

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Honorable Alex Kinlaw, Circuit Court Judge

DAVID A. YOUNG,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-002043

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2013-GS-23-010607
COUNTY OF GREENVILLE	)	2013-GS-23-010608
	)	
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DAVID ADAM YOUNG,	)	
DEFENDANT.	)	
	)	

February 9, 10 and 11, 2015
Greenville, South Carolina

B E F O R E:

THE HONORABLE R. KEITH KELLY, JUDGE; and a jury

A P P E A R A N C E S:

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Assistant Solicitors

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Attorney for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

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P R O C E E D I N G S

MONDAY, FEBRUARY 9, 2015

1
2
3 THE COURT: Ladies and Gentlemen, my name is Keith
4 Kelly. I'm one of your Circuit Court judges here in the
5 State of South Carolina. I'm from the Spartanburg County
6 area and I'm generally assigned to the Seventh Judicial
7 Circuit, but Circuit Court judges do just that, they ride a
8 circuit. So I'm usually in a different county every week.
9 I've been close by this calendar year, but that's usually
10 not the case. I'm scheduled to be on the coast some and
11 the middle of the state, but so far in 2015, I've been able
12 to sleep in my bed every night, so it's been a good year so
13 far.

14 Anyway, I am in the Spartanburg County area in the
15 Seventh Circuit assigned over here for our General Sessions
16 Court, which is criminal court, this week. I think there
17 are two of us who are assigned to trials, that would be
18 myself and Judge Hall who's from the York County area, and
19 I believe Judge Miller is taking pleas; is that right,
20 Solicitor?

21 MR. WESTON: Yes, sir.

22 THE COURT: Judge Miller, who is one of your local
23 resident judges, is taking pleas here in this courthouse,
24 so we're busy. And then also, I saw Judge Maddox's name on
25 the door, so he's here, I think, in common pleas or civil

1 matters. So have a lot going on here at the courthouse
2 this week.

3 Again, my name is Keith Kelly, and I'm one of your
4 Circuit Court judges. This will be a one-week term of
5 court. Your term of court will end on Friday. I don't
6 anticipate anything running into the weekend, but if it
7 does, it does. It hasn't happened to me yet, but I know it
8 will happen sooner or later. But it is for a one-week
9 term.

10 I will tell you for myself, and this does not apply to
11 all judges, but from time to time when you see me standing,
12 I will leave this chair and stand a lot. I tend to do that
13 in a trial, and I tell you that because I don't want you to
14 place any significance whatsoever on a witness's testimony
15 or credibility as to whether or not the judge is standing
16 or sitting. Me not sitting in that chair means I don't
17 like to sit in a chair, and I don't. And I stand a lot.
18 So you will see me throughout the trial, majority of the
19 trial, I will stand sometimes, I'll lean on the back of the
20 chair. But I ask that you place no significance to whether
21 or not a witness is credible or not credible with the fact
22 that I am sitting or standing.

23 We are about to begin the trial in the matter of the
24 State of South Carolina vs. David Adam Young. Mr. Young is
25 seated at the counsel table here with his lawyer on the

1 left. I'll let him introduce himself in just one moment.

2 The State alleges in indictment 2013-10607 that
3 Mr. Young did, in the County of Greenville, State of South
4 Carolina, on or about the 13th day of January of 2013
5 unlawfully and with malice aforethought kill the victim,
6 Marcus McGee, by means of shooting him, and that he died as
7 a result of that. Also -- we're going forward on just that
8 count?

9 MR. WESTON: I'm sorry, Your Honor?

10 THE COURT: It's a two-count indictment. We're going
11 only on the one count?

12 MR. WESTON: No. We're proceeding on the other count
13 as well, Your Honor.

14 THE COURT: Count 2 of the indictment alleges that
15 Mr. Young did, in the County of Greenville, State of South
16 Carolina, on or about the same day possess or visibly
17 display a handgun during the commission or attempted
18 commission of a violent crime, that being murder, all in
19 violation of South Carolina law.

20 Now, I tell you that Mr. David Adam Young has entered
21 a plea of not guilty to both of those offenses, and he is
22 presumed to be not guilty of both offenses. And the burden
23 rests entirely with the State of South Carolina to prove
24 his guilt beyond a reasonable doubt as to each and every
25 element, and we'll talk more about that later on. Again, I

1 charge you and tell you that he is presumed not guilty.

2 JURY QUALIFICATION

3 THE COURT: Now, at this point in time, you have
4 previously been sworn, and you remain under oath. There
5 are a series of questions that I have to ask similar to the
6 ones that were asked previously this morning to determine
7 your ability to serve as jurors, but then my questions are
8 to this particular case. And here are the questions that
9 I'm required to ask. Has any member of the jury ever been
10 related by blood or marriage to David Adam Young? If so,
11 please stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Has any member of the jury ever been
14 related by blood or marriage to Marcus McGee? Am I saying
15 that correctly?

16 MR. WESTON: Yes, sir, Your Honor. McGee.

17 THE COURT: Marcus McGee. If so, please stand.

18 (WHEREUPON, there was no response.)

19 THE COURT: Has any member of the jury ever had a
20 close personal or social relationship with David Adam Young
21 or Marcus McGee? If so, please stand. I'm sorry. I have
22 somebody?

23 JUROR #106: I have a question.

24 THE COURT: Sir, if you could tell me your juror
25 number, please.

1 JUROR #106: Juror 106.

2 THE COURT: 106.

3 JUROR #106: Is he from Piedmont, South Carolina?

4 THE COURT: I don't have a clue.

5 Mr. Chambers?

6 MR. CHAMBERS: He is from Piedmont, Your Honor.

7 THE COURT: He is from Piedmont, South Carolina.

8 JUROR #106: We grew up in the same neighborhood, sir.

9 THE COURT: The fact that you know him and grew up in
10 the same neighborhood, would that interfere with your
11 ability to give both the State and the defense a fair
12 trial?

13 JUROR #106: No, sir.

14 THE COURT: It would not. You may stay with us.

15 Thank you.

16 Anybody else?

17 The following will be a list of potential witnesses in
18 this case: Elisha Green; Tyronzo Walker; David Walker;
19 Keith Smith; Robert Bowens; Porchae Adams; Andrea Crossman;
20 Vertice Thomas; William Watkins with Greenville County
21 Sheriff's Department; Gaston Martinez, again, with the
22 Sheriff's Department; Brian Matthew Holman with the
23 Sheriff's Department; Brandon Napolitano -- am I saying
24 that correctly? -- with the sheriff's department; Iona
25 Ooten; Kara Bennick with Greenville County; Jagannadha ---

1 MS. MAJOR: Department of Public Safety.

2 THE COURT: Department of Public Safety. Kanda ---

3 MS. MAJOR: Kandala.

4 THE COURT: --- Kandala with the Department of Public
5 Safety; Adam Davis, Greenville County Department of Public
6 Safety Forensics; Dar Shaw, Greenville County; James
7 Armstrong, Greenville County; Dr. James Fulcher, Greenville
8 County Medical Examiner; John Vandermosen, Greenville
9 County DPS; Jared Johnson, Greenville County; Devin Hoover,
10 Greenville County; Brian Osborne, Greenville County; Lloyd
11 Newman, Greenville County; and Anthony Allen. Those are
12 the potential witnesses that I am aware of. Ladies and
13 gentlemen, has any member of the jury panel ever been
14 related by blood or marriage to any of those individuals?
15 If so, please stand.

16 (WHEREUPON, there was no response.)

17 THE COURT: Any member of the jury panel have a close
18 or personal relationship with any of those individuals? If
19 so, please stand.

20 Yes, sir. Your number?

21 JUROR #120: 120.

22 THE COURT: 120. Yes, sir.

23 JUROR #120: I have worked with Robert Bowens.

24 THE COURT: Would that interfere with your ability to
25 give both sides a fair and impartial trial?

1 JUROR #120: No, Your Honor.

2 THE COURT: You may stay with us. Thank you.

3 Anybody else?

4 I'm going to ask the lawyers to introduce themselves.

5 Solicitor?

6 MR. WESTON: Thank you, Your Honor. My name is Jeff

7 Weston. I am a prosecutor with the 13th Circuit

8 Solicitor's office. Seated at the table with me is my

9 co-counsel, Ms. Elizabeth Major.

10 THE COURT: Mr. Chambers?

11 MR. CHAMBERS: My name is Randy Chambers. I practice

12 law here in Greenville, and I also do part-time work with

13 the 13th Circuit Public Defender's office. Seated beside

14 me is David Adam Young. You'll hear him referred to as the

15 defendant throughout the case.

16 THE COURT: Has any member of the jury panel ever been

17 related by blood or marriage to any of the lawyers in this

18 case? If so, please stand.

19 (WHEREUPON, there was no response.)

20 THE COURT: Any member of the jury panel have a close

21 or personal relationship with any of the lawyers in this

22 case? If so, please stand.

23 (WHEREUPON, there was no response.)

24 THE COURT: Any member of the jury panel ever

25 testified or been represented by the Solicitor's office in

1 Greenville County? If so, please stand.

2 (WHEREUPON, there was no response.)

3 THE COURT: Any member of the jury panel have a close
4 or personal friendship with anyone employed by the
5 Solicitor's Office in Greenville County? If so, please
6 stand.

7 (WHEREUPON, there was no response.)

8 THE COURT: Any member of the jury panel ever been
9 represented by Mr. Chambers? If so, please stand.

10 (WHEREUPON, there was no response.)

11 THE COURT: Any member of the jury panel have a close
12 or personal relationship with anyone employed by his law
13 firm? If so, please stand.

14 (WHEREUPON, there was no response.)

15 THE COURT: He indicated some connection to the PD's
16 office. In abundance of caution, any member of the jury
17 panel have a close or personal relationship with any person
18 employed by the Greenville County Public Defender's Office?
19 If so, please stand.

20 (WHEREUPON, there was no response.)

21 THE COURT: Is there any member of the jury panel that
22 has ever served -- let me ask it this way. Any member of
23 the jury panel a member of the grand jury for Greenville
24 County on January 13, 2013? Any member of the jury panel
25 serving on the grand jury January 13 of 2013?

1 (WHEREUPON, there was no response.)

2 THE COURT: Any member of the jury panel who was a
3 member of or a contributor to any group which has as its
4 primary concern the promotion of law enforcement or victims
5 rights? These groups include but are certainly not limited
6 to Mothers Against Drunk Driving, Students Against Drunk
7 Driving, Citizens Against Violent Crime, a member of the
8 Sheriff's Association or Highway Patrol Association or
9 otherwise. If so, please stand.

10 (WHEREUPON, there was no response.)

11 THE COURT: Any member of the jury panel have a family
12 member who is related to anyone employed by the Greenville
13 County Sheriff's Department? Please stand.

14 JUROR #74: Can you repeat that, please.

15 THE COURT: Any member of the jury panel have a family
16 member who is employed by the Greenville County Sheriff's
17 Department in any capacity, whether that be an officer or
18 an administrative person?

19 JUROR #74: I have a nephew in -- with Fountain Inn.

20 THE COURT: Okay. If you would tell me your number,
21 please.

22 JUROR #74: 74.

23 THE COURT: 74. Will that interfere with your ability
24 to give both sides a fair and impartial trial?

25 JUROR #74: No.

1 THE COURT: You may stay.

2 Yes, ma'am, in the light blue.

3 JUROR #144: 144. And my husband works for the
4 sheriff's office. He's a -- administrative job.

5 THE COURT: Would that interfere with your ability to
6 give both sides a fair and impartial trial?

7 JUROR #144: Absolutely not.

8 THE COURT: You may stay with us.

9 Yes, ma'am.

10 JUROR #104: 104. My husband is a lieutenant over
11 homicide with the Greenville County Sheriff's Office.

12 THE COURT: Would that interfere with your ability to
13 give both sides a fair and impartial trial?

14 JUROR #104: No, sir.

15 THE COURT: You may stay with us.

16 Anybody else?

17 Is there any member of the jury panel that knows
18 anything whatsoever about the facts of this case, whether
19 you saw it on TV, newspaper or whatever, Internet, whatever
20 else from 2013? If so, please stand.

21 (WHEREUPON, there was no response.)

22 THE COURT: Is there any member of the jury panel that
23 knows of any reason why he or she should not serve on this
24 jury? If so, please stand.

25 (Whereupon, there was no response.)

1 THE COURT: Questions from the State?

2 MR. WESTON: Yes, sir, Your Honor. May we reproach?

3 THE COURT: Sure.

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

5 THE COURT: I've been asked to ask an additional
6 question. Any member of the jury panel so opposed to drugs
7 or the sale of drugs or the use of drugs, drugs in general,
8 that in the event some testimony came out that the decedent
9 was involved with drugs, if that would interfere with your
10 ability to give both sides a fair and impartial trial? If
11 so, please stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Anything from the State?

14 MR. WESTON: Nothing further, Your Honor.

15 THE COURT: From the defense?

16 MR. CHAMBERS: No, Your Honor.

17 THE COURT: Okay. All right, gentlemen. It's five
18 and ten and one and two. Pick 14. Ready?

19 MR. WESTON: Yes, sir, Your Honor.

20 THE COURT: Okay. All right, Madam Clerk.

21 JURY SELECTION

22 THE CLERK: Thank you. When I call your name and your
23 number, if you'd come up, bring your personal belongings,
24 stand in the middle and face the attorneys, I'd appreciate
25 it.

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1 What says the State?

2 MR. WESTON: Present Ms. Gohs, please.

3 THE CLERK: Thank you.

4 What says the defendant?

5 MR. CHAMBERS: Swear Ms. Gohs, please.

6 THE CLERK: Thank you.

7 You may be seated in the jury box.

8 Juror No. 144, Harriet Selby.

9 (WHEREUPON, Harriet Selby, a white female, came forward.)

10 THE CLERK: What says the State?

11 MR. WESTON: Present Ms. Selby, please.

12 THE CLERK: What says the defendant?

13 MR. CHAMBERS: Excuse Ms. Selby from this case,
14 please.

15 THE CLERK: Thank you.

16 You may be seated. You're excused from the trial of
17 this case.

18 Juror No. 14, Corey Brewster.

19 (WHEREUPON, Corey Brewster, a black male, came forward.)

20 THE CLERK: What says the State?

21 MR. WESTON: Present Mr. Brewster, please.

22 THE CLERK: Thank you.

23 What says the defendant?

24 MR. CHAMBERS: Swear Mr. Brewster, please.

25 THE CLERK: Thank you.

1 You may be seated in the jury box.
2 Juror No. 104, Lorraine Matheny.
3 (WHEREUPON, Lorraine Matheny, a white female, came
4 forward.)
5 THE CLERK: What says the State?
6 MR. WESTON: Present Ms. Matheny.
7 THE CLERK: Thank you.
8 What says the defendant?
9 MR. CHAMBERS: Excuse Ms. Matheny from this case,
10 please.
11 THE CLERK: Thank you.
12 You may be seated. You're excused from the trial of
13 this case.
14 Juror No. 15, Don Bridges.
15 (WHEREUPON, Don Bridges, a white male, came forward.)
16 THE CLERK: What says the State?
17 MR. WESTON: Present Mr. Bridges, please.
18 THE CLERK: Thank you.
19 What says the defendant?
20 MR. CHAMBERS: Swear Mr. Bridges, please.
21 THE CLERK: Thank you.
22 You may be seated in the jury box.
23 Juror No. 63, James Haupfear.
24 (WHEREUPON, James Haupfear, a white male, came forward.)
25 THE CLERK: What says the State?

1 MR. WESTON: Present Mr. Haupfear, please.

2 THE CLERK: Thank you.

3 What says the defendant?

4 MR. CHAMBERS: Swear Mr. Haupfear, please.

5 THE CLERK: Thank you.

6 You make be seated in the jury box.

7 Juror No. 120, Gerald Neely.

8 (WHEREUPON, Gerald Neely, a black male, came forward.)

9 THE CLERK: What says the State?

10 MR. WESTON: Present Mr. Neely, please.

11 THE CLERK: Thank you.

12 What says the defendant?

13 MR. CHAMBERS: Excuse Mr. Neely from this case,

14 please.

15 THE CLERK: Thank you.

16 You may be seated. You're excused from the trial of
17 this case.

18 Juror No. 65, Sandra Hendrix.

19 (WHEREUPON, Sandra Hendrix, a female, came forward.)

20 THE CLERK: What says the State?

21 MR. WESTON: Present Ms. Hendrix, please.

22 THE CLERK: Thank you.

23 What says the defendant?

24 MR. CHAMBERS: Swear Ms. Hendrix, please.

25 THE CLERK: Thank you.

1 You may be seated in the jury box.

2 Juror No. 125, Thomas Parker.

3 (WHEREUPON, Thomas Parker, a white male, came forward.)

4 THE CLERK: What says the State?

5 MR. WESTON: Present Mr. Parker, please.

6 THE CLERK: Thank you.

7 What says the defendant?

8 MR. CHAMBERS: Swear Mr. Parker, please.

9 THE CLERK: Thank you.

10 You may be seated in the jury box.

11 Juror No. 180, Sheila Wolfe.

12 (WHEREUPON, Sheila Wolfe, a white female, came forward.)

13 MR. WESTON: Did you say 182?

14 THE CLERK: 180.

15 What says the State?

16 MR. WESTON: Present Ms. Wolfe, please.

17 THE CLERK: Thank you.

18 What says the defendant?

19 MR. CHAMBERS: Swear Ms. Wolfe, please.

20 THE CLERK: Thank you.

21 You may be seated in the jury box.

22 Juror No. 74, Judy Jenkins.

23 (WHEREUPON, Judy Jenkins, a white female, came forward.)

24 THE CLERK: What says the State?

25 MR. WESTON: Present Ms. Jenkins, please.

1 THE CLERK: Thank you.

2 What says the defendant?

3 MR. CHAMBERS: Excuse Ms. Jenkins from this case,
4 please.

5 THE CLERK: Thank you.

6 You may be seated. You're excused from the trial of
7 this case.

8 Juror No. 98, Sara Lochridge.

9 (WHEREUPON, Sara Lochridge, a white female, came forward.)

10 THE CLERK: What says the State?

11 MR. WESTON: Excuse Ms. Lochridge from this jury,
12 please.

13 THE CLERK: Thank you.

14 You may be seated. You're excused from the trial of
15 this case.

16 Juror No. 27, Shana Daniel.

17 (WHEREUPON, Shana Daniel, a white female, came forward.)

18 THE CLERK: What says the State?

19 MR. WESTON: Present Ms. Daniel, please.

20 THE CLERK: Thank you.

21 What says the defendant?

22 MR. CHAMBERS: Excuse Ms. Daniel from this case,
23 please.

24 THE CLERK: Thank you.

25 You may be seated. You are excused from the trial of

1 this case.

2 Juror No. 26, Terrance Cline.

3 (WHEREUPON, Terrance Cline, a black male, came forward.)

4 THE CLERK: What says the State?

5 MR. WESTON: Present Mr. Cline, please.

6 THE CLERK: Thank you.

7 What says the defendant?

8 MR. CHAMBERS: Swear Mr. Cline, please.

9 THE CLERK: Thank you.

10 You may be seated in the jury box.

11 Juror No. 157, Stacie Stegall.

12 (WHEREUPON, Stacie Stegall, a white female, came forward.)

13 MR. WESTON: 157?

14 THE CLERK: Yes, sir.

15 MR. WESTON: Thank you.

16 THE CLERK: What says the State?

17 MR. WESTON: Present Ms. Stegall, please.

18 THE CLERK: Thank you.

19 What says the defendant?

20 MR. CHAMBERS: Excuse Ms. Stegall from this case,
21 please.

22 THE CLERK: Thank you.

23 You may be seated. You're excused from the trial of
24 this case.

25 Juror No. 76, David Jones.

1 (WHEREUPON, David Jones, a white male, came forward.)

2 MR. WESTON: Excuse Mr. Jones, please.

3 THE CLERK: Thank you.

4 You may be seated. You're excused from the trial of
5 this case.

6 Juror No. 100, Betty Mapes.

7 (WHEREUPON, Betty Mapes, a white female, came forward.)

8 THE CLERK: What says the State?

9 MR. WESTON: Present Ms. Mapes, please.

10 THE CLERK: Thank you.

11 What says the defendant?

12 MR. CHAMBERS: Excuse Ms. Mapes from this case,
13 please.

14 THE CLERK: Thank you.

15 You may be seated. You're excused from the trial of
16 this case.

17 Juror 154, Larry Springgate.

18 (WHEREUPON, Larry Springgate, a white male, came forward.)

19 THE CLERK: What says the State?

20 MR. WESTON: Present Mr. Springgate, please.

21 THE CLERK: Thank you.

22 What says the defendant?

23 MR. CHAMBERS: Excuse Mr. Springgate from this case,
24 please.

25 THE CLERK: Thank you.

1 You may be seated. You're excused from the trial of
2 this case.

3 Juror No. 172, Patricia Werling.

4 (WHEREUPON, Patricia Werling, a white female, came
5 forward.)

6 THE CLERK: What says the State?

7 MR. WESTON: Present Ms. Werling, please.

8 THE CLERK: Thank you.

9 What says the defendant?

10 MR. CHAMBERS: Excuse Ms. Werling from this case,
11 please.

12 THE CLERK: Thank you.

13 You may be seated. You're excused from the trial of
14 this case.

15 Juror No. 97 Jeffrey Lesley. 97, Jeffrey Lesley?

16 (WHEREUPON, Jeffrey Lesley, a white male, came forward.)

17 THE CLERK: What says the State?

18 MR. WESTON: Present Mr. Lesley, please.

19 THE CLERK: Thank you.

20 What says the defendant?

21 MR. CHAMBERS: Swear Mr. Lesley, please.

22 THE CLERK: Thank you.

23 You may be seated in the jury box.

24 Juror No. 37, Stephen Eastland.

25 (WHEREUPON, Stephen Eastland, a white male, came forward.)

1 THE CLERK: What says the State?

2 MR. WESTON: Present Mr. Eastland, please.

3 THE CLERK: Thank you.

4 What says defendant?

5 MR. CHAMBERS: Swear Mr. Eastland, please.

6 THE CLERK: Thank you.

7 You may be seated in the jury box.

8 Juror No. 106, Jimmy Mattison.

9 (WHEREUPON, Jimmy Mattison, a black male, came forward.)

10 THE CLERK: What says the State?

11 MR. WESTON: Excuse Mr. Mattison from this jury,
12 please.

13 THE CLERK: Thank you.

14 You may be seated. You're excused from the trial of
15 this case.

16 Juror No. 12, Sheila Bracht.

17 (WHEREUPON, Sheila Bracht, a white female, came forward.)

18 THE CLERK: What says the State?

19 MR. WESTON: Present Ms. Bracht, please.

20 THE CLERK: Thank you.

21 What says the defendant?

22 MR. CHAMBERS: Swear Ms. Bracht, please.

23 THE CLERK: Thank you.

24 You may be seated in the jury box.

25 Juror No. 42, Sheila Fant.

1 (WHEREUPON, Sheila Fant, a black female, came forward.)

2 THE CLERK: What says the State?

3 MR. WESTON: Present Ms. Fant, please.

4 THE CLERK: What says the defendant?

5 MR. CHAMBERS: Swear Ms. Fant, please.

6 THE CLERK: Thank you.

7 You may be seated in the jury box.

8 Juror No. 127, David Pittman.

9 (WHEREUPON, David Pittman, a white male, came forward.)

10 THE CLERK: What says the State?

11 MR. WESTON: Present Mr. Pittman, please.

12 THE CLERK: Thank you.

13 What says the defendant?

14 MR. CHAMBERS: Excuse Mr. Pittman from this case,
15 please.

16 THE CLERK: Thank you.

17 You may be seated. You're excused from the trial of
18 this case.

19 Juror No. 193, James Wilkinson.

20 (WHEREUPON, James Wilkinson, a white male, came forward.)

21 THE CLERK: What says the State?

22 MR. WESTON: Excuse Mr. Wilkinson from this jury,
23 please.

24 THE CLERK: Thank you.

25 You may be seated. You're excused from the trial of

1 this case.

2 Juror No. 189, Brandon Kimball.

3 (WHEREUPON, Brandon Kimball, a white male, came forward.)

4 THE CLERK: What says the State?

5 MR. WESTON: Present Mr. Kimball, please.

6 THE CLERK: Thank you.

7 What says the defendant?

8 MR. CHAMBERS: Swear Mr. Kimball, please.

9 THE CLERK: Thank you.

10 You may be seated in the jury box.

11 Juror No. 140, Mickey Ryland, please.

12 (WHEREUPON, Mickey Ryland, a white male came forward.)

13 THE CLERK: What says the State?

14 MR. WESTON: Present Mr. Ryland, please.

15 THE CLERK: Thank you.

16 What says the defendant?

17 MR. CHAMBERS: Swear Mr. Ryland, please.

18 THE CLERK: Thank you.

19 You may be seated in the jury box.

20 THE COURT: Can I see the lawyers just a moment,

21 please.

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

23 THE COURT: Ladies and gentlemen, if you were not
24 selected in this case, you'll get another opportunity here
25 just momentarily. We appreciate you being here with us.

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THE COURT: Ladies and gentlemen of the jury, at this time, I'm going to give you a couple of quick pointers and instructions and then I'm going to let you go to lunch a

1 little bit early. We have some more work to do that does
2 not require your attendance. Actually, we've been here --
3 I got here about at 8:00 this morning. We've been
4 diligently working on things that do not require a juror's
5 attention. I assure you we'll do the very best we can not
6 to inconvenience you any more than jury service does
7 inconvenience someone, but we trust that you'll have an
8 enjoyable and an educational time this week.

9 Juror No. 37, Stephen Eastland, sir, Mr. Eastland, you
10 are hereby appointed the foreman of the jury. I'll have
11 more instructions for you after lunch as we go along here,
12 but at this point in time, I'll tell you that you are the
13 spokesperson for the jury. In the event that someone's car
14 would not start, if they have an emergency at home or
15 whatever has to happen, the bailiffs will interface with
16 you, and every time you return to the courtroom, I will
17 inquire of you -- I'll try to always do that -- as to
18 whether or not there is any issue whatsoever with any juror
19 that we might -- would need to address.

20 Mr. Foreman, you and my two alternates I would ask to
21 sit in assigned sitting. I think the alternates are
22 already in their assigned seating; is that correct, Paul?

23 THE BAILIFF: Yes, sir.

24 THE COURT: And the bailiff will show you the jury
25 foreman or foreperson's seat when we return. It's going to

1 be in front of you about one seat to your right there on
2 the front. The reason for that is, quite honestly, when I
3 look up, if I have to send the jury out because I have to
4 deal with a matter of law or whatever it might be, I always
5 want to know where my foreperson is, and I always want to
6 know where my alternates are.

7 Now, everybody else here is hereby made an honorary
8 member of the Rotary Club. I've been a Rotarian for over
9 25 years, and my club meets tomorrow. I don't know if I'll
10 make it or not. But anyway, you are hereby honorary
11 members of the Rotary Club. We may have some Lion's out
12 there and some others, and they're going to get mad at me
13 about that. But nonetheless, I mean by that you can sit
14 anywhere you like, okay? You can sit in the seat you're in
15 now or you can move to the left or the right. You can --
16 you don't always have to sit in the same place. Just like
17 in the Rotary Club, you sit wherever you like every week
18 when you go, so you are free to move about. But as far as
19 my foreman, my foreperson and my two alternates, I would
20 ask you to each always sit in the assigned seat.

21 I tell you that you know nothing about this case other
22 than the name of the case. The same is true of me. So
23 when I discharge you here momentarily, I would ask you not
24 to begin to deliberate, not to think about the case, not
25 even deliberate within your own mind because you truly know

1 nothing about this case, and your decision must come from
2 within this courtroom.

3 So with that, and I know you've already been
4 instructed about cell phones, but I'll give you one passing
5 on that is they are not allowed in my courtroom, and they
6 are not allowed at the courthouse, I don't think. But
7 they're not allowed in this courtroom, and they are
8 certainly not allowed on a jury. So if you have anything
9 that has communication capability, whether that's a tablet,
10 a cell phone or what have you, when you go to lunch here,
11 when you return, please, please leave that in your
12 automobile or at home or some other place. But do not
13 bring it to the jury box when you return.

14 My bailiff is going to show you your jury assembly
15 room, which is different from where you have been. It's
16 another room behind where I'm standing. When you
17 reassemble here at 2 p.m., no later than 2 p.m., when you
18 reassemble, please be in that room. I'm pretty prompt
19 about taking the bench. Unless something comes up that
20 prevents me from doing so, I intend to be right here at
21 2:00 ready for you to come in and receive some information
22 about this case.

23 I bring my lunch, and I brought my lunch today, so I'm
24 going to make friends with a microwave in a little bit.
25 I'm not going anywhere, and I'm going to be ready to go by

1 2:00. I know the lawyers will be. There could be some
2 administrative thing come up, but if so, we'll deal with
3 that as quickly as we can because we do not want to waste
4 any of your precious time whatsoever.

