

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Greenville County

Honorable Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AUNDRA HUNTER, JR.

APPELLANT

APPELLATE CASE NO 2018-001692

RECORD ON APPEAL

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	)	2016-GS-23-08757
COUNTY OF GREENVILLE	)	2016-GS-23-08758
	)	2016-GS-23-08759
	)	2016-GS-23-08760
	)	2016-GS-23-08761
	)	2016-GS-23-08762
	)	2016-GS-23-08763
THE STATE OF SOUTH CAROLINA,	)	2016-GS-23-08764
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
AUNDRA HUNTER, JR.,	)	
DEFENDANT.	)	
	)	

September 10, 11, 12 and 13, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE

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Circuit Court Reporter

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P R O C E E D I N G S

MONDAY, SEPTEMBER 10, 2018

(WHEREUPON, proceedings commenced at 11:41 a.m.)

THE COURT: All right. Are you Aundra Hunter?

DEFENDANT HUNTER: Yes, sir.

THE COURT: Do you understand what's going on?

DEFENDANT HUNTER: Yes, sir.

THE COURT: Tell me what it is.

DEFENDANT HUNTER: We're here for a trial.

THE COURT: Yeah. The charge is burglary first degree. It carries 15 years to life in prison. That means life in prison without parole, okay?

DEFENDANT HUNTER: Yes, sir.

THE COURT: Armed robbery, 10 to 30 years, mandatory minimum of 10. It's a violent -- both of those are violent, they're both serious, most serious. You get convictions for two or more most serious offenses, it's life in prison without parole. Do you understand that?

DEFENDANT HUNTER: Yes, sir.

THE COURT: Attempted armed robbery. What's that?
20?

MR. McMASTER: 0 to 20.

THE COURT: 20.

Kidnapping times two, what's that?

MR. McMASTER: 0 to 30.

1 THE COURT: 30 each... That's 60, 80, 110 plus life.

2 Discharging a firearm is 5, conspiracy is 5,
3 possession of a weapon is another 5, okay? That's the
4 consequence you're looking at if you're convicted. Do you
5 understand that?

6 DEFENDANT HUNTER: Yes, sir.

7 THE COURT: Okay. And I understand that there is an
8 offer on the table for a nonviolent 15 years, correct?

9 DEFENDANT HUNTER: Yes, sir.

10 THE COURT: So I want to make sure you know what
11 you're doing, what you're giving up, okay? Because once
12 we get started, that goes away.

13 DEFENDANT HUNTER: Yes, sir.

14 THE COURT: And I've been around doing this for quite
15 a while, not as long as Mr. Warder, but longer than
16 anybody else in this courtroom. And another lawyer, an
17 outstanding older defense lawyer once told me early in my
18 career that there are two reasons to go to trial in a
19 criminal case. Two. And over my 40 years, I found it to
20 be pretty accurate. One is if you have a dead-sure
21 winnable case, okay? Dead-sure winnable, walk out, not
22 guilty on everything. Second is if you have nothing to
23 lose. For instance, you're already serving a life in
24 prison without parole sentence and nothing else can happen
25 to you. Two solid reasons to go to trial.

1 And I want you to take a minute to consider where you
2 stand, assuming that that's correct. And I'm not telling
3 you one way or another what to do, but before you make
4 this decision to go forward, you make sure what you're
5 doing is well thought out and not the result of just
6 trying to push it off till tomorrow to make a really hard
7 decision. So I want you to take a minute to do that
8 knowing what you're looking at.

9 DEFENDANT HUNTER: Yes, sir.

10 THE COURT: Because it is now fish or cut bait. So
11 sit down, take a minute to digest it, ask your lawyer any
12 questions, and then we're going to get started.

13 (Pause in proceedings.)

14 THE COURT: All right.

15 DEFENDANT HUNTER: I can't take the plea, sir.

16 THE COURT: Okay. That's it. Let's rock 'n' roll.
17 What do we have before we get a jury up here?

18 MR. McMASTER: Your Honor, we did discuss some 403
19 issues, and I wanted the Court to inquire of Mr. Warder if
20 he plans to go into those 403 issues, that is part of his
21 trial strategy to do that. I feel like there's a lot of
22 prejudicial information.

23 The State would certainly like to go into the
24 information involving the shooting of Deputy Dempsey and
25 the shooting of Mr. Rosemond, but we understand that that

1 is certainly a 403 problem territory. Mr. Warder tells me
2 he wants to go into that as well, but I just want to make
3 sure that's part of his trial strategy and he and his
4 client understand that that could be prejudicial to the
5 case and confusion to the jury.

6 THE COURT: Is that something we need to deal with
7 before we get the jury picked?

8 MR. McMASTER: No, sir. I think we can go ahead and
9 pick the jury and deal with that.

10 We have a Jackson v. Denno hearing as well. We'll
11 have that as well after we pick the jury.

12 THE COURT: Okay. Let's get this jury picked.

13 MR. McMASTER: All right.

14 THE COURT: Do you all have any voir dire?

15 MR. McMASTER: The State does not.

16 THE COURT: Any voir dire from the defense?

17 MR. WARDER: We'll see if I have something here.

18 THE COURT: Any witness list?

19 MR. McMASTER: I passed the witness list up.

20 THE COURT: I've got yours.

21 (Pause in proceedings.)

22 (WHEREUPON, State's Exhibit Numbers 1 through 10 were
23 marked for identification.)

24 (WHEREUPON, proceedings reconvened at 2:33 p.m.)

25 THE COURT: Are we ready to go?

1 MR. McMASTER: The State's ready, Your Honor.

2 MR. WARDER: Yes, Your Honor.

3 THE COURT: Okay.

4 (Pause in proceedings.)

5 (WHEREUPON, the jury panel entered the courtroom at
6 2:40 p.m.)

7 THE COURT: All right. Ladies and gentlemen, welcome
8 to Courtroom Number 8. And it's good to see you again.

9 As I told you downstairs, you've been qualified to
10 serve generally for the week as jurors, and now we're
11 going to qualify you to serve specifically for the pending
12 case before the Court now, and as such, I'll have to ask
13 you some questions and, again, remind you you're under
14 oath and ask for full, complete and truthful answers to
15 all the questions.

16 But before I do that, let me introduce the case to
17 you. This is a multi-count count case. The first
18 indictment is the State vs. Aundra Hunter, Junior. It's
19 an indictment for burglary in the first degree. This
20 indictment alleges that Aundra Hunter, Junior did, in
21 Greenville county, on or about the 10th day of December
22 2015, willfully and unlawfully enter the dwelling of
23 Charles Rosemond located at [REDACTED] Road Extension,
24 16-B, Taylors, South Carolina without consent and with the
25 intent to commit a crime therein, and the burglary was

1 accompanied by circumstances of aggravation, that is armed
2 with a deadly weapon, or did cause physical injury to any
3 person who is not a participant in the crime, or used or
4 threatens to use the use of a dangerous instrument,
5 displayed what is or what appears to be a knife, pistol,
6 revolver, rifle, shotgun, machine gun or other firearm,
7 and the entering and/or remaining did occur during the
8 nighttime hours.

9 The second indictment is the State vs. Aundra Hunter,
10 Junior. It's an indictment for kidnapping. This
11 indictment alleges that Aundra Hunter, Junior did, in
12 Greenville county, on or about the 10th day of December
13 2015 unlawfully seize, abduct, confine, inveigle, decoy or
14 carry away Charles Rosemond without the authority of law.

15 The next indictment is an indictment for kidnapping.
16 And this indictment alleges that Aundra Hunter, Junior
17 did, in Greenville county, on or about the 10th day of
18 December 2015, unlawfully seize, abduct, confine,
19 inveigle, decoy or carry away Eric Garrison without the
20 authority of law.

21 The next indictment is for armed robbery. It alleges
22 that Aundra Hunter, Junior did, in Greenville county, on
23 or about the 10th day of December 2015, while armed with a
24 deadly weapon or while alleging either by action or words
25 he was armed while using a representation of a deadly

1 weapon or any object which a person present during the
2 commission of the robbery would reasonably believe to be a
3 deadly weapon, take by means of force or intimidation
4 goods or monies described as money and/or liquor from the
5 person or presence of Charles Rosemond.

6 The next indictment, State vs. Aundra Hunter, Junior,
7 is an indictment for attempted armed robbery. And it
8 alleges that Aundra Hunter, Junior did, in Greenville
9 county, on or about the 10th day of December 2015, while
10 armed with a deadly weapon or while alleging either by
11 action or words he was armed while using a representation
12 of a deadly weapon or any object which a person present
13 during the commission of the robbery would reasonably
14 believe to be a deadly weapon, attempt to take by means of
15 force or intimidation goods or monies described as money
16 and/or other items from the person or presence of Eric
17 Garrison.

18 The next indictment alleges that -- for discharging a
19 firearm or into a dwelling, it alleges that Aundra Hunter,
20 Junior did, in Greenville county, on or about the 10th day
21 of December 2015, unlawfully discharge or cause to be
22 discharged a firearm into the dwelling of Charles Rosemond
23 located in [REDACTED] Road, 16-B, Taylors, South
24 Carolina.

25 The next indictment is an indictment for conspiracy.

1 And this indictment alleges that Aundra Hunter, Junior
2 did, in Greenville county, on or about the 10th day of
3 December 2015, willfully and unlawfully combine with one
4 or more individuals for the purpose of accomplishing an
5 unlawful object or a lawful object by unlawful means, that
6 is armed robbery, and/or burglary, and/or attempted armed
7 robbery.

8 And the final indictment is for possession of a
9 weapon during the commission of a violent crime. And this
10 indictment alleges that Aundra Hunter, Junior did, in
11 Greenville County, on or about the 10th day of December
12 2015 possess or visibly display a handgun during the
13 commission or attempted commission of a violent crime,
14 that is armed robbery, and/or burglary, and/or attempted
15 armed robbery.

16 Now, to these indictments, the defendant has pled not
17 guilty, and as such, certain rights attach to Mr. Hunter
18 that attach to all persons charged with a crime in this
19 state and in this country, and that is he is presumed to
20 be innocent unless and until the charging body, in this
21 case the State of South Carolina, can prove to a jury
22 beyond any reasonable doubt each and every element of each
23 offense beyond a reasonable doubt. And please keep that
24 in mind throughout the course of these proceedings.

25 I would also tell you initially that these documents

1 which I read to you, these indictments, are nothing more
2 than they appear to be. They're just the pieces of paper
3 that contain the allegations against Mr. Hunter, and they
4 are the formal documents which allow this case to wind its
5 way through our system to arrive here in court for
6 resolution.. And you should take no inference or make any
7 presumption from the fact that they have issued. They
8 just contain the charges against Mr. Hunter. So ladies
9 and gentlemen, please keep that in mind, of course,
10 throughout these entire proceedings.

11 Before I go any farther and begin to ask questions, I
12 would ask the attorneys to stand and introduce themselves,
13 and, of course, their client. All right. Mr. McMaster.

14 MR. McMASTER: Yes. I'm William McMaster. I'm an
15 assistant solicitor here in the Solicitor's Office,
16 Thirteenth Judicial Circuit.

17 MR. HOLLOWAY: Good afternoon. My name's Ryan
18 Holloway. I'm also one of the -- we have about
19 50 prosecutors here in Greenville county, and I'm one of
20 them.

21 THE COURT: Mr. Warder.

22 MR. WARDER: I'm Richard Warder. I'm a private
23 attorney here in Greenville. I'm here today with my
24 paralegal, Cindy Vaughn. My client is seated down at the
25 end of the table. And Andy Smith, a fellow that has

1 passed the bar but not been licensed yet in the state of
2 South Carolina is seated at the end of the table.

3 THE COURT: All right. Thank you very much.

4 JURY QUALIFICATION

5 THE COURT: Is there any member of the jury panel who
6 is related by blood or marriage or who has a business,
7 personal or social relationship with any of the attorneys
8 involved in this case or any member of the Thirteenth
9 Circuit Solicitor's Office? If so, please stand.

10 (No response.)

11 THE COURT: Is there any member of the jury panel who
12 is related by blood or marriage or who has a business,
13 personal or social relationship with either Mr. Aundra
14 Hunter, Junior, Mr. Eric Garrison or Mr. Charles Rosemond?
15 If so, please stand.

16 (No response.)

17 THE COURT: I'm going to read a list of potential
18 witnesses in this case and I'll need to know the same
19 about these folks: Tirrissa Johnson with Emergency
20 Services; Rosamae Nesbitt; Agent Michael Stanton with the
21 DEA; Investigator Mike Fortner with the Greenville County
22 Sheriff's Office; Investigator David Picone with the
23 Greenville County Sheriff's Office; Kara Bennick with
24 Property and Evidence; Jeff Wyatt; Daphne Johnson;
25 Victoria O'Neal; Ebony Morris; Patrick Swift with the

1 Greenville County Sheriff's Office; Eric Garrison; Lloyd
2 Vincent Hawkins; Erica Lynch; Scott Phillips with the
3 Sheriff's Office; Tavarus Downs; Chad Smith with the South
4 Carolina Law Enforcement Division; Tiffany Hezel-Edwards
5 with the South Carolina Law Enforcement Division; Officer
6 Dave Dempsey; Patrick Kelly; Craig Johnson; Kenneth
7 League; Dr. James Fulcher. Is there any member of the
8 jury panel who is related by blood or marriage or who has
9 a business, personal or social relationship with any of
10 those potential witnesses whose names I have just read?
11 If so, please stand.

12 (No response.)

13 THE COURT: Okay. Is there any member of the jury
14 panel who has any knowledge about any of the events
15 alleged in these indictments? If so, please stand.

16 (No response.)

17 THE COURT: Is there any juror or family member who
18 has ever been the victim of or charged with any of these
19 types of offenses? If so, please stand.

20 Yes, sir. If you would, your name and number for me.

21 JUROR NUMBER 18: Delshun Brooks, Number 18.

22 THE COURT: Okay.

23 JUROR NUMBER 18: I was a victim of a first-degree
24 burglary, so I'm not sure if that ---

25 THE COURT: You were. Okay. And would the fact that

1 you are in that position, would that impair your ability
2 to be fair and impartial in this case?

3 JUROR NUMBER 18: No, sir.

4 THE COURT: Okay. And could you treat -- be fair and
5 impartial with respect to all the evidence presented, and
6 with that presented by the State and by the defense?

7 JUROR NUMBER 18: Yes, sir.

8 THE COURT: Okay. Thank you very much.

9 All right. Is there any member of the jury panel who
10 is aware of any bias or prejudice towards either the State
11 or the defense? If so, please stand.

12 (No response.)

13 THE COURT: Is there any member of the jury panel who
14 is a member of or contributor to a group whose primary
15 concern is the promotion of law enforcement or victims
16 rights? Examples would be MAD, SADD, or CAV. If so,
17 please stand.

18 (No response.)

19 THE COURT: Is there any juror who knows of any
20 reason whatsoever why you should not serve in this case
21 with particular emphasis on your ability to be fair and
22 impartial to both the State and the defense and to judge
23 this case based solely on the evidence presented in this
24 courtroom and the law as I would give it to you? If you
25 can't do that, please tell us now. Please stand if you

1 can't do that.

2 (No response.)

3 THE COURT: Okay. Anything further from the State?

4 MR. McMASTER: Nothing from the State, Your Honor.

5 THE COURT: From the defense?

6 MR. WARDER: No, Your Honor.

7 THE COURT: Okay. All right. Strike the jury.

8 Ladies and gentlemen, no physical contact involved.

9 But when your name is called, please stand in place and
10 await further instructions.

11 JURY SELECTION

12 THE CLERK: Juror Number 40, Vanessa Collins.

13 (Whereupon, Vanessa Collins, a black female, stood.)

14 THE CLERK: What says the State?

15 MR. McMASTER: Please present the juror.

16 THE CLERK: What says the defendant?

17 MR. WARDER: Please swear the juror, Your Honor.

18 THE CLERK: Ma'am, please bring your things to the
19 jury box.

20 Juror Number 190, Janet Turner.

21 (WHEREUPON, Janet Turner, a white female, stood.)

22 THE CLERK: What says the State?

23 MR. McMASTER: Please present the juror.

24 THE CLERK: What says the defendant?

25 MR. WARDER: Please excuse the juror from the trial

1 of this matter.

2 THE CLERK: Ma'am, you may be seated.

3 Juror Number 28, Taylor Carr.

4 (WHEREUPON, Taylor Carr, a white female, stood.)

5 THE CLERK: What says the State?

6 MR. McMASTER: Please excuse the juror from service
7 in this case.

8 THE CLERK: Ma'am, you may take a seat.

9 Juror Number 62, Sharon Finley.

10 (WHEREUPON, Sharon Finley, a white female, stood.)

11 THE CLERK: What says the State?

12 MR. McMASTER: Please present the juror.

13 THE CLERK: What says the defendant?

14 MR. WARDER: Please swear the juror.

15 THE CLERK: Ma'am, please bring your things to the
16 jury box.

17 Juror Number 1, Jaylon Addison.

18 (WHEREUPON, Jaylon Addison, a white male, stood.)

19 THE CLERK: What says the State?

20 MR. McMASTER: Please excuse the juror from service
21 in this case.

22 THE CLERK: Sir, you may take a seat.

23 Juror Number 195, Andrea Vazquez.

24 (WHEREUPON, Andrea Vazquez, a white female, stood.)

25 THE CLERK: What says the State?

1 MR. McMASTER: Please present the juror.

2 THE CLERK: What says the defendant?

3 MR. WARDER: Please excuse the juror from the trial
4 of this matter.

5 THE CLERK: Ma'am, you may take a seat.

6 Juror Number 216, Gregory Davis.

7 (WHEREUPON, Gregory Davis, a white male, stood.)

8 THE CLERK: What says the State?

9 MR. McMASTER: Please present the juror.

10 THE CLERK: What says the defendant?

11 MR. WARDER: Please excuse the juror from the trial
12 in this matter.

13 THE CLERK: Sir, you may take a seat.

14 Juror Number 169, Thomas Shreve.

15 (WHEREUPON, Thomas Shreve, a white male, stood.)

16 THE CLERK: What says the State?

17 MR. McMASTER: Please present the juror.

18 THE CLERK: What says the defendant?

19 MR. WARDER: Please excuse the juror.

20 THE CLERK: Sir, you may take a seat.

21 Juror Number 18, Delshun Brooks.

22 (WHEREUPON, Delshun Brooks, a black male, stood.)

23 THE CLERK: What says the State?

24 MR. McMASTER: Please present the juror.

25 THE CLERK: What says the defendant?

1 MR. WARDER: Please swear the juror.

2 THE CLERK: Sir, please bring your things to the jury
3 box..

4 Juror Number 52, Jason Dillard.

5 (WHEREUPON, Jason Dillard, a white male, stood.)

6 THE CLERK: What says the State?

7 MR. McMASTER: Please present the juror.

8 THE CLERK: What says the defendant?

9 MR. WARDER: Please swear the juror.

10 THE CLERK: Sir, please bring your things to the jury
11 box.

12 Juror Number 55, Kenneth Dodd.

13 (WHEREUPON, Kenneth Dodd, a white male, stood.)

14 THE CLERK: What says the State?

15 MR. McMASTER: Please present the juror.

16 THE CLERK: What says the defendant?

17 MR. WARDER: Please swear the juror.

18 THE CLERK: Sir, please bring your things to the jury
19 box.

20 Juror Number 57, China Duncan..

21 (WHEREUPON, China Duncan, a white female, stood.)

22 THE CLERK: What says the State?

23 MR. McMASTER: Please excuse the juror from service
24 in this case.

25 THE CLERK: Ma'am, you may take a seat.

1 Juror Number 10, Craig Bedenbaugh.

2 (WHEREUPON, Craig Bedenbaugh, a white male, stood.)

3 THE CLERK: What says the State?

4 MR. McMASTER: Please present the juror.

5 THE CLERK: What says the defendant?

6 MR. WARDER: Please excuse the juror from the trial
7 of this matter.

8 THE CLERK: Sir, you may take a seat.

9 Juror Number 141, Danica Parker.

10 (WHEREUPON, Danica Parker, a white female, stood.)

11 THE CLERK: What says the State?

12 MR. McMASTER: Please present the juror.

13 THE CLERK: What says the defendant?

14 MR. WARDER: Please excuse the juror from the trial
15 in this matter.

16 THE CLERK: Ma'am, you may take a seat.

17 Juror Number 79, Michael Hathcock.

18 (WHEREUPON, Michael Hathcock, a white male, stood.)

19 THE CLERK: What says the State?

20 MR. McMASTER: Please present the juror.

21 THE CLERK: What says the defendant?

22 MR. WARDER: Please swear the juror.

23 THE CLERK: Sir, please bring your things to the jury
24 box.

25 Juror Number 24, Laura Campuzano-Vergara.

1 (WHEREUPON, Laura Campuzano-Vergara, a female, stood.)

2 THE CLERK: What says the State?

3 MR. McMASTER: Please present the juror.

4 THE CLERK: What says the defendant?

5 MR. WARDER: Please excuse the juror from the trial
6 of this matter.

7 THE CLERK: Ma'am, you may take a seat.

8 Juror Number 139, Thomas Owens.

9 (WHEREUPON, Thomas Owens, a white male, stood.)

10 THE CLERK: What says the State?

11 MR. McMASTER: Please present the juror.

12 THE CLERK: What says the defendant?

13 MR. WARDER: Please swear the juror.

14 THE CLERK: Sir, please bring your things to the jury
15 box.

16 Juror Number 160, Shay Sams.

17 (WHEREUPON, Shay Sams, a white female, stood.)

18 THE CLERK: What says the State?

19 MR. McMASTER: Please present the juror.

20 THE CLERK: What says the defendant?

21 MR. WARDER: Please excuse the juror from the trial
22 of this matter.

23 THE CLERK: Ma'am, you may take a seat.

24 Juror Number 4, Linda Allen.

25 (WHEREUPON, Linda Allen, a white female, stood.)

1 THE CLERK: What says the State?

2 MR. McMASTER: Please present the juror.

3 THE CLERK: What says the defendant?

4 MR. WARDER: Excuse the juror, please.

5 THE CLERK: Ma'am, you may take a seat.

6 Juror Number 208, Lynn Wicker.

7 (WHEREUPON, Lynn Wicker, a white female, stood.)

8 THE CLERK: What says the State?

9 MR. McMASTER: Please excuse the juror from service
10 in this case.

11 THE CLERK: Ma'am, you may take a seat.

12 Juror Number 167, Annelouise Shelton.

13 (WHEREUPON, Annelouise Shelton, a white female, stood.)

14 THE CLERK: What says the State?

15 MR. McMASTER: Please present the juror.

16 THE CLERK: What says the defendant?

17 MR. WARDER: Please excuse the juror from the trial
18 of this matter.

19 THE CLERK: Ma'am, you may take a seat.

20 Juror Number 48, Kevin Dehlinger.

21 (WHEREUPON, Kevin Dehlinger, a white male, stood.)

22 THE CLERK: What says the State?

23 MR. McMASTER: Please present the juror.

24 THE CLERK: What says the defendant?

25 MR. WARDER: Please swear the juror.

1 THE CLERK: Sir, you may take a seat in the jury box.

2 Juror Number 106, Sean Lanning.

3 (WHEREUPON, Seán Lanning, a white male, stood.)

4 THE CLERK: What says the State?

5 MR. McMASTER: Please present the juror.

6 THE CLERK: What says the defendant?

7 MR. WARDER: Please swear the juror.

8 THE CLERK: Sir, please bring your things to the jury
9 box.

10 Juror Number 85, Tina Hogan.

11 (WHEREUPON, Tina Hogan, a white female, stood.)

12 THE CLERK: What says the State?

13 MR. McMASTER: Please present the juror.

14 THE CLERK: What says the defendant?

15 MR. WARDER: Please swear the juror.

16 THE CLERK: Ma'am, please bring your things to the
17 jury box.

18 Juror Number 113, Allen Mann.

19 (WHEREUPON, Allen Mann, a white male, stood.)

20 THE CLERK: What says the State?

21 MR. McMASTER: Please present the juror.

22 THE CLERK: What says the defendant?

23 MR. WARDER: Please swear the juror.

24 THE CLERK: Sir, please take your things to the jury
25 box.

1 Juror Number 130, Bill Moorehead.

2 (WHEREUPON, Bill Moorehead, a white male, stood.)

3 THE CLERK: What says the State?

4 MR. McMASTER: Please present the juror.

5 THE CLERK: What says the defendant?

6 MR. WARDER: Please swear the juror.

7 THE CLERK: Sir, please take your things to the jury
8 box.

9 THE COURT: One alternate, one and two.

10 THE CLERK: Juror Number 215, Sophie Wright.

11 (WHEREUPON, Sophie Wright, a black female, stood.)

12 THE CLERK: What says the State?

13 MR. McMASTER: Please present the juror.

14 THE CLERK: What says the defendant?

15 MR. WARDER: Please swear the juror.

16 THE CLERK: Ma'am, please take your things to the
17 jury box.

18 THE COURT: All right. Any exception or objection to
19 the jury as impaneled pursuant to Batson or J.E.B.?

20 MR. McMASTER: Nothing from the State.

21 MR. WARDER: None from the defendant, Your Honor.

22 THE COURT: All right. Great.

23 All right. Ladies and gentlemen, we've got two
24 groups in here. One of you feels lucky, one of you
25 doesn't. I just want to tell you that I think the lucky

1 group in here is the group seated over on my left. It is
2 a great privilege and a great responsibility to serve on a
3 jury, and I hope that you all will get that opportunity
4 sometime this week or sometime in the future. But with
5 respect to today, I'm going to, at this time, excuse you
6 down to the jury assembly room.

7 Thank you very much.

8 (WHEREUPON, the remaining jury panel exits the courtroom
9 at 3:08 p.m.)

10 JURY INSTRUCTIONS

11 THE COURT: All right. Ladies and gentlemen, I'm
12 quite sincere when I say that I think you all are the
13 lucky ones. As I said, it is a rare thing to be selected,
14 come up to the courthouse, rarer still to come up to the
15 courtroom, and rare, indeed, to be selected to serve on a
16 jury. And it is a great privilege and a great
17 responsibility, and I want you to know that we appreciate
18 your service and the sacrifices you are making this week
19 to be here.

20 We have a dispute about the facts in this case which
21 can't be resolved in any fashion other than to ask a jury
22 to come up and listen to the evidence presented in this
23 courtroom and the law as I will give it to you and make a
24 determination which resolves that dispute. So that's your
25 job and what we will ask you to do this week.

1 I again remind you that the indictments that I read
2 are not evidence, and the fact that they issued, you
3 should not take any presumption or make any inference from
4 the fact that they are there. They're just the formal
5 documents which allow this case to wind its way through
6 our system to arrive here in court for resolution.

7 And I also remind you that every person charged with
8 a crime in this state and in this country is presumed to
9 be innocent unless and until the charging body, in this
10 case the State of South Carolina, can prove to each of you
11 beyond any reasonable doubt each and every element of each
12 offense that that person is charged with. Please keep
13 that in mind throughout the course of these proceedings.

14 For your benefit, I divide a trial into five parts so
15 that you have kind of a procedural road map to know where
16 you are and what part is coming next. So the first part
17 of the trial, which is part of my road map to you, will be
18 coming up when the attorneys make their opening statements
19 to you, and their opening statements are brief and
20 non-argumentative.

21 The second part of the trial is the meat and potatoes
22 of this case and every case, and that is the presentation
23 of the evidence in the case. And the evidence will come
24 to you generally in one of three ways. The most commonly
25 thought of way, in my mind, is through oral testimony from

1 this witness chair. The second most common way is through
2 the introduction of tangible items or documents. And then
3 the third most common way is when the parties agree that
4 some fact is so beyond dispute that you should accept it
5 as being true, and that's what we call a stipulation of
6 the parties. I don't know what combination the evidence
7 will be presented to you in, but it will generally come to
8 you in one of those three forms.

9 Now, the third part of the trial will be after all of
10 the evidence is presented, the attorneys make their
11 closing arguments to you. So it's an opening statement,
12 which, as I said, is brief and non-argumentative, and a
13 closing argument when the attorneys advocate their
14 position, argue the facts and the evidence that's been
15 presented and the law and urge you to resolve the dispute
16 in their favor.

17 The fourth part of the trial will be when I charge
18 you as to what the law is in this case.

19 And the fifth part of the trial will be when you
20 retire to the jury room to deliberate this case and
21 resolve the dispute.

22 The parts are obviously not of equal length, but at
23 least you'll sort of have an idea about where you are and
24 what's coming next if you can remember that little simple
25 road map.

1 I'm sure I'm going to ask you to do a lot of things
2 in the case. There are three main things I ask you to do,
3 and the first one is to keep an open mind. We go through
4 the process of qualifying you all to serve in this case
5 and ask you all those questions to ensure that we have a
6 fair and impartial jury that doesn't come into the case
7 with their mind made up about how it should be resolved,
8 but rather you keep an open mind, you listen to all the
9 evidence and you come to a decision at the conclusion of
10 the case. So keep an open mind.

11 The second important thing I ask you to do is -- it
12 sounds very simple, and sometimes it's challenging for
13 some of us, and I point to myself, and that is to pay
14 attention. If you are to let your mind wander off during
15 the course of the trial, you might miss an answer from a
16 witness or the way a witness answers a question, which
17 might become important when you all are in your
18 deliberations resolving this dispute, and if you miss
19 that, you would be at a disadvantage when you're in your
20 discussions at the conclusion of the case. So pay
21 attention.

22 And then the last thing I ask you to do and I
23 instruct you, and this is vital, you are not to talk about
24 this case with anyone until you are free to deliberate at
25 the conclusion of the trial. So you can't talk about the

1 facts of this case, not among yourselves, not with the
2 bailiffs.

3 And I anticipate this case will go into tomorrow. It
4 may go longer than that. When you see whoever you see at
5 night, friend, family, someone who you trust and talk
6 about the day's events with, you cannot talk with them
7 about it. And someone you see on the street coming to the
8 Court or leaving the Court or going to lunch, you can't
9 talk about it, because even an innocent comment from
10 someone who you like and trust can have an impact on your
11 state of mind with respect to this case, and that would
12 not be fair to the parties involved in this case, it would
13 not be fair to your fellow jurors, and it would not be
14 fair to yourself to allow someone who is not making the
15 sacrifices that each of you are making to have any
16 influence in the outcome of this case. Those people are
17 not watching this case, they're not hearing the evidence,
18 and they should have no input in the case.

19 Now, this also includes not doing any independent
20 research, and that means not going on the Internet to look
21 something up, not -- for goodness sake, don't get on
22 social media and talk about it. If that happens, we have
23 to throw the whole case out. You can't go visit the
24 scene. Everything you're going to need to know to decide
25 this case you'll hear in this courtroom, and it will be

1 subject to constitutional protections and scrutiny. So
2 those rights belong in this trial and they belong to each
3 of us, and we need to protect them every time we try a
4 case.

5 I will tell you that you all are the sole judges of
6 the facts in this case. The law does not allow a trial
7 judge to have an opinion about the facts of the case, so
8 please don't think from anything I might say or do
9 throughout the course of the trial that I have such an
10 opinion. The law does not allow it. It is up to you all
11 to determine the facts, what to believe, what not to
12 believe, and so please keep that in mind throughout the
13 course of the trial.

14 I also tell you that that same law makes me the sole
15 judge of the law in the case. So if you think you have
16 some idea as to what the law is or what the law ought to
17 be and it differs from what I tell you the law is, you're
18 going to swear an oath in just a moment to set aside your
19 own opinion and apply the law precisely as I state it to
20 you, and that ensures that everyone tried up here charged
21 with a crime is tried under the same law. We are a system
22 of laws.

23 So, ladies and gentlemen, I know I'll ask you to do a
24 number of other things. You may see me ask the lawyers to
25 come up and talk to me so you can't hear it, or you may

1 see me ask you all, excuse you to your jury room so that.
2 we can discuss something. And I will tell you that we are
3 not trying to deceive you in any way, although we may be
4 trying to keep something from you. It could be that we're
5 talking about a piece of evidence that should not be
6 admitted and so I think you can understand why you
7 shouldn't hear that. So that's what we're doing when we
8 have what we call a bench conference. Also, we may be
9 talking about how long a witness is going to be and
10 logistical matters with respect to when to take a break,
11 when to stop and that sort of thing. So you will hear
12 everything that's important for you to resolve this case,
13 and if you see us doing these other things, please don't
14 think that there's any nefarious conduct going on.

15 All right. Ladies and gentlemen, I'm going to ask
16 you all to stand in one second, then I'm going to excuse
17 you all to your jury room and I'm going to ask you to do
18 the first thing for me, if you can, and that is to decide
19 who you would like your foreperson to be. The foreperson
20 is the moderator of discussions at the conclusion of the
21 trial and also the jury spokesperson here in the courtroom
22 should that become necessary. I always like to give the
23 jury an opportunity to decide who they would like to be
24 their foreperson, but if you all can't do that, I can
25 help, which is I close my eyes, put my finger down on the

1 jury list and one of you is the foreperson. A little more
2 scientific than that, maybe. So I want to give you all a
3 chance to do that.

4 And we're going to have to take up a couple of legal
5 matters outside of your presence while you're doing that.
6 So at this time, I'll ask you to stand, and then we'll
7 excuse you back to the jury room.

8 THE CLERK: Please raise your right hands. And the
9 correct answer is "I will."

10 (WHEREUPON, the jury is duly sworn.)

11 THE COURT: Great. All right. Ladies and gentlemen,
12 don't sit down. Take your things, Ms. Kat will take you
13 back to your jury room, and we'll get back with you just
14 as quickly as we can.

15 (WHEREUPON, the jury exits the courtroom at 3:19 p.m.)

16 THE COURT: All right. You said you had a Jackson v.
17 Denno or something?

18 MR. McMASTER: Yes, sir.

19 THE COURT: Any other pretrial matters?

20 MR. McMASTER: The only other matter, Your Honor, is
21 about the 403 evidence that ---

22 THE COURT: Okay.

23 MR. McMASTER: --- about the 403 evidence that we had
24 discussed at the bench earlier today. We expect there's
25 going to be a lot of information to come in or could come

1 into the case that could be very prejudicial toward the
2 defendant. It could have some type of confusing aspect to
3 it to the jury. We could be talking about matters that
4 are not before the Court today and that are not necessary
5 for them to decide.

6 The State is willing to go forward with the evidence.
7 I've talked to Mr. Warder. He indicates he wants to go
8 forward with that type of evidence as well, specifically
9 information about the shooting of Deputy Dempsey, also
10 information about the shooting and death of Mr. Charles
11 Rosemond and the factors around that shooting death and
12 what happened and the actions of the deputies that night.
13 Being my deputies and witnesses were also there in a SWAT
14 capacity, they will start off in the SWAT capacity and
15 then they would move onto their duties that we're here
16 today for with the charges before the bench.

17 If the Court decides that we can go into that and
18 allows it, that although it's got some prejudicial effects
19 to it, I would like the Court to make note that this is a
20 trial strategy by Mr. Warder.

21 THE COURT: Yeah. Let me -- all right. And what
22 he's talking about, the facts in this case, for the
23 record, from what I understand from pretrial conference,
24 is that the allegations of the State are that the
25 defendant went into the residence of Mr. Rosemond, that a

1 robbery occurred, that a neighbor called 9-1-1, that the
2 law enforcement was dispatched to the scene, that they
3 came into Mr. Rosemond's apartment, Mr. Rosemond fired at
4 the deputies, and the inference that I've been lead to
5 believe is that he thought that it was someone coming back
6 to rob him. And the deputies then returned fire,
7 resulting in the death of Mr. Rosemond. Is that a brief
8 synopsis of the allegations that the State intends to
9 present?

10 MR. McMASTER: Yes, Your Honor.

11 THE COURT: All right. Now, and the shooting of
12 Officer Rosemond is not part of this case.

13 MR. McMASTER: Deputy Dempsey.

14 THE COURT: Excuse me. Deputy Dempsey is not part of
15 this case.

16 So Mr. Warder, do you agree that that is a brief
17 synopsis of what the allegations are that will be
18 presented in this courtroom?

19 MR. WARDER: Your Honor, I'm not trying to -- I think
20 that -- the answer is yes and no. I believe that some of
21 the conclusions that you mentioned there are not what the
22 evidence really shows.

23 THE COURT: Okay. I'm not asking you to agree with
24 it, but do you agree that those are the allegations
25 generally that we're talking about?

1 MR. WARDER: In the broadest sense, that's right.

2 THE COURT: All right. And it is your position that
3 you do not object to the admission of the shooting
4 involving Officer Dempsey.

5 MR. WARDER: No, sir. I would raise the relevance
6 because they show the motive of the police and some of the
7 actions they took, in other words, the police misconduct
8 or mishandling it looks very bad, and that provides some
9 of the motivation for the prosecution.

10 MR. McMASTER: I don't argue it's not relevant. I
11 think it's more of a 403 matter.

12 THE COURT: Yeah. Whether the prejudicial value of
13 it outweighs the -- do you understand that that's your
14 opinion, but you also understand the other side of the
15 coin is that a jury -- the jury may be very upset at the
16 shooting of a police officer?

17 MR. WARDER: Your Honor, I think I've covered that
18 well with my client. However, out of an abundance of
19 caution, I would take a minute or two and ---

20 THE COURT: Well, talk to him real quick because
21 we're going to get going here.

22 (Pause in proceedings.)

23 THE COURT: Anything else?

24 MR. WARDER: No, sir.

25 My client wants the full set of facts so the jury can

1 appreciate what happened in it, and we want that to come
2 in.

3 THE COURT: And this is a matter of trial strategy.

4 MR. WARDER: Yes, sir.

5 THE COURT: Okay.

6 MR. McMASTER: Thank you, Your Honor.

7 THE COURT: All right. You said you had a Jackson v.
8 Denno?

9 MR. McMASTER: Yes, Your Honor.

10 THE COURT: All right. Let's get that done.

11 MR. HOLLOWAY: Yes, sir, Your Honor. The State calls
12 Michael Fortner to the stand.

13 THE CLERK: Please place your left hand on the Bible
14 and raise your right hand.

15 WHEREUPON,

16 MICHAEL FORTNER

17 After having been duly sworn, testified as follows:

18 THE CLERK: Thank you. Please take a seat, and state
19 your name for the record.

20 THE WITNESS: Michael Eugene Fortner.

21 DIRECT EXAMINATION

22 BY MR. HOLLOWAY:

23 Q Investigator Fortner, can you explain sort of your
24 involvement in this case? Were you one of two
25 investigators in this case or one of two lead

1 investigators in the case?

2 A Yes, sir. There were actually three of us working on
3 it together.

4 Q Three of you.

5 A Yes, sir.

6 Q And during the investigation, did you witness or
7 partake in the interview of Mr. Hunter on four separate
8 occasions?

9 A Yes, sir.

10 Q Okay. And some of the occasions, the actual
11 interrogation, the questioning was conducted by someone
12 else. Did you witness each and every questioning of
13 Mr. Hunter?

14 A Yes, sir.

15 Q And I'm going to hand you up what's been premarked as
16 State's Exhibits 3, 4, 5 and 6. Can you identify each of
17 these documents? One second. Handing you what's already
18 been premarked as State's Exhibits 3, 4, 5 and 6. Can you
19 identify each of these exhibits for the Court?

20 A Yes, sir. State's Exhibit Number 3 is a Waiver of
21 Rights form that was used to be read to Mr. Hunter, the
22 defendant. It's signed by myself as well as Michael
23 Stanton, Investigator Stanton.

24 Q And the first one, when was that signed?

25 A That's on December 16th of 2015.

1 Q And what is the purpose behind that form?

2 A This waiver was read to him in our first interview.
3 This was the day that Mr. Hunter was actually arrested.

4 Q Okay. And that date was what again?

5 A December 16, 2015.

6 Q Okay. And on the form, State's Exhibit 3, what did
7 you review with Mr. Hunter from the form?

8 A All of his rights that he has, and then the Waiver of
9 Rights form that we go over and asked him to sign it.

10 Q Okay. And out to the side on Exhibit 3, can you
11 point to where he actually either signed his name, put his
12 ASH initials?

13 A Yes, sir. Right here (indicating) to the left of
14 everything.

15 Q And what was the purpose of having him initial and
16 sign that form?

17 A We have them place initials. That indicates to us
18 that we did, in fact, read that particular line to the
19 defendant. And then at the end, we read them the Waiver
20 of Rights, which, of course, he initials as well. And
21 then if he's willing to waive those rights and speak with
22 us without an attorney being present, we asked him to sign
23 it.

24 Q And did he do that?

25 A Yes, sir.

1 Q Did he ask for an attorney on the front end before
2 you even talked to him?

3 A No, sir.

4 Q Okay. During the questioning, did you advise him he
5 could cease the questioning at any time?

6 A Yes, sir.

7 Q Okay. Did he ever say, "I want to stop talking to
8 you"?

9 A No, sir.

10 Q Okay. And this Interview 1, did he ever say, "I want
11 to talk to somebody else," talk to a friend, a parent,
12 somebody else?

13 A No, sir. He did not.

14 Q Okay. During this time, where -- first of all, where
15 is the interview occurring?

16 A This interview occurred at the Law Enforcement Center
17 in one of our interview rooms.

18 Q Okay. And during this first interview, was he in
19 handcuffs?

20 A Yes, sir. He would have been.

21 Q Okay. Because he'd already been arrested.

22 A Correct.

23 Q Okay. During the questioning, do you take the
24 handcuffs off?

25 A We might take off -- like maybe in this case, if he's

1 right-handed, take off his right-hand handcuff so he can
2 initial and sign.

3 Q Okay. In the first interview, was there a camera in
4 the room?

5 A There was. Yes, sir.

6 Q Okay. Did the camera show what happened during this
7 questioning?

8 A Yes, sir. It did.

9 Q And the sound during this first interview, what
10 happened with the sound?

11 A The microphone power switch that operates the
12 microphone, which is actually located in a completely
13 separate room from where the video recorder is, somehow or
14 another it got turned off by somebody.

15 Q Okay. Do you know when it was turned off?

16 A I do not, no.

17 Q Okay. At what point did you see that this was off,
18 this was turned off?

19 A January 16th of 2016, when I looked at the videos in
20 order to write my report that I needed to write, I
21 realized that the sound to this particular interview was
22 not working properly.

23 Q Okay. So it was over a month after this first
24 interview that you realized that sound had not worked in
25 his questioning.

1 A Correct. Yes, sir.

2 Q Okay. During this first interview, did you notice if
3 he was impaired by any substances?

4 A He did not -- did not appear to be. No, sir.

5 Q Okay. And as far as his ability to articulate what
6 was going on, did you see anything that would raise a red
7 flag for you?

8 A No, sir. I did not.

9 Q Okay. What was his background as far as school? Had
10 he gone to school? finish high school?

11 A He did. If I remember correctly, he went to Berea
12 High School. He did earn a GED through the Sullivan
13 Center, I believe it was.

14 Q Okay. Did you tell him -- obviously, he's under
15 arrest, but just for the record, did you tell him why he
16 was under arrest?

17 A Yes. He had been informed by that time.

18 Q Okay. So he knew what case you were talking about?

19 A Yes, sir.

20 Q Okay. Did he have any questions for you?

21 A I don't recall. Nothing specific, anyway. No, sir.

22 Q Okay. Did you or any of the officers make any
23 promises or threats to him?

24 A No, sir.

25 Q Did you say, "If you talk to us, we'll give you a

1 deal or talk to the prosecutor"?

2 A No, sir. I did not.

3 Q Okay. Did you explain to him what it means to be
4 coerced?

5 A I did. Yes, sir.

6 Q Did he seem to understand what that means?

7 A Yes.

8 Q Did he ask to go to the bathroom?

9 A I don't recall if he did or not. If he would have,
10 we would have allowed him to.

11 Q And during this first interview, what did you focus
12 on, the first questioning?

13 A This -- the incident that took place that night
14 regarding the robbery of Mr. Rosemond.

15 Q Okay. And did he talk to you?

16 A He did.

17 Q How long was the interview?

18 A 30 minutes maybe, approximately. Not much longer, if
19 it was.

20 Q Okay. Now I'm going to refer you to State's
21 Exhibit 4, again, go through the same type of questioning.
22 When was this form filled out?

23 A Again, it's the Waiver of Rights and the rights
24 information form. This one was done on December 18th of
25 2015.

1 Q Okay. And who was the lead officer on this
2 interview?

3 A This one here was Investigator Picone.

4 Q Okay. And even though -- actually, this was two days
5 after the first interview?

6 A Correct. Yes, sir.

7 Q Okay. So even though you'd already advised him of
8 his rights on the 16th of December, you went and went
9 through it again with him.

10 A Yes, sir. We did.

11 Q Okay. And did he also initial on the form,
12 Exhibit 4, where he acknowledged his rights?

13 A Yes, sir. He did.

14 Q Okay. Did he appear to be impaired by anything?

15 A No, sir. He did not.

16 Q And obviously, you'd gone through his background as
17 far as his education. Did anything raise a red flag to
18 you that he didn't understand what he was doing or what
19 was going on?

20 A No, sir.

21 Q Okay. In this interview, did he approach you to talk
22 to you, or did you go talk to him?

23 A We went and spoke with him.

24 Q Okay. Where at?

25 A He was in the detention center at the time, so we had

1 to sign him out of the detention center, and then we
2 brought him back over to the Law Enforcement Center.

3 Q Okay. And when you're having to transport him back,
4 was he in handcuffs or shackles?

5 A Yes, sir.

6 Q Okay. Did you tell him that he could cease
7 questioning, that he could stop at any time?

8 A Yes, sir.

9 Q Did you tell him that he could ask for an attorney?

10 A Yes, sir.

11 Q Okay. Did he ask for an attorney?

12 A No, sir.

13 Q Okay. Did he ask to speak to anybody?

14 A No, sir. He did not.

15 Q Okay. Did you advise him he could stop questioning
16 any time?

17 A Yes, sir.

18 Q Okay. Did he want to stop it at any time?

19 A No, sir.

20 Q Did he actually talk to you?

21 A He did. Yes, sir.

22 Q Okay. How long was this interview?

23 A Boy. Off the top of my head, I -- I can't remember
24 for sure. Again, probably 30 minutes or so, roughly.

25 Q Did he tell you sort of his side of the story?

1 A He did a little bit. Yes, sir.

2 Q Okay. Was there a situation where the other deputy
3 in the room said, "We think you're lying to us"?

4 A Yes.

5 Q Okay. And from there, did he wish to keep talking to
6 you guys?

7 A He did. Yes, sir.

8 Q And did his story change?

9 A Somewhat. Yes, sir.

10 Q Okay. And then I'm going to focus your attention to
11 State's Exhibit 5. When was -- first off, what is this
12 form?

13 A Again, it's a rights form and the Waiver of Rights.

14 Q Okay. And when was this one done?

15 A This one, it's dated January 11, 2016.

16 Q Okay. And did he also, on this one, initial where
17 he's acknowledging his rights as you advised him?

18 A Yes, sir. He did.

19 Q Okay. And on this form, State's Exhibit 5, it also
20 says he completed the 11th grade, GED, went to high school
21 as well?

22 A Yes, sir. Berea.

23 Q Okay. Did you, again, advise him what it means to be
24 coerced?

25 A I did. Yes, sir.

1 Q Okay. Did he approach you about talking to you guys
2 or did you approach him?

3 A I approached him again.

4 Q Okay. Was there a reason behind that?

5 A Yes, sir. There was.

6 Q Okay. What was that reason?

7 A A couple of the codefendants involved in this case,
8 some information had been coming in that Mr. Hunter maybe
9 lied regarding their involvement in the case, so I went
10 and signed him out to try to figure out whether or not he
11 was lying, to ask him about it.

12 Q There was a witness from the jail named Jeffery Wyatt
13 that you're talking about?

14 A Yes, sir.

15 Q Okay. Did you tell him who this witness was?

16 A I don't believe I ever actually specified his name,
17 but just that somebody inside the detention center had
18 provided some information.

19 Q Did you tell him, in general, what the witness said
20 that this person overheard in the jail?

21 A Yes, sir.

22 Q Okay. And did Mr. Hunter actually talk to you?

23 A Yes, he did.

24 Q Okay. Did he ever ask to stop the questioning?

25 A No, sir. He did not.

1 Q Did he ever ask for an attorney?

2 A No, sir.

3 Q Okay. Did he appear impaired by anything?

4 A No, sir. He was not.

5 Q Okay. Did he appear like he understood what was
6 going on?

7 A Yes, sir.

8 Q And did he actually give you, again, another
9 statement as to what happened at this apartment in
10 December of 2015?

11 A Well, in this particular interview, the main purpose
12 of it was just to try to figure out whether or not he was
13 being truthful with the involvement with the other
14 codefendants, so we didn't get into a whole lot of details
15 as far as regarding what took place during the incident.

16 Q Did he reaffirm what -- the involvement of those two
17 other people, Deandra Norris and Tivarius Henderson?

18 A Tivarius Henderson. Yes, sir. He did.

19 Q Okay. Finally, I'm going to refer you to State's
20 Exhibit 6. Can you tell the Court what that document is?

21 A Again, it is a rights forms as well as the Waiver of
22 Rights form.

23 Q And not to beat a dead horse, but once again, you
24 went through his rights on that date?

25 A Yes, sir.

1 Q Okay. So this is the fourth time he's been advised
2 -- at least the fourth time he's been advised of his
3 rights.

4 A Yes, sir. It is.

5 Q Okay. And did he also acknowledge on this Exhibit 6
6 that he understood his rights?

7 A Yes, sir. He did.

8 Q Understood what it meant to be coerced.

9 A Yes, sir.

10 Q Did you approach him about talking this fourth time,
11 or did he ask to speak to you?

12 A No. I went and got him myself.

13 Q And where did the interviewing occur?

14 A It took place at the Law Enforcement Center on
15 January 12, 2016, which is the same day when I realized
16 that the other two videos did not have any sound to them.

17 Q Okay. Was the purpose to talk about a different
18 subject matter or to sort of go back through what you had
19 talked about back in December to kind of get his statement
20 on record?

21 A Right. Yeah. It was to go back to talk about what
22 we had already talked about where the sound was not
23 recorded.

24 Q Okay. Did you tell him what had happened with the
25 sound on the interview?

1 A I don't believe I did. No, sir.

2 Q Okay. Did he ask any questions about why you were
3 asking him some of the same questions again?

4 A I don't recall him doing so. No, sir.

5 Q Okay. Did he ask to speak to an attorney?

6 A No, sir.

7 Q Okay. Were there any red flags that were raised by
8 his behavior that made you think he didn't understand what
9 was going on?

10 A No, sir.

11 Q Did you make any promises?

12 A No, sir.

13 Q Any threats to him to say if you don't talk to us,
14 we're going to stick it to you?

15 A No, sir.

16 Q Okay. Did he appear to be impaired by anything?

17 A No, sir. He did not.

18 Q Did he ask to go to the bathroom?

19 A I don't recall. But, again, if he would have, we
20 would have taken him.

21 Q Okay. And was this interview on camera?

22 A Yes, sir. It is.

23 Q And the sound worked on this version.

24 A It did, yes.

25 Q And did he talk to you?

1 A He did. Yes, sir.

2 Q Did he go through his explanation as to what happened
3 on December the 10th, 2015?

4 A Yes, sir. He did.

5 Q Okay. Do you know about how long it took to question
6 him this go-round?

7 A This one was probably a good 45 minutes or so,
8 probably.

9 MR. HOLLOWAY: Okay. The Court's indulgence.

10 Your Honor, that's all I have for this witness at
11 this time.

12 THE COURT: Any cross?

13 CROSS EXAMINATION

14 BY MR. WARDER:

15 Q The mic didn't work the first time because it wasn't
16 turned on; is that right?

17 A Yes, sir. That's correct.

18 Q And when the mic didn't work the second time, is it
19 because you didn't turn it on also?

20 A Well, it's supposed to be on all the time, yes. But
21 no. They had not been turned on. Nobody had realized at
22 this point that it wasn't working.

23 Q Okay. So there hadn't been any use of it in between
24 that brought forth the fact that it was inoperable because
25 it wasn't turned on?

1 A It had been used, yes, because I went around asking
2 other people if they had conducted any interviews as well.
3 I did find a couple other people that had done interviews,
4 and they had no sound as well.

5 Q You did a total of how many interviews on my client?

6 A Four of them, sir.

7 Q Okay. And two of them there was no mic, and two of
8 them there was sound?

9 A Two of them had no sound.. Yes, sir.

10 MR. WARDER: Thank you.

11 MR. HOLLOWAY: At this time, the State would move to
12 introduce the substance of each interview to -- or have
13 the Court rule it admissible in the case in chief.

14 THE COURT: Any objection?

15 MR. WARDER: We're just moving into evidence the
16 rights sheet. We're not moving the statement in or
17 anything at this time, are we?

18 THE COURT: They're asking me to rule that it was
19 freely and voluntarily made without coercion. It was a
20 voluntary statement. Do you have any ---

21 MR. WARDER: No. We have no ---

22 THE COURT: Okay. All right.

23 Thank you, Officer.

24 All right.. Are y'all ready to go?

25 MR. McMASTER: Yes, sir.

1 MR. HOLLOWAY: Yes, sir.

2 THE COURT: Okay. All right. We'll get them in
3 here. We'll do some opening statements.

4 (Pause in proceedings.)

5 (WHEREUPON, the jury entered the courtroom at 3:44 p.m.)

6 THE COURT: Ma'am, I appreciate you agreeing to serve
7 as the foreperson. Thank you very much.

8 All right. We're about to begin the trial, and we'll
9 start with the first part, which are the opening
10 statements of the attorneys.

11 OPENING STATEMENTS

12 MR. HOLLOWAY: Yes, Your Honor. Thank you.

13 On December the 10th, 2015, a robbery turned into a
14 tragedy at the [REDACTED] Apartments in Taylors, South
15 Carolina. The robbery turned into a tragedy on that
16 night. At [REDACTED] Apartments, Charles Rosemond was
17 living in Apartment 16-B. On that night, he was robbed,
18 and in this case, the evidence will show throughout this
19 trial that Aundra Hunter is the one who went into that
20 apartment, armed with a gun and robbed Charles Rosemond,
21 and he attempted to rob Eric Garrison. And that one burst
22 of violence led -- it resulted in a tragedy that night.
23 You cannot drop a match into the woods and not expect a
24 forest fire. And that night the defendant, when he, in
25 that burst of violence, kicked over the first domino

1 inside Charles Rosemond's apartment, he did just that.

2 Now, who was Charles Rosemond? Charles Rosemond was
3 the bright spot in [REDACTED] Apartments. He was
4 respected by everybody who lived out there. [REDACTED]
5 is an apartment complex in Taylors. Go down Wade Hampton.
6 It's not far off of Wade Hampton. It's a place where it's
7 a very sort of complex place because you've got both
8 families that live out there and you've got hard-working
9 individuals out there, but you also have people who, let's
10 just face it, they hustle, they steal. It's a place where
11 it's rough living there.

12 But Charles Rosemond was liked by everybody. He was
13 one of the few bright spots in that apartment complex. He
14 was known as Uncle Charles, Mr. Charles. He sold candy,
15 he sold shots of liquor. In fact, one of the witnesses
16 you're going to hear from, one of the victims in the case
17 was there to purchase a shot -- a shot glass from Charles.

18 [REDACTED] is a place that sort of has wild parties
19 going on at night, but you also have families that live
20 out there.

21 Who is the defendant? Mr. Hunter did not live out
22 there. He lived in a different apartment complex, but he
23 knew three women that lived out there. One was
24 Ms. Atkins. She's the mother of his children -- or at
25 least one child. He knew Daphne Johnson, who you'll hear

1 from in this trial. He knew another witness in this case,
2 Ms. O'Neal. You'll also hear from her in this trial
3 probably tomorrow.

4 But he knew that Charles Rosemond had a readily
5 supply of cash. Again, he sold candy, he sold cigarettes
6 individually and shots of alcohol, and he had a ready
7 supply of cash.

8 Now, in a trial, you're going to hear different types
9 of evidence and get different types of evidence to accept
10 when you go back and decide this case. But for the most
11 part, the evidence you're going to have comes from this
12 witness stand. And most people who live at [REDACTED],
13 the culture is thou shalt not snitch. Don't talk to the
14 police. Don't talk to the prosecutors.

15 But what I find amazing is that for Charles, these
16 witnesses are coming forward to speak for him when he
17 can't speak for himself because of what happened, what
18 this defendant did on December the 10th, 2015.

19 Now, how are we going to prove this case? It's one
20 thing for the prosecutor to get up here and tell you these
21 things, but how are we going to prove it? Well, the
22 people who were interacting with the defendant prior to
23 the robbery and after the robbery will testify throughout
24 this trial. They will tell you about the things they
25 heard.

1 Vicki O'Neal, I mentioned her earlier, she saw -- she
2 was holding a party, kind of a birthday celebration that
3 night at her apartment. The defendant showed up. She
4 will tell -- she'll tell you, she'll be free with this
5 information, but she often had sex with the defendant.
6 Daphne Johnson was also another individual who got with
7 Mr. Hunter. And Ms. O'Neal will testify at the party she
8 overheard the defendant talking to two individuals about
9 going to rob Charles Rosemond. She saw his gun.
10 Actually, in her bedroom before they were going to have
11 sex, she saw his gun. She'll tell you about what happened
12 after the robbery, the defendant showing up at her
13 apartment in different clothing. He's holding cash in his
14 hands.

15 Daphne Johnson, actually, she'd been out that night
16 at a different location. She'll testify she showed up at
17 Vicki's apartment as well. Their stories overlap. She'll
18 testify to you what she heard this defendant say, that he
19 admitted to robbing Mr. Charles, that he went into the
20 apartment, that he had a gun. People who don't really
21 know each other that well, that don't like each other are
22 going to get on that stand and speak for Mr. Rosemond.

23 Eric Garrison is a witness in the case. He's also a
24 victim in the case. He will testify as well. He will
25 identify to what he heard the robber say. You will learn

1 from him and from Officer -- Investigator Stanton how that
2 became -- how that led law enforcement to the defendant.

3 Again, this is a no-snitching culture at [REDACTED]
4 [REDACTED], and you will see a textbook way in which an
5 investigation transpired to winnow away all of the gossip,
6 all of the triple hearsay of what occurred that night and
7 sift through all of that to get to Aundra Hunter.

8 Throughout this trial, we will put up these
9 witnesses. We will test -- the defense will test the
10 State's case. That is his right. And we embrace our
11 burden of proof. We accept that.

12 People you will hear from will be the ones who
13 witnessed the before, the during and the after of when
14 this defendant dropped a match into a puddle of gasoline,
15 and he fled Charles Rosemond's apartment just as it was
16 about to explode resulting in tragedy for Charles
17 Rosemond, and for a sheriff's deputy who was also shot in
18 the head.

19 The defendant that night, when he left the robbery,
20 he shifted to at least two apartments. He changed
21 clothes. These are the things you're going to hear about.
22 This is not just bare allegations. You're going to hear
23 from each witness what happened. Most importantly, you're
24 going to hear from this -- you will hear the things that
25 this defendant said to law enforcement, the five different

1 explanations he gave to law enforcement. He's advised of
2 his rights. He says, "I don't want a lawyer," and he gave
3 explanations as to what transpired freely. Listen to what
4 he says. It's very important in light of what the
5 allegations are.

6 That night, December the 10th, Charles Rosemond was
7 in his apartment, prepared to sell a shot of liquor to
8 Eric Garrison. And the defendant went in after Eric
9 Garrison, took the opportunity to throw a match into a
10 puddle of gasoline in that apartment, and tragedy
11 occurred.

12 THE COURT: All right. Mr. Warder.

13 MR. WARDER: Ladies and gentlemen, I would agree with
14 one thing, one thing my colleague said. Charles Rosemond
15 didn't deserve to die. Charles Rosemond was killed. He
16 was killed by law enforcement that came in.

17 Charles Rosemond was Candy Man, and he made his
18 living bootlegging, selling maybe some marijuana, shots,
19 cigarettes, I think candy, too. But he didn't deserve to
20 die.

21 What happened, the evidence will show, is that the
22 police came, and Charles Rosemond didn't answer the door
23 for them. They kicked the door in, and Charles Rosemond
24 shot one shot towards the floor, the door, and it hit a
25 metal strip in the bottom under the door, the threshold,

1 and deflected the bullet upward, and it hit one of the
2 three deputies that were in the formation they use when
3 they kick doors in, kind of a stack up one behind the
4 other.

5 After that, one of the deputies in the stack returned
6 three shots through the door and rolled over on the ground
7 and looked through the window and saw the silhouette of
8 Charles Rosemond. He shot four times through the window
9 and struck Charles Rosemond.

10 The decision made to kick the door in occurred three
11 minutes after the call was initially made, and they kicked
12 the door in at 1:16. Immediately the events followed that
13 the shots were fired by the deputy through the door,
14 through the window. And as soon as the deputies realized
15 that the glancing bullet had hit one of their own, they
16 started dragging that officer away. And as they did, the
17 injured Charles Rosemond cried out that he'd been shot.
18 Obviously, he needed help. They waited to give any aid to
19 a man they'd shot, they knew they'd shot, they knew they'd
20 hit. They waited until 1:59, 43 minutes before they gave
21 the first bit of aid to a man they'd shot.

22 They say it's our fault and we put a match to
23 gasoline when they're complaining about a death we had
24 nothing to do with. My client was not even there. The
25 man they're saying that went into that apartment was not

1 my client. They're just wrong about that, but they had to
2 blame somebody. After they went out and shot somebody,
3 refused to give him aid until after they bled out,
4 somebody had to be named, and somebody had to be
5 responsible.

6 They are going to try and hold responsible my client,
7 who was not on the scene, had nothing to do with the
8 shooting, and had nothing to do with the willful failure
9 to render aid to somebody you injured. It's not like
10 gasoline and match. It's like a driver that runs over
11 somebody and then drives off and leaves them alive to
12 bleed to death. That's what it's like. And it's the
13 Greenville County law enforcement that did that.

14 Now, you'll listen to the testimony. You'll see how
15 the facts have been skewed and changed by the law
16 enforcement. And we ask you, in this case, to find the
17 truth, to look at all the facts, to listen to all the
18 testimony, and to draw the logical inferences from it.

19 While Charles Rosemond was bleeding to death, they
20 aided the deputy that came. They got an ambulance there.
21 They took him to the hospital. They waited and got their
22 SWAT vehicle, drove it over there. When they found him
23 and threw a robotic camera in and saw Mr. Rosemond lying
24 on the floor, the first time they went in to check to and
25 see how he was, and at 1:59 he appeared lifeless. They

1 pronounced him dead at 2:27.

