach and do the autopsy with. I was
22 the attending in the case, meaning that it was
23 my ultimate responsibility and I followed the
24 case all the way through.

25 Q. I am going to show you what has been

1 previously marked as State's Exhibits, 213, 24
2 25 and 29 and ask if you recognize these?

3 A. Exhibit 23 is a diagram -- a replica of a
4 diagram that we did at the autopsy.

5 Exhibit 24 is a mug shot photograph taken
6 at the autopsy.

7 Exhibit 25 is a photograph of the entrance
8 of the gunshot wound.

9 Exhibit 29 is a closeup photograph of the
10 exit of the gunshot wound in this case, taken
11 at the autopsy.

12 MR. PRICE: If there is no
13 objection, I ask that State's Exhibits 23, 24,
14 25 and 29 be placed into evidence at this
15 time.

16 MR. SMILEY: Your Honor, I have an
17 objection to No. 29.

18 THE COURT: Could I see it?

19 MR. PRICE: (Tenders).

20 THE COURT: This was covered in a
21 previous objection. I won't reverse myself.

22 MR. SMILEY: Okay.

23 (SO ENTERED AS STATE'S EXHIBIT 23)

24 (SO ENTERED AS STATE'S EXHIBIT 24)

25 (SO ENTERED AS STATE'S EXHIBIT 25)

1 (SO ENTERED AS STATE'S EXHIBIT 29)

2 DIRECT EXAMINATION RESUMED

3 BY MR. PRICE:

4 Q. Dr. Presnell, I am going to put the photos
5 that you just indicated up on our overhead and
6 ask that you explain to the jury what you just
7 explained to us, using this (laser pointer).

8 If you could, just explain to the jury
9 what you just took a look at and what this
10 diagram indicates.

11 A. This is just a diagram to -- well, during
12 the autopsy we use photographs and diagrams to
13 kind of help us when we do our report, to
14 explain the injuries or disease processes.

15 This is the diagram of the decedent's
16 head. Right here is the entrance gunshot
17 wound, the little GSW(a) -- the letter (a)
18 designation is what we gave this particular
19 entry with. The GSW(b), right here, is the
20 exit wound on his forehead.

21 Q. I would like to show you one more
22 photograph, and if you could explain to the
23 jury what that actually is.

24 A. This is a photograph of the back of his
25 head. Here is his neck right here, it's kind

1 of turned to his shoulder. Here is (a) and
2 here is (b).

3 Q. What are the little circle things around
4 right there below the diagram?

5 A. Little circles?

6 Q. Right here (indicating)?

7 A. That right there is the entrance gunshot
8 wound. That's right in the middle and what
9 you're seeing around the sides of the picture
10 is abrasion blur caused by the bullet scraping
11 the skin off as it enters.

12 This is the mug shot that we took at the
13 autopsy, with our label. Right here is the
14 exit gunshot wound above his eyebrow.

15 MR. PRICE: Your Honor, I would
16 like to show it to the jury just briefly, ---

17 MR. SMILEY: Objection, Your Honor.

18 THE COURT: Pardon?

19 MR. SMILEY: I object.

20 MR. PRICE: That's fine.

21 DIRECT EXAMINATION CONTINUED

22 BY MR. PRICE:

23 Q. I know this is redundant, but after you've
24 performed the autopsy and prepared your
25 report, what was determined as the cause of

1 death of Freddie Green?

2 A. The bullet entered into the skull and went
3 through the cerebellum, which is the portion
4 of the brain at the back of the head, went
5 through the brain stem, which is what attaches
6 the brain to the spinal cord, and then through
7 the brain itself and out the forehead. The
8 cause of death would be the disruption of the
9 brain tissue, including the cerebrum, the
10 brain stem and the cerebellum. The gunshot
11 wound.

12 MR. PRICE: Thank you, we have
13 nothing further at this time, Your Honor.

14 CROSS EXAMINATION

15 BY MR. SMILEY:

16 Q. Did you do a toxicology report?

17 A. Yes, we did.

18 Q. You found cocaine in his system?

19 A. We found benzine hydrochloride, ecgonine,
20 which is a metabolite of cocaine, meaning that
21 there was exposure to cocaine in the past but
22 it'd been metabolized and converted to the
23 metabolite.

24 Q. And you found THC, or marijuana, in his
25 system?

1 A. Correct.

2 Q. Now, just so that I can understand, the
3 bullet went through the skull in the back.

4 Correct?

5 A. Yes.

6 Q. Okay. And went through his brain -- well,
7 the cerebellum and the brain stem? Correct?

8 A. Correct.

9 Q. The brain stem, isn't that what controls
10 -- it's sort of like the "computer" that runs
11 everything and connects it, in real simple
12 terms?

13 A. Yeah, the brain stem connects all the
14 information coming from your cerebrum to your
15 spinal cord, which carries the information to
16 the rest of your body.

17 Q. Is that like -- it controls all your
18 bodily functions, basically, in some form or
19 fashion?

20 A. Yes.

21 Q. Like your breathing?

22 A. Correct.

23 Q. Talking, for instance?

24 A. Yes, definitely.

25 Q. Walking, for instance?

1 A. Yes.

2 Q. Arm movements?

3 A. (Affirmative nod).

4 Q. So when you hit the brain stem, it's
5 pretty serious?

6 A. Right, the brain stem is one of the few
7 injuries that you feel very comfortable saying
8 that the person did not function after that
9 injury.