5 Anything before I release the jury?

6 MR. WESTON: Nothing from the State, Your Honor.

7 MR. CHAMBERS: Not from the defense, Your Honor.

8 THE COURT: Okay. If you would kindly, each and every
9 one of you kindly be back sometime before 2:00. We're all
10 adults here. I'm not going to say you've got to be back at
11 ten till or five till or one till, but please understand we
12 cannot go forward without you, so your tardiness holds up
13 your brothers and sisters on the jury and also upholds all
14 the rest of us who are here ready to go and ready to work.
15 So I ask you kindly to be back ready to go by 2:00. So
16 please get back a few minutes early so you can get the last
17 drink of water, use the facilities, make a last phone call,
18 whatever it is you have to do.

19 With that, Mr. Foreman, if you will take your jury out
20 with the bailiff to your new jury room, and that's where
21 you'll return.

22 (WHEREUPON, the jury exited the courtroom at 12:25 p.m.)

23 THE COURT: Anything from the State, gentlemen?

24 MR. WESTON: No, sir, Your Honor. We are ready to
25 proceed with the hearings if you are.

1 THE COURT: Okay.

2 (Pause in proceedings.)

3 MR. WESTON: Your Honor, we were ready to proceed with
4 Mr. Bowens, the first identification witness. He is no
5 longer outside. He is under subpoena, and we're not sure
6 where he went. He may have misunderstood instructions to
7 the family to come back at 2:00, so we're going to try and
8 call him on his cell phone and get him back here.

9 THE COURT: Okay. Anybody else?

10 MR. WESTON: I was looking for Mr. Bowens. I'll go
11 look for the other gentleman, Your Honor.

12 THE COURT: Okay.

13 (Pause in proceedings.)

14 MR. WESTON: Your Honor, we are -- Mr. Bowens
15 apparently was downstairs in the parking lot. He is on his
16 way back up. We are ready to proceed. We will call
17 Investigator Whaley first.

18 THE COURT: Okay.

19 MR. WESTON: If I could premark this for
20 identification purposes for purposes of this hearing.

21 (WHEREUPON, Plaintiff's Exhibit No. 1 was marked for
22 identification.)

23 THE COURT: Officer Whaley, if you'll come forward to
24 be sworn in.

25 ///

1 WHEREUPON,

2 ERIC WHALEY,

3 after first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WESTON:

6 Q Investigator Whaley, will you state your name for the
7 record, please.

8 A Eric Whaley.

9 Q And with whom are you employed, Investigator Whaley?

10 A Greenville County Sheriff's Office.

11 Q And how long have you been with the sheriff's office,
12 approximately?

13 A I've been with the sheriff's office since, I believe
14 it was, '98, but I have prior law enforcement experience to
15 that.

16 Q And what is your title?

17 A Currently in the Office of Professional Standards as
18 the investigator.

19 Q Have you had an occasion to prepare and conduct photo
20 lineups with victims or witnesses over the years of your --
21 over your tenure with the sheriff's office?

22 A Yes, sir.

23 Q Have you done it countless times?

24 A Yes, sir.

25 Q Did you have an occasion to conduct an interview and

1 photo lineup with a Mr. Robert Bowens on January the 13th
2 of 2013?

3 A Yes, sir.

4 Q I'm going to show you what we have -- are getting
5 marked for identification purposes as State's Exhibit 2,
6 and I want to ask you, do you recognize what it is?

7 (WHEREUPON, Plaintiff's Exhibit No. 2 was marked for
8 identification.)

9 Q And this is a copy, by the way. Do you recognize --
10 can you tell the Court what that is?

11 A This is a photo lineup with my name on it.

12 Q And is that your signature at the bottom?

13 A Yes, sir.

14 Q Now, where would the original be?

15 A Property and Evidence.

16 Q And does this copy accurately reflect the information
17 and images on the original?

18 A Yes, sir.

19 Q All right. And do you recognize your signature on the
20 document?

21 A Yes, sir.

22 Q All right. Would you tell the Court about what time
23 this was conducted?

24 A At 0813 hours.

25 Q Would you tell the Court the circumstances under which

1 it was conducted? By that, I mean where did it take place?

2 A At the Greenville County Law Enforcement Center.

3 Q And do you recognize Mr. Robert Bowens in the
4 courtroom today?

5 A I do.

6 Q Was anybody else present in the room with you and him?

7 A Master Deputy Michael McGaha.

8 Q All right. And did you -- and was it your
9 understanding that Mr. Bowens was a witness to a shooting
10 that had occurred earlier either that evening or the
11 morning before?

12 A Yes.

13 Q And prior to conducting the photo lineup, did you take
14 a statement from Mr. Bowens, interview him and take a
15 statement from him?

16 A Yes, sir.

17 Q All right. And when you conducted the photo lineup,
18 tell the Court how you generate the pictures first.

19 A Yes, sir. At the time, I was still in the homicide
20 unit, which, as the attorney spoke, I had presented several
21 photo lineups in the past. We can do it one of two ways.
22 We can do it on our desk laptop computer, or we can go to
23 the records division and have them formulated down there on
24 their large computer. I'm old-school. That's the way I
25 used to do it, so I still like to go down to the records

1 division and have them do it.

2 Basically, there's a monitor with the pictures. You
3 can go through and place in what you're looking for, for
4 instance, black male with gray hair and goatee. So you
5 formulate your queue of what you're looking for, and it
6 will pull out, let's say, 600 pictures that you can go and
7 pull from. So you go through and you'll click on the
8 pictures that you think would match the description of who
9 the person of interest is in the photo lineup, which -- as
10 I have here. So that's why you can see that they're all
11 African-American males with gray short hair, beards, gray
12 beard. That sort of thing.

13 So you go through and you do your series of pictures,
14 and then you print off a couple of copies, one with no
15 number and no name as this one here, and then you print off
16 another copy with the particular photo identification
17 number on it so if you had to go back and re-create that
18 same photo lineup, you can find these gentlemen very easily
19 based upon their picture number.

20 Q And I notice that on all the pictures, there's -- the
21 clothing they have on is blackened.

22 A Yes.

23 Q Is there a reason for that?

24 A Well, at the time, the booking, when they took the
25 photograph of an inmate, they didn't wear the black scarf

1 like you see nowadays, more popular on television. So some
2 people would have an orange jumpsuit or a gray jumpsuit or
3 a white T-shirt. So to make it systematic and formal, you
4 take a Sharpie and you would mark out their clothing so
5 everybody is basically wearing a black Sharpie shirt.

6 Q And did you do that in this case?

7 A Yes, sir.

8 Q Now, when you did this lineup, did you already have a
9 suspect named?

10 A Yes.

11 Q And who was that suspect? Was it David Young?

12 A Yes, yes. That's correct.

13 Q All right. And did you have a picture of David Young?

14 A Yes, sir.

15 Q All right. So that was the template, so to speak,
16 that you used to get together similar pictures?

17 A That's correct.

18 Q And do the pictures that we have introduced as State's
19 Exhibit No. 1 for purposes of identification for this
20 hearing represent the picture of David Young and five other
21 African-American males that you felt look similar to him?

22 A Yes, sir.

23 Q All right. How do you present the photo lineup to
24 Mr. Bowens?

25 A Well, after I have it, I explain to whoever is looking

1 at the photograph, in this case Mr. Bowens, that I have a
2 six-photo photo lineup. The subject may or may not be on
3 this photo lineup. Then once I hand it to him, I want him
4 to look at it. There will be six numbers, 1, 2, 3, 4, 5,
5 6, and if they find the person that they can identify as
6 whoever we're looking for at that particular time or that
7 case, that they would just need to take a pen, circle the
8 number, and once the person is identified, I'd have them
9 write what this person did. In this case, as you can see
10 written on this photograph, it says, "This is the shooter,"
11 the number 5 is circled, and Mr. Bowens signed it.

12 Q All right. Did you suggest to Mr. Bowens that the
13 suspect was on the -- was one of the five people?

14 A No.

15 Q One of these six people. Excuse me.

16 A No.

17 Q Do you specifically talk about that with him prior to
18 him looking at it?

19 A We do, yes.

20 Q What do you say, generally?

21 A Generally, this is a six-photo lineup, the person may,
22 may not be on here, take your time, look at it, make sure
23 that you're sure of your decisions that you make. This is
24 very important. That sort of thing.

25 Q What was Mr. Bowens' demeanor? Did he appear to be

1 sober and aware of what was going on?

2 A Yes, sir. He was very calm, very articulate, very
3 polite, had no indication at all he'd been drinking. He
4 just seemed like a very good citizen.

5 Q Did he indicate to you -- when you put it down, and
6 I'm going to be very candid, did you sort of stack the deck
7 by putting your finger on one picture as you put it down or
8 do anything that would in any way suggest to Mr. Bowens a
9 picture that you wanted him to pick?

10 A Absolutely not.

11 Q All right. Did you just set it on the table or did
12 you hand it to him?

13 A I don't remember if I slid it over to him or if I
14 handed it to him, but I, like, "Here you go. Here's --
15 here's your picture."

16 Q Do you know how long it took him to pick the
17 photograph?

18 A I didn't have it timed, but he -- less than 30
19 seconds, probably.

20 MR. WESTON: All right, sir. Thank you, sir. That's
21 all I have.

22 THE COURT: Yes, sir.

23 CROSS EXAMINATION

24 BY MR. CHAMBERS:

25 Q These images you have in front of you, that's a

1 photocopy, is it not?

2 A Yes, sir.

3 Q The original, you said, you left in Property and
4 Evidence?

5 A I believe that's -- yes. That's where it would be in
6 Property and Evidence.

7 Q So you didn't bring it to court today?

8 A No, sir. I was not aware I was even coming to court
9 today until I got here this morning at 9:00.

10 Q Were those color photos?

11 A Yes.

12 Q Were they printed out and pasted on individually or
13 were they all printed on a -- just came out printed as a
14 sheet with six pictures on it?

15 A It comes out just like this. This is a sheet.

16 Q Except they were color?

17 A Yes.

18 Q So you can see a difference in complexion and things
19 like that on the original?

20 A Compared to this, yes, sir.

21 Q And so that's what you actually showed Mr. Bowens in
22 this case?

23 A Correct. This is a copy of it.

24 Q And what you showed him was just that one sheet of
25 paper with those six pictures on it; is that accurate?

1 A Yes.

2 Q And you didn't pull pictures up individually one at a
3 time for him to look at those; is that correct?

4 A We don't do it that way, no.

5 Q But that is a method that's used, is it not, where you
6 show pictures one at a time?

7 A No.

8 Q You're not familiar with that method?

9 A Since I've been doing photo lineups for 15 years,
10 probably, I've never done a -- show a picture. That's just
11 not the way we do it.

12 MR. CHAMBERS: Okay. That's all the questions I have
13 for you.

14 THE COURT: Anything further?

15 MR. WESTON: Nothing further for this witness, Your
16 Honor.

17 THE COURT: Sir, you may step down.

18 THE WITNESS: Thank you.

19 WHEREUPON,

20 ROBERT BOWENS,
21 after first having been duly sworn, testified as follows:

22 THE CLERK: Thank you. You may be seated.

23 Would you please state your name for the record.

24 THE WITNESS: Robert Bowens.

25 THE CLERK: Thank you.

1 THE COURT: Solicitor?

2 MR. WESTON: Thank you, sir.

3 DIRECT EXAMINATION

4 BY MR. WESTON:

5 Q Mr. Bowens, just to sort of get straight to the heart
6 of this, were you, in fact, present at the shooting of --
7 at the time Marcus McGee was shot back in January of 2013?

8 A Yes, sir.

9 Q You were a bouncer at the club, I think; is that
10 correct?

11 A I was.

12 Q And about how far away were you from the shooting?

13 A Probably ten feet.

14 Q All right. And did you have an occasion to see the
15 person that you believe fired the shots that night?

16 A I saw him earlier that night before the shooting.

17 Q Did you see him right after the shooting ---

18 A I did.

19 Q --- standing over the body, so to speak?

20 A I did.

21 Q All right. On those two occasions, did you have a
22 good opportunity to view him and to see him?

23 A Yes.

24 Q When you saw him earlier in the evening, did you see
25 him as part of your job as a bouncer at the club?

1 A I did.

2 Q How close did you get to him?

3 A I searched him before he actually came in the club.

4 Q So you were basically body-to-body with him?

5 A Yes, sir.

6 Q All right. After the shooting, did you have an
7 occasion to be interviewed by Detective Whaley with the
8 sheriff's office?

9 A I did.

10 Q And did you have an occasion to be presented with a
11 photo lineup?

12 A I did.

13 Q Would you tell the Court the circumstances under how
14 that took place? Were y'all in a -- sort of an
15 interrogation room or a small room or something at the Law
16 Enforcement Center?

17 A We were in one of the back offices.

18 Q All right. And I'm going to let you look at what has
19 been marked as State's Exhibit No. 1 for identification
20 purposes for purposes of this hearing and ask you, do you
21 recognize the signature on here?

22 A That is my signature.

23 Q All right. That's just a copy; is that correct?

24 A Yes, sir. Just a copy.

25 Q And what is written above that?

1 A "This is the shooter."

2 Q And did you write that?

3 A I did.

4 Q All right. Now, tell the Court how you came to get
5 that piece of paper. Did Investigator Whaley present it to
6 you or did you produce it yourself or what?

7 A No. It was presented to me after I sat down.

8 Q All right. And did he tell you anything before he
9 presented it to you?

10 A The only thing he told me, "I'm presenting you with a
11 sheet of paper with different pictures." I'm not exactly
12 sure of the words. "Just pick out the gentleman that you
13 think was the shooter in the lineup."

14 Q Did he tell you that the suspect was, in fact, on that
15 -- one of the six?

16 A He didn't.

17 Q Did he say he might not be?

18 A Yeah. He said he might not be. He didn't say if he
19 was or wasn't. He just said, "He might not be on it."

20 Q Did he do anything to suggest to you what picture you
21 should pick ---

22 A No, sir.

23 Q --- like put his finger on one or sort of point you to
24 one or concentrate on any of them?

25 A He picked it up and he handed it over to me, I'm

1 across from him, and set it down in front of me
2 (demonstrating).

3 Q All right. And did he do any kind of head nods or
4 anything to signal to you what he wanted -- that he wanted
5 you to even pick one?

6 A No, sir.

7 Q Did you have a chance to look at the picture -- the
8 pictures thoroughly?

9 A I did.

10 Q And were you able to identify a suspect?

11 A I was.

12 Q All right. And did you, at that point, circle the
13 number?

14 A I did.

15 Q What number did you circle?

16 A I circled No. 5.

17 Q All right. Was that the man you believe that you saw
18 that you patted down at the club and that you later saw
19 involved in the shooting with Marcus McGee?

20 A Yes, sir.

21 Q Was there anything done by Investigative Whaley that
22 would suggest to you -- that was suggested to you or that
23 in any way intimidated or suggested that you pick one
24 person over the other?

25 A No, sir.

1 Q All right. Did all the pictures generally look alike
2 to you?

3 A They certainly did. I almost didn't find him because
4 at -- that night he was a little more scruffier. So the
5 picture was a little cleaner, so I almost didn't see it,
6 but I looked back at it.

7 MR. WESTON: All right. Thank you, sir. That's all I
8 have.

9 MR. CHAMBERS: No questions, Your Honor.

10 THE COURT: No questions.

11 Sir, you may step down. please be careful.

12 THE WITNESS: Thank you, sir.

13 MR. WESTON: Nothing further from the State, Your
14 Honor.

15 THE COURT: Yes, sir. Anything?

16 MR. CHAMBERS: Your Honor, my only concern is that
17 they don't have the original. It would seem to me that for
18 the Court to make a decision, we need to see what the
19 witness actually looked at. So that would be my objection
20 to that coming in. Just our position would be the Court is
21 not in a position to make a decision without actually
22 looking at the photo lineup that was presented to the
23 witness.

24 THE COURT: All right. Well, Mr. Solicitor?

25 MR. WESTON: Your Honor, we think that the photos,

1 even though they are black-and-white and are copies, give
2 the Court a clear indication that they are similarly --
3 that all six pictures are of similar African-American males
4 with full -- with at least semi-full beards and mustaches,
5 none of them are -- their haircuts are almost exactly the
6 same, the length of their hair, their features are the
7 same, none of them are wearing beards. None of them wear
8 glasses or any other -- have any other distinction between
9 their faces, Your Honor. I don't think that Neil vs.
10 Biggers standard requires that they look like six twins.
11 However, if the Court would allow us to, after lunch, bring
12 the originals, we will be happy to do that, Your Honor, and
13 present them into evidence.

14 THE COURT: Okay. Let's do that in abundance of
15 caution. But it is clear from the State's exhibit, again,
16 as you say, they are similarly -- they look similarly
17 situated to the Court in black-and-white here in that some
18 of them have the facial hair -- a small amount of facial
19 hair, no glasses, nobody has a tattoo that I can see. But
20 in abundance of caution, we will look at that. So we'll
21 let the State do that before we -- so we'll take it under
22 advisement, at this time, Mr. Chambers. We'll look at the
23 color exhibit before we begin.

24 MR. WESTON: And, Your Honor, we are prepared to go
25 forward with the next hearing -- next identification if you

1 wanted to wait till we have the original for that, or we
2 basically just have the -- we will have the same situation.
3 We'll bring that one after lunch as well.

4 THE COURT: Well, let's go ahead with the hearing, if
5 we've got one witness. Two?

6 MR. WESTON: Yes. Just two witnesses, Your Honor.
7 Just the officer and the person identifying the picture.

8 THE COURT: Let's go ahead with the hearing, and we'll
9 also anticipate the same objection. If I get that, I'll
10 take that under advisement as well, Mr. Chambers, but I'd
11 like to get right to the jury when we get back.

12 THE CLERK: Sir, please come around to be sworn in.
13 WHEREUPON,

14 VERTICE LEVON THOMAS,
15 after first having been duly sworn, testified as follows:

16 THE CLERK: Will you please tell us your name.

17 THE WITNESS: Vertice Levon Thomas.

18 THE CLERK: Thank you.

19 THE COURT: Solicitor?

20 DIRECT EXAMINATION

21 BY MR. WESTON:

22 Q Mr. Thomas, we don't know each other, do we?

23 A No, sir.

24 Q All right. My name is Jeff Weston. I'm a prosecutor
25 with the solicitor's office. We've got you here today.

1 You're in the Department of Corrections presently; is that
2 correct?

3 A Yes, sir.

4 Q And it doesn't have anything to do with the Marcus
5 McGee killing, is that correct ---

6 A No, sir.

7 Q --- the reason you're there?

8 A No, sir.

9 Q Okay. The reason you're here right now, Mr. McGee, is
10 to -- I mean Mr. Thomas -- is to talk about the
11 identification lineup you did with law enforcement right
12 after the killing. Do you remember going to the Law
13 Enforcement Center after the shooting that night?

14 A Yes, sir.

15 Q Early the next morning, actually, right?

16 A Actually, it would have been -- yeah. Yes, sir.

17 Q All right. And do you remember meeting with a
18 sheriff's investigator and looking at a photo lineup?

19 A Yes, sir.

20 Q Let me ask you what were the circumstances. Was it
21 just you and him in the room?

22 A Me and the officer?

23 Q Yeah. Or was it a lot of people there?

24 A No. It was me and him and another officer.

25 Q All right.

1 A Just two officers there and me.

2 Q All right. And at that time, did you indicate to them
3 that you had gotten a look at the suspect at the scene?

4 A Well, I set out arguing with -- arguing with it.

5 Q All right. And this was at Bobby T's at the scene of
6 the incident that night?

7 A Uh-huh.

8 Q All right. Did he show you a group -- a bank of
9 pictures with six pictures on a piece of paper?

10 A Yes, he did.

11 Q All right. I'm going to show you what has been marked
12 as State's Exhibit No. 1 for purposes of identification for
13 purposes of this hearing and ask you, do you recognize this
14 signature right here?

15 A Yes, sir. That's my signature.

16 Q All right. Do you remember writing this that night on
17 the original?

18 A I told the -- that I was intoxicated when I did it,
19 yes, sir.

20 Q All right. And were you the person that circled one
21 of the pictures on there?

22 A Yes, sir.

23 Q Which number did you circle?

24 A No. 5.

25 Q All right. Let us talk about how he presented this to

1 you. Did the officer tell you that the person that you
2 were -- that the suspect was definitely on here or did he
3 say he might or might not be?

4 A He said he's going to show me some pictures, and he
5 want me to circle one I recognize.

6 Q When he gave it to you, did he suggest to you in any
7 way which picture you should look at -- you should circle?

8 A No, sir.

9 Q Did he tell you what to do?

10 A No, sir.

11 Q Did he give you -- did he point to any of the pictures
12 or did he just kind of put it in front of you and left you
13 alone with it?

14 A He just -- he put it there and told me that if I
15 recognize somebody, to circle.

16 Q All right. When you looked at the pictures -- prior
17 to looking at the pictures, did he mention No. 5 in any
18 way?

19 A Hu-uh.

20 Q Did he mention any numbers in any way?

21 A Hu-uh.

22 Q All right. You have to say "yes" or "no."

23 A No, sir.

24 Q Thank you. Because she won't pick up the "uh-huh" or
25 "hu-uh" sometimes. Thank you.

1 After you looked at the pictures, how long did it take
2 you to pick No. 5?

3 A Ten minutes.

4 Q Ten minutes?

5 A Yes, sir.

6 Q Or ten seconds?

7 A Ten minutes. Because I was -- like I said, I was
8 intoxicated.

9 Q Okay.

10 A I just ain't going to do something and, you know, just
11 circle something.

12 Q So you studied it for a long, long time?

13 A Yes.

14 Q During that ten-minute period, did the officer say
15 anything or prod you in any way to get you to hurry up and
16 do it?

17 A No, sir.

18 Q He just -- well, did he just sit silently?

19 A Yes, sir.

20 Q And he let you be sure?

21 A Yes, sir.

22 Q When you circled No. 5, were you sure?

23 A Well, he asked me why did I pick No. 5. I said,
24 "That's the guy I was arguing with."

25 Q Okay. But when you circled No. 5, you were sure that

1 was the guy you were arguing with?

2 A Uh-huh.

3 Q All right. Now, and just one last question. Did the
4 officer in any way do anything to get you to circle No. 5
5 versus any other number?

6 A No, sir.

7 MR. WESTON: All right. Thank you. That's all I
8 have. Just answer the questions counsel may have for you.

9 CROSS EXAMINATION

10 BY MR. CHAMBERS:

11 Q Did you say you were intoxicated when you were doing
12 this photo lineup?

13 A Yes, sir.

14 Q So you were under the influence of alcohol?

15 A Yes, sir.

16 Q And you told the officer that?

17 A Yes, sir.

18 Q And he knew that?

19 A Yes, sir.

20 Q And that's the reason it took you ten minutes to pick
21 somebody out?

22 A Yes, sir.

23 MR. CHAMBERS: That's all the questions I have. Thank
24 you.

25 MR. WESTON: Your Honor, I have just one -- or two

1 questions on redirect. Your Honor, we have the original
2 color pictures with regards to Mr. Thomas, and I'll show
3 them to counsel and hand them up to the Court for you to
4 review. We would ask that the copy be allowed to remain in
5 for purposes of this hearing and for trial so that the
6 sheriff's office can maintain this for their records. But
7 I will show it to the Court. I've showed it -- I've given
8 -- allowed counsel to have an opportunity to look at it.
9 But this is the -- these are the color pictures from which
10 these copies -- this copy was made.

11 With that, Your Honor, that's all I have. Those are
12 the only questions I have for this witness.

13 THE COURT: Okay.

14 MR. CHAMBERS: Your Honor, he testified that when he
15 was shown the photo lineup, he was under the influence of
16 alcohol and it took him ten minutes before he picked
17 somebody out. I mean, on its face, that would make any
18 identification, we believe, unreliable. The officer could
19 easily have waited until he was not under the influence and
20 gone through this, and we believe it would have been much
21 more accurate at that time. So for that reason, we would
22 object to the introduction of this particular photo lineup.

23 MR. WESTON: Your Honor, I apologize. I didn't know
24 counsel was going to argue at this point. I've got the
25 officer. I was going to put him up now.

1 MR. CHAMBERS: Oh, I'm sorry. I thought when we --
2 you asked if I had anything ---

3 THE COURT: That's okay, Mr. Chambers. No problem.
4 Any more questions of this witness from anybody?

5 MR. CHAMBERS: No, sir.

6 THE COURT: Sir, you may step down. Please be
7 careful.

8 MR. WESTON: Your Honor, the State would call Officer
9 Proctor.

10 WHEREUPON,

11 JAMES PROCTOR,
12 after first having been duly sworn, testified as follows:

13 THE CLERK: Would you please state your name for the
14 record.

15 THE WITNESS: James Proctor.

16 THE CLERK: Thank you.

17 THE COURT: Solicitor?

18 MR. WESTON: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. WESTON:

21 Q Mr. Proctor, with whom are you employed?

22 A Greenville County Sheriff's Office.

23 Q And I assume you've done photo lineups before?

24 A I have.

25 Q Numbers and numbers of them?

1 A Yes, sir.

2 Q Did you have an occasion to compose and present the
3 photo lineup that Mr. Thomas just testified to in this
4 hearing?

5 A I did not compose it. It was given to me by
6 Investigator Howard.

7 Q All right. And did he tell you the circumstances,
8 that this involved a shooting at a night club or something
9 like that, that this may be a potential witness, generally?

10 A I had gotten all that prior, yes, sir.

11 Q And is that pretty much all you knew about Mr. Thomas
12 or this case?

13 A No, sir. I did interview Mr. Thomas, and he had told
14 me what had happened at the -- at the bar.

15 Q I see. And so once you got the lineup, you looked at
16 it, and was it your understanding that David Young was one
17 of the suspects and that he was specifically put in the
18 lineup as Photo No. 5?

19 A Yes, sir.

20 Q All right. Once you -- tell the Court the
21 circumstances under which -- and obviously, you understand
22 what the issue is -- one of the issues might be in this
23 particular hearing. What was Mr. Thomas's condition?

24 A He was intoxicated, but he was lucid, he was coherent.
25 There were times he would become -- he would cry, but that

1 would pass. It would come and go. There were just certain
2 things he would talk about and then he'd kind of, I would
3 say, break down, but he would start to get upset and then
4 he would start coming back down.

5 Q All right. Let me just deal with the matters of the
6 issue in this case. Did you do or suggest anything to him
7 that would, in any way, lead him to pick one of the
8 pictures over another?

9 A No, sir. I placed the photo lineup down in front of
10 him, and I informed him I was going to show him six
11 photographs, that he may or may not know anybody in the
12 photographs, but if he did recognize anyone in the
13 pictures, to tell me who he knows and from where. And I
14 put the photograph -- the sheet of photographs down in
15 front of him on the desk, and he immediately stated,
16 "No. 5. That's Old-school," which is what he knows the
17 defendant by, Old-school.

18 Q Now, he said -- you just heard him say he took ten
19 minutes to look at it; is that correct?

20 A No, sir. Immediately.

21 Q All right. What were the conditions in the room? Was
22 there anybody else present other than you and him and maybe
23 one other officer?

24 A Investigator Howard was sitting in another desk behind
25 me, but at the desk we were at, it was just myself and the

1 witness.

2 Q All right. And, once again, did you do anything to
3 suggest to him that he should pick No. 5 or that he should
4 pick anyone out of this six-person lineup?

5 A No, sir.

6 Q All right. Did you feel like he was able to -- while
7 even though he appeared to be intoxicated, did you feel
8 like he was lucid enough to be able to make an informed
9 decision, not correct, necessarily, but just a -- just a --
10 a conscious decision? Excuse me.

11 A Yes, sir. Everything he said to me that night was
12 chronological from the time he had engaged the defendant
13 till the time everything was over.

14 MR. WESTON: Thank you, sir. That's all I have.

15 THE COURT: Yes, sir.

16 MR. CHAMBERS: No questions, Your Honor.

17 THE COURT: All right. Sir, you may step down.
18 Please be careful.

19 MR. WESTON: Your Honor, we would ask this witness be
20 allowed to be excused.

21 THE COURT: Any objection?

22 MR. CHAMBERS: No, Your Honor.

23 THE COURT: You may be excused, sir.
24 Anything from the State?

25 MR. WESTON: No, sir, Your Honor. And that's all from

1 the State.

2 MR. CHAMBERS: Just reiterate my rather premature
3 argument. I mean, by his own admission, the defendant was
4 -- or not the defendant, but the witness was under the
5 influence, said he had trouble picking anybody out because
6 it took him ten minutes to do it. We believe, given those
7 circumstances, that his ID would be inherently unreliable.

8 THE COURT: Solicitor?

9 MR. WESTON: Your Honor, the standard for Neil vs.
10 Biggers is, as I understand, state action whereby they are
11 -- the will of the defendant -- of the witness is overcome
12 by some sort of state prodding in order to get them to do a
13 certain thing. That is not the issue in this case. The
14 question of his, for lack of a better word, competence,
15 because it is intoxication is a question for a jury with
16 his credibility. It doesn't have anything to do with
17 whether or not the lineup itself should be allowed in.
18 There's no indication that there was any state action in
19 here that suggested the lineup wasn't in any way suggested
20 or that the actions of the officers were in any way
21 oppressive to get this defendant -- this victim -- excuse
22 me -- this witness to pick any particular person. And I
23 think that is the standard for Neil vs. Biggers, not
24 whether or not.