2 Listen carefully. The truth will not be what has
3 been represented to you by the State. It is your job to
4 listen to the evidence and find the truth, who's really
5 responsible.

6 Thank you.

7 THE COURT: Okay.

8 MR. HOLLOWAY: The State calls Ms. Johnson, Tirrissa
9 Johnson.

10 THE CLERK: Please place your left hand on the Bible
11 and raise your right hand.

12 WHEREUPON,

13 TIRRISSA JOHNSON

14 After having been duly sworn, testified as follows:

15 THE CLERK: Please take a seat and state your name
16 for the record.

17 THE WITNESS: Tirrissa Johnson.

18 DIRECT EXAMINATION

19 BY MR. HOLLOWAY:

20 Q Ms. Johnson, tell the jury where you work.

21 A The Greenville County Sheriff's Office.

22 Q How long have you worked there?

23 A Approximately 20 years.

24 Q And what is your role with the Sheriff's Office?

25 A My primary duties are pulling all of the recordings,

1 phones, radio traffic.

2 Q And what happens when -- I know people talk about on
3 television, movies, what happens when someone calls the
4 police, dials 9-1-1? What happens to that call?

5 A So it's routed to the correct public service
6 answering point depending on wherever the phone is located
7 at. In this case, it came into the Greenville County
8 Sheriff's Office. We have about seven call takers and
9 five dispatchers who are also able to answer the calls.
10 And they will get the information, determine whether it's
11 police related and the Sheriff's Office is needed or if
12 it's for another agency and then transfer those calls.

13 Q Okay. And once you dial 9-1-1, does the system
14 record before the dispatcher picks up?

15 A There has been a change in the phone service, and I
16 believe back in 2015, it was recording prior to being
17 picked up.

18 Q Okay. And what happens -- how are the calls that you
19 receive preserved, say, for a trial like this?

20 A So they're all electronically stored in computer
21 systems and servers.

22 Q Okay. And as a part of your job, do you have access
23 to those calls?

24 A Yes, I do.

25 Q So if a police investigator says, "I need the calls

1 from [REDACTED] Road Extension, Taylors," you're able to
2 see who called from that ---

3 A That's correct.

4 Q Okay. And did you preserve a call that was made
5 from Apartment 16-C on December the 10th, 2015 in this
6 case?

7 A Yes, I did.

8 Q Okay. And can this call's -- can come in, be burned
9 to a disc, like a CD or DVD?

10 A Yes, they are.

11 Q And you have the ability at your office to be able to
12 do that, pull a call and then burn it to a CD?

13 A That's correct.

14 Q Okay. Ms. Johnson, I'm handing you what's been
15 premarked as State's Exhibit 1. Can you identify this for
16 the jury?

17 A Sure. This would be the 9-1-1 calls received on
18 December the 10th of 2015 from [REDACTED] Road.

19 Q Okay. Have you had an opportunity and have you
20 listened to the contents of Exhibit 1?

21 A Yes, I have.

22 Q Okay. And the recordings, are they fair and accurate
23 of what -- calls made that night?

24 A Yes, they are.

25 Q Okay. Offhand, do you know who made that call?

1 A Not right offhand.

2 Q Okay. But you listened to the contents of this CD?

3 A Yes, I have.

4 Q Okay. And if you could, identify any markings on
5 this exhibit to confirm.

6 A Yes. That would be my initials.

7 Q Okay. So you actually put your initials on this
8 exhibit.

9 A That's correct.

10 MR. HOLLOWAY: Okay. Your Honor, I'd ask to move
11 this into evidence as State's Exhibit 1.

12 THE COURT: Any objection?

13 MR. WARDER: No, Your Honor.

14 THE COURT: Okay.

15 (WHEREUPON, State's Exhibit Number 1 was admitted into
16 evidence.)

17 MR. HOLLOWAY: And I would ask to publish it at this
18 time.

19 THE COURT: All right.

20 (WHEREUPON, State's Exhibit Number 1, an audio CD, was
21 played in open court.)

22 MR. HOLLOWAY: All right. Your Honor, that's all I
23 have for this witness.

24 Thank you, Ms. Johnson.

25 THE COURT: Cross-examination.

CROSS EXAMINATION

BY MR. WARDER:

Q Does your office generate that report?

A Yes. That would be in the computer system.

Q Okay. And would that be the part of the system that you supervise?

A Well, I don't supervise it, but I have access to pulling those records as well, yes.

Q Okay. On part of these, it says the name Johnson, Shayan [phonetic]. Is that you?

A No. That is not me.

These would be the call takers or the dispatchers who are entering information into the calls. So in this case right here (indicating), this is the call taker's name, and this down here (indicating) is the person who is dispatching.

Q Okay. And is there any way you can look at that and tell whether that was a copy of a record from your department?

A It definitely appears to be, yes.

Q Would all of them appear to be the records with this case?

A (Reviews documents) They would appear to be, yes.

MR. WARDER: Okay. Your Honor, I would like to mark them for identification only.

1 THE COURT: Have y'all seen what he's talking about?

2 MR. HOLLOWAY: I have, Your Honor.

3 MR. McMASTER: These are marked for identification.

4 THE COURT: Marked for identification.

5 MR. HOLLOWAY: Yes, sir.

6 THE COURT: Do you want them marked individually or
7 as one?

8 MR. WARDER: One would be fine.

9 (WHEREUPON, Defendant's Exhibit Number 1 was marked for
10 identification.)

11 MR. WARDER: Your Honor, if it pleases the Court,
12 that would be all of the questions I have for this
13 witness.

14 THE COURT: Any redirect?

15 MR. HOLLOWAY: No, sir, Your Honor.

16 THE COURT: All right. Thank you, ma'am. You may
17 step down.

18 MR. McMASTER: Ready for us to proceed?

19 THE COURT: Yeah. Go ahead.

20 MR. McMASTER: Rosamae Nesbitt.

21 THE CLERK: Please place your left hand on the Bible
22 and raise your right hand.

23 WHEREUPON,

24 ROSAMAE NESBITT

25 After having been duly sworn, testified as follows:

1 THE CLERK: Please take a seat and state your name
2 for the record.

3 THE WITNESS: Rosamae Nesbitt.

4 DIRECT EXAMINATION

5 BY MR. McMASTER:

6 Q All right. Ms. Nesbitt, I want you to speak up now
7 so the jurors can hear you back here, okay? Try to speak
8 up for me.

9 And you say your name is Rosamae Nesbitt?

10 A Yes, sir.

11 Q How old are you?

12 A 47.

13 Q And back in 2015, December 2015, where were you
14 living at that time?

15 A With my son.

16 Q Okay. And where was that located?

17 A [REDACTED] Road, Apartment 16-C.

18 Q Is that in [REDACTED]?

19 A Uh-huh.

20 Q Okay. How long had you been living there?

21 A About a month with him.

22 Q About a month?

23 A Yes, sir.

24 Q On the night of -- or late night, December the 9th
25 into the early morning hours of December the 10th, was

1 your son at the home with you, at the apartment?

2 A No. He was in the hospital.

3 Q Okay. So you were staying there alone?

4 A Yes, sir.

5 Q And who was your neighbor in 16-B next door?

6 A Mr. Charles.

7 Q Is that -- you're talking about Charles Rosemond?

8 A Yes, sir.

9 Q And tell the jury a little bit about what he did in
10 the community. What did he do out of his apartment?

11 A He was like a candy man, you know. The store will
12 close, you know, we can go buy single cigarettes and candy
13 for the kids, ice cream and stuff like that.

14 Q Did he also deal in selling beer, liquor, things like
15 that?

16 A Liquor, but I ain't never seen no beer.

17 Q Okay. And did he deal in cash?

18 A Not that I know of.

19 Q Did he sell his items for cash? Let me put it that
20 way.

21 A Yes, sir.

22 Q So when you bought something from him, you paid cash
23 for it.

24 A Yeah.

25 Q And is the [REDACTED] Road 16-B apartment, is that here

1 in Greenville county?

2 A It's in Taylors.

3 Q Is that in Greenville county?

4 A Uh-huh.

5 Q Okay. And were you awake on those early morning
6 hours ---

7 A I was.

8 Q --- between December the 9th and December the 10th?

9 A I was.

10 Q And tell the Court what you were doing.

11 A I haven't too long came from the hospital seeing my
12 son. So when I got there, you know, I had took a shower
13 or whatever. And Mr. Charles always have people knocking
14 on his door late at night, and I can hear him through the
15 walls because the walls are so thin.

16 So that night, I heard Mr. Charles tell somebody to
17 come in, you know. Cabinets and drawers and stuff was
18 just slamming, you know. I was wondering what was going
19 on. So I got up and fixed me some cereal. As I fixed me
20 some cereal, I heard a gun shot, and that's when I called
21 9-1-1 to report that I heard a gunshot. You know, I
22 thought he was dead or whatever. I was a concerned
23 neighbor.

24 And so I stayed on the phone with the dispatcher
25 until the officer got there.

1 Q And you called 9-1-1. Did you say you heard a
2 gunshot; is that correct?

3 A Yes, sir.

4 Q And did you hear a knock at the door?

5 A I did.

6 Q And did you hear any talking in the other apartment,
7 anything going on, any type of action?

8 A I heard the guy tell Mr. Charles to give him
9 everything he got. He told -- and Mr. Charles told the
10 guy that he gave him everything he had.

11 Q Did you hear a lot of cursing?

12 A No, sir.

13 Q Okay. Did you hear any type of slamming of cabinets
14 or anything like that?

15 A Yes, I did.

16 Q Would you call what you heard arguing back and forth?

17 A No. Just disagreement if he had anything or not.

18 Q But it sounded aggressive.

19 A Uh-huh.

20 Q Did you hear Mr. Charles, at any time, did you hear
21 what he was saying back to the man, anything that he --
22 did you hear him say anything besides, "I've given you all
23 I've got"?

24 A No. That's all I could hear. Yes.

25 Q That's all you could hear.

1 A Yes.

2 Q And where were you when you were listening to this?
3 Where in the apartment?

4 A I was right there by the wall.

5 Q Okay. Now, they don't know about your apartment, so
6 kind of describe it to us a little bit.

7 A It's a wall right here.

8 Q Okay.

9 A And Mr. Charles's apartment is right here. You can
10 hear everything. I can hear his TV and everything.

11 Q Is that like a bedroom in your apartment?

12 A No. It's in the living room.

13 Q Okay. So you're up against the wall in the living
14 room.

15 A Uh-huh.

16 Q So you can hear this which would be Mr. Charles's
17 living room?

18 A Yes, sir.

19 Q Are all the apartments, to your knowledge, laid out
20 the same way?

21 A Some of them.

22 Q Okay.

23 A Some of them have a bedroom on the side.

24 Q But he had a living room right there?

25 A Living room. Yes, sir.

1 Q Now, could you hear -- well, let me rephrase that.
2 When you got on the phone with 9-1-1 ---

3 A Uh-huh.

4 Q --- when you called them and you were telling them
5 about what was going on, you could actually hear all of
6 this happening at this time.

7 A Oh yeah.

8 Q When you were describing it to 9-1-1, this is what
9 you were hearing with your own ears; is that correct?

10 A Yes, sir. Yes, sir.

11 Q All right. And you said that you saw -- you were
12 able to see someone leave the apartment; is that correct?

13 A Yes, sir.

14 Q And did you describe that person for 9-1-1?

15 A Uh-huh.

16 Q And when they left the apartment, did they cross
17 right in front of your window?

18 A Yes, they did.

19 Q Now, you said you were over by the living room wall.
20 Did you ever move and get towards the window?

21 A Towards the window. I told them I was going towards
22 the window seat. I could see anybody come out of his
23 apartment.

24 Q And you were able to see someone?

25 A Yes, sir.

1 Q And did you describe that person to law enforcement?

2 A Yes, sir.

3 Q Did they have a mask on?

4 A Yes. One of them did.

5 Q Okay. And did you see a gun?

6 A I did.

7 Q And you saw -- what did you see him do with the gun?

8 A Put something in his pocket. He had a bag in his
9 hand. Whatever he took out of Mr. Charles's apartment, he
10 had a bag in his left hand.

11 Q Do you remember what he was wearing?

12 A They call it a monkey suit. The tall one, he had on
13 a monkey suit. He had on the mask that come all the way
14 over your face but you've got your eyes out, and black
15 boots.

16 And then the next one came out. He had on red
17 jogging pants, white T-shirt, a black sweatshirt -- I mean
18 a black leather jacket and a do-rag.

19 Q Did you say he had something in his hand outside of
20 the pistol that he put -- you said he put that in his
21 pocket.

22 A Uh-huh.

23 Q Now, when you say "a monkey suit," you're talking
24 about like some coveralls or something like that where
25 you ---

1 A The thick ones.

2 Q -- like you'd wear like in wintertime?

3 A Yes, sir.

4 Q Or if you were working under a house or something
5 like that?

6 A Yes.

7 Q All right. And you said boots, dark shoes. Could
8 you ---

9 A No. The black boots that you could tie a weight to
10 your legs and stuff.

11 Q Which way was he going when you talked to 9-1-1?

12 A The rent office is on my left-hand side and another
13 apartment's on my right-hand side. He went between them
14 two apartments. And it's dark down through there. They
15 don't have a light.

16 Q Is there a fence back there?

17 A It's a fence. Yes, sir.

18 Q And did the individuals use that as a cut through?

19 A Yes, sir.

20 Q So that's a common way that you would go?

21 A Yes, sir.

22 Q Would you go down around where apartment -- down to
23 6-C, in that area if you keep going out that way?

24 A Yes, sir.

25 Q And you said you saw a second person come out shortly

1 after this first one came out wearing a mask.

2 A The second person didn't have on a mask.

3 Q After the first person came out with a mask, you saw
4 the second person coming out a few minutes later.

5 A Uh-huh.

6 Q And when you saw that second person coming out, you
7 said they did not have a mask on, but they were very --
8 they were a short person, correct?

9 A Uh-huh.

10 Q And you were not able to identify either one of those
11 people.

12 A No, sir.

13 Q Just gave a general description.

14 A Yes, sir.

15 Q And did that person go the same way?

16 A He sure did.

17 Q He did?

18 A Yes, sir.

19 Q Now, after you heard or saw the second person leave,
20 at that point in time, you said you heard a phone ringing.

21 A A phone ring. Yes, sir.

22 Q So you could hear that in Mr. Charles's apartment?

23 A Uh-huh. Yes, sir.

24 Q And you said you heard it answered at some point; is
25 that correct?

1 A Or they might have hung up. I thought somebody had
2 answered.

3 Q You thought he'd answered it?

4 A (Nods head affirmatively.)

5 Q But you couldn't understand what he was saying?

6 A No, sir.

7 Q Or anything on the phone?

8 A No, sir.

9 Q And as you were on the phone with 9-1-1, the officers
10 or deputies were on the way; is that correct?

11 A Yes, sir.

12 Q And were you trying to direct where they were coming
13 on 9-1-1?

14 A Yes, sir. But they was stopped at the first court.

15 Q But you kept trying to direct them to come through.

16 A Yes, sir.

17 Q And did they actually come by your apartment that
18 night?

19 A No. They went out -- Mr. Charles had the door open
20 slightly. And I told the officer, I said that them two
21 boys just left by this house and went through that way. I
22 said maybe his door is still unlocked. I don't know.
23 Maybe he got up and locked it when they went out the door.
24 But when the officer was kicking on the door telling him,
25 you know, "Greenville County, Greenville County,"

1 Mr. Charles yelled, "No." That's when he got to shooting
2 and they got to shooting back.

3 Q All right. And did you actually see the deputy hit
4 the ground?

5 A I did. Officer Dempsey. Yes, sir, I did.

6 Q You did -- saw that?

7 A (Nods head affirmatively.)

8 Q And at that point in time, did you hear other gunfire
9 after that?

10 A The other police started shooting, the other two that
11 was out there with them.

12 Q Where do you go at this point in your apartment after
13 you see that?

14 A After I see -- seen Mr. Dempsey fell, I went to a
15 closet in my son hallway. It's a big old closet. I went
16 in there and stood in there talking to the 9-1-1.

17 Q So that's about as far away as you could get from
18 Mr. Charles's apartment?

19 A From the bullets. Yes, sir.

20 Q And did deputies eventually come to your apartment?

21 A To get me to take me back around the building to hide
22 behind a car.

23 Q And they actually came to your -- tried to evacuate
24 you from the building?

25 A Yes, sir.

1 Q And would it be fair to say there were numerous
2 Sheriff's Office deputies, lots of blue lights there that
3 night?

4 A Oh yeah. Yes, sir.

5 Q Were you able to watch what was going on at that
6 point or were you taken away and put in another area?

7 A They took me away and put me in an officer car down
8 there by the second court.

9 Q So you were away from the ---

10 A Yes.

11 Q You're away from 16-B and your apartment at 16-C.

12 A Yes, sir.

13 Q Were you allowed to go back in your apartment that
14 night?

15 A No, sir.

16 Q Did you have to speak with law enforcement that
17 night?

18 A I spoke with two of them. Yes, sir.

19 Q And did you give them a statement that night?

20 A Yes, sir. I did.

21 Q And you talked to them about what happened and what
22 you saw.

23 A Yes, sir.

24 Q You indicated when they got there that they knocked
25 on the door and they said, "Greenville County"; is that

1 correct?

2 A Uh-huh.

3 Q Greenville County Police, I believe is what you said.

4 A Just Greenville County.

5 Q Greenville County?

6 A Yes, sir.

7 Q And that's when you heard someone holler ---

8 A No. I heard Mr. Charles yell, "No."

9 Q And that's when the door was breached.

10 A That's when he start shooting. I guess he must have
11 thought the guys was coming back.

12 MR. McMASTER: Okay. Answer any questions Mr. Warder
13 may have.

14 CROSS EXAMINATION

15 BY MR. WARDER:

16 Q Mrs. Nesbitt, when you saw the first guy come out of
17 the house, he would have turned left to go up by your
18 apartment?

19 A Yes, sir.

20 Q Okay. Would he have had the paper bag in his left
21 hand ---

22 A Left hand.

23 Q --- or his right hand?

24 A His left hand.

25 Q Okay. So he was carrying the bag with his left hand.

1 And which hand did he put the gun in his pocket?

2 A The right.

3 Q Okay. Now, you said that that man was the taller one
4 of them?

5 A Yes, sir. Tall and skinny.

6 Q And how tall was he?

7 A I'd say about 5'9", 5'8".

8 Q Okay. Can you tell whether that's my client over
9 there, it was that man?

10 A No. He heavyset. This guy was slim.

11 Q Okay. Was his build like my client except for the
12 weight?

13 A Hu-uh.

14 Q So if my client gained weight, that wouldn't -- he
15 wouldn't look like the fellow that left?

16 A No, sir.

17 Q Okay. The second man that you saw, did he have
18 anything in his hands?

19 A He didn't.

20 Q Okay. And he was the fellow, and I believe you said
21 had red pants on?

22 A Red jogging pants. Yes, sir.

23 Q Now, it wasn't just a red stripe. It was a whole red
24 pant?

25 A Red jogging pants.

1 Q Okay. And those are the kind that like have the
2 elastic around the legs?

3 A They was too big, you know, too long for him, and,
4 you know, they tripped over his shoes.

5 Q Okay. And the leather boots he had on, you did say
6 they were leather, didn't you?

7 A No. The first guy had on leather boots, black
8 leather boots.

9 Q Okay. And what did the last guy have on?

10 A Tennis shoes.

11 Q What kind of tennis shoes?

12 A White.

13 Q Okay. So we have the last guy is red pants, white
14 tennis shoe.

15 A White shirt.

16 Q White shirt.

17 A Black leather jacket and a do-rag.

18 Q Okay. Now, when you say the do-rag, that tied up on
19 his head?

20 A Yeah. Tied in the back. Yes, sir.

21 Q Okay. So it kind of comes across, looked like people
22 on motorcycles wear them sometimes?

23 A Yeah. Long in the back.

24 Q Okay. And the first guy, is the monkey suit or
25 whatever they call it that he puts on, is that kind of a

1 dress or was that more work clothes?

2 A It's when -- like they work in the shop on the cars,
3 they cold, they put their monkey suit on.

4 Q Okay. Did he have other clothes under it or could
5 you ---

6 A I have no idea.

7 Q Now, you went in the closet and talked to -- with
8 the ---

9 A When they got to shooting. Yes, sir.

10 Q Okay. You called the police on the first shot; is
11 that right?

12 A Uh-huh. When I heard in Mr. Charles's apartment.

13 Q Okay. And after that, you were listening to see if
14 there was anything else?

15 A Anything going on, yes, sir, that I could hear.

16 Q And there come a point that you heard the phone ring
17 again.

18 A I heard the phone ring once.

19 Q Huh?

20 A Rung once.

21 Q Okay. So you were on the phone with the dispatcher,
22 and you heard Mr. Charles's phone one time ring?

23 A Yes, sir. I had my ear against it.

24 Q Huh?

25 A Had the ear up against the wall and talking to her on

1 this ear.

2 Q Sure.

3 A Uh-huh.

4 Q And he answered the phone that time?

5 A I don't know if he answered or not or it just
6 somebody hung up when they called and he wouldn't answer.

7 Q Well, did it ring a long time like ---

8 A Yes, sir. It did.

9 Q And then how long was it before the police came?

10 A About 10, 15 minutes. Because they was up in the
11 first court, I guess they were looking for somebody in the
12 first court, and then they came to the third court.

13 Q Okay. And when the police come, did you hear them
14 when they went down to kick in the door?

15 A I'm at the window with the door open.

16 Q Okay. Your window when they kicked the door open?

17 A Yes, sir. The window's right here and the door's
18 right beside the window, so I had the door open talking to
19 the officer. There was a short officer, baldheaded, that
20 I was talking to at the door.

21 Q Okay. And is he the one that went down and kicked it
22 in?

23 A Yes, sir. And Mr. Dempsey was standing on the
24 sidewalk.

25 Q Okay. And when he kicked it in, almost instantly,

1 there was a shot?

2 A When he was kicking it and saying, "Greenville
3 County," that's when Mr. Charles yelled, "No." And that's
4 when Mr. Charles got to shooting, and then they got to
5 shooting back.

6 Q Okay. So as I understand it, and am I right that the
7 deputy went down to kick it in and Mr. Charles hollered,
8 "No"?

9 A When he -- when the officer came first, I had told
10 the officer I think the door is still unlocked. I don't
11 know if the door's locked or not because two guys had just
12 went through that way. So when they -- the officer tried
13 to see was the door unlocked. And I guess the door wasn't
14 unlocked, so that's then he got to kick it in yelling,
15 "Greenville County, Greenville County."

16 Q He did that as he kicked?

17 A Sir?

18 Q He was yelling, "Greenville County," as he was
19 kicking?

20 A Yes, sir. Yes, sir.

21 Q Okay. And when the door come open, did you see that?

22 A The door never came open.

23 Q Okay. So the deputy never got it kicked completely
24 in.

25 A No, sir.

1 Q Okay. Did you see the deputy then when the deputy
2 started firing back?

3 A Yeah. He had moved over to the window.

4 Q Okay. So the deputy -- and you say rolled over the
5 window, that's not very far, is it?

6 A No. The door right here, and the window's right
7 close to the door.

8 Q So I guess he'd have to be like two or three feet
9 over to get to the window?

10 A No. Just put your head like that (demonstrating),
11 you can see through the window.

12 Q Okay. Now, he shot several times when he was at the
13 window; is that right?

14 A I seen -- I heard him shoot about four times because
15 it's got four bullet holes. The screen's still up there.

16 Q Yeah. The window still has holes in it today, don't
17 it?

18 A Uh-huh.

19 Q Or the screen door.

20 A Yes, sir.

21 Q Okay. And do you know whether the deputy fired any
22 shells outside before he shot through the screen door?

23 A No, sir. He was at the window. He started shooting
24 through the window.

25 Q Is Mr. Charles's apartment about the same size as

1 yours?

2 A Yes, sir.

3 Q Would it be identical to yours, same floor plan and
4 everything?

5 A Uh-huh. But his bedroom is on the opposite side.
6 The other bedroom's on the other side.

7 Q Your living room's as long as his?

8 A Same size. Yes, sir.

9 Q Living room isn't very big, is it?

10 A Oh, no. For a one-bedroom, no, sir.

11 Q It's about 15 foot long, or is it that long?

12 A Probably.

13 Q About 10 foot wide?

14 A Uh-huh.

15 Q And by the time you put a couch in there and
16 stuff ---

17 A You're done, yeah.

18 Q Okay. And had you ever been to Mr. Charles's
19 apartment?

20 A I have. Bought several cigarettes.

21 Q He had his couch kind of pushed up to the middle of
22 the room?

23 A Yeah. Covering up the kitchen part. His long couch
24 is right here, small couch is on this wall over here, and
25 the TV on that wall over here. Yes, sir.

1 Q But his front couch was pretty close to the window
2 and the door?

3 A Yes, sir.

4 Q If you were shooting at somebody that was standing by
5 his couch, you'd be shooting about as far as from me to
6 that rail.

7 A Yes, sir.

8 Q And did that .45, when that deputy shot, did that
9 make a lot of noise?

10 A .45, I don't -- I don't even know what, you know,
11 kind of gun he had.

12 Q You don't know what kind of gun he shot.

13 A Yes. Exactly.

14 Q And the first shot came from the inside.

15 A Uh-huh. Yes, sir.

16 Q And the next shot you can remember was going through
17 the window?

18 A Coming from outside. Uh-huh.

19 Q And did the second man out, did he carry anything in
20 his hands?

21 A No, sir.

22 Q You saw his face.

23 A I didn't see his face.

24 Q You didn't see the second man's face either?

25 A No, sir.

1 Q And the office is across the parking lot from your
2 place; is that right?

3 A It's right -- right here where the judge bench is.

4 Q Okay.

5 A Apartment's over here where you're standing. The
6 apartment's on this side where I'm at.

7 Q Okay. Is the driveway in between the office and
8 the ---

9 A It's on the side in front of the apartments.

10 Q Okay. Where is the parking for your apartment at?

11 A In front of our apartments. If you're going to come
12 park, you have to park in front of the apartments.

13 Q Okay. Did you see where they drug the officer to
14 after ---

15 A They drug him back that way towards the end of the
16 other side of the apartment.

17 Q Okay. Back past Apartment A.

18 A Uh-huh.

19 Q Were you there when the ambulance come and got the
20 officer?

21 A I was.

22 Q Did you see that?

23 A Yes, sir.

24 Q Okay. And sometime later, they would have come after
25 Mr. Charles to see about him?

1 A I have no idea because they had put me all the way
2 down there by second court in the officer car.

3 Q Okay. They moved you out of there.

4 A Yes, sir.

5 MR. WARDER: Thank you.

6 THE WITNESS: You're welcome.

7 MR. McMASTER: Nothing further, Your Honor.

8 THE COURT: All right. Thank you, ma'am. You may
9 step down.

10 Let me -- come on up for a second, Mr. Warder.

11 (WHEREUPON, a bench conference was held off the record.)

12 THE COURT: Okay. Ladies and gentlemen, I understand
13 that the next witness is going to be quite lengthy, so I
14 think we'll suspend for the evening.

15 Remember what I told you. It's human nature to want
16 to talk about it, human nature to want to go investigate
17 on your own. You can't do that. You gave me your word
18 that you wouldn't do it. So these are rights that belong
19 to each of us, so let's protect them.

20 Y'all have a pleasant night, and see you back at 9:30
21 in the morning. Okay. Ms. Katerina will show you where
22 to go.

23 (WHEREUPON, the jury exits the courtroom at 4:46 p.m.)

24 THE COURT: All right. Anything before we break for
25 the evening?

1 MR. McMASTER: Nothing from the State, Your Honor.

2 THE COURT: Anything?

3 MR. WARDER: No, Your Honor.

4 THE COURT: Okay. All right. See you all at 9:30.

5 (WHEREUPON, proceedings concluded at 4:46 p.m., to be

6 reconvened on Tuesday, September 11, 2018.)

7 (WHEREUPON, Court's Exhibit No. 1 was marked for

8 identification.)

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1 TUESDAY, SEPTEMBER 11, 2018

2 (WHEREUPON, State's Exhibit Numbers 11 through 34 were
3 marked for identification.)

4 (WHEREUPON, proceedings reconvened at 9:48 a.m.)

5 MR. McMASTER: Your Honor, just a couple of
6 housekeeping matters. Mr. Warder and I went over the
7 prior records of the potential witnesses today. I think
8 we've got all those squared away.

9 THE COURT: Okay.

10 MR. McMASTER: Do you agree with what I've shown you?

11 MR. WARDER: I do, Your Honor.

12 THE COURT: Okay.

13 MR. McMASTER: We've also, we have a potential
14 witness that took a polygraph. Obviously, we're not going
15 to put in any of that information. He's in agreement. He
16 understands that as well.

17 THE COURT: Okay.

18 MR. McMASTER: I just want to make that clear before
19 we started.

20 THE COURT: All right.

21 MR. WARDER: I've always understood it to be
22 inadmissible.

23 THE COURT: It is. It's inadmissible.

24 So you want us to continue to go forward.

25 DEFENDANT HUNTER: (Nods head affirmatively.)

1 THE COURT: Okay. He nodded yes. Okay. That's all
2 I need to see.

3 All right. We're ready.

4 MR. McMASTER: We're ready to proceed, Your Honor.

5 MR. WARDER: I haven't asked him that question. I
6 didn't think that it was applicable. Let me ask.

7 (Pause in proceeding.)

8 MR. WARDER: Yes, sir. That's correct.

9 THE COURT: Yeah. Okay.

10 All right. Let's get the jury.

11 (WHEREUPON, the jury entered the courtroom at 9:53 a.m.)

12 THE COURT: All right. Ladies and gentlemen, welcome
13 back. And kind of hard to believe 17 years ago today we
14 had a terrible event, but that has nothing to do with our
15 trial today. But I just thought I'd bring that up.

16 So we're ready to proceed. Mr. McMaster?

17 MR. McMASTER: State's ready, Your Honor.

18 MR. WARDER: Yes, Your Honor.

19 MR. McMASTER: The State calls agent Mike Stanton.

20 THE CLERK: Please place your left hand on the Bible
21 and raise your right hand.

22 WHEREUPON,

23 MICHAEL STANTON

24 After having been duly sworn, testified as follows:

25 THE CLERK: Please take a seat and state your name

1 for the record.

2 THE WITNESS: Special Agent Michael Stanton.

3 DIRECT EXAMINATION

4 BY MR. McMASTER:

5 Q And Agent Stanton, who do you work for at this time?

6 A I work for the United States Drug Enforcement
7 Administration.

8 Q Is that commonly called the DEA?

9 A It is.

10 Q And where are you stationed?

11 A Stationed at the Macon resident office.

12 Q Back in December of 2015, were you working for the
13 Sheriff's Office?

14 A Yes.

15 Q And how long and in what capacity were you working
16 there?

17 A At that time, I'd been at the Sheriff's Office for
18 roughly -- I believe it was four years, four and a half
19 years, and I was assigned to the Criminal Investigations
20 Division as an investigator within the Armed Robbery Unit.

21 Q And your duties as an investigator in the Armed
22 Robbery Unit, can you tell me a little bit about that?

23 A I was assigned to a unit, and I was responsible for
24 the investigation of armed robbery and other violent
25 offenses as they were reported to the Sheriff's Office.

1 Q And there were other members of that unit as well?

2 A That is correct.

3 Q And we want to take you back to December the 10th of
4 '15, and I want to talk about your duties, your initial
5 duties that night. Can you go into those duties for the
6 jury, please.

7 A In addition to my primary role as an armed robbery
8 investigator, I was also assigned a secondary role on the
9 Greenville County Sheriff's Office SWAT team. SWAT stands
10 for Special Weapons and Tactics. The SWAT team, as I
11 said, it's a part-time duty. We respond to calls on an
12 as-needed basis.

13 In addition to being on call for a robbery
14 investigation that week, I'm always on call for SWAT
15 activity.

16 Q Did you get a SWAT callout on that night?

17 A Yes. The morning of the 10th, I received a
18 notification that there was a SWAT call.

19 Q And what were your duties at that point once you
20 received that SWAT call? What are you to do?

21 A You're -- my duties were to immediately respond to
22 our service center which houses our specialty vehicles.
23 In this case, it's an armored vehicle. When I respond
24 there, I get the vehicle, I ready the vehicle, I ready my
25 equipment and armor, and then I will respond with that

1 armored vehicle to a predetermined location.

2 Q Do you know roughly what time the 9-1-1 call in this
3 case was placed and roughly what time you responded out?

4 A I believe the 9-1-1 call came in at 1:02 a.m.

5 Q Do you know what time, roughly, you got the call to
6 ready SWAT?

7 A I'm not sure exactly. I would say in the
8 neighborhood of 1:20 to 1:30.

9 Q And you proceeded directly to the service center at
10 that point?

11 A That's correct.

12 Q And readied the armored personnel carrier there?

13 A We call it the Bear.

14 Q The Bear?

15 A The Bear, yes.

16 Q And did you have a location that you were then given
17 that SWAT would be staging?

18 A Yes. The staging location was Taylors First Baptist
19 Church.

20 Q And what are you doing at -- and tell the jury about
21 why are you going to a staging location, what are you
22 doing there, who's in command, those type of things.

23 A Sure. So a SWAT situation is high-risk incident.

24 It's an incident that requires a special response, and it
25 requires special equipment and special training. That's

1 where we come in. We have -- we are equipped with items
2 that the average deputy doesn't have in terms of body
3 armor, weapons, other technology.

4 So when we respond to a staging area, it is close to
5 the incident area, but it's far enough away that when
6 deputies respond in their patrol cars, they can put their
7 gear on. It's safe, it's a controlled area close enough
8 to the incident that we're in the immediate area, but far
9 enough away that we're not in any immediate danger as
10 we're getting prepared.

11 Q And is this a fairly quick process? Is this
12 something that you practice many times to get ready and
13 get prepared to go in and use your SWAT training? And
14 talk about your duties there.

15 A We practice it many times. We train twice a month.

16 Callouts, the numbers vary. But as much as we train,
17 this process takes time.

18 So you have deputies, approximately 24 that are
19 coming from all areas of not only Greenville county, but
20 neighboring counties, so it takes a period of time once
21 you get the call. And, again, at 1:00 in the morning, you
22 have to get out of bed, you have to get dressed, you have
23 to get your car and you have to drive to the staging
24 location.

25 Once you're at the location, you have to dress in

1 your SWAT gear at that point, and then you have to be
2 ready, you have to do a brief, and you're ready for
3 deployment.

4 So while it is semi-streamlined because we do it so
5 often, it's still -- it takes a period of time. It's
6 not -- it's not a five-minute thing, it's not a ten-minute
7 thing.

8 Q Did you know what you were responding to at that
9 point?

10 A When you get the initial call or text, there's
11 usually a little bit of information about what's going on.
12 This night when I received a text, it said that there was
13 an officer shot and we were to stage at a location.

14 Q And were you staging at -- you said Taylors First
15 Baptist Church, I believe, or the Baptist church in
16 Taylors?

17 A The final staging location was Taylors First Baptist
18 Church.

19 Q And then did you move to [REDACTED] community or
20 Oak View apartments?

21 A Yes. So once the -- once I arrived in the armored
22 vehicle, I meet with other members of the SWAT team. And
23 then whoever is ready at that point, we would load them
24 into the armored vehicle. And then we would drive from
25 the staging location to the actual incident location, and

1 we would begin the, quote, unquote SWAT response.

2 Q When you started the SWAT response to an individual
3 in an apartment, tell me what you're looking for, what
4 you're doing at that point.

5 A So this incident would be what we call a barricaded
6 individual. A barricaded individual is generally somebody
7 who is inside of a structure and they're unwilling to come
8 out, and then there is some circumstance that makes it
9 unreasonable for police to go inside without placing
10 themselves in imminent risk of death or serious bodily
11 injury. That would be what was consistent with this
12 incident. So we knew there was an individual inside who
13 had fired at deputies, struck a deputy in the head with
14 his gunfire, and he was unwilling to come out and
15 surrender and be apprehended.

16 Q And at this point, you know who this person is.

17 A We do not. There was ---

18 Q There's not a positive ID at that point.

19 A Correct.

20 Q And, in fact, are you also concerned that there could
21 be additional individuals in that apartment outside of the
22 barricaded suspect?

23 A Absolutely. These incidents are very fluid.
24 Information can be not easily disseminated between the
25 parties.

1 So mind you, when the deputies responded to the time
2 when the gunfire exchange is maybe a matter of maybe a
3 minute or two, for them to be under fire and pull a deputy
4 who has been struck away from the structure and then be
5 able to disseminate information accurately and quickly,
6 that's not an easy process. And then for that information
7 to go through multiple people until it gets to SWAT
8 leadership and then disseminates back down the chain to
9 us, it's a difficult process. So you're going off the
10 best information you have at the time, unfortunately, not
11 what hindsight would be.

12 Q And did you -- I mean, were callouts made to 16-B
13 apartment here in [REDACTED]?

14 A Callouts are a standard process when you arrive on
15 scene or during the process to get whoever is inside not
16 only to know your presence, but to get them to come out
17 and surrender peacefully.

18 Q And we've got blue lights everywhere at this point.
19 I mean, this is a big scene at this time. There's no
20 doubt the police presence are out there.

21 A Absolutely.

22 Q And once you get to the scene, in the Bear -- you
23 take the Bear armed vehicle there, at that point in time,
24 is there a plan or a course of action that the SWAT team
25 comes up with to try to figure out what is going on in

1 that apartment?

2 A Yes. So as I previously stated, this Bear, it's a
3 large armored vehicle that we can fit people in, and the
4 purpose of that vehicles is we can take it and we can put
5 it right up next to that apartment closer than anybody can
6 get in a patrol car as an individual because it has
7 ballistic properties, meaning if you shoot the Bear with a
8 standard array of weapons, it's going to prevent the
9 projectiles from piercing it.

10 So what we'll do is we'll take that Bear, the armored
11 vehicle, and we'll get close to the apartment. And then
12 we'll attempt to look in the apartment, see what we can
13 see, try to make communication with the individuals, and
14 we'll try to get the best idea of what is occurring inside
15 of that -- at this point, the apartment as reasonably
16 possible.

17 Q You said this is a fluid situation, obviously, and
18 you've indicated there are priorities as an investigator,
19 an officer, certainly as a SWAT officer of how you treat
20 different individuals such as suspects versus victims
21 versus deputies. Would you go into that with the jury and
22 tell them a little bit about that, the word "priority"?

23 A We call this the priorities of life. It's an
24 ingrained philosophy into our training. And it's kind of
25 a hierarchy. And in that priority of life, the highest

1 priority of life is a victim. Behind the victim comes
2 police officers, and behind the police officers becomes
3 suspects.

4 So what that means is if there is an ability to save
5 an innocent person's life, even if putting your life in
6 peril as a police officer, you're going to take that risk
7 even at your own -- the risk of your own life. Now, if
8 you're risking your life for a suspect, you're not going
9 to do that because it's not reasonable that you would risk
10 a police officer's life or an innocent person's life for a
11 suspect's life.

12 At this point, the individual in the apartment,
13 because he had fired on police officers and struck one in
14 the head, was viewed now as a suspect. We didn't know who
15 was inside. All we knew is that gunfire had been
16 exchanged, striking a deputy, so we had to reasonably
17 treat him as a suspect.

18 So this idea of just rushing in and potentially
19 having other deputies be shot or killed for an unknown
20 situation, that's not -- that's not risk management.
21 That's not -- that would not be consistent with the idea
22 of a specialized specially trained unit.

23 Q And when you arrived there -- assume you have access
24 to the 9-1-1 information as it came into the call center,
25 is that correct, the SWAT commanders do?

1 A Yes.

2 Q And do you know if the individual that was actually
3 in that apartment, do you know the resident, Mr. Rosemond,
4 could he have left that apartment?

5 A Absolutely.

6 Q So you have no idea who is in there.

7 A Correct.

8 Q Was there a plan formulated of how to check inside
9 the apartment?

10 A Yes.

11 So one of the abilities of SWAT is we have equipment
12 available to us that the average deputy doesn't have. In
13 this case, we have what's called a Remington eyeball.
14 What the eyeball is is a small camera, and it's a little
15 -- it's a sphere, it's cylindrical, looks exactly like a
16 ball, and you can toss it into a structure. And it will
17 land camera up, and then you can rotate the camera and
18 have a 360 view remotely of what you're seeing. So you
19 can throw this camera really as far as you can toss a
20 baseball, and then from a safe area, you can have remote
21 -- ability to remotely view what's inside of this
22 structure.

23 Q Did someone from your team throw that item into the
24 door of 16-B?

25 A Yes, sir.

1 Q What were your duties with the Remington eyeball? Is
2 that what it's called?

3 A Yes, sir.

4 Q An eyeball. And can you tell me what your duties
5 were with the eyeball? What were you to do?

6 A When Lieutenant McConnell threw the eyeball in, I had
7 the video pack and was able to pan the camera and view
8 what was inside the structure. As I panned the camera and
9 I'm getting a 360 view of this living room, I see a pair
10 of legs that are laying on the ground. As I'm seeing
11 this, I'm communicating what I'm seeing to the other
12 deputy, the other SWAT deputies who were standing with me.

13 Q Based on that information, was another plan
14 formulated to then enter the apartment?

15 A Yes, it was.

16 Q And did SWAT enter the apartment?

17 A They did.

18 Q And do you know what they found when they entered the
19 apartment?

20 A The deceased body of Mr. Rosemond.

21 Q Did they find anyone else in the apartment?

22 A No, sir.

23 Q After Mr. Rosemond is found in the apartment, you
24 said he's deceased at that time.

25 A Yes, sir.

1 Q What were your duties at that point? What do you do
2 next?

3 A The investigation was still ongoing. We were still
4 looking for the outstanding individuals who had fled the
5 scene. A K-9 track with the SWAT team, a high-risk K-9
6 track was conducted.

7 So during that time, we stayed on the scene along
8 with our equipment, and then once all that was completed,
9 the K-9 and SWAT team, that track did not find or
10 apprehend anybody. We do a team debriefing. We talk
11 about what happened, what we saw, what we did, what
12 worked, what didn't work, what we could do better next
13 time, and then the tactical commander will release us from
14 the scene.

15 Q I'm going to show you a diagram that's been
16 previously marked as State's Exhibit 2. Can you identify
17 that for us?

18 A That is an aerial view of [REDACTED] Road Extension.

19 Q And has it got a specific highlight on it?

20 A It does. It has a marking for Apartment 16-B.

21 Q And that is the apartment that you threw the eyeball
22 in?

23 A That was the apartment the eyeball was thrown in.
24 Yes, sir.

25 Q All right. Lieutenant McConnell I think you said

1 actually threw it in.

2 A Yes, sir.

3 MR. McMASTER: Get this. I'm going to have you step
4 down in a minute.

5 And at this time, the State would like to introduce
6 what has been marked as State's Exhibit 2.

7 MR. WARDER: No objection, Your Honor.

8 THE COURT: Okay.

9 (WHEREUPON, State's Exhibit Number 2 was admitted into
10 evidence.)

11 MR. McMASTER: Thank you.

12 BY MR. McMASTER:

13 Q All right. So, we're going to pick back up. I think
14 you indicated that SWAT was over, and there was a
15 debriefing at that point done by SWAT. And after you do
16 that, do you return your vehicle to the service center?

17 A That's correct. The Bear is returned to the service
18 center, it's refueled and it's basically ready for the
19 next callout or operation.

20 Q And at that point in time, did you also -- were you
21 contacted about preparing any type of search warrants?

22 A Yes. As I stated earlier, in addition to my duties
23 as SWAT that particular week, I was the on-call
24 investigator for the Armed Robbery Unit. So I returned to
25 the Law Enforcement Center where I was contacted and asked

1 to obtain two search warrants for the incident locations.

2 Q All right. And did you do that?

3 A I did.

4 Q All right. Were those executed by other members of
5 the CID unit, Criminal Investigative Unit?

6 A They were.

7 Q All right. Let's go toward 12/11 of '15. At that
8 point in time, are you contacted about this specific armed
9 robbery and burglary portion of this case?

10 A Yes. As -- when -- when this situation occurred --
11 an officer-involved shooting occurred, as you previously
12 heard -- it's standard protocol for an officer-involved
13 shooting to be investigated by the South Carolina Law
14 Enforcement Division, or SLED, and then our CID Homicide
15 Division was also investigating the shooting death of
16 Mr. Rosemond.

17 As the information became more readily apparent, it
18 became clear that a robbery, an armed robbery precipitated
19 the officer-involved shooting and basically set in motion
20 a chain of events which caused not only the
21 officer-involved shooting to happen ---

22 MR. WARDER: Objection to the officer's testimony as
23 to what caused the events of other individuals.

24 THE COURT: Ask the question again.

25 MR. McMASTER: I asked him about what his duties were

1 when he -- and why he was taking -- set forth on the armed
2 robbery burglary portion of his duties, how he got
3 involved in that.

4 THE COURT: Okay. Go ahead.

5 BY MR. McMASTER:

6 Q Okay. Let's go back over that, kind of start back
7 where you were. You were talking about there were
8 different types of investigations. Yours was the
9 burglary, armed robbery portion of the investigation. Can
10 you go back over that?

11 A Correct. As those other two investigations
12 progressed, it became clear there was an armed robbery
13 that occurred on the night of the 10th in the apartment of
14 Mr. Rosemond.

15 At that point, Sergeant Weiner, who is a sergeant
16 over the Armed Robbery Unit, contacted me and advised me
17 to make an incident report, and that I would be the lead
18 investigator on the armed robbery -- or I became the lead
19 investigator on the armed robbery portion of this
20 incident.

21 Q And tell the jury about what does that mean, your
22 duties as the lead investigator. What does that mean?
23 What are you doing?

24 A As the lead investigator, I coordinate all aspects of
25 the investigation. Basically, the buck stops with me.

1 I'm responsible for the outcome of the case, whether it's
2 solved or administratively closed, and then just for
3 utilizing manpower and resources for a clearance of some
4 sort.

5 Q You said there were several other investigations
6 going on. Were you working with other investigators in
7 your unit on these cases?

8 A I was. I worked with Investigator Fortner, who is a
9 homicide investigator, and he's also my partner during the
10 call week, and I also worked with Investigator Picone, who
11 was crosstraining in the Homicide Unit, and then I also
12 was working with members of the South Carolina Law
13 Enforcement Division, or SLED, as they were working their
14 aspect of the investigation.

15 Q And as you said, their aspect of the investigation
16 deals with the officer-involved shooting portion of the --
17 where the -- excuse me, the shooting death of
18 Mr. Rosemond. Is that what SLED does?

19 A SLED was specifically responsible for the
20 officer-involved shooting portion.

21 Q Thank you.

22 And how did you begin your investigation? Tell the
23 jury the steps you took. How do you begin an
24 investigation like this? What do you do?

25 A So this investigation was a little atypical in how it

1 came around as what typically happens is an individual
2 will file a report for an armed robbery, generally a
3 victim. Uniform Patrol will take the report. It will be
4 forwarded to the Criminal Investigations Division or Armed
5 Robbery, and then I will obtain the report and then begin
6 the investigation.

7 At this point, obviously, some things had happened up
8 to that point, and there was some information that I did
9 not have. So my first step was to meet with Investigator
10 Fortner and the other members of the Homicide Unit who had
11 been working, and then we basically deconflicted all of
12 our information, and they told me what they had up to that
13 point.

14 Q And is that standard operating procedure for an
15 investigation like that? Is that what you would do, to
16 speak with other investigators that have pertinent
17 information to this case?

18 A Absolutely.

19 Q And do you start, at that point in time, gathering
20 information on any potential witnesses? Do you do that as
21 well?

22 A Yes, I would.

23 Q And did you do that in this case?

24 A Yes.

25 And in this case, it was interesting. When I

1 initially met with Investigator Fortner, we found that
2 there were several tips coming in about who may be
3 responsible for this incident, which was it's a little odd
4 not only in a robbery investigation where we haven't
5 published anything to the media via Crimestoppers or
6 Facebook or anything like that, but also just given the
7 characteristics of the community where this robbery
8 happened at.

9 Q And tell them a little bit about that. You worked
10 armed robberies, I'm assuming, in that community before.
11 Is that a very open community to wanting to speak to
12 police and dealing with the police?

13 A I've worked numerous incidents in the [REDACTED] Road
14 community, and it is difficult to find individuals who are
15 willing to cooperate due to the various factors that are
16 at play out there, so it's a difficult community to make
17 partnerships with and to work to solve crime.

18 Q Was it difficult to find individuals that had
19 firsthand knowledge of what went on that night?

20 A It's very difficult. There's a lot of hearsay or
21 third-party information kind of like the telephone game.
22 So somebody would call in with information, and when we'd
23 call back, we'd find, well, they heard from somebody who
24 heard from somebody, and they didn't directly witness it.

25 Q So you have to eliminate all that information when

1 you're starting an investigation like that?

2 A Correct. You have to clear out any lead which comes
3 in and find if it's credible and it can provide valuable
4 information, or if it's, again, hearsay or something that
5 we can't use.

6 Q And did you have to do that numerous times in a case
7 like this?

8 A Yes, sir.

9 Q Not a case like this. Let me rephrase that. In this
10 particular case.

11 A Yes, sir. I did.

12 Q And when you did that, were you still able to
13 generate some suspects for this case?

14 A Yes. One thing that was interesting was the name, if
15 I may refer to my notes.

16 Q Sure. If you need to refresh your recollection.

17 A (Reviews document) The name Dre was coming up in some
18 of these tips.

19 Q Did you know who Dre was at that point? Any idea?

20 A I did not.

21 Q And did you have some information about other
22 individuals, had some other -- I'm going to say street
23 names and if you knew their proper name, did you get some
24 other information like that as well?

25 A Another interesting thing happened. Rosamae Nesbitt,

1 who was the 9-1-1 caller, she talked to her son who was in
2 the hospital at that point. And when she described who
3 she believed ---

4 MR. WARDER: Objection.

5 THE COURT: Yeah. You can't talk about hearsay.

6 BY MR. McMASTER:

7 Q Based on what information that you -- based on the
8 information that you gathered, did you have a chance to
9 look for or look into other potential suspects?

10 A Yes, I did.

11 Q Do you remember their names? Or -- and if you don't
12 have their proper name, what their street name was at that
13 point.

14 A The nickname was T-Money.

15 Q T-Money.

16 And did you investigate this individual named
17 T-Money?

18 A Another deputy actually knew who T-Money was and was
19 able to facilitate an interview between the investigators
20 and T-Money.

21 Q Is there a community deputy that works in that [REDACTED]
[REDACTED]/Oak View area?

23 A He's not a community deputy, but he works out there
24 as a side job, and he's been there for some period of
25 time.

1 Q So he knows the names, the nicknames and so forth?

2 A He does. He's very in touch.

3 Q Were you able to develop -- or were you able to find
4 out what the name T-Money, who that was? Were you able to
5 figure out who that was?

6 A Yes. It was Tivarius Glenn.

7 Q All right. And at that point in time, you think it's
8 an individual named Tivarius Glenn at that point.

9 A Correct.

10 Q Did you have another name that kept coming up at that
11 point?

12 A The other name was the Dre name that came up.

13 Q The Dre. Okay.

14 And tell us some other things that you did in this
15 investigation. You've gotten some names and you
16 interviewed some people. You interviewed some potential
17 witnesses and weeded through some information. What did
18 you do after that?

19 A So Investigator Fortner and I went out to the
20 incident location, and we took a look around, we spoke to
21 the apartment manager, we started collecting information
22 on -- we have a lot of the nicknames, so giving her
23 nicknames, seeing if we can get the actual legitimate
24 government name, what apartments they're associated with.
25 And then we went out there and we interviewed T-Money or

1 Tivarius Glenn, actually, out at the complex. And he
2 brought another individual with him who's a friend, and
3 we interviewed him as well. Jamarius Smith was his
4 name.

5 Q Were you able to generate any more leads based on
6 those conversations?

7 A When we interviewed both those individuals, we found
8 that there was a party at an individual by the name of
9 Vicki O'Neal, and this -- the reason for the party was it
10 was T-Money's birthday. So they had this party, and we
11 compiled a guest list of individuals who were involved,
12 and we also, again, were given the name of Dre during this
13 time.

14 Q And did you learn -- well, we'll come to that in a
15 minute.

16 Let's talk about I'm going to back you up a minute
17 before we get to the party. Did you look at some phone
18 records in your case?

19 A I did.

20 Q And did you make some phone calls as part of your
21 investigation? Did you make some reverse phone calls on
22 some numbers?

23 A I did.

24 Q And were any of those numbers on Mr. Rosemond's
25 phone?

1 A Yes. I obtained a search warrant. Mr. Rosemond, in
2 his apartment he had a cell phone. I obtained a search
3 warrant for his cell phone to look through his call
4 records. As previously stated, he sold liquor and some
5 other items, so as a robbery investigator, I was curious
6 as to whether there was a phone call that precipitated the
7 robbery, a setup phone call, so to speak. So that was the
8 idea of getting the search warrant on his cell phone.

9 And when we got the search warrant on the cell phone,
10 we found he had an incoming call at 1:12 a.m. And this
11 would have been significant because 1:12 a.m. would have
12 been between the armed robbery occurring and the Sheriff's
13 Office arriving.

14 Q And so you were looking for phone calls that happened
15 before the robbery, but you really didn't come up with
16 that. You came up with a phone call that happened after
17 the robbery?

18 A Well, we also came up with a phone call that happened
19 right before the robbery as well.

20 Q But the phone call after the robbery, tell me
21 specifically about the phone call after the robbery. Did
22 you -- obviously, did you call that number?

23 A We did.

24 Q Did you get someone on the phone at that time?

25 A I did.

1 Q Who did you get on the phone at that time?

2 A I believe his name was Vince Hawkins. I identified
3 myself, I told him why I was calling, asked him what the
4 purpose of his call to Mr. Rosemond was. And he told me
5 that he was calling ---

6 MR. WARDER: Objection.

7 THE COURT: Yeah. You can't talk about what they
8 said.

9 BY MR. McMASTER:

10 Q Based on your conversation -- let me rephrase it
11 then. Based on your conversation with Mr. Hawkins, did
12 you then set up an interview with Mr. Hawkins?

13 A I did.

14 Q And did you go to his -- where did you go for the
15 interview?

16 A For the interview, we went to his place of work which
17 was Bikas Drive-in on Wade Hampton.

18 Q And at that point in time when you had that interview
19 with him, did you learn any other information or any other
20 names? Based on that interview, did you go interview
21 someone else?

22 A I did.

23 Q Who did you interview at that point in time?

24 A Eric Garrison.

25 Q Were you, at that point, interviewing him as a

1 potential victim in this case?

2 A I was.

3 Q And how did you -- did you find out what -- did you
4 find out where Mr. Garrison lived?

5 A Yes.

6 Q And did you find out his nickname as well?

7 A Yes. His nickname is Gator, and he lives at
8 [REDACTED] Road.

9 Q Did he live there with Mr. Hawkins?

10 A He did.

11 Q And when you went and interviewed him, you
12 interviewed him in [REDACTED] Road?

13 A Yes, sir.

14 Q Did you, at that point in time, establish him as a
15 victim?

16 A I did.

17 Q Did you move your interview from [REDACTED] Road, did
18 you move that to the Law Enforcement Center at some point?

19 A We did.

20 Q Do you know how far [REDACTED] Road where
21 Mr. Garrison and Mr. Hawkins live, do you know how far
22 that is, roughly, from 16-B, Apartment 16-B?

23 A Yes, sir.

24 Q How far is that?

25 A It is approximately .2 miles if you take the streets,

1 not the cut.

2 Q Okay. Could you agree that it would probably be
3 around a one- to two-minute walk if you're running through
4 the cut?

5 A I would agree with that.

6 Q Now, you confirmed that he was -- Mr. Garrison -- or
7 you established that Mr. Garrison was a victim. Can you
8 tell us about how you established that? Did you conduct
9 interviews?

10 A I conducted interviews with him.

11 Q And at that point in time, did you -- when you were
12 at the Law Enforcement Center, did you have -- well, let
13 me show you something. During this interview with
14 Mr. Garrison, at that time, who was present during that
15 interview?

16 A Investigator Fortner and Investigator Picone. I
17 don't know if they were all -- they were there and able to
18 watch it either remotely or in the room.

19 Q Okay. When you say "remotely," there's a camera
20 outside that you can watch?

21 A There's a monitor, correct. Yes.

22 Q Monitor.

23 And during that interview process, do you ask him
24 questions about the incident?

25 A Yes, sir.

1 Q And based on those questions that you asked him, did
2 you feel that you wanted to test his story?

3 A Yes, sir.

4 Q Is that a common interview tactic?

5 A It is. Yes, sir.

6 Q And tell me about that tactic. What do you kind of
7 call that when you're interviewing a potential witness,
8 and why do you use that interview tactic when you
9 interview a potential witness?

10 A The most common name associated with it is good
11 cop/bad cop. It's not exactly what it is. Basically,
12 what it boils down to is different investigators not only
13 have different styles, but they have different rapport
14 with the individual. Some investigators are better
15 talkers and are better able to establish a relationship.
16 So the ability to -- we hand off the ability to talk to
17 that individual to an investigator and see if their style
18 would be more appropriate.

19 Q Did you find out -- during that -- I mean, the good
20 cop/bad cop kind of idea of that, is that where your --
21 you really want to test the strength of their story? Is
22 that what you're doing?

23 A Absolutely.

24 Q And did you do that in this case?

25 A We did.

1 Q When you were -- did you find out a little bit about
2 Eric Garrison, or Gator? Did you find out a little bit
3 about him? Did you find out any information about what he
4 does in the community?

5 A Yes, sir. I did.

6 Q What did you find out?

7 MR. WARDER: Objection.

8 THE COURT: Well, based on what?

9 MR. WARDER: It's hearsay. What he found out he did
10 in the community on the basis of his interview is hearsay.

11 THE COURT: No. He can testify to what he did as a
12 result of the knowledge he gained as the chief
13 investigating officer in the case.

14 Okay. Go ahead.

15 BY MR. McMASTER:

16 Q Go ahead and proceed with your answer.

17 A Mr. Garrison would do odd jobs throughout the
18 community in exchange for money: taking out trash.
19 Really, whatever -- whatever he could do.

20 Q And did you find -- were you able to verify whether
21 he was allowed at the [REDACTED] community?

22 A No. Mr. Garrison is on trespass notice from the
23 [REDACTED] community.

24 Q And did that appear to be a big factor in your
25 interview with Mr. Garrison?

1 A I believe it did.

2 Q Did he appear, at that point in time, to be nervous
3 at all during the interview?

4 A He did.

5 Q Was he able -- or were you able to generate -- based
6 on your interview with him, were you able to generate a
7 suspect or get a more concrete suspect in this case?

8 A I was.

9 Q And did you talk to him about what the suspect said
10 to him?

11 A Yes.

12 Q Were you able to -- did he know who the suspect was?

13 A In terms of?

14 Q Like saw him face-to-face.

15 A He had seen the suspect that evening. Yes, sir.

16 Q But had he seen him in Mr. Rosemond's apartment?

17 A Could you rephrase the question?

18 Q Was he able to give you a visual description of the
19 suspect in Mr. Rosemond's apartment?

20 A No.

21 Q And what was that -- why was that?

22 A The individual who came in the apartment was wearing
23 a ski mask.

24 Q Did you, at that point in time, try to get -- did you
25 talk to him about trying to describe the suspect?

1 A Yes.

2 Q And did you ask him about certain voice
3 characteristics of the suspect?

4 A That was discussed.

5 Q And did you get potential names of the suspect?

6 A Yes, I did.

7 Q Do you know what those names are? Or do you have
8 those names?

9 A May I refer to my notes?

10 Q Sure, if you don't remember.

11 A There were several iterations of the same. Mr. --
12 Derek or Dre or something.

13 Q All right. But -- so you didn't have a specific --
14 you did not have a specific name.

15 A Correct.

16 Q Did you have a specific location?

17 A I did.

18 Q What location did you have?

19 A 6-C.

20 Q 6-C. Is that in the [REDACTED] community?

21 A It is.

22 Q And if you were describing where 6-C is, would it be
23 fair to say that it -- is it through the cut? Is it
24 through that area?

25 A It would be on the route from Mr. Rosemond's.

1 apartment to Gator's house.

2 Q And 6-C, did you figure out who lived at 6-C?

3 A I did.

4 Q Did you find out what the relationship was with --
5 well, let me back up. At any point, did you show
6 Mr. Garrison a picture?

7 A I did.

8 Q And did you give him any potential names or anything
9 of who you thought the individual Dre or I think you said
10 Derek would be?

11 A I don't recall giving him the names.

12 Q And would it be common for you to give him the name
13 if you're trying to figure out who it is?

14 A No, sir.

15 Q And at this time, was he able to identify who he
16 thought that voice or name belonged to?

17 A He was.

18 Q And who was that?

19 A The individual in the picture I showed him.

20 Q And who was that individual?

21 A Aundra Hunter.

22 Q Was he also able to identify where Aundra Hunter was
23 living or he thought he was living?

24 A The apartment of 6-C.

25 Q And whose address is 6-C? Do you know who lived

1 there?

2 A Shaquanna Atkins.

3 Q And was Mr. Garrison able to identify Shaquanna
4 Atkins?

5 A He was.

6 Q In fact, I'm going to show you what's been marked as
7 State's Exhibit 7. Can you identify what that document
8 is?

9 A This is a South Carolina driver's license record of
10 Shaquanna Atkins. It shows her information along with her
11 picture.

12 Q And you disregard -- were you showing him the -- were
13 you showing him the picture -- let me rephrase it. Were
14 you showing him the picture to try to identify who
15 Ms. Atkins was?

16 A To identify if that was the individual he was talking
17 about.

18 Q Did you do that?

19 A I did.

20 Q And did he sign that document?

21 A He did.

22 Q And you provided that document to him?

23 A I did.

24 MR. McMASTER: The State would, at this point, move
25 in State's Exhibit 7.

1 THE COURT: Has he seen it?

2 MR. McMASTER: Yes. I passed it to him.

3 THE COURT: Any objection?

4 MR. WARDER: No, Your Honor.

5 THE COURT: Okay.

6 (WHEREUPON, State's Exhibit Number 7 was admitted into
7 evidence.)