10 Q. Then that bullet went out of his skull in
11 the front of his head.

12 A. Right.

13 Q. You didn't find the bullet?

14 A. No, we didn't recover the bullet.

15 Q. So that bullet had enough force to go
16 through -- because the skull is pretty thick,
17 isn't it?

18 A. The skull in the back tends to be a lot
19 thicker than the skull in the front of the
20 head.

21 Q. So it went through the back skull, the
22 front skull and through that brain stem and
23 off into space somewhere?

24 A. Right.

25 Q. Were you given a bullet to examine in any

1 form or fashion with the bullet hole to see if
2 in fact that was the bullet?

3 A. No, I wasn't. It really wouldn't help,
4 because you can't determine the caliber of a
5 bullet with the appearance of the wound. The
6 only way that I could tell that bullet came
7 from a particular body is if it was in the
8 body or if it carried some type of tissue from
9 that body with it.

10 MR. SMILEY: Beg the Court's
11 indulgence, (sidebar with client). No further
12 questions.

13 MR. PRICE: Just one, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. PRICE:

16 Q. To a reasonable degree of medical
17 certainty, could you tell us -- if someone is
18 walking forward, like this, and they are shot
19 in the back of the head, ---

20 MR. SMILEY: I am going to object,
21 That's beyond her expertise.

22 MR. PRICE: In her opinion?

23 THE COURT: Let me hear it out,
24 you may still have an objection but let me
25 hear it.

1 MR. KENT: Walking forward, if
2 someone is shot in the back of the head, how
3 would they fall? Would they fall forward or
4 would they ---

5 MR. SMILEY: Objection, Your Honor.
6 She is a Forensic Pathologist. She is not a
7 crime scene reconstructionist.

8 MR. PRICE: She has given ---

9 MR. SMILEY: Her expertise is in
10 Forensic Pathology, not ---

11 THE COURT: ~~It was a leading~~
12 question.

13 MR. PRICE: She's been qualified
14 as an expert.

15 THE COURT: I sustain the
16 objection on the basis of leading.

17 MR. PRICE: Shall I rephrase the
18 question, Your Honor.

19 THE COURT: Yes.

20 REDIRECT EXAMINATION RESUMED

21 BY MR. PRICE:

22 Q. To a medical degree of certainty, could
23 you tell how someone would fall if they were
24 walking forward and were shot in the back of
25 the head?

1 MR. SMILEY: Objection. It's still
2 a leading question, Your Honor.

3 MR. PRICE: It doesn't suggest the
4 answer, Your Honor.

5 THE COURT: Go ahead.

6 WITNESS: I couldn't tell for
7 sure. I would want to be involved with the
8 (crime scene reconstructionist) and whatnot.

9 MR. PRICE: Okay. No further
10 questions.

11 MR. SMILEY: Nothing further, Your
12 Honor.

13 THE COURT: You may step down.
14 May this witness be excused?

15 (WITNESS STEPS DOWN)

16 MR. PRICE: Yes, sir. Thank you
17 very much.

18 WITNESS: You're welcome.

19 THE COURT: I need to have a
20 meeting with counsel over here at the sidebar.

21 (SIDEBAR)

22 THE COURT: Make a note that No.
23 29 is out.

24 MR. KENT: Your Honor, at this
25 time the State rests.

1 THE COURT: Bring in the jury.

2 (JURY IN @ 11:55 A.M.)

3 THE COURT: Solicitor, you may
4 proceed.

5 MR. KENT: Thank you, Your Honor.

6 Thank you, Ladies and Gentlemen.

7 There's an old movie called Cat On a
8 Hot Tin Roof, an old play that comes on Turner
9 Classic Movies every now and then. It was
10 actually on about a week ago. It's an old
11 Southern play. I think the people that played
12 in -- I think Burl Ives was in it, Newman was
13 in it, just a bunch of different characters.

14 The plot of the play is really kind
15 of interesting. Burl Ives is playing the
16 character of "Big Daddy". Big Daddy is this
17 rich, affluent Southern gentleman who's got
18 all this money.

19 The problem is, he's dying of cancer
20 -- and the family doesn't tell him, the doctor
21 doesn't tell him, nobody tells Big Daddy that
22 he is dying of cancer. They all keep it from
23 him.

24 Big Daddy is loaded, he's rich, and
25 everybody wants to make sure that they get

1 ahold of his money.

2 Well, finally it gets to the point
3 where Big Daddy is about to die and there's
4 this real dramatic scene. He's got his entire
5 family, all sitting inside this room. They
6 are all sitting there, but Big Daddy is not in
7 the room. Everybody is talking about -- you
8 know, 'When Big Daddy dies, we're going to get
9 all this money. When Big Daddy leaves, we're
10 going to get all this money.' They're talking
11 about, talking about it and -- all of a sudden
12 -- in walks Big Daddy, and the room gets real
13 quiet, eerie quiet, nobody saying a single
14 word. Nobody is even looking at him,
15 everybody is looking around, looking. Then
16 Big Daddy says something, something that is
17 real important, something that stuck in my
18 head. He looked at everybody and in his big,
19 billowy Southern voice, and you can just
20 picture Burl Ives doing it, he says "There's
21 a mendacity in here!"