25 While there is a reliability, the word "reliability"

1 is used in the case of Neil vs. Biggers. It has to do with
2 reliability based on the fact that the State has done
3 something inappropriate in terms of setting up the lineup,
4 suggesting a particular person or what have you. That is
5 not the case here. This is just a question for the jury as
6 to whether this man may have been too intoxicated to pick
7 the right person.

8 I would also point out, Your Honor, the officer
9 testified that in -- as opposed to what the witness said,
10 that he picked him out immediately and he referred to him
11 as -- by the name that he knew him, Old-school. He said,
12 "That's Old-school." That, I think, would buttress or --
13 buttress against any question of his intoxication impairing
14 his reliability.

15 THE COURT: Yes, sir. I agree with you,
16 Mr. Solicitor. I don't see any -- and the Court finds that
17 there is no overtly suggestion on the part of the
18 government.

19 As in the second case, we'll start right there with
20 Mr. Thomas, he admits to being under the influence, but
21 that goes to the weight of his testimony, certainly not to
22 the admissibility of any testimony he would give. He
23 identified as by his nickname of Old-school. He also said
24 that he knew as the man he was arguing with previously, but
25 they obviously know each other. Whether he was intoxicated

1 or not, he obviously recognized him, he obviously knows
2 him.

3 How much time it took, the jury can determine whether
4 it took one minute, immediately, or whether it took ten
5 minutes or whether that matters at all. But nonetheless,
6 he says he knows the gentleman, the defendant.

7 And in the first case, again, the witness indicated
8 that he was within ten feet, that he had seen him
9 previously that night, and that he also saw him standing
10 over the body. And he was a bouncer. He was not under the
11 influence of any -- I take it he was on duty and working,
12 that he had actually searched the defendant in that case
13 and, I guess, the previous time he came in.

14 The Court's considered all of the factors under the
15 opportunity of the witness to see and view the crime scene
16 and the defendant at that point in time, his attention, the
17 accuracy of his prior statements, the level of his
18 certainty in the time between -- the time and the
19 confrontation and the crime, the purpose that are all of
20 those.

21 I'll also put on the record, and I know it will be
22 introduced into evidence in color shortly, but we do have
23 the State's exhibit. I reviewed the exhibit itself. All
24 pictures are of African-American men, all appear to be of
25 similar age, all -- none of them have on any eye glasses in

1 any picture, all have facial hair. They have similar
2 facial structure, as a matter of fact. I don't see any
3 tattoos or scars or anything that would stand out on No. 5
4 or any of the other gentlemen. So again, it's by a
5 preponderance of the evidence it's allowed.

6 MR. WESTON: Thank you, Your Honor.

7 THE COURT: Yes, sir. I'll give this color back, and
8 it will be introduced at the appropriate time.

9 Anything from the State?

10 MR. WESTON: Nothing further from the State, Your
11 Honor.

12 THE COURT: Defense?

13 MR. CHAMBERS: No, Your Honor.

14 THE COURT: Okay. We're going to be in recess until
15 about 2:15. I need us back at 2:00, but I need you,
16 gentlemen and lady, at 2:15. We're going to hear that
17 motion real quick on Mr. Smith and somebody at the
18 solicitor's office about a subpoena real quick. They have
19 arranged for the lawyer from FedEx, whoever it was, to be
20 here with the personnel -- so I'm going to cut you a little
21 bit short, but I'll make it up to you later this week.

22 (WHEREUPON, a recess is taken at 1:05 p.m.)

23 (WHEREUPON, Plaintiff's Exhibit Nos. 3, 4, 5, 6, 7, 8 and 9
24 were marked for identification.)

25 MR. CHAMBERS: We have a lot of people in the

1 courtroom. I don't know if any of those people are on the
2 witness list, but I would request to sequester witnesses.

3 THE COURT: Solicitor?

4 MR WESTON: Your Honor, I'm not sure how I would
5 respond. I think counsel has to give a particular reason
6 other than I can't -- we don't want one witness to hear
7 what another witness says. I think the Supreme Court has
8 said that he has to go beyond that, so I would wait to hear
9 what his rationale is.

10 MR. CHAMBERS: I was not aware that that was the
11 existing case law, but, you know, there is -- it's not just
12 a matter of them not being able to hear one another, Your
13 Honor. There is -- in order for me to be able to
14 effectively cross-examine people, I think it is important
15 that they're not able to hear each other's testimony. You
16 get a much more reliable and truthful picture, I guess, of
17 what the State's case is if the witnesses are not all
18 allowed to sit in the courtroom and listen to each other
19 testify.

20 THE COURT: Solicitor?

21 MR WESTON: Your Honor, I think that is exactly what
22 our Supreme Court has said should not be a basis for
23 sequestration, that one witness shouldn't hear what another
24 witness said. It has to go -- Counsel's arguments have to
25 go beyond that.

1 (Pause in proceedings.)

2 THE COURT: Okay. Under State v. Singleton, which is
3 a 2011 Court of Appeals case, it talks about a lot of
4 things in there. And what all of it says is that it is not
5 -- a sequestration is not a matter of right, but it is left
6 in the sound discretion of the trial court. That's exactly
7 what I thought the law is and I still think it is. It is
8 in the sound discretion of the trial judge who is
9 presiding.

10 I have never not ordered sequestration when one party
11 or the other has asked for that. This is a very serious
12 case, very serious consequences should the defendant be
13 convicted. And I don't know if he is or not. Don't know
14 anything about the case other than the defendant's name, to
15 tell you the truth. But in an abundance of caution and in
16 this court's sound discretion, that motion is granted,
17 Mr. Chambers.

18 MR. CHAMBERS: Thank you, your Honor.

19 MR. WESTON: Yes, sir, Your Honor.

20 Your Honor, may we approach?

21 THE COURT: Sure.

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

23 THE COURT: Let's say it on the record, Mr. Weston. I
24 want the witnesses close by. I don't want them more than a
25 few feet away. I don't want any delay in getting them from

1 Point A to Point B.

2 MS. MAJOR: Yes, Your Honor. I'll make that clear.

3 THE COURT: Also, I understand there's a lot of people
4 in the courtroom, many of whom may be family and friends.
5 And I want to admonish everyone in this courtroom, if you
6 don't know what contempt of this court means, you need to
7 be talking to one of the lawyers, whether that be a defense
8 lawyer or a prosecutor. But I assure you, there will be no
9 outbursts or displays of emotion from anyone in this
10 courtroom or I will hold a contempt hearing at the end of
11 this trial. But until I get to that point, whoever
12 disobeys my directive will be in custody. I want to be
13 clear about that. I will have you taken into custody. If
14 this trial lasts two days or two weeks, I don't care. If
15 you can't control yourself one way or the other -- I'm
16 looking at both sides now -- you best leave now to be told
17 about it later, because I've had a contempt hearing and
18 found that person to be in contempt of my court and
19 sentenced them appropriately, and I will do so here.
20 Anybody that does not understand that, please raise your
21 hand and I'll recognize you and we'll talk about it
22 further.

23 (WHEREUPON, there was no response.)

24 THE COURT: All right. Nobody raised their hand,
25 Madam Court Reporter, so everybody understands. That

1 includes giving hand signals, eye signals or anything to my
2 jury. I will consider that jury tampering, okay, and that
3 is a very serious matter for which you will be arrested.
4 It won't be a contempt citation. There will be an arrest
5 and a prosecution of that. Any hand signals, eye signals,
6 coughing, sneezing, something like that that I consider to
7 be giving some type of a signal to my 12 jurors up here
8 will be considered jury tampering. Anybody unclear about
9 that?

10 (WHEREUPON, there was no response.)

11 THE COURT: All right. Ready, John? Mr. Weston's
12 ready.

13 (Pause in proceedings.)

14 THE COURT: Lady and gentlemen, everybody ready?

15 MR WESTON: Yes, sir. Your Honor, the State is ready.

16 MR. CHAMBERS: Yes.

17 THE COURT: Ready for the jury.

18 (WHEREUPON, the jury entered the courtroom at 2:30 p.m.)

19 THE COURT: Mr. Foreman, any issues from my jury?

20 JURY FOREMAN: No, sir.

21 THE COURT: No issues. All right.

22 INTRODUCTORY REMARKS

23 THE COURT: Ladies and gentlemen, we are here about to
24 try the case of the State of South Carolina vs. David Adam
25 Young. Mr. Young is the defendant in this matter, and I

1 tell you before we begin that his arrest and his
2 indictments here are no evidence whatsoever of his guilt.
3 The State must prove him guilty on each charge beyond a
4 reasonable doubt as to all elements of the charges made
5 against him.

6 The first indictment is Indictment 2013-10607. There
7 are two charges contained in here. Count 1 is that David
8 Adam Young did, in Greenville County, South Carolina, on or
9 about January 13 of 2013, unlawfully and with malice
10 aforethought kill Marcus McGee by means of shooting him,
11 and that the decedent died as a proximate result thereof,
12 all in violation of state law.

13 Count 2 alleges that David Adam Young did, in
14 Greenville County, on or about January 13, 2013, possess or
15 visibly display a handgun during the commission or
16 attempted commission of a violent crime, that is, murder in
17 violation of state law.

18 Indictment 2013-10608 alleges that David Adam Young
19 did, in Greenville County, South Carolina, on or about
20 January 13 of 2013, willfully, knowingly and unlawfully
21 commit the offense of failure to stop for a law enforcement
22 vehicle in that the defendant, while driving on a road,
23 street or highway of the state, did intentionally fail to
24 stop when signaled to do so by a law enforcement vehicle
25 using blue lights and/or a siren, all in violation of state

1 law.

2 Once again, Mr. Foreman and ladies and gentlemen, I
3 remind you that the indictments themselves are merely
4 pieces of paper or instruments that bring Mr. Young before
5 the Court, but they are in no way evidence of his guilt.
6 Again, he has entered a plea of not guilty to each and
7 every charge in the indictments, and the burden is on the
8 State of South Carolina to prove his guilt beyond a
9 reasonable doubt.

10 Now, Mr. Foreman and ladies and gentlemen, many people
11 do not have a chance to attend an actual court session as
12 you are doing now, and people believe from watching
13 television, reading books or watching movies that trials
14 are always full of high drama, intense action and riveting
15 circumstances. And while many of these things may be true
16 at times, this trial is not for entertainment purposes.
17 This trial is a fundamental part of our democracy, a search
18 for the truth in an effort to make sure that justice is
19 done between the parties before the Court. Searching for
20 the truth and making sure justice is done is often slow,
21 deliberate and repetitive, just the opposite of what we
22 have become accustomed to on television, movies and books.

23 This courtroom is in a place of honor dedicated to the
24 protection and preservation of citizens' rights through
25 what many have called the greatest justice system ever

1 created. I tell you that the lawyers appearing before you
2 are advocates for the parties they represent, but first and
3 foremost, they are officers of the Court, sworn to uphold
4 the integrity and the fairness of our judicial system, and
5 you should expect them to be professional in their
6 presentation to you before the Court.

7 I thank you again for your service on the jury this
8 week and for your contribution to our justice system.

9 Now, what I'll say at this point is intended to serve
10 as an introduction to the trial of this case. My remarks
11 are not a charge on the law. I will instruct you on the
12 law at the end of the trial before you retire to consider a
13 verdict. My remarks are merely an explanation of the
14 procedure that we will follow in this case so that you may
15 better understand what is happening. You are not to take
16 any notes whatsoever during the trial of this case.

17 As I previously told you, the defendant is charged by
18 the indictments filed with this court with three different
19 crimes, the elements of which will be explained to you
20 later. The indictments, again, are simply the charging
21 instrument by which the case is brought before the Court
22 and, once again, is not, in any sense, evidence of any of
23 the allegations contained therein.

24 The defendant has pled not guilty, and the State must
25 prove his guilt by proving each of the elements of the

1 indictment beyond a reasonable doubt. It will be your
2 duty, ladies and gentlemen, to decide whether the State has
3 met that burden of proof.

4 Your purpose as jurors is to find and determine facts.
5 You and you alone are the sole judge of the facts in this
6 case. If, at any time, I make a comment regarding a fact,
7 you must disregard it. You are to determine the facts from
8 the testimony you hear and the other evidence introduced in
9 court. It is up to you to determine the inferences which
10 you think may be properly drawn from evidence presented in
11 this case. It is especially important that you perform
12 your duty of determining the facts diligently and
13 conscientiously, because ordinarily, there is no way to
14 correct an erroneous determination of facts by a jury.

15 On the other hand and with equal emphasis, the same
16 state law that makes you the judge of the facts makes me
17 the judge of the law. The law as given by the Court is the
18 only law that you may consider, and you must accept it and
19 follow it even if you disagree with it. I cannot tell you
20 what the facts are, and you cannot disagree with me about
21 what the law is or ought to be or should be. Your job is
22 to take the law as I give it to you and apply it to the
23 facts as you find them to be from the testimony of the
24 witnesses and any other evidence that is introduced in the
25 trial, and after doing so, you will render your verdict, a

1 verdict under your oath that you just took as jurors.

2 But until I tell you that you may begin to deliberate,
3 you must not discuss this case with anyone, including
4 fellow jurors, friends, family members and anyone involved
5 in the case. The lawyers and the parties in this case have
6 been advised by me that they are not to speak to you at
7 all, so if you see anyone involved in this case and they do
8 not speak, they are not being rude, they're not being
9 unfriendly. They are simply following my instructions.
10 Mr. Foreman, ladies and gentlemen, you are wearing a badge
11 that puts everybody on notice that you are a juror on this
12 case, and it's important that you wear those so that no one
13 makes a comment in front of you that would be improper.

14 You must decide this case based solely on the evidence
15 presented in the courtroom, and during the trial, you must
16 not conduct any independent research about the case, the
17 facts of the case, any evidence presented or the people or
18 organizations involved in the case. Please do not try to
19 learn information from any source outside of this
20 courtroom. In other words, you must not look at
21 dictionaries or other reference materials, search the
22 Internet, Web sites or blogs or use other electronic tools
23 to discover or receive information about this case or to
24 help you decide the case.

25 You may not use computers, telephones, cell phones,

1 smartphones, tablets, the Internet or other tools of
2 technology with communication capabilities at any time
3 while you are in the courtroom or during your
4 deliberations. During breaks for meals and overnight you
5 may use those devices; however, you must not use those
6 devices to communicate with anyone about the case until the
7 case is ended. This means you must not use phone calls,
8 e-mails, text messages, instant messages, Twitter, any
9 blog, chat room or Web site including Facebook, Google
10 Plus, MySpace, LinkedIn, YouTube or any social media Web
11 site to send or receive information about this case. This
12 information includes information about a party, a witness,
13 a lawyer, a court officer, counsel about the case, research
14 on any topics, any topics you may think would be helpful in
15 deciding the case, and any testimony presented by any
16 witness.

17 During the trial, do not read, listen to or watch any
18 news report about this case. This includes anything that
19 may be in a newspaper or on the Internet, radio or
20 television. You must not consider anything you have read
21 or may have read or heard about this case outside of this
22 courtroom, whether before or during the trial. Information
23 on television, radio and the Internet or from other sources
24 might be wrong and certainly might be incomplete.

25 In our judicial system, it is important that you are

1 not influenced by anything or anyone outside of this
2 courtroom. If you become aware of a fellow juror's
3 violation of my instructions, please inform me immediately.
4 It is important that you keep an open mind and not decide
5 any issue until all of the evidence has been presented, the
6 parties have made closing arguments, and I have instructed
7 you on the law in this case.

8 It is your solemn responsibility to determine the
9 guilt or innocence of the defendant, and your verdict must
10 be based solely on the evidence as it is presented to you
11 during this trial and on the law as I instruct at the close
12 of the trial.

13 In just a few moments the solicitor will make what is
14 called an opening statement in which he will explain to you
15 the issues in the case or at least what he thinks the
16 issues are. The lawyer for the defendant may also make an
17 opening statement, although he is not required to do so.
18 What the lawyers tell you during their opening statement is
19 not evidence in the case, but only their intention as to
20 what the issues are. The evidence in the case will be
21 presented to you by the testimony of sworn witnesses from
22 this witness stand and/or by the exhibits that may be
23 introduced into evidence.

24 Now, from time to time, Mr. Foreman and ladies and
25 gentlemen, you will hear one of the lawyers say something

1 like, "Your Honor, I believe we have a question or a matter
2 of law to discuss with you," or "Your Honor, may we
3 approach the bench?" Sometimes I myself find it necessary
4 to excuse you from the courtroom a short while so the
5 lawyers and I can discuss the matter. In the event that
6 one of the lawyers or both of the lawyers believe we have
7 such a matter to discuss, I will remove you from the
8 courtroom. The reason for this is because you are the
9 judges of the facts in the case, and sometimes when I
10 discuss a matter of law with the lawyers, it may be
11 necessary for me to make a comment as to a fact in
12 connection with ruling on whether or not a particular law
13 applies. I cannot tell you what I think the facts are, so
14 I always excuse you during my discussions so that you will
15 in no way be influenced by anything that I might say or do
16 in connection with the case.

17 In determining what the true facts are, you must
18 decide whether or not the testimony of a witness is
19 believable. It will be my responsibility to rule as a
20 matter of law as to whether certain testimony is
21 admissible, but once the testimony is admitted, whether or
22 not you believe it is solely for you to determine.

23 In deciding whether to believe a witness, you have the
24 right to consider the interest of a witness, any bias the
25 witness may have, any prejudice of the witness or the

1 opportunity for a witness to have seen or heard the things
2 about which he or she may be testifying, and also the way
3 the witness acts on the witness stand. You have a right to
4 consider anything that is in the record that will help you
5 evaluate the testimony of witnesses, and that means it is
6 your duty to pay close attention to the witness, to observe
7 them and listen to them and pay close attention to the
8 lawyers. Please do not let your thoughts wander, but give
9 strict attention to the testimony in this case so that at
10 the end of the testimony after the arguments of the lawyers
11 and the charge on the law, you will then be in a position
12 to determine what the true facts are and to apply the law
13 to those facts and thus render a verdict.

14 Again, we ask you please be prompt. If we ask you to
15 be here at a certain time of day, please do so. Court will
16 begin each day at 9 a.m. and will conclude no later than
17 5:00. I have been notified through my bailiff that there
18 is at least one juror who has a child issue, so instead of
19 stopping at 5:30, which is my custom, we will stop at 5:00
20 each day.

21 We will also break for lunch somewhere between 12:00
22 and 12:30, quarter to 1:00, whatever is convenient. I tell
23 you that I do not like to break up testimony. I will -- if
24 necessary, if we have a witness who is going to conclude
25 his or her testimony by about 12:15, 12:20, 12:30, we will

1 stop at that point, recess for lunch. You will always have
2 at least one hour, many times an hour and 15 to 20 minutes,
3 and then we will reconvene. But, again, we ask you to
4 please be prompt in your jury service because we cannot
5 proceed without all jurors present.

6 Mr. Foreman, I previously appointed you and advised
7 you that you are the spokesperson for the jury. It will
8 also be your duty to write the verdict at the appropriate
9 time, but I will give you further instructions about that
10 at the end of the case.

11 Again, I've asked you, Mr. Foreman, and the alternates
12 to sit in assigned seating and everyone else is certainly
13 free to move around.

14 Anything from the State?

15 MR WESTON: No, sir, Your Honor.

16 THE COURT: From the defense?

17 MR. CHAMBERS: No, Your Honor.

18 THE COURT: All right. Mr. Foreman, ladies and
19 gentlemen, please give your attention to the State.

20 Solicitor?

21 OPENING STATEMENTS

22 MR WESTON: Thank you, Your Honor. May it please the
23 Court.

24 THE COURT: It does.

25 MR WESTON: Ladies and gentlemen, to reintroduce

1 myself, I am Jeff Weston, and my co-counsel Ms. Elizabeth
2 Major and I are prosecutors with the 13th Circuit
3 Solicitor's Office. It is our job to present the cases
4 against David Adam Young here today.

5 I'd like to use my opening statement to briefly do
6 three things: number one, tell you what this case is
7 about; number two, tell you what we are required and what
8 we intend to prove; and number three, tell you how we
9 intend to prove it.

10 This case, at its core, is about street revenge by a
11 drug dealer's enforcer for the sale of what they believe to
12 be some bad drugs. Simple as that. We are required, and
13 we intend to prove, that on the evening -- late in the
14 evening of January 12th of 2013 at a McDonald's on White
15 Horse Road and 85, the co-defendant of David Adam Young
16 entered into a drug deal with the victim, Marcus McGee,
17 whereby Mr. McGee was going to sell her approximately
18 one ounce of cocaine for about \$1,300. Mr. Young was not
19 present there and played no part in the transaction. We
20 will prove that subsequently, the co-defendant found the
21 drugs were not satisfactory, at which point the
22 co-defendant began to contact Mr. McGee about a refund.
23 This is about 10:00 or 11:00 at night, calls going back and
24 forth.

25 We are required, and we intend to prove, that about

1 5:00 in the morning, the co-defendant, Ms. Adams, and her
2 enforcer, David Adam Young, came to an after-hours
3 nightspot here in Greenville on White Horse Road and
4 Augusta Road called Bobby T's where Marcus McGee was, that
5 David Adam Young got out of the car, waited for Marcus
6 McGee, went into the club first and confronted Marcus McGee
7 about the money to try to collect on behalf of Ms. Adams.
8 When Marcus McGee blew him off, he waited outside till
9 Marcus McGee came out of the nightclub and shot him in the
10 head right in front of the club, and as he fell, walked
11 over to him and shot him again. He then got into the car
12 provided to him by his co-defendant, Ms. Adams, and they
13 drove away. Approximately 45 minutes to an hour later,
14 they were recognized -- the car was recognized by the
15 police, the police got in behind him and a medium-speed
16 chase ensued down White Horse Road over into West
17 Greenville through Graceland Memorial Cemetery. He was
18 captured at that time, Ms. Adams got away, and she was
19 subsequently arrested.

20 So specifically, we have to prove that on the morning
21 -- about 5:00 in the morning on April 13th of 2013, David
22 Adam Young, with malice aforethought, killed Marcus McGee.
23 That's murder.

24 We also are required, and we intend to prove, that he
25 used a deadly weapon during the commission of that murder,

1 in this case, a gun. So he is guilty of possession of a
2 weapon during the commission of a violent crime.

3 We are also required to prove that after the police
4 got in behind him, he was driving the car, and he failed to
5 stop for the blue light that was blue lights and sirens as
6 they chased him. And this is how we intend to prove it.
7 You're going to hear from the girlfriend of Marcus McGee
8 who was present for the drug transaction between Porchae
9 Adams and her boyfriend, Marcus McGee, at the McDonald's.
10 As I said, David Adams [sic] was not present, and as far as
11 we know, played no part in the initial transaction. But
12 she will tell you about the transaction.

13 You will hear from numerous witnesses at Bobby T's
14 about what happened, what Marcus McGee's actions were, and
15 what David Young's actions were. You will hear and you
16 will see -- you will hear from the officer involved in the
17 chase of the vehicle when they got in behind his car and he
18 was driving the car. Not only will you hear it, we will
19 show you the videotape of the chase from the officer's dash
20 cam. That's what the case is about, that's what we are
21 required to prove, and that's what we intend to prove, and
22 that's how we intend to prove it.

23 This is not a complicated case, but I am convinced
24 that you will be convinced at the conclusion of this case
25 that David Adam Young, this defendant, is guilty of murder,

1 possession of a weapon during the commission of a crime,
2 and the failure to stop for a blue light. Thank you.

3 MR. CHAMBERS: If it please the Court, Your Honor.

4 THE COURT: It does, Mr. Chambers.

5 MR. CHAMBERS: Solicitor, ladies and gentlemen, I am
6 Randy Chambers, as I told you earlier. This is David Adam
7 Young who is accused of the crime that was read to you from
8 the indictments and also that you heard discussed by the
9 solicitor just now. And as the solicitor has already told
10 you and as His Honor has already told you, they have the
11 burden of proof to prove to you beyond a reasonable doubt
12 all of the elements of murder and of the other offenses
13 with which David Adam Young -- and he goes by Adam, so
14 that's how I'll refer to him throughout the trial -- for
15 which Adam is standing trial. Murder, of course, being the
16 primary concern for Mr. Young at this time, and that's what
17 I want to spend most of my time talking to you about.

18 As you heard from the solicitor, and a lot of this is
19 agreed upon, go back to June 13, 2013, and sometime during
20 that day, Porchae Adams, who is a co-defendant with Adam
21 Young -- she's not now but she was, and you'll hear more
22 about that later -- she bought what she thought was a
23 fairly large amount of cocaine from Marcus McGee. Marcus
24 McGee, you will hear, has been a fairly long-standing drug
25 dealer. He goes by the street name of "Boogie." That's

1 how most people that know him refer to him. He's imputed
2 to have some gang involvement with an outfit called The
3 Unit. And we believe that you'll hear about that as the
4 solicitor's case comes in and as this is laid out before
5 you.

6 When Ms. Adams got what she believed to be cocaine
7 back to where she was going to cook it up -- and what they
8 do is they buy cocaine and cook it up into crack cocaine,
9 little rocks. And she was not able to cook it. So she was
10 -- in parlance of the streets, she had been flexed. In
11 other words, there's a substance that's basically fake
12 cocaine or has been basically adulterated so much that it's
13 just -- it's no good. Basically, you're ripping somebody
14 off. You're taking advantage of them.

15 She began to call Marcus McGee, Boogie, because she
16 was unhappy. She was very unhappy. And she didn't get any
17 kind of answer to her satisfaction. And so she had her
18 car, which apparently she was unable to drive.

19 Now, Mr. Young and another gentlemen, who people refer
20 to as Jack Frost, went over there to a club with her. Adam
21 went to the front door, there was a bouncer who was working
22 the door, he was patted down, no weapons, goes inside, has
23 a discussion with Mr. McGee, and then he leaves. And then
24 later on you will find out that Mr. McGee was, in fact,
25 shot and killed. That is beyond dispute.

1 But a killing does not always equate to a murder. As
2 the solicitor told you, he has to prove that Adam Young was
3 the shooter, and that when he did this shooting, he did so
4 with malice aforethought.

5 There are justified killings. You can shoot somebody
6 in self-defense. If you have a reasonable belief that you
7 are in peril of imminent harm, you're allowed to kill
8 somebody. You're allowed to meet deadly force with deadly
9 force. So if I'm just a few feet away from somebody and I
10 see that they have a gun, I don't have to wait for them to
11 pull the gun out and shoot at me. I'm allowed to defend
12 myself. And that's something for you to consider as you
13 hear this case as it's presented to you by the solicitor.

14 Now, I'm not going -- I don't know everything that
15 they might present. Obviously, we go through the discovery
16 process before trial starts and so I know what the evidence
17 is in the case. But like you, I'll get to hear and see the
18 case as the solicitor presents it to you, and we look
19 forward to that just like you do.

20 You've been brought in here to be the finders of fact.
21 You're going to go back when this case is over and you're
22 going to deliberate, and you're going to come up with a
23 unanimous verdict. It's either going to be guilty or it's
24 going to be not guilty. For it to be guilty, they have to
25 have proven to you beyond a reasonable doubt all of the

1 elements of all of the crimes. If you have questions, then
2 you have reasonable doubt.

3 Now, reasonable doubt is sort of a fuzzy concept. You
4 know, we hear a lot about it. There's discussion about it
5 in the news almost every day. And as you heard earlier,
6 there are other courts in the courtroom that are going on
7 right now. There's Common Pleas or civil court where
8 really important matters are decided dealing with millions
9 of dollars, great bodily harm to people. If you were
10 sitting on a jury there, the standard would be by a
11 preponderance of the evidence, the greater weight of the
12 evidence. And if you thought about that as a scale at the
13 beginning of the trial, then the solicitor, who would be
14 the plaintiff, I guess, in that case, would only have to
15 move that scale ever so slightly. And if you found that he
16 had proven his case by the greater weight of the evidence,
17 then you would find in his favor.

18 There are other tribunals where you are told that you
19 have to find by clear and convincing evidence in order to
20 find for a moving party. Clear and convincing evidence.
21 But we reserve the greatest burden, the highest standard,
22 for criminal court: beyond a reasonable doubt.

23 The solicitor, if we think about that scale, has to
24 move that scale almost all the way. And the reason for
25 that, this is the only court where a person is subject to

1 losing his liberty. It's the greatest thing you can take
2 from somebody.

3 And before we let the government do that, we hold
4 their feet to the fire. You hold their feet to the fire.
5 And here's how you're going to do that. You're going to do
6 that by doing what most of you do to some degree or another
7 every day. Now, it's usually not in a form that's this
8 important where the stakes are this high, but every day
9 somebody tells us something. We're judging whether they're
10 credible or not, whether we believe them. So when these
11 witnesses take the stand, you're going to ask yourself, "Do
12 I believe what this person is telling me?" And you'll do
13 that by judging their demeanor, you'll do that by judging
14 whether there are facts and circumstances and evidence that
15 corroborate what they're telling you. You will do that by
16 questioning their motive for saying what they had to say,
17 and you'll do that with everybody that takes the stand.
18 And at the end, you'll all go back there and you'll discuss
19 it.