8 BY MR. McMASTER:

9 Q Now, on State's Exhibit Number 7 that has been
10 entered into evidence, you see that it has a different
11 address, initial address for Ms. Atkins on there. Do you
12 see that?

13 A I do.

14 Q And were you able to establish that that was not her
15 current address?

16 A I was.

17 Q And you indicated that it was 6-C in the [REDACTED]
18 community?

19 A Yes, sir.

20 Q After asking him numerous questions and you said, I
21 think in your words, being hard on him, during the
22 interview process, did you -- what was your -- what did
23 you at that point do? Did you feel that you had developed
24 a suspect at that point?

25 A Yes.

1 Q And that suspect?

2 A Aundra Hunter.

3 Q All right. Were you able to establish that Aundra
4 Hunter also had the name Dre in the community?

5 A Yes, I was.

6 Q Were you also able to establish through leads and
7 sources the 6-C address was a common address that was
8 used?

9 MR. WARDER: Your Honor, I object to this as these
10 are all hearsay answers in the sense that -- and going
11 about it did you establish it. It's still hearsay.

12 THE COURT: He is the chief case officer; is that
13 correct?

14 MR. McMASTER: Yes. He's the lead investigator on
15 the armed robbery portion.

16 THE COURT: So I'm going to overrule your objection.
17 Thank you.

18 BY MR. McMASTER:

19 Q All right. Going back, again, were you able to
20 establish from other sources the 6-C address as a
21 potential address for Aundra Hunter?

22 A Yes, I was.

23 Q The individual that's known as Dre?

24 A Yes, sir.

25 Q Based on these further conversations with Eric

1 Garrison, you indicated you established him as a victim?

2 A Yes, sir.

3 Q Were you able to establish that he was present during
4 the armed robbery?

5 A Yes, sir.

6 Q Were you able to establish that he was in direct
7 contact with the armed robber?

8 A Yes, sir.

9 MR. WARDER: Objection. Leading, Your Honor. He
10 just asked questions and the officer says "yes."

11 THE COURT: Okay. Just who, what, when, where and
12 why.

13 MR. McMASTER: Yes, sir.

14 BY MR. McMASTER:

15 Q All right. Let's move on. Let's move on to
16 something else. Let's talk about 6-C. Did you get a
17 search warrant for 6-C?

18 A Yes, sir. I did.

19 Q All right. When you went to 6-C, obviously, that --
20 I think we establish that's that Shaquanna Atkins's
21 apartment.

22 A Yes, sir.

23 Q All right. You executed the search warrant there?

24 A Yes, sir. We did.

25 Q Were you a part of the team that executed the search

1 warrant?

2 A I was. Yes, sir.

3 Q And were you looking for some specific things based
4 on your conversations of Mr. Garrison when you went into
5 6-C?

6 A Yes, sir. I was.

7 Q Give us some specific things that you were looking
8 for, please.

9 A We would be looking for evidence of the armed
10 robbery: ski mask, hand guns, ammunition. We're looking
11 for anything that might have been stolen in the commission
12 of the armed robbery, and we're also looking for clothing
13 identified that may have been worn by the perpetrators
14 during the armed robbery.

15 Q Did you have one item of clothing in particular that
16 you were looking for?

17 A There was a pair of shoes that we were looking for
18 that we believe were worn during the armed robbery.

19 Q Can you identify what's been marked as State's 30-A
20 and 30-B and 9?

21 A I can.

22 Q And what is that?

23 A That's a pair of black Nike shoes with a red stripe.

24 Q Was that the pair of shoes that you were specifically
25 looking for in the apartment?

1 A Yes, sir. They were.

2 Q And did you take a picture of those shoes or one of
3 those shoes while you were at the apartment?

4 A I did.

5 Q And did you take that picture to Mr. Garrison?

6 A I did.

7 Q Did you present that to him?

8 A I did.

9 Q And at that time, did he identify those shoes?

10 A He did.

11 MR. WARDER: Objection, Your Honor. It's hearsay.

12 MR. McMASTER: He identified the shoes.

13 THE COURT: No. That's overruled. Go ahead.

14 BY MR. McMASTER:

15 Q Did he identify the shoes?

16 A He identified them.

17 Q Did he sign this document?

18 A He did.

19 Q Was that in your presence?

20 A It was.

21 Q Is this an accurate representation of that?

22 A It is.

23 MR. McMASTER: All right. At this point, the State
24 would move -- or ask the Court to move in State's Exhibit
25 Number 9. I've shown it to Mr. Warder.

1 THE COURT: Any objection other than those already
2 stated?

3 MR. WARDER: No, sir.

4 THE COURT: Okay.

5 (WHEREUPON, State's Exhibit Number 9 was admitted into
6 evidence.)

7 MR. McMASTER: And then I would also ask to move in
8 State's Exhibit 30-A and B. I've shown these to
9 Mr. Warder.

10 MR. WARDER: No objection, Your Honor.

11 THE COURT: Okay.

12 (WHEREUPON, State's Exhibit Number 30-A and 30-B were
13 admitted into evidence.)

14 BY MR. McMASTER:

15 Q Were you also able to find some identifying
16 information for Mr. Aundra Hunter in 6-C?

17 A Yes, sir. We did.

18 Q I'm going to show you what's been marked State's
19 Exhibit 34. Can you identify that item for us?

20 A Yes, sir. It's a Social Security card with the name
21 of Aundra Hunter, Junior on it.

22 Q Is this where you took a picture of it?

23 A Yes, sir.

24 Q And is this an accurate representation of what you
25 saw in the apartment?

1 A Yes, sir. It is.

2 Q You found this in the apartment.

3 A In the apartment. Yes, sir.

4 Q In 6-C.

5 A 6-C.

6 MR. McMASTER: At this time, the State would ask the
7 Court to enter into evidence State's Exhibit 34. I've
8 shown it to Mr. Warder.

9 MR. WARDER: Without objection, Your Honor.

10 THE COURT: Okay.

11 (WHEREUPON, State's Exhibit Number 34 was admitted into
12 evidence.)

13 BY MR. McMASTER:

14 Q All right. Now, when you get the -- well, we can
15 skip through that.

16 When you get these type of items, do you put these
17 items in Property and Evidence?

18 A We do.

19 Q That's a secure location?

20 A It is.

21 Q And let's see. Were you able to speak with
22 Ms. Atkins at the service of the search warrant?

23 A I was.

24 Q Were you able to confirm her phone number at that
25 time?

1 A I did.

2 Q And after having these items shown in this picture,
3 which is entered into evidence, and having Mr. Garrison
4 sign that, did you also have buccal swabs done of
5 Mr. Garrison?

6 A Yes, sir. I did.

7 Q And can you tell me why you would do that with a
8 victim -- potential victim in this case?

9 A A buccal swab is how you collect DNA from an
10 individual, and in this case, would collect DNA as an
11 elimination suspect.

12 Q So being a victim, you would need an elimination
13 suspect -- elimination DNA; is that what you're saying?

14 A Yes. Yes, sir.

15 Q All right. After that, after serving the search
16 warrant, did you then move the investigation to Vicki
17 O'Neal's apartment?

18 A Yes, sir. We did.

19 Q Now, you spoke -- you were telling us a little bit
20 about a party there earlier. Can you go back over that
21 and why you would be at Ms. O'Neal's apartment? Tell them
22 about why you would go there.

23 A Well, we found, through the course of the
24 investigation, that there was a party and there were
25 numerous individuals there that night, so we went over to

1 talk to her and interview her as to who was there that
2 evening.

3 Q Did you do that?

4 A We did.

5 Q And did you establish that she had any firsthand
6 knowledge of the burglary and robbery of Mr. Rosemond?

7 A She did.

8 Q And were you given information pertinent to this
9 case?

10 A I was.

11 Q Now, did you go back through the same process of
12 checking the information that she gave you?

13 A Yes, sir. We did.

14 Q And just like you did with Mr. Garrison, Gator.

15 A Yes, sir.

16 Q You did the same thing. You checked her information.

17 A Yes, sir. We corroborate their information.

18 Q Did you find some inconsistencies in her information?

19 A We did.

20 Q And tell us how you -- what you did as part of
21 checking that information.

22 A We spoke with other members of -- who had other parts
23 of -- aspects of the investigation, specifically the
24 Office of Professional Standards within the Sheriff's
25 Office and the South Carolina Law Enforcement Division,

1 and we discussed ballistics with them.

2 Q And were you able to establish whether any media
3 documents had been released in this case?

4 A Yes, sir. There were.

5 Q And did you have a chance to review those media
6 documents?

7 A Not specifically.

8 Q When you say "not specifically," do you know what the
9 media documents that were released were?

10 A Yes, sir. I do.

11 MR. WARDER: Your Honor, I object to this. It's his
12 -- again, we're talking about what's in the documents, and
13 he hasn't even looked at it.

14 MR. McMASTER: He just said he can testify to that.

15 THE COURT: He's the chief investigating officer. He
16 just testified that he looked at the document. Does that
17 satisfy your objection?

18 MR. WARDER: No, sir. I think he can't testify about
19 a document, what it contains and how it pertains to the
20 investigation when he says he never specifically looked at
21 it.

22 MR. McMASTER: I thought he just said he did.

23 THE COURT: Ask him the question.

24 BY MR. McMASTER:

25 Q Did you -- were you able to -- all right. Let's go

1 -- did you go to the Office of Professional Standards?

2 A I did.

3 Q Did you review some documents that had been released
4 to the media?

5 A No.

6 Q Or did you learn of some documents that had been
7 released to the media?

8 A I knew of information that had been released to the
9 media.

10 Q All right. And were you able to -- at that point in
11 time, based on that information, did you go back and
12 reinterview Ms. O'Neal?

13 A We did.

14 Q And did you talk to her about her -- about her
15 statement and what you were looking -- specifically what
16 you were challenging or what you wanted to know?

17 A We did.

18 Q And what did she -- were you able -- based as an
19 investigator, were you able to establish her relationship
20 with the defendant, Aundra Hunter?

21 A Yes, sir. We did.

22 Q And what type of relationship was that?

23 A It was a casual but intimate relationship.

24 Q A sexual relationship?

25 A It was.

1 Q All right. Were you able to determine who was at the
2 party that night?

3 A Yes, sir.

4 Q And, again, did you receive a list of nicknames
5 and/or street names?

6 A Yes, sir.

7 Q And did you start going through those names, street
8 names and nicknames?

9 A Yes, sir.

10 Q And what was Ms. O'Neal's demeanor during this
11 interview? How did she -- how was she acting?

12 A She was visibly distraught.

13 Q Did you have to stop the interview at one point?

14 A We did due to her emotional state.

15 Q Did you let her compose herself?

16 A We did.

17 Q Did you continue the interview?

18 A Yes.

19 Q During the conversation with her, did you review the
20 substance of her cell phone?

21 A I did.

22 Q Did you take a snapshot of that?

23 A I took a photograph. Yes, sir.

24 Q Okay. All right. Why would you take a photograph of
25 that?

1 A In order to document the call log.

2 Q Why would you want to document the call log?

3 A The number in question, (864) 359-9054, it shows two
4 calls on December 10th at 1:33 a.m.

5 Q Why is that important?

6 A Because those are two phone calls to Shaquanna Atkins
7 after the robbery of Mr. Charles Rosemond.

8 Q Did you learn that Mr. Hunter had visited Ms. O'Neal
9 after the robbery and shooting of Mr. Rosemond?

10 A Yes, sir. We did.

11 Q Is that why you were there interviewing her because
12 of that information that you learned there, that he was
13 there?

14 A I don't recall.

15 Q Based on your conversation with Ms. O'Neal, did you,
16 at that point -- did you, at that point, attempt to
17 contact Mr. Hunter to take him into custody?

18 A Yes, sir.

19 Q Did you, in fact, take him into custody?

20 A I did take him into custody. Yes, sir.

21 Q When you took him into custody, what did you do at
22 that point?

23 A The first thing I did was place him in handcuffs, and
24 then we requested permission to search the apartment that
25 he came out of.

1 Q And did you do that?

2 A We did.

3 Q And after you searched the apartment that he came out
4 of, did you, at that point, take Mr. Hunter to the Law
5 Enforcement Center?

6 A Yes, sir. We took him down to the Law Enforcement
7 Center and offered him a chance to be interviewed.

8 Q And did you -- in fact, did he agree to be
9 interviewed?

10 A He did.

11 Q And did you advise him of his Miranda rights?

12 A We did. Yes, sir.

13 Q Did you read those from a specific document?

14 A Yes, sir.

15 Q I'm going to show you what's been previously marked
16 as State's Exhibit 3. Is this interview -- or you tell me
17 when that interview was conducted. Just look at the
18 document.

19 A This interview was conducted on December the 16th,
20 2015 at 4:43 p.m.

21 Q All right. And stop right there. One thing I forgot
22 to do, you took this photograph of her, Mrs. O'Neal's
23 phone ---

24 A Yes, sir.

25 Q --- that you previously identified as State's

1 Exhibit 8?

2 A Yes, sir.

3 Q Is this a true and accurate depiction of that
4 phone log?

5 A It is. Yes, sir.

6 MR. McMASTER: At this time, the State would ask the
7 Court to introduce in State's Exhibit Number 8. I've
8 shown this document to Mr. Warder.

9 MR. WARDER: No objection.

10 THE COURT: Okay.

11 (WHEREUPON, State's Exhibit Number 8 was admitted into
12 evidence.)

13 BY MR. McMASTER:

14 Q All right. Let's go back to this. All right. So
15 you interviewed him on December the 16th, 2015; is that
16 correct?

17 A That is correct.

18 Q All right. At that point in time, did you read him
19 his Miranda warnings?

20 A I read him his rights from this specific form.

21 Q And that's what you -- and you do that to be
22 consistent?

23 A Yes, sir.

24 Q And did you read them verbatim?

25 A I did.

1 Q And was he sitting across from you at this time?

2 A He was.

3 Q Was he in handcuffs at this time?

4 A I don't recall specifically.

5 Q Is it common when someone is brought in that is under
6 arrest to be in handcuffs?

7 A It is common.

8 Q And at that point in time, did you ever withhold any
9 food? water?

10 A No, sir.

11 Q Ability to go to the bathroom? Anything like that
12 with him?

13 A No, sir.

14 Q Did you go through those rights specifically?

15 A Yes, sir.

16 Q And did you go over that form with him specifically?

17 A Yes, sir.

18 Q Do you have a start time and an ending time with that
19 form?

20 A Yes, sir.

21 Q Okay. Is this a true and accurate depiction of that
22 form?

23 A It is.

24 MR. McMASTER: And at this time, the State would ask
25 the Court to introduce in State's Exhibit Number 3. I've

1 shown it to Mr. Warder.

2 MR. WARDER: No objection.

3 THE COURT: Okay.

4 (WHEREUPON, State's Exhibit Number 3 was admitted into
5 evidence.)

6 BY MR. McMASTER:

7 Q All right. Tell me about the interview process.
8 Tell me how that works. Or tell the jury how that works.
9 What do you start with? Do you go over their education,
10 names, things like that?

11 A The interview process, in terms of something like
12 this, would start with this Waiver of Rights. We would
13 advise them of their rights. We'd go through the form.
14 As you go through the form, I read it to them, that they
15 understand, I have them initial next to each line
16 indicating they understand, and at the end of the Waiver
17 of Rights when they waive their rights, there's also
18 information -- biographical information we obtain. In
19 this case, it's their name, address, Social Security
20 number, date of birth, their education, which school they
21 attended and then their phone number.

22 Q Do you establish that the individual can read and
23 write?

24 A Yes, sir.

25 Q And do you establish -- and I think we previously

1 said that you have a starting time. So it tells how long
2 the reading of the rights took? Is that ---

3 A Generally, it would show what time you start writing
4 the form and then when you finish with the advisement of
5 rights and then their information. What time you are done
6 with the form, so to speak.

7 Q And would you read the rights -- and this has already
8 been entered into evidence. Will you read the rights that
9 you read to Mr. Hunter?

10 A Yes, sir. (As read) "Before we ask you any
11 questions, you must understand your rights. You have the
12 right to remain silent. Anything you say can be used
13 against you in court. You have the right to talk to
14 a lawyer for advice before we ask you any questions and to
15 have him with you during questioning. If you have no
16 money to pay a lawyer's fee, the Court will appoint one to
17 represent you without cost, if you wish. If you decide to
18 answer questions now without a lawyer present, you will
19 still have the right to stop answering at any time. You
20 also have the right to stop answering at any time until
21 you talk to a lawyer." That's the advisement of the
22 rights.

23 Next is what's called the Waiver of Rights. And this
24 states ---

25 Q Stop right there. How do you know you read all those

1 to him? How do we know on that form that you read him
2 those rights?

3 A The initials are on a line next to each of those.

4 Q You do that specifically each time you read him one
5 of the rights?

6 A You do at the end.

7 Q At the end? Okay.

8 All right. Go to the next part you were telling me
9 about.

10 A This is the Waiver of Rights, as I stated. (As read)
11 "I have read the statement of my rights and I understand
12 what my rights are. I am willing to make a statement and
13 answer questions. I do not want a lawyer at this time. I
14 understand and know what I am doing. No promises or
15 threats have been made to me."

16 Q And did he sign that form?

17 A He not only initialed, but he also signed.

18 Q He did. And did you sign that form?

19 A I did.

20 Q And did Investigator Fortner sign that form?

21 A He did.

22 Q After that, do you start the interview process?

23 A Yes.

24 Q Now, this interview is at the Law Enforcement Center,
25 you said?

1 A Yes, sir.

2 Q And I think you said earlier that interviews there
3 can be recorded; is that correct?

4 A Yes, sir.

5 Q And it's recorded for audio and video?

6 A Yes, sir.

7 Q Did you do that in this case? Tell me about what
8 happened in this particular case.

9 A The interview rooms, they have a camera in them and
10 then they have a microphone. And so what is supposed to
11 happen is there's supposed to be a live video feed that is
12 contemporaneous with an audio feed like watching a
13 television in real time while also being recorded. After
14 the fact, we found out -- you can -- in a separate room,
15 you can watch this feed coming across, and you can hear
16 the microphone going. Unbeknownst to us, the video feed
17 was recording but the audio fee had been muted. So while
18 in the other room you could hear and see what was
19 happening, only the video was being recorded.

20 Q So is that the reason -- I mean, would you take notes
21 normally during an interview like this?

22 A Yes.

23 Q And did you take notes in this case?

24 A I did.

25 Q And tell me about how the interview would begin and

1 things that you would ask him at that time.

2 A Usually, you would tell him -- you obviously identify
3 yourself. You tell him why you're there. You would give
4 some details, and then you would ask them basically to
5 tell you what happened, give their version of the incident
6 or their recollection of the events.

7 Q Did you give Mr. Hunter that opportunity?

8 A I would have, yes.

9 Q And did you?

10 A I did.

11 Q And did he give you a version of events that night?

12 A He gave me some information.

13 Q And will you share with the -- will you share with
14 the Court what that information was.

15 A He provided the suspect name of Al -- Alfred Capone,
16 or Al.

17 Q Al Capone?

18 A Yes, sir.

19 Q And after getting that information, did you, at that
20 point, pretty much terminate the interview?

21 A No. It went on for -- I believe the interview lasted
22 somewhere around 30 minutes.

23 Q Were you able to get any other pertinent information
24 during that interview?

25 A No. No, sir.

1 Q And you see Mr. Hunter in here today.

2 A I do.

3 Q Did you recognize him in here today?

4 A He looks dramatically different than when he did on
5 the day of the interview.

6 Q Tell me about that.

7 A He's gained a significant amount of weight. I
8 believe his hair is a little bit longer as well.

9 Q Did you know -- do you have an idea of what he
10 weighed in size from obtaining warrants against him? Do
11 you have an idea of what his size and weight were at the
12 time?

13 A I would put him in the neighborhood of maybe 160 at
14 the time of his arrest.

15 Q Height?

16 A Probably 6'2", 6'3".

17 Q All right. And is that uncommon for someone charged
18 with a crime to try to change their appearance?

19 A It is not uncommon for the appearance to change.

20 Q That's something that you've come in contact with
21 before working in robbery investigations or drug
22 investigations with the DEA?

23 A I have seen appearances change significantly.

24 Q Can you tell me a little bit about Mr. Hunter's
25 demeanor during that interview?

1 A What stuck out to me most was when Investigator
2 Fortner was -- who was also present in the interview room
3 with me was speaking to him, I observed that he was taking
4 deep, short breaths. I also observed a vein on his
5 forehead.

6 Q And as far as the -- what did that indicate to you?

7 A That indicates a ---

8 MR. WARDER: Objection to what this -- way this
9 witness's demeanor in the interview room, what it
10 indicates to him.

11 MR. McMASTER: Judge, he testified what he saw from
12 his training and experience.

13 THE COURT: What his state of mind was, this
14 witness's state of mind. Go ahead.

15 BY MR. McMASTER:

16 Q From your training and experience, what did that
17 indicate to you, his -- what you said earlier to the jury.

18 A That would indicate to me deception.

19 Q At that point, did you terminate the interview?

20 A Not specifically at that point, but it was
21 terminated. Yes, sir.

22 Q And after securing the warrants and interviewing
23 Mr. Hunter, at that point in time, what happened with you
24 in regards to this case? Tell me about what happened at
25 that point.

1 A At that point, I was scheduled to go on preapproved
2 leave for Christmas holiday, and so I -- subsequent to
3 that, I took -- I took annual leave.

4 Q And did Mr. -- did Investigator Fortner and Picone
5 continue with the investigation?

6 A Yes. Investigator Picone and Investigator Fortner
7 had some other information they were going to follow up on
8 in my absence.

9 Q And after you came back on duty, did you, at that
10 point in time, contact any additional potential witnesses?

11 A Yes, sir. I did.

12 Q Who did you contact?

13 A There were -- there were other individuals who --
14 tips were still coming in, information was still coming
15 in, so we followed up on it. May I reference my notes to
16 get specific names?

17 Q Sure.

18 A (Reviews document) I spoke to two individuals: one
19 Marcus Thomas and one Jeffery Wyatt.

20 Q Did you ever speak with Courtney Ellis?

21 A I believe at some point in the investigation, I did.

22 Q Did you find out any information -- any firsthand
23 information from Ms. Ellis?

24 A No, sir.

25 Q Did you find -- after speaking to those individuals,

1 did your involvement in the case, was it ended at that
2 point?

3 A Yes, sir. It was.

4 MR. McMASTER: One second. The Court's indulgence
5 for just a second.

6 Please answer any questions Mr. Warder might have.

7 THE WITNESS: Yes, sir.

8 THE COURT: Cross.

9 CROSS EXAMINATION

10 BY MR. WARDER:

11 Q When you went out to the apartment complex in the
12 Bear the first time, did you know that officers had talked
13 to Mr. Rosemond inside his apartment and he told them that
14 he was shot?

15 A No, sir. I did not know that.

16 Q Wouldn't that be information that usually would be
17 furnished to you before you went out there, before -- that
18 a man had been shot and was in a hostage situation, that
19 you would want to know that would usually be given to you?

20 A I'm sorry. I'm confused by your question.

21 Q If your hostage had been -- the man you suspected was
22 inside -- barricaded inside a building, if he'd been shot
23 by the police, wouldn't that be something that usually
24 officers would tell you?

25 A I don't believe this would have been referred to as a

1 hostage situation.

2 Q Okay. What kind of situation did you think it was
3 again?

4 A A barricaded individual.

5 Q Okay. Wouldn't it be important to know if that
6 barricaded individual was shot when you went out there or
7 before you went out there?

8 A Yes, sir. That would be information that we'd need
9 to know or want to know.

10 MR. WARDER: Thank you.

11 MR. McMASTER: No redirect.

12 THE COURT: All right. Thanks, sir. You may step
13 down.

14 All right. Ladies and gentlemen, this is probably a
15 good time for a morning break. Been going about an hour
16 and a half or so. Let's take a short break, let everybody
17 get comfortable. And don't discuss the case. We'll get
18 back with you shortly.

19 Keep your seats until the jury is gone. Sit down.
20 Sit down.

21 (WHEREUPON, the jury exits the courtroom at 11:07 a.m.)

22 THE COURT: Okay. Take a short break.

23 (WHEREUPON, a recess is taken at 11:07 a.m.)

24 (WHEREUPON, the jury entered the courtroom at 11:41 a.m.)

25 THE COURT: All right. Ladies and gentlemen, I

1 understand some of you want to take some notes, and that's
2 perfectly fine. I just want to caution you that just
3 beware that if you do that, that you might be so
4 concentrated on taking your notes that you miss what we
5 call the way a witness might answer a question or
6 something.

7 And the other thing that you must know is that one
8 juror's notes are not any more important than another
9 juror's memory recollection. So that will apply when
10 you're in your deliberations.

11 Other than that, we're happy to have you take
12 notes.

13 All right. Thank you.

14 All right. Go ahead.

15 MR. McMASTER: Your Honor, the State calls Eric
16 Garrison.

17 THE CLERK: Please place your left hand on the Bible
18 and raise your right hand.

19 WHEREUPON,

20 ERIC GARRISON

21 After having been duly sworn, testified as follows:

22 THE CLERK: Thank you. Please take a seat and state
23 your name for the record.

24 THE WITNESS: My name is Eric D. Garrison, Delanor
25 Garrison.

DIRECT EXAMINATION

BY MR. McMASTER:

Q Mr. Garrison, do you go by a nickname as well?

A Yes, sir. It's Gator.

Q Is that what people know you in the community as?

A Yes.

Q All right. And how old are you?

A 48.

Q And where do you live?

A [REDACTED] Road, Taylors.

Q And what do you do for a living?

A A concrete finisher.

Q Who do you work for?

A Unique Concrete Services.

Q How long have you been on that job?

A 16 years.

Q And do you live with anyone over at your home? Is there a roommate there?

A Yes, sir. Vincent Hawkins.

Q And how long have you lived with Mr. Hawkins?

A I think he came in about -- I think he's been about five years now, four years.

Q Have you known him for a long time?

A Oh, yes.

Q And who owns this house that you live in?

1 A Kevin Haynes.

2 Q Is that your boss?

3 A Yes.

4 Q How close is your home to Charles Rosemond's home?

5 A I'll say two-minute walk.

6 Q Two-minute walk? Okay.

7 A Two- or three-minute walk.

8 Q All right. And you're running, shorter distance than
9 that.

10 A Shorter than that.

11 Q Okay. And I'm going to show you what's already into
12 evidence, State's 2. And I want you, if you can kind of
13 lay out for the jury what we're looking at here.

14 A It looks like an office.

15 Q Okay. And who lives right here in 16-B?

16 A I think that would be ---

17 Q Or who lived there? Let me say it that way.

18 A Charles.

19 Q Okay. And was he up by the rent office?

20 A Yes.

21 Q And when you would leave Charles's to go to your
22 home, which way would you go?

23 A I would take the street way. Or it's this little cut
24 on the -- on the road. But it's a fence separating the
25 road from the -- from the street and I take beside the

1 apartments to keep from going over -- something like that.

2 Q Would you pass Apartment 6-C if you were going your
3 way?

4 A Yes, sir.

5 Q Do you know who lived in 6-C?

6 A I just know he stayed there. I didn't know ---

7 Q Who stayed there?

8 A Aundra.

9 Q Aundra Hunter?

10 A The girl -- the girl stayed there, but I know he be
11 there.

12 Q All right. That's at 6-C?

13 A Yes.

14 Q And it's on your way -- if you were to leave
15 Charles's, it's on your way to your ---

16 A Yes. It will be the -- I think the fourth set of
17 buildings.

18 Q How fast could you be there from Charles's if you
19 were running?

20 A About -- oh, about 30 seconds.

21 Q And you're not allowed to be in the Oak View/

community; is that fair to say?

23 A Yes, sir. There's a little incident that happened,
24 and I was placed on no trespassing. Yeah.

25 Q All right. And how do you know Charles Rosemond?

1 Tell me about your relationship with Charles Rosemond.

2 A We've been knowing each other a long time ago. We
3 had altercations and everything, but we made up. And, you
4 know, I'm a get-along kind of person. You know what I'm
5 talking about? Let grudges go.

6 Q And what did Mr. Rosemond do for people in the
7 community?

8 A He's candy man.

9 Q All right. Well, tell the jury. We've heard a
10 little bit about that. Tell us about it.

11 A Like if you wanted a shot of drink or a cigarette,
12 something like that, he'll take care of you.

13 Q Food, things like that?

14 A Yeah. Sold burgers, you know.

15 Q And did you -- did he deal -- when you'd buy these
16 things, you bought them with cash.

17 A Yes, yes. Or credit. Credit. Sometimes credit,
18 yeah.

19 Q Yeah. You had to run a credit on a ticket, and he'd
20 keep up with it.

21 A Yeah. He kept up with it.

22 Q But cash was the way you handled your transactions.

23 A Yes.

24 Q All right. Were you over at Charles's a good bit?

25 A Yes.

1 Q I mean, did you see him a lot?

2 A Yes. Maybe two, three times a day.

3 Q All right. And what were you over there for during
4 those times?

5 A Getting my shot of liquor.

6 Q And what did they call that?

7 A A shot.

8 Q Yeah. What was it -- how much did you have to pay
9 for it?

10 A Oh, a dollar.

11 Q Huh?

12 A A dollar shot.

13 Q A dollar shot? All right.

14 Well, let's go back to the evening, the night of
15 December the 9th to the early morning hours of December
16 the 10th.

17 A Okay.

18 Q Okay. 2015.

19 A All right.

20 Q Let's talk about that. And can you tell me what you
21 were doing that evening around [REDACTED]/Oak View
22 community? What were you doing?

23 A We're talking about earlier that ---

24 Q Earlier that night on the 9th. Early on the 9th.

25 A I was -- like I do a lot of odd jobs for people and

1 everything, you know. I'm hustling up getting something
2 to drink.

3 Q Tell the jury about what that means.

4 A Take out trash, wash dishes and clean ovens, you
5 know, getting them ready for the inspections and stuff
6 like that.

7 Q And did you earn a few dollars doing that?

8 A Yes.

9 Q And if you'd earn a few dollars, where would you go?

10 A Charles's.

11 Q And you'd buy you a dollar shot.

12 A Yeah. Get me a dollar shot.

13 Q So you did that a couple of times that night?

14 A Yes.

15 Q I'm going to show you State's Exhibit 11.

16 MR. WARDER: Your Honor, we have no objection to
17 that.

18 THE COURT: I'm sorry?

19 MR. WARDER: We have no objection to State's
20 Exhibit 11.

21 THE COURT: Okay. Go ahead with your ---

22 BY MR. McMASTER:

23 Q Can you identify what that is?

24 A That's a picture of the front door.

25 Q Whose front door?

1 A Charles's.

2 Q Is that an accurate depiction of his front door area?

3 A Yes.

4 MR. McMASTER: All right. And I'm going to move 11
5 into evidence at this time, Your Honor, ask the Court.

6 THE COURT: All right. He's already said no
7 objection.

8 MR. McMASTER: Thank you.

9 (WHEREUPON, State's Exhibit Number 11 was admitted into
10 evidence.)

11 BY MR. McMASTER:

12 Q Now, how was Charles's apartment set up? Tell me a
13 little bit about it.

14 A As in?

15 Q Like how are the apartments there, Charles's in
16 particular? Did you walk in ---

17 A Well, when you first come in, you come straight into
18 the living room section. And I think he had like -- I
19 don't know if it's a one-bedroom, a bedroom in the back,
20 and then he had a bathroom before you get to the bedroom,
21 and then you had the kitchen. You can see the kitchen
22 from when you first come in the door.

23 Q So the kitchen is kind of behind the living room?

24 A Yes, yes. Without no wall or nothing. You can see
25 straight into the kitchen.

1 Q And where did he keep the liquor and snacks and all
2 that stuff?

3 A Well, he had it set up like a little canteen.

4 Q All right. Well, tell the jury what that means.

5 A He had it set up like a canteen, I guess, beer --
6 with liquor and stuff. He, you know, kept up. If you
7 want a shot, he'd get it for you.

8 Q And you said you were in the Oak View/ [REDACTED]
9 area, and you were out there -- you were out there
10 drinking some and earning a few dollars, as you indicated
11 earlier. And did you run into any folks or did you see
12 anybody down there in any of the courts that night?

13 A Yes. I would say that the third court, I mean the
14 one they call -- you know, can I say it? The one -- they
15 call it the whore court.

16 Q Okay.

17 A You know, it's the third court. It's a more active
18 court. I seen about -- I'd say about six people,
19 everybody in black, dark-colored clothes at that time.

20 Q Did you recognize any of those people? Did you know
21 them from the community?

22 A Yes.

23 Q Can you give us any of their names?

24 A Aundra was there, T-Money. There's quite a few other
25 fellas. Didn't -- you know, not stuck out. I was -- I

1 was doing everything, but I noticed him, you know.

2 Q All right. So you saw some individuals together that
3 you recognize?

4 A Yes, yes.

5 Q One of those is the defendant, Mr. Hunter?

6 A Yes, yes.

7 Q And did you -- at that point in time, did you try to
8 talk to them any?

9 A I just -- you know, I hollered at them, stop by.
10 Probably had for a cigarette or something.

11 Q Were they nice to you?

12 A Yeah. At the time they were, yeah.

13 Q And did you go into -- did you leave there and go
14 anywhere? Where did you go when you left seeing them?

15 A At that time, I think I was headed towards Charles's
16 house at that time.

17 Q Had you been doing some jobs or done a job?

18 A I think I had done a job, but I can't -- I can't
19 remember if it was taking out somebody's -- take out
20 somebody's trash, but I can't recall who it was.

21 Q Tell me about going to Charles's for the last time.
22 Tell me what happened.

23 A When I got to his house, knocked on the door, he let
24 me in.

25 Q Hold on. Let me stop you. What time of the day or

1 night do you thing this was?

2 A It was late.

3 Q Late?

4 A Yeah. It was late. It was late. After hours.

5 Q After hours. Is after hours to you ---

6 A I'd say about 1:00 ---

7 Q 12:00 or 1:00?

8 A 12:00, 1:00, something like that.

9 Q Okay. So that's after hours?

10 A Yes, yes.

11 Q Does he usually answer the door after hours?

12 A Yeah, yeah.

13 Q And I'm sorry. I interrupted you. Did you knock --
14 you knocked on his door?

15 A Yes.

16 Q And your purpose there was to get?

17 A Me a shot of liquor and a couple cigarettes,
18 something like that.

19 Q And did you go into his apartment?

20 A Yes, I did.

21 Q And did he answer -- let me ask this. Did he answer
22 the door?

23 A Yes. He answered the door.

24 Q Was anyone else in there with him that you saw at
25 that time?

1 A No, no. He was there by himself.

2 Q And did he perceive -- was he going to go get you a
3 shot of liquor?

4 A Yes.

5 Q And tell the jury what happened at that point.

6 A Okay. At that point in time, as he was pouring my
7 drink, he get another knock at the door right behind me.
8 I couldn't say. About two to three minutes, you know. He
9 said -- he said, "Gator, get the door." So when I opened
10 the door, there's a guy standing there with a black suit
11 on with those shoes -- those shoes right there
12 (indicating) ---

13 Q You already -- let me just ---

14 A --- with a ski mask on.

15 Q You point -- so the court reporter will know, are you
16 pointing to State's Exhibit 30-A and B?

17 A Yeah. Yes, sir.

18 And as I opened the door, he's standing there with a
19 ski mask and a black suit on.

20 Q What do you do?

21 A All right. When he opened the door, he has a big
22 pistol up in my face. I think he was playing, so I hit
23 it. You know, I ---

24 Q What kind of pistol is it, do you know?

25 A It's like a silver-gray, like a nine.

1 Q Silver or gray nine, you say?

2 A Yeah.

3 So I hit, thinking he playing.

4 Q What do you say to him?

5 A I said, "Stop playing like that."

6 He said, "Gator, you think I'm playing?" And, pow,
7 shoots in the floor.

8 Q So he used your name?

9 A Yeah. Yes, sir.

10 Q And what does he instruct you to do at that point?

11 A I get on the floor. Get down.

12 Q You're told to do that.

13 A Yeah. Get down on the ground.

14 Q So where are you located in Charles's apartment?

15 A I'm right as you come in the door, right there on the
16 floor, right -- the walkway to the -- you go to the
17 bathroom, the living room or the kitchen. Right there at
18 the -- right at the front of the door.

19 Q All right. I'm going to show you what's been marked
20 12 and 13. Let me let you identify these. Can you
21 identify these photos?

22 A Yes.

23 Q What are they?

24 A This is the living room right here (indicating).

25 Q Whose living room?

1 A This is Charles's.

2 Q Is this an accurate depiction of what it would look
3 like?

4 A Yes.

5 MR. McMASTER: All right. I'm going to ask the Court
6 to enter into evidence Exhibits 12 and 13. I've shown
7 them to Mr. Warder.

8 MR. WARDER: No objection.

9 THE COURT: Okay.

10 (WHEREUPON, State's Exhibit Numbers 12 and 13 were
11 admitted into evidence.)

12 MR. McMASTER: All right. You can -- can I ask the
13 witness to step down please, Your Honor?

14 THE COURT: Certainly.

15 THE WITNESS: I can see it better right here.

16 BY MR. McMASTER:

17 Q Okay. You need glasses?

18 A I've got some.

19 Q All right. I want you to show the jury -- turn the
20 picture around and show the jury kind of where you were.

21 A As you come in the door, I was immediately right here
22 (indicating), right in front of -- right there on that --
23 right over there where the red things are, I was lying
24 face down right there.

25 Q Walk down here, if you would, please.

1 THE COURT: Keep your voice up.

2 THE WITNESS: All right.. I was laying right here.
3 He made me lay down right where this little pillow is at.
4 As soon as he come in the door, right in here. I never
5 moved from right there.

6 BY MR. McMASTER:

7 Q You can sit back down. Thank you.

8 And that's where he made you lay down, you said?

9 A Yes.

10 Q Told you not to move there.

11 A Not to move.

12 Q At that point, what was going on with Charles?

13 A Okay. At that point in time, he made Charles sit
14 down. And at that time, he was hitting Charles in the
15 head with a pistol, beating on him, going ---

16 Q Was he saying anything to him?

17 A "Give me the money.. Give it up, give it up, give it
18 up," you know.

19 Q Was Charles still in the living room when this was
20 going on?

21 A No. He's more in the kitchen. They was in the
22 kitchen.

23 Q Is that where -- you said the kitchen is right next
24 to the living room.

25 A Yes, sir.

1 Q And the kitchen is where all the goods are.

2 A Yeah, yeah. That's ---

3 Q The canteen, as you described it is.

4 A Yes, yes.

5 Q And did you see him going through -- I mean, you're
6 lying on the floor. Can you see Charles?

7 A Yeah. He -- yeah. I see both of them. Charles,
8 he's, you know, kind of dizzy. And he was going through
9 everything, cabinets and drawers and stuff.

10 Q Slamming cabinets?

11 A Yeah.

12 Q And pulling out drawers?

13 A Yes.

14 Q Did you hear him going into any money or change or
15 anything like that?

16 A I can't recall all that. But he's searching.

17 Q Searching.

18 But you can see his shoes, you indicated.

19 A Yes.

20 Q Any doubt about that?

21 A Yeah. Because I was ---

22 Q There is a doubt about that?

23 A No. There's no -- do doubt about those shoes,
24 because, you know, that was -- that was -- made me -- and
25 that voice, his voice and them shoes made me recall who it

1 was.

2 Q Did you tell -- all right. We'll get to that.

3 How long do you think that individual was in there
4 with those shoes on?

5 A I'd say about four -- three to four minutes.

6 Q Did you see anybody else in there that night?

7 A No, sir. But I did see an individual outside in the
8 middle of the -- you know, the parking lot just standing
9 like he was watching.

10 Q But you don't know who that was.

11 A But I couldn't -- I couldn't know who it was. But he
12 had dark-colored clothes on, and black.

13 Q When did you see that individual?

14 A As when I opened the door.

15 Q All right. Well, let's stay inside right now.

16 A Yeah. Okay.

17 Q All right. You're inside, and this person, you said,
18 is pistol-whipping Charles.

19 A Yes.

20 Q Is that what you said?

21 A Yes.

22 Q And is he arguing with him and screaming at him?

23 A Yes.

24 Q Did you hear those things?

25 A Yes, sir. I -- I seen him hitting him.

1 Q You saw those things?

2 A Yeah.

3 Q Did you see him get things from the apartment?

4 A Yeah. He grabbed -- I don't know what he was
5 grabbing, but he was grabbing stuff.

6 Q And you said you recognize the voice.

7 A Yes, sir. No doubt.

8 Q Did you know the name at that time?

9 A Not -- not at that point. I just know it was Dre or
10 something like that, you know.

11 Q And can you identify the person that had that voice,
12 is he in the courtroom today?

13 A Yes, sir. He's right there (indicating).

14 Q Where's right there?

15 A Right there (indicating).

16 Q Sitting ---

17 A Sitting right there. He's a little heavyset now, but
18 back then he was slim.

19 MR. McMASTER: Please note for the record that he's
20 identified Mr. Hunter.

21 THE WITNESS: Yes.

22 BY MR. McMASTER:

23 Q Sitting next to Mr. Warder right there.

24 A Yes, yes.

25 Q Now, does this individual ever come back to you?

1 A No, sir.

2 Q Does he ever -- do you ever get -- does he ever take
3 anything from you?

4 A I can't -- no. I didn't have any money or nothing.
5 But he -- he -- you know, he said -- he asked me, "Gator,
6 what you got on you?" You know ---

7 Q He used your name again.

8 A Yeah. He -- yes. Yes.

9 Q And did he go through your pockets?

10 A Yes, sir.

11 Q Now, was it kind of -- it's December. Pretty cold
12 out there.

13 A Yes.

14 Q Do you have a jacket on or something like that?

15 A I probably had a jacket on.

16 Q And do you recall him going through your pockets?

17 A Yes.

18 Q But you didn't have anything to take.

19 A No, sir.

20 Q Had you even paid for your dollar shot yet?

21 A Yes, yeah.

22 Q You think you paid for it.

23 Now, when the defendant leaves the scene, does he
24 have anything -- does he have anything with him that you
25 saw?

1 A I can't recall that. Can't tell you the -- I didn't
2 see.

3 Q Did he appear to be taking anything?

4 A Yeah. He took -- yeah. He had something, but I
5 can't tell you what he took out of there.

6 Q So you don't know what it was.

7 A Yeah.

8 Q You just saw something.

9 After this individual leaves, what are you doing at
10 that point? What's going through your mind?

11 A At that point, I'm -- I'm -- I'm -- I'm checking on
12 Charles. I see he's bleeding real bad. And that time,
13 he -- he had his pistol, loading bullets. He couldn't --
14 he was so -- he was dropping bullets all on the floor.

15 Q Where was he -- tell me, you've got to explain, where
16 was he loading the gun.

17 A He's right there. The place I showed you where I was
18 laying at, he was right in front of me. He be right in
19 front of me, standing ---

20 Q Right. That's where he's standing. Where would he
21 keep the pistol?

22 A Oh, I can't tell you that. I can't tell you that.

23 Q Okay. All right. But you left, he's loading the
24 gun.

25 A Yes.

1 Q Where do you go after you leave?

2 A At that point in time, I ran straight home, at that
3 time told my roommate, I said, "Call Charles, make sure
4 he's all right because he just got robbed."

5 Q Did you tell him about what happened to you?

6 A Yeah. I said, you know, "We got robbed up there."

7 Q But you didn't have anything?

8 A I didn't have anything.

9 Q Did you stay there while he called? Did you watch
10 him call? You're talking about Mr. Hawkins.

11 A Yeah. I'm talking about my roommate.

12 Q All right. Vince Hawkins.

13 Did you watch him call?

14 A Yes.

15 Q Now, this was a pretty serious event.

16 A Yeah.

17 Q Did you call the police?

18 A I didn't.

19 Q What were you afraid of?

20 A I was -- I -- like I say, I was on trespassing.

21 Q How about your name? Do they know your name?

22 A Yeah. The police?

23 Q No. I'm talking about the defendant that robbed you
24 or tried to rob you.

25 A Yeah, yeah, yeah. He knows my name. He knows my

1 name.

2 Q Did that make you nervous that he knew your name,
3 that he knew who you were?

4 A He shocked me.

5 Q He shocked you?

6 A Yeah. You know, and then that made me think this had
7 to be somebody in the hood, you know, that -- you know,
8 that know my name like that.

9 Q Did you stay in that area?

10 A Yeah, yes.

11 Q Do you remember exactly what you were wearing that
12 night of the robbery?

13 A I can't tell you, sir. I can't remember exactly what
14 I had on.

15 Q Were you eventually contacted by the Sheriff's
16 Office?

17 A Yes.

18 Q Were you interviewed by the Sheriff's Office?

19 A Yes.

20 Q Did you tell them everything that you knew?

21 A Yes, sir.

22 Q Did you feel they were being hard on you?

23 A No, sir.

24 Q Did they question you about your story?

25 A Yes.

1 Q Did they ask you a lot of questions about it?

2 A Yes, sir.

3 Q When you spoke to the police, did you tell them you
4 could identify the voice?

5 A Yes, sir. And -- and those shoes.

6 Q Did you identify for them where the person that had
7 this voice, where that person lived or where you had seen
8 that person?

9 A Yes, sir. Yes, sir. As, like I said, where I'd seen
10 this person.

11 Q And where was that; do you remember?

12 A That's that -- I don't know her number, but it would
13 be his girlfriend. I knew they -- you know, they was
14 boyfriend and girlfriend.

15 Q Had you had any problems with Tivarius Henderson
16 or ---

17 A No, sir.

18 Q --- anybody like that?

19 A No, sir.

20 Q Did you call the police on them or anything like
21 that?

22 A No, sir. No, sir.

23 Q You wouldn't do that.

24 A No. I wouldn't do that; no.

25 Q Do the people in that community keep to themselves a

1 lot?

2 A Yes. We had a lot of them that, you know, say this
3 and this about you.

4 MR. McMASTER: I'm going to ask you to answer any
5 questions that Mr. Warder may have for you.

6 THE WITNESS: Okay.

7 MR. McMASTER: Thank you.

8 CROSS EXAMINATION

9 BY MR. WARDER:

10 Q All right if I call you Gator?

11 A Yes, sir. It's all right.

12 Q Is that what everybody on the street calls you?

13 A Yes, sir.

14 Q Now -- and you told me that this was between about
15 12:00 and 1:00, somewhere in there?

16 A Somewhat.

17 Q It could have been any time between those two times?

18 A Yes.

19 Q Okay. And where had you been just immediately to
20 coming up there?

21 A I'd probably been taking out -- like I said, been
22 doing something to hustle up the dollar to get me a shot.
23 I took somebody's trash out. I can't recall who it was,
24 but it was somebody in the apartments.

25 Q You'd be taking out somebody's trash at about

1 midnight?

2 A Yeah. This is -- yeah. A lot of people out.

3 Q Okay. How would somebody know to hire you to get the
4 trash you ---

5 A They know -- they know me. People knows me.

6 Q Okay. So you'd come walking by at midnight, and
7 somebody might tell you to clean their oven or get the
8 trash?

9 A Yeah, yes. All my life.

10 Q Had you fixed concrete that day?

11 A Earlier.

12 Q Okay. You don't remember what job it was or where
13 they were pouring it at?

14 A No, sir. No. I can't recall.

15 Q Is that what you do is you smooth out concrete on new
16 construction?

17 A Well -- yes, yes.

18 Q And you don't know what time you got off that day?

19 A No, sir.

20 Q Now, when you're on that construction job, you can't
21 drink anything?

22 A No, sir.

23 Q What time then did you start drinking that day?

24 A It probably been about 6:00, 7:00.

25 Q Okay. What did you do between when you got off work

1 and 6:00 or 7:00, do you know?

2 A Well, little odd thing, probably just chilling out,
3 hanging out with bros or something.

4 Q You're saying "probably." In other words, you don't
5 remember, but that's what you usually would do in a
6 case ---

7 A Yeah, yeah. Some routine.

8 Q Okay. When you're chilling out, do you drink when
9 you're chilling out?

10 A Yes. I don't drink heavy like that. It might be a
11 beer or something like that.

12 Q Okay. If you got a beer, could you get that from
13 Mr. Charles, too?

14 A Yes. I don't -- I don't -- just get liquor from him.
15 Liquor and cigarettes, all I get from him.

16 Q Okay. So if you're getting a beer, where would you
17 get that?

18 A I probably would go to the store or another place to
19 go get some beer.

20 Q Okay. You don't remember whether you did that this
21 day particularly?

22 A I can't recall.

23 Q Okay. Do you usually get high every day or high
24 every day when ---

25 A It's recreational. Recreation. Not every day, you

1 know.

2 Q But pretty regular?

3 A Yeah.

4 Q Okay. And late at night you usually get shots?

5 A Not -- yeah. Usually, yeah. So . . .

6 Q Okay. Would this have been your first trip up there
7 on that night?

8 A No, sir. No, sir.

9 Q When was the first time that night you went to
10 Mr. Charles's?

11 A It might have been -- like I said, I could have seen
12 him maybe about 8:00. Maybe when I start my first drink
13 of liquor might have been about 8:00.

14 Q What kind of liquor do you get up there?

15 A I get Brown, I think. Yeah. Brown. It's Crown.

16 Q Okay. You get ---

17 A Crown.

18 Q Crown Royal?

19 A Yeah. Or Jack Daniels. Whatever he had in there.
20 Mine was a Jack. He keep me a bottle of Jack Daniels.

21 Q Okay. And did you get a shot then between that time
22 and 12:00 again?

23 A Maybe. Yes, yes.

24 Q Okay. What time did you get your second shot up
25 there?

1 A That -- that -- I don't know. I can't -- I think I
2 had a total of three that day, but that last one -- it's
3 spaced out. The last one was about 12:00, the time before
4 this happened.

5 Q So you had got two shots prior to that.

6 A Yeah. That was early. Yeah.

7 Q And a beer or two to drink.

8 A Yeah.

9 Q Okay. Now, you said that you went in and you closed
10 the door; is that right?

11 A Yes, sir.

12 Q And was it just about instantly the next guy knocked
13 on the door?

14 A It can be like two to three minutes behind me.

15 Q Okay. Well, I just wondered, you said you were
16 standing right by it looked like the end of the couch
17 where this pillow was.

18 A Yeah. Where that pillow was.

19 Q Okay. And is that all the farther into the apartment
20 you'd been able to walk?

21 A Yes, yes.

22 Q So the real time would have been the time it would
23 have took you to walk from the front door to the middle of
24 the room there; is that right?

25 A Yeah. About four or five steps.

1 Q That's right. So you'd just taken four or five steps
2 and there's a bang on the door again, a knock.

3 A No. Not just that point. I give him time, give him
4 money to get my drink.

5 Q Okay.

6 A And then that's when we hear the knock.

7 Q Give you time to get money up and get it out of your
8 pocket.

9 A Yeah. And to give it to him, and he start pouring my
10 drink, and that's when the knock occurred.

11 Q Okay. Does he wait for you to get the money out
12 before he pours the drink or he knows what you want and he
13 just pours it?

14 A Yeah. He know what I want.

15 Q Okay. And you opened the door, then you'd go back to
16 the door and open it up them two or three steps; is that
17 right?

18 A After he tells me to open the door.

19 Q Okay. So the knock on the door, Mr. Charles says,
20 "Gator, open the door."

21 A Yes.

22 Q And you open the door.

23 A Yes.

24 Q And you see this man in black.

25 A With a -- with a mask on.

1 Q With a mask on.

2 A With a pistol.

3 Q And he come on in the apartment.

4 A He ain't come in the apartment yet. He standing at
5 the door. And I open it. And he came in, he -- and when
6 I hit the -- when I hit the gun, that's when he came in.

7 Q Okay. Which hand did he have the gun in?

8 A I can't tell you which hand. I just smacked it out
9 of it. I don't know if he's right-handed or left-handed,
10 but all I seen was the gun.

11 Q Okay. Was the gun on the side with the door or was
12 the gun on the side that opens up into the room?

13 A It was in my face. I can't tell you that. It was
14 just in my face.

15 Q Okay.

16 A I don't know what side he had it in. I wasn't
17 thinking about what side. It was a pistol.

18 Q Okay. He told you to get on the floor.

19 A He shot first.

20 Q Okay.

21 A Told me to get on the floor. Think I'm playing with
22 you, Gator? Pow. Get on the floor. Get down. I got
23 down.

24 Q Where did he shoot in the house?

25 A He shot on the floor right when you come in. It's

1 right there where I was laying at, right where that pillow
2 is. There's probably a hole in the floor right in there.

3 Q Okay. The hole would be right about where that
4 pillow is?

5 A Right where the door when you first come in.

6 Q Okay. It was definitely inside the apartment?

7 A Yes.

8 Q Couldn't have shot outside. He shot inside.

9 A No. He shot in -- in the apartment.

10 Q And he struck the floor inside the apartment.

11 A Yes, sir.

12 Q Okay. Now, you said that he then went -- and did he
13 go right to the kitchen where Mr. Charles was?

14 A No. He started -- yeah. He started beating on
15 Charles.

16 Q Okay. Where did he hit him at?

17 A In the head. He hit him in the head with a pistol, I
18 don't know, about six or seven times. About five, six,
19 seven times.

20 Q Okay. You said he was bleeding real bad.

21 A Yes, sir.

22 Q And I guess blood running down his face?

23 A Yes.

24 Q On his clothes?

25 A Yes.

1 Q Dripping on the floor?

2 A Yes, sir.

3 Q Okay. And you had a good view of that, seeing that
4 happen how bad he was hitting him.

5 A Oh, yeah, yeah. I was looking at him. You'd been
6 hit. And I was looking right at him as he was beating
7 him. And at the time, he tell me don't move, so I'm not
8 moving. Once he shot, I'm not doing nothing but laying
9 down. He had a gun.

10 Q Okay. Where did Mr. Charles go before he starts
11 going through the stuff? Does he fall on the floor or
12 what?

13 A No. He made him sit down. Made him sit down.

14 Q Okay. Where did he sit -- sit him down at?

15 A In the kitchen. He sit him down in the kitchen.

16 Q Okay. On a chair?

17 A Yeah. I seen him. He was still --

18 Q Still bleeding and everything.

19 A He was still hitting him and stuff. At that point, I
20 mean, Charles is like he was just -- you know, like he was
21 out of it. He was going through the stuff.

22 Q Okay.

23 A Yeah.

24 Q And how long did he go through the stuff?

25 A I can't tell you. About approximately two -- a

1 minute or two.

2 Q Okay. And then what happened?

3 A At that point, after he got everything that he had,
4 he left, you know.

5 I went to check on Charles, said, "Charles, you all
6 right?" And at that time, Charles then got his gun. I
7 told you a few times, he's loading a gun. He's dropping
8 bullets everywhere. So I said, "Hey, Charles, I'm gone.
9 I'm going home." So when I run home, that's when I tell
10 Vincent to call and check on him, make sure he all right.

11 Q Okay. You didn't call Vincent on the telephone or
12 anything?

13 A No, no.

14 Q Okay. And tell me about the fellow you saw on the
15 street.

16 A I couldn't. All I seen was a guy in dark clothes.

17 Q Okay. Did you see him when the door opened and the
18 fellow first come in or did you just ---

19 A Yes.

20 Q Okay.

21 A In the open, yeah.

22 Q So all that time, you knew there was somebody else
23 out standing in the street.

24 A Yes.

25 Q And when you left, when you got ready to leave, was

1 that fellow still standing out ---

2 A No, sir. No, sir. Wasn't nobody out.

3 Q Okay.

4 A I didn't see nobody.

5 Q And then you left after the robber left; is that
6 right?

7 A No. Not right after he left. I said -- like I said,
8 I was sitting, talking to Charles, make sure he was all
9 right, and then I left.

10 Q Okay.

11 A He had a traumatic time.

12 Q Pardon?

13 A It was traumatic.. It was hectic.

14 Q Yes, sir.

15 Do you know the difference between those black and
16 white -- I mean those red and black shoes and red and
17 black Jordans? Are they the same?

18 A I don't -- I don't -- I don't ever recall seeing
19 about what kind of shoes is they -- those shoes right
20 there with that red band going around them and black. I
21 couldn't call if they Jordans or Air Max or whatever.
22 That's all I seen was this black shoe with that thick red
23 band going around.

24 Q And when you say that thick red band, you mean that
25 band right there (indicating)?

1 A Yeah. Yes, sir.

2 Q They didn't have a wider band than that?

3 A No. No, sir.

4 Q Okay. When you hit the gun there, did he fumble it
5 or did you knock it loose or anything?

6 A No, no. He had a tight grip on it. Just like
7 (demonstrating) -- just did like that. And pow. Think
8 I'm playing?

9 Q Okay. Knocked it, and then it was, pow, over there
10 on the floor, right?

11 A Yeah.

12 Q Did he shoot close to you to scare you?

13 A Yeah, yeah. Scared me, make me get down. Yeah.
14 Scared me. I don't like guns.

15 Q And you'd have been right about where that pillow is
16 then that ---

17 A Yes.

18 MR. WARDER: Thank you.

19 MR. McMASTER: Question, Your Honor.

20 THE COURT: All right.

21 REDIRECT EXAMINATION

22 BY MR. McMASTER:

23 Q When he put you on the ground, you're lying down.

24 A Yes.

25 Q Are you able to get a good look at those shoes while

1 you're on the ground?

2 A Yes, yes, yes.

3 Q These are the shoes that you described to law
4 enforcement?

5 A Yes. Yes, sir.

6 Q Same ones?

7 A Those same ones.

8 Q This is already in evidence as State's Exhibit 9
9 where you signed the back of that.

10 A Yeah.

11 Q Do you remember doing that?

12 A Yes, sir. I remember that.

13 Q That the shoe?

14 A That's the shoe.

15 Q You said it was hectic. You scared?

16 A Yeah. I was scared. It still messes with me today.

17 Q How so?

18 A Because I'm feeling, you know, I don't know what his
19 character is, but, you know, it feel like I'm threatened,
20 you know. When I go around, a car drove by, how it
21 slowed, it make me nervous. You know, I don't know what's
22 going on, you know.

23 MR. McMASTER: That's all we have.

24 THE COURT: All right. You can step down.

25 MR. McMASTER: Mr. Hawkins.

1 THE COURT: Who are you calling?

2 MR. McMASTER: Mr. Hawkins.

3 THE CLERK: Please place your left hand on the Bible
4 and raise your right hand.

5 WHEREUPON,

6 VINCENT HAWKINS

7 After having been duly sworn, testified as follows:

8 THE CLERK: Please take a seat and state your name
9 for the record.

10 THE WITNESS: Vincent Hawkins.

11 DIRECT EXAMINATION

12 BY MR. McMASTER:

13 Q How old are you, Mr. Hawkins?

14 A I'm 54.

15 Q Where do you live?

16 A [REDACTED] Road.

17 Q And who is your roommate?

18 A Eric -- Mr. Garrison.

19 Q The gentleman we just heard from?

20 A Yes, sir.

21 Q How long have you and Gator lived together?

22 A I moved in February of 2015.

23 Q All right. I'm going to take you back to the early
24 morning hours of December the 10th, 2015. Do you remember
25 that night?

1 A Yes, I do.

2 Q And did you see Gator that night after 1:00 or so
3 that night?

4 A Yes, sir. I did.

5 Q Did you see him come -- did he come to your house or
6 to y'all's house?

7 A Yes, sir. He came home.

8 Q And how was he acting when he got there?

9 A He was kind of shaky, kind of hysterical.

10 Q Would you consider him excited?

11 A Yes.

12 Q And what did he tell you?

13 A He said that he -- Charles and himself had been
14 robbed, and whoever robbed him had pistol-whipped Charles,
15 so he wanted me to call him and make sure he was okay. So
16 that's what I did. I called him, and the phone -- the
17 phone ring probably about three, four, maybe five times
18 before he answered it.

19 Q Did he answer it?

20 A He answered it.

21 Q Did you know Charles's voice?

22 A Yes.

23 Q And you've known Charles for years.

24 A Yes, sir. Yes, sir.

25 Q And did you talk to him?

1 A I did.

2 Q So you talked to him at that point after Gator got
3 home.

4 A Yes, sir.

5 Q And how long had you known Charles?

6 A Probably 20 years.

7 Q And we've talked about what he did for the community.
8 Did you go over there and get things from him?

9 A Yes, sir. I -- I -- yes, sir. I visited often.

10 Q And so you and Gator were in there all the time?

11 A Just about. Yes, sir.

12 Q And had you been by there that night?

13 A I had came by earlier because I -- I think I had
14 gotten paid that day and I owed him a few dollars, and I
15 took him his money.

16 Q Took him cash?

17 A Yes, sir.

18 Q And when you say earlier that day, in the evening of
19 the 9th, is that what you mean?

20 A It was -- it was still daylight the last time I went
21 up. Yes, sir.

22 Q And did you buy food from him a lot?

23 A Yes, sir.

24 Q And did you also have -- did you have a social
25 relationship with him where y'all did things together?

1 A Yeah. I used to go up on like Monday and Thursday
2 nights and watch wrestling with him.

3 Q That was something y'all did together?

4 A Yes, sir.

5 Q Did you speak with law enforcement several days after
6 this happened, after this burglary and armed robbery?

7 A Yes, sir.

8 Q And do you remember who you spoke to?

9 A Actually, I really don't.

10 Q Was it a member of law enforcement?

11 A Yes, sir.

12 Q Where did y'all talk? Do you remember that?

13 A At my job, at Bikas Restaurant.

14 Q Is that where you were working at the time?

15 A Yes, sir.

16 Q And did y'all talk out in the parking lot?

17 A We talked right behind the store.

18 Q And were there several investigators there at that
19 time?

20 A Yes, sir.

21 Q And what did you tell them?

22 A I just told them like the same thing he told me. He
23 came in, told me that they had been robbed. And Charles
24 had been beaten and he was bleeding, and he wanted me to
25 call him and make sure he was okay.

1 Q Well, how did they get to you at Bikas Restaurant?

2 Did they call you?

3 A Yes, sir.

4 Q And so they called you. You had called Charles that
5 night.

6 A Yes, sir.

7 Q And then they called you at Bikas Restaurant.

8 A Yes, sir.

9 Q And that's when they visited with you there.

10 A Yes.

11 Q And how long did you meet with them; do you remember?

12 A Probably between five, ten minutes.

13 Q Did you tell them about Eric Garrison? Did you tell
14 them?

15 A Yes, I did.

16 Q And were they -- did law enforcement appear to be
17 aware that Mr. Garrison was a witness and/or a victim in
18 this case?

