

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

William Jeffrey Young, Circuit Court Judge

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S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

RHAJON AKEEM RESHAE SANDERS,

APPELLANT

APPELLATE CASE NO 2016-001785

RECORD ON APPEAL

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State of South Carolina) In General Sessions Court
County of Charleston) Ninth Judicial Circuit

State of South Carolina) Transcript of Record
) 2015-GS-10-2684
) 2015-GS-10-2685
Rhajon Akeem Reshae Sanders,)
) 2016-GS-10-3318
)
Defendant.)

June 6-10, 2016

Charleston, South Carolina

B E F O R E:

The Honorable William Jeffrey Young, Presiding
Judge; and a jury.

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CIRCUIT COURT REPORTER

I N D E X

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(DW) - DENOTES DEFENSE WITNESS

(IC) - DENOTES IN CAMERA

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E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
<u>FOR THE STATE:</u>			
1	- Dash Cam Video		XX
2A	- Shell Casing		XX
2B	- Shell Casing		XX
3A	- Shell Casing		XX
3B	- Shell Casing		XX
4	- GSR Kit		XX
5	- GSR Lab Results		XX
6A	- Buccal Swab		XX
6B	- Touch DNA Swab from Taurus		XX
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15	- Photograph of Victim's Leg		XX
16	- Photograph of Victim's Leg		XX
17	- Search Warrant Photographs		XX

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
<u>FOR THE STATE:</u>			
18	- Search Warrant Photographs		XX
19	- Search Warrant Photographs		XX
20	- Search Warrant Photographs		XX
21	- Search Warrant Photographs		XX
22	- Search Warrant Photographs		XX
23	- Search Warrant Photographs		XX
24	- Search Warrant Photographs		XX
25	- Search Warrant Photographs		XX
26	- Search Warrant Photographs		XX
27	- Search Warrant Photographs		XX
28	- Search Warrant Photographs		XX
29	- Search Warrant Photographs		XX
30	- Search Warrant Photographs		XX
31	- Search Warrant Photographs		XX
32	- Search Warrant Photographs		XX
33	- Search Warrant Photographs		XX
34	- Search Warrant Photographs		XX
35	- Search Warrant Photographs		XX
36	- Search Warrant Photographs		XX
37	- Search Warrant Photographs		XX
38	- Search Warrant Photographs		XX

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
<u>FOR THE STATE:</u>			
39	- Search Warrant Photographs		XX
40	- Search Warrant Photographs		XX
41	- Search Warrant Photographs		XX
42	- Search Warrant Photographs		XX
43	- Search Warrant Photographs		XX
44	- Search Warrant Photographs		XX
45	- Search Warrant Photographs		XX
46	- Search Warrant Photographs		XX
47	- Search Warrant Photographs		XX
48	- Search Warrant Photographs		XX
49	- Search Warrant Photographs		XX
50	- Search Warrant Photographs		XX
51	- Search Warrant Photographs		XX
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FOR THE STATE:

- 1 - Note from Jury
- 2 - Jury Charge
- 3 - Torn Jury Note

(ALL COURT'S EXHIBITS WERE MARKED AT THE END OF THE
TRIAL.)

1 Monday, June 6, 2016

2 THE COURT: Again, good morning, ladies and
3 gentlemen.

4 Is the Solicitor's Office ready to call your first
5 case?

6 MS. SAVAS: Yes, Your Honor.

7 THE COURT: All right.

8 MS. SAVAS: Yes, Your Honor. We are ready to pick
9 a jury in the State vs. Sanders.

10 THE COURT: All right. Ladies and gentlemen, we
11 are about to start the case of State vs. Rhajon Akeem
12 Reshae Sanders who is charged with attempted murder,
13 assault and battery of a high and aggravated nature, and
14 possession of a weapon during the commission of a
15 violent crime.

16 Now, ladies and gentlemen, I am going to read each
17 one of these indictments to you. Under indictment
18 2015-GS-10-2684 the indictment reads that in Charleston
19 County, South Carolina on or about December 26, 2014 the
20 defendant, Rhajon Akeem Reshae Sanders, did with intent
21 to kill and malice aforethought attempt to kill Nicholas
22 Washington. This is in violation of Section 16-3-29 of
23 the South Carolina Code of Laws, 1976 as amended.

24 Under indictment 2016-GS-10-3318 the indictment
25 reads that in Charleston County, South Carolina on or

1 about December 26, 2014, the defendant, Rhajon Akeem
2 Reshae Sanders, did commit an unlawful act or injury upon
3 the victim, Nicholas Tyem Johnny Washington, and as a
4 result the victim suffered great bodily injury or the act
5 was accomplished by means likely to produce death or
6 great bodily injury in violation of Section
7 16-3-600(b)(1) of the South Carolina Code of Laws, 1976
8 as amended.

9 Then indictment 2015-GS-10-2685 reads that in
10 Charleston County, South Carolina on or about December
11 26, 2014 the defendant, Rhajon Akeem Reshae Sanders, did
12 possess a firearm or did visibly display what appeared to
13 be a firearm or did visually display a knife during the
14 commission of a violent crime, to wit, attempted murder
15 in violation of Section 16-23-490 of the South Carolina
16 Code of Laws, 1976 as amended.

17 Now, ladies and gentlemen, let me remind you the
18 fact that the defendant was arrested, charged and
19 indicted in no way is indicative that he has committed
20 these crimes. The defendant has pled not guilty and
21 therefore the State has the burden of proving each and
22 every allegation of each charge in the indictment beyond
23 a reasonable doubt. The defendant does not have to prove
24 himself to be innocent. He does not have to prove
25 anything.

1 MS. SAVAS: Thank you, Your Honor. May it please
2 the Court.

3 Good afternoon. Thank you for being here today,
4 and as His Honor has spoke to y'all earlier and discussed
5 at length, that this is a very important moment for a lot
6 of people involved, and for the State. It's important
7 for the defendant to have his day in court and it's
8 important for the victim, who is in the front row here
9 today with his family, and his mother beside him, to have
10 his moment as well. And it's important to pay close
11 attention to what goes on and the evidence that's
12 presented. We'll be here for a couple of days, but right
13 now we are just going to do openings and just briefly
14 explain what the case is about.

15 Nicholas Washington is our victim here, and he is
16 very close with his family. And his family was
17 originally from Walterboro. Well, about seven years ago
18 or so they moved over to Charleston. So he lives with
19 his mom and he also has three brothers and a baby sister.
20 And his aunty and her children moved over to the street
21 in North Charleston, Kent Avenue, and they live beside
22 his two grandparents, his elderly grandparents. And as
23 they are a very close family Nicholas and his family will
24 go to visit, they live in West Ashley, his aunty and his
25 grandparents and his cousins almost every day.

1 This occurred on December 26, 2014, the day after
2 Christmas, and like any other holiday they were spending
3 time with their family. Nicholas was inside the house,
4 at his aunt's house, and his family was there. They were
5 all playing on the computers and hanging out and going
6 between his grandma's house and his aunty's house, who
7 were on the same side of the street right next to each
8 other.

9 Well, it's getting dark and getting late and
10 Nicholas decided to step outside. It's about seven
11 o'clock. He stepped outside because like most young
12 people we don't always want our parents or grandparents
13 to know our tiny secrets, and Nicholas smokes cigarettes.

14 Well, he didn't want his aunty or his grandma and
15 his mom seeing, even though sometimes they already know.
16 He didn't want them to see, so he stepped outside. And
17 as he went out on the front porch steps of his aunt's
18 house he lit his cigarette.

19 Well, he was playing on his phone at that time and
20 he called his other cousin, and he hung up the phone and
21 he looks across the street, just glances, and across the
22 street is where the defendant, Rhajon Akeem Sanders lives
23 with his family.

24 He noticed that there was a young male sitting on
25 the porch over there with his porch light on. He

1 finishes that cigarette, puts it out, then goes to the
2 corner of the house off to the side. There's some big
3 trees in the front of that house then, of course, you
4 have the big garbage cans and recycling bin at the front
5 by the sidewalk. So he was sort of in between those two
6 spaces there and he was, again, trying to be discrete
7 about his smoking habit.

8 So he lights another cigarette and puts his
9 headphones in. He really likes listening to music so he
10 put on his song, and he notices that his little brother
11 and his little cousin are running outside and they go
12 over to the grandma's house.

13 He glances up from them, glances across the street
14 and now sees two young males and a female on the porch.
15 He doesn't really think anything of it. He's sitting
16 there minding his business smoking.

17 He looks over at his little brother and cousin
18 walking across the yard and he hears three or four loud
19 shots. At first he thought it was fireworks. It's not
20 that big a deal. It's a holiday. The kids might be
21 playing. Then all of a sudden he sees what he describes
22 as a fireball coming at him and his leg goes numb and he
23 hits the ground. All of a sudden he's been shot, and he
24 looks up and he's still being shot at and he tries to
25 drag his body to hide behind the bushes to get out of

1 this harm.

2 All of a sudden his cousin and his brother that
3 were outside run inside and say, Nick's been shot, Nick's
4 been shot, and his family comes outside. His momma comes
5 outside and his cousin, and they come outside and found
6 him laying on the floor with a shot in his leg, and they
7 call 911 and the ambulance comes.

8 Meanwhile, across the street, the defendant,
9 Mr. Sanders, comes back over to apologize for shooting
10 him. The police come and they secure the scene. EMS
11 comes and takes Nicholas right away to the hospital.

12 Now, Mr. Sanders was read his Miranda rights and he
13 waives those rights and he confesses. He admits to
14 shooting Nicholas. He admits to shooting Nicholas with
15 his black firearm, his handgun, that he went and put
16 inside his bedroom just before the cops arrived.

17 On scene the officers, crime scene, locate four
18 shell casings in Mr. Sanders' front yard. They notice
19 the blood stains in the leaves where Mr. Washington was
20 sitting and laying down on the ground across the street.

21 It's important to note there were no conversations
22 between these two. The victim was unarmed. He doesn't
23 play with guns. He didn't have a gun on him at that
24 time. There was no conversations, none. No threats made
25 by the victim, nothing. He was sitting outside his

1 aunt's house minding his own business when all of a
2 sudden he gets shot.

3 The evidence is taken back up and tested. You'll
4 hear from our experts that are going to testify that the
5 bullet found in Nicolas' leg indeed comes from a nine
6 millimeter Taurus handgun that the defendant claims was
7 his. Rightfully, he owned that gun. And you'll see that
8 the shell casings found on the ground in his yard came
9 from that gun, and that the defendant did have gunshot
10 residue on his hands. The evidence in this case is
11 consistent with the victim's story and it's consistent
12 with the defendant's story.

13 The Judge will later go over the charges, and it's
14 not for me to tell you the law. Whatever the Judge says,
15 that is what you are to go by.

16 Mr. Sanders was charged with attempted murder that
17 night, and it's because the charge of attempted murder
18 you must have the intent to kill another person with
19 intent to kill and with malice aforethought or there is
20 express or implied, and those are legal terms that we
21 will go over in depth.

22 And there's the option of rendering a guilty for
23 that attempted murder, for the shooting which could
24 obviously clearly cause death in another person, or
25 assault and battery of a high and aggravated nature, and

1 that is an unlawful injury to another person and with
2 great bodily injury suffered by that person or an act
3 likely to produce death. And as a result of that gunshot
4 wound to his leg Nicholas was rushed to the hospital. He
5 had to go straight to the O. R. In the O. R. they had to
6 remove the bullet and put a permanent metal rod in his
7 leg and nails to secure that in his body, which is great
8 bodily injury.

9 And he is lastly charged with possession of a
10 weapon during the commission of a violent crime, and this
11 is for that firearm that he possessed during the
12 shooting, so attempted murder or the assault and battery
13 with a high and aggravated nature, which are classified
14 as violent crimes.

15 It is the State's duty, my burden that I do not
16 take lightly, to prove this to you beyond a reasonable
17 doubt, and reasonable doubt is going to be explained by
18 the Judge, but there are very few things in this world
19 that would actually leave us with no doubt at all. It's
20 not what's required here. It's not the burden. It's
21 just something to leave you firmly convinced.

22 And I believe that given the evidence, given the
23 defendant's confession that you will hear and see on
24 audio and video, and given the evidence in this case
25 through the testimony and the forensics that this

1 defendant would be found guilty of attempted murder or
2 the assault and battery with high and aggravated nature,
3 and possession of the firearm during that shooting.

4 Thank you.

5 THE COURT: Ms. Brown, for the defendant.

6 MS. BROWN: May it please the Court, Your Honor.

7 THE COURT: Yes, ma'am.

8 MS. BROWN: Madam Solicitor.

9 Well, good afternoon. I would like to take this
10 time, again, to just reintroduce myself briefly. I'm
11 Myesha Brown. I represent the defendant, Rhajon Sanders,
12 and Natasha Chisolm also represents Rhajon Sanders.

13 On behalf of the defense team we want to first
14 thank you all in advance for serving as a juror. We
15 understand you would rather be somewhere else and that
16 the pay could be a lot better, but serving as a juror as
17 Your Honor indicated during jury qualification is one of
18 the highest honor you can give to your country next to
19 serving in the military. So we do not take your presence
20 here today for granted. Your presence here makes our
21 criminal justice system work. So we thank you all in
22 advance.

23 Now, like any trial the State of South Carolina and
24 the defense team have two very different views on the
25 case and that's especially what we have today. This case

1 involves a shooting that occurred December 26, 2014, the
2 day after Christmas in the Accabee Community in North
3 Charleston. It was after seven o'clock p.m. on Kent
4 Avenue. It's dark, and the lighting on Kent Avenue is
5 limited. In fact, the individual homes on that street is
6 what provides lighting out there and several of those
7 homes are either abandoned or vacant.

8 Rhajon lives in the Accabee Community. The evening
9 of December 26 of 2014 Rhajon is on his property and he
10 notices a tall male standing across the street to what
11 appears to him to be looking in his direction. The tall
12 unknown male is in all black in the dark near one of the
13 abandoned homes.

14 Now, you will hear testimony during the course of
15 this trial that the light on Rhajon's porch is turned on,
16 and I think Madam Solicitor just told you that. And it's
17 turned on to make sure that the unknown male who is
18 standing in black in the dark near the abandoned homes
19 clearly, hopefully, will be a deterrent to any type of
20 criminal behavior, but he continues to just watch the
21 home. So Rhajon raised his hand and the unknown male
22 continues to stand in the dark in all black near the
23 abandoned home looking, according to Rhajon, what appears
24 to be in his direction and that of his brother.

25 So Rhajon takes several steps, and while remaining

1 on his property in his yard he waives again, and this
2 time he's just -- he took a couple of steps just to see
3 if he could see the guy's face, and the unknown male in
4 the dark across the street near the abandoned home
5 doesn't do anything at all.

6 So the unknown male ignores the light being turned
7 on, doesn't respond to any of the waiving but, in fact,
8 he tosses down his cigarette, takes a few steps forward,
9 put his hand behind back and reaches toward his
10 waistband, and when Rhajon sees that he immediately
11 reaches to his right hip, pull out his weapon and fires
12 shots while standing on his property.

13 Now, Rhajon as well as an eyewitness will testify
14 that as soon as the unknown male reaches forward towards
15 his waistband is at the point that he then fired his
16 weapon in order to protect himself.

17 After Rhajon notices the guy down on the ground he
18 places his weapon down and he runs to the aid of the
19 stranger making it abundantly clear that he fired his
20 weapon because he was afraid and he believed that the man
21 was reaching for a gun, and the eyewitness will testify
22 that he entertained the same belief that the unknown male
23 standing in the dark across the street near the abandoned
24 home appears to have been reaching for something.

25 Now, the State of South Carolina wants you to

1 believe that Rhajon stood on his property and for no
2 apparent reason fired his weapon --

3 MS. SAVAS: Objection, Your Honor, argumentive.

4 THE COURT: Sustained. It's opening statement.

5 MS. BROWN: Fired his weapon towards a stranger.

6 They will not offer you any evidence that Rhajon or
7 Mr. Washington knew each other prior to December 26,
8 2014. They will not offer you any evidence that there
9 was an argument or physical altercation. In fact, she
10 admits, no argument before shots were fired. And, in
11 fact, they will not even offer you any evidence --

12 MS. SAVAS: Objection, Your Honor.

13 THE COURT: Sustained, Counselor. Don't be
14 argumentive at this point in time.

15 MS. BROWN: I apologize.

16 Now, we understand that he's charged with attempted
17 murder, and attempted murder according to Madam Solicitor
18 has indicated to you that it means someone with evil
19 doing, premeditated, malice aforethought that decided to
20 fire a weapon and kill someone. He was charged that on
21 December 26, 2014, and Rhajon had indicated immediately
22 after the shots fired that the reason he fired his weapon
23 is because he was afraid.

24 He provided a statement to law enforcement
25 immediately after. He remained on scene, stayed there,

1 checked and ran to the aid of the victim immediately
2 after. So after you look at the facts of this case and
3 see that there isn't attempted murder just two, several
4 weeks ago, two years after the event, we now have a new
5 charge of assault and battery --

6 MS. SAVAS: Objection, Your Honor.

7 THE COURT: Sustained.

8 MS. BROWN: We are here today because we have
9 several charges before the jury and the charges before
10 the jury you have to make a determination whether or not
11 the State of South Carolina is going to meet its burden.

12 Now, the events of December 26 of 2014 clearly will
13 be demonstrated to you during the course of this trial.
14 You'll have witnesses that's going to testify. You want
15 to listen to what they have to say, you want to look at
16 any evidence that's presented through the course of this
17 trial at all, any photos that are out there because
18 sometimes photos tell you the story. Look at the photos
19 to see what it looked like on December 26, 2014.

20 In South Carolina the law provides that individuals
21 can use force whenever he or she believes that their
22 lives are in imminent danger. Self defense is a complete
23 defense here in South Carolina. And the law also allows
24 individuals to act --

25 MS. SAVAS: Objection, Your Honor.

1 THE COURT: I'm going to overruled you.

2 You can continue.

3 MS. BROWN: Thank you, Your Honor.

4 The law also allows individuals to act on
5 appearances. And Your Honor will talk about that as well
6 during jury charge.

7 Now, that is the case that we have today. So after
8 you've listened to all the evidence in this case you as a
9 juror has to make the determination and resolve between
10 the State of South Carolina and the defense team whether
11 on December 26 of 2014 while standing on his property
12 with his lawful firearm if he acted with malice and evil
13 doing or if he, in fact, acted because he was trying to
14 preserve his life.

15 We believe that after you hear all of the evidence
16 during the course of these couple of days that you will
17 conclude that Rhajon acted out of fear and that he only
18 acted with one interest, which was to protect himself,
19 and that anyone, any ordinary person and prudent person,
20 any reasonable person under the same set of circumstances
21 would have, in fact, done the same thing.

22 I thank you for your time and I look forward to
23 talking to you in the course of this week.

24 THE COURT: All right. Ladies and gentlemen, at
25 this time I'm going to dismiss you for the balance of the

1 Stipulations, were admitted into evidence.)

2 MS. SAVAS: The State calls Nicholas Washington.

3 NICHOLAS WASHINGTON, after having been duly
4 sworn, testified as follows:

5 THE CLERK: Please State your first and last name
6 and spell your last name loudly and clearly into the
7 microphone.

8 THE WITNESS: Nicholas Washington.

9 DIRECT EXAMINATION

10 BY MS. SAVAS:

11 Q. Good morning, Nicholas. Nicholas, how old are you?

12 A. Twenty-two.

13 Q. When is your birth date?

14 A. [REDACTED]

15 Q. And, Nicholas, just some background for you. How
16 far did you go in school?

17 A. Some college.

18 Q. Where did you graduate high school from?

19 A. West Ashley.

20 Q. And did you get a diploma at West Ashley High?

21 A. Yes, ma'am.

22 Q. And tell me a little bit about college. What were
23 you going to school for?

24 A. Culinary arts.

25 Q. And, Nicholas, do you work?

- 1 A. Yeah.
- 2 Q. How many jobs do you have?
- 3 A. Two.
- 4 Q. And are they two full-time jobs?
- 5 A. Yes, ma'am.
- 6 Q. And growing up, Nicholas, did you ever play any
- 7 sports?
- 8 A. Not really.
- 9 Q. Did you ever play any football?
- 10 A. A little bit, yeah, high school.
- 11 Q. And tell me a little bit about your family. How
- 12 many siblings do you have?
- 13 A. An older brother, two little brothers, and baby
- 14 sister.
- 15 Q. Are you close with your family?
- 16 A. Yes, ma'am.
- 17 Q. And do you have any children, Nicholas?
- 18 A. No. No, ma'am.
- 19 Q. And where do you live right now?
- 20 A. With my mother.
- 21 Q. In West Ashley?
- 22 A. Yes, ma'am.
- 23 Q. And you didn't always live in Charleston, did you?
- 24 A. No.
- 25 Q. Where were you before that?

- 1 A. Walterboro.
- 2 Q. Walterboro. Is that where you were born?
- 3 A. Yes, ma'am.
- 4 Q. And when do you remember moving to Charleston?
- 5 A. Early 2000.
- 6 Q. So were you in middle school?
- 7 A. Middle school.
- 8 Q. Okay. And who moved with y'all from Walterboro?
- 9 A. My mother and my siblings.
- 10 Q. And do you have family here in Charleston?
- 11 A. My grandmother, aunties.
- 12 Q. And where do they live?
- 13 A. North Charleston.
- 14 Q. And with your aunt do you have cousins that you are
- 15 close with?
- 16 A. Little cousins.
- 17 Q. Little cousins. How many cousins?
- 18 A. Four.
- 19 Q. And where in North Charleston do they live?
- 20 A. Kent Avenue.
- 21 Q. Okay. I'm going to show you what's been admitted
- 22 by consent State's Exhibit Number 12. And, Nicholas, is
- 23 that about the area of where your family lives in North
- 24 Charleston on Kent?
- 25 A. Yeah.

- 1 Q. Okay. And how many times would you say that you've
2 gone to visit your family?
- 3 A. All the time.
- 4 Q. So just about every day?
- 5 A. Something like that.
- 6 Q. Yeah. And you are real close with them?
- 7 A. Uh-huh.
- 8 Q. I'm going to show you what's been admitted by
9 consent State's Exhibit Number 14. Nicholas, do you
10 recognize these houses?
- 11 A. My aunties and grandmother's house.
- 12 Q. And which house is this red one?
- 13 A. My grandmother's.
- 14 Q. And which house is this yellow one?
- 15 A. My aunty's.
- 16 Q. And, Nicholas, back in December of 2014 you were
17 the victim of a shooting, correct?
- 18 A. (Nodded).
- 19 Q. And did that happen at this house here?
- 20 A. Yes, ma'am.
- 21 Q. Which house were you at?
- 22 A. The yellow house.
- 23 Q. So your aunt's house?
- 24 A. Yes, ma'am.
- 25 Q. Okay. And December of 2014, on December 26th, it

1 was the day after Christmas, what were you doing that
2 day?

3 A. I worked early that day.

4 Q. What time would you say you went in to work?

5 A. I went early that morning, like 8:30, and got off
6 like 4:00, 4 o'clock.

7 Q. Okay. And what did you do after you got off work?

8 A. I went back to West Ashley and then, like, a little
9 while later I went to North Charleston.

10 Q. And who did you go over to North Charleston with?

11 A. This guy. Somebody dropped me off.

12 Q. One of your friends just dropped you off?

13 A. Yeah.

14 Q. Gave you a ride?

15 A. Yeah.

16 Q. And who were you meeting over in North Charleston?

17 A. My grandmother -- well, my family.

18 Q. And did you meet you mother there, too?

19 A. Yes, ma'am.

20 Q. And your younger brother?

21 A. Yes, ma'am.

22 Q. And, of course, your cousins and your aunt and --

23 A. Yes, everybody.

24 MS. BROWN: Objection, leading.

25 THE COURT: What was your objection?

1 MS. BROWN: It was objection, leading, just
2 testifying at this point.

3 THE COURT: Okay. Let him testify.

4 MS. BROWN: Thank you.

5 BY MS. SAVAS:

6 Q. And, Nicholas, so you went over to your aunt's
7 house, right?

8 A. (No audible response).

9 Q. Just to clarify, Nicholas, you have to say yes or
10 no --

11 A. Oh, yes.

12 Q. -- because she's taking everything down that you
13 say.

14 A. My bad.

15 Q. I know you are very soft spoken so just make sure
16 that you say --

17 A. Yeah. My bad.

18 Q. Thank you. And what did you do while you were at
19 your aunt's house.

20 A. First, I was on the computer, just on Facebook and
21 stuff, YouTube, then I went outside.

22 Q. And when you went outside do you remember about
23 what time it was?

24 A. Close to seven or something like that. Maybe
25 seven.

1 Q. I'm going to show you what's been admitted into
2 evidence by consent as State's Exhibit Number 31.

3 Nicholas, what is this a picture of?

4 A. My aunty's house.

5 Q. And you went outside at this house?

6 A. Uh-huh. Yes, ma'am.

7 Q. Thank you. And what did you go outside to do?

8 A. Smoke a cigarette.

9 Q. Nicholas, did your family know that you smoke
10 cigarettes?

11 A. Not at that time.

12 Q. And where exactly did you first step outside?

13 A. I was on the porch.

14 Q. And were you on the porch inside on the steps up
15 there by that railing?

16 A. Yeah. I was sitting on the first step.

17 Q. And was it dark outside?

18 A. Yeah, it was dark.

19 Q. It was dark. Okay. And when you were out there
20 what were you doing?

21 A. On the phone.

22 Q. Okay. You were on your phone. And did you notice
23 anything outside at that time?

24 A. I just seen some people on the porch across the
25 street.

1 Q. Across the street. Nicholas, I'm going to show you
2 what's been admitted into evidence by consent State's
3 Exhibit Number 17. Do you recognize this house?

4 A. Yes, ma'am.

5 Q. And is that the porch that you saw people on?

6 A. Yes, ma'am.

7 Q. And about where did you see -- how many people did
8 you see?

9 A. About three people.

10 Q. And where were they?

11 A. On the porch.

12 Q. Okay. And what happened after you were -- were you
13 making a telephone call?

14 A. Yes, ma'am.

15 Q. And what was that telephone call about?

16 A. Just speaking with my cousin.

17 Q. And how long did you think that phone call lasts?

18 A. Probably like a minute or two.

19 Q. And what did you do after you had the phone call?

20 A. I hung up the phone. I flicked a cigarette and I
21 was walking down the steps and I went to -- I was calling
22 my brother.

23 Q. Nicholas, I'm going to show you again State's

24 Exhibit 31. So you walked down these steps?

25 A. Yeah. Yes, ma'am.

1 Q. And about where did you walk to?

2 A. Right before that black mark in the cement.

3 Q. If you could please point to where.

4 MS. SAVAS: Your Honor, if I may allow the witness?

5 A. (Indicated). Right there.

6 Q. And what did you do when you were on the cement

7 over there?

8 A. I was calling my brother.

9 Q. And what happened after you spoke with your
10 brother?

11 A. I walked up some. I put my headphones in and
12 started listening to music, scrolling on Facebook.

13 Q. And do you remember what music you were listening
14 to?

15 A. Yes, ma'am.

16 Q. What song?

17 A. I don't really want to talk about that.

18 Q. Do you know the artist you were listening to?

19 A. Kevin Gates.

20 Q. Kevin Gates. Okay. And what happened after you
21 put your headphones in?

22 A. I walked up some more to that corner.

23 Q. Can you please show us about where you were
24 walking.

25 A. (Indicated).

1 Q. Okay. Did you do anything at that time?

2 A. Yeah. I changed the song again, standing there for
3 a second, flipped through my phone, glanced up again.

4 Then I reached in my pocket -- well, I put my phone down
5 in my back pocket and I went to my other pocket to grab a
6 cigarette, and then I reached in my back of my other
7 pocket and grabbed the lighter to light the cigarette up.
8 My little brother was coming out the house at the time.

9 Q. Which house did they come out of?

10 A. My aunty's house. And then they went through my
11 granny gate. I heard the gate close, and then when I
12 looked back down I saw something skim the ground like a
13 firecracker. I thought it was like -- it's close to New
14 Year's. I thought it was a firecracker, and then I fell.
15 And then when I tried -- I tried to get up. I couldn't
16 stand up. Then I hear pow, pow. I started crawling
17 backwards just because I couldn't move my leg.

18 Q. And, Nicholas, you said that you heard the gate
19 close from your brother and your cousin, right? Did you
20 hear anything else?

21 A. Not really. I just heard the gate close. Like a
22 gate, like clang, you know, loud.

23 Q. And then after that gate closes is when you saw the
24 fireball coming?

25 A. Yeah. It skimmed to the ground like a firecracker,

1 basically.

2 Q. And when you were standing outside when you walked
3 off the sidewalk did you still see those three people
4 outside out on the porch?

5 A. When I glanced up?

6 Q. Yes.

7 A. Yeah.

8 Q. Did you notice whether they had the porch light on
9 or off?

10 A. It was off, I think. Yeah, it was off.

11 Q. When you first went out on the porch did you notice
12 if the porch light was on or off?

13 A. It was on when I came -- when I first came outside
14 it was on.

15 Q. Then by the time you walked out to the front yard
16 the porch light was off?

17 A. When I saw my brother going in the house and all
18 that I went to light the cigarette up and it was off.

19 Q. Okay. What happened after you got shot and you hit
20 the ground?

21 A. Somebody just -- well, one person came outside. I
22 be like, Why you shoot me? I be like, I live -- my
23 people live here.

24 I don't know what you are talking about, Bro, and
25 he jumped in the car and ride off.

1 Q. Did you recognize this person?

2 A. No, I didn't see nobody.

3 Q. Is that person in the courtroom today?

4 A. No. I don't know who that was. I couldn't see
5 nobody. It was dark. Like, that one person in a white
6 Crown Vic and then I didn't see nobody -- well, somebody
7 came out and apologized to me, said, I'm sorry. I didn't
8 mean to shoot you.

9 Q. Was it that person that fled in the Crown Vic that
10 fled --

11 A. No. I don't know who that was in the Crown Vic.

12 Q. So just to clarify, that was another person?

13 A. That was another person who came --

14 Q. Who apologized for shooting you?

15 A. I didn't see who apologized. It was like somebody
16 was like, I apologize for shooting you.

17 It was dark with the lights off.

18 Q. Do you know who shot you?

19 A. I mean, at this present time? You said the
20 defendant.

21 Q. I just want to make something clear, Nicholas. Do
22 you know who shot you because I said it or --

23 A. No. No. I mean, like, you know, like, as the case
24 wise, like, you know.

25 Q. Did an individual ever come up and admit to you

1 that they shot you?

2 A. Yes. Someone walked across the street, like in the
3 middle of street and was like, I'm sorry I shot you, but
4 I didn't see -- like, it was dark. I couldn't see.

5 Q. After that point did anyone come up to you again
6 and apologize for shooting you?

7 A. You mean like later on down the line? Oh, yeah.

8 Q. Who is that?

9 A. I spoke with him one time. He said he apologized
10 for shooting me.

11 Q. Who was that?

12 A. The defendant.

13 Q. Mr. Rhajon Sanders?

14 A. Yeah.

15 Q. What happened after you were shot? Did your family
16 come outside?

17 A. Yeah. They rushed outside.

18 Q. And what happened after that?

19 A. They called, like, the ambulance and the police and
20 everything.

21 Q. And did you get taken in the ambulance?

22 A. Yeah. First before they -- they kind of moved me
23 around, like to look on me, like check me because I
24 thought I was hit somewhere else in the back because I
25 felt like the blood was warm, so I flipped on my back.

- 1 So I thought I got shot in my back, you know, my stomach
2 or something and went through my back.
- 3 Q. Right.
- 4 A. So I kind of lean up and they was, like, searching
5 me at the same time, you know.
- 6 Q. And then eventually you were taken in an ambulance
7 to the hospital?
- 8 A. Yeah.
- 9 Q. Which hospital did you go to?
- 10 A. MUSC.
- 11 Q. And what happened once you went to the hospital?
- 12 A. They left me in the hallway for a little while.
- 13 Q. Okay. That's not good.
- 14 A. Yeah, and then I had surgery later on.
- 15 Q. Okay. But you were taken to the O. R.?
- 16 A. Uh-huh.
- 17 Q. And what happened in your surgery?
- 18 A. I don't remember. I was sleeping.
- 19 Q. Okay. Well, as a result of your surgery.
- 20 A. Oh, I got an aluminum rod.
- 21 Q. And where did you get that placed?
- 22 A. My left leg, left lower leg.
- 23 Q. Okay. And is that permanent?
- 24 A. Yeah.
- 25 Q. And how does that impact your walking?

1 A. I just got a little limp.

2 Q. You got a limp. Okay. And, Nicholas, I just want
3 to see, do you remember how many shots you may have
4 heard?

5 A. It was like -- I thought I heard -- like -- well, I
6 just remember that one skimming the ground, and then one
7 apparently hit me, then I heard like two or three more.

8 Q. So about four you would say?

9 A. Four or five.

10 Q. How did it feel when the one hit you?

11 A. I really didn't feel it.

12 Q. Sort of --

13 A. It was like an inner body thing, like out of body
14 thing.

15 Q. Nicholas, would you ever imagine that you would
16 have gotten shot?

17 A. No, ma'am. Not at all.

18 Q. Why is that?

19 A. Just something I never would expected to happen to
20 me.

21 Q. Why did you think that it would never happen to
22 you?

23 A. Because I'm a good guy.

24 Q. What makes you think that you are a good guy?

25 A. Because I help people. I help everybody.

1 Q. Nicholas, do you -- at that time did you have a
2 gun?

3 A. No, ma'am.

4 Q. Did you own a gun at that time?

5 A. No, ma'am.

6 Q. Do you even mess around with guns?

7 A. No.

8 Q. Nicholas, have you ever really interacted with
9 Mr. Sanders?

10 A. At that time, like right around that shooting time,
11 no, not at all. I didn't even know who lived there.
12 Like, not at all.

13 Q. Did you at any time when you were standing outside
14 did you ever yell anything at him?

15 A. No.

16 Q. Did you ever come at him?

17 A. No.

18 Q. Did you ever threaten him?

19 A. No.

20 Q. Did anyone in your family ever threaten to kill him
21 or anyone in his family?

22 A. No.

23 Q. Did anyone in your family that lived there have any
24 problems with his family across the street?

25 A. Not that I can think of.

1 Q. Do you know of any interaction your family may have
2 had with his family?

3 A. I mean, talking about basketball games.

4 Q. Okay.

5 A. Football, stuff like my granddaddy.

6 Q. So your granddaddy has talked to his family?

7 A. Yeah. I found that out later though.

8 Q. But they were good conversations?

9 A. Yeah, good conversations.

10 Q. And, Nicholas, does anyone in those homes, your
11 aunts or your grandparents, did they ever own any guns?

12 A. No.

13 Q. No. When you were outside did you hear anyone yell
14 at you from across the street?

15 A. I had the headphones in.

16 Q. Did you ever see anyone trying to get your
17 attention?

18 A. I mean, I only glanced up twice.

19 Q. But you weren't really talking to them or paying
20 attention?

21 A. No, I wasn't -- it was -- I was just standing in my
22 aunty yard.

23 Q. Nicholas, how has this changed your life?

24 A. I mean, I couldn't walk for a couple of months.

25 Q. And looking at the whole situation how do you

1 actually feel about it?

2 A. I feel bad about it.

3 Q. In all honesty, Nicholas, you don't really want to
4 be here today, do you?

5 A. No, ma'am, not at all.

6 Q. And you didn't actually think you'd ever get shot,
7 right?

8 A. Not at all.

9 Q. You never wanted to really even --

10 A. No.

11 Q. -- be in court?

12 A. Not at all.

13 MS. SAVAS: Beg the Court's indulgence.

14 THE COURT: Yes, ma'am.

15 (PAUSE.)

16 BY MS. SAVAS:

17 Q. Just the clarify, Nicholas, when you went down did
18 you hear more shots after that?

19 A. Yeah, because the headphones, like, came out so it
20 was just like the one I saw skim the ground, the one that
21 hit me, then I heard, like, bam, bam, bam.

22 Q. Okay. Nicholas, has the defendant ever approached
23 you after this regarding this case?

24 A. We talked about it.

25 Q. And did you ever tell him that -- did you ever tell

1 him anything?

2 A. Pertaining what?

3 Q. This case.

4 A. Like, I don't get what you mean by that.

5 Q. Did you ever tell him that he didn't shoot you?

6 A. Like, he didn't shoot me? I mean, I never saw who
7 shot me. It was, like, dark, so I never even looked up
8 in that -- like, you know what I mean, looked up in that
9 direction. I really didn't know I was shot until I saw,
10 like, blood gushing out my leg, basically.

11 Q. Okay. Nicholas, after you leave the courthouse
12 today are you going to be going back to work?

13 A. As soon as I leave.

14 Q. As soon as you leave?

15 A. Yeah.

16 Q. Okay. And, Nicholas, when you were at the hospital
17 you did make a statement to police officers, right?

18 A. Yeah.

19 Q. Okay. Before your surgery --

20 A. Yeah, that was --

21 Q. -- I'm assuming?

22 A. Yeah, that was when I was sitting in the hallway.

23 Q. Oh, okay. You had time. Nicholas, I'm going to
24 show you what's been admitted by consent State's Exhibit
25 Number 15. Nicholas, do you recognize this picture?

- 1 A. Yeah.
- 2 Q. And what is this a picture of?
- 3 A. My leg, present, I think.
- 4 Q. And, Nicholas, can you show where you were shot at.
- 5 A. The first -- basically, the first hole.
- 6 Q. This one?
- 7 A. No, the first one.
- 8 Q. This one?
- 9 A. From this way, yeah.
- 10 Q. This one?
- 11 A. Yeah, right there.
- 12 Q. Okay.
- 13 A. The other two marks where it tried to come out,
- 14 like by itself, that first little --
- 15 Q. You can use the pointer. Thank you, Nicholas.
- 16 A. The first little scratch where it tried to come
- 17 out --
- 18 Q. Okay.
- 19 A. -- kind of came out. Then it eventually fell out
- 20 the side. Like, the other half of the bullet just fell
- 21 out when I was taking a shower. Yeah.
- 22 Q. Okay. Did they remove anything from your leg?
- 23 A. They removed, like, a little fragment but it was
- 24 like less than half so most of the bullet came out.
- 25 Q. Okay. And I'm going to show you what's been marked

1 -- admitted by consent State's Exhibit 16. Nicholas,

2 what is this?

3 A. That's my leg. That's the back, the back of it.

4 Q. Okay. And where is the metal rod placed in your

5 leg, if you had to guess?

6 A. I mean, I guess the front where I got shot, I

7 guess.

8 Q. Okay. No further questions, Nicholas. Please

9 answer any questions that the defense asks you. Okay?

10 THE COURT: Ms. Brown?

11 MS. BROWN: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. BROWN:

14 Q. Good morning, Nicholas.

15 A. Good morning.

16 Q. So on direct you indicated that you are 19 years of

17 age?

18 A. No, 22.

19 Q. Twenty-two. I apologize.

20 A. Twenty-two.

21 Q. Twenty-two. And how tall are you?

22 A. Right now I'm probably like six-four, six-three.

23 Q. Six-four.

24 MS. BROWN: Your Honor, may I ask the witness to

25 stand up for my, please?

- 1 THE COURT: You may.
- 2 Q. Can you stand up for me, please.
- 3 A. (The witness complied.)
- 4 Q. And how much do you think you weigh, about, right
- 5 now?
- 6 A. Right now, 265.
- 7 Q. You may sit down. Thank you. 265?
- 8 A. Uh-huh.
- 9 Q. And December of 2014 would you say you were about
- 10 the same height?
- 11 A. I remember what weight I was around that time --
- 12 Q. Okay.
- 13 A. -- because my girlfriend was pregnant at the time.
- 14 We would go to the hospital a lot.
- 15 Q. Your girlfriend was pregnant?
- 16 A. At the time.
- 17 Q. Oh.
- 18 A. She lost the baby.
- 19 Q. Okay. I'm sorry to hear that.
- 20 A. You're okay.
- 21 Q. Six-four. So were you about six-four December of
- 22 2014?
- 23 A. Probably about six-three. I gained a little
- 24 weight.
- 25 Q. And you think you are about -- how much did you

1 weigh around that time?

2 A. Oh, I remember I got -- well, when I got out of the
3 hospital I weighed like 2 -- before I got shot, like 245.

4 When I got out of the hospital I weighed like 220.

5 Q. That happens, don't it?

6 A. Yeah. Then I gained like 45 pounds after that.

7 Q. So about December of 2014 you were about 245 pounds
8 and about six-three; is that correct?

9 A. Yes, ma'am.

10 Q. And do you recall what you were wearing that
11 evening on December 26 of 2014?

12 A. I was wearing my Wal-Mart outfit or uniform.

13 Q. Okay.

14 A. Black and navy blue.

15 Q. Navy blue?

16 A. Yeah.

17 Q. That's what you recall it. Do you recall whether
18 or not what the weather was like that evening?

19 A. No.

20 Q. No. It's December.

21 A. Yeah, it wasn't cold though. Decembers don't be
22 cold down here.

23 Q. It's not. Okay. And you've been here how long?

24 A. I really forget.

25 Q. Since middle school?

1 A. Yeah, basically since middle school.

2 Q. Okay.

3 A. I failed third grade one time. That's why I say
4 that.

5 Q. Okay. Now, let's talk about this. The warmup that
6 you had on it was dark in color, navy blue. Is that kind
7 of dark?

8 A. Yeah, it's dark clothes.

9 Q. Do you recall whether or not your warmup had a hood
10 on it?

11 A. No, I didn't have a warmup on. I had, like, my
12 work uniform on. A work uniform.

13 Q. A work uniform?

14 A. Black Levi's, and I had a navy blue polo shirt with
15 black colors on it.

16 Q. And when you say polo shirt, so you are saying you
17 didn't have, like, a sweater on?

18 A. No, I don't think I had a sweater on.

19 Q. You don't think?

20 A. No.

21 Q. Is it possible?

22 A. I'm not sure.

23 Q. Okay.

24 A. I don't think so though.

25 Q. Do you recall, is it possible that you had a hood

1 on?

2 A. No. I didn't have no hoodie on. Not at all. No,
3 I didn't.

4 Q. Now, you indicated that you had two jobs at that
5 time?

6 A. At that -- yeah, at that time I worked at Wal-Mart
7 and Pizza Hut. I don't work there no more.

8 Q. Where do you not work?

9 A. I don't work at Wal-Mart or Pizza Hut.

10 Q. Where do you work now?

11 A. I don't like to discuss that.

12 Q. Are you employed right now?

13 A. Yeah. I have two jobs.

14 Q. You have two jobs but you don't want to share with
15 us --

16 A. Yeah.

17 Q. -- where you work?

18 A. No.

19 Q. Got it. And you indicated that Kent Avenue, you
20 visit that home quite often?

21 A. Yeah, my family.

22 Q. And how often did you say you visit that home?

23 A. Often.

24 Q. You visit that home often but you've never noticed
25 who lived directly across the street?

1 A. I don't pay attention to people. I don't like to
2 be around a lot of people, except my family.

3 Q. I understand that. Now, Kent Avenue is the Accabee
4 Community?

5 A. Yeah.

6 Q. What do you know about the Accabee Community?

7 A. It's Accabee.

8 Q. What does that mean for people not familiar with
9 Accabee? Tell me this, for people that are not familiar
10 with Accabee Community, is it pretty normal for law
11 enforcement to patrol that area?

12 A. I mean, that's a way through to get to Leeds for
13 the police.

14 Q. Are you familiar with any type of incidents that
15 have happened in the Accabee Community?

16 A. I mean --

17 Q. You go there pretty often?

18 A. Yeah.

19 Q. Yeah. Are you familiar with the different types of
20 burglaries or robberies that happen in that community?

21 A. No. I don't know anything about no burglaries but
22 did have a homeboy who passed awhile back. That's the
23 only thing that really happened around there that I know
24 of.

25 Q. That you know of?

- 1 A. Yeah.
- 2 Q. But you've been going there for quite sometime?
- 3 A. Yeah.
- 4 Q. And you have not --
- 5 A. I lived around there at one point in time.
- 6 Q. You did?
- 7 A. I lived around there at one point in time. Middle
8 school, that's when I lived there.
- 9 Q. Where did you live?
- 10 A. I lived on Bailey Drive.
- 11 Q. Okay. Bailey Drive is not that far; is that
12 correct?
- 13 A. It's right there. I have people around there that
14 know who I am.
- 15 Q. The people around there know who you are?
- 16 A. Yeah. They just already like my family. We have
17 the dude across the street to fix my mom car.
- 18 Q. Across the street where?
- 19 A. On Bailey Drive.
- 20 Q. On Bailey Drive. That's not the across the street
21 from Kent Avenue, is it?
- 22 A. No. It's like a turn --
- 23 Q. Okay.
- 24 A. -- right down street and turn.
- 25 Q. So Accabee Community you are aware of a friend of

1 yours that was killed out there?

2 A. He was killed there.

3 Q. Are you familiar with any other incidents that have
4 happened in Accabee --

5 A. No, not at all.

6 MS. SAVAS: Objection, Your Honor. Asked and
7 answered.

8 THE COURT: Sustained.

9 BY MS. BROWN:

10 Q. As far as your parents, you said your grandparents
11 had lived there for how long?

12 A. I can't tell you offhand, but a good period of
13 time. Like almost, like, five, six, six years or
14 something like that. It was long though, probably like
15 -- I want to say like 2009 or something like that, or
16 probably 10 --

17 Q. Okay.

18 A. -- 2010. About six years, five --

19 Q. Certainly. And you indicated that you had worked
20 that day about 8:30?

21 A. Yeah.

22 Q. And what time did you get off?

23 A. Around 3:30, 4:00. I call at -- I know my brother
24 picked me up.

25 Q. And at what point did you arrive on Kent Avenue

1 that particular day?

2 A. Like around 6:30.

3 Q. Now, you've made it very clear that smoking
4 cigarette is not something your family was familiar with;
5 is that correct?

6 A. No, ma'am.

7 Q. So would it be correct to say that you wanted to
8 make sure your family did not see you smoke a cigarette
9 on that evening?

10 A. Yeah.

11 Q. Okay. And I'm going to --

12 MS. BROWN: May I approach the witness, Your Honor?

13 THE COURT: You may.

14 BY MS. BROWN:

15 Q. I'm going to show you State's Exhibit Number 31.

16 Can I hand that to you?

17 A. Yeah.

18 Q. And can you tell me the address in that, the
19 address that that photo shows. Do you know the address?

20 A. I think it's like [REDACTED] because it's all odd numbers
21 on this side.

22 Q. Now, you go there pretty often; is that correct?

23 A. Yeah.

24 Q. Whose house is there?

25 A. That's my Aunt Adrian's house.

1 Q. Your Aunt Adrian's house, and is that directly
2 across the street from --

3 A. Yeah.

4 MS. BROWN: May I approach the witness?

5 THE COURT: You may.

6 A. Yeah, it's like that.

7 Q. State's Exhibit 17, directly across the street from
8 one another?

9 A. Yeah.

10 Q. Okay. And Exhibit 21 that I just indicated --

11 A. 31.

12 Q. 31, you're telling me that is [REDACTED]?

13 A. Yeah or [REDACTED], one of them.

14 Q. [REDACTED]?

15 A. My grandmother and her address is like right next
16 to each other, so it's [REDACTED] and [REDACTED]. So it's either
17 this way or that way. I know that.

18 Q. Okay. Okay. So [REDACTED] is the house that you were
19 visiting on December 26?

20 A. Yes, ma'am. If that's the address that you showed
21 me a picture with the small black numbers on the mailbox
22 right here.

23 Q. Well, yeah, but do the homes look alike, the [REDACTED]
24 and [REDACTED]?

25 A. No.

1 Q. They look different?

2 A. One yellow, one red --

3 MS. SAVAS: Objection, Your Honor, argumentative.

4 THE COURT: Just ask the question and let him
5 answer.

6 MS. BROWN: Certainly.

7 BY MS. BROWN:

8 Q. The picture that's in that photo, whose house is
9 that? Is that the aunt's house?

10 A. Yes, ma'am.

11 Q. Okay. And that house looks -- is it different from
12 your grandmother's house?

13 A. It got a red jeep. My grandmother got no car at
14 all.

15 Q. Well, I'm just talking about the way the house
16 looked?

17 A. Yeah. That car is broke right there, so it just be
18 sitting there.

19 Q. Okay. Now, let's talk about that particular
20 evening. You indicated that you arrived about 6:30 and
21 that at some point you left that house and when you stood
22 outside you were smoking a cigarette. Where were you
23 smoking your cigarette?

24 A. This big blurry patch right here.

25 MS. BROWN: May I approach the witness, Your Honor?

1 THE COURT: You may.

2 A. It look dark here, like the blurry patch on it.

3 Q. Are you pointing here?

4 A. Yeah. Back up some. Your finger, like, too close.

5 You're going closer just like -- I mean, it's a picture

6 so everything is like --

7 Q. It's difficult. I understand.

8 A. Yeah, yeah, yeah. It was like I was standing right

9 there.

10 Q. So you were standing -- where you are pointing to,

11 is that where the bushes are?

12 A. It's close by a bush, right next to a bush.

13 Q. Okay. And do you know that house that's directly

14 next to that bush?

15 A. Yeah. Her name is Prissy. She crazy. She's a

16 crazy lady. She is. She was in a home around this time

17 though. Nobody lived there.

18 Q. Okay.

19 A. Or her niece lived there but her niece never was

20 there.

21 Q. Now, in December 2014 did the anyone live in that

22 residence next to where the bush is located?

23 A. The niece but she never was there like that, I

24 don't think.

25 Q. You seen someone lived in that residence December

1 of 2014?

2 A. Yeah, Ms. Prissy. Ms. Prissy crazy. That's her
3 house.

4 Q. And how long did she live there; do you know?

5 A. She lived there since they moved there.

6 Q. Who is they?

7 A. My aunty. She used to curse my little cousin out.
8 I know exactly who that is.

9 Q. And what address would that have been?

10 A. (There was no response.)

11 Q. Now, let's talk about the lighting on Kent Avenue.
12 Was it pretty dark that evening?

13 A. Yeah, around that time there wasn't no lights,
14 no -- I think the lights out.

15 Q. There's no street light on Kent Avenue --

16 A. Yeah, street lights but they was, like, out at the
17 time.

18 Q. So the street lights did not work?

19 A. Yeah --

20 Q. December of --

21 A. Yeah --

22 THE COURT: You got to talk one at a time. You ask
23 your question and then you give him an opportunity to
24 reply.

25 MS. BROWN: I apologize, Your Honor. I apologize

1 if I'm over talking him.

2 Q. All right. So December of 2014, let me make sure
3 we are clear because I understand that we are both
4 talking at the same time, there weren't any street lights
5 working at this time?

6 A. Uh-uh, just porch light.

7 Q. So the lighting on Kent Avenue was based on the
8 porch lights, the individual homes?

9 A. Yeah. Like, the ones further down the street was
10 on but, like, it's not like in our vicinity. It's not
11 nothing like with a post -- nowadays they up but around
12 that time they was out, I think, like some little
13 children broke them or something, you know, like playing.

14 Q. Okay. And what about the -- the house that's [REDACTED]
15 that you're saying belongs to Prissy, was there --

16 MS. SAVAS: Objection, Your Honor. Not facts in
17 evidence.

18 MS. BROWN: He's testified to that.

19 THE COURT: Rephrase your question.

20 BY MS. BROWN:

21 Q. The [REDACTED], the next door -- the house that lives
22 next door to your aunt's residence, do you know if the
23 lights were on? Do you recall the lights being on?

24 A. No. Her lights wasn't on.

25 Q. So we have no lights on your aunt's?

1 A. My aunt's porch light was on.

2 Q. Okay. Your aunt's porch light was on?

3 A. Yeah, her porch light was on.

4 Q. Do you remember what time her porch light came on?

5 A. Her porch light always be on because her husband is
6 nervous.

7 Q. Okay. Now, but if I am correct you were not in
8 front of your aunt's house when you were smoking the
9 cigarette?

10 A. No. I was on the -- originally, I was on the
11 phone, like on the phone, and I was like getting --
12 taking a cigarette out, like my hand, you know what I
13 mean, like grabbing a cigarette about to smoke it and I
14 was walking out the porch. I hang up the phone with my
15 cousin, look back, nobody was there. Okay. Light the
16 cigarette, I start walking by the house right there where
17 I told you I was standing at just now.

18 MS. BROWN: I beg the Court's indulgence.

19 (PAUSE.)

20 BY MS. BROWN:

21 Q. And I'm going to show you a picture here and want
22 you to tell me whether or not you could identify what's
23 in the photo. Okay?

24 MS. SAVAS: Objection, Your Honor. It's not in
25 evidence.

1 THE COURT: She's laying the foundation.

2 Overruled. Once the foundation is laid then it will be
3 introduced into evidence and I will determine whether it
4 comes in or not. Thank you.

5 Proceed.

6 MS. BROWN: Thank you.

7 BY MS. BROWN:

8 Q. I'm going to show you a photo and will you tell me
9 can you identify what's in the picture, okay?

10 THE COURT: How about turn it the other way. It's
11 not in evidence yet.

12 MS. BROWN: Okay.

13 Q. This photo that I just showed to you, does this
14 look familiar to you at all?

15 A. Yeah.

16 Q. Can you tell me what's in the photo?

17 A. Kent Avenue.

18 Q. And that's Kent Avenue that you visit many times?

19 A. Yeah.

20 Q. And does the photo -- what's in this picture
21 depicts an accurate representation of what's on Kent
22 Avenue?

23 A. Uh-huh, but that's present now. That sidewalk
24 wasn't there.

25 Q. That sidewalk is --

1 A. Is there now. It wasn't there around that time.

2 That was two years ago.

3 Q. Absolutely. So this is a more recent picture of

4 Kent Avenue; is that correct?

5 A. Yeah, but that's Kent Avenue though.

6 Q. Thank you.

7 MS. BROWN: Your Honor, at this time, he has
8 clearly identified that this is Kent Avenue. I would
9 like to mark it and put it into evidence.

10 THE COURT: Any objection?

11 MS. SAVAS: Yes, Your Honor. May we approach.

12 THE COURT: You may.

13 MS. SAVAS: Thank you, sir.

14 (WHEREUPON, a bench conference was had.)

15 THE COURT: Objection is sustained.

16 BY MS. BROWN:

17 Q. Now, you indicated that December of 2014 there was
18 not a sidewalk at that time?

19 A. No sidewalk.

20 Q. Do you recall telling whomever took your statement
21 at MUSC that you were standing on the sidewalk?

22 A. No. I don't think I said standing on the sidewalk.
23 I said standing at the sidewalk, probably, but not
24 standing on the sidewalk.

25 Q. What did you tell MUSC at the time when you were

1 being treated about your injury, how they were sustained?

2 A. Can you say that again?

3 Q. What did you tell MUSC physician or the

4 representative at the time that you were treated on how

5 your injuries were sustained?

6 A. I was shot.

7 Q. Do you recall stating that you were standing on the

8 sidewalk smoking a cigarette when somebody walked by and

9 simply shot you in the leg?

10 A. No. Who told you that?

11 Q. Okay. Now, that particular evening you indicated

12 that you were talk --

13 A. Can I say something? If I was standing --

14 THE COURT: No, sir. Answer her question.

15 A. All right.

16 Q. Thank you. That particular evening when you were

17 standing in front of your aunt's residence at some point

18 you indicated that you heard the gate for your

19 grandparents --

20 A. Yeah, cling. It clinked kind of loud.

21 Q. How is that possible if you had your headphones on?

22 A. I mean, if you want to put some headphones in the

23 courtroom right now and I slam something on the floor or

24 right here you would hear it, too. You ever have

25 headphones on? Like, you got headphones in but something

1 else loud goes off and you hear it.

2 Q. So --

3 A. You know what I mean? Like, something -- you never
4 did that?

5 Q. No, I haven't. So you are telling me that with the
6 headphones on you were able to hear the gate close next
7 door?

8 A. Yeah --

9 Q. And --

10 A. -- I just heard it cling.

11 Q. You heard a cling. And at that time how long
12 thereafter do you recall getting hit with the --

13 A. It had to have been like 40 seconds after that,
14 probably a minute. Not that long.

15 Q. Now, you've indicated that you certainly do not
16 recall having a conversation with anyone prior to shots
17 being fired?

18 A. No. I never spoke with anyone. No.

19 Q. Do you recall having an argument with anyone across
20 the street at any point that day?

21 A. No. I was at work.

22 Q. Okay.

23 A. I wasn't over there. When I got off work I went to
24 West Ashley.

25 Q. Are you familiar with Kent Avenue having a number

1 of homes that are abandoned in that neighborhood, are
2 vacant?

3 A. Well, on that street it's only one, one abandoned
4 house.

5 Q. Which house is that?

6 A. Right next door to the defendant.

7 Q. There is an abandoned house next door to the
8 defendant's --

9 A. Yeah --

10 Q. -- residence?

11 A. -- a yellow house that's next door to him, but it's
12 like no other abandon house on that street.

13 Q. You are not aware of any other abandoned house on
14 that street?

15 A. There's no other abandoned house on that street.

16 That yellow house next door is not abandoned. They
17 fixing it up, I guess, the bushes in the front. So it
18 look abandoned but they really fixing it. It's really
19 the best looking house on the street.

20 Q. Now, when you were talking on your phone who were
21 you talking to?

22 A. My cousin.

23 Q. And what's that cousin's name?

24 A. Cousin. That's what his nickname is, cousin.

25 Q. His nickname is cousin?

- 1 A. Yeah.
- 2 Q. Is that the cousin that you were talking to about
- 3 going to the mall?
- 4 A. No. He was at the mall.
- 5 Q. Were you intending to go to the mall?
- 6 A. No. He was supposed to bring me some money.
- 7 Q. Okay. And after your cousin and you spoke do you
- 8 recall how long thereafter that you drop your cigarette?
- 9 A. No. I don't recall.
- 10 Q. Do you recall how long after you drop your
- 11 cigarette before you heard any shots fired?
- 12 A. I called my brother after I got off the phone with
- 13 my cousin.
- 14 Q. And when you called your brother how long did you
- 15 speak to your brother on the phone?
- 16 A. That was quick because he didn't have no money, so
- 17 I hang up on him kind of fast. That was, like, a quick
- 18 conversation.
- 19 Q. Now, the people that you were talking to on the
- 20 phone was cousin and then your brother?
- 21 A. My real brother. That's my real brother. His name
- 22 is Zaquan, and the dude on the phone was my real cousin.
- 23 His nickname is cousin.
- 24 Q. Do you recall talking to Jay?
- 25 A. Jay?

1 Q. Yes.

2 A. I don't.

3 Q. You don't know who that is?

4 A. I don't know nobody named Jay.

5 MS. BROWN: May I approach the witness, Your Honor?

6 THE COURT: You may.

7 Q. I'm going to hand you a document. Is that your
8 handwriting, Mr. Washington?

9 A. No. Is it? It doesn't look like mine. I write
10 kind of sloppy.

11 MS. BROWN: May I approach the witness again?

12 THE COURT: You may.

13 Q. I'm going to hand you this document. Is that your
14 signature, Mr. Washington?

15 A. Yeah. I think somebody wrote this for me.

16 Q. Who wrote that for you?

17 A. I can't -- I don't really remember, like, this
18 night, period. Like, you know, what I mean? Like, in
19 fraction but somebody wrote this for me. I could write
20 for you right now and let you see this is not my
21 handwriting. I right like a kindergarten writing.

22 Q. Is that your signature?

23 A. Yeah, that's my signature though.

24 Q. And did you sign that document?

25 A. Yes.

1 Q. And when you signed that document had you had an
2 opportunity to review what was written?

3 A. Yeah. I mean, this is what I said. I don't see --
4 I didn't say this right here, right here.

5 MS. BROWN: May I approach the witness, Your Honor?

6 THE COURT: You may.

7 A. I called Jay for a ride. That's the dude who
8 originally dropped me off, Joe, that's a white dude, an
9 old white man.

10 Q. So the information that's listed in that statement
11 is incorrect?

12 A. Jay is Joe. I didn't know you was talking about it
13 was Jay.

14 Q. But the document says Jay; is that correct?

15 A. Joe.

16 Q. Okay. You didn't write that statement?

17 MS. SAVAS: Objection, Your Honor, asked and
18 answered.

19 THE COURT: Sustained.

20 Q. The document in front of you, do you recall when
21 that was taken?

22 A. Say that again.

23 Q. Do you recall when that document was prepared?

24 A. This exact right here?

25 Q. Absolutely.

1 A. This is the same people from the hospital?

2 Q. I'm asking you. Do you recall when that statement
3 was prepared, when someone wrote the statement for you?

4 A. I'm thinking this was when I was in the hospital
5 laying on the -- in the O. R. or whatever you call it,
6 when the people was talking to me.

7 Q. So would that have been December 26 of 2014?

8 A. Yes.

9 Q. That would have been shortly after the shooting; is
10 that correct?

11 A. Yes, apparently.

12 Q. Okay. And on December 26, 2014 the information as
13 listed in that statement, who provided the information?

14 A. I mean, I did.

15 Q. But you now don't recall saying that Jay picked you
16 up?

17 A. I mean --

18 MS. SAVAS: Objection, argumentive.

19 THE COURT: Let her ask the question.

20 A. That's like you asking me about the temperature. I
21 don't remember the temperature. I can't tell you the
22 temperature was 72 degrees because I don't know the
23 temperature. I don't know what he was saying. You see
24 what I'm saying? Like, little stuff like that, like he
25 just -- I remember talking to the gentleman. You see

1 what I'm saying? It's little stuff that I'm a person
2 forget stuff fast. Like this now, you asked me about
3 this document, I forget what you was talking about.