20 And here's why the jury system is so great. All of
21 you come in here from different walks of life, different
22 ages, different life experiences, and you're going to go
23 back there as a deliberative body, and you're going to
24 discuss this with each other. And after you've done that,
25 you'll come to a decision.

1 Ladies and gentlemen, I can tell you that Adam Young
2 is happy that you're here. He has been waiting for his day
3 in court because this accusation has been weighing heavy
4 over his head for quite a long time at this point.

5 At the end of the day, you really need to do three
6 things in order to do your job, and that is to take the law
7 as His Honor gives it to you. We can't decide what the law
8 is on our own, we can't substitute what we think the law
9 ought to be. He will tell you what the law is. Take the
10 evidence as it's presented to you. It's not up to you to
11 suppose or conjecture. It's up to you to take the evidence
12 that's presented to you and consider that evidence. And
13 finally, folks, and I think probably the most important is
14 use your common sense, common wisdom that all of you
15 brought in here today.

16 Like you, we look forward to seeing and hearing the
17 solicitor's case, and, again, we appreciate you being here.

18 THE COURT: Thank you, Mr. Chambers.

19 Solicitor?

20 MS. MAJOR: Thank you, Your Honor. The State calls
21 Deputy Holman to the stand.

22 THE CLERK: Deputy, if you'll come forward to be sworn
23 in, please.

24 ///

25 ///

1 WHEREUPON,

2 BRIAN MATTHEW HOLMAN,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Would you please state your name for the
5 record.

6 THE WITNESS: Matt Holman.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MS. MAJOR:

10 Q Deputy Holman, where are you employed?

11 A The Greenville County Sheriff's Office.

12 Q How long have you been employed with the sheriff's
13 office?

14 A Over six years.

15 Q And in what capacity are you employed?

16 A I am with the Community Services Division. At the
17 time, I was with Uniform Patrol Division.

18 Q What is Uniform Patrol?

19 A Uniform Patrol, they respond to calls for service and
20 conduct preliminary investigations.

21 Q How is the Uniform Patrol divided? If you can give us
22 a general overview.

23 A For the county, we have what we call "beat areas."
24 That's how we divide that up. Uniform Patrol is divided up
25 into five platoons, and each platoon has their deputies

1 assigned to certain beat areas.

2 Q Were you working on January 13, 2013?

3 A Yes.

4 Q And did you receive a call about a shooting at Bobby
5 T's?

6 A That is correct.

7 Q Where were you when you received the call?

8 A I was working the south end of Greenville County. I
9 was, actually, at the Home Depot parking lot on South
10 Pleasantburg Drive.

11 Q Okay. And what information did you become aware of in
12 responding to Bobby T's?

13 A Through dispatch, they aired that there was shots
14 fired outside of the club with a possible deceased victim.

15 (WHEREUPON, Plaintiff's Exhibit No. 10 was marked for
16 identification.)

17 Q Officer, I'm going to show you what has been marked as
18 State's Exhibit 10. Do you recognize this?

19 A Yes, ma'am.

20 Q What is this?

21 A That is a bird's eye view of the southern end of
22 Greenville County. It also shows the actual club's
23 location.

24 Q Are you familiar with this area of Greenville County
25 from your patrol as a Uniform Patrol officer?

1 A Yes, ma'am.

2 Q And does it fairly and accurately represent this
3 portion of Greenville County?

4 A Yes, ma'am.

5 MS. MAJOR: Your Honor, at this point, the State moves
6 State's Exhibit 10 into evidence and requests permission to
7 publish to the jury.

8 MR. CHAMBERS: No objection, Your Honor.

9 THE COURT: It is admitted without objection. You may
10 publish.

11 (WHEREUPON, Plaintiff's Exhibit No. 10 was admitted into
12 evidence.)

13 BY MS. MAJOR:

14 Q Deputy, can you explain to us on the jury where -- you
15 said you were at the Home Depot?

16 A Yes, ma'am.

17 Q Where that would have been in relation to this map?

18 A Can I get up?

19 Q Yes, please.

20 A If you were to come down Augusta Road, it actually
21 turns into Pleasantburg, just one road, and the Home Depot
22 would have been up in this (indicating) general area.

23 Q And what time did you receive the call about the
24 shooting?

25 A I believe it was around 5:30 in the morning.

1 Q How long would it have taken you to get from Home
2 Depot to Bobby T's?

3 A That morning it took me about three minutes.

4 Q What is the address of Bobby T's that is marked on the
5 map there?

6 A Can I look at that? I don't recall right offhand.

7 Q Sure.

8 A 330 White Horse Road.

9 Q Were you the only one to respond?

10 A No, ma'am.

11 Q How many other deputies responded with you?

12 A There was approximately four that responded about the
13 same time.

14 Q Did you respond with lights and sirens?

15 A Yes, ma'am.

16 Q And all calls, do you respond with lights and sirens?

17 A No, ma'am.

18 Q Why did you respond with lights and sirens in this
19 one?

20 A Given that there was an active shooting with a
21 possible deceased victim, we're there to try to protect
22 life and property, and we get there as fast as possible.

23 Q Were you cleared to respond with lights and sirens?

24 A That is correct.

25 Q What did you see when you first arrived on scene?

1 A I was the second car to pull into the parking lot, and
2 I observed a crowd that -- just a small crowd gathered
3 around two cars that were parked at the front of the
4 entrance.

5 Q Is Bobby T's in Greenville County?

6 A That is correct.

7 Q Deputy, if you could look through these and tell me if
8 you recognize what those are.

9 A This first picture ---

10 Q Well, just look to -- I'm sorry -- to yourself and
11 make sure that you recognize what those are.

12 A (Reviews documents.)

13 Q Do you recognize those pictures?

14 A Yes, ma'am.

15 Q And what are they?

16 A They are pictures from the crime scene.

17 Q Do they fairly and accurately represent what you
18 observed that night?

19 A That is correct.

20 MS. MAJOR: Your Honor, at this time, the State moves
21 Exhibit 3, 4, 5, 6, 7, 8 and 9 into evidence.

22 MR. CHAMBERS: No objection, Your Honor.

23 THE COURT: Without objection, they're admitted.

24 (WHEREUPON, Plaintiff's Exhibit Nos. 3, 4, 5, 6, 7, 8 and 9
25 were admitted into evidence.)

1 MS. MAJOR: And, Your Honor, if I may request
2 permission to publish them to the jury.

3 THE COURT: Yes, ma'am. You may publish them.

4 BY MS. MAJOR:

5 Q Okay. So tell us what you first saw when you arrived
6 on the scene.

7 A There was a small crowd that was around those two
8 cars. In one of those pictures, you will be able to see
9 the two cars we're talking about. And there was one
10 subject in particular that I noticed that was kind of
11 belligerent, emotional. When I got out to make contact
12 with him, I seen that there was a body laying in between
13 the two vehicles, but I could only see the lower half of
14 his body, just the legs and the feet.

15 Q And describe to us what this location looks like.
16 What kind of building is it?

17 A It's a brick building. It's got glass windows in the
18 front.

19 Q Can you tell us what we're looking at here?

20 A That's one view of the front entrance of the club.
21 There's the two vehicles that I first seen when I pulled
22 in.

23 Q Was the scene marked off with crime tape?

24 A When I first got there, there was not, but once we got
25 more units on scene, we did put crime scene tape up.

1 Q Generally, what's the normal protocol in these types
2 of situations?

3 A When we respond to an incident like this, the first
4 thing we want to do is try to secure the crime scene. We
5 want to make it safe so that EMS can respond in and render
6 aid to any victims. Once we have established that, we're
7 going to rope off the area to make sure that anyone that's
8 not authorized to be there doesn't come in and contaminate,
9 and then we also locate and separate any witnesses.

10 Q And was that done in this situation?

11 A That is correct.

12 Q All right. So tell us, again, what this view -- what
13 angle we're looking at from here.

14 A White Horse Road is going to be to your back. You're
15 looking at the front entrance of the club.

16 Q And then what angle are we looking at here?

17 A This was -- White Horse Road is still going to be
18 towards your back. It's going to be kind of -- White Horse
19 and Augusta Road angle looking at the side of the club, but
20 it's going to still be the front.

21 This angle here, this would be the back side of the
22 building looking towards White Horse Road.

23 Q And, again, just that picture?

24 A This is another angle of the front of the club roped
25 off with crime scene tape.

1 Q And describe what that is.

2 A The pool of blood that you see between the two
3 vehicles is going to be where the body was laying.

4 Q And just to be clear, tell us where the body was from
5 this picture.

6 A It would be in between the gold and the red car.

7 Q And finally, that picture?

8 A This is going to be an angle from the front door of
9 the club looking towards White Horse Road in between the
10 two cars where the body was laying.

11 Q So you said that you saw somebody initially upset.
12 What did you do with that witness?

13 A I detained him in handcuffs, put him in the backseat
14 of my car after I had patted him down for weapons. Once I
15 was able to interview him, just talk to him, I understood
16 that he had no part in this. He was very emotional because
17 he was somehow related to, whether it be a friendship, with
18 the victim.

19 Q Was he released that day?

20 A Yes, he was.

21 Q How many officers arrived on the scene once all of the
22 officers were able to arrive there?

23 A There was probably between 15 and 20 units that
24 responded.

25 Q Did you talk to other witnesses at the scene?

1 A Yes, ma'am.

2 Q And what is the general, I guess, protocol for talking
3 to witnesses? Do you separate them or are they interviewed
4 together?

5 A No. We locate the witnesses, we separate them. In
6 this case, once I had released the first subject, went
7 inside the club, started to look for witnesses, was able to
8 locate two, immediately walked them outside, separated
9 them. And at that point, we keep them where they're at
10 separated from each other until we can transport to our
11 Criminal Investigation Division.

12 Q What other witnesses did you speak to on the scene?

13 A I spoke to a David Walker and Tyronzo Walker.

14 Q Did you transport anybody?

15 A I transported Tyronzo.

16 Q And where did you take him?

17 A I took him to the Law Enforcement Center.

18 Q What's the Law Enforcement Center, just so we're all
19 clear?

20 A It's the big building downtown, 4 McGee Street, and
21 that's where our main office is.

22 Q And what kind of activities or what do you do there?

23 A That is also where our Criminal Investigation
24 Division, their office is. Our investigators that were
25 working this case were going to hold their interviews in

1 their office, so I transported those eyewitnesses.

2 Q Do Uniform Patrol officers actually conduct the
3 interviews?

4 A No. I don't -- just the preliminary investigations
5 for the report.

6 Q And what time did you leave the scene?

7 A I believe it was around 7:15.

8 Q And you said that you arrived there at approximately
9 what time?

10 A I think it was 5:33.

11 Q During this time, is information being communicated?

12 A Yes, ma'am.

13 Q All right. And how is that being done?

14 A Do you want to elaborate a little bit on that?

15 Q Yeah. Just tell us how -- just the general protocol
16 of what you do in these situations and what you do next.

17 A Once we get on scene and the crime scene is secured,
18 we're also going to either locate the witnesses, separate
19 them, but we're going to try to get as much information as
20 we can on the suspect and try to air that out on the radio
21 to any responding units, suspect description, physical
22 description, vehicle description, direction of travel.

23 Q Okay. And was that done in this situation, in this
24 case?

25 A That is correct.

1 MS. MAJOR: Thank you. Please answer any questions
2 Mr. Chambers may have.

3 CROSS EXAMINATION

4 BY MR. CHAMBERS:

5 Q I think you said you were the second officer that got
6 there; is that correct?

7 A That is correct.

8 Q The officer that got there before you, was he or she
9 already out of their patrol car and doing something or did
10 y'all get there roughly the same time?

11 A Roughly the same time.

12 Q And you said that you saw, I think you said, two
13 crowds of people that were gathered up?

14 A Just one small group of people.

15 Q And where were they?

16 A They were around the back side of those vehicles.

17 Q All right. When you say "back side," are you talking
18 about closest to White Horse Road or closest to Bobby T's?

19 A White Horse Road.

20 Q Okay. So behind the cars that we see parked in the
21 front there?

22 A That is correct.

23 Q And I assume that you then saw Marcus McGee's body on
24 the ground; is that correct?

25 A I saw a motionless body, yes, sir.

1 Q Okay. And how was the body lying on the ground when
2 you saw it?

3 A I just recall his legs.

4 Q Okay. So you don't know whether -- where his head was
5 located, his legs and all that?

6 A No, sir. The first unit on the scene was primarily
7 going to take care of, you know, that portion of this
8 investigation and securing that crime scene. Mine was to
9 detain the one that was acting belligerent.

10 Q And it looks just from those pictures that the front
11 door is very close to where those cars are parked; is that
12 correct?

13 A Yes, sir.

14 Q How far from the front door would you say that the
15 body was lying?

16 A I would say that -- I can just tell you that based off
17 of the cars, I could still see his feet once I got almost
18 in between them. So he was towards the back door and trunk
19 area of that vehicle.

20 Q So he was between then the two cars that we see there
21 in the picture?

22 A Correct.

23 Q And if you're there, if where you are is the front
24 door, was the body closer than I am now or farther away
25 than I am now?

1 A I don't recall. I didn't measure at all.

2 Q Okay. Can't give an estimate?

3 A Just based off of the vehicles. That's the only thing
4 I can give you, sir.

5 Q And to your knowledge, had anybody made contact with
6 the decedent's body there on the ground?

7 A Not to my knowledge.

8 Q Do you know if he had been moved?

9 A Not to my knowledge.

10 Q But just not to your knowledge. You're not saying it
11 didn't happen. You're just saying you don't know.

12 A When we responded, he didn't move from that position.

13 Q I understand that. But you don't know whether anybody
14 may have touched the body, moved the body, had any kind of
15 interaction with the body before you got there?

16 A No, sir.

17 Q All right. And you said you then set about finding
18 witnesses, separating them out from everybody and trying to
19 preserve the crime scene; is that correct?

20 A Correct.

21 Q And why is it important to preserve a crime scene?

22 A So that any evidence that would be there when we get
23 there is not contaminated.

24 Q What was the weather like? Was it raining?

25 A I don't recall.

1 MR. CHAMBERS: You don't remember. All right. That's
2 all the questions I have for you. Thank you.

3 THE COURT: Anything further?

4 MS. MAJOR: No, Your Honor.

5 THE COURT: Okay. Thank you, sir. You may step down.
6 Please be careful.

7 MS. MAJOR: Your Honor, may this witness be released
8 from his subpoena?

9 THE COURT: Any objection?

10 MR. CHAMBERS: No objection, Your Honor.

11 THE COURT: Sir, you are released from your subpoena.
12 You may stay or leave, whichever you choose.

13 THE WITNESS: Thank you, sir.

14 MS. MAJOR: Your Honor, the State calls Officer
15 Napolitano.

16 THE CLERK: Sir, please come forward to be sworn in.
17 WHEREUPON,

18 BRANDON NAPOLITANO,
19 after first having been duly sworn, testified as follows:

20 THE CLERK: Would you please state your name for the
21 record.

22 THE WITNESS: Deputy Brandon Napolitano, Greenville
23 County Sheriff's Office.

24 THE CLERK: Thank you.

25 ///

DIRECT EXAMINATION

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BY MS. MAJOR:

Q Deputy, I think you said it, but just for the record, where are you employed?

A The Greenville County Sheriff's Office.

Q And in what capacity are you employed?

A I'm assigned to Uniform Patrol.

Q What is Uniform Patrol? What do you do?

A Simply put, whenever somebody calls 9-1-1 or the nonemergency number or requests a deputy to their residence for any reason, I'm who shows up.

Q Are you currently still on Uniform Patrol?

A Yes, ma'am.

Q Were you working on January 13, 2013?

A Yes, ma'am.

Q Did you respond to a shooting at Bobby T's?

A Yes, ma'am.

Q What did you see when you arrived?

A When I arrived on scene, I was one of the last units to arrive on scene. When I got there, the scene had already been secured with crime scene tape. I made contact with my supervisor and asked what he needed me to do. He told me that I needed to work crowd control, keep everybody out of the scene. At that point, there was a large crowd. There was about maybe five to six deputies solely dedicated

1 to crowd control to keep people out of the scene as there
2 was numerous witnesses, upset family and friends coming
3 over to the scene.

4 Q When you say secure the crime scene, what do you mean?
5 How do you go about doing that?

6 A Well, the first thing that deputies did is they put up
7 yellow tape to keep the crime scene secure. That way,
8 nobody can come in and disturb any evidence. My action was
9 simply just to keep people behind the yellow line, behind
10 the yellow tape. That way, they couldn't come into the
11 crime scene.

12 Q And were you successful in doing that? Were people
13 out of the crime scene area?

14 A Yes, ma'am.

15 Q What time did you arrive on the scene?

16 A Approximately 5:28 in the morning.

17 Q And what time did you leave the scene?

18 A I transported a witness to the Law Enforcement Center
19 at approximately 7:04 in the morning.

20 Q And up until then, until you left the scene, was the
21 scene secure?

22 A Yes, ma'am.

23 Q And so were your efforts in attempting to control the
24 crowd successful?

25 A Yes, ma'am.

1 MS. MAJOR: No further questions. Please answer any
2 questions Mr. Chambers may have.

3 MR. CHAMBERS: Your Honor, I don't have any questions
4 for Deputy Napolitano.

5 THE COURT: All right. Officer, you may step down.
6 Please be careful.

7 THE WITNESS: Thank you, sir.

8 THE COURT: Is he released?

9 MS. MAJOR: Yes, Your Honor.

10 THE COURT: Any objection?

11 MR. CHAMBERS: No objection, Your Honor.

12 THE COURT: You are released from your subpoena, sir.
13 You may stay or leave, whichever you choose.

14 THE WITNESS: Thank you, sir.

15 MR WESTON: The State would call Dr. James Fulcher.

16 THE CLERK: Doctor, if you would come forward to be
17 sworn in, please.

18 WHEREUPON,

19 JAMES FULCHER,
20 after first having been duly sworn, testified as follows:

21 THE CLERK: Sir, would you please state your name for
22 the record.

23 THE WITNESS: Dr. James Fulcher.

24 THE CLERK: Thank you.

25 ///

1 (WHEREUPON, Plaintiff's Exhibit No. 11 was marked for
2 identification.)

3 DIRECT EXAMINATION

4 BY MR WESTON:

5 Q Dr. Fulcher, with whom are you employed?

6 A Pathology Associates of Greenville, South Carolina.

7 Q And just in layman's terms, what do you do?

8 A I'm a medical examiner for the county. I'm a
9 board-certified forensic pathologist. I do autopsies. My
10 partner and I do about 600 autopsies between this county
11 and several others a year. We split those external
12 examinations. We examine bodies for evidence for law
13 enforcement and to appropriately code manners and causes of
14 death in the state of South Carolina.

15 Q Let's talk a little bit about your background,
16 Dr. Fulcher. Where did you go to school?

17 A Sure. I went to college at the University of Virginia
18 and then at medical school and medical college at Virginia
19 in Richmond, Virginia. I did a residency and fellowship in
20 forensic pathology, anatomic and clinical pathology as well
21 in Richmond, Virginia, and this is my first job after the
22 training. I've been here about six years.

23 Q And approximately how many autopsies have you
24 performed?

25 A Approximately 1,700.

1 Q And have you testified at proceedings such as these as
2 an expert with regard to forensic pathology in specific
3 cases?

4 A Yes, sir.

5 Q Approximately how many matters?

6 A 15.

7 Q And have you received additional training as far as
8 seminars, workshops and continuing education and what have
9 you?

10 A Sure. The Board of Pathology maintains that we have
11 certain educational criteria. We usually get between 50
12 and 60 hours of continuing education every year.

13 MR WESTON: Your Honor, the State would offer
14 Dr. Fulcher as an expert in the field of forensic
15 pathology.

16 MR. CHAMBERS: No objection, Your Honor.

17 THE COURT: No objection.

18 Ladies and gentlemen of the jury, Mr. Foreman,
19 normally a person cannot give an opinion testimony. When a
20 person testifies, they must testify as to what they either
21 see, hear or sense by smell or something of that nature.
22 However, there is an exception when someone is qualified
23 due to their education, experience, knowledge, skill or
24 training. Those persons are permitted to give their
25 opinion in certain areas if the Court so qualifies them.

1 This witness is now qualified as an expert in the area
2 of forensic pathologist to give opinion testimony in that
3 area. That does not mean that you must accept his opinion,
4 but it is evidence for you to use in any way you see fit
5 and give it the weight and credibility that you believe it
6 deserves.

7 Solicitor?

8 MR WESTON: Thank you, Your Honor.

9 BY MR WESTON:

10 Q Dr. Fulcher, I'm going to hand you what has been
11 identified or marked as State's Exhibit 11 for
12 identification purposes. Would you just tell the jury
13 first without showing it to them what that is?

14 A This is my body diagram. This is a -- basically, a
15 pencil drawing of the body outlining bullet holes and
16 various things.

17 Q And does that represent the body that is the subject
18 of a specific autopsy?

19 A Yes. This is the autopsy of a Marcus McGee that I
20 performed, let's see, January 14th of 2013 at 9 a.m.

21 Q All right. And was -- do you recognize Investigator
22 Lloyd Newman with the sheriff's office here in the
23 courtroom?

24 A Yes.

25 Q Have you dealt with him before, on more than one

1 occasion?

2 A Yes.

3 Q Was he present during the autopsy?

4 A He was.

5 Q Do you know a Dar Shaw with Greenville forensics?

6 A Yes.

7 Q Was he also present during the autopsy?

8 A Yes.

9 Q All right. Would you tell the jury -- there are a
10 number of markings on the diagram you have. What do they
11 represent, and are they significant from a layman's
12 standpoint or are they just notes for you?

13 A There are notes as to gunshot wounds on this body,
14 where they enter, what organs they injure and the paths
15 they take through the body. There are also documentation
16 of organ weights as well, the clothing the victim was -- or
17 the decedent was received in, stuff like that. Height,
18 weight, various things.

19 MR. WESTON: Excuse me one moment.

20 Your Honor, the State would offer State's Exhibit 11
21 into evidence.

22 MR. CHAMBERS: No objection, Your Honor.

23 THE COURT: Without objection.

24 (WHEREUPON, Plaintiff's Exhibit No. 11 was admitted into
25 evidence.)

1 BY MR WESTON:

2 Q All right. I guess the best way to do this would be
3 to use this thing.

4 Okay. Dr. Fulcher, let's talk a little bit about what
5 is an autopsy.

6 A An autopsy is an examination of a body. It includes
7 external examination of the body. Additionally, I remove
8 all organs from the body and examine them for both
9 inflicted trauma or natural disease.

10 Q All right. And the outlined diagram front and back of
11 the human body, that is just a form?

12 A It is. It is -- it's simply a form. I believe this
13 one comes from the National Association of Medical
14 Examiners. They're all very, very standardized, basically
15 line drawings of a human body. There's male and female.

16 Q Just so you can show entrance wounds, exit wounds,
17 direction of -- things that -- scars, bumps, bruises and
18 injuries and what have you?

19 A It keeps me from drawing a body on my own.

20 Q All right, sir. Would you tell the jury about the
21 autopsy that you performed on Marcus McGee in terms of your
22 significant findings?

23 A Sure. I will refer to my Report of Findings in this
24 case. This is the official autopsy report, and I can show
25 here as well. Mr. McGee had two important injuries. The

1 number one injury which is listed ---

2 Q Excuse me, Doctor. I'm so sorry to interrupt you.
3 Let me give you this laser pointer that I've been given,
4 and you can point it to the exact ---

5 A The most pertinent injury is gunshot wound,
6 penetrating gunshot wound to the head. This little dot
7 right here (indicating), that's where the bullet enters.
8 It basically destroys the brain. It causes significant
9 damage to very vital areas of the brain that are critically
10 important to maintain respiration. I recovered that bullet
11 at the back of the head still in the skull. But it did
12 very significant damage to the brain. This highly
13 traumatized brain is the immediate and direct cause of
14 death in this case.

15 Additionally, there's a gunshot wound to the hip,
16 pertinently the right hip. You can't see it because it's
17 bleached out, but that's okay. Basically, that bullet just
18 kind of deflects along the anterior portion of the hip
19 bone, the illum, and kind of curves down, rides along the
20 curve of the hip and ends up deep in the muscles of the
21 buttocks. It does soft tissue wounding, but it is not, in
22 and of itself, fatal. It's a flesh wound, if you will.

23 Other than that, I do have some natural disease in
24 this 29-year-old African-American male. He does have
25 moderate heart disease. Not enough to kill him. A

1 slightly enlarged heart which probably came from his heart
2 disease. And as a routine, we run toxicology. He had a
3 certain amount of alcohol, marijuana active ingredient THC
4 in its metabolite. Additional compounds present were
5 run-of-the-mill stuff: caffeine, nicotine, stuff like
6 that. Noncontributory.

7 Q Were there any other physical abrasions, bruises,
8 cuts, intrusions on the exterior of his body that you found
9 of significance?

10 A I'm going to -- none of any significance. There were
11 gunshot wounds, very superficial stuff, otherwise. But no.
12 There's -- there is -- the hands were received bagged.
13 They're clean. I don't see any significant injuries on the
14 hands.

15 Q Were you able to determine the direction of travel on
16 the bullet to the head?

17 A Yes, I was. The bullet, because I recovered it in
18 posterior in the hole, is -- the entrance in the front, the
19 direction of wounding in this case is from front to back
20 with a very slight downward trajectory and very minimally
21 right to left. But that's very minimal.

22 Q What about the other wound?

23 A The other wound comes in from right to left with the
24 deflection downwards, and it doesn't significantly move
25 vertically.

1 Q All right. Were you able to make any kind of
2 determination with regard to the distance? And would you
3 tell the jury first how that kind of determination could be
4 made of the distance from the shot to the victim?

5 A Sure. When you fire a weapon, the nitrocellulose
6 gunpowder in the cartridge burns. It really doesn't
7 explode. It burns. And when it burns, it changes from a
8 solid phase to a gaseous phase, into a gas. That has a
9 volume that's many times more than the solids, so all that
10 gas and soot and debris comes out with the bullet. So when
11 you fire a weapon, a modern firearm, not just the bullet
12 comes out of the barrel. There is hot gas, there's a
13 little bit of flame.

14 In this case, what I found was a one-inch area of
15 stippling. And what that is is gunpowder tattooing. So
16 around the entrance, there's actually a circle where there
17 is this burned-in gunpowder. What that means with most
18 weapons is this range was between six inches to, let's say,
19 two. That's an estimate. I can't be absolutely certain.
20 If this was critical, you would want to fire this weapon at
21 test paper and get the exact spread.

22 Q Six inches to two inches?

23 A Yeah. Between six to two. Absolute max, I'd say
24 eight.

25 Q So you would consider this a close range shooting?

1 A Yes. This is a close range.

2 Q All right. Were you able to remove any projectiles
3 from his body?

4 A I was. I removed two projectiles: one from the head
5 and one from that buttocks wound. They were both described
6 by me as small caliber jacketed projectiles.

7 Q All right. Was there anything significant about them
8 beyond that?

9 A No. As always, I receipt them to forensics at
10 autopsy, so Officer Dar Shaw's -- they were given to him at
11 autopsy.

12 Q Did you form a conclusion as to what the manner of
13 death was? Or excuse me. What the cause of death was.

14 A Yes. The cause of death in this case is a gunshot
15 wound to the head.

16 Q And were you able to perform a conclusion as to what
17 the manner of death was?

18 A Yes. The manner of death in this case is a homicide.

19 Q And what does homicide mean for the jury's
20 edification?

21 A Homicide is a medical descriptor. It's not synonymous
22 with murder. It simply means that one person was killed by
23 the actions of another person.

24 MR. WESTON: Thank you, sir. That's all I have.

25 ///

CROSS EXAMINATION

BY MR. CHAMBERS:

Q You said that the projectiles were small caliber?

A That's a description. I use -- I generally don't measure them. I allow the examiner to do that. Basically, what this means is they're not -- I would say they're not huge. I would describe .22 to maybe -- .22 is definitely small caliber. I would say anything at to like a .38 would be small. Once you get beyond that, I would say it's pretty good size, large. I generally start talking about large calibers when they're .45 or plus.

Q And do you make that determination just based on the projectile itself or ---

A Just the projectile. The holes in the body do not allow you to make a good determination.

I really -- that's a generic description. I usually defer to the firearms examiner for detailed analysis. I just describe them. I'm obligated to say something about them. If it is critical to them, to the prosecution or defense, I always recommend that a firearms examiner examine the bullets carefully. It's not something you would want to do with the naked eye. You would do it with a micrometer, a very detailed analysis, and that's a firearm examiner's job, not mine.

MR. CHAMBERS: Thank you, Dr. Fulcher. That's all the

1 questions I have.

2 THE COURT: Anything from the State?

3 MR WESTON: No redirect, Your Honor. The State would
4 ask that Dr. Fulcher be allowed to be excused from his
5 subpoena.

6 MR. CHAMBERS: No objection, Your Honor.

7 THE COURT: Doctor, you are free to go or stay. Thank
8 you.

9 THE WITNESS: Thank you. Appreciate it.

10 THE COURT: Please be careful.

11 MR WESTON: Excuse me, Your Honor. I need to go make
12 a copy of this right quick so he can take his original,
13 take it with him.