19 A No. Not at that time, no.

20 Q So that was the first time -- they indicated is the
21 first time when you talked to them.

22 A Yes, sir. Uh-huh.

23 Q Tell me about -- this is a big event. There's a lot
24 going on in that parking lot.

25 A Oh, yes, sir. Yes, sir.

1 Q Did you see that from your area?

2 A You can't see it from the house. No, you can't.

3 Q Did you see law enforcement up and down the road?

4 A I mean, yes. I could see like the road. The [REDACTED]
5 Road that goes down toward the apartments, I could see
6 that, you know. I could see it was lit up, but I -- I
7 never left the yard.

8 Q After you spoke with law enforcement at Bikas
9 restaurant and turned the information over about
10 Mr. Garrison, Gator, did your involvement end in this
11 case? Did you have any other statements that you made?

12 A No, sir.

13 Q Is there any other information you need to add here
14 today?

15 A No, sir.

16 MR. McMASTER: Answer any questions Mr. Warder may
17 have.

18 CROSS EXAMINATION

19 BY MR. WARDER:

20 Q What time do you remember Gator getting home that
21 night?

22 A I'd say it's probably a little after 1 a.m.

23 Q A little after 1:00?

24 A Yes, sir.

25 Q Okay. And did he tell you right away that he wanted

1 you to call, see how Mr. Charles was?

2 A Yes, sir.

3 Q And did you do that right away?

4 A Yes, sir. I did.

5 Q Okay. And how long did you stay on the phone?

6 A Probably not even 30 seconds.

7 Q So you just said, "You're okay. Are you okay?"

8 A I asked -- I asked him was he okay. He used to call
9 me Big Dog. He said, "Yeah. I'm okay, Big Dog." And I
10 told him I'd talk to him tomorrow. And that was the ---

11 Q And you did not want to inquire about ---

12 A No, sir.

13 Q --- any injuries or anything like that?

14 A No, sir. I didn't.

15 Q Okay. How long had you been buying liquor over
16 there?

17 A Probably two months, maybe two or three months.

18 Q How long had he been doing it over there?

19 A Probably -- probably about that long.

20 Q So it was kind of a new location?

21 A Yes, sir. Relatively new. Yes, sir.

22 Q Did you know him before he did that?

23 A Yes, sir. I did.

24 Q What did he do before he was -- ran a little store or
25 whatever it was?

1 A I have no idea. A while back, I don't know how many
2 years ago, we used to live in the trailer court that's
3 behind our house, and he used to live across the street
4 from us then. And, you know, we were friends then. But
5 after that, I kind of lost contact with him until he moved
6 into the apartment. So I can't say what he did between
7 that time.

8 Q Was his place like a restaurant? You said you bought
9 food there.

10 A Well, he -- he had like frozen hamburgers and stuff,
11 you know, you could buy and take home and put them in the
12 microwave.

13 Q He didn't cook them and serve them there.

14 A No.

15 Q He wasn't running no restaurant.

16 A No, sir.

17 Q When he'd give you a shot, would you drink it out of
18 the same glass that the last guy used or would you get a
19 paper cup?

20 A No. We didn't -- he had -- yeah. He had like little
21 paper shot cups, little Solo cups or something. Yeah.

22 Q You could get hamburgers to take home and you get a
23 shot of liquor to drink there.

24 A Yes.

25 Q What else was available there?

1 A Cigarettes, he had candy, he had sweets, had beer.

2 Q Marijuana?

3 A I'm not sure if he did or not. I never -- I never
4 purchased any from him, so I'm not sure. I never asked
5 about that, so I really don't know.

6 Q Any other drugs that you know over there?

7 A No, sir.

8 Q He took these calls all night long selling liquor.
9 Was there a cut-off time, is what I'm asking.

10 A Well, I -- I really can't say because I used to have
11 to work at 6:00 in the morning, so I didn't hang out that
12 late at night. So I really couldn't tell you.

13 Q So you lived there, but you don't know whether it
14 went all night long or not.

15 A No, sir.

16 MR. WARDER: Thank you.

17 THE WITNESS: You're welcome.

18 MR. McMASTER: That's all we have for this witness,
19 Your Honor.

20 THE COURT: All right. Thank you. You can step
21 down.

22 THE WITNESS: Thank you, Your Honor.

23 MR. McMASTER: May we approach?

24 THE COURT: All right.

25 (WHEREUPON, a bench conference was held off the record.)

1 THE COURT: Okay. Ladies and gentlemen, it looks
2 like logistically it's a good time to break for lunch.
3 Ask you all to be back at a quarter of two. Would that
4 give you enough time for lunch? It's not the hour and a
5 half I talked about before, but it's an hour and 15
6 minutes. Is that good with everybody?

7 Okay. Y'all don't talk about it. We'll see you back
8 at a quarter of two. Thank you.

9 (WHEREUPON, the jury exits the courtroom at 12:31 p.m.)

10 THE COURT: All right. Anything before we break?

11 MR. McMASTER: Nothing from the State, Your Honor.

12 MR. WARDER: No, Your Honor.

13 THE COURT: All right. See you at quarter to two.

14 (WHEREUPON, a recess is taken at 12:31 p.m.)

15 (WHEREUPON, the jury entered the courtroom at 1:57 p.m.)

16 THE COURT: All right. I hope y'all had a good
17 lunch, and we are ready to proceed.

18 Mr. McMaster.

19 MR. HOLLOWAY: Yes, Your Honor. The State calls
20 Ms. O'Neal, Victoria O'Neal.

21 THE CLERK: Please place your left hand on the Bible
22 and raise your right hand.

23 WHEREUPON,

24 VICTORIA O'NEAL

25 After having been duly sworn, testified as follows:

1 THE CLERK: Thank you. Please take a seat and state
2 your name for the record.

3 THE WITNESS: Victoria O'Neal.

4 DIRECT EXAMINATION

5 BY MR. HOLLOWAY:

6 Q And, Ms. O'Neal, tell the jury how you know the
7 defendant in this case.

8 A We used to talk.

9 Q Okay. And I'm going to have you speak up a little
10 bit. So I'm going to stand back here so I can hear you.

11 You said that you and he used to talk. What does
12 that mean?

13 A We was just talking.

14 Q Okay. So let's clarify. How long have you known Dre
15 Hunter, or Aundra Hunter?

16 A Six to seven months.

17 Q Prior to today or prior to the shooting in this case
18 in December of 2015?

19 A Prior to the shooting.

20 Q Okay. And the shooting was at the apartments, 16-B,
21 in the same complex where you actually lived at the time?

22 A Yes, sir.

23 Q Okay. And the person we're talking about, Dre,
24 what's his full name; do you know?

25 A No, sir.

1 Q Okay. But you called him Dre.

2 A Yes, sir.

3 Q Okay. And is Dre sitting in the courtroom?

4 A Yes.

5 Q Can you please point to him?

6 A (Indicating.)

7 MR. HOLLOWAY: And, Your Honor, for the record, she's
8 pointing to Mr. Hunter here sitting next to the attorney.

9 THE WITNESS: Yes, sir.

10 BY MR. HOLLOWAY:

11 Q Okay. Now, some people call talking with someone, it
12 means different things. Can you clarify what talking to
13 someone means? I know I'm talking to you right now, but I
14 suspect the way you're saying it doesn't mean simply
15 voicing words. It means something else; is that right?

16 A Yes.

17 Q Okay. Can you tell the jury what it means?

18 A Just sex and course [phonetic].

19 Q And I'm sorry. Could you speak up a little bit?

20 A It was sex and course.

21 Q Sex and?

22 A Course.

23 Q Course. What is course?

24 A Just having sex.

25 Q Okay. Ms. O'Neal, can you tell the jury how you feel

1 right now?

2 A Nervous.

3 Q Very nervous?

4 A Yes.

5 Q Is it why your hand's up here?

6 A Yes.

7 Q Okay. Now, how many times had you had sex with

8 Mr. Hunter prior to the shooting?

9 A Multiple times.

10 Q Okay. And since the shooting, how many times have
11 you heard from him? Has he called you? Has he written
12 any letters?

13 A No.

14 Q Okay. Has he sent you anything on social media since
15 the shooting of Charles Rosemond?

16 A No, sir.

17 Q Okay. Have you heard from his family?

18 A No, sir.

19 Q Anybody? Any friends?

20 A No, sir.

21 Q Okay. Now, I'm going to focus your attention on the
22 night of December 9th and into the 10th, about three years
23 ago, 2015. What happened that night?

24 A I had a party.

25 Q Okay. And the party, was it celebrating something?

1 A / Yeah. T-Money.

2 Q T-Money?

3 A Uh-huh.

4 Q Do you know T-Money's full name?

5 A I just know him by T-Money.

6 Q Okay. And what was going on with T-Money on that
7 day?

8 A Having a good time drinking.

9 Q Was there a certain thing you were celebrating?

10 A His birthday.

11 Q His birthday. Okay.

12 Now, whose party was it?

13 A T-Money.

14 Q Okay. Where was the party at?

15 A My house.

16 Q Okay. And are you able to see on Exhibit 2 where
17 your apartment building is? Can you tell? This
18 (indicating) is Charles Rosemond's apartment, Building 16.
19 Here's the office right here (indicating) on Exhibit 2.

20 A It was in the first court.

21 Q Is this the first court? Are you able to tell? Or
22 is this the second court?

23 A (No answer.)

24 Q Here's the office right here (indicating), here's
25 Building 16, probably Building 15 right here. If you

1 can't, that's okay,

2 A I don't think that's the first court.

3 Q Okay. Now, who else was at this party?

4 A It was me, T-Money, Swerve, Dre, Trap, Party, T,
5 Mimi, Bockie [all phonetic].

6 Q Okay. Now, at the party, what time did Dre get
7 there; do you know?

8 A No, sir.

9 Q When he got there; did you speak to him?

10 A No.

11 Q Okay. When did you first talk to him that evening?

12 A Say what now?

13 Q Okay. When did you first interact with Mr. Hunter at
14 the party?

15 A You talking that night?

16 Q Yes.

17 A Tenish, elevenish.

18 Q Okay. And is that about what time he got there?

19 A I don't recall.

20 Q Okay. And I want to make sure that these jurors back
21 here can hear you. I know this is nervous for you, but
22 every one of these jurors have to be able to hear you,
23 okay?

24 A Okay.

25 Q So I just want to clarify. You said he may have

1 gotten there around 10:00 or 11:00?

2 A Yes, sir.

3 Q Okay. Now, what did you do with Mr. Hunter that
4 evening?

5 A We had sex.

6 Q Okay. Can you estimate how long he had been there at
7 the party before you had sex with him?

8 A I don't remember.

9 Q I'm going to have to ask some questions that are kind
10 of difficult to answer, but just do your best.

11 Where did you have sex?

12 A In my room.

13 Q Okay. And did you lead him back there or did he lead
14 you back there?

15 A Both.

16 Q Both?

17 A (Nods head affirmatively..)

18 Q Okay. When you got to your room, what did you see?

19 A The gun.

20 Q Okay. Can you describe the gun?

21 A It was silverish, grayish.

22 Q Okay. When you first walked back to your bedroom,
23 did you see him with that gun?

24 A No, sir.

25 Q Okay. When did you first see the gun?

1 A When we turned the light on.

2 Q Okay. And what did he do with that gun?

3 A Put it in the corner.

4 Q In the corner of your room?

5 A Yes.

6 Q Okay. Did he put it on furniture? Did he put it on
7 clothing?

8 A No. The floor.

9 Q The floor of your bedroom?

10 A Yes, sir.

11 Q Okay. And you had sex with him; that's correct?

12 A Yes, sir.

13 Q Okay. How long were you back in your room?

14 A Ten minutes.

15 Q About ten minutes.

16 Okay. After that, can you describe what you heard
17 from Dre that evening after leaving the bedroom? What did
18 you hear?

19 A He's talking about robbing Charles.

20 Q Okay. Can you describe where in your apartment did
21 you hear him say that?

22 A In the kitchen.

23 Q In the kitchen?

24 A (Nods head affirmatively.)

25 Q Okay. Who was he talking to?

1 A T-Money.

2 Q And who else? Anybody else?

3 A No.

4 Q Okay. Can you recall exactly what -- and it's been
5 about two and a half, three years, but can you recall
6 exactly what he said? When you said that he was robbing
7 Mr. Charles, can you describe exactly what he said?

8 A All I -- all I heard him say, Mr. Charles, I ain't
9 going to rob him.

10 Q Okay. And he said it to his friend. And what did
11 T-Money say back to him? Did you hear anything?

12 A No.

13 Q Okay. Now, like a lot of parties, you were probably
14 playing loud music; is that right?

15 A It wasn't that loud.

16 Q Okay. So despite the music, you were able to hear
17 what Dre said?

18 A Yes.

19 Q Okay. When he said that, how long before -- can you
20 estimate how long it was before he left your place?

21 A It was like eleven or twelveish.

22 Q Okay. So around -- between the hours of eleven and
23 midnight?

24 A Yes.

25 Q Okay. Who did Dre leave with?

1 A T-Money.

2 Q And you say "and them." Who was the "and them"
3 person or people?

4 A T-Money.

5 Q And who else?

6 A Dada [phonetic].

7 Q Dada?

8 A Yeah.

9 Q Do you know if T-Money and Dada have been charged in
10 this case?

11 A I don't know.

12 Q Okay. Do you know who else Dre sort of talks to or
13 stays with out at [REDACTED]?

14 A His baby mama.

15 Q Who is that?

16 A I don't know her name.

17 Q Okay. Do you know where she lives out there?

18 A Six building.

19 Q Okay. Is it -- okay. Do you know what floor she
20 lives at the apartment complex?

21 A Downstairs.

22 Q Downstairs. Okay.

23 Have you talked to her about this case?

24 A No.

25 Q Do you know someone else named Daphne Johnson in this

1 case?

2 A Yes.

3 Q Okay. All right. Do you know if Dre also kind of
4 talks to her as well, dates her, has sex with her? Are
5 you aware of that?

6 A I didn't know at the time.

7 Q But since this time, you've learned that?

8 A Yes.

9 Q Now, when Dre left your apartment around between
10 eleven and twelve, was that the last time you saw him that
11 night?

12 A Yes. Then he came back, knocked on the door.

13 Q So he actually came back?

14 A Yeah. Knocked on the door.

15 Q Okay. And he didn't have a key to your place?

16 A No.

17 Q Okay. He knocked. Was anybody else with him at that
18 time?

19 A No, sir.

20 Q Okay. He knocks on the door. You -- I guess he
21 comes in the apartment; is that right?

22 A Yes, sir.

23 Q Okay. And what happened?

24 A He asked to use my phone.

25 Q Okay. Now, at this time, was the party over?

1 A Yeah.

2 Q Okay. Who else was in the apartment with you at this
3 time besides him?

4 A Just me and my son.

5 Q Okay. You said that Dre wanted to use your phone.

6 A Yes.

7 Q Did he say why he wanted to use your phone?

8 A To call his baby mama.

9 Q I'm showing you what's been previously admitted into
10 evidence as State's Exhibit 8. Are you able to tell the
11 jury what this is?

12 A This is his baby mama number right there.

13 Q Okay. And this is -- if you can, read into the
14 record the number that you're pointing to on Exhibit 8.
15 If you could, read that to the jury.

16 A 864-359-9054.

17 Q Okay. And in parentheses, it says what number?

18 A Baby mama.

19 Q Right here, what is this number right here?

20 A His baby mama.

21 Q Right here, this number right here I'm pointing to.

22 A He called it two times.

23 Q Okay. So just make sure the jury heard you, he
24 called that number twice?

25 A Yes.

1 Q And this is a screenshot of your phone.

2 A Yes, sir.

3 Q What did he say to her?

4 A He told her if someone knock on the door, do not let
5 nobody in. Don't care who it is.

6 Q Okay. Did he explain why?

7 A No.

8 Q Did he say anything else to her?

9 A No.

10 Q Okay. Who else came to your apartment that night?

11 A Daph.

12 Q Okay. Prior to Daphne getting there, did you ask him
13 why he came back to your apartment that night?

14 A No. I didn't ask.

15 Q Okay. Did he say why he came back?

16 A That he robbed Mr. Charles.

17 Q I want to make sure they heard you. He said -- said
18 what again?

19 A That he robbed Mr. Charles.

20 Q Okay. Did you notice anything about what he was
21 wearing when he came back versus what he was wearing
22 before when he left your apartment?

23 A No. I couldn't really see.

24 Q Okay. You weren't able to see whether he was wearing
25 the same clothes or not?

1 A Yes.

2 Q Okay. So I just want to ask you again, make sure I
3 have it clear in my head. Were you able to tell whether
4 he was wearing the same clothes or not?

5 A I couldn't really tell.

6 Q Okay. What did you see him -- did you see anything
7 in his hands?

8 A Yeah. Money.

9 Q Could you tell what kind of money?

10 A Five, tens and twenties.

11 Q Fives, tens and twenties, correct?

12 A Yes.

13 Q Okay. Which hand was he holding the cash in?

14 A His left.

15 Q His left hand.

16 And in his -- and your cell phone was in his right
17 hand?

18 A Yes.

19 Q Okay. Did he tell you -- actually, did he say he had
20 a gun with him when he went to Apartment 16-B?

21 A Did he say what now?

22 Q Did he say whether he had a gun when he went to
23 Charles Rosemond's?

24 A No.

25 Q Did he mention having to fire the gun?

1 A No.

2 Q He never told you whether he ultimately fired the gun
3 or not?

4 A He said he shot it.

5 Q Okay. Did he say where he shot the gun, whether it's
6 outside the apartment or inside the apartment?

7 A Inside.

8 Q Inside? Is that what he said?

9 A Yeah.

10 I'm really nervous here.

11 Q That's fine. That's fine.

12 Just to clarify, do you know if he said he fired the
13 gun inside the apartment or outside the apartment?

14 A Inside.

15 Q Okay. And you said that later on Daphne came to your
16 apartment. Did anybody come with her?

17 A Sondra [phonetic].

18 Q Sondra. Okay.

19 What happened when they got there to your apartment?

20 A (Gesturing.)

21 Q Just answer my question.

22 A I can't.

23 Q Did you all stay at your apartment or go someplace
24 else?

25 A We went to Daph's apartment.

1 Q Went down to her apartment?

2 A Yes.

3 Q Okay. And which building does she live in; do you
4 know?

5 A The five building.

6 Q Is her building on this map right here, State's
7 Exhibit 2?

8 A I don't think so.

9 Q Did he say why he wanted to leave?

10 A No.

11 Q Now, in the case, you actually were interviewed by at
12 least one or two police officers about what happened.

13 A Yes, sir.

14 Q Okay. And it's in one of your interviews, do you
15 recall telling them that Mr. Hunter shot Charles?

16 A Yes.

17 Q Okay. Now, you actually, prior to talking to
18 officers, you had seen stories that had come out about
19 what had happened at 16-B; is that right?

20 A Yes, sir.

21 Q Okay. And I believe the officers asked you that you
22 might have mistaken what Mr. Hunter actually said, that he
23 admitted to shooting Rosemond; is it a fair assumption?

24 A Yes, sir.

25 Q Okay. So what Dre actually told you was that he

1 didn't shoot Mr. Rosemond. He actually said he just fired
2 the gun.

3 A Yes.

4 Q Ms. Johnson, Daphne Johnson, did she say anything
5 about a reason to leave your place?

6 A Aundra said we've got to get you out of here.

7 Q She said we have to get you out of here?

8 A Yes.

9 Q And back at Daphne's place, were you inside her
10 apartment or outside her apartment?

11 A Inside.

12 Q Did you hear Dre say anything about what happened at
13 Daphne's place?

14 A No.

15 MR. HOLLOWAY: Thank you. That's all I have for this
16 witness, Your Honor.

17 THE COURT: Cross.

18 CROSS EXAMINATION

19 BY MR. WARDER:

20 Q Vicki, as I understand it, you just said that at one
21 time, Dre told you that he shot Mr. Charles; is that
22 right?

23 A Yes, sir.

24 Q Okay. And the police come back to you and told you
25 that that was impossible because it was a police bullet

1 that hit him; is that right?

2 A Yes, sir.

3 Q And so they suggested that you change your story and
4 say that he didn't say that he shot, but that he just --
5 he didn't shoot Mr. Rosemond, he just shot a gun; is that
6 right?

7 A Yes, sir.

8 Q And you changed your statement because of that,
9 because of the conversation with the police; is that
10 right?

11 A Yes, sir.

12 Q And was that in part because they were threatening
13 you?

14 A Say what?

15 Q Were they threatening you at the time? Did they tell
16 you they could give you 15 years if you didn't?

17 A They don't threaten me.

18 Q Huh?

19 A They didn't threaten me.

20 Q They didn't threaten you with charges with a crime?

21 A They said if I lied.

22 Q Okay. Did they tell you that the statement you made
23 about Dre saying that he shot Mr. Charles, they'd be
24 telling him that was a lie?

25 A If I got confused.

1 Q So they told you to say you were confused or you did
2 get confused?

3 A I got confused.

4 Q Okay. How could you get confused about whether
5 somebody told you ---

6 A Because I was nervous.

7 Q Huh?

8 A I was nervous.

9 Q What are you nervous about? You're not afraid of
10 Dre, are you?

11 A (No answer.)

12 Q Well?

13 A Kind of.

14 Q He's never hurt you.

15 A I know.

16 Q You had sex with him that night, in fact.

17 A Yes.

18 Q What changed?

19 A What do you mean, what changed?

20 Q You're still not afraid of him, are you?

21 A Not now I'm not.

22 Q Were you around Dre a lot? Were you then?

23 A Yeah. I was.

24 Q Is Dre right-handed or left-handed?

25 A I don't know. I don't know if he's right or

1 left-handed.

2 Q You ever see him write?

3 A No.

4 Q Ever see him eat?

5 A No.

6 Q How long were you and him in a sexual relationship?

7 A Six to seven months.

8 Q Okay. And I take it that's been several months
9 before that night; is that right?

10 A Yes, sir.

11 Q Did you ever go out with him?

12 A Say what?

13 Q Did you ever go places with him?

14 A No.

15 Q Just at your apartment.

16 A Yes.

17 MR. WARDER: Thank you.

18 REDIRECT EXAMINATION

19 BY MR. HOLLOWAY:

20 Q You testified on cross-examination that you're scared
21 of Dre; is that right?

22 A Yeah.

23 Q I'm sorry?

24 A Yeah. No. At first I was scared, but now I'm not.

25 Q Is it because you're on the witness stand?

1 A Yes.

2 Q Because there's a judge here?

3 A Yes.

4 Q Jury is here?

5 A Yes.

6 Q Sheriff's deputies in the courtroom, right?

7 A Yes.

8 Q I'm here. That means he can't get to you right now,
9 can he?

10 A No.

11 Q You're afraid of what happens once you leave the
12 courthouse, aren't you?

13 A Yes.

14 MR. HOLLOWAY: Thank you.

15 THE COURT: All right. Thank you, ma'am. You can
16 stand down. Thank you.

17 MR. McMASTER: The State is going to call Jeff Wyatt.

18 THE CLERK: Please place your left hand on the Bible
19 and raise your right hand.

20 WHEREUPON,

21 JEFFERY WYATT

22 After having been duly sworn, testified as follows:

23 THE CLERK: Thank you. Please take a seat and state
24 your name for the record.

25 THE WITNESS: Jeffery Scott Wyatt.

DIRECT EXAMINATION

BY MR. McMASTER:

Q All right. Mr. Wyatt, how old are you?

A 46.

Q Where are you living right now?

A [REDACTED] Road.

Q And where do you work?

A I work temporary service through Work Smart currently at Metzger Mile [phonetic].

Q I believe you actually were in the hospital last night; is that right?

A Yes, sir.

Q And you had an injury on the job?

A Yeah. I'm on a maintenance crew, and a Freon line busted and gave me burns on my leg.

Q All right. And back in January of '16, where were you living then?

A Over on -- at [REDACTED] Apartments.

Q Were you in the Law Enforcement Center more directly?

A Yeah. That's -- yeah. That was my current home at the time.

Q You were in jail, right?

A Yes, sir.

Q And how long had you been there?

A Approximately two months.

1 Q And when you were there, did you have a certain job
2 in the jail?

3 A Yeah. They gave me a job as a trustee to serve food
4 and clean up. Red Pod.

5 Q And do you recall a time when you were -- well, let's
6 back up. Tell me about Red Pod for a minute. Tell the
7 jury about Red Pod. Tell them what that is, where that
8 is.

9 A Red Pod, it used to be for problem -- problem
10 inmates, but at the time that I was over there working,
11 they had changed it to like an overflow because they had
12 so many people in the jail that they were using it to just
13 hold people till they can find them a regular pod to go
14 to. And I was assigned to clean and serve meals over
15 there.

16 Q And so you were serving meals in there?

17 A Yes, sir.

18 Q Tell the jury how the meals come out. I mean, how do
19 you know who to give them to, things like that.

20 A They had -- they had their -- the inmate's name and
21 ID number and what cell they're in.

22 Q And you were doing that back in regards to this case,
23 back on January the 4th, 2016?

24 A Yes.

25 Q And do you know anything about the facts of the case

1 that we're here for today?

2 A No. I have really no clue.

3 Q Were you just delivering meals in the jail back then?

4 A Yeah.

5 Q Did you have a chance to overhear a conversation
6 between Aundra Hunter and Tivarius Henderson?

7 A Yes, I did.

8 Q And tell me what you heard Mr. Hunter say.

9 A I heard Mr. Hunter, he was in the shower, and I heard
10 him tell Tivarius, which I didn't even know that was his
11 name at the time, but he told Tivarius that he was sorry
12 that he got him mixed up in this whole deal, and that he
13 knew that he was at home that night, that he -- that he
14 hadn't been out, you know, and wasn't involved with the
15 whole situation.

16 Q And did Tivarius bring that to your attention ---

17 A Yeah.

18 Q --- or said that?

19 A Tivarius asked -- looked over at me and asked me if I
20 had heard what was just said, and I replied that I did.
21 And about that time, the CO that was behind me said that
22 they had heard it, too. And I believe she went and called
23 the supervisor so they could take my statement or take our
24 statements or whatever.

25 Q Did you give a statement?

1 A Yes, sir.

2 Q And did you give that statement to law enforcement?

3 A Yeah. To -- to -- to a lieutenant and a captain at
4 the detention center.

5 Q Now, do you have any contact at all with Tivarius
6 Henderson, Deandre Norris, anything like that?

7 A No, sir. I didn't know them then and I've had no ---

8 Q Are you involved in any type of assault involving
9 them?

10 A No, sir.

11 Q Have ever been in any type of -- any type of
12 organization with them?

13 A No.

14 Q Any type of gang with them?

15 A No, sir.

16 Q Anything like that?

17 A Not affiliated with any kind of gang or anything like
18 that.

19 Q Are they white males or black males?

20 A Black males.

21 Q Have you spoken to Aundra Hunter or Tivarius
22 Henderson or Deandre Norris since that day?

23 A No, sir.

24 Q In fact, were you shipped out shortly thereafter?

25 A Yes, I was.

1 Q Where were you sent?

2 A I think it was -- I went to -- at that point, I went
3 to the Department of Corrections after that.

4 Q So you were sent to the Department of Corrections?

5 A Yes, sir. For 18 months.

6 Q Were you sent there to satisfy your sentence?

7 A To satisfy -- it was a probation violation, so in
8 order to satisfy the probation, they just gave me
9 18 months and dropped the rest of my probation.

10 Q In fact, other than having their names on food
11 lunches or trays or bags or however you give them their
12 food, did you know even the names of these people?

13 A No, sir. I mean, they -- people come and go so
14 frequently, that really, I don't know who's in the -- who
15 was in the cell from day to day.

16 MR. McMASTER: All right. Answer any questions
17 Mr. Warder might have.

18 CROSS EXAMINATION

19 BY MR. WARDER:

20 Q Were you working, was it day or night?

21 A I worked during the day.

22 Q Okay. And showers are at night, aren't they?

23 A It depends. They can give them all through the day.

24 Q Okay.

25 A It just depends on what officer is on and what they

1 decide to do.

2 Q Okay. Is there usually showers just at night?

3 A No. Because in Red Pod, they have to bring -- they
4 escort the inmates out and put them in the shower and then
5 they're locked in the shower.

6 Q They lock them in their ---

7 A It's not like -- it's not like a lot of the other
8 cells where the inmates had free range to come out of
9 their cells, move back and forth or whatever. They're
10 anywhere you go, you're pretty much escorted by somebody.

11 Q Okay. And that's in the old days that it was a ---

12 A Yeah. From -- from where it was a disciplinary unit,
13 I guess, the best way to put it.

14 Q Did you work as a trustee in any other units besides
15 this one, that Red Pod?

16 A Yeah. I worked -- well, I worked in the kitchen
17 before I worked there.

18 MR. WARDER: Thank you.

19 MR. McMASTER: I don't have any other questions.

20 THE COURT: All right. Thank you. You can step
21 down.

22 MR. McMASTER: We ask this witness be excused.

23 THE COURT: Any objection to that?

24 MR. WARDER: No, Your Honor.

25 THE COURT: Okay. Released from subpoena.

1 MR. McMASTER: Daphne Johnson.

2 THE CLERK: Please place your left hand on the Bible
3 and raise your right hand.

4 WHEREUPON,

5 DAPHNE JOHNSON

6 After having been duly sworn, testified as follows:

7 THE CLERK: Thank you. Please take a seat and state
8 your name for the record.

9 THE WITNESS: Daphne Johnson.

10 DIRECT EXAMINATION

11 BY MR. McMASTER:

12 Q What's your age Ms. Johnson?

13 A 25.

14 Q And where are you working these days?

15 A Precision in Travelers Rest.

16 Q Back on December the 9th, the morning hours of
17 December the 10th, 2015 where were you living?

18 A In [REDACTED].

19 Q Do you remember the apartment number?

20 A 5-A.

21 Q You don't live there today, correct?

22 A No.

23 Q Are you familiar with the defendant?

24 A Yes.

25 Q And how did you know him?

1 A We had sexual relations.

2 Q And how long were you in a sexual relationship with
3 him?

4 A For about a month.

5 Q And that was prior to the December 10th day; is that
6 correct?

7 A Yes.

8 Q On the night of December the 9th, 2015, were you at
9 the party at Vicki O'Neal's?

10 A No.

11 Q Where were you?

12 A I was at the Coliseum on Haywood Road.

13 Q Is that a ---

14 A It's a bar.

15 Q --- bar?

16 And who were you there with?

17 A I was with two of my friends and a whole bunch of
18 other friends from Greer.

19 Q In the early morning hours of 12/10/15, did you
20 attempt to go back to your apartment?

21 A Yes.

22 Q Were you able to get in over there?

23 A No.

24 Q And why was that?

25 A Police, SWAT team. Everything was already blocked

1 off. I couldn't even park at my own apartment. I had to
2 park in someone else's yard and walk.

3 Q Did you know what was going on?

4 A No.

5 Q You hadn't heard anything or anything like that?

6 A No.

7 Q Did you -- where did you go at that point?

8 A Well, I was trying to figure out what went on, and I
9 figured Vicki would know because she don't really go
10 anywhere, so I went to her house.

11 Q So that's why you went to her house?

12 A Yes.

13 Q Did you ask her what was going on?

14 A Yes.

15 Q And was this -- was this after 1:00 on the 10th?

16 A Yeah. A little after 1:00.

17 Q And who was there when you got there?

18 A Dre.

19 Q And was Vicki there?

20 A Yes.

21 Q And how were Vicki and Dre acting then?

22 A I was -- paranoid.

23 Q Did you observe him to be -- did you think he was
24 nervous?

25 A Yeah.

1 Q Did he make any statements in front of you at that
2 time?

3 A Yeah.

4 Q What was he saying to you?

5 A It wasn't supposed to happen like this.

6 Q And what did he say was not supposed to happen like
7 this?

8 A He didn't say at that time. He was just pacing back
9 and forth saying, "It wasn't supposed to happen like
10 this."

11 Q What did he say? At a later time did he say what was
12 not supposed to happen like this?

13 A Yes. When we left her house.

14 Q And what did he say at that point?

15 A Like the whole situation with the robbery wasn't
16 supposed to turn out the way it did with the police
17 officer getting shot and Mr. Charles passing away.

18 Q So you indicated you left Vicki's apartment,---

19 A Yes.

20 Q --- with him. Did he talk to you about changing any
21 clothes?

22 A Yes.

23 Q What did he say to you about that?

24 A He said after he did what he did, he went home and
25 changed clothes.

1 Q And what he did, did he say then what he did?

2 A Robbing Mr. Charles.

3 Q Was -- the defendant, Mr. Hunter, is he in the
4 courtroom today?

5 A Yes.

6 Q Can you point him out, where he's sitting?

7 A Right there (indicating).

8 MR. McMASTER: Please let the record reflect that --
9 point out Mr. Aundra Hunter, the defendant.

10 BY MR. McMASTER:

11 Q Had he been drinking that night?

12 A Yes.

13 Q Did you feel like he'd been drinking a good bit?

14 A I don't really know how much he had because I wasn't
15 really there. I just know he was already a little tight
16 once I got there.

17 Q Did he tell you why he robbed Mr. Charles?

18 A No.

19 Q Did he talk about what he took from Mr. Charles?

20 A Money.

21 Q Did he tell you he knocked on the door?

22 A Yes.

23 Q How long do you think he stayed out -- let me back
24 up. Where were y'all at your apartment? Where were you
25 talking to him at your apartment when you took him over

1 there?

2 A We were standing in the breezeway.

3 Q And that's outside?

4 A Yes.

5 Q And how long do you think you were out there?

6 A For a good 20 to 30 minutes. I mean, it was a crowd
7 of us out there. It was a whole bunch of us outside
8 there.

9 Q Did he stay out there a long time?

10 A Yeah.

11 Q Did he eventually leave later on and go somewhere
12 else?

13 A Yes.

14 Q Do you know where he went?

15 A No.

16 Q Did the law enforcement officers, did they eventually
17 come to speak with you?

18 A Yes.

19 Q Did they want you to give a statement?

20 A Yes.

21 Q Did you want to give a statement?

22 A No.

23 Q Why not?

24 A I didn't want to be a part of this. I was scared,
25 nervous.

1 Q Did you try, at one point, to tell them a different
2 story to start your statement?

3 A Yeah, I did.

4 Q And did they talk to you about the need to tell the
5 truth?

6 A Yes.

7 Q Did they talk to you about that they could charge you
8 with a crime if you didn't tell the truth?

9 A Yes, they did.

10 Q Did you change your story?

11 A Yes.

12 Q Is that story consistent with what you told the jury
13 here today?

14 A Yes.

15 Q You've indicated that's your truth as well.

16 A Yes.

17 Q Now, originally, you didn't want to be involved in
18 this case at all, did you?

19 A No.

20 Q And back in the spring of 2018, did you have a time
21 to talk with police officers again?

22 A Yes.

23 Q And can you tell the jury a little bit about why that
24 occurred and what occurred?

25 A I was -- they were trying to subpoena me, and I

1 pretty much was trying to dodge it. So after they got in
2 contact with me, they told me that if I hadn't have met up
3 with them, then I could be in serious trouble. And at
4 that time, my uncle was working for the law -- well, he
5 still works for the law enforcement. So I called him and
6 I asked him, you know, do I have to meet with them? Will
7 I get in trouble if I don't meet with them?

8 Q Well, did your uncle eventually -- do you know if
9 your uncle eventually called ---

10 A Yes, he did.

11 Q --- the Solicitor's Office?

12 A Yes. He called. And he wanted to know what was
13 going on. Because at that time, he had no idea about what
14 was going on or why was I even getting subpoenaed.

15 And I want to say maybe -- well, he actually called
16 me back, and you told -- after he talked to the
17 Solicitor's Office, he called me back and told me, yeah,
18 you're going to have to meet with them.

19 Q Did you want to do that?

20 A No.

21 Q Did you do that?

22 A No.

23 Q Did you eventually have to go to law enforcement and
24 tell them what happened?

25 A Yes.

1 Q Did you have to go there and speak on your uncle's
2 behalf at law enforcement?

3 A Yes.

4 Q Did you give a statement then?

5 A Yes.

6 Q Is that statement essentially the same as what you've
7 given here today?

8 A Yes.

9 Q Now, when they told you about accessory or being
10 charged with accessory, what did you think about that?
11 Tell the jury. Did it make you nervous?

12 A Yes. I thought I would be throwing my life away.

13 Q Since the time of this incident, has the defendant,
14 Mr. Hunter, attempted to reach out to you?

15 A Yes.

16 Q And did he speak to you directly?

17 A Yes.

18 Q Was it through an intermediary, Sloan?

19 A Yes.

20 Q And what did he want you to do?

21 A He wanted me to write an affidavit.

22 Q And to do what with that affidavit?

23 A To pretty much say that my statement was not true.

24 Q Did you do that?

25 A No.

1 Q Did you change your story at all?

2 A No.

3 MR. McMASTER: Answer any questions Mr. Warder might
4 have.

5 CROSS EXAMINATION

6 BY MR. WARDER:

7 Q When they said did you change your statement at all,
8 you admit you changed your first statement, don't you?

9 A Yes.

10 Q And that when they threatened you with charging you
11 with an accessory, you went down there and made another
12 statement.

13 A Yes.

14 Q And you haven't changed that statement, is what you
15 mean.

16 A Yeah.

17 Q And at the same time, were they threatening that they
18 were going to make your uncle lose his job if you didn't
19 do it?

20 A No. They didn't threaten him.

21 Q Did they tell you that?

22 A No. They didn't tell me that.

23 Q Did your uncle go down there with you?

24 A Yeah. But he wasn't in the -- he wasn't in the room
25 with me.

1 Q He was outside waiting for you to make a statement.

2 A Yes.

3 MR. WARDER: Thank you.

4 REDIRECT EXAMINATION

5 BY MR. McMASTER:

6 Q Just real quick. I want to clarify, when you
7 initially told the investigators the incorrect
8 statement ---

9 A Uh-huh.

10 Q --- did you correct that statement that day?

11 A Yes.

12 Q And so then you went to law enforcement much later,
13 spring of '18 ---

14 A Yes.

15 Q --- and just reconfirmed that statement.

16 A Yes.

17 MR. McMASTER: All right. Thank you.

18 THE COURT: All right. Thank you. You can step
19 down.

20 MR. McMASTER: Can we approach, Your Honor?

21 THE COURT: Yeah.

22 (WHEREUPON, a bench conference was held off the record.)

23 THE COURT: All right. Ladies and gentlemen, we've
24 got a legal issue we need to take up, so we're going to
25 take a short break. It's probably a good time to do that.

1 We'll get back with you as quickly as we can.

2 All right. Thank you.

3 Remain seated until the jury leaves the courtroom.

4 Thank you.

5 (WHEREUPON, the jury exits the courtroom at 2:43 p.m.)

6 THE DEPUTY: Want to go ahead and bring him out

7 or ---

8 THE COURT: Yeah. Let's do it.

9 What's his name?

10 MR. McMASTER: Tavarus Downs.

11 (Pause in proceedings.)

12 THE DEPUTY: He says he won't come out, Judge. He
13 said he won't take the stand. He doesn't want to talk.

14 THE COURT: Well, he's going to have to come out and
15 tell us that.

16 Come around Mr. Downs. How are you doing?

17 MR. DOWNS: How are you doing?

18 THE COURT: Pretty good.

19 Come on over and have a seat and tell us what you're
20 going to tell us.

21 First we're going to put you under oath. Place your
22 left hand on the Bible and raise your right hand.

23 WHEREUPON,

24 TAVARUS DOWNS

25 After having been duly sworn, testified as follows:

1 THE COURT: Come around and have a seat.

2 How are you doing?

3 THE WITNESS: How are you doing?

4 THE COURT: Where have they got you?

5 THE WITNESS: Kirkland.

6 THE COURT: Kirkland?

7 THE WITNESS: Yeah.

8 THE COURT: Good.

9 DIRECT EXAMINATION

10 BY MR. McMASTER:

11 Q Your name is Tavarus Downs?

12 A Yes, sir.

13 Q And you've indicated that you do not want to testify
14 here today?

15 A No, sir.

16 Q That you previously would say that you gave a
17 statement in this case.

18 A Yes, sir.

19 Q And that was a recorded statement.

20 A Yes, sir.

21 Q And why don't you want to testify today?

22 A Because I don't -- I can't say if it was the truth or
23 not, sir, so I don't want to send nobody to jail for
24 something I don't know.

25 Q Okay. You're saying it's not the truth?

1 A I don't know if it's the truth or not. Like I don't
2 want to have nothing to do with nobody going to jail for
3 something I really don't know nothing about.

4 THE COURT: You don't know if the statement's true or
5 not?

6 MR. McMASTER: He doesn't know about what he heard
7 was true or not, I think.

8 BY MR. McMASTER:

9 Q Is that what you mean?

10 A Yes, sir.

11 Q So would you testify to what you heard then?

12 A No. I don't want to have nothing to do with this,
13 sir.

14 THE COURT: Well ---

15 MR. McMASTER: We can play his statement and ---

16 THE COURT: Yeah. Let's play the statement they say
17 they took from you, Mr. Tavarus.

18 BY MR. McMASTER:

19 Q Watch this statement if you would, please.

20 A Yes, sir.

21 (WHEREUPON, a video statement of Tavarus Downs was played
22 in camera.)

23 BY MR. McMASTER:

24 Q Do you recall making that statement?

25 A Yes, sir.

1 Q That's the statement you made?

2 A Yes, sir.

3 Q That's the statement you gave that we just watched
4 the video of.

5 A Yes, sir.

6 Q And you did that with Deputy Picone?

7 A Yes, sir.

8 Q And you've indicated that you don't want to testify
9 -- you'll testify that you gave the statement.

10 A Yes, sir.

11 Q And you'll testify that that's your statement?

12 A Yes, sir.

13 Q But you indicate you're not going to answer any
14 questions on the stand other than that.

15 A Like I say, I don't know if he was telling me the
16 truth or not because everything I told him wasn't the
17 truth, so I can't really say.

18 THE COURT: Well, that's fine. He can testify to
19 that.

20 MR. McMASTER: And we can impeach him with the
21 statement.

22 THE COURT: Yeah, yeah.

23 MR. McMASTER: I think we probably need to redact the
24 information about offers and things like that. I don't
25 know if Mr. Warder would want that information to come

1 into the courtroom. I'll be happy for it to, but I want
2 to make sure he makes that call.

3 MR. WARDER: We certainly need to redact all the gang
4 stuff. We need to redact some of the bolstering, too.
5 The solicitor, of course, is very much a fine advocate's
6 position that now you -- he goes through all that you're
7 telling the truth because it is the truth, you know, and
8 they just keep bolstering all that. And then it's a
9 series of leading questions which he couldn't ask in the
10 courtroom, but, of course, the officer asks in the cell.

11 THE COURT: Are you suggesting that in a police
12 interrogation, that they're not allowed to ask leading
13 questions?

14 MR. WARDER: I'm saying that when you do it in the
15 fashion where the police interrogate, ask leading
16 questions and everything, bring that in then to put into
17 court what you couldn't get in without that.

18 THE COURT: Okay. Well, I'll tell you what. That
19 won't come in at all if he answers the questions with
20 respect to what he was told and he does it truthfully. I
21 mean, so it doesn't come -- this tape of this thing
22 doesn't come in if Mr. Downs answers the questions not
23 inconsistent with his prior statement. That's all we're
24 talking about.

25 And then if he, Mr. Downs, doesn't answer -- I mean,

1 he can -- what I'm saying is if Mr. McMaster says, "Did
2 you tell him -- did you tell the police this," and he
3 says, "Yeah, I told the police that," then he can say,
4 "But I don't know now whether it's true," that's
5 different. But if he says, "No, I didn't," then they can
6 impeach him with the prior statement, okay?

7 MR. WARDER: Yes, sir. I think at that point, we
8 wouldn't want to show the whole thing, but ---

9 THE COURT: Yeah. It depends on what Mr. Downs says
10 in front of the jury.

11 What are you going to say in front of the jury,
12 Mr. Downs?

13 THE WITNESS: About what, sir?

14 THE COURT: Well, they're going to ask you about what
15 you said in this statement.

16 THE WITNESS: I said it, but like I say, I don't -- I
17 don't know if it was true. That's why I don't -- I don't
18 know if it was true or not.

19 BY MR. McMASTER:

20 Q Are you going to answer questions about making the
21 statement in front of Picone? Are you going to answer
22 questions about what the defendant said to you in front of
23 the jury?

24 A I won't answer nothing. I don't want to have nothing
25 to do with it.

1 Q So you'll agree ---

2 THE COURT: I know you don't want to have nothing to
3 do with it, but you've got something to do with it. I
4 mean, it's going to happen. They're going to ask you
5 these questions, and then we'll just see how you answer
6 them. And depending on how you answer them, we may end up
7 playing this tape for the jury.

8 THE WITNESS: Yes, sir.

9 THE COURT: Does that make sense?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. You've got to be -- I don't know
12 how to redact, you know.

13 MR. McMASTER: We're going to have to at least
14 silence some.

15 The part about the gang business, I think that's very
16 important to our case based on the fact that that's what
17 he indicates is why Mr. Hunter gave him the information
18 initially. I mean, it sets the tone that he's a -- it
19 says in there he's a higher ranking member of Gangster
20 Cycles. Mr. Hunter gave him that information because he
21 has to. He has to give him information because he's an
22 older member.

23 THE COURT: Okay. All right.

24 MR. McMASTER: So we certainly don't want to redact
25 that. And I understand if we need to redact the part

1 about the offers and things like that.

2 THE COURT: Offers to who?

3 MR. McMASTER: He says in there that Mr. Hunter told
4 him that we had made an offer to him to plead guilty to
5 ten, but that's not what we told him that we had made an
6 offer to Mr. Hunter to do.

7 THE COURT: Okay. Yeah. You redact the
8 negotiations.

9 MR. McMASTER: I think we have to redact that.

10 MR. WARDER: I'd have to see what we redact. But I
11 think other than that ---

12 THE COURT: We just saw.

13 MR. WARDER: -- that has to be redacted.

14 THE COURT: Okay.

15 MR. McMASTER: All right.

16 THE COURT: Can you get that done?

17 MR. McMASTER: We can get that done. We could call a
18 couple other witnesses.

19 THE COURT: Oh, he's out here now. Get the thing
20 redacted. Let's just let him -- you good with that? Just
21 stay here and then get your testimony out of the way, get
22 back to Kirkland?

23 THE WITNESS: Yes, sir.

24 MR. McMASTER: All right. Can we get us just a
25 minute to redact it?

1 THE COURT: Yeah. Take a minute. We'll take a short
2 break.

3 MR. McMASTER: All right.

4 THE COURT: We'll take a short break.

5 (WHEREUPON, a recess is taken at 3:07 p.m.)

6 (WHEREUPON, proceedings reconvened at 3:25 p.m.)

7 THE COURT: I just want to say this that I know I've
8 heard from some court personnel that there might be some
9 inappropriate interaction between the people that support
10 the defense and the people who are here on behalf of the
11 prosecution, and if I hear that there is any harassment,
12 I'll treat it as contempt of court. So I hope I'm very
13 clear about that.

14 Okay. All right. Let's get the jury.

15 (WHEREUPON, the jury entered the courtroom at 3:31 p.m.)

16 THE COURT: All right. Ladies and gentlemen, welcome
17 back.

18 I want to introduce -- well, you go ahead.

19 MR. McMASTER: The State is going to call Tavarus
20 Downs.

21 THE COURT: All right. I just want y'all to know
22 we've gone over some legal matters, and Mr. Downs is
23 already under oath. So you can know that to be true and
24 correct.

25 All right. Go ahead, Mr. McMaster.

1 WHEREUPON,

2 TAVARUS DOWNS

3 After having previously been duly sworn, testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. McMASTER:

7 Q Your name, please.

8 A Tavarus Downs.

9 Q How old are you?

10 A 41.

11 Q And where are you currently incarcerated?

12 A Kirkland.

13 Q Is that with the South Carolina Department of
14 Corrections?

15 A Yes, sir.

16 Q Commonly SCDC?

17 A Yes, sir.

18 Q Did you travel here today?

19 A Yes, sir.

20 Q To be a part of this trial?

21 A Yes, sir.

22 Q And you are down there on an active sentence; is that
23 correct?

24 A Yes, sir.

25 Q And you're serving that sentence now?

1 A Yes, sir.

2 Q Can you tell the jury how long you're serving?

3 A 13 years.

4 Q Prior to being transferred to Kirkland, were you in
5 the Law Enforcement Center, the jail down here, downtown
6 Greenville?

7 A Yes, sir.

8 Q And how long were you in that facility?

9 A Ten months.

10 Q Over the last several years, how long have you been
11 in that facility?

12 A About two years.

13 Q So you've been in and out over the last several
14 years; is that correct?

15 A (Nods head affirmatively.)

16 Q Is that fair to say?

17 A Yes, sir.

18 Q All right. And do you recall making a statement to
19 law enforcement ---

20 A Yes, sir.

21 Q --- about this matter that we're here today for?

22 A Yes, sir.

23 Q And do you recall having that statement recorded?

24 A Yes, sir.

25 Q And did you meet with Investigator Picone?

1 A Yes, sir.

2 Q And speak with him?

3 A Yes.

4 Q Did you give him your statement?

5 A Yes, sir.

6 Q Did you also have your attorney, John Abdalla, with
7 you that day?

8 A Yes, sir.

9 Q And for a portion of that, was Mr. Abdalla present
10 with you?

11 A Yes, sir.

12 Q Was he able to advise you?

13 A Yes, sir.

14 Q Could he answer all your questions?

15 A Yes, sir.

16 Q And for a portion of that statement, was I present?

17 A Yes, sir.

18 Q And Mr. Holloway?

19 A Yes, sir.

20 Q Did this statement -- or this statement that you
21 made, did it take place down over with the Greenville
22 County Sheriff's Office?

23 A Yes, sir.

24 Q Were you taken from the Law Enforcement Center and
25 brought over to the Greenville County Sheriff's Office ---

1 A Yes, sir.

2 Q --- to make that statement?

3 And when you made that statement, did you know the
4 importance that you had to tell the truth?

5 A Yes, sir.

6 Q And you had to tell what you had heard.

7 A Yes, sir.

8 Q Did you do that?

9 A Yes, sir.

10 Q Are you prepared to answer questions about what you
11 told law enforcement here today?

12 A Yes, sir.

13 Q You're going to answer those truthfully?

14 A Yes, sir.

15 Q Starting with reaching out to law enforcement, did
16 you or did you have someone reach out to the Solicitor's
17 Office in order to make a statement?

18 A Yes, sir.

19 Q Who did you have reach out to do that?

20 A My girlfriend.

21 Q Your girlfriend?

22 A Yes, sir.

23 Q And what's her name?

24 A Jessica Griswold.

25 Q And did you talk to your -- did you have a

1 conversation with your attorney about giving a statement?

2 A Yes, sir.

3 Q And when you gave that statement, what was it in
4 regards to? What were you talking about to law
5 enforcement?

6 A About the case with Aundra Hunter.

7 Q And are you talking about what you heard Mr. Hunter
8 say?

9 A Yes, sir.

10 Q Now, of course, you were not out in [REDACTED] back
11 in December the 9th, December the 10th, 2015.

12 A No, sir.

13 Q So all you know about this case comes from
14 Mr. Hunter; is that correct?

15 A Yes, sir.

16 Q You don't have any independent knowledge about this
17 case.

18 A No, sir.

19 Q When you gave that statement or when you talked to
20 Mr. Hunter, how did you come into contact with Mr. Hunter?

21 A We was roommates.

22 Q In the jail?

23 A Yes, sir.

24 Q For a short period of time?

25 A Yes, sir.

1 Q And how do you know Mr. Hunter?

2 A He's in my family.

3 Q You knew him through family?

4 A Yes, sir.

5 Q Did you know him from any other way?

6 A Yes, sir.

7 Q How did you know him from another way? What was it?

8 A Just on the streets.

9 Q Did you know him -- did you have any other
10 affiliations with him?

11 A I -- I don't ---

12 MR. WARDER: Your Honor, I object to this.

13 THE COURT: On what basis?

14 MR. WARDER: Your Honor, they're trying to elicit
15 information that would over prejudicially ---

16 THE COURT: I don't know what his answer is going to
17 be, so let's just see.

18 Go ahead.

19 THE WITNESS: Not -- not really, sir.

20 BY MR. McMASTER:

21 Q Were you in an organization with him?

22 A Yeah. But I don't know really if he was in it or
23 not.

24 Q Did you think he was in it?

25 A Yes, sir.

1 Q Were you a high-ranking member of an organization?

2 A Yes, sir.

3 Q Was that the Gangster Cycles?

4 A Yes, sir.

5 Q And did you think he was in that organization with
6 you?

7 A Yes, sir.

8 Q And, in fact, you asked him questions about his case
9 as a fellow gang member; is that correct?

10 A Yes, sir.

11 Q And under your code or laws or whatever, when an
12 older member asks you questions, the younger member is
13 required to answer, correct?

14 A Yes, sir.

15 Q So he's required to tell you what's going on with
16 him; is that correct?

17 A Yes, sir. But I don't know if it's the truth.

18 Q So you don't know if he's telling you the truth, but
19 you know that he did tell you?

20 A Yes, sir.

21 Q Did he talk to you about that night out at [REDACTED]
[REDACTED]?

23 A Yes, sir.

24 Q What did he tell you about that night?

25 A About the incident that happened.

1 Q Well, tell the jury about that incident.

2 A He told me that he had waited for these two people to
3 come on and went in their house behind them.

4 Q Did he tell you he went in there alone?

5 A Yes, sir.

6 Q Did he tell you he had a gun?

7 A Yes, sir.

8 Q Did he tell you he robbed that individual?

9 A Yes, sir.

10 Q Did he tell you he robbed the candy man?

11 A Yes, sir.

12 Q Did he tell you what he got?

13 A Yes, sir.

14 Q What did he tell you he got?

15 A Some weed and a couple hundred dollars.

16 Q So he stole a couple hundred dollars and got some
17 weed; is that your testimony?

18 A Yes, sir.

19 Q Did he tell you where he went after he robbed him?

20 A To some party or something.

21 Q Did he tell you where he went and changed his
22 clothes?

23 A His baby mama house.

24 Q So he changed his clothes after the robbery at his
25 baby mama's house?

1 A That's what he said. Yes, sir.

2 Q That's what he told you?

3 A (Nods head affirmatively.)

4 Q And at that point in time, did he go -- he went to
5 where another party was being held?

6 A I guess so. Yes, sir. That's what he told me. Yes,
7 sir.

8 Q That's what he told you.

9 Did he tell you about the witnesses in his case?

10 A Yes, sir.

11 Q Did he talk to you about two females in particular?

12 A Yes, sir.

13 Q What did he tell you about those two females?

14 A That they weren't going to come to court.

15 Q That they weren't going to testify?

16 A Yes, sir.

17 Q Did he tell you he reached out to them?

18 A No, sir.

19 Q Did he tell you what he did with the gun?

20 A No, sir.

21 Q Did he tell you -- other than going to his baby
22 mama's house, did he tell you what he did with the
23 clothing?

24 A No, sir.

25 Q Now, when you gave this statement, you had pending

1 charges; is that correct?

2 A Yes, sir.

3 Q And you don't want to be here today; is that fair to
4 say?

5 A No, sir.

6 Q All right. And you wanted help on those charges,
7 too, didn't you?

8 A Yes, sir.

9 Q Did that help ever come?

10 A No, sir.

11 Q And that's why you don't want to be here today; is
12 that right?

13 A I didn't -- I didn't want to be here because I just
14 don't know the truth, and I ain't want to send nobody to
15 jail for something I ain't know about.

16 Q But you knew it came from his mouth.

17 A Yes. But that don't mean it's the truth.

18 Q Did he tell you about the other members -- the other
19 individuals charged in this case? Did he talk to you
20 about that?

21 A Yes, sir.

22 Q What did he tell you about those people?

23 A That they didn't have nothing to do with it.

24 Q Why would he tell -- why did he tell law enforcement
25 they did? Did he tell you why he told law enforcement

1 they did?

2 A No, sir.

3 Q But he said they were innocent; is that what he told
4 you?

5 A Yes, sir.

6 MR. McMASTER: I appreciate it. Answer any questions
7 Mr. Warder may have for you. Thank you.

8 CROSS EXAMINATION

9 BY MR. WARDER:

10 Q You were down there living in a cell with him; is
11 that right?

12 A Yes, sir.

13 Q Just two of you?

14 A Yes, sir.

15 Q He had all of his possessions in that cell, didn't
16 he?

17 A Yes, sir.

18 Q Including all of his papers relating to his criminal
19 case here today.

20 A Yes, sir.

21 Q And if you looked over them, you can see exactly all
22 the facts.

23 A Yes, sir.

24 Q You looked over those papers.

25 A Yes, sir.

1 Q And did they tell you you can get your sentence
2 reduced if you were of substantial assistance in the
3 prosecution of another crime?

4 A Yes, sir.

5 Q And so if you cooperate in this prosecution, they
6 will -- or your attorneys can file a motion to have your
7 sentence reduced.

8 A Yes, sir.

9 Q And did they tell you how big a reduction you're
10 going to get?

11 A No, sir.

12 Q That will be up to some judge to decide?

13 A Yes, sir.

14 Q And you got that information from your attorney, John
15 Abdalla.

16 A Yes, sir.

17 MR. WARDER: Thank you. That's all the questions I
18 have.

19 MR. McMASTER: Redirect, Your Honor.

20 THE COURT: Yeah.

21 REDIRECT EXAMINATION

22 BY MR. McMASTER:

23 Q Were you specifically asked if you had been looking
24 at his discovery when you gave your statement? Do you
25 recall that conversation?

1 A No, sir. I don't.

2 Q Do you need your memory refreshed? If we were to
3 show you your statement, would that help refresh your
4 recollection?

5 A I think -- I don't know. I remember -- I don't
6 remember what I said.

7 Q You don't remember what you said so it would help
8 you?

9 A Yes, sir.

10 THE COURT: What did you ask him?

11 MR. McMASTER: I asked him about did he have a
12 conversation about -- specifically about did he look at
13 the discovery and did he -- and, basically, is this his
14 truth. He said he doesn't recall. He can be refreshed.

15 THE COURT: All right. Okay.

16 MR. McMASTER: Your Honor, at this time, we would
17 like to refresh his recollection.

18 THE COURT: Yeah, yeah. Do it.

19 MR. McMASTER: All right.

20 (WHEREUPON, a portion of a video statement of Tavarus
21 Downs was played in open court.)

22 BY MR. McMASTER:

23 Q Did that refresh your recollection that you received
24 this information firsthand from Mr. Hunter?

25 A Yes, sir.

1 MR. McMASTER: That's all we've got.

2 THE COURT: Okay.

3 RECROSS EXAMINATION

4 BY MR. WARDER:

5 Q When you say you got it straight from Aundra Hunter,
6 do you mean you got it straight from Aundra Hunter through
7 his papers or did he tell you that?

8 A He told me that.

9 Q Okay. And you've appeared in some other cases and
10 testified with late-discovered stuff to get your sentence
11 reduced, haven't you?

12 A Yes, sir.

13 Q And how many times have you appeared to get your
14 sentence reduced in other cases with people you've met and
15 talked to?

16 A Once.

17 Q Once?

18 A Yes, sir.

19 Q So this is just your second?

20 A Yes, sir.

21 Q How long ago was the first one?

22 A About a year ago.

23 MR. WARDER: Thank you.

24 MR. McMASTER: That's all I have.

25 THE COURT: All right. Thank you, Mr. Downs. You

1 can step down. Good luck to you.

2 MR. McMASTER: Your Honor, we'd ask that he be
3 released to SCDC -- back to SCDC.

4 THE COURT: Yeah.

5 MR. HOLLOWAY: The State calls SLED agent Tiffany
6 Edwards.

7 THE CLERK: Please place your left hand on the Bible
8 and raise your right hand.

9 WHEREUPON,

10 TIFFANY EDWARDS

11 After having been duly sworn, testified as follows:

12 THE CLERK: Please take a seat and state your name
13 for the record.

14 THE WITNESS: Tiffany Hezel, H-E-Z-E-L, Edwards.

15 DIRECT EXAMINATION

16 BY MR. HOLLOWAY:

17 Q Agent Edwards, is that okay?

18 A Yes.

19 Q How long have you worked for SLED?

20 A I began employment with the South Carolina Law
21 Enforcement Division in June of 2011.

22 Q Okay. And what capacity do you work at SLED?

23 A Currently I work with the Special Victims Unit
24 assigned to the child fatality investigation team.

25 Q And on the date of this incident, December the 10th,

1 2015, what division did you work?

2 A At that time, I was assigned to the Crime Scene and
3 Latent Print Units.

4 Q Okay. First off, what does SLED stand for?

5 A SLED is the acronym that is assigned to the South
6 Carolina Law Enforcement Division, which is the entity of
7 the state police here in South Carolina.

8 Q And why was SLED called out to the scene?

9 A We were initially called to respond because
10 Greenville County officers had been involved in an
11 officer-involved shooting, and they had requested a third
12 party come in and do the investigation for the forensics
13 related to that shooting.

14 Q And once you were called out there, anybody from our
15 local office would not be there, anybody from forensics
16 would not be there. In fact the SLED maybe would be you
17 going out there and do the investigation.

18 A That is correct. We were -- myself and a partner at
19 the time that I was assigned, Javanea Key [phonetic], she
20 and I were the only forensic agents that responded to this
21 incident.

22 Q And when you first go -- first of all, what location
23 were you called to in the early morning hours of
24 12/10/2015?

25 THE WITNESS: Your Honor, can I consult my notes for

1 the particulars?

2 THE COURT: Certainly. Yes.

3 THE WITNESS: We were requested to respond to

4 [REDACTED] Ring [sic] Extension, Apartment 16-B in
5 Taylors, South Carolina.

6 BY MR. HOLLOWAY:

7 Q And once you got there, who was there?

8 A When we arrived, there were several SLED personnel
9 from the Piedmont Region to include Captain Hendricks,
10 Lieutenant Kinley, and the special agent who was in charge
11 of this case, Andrew Tribble. There were also internal
12 affairs investigators from Greenville County Sheriff's
13 Office on scene with two other investigators as well as
14 the Greenville County deputy coroner Kent Dill.

15 Q Okay. And when you got out there, can you tell the
16 jury, what's your job out there? What are you supposed to
17 do?