22 Ladies and Gentlemen, mendacity is
23 lying. There was lying in that air in that
24 room -- just like there is in this room today,
25 yesterday and the day before. As we listened

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1 to all those witnesses, I am not afraid to
2 tell you that there was lying in the air.
3 People were lying. People changing statement,
4 people were changing their stories. The
5 question is, Why?

6 This is a murder case. The burden
7 is solely on the State of South Carolina.
8 We have to prove our case beyond a reasonable
9 doubt.

10 Quite simply, Murder is the wilful,
11 felonious killing of a human being by a human
12 being with malice aforethought, that malice
13 being either express or implied. That's a big
14 fancy definition for 'don't kill folks'. You
15 don't have to do too much research or reading
16 of the law to figure out what the law is in
17 this case.

18 The Judge is going to come back as
19 soon as I get done and he's going to tell you
20 a little bit about the law, he's going to
21 explain to you all the nuances and subtleties.
22 I think you knew those, though, when you heard
23 that this was a murder case.

24 What we have to now, it's time for us
25 to put the pieces of the puzzles together.

1 Like I said, there's mendacity in the air.
2 There's lying in the air. It's our job now to
3 put the pieces of the puzzle together so that
4 we can figure out exactly what's going on.

5 The best way to start with that is by
6 discussing each and every witness that you
7 heard from and picking out the pieces of their
8 statements that all make sense. Picking out
9 the things that made sense when they sat up
10 here and put their hand on the Bible and swore
11 to tell the truth.

12 The first witness that you heard from
13 was George Pinckney. George told you that he
14 is the proprietor, that he owns George's Sweet
15 Shop. He told you, 'I heard two shots.'
16 Ronnie, the guy who worked for him, went
17 outside and then told him to call 911. Let's
18 put George's statement together with Ronnie's
19 statement.

20 Ronnie told you that he was working
21 there. 'I heard one shot, I thought it was a
22 tire exploding.' So he goes outside and he
23 looks -- and what does he say? 'I saw a man.'
24 He said, 'I looked and I saw a body laying on
25 its stomach.' He came inside and said,

1 'George, call 911!'

2 Then George said, 'I heard a second
3 shot.' So what did George do? What any
4 businessman is going to do, he locked the
5 door. 'Nobody is getting in or out of here
6 as long as shots are going on outside.'
7 No one was getting in or out.

8 At this point, only one person had
9 seen the body -- Ronnie Glover. Ronnie saw
10 the man laying on his stomach.

11 The police came. After the police
12 came, after the police drove up to the scene,
13 remember what George said? Remember what
14 Wilhemina Bailey stated, -- very reluctantly,
15 but what she said? That they then went
16 outside, after the police was there. The body
17 wasn't on its stomach anymore, was it? The
18 body is now on its back.

19 Because Wilhemina Bailey, you now,
20 she didn't really want to tell us what
21 happened when she was here but remember her
22 statement that we read to her? The statement
23 that she gave to officers close to the scene,
24 close to the time that this happened?
25 Remember what she stated? Wilhemina stated

1 that she saw the victim, "I saw the victim
2 when I got there, talking to a group of
3 males." The question is, how in the world did
4 she know that it was the victim? Because
5 later she saw the same victim laying on his
6 back when she went over there with George and
7 looked at him.

8 Now, the question, how in the world
9 did that guy get from here all the way over on
10 his back? You heard testimony from Tim Smith,
11 the EMS worker, -- he said something very
12 important. Tim Smith said, 'When I went
13 there, the guy still had a pulse. I wasn't
14 the first one there, the fire department was
15 there first, I am not sure if they ripped
16 him over or not, but they were there first.'
17 The guy had a pulse. If he had a pulse, are
18 we going to leave him on his -- leave him like
19 this? Or are they going to flip him over and
20 try to resuscitate him?

21 Put the stories together and they
22 begin to make sense as to what happened.

23 You also heard from Danielle
24 Thompson. Danielle Thompson told you that
25 when she got out there that she saw the person

1 who got killed arguing earlier. She said, 'I
2 saw him, he was out there, he was arguing with
3 a group of guys.' She said that she saw the
4 Defendant earlier. Then she said something
5 that makes this entire case make a little bit
6 of sense. 'I saw the body. I didn't call 911
7 because I didn't think it was that important.'

8 Ladies and Gentlemen, this isn't like
9 you see on TV. You heard Detective Connolly,
10 what she said to you. They don't jump out of
11 the woodwork, they don't come running up and
12 say, 'You know what? I saw a body! I'm going
13 to tell everybody what happened. I saw a
14 murder, I want to tell you what happened!'
15 No. This is the type of community where they
16 just want to turn and they don't want to say
17 what happened. There's mendacity in the air.