14 And the State would call Officer Dar Shaw, Your Honor.
15 WHEREUPON,

16 DAR SHAW,
17 after first having been duly sworn, testified as follows:

18 THE CLERK: Would you please state your name for the
19 record.

20 THE WITNESS: Darwood Shaw, S-H-A-W.

21 THE CLERK: Thanks.

22 DIRECT EXAMINATION

23 BY MR WESTON:

24 Q Mr. Shaw, with whom are you employed?

25 A The Department of Public Safety, Forensic Division.

1 Q And is that Greenville County?

2 A It is.

3 Q For how long have you been there?

4 A A little over 16 years.

5 Q All right. And what is your job, basically?

6 A Our job is to assist agencies with their crime scene
7 processing which can include anything from processing for
8 fingerprints, photographic documentation, collection of
9 evidence and preparing reports for court purposes.

10 Q Did you have an occasion to participate in the crime
11 scene forensic aspect of the crime scene either at Bobby
12 T's or at the site of the car stop or at the autopsy with
13 regard to the death of Marcus McGee in January of 2013?

14 A Yes, I did.

15 Q What role did you -- what specific site did you
16 participate at?

17 A I was at the -- I went to the autopsy.

18 Q All right. So you were not at -- called to the crime
19 scene that morning?

20 A That's correct.

21 Q All right. And you were not involved in the
22 subsequent car stop that morning?

23 A That's correct.

24 Q All right. Now, when you went to -- now, when you
25 went -- attended the autopsy, and we just heard from

1 Dr. Fulcher -- let me just ask you, what is your role in
2 autopsy?

3 A My role is to take photographs and to collect
4 evidence, potential evidence relating to any incident. In
5 this case, it was a death investigation.

6 Q Let me show you -- after the autopsy, did Dr. Fulcher
7 give you anything, any what could have been potentially
8 evidence?

9 A He did.

10 Q What did he give you?

11 A There were two projectiles that I took from
12 Dr. Fulcher on a Property and Evidence sheet.

13 Q All right. What were -- do you remember where they
14 were taken from?

15 A There was one projectile that was recovered from the
16 head and the other one from the right hip area.

17 Q All right. Let me show you what is obviously an
18 evidence packet and ask you if you recognize it by any of
19 the markings on it.

20 A I do.

21 Q All right. And before we go into -- let me just ask
22 you, did you also take items of clothing?

23 A Yes, sir, I did.

24 Q And is that common that you would normally -- or that
25 forensics would normally take the items of clothing from

1 the deceased for further possible forensic examination?

2 A Yes. That's correct.

3 Q Did you take -- I'm just going to go down the list.

4 Do you remember taking a blue jean -- blue jeans and belt?

5 A I did.

6 Q A flannel jacket?

7 A Yes.

8 Q A brown T-shirt and a white T-shirt?

9 A Yes, sir.

10 Q That is in addition to the two projectiles; is that
11 correct?

12 A That is correct.

13 Q All right. I'm going to ask you, do you recognize
14 that packet there? Excuse me. Before I do that, let me
15 ask you this. I'm sorry. When you go to -- when you
16 participate in any forensic examination, either at the
17 crime scene or, in this case, in autopsy, is there a case
18 number assigned?

19 A There is.

20 Q And would that have been the case in this case?

21 A It would be, yes.

22 Q And does that case number follow all the items as well
23 as the investigation the next day, six months later, a year
24 later if they are attributable -- if the actions are
25 attributable to that case?

1 A That's correct, yes.

2 Q All right. Do you recognize the package in front of
3 you?

4 A Yes, sir, I do.

5 Q How do you recognize it?

6 A It has my initials on the back. There's a piece of
7 evidence tape, and my initials are on the evidence tape.

8 Q What the doctor gave to you, Dr. Fulcher gave to you,
9 did you put it in the bag there?

10 A I did.

11 Q All right. And what does that bag contain?

12 A There -- there are two items that are labeled. One is
13 labeled Item A, which is a jacketed projectile retrieved
14 from the victim's head; the other is a container that's
15 Item B, which is a projectile retrieved from the victim's
16 right hip area.

17 Q Would you open the bag, please, sir.

18 A (Witness complies.)

19 Q While you're doing that, let me just ask you -- you
20 can continue to open that. Once you put it in the bag, did
21 you, in fact, seal it?

22 A Actually, what -- what I did was I had two of their
23 canisters at the morgue, and I put them inside of these two
24 plastic canisters. They were then sealed and then taken to
25 our office. Before they were put into Property and

1 Evidence, I placed them into this bag, made barcode labels
2 for each item, and then sealed the bag up. So inside of
3 this bag are two plastic vials, each having what is labeled
4 Item A and Item B.

5 Q All right. And so inside these vials are the two
6 projectiles that were found in the body of Marcus McGee at
7 the autopsy by Dr. Fulcher based on your packaging and your
8 initials and what have you?

9 A Yes. And also, on the top of each of these containers
10 that are labeled A and B, one from the skull, one from the
11 right hip, is my writing. I wrote those on the canisters.

12 Q All right. And I noticed that those canisters are
13 also sealed; is that correct?

14 A That's correct.

15 Q All right. And then you placed them into these sealed
16 -- sealed bag, is that correct, and sealed the bag?

17 A Yes, I did.

18 Q All right. And at that point, they would go into
19 Property and Evidence?

20 A They would.

21 MR WESTON: All right. Your Honor, the State would
22 offer these two canisters with small bullet fragments as
23 State's Exhibit 12 and 13.

24 MR. CHAMBERS: No objection, Your Honor.

25 THE COURT: Without objection, they're admitted.

1 (WHEREUPON, Plaintiff's Exhibit Nos. 12 and 13 were marked
2 for identification and admitted into evidence.)

3 BY MR WESTON:

4 Q Did you have any further involvement in this case,
5 Officer Shaw?

6 A No, sir.

7 Q All right. And just to be clear, you did not
8 participate in the investigation at the crime scene at all?

9 A That's correct.

10 MR WESTON: Thank you, sir.

11 THE COURT: Mr. Chambers?

12 MR. CHAMBERS: Your Honor, I don't have any questions
13 for Sergeant Shaw.

14 THE COURT: Okay. Thank you, Officer. You may step
15 down.

16 Is he released?

17 MR WESTON: We ask that he be released from his
18 subpoena as well.

19 MR. CHAMBERS: No objection, Your Honor.

20 THE COURT: You're released from your subpoena. You
21 may stay or leave, whichever you choose.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: Thank you. Please step down. Be careful.

24 Mr. Foreman and ladies and gentlemen of the jury,
25 we've been running now for about an hour and -- I've been

1 on the bench since two minutes till 2:00, but you've been
2 here for about an hour and 15 minutes. I don't like to
3 keep you more than about an hour and 15 minutes before we
4 take a small break.

5 So with that, I'm going to charge you that we are
6 nowhere near the end of this case. Please do not
7 deliberate among yourselves, not even within your own mind.
8 People ask me, "Well, how can I not think about it?" Well,
9 this is work. Don't think about work. Think about the
10 ball game tonight. Think about the ball game instead of
11 work. Do not begin deliberation whatsoever. And we'll
12 have you back in about 15 minutes, and we'll run up till
13 5:00. And then we will promptly stop real close to that so
14 that we can accommodate someone who was a child issue.

15 All right, Mr. Foreman.

16 (WHEREUPON, the jury exited the courtroom at 3:42 p.m.)

17 THE COURT: All right. Anything from anybody before
18 we take 15 minutes or so?

19 MR. WESTON: No, sir, Your Honor.

20 THE COURT: Okay. Be back about two minutes till the
21 hour. We'll get the jury in and we go up to 5:00.

22 (WHEREUPON, a recess is taken at 3:42 p.m.)

23 THE COURT: Ready?

24 MR. WESTON: Yes, sir.

25 THE COURT: Let's have our jury.

1 (WHEREUPON, the jury entered the courtroom at 4:06 p.m.)

2 THE COURT: Mr. Foreman, any matters from the jury?

3 JURY FOREMAN: We're good.

4 THE COURT: Okay. We talked about housekeeping
5 matters outside of your presence and we've spent a few
6 minutes talking about that, so I'll tell you what's going
7 on here. We have one more witness that I understand will
8 be 30 minutes or less. The witness after that is
9 anticipated to be more than that, which would put us past
10 5 p.m., Mr. Foreman, so we're going to take this other
11 witness. After that we're going to recess for the day and
12 begin tomorrow morning at 9 a.m. The lawyers already know
13 that I'll be here no later than a couple minutes after
14 8:00. If they need me in the morning, they'll meet me
15 here. But I'll go ahead and tell you now, we would expect
16 you to be ready to go by 9:00 because I will be here about
17 50 minutes before that time period. I'll be ready to go.
18 So there's no reason why we could not start and get a good
19 start right at 9:00 sharp tomorrow morning. 0900 as they
20 say in the U.S. Army.

21 So with that, Solicitor?

22 MR WESTON: Thank you, Your Honor. The State would
23 call Ms. Elisha Green.

24 THE CLERK: Ms. Green, please come forward to be sworn
25 in.

1 WHEREUPON,

2 ELISHA GREEN,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Would you please state your name for the
5 record.

6 THE WITNESS: Elisha Green.

7 THE CLERK: Thank you.

8 THE COURT: Solicitor?

9 MR. WESTON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR WESTON:

12 Q Ms. Green, how old are you?

13 A 29.

14 Q Are you employed?

15 A Yes.

16 Q Where do you work?

17 A Samsung.

18 Q I'm sorry?

19 A Samsung.

20 Q Okay. And about how long have you been there,
21 ballpark?

22 A Five years.

23 Q All right. And where do you live, Ms. Green?

24 A I stay in Greenville Cherrydale area.

25 Q All right. And just so we can get right down to it,

1 you -- back in January of 2013, you were the girlfriend of
2 Marcus McGee, who was killed that night; is that correct?

3 A Correct.

4 Q Now, how long had you and Mr. McGee been dating?

5 A Since 2004.

6 Q All right. And do you know what Mr. McGee did for a
7 living?

8 A Yes.

9 Q Could you tell the jury?

10 A Marcus McGee did sell drugs as far as his street life,
11 and I was aware of that; however, that does not justify him
12 being killed.

13 Q Okay. I don't need you to editorialize. I understand
14 it. I appreciate it, but I don't need you to editorialize.

15 A Sorry.

16 Q Did you approve of that?

17 A I didn't.

18 Q Okay. Did you often tell him that?

19 A Yes. We got into it several times.

20 Q Okay. Now, just for the record, do you know David
21 Young?

22 A No.

23 Q As far as you know, had you ever seen him before
24 today?

25 A No.

1 Q All right. Did you know -- or do you know Porchae
2 Adams?

3 A I know of her.

4 Q Okay. And do you know her by any other name other
5 than Porchae Adams?

6 A Chop.

7 Q Was that what she was called on the street?

8 A Yes.

9 Q About 10:30 p.m. on January 12, 2013, that night, late
10 that night, did you have occasion to drive your automobile
11 with Marcus McGee in it to meet Porchae Adams?

12 A Yes.

13 Q Before we get to where you went, tell the jury what --
14 your understanding what Mr. McGee was telling you where
15 y'all were going and why.

16 A We were going to purchase some drugs. He was going to
17 sell them to Porchae, and we were meeting at a spot in
18 Greenville, and we met her there.

19 Q And did y'all meet at the McDonald's Citgo on White
20 Horse Road at Interstate 85?

21 A Yes.

22 Q All right. Did you park in the front or the side or
23 the back or what?

24 A It was -- we came in and we parked on the side, but it
25 was still the front. It was the side but in the front.

1 Q Okay. And it's dark outside, I assume? 10:00, 10:30
2 at night?

3 A Yes.

4 Q Did y'all arrive before Ms. Adams?

5 A Yes.

6 Q About how long did you wait till she got there?

7 A Less than five minutes.

8 Q All right. And were they talking on -- her and
9 Mr. McGee talking on the cell phone in the, let's say, half
10 hour to hour leading up to that setting up the meeting?

11 A Can you repeat that?

12 Q Were her and Mr. McGee talking on the cell phone in
13 the half hour or so leading up to the meeting setting up
14 wherever we're supposed to meet and when I'll be there,
15 that kind of thing?

16 A Yes.

17 Q And you didn't participate in those conversations?

18 A No.

19 Q What kind of car were you driving?

20 A A Honda Accord.

21 Q And was Mr. McGee in the front driver's seat?

22 A No. He was in the passenger's seat.

23 Q Passenger's seat. I'm sorry. I apologize. I'm not
24 trying to confuse you.

25 Was there anybody else in the car with y'all?

1 A No.

2 Q Did you see Ms. Adams arrive?

3 A Yes.

4 Q What kind of car was she in?

5 A It was a blue box type car. I can't remember the name

6 brand.

7 Q Was it a small car?

8 A Yes. Small box blue car.

9 Q Was she alone?

10 A Yes.

11 Q Okay. And tell the judge -- I mean, excuse me, tell

12 the jury what happened once she pulled in. Did she pull in

13 like right next to you or something? Or tell the jury how

14 that worked and what happened once she pulled in.

15 A She pulled in about two parking spots over from us.

16 When she got there, Boogie was about to get out of the car,

17 and she was ---

18 Q Excuse me. Just for the jury's education, "Boogie" is

19 the nickname for Marcus McGee?

20 A Marcus, yes.

21 Q Okay. Was --

22 A Marcus --

23 Q Go ahead. I'm sorry.

24 A No problem.

25 She was -- basically, we got there. She parked two --

1 two parking lots over -- I mean, not parking lots but
2 spots. She came and got in the car. Prior to her getting
3 in the car, Boogie was about to get out of the car to go to
4 her car. And she got in the backseat. She asked us whose
5 car was this, and he said it was my girlfriend's car.
6 She's driving. And when he pulled out the drugs, he told
7 her how much, \$1,400. She came up short and said, "Boogie,
8 I only have \$1,350."

9 Q \$1,350?

10 A Yes.

11 Q All right.

12 A Yeah. She only has \$1,350. So he said, "Well, Chop,
13 you know I told you \$1,400."

14 And she said, "I know, but I just don't have it."

15 And he said, "Well, you're good for it. I'll get my
16 \$50 later from you in the streets."

17 Q All right.

18 A Prior to -- during that conversation, she asked him to
19 cook the drugs. And he told her, "Yeah. I'll cook them
20 for you, but I can't right now. I have to take her home."

21 And she said, "No. We're going to go to" -- I forget
22 the name of the spot, but they're going to go to some other
23 spot.

24 And so Boogie said, "No. I'm not going to take her
25 down there. I'm going to take her home and I'll meet you

1 -- I'll meet up with you later."

2 Q "Her" being -- referring to you?

3 A Yes.

4 Q He was not going to take you to this sort of drug
5 deal?

6 A Right.

7 Q Okay. And so after that, she -- they kept conversing
8 back and forth. "Come."

9 He said, "No. I can't right now."

10 After that, they made the transaction. She said,
11 "Well, Boogie, what's going to happen if this comes out
12 wrong?"

13 And he said, "That has nothing to do with me. I told
14 you I'll cook it for you. If you mess it up, then that's
15 all you, Porchae -- all you, Chop." Excuse me. And ---

16 Q Did he indicate that he was the primary person in this
17 drug deal or was he just the middleman, did he indicate?

18 A He was the middleman.

19 He did tell her that it wasn't his. He was doing her
20 a favor, and if she messes it up, that's on her. If she
21 messes up the drugs, he has nothing to do with it.

22 Q All right. And at this point, did they part company?
23 Did y'all part company with her? Did she leave?

24 A Yes, yes.

25 Q Were there any problems at that point between

1 Mr. McGee and Ms. Adams?

2 A No.

3 Q All right. Once she left, where did y'all go?

4 A After we left there, we went to our apartment near in
5 -- near Cherrydale/Piney Mountain area. We got something
6 to eat before we went home, went home and Chop started
7 calling. She called several times back to back. He
8 finally answered. I didn't hear her side, but based upon
9 the conversation, there was some -- I mean some difference
10 in as far as how the drugs came out. I heard him say,
11 "Chop, I told you to wait. I would have cooked it up for
12 you. You probably cooked it wrong."

13 That's when she said, "No. Boogie, this isn't right.
14 They say it tastes like K row [phonetic]."

15 And he told her, "No. I know that it was legit. You
16 must have cooked it wrong."

17 He hung up. She kept calling back. The last
18 conversation he had with her is, "You're not going to keep
19 tearing up my phone -- I mean you're not going to keep
20 calling my phone."

21 Q And did he hang up again?

22 A He hung up.

23 Q As far as while you were with him, did he speak with
24 her again in your presence?

25 A No.

1 Q Do you know whether he received any other calls that
2 he didn't answer in your presence?

3 A No.

4 Q Okay. When you got back to y'all's apartment after
5 y'all had gotten something to eat, did you remain -- did
6 you and he remain there?

7 A Yes.

8 Q Did he stay -- what time did he leave?

9 A Boogie didn't leave until almost 2:00, 2:30 in the
10 morning. I knew it was pretty late around that time
11 because I asked why were you leaving out so late. And he
12 said, "I'll be right back."

13 Q All right. And did you know where he was going?

14 A No. He did not say where he was going.

15 Q All right. And what was the next thing you heard with
16 regard to Mr. McGee? Did you -- I assume you went to bed?

17 A I fell asleep. The next call I received is Boogie
18 dead. I don't know what happened.

19 Q Okay. Who did you receive a call from?

20 A My friend, who's dead now near the way. Her name was
21 Karina [phonetic].

22 Q All right. Did you -- this is about what time? 5:30,
23 6:00 in the morning?

24 A About 5:00, 5:15, 5:30.

25 Q All right. And this was from your friend Karina?

1 A Karina Collin.

2 Q And she advised you that Mr. McGee had been killed?

3 A Yes.

4 Q What did you do, if anything?

5 A At that moment, I fell to the floor. I didn't know if
6 someone was coming to our apartment because I didn't know
7 what was going on. About five minutes later, I received
8 more calls.

9 Q Concerning the shooting?

10 A Yes.

11 Q All right. And you don't need to tell us who called
12 or what they said.

13 At any point, did you call Porchae Adams after you
14 started receiving these calls?

15 A No. I called Porchae Adams after I left the scene.

16 Q Okay. Let's go back before you -- how did you -- when
17 did you go to the scene? By "the scene," you mean Bobby
18 T's?

19 A Yes.

20 Q About what time did you go there?

21 A What time did I get to Bobby T's?

22 Q Yes, ma'am.

23 A It was off in the morning -- well, the sun was coming
24 up, so I would say between 6:00, 6:30, because we left the
25 hospital from there. And they told us that he was dead and

1 he wasn't coming to the hospital.

2 Q So you went to Bobby T's first, then you went to the
3 hospital?

4 A I went to the hospital first, then to Bobby T's.

5 Q Okay. When you got to Bobby T's, were the police
6 still on scene?

7 A Yes.

8 Q And did you -- I assume you talked to anybody who was
9 still around there?

10 A Yes.

11 Q Okay. Now, don't get into what they told you. Did
12 you talk with Porchae Adams later that day or the next day
13 or whenever?

14 A That same morning.

15 Q About what time, generally?

16 A I probably would say between 10:00, 11:00. It wasn't,
17 I don't think, so much at 12:00, but it was after we left
18 the scene, and I want to say probably around 11:00 -- 10:00
19 or 11:00 I called.

20 Q Okay. Did you reach her?

21 A Yes.

22 Q And I assume you basically asked her what happened,
23 or, "Did you have anything to do with that?" or anything
24 like that?

25 A I said, "You set Boogie up."

1 And she said, "No, I didn't."

2 Q Okay. And did that pretty much end the conversation?

3 A It ended with someone in the background, they hung --
4 me and her was getting into it. When she kept saying, "No,
5 I didn't do it," and I was going back and saying, "Yes, you
6 did," everyone was saying "Chop," and someone in the
7 background said, "Hang up on her," and she hung up.

8 Q And was that the last time you spoke to her?

9 A Yes.

10 MR WESTON: All right. Thank you, ma'am.

11 THE COURT: Mr. Chambers?

12 CROSS EXAMINATION

13 BY MR. CHAMBERS:

14 Q How long had you known Marcus McGee?

15 A For nine and a half years.

16 Q And were y'all living together at the time?

17 A Yes.

18 Q And had you been living together that entire nine and
19 a half years or ---

20 A No.

21 Q Just known each other that long?

22 A Off and on.

23 Q So for that whole nine and a half years, y'all had
24 been dating off and on, living together off and on?

25 A Correct.

1 Q And so he had been a drug dealer pretty much through
2 that entire relationship, correct?

3 A Not when I first met him.

4 Q But shortly thereafter?

5 A Yeah.

6 Q And for most of the time that y'all dated?

7 A Yes.

8 Q Even though you say you didn't approve of it?

9 A Yes.

10 Q And on this particular evening, you even drove him to
11 first purchase drugs and then sell drugs at the McDonald's
12 parking lot?

13 A Correct.

14 Q And that's even though you didn't approve of what he
15 was doing?

16 A Correct.

17 Q All right. And you said you knew of Chop, Porchae
18 Adams, but you didn't -- you didn't really know her, right?

19 A I don't know her.

20 Q But Boogie knew her, right?

21 A Not to my knowledge. That was my first time knowing
22 that they knew each other when we met her that night.

23 Q But didn't you tell the police that when he was --
24 when she was calling his phone, you knew it was her because
25 his phone said "Chop" on it where she was calling?

1 A Correct.

2 Q So that would indicate that he at least knew her well
3 enough to have put her number in his phone.

4 A He met her within 24 hours of my acknowledgment, so
5 within that time period, he did put her number in his
6 phone.

7 Q So this was just strictly a business transaction
8 between the two of them?

9 A Correct.

10 Q So when you said he was just doing her a favor,
11 really, what he was doing is what he does. He was selling
12 her drugs.

13 A Correct.

14 Q And according to her, what he sold her was no good.

15 A That is what she's saying.

16 Q And she was very upset about it?

17 A Correct.

18 Q And she blew up his phone?

19 A Correct.

20 Q To the point that he just told her he wasn't going to
21 talk to her anymore?

22 A Yes.

23 Q And when you found out something had happened, you
24 immediately thought of her?

25 A No. I did not think of her.

1 Q I thought you said that. I thought you said that you
2 thought that when you talked to her, you said, "Did you set
3 him up?"

4 A This was after I left the scene, after I heard people
5 saying that it was Chop that set him up prior to him -- I
6 mean prior to me leaving my house that night, I did not
7 know it was her.

8 Q So y'all went home, and about 2:00, 2:30, he left --

9 A Correct.

10 Q -- Boogie?

11 And he didn't tell you where he was going?

12 A Correct.

13 Q And that didn't concern you?

14 A No. He's grown.

15 Q And that's normal. He does that -- he did that kind
16 of thing a lot, didn't he?

17 A Not a lot.

18 Q But enough that it didn't bother you when he did?

19 A Correct.

20 Q Did you know where he was going or who he was going to
21 meet?

22 A I didn't ask.

23 Q Do you know somebody named Keith Smith, also known as
24 Toot?

25 A Yes.

1 Q Is he a good friend of -- or was he a good friend of
2 Boogie's?

3 A Yes.

4 Q They hang out together?

5 A Yes.

6 Q Did you know if he was going to go see Toot that
7 night?

8 A Yes.

9 Q Okay. So you did know that he was going to meet up
10 with Toot?

11 A He did. He said that he wanted to meet with Toot. He
12 couldn't get in touch with Toot that night, but he was
13 stating that he was trying to get in touch with him to get
14 up with him.

15 Q When you got to the crime scene, was Toot there?

16 A Yes.

17 Q Did you talk to him?

18 A Yes.

19 Q All right. Did you have any indication that he had
20 left and come back?

21 A No.

22 Q So you don't know -- you just know he was there when
23 you got there?

24 A Correct.

25 Q All right. And anything that you know relative to the

1 crime scene, because somebody told you after the fact?

2 A Right.

3 MR. CHAMBERS: All right. That's all the questions I
4 have for you. Thank you.

5 THE COURT: Anything?

6 MR WESTON: Nothing on redirect, Your Honor.

7 THE COURT: Okay. Thank you. Ma'am, you may step
8 down.

9 Is she released or ---

10 MR WESTON: Yes, sir, Your Honor. We would ask that
11 she be released from her subpoena.

12 THE COURT: Any objection?

13 MR. CHAMBERS: No objection.

14 THE COURT: Ma'am, you're released from your subpoena.
15 You may stay or go, whichever you choose.

16 That's it for the day, right?

17 MR WESTON: Yes, sir, Your Honor. Nothing further
18 from the State today.

19 THE COURT: All right. I know we've only been here a
20 short time, but Mr. Foreman and ladies and gentlemen, that
21 will be the last witness for today because the next
22 witness, as I anticipate, will testify longer than about
23 35 minutes. I don't know how long, but certainly longer
24 than 35 minutes. As promised, we're going to stop before
25 5:00.

1 So with that, again, I'll remind you and charge you
2 that you are not to begin deliberations in this matter.
3 Please do not try to learn any information about this case.
4 Do not do any research. You are free to use computers,
5 cell phones, other tools of technology, watch the news,
6 what have you, but please be mindful that in the event that
7 you see anything about this, you are under an affirmative
8 duty to turn it off, turn away from it.

9 If there's an article in the paper tomorrow, I have no
10 clue if there will be or not, I don't have a clue whether
11 or not there will be anything on the 6:00 news or the 11:00
12 news, what have you, so please do not watch, listen to any
13 news account or read anything about this case. Again, all
14 evidence must come before you from this courtroom and this
15 courtroom alone.

16 With that, please, again, be present as you have been
17 before the appointed hour of 9:00 tomorrow morning in time
18 to take that last drink of water, make the last call, what
19 have you, and we'll be starting promptly at 9:00. So,
20 Mr. Foreman, if you'll take the jury out.

21 (WHEREUPON, the jury exited the courtroom at 4:24 p.m.)

22 THE COURT: See the lawyers just for a moment, please.

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

24 THE COURT: Okay. We'll be at recess until 9:00
25 tomorrow morning.

1 (WHEREUPON, the proceedings were concluded at 4:26 p.m., to
2 be reconvened on Tuesday, February 10, 2015.)
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1 TUESDAY, FEBRUARY 10, 2015

2 THE COURT: Everybody ready?

3 MR. WESTON: Your Honor, we have one matter. Can we
4 approach?

5 THE COURT: Sure.

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

7 THE COURT: We're ready? We'll have our jury.

8 (Pause in proceedings.)

9 MR. WESTON: Your Honor? Excuse me again. Could we
10 approach one more time?

11 THE COURT: Sure.

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

13 (WHEREUPON, the jury entered the courtroom at 9:07 a.m.)

14 THE COURT: Mr. Foreman, any matters from the jury?

15 JURY FOREMAN: No, sir.

16 THE COURT: Okay. Anything from the State?

17 MR. WESTON: The State is ready to proceed, Your
18 Honor.

19 THE COURT: Anything from defense?

20 MR. CHAMBERS: No, Your Honor.

21 THE COURT: Okay. Solicitor?

22 MR. WESTON: Your Honor, the State will call
23 Mr. Robert Bowens.

24 THE COURT: Mr. Bowens, please come forward to be
25 sworn in.

1 WHEREUPON,

2 ROBERT BOWENS,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Would you please state your name for the
5 record.

6 THE WITNESS: Robert Bowens.

7 THE CLERK: Thank you.

8 THE COURT: Solicitor?

9 MR. WESTON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. WESTON:

12 Q Mr. Bowens, how old are you?

13 A 38.

14 Q And where are you employed?

15 A I'm self-employed with R&G Entertainment.

16 Q And what do you do?

17 A I provide staff for events, nightclubs.

18 Q All right. And is part of that to provide a source of
19 security?

20 A I can't say security. But staff, yes, sir.

21 Q All right. And were you working in that capacity at
22 Bobby T's back in January of 2013?

23 A Yes, sir.

24 Q How long had you been working there? And I don't know
25 whether it's every night or just weekends or how that

1 works, but how long have you been providing staff services
2 there?

3 A Three times a week for about four months.

4 Q All right. You had been there about four months in
5 January, about?

6 A Prior to then, yes, sir.

7 Q And could you describe Bobby T's for the jury? I
8 mean, is it a -- would it be fair to say it's an
9 after-hours club?

10 A Late after hours, yes, sir.

11 Q All right. And is it a large club? For instance,
12 given the size of this courtroom, about how big is the club
13 in comparison to this court? About how far back would it
14 go?

15 A Probably back to the windows after you actually open
16 the doors.

17 Q All right. And it's located in a small strip mall on
18 White Horse Road, as I understand it; is that correct?

19 A Correct.

20 Q All right. And how does one enter and exit Bobby T's?
21 I know there's a front door entrance. Is it pretty much in
22 the front of the club?

23 A Yes, sir.

24 Q Are there any side entrances or back entrances?

25 A There is one side entrance, but it was gated.

1 Q When you say "gated," what do you mean?

2 A There was a wooden fence around it, so the only way
3 you can actually get in or out was through the front of the
4 club.