18 A When we respond to a crime scene, basically, what we
19 do is we are going to look at the scene through the eyes
20 of the physical evidence. We are there to document the
21 scene as is, to preserve the evidence through that
22 documentation as it appears to the naked eye at the time
23 we are there to capture a true and accurate representation
24 to be viewed later.

25 So when we first got there, we received just a very

1 general belief of what had occurred, then we waited for
2 the search warrant to be secured for the apartment, and
3 then we then proceeded with our first initial walk-through
4 just to make sure that the crime scene was completely
5 enclosed and that did not extend outside the parameters
6 that were already present. And then we began to document
7 with photos and 3D scanning. We then marked evidence,
8 collected that evidence and we worked from the outside of
9 the scene to the interior of the residence.

10 Q Okay. When you went out there -- you testified that
11 you were out there because there's an officer-involved
12 shooting.

13 A Correct.

14 Q When you got out there, did you learn what had
15 happened earlier in the evening?

16 A The only thing that we were advised of is that a
17 neighbor had allegedly called 9-1-1 reporting that shots
18 had been fired with an attempted armed robbery. The
19 police then responded. Upon police responding, they
20 forced entry into a dwelling after the tenant would not
21 respond or answer. A shot was fired, an officer was
22 struck, officers returned fire. And at that point,
23 officers then backed out, calling in SWAT for assistance.
24 And when the individual inside the apartment was found to
25 be deceased, the scene was secured and we were contacted.

1 Q Okay. And throughout the years, we've seen all kinds
2 of TV shows about forensic evidence. Did you collect any
3 DNA that would have helped identify who the suspects were?

4 A We swabbed for DNA on the exterior door handle of the
5 apartment that we responded to.. Additional swabs for DNA
6 were taken off of evidence that was collected from the
7 scene. Unfortunately, crime scene is not like television.
8 We don't wear white pants and high heels and things don't
9 get done in 30 minutes. So at the time when we collect
10 evidence, we have no idea whether it's going to be
11 probative to identifying an unknown party, or if it's
12 simply just going to identify the person who resides at
13 the residence.

14 Q In this situation, all DNA samples that were
15 collected by you and your partner, they did not help
16 identify who the suspect was in this situation.

17 A I am not aware of the results of the DNA. Once the
18 evidence goes back to the laboratory and it's dispersed to
19 the particular analyst in that discipline, I rarely know
20 the outcome of those specific tests.

21 Q And prints taken from the apartment that -- I guess
22 while you were there, did you lift any prints?

23 A I did not collect any latent prints. The visual exam
24 that we did did not show that there was anything obvious.

25 With the doorknob, we went ahead and we chose to swab

1 for DNA versus processing it for fingerprints. A doorknob
2 is a rounded structure, so if you think about just how you
3 open a doorknob, your hand will kind of slip around it. A
4 lot of times, in order to get usable latent prints, there
5 has to be a contact almost like a stamp where you're going
6 to leave that outline of your fingerprint. So when you
7 have that turning motion, sometimes that evidence isn't
8 going to be very useful, so we opted to do the swabbing at
9 that time.

10 Q Now, did you collect a firearm in this case?

11 A I collected several firearms. I collected the
12 firearms from the officer that was injured and the officer
13 that had fired. I also collected one firearm from inside
14 the residence.

15 Q I'm handing you what's been premarked as State's
16 Exhibit 31. Can you identify this for the jury?

17 A (Reviews exhibit) This is a Hi-Point C-9,
18 9 millimeter Luger handgun that was collected from inside
19 the residence. It was located upon a tabletop on a box of
20 candy behind where the deceased individual was located.
21 And it was collected on December the 10th, 2015, at
22 1311 hours, which is 1:11.

23 Q And who logged that firearm into evidence?

24 A I did.

25 Q Okay. And when was that?

1 A It would have been logged in I believe the next day,
2 but it was secured in my custody overnight in a temporary
3 storage area designated at the South Carolina Law
4 Enforcement Division forensic laboratory.

5 Q And where is that located?

6 A The laboratory is located at 4416 Broad River Road in
7 Columbia, South Carolina.

8 Q Is State's Exhibit 31 in the same condition or
9 roughly the same condition as when you last saw that gun
10 and collected it?

11 A Initially, when I collected the gun, the gun was
12 placed in here. It was rendered safe. The magazine was
13 packaged separately as were all cartridges from both the
14 magazine and the chamber of the weapon were packaged
15 separately as well. This box would have then been secured
16 to transport back to the laboratory.

17 I processed this gun for touch DNA and latent prints
18 at the lab, so I would have then reopened the box. Upon
19 my processing for those additional pieces of physical
20 evidence, all of this was sealed, and then it was
21 transferred to the firearms department for further
22 testing.

23 MR. HOLLOWAY: Okay. Your Honor, I would ask to move
24 this Exhibit 31 into evidence.

25 THE COURT: Any objection?

1 MR. WARDER: No, sir.

2 THE COURT: Okay.

3 (WHEREUPON, State's Exhibit Number 31 was admitted into
4 evidence.)

5 BY MR. HOLLOWAY:

6 Q Now, processing the scene at Apartment 16-B, did you
7 also collect at least two shell casings?

8 A Yes. I collected at least two.

9 Q Okay. Investigator, I'm handing you what's been --
10 an envelope. And can you -- and these exhibits have been
11 premarked as State's Exhibits 32 and 33. Without showing
12 the jury just yet, can you identify this for the jury?

13 A (Reviews exhibits) Both of these are cartridge cases
14 that were collected from that location on December the
15 10th of 2015.

16 Q And who collected those items?

17 A They were collected by myself. My initials are
18 present on their packaging material.

19 Q Okay. And once you collected them, what did you do
20 then to preserve them as evidence, say, for a trial like
21 this?

22 A So cartridge cases are collected and then they are
23 placed inside either a small sterile coin envelope or a
24 small sterile pillbox, which is just a small box that kind
25 of slides in and out of its covering. In this case,

1 because we had so many firearms pieces of evidence, I
2 chose to use the envelopes just for space purposes in
3 transportation back.

4 So the cartridge cases are placed inside the small
5 envelopes. These envelopes are then sealed with evidence
6 tape and they are marked with the date, time and initials
7 of the collecting agent.

8 Q And after you collected them, what did you do to
9 preserve them for today? What happened to those shell
10 casings?

11 A So once these were sealed on scene, they were placed
12 in my crime scene truck, and at the completion of
13 processing the scene, they were then transported back to
14 the laboratory in Columbia, South Carolina where they,
15 too, were stored in a secured temporary storage area
16 within the facility overnight until I was able to log in
17 all the evidence the next day into our computer database
18 system.

19 Again, these two items were processed by me. They
20 were swabbed in their entirety for any potential touch
21 DNA. So the envelopes were, at that time, reopened by me,
22 they were swabbed, they were -- cartridge cases were then
23 placed back inside these envelopes, the envelopes were
24 resealed, and then these envelopes were then placed into a
25 plastic bag which was heat sealed, again, with initials

1 and date, and they were then provided to firearms for
2 additional analysis.

3 MR. HOLLOWAY: All right. At this time, I would ask
4 to move both Exhibits 32 and 33 into evidence.

5 THE COURT: Any objections?

6 MR. WARDER: No, sir, Your Honor.

7 THE COURT: Okay.

8 (WHEREUPON, State's Exhibit Numbers 32 and 33 were
9 admitted into evidence.)

10 MR. HOLLOWAY: Thank you very much. That's all I
11 have for you at this time. Thank you.

12 THE COURT: Cross.

13 MR. WARDER: I have no questions for this witness,
14 Your Honor.

15 THE COURT: All right. Thank you, ma'am. You can
16 stand down.

17 Can she be released from subpoena?

18 MR. HOLLOWAY: Yes, sir.

19 THE COURT: Okay.

20 MR. HOLLOWAY: The State calls Chad Smith.

21 THE CLERK: Please place your left hand on the Bible
22 and raise your right hand.

23 WHEREUPON,

24 CHAD SMITH

25 After having been duly sworn, testified as follows:

1 THE CLERK: Please take a seat and state your name
2 for the record.

3 THE WITNESS: My name is Chad Smith.

4 DIRECT EXAMINATION

5 BY MR. HOLLOWAY:

6 Q And tell the jury where you work at this time.

7 A I work at the SLED forensic services laboratory in
8 Columbia. Specifically, I work in the Firearms
9 Department.

10 Q And how long have you worked there?

11 A It will be ten years this November.

12 Q And what is your role in that department?

13 A I'm a firearm examiner. Most of my responsibilities
14 include examination of firearms, ammunition and ammunition
15 components. I also do serial number restorations for
16 firearms that have obliterated serial numbers, and we also
17 do muzzle-to-target distance determination for shot
18 pellets.

19 Q Okay. And if you could, describe to the jury your
20 background, education and training in this area.

21 A I received a -- attended Clemson University where I
22 received a bachelor of science degree in biological
23 sciences. And then when I came on board with SLED, I
24 entered the training program to become a firearms
25 examiner. This training program lasts between three to

1 five years. It is supervised by the court-qualified
2 examiners of the Firearms Department. It involves
3 extensive reading and studying. There are multiple
4 examinations and practical tests given during this
5 period.

6 I also attended various classes and seminars and had
7 the opportunity to tour several firearms manufacturing
8 facilities.

9 Later in my training, I was able to help the other
10 examiners prepare their casework.

11 At the end of the training, I received a
12 comprehensive multipart examination, which I successfully
13 passed, and then I began to receive my own casework.

14 Q And have you testified in state court -- any other
15 court?

16 A State court.

17 Q State court. Okay.

18 And if you could, estimate how many times have you
19 testified as ---

20 A 50 times.

21 MR. HOLLOWAY: Okay. Your Honor, I would move to
22 have him qualified as an expert in firearms.

23 THE COURT: Okay. Any voir dire?

24 MR. WARDER: No, I do not, Your Honor.

25 THE COURT: Okay. So admitted.

1 BY MR. HOLLOWAY:

2 Q Is a part of this investigation into what happened in
3 this incident -- how much do you know about the underlying
4 facts of this case?

5 A Not much. I knew that it was an officer-involved
6 shooting, but beyond that, actually what happened, rarely
7 do we know the facts of a case. For our examination
8 purposes, it really doesn't matter where evidence comes
9 from. We treat it all the same as our examinations.

10 Q As a part of your role, your duty at SLED, did you --
11 I'm going to hand you up what's already been admitted into
12 evidence as State's Exhibit 31. Can you identify this?

13 A (Review's exhibit) Ladies and gentlemen, I'm sure you
14 realize there's a cable tie running through the action of
15 this firearm, so it is safe to handle.

16 Yes. This is one of the firearms that I received,
17 the 9 millimeter Hi-Point pistol that I received for
18 examination.

19 Q And the other firearms that you assessed in this
20 case, were they all belonging to the police officers?

21 A Yes, sir. They were officer firearms.

22 Q Any other private-party guns that you collected in
23 this case and had to analyze?

24 A None that were submitted.

25 Q Okay. And with Exhibit 31, can you describe to the

1 jury what testing you put that firearm through?

2 A Well, first of all, when we open up evidence, we
3 photograph it. Then we make sure that there's -- when we
4 get into the detailed analysis of a firearm, we make sure
5 that it's in operating order, there's no obvious signs of
6 damage or defects that could hinder it firing or make it
7 unsafe to handle. This particular firearm was in
8 perfectly working order.

9 So what we do is when we want to test fire the
10 firearm, we use a water tank. And the water tank is a
11 vertical tank that's filled with water, and we shoot
12 down into it, and we collect our test fires from that
13 firearm.

14 Now, we shoot into water because water slows down the
15 bullet fast enough or slows it down so where it doesn't
16 add or take away markings that we'd be looking for on a
17 bullet, and we also can collect our cartridge cases right
18 there as well.

19 So we collect our test fires, and then we can look at
20 our test fires through what's called a comparison
21 microscope. The comparison microscope, if you can
22 visualize, it has basically two separate microscopes
23 that's connected by an optical bridge system. So you can
24 look into this and you can compare two samples
25 simultaneously.

1 And what we're looking for are markings that are
2 created by the firearm during firing. So you've got
3 several different things that can go on here. With the
4 bullet, which is the projectile, it moves through the
5 barrel. So the barrel adds markings to the bullet that we
6 look at, and the cartridge case, which is basically the
7 container for all the other components of the cartridge,
8 is expelled -- ejected and expelled out of the firearm
9 during firing.

10 So there's markings that are placed on that cartridge
11 case during the firing as well as the firing pin
12 impression which causes the cartridge to ignite. So we
13 can look at those markings and compare them with a
14 comparison microscope and look to see if various
15 components, bullets and cartridge cases, were fired by a
16 specific firearm.

17 Q Okay. Did you actually analyze shell casings to
18 compare to that firearm?

19 A Yes, sir.

20 Q Okay. I'm handing you what's been previously
21 admitted into evidence, State's Exhibit 32. Can you
22 identify this for the jury?

23 A (Reviews exhibit) Yes, sir. This is one of the fired
24 9 millimeter Luger caliber cartridge cases that I received
25 for examination.

1 Q And based -- describe the testing or what you looked
2 at to determine if that shell casing in your hands was
3 fired from Exhibit 31.

4 A Well, again, going back to the test fires, when we
5 test fire the firearm, then we're able to get the bullet,
6 the cartridge cases that were fired from that gun. So we
7 can compare those tests together, and then we can compare
8 tests to submitted evidence. In this case, it's the fired
9 cartridge case.

10 So we're looking for -- again, we're looking for the
11 markings that's created from the gun onto the cartridge
12 case, and those are microscopic markings. Can't see them
13 with the naked eye. Very detailed random markings. And
14 we're comparing those patterns together from the test
15 fires to the submitted evidence, again, try to determine
16 if they were fired by the same firearm.

17 Q In your report, do you know where Exhibit 32 was
18 found?

19 A (Reviews document) Other than what's labeled on our
20 submission documents and what's labeled on the packaging,
21 it's just from Marker L. Other than that, I don't know
22 what that means since I did not actually write the -- or
23 collect the evidence.

24 Q Okay. In your expert opinion, was Exhibit 32 fired
25 from Exhibit 31?

1 A Yes, sir. In my determination from examinations,
2 comparisons with the test-fired cartridge cases with this
3 test-fired -- or with this submitted cartridge case, I was
4 able to determine that it was fired by the State's
5 Exhibit 31 firearm.

6 Q All right. I'm now handing you what's been
7 previously submitted into evidence as State's Exhibit 33.
8 Can you identify this for the jury?

9 A (Reviews exhibit) Yes, sir. This is another fired
10 9 millimeter Luger caliber cartridge case that was
11 submitted for examination and comparison with other fired
12 cartridge case as well as comparison with the 9 millimeter
13 Hi-Point that was submitted.

14 Q Did you put Exhibit 33 through the same process of
15 testing to compare it to Exhibit 31?

16 A Yes, sir. I would compare this cartridge case with
17 the State's Exhibit 32 cartridge case as well as compare
18 it with the test-fired cartridge cases from the firearm.

19 Q Okay. And in your expert opinion, was Exhibit 33
20 fired from Exhibit 31?

21 A In my opinion, it was fired by a different firearm.
22 And that's based on the differences in the firing pin
23 impression itself.

24 So the firearm inside here has a firing pin which,
25 when released, it hits the back of the cartridge, which is

1 a primer. So when it hits that primer, it sets off a
2 little explosion. The explosion ignites the gunpowder
3 inside the cartridge case, and that's what forces the
4 bullet down the barrel.

5 Well, in the process of that, the firing pin leaves
6 an impression on that primer surface. And so basically,
7 there were two different types of firing pin impressions.
8 Basically, the shapes were different so indicating
9 different firearms.

10 MR. HOLLOWAY: That's all I have for you at this
11 time. Please answer any questions opposing counsel has
12 for you at this time.

13 CROSS EXAMINATION

14 BY MR. WARDER:

15 Q The impressions on the primer on the two shells, are
16 the firing pins manufactured to give a unique look to the
17 gun, or is that all the firing pins manufactured and
18 that's just a microscopic defect that gives them a unique
19 impression?

20 A Well, during the manufacturing process of the firing
21 pins, now, each manufacturer can specify what kind of
22 firing pin it has. Not all firearms -- or firearm
23 manufacturers use the same firing pin type.

24 So during that manufacturing of the firing pin, those
25 are the marks that are placed on the firing pin just

1 during the manufacturing process, and that's what the
2 firing pins imparted onto the cartridge case itself during
3 firing.

4 So, again, you could have different types of firing
5 pins, and then that's what is represented in this case.
6 One cartridge case, State's Exhibit 32, had the same
7 firing pin impression as State's Exhibit 21, but also I
8 was looking at the microscopic marks that were created by
9 that firing pin impression.

10 So you've got class type is wrong with these two
11 cartridge cases.

12 Q Okay. So if I'm understanding you, two guns
13 manufactured at the same plant, the same day, the same
14 time would have unique enough firing pin differences that
15 you could tell whether they would come ---

16 A If they're the same exact specified type of firing
17 pin. Again, these are two different types of firing pins.
18 Different manufacturers can use different types of firing
19 pins depending on the model of the firearm. But the
20 microscope markings are what we're looking for
21 identification purposes.

22 In this case, the class characteristics are wrong,
23 the overall characteristics are wrong because there's two
24 different types of firing pins.

25 MR. WARDER: Thank you.

REDIRECT EXAMINATION

BY MR. HOLLOWAY:

Q Very quickly, both Exhibit 32 and 33, what caliber of gun would they go to?

A 9 millimeter Luger caliber is what they would be specified for the firearm.

Q Can those shell casings be put into any other gun or the original cartridge put in any other type of gun, any other caliber of gun and be fired?

A You can make certain types of calibers fire another gun's. Certainly, there's instances where you can wrap tape around a cartridge to make it fill the space up in the chamber of a firearm, but it's not intended to be fired in any other firearm chamber other than a 9 millimeter Luger caliber.

Q And with both those exhibits, you don't see any signs of someone doctoring the shell casing to put them in a different type of gun.

A No, sir. Usually, when we see incidents like that with a firearm, you can't -- you can't go smaller, but you can go larger in caliber. So, for instance, if you had a gun that was chambered in something larger than this, then you could actually, like again, wrap it in tape or something to fill that void in the chamber to make it fire, but usually see an expansion of that cartridge case,

1 a bulging, and these don't exhibit that sort of behavior.

2 MR. HOLLOWAY: Thank you very much.

3 THE COURT: Anything else? Okay. You can step down.

4 Thank you.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Release him from subpoena?

7 MR. HOLLOWAY: Yes, sir. Thank you.

8 MR. McMASTER: May we approach quickly with a
9 schedule matter?

10 THE COURT: All right.

11 (WHEREUPON, a bench conference was held off the record.)

12 MR. HOLLOWAY: The State calls David Picone.

13 THE CLERK: Please place your left hand on the Bible
14 and raise your right.

15 WHEREUPON,

16 DAVID PICONE

17 After having been duly sworn, testified as follows:

18 THE CLERK: Please take a seat and state your name
19 for the record.

20 THE WITNESS: Daniel David Picone..

21 DIRECT EXAMINATION

22 BY MR. HOLLOWAY:

23 Q Investigator Picone, can you tell the jury how you
24 became involved in this case?

25 A At this time, I was actually assigned to Crimes

1 Against Children Unit within Investigative Division at the
2 Sheriff's Office, and one of my goals was to go to
3 Homicide later on in my career, so I was cross-training in
4 Homicide at that time. And I was also a secondary as a
5 negotiator on the SWAT team. So on this night, I received
6 an initial call as a SWAT activation, so I responded to
7 that location as a negotiator.

8 Q So it's fair to say you were involved in this case
9 from the very beginning ---

10 A Yes.

11 Q --- at the conception of investigations.

12 A I was.

13 Q Okay. Now, throughout the -- as time -- as the days
14 went on, you became more actively involved in the
15 investigation of the robbery of Charles Rosemond.

16 A That's correct.

17 Q Okay. And you also were involved in at least one of
18 the interviews of Dre Hunter?

19 A That's correct.

20 Q Aundra Hunter?

21 A Yes. Aundra Hunter.

22 Q Okay. And I'm going to hand you what's been
23 previously premarked as State's Exhibit 4. And can you
24 identify this for the jury?

25 A Yes. (Reviews exhibit) This is a Waiver of Rights

1 form for Aundra Hunter, Junior. Date of birth is [REDACTED] of
2 1998. Myself and Investigator Fortner read this to him on
3 December 18, 2015.

4 Q Okay. This would have been the second interview of
5 Dre Hunter.

6 A That's correct. Second interview.

7 Q Were you present for the first interview?

8 A I was not.

9 Q Okay. What process did you go through just to make
10 sure he understood what he was doing?

11 A We brought him in. Actually, first, I got him out of
12 the jail. He was in the detention center. Brought him
13 over. Brought him into our interview room. Standard
14 protocol is we offer restroom, drinks and things like
15 that. I always notify them if they need to use the
16 restroom, let me know. We can stop. Needs something to
17 drink, let me know. If you're hungry, let me know.

18 After we establish that, we have a form -- standard
19 form that we use at the Sheriff's Office when we're
20 interviewing people of the Law Enforcement Center. So got
21 this Waiver of Rights form. There's two sections of this,
22 and each section has a line beside it where he can
23 initial.

24 So myself, usually, what I do, different
25 investigators do it different ways, but what I usually do

1 is I say the case number, write the date, time that it
2 started, which is at 1:37 p.m, and then I read each line
3 out loud to the person I'm interviewing and have them
4 initial that line as I'm going along to understand --
5 basically, that's just I tell them that's to understand
6 and know that you have no questions about what I read to
7 you.

8 Q And this form he signs himself?

9 A Yes. We went over each line, he initialed each line,
10 and then after I ask them if they understand that form,
11 they would sign it. He voluntarily signed it, and then he
12 -- I don't know if it was myself or him, but information
13 below there was filled out, address, birth date, Social
14 Security number, education level, things like that.

15 Q Okay. And I know there's testimony earlier today
16 about it, but in the first interview, there was a problem
17 with the audio in the interview.

18 A Yes.

19 Q The same thing in this situation, in this second
20 interview, there was, again, problems with the audio.

21 A That's correct. At that time, we didn't know that
22 the audio had been muted. The video captured everything,
23 but the -- something happened, and I guess somebody might
24 have pressed the button to deactivate the sound.

25 Q Did he show any signs that he didn't understand what

1 he was doing at all?

2 A Absolutely not.

3 Q Any threats made to him or promises made to him to
4 get him to talk?

5 A No.

6 Q Okay. Did he ask for a lawyer?

7 A He did not.

8 Q Did he ask for anybody to talk to? His mother? a
9 friend? pastor? Anybody?

10 A No.

11 Q So he freely talked to you.

12 A He did.

13 MR. HOLLOWAY: I would ask to move Exhibit 4 into
14 evidence.

15 THE COURT: Any objection?

16 MR. WARDER: No, Your Honor.

17 THE COURT: Okay.

18 (WHEREUPON, State's Exhibit Number 4 was admitted into
19 evidence.)

20 BY MR. HOLLOWAY:

21 Q Now, Mr. Hunter, Aundra Hunter, he actually talked to
22 you.

23 A That's right. He did.

24 Q Okay. Did you explain to him why you were -- first
25 off, let me ask you this. Did you approach him or did he

1 ask to come talk to you?

2 A We approached him.

3 Q Okay. And what did you say to him?

4 A Went up to the jail. Up to this point, we had just
5 gathered more information in the investigation compared to
6 the first interview they had, so we wanted to question him
7 further.

8 So he was pulled from the jail, signed out. He was
9 in a certain pod at the jail, so he was already shackled
10 in his hands and his feet, so I didn't have to handcuff
11 him. Put him on -- before we left, I advised him that we
12 had some new information and that we want to talk to him
13 and that this is his last opportunity to show that he had
14 a heart.

15 He told me that he was free to talk, so we put him in
16 my patrol car, drove him, you know, a couple hundred yards
17 down to the Law Enforcement Center, walked upstairs with
18 him, brought him in the room. Like I said, I offered him
19 items such as drink and bathroom, things like that. I
20 took one handcuff off. I don't remember which handcuff I
21 took off. And that's so when we're going over the form,
22 he can, you know, freely use the hand that he writes with
23 to sign the form as we go along.

24 Q All right. And did you tell him he better not lie,
25 don't waste your time?

1 A Yes. I did do that as well. I also explained to him
2 that we didn't want to waste our time, you know, coming
3 over here, giving him another chance, so this was his
4 opportunity to show us he had a heart and not to lie to
5 us. And that's when he told me he was free to talk.

6 Q Okay. Well, why did you tell him don't waste our
7 time?

8 A Just number of interviews I've been in, you know,
9 when he didn't tell the truth the first time, a lot of
10 times people will waste our time going over there and
11 repeating the same thing over again. I didn't want to
12 take him over there and spend another hour or 45 minutes
13 of him saying the exact same thing he did the first time
14 or giving the same information. I felt like that would
15 waste our time.

16 Q And when you said that, what did he tell you?

17 A He said that he was free to talk. He came over
18 there, and he gave me two different stories during this
19 interview. Do you want me to go into the stories?

20 Q Yeah. What was the first story?

21 A The first story is he admitted to being in the second
22 court of the apartment complex, and that he was walking,
23 and that he observed two subjects forcing his way into
24 Mr. Rosemond's apartment, and he took off running. After
25 I heard that story, I called him on that and explained to

1 him, that's why I said, you know, that's not the truth.
2 Of course, we've talked to other people, and I know that's
3 not what happened.

4 So we stopped. He put his hands in his head --
5 excuse me -- his head in his hands, and to me that
6 indicated I caught him in a lie, that he'd been --
7 basically, the game was up. It's time to tell the truth.

8 And he went into a second story saying that he was in
9 the second court. He was hanging out with a guy named
10 T-Money and Dada, who were -- T-Money's Tivarius Henderson
11 and Dada was Deandre Norris, and that he was walking -- or
12 Gator, who we saw earlier, came up to them and were
13 talking to them. And Gator had wandered up to
14 Mr. Rosemond's apartment and that those three followed
15 behind Gator without him knowing. And then when they got
16 up to the apartment, T-Money and Dada forced their way in
17 behind Gator, and that Dada fired a round out of the shot
18 towards the office.

19 And in the interview, he even went to as far as to
20 showing me how he did it by sticking his arm up like this
21 (demonstrating) like he had a gun and showing me which way
22 he shot out the door. And then he said when that -- he
23 took off running when that occurred.

24 Q On camera, which hand did he use to demonstrate?

25 A He used his right hand in that. And he sticks it up

1 like he's holding a gun and points back just like this
2 (demonstrating).

3 Q Was he in shackles when he does this?

4 A I can't remember which hand he had free, but I know
5 it was the right hand. I know the shackles were kind of
6 loose, so he -- I'm not sure if he could pull his hand up,
7 but I think it was his right hand that was free.

8 Q Now, in your investigation, did you interview a
9 witness named Daphne Johnson?

10 A I did, yes.

11 Q Okay. Can you tell the jury what happened in that
12 interview, how you came in touch with her and then
13 interviewed her?

14 A Is it okay -- can I get my supplementary report to go
15 with it?

16 Q If it would help you.

17 A Yeah. It would, please.

18 All right. This is the supplemental report that I
19 did on December 21, 2015.

20 (Reviews document) Okay. We got some information
21 about Dre going to a -- to Daphne Johnson's -- give me one
22 second. (Reviews document) All right. So we had gathered
23 information that Daphne Johnson had some firsthand
24 knowledge possibly about this, so, obviously, we wanted to
25 go find her and talk to her about it. Anybody that can

1 give firsthand knowledge of a case, we're going to go
2 interview.

3 Went to the apartment complex and found out where she
4 was staying in Apartment 5-A. Myself and Investigator
5 Fortner went out there and did this interview, and we did
6 an audio-recorded interview.

7 She invited us in the house, and we explained why we
8 were there. And the reason why I wanted to go inside her
9 apartment is because I don't want the neighbor to know her
10 business and what was going on. It's already hard enough
11 to get people to talk to us at that apartment complex, so
12 I didn't want to make her any more nervous than she
13 probably already was.

14 I explained to her what I want to talk about, about
15 the incident at Mr. Rosemond's house, and that she might
16 have information, and that she needed to be truthful with
17 us. And before the interview started, I explained to her
18 that if she lies to us, that she could be charged with
19 accessory. And the reason being is because we had
20 information that she had some firsthand knowledge about
21 this, so I wanted to be up front with her before anything
22 was said.

23 MR. WARDER: Your Honor, certainly, what somebody
24 else said to my client is hearsay.

25 THE COURT: This is what he is -- this is what he

1 said to the witness, so this is not hearsay. Did I
2 understand that that's what you said to the ---

3 THE WITNESS: Yes, sir. That's what I told her, yes.

4 THE COURT: Okay. So overrule.

5 THE WITNESS: And I explained that to her.

6 She started off by saying that she arrived home and
7 the police were already on scene, and that she went over
8 to the apartment where the party was at. And when she
9 went over there, I believe it was Vicki, whose apartment
10 where the party was, and Dre were there, and Dre ended up
11 leaving with her. And at first she said she didn't have
12 any knowledge of what was going on. And then, of course,
13 I pressed her again, and she said that she was going to
14 tell me the truth now.

15 BY MR. HOLLOWAY:

16 Q Now, on that regard, did you threaten her? Describe
17 kind of how that part of the interview transpired.

18 A Yes. No. I -- like I said, when I first initially
19 talked to her, before I even -- before she even gave a
20 statement, I made it known from the beginning of this
21 interview that if you lie to us about it, we find out you
22 lie, you can be charged in this case. That's before any
23 statement was made.

24 Being that we had already learned information from
25 other people and the story that she provided, I felt like

1 she was not telling us the truth. So I pressed her a
2 little bit, probably made her feel uncomfortable, but I
3 never threatened her in any way saying that if she didn't
4 tell me this, you know, if you didn't change your
5 statement, we're going to do this. What she told me is,
6 what came out of her mouth, no coercion or no threats from
7 me, no direction on what she -- what she said. I didn't
8 give her any information. This is all from her.

9 Q No discussion about coming to the prosecutor saying,
10 for lack of cooperation, throw the book at her?

11 A No.

12 Q Okay.

13 A Just what I told her at the beginning is what I told
14 her.

15 Q During that part of the interview, did she mention
16 that she had someone she knew who was a police officer in
17 law enforcement?

18 A No. I don't -- I don't recall that. I don't believe
19 in the interview we did.

20 Q During the interview, at any time did she mention she
21 has -- her uncle works at the Sheriff's Office?

22 A No. I don't see anything that says that.

23 Q Did she ask to call her uncle or anybody else?

24 A No.

25 Q Okay. During the interview, did you ever cut off the

1 interview tape or whatever device you were using?

2 A Once I left. That's it.

3 Q Okay. Now, you were also a part of the interview
4 of -- a later interview of Dre Hunter; is that correct?

5 A Yes.

6 Q Okay. And was that on January the 12th, 2016?

7 A I believe so.

8 Q Okay. And who was present during that interview?

9 A Myself and Investigator Fortner.

10 Q Okay. Prior to beginning the interview -- first off,
11 who handled the advisement of rights?

12 A Investigator Fortner.

13 Q Okay. And you were present during that process.

14 A Yes.

15 Q Okay. Is it fair to say that process, the advisement
16 of rights, transpired the same way you've heard today on
17 previous interviews?

18 A Absolutely.

19 Q Okay. Did the defendant say, "I want to -- I'm fine
20 with talking to you" ---

21 A Yes.

22 Q --- words to that effect?

23 A Yeah. He didn't have a problem talking with us.

24 Q Any threats made? Any promises made to him?

25 A No. I actually made a joke with him about how much

1 we've been talking to him, and he kind of laughed about
2 that.

3 Q Did he ask to speak to anybody?

4 A No.

5 Q Now, during the interviews of the defendant, were you
6 also present during his third interview?

7 A Yes, I was. I was present for three of them, yeah.

8 Q Okay. Throughout the interviews that you witnessed,
9 did the defendant give any names of other suspects, like
10 Chris?

11 A Al Capone.

12 Q Al Capone?

13 A Yes. One other defendant's name besides the other
14 two we identified.

15 Q Okay. Did he mention a name like Quan?

16 A I don't recall that.

17 Q Okay. As part of your portion of the investigation,
18 do you know if each of those leads, if you want to call
19 them a lead, was tracked down?

20 A Yes. Anything that was given to us, names, we tried
21 to track down as many people as possible, including Al
22 Capone and a name Chris that he tried to use as an alibi.
23 We never found a Chris. And actually, we asked the people
24 about Al Capone, and they laughed about that. Said it was
25 a fake name.

1 Q The person Chris, where was he supposed to have been,
2 where he lived?

3 A Yes. Supposedly, he was one of the people,
4 Building 8. I don't remember exact number.

5 So we went to the -- I know we went to the management
6 and tried to locate a Chris. They had no knowledge of
7 that. So to cover our basis, we actually left business
8 cards on every door at that location to see if a Chris
9 would call us.

10 Q So in the entire Building 8, you left a business card
11 at every door.

12 A Yes.

13 Q How many apartments in the building?

14 A I think there's four, four downstairs. We did the
15 four downstairs because he -- I think he mentioned it was
16 downstairs.

17 Q Okay. And this person Quan, did he give you any
18 details about who Quan is, where to find Quan?

19 A I don't -- I don't recall a Quan.

20 Q In the investigation, did you talk to sheriff's
21 deputies who actually work out at [REDACTED] or Oak View
22 and ask them is there anybody that goes by the alias Al
23 Capone?

24 A Yes.

25 Q What were the results of that question?

1 A They had no idea. And that was coming from a deputy
2 who's been working out there for 20 years probably as an
3 extra employment side job, so he knows a lot of people out
4 there.

5 MR. HOLLOWAY: All right. Thank you very much.
6 Please answer any questions opposing counsel has for you.

7 THE COURT: Cross.

8 MR. WARDER: No questions, Your Honor.

9 THE COURT: All right. Thanks, sir. You may stand
10 down.

11 All right. Ladies and gentlemen, I think that's
12 probably, based on what we know about the next witness, a
13 good time to break for the day.

14 So you know what I'm going to tell you. Don't talk
15 about it. The more you learn about it, the more tempting
16 it's got to be. That's just human nature. And everybody
17 you're going to see tonight is going to want to know about
18 it. Just don't do it. Stay true to your oath. Let your
19 word be your bond.

20 And let's go. Hope that this hurricane falls apart
21 somehow. But y'all have a good night. See you at 9:30 in
22 the morning.

23 (WHEREUPON, the jury exits the courtroom at 4:35 p.m.)

24 THE COURT: All right. Anything before we break?

25 MR. McMASTER: Nothing from the State, Your Honor.

1 THE COURT: What do we have tomorrow?

2 MR. McMASTER: The State anticipates two more
3 witnesses. One will be very short, and then Investigator
4 Fortner will probably be lengthy.

5 THE COURT: Okay. All right.

6 Mr. Hunter, stand up for me. Raise your right hand
7 the best you can.

8 WHEREUPON,

9 AUNDRA HUNTER, JR.

10 After having been duly sworn, the following proceedings
11 were had:

12 THE COURT: All right. You can put your hand down.

13 I want you to understand, and I want you to think
14 about it overnight because you're going to have to make a
15 decision tomorrow about whether or not you're going to
16 testify in this case. And whether or not you decide to
17 testify is intricately involved in trial strategy and how
18 -- you know, what the course of how you're going to
19 proceed with your case.

20 Are there any impeachable offenses?

21 MR. McMASTER: We have one possession of cocaine
22 base.

23 THE COURT: That, they can question you about that
24 for the sole purpose of impeaching your ability, your
25 credibility. So that's going to come out. You need to

1 talk to your lawyer about that. And whether or not you
2 testify or present any evidence, of course, is, as I said,
3 a strategic question, but I want you to know that in the
4 final analysis, that while I strongly recommend to every
5 defendant, every client to pay close attention to the
6 recommendations of their counsel, in the end, it is your
7 constitutional right whether you testify or not. It
8 belongs to you and you alone, and it's up to you to make
9 that decision. But I do encourage you to counsel closely
10 with your attorney before you make your decision. But I'm
11 going to be wanting to know tomorrow what you're going to
12 do. So think about it tonight.

13 DEFENDANT HUNTER: Yes, sir.

14 THE COURT: Okay. All right. See everybody
15 tomorrow.

16 Remember what I said about keeping the two sides
17 apart.

18 (WHEREUPON, proceedings recessed at 4:37 p.m, to be
19 reconvened Wednesday, September 12, 2018.)
20

21 * * * * *
22
23
24
25

1 WEDNESDAY, SEPTEMBER 12, 2018

2 (WHEREUPON, State's Exhibit Numbers 35 and 36 were marked
3 for identification.)

4 (WHEREUPON, proceedings reconvened at 9:47 a.m.)

5 MR. McMASTER: Your Honor, the State's ready to
6 proceed.

7 We're going to have two witnesses this morning. One
8 of those witnesses will be Investigator Fortner. There
9 will be some tapes put into evidence we expect at that
10 time. One of those tapes has been redacted. I've shown
11 that to Mr. Warder. He's agreed to the redactions, so I
12 want to make the Court aware of that.

13 THE COURT: Okay.

14 MR. McMASTER: Because, obviously, if we needed to
15 redact it more, we wanted to have that opportunity to do
16 it if he had an objection.

17 THE COURT: Okay.

18 MR. McMASTER: Other than that, we're ready to
19 proceed.

20 THE COURT: All right. I have been informed this
21 morning that the alternate juror says that she is related
22 to Candace Brewer and Roy Brewer.

23 MR. McMASTER: That's a member of the Rosemond
24 family. That's (indicating) Candace.

25 THE COURT: Okay. So I guess we're going to have to

1 cut her loose.

2 Anything, Mr. Warder?

3 MR. WARDER: No. I agree that she could ---

4 THE COURT: Okay. All right. Tell me who Candace
5 and Roy Brewer are and what their connection is.

6 MR. McMASTER: Can she speak, Your Honor?

7 THE COURT: Yeah.

8 MR. McMASTER: This is Ms. Brewer, Candace Brewer.

9 THE COURT: Yes.

10 MS. BREWER: Good morning. I'm Candace Brewer, and I
11 am the victim, Charles Rosemond, Senior, I am his niece.

12 THE COURT: Okay. And Roy Brewer is?

13 MS. BREWER: And Roy Brewer is my husband.

14 And also yesterday, I informed the victim's advocate
15 that, because I didn't realize she was on the jury until
16 my husband came, and I informed her.

17 THE COURT: Okay. All right. Well, it's a good
18 thing she's the alternate.

19 MR. WARDER: Your Honor, we probably need some voir
20 dire whether she's spoken to the other jurors about
21 anything, because of her relationship, that would
22 influence the jury.

23 THE COURT: Well, I'm going to presume that all the
24 jurors have followed the instructions under their oath not
25 to discuss the case. But we'll -- as much as I hate to --

1 okay.

2 Kat, will you bring her? Sophie Wright.

3 (WHEREUPON, the alternate juror entered the courtroom.)

4 THE COURT: Hey, Ms. Wright how are you?

5 JUROR NUMBER 215: Fine.

6 THE COURT: I want to say thank you for a couple
7 things. One, for all the service you're performing this
8 week; and, two, for informing us when you learned that you
9 had a familial relationship with some people who were not
10 witnesses but who are connected with Mr. Charles Rosemond.
11 Because of that, I'm going to have to excuse you as a
12 juror. I know that probably breaks your heart, doesn't
13 it?

14 Okay. I do need to know, have you all -- have you
15 discussed that with anyone else?

16 JUROR NUMBER 215: What?

17 THE COURT: Your relationship, has that been a ---

18 JUROR NUMBER 215: With who?

19 THE COURT: With other jurors.

20 JUROR NUMBER 215: Oh, I told them I was going to
21 talk to you.

22 THE COURT: Okay. All right. But did you all
23 discuss the facts of the case in any way?

24 JUROR NUMBER 215: Hu-uh.

25 THE COURT: Okay. And did you ask them to give

1 special favor to the ---

2 JUROR NUMBER 215: Oh, no. I know how sensitive this
3 is.

4 THE COURT: Okay. All right. Well, I certainly
5 appreciate it.

6 All right. Well, I'm sorry you sat through this so
7 far and don't get to finish it out, but, you know, you
8 don't get to pick who your relatives are. So I will --
9 I'm going to excuse you. And, I guess, Teresa, do we ask
10 her to ---

11 THE CLERK: Go back downstairs.

12 THE COURT: Go on back downstairs to Ms. Olson, and
13 we'll send an e-mail down there to tell her, okay? So I
14 guess we probably need your Courtroom 8 badge.

15 THE BAILIFF: Just keep the other one.

16 THE COURT: Keep the other one. And you know how to
17 get down there?

18 THE BAILIFF: I'll get your phone.

19 THE COURT: Yeah. Okay. All right. Kat, will you
20 escort her out that way? Okay. All right.

21 (WHEREUPON, the alternate juror exited the courtroom.)

22 THE COURT: Okay. I guess we've got to wait a
23 minute. Yeah. Mr. Warder, you look like you want to
24 stand up.

25 MR. WARDER: Yes, I do, Your Honor. I want some

1 inquiry with the other jurors whether she's talked not
2 about the facts of the case, but about the facts of the
3 Rosemond family or anything like that that would carry
4 over prejudice against my client from some friendship or
5 something with them.

6 You know, when you have a juror that is related to
7 the victim's family, it's hard for me to believe that when
8 they first come aware of that, they don't start discussing
9 what they should do and what and why they think they might
10 need to bring that to your attention, maybe even sought
11 advice from other jurors on that, whether they should tell
12 you or how to do that. It certainly has the potential to
13 prejudice the whole panel -- my jury, not the panel. And
14 I think there needs to be some inquiry by the Court as
15 to whether the other jurors, you know, have learned
16 anything from the case from her or discussed anything
17 about her in a personal way about the victim, what a nice
18 fellow he was or any of that.

19 THE COURT: Mr. McMaster, anything?

20 MR. McMASTER: I agree she did say that she told them
21 that she was going to address this with the Court. I
22 don't know that she told other jurors that. I don't know.
23 I mean, I have no way of knowing what she said to them
24 without you questioning them.

25 THE COURT: Well, none of us do.

1 MR. McMASTER: Obviously, that could be an issue if
2 she did discuss it with them. I think it's -- it would
3 take an extra few minutes, but I think it can be -- we can
4 rectify it.

5 THE COURT: Ms. Brewer wants to speak. Would you
6 check and see what it is she wants to talk about.

7 (Pause in proceedings.)

8 MR. McMASTER: She just wanted to know that she
9 doesn't have a relationship with them, with that juror,
10 but I told her that wasn't the question before the bar
11 right now. That's more of what the juror said to the
12 other members of the jury panel.

13 THE COURT: Well, what exactly is her relationship to
14 the juror?

15 MS. BREWER: The juror, I'm married to her nephew.
16 And we never see them. We don't go around them. That's
17 why I didn't even know that she was any relation to him
18 until he came to court yesterday.

19 THE COURT: So it's a very distant relationship.

20 Okay. All right. We'll inquire of the jury what was
21 said.

22 Okay. Let's bring them in.

23 (WHEREUPON, the jury entered the courtroom at 9:57 a.m.)

24 THE COURT: All right. Ladies and gentlemen, welcome
25 back.

1 As you may notice, one of your fellow jurors, the
2 alternate, is not with you, and I have excused her because
3 she learned that she was related to some folks who were
4 involved in the case. What I need to know from you all is
5 were there any discussions about her relationship with the
6 folks in the gallery?

7 UNIDENTIFIED JUROR: We had no clue.

8 THE COURT: Well, did you know what she was coming to
9 talk to me about?

10 UNIDENTIFIED JUROR: No, sir.

11 THE COURT: Okay. All right. And you all I trust to
12 follow your oath and not discuss the case, the facts of
13 the case.

14 And, of course, you can see how important that is.
15 And I will tell you that Ms. Wright, there's a distant
16 relationship, and someone came to court yesterday so she
17 didn't know until yesterday.

18 All right. Hope y'all can see just how important it
19 is that we follow our oath and do what the 200 years of
20 our jurisprudence, our law has taught us, and that's just
21 not to discuss the case, do any independent research or
22 anything like that. So we're all about being fair and
23 impartial, okay?

24 All right. Call your next witness.

25 MR. McMASTER: T'Erica Lynch.

1 THE CLERK: Please place your left hand on the Bible
2 and raise your right hand.

3 WHEREUPON,

4 T'ERICA LYNCH

5 After having been duly sworn, testified as follows:

6 THE CLERK: Please take a seat, and state your name
7 for the record.

8 THE WITNESS: T'Erica Lynch.

9 DIRECT EXAMINATION

10 BY MR. McMASTER:

11 Q Ms. Lynch, how old are you?

12 A I'm 26.

13 Q And where do you live?

14 A In Taylors.

15 Q What's your address?

16 A [REDACTED] Road Extension, Taylors, South Carolina,
17 Apartment 4-G.

18 Q 4-G. And who did you live across from back in
19 December of 2015?

20 A Victoria.

21 Q What was her last name?

22 A I don't recall.

23 Q What did you call her?

24 A Vicki.

25 Q Vicki. And did you have an occasion back on December

1 the 9th to go to a party at her house?

2 A Yes, sir. I did.

3 Q Were there a large number of people at that party?

4 A Yes, sir.

5 Q Do you know what that party was for?

6 A It was for Tivarius's birthday, birthday party.

7 Q Is that Tivarius Henderson?

8 A Yes, sir.

9 Q Okay. And do you know him by T-Money?

10 A Yes, sir.

11 Q And did you see the defendant at that party?

12 A Yes, sir. I did.

13 Q And you saw Mr. Aundra Hunter?

14 A Yes.

15 Q And you know him by what name?

16 A Dre.

17 Q Dre.

18 What did you see -- or describe to the jury what you
19 saw Mr. Hunter possessing at that party.

20 A He was standing -- standing around in the kitchen
21 waving around a gun. It was silver.

22 Q You saw that with your own eyes?

23 A Yes, sir. I did.

24 Q There's no doubt about that?

25 A No, sir.

1 Q You saw it the night of the party?

2 A Yes, sir.

3 Q Did you come to the party a little late?

4 A It was at 10:00.

5 Q Or somewhere around there?

6 A Yes, sir.

7 Q And did you have your child at that time?

8 A No, sir. I had put her to bed around 9:30.

9 Q That's what you were waiting on till you could go
10 over there?

11 A Yes, sir.

12 Q Did you happen to see Aundra Hunter leave the party?

13 A Yes, sir.

14 Q Did you see who he left with?

15 A Yes.

16 Q And who did he leave with?

17 A He left with Tivarius Henderson, Dada, Forty, and I
18 think that's it.

19 Q Was it uncommon to see them together at times, that
20 group?

21 A They was always together.

22 Q They were?

23 A Yes, sir.

24 Q Now, can you point out to the jury the person you saw
25 at the party with the silver gun?

1 A Yes, sir.

2 Q Where is he sitting?

3 A On my right (indicating).

4 Q You're identifying Aundra Hunter, the defendant?

5 A Yes, sir.

6 MR. McMASTER: Answer any questions Mr. Warder may
7 have.

8 THE COURT: Any cross?

9 CROSS EXAMINATION

10 BY MR. WARDER:

11 Q What was Aundra doing when you saw the gun?

12 A He was just standing in the kitchen waving the gun
13 around.

14 Q Okay. He wasn't wrestling with anybody or ---

15 A No, sir.

16 Q And he was just standing in the kitchen waving it
17 around?

18 A Waving it around. Yes, sir.

19 Q Which hand did he have it in?

20 A It was his right.

21 Q His right hand?

22 A Yes, sir.

23 Q And when you say waving it around, what, pointing it
24 at people?

25 A No. I'd say like just up in the air.

1 Q How were people reacting to that? What were they
2 saying?

3 MR. McMASTER: Objection. Hearsay, what other people
4 were saying.

5 THE COURT: Yeah. You can't say what they were
6 saying, but you can say what you observed. You can't say
7 the words they used, but you can tell us what you observed
8 other people were doing.

9 THE WITNESS: They -- they really wasn't paying
10 attention to him.

11 BY MR. WARDER:

12 Q Were they upset?

13 A No, sir.

14 Q So a fellow standing there with a gun in his right
15 hand waving it around, and no one's upset?

16 A No, sir.

17 Q Who were these people?

18 A It was friends.

19 Q Do you know their names?

20 A I can name a few. I don't know everyone that was at
21 the party.

22 Q Who do you know that would have observed this same
23 things?

24 A It was Vicki ---

25 Q Now, what's Vicki's name?

1 A Vicki, Victoria.

2 Q Victoria?

3 A Yes, sir.

4 It was Forty and T-Money around. There was just
5 dancing. They -- they -- they didn't really say anything
6 about the gun.

7 Q Okay. And do you know any more about the gun than
8 that?

9 A No, sir. I don't.

10 Q You were there when they left?

11 A I was there when they left. When they left -- when
12 they left, they went upstairs, walked up this walkway, and
13 once they left, I went in. I went into my house.

14 Q And this took place in the kitchen?

15 A Yes, sir.

16 Q And the kitchen in that house, was it in the back of
17 the house?

18 A It was like in the middle. Where I was sitting, I
19 was on the couch. I can barely see the whole kitchen, so
20 where I was sitting, I can see like the dining room area.

21 MR. WARDER: Thank you.

22 THE COURT: Anything?

23 MR. McMASTER: No, Your Honor.

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

25 MR. McMASTER: I ask she be excused, Your Honor.

1 THE COURT: Any objection?

2 MR. WARDER: No, Your Honor.

3 THE COURT: All right. Released from subpoena.

4 MR. HOLLOWAY: Your Honor, the next witness for the
5 State is Michael Fortner.

6 THE CLERK: Please place your left hand on the Bible
7 and raise your right hand.

8 WHEREUPON,

9 MICHAEL FORTNER

10 After having been duly sworn, testified as follows:

11 THE CLERK: Please take a seat and state your name
12 for the record.

13 THE WITNESS: Michael Fortner.

14 DIRECT EXAMINATION

15 BY MR. HOLLOWAY:

16 Q Investigator Fortner, can you tell us where you work?

17 A In Greenville County Sheriff's Office.

18 Q And how long have you been with the Sheriff's Office?

19 A Tomorrow actually will be 25 years.

20 Q That's awesome.

21 And what sort of cases do you work on currently?

22 A Currently, I'm assigned to the Office of Professional
23 Standards. Most people would know that as internal
24 affairs.

25 Q And on December the 10th, 2015, what division were

1 you working?

2 A At that time, I was working in CID, Central -- or
3 Criminal Investigative Division, and on this particular
4 day, I was assigned to the Homicide Unit.

5 Q And CID, what sort of cases do you work on?

6 A At that time, I was in Homicide. They had Robbery
7 Unit. I used to work in the Robbery Unit as well, started
8 off in white-collar financial crimes, identity theft, that
9 kind of thing. Then I went to family violence, which is
10 domestic violence and things along those lines. And then
11 I went to Robbery and then to Homicide.

12 Q Okay. And there's been testimony throughout this
13 trial, a lot of law enforcement from state and county were
14 there. Can you describe how you became involved in this
15 investigation?

16 A In this particular evening, I was actually on call
17 for Homicide. Not that it mattered. Pretty much
18 everybody was getting called out on this particular night.
19 But I had received a phone call to respond to [REDACTED]
20 Apartments at about 2:30 in the morning.

21 Q Okay. And what had happened?

22 A The initial information that I had gotten was that
23 there was a deputy that had been shot in the head who
24 would have been responding to some type of armed robbery
25 call. At that time, that's all the information I had.

1 Q As things went on that night and days after, did you
2 learn what had happened prior to the shooting of the
3 sheriff's deputy?

4 A Yes, we did.

5 Q Okay. What had happened?

6 A That the deputies were responding to an in-progress
7 robbery. Some people might call it a home invasion since
8 it involved busting into somebody's house and robbing them
9 in their house. That upon -- during the course of the
10 response, they arrive on scene, they get information that
11 the caller, the neighbor who had called in had heard a
12 gunshot. And once they got on scene, they knocked on the
13 door, tried to make contact with somebody inside the
14 apartment and were unable to make contact with somebody.

15 A decision that they had to make at that point in
16 time was do we force entry into this apartment to see if
17 there's somebody in there with a gunshot wound that may
18 need medical attention or do we not? And they elected,
19 which is the right decision in my opinion, to force entry
20 into the apartment, make sure -- or make it into the
21 apartment to try to make sure there wasn't anybody
22 injured. Of course, when they did that, they received
23 gunfire from Mr. Rosemond inside.

24 Q Okay. So the calls that initially went out, was it
25 something, a potential violent crime was in progress?

1 A Yes, sir.

2 Q And the normal protocols for sheriff's deputies
3 responding is what? They get the call robbery in
4 progress, home invasion, what are they doing when they're
5 going out to the actual place where this occurred?

6 A In this particular incident, since this is a robbery
7 in progress, they probably respond to what we would call
8 signal one, which is lights and sirens activated. And
9 while getting there, they're hoping that dispatch is still
10 able to relay information to them about potential suspect
11 descriptions or anything like that, if somebody's leaving,
12 which direction that they're going.

13 Q Okay. And what did you observe when you arrived out
14 there?

15 A Numerous law enforcement vehicles parked up and down
16 the side of the road. I had to park a good distance from
17 the actual incident location and make my way up to it.

18 Q Okay. When you arrived, what was your role out there
19 on scene? What did you do?

20 A At that time, since I was in Homicide and this was an
21 officer-involved shooting, my role was kind of more of a
22 support role with the Office of Professional Standards,
23 the individuals that were working in it at that time.

24 Q Okay. Did you actually go to -- first of all, where
25 did the home invasion occur?

1 A [REDACTED] Apartments, which is [REDACTED] Road,
2 and I believe it's Apartment 16-B.

3 Q And as it's labeled on Exhibit 2?

4 A Yes, sir.

5 Q Okay. And you parked -- is that spot where you
6 parked anywhere on this photo?

7 A No, sir. It would be more down this way (indicating)
8 where I parked at.

9 Q Okay. So you walk down there. Did you actually go
10 into 16-B?

11 A I did a little bit. Yes, sir.

12 Q Okay. But at that point, SLED is already on scene?

13 A No. SLED is not there yet. SLED probably didn't get
14 there till -- I think it was pretty late when they got
15 there. Maybe 6:30 or so in the morning.

16 Q Okay. When you walked into the apartment, can you
17 describe the scene for the jury, what it was like?

18 A The living room area, which at this point in time, as
19 far as I went into was the living room area, it was --
20 looked like it had been ransacked, stuff thrown around,
21 that kind of thing. And I could observe the victim lying
22 on the floor behind the couch, kind of behind the couch,
23 in between the couch and the kitchen area.

24 Q Okay. And when you're going through there, this is
25 not a situation where a bunch of police officers were sort

1 of traipsing around the apartment, was it?

2 A No, sir.

3 Q Okay. The scene was kept the way it was supposed to
4 be until SLED arrived.

5 A Correct. Yes, sir.

6 Q I'm going to hand you -- just one second.

7 Investigator Fortner, I'm handing you what's been already
8 premarked as State's Exhibits 14 through 27. Can you look
9 through these exhibits and see if you can -- you know what
10 they are or what they depict?

11 A (Reviews exhibits) Okay.

12 Q What do those photos show?

13 A Most of these photos show the condition of the
14 victim's apartment when we went in there as far as it
15 looked -- appearing to look like it's been ransacked. One
16 of the photos is of his front door, which shows the actual
17 deadbolt still in the locked position indicating that --
18 or being consistent in ways with having been kicked or
19 forced open, then possibly being kicked.

20 One of the other photos shows the -- Mr. Rosemond's
21 front door. It shows the bullet hole coming through the
22 outside of the front door, and then showing the dent in
23 the metal threshold of the door where the bullet must have
24 went through the door and the angle it was going at, hits
25 that threshold and then ricochets up. It's really easy to

1 see that if they put a trajectory rod through there. It
2 shows how everything lines up really, really well.

3 Another photo is a 9 millimeter shell casing that we
4 found outside of the victim's apartment laying next to the
5 threshold.

6 And then some more showing the apartment being
7 ransacked.

8 And then a couple of the photos are of the office
9 area where a round went across the parking lot area and
10 struck a window to an office door over there. In the
11 picture there, I don't know -- you see where the office
12 building is at. It's kind of got that L-shape to it.
13 This (indicating) particular window that's being shown is
14 in the short L part of it.

15 Q Where I'm pointing on Exhibit 2 (indicating), is this
16 accurate that this is where the office area is?

17 A That's the office area, and then that L-shape that
18 goes right off there.

19 Q And the window is right here (indicating)?

20 A Correct. Yeah. It would be part of this building
21 right here (indicating).

22 Q Okay. And those exhibits, those photos, they
23 accurately reflect what you saw when you arrived?

24 A Yes, sir. They do.

25 MR. HOLLOWAY: Okay. Your Honor, I'd ask to move

1 these in, Exhibits 13 [sic] through 27 into evidence.

2 MR. WARDER: Without objection.

3 THE COURT: Okay.

4 (WHEREUPON, State's Exhibit Numbers 14 through 27 were
5 admitted into evidence.)

6 MR. HOLLOWAY: Now ask to publish the photos.

7 THE COURT: Okay.

8 BY MR. HOLLOWAY:

9 Q And Investigator Fortner, as I put each photo up, can
10 you just -- I know you went through them to authenticate
11 the photos, but just for the benefit of the jury, can you
12 identify what you see for the jury?

13 A Yeah. That would be Mr. Rosemond's front door,
14 around the outside of the front door. The little white
15 spot that you see there in the picture on the door, that's
16 the bullet hole from the round that Mr. Rosemond fired
17 from within coming through the door. And then the little
18 -- I guess like a little fresh scrape mark there on the
19 ground, that's right next to the metal threshold.

20 And when you see the picture in person, you'll be
21 able to see it a little bit better, but you can tell where
22 the bullet actually strikes the threshold. And from
23 there, apparently, the bullet ricochets up and hits Deputy
24 Dempsey.

25 Q It's a little bright. I'm trying to -- here we go.

1 All right.

2 Just for the record, toward the bottom left at the
3 threshold, that metal plate, what is that little object on
4 Exhibit 21?

5 A Are you referring to right there kind of in the
6 corner where the threshold come up to the brick?

7 Q Yes, yes.

8 A Yeah. That's -- you can see part of the 9 millimeter
9 shell casing that we recovered outside of the apartment
10 there.

11 Q And since you were here yesterday throughout the
12 trial, this was one of the shell casings that the SLED
13 agent talked about. Both SLED agents talked about,
14 actually.

15 A Yes, sir. It is.

16 Q Okay. There's a closer shot of -- this is
17 Exhibit 22?

18 A Yes, sir. And it's just a better angle to that
19 9 millimeter shell casing that was laying there.

20 Q Okay. I'm showing you Exhibit 23.

21 A That's the kitchen area. Just a picture showing
22 what's probably some ransacking that was going on inside
23 the kitchen.

24 Q Okay. Exhibit 24.

25 A Yeah. In the kitchen area showing cabinet doors open

1 like maybe somebody was rummaging through the cabinet
2 doors looking for something.

3 Q This is Exhibit 25.

4 A And again, kitchen area, cabinet door -- doors open
5 just indicating that maybe somebody was rummaging through
6 the doors looking through something.

7 Q Exhibit 14.

8 A This picture here would be Mr. Rosemond's bedroom,
9 again, showing clothing and stuff pulling out of the
10 closet area as though somebody may have been looking for
11 something.

12 Q Now, in your opinion, was this signs of just a sloppy
13 bachelor, or is this signs of ransacking an apartment?

14 MR. WARDER: Your Honor, I object to that opinion
15 testimony. I don't know what qualifications he'd have on
16 sloppy bachelors.

17 MR. HOLLOWAY: Your Honor, I would say that his years
18 of experience in investigating violent crimes, burglaries
19 included.

20 THE COURT: I'm going to allow him to answer the
21 question.

22 Go ahead.

23 THE WITNESS: To me, this is more of an indication of
24 somebody ransacking. Everything is just pretty much piled
25 up right there in an area where somebody was just

1 rummaging through stuff and throwing it down as they were
2 going through it.

3 BY MR. HOLLOWAY:

4 Q This is Exhibit 15.

5 A Again, this is in the victim's bedroom once again.

6 In addition to some ransacking that you can see, you
7 can also see some live shell casings for a gun.

8 Mr. Garrison, or Gator, as he's known as, had told us that
9 Mr. Rosemond, after he got robbed, had gone to his bedroom
10 to try to load a gun, so it would be kind of consistent
11 with what Mr. Garrison was telling us.

12 Q Exhibit 16.

13 A Again, it shows some shell casings laying on the
14 ground as well as some ransacking, indications of it.

15 Q Exhibit 17.

16 A And again, showing shell casings laying on the floor
17 in the bedroom there in the closet area.

18 Q Exhibit 18.

19 A Indications of ransacking, rummaging, going through
20 -- dumped out the item that -- those coins are most likely
21 contained in that can, and shell casings laying on the
22 floor.

23 Q Possible that the cash that was taken from the same
24 cans the change came from.

25 MR. WARDER: Objection.

1 THE COURT: I'm going to sustain that. That's
2 speculation. You ought to know that.

3 BY MR. HOLLOWAY:

4 Q Exhibit 19.

5 A Just different photo, different angle of the previous
6 photo showing the coins laying on the floor.

7 All right. This would be the -- Mr. Rosemond's front
8 door from the inside of the apartment. You can see that
9 the deadbolt is still in the locked position, kind of
10 consistent with that door having been forced open.

11 Q And I failed to mention this. This is Exhibit 20.
12 This photo that you just talked about is Exhibit 20.

13 This is Exhibit 26.

14 A All right. This would be the window to a door at the
15 office that's on the little L-shape that I was talking
16 about earlier where a projectile went through that window.

17 Q And in your investigation of what happens in the home
18 invasion and the officer-involved shooting, this bullet
19 didn't come from Charles Rosemond's gun, based on where he
20 was positioned, statements from law enforcement and based
21 on what you saw where his body was lying when you arrived;
22 is that correct?

23 A That would be correct. It would be inconsistent with
24 coming from Mr. Rosemond's gun.

25 Q Just the angles alone ---

1 A Just the angle alone. Yes, sir.

2 Q And finally, Exhibit 27.

3 A Just the same door, same window. It's just a photo
4 taken of it from a little further back.

5 Q Thank you. Now, while you were out there the nights,
6 early morning hours, can you describe the steps that law
7 enforcement took to track down witnesses? What do you
8 guys do when you have this in an apartment complex?