18 People are scared. People are
19 terrified. People don't want to get in
20 trouble.

21 The witnesses who got on that stand.
22 Their names weren't Chet, their names weren't
23 Buck and their names weren't Hildegard. They
24 had street names. Their names were: Little
25 Mike, Little Tony, their names were Wilhemina,

1 their names were Shameka. Different types of
2 people, who grew up in a different set of
3 surroundings and a different set of
4 situations.

5 You heard from Takesha Hayes. She
6 heard two shots. She didn't see nobody!
7 She'd seen the defendant many times. She
8 didn't see anybody but, all of a sudden, for
9 some reason, she started screaming. Everybody
10 knows that. On the 911 tape, you can hear
11 here. For some reason, she started screaming.
12 But she doesn't see anything at all. There is
13 mendacity in the air.

14 The important thing that Takesha said
15 is that she puts the Defendant by the store.
16 Remember what she stated? She put the
17 Defendant by the store, at George's. If you
18 don't remember her, she's the one that hopped
19 up and she decided that she wanted to be the
20 little actress (demonstrating) -- 'he was
21 here, he was here'. She put him right by the
22 store.

23 Lakesha Graham testified that she
24 heard one shot. She didn't want to say who
25 she saw. Remember I asked her, who was out

1 there? She hung her head like this,
2 (demonstrating). She just didn't want to say.
3 Read the witnesses, look at the
4 witnesses. Why don't they want to say?
5 She didn't say what she saw, but she
6 saw the Defendant out there earlier.
7 Then there is Little Ben. Little Ben
8 testified that he drove the victim out there.
9 Said, you know, 'we were smoking marijuana.'
10 He just came out and said it, 'We were smoking
11 marijuana for an hour or two hours before
12 that. We ran out of some weed, so we decided,
13 hey, let's go over to the east side, let's go
14 over there and get some weed.'
15 Anyway, they go over there. He
16 waited in the car for five minutes. He
17 allowed the victim, Freddie Green, to get out
18 of the car and talk to some guys down the
19 road. He lets him talk to them. After they
20 had been drinking, smoking, and -- and you
21 heard the testimony, you heard when Jim Smiley
22 was cross-examining, we know that Freddie had
23 some crack cocaine in his system, we know that
24 he had been drinking, we know that he had
25 marijuana in his system. Yeah, his senses

1 were messed-up. Yeah, he was doing dumb
2 stuff. Yeah, he was talking to people that
3 he probably shouldn't have been talking to.

4 Then Little Ben gets out of the car,
5 five minutes later, he goes in and he buys a
6 lighter. Now, on cross-examination, on a
7 question from Jim Smiley, that was asked of
8 Little Ben, -- think about this: 'You didn't
9 see the Defendant, Tony, out there, did you?'
10 Remember what he said? He said 'Yeah, I saw
11 him. Right before I went inside that store,
12 he was coming out of the store.'

13 And think about what he said after
14 that. He went inside, and he said 'I wasn't
15 inside too long at all and then I heard the
16 first shot.' Right after the Defendant passed
17 him, coming outside. George locked the door
18 and he couldn't get out. He was stuck in
19 there.

20 He testified he went out the side
21 door and he was looking around for the victim.
22 He took the car and he left.

23 Another question posed by Mr. Smiley,
24 'There's no real problem with east versus west
25 out there, is there? There's no gang violence

1 or anything going on out there, is there?'
2 Remember what Little Ben said to him, 'Yeah,
3 there is. There's a problem. I was not
4 scared, but there's a problem out there.'
5 And you heard from our eyewitness,
6 Edwin Middleton. Edwin Middleton got on that
7 stand and he told you. He didn't come in here
8 and try to put on airs, he didn't try to put
9 on a -- didn't try to be some guy he wasn't.
10 He said, 'I was walking, I was coming up to
11 the bus stop. I saw the two guys go in, I saw
12 them come out and I saw Antwon Goodwin shoot
13 Freddie Green.' Eyewitness.

14 And you remember what he said, 'I saw
15 him shoot him up high.' The shot came to the
16 back of the head.

17 He turned himself in on a Burglary
18 3rd, burglary in the third degree. He's a
19 criminal, he's got criminal charges. I want
20 to let you know that. I don't think that
21 there was one witness who got up there that
22 we didn't talk about their criminal record.
23 But he turned himself in. He went to the
24 police station.

25 There was some confusion when Mr.

1 Smiley asked him, on cross-examination, 'but
2 you went to those police officers and said
3 'I know about some murders.' That wasn't his
4 testimony. The testimony was that the
5 officers came to him. I want to ask you
6 about five murders.' They asked him about
7 five, not just one.

8 If he was looking to help himself,
9 why didn't he say 'I know something about the
10 first one. Give me a deal, I want to get
11 out.' Oh, not that one. Okay. 'I know
12 something about the second one. Give me a
13 deal and I will help you out.' Or, 'I know
14 something about the third one, give me a deal
15 and I will help you out.' Or the fourth one?
16 No.

17 What did Edwin Middleton say? What
18 did he say when he was on the stand? 'They
19 came to me, they asked me about five murders.
20 I told them that I didn't know anything about
21 a couple of them but, yeah, I was an
22 eyewitness, I saw that one.'

23 Why in the world wouldn't you come to
24 the police? Why wouldn't you say something?
25 Why wouldn't you go to the police? It's a

1 different set of people, with a different set
2 of rules, who live in a different environment.
3 He told you, 'that's the type of stuff we see
4 every day.'