4 Q. Well, if you forgot about Jay coming to pick you up
5 is it possible that you forgot where you were standing at
6 the time that --

7 A. No. I didn't forget because there's a blood stain
8 right there on the ground. I wasn't standing on the
9 sidewalk because there wasn't no sidewalk.

10 Q. Absolutely. You were standing at the bushes?

11 A. No. I was like kind of from the bushes but I was
12 standing by the bushes right here (indicated). Same
13 place I told you I pointed to and pointed for her.

14 Q. Now, if you were standing by the bushes at that
15 time would your family have been able to see that you
16 were smoking a cigarette?

17 A. You say would they see me?

18 Q. Yes.

19 A. They were sitting in the living room so they
20 wouldn't have seen me. The chair over there by that
21 window.

22 Q. Then is there any reason that you were trying to
23 get away from your aunt's residence to smoke the
24 cigarette if they were not going to see you anyhow?

25 A. I mean, my grandmother got a strong nose. She can

1 smell anything. She could smell your foot from here.

2 MS. BROWN: May I approach the witness, Your Honor?

3 Q. Thank you.

4 A. You're welcome.

5 Q. And you are telling me that your grandmother was at

6 [REDACTED] at that time?

7 A. All of them was at my aunty home. No, no. I lied.

8 I did. I did. They was at -- my mother was laying on my

9 grandmother's bed because I was originally over there

10 because I was originally over there for something. I

11 don't want to talk about that but I was giving her

12 something, some money. I'll say that.

13 I was giving her some money, and we was talking

14 about giving her the money part. I was supposed to give

15 her the money. They took the money out of my pocket when

16 the ambulance came or whatever. And her, my little

17 brother, I think one of my little cousins, Jamiah, was in

18 the house, and my Aunt Shema.

19 Okay, and then when I left from over there, my

20 aunt's house, Aunt Adrian, this is before the fact of the

21 shooting and all that. I was at Adrian's house. I was

22 talking to Adrian about my mom and her situation and what

23 she got going on, like that, talking to her like that or

24 stuff like that, and then we were just on the computer,

25 like, you know, talking.

1 Q. Is that the computer that you were on looking at --

2 A. Facebook or YouTube or something.

3 Q. Do you recall saying that you were looking up your
4 cousin who was in jail?

5 A. I think Gabriel -- Devon, Devon, Devon, Devon.

6 Q. So you do recall making that statement?

7 A. I think so.

8 Q. Now, you mentioned it was a white car?

9 A. Yeah, white Crown Vic.

10 Q. Do you recall how many people were in that vehicle?

11 A. No, that -- I mean, like, because from the point
12 when I came outside the car was already there so it was
13 like I never know how much people got in the car, how
14 much people got out of the car.

15 Q. So was the car parked in front of your aunt's
16 residence?

17 A. It was parked in front of their residence. Right
18 there in front of this little sidewalk thing.

19 MS. BROWN: May I approach the witness?

20 THE COURT: You may.

21 A. Like on the dirt, off the road.

22 Q. So your testimony that a white Crown Vic was parked
23 in front of [REDACTED]?

24 A. I don't know. I never knew their address.

25 Q. Is it your testimony that the white car was parked

1 in front of that blue house?

2 A. Yeah.

3 Q. Do you remember how long the white car was parked
4 in front of that house?

5 A. I mean, how would I know? I wasn't outside that
6 long. I wasn't outside over 10 minutes, put it like
7 that. Through all this period of time getting shot and
8 all that I wasn't outside over 10 minutes.

9 Q. Now, when you noticed the car parked across the
10 street did you notice anything else going on across the
11 street?

12 A. I only glanced up twice.

13 Q. And when you glanced up twice at any point in time
14 did you see somebody waiving?

15 A. No.

16 Q. At any point in time did you hear someone at all
17 talking?

18 A. No. You know, with the headphones I only hear the
19 loud clinking gate.

20 Q. Now, you indicated after the shots were fired that
21 the white car pulled off?

22 A. No. Not like right -- it wasn't right after. It
23 was like after I got shot everybody -- the people, you
24 know, disbursed into the house, bam. A dude come out.
25 He come out the house. He was like, Oh.

1 I be like, Dang. Why you all shoot me? My people
2 live here.

3 And then he was just like, Man, I'm sorry, bro. I
4 don't know what going on and then (made noise) and drive
5 off. That was it.

6 Q. So that's the person in the white car --

7 A. Yeah. The white person -- I mean, in the white car
8 jump in and was like, I'm sorry and all that and (made
9 noise). But somebody walked across the street and
10 apologized to me after that. Somebody else came out the
11 house again. I didn't see who that person was. It was
12 dark but somebody else apologized, like, Man, I'm sorry.
13 You know, I didn't mean to, da, da, da.

14 By the time that was happening the police already
15 was coming up the street, like (made noise) stop. You
16 know what I'm saying?

17 Q. So the white car, the person in the white car
18 apologized as well? You had two apologies? I just want
19 to make sure I'm clear.

20 A. Yeah.

21 Q. Okay. Do you have any idea what the person in the
22 white car looked like?

23 A. No. I really didn't see nobody. I couldn't see
24 anyone really because it was, like, the porch light went
25 off. So it was, like, apparently at that time I couldn't

1 see. Like, even before that when the porch light on I
2 couldn't really see nobody's face. Like, I'm across the
3 street. So that's like me trying to look at his face. I
4 saw him before but I can't really tell who he is. You
5 know what I mean? It's a far distance.

6 Q. So if you were unable to see the people across the
7 street is it your opinion that the people across the
8 street would have been -- had difficulty to see you as
9 well?

10 MS. SAVAS: Objection. Calls for speculation.

11 THE COURT: Sustained.

12 Q. You were unable to see those across the street; is
13 that correct?

14 A. Yeah. I mean, I could see body frames but I can't
15 -- you know, you can see somebody's body in the dark.
16 You know what I mean? But you can't see their face.

17 Q. And the body frames that you saw, do you remember
18 how tall that person was?

19 A. No, I don't remember. I can't guess somebody's
20 height, like, just looking at you, guess your height. I
21 wasn't even paying attention that hard to think about how
22 tall you were, what color you have on. I wasn't looking
23 at you like that. It was just a glance, like, bam. All
24 right, you all, bam. The porch like off. Bam, that's
25 it.

1 Q. How many people were at your aunt's residence that
2 evening?

3 A. I don't know. A couple of people.

4 Q. Would you say more than five?

5 A. Maybe five. We including like children, just
6 people in general? Yeah, like five.

7 Q. At that time in the house?

8 A. Adults?

9 Q. Yes.

10 A. I mean, if you count my little cousin as an adult,
11 too, because she is over 18, I mean, yeah, it's like two
12 or three.

13 Q. Two or three people were at your aunt's house?

14 A. Adults.

15 Q. Okay. And once after you were shot did all of
16 those individuals come outside?

17 A. Yeah, it was a lot. Well, it's not a lot of us but
18 like, you know, it's from that residence and that
19 residence and plus my mom being there and my other aunty,
20 my Aunt Adrian, her being there, but she only got one
21 child but, you know, they was at my grandmother's house.
22 So really this -- like, after I got shot basically I
23 heard, like -- it seems like I heard the whole
24 neighborhood lock doors, shut and lock like (made noise)
25 and lights cut off and everything. Like, the whole --

1 that's what the whole street seemed like to me. It
2 seemed like I was outside by myself just bleeding.

3 Q. So are you saying that your family members --

4 A. They shut the door. Like, for a second they shut
5 the door until they realized it was me got shot.
6 Basically until I said, Aunt Adrian, it's me.

7 Q. How long after being shot did someone come outside
8 from your family?

9 A. It took a second because that white car drove off,
10 the white -- okay. Basically, when I fell, bam, I'm
11 laying on the ground. Boom. I already had crawled back
12 a little bit, people went in the house. The dude in the
13 car came out. Bam. When the dude came out I spoke to
14 him. When I say, you know, why you all shoot me? You
15 know, my people live here.

16 He was like, Oh, my bad. I'm sorry, da, da, da,
17 da. I don't know what going on. He jumped in the car,
18 ride off. Then the person came outside, walked halfway
19 across the street and said, I'm sorry. By the time he
20 coming to say I'm sorry they was coming outside.

21 Q. They, as in your family?

22 A. My whole family, my granny house because my little
23 brother heard -- like, he closed the door once -- like,
24 the house door, not gate, the house door. He closed it,
25 you know, bam. He kind of, like, heard it, saw it or

1 something. I don't know if he heard it, saw it, what he
2 did, you know, but he be like, Nick. He walking out
3 still. He walked down the steps and was like, Nick got
4 shot.

5 Q. And when you say a whole family, do you have a
6 number about how many people from both residences --

7 A. I mean, I can count over my hands. I can tell you,
8 like, Aunt Adrian, my mom, my granny, my granddaddy, I
9 got two little brothers that's younger than me, my little
10 sister, Jamiah, my Aunt Shema, little Jeff, Kayla,
11 Maurie, Dave's step daddy, Jep. That's what, 13, 14
12 people right there?

13 Q. So about 13, 14 people came out around you after
14 the shooting; is that correct?

15 A. No, not 13, 14 people. Not like -- probably Jep
16 was the only person staying in the house because he act
17 nervous --

18 THE COURT: What was the name?

19 A. Jep. Yeah.

20 Q. So we got about 13 people that came out around you
21 after the shooting?

22 A. Yeah, from my granny and my aunt's house.

23 Remember, I told you my granny, my granddaddy, my momma,
24 my Aunt Shema are all in the same house with other
25 children in the house with them.

1 Q. So, now, the gentleman that came across the street
2 and said, Oh, I'm sorry, after the shooting, how long did
3 you guys have a conversation at that time; do you recall?

4 A. It was, like, over -- I mean, as the words were
5 coming out the dude is over and they was already there,
6 like, they coming there. It was, like, fast like. Like,
7 as he's talking to me. Like, as his lips are moving they
8 are coming out the house. Like, my aunty house is just,
9 like, a door. So once the door right there (indicated)
10 you just outside already on the porch outside, if you
11 didn't understand me.

12 Q. I'm talking about the conversation that you had
13 with the gentleman that came outside and said, Oh, I'm
14 sorry. Not the guy in the car. The guy that was outside
15 that came and said, Oh, I'm sorry I shot you.

16 A. That was like -- that was quick because they came
17 outside the same time. You see what I'm saying?

18 Q. Okay.

19 A. They came outside. The person who said I'm sorry
20 and my family met each other at the same time, like bam,
21 basically. You know what I'm saying? He was in the
22 middle of the street and my family was already by me.
23 You see what I'm saying?

24 Q. Now, let's talk about that home. When he came out
25 and said I'm sorry, did he appear to be angry?

1 A. No.

2 Q. Did he appear to be --

3 A. He seemed to be startled.

4 Q. Startled. As if he was afraid?

5 A. Almost. Yeah, very.

6 Q. He was very afraid; is that correct?

7 A. Yeah, like nervous.

8 Q. And he also, of course, apologized to you?

9 A. Yeah.

10 Q. Now, so from your perspective in that moment when
11 you saw him there wasn't any evil intent from that man,
12 correct?

13 MS. SAVAS: Objection, Your Honor. Speculation.

14 THE COURT: Sustained. Sustained.

15 BY MS. BROWN:

16 Q. The disposition of that gentleman at the time, did
17 he appear to be nervous? .

18 MS. SAVAS: Objection --

19 THE COURT: Sustained.

20 MS. SAVAS: -- asked and answered.

21 BY MS. BROWN:

22 Q. Okay. How long -- do you recall seeing anyone else
23 that came out of the [REDACTED] home across the street when
24 that gentleman came over to you?

25 A. I know while I was laying on the ground already an

1 older lady came outside and just started -- you know,
2 like while everybody was talking around me and just when
3 the police pull up and all of that, like she was in the
4 middle of the street, like praying.

5 Q. Do you know who that was?

6 A. Not really. I think it was like his grandmother or
7 something.

8 Q. And she came out of -- did you see where she came
9 from, which direction she came from?

10 A. She came out -- she apparently came out the house.
11 You know, what I'm saying? All I know is she ended up in
12 the middle of the street and she was praying, and I was
13 like, I didn't know who she was really.

14 Q. And you never seen her before either?

15 A. I saw her on the porch like one time or something
16 like that, before. I did see her because she was the
17 first person that I guess originally moved in the house.
18 So I did saw the grandmother before one time. She spoke
19 to my grandmother before, like something like that. You
20 know how old people is? You know, they speak, hi. And I
21 got, like, manners, so I just be like, you know, old
22 people, you know, yes, ma'am; no, ma'am.

23 Q. Absolutely. Now, do you recall having possession
24 of a firearm earlier that week?

25 A. No, probably got the wrong Nicholas.

1 Q. Okay.

2 A. Yeah, wrong one.

3 MS. BROWN: Beg the Court's indulgence, Your Honor.

4 THE COURT: Yes, ma'am.

5 A. I got two other names.

6 Q. You have what?

7 A. Two middle names. You might have pulled the wrong
8 person.

9 (PAUSE.)

10 Q. Now, at one point you testified that someone took
11 money from you while you were lying down on the ground?

12 A. I didn't testify to that. I was like -- basically,
13 I paid my momma light bill with all my money that I had
14 because, like, my birthday -- I just had turned 20 --
15 what day was it? Twenty-one, I guess. I think I turned
16 21 around that time and I spent like \$1400 or something
17 like that. I just was spending money, and then my
18 momma's light bill was due and she told me about it and I
19 really didn't have that much money. I had to come up
20 with the money for her. Yeah. That money that was took
21 out of my pocket was my mother's light bill money. It
22 was like 650 or something like that.

23 Q. And who removed the money out of your pocket?

24 A. I took it out my pocket and I gave it to my mother
25 with the blood on it when I went in the ambulance. I

1 told them just in case something would happen to me, like
2 I died, the light bill would have been paid or something.
3 You know what I mean? You feel me?

4 Q. And that happened in the ambulance?

5 A. No. It was like while I was getting on the
6 stretcher I was telling them, Wait a second. Let me give
7 my momma this money.

8 Q. Did you give any other items to your mother?

9 A. I don't think so. I know I called my girlfriend
10 when I was laying on the ground. I told her meet me at
11 the hospital.

12 Q. What happened to your cell phone?

13 A. My cell phone? I don't know. I can't even tell
14 you what happened to that.

15 Q. What happened to your headphones?

16 A. They was on the ground. My grandmother had them
17 after the fact because I got them, like, after I start
18 back walking she gave them back to me and I threw them
19 away.

20 Q. So at they time before you left you're not sure who
21 removed that item; is that correct?

22 A. No. I handed my grandmother, like, my headphones
23 and my phone. I hand that to her and I gave the money to
24 -- I kept the money in my pocket. My money not going
25 nowhere.

1 Q. Now, you mentioned that, is it your uncle that is
2 sometimes nervous?

3 A. Yeah.

4 MS. SAVAS: Objection. Relevance, Your Honor.

5 THE COURT: Sustained.

6 A. He's just a nervous person.

7 THE COURT: Don't answer it.

8 A. Oh, okay.

9 Q. Now, does the street lights now, to your knowledge,
10 working?

11 A. I think so. I just was over there, like last
12 night, like 12 o'clock. My girlfriend get her hair done.

13 MS. BROWN: May I approach the witness, Your Honor?

14 THE COURT: You may.

15 Q. I'm going to show you a photo that's marked --

16 MS. SAVAS: Your Honor, may we approach?

17 THE COURT: Yes. You may.

18 (WHEREUPON, a bench conference was had.)

19 MS. BROWN: May I approach the witness?

20 THE COURT: You may.

21 BY MS. BROWN:

22 Q. I'm going to show you a photo that's been marked as
23 Defendant's Exhibit 1. Can you tell me what you see in
24 this photo?

25 A. My yard.

1 Q. Whose yard is it?

2 A. That is [REDACTED].

3 Q. Okay. And is this what, in your opinion, [REDACTED]

4 Avenue looks like right now?

5 A. Yeah.

6 Q. Was this, in fact, what [REDACTED] looked like on

7 December 24 -- 26, 2014. I apologize.

8 A. I mean, I can't -- I don't see no date on the

9 picture.

10 Q. Certainly. Would you refer to the State's Exhibit

11 -- what number is that?

12 A. This is 17. I mean, they got the shadow in it so I

13 guess it's the same picture.

14 Q. Does it look very similar to what you have in your

15 hand?

16 A. Uh-huh. It's the same thing. Now, you said it,

17 it's the same thing. So this got to be this night with

18 the shadow right there and the shadow right here.

19 Q. So this is a photo from December 26 of 2014; is

20 that correct?

21 A. Yeah, that got to be from that night.

22 Q. Thank you. And this is what Kent Avenue looked

23 like according to that photo that recalls your memory?

24 A. Uh-huh.

25 Q. Now, in this photo you've indicated that there was

1 some light --

2 MS. BROWN: Your Honor, may I go ahead and --

3 THE COURT: Any objection to this coming in?

4 MS. SAVAS: No objection.

5 THE COURT: Without objection.

6 (WHEREUPON, Defendant's Exhibit Number 1, a Large
7 Photograph, was admitted into evidence.)

8 BY MS. BROWN:

9 Q. This photo here that shows [REDACTED], will
10 you tell me if -- I think you testified earlier. Is this
11 the abandoned residence that you are referring to?

12 A. Yes. Yes, ma'am. I apologize.

13 Q. And the lighting that you are referring to, do you
14 see any lights in this picture?

15 A. How you mean lights in the picture? I mean, like,
16 somebody's car is parked and the light is shining.

17 Q. Okay. So this lighting here is certainly from
18 another source?

19 A. That's probably all the police cars. There was a
20 lot of police cars, ambulance. It was like a bunch of
21 cars.

22 Q. So around --

23 A. The whole street was like my homeboys was out
24 there, my mother, people was pulling up out of the blue.
25 It was police cars, ambulance, fire people, I don't know,

1 people from down the street who I saw at the store before
2 in my life. Everybody just right there, people just
3 outside, so a whole neighborhood.

4 Q. So my question is that prior to any of those
5 individuals arriving on scene would the street look more
6 like this, the dark portion of it?

7 A. Oh, yeah. It would be dark.

8 Q. Okay. So this lighting here, of course, would not
9 have been there prior to the shooting?

10 A. Yeah. I don't know if it was like the sky down
11 there. That's real black, but it was dark. You know
12 what I mean? It was dark.

13 Q. Certainly. And over here would have been dark over
14 there as well since it was abandoned?

15 A. Yeah, I guess, and the bushes.

16 Q. And I don't know if you can. Can you see another
17 home in this picture?

18 A. Yeah, a home. The house right there. There's
19 another blue house next to that.

20 Q. And would that side have been dark as well?

21 A. I mean, that's an alleyway.

22 Q. So is the answer would this side have been dark as
23 well?

24 A. Yeah, that's an alleyway.

25 Q. Thank you.

1 MS. BROWN: Nothing further, Your Honor, for that
2 photo.

3 Q. I'm going to show you another exhibit here.

4 THE COURT: Is that in evidence?

5 MS. BROWN: No, it's not. I'm going to show it to
6 him.

7 Q. Can you tell me what's in this photo?

8 A. That's the -- I guess the home, the driveway.

9 That's a picture of the yellow house, too. It's the same
10 picture, probably the next picture after this picture,
11 basically.

12 Q. Certainly. And is this what looked very similar to
13 20 -- to what took place on December 26, 2014 on Kent
14 Avenue?

15 A. Yeah, the yellow bag in the picture still. So,
16 yeah, probably the same thing.

17 Q. Certainly.

18 MS. BROWN: May I now have this photo admitted into
19 evidence?

20 THE COURT: Any objection?

21 MS. SAVAS: No objection, Your Honor.

22 THE COURT: Without objection, Defense Exhibit
23 Number 2.

24 (WHEREUPON, Defendant's Exhibit Number 2, a Large
25 Photograph, was admitted into evidence.)

1 Q. Once the individuals came outside, you're saying 13
2 people I think you just referred, is that when they
3 turned on their lights?

4 A. They turned the lights back on then. I mean, it
5 was nervous. It was so close, you know. That's like
6 anybody else at your home. You would lock your door.
7 You know, that's what people do, lock your door, shut
8 your door, get cover.

9 Q. How long were you in the hospital, Mr. Washington?

10 A. I wasn't even in the hospital that long. I was in
11 the hospital like -- it was the 26th I got shot. I was
12 out of the hospital right before New Year's because my
13 Medicaid just had cut off at the time because I had just
14 turned 21. So, you know, the Medicaid cut off so it was
15 like I had to pay the doctor bills myself. So as soon as
16 they -- basically as soon as I got out of surgery they
17 took me for a test run to see if I could have used the
18 crutches then, let me go about my business.

19 Q. And when you left the hospital where did you go?

20 A. I went home.

21 Q. That would have been West Ashley?

22 A. Yes, ma'am.

23 MS. BROWN: May I approach the witness, Your Honor?

24 THE COURT: You may.

25 Q. I'm going to show you a photo that's been marked as

1 State's Exhibit Number 34. Can you tell me what's in
2 that photo?

3 A. I see a bag on the ground.

4 Q. What else?

5 A. Bushes, a leaf, two trash cans, a little piece of
6 the house, a little bush, a stick.

7 Q. Now, in that photo do you also see -- do you see a
8 trash can?

9 A. Yeah, blue one, and recycling bins.

10 Q. Was that trash can out there December 26, 2014?

11 A. I think it was placed that same way.

12 Q. Now --

13 A. That's him in the picture. I didn't even know that
14 was you.

15 Q. Now, in that photo where there is a garbage can, a
16 trash can, is that the trash can that you ran or crawled
17 next to?

18 A. I didn't crawl. I didn't really, like -- I was
19 already kind of by it so I think I was like -- it was a
20 fast move. It was like crawl by the trash can, no, back
21 up, so I started backing up. I just backed up. So I'm
22 behind the trash can but I was behind, like -- I just
23 pushed myself back, basically. So I was behind the trash
24 can but I was, like, not behind the trash can. I don't
25 know how to explain it. It was like -- I mean, if you

1 want me to show you I can show you from here.

2 Q. But that trash can that you are referring to that
3 you were standing next to or behind?

4 A. Yeah. You could see that he pulled the trash can
5 up though. You could see the trash can is not by where
6 the trash can was. You could even see the marks where it
7 rolled there.

8 Q. So you are saying that prior to -- at some point
9 the officer moved the trash can before taking the
10 picture?

11 MS. SAVAS: Objection, speculation.

12 THE COURT: Sustained.

13 A. I mean, the trash can, he looking in the trash can.

14 THE COURT: No, don't answer it.

15 BY MS. BROWN:

16 Q. Let me rephrase my question. Was that trash can
17 there --

18 MS. SAVAS: Objection, asked and answered.

19 THE COURT: Sustained.

20 MS. BROWN: Your Honor, may I ask the question
21 about whether the location of the trash can? That was
22 where I was going.

23 THE COURT: You can ask him that question.

24 MS. BROWN: Thank you.

25 BY MS. BROWN:

1 Q. The location of the trash can at the time that you
2 were smoking your cigarette, do you recall where it was?

3 A. No.

4 Q. Do you recall your distance from the trash can at
5 the time you were smoking your cigarette?

6 A. No.

7 Q. Now, at some point you were standing near the trash
8 can; is that true?

9 A. I don't know.

10 Q. You don't recall?

11 A. No, ma'am. I mean, I can't tell you, you know, the
12 diameter of where I was standing or anything. I can't
13 tell you that exact moment but I know I was standing
14 right here (indicated). I wasn't standing by the trash
15 can. I was standing near the trash can. I was standing
16 back from the trash can which is right here (indicated).

17 I was standing about -- crawling for -- you see
18 what I'm saying? Crawling that way. Like, when I tried
19 to stand up I didn't end up back where I was standing at
20 because my leg gave out. My leg was numb. Remember I
21 told you I tried to go like this (indicated)? I couldn't
22 get up. You see what I'm saying? So when I bent it like
23 this I was trying to get by the trash can because I
24 thought I could walk. You see what I'm saying?

25 Q. So --

1 A. If I could have walked I would have moved by the
2 trash can. You see what I'm saying? I couldn't walk so
3 I went this way. You see what I'm saying? (Indicated).

4 Q. Well, let me ask you this question because I'm
5 looking at the statement that you signed once more and do
6 you recall mentioning that you crawled behind a trash
7 can?

8 A. Yeah, because that was my first -- like, I was by
9 the trash can so I thought I crawled behind the trash can
10 but I didn't crawl behind the trash can.

11 Q. Okay. So if you were by the trash can --

12 A. I crawled backwards.

13 Q. If you were by the trash can at some point can you
14 look at exhibit 31 and exhibit 31, which has been marked
15 as state's exhibit, is a picture of [REDACTED]; is
16 that correct?

17 A. Yes.

18 Q. Do you see a trash can near that residence?

19 A. It's cut off the picture. If you look at both of
20 them here's the cut off. Like, the picture was taken
21 exactly the cut off on the bush. These two pictures show
22 a cut off on the bush. You can look at it yourself and
23 see.

24 Q. That's fine, but I'm asking you the photo --

25 A. The trash can was by the bush. Yeah. You could

1 see it in this here. You see how the pictures in two
2 diameters. This is a picture of the bush, half of the
3 bush. This is a picture of the full bush.

4 Q. Now, if you look in this photo here --

5 A. You see the bag right there? That's the same bag,
6 if you look at both of them.

7 THE COURT: Do you have another question?

8 MS. BROWN: I would like to ask questions.

9 Q. In State's Exhibit 34, do you see in the back, is
10 that a photo of -- is that a picture of [REDACTED]
11 in the back of that photo?

12 A. Repeat your question.

13 Q. In that photo that I just showed you where we can
14 clearly see where the trash can is located, do you see
15 [REDACTED] somewhere in that photo?

16 A. Yeah.

17 Q. So [REDACTED] is a distance away from the trash can; is
18 that correct, in that photo?

19 A. That's the yard. You could see the gate next door
20 to Ms. Prissy house. You can see Ms. Prissy gate around
21 her house. So apparently I was still in the yard. You
22 see what I'm saying? So either way you try to explain it
23 the bush is in the yard. Even that big picture right
24 there this bush right here is in my aunty yard
25 (indicated).

1 Q. And it's in your opinion that that bush is in your
2 aunt's yard right there?

3 A. I mean, the picture you showed already it showed
4 that. I mean, that's my aunt's yard. You see the bush?
5 That's her yard.

6 Q. Now, do you also see another home in the back?

7 A. Yeah.

8 Q. Is that Ms. Prissy, [REDACTED]?

9 A. The house next door, yeah. The bush is right at
10 her gate.

11 Q. Okay.

12 A. But it's in my aunty's yard.

13 Q. The [REDACTED], which is in that photo, that was the home
14 that had no lights at that time; is that correct?

15 A. Right.

16 Q. And that's also the home where the bush is also
17 near. Do we agree with that?

18 A. Yeah.

19 Q. And after the shooting you ran closer to the trash
20 can as opposed to running to the house direction?

21 A. I couldn't walk.

22 Q. Well, when you crawled. You crawled in which
23 direction? You would have --

24 A. Backwards, which is closer to the house.

25 MS. BROWN: Beg the Court's indulgence.

1 (PAUSE.)

2 BY MS. BROWN:

3 Q. Now, Mr. Washington, had you had a chance to look
4 at your statement that you provided to the officer since
5 December 26 of 2014?

6 A. I ain't never looked at it ever since it went to
7 them. So just now when you showed me it that was the
8 first time I saw it since that night. That's almost two
9 years ago. So you can't -- I don't know who can be
10 precise with it but, you know, I can't remember, you
11 know. That's like writing a kindergarten story then
12 trying to tell it when you're in the ninth grade.

13 Q. Would you agree that your memory is better in 2014
14 than it would be in 2016?

15 MS. SAVAS: Objection, speculation.

16 THE COURT: Sustained.

17 BY MS. BROWN:

18 Q. When you wrote this statement were you truthful --

19 A. I never did drugs. If that's what you're trying to
20 get. I never did drugs.

21 Q. My question is you testified today that you called
22 your cousin for a ride?

23 A. No. I didn't call him for a ride. I called him
24 for money.

25 Q. But in December when you gave the statement you

1 wrote that --

2 MS. SAVAS: Objection, argumentive.

3 MS. BROWN: It's not --

4 THE COURT: Let her ask the questions. Sustained.

5 I'm sorry. Overruled.

6 BY MS. BROWN:

7 Q. I am going to show you the statement that you wrote
8 in December. Would that help refresh your memory?

9 MS. SAVAS: Objection, Your Honor. May we
10 approach?

11 THE COURT: You may.

12 (WHEREUPON, a bench conference was had.)

13 THE COURT: Move on.

14 BY MS. BROWN:

15 Q. Now, I'm going to show you --

16 MS. BROWN: May I approach the witness, Your Honor?

17 THE COURT: You may.

18 Q. I'm sorry. This is not a good copy. Does that
19 statement that I just handed you look familiar to you?

20 A. That's what I saw that night.

21 Q. Now, you signed that document at some point; is
22 that correct?

23 A. I didn't sign it to remember it word for word. I
24 mean. . .

25 Q. Now, my question is did you sign the statement?

1 A. Yeah, I signed it. That's my signature.

2 Q. Okay. And when you signed the statement were you
3 alleging that the information listed was, in fact, true?

4 A. Yeah.

5 Q. Now, are you changing your statement today?

6 A. No.

7 Q. Okay. So the information that you wrote at the
8 time from what you can recall was, in fact, true because
9 you signed it, correct?

10 A. Yes, ma'am. (Indicated thumbs up).

11 THE COURT: Would you answer the question.

12 A. Yes. I say yes, ma'am.

13 THE COURT: Thumbs up. No thumbs up. Either
14 answer yes or no.

15 BY MS. BROWN:

16 Q. Now, when you wrote that statement -- is there a
17 time when that statement was written? Do you see that on
18 that document?

19 A. It says 21:30. That's 11:30.

20 Q. And does it have a location where the statement was
21 taken?

22 A. MUSC.

23 Q. And were you at MUSC at 11:30 p.m. that day?

24 A. I guess, right.

25 THE COURT: All right. Speak up.

1 Q. Now, do you remember how long you had been at MUSC
2 before that statement was taken?

3 A. No, ma'am.

4 Q. Now, that statement at 11:30 was how many hours
5 after the shooting?

6 A. Probably exactly four hours.

7 Q. So, now, would your memory have been, in your
8 opinion, clear?

9 A. I mean, yeah. I mean, I did -- they did give me
10 medicine but at the same time that's what happened. This
11 is what happened.

12 Q. And when you --

13 A. Smoking a cigarette. Same story.

14 Q. And when you were questioned by the law enforcement
15 officer --

16 A. They said I called my cousin to let me hold a
17 hundred dollars. I walked to the corner of the house by
18 the bush.

19 Q. So you walked to the corner of the house by the
20 bush?

21 A. Which is by the trash can.

22 Q. And that would have been after you made your phone
23 call?

24 A. Yeah, when I call my brother. He said he ain't had
25 no money and I hang up.

1 Q. And you told the police as much as you could
2 remember that day; is that correct?

3 A. I mean, I couldn't tell them my whole day but it
4 started off I was sitting at my aunt house.

5 Q. Were you trying to be completely as honest as
6 possible at the time?

7 A. Yeah.

8 Q. Now, you didn't write that statement; is that
9 correct?

10 A. No. I think someone wrote this for me if I'm not
11 mistaken.

12 Q. Were you given an opportunity to read the statement
13 before you signed it?

14 A. Yes, ma'am. I remember reading it.

15 Q. You read it or did someone read it to you?

16 A. No, I read it. They hand it to me like almost like
17 that paper thing like that, that you got, you know, like
18 the booklet. I don't know what you call it, the little
19 notepad thing. You flip it back. They hand to it me and
20 I read it, then I remember because my leg started gushing
21 out and they didn't give me no, like, pad to put on it
22 because the blood kept coming pouring out of it.

23 Q. And did the officer write the statement according
24 to what you have there, pretty much how you explained it
25 to him?

1 A. I mean, yeah. I didn't explain it to him. I told
2 him. I told him this is what happened.

3 Q. Okay.

4 A. You know, my aunt house, yeah.

5 Q. Now, is there parts in that statement that you now
6 understand is no longer true?

7 A. No, all of it is true. I remember. Devon, my
8 cousin. I was on the laptop. I asked my cousin for a
9 hundred dollars. I was at the corner of the house. I
10 grabbed another cigarette. I put my headphones in.

11 Q. Now, I'm going to ask that you read the statement.

12 A. Huh?

13 Q. I want to ask that you read the statement that you
14 provided?

15 MS. SAVAS: Objection, Your Honor.

16 THE COURT: What's your objection?

17 MS. SAVAS: It's not into evidence.

18 THE COURT: Sustained.

19 BY MS. BROWN:

20 Q. That statement that is, in fact, your statement; is
21 that correct?

22 A. Yeah. I don't want to read it though. I don't
23 feel like reading it out loud.

24 MS. BROWN: Your Honor, at this time I'm going to
25 ask that we move or admit the victim's statement that he

1 wrote that he's acknowledged that he wrote and he states
2 that it was, in fact -- he read and had a chance to read
3 over it and signed it, and that was, in fact, correct
4 based on what he read.

5 THE COURT: Any objection?

6 MS. SAVAS: Yes, Your Honor. We would object to it
7 being entered into evidence. I don't believe there's
8 been a proper foundation laid.

9 THE COURT: All right. Why don't we take a recess.
10 This is getting long.

11 Ladies and gentlemen, I'm going to give you a
12 10-minute recess while we take up a matter of law. Thank
13 you. Do not discuss anything about the case while you
14 are there.

15 (WHEREUPON, the jury leaves the courtroom at
16 approximately 11:35 a.m.)

17 THE COURT: All right. What's your objection?

18 MS. SAVAS: Thank you, Your Honor. The objection
19 is the proper foundation has not been laid because he has
20 not identified who the officer was that wrote it. She
21 would have to admit it through that officer as it's not
22 being admitted for impeachment. He's acknowledged that
23 it's truthful. There's no inconsistent statements
24 therefore if she's admitting it in evidence a proper
25 foundation needs to be laid through the correct witness,

1 sir.

2 THE COURT: All right. Yes, ma'am?

3 MS. BROWN: Your Honor, I questioned Mr. Washington
4 extensively as relates to that statement. I asked him
5 certain things that happened. He has, in fact, testified
6 differently to things that are written on December 26.
7 He has acknowledged that he provided the information
8 that's in the document. He acknowledged that he had the
9 opportunity to read over the statement, and he's
10 acknowledged that he signed the document.

11 In his opinion he provided the information correct
12 and the person wrote it down as he gave it to him. So he
13 certainly has stated that that is his statement,
14 acknowledged it. The foundation has been properly laid.

15 THE COURT: Yes, ma'am?

16 MS. SAVAS: Your Honor, there is --

17 THE COURT: How has there not been a foundation
18 laid when he has now acknowledged that it is his words,
19 that it is correct and that he signed it after reviewing
20 it?

21 MS. SAVAS: Your Honor, she just clarified that she
22 is using it for impeachment purposes. The defendant has
23 himself said that it is truthful. There have not been
24 any inconsistent statements made by the defendant -- or
25 victim, my apologies, during her questioning; therefore,

1 it's improper impeachment, sir.

2 There was no inconsistencies in the statement, and
3 if she's using a piece of evidence, the written statement
4 in an attempt to impeach him it is not only for the wrong
5 purpose that she is trying to admit under the incorrect
6 rules of evidence but if she was using it as for a
7 business record as the statement of the investigation
8 that would need to be laid through the officer who then
9 did, in fact, write that statement.

10 He did clarify yes, sir, that it was him that said
11 it and it was truthful. That goes to the point that it
12 is a truthful statement not inconsistent; therefore, Your
13 Honor, she is improperly attempting to impeach the
14 witness when there is no inconsistencies.

15 THE COURT: All right. Sustained. We'll take a
16 15-minute recess.

17 MS. SAVAS: Thank you, Your Honor.

18 THE COURT: Sir, we are taking a 15-minute recess.

19 THE WITNESS: What's that mean?

20 THE COURT: That means that if you want to go to
21 the restroom you can do that but you cannot speak to
22 anybody because you are still on the stand. Do you
23 understand that?

24 THE WITNESS: Oh, all right. I'll just -- I don't
25 know.

1 (WHEREUPON, a brief recess was taken.)

2 THE COURT: The witness resume the stand.

3 MS. SAVAS: Your Honor, there are, I apologize, two
4 housekeeping matters that we would like to approach
5 before the jury comes in.

6 THE COURT: Yeah.

7 MS. SAVAS: Thank you, sir. The first one is we do
8 have our doctor here and he has about 30 patients he set
9 at one o'clock. We were going to call him out of order
10 as soon as Mr. Washington is complete. We know it's
11 approaching lunch.

12 THE COURT: The jury's lunch is here.

13 MS. SAVAS: Okay. We were hoping to maybe just
14 sneak him in real quick, only a few questions with regard
15 to the injury.

16 THE COURT: You think it's going to be quick? Do
17 you think? You have no idea. I mean, how much detail
18 can you go into?

19 MS. BROWN: I'm not certain, Your Honor, how long
20 that examination is going to be.

21 MS. SAVAS: We are just simply trying to prove the
22 injury with his records that we've given them in
23 discovery, and I honestly have a handful of questions
24 just regarding the gunshot.

25 THE COURT: We'll go ahead and do it. We haven't

1 finished with this witness yet.

2 MS. SAVAS: Yes, sir, I'm aware of that.

3 THE COURT: And this could take another hour or two
4 hours. I don't know.

5 MS. SAVAS: Yes, sir. Also, just another point of
6 clarification for me, sir. We have been advised that
7 Ms. Pizarro is here and she is representing the
8 defendant's brother in this case who is a witness, and I
9 believe she's sitting at the table and assisting in the
10 trial with the defense, and I just wanted to make a point
11 of clarification that in case something were to come out
12 with the witness, the brother on the stand, we wouldn't
13 want her to be in conflict of interest as a potential
14 witness.

15 THE COURT: That's her problem, not yours. That is
16 solely her situation.

17 MS. SAVAS: Okay. Thank you, sir.

18 MS. PIZARRO: Thank you.

19 MS. SAVAS: Nothing else at this time, sir. Thank
20 you.

21 THE COURT: All right. Let's bring our jury in.

22 (WHEREUPON, the jury enters the courtroom at
23 approximately 11:56 a.m.)

24 THE BAILIFF: All present, Your Honor.

25 THE COURT: All right. You may be seated.

1 And, ladies and gentlemen of the jury, I understand
2 an inquiry was made about paper and pencil in the
3 courtroom. I have already instructed you that you will
4 not be allowed to take notes during the trial. So
5 therefore, it's incumbent upon y'all to listen carefully
6 to the witnesses and the Court. All right? Thank you.

7 Redirect? Oh, you were still -- I thought you
8 were finished.

9 MS. BROWN: Certainly. Thank you, Your Honor.

10 BY MS. BROWN:

11 Q. Mr. Washington, you described your clothing the
12 night of that evening as a navy blue polo shirt?

13 A. Yeah, it got like a black horse on it. It was
14 dark. It was a dark shirt.

15 Q. Do you remember if it was long sleeve or short
16 sleeve?

17 A. I'm not sure.

18 MS. BROWN: Nothing further.

19 THE COURT: All right. Brief redirect.

20 MS. SAVAS: Yes, Your Honor. Thank you.

21 REDIRECT EXAMINATION

22 BY MS. SAVAS:

23 Q. Nicholas, I just have a few quick questions for
24 you. On redirect you testified that you considered
25 yourself to be a good person helping people out, correct?

1 A. (Nodded).

2 Q. To clarify about the money. The money was for your
3 mother's light bill that you paid, right?

4 THE COURT: You need to answer.

5 A. Yes. Yes. Yes.

6 Q. I know it's been long just --

7 A. I apologize. No. I just forget.

8 Q. It's okay. And your phone calls were to ask for
9 money since you gave your money to your mother, correct?

10 A. Yeah.

11 Q. Okay. And, Nicholas, Ms. Brown asked you where you
12 worked and you were reluctant to answer. Those are two
13 lawful jobs though, correct?

14 A. Yes.

15 Q. Is there a reason you don't feel comfortable saying
16 what they were?

17 A. No. I just don't -- I just don't want to say it.

18 Q. Nicholas, does this process make you nervous?

19 A. Me sitting up here, I don't like. I don't want to
20 be here.

21 Q. Okay.

22 A. No, ma'am. I'm not going to lie.

23 Q. In the statement that Ms. Brown was questioning you
24 about, was that a truthful statement?

25 A. Yes, ma'am.

1 Q. Is everything you told us today truthful?

2 A. Yes, ma'am.

3 Q. Ms. Brown asked that you describe his demeanor, the
4 defendant's demeanor when he came over to you. You don't
5 know his thoughts though, did you?

6 A. No. I can't read minds.

7 Q. Okay. I'm just going to just clarify briefly
8 because it seemed to be a point of confusion. Nicholas,
9 I'm going to show you again State's Exhibit 31 up here so
10 everyone can see. Nicholas, can you please point to
11 where you were standing when you were shot.

12 A. (Indicated).

13 Q. And whose yard is that, Nicholas?

14 A. My aunt's yard.

15 Q. Okay. When you were first out there, Nicholas, was
16 your aunt's porch light on or was it off?

17 A. It was on.

18 Q. Okay. When you were first outside was the porch
19 light across the street on or off?

20 A. On.

21 Q. When you were shot did you notice if the porch
22 light was on or off?

23 A. It was off.

24 Q. Nicholas, when you saw people on the porch were
25 they remaining on the porch the whole time?

1 A. Yes.

2 Q. When you --

3 A. When the light was on?

4 Q. Yes.

5 A. Yeah.

6 Q. What about when the light was off, did someone
7 move?

8 A. I guess they was like on the -- the ground.

9 Q. And in that picture can you please point to where
10 someone had moved to from the porch.

11 A. It was like right off the porch, like right off the
12 porch. Like, the walkway (indicated).

13 Q. So before you got shot someone moved onto the
14 walkway?

15 A. I mean, I didn't see any -- I didn't like -- it was
16 two glances. Like, the first glance they was on the
17 porch, then the second glance they was off the porch.

18 Q. So someone was off the porch?

19 A. Yeah.

20 Q. Okay. And during the commotion after you were shot
21 on the ground did the people remain outside or did they
22 attempt to go inside?

23 A. They went inside.

24 Q. After you got shot the people on that porch ran
25 inside?

1 A. Yes.

2 Q. Okay. And, Nicholas, you said a lot of people came
3 over to you, correct, when you were on ground?

4 A. Yes.

5 Q. And you said because everyone in the neighborhood
6 came out, correct?

7 A. Yeah.

8 Q. And in that neighborhood everybody knows everybody;
9 is that what you said?

10 A. Yeah.

11 MS. SAVAS: No further questions, Your Honor.

12 THE COURT: Any recross based upon her redirect?

13 RECROSS-EXAMINATION

14 BY MS. BROWN:

15 Q. I just to clarify one thing. The people that came
16 outside after the shooting around you were your family
17 members; is that correct?

18 A. The people that came close up, like in my vicinity,
19 that was my family, but people was, like, walking down
20 the street because people knew me.

21 MS. BROWN: Okay. Nothing further.

22 THE COURT: Thank you. You may step down. You're
23 finished. Have a nice day.

24 All right, ladies and gentlemen. We will have one
25 more witness. Your lunches are here and the County has

1 graciously with such a crowd out there with the Spoleto
2 Festival that we will be served by the County for lunch
3 each day this week. So thank you.

4 THE COURT: Yes, ma'am.

5 MS. SAVAS: The State calls Dr. Marc Haro.

6 DR. MARC HARO, after having been duly sworn,
7 testified as follows:

8 THE CLERK: Please state your first and last name
9 and spell your last name loudly and clearly into the
10 microphone.

11 THE WITNESS: My first name is Marc, and my last
12 name is Haro. It's spelled H-a-r-o.

13 DIRECT EXAMINATION

14 BY MS. SAVAS:

15 Q. Thank you, Dr. Haro, for being here. I know you
16 are very busy.

17 A. That's okay.

18 Q. Dr. Haro, where do you work?

19 A. I work at the Medical University of South Carolina.

20 Q. And what is your job there?

21 A. I'm an assistant professor in orthopedic surgery.

22 Q. And how long have you worked at MUSC?

23 A. Almost two years now.

24 Q. Were you working at MUSC on December 26, 2014?

25 A. I was.

1 Q. And, Dr. Haro, where did you receive your education
2 from?

3 A. I received my Bachelor's Degree at Perdue
4 University in sports medicine and then a master's degree
5 in physical therapy at Washington University in
6 St. Louis, as well as my Medical Degree at Indiana
7 University.

8 Q. And did you do a fellowship anywhere, Dr. Haro?

9 A. Yeah. I did my residency at University of Virginia
10 and then a fellowship in sports medicine at Rush
11 University in Chicago.

12 Q. And do you have any specialties?

13 A. Yeah. My main specialty is sports medicine and
14 kind of complex knee injuries.

15 Q. And do you have any publications?

16 A. Yeah. I have approximately at least at this point
17 25 peer review publications and book chapters.

18 Q. And have you ever testified in court before?

19 A. I have not.

20 Q. But have you testified for civil matters?

21 A. Yes.

22 Q. Dr. Haro, on December 27 -- or 26, 2014 did you see
23 a patient Nicholas Washington?

24 A. I think I actually saw him on the 27th. I think we
25 were in the operating room all night that night and he

1 came in. My resident saw him on the 26h but I
2 subsequently saw him on the 27th.

3 Q. Okay. And what were you seeing the patient for?

4 A. He has sustained a gunshot wound to his left tibia
5 and the emergency department called us because he had a
6 left tibial shaft fracture.

7 Q. Dr. Haro, I'm going to show you what's been
8 admitted by consent as State's Exhibit Number 15.

9 Dr. Haro, what is a tibia, just in layman's terms here
10 for us?

11 A. The tibia is essentially the main shin bone.
12 There's two bones in the lower leg and the tibia is the
13 main weight-bearing bone.

14 Q. Okay. And on that picture where would that be?

15 A. Essentially, right in the middle. It runs right
16 underneath the skin. You can easily feel it with your
17 hand right on front of your shin bone. So kind of near
18 where the small circle is on the front of his shin.

19 Q. Okay. And, Dr. Haro, what happened with that bone?

20 A. From the x-rays and from the examination we saw it
21 looked like a bullet or a projectile had entered in the
22 front of the shin and caused a comminute or highly broken
23 up fracture of his tibial shaft.

24 Q. And did you perform surgery on him?

25 A. I did.

1 Q. And what surgery did you do?

2 A. We did what's called an intramedullary nail or rod
3 of his tibial shaft, so putting a rod down the middle to
4 stabilize the bone.

5 Q. And did you remove anything from the victim's body?

6 A. We did. We removed a metal fragment which appeared
7 to be a bullet from the kind of back of his calf area
8 where it had lodged.

9 Q. And are there risks to this surgery?

10 A. Yeah. There's general risks of surgery, the risk
11 of anesthesia, the risk of damage to nearby blood
12 vessels, nerves, infections, wound complications.
13 There's a chance that the fracture could be malrotated so
14 you could have, you know, complications down the road, so
15 there's definitely significant risk to the surgery.

16 Q. Would it be accurate to say that a risk would also
17 be death in this case?

18 A. Sure.

19 Q. And would gunshot wounds cause death?

20 A. Absolutely.

21 Q. And you said that in this specific case there may
22 be complications down the road?

23 A. There potentially could be. He has a foreign
24 object in his body which is always a little bit higher
25 risk of getting seeded with an infection or he could have

1 painful hardware that would potentially need to be
2 removed at a later date or he could fracture around this
3 which could cause more significant complications later.

4 Q. And, Dr. Haro, could you just in layman's terms
5 explain this procedure, removing and putting the rod in.

6 A. Yep. So we make a small incision by the knee and
7 actually kind of split the tendon where his kneecap
8 attaches to the bone and we use a small wire to kind of
9 essentially find -- we are trying to get inside the
10 center of the tibia bone and the shin bone and we use
11 essentially a large drill bit to create a hole and then
12 we insert a wire that works its way through so we are
13 kind of in the center of the bone and we ream this or
14 drill it up so we can put in a large rod to essentially
15 stabilize the fracture and keep it from rotating or
16 spinning and collapsing on itself.

17 Q. And would this be a permanent placement for this?

18 A. We hope so unless there are one of those
19 complications that occur that we talked about.

20 Q. And what happens if there is a complication?

21 A. Again, sometimes the hardware has to be removed or
22 if he, again, tripped and fell, had a car accident and
23 broke around the nail then this nail may have to be
24 removed but typically it's very difficult to remove so we
25 try not to.

1 Q. And I'm going to show you what's been marked for
2 identification as State's Exhibit Number 9. Dr. Haro, do
3 you recognize this object?

4 A. Yeah, that appears to be a bullet.

5 Q. And how do you recognize that?

6 A. Just having seen multiple bullets before.

7 Q. And where do you recognize that to be from?

8 A. From his wound.

9 Q. And, Dr. Haro, did you remove a bullet from his
10 leg?

11 A. Correct, we did.

12 Q. Okay. And what is the procedure in the O. R. once
13 an object is removed from a victim?

14 A. So usually, again, we have a plan going into the
15 procedure where we are removing a potential bullet
16 fragment where it's handed off and then one of the
17 nursing staff takes the bullet and transports it directly
18 to security so it can be transported to the police.

19 Q. And, Dr. Haro, what would you consider to be a
20 medical definition of serious permanent disfigurement?

21 A. I mean, anything that causes a significant, you
22 know, change in function or appearance to the extremity
23 or body part involved.

24 Q. And do you have an opinion to a reasonable degree
25 of medical certainty as this injury for the victim,

1 Nicholas Washington, to be an impairment that is a
2 serious permanent disfigurement?

3 A. Yeah. I mean, he's definitely going to have a
4 scar, the incision and that hardware in place for
5 hopefully for life. You know, hopefully he's doing well
6 and functioning well but, you know, there's definitely a
7 significant chance that he will have life-long
8 consequences or repercussions from this surgery and the
9 injury.

10 MS. SAVAS: Beg the Court's indulgence.

11 (PAUSE.)

12 MS. SAVAS: Your Honor, at this time the State
13 would like to recognize Dr. Marc Haro as an expert in
14 orthopedic surgery.

15 MS. BROWN: No objection.

16 THE COURT: Without objection he will be deemed an
17 expert in orthopedic surgery.

18 Now, ladies and gentlemen of the jury, normally a
19 witness can only testify as to what they heard, saw,
20 smelled, tasted or felt; however, when someone has an
21 extra amount of education and experience in some art,
22 science or calling then they can testify and give their
23 opinions and conclusions on a particular matter.

24 Whether or not you, as jurors, decide that you want
25 to accept his opinion is totally for you to evaluate as a

1 juror. You should give his testimony no greater weight
2 or lesser weight simply because he is an expert.

3 You, may proceed to question him as an expert.

4 MS. SAVAS: Thank, Your Honor. There's no further
5 questions from the State.

6 Q. Dr. Haro, please answer any questions the defense
7 may have.

8 A. Okay.

9 THE COURT: Ms. Brown?

10 MS. BROWN: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. BROWN:

13 Q. Dr. Haro, prior to December 26 of 2014 how long
14 were you at MUSC?

15 A. I've been there since the beginning of September.

16 Q. September of that year?

17 A. 2014, yep.

18 Q. And how many days after this surgery did you treat
19 Mr. Washington since that time?

20 A. I saw him each day he was in the hospital. I think
21 he was discharged three days after surgery, and then due
22 to insurance reasons he had follow up with partner,
23 Dr. Hartsock. Just because the way the clinic is run at
24 MUSC for financial reasons to get radiographs he has to
25 be seen at a different facility which I don't go to, so

1 my partner, Dr. Hartsock, followed him postoperatively.

2 Q. So you have not seen Mr. Washington since December
3 of 2014?

4 A. Correct.

5 Q. Now, were there any complications during his
6 surgery?

7 A. Not that I'm aware of.

8 Q. And how long was that surgery?

9 A. Probably two hours. I don't recall specifically
10 but approximately two hours.

11 Q. And according to you he was discharged three days
12 later?

13 A. I think so. I think he was discharged on the 30th.

14 MS. BROWN: May I approach the witness, Your Honor?

15 THE COURT: You may.

16 (A document was handed to the witness.)

17 Q. Dr. Haro, I just provided you a document. Can you
18 tell me whether or not you've seen that document before.

19 A. I have not.

20 Q. You have not seen that document?

21 A. Oh. Oh, this one. Yeah, yeah, yeah. Sorry.

22 Yeah, this is the initial H and P that he had when he was
23 admitted to the hospital.

24 Q. Now, your name is listed as the author; is that
25 correct?

1 A. Correct.

2 MS. SAVAS: Just a point for clarification, Your
3 Honor, I don't know what document she has. I wasn't
4 provided --

5 MS. BROWN: Certainly. May I approach the witness?

6 (The document was retrieved from the witness and
7 handed to Ms. Savas.)

8 (PAUSE.)

9 BY MS. BROWN:

10 Q. The document that we just referred to, Dr. Haro, is
11 in fact the document that you prepared in this case?

12 A. Myself and the residents who were on call with me.

13 Q. Have you had the opportunity to review the document
14 prior to today?

15 A. Yes. And I usually see the computer format but,
16 yes.

17 Q. And you are listed as the author; is that correct?

18 A. Correct.

19 Q. And the information listed there does it indicate
20 why you were treating Mr. Washington? At some point in
21 time did he provide you information related to what
22 contributed to his gunshot wound?

23 A. Not specifically, no. I just heard he was standing
24 on the sidewalk and he got shot.

25 Q. Is that information in your report?

1 A. He was standing on the sidewalk smoking a cigarette
2 when someone walked by and simply shot him in the leg.

3 Q. Thank you. And according to -- do you recall
4 Mr. Washington's height?

5 A. Not off the top of my head, no.

6 MS. BROWN: May I approach the witness?

7 THE COURT: You may.

8 Q. What was Mr. Washington's height in 2014?

9 A. I'll have to look.

10 It was six-feet-four-inches tall.

11 Q. Six-four?

12 A. Yeah.

13 Q. And what about his weight?

14 A. 249 pounds.

15 MS. BROWN: May I approach the witness?

16 THE COURT: You may.

17 (The document was retrieved from the witness.)

18 MS. BROWN: I have nothing further, Your Honor.

19 THE COURT: Any redirect?

20 MS. SAVAS: Yes, Your Honor. Just briefly.

21 REDIRECT EXAMINATION

22 BY MS. SAVAS:

23 Q. Dr. Haro, I'm going to --

24 MS. SAVAS: May I approach the witness, Your Honor?

25 Q. Dr. Haro, those narratives about the victim

1 information, were those relayed to you personally or were
2 those by other people at MUSC?

3 A. Both. By -- I think I remembered talking to him
4 about it in the preoperative holding area where he said
5 that, as well as my residents who also interviewed him in
6 the emergency department.

7 Q. And in that narrative did you dictate as to where
8 he said that he was shot?

9 A. As opposed to body part or location?

10 Q. Location.

11 A. I don't think I specifically dictated that. Let me
12 refresh my memory real quick.

13 Q. That first paragraph right there. That first line.

14 A. Yeah, in the front yard. Yep.

15 Q. Thank you, sir.

16 A. Yep.

17 MS. SAVAS: No further questions, Your Honor.

18 THE COURT: Any recross based on her redirect?

19 MS. BROWN: Nothing further, Your Honor.

20 THE COURT: Thank you.

21 MS. SAVAS: We ask that this witness be excused.

22 THE COURT: Any objections?

23 MS. BROWN: No objections.

24 THE COURT: All right. Thank you, Doctor.

25 All right. Ladies and gentlemen, because your

1 THE BAILIFF: All are present and seated, Your
2 Honor.

3 THE COURT: All right. Thank you.

4 Solicitor, you may call your next witness.

5 MS. SAVAS: Yes. Thank you, Your Honor. The State
6 calls Ms. Katina Washington.

7 THE COURT: Come forward and be sworn,
8 Ms. Washington.

9 KATINA WASHINGTON, after having been duly
10 sworn, testified as follows:

11 THE CLERK: Please state your first and last name
12 and spell your last name loudly and clearly into the
13 microphone.

14 THE WITNESS: Katina Washington,
15 W-a-s-h-i-n-g-t-o-n.

16 DIRECT EXAMINATION

17 BY MS. SAVAS:

18 Q. Good afternoon, Ms. Katina. Thank you for being
19 here. Ms. Washington, how are you related to the victim?

20 A. That's my son.

21 Q. And how many children do you have?

22 A. Five.

23 Q. And what are their ages?

24 A. Twenty-four, 22, 15, 17 and 14.

25 Q. And, Ms. Katina, where do you work?

1 A. Publix.

2 Q. And just a little family background. Who was your
3 family members that live over on Kent Avenue?

4 A. My mother, Mary Washington; my father, Sam
5 Washington; and sister, Adrian Washington, and her
6 fiancée.

7 Q. And how long have they lived at those houses?

8 A. I think five years.

9 Q. And before being in that neighborhood where did
10 they move from?

11 A. We moved from Walterboro.

12 Q. And did you move from Walterboro and then they
13 moved to Kent Avenue and you all then moved to West
14 Ashley?

15 A. Yes.

16 Q. And, Ms. Katina, do you know of any interactions
17 between -- prior to the this incident between your family
18 and the defendant's family?

19 A. No, ma'am.

20 Q. And how often would you say that you go visit your
21 family on Kent Avenue?

22 A. Seven days a week, maybe six, five. We always
23 visit. We frequent often.

24 Q. So you'd say you're close with your family?

25 A. Very close.

1 Q. Ms. Katina, I'm going to show you State's Exhibit
2 14, and who lives in this yellow house here? It's sort
3 of dark. I'm sorry about that.

4 A. That looks like my sister's house but it's not
5 yellow. It's kind of beige-white.

6 Q. Okay. This might be a better photo?

7 A. I can tell.

8 Q. State's Exhibit 33. Is that the house?

9 A. Yes.

10 Q. Okay. And then who lives in this red house next
11 door?

12 A. My mother.

13 Q. And, Ms. Katina, did you go over to your mother's
14 and your sister's house December 26, 2014?

15 A. Yes.

16 Q. And tell me a little bit about that date. What did
17 y'all do earlier that day?

18 A. That was the day after Christmas. I didn't get to
19 see my mother on Christmas Day so my daughter-in-law came
20 and picked me and the little ones up. We went over
21 there. I went in. My 14 year old and nephew, he was
22 outside running back and forth from house to the house.
23 I went to my mom's room to lay down and take a nap.

24 Upon me dosing off I heard four or five shots. I
25 jumped up and I ran to -- you know, proceeded to run out

1 of my mom's room. I told my dad, I said, That sounds
2 pretty close.

3 You know, him, Oh, those firecrackers.

4 I said, Move, old man. Those are not firecrackers.

5 MS. BROWN: Objection, Your Honor. Hearsay.

6 THE COURT: Overruled. Proceed.

7 A. I said, Move old man --

8 Q. Ms. Katina, if you could slow down.

9 THE COURT: Excuse me. Come up here.

10 (WHEREUPON, a bench conference was had.)

11 THE COURT: You may proceed. The objection was
12 overruled on the ground it was a present sense impression
13 statement.

14 MS. SAVAS: Yes, sir. Thank you.

15 BY MS. SAVAS:

16 Q. Ms. Katina, just so she'll take it down, you said
17 that you were lying in your mother's bed with her at this
18 time?

19 A. Right.

20 Q. And do you recall about what time that was?

21 A. Almost around seven, something like that.

22 Q. Do you remember if it was light or dark out by that
23 point?

24 A. It was dark.

25 Q. And when you heard those shots what did you do?

1 A. I jump up and instantly ran outside.

2 Q. And what did you see when you went outside?

3 A. I didn't even make it out the door because my 14
4 year old was coming and he was like, My brother said call
5 the ambulance. He got shot.

6 And I proceeded to run out through the gate and
7 Nicholas was on the ground, and the young fellow was
8 coming across the street. And I say, Stop, stop, what
9 are you doing?

10 And he dropped and said, Oh, I'm sorry. I didn't
11 mean to shoot him.

12 Q. And, Ms. Katina, so you were at your mother's house
13 which is the red one?

14 A. Yes.

15 Q. And who was inside the home with you at that point?

16 A. My mother, my father, and that was it.

17 Q. And where was the rest of your family?

18 A. London, my daughter -- maybe she was at -- London
19 was at my sister's, and Sanchez, evidently him and my
20 nephew were outside. I guess they were in the process of
21 going back in and Sanchez was coming up the steps in
22 order for him to have heard Nicholas say, Call the
23 ambulance, because that's how I know.

24 MS. BROWN: Objection, Your Honor.

25 THE COURT: Excuse me? Is there an objection?

1 Please stand.

2 MS. BROWN: I apologize. Objection, your Honor. I
3 think she's speculating. She says she guessed --

4 THE COURT: Yes, sustained.

5 BY MS. BROWN:

6 Q. And, Ms. Katina, you said that you then ran outside
7 from your mother's house. State's Exhibit 33, I'm
8 showing you. So can you please use that pointer and show
9 where you ran from and to where to find Nicholas. You
10 can use that little thing right in front of you, if you
11 can. Thank you, ma'am.

12 A. Well, you can see where I ran from the porch all
13 the way out the gate, around to over here behind the
14 garbage can where he was lying (indicated).

15 Q. Okay. And, Ms. Katina, I'm going to show you
16 State's Exhibit Number 33. Are these the garbage cans
17 you were referring to?