5 Q All right. And so -- but there is another exit for
6 purposes of fire or what have you?

7 A Correct.

8 Q All right. And at the front of the club -- were you
9 working at the front of the club that night?

10 A Yes, sir.

11 Q Were you working the whole club?

12 A I was working just the front, but I was working -- had
13 other staff there, but I was at the front door myself.

14 Q All right. Are there metal detectors at the door?

15 A No, sir.

16 Q All right. Are patrons patted down or searched at the
17 door?

18 A I physically search them.

19 Q All right. Do you ensure that every -- can you ensure
20 that everybody who comes in there doesn't have a gun or is
21 there a way that I could possibly get past your pat-down
22 with a gun on me?

23 A Very unlikely.

24 Q All right. Let's see if we can get into the specifics
25 of this. Did you know Marcus McGee before that night?

1 A I did.

2 Q How did you know him?

3 A I've been working the clubs for 20 years, so I just
4 know him from in and out of the different clubs.

5 Q Did you know him socially outside of the club? Like
6 did y'all hang out together?

7 A No, sir.

8 Q All right. Did you know what he did for a living?

9 A No, sir.

10 Q All right. Was that the case with most of the patrons
11 that you knew at the club ---

12 A Of course.

13 Q --- you just knew the nighttime patron?

14 A Of course.

15 Q All right. Could you describe him to the jury? Was
16 he a big fellow? Give the jury some idea of what -- his
17 physical description.

18 A If I can remember correctly, Marcus was probably about
19 5'10", maybe 160 pounds.

20 Q All right. And let's talk about January 12th, the
21 night of January 12th into the morning of January 13th.
22 Were you present when Mr. McGee was shot?

23 A Yes, sir.

24 Q All right. And about what time did you come to the
25 club that night to work?

1 A Around 12:00, midnight.

2 Q All right. So you'd been there about -- the shooting
3 happened about 5:00 or so in the morning?

4 A Yes, sir.

5 Q And so you'd been there about four, five, six hours?

6 A Correct.

7 Q All right. What was -- around the time of the
8 shooting, what was the crowd like in terms of size inside
9 the club and outside?

10 A Everything was calm.

11 Q What about the size of the crowd? Was it ---

12 A The size of the crowd, it was a small crowd. It
13 wasn't anything too -- too hectic, I would say.

14 Q All right. I want to show you what has been marked as
15 State's Exhibits -- what have been already -- excuse me --
16 what has been entered into evidence -- have been entered
17 into evidence as State's Exhibit 3, 4, 5, 6, 7 and 8 and
18 ask you -- I'll just do it this way. In fact, I need you
19 just to look on the board here. And these have already
20 been entered into evidence. Is it -- would you tell the
21 jury what that is?

22 Could you hit one more light please. No. Thank you.

23 Can you tell the jury what that shows?

24 A The front door of the club, and the area where he laid
25 shot.

1 Q All right. And just so we can get some more out of
2 your testimony here, and what does this picture show? What
3 does this picture show in terms of not the people, but what
4 does this show?

5 A The crime scene still, the front door of the club, the
6 side, I guess, where there was other parking, and still the
7 area in between the two cars as to where he was shot.

8 Q All right. And just to be clear, I think -- I don't
9 think there would be any problem with me -- is this the
10 same front door area from the other side?

11 A Yes, sir.

12 Q From the other angle of the front of the club?

13 A Yes, sir.

14 Q All right. Okay. I'm going to leave this shot up for
15 a moment. I think this is the best one. All right. And
16 I'd like for you to -- there's a pointer in front of you
17 here. If you push the button on it -- as you push this
18 button, the light should come on and you can point, okay?

19 A Okay.

20 Q And I'd like you to use that to kind of point so the
21 jury will have some idea of where and what we're talking
22 about here as we go through this.

23 Prior to the morning of January the 12th of 2013, to
24 your best recollection, had you ever met David Adam Young,
25 the defendant in this case?

1 A Not that I really know of. No, sir.

2 Q All right. Do you remember seeing David Adam Young on
3 the morning of January the 13th, about 4:00 or 5:00 in the
4 morning at the club?

5 A Yes, sir.

6 Q And tell the jury under what circumstances you first
7 saw him and where and when.

8 A When I first saw him, he was actually coming into the
9 club like he was a patron just visiting the club.

10 Q All right. And tell the jury what happened between --
11 any exchange between you and him as he came in.

12 A As he came in, he was friendly. I searched him like I
13 do everyone else. And he went in, he paid his way to get
14 in.

15 Q All right. Do you know whether Marcus McGee was
16 already inside the club that night?

17 A He was.

18 Q All right. About how long had he been there, just
19 ballpark? And I know you may not remember exactly.

20 A Maybe 30 minutes to an hour.

21 Q All right. When David Young came to the club, did you
22 see how he arrived or did you just see him first as he came
23 up to the door?

24 A I just saw him as he came to the door.

25 Q All right. Do you remember whether or not -- and

1 using the pointer, where were you when David Young arrived?

2 Were you standing outside the club or inside the club?

3 A I was outside the club right there (indicating), the
4 front door.

5 Q All right. After David Young passed you and went on
6 into the club, did you follow him in or did you remain at
7 your post, so to speak?

8 A I remained at my post.

9 Q So you don't have any idea what happened on the
10 inside, what David Young did once he went into the club?

11 A No, sir.

12 Q All right. Do you remember whether he stayed in the
13 club for a significant period of time?

14 A Probably ten minutes.

15 Q All right. And when was the next time you saw him ten
16 minutes later?

17 A Well, after he walked out, probably 30 minutes later
18 he came back.

19 Q All right. Let's start back -- let's go back to after
20 he walked out. So after about ten minutes, you say you saw
21 him leave the club?

22 A Yes, sir.

23 Q Did he walk past you?

24 A He walked past me actually going that (indicating) way
25 at this point.

1 Q Okay. Kind of use the pointer again. Now, which --
2 put it on the ground, I think, right at the door there.
3 Just put the red dot on the ground. Okay. Would you show
4 the jury -- well, in fact, come to the back of the car.
5 Put the pointer on the back of the car down on this end on
6 the ground. Now, which direction did he go? To the ---

7 A He went that way (indicating).

8 Q Okay. That's fine. I just want to make sure the jury
9 understood which way he went.

10 You saw him walk around in that direction?

11 A Yes, sir.

12 Q Is there further parking over there for patrons?

13 A There is.

14 Q All right. Did you see him get into a car? Or did
15 you see him leave the scene at that time? Or you just sort
16 of lost sight of him?

17 A I just lost sight of him.

18 Q All right. And did he come back into the club?

19 A He did not come back in.

20 Q Did you see him come back into the parking lot?

21 A I didn't see him come back into the parking lot, no,
22 sir.

23 Q All right. So now, how long after -- did you see
24 Marcus McGee when he left the club?

25 A Yes, sir.

1 Q About how long after David Young had left, had come
2 out the first time, did you see Marcus McGee leave? Just
3 ballpark, once again.

4 A It was about 30 minutes later.

5 Q All right. When he came out, did he come out by
6 himself or was he with some other people?

7 A He came out by himself. There was a few girls that
8 was behind them.

9 Q Okay. And did he appear to be talking to them?

10 A Yes, sir.

11 Q All right. And once he came outside, were you, once
12 again, standing at the door?

13 A I was.

14 Q Tell the jury what happened next.

15 A Well, once he came outside, my -- actually, my back
16 was to the road, so I was facing the door because I was
17 talking with someone else. The next thing I know, I heard
18 -- I told -- excuse my language, but, "I told you
19 mother-fuckers about fucking with me." Pow. And then I
20 turned around, and as Marcus was falling, there was, I
21 think, three more shots.

22 Q All right. Did you see the shooter?

23 A Yes, sir.

24 Q And where was -- use the pointer again to show us
25 where Marcus fell. And I think it's obvious, but just show

1 it here.

2 A Right down the back of the car (indicating).

3 Q Where was the shooter standing? And use the pointer
4 again.

5 A Standing here (indicating).

6 Q All right. And once Marcus fell and you turned
7 around, what did you see with regard to Marcus falling and
8 the shooter? What did you see happen next?

9 A I saw the defendant fire the other three shots. I
10 think it was three shots.

11 Q Did he kind of just lean over the car and fire?

12 A It wasn't leaning. He was standing here (indicating),
13 and as Marcus was falling, he fired three more shots.

14 Q All right. And once that happened, what happened
15 next?

16 A He casually put the gun in his -- I think he had on a
17 blue hoodie. He casually just put it in his front pocket
18 and just walked off like nothing had happened.

19 Q And using the pointer again, show the Court -- the
20 jury which way he walked.

21 A He walked that way (indicating).

22 Q All right. And so did you see him, how he left the
23 scene?

24 A Yes, sir.

25 Q Tell the jury what you saw.

1 A What I saw was -- I assumed the car was a Yaris, but
2 it was a blue four-door like a Toyota Yaris.

3 Q And tell the jury what happened, what he did with the
4 car. Did he get in the car? Then tell them what happened.

5 A Well, as I saw the car pulling out, I mean, he pulled
6 out just casually like nothing has happened. He even put
7 his signal light on as he drove out of the parking lot and
8 just -- I mean, he just drove off like, you know, he was
9 just leaving the club and going home.

10 Q Did you see him -- you saw him get into the car?

11 A I didn't see him physically get into the car, no.

12 Q Okay. Did you see him -- was he driving the car when
13 he left?

14 A He was driving the car.

15 Q All right. Do you remember if there was anybody else
16 in the car?

17 A I saw a female.

18 Q Okay. But you just saw a female in the car. Did you
19 recognize her at that time?

20 A No, sir.

21 Q All right. Once he left, I'm assuming that sort of
22 pandemonium starts to break out once the shots are fired.
23 People are scurrying everywhere?

24 A Right.

25 Q What did you do with regard to Mr. McGee?

1 A I had one of my other staff on the phone with
2 dispatch, with 9-1-1.

3 Q All right. Did you go over and check on Mr. McGee?

4 A I did.

5 Q When you -- using -- you don't have to use the
6 pointer, but the distance between the door and the red
7 bloodstain in between the two cars, I'm going to -- just so
8 the jury will have some real perspective in time
9 perspective, I'm going to walk towards you, and I want you
10 to tell me about how far that distance from the door to the
11 red spot is. Just tell me to stop when I reach the
12 distance you think between the door and the red spot. Just
13 ballpark.

14 A Stop.

15 Q Was this about how far you were away from the
16 shooting?

17 A Yes, sir.

18 Q And you -- once you turned and saw Mr. -- saw the
19 defendant leaving, were you still -- did you stand in the
20 same place or did you move to the side or something like
21 that?

22 A I was in the exact same spot.

23 Q You were able to see him leaving in the car, I assume,
24 from the parking lot driveway, so to speak, over here
25 somewhere?

1 A Yes, sir.

2 Q All right. Between the time he fired the shots and
3 Mr. McGee fell and the time you went over to him, did you
4 see anybody else go to his body?

5 A No, sir.

6 Q Do you think you were one of the first people to reach
7 him?

8 A I was.

9 Q All right. When you reached him, did you notice --
10 did you see any guns?

11 A No. There was no guns. We didn't have any . . .

12 Q When the defendant fired the shots and Marcus McGee
13 fell ---

14 A Uh-huh.

15 Q --- did you see the defendant reach down and get --
16 pick up anything from the victim?

17 A No, sir.

18 Q And you said -- or is it your testimony that nobody
19 came to the victim and took anything or moved anything
20 before you got there?

21 A Right.

22 Q All right. You're only going eight to ten feet?

23 A Correct.

24 Q All right. Now, you were taken to the Law Enforcement
25 Center sometime afterwards and gave -- you basically --

1 when law enforcement arrived, about how long after the
2 shooting did they get there, the first police on scene?

3 A The first police, I'd say, was probably about five,
4 seven minutes till the first one arrived.

5 Q All right. And at some point, you talked to them
6 probably early on, one of the officers, and, basically,
7 told them what you knew?

8 A Yes, sir.

9 Q Did you give them a description of the car?

10 A I did.

11 Q Were you able to get the license tag on the car?

12 A I did.

13 Q All right. And did you give that to the police
14 officer ---

15 A I did.

16 Q --- for them to radio out or whatever?

17 A I gave that to dispatch.

18 Q All right. And did you tell the officer on scene
19 basically what you just told us in terms of what happened?

20 A Correct.

21 Q Now, at that point, did you know the defendant's name?

22 A I did not.

23 Q Did you give -- but did you give the police a
24 description of the defendant?

25 A I did.

1 Q Now -- so you cooperated, basically?

2 A Yes, sir.

3 Q And I assume you've been involved in these kinds of
4 altercations before in your line of work, these shootings
5 or fights and people getting hurt. Sometimes this happens
6 and police are called.

7 A Unfortunately, this is not the first.

8 Q All right. Once you -- so you went down to the Law
9 Enforcement Center and gave them a statement as to what
10 happened?

11 A Yes, sir.

12 Q Now, did you include every detail based on the
13 questions I've asked you today, or was it just a general
14 statement of what happened?

15 A Exactly every detail.

16 Q All right. Now, did they show you a lineup?

17 A They did.

18 Q I'm going to show you what's been previously marked as
19 State's Exhibit 2 for purposes of a previous hearing. And
20 this is just a copy. Did they show you a color lineup?

21 A It was a color lineup, yes, sir.

22 Q All right. This is just a copy. Is this, as far as
23 you can tell, a copy of that lineup?

24 A It is.

25 Q And do you recognize the signature at the bottom of

1 it?

2 A I do. It's mine.

3 Q And tell the jury how you came -- how this was
4 presented to you, and tell the jury the circumstances on
5 what happened as to how you got to see these pictures.

6 A Well, after ---

7 Q Where were you at, basically?

8 A We was in one of the back rooms at LEC, Law
9 Enforcement Center.

10 Q Were you there with an investigator?

11 A I was.

12 Q And after giving him a statement, did he present this
13 to you?

14 A He did.

15 Q Did he suggest to you in any way who you should pick
16 or whether even if the person who did the shooting was on
17 these pictures?

18 A No, sir, he didn't.

19 Q Did he just basically tell you to look at them and
20 see?

21 A He told me -- he said that he may or may not be in the
22 lineup.

23 Q And did you look at the lineup?

24 A I did.

25 Q Did you pick anybody out ---

1 A I did.

2 Q --- as the shooter?

3 A I did.

4 Q And which person did you pick? Which number?

5 A No. 5.

6 Q And did you write anything below that?

7 A I did.

8 Q What did you write?

9 A "This is the shooter."

10 Q And is that your signature below that?

11 A Yes, sir, it is.

12 MR. WESTON: All right. Your Honor, the State would
13 offer this as State's Exhibit No. 2.

14 MR. CHAMBERS: No objection, Your Honor.

15 THE COURT: It's admitted without objection.

16 (WHEREUPON, Plaintiff's Exhibit No. 2 was admitted into
17 evidence.)

18 BY MR. WESTON:

19 Q And you picked No. 5, just to be clear?

20 A I did.

21 Q Did you circle the 5?

22 A I did.

23 Q Is that your circle?

24 A Yes, sir. It is.

25 MR. WESTON: All right. Your Honor, permission to

1 publish to the jury.

2 THE COURT: Yes, sir.

3 MR. WESTON: Thank you, Your Honor.

4 That's all I have. Answer any questions counsel may
5 have for you.

6 THE COURT: Mr. Chambers?

7 CROSS EXAMINATION

8 BY MR. CHAMBERS:

9 Q So if I heard you correctly, you were working that
10 front door during this entire time; is that correct?

11 A Yes, sir.

12 Q You never went inside the club?

13 A No, sir.

14 Q Don't know anything about what may have gone on inside
15 the club?

16 A No, sir.

17 Q You said the only way in and out, unless there is an
18 emergency, is through that front door?

19 A Correct.

20 Q But, now, there are places in that club -- I think
21 back behind where the DJ booth was, there's a place that if
22 somebody wanted to bring something into the club, they
23 could do that, correct?

24 A If it was early in the night before I or my staff,
25 we ---

1 Q But there are ways that you -- somebody -- let's just
2 say, for example, somebody wanted to hand a gun in to
3 somebody, they could do that?

4 A No. Because my staff is right there at the side door.

5 Q And you don't utilize a metal detector?

6 A No, sir.

7 Q All right. So we have to depend upon the fact that
8 you frisk somebody to determine whether or not they have a
9 weapon?

10 A Yes, sir.

11 Q All right. Do you know if Marcus McGee, who you said
12 you were familiar with because he comes into the club, was
13 there another fellow with him, a fellow they call Toot,
14 Keith Smith?

15 A I'm not sure if he was with him. No, sir.

16 Q Do you know if Keith Smith was at the club that night?

17 A I think he was.

18 Q Do you know if they associate with one another, if
19 they're friends?

20 A I don't know.

21 Q So you just don't know any of these people outside the
22 club?

23 A I -- I don't.

24 Q All right. And you said that you saw David Young
25 leave and then walk off to the side of the building?

1 A Correct.

2 Q And then you never saw him again, you say, until these
3 shots were fired?

4 A Correct.

5 Q And you said that at the time the shots were fired,
6 you were actually turned with your back to White Horse
7 Road, so you did not see the first shot that you heard?

8 A Correct.

9 Q Did you know it was a gunshot when you heard it?

10 A Of course.

11 Q And so what was your reaction?

12 A Turn around and see where it was coming from.

13 Q So you just calmly turned around and looked?

14 A It wasn't a calm, but, I mean, I quickly turned around
15 to see where it was coming from.

16 Q You didn't duck? You didn't run? Were there other
17 people out in the parking lot?

18 A There were a few other people in the parking lot, yes,
19 sir.

20 Q Did they duck and run, or did they sort of calmly turn
21 and look to see what was going on?

22 A Everyone else I assumed duck and ran.

23 Q But not you?

24 A (Shakes head negatively.)

25 Q And you weren't concerned for your safety at all. You

1 just kept looking?

2 A I mean, I -- of course I was concerned for my safety,
3 but I had to figure out what was going on and which way --
4 which direction he was going. My first concern is the
5 safety of the club.

6 Q And you said Mr. McGee was alone when he left the
7 club?

8 A When he left out, there were a few females behind him.

9 Q Okay. But they were behind him?

10 A Yes, sir.

11 Q And he was walking between those two cars?

12 A Correct.

13 Q So he had maybe two feet between the cars where he
14 would walk; is that correct?

15 A Approximately.

16 Q And he was walking straight ahead like most people
17 would coming out; is that correct?

18 A Yes, sir.

19 Q And you said that he was -- how far would you say --
20 from those pictures, it looked like he was at about where
21 the handle to open the door is where he stopped and was
22 shot; would that be fair to say?

23 A Yeah. Pretty much right in the back corner panel of
24 the car.

25 Q Okay. And you said that when you turned and looked is

1 when you saw Mr. Young, and he was standing at an angle
2 back behind that particular car?

3 A The red car that was parked beside him.

4 Q And how many feet away would you say he was?

5 A Probably five feet.

6 Q So he was five feet. And he -- you're positive that
7 he stayed behind and was at an angle from Mr. McGee; is
8 that right?

9 A Yes, sir.

10 Q Okay. Now, in those pictures that we saw, it looks
11 pretty light out there. So I imagine when those pictures
12 were taken, it was daylight, correct?

13 A I would think so.

14 Q When these events happened, it was not daylight, was
15 it?

16 A No, sir.

17 Q It was still completely dark outside?

18 A Yes, sir. But we do have lights on the front of the
19 club.

20 Q On the front of the club, but the parking lot itself
21 is not illuminated, correct?

22 A The parking lot -- well, no. The streetlights are on
23 as well.

24 Q And you talked about how you went down to the Law
25 Enforcement Center and you gave a statement. Do you recall

1 when you get that statement that you said that Mr. Young
2 was in and out of the club several times?

3 A I didn't say "several."

4 Q Okay. So you would deny that you said that?

5 A Yes, sir. I didn't say "several."

6 Q And you -- actually, other than the Law Enforcement
7 Center, you actually talked to the police on several
8 occasions, didn't you?

9 A At the scene.

10 Q Yeah. At the scene.

11 Do you recall talking to an Officer Eichelberger
12 [phonetic]?

13 A I'm not sure of the names.

14 Q Do you recall talking to a female police officer?

15 A Vaguely.

16 Q Do you remember telling her that you actually saw the
17 first shot at point-blank range in the forehead area?

18 A No. I don't remember telling her that I saw the first
19 shot. I just saw the bullet -- I mean, I just saw the hole
20 in his head.

21 Q And you remember saying that the gun that was used you
22 believe was a .38 revolver?

23 A Correct.

24 Q Are you positive that it was a revolver?

25 A I'm not positive, but that's what I believe.

1 Q Well, there's a big difference between a revolver and
2 a semi-automatic.

3 A Of course.

4 Q And you've seen these weapons, right?

5 A Yes, sir.

6 Q And so it would seem to me that you could at least say
7 for certain whether it was a revolver or whether it was a
8 semi-automatic.

9 MR. WESTON: Objection, Your Honor.

10 THE COURT: What's the objection?

11 MR. WESTON: Your Honor, he asked him -- it's asked
12 and answered. He asked him, and he says, "I'm not
13 positive, but it's what I believe."

14 MR. CHAMBERS: It's okay, Your Honor. I'll just let
15 it go.

16 THE COURT: Okay. All right. Move along.

17 BY MR. CHAMBERS:

18 Q Do you remember talking to Investigator Newman about
19 the case?

20 A I think so. Yes, sir.

21 Q And when you testified a few minutes ago, you said you
22 heard that Mr. Young made this statement that you testified
23 to, correct?

24 A Ask the question again because I'm not sure.

25 Q All right. A few minutes ago when you testified, you

1 said you heard Mr. Young make a statement to Marcus McGee.

2 A Yes, sir.

3 Q And only that. That's all you heard was him making a
4 statement to Mr. McGee?

5 A I'm not sure where you're trying to go with this
6 question.

7 Q All right. Tell me what you heard.

8 A I heard, "I told you mother-fuckers about fucking with
9 me."

10 Q And that was, you say, Mr. Young?

11 A Yes, sir.

12 Q You didn't hear anything else?

13 A No, sir.

14 Q All right. Do you remember telling Detective --
15 Investigator Newman that you witnessed an exchange of
16 words?

17 A No. I didn't tell him that.

18 Q You didn't tell him that?

19 A No, sir.

20 Q All right. Do you remember telling him that during
21 this exchange, that you witnessed Mr. Young fire several
22 shots?

23 A Yes, sir.

24 Q All right. Do you also remember talking to somebody
25 named Adam Davis who was with the Crime Scene Investigation

1 Unit?

2 A I'm not sure of names.

3 Q Okay. Did you talk to somebody from the Crime Scene
4 Investigation Unit?

5 A I'm not sure what their position was.

6 Q Okay. Well, do you remember telling him that you did
7 not see the shooting take place; however, you did turn
8 around after hearing the first shot and that you saw a
9 muzzle flash?

10 MR. WESTON: Your Honor, I'm going to object.

11 THE COURT: What's the objection?

12 MR. WESTON: He has asked him did he talk to someone
13 from the Crime Scene Investigative Unit. The answer was,
14 "I'm not sure who I talked to." And the next question
15 Mr. Chambers asked was, "Do you remember" -- and he's
16 specifically saying, "Do you remember talking -- telling
17 him implicitly, the crime scene investigator?" He's
18 already said he doesn't remember who he talked to, but he
19 just talked to some law enforcement people.

20 MR. CHAMBERS: Well, he can testify as to whether he
21 made the statement or not, Your Honor, if he recalls making
22 the statement I'm asking about. And I believe that's a
23 proper question.

24 THE COURT: I'm overruling.

25 ///

1 BY MR. CHAMBERS:

2 Q Do you remember saying at the scene that you did not
3 see the shooting take place; however, that you turned after
4 hearing the first shot, saw the victim standing at the rear
5 of two vehicles, another black male standing close to the
6 victim and you saw a muzzle flash, but you were unable to
7 tell what type of handgun it was? Do you recall saying
8 that?

9 A Not exactly in those words, no.

10 Q Okay. Not exactly in those words?

11 A No, sir.

12 Q All right. During the -- have you been convicted of a
13 crime that carries more than a year in jail?

14 A Yes, sir, I have.

15 MR. CHAMBERS: All right. That's all the questions I
16 have for you.

17 THE COURT: Anything from the State?

18 MR. WESTON: One question, Your Honor, on redirect.

19 REDIRECT EXAMINATION

20 BY MR. WESTON:

21 Q Mr. Chambers asked you three or four different times
22 in his cross-examination about you -- he referenced you
23 seeing Mr. Young or you heard Mr. Young say. Do you see
24 Mr. Young that you're talking about in the courtroom today?

25 A I do.

1 Q Would you point him out to the jury, please.

2 A The gentleman sitting right there (indicating).

3 Q Would you tell the jury what color shirt he's wearing.

4 A He's wearing a blue, I guess, checkered -- blue and
5 white.

6 Q All right. Is he seated -- where is he seated?

7 A He's seated to my right.

8 MR. WESTON: All right. Thank you, sir.

9 THE COURT: Anything, Mr. Chambers?

10 MR. CHAMBERS: No, Your Honor.

11 THE COURT: Sir, you may step down. Please be
12 careful.

13 THE WITNESS: Thank you.

14 THE COURT: Is this witness excused?

15 THE WITNESS: Am I excused?

16 THE COURT: Mr. Weston, is this witness excused?

17 MR. WESTON: Oh, yes, sir, Your Honor. I apologize.
18 We ask that he be excused from his subpoena.

19 THE COURT: Any objection?

20 MR. CHAMBERS: No objection.

21 THE COURT: You may stay or leave, whichever you
22 choose.

23 THE WITNESS: Have a good day.

24 THE CLERK: Sir, would you please come forward to be
25 sworn in.

1 WHEREUPON,

2 KEITH SMITH,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Would you please state your name for the
5 record.

6 THE WITNESS: Keith Emanuel Smith.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MR. WESTON:

10 Q Mr. Smith, do they call you Toot?

11 A Yes, sir.

12 Q All right. How old are you, Mr. Smith?

13 A 35.

14 Q And do you live here in Greenville, sir?

15 A Yes, sir.

16 Q Are you employed, sir?

17 A Yes, sir.

18 Q Where do you work?

19 A Barton Lund Landscape [phonetic].

20 Q I'm sorry. I couldn't understand you.

21 A Barton Lund Landscape.

22 Q All right, sir. Are you married?

23 A Yes, sir.

24 Q How long have you been married? Just ballpark.

25 A About nine years.

1 Q All right. Do you got any kids?

2 A Yes, sir.

3 Q Could you sit up a little bit straighter and kind of
4 lean toward the microphone so we can hear you a little bit
5 better. Thank you, sir.

6 A You know, I'm a little short, so you don't have a
7 chair to lift me. I'm trying to get my posture straight
8 and stuff.

9 Q And I appreciate it. We all do.

10 And I want to make sure we're clear. I need you to
11 listen carefully to my questions and answer the question
12 that I ask you, okay?

13 A Yes, sir.

14 Q I think you were saying about how many kids you have.

15 A I've got two daughters and three boys.

16 Q All right, sir. Now, let's get some sort of
17 preliminaries out of the way. Did you know Marcus McGee?

18 A That's my player pop [phonetic].

19 Q Your what?

20 A My player pop.

21 Q How far back did y'all go?

22 A Since he was -- since he was a little boy.

23 Q Okay. And do you know David Adam Young?

24 A Uh-huh.

25 Q You have to say "yes" or "no."

1 A Yes, sir.

2 Q All right. And how do you know David Adam Young?

3 A That's my cousin.

4 Q All right. And so you've known him all your life?

5 A Yes, sir.

6 Q All right. Were you with Marcus McGee on January the
7 13th of 2013 at Bobby T's about 4:00 or 5:00 in the
8 morning?

9 A Yes, sir.

10 Q How did you come to be there?

11 A He called me.

12 Q Marcus McGee?

13 A Yes, sir.

14 Q And they called him Boogie; is that correct?

15 A Yes, sir.

16 Q All right. And about what time did you get to the
17 club?

18 A About 4:30 -- 4:00, 4:30.

19 Q And you arrived by yourself?

20 A With Marcus.

21 Q Okay. Y'all came there. Did he come pick you up or
22 you go pick him up? Or how did that work?

23 A He came and picked me up.

24 Q During the ride there or after you got there, did you
25 and he have any conversations about Porchae Adams?

1 A No, sir.

2 Q Do you know Porchae Adams?

3 A Yes, sir.

4 Q Do they call her Chop?

5 A Yes, sir.

6 Q All right. Did Marcus tell you about any kind of
7 deals he had done with her earlier in the evening?

8 A No. He didn't tell me about no deal early in the
9 evening, but beforehand I told him, "Don't mess with that
10 girl because she ain't right."

11 Q Okay. Well, did you see David Adam Young, your
12 cousin, in Bobby T's that morning?

13 A Yes, sir.

14 Q Tell the jury the first time you saw him, where were
15 -- were you in the club when he came in or did you see him
16 outside or where?