5 You went to the scene. That's the
6 type of stuff those people see every day.

7 He picked him out of a lineup, no
8 problem at all. He even had different hair in
9 the lineup, you'll remember. Different hair,
0 all bushy. He picked him out of that lineup
11 right away.

12 He's known the guy for ten years.
13 He'd known the victim for ten years. He
14 wasn't shaken in the slightest when he said,
15 'You know what? You can say what you want to
16 say but I know what I saw.' Think about that.

17 Then he said something real
18 important. Who else did he put out there?
19 He put Shameka out there, he said Shameka
20 Milligan was out there. Think about that.
21 We will get back to that.

22 Sergeant Mike Gordon got on the stand
23 and he testified, 'You know what? We never
24 promised him anything. We don't promise, we
25 don't offer. If he wants to come give us

1 information, wonderful. We will take it.'
2 And, you know what? He got on the stand and
3 said, 'I am still not promised anything. They
4 still won't mention my charges. I am still
5 testifying and the State of South Carolina
6 hasn't offered me a damn thing.' But he still
7 testified.

8 Again, Mike Gordon was very clear --
9 'this guy came to us' -- I'm sorry, I
10 apologize. 'We went to him, he didn't come
11 running to us saying 'help me out, help me
12 out'. Think about that.

13 You heard from Detective Hollie
14 Connolly. She testified, she testified for a
15 long time and it was tedious, it was boring,
16 it was cumbersome. And you know? That's real
17 detecting, that is a real detective. The
18 stuff that we see on C.S.I, Law & Order, are
19 not real detectives. You know why they solve
20 the crime in an hour? Because Friends comes
21 on right after it. In an hour, they've got to
22 find who they're looking for.

23 Detective Hollie Connolly is a real
24 detective. You heard about her accommoda-
25 tions, you heard the stuff that she does.

1 They took the McDonalds things from
2 the ground. They took pictures of everything,
3 they took blood spots, they sent casings of
4 tires, because they work. They talk to every
5 person that they can physically talk to, to
6 try to come up with something. This is not a
7 guess, this is not a stab in the dark. These
8 officers worked, for two years on one case.

9 She said something that until last
10 night I didn't realize how important that it
11 was, and I want you to focus on it. She
12 testified that 'I've done this for so long,
13 I've done so many murders and we always do the
14 exact same thing.' The first officers who get
15 to the scene -- and think about it, I
16 guarantee that you already know what I am
17 going to say. The first officers who get to a
18 scene make a perimeter. Remember all that
19 hard work that they do, all that stuff that
20 they look for? They don't want people just
21 trampling through their crime scene, leaving
22 footprints, leaving everything everywhere. So
23 they put that yellow Caution tape -- and I
24 asked, where did you put that yellow Caution
25 tape? 'From the corner of Hanover and Line

1 streets, so that nobody could get in and
2 disturb our crime scene.' Think about that,
3 'no one can get in and disturb our crime
4 scene.' Well, when is this done? The second
5 that the officers get there.

6 We talked about my friend Darrell
7 Royal, who got on the stand yesterday. Think
8 about Darrell Royal's testimony. Darrell
9 called everybody in this courtroom a liar,
10 from myself to Hollie Connolly to Bentley
11 Price to Matt Casev. We all lied.

12 Darrell Royal got on the stand and
13 said, 'I can't read my statement.' He can't?
14 'I don't know if that statement is in my
15 handwriting. I don't know what you're talking
16 about. I don't know about that signature, I
17 don't know if that's my signature or not.
18 I don't know. I just can't remember.'

19 You will have these in evidence.
20 Compare the signatures. You will be able to
21 take these into the back and look at them,
22 compare the handwriting. Look at it, study
23 it. In painstaking detail, look at the "D",
24 look at the "a", look at both "r's". Study
25 it. There's mendacity in the air.

1 Finally, when we were reading the
2 statement back to him it was Hollie Connolly
3 who decided 'I'm going to put some lies in
4 that statement.' This guy literally looked at
5 the statement and said 'yeah, I remember
6 saying that, that was the truth'; but no, no,
7 no, no, 'that bad stuff, that's a lie.' That
8 bad stuff is a lie.

9 So Hollie Connolly, 'the handwriting
10 expert' secretly went in and used his exact
11 handwriting and wrote some bad stuff in that
12 statement. That's what they want you to
13 believe.

14 Remember that critical question that
15 I asked him? He said 'I was forced. I had no
16 lawyer when they came to visit me in
17 Turbeville. That's why I didn't say
18 anything.'

19 So when did he finally decide to say
20 something? 'I was waiting until I got into
21 the courtroom, on that stand right there,
22 before I said something.'

23 Remember what I asked him? I asked
24 a very direct question, 'Have you had an
25 opportunity to speak with Jim Smiley?' Nope.

1 MR. SMILEY: I object. This is
2 improper argument.

3 MR. KENT: It came out in his
4 testimony, Your Honor.

5 THE COURT: Go ahead.

6 MR. KENT: I asked, 'Did you
7 speak to Jim Smiley?' "No." I asked him
8 again, 'Did you speak to Jim Smiley at any
9 time this week?' "No." Okay.