18 A. Yes.

19 Q. And where did you find Nicholas on the ground?

20 A. Right here (indicated).

21 Q. Okay. And is that in your sister's yard?

22 A. Yes.

23 Q. And those are the large bushes on the side of her
24 house?

25 A. Yes, uh-huh.

1 Q. And, Ms. Katina, when you found your son can you
2 please describe what you saw.

3 A. I saw him lying on the ground, and I went over to
4 him. He said, Don't touch me, don't touch me.

5 And the fellow was coming across and I said, Stop,
6 stop, stop. What are you doing? And he just got on his
7 knees and he was like, Oh, I'm sorry. I didn't mean to
8 shoot him. And the ambulance and cops came within maybe
9 a minute, two minutes.

10 Q. And when you said the fellow came over, who is that
11 person?

12 A. Rhajon.

13 Q. And have you seen Mr. Sanders before that day?

14 A. Every day. They live across the street from my
15 mother.

16 Q. So you have recognized him from being as your
17 mother's neighbor?

18 A. Yes, ma'am.

19 Q. And was anyone else with him that ran over to your
20 son?

21 A. Upon everyone coming his brother, I guess it's his
22 brother. Well, I know him as his brother. He ran across
23 and was like, I told you not to shoot him. They are good
24 people.

25 Q. Okay. And can you describe what his brother looked

1 like.

2 A. Kind of tall, dark brown and long dreads about to
3 here (indicated).

4 Q. Okay. And when you saw Nicholas on the ground did
5 he have -- what did he look like?

6 A. In pain.

7 Q. And where was he shot?

8 A. We found out later when we got to the hospital.

9 Q. And when you went outside, Ms. Katina, did you
10 notice whether your sister's porch lights were on or off?

11 A. Was on.

12 Q. And what about your mother's?

13 A. On.

14 Q. And were you with him when the ambulance came?

15 A. Yes.

16 Q. And what happened when the ambulance came?

17 A. They checked him out. You know, they --

18 Q. If you can just make sure you talk --

19 A. Oh, they checked him out, did what they had to do,
20 put him on the ambulance and went to the hospital.

21 Q. And did you ride in the ambulance with Nicholas?

22 A. Yes.

23 Q. And what happened once you arrived at the hospital?

24 A. I sat in the E. R. room until they got him situated
25 and he had to go into surgery.

1 Q. And do you recall about how long he was in the
2 hospital for?

3 A. Maybe four, five days.

4 Q. Okay. And did you make a statement to officers,
5 Ms. Katina?

6 A. Yeah. He asked me what happened and I wrote a
7 statement and gave it to him.

8 Q. Okay. And you did that the night of the incident,
9 correct?

10 A. Yes, ma'am.

11 Q. And is that statement -- when you gave him that
12 statement was that the truthful statement that you gave
13 him?

14 A. Yes, ma'am.

15 Q. And is everything you are saying to us today the
16 truth as well?

17 A. Yes, ma'am.

18 Q. Ms. Katina, did your son -- did you see a gun on
19 your son?

20 A. No, ma'am.

21 Q. Did you hide any gun or weapon?

22 A. No, ma'am.

23 Q. Did your son own a gun that you knew of at that
24 point?

25 A. No, ma'am.

1 Q. Did anyone in your family have any weapons out
2 there?

3 A. No.

4 Q. Ms. Katina, how do you feel about this situation?

5 A. I just feel that it's a very unfortunate situation
6 that happened because we have two young men whose hands
7 are in the balance right now, and, you know, it's just a
8 bad situation to be in.

9 Q. Ms. Katina, how do you feel about going back to
10 your mother's and your sister's houses?

11 A. I go there every day. It doesn't bother me today.

12 MS. SAVAS: Beg the Court's indulgence.

13 THE COURT: Yes.

14 (PAUSE.)

15 MS. SAVAS: Nothing further from the State, Your
16 Honor.

17 THE COURT: Cross-examination, Ms. Brown?

18 MS. BROWN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. BROWN:

21 Q. Ms. Washington?

22 A. Yes, ma'am.

23 Q. You provided the statement on December 26, 2014
24 relative to the shooting?

25 A. Uh-huh. Yes, ma'am.

1 Q. Do you remember what time you provided that
2 statement?

3 A. I was at the hospital. Maybe 7:30, 8:00, something
4 like that.

5 Q. So it was pretty much shortly after the shooting?

6 A. I'm not quite sure. I don't know if it was a
7 little afterward or how long it was. I'm not sure on the
8 time.

9 Q. But the location was where?

10 A. Where did he get shot at?

11 Q. No, the location of where you provided the
12 statement?

13 A. The hospital.

14 Q. Okay. Do you remember who you provided that
15 statement to?

16 A. One of the North Charleston -- one of the officers.
17 I don't remember his name.

18 Q. Did you get an opportunity -- did you write the
19 statement yourself?

20 A. Yes, I did.

21 Q. And did you, in fact, sign?

22 MS. BROWN: May I approach the witness, Your Honor?

23 THE COURT: You may.

24 (A document was handed to the witness.)

25 Q. Is that the statement that you provided on December

1 26, 2014?

2 A. Uh-huh.

3 Q. And is that your signature?

4 A. Yes, it is.

5 Q. Thank you.

6 MS. BROWN: May I approach the witness again?

7 THE COURT: You may.

8 Q. Would you look at that document there?

9 MS. SAVAS: Point of clarification, Your Honor.

10 I'm not sure what she's handing her.

11 THE COURT: What?

12 MS. BROWN: She has not seen the document. I will

13 hand it to her.

14 (PAUSE.)

15 BY MS. BROWN:

16 Q. This statement I'm providing to you right now, the

17 location listed there as to where it was taken, do you

18 see the location information?

19 A. Right.

20 Q. Where, according to that document, was that

21 statement taken?

22 A. Witness statement --

23 THE COURT: Just read to it yourself.

24 A. I don't see a specific place on here --

25 MS. BROWN: May I approach the witness, Your Honor?

1 THE COURT: You may.

2 Q. Is that the location?

3 A. Where this at?

4 Q. Yes, exactly.

5 A. No, I didn't write this here.

6 Q. Okay. The location as listed there, does it say

7 [REDACTED]?

8 A. It says the statement is in reference to Nicholas

9 Washington which occurred at [REDACTED], where the incident

10 occurred at. Yeah, it didn't say I wrote it there.

11 Q. That's your -- okay. Your understanding is that

12 the statement is about where the incident occurred and

13 not where you were?

14 A. Right.

15 Q. Okay. Thank you. So the statement, according to

16 you, was certainly taken at the hospital?

17 A. Uh-huh.

18 Q. Now, you indicated that you are not aware of any

19 problems between the neighbors; is that correct?

20 A. Correct.

21 Q. And how long -- your family has lived out there

22 five years?

23 A. Yeah.

24 Q. Do you know how long the individuals that lived at

25 the Kent residence, [REDACTED], do you know how

1 long they lived there?

2 A. Probably about a year. I'm not sure. I know they
3 are new to the neighborhood.

4 THE COURT: I didn't understand.

5 A. I said maybe a year, I think. A year or some more.
6 I think they are new to the neighborhood.

7 Q. Now, you indicated on direct that you visit your
8 parents home about six to seven times a week?

9 A. I said six or more, yeah.

10 Q. But you didn't visit on Christmas Day?

11 A. Right. I didn't have a vehicle so I called my
12 daughter and let her come and get us because I wanted to
13 see my mother and father.

14 Q. Absolutely. And the daughter, what is that name
15 that you are referring to that picked you up?

16 A. Ashley Johnson.

17 Q. And what time did you arrive at your parents'
18 residence?

19 A. About sixish, something like that, a little after.

20 Q. And do you recall whether or not your son arrived
21 at the same time or arrived with you --

22 A. No.

23 Q. -- your parents' residence?

24 A. I don't think Nicholas -- I can't remember. I know
25 he was at work. He got off, I think my son went to pick

1 him up and got him from work.

2 Q. Do you recall what time Nicholas arrived?

3 A. It was maybe 15 minutes after, shortly after.

4 Q. And do you recall whether or not you worked that
5 day?

6 A. No.

7 Q. Now, at your parents' home you indicated which is
8 -- what is that address?

9 A. [REDACTED].

10 Q. At [REDACTED] on December 26 of 2014 how many
11 individuals were in that home about six o'clock p.m.?

12 A. I got there after six so but I know in the home was
13 me and my mother and my father.

14 Q. And what about your sister's residence? Do you
15 remember how many people were there?

16 A. Her fiancée, my nephew, my two nieces. About five,
17 six.

18 Q. And you have no information to offer this Court as
19 to what transpired before the shooting; is that correct?

20 A. Correct.

21 Q. And do you have -- after the shooting you indicated
22 that you left your parents' house and went outside?

23 A. After the shooting?

24 Q. Yes.

25 A. Yeah. I ran outside to my son.

1 Q. Okay. And who alerted you that your son was shot?

2 A. My 14 year old. He was coming in the door, in the
3 screen door.

4 Q. And was he coming into [REDACTED] --

5 A. Yes.

6 Q. -- Kent Avenue?

7 A. Yes.

8 Q. And were you able to hear your son coming to [REDACTED]
9 Kent Avenue because there's something going on with the
10 gate noise that makes loud noise?

11 A. No. The gate wasn't making any noise. He already
12 was up on the porch and as I was -- we actually met as I
13 was coming to the screen. He was walking in, like, My
14 brother, to call the ambulance, he got shot, and I moved
15 him out of the way and proceeded running outside.

16 Q. So the gate at that residence doesn't make a loud
17 noise?

18 MS. SAVAS: Objection. Calls for speculation.

19 THE COURT: Sustained.

20 Q. You been at that residence for five years; is that
21 correct?

22 A. My mother, yes.

23 Q. Now, you indicated at one point in time you lived
24 on Kent Avenue?

25 A. No.

1 Q. Did you live in that community at one point?

2 A. I lived on Bailey Drive, yes.

3 Q. And how long did you live on Bailey Drive?

4 A. About three years.

5 Q. And are you familiar with the Accabee Community?

6 A. Somewhat.

7 Q. Are you familiar -- have you seen law enforcement
8 present pretty often in the Accabee Community?

9 A. They -- well, they ride through there every day all
10 day. I don't know if that's their route to the police
11 station or what.

12 Q. Now, at some point in time did your son provide it
13 or give you money that was in his pocket prior to being
14 taken by the ambulance?

15 A. Nicholas didn't give me anything.

16 Q. Do you recall what happened with Nicholas' cell
17 phone on right after the shooting?

18 A. No. I thought he had it with him.

19 Q. You don't recall asking law enforcement for the
20 cell phone?

21 A. I don't recall. It was so long ago. I don't even
22 remember asking for his phone. He was in the ambulance.

23 Q. Now, and I apologize, did you ride with him in the
24 ambulance?

25 A. Yeah.

1 Q. Now, after the shooting how many people would you
2 say that was around Nicholas following the shooting, your
3 family members?

4 A. About four or five. My sister, myself, my niece.
5 About three, yeah three.

6 Q. Three people?

7 A. Three or four, and my son. Four, yeah.

8 Q. You don't recall about 13 people being surrounding
9 Nicholas after?

10 A. If you are counting the ambulance and the cops then
11 you could say 13.

12 Q. No, I'm referring only to family members.

13 A. No. You can't count 13 because 13 wasn't there.

14 Q. Okay. Now, on that street, Kent Avenue, what's the
15 lighting like on that street?

16 A. It's so, so. We have one light across the street
17 from my mom's and one -- it's about three, three. It's
18 so, so.

19 Q. When you say three what are you referring to?

20 A. The utility light poles.

21 Q. Do you recall whether or not the utility light
22 poles or any light poles or any street lights were
23 working that night?

24 A. Yes, the big one right across the street in between
25 their house and the yellow house. That was always on.

1 Q. And you're saying that it worked on December 26,
2 2014?

3 A. I remember the light. That light is always on.

4 Q. What about the home next door? Do you know who is
5 your next-door neighbor or the neighbor of your sister?
6 Your sister is [REDACTED]; is that correct?

7 A. Yeah.

8 Q. Do you know who is the next-door neighbor?

9 A. Ms. Prissy used to live there.

10 Q. Used to. Do you remember whether or not she lived
11 there in 2014?

12 A. Yeah. Ms. Prissy lived there. I think was in the
13 hospital. I'm not sure.

14 Q. Do recall whether or not Ms. Prissy's light was on
15 at any point in time?

16 A. I don't remember.

17 Q. And how do you recall that she was in the hospital?

18 A. Her daughters. When they came, you know, they were
19 like, she got to go. That was a while ago.

20 Q. No. I'm talking about December 26 of 2014.

21 A. Oh, I don't know if she was in the hospital then.

22 I'm just talking about prior. They said she left.

23 That's where she was.

24 Q. Do you know how long Ms. Prissy has lived next door
25 to your sister?

1 MS. SAVAS: Objection, relevance.

2 THE COURT: I'm going to overrule it for what it's
3 worth.

4 MS. BROWN: Thank you.

5 A. Ms. Prissy lived there since my sister moved there.

6 Q. Now, in 2014 was there any -- was there a sidewalk
7 on that side of the street in front of your mom or your
8 sister's residence?

9 A. No.

10 Q. Is there a sidewalk right now?

11 A. Yes.

12 Q. Okay. So there was only a street and then is it
13 grassland?

14 A. Yeah.

15 Q. Okay. So there was a reference to a sidewalk at
16 2013. That would be incorrect? Is that your testimony?

17 A. I don't remember a sidewalk being there.

18 Q. Okay. Now, do you recall at any point in time
19 after the shooting a lady outdoors praying?

20 A. I do not. The only thing I remember is my mother
21 coming out, you know, grabbing her chest and saying, Oh
22 God. Oh, God. Oh, God. I mean. . .

23 Q. You don't recall seeing the lady?

24 A. No, ma'am.

25 Q. And the young man that came across and said, I'm

1 sorry, I'm sorry. Do you remember his demeanor?

2 A. It was kind. I mean, it wasn't rude or anything
3 like that.

4 Q. Okay. And I just want to make sure you used the
5 word kind and not rude?

6 A. Right.

7 MS. BROWN: Beg the Court's indulgence.

8 (PAUSE.)

9 Q. Do you recall whether or not the young man that
10 came across the street talking immediately after the
11 shooting, did you ever see him leave the scene?

12 A. He went back right into his house or whatever.

13 Q. But you are not aware of whether or not he left the
14 scene? Did you notice that?

15 A. No. The area per se?

16 Q. Exactly.

17 A. No, ma'am.

18 Q. That did not happen?

19 A. I didn't see that. No, ma'am.

20 Q. Do you know if anyone else contact law enforcement
21 that day?

22 MS. SAVAS: Objection. Calls for speculation.

23 THE COURT: Sustained. Well, she can say yes or
24 no.

25 MS. BROWN: I asked the question yes or no?

1 A. I wouldn't know. Are you talking about from my
2 home or?'

3 Q. Just period, in general.

4 A. I don't know. When I made the call they said they
5 already had calls in.

6 Q. Thank you. Do you remember how long you were
7 laying down before you heard any gunshots?

8 A. Briefly. Maybe, maybe 10, 15 minutes.

9 Q. Now, there seem to be some testimony about whether
10 or not you were aware Nicholas smoked cigarettes. You
11 weren't aware of that in 2014?

12 A. No. He always tried to hide it. With me being the
13 nosey parent I am I knew because I plunder through stuff
14 but I've never let him know I knew.

15 Q. Now, I'm going to --

16 MS. BROWN: May I approach the witness, Your Honor?

17 THE COURT: You may.

18 Q. I want to show you what's been marked for State's
19 Exhibit 33, and will you tell the Court once again what's
20 in that photo.

21 A. My sister and mother's house.

22 Q. And I'm going to show you what's been marked as
23 State's Exhibit 34, and what do you see in that photo?

24 A. The two garbage cans and the bushes right there,
25 and my sister's home.

1 Q. Do you see in that photo, can you see your sister's
2 residence?

3 A. Yeah, right there (indicated).

4 Q. It is listed in that photo? I mean, it is pictured
5 in that photo?

6 A. Yeah. Uh-huh.

7 Q. And can you also see in that photo the picture of,
8 I think you mentioned Ms. Prissy's residence?

9 A. Uh-huh.

10 Q. Is it there, too?

11 A. Uh-huh.

12 Q. Okay. Now, the photo here, Exhibit 33, do you see
13 in that photo any picture of a trash can near that
14 residence?

15 A. No.

16 Q. Okay. So, now, the bushes as well as the trash can
17 is it closer to [REDACTED] residence?

18 A. No, [REDACTED] right in front of my sister's house. It's
19 just the angle you have the picture at is not taken with
20 the garbage can in the front of it. It's always there.

21 Q. But you can clearly see your residence from that
22 picture, [REDACTED] residence without any problems; is that
23 correct?

24 A. Yeah.

25 Q. Okay. And since you've lived in -- since your

1 sister has lived there five years has those bushes always
2 been there, to your knowledge?

3 A. Yes.

4 Q. Do you recall what your son had on that evening?

5 A. It was the blue, a blue. Like a navy blue. I
6 think it was a sweater or collared shirt and the black
7 jeans and his black crocks because he just got from work.

8 Q. Did you say navy blue sweater?

9 A. Yeah.

10 Q. Do you know whether or not that that sweater had a
11 hood on it?

12 A. No.

13 MS. BROWN: Beg the Court's indulgence.

14 THE COURT: Yes, ma'am.

15 Q. One last thing. You indicated that someone got on
16 their knees after the shooting and you also used the name
17 Rhajon. Where did you get the name Rhajon from?

18 A. Where did I get his name?

19 Q. Yes.

20 A. I've heard it said before. I mean, it's on the
21 paperwork that was my subpoena so --

22 Q. So December of 2014, did you know a Rhajon?

23 A. They don't even know each other.

24 Q. And you didn't know Rhajon either; is that correct?

25 A. Never known him. Just know they live across the

1 street.

2 Q. So when you testified earlier that Rhajon got on
3 his knees, you didn't know who that was in December 2014;
4 is that correct?

5 A. After it happened all you got to do is go on
6 Facebook and you can find anyone you need.

7 Q. Is that what you did?

8 A. To find out who it was?

9 Q. Yes.

10 A. I mean, Facebook says and tells everything.

11 Q. Did you find information about this case on
12 Facebook?

13 A. No.

14 Q. But you didn't know him prior to 2014?

15 A. We don't know each other.

16 MS. BROWN: Thank you. Nothing further.

17 THE COURT: Any redirect?

18 MS. SAVAS: Yes. Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. SAVAS:

21 Q. Ms. Katina, I'm not sure if you can see. The
22 individual you are talking about that ran across the
23 street from you, do you see him in the courtroom today?

24 A. Yes, ma'am.

25 Q. And could you please point him out. Is he sitting

1 at that table?

2 A. Yes, ma'am.

3 MS. SAVAS: May the record please reflect the
4 witness has just identified the defendant, Rhajon
5 Sanders.

6 THE COURT: The record so reflects.

7 MS. SAVAS: Thank you, Your Honor. Nothing
8 further.

9 THE COURT: Any redirect -- recross, excuse me?

10 MS. BROWN: No.

11 MS. SAVAS: We ask that this witness be excused.

12 THE COURT: If she'd like to be, yes.

13 MS. SAVAS: Thank you, sir.

14 The State calls Officer Stanley Tucker.

15 STANLEY TUCKER, after having been duly
16 sworn, testified as follows:

17 THE CLERK: Please state your first and last name
18 and spell your last name loudly and clearly into the
19 microphone.

20 THE WITNESS: Stanley Tucker, T-u-c-k-e-r.

21 DIRECT EXAMINATION

22 BY MS. SAVAS:

23 Q. Thank you, Officer Tucker. Which agency do you
24 work for?

25 A. The City of North Charleston.

1 Q. And what is your current position with North
2 Charleston?

3 A. I'm on the Speed Team.

4 Q. And what exactly is the Speed Team?

5 A. It's a street level crime unit that focuses on
6 drugs, guns, and prostitution.

7 Q. And how long have you worked with North Charleston
8 Police Department?

9 A. Since 2007.

10 Q. And what was your original position with them?

11 A. Patrolman on patrol.

12 Q. And how long were you on patrol for?

13 A. In the beginning?

14 Q. Yes.

15 A. I was on patrol from 2007 until I joined the K9
16 Unit in 2010.

17 Q. And what are typical job duties when you are on
18 patrol?

19 A. Answer calls for service, do area checks. If you
20 have free time do, you know, traffic enforcement, also
21 handle accidents, things like that.

22 Q. And then you went to the K9 Unit?

23 A. Correct.

24 Q. And what is your job duty as a K9 officer?

25 A. It's a support unit. You are there to utilize your

1 dog to help patrol in their duties.

2 Q. And how long were you a K9 officer for?

3 A. Until beginning of 2014.

4 Q. And then where did you go after being a K9 officer?

5 A. On the duty officer desk and then I went back to
6 patrol in August of 2014.

7 Q. In December of 2014 were you on patrol?

8 A. Yes, ma'am.

9 Q. And what area were you in patrol of?

10 A. The South Bureau of North Charleston.

11 Q. Okay. And how were you involved in this incident
12 on December 26, 2014?

13 A. I was the responding officer to the call and the
14 case agent.

15 Q. And as the responding officer what does that
16 typically mean?

17 A. Whatever calls for service come in dispatch will,
18 you know, send the unit to a call. If you are closer you
19 can go to the call or assist on the call. I was
20 dispatched to this call to handle the incident.

21 Q. And when you say case agent what is that duty?

22 A. I took the initial report for the incident.

23 Q. Okay. And in this incident did it stay with you as
24 a patrol officer or was it ever given to detectives?

25 A. It stayed on patrol.

1 Q. And in other similar cases is it typically being
2 given to detectives or would they also stay with patrol
3 officers?

4 A. If further investigation is needed it will be
5 handed over to detectives.

6 Q. Was it determined that any further investigation
7 was needed to be done at the time of this incident?

8 A. No. From the information that we had on scene
9 along with the defendant's confession we deemed it to be
10 solved with -- you know, everything was corroborated on
11 scene that it was solved.

12 Q. And were there other officers that responded on
13 scene at that time?

14 A. Yes, several other officers responded.

15 Q. Were you one of the initial officers?

16 A. Yes. I was -- several of us were pretty close to
17 the call. I arrived on the scene, two or three other
18 officers probably arrived within a matter of seconds of
19 the time that I did.

20 Q. Is there a police station or a substation in that
21 area?

22 A. Yes.

23 Q. Okay. And about how far would you say that is from
24 this location?

25 A. Easily within a mile.

1 Q. Officer Tucker, I'll show you what's State's
2 Exhibit 12. If this is the location of the incident
3 whereabouts would you say that police substation is?

4 A. (Indicated) this, I believe, is where it says
5 Cosgrove right there and the police station is at the
6 intersection of the Rivers and Cosgrove, which would be
7 right up and above that corner right there (indicated).

8 Q. So about there where I'm pointing?

9 A. Correct.

10 Q. Thank you. And would you say then that there's a
11 lot of patrol units in that area due to the substation
12 being nearby?

13 A. Absolutely.

14 Q. Okay. And getting back to the scene, what did you
15 do when you initially arrived on scene? Can you please
16 describe the scene.

17 A. When I arrived on scene I observed the victim lying
18 beside two trash cans. I began to render aid to him. I
19 could see that his -- what was later determined was his
20 family being gathered around beside him. While rendering
21 aid to the victim I asked him who had shot him and he
22 pointed across the street, and that's where the suspect
23 was standing.

24 Q. And do you know who the suspect was at that time?

25 A. I did not know him by name but he was still there

1 on scene.

2 Q. Is he in the courtroom today?

3 A. He is.

4 Q. And can you please point him out.

5 A. Right there, the defendant (indicated).

6 MS. SAVAS: Let the record reflect the witness just
7 identified the defendant, Mr. Rhajon Sanders?

8 THE COURT: The record will so reflect.

9 MS. SAVAS: Thank you, Your Honor.

10 BY MS. SAVAS:

11 Q. Officer Tucker, I'm going to show you what's been
12 marked as State's Exhibit Number 13. What is this
13 picture of?

14 A. Kent Avenue.

15 Q. Okay. And whereabouts was the victim located, if
16 you can tell from this. At least which residence was he
17 at. I can maybe show it closer to you. The light is a
18 little difficult.

19 A. Right about there on the other side of those trash
20 cans (indicated).

21 Q. Okay. So the blue trash cans?

22 A. Correct.

23 Q. So you just pointed to that blue trash can,
24 correct?

25 A. Yes, ma'am.

1 Q. And where did you -- where was the defendant

2 located, about, on which side of the street?

3 A. On the same side of the street as the -- of the

4 defendant or the victim?

5 Q. The defendant.

6 A. The defendant, across the street.

7 Q. Okay. And whereabouts near across the street; do

8 you recall?

9 A. Probably there's -- on the side of that street

10 there's like a little dirt patch there where you can tell

11 people frequently park their cars to get off the road, he

12 was around the area of that dirt patch, probably no more

13 than three or four feet off the road.

14 Q. Do you recall what color house it was?

15 A. I believe it was a blue house.

16 Q. Would it be that blue house in that photo there?

17 A. Yes, ma'am.

18 Q. Okay. And, Officer Tucker, show you what's been

19 marked as State's Exhibit Number 33. Is this -- in

20 front, is that the house where you had located the

21 victim?

22 A. Yes, it is.

23 Q. And State's Exhibit Number 34, are those the trash

24 cans you were referring to?

25 A. Correct.

1 Q. And is that actually you in the photo?

2 A. It is.

3 Q. And where about on that photo was the victim

4 located when you arrived on scene?

5 A. I believe he was on the side closer to the house

6 from the trash cans.

7 Q. Was it in front of those bushes?

8 A. Possibly, yes.

9 Q. Okay. But it was on the right or left of those
10 trash cans?

11 A. To the right in the picture on this side.

12 Q. So to our right. Okay. And when you approached
13 the victim what did you observe?

14 A. I observed him to be suffering from a single
15 gunshot wound to the lower left leg and it was bleeding
16 and blood was pooling on the ground from where he was
17 laying.

18 Q. And what did you do after you saw him there?

19 A. I, you know, began to render aid. I asked him who
20 had shot him. I, you know, patted him down to make sure
21 he had no weapons. Then after it was turned over to EMS
22 I also searched the area further in the bushes and the
23 trash cans for weapons.

24 Q. And did you locate any weapons on that area by the
25 victim?

- 1 A. I did not.
- 2 Q. Did you locate any weapons on his person?
- 3 A. No, ma'am.
- 4 Q. Did you locate any weapons on any person on that
5 residence over there?
- 6 A. For [REDACTED]?
- 7 Q. Yes, sir.
- 8 A. Did not.
- 9 Q. Officer Tucker, was a weapon located on scene?
- 10 A. Yes. A weapon was located in the suspect's
11 residence after a search warrant was executed.
- 12 Q. Okay. And, Officer Tucker, do you recall what the
13 defendant was wearing that day?
- 14 A. A hoodie.
- 15 Q. A hoodie sweatshirt?
- 16 A. Yes.
- 17 Q. Do you recall what the victim was wearing that day?
- 18 A. I just remember him wearing dark clothing.
- 19 Q. And did officers take statements from witnesses?
- 20 A. Yes, ma'am.
- 21 Q. And you said a search warrant was executed,
22 correct?
- 23 A. Yes. Detective Rebecca Bailey typed up a search
24 warrant and it was executed on the defendant's residence.
- 25 Q. And why was that done?

1 A. Typically, it's proper procedure to obtain a search
2 warrant whenever you are going to search an individual's
3 private residence, so we were following procedure.

4 Q. So you would follow that procedure even though a
5 suspect had confessed on scene to shooting?

6 A. That's correct.

7 Q. Do you know if the suspect was ever read his
8 Miranda rights?

9 A. Yes. Officer Perkins read him his Miranda rights
10 in the back of Officer Clater's patrol car.

11 MS. SAVAS: Beg the Court's indulgence.

12 THE COURT: Yes.

13 (PAUSE.)

14 BY MS. SAVAS:

15 Q. Officer Tucker, why did you pat the victim down
16 looking for a weapon?

17 A. We have to secure the scene in order for emergency
18 services to come there and to render medical aid because
19 they are unarmed. So we have to make sure the location
20 is secure in order for them to come in, for their safety.

21 Q. So it's just normal go-by procedure to pat them
22 down?

23 A. Correct.

24 Q. And when you secure a scene do you put the tape up?

25 A. Yes, ma'am. In this instance we corded off an area

1 that surrounded it and secured it with crime scene tape
2 and we maintained a crime scene log to document who was
3 going in and out of the scene so that it was not tampered
4 with.

5 Q. And to the best of your knowledge do you know if
6 that crime scene was properly secured and not tampered?

7 A. Yes.

8 Q. Okay. And was a crime scene called out?

9 A. Yes. Officer Michael Cook from crime scene
10 responded to take photographs and collect evidence.

11 Q. And did you do anything else in this case?

12 A. No, ma'am, did not.

13 MS. SAVAS: Nothing further from the State.

14 THE COURT: Cross-examination?

15 MS. BROWN: Yes. Thank you.

16 CROSS-EXAMINATION

17 BY MS. BROWN:

18 Q. Officer Tucker, you indicated that you were the
19 chief investigating officer for this case?

20 A. I was the -- on patrol we don't really have chief
21 investigating officers. I just responded as it's a call
22 for service and took the initial report.

23 Q. Do you recall having a prelim back in February of
24 2015?

25 A. Yes, ma'am.

1 Q. Do you recall testifying that you were, in fact,
2 the chief investigating officer?

3 A. I'm the case agent for this case. Yes, ma'am.

4 Q. Did you testify to that?

5 A. Yes, ma'am.

6 Q. Okay. So as the chief investigating officer what's
7 exactly your role again?

8 A. I took the initial report from the scene. After
9 the defendant was arrested I prepared affidavits,
10 prosecutive summary, things needed for the case forward.

11 Q. When you arrived to Kent Avenue you canvas the area
12 to determine whether or not there were any witnesses to
13 this shooting?

14 A. My duties were after rendering aid to the victim.
15 I was tasked with maintaining the crime scene log. Other
16 officers were there taking statements.

17 Q. Do you know which officer canvassed the
18 neighborhood and tried to determine if there were any
19 witnesses to this shooting?

20 A. I do not.

21 Q. Do you know which officers -- you indicated that
22 there were statements that were secured that particular
23 night?

24 A. Yes, ma'am. Statements were taken for this case.

25 Q. Do you know who provided statements in this case?

1 A. I can't speak for certain as to every statement
2 that was taken. I know a statement was taken from the
3 victim and the victim's mother. I also know that the
4 defendant gave a statement but I believe there were one
5 or two other statements, but I can't speak for certain as
6 to who all gave statements.

7 Q. Now, as the chief investigating officer on this
8 particular case would you have a case file?

9 A. A case file?

10 Q. Yes.

11 A. Yes, ma'am.

12 Q. This is an attempted murder charge; is that
13 correct?

14 A. Yes.

15 Q. Do you consider that to be a serious charge?

16 A. Yes, ma'am.

17 Q. Okay. So do you have a file that you were working
18 from in 2014?

19 A. I have a file for the case. It was -- it's
20 paperwork that's provided to the Solicitor's Office for
21 that but as being on patrol we don't keep case files on
22 incidents such as this. This one was handled completely
23 with patrol because we had a confession on scene.

24 Q. Who would you hand your case file over to?

25 A. Case files are turned into records after they are

1 completed then they are used for court purposes.

2 Q. So do you know whether or not in your case file you
3 had any statements from anyone other than the victim, the
4 victim's mother and --

5 MS. SAVAS: Objection, asked and answered.

6 THE COURT: I'll let her ask it one more time.

7 Q. I'm just trying to make sure we are clear. Do you
8 know whether or not there were any statements from anyone
9 else other than the victim, the victim's mother, and the
10 defendant?

11 A. There probably is. I can't tell you exactly who
12 they came from but there are statements in the case file.

13 Q. Did you review any statements other than those
14 witnesses?

15 A. Other than the ones I told you about?

16 Q. Yes.

17 A. No.

18 Q. Do you think it would have been helpful to review
19 those statements --

20 MS. SAVAS: Objection, argumentative.

21 THE COURT: Sustained, and it's speculative.

22 Q. Now, is it your responsibility as chief
23 investigating officer to review all --

24 MS. SAVAS: Your Honor, may we approach?

25 THE COURT: You may.

1 MS. SAVAS: Thank you, sir.

2 (WHEREUPON, a bench conference was had.)

3 BY MS. BROWN:

4 Q. Was one of your roles, Officer, to review any of
5 the evidence collected in this case?

6 A. Are you talking about physical evidence or what are
7 you talking about?

8 Q. Yes. The physical evidence. Let's start there.
9 Is that one of your responsibilities?

10 A. The evidence was collected by crime scene and, you
11 know, sent to various locations for testing. Once I -- I
12 did not remove any evidence from the scene myself. Crime
13 scene removed evidence and had it, you know, sent to
14 places for testing.

15 Q. At any point in time have you reviewed the physical
16 evidence in this case?

17 A. Results on paper or like actual physical evidence?

18 Q. For instance, you testified on direct that there
19 was a firearm that was secured from Rhajon's home. Is
20 there any physical evidence including the firearm or
21 anything more that you viewed in this case?

22 A. I saw the firearm that night after it was
23 recovered.

24 Q. And you haven't seen it since that night; is that
25 correct?

1 A. Not until the start of this trial.

2 Q. Now, my understanding is that there were other
3 officers that interviewed witnesses?

4 A. Yes.

5 Q. Is that correct? You personally did not interview
6 any witnesses other than the victim; is that correct?

7 A. Correct.

8 Q. When you arrived to Kent Avenue do you remember how
9 many people were on the scene?

10 A. I can't be exact. It was several.

11 Q. Do you recall documenting the individuals who were
12 on the scene?

13 A. I did not make a full list of everyone that was on
14 scene but it was documented the certain number of people
15 that were on scene.

16 Q. According to your notes how many people did you
17 document that were on the scene?

18 A. In the report I would have personally documented
19 the victim and the suspect.

20 Q. What report are you referring to, Officer Tucker?

21 A. The incident report for this case.

22 MS. BROWN: May I approach the witness?

23 THE COURT: You may.

24 Q. I'm going to hand you a document. Is that the
25 incident report that you prepared in this case?

1 A. It is.

2 Q. Is there any information in that report about how
3 many people were on scene when you arrived?

4 A. There is not.

5 Q. You testified that Rhajon had on a black hoodie.
6 Is that information in that report?

7 A. It is not.

8 Q. You testified that Mr. Washington had on blue jeans
9 or black jeans and a blue shirt. Is that information in
10 your report?

11 A. I stated that he had on dark clothing.

12 Q. Is that information in your report?

13 A. It is not.

14 Q. How do you remember these things? How many -- I
15 withdraw that question. How many cases have you been
16 involved in since 2014?

17 A. I can't put an exact number on it.

18 Q. And if the information is not listed how do you
19 remember what Rhajon and Mr. Washington had on in 2014?

20 A. I mean, you can remember some things. Just because
21 something isn't written in the report doesn't mean that I
22 can't remember it.

23 Q. What is the purpose of preparing a report?

24 A. To detail the incident.

25 Q. And you don't have a list of anyone that was

1 present on scene in that report?

2 A. Correct. In the initial report there's not.

3 Q. Did you do a supplement report?

4 A. I did not complete a supplement, no.

5 Q. Did you also --

6 MS. BROWN: May I approach the witness, Your Honor?

7 THE COURT: Okay.

8 Q. I'm going to hand you -- what is that document that

9 I just handed to you?

10 A. A prosecutive summary.

11 Q. And did you prepare that document as well?

12 A. I did.

13 Q. And in that document what was your understanding of

14 what the witness was doing prior to the shots being

15 fired?

16 A. That the victim was outside the residence near a

17 vacant lot.

18 Q. What was he doing outside the residence near the

19 vacant lot?

20 A. It just states that he started to cross the street

21 and he was not answering any of the suspects questions,

22 so therefore he fired at him.

23 Q. So let me make sure I'm clear. According to you in

24 that report the victim was near a vacant lot; is that

25 correct?

- 1 A. Yes, ma'am.
- 2 Q. In your report?
- 3 A. That's what the report says.
- 4 Q. Is it also in your report that he started going
- 5 across the street?
- 6 A. Correct.
- 7 Q. And who was on the other side of the street?
- 8 A. The defendant.
- 9 Q. May I have that document, please.
- 10 Now, what is the lighting on Kent Avenue when you
- 11 arrived?
- 12 A. It was dark outside. I'm not sure how -- what
- 13 working order of the street lights were in.
- 14 Q. I'm going to show you a photo that's been marked as
- 15 Defendant's Exhibit Number 1, and in this photo there's
- 16 some light that we can see; is that correct?
- 17 A. Yes, ma'am.
- 18 Q. The lighting that we can see, where is that coming
- 19 from?
- 20 MS. SAVAS: Objection, speculation.
- 21 THE COURT: Sustained.
- 22 Q. Thank you. Do you know where the lighting is
- 23 coming from in this photo?
- 24 A. Looks like probably car headlights.
- 25 Q. Were you present when this photo was taken?

1 A. I'm not sure what time it was taken. I was out
2 there that night though.

3 Q. Now, when you were there December 26 of 2014 about
4 seven o'clock do you recall whether or not there was this
5 much lighting in the area?

6 A. Are you talking about while I was there was there
7 that much light?

8 Q. Yes.

9 A. Yes.

10 Q. What about prior to your arriving, was it this much
11 light?

12 MS. SAVAS: Objection.

13 THE COURT: Sustained. He cannot testify to before
14 he was even there.

15 MS. BROWN: Certainly.

16 BY MS. BROWN:

17 Q. Now, at some point in time another officer -- other
18 officers approached; is that correct?

19 A. Yes, ma'am.

20 Q. And do you remember who detained Rhajon?

21 A. Officers Clater and Officer Rothhaus.

22 Q. Do you recall when you came on scene what Rhajon
23 was doing?

24 A. Initially, I didn't even know that he was the one
25 that had done it. I looked up and saw him after the

1 victim said so and he was standing across the street.

2 Q. What was he doing when you looked at him?

3 A. He stood there and I pointed over to Officers
4 Rothhaus and Clater and told them that was him, at which
5 time he surrendered.

6 Q. When you say surrendered, what did he do?

7 A. He, like, placed his hands out then put them behind
8 his back.

9 Q. So you didn't have any incidents when it comes to
10 Rhajon that evening; is that correct?

11 A. No. There was no other further incidents after
12 that.

13 Q. Now, when you canvassed that area when you were out
14 there on Kent Avenue did you notice any of the homes
15 being abandoned or vacant?

16 A. Not to my knowledge. I didn't notice any.

17 Q. What is the vacant lot that you are referring to?

18 A. It would have to be the yard next to the house
19 where it occurred.

20 Q. The yard, and do you have an address for that area?

21 A. I don't know what the exact address is.

22 Q. And the vacant lot that you are referring to, is
23 that near the bush and the trash can?

24 A. I'm not sure how close to proximity of the two are.

25 Q. At any point in time were you given information

- 1 that this incident, in fact, occurred in front of [REDACTED]
2 Kent Avenue?
- 3 A. Information that the incident happened there?
- 4 Q. In your investigation were you given any
5 information from any witness that this incident occurred
6 at [REDACTED]?
- 7 A. No, ma'am.
- 8 Q. Did anyone perform, do you know, any type of GSR
9 kit on Mr. Washington's hands?
- 10 A. Not to my knowledge.
- 11 Q. Now, you indicated that you patrol certain areas
12 dealing with drugs, guns, and prostitution?
- 13 A. My current assignment, yes.
- 14 Q. Were you patrolling that area in 2014 as well?
- 15 A. In 2014, I was on South Evenings Patrol Team but,
16 yes, that was my area.
- 17 Q. And were you patrolling the Accabee Community in
18 2014?
- 19 A. Correct.
- 20 Q. So does that mean that the Accabee Community is
21 part of the street level crime that focusses on drugs,
22 guns, and prostitution?
- 23 A. My current assignment and my assignment in 2014
24 were two different assignments.
- 25 Q. Okay. Do you know whether or not the Accabee

1 Community is one of the areas that focussed on those
2 drugs, guns, or prostitution?

3 A. In my time since I've been on the speed team we
4 have not focussed on the Accabee Community, no.

5 Q. How many times have you responded to the Accabee
6 Community as relates to any type of --

7 MS. SAVAS: Objection, relevance.

8 THE COURT: Sustained, any prior speculation.

9 Q. Have you -- prior to 2014 had you ever responded to
10 the Accabee Community?

11 A. Yes.

12 Q. Now, you indicated on direct that no one across the
13 street where Mr. Washington was located had a firearm?

14 A. No, ma'am.

15 Q. Did you search anyone across the street?

16 A. I only personally searched the victim.

17 Q. So no one else did you search across the street
18 other than the victim?

19 A. I myself did not, no.

20 Q. Do you know who searched -- did you know if anyone
21 searched the parties across the street?

22 A. I do not.

23 Q. So you were not truly in a position to say that the
24 people across the street didn't have --

25 MS. SAVAS: Objection, argumentative.

1 THE COURT: I'll let her ask it. Overruled.

2 Q. So you were not in a position to say the people
3 across the street didn't have a weapon if they weren't
4 searched; is that correct?

5 A. Correct.

6 Q. Do you know whether or not any of the homes across
7 the street were searched?

8 A. I don't believe so.

9 Q. On December 26 of 2014 were you at some point
10 immediately alerted that there was an allegation that
11 Mr. Washington had a firearm?

12 A. Through speaking with officers there that was
13 determined that the defendant said he believed that the
14 victim may have had a firearm.

15 Q. Was that the night of the incident?

16 A. Yes.

17 Q. And after you learned of that information you still
18 didn't search anyone; is that correct?

19 A. He was searched, the area around him was searched,
20 so were the bushes and the trash cans. I can tell that
21 he hadn't moved from where he was just for the sheer fact
22 that blood was pooling where he was and there was no
23 blood trail leading anywhere else.

24 Q. Are you telling me that you know for certain that
25 Mr. Washington was in the same location when the shots

1 were fired?

2 A. I can't say that for certain but I can say that by
3 the amount of blood that had pooled there he had been
4 sitting there.

5 Q. For sometime, obviously?

6 A. Yes.

7 Q. But not at the time the shots were fired you don't
8 know where he was located?

9 A. I can't state to that, no. I don't know.

10 Q. Do you know whether or not any sketches of crime
11 scene were completed?

12 A. I know there were several photographs taken there.

13 Q. Is that the same as a sketch?

14 A. If you would ask me to sketch I would think that
15 someone would have drawn something but I don't believe
16 so, no.

17 Q. Okay. So no sketches; is that correct?

18 A. No, not to my knowledge.

19 Q. Do you know whether or not there was a video walk
20 through of the crime scene?

21 A. That I don't know.

22 MS. BROWN: May I approach the witness, Your Honor?

23 THE COURT: You may.

24 Q. Now, have you had an opportunity to look at the
25 photos that were taken that evening?

1 A. In passing I've seen some of them, yes.

2 Q. In passing. Do you recall seeing any or are any of
3 the photos that we have does it show headphones or any
4 earbuds that belong to --

5 MS. SAVAS: Objection, outside the scope of his
6 personal knowledge.

7 THE COURT: Sustained. He said he didn't know.

8 MS. BROWN: Okay.

9 Q. Do you recall whether or not -- prior to
10 Mr. Washington leaving the scene did you observe any
11 items that Mr. Washington had on his person?

12 A. Not for certain. I can't remember any items that
13 he had on his person.

14 Q. You did search him; is that correct?

15 A. For weapons, yes.

16 Q. And there's nothing in the report about items he
17 had on him; is that correct?

18 A. I don't believe so.

19 Q. Now, were you able to recover or anyone able to
20 recover any bullets in this case?

21 A. Bullets pertaining to?

22 Q. Pertaining to the shooting itself.

23 A. Like unspent rounds or spent rounds or what are you
24 talking about?

25 Q. The bullets that come out, and I'm not very --

1 A. Shell casings?

2 Q. Not the shell casings because that drops
3 immediately. The bullets. Like if there was any bullet
4 holes. Did you guys see any bullet holes on any of the
5 property or any buildings at all?

6 A. No. I don't believe we located any bullet holes
7 anywhere.

8 Q. Now, you didn't locate any bullet holes for [REDACTED]
9 isn't that correct?

10 A. Not to my knowledge, no.

11 Q. Do you know if anyone looked at [REDACTED] to see if
12 there were any bullet holes?

13 A. I did not, no.

14 Q. As part of collecting evidence that particular
15 evening do you know whether or not there was any
16 cigarette butts or anything collected?

17 MS. SAVAS: Objection, Your Honor. Outside the
18 scope of his personal knowledge. It wasn't his duty to
19 collect evidence. He has testified to that.

20 THE COURT: Well, he can answer if he knows.

21 MS. SAVAS: Yes, sir.

22 THE COURT: Overruled.

23 MS. BROWN: Thank you.

24 BY MS. BROWN:

25 Q. Do you know whether or not there was any cigarette

1 collected from the crime scene that night?

2 A. I don't know if crime scene collected any, no.

3 Q. Thank you. Now, as far as the shell casings that
4 you were just about to talk about, do you remember if
5 there were any shell cases collected?

6 A. Yes, ma'am, I do.

7 Q. And how many?

8 A. I believe four.

9 Q. And were you involved in -- do you know whether or
10 not there was any bullets or projectile taken from
11 Mr. Washington body at all?

12 A. I was not involved in recovering any of that, no,
13 ma'am.

14 Q. Did you go to the hospital on December 26?

15 A. I did not.

16 Q. What time did you leave Kent Avenue that evening?

17 A. I can't speak for certain. It would be on the
18 crime scene log what time I left.

19 Q. You don't have that with you?

20 A. The crime scene log?

21 Q. Yes.

22 A. I have a copy of it over there.

23 Q. Now, from your experience as an officer -- as an
24 officer -- you've been an officer since 2000 and -- is
25 that one?

1 A. Seven.

2 Q. 2007. Do you know whether or not firearms are
3 generally placed in the victim's waistband?

4 MS. SAVAS: Objection, speculation.

5 THE COURT: Sustained. Rephrase your question.

6 MS. BROWN: Certainly.

7 Q. As an officer since 2011, would it be unusual and
8 uncommon to -- at some point in time did you search my
9 client, Rhajon Sanders?

10 A. I did not search him, no.

11 Q. And when you searched Mr. Washington did you look
12 in his waistband?

13 A. Yes.

14 Q. Is that a place generally where a firearm would be
15 kept?

16 MS. SAVAS: Objection, speculation.

17 THE COURT: Sustained.

18 Q. Now, was there a firearm's trace done in this case?

19 A. What do you mean by trace?

20 Q. A trace on a firearm to see whether or not the gun
21 was stolen or the gun was reported stolen. Have you done
22 that before?

23 A. You can do a records check to see if the firearm is
24 reported stolen by serial number. There is a trace form
25 that can be done where it's run through ATF to trace back

1 to where the firearm was purchased from.

2 Q. Do you know if that happened in this case?

3 A. I know the gun was sent off to be tested. I'm not
4 sure, you know, how -- you know, if the gun was traced
5 back to its original owner but I know the gun was tested.

6 Q. Based on your investigation were you able to
7 determine whether or not there was an altercation between
8 these parties?

9 A. I was not aware of any altercation between the two
10 parties.

11 Q. Do you have any evidence that such exists?

12 A. That an altercation happened?

13 Q. Yes.

14 A. No.

15 Q. Do you have any evidence that the parties knew each
16 other prior to the incident on December 26, 2014?

17 A. I do not.

18 MS. BROWN: Beg the Court's indulgence, Your Honor.

19 THE COURT: Yes, ma'am.

20 (PAUSE.)

21 Q. Now, you indicated that the police station is on
22 Crossgrove [sic] Avenue?

23 A. Cosgrove, yes.

24 Q. Okay. Do you guys have to go through the Accabee
25 Community or Kent Avenue to get to the police department?

1 A. You can. Kent is an easy cut-through between
2 Azalea and Dorchester Road.

3 Q. Do you recall whether or not Rhajon was -- did
4 anybody pull out their guns on Rhajon that evening?

5 A. I don't remember.

6 Q. Were you present when Officer Perkins gave Rhajon
7 his Miranda warnings?

8 A. I was on scene but I was not present for him
9 verbally telling them to him. I was at the location but
10 I was not in the presence of him.

11 Q. Have you had an opportunity to review Rhajon's
12 statement prior to testifying today?

13 A. I have not.

14 Q. Do you have in your investigation any evidence --
15 I'll withdraw that question.

16 MS. BROWN: Beg the Court's indulgence.

17 (PAUSE.)

18 BY MS. BROWN:

19 Q. There was a photo -- I'm going to hand you -- may I
20 approach the witness, Your Honor -- State's Exhibit 13
21 and 14, and in that photo that's already been admitted
22 into evidence do you notice that there is a sidewalk
23 there?

24 A. Yes, ma'am.

25 Q. Was that sidewalk there in 2014?

1 A. I don't believe so, no.

2 Q. So is that a photo that took place after December
3 2014?

4 A. Yes.

5 Q. Now, do you carry a firearm as an officer?

6 A. Yes, ma'am.

7 Q. And where do you normally have your firearm
8 carried?

9 A. On my right hip.

10 Q. Now, I think you also stated that you receive a
11 statement from Mr. Washington that night?

12 A. Yes. Detectives did gather a statement from him.

13 Q. Now, is that the statement you have reviewed or you
14 have not? I'm sorry. Can you verify that?

15 A. I have reviewed it since it was put into the
16 folder, yes.

17 Q. Do you recall in that statement Mr. Washington
18 referring to a cousin and a brother?

19 A. Yes, I believe so.

20 Q. Did you get an opportunity to interview that cousin
21 and brother that he referred to in that statement?

22 A. I did not.

23 Q. Now, do you know -- generally speaking, can you
24 just explain to the Court whenever you make an arrest
25 that particular day who follows up to secure an arrest

1 warrant? Is that your role?

2 A. No. Whenever you arrest someone, whether it be a
3 municipal or general sessions level charge, you must
4 complete a bond packet in the applicable court that it's
5 going to go to.

6 In the case of a municipal charge an arrest warrant
7 is not needed because the charging document is usually on
8 a uniform traffic citation. In general sessions cases
9 such as this they type up an affidavit and then it's
10 forwarded to the warrants division in the morning which
11 secures an arrest warrant.

12 Q. Were you involved in that process?

13 A. No, ma'am.

14 Q. Do you make a decision about what charge should be
15 since you were one of the first officers on scene?

16 A. Yes. Upon speaking with my supervisor we
17 determined to charge him with attempted murder and
18 possession of a weapon during the commission of a violent
19 crime.

20 Q. And you guys made that decision December 26 of
21 2014?

22 A. Correct.

23 Q. And you made that decision based on what evidence
24 you had in your possession at the time?

25 A. Correct, yeah. Based upon the evidence we had on

1 scene and the defendant's statement and confession we
2 decided to charge him with that, yes.

3 Q. Now, you mentioned once again the defendant's
4 statement, the defendant's statement that you heard on
5 December 26, 2014?

6 A. I did not hear the statement, no.

7 Q. At any point in time since December 26 of 2014 do
8 you have any information in your file about inconsistent
9 statements about that account that night?

10 MS. SAVAS: Objection, relevance.

11 THE COURT: Sustained.

12 Q. Have you secured a subsequent statement from
13 Mr. Washington after December 26 of 2014?

14 A. No, ma'am.

15 Q. And do you recall what time you arrived to Kent
16 Avenue that day?

17 A. I believe it was approximately 7:25 at night.

18 MS. BROWN: Nothing further, Your Honor.

19 THE COURT: Any redirect?

20 MS. SAVAS: Yes, briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. SAVAS:

23 Q. Officer Tucker, you mentioned that you were in
24 charge of a crime scene log, correct?

25 A. Correct.

1 Q. And what exactly is a crime scene log?

2 A. It's where on paper you maintain who comes in and
3 out of the crime scene for integrity purposes. You
4 document who they are, what agency they are with, whether
5 it be like EMS or fire or police, and the times that they
6 come in and out of the crime scene.

7 Q. And so is that before or after crime scene is
8 secured?

9 A. Once the tape is up and the crime scene is secured
10 that's when you start maintaining the crime scene log.

11 Q. And at this point in time when you maintain the log
12 with the secured scene were there any other people in
13 there besides law enforcement?

14 A. Unless they were there on scene -- typically, we'll
15 move people outside of the crime scene such as witnesses
16 or people like that but other than people that were on
17 the log no one else was allowed in and out.

18 Q. Okay. Just briefly, just to sort of explain the
19 process, when a suspect at that time is detained on scene
20 after a shooting how do officers generally approach a
21 suspect with a firearm?

22 A. I mean, when you believe an individual is armed,
23 you know, policy dictates and allows you to draw your
24 weapon on someone.

25 Q. And is that for safety purposes?

1 A. Absolutely.

2 Q. But no officer made any firings or anything of that
3 nature?

4 A. Were any weapons discharged? Is that what you are
5 asking?

6 Q. Yes, sir.

7 A. No.

8 Q. And just in your training and experience as a law
9 enforcement officer if a gun is fired does that mean a
10 bullet will always be found?

11 A. No, not always.

12 Q. And was a bullet hole found in this victim's leg?

13 A. Yes.

14 Q. And did the defendant ever claim to be shot at?

15 A. No.

16 Q. Okay. So one does a GSR for the purpose of
17 determining whether one fired a weapon?

18 A. Correct.

19 Q. And so the victim was not done a GSR kit because he
20 was not alleged to have shot a weapon, correct?

21 A. Correct. We had nothing at the time to suggest
22 that he handled a firearm.

23 Q. And when you were describing this vacant lot next
24 door, you didn't actually know whether someone lived
25 there or not, did you?

1 A. I did not.

2 Q. Okay. And to clarify, did you notice a trail of
3 blood anywhere?

4 A. I did not.

5 Q. And when you mentioned that you pat down a person
6 on scene, is that a full body pat down?

7 A. Yes, just to make sure that they don't have any
8 weapons.

9 Q. So that's in the chest, the waist, the feet,
10 everywhere?

11 A. Yes, ma'am.

12 Q. Okay. In your prosecutive summary is that a
13 summary of your detailed incident report?

14 A. A prosecutive summary is typically used to be read
15 in front of the grand jury to get an indictment.

16 Q. And you mentioned at the time of this incident the
17 suspect was arrested, correct?

18 A. Yes.

19 Q. So there was no need for any follow-up
20 investigation, was there?

21 A. No.

22 Q. And anything done, the testing of any other
23 evidence, would have been done in preparation for this
24 trial by the Solicitor's Office, correct?

25 A. Correct.

1 Q. Just for clarification, Officer Tucker, in what
2 city did this take place?

3 A. The City of North Charleston.

4 Q. And in which county?

5 A. Charleston County.

6 MS. SAVAS: Nothing further, Your Honor.

7 THE COURT: All right. Any recross based on her
8 redirect?

9 MS. BROWN: Yes, Your Honor, briefly.

10 RECROSS-EXAMINATION

11 BY MS. BROWN:

12 Q. Now, while you are on scene do you receive
13 information from dispatch whether or not there's any
14 danger in that area? Is that information given to you
15 before you arrive to scene?

16 A. What do you mean by danger?

17 Q. Have you had an opportunity to review the CAD
18 report that you just talked about? An opportunity to
19 review the CAD report?

20 A. I have not seen the CAD report.

21 Q. Okay. Now, you also just testified there was no
22 need for any further investigation after December 26, but
23 as of December 26 were you provided information that
24 Mr. Rhajon's account of events were different?

25 A. I was informed that he believed that the victim may

1 have had a gun. Everyone's account of the story is not
2 going to be the same.

3 Q. Were you also informed that he believed that --
4 were you also informed that he was afraid when he fired
5 his weapon?

6 A. I don't remember being told that.

7 MS. BROWN: Nothing further.

8 THE COURT: All right. Thank you. You may step
9 down.

10 All right. Ladies and gentlemen, it's a good time
11 for an afternoon break. We'll take about a 15-minute
12 recess. If you want a Coca-Cola or something like that
13 they will be glad to provide it for you. If you smoke
14 let one of the bailiffs know and they will take you to a
15 smoking are. Please do not discuss anything about the
16 case while you are back there. Thank you.

17 (WHEREUPON, the jury leaves the courtroom at
18 approximately 3:04 p.m.)

19 THE COURT: All right. Court is now adjourned.

20 (WHEREUPON, a brief recess was taken.)

21 THE COURT: How many more witnesses are we going to
22 have, two?

23 MS. SAVAS: Your Honor, this afternoon we only have
24 two remaining.

25 THE COURT: Okay.

1 witnesses for this afternoon and then I'll release you.

2 The State may call its next witness.

3 MS. FRIERSON: Thank you, Your Honor. The State
4 calls Officer Rothhaus.

5 CHRISTIAN ROTHHAUS, after having been duly
6 sworn, testified as follows:

7 THE CLERK: Please state your first and last name
8 and spell your last name loudly, clearly into the
9 microphone.

10 THE WITNESS: It's Christian Rothhaus,
11 R-o-t-h-h-a-u-s.

12 THE COURT: You may proceed.

13 MS. FRIERSON: Thank you, Your Honor. May it
14 please the Court.

15 DIRECT EXAMINATION

16 BY MS. FRIERSON:

17 Q. Good afternoon, Officer Rothhaus. Can you please
18 tell the jury where you're employed.

19 A. I'm employed with the City of North Charleston
20 Police Department.

21 Q. And how long have you been employed by them?

22 A. I've been employed there on six years, a year and a
23 half as a community service officer and four years as a
24 police officer.

25 Q. And prior to becoming a police officer or community

1 service officer could you tell the jury about your
2 background, maybe your training or any education you may
3 have.

4 A. Yes, ma'am. I have a high school diploma, and I
5 had prior training as a community service officer. I
6 went to the academy, got certified as a law enforcement
7 officer and every year we have annual legal and ethics
8 trainings.

9 Q. And what is your current assignment?

10 A. I'm with the North Charleston IOP Unit which is the
11 Intelligence lead Policing Unit for North Charleston
12 Police. We help serve high risk warrants and do high
13 risk warrants and go after fugitives.

14 Q. And make sure, it's hard, she has to take down
15 everything you're saying.

16 A. Yes, ma'am.

17 Q. Speak directly into that while you're telling the
18 jury.

19 What was your assignment back on December 26, 2014?

20 A. I was on the South Evenings Team Two Patrol.

21 Q. And did you have the occasion to become involved in
22 this case?

23 A. Yes, ma'am.

24 Q. Could you please tell the jury how you became
25 involved.

1 A. We heard over the radio that dispatch advised that
2 there was a possible shooting on the Kent Avenue and
3 asked for an officer available, officers to respond to
4 the area, and I did so.

5 Q. And when you arrived did you make contact with the
6 victim?

7 A. No, ma'am. There was already two other officers on
8 scene. As I came on scene I was attempting to walk over
9 to them and I guess someone received information that the
10 suspect was across the street. At that time, I saw
11 Officer Clater start to walk towards over there and I saw
12 when he started to walk towards the individual he had his
13 hands out so I drew my weapon and put him at gunshot
14 while Officer Clater made contact and I covered him.

15 Q. I'd like to go through kind of that scene and
16 coming on scene. Right before that happened when you
17 arrived on scene tell the jury what it was like, as far
18 as were there other people out.

19 A. Yes, ma'am. There was individuals walking around,
20 some people were yelling. I saw an individual on the
21 ground talking with officers, blue lights everywhere. A
22 lot of the officers were walking around. It's pretty
23 hectic.

24 Q. And at that point were you receiving information
25 from other officers on scene?

1 A. When I arrived on scene they said that the suspect,
2 possible suspect was across the street standing in the
3 yard.

4 Q. And you just testified somebody had their hands
5 out. Who was that?

6 A. The person they were taking about, the suspect.

7 Q. The suspect?

8 A. Yes, ma'am.

9 Q. And so based on your training and experience as an
10 officer, when you were responding to a shooting and you
11 have somebody across the street identified as a suspect
12 was is your protocol to do?

13 A. First to draw my weapon, make sure -- and put them
14 at gunpoint and make sure he doesn't have a weapon on
15 him, figure out where the weapon is at and have an
16 officer detain him, put him in handcuffs.

17 Q. And is that for your protection?

18 A. It's for our protection. It's for the safety of
19 the others around. We had civilian bystanders
20 surrounded, family, both sides still around, so we had to
21 make sure that there wasn't going to be another threat.

22 Q. Thank you. And at that time had a weapon been
23 recovered?

24 A. No, ma'am.

25 Q. So you approached the defendant?

1 A. Myself about Officer Clater. Officer Clater made
2 contact with him, advised him to pull his hoodie up and
3 spin around, make sure he didn't have a weapon on his
4 waistband, and then I was covering him as he was doing
5 that, and then he also detained the suspect in handcuffs.

6 Q. And please explain to the jury what this concept of
7 covering him means.

8 A. Just to make sure that the officer has safety,
9 someone to cover him while he's going in and making
10 contact, touching the suspect, make sure the suspect
11 doesn't turn on him and try to either shoot him or cause
12 some kind of harm to the officer or individuals around.

13 Q. And where exactly did you make contact with the
14 defendant that day?

15 A. [REDACTED] in the yard.

16 Q. And did you actually assist in placing the
17 defendant under arrest?

18 A. Yes, ma'am.

19 Q. After you arrested the defendant did you ask him
20 anything?

21 A. I asked him where the weapon was.

22 Q. And did he respond?

23 A. Yes, ma'am. He said it was in the house.

24 Q. Did he say anything else to you?

25 A. No, ma'am.

1 Q. Did you assist in maintaining custody of the
2 defendant until he was transported?

3 A. No, ma'am.

4 Q. Do you know where he went after he left your
5 custody?

6 A. I believe Officer Clater took him to the rear of
7 his patrol car.

8 Q. And then what happened?

9 A. I asked the Officer Brown who was on scene to help
10 me clear the residence. I believe there was still family
11 members on the porch of the residence that he said that
12 the weapon was in. I asked them to come down and to
13 stand in the yard. Myself and Officer Brown began to
14 clear the residence, make sure there was no one else in
15 the house that had access to the weapon so no one would
16 -- no other officers would get involved in a shooting or
17 no other people were at harm.