17 A Inside.

18 Q Were you with Marcus McGee when David Young came
19 inside?

20 A Yes, sir.

21 Q Tell the jury what happened when David Young came
22 inside.

23 A He came and sit down in front of me and Marcus.
24 Marcus had two beers. I had two bottled waters. And he
25 told me ---

1 Q Excuse me, sir. Slow down just a little bit so the
2 jury can understand you.

3 A Okay. He told me, "Sit down right here in the chair."
4 He going to roll a blunt, smoke and drink.

5 So I said, "Give me two bottled waters."

6 So he got me two bottled waters. He came back. So we
7 was over here. So he said, "Take your coat off." So I
8 took my coat off. The next thing you know, he popped up.

9 Q When you say "he," who are you talking about?

10 A David Adam Young.

11 Q All right. Now, you're talking about sitting at a
12 table with a couple of beers and a blunt. Is that you and
13 Marcus McGee talking?

14 A Yeah.

15 Q All right. Then all of a sudden, David Young pops up,
16 you said?

17 A Yes, sir.

18 Q Tell the jury what happened when David Young pops up?

19 A He popped up with a black hoodie on and stuff. And
20 he's blowing all up and stuff standing up in front of us.

21 Q Who is "he" doing all the --

22 A David Adam Young.

23 Q Okay.

24 A So David Adam Young, I'm asking him, "What's up? Why
25 you doing all this stuff for?" So I said, "Boogie, I let

1 him in. See what's up."

2 So Boogie said, "Adam, what's up, Adam?" He said,
3 "What you trying to do?"

4 So Adam came to us, "I'm here to collect that girl
5 \$1,350."

6 So, you know, that's my cousin. So, I mean, I don't
7 owe you no money, he don't owe nobody no money, I don't owe
8 you no money. Let's go, Boogie.

9 Q You said, "Let's go, Boogie," like let's leave?

10 A That's right.

11 Q All right. So then what happened?

12 A And I guess he left out of the club. And he ---

13 Q I'm sorry. Just for the record, for the jury, who is
14 he left out of the club?

15 A David Adam Young.

16 Q Okay. And so did y'all stay in the club for a few
17 more minutes?

18 A Yes, sir.

19 Q And then what happened?

20 A I'm telling Boogie, to come on, and he's back there
21 herding people, talking to people.

22 Q Boogie was?

23 A Yes, sir.

24 And I was telling Boogie to come on, come on. I got
25 to the front door. Little David said, "The car right there

1 in front."

2 So I went and got in the car, told Boogie, "Come on,
3 now."

4 He said, "They'll come."

5 Q Excuse me a second. I'm going to ask you to kind of
6 -- we're going to show the -- put the front of the club
7 picture back up again. When you say the car in the front,
8 which car are you talking about?

9 A The red car.

10 Q Was that Marcus McGee's car?

11 A Hu-uh. No. That was David car.

12 Q David Walker?

13 A Yes.

14 Q All right. And you know David Walker?

15 A Yes, sir.

16 Q All right. Do you know whose car this is on the left?

17 A No, sir.

18 Q All right. So y'all were in the club. At this point,
19 I want you to just kind of -- in fact, use the pointer
20 here. Let me show you how this works. I have to explain.
21 There's a button on there. And when you push the button,
22 the red light should come on.

23 A Oh, that one.

24 Q Yeah. And it will point.

25 So y'all are in the club. Did you come out first?

1 A Yes, sir.

2 Q Did anybody else come out with you?

3 A David.

4 Q David Walker?

5 A Yes, sir.

6 Q Now, was David Walker -- did y'all kind of -- was he
7 present when Mr. Young confronted Marcus McGee? Was he in
8 the club standing by y'all then?

9 A No. I didn't see him.

10 Q All right. But you sort of picked him up on the way
11 out?

12 A David came and told us that people outside, and I had
13 Boogie car and they told him, "Well, Boogie" -- because
14 Boogie owed him some money or something, bad deal or
15 something.

16 And I saw Little David and run and told when I was --
17 that was when I was -- told Boogie, "Let's go."

18 Q So you came out of the club first?

19 A Yes, sir.

20 Q All right. And using a pointer, where did you go when
21 you came out of the club?

22 A Right in that car (indicating), the passenger side.

23 Q So you got into that car?

24 A Yes, sir.

25 Q And did you see Marcus McGee come out of the club?

1 A No, sir.

2 Q Did you see David Young again that evening?

3 A No, sir.

4 Q All right. So you were in the car. Tell the jury
5 what happened next as far as the shooting was concerned,
6 what you saw, heard, did?

7 A Okay. David came and got in the car, sit in the
8 driver's seat right there. And ---

9 Q That's David Walker; is that correct?

10 A David Walker.

11 Q Yes, sir.

12 A So I'm running through the phone. I see Boogie there
13 been calling me about 10, 15 times because my phone had
14 went dead or ran out of minutes. So I'm sitting in the car
15 rebooting the phone and stuff.

16 So about ten minutes pass. So I said, David, go in
17 there and get Boogie, tell him to come on, man. He done
18 been in there about 10 or 15 more minutes, man. You need
19 to come on. Because this -- this is for real. They going
20 to shoot me today. I'm trying to rob and steal and do
21 everything. So I'm telling him, "Go get Boogie."

22 So, you know, there's a dinger on the door so when
23 somebody open the door, you can hear jing-a-ling-a-ling
24 when they open and close it. You know what I'm saying?

25 Q Yes, sir.

1 A So I ain't heard no bell. So about five, ten minutes
2 later, they're in the room. I'm thinking -- I'm thinking
3 that's them. But I was wrong. They'd been at the back of
4 the car right here. Pow, pow, pow. And the next you know,
5 shooting.

6 Q You heard the shots?

7 A Yes, sir.

8 Q Was it a number of shots?

9 A Yes, sir.

10 Q Did you see the shooter?

11 A I seen a black hoodie when he ran off.

12 Q All right. And let's just go back to be clear. So
13 you saw the person from the back as they ran off?

14 A Yes, sir.

15 Q And you said -- what were they wearing?

16 A A black hoodie.

17 Q What was David Adam Young wearing when he came in and
18 confronted you and Mr. McGee?

19 A The same black hoodie that ran off.

20 Q All right. And using that pointer again, show the
21 jury going off of the picture which way that person ran
22 using the red pointer.

23 A He ran around that cone over there (indicating).

24 Q All right. And did you hear anybody say anything
25 prior to the shooting?

1 A Yeah. He said he going to get me, too. So I jumped
2 out that car on this side right here and dived over here in
3 this car -- this is another car on the side of this car
4 right here. There's three other Chryslers sitting on this
5 side.

6 So I got in their car because he's talking about
7 shooting some more and stuff. The next thing you know, he
8 come running. He took off running, so I jumped out of that
9 car and took off running with him.

10 So they said he had left, and I saw the little blue
11 car leaving.

12 Q Don't say what they said.

13 All right. So let's go back a minute. You said, "He
14 said he was going to shoot me, too." Did you hear somebody
15 say that?

16 A Yeah. They told me he said he looked for me, too,
17 going to shoot me.

18 Q All right. Now, you're talking about your cousin,
19 right?

20 A David Adam Young.

21 Q Now, and I'm sure you -- you are here under subpoena
22 today; is that correct?

23 A Yes, sir.

24 Q You're not -- I assume this is not very comfortable
25 for you?

1 A No, sir.

2 Q But what you've told the jury this morning, is that
3 your best recollection of the truth of what happened that
4 night?

5 A Yes, sir.

6 Q Did you see Marcus McGee when -- going back to inside
7 the club. When Marcus McGee was confronted by David Adam
8 Young ---

9 A Yes, sir.

10 Q --- did you see Marcus McGee or hear Marcus McGee say
11 or do anything threatening in response to that?

12 A No, sir.

13 Q What was his reaction when David Adam Young demanded
14 this money back?

15 A He brushed it off and got -- meeting with some people
16 over here.

17 Q Just kind of ignored it?

18 A Yep.

19 Q At any time when you were with Marcus McGee that
20 night, did you see him brandish a firearm or have a gun or
21 reference having a gun?

22 A The man ain't had no pistol. If the man had a pistol,
23 he would have came out ready.

24 MR. WESTON: All right, sir. Thank you.

25 THE COURT: Mr. Chambers?

CROSS EXAMINATION

BY MR. CHAMBERS:

Q Now, it would be fair to say that Boogie was probably your best friend, correct?

A My player, player pop.

Q There's probably nobody in the world you were closer to?

A Except my wife.

Q So even though you refer to Adam Young as your cousin, you're not close to Adam Young?

A I'm going to break it down like this here. Me and that man ain't got nothing going on.

Q And he didn't with you before this happened?

A No. We ain't got nothing going on.

Q And did you and Marcus go to the club together that night?

A Yes, sir.

Q So when you arrived, when he was with you, the two of you walked in together; is that right? You're going to have to speak because you've got a court reporter.

A Yes. Me and -- me and Marcus McGee walked in the club together.

Q And you were together there the whole time?

A Yes, sir.

Q And who drove there?

1 A Marcus.

2 Q And where did Marcus park his car?

3 A On the side of the building over there (indicating).

4 Q And that's Little David's car that we see right there,
5 that red car?

6 A Right there (indicating).

7 Q And -- but you didn't come with Little David?

8 A Hu-uh.

9 Q Did you even know Little David was in the club?

10 A No, sir.

11 Q And the person I'm referring to as Little David,
12 that's David Walker, right?

13 A David Walker.

14 Q And that's what everybody calls him, Little David.

15 A Yes, sir.

16 Q You didn't find out Little David was in the club until
17 you said he came over and told you that there were people
18 out there ---

19 A Yes, sir.

20 Q --- is that right?

21 And that -- you say that's what prompted you to say,
22 "Let's go"?

23 A That's right. When he told the people outside with
24 pistols and they're ready to kill somebody.

25 Q Okay. Kill somebody.

1 A Ready to kill me and Boogie.

2 Q So you specifically, too?

3 A Boogie and me, yes, sir.

4 Q Now, when Mr. Young came in and had this conversation,
5 he was talking to y'all about Porchae Adams; is that right?

6 A Yeah. He talking to Boogie. Told Boogie about \$1,350
7 or something.

8 Q So the allegation being that Boogie had, as they say,
9 flexed Porchae Adams during a drug deal, right?

10 A That's what they say, but it wasn't flexed.

11 Q What does that mean when you say he flexed somebody?

12 A Gave them synthetic pile, cocaine, crack, whatever.

13 Q So in other words, it's not real. That's basically
14 ripping somebody off.

15 A Yes, sir.

16 Q But you're saying it wasn't flex?

17 A No, sir. It's just some -- it's just some cocaine
18 that's real strong, and it's the bottom of the -- it's the
19 bottom of a kilo. And, you know, it got all sorts of
20 molecules in the cocaine. So some part be strong and some
21 part be all right. So they got the strong part that people
22 can't just take.

23 Q All right. Were you involved in the drug trade with
24 Boogie, Marcus McGee?

25 A No. I ain't doing no drug trading, no.

1 Q Okay. But he was, right?

2 A Nah.

3 Q He wasn't a drug dealer?

4 A He was just trying to make a play.

5 Q Okay. So for the better part of the last nine years,
6 he hadn't been dealing drugs?

7 A Yeah.

8 Q Okay.

9 A Yeah. See, look. If you can pay \$1,200 and charge
10 the next person \$1,350, that's \$150 profit.

11 Q I got you. And so it didn't surprise you that he had
12 had a drug transaction with Porchae Adams earlier in the
13 day?

14 A No. I ain't know nothing about that. I was at home.
15 I was on house arrest. I was sleeping.

16 Q But when Mr. Young came in and started talking about
17 it, that didn't surprise you?

18 A Nah. It surprised me for him to come up to us talking
19 like this.

20 Q And Boogie had -- Boogie had ---

21 MR. WESTON: Objection, Your Honor.

22 THE COURT: Yeah. Let him finish.

23 MR. CHAMBERS: Okay.

24 MR. WESTON: Thank you.

25 THE COURT: Go ahead, sir.

1 BY MR. CHAMBERS:

2 Q Go ahead.

3 A It surprised me because I'm thinking he was talking
4 about something way back a long time ago. So I'm telling
5 him it's nothing. We've got to go. You took -- you -- he
6 came -- he came around some a long time ago.

7 Q But you heard the name Porchae Adams in discussion
8 about that deal earlier in the day?

9 A No. I don't know what you're talking about, a little
10 earlier in the day.

11 Q Well, you told me a few minutes ago that he came and
12 was talking to you about Porchae Adams and the allegation
13 that she'd been flexed.

14 A Yeah. You're trying to flip -- you're trying to flip
15 something on me, man. I told you I don't know what you're
16 talking about.

17 Q All right. Do you remember going -- Investigator
18 Newman coming to talk to you?

19 A Yes, sir.

20 Q All right. And do you remember telling him that you
21 and Little David got escorted out of the club by security?

22 A Nah. I don't know what you're talking about.

23 Q Okay. So you don't remember telling him that?

24 A No, sir. Not that I recall.

25 Q So you weren't escorted out by security?

1 A That was Little David and Ron. And that's all.

2 That's all. I recall that.

3 Q So you and Little David were sitting in this red car.

4 Where were you in the car?

5 A I was in the passenger side (indicating).

6 Q All right. And Little David was in the driver's seat?

7 A Yes, sir.

8 Q And you're not -- I mean, it looks like y'all are not
9 more than maybe two or three feet from the front door; is
10 that accurate?

11 A Yes, sir.

12 Q I mean, when you pull up there, you're right at the
13 front door?

14 A Yes, sir.

15 Q And the bouncer would have been standing right in
16 front. Did you see him?

17 A The bouncer?

18 Q Was there ---

19 A You know, it'd been a little minute, so I can't even
20 remember, really.

21 Q Okay. Do you remember whether there was a guy
22 standing right there at the front door?

23 A I couldn't even tell you, sir.

24 Q You don't know whether there was a guy there?

25 A Not from my recall. I couldn't even tell you. I

1 don't even remember.

2 Q Okay. And you said that you didn't see Marcus come
3 out of the club?

4 A No, sir. I just remember I heard shots.

5 Q Was it well lighted enough that you could see?

6 A No. It was dark.

7 Q It was completely dark?

8 A It was dark out there, yeah. That's play time when it
9 goes dark.

10 Q I understand.

11 A So it was play time.

12 Q So when this happened, it was completely dark and you
13 really couldn't see?

14 A It was in the morning.

15 Q All right. So really, what you're depending on is
16 that bell, because you can tell from that bell?

17 A Yeah. That's right.

18 Q But you didn't hear the bell?

19 A Hu-uh.

20 Q And you weren't aware of anything until you heard a
21 shot?

22 A That's right.

23 Q And you said you didn't see the shooter?

24 A Uh-huh.

25 Q But you saw somebody?

1 A I seen the -- I seen the hoodie took off running,
2 though.

3 Q And he was running?

4 A Yes, sir.

5 Q He wasn't walking?

6 A No. He ran to the side of that building right there
7 (indicating), got in their car and took off.

8 Q And you couldn't tell who it was. You could just tell
9 that they were wearing a hoodie?

10 A I know it was David Adam Young.

11 Q Based on -- but you said they had on a hoodie.

12 A Yeah. I know him.

13 Q Do you know whether anybody else was there?

14 A What you mean, there?

15 Q Was there another person besides David?

16 A No. David Adam Young.

17 Q Okay. Do you remember telling the officer before that
18 you couldn't identify the shooter, that you didn't see the
19 shooting happen?

20 A I don't recall none of that, sir.

21 Q Okay. But your testimony is today that you saw David
22 Adam Young running away?

23 A The black hoodie.

24 Q Okay. You saw the black hoodie running away.

25 A That's right.

1 Q And then you said that you got out of there because
2 you heard somebody say he was going to get you, too?

3 A That's right.

4 Q Was it the person that you heard back behind the car
5 doing the shooting that said that?

6 A Rephrase that to me again.

7 Q In other words, who did you hear say that?

8 A Tyronzo.

9 Q Okay. So it was somebody else that told you that this
10 person was looking for you, too?

11 A Uh-huh.

12 Q Is that why you left the scene?

13 A Yes, sir.

14 Q You left the scene and came back, right?

15 A Yes, sir.

16 Q Now, before you left the scene, you went over to the
17 body of Marcus McGee, correct?

18 A Yes, sir.

19 Q You got out of the car. Did you go around the back or
20 did you go around the front?

21 A Came around this way (indicating).

22 Q What did Little David do?

23 A Shoot. I can't recall what he did.

24 Q You don't know what he did?

25 A No, sir.

1 Q Did he get out of the car?

2 A I can't recall, you know. It's been a little minute,
3 so, you know.

4 Q Okay. And so you walked around, and you knelt down,
5 and if I remember correctly from your prior statement, you
6 started to shake?

7 A That's right.

8 Q All right. Did you also start taking some things off
9 of Boogie's body?

10 A No, sir.

11 Q Did you take some drugs and some jewelry and a gun and
12 some other things off of him?

13 A No, sir. Not to my knowledge.

14 Q There was testimony earlier that Boogie was right
15 there sort of at the middle of the car when he got shot.
16 Is that where he was when ---

17 A Where? Right here (indicating)?

18 Q Yeah. Is that where he was?

19 A No. He was on this (indicating) side, sir, from my
20 knowledge.

21 Q I'm talking about Boogie, Marcus McGee.

22 A I know you're talking about ---

23 Q So where was he?

24 A He was on the back side over here somewhere, I think,
25 sir.

1 Q So Boogie was behind the car?

2 A He was on the side or behind it, from my knowledge,
3 sir.

4 Q And that's where he was when you went to him?

5 A Yes, sir.

6 Q He wasn't there beside the car?

7 A No, sir. That's the driver's side.

8 Q Okay. But you didn't see him walk out so you don't
9 know what side of the car he went to?

10 A No, sir. But when I came back around that car from
11 this side, he was over here, sir (indicating).

12 Q Okay. Did you see Little David anymore?

13 A I can't recall that, sir.

14 Q So what was the reason that you left the scene?

15 A Because I was paranoid and I was scared.

16 Q All right. And then why did you come back to the
17 scene?

18 A Because make sure my homeboy was all right, make sure
19 he was taken care of properly. But they left him right
20 there in the rain.

21 Q So you did -- there's no question you left and then
22 you came back?

23 A Left and came back. I went to the store, stand on the
24 corner, sit down till the police came, sir.

25 MR. CHAMBERS: All right. That's all the questions I

1 have for you. Thank you.

2 THE COURT: Anything?

3 MR. WESTON: Yes, sir, Your Honor. Just a couple of
4 questions on redirect.

5 REDIRECT EXAMINATION

6 BY MR. WESTON:

7 Q Mr. Walker, just to be -- I'm sorry. Just to be
8 clear ---

9 A Yes, sir.

10 Q --- when counsel asked you about and you mentioned a
11 Ron, is that Tyronzo Walker that you know as Ron?

12 A Yes, sir.

13 Q All right. And you said he asked you -- he said
14 someone else told you that somebody was looking to shoot
15 you as well. Who told you that?

16 A Ron Walker.

17 Q Did he say to you who was looking to shoot you?

18 A David Adam Young.

19 Q And did he also say who else he was looking to shoot?

20 A Boogie.

21 Q And Boogie is who?

22 A Marcus McGee.

23 MR. WESTON: Thank you, sir.

24 THE COURT: Anything?

25 MR. CHAMBERS: No, Your Honor.

1 MR. WESTON: Nothing further from the State, Your
2 Honor. We would ask this witness be released from his
3 subpoena.

4 THE COURT: Any objection?

5 MR. CHAMBERS: No objection, Your Honor.

6 THE COURT: Sir, you may step down. You can stay or
7 leave, whichever you choose.

8 THE WITNESS: Yes, sir. Y'all take care.

9 MR. WESTON: Your Honor, the State would call
10 Mr. Tyronzo Walker.

11 THE CLERK: Mr. Walker, please come forward to be
12 sworn in.

13 WHEREUPON,

14 TYRONZO WALKER,
15 after first having been duly sworn, testified as follows:

16 THE CLERK: Would you please state your name for the
17 record.

18 THE WITNESS: Tyronzo Walker.

19 THE CLERK: Thank you.

20 DIRECT EXAMINATION

21 BY MR. WESTON:

22 Q Mr. Walker, do they call you Ron?

23 A Yes.

24 Q Could you sit up a little bit and lean toward the
25 microphone so we can make sure the jury down on this end

1 farthest away from you can hear you? Okay.

2 Let me begin with the obvious. You didn't want to be
3 here today, did you?

4 A No.

5 Q You are under subpoena; is that correct?

6 A Yes.

7 Q You understand the oath you took to tell the truth,
8 though, don't you?

9 A Yes.

10 Q All right, sir. Did you know Marcus McGee?

11 A I don't know him.

12 Q All right. Did you know him through your brother?

13 A Yes.

14 Q And what's your brother's name?

15 A David Walker.

16 Q And he and Marcus were somehow friends; is that
17 correct?

18 A Yes.

19 Q All right. How old are you, sir?

20 A 37.

21 Q And are you employed?

22 A Yes.

23 Q Where do you work, sir?

24 A I work for Genpro [phonetic] down there for Sears
25 under contract.

1 Q All right, sir. Did you have an occasion to be at
2 Bobby T's on the morning of January 13th of 2013 when
3 Mr. McGee was shot?

4 A Yes.

5 Q Had you ever seen Mr. McGee before that night?

6 A No.

7 Q To recognize, I mean?

8 A No.

9 Q How did you come to be at Bobby T's and about what
10 time did you come there?

11 A Just out just having a few drinks.

12 Q About what time did you get there, just generally?

13 A Probably about 12:00, 1:00.

14 Q All right. And did you come with your brother?

15 A No.

16 Q Did you meet your brother there?

17 A Yes.

18 Q All right. Were you outside of Bobby T's when the
19 shooting took place?

20 A Yes.

21 Q All right. I'm going to turn this on.

22 If you look behind to your right there, sir, that's a
23 picture of the front of Bobby T's; is that correct?

24 A Yes.

25 Q All right. Were you inside or outside when the

1 shooting took place?

2 A I was outside.

3 Q All right. And there's a pointer right here looking
4 like an ink pen that has a little red dot on it. If you
5 push this button, the red light comes on. Just hold the
6 button down. I'm going to ask you to take that, and I'm
7 going to ask you to point at that picture because I'm just
8 going to ask you generally where things were, okay? Just
9 point so the jury will see where you're talking about where
10 things were.

11 You were outside, you said, when the shooting took
12 place; is that correct?

13 A Yes.

14 Q Where were you? Just using the pointer to show the
15 jury about where you were when the shooting took place.

16 A About right there (indicating).

17 Q All right. And where was Marcus McGee when he was
18 shot?

19 A (Indicating).

20 Q So you're standing right behind him?

21 A Right beside him.

22 Q All right. And we're going to -- where was -- just
23 put the pointer -- did you see the shooter?

24 A Yes.

25 Q Where was the shooter standing when Marcus McGee was

1 shot? Just generally in what area? Would you use the
2 pointer again?

3 A Somewhere in there (indicating).

4 Q Okay. Did you see the shooter move at all? Well,
5 we'll come back to that.

6 Let's go back inside the club. How long had you been
7 outside the club before the shooting took place?

8 A About an hour.

9 Q All right. When you were outside the club, did you
10 see Marcus McGee come out of the club?

11 A Yeah.

12 Q Tell the jury what happened from the time Marcus McGee
13 came out of the club through the shooting. And I'm not
14 asking you to name anybody's names at this point. Just
15 tell the jury what happened as it relates to Mr. McGee
16 getting shot and where you were and what you saw.

17 A I seen the individual come out of the door. He came
18 right -- he came about right here (indicating).

19 Q This is Mr. McGee?

20 A Yes.

21 Q Okay.

22 A Somebody was calling him, and we was trying to get him
23 in the car. I was tapping him on the shoulder trying to
24 get him in the car. There was another individual came out
25 with them. He got in the passenger side of the car. My

1 brother was standing about right there (indicating). He
2 was getting in the driver's side of the car. The shooter
3 came around from this (indicating) way, took his hoodie
4 off, called the man's name three times.

5 Q Did he call him Marcus? Or what did he say?

6 A He called him Boogie.

7 Q And he said "Boogie" three times. Did you hear him
8 say anything else to him?

9 A Yeah. He said, "You need -- you need to give that
10 back." And by that time, Boogie really wasn't paying
11 anyone any attention. Somebody was calling his name. And
12 he was getting ready to walk back that way, but like on the
13 third time when the individual -- when the shooter called
14 his name, that's when he turned around. He didn't get his
15 face all the way correctly around before the shooter turned
16 around and shot him like three or four times.

17 Q And I assume once you started seeing the bullets or
18 hearing the -- seeing the shots, you tried to take cover?

19 A Yeah. About the fourth shot I was kind of shocked
20 because I was like I seen every bullet come out that gun.

21 Q All right, sir. And just to be clear, did you see
22 Marcus McGee wield a gun or have a gun or do anything with
23 a gun?

24 A He didn't have a gun.

25 Q Did you see Marcus McGee interact with this shooter in

1 any aggressive manner?

2 A He never said a word.

3 Q You said something about he didn't have a chance to
4 turn his head around. Would you describe what you mean by
5 that?

6 A He -- when he come out, I was tapping him on the
7 shoulder like, man, you know, get in the car. And the
8 individual that was on the passenger's side, like, man,
9 hurry up and get him in the car. So when he was telling
10 him to get in the car or whatever, like I say, someone else
11 was calling his name, a female was calling his name. And
12 he was -- he had basically turned almost -- basically
13 almost all the way around. So by the time the shooter
14 called his name like the third time, that's when he -- he
15 was like, "Give it back."

16 And I guess he was like, "What is he talking about?"
17 You know, he turns, like he didn't get all the way around.
18 He barely got a whole face around to see what happened to
19 him.

20 So when the guy came up -- the shooter came up, he
21 stood there. I seen him when he was standing there. He
22 took his hoodie off. That's when he called his name.

23 Q Uh-huh.

24 A So after he called his name the third time, I mean --
25 I mean, it was -- he just -- he just shot him for no

1 reason.

2 Q Just you standing right next to Mr. McGee, did you see
3 him do anything to provoke this shooting?

4 A No.

5 Q Once he shot -- once the first shot was fired, did the
6 shooter leave or did he or she continue to shoot?

7 A He shot him three times standing straight, and then he
8 like leaned -- he didn't touch the car or anything. Just
9 leaned over the car, and he's like he shot him to the
10 ground.

11 And then the individual -- the other individual that
12 was in the passenger side of the car, by that time -- when
13 he got ready to start shooting him to the ground, that's
14 when I kind of like caught my senses, like what just
15 happened.

16 So I started to run back -- I started to run back that
17 way (indicating). My brother, I didn't even see him no
18 more. He must have jumped straight in the car on the
19 driver's side or in the front seat, whatever. I started
20 running that (indicating) way.

21 The individual that was in the passenger's side of the
22 car jumped out of the car, and we both was getting ready to
23 start running this way. The shooter turned around and
24 said, "You two." I don't know as he was talking to me or
25 the guy in the passenger's seat. So I turned back around

1 that way, and I ran in.

2 So I was sitting there for about two seconds. I'm at
3 the door, and I seen -- he let off -- like when he said,
4 "You two," he let off like two or three shots back that way
5 (indicating). I don't -- I can't say if he was trying to
6 shoot us or if he was just shooting at us just to shoot.

7 And by the time, like I say, I got in the door, I
8 thought about and had to go back and get my brother. So by
9 that time, I seen the shooter throw the hoodie back over
10 his head. He didn't run. He calmly walked away. And then
11 when I was telling my brother, "Come on," I seen him go
12 into like a little jog as he got a little further on up.

13 Q Like him getting into a little jog, you mean the
14 shooter started to run as he got -- as he moved further
15 away?

16 A Yeah. But he walked away.

17 Q Okay. Did you see the shooter leave the premises?

18 A No.

19 Q Or how he left or anything like that?

20 A No.

21 Q You lost him as he went around the side of the club?
22 You lost site of him?

23 A Yeah.

24 Q All right. Now, when you met with the police, the
25 hoodie that he was wearing, was it a light color or a dark

1 color?

2 A A gray jogging suit, hoodie.

3 Q Okay. Dark gray?

4 A Yeah.

5 Q All right. When you met with the police, did you tell
6 them everything you told this jury today in terms of seeing
7 the shooting and being right three feet from it?

8 A No.

9 Q Why not?

10 A I didn't want to be involved in it.

11 Q You understand you're under oath today?

12 A Yes.

13 MR. WESTON: Thank you, sir. Answer any questions
14 counsel may have for you.

15 THE COURT: Mr. Chambers?

16 CROSS EXAMINATION

17 BY MR. CHAMBERS:

18 Q One of the things you did when you talked with the
19 police is they gave you an opportunity to look at a photo
20 lineup, correct?

21 A No.

22 Q You don't recall looking at a photo lineup?

23 A No.

24 Q You didn't see this photo lineup?

25 A No. They brought some papers in there, but he never

1 showed me the papers.

2 Q Okay. So you never went through a photo lineup at
3 all?

4 A No.

5 Q And you're certain of that?

6 A Yes.

7 Q Okay. Testimony is today that you were not in the
8 club preceding this or after this shooting happened,
9 correct? You were at -- I'm sorry. Go ahead.