10 Then on cross-examination, Mr. Smiley
11 asked him, 'We spoke on Monday, didn't we?'
12 "Yes." 'We spoke yesterday morning before you
13 testified, earlier yesterday morning?' "Yes,
14 we spoke." Interesting, isn't it?

15 It is even more interesting who
16 Darrell Royal's former lawyer was.

17 MR. SMILEY: Your Honor, I am going
18 to object again. I think that it is improper
19 argument to suggest that I would suborn
20 perjury in this courtroom.

21 MR. KENT: Your Honor, that's --
22 Thank you, Your Honor.

23 I just want you'all to think about
24 that. Darrell Royal heard one shot.

25 Darrell Royal also puts Shameka

1 Milligan out there. I thought that was very
2 interesting. Yes, she was out there. That's
3 two people now that put Shameka out there. I
4 want you'all to think about that.

5 Then we heard from Maurice Fields.
6 Maurice, I want you to judge his credibility
7 when he got on the stand. Maurice Fields has
8 got two prior convictions, one for possession
9 of cocaine and he's got a conviction for the
10 possession of a firearm by a convicted felon
11 from possession of cocaine. He's in Federal
12 custody because of that. He was quite honest
13 when he was asked about that.

14 What all did he say? He said, 'You
15 know what? I've known the Defendant my entire
16 life. That's my cousin.' They are related.

17 What did he say? 'The Defendant told
18 me' -- told Maurice Fields -- that "he bust
19 him in the head." The victim came to George's
20 and had a discussion with the Defendant, the
21 Defendant and the victim walked out together,
22 and then the Defendant bust him in the head.

23 Remember what we asked him? 'Did he
24 say anything else?' 'Yeah, he told me don't
25 tell anybody or I'd be in trouble.'

1 Then I asked Maurice, 'What else did
2 he say? What exactly did he say?' The
3 Defendant, Antwon Goodwin, 'told me, Maurice
4 Field, he shot Freddie Green in the back of
5 the head.' And what did he say? He said,
6 "boy lay"

7 Then on cross-examination, a very
8 interesting question was posed by Mr. Smiley.
9 He said, 'Now, isn't it true that Darrell
10 Royal also said he put one in him, too?
11 Didn't he say that?' Royal was like, 'Yeah,
12 he stated that.' Everybody heard two shots.
13 Now we know where the second shot came from.

14 Before I get to Antwon Goodwin, let's
15 back up and talk about Shameka Milligan.
16 Little Miss I-wasn't-there, 'I don't know what
17 you're talking about, I wasn't there.'

18 You remember Shameka? She came on
19 the stand. She was chewing her gum, sat her
20 little self down there and just looked at me.

21 I asked her about a guy named Patrick
22 Cunningham. I said,

23 'Did you date a guy named Patrick
24 Cunningham?'

25 'Yes.'

1 "Did you date him during this
2 period?"

3 "Yes."

4 "Isn't it actually true ---"

5 MR. SMILEY: Your Honor, I am going
6 to object to this evidence being used for an
7 improper purpose. It was used as a prior
8 inconsistent statement and ---

9 MR. KENT: It's in evidence, Your
10 Honor.

11 THE COURT: All right. I will give
12 you some leeway, but be careful.

13 MR. KENT: Thank you, Your Honor.

14 MR. SMILEY: I object.

15 MR. KENT: You remember what I

16 asked her, "Isn't it true that you told
17 Patrick Cunningham that Freddie and Antwon
18 were at George's?" "Freddie put his arm
19 around him and that he subsequently was shot
20 in the back of the head by the Defendant"?
21 She said "Nope, never said that." But, she
22 also "wasn't there".

23 Then we have Antwon Goodwin. He gave
24 a statement to Hollie Connolly, and I want to
25 be very careful with his statement. I want

1 you to look very painstakingly at what was
2 said to Hollie Connolly when he met with her
3 and his attorney.

4 Antwon Goodwin said, 'You know what?
5 I was at George's earlier. I was out there,
6 but I left and I went to Churchs.'

7 He didn't buy any food, he just went
8 to Churchs, the chicken place, and bought no
9 food.

10 As he was sitting there, he heard
11 some police cars going down the road. So he
12 decided to walk back.

13 I want to stop and let's go all the
14 way back to the very beginning. He heard
15 police cars. What did Hollie Connolly tell
16 you was the first thing that was done when the
17 police officers arrived? They put up that
18 Caution tape, to make sure that nobody can
19 come in and mess with the crime scene.

20 And he said to her, 'I went back
21 there after I heard the police cars and I saw
22 the victim laying on the ground, face down.'

23 Let's put all this testimony
24 together. Let's start with George and Ronnie
25 and what we know from them. Ronnie heard a

1 shot, thought it was a tire exploding. He
2 looked outside and saw the man laying flat
3 down. He went back inside and he said,
4 "George, call 911". George hasn't seen the
5 person yet. George shuts the door, makes sure
6 that nobody can get in, calls 911, and waits
7 until the police officers get there. They
8 show up, then George, Ronnie and Wilhemina go
9 outside -- the guy apparently has now been
10 flipped over, because Tim Smith testified that
11 when they arrived he had a pulse. That means
12 that directly after the shooting he was laying
13 face down on the ground. Something flipped
14 him over, -- they flipped him over to
15 resuscitate him.