18 Q. And clearing the residence, does that have any
19 other name?

20 A. Protective sweep.

21 Q. And during your protective sweep did you locate any
22 guns in the defendant's residence?

23 A. Yes, ma'am.

24 Q. What were they?

25 A. I located a -- I read it was a Taurus and it was

1 sitting on top of a dresser in one of the rooms.

2 Q. And did it have a magazine with it?

3 A. I believe it had an extended mag in it.

4 Q. Can you explain to the jury what a magazine is.

5 A. A magazine is what the bullets are in and when it
6 gets loaded into the gun, and an extended magazine is a
7 magazine that is longer than the issued one for the
8 weapon so it can hold more bullets.

9 Q. Did you physically pick up the gun?

10 A. No, ma'am.

11 Q. So what did you do after it was located?

12 A. Continued on with the protective sweep, make sure
13 there was no one else in the house, no one was hiding,
14 make sure no one else was shot. After that I went
15 outside and stood at the front door until detectives came
16 with a search warrant.

17 Q. And what was the purpose of standing at the front
18 door?

19 A. To make sure that no one else could go in the
20 residence.

21 Q. Were you present at the residence when the search
22 warrant was executed?

23 A. Yes, ma'am.

24 Q. But did you physically execute the search warrant?

25 A. No, ma'am. I stayed in the living room. I believe

1 they had the family in the living room with other
2 detectives while the detectives were going around.

3 MS. FRIERSON: May I approach the witness, Your
4 Honor?

5 THE COURT: You may. And just for everybody's --
6 in the future you don't have to ask to approach the
7 witness. I trust that y'all would be nice to the
8 witness.

9 MS. FRIERSON: For the Court's understanding this
10 weapon has been cleared, and there are no --

11 THE COURT: And made court safe.

12 MS. FRIERSON: And made court safe, Your Honor.

13 BY MS. FRIERSON:

14 Q. Officer Rothhaus, I would like to hand you what has
15 been admitted by consent as State's Exhibit 7A. If you
16 can take a look at that.

17 Have you seen that before?

18 A. Yes, ma'am.

19 Q. What is it?

20 A. It's a semiautomatic handgun, Taurus.

21 Q. And when did you first see that?

22 A. I saw it on top of the dresser.

23 Q. And on top of the dresser where?

24 A. I can't say exactly which room it was in. I just
25 know I saw it on the top of the dresser in one of the

1 rooms.

2 Q. And do you see brand name or manufacturer? I
3 believe you just said it.

4 A. Yes, ma'am. It says Taurus.

5 Q. And did anyone on the scene that night claim
6 ownership of that firearm?

7 A. No, ma'am.

8 Q. Anyone other than the defendant?

9 A. No, ma'am.

10 MS. FRIERSON: Court's indulgence, Your Honor.

11 THE COURT: All right.

12 Q. Did you locate anything else while you were in the
13 residence?

14 A. No, ma'am.

15 Q. Other than that firearm?

16 A. Just the firearm on top of the dresser.

17 Q. And so there was one firearm in the residence?

18 A. That I observed, yes.

19 MS. FRIERSON: No further questions at this time,
20 Your Honor.

21 Q. Please answer any the defense may have.

22 A. Yes, ma'am.

23 CROSS-EXAMINATION

24 BY MS. CHISOLM:

25 Q. Good afternoon.

- 1 A. Good afternoon.
- 2 Q. What time did you arrive at [REDACTED]?
- 3 A. I don't know the exact time. I just know in the
- 4 evening hours.
- 5 Q. What vehicle number were you driving that day?
- 6 A. I believe it was 350. It was a Ford Crown Vic.
- 7 Q. Do you recall preparing a supplemental report --
- 8 A. Yes, ma'am.
- 9 Q. -- in regard to this case? Would it refresh your
- 10 memory if I showed it to you to recall what time you
- 11 arrived?
- 12 A. Yes, ma'am.
- 13 (A document was handed to the witness.)
- 14 A. At 19:24 hours, 7:24 p.m.
- 15 Q. Thank you. Do you recall where you were when you
- 16 were dispatched to the area?
- 17 A. I can't recall where I was.
- 18 Q. Are you aware that the 911 call was placed at 7:23
- 19 p.m.?
- 20 A. I am not aware of that.
- 21 Q. And just to clarify, your report says that you
- 22 arrived at 7:24, a minute later.
- 23 A. Yes, ma'am.
- 24 Q. According to dispatch, Unit 312 arrived at Kent
- 25 Avenue at 7:25, Unit 107 arrived at 7:26 --

1 MS. FRIERSON: Objection, Your Honor.

2 THE COURT: What's your objection?

3 MS. FRIERSON: I believe she's reading and
4 testifying from a CAD report.

5 THE COURT: Yes, that's true. You can ask a
6 question.

7 MS. CHISOLM: Yes.

8 BY MS. CHISOLM:

9 Q. Do you know that other officers arrived at 7:25 and
10 7:26 p.m.?

11 A. I don't know their exact time.

12 Q. Okay. But you arrived after other officers?

13 A. Yes, ma'am.

14 Q. I know that a minute doesn't seem like a lot of
15 time but do you agree a lot can happen in a minute?

16 A. Yes, ma'am.

17 Q. All right. Let's talk about when you arrived at
18 Kent Avenue. Was Mr. Washington accompanied by other
19 people?

20 A. Yes, ma'am.

21 Q. And, I'm sorry. Do you know how many people about?

22 A. I know the officer -- there were at least two
23 officers on scene with him.

24 Q. What about family or other people in the area?

25 A. I can't recall.

1 Q. Do you remember seeing other people not in uniform?

2 A. Yes, ma'am.

3 Q. All right. Now, let's talk about the time of day

4 or night. Was it day or night?

5 A. It was nighttime.

6 Q. And the lighting outside, do you remember what that

7 was like?

8 A. It was dark.

9 Q. Now, based on your investigation did the shooting
10 occur indoors or outdoors?

11 A. It looked like it was outdoors.

12 Q. All right. Now, on December 26, 2014, that's the
13 day following Christmas, correct?

14 A. Yes, ma'am.

15 Q. And how long have you been employed, again, with
16 the North Charleston Police Department?

17 A. From that time --

18 Q. Yes.

19 A. -- or from the whole time?

20 Q. Period. From that time.

21 A. I believe right around as a whole going on three
22 years -- or three and a half years, three years.

23 Q. Okay. Let's talk about your familiarity with the
24 neighborhood.

25 A. Yes, ma'am.

1 Q. As an officer of North Charleston Police Department
2 are there some areas in your jurisdiction that are more
3 prone to violence than others?

4 A. Yes, ma'am.

5 Q. In your opinion and based on your experience that
6 would be the case?

7 A. Yes, ma'am.

8 Q. All right. Are you familiar with the Accabee area
9 of North Charleston?

10 A. Yes, ma'am.

11 Q. All right. Now, what are your interactions with
12 the Accabee area?

13 A. Well, they are in the area of Dorchester Terrace.

14 Q. Okay. Is that in the Accabee area?

15 A. Accabee Road goes through. Accabee is on the other
16 side.

17 Q. Okay. Are you familiar with that area being call
18 Accabee?

19 A. Yes, ma'am.

20 Q. And so your interactions in that area, how frequent
21 have they been?

22 A. They are pretty --

23 MS. FRIERSON: Your Honor, relevance.

24 THE COURT: Sustained. Sustained.

25 Q. How many times would you say that you actually

1 investigated a shooting in that area?

2 A. I can't put a number on it but I know more than
3 one.

4 Q. More than one?

5 A. Yes, ma'am.

6 Q. What about a burglary?

7 MS. FRIERSON: Objection, Your Honor, relevance.

8 THE COURT: Sustained.

9 Q. What types of crimes are you aware of that happened
10 in that area?

11 MS. FRIERSON: Objection, Your Honor, irrelevance.

12 THE COURT: Sustained. Off of this line of
13 questioning. It's irrelevant.

14 Q. Is the Accabee area one of those areas that you all
15 know to be prone to violence?

16 MS. FRIERSON: Objection, Your Honor.

17 THE COURT: Sustained. Counsel, approach.

18 (A bench conference was had.)

19 BY MS. CHISOLM:

20 Q. Are you familiar with -- have you responded to Kent
21 Avenue before?

22 A. I'm pretty sure, yeah.

23 Q. Okay. And can you tell us what those encounters
24 have been like?

25 THE COURT: Sustained.

1 MS. CHISOLM: Fine. Moving on.

2 BY MS. CHISOLM:

3 Q. When you arrived at Kent Avenue what was the first
4 thing you recall doing?

5 A. Getting out of my patrol car and approaching the
6 officers that were on scene.

7 Q. And you said Rhajon was on the scene then?

8 A. Yes, ma'am.

9 Q. Now, was he cooperative?

10 A. Yes, ma'am.

11 Q. All right. What was he doing when you noticed him?

12 A. He had his hands to his side, out to the side.

13 Q. So you didn't see any weapons on him?

14 A. No, ma'am.

15 Q. From your first appearance of him did he look as
16 though he may have been carrying a weapon or hiding
17 something or --

18 MS. FRIERSON: Objection, Your Honor, speculation.

19 THE COURT: Requires speculation. Sustained.

20 MS. CHISOLM: Okay.

21 BY MS. CHISOLM:

22 Q. Did Rhajon demonstrate any actions upon your
23 arrival that warranted the use of your weapon?

24 A. He was involved in a shooting, so yes.

25 Q. That was based on information you received?

1 A. Yes, ma'am.

2 Q. But when you saw him he wasn't doing anything
3 physically threatening?

4 A. Not at that time, no.

5 Q. Now, did you personally observe Rhajon attempting
6 to leave Kent Avenue at all?

7 A. No, ma'am.

8 Q. Did you observe him being combative in any way?

9 A. No, ma'am.

10 Q. Or disruptive?

11 A. No, ma'am.

12 Q. All right. When Rhajon was placed in handcuffs did
13 he put up a struggle?

14 A. No, ma'am.

15 (Court reporter interruption.)

16 THE COURT: Yeah, you got to go a little slower.
17 She's got to type it. I can hear. My ears work a lot
18 faster than her ears.

19 Q. When you placed Rhajon in handcuffs did he put up a
20 struggle?

21 A. I didn't place him in handcuffs.

22 Q. I'm sorry. When he was placed in handcuffs.

23 A. No, he did not.

24 Q. And would you describe Rhajon as fully compliant?

25 A. Yes, ma'am.

1 Q. After he was handcuffed he was placed in a patrol
2 car?

3 A. Yes, ma'am.

4 Q. Did you personally interview any witnesses?

5 A. No, ma'am.

6 Q. Are you aware of the names of any witnesses that
7 were interviewed?

8 A. No, ma'am.

9 Q. Did you canvas the neighborhood to search for any
10 potential eyewitnesses?

11 A. No, ma'am. I stayed at the house and secured the
12 house.

13 Q. Did you observe Mr. Washington's location when you
14 arrived?

15 A. Yes, ma'am.

16 Q. And when you first observed him what distance was
17 he from -- was his location to Rhajon's house?

18 A. He was in -- he was across the street in the grass.
19 I believe he was near, as I saw, a North Charleston trash
20 can by him. So he was still in the grass before the
21 street.

22 Q. Okay. Were you able to determine then where
23 Mr. Washington was located when the shots were fired?

24 MS. FRIERSON: Objection, Your Honor, speculation.

25 THE COURT: Ask the question again.

- 1 Q. The question was were you able to determine where
2 Mr. Washington was located when the shots were fired?
- 3 A. He was laying --
- 4 THE COURT: Wait a minute. That requires
5 speculation. He was not there.
- 6 MS. CHISOLM: Thank you, Your Honor.
- 7 BY MS. CHISOLM:
- 8 Q. Based on what you saw, did the location look like
9 Mr. Washington possibly moved from one place to another?
10 Could you tell?
- 11 A. I have no idea.
- 12 Q. Do you remember what Mr. Washington was wearing?
- 13 A. No, ma'am.
- 14 Q. The lighting in that area, do you remember what the
15 lighting was like?
- 16 A. I believe it was just porch lights from houses.
- 17 Q. Were there also patrol cars with their headlights
18 on around in that area in that location?
- 19 A. At the scene?
- 20 Q. Uh-huh.
- 21 A. Yes, ma'am, headlights and blue lights on.
- 22 Q. Do you recall which houses had porch lights on that
23 night?
- 24 A. I believe the house that -- in the yard he was
25 standing at the house lights were on.

1 Q. Just for clarification. The light where Rhajon was
2 standing the lights were on?

3 A. In the house. In front of the house the porch
4 light was on.

5 Q. Okay. Would it have been difficult to see an
6 individual in all black at the time if you can --

7 MS. FRIERSON: Objection, Your Honor, speculation.

8 THE COURT: Let her ask the question.

9 Q. Based on the lighting when you arrived would it
10 have been difficult to see an individual in all black?

11 THE COURT: That does require speculation.

12 Objection is sustained.

13 Q. Okay. Did you assist in the securing of the arrest
14 warrant in this case?

15 A. No, ma'am.

16 Q. Were you present when the search warrant was
17 served?

18 A. I was present.

19 Q. And do you know how long it took to get the search
20 warrant?

21 A. I can't recall.

22 Q. And which residence was searched?

23 A. [REDACTED].

24 Q. Do you know whether any other homes on Kent Avenue
25 were searched?

1 A. I do not.

2 Q. Do you know whether [REDACTED] was searched?

3 A. No, ma'am.

4 Q. Isn't that the residence of Mr. Washington's family
5 member?

6 A. I was not given that information. I don't know.

7 Q. Do you know whether [REDACTED] was searched?

8 A. No, ma'am.

9 Q. Were you aware of any information that would
10 warrant the search of Mr. Washington's residence?

11 A. No, ma'am.

12 Q. Was there any allegation that Mr. Washington may
13 have had a weapon?

14 A. I'm not sure.

15 MS. CHISOLM: All right. The Court's indulgence.

16 (PAUSE.)

17 Q. And you said the only weapon that was removed from
18 Rhajon's residence was what?

19 A. The only weapon that I saw was the Taurus on top of
20 the dresser. I don't know if they found any other
21 weapons or not.

22 Q. Based on your investigation do you know whether
23 that weapon was legally obtained?

24 A. I'm not sure.

25 Q. Do you have any information to believe that it was

1 stolen?

2 A. No, ma'am.

3 Q. Based on your investigation do you know whether --
4 based on your investigation did you learn whether or not
5 Mr. Washington and Mr. Sanders were acquainted with one
6 another before this happened?

7 A. I did not know.

8 Q. Based on your investigation were you -- did you
9 learn that -- whether or not there was a verbal or
10 physical altercation between the two that day?

11 MS. FRIERSON: Objection, Your Honor, outside the
12 scope of direct.

13 THE COURT: I'm going to give her a little leeway.
14 It's cross-examination.

15 A. Would you repeat the question, ma'am.

16 Q. I'm sorry. Based on your investigation did you
17 learn whether or not there was a verbal or physical
18 altercation between the two of them that day?

19 A. I did not.

20 Q. Based on your investigation did you find any
21 evidence that suggested that Rhajon planned or in any way
22 premeditated to commit this crime?

23 MS. FRIERSON: Objection, Your Honor.

24 THE COURT: Sustained. That requires a
25 determination of law.

1 BY MS. CHISOLM:

2 Q. Next question. Based on your investigation were
3 you able to locate any witness that supported or
4 corroborated Mr. Sanders' version of events?

5 A. I didn't talk to any witnesses.

6 Q. Based on your experience what is the conduct of an
7 individual with evil intent?

8 MS. FRIERSON: Objection, Your Honor.

9 THE COURT: Suspended, requires speculation.

10 Q. Before December 26, 2014 had you had any
11 interaction with Rhajon?

12 A. I done believe so.

13 Q. So just for clarification you did not secure the
14 arrest warrant?

15 A. Did not.

16 Q. You did not secure the search warrant?

17 A. No.

18 Q. You didn't interview any witnesses?

19 A. No, ma'am.

20 Q. You didn't canvas the neighborhood looking for
21 witnesses?

22 A. No, ma'am.

23 Q. You didn't search any of the homes on Kent Avenue?

24 A. No, ma'am. I just did a protective sweep of the
25 house in question.

1 Q. And you don't have any information about the
2 firearm that was secured other than what the brand was?

3 A. Just the Taurus, yeah.

4 Q. You didn't take any photos?

5 A. No, ma'am.

6 Q. Have you spoken -- did you speak with Rhajon, give
7 him his Miranda warnings?

8 A. I did not.

9 Q. You did not. Okay. But what you did do is you did
10 draw your weapon?

11 A. Yes, ma'am.

12 Q. And you did say he was compliant?

13 A. Yes, ma'am.

14 MS. CHISOLM: No further questions?

15 THE COURT: All right. Any redirect?

16 MS. FRIERSON: No, Your Honor. None for this
17 witness.

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

19 Any objection to this witness being excused for the
20 balance of the trial?

21 MS. CHISOLM: No, Your Honor.

22 THE COURT: Thank you.

23 MS. FRIERSON: The State would call Detective
24 Bailey.

25 (PAUSE.)

1 THE COURT: Come forward and be sworn.

2 REBECCA BAILEY, after having been duly
3 sworn, testified as follows:

4 THE CLERK: Please state your first and last name
5 and spell your last name loudly and clearly into the
6 microphone.

7 THE WITNESS: Rebecca Bailey, B-a-i-l-e-y.

8 MS. FRIERSON: Thank you, Your Honor. May it
9 please the Court?

10 THE COURT: Yes, ma'am.

11 DIRECT EXAMINATION

12 BY MS. FRIERSON:

13 Q. Good afternoon, Detective Bailey. Could you please
14 tell the jury where you are employed.

15 A. North Charleston Police Department.

16 Q. And how long have you been employed there?

17 A. About 11 years.

18 Q. Could you please tell the Court a little bit about
19 your background, training and experience.

20 A. Well, 11 years ago I started off in patrol, did
21 that for three or four years, did about a year in
22 narcotics, and since then I've been in the detective
23 bureau, initially as property crimes detective and for
24 the past three, almost four years now Special Victims
25 Unit.

1 Q. And you said your current unit is Special Victims?

2 A. Correct.

3 Q. And what exactly does that role entail? Could you
4 tell the jury what you do day-to-day.

5 A. Yeah. I investigate crimes, sex crimes against
6 children, vulnerable adults, all adults, really,
7 vulnerable adults and children, and then also crimes of
8 neglect and physical abuse against children.

9 Q. And what was your assignment back on December 26 of
10 2015?

11 A. The same, Special Victims Unit.

12 Q. And as a detective do you kind of wear multiple
13 hats, and what I mean by that, you work in Special
14 Victims?

15 A. Correct.

16 Q. But do you ever assist with other investigations?

17 A. Yes.

18 Q. And can you tell the jury how that works.

19 A. Yeah. If there's a homicide, attempted homicide,
20 armed robbery, bank robbery, although, you know, we may
21 have units in the detective bay that specialize in that
22 sort of thing if everyone is present and something major
23 like that occurs everyone kind of drops what they are
24 doing and assists.

25 Q. So did you have the occasion to become involved in

1 this case?

2 A. I did.

3 Q. And can you please tell the jury how exactly you
4 became involved.

5 A. I actually just received a phone call from Sergeant
6 Evans who was with the North Charleston Police Department
7 at the time and he told me on the phone basically what
8 happened, that there was a shooting incident, and
9 instructed me to go to City Hall to help prepare a search
10 warrant.

11 Q. And is preparing search warrants something that's
12 common place for detectives?

13 A. Yes.

14 Q. So what was the address of the location that you
15 were trying to search?

16 A. [REDACTED].

17 Q. And were you present when the search warrant was
18 executed at that residence?

19 A. I was.

20 Q. And who else was present?

21 A. Sergeant Evans was there, Sergeant Aiken, Master
22 Patrol Officer Cook, and there were officers out in the
23 street.

24 Q. I'd like to talk to the jury a little bit about how
25 you obtain a search warrant. You testified that Sergeant

1 Evans gave you a call?

2 A. Correct.

3 Q. So did you ever go to the scene prior --

4 A. I did not.

5 Q. -- to fulfilling the search warrant or to executing
6 it?

7 A. No, I did not.

8 Q. So the information that you used for your search
9 warrant came from whom?

10 A. Sergeant Evans.

11 Q. Now, when you enter a residence to do a search
12 warrant do you attempt to label or identify the rooms?

13 A. We do. More so bedrooms than anything else just
14 because there's more than one bedroom typically in a
15 house so you need to know if you are referring to bedroom
16 one, two, three, etcetera. We don't specifically label
17 kitchens because there's usually only one kitchen in the
18 house.

19 Q. And during the course of the entire investigation
20 was it determined which bedroom the defendant was staying
21 in?

22 A. I think that was bedroom one.

23 Q. And what did you locate inside bedroom one or the
24 defendant's bedroom?

25 A. There were a couple of firearms, some magazines and

1 ammunition.

2 Q. And what is a magazine?

3 A. Something that holds bullets.

4 Q. Did you personally collect these items?

5 A. I did not.

6 Q. Did you complete an inventory of the items that

7 were collected for the residence?

8 A. I did.

9 Q. Detective Bailey, I would like to show you what has
10 been admitted as State's Exhibit 7A. If you could take a
11 look at this. Have you seen that before?

12 A. Yes. It's looks like the gun that was collected
13 out of the home.

14 Q. And where was that located?

15 A. Mind you, I don't have the search warrant in front
16 of me, in the bedroom.

17 Q. Detective Bailey, I would like to show you just to
18 refresh your recollection, what is it that you are
19 looking at?

20 A. I am looking at the search warrant that I obtained,
21 got signed and executed, and this firearm in particular
22 was located in bedroom number one.

23 Q. And what was it located with or next to?

24 A. It was located next to an extended magazine.

25 Q. And per North Charleston procedure what happened to

1 that after it was located?

2 A. MPO collected those and then placed them in
3 evidence.

4 Q. And in addition to this what other -- I'll take
5 this back from you. In addition to this firearm and
6 magazine and extended magazine that you just testified
7 about what else did you locate in the house and where?

8 A. There was another firearm located also in the same
9 bedroom. Everything collected in the search warrant came
10 from bedroom number one, and there was another firearm
11 you did not mention that, Smith and Wesson .22 caliber.

12 Q. Any ammunition?

13 A. Yes, I'm sorry, and ammunition, .22 caliber
14 bullets.

15 Q. Thank you. No further questions at this time.
16 Please answer any that the defense may have.

17 THE COURT: Thank you. Any cross-examination?

18 MS. BROWN: Thank you.

19 CROSS-EXAMINATION

20 BY MS. BROWN:

21 Q. Detective Bailey, you indicated that for 11 years
22 you did patrol at North Charleston Police Department?

23 A. I started off in patrol.

24 Q. At any point in time did you patrol Kent Avenue?

25 A. I'm sure I did.

1 Q. Do you remember how long you patrolled Kent Avenue?

2 A. Kent Avenue is located on the south end of the city
3 so I'm sure I've driven up and down Kent Avenue many
4 times when I was on patrol.

5 Q. Were you patrolling Kent Avenue in December of
6 2014?

7 A. No.

8 Q. Now, when you arrived to Kent Avenue what was the
9 scene upon your arrival?

10 A. I was pretty much just on a mission to get the
11 search warrant there so I didn't really, you know, take a
12 look around at all the surroundings. I parked and went
13 into the house.

14 Q. Now, prior to arriving to Kent Avenue do you recall
15 what time you receive a phone call from Sergeant Evans?
16 Is that correct?

17 A. It was Sergeant Evans and it was probably between
18 7:30 and 8:00 p.m.

19 Q. And when you received a phone call you had not been
20 to that location prior to the phone call; is that
21 correct?

22 A. Correct.

23 Q. Now, is it customary for someone to prepare a sworn
24 -- let me rephrase that question. The search warrant, is
25 that, in fact, the sworn statement?

1 A. It is.

2 Q. And is it customary for an officer to prepare a
3 sworn statement without having any involvement in the
4 investigation?

5 A. Well, I was involved. The minute someone gave me a
6 call and told me about the incident I was involved and
7 then when I was asked to leave my house I was actively
8 involved, and all the information that was provided to me
9 was provided to me by someone who had been even more
10 actively involved than I had at that point.

11 Q. Would you explain to me what was your involvement
12 at the time that you prepared the sworn statement.

13 A. I met Sergeant Evans at City Hall, like he
14 instructed me to. He briefed me on the investigation and
15 provided details of the incident as it stood at that
16 point and then he instructed me to prepare the search
17 warrant.

18 Q. Okay. So your involvement was limited to the
19 information that was provided to you from another
20 officer?

21 A. That's correct. That's correct.

22 Q. Now, at that time you didn't have any personal
23 knowledge about the case; is that correct?

24 A. Just what I was told.

25 Q. When you were provided information from Sergeant

1 Evans did he give you any information about any

2 statements that were made from Rhajon?

3 A. Not that I recall.

4 Q. Now, do you have a copy of your search warrant in

5 front of you?

6 A. I have nothing.

7 Q. I'm going to hand you the document. Will you tell

8 the Court the document I just handed to you.

9 A. It's a search warrant. It's mine.

10 Q. Is that the search warrant that you prepared

11 December 26 of 2014?

12 A. It is.

13 Q. Do you recall in that search warrant having

14 information about what Rhajon stated?

15 A. Do you want me to read the search warrant so the

16 Court can hear it? I'll just read what I put for my

17 probable cause.

18 Q. No. I want to know whether or not there's any

19 statements that you were given -- was any statement

20 provided to you as results to Rhajon?

21 A. Give me a moment. I'm going to read it. Okay?

22 Q. Certainly.

23 A. Yes. I was advised the defendant indicated that

24 he, in fact, shot the victim.

25 Q. Were you advised by Sergeant Evans that the

1 defendant feared for his safety for the reasons he shot
2 the defendant --

3 A. No.

4 Q. -- the victim?

5 A. No.

6 Q. That was not provided to you?

7 A. Correct.

8 Q. At any point in time did you learn of that
9 information?

10 A. No.

11 Q. Now, in that statement is there also information
12 about the whereabouts of the victim at the time of the
13 shooting?

14 MS. FRIERSON: Your Honor, objection. May we
15 approach?

16 THE COURT: You may.

17 (WHEREUPON, a bench conference was had.)

18 BY MS. BROWN:

19 Q. At the time you secured the search warrant were you
20 provided any additional information that the defendant
21 relayed to any of the officers?

22 A. That the defendant relayed to the officers?

23 Q. Absolutely.

24 A. All right. Let me read over this.

25 (PAUSE.)

1 A. Okay. So repeat the question again. I'm sorry.

2 Q. At the time that you received information from
3 Sergeant Evans were you provided any additional
4 information from what the defendant offered?

5 A. Yeah. So as I originally stated he said -- I was
6 advised, the defendant indicated that he shot the victim
7 while the victim was crossing the street and then that
8 post Miranda defendant stated he was responsible for the
9 shooting but believed the victim was armed.

10 MS. FRIERSON: Objection, Your Honor. She's
11 reading it into the record.

12 THE COURT: I'm going to overrule that at this
13 point.

14 MS. FRIERSON: Thank you.

15 BY MS. BROWN:

16 Q. Now, you indicated that once you arrived to Kent
17 Avenue you were part of the search -- you were present
18 for the search of the residence?

19 A. Correct.

20 Q. You also indicated that bedroom number one you have
21 determined was belonged to Rhajon. How did you make that
22 determination?

23 A. I did not personally make that determination.
24 That's what I was advised.

25 Q. Okay. And who advised you of that information?

1 A. Well, it's in the search warrant so that would be
2 Sergeant Evans.

3 Q. And you also referred to another firearm that was
4 located in bedroom number one. Do you have any
5 information based on your investigation to this extent
6 that that search warrant was stolen or improperly
7 obtained?

8 A. The search warrant was stolen?

9 Q. I'm sorry. The firearm that you referred to.

10 A. I don't have any information about the status of
11 either firearm.

12 Q. Okay. And once you arrived to -- do you remember
13 how long it took to search that home?

14 A. I don't. I don't remember it taking an abnormal
15 amount of time and likewise I don't remember whizzing in
16 and out. I would just say a normal amount of time. I
17 can't give you a time frame.

18 Q. What is normal?

19 A. Maybe 45 minutes.

20 Q. Do you remember what time you departed that
21 residence?

22 A. I don't.

23 Q. And while you were on the scene conducting the
24 search warrant, and I think you may have answered this,
25 and I apologize, you didn't get an opportunity to

1 interview any witnesses, did you?

2 A. No.

3 MS. BROWN: May I approach the witness?

4 THE COURT: Yes, ma'am. You don't need to ask.

5 MS. BROWN: Thank you.

6 BY MS. BROWN:

7 Q. After searching the residence did you perform any
8 further duties related to this case?

9 A. No.

10 MS. BROWN: Beg the Court's indulgence?

11 THE COURT: Yes, ma'am.

12 Q. Do you remember how many individuals were at the
13 Kent residence, excluding the officers, when you
14 conducted your search?

15 A. There was a resident home. I don't remember her
16 name, someone who lived there. That was the only thing
17 that pops in my mind, other than officers.

18 Q. So you're only aware of one other person?

19 A. That I remember. It's the person I gave a copy of
20 the search warrant and return to.

21 Q. Certainly.

22 MS. BROWN: Nothing further.

23 THE COURT: Any redirect?

24 MS. FRIERSON: Briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MS. FRIERSON:

2 Q. Detective Bailey, I believe you testified that on
3 major events detectives work together?

4 A. Yes.

5 Q. And a shooting, is that considered a major event?

6 A. It is.

7 Q. Now, tell us a little bit about that collaborative
8 effort of detectives. Does everybody respond to the
9 scene?

10 A. No, everybody can't. We have to be able to rely
11 upon each other's information, the information provided.
12 No one detective or police officer can secure a scene,
13 talk to witnesses, interview people, get a search
14 warrant, help execute the search warrant, we have crime
15 scene. I mean, there's just a myriad of things that take
16 place and everyone is assigned a duty or a task in order
17 to help accomplish everything being requested.

18 Q. And in this case is that what happened?

19 A. It is.

20 Q. Was this search warrant obtained through that
21 collaborative effort?

22 A. It is.

23 Q. And that was based on the investigation of
24 officers?

25 A. Correct.

1 Q. Is it safe to say that if you could not collaborate
2 that there would be an unnecessary delay in securing
3 search warrants and preserving evidence?

4 A. Yes.

5 MS. FRIERSON: No further questions, Your Honor.

6 THE COURT: Any recross based on the redirect?

7 RECROSS-EXAMINATION

8 BY MS. BROWN:

9 Q. One quick question. That residence that day
10 clearly had officers already at the location; is that
11 correct? So there was not an issue about any evidence
12 being removed?

13 A. Not that I'm aware of.

14 MS. BROWN: Okay. Nothing further.

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

16 This witness is excused unless there is an
17 objection.

18 MS. FRIERSON: No objection from the State, Your
19 Honor.

20 MS. BROWN: None, Your Honor.

21 THE COURT: Will that be all the testimony from
22 today?

23 MS. SAVAS: Yes, Your Honor. That is all the
24 testimony for this afternoon.

25 THE COURT: All right. Ladies and gentlemen, we'll

1 So it's a possibility you may be able to deliberate
2 tomorrow afternoon into whatever time you need to
3 deliberate on this case. So if you have things going on
4 Friday you are probably okay to do those. So I may have
5 to eat those words, depending on what happens at trial.

6 Now you may call your first witness.

7 MS. SAVAS: Thank you, sir. My apologies. The
8 State calls Officer Shawn Perkins.

9 SHAWN PERKINS, after having been duly sworn,
10 testified as follows:

11 THE WITNESS: Morning, Your Honor.

12 THE COURT: Morning.

13 THE CLERK: Please state your first and last name
14 and spell your last name loudly and clearly into the
15 microphone.

16 THE WITNESS: My name is Shawn Perkins,
17 P-e-r-k-i-n-s.

18 DIRECT EXAMINATION

19 BY MS. SAVAS:

20 Q. Morning, Officer Perkins.

21 A. Good morning.

22 Q. Officer Perkins, can you please tell the jury what
23 agency you work for.

24 A. I work for the City of North Charleston Police
25 Department.

1 Q. And how long have you worked with North Charleston?

2 A. I've been a police officer for 15 years, six of the
3 last have been with the City of North Charleston.

4 Q. And what was the first job position you held with
5 North Charleston?

6 A. A patrol officer.

7 Q. And how long have you been a patrol officer?

8 A. For the City of North Charleston, four of the six,
9 and within my 15 year career four years of narcotics. So
10 minus that I've always been on patrol.

11 Q. So you've been a narcotics officer and a patrol
12 officer. Any other job within the agencies?

13 A. I was a SWAT operator as well.

14 Q. And as a patrol officer what sort of job duties do
15 you have?

16 A. Patrol duties kind of wear a bunch of hats, really,
17 but our main goal is to answer calls for service and
18 assist citizens that are in need.

19 Q. And were you a patrol officer for North Charleston
20 on December 26, 2014?

21 A. Yes, ma'am.

22 Q. And how were you involved in this case?

23 A. My involvement in the case, when I arrived on scene
24 there were multiple officers already there. They seemed
25 to be tasked with something. Being I was kind of almost

1 the last one there I asked if anybody needed assistance,
2 and I took it upon myself to Mirandize the individual -
3 that was in the back of the car.

4 Q. Can you please describe the scene for us when you
5 arrived.

6 A. I had to park so far away because there was some
7 cruisers there, so walking up I saw many of my teammates
8 and just kind of going two different directions across
9 the street and so I didn't really approach what they were
10 doing just because sometimes too many people gets a
11 little confusing, so I stood back.

12 My sergeant was kind of walking towards me. I
13 asked if the defendant had been Mirandized yet. I
14 believe they told me no. So I didn't want to kind of get
15 involved with what was going on already so I took it upon
16 myself, like I said, to give Miranda rights to the
17 defendant.

18 Q. And when you arrived on scene where was the
19 defendant at this time?

20 A. He was sitting in the back of a patrol car.

21 Q. And do you remember whose patrol car that was?

22 A. From what I recall it was Officer Clater's cruiser.

23 Q. Okay. And how did you observe the defendant to be
24 in the cruiser?

25 A. He was really calm, polite, just kind of sitting

1 there looking around, you know, like anybody would, just
2 kind of wondering what was going on looking at the
3 officers.

4 Q. Okay. And about how many times would you say in
5 your career have you read someone their Miranda rights?

6 A. It would countless amount of times.

7 Q. And just briefly, what exactly are Miranda rights?

8 A. They are your rights that everyone has probably
9 ever heard to protect you from making any incriminating
10 statements. I mean, they are your rights.

11 Q. And do you read them off of a Miranda card?

12 A. I do.

13 Q. And do you have that card with you?

14 A. Yes, ma'am, I do.

15 Q. And is that the same card that you read the rights
16 to Mr. Sanders?

17 A. Yes.

18 Q. Can you please read that into the record for us.

19 A. Yes. I always carry two. I carry one in my front
20 pocket and one in my wallet in case somebody else needs
21 one. The card reads as defendant's rights: You have the
22 right to remain silent. Anything you say can and will be
23 used against you in court. You have the right to an
24 attorney before making any statement. You may have your
25 attorney with you during questioning. If you cannot

1 afford an attorney and desire one the Court will appoint
2 one for you. You may stop questioning at any time by
3 refusing to answer further or by requesting to consult
4 with your attorney.

5 Then it goes to waiver. We also ask, Do you
6 understand each of the rights we explained to you? And I
7 always make sure that they give a verbal yes or no. It's
8 not a shaking of the head or nodding. It's a yes or no
9 verbally. With these rights in mind do you wish to talk
10 to us now. That's what the card reads.

11 Q. And that's how you read it to the defendant on that
12 night?

13 A. Yes, ma'am.

14 Q. Okay. And at that point was the defendant detained
15 or was he arrested?

16 A. He was just detained.

17 Q. And what does just a basic detainment mean?

18 A. It means they were either a suspect in a crime or
19 maybe not a suspect but they for safety purposes can be
20 detained until we kind of -- I mean, the scenes are kind
21 of sometimes chaotic, in our eyes they are chaotic, may
22 not look chaotic to you, so just to calm everything down,
23 make sure everyone is safe they will be placed in
24 handcuffs. If they need to come out of handcuffs they
25 will. So he was just detained at that moment.

1 Q. And at any point in time after an investigation is
2 completed a suspect that was detained may be later
3 arrested, correct?

4 A. Yes, ma'am.

5 Q. But you would not be able to make that
6 determination at this point in time when you were
7 speaking with the defendant?

8 A. I couldn't. I was on task with just giving his
9 Miranda.

10 Q. And when you read him his rights did he waive those
11 rights?

12 A. Yes.

13 Q. And did you receive verbal confirmation from him
14 that he did?

15 A. Yes. He said that he would speak with us.

16 Q. And did he appear to have any trouble understanding
17 what his rights were?

18 A. I asked him if he understood, and he said yes.

19 Q. And was anyone else present at that time when you
20 were giving him his rights?

21 A. There were some officers standing behind me around
22 the car but I couldn't tell you who exactly it was
23 standing behind me. I was just focused on having the
24 conversation with the defendant.

25 Q. But you were the only officer involved in reading

1 his rights and having that conversation?

2 A. Yes, ma'am.

3 Q. And did he appear to have any disabilities that
4 would have impaired his ability to understand what you
5 were saying?

6 A. Not from -- no.

7 Q. And were any threats or promises made in exchange
8 for this statement?

9 A. No.

10 Q. And how old did the defendant appear to be?

11 A. He appeared to be in his 20's.

12 Q. And did he ever say that he couldn't read or write?

13 A. No.

14 Q. And did he ever say that he didn't understand what
15 was going on or what his rights were?

16 A. No.

17 Q. And did he ever stop at any point in time to
18 request an attorney?

19 A. No, ma'am.

20 Q. And was he deprived of anything during questioning?

21 A. No.

22 Q. And was he told the subject matter of the
23 investigation prior to you Mirandizing him?

24 A. Not by me.

25 Q. Given your training and experience to the best of

1 you knowledge did it appear that his statement was freely
2 and voluntarily given?

3 A. Yes.

4 Q. And was this statement recorded on audio and video?

5 A. It was.

6 Q. And how was that recorded?

7 A. The cruiser that he was sitting in had the MVR,
8 which is the data recording system that's in there, and
9 it had it on. It was recording at the time we spoke.

10 Q. And to the best of your knowledge was that dash cam
11 preserved in proper practices of the North Charleston
12 Police Department?

13 A. Yes, ma'am.

14 Q. And during your -- after he was read his Miranda
15 warnings did the defendant confess to shooting the
16 victim, Nicholas Washington?

17 A. Yes.

18 Q. At this time, Officer Perkins, I would like to play
19 what was admitted by consent of both parties as dash cam,
20 the State's Exhibit Number 1. It will appear on the
21 video screen.

22 (WHEREUPON, State's Exhibit Number 1, the dash cam
23 video, was played for the jury.)

24 MS. BROWN: Your Honor, objection. Can we
25 approach?

1 THE COURT: Hold it.

2 MS. BROWN: I have an objection. Can we approach
3 very quickly?

4 THE COURT: You may.

5 (WHEREUPON, a bench conference was had.)

6 THE COURT: Proceed.

7 (The video resumed play for the jury.)

8 Q. Officer Perkins, was that your voice giving the
9 defendant his Miranda rights and speaking with him?

10 A. Yes, ma'am.

11 Q. And, Officer Perkins, the defendant did confess to
12 shooting the victim multiple times, did he?

13 A. Yes.

14 Q. And what kind of gun did the defendant say to have
15 used?

16 A. He said he had a Taurus.

17 Q. And did he tell you where the gun was?

18 A. No. I don't recall him telling me where it was.

19 Q. And did he say whether he and the victim had a
20 conversation at that time?

21 A. No.

22 Q. And did he say whether the defendant and the victim
23 were in a physical altercation prior to the defendant
24 shooting him?

25 A. No, ma'am.

1 Q. And did he tell you about how long he lived there?

2 A. He said about a year.

3 Q. And did he say that he recognized the victim before
4 shooting him?

5 A. No.

6 Q. And did he ever give a specific reason that he shot
7 the victim?

8 A. No.

9 Q. And did he say whether the victim was smoking a
10 cigarette?

11 A. From what I recall he said something about a
12 cigarette, yes.

13 Q. And did the defendant say that he was on his
14 property when he shot the victim?

15 A. The defendant, yes.

16 Q. And did he say that the victim was on the other
17 property when he shot him?

18 A. Yes, or near the street. I can't say whether it
19 was on his property but in that vicinity.

20 Q. Okay. Did he ever specifically say he saw a gun on
21 the victim prior to shooting him?

22 A. No.

23 MS. SAVAS: Beg the Court's indulgence.

24 (PAUSE.)

25 Q. Nothing further from the State. Please answer any

1 questions from the defense.

2 A. Yes, ma'am.

3 THE COURT: Yes, ma'am.

4 MS. BROWN: Thank you.

5 CROSS-EXAMINATION

6 BY MS. BROWN:

7 Q. Good morning, Officer Perkins.

8 A. Good morning. How are you?

9 Q. Good. Now, Officer Perkins, you testified that
10 you've been an officer for 15 years?

11 A. Yes, ma'am.

12 Q. Is that here in the State of South Carolina?

13 A. Most of it, yes. I originally started my career at
14 the City of Bowling Green Police Department which is in
15 Bowling Green, Kentucky.

16 Q. And the last six years you've been with the North
17 Charleston Police Department?

18 A. Yes, ma'am.

19 Q. And as a patrol officer do you patrol certain
20 neighborhoods?

21 A. We are assigned a certain area but, I mean, we can
22 go anywhere in the City of North Charleston within our
23 jurisdiction, yes, ma'am.

24 Q. Have you ever been assigned patrol work at
25 Dorchester Terrace where this incident occurred?

1 A. Yes, ma'am. We answer multiple calls there. I
2 mean, that's part of the south area that we are
3 responsible for so, yes, ma'am.

4 Q. And you've answered multiple calls there?

5 A. Yes, ma'am.

6 Q. And what type of calls have you answered there?

7 MS. SAVAS: Objection, relevance.

8 THE COURT: Sustained.

9 BY MS. BROWN:

10 Q. You have worked in the Dorchester Terrace community
11 for how long?

12 A. When I've come back to the road now two -- I've
13 been on the road two years out of narcotics, so I've
14 always been assigned to that area which it's just one of
15 the areas in the south bureau.

16 Q. And now in some areas there's -- have you seen a
17 sign -- I know you've patrolled there for quite sometime.
18 Sometimes they have signs outside posted in neighborhoods
19 stating what kind of neighborhood it is. For instance,
20 if the neighborhood has an issue with crime --

21 MS. SAVAS: Objection, Your Honor, relevance. May
22 we approach, please?

23 THE COURT: You may.

24 (WHEREUPON, a bench conference was had.)

25 BY MS. BROWN:

1 Q. Patrol Officer Perkins, at some point you arrived
2 to Kent Avenue. Do you know the time that you arrived
3 there?

4 A. I don't recall the time, ma'am.

5 Q. Okay. And when you arrived there you noticed that
6 there were several officers already on the scene?

7 A. Yes, ma'am.

8 Q. Do you know who was responsible for interviewing
9 witnesses?

10 A. Did I know who was responsible for them?

11 Q. Yes.

12 A. No, ma'am.

13 Q. Do you know whether or not any witnesses were
14 interviewed?

15 A. No.

16 Q. Do you know who was responsible for canvassing the
17 neighborhood?

18 A. Canvassing the neighborhood?

19 Q. Yes, to identify potential witnesses.

20 A. Would be the police. We would be responsible for
21 that.

22 Q. Do you know which officer?

23 A. No, ma'am. I was tasked with one task only.

24 Q. Now, when you arrived in the neighborhood what was
25 the -- you said there was a lot of -- it was pretty

1 hectic. Is that the word you used, or chaotic, the
2 scene?

3 A. Yes. I used many descriptive words and --

4 Q. And do you. I'm sorry. Go ahead.

5 A. Yeah. The ambulance was there, there was citizens,
6 obviously, curious as to what was going on in their
7 neighborhood so --

8 Q. Do you recall seeing how many individuals were on
9 scene at the time?

10 A. I don't know.

11 Q. And you certainly did not take the opportunity to
12 identify who was on the scene; is that correct?

13 A. No. I was tasked with one task only and that was
14 to Mirandize the defendant.

15 Q. Now, let's talk about the statement that was made
16 by Rhajon. Did you prepare a narrative or incident
17 report relating to this incident, this case?

18 A. Not that I recall. If I did it would have been a
19 supplement just stating what I did which would have been
20 giving him his Miranda.

21 MS. BROWN: May I approach the witness?

22 THE COURT: You may.

23 Q. I'm going to hand you a document. Will you tell me
24 whether or not that's your report that you prepared?

25 A. Yes, ma'am, that's mine.

1 Q. And do you know when you prepared that report?

2 A. It would have been on -- the report time says
3 12-26-2014 at 19:22 hours.

4 Q. So it was very close in time to the shooting
5 itself?

6 A. I don't recall what time the shooting was. I just
7 know this was the time I did the report, which would have
8 been after the fact.

9 Q. Do you know if it's the day of the shooting?

10 A. Yes, ma'am.

11 Q. Thank you. Now, it's very difficult to understand
12 everything Rhajon was saying from the TV so I just want
13 to make sure I understand your testimony. When Rhajon
14 was detained where was he located in the cruiser?

15 A. The backseat of the cruiser.

16 Q. And did he have handcuffs on at the time?

17 A. Yes, ma'am.

18 Q. And do you recall Rhajon stating that an unknown
19 male subject wearing all black was near his residence?

20 A. Yeah. Yes, ma'am.

21 Q. Do you recall that Rhajon said that he was standing
22 on his property at the time and he noticed the man, the
23 unknown male?

24 A. Are you referring to the defendant staying on his
25 property.

1 Q. Yes. I'm sorry. Rhajon Sanders is the defendant.

2 A. Yes. I'm sorry.

3 Q. Do recall Rhajon Sanders stating that he was
4 standing on his property when he noticed an unknown male?

5 A. Yes. He said he was on his property, yes, ma'am.

6 Q. Do you also recall Rhajon stating that the unknown
7 male dropped a cigarette and began to reach towards his
8 waistband?

9 A. Yes.

10 Q. Do you also recall Rhajon stating that when he saw
11 the unknown male subject reaching for his waistband he
12 feared for his safety?

13 A. Yes.

14 Q. Do you also recall Rhajon stating that as a result
15 of fearing for his safety he went for his gun?

16 A. Yes.

17 Q. Do you also recall Rhajon stating that due to his
18 fear he shot the male subject?

19 A. Yes.

20 Q. And is that when he also told you he shot him with
21 a nine millimeter Taurus handgun?

22 A. Yes.

23 Q. Now, on direct one of the questions that you were
24 asked is whether or not Rhajon provided a reason for
25 firing his weapon. Do you recall that statement, that

1 question?

2 A. I don't recall it.

3 Q. One of the questions were did he give you a reason
4 for why he shot the victim, and your answer was no.

5 A. Okay.

6 Q. In fact, didn't Rhajon give you a reason why he
7 fired his weapon?

8 A. After just reviewing the video it said that he was
9 in fear for his safety.

10 Q. Is that also in your report that you documented on
11 December 26?

12 A. I don't have it in front of me.

13 Q. Sure.

14 MS. BROWN: May I approach the witness?

15 THE COURT: You may. And, again, you don't have to
16 ask.

17 (A document was handed to the witness.)

18 A. Thank you, ma'am.

19 Q. Sure.

20 A. If you don't mind if I could read this real quick.

21 Q. No. I'm not going to ask you read it out loud.

22 A. Oh, absolutely. I just want to scan over it.

23 (PAUSE.)

24 A. Yes. About the second to last or third to last
25 sentence it says, and I'll quote it from my report, it

1 says, Sanders said that due to this fear he shot the male
2 subject.

3 Q. So he did give you a reason for why he fired his
4 weapon; is that correct?

5 A. Yes, ma'am.

6 Q. Do you have any other evidence as relates to the
7 basis for why he fired his weapon?

8 A. I have no evidence, no.

9 Q. Now, as a member and officer with North Charleston
10 Police Department whenever there is a case such as
11 attempted murder is there someone who is primarily
12 assigned to the case to handle certain things?

13 A. Usually the detective bureau will take over the
14 investigation after the patrol deputies get there. We
15 are responsible for the initial reports and then the
16 detective division usually gets assigned a case of that
17 nature, yes.

18 Q. And do you know who was assigned with the detective
19 bureau for this case?

20 A. Not at the time, I had no idea.

21 Q. Do you know now?

22 A. No. Well, I think it was Detective Bailey was --
23 Rebecca Bailey was the detective but I wouldn't have
24 known that until just the other day.

25 Q. And do you know what role Detective Bailey played

1 in this case?

2 A. No, ma'am.

3 Q. Now, after you learned that Rhajon indicated that
4 he feared for his safety after seeing an unknown male
5 standing across the street and he fired his weapon did
6 you do anything to verify his account of the event?

7 A. No. I just spoke to the defendant and that was it.

8 Q. Do you know if anybody did anything to verify his
9 account of the event?

10 A. I can't speak to what anyone else did, only what I
11 did.

12 Q. Certainly. Have you had a chance to watch this
13 video before today?

14 A. Yes, ma'am.

15 Q. And is there any information that was given prior
16 to the Miranda warnings by Rhajon to any officers?

17 A. Not that I recall.

18 Q. Do you recall Rhajon asking you on that video
19 whether or not you guys located a gun?

20 A. Yeah. He just said did you find a gun.

21 Q. And who was he referring to had the gun?

22 A. Who was he referring to that had a gun?

23 Q. Exactly.

24 A. I have no idea. Maybe he was referring to the gun
25 that he said that he had, did we find his gun or was

1 there a gun on the suspect.

2 Q. Now, he maintained that he fired his weapon because
3 the other unknown gentleman was reaching for his
4 waistband?

5 A. Yes, ma'am.

6 Q. Did he also indicate that the unknown gentleman had
7 a firearm or he believed he had a firearm?

8 A. Yes, ma'am.

9 MS. BROWN: Beg the Court's indulgence.

10 (PAUSE.)

11 MS. BROWN: Nothing more from this witness.

12 THE COURT: Any redirect?

13 MS. SAVAS: Yes, briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. SAVAS:

16 Q. Officer Perkins?

17 A. Yes, ma'am.

18 Q. Just really quickly. You mentioned that everybody
19 has certain roles. Was your role just simply limited to
20 Mirandizing the defendant?

21 A. That was it.

22 Q. Okay. So you were not given any information prior,
23 you don't follow up. It's not part of your duties,
24 correct?

25 A. No, ma'am.

1 Q. Okay. And just to clarify from your supplement,
2 did the defendant state that he was walking towards
3 something?

4 A. If you give me a moment to look over it.

5 Q. Yes, sir, of course.

6 (PAUSE.)

7 A. If you don't mind, you prefer I read it.

8 Q. I'm sorry. You can read it to yourself.

9 A. Okay. It does say that he was --

10 Q. Go ahead.

11 A. It does state that he was walking towards his
12 mailbox, referring to Mr. Sanders.

13 Q. Okay. So Mr. Sanders was walking towards his
14 mailbox?

15 A. No. Sanders stated that he walked towards his
16 mailbox in the yard and noticed the same male drop a
17 cigarette and began to reach towards his waistband.

18 Q. Okay. Thank you, Officer. And just for
19 clarification, when you mentioned Detective Bailey, she's
20 just one of the detectives that you know to be involved
21 in this case, correct?

22 A. I just was made aware of that, so yes.

23 Q. But she's not the detective handling the entire
24 case that you are aware of?

25 A. Not that I'm aware of.

1 Q. Okay. And anything that any defendant or any
2 suspect tells you during a Miranda statement is not
3 actual -- and when you put it in a supplement it's not
4 actual facts of what exactly happened. It's merely --

5 MS. BROWN: Objection, Your Honor.

6 THE COURT: What is your objection?

7 MS. BROWN: I'm trying to see if she's testifying
8 or leading the witness. I'm waiting on a question.

9 THE COURT: That's what I'm waiting for, the
10 question. Proceed.

11 MS. SAVAS: Yes, sir.

12 BY MS. SAVAS:

13 Q. They are not necessarily facts that you are
14 stating. You are merely regurgitating information that a
15 witness or suspect said to you?

16 A. Yes, ma'am.

17 MS. SAVAS: Okay. Nothing further.

18 THE COURT: Okay. Thank you.

19 Any recross?

20 MS. BROWN: Certainly.

21 RECROSS-EXAMINATION

22 BY MS. BROWN:

23 Q. After you received that information from my client
24 you did nothing more; is that correct?

25 A. No. I did a report and then I went back on the

1 road and answered the calls because we were short.

2 Q. You did nothing more as relates to verifying his
3 account; is that correct?

4 A. Just giving him Miranda warnings and that was it.

5 MS. BROWN: Thank you.

6 THE COURT: Well, thank you. You may be excused.

7 THE WITNESS: Thank you, Your Honor. Have a good
8 day.

9 MS. SAVAS: Thank you, sir.

10 THE COURT: You may call your next witness.

11 MS. SAVAS: Thank you, sir. The State calls

12 Officer Michael Cook.

13 MICHAEL COOK, after having been duly sworn,
14 testified as follows:

15 THE CLERK: Please state your first and last name
16 and spell your last name loudly and clearly into the
17 microphone.

18 THE WITNESS: Michael Cook, C-o-o-k.

19 DIRECT EXAMINATION

20 BY MS. SAVAS:

21 Q. Good morning, Officer Cook.

22 A. Good morning.

23 Q. Can you please tell the jury where you work.

24 A. The North Charleston Police Department.

25 Q. And how long have you worked at the North

1 Charleston?

2 A. I've been there 15 years.

3 Q. And what positions have you held within the agency?

4 A. I've been assigned to uniform patrol, detectives
5 and bike team, and currently assigned to the forensics
6 unit.

7 Q. And what are your job duties within the forensics
8 unit?

9 A. We respond to scenes, we process scenes, collect
10 evidence, package evidence, photograph.

11 Q. And how long have you been in the forensics unit?

12 A. Since 2014.

13 Q. Okay. And back in December of 2014 were you also
14 in that unit?

15 A. I was.

16 Q. Okay. And how were you involved in this case,
17 specifically?

18 A. I was the on-call forensics investigator for that
19 weekend.

20 Q. Okay. And as part of your on-call duties does that
21 include responding to scenes?

22 A. It does.

23 Q. And did you respond to this scene?

24 A. I did.

25 Q. And when you arrived on scene what did you observe?

1 A. The scene was taped off with yellow crime scene
2 tape. I also observed white business cards or case
3 number cards marking what later we found out to be was
4 shell casings.

5 Q. And you mentioned that there was crime scene tape.
6 What is the purpose of that tape?

7 A. To secure the scene from people getting too close
8 to the scene.

9 Q. Okay. And is that another measure to preserve
10 evidence on the scene itself?

11 A. It is.

12 Q. Okay. And did you take photographs while on scene?

13 A. I did.

14 Q. Is that part of your normal job duties?

15 A. Yes, ma'am.

16 Q. And did you do anything else while you were on
17 scene?

18 A. I would have to look at my report.

19 Q. Did you do a GSR kit?

20 A. I did.

21 Q. And did you do a buccal swab of the defendant?

22 A. I did.

23 Q. Okay. And just briefly what is a GSR kit?

24 A. It is a gunshot residue test. It's four vials for
25 -- two vials for each hand, front and back, and basically

1 you would start with the back of the hand and you would
2 tab the top to the back of the hand, put it back in the
3 vial, and then you would do the palm of the hand on both
4 hands, and then you would put it back in the package.

5 Q. And what is the purpose of that?

6 A. You simply would send it to SLED for them to do
7 analysis on it.

8 Q. And what would that analysis tend to show?

9 A. Gunshot powder.

10 Q. To determine whether someone may have shot a
11 firearm?

12 A. Yes, ma'am.

13 Q. Okay. And did the defendant give you consent to do
14 that at this time?

15 A. He did.

16 Q. And I mentioned a buccal swab. What is a buccal
17 swab?

18 A. It's just a swab of the inside of the mouth to
19 collect DNA.

20 Q. And how is that procedure done?

21 A. We use a sterile -- two sterile Q-tips. I asked
22 him if I could take his buccal swab. He said yes. I
23 opened the package while he was in the backseat of a
24 police car and just took the two swabs and rubbed the
25 inside of his cheeks.

1 Q. And how are those preserved after they are taken?

2 A. They are put back in the packaging and then when I
3 get back to our office I put them in an envelope and seal
4 them with evidence tape.

5 Q. And where do they tend to go from there?

6 A. They would be sent to SLED.

7 Q. And the defendant gave you consent that night to do
8 that as well?

9 A. Yes, ma'am.

10 Q. Okay. And did you also take a touch DNA swab from
11 a Taurus?

12 A. I did from our lab.

13 Q. And what exactly is a touch DNA swab?

14 A. Basically, touch DNA is if you touch something you
15 leave skin cells or sweat or something behind. We swab
16 the handle, the trigger and the magazine of every gun we
17 get. I swabbed the gun. I packaged the swabs
18 individually and also sent them to SLED.

19 Q. And does that get compared to the DNA --

20 A. Buccal swab, yes.

21 Q. So that DNA from the Taurus then gets compared to
22 the defendant's DNA from the buccal swab?

23 A. Yes, ma'am.

24 Q. And what does that tend to show?

25 A. It would show if it was him that had the gun.

1 Q. Okay. And I'm going to hand you what's been
2 admitted by consent, State's Exhibit Number 4. Do you
3 recognize this or the item inside of it?

4 A. Can I open it?

5 Q. Is it listed on the front?

6 A. Oh, yes. It's a GSR kit from Rhajon Sanders.

7 Q. And I'm handing you State's Exhibit 6A and 6B
8 admitted by consent. Do you recognize those items?

9 A. Yes, ma'am. One is the buccal swab and one is the
10 swab from the Taurus handgun.

11 Q. Okay. Thank you.

12 A. Uh-huh.

13 Q. Officer Cook, you mentioned you took photographs
14 that evening?

15 A. Yes, I did.

16 Q. I'm going to go through some photographs that were
17 admitted by consent. Officer Cook, State's Exhibit 17,
18 what is this a photo of?

19 A. That is the front of the residence where the shots
20 were taken from or shot from.

21 Q. Okay. So that was believed to be the suspect's
22 home?

23 A. Yes, ma'am.

24 Q. And I see that there's a lot of lighting. Do you
25 know what that lighting is maybe accounted by?

1 A. I carry a -- basically, it's an expandable flood
2 light, along with the flash of my camera.

3 Q. Okay. So that's not an actual depiction of the
4 specific lighting of what it would be without those
5 lights that you have?

6 A. Yes, ma'am.

7 Q. They are sort of enhanced so-to-speak?

8 A. Yes, ma'am.

9 Q. And State's Exhibit 18, what is this a photo of?

10 A. The address on the residence and the sidewalk.

11 Q. And that is [REDACTED]?

12 A. Yes, ma'am.

13 Q. And State's Exhibit 19?

14 A. That is showing the business cards where shell
15 casings were located.

16 Q. I believe we had a pointer yesterday. It might be
17 up there. Yeah, it expands. I have some close-ups, but
18 you are speaking to these things right here, these little
19 white things?

20 A. Yes, ma'am.

21 Q. And State's Exhibit 20, what is that a photo of?

22 A. It's a different angle showing where the shell
23 casings were located.

24 Q. Okay. State's Exhibits 21?

25 A. Just a closer -- it's a closer up photograph.

1 Q. So these are the business cards that were laid by
2 officers to preserve the location, the shell casings?

3 A. Yes, ma'am.

4 Q. Okay. And that is so that they are not tampered
5 with, correct?

6 A. Yes, ma'am.

7 Q. And State's Exhibit 22, what are those yellow
8 markings?

9 A. Those are numbered evidence markers.

10 Q. And who placed those there?

11 A. I did.

12 Q. And what was the point of those?

13 A. It numbers the shell casing and it also will give a
14 scale when I do an overhead shot of it.

15 Q. State's Exhibit 23, what is that?

16 A. That is what I have listed as my evidence number
17 one, and it's the photograph of the shell casing.

18 Q. So shell casing number one?

19 A. Yes, ma'am.

20 Q. State's Exhibit 24?

21 A. That is a photograph of the head stamp from
22 evidence marker number one.

23 Q. And it might be a little hard to determine on here.

24 Do you remember what that specific type of casing is,

25 millimeter?

- 1 A. It's a nine millimeter.
- 2 Q. Okay. And State's Exhibit 25?
- 3 A. That is a photograph of number two and number
- 4 three.
- 5 Q. State's Exhibit 26?
- 6 A. Overhead shot of number two.
- 7 Q. So shell casing number two?
- 8 A. Yes, ma'am.
- 9 Q. And State's Exhibit Number 3 -- or Number 27. I'm
- 10 sorry.
- 11 A. It's a photograph of evidence marker number three.
- 12 Q. State's Exhibits 28?
- 13 A. Evidence marker number three with a shell casing.
- 14 Q. And those close ups are just to determine the size,
- 15 correct?
- 16 A. Yes, ma'am.
- 17 Q. And State's Exhibit 29?
- 18 A. Number four.
- 19 Q. All right. And State's Exhibit 30?
- 20 A. This is the overhead shot of shell casing number
- 21 four.
- 22 Q. Okay. Officer Cook, I'm going to hand you what's
- 23 been admitted into evidence by consent as State's
- 24 Exhibits 2A and 2B. Do you recognize these?
- 25 A. Yes, ma'am. These are the shell casings that I

1 collected on scene.