9 A Well, shortly after I arrived on scene, one of the
10 first things that we did was conduct a canvas of the area,
11 walk around, knock on people's doors, see if anybody heard
12 anything, seen anything, that kind of thing. Again, SLED
13 forensics wasn't there yet, so in order to protect the
14 crime scene, we don't all just go tromping through the
15 crime scene. So since we were waiting on SLED, we decided
16 we'd just go out. We had numerous investigators there.
17 So we just all fanned out, went knocking on different
18 doors trying to find witnesses.

19 Q Was it just that night or in the coming days that you
20 canvassed and knocked on the doors of this apartment
21 complex, every building out there?

22 A Correct. As the day went on, the sun came up,
23 daylight, whatever. Got a little later into the morning.
24 Deputy Jumper, who's been working a side job out there at
25 Boulder Creek -- I mean, sorry, [REDACTED] for at least

1 20 years or so because I used to work out there myself a
2 little bit with him, and that was while I was on the road.
3 That's been 18 years ago since I've been on the road. He
4 started getting phone calls from people, residents out
5 there that he was familiar with.

6 MR. WARDER: Objection to what he was getting or what
7 he was receiving.

8 THE COURT: Who?

9 MR. WARDER: He's testifying as to what another
10 deputy was getting or receiving phone calls or stuff.

11 MR. HOLLOWAY: I've already established he's ---

12 THE COURT: Lead investigator in the case. This is
13 something he would learn as the lead investigator, so I'm
14 going to allow him to go forward.

15 Go ahead.

16 BY MR. HOLLOWAY:

17 Q So it's safe to say that you guys received a ton of
18 tips.

19 A We received a few, which is unusual to receive tips
20 as we were doing. And one of the tips, of course, named
21 Mr. Hunter, the defendant, as one of our suspects involved
22 in this.

23 Q And the important thing to note is that as you went
24 along, you had to sit between what was double and triple
25 hearsay to figure out who had direct knowledge; is that

1 right?

2 A Yes, sir. As the information was coming in, a lot of
3 it was I heard somebody say this, I heard somebody say
4 that. So our job as investigators is to start trying to
5 basically backtrack and try to figure out where the
6 original information came from.

7 Q Okay. Eventually, you learned about Ms. O'Neal who
8 testified yesterday.

9 A That is correct. Yes, sir.

10 Q And it was testified she actually had a birthday
11 party at her apartment.

12 A She did. She had a party -- a party at her apartment
13 for Tivarius Henderson.

14 Q Okay. And who were some of the attendees at this
15 party?

16 A You had Tivarius; you had Deandre Norris, who some
17 people were calling Dada; Mr. Hunter, the defendant; a guy
18 they call Forty; of course Vicki O'Neal herself. Another
19 guy that they call Swerve was there. Let's see. I guess
20 that's about all I can remember off the top of my head.

21 Q And so the person who's Dada was Deandre Norris?

22 A That is correct. Yes, sir.

23 Q And Tivarius, what was his last name?

24 A Henderson, Tivarius Henderson. T-Money some people
25 are calling him.

1 Q I think it was mentioned yesterday his last name may
2 have been Glenn. Do you know -- his grandmother or aunt
3 lived out there as well.

4 A That is true. Yes, sir. And exactly how -- I guess
5 he's got one of those hyphenated names, Glenn-Henderson, I
6 think it was.

7 Q And what was his name? Out there at [REDACTED],
8 what name did he go by?

9 A T-Money.

10 Q Now, Ms. O'Neal, were you actually present when you
11 guys talked to her about what happened?

12 A Yes, sir. I was.

13 Q Okay. And you learned from her who attended the
14 party?

15 A That is correct. Yes, sir.

16 Q And I think you spoke to her twice in one day; is
17 that correct?

18 A Yes, sir.

19 Q Okay. Why did you talk to her again that same day?

20 A We went back and spoke with her a second time. At
21 that time, since this did involve an officer-involved
22 shooting as well as armed robbery that we were working on,
23 we took an investigator back with us from the Office of
24 Professional Standards, Investigator Phillips.

25 Q Okay. From her you learned that she had knowledge

1 about the shooting of Charles Rosemond.

2 A That is correct. Yes, sir.

3 Q Okay. And was there any confusion on her part as to
4 what transpired in 16-B on the 10th?

5 A The only thing that she was confused on ---

6 MR. WARDER: I object to testimony, what somebody's
7 confused on.

8 THE COURT: He can't -- doesn't know her state of
9 mind.

10 BY MR. HOLLOWAY:

11 Q Prior to your interview with her, what details, or
12 can you tell us what details about the shooting made it to
13 the public?

14 A Exactly what was released, I don't remember.
15 Generally speaking, very few details get released. This
16 right here would be a perfect example why. We don't like
17 to release a whole lot of details. That way if somebody
18 comes forward to us with information about what took
19 place, we actually know that they know this information
20 firsthand knowledge as opposed to seeing it online or
21 reading it in the newspaper or something like that.

22 Q Was the fact that law enforcement responded to this
23 scene of a possible robbery made to the public?

24 A Yes, sir.

25 Q Okay. And what about the fact that a sheriff's

1 deputy ended up shooting Mr. Rosemond, did that make it to
2 the public?

3 A Yes, it did.

4 Q And this was prior to Ms. O'Neal's -- when you went
5 and talked to her.

6 A Correct. Yes, sir.

7 Q Throughout this investigation, can you kind of
8 speculate how many cell phones that you guys collected and
9 checked in this case?

10 A At least four I can think of.

11 Q Okay. From -- the process of checking cell phones,
12 did you get search warrants?

13 A Yes.

14 Q Okay. And what was found -- well, first off, was
15 anything relevant to this investigation found on those
16 phones?

17 A Yes, sir.

18 Q Okay. Can you tell the jury what was found on these
19 phones and whose phone?

20 A Well, one of the first phones was Mr. Rosemond's
21 phone, one we found in the apartment. We did a search
22 warrant on that, and we found a phone number on the phone
23 that corresponded with shortly after the robbery. Our
24 9-1-1 caller had indicated that Mr. Rosemond received a
25 phone call and she could hear his phone ringing, that it

1 sounded to her like he answered it, so we was really
2 interested in who made that phone call. Investigator
3 Stanton called that number, and it turned out to be
4 Vincent Hawkins, who came in here yesterday, I believe it
5 was. And he, of course, informed us that Eric Garrison,
6 or Gator, was at Mr. Rosemond's apartment when this
7 robbery went down.

8 Q Do you know when Vince called Charles?

9 A Like just minutes after this probably would have
10 happened.

11 Q Do you know if Charles received a phone call before
12 what happened, before he was robbed?

13 A It seems to me that he did receive one, but I don't
14 know any details about that.

15 Q But whatever details are involved didn't lead to a
16 suspect.

17 A That's correct. Yes, sir.

18 Q Helped more with timing.

19 A I'm sorry?

20 Q It helped more with pinpointing the timing of the
21 robbery.

22 A Correct. Yes, sir.

23 Q Were cell phones that belonged to T-Money and Dada,
24 Mr. Norris and Tivarius, were they found?

25 A Yes, they were.

1 Q When -- were the contents of those cell phones found?

2 A On one of the phones they were. We were able to do
3 what we call a phone dump on one of the phones. I don't
4 remember whose it was in particular. We got nothing of
5 any type of evidentiary value from it.

6 The other phone, we were unable to break the little
7 pattern lock that was on the phone to get into it.

8 Q Beyond the phone belonging to Mr. Rosemond, none of
9 the other cell phones provided you any details as to the
10 suspect of your robbery.

11 A That's correct. Yes, sir.

12 Q So throughout the investigation, sifting through all
13 the tips coming in, talking to Victoria O'Neal, you
14 learned that Aundra Hunter was at her party.

15 A That is correct. Yes, sir.

16 Q Now, from there, based on the evidence that you had
17 collected up to that point, did you arrest Dre,
18 Mr. Hunter?

19 A Yes, sir. We did.

20 Q Okay. Once he was arrested, did you question him?

21 A We did. After he was arrested by members of our
22 warrant office, they brought him down to the Law
23 Enforcement Center where myself and Investigator Stanton
24 interviewed him.

25 Q Okay. And you actually interviewed -- I'll ask you,

1 how many times was he questioned?

2 A He was interviewed a total of four times.

3 Q Okay. And can you tell the jury over what dates?

4 A The first time he was interviewed was on
5 December 16th, the day that he was arrested. Then he was
6 interviewed again a couple days later on December 18th, I
7 believe it was. And we then interviewed him a third time
8 on January 11th of 2016. And the fourth time we
9 interviewed him was on January 12th, the next day.

10 Q And for each of the interviews, were you present?

11 A I was. Yes, sir.

12 Q Okay. And regarding the first interview, this has
13 already been admitted into evidence, this is Exhibit 3,
14 these are the rights. Tell the jury what that document
15 is.

16 A This is a rights form. You watch TV, you see it
17 where people get their rights read to them. This is the
18 actual rights right here that we read aloud, or at least
19 the way I do, anyway. I read it aloud to whoever it is
20 that I'm interviewing. And as I read it to them, as I
21 read each one, each line to them, I have them put their
22 initials out here to the side. And once I get done with
23 that, I always read them the Waiver of Rights out loud.
24 And once they read it and they understand everything, I
25 have them sign down here.

1 Q Okay. And Exhibit 4, same process. This was on what
2 date?

3 A This one here is December 16th. That would have been
4 the first interview. And then this one here is
5 December 18th. It would have been the second interview a
6 couple days later.

7 Q Okay. And you were present for that interview?

8 A Yes, sir.

9 Q Okay. That's Exhibit 4.

10 Now, in the first two interviews, December the 16th,
11 December the 18th, what, if any, problems did you have
12 with the audio?

13 A We did. We had an issue with the audio.

14 The way our video system is set up, it has a camera
15 and a microphone. They're separate from each other. They
16 -- they're fed, I guess you could say, to another room
17 where other investigators over there might want to watch
18 the interview can actually go to and watch this interview
19 on a monitor.

20 Inside this room is not only the monitor so you can
21 watch it, but it's also a speaker where you can hear the
22 interview. Well, the speaker, you had the ability to turn
23 the volume up or down. Well, somebody went in there, who,
24 we don't know, but somebody went in there and turned it
25 off instead of just turn the volume down, and nobody

1 realized that. And because of that, these first two
2 interviews that we did with Mr. Hunter had no audio with
3 them.

4 Q But in the room, there was a camera, correct?

5 A In the interview room. Yes, sir.

6 Q And both of those first two interviews, you actually
7 see what transpires.

8 A Right. You've got video. It's like watching a
9 silent movie, is the best way to put it.

10 Q Now, I'm going to call attention to the first
11 interview. What did you tell him about -- what, if
12 anything, did you tell him about why you were wanting to
13 question him.

14 A Well, he understood what he was under arrest for, and
15 what we explained to him that his -- or what we had
16 arrested him for, this robbery of Mr. Rosemond, and we
17 were trying to get his version of the events from him.

18 Q Okay. What was his version?

19 A Basically, that he didn't know anything about it.

20 Q Okay. Did you see any signs that he was impaired by
21 drugs or alcohol?

22 A No, sir. I did not.

23 Q Okay. If you had, what would you have done?

24 A Stop the interview. Wouldn't take a statement from
25 somebody who's impaired because it would just get thrown

1 out in court, so we wouldn't do that.

2 Q And, of course, you've seen the video footage of that
3 interview, correct?

4 A Yes, sir. I have.

5 Q Any signs that he passes out? Any signs that he
6 wants to cease the questioning?

7 A No, sir.

8 Q What details did he provide you about a possible
9 suspect?

10 A He -- he mentions the name of -- let's see. And then
11 this interview here, he doesn't give us the name of
12 anybody in this first one.

13 Q Okay. When did he bring up the name of Al Capone?

14 A During the second interview.

15 Q The second interview. Okay.

16 So in summary, in the first interview, he just denied
17 any knowledge, any involvement in this case?

18 A That's correct. Yes, sir.

19 Q Now, Interview 2, December the 18th, 2016, two days
20 later, the second interview occurred.

21 A Yes, sir.

22 Q Okay. Did he approach you? Did he ask for you guys
23 or did you go talk to him.

24 A We went to speak with him. We had -- in the course
25 of these couple days, we had talked to other people out

1 there at [REDACTED] Apartments, and we wanted to go back
2 to Mr. Hunter, since he did not request an attorney the
3 first time we spoke with him, and confronted him with the
4 information that we had learned.

5 Q Okay. And as you already testified, went through the
6 process, advised him of his rights again, correct?

7 A Yes.

8 Q Okay. And what did you tell him about why you wanted
9 to talk to him?

10 A We explained to him, again, that we wanted to talk to
11 him about this robbery, that we had this new information,
12 and we confronted him with it. And during the course of
13 this interview, he admits to playing a small part in this
14 robbery. What he tells us is that Tivarius and Dada went
15 to the apartment to rob Mr. Rosemond, and he played more
16 of like a look-out role. He stayed back, and he had gone
17 to a dumpster that was out there to watch and see what was
18 going on.

19 Q So he actually places himself close to where this
20 happened ---

21 A Yes, sir. He does.

22 Q --- at the time of the robbery.

23 A Yes, he does.

24 Q Okay. Did you tell him what information, like give
25 him any certain details about what other people had said

1 to you guys and why you're coming back to talk to him?

2 A I wouldn't say we gave him specific details.

3 Typically, what I will do is just say we've got more
4 information that's come in that places you at the scene
5 and being involved in this, maybe being overheard talking
6 about doing the robbery, that kind of thing.

7 Q And he said nothing about I want a lawyer, I want to
8 talk to somebody else, get some advice? None of that?

9 A No, sir. He did not.

10 Q In fact, what were his words; do you know?

11 A As far as?

12 Q As far as whether he wanted to talk to you or not.

13 A Yeah. I'll talk to you. I mean, I don't know
14 exactly what they were, but he agreed to speak with us.

15 Q Did he give any details as to what he's seeing at the
16 garage dumpster?

17 A At the what now?

18 Q When he said he was hanging out -- hanging back away
19 from the shooting.

20 A Okay. I understand what you're saying.

21 Yeah. That Tivarius and Dada go up to the door,
22 knock on the door, Mr. Rosemond answers the door, they
23 then get into a confrontation at the door, as you can
24 imagine, and he sees a -- or sees whoever it is that's got
25 the gun, he won't say who it is that's got it -- or in

1 this statement that he gives tells which one of these two
2 guys has got it, but the one reaches out with their hand
3 and fires a round off kind of across the parking lot area.

4 Q Okay. And where was -- did he mention Eric Garrison
5 in this interview?

6 A He does. He said Gator -- I want to say either Gator
7 actually answers the door, but he's certainly at the front
8 door with Mr. Rosemond while this was going on.

9 Q And when did the name of Al Capone come up in this
10 interview?

11 A Most likely that may have actually come up during the
12 first interview, now that I sit here and think about that.
13 That probably was the first interview.

14 Q Would it help you to see a copy of your Code 5
15 report?

16 A Yes. (Reviews document) All right. It would have
17 been the first interview is the one that was on
18 December 16th. He brings up the name as Al Capone as
19 being who he heard was responsible for doing the robbery.

20 Q Okay. Did you follow up with that tip from him?

21 A The best we could. We actually do have a database
22 where we can put aliases in there, alias names. I did
23 find a few people with that alias. None of them would
24 have matched what we were looking for as far as
25 descriptions and whatnot. And I even did like a DMV

1 search, too, through the Department of Motor Vehicles. I
2 actually did find a guy named Alfred Capone through that,
3 but, again, did not match what we are looking for as far
4 as a suspect.

5 We also spoke with residents in the community to see
6 if any of them knew anybody named Al Capone, and basically
7 what we got were snickers.

8 Q And you mentioned the sheriff's deputy has worked out
9 there for 20 years even when it was called Oak View. Did
10 he know anybody who went by the name Al Capone?

11 A No. He did not either. No, sir.

12 Q Okay. In this second interview, did the defendant
13 describe the way in which T-Money fired the gun?

14 A Yeah. He said he basically pointed out across the
15 parking lot from where Mr. Rosemond's door is at, which
16 would be consistent with the bullets going across the
17 parking lot and striking the window in the pictures that
18 you saw.

19 Q Did you describe where T-Money was standing?

20 A Just basically at the front door of Mr. Rosemond's
21 apartment.

22 Q I'm pointing to Exhibit 2 (indicating). This is the
23 sidewalk, and this is the sidewalk leading to 16-B; is
24 that right?

25 A Yes.

1 Q So what Mr. Hunter said to you was that both T-Money
2 and Gator and Rosemond and Dada were all standing right
3 here (indicating) when this altercation occurred.

4 A Correct. Yes, sir.

5 Q And then Mr. -- T-Money, I guess describe for the
6 jury what he said precisely about how the shooting
7 appeared to him with the arm.

8 A I don't recall him actually telling us which one
9 fires the gun. I seem to recollect that he never actually
10 mentions a name. He doesn't say. He says he doesn't know
11 which one of them has it, but that one basically just
12 extended their arm out across -- pointed it out across the
13 parking lot and just fired off a round.

14 Q Did he say which arm they're firing from?

15 A He did not, but ---

16 (Cell phone interruption.)

17 THE COURT: Hold up. Take the phone. Take it,
18 Mr. Bailiff.

19 Okay. Go ahead.

20 BY MR. HOLLOWAY:

21 Q Whoever fired the gun, he didn't specify which person
22 fired the gun, correct?

23 A Correct. He did not.

24 Q Okay. Did he specify which hand the person was
25 firing from, using the gun to fire?

1 A I want to say he said it was the right hand, but I
2 don't specifically recollect that. However, most likely
3 standing up there at the door and that kind of position,
4 it would have probably been extended out with a right
5 hand.

6 MR. WARDER: Objection. He didn't say it. The
7 question was what did he say ---

8 THE COURT: All right. Don't speculate.

9 BY MR. HOLLOWAY:

10 Q When did you learn that -- which date did you learn
11 that the audio did not record on these two interviews; do
12 you recall?

13 A I do. January 12th.

14 Q Okay. And after learning that the interviews with
15 Mr. Hunter did not have audio preserved, what did you then
16 do?

17 A We went back and got Mr. Hunter out of the detention
18 center and spoke with him again.

19 Q Did he say, "I don't want to talk to you guys"?

20 A No, he did not. He was willing to talk to us again.

21 MR. HOLLOWAY: Okay..

22 (Pause in proceedings.)

23 THE COURT: Do you need a break?

24 BY MR. HOLLOWAY:

25 Q Investigator Fortner, I'm handing you what's been

1 premarked as State's Exhibit 5. Can you identify this for
2 the jury?

3 A Yes, sir. This is the Waiver of Rights that we read
4 to Mr. Hunter on January 11th of 2016.

5 Q And that's virtually identical to what he's been
6 advised of on the previous occasions you testified to?

7 A Yes, sir. It is.

8 Q Okay. Again, Exhibit 5, what details about his
9 education does it list?

10 A 11th grade education and did obtain his GED.

11 Q Okay. And what steps were taken through on this
12 third occasion to make sure he understood what he was
13 doing and that he wanted to do it voluntarily?

14 A Again, we read each one of his rights to him. This
15 one here in particular I actually read to him. Read each
16 one of them. I have him put his initials out there to the
17 side.

18 What I typically do, which I did in this case, is I
19 have them read one of the lines. This one here I had him
20 read the fourth line to me. That indicates to me that he
21 knows how to read. And I have him sign his name after
22 that so I know that -- what happened there. And then I
23 come down and I read the Waiver of Rights out loud to him.

24 This particular form uses the word "coercion." It's
25 kind of an unusual word. A lot of people might not be

1 familiar with it, so I usually take the time to explain
2 that word to them, that basically, it's like another word
3 for pressure, and I'll use some kind of example like I'm
4 not going to pry your fingernails off if you refuse to
5 talk to us. And then I'll ask them to sign their name,
6 and typically, I also have them print their name
7 underneath their signature.

8 Q And that's what he did on that form?

9 A Yes, sir. It is.

10 Q And you also signed it?

11 A I did. Yes.

12 MR. HOLLOWAY: Your Honor, I'd ask to move this into
13 evidence at this time.

14 THE COURT: Any objection?

15 MR. WARDER: No, Your Honor.

16 THE COURT: Okay.

17 (WHEREUPON, State's Exhibit Number 5 was admitted into
18 evidence.)

19 BY MR. HOLLOWAY:

20 Q And in this particular interview, is it on audio and
21 video or just audio?

22 A This particular interview is just audio. We
23 conducted this interview actually at the detention center.
24 The main purpose of this interview was kind of do some
25 follow-up work on the codefendants that were also involved

1 in this case.

2 Q And you had spoken to a man named Jeff Wyatt?

3 A I personally did not speak with Jeff Wyatt.

4 Investigator Stanton did. But I did come in possession of
5 a statement that he had provided to detention officers, a
6 handwritten statement.

7 Q Okay. And that was also why you guys went down there
8 to speak to Mr. Hunter.

9 A Correct. Yes, sir.

10 Q What did he say -- what did Mr. Hunter tell you about
11 what happened at Mr. Rosemond's apartment on December the
12 10th, 2015?

13 A In this particular interview, he didn't really give
14 us a whole lot of information other than he mentioned the
15 name, I think it was Courtney Ellis, who lived in the
16 apartment building that faces Mr. Rosemond, basically
17 across the parking area from his apartment.

18 Q Did the defendant mention an altercation that
19 occurred in the jail?

20 A Well, yes, sir. With -- one of the reasons why we
21 went over there was we were getting information coming in
22 that Tivarius Henderson and Deandre Norris weren't
23 involved; that he was going around telling people in the
24 detention center that, that they weren't involved, in
25 particular telling Tivarius, "I'm sorry I got you guys

1 involved in this," and that kind of thing and that
2 Mr. Wyatt had actually overheard this. So that's the
3 reason why we were going over to speak with Mr. Hunter,
4 the defendant. And he mentioned that Tivarius and them
5 had jumped on an individual..

6 Q In your investigation, did you learn whether
7 Mr. Wyatt is in a gang himself?

8 A There's no indication that he is. No, sir.

9 Q Certainly not in the Gangster Disciples or any other
10 gang that might be affiliated with [REDACTED].

11 A No, sir.

12 Q Did you check on or follow up with this tip about
13 Courtney Ellis?

14 A We did. Yes, sir. Once we -- he only knew her as
15 Courtney, so we had to do a little bit of work to figure
16 out who she was. But we figured out it was Courtney Ellis
17 and where she worked and lived at.

18 Q What, if any -- in your investigation, what, if any,
19 information did she have regarding what happened to
20 Mr. Rosemond?

21 A Well, when we spoke with her, she said that she knew
22 nothing about what took place.

23 Q Let's see here. I'm handing you what's been
24 premarked as State's Exhibit 35. Can you identify
25 this?

1 A (Reviews exhibit) Yes, sir. This is a CD that
2 contains the audio recording of the interview that we
3 conducted with Mr. Hunter, the third interview that was
4 conducted on January 11, 2016, at the detention center.

5 Q Okay. And you testified earlier that you went to see
6 him in the jail; is that correct?

7 A Yes, sir. We did.

8 Q Can you explain why there's only audio and nothing
9 that would show video?

10 A What we did was when we brought him out of the
11 detention center, there's a VA room for DUIs. We actually
12 took him in one of those rooms where we can conduct this
13 interview. That way we have some privacy. And as far as
14 recording interviews for cases like this, there's no
15 camera provided for that.

16 Q And have you listened to Exhibit 35?

17 A I have. Yes, sir.

18 Q And what you heard, is it a fair -- does it record
19 everything from that interview?

20 A Yes, sir. It does.

21 MR. HOLLOWAY: I would ask to move Exhibit 35 into
22 evidence.

23 THE COURT: Any objection?

24 MR. WARDER: No objection, Your Honor.

25 THE COURT: Okay.

1 (WHEREUPON, State's Exhibit Number 35 was admitted into
2 evidence.)

3 MR. HOLLOWAY: And I would ask to publish it at this
4 time.

5 THE COURT: All right. How long does this last?

6 MR. HOLLOWAY: About 30 minutes.

7 THE COURT: Would you all like to take a short break
8 this morning before we listen? Is everyone okay?

9 Okay. Go ahead.

10 MR. HOLLOWAY: And, Your Honor, just for purposes of
11 housekeeping, the second interview is about an hour in
12 length.

13 THE COURT: All right. Well, let's listen to this
14 one and then we'll . . .

15 (WHEREUPON, State's Exhibit 35, an audio recorded
16 interview, was played in open court.)

17 BY MR. HOLLOWAY:

18 Q By this point, T-Money and Dada have already been --
19 they're in jail under arrest for -- based on what he told
20 you.

21 A Yes, sir.

22 Q And he told you nothing in this interview that
23 changed your mind about charging them.

24 A No, sir. But that along with some other evidence
25 that we already had. No, sir.

1 Q And you also interviewed Mr. Hunter a fourth time; is
2 that correct?

3 A Yes, sir. We did.

4 Q And when was that fourth interview?

5 A That was on January 12th of 2016, the day after that
6 particular interview.

7 Q And what was the reason for going back and talking to
8 him a fourth time?

9 A Because on January 12th, I started the process of
10 writing my report. And I pulled out the interviews that
11 we did with Mr. Hunter, and I put in the first one,
12 realized it was silent, we didn't have any sound with it,
13 so then I put in the second interview, had realized it
14 also was silent. So at that time, I knew we needed to go
15 back over and get Mr. Hunter out and reinterview him.

16 Q I'm handing you what's been premarked as State's
17 Exhibit 6. Can you identify this for the jury?

18 A Yes, sir. Again, it's a Waiver of Rights that was
19 read to Mr. Hunter on January 12th of 2016.

20 Q And who was present with you during this interview?

21 A That was myself and Investigator Picone.

22 Q And did the defendant say -- ask you any questions
23 about interviewing him a fourth time?

24 A No, sir.

25 Q Did he say, "I want a lawyer"?

1 A No, sir.

2 Q "I want to talk to somebody for advice before talking
3 to you again"?

4 A No, he did not.

5 Q Okay. Again, just as you testified before, you went
6 through the same steps of advising him of his rights,
7 correct?

8 A Yes, sir. Just like what we heard on there, for
9 example. Yes, sir.

10 Q And once again, asked him about his education level?

11 A Yes, sir.

12 Q And did he acknowledge that he understood his rights?

13 A Yes, sir. He did.

14 Q And did he sign this form, Exhibit 6?

15 A Yes, sir. He did.

16 Q And show the jury where you signed Exhibit 6.

17 A I signed right here (indicating) on the top line, and
18 then Investigator Picone has signed right below me.

19 MR. HOLLOWAY: At this time, I'd ask to admit
20 Exhibit 6 into evidence.

21 THE COURT: Any objection?

22 MR. WARDER: No, Your Honor.

23 THE COURT: Okay.

24 (WHEREUPON, State's Exhibit Number 6 was admitted into
25 evidence.)

1 BY MR. HOLLOWAY:

2 Q Did you explain to Mr. Hunter what happened on the
3 other two interviews with no audio?

4 A I don't believe -- I don't recall explaining to him
5 that the other two interviews were silent. No, sir.

6 Q Okay. What did you tell him about coming back the
7 fourth time to interview him?

8 A That we had required all this information and that we
9 wanted to go through it all one last time, make sure we
10 had everything correct.

11 Q What did he tell you about what happened in
12 Apartment 16-B on December the 10th, 2015?

13 A Pretty much the same thing that he told me the first
14 time, that they all went over there and that he kind of
15 stayed back a little bit, but that he seen what took place
16 as far as between Deandre Norris and Tivarius Henderson at
17 the door with Mr. Rosemond and Eric Garrison.

18 Q You said that when he told you the first time, would
19 that be referring to Interview 3?

20 A The second time. Well, the second interview, I
21 guess. What he told me the second time, yes.

22 Q Did he say anything about possible suspects besides
23 T-Money and Dada?

24 A He just mentioned the name Al Capone once again.

25 Q And did he mention the name Quan?

1 A He did. He said while he was at the party at Vicki
2 O'Neal's apartment the night of the party, that he
3 overheard an individual that he knows as Quan talking
4 about how he had robbed Mr. Rosemond in the past. That's
5 kind of what gave him the idea that night.

6 Q Okay. Based on the information Mr. Hunter told you
7 about Quan, did you follow up on that information?

8 A The best I could. Chances are, Quan is short for
9 another longer name, like maybe Ray Quan or something
10 along those lines. I did the best I could as far as
11 searching through our report records using the name Quan
12 to see if I could find out anything as far as also with
13 Mr. Rosemond as well, see if I could find any reports with
14 Mr. Rosemond that indicated or had a name of somebody that
15 could have been a Quan in it as a potential suspect or any
16 other type of relation, and I was unable to identify Quan.

17 Q Did you check the same database you mentioned before
18 about the previous street name of Capone?

19 A Yes, sir. I did.

20 Q Basically, the results of following up once again,
21 you got nothing out of this potential information.

22 A That's correct. Yes, sir.

23 Q Okay. Did he say where he had been that night before
24 going to the party?

25 A He was at another apartment playing video games, if I

1 remember right, and he was outside. And he seen Tivarius
2 and Dada. I think maybe Forty was with them at this time,
3 too. Runs into them outside in the parking lot up there
4 hanging out, and they gave him a beer to drink. And they
5 went on to the party, and then he went back inside and
6 playing a video game. Like I said, I believe video games.
7 And then later -- a little later after that, he went on
8 down to the party at Vicki's place.

9 Q Did he mention anything about a guy named Chris?

10 A He did. He mentions the name Chris as being an
11 individual. Myself and Investigator Picone, we followed
12 up on that information as best we could based on the
13 apartment that he was trying to describe to us where this
14 Chris individual lived. Went over there, knocked on
15 doors, put business cards in doors, asked, again, Deputy
16 Jumper, who had been working out there for several years,
17 if he was familiar with a guy named Chris who lived out
18 there, and, again, we were unable to corroborate that
19 information.

20 Q Did he mention the name of a Mr. Irby, Mr. Tylak or
21 Taleak [phonetic] Irby?

22 A He did. Yes, sir. He was trying to tell us that
23 Taleak Irby was the same person that he was calling Al
24 Capone.

25 Q Were you able to confirm this information that he

1- provided?

2 A No, sir. Not one way or the other. No, sir.

3 Q Do you even know if this person, Mr. Irby, exists?

4 A I don't know that for sure. No, sir.

5 Q The interview that you conducted, where was it at?

6 A This fourth interview was in one of our interview
7 rooms in CID at the time.

8 Q Okay. And the interview, this time, did the camera
9 work and the audio work as well?

10 A Right. Once -- when I realized that the other videos
11 were not working properly, that the audio, we went to
12 check on what was going on, and that's when we discovered
13 that somebody had actually turned the microphone off. So
14 we turned it back on, obviously, prior to this and brought
15 him back over to do a follow-up interview.

16 Q Can you describe or tell the jury how he described
17 what transpired at Rosemond's door?

18 A Again, Deandre and Tivarius go up to the door, knock
19 on the door, confrontation takes place at the door, they
20 make entry. And he indicates to us on the video, when you
21 watch the video, he'll -- he actually extends his right
22 hand indicating that whichever the two's got the gun,
23 again, he doesn't tell us specifically which one it is
24 that's got the gun, but one of them extends their hand
25 out. He used -- he demonstrates with his right hand in

1 the video and fire -- or that individual fires a round
2 across the parking area, which would have been consistent
3 with striking that window in the office.

4 Q Did he mention Gator?

5 A Yes, sir. He mentions Gator being there at the door
6 as well with Mr. Rosemond.

7 Q Okay. Did he describe who got to the door first?

8 A I don't remember specifically which one he says got
9 first, but basically, Deandre and Tivarius go up there
10 together.

11 Q Where did he say he was going at the time of this
12 altercation?

13 A Well, once -- he said once the altercation starts, he
14 decides he wants to get out of there and head over to his
15 girlfriend's house, Shaquanna Atkins. And then while on
16 the way there, he hears the gunshot.

17 Q And which apartment does she live, Ms. Atkins?

18 A 6-C, maybe. I don't know. Off the top of my head, I
19 don't remember, but I think it's 6-C.

20 Q Did he mention anything about seeing police out
21 there?

22 A He does. Afterwards, he, like most other people,
23 they saw a bunch of law enforcement vehicles out there.

24 Q Did he mention where he went after going to
25 Ms. Atkins's apartment?

1 A He goes over to Vicki O'Neal's apartment.

2 Q And after her apartment, did he mention where he went
3 from there, or did he stay there overnight?

4 A No. Off the top of my head, I don't remember where
5 he said he went, but he did not stay there overnight. No,
6 sir.

7 Q Did you check on possible information about where
8 T-Money and Dada went that night after the party?

9 A Yes, sir.

10 Q Okay. Did you know where they went or where they say
11 they went?

12 A Well, allegedly, after the party, they go to
13 T-Money's house to go to bed.

14 MR. WARDER: No objection, Your Honor.

15 THE COURT: To what?

16 BY MR. HOLLOWAY:

17 Q Investigator Fortner, I'm handing you what's been
18 premarked as State's Exhibit 36. Can you tell the jury
19 what that is?

20 A This is a DVD that contains the fourth interview with
21 Mr. Hunter. This case here, it's both video and audio
22 that was conducted on January 12th of 2016.

23 Q And as you testified previously about what transpired
24 on that video, have you actually watched that video?

25 A Yes, sir. I have.

1 Q Everything you talked about is on that video.

2 A Yes, sir.

3 MR. HOLLOWAY: Okay. And nothing's been -- Your
4 Honor, at this time, I would ask to move the Exhibit 36
5 into evidence.

6 THE COURT: Mr. Warder, any objection?

7 MR. WARDER: No, sir.

8 THE COURT: All right. Thank you,

9 (WHEREUPON, State's Exhibit Number 36 was admitted into
10 evidence.)

11 THE COURT: All right. Ladies and gentlemen, this, I
12 think, is going to take an hour, from what I've been told,
13 so we will take a short recess this morning. Please don't
14 discuss the case, and we'll get back with you very
15 shortly.

16 (WHEREUPON, the jury exits the courtroom at 11:18 a.m.)

17 THE COURT: All right. Mr. Fortner, you may stand
18 down, sir, but please don't discuss your testimony.

19 We'll take a short break.

20 (WHEREUPON, a recess is taken at 11:18 a.m.)

21 (WHEREUPON, proceedings reconvened at 11:42 a.m.)

22 MR. HOLLOWAY: Your Honor, real quickly, earlier,
23 Fortner actually testified, authenticated Exhibit 36 for
24 the fourth interview. This CD has -- it's the complete
25 interview without all the changes we agreed on. So what I

1 want to do is I believe I'm going to have him authenticate
2 Exhibit 37, which is the interview which has all the
3 changes. This was my error, so I'm going to try to just
4 have him go ahead and go through the authentication
5 process on a different exhibit.

6 THE COURT: Well, do you want to just consent to
7 doing it outside the presence, substitute one for the
8 other?

9 MR. HOLLOWAY: That would be easier.

10 THE COURT: What do you want to do, Mr. Warder? Or
11 do you want to go through the whole thing so the jury
12 hears that there's stuff on there that ---

13 MR. WARDER: No. I don't want to do that. I don't
14 want to go through the whole thing.

15 THE COURT: Okay. So you're going to consent here on
16 the record to substitute the corrected CD?

17 MR. WARDER: Yeah. For the one ---

18 THE COURT: Okay.

19 MR. HOLLOWAY: So it will be called Exhibit 36, as
20 he's talked about in his testimony.

21 And I believe they've agreed to -- could the Court
22 make an instruction or tell the jury that there are
23 certain changes that have been made? I know we just
24 talked about this, but there are certain parts of the
25 video that they're going to see where there's not going to

1 be sound, and if the Court can make them aware that
2 certain things ---

3 THE COURT: I'll just tell them that I've ruled that
4 that's inadmissible. Is that good with you?

5 MR. WARDER: That's good.

6 THE COURT: All right. Let's bring them.

7 (WHEREUPON, the jury entered the courtroom at 11:46 a.m.)

8 THE COURT: All right. Are you ready?

9 MR. HOLLOWAY: Yes, sir.

10 THE COURT: Ladies and gentlemen, I just want to tell
11 you there may be some periods of silence on the tape that
12 you're going to see, and I want you to know that those are
13 -- the audio I have ruled is inadmissible during those
14 periods, so that's why there's -- it's not like
15 Watergate.

16 All right. Go ahead.

17 MR. HOLLOWAY: Your Honor, I don't know if I did this
18 before the break, but I would ask to move 36 into
19 evidence.

20 THE COURT: I think there was no objection; is that
21 right?

22 MR. WARDER: That is correct, Your Honor.

23 THE COURT: Okay. All right.

24 (State's Exhibit Number 36 was previously admitted into
25 evidence.)

1 MR. HOLLOWAY: And I would ask to publish at this
2 time.

3 THE COURT: Yep.

4 (WHEREUPON, State's Exhibit 36, a video interview of the
5 defendant, was played in open court.)

6 MR. HOLLOWAY: Your Honor, I think the sound is off
7 for the rest of the video. I'm going to go ahead and stop
8 it right now.

9 THE COURT: Any objection?

10 MR. WARDER: No, sir.

11 THE COURT: Okay.

12 BY MR. HOLLOWAY:

13 Q You testified earlier -- this morning you testified
14 at length about the first interview with Hunter?

15 A Yes, sir.

16 Q Okay.

17 (WHEREUPON, State's Exhibit Numbers 37 and 38 were marked
18 for identification.)

19 Q I'm going to hand you what's been premarked as
20 State's Exhibit 37. Can you identify this for the jury?

21 A This is a DVD that contains the first interview with
22 Mr. Hunter which was conducted on 12/16 of 2015.

23 Q Okay. And the questions I asked you earlier this
24 morning about that interview, they apply to this exhibit?

25 A Yes, sir.

1 Q Everything that you talked about is on -- have you
2 listened to the contents of that exhibit?

3 A Unfortunately, you can't listen to it because ---

4 Q I'm sorry. Have you watched it?

5 A Yes.

6 Q And things you testified to, short of the audio, is
7 on that exhibit?

8 A Yes, sir.

9 MR. HOLLOWAY: I would ask to move Exhibit 37 into
10 evidence.

11 THE COURT: Any objection?

12 MR. WARDER: No, sir.

13 THE COURT: Okay.

14 (WHEREUPON, State's Exhibit Number 37 was admitted into
15 evidence.)

16 BY MR. HOLLOWAY:

17 Q Investigator Fortner, I'm handing you what's been
18 premarked as State's Exhibit 38. Can you identify this to
19 the jury?

20 A Yes, sir. It's a DVD, again, that has the second
21 interview with Mr. Hunter which was conducted on
22 December 18th of 2015.

23 Q And again, short of the audio on that interview, the
24 things you talked about earlier today, the questions I
25 asked about that interview, they apply to that exhibit?

1 A Yes, sir.

2 Q You watched it?

3 A Yes,, sir.

4 MR. HOLLOWAY: Your Honor, I would ask to move
5 Exhibit 38 into evidence.

6 THE COURT: Any objection?

7 MR. WARDER: No, sir.

8 THE COURT: Okay.

9 (WHEREUPON, State's Exhibit Number 38 was admitted into
10 evidence.)

11 BY MR. HOLLOWAY:

12 Q Now, you and your fellow officers had search warrants
13 for the homes of T-Money and Dada; is that correct?

14 A Yes, sir. We did.

15 Q Okay. In the searches of their homes, did you find
16 anything that would show any evidence in this case
17 regarding the robbery of Charles Rosemond?

18 A At Tivarius's place we did, yes.

19 Q Okay.

20 A My mistake. Not Tivarius's house, no.

21 Q Okay. So the items you found at Tivarius's and
22 collected, they didn't confirm anything that the defendant
23 said as to their involvement in this robbery.

24 A Correct. Yes.

25 Q Okay. And did you also get a search warrant for the

1 home of Dre?

2 A Yes.

3 Q His mother's name is Shirley; is that correct?

4 A Yes.

5 Q Okay. For that search warrant, did you find anything
6 at that residence?

7 A You're talking about the mother of Aundra's?

8 Q Yes.

9 A I think we had to get consent to search for that
10 apartment.

11 Q Okay. Did you find any evidence from -- at the
12 search of her house?

13 A No, sir. We did not.

14 Q Was that also where he lived?

15 A He did. He has a place, yes.

16 Q Was there anything that he told you, any tip, any bit
17 of information that he gave you that you did not check
18 out?

19 A No, sir. We followed up on any information that we
20 had coming in whether it was from him or somebody else.

21 Q Did anything he told you, any information he
22 provided, did it pan out in this investigation?

23 A No, sir. Not as far as other people that he'd been
24 speaking with and whatnot, like Courtney, for example, no.

25 MR. HOLLOWAY: Thanks very much. Please answer any

1 questions he may have for you, Mr. Warder.

2 THE COURT: Let me see the lawyers up here for a
3 second.

4 (WHEREUPON, a bench conference was held off the record.)

5 THE COURT: All right. Ladies and gentlemen,
6 logistically, I think now is a good time to break for
7 lunch, so I ask you all to be back at 2:00. That's almost
8 an hour and a half. I hope that will be sufficient.

9 Please don't discuss it, don't visit the scene, don't
10 go on the Internet and investigate. We'll see you back at
11 2:00. Great. Thank you.

12 (WHEREUPON, the jury exits the courtroom at 12:35 p.m.)

13 THE COURT: All right. Mr. Fortner, of course you
14 can -- we'll allow you to go get some lunch. Don't
15 discuss your testimony with anybody.

16 THE WITNESS: Yes, sir.

17 THE COURT: Okay. All right. Anything before we
18 break?

19 MR. McMASTER: Not from the State, Your Honor.

20 MR. WARDER: No, sir.

21 THE COURT: Okay. All right.

22 (WHEREUPON, a recess is taken at 12:36 p.m.)

23 (WHEREUPON, proceedings reconvened at 2:16 p.m.)

24 THE COURT: All right. Now what?

25 MR. HOLLOWAY: Yes, sir. Over the lunch break, we

1 learned that there is -- actually, on this exhibit,
2 Exhibit 36, there's actually ten extra minutes where
3 there's actually sound. So if the Court's inclined, we
4 can play the extra ten minutes, or if you just want to
5 instruct the jury that this last ten minutes does exist
6 and they can listen to it.

7 THE COURT: Wait a minute. It's not in evidence.
8 You didn't -- it's in evidence.

9 MR. HOLLOWAY: They're able to listen to it back in
10 the jury room or they can watch the extra ten minutes
11 right now.

12 THE COURT: Well, you've rested on this, right?

13 MR. HOLLOWAY: Not yet. There's cross.

14 THE COURT: That's what I'm talking about. You
15 finished your direct.

16 MR. HOLLOWAY: Yes, sir.

17 THE COURT: Bring the jury out. I'll think about it
18 as we go.

19 MR. HOLLOWAY: Thank you.

20 THE COURT: Mr. Warder, do you object if they play
21 it?

22 MR. WARDER: No. I think if we've got it, we might
23 as well put it in.

24 THE COURT: All right. Mr. Holloway, go ahead and
25 cue it up.

1 MR. HOLLOWAY: It's all ready, Your Honor, except for
2 the screen.

3 THE COURT: Okay.

4 (WHEREUPON, the jury entered the courtroom at 2:19 p.m.)

5 THE COURT: All right. Mr. Holloway.

6 MR. HOLLOWAY: Yes, sir. Your Honor, there is an
7 extra ten minutes that we didn't see earlier, so I'm going
8 to go ahead and play this last ten minutes.

9 THE COURT: Okay. It's got sound, right?

10 MR. HOLLOWAY: Yes, sir.

11 THE COURT: Okay.

12 (WHEREUPON, State's Exhibit 36, a video interview of the
13 defendant, continued to play in open court.)

14 MR. HOLLOWAY: Your Honor. That's all I have for
15 this witness at this time. Thank you.

16 THE COURT: All right. Cross.

17 CROSS EXAMINATION

18 BY MR. WARDER:

19 Q As I understand it, you were kind of the head of this
20 investigation or one of the heads of this investigation;
21 is that right?

22 A Yes, sir. It is.

23 Q And you were aware of most all of the evidence that
24 was collected.

25 A Most of it anyways. Yes, sir.

1 Q Was another pair of black shoes collected by Nike?

2 A I recall maybe like a red pair, yes.

3 Q Was it a pair from Henderson?

4 A I believe so. Yes, sir.

5 Q Okay. And were they black uppers and just a
6 different stripe on the bottom?

7 A Offhand I can't remember exactly what they looked
8 like, but they did not look like those shoes. No, sir.

9 Q Where are they at?

10 A I don't -- I don't know, sir. Probably Property and
11 Evidence if they're not here.

12 Q Okay. Now, there was no other scientific evidence,
13 in a sense. No fingerprints.

14 A That's correct. No fingerprints. Yes, sir.

15 Q No one even dusted for fingerprints, did they?

16 A No, sir. They did not.

17 Q Okay. And there was all kinds of metal containers
18 and stuff that would have held fingerprints; is that
19 right?

20 A I'm sorry. I didn't hear the first part.

21 Q There was metal containers and things in the
22 apartment when you looked at that that you pointed out you
23 thought money had been poured out of it.

24 A Sure. Yes, sir.

25 Q Were those dusted for fingerprints to see who did it?

1 A No, sir. They were not.

2 Q Now, were you aware that somebody else had just moved
3 into that apartment?

4 A No, sir. My understanding was Mr. Rosemond lived
5 there by himself.

6 Q Okay. And you didn't know that one of his relatives
7 had taken up residence in that, too.

8 A I did not. No, sir.

9 Q Did you try and get any DNA evidence anyplace?

10 A No, sir. We did not.

11 Q Okay. Now, one place you always can collect DNA
12 evidence of an individual is shoes because the feet sweat;
13 is that right?

14 A Yes, sir. It is.

15 Q And so when you get a pair of shoes that you ran a
16 DNA test, you could tell at least who had worn them, maybe
17 not exactly last, but who was the person that had DNA in
18 them.

19 A Yes. There's a good possibility. Yes, sir.

20 Q And is the same true with the other pair of shoes,
21 you never took the DNA from there?

22 A That would be correct. Yes, sir.

23 Q Okay. Did you check the surveillance cameras in that
24 area?

25 A I'm not familiar with any surveillance cameras in

1 [REDACTED] Apartments that cover the general parking lot
2 area.

3 Q Well, how about the office? Any cameras that cover
4 the office that you're aware of?

5 A I don't recall there being any cameras there. No,
6 sir.

7 Q Now, there's been testimony that somebody shot into
8 the floor.

9 A Yes, sir. That is what Mr. Garrison, Gator,
10 testified to. Yes, sir.

11 Q And did that prompt any of you to look around in the
12 floor and see if there's a bullet?

13 A Yes, sir. It did.

14 Q Okay. And did you find a bullet?

15 A No, sir. We did not.

16 Q When you didn't find a bullet the first time, did you
17 pull up the carpet to see if it was possibly under the
18 carpet?

19 A Yes, sir. We did.

20 Q Was there any evidence a bullet had ever struck the
21 floor anyplace?

22 A No, sir. There was not.

23 Q And Mr. Gator pointed to a pillow on the sofa and
24 said it could be right under that. I hand you what is
25 State's Exhibit 13. Did you check the area of that pillow

1 there?

2 A I personally did not. No, sir.

3 Q Well, did your investigation check that area?

4 A I'm sure it was. SLED was doing their processing of
5 the apartment. They did. Yes, sir.

6 Q And that particular area you never got a report of
7 any bullet being found.

8 A That is correct. Yes, sir.

9 Q Did Mr. Rosemond have a niece?

10 A I'm not familiar with one. I'm not saying he did
11 not, but he very well may have.

12 Q Was there any clothes or women's clothes in the
13 apartment?

14 A Again, I don't recall there being any women's
15 clothes. I'm not saying there wasn't, but I don't know.

16 Q If I wanted to get those shoes, how would I do that,
17 the other pair of shoes?

18 A I'm not sure where they are, if they got collected or
19 not. I wasn't at Tivarius's apartment. If they were
20 collected, they would have been put in P&E.

21 Q Okay. Also at Tivarius's apartment was a red
22 holster.

23 A Again, I did not participate in the search of
24 Tivarius Henderson's apartment.

25 Q Did you find out that a red holster had been

1 recovered?

2 A I don't know of one. I'm not saying there wasn't,
3 but I'm not familiar with a red holster being recovered.

4 Q Is there a list -- as chief officer, did you keep a
5 list of all the evidence?

6 A It would be with the search warrants. Yes, sir.

7 Q Do you have that here with you?

8 A I do not. No, sir.

9 Q What prevented you from fingerprinting some of the
10 stuff? I mean, why didn't you fingerprint the cans you
11 thought were dumped or the doorknob that somebody came in
12 or something to see who -- were you the last man probably
13 was -- left their Santa hat?

14 A When SLED responded to process the scene, SLED
15 responded to work the scene as an officer-involved
16 shooting. When SLED responds to process the scene as an
17 officer-involved shooting, we know who the shooters are in
18 this case. Obviously, it was our deputies. So as far as
19 what SLED was there to process for, it just didn't make
20 sense for them to process for fingerprints.

21 Q Well, you charged a lot more than this shooting. I
22 mean, this is a burglary case, isn't it?

23 A Yes, sir. It is.

24 Q You categorize it as an armed robbery case.

25 A Yes, sir. We did.

1 Q An attempted armed robbery case.

2 A Yes, sir.

3 Q Doesn't your department investigate the crime scene
4 for those crimes when it's going to charge somebody?

5 A Yes, sir. As long as another agency, in this case it
6 was SLED, hasn't already previously processed it, our
7 friendlies would respond. But this case, since SLED had
8 responded, they did not.

9 Q Wouldn't you look at what SLED did and then decide
10 what searches your agency should do to do a proper job of
11 investigation?

12 A I mean, it could. But again, this evidence was --
13 I'm not even sure if those items are even collected. But,
14 again, once SLED responds and processes a scene, our
15 forensics people will not come out and do so.

16 Q I guess they don't want to prove SLED wrong.

17 MR. HOLLOWAY: Objection, Your Honor.

18 THE COURT: Yeah.

19 MR. HOLLOWAY: It's argumentative.

20 BY MR. WARDER:

21 Q Can you tell me what that is?

22 A This is a return to a search warrant from -- that was
23 served on December 21st of 2015.

24 Q Would that be a search warrant in this case?

25 A Well, it looks like it's got the case number at the

1 top. Yes, sir.

2 MR. WARDER: Okay. Your Honor, I'd like to offer
3 this into evidence.

4 MR. HOLLOWAY: Your Honor, I don't believe he's laid
5 a proper foundation based on this witness for that exhibit
6 at this point. His name is not listed on that exhibit.

7 THE COURT: Yeah. If you're using it for impeachment
8 purposes, you can impeach him with it. That doesn't make
9 it evidence.

10 MR. WARDER: Your Honor, I want to offer it in
11 evidence for the fact that these items listed on this were
12 recovered.

13 THE COURT: Well, you can impeach him with it, but as
14 far as it being an admissible document, that's a -- it's
15 the same as an incident report. It's hearsay. Okay. So
16 if you want to impeach him with it, have at it.

17 BY MR. WARDER:

18 Q What does your report say was recovered?

19 A All right. On this -- I'm not sure where this search
20 warrant was actually executed at, but it says a
21 .40 caliber bullet, a Samsung Galaxy.

22 MR. HOLLOWAY: Objection, Your Honor.

23 THE COURT: Yeah. Are you ---

24 MR. WARDER: Well, I was going to ---

25 THE COURT: All right. Hang on. Ladies and

1 gentlemen, we need to take this up outside your presence.

2 Y'all take a break. We'll get back with you shortly.

3 (WHEREUPON, the jury exits the courtroom at 2:42 p.m.)

4 THE COURT: All right.

5 MR. HOLLOWAY: Your Honor, he's more than capable of
6 subpoenaing the proper witness who created the document,
7 who signed the document, swore out the affidavit of the
8 search warrant. He's not done that. In fact, I dare say,
9 the person that actually signed the return has already
10 testified who could have authenticated it.

11 THE COURT: I don't know what it is, but you ---

12 MR. WARDER: It's a search warrant in this case.

13 THE COURT: It's a return to a search warrant,
14 correct?

15 MR. WARDER: Yes. I have the search warrant in my
16 hand now.

17 THE COURT: Is it signed by this witness?

18 MR. WARDER: No. It's signed by ---

19 THE COURT: Is it this witness's document?

20 MR. WARDER: Well, we've been working on ---

21 THE COURT: Yes or no, is it this witness's document?

22 MR. WARDER: No. It's Michael Fortner's.

23 THE COURT: Okay.

24 MR. HOLLOWAY: Your Honor, it's not Fortner's
25 document. I believe David Picone and the three other

1 officers whose names are on there and present in the
2 return got the evidence collected. His name, Investigator
3 Fortner's name, is not even on that list of three names.

4 MR. WARDER: It says that Fortner is the affiant.

5 THE COURT: Where? Show it to Mr. Holloway so he
6 can . . .

7 MR. HOLLOWAY: Again, these are two separate pieces
8 of paper. He's attempting to use the return against the
9 witness, and he is not the one who signed the return and
10 collected the evidence, not even the scribe on the search
11 warrant. Fortner actually was the affiant on the search
12 warrant, according to this.

13 THE COURT: Okay.

14 MR. HOLLOWAY: But, again, the document he's using,
15 the exhibit he's using, Fortner cannot -- unless he can
16 say otherwise right here, he's not the one to have gotten
17 this document into evidence.

18 MR. WARDER: He's the case agent. He got a search
19 warrant, and now he's got a return of what his did. It
20 came to his attention in the investigation like everything
21 else.

22 THE COURT: Yeah. So if you want to impeach him with
23 a document as he's the chief case officer, you can do
24 that. I'm not allowing it as an admissible piece of
25 evidence with this witness.

1 All right. Anything else?

2 MR. HOLLOWAY: No, sir.

3 MR. WARDER: No, sir.

4 THE COURT: Okay. Good. All right. Bring the jury
5 back.

6 (WHEREUPON, the jury entered the courtroom at 2:46 p.m.)

7 THE COURT: All right. Mr. Warder, anything else?

8 MR. WARDER: No, Your Honor.

9 THE COURT: Okay. Any redirect?

10 MR. HOLLOWAY: No, sir.

11 THE COURT: All right. Thanks, sir. You can stand
12 down.

13 Okay. Call your next witness.

14 MR. McMASTER: The State rests, Your Honor.

15 THE COURT: Okay. All right. Ladies and gentlemen,
16 I'm an Episcopalian. We're used to up and down all the
17 time. So this is another time when I have to discuss a
18 legal issue, and so if y'all will retire to your jury
19 room, we'll be right back with you.

20 (WHEREUPON, the jury exits the courtroom at 2:47 p.m.)

21 THE COURT: All right. Any motions?

22 MR. WARDER: Your Honor, the defendant, as to the
23 charge, Your Honor, of discharging a firearm into a
24 dwelling, I would move for a directed verdict on that
25 charge. There is no evidence that a gun was discharged in

1 the building or into the building. There was a gun
2 discharged at the door. There could not be a bullet found
3 in the building that came from it. The case was found
4 outside of the door, and there's insufficient evidence, in
5 fact, no evidence that it was fired inside the building.

6 THE COURT: Mr. McMaster.

7 MR. McMASTER: We had testimony to that effect, Your
8 Honor. In the light most favorable to the State, we'd say
9 that it at least can go to the jury.

10 THE COURT: Yeah. You're asking me to make a
11 determination on the weight of the evidence, not the
12 existence of it, so I will deny that motion.

13 Anything else?

14 MR. WARDER: Well, I would make a motion on the
15 remaining charges, all of them, that there's insufficient
16 evidence to go forward.

17 THE COURT: Okay. All right. Denied.

18 Okay. What is your client going to do?

19 MR. WARDER: At the appropriate time, he will
20 testify.

21 THE COURT: Okay. All right, if you would,
22 Mr. Hunter, please stand. You've had sufficient time to
23 discuss whether or not you will testify with your
24 attorney?

25 DEFENDANT HUNTER: Yes, sir.

1 THE COURT: All right. And what is your decision?

2 DEFENDANT HUNTER: I will testify.

3 THE COURT: Okay. All right. And are there any
4 impeachable offenses?

5 MR. McMASTER: We have a possession of cocaine base.

6 THE COURT: You understand that they will be able to
7 cross-examine you on whether or not you've ever been
8 convicted of possession of cocaine base purely for the
9 purpose of impeaching your believability or credibility.
10 You understand that?

11 DEFENDANT HUNTER: Yes, sir.

12 THE COURT: But the jury is going to hear it, so you
13 discussed that with your client -- I mean your attorney;
14 is that right?

15 DEFENDANT HUNTER: Yes, sir.

16 THE COURT: Okay. All right. Are you ready to go?

17 MR. WARDER: Yeah.

18 THE COURT: Okay. Good. The State ready?

19 MR. McMASTER: The State is ready.

20 THE COURT: Okay. You can sit down. Thank you very
21 much.

22 DEFENDANT HUNTER: Yes, sir.

23 (WHEREUPON, the jury entered the courtroom at 2:54 p.m.)

24 THE COURT: All right. Mr. Warder.

25 MR. WARDER: We call Deputy David Picone.

1 THE COURT: Okay. Come on around. You're still
2 under oath.

3 WHEREUPON,

4 DAVID PICONE

5 After previously having been duly sworn, testified as
6 follows:

7 THE WITNESS: Go ahead and say my name again?

8 THE COURT: Yeah. Go ahead. State your name for the
9 record.

10 THE WITNESS: David Daniel Picone.

11 DIRECT EXAMINATION

12 BY MR. WARDER:

13 Q Officer, can you look at this and identify what this
14 is?

15 A That is a return of a search warrant.

16 Q Okay. And who signed that?

17 A Myself.

18 Q Okay. And what capacity did you sign that?

19 A I was the scribe. I was on scene when the search
20 warrant was served.

21 Q Okay. Found at that scene that you entered -- acted
22 as scribe at, where was that executed at?

23 A Is there any chance that you have the entire search
24 warrant so I can get the address?

25 Q Yes, sir.

1 A According to the search warrant, it was
2 [REDACTED] Road, Apartment 111, which is the Highland
3 Ridge Apartments in Taylors, which is in Greenville
4 County.

5 Q Okay. Do you know who resided there?

6 A I believe Tivarius Henderson, who is T-Money, lived
7 there with his mom or grandma.

8 Q Okay. Can you tell me if there was a pair of red and
9 black Nike Jordan shoes recovered there?

10 A Yes. Nike -- black and red Nike Jordans, size
11 11 1/2. 11 1/2.

12 Q Well, was there a holster for a revolver, a Black
13 Hawk holster recovered there?

14 A Black Hawk gun holster, yes.

15 Q Okay. And it was a red and white leather holster?

16 A I don't know that it was red and white. It just says
17 -- I just wrote a Black Hawk gun holster.

18 Q Okay. And those items would be located where today?

19 A Where? What did you say now?

20 Q The shoes and the holster, where would that be
21 located?

22 A Once I got these items, they were placed in Property
23 and Evidence at our Sheriff's Office.

24 MR. WARDER: Okay. Thank you.

25 Your Honor, I would offer the return into evidence.

1 THE COURT: He's offering it.

2 MR. McMASTER: I have no objection.

3 THE COURT: Okay.

4 (WHEREUPON, Defendant's Exhibit Number 2 was marked for
5 identification and admitted into evidence.)

6 CROSS EXAMINATION

7 BY MR. McMASTER:

8 Q What's in evidence is Defendant's 2, it looks like.

9 Talk about some shoes. Can you describe those shoes?

10 A If I saw a picture right now, I could. I just -- on
11 the return, I put red and black Nike Jordan, Size 11 1/2
12 belonging to Tivarius Henderson.

13 Q And you've been involved in this case from the
14 beginning, correct?

15 A Pretty much. Yes.

16 Q And are those shoes, at any time, any type of a shoe
17 that you were looking for in this case?

18 A I don't believe so.

19 Q Did it match any description you had from any witness
20 or potential witness in this case?

21 A No.

22 Q Shoes 30-A and B, which are already in evidence, did
23 those shoes match any potential evidence or any
24 information that you had about the type of shoe that was
25 worn at the incident location?

1 A Yes. I felt like they matched the 9-1-1 caller
2 mentioned she observed.

3 Q What about what Eric Garrison said?

4 A Yes. He looked at them and said those were it.

5 MR. McMASTER: That's all I have.

6 THE COURT: All right. Anything else?

7 MR. WARDER: Not for this witness, Your Honor.

8 THE COURT: All right. Thank you. You may step
9 down.

10 THE WITNESS: Thank you, sir.

11 MR. WARDER: Your Honor, we call Officer Kenneth
12 League.

13 THE CLERK: Please place your left hand on the Bible
14 and raise your right hand.

15 WHEREUPON,

16 KENNETH LEAGUE

17 After having been duly sworn, testified as follows:

18 THE CLERK: Thank you. Please take a seat and state
19 your name for the record.

20 THE WITNESS: Kenneth Blake League.

21 DIRECT EXAMINATION

22 BY MR. WARDER:

23 Q Officer League, did you have occasion to go to a call
24 at [REDACTED] Apartments on December the 10th of 2015?

25 A Yes, sir.

1 Q And were you alone or were you with another officer?

2 A In my unit I was with another officer in my patrol
3 car.

4 Q Okay. And you were on another call in the area when
5 you got a call to go to [REDACTED]?

6 A Yes, sir.

7 Q How far away were you when -- the first call that you
8 were finishing up on when you got the call to go to [REDACTED]
9 [REDACTED]?

10 A Just a minute or two away. It was around the corner.

11 Q Okay. You got there. You were one of the first cars
12 on the scene?

13 A One of the first. Yes, sir.

14 Q Were there many cars ahead of you or any cars ahead
15 of you?

16 A Another deputy was also with us in a separate car.

17 Q Okay. That would have been Deputy Kelly?

18 A Yes, sir.

19 Q Did you park in the parking lot out in front of the
20 Building 16 in [REDACTED]?

21 A I believe so, sir.

22 Q Okay.

23 A That's the incident location. We came right into the
24 entranceway of it.

25 Q Okay. On the map over here, can you just point out

1 to the jury where you parked at?