16 Ask yourself, when did the Defendant
17 really see Freddie Green? I submit to you
18 that he really saw him after he shot him and
19 he fell on the ground.

20 How else did he get past this police
21 tape? Because I am sure the police officers
22 didn't lift the tape and say 'come on in, we
23 want you to disturb our crime scene.' How
24 else did he get past that police tape?

25 And do you remember what he told

1 Ernestine Green? He called up the mother of
2 the victim a couple of days after the shooting
3 and said, 'I was the last one to see your boy
4 alive.' 'I was the last one to see your boy
5 alive.' Yet he kept saying, 'But I didn't
6 kill him. I didn't kill him. I know who did,
7 but I'm not going to tell you.'

8 MR. SMILEY: Objection, Your Honor.
9 I think that he is arguing facts not in
10 evidence now. My client never suggested
11 through that statement that was submitted that
12 he knew who killed him.

13 MR. KENT: That was in his
14 testimony.

15 MR. SMILEY: I'd ask that it be
16 played back before he uses it in argument,
17 Your Honor.

18 THE COURT: Well, I am going to
19 leave it like it is. If the jury has got a
20 question about it, they can request to hear
21 it.

22 MR. KENT: Thank you, Your Honor.
23 The judge brings up an interesting point. If
24 there is anything that you disagree with that
25 I say, if I mention some fact that you don't

1 think stands up, you can hear anything that
2 you need to hear. Everything that has been
3 said and everything that was done has been
4 taken down by Ms. Garrison, our court
5 reporter. If I've said anything incorrectly,
6 I apologize. But you can ask for it to be
7 replayed.

8 I ask you to think about Ernestine
9 Green's testimony and put all of that
10 together.

11 When Mr. Smiley was questioning Edwin
12 Middleton, he stood right about here and he --
13 he lifted his finger and he pointed at -- I
14 think you'all remember it, -- he said "I want
15 the truth!" I wanted so bad for Edwin to look
16 at him and say, 'You know what? You can't
17 handle the truth.' Because, he can't. The
18 truth is, if you don't follow the rules -- and
19 there are rules -- if you don't follow those
20 rules, people die. Whether they be rules of
21 society, whether they be rules of the
22 courthouse or whether they be rules of the
23 street. If you don't follow rules, people
24 die. None of us can handle the truth as to
25 what happened out there.

1 I've talked to the victim's family,
2 Mr. and Mrs. Green, and I told them, flat out,
3 that the first thing we're taught in law
4 school, in dealing with crime, that there is a
5 difference between crimes and there's a
6 difference between civil actions. Civil
7 actions are against people, the court that is
8 going on next door is a civil lawsuit. They
9 are trying to make someone whole, they are
10 trying to make them better, trying to get them
11 some money. Crimes aren't against just
12 individuals, crimes are against society.
13 Every lawyer knows that. I explained that to
14 them. They've talked to me.

15 Freddie Green ain't a great guy, and
16 that's hard for them to hear. I told them
17 that. Freddie Green was smoking weed, Freddie
18 Green was using cocaine. There has been
19 testimony that Freddie Green may have even
20 looking for Antwon to kill him. You heard
21 that testimony. He was looking for him to
22 kill him.

23 Freddie Green is no different than
24 any victim that we have. He is no different
25 than a child victim, an elderly victim, no

1 different than a rape victim. He is a victim.

2 This crime is not about him.

3 There is a human element. Yes, there

4 is. But when we prosecute cases, we represent

5 the State of South Carolina. I don't have a

6 victim for you to feel sympathetic for. The

7 person sitting next to me was Bentley Price,

8 the whole trial. I don't feel too sympathetic

9 for Bentley Price.

10 Crimes are against society.

11 You've got an eyewitness.

12 You've got a confession.

13 You've got motive.

14 What more do you want?

15 What more can we come up with?

16 Something to be said about all those

17 witnesses who sat up there, somebody will make

18 the argument that 'look, the witnesses were

19 nothing but a bunch of liars.' That's the way

20 that society is. I can't dress them up, I

21 can't make them look any different. I can't

22 make them say things that they don't want to

23 say. I put them on the stand and let them

24 tell you their story. By piecing their story

25 together, we can figure out what happened.

1 In Mr. Smiley's opening statement, of
2 the first things out of his mouth, he said,
3 'You know what? You polish up a rotten apple,
4 it's still a rotten apple.' Remember he said
5 that in his opening? He said it flat out.
6 That's what we have here, a rotten apple.
7 That just kept ringing in my head, rotten
8 apples.

9 We haven't changed anything. All of
10 our witnesses came in here the way that they
11 appear.

12 (Indicating Defendant), -- hair,
13 different. Shirt and tie. But we're
14 polishing up rotten apples?