2 Q. And which numbers specifically are those shell
3 casings?

4 A. I had it marked as number one and number two.

5 Q. Okay. I'm going to show you what's been marked as
6 State's Exhibits 3A and 3B. What are those?

7 A. Shell casings number three and four.

8 Q. Okay. And those are all the ones from on scene
9 that you collected?

10 A. Yes, ma'am.

11 Q. As in those yellow markers?

12 A. Yes, ma'am.

13 Q. Officer Cook, what is State's Exhibit 31 a photo
14 of?

15 A. That would be the residence across from [REDACTED].

16 Q. And is it your understanding that that's where the
17 victim was?

18 A. Yes, ma'am.

19 Q. Okay. And State's Exhibit 32?

20 A. That's the address that was on the mailbox.

21 Q. And that's [REDACTED]?

22 A. Yes, ma'am.

23 Q. And State's Exhibit 33, what is that a photo of?

24 A. The cars that were in the driveway.

25 Q. And is that red house next door?

- 1 A. Yes, ma'am.
- 2 Q. And State's Exhibit Number 34?
- 3 A. This is a photograph of where I was told the victim
- 4 was found by patrol.
- 5 Q. And you've done some close ups here?
- 6 A. Yes, ma'am.
- 7 Q. Okay. State's Exhibit 35, what were you attempting
- 8 to show here?
- 9 A. There is what I believe to be blood in this area
- 10 (indicated).
- 11 Q. Okay. So blood right in front of those bushes?
- 12 A. Yes, ma'am.
- 13 Q. And are these the bushes on that yard, [REDACTED], the
- 14 yellow house or beige house?
- 15 A. I believe so.
- 16 Q. Okay. And State's Exhibit 36?
- 17 A. Just a different angle.
- 18 Q. Okay. And State's Exhibit -- these are some close
- 19 up you took, 37?
- 20 A. Yes, ma'am.
- 21 Q. Can you please point to what we are supposed to be
- 22 looking at in this.
- 23 A. Right here is suspected blood that I photographed.
- 24 Q. Okay.
- 25 A. And I believe there's some on the leaf above it.

1 Q. Okay. And State's Exhibit 38?

2 A. 'A close-up of the leaf that had the suspected blood
3 on it.

4 Q. And can you please just point to the blood that you
5 are talking about.

6 A. Sure. Right here. (Indicated).

7 Q. Okay. I see. And State's Exhibit 39?

8 A. Just another angle.

9 Q. And as well as 40, correct?

10 A. Yes, ma'am.

11 Q. Okay. Officer Cook, were you present during the
12 execution of a search warrant?

13 A. I was.

14 Q. And what are your duties during that process?

15 A. I go through and photograph the residence before
16 the search is started and then I photograph and document
17 everything that's collected.

18 Q. Okay. And so you took photos of the inside of the
19 house once the search warrant was executed then?

20 A. Yes, ma'am.

21 Q. Officer Cook, this is State's Exhibit 41. What is
22 this a photo of?

23 A. That is a photograph of --

24 Q. Do you recall whose house that was?

25 A. I don't because I do from front door in to room.

1 Q. Oh, okay. So which house did you execute a search
2 warrant at?

3 A. I'm sorry, [REDACTED].

4 Q. Is that the defendant's residence?

5 A. Yes. Sorry.

6 Q. That's fine. That's the only house you did then,
7 to clarify?

8 A. Yes, ma'am.

9 Q. This is just an interior photo?

10 A. Yes, ma'am.

11 Q. And, Officer Cook, admitted by consent State's
12 Exhibit 42, what do you see in that photo?

13 A. This is a firearm with the extended magazine, a
14 marijuana grinder, and what I suspect to be the parts of
15 marijuana, the stems from marijuana.

16 Q. Okay. Just briefly, what's a marijuana grinder?

17 A. It's used to break down marijuana from bud form
18 into the leafy smokable material.

19 Q. Okay. And that's marijuana that you believe in
20 that photo?

21 A. Yes, ma'am.

22 Q. And which bedroom was this located in?

23 A. If I'm not mistaken this is bedroom one, which I
24 later found out was the defendant's bedroom.

25 Q. Okay. And that handgun, does it appear to have a

1 cartridge in it or is it empty?

2 A. I couldn't tell you.

3 Q. Okay. What did you say that this extended magazine

4 is? What's an extended magazine?

5 A. Basically, an extended magazine is just a longer

6 magazine that holds more rounds.

7 Q. Okay. State's Exhibit Number 43, what is that

8 photo of?

9 A. That's the photograph of the serial number on that

10 slotted handgun.

11 Q. And why do you take note of the serial numbers on

12 firearms?

13 A. To document the serial number that was on the

14 firearm at the time.

15 Q. And State's Exhibit 44, what is that showing?

16 A. That's just the type of handgun, the model of the

17 gun. It's a Millennium G2.

18 Q. And does it say the type right there?

19 A. It's a Taurus. I'm sorry.

20 Q. A Taurus. And State's Exhibit 45?

21 A. That's the serial number underneath the barrel --

22 Q. Okay.

23 A. -- and the trigger.

24 Q. You collected multiple items in the room, correct?

25 A. Yes, ma'am.

1 Q. State's Exhibit 46, what is that a photo of? Is
2 that the same bedroom?

3 A. Yes, ma'am. It's just a different angle.

4 Q. And State's Exhibit Number 47, what is that a photo
5 of?

6 A. That's a photograph of the bed that was in the
7 bedroom.

8 Q. Okay. And State's Exhibit 48, what is that a photo
9 of?

10 A. That is a picture of the wallet that was on the bed
11 with the defendant's Social Security card.

12 Q. And what is that?

13 A. That is his MUSC work ID, I believe.

14 Q. And why do you take photos of items like that in
15 the bedroom?

16 A. It just proves that somebody was -- he was in that
17 room.

18 Q. Okay.

19 A. Or his items were located in that room.

20 Q. And State's Exhibit 49?

21 A. That is a Taurus gun box.

22 Q. State's Exhibit 50?

23 A. That would be the gun box showing --

24 Q. I guess it's a glare.

25 A. I think the gun box has a serial number and the

- 1 make and the model of the gun.
- 2 Q. Okay. And State's Exhibit 51?
- 3 A. That is a dresser.
- 4 Q. And did you locate items in that dresser?
- 5 A. We did.
- 6 Q. And State's Exhibit 52, what is that showing?
- 7 A. A magazine. This is a -- from a box of ammunition
8 and another wallet.
- 9 Q. Okay. And this is the magazine you are referring
10 to?
- 11 A. Yes, ma'am.
- 12 Q. Okay. And State's Exhibit Number 53?
- 13 A. That is a photograph of a handgun and a gun box.
- 14 Q. State's Exhibit 54?
- 15 A. That's the photograph of the handgun with the
16 serial number, make, model on the slide.
- 17 Q. And this is that handgun that was also located in
18 that bedroom?
- 19 A. Yes, ma'am.
- 20 Q. And then just lastly State's Exhibit 55?
- 21 A. That is a photograph of the gun box with the serial
22 number, make, model.
- 23 Q. Okay. Detective -- or, Officer Cook, did you run
24 trace forms on the firearms that you located?
- 25 A. I did.

1 Q. And what exactly is a trace form?

2 A. Basically, it's done through the ATF, Alcohol,
3 Tobacco and Firearms. Basically, we do the firearm and
4 they trace it to who purchased it through the
5 manufacturer.

6 Q. Okay. And do you recall who purchased the Taurus
7 firearm?

8 A. If I'm not mistaken it was Mr. Sanders.

9 Q. And do you recall who purchased the cammo gun?

10 A. I do not.

11 Q. If I show you the document would that refresh your
12 memory?

13 MS. BROWN: Objection, Your Honor.

14 A. Yes, ma'am.

15 MS. BROWN: May we approach?

16 THE COURT: You may.

17 (WHEREUPON, a bench conference was had.)

18 THE COURT: Overruled.

19 (A document was handed to the witness.)

20 A. Thank you.

21 Q. Thank you.

22 A. The purchaser was a Henry Anthony Lavotay
23 (phonetic) Jr.

24 Q. Okay. Thank you, Officer. Officer Cook, I'm going
25 to hand you what's been admitted into evidence as State's

1 Exhibit 7A. Officer Cook, what are these items?

2 A. That is the firearm, the extended magazine and an
3 extra magazine that was found.

4 Q. And that was found in the defendant's bedroom?

5 A. Yes, ma'am.

6 Q. Okay. And I'm going to show you what's been marked
7 as State's Exhibit 7B. Do you recognize these items?

8 A. Yes, ma'am. These are the rounds that were taken
9 out of the magazine.

10 Q. Okay. Officer Cook, what do you do with evidence
11 once it's collected on scene, such as the evidence in
12 this case?

13 A. It is put on a chain of custody after it's packaged
14 and then it's submitted to our evidence room.

15 Q. And do you recall who you submitted these items to
16 in evidence?

17 A. I do not. We lock them in a locker and it's
18 recovered the next day.

19 Q. Okay. But it is North Charleston evidence?

20 A. Yes, ma'am. Yes, ma'am. North Charleston.

21 Q. And to the best of your knowledge everything
22 presented here that you collected from the scene was
23 properly collected and then sent to evidence without
24 tampering?

25 A. Yes, ma'am.

1 Q. And, Officer Cook, do you recall going to the
2 Charleston County Sheriff's Office to collect another
3 piece of evidence?

4 A. I do.

5 Q. And what was that piece of evidence?

6 A. It was a projectile recovered from the victim.

7 Q. I'm going to show you what's been premarked for
8 identification purposes as State's Exhibit Number 9. Do
9 you recognize this item?

10 A. I do. It's the packaging that I recovered from
11 Charleston County with the projectile and the container
12 that the projectile was in.

13 Q. And do you recall who you recovered this item from?

14 A. Deputy Riley.

15 Q. And where does Deputy Riley work?

16 A. He's in the crime scene unit for Charleston County
17 Sheriff's Office.

18 Q. Okay. And what did you do with that item once you
19 picked it up from Deputy Riley?

20 A. It was put on a chain of custody and submitted into
21 our evidence room.

22 Q. And do you know what happened to it after that?

23 A. I believe it was sent to SLED to be compared.

24 Q. Okay. And, Officer Cook, just timing wise, that
25 was recently done, wasn't it?

1 A. Yes, ma'am.

2 Q. So it wasn't done from the scene? That was from
3 the victim's leg?

4 A. Yes, ma'am.

5 Q. And do you recall where that was actually removed
6 from?

7 A. No, ma'am. Not on the body, no.

8 Q. Prior to the Sheriff's Office having it do you know
9 where it was after?

10 A. Oh, I'm sorry. It was at MUSC.

11 Q. That's okay.

12 A. Public safety.

13 Q. Okay. And from your knowledge in looking at that
14 when you picked up that piece of evidence do you recall
15 if it appeared to be tampered with in any way, shape or
16 form?

17 A. No, ma'am.

18 Q. Okay. So it still does appear to be a secure piece
19 of evidence from MUSC to the Sheriff's Office and then
20 into your hands?

21 A. Yes, ma'am. I didn't repackage it at all. I just
22 put one of our evidence labels on it due to the packaging
23 that it was in.

24 Q. Okay. So you left all of it there and put your
25 packaging on top of it?

1 A. Yes, ma'am.

2 Q. Okay. Officer Cook, do you happen to know why it
3 was at the Sheriff's Office?

4 A. I believe it's because MUSC didn't know what agency
5 it went to.

6 Q. Okay. And, Officer Cook, did you go -- as you
7 explained, you picked that up for testing at the
8 Solicitor's Office direction for preparation of this
9 trial, correct?

10 A. Yes, ma'am.

11 Q. Okay. There was no need at the time of the
12 investigation to gather that from the hospital, was
13 there?

14 A. No, ma'am.

15 Q. Okay. Officer Cook, I'm just also going to show
16 you quickly State's Exhibits, admitted by consent, 13.
17 This is just a daylight view. What do you see this as?

18 A. That is Kent Avenue.

19 Q. Okay. And so was this the blue house that you did
20 the search warrant on, What appears to be?

21 A. Yes, ma'am.

22 Q. And then State's Exhibit 14. Is that the house you
23 located the shell casings at?

24 A. Yes, ma'am.

25 MS. SAVAS: Beg the Court's indulgence.

1 THE COURT: Yes, ma'am.

2 Q. Just regarding the gunshot residue test. Would you
3 find a need to perform one on someone if there wasn't any
4 evidence that they actually did not have a weapon?

5 A. No, ma'am.

6 Q. Okay. And the only GSR kit performed was on the
7 defendant, correct?

8 A. Yes, ma'am.

9 Q. And to the best of your knowledge all the evidence
10 collected and submitted was in proper procedure?

11 A. Yes, ma'am.

12 Q. Okay. No further questions. Please answer any
13 questions the defense may have.

14 A. Yes, ma'am.

15 THE COURT: Ms. Brown?

16 MS. BROWN: Thank you.

17 CROSS-EXAMINATION

18 BY MS. BROWN:

19 Q. Officer Cook, good morning.

20 A. Good morning.

21 Q. Let's just start where she just ended. You
22 indicated that you would find no need to perform a
23 gunshot residue kit on an individual that did not have a
24 gun; is that correct?

25 A. Yes, ma'am.

1 Q. Now, did you have any information at any point in
2 time that Nicholas Washington, involved in this case, did
3 not have a weapon?

4 A. He wasn't there. He was at the hospital.

5 Q. Did you have any information --

6 A. No, ma'am.

7 Q. -- at any point in time he did not have a weapon?

8 A. No, ma'am.

9 Q. You have no idea; is that correct?

10 A. Yes, ma'am.

11 Q. Now, what time did you arrive to Kent Avenue?

12 A. I would have to see my report.

13 Q. I'm going to provide you a crime scene log. Have
14 you had an opportunity to review this document? Have you
15 seen this before?

16 THE COURT: Have you seen it?

17 MS. SAVAS: I haven't seen it, Your Honor --

18 MS. BROWN: It's the document she's given me but I
19 will give it to her. It's in the discovery she gave to
20 me.

21 Q. There you go.

22 A. This is the crime scene log from that night, ma'am.

23 Q. Is that a document that you guys generally use in
24 the course of your business in an investigation?

25 A. Yes, ma'am.

1 Q. And is your information listed there as to the time
2 you arrived to the scene?

3 A. I got there at 8:07.

4 Q. 8:07. You know what time that the shots were fired
5 in this particular case?

6 A. No, ma'am.

7 Q. How were you alerted to go to Kent Avenue?

8 A. I was contacted by our dispatch center.

9 Q. And what time was that?

10 A. I don't recall.

11 MS. BROWN: Beg the Court's indulgence.

12 (PAUSE.)

13 Q. I'm going to hand you a document. If you can tell
14 me the document that I just handed to you.

15 A. I don't know what this is, ma'am.

16 Q. Okay. So you've never seen a CAD report before?

17 A. Not like this, no.

18 Q. That's fine. I'll take it back from you. And I
19 want to make sure I'm clear. You are not familiar with
20 the time that you receive a call from dispatch?

21 A. At the time it would have been on my phone and that
22 was back in 2014.

23 Q. Certainly. And did you prepare a report --

24 A. I did.

25 Q. -- in this case?

1 A. I did.

2 Q. I'm going to hand you a document.

3 A. Yes, ma'am.

4 Q. Will you tell me whether or not this is your
5 report.

6 A. Yes, ma'am.

7 Q. Is that your report?

8 A. Yes, ma'am.

9 Q. That report, does it have a time that you were
10 dispatched to Kent Avenue on December 26 of 2014?

11 A. No, ma'am. I did not put it in there.

12 Q. You don't recall either how long it may have took
13 you to get there?

14 A. No, ma'am.

15 Q. That's fine. Now, do you recall where you were
16 when you received the dispatch?

17 A. I was at home.

18 Q. At home. And how far is your residence from Kent
19 Avenue?

20 A. Maybe 20 minutes.

21 Q. So it took you at least 20 minutes to get from your
22 home to Kent Avenue?

23 A. Yes, ma'am.

24 Q. And when you arrived to Kent Avenue do you recall
25 seeing anyone at all outdoors of [REDACTED] or [REDACTED] or [REDACTED]

1 Kent Avenue?

2 A. I do remember seeing two subjects up on the porch.

3 Q. Were there any other individuals outside, outdoors?

4 A. I don't recall.

5 Q. Okay. And the porch that you are referring to,

6 what address are you referring to?

7 A. [REDACTED].

8 Q. [REDACTED] Okay.

9 A. I'm sorry, [REDACTED]

10 Q. Now, when you arrived to Kent Avenue was the area

11 already taped off? I'm not sure if you testified to

12 that.

13 A. Yes, ma'am, it was.

14 Q. Do you have any idea what time the area was taped

15 off?

16 A. No, ma'am, I don't.

17 Q. And as part of your investigation you didn't take

18 any witness statements, did you?

19 A. No, ma'am.

20 Q. You didn't canvas the neighborhood looking for

21 witnesses, did you?

22 A. No, ma'am.

23 Q. And you didn't speak to Mr. Rhajon Sanders, did

24 you?

25 A. The only question I asked him if he was

1 right-handed or left-handed for the GSR kit.

2 Q. Absolutely. Nothing more than that; is that
3 correct?

4 A. Correct.

5 Q. Did you get an opportunity to speak to Mr. Nicholas
6 Washington?

7 A. No, ma'am.

8 Q. When you arrived where was Rhajon Sanders?

9 A. Backseat of a police car.

10 Q. Now, we've went through a host of photos in here.

11 Does any of the photos that you took or any photos that's
12 part of this trial tells you what happened prior to the
13 shooting?

14 A. No, ma'am.

15 Q. You don't have any knowledge what happened prior to
16 the shooting; is that correct?

17 A. Correct.

18 Q. And I understand that you were present when the
19 search warrant was executed?

20 A. Yes, ma'am.

21 Q. Were you searching the home as well?

22 A. Partially, yes, ma'am.

23 Q. Do you remember how long it took you to search that
24 home?

25 A. I would have to guess maybe an hour or so.

1 Q. I'm going to hand you this document again, a crime
2 scene log. Does it give a time for when you left Kent
3 Avenue?

4 A. It does. It says 11:30.

5 Q. 11:30, and you arrived at what time?

6 A. 8:07.

7 Q. And when you arrived did you begin searching at the
8 time?

9 A. Searching inside the residence?

10 Q. Exactly.

11 A. No, ma'am.

12 Q. So you were on the scene for about two and a half
13 hours; is that correct?

14 A. Yes, ma'am.

15 Q. Now, the shell casings that we witness from your
16 photos, those shell casings were on whose property?

17 A. [REDACTED].

18 Q. You didn't find any shell casings in the street?

19 A. No, ma'am.

20 Q. Is that correct?

21 A. Correct.

22 Q. None across at [REDACTED]

23 A. No, ma'am.

24 Q. Or any other location?

25 A. No.

1 Q. Did you look?

2 A. Yes, ma'am.

3 Q. Now, did you take any photos of [REDACTED]

4 A. No, ma'am.

5 Q. Okay. Did you have any information to suggest that
6 you should have took photos at [REDACTED]

7 A. No, ma'am.

8 Q. Now, you indicated on one of the photos that -- let
9 me find it.

10 MS. SAVAS: Oh, I'm sorry. I left them all up
11 there.

12 MS. BROWN: Thank you.

13 Q. Now, you indicated at one point when on direct exam
14 that the bush is on the property of [REDACTED]. Isn't it true
15 that that bush is also on the property of [REDACTED]?

16 MS. SAVAS: Objection. Speculation. He doesn't
17 know what property it was.

18 THE COURT: I'm going to let him answer.

19 MS. SAVAS: Yes, Your Honor.

20 A. It's possible. Yes, ma'am.

21 Q. Thank you. Now, you talked about some firearms
22 that were found in this case and you performed a firearms
23 trace; is that correct?

24 A. Yes, ma'am.

25 Q. And the firearm that has been -- that Rhajon said

1 he used on that particular evening, is that for the
2 trace? Is that the trace that you have in your hand?

3 A. Yes, ma'am.

4 Q. When did Mr. Sanders purchase that weapon,
5 according to that document?

6 A. I would have to go by the ship to date which is
7 8-29 of 2014.

8 Q. Where did he purchase it from?

9 A. Trigger World.

10 Q. Where is that?

11 A. 7163 Cross County Road.

12 Q. Okay. And that's a legitimate business?

13 A. Yes, ma'am.

14 Q. And he purchased it legally, according to that
15 document?

16 A. Yes, ma'am.

17 Q. All right. So you don't have any information that
18 that firearm was obtained illegally; is that correct?

19 A. Correct.

20 Q. Okay.

21 MS. BROWN: Your Honor, at this time --

22 Q. And you received that document; is that correct?

23 A. Yes, ma'am.

24 MS. BROWN: Okay. At this time, I would like to
25 admit the trace into evidence.

1 THE COURT: Any objection?

2 MS. SAVAS: Yes, Your Honor. Just the laying the
3 proper foundation, sir. May we approach?

4 THE COURT: Yeah.

5 MS. SAVAS: Thank you, sir.

6 (WHEREUPON, a bench conference was had.)

7 THE COURT: This will be Defense Exhibit Number 3
8 over your objection.

9 MS. SAVAS: Thank you, sir.

10 MS. BROWN: Thank you.

11 (WHEREUPON, Defendant's Exhibit Number 3, a
12 Document, was marked and admitted into evidence.)

13 BY MS. BROWN:

14 Q. Now, you indicated there was another firearm that
15 you located in the residence of [REDACTED]

16 A. Yes, ma'am.

17 Q. Do you have any information that that firearm was
18 obtained illegally?

19 A. No, ma'am.

20 Q. Do you have any information that firearm was
21 stolen?

22 A. No, ma'am.

23 Q. There's nothing illegal about having a firearm, is
24 there?

25 A. No, ma'am.

1 Q. Thank you. Now, when you arrived on the scene you
2 said there were quite a few other officers already
3 present?

4 A. Yes, ma'am.

5 Q. Do you have any idea who was the lead investigating
6 officer there for this case?

7 A. No, ma'am.

8 Q. Still don't know as of today?

9 A. No, ma'am.

10 MS. BROWN: Beg the Court's indulgence.

11 (PAUSE.)

12 Q. Do you recall seeing a detective -- and I'm not
13 sure how to pronounce his name correct, is it Lizaro
14 (phonetic)?

15 A. Lizarazo, I believe. I can't say it either.

16 Q. Do you recall seeing that detective on scene that
17 night?

18 A. I couldn't answer that. I don't know.

19 Q. Okay. Now, you indicated that there was a
20 projectile that you picked up -- and let me find that
21 item. I'm going to hand you what's been marked as
22 State's Exhibit Number 9. Is this, in fact, the
23 projectile that you picked up from MUSC?

24 A. Charleston County.

25 Q. Charleston County. Okay. And is that what you

1 picked up?

2 A. Yes, ma'am.

3 Q. Okay. And when you picked it up from Charleston

4 County did it look like that?

5 A. The only difference is the projectile was actually

6 inside the container.

7 Q. Okay. And when did you pick that item up from

8 Charleston County?

9 A. On May the 20th.

10 Q. Of what year?

11 A. This year.

12 Q. Is that almost two years later after the event?

13 A. Yes, ma'am.

14 Q. Okay. May 20th of 2016. And when you picked it up

15 from Charleston County was that the agency that was

16 investigating this case?

17 A. No, ma'am.

18 Q. And do you know why Charleston County had this

19 projectile for two years?

20 A. I would only have to speculate that MUSC didn't

21 know who it belonged to so they sent it to Charleston

22 County.

23 Q. And does it generally take two years for the agency

24 to locate evidence?

25 A. I can't answer that.

1 Q. Okay. Should someone have been at MUSC to notify
2 them where --

3 MS. SAVAS: Objection, speculation.

4 THE COURT: Sustained.

5 MS. BROWN: Certainly.

6 Q. Do you know how that -- after you picked it up
7 where did it go?

8 A. It went into our evidence room.

9 Q. North Charleston?

10 A. Yes, ma'am.

11 Q. And prior to you getting it from Charleston County
12 you have no idea what it looked like when it came from
13 MUSC; is that correct?

14 A. Yes, ma'am.

15 Q. And once you left it at North Charleston did you
16 ever see that package again?

17 A. Not until today.

18 MS. BROWN: Beg the Court's indulgence.

19 (PAUSE.)

20 Q. And one other thing. Who told you to pick that
21 evidence up from North Charleston Sheriff's Office?

22 A. The Solicitor's Office.

23 Q. Sitting right here?

24 A. Yes, ma'am.

25 MS. BROWN: Thank you. Nothing further.

1 THE COURT: Anything redirect?

2 MS. SAVAS: Just briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. SAVAS:

5 Q. As we established on direct, it was at my
6 discretion to do that in preparation for trial, correct?

7 A. I'm sorry?

8 Q. As we did on direct, I did ask you to go pick that
9 up in preparation for this trial?

10 A. Yes, ma'am.

11 Q. Okay. But at the night of the incident on scene it
12 was not an issue, correct?

13 A. Correct.

14 Q. Okay. Also, just briefly, you mentioned that you
15 were called out from your home?

16 A. Yes, ma'am.

17 Q. Is that a typical thing to have to do sometimes on
18 the job?

19 A. Yes, ma'am.

20 Q. Okay. But you would have all your gear and things
21 like that with you when you arrive on scene?

22 A. Yes, ma'am.

23 Q. And why were you called out that day?

24 A. It was -- I believe, it was a weekend and we rotate
25 call out.

1 Q. So sort of like a duty situation?

2 A. Yes, ma'am.

3 Q. And your job solely as a crime scene officer is to
4 gather items on that scene, correct?

5 A. Yes, ma'am.

6 Q. So you are not supposed to talk to any witnesses or
7 do any further investigations, correct?

8 A. Correct.

9 Q. And, just briefly, we didn't touch upon it, shell
10 casings, what exactly is a -- just for common knowledge,
11 what is exactly a shell casing?

12 A. A shell casing is the housing for a projectile and
13 gunpowder.

14 Q. And so in this case specifically it was a Taurus
15 handgun. How are shell casings ejected from a firearm
16 like that?

17 A. They go -- they are ejected through an injector
18 through the slide.

19 Q. Okay. And does that in the location when they are
20 typically found, assuming it's not tampered with, is that
21 fair to say that that was near the position of where the
22 firearm was when it was fired?

23 A. It's possible, yes.

24 MS. SAVAS: Okay. Nothing further from this
25 witness, Your Honor.

1 THE COURT: Any recross based on her redirect?

2 MS. BROWN: Yes, Your Honor.

3 RECROSS-EXAMINATION

4 BY MS. BROWN:

5 Q. I understand that you were not responsible for
6 doing anything but collecting evidence.

7 A. Yes, ma'am.

8 Q. But you have no idea who was responsible for doing
9 anything more; is that correct?

10 A. Correct.

11 MS. BROWN: Nothing more.

12 THE COURT: Thank you. You are excused unless
13 there's an objection.

14 MS. SAVAS: No, Your Honor.

15 THE COURT: Thank you.

16 MS. BROWN: No objections.

17 THE COURT: Y'all look like you are ready for a
18 break. Let's take about a 15-minute recess. If you'd
19 like a Coca-cola or something like that then we'll be
20 glad to provide it. Please do not discuss anything about
21 the case while you are gone.

22 (WHEREUPON, the jury leaves the courtroom at
23 approximately 11:06 a.m.)

24 THE COURT: All right. Now, Ms. Brown, I think you
25 have an objection you want to put on the record.

1 MS. BROWN: Yes, Your Honor. I believe that we
2 have had a series of objections made. We have attempted
3 to get information during the course of this trial in
4 front of the jury relating to the neighborhood in which
5 my client resides which, in fact, assist in making our
6 case to the jury on self defense.

7 It is our contention that based on the fact that my
8 client lives in a high crime neighborhood and the fact
9 that there's a number of incidents that have happened in
10 that neighborhood it led him or gave him the state of
11 mind in which he entertained when he saw Nicholas
12 Washington standing in the dark across from his home.

13 It is extremely pertinent to our case in chief, and
14 it's my understanding that that information, even though
15 some of the officers have information about the
16 neighborhood because they patrolled it for a number of
17 years and responded there for a number of years,
18 investigated cases there for a number of years, none of
19 that information has been admissible or allowed to come
20 in front of this jury.

21 It is also our contention that it is very difficult
22 and it's going to be very difficult and extremely
23 impossible nearly to establish a defense for our client
24 that needs to go in front of this jury.

25 If this is based on a reasonable man standard,

1 which we have maintained that this is a self defense
2 case, he should have every opportunity to allow and
3 explore the issue of what kind of neighborhood he lived
4 in, why he believed at the time that he was in fear, why
5 he acted the way that he did, and, in fact, not only him
6 but the witnesses that come into this courtroom that has
7 the same information about that neighborhood.

8 We have made that attempt on a number of occasions
9 and for some odd reason we've been objected to each and
10 every time and I understand that Your Honor has sustained
11 the objection, and the stand, from my understanding, is
12 based on it's irrelevant to this trial. It is extremely
13 relevant to this trial because it deals with my client's
14 state of mind. It deals with whether or not at that time
15 he had a realistic and a reasonable state of mind. And,
16 Your Honor, if we cannot present a case then I don't
17 understand the purpose of, of course, a trial.

18 He's here saying I have a presumption of innocence
19 and that I certainly -- they have a burden to prove
20 beyond a reasonable doubt that I maliciously acted a
21 certain way on that particular day and his position is I
22 did not acted maliciously or I didn't have any hatred or
23 ill will or wicked depraved heart but I was afraid and I
24 was afraid for a number of reasons.

25 One is I live in a community where people are shot

1 all the time. One is that I live in a community where
2 people are robbed all the time. One is that I live in a
3 community where people are constantly hurt for no reason
4 whatsoever, and when I saw a gentleman standing across
5 the street that just stood in the dark, I was not able to
6 see him, I feared that he was going to hurt me.

7 More importantly, I seen other people in that
8 neighborhood being hurt under the same set of
9 circumstances. And at the time that I pulled my weapon
10 is only after he approached me and also reached for what
11 I believe was a weapon. And if we cannot talk about the
12 things that happen in that community or the things that
13 happen on that street I don't understand how we give the
14 jury a complete picture.

15 THE COURT: All right. State?

16 MS. SAVAS: Yes. Thank you, Your Honor. May it
17 please the Court. Just sort of trying to break down
18 that. The objections that the State has made in regards
19 to the officers testifying as to whether it was a high
20 crime rate or not, first, it would be important to note
21 there is no facts in evidence that there is high crime,
22 there are no facts that that is a high crime
23 neighborhood.

24 They are not relevant, Your Honor. According to
25 Rules of Evidence 401 it is not relevant in this mater.

1 It's not a logical relevance. And according to 403, sir,
2 in balancing test, the probative value of that potential
3 piece of testimony to come in is far outweighed by the
4 prejudicial value as it is extremely inflammatory to the
5 jury to bring any information of that in.

6 In fact, it also has been brought up on the
7 defense's redirect of witnesses in bringing about that
8 there is actually a substation that accounts for the
9 number of patrol cars being in that area and it is a
10 common cut-through, as Detective Bailey testified to on
11 redirect.

12 Additionally, the test for self defense about
13 imminent fear, Your Honor, as you have stated, is very
14 clear that it's based upon the victim, not other people,
15 not a scenario of a neighborhood which is unfounded in
16 this point, but the fact that it is to be that specific
17 person. And the third prong in the reasonableness test
18 standard, that is discussed several times in cases, Your
19 Honor, that the reasonable test is a fear of imminent,
20 danger from that specific victim. It is to not account
21 for other potentials of the neighborhood or other houses.
22 This is a very controlled environment.

23 The defendant has stated in his post Miranda
24 confession, and the purpose of this, and defense has
25 stated in arguments, that it is a fear of that specific

1 victim; therefore, anything else would not only be
2 irrelevant, based on 401, but if it were to be it would
3 be a 403 of balancing far outweigh prejudicial effect.
4 And, Your Honor, that is the purpose of these objections
5 from the State as they are not relevant and unfounded,
6 and these witnesses would not be able to testify to that.
7 That is something that the defendant may testify and the
8 defense can bring up in their own case in chief.

9 THE COURT: All right.

10 MS. BROWN: May I respond to that briefly, Your
11 Honor?

12 THE COURT: You may.

13 MS. BROWN: Madam Solicitor has mentioned several
14 things. She's indicated that there is a reasonableness
15 standard that she refers to whether or not the victim
16 acted a certain way. That's not what the law says. The
17 reasonableness is based on a totality of the
18 circumstances at the time, not solely based on the
19 victim. You have to look at the total set of
20 circumstances as they occur.

21 Now, another thing she refers to is this 401. This
22 is completely relevant, or even 403. The prejudicial
23 value, the only person that's going to be prejudiced is
24 my client, not the State.

25 THE COURT: Well, you are not arguing that the

1 standard for self defense changes based upon the
2 neighborhood, are you?

3 MS. BROWN: Oh, absolutely not. I'm saying the
4 circumstances. It just so happened that this is in a
5 particular neighborhood that's part of the circumstances,
6 and not only that it's dark, not only that, you know,
7 he's in all black but based on the fact that in this
8 particular community certain things happen all the time.

9 And Madam Solicitor says there's no facts inside
10 this trial. We've not had opportunity to put facts in
11 this trial because every attempt that we've made it has
12 been objected to as well as the --

13 THE COURT: Well, you're certainly going to have
14 your opportunity to present your case.

15 MS. BROWN: Your Honor, the officers in this case
16 has personal knowledge about that neighborhood. We
17 should be able to ask them questions that they know. I'm
18 not asking them anything they don't know at all. I
19 understand that's irrelevant and definitely the witness
20 would not be competent to testify. But if they know
21 what's going on in this neighborhood, because as they
22 indicated, I patrolled that neighborhood, yeah, I've
23 responded a couple times.

24 Why can't we ask them one question or two about is
25 this a neighborhood that's prone to violence, period,

1 nothing more? And if they don't want to talk about
2 specific incidents that's fine. My client can do that
3 and our witnesses certainly is in a position to do so.

4 THE COURT: Okay. My ruling stands. You will not
5 be able to discuss the neighborhood but you are on the
6 record and protected if you need to appeal later. That
7 will happen at the appropriate time.

8 All right. We'll take a 15-minute recess.

9 MS. SAVAS: Thank you, Your Honor.

10 (WHEREUPON, a brief recess was taken.)

11 THE COURT: While I was on break I had an
12 opportunity look at the Facebook post from Ms. Pizarro.
13 She's only saying what she did for you outside of court.
14 There was nothing going on in court or anything like
15 that, so I told her don't worry about it. She can write
16 anything she wants to that happens outside of court. I
17 just don't want her coming in here being a reporter. As
18 long as she's just saying what she did outside she did
19 nothing wrong.

20 MS. BROWN: Thank you, Your Honor.

21 MS. SAVAS: Thank you, Your Honor.

22 THE COURT: Anything before we bring our jury in?

23 MS. SAVAS: Nothing from the State, Your Honor.

24 THE COURT: All right. Let's bring our jury.

25 (WHEREUPON, the jury enters the courtroom at

1 approximately 11:35 a.m.)

2 THE BAILIFF: All jurors present, Your Honor.

3 THE COURT: All right. You may be seated.

4 All right. The State may call its next witness.

5 MS. FRIERSON: The State calls Deputy Jason Riley.

6 JASON RILEY, after having been duly

7 sworn, testified as follows:

8 THE CLERK: State your first and last name and

9 spell your last name loudly and clearly into the

10 microphone.

11 THE WITNESS: Jason Riley, R-i-l-e-y.

12 DIRECT EXAMINATION

13 BY MS. FRIERSON:

14 Q. Thank you, Deputy Riley.

15 MS. FRIERSON: May it please the Court, Your Honor?

16 THE COURT: Yes.

17 Q. Deputy Riley, could you please tell the jury where

18 you are employed.

19 A. I work for the Charleston County Sheriff's Office

20 and I work in the Forensic Services Division.

21 Q. And how long have you been with Charleston County

22 Sheriff's Office?

23 A. Just shy of 14 years.

24 Q. Could you tell the jury a little bit about your

25 background and training.

1 A. Well, I have a degree in criminal justice from the
2 University of South Carolina. I attended the Criminal
3 Justice Academy in 2000. I worked for the Sheriff's
4 Office since 2002 and been in forensics since 2011.

5 Forensics is pretty much on-the-job training. You
6 do nine weeks in-service training when you are accepted
7 in the position. Before that, I did nine and a half
8 years in patrol at the Sheriff's Office. I deal with
9 evidence and also crime scenes, and working crime scene
10 call outs, collecting evidence, documenting reports,
11 things of that nature.

12 Q. Are there multiple people in the forensics unit?

13 A. Yes, ma'am.

14 Q. And do you all share similar duties?

15 A. We do.

16 Q. And could you briefly just tell the jury what
17 specifically your day-to-day duties would be?

18 A. There are currently five of us that are
19 investigators in forensic services --

20 Q. I'm sorry to interrupt. Can you just make sure you
21 talk into the microphone.

22 A. Our day-to-day duties include taking all the
23 evidence out of our secured lockers that are turned in
24 the previous day or previous night by deputies. We go
25 through the evidence that's turned in, piece-by-piece.

1 They come in with a pending evidence slip.

2 We have a computerized evidence system where
3 everything is bar coded with bar_code labels. We
4 validate the evidence which means we physically document
5 the evidence, this is what it is. We place it in a
6 storage location. If there's other testing that piece of
7 evidence may need it gets placed in either the
8 laboratory, the bay area, the drug testing room.

9 We also deal with citizens who make phone calls who
10 want to pick up property that we have in our custody and
11 if we have a release for that we can research that. If
12 there's a release by the deputy we can get a copy of
13 their license and return property to them.

14 We also -- if there's a call out for a scene we can
15 go handle that call out. We test marijuana at the
16 office. Some duties that I have that are separate from
17 some of the other folks, every Monday I take narcotics to
18 the City of Charleston Drug Lab at MUSC and transfer
19 those drugs to the City of Charleston.

20 I also go by MUSC Public Safety and pick up any
21 evidence they have that are holding for Charleston County
22 there and I transport it back to the office.

23 Q. Thank you. Now, could you tell the jury a little
24 bit about the facility that this evidence is actually
25 stored in.

1 A. Certainly. Our evidence facility is at the law
2 enforcement complex which is behind a secure gate and we
3 are in separate secured compound, and the only people
4 have access to our unit are those of us who work in the
5 unit. So anybody else from the sheriff on down, if they
6 don't have access to the unit they come to our main door,
7 they punch a buzzer, it rings our phones and we look in
8 the cameras and see who it is. We can approach the door
9 and let them in. All the doors are coded key pads,
10 cypher locks and/or keyed locks.

11 Q. And once a piece of evidence is taken in for the
12 procedure you kind of went through a little bit ago do
13 you ever do anything with it as far as auditing or
14 checking on it?

15 A. We do. Once a year we do an internal audit of all
16 the evidence that we have at the Sheriff's Office.
17 Sometimes that may take a few months to audit depending
18 on how busy things are or we can shut everything down and
19 try to do it in a three-week or four-week time frame.
20 That's usually once a year that we, ourselves, do an
21 internal audit. When we have an outside audit its done
22 twice a year by somebody in our chain and somebody
23 outside of our chain who will come do a random audit.

24 Q. And if you can tell the jury what you mean by
25 chain.

1 A. Chain of custody is a list showing who first
2 receives a piece of evidence or who turns the piece of
3 evidence in first, who the next person who handles that
4 evidence, and if that evidence ever leaves the agency and
5 goes somewhere else it's documented in a chain. Just
6 like point A to point B, point C, and who touched it what
7 date and what time frame.

8 Q. Is the purpose of that chain to preserve the
9 evidence?

10 A. It is, yes, ma'am.

11 Q. Could you tell the jury how you became involved in
12 this particular case.

13 A. In this case, as I mentioned before, my duties are
14 every Monday, generally, I run errands to MUSC both for
15 drugs and also to public safety to pick up any evidence
16 that they may hold from the hospital. Generally, rape
17 kits, sexual assault kits.

18 In this particular instance it was a projectile
19 that MUSC Public Safety had. No other information with
20 the projectile. They received it. Those types of items
21 gets transferred to the Sheriff's Office if there's no
22 other agency that's known to belong to it at that time.

23 Q. So is it uncommon for, in your experience at
24 Charleston County and forensics, to receive evidence that
25 isn't an active part of an investigation with your

1 agency?

2 A. It does occur, yes, ma'am.

3 Q. And do you know why that is?

4 A. I do not.

5 Q. I'd like to show you what has been marked as
6 State's Exhibit Number 9. If you could please take a
7 moment and look at that, Deputy Riley. Have you seen
8 that before?

9 A. I have, yes, ma'am.

10 Q. And do you know when you saw it?

11 A. I saw it originally, what's inside the inner bag,
12 on January the 5th, 2015. I again saw it when I
13 transferred it on May the 20th of this year.

14 Q. And do you know what it is?

15 A. The only thing I know that it is, it's a
16 projectile, a metal projectile.

17 Q. And how do you know that much?

18 A. That's the information that was given to me by
19 Medical University Public Safety.

20 Q. And could you explain to the jury why your
21 knowledge is limited to just that?

22 A. Since it's not an investigation or a case that our
23 agencies work it's outside of my scope or my duties.

24 Q. Now, when you received that did it appear to be
25 tampered with?

1 A. No, ma'am.

2 Q. Would you have accepted it into Charleston County
3 evidence if it had any evidence tampering?

4 A. No, ma'am.

5 Q. And once you received it into evidence then what
6 happened to it?

7 A. Once I received it I could not document that it
8 came from the Sheriff's Office or was involved in one our
9 cases. I did an agency assist report so I could generate
10 an OCA to a tracking number for Charleston County
11 Sheriff's Office. I then put the evidence in our
12 evidence computer system underneath that OCA, placed a
13 label --

14 Q. Just repeat what you were saying.

15 A. I forgot where I -- okay.

16 Q. Once you received the evidence.

17 A. When I received it and I researched the name,
18 because all I had was the name, it did not come back to a
19 person that was an active investigation at the time with
20 the Sheriff's Office.

21 I generated a case number through the Sheriff's
22 Office. That's the only way I could put it into our
23 evidence to have a case number. So I did a report for
24 the agency assist from the Medical University, put it in
25 the evidence system, placed it in a location in the

1 evidence system and put it in the storage location.

2 Q. And between retrieving it from MUSC and bringing it
3 to the compound at the evidence locker at Charleston
4 County did this -- did you maintain, excuse me, the sole
5 care, custody and control of that item?

6 A. The Sheriff's Office did, yes, ma'am, the evidence
7 unit.

8 Q. And who did you transfer that to?

9 A. Investigator Cook with North Charleston.

10 Q. And do you know when?

11 A. May the 20th of this year.

12 Q. And, Deputy Riley, I am certainly not minimizing
13 the importance of your job and your duties, you certainly
14 wear many hats for the County, but I just want to be
15 clear. Was your role in this investigation, this
16 particular case limited to strictly that of an evidence
17 courier and a custodian?

18 A. Yes, ma'am.

19 MS. FRIERSON: Beg the Court's indulgence, Your
20 Honor.

21 THE COURT: Yes.

22 Q. I have no further questions. Please answer any the
23 defense may have.

24 A. Yes, ma'am.

25 THE COURT: Ms. Brown?

1 MS. BROWN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. BROWN:

4 Q. Deputy Riley?

5 A. Yes.

6 Q. Deputy Riley, I just want to make sure that we are
7 clear on at what point that you place your hands on the
8 projectile involved in this case. You have the package
9 there?

10 A. Yes, ma'am.

11 Q. Now, when you receive that item, can you tell me
12 again, I think you indicated was it -- when did that item
13 first come in contact -- you came in contact with that
14 item for the first time?

15 A. January 5th, 2015.

16 Q. And my understanding is that you received that item
17 from MUSC?

18 A. The Public Safety Department, yes, ma'am.

19 Q. Do you remember the person that provided you that?

20 A. It was Sergeant Wagner.

21 Q. Now, at the point that you receive that item would
22 you have documented receipt of it?

23 A. I signed their chain.

24 Q. Now, I'm going to provide a document to you and you
25 can tell me whether or not you've seen this document

1 before.

2 A. I have. It's not a Sheriff's Office document but,
3 yes, ma'am.

4 Q. I apologize. Now, I'm sorry. You indicated that
5 you've seen this document before?

6 A. Yes, ma'am.

7 Q. And is your signature on that document?

8 A. It is.

9 Q. And what time did you indicate that you received
10 the item from MUSC?

11 A. At 12:30 p.m.

12 Q. 12:30 p.m. And is there a note as to what happened
13 with the item at the point that you received it on that
14 document?

15 A. I'm not sure what you mean by --

16 Q. Certainly. May I approach?

17 A. Yes, ma'am.

18 Q. Can you tell me where it says date and time of
19 disposition?

20 A. Yes, ma'am.

21 Q. Can you explain that to us, what that means.

22 A. I'm not familiar with MUSC's form so I'm not sure
23 exactly what their form indicates of date and time of
24 disposition. The way it's used when it's transferred of
25 evidence it indicates the data that I received it and the

1 time that I physically received it from their evidence
2 unit sergeant, at that time Sergeant Wagner.

3 Q. Okay. And, now, Sergeant Wagner is the person you
4 received it from; is that correct?

5 A. Yes, ma'am.

6 Q. Now, do you have any idea who may have been in
7 contact with that item prior to the date you received it
8 on the 5th of January of 2015?

9 A. No, ma'am.

10 Q. Now, once you receive it what did you do with it
11 again?

12 A. When I received it I transported it back to the
13 Sheriff's Office to the evidence room, researched the
14 name that was on a specimen jar, looking through the
15 plastic, couldn't find that name matched anything in our
16 case management system. So in order for me to store it
17 at the Charleston County Sheriff's Office evidence I had
18 to generate a case number for the Sheriff's Office. So I
19 did ABC assist case number, uses that case number to log
20 it into our evidence computer and placed it on a storage
21 shelf.

22 Q. Now, when you went ahead and stored it under a case
23 number did it also have a name associated with it?

24 A. It did.

25 Q. And what name was that?

1 A. Nicholas Washington.

2 Q. Now, when you placed information in your computer
3 system and you transfer it from one agency to another how
4 would you notate that in your system?

5 A. As far as when I transfer a piece from our system
6 to the next?

7 Q. For instance, at some point in time this item was
8 transferred to North Charleston?

9 A. Yes, ma'am.

10 Q. Is that correct?

11 A. Yes, ma'am.

12 Q. How would you indicate that that item was
13 transferred to North Charleston?

14 A. The way our computer system works there is a status
15 bar. The status bar generally shows if something is in
16 custody, if something is signed out for investigation, if
17 something is transferred. So if an item -- another
18 agency requests an item you would pick that drop down
19 box, move to transfer. It indicates in the bottom as the
20 chain of custody. Automatically the computer generates
21 and shows transferred and then I add information to that
22 box because it will show my name, then I type in who I
23 transferred it to, which was to Investigator Cook, North
24 Charleston Police Department. And we also generate a
25 receipt that he signs, that I sign when I transfer the

1 property.

2 Q. Do you have that document with you today?

3 A. I do not have it with me, no, ma'am.

4 Q. Do you recall doing that process for this
5 particular item?

6 A. Yes, ma'am.

7 Q. And you did that process when?

8 A. On May the 20th of this year.

9 Q. Now, you indicated on direct that there's certain
10 internal audits that are done by your department --

11 A. Yes, ma'am.

12 Q. -- or your agency? And that's done once a year; is
13 that correct?

14 A. Yes, ma'am.

15 Q. Now, at some point in time what's the purpose of
16 these audits?

17 A. To find any discrepancies you may have in the
18 evidence system, maybe a piece of item that's not where
19 it's supposed to be, in the wrong storage location.
20 Basically, what it is, you want to have a hundred percent
21 accountability for your evidence.

22 Q. And at the point you've had this in your possession
23 for over a year; is that correct?

24 A. Yes, ma'am.

25 Q. So after a year having it what would the audit have

1 revealed about this property that no one touched for
2 almost a year or longer?

3 A. The only purpose of the audit will do is it will --
4 it's all bar scanned, tell what location you are scanning
5 to the computer and you go through and you scan each
6 piece of evidence and it just tells you whether it's in
7 custody or whether it's to be destroyed.

8 Q. At any point in time did you know whether or not
9 that item was listed for it to be destroyed?

10 A. It was not.

11 Q. And you are doing that based on memory?

12 A. I'm doing that because it was under my name so I'm
13 the one that researches any evidence that's in my name
14 yearly and I never moved it to be destroyed.

15 Q. And, now, are you familiar with a William Register?

16 A. The name, yes, ma'am.

17 Q. Does he also work for the City of Charleston?

18 A. No, ma'am.

19 Q. Okay. Now, as an officer with the City of
20 Charleston, and I understand on direct you said that it's
21 not unusual for you to get items that don't belong to
22 your agency; is that correct?

23 A. You mean MUSC Public Safety?

24 Q. Yes or items from any --

25 A. Yes, ma'am.

1 Q. And would it be unusual for you guys to have the
2 item in your possession for over a year?

3 A. No, ma'am.

4 Q. Now, the information -- how would MUSC know where
5 the item should have gone?

6 A. I can't answer that. I don't know.

7 Q. Generally speaking, when there is an active
8 investigation for the City of Charleston do you guys
9 notify MUSC that you are involved and that you are
10 looking for particular evidence so that they can store it
11 or get it to your agency?

12 MS. FRIERSON: Objection, Your Honor. Compound
13 question. Wrong agency.

14 THE COURT: Yeah, break it down. I didn't
15 understand it either.

16 Q. Okay. Now, as an officer for the City of
17 Charleston would you notify MUSC that there was evidence
18 that you are looking for?

19 A. At the Forensic Service Unit that's not our primary
20 duty. The investigators would be the ones that would be
21 in contact. Our duty generally deals with the coroner's
22 office or the pathology office at MUSC.

23 Q. So the investigator for that particular case; is
24 that correct?

25 A. That's generally the way it's understood.

1 Q. And you don't have any information about who is the
2 investigator for this case, do you?

3 A. No, ma'am.

4 MS. BROWN: Beg the Court's indulgence.

5 (PAUSE.)

6 Q. Now, you indicated on direct that the item did not
7 appear to be tampered with when it came in your
8 possession but you have no idea what it looked like
9 originally from MUSC; is that correct, when it came from
10 the body of an individual?

11 A. Correct.

12 Q. Okay. So you can only talk about at the point that
13 you received it?

14 A. Yes, ma'am.

15 Q. Now, when you received it was it in the container
16 right here?

17 A. Yes, ma'am, in the container inside that initial
18 plastic bag that it is in.

19 Q. Okay. And you don't have any other evidence
20 related to this case?

21 A. No, ma'am.

22 MS. BROWN: Nothing further.

23 THE COURT: Any redirect?

24 MS. FRIERSON: None from the State, Your Honor.

25 THE COURT: All right. Thank you.

1 Thank you. You may be excused, unless there's an
2 objection. Hearing none --

3 MS. SAVAS: None from the State, Your Honor.

4 THE COURT: Have a nice day.

5 You may call your next witness.

6 MS. SAVAS: Thank you, Your Honor. The State calls
7 Michelle Eichenmiller.

8 MICHELLE EICHENMILLER, after having been
9 duly sworn, testified as follows:

10 THE CLERK: Please state your first and last name
11 and spell your last name loudly and clearly into the
12 microphone.

13 THE WITNESS: Michelle Eichenmiller,
14 E-i-c-h-e-n-m-i-l-l-e-r.

15 DIRECT EXAMINATION

16 BY MS. SAVAS:

17 Q. Good afternoon, Ms. Eichenmiller. Thank you for
18 being here. Ms. Eichenmiller, where do you work?

19 A. I work for the South Carolina Law Enforcement
20 Division in the forensic lab. I'm a firearms examiner.

21 Q. Okay. And how long have you been employed by -- is
22 that short for -- is SLED short for South Carolina Law
23 Enforcement?

24 A. Yes.

25 Q. Okay. How long have you worked for SLED?

1 A. Ten years.

2 Q. Okay. And what are your duties as a firearms
3 analyst?

4 A. I deal with any fired projectiles, cartridge cases
5 or bullets, any firearms. There's a couple of other,
6 serial number restoration that we do. We attempt to
7 determine if a bullet was fired by a gun, a cartridge
8 case was fired by that firearm, and other little tests
9 that are associated with that.

10 Q. And how do you typically go about that? Do you
11 have technical equipment that you use?

12 A. I do. I have a comparison microscope that's in my
13 office. It's basically two microscopes connected by what
14 looks like binoculars. I can put one bullet on one side
15 and one on the other and through the binoculars turn them
16 to see if I can find individual characteristics to
17 determine if they were fired by the same firearm.

18 Q. And what is your education background?

19 A. I have a Bachelor's Degree in Biology. I also a
20 Master of Science in Forensic Science.

21 Q. And do you have any specialized training?

22 A. Unfortunately, to be a firearms examiner there is
23 no school you can go to. You have to learn like an
24 apprenticeship program. So when I got to SLED I started
25 doing a lot of history reading on my own, doing

1 microscope work and then learning with the examiners that
2 were there. After a couple of years -- it's basically a
3 three to four-year program. After a couple of years I
4 took a test at the end. They determined I was competent
5 to work cases on my own.

6 Q. And do you belong to any professional organizations
7 as part of this?

8 A. I do, the Association for Firearm and Tool Mark
9 Examiners, which is an international organization for
10 firearms identification.

11 Q. And have you previously testified in court as a
12 firearms expert?

13 A. I have.

14 Q. About how many?

15 A. About 40.

16 Q. And about how many examinations would you have to
17 estimate that you've done in your career?

18 A. Thousands.

19 MS. SAVAS: Okay. At this time, Your Honor, the
20 State would like to qualify Ms. Michelle Eichenmiller as
21 an expert in firearms?

22 THE COURT: Would you like to voir dire her?

23 MS. CHISOLM: No, Your Honor. No objection.

24 THE COURT: Do you stipulate she's an expert?

25 MS. CHISOLM: Yes, Your Honor.

1 THE COURT: Okay. Very well.

2 Now, ladies and gentlemen, like the other expert,
3 most witnesses can only testify to what they've heard,
4 saw, tasted or felt; however, when they have an extra
5 amount of education and experience in some art, science
6 or calling then they can give conclusions and opinion.

7 Whether or not you, as jurors, decide to accept her
8 opinion is totally for you to decide. You should give it
9 no greater weight simply because she's an expert but give
10 it the weight that you believe is appropriate when taken
11 in consideration with all the other evidence in this
12 case.

13 You may proceed.

14 MS. SAVAS: Thank you, Your Honor.

15 BY MS. SAVAS:

16 Q. Ms. Eichenmiller, did you do an analysis for this
17 case?

18 A. I did.

19 Q. And what did you analyze here?

20 A. A fired bullet was submitted to the lab for
21 analysis, as well as a firearm, some unfired cartridges
22 and then four fired cartridge cases.

23 Q. I'm going to show you what's been marked as State's
24 Exhibit Number 9. Do you recognize this?

25 A. Whenever evidence comes into the lab we'll write

1 our name and our initials on the packaging and the item
2 number, and then when it leaves I seal it with the date
3 and my initials. This is the evidence I examined in this
4 case.

5 Q. Okay. And your initials are on there?

6 A. Yes.

7 Q. And is that in the same condition that when you
8 received it?

9 A. Yes. My heat seal is still in place.

10 Q. Okay. And when you received that item in evidence
11 did it have the other packaging in there?

12 A. Yes. I added -- after I cleaned the bullet I put
13 it in its own Ziploc bag, but everything else is what
14 came with it.

15 Q. And when you received this for analysis did it seem
16 to any way, shape or form been tampered with?

17 A. No.

18 Q. And do you recall where you had received this from?

19 A. SLED accepts evidence in our login department.
20 Agencies will bring it downstairs. I accepted it
21 straight from one of our login technicians after she
22 received it from Kenny Barfield from the Solicitor's
23 Office.

24 MS. SAVAS: Your Honor, at this point in time the
25 State moves to admit what's been premarked for

1 identification State's Exhibit Number 9 into evidence.

2 THE COURT: Any objection at this time?

3 MS. CHISOLM: No, Your Honor.

4 THE COURT: Without objection State's Exhibit
5 Number 9 is admitted.

6 (WHEREUPON, State's Exhibit Number 9, a Projectile,
7 was admitted into evidence.)

8 MS. SAVAS: Thank you, Your Honor.

9 BY MS. SAVAS:

10 Q. Ms. Eichenmiller, can you please describe for the
11 jury what you did with this specific projectile.

12 A. Whenever we get evidence in the lab we have
13 worksheets that we have to fill out. For bullets what I
14 will do is measure the diameter, count the number of
15 lands and grooves and write this all on a worksheet so I
16 have it for later. I'll look at it under the microscope
17 to see if there's any marks on it and weigh it and other
18 little tests just to document what it looks like when I
19 get it.

20 Q. And what did you test this projectile for?

21 A. When I receive a firearm in a case I will usually
22 test the projectile against test specimen that I fire out
23 of the firearm. So in this case I tested this bullet,
24 put it up on my comparison microscope. I obtained test
25 specimens from the firearm and then I compared them to

1 each other.

2 Q. Ms. Eichenmiller, I'm going to show you what's been
3 admitted as State's Exhibit 7A. Do you recognize this?

4 A. Same thing. Whenever we get firearms as evidence I
5 will write on it with an electric pencil. I'll scribe on
6 there the item number, my initials and the case number.
7 This is the firearm I examined in this case.

8 Q. Okay. And is that the Taurus firearm?

9 A. Yes.

10 Q. And you compared it to the bullet received from
11 MUSC?

12 A. Yes. I compared test fires from the Taurus firearm
13 to the bullet that I received.

14 Q. And what were your results of that test?

15 A. That comparison, it was inconclusive results due to
16 damage that the bullet received and not very many marks
17 that I could tell were specific to this firearm. We
18 weren't able to tell if it was fired by this firearm or a
19 firearm with very similar rifling characteristics.

20 Q. And since it was inconclusive is that common to
21 find on a projectile that's been removed from a victim's
22 body for it to be distorted?

23 A. Yes. Sometimes bodily fluids will actually eat
24 away at the jacket material and so then our marks go with
25 it. So depending on if it was removed immediately and

1 cleaned or if it sat for a while then the marks could
2 disappear.

3 Q. But were you able to determiné whether that did
4 come from a nine millimeter firearm?

5 A. Yes. It was a nine millimeter Luger caliber bullet
6 with riffling that was the same as the Taurus pistol. I
7 just couldn't say that it was this pistol or another one
8 that has the same number of lands and grooves.

9 Q. And that's fairly common to come to that
10 inconclusive determination?

11 A. Yes.

12 Q. And did you compare anything else to the firearm?

13 A. I also received four fired nine millimeter Luger
14 caliber cartridge cases. We compared those to test fires
15 that I obtained from the firearm.

16 Q. I'm going to show you what's been marked --
17 admitted into evidence as State's Exhibit Number 10. Do
18 you recognize this packet? You can open it, if you need.

19 A. These are actually test fires that I -- with the
20 submitted ammo that came with the firearm. Sometimes we
21 don't have the right ammo at SLED to use. We want to use
22 what was used in the case. So they submitted some
23 unfired cartridges. So I used them to test fire in the
24 firearm just do see if I could find any more individual
25 characteristics that would help identify the bullet. So

1 this is the submitted ammo that I received in this case
2 as test fires.

3 Q. Can you please open that for us. Thank you.

4 And are those sealed with the SLED tape?

5 A. Uh-huh, and my initials and the date. So there's
6 two cartridge cases and two bullets that I test fired in
7 the firearm.

8 Q. And what was the results from that test?

9 A. The four fired cartridge cases that I received as
10 evidence in this case were fired by the firearm that I
11 received in this case.

12 Q. And those were the cartridges that were submitted
13 as well with the Taurus?

14 A. These were the -- they were actually unfired when I
15 received them but I needed to use them to test fire the
16 weapon. So they were unfired when I got them.

17 Q. And, Ms. Eichenmiller, did you make a report of
18 your findings?

19 A. Yes.

20 Q. Okay. I will hand you what's been marked and
21 admitted into evidence as State's Exhibit 11. Do you
22 recognize this?

23 A. It appears to be a copy of my report.

24 Q. Okay. So that is your report from your findings of
25 this test analysis?

1 A. Yes.

2 MS. SAVAS: My apologies, Your Honor. I misspoke.

3 That's not admitted into evidence.

4 THE COURT: It's not admitted.

5 MS. SAVAS: It was premarked, I believe. At this
6 point in time, though, the State would move into evidence
7 State's Exhibit Number 11, which is the lab results from
8 that.

9 THE COURT: Any objection?

10 MS. CHISOLM: Can I just see it?

11 THE COURT: Yeah.

12 (PAUSE.)

13 MS. CHISOLM: No objection.

14 THE COURT: Without objection, State's Exhibit
15 Number 11 is admitted into evidence.

16 MS. SAVAS: Thank you, Your Honor.

17 (WHEREUPON, State's Exhibit Number 11, a Document,
18 was admitted into evidence.)

19 BY MS. SAVAS:

20 Q. Ms. Eichenmiller, State's Exhibit Number 11, so
21 this is your report where item number four was discussed
22 as that projectile from the victim's body?