2 A My vehicle was positioned right here (indicating).

3 Q And you got out of your vehicle at that point, and
4 Officer Kelly got out of his vehicle?

5 A Deputy Kelly was already on scene at that location.

6 Q Okay. And did you go to where he was at?

7 A Yes, sir.

8 Q Okay. And when you got to him, where was he?

9 A He was standing in front of Mr. Rosemond's apartment.
10 He -- when I first observed him, he was knocking on the
11 door, then he stepped back, was talking to a neighbor that
12 was our initial . . .

13 Q Okay. And that was -- Mr. Rosemond's was
14 Apartment B?

15 A Yes, sir.

16 Q And the neighbor he was talking to would be
17 Apartment C.

18 A I believe so, sir.

19 Q Okay. And did Officer Kelly want to take some kind
20 of action?

21 A Yes, sir.

22 Q Okay. And he wanted to force his way in or kick the
23 door in.

24 A Based on information given, yes, sir.

25 Q Okay. And when an officer does one of those kinds of

1 entries, you have some way that you stand or something.
2 You kind of line up for exposure of when you go to break
3 down a door.

4 A Yes, sir.

5 Q Okay. And it's kind of a three-man line?

6 A It's all fluid, depending on the situation, but the
7 generalization is to the sides of the door when you do,
8 not standing in front of the doorway.

9 Q And Officer Kelly kicked the door in.

10 A Yes, sir.

11 Q And there was immediate gunshot.

12 A Yes, sir.

13 Q And we've learned in the courtroom today it was some
14 kind of a ricochet, but the deputy you were with was hit.

15 A Yes, sir.

16 Q Officer Kelly returned fire immediately three times
17 through the door; is that right?

18 A Yeah. I'm not sure how many times it was.

19 Q Okay. And he kind of crawled and rolled over in
20 front of the window, which was just a few feet away.

21 A When I first saw -- when it first happened, I saw
22 Deputy Kelly drop to my side, and then the next volley was
23 he was on a knee.

24 Q Okay. And there was another volley of four shots.

25 A No. That was the second volley. I'm not sure how

1 many it was, but that was when he was on a knee.

2 Q Did you notice what had happened to Officer Dempsey,
3 the man you were -- well, I guess he was riding with you?

4 A Yes, sir. Not immediately, I didn't. It was once
5 kind of doing a status check of our folks.

6 Q Okay. And you found he had been shot.

7 A Yes, sir.

8 Q And where was he lying at?

9 A He was lying back behind me a couple of feet on the
10 sidewalk.

11 Q Okay. And you decided to move him right away to get
12 him to an area that was out of the view or range of the
13 door.

14 A Yes, sir. Because we still -- it was an unknown
15 inside, so . . .

16 Q And I believe you grabbed his left arm or his left
17 side of his shirt.

18 A Yes, sir.

19 Q And Officer Kelly grabbed the right side.

20 A Yes, sir.

21 Q When you pulled Officer Dempsey by the door within
22 Unit A, I think, you heard a voice from the apartment door
23 that was open?

24 A Yeah. We got verbal contact from inside.

25 Q Okay. And that man said he'd been shot.

1 A Initially he told us to come in.

2 Q Okay. And what happened next? He tells you -- do
3 you give a response to him?

4 A Yes, sir. We, of course, initiated verbal response,
5 again, who we were. He -- next -- his next thing was,
6 "Oh, man," and then said he had been shot. We then gave
7 him more commands on this time on if he'd been shot, crawl
8 out, et cetera. And then there was no more contact from
9 him inside.

10 Q There was no more verbal contact and certainly no
11 more hostile contact.

12 A No, sir.

13 Q Okay. You were able then to drag Officer Dempsey
14 around the corner of the building.

15 A Yes, sir.

16 Q And by this time, you had radioed for assistance from
17 at least an ambulance for an officer down and some more
18 assistance from police.

19 A Yes, sir. That went down. After the initial gunfire
20 stopped, the call was placed out on the radio.

21 Q Okay. Did you call out on one of those radios that I
22 see sometimes that you wear on your collars and you don't
23 have to take them off, you can kind of talk into them?

24 A You still have to push the button on the remote mics.

25 Q Is that what you had on?

1 A Yes, sir.

2 Q Okay. How long had you been on the scene when that
3 happened?

4 A I'm not sure how long we'd been on the scene.

5 Q You went and stood by with Officer Dempsey at that
6 point in time until the ambulance got there?

7 A Yeah. I began first aid until EMS arrived on the
8 scene, sir.

9 Q I believe you went to your car and got some first-aid
10 supplies.

11 A Yes.

12 Q Or somebody did that for you.

13 A I did that.

14 Q Okay. And you applied some gauze to compress.

15 A Yes, sir.

16 MR. WARDER: Thank you.

17 THE WITNESS: Yes, sir.

18 CROSS EXAMINATION

19 BY MR. McMASTER:

20 Q Deputy League, was Officer Dempsey, or Deputy
21 Dempsey, was he riding with you that night?

22 A Yes, sir. He was.

23 Q And where did he normally work?

24 A He normally worked for Traffic Division, but he was
25 doing his 40 hours with Uniform Patrol.

1 Q Tell me about that. Do you have to do 40 hours?

2 A They had a program in place at that time where
3 deputies from other divisions would come back to Uniform
4 Patrol and do 40 hours with Uniform Patrol because it
5 would give them a chance to be brung back up on things
6 that have changed on the street level that what, you know,
7 transpired since they've been gone, but at the same time,
8 they can bring their knowledge from their fields, their
9 divisions they specialized in to Uniform Patrol as well
10 and it would help play a role in investigations or how you
11 did your job.

12 Q So how long had y'all been on patrol that night; do
13 you recall?

14 A We'd been on patrol since 1900.

15 Q And when you got the call out, did you receive the
16 initial call of an armed robbery in progress?

17 A We were on our other call. Deputy Kelly closed that
18 call out, told them both of us would be en route to it
19 when we leave.

20 Q So you headed en route. Kelly was in the front?

21 A Yes, sir.

22 Q And were you going -- at this point, are you Signal 1
23 at this time?

24 A Yes, sir.

25 Q And tell them what that is.

1 A Signal 1 is when you're lights and sirens. That's
2 what that means at that point.

3 Q And when you get there to the scene at [REDACTED]
4 Road, Apartment 16-B, what is your first duty there? What
5 do you have to do?

6 A Well, the first thing you've got to do is locate your
7 scene, determine victims, determine if EMS -- actually,
8 that night, we didn't know where our scene was initially.
9 We just got the call that a neighbor or a person could
10 hear next door a possible armed robbery in progress, and
11 it took a bit before they could determine the scene.

12 We first went to the first two courts, which are our
13 usual problems that we have the most calls at. Those were
14 clear of any people whatsoever. And me and myself and
15 Deputy Dempsey went to the field because they said the
16 people had left the apartment and had ran into the woods,
17 so we went to behind unit bravo, or building bravo, B,
18 because there's some woods back there and a church, and
19 we're in the field. Deputy Kelly actually located where
20 the incident location, where the -- where everything
21 happened at and then our dispatch confirmed it with the
22 lady on the phone.

23 Q And you indicated that Deputy Kelly breached the
24 door.

25 A Yes, he did.

1 Q And there was an immediate shot?

2 A Yes, sir.

3 Q And did you see Deputy Dempsey -- or did you find him
4 to hit the ground there right on the sidewalk?

5 A I -- when I did the assessment back checking on our
6 folks, I found him -- saw him back there.

7 Q What's his condition at that time?

8 A His condition at that time, it was unknown. He was
9 lying flat on his back. His arms were bent at the elbows
10 with his hands in the air, and I could observe a flap of
11 skin on the forehead of his head sticking up.

12 Q Is it safe to say that he'd been shot in the head?

13 A Yes, sir.

14 Q And at that point in time, what are your duties as a
15 deputy? What are you trying to accomplish at that point
16 in time?

17 A At that point when all that happened, the door had
18 came back and closed, so then our part is aid to the
19 deputy, hold the scene. We of course call out. Other
20 units will come. If it becomes a barricaded suspect, then
21 a specialized unit, the SWAT team, would come out.

22 Q Did the SWAT team respond?

23 A Yes, sir.

24 Q Did you know who's in Apartment 16-B?

25 A No, sir.

1 Q Did you have any idea who's in there?

2 A No, sir.

3 Q All you knew was that there was a possible armed
4 robbery in progress.

5 A And that the initial caller, once Patrick had made
6 contact with her, also reported a gunshot from inside the
7 apartment.

8 Q So you thought a weapon was involved as well.

9 A Yes, sir.

10 Q So when you get there, you have a weapon involved,
11 you have a potential armed robbery and an immediate shot,
12 and a deputy's on the ground with a head wound.

13 A Yes, sir.

14 Q Is that correct?

15 A Yes, sir.

16 Q At that point, do you take cover and try to move the
17 deputy around the corner? I think Mr. Warder asked you
18 about it.

19 A Yeah. We started to move him until we got verbal
20 contact. Once we got verbal contact, Deputy Kelly took a
21 position of cover behind a vehicle to cover the front of
22 the apartment, and then I continued taking Deputy Dempsey
23 around the side of the building.

24 Q Is it safe to say that the only reason you were at
25 16-B that night when Deputy Dempsey was shot in the head

1 and Mr. Rosemond was killed is because a call about an
2 armed robbery in progress?

3 A Yes, sir.

4 Q That set in motion those entire events that night?

5 A Yes, sir. Yes, they did.

6 MR. McMASTER: Thank you.

7 THE COURT: Anything else?

8 MR. WARDER: No, Your Honor.

9 THE COURT: All right. Thanks, sir. You can stand
10 down.

11 MR. WARDER: Can we approach, Your Honor?

12 (WHEREUPON, a bench conference was held off the record.)

13 THE COURT: All right. Ladies and gentlemen, we're
14 going to take a short break. Don't discuss the case. Be
15 back with you very shortly.

16 Thank you.

17 (WHEREUPON, the jury exits the courtroom at 3:14 p.m.)

18 THE COURT: Let's take a very short break.

19 (WHEREUPON, a recess is taken at 3:14 p.m.)

20 (WHEREUPON, proceedings reconvened at 3:34 p.m.)

21 THE COURT: Ready to go?

22 MR. McMASTER: State's ready.

23 MR. WARDER: Yes, Your Honor.

24 THE COURT: Let's get them.

25 (WHEREUPON, the jury entered the courtroom at 3:35 p.m.)

1 THE COURT: All right. Mr. Warder.

2 MR. WARDER: Thank you, Your Honor. If it please the
3 Court, I would call Dr. James Fulcher.

4 THE CLERK: Please place your left hand on the Bible
5 and raise your right hand.

6 WHEREUPON,

7 JAMES FULCHER

8 After having been duly sworn, testified as follows:

9 THE CLERK: Please take a seat and state your name
10 for the record.

11 THE WITNESS: Dr. James William Fulcher.

12 DIRECT EXAMINATION

13 BY MR. WARDER:

14 Q Doctor, I mispronounced your name right off the bat,
15 and I apologize.

16 A That's okay, sir.

17 Q Can you tell the jury for whom you work?

18 A Sure. I'm a forensic pathologist with Pathology
19 Associates of Greenville, and I'm the appointed medical
20 examiner for this county.

21 Q Can you tell us about your education and
22 qualifications for that job?

23 A Sure. I'm a board-certified forensic pathologist.
24 I'm also board certified in anatomic pathology and
25 clinical pathology. I'm from Virginia, so I went to

1 school at the Medical College of -- went to undergrad at
2 UVA and med school at the Medical College of Virginia, and
3 I then completed a one-year fellowship in forensic
4 pathology. I've been practicing here after graduation.
5 Have done approximately 3,000 autopsies in my ten years
6 here, probably about three to four hundred of them being
7 homicides, and testified probably about 50 times in
8 various counties: Greenwood, Pickens, Greenville,
9 Laurens, Abbeville, Richland, various other places.

10 MR. WARDER: Your Honor, we would ---

11 MR. McMASTER: No objection.

12 THE COURT: All right. What are you offering him as?

13 MR. WARDER: An expert witness in forensic pathology.

14 THE COURT: Okay.

15 MR. McMASTER: No objection.

16 THE COURT: All right.

17 BY MR. WARDER:

18 Q Did you have occasion to do an autopsy on the body of
19 Charles Rosemond?

20 A I did. Yes, sir.

21 Q Okay. And with regard to the injuries you found on
22 the body, can you tell us what, if any, injury you found
23 to his head?

24 A Sure. Mr. Rosemond has no significant injuries to
25 his head. He died from a gunshot wound to his thigh, his

1 left thigh in particular.

2 Q Did you notice any bruising like he'd been beat with
3 a gun or pistol whipped?

4 A No, sir. He was not beaten with a gun. He has -- at
5 the time of autopsy, I did not take a picture, but there
6 is a picture that some investigators took of livor, which
7 is postmortem redistribution of blood.

8 When you die, your heart stops bleeding, obviously,
9 and the blood will soak into the skin, depending on
10 gravity, and stain it. And what you're seeing there is a
11 picture of this artifactual staining of the skin that just
12 happens in dead people.

13 Q Okay. There was testimony that the blood was flowing
14 fast enough that it ran down his face and onto his shirt
15 and on the floor.

16 A Uh-huh. Right.

17 Q Could that have been possible?

18 A No. That's not possible.

19 MR. WARDER: Thank you. Would you answer any
20 questions that the State has?

21 THE WITNESS: Yes, sir.

22 CROSS EXAMINATION

23 BY MR. McMASTER:

24 Q Very briefly. How old was Mr. Rosemond?

25 A I have 55.

1 Q And do you know how tall he was?

2 A I do. Yes, sir. I have it in my report. At autopsy
3 he measured 68 inches, which would be 5'8", 267 pounds.

4 MR. McMASTER: Okay. Thank you.

5 THE COURT: Anything else?

6 MR. WARDER: No, sir.

7 THE COURT: All right. Thank you. You may be
8 released from subpoena. Thank you, Doctor.

9 THE WITNESS: Thank you, sir.

10 MR. WARDER: Your Honor, if it please the Court, we
11 would call the defendant, Aundra Hunter, as our next
12 witness.

13 THE CLERK: Please place your left hand on the Bible
14 and raise your right hand. Your left hand on the Bible.
15 WHEREUPON,

16 AUNDRA HUNTER, JUNIOR

17 After having been duly sworn, testified as follows:

18 THE CLERK: Please take a seat and state your name
19 for the record.

20 THE WITNESS: My name is Aundra Hunter, Junior.

21 DIRECT EXAMINATION

22 BY MR. WARDER:

23 Q Aundra, how old are you?

24 A 30.

25 Q And where do you live at?

1 A As of now?

2 Q Where did you live at before you were in jail?

3 A [REDACTED] Road, Apartment 14-B.

4 Q Okay. Now, you've been in jail waiting on this case
5 for the last nearly three years. It will be three years
6 this December.

7 A Yes, sir.

8 Q And were you employed?

9 A Yes, sir.

10 Q Where do you work at?

11 A Sticky Fingers.

12 Q Okay. What kind of work did you do at Sticky
13 Fingers?

14 A I cooked.

15 Q Okay. And how long have you been a cook?

16 A Ever since I was 17.

17 Q Okay. So if you're 33 [sic] now, we have ---

18 A I'd say 13 years.

19 Q Okay. You've been sitting in the courtroom. We've
20 been trying the events of December 10th, and we've watched
21 you a lot on recorded video.

22 A Yes, sir.

23 Q I want you to tell the jury what happened that day,
24 and I want you to begin with when you got up that morning,
25 what happened?

1 A I couldn't tell you where I slept at that morning. I
2 was kind of a rolling stone. Kind of where I laid my hat
3 was my home. But particularly, I remember the evening
4 from starting at I was sitting at the bottom of the second
5 court. My homeboy, Square House, Joshua Crewel, was
6 playing a video game. I was -- it was my turn to sit in
7 and watch because they was playing. We're betting money.

8 Around, I'd say, 8:00, 8:30, Mr. Henderson comes
9 through. He got cases of beer. He got two bottles of
10 liquor. He asked me did I want to go over to Vicki O'Neal
11 house. They was having a party for his birthday. I
12 stated I'd probably stop through there, can I get a beer
13 for now? He gave me a beer. I sat there for probably
14 another 30 minutes.

15 Later on I went to the party about 9:00, estimating.
16 I got there. It was a full house. As soon as I walked
17 in, they dancing. It's all kind of -- all kind of
18 shenanigans going on, you know, just as far as partying.

19 They're recording. It's plenty of videos that was
20 there, like they recording everybody just having a good
21 time.

22 Around 10:00, I would say, I heard Mr. Quan, as Vicki
23 was trying to get my attention, saying a reference to
24 something about he robbed Charles before. And in this
25 statement, I was like, yeah, that's what we're going to

1 do. Like he was -- I guess they was kind of referring to
2 they was going to do it again. And I -- I don't know,
3 really. I was like, yeah, we're going to do that. Like,
4 yeah, sure.

5 Q Slow down just a little bit. You said you saw
6 Mr. Quan?

7 A Yes, sir.

8 Q Now, who is Mr. Quan?

9 A I really don't know him. From the Greer area.

10 Q Okay. And is Quan his real name? his street name?

11 A They call him Quan or Quinn. He go by both.

12 Q Now, the people at the party, were they people that
13 you'd grown up with or people that you knew from living in
14 the area?

15 A I met around the area. I had been staying out there
16 since April of that year. It was December. So I met them
17 along through there. But like I would say maybe after
18 June because that's when I just really start moving around
19 through -- all through the area.

20 Q Okay. When you said you lived out there since April,
21 did you rent an apartment or were you living with
22 somebody?

23 A I was staying with my mother of my kids, Shaquanna
24 Atkins.

25 Q And you'd been there since about April?

1 A Yes, sir.

2 Q And then what happened after you saw Quan there?

3 A Like I said, I made references. I was like, yeah,
4 sure, we're going to do that, and walked to the back, me
5 and Vicki.

6 We got back there. We started having sexual
7 intercourse. I took my clothes off. It was dark back
8 there. We had no light back there, period. It lasted
9 probably about 15, 20 minutes. Came back. T-Money and
10 them had gone. They went to get some pizza and stuff.
11 Got to wrestling with Elijah. I mean, my homeboy Elijah,
12 I know him from West Greenville. I watched him kind of
13 grow up, he watched me kind of grow up, Elijah Carter.

14 Q When you say you were wrestling, what do you mean?

15 A Like he wanted to slap box, then he wanted a bear hug
16 and tussle. And then we went outside. As we was going
17 outside, T-Money and them was coming back with the pizza,
18 and basically, I guess the party was over because we
19 started -- we started walking. I was like I'm going to
20 leave. It was like they're going to leave, too.

21 Q When you say you were out kind of slapping and bear
22 hugging, that wasn't in anger. That was just ---

23 A Just playing around, horsing around, because he like
24 one of the few people I do that with since we grew up and
25 go way back.

1 Q Okay. And you said the party got over with and you
2 started walking.

3 A Yes, sir.

4 Q When the party was over with, how did it break up? I
5 mean ---

6 A It's just like everybody kind of split up, started
7 going separate ways.

8 Q Kind of drifting apart.

9 A Yes, sir.

10 Q What did you do then?

11 A I was headed towards the second court. I was walking
12 with T-Money, Dada, Forty, was eating pizza, talking,
13 shooting -- basically shooting the ba-ball [phonetic], was
14 just talking around. It was as we was walking, they went
15 towards the 6 Building, which is where Shaquanna and
16 Swerve stay. I went to the second court, and I was
17 sitting at the top of the second court.

18 Q Okay. Tell me a little bit about you say you were
19 going to the 6 Building. Is that a particular number of a
20 building?

21 A Yes, sir. That's right down the left-hand side
22 behind the sign -- I mean on the right-hand side -- side
23 behind the sign, like if you was coming from the back way.

24 Q Okay. What's the difference between a court and a
25 building?

1 A It's really no difference. We just -- we just say
2 because it's the outside of the road, and it's first,
3 second, third on your left-hand side. And then it's like
4 you might say the 6 Building or M Building on your
5 left-hand side -- I mean your right-hand side.

6 Q As I look at that photograph that's beside you, are
7 those courts, buildings or ---

8 A These right here on this side would be basically
9 buildings. That side right there, that's the second
10 court, that's the third court, and back there they would
11 call it the flats because they are the one stories
12 (indicating throughout).

13 Q Okay. So all of the side closest to you is the court
14 with two-story buildings.

15 A Yes, sir.

16 Q And the court just refers to the street; is that
17 right? second court? third court?

18 A Second court, yeah, across the street like over here.
19 Like this is second court, that's third court. Then on
20 the bottom of the third, that's where the flats start down
21 there (indicating throughout).

22 Q Okay. What happened then?

23 A As I was sitting up there with TD and Chris, and I --
24 I really don't know Chris' homeboy name, but we was
25 sitting there chilling, smoking cigarettes. Just hanging

1 around.

2 Q Okay. You're going a little fast in the sense that
3 you said you don't know any homeboy name. Tell us what a
4 homeboy name is, how that ---

5 A I -- I know him from his baby mama. His baby mama,
6 her name is Alexis. She stayed in -- she stayed out there
7 in Boulder Creek. That's where I met him at. Like other
8 than that, like we -- we really didn't know each other
9 more than that.

10 Q Is it like a nickname? Is that what a ---

11 A I couldn't recall his name, period. That's why I
12 never said. I just say Chris' homeboy because they kind
13 of hung out more than anybody.

14 Q Homeboy?

15 A Yes, sir. That mean like his friend.

16 Q Okay. For some of us that haven't grown up, that's
17 another way of saying this is my friend.

18 A Yes, sir.

19 Q Okay. What then happened?

20 A We sat there, we were smoking cigarettes, hanging
21 out. Roughly 45 minutes later, Gator come through. He's
22 talking to us. He asked -- he asked some questions. Was
23 like, no, basically.

24 He was like, "Okay. And I know you're lying,
25 basically."

1 But I was like, "No. I'm not lying. I'm working
2 now. I'm -- I'm in a different lineup now," because I had
3 lost my job for like maybe a month, and then I went up
4 there and got it back. So I'm letting him know I'm back
5 working again.

6 As he was taking off, I was like, yeah, you need to
7 check my boys because they're -- they're going to check
8 you sooner or later because I don't know if it's true or
9 not. Word -- word around he called the police. I don't
10 know if it's true or not, but that's what -- that's what
11 the rumor was.

12 Q Okay. The rumor was that he did what with the
13 police?

14 A He called the police on them earlier, like ---

15 Q Called the police?

16 A Yes, sir. Maybe earlier in the week we was hanging
17 out in the 6 Building in the breezeway, and like police
18 just came out of nowhere and kind of -- kind of "hemmed"
19 them up.

20 Q Okay. And who'd they hem up?

21 A They hemmed up T-Money, Forty, and Dada, sir.

22 Q Okay. And you thought they were going to get him
23 back for that?

24 A Yes, sir. Because originally, they didn't know where
25 -- where they came. Because like when the police came,

1 they told them basically they had a complaint that they
2 was just hanging out in the breezeway and they're not from
3 out there.

4 Q So what did you do?

5 A I was in the house. I didn't -- I didn't go out and
6 deal with them, period.

7 Q Okay. That's when the police came when ---

8 A Yes, sir.

9 Q --- T-Money had called them.

10 Okay. What happened next?

11 A Well, maybe two or three minutes after Gator took off
12 and walked up towards Charles's way, T-Money and them,
13 they came in between the buildings -- come here between
14 the buildings of the second court right here (indicating).
15 Like you can't see -- you can't see the road, but like it
16 would be something like this (indicating), but it would be
17 on this side. They come in -- they come in from between
18 there. They're asking me like, "What you doing?"

19 I'm like, "I'm just out here chilling, basically,
20 shooting -- shooting ba-ball. Nothing to do."

21 Well, we're going to go up here and have a situation.
22 I'm asking them about the situation. They're like, "Come
23 on. While -- we'll tell you about it as we're walking."
24 They started telling me like they heard Gator the one who
25 called the police on them.

1 And I'm like, "No, man. Who you hear it from?" They
2 didn't never, never said.

3 And we started walking up there, and like it was just
4 -- it was awkward, like the same. It wasn't like they was
5 just going up there to check him or nothing, but at the
6 same time, I can't really tell. They was fidgeting. Like
7 they was just basically headstrong.

8 But as we got up there and I'm stopping at the trash
9 can kind of just really observing like what's going on,
10 and like ---

11 Q Is the trash can on that map there?

12 A Yes, sir.

13 Q Where is it located?

14 A Right here (indicating), sir.

15 Q Okay. And what court is that in?

16 A That's -- really, they were probably at Charles's
17 court because, basically -- or the rent office, because
18 that's basically what identified there -- out there.

19 Q Okay. Where's the rent office at in that?

20 A Right here (indicating), sir.

21 Q Okay. What happened as you were walking up there?
22 You stopped at the trash can, you said.

23 A Yes, sir. I stopped at the trash can. I watched
24 them approach the door. As they approached the door,
25 Gator was coming out, and I'm guessing Charles was letting

1 Gator out, and the confrontation happened.. And like as
2 the confrontation was happening, I seen -- I seen a pistol
3 get raised. And I don't know who raised the pistol. I
4 wasn't really trying to figure it out. I was already kind
5 of heading the other way because I ain't want nothing to
6 do with it.

7 Q Okay. When you head another way, which way are you
8 heading?

9 A (Indicating) Coming from the trash can, coming this
10 way.

11 Q Okay. Why were you going down that way?

12 A Because Shaquanna's not this -- not this (indicating)
13 section, but it's one more section, and that's -- her
14 apartment would be like facing the street right there.

15 Q Okay. It would be kind of like the roof line on that
16 one that's on the street there now?

17 A It's facing this -- it's facing the road. So -- and
18 it's like a little -- it's a gate right here. And like
19 when you come -- you come through the gate, but like I
20 just walked straight through on this side of the gate.

21 Q Okay. And you were living at Shaquanna's.

22 A Yes, sir.

23 Q Did you get down to Shaquanna's?

24 A As I was getting there, I heard a shot.

25 Q Okay. One shot?

1 A Yes, sir.

2 Q Okay. What did you do then?

3 A I went in the house. I told Shaquanna. I was like,
4 "I don't know what's going on. I just heard a shot."

5 And she was like she wasn't even worried about a
6 shot. She worried about me at the party because she
7 obviously seen the video of the party. Like you had fun
8 at the party and all this.

9 And I was like, "I didn't -- I didn't touch the
10 girl," because like as I was walking in, Ms. Lena Booker
11 [phonetic] basically started dancing in front of me. And
12 I'm like I kind of seen them with Carly [phonetic], so I
13 -- like I didn't dance. But basically, that's what she
14 seen me on the video.

15 And she was like, "Well, you had fun," and all this,
16 and we're kind of arguing about that.

17 Q She saw -- in other words, Shaquanna saw a video that
18 -- how'd she see a video that quick?

19 A On Facebook. They was posting them on Facebook.

20 Q Okay. And the party, she seen you having a good time
21 with another woman?

22 A Pretty much.

23 Q Just dancing?

24 A Yes, sir. But there wasn't never no physical
25 contact.

1 Q When's the next time you heard about anything that
2 went on up there?

3 A It was roughly after I left Shaquanna apartment, like
4 she had told me, she was like she heard five shots. And I
5 peeked out the blinds. I looked out the blinds, seen
6 police out there. I was like, "Ain't nobody shooting out
7 there. The police are out there."

8 And she was like, "I'm telling you, I heard them."

9 Well, I was like, "Well, I'm going to go out here and
10 see what's going on." And as I was walking out, I walked
11 towards the first court, wound back towards the party
12 where the party was at, but it was just Vicki there by
13 herself. And on the way, like they said something about a
14 robbery.

15 Q Okay. No people in that picture up there of the --
16 of the court. Is there a lot of people out there?

17 A Once the shots started happening, I'm guessing they
18 probably came out, you know, being nosy to see, because on
19 my way to Shaquanna house, there was no people out there
20 at all.

21 And as I'm hitting the first court and I hear about a
22 robbery, and I'm thinking in my head, I'm praying
23 basically that's not what them boys went to do, like it's
24 not what they were trying to partake in.

25 Q Is [REDACTED], by nature, is it a place that a lot

1 of people move around at night?

2 A Yes, sir.

3 Q A lot of people sit and drink? party?

4 A Yes, sir.

5 Q And I guess people sit in the spaces between
6 buildings and breezeways and things like that?

7 A Yes, sir.

8 Q Did the crowd get bigger?

9 A As I went down to Vicki house and I called my baby
10 mama, like once I found out I seen all the police keep
11 coming in, coming in, I called from Vicki phone. And I
12 was like, "Lock the doors. Don't -- don't open doors for
13 no one," because that's just a safe precaution I learned
14 as a young brother like from my grandma and them. They're
15 like when something happen, I always lock the doors
16 because I don't know if it was my grandma or someone said
17 they came in the kitchen one day and somebody was running
18 from the police hiding, and he was scared -- he scared
19 them like real bad. So like that's just a precaution I
20 always take. So I called her and told her to lock her
21 door.

22 Q Okay. Where did you go?

23 A I sat there for a minute with her. And she's like,
24 "What you do?"

25 I'm like they -- they -- I'm guessing they went in

1 there and robbed Charles, but basically, at that point,
2 that's what I'm thinking they did. I'm like, "They robbed
3 Charles."

4 Q What next happened?

5 A Eventually, Ms. Daphne Johnson knocked at the door.

6 Q Okay. What did she do?

7 A She came in trying to figure out what was going on.
8 She was like, "It's police is everywhere, like basically
9 asking people what's going on."

10 I'm like, "I don't know. Charles got robbed."
11 Pretty much that's what I said. I was like, "Charles got
12 robbed."

13 She was like, "For real?"

14 I was like, "Yeah."

15 And I don't know if she wanted me to get out of there
16 because I was at Vicki house and she didn't want me down
17 there or what, but like she was like, "We've got to get
18 you out of here. Let's go."

19 Q Where did you go?

20 A Up at her house.

21 Q So you went to Vicki's house?

22 A No. Ms. Daphne Johnson house.

23 Q Daphne's house?

24 A Yes, sir.

25 Q Where is that at in relation to all this?

1 A It's in the first court, too. Vicki stayed at the
2 bottom of the first court; Daphne stayed at the top of the
3 first court. If I would put it on this map just to kind
4 of identify the first court, it would be basically this
5 (indicating) Vicki, this (indicating) Daphne building, if
6 that was the first court.

7 Q Okay. And how long did you stay there?

8 A I stayed there for like -- I stayed there for a while
9 because I had tried to leave once, but I was sitting there
10 like everybody trying to figure out. That's when we
11 heard, basically, about Charles and the police and the
12 shooting. And I'm like I'm drunk, I'm panicking, like I'm
13 feeling -- feeling bad, like Charles wasn't never supposed
14 to get hurt, like, man, I'm feeling guilty because I feel
15 -- I felt like I could have stopped the situation.

16 Q Okay. Were the people walking around trying to
17 figure out what was going on?

18 A Yes, sir.

19 Q Were there a lot of police there?

20 A Yes, sir. There was police lined all the way up the
21 main -- the main street.

22 Q So there were a lot of police cars there?

23 A Yes, sir.

24 Q And the people that were out milling and walking
25 around, were they drinking or were they ---

1 A No, sir.

2 Q Everybody was just getting together in small groups
3 and talking, trying to figure it out?

4 A Pretty much gossiping, just trying to figure out the
5 situation.

6 Q Everybody had heard something, so they were
7 gossiping.

8 A Yes, sir.

9 Q Okay. How long did this go on?

10 A I -- I would say I tried to go back down there to my
11 baby mama house. Like after being in Daphne house about
12 30 minutes, they wouldn't let nobody go down the street or
13 across the main street, so I went back up there. Me and
14 her went in the house. We was talking. We ended up like
15 going back to the bedroom, having sex. And pretty much
16 after that, I left. I left and went home probably around
17 3:00 or 3:30 like.

18 On my way out, I was like is they letting anybody by
19 yet? And they was like, "I don't know. Ask the cops."

20 So when I asked the cop, he was like, "Where you
21 going?"

22 I was like, "I'm going right there to the 6 Building.
23 You can watch me walk across the street." And he let me
24 go.

25 Q Okay. And then when you got back at Shaquanna's?

1 A Yes, sir.

2 Q Okay. And how long did you stay there?

3 A I stayed there the rest of the night.

4 Q Okay. What about the next day? Was it still a lot
5 of traffic out there or was it ---

6 A Yes, sir. By the next day around noon, we end up
7 going to my mama house for a little while.

8 Q Okay. And where's your mama's house?

9 A [REDACTED] Road, Apartment 14-B.

10 Q Okay. Now, [REDACTED] Road, that's a ways from
11 there?

12 A Yes, sir.

13 Q What happened next?

14 A We sat out there midday, like just chilling,
15 basically, like go out there sometimes to hang out because
16 mom been staying out there for a minute so I kind of got
17 used to that area. People know me more out there. So we
18 stayed there for the day, like then I started going back
19 to work. Like, hey, I -- I don't know if I had to work.
20 I can't really recall like the whole week for us be
21 working with. Usually I work the whole week except two
22 days. I have like two days off.

23 Q Okay. And that was work at?

24 A Sticky Fingers, sir.

25 Q Okay. You got arrested. What happened then?

1 A Basically, I was at Sticky Fingers Tuesday night, I
2 think. I can't even recall the exact date of Tuesday
3 night, but I was at Sticky Fingers. I got a phone call
4 from Jesse Fir [phonetic]. She was like, "They just
5 kicked in your door, bro."

6 I'm like, "For real?"

7 She like, "Yeah. They kicked in the door."

8 So pretty much like I don't know. I'm not believing
9 it.

10 Then I got another call from Shaquanna, like she
11 heard they kicked in the door and stuff, told me she was
12 already out there on her way or whatever. I was like
13 that's when I basically was telling them like I've got to
14 go, I've got to go take care of something. They say the
15 police hit my spot.

16 Q Okay. Now, when you say they're kicking in your
17 door, was it the door at Shaquanna's residence?

18 A Yes, sir.

19 Q Okay. Now, when did they arrest you?

20 A They arrested me the next day.

21 Q They arrested you originally on the ---

22 A On the marijuana warrant.

23 Q Okay. And you've been in jail ever since?

24 A Yes, sir.

25 Q Were you over at where Charles Rosemond lives on the

1 early morning hours of the 10th at all?

2 A Say what, sir?

3 Q Were you over at the residence of Charles Rosemond
4 any time on the 10th, that morning when everything
5 happened?

6 A No, sir.

7 Q And on the -- I guess it was the night of the 9th,
8 the last time you were in that area was the garbage can?

9 A Yes, sir.

10 Q And you left.

11 A Yes, sir.

12 Q And who did you leave there?

13 A I left T-Money and Dada, which would be Tivarius.
14 Henderson and Deandre Norris.

15 Q If Charles was robbed there, you had no part in it?

16 A No, sir.

17 Q Didn't plan it?

18 A No, sir.

19 Q Didn't go there and execute it?

20 A No, sir.

21 Q They brought them shoes on the table. Are them your
22 shoes?

23 A Yes, sir.

24 Q Where were they at?

25 A Shaquanna house.

1 Q Those are Nike shoes.

2 A Yes, sir.

3 Q They're not Jordans.

4 A No, sir.

5 Q Are those shoes something special or are they
6 available at a sporting goods store?

7 A Quite common.

8 Q Pardon?

9 A Quite common, like you can get them different places.

10 Q Okay. Do a lot of young black men wear that kind of
11 shoe?

12 A Yes, sir.

13 Q Are they really a basketball shoe or are they more a
14 walking shoe?

15 A They started out I guess to be like -- be sort of the
16 style you might wear them to dress up, but once like you
17 get a crease or get them dirty, then maybe you start
18 playing basketball in them.

19 Q Okay. So they're kind of a dress shoe when they're
20 new and shiny, and then they kind of go downhill from
21 there?

22 A Yes, sir.

23 MR. WARDER: Will you answer any questions the
24 solicitor might have, please.

25 THE WITNESS: Yes, sir.

CROSS EXAMINATION

BY MR. McMASTER:

Q Did you indicate or testify to just a minute ago about a Mr. Quan saying that he had robbed Charles Rosemond?

A Yes, sir.

Q Did you also testify just a second ago that you said that we're going to do that?

A I said, yeah, we're going to do that, like joking around, like ---

Q So you're just kidding.

A Yes, sir. I didn't think they was serious.

Q But you did say that?

A Yes, sir.

Q And when you would be at Mr. Charles's apartment, this (indicating) area here, how long of a walk would it be back to 6-C, or a run?

A Roughly two minutes.

Q Two minutes?

A Yes, sir.

Q So when you testified just a minute ago that you weren't around Charles Rosemond's apartment on the night of the robbery, that wasn't true, was it?

A When I said other than being beside the trash can.

Q You said you weren't there on the night, that you

1 said it was only on the 9th. You were right there on the
2 10th; isn't that correct?

3 A Depends on what time it is. If it was before 12:00,
4 no, sir.

5 Q Well, let's think about that. You said you got home.
6 That's about two minutes. You said you heard a shot.

7 A Yes, sir.

8 Q And then you heard some more shots when you're inside
9 the apartment.

10 A Yes, sir.

11 Q Heard "lock the door."

12 A Yes, sir.

13 Q "Don't let anybody in," right?

14 A Yes, sir.

15 Q All right. You mentioned somebody today. I think we
16 had a new name we haven't heard, TD. Who's TD?

17 A That's his nickname.

18 Q But he's there now?

19 A He's been there.

20 Q Okay. He's been there.

21 A Yes, sir.

22 Q Okay. You told law enforcement about TD.

23 A Yes, sir.

24 Q All right.

25 A He stayed next door to Chris, sir.

1 Q Stays next door to Chris.

2 A Yes, sir.

3 Q So when you originally talked to law enforcement, did
4 you talk to them about just Chris and his homeboy, or did
5 you talk to them about Chris, TD and his homeboy?

6 A Chris, TD and his homeboy.

7 Q So we're talking about three people, correct?

8 A Yes, sir.

9 Q Let's talk about Charles Rosemond. Did you know
10 Charles Rosemond?

11 A Barely.

12 Q Barely?

13 A Yes, sir.

14 Q Did you go there to buy cigarettes?

15 A I went there quite a few times.

16 Q You went to the door?

17 A Yes, sir.

18 Q Did you buy some shots there, too, occasionally?

19 A Yes, sir.

20 Q And he made you pay in cash, right?

21 A Yes, sir.

22 Q All right. And when you were there at Charles
23 Rosemond's, what kind of guy was he?

24 A I don't know. We never really talked.

25 Q Older guy?

1 A Yes, sir.

2 Q Kind of being considered an old man.

3 A Yes, sir.

4 Q And you knew he had a lot of cash in that apartment,
5 didn't you?

6 A No, sir.

7 Q You didn't.

8 Did you know he sold snacks and cigarettes and liquor
9 in the community?

10 A I knew cigarettes and liquor. Yes, sir.

11 Q Okay. You didn't know of him selling anything else?

12 A No, sir.

13 Q And you indicated a minute ago about talking to
14 Gator, and you said -- let's see. I wrote it down here.
15 You said, "Gator, you better check it."

16 A You'd better check down, yes, sir.

17 Q Is that because Gator had called the police?

18 A Yes, sir.

19 Q And people don't call the police at [REDACTED]?

20 A No, sir.

21 Q In fact, you didn't call the police.

22 A No, sir.

23 Q You didn't say, "Hey, I know all these guys that just
24 were over there about to shoot at Mr. Charles's."

25 A No, sir. Said nothing.

1 Q You said nothing. In fact, you said there was an Al
2 Capone or Alfonze Capone or Alfred Capone or something
3 like that?

4 A Yep. That was the rumor going around.

5 Q That was the first -- that was the first time you
6 were interviewed, right?

7 A Yes, sir.

8 Q And you told them that.

9 A Yes, sir.

10 Q You didn't tell them, "Hey, I was right there. I
11 saw -- saw them heading down, fighting in the doorway."
12 You didn't say that, did you?

13 A No, sir.

14 Q You didn't mention that at all.

15 A No, sir.

16 Q A couple of days later, though, then that story
17 changed, didn't it?

18 A Yes, sir.

19 Q Then you decided to tell them about Dada and T-Money;
20 is that right?

21 A Yes, sir.

22 Q So then you changed that story that it was Dada and
23 T-Money that did it all, right?

24 A I never said they did nothing. I said basically what
25 I told -- I just told you.

1 Q You told them they were fighting at the door with a
2 gun, didn't you?

3 A I said they had an altercation.

4 Q And you saw a gun.

5 A Yes, sir.

6 Q Would you consider -- or would you think that
7 Mr. Rosemond was well-liked in the community?

8 A Yes, sir.

9 Q Everybody went -- you saw a lot of people in and out
10 there, right?

11 A I really don't know.

12 Q You don't know.

13 Do you agree that his death is a -- it was a big void
14 in that community?

15 A Yes, sir.

16 Q A lot of people were missing him. I lot of people
17 talk. I think you said a lot of people talking about it;
18 is that right?

19 A Yes, sir.

20 Q And do you agree if you were involved in the armed
21 robbery of Charles Rosemond, that would be not a good
22 thing in that community, would it?

23 A No, sir.

24 Q And you agree that if you were involved in that armed
25 robbery and then a police officer is shot in the head,

1 that wouldn't be a good thing either.

2 A No, sir.

3 Q And you agree that if the police officers had to
4 return fire after one of their own is shot in the head,
5 that would be a good thing, too.

6 A What did you say, sir?

7 Q You say that would be a good reason to -- that
8 wouldn't be a good thing either, would it?

9 A No, sir.

10 Q Do you agree if you were involved in that, you'd
11 probably not want to tell the truth, would you?

12 A If I was involved in it, I probably would have took a
13 plea, sir.

14 Q Okay. But you'd agree that you wouldn't want to tell
15 the truth about that because that would be a big problem
16 in that community.

17 A If you take a plea, telling the truth, sir.

18 Q Let's talk about a few things. Let's talk about
19 Shaquanna Atkins. Now, is that the mother of your
20 children?

21 A Yes, sir. Two of them.

22 Q How many children do you have?

23 A I have four little girls.

24 Q Four girls.

25 A Yes, sir.

1 Q And you were living at Shaquanna Atkins's off and on;
2 is that right?

3 A Yes, sir.

4 Q And you were also in a sexual relationship with Vicki
5 O'Neal.

6 A Yes, sir.

7 Q You were also in a sexual relationship with Daphne
8 Johnson.

9 A Yes, sir.

10 Q Those are all members of the [REDACTED] community.

11 A Yes, sir.

12 Q Did you keep items at Shaquanna Atkins's apartment?

13 A Yes, sir.

14 Q Like clothes?

15 A Yes, sir.

16 Q ID cards or Social Security cards?

17 A Yes, sir.

18 Q Personal effects? items? jackets?

19 A Yes, sir.

20 Q Clothes? coveralls? Things like that?

21 A I don't know what coveralls is.

22 Q All right. Let's talk about your relationship with
23 T-Money and on the night of the 9th. You said they came
24 by and they offered you a beer; is that right?

25 A I asked for a beer. Yes, sir.

1 Q And they gave you one.

2 A Yes, sir.

3 Q In fact, they invited you to a party; is that right?

4 A Yes, sir.

5 Q And that's the party we've been talking about up at
6 Vicki O'Neal's; is that right?

7 A Yes, sir.

8 Q And you were present there.

9 A Yes, sir.

10 Q And that's where you said Mr. Quan's doing all the
11 talking about robbing Charles.

12 A He said he had robbed Charles. And I don't know how
13 it came about, but yes, sir.

14 Q Now, when you were in Vicki O'Neal's, you said at one
15 point, you went back to the bedroom and you had sex with
16 her there.

17 A Yes, sir.

18 Q That's during the party.

19 A Yes, sir.

20 Q And at that time, did you have a silver, grayish
21 pistol?

22 A No, sir.

23 Q You did not have a pistol.

24 A No, sir.

25 Q Did you take your clothes off to have sex with her?

1 A Yes, sir.

2 Q Put your clothes on the floor?

3 A Yes, sir.

4 Q So if you had a pistol, it would be on the floor,
5 too, then.

6 A I guess. Yes, sir.

7 Q Do you recall what time you left Vicki O'Neal's
8 apartment?

9 A Not exactly.

10 Q Do you recall you said you were dancing, y'all having
11 fun, bear hugging, wrestling? Do you recall having a gun
12 in there?

13 A No, sir.

14 Q About what time did you leave?

15 A I can't verify, sir.

16 Q You can't verify. What time do you think it was?

17 A Probably 10:30, 11:00.

18 Q So around 10:30, 11:00.

19 And is it true you left with T-Money and you left
20 with Dada and Forty?

21 A Yes, sir.

22 Q Y'all walked out together.

23 A Yes, sir.

24 Q And how far down the road did you get there together?
25 How far did you all get?

1 A Well, we walked to the second -- I walked to the
2 second court, they walked to the sixth, so they would be
3 at the top of the first. Like once you go through the
4 gate, we're going -- we're going down the road, so we had
5 a good little distance.

6 Q So walked for a minute? two minutes? five minutes?
7 How long?

8 A About two minutes.

9 Q And you indicated that you stopped at this point, and
10 that's where you stopped with TD and Chris and a homeboy;
11 is that right?

12 A Yes, sir.

13 Q And you're just hanging out there.

14 A Yes, sir.

15 Q And that's when Gator comes up to you, and you said
16 something about I'm just checking about what -- or
17 checking about what you got or something. What are you
18 talking about?

19 A Say what, sir?

20 Q You said Gator said something to you to the effect of
21 what you got, or what's that about. And you said, "I
22 ain't into that." What are you talking about?

23 A He asked about some dope.

24 Q Okay. Why ask you?

25 A Because I used to hustle.

1 Q What does that mean?

2 A I used to sell dope.

3 Q In that community?

4 A Yes, sir.

5 Q Did you -- in fact, when did you stop selling dope in
6 that community?

7 A When I got my job back.

8 Q When was that?

9 A I can't recall the exact date.

10 Q What do you mean by dope? You were selling what?

11 A I was selling crack and weed.

12 Q So that's what you were talking about when he said he
13 was checking me, and I ain't in about that. That's what
14 you meant.

15 A When he was asking me could he buy -- could he get
16 some credit, and I was like, "I ain't have it."

17 Q So he wanted to buy crack from you.

18 A He wanted credit. He wanted me to front him some.

19 Q Okay. In fact, you'd been convicted of possession of
20 cocaine base or crack; is that right?

21 A Yes, sir.

22 Q Do you remember when you got convicted of that?

23 A No, sir.

24 Q Well, let's go back. So you had this conversation
25 with him, with Gator, and you tell him these boys are

1 looking for you.

2 A Yes, sir.

3 Q And tell me about the progression. Is that when
4 T-Money and Dada come right back?

5 A Almost after he leave.

6 Q Almost after he leaves?

7 A Yes, sir.

8 Q And so he's walking. Do you know where he's walking?

9 A I just know he walked towards Charles's place, sir.

10 Q And you said you were over -- way over here
11 (indicating) at the second; is that what you said?

12 A Yes, sir. That's (indicating) where I am.

13 Q How long a walk would that be back to Charles's?

14 A Maybe two minutes.

15 Q Two minutes.

16 So how long after he left did they come up?

17 A Maybe about two minutes.

18 Q Okay. When you were walking back or they walked up
19 to you and they said -- what did they say to you? Or what
20 did you testify they said to you?

21 A They asked me did I want to roll with them, basically
22 go up to handle some business.

23 Q And you said yes.

24 A I didn't confirm.

25 Q Well, you went with them, didn't you?

1 A I asked him what he was talking about. He said walk
2 with him.

3 Q So you went with them?

4 A Somewhat. Yes, sir.

5 Q You were walking with them ---

6 A Yes, sir.

7 Q --- to handle some business.

8 A I never said if I was going to participate, so I
9 can't say I was walking with them to handle business.

10 Q So you were just walking with them. Did you say,
11 "Hey, what kind of business"?

12 A Yes, sir.

13 Q What did they say?

14 A They said they was going to do a check.

15 Q Check. What did that mean to you?

16 A I guess to find out if he really called the police on
17 them.

18 Q Did you think they'd probably assault him?

19 A I don't -- I don't know what they'd do to -- or what
20 they -- I said I don't know what they was going to do or
21 what they did. I couldn't tell at the time.

22 Q And how long after Gator left did they come up to
23 you, roughly?

24 A Around two minutes.

25 Q Did you see Gator in the distance or anything like

1 that at that point?

2 A I guess depending on where you at, if you're looking
3 up that way.

4 Q Could you see him?

5 A I wasn't paying attention.

6 Q How'd they know to go to Charles's to find him?

7 A I don't know. I guess they seen him.

8 Q Now, when you got to Charles's, you said you saw a
9 gun come out.

10 A Yes, sir.

11 Q Which way was the gun pointing?

12 A Across in the air.

13 Q Can you show me? The air towards where?

14 A Come across this way (demonstrating).

15 Q And you couldn't tell whose hand was on the gun?

16 A No, sir.

17 Q Could you see Charles Rosemond in the doorway?

18 A There was four men in the doorway. I couldn't -- I
19 could see him barely, like it was a cluster.

20 Q Were they fighting?

21 A I can't say there was fighting. There wasn't no --
22 like no -- no swings -- swinging or nothing.

23 Q Well, I was wondering when all that was going on,
24 who -- which one of them was wearing a mask?

25 A I didn't see no mask, sir.

1 Q You didn't see a mask at all.

2 A No, sir.

3 Q Okay. So you saw them up there at Charles Rosemond's
4 door assaulting Gator and Charles. You saw -- you heard a
5 gunshot, I think you said, less than a minute later when
6 you were at Shaquanna's.

7 A I never said it was assaulting Gator and Charles. I
8 said it was a confrontation. There can be in an argument,
9 sir.

10 Q I'll agree. Confrontation.

11 But then you hear a gunshot about a minute after
12 that.

13 A About two minutes, maybe.

14 Q And then you hear some more shots after that.

15 A I didn't hear the shots. Shaquanna heard the shots,
16 sir.

17 Q But it was close in time.

18 A Roughly.

19 Q So that was locking the door. But you never saw
20 anybody in that time period with a mask on their face.

21 A No, sir.

22 Q Not a ski mask. You know what I'm talking about, ski
23 mask?

24 A No, sir.

25 Q You don't know what a ski mask is?

1 A I know what a ski mask is. I said no, sir. I didn't.
2 see no one with that.

3 Q You didn't see that. Okay.

4 So how long do you think you stay at Shaquanna's
5 before you go back up to Vicki's?

6 A I couldn't say, sir. But if I was to guess, I would
7 say roughly 15, 20 minutes.

8 Q 15, 20 minutes.

9 And I think you testified earlier that you made phone
10 calls from Vicki's apartment.

11 A Yes, sir.

12 Q Do you recall having cash in your hand when you got
13 there?

14 A I always got cash, sir.

15 Q You've always got cash.

16 A Yes, sir.

17 Q Okay. So you admit you had cash in your hand when
18 out got there, fives, tens and twenties?

19 A I didn't have it in my hand.. I probably had it in my
20 pocket.

21 Q Did you pull it out so she could see it?

22 A Yeah. She probably knew I had it, sir.

23 Q But you will agree that you made those phone calls.

24 A Yes, sir.

25 Q "Don't open the door. Don't let anybody in." Did

1 you say those words?

2 A "Lock the door." Yes, sir.

3 Q Did you say, "Don't let anybody in"?

4 A Yes, sir.

5 Q Did you admit that you were involved with the robbery
6 of Charles Rosemond at that time?

7 A No, sir.

8 Q Did you talk about the robbery of Charles Rosemond at
9 that time?

10 A Yes, sir.

11 Q Now, you had just come from Shaquanna's house
12 straight to Vicki's house. That's what you testified to.

13 A Yes, sir.

14 Q How do you know about a robbery at Charles Rosemond's
15 house?

16 A I heard somebody talking about it, sir.

17 Q Oh, in that interim?

18 A As I was crossing the street. Yes, sir.

19 Q So it was already out on the street at that point
20 that there's a robbery at Charles Rosemond's house.

21 A Yes, sir.

22 Q When did you find out Charles Rosemond had been shot
23 and killed?

24 A I found out he was shot when I got to Daphne's
25 breezeway.

1 Q Do you agree then Daphne came over to Victoria
2 O'Neal's house?

3 A Yes, sir.

4 Q Do you agree that she wanted you to get out of there?

5 A Yes, sir.

6 Q Do you agree you were out in the breezeway of Daphne
7 Johnson's house?

8 A Yes, sir.

9 Q Or apartment.

10 And that's behind Vicki's; is that fair to say,
11 Victoria O'Neal?

12 A You can say next to it.

13 Q Next to it. Kind of you had to walk out the back.

14 A It's if you go out the breezeway, you go up the
15 front. It's right next to it, first court.

16 Q Do you agree you were out there talking about this
17 incident?

18 A Sir, like I'm going to say, like I wasn't talking
19 about the exact incident, but I was talking about what I
20 kind of seen, what I kind of believed happened.

21 Q And your position on that was that you were just
22 saying this wasn't supposed to happen.

23 A Yes, sir.

24 Q You say you never said anything about robbing
25 Charles.

1 A No, sir.

2 Q Shooting the man.

3 A No, sir.

4 Q Firing the gun.

5 A No, sir. How would I know Charles was shot, sir?

6 Q Well, you just told me you learned that.

7 A Yeah. Out there. But how would I know earlier?

8 Q Let's talk about the next morning. What time do you
9 think you leave Daphne Johnson's apartment?

10 A Around 3:00, 4:00, somewhere in there.

11 Q And so now it's 3:00 or 4:00 in the morning.

12 A Yes, sir.

13 Q Are the police still out there?

14 A Yes, sir.

15 Q They hadn't dispersed at that time?

16 A No, sir.

17 Q And do you go to -- at that point, where do you go
18 to?

19 A Shaquanna Atkins's house.

20 Q How long do you stay there?

21 A All night.

22 Q The rest of the night. Well, it's 4:00 in the
23 morning.

24 A Yes, sir.

25 Q So you stay there till when?

1 A The next day I go to my mama house.

2 Q When you were arrested and during your -- you said
3 you were part of the interview process right when you were
4 arrested.

5 A Yes, sir.

6 Q That's the one with the Alfred Capone; is that
7 correct?

8 A Yes, sir.

9 Q And about two days later, you were interviewed again
10 with a -- with Deputy Picone, I believe, and Deputy -- I
11 mean, excuse me, Investigator Picone and Investigator
12 Fortner; is that correct?

13 A Yes, sir.

14 Q And you admitted that's when you changed your story.

15 A Yes, sir.

16 Q When you are taken back out on the third interview
17 that was held outside of the Law Enforcement Center; is
18 that correct?

19 A Yes, sir.

20 Q And is that when the investigators are talking to you
21 about the statement of Jeff Wyatt?

22 A Yes, sir.

23 Q You don't know Jeff Wyatt, do you?

24 A No, sir.

25 Q Had you seen him before?

1 A No, sir.

2 Q So when they told you about that statement, isn't it
3 true that you said to them, "Oh, that's that guy that
4 T-Money and Dada gassed somebody at the" --

5 A I said is it one of the guys. I said it was a
6 (unintelligible) that they got in trouble for.

7 Q You asked -- so you asked them that question?

8 A Yeah.

9 Q You didn't say that's why he would -- you didn't say
10 that at all?

11 A I don't -- I don't know -- I don't know who the guy
12 is, so I couldn't say -- I couldn't pinpoint and say if he
13 was in the incident or not, but I was assuming.

14 Q You were talking about Blood Money Gang?

15 A Yes, sir.

16 Q It's safe to say that Jeff Wyatt, not in the Blood
17 Money Gang; wouldn't you agree with that?

18 A Yes, sir.

19 Q And you've indicated you never said, "I'm sorry I got
20 you into this."

21 A Yes, sir.

22 Q You never said that.

23 A No, sir.

24 Q You never said, "I know you were at home."

25 A No, sir.

1 Q Well, let's talk about Tavarus Downs. You know
2 Tavarus Downs?

3 A Yes, sir.

4 Q Is he a member of Gangster Cycles?

5 A No, sir.

6 Q He's not a member?

7 A No, sir.

8 Q I believe you indicated in one of your interviews
9 you're not a member either?

10 A No, sir.

11 Q You indicated, though, that if you were in a gang,
12 that's the gang you'd be in, right?

13 A Yes, sir.

14 Q And I believe you showed them a tattoo with an AK-47,
15 right?

16 A Yes, sir.

17 Q And you called yourself Cloud Killer.

18 A I said that's what it mean. It's a cloud killer.

19 Q Okay. Is that on there as well or is it just the AK?

20 A Just the AK.

21 Q And it's firing up into the clouds?

22 A Yes, sir.

23 Q Do you admit that you told Tavarus Downs what you had
24 done?

25 A No, sir.

1 Q Did you tell him about robbing Mr. Charles?

2 A No, sir.

3 Q Did you tell him about carrying a pistol over there?

4 A No, sir.

5 Q Did you tell him about anything to do with your case?
6 Did you tell him anything?

7 A As I was getting my -- as I was getting my motion of
8 discovery, that's what you will call it, I was going
9 through it, he could have overheard me going through it
10 talking through the case.

11 Q Okay. Did you have in your motion of discovery these
12 two girls ain't going to show up?

13 A No, sir.

14 Q Did you have in your motion of discovery those two
15 guys didn't have nothing to do with it?

16 A No, sir.

17 Q So that wouldn't have been any motion of discovery.
18 You'll agree with that, right?

19 A Yes, sir.

20 Q Do you agree that you had a fourth interview with law
21 enforcement ---

22 A Yes, sir.

23 Q --- back down at the Criminal Investigation Division?
24 Is that true?

25 A Yes, sir.

1 Q And at that time, did you give them more information
2 about the events of that night?

3 A I recall giving them the same information I basically
4 gave them in the -- in the second interview, sir.

5 Q Did you add someone about Courtney would know what
6 happened?

7 A That's what I heard, sir.

8 Q Did you know -- did you mention to them again about
9 Chris at that time?

10 A Yes, sir.

11 Q It's your testimony here today you had nothing to do
12 with the armed robbery and burglary at Charles Rosemond's
13 apartment.

14 A Yes, sir.

15 Q Nothing to do with the attempted armed robbery,
16 kidnapping of Eric Garrison.

17 A Yes, sir.

18 Q Nothing to do with the kidnapping of Charles
19 Rosemond?

20 A Yes, sir.

21 Q Nothing to do with the conspiracy between you and
22 T-Money or Dada to commit these crimes.

23 A Nothing to do with it, sir.

24 Q Nothing to do with discharging a firearm.

25 A No, sir.

1 Q And you don't feel responsible for the events that
2 followed that armed robbery and burglary.

3 A No, sir.

4 MR. McMASTER: Thank you.

5 THE COURT: Any redirect?

6 MR. WARDER: No, Your Honor.

7 THE COURT: All right. You can stand down.

8 All right. Call your next witness.

9 MR. WARDER: Your Honor, can we approach the bench?

10 THE COURT: All right.

11 (WHEREUPON, a bench conference was held off the record.)

12 THE COURT: All right. Mr. Warder, anything?

13 MR. WARDER: No, Your Honor.

14 THE COURT: All right. Does the defense rest?

15 MR. WARDER: Yes, sir.

16 THE COURT: All right. Anything in reply from the
17 State?

18 MR. McMASTER: Nothing in reply, Your Honor.

19 THE COURT: All right. Mr. Foreman, ladies and
20 gentlemen of the jury, we have now completed the first two
21 parts of the trial, if you remember my five-part road map.
22 So opening statements are done, all of the testimony and
23 all of the evidence that's going to be presented to you is
24 now in the record. And the next part of the trial, if you
25 remember, are the closing arguments of the attorneys. So

1 we're not going to start those here at 20 minutes till
2 5:00. We will readjourn in the morning at 9:30, if that's
3 agreeable with everybody.

4 Down to it. You've got all the evidence. It's going
5 to be your case very soon. Continue to abide by your
6 oath. Don't talk about it, don't do research, don't visit
7 any scenes, and we will see you all in the morning at
8 9:30. Okay. Actually, I'll tell you what. You can make
9 it a quarter of 10:00 because there will be a couple of
10 things we have to take care of in the morning. All right.
11 Thank you.

12 (WHEREUPON, the jury exits the courtroom at 4:39 p.m.)

13 THE COURT: All right. Anything before we adjourn?

14 MR. McMASTER: Nothing from the State, Your Honor.

15 MR. WARDER: Nothing from the defense, Your Honor.

16 JURY CHARGE CONFERENCE

17 THE COURT: All right. I'll see y'all -- be up here
18 about -- do you have any request to charge?

19 MR. McMASTER: Standard charges.

20 THE COURT: You got anything special?

21 MR. WARDER: I don't think I have anything that will
22 be unusual or special, Your Honor.

23 THE COURT: Well, so what I've got sort of outlined,
24 duties of the judge and jury, the indictment not evidence,
25 multiple charges, credibility of witnesses.

1 Do you want something on expert witnesses?

2 MR. McMASTER: No, sir.

3 THE COURT: The only one we had was the guy
4 from SLED, the forensics guy. Do you want a charge on it?

5 MR. McMASTER: Yeah. I'd like a charge on it.

6 THE COURT: Yes? Well, he wants it. It's in the --
7 okay.

8 Prior record of the defendant limited for impeachment
9 only, presumption of innocence, reasonable doubt.

10 Do you want circumstantial evidence?

11 MR. McMASTER: Yes.

12 THE COURT: Yeah. Do you want something about the
13 statement of the defendant about being freely and
14 voluntarily made?

15 MR. WARDER: Yeah.

16 THE COURT: Yes?

17 MR. WARDER: Yeah.

18 THE COURT: That's a long charge, Mr. Warder. We'll
19 give it to them.

20 Prior inconsistent statements, do you want anything
21 on that?

22 MR. WARDER: No.

23 MR. McMASTER: Yes.

24 THE COURT: Yeah. I figured. Okay.

25 Identification?

1 MR. McMASTER: Sure.

2 THE COURT: Sure.

3 MR. McMASTER: Yes, sir.

4 THE COURT: Then first-degree burglary. And it's
5 based on possession of a weapon, right, and nighttime?

6 MR. McMASTER: And nighttime. Yes, sir.

7 THE COURT: Armed robbery, and then attempt,
8 kidnapping, possession of a weapon during the commission
9 of a crime and conspiracy.