15 When you came into this courtroom,
16 you walked through these doors right here. I
17 think every time that you heard them, they
18 made that horrible noise (swinging doors,
19 clanking noise). Back and forth, back and
20 forth. When you walk through these doors, a
21 degree of common sense comes in with you.
22 That noise is reminding you of that common
23 sense. It's a cloak that is going to stay
24 with you like that noise stays with you when
25 you go back in that jury room. You keep your

1 common sense and you'll realize what happened.
2 No, my witnesses weren't great folks.
3 They are not angels. Angels don't hang out
4 with the devil. George's Sweet Shop ain't
5 heaven.

6 You know what they say about "an
7 apple an day"? Thank you.

8 MR. SMILEY: Your Honor, may I run
9 to the restroom? Everybody can stay in place?
10 I just need about fifteen, twenty minutes to
11 think about my closing.

12 THE COURT: We will stand at-ease.

13 (BRIEF RECESS - JURY REMAINS IN BOX)

14 (DEFENDANT PRESENT)

15 MR. SMILEY: Thank you, Your Honor.
16 Ladies and Gentlemen, in my opening argument,
17 I said something about bringing real truth,
18 that it is your job to separate imagination
19 from reality. Maybe I've been in a different
20 trial. I know that the twelve of you good
21 people sat here and listened intently.

22 You've heard what the evidence was.
23 These were people in our community. They
24 weren't some other community. They're human
25 beings, like you and me. They have feelings

1 in, Mr. Bailiff, please.

2 (JURY IN @ 4:20 P.M.)

3 THE COURT: Madame Clerk.

4 CLERK: Mr. Foreman, has the
5 jury reached a verdict?

6 FOREMAN: Yes, sir.

7 CLERK: Please pass the verdict
8 form to the bailiff.

9 FOREMAN: (Tenders to bailiff).

10 BAILIFF: (Tenders form to Clerk)

11 CLERK: (Tenders form to the
12 judge).

13 THE COURT: (Upon review), you may
14 publish the verdict, Madame Clerk.

15 CLERK: The State of South
16 Carolina versus Antwon DeAngelo Goodwin,
17 Indictment 02-GS-10-7745, an indictment for
18 Murder, the verdict of the jury: Guilty.
19 Signed by the Foreman, Keith Nothstein, dated
20 January the 9th, 2003.

21 Ladies and Gentlemen of the jury, if
22 this is your verdict, please verify by raising
23 your right hand. (All jurors respond by
24 raising their right hand).

25 THE COURT: Anything further from

1 THE COURT: The old saying is,
2 "If you can't stand the heat in the kitchen,
3 get out." Why would somebody want to stay
4 and just ask to go to jail?

5 (COUNSEL RETURN TO COURTROOM)

6 THE COURT: Are you ready?

7 MR. KENT: Yes, sir, we're ready.
8 Thank you, Your Honor.

9 THE COURT: All right, back on the
10 record.

11 MR. KENT: May it please the
12 Court, Your Honor, as seen earlier, the jury
13 has returned a verdict of Guilty to the count
14 of Murder.

15 As to sentencing, the State on
16 December 11th, 2002, sent notice to the
17 Defendant that he could receive the sentence
18 of life without the possibility of parole. I
19 hand a copy of that to the Court, (tendering).

20 MR. SMILEY: Which we have a copy
21 of.

22 MR. KENT: During the course of
23 the trial, in talking with Mr. Smiley, and at
24 the time we based that notice of life without
25 parole based upon the fact that the Defendant

1 has a prior conviction, in 1994, for murder
2 that was reduced to voluntary manslaughter.
3 This was done when he was a juvenile, he was
4 adjudicate a juvenile delinquent in Juvenile
5 Court. He was actually waived up as an adult.

6 And I am familiar with the case law
7 in that situation where that can actually be
8 used as a second Most Serious strike.

9 However, given the fact that murder carries
10 life, the State's position in this situation
11 is whether or not it is considered a two-
12 strike case or not, that the Defendant should
13 be considered for life without the possibility
14 of parole. This was also based upon the fact
15 of not only his record, the '94 voluntary
16 manslaughter, but currently in my office ---

17 MR. SMILEY: YOUR HONOR, ---

18 MR. KENT: --- I have a pending
19 murder case against the Defendant, which would
20 make three murder cases against him. He's 23
21 years of age. It is the State's position that
22 he is a menace to society. It is our position
23 that the jury has spoken, they've returned a
24 fair and just verdict. Based on the 1994
25 conviction of murder, this conviction of

1 murder, it is the State's position that a
2 sentence of life without parole be imposed.

3 THE COURT: I know the concern that
4 counsel has about that, and ---

5 MR. SMILEY: Yes, sir.

6 THE COURT: --- I can assure you
7 that the pending charge will in no way come
8 into play on this. From our prior conferences
9 to the court -- and when I say the Court, I as
10 the judge was aware of that from our prior
11 conferences.

12 MR. KENT: Thank you. Not to
13 interrupt, Your Honor, but I've asked the
14 victim's family if they would like to address
15 the Court. They decided not to, they do not
16 want to address the Court at this time.

17 MR. PRICE: The ---

18 MR. KENT: I'm sorry, he would
19 like to address you.

20 THE COURT: Very well. I always
21 give the victim's family members the last say,
22 if you'd rather wait until after I hear from
23 the Defense.

24 MR. KENT: I think that would be
25 appropriate in this case, Your Honor.