23 A. Yes.

24 Q. Okay. And so that's number four?

25 A. Yes.

1 Q. And number five was the Taurus handgun that we just
2 saw?

3 A. Yes.

4 Q. Okay. And 5.1 describes the test firing that you
5 did?

6 A. Yes?

7 Q. And 5.2 were the two unfired rounds?

8 A. Right.

9 Q. Okay. And six through nine were those cartridge
10 cases?

11 A. Yes, the fired cartridge cases that I received as
12 evidence originally.

13 Q. At this point in time nothing further from the
14 State. Please answer any questions the defense might
15 have.

16 THE COURT: Ms. Chisolm?

17 CROSS-EXAMINATION

18 BY MS. CHISOLM:

19 Q. Good afternoon. Now, can you tell me, did you know
20 the age of the remaining part of the bullet that you
21 tested at the time that you tested it?

22 A. No.

23 Q. Okay. And what date was it that you actually did
24 the analysis?

25 A. If I could refer to my notes?

1 Q. Please.

2 A. I started my analysis of this case on May 23rd,
3 2016.

4 Q. That's several weeks ago. Tell me this, you talked
5 about conclusive and inconclusive and mentioned that it's
6 common for a result to be inconclusive. If it's so
7 common what is the point in testing the firearms or the
8 bullets?

9 A. We have three answers that we can give in firearms
10 identification. Inconclusive is one of them. We can
11 also say it was fired by or not fired by or that the
12 bullet was unsuitable. When bullets hit their target
13 they do sustain damage and if that happened to be a body
14 it would also get the bodily fluids which act on -- are
15 sometimes acidic and can remove the marks that are on
16 there. So inconclusive is not very common, like all the
17 time, but it's fairly common when bullets come out of
18 bodies or walls or buildings or cars that there's just
19 not enough left -- characteristics left to identify them.

20 Q. And can you tell us just how common conclusive
21 results are? Do you get conclusive results?

22 A. Yes.

23 Q. Now, I am now showing you what has been marked as
24 State's Exhibit Number 11, as part of your report. Could
25 you tell us -- is this here, most consistent bullets

1 loaded into some nine millimeter caliber cartridges,
2 could you tell us what you meant by that.

3 A. Sure. There are several different types of bullets
4 that can be loaded in cartridge cases. Some are hollow
5 points, some are lead bullets, some are jacketed bullets.
6 This is loaded into some nine millimeter Luger caliber
7 cartridges. It's not loaded into all because there are
8 different types.

9 Q. And moving to the next paragraph of your report,
10 just to confirm, you said that here in the sentence if
11 you can see there that it could not be determined whether
12 item number four, which was the item that was alleged to
13 have been used in this incident, was fired by item number
14 five, the pistol, or by another pistol with similar
15 rifling characteristics, correct?

16 A. Uh-huh.

17 Q. And just really briefly, how likely are you to have
18 different results with a portion of a bullet than a full
19 bullet?

20 A. I don't understand your question.

21 Q. The items that you tested, six, seven, eight and
22 nine were complete bullets, correct?

23 A. They were fired cartridge cases.

24 Q. They were cartridge cases. Okay. Is it likely to
25 be a difference between an unfired cartridge case and

1 item number four was?

2 A. Item number four is fired bullet. Cartridge cases
3 and bullets are different.

4 Q. Is it likely to be a difference in the result when
5 you test one against the other?

6 A. They are different items so we don't test them
7 against each other.

8 Q. Okay. So the comparison here that those items did
9 come from the bullet may or may not have any relevance to
10 whether or not number four was from this gun or not?

11 MS. SAVAS: Objection, speculative to a matter of
12 law.

13 MS. CHISOLM: Your Honor?

14 THE COURT: Rephrase your question.

15 Q. When you tested item six through nine and concluded
16 that they did come from the firearm, what is the
17 relevance to items number six through nine --

18 MS. SAVAS: Objection. Again, a matter of law.

19 THE COURT: Just ask her the questions.

20 MS. CHISOLM: Okay.

21 Q. The difference between -- what is the difference
22 between your result in six through nine and your result
23 in number four?

24 A. There's no test to tell if a bullet came from a
25 certain cartridge case but the cartridge cases were well

1 marked and I can tell that they came from that firearm.
2 The bullet was not as well marked so could not tell if it
3 came from that firearm or not.

4 It did have similar rifling characteristics,
5 meaning that the number of lands and grooves and the
6 direction of twists and the width of the lands and
7 grooves was very similar to what was in item six -- I'm
8 sorry, item five, the firearm.

9 MS. CHISOLM: No further questions, Your Honor.

10 THE COURT: Any recross?

11 MS. SAVAS: No, Your Honor.

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

13 Let me see the attorneys for just a second.

14 (WHEREUPON, a bench conference was had.)

15 THE COURT: All right. You may call your next
16 witness.

17 MS. FRIERSON: The State calls Lieutenant Jennifer
18 Nates.

19 JENNIFER NATES, after having been duly
20 sworn, testified as follows:

21 THE CLERK: Please state your first and last name
22 and spell your last name loudly and clearly into the
23 microphone.

24 THE WITNESS: Jennifer Nates, N-a-t-e-s.

25 DIRECT EXAMINATION

1 BY MS. FRIERSON:

2 Q. Good morning, Ms. Nates.

3 A. Morning.

4 Q. Could you please tell -- I think it's still
5 morning. Could you please tell the jury where you are
6 employed.

7 A. I'm employed by the South Carolina Law Enforcement
8 Division in the trace evidence section.

9 Q. And how long have you been with SLED?

10 A. Almost 19 years.

11 Q. And specifically could you tell the jury what your
12 position is there in trace evidence.

13 A. I am the lieutenant over the trace evidence section
14 which means I am responsible for the daily operations of
15 the department, in addition to performing casework
16 analysis, technical reviews of cases and managing the
17 employees.

18 Q. Could you please tell the jury a little bit about
19 your training, experience and how you came to be a
20 lieutenant in that unit.

21 A. I received a Bachelor of Science Degree in
22 Chemistry from California University of Pennsylvania in
23 1997. Upon completion of that degree I began an
24 internship at SLED, then I was hired in the drug analysis
25 section. I completed training there and then after about

1 a year I transferred in the trace evidence and began
2 their training program, which was approximately a
3 four-year training program that included in-house
4 training in addition to external classes and courses.

5 Q. And did you have the occasion to become involved in
6 this case?

7 A. I did.

8 Q. And what type of work? What was your role
9 specifically in this case?

10 A. In this case, I was asked to perform a gunshot
11 residue analysis. Trace evidence has several different
12 areas in which they perform analysis and for this case it
13 was gunshot residue.

14 Q. If you could please tell the jury a little bit
15 about what that analysis entails, gunshot residue.

16 A. Gunshot residue kits are submitted to our
17 department to determine if a person was potentially near
18 a weapon when it was fired. In this case the GSR kit was
19 submitted to our lab. It was submitted to login
20 department. I receive the evidence, we open the evidence
21 up, determine that it does match what the paperwork
22 states and we analyze the evidence using a scan electron
23 microscope. We set up what we call an automated run.

24 We have samples -- a GSR kit consists of samples
25 from the right palm, right back, left palm and left back

1 of a person's hands. So we set these samples up on the
2 SEM in a sequence and set up our parameters and the
3 instrument analyses overnight. We go in, we look at the
4 evidence to determine what the instrument found, and we
5 actually go back and relocate particles that the
6 instrument found to see if we can identify gunshot
7 residue particles on the evidence.

8 Q. And what exactly do you look for with those
9 particles?

10 A. With gunshot residue we are looking for molten
11 microscopic particles that contain specific elements. In
12 this case gunshot residue contains barium antimony and
13 lead. We look for a particle that is molten that
14 contains those three elements which are from the primer
15 composition of the bullet when it is fired.

16 We also look for particles that can be associated
17 with gunshot residue or consistent with gunshot residue.
18 These are normally two-component or one-component
19 particles, which means I may have barium and antimony or
20 I may have lead and barium or I may have a lead particle
21 but they have to be spheroidal particles, and the reason
22 we look to make sure they are molten and round in shape
23 is because that means they were in a high heat, high
24 pressure environment, which is what the firing of a
25 weapon is.

1 Q. And your educational background is the reason that
2 you can explain the complex science behind that?

3 A. The educational background and the training that we
4 receive.

5 Q. So as I understand there are GSR particles and
6 there are particles associated with primer residue?

7 A. And particles that are consistent with primer
8 residue, yes.

9 Q. And you have done those types of analysis?

10 A. Yes.

11 Q. About how many times would you say you've done that
12 type of analysis?

13 A. I've probably done in excess of at least a thousand
14 cases involving GSR.

15 Q. And do you make those analyses as a regular part of
16 your duties?

17 A. They are.

18 Q. Have you previously been admitted as an expert on
19 GSR analysis?

20 A. I have been.

21 Q. And how many times would you say?

22 A. This is my one hundredth testimony but that
23 includes the different areas as well, so probably at
24 least 50 to 60 in GSR.

25 MS. FRIERSON: Your Honor, at this time, I would

1 move to admit Lieutenant Nates as an expert in gunshot
2 residue analysis.

3 THE COURT: Is there any objection?

4 MS. BROWN: No objection.

5 THE COURT: All right. Without objection she will
6 be deemed to be an expert in gunshot residue.

7 Ladies and gentlemen, like the other witnesses,
8 give it the weight that you think it deserves. Thank
9 you.

10 BY MS. FRIERSON:

11 Q. Lieutenant Nates, you testified earlier you were
12 asked to review a gunshot residue kit in this case; is
13 that correct?

14 A. Not review it. I received it as evidence for
15 analysis.

16 Q. I apologize. I misspoke. Did you personally
17 collect that from the defendant?

18 A. I did not.

19 Q. And explain briefly again how that comes into your
20 lab?

21 A. Normally, the GSR kit is collected by either the
22 coroner, pathologist or an investigator or officer. They
23 collect the kit, they seal it. It is sent through their
24 evidence procedure or protocol, however the agency does
25 that, and it is brought to our agency.

1 Once it is brought to our agency we have what we
2 call a login department. All evidence passes through
3 this department. Evidence will come in, it's assigned
4 what is called a laboratory number, it begins with the L
5 and has the year. Like in this case it was L1514425.

6 Each case is given a unique number. They assign it
7 down in the login department. They assign each item a
8 unique number and then we are informed that we have cases
9 pending downstairs and we pick them up and take them to
10 our lab for analysis.

11 Q. Would you personally have performed any testing on
12 this if when you went to pick it up it appeared to you
13 that it had been tampered with?

14 A. I would not perform testing if it appeared to have
15 been tampered with in a way that would have compromised
16 the evidence.

17 Q. And you briefly explained earlier the analysis that
18 you do and the science behind it, but if you could please
19 just explain to the jury briefly how that analysis
20 determines the different particles that may or may not be
21 present or the particles associated kind of --

22 A. Can you repeat that? I'm sorry.

23 Q. The analysis that you perform, there were steps and
24 you said you do certain steps and you leave it overnight?

25 A. Right.

1 Q. And you come back?

2 A. Right.

3 Q. And if you could just confirm or, you know, for the
4 jury whether or not that was the procedure you followed
5 in this particular case.

6 A. It was. In this case, I received the evidence. A
7 GSR kit comes in an envelope and inside the kit it will
8 have an information form. These are in each of the kits
9 that we receive. So I check the evidence, make sure it's
10 sealed, make sure the lab number corresponds to what it
11 should be and the item number. I open this up and I
12 determine that everything was collected properly, it was
13 collected within the right time frame and that the name
14 that is on this matches the name that was submitted and
15 the name that is on my information sheets.

16 Once I look at this I then open up the evidence and
17 we fill out a second worksheet that just lists the lot
18 number of the kit, what the person was, if they were a
19 shooting victim, if they were a suspect, if they were a
20 witness, and their name, and the fact that the item was
21 sealed and initialled and the container was sealed and
22 initialed. This also states the instrument that I
23 analyzed the evidence on to keep track of that.

24 Once I open it up I initial each of the particle
25 lifts. A GSR kit contains four particle lifts that are

1 about that large. We initial those. I set it up on the
2 instrument using the parameters that are set forth in our
3 operations manual then set the instrument to run.

4 I then go back, I went back in this case and
5 verified that what the instrument found was, in fact,
6 what it said it was, and that is what my data in my case
7 is, is my verification of those particles to show that I
8 found gunshot residue.

9 Q. And where was this whole procedure performed?

10 A. It was performed in the trace evidence lab. We
11 usually open up our evidence in a room called 338 which
12 is a processing room, and then the SCM's are located in a
13 different room where they are processed.

14 Q. And could you please tell the jury what the results
15 of your analysis were in this case.

16 A. In this case, I received the GSR kit from Rhajon
17 Akeem Reshae Sanders. It was analyzed using scanning
18 electron microscopy --

19 THE COURT: You got to go slower than that. That's
20 pretty technical.

21 Q. Why don't we start with the procedure that you used
22 for this.

23 A. It was analyzed using a scanning electron
24 microscope with energy disbursive x-ray detector. And on
25 this kit on the right-hand and on the left-hand I found

1 particles of gunshot residue and on the left-hand I found
2 one particle that is considered associated with gunshot
3 residue.

4 Q. And in your training and experience would you
5 expect to see results like that if someone had just fired
6 a weapon?

7 A. We do expect to see that if someone has fired a
8 weapon.

9 Q. And did you complete a report for this analysis?

10 A. I did.

11 Q. And does that report include all the findings we
12 just discussed?

13 A. It does.

14 Q. I'd like to show you what has been premarked as
15 State's Exhibit Number 5. If you could please take a
16 look at that. Have you seen that before?

17 A. This appears to be a copy of the report that I
18 generated for this case.

19 Q. And does that contain the results that we just
20 discussed?

21 A. It does.

22 Q. And is it signed by you?

23 A. It is.

24 MS. FRIERSON: Your Honor, at this time, I'd like
25 to publish what's already been admitted --

1 THE COURT: Any objection?

2 MS. BROWN: No objections.

3 THE COURT: Without objection this is number what?

4 MS. FRIERSON: This is State's Exhibit Number 5.

5 THE COURT: State's Exhibit Number 5 is admitted
6 and may be published.

7 BY MS. FRIERSON:

8 Q. Lieutenant Nates, I'd briefly just like to go
9 through your report and if you could explain to the jury
10 section by section what these things are. If you need me
11 to zoom in or if you need to stand up to point there is a
12 pointer that should be up there, and just kind of
13 starting at the top would you briefly tell us what this
14 box is here.

15 A. Is that the pointer?

16 Q. You can just point to them. I'll tell you. Let's
17 start with this box. What is this information?

18 A. That is information that is provided by the agency
19 that submits the evidence, except for the lab number they
20 have -- it has their case number, the incident date and
21 the suspect, victim or elimination witnesses. We assign
22 it the lab number. The date at the top is the date that
23 my report was finalized.

24 Q. And what is this information?

25 A. That is the information for the officer who is

1 considered the investigating officer on the case and his
2 mailing address.

3 Q. Now, moving down you have here a section called
4 interpretation of results. Could you briefly explain to
5 the jury what that section deals with.

6 A. The interpretation of results is just a short
7 little section to let the reader of the report know that
8 it defines what gunshot residue particles are, what
9 associated particles are and what consistent particles
10 are.

11 Q. Moving on to page two, the final page of your
12 report, Lieutenant. Tell us what this items of evidence
13 is.

14 A. The items of evidence on my report will be the
15 items of evidence that were submitted for my particular
16 analysis. I don't list items of evidence that were
17 submitted for DNA firearms or evidence processing. Any
18 of those they will be on their separate report. This
19 only lists items that I receive for analysis, and it
20 lists item one was the GSR kit from Rhajon Akeem Reshae
21 Sanders.

22 Q. And then does it indicate what type of analysis you
23 performed?

24 A. Right underneath that it tells you what microscope
25 I used for the analysis.

1 Q. And then what is the item 1.1 right hand refer to?

2 A. The GSR kit consists of the samples which are right
3 palm, right back, left palm and left back. When we
4 receive the evidence we do what we call a sub item, and
5 this is for reporting purposes. We report from the right
6 hand and the left hand. So that is just a sub item that
7 I created off of that GSR kit to be able to report the
8 two different areas.

9 Q. And just for clarification you say right hand,
10 right back. Could you show the jury what you are talking
11 about using your hand.

12 A. This is considered the back of the right and as
13 this is considered the palm and they will take a sample
14 from each of these areas, and on the left hand as well.

15 Q. And so you have a right hand and a left hand on
16 this report?

17 A. Yes. The right hand would be the sample from the
18 right -- the back of the right hand and the right palm,
19 and we combine the results.

20 Q. And what were your results?

21 A. For the right hand I found particles of gunshot
22 residue were found. Gunshot residue can come from
23 discharging a firearm, being in the vicinity to the
24 discharge of a firearm or coming into contact with a
25 surface that has gunshot residue on it.

1 Q. And what about for the left hand?

2 A. For the left hand I found particles of gunshot
3 residue, and one particle associated with gunshot residue
4 were found. And gunshot residue can come from
5 discharging a firearm, being in the vicinity to the
6 discharge of a firearm or coming into contact with a
7 surface that has gunshot residue on it.

8 Q. Thank you, Lieutenant. Were you asked to do any
9 other gunshot residue analysis in this case?

10 A. I was not.

11 Q. If an agency information did not have information
12 that someone had handled a weapon would you receive that
13 evidence?

14 A. Can you rephrase that, please.

15 Q. Yes. Do you typically receive evidence at SLED for
16 cases where a weapon has not been fired?

17 A. We do.

18 Q. Okay. Thank you. I have no further questions at
19 this time. Please answer any the defense may have.

20 A. Okay.

21 THE COURT: Ms. Brown?

22 MS. BROWN: Thank you.

23 CROSS-EXAMINATION

24 BY MS. BROWN:

25 Q. Afternoon, Ms. Nates. Ms. Nates, can you tell me

1 when the date you received the evidence in this case.

2 A. Yes. When I received the evidence to open up was
3 February 22nd, 2016.

4 Q. Now, is that the date that it was received by your
5 agency?

6 A. No. That will be in the certified chain of
7 custody.

8 Q. Do you have any information about the date the
9 agency received it?

10 A. I do not.

11 Q. Now, you indicated that gunshot residue --

12 A. Oh, excuse me. One minute. I do have on my -- on
13 the submission sheet, it just states when the case
14 information was sent electronically to I-lab. So it was
15 sent by North Charleston on 10-27-2015.

16 Q. 10-27-2015?

17 A. And that is when they sent it electronically to
18 I-lab but that is not when it was brought in. So it was
19 after that at some point.

20 Q. Do you have an incident date on that report?

21 A. The incident date filled out when they submitted it
22 was 12-26-2014.

23 Q. Okay. Thank you. Now, you indicated that the
24 gunshot residue or particles can be -- if a person fires
25 a weapon you can determine whether or not they fired the

1 weapon, are in the vicinity of when the weapon was
2 discharged or came into contact with surface. Is that
3 correct?

4 A. If we find gunshot residue it can be from one of
5 those three scenarios.

6 Q. Now, would you be able to determine if gunshot
7 residue is on particles of clothing?

8 A. We can test clothing for gunshot residue.

9 Q. Did you test any clothing in this case?

10 A. I did not.

11 Q. You certainly can determine if a person was in
12 close contact with a person at the time the shots were
13 fired? You are able to determine that based from if
14 clothing had particles on it, correct?

15 A. Clothing or hands. If someone has it on their
16 hands they could have been in close proximity to someone
17 firing a weapon.

18 Q. So if, in fact, a case involves someone being in
19 close contact with an individual when he fired his weapon
20 would you generally test the clothing of that individual?

21 A. Normally --

22 MS. FRIERSON: Objection, speculation.

23 THE COURT: I'm going to let her answer that.

24 She's an expert.

25 A. Usually we don't. If we receive a GSR kit on an

1 individual and the GSR kit is positive the GSR kit is the
2 best evidence because we can have a time length to the
3 shooting incident because any GSR that is deposited on
4 your hands will be gone within six hours.

5 With clothing if you fire a weapon the prior day
6 and you take your clothes off, go to bed, put them back
7 on I can still find GSR on your clothing. So if I test
8 clothing I can't link it to that incident. I can just
9 say it's present on the clothing.

10 It could have been from that incident but it may
11 have been from a prior shooting or prior exposure to
12 gunshot residue. So usually, generally, we look at the
13 hands first. If they are negative then we will analyze
14 the clothing if it is submitted.

15 Q. And you had no information relating to this case
16 whether or not there were people in close contact with
17 anyone at the time the shots were fired?

18 A. I do not. The information that I receive is I
19 receive the kit, and then I have the information sheet
20 which usually doesn't have much information on it. I
21 just know there were shots fired. I don't have any other
22 information from the case.

23 Q. Got you. And you don't have any idea or any
24 information relating to this case under what set of
25 circumstances a shot was fired in this case; is that

1 correct?

2 A. No.

3 Q. You have no personal knowledge of that at all?

4 A. No. We will have the incident report. Sometimes I
5 will read it if I need information on shooting times. In
6 this case I did not. So we receive the evidence, analyze
7 it. Usually I don't have any information on specifics of
8 the case.

9 Q. Certainly. And your investigation has been solely
10 limited to just reviewing or analyzing the kit?

11 A. All I did was analyze the GSR kit and generate a
12 report.

13 Q. Thank you.

14 MS. BROWN: Beg the Court's indulgence, Your Honor.

15 (PAUSE.)

16 MS. BROWN: Nothing further.

17 THE COURT: All right. Thank you.

18 Any redirect?

19 MS. FRIERSON: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. FRIERSON:

22 Q. Lieutenant Nates, I would like to show you what has
23 been admitted State's evidence -- State's Exhibit, excuse
24 me, Number 4. If you can look at this and please tell me
25 if you've seen it.

1 A. Yes. This is actually the envelope that the GSR
2 kit was placed in prior to submission at our agency.
3 This is the bar code label that's generated by the login
4 department when they assign it the lab number and assign
5 each item an item number. These are my initials and date
6 whenever I opened it up, and then this is -- I put an R
7 on here for return when I'm completed with the case.
8 Then on the back is the evidence tape with my initials
9 and date on it when I sealed the evidence at the
10 completion of the exam.

11 Q. And is that still sealed?

12 A. It is.

13 Q. Could you please open that.

14 MS. BROWN: Objection, Your Honor. I don't know --
15 I don't believe that this is part of redirect. I don't
16 understand --

17 THE COURT: What is your purpose?

18 MS. FRIERSON: Just that this is the GSR kit that
19 she analyzed.

20 THE COURT: Okay. But you are on redirect. Was
21 this part of her cross?

22 MS. FRIERSON: This is part of. She was talking
23 about the kit that was --

24 THE COURT: Overruled. Go ahead.

25 BY MS. FRIERSON:

1 Q. You may open it.

2 And if you could just explain to the jury what that
3 is.

4 A. Can I open this?

5 MS. BROWN: Objection, Your Honor.

6 THE COURT: Overruled. It's in evidence. Go
7 ahead.

8 A. Can I open it? These are the GSR kits that we
9 provide to the agencies throughout the state. They are
10 from a company in North Carolina, and these are the
11 particle lifts that I mentioned earlier that are
12 collected from each area of the hand.

13 And if you see on the inside there is a carbon --
14 we call it a carbon planchet. It has a slight adhesive
15 on it, kind of like a band-aid adhesive so that it will
16 pick up any particles that are on the areas of the hands
17 when they collect them. But the officers use these,
18 collect the evidence then place it back in the kit for
19 our analysis.

20 Q. And that is what you analyzed in this particular
21 case?

22 A. Yes.

23 Q. That is what provided you with the results that you
24 just testified to?

25 MS. BROWN: Objection, Your Honor.

1 THE COURT: What's your objection?

2 MS. BROWN: It's the same line of --

3 THE COURT: Overruled.

4 MS. BROWN: The reason I objected previously.

5 THE COURT: Overruled.

6 BY MS. FRIERSON:

7 Q. I'll grab that from you. Lieutenant Nates, you
8 testified on cross about the date that you received these
9 items?

10 A. Yes.

11 Q. Could you tell us that date again.

12 A. I opened the evidence on February 22nd, 2016.

13 Q. And when things are submitted to SLED is there a
14 priority for testing?

15 A. GSR is a little different from our other cases
16 because we receive so many GSR kits that have analysis
17 requests. With gunshot residue we actually -- I hate to
18 say it, still have cases from 2012 because we have so
19 many that come in and the instrument can physically only
20 analyze so many samples per night.

21 We cannot analyze any more than we do, so when GSR
22 comes in we usually have a running log. When someone
23 calls for the case we will pull it and try to get it out
24 within 6 to 12 weeks of when they place that call.

25 Q. And if there's not a specific call does it just get

1 taken in date order?

2 A. If there's not a specific call it does get taken in
3 date order. It gets sent to our storage facility up on
4 the third floor. But right now our call list for court
5 and for investigation purposes we do not actually analyze
6 cases as they are sitting in cue. We are working off of
7 that rush list.

8 MS. FRIERSON: Thank you. No further questions at
9 this time.

10 THE COURT: Any recross?

11 MS. BROWN: Nothing, Your Honor.

12 THE COURT: All right. Thank you. This witness is
13 excused unless there is an objection.

14 MS. SAVAS: No objection from the State, Your
15 Honor.

16 THE COURT: Any objection?

17 MS. BROWN: None, Your Honor.

18 THE COURT: Thank you. Have a nice day.

19 THE WITNESS: Thank you. You too.

20 THE COURT: I believe this --

21 MS. FRIERSON: This will be the State's last
22 witness, Your Honor.

23 THE COURT: Are y'all good or y'all need a break
24 before we hear one more witness?

25 You may call your next witness.

1 MS. FRIERSON: The State calls Jennifer Bartman.

2 JENNIFER BARTMAN, after having been duly
3 sworn, testified as follows:

4 THE CLERK: Please state your first and last name
5 and spell your last name loudly and clearly into the
6 microphone.

7 THE WITNESS: My name is Jennifer Bartman,
8 B-a-r-t-m-a-n.

9 MS. FRIERSON: Thank you, Your Honor.

10 THE COURT: You may proceed.

11 MS. FRIERSON: May it please the Court.

12 DIRECT EXAMINATION

13 BY MS. FRIERSON:

14 Q. Ms. Bartman, could you please tell the jury where
15 you are employed.

16 A. I'm employed at the South Carolina Law Enforcement
17 Division commonly known as SLED.

18 Q. And what is your title there?

19 A. I am a DNA analyst in the DNA casework department.

20 Q. And how long have you been with SLED?

21 A. I've been with SLED approximately three and a half
22 years.

23 Q. What are your duties as a DNA analyst?

24 A. In the DNA casework department we receive evidence
25 from crimes that occur across the State of South

1 Carolina. We can screen these items for biological
2 fluids then we also perform DNA analysis on these
3 evidence items and can compare them to known standards
4 from individuals.

5 Q. And please tell the jury a little bit about your
6 training and education to get into this field.

7 A. I have a Bachelor's Degree in Biology, and I also
8 have a Master's Degree in Forensic Science with a
9 concentration in forensic biology, and I have also
10 competed approximately a year of on-the-job training at
11 SLED with a court qualified analyst.

12 Q. Do you ever forensically analyze samples to
13 determine the presence of DNA?

14 A. Yes, I have.

15 Q. And have you ever compared DNA samples to confirm
16 or deny that there's a match?

17 A. Yes, I have.

18 Q. How many times would you say that you've done this
19 type of analysis in your work?

20 A. I've worked approximately 185 cases.

21 Q. And do you do this regularly in any given week?

22 A. Yes, I do.

23 Q. Have you previously been admitted as an expert on
24 DNA analysis in court?

25 A. Yes, I have.

1 MS. FRIERSON: Your Honor, at this time, we would
2 move to admit Ms. Bartman as an expert on DNA analysis.

3 THE COURT: Is there any objection or do you wish
4 to voir dire?

5 MS. CHISOLM: Court's indulgence.

6 (PAUSE.)

7 MS. CHISOLM: Briefly.

8 VOIR DIRE EXAMINATION

9 BY MS. CHISOLM:

10 Q. Have you been deemed as an expert in court before?

11 A. Yes, I have.

12 Q. And did you say where you went to school?

13 A. I did not. I got my Bachelor's from Hope College
14 in Holland, Michigan, and I got my Master's Degree from
15 Virginia Common Wealth University in Richmond, Virginia.

16 MS. CHISOLM: No further questions, Your Honor.

17 THE COURT: You all stipulate --

18 MS. CHISOLM: Yes, sir. No objection.

19 THE COURT: Okay. No objection.

20 Then, ladies and gentlemen, just like the other
21 experts, please give her testimony the weight that you
22 believe it deserves. Thank you.

23 You may proceed.

24 MS. FRIERSON: Thank you, Your Honor.

25 BY MS. FRIERSON:

1 Q. Ms. Bartman, did you have the occasion to become
2 involved in this case?

3 A. Yes, I did.

4 Q. And could you tell the jury what kind of work you
5 performed in this case.

6 A. I did DNA analysis. I received two items in this
7 case. One were swabs from a Taurus handgun, and the
8 second item were buccal swabs from Rhajon Sanders.

9 Q. If you can please explain to the jury what a buccal
10 swab is.

11 A. A buccal swab is basically like a giant cotton
12 swab. It's what is technically collected for a known
13 standard from an individual and it's just rubbed on the
14 inside of the cheeks of the individual.

15 Q. And do you actually collect that buccal swab?

16 A. No, I did not.

17 Q. And what about the swabs from a handgun?

18 A. That can be either processed by our evidence
19 processing department or it can be submitted by the
20 submitting agency.

21 Q. I would like to show you what has been admitted as
22 State's Exhibit 6B and 6A. If you could look at these
23 two and tell me if you have seen those before.

24 A. Yes, I have. These are the items that I received.

25 Q. And do you know when you received those items?

1 A. I can refer to the chain of custody from SLED.

2 I received them from Jennifer Aycock in our
3 evidence control department on January 25th of 2016 at
4 11:04 a.m.

5 Q. And if those items had appeared to be tampered with
6 or damaged would you have accepted them in for analysis?

7 A. No, I wouldn't have. If there's any sign of
8 tampering no analysis would be done and the submitting
9 agency would have been contacted.

10 Q. And what was the specific request for analysis in
11 this case?

12 A. To develop any profile from the swabs from the
13 handgun, and if a profile was obtained to compare it to a
14 known standard of the subject that was submitted.

15 Q. And explain to the jury what a profile is and what
16 a known standard is.

17 A. To start off, DNA stands if deoxyribonucleic acid
18 and it basically makes up who you are. You get half of
19 your DNA from your mom and half of your DNA from your
20 dad. The main type of testing that we do at SLED is
21 called STR testing.

22 Q. If I can ask you just to slow down just a little
23 bit.

24 THE COURT: Yeah, please.

25 A. I'm sorry.

1 THE COURT: We got a court reporter. Our ears can
2 pick it up but her fingers can't.

3 A. STR stands for short tandem repeat. So we
4 basically look at 15 different sections of the DNA that
5 repeat over and over again. And the number of times that
6 those sections repeat is what differs between
7 individuals, then we also look at a gender marker.

8 So when we analyze the DNA we develop a profile
9 from the evidence so we see numbers at each of those
10 different locations and then we can do the same with a
11 known standard and then we compare the two.

12 Q. And where was this analysis performed?

13 A. It was performed at the SLED forensics laboratory.

14 Q. And what were the results of your analysis?

15 A. The DNA profile developed from SLED item three
16 which is the swabs from the Taurus handgun was a mixture
17 of at least two individuals. Rhajon Sanders cannot be
18 excluded as a contributor to this mixture. The
19 probability of randomly selecting an unrelated individual
20 who could have contributed to that mixture is one in
21 sixty-six million.

22 Q. Thank you. Can you explain to the jury what it
23 means when it says that the defendant, Mr. Sanders, could
24 not be excluded as a contributor.

25 A. Yes. There are different types of profiles that we

1 can get. One is just a single source profile which you
2 can match someone to. We have a couple of different
3 types of mixtures. One is a major-minor mixture where
4 one person is clearly giving more DNA to that mixture
5 than another, and in this case it was an
6 indistinguishable mixture, so they were both contributing
7 approximately the same amount of DNA or one wasn't
8 contributing significantly more than the other.

9 And then in order to make those comparisons if it's
10 an indistinguishable mixture we see if they can be
11 excluded from that mixture or not, and if they can't we
12 say they cannot be excluded, and then that number that I
13 read is the weight or significance of that statement. So
14 in this case it was one in sixty-six million.

15 Q. And did you complete a written report for this
16 case?

17 A. Yes, I did.

18 Q. And does that report include the findings we just
19 discussed?

20 A. Yes, it does.

21 Q. At this time, I'd like to show you what has been
22 admitted as State's Exhibit Number 8. If you could take
23 a minute and look at that.

24 (A document was handed to the witness.)

25 Q. And do you know what that is?

1 A. Yes. The DNA report that I issued in this case.

2 Q. And is that signed by you?

3 A. Yes, it is.

4 MS. FRIERSON: Your Honor, at this time, I'd like
5 to publish that to the jury.

6 THE COURT: Is it already in evidence?

7 MS. FRIERSON: Yes, Your Honor.

8 THE COURT: You may publish it.

9 BY MS. FRIERSON:

10 Q. Let me give you scissors to open up what you have
11 identified as the buccal swabs in this case. I'd like to
12 use those to go through your report and kind of explain
13 to the jury how this all works.

14 If you wouldn't mind taking them out and identify
15 the individual pieces to the jury.

16 A. So when I receive the evidence it's in a heat
17 sealed pouch like this that it gets put in when it's
18 brought to SLED. This is the buccal swabs from Rhajon
19 Sanders. When I get the item of evidence I'll put the
20 SLED assigned case number on it as well as the item
21 number, as well as my initials and then the date that I
22 opened it, and then I also resealed it on the back.

23 Q. And is there another item in that envelope?

24 A. No.

25 Q. In the other envelope?

1 A. In the other envelope. Yes. Would you like that,
2 also?

3 Q. Yes, please.

4 A. This is our SLED item three which is the swabs from
5 the Taurus handgun. The same thing. I put the SLED lab
6 number, the item number, my officials initials and the
7 date. So that's identified as item three which is the
8 swabs from the first handgun and then I resealed it when
9 I was finished.

10 Q. And these were the items that you analyzed to
11 develop the report?

12 A. Yes. That's correct.

13 Q. And looking at this report if you could start at
14 the top with me, and there's a pointer up there or I can
15 actually point it out and you can tell me what it is.
16 What is this section up here?

17 A. That's the general information tab. It will have
18 the date of the report, when it was issued, any subjects
19 or victims that was provided upon submission, the
20 submitting agency's lab number, the incident date and
21 then our lab number.

22 Q. And moving on to the next section it says items
23 analyzed. What are they?

24 A. Yes. These are the items that we analyze. We put
25 the standards first and then there's usually a space. So

1 if there was multiple items of evidence there would be a
2 space then the items of actual evidence that we receive.
3 So in this case the DNA standard that we received was
4 SLED item two which were buccal swabs from Rhajon
5 Sanders, and the evidence that we received was SLED item
6 three which were swabs from a Taurus handgun.

7 Q. Those are the items you just pulled out of the bag
8 and identified?

9 A. That's correct.

10 Q. And what examination was done on these items?

11 A. It was DNA analysis was performed using the short
12 tandem repeats, like I mentioned before, those little
13 sections of DNA that repeat over and over again.

14 Q. Moving on to page two of your report, it's titled
15 results. Can you explain that briefly to the jury, what
16 the results were when you compared those.

17 A. Yes. In this section that's just where we put all
18 of our comparison or the findings that we have in this
19 case. So in this case, like I said, the DNA profile was
20 a mixture of at least two individuals. Rhajon Sanders
21 cannot be excluded as a contributor to this mixture, and
22 the probability of randomly selecting an unrelated person
23 who could have contributed to the mixture that I got from
24 the swabs from the gun is approximately one in sixty-six
25 million.

1 Q. Thank you. And what happens after you are done
2 analyzing the evidence?

3 A. After I am through analyzing the evidence I return
4 it to our evidence control department which then
5 ultimately goes back to the submitting agency.

6 MS. FRIERSON: Court's indulgence, Your Honor.

7 THE COURT: Yes, ma'am.

8 (PAUSE.)

9 Q. I have no further questions at this time. Please
10 answer any the defense may have.

11 THE COURT: Ms. Chisolm?

12 MS. CHISOLM: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MS. CHISOLM:

15 Q. Good afternoon. The results that you have
16 determined do not give you any indication of the
17 circumstances under which this gun may have been fired,
18 correct?

19 A. That's correct.

20 MS. CHISOLM: No further questions, Your Honor.

21 THE COURT: All right. Thank you.

22 Any redirect?

23 MS. FRIERSON: None from the State, Your Honor.

24 THE COURT: Thank you. This witness is excused
25 unless there's an objection.

1 MS. SAVAS: No objection, Your Honor.

2 MS. BROWN: None, Your Honor.

3 THE COURT: Okay. Thank you. You all have a safe
4 trip back to Columbia.

5 THE WITNESS: Thank you.

6 THE COURT: Yes, ma'am?

7 MS. SAVAS: At this point, Your Honor, the State
8 rests.

9 THE COURT: All right. Ladies and gentlemen, the
10 State has rested. That means they will not be putting up
11 any more testimony. Ladies and gentlemen, what I'm going
12 to do because we had some scheduling issues I'm going to
13 go ahead and release you for the rest of the day with
14 instructions that you be back here at 9:30 tomorrow
15 morning. Please do not discuss the case with anyone. If
16 there's anything in the newspaper, please don't look at
17 it, see anything on the news don't look at that either.

18 You have a box lunch that you can take, you can eat
19 it in the jury room if you like or you can go eat it
20 outside and have a picnic, or you can take it to your
21 house, wherever you want to go. But have a nice evening,
22 ladies and gentlemen, and I'll see y'all back here at
23 9:30. Thank you..

24 (WHEREUPON, the jury leaves the courtroom at
25 approximately 12:52 p.m.)

1 THE COURT: Does the defense have any motions to be
2 made at this time?

3 MS. BROWN: Yes, Your Honor, we do have two
4 matters.

5 THE COURT: Okay.

6 MS. BROWN: One is a motion. Another one is
7 relating to some evidence that we intended to admit and I
8 think there was an objection and it was sustained. We
9 would like to put that on the record.

10 THE COURT: Okay.

11 MS. BROWN: But before we begin is there any way we
12 can take a bathroom break?

13 THE COURT: Absolutely. I didn't think about that.
14 Let's take a 10-minute recess.

15 MS. BROWN: Thank you so much.

16 MS. SAVAS: Thank you, Your Honor.

17 (WHEREUPON, a brief recess was taken.)

18 THE COURT: All right. Yes, ma'am?

19 MS. BROWN: Thank you, Your Honor. Yesterday
20 during the cross-examination of Nicholas Washington I
21 attempted to admit into evidence a photo that
22 Mr. Washington identified as Kent Avenue. He indicated
23 that the photo looked familiar to him. He, in fact,
24 stated that was Kent Avenue. He did indicate that the
25 photo showed a sidewalk and is, of course, a new or a

1 recent photo of Kent Avenue.

2 THE COURT: Right.

3 MS. BROWN: That photo, of course, I have here. I
4 want to describe it to the Court once again. In that
5 photo there is a picture of Kent Avenue. It is also the
6 very end part of [REDACTED] It's a photo showing [REDACTED] as well
7 as [REDACTED], as well as the street and the center.

8 When I attempted to admit it into evidence -- and I
9 am working from a rough draft of a transcript that I
10 received this morning, it appeared that there was an
11 objection from Ms. Savas. We then went to sidebar.

12 THE COURT: Yeah, because that was the one where I
13 said that it wasn't an accurate depiction. I think I
14 know where you are going, and then there was another one
15 that was not objected to that was in evidence that showed
16 the sidewalk --

17 MS. BROWN: Absolutely.

18 THE COURT: -- which I think was a Google Earth.

19 MS. SAVAS: Yes, sir.

20 THE COURT: And I guess if you are just trying to
21 show the distance between the houses or something that's
22 okay, but we know the sidewalk was not there. I mean, as
23 long as that's a stipulation, if you're just showing the
24 house, I really don't have a problem.

25 Do y'all have a real problem with it from that

1 standpoint?

2 MS. SAVAS: Actually, Your Honor, the issue with
3 this photo in addition to the sidewalk was we were
4 informed that --

5 THE COURT: That wasn't the photo. That wasn't the
6 one. There was another one.

7 MS. BROWN: No, this is the photo, Your Honor.
8 There are three photos. In fact, I have two different
9 photos. Now, which one I showed to him yesterday I can't
10 recall; however, they both show Kent Avenue. They both
11 show a more recent picture of Kent Avenue, and the
12 purpose of entering this particular photo into evidence
13 is to show the distance of the parties at the time that
14 anything took place.

15 THE COURT: If it's just to show where the houses
16 are I don't have a real problem.

17 MS. SAVAS: If I may, Your Honor. The issue that
18 we have is that she's attempting to show the distance and
19 the difference between this one and the admitted Google
20 Earth one is that was to show the street view which is
21 from a distance of the other part of the street.

22 This, Your Honor, as you can see, has not been
23 verified as to who took this photo or where it came from,
24 and it seems to be from the middle of a yard and it's
25 zoomed in and disproportionate. Where they are trying --

1 as this is a self defense case, they are trying to say
2 that the victim was walking close, this is what it looks
3 like from the perspective of the defendant and the amount
4 of distance. We believe this is extremely misleading to
5 the jury as it's not an accurate depiction, not
6 necessarily of the sidewalk, we understand that, sir, but
7 you cannot say that this is actually what it looks like
8 from the defendant's eye.

9 THE COURT: We never get that. 'So, I mean, I don't
10 really have a problem with it.

11 MS. SAVAS: If we could then perhaps just --

12 THE COURT: You will also be allowed to
13 cross-examine as to, you know, this is -- I mean, it's a
14 representation. I mean, it's just kind of showing the
15 neighborhood. We've got a number of pictures in there
16 now showing the neighborhood. I don't think one more or
17 two more is going to make any difference.

18 MS. SAVAS: Okay. Yes, Your Honor, and then if
19 that is the case, of course, we would object at the
20 appropriate time and then perhaps just request a
21 disclaimer to the jury that this is not to scale.

22 THE COURT: That's not a problem.

23 MS. SAVAS: Sure. Thank you, sir.

24 MS. BROWN: Your Honor, before I go any further I
25 just want to make sure I am prepared for tomorrow based

1 on anticipating a number of objections I can see coming.
2 Do I need to bring the person that took this photo in
3 here and add them to the witness list? Clearly, I did
4 not have any intentions of doing that because this photo
5 can be identified by individuals in the neighborhood that
6 that is what Kent Avenue looked like, and that's all I
7 have to show to this Court.

8 THE COURT: Do you have any objection to that?

9 MS. SAVAS: I'm not sure what --

10 THE COURT: To bring in the actual photographer in
11 or can that be a general representation with a disclaimer
12 that -- please don't talk when I'm talking, with a
13 general disclaimer that that's just a representation of
14 the neighborhood.

15 MS. SAVAS: Yes, Your Honor. We would ask for that
16 disclaimer that it's not to scale but we would still
17 object to it. If she so feels the need to call the
18 paragrapher that is up to the defense's choice, of
19 course, who they wish to call. That's fine. But we
20 would still make that objection. But, yes, sir, but if
21 that's the way you would rule we would just ask that it's
22 not to scale. We have no issue with that --

23 MS. BROWN: The only reason I brought up the
24 photographer is because Madam Solicitor brought up the
25 photographer. So I don't want any problems tomorrow

1 about not having a photographer present.

2 THE COURT: Is having the photographer here or not
3 here going to make any difference?

4 MS. SAVAS: I have no intentions on calling a
5 photographer, sir.

6 THE COURT: Okay. Okay.

7 MS. BROWN: I'm sorry?

8 THE COURT: She says she has no -- to objecting
9 because the photographer is not here.

10 MS. BROWN: Okay. Thank you.

11 The next order of business is that we would like
12 to, of course, get prepared for a direct motion argument.

13 THE COURT: Directed verdict?

14 MS. BROWN: Direct verdict argument, Your Honor. I
15 apologize. Of course, at this time since the State has
16 concluded its case we are going to ask the Court to issue
17 a directed verdict relating to the charge of attempted
18 murder as well as possession of a weapon during the
19 commission of a violent offense.

20 The indictments for those two charges,
21 2015-GS-10-285 and 2015-GS-10-285, respectfully. The
22 indictment for attempted murder alleges that Rhajon
23 Sanders on December 26 of 2014 did with the intent to
24 kill and malice aforethought killed -- attempt to kill
25 Nicholas Washington in violation of South Carolina Code

1 16-3-29.

2 The indictment for possession of a weapon during
3 the commission of a violent crime alleges that December
4 26 of 2014 Rhajon Sanders did possess a firearm or did
5 visibly display what appeared to be a firearm during the
6 commission of a violent crime, to wit, attempted murder
7 is that crime.

8 In State vs. Mitchell -- Your Honor, I apologize.
9 I should provide you copies of the cases that I'm going
10 to refer to in my argument. May I approach?

11 THE COURT: You may.

12 (Documents were handed to the Court.)

13 THE COURT: Thank you.

14 MS. BROWN: In State vs. Mitchell, the Court, of
15 course, considers a motion for directed verdict. The
16 Court must view the evidence in the light most favorable
17 to the State to determine if there is any substantial
18 evidence which reasonably tends to prove the guilt of the
19 accused from which guilt may be fairly and logically
20 deduced. We understand at this stage the Court is not
21 concerned with the weight of the evidence but just the
22 existence or the nonexistence.

23 The indictment for attempted murder requires the
24 State of South Carolina to offer you evidence during
25 their case that Rhajon on December 26 of 2014 with malice

1 aforethought attempted to kill Nicholas Washington.

2 State vs. Rakeem Cain is a Charleston County case.

3 The defendant Cain was charged with attempted murder,

4 armed robbery and possession of a weapon during the

5 commission of a crime. The Court examined the issue of

6 whether the offense of attempted murder here in South

7 Carolina, whether or not the defendant Cain has the

8 specific intent to kill as an element of the offense.

9 The judge charged that a specific intent to kill was not

10 an element for attempted murder but it must be a general

11 intent to commit serious bodily harm.

12 The Court of Appeals determined that that was not

13 correct, that there need to be a specific intent that has

14 to be demonstrated for attempted murder. Therefore,

15 South Carolina must demonstrate to you that Rhajon had a

16 specific intent to kill Nicholas Washington and malice

17 aforethought.

18 The courts have defined malice as hatred, ill will,

19 hostility towards another person indicating a wicked or

20 depraved spirit intent on doing wrong, a formed purpose

21 and design to do wrongful act without legal justification

22 or excuse.

23 The State has offered you two fact witnesses,

24 Nicholas Washington and Katina Washington. Nicholas

25 Washington testified yesterday that he did not know

1 Rhajon Sanders before December 26, 2014.

2 He also testified that there was no preexisting ill
3 will or disputes between the parties. He also testified
4 that he nor his family members had any problems with
5 Rhajon Sanders or their family. He also testified on
6 December 26, 2014 there was no verbal or physical
7 altercation occurred between himself and Rhajon or the
8 families. There were no communications or conversations
9 between the two either.

10 Mr. Washington testimony did not prove any evidence
11 or provide any evidence to this Court regarding the
12 mental state of Rhajon prior to the shooting or any
13 actions of Rhajon before the shooting, but he did inform
14 this Court immediately following the shooting that two
15 individuals ran up to him, one in white car and
16 apologized, and another across the street. And, in
17 fact, he described that person who apologized as afraid.
18 Very afraid.

19 Then you had Katina Washington that testified in
20 this courtroom that her parents and sister lived on Kent
21 Avenue for about five years, that she had never had any
22 problems with the neighbors across the street which she
23 then identified as Rhajon Sanders' family. She was not
24 able to provide you any evidence before the shots were
25 fired but stated that a guy came across the street

1 following the shooting and said, I'm sorry, didn't mean
2 to shoot, and that his demeanor, according to her, was
3 kind and not rude. That was the words that she described
4 the individual.

5 Then you had Dr. Haro that testified from MUSC and
6 he offered you no evidence at all that's going to help
7 this jury decide whether or not Rhajon demonstrated
8 malice aforethought before any shots were fired.

9 You had Officer Stanley Tucker that testified. He
10 was, I think, the lead agent on this case for the City of
11 North Charleston. He testified his investigation
12 concluded that no altercation between the two had
13 existed. He did testify in his report that Nicholas
14 Washington was standing in front of a vacant lot and
15 stepped off the property and started crossing the street
16 and that Rhajon Sanders reported that he believed
17 Nicholas Washington had a gun. He was not able to
18 provide you any additional evidence at that point about
19 Rhajon's versions of the event because I believe he said
20 he had not reviewed the statement.

21 You have Officer Ruckers with the North Charleston
22 -- the City of North Charleston Police Department that
23 offered you evidence -- did not offer you any evidence
24 related to element of malice aforethought or attempted
25 murder. His primary role appeared that he just pulled

1 his weapon out on Mr. Rhajon and that he conducted a
2 protective sweep of the home.

3 You had Detective Rebecca Bailey with the City of
4 North Charleston Police Department that testified that
5 she received information from a Sergeant Aiken about what
6 to put in a sworn warrant. She had no personal knowledge
7 of the case, what she told us, and after reviewing the
8 sworn affidavit she testified, and her affidavit said
9 that yes, she believed Rhajon was afraid and shot the
10 victim as he crossed the street.

11 Now, we've had a number of witnesses today and none
12 of those witnesses today can give us any idea about what
13 transpired prior to the shooting on December 26 of 2014.
14 Of course, most of the witnesses were people that analyze
15 physical evidence. Any officers involved, clearly, were
16 involved very limited in nature.

17 There's nothing at all that has been offered to
18 this courtroom at all for the past two days about the
19 state of mind, about any actions that would even remotely
20 suggest that there was malice aforethought when shots
21 were fired which is required for attempted murder.

22 Considering the evidence most favorable to the
23 State they have offered no evidence to support the
24 element of malice aforethought which, of course, is
25 essential for the charge of attempted murder.

1 The evidence presented during the State's case is
2 either there's no reason why shots were fired or -- which
3 does not support malice aforethought, or they've offered
4 evidence that Rhajon believed that Nicholas Washington
5 was armed with a firearm coming in his direction, and
6 that came, of course, from the officers on the stand that
7 he was afraid, and then you have the fact witnesses who
8 said afterwards he looked very afraid.

9 The presence of a weapon does not support, cannot
10 stand alone. Of course, when we look at the cases that I
11 just gave you, Gibson vs. State, that if, in fact, the
12 Judge determines today that there's no malice
13 aforethought and attempted murder then the possession of
14 a weapon during the commission of a violent offense can't
15 stand alone. That, of course, goes out the window.

16 But if I need to elaborate on that, certainly the
17 weapon in which they are claiming was involved in this
18 case is as a result of the attempted murder and the
19 indictment says that. The violent offense is the
20 attempted murder, and if Your Honor determines that the
21 State has failed to meet -- has given us any evidence,
22 not meet its burden because I understand that's not the
23 stage here, but any evidence whatsoever to suggest malice
24 aforethought if you direct a verdict in our favor
25 relating to that certainly we ask that you do so as

1 relates to the possession of a weapon.

2 Now, I am certainly going to ask that you consider
3 as well directing a verdict as relates to ABHAN, and
4 ABHAN, as we know, is just the unlawful act that resulted
5 in serious injury to an individual, and I am not sure
6 whether or not there's any evidence that this act was
7 unlawful. He legally owned his weapon. He certainly was
8 on his property. He certainly -- there's nothing to
9 suggest that he did anything wrong at the time.

10 The only evidence is that he fired a weapon because
11 he was afraid or for no reason at all, and if you
12 determine no reason at all and if they reach that
13 conclusion certainly I guess you can send it to the jury.
14 Otherwise, right now what we have from the State, no
15 malice whatsoever, and we certainly have maybe nothing at
16 all as relates to an unlawful act. We ask once again
17 that you consider giving us a directed verdict as relates
18 to those two charges.

19 THE COURT: All right. Thank you.

20 Yes, ma'am?

21 MS. SAVAS: Thank you, Your Honor. May it please
22 the Court. We would just first like to direct that we
23 would only be speaking in regard to the directed verdict
24 motion. In the defense's statement there is much
25 confusion regarding self defense, which at this time we

1 are not going to take up but we will at the appropriate
2 time at the close of the defense's case.

3 In regards to the cases that were just provided, in
4 State vs. Taylor, that was a mutual combat situation for
5 a murder which is clearly distinguishable from this case
6 as this is not a murder trial nor was there an issue of
7 mutual combat, therefore it's irrelevant, as well as the
8 Mitchell case that regarded an unlawful possession of a
9 pistol and murder which here likewise is not situation.

10 Your Honor, the directed verdict motion is to be
11 determined in the burden of proof in the light most
12 favorable to the State, and under the Rules of Criminal
13 Procedure 19 the Judge is only to consider the existence
14 or nonexistence of evidence not its weight.

15 Any direct evidence or substantial circumstantial
16 evidence reasonably tending to prove the guilt of the
17 accused is then submitted to this jury. And
18 circumstantial evidence, of course, gains its strength
19 from the testimony of witnesses and any other evidence
20 presented jointly in this case.

21 There have been several witnesses, as in the
22 officers from the scene and evidence collected and, of
23 course, the testimony from the fact witnesses.

24 First, Your Honor, on the matter of attempted
25 murder. In the incident here the State has determined

1 the incident of the date did occur on December 26, 2014.
2 They did identify the defendant here, Rhajon Sanders,
3 both from his confession post Miranda as well as the
4 witnesses' testimony pointing to the defendant in the
5 courtroom. Then he was also sufficiently determined to
6 be in Charleston County at [REDACTED] in the City
7 of North Charleston.

8 Your Honor, attempted murder is laid out before the
9 State as under the Code 16-3-29. That is, one, the
10 attempt to kill the other person with intent to kill and
11 with malice aforethought either express or implied.

12 The attempt to kill another person was determined
13 in that State vs. King case that the evidence of proving
14 the act of shooting multiple times may be proven as far
15 as intent. It is common knowledge, as experts had even
16 testified, that firing a weapon may cause death. Common
17 sense tells us that shooting someone five times with a
18 firearm that causes death and known to cause death is an
19 intent in and of itself.

20 Malice aforethought and malicious intent is in
21 State vs. Von Dohlen as a wrongful act intentionally
22 without just cause or excuse. Your Honor, there was no
23 cause, there was no excuse for this. This State
24 maintains this is not a self defense case.

25 The defense even in their argument just now stated

1 that there was no provocation by the victim. There was
2 no verbal threats, there were no physical threats, there
3 was no prior communication between any parties nor their
4 families, Your Honor; therefore, there was no excuse for
5 this. And it does not necessarily require an ill will
6 towards the person injured but rather a general malignant
7 recklessness of lives and safety of others and a
8 condition of the mind that shows a disregard for social
9 duty fatally bent on mischief, as stated in State vs.
10 Mouzon.

11 The victim testified that the porch lights were on
12 when he first was outside, and then the porch lights were
13 turned off the moment that he -- prior to before the
14 shooting. That can be inferred as mischief. At that
15 point in time they turned the lights off then fired five
16 shots for the victim when they were already out there
17 without any issues or interactions.

18 The defendant has brought this upon himself and
19 acted recklessly in bringing out the loaded firearm on
20 his porch and then using that firearm to shoot the victim
21 at that point in time, and the victim testified that
22 there was no interaction.

23 And malice may be inferred as determined by the
24 State Supreme Court in State vs. McLemore from brutal
25 conduct or excessive force. Clearly, the use of a

1 firearm and shooting is excessive force, or the use of a
2 deadly weapon in State vs. Kelsey where it was determined
3 that that proves malice in using that weapon, and
4 aforethought in State vs. Cooper was outlined that
5 there's no particular length of time to create that
6 malicious intent, it may happen in an instant; therefore,
7 there does not need to be the working up as to any issues
8 between the two but that moment when he pulled the
9 trigger and that intent in knowing that your firearm does
10 fire bullets that kill people is that malicious intent
11 and it's a voluntary act done as clearly done here by the
12 defendant.

13 In regards to the possession of a weapon during a
14 violent crime, that is the mere possession of the firearm
15 which the defendant did admit to and is not an issue here
16 of the nine millimeter Taurus. That was in his
17 possession, that he then put it in the bedroom that was
18 later recovered as evidence in this case during the
19 violent crime of attempted murder which is laid out as a
20 statute of violent crime in the Code 16-1-60.

21 In regards to the issue the assault and battery of
22 a high and aggravated nature. This is a lesser included,
23 statutory lesser included of attempted murder, therefore
24 even if the attempted -- if the defendant is not found of
25 attempted murder and is found of the ABHAN he can still

1 be found guilty of the possession of a weapon during the
2 violent crime since it is a lesser included, therefore it
3 may be used in that charge.

4 And in ABHAN it is an unlawful injury to another
5 person and great bodily injury to the person results or
6 the act is accomplished by means likely to produce death
7 or great bodily injury.

8 The testimony of Dr. Marc Haro, he did testify that
9 not only was this a serious disfigurement, permanent
10 disfigurement according to the law 16-3-600(a)(1) that is
11 required to determine great bodily injury due to the
12 metal rod placed in the victim's leg and, of course, any
13 future complications and the risk of the surgery itself,
14 but gunshot wounds clearly cause death, therefore through
15 testimony of the expert orthopedic surgeon, Dr. Haro,
16 that burden has been reached and it does not require
17 actual great bodily injury even if the Court does not
18 believe that is sufficient but the act could. As we
19 know, guns can kill people and that would itself suffice.

20 Your Honor, therefore, the State has met its burden
21 and there is sufficient evidence that should be submitted
22 to the jury on all three charges as the attempted murder,
23 possession of a weapon during the commission of a violent
24 crime, and the assault and battery of a high and
25 aggravated nature. Through both direct and

1 circumstantial evidence there is sufficient evidence that
2 the Court should submit to the jury at this point in
3 time.

4 THE COURT: Thank you. Any response?

5 MS. BROWN: Your Honor, very briefly. I just want
6 to say that I think that the State of South Carolina to
7 some large extent has conceded that attempted murder
8 don't exist here. This case goes back to --

9 THE COURT: You all haven't conceded that, haven't
10 you?

11 MS. SAVAS: No, Your Honor. That clearly is not my
12 argument.

13 MS. BROWN: If I can finish. I am saying by the
14 fact that the State of South Carolina elected to indict
15 him for ABHAN three weeks ago as opposed to allowing this
16 case to go forward with just attempted murder certainly
17 infers that there is some question about whether or not
18 attempted murder exists here. That's all I have to say.

19 THE COURT: All right.

20 MS. SAVAS: If I just may briefly touch upon that
21 point, Your Honor. That is not by any means accounting
22 that this State is saying that attempted murder is not
23 here. If that was the case we would have dismissed that
24 charge. It's merely a formality as it's a lesser
25 included. That is the only point in bringing about that

1 and presenting it to the jury. It would be an or not an
2 and presentation.

3 THE COURT: All right. The Court at this time is
4 more concerned with the mere existence of evidence not
5 the weight of the evidence and certainly it has to be
6 more than mere suspicion.

7 Certainly, I think the defendant has admitted that
8 he has fired a weapon. Without more that pretty much
9 sends it to the -- fires a gun in the general direction
10 of the victim, that at least is enough to get it to the
11 jury. Whether the jury decides to go along with that or
12 not, I don't know, but I am going to respectfully deny
13 your motion for directed verdict on all counts.

14 MS. BROWN: Thank you, Your Honor.

15 THE COURT: Okay. Would the defendant please stand
16 to be sworn.

17 RHAJON AKEEM RESHAЕ SANDERS, after having
18 been duly sworn, testified as follows:

19 THE COURT: You are Rhajon Akeem Reshae Sanders; is
20 that correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Now, Mr. Sanders, at this time I'm
23 going to explain to you certain of your rights. If you
24 do not understand anything that I say, please let me know
25 and if you want me to explain in greater detail I'll be

1 happy to do that as well. Do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Mr. Sanders, at this time
4 we have reached the stage of your trial where you may
5 present your defense. You have a right to claim the
6 protections granted to you by the Fifth Amendment of the
7 United States Constitution that states in part that no
8 person shall be compelled in any criminal case to be a
9 witness against himself. This means that you cannot be
10 required to testify in this case but you do have a right
11 to testify on your own behalf. However, no one can make
12 you testify. This is a personal right and no one can
13 waive it except for you.

14 Now, if you decide to testify you will be subjected
15 to the same rules that govern other witnesses and you may
16 be examined and cross-examined on any relevant issue in
17 this case.

18 In addition, if you have any convictions involving
19 dishonesty or false statements or for crimes punishable
20 by imprisonment of more than one year and the Court
21 determines that the probative value of admitting this
22 evidence outweighs its prejudicial effect then the
23 solicitor will be able to introduce your record to attack
24 your credibility.

25 At this time, does the defendant have any

1 convictions that would fall into this category that you
2 would intend to impeach him on?

3 MS. SAVAS: No, Your Honor. He does not.

4 THE COURT: Okay. Very well. So there's nothing
5 out there that they are going to question you about if
6 you take the stand. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Now, if you decide to
9 testify the decision on your part must be freely,
10 voluntarily and intelligently made with the knowledge of
11 the protections given to you by the Fifth Amendment of
12 the United States Constitution and the consequences of
13 your decision to testify.

14 If you decide not to testify I will instruct the
15 jurors that they cannot give the fact that you did not
16 testify any consideration whatsoever and that there is to
17 be absolutely no prejudice to you because you do not
18 testify in this case.

19 It's left entirely up to you whether or not you
20 want to testify. You may talk with your attorneys, your
21 family or your friends or anyone else but the final
22 decision will be left entirely up to you. Now, do you
23 understand what I have told you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you have any questions for the

1 Court?

2 THE DEFENDANT: No, sir.

3 THE COURT: Okay. What I'm going to do is I'm going
4 to give him overnight to discuss it with y'all, discuss
5 it with family members as to whether he wants to testify
6 and then right before -- right at 9:30 tomorrow morning
7 when he comes in I'll ask him the ultimate question.