10 MR. McMASTER: And discharging a weapon.

11 THE COURT: Do I have that?

12 MR. McMASTER: I don't think you said that one.

13 And I would like the hand of one, hand of all charge
14 as well.

15 THE COURT: Is he charged with possession of a weapon
16 or discharging a weapon?

17 MR. McMASTER: He's charged with both possession of a
18 weapon during the commission of a violent crime and
19 discharging.

20 THE COURT: All right. I'll get the discharging a
21 firearm into a dwelling.

22 And you want hand of one. I think it's probably in
23 the evidence.

24 All right. Okay. Anything else?

25 MR. HOLLOWAY: That's it.

1 MR. McMASTER: Thank you.

2 THE COURT: All right. We're good.

3 Let me just say to the gallery, if a phone goes off
4 tomorrow, I'm going to treat it as contempt of court. I
5 think I'll recognize everybody in here. And I will punish
6 you accordingly. There is an order from the Chief Justice
7 of the Supreme Court of the State of South Carolina that
8 says that all communication devices need to be off in the
9 courtroom, so make sure they are off.

10 (WHEREUPON, proceedings adjourned at 4:43 p.m., to be
11 reconvened Thursday, September 13, 2018.)

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1 THURSDAY, SEPTEMBER 13, 2019

2 (WHEREUPON, proceedings reconvened at 10:01 a.m.)

3 THE COURT: Have y'all discussed the order of closing
4 arguments?

5 MR. McMASTER: We have, Your Honor.

6 THE COURT: What have you all discussed?

7 MR. McMASTER: I will close, then Mr. Warder will
8 close, then I'll have rebuttal.

9 THE COURT: Okay. Sounds appropriate.

10 Anything before we start?

11 MR. McMASTER: Not from the State, Your Honor.

12 MR. WARDER: Yes, sir.

13 THE COURT: Okay.

14 MR. WARDER: We had one exhibit that we marked,
15 identified. We changed it. The solicitor gave me a new
16 -- and I don't think that it's been moved into evidence.
17 It's the timeline from the dispatch office. So I'd like
18 to move that into evidence at this time.

19 THE COURT: The case is closed at this time unless
20 you all consent. What do you -- I've never heard any
21 testimony, anything about it. There's been no evidence
22 presented about a timeline from the dispatcher.

23 MR. HOLLOWAY: The first witness was Ms. Johnson.
24 the copy he showed her was marked up and highlighted, but
25 he never had it authenticated.

1 THE COURT: Yeah.

2 MR. WARDER: She authenticated it, but it had marks
3 on it. And they objected to the marks, and so I -- they
4 brought me a clean copy yesterday. And . . .

5 THE COURT: Well, I'm not going to let it in unless
6 the State consents. I mean, it hadn't been presented.

7 MR. McMASTER: I consent ---

8 THE COURT: All right.

9 MR. McMASTER: --- to the copy with no markings on
10 it.

11 THE COURT: Well, show it to him and see what . . .

12 MR. McMASTER: So this will be entered into evidence
13 as Defendant's 1.

14 MR. WARDER: I would think so.

15 THE COURT: Okay.

16 (WHEREUPON, Defendant's Exhibit Number 1 was admitted into
17 evidence.)

18 THE COURT: All right. Anything else?

19 MR. WARDER: No, sir, Your Honor.

20 MR. McMASTER: Nothing, Your Honor. We're ready to
21 proceed.

22 THE COURT: Okay. For the record, the non-redacted
23 DVD of the interview I'm entering as a Court's exhibit, so
24 if there's any question down the road about what was
25 redacted, it is available for appellate review. Okay.

1 MR. McMASTER: Thank you, Your Honor.

2 (WHEREUPON, Court's Exhibit Number 2 was marked for
3 identification.)

4 (WHEREUPON, the jury entered the courtroom at 10:07 a.m.)

5 THE COURT: All right. Ladies and gentlemen, welcome
6 back. I hope y'all had a pleasant evening, and we are
7 ready to proceed to the third part of the trial. You all
8 have paid great attention, been an outstanding jury, and I
9 want you to please continue to pay close attention to the
10 closing arguments of the attorneys.

11 Thank you. All right.

12 CLOSING ARGUMENTS

13 MR. McMASTER: Thank you, Your Honor. May it please
14 the Court.

15 Ladies and gentlemen of the jury, there are
16 consequences for every action. You think you found an
17 easy target, an old man with cash who opens the door at
18 all times of the night. How did this ever go so sideways?
19 You make a lick, you get out and you've got the money.
20 You ditch the clothes and the gun and you're on your way.
21 That's what the defendant thought.

22 Even if someone calls the police, 'as you've heard, no
23 one will cooperate. Get back to one of my three
24 girlfriends with cash in my pocket.

25 However, his actions led to a tragic reaction. We

1 have a dead member of the community, by everyone's account
2 was a good man. A friend to all. We have a deputy
3 severely injured.

4 Now, let's break down the defendant's story, or as I
5 like to say it, Statement 5, which, by his own admission,
6 was created over the two and a half years he's been in
7 jail getting ready for trial. Let's talk about the fact
8 that if you believe this story alone, you can find him
9 guilty of all charges.

10 Accomplice liability, the hand of one is the hand of
11 all, you're going to be charged by Judge Miller on this
12 provision in the law. And what it means very simply is if
13 two or more people agree to commit a crime and agree to
14 help each other, each of them is guilty of the natural
15 consequences of that crime. A bank robbery is the most
16 common example you have. Even if you're the getaway
17 driver or you're the lookout, you're just as guilty as the
18 person that enters the bank with a gun and takes the
19 money.

20 If you take the defendant's version of events in the
21 light most favorable to him, he is guilty of all charges.
22 As you hear on direct of the defendant from his attorney
23 and then again on cross, Mr. Quan was talking about the
24 fact that he had robbed Mr. Charles before, and Mr. Hunter
25 said that's what we were going to do. If you remember, I

1 asked him, did you just say that I -- but thinking I
2 possibly misheard him, the response was even better. I
3 said yeah. Let's rob him. That's what he said from the
4 stand.

5 Now, the witness stand is an interesting place. Even
6 though you've had a story you've been able to work on for
7 two and a half years, you need to explain the key piece of
8 evidence that just came out. As you saw and heard from
9 the officers, this is the first mention of Quan. You'll
10 see that in Statement 4. You saw that yesterday. I know
11 you've seen a lot of information, but you can review that
12 back in your jury room. First time we've heard about him.
13 This is the first mention of Quan is the one talking about
14 the robbery. This is the defendant's first major slipup.
15 But, of course, they were just joking about that, a joke
16 that becomes a reality several hours later. And who's not
17 around for this joke? Who's not around for the reality?
18 Quan. He's the one talking about it.

19 Who does the defendant leave the party with? We've
20 heard some nicknames: T-Money, Tivarius Henderson; Dada,
21 Deandre Norris; Forty, Jamarius Smith.

22 Then he meets with Gator, find him. He's probably
23 intoxicated, asking for drugs on credit. The defendant's
24 not into that. And then he is approached by T-Money and
25 Dada. "You want to go?"

1 "Yeah."

2 I asked, "What were you going to do?"

3 "I don't know. They didn't say." That's the second
4 slipup.

5 They didn't need to say. You know why they didn't
6 need to say? Because you'd already discussed robbing
7 Mr. Charles at the party. You knew what they were going
8 to do.

9 How would they know where Gator is going? Why would
10 anyone care? Look at the timeline. Look at the events.
11 We talked about that from the map yesterday. Gator's been
12 gone for a couple minutes. It only takes two minutes to
13 get to Charles's apartment from where he spoke to Gator.

14 What's the defendant's explanation? Oh, I guess
15 T-Money and Dada saw him. No one would know he was going
16 to Mr. Charles's apartment. Mr. Charles's apartment was
17 the target.

18 So the defendant follows along staying just far
19 enough away. You see in the defendant's words there's a
20 confrontation of Gator and Charles along with T-Money and
21 Dada, a confrontation with a gun. You don't know who has
22 the gun. He doesn't know who has the gun. But nobody is
23 wearing a mask. Yet Rosamae says one is leading with a
24 mask. There's another slipup. That makes no sense. You
25 go shoot a gun, have a confrontation and you don't have a

1 mask on, but one of you stops, puts a mask on to leave.
2 No idea who has the gun, so I just take off. I don't know
3 what they did. Didn't know where they were going, who
4 they were going to rob.

5 He's now moved to Apartment 6-C, Shaquanna Atkins.
6 On the way, we hear the gunshot. And this is where you're
7 going to be able to take evidence into the jury room, and
8 you're going to be able to look at it, and you're going to
9 be able to develop this timeline with you. What you're
10 going to be able to hear, as agent Stanton told you, the
11 call came in around 1:02. Already had a gunshot then, if
12 you remember. You can lay out the sequence of events,
13 build the timeline.

14 Call starts 1:02 when Rosamae has just heard the
15 shot. But we know for sure -- and this is a critical
16 piece of evidence, and it's right here, and it's going
17 back with you -- is the defendant admits on the stand
18 yesterday he made a phone call, two phone calls from
19 Vicki's phone at one -- one of the last ones at 1:33, as
20 you can see, a.m. I would submit the other one was
21 sooner.

22 You saw when I confronted him on how he would know
23 about a robbery would have taken place when he arrived at
24 Vicki's. With that he knew he had another slipup. This
25 is the fourth one. Oh, I heard about it on the way to

1 Vicki's.

2 Now, you think about that timeline. You think about
3 that 9-1-1 call. You think about that testimony of
4 Rosamae. You think about the testimony of the witnesses,
5 the phone calls that you hear Lloyd Hawkins talk about.
6 He is saying that he just found out about the armed
7 robbery of Charles Rosemond essentially while the armed
8 robbery is still taking place. Who would know there is an
9 armed robbery taking place at Charles's unless you were
10 involved, you were part of the plan and the commission of
11 the armed robbery?

12 You heard Rosamae's testimony. She was still in her
13 house or her apartment -- her son's apartment until police
14 officers removed her. They had to go take her to the
15 parking lot, put her behind a building. Who is she going
16 to be talking to?

17 You've got an officer shot. He's been pulled around
18 the corner. You've got other officers coming into the
19 area. No one would know there was a robbery that took
20 place unless you were involved. And these are the
21 defendant's statements. This is his testimony. The
22 information from his own mouth makes him guilty.

23 Let's talk briefly about the law surrounding the
24 charges and how our elements fit those charges. Now, when
25 you look at these charges and you look at the elements,

1 Judge Miller is going to be -- he's going to give you the
2 law. But this is how I would interpret that our case fits
3 into those charges and the law.

4 Burglary first is entering a dwelling of Mr. Rosemond
5 at night with the intent to commit a crime. But we have
6 more than that. He's also, you can have a burglary first
7 while armed with a deadly weapon. It's an additional
8 enhancement. The defendant even admits he saw a gun, and
9 the evidence is very clear that a gun did not belong to
10 Charles or any other gun tested or collected.

11 Remember the shell casing, I believe it's in
12 evidence, too, probably in that box, and what the SLED
13 expert said. It was fired from another pistol, a pistol
14 they never collected. Not a police officer's weapon. If
15 you remember, if a casing like this was put into a .40
16 caliber gun, it would have to have tape around it.

17 Then we have -- and we have this crucial piece of
18 evidence in the threshold.

19 We move to the armed robbery: taking items from
20 someone while you are armed with a deadly weapon.

21 Kidnapping: seizing of someone, controlling their
22 movements, putting them on the floor, don't move. Do not
23 be taken in by what you would think the TV version of
24 kidnapping is. We're not going to bind anybody up, put a
25 blindfold on them, gag their mouth and then throw them in

1 the trunk of a car. That's not what the law says. That's
2 not what kidnapping is. Kidnapping is seizing. You're
3 seizing one, controlling movements, telling them to get
4 down and don't move.

5 Firing a weapon into a dwelling. That sounds
6 self-explanatory. This was a little different. Again,
7 you've got to go to the 9-1-1 call, you've got to go to
8 the evidence. What do you have there? You have
9 confrontation inside the doorway. You've got a gun in a
10 hand. You've got a firing of a gun. We've got a
11 projectile across the street. You go, well, that's not
12 into a dwelling. The only reason it's not still in the
13 dwelling, the projectile, is because the door is open.
14 You don't walk in, hey, put a gun in your face, let me
15 shut the door and lock it. That's how you fired a weapon
16 into a dwelling.

17 Possession of a weapon during the commission of a
18 violent crime, Judge Miller will instruct you on what a
19 violent crime is. This charge is merely possession of a
20 weapon during the crime.

21 Conspiracy, combining with others to commit an
22 unlawful act.

23 Then we come to Gator, Eric Garrison. You notice the
24 defendant never mentions Gator being robbed. Under his
25 version of events, no one got anything, didn't realize

1 searching Gator's pockets for items or money. Remember?
2 What you got, Gator? Hitting him when he's on the ground
3 while you're armed with a weapon is attempted armed
4 robbery.

5 Then Gator is put on the floor. Get down, Gator.
6 Don't move. Again, we fall right back into seizing
7 another individual, kidnapping. That's how we get our
8 evidence meets the elements of those crimes. But that's
9 how we'll do it. That's how we've shown it.

10 Now, let's say you don't believe a word of what the
11 defendant said, his version of events. You say I don't
12 believe anything he said. I don't believe it went down
13 like that. You don't have to believe that. You know why?
14 Because we've got seven other witnesses that gives us
15 information that directly ties -- directly ties him in
16 committing a robbery, burglary and the other related
17 charges.

18 Let's start with Vicki O'Neal. We all heard her. No
19 doubt about it, she did not want to be here. I believe
20 she stated she found strength in being here because she
21 was surrounded by the judge, the bailiffs and the
22 deputies. If you remember, she's the one who had her hand
23 on her face. Wouldn't even look over.

24 In her own manner of speaking, she told you what she
25 saw, how she it. I saw the gun. She describes the color

1 of the gun. How did you see it? She's very blunt. We
2 were having sex. Defendant confirms it. Yeah. We're
3 having sex.

4 Did you take your clothes off to have sex?

5 Yeah.

6 If you had a gun, would it be on the floor?

7 Well, but I didn't have a gun. That's exactly what
8 Vicki's saying, takes his clothes off, the gun's on the
9 floor. Remember that testimony. Remember that testimony.

10 Remember I asked you if -- you know, then we've got
11 here's the conversation with the defendant, with T-Money.
12 Remember that? She heard a conversation with Mr. Hunter
13 and T-Money, Tivarius Henderson, about the defendant
14 wanting to rob Charles. We don't hear about a Mr. Quan
15 talking about robbing Charles. No information about that.

16 The defendant comes back to her house. What
17 happened? What did you do, is what she said. Rob
18 Charles. Again, how would he know this? How would he
19 know this? We already went through the timeline. That
20 doesn't make sense. You can't know it if you're not
21 involved in it.

22 Remember, this is not supposed to happen like this,
23 not supposed to go down like this. This is an easy score.
24 Now police are everywhere. They're all over the complex.
25 His explanation now in his Statement 4 that you watched

1 yesterday and his testimony from yesterday is what he
2 meant is they were just going after Gator. How would he
3 know how did Charles get hurt? Now he's making his facts
4 fit his statement. That's the first time we hear about
5 that. Oh, it wasn't supposed to go down like this. We
6 don't hear about that from any of the witnesses. We hear
7 about that two and a half years down the road, or on our
8 statement a month down the road, we hear about that.
9 We're making our statement fit, we're making it match.

10 Oh, we were talking about Gator. He never mentions
11 Gator being the victim of an attempted armed robbery and
12 kidnapping to Vicki or anyone else that night because who
13 cares? You know, old drunk man around the neighborhood
14 asking for drugs, probably drinking too much. I didn't
15 get anything from him, so who cares? What difference does
16 it make?

17 From Vicki we have money in his hand. Explanation:
18 I always have a pocket full of money. If you watch his
19 fourth statement, and I'm sure you did, he talks about
20 going to pick up his check at Sticky Fingers to pay the
21 light bill. Again, if you were to take him at his word,
22 he's cooking at Sticky Fingers for a month or so, he's
23 quit dealing drugs, according to his statement. That's
24 not the way you get a pocket full of money. Do you know
25 how you get a pocket full of money? You get a pocket full

1 of money by robbing Mr. Charles. That's how you get it.

2 We have the phone calls. And like I said, wow. I
3 just never thought those phone calls to Shaquanna Atkins,
4 I never thought in a million years that he would agree
5 that he made those calls. Never dreamed that he would do
6 that. Never thought it would be possible. That
7 solidified the timeline. Again, as I told you, this is
8 the timeline, 9-1-1 call to this. For our case, this is
9 key information. It doesn't make sense.

10 We fire the gun from -- the testimony of Vicki and
11 another fact that's been confirmed by the 9-1-1 call, the
12 firing of the gun, another 9-1-1 call, Rosamae and Gator.

13 Next we have Daphne Johnson, another woman he's in a
14 relationship with who admitted she did not want to be here
15 and stated she was asked to change her testimony by the
16 defendant.

17 What do we have to do to get him out of here? Let's
18 get him out of here. That is how you know he told Daphne
19 and Vicki what he did, and that alone is compelling
20 evidence. What would you need to get out of here for if
21 you didn't do anything? Why do you need to run? Why do
22 you need to do anything if you're not involved? That's
23 what the defendant wanted you to understand. Unless he's
24 telling them what he did and the crimes he committed or
25 was involved in, then why did he need to leave? Who would

1 be looking for him?

2 According to his story, he took off before anything
3 started. I submit this is a huge compelling piece of
4 evidence. The problem is, all the roads are blocked.
5 Can't get in or out. So we've got to go to Daphne's, get
6 in the breezeway of her apartment complex, start talking
7 some more. Wasn't supposed to go down like this, rob
8 Mr. Charles. You heard it again.

9 Daphne clearly did not want to be here. She ran from
10 the subpoena, got her uncle involved, still didn't show
11 up. She clearly did not realize that by moving the
12 defendant around and after he confessed to a crime, she
13 could have an accessory charge if she decided to lie. She
14 pulled through. She admitted what she did. That's a
15 fact. You move someone that's committed a crime and you
16 know it and you're trying to hide the evidence, you're
17 looking at possible charges.

18 We have T'Erica Lynch, and we have another person who
19 sees a gun, describes a gun, same -- same gun everyone
20 else describes. And I don't know what Mr. Warder was
21 talking about, the defendant dancing around the apartment,
22 but it sounds like his client could have had a gun but was
23 just playing around. But the defendant, according to his
24 statement, no gun that night. She also tells you who they
25 leave with.

1 I'm sure you're going to hear a lot of this
2 left-handed business. You probably picked up on that.
3 You can take that from your common life experiences. I'm
4 sure you've seen individuals that are left-handed play
5 baseball right-handed or vice versa, play golf
6 right-handed or shoot a firearm right-handed. You could
7 be right-eye dominant. I don't know. Who cares. That's
8 not the point. The point is, you can see on the video,
9 and you saw it yesterday, and if you're paying attention,
10 it's in evidence if you need to look at it again, when
11 he's describing shooting that gun, he does it with that
12 right hand.

13 We have Eric Garrison who was a somewhat pitiful
14 individual. He recognized the voice but he can't give a
15 name. But he knows where this guy stays in the apartment
16 complex. If you remember, Shaquanna Atkins, he's admitted
17 he lives with. When he's there, stays with Shaquanna
18 Atkins. Incredible information.

19 Recognizes one of the girlfriends, identifies one of
20 the girlfriends, talks about the shoes, specific
21 information about the shoes. Now, we talked about why we
22 didn't do DNA on the shoes and all this business. We turn
23 around and the shoes are in evidence. Defendant admits,
24 oh, yeah, those are my shoes. But, you know, a lot of
25 people have them. Y'all heard that yesterday. It doesn't

1 make sense. Identifies those shoes.

2 Confirms the 9-1-1 call about a robbery and
3 ransacking of Mr. Charles's apartment. We didn't have him
4 leaving the apartment. I was checking on Charles. Again,
5 check the 9-1-1 tape. A masked man leaves about one or
6 two minutes after checking on Charles, leaves.

7 Roommate -- excuse me -- Rosamae sees another man
8 that she can't identify. He's leaving about two minutes
9 after the first guy in the mask leaves. What's she
10 describing? He's about 5'2", 5'3", I think. Who does
11 that description fit? Who do you think that might be?
12 Which way is he going? He went through that cut going
13 across Boling Road. Tells his roommate, "Call and check
14 on Charles," another fact we know. We got the phone call.
15 You heard the testimony. That's the big break in the
16 case. We found Lloyd Hawkins through the phone. He had
17 called to check on Charles. Again, that makes Gator
18 believable. That makes Mr. Garrison believable. That
19 tells you how he did those things. He actually called.
20 He checked with him. Why would you need to check with him
21 if nothing happened? He told Lloyd he had been a victim.
22 He told Lloyd Mr. Charles had been a victim. Again, why
23 does Lloyd call if nothing happened?

24 Rosamae, we hear a series of events live as she's
25 witnessing them on a 9-1-1 call. Remember, all these

1 witnesses are in fear. You saw it in the courtroom.
2 Think of the courage to speak up in a community. Remember
3 Gator said, "They know my name. I knew there was somebody
4 from the hood. They knew my name." He's afraid. Why are
5 you afraid? Who's he pointing to? The defendant.

6 Vicki covering her face and Daphne being told to
7 change her testimony. They all had to come and point to
8 the defendant and tell what each of them had witnessed.

9 Then we move to Jeffery Wyatt, the man that has no
10 information whatsoever of the underlying crimes. All you
11 could tell -- all he could tell you is what he's heard
12 between the defendant and codefendant who was charged
13 after -- who actually, the codefendant, who was charged
14 after Mr. Hunter made the Statement Number 2, if you
15 remember, I think it was Investigator Fortner said. The
16 defendant is telling his codefendant, "I know you didn't
17 have anything to do with this. I know you were not
18 there."

19 Now, I would ask you to listen to Statement 3. It's
20 in evidence. It's the audio one. Played it yesterday.
21 Very short. You can tell he doesn't know who Jeffery
22 Wyatt is. He goes into -- the defendant goes into all of
23 this information about Blood Money Gang, BMG, all their
24 gassing people, getting thrown in Red Pod, beating up
25 people.

1 What he doesn't realize and what he doesn't know is
2 Jeffery Wyatt is a middle-aged white guy. He didn't even
3 know the defendant. The only reason he has any contact
4 with him is he brings his lunch every day with his name on
5 the tray or sack or whatever he said. Again, he said the
6 defendant jumped at the story without having all the
7 facts, and that's a problem. This guy has absolutely
8 nothing to gain, Mr. Wyatt. Nothing. He's just repeating
9 what he heard the defendant say.

10 How would the defendant know these other codefendants
11 were not involved if he was not directly involved? Think
12 about that.

13 Then our last person, Tavarus Downs. You could tell
14 he clearly did not want to be here. Probably doesn't
15 really like me. Wanted a deal, didn't get one -- didn't
16 get one, got 13 years and he's not happy about it. Didn't
17 want to testify.

18 He tells you how he got the information, though. As
19 part of their gang culture, he says that you're required
20 to tell that if I ask, upper level. He gives you
21 information in a step-by-step guideline of what happened,
22 how the crimes took place. What does he say? What -- he
23 says step-by-step robbery of Charles Rosemond, how it took
24 place, where it took place, how he followed Gator into
25 Charles's, a gun was used, how he fired a shot, what he

1 did with the clothes and gun after the robbery, and where
2 he went after the robbery. All very compelling testimony.
3 He takes you right down the series of events. Now, this
4 is a guy that's not out there. He doesn't know all those
5 things.

6 But I think really, one of the most compelling points
7 came through cross-examination. This is interesting. You
8 could have read his discovery. After refreshing his
9 recollection, we got, "No, no, no. I got it from him."
10 He's telling you he got it directly from Aundra Hunter.
11 But why does that make any difference? We have the
12 explanation from the defendant yesterday. Mr. Downs got
13 -- Mr. Downs got that information from me while I was
14 talking about my discovery. So I was just reading him my
15 -- that's the -- that's the implication, I'm just reading
16 my discovery packet. The discovery packet, that's your
17 information about your case. I was just reading it to
18 him. Didn't think that through, though. You know why?
19 Because you try to prepare for two and a half years, but,
20 again, that witness stand is coming.

21 So I ask him is there information about how the
22 females in this case aren't going to show up in your
23 discovery packet? What did he say? No. So there's
24 information in your discovery that the other guys charged
25 with these crimes are innocent, didn't have anything to do

1 with it? No. That is a huge slipup. Clearly did not
2 think that one through because that makes no sense. I
3 believe you can tell by his face he knew at that point he
4 was caught in a lie.

5 So, ladies and gentlemen, you've heard the evidence.
6 You must apply the law and use your common sense. But I
7 want to point out a few more items of note before I finish
8 up. And I'm sure you've picked up on many of them,
9 because it's pretty much of a common theme.

10 Have you noticed how the defendant, in all his
11 statements and all his testimony, minimizes his
12 involvement and explains the issues? It's just a
13 misunderstanding. Out of context. Think about that
14 motivation to lie. Think about that.

15 First statement, no information. Initial interview.
16 Al Capone. Again, we had Agent Stanton talks about his
17 mannerisms, how he's acting. Sounds like deception.
18 Confirm deception.

19 Statement 2, "Yeah, yeah. I know a little bit about
20 that." Confirms what the agents see, what he knows. He's
21 developing his story. We hear it again. We hear it in
22 Statement 4. You hear it again. Now two others are
23 definitely involved and charged.

24 Then we try to explain away Jeffery Wyatt in
25 Statement 3. Then you hear him, "Well, I'm not a Gangster.

1 Cycle but, you know, if I was in a gang, I would be one."
2 Minimizing.

3 "I said that, but I was just kidding."

4 My favorite. You heard this one yesterday. "If I
5 were guilty, I would have just pled guilty."

6 "Gator called the police on T-Money and Dada." I
7 submit to you, there is no way that would have happened.
8 Think about Gator, think about you think he's calling the
9 police?

10 "I said it, but it was a misunderstanding. That's
11 not what I meant."

12 Significantly altered appearance, you had testimony
13 about that from several witnesses. I think Gator was one
14 didn't hardly recognize him over there. Or maybe it was
15 Agent Stanton.

16 "No way I would have said that the codefendants were
17 not involved. That's what they were saying to me, that I
18 was not involved. I was just repeating what they're
19 saying."

20 And then we had the multiple names. I think we added
21 TD yesterday, homeboy, Chris, Al Capone some Talerek Irby.
22 On and on.

23 If you think this is some type of series of
24 investigation that was a rush to judgment, all these
25 people were investigated. I mean, I think it speaks

1 volumes when you investigate Al Capone as a name. If you
2 got that, I don't know if most people would really look
3 into that that far. You heard Investigator Fortner. He
4 even pulled up driving records. We pulled up everything
5 to try to determine Al Capone, Al Capone. Who was that?

6 But in order to find -- he's just minimizing his
7 involvement. The problem is, those people don't exist.
8 And if they did exist, I think Courtney would determine
9 she doesn't know anything.

10 The information from the community, remember the
11 initial information in this case, where did it come from?
12 The community. Who? Dre, Dre, Dre. All the evidence
13 leads back to the guilt of Aundra Hunter. He's minimizing
14 his involvement. He goes just far enough until he thinks
15 he's in trouble. Those numbers or coincidences are just
16 not possible. Think about it. You can't be that
17 misunderstood, misquoted and in bad context that many
18 times. I mean, think about him that night. I mean, we're
19 talking four or five hours, you've been misquoted
20 15 times. All these things only show further that he is
21 guilty.

22 Beyond a reasonable doubt, you're going to hear about
23 that. That's our burden. That's what we accept. But in
24 order to find a reasonable doubt, you have to discount
25 everything the defendant has said and told investigators,

1 what he's testified to. And then you would have to
2 conclude that there's some grand conspiracy between
3 different individuals to lie about the defendant's
4 involvement. That's just not reasonable. How would they
5 know this information if the defendant did not tell them?
6 Why would they lie? What do they have to benefit? What
7 would be their motivation? The real question you must
8 ask, I'm submitting that that is just not reasonable that
9 they would be involved in a grand conspiracy involving
10 this defendant. It's just not reasonable. You have to
11 ask yourself how could that be reasonable?

12 Please review the evidence, listen to the charge on
13 the law and deliberate. And while you deliberate, fight
14 for your position, fight for Eric Garrison and fight for
15 Mr. Rosemond. Remember, all actions have a reaction. You
16 plan it, you participate in it, you profit from it, you
17 can't pretend you're not involved. You just can't. Based
18 on all of the evidence and the law that you'll hear, I'm
19 going to ask you to return a verdict of guilty against
20 Aundra Hunter.

21 Thank you.

22 THE COURT: All right. Mr. Warder.

23 MR. WARDER: Thank you, Your Honor.

24 Ladies and gentlemen, that was an interesting
25 compilation of what they thought the evidence showed. I

1 want you to consider the evidence that you heard and you
2 saw from that stand. I want you to consider the witnesses
3 that really were on that stand.

4 We can start with Ms. Nesbitt, the lady that first
5 called 9-1-1, the lady that was making a report and
6 watching the people come by. What did she say about my
7 client? What did she say about the way he looked? She
8 said that was not the man. That was not the man I saw
9 come out of there. I posed to her that he had increased
10 his weight. He might look different. And she said no.
11 That wasn't the body structure. That man could have
12 gained or lost weight. That wasn't the man.

13 Now, they have a case that the first witness, the one
14 that calls the police says that's not him. And they go
15 together. They continued to go on with this case. They
16 keep trying to prop it up with something they say happened
17 in the interview room.

18 In that interview room, you heard a little bit about
19 that they have four or five rooms with detectives
20 watching, and they keep telling people that they're not
21 telling the truth and that they'll get in big trouble and
22 they need to tell the truth or they're going to get time.
23 And then they take some more interviewing, and then they
24 take pieces of that, and that's the statement that comes
25 out of it. You watch that. Watch that process. It's on

1 those tapes. You'll see them getting up. They told you
2 about the room. We kind of played good cop, bad cop.

3 But look at what the evidence and what the people
4 really said. You've got Mrs. Nesbitt, the first witness,
5 saying that didn't happen.

6 Let's go to what Gator said. And if Gator isn't
7 honestly the worst and the least effective liar anyplace,
8 I don't know who would be. Gator says that there was a
9 shot fired. It struck the floor right by this pillow
10 shown to you in State's Exhibit 12. And that bullet
11 struck right there (indicating).

12 The police go in and check the floor. Can't find the
13 bullet. Pull the carpet up. Can't find a mark on the
14 carpet. Gator tells you that's where the bullet hit, the
15 shot that was fired. You know, it's not true. It's
16 disproven.

17 Gator tells you about this long pistol whipping. I
18 was there. I seen the man. He was hitting, hitting the
19 head, hitting many times. The blood was running out of
20 his head down over his shirt onto the floor. What's the
21 doctor that did the forensic examination say? It's
22 impossible. He had no injuries.

23 Gator wasn't mistaken. He couldn't mistake watching
24 your friend get beat, watching this man that sells liquor
25 at night getting beat and being mistaken about it. It was

1 a deliberate lie, and it was disproven.

2 You know, many of the other lies in this case are not
3 disproven this clearly because a lie can only be
4 concretely proven untrue when it recites facts. Gator got
5 caught in his lies, in his story because he said facts.
6 He said there was a gunshot and it went there. He said
7 that there was a man that was beat in the head so we could
8 go back and look at something, and sure enough, not a word
9 of it was true.

10 You know, there are two kinds of lies.. There's the
11 most damnable lie, which doesn't contain any facts that
12 are provable. Somebody said something. Somebody told me
13 something. I heard something. I was told. He said.

14 First of all, there's some good-faith mistakes that
15 are made when people hear and you interpret what it is,
16 and in conversations, there could be some mistakes, but
17 there are easy places for distortion, too. Lies that have
18 facts in them are lies that are not as insidious, they're
19 not -- they're lies that can be either proven or
20 disproven. Lie about the gunshot. If, say, one happened
21 when it didn't or to say one didn't happen when it did,
22 when they lie about that, you can either say the bullet's
23 there or it isn't. It's either true or it's false. And
24 that's what this case is about. My client is tried on
25 evidence less than what can be proven true or false. It's

1 the inferences they give it.

2 You know, it's a case that all the logical witnesses
3 aren't here. You know, if my client followed Henderson
4 and Norris up there, where are they at? You know,
5 Henderson, we had a man come in there and say that he
6 heard in the jail my client say to Henderson, "I know
7 you're innocent," or something like that. How come
8 Henderson isn't saying, "While I was in jail in Red Pod
9 there, he hollered to me"? Henderson and Norris don't
10 confirm any of that stuff. The solicitor has statements
11 that he's piecing together that says Henderson and Norris
12 did something. They won't come, they won't talk, they
13 won't say that, because it didn't happen. That's right.
14 My client conspired with no one. There's no one that will
15 say we talked, we planned, we took an act to complete it.
16 It's what you have that out of a long history of contact,
17 the solicitor's found pieces that he can weave together
18 and try and make it seem like it was a continuous act,
19 that my client was somehow involved.

20 You know, when my client saw them go over and get in
21 a fight over there, he left. You know, there was all
22 kinds of talk, and there was a lady down there that was
23 saying they were dancing around with a gun, waving the
24 gun.

25 You know, these people were all taking videos on

1 their cameras, taking pictures of what would happen and
2 post them on Facebook. That's how my client's babies'
3 mama saw that he was down there dancing with somebody
4 else. Do you think that conduct really happened, that no
5 one would have taken a picture of it, what crazy thing's
6 going on here? This is a case about things that didn't
7 happen, and it's all by facts that are unprovable.

8 You know, everything here is somebody said something,
9 not that it really, really happened or the real witnesses
10 are people. Who did my client conspire with? Where's the
11 conspiracy? You know, something happened that they can
12 relate to a conversation and so they say, "Well, they're
13 involved."

14 When a fight started over whether or not Gator had
15 told them -- told the police to come over there at some
16 occasion, you know, my client had already confronted gator
17 about it. There was no need to go back over and get in
18 another argument. When he saw a gun, he knew there was no
19 reason.

20 My client didn't kidnap, didn't rob, and I don't know
21 when and if there was a robbery, because you certainly
22 can't see any other evidence besides Gator's account and
23 the fact that the place was torn up.

24 Now, what really comes is the burden of proof is on
25 the State, and the State has to bring the evidence in that

1 would convince you, believable, actual evidence. And the
2 State goes and investigates. And so when they go to
3 investigate an apartment that is all torn up, messed up,
4 there was a can with money on it all over the floor, and
5 look at the -- and you know what they do in that thorough
6 investigation to provide you evidence and remove all
7 reasonable doubt? They don't fingerprint a thing. They
8 don't fingerprint a doorknob, they don't fingerprint a
9 can, they don't fingerprint any object of that whole
10 messed-up apartment. They don't look for the physical
11 proof that really proves this case. There's no real
12 evidence except their conclusions out of the interview
13 room over three years and the weaving in of their theory
14 of a blame. It's a case without a real investigation,
15 without a criminal investigation.

16 You know, in this day, you can ascertain by DNA
17 whether a man's worn shoes or not, whether he's had other
18 contact with any items because we leave a body fluid on
19 most everything. They didn't use the first swab. We use
20 fingerprint powder to bring fingerprints out on surfaces.
21 They didn't put it on a thing.

22 This is a case that has no real evidence except
23 so-and-so said can you explain this. You know, if
24 somebody accuses you of something and you can't explain
25 why they're accusing you, it doesn't mean you're guilty.

1 Oftentimes when lies are told, we never know why they're
2 told. There's no reason that ever comes forth.

3 In this particular case, the two people that saw what
4 went on up at the house were Ms. Nesbitt and Gator.
5 Ms. Nesbitt says it isn't my client that was there, and
6 Gator has been proved to have fabricated at least large
7 portions of that story and embellish them in a way they
8 didn't happen. That's where the crime's supposed to take
9 place. This is a case about an armed robbery that took
10 place in that apartment complex where the arrow is
11 pointing at.

12 And the two people that were there, one of which
13 should never be believed and the other, there's no reason
14 not to believe Ms. Nesbitt who called the police when she
15 heard the gunshot says that's not the man. And that's not
16 the man. My client has sat in jail, talked to the police
17 on every occasion they come to ask him, and tried to
18 cooperate and told the same story for three years.

19 We're here today on a trial that's made up of not
20 real evidence, not physical evidence. This is a trial
21 that what really happened is, and no one talks about it
22 because we put this layer of armed robbery over it, was
23 the killing of Charles Rosemond. And that happened by the
24 police conduct. The police shot him. The police shot him
25 and left him to bleed to death. It was 43 minutes before

1 they went in. He told them as they were moving Dempsey
2 when this thing first started that he'd been shot. He
3 couldn't come out, he couldn't walk out, he couldn't crawl
4 out. He was lying in there.

5 Think of this case in the time frame it really
6 happened and what was really going on. This is a case
7 that occurred in 2015, a year and three or four months
8 after Ferguson, Missouri. A presidential election was
9 coming up on our country. Black Lives Matter had just got
10 a foothold. Police shootings and killings were on the
11 news all the time, hotly debated because they were partly
12 a political issue between the two vastly different
13 candidates.

14 Out of that atmosphere, this case got its major
15 change, and I submit to you in part for political reason.
16 The focus of this case not was the death of the man that
17 occupied the apartment, the man that owned all of that
18 property. It became an armed robbery investigation, and
19 its character changed because no one had mentioned the man
20 that had died, no one turned his attention to that case.
21 There hasn't been the first indictment in the death of a
22 man that was murdered in that apartment, shot and left to
23 bleed to death. And they say conduct has consequences.
24 It means conduct has consequences for the one they
25 wouldn't give the consequences to. All conduct doesn't,

1 just the conduct they focused on.

2 This is a case that you've heard the testimony. You
3 need to give it your evaluation of what's there, what's
4 fair and what's been proven. You need to consider all the
5 circumstances and what was really going on.

6 Take your time. Some of those tapes, as terrible as
7 they are and long interviews, periods of time with nothing
8 in them, show you things. This has been pointed out
9 there'd be a big thing about left-handed. And, of course,
10 what he's talking about is when Ms. Nesbitt was on the
11 phone, she says here comes a man, he's got a bag in his
12 left hand and he put the gun in his pocket with his right.

13 Anybody that's ever handled a gun knows that a
14 right-handed man shoots his gun in his right hand and in
15 rare instances, it would be somebody that's not also
16 right-eye dominant. A man that has a gun in his right
17 hand puts it in his right-hand pocket so if he had to pull
18 it out, he'd have it so it could be used. The left-handed
19 man puts his gun in his left-hand pocket. And, of course,
20 my client's left-handed, and it doesn't fit that
21 narrative. The videos that show my client signing the
22 Waiver of Rights form shows he signs his name with his
23 left hand.

24 Just because the Solicitor's Office interprets the
25 evidence one way doesn't mean you have to give it that

1 same interpretation. You know the best thing about jury
2 selection you'll find out is that jurors aren't required
3 to put their brains in a basket and leave them outside of
4 a jury room. You take into that jury room all you've
5 learned by living on this good earth, you can take your
6 experiences and things you've learned from and apply them
7 to the facts. His Honor will tell you that a reasonable
8 doubt is the kind of doubt that would make somebody
9 honestly searching for the truth hesitate to act.
10 It's been defined by our Supreme Court as leaving you
11 unsettled.

12 In this case, listen to His Honor's charge on the
13 law. And he'll tell you about reasonable doubt that rises
14 from evidence or lack of evidence. Consider what you need
15 to fairly decide that case and see if it's been brought to
16 this courtroom, see if the evidence they have both proves
17 what they say and is what it takes to justify a conviction
18 for a robbery up there wherein Charles Rosemond was robbed
19 and the witness was Gator. I don't know what motives
20 Gator has for saying the things he said that were
21 completely not true. He well could be covering up for
22 somebody else and trying to blame my client. Use your
23 common sense. Return the fair, just and the right
24 verdict, the verdict of not guilty.

25 Thank you.

1 THE COURT: All right. Mr. McMaster.

2 MR. McMASTER: I have a final chance to address you
3 on some rebuttal. I want to point out a few things that I
4 found important and I want to talk to you about them.

5 First, we're talking about the codefendants. I want
6 to spin that out to you, the codefendants. I want to spin
7 you out why they're not here. Well, they're codefendants.
8 They'll have their day in court. Everybody knows about
9 the Fifth Amendment. Can't force anybody to testify if
10 you don't want to.

11 You've got a 9-1-1 call. You have direct evidence,
12 direct information. We know there was a ransacking, heard
13 a cabinet slamming, things being thrown around. We know
14 that took place. Cussing Mr. Charles, give me everything
15 you got. Just heard a gunshot. We know there's someone
16 armed with a pistol.

17 Motivation to lie, I think that's what I heard. Who
18 would have a better motivation to lie than the individual
19 charged for those crimes? Think about that. Think about
20 that weight, that burden.

21 The same story, Gator, again, upset, fearful.
22 Charles was dropping bullets all over the place, nervous,
23 as you're going to find in one of these pictures. That
24 seems to be consistent.

25 Is he a flawed individual? Is he a drug addict?

1 Probably. Does he have an alcohol problem? Probably.
2 But you have to judge his credibility, his believability.
3 Think about that fearful night. Think about get on the
4 ground. Got a gun in your face right away. Calls you by
5 name. Get on the ground. Again, seeing the shoes.

6 I don't get the DNA part of the shoes. He admitted
7 they're his shoes. I don't know why you would need to
8 swab for DNA. I think SLED talked to you about DNA, they
9 talked to you about fingerprints. That's a red herring.
10 That's to take you off task, take you away from what
11 you're supposed to be looking at. Misdirection. We call
12 it in the law smoke and mirrors. Think about that.

13 No one saw anything. His own client admits there was
14 an altercation at the door. His own client is there.
15 He's telling you that from the witness stand. But you
16 don't have to believe that. You can believe it from all
17 the other witnesses that he told. You have to think about
18 their motivation to lie. Think about what they've come up
19 with.

20 Now, we just heard a grand tale of -- I wrote down
21 some of it -- the grand conspiracy of the police shooting.
22 No doubt the person that started that armed robbery set in
23 motion a chain of events that caused Mr. Rosemond to be
24 shot. They set in motion a chain of events that caused
25 Deputy Dempsey to be shot in the head. That person put

1 Mr. Charles Rosemond in so much fear that he had to load
2 his gun. He thought that they were coming back.

3 What did Rosamae say? No. That's what he said. No.
4 Fired the gun. Rosamae running back and forth from the
5 living room to the wall, she told you what she thought she
6 saw. She saw a masked man in coveralls. How does she --
7 you've got to think about the fear, you've got to think
8 about being afraid, the event. She's telling you what's
9 happening on 9-1-1. We know what's going on.

10 The defendant even puts himself there. We know this
11 event happened. This isn't a made-up armed robbery. We
12 know from his own mouth, but we know from the other
13 evidence. And that really goes back to the grand
14 conspiracy to have a reasonable doubt. You've got to
15 believe this. You've got to believe that all those
16 investigators, all those witnesses that came into court,
17 the defendant and everyone joined together in a grand
18 conspiracy just to lay it on Mr. Hunter. That's what
19 you've got -- that's what you've got to buy into.
20 That's what you have to buy into. That's what you have to
21 do.

22 You can look at circumstantial evidence, you can look
23 at direct evidence. You can use those. The judge is
24 going to tell you about those. But that's what you have
25 to believe. Smoke and mirrors, folks. Don't look over

1 here. That's what we're trying to do.

2 The left-handed business, again, there could be an
3 explanation for that. Maybe he's carrying -- what you say
4 he's carrying something in his left hand, and he's got
5 that money and he's got that bag. Got to be carrying
6 that. Put that gun away. Let's go. Got to get out of
7 there. Think about that.

8 Look at those videos. Look at that appearance, look
9 at the way it's changed. But think about that. What
10 would be the motivation for all of these people to lie?
11 What are they getting out of it? What are they getting
12 out of it? Why would there be any doubt?

13 Thank you.

14 CHARGE ON THE LAW

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, during this trial, you and I have certain duties to
17 perform. As the trial judge, it's my responsibility to
18 preside over the trial of the case and to rule on the
19 admissibility of the evidence offered during the trial.
20 It is also my duty to charge you the law applicable to the
21 case, and it is your duty as jurors to accept and apply
22 the law as I now state it to you. And as I told you in my
23 opening comments, if you think you have any idea as to
24 what the law is or what the law ought to be and it differs
25 from what I now tell you the law is, you have sworn an

1 oath to set aside your own opinion and apply the law
2 precisely as I state it to you.

3 I also remind you that in every case tried in this
4 court before a jury, you the jury are the sole and
5 exclusive judges of the facts, and a trial judge cannot
6 comment on or make any statement about the facts in a
7 case. So please don't think by anything I may have said
8 or done throughout the course of the trial that I have
9 such an opinion. You all are the sole judges of the
10 facts.

11 I again instruct you the fact that the defendant was
12 arrested, charged and indicted in the case is not evidence
13 of guilt, nor does it create any presumption or inference
14 of guilt. These formal documents are simply the written
15 instruments which contain the charges made against the
16 defendant, and they serve as the documents by which the
17 case is processed and brought into court.

18 Now, the indictments in this case allege several
19 different offenses against the defendant, and the charges
20 are: discharging a firearm into a dwelling, conspiracy,
21 possession of a weapon during the commission of a violent
22 crime, attempted armed robbery, armed robbery, kidnapping,
23 kidnapping, burglary in the first degree.

24 Now, each indictment contains a separate and distinct
25 offense and you must decide each indictment separately on

1 the evidence and the law applicable to it uninfluenced by
2 your decision as to any other indictment. A defendant may
3 be convicted or acquitted on any or all of the offenses
4 charged, and you will be asked to write a separate verdict
5 of guilty or not guilty for each indictment.

6 Now, necessarily, you must determine the credibility
7 or believability of the witnesses who have testified, and
8 it becomes your duty as jurors to evaluate the evidence
9 and determine which evidence convinces you it is true.
10 And in determining the believability of the witnesses, you
11 may believe one witness over several or several over one.
12 You may believe a part of the testimony of a witness and
13 reject the remaining testimony. You may believe the
14 testimony of a witness in its entirety or reject that same
15 testimony in its entirety. And you may consider whether
16 the witness has an interest in the result of the trial,
17 whether the witness is prejudiced towards either the State
18 or the defense, the opportunity for the witness to have
19 seen the matters and things about which the witness has
20 testified and the way the witness acts on the witness
21 stand or what we call a witness's demeanor.

22 Now, the rules of evidence ordinarily do not permit
23 witnesses to testify to opinions or conclusions, and an
24 exception to this rule exists for witnesses we call
25 experts. A witness, who, by education and experience, has

1 become an expert in some art, science or profession, may
2 give an opinion as to the subject the witness has been
3 qualified as an expert in and may also give the reasons
4 for that opinion.

5 You have also heard evidence that the defendant was
6 convicted of a crime other than the one for which he is
7 now on trial. This evidence may be considered by you if
8 you conclude it is true only in deciding whether or not
9 the defendant's testimony is believable and for no other
10 purpose. You must not consider the defendant's prior
11 record as any evidence of the defendant's guilt of the
12 charges that are being tried today.

13 Now, the defendant has pled not guilty to these
14 indictments and that plea puts the burden on the State to
15 prove the defendant guilty. A person charged with
16 committing a criminal offense in South Carolina is never
17 required to prove themselves innocent, and I charge you
18 that it is a cardinal and a signal rule of the law that
19 the defendant in a criminal trial will always be presumed
20 to be innocent of the crimes for which indictments have
21 been issued unless guilt has been proven by evidence
22 satisfying you the jury of guilt beyond a reasonable
23 doubt.

24 Now, a reasonable doubt is the kind of doubt which
25 would cause a reasonable person to hesitate to act. A

1 reasonable doubt may arise from the evidence which is in
2 the case or from the lack or absence of evidence in the
3 case, and you the jury must determine whether or not
4 reasonable doubt exists as to the guilt of the defendant.
5 I remind you the State has the burden of proving each and
6 every element of each crime beyond a reasonable doubt.

7 Now, there are two types of evidence which are
8 generally presented during a trial: direct evidence and
9 circumstantial evidence. Direct evidence directly proves
10 the existence of a fact and does not require deduction.
11 Circumstantial evidence is proof of a chain of facts and
12 circumstances indicating the existence of the main fact.

13 Crimes may be proven by circumstantial evidence, and
14 the law makes no distinction between the weight or the
15 value to be given to either direct or circumstantial
16 evidence. However, to the extent that the State relies on
17 circumstantial evidence, all of the circumstances must be
18 consistent with each other, and when taken together, point
19 conclusively to the guilt of the accused beyond a
20 reasonable doubt. If the circumstances merely portray the
21 defendant's behavior as suspicious, the proof has failed.
22 The State has the burden of proving the defendant guilty
23 beyond a reasonable doubt, and the burden rests with the
24 State regardless of whether the State relies on direct
25 evidence, circumstantial evidence or some combination of

1 the two.

2 Now, if a crime is committed by two or more people
3 who are acting together in committing the crime, the act
4 of one is the act of all. A person who joins with another
5 to accomplish an illegal purpose is criminally responsible
6 for everything done by the other person which occurs as a
7 natural consequence of the acts done in carrying out the
8 common plan and purpose. For example, two people can be
9 guilty of killing another person when only one of the two
10 had a gun, there was only one bullet and only one of the
11 two fired the shot that caused the death. If two or more
12 people are together acting together, assisting each other
13 in committing the offense, the act of one is the act of
14 all, or as is sometimes said, the hand of one is the hand
15 of all.

16 Now, a statement, several statements alleged to have
17 been made by the defendant have been admitted into
18 evidence in the case, and while the Court has determined
19 that these statements are admissible, I instruct you that
20 you make the ultimate decision of whether or not the
21 defendant made the statement. If the defendant did make
22 the statement, you must determine whether the statement
23 was made by the defendant voluntarily and of his own free
24 will. This means that the statement was not caused by
25 pressure, force, fear, threats, coercion or intimidation

1 or by hope or a promise of leniency or a reward of any
2 kind.

3 In determining whether the statement was voluntary,
4 you should consider both the characteristics of the
5 defendant and the details of the questioning. Some of the
6 factors that you must consider are the age of the
7 defendant, the defendant's education or lack of education,
8 the defendant's mental ability or capacity, the
9 defendant's IQ or intelligence, the defendant's background
10 and environment, the place and length of detention, the
11 nature of the questioning and the advice or lack thereof
12 to the defendant of his constitutional rights including
13 but not limited to the right to remain silent, that any
14 statement could be used against him in court, the right to
15 have a lawyer present, that if he could not afford a
16 lawyer, a lawyer would be appointed to represent him
17 without cost, and that he could stop making the statement
18 at any time. You must carefully consider all of the
19 surrounding circumstances before you give any weight to an
20 alleged statement.

21 The State has the burden of proving beyond a
22 reasonable doubt that the alleged statement was voluntary,
23 and if you determine that it was, you may give the
24 statement any further consideration that you deem proper.
25 You must consider what weight, if any, should be given to

1 the alleged statement. And if you determine the alleged
2 statement was not the free and voluntary statement of the
3 defendant, you should not consider the statement at all.

4 I also tell you that there has been evidence
5 presented that witnesses have made prior statements which
6 are not consistent with the witness's present testimony.
7 You may use this evidence to decide whether to believe
8 that witness. You may also use evidence of the earlier
9 contradictory statements to determine the truth of those
10 statements. It is up to you to decide whether to believe
11 the earlier statements or the testimony that has been
12 given at trial.

13 Now, at issue in this case is the identification of
14 the defendant as the person who committed the crimes
15 charged. The State has the burden of proving identity
16 beyond a reasonable doubt, and you must be satisfied
17 beyond a reasonable doubt of the accuracy of the
18 identification of the defendant before you may convict the
19 defendant.

20 And identification testimony is an expression of
21 belief or impression by a witness. You must determine the
22 accuracy of the identification of the defendant, you must
23 consider the believability of each identification witness
24 in the same way as any other witness, and you may consider
25 whether the witness had an adequate opportunity to observe

1 the defendant at the time of the offense. This will be
2 affected by things like how long or short a time was
3 available, how far or close the witness was, the lighting
4 conditions, and whether the witness had the chance to see
5 or know the person in the past.

6 Once again, I instruct you the burden of proof on the
7 State extends to every element of the crimes charged and
8 this specifically includes the burden of proving beyond a
9 reasonable doubt the identity of the defendant as the
10 person who has committed these crimes.

11 Now, the defendant is charged with burglary in the
12 first degree. The State must first prove beyond a
13 reasonable doubt that the defendant entered a dwelling
14 without consent. A dwelling is any building or portion of
15 a building in which a person ordinarily sleeps. A
16 building constructed as a dwelling that has never been
17 occupied cannot be considered a dwelling for purposes of
18 burglary, but a building is a dwelling even if the
19 residents are temporarily absent from the building.

20 Now, in order to prove that the defendant entered the
21 dwelling, the State does not have to show that the
22 defendant's entire body entered the dwelling. The
23 smallest entry is sufficient. It may be any part of the
24 body such as a hand or a foot or even an instrument such
25 as a hook or other instrument.

1 In addition, the State does not have to prove that
2 force was used to gain entry. If a person enters a
3 building by using deception, artifice, trick or
4 misrepresentation to get consent to enter, this is an
5 entry without consent.

6 Next the State must prove beyond a reasonable doubt
7 that the defendant intended to commit a crime, either a
8 felony or a misdemeanor, at the time of the entry. The
9 mere entry into a dwelling without consent is not
10 burglary. If the intent to commit a crime is formed after
11 the entry, it is not burglary.

12 On the other hand, if the defendant intended to
13 commit a crime at the time of the entry, it is a burglary
14 even if the intent was abandoned after the entry.

15 Now, intent may be shown by acts and conduct of the
16 defendant and other circumstances from which you may
17 naturally and reasonably infer intent.

18 Now, finally, the State, in order to prove burglary,
19 must prove beyond a reasonable doubt at least one of the
20 following factors: one, when entering -- while in the
21 dwelling or when fleeing, the defendant or an accomplice
22 was armed with a deadly weapon or explosive. And a deadly
23 weapon is any article, instrument or substance which is
24 likely to cause death or great bodily harm. And whether
25 an instrument has been used as a deadly weapon depends on

1 the facts and circumstances of each case. And the
2 following are examples of instruments which may be deadly
3 weapons: a pistol, a shotgun, a rifle, a dirk, a dagger,
4 a knife, slingshot, metal knuckles, a razor, gasoline,
5 firebomb or Molotov cocktail, lighter fluid. And a gun
6 may be a deadly weapon even if it is not operating.

7 Now, the second factor, one of which the State must
8 prove beyond a reasonable doubt, when entering, while in
9 the dwelling or when fleeing, the defendant or an
10 accomplice caused physical injury to anyone not
11 participating in the crime.

12 Three, when entering, while in the dwelling or when
13 fleeing, the defendant or an accomplice used or threatened
14 to use a dangerous object.

15 Four, when entering, while in the dwelling or when
16 fleeing, the defendant or an accomplice displayed what was
17 or appeared to be a knife, pistol, revolver, rifle,
18 shotgun, machine gun or other firearm.

19 Finally, the last factor is the defendant entered or
20 remained in the dwelling in the nighttime. And nighttime
21 is the period between sunset and sunrise during which
22 there is not enough daylight to recognize a person's face
23 except by artificial light or moonlight.

24 So the State must prove at least one of those
25 elements which I've just read to you.

1 Now, the defendant is also charged with armed
2 robbery. In order to prove this offense, the State must
3 first prove beyond a reasonable doubt that the defendant
4 took personal property from the person or presence of
5 another person. And property is in the presence of a
6 person if it is within that person's reach, inspection,
7 observation or control so that the person could, if not
8 overcome with violence or prevented by fear, keep
9 possession of the property. And the State must also prove
10 beyond a reasonable doubt that the defendant carried the
11 property away intending to permanently deprive the owner
12 of the property and to keep the property for the
13 defendant's own use. The slightest removal of that
14 property or the complete possession of that property, even
15 for an instant by the defendant, is sufficient to show a
16 taking and carrying away of the property. And the taking
17 and carrying away of the property must have been done with
18 violence or by putting the owner of the property in fear
19 of violence.

20 And finally, the State must prove beyond a reasonable
21 doubt that the defendant was armed with a deadly weapon
22 during the robbery or alleged either by action or words he
23 was armed while using a representation of a deadly weapon
24 or any object which a person present during the commission
25 of the robbery reasonably believed to be a deadly weapon.

1 And a deadly weapon is defined as any article,
2 instrument or substance which is likely to cause death or
3 great bodily harm. And whether an instrument has been
4 used as a deadly weapon depends on the facts and
5 circumstances of each case. And, again, examples of
6 instruments which may be deadly weapons are a pistol, a
7 shotgun, a rifle, a dirk, a dagger, a knife, a slingshot,
8 metal knuckles, a razor, gasoline, firebomb or Molotov
9 cocktail or lighter fluid. And, again, a gun may be a
10 deadly weapon even if it is not operating.

11 Now, the defendant is also charged with attempted
12 armed robbery, so I'm going to define "attempt" for you.
13 And it would be an attempt to commit that offense but was
14 not successful. So an attempt is an effort to accomplish
15 a crime, in this case armed robbery, which does not
16 succeed. An attempt includes a specific intent to do a
17 particular criminal act along with an act falling short of
18 the act intended.

19 The State must show more than mere preparation and
20 intent. There must be some overt act committed in the
21 effort to commit the crime.

22 And "intent" means intending the result which
23 actually occurs, not accidentally or involuntarily.

24 An intent may be shown by the acts and conduct of the
25 defendant and other circumstances from which you may

1 naturally and reasonably infer intent.

2 The defendant is also charged with two counts of
3 kidnapping. Kidnapping, in order to prove kidnapping, the
4 State must prove beyond a reasonable doubt that the
5 defendant knowingly and unlawfully seized, confined,
6 inveigled, decoyed, kidnapped, abducted or carried away
7 another person without authority of law. To do a thing
8 unlawfully is to do it willfully against the law.

9 "Knowingly" means with knowledge, consciously and not
10 accidentally.

11 "Seize" means to take hold of suddenly or forcibly.

12 "Confine" means to limit, restrict or enclose within
13 bounds, imprison or shut or keep in.

14 "Inveigle" means to lure, entice or lead astray by
15 false representation, promises or other deceitful means.

16 "Decoy" means to lure by or as if by decoy. And a
17 decoy is something to entice a person into a trap.

18 And "kidnap" means -- is to remove a person against
19 their will by unlawful force or by fraud.

20 "Abduct" means to carry off secretly or by force for
21 an illegal purpose.

22 And "carry away" means to remove.

23 The State does not have to prove that the defendant
24 did all of these things. Instead, if you find beyond a
25 reasonable doubt that the defendant did any of these

1 things, you may find the defendant guilty of kidnapping.
2 And something done without the authority of law is
3 something which the law does not sanction, permit, allow,
4 condone or provide justification for. The kidnapping does
5 not have to be for any personal or monetary gain, for any
6 illegal purpose but may be for any reason whatsoever.

7 Now, the defendant is also charged with possession of
8 a weapon during the commission of or attempt to commit a
9 violent crime. So the defendant is charged with the
10 possession of a weapon during the commission of or attempt
11 to commit a violent crime. The State must prove beyond a
12 reasonable doubt that the defendant was in possession of a
13 firearm or visibly displayed what appeared to be a firearm
14 during the commission of a violent crime. And a firearm,
15 again, means any machine gun, automatic rifle, revolver,
16 pistol or any weapon which will, is designed to or may be
17 readily converted to expel a projectile.

18 And in order to find the defendant guilty of
19 possession of a weapon during the commission of a violent
20 crime or attempt to commit a violent crime, you must first
21 find the defendant guilty of either committing a violent
22 crime or attempting to commit a violent crime. So if you
23 found the -- and I will tell you this, that burglary
24 first, kidnapping, armed robbery and attempted armed
25 robbery are all violent crimes under the law of our state.

1 So if you were to find the defendant not guilty of all
2 those violent crimes, then you could not find him guilty
3 of this offense. You first must find him guilty of at
4 least one of those violent crimes in order to consider him
5 -- his guilt or innocence on this offense.

6 Now, the defendant is also charged with discharging a
7 firearm into a dwelling, and the State must prove beyond a
8 reasonable doubt that the defendant discharged or caused
9 to be discharged unlawfully a firearm at or into a
10 dwelling house, other building, structure or enclosure
11 regularly occupied by persons. And, again, a firearm
12 means any machine gun, automatic rifle, revolver, pistol
13 or any weapon which will or is designed or may be readily
14 converted to expel a projectile.

15 Finally, the defendant is charged with conspiracy.
16 And the State must prove beyond a reasonable doubt that
17 the defendant combined with one or more persons for the
18 purpose of committing an unlawful act or of committing a
19 lawful act by unlawful means. There must be a mutual
20 understanding or agreement or common intention and plan.
21 Mere passive knowledge of or consent to the criminal
22 conduct of another is not enough to make a person a
23 conspirator. There must be guilty knowledge and
24 participation.

25 Similarly, the mere fact that the defendant may have

1 associated with another person or met with another person
2 and discussed common aims and interests does not
3 necessarily establish proof of the existence of a
4 conspiracy or that the defendant was involved in a
5 conspiracy.

6 On the other hand, it is not necessary that the
7 agreement be formal, that it be in writing, that the
8 persons hold a meeting and expressly state the terms of
9 the common plan or that the agreement be stated in words
10 between them. The agreement of a criminal conspiracy may
11 come into being through an implied mutual understanding.
12 The willful, intentional and knowing adoption by two or
13 more persons of a common plan is sufficient.

14 No overt acts need to be shown to establish a
15 conspiracy, and a conspiracy may be shown by
16 circumstantial evidence and the conduct of the parties.
17 And in order to convict the defendant of conspiracy, the
18 State must prove beyond a reasonable doubt not only that
19 the defendant knew of the unlawful conduct, but that he
20 agreed to combine with the other persons for the purpose
21 of accomplishing the unlawful conduct. That was quite a
22 mouthful.

23 Now, ladies and gentlemen, I want to tell you that,
24 as I told you at the outset, each indictment stands on the
25 merits that belong to that particular indictment. They