8 MS. BROWN: Certainly.

9 THE COURT: Okay. Very well.

10 MS. CHISOLM: Thank you, Your Honor.

11 THE COURT: All right. Yes?

12 MS. SAVAS: We do -- I apologize, have one matter,
13 Your Honor, that we would like on the record.

14 THE COURT: Yes.

15 MS. SAVAS: At this point in time after requests by
16 the State the defense has failed to give us the date of
17 births of their witnesses and we would request those. If
18 they are to testify their witness list is common
19 practice. We have not yet received them.

20 THE COURT: Do you have those available?

21 MS. BROWN: We do not have any additional --

22 THE COURT: Do you have their birthdays?

23 MS. BROWN: No, I don't, but I've given them the
24 information that I do have so I'm not sure. . .

25 THE COURT: Can you contact the witnesses and get

1 their birthdays?

2 MS. BROWN: Your Honor, she's referring to Medical
3 University of South Carolina human resource person. I
4 don't know why we would need that.

5 MS. SAVAS: Your Honor, on her witness list she has
6 number one, Rosalyn Reeves. Number two --

7 THE COURT: Hold on. Okay. Who is Rosalyn Reeves?

8 MS. SAVAS: I do not know. It's her witness and as
9 any witness we are entitled to the date of birth. It is
10 not Medical University of South Carolina as an entity of
11 a hospital. It's a person. We would just respectfully
12 request their date of birth. We did receive Cynthia
13 Sanders. We have the defendant number three for -- or
14 I'm sorry, the defendant's brother --

15 THE COURT: Okay.

16 MS. SAVAS: -- Ferantez Sanders. We do not have
17 number four. We are asking number one and number four,
18 Leonard Brown. It's on their witness list, Your Honor.

19 THE COURT: And who is Leonard Brown?

20 MS. BROWN: May I respond?

21 THE COURT: Yes.

22 MS. BROWN: Number one is, in fact, the custodian
23 of Medical University of South Carolina. She is with the
24 H. R. Department. That's who that is.

25 THE COURT: You're not really worried about her?

1 MS. BROWN: I did not provide that to her.

2 Clearly, I'm telling you right now that's who that is.

3 Number four --

4 THE COURT: Wait a minute.

5 You are not really worried about the custodian of
6 records?

7 MS. SAVAS: Yes, Your Honor, we would request every
8 person to run their sheets for impeachment purposes as
9 provided them. It is an entitled part of putting
10 witnesses on the stand and we would need to run those
11 records. We understand the part that they will play but,
12 yes, Your Honor, we believe that we would be prejudiced
13 if we do not have the date of births of any witness to
14 testify in this trial on behalf of the defense.

15 MS. BROWN: May I respond briefly? I do not ask
16 for rap sheets of the SLED agents that came in this
17 courtroom or the police officers that came in this
18 courtroom. I mean, I just didn't think that was
19 necessary or warranted. Certainly, I would have been
20 entitled to them but I didn't ask for it. So I don't
21 understand --

22 THE COURT: I'm not so worried about the custodian
23 of records. I'm really not. Tell me about Leonard
24 Brown. You don't have to give them the birth date of the
25 custodian of records. As long as she testifies that

1 she's the custodian of the records for Medical University
2 I'm fine with that.

3 MS. SAVAS: Sure.

4 THE COURT: Who is Leonard Brown?

5 MS. SAVAS: I do not know.

6 MS. BROWN: Leonard Brown, in fact, Your Honor, may
7 have been called as a rebuttal witness to Nicholas
8 Washington's testimony and certainly if he comes here
9 tomorrow we will make sure his information is provided
10 over before he takes the stand.

11 THE COURT: No. They need it today because they
12 need to run the rap sheet.

13 MS. BROWN: I don't have it today.

14 THE COURT: You're going to have to call him and
15 get it to them. You have until five o'clock this
16 afternoon to get them that information.

17 MS. BROWN: And if I don't give that to them I
18 assume he just won't be testifying tomorrow?

19 THE COURT: He may not be able to testify.

20 MS. BROWN: That's fine.

21 THE COURT: So you better work hard. Okay?

22 MS. BROWN: That's fine.

23 THE COURT: Thank you. Court is adjourned until
24 9:30 tomorrow morning.

25 (WHEREUPON, the trial was recessed for the day.)

1 Thursday, June 9, 2016

2 THE COURT: Good morning, ladies. How are y'all?

3 All right. If the defendant would please stand.

4 Mr. Sanders, at the end of court yesterday I had
5 questioned you concerning your wanting to testify. Have
6 you had an opportunity to speak with your attorneys?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have you had an opportunity to speak to
9 your family members if you wanted to?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Have you decided whether or not you
12 want to testify?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you want to testify?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Very well. Thank you. You may
17 be seated.

18 Anything we need to take up before we bring our
19 jury?

20 MS. CHISOLM: Your Honor -- oh, I'm sorry. Go
21 ahead.

22 MS. SAVAS: It's okay.

23 MS. CHISOLM: Your Honor, on behalf of the defense
24 team for Rhajon Sanders we would like to bring certain
25 matters to the Court's attention and have them included

1 in the record. May I be heard?

2 THE COURT: Yes, ma'am.

3 MS. CHISOLM: Defense attorneys are responsible for
4 defending a person who is accused of a crime. We make
5 sure our clients' rights are protected under the law,
6 provide vigorous and competent defense for their clients
7 and aim to help to prevent innocent people from going to
8 prison. We safeguard constitutional protections assuring
9 that due process of law is followed.

10 Due process of law requires fundamental fairness,
11 the opportunity to confront, cross-examine and show the
12 untruthfulness of evidence as well as having a reasonable
13 opportunity to be heard and present evidence before an
14 impartial tribunal in the same manner as the prosecution.

15 Convicting someone of a criminal offense --

16 THE COURT: What is this? I've never heard of this
17 before.

18 MS. CHISOLM: Your Honor, we want to bring certain
19 issues to --

20 THE COURT: Do you have a motion to make?

21 MS. CHISOLM: Your Honor, Court's indulgence.

22 (PAUSE.)

23 MS. CHISOLM: Your Honor, we would like to request
24 -- we would like to request certain things which I will
25 get to momentarily, if I can.

1 THE COURT: Well, I mean, if you want to put
2 something in evidence then you put it in evidence. What
3 are we doing? I don't understand.

4 MS. CHISOLM: Your Honor, we want to bring to the
5 Court's attention certain acts that have occurred during
6 the course of the trial. We would like to --

7 THE COURT: Well, that you do at the end of the
8 trial. If you have a posttrial motion that's when you
9 make your posttrial motions.

10 MS. CHISOLM: Well, Your Honor, it's not a
11 posttrial motion. Your Honor, we're asking that certain
12 things be addressed before the continuance of this trial.

13 THE COURT: No. We are going to continue -- okay.
14 Go ahead. What have you got? Get to it.

15 MS. CHISOLM: Thank you, Your Honor.

16 Convicting someone of a criminal offense and
17 potentially taking away a person's liberty is one of the
18 most serious steps any government can take against an
19 individual. This step can only be justified after the
20 person has been given a fair trial, not a perfect trial.

21 The South Carolina rules governing the judiciary
22 state the judiciary --

23 THE COURT REPORTER: I'm sorry, judge. If she
24 could slow down just a little bit.

25 THE COURT: Yeah, slow down.

1 MS. CHISOLM: The South Carolina rules -- I'm
2 sorry. A person charged with a crime -- criminal offense
3 faces the overwhelming power of the State. The right to
4 a fair trial, therefore, requires that the defendant be
5 given a fair chance to present a defense in order to
6 counteract this imbalance.

7 South Carolina rules governing the judiciary state
8 that the rule of the judiciary is central to American
9 concepts of justice and the rule of law. The judge is an
10 arbiter of facts and laws for resolution of disputes and
11 a highly visible symbol of government under the rule of
12 law. Given what has transpired in the courtroom over the
13 last several days we think that it is imperative to
14 address the Court regarding matters of the judiciary and
15 attorney conduct for the remainder of this trial.

16 We are concerned that nonverbal communication from
17 the bench may have an effect on the ultimate verdict that
18 affects the rights of our clients. Courts have said that
19 a trial judge must --

20 THE COURT: Now, wait a minute. Do you want to
21 file a grievance against me?

22 MS. CHISOLM: No, I do not, Your Honor. I just
23 want to --

24 THE COURT: I mean, I've had to address both of
25 y'all for y'all's comments and --

1 MS. CHISOLM: Exactly, Your Honor. Absolutely.

2 And that is why we feel that it is important seeing that
3 you sort of stand as a 13th juror in this case --

4 THE COURT: I know how to do that. I've done that
5 for a while.

6 MS. CHISOLM: The Court is -- what we don't want is
7 that we don't want the jury to infer from any of your
8 nonverbal and verbal communications to us that you have a
9 bias or have made any judgments in this case.

10 THE COURT: And I will tell them.

11 MS. CHISOLM: Thank you, Your Honor.

12 Your Honor, we would like to point out that your
13 displays of impatience with the defense, displays of
14 irritation and anger and finger pointing in the presence
15 of the jury, and anger and rudeness towards the attorney
16 in court --

17 THE COURT: No, and I -- I'm not going to argue
18 with you. Let's go on with the trial. If you want to
19 file a grievance do that when it's over with.

20 Bring our jury in, please.

21 MS. BROWN: Your Honor, we do have one matter that
22 we would --

23 THE COURT: Oh, okay.

24 MS. BROWN: -- address outside of this. As of
25 yesterday we did argue whether or not certain evidence

1 was deemed relevant. I understand you made -- the
2 objection was sustained.

3 THE COURT: That's correct.

4 MS. BROWN: That some informing was not deemed
5 relevant and since we may not get an opportunity to
6 present that we think it's only right that we proffer
7 that evidence and --

8 THE COURT: That you can do, yes.

9 MS. BROWN: Certainly, and when would you like us
10 to do it --

11 THE COURT: Right now. Let's do it right now.

12 MS. BROWN: Thank you. The first witness that we
13 would call is Cynthia Sanders.

14 THE COURT: It would be easier if you could just
15 bring the microphone to her. Is there a microphone that
16 you can use? I know she can't get up there. We'll do it
17 right there. That's perfect. She can just remain
18 seated. Just turn her around. Thank you. Just turn a
19 little bit so the court reporter can see her. Thank you.

20 You may proceed.

21 MS. BROWN: Thank you, Your Honor.

22 CYNTHIA E. SANDERS, after having been duly
23 sworn, testified as follows:

24 THE CLERK: Please state your first and last name
25 and spell your last name loudly and clearly.

1 THE WITNESS: My name is Cynthia Elaine Sanders.
2 My last name is spelled capital S-a-n-d-e-r-s.

3 THE COURT: You may proceed.

4 MS. BROWN: Thank you.

5 DIRECT EXAMINATION

6 BY MS. BROWN:

7 Q. Good morning, Ms. Sanders. Ms. Sanders, will you
8 tell us how you are related to Rhajon Sanders.

9 A. I'm the mother.

10 Q. And, Ms. Sanders, where do you live?

11 A. I live at [REDACTED], North Charleston, South
12 Carolina 29405.

13 Q. How long have you lived there?

14 A. I've lived there since the day after Thanksgiving
15 2013.

16 Q. And is that street in the Accabee Community?

17 A. Yes, it is.

18 MS. BROWN: And may I approach the witness, Your
19 Honor?

20 THE COURT: You may.

21 Q. Ms. Sanders, I'm going to show you a photo. Will
22 you describe what's in that photo.

23 A. Yes. It shows the subdivision we live in, welcome
24 to Dorchester Terrace.

25 Q. And Dorchester Terrace is -- is Kent Avenue in

1 Dorchester Terrace?

2 A. Yes.

3 Q. And does this picture -- is this an accurate
4 reflection of -- representation of what's out there right
5 now in that community?

6 A. Yes.

7 MS. BROWN: Your Honor, at this time, I would like
8 to admit the photo as defense exhibit.

9 THE COURT: For proffer only?

10 MS. BROWN: Yes, for proffer.

11 Q. And I have another photo in my hand and I'm going
12 to show you what's in that photo as well. Okay?

13 A. Okay.

14 Q. And will you describe that photo to the Court.

15 A. Yes. It's showing that's the high crime warning.
16 This is a crime watch community.

17 Q. Is that a sign that's in your community?

18 A. Yes, it is.

19 Q. Have you seen that sign before?

20 A. Yes, I have.

21 Q. Was that sign there December of 2014?

22 A. Yes, it was.

23 Q. Okay. And this is, in fact, an accurate
24 representation of what is out there on Kent Avenue; is
25 that correct?

1 A. Yes.

2 MS. BROWN: At this time, I would like the admit
3 that photo into evidence as defense proffer.

4 MS. SAVAS: Your Honor, we would object to this
5 photo being placed into evidence.

6 THE COURT: It's only for the proffer.

7 MS. SAVAS: But it's for proffer. Certainly.

8 THE COURT: It's not in evidence.

9 MS. SAVAS: Yes, sir.

10 (WHEREUPON, Defendant's Exhibit Numbers 4 and 5,
11 Photographs, were marked for identification.)

12 BY MS. BROWN:

13 Q. Ms. Sanders, are you aware of -- how would you
14 describe your community to the Court.

15 A. It's a crime area. We have -- we hear shooting.
16 The policemen is always riding through there. There are
17 times that all through the night, all through the
18 morning, all through the day you just hear shooting. You
19 don't know where it's coming from but you hear it, you
20 know, and it makes you scared.

21 Q. Has it been like that since December of 2014?

22 A. Yes.

23 Q. Has it been like that since you moved into your
24 neighborhood in 2013?

25 A. Yes.

1 Q. Are you familiar with any particular incidents or
2 have any personal knowledge about any crime that's
3 happened in your community?

4 A. Yes. There was an accident where a 16 year old got
5 killed around the corner from me. It was a drive-by
6 shooting. No one got hurt but they were a drive-by
7 shooting. There was an incident that a young lady came
8 up to the house with a knife and stabbed a young man
9 because he was vandalizing her car. So you constantly
10 hearing gunshots going off. You don't know where it's
11 coming from but you constantly hear it.

12 Q. And has that -- those incidents, have it placed you
13 -- have you been afraid to -- have you had problems
14 living in your home, as a result of those incidents?

15 A. No personal problem but it has made me scared.

16 Q. Have you attempted to move?

17 A. I have, but it takes money to move. Right now the
18 funding is not -- it's not there. You can't move without
19 funding.

20 Q. So you can actually live in a community and it can
21 be a bad community, correct?

22 A. Right.

23 Q. And certainly not because you want to be there but
24 finances have limited your options?

25 A. Yes.

1 Q. And as of today do you still have those same -- are
2 there still crime incidents that take place in that
3 neighborhood?

4 A. Yes.

5 Q. That has continued?

6 A. Yes. The young lady that works at the hospital --

7 THE COURT: She can't hear you. Speak up, please.

8 A. Yes. There was an incident, a young lady that
9 worked at the hospital, her house was broken into. I
10 don't know what was taken but it was broken into around
11 the corner from me.

12 Q. And that has basically shaped your opinion about
13 your neighborhood; is that correct?

14 A. Yes.

15 MS. BROWN: Beg the Court's indulgence.

16 Q. And you've indicated that you seen law enforcement
17 in your neighborhood pretty often; is that correct?

18 A. Yes. They're constantly driving through the area.

19 MS. BROWN: Nothing further, Your Honor.

20 THE COURT: All right. Any cross-examination?

21 MS. SAVAS: Yes, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. SAVAS:

24 Q. Good morning, Ms. Sanders.

25 A. Good morning.

1 Q. Ms. Sanders, you said that you moved there

2 Thanksgiving just after 2013?

3 A. Yes. Day after Thanksgiving.

4 Q. And at that time the Washington family, they were

5 already living across the street, right?

6 A. From my understanding the Washington --

7 THE COURT: Ma'am, ma'am.

8 Can you move her over this way?

9 MS. SAVAS: Yes, sir.

10 THE COURT: I think that would work.

11 A. The Washington doesn't live across the street. The

12 aunt and the grandparents live across the street.

13 Q. Okay. And you've talked with them before, right,

14 the family?

15 A. I spoke to them prior to moving into the area.

16 Q. And you talked to them about it being -- they said

17 that they hadn't really had any personal problems there,

18 right?

19 A. Right. But they also made me aware that it is a

20 high crime area.

21 Q. Okay. And you've never actually had problems with

22 your neighbors across the street though, have you?

23 A. No.

24 Q. They are pretty good people though, right?

25 A. Well, I don't really know my neighbor but we are

1 cordial to each other, good morning, good afternoon.

2 Q. That's what they said. Yeah. Ms. Sanders, you
3 also said that you could hear shooting but did you ever
4 personally see anyone shooting before?

5 A. No, I haven't.

6 Q. So you don't -- you couldn't really say for certain
7 if it was shooting or maybe fireworks? Did you think
8 those could be similar sounds?

9 A. It could be but I don't put an assumption.

10 Q. Okay. And you've said, too, that you've never
11 actually had any problems within your house, right?

12 A. Right.

13 Q. So no one's come and broken into your house or
14 anything like that?

15 A. I'm not aware of it.

16 Q. Okay. And you said that you couldn't say for
17 certain where those sounds were coming from though,
18 right?

19 A. Like coming from around the corner.

20 Q. Okay. And about --

21 A. But I did heard the shooting, the drive-by shooting
22 that was further down but I did, I heard that.

23 Q. Okay. But that didn't happen right by your house?

24 A. No.

25 Q. Okay. So none of those other situations were

- 1 actually right by your house?
- 2 A. Right.
- 3 Q. They were on the other streets?
- 4 A. No. The drive-by was on Kent Avenue.
- 5 Q. Down further down?
- 6 A. Yes.
- 7 Q. And you did say that you attempted to move and you
- 8 tried to do that after this incident, didn't you?
- 9 A. Well, prior to this incident I tried. After I
- 10 realized that what kind of neighborhood I was in I tried
- 11 but --
- 12 Q. It's too hard?
- 13 A. If the funds is not there, the funds is not there.
- 14 Q. I understand. And you've actually never had any
- 15 personal problems with Nicholas Washington, have you?
- 16 A. I don't know Nicholas Washington.
- 17 Q. And you don't know of any actual problems between
- 18 him and your son or any of your children, do you?
- 19 A. No.
- 20 Q. So they've never had any fights or any problems?
- 21 A. No.
- 22 Q. Okay. Are you -- you're not actually scared of
- 23 them across the street, it's just potential other things
- 24 down the road?
- 25 A. Well, after this incident there were threats

1 against Rhajon.

2 Q. Oh, okay.

3 A. Yeah. The grandfather he had said he was going to
4 kill him.

5 Q. But prior to this though --

6 A. No.

7 Q. -- no reason to? He was probably just upset?

8 Okay.

9 MS. BROWN: Objection, Your Honor. That's an
10 assumption she would have to make. She can't --
11 speculative. She can't tell if he would be upset or not.

12 THE COURT: She's on cross-examination. I'm going
13 to give her a little leeway.

14 MS. SAVAS: Beg the Court's indulgence.

15 BY MS. SAVAS:

16 Q. Ms. Sanders, do you know of a police station that's
17 sort of at the end of your road there, a little nearby?

18 A. It looks like a station.

19 Q. A substation, yes, ma'am.

20 A. I know there's a club down there.

21 Q. Okay. Do you know that there's a police station
22 just sort of by --

23 MS. BROWN: Objection. She's already answered that
24 question. She said she knows a club is there. Asked and
25 answered.

1 THE COURT: Proceed. Overruled.

2 MS. SAVAS: Thank you.

3 BY MS. SAVAS:

4 Q. On this specific street it was Cosgrove Avenue. Do
5 you know of that police station on Cosgrove?

6 A. Cosgrove?

7 Q. And Rivers?

8 A. Yes.

9 Q. Okay. That's -- okay.

10 A. Yes.

11 Q. And then the police cars that drive by, they are
12 just driving by? They've never stopped at your house;
13 have they, besides this incident?

14 A. Well, several times we've had police officers stop
15 by looking for other people.

16 Q. Okay.

17 A. Yeah.

18 Q. Okay. Ms. Sanders, do you know actually where this
19 picture is, the Defense Exhibit Number 5? Where is that
20 actually at?

21 THE COURT: You have to speak up, ma'am, please.

22 A. I don't know exactly where this picture was taken.
23 That looks across -- it looks like it's across the
24 street. It looks like [REDACTED].

25 Q. But you don't know for certain where this actually

1 is?

2 A. No.

3 Q. But Defense Exhibit Number 4, that's the one
4 entering your neighborhood?

5 A. That's entering the subdivision. Yes, ma'am.

6 Q. She said it was entering her subdivision.

7 MS. SAVAS: Nothing further, Your Honor.

8 THE COURT: Any redirect?

9 BY MS. SAVAS:

10 Q. Thank you, Ms. Sanders.

11 A. You're welcome.

12 MS. BROWN: Yes. Thank you.

13 REDIRECT EXAMINATION

14 BY MS. BROWN:

15 Q. The photo that's been marked for Defendant's
16 Exhibit Number 5 that was just presented to you by the
17 State witness [sic] that has the crime sign in front of
18 it, have you seen this sign in your community before?

19 A. I've seen it but I just can't place it.

20 Q. Absolutely.

21 A. But I've seen it.

22 Q. Absolutely. And this is a sign that's in your
23 community; is that correct?

24 A. Yes.

25 Q. And the sign says, Warning this is a crime watch

1 community; is that correct?

2 A. Yes.

3 Q. Now, this police station that's in your community,
4 do you know how far it is from your home?

5 A. It's a good way because I live on Kent close to
6 Dorchester and the substation is on the corner, Cosgrove
7 and Rivers.

8 Q. So would you say more than a mile or two?

9 A. About a mile or two, maybe less.

10 Q. Have you seen law enforcement in your community
11 with their lights activated, blue lights?

12 A. Yes. That's how they come down the street.

13 Q. Thank you. So they are just not driving around in
14 your neighborhood?

15 A. No. They come down the street with the lights
16 flashing sometimes.

17 Q. So you assume that they are looking for someone; is
18 that correct?

19 A. Yes.

20 Q. And you indicated that they've actually knocked on
21 your door looking for people?

22 A. Yes. We've had them knock on the door looking for
23 people.

24 Q. And you indicated that you are aware of shooting in
25 your neighborhood?

1 A. Yes.

2 Q. And you know people that have been injured and
3 harmed in your neighborhood?

4 A. Well, not personally, but I've heard people get
5 killed.

6 Q. What about the MUSC employee you were telling me
7 about?

8 A. No one was hurt but her house was broken into.

9 Q. Okay. Absolutely. Nothing further.

10 THE COURT: Any recross?

11 MS. SAVAS: No, Your Honor.

12 THE COURT: Thank you.

13 MS. BROWN: Nothing further from this witness, Your
14 Honor.

15 THE COURT: All right. You have another proffer?

16 MS. BROWN: I do.

17 THE COURT: How many will you have?

18 MS. BROWN: I'm going to have two, Your Honor,
19 additional.

20 THE COURT: Okay.

21 MS. BROWN: Yes, Your Honor. The defense call
22 right now Ferantez Sanders.

23 THE COURT: Now, he's one of your witnesses as
24 well?

25 MS. BROWN: He certainly is, Your Honor.

1 THE COURT: And, Ms. Brown, I would assume that his
2 testimony in proffer would only be concerning the
3 neighborhood situation; is that correct?

4 MS. BROWN: Certainly, Your Honor.

5 FERANTEZ JAMEL LAMONT SANDERS, after having
6 been duly sworn, testified as follows:

7 THE CLERK: State your first and last name and
8 spell your last name loudly and clearly into the
9 microphone.

10 THE WITNESS: Ferantez Jamel Lamont Sanders.

11 THE COURT: You may proceed.

12 DIRECT EXAMINATION

13 BY MS. BROWN

14 Q. Mr. Sanders, will you please tell the Court how do
15 you know Defendant Rhajon Sanders.

16 A. That's my brother.

17 Q. And where do you live?

18 A. [REDACTED], North Charleston.

19 Q. How long have you lived there?

20 A. Two years.

21 Q. And will you please describe for the Court the type
22 of community that you live in.

23 A. It's a high crime neighborhood. Lots of drug
24 activity, a lot of break-ins, a lot of shootouts. Police
25 presence is always in there, always in the community.

1 Q. Now, has that community been a high crime
2 neighborhood since 2014?

3 A. Yes, ma'am.

4 MS. BROWN: May I approach the witness, Your Honor?

5 THE COURT: You may.

6 Q. I have two photos here and I would like you to
7 describe what's in the photo to the Court.

8 A. This is the neighborhood, the street, welcome to
9 Dorchester Terrace.

10 Q. And is that the community that you live in?

11 A. Yes, ma'am.

12 Q. And is that sign located in your neighborhood right
13 now?

14 A. Yes, ma'am.

15 Q. Is that, in fact, an accurate representation of
16 what it looks like in your community, in that photo?

17 A. Yes, ma'am.

18 Q. I have another photo for you. Would you describe
19 that to the Court as well.

20 A. It has, Warning, this is a crime watch community.
21 We immediately report all suspicious persons and
22 activities.

23 Q. Now, have you seen that sign before?

24 A. Yes, ma'am.

25 Q. Is that sign in your community?

- 1 A. Yes, ma'am.
- 2 Q. Do you know where that sign is located?
- 3 A. Yes, ma'am.
- 4 Q. Where is it?
- 5 A. It's at the corner of Accabee and Kent.
- 6 Q. And Kent Street is where you live?
- 7 A. Yes, ma'am.
- 8 Q. Have you seen other signs like that in your
- 9 community?
- 10 A. Yes, ma'am.
- 11 Q. Where is it located?
- 12 A. It is located at the beginning of Kent Avenue
- 13 coming up Azalea Drive.
- 14 Q. Now, you visit other communities before; is that
- 15 correct?
- 16 A. Yes, ma'am.
- 17 Q. Have you seen a sign like that in other
- 18 communities?
- 19 A. Not to me.
- 20 Q. And this sign is, in fact -- this photo is an
- 21 accurate representation of what's in your community right
- 22 now?
- 23 A. Yes, ma'am.
- 24 Q. Now, are you -- do you have any personal knowledge
- 25 of any incidents, any criminal acts that have been

1 committed in your neighborhood?

2 A. Yes, ma'am.

3 Q. Will you tell the Court about that.

4 A. It's 16 year old that got killed on the back street
5 Sorenttrue. In my neighborhood it's another lady that got
6 shot in the head on Suffolk Street. There's a guy that
7 got robbed the same week of Christmas walking from the
8 bus stop.

9 Q. And, now, the incident dealing with the 16 year
10 old, where was that located relative to your home?

11 A. The street right behind us.

12 Q. Now, have you, in fact, witnessed any type of
13 criminal behavior?

14 A. Yes, ma'am.

15 Q. What have you witnessed?

16 A. I've witnessed a shootout in the broad daylight on
17 the corner of Suffolk.

18 Q. Now, do you feel safe in that neighborhood?

19 A. No, ma'am.

20 Q. Have you guys attempted to move?

21 A. We tried but, you know, financially we just can't.

22 Q. And were you aware of some of these incidents
23 December 2014?

24 A. I did not even know the neighborhood. I knew the
25 area in reference to where it's at on Dorchester Road but

1 not that community.

2 Q. You mean prior to moving in?

3 A. Right.

4 Q. Okay. But has that community been in that
5 condition since moving in?

6 A. Yes, ma'am.

7 Q. Okay. Do you guys have any weapons in your home to
8 protect yourself?

9 A. Not at this moment.

10 Q. Did you have it at one point before?

11 A. Yes, ma'am.

12 Q. Did you feel the need to have a weapon in your home
13 to protect yourself?

14 A. Absolutely.

15 MS. BROWN: Nothing further from this witness.

16 THE COURT: Any cross-examination?

17 MS. SAVAS: Yes, Your Honor, briefly.

18 CROSS-EXAMINATION

19 BY MS. SAVAS:

20 Q. Good morning, Mr. Sanders.

21 A. Good morning.

22 Q. Mr. Sanders, can you please define what you are
23 referring to as community.

24 A. The community is the neighborhood.

25 Q. How far does that stretch?

1 A. Dorchester Terrace stretched between Kent Avenue,
2 Sorenttrue, Suffolk and Bailey Drive, Accabee Road,
3 Cambridge. That's all the streets that I remember.

4 Q. Okay. Mr. Sanders, you said -- you mentioned
5 Suffolk Street. Is that what you are talking about down
6 here?

7 A. Yes, ma'am.

8 Q. And then if this is [REDACTED] your house would be
9 generally right there across the street?

10 A. Yes, ma'am.

11 Q. Okay. And so that 16-year-old incident, where did
12 that happen?

13 A. That happened on Sorenttrue.

14 Q. On Seventh Street?

15 A. Sorenttrue.

16 Q. Oh, Center Tree. I don't think it's labeled on
17 here. Just for clarification, do you know whereabouts
18 that would be on this map?

19 A. Sorenttrue, Sorenttrue.

20 THE COURT: Is it Seventh Street?

21 Q. Can you spell it?

22 A. Sorenttrue. I'm not sure the spelling of it.

23 Q. S-o-r-e-n-t-r-u-e. Sorenttrue?

24 A. Uh-huh.

25 Q. Okay. So it's not on here but whereabouts is that

1 in relation to your home? If your home is here what are
2 we talking about? You can stand up if you need to point
3 to it.

4 A. It would be --

5 Q. Is it on that side of Accabee?

6 A. No, ma'am. It would be --

7 Q. Up here somewhere?

8 A. It would be that street that you don't have labeled
9 off of Accabee right -- right there (indicated).

10 Q. Right here?

11 A. Because that's Kent. It would be right here.

12 Q. If this is Kent it's this one?

13 A. Yes, ma'am.

14 Q. Okay. And where that happened, is it on this side
15 of Accabee or this side of Accabee?

16 A. I'm not sure. That happened -- all I know is the
17 police was taping off by the corner.

18 Q. Okay. And that Dorchester Terrace sign which is
19 your neighborhood, is that right here at the corner of
20 Accabee and Kent?

21 A. No, ma'am, it's --

22 Q. Or where is that at?

23 A. It's in the front of Kent Avenue.

24 Q. Up this way?

25 A. Off of Dorchester Road.

1 Q. I think this would be Dorchester Road then, right?

2 If this is Accabee is Dorchester Road up here?

3 A. Yes, ma'am.

4 Q. So that's right here then we can say?

5 A. Yes, ma'am.

6 Q. All right. And then you mentioned that bus stop.

7 Where is that bus stop at? This is Greyhound. That's
8 the bus you are talking about?

9 A. Yeah. I never mentioned a bus stop.

10 Q. You said he got robbed by a bus stop?

11 A. No. He got robbed on the street. He got robbed on
12 Accabee Road.

13 Q. So down here?

14 A. Yes, ma'am.

15 Q. Do you know where along Accabee Road?

16 A. I'm not sure.

17 Q. But you never actually know -- you weren't there at
18 the time of any of those, right?

19 A. Not at the shooting of the 16 year old. I was
20 actually in the house when I heard the gunshots.

21 Q. Of the 16 year old?

22 A. Yes, ma'am.

23 Q. But you didn't see someone actually shooting
24 someone, did you?

25 A. I have. I saw it not on that street but I saw it

1 on Suffolk Street.

2 Q. You actually witnessed the shooting?

3 A. Yeah. It was -- yeah, it was just a quick drive-by
4 shooting.

5 Q. Okay. But that then is, you said, this street
6 here --

7 A. That's --

8 Q. -- so your house is over here?

9 A. Yes, ma'am.

10 Q. So that's this street. What's in between here?

11 A. Houses.

12 Q. Houses. Okay. Mr. Sanders, you've never actually
13 had any issues with your neighbors across the street,
14 have you?

15 A. No, ma'am.

16 Q. Okay. You've never had anyone --

17 MS. BROWN: Objection, Your Honor. My
18 understanding is that this line of questioning deals with
19 only the neighborhood. Now she's getting into the case
20 itself.

21 THE COURT: She's on cross-examination and if he
22 comes back up she'll be able to ask the same things.
23 Please proceed.

24 MS. SAVAS: Thank you, Your Honor.

25 Q. And you said that you did not feel safe in your

1 neighborhood, right?

2 A. Yes, ma'am.

3 Q. But is that a fear from the neighbors across the
4 street that you've had no issues with?

5 A. No, ma'am.

6 Q. So you're not actually afraid of the neighbors
7 across the street, are you?

8 A. No, ma'am.

9 Q. Okay. And, Mr. Sanders, you said that the
10 neighborhood has been consistent since you've moved in as
11 far as what you define as a high crime; is that correct?

12 A. Yes, ma'am.

13 Q. But at one point you had guns in the home but now
14 you do not, correct?

15 A. Yes, ma'am.

16 Q. Is that because there's not a high crime anymore?

17 A. No, ma'am.

18 Q. Why is it that you feel the need to have guns in
19 the home but the situation with your alleged high crime
20 hasn't changed, why are there no guns anymore?

21 A. I don't buy guns.

22 Q. So you don't personally own any guns?

23 A. No, ma'am, I haven't.

24 Q. Okay. Do you know exactly where that sign is that
25 Ms. Brown showed you, Exhibit Number 5, about this is a

1 crime watch community?

2 A. Yes, ma'am.

3 Q. Do you know exactly where that exact sign is
4 located?

5 A. This sign is at the front of Kent Avenue.

6 Q. Which way? Towards Accabee down here and Azalea or
7 Dorchester?

8 A. It's at the corner of Accabee and Kent.

9 Q. Accabee and Kent. And you are aware that there are
10 other signs like that though, right?

11 A. Yes, ma'am.

12 Q. And you are sure that exact -- how do you know
13 that's the exact one from Accabee and Kent?

14 A. Because when I come home from work I have to drive
15 past that every day.

16 Q. Okay. And you are aware that neighborhood resource
17 officers actually put three of those signs in almost
18 every neighborhood, right?

19 A. No, ma'am.

20 Q. Okay.

21 A. I don't really know that.

22 Q. And you are aware that there is a police substation
23 the corner of -- I think it's at Cosgrove and Rivers?

24 A. Uh-huh.

25 Q. Okay. And this sign actually doesn't say it's a

1 high crime, does it?

2 A. No, ma'am.

3 Q. Okay. It just says that it's a watch neighborhood,
4 right?

5 A. Yes, ma'am.

6 Q. And you've never actually had any incidents in your
7 personal home at [REDACTED], have you?

8 A. No, ma'am. It's been suspicious people in our
9 backyard.

10 Q. But no one's actually come and burglarized your
11 home, have they?

12 A. No, ma'am, just neighbors.

13 Q. Okay. No one actually shot at your house before,
14 have they?

15 A. No, ma'am.

16 Q. Okay. And you've said you -- have you ever had any
17 issues with Mr. Nicholas Washington?

18 A. No, ma'am.

19 Q. Okay. So you've actually -- there hadn't been, and
20 thankfully, any issues at your house or across the street
21 in that area, have there?

22 A. Directly across the street?

23 Q. Right.

24 A. Not -- not since like -- it's never been.

25 MS. SAVAS: Nothing further from the State, Your

1 Honor.

2 THE COURT: Any redirect?

3 MS. BROWN: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. BROWN:

6 Q. Now, Mr. Sanders, you testified on direct that you
7 are aware of the young lady that was shot in the head.

8 Where did that happen?

9 A. Suffolk.

10 Q. Show me on the map where that is located.

11 A. Right by Bailey. To the left of Bailey.

12 Q. Is that what you are referring to?

13 A. Yes, ma'am.

14 Q. Got it. And you also indicated that there was a
15 drive-by shooting in your neighborhood?

16 A. Yes, ma'am.

17 Q. Where was that located?

18 A. It happened on Suffolk Street. The corner of
19 Suffolk and Kent Avenue.

20 Q. Is that the location again?

21 A. Yes, ma'am.

22 Q. Suffolk, is that what you are referring to?

23 A. Yes, ma'am.

24 Q. Now, you've lived in that community for about two
25 years now?

1 A. Yes, ma'am.

2 Q. And although the sign doesn't say high crime is
3 that your opinion of the type of neighborhood that you
4 live in?

5 A. That it's high crime?

6 Q. Yes.

7 A. Yes, ma'am.

8 Q. And you lived there; is that right?

9 A. Yes, ma'am.

10 Q. And you witnessed and seen some things happen in
11 your community; is that correct?

12 A. Yes, ma'am.

13 Q. Now, the sign that we were referring to earlier,
14 Warning, this is a crime watch community, have you seen
15 that sign in other neighborhoods?

16 A. Not many neighborhoods.

17 Q. So there are some neighborhoods that don't have
18 that sign; is that correct?

19 A. Yes, ma'am.

20 Q. At least --

21 MS. SAVAS: Objection, speculation.

22 THE COURT: Sustained.

23 Q. You've not seen that sign in other neighborhoods;
24 is that correct?

25 MS. SAVAS: Objection. Overly broad, other

1 neighborhoods.

2 THE COURT: I'll let her ask the question. This is
3 proffer.

4 MS. SAVAS: Yes, sir.

5 BY MS. BROWN:

6 Q. Have you personally seen that sign in other
7 neighborhoods?

8 A. Not too many neighborhoods.

9 Q. You visited other neighborhoods in the past?

10 A. Yes, ma'am.

11 Q. And that sign was not there; is that correct?

12 A. No, ma'am.

13 Q. Now, on cross we talked about Mr. Washington. Did
14 Mr. Washington live across the street from you?

15 A. No, ma'am.

16 Q. So you had not problems with the neighbors across
17 the street; is that correct?

18 A. No, ma'am.

19 Q. But in that neighborhood are there times when you
20 are fearful of events?

21 A. Yes, ma'am.

22 Q. Would that be of suspicious people?

23 A. Yes, ma'am.

24 Q. What would you define as a suspicious person?

25 A. Somebody who's not from that area, is, you know,

1 dressed in all black at night.

2 Q. And doing what?

3 A. Just, like, around places.

4 Q. And on December 26, did you observe someone dressed
5 in all black not from that neighborhood?

6 MS. SAVAS: Objection, relevance to the
7 neighborhood which the proffer is the purpose for, sir.

8 THE COURT: Again, it's proffer. I'm going to give
9 her a little leeway.

10 MS. BROWN: Thank you.

11 BY MS. BROWN:

12 Q. And on December 26, did you observe someone who was
13 dressed in all black in that neighborhood that did not
14 live there?

15 A. Yes, ma'am.

16 Q. And was there anything about that person's actions
17 that you viewed as suspicious?

18 A. Yes, ma'am.

19 Q. Where was the person standing --

20 A. Standing --

21 Q. -- when you first noticed him?

22 A. In front of [REDACTED].

23 Q. And where is [REDACTED]?

24 A. It's diagonally across from where I stay at.

25 Q. And does anyone live in that home?

1 A. Not at the time.

2 Q. Do you know how long that home had been vacant?

3 A. It has been vacant since we got there.

4 Q. So that would have been about a year prior to

5 December 2014?

6 A. Yes, ma'am.

7 MS. BROWN: Beg the Court's indulgence, Your Honor.

8 THE COURT: Yes.

9 MS. BROWN: I have nothing further for this
10 witness.

11 THE COURT: Any recross based on her redirect?

12 MS. SAVAS: Yes, Your Honor. Briefly.

13 RECROSS-EXAMINATION

14 BY MS. SAVAS:

15 Q. Mr. Sanders, have you ever seen Nicholas Washington
16 at the house across the street before?

17 A. Not before then.

18 Q. Even though they've said they go over there just
19 about every day for the past five years you've never seen
20 him before?

21 A. I haven't never even --

22 Q. Okay. Have you seen them have people over before?

23 A. Many cars come over there. A lot of traffic come
24 to that house.

25 Q. Okay. And so I guess with that traffic that means

1 a lot of people coming in and out?

2 A. Yes, ma'am.

3 Q. Okay. And how did you know that that house, I
4 think you said [REDACTED], is actually empty?

5 A. Nobody stayed there.

6 Q. Do you know Ms. Prissy that lives there?

7 A. There's no Ms. Prissy lives there.

8 Q. Did you know Ms. Prissy actually was in the
9 hospital for the past couple of years, in and out?

10 A. Not at that house.

11 Q. Did you know that there was a niece, Ms. Prissy's
12 niece is actually living in that house --

13 MS. BROWN: Objection, Your Honor. He's already
14 answered that question and said he doesn't know Prissy,
15 that that home was vacant.

16 THE COURT: I gave you some leeway I'm going to
17 give her some leeway since it's on proffer.

18 MS. SAVAS: Thank you, sir.

19 BY MS. SAVAS:

20 Q. Did you know that Ms. Prissy's niece actually lived
21 there when Ms. Prissy wasn't there?

22 A. Nobody stayed at the house.

23 Q. Okay. That you saw though, right?

24 A. Nobody stayed at that house at all.

25 Q. Have you ever gone in there to check and see if it

1 was actually abandoned?

2 A. No, ma'am, but I could tell you it was abandoned.

3 Q. How do you know if it was abandoned if you've never
4 been in it?

5 A. Because no one stayed in there. Nobody never came
6 out that house. There was no one -- there was no blinds
7 in that house.

8 Q. Okay. You've never had any issues with anybody
9 coming and going from the houses across the street
10 before, have you?

11 MS. BROWN: Objection, Your Honor. She's already
12 asked that question. It's asked and answered.

13 THE COURT: How far you going to go?

14 MS. SAVAS: That was just my final question.

15 THE COURT: All right. Ask it.

16 A. Repeat the question.

17 Q. You've never actually had any issues with people
18 coming and going from the house across the street though,
19 right?

20 A. Which house across the street?

21 Q. The 23 -- I think it's [REDACTED].

22 A. Have I had any issues? No.

23 MS. SAVAS: Okay. Nothing further.

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

25 You've got one more witness on this issue?

1 MS. BROWN: Your Honor, at this time we're not
2 going to call anymore witnesses.

3 THE COURT: Okay. Very well. Then are you ready
4 to proceed with your defense?

5 MS. BROWN: At this time, Your Honor, I want to
6 make a motion once again that the evidence that was just
7 -- the testimony that was just offered to this Court
8 during the proffer be admitted. It clearly shows the
9 state of mind for which my client may have been in at the
10 time in which he was confronted with a suspicious person
11 outside this home.

12 He lives in a high crime neighborhood. That
13 neighborhood has been high crime for a number of years.
14 There's a sign that's posted putting people on warning
15 that this neighborhood is deemed a high crime
16 neighborhood. He has personally -- or at least the
17 members of his family are personally aware of incidents
18 that have happened in their neighborhood, a shooting,
19 drive-by shooting.

20 There was someone that has gotten shot in the head,
21 a 16-year-old boy that was shot the street behind them.
22 They are aware of a number of incidents that happened
23 very in close proximity to where they live and for those
24 reasons that clearly would have caused anyone in my
25 client's position or any reasonable person to be fearful

1 if they saw or was confronted for what my client was
2 confronted with on December 26, 2014.

3 We think it's essential to our defense. It's going
4 to impair, make it very difficult for us to offer our
5 defense if we are limited in scope as relates to that
6 community itself.

7 THE COURT: Okay. My ruling stands. You will not
8 be allowed to bring up any testimony concerning the
9 actual neighborhood.

10 All right. Let's bring our jury in.

11 MS. SAVAS: I just have one brief matter. My
12 apologies, sir.

13 THE COURT: Yes, ma'am.

14 MS. SAVAS: Regarding the date of birth of that
15 witness, they did not provide it for us.

16 THE COURT: They will not call that witness.

17 MS. SAVAS: Thank you, sir.

18 (WHEREUPON, the jury enters the courtroom at
19 approximately 10:30 a.m.)

20 THE BAILIFF: All jurors present, Your Honor.

21 THE COURT: All right. You may be seated.

22 All right, ladies and gentlemen. I hope y'all had
23 a nice evening. It was certainly a nice afternoon
24 yesterday. And we will continue with the testimony this
25 morning.

1 Defense may call its first witness.

2 MS. CHISOLM: Your Honor, the State calls -- I'm
3 sorry. The defense calls Rosalyn Reeves.

4 THE COURT: Come forward and be sworn.

5 ROSALYN REEVES, after having been duly
6 sworn, testified as follows:

7 THE CLERK: Please state your first and last name
8 and spell your last name loudly and clearly into the
9 microphone.

10 THE WITNESS: Rosalyn Reeves, R-e-e-v-e-s.

11 DIRECT EXAMINATION

12 BY MS. CHISOLM:

13 Q. Good morning, Ms. Reeves.

14 A. Good morning.

15 Q. Can you please state your occupation for the jury.

16 A. I'm the human resources manager with Sodexo at
17 MUSC.

18 Q. Can you tell me what line of business Sodexo is in?

19 A. We are a contract employer through MUSC and we do
20 all food services on campus.

21 Q. And how long have you been employed by Sodexo?

22 A. Approximately nine years. Since November of 2007.

23 Q. And do your duties as human resource manager
24 include keeping any record keeping responsibilities?

25 A. It does.

1 Q. Can you explain these responsibilities.

2 A. I'm responsible for all employee issues, hiring,
3 benefits, compensations, time keeping, anything that has
4 to do with the employees.

5 Q. And can you tell us in what manner do employees
6 document their attendance at work?

7 A. We have a time clock and they can either use their
8 badge, and current now they are using their employee
9 ID's.

10 Q. And how --

11 THE COURT: I hate to interrupt you. Let me see
12 the attorneys for just a second on an ancillary matter.

13 (WHEREUPON, a bench conference was had.)

14 THE COURT: Ladies and gentlemen of the jury, I'm
15 going to send you out for just a moment because I need to
16 inquire of something. Thank you. Please do not discuss
17 anything while you are gone.

18 (WHEREUPON, the jury leaves the courtroom at
19 approximately 10:35 a.m.)

20 THE COURT: And you haven't done anything wrong.
21 Don't worry. Okay?

22 (WHEREUPON, a brief recess was taken.)

23 THE COURT: Let me put this on the record. The
24 foreman of the jury when you took the stand apparently he
25 recognized you. He coached your son in softball years

1 ago. The juror has said that that would make no
2 difference and would not affect his thinking in this
3 case. So you have friends in the community you don't
4 know about.

5 THE WITNESS: I guess so.

6 THE COURT: So I said that -- does any attorney
7 have any objection?

8 MS. SAVAS: No objection from the State, Your
9 Honor.

10 MS. BROWN: No, Your Honor.

11 THE COURT: Okay. Thank you. Now let's bring our
12 jury back.

13 (WHEREUPON, the jury enters the courtroom at
14 approximately 10:38 a.m.)

15 THE COURT: All right. You may be seated.

16 And you may proceed.

17 MS. CHISOLM: Thank you, Your Honor.

18 BY MS. CHISOLM:

19 Q. Ms. Reeves, can you tell the jury again how that
20 information, the information regarding whether a person
21 was at work or not is compiled.

22 A. The employee goes to the clock and they enter their
23 employee ID number when they are clocking in and out of
24 work.

25 Q. And where do you store or maintain that

1 information?

2 A. It's computer based. So it goes directly from the
3 clock to our time system.

4 Q. Do you make any written changes? Do you make any
5 written changes on those computer entries once the badge
6 is swiped?

7 A. Swiped or entered. There may be times when we may
8 need to complete an employee's record for that week
9 because this is how their paychecks are disbursed, but I
10 haven't made any changes to this record.

11 Q. Thank you. And how long does the company keep
12 these records?

13 A. Indefinitely. They are based out there at our
14 serving center.

15 Q. And are these records kept in the normal and
16 ordinary course of business?

17 A. They are.

18 Q. Were you recently served with a subpoena requiring
19 the production in court today of any forms for the past
20 month regarding Rhajon Sanders' employment with Sodexo?

21 A. For the month in 2014?

22 Q. Yes. You're right. Pardon me. For December 2014.

23 A. Yes.

24 Q. Okay. And what procedure did you use to respond to
25 that subpoena?

1 A. I signed on to our time detail system and put the
2 dates that I needed and printed it out.

3 Q. And have you produced anything today or have you
4 brought anything with you?

5 A. I have a punch detail copy for that month that you
6 requested.

7 MS. CHISOLM: Your Honor, may I approach the
8 witness?

9 THE COURT: You may.

10 MS. CHISOLM: Your Honor, at this time, the defense
11 asks that this record be marked for identification as
12 exhibit number 10 -- 6. All right.

13 (WHEREUPON, Defendant's Exhibit Number 6, a
14 Document, was marked for identification only.)

15 THE COURT: The document is marked for
16 identification only at the time.

17 BY MS. CHISOLM:

18 Q. I will allow you -- I am now showing you what's
19 been marked as Defense Exhibit Number 6. Please examine
20 it. Can you identify it?

21 A. It is the punch detail form that I brought.

22 Q. And can you tell by looking at it when you filled
23 it out where the information came from?

24 A. Yes. It came from the E time system.

25 Q. Is there any handwriting on the form that was made

1 by anyone other than you?

2 A. No.

3 MS. CHISOLM: Your Honor, defense offers Exhibit
4 Number 6 as evidence, for admission into evidence.

5 THE COURT: Any objection?

6 MS. SAVAS: No objection.

7 THE COURT: Without objection, Defense Exhibit
8 Number 6 is admitted.

9 (WHEREUPON, Defendant's Exhibit Number 6, a
10 Document, was admitted into evidence.)

11 BY MS. CHISOLM:

12 Q. How long did Rhajon work for Sodexo at MUSC?

13 A. He was hired February 26, 2013 and his termination
14 date was December 31st, 2014.

15 Q. Okay. What was his position?

16 A. He was a nutrition assistant, tray passer.
17 Delivered food to the patients.

18 Q. You mentioned that his date of termination was
19 December 31st. Can you tell me what his last day of work
20 was?

21 A. It was December 26, 2014.

22 MS. CHISOLM: Court's indulgence.

23 THE COURT: All right.

24 (PAUSE.)

25 MS. CHISOLM: No further questions, Your Honor.

1 THE COURT: All right. Any questions from the
2 State?

3 MS. SAVAS: Nothing from the State, Your Honor.

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

5 This witness is excused unless there's an
6 objection.

7 MS. SAVAS: No objection from the State, sir.

8 THE COURT: You may call your next witness.

9 MS. BROWN: Thank you. At this time, the defense
10 calls Cynthia Sanders.

11 CYNTHIA E. SANDERS, after having been duly
12 sworn, testified as follows:

13 THE CLERK: If you could just please state your
14 first and last name and spell your last name loudly and
15 clearly into the microphone.

16 THE WITNESS: My name is Cynthia Sanders. My last
17 name is spelled capital S-a-n-d-e-r-s.

18 THE COURT: You may proceed.

19 MS. BROWN: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. BROWN:

22 Q. Ms. Sanders, what is your relationship to Rhajon?

23 A. I'm his mother.

24 Q. And how old is Rhajon?

25 A. Rhajon is 25.

- 1 Q. Do you have any other children?
- 2 A. Yes, Ferantez Sanders.
- 3 Q. And how old is Ferantez?
- 4 A. Thirty-one.
- 5 Q. Are you presently employed?
- 6 A. Yes, ma'am.
- 7 Q. Where do you work?
- 8 A. I work at MUSC in dietary.
- 9 Q. Now, are you working -- how long have you been at
- 10 MUSC?
- 11 A. I've been at MUSC in dietary for three years now.
- 12 Q. And where do you live?
- 13 A. I live at [REDACTED], North Charleston, South
- 14 Carolina 29405.
- 15 Q. How long have you lived on Kent Avenue?
- 16 A. I've lived on Kent Avenue since the day after
- 17 Thanksgiving, November 19 -- I mean, 2013.
- 18 Q. And do you live alone?
- 19 A. No. My two sons and my sisters stay with me.
- 20 Q. And your two sons, Rhajon and Ferantez, did they
- 21 live with you December 26, 2014?
- 22 A. Yes.
- 23 Q. And prior to December of 26, 2014 how long had you
- 24 lived at Kent Avenue?
- 25 A. I've lived at Kent Avenue since November 2013 up

1 until now.

2 Q. So it would have been one year at that point, in
3 December of 2014?

4 A. Yes.

5 Q. Okay. Now, you mention you have another son,
6 Ferantez?

7 A. Uh-huh.

8 Q. Is he employed?

9 A. Yes, he is.

10 Q. Where does he work?

11 A. He work at MUSC. He's manager over the laundry
12 services.

13 Q. And you know how long he's been there?

14 A. I don't want to lie. I'm not quite sure how long
15 he's been there. I think a little over three years or
16 four years.

17 Q. And what kind of relationship do you have with your
18 sons?

19 A. We have a good relationship. We have a very close
20 relationship. We can sit down and we can talk about
21 basically anything. If I have any concern, you know, I
22 can sit down and talk to my boys. I don't have any
23 problem.

24 Q. You have not had any problems with Rhajon?

25 A. Never.

1 Q. Now, December of 2014 on Kent Avenue do you know
2 whether or not there were any homes in your community --

3 MS. SAVAS: Objection, relevance.

4 THE COURT: I'm going to let her ask this question.

5 Q. Do you know whether or not there are any homes in
6 your community that were vacant at the time?

7 A. Yes. The house diagonal from us, 23 -- [REDACTED].

8 Q. Were there any other homes, to your knowledge?

9 A. Yes. There's a house, a blue and white house on my
10 left, standing on my porch on my left side, and there's a
11 yellow and white house -- a yellow house on my right.

12 MS. BROWN: Beg the Court's indulgence.

13 THE COURT: Yes. Is this the photo we discussed
14 yesterday that I would tell the jury about?

15 MS. BROWN: Yes.

16 THE COURT: Ladies and gentlemen, I'm going to
17 allow this photo into evidence although it's not taken at
18 the time of this incident and it is materially different
19 because there's a sidewalk in it, but they are just --
20 it's not to scale or anything. They are just using it
21 for demonstrative purposes only.

22 MS. BROWN: Thank you, Your Honor.

23 (WHEREUPON, Defendant's Exhibit Number 7, a Large
24 Photo Board, was marked and admitted into evidence.)

25 BY MS. BROWN:

1 Q. Now, Ms. Sanders, I have a photo in my hand. Can
2 you tell me what's in this picture?

3 A. Yes. You're showing me the house at [REDACTED]
4 Avenue and then there's the house next door, [REDACTED] Kent
5 Avenue.

6 Q. And [REDACTED] --

7 MS. BROWN: May I approach the witness, Your Honor?

8 THE COURT: You may.

9 Q. Would you be able to point in this picture where's
10 [REDACTED]

11 A. Right here (indicated).

12 Q. Is that where the garbage can is standing in front
13 of?

14 A. Yes. This is [REDACTED].

15 Q. And can you describe the garbage can that's
16 standing in front of that location, the color.

17 A. I want to say it's black. It's a dark color, dark
18 grayish color.

19 Q. Okay. And then [REDACTED], can you point to that on this
20 photo as well.

21 A. It's right there (indicated).

22 Q. And do you see anything in front of that?

23 A. It's a blue recycle bin.

24 Q. Perfect. Now, in this photo can you tell where
25 your home is located?

- 1 A. Where that white mailbox is.
- 2 Q. This mailbox right here?
- 3 A. Yes.
- 4 Q. Now, in December of 2014 did the street look
- 5 similar to what I have in this photo?
- 6 A. No.
- 7 Q. What's different?
- 8 A. It's a little cleaner.
- 9 Q. Anything else?
- 10 A. [REDACTED] is no longer vacant. Someone bought the house
- 11 and he fixed the house up.
- 12 Q. Okay. So December 2014, [REDACTED] didn't look that way?
- 13 A. No.
- 14 Q. How did it look?
- 15 A. It looked like it was abandoned. It wasn't
- 16 vandalized or anything but it just looked like it was
- 17 abandoned.
- 18 Q. Now, there are some trees or bushes. Were they at
- 19 the location --
- 20 A. Yes.
- 21 Q. -- December of 2014?
- 22 A. Yes.
- 23 Q. And that bush or tree, is that close also to [REDACTED]
- 24 A. Yes. It's between -- I think it's like a little
- 25 alley, alleyway, but it's between the two houses.

1 Q. Okay. Now, describe to us, what does your
2 community look like when it's dark?

3 A. Scary.

4 Q. I mean, what kind of lighting do you have in the
5 neighborhood?

6 A. The lighting is not very good. We don't have very
7 good lighting.

8 Q. Do you know where most of the lights come from in
9 your neighborhood at night?

10 A. [REDACTED] and [REDACTED] usually have their lights on at
11 night.

12 Q. Now, in December of 2014, [REDACTED] would there have
13 been any lights at that location?

14 A. [REDACTED]?

15 Q. Exactly.

16 A. No.

17 Q. Why not?

18 A. Because no one was living there at the time.

19 Q. Do you know how long no one's been living at that
20 -- at [REDACTED]

21 A. No, because when I was looking for a place I
22 inquire about it but no one knew who owned it, who was
23 responsible for it because they said it was abandoned for
24 a while.

25 Q. And that would have been in November 2013?

1 A. Yes.

2 Q. So from November 2013 until December 2014 did
3 anyone live in that home?

4 A. No.

5 Q. Do you know someone by the name of Ms. Prissy?

6 A. No.

7 Q. Now, let's talk about December 26, 2014. Do you
8 remember if you worked that day?

9 A. I'm not sure. I know I went shopping.

10 Q. Do you remember what time you returned home from
11 shopping?

12 A. I got home about 5:30 or 6 o'clock. I wanted to
13 get home before it got dark because I was on the bus line
14 and it's not safe in my neighborhood. I wanted to get in
15 the house before it got dark.

16 Q. Okay. And did you do that? Did you get in your
17 home before it got dark?

18 A. Yes.

19 Q. And when you arrived home do you remember seeing --
20 do you know whether anyone was there?

21 A. Yes. Rhajon was there in his room and Ferantez was
22 home.

23 Q. Now, do you remember how long you were home before
24 you learned of an incident that took place outside?

25 A. I got home, I freshen up, I started heating up

1 Christmas dinner. So I'm not quite sure how long I was
2 in the house before I heard -- I assume it was gunshots,
3 and it was, like, in my -- in my front yard. So I didn't
4 know what was going on, you know, and trying to get the
5 ham out of the oven I wasted and everything because I got
6 nervous. I didn't know if something happened to my boys,
7 what was going on around there because you always hear
8 gunshots going off.

9 MS. SAVAS: Objection. May we approach, Your
10 Honor?

11 THE COURT: Yes.

12 (WHEREUPON, a bench conference was had.)

13 THE COURT: Counsel, proceed as instructed.

14 MS. BROWN: Thank you.

15 BY MS. BROWN:

16 Q. And at the time that you heard the gunshots
17 December 26, 2014 what was the lighting like outside?

18 A. Not good.

19 Q. Was it daytime?

20 A. It was nightttime.

21 Q. And after you heard the gunshots what happened
22 next?

23 A. Rhajon and Ferantez came in, and Ferantez say,
24 Momma, you need to get outside.

25 So I walked outside with them and then Rhajon was

- 1 telling me he was scared he shot someone and we walk
2 across the street to this gentleman. This gentleman was
3 lying on the ground and we walk across the street to this
4 gentleman, you know, and as we were walking across the
5 street I was just praying, praying to God that everything
6 is all right, you know. I didn't know the condition the
7 gentleman was in or anything. We went to see him and he
8 told the gentleman he said, I'm sorry, man. He said it
9 was and accident. I thought you had a weapon, you know.
- 10 Q. Now, you saying that Rhajon went and approached the
11 guy that was lying on the ground at the time?
- 12 A. Yes.
- 13 Q. And you saw that happened?
- 14 A. Yes.
- 15 Q. And what about your son, Ferantez?
- 16 A. We all walked across the street together, just to
17 check on the young man. We didn't know what was
18 happening.
- 19 Q. And did anyone from your home contact law
20 enforcement?
- 21 A. Ferantez. Ferantez was calling law enforcement as
22 he came in the house.
- 23 Q. Who is Ferantez?
- 24 A. My oldest son.
- 25 Q. He called the police?

1 A. Yes.

2 Q. And he informed the police of a shooting in your
3 neighborhood?

4 A. Yes.

5 Q. Okay. And after you guys walked across the street
6 to the young man what do you recall happening next?

7 A. The police -- the EMS approach and then next we saw
8 law enforcement coming.

9 Q. Do you remember how many shots you heard?

10 A. Maybe about three or four.

11 Q. Did you know your son had a gun before December of
12 2014?

13 A. Yes, I knew.

14 Q. Why did he have a gun?

15 A. Because we don't have money for ADT and he wanted
16 us to be safe. We live in a high crime area. He wanted
17 us --

18 MS. SAVAS: Objection, Your Honor.

19 THE COURT: Sustained. The jury will strike the
20 last statement.

21 BY MS. BROWN:

22 Q. Do you remember where you were in your home when
23 you heard the shots?

24 A. I was in the kitchen.

25 Q. And did you see Rhajon with the firearm?

1 A. No. I didn't see him personally with the firearm.

2 Q. And at some point when law enforcement arrived --
3 before law enforcement arrived did you see anyone out in
4 the neighborhood?

5 A. Yeah, by the time we got back outside the family
6 was outside. They were around the gentleman.

7 Q. Do you remember how many people were around the
8 gentleman?

9 A. Maybe about five or six. It wasn't a mass crowd.

10 Q. And could you see what they were doing when they
11 were around the gentleman?

12 A. The grandfather was cussing and he was threatening
13 Rhajon.

14 Q. And this is after Rhajon had already apologized?

15 A. Yes.

16 Q. And did Rhajon ever leave the scene that night?

17 A. No, he didn't, other than bringing the weapon in
18 the house. But, no, he didn't.

19 Q. And when law enforcement arrived where was Rhajon?

20 A. He was standing in the street with his arms up
21 (indicated).

22 Q. Did he give them any problems?

23 A. He didn't give them no problem.

24 Q. Did he immediately tell law enforcement that he
25 shot the person across the street?

1 A. Yes, he did.

2 Q. Did he tell law enforcement why he shot the person
3 across the street?

4 A. He said because he was scared and he thought the
5 young man had a weapon.

6 Q. Do you recall what that young man was wearing?

7 A. No, ma'am, because when I saw him he was lying on
8 the ground.

9 Q. And you've seen your son in many conditions; is
10 that correct?

11 A. Yes.

12 Q. When you saw him that night what was his demeanor?

13 A. He was scared. He was upset and he was scared.

14 Q. What about your other son? What was his condition?

15 A. He was trying to calm him.

16 Q. Now, you do you recall whether or not your home was
17 searched?

18 A. Yes.

19 Q. Do you remember how long it took?

20 A. It took them seemed like four to five hours. We
21 stood in that cold waiting for the search warrant to
22 arrive.

23 Q. You were outside the entire time?

24 A. The entire time until I needed to use the bathroom
25 and then they had a uniform cop escort me in the house.

1 Q. And you mentioned you were praying; is that
2 correct?

3 A. Yes.

4 Q. How long were you praying?

5 A. I prayed from the time this happened until the time
6 the policeman came and got the search warrant. Once they
7 were searching I still was praying to God.

8 Q. Where were you praying?

9 A. I was praying on the porch. I prayed in front of
10 the house, [REDACTED]. I prayed on my porch. I prayed in my
11 house, but it didn't matter where I prayed. All I wanted
12 to do was talk to God.

13 Q. Were you guys cooperative in the search warrant?

14 A. Yes, we were.

15 Q. Now, prior to December 26 of 2014 had you had any
16 problems with the neighbors across the street?

17 A. No.

18 Q. Now, did you approve Rhajon of having a firearm?

19 A. Yes, I did.

20 Q. And prior to December of 26 of 2014 had he ever
21 fired a weapon at anyone?

22 A. No.

23 Q. Had your son ever even been arrested before?

24 A. No.

25 MS. SAVAS: Objection. Relevance.

1 THE COURT: Sustained. The jury will strike the
2 last statement.

3 BY MS. BROWN:

4 Q. Would you describe to the Court your son.

5 A. Rhajon is a sweet child. He's never given me any
6 problem. Rhajon always go out of his way to help anyone,
7 anyone. Rhajon is quiet. And Rhajon, the first time you
8 think Rhajon is mean but that just his demeanor. He's a
9 very quiet guy. If you say something to him he will talk
10 to you. Rhajon is never mean.

11 I was diagnosed last year with cancer and he's been
12 going with me to my cancer treatment. The child cook for
13 me. He may not be the best but he make sure that I eat.
14 He make sure I have something to drink.

15 MS. SAVAS: Objection, Your Honor, relevance.

16 THE COURT: Sustained.

17 Q. How has Rhajon changed since December 26 of 2014?

18 A. Rhajon has gotten mature. He's getting older, and
19 all he wants is his life back, to go back to work. He's
20 a hard worker --

21 Q. Now --

22 A. A very hard worker.

23 Q. Now, you've known your son for 25 years. Would
24 Rhajon have fired a weapon towards --

25 MS. SAVAS: Objection, speculation.

1 THE COURT: Sustained, speculation.

2 Q. On December 26 of 2014, did you hear your son say
3 he was afraid and that's why he fired his weapon?

4 A. He was afraid. He was trying to get this young
5 man's attention.

6 MS. SAVAS: Objection. Speculation.

7 THE COURT: Sustained.

8 MS. BROWN: Nothing further.

9 THE COUR: Cross-examination.

10 CROSS-EXAMINATION

11 BY MS. SAVAS:

12 Q. Good morning, Ms. Sanders.

13 A. Good morning.

14 Q. I'm sorry you're here on such unfortunate
15 circumstances. I just have a few questions for you.

16 A. Okay.

17 Q. If you need a minute just let me know. Okay?

18 A. Okay.

19 Q. Ms. Sanders, you said that Rhajon is your son,
20 correct?

21 A. Yes, he is.

22 Q. And you said that you've lived over at that house
23 for -- since the day after Thanksgiving in 2013, right?

24 A. Yes.

25 Q. And since you've been living over there were the

1 neighbors across the street living there at that time,
2 too?

3 A. Which neighbors are you talking about?

4 Q. Across the street, the aunt and the elderly couple
5 next door.

6 A. Yes.

7 Q. And have you ever had any problems with them
8 before?

9 A. No. We are cordial to each other.

10 Q. So y'all are cordial to each other --

11 A. Yes.

12 Q. -- and polite? And have you ever had any issues
13 with anyone that's ever come to visit them before?

14 A. No.

15 Q. And you said, Ms. Sanders, that you could talk to
16 your sons about any concerns you have, right?

17 A. Yes.

18 Q. Did you ever express any concerns about the
19 neighbors across the street before to them?

20 A. No.

21 Q. Did you ever express any concerns about the people
22 that visit them across the street before?

23 A. No.

24 Q. Okay. And, Ms. Sanders, you said that it gets
25 pretty dark on your street, right?

- 1 A. Yes, it does.
- 2 Q. And was it dark that night, too?
- 3 A. It was pitch black dark.
- 4 Q. Pitch black dark. Okay. And, Ms. Sanders, you
- 5 said the neighbors across the street keep their porch
- 6 lights on, right?
- 7 A. Yes.
- 8 Q. Do you keep your porch light on, too?
- 9 A. No.
- 10 Q. And the house next door at [REDACTED] that you stated,
- 11 Ms. Sanders, have you ever been over to that house
- 12 before?
- 13 A. When I start -- when I was looking for a place I
- 14 did inquire about the house because I liked the house
- 15 but, like I said before, no one knew who owned the house.
- 16 They just kept saying that the house was abandoned.
- 17 Q. Okay. Who did you ask about that; do you remember?
- 18 A. I asked the people at [REDACTED] at 2315, and there is a
- 19 house that is next door to [REDACTED].
- 20 Q. On the other side?
- 21 A. Yeah. I asked them and the lady said, I don't know
- 22 who on that house. No one knows who own that house.
- 23 Q. Okay. And you said you don't know a Ms. Prissy who
- 24 may have been in and out of the hospital?
- 25 A. I don't know Ms. Prissy.

1 Q. Do you know Ms. Prissy's niece that would sometimes
2 go over there at all?

3 A. (Shook head).

4 Q. No. Okay. And, Ms. Sanders, have you -- prior to
5 moving in did you ever ask your neighbors across the
6 street if they've had any problems?

7 A. No. I mean, I've asked them if they have had any
8 problem. They said no, but it is a high crime area.

9 MS. SAVAS: Your Honor?

10 THE COURT: Go ahead.

11 Q. And, Ms. Sanders, you've never had any issues with
12 your home though, have you?

13 A. No.

14 Q. Okay. You've never had any issues then with anyone
15 coming to your home and doing anything harmful to you or
16 your family, have you?

17 A. No.

18 Q. Ms. Sanders, you said that you knew that your son
19 had a gun; is that true?

20 A. Yes.

21 Q. Did you know that he had two guns?

22 A. Yes.

23 Q. And you approved of those guns, right?

24 A. Yes.

25 Q. Ms. Sanders, you know that guns are dangerous,

1 right?

2 A. I know guns are dangerous but I felt that at his
3 age, Rhajon was 23, at his age he was responsible.

4 Q. Yes, ma'am. And you do know that shooting someone
5 could possibly lead to unfortunate death, right?

6 A. Yes, ma'am.

7 Q. And in approving that gun for your son did you ever
8 request that he take any safety classes in handling that
9 gun?

10 A. No, but I told him to make sure that the gun was
11 registered and was in his name.

12 Q. Yes, ma'am. That's a good idea. And, Ms. Sanders,
13 did you ever know if he had a concealed weapons permit or
14 not?

15 MS. BROWN: Objection, Your Honor.

16 THE COURT: Sustained. That's irrelevant.

17 MS. SAVAS: Yes, sir.

18 BY MS. SAVAS:

19 Q. Ms. Sanders, you said that you heard about three or
20 four shots when you were taking the ham out of the oven;
21 is that true?

22 A. Yeah.

23 Q. Okay. And, Ms. Sanders, did your two sons run
24 inside the house before you went outside to hear what was
25 going on?

- 1 A. You say ran in the house?
- 2 Q. Yes, ma'am.
- 3 A. They didn't ran in the house. They walked in the
- 4 house. Rhajon went in his room and he placed the gun
- 5 down and we went back outside to check on the young man
- 6 across the street.
- 7 Q. Okay. So after unfortunately your son shot the
- 8 young man he put the gun inside the house?
- 9 A. Yes.
- 10 Q. And then after he put the gun away y'all went back
- 11 outside?
- 12 A. We went across the street.
- 13 Q. Okay. And, Ms. Sanders, did you ever see that
- 14 young man before that day?
- 15 A. I don't know how he looks.
- 16 Q. Okay. Ms. Sanders, did they often have family
- 17 visiting or people at their house across the street?
- 18 A. Yeah, but they've had more visitors since this
- 19 incident than before.
- 20 Q. Okay. Ms. Sanders, do you recall seeing whether
- 21 your neighbors had a lot of people over that day after
- 22 Christmas or not?
- 23 A. No, ma'am. I don't mind people business. I go to
- 24 work, come back and mind my own business.
- 25 Q. Yes, ma'am. But, Ms. Sanders, so you were inside

1 at the time of hearing the gunshots?

2 A. Yes, ma'am.

3 Q. And you said that you've never had issues with the
4 family across the street, right?

5 A. Right.

6 Q. Okay. And you said that your son seems to be more
7 mature now, right?

8 A. (Nodded).

9 Q. Is that a yes?

10 A. Yes.

11 Q. I'm sorry. She has to take it down. Okay?

12 A. Yes.

13 Q. Thank you, ma'am.

14 MS. SAVAS: Beg the Court's indulgence.

15 THE COURT: Yes.

16 (PAUSE.)

17 MS. SAVAS: Nothing further from the State, Your
18 Honor.

19 THE COURT: Any redirect?

20 MS. BROWN: Beg the Court indulgence.

21 (PAUSE.)

22 MS. BROWN: Your Honor, may we approach?

23 THE COURT: You may.

24 (WHEREUPON, a bench conference was had.)

25 REDIRECT EXAMINATION

1 BY MS. BROWN:

2 Q. Ms. Sanders, let's make sure the record is clear
3 about [REDACTED]. Since December of 2013 has that home been
4 vacant?

5 A. Last year a gentleman bought the house and he
6 renovated the house and now he's living in the house.

7 Q. And that would be 2015; is that correct?

8 A. Yes.

9 Q. So from 2013 until 2015 that house has been vacant;
10 is that correct?

11 A. Yes.

12 Q. You are not aware of a Ms. Prissy that lived in
13 that home at any point in time; is that correct?

14 A. No one lived in that house since I've been there.

15 Q. In fact, Ms. Prissy doesn't live in that home now,
16 does she?

17 A. I don't know who Ms. Prissy is.

18 Q. You indicated that you told your son that his gun
19 needs to be registered?

20 A. Yes.

21 Q. Do you know whether or not he did that?

22 A. Yes. Both of the guns are registered in his name.

23 Q. And the guns were legally purchased; is that
24 correct?

25 A. Yes.

1 Q. And you indicated that you didn't see anyone at
2 [REDACTED] when you came home that afternoon or that evening;
3 is that correct?

4 A. Right.

5 Q. And you don't -- do you know the people that live
6 in [REDACTED]?

7 A. I don't know them personally. I don't even know
8 their last name.

9 Q. Had you seen Nicholas Washington before December 26
10 of 2014?

11 A. I don't know how Nicholas Washington looks.

12 Q. Now, on cross there was a question about whether or
13 not you expressed any concerns to your neighbor.

14 MS. SAVAS: Objection. Misstatement of the
15 question. May we approach?

16 THE COURT: You may.

17 (WHEREUPON, a bench conference was had.)

18 BY MS. BROWN:

19 Q. The neighbors across the street, [REDACTED], had you
20 expressed any concerns to them about anything?

21 A. When I was inquiring about the neighborhood and the
22 house he told me that the area was a high crime area.

23 MS. SAVAS: Objection, Your Honor.

24 THE COURT: Sustained. Hearsay.

25 BY MS. BROWN:

1 Q. Now, prior to December 26 of 2014, I just want to
2 make sure we are clear, no problems with [REDACTED] the people
3 at [REDACTED]?

4 A. Right.

5 Q. No problems with [REDACTED], the people there? No
6 problems with them; is that correct?

7 A. 23?

8 Q. 23 -- is it [REDACTED]?

9 A. It's [REDACTED] and [REDACTED].

10 Q. Thank you. Thank you. So [REDACTED], no problems there;
11 is that correct?

12 A. Right.

13 Q. [REDACTED], no problems there?

14 A. Right.

15 Q. And [REDACTED] is vacant?

16 A. Was vacant.

17 Q. And you mentioned that that particular day it was
18 pitch black dark?

19 A. Yes.

20 Q. And is that generally how it is in your
21 neighborhood at night?

22 A. Yes.

23 Q. So is it easy to see someone at night when it's
24 pitch black dark?

25 A. No, it's not.

1 MS. BROWN: Nothing further.

2 THE COURT: Any recross based on her redirect?

3 MS. SAVAS: No, Your Honor. Nothing from the
4 State.

5 THE COURT: All right. Thank you.

6 All right. This witness is excused unless there's
7 an objection.

8 MS. SAVAS: No objection from the State, sir.

9 THE COURT: Any objection from --

10 MS. BROWN: Nothing, Your Honor. Thank you.

11 THE COURT: All right. Thank you.

12 Ladies and gentlemen of the jury, I think it's time
13 for a quick break. Please do not discuss anything about
14 the case while you are there.

15 (WHEREUPON, the jury leaves the courtroom at
16 approximately 11:20 a.m.)

17 THE COURT: All right. Court is in recess for 15
18 minutes. Thank you.

19 (WHEREUPON, a brief recess was taken.)

20 THE COURT: Anything before we bring the jury back?

21 MS. SAVAS: Yes, briefly, Your Honor.

22 THE COURT: Yes, ma'am.

23 MS. SAVAS: We would just like to make note that if
24 the defense still wanted to pursue that extra witness if
25 they provided us with the date of birth and we would have

1 a moment to run their rap sheet we would not have an
2 issue with that.

3 THE COURT: Well, it looks like after this,
4 whatever witness is next, we will probably break for
5 lunch. So if that works out and you're not prejudiced
6 and still do it then it isn't a problem.

7 MS. SAVAS: Yes, sir. Also, just a point of -- to
8 mention. This photograph, the defendants exhibit, has
9 continued to be published but it's not admitted into
10 evidence yet. Just as proper procedure --

11 THE COURT: I thought I said it would be.

12 MS. BROWN: I thought that it was already admitted,
13 Your Honor. You made --

14 THE COURT: I said yesterday that I would give --

15 MS. SAVAS: Okay. I just missed the formality of
16 it. I'm sorry. Then it's my fault.

17 THE COURT: Actually, I did give a caveat that it's
18 not to scale or anything like that. I think it's number
19 3 or number 6.

20 MS. SAVAS: Yes, sir. I just didn't realize that
21 it was admitted during trial.

22 THE COURT: It's in.

23 MS. SAVAS: Then just lastly, Your Honor, we would
24 just respectfully request, sir, that it has made clear to
25 the defense that during this time they are not allowed to

1 ask questions as discussed during that proffer. We feel
2 that with the numerous open-ended questions it seems to
3 be deliberate at this point over your many rulings, Your
4 Honor, to not go into the high crime of the neighborhoods
5 and it's continued in their questions as it's seeming to
6 be a very deliberate process continued throughout this
7 trial.

8 THE COURT: And I'm sure y'all have done that after
9 my rulings --

10 MS. BROWN: Your Honor -- exactly. There was a
11 number of questions that we intended and would like to
12 ask that we have not, so we've refrained from it. We've
13 asked any particular questions relating to basically
14 their knowledge about what happened on December 26, 2014
15 and the relationship they had with the person across the
16 street.

17 THE COURT: And what happened on Kent is fine.
18 What happened three doors down or three blocks away is
19 irrelevant. So make sure your next witnesses know that.

20 MS. BROWN: I just want to make sure I get
21 clarification. They can discuss things that happened on
22 Kent Avenue? Is that my understanding?

23 THE COURT: Right, between these parties. You are
24 not saying, well, I was scared because there was a
25 shooting over on Suffolk Avenue, or something like that.

1 You can't bring that in. That's part of the neighborhood
2 that I'm excluding from evidence.

3 MS. BROWN: Thank you.

4 THE COURT: Okay. All right. Let's bring our jury
5 in.

6 Who would your next witness be?

7 MS. BROWN: Ferantez Sanders.

8 THE COURT: Okay. And you talked to him about
9 that, correct?

10 MS. BROWN: Your Honor, I have not had
11 communications with anyone.

12 THE COURT: Go outside and talk with him then.
13 Make sure he understands he can't talk about the
14 neighborhood.

15 MS. BROWN: Certainly.

16 THE COURT: So he doesn't respond to a question --

17 MS. SAVAS: Thank you, sir. That's what we ask.

18 (PAUSE.)

19 THE COURT: Bring the jury.

20 MS. SAVAS: Was he just instructed to not? I just
21 want to double check if he was instructed not to discuss
22 that.

23 MS. BROWN: I was ordered to do that.

24 (WHEREUPON, the jury enters the courtroom at
25 approximately 11:52 a.m.)

1 THE BAILIFF: All jurors present, Your Honor.

2 THE COURT: All right. Thank you.

3 Ms. Brown, you may call your next witness.

4 MS. BROWN: Thank you, Your Honor. I call Ferantez
5 Sanders.

6 FERANTEZ JAMEL LAMONT SANDERS, after having
7 been duly sworn, testified as follows:

8 THE CLERK: Please state your first and last name
9 and spell your last name loudly clearly into the
10 microphone.

11 THE WITNESS: Ferantez Jamel Lamont Sanders.

12 DIRECT EXAMINATION

13 BY MS. BROWN:

14 Q. Mr. Sanders, how old are you?

15 A. Thirty-one.

16 Q. And what is your relationship to Rhajon?

17 A. I'm his older brother.

18 Q. Where do you live?

19 A. [REDACTED], North Charleston.

20 Q. How long have you lived on Kent Avenue?

21 A. Two years.

22 Q. Before you moved to Kent Avenue where did your
23 family live?

24 A. [REDACTED], North Charleston.

25 Q. And are you employed?

- 1 A. Yes, ma'am.
- 2 Q. Where do you work?
- 3 A. I work at MUSC.
- 4 Q. And what is your position with MUSC?
- 5 A. I'm a manager for environmental services and
- 6 director of linen services.
- 7 Q. How long have you been there?
- 8 A. Five years.
- 9 Q. Now, do you recall whether or not you worked
- 10 December 26 of 2014?
- 11 A. No, ma'am.
- 12 Q. You don't recall or you didn't work?
- 13 A. I didn't work.
- 14 Q. Do you recall the events of December 26 of 2014?
- 15 A. Yes, ma'am.
- 16 Q. Do you recall whether or not your brother worked
- 17 December 26 of 2014?
- 18 A. Yes, ma'am.
- 19 Q. Did he work?
- 20 A. Yes, he worked.
- 21 Q. And at that time where was he working?
- 22 A. He was working at MUSC.
- 23 Q. And how would he get to work?
- 24 A. I would take him or he would catch the bus.
- 25 Q. Do you remember if you took him on December 26 of

1 2014 to work?

2 A. Yes, ma'am.

3 Q. Did you take him?

4 A. Yes, ma'am.

5 Q. And do you remember what time he went to work?

6 A. I want to say he went to work about 6:00 or 6:30.

7 Q. And do you know what time he would get off from
8 work?

9 A. About 3:00, 3:30.

10 Q. And how would he get home?

11 A. I would pick him up, if I was off.

12 Q. And did you pick him up that day?

13 A. Yes, ma'am.

14 Q. And when you picked him up do you remember if you
15 guys went anywhere?

16 A. No. We came straight home.

17 Q. So what time did you get home on that day?

18 A. About 4 o'clock.

19 Q. And once you got home at 4 o'clock what did you do?

20 A. I came back outside. Got me a beer, came back
21 outside.

22 Q. And where did you go when you went outside?

23 A. Just on the porch.

24 MS. BROWN: Your Honor, may I approach the witness?

25 THE COURT: You may.

1 Q. I'm going to show you a photo that's marked as
2 State's Exhibit -- oh, Defendant's Exhibit Number 1, and
3 in this photo is that Kent Avenue, your home?

4 A. Yes, ma'am.

5 Q. And the street -- the house that's next door to
6 this, in this photo, can you see that house?

7 A. Yes, ma'am.

8 Q. Do you know what address that is?

9 A. It should be 2326.

10 Q. Do you know if anyone lives there?

11 A. No one lives there.

12 Q. Was anyone living there December 2014?

13 A. No, ma'am.

14 Q. Is anyone living there right now?

15 A. Not at all.

16 Q. Are there any other homes on your street that --
17 abandoned or vacant?

18 A. There's a home across the street to the right
19 that's abandoned.

20 Q. Do you know that address?

21 A. No, ma'am.

22 Q. I'm going to show you another photo that's marked
23 as Defendant's Exhibit Number 7. The home -- now, is
24 this a more recent photo of what your neighborhood looked
25 like?

- 1 A. Yes, ma'am.
- 2 Q. The home that was vacant or abandoned December of
- 3 2014, is it in this photo?
- 4 A. Yes, ma'am.
- 5 Q. Where is it?
- 6 A. It's the house where the gray Camaro is at.
- 7 Q. And is that how the home looked December of 2014?
- 8 A. No, ma'am. I mean, it was no cars in their yard.
- 9 No one stayed there.
- 10 Q. Is there anything else different about this photo
- 11 how your neighborhood looked now from December 2014?
- 12 A. Yes, ma'am.
- 13 Q. What else?
- 14 A. The sidewalk.
- 15 Q. Was the sidewalk there December 2014?
- 16 A. No, ma'am.
- 17 Q. Do you know whether or not that gate was there
- 18 December 2014?
- 19 A. Yes, ma'am.
- 20 Q. Now, how long has that house I just showed you, how
- 21 long has it been abandoned or vacant?
- 22 A. Since we got there.
- 23 Q. When did you guys move in?
- 24 A. December. December of 2013.
- 25 Q. So you were there one year prior to December 26 of

1 2014?

2 A. Yes, ma'am.

3 Q. And to your knowledge that home has always been
4 vacant?

5 A. Always.

6 Q. Do you know someone by the name of Ms. Prissy?

7 A. No, ma'am.

8 Q. Don't know a Prissy at all?

9 A. Not at all.

10 Q. Now, once you made it home about four o'clock p.m.,
11 you went outside, according to you, and did what?

12 A. Just drank a beer, sat on the porch, looked at my
13 phone.

14 Q. And where was Rhajon?

15 A. In his room.

16 Q. And at any point did Rhajon come outside?

17 A. No.

18 Q. What kind of lighting was in your neighborhood at
19 dark -- when it was dark? What kind of lighting do you
20 have in your neighborhood? I apologize.

21 A. Like two street lights but that's like two or three
22 houses down.

23 Q. What kind of lighting is in front of your
24 residence?

25 A. Not much.

1 Q. What do you guys use for light when it's dark if
2 you are outside in front of your residence?

3 A. We usually keep the porch light off until, you
4 know -- until we go in the house we turn the porch light
5 on.

6 Q. Is it the porch light that basically lights that
7 street up?

8 A. Lights that yard up.

9 Q. Now, on December 26 of 2014 the house that was
10 across the street that you pointed out to me that was
11 vacant, were there any lights on over there?

12 A. No, ma'am.

13 Q. What about the house over here?

14 A. No, ma'am.

15 Q. You don't recall seeing lights at [REDACTED]?

16 A. No, ma'am.

17 Q. Do you remember how long you were outside?

18 A. I was in and out of the house for probably about a
19 good two or three hours.

20 Q. Now, what kind of relationship do you have with
21 your neighbors?

22 A. None, really, just kind of cordial, just say hi to
23 them every once in a while.

24 Q. Do you know who lives across the street from you?

25 A. I don't know them, like, personally.

1 Q. Do you know what they look like?

2 A. The people who live there I know who they look
3 like.

4 Q. Now, December 26, 2014, that's the day following
5 Christmas?

6 A. Yes, ma'am.

7 Q. At some point did you observe something that was in
8 your opinion suspicious?

9 A. Yes, ma'am.

10 Q. Tell the Court about what you observed that you
11 viewed suspicious that evening.

12 A. I viewed a tall black guy in all black in front of
13 [REDACTED].

14 Q. And when you say [REDACTED], let me point to the photo
15 again. Where are you referring to?

16 A. The gray house with the gray Camaro.

17 Q. Is that here?

18 A. Yes, ma'am.

19 Q. Would that have been the abandoned home at that
20 time?

21 A. Yes, ma'am.

22 Q. The home that's been abandoned since 2013?

23 A. Yes, ma'am.

24 Q. Now, what about here, did you notice anyone at that
25 location?

- 1 A. No, ma'am.
- 2 Q. And when you noticed the tall guy in all black what
3 was the lighting outside?
- 4 A. There was none on that side.
- 5 Q. Was it daylight?
- 6 A. No, ma'am.
- 7 Q. Was it nighttime?
- 8 A. Yes, ma'am.
- 9 Q. And about what time was that?
- 10 A. Around about seven.
- 11 Q. And once you noted the guy what did you do?
- 12 A. I turned on the porch light.
- 13 Q. And after you turned on the porch light what
14 happened?
- 15 A. Probably about maybe 30 seconds later my brother
16 came outside.
- 17 Q. And prior to you turning on the porch light did
18 Rhajon come outside?
- 19 A. No.
- 20 Q. Rhajon had been in the house since he got home from
21 work?
- 22 A. Yeah.
- 23 Q. And this is about seven o'clock now?
- 24 A. Yes, ma'am.
- 25 Q. And once Rhajon came outside what happened?

1 A. He asked me for a lighter.

2 Q. And what happened?

3 A. Well, he smoked a cigarette and then he looked
4 across the street and asked me who is the guy over there,
5 and I was like, I don't know. So he asked me if he was
6 all right. I said, I don't know. So that's when he
7 started waiving his hands trying to get the guy's
8 attention. He kept saying, Hey, hey, are you okay? Hey,
9 you waiting on somebody?

10 Q. Now, when you say waiving his hands show the Court
11 what you are talking about.

12 A. Like this (indicated).

13 Q. And when he was waiving his hand could you tell
14 what the guy across the street was doing?

15 A. He was looking in our direction.

16 Q. And at this point where is he located?

17 A. He's still in front of [REDACTED].

18 Q. I'm going to show you a photo. And, of course, at
19 this time this photo was taken after December 26 of 2014;
20 is that correct?

21 A. Yes, ma'am.

22 Q. And this photo was taken during the daytime; is
23 that correct?

24 A. Yes, ma'am.

25 Q. So December 26 of 2014 at seven o'clock it would

1 not have looked like this?

2 A. Not at all.

3 Q. Now, there's another photo that was taken December
4 26 of 2014; is that correct?

5 A. Yes, ma'am.

6 Q. How would -- is this the appearance of the darkness
7 outside at that time?

8 A. Well, not those lights. Those lights from the
9 police cars.

10 Q. So there's some lights here that would not have
11 been present at the time that you were sitting on your
12 porch?

13 A. Yeah.

14 Q. So the only light that you would have had would
15 have come from your porch?

16 A. Yes, ma'am.

17 Q. Now, as Rhajon is waiving his hand what happens
18 next?

19 A. Well, he continues to waive his hand and then he
20 took a few steps down the steps, and he still waiving his
21 hand and all he said was, Hey, are you okay?

22 Q. Now, he's waiving his hand and the gentleman, tall,
23 across the street, what is he doing?

24 A. He's just still looking in our direction.

25 Q. Okay. And had you seen him before?

1 A. No, ma'am.

2 Q. And had you seen him before would you have been
3 suspicious?

4 A. No, ma'am.

5 Q. And at that time you recall him standing -- where
6 is he standing if I point this photo up to you? I want
7 to give you this pen. I'm going give you a marker. I'm
8 going to ask that you on this photo place to me where
9 he's standing at this time you first notice him.

10 A. (The witness indicated).

11 Q. And that is on the abandoned property?

12 A. Yes, ma'am.

13 Q. And there is a -- what is that in the photo?

14 A. A mailbox.

15 Q. Whose mailbox does that belong to?

16 A. Ours.

17 Q. And, of course, at that time there was not a porch;
18 is that correct? It was not -- I'm sorry, a pavement?

19 A. No, ma'am. No sidewalk was there.

20 Q. Sidewalk. Okay. And at some point what happens
21 next?

22 A. Well, he took a couple steps close by the mailbox
23 and he did one more time waiving his hands and the guy is
24 still looking in his direction, so he looked a little
25 closer to try to see if he could -- see the guy's face,

1 and that's when he threw down the cigarette real hard,

2 reached for waistband, took two steps in the street.

3 Q. Now, when you say he took -- who was he that you

4 are referring to that took steps in the street?

5 A. Nick.

6 Q. And you're talking about the guy who's standing

7 across the street in all black?

8 A. Yes, ma'am.

9 Q. Did Rhajon at any point left your yard?

10 A. Not at all.

11 Q. And, now, you call him Nick. How do you know his

12 name is Nicholas?

13 A. I know now.

14 Q. Okay. At that time did you know his name?

15 A. No, ma'am.

16 Q. And about what kind of height was Nicholas or this

17 tall guy?

18 A. About six-four, six-five.

19 Q. Can you stand up for me? How tall are you?

20 A. Five-eight.

21 Q. Is your brother taller than you?

22 A. No, ma'am.

23 Q. And how big is this guy?

24 A. He's well over 200.

25 Q. And -- you may have a seat.

- 1 A. Okay.
- 2 Q. Do you recall the kind of clothing that he had on?
- 3 A. It was all black.
- 4 Q. Anything else about the clothing?
- 5 A. He had on a hoodie.
- 6 Q. What was the hood? Was it down or was it up?
- 7 A. Over him, over his head.
- 8 Q. Is that why you weren't able to see his face?
- 9 A. Yeah.
- 10 Q. And when he starts advancing in Rhajon's direction
- 11 where were you?
- 12 A. I was already up. I was standing up. I'll show
- 13 you exactly where I was at.
- 14 Q. This is your porch.
- 15 A. Okay. When Rhajon came down here to the step to
- 16 ask him again is he all right I was standing up because
- 17 it just seemed suspicious that, you know, you looking at
- 18 my brother in our direction, he waiving his hands, you
- 19 are not saying anything. So I stand -- I stood up
- 20 because I started feeling suspicious like why is he not
- 21 saying anything, why he act like he don't see my brother.
- 22 Q. Were you afraid?
- 23 A. Yes, ma'am.
- 24 Q. And, now, at some point -- when Rhajon came outside
- 25 did you see anything on his person?

- 1 A. Did I see anything on him?
- 2 Q. Yes.
- 3 A. On who, Rhajon?
- 4 Q. Yeah. Did he have a gun on him?
- 5 A. No.
- 6 Q. Did he have a gun in his hand?
- 7 A. No.
- 8 Q. Okay. And once he came outside, he's waiving
- 9 trying to get the guy's attention saying hey, are you
- 10 okay, what happens next?
- 11 A. Well, after the guy threw down the cigarette and
- 12 put his hands toward his waistband, and he put another
- 13 hand behind his back and he approached the street, that's
- 14 when my brother fired the shots at him.
- 15 Q. At that time did it -- did you believe that the
- 16 unknown tall six-four, 200-and-some-pound guy is heading
- 17 in your direction?
- 18 A. Yes, ma'am.
- 19 Q. Did he say anything to you guys?
- 20 A. No, ma'am.
- 21 Q. Was there a verbal altercation some days prior to
- 22 this event with this particular guy?
- 23 A. Not at all.
- 24 Q. Now, was he advancing towards your property?
- 25 A. Yes, ma'am.

1 Q. And when Rhajon was saying, Are you okay, was he
2 aggressive at all?

3 A. Not at all.

4 Q. Did you see -- when he reached for his waistband
5 what did you think he was reaching for?

6 A. A gun.

7 Q. Why did you think that?

8 A. Because, I mean, like, what he's reaching for?

9 Q. Is that normally where guns are --

10 MS. SAVAS: Objection, speculation.

11 THE COURT: Sustained.

12 Q. After Rhajon fired his weapon what happened?

13 A. Well, after he fired his weapon I grabbed him and I
14 turned around so if the guy did have a gun he was
15 shooting he would have hit me instead of my brother, and
16 I went up the stairs, put him in the house and then, you
17 know, my mother was already, like, hysterical. She was
18 crying trying to figure out what was going on, and my
19 brother just kept saying, He reached for a gun, he
20 reached for something. He just kept saying, I'm scared.
21 I'm scared. I got scared.

22 Q. Do you know if anyone contacted law enforcement
23 from your home?

24 A. Yes, ma'am.

25 Q. Who did?

1 A. I did.

2 Q. And did you contact them immediately?

3 A. No, ma'am. I contacted them maybe when my brother
4 said, you know, I'm going to check on that guy.

5 Q. Your brother said he was going to check on the guy?

6 A. Yeah.

7 Q. And did he go check on the guy?

8 A. He did.

9 Q. And when he went to check on the guy what happened?

10 A. He just went over there and just was like, Man, are
11 you all right?

12 And the guy was like, Man, you shot me, man. You
13 shot me.

14 He's like man, You reached. I got scared. I got
15 scared. You reached for something. I got scared. I
16 didn't mean to do it. I just got scared.

17 Q. And do you recall whether or not anyone else was
18 outside at that time?

19 A. Yes, ma'am.

20 Q. Who are outside?

21 A. All his family.

22 Q. Do you remember how many people that were?

23 A. About a good five, six, maybe seven.

24 Q. And at some point in time did you guys stay outside
25 the entire time with them?

- 1 A. Yes, ma'am.
- 2 Q. How long before law enforcement arrived?
- 3 A. Since when -- since the shots was fired or since we
- 4 was outside?
- 5 Q. Since the shots were fired. After the shots were
- 6 fired.
- 7 A. Maybe four, five minutes.
- 8 Q. And when they arrived where was Rhajon?
- 9 A. He was over there still trying to comfort the guy
- 10 and, you know, when the police pulled up he immediately
- 11 put his hands up and he stepped back in the street.
- 12 Q. And was he detained at that time?
- 13 A. Yes, ma'am.
- 14 Q. And did he immediately tell law enforcement that he
- 15 was afraid?
- 16 A. Yes, ma'am.
- 17 Q. Did he immediately tell law enforcement that he
- 18 believed the guy was reaching for a firearm?
- 19 A. Yes, ma'am.
- 20 Q. Did he tell law enforcement at that time that the
- 21 guy was advancing in his direction?
- 22 A. No, ma'am. I don't recall that.
- 23 Q. Did you have an opportunity to talk to law
- 24 enforcement?
- 25 A. Yes, ma'am.

- 1 Q. You were interviewed?
- 2 A. Yes, ma'am.
- 3 Q. Do you remember who interviewed you?
- 4 A. No, ma'am.
- 5 Q. Did you tell them what you told us today?
- 6 A. Yes, ma'am.
- 7 Q. So they've known about what your version of the
- 8 events since December 2014?
- 9 A. Yes, ma'am.
- 10 Q. Now, were you subpoenaed to be in court by the
- 11 State?
- 12 A. Yes, ma'am.
- 13 Q. Did they call you as a witness?
- 14 A. No, ma'am.
- 15 Q. Now, after Rhajon fired his weapon where did he
- 16 place his weapon?
- 17 A. He put it in the room.
- 18 Q. And did law enforcement respond and search your
- 19 home?
- 20 A. Yes, ma'am.
- 21 Q. And do you remember how long that search was?
- 22 A. Maybe a good 10, 15 minutes.
- 23 Q. The search of your home?
- 24 A. Yeah. Yeah. When they first came in and searched
- 25 me they asked is anybody else in the house. I said, No,

1 and then they went in.

2 Q. Do you remember where you guys were after the
3 shooting? Were you all able to go back in the house?
4 Where were you guys?

5 A. We were on the porch. We didn't get back into the
6 house until 11:00.

7 Q. So from 7:00 until 11:00 you guys were outdoors?

8 A. Yes, ma'am.

9 Q. Do you remember the weather that night?

10 A. Yeah. That night it was cold. It was chilly.

11 Q. Did you know that Rhajon owned a firearm?

12 A. Yes, ma'am.

13 Q. Do you remember why he purchased a firearm?

14 A. Yes, ma'am.

15 Q. Why?

16 A. Because the death of his best friend.

17 THE COURT: Repeat your answer.

18 A. The death of his best friend.

19 MS. BROWN: Beg the Court's indulgence, Your Honor.

20 Q. Now, when law enforcement arrived you say there
21 were already people around Mr. Washington?

22 A. Yes, ma'am.

23 Q. Were you able to see what they were doing around
24 Mr. Washington?

25 A. I mean, some of them was talking to him, some

1 people was running back and forth from the house.

2 Q. Do you remember who was running back and forth in
3 the house?

4 A. No, ma'am.

5 Q. Do you remember whether or not they had anything in
6 their hands when they ran back and forth in the house?

7 A. I was not paying attention.

8 Q. Do you remember seeing any headphones in that area?

9 A. No, ma'am.

10 Q. Do you remember seeing a cell phone from
11 Mr. Washington in that area?

12 A. Not at all.

13 Q. Did you see Mr. Washington talk on his cell phone?

14 A. No, ma'am.

15 Q. When you noticed Mr. Washington how was he standing
16 the first time you noticed him?

17 A. You want me to demonstrate?

18 Q. Yeah.

19 A. Like this. Our house is diagonal so standing like
20 right there (indicated).

21 THE COURT: You may be seated.

22 MS. BROWN: Thank you, Your Honor. I apologize.

23 Q. So he was just standing looking in your direction?

24 A. Yes, ma'am.

25 Q. Now, had your brother shot anyone prior to December

1 26, 2014?

2 MS. SAVAS: Objection, relevance.

3 THE COURT: Sustained.

4 Q. Do you know whether or not your brother has fired

5 his --

6 MS. SAVAS: Objection, relevance.

7 THE COURT: Sustained.

8 Q. You said law enforcement took your statement?

9 A. Yes, ma'am.

10 Q. Was that on December 26, 2014?

11 A. Yes, ma'am.

12 Q. Do you remember how long it was after this shooting

13 that they took your statement?

14 A. Four hours.

15 Q. And have you changed your number since December

16 2014?

17 A. No, ma'am.

18 Q. Did they have a way to contact you?

19 A. Yes, ma'am.

20 Q. That's right. They subpoenaed you. And on

21 December 26 of 2014 while you are sitting on your porch

22 and you noticed this guy across the street and you notice

23 him advancing in your direction, you didn't know who he

24 was, were you afraid?

25 A. Yes, ma'am.

1 Q. If you had a firearm would you have used it?

2 A. Yes, ma'am.

3 MS. BROWN: Nothing further.

4 THE COURT: All right. Cross-examination.

5 MS. SAVAS: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. SAVAS:

8 Q. Good morning, Mr. Sanders.

9 A. Morning.

10 Q. Just really briefly I'd like to just sort of clear
11 up almost a housekeeping matter. Mr. Sanders, you were
12 subpoenaed by the State, correct?

13 A. Yes, ma'am.

14 Q. And you actually spoke with my investigator,
15 Mr. Kenny Barfield, at one point when we first subpoenaed
16 you, correct?

17 A. Yes, ma'am.

18 Q. And you told him that you would meet with us,
19 correct?

20 A. I said I would try.

21 Q. Then after that you retained a lawyer, correct?

22 A. Yes, ma'am.

23 Q. And it's Ms. Margie Pizarro who's sitting right
24 there at that table, correct?

25 A. Yes, ma'am.

1 Q. So she is the one at your brother's table with his
2 attorneys?

3 A. Yes, ma'am.

4 Q. The one handing them notes regarding this case?

5 A. I guess. I mean --

6 MS. BROWN: Objection, relevance. I don't know why
7 that's relevant to December 26, 2014. I'm not sure where
8 she's going with that.

9 MS. SAVAS: She opened the door regarding whether
10 the State called him as a witness.

11 THE COURT: Overruled.

12 MS. SAVAS: Thank you, sir.

13 BY MS. SAVAS:

14 Q. And, Mr. Sanders, you know I sent about four or
15 five e-mails to Ms. Pizarro regarding a time to meet with
16 you?

17 MS. BROWN: Objection, Your Honor. He has to
18 speculate.

19 THE COURT: She can ask the question. Overruled.

20 A. I mean, I'm not sure.

21 Q. She never relayed any messages to you that I
22 e-mailed her about four or five times to set up a meeting
23 with you?

24 A. No, ma'am. She told me but, you know, I told her
25 that she would have to speak to you because you already

1 had my statement.

2 Q. Right. So did she ever tell you that I attempted
3 to call her to schedule a meeting with you?

4 A. You already had my statement.

5 MS. BROWN: Objection, Your Honor. Once again,
6 it's irrelevant.

7 THE COURT: She can ask the question. Overruled.

8 MS. SAVAS: Thank you, sir.

9 Q. Did she ever relay the message that I called her to
10 set up a meeting with you? Yes or no, sir.

11 A. She told me.

12 THE COURT: All right. Let's take a break.

13 Ladies and gentlemen, I'm going to send you to the
14 jury room while I take up a matter with the attorneys.
15 Thank you. Please do not discuss anything about the case
16 while you are out.

17 (WHEREUPON, the jury leaves the courtroom at
18 approximately 12:20 p.m.)

19 THE COURT: All right. You all may be seated.

20 All right. I've admonished y'all before about
21 making faces, and every time I rule on something I hear a
22 rumble from your side. You know, if you want to talk
23 about something you do it quietly, but every time I make
24 a ruling I hear a rumble. If you want to appeal this
25 when it's over with that's up to you but I'm not going to

1 have just jumping together quarreling -- not quarreling,
2 complaining about my ruling each time. You understand
3 that? Do y'all understand that?

4 MS. BROWN: Certainly, Your Honor.

5 THE COURT: And that applies to you, too. Okay?

6 MS. SAVAS: Yes, sir.

7 THE COURT: All right. Let's bring our jury back.

8 MS. BROWN: Your Honor, before they come back I
9 just want to once again put on the note of my objections.
10 She's now getting to attorney-client privilege questions.

11 THE COURT: Well, she's asking general questions
12 that you brought it up inferring that because they did
13 not call him that they must not -- he must have
14 information that's contrary. They are allowed to go into
15 that, and that's apparently what she's doing, and I've
16 overruled you three straight times on that. So I'm going
17 to allow her to go into it.

18 You are about done with that; is that correct?

19 MS. SAVAS: Yes, sir.

20 MS. BROWN: Thank you.

21 THE COURT: Thank you. Bring our jury back.

22 (WHEREUPON, the jury enters the courtroom at
23 approximately 12:22 p.m.)

24 THE BAILIFF: All seated, Your Honor.

25 THE COURT: All right. Thank you. You may be

1 seated.

2 You may proceed --

3 MS. SAVAS: Thank you, Your Honor.

4 THE COURT: -- as instructed.

5 BY MS. SAVAS:

6 Q. Mr. Sanders, in your first phone call with my
7 investigator you did not have an attorney at that time,
8 did you?

9 A. Yes.

10 Q. Were you represented by Ms. Pizarro at that time?

11 A. Yes.

12 Q. Okay. Well, Mr. Sanders, you never did make the
13 opportunity or have the opportunity to meet with me, did
14 you?

15 A. No.

16 Q. Okay. And, Mr. Sanders, you are not actually
17 charged with anything in this case, are you?

18 A. No.

19 Q. Okay. Mr. Sanders, you said you got home about
20 4:00 p.m. that night, correct?

21 A. Yes, ma'am.

22 Q. Was it still light out at that time?

23 A. Yes, ma'am.

24 Q. Did you notice anyone across the street at that
25 time?

1 A. No, ma'am.

2 Q. The neighbors across the street, have you ever had
3 any problems with them?

4 A. Since before that happened?

5 Q. Yes, sir.

6 A. No, ma'am.

7 Q. Okay. Have you had any problems with any visitors
8 that they've had at their homes before this?

9 A. No, ma'am.

10 Q. Do they often have people coming in and out of
11 their house?

12 A. Yes, ma'am.

13 Q. And that counts for that house directly across from
14 you and then the red one on the right of it; is that
15 correct?

16 A. Yeah.

17 Q. So it's not really unusual that they would have
18 people over the day after Christmas, is it?

19 A. They have people there all the time. It's a lot of
20 traffic come to that house.

21 Q. Okay. Mr. Sanders, you mentioned that Defendant's
22 Exhibit Number 1 -- or, I'm sorry, Number 7. This isn't
23 actually accurate of what it looked like that day, did it
24 -- was it?

25 A. No, ma'am.

1 Q. So we won't use that. I'm going to show you a
2 photo, State's Exhibit Number 31. Is this a more
3 accurate depiction of how that house across the street
4 looked that night?

5 A. That's not the house you asked me about.

6 Q. Yes, sir. Then is this the -- this house right
7 there, is that the same one in that photo?

8 A. Well, yeah. That's the house -- I mean, I thought
9 you was asking me about the other house.

10 Q. No, sir. Just about this area here.

11 A. Okay.

12 Q. Does that -- that photo was taken the night of
13 incident. Does that seem accurate to you?

14 A. Uh-huh.

15 Q. Okay. And, Mr. Sanders, there's these bushes right
16 here, correct?

17 A. Uh-huh.

18 Q. And how long would you say you were on the porch
19 before your brother, Rhajon, went out there?

20 A. About two or three hours.

21 Q. Okay. And in those two or three hours did you see
22 anyone in and out of the houses across the street at all?

23 A. I wasn't paying attention.

24 Q. Okay. You weren't paying attention to the houses
25 across the street when you were out there alone?

1 A. I was on the phone.

2 Q. Okay. And, Mr. Sanders, showing you State's
3 Exhibit 34. It seems to be a continuation of this bush
4 here. Is this -- show you if that is that house across
5 the street. Is that that same bushes? Oh, zoom out a
6 little bit. I'm sorry, y'all. There you go. So those
7 are the same buses in that original photo? Does this
8 seem accurate to you as well?

9 A. Yes.

10 Q. And do you recall seeing those recycling bins that
11 were there that night as well?

12 A. It wasn't in that spot.

13 Q. Okay. But they were out there in that yard?

14 A. Yes, ma'am.

15 Q. And then from this photo that -- the house that you
16 call vacant, that's on this side behind here, correct?

17 A. That's not the house.

18 Q. Which house would you say that was vacant? Was it
19 on the right or left of this house?

20 A. It's on the left.

21 Q. Okay. So just we are going to clarify. These are
22 those bushes. It would be over here then, behind these
23 bushes?

24 A. Could you move that picture to the right?

25 Q. Yes, sir. This one?

- 1 A. No. Just move that picture.
- 2 Q. This way?
- 3 A. Where that gray right there at.
- 4 Q. This?
- 5 A. Yes. That's the house.
- 6 Q. Okay. And were you outside, Mr. Sanders, when it
- 7 got dark out that night?
- 8 A. Yes, ma'am.
- 9 Q. Okay. And do you recall that the house across the
- 10 street had their porch lights on?
- 11 A. I wasn't paying attention.
- 12 Q. So you are not for sure if they had their porch
- 13 lights on across the street or not?
- 14 A. I mean, I don't think they even had the porch light
- 15 on. They don't -- I mean, like I said, they don't really
- 16 keep their porch light on from --
- 17 Q. But you weren't really paying attention?
- 18 A. Yeah.
- 19 Q. Okay. And do you recall seeing someone coming out
- 20 of that house at a certain time?
- 21 A. No, ma'am.
- 22 Q. Okay. Do you recall seeing someone across the
- 23 street at all?
- 24 A. You talking about at that house?
- 25 Q. Yes, sir.

1 A. No, ma'am.

2 Q. How about anywhere near that house?

3 A. To the left, [REDACTED]

4 Q. Yes. Do you recall seeing anyone outside over
5 there?

6 A. Yeah.

7 Q. Okay. Mr. Sanders, this is State's Exhibit 14.

8 Although the sidewalk clearly wasn't there at that time
9 are you saying someone was over here? Could you please
10 point exactly where you saw this person standing.

11 A. I can't tell. The picture kind of blurry. I can't
12 tell what I'm looking at.

13 Q. Sometimes those lights are really hard to see on
14 those things.

15 (A picture was handed to witness.)

16 A. Where he was standing at is not in this picture.

17 Q. Which way?

18 A. To the left.

19 Q. To the left. Was he standing near those bushes,
20 Mr. Sanders?

21 A. No, ma'am.

22 Q. Mr. Sanders, you said that you did notice someone
23 there though?

24 A. I noticed someone in front of [REDACTED]

25 Q. But he was across the street, correct?

- 1 A. Uh-huh.
- 2 Q. He was not in your yard, correct?
- 3 A. No, ma'am.
- 4 Q. He was not in the street, was he?
- 5 A. He was on the side.
- 6 Q. But he was not in the street, correct?
- 7 A. He approached the street.
- 8 Q. But he wasn't in the road?
- 9 A. No.
- 10 Q. Okay. And you said it was very dark outside that
- 11 you couldn't even really see his face, right?
- 12 A. I could see who -- like, his silhouette.
- 13 Q. So you could see a silhouette but you couldn't
- 14 really see details though of someone, could you?
- 15 A. Uh-uh.
- 16 Q. Okay. And how long do you think that he was
- 17 actually out there while you were out there?
- 18 MS. BROWN: Objection.
- 19 THE COURT: Overruled.
- 20 MS. BROWN: Calls for speculation.
- 21 THE COURT: She can ask him the period of time that
- 22 he was there. Overruled.
- 23 A. I don't know.
- 24 Q. Five minutes, an hour, 20 minutes.
- 25 MS. BROWN: Objection. He's answered the question.

1 THE COURT: He said he doesn't know.

2 Q. But you did notice that someone was standing there
3 across the street while you were out there alone on the
4 porch?

5 A. Yes, ma'am.

6 Q. You didn't bring a gun on the porch, did you?

7 A. No, ma'am.

8 Q. Do you ever carry a firearm on your porch?

9 A. Not -- no.

10 Q. And after you noticed that man standing over there
11 did your brother come outside?

12 A. I turned on the porch light.

13 Q. You turned on your porch light?

14 A. Yes.

15 Q. Okay. When did you turn on the porch light, when
16 you brother came outside?

17 A. Before.

18 Q. Before. So you just weren't sitting in the dark?

19 A. I turned on the porch light once I noticed the guy
20 was standing in front of [REDACTED]

21 Q. Okay. And when you turned on that porch light is
22 that when your brother came outside or how -- when did
23 your brother come outside?

24 A. Maybe 15, 20 seconds after that.

25 Q. Okay. But before you turned your porch light on

1 the man across the street was already there, right?

2 A. Yeah.

3 Q. Okay. And that man across the street never said
4 anything you to you, right?

5 A. No.

6 Q. He's never threatened you in any way, right?

7 A. No.

8 Q. He never came out waiving his hands or doing
9 anything to get your attention, right?

10 A. No.

11 Q. He was just minding his own business, right?

12 A. I don't know. I mean, from what I can tell he was
13 looking in our direction.

14 Q. Okay, but you couldn't exactly see his face to know
15 specifically where his eyes were?

16 A. Where his body was positioned it was facing our --

17 Q. The silhouette you could notice?

18 A. Right.

19 Q. Okay. And but he never pointed a gun at you,
20 right?

21 A. No.

22 Q. He never pointed any weapon at you, right?

23 A. I'm not -- I don't know if he had a weapon.

24 Q. You are not even sure if he even had a weapon,
25 right?

- 1 A. I mean, all he did is reach down --
- 2 Q. Just about this particular point, though, you were
- 3 not sure whether he had a weapon, correct?
- 4 A. I don't know what he had.
- 5 Q. Okay. And, Mr. Sanders, on direct you stated that
- 6 he started advancing to you; is that correct?
- 7 A. Yes, ma'am.
- 8 Q. And but he never crossed the street, right?
- 9 A. He was in the street.
- 10 Q. You are saying that he now was in the road?
- 11 A. Yeah. When he approached he was in the street.
- 12 Q. But you never told officers in your statement that
- 13 night that he was in the road, did you?
- 14 A. All I said is he approached.
- 15 Q. Okay. But you never clarified that he crossed the
- 16 street to the officers when they asked you in your
- 17 interview, didn't you?
- 18 A. No, I didn't --
- 19 Q. So that is something that we are hearing for the
- 20 first time today as you are taking this stand, correct?
- 21 A. Yes.
- 22 Q. Okay. Mr. Sanders, were you scared the entire time
- 23 you were outside on your porch?
- 24 A. I was scared once I saw him reach for something.
- 25 Q. So that was the moment that you felt that you were

1 nervous or scared?

2 A. No. I was nervous when I saw when he wasn't
3 answering my brother's calls to see if he was all right.

4 Q. But when you were on the porch alone prior to your
5 brother and the interaction you were not scared, were
6 you?

7 A. Once I realized who -- you know, somebody was over
8 there that's when I got nervous.

9 Q. Okay. Mr. Sanders, you testified that you did call
10 911, didn't you?

11 A. Yes.

12 Q. Okay. But you didn't call 911 for suspicious
13 behavior, did you?

14 A. No.

15 Q. You only called 911 after your brother shot
16 Nicholas, didn't you?

17 A. Yes.

18 Q. So you never felt the need to call 911 for such
19 suspicious behavior?

20 A. It happened so fast.

21 Q. Okay. But he was out there for a few minutes then
22 prior to you even calling 911, didn't you -- wasn't he?

23 MS. BROWN: Objection. That's not in evidence. He
24 said he --

25 THE COURT: She's asking the question. She can ask

1 the question. It's cross-examination. Overruled.

2 MS. SAVAS: Thank you, sir.

3 A. Repeat the question.

4 Q. You never called 911 prior to the shooting though,
5 right?

6 A. No.

7 Q. Okay. And all that time that the man across the
8 street was there you never called 911, did you?

9 A. I mean, it happened so fast. Once I noticed the
10 guy was across the street looking suspicious and in front
11 of a vacant house I turned on the porch light.

12 Q. So you had time to turn on the porch light but you
13 did not have time to call the police?

14 A. I mean, it happened so fast like.

15 Q. It didn't happen fast enough for you to walk inside
16 your house and turn the light on though, right?

17 MS. BROWN: Objection, Your Honor, argumentive.

18 THE COURT: Overruled.

19 A. The porch light is not in the house.

20 Q. There's a switch then outside to turn it on?

21 A. Yes.

22 Q. Okay. But you had time to go reach near that
23 switch?

24 A. It's right there.

25 Q. Okay. But your door wasn't locked when you were

1 outside, was it?

2 A. No.

3 Q. Okay. And you had your phone on you while you were
4 outside on the porch, right?

5 A. Yes.

6 Q. Okay. So you had your phone on you at that time
7 but you still did not call 911, right?

8 A. I was smoking a cigarette so. . .

9 Q. But you never took that time that you apparently
10 were so scared to actually call 911 with the phone
11 already in your hand outside?

12 MS. BROWN: Objection, Your Honor. That's not his
13 testimony. He said he was --

14 THE COURT: Overruled.

15 A. Repeat the question.

16 Q. You actually never took the time when you claimed
17 to be so scared to call 911 with a phone that you already
18 had on you; is that correct?

19 A. I was just nervous when I saw the guy.

20 Q. You were only nervous when you saw him though?

21 A. I was nervous when I noticed that some guy was in
22 the front of a vacant house.

23 Q. But weren't deathly afraid, were you?

24 A. Not until he reached down.

25 Q. Okay. You said, Mr. Sanders, that your brother

1 asked the -- asked Nicholas, the victim, if he was okay;

2 is that correct?

3 A. Yes.

4 Q. Did he seem to be in distress at all?

5 A. Who?

6 Q. Nicholas.

7 A. He was just standing there looking suspicious.

8 Q. But he wasn't in any distress for the need to ask

9 if someone is okay, was he?

10 A. I mean, you over there looking suspicious in front

11 of a vacant house you have to see if you are all right.

12 Q. This vacant house real quick. Mr. Sanders, you

13 actually never went inside that house before, did you?

14 A. No.

15 Q. So you actually don't know whether someone was

16 inside there, do you?

17 A. There's nobody that lived in that house.

18 Q. Not that you are aware of, right?

19 A. No. I know no one stayed in that house.

20 Q. Okay. But you've never actually been inside that

21 house though, right?

22 MS. BROWN: Objection, asked and answered.

23 THE COURT: Overruled.

24 A. I looked through the windows.

25 Q. Okay. But not that night you didn't, did you?

1 A. No.

2 Q. Okay. Mr. Sanders, did you notice children in the
3 yard as well as that other man nearby?

4 A. There was nobody else outside.

5 Q. At any point in time during this incident did you
6 notice two children coming out of that beige-yellow color
7 house?

8 MS. BROWN: Objection. I don't think that's in
9 evidence.

10 THE COURT: Well, this is cross-examination.

11 MS. BROWN: No one testified to that.

12 THE COURT: She can ask the question. Overruled.

13 A. What did you say?

14 Q. I'm sorry?

15 A. Repeat the question.

16 Q. Did you notice any children coming out of the house
17 across the street from you during this incident?

18 A. I didn't see anybody come outside.

19 Q. Did you notice the two children that go from that
20 yellow house to the red house on the right?

21 A. I didn't see anybody outside.

22 Q. State's Exhibit 14, did you see two children run
23 out from this house to the house over here then?

24 A. I saw nobody else outside.

25 Q. Okay. Hmm. Mr. Sanders, you saw your brother

1 shoot Nicholas, didn't you?

2 A. Uh-huh.

3 Q. Okay. And he shot him after you say that he was
4 waiving his hands and asking questions, right?

5 A. No.

6 Q. When did he shoot him?

7 A. When he reached.

8 Q. But that was after he asked him questions though,
9 correct?

10 A. Yeah, that was when I think he was trying to get
11 his attention.

12 Q. And that's as your brother is walking toward your
13 mailbox you said, right?

14 A. No. He didn't shoot him when he walking towards
15 the mailbox.

16 Q. Right, but your brother did walk towards the
17 mailbox though in an effort to get his attention you
18 said, on direct, right?

19 A. Yes.

20 Q. And after that point is when your brother shot him,
21 right?

22 A. No. He shot him after he reached for his -- like,
23 reached in his pants.

24 Q. I understand that. I just want to make very clear
25 here, Mr. Sanders, so your brother walked towards y'all's

1 mailbox, correct?

2 A. Uh-huh.

3 Q. After that point -- I'm not talking about Nicholas,
4 after that point is when your brother shot Nicholas or
5 did he shoot Nicholas before he walked to the mailbox?

6 A. No. He walked to the mailbox and still was trying
7 to get the guy's attention and when Nicholas went down
8 and went in his pants, reached towards his belt, he
9 approached the street, that's when my brother backed up
10 and shoot him.

11 Q. Now, at first -- now you just said he reached in
12 his pants but at first you testified that he actually
13 reached towards his waistband. Which one is it?

14 A. It's like towards his waistband. Like he was going
15 toward his pants.

16 Q. So you didn't actually see him reach in his pants,
17 did you?

18 A. He reached toward his waistband, so with the hoodie
19 on it looked like he was going inside his pants.

20 Q. Okay. But he didn't actually reach inside his
21 pants, did he?

22 A. He reached toward his waistband.

23 Q. But it's a yes or no question, sir. I just want to
24 clarify. Did you see him physically put hand in his
25 pocket?

- 1 A. Not in his pocket.
- 2 Q. Okay. Not in his pants either, did you?
- 3 A. No.
- 4 Q. Okay. And, Mr. Sanders, what color shirt was the
- 5 victim wearing that day?
- 6 A. It was in all black.
- 7 Q. But it was really dark so it could have been navy
- 8 blue, correct?
- 9 A. I mean, it could have been.
- 10 Q. And, Mr. Sanders, did you tell your brother to
- 11 shoot Nicholas?
- 12 A. No.
- 13 Q. Did anyone tell your brother to shoot Nicholas?
- 14 A. No.
- 15 Q. So your brother decided to shoot Nicholas on his
- 16 own choice, correct?
- 17 A. No. He was scared. That's why he shot him.
- 18 Q. But no one told him to shoot him, did they?
- 19 A. No.
- 20 Q. How many times did your brother shoot Nicholas?
- 21 A. I heard three or four shots.
- 22 Q. How many times did your brother shoot Nicholas
- 23 after Nicholas hit the ground?
- 24 A. He stopped.
- 25 Q. Are you sure that he stopped or could it be

1 possible that he hit the ground and continued firing?

2 A. No. Like, he stopped. When Nicholas fell he
3 stopped.

4 Q. Do you know on exactly which time your brother shot
5 Nicholas that hit him?

6 A. No.

7 Q. Did you see Nicholas fall to the ground,
8 Mr. Sanders?

9 A. Yes.

10 Q. Did you see him fall in front of the bushes,
11 Mr. Sanders?

12 A. No.

13 Q. Did you see him in that area when he fell though?

14 A. No.

15 Q. Where did he fall to the ground, Mr. Sanders?

16 A. He fell in front of [REDACTED]

17 Q. Okay. I need some clarification here. I'm trying
18 to find exactly -- I believe you were using this picture,
19 although it is inaccurate. Mr. Sanders, you said he fell
20 -- where did he fall, at this circle that you made
21 previously?

22 A. Uh-huh.

23 Q. Or did he possibly go over here?

24 A. No. He fell down and he crawled.

25 Q. And when you approached the victim lying on the