10 A Say what now?

11 Q You weren't in the club?

12 A Yes. I was in the club earlier.

13 Q Earlier?

14 A Yes.

15 Q But you weren't in the club when Boogie left?

16 A No. I was outside.

17 Q You were in the parking lot?

18 A Yes.

19 Q And you had some indication that somebody was looking
20 not only for Boogie, but for Toot; is that correct?

21 A Yes.

22 Q And so that's when your brother, who I believe
23 everybody calls Little David, went inside?

24 A Yes.

25 Q And you remained out in the parking lot?

1 A Yes.

2 Q All right. Was Little David's car --

3 MR. CHAMBERS: Could we put that back up, please.

4 MR. WESTON: I just pulled -- I just slid the thing
5 across the front of that on the front side. There's a
6 slide on the front side. She'll get it. I'm sorry.

7 BY MR. CHAMBERS:

8 Q That red Toyota, that's Little David's car?

9 A Yes.

10 Q Had you and Little David come there together?

11 A No.

12 Q So you were not riding with him?

13 A No.

14 Q Was his car already parked there or did he pull the
15 car up?

16 A It was already parked right there.

17 Q All right. So in your prior statement, did you recall
18 telling the police that your little brother went and got
19 the car and drove it and pulled it right up to the front
20 door?

21 A What I told the officer was I did not want to be
22 involved. And the officer told me, "Mr. Walker, just give
23 us a statement." And that's what I did.

24 Q So you admit then that you told him that your brother
25 went and got the car and pulled it up to the front door?

1 A Yes.

2 Q But the car was already there?

3 A Yes. He pulled in front. I called my little brother
4 to come up there.

5 Q Okay. And do you remember seeing Toot come out at
6 some point?

7 A Yes.

8 Q Was anybody with Toot when he came out?

9 A Yes.

10 Q Who was with Toot?

11 A The guy named Boogie.

12 Q So Boogie and Toot came out together?

13 A (Nods head affirmatively.)

14 Q You're positive of that?

15 A Yes.

16 Q Boogie did not come out -- or I'm sorry. Toot did not
17 come out with Little David?

18 A No. He -- Little David came out with me. He went in
19 there to get them.

20 Q Okay. So they were all three together?

21 A Yes. Boogie was the last one that come out. He was
22 like about, what, a five second delay.

23 Q Okay. Not ten minutes or so?

24 A No.

25 Q So just, basically, they were all walking out

1 together?

2 A Yes. Boogie was talking to some people when he come
3 out the door.

4 Q Boogie was the last one that came out the door?

5 A Yes.

6 Q All right. Who came out first, Little David or Toot?

7 A I think it was Toot come out first and my brother was
8 behind him, I think.

9 Q And where were you standing?

10 A I probably was standing like probably in the middle.

11 Q Why don't you use that light that the solicitor gave
12 you and show us where you were standing when they came out.

13 A Standing somewhere a little further back (indicating).

14 Q So you were standing there?

15 A Yeah.

16 Q And you said Toot came out first?

17 A Yes.

18 Q Where did Toot go?

19 A He was getting ready to walk towards the back. Him
20 and Toot was standing there, and Boogie finally come out
21 like five seconds behind.

22 Q Well, just first tell me where Toot went.

23 A He was -- he came to me, and I asked him, I said, Yo,
24 man, an individual's in the parking lot. I'm not going to
25 give his name. But an individual in the parking lot asked

1 me -- it was like is Toot and them in there?

2 I was like, "Why? What's up?"

3 He said, "Somebody in a blue car looking for them, and
4 it don't look right."

5 And I was like, "Well, hold on a second." I mean -- I
6 said, "How long have they been out here?"

7 And he said, "They go around twice."

8 So by that time, I called my little brother. He just
9 had left, and I called him to come back.

10 So when my brother come back, I told him, "Man, look.
11 You need to go in there and tell Toot, my man, you know,
12 come on up out of there, whatever. I mean, if you got
13 something going on, you might want to go home." So when
14 Toot come back up out of there, I asked, "Man, you ain't
15 got no gun on you, do you? You've got a problem somewhat
16 out here, dude."

17 Q Okay. Well, let me -- let me stop you right there.

18 MR. WESTON: Objection, Your Honor.

19 THE COURT: He's answering the question. Go ahead,
20 sir.

21 MR. WESTON: Thank you, Your Honor.

22 THE WITNESS: I asked him if he was -- he first -- and
23 I was like, man, be for real.

24 He was like, "Nah, I ain't got no gun on me."

25 And I was like, "Maybe you might want to leave now. I

1 don't know what kind of -- you know, what kind of problem
2 y'all might be getting -- whatever you got going on."

3 Like I say, I don't know Boogie, so I don't know what
4 the deal is and I don't know nothing about anything else
5 besides what I'm telling you.

6 BY MR. CHAMBERS:

7 Q Well, here's what I'm asking you, though. All right.
8 You said a few minutes --

9 A No. You asked me --

10 Q Okay. May I finish my question?

11 THE COURT: Let him ask his question, and I'll let you
12 finish, okay?

13 BY MR. CHAMBERS:

14 Q I asked you a few minutes ago if you saw them leaving.
15 And what I recall was you said that Toot and Little David
16 and Marcus, Boogie, walked out at the same time, Boogie
17 being the last one, about five seconds behind, correct?

18 A Yes.

19 Q All right.

20 A You didn't ask me was they leaving. You asked me was
21 they coming out the club together.

22 Q Exactly.

23 A Okay. No. You just said you asked me was they
24 leaving.

25 Q Were they leaving?

1 A They come out of the club. They was getting ready to
2 leave.

3 Q All right. And Little David's car was already parked
4 there?

5 A Yes.

6 Q So is that when you're saying this fairly lengthy
7 conversation occurred between you and Toot?

8 A Yes.

9 Q So where -- and Boogie was right -- five seconds
10 behind, so that means he was standing there while you were
11 having the conversation with Toot?

12 A When me and Toot was having this conversation, my
13 brother was coming, and he had come with me. Like I said,
14 someone was trying to call -- this dude was trying to talk
15 to Boogie.

16 Q Okay. So just prior to the shooting -- let me borrow
17 your pen.

18 A Yes.

19 Q You're standing about right here (indicating)?

20 A A little further back.

21 Q A little farther. About right here (indicating). All
22 right.

23 And by this time, as you're having -- and you said
24 that Toot comes out first, and y'all are standing about
25 right there (indicating) talking right there?

1 A Yeah. Toot was standing by a white -- by where that
2 sign -- it wasn't there, but in here (indicating).

3 Q Oh. So you're standing here and he's over here
4 (indicating), and you're kind of just talking across the
5 car?

6 A Yeah. He started doing -- walk towards me. That's
7 when me and my brother and Boogie and them was coming out
8 the door.

9 Q And so they came on out the door and were all standing
10 there?

11 A Yes.

12 Q All right. After you -- did Toot just stay there or
13 did he go somewhere while y'all were talking or right after
14 you were talking?

15 A When I was talking to him and he was like -- I -- I
16 guess the car was parked on the back side back here
17 (indicating). He was getting ready to walk that way, and I
18 was like, "Nah, you might not want to go there, man. That
19 blue car just went back there."

20 Q Okay.

21 A That's when he turned around like, oh, man he tell my
22 brother, like, "Can you give us a ride?"

23 And my brother's like, yeah, you know what I'm saying?
24 That's when -- kind of everything kind of went all
25 together.

- 1 Q So Toot never got in the car?
- 2 A No. Toot got in the car.
- 3 Q He did get in the car?
- 4 A Yes.
- 5 Q All right. What about Little David? Did he get in
- 6 the car?
- 7 A Not yet.
- 8 Q Okay. So he was still out there?
- 9 A Yes.
- 10 Q So he was still out when the shooting happened?
- 11 A He kind of jumped in the car, I guess, when the first
- 12 one went off. I really wasn't paying too much attention
- 13 because he was like standing back there waiting on me
- 14 looking at the shooter.
- 15 Q Okay. Did you ever leave here (indicating)?
- 16 A Yeah. I went over there when Toot was like I'll get
- 17 -- you know, get Boogie in the car.
- 18 Q Okay. So then you walked around there (indicating)?
- 19 A I walked right there (indicating).
- 20 Q So that's why you say that you were standing -- when
- 21 the shooting happened, if I remember correctly, you said
- 22 you were standing behind Boogie closer to the door, and
- 23 Boogie was about right here (indicating), and you were
- 24 about right there (indicating)?
- 25 A Yeah. I was standing basically beside them like this.

1 Q So closer than you and me are even together?

2 A Yeah. A little closer.

3 Q All right. And show me, again, where was the shooter?

4 A (Indicating).

5 Q He was on the other side of the car?

6 A Yeah.

7 Q All right. And Boogie was walking -- where was Boogie
8 walking to? To get into the car?

9 A Yeah. He was -- he was just coming out the door. He
10 really didn't know what -- I mean, like I say, I mean, they
11 say the guy had just come home so I'm pretty sure, you
12 know, everybody want to talk to you. So, like I say,
13 people was calling his name.

14 Q And it was -- was it dark or light out there? I mean,
15 I know it's light in those pictures, but when you were
16 there, was it dark or was it light?

17 A It was nighttime, but, you know, you've got a pole
18 right here that's a light, and then you've got the lights
19 that you've got from the thing right here and this light.

20 Q So it was pretty well lighted?

21 A Yeah.

22 Q And you said you heard a female voice calling Boogie's
23 name?

24 A Yeah. From that way (indicating).

25 Q Do you know Porchae Adams?

1 A Yes. I know her.

2 Q Could that voice have been Porchae Adams?

3 A No.

4 Q So there's another female calling his name?

5 A Yes.

6 Q And right after the shooting happened, what did you
7 say you do?

8 A I got -- I ran that way. That's when the shooter
9 turned around, said, "You two", and he let off about two or
10 three more shots.

11 And when he said that, I said, "Well, he must be
12 talking about the other guy." And I ran back inside the
13 club and stood right here at the door where the security
14 guard was.

15 Q Do you know what Little David did?

16 A I really wasn't paying attention to him just right
17 offhand, but I think he jumped in the window of the
18 driver's side.

19 Q The security guard was inside the club?

20 A Nah. He was right there with the door. He was like
21 standing right there where the door -- like the door --
22 like cracked open like ---

23 Q Had the door cracked open?

24 A Yeah. He was like patting everybody down. And it was
25 him and I think the other person went inside. It might

1 have been another security, if I'm not mistaken. They went
2 inside.

3 MR. CHAMBERS: Okay. That's all the questions I have
4 for you. Thank you.

5 THE COURT: Anything?

6 MR. WESTON: No redirect, Your Honor. The State would
7 ask this witness be released from his subpoena.

8 THE COURT: Any objection?

9 MR. CHAMBERS: No objection, Your Honor.

10 THE COURT: Sir, you're released from your subpoena.
11 You may step down and you may stay or leave, whichever you
12 choose.

13 THE WITNESS: All right. Thank you.

14 THE COURT: All right. Gentlemen and lady, we're
15 going to take about 15 minutes.

16 Mr. Foreman, ladies and gentlemen of the jury, you've
17 been sitting now about an hour and a half. That's about
18 all we want you to sit at one time. We're going to take
19 about 15 or it might even be 20 minutes or so. I see a
20 couple other lawyers in the courtroom, and I was advised
21 this morning they might have a couple of quick things for
22 me to entertain. So we'll take at least 15, it might be
23 about 20 minutes.

24 I charge you, again, not to begin deliberations of
25 this matter whatsoever. This case is not at an end.

1 You're not to consider, not even within your own mind.

2 With that, please, Mr. Foreman, take the jury to the
3 jury room and we'll be calling for you shortly.

4 (WHEREUPON, the jury exited the courtroom at 10:24 a.m.)

5 THE COURT: All right. We'll be in recess for at
6 least 15 minutes.

7 (WHEREUPON, a recess was taken at 10:24 a.m.)

8 (WHEREUPON, Plaintiff's Exhibit Nos. 14, 15, 16, 17, 18,
9 19, 21 and 22 are marked for identification.)

10 (WHEREUPON, the jury entered the courtroom at 11:01 a.m.)

11 THE COURT: Mr. Foreman, anything from the jury?

12 JURY FOREMAN: No, Your Honor.

13 THE COURT: Okay. Very good.

14 All right. Solicitor?

15 MR. WESTON: Your Honor, the State would call
16 Ms. Porchae Adams.

17 THE COURT: Ms. Adams.

18 WHEREUPON,

19 PORCHAE ADAMS,

20 after first having been duly sworn, testified as follows:

21 THE CLERK: Would you state your name for the record?

22 THE WITNESS: Porchae Adams.

23 THE CLERK: Thank you.

24 ///

25 ///

DIRECT EXAMINATION

1

2

BY MR. WESTON:

3

Q Ms. Adams, how old are you?

4

A 28.

5

Q Where do you live, Ms. Adams?

6

A [REDACTED] Hollywood Drive.

7

Q Okay. Could you pull the microphone a little bit

8

closer to you? Because I want the jurors down on this end

9

to be able to hear you.

10

What's that again?

11

A [REDACTED] Hollywood Drive.

12

Q And is that here in Greenville?

13

A Yes, sir.

14

Q All right. Are you married, Ms. Adams?

15

A No, sir.

16

Q Do you have any children?

17

A Yes.

18

Q What are their names? What are their sex and ages?

19

A A little boy named Zachary [phonetic]. He's 8.

20

Q Okay. Let's begin with the sort of bottom line kinds

21

of questions. Did you know Marcus McGee?

22

A Yes, sir.

23

Q Did you know him as Boogie?

24

A Yes, sir.

25

Q Prior to his death in January of 2013, about how long

1 had you known him? Just generally.

2 A 10 years.

3 Q All right. And you're wearing an orange jumpsuit.

4 You are presently at the Greenville County Detention
5 Center?

6 A Yes, sir.

7 Q Were you charged in the murder of Marcus McGee?

8 A Yes, sir.

9 Q Were you originally charged with murder?

10 A Yes, sir.

11 Q All right. Just to be clear, did you shoot Marcus
12 McGee?

13 A No, sir.

14 Q All right. And you have been in the detention center
15 since shortly after his death; is that correct?

16 A Yes, sir.

17 Q All right. Did you have an occasion to engage in a
18 drug transaction with Marcus McGee on the evening before
19 his death, January 12th of 2013?

20 A Yes, sir.

21 Q Would you tell the jury how that came about first.

22 A How the transaction came about?

23 Q Yeah. How did y'all end up getting together for the
24 drug transaction? Did you call him? Did he call you?

25 A I called him.

1 Q And what did you call him to ask him about? What was
2 the specifics that you wanted from him?

3 A Cocaine.

4 Q And did you tell him how much you wanted?

5 A Yes, sir.

6 Q How much did you tell him?

7 A An ounce.

8 Q And did y'all talk about a price?

9 A Yes, sir.

10 Q What was the price?

11 A \$1,350.

12 Q All right. And this is during the evening of
13 January 12th; is that correct? At nighttime?

14 A Yes, sir.

15 Q Did y'all arrange a meeting?

16 A Yes, sir.

17 Q And where did y'all arrange to meet?

18 A At Citgo.

19 Q Is that the Citgo with the McDonald's adjacent to it
20 right at Interstate 85 and White Horse Road?

21 A Yes, sir.

22 Q All right. And about what time did y'all meet?

23 A About 8:00, 8:30.

24 Q All right. Now, did you drive to the location?

25 A I did.

1 Q And what were you driving?
2 A A blue -- blue car, hatchback.
3 Q All right. And is it a small car?
4 A Uh-huh.
5 Q You have to say "yes" or "no" so the court reporter
6 can pick it up.
7 A Yes, sir.
8 Q Thank you. And when you arrived at the location, was
9 Marcus McGee already there?
10 A Yes, sir.
11 Q Was he driving or was his girlfriend driving?
12 A His girlfriend.
13 Q All right. And did you get into his car?
14 A Yes, sir.
15 Q Or his girlfriend's car. Excuse me.
16 And did y'all complete the transaction?
17 A Yes, sir.
18 Q And how much money did you pay him?
19 A \$1,350.
20 Q All right. Was it \$1,350 or \$1,300?
21 A I think it was \$1,350.
22 Q All right. And did he give you the cocaine?
23 A Yes, sir.
24 Q How was it packaged? Was it a plastic bag? Aluminum
25 foil?

1 A Plastic bag.

2 Q A brown bag?

3 A Plastic bag.

4 Q Okay. Did y'all weigh it out or something?

5 A I did.

6 Q And was it about an ounce of cocaine?

7 A Yes, sir.

8 Q All right. Did you test it or anything?

9 A No, sir.

10 Q All right. Did he indicate to you where he had gotten

11 the cocaine?

12 A From someone else.

13 Q All right. He was just, for purposes of this

14 transaction, the middleman?

15 A Yes, sir.

16 Q All right. Once you left after the transaction was

17 done, I assume everybody was fine at that point?

18 A Yes, sir.

19 Q And you left the Citgo and he left the Citgo and you

20 all parted ways?

21 A Yes, sir.

22 Q All right. Where did you go?

23 A To a friend of mine's house, Lori [phonetic].

24 Q I'm sorry?

25 A Her name is Lori.

1 Q What part of Greenville? Generally, where is that at?

2 A It's by the Pandora's Boxx.

3 Q Over off Augusta Road?

4 A Off Augusta.

5 Q And what did you go there for?

6 A To cook it.

7 Q All right. Tell the jury what happens when you cook
8 it, what's supposed -- generally. You don't need to be
9 very, very specific in detail, but generally, how do you
10 cook it and what happens -- or what's supposed to happen.

11 A It's supposed to become a solid.

12 Q And in an ounce of cocaine powder, when you cook it,
13 about how much are you expecting to get -- you're trying to
14 make crack; is that correct?

15 A Yes, sir.

16 Q All right. Which is a solid?

17 A Yes, sir.

18 Q About how much crack are you expected to get out of an
19 ounce of cocaine when you cook it?

20 A About 25, 24 grams.

21 Q And an ounce is 28 grams; is that correct?

22 A Yes, sir.

23 Q If I can remember my high school math.

24 So you went there and you cooked it up at this
25 friend's house; is that correct?

1 A Yes, sir.

2 Q And did it come back to about 25 grams?

3 A No, sir.

4 Q But it did come back?

5 A Yes, sir.

6 Q And so you had a significant amount of crack?

7 A Yes, sir.

8 Q Were you satisfied?

9 A No, sir.

10 Q All right. What did you do?

11 A What did I do once I cooked it?

12 Q Once you found that it didn't --

13 A I called -- I called Mr. McGee ---

14 Q Okay.

15 A --- because I couldn't get it to get into a solid

16 form, so I called him.

17 Q And did he advise you as to how to do it?

18 A Yes, sir.

19 Q Is this the first time you had bought drugs from him?

20 A Yes, sir.

21 Q All right. But it's not the first time you had bought

22 drugs?

23 A No, sir.

24 Q In fact, that was pretty much your livelihood at that

25 time, wasn't it?

1 A Yes, sir.

2 Q You were selling small amounts of drugs to people?

3 A Yes, sir.

4 Q You did not have a 9-to-5 job is what I'm basically

5 saying.

6 A No, sir.

7 Q Okay. So you called Mr. McGee and he gave you some

8 advice as to how to cook it. Did that work?

9 A Yes, sir.

10 Q Did the advice work?

11 A Yes, sir.

12 Q And so were you satisfied at that point?

13 A No. Because it didn't weigh right.

14 Q Did you call him back again?

15 A Yes, sir.

16 Q Between the time you left the Citgo and the time he

17 was killed about 5:00 in the morning, how many times do you

18 think you called him or he called you back during that

19 period? Just ballpark. You may not remember exactly.

20 Q About eight times.

21 A All right. And let's go back to your friend's house a

22 moment. When you got to your friend's house, was anybody

23 else there or did anybody else arrive there while you were

24 there?

25 A Yes, sir.

1 Q Who is that?

2 A Mr. Young.

3 Q And by Young, Mr. Young, you mean David Adam Young?

4 A Yes, sir.

5 Q Is he in the courtroom today?

6 A Yes, sir.

7 Q Would you point him out to the jury and tell the jury
8 where he is and what he's wearing?

9 A He's the defendant in a blue shirt.

10 Q All right. How do you know Mr. Young?

11 A He drives for me. He's a friend. He's a friend of my
12 family and he drives for me.

13 Q All right. And we'll come back to the driving for you
14 in a minute.

15 How long have you known him?

16 A About two or three years.

17 Q All right. This is two or three years before this
18 incident?

19 A Yes, sir.

20 Q All right. Now, when you say he drives for you, do
21 you have a driver's license?

22 A No, sir.

23 Q And you didn't have one in January of 2013?

24 A No, sir.

25 Q And your primary occupation was to sell drugs; is that

1 correct?

2 A Yes, sir.

3 Q So when you say Mr. Young drove for you, did he drive
4 for you to deliver or purchase drugs from time to time?

5 A Yes, sir.

6 Q Okay. And how was he paid? I mean, what did he get
7 out of it?

8 A I would give him drugs.

9 Q All right. And let's go back to your friend's house
10 again. When you got back there, about what time did you
11 get back there?

12 A I went straight there from Citgo.

13 Q So it was about 10:30, 11:00 that night?

14 A It was before that.

15 Q All right. When you got there, you said David Young
16 was there. Or did he come there after you got there?

17 A He was already there.

18 Q All right. And did you remain in David Young's
19 presence for the most part until the time Mr. McGee was
20 killed?

21 A Yes, sir.

22 Q Once you got there, how long did you stay at your
23 friend's house, generally?

24 A About an hour.

25 Q And you took the crack that you had when you left?

1 A Yes, sir.

2 Q Did you leave alone?

3 A No, sir.

4 Q Who left with you?

5 A Mr. Young.

6 Q Who was driving?

7 A He was.

8 Q And was he with you during the time that you had these

9 eight or so conversations with Marcus McGee complaining

10 about the drugs?

11 A Yes, sir.

12 Q Did he ever speak to Marcus McGee or was he just in

13 your presence when you were talking back and forth with

14 him?

15 A He was just with me when I was just talking to him.

16 Q All right. Where did y'all go when you left there?

17 A I went to pay my bondsman and ran errands.

18 Q All right. And Mr. Young drove you to all these

19 places?

20 A Yes, sir.

21 Q And while y'all were going around or stopping places,

22 did you or he do any drugs?

23 A No, sir.

24 Q Okay. Did y'all drink any liquor or alcohol?

25 A I went to a nightclub.

1 Q All right. We'll get to that. But generally, did you
2 drink any alcohol that evening?

3 A Yes, sir.

4 Q Did Mr. Young drink any alcohol ---

5 A Yes.

6 Q --- that you were aware of?

7 A He had a drink when we were at the club.

8 Q All right. When did y'all go to the club? After you
9 said -- you said something about a bondsman and run some
10 errands. When did you -- what time did you get to this
11 club?

12 A About 2:00, 1:00 or 2:00 in the morning.

13 Q And that is, just to be clear, not Bobby T's, is it?

14 A No, sir.

15 Q What was the name of the club you went to; do you
16 remember?

17 A T-shirts.

18 Q All right. And how long did y'all stay at T-shirts?

19 A A couple hours.

20 Q After you left T-shirts, where did you go?

21 A To Bobby T's.

22 Q All right. Let's back up just a bit. During the time
23 you finished cooking up the drugs, as best -- and got the
24 best return you could on it till the time you got to Bobby
25 T's, did you make any drug sales?

1 A Yes, sir.

2 Q Did you make any at T-shirts nightclub?

3 A No, sir.

4 Q Or outside, I mean. In the parking lot around there.

5 A No, sir.

6 Q Were they at businesses or did you go to people's --

7 did y'all go to people's homes?

8 A People's houses.

9 Q And who was driving at each one of these places?

10 A Mr. Young.

11 Q All right. And did he know what you were doing?

12 A Yes, sir.

13 Q When you went to Bobby T's, y'all go there, what,

14 about 4:30, 5:00 in the morning?

15 A Something like that.

16 Q All right. And when you arrived at Bobby T's, did you

17 see -- first of all, did you see Marcus McGee outside?

18 A No, sir.

19 Q Did you know his car?

20 A Yes, sir.

21 Q Did you see his car outside?

22 A I did.

23 Q And based on where he was parked, where did y'all

24 park? Near his car?

25 A On the same side, yes, sir.

1 Q All right. Did y'all -- you and Mr. Young have any
2 conversation about the fact that this was Mr. McGee's car?

3 A We didn't have any conversation about his car. I
4 think he already knew he was there, too.

5 Q Based on your conversation with Mr. Young inside
6 y'all's car?

7 A Uh-huh.

8 Q You've got to say "yes" or "no."

9 A Yes, sir.

10 Q Thank you. Did you ever go into the club?

11 A No, sir.

12 Q Did Mr. Young go into the club?

13 A I never seen him go inside because I wasn't on the
14 side where the door was.

15 Q All right. And when Mr. Young got out of the car --
16 was anybody else in the car with y'all at that point, by
17 the way?

18 A Yes, sir.

19 Q Who else was with you?

20 A A friend of his.

21 Q And that would be Mr. Chapman?

22 A Yes, sir.

23 Q And where was he seated?

24 A In the backseat.

25 Q All right. Now, just to be clear, was Mr. Chapman

1 involved in the drug transaction with Mr. McGee at all?

2 A No, sir.

3 Q He had just gotten with y'all and was sort of riding
4 with you; is that correct?

5 A Yes, sir.

6 Q All right. Did he get out and go in the club?

7 A No, sir.

8 Q He stayed in the car with you?

9 A Yes, sir.

10 Q Now, y'all come up to a nightclub at 5:00 in the
11 morning. There are three of y'all in the car. Two of you
12 remain in the car. Why did Mr. Young -- David Adam Young
13 get out of the car and go toward the club?

14 A He said that he was going to handle it.

15 Q All right. Now, you need to tell the jury exactly
16 what you understood that to mean from Mr. Young.

17 A I really didn't know what he meant by it. I know that
18 I had called a friend of mine, and he was at the club.
19 That's the only reason we went to the club.

20 Q When you say "he was at the club," who was he?

21 A Mr. Walker.

22 Q Mr. Walker ---

23 A Tyronzo.

24 Q --- or Mr. McGee?

25 A No. I called Tyronzo.

1 Q Right. But you knew he was at the club. Y'all went
2 there to see Mr. Walker?

3 A Yes, sir.

4 Q Okay. But why did David Young get out of the car and
5 say he would handle it? What is he talking about?

6 A I'm not sure. He didn't say what he was talking
7 about.

8 Q You had no idea what he was talking about, ma'am? Is
9 that what you're telling this jury?

10 A I figured he was going to talk to him about it.

11 Q Talk to who about what?

12 A Mr. McGee.

13 Q Okay. You need to be clear, ma'am, because the jury
14 -- nobody knows what you're talking about unless you tell
15 us, okay?

16 A Okay.

17 Q So let me ask you again. What was your understanding
18 about what you thought Mr. Young was going to handle and
19 who was he going to handle it with?

20 A I figured he was going to talk to Mr. McGee about the
21 drug transaction.

22 Q That you were not satisfied with?

23 A Yes, sir.

24 Q Thank you. Now, do you know if Mr. Young was armed
25 that night?

1 A Yes, sir.

2 Q How do you know that?

3 A He tried to sell me the gun prior that day when I went
4 to Lori's house.

5 Q Did you see the gun?

6 A I did.

7 Q What kind of gun was it?

8 A I know it was a small gun. I'm not sure exactly what
9 kind.

10 Q And I take it you didn't want to buy the gun?

11 A No, sir.

12 Q All right. When you got out of the car, as far as you
13 know, did he still have the gun?

14 A Yes, sir.

15 Q All right. When he got out of the car, tell the jury
16 what happened from y'all's perspective sitting in the car
17 next.

18 A Once he got out of the car?

19 Q Yes, ma'am.

20 A He walked towards the club. And about five minutes
21 later, that's when I heard gunshots.

22 Q All right. How many shots did you hear?

23 A About three or four.

24 Q All right. Once you heard gunshots, what happened
25 next?

1 A Mr. Young came back to the car.

2 Q Right after the gunshots?

3 A Yes, sir.

4 Q By the way, what was he wearing?

5 A I can't remember.

6 Q Okay.

7 A I know he had a jacket on, though, a dark-colored

8 jacket.

9 Q All right. When he got back in the car, what, if

10 anything, did he say? And I need you to be very specific.

11 A Okay. He said that he killed that nigger.

12 Q Who did you think he was talking about?

13 A Mr. McGee.

14 Q Any you later found out Mr. McGee, in fact, had been

15 shot, didn't you?

16 A Yes, sir.

17 Q Did he say that he had to do it or that he was acting

18 in self-defense or anything like that? Or did he just

19 say ---

20 A He didn't say.

21 Q --- I killed that, parenthesis, Negro?

22 A He didn't say. That's all he said.

23 Q Okay. Did he seem sorry or matter of fact?

24 A Matter of fact.

25 Q Thank you. After that, what happened?

1 A I called Tyronzo because I didn't believe that he
2 actually shot him. So I called Tyronzo and asked him, and
3 he told me he did.

4 Q So what did y'all do after that?

5 A Went and dropped Mr. Chapman off.

6 Q Who was driving?

7 A Mr. Young.

8 Q And this is -- by the way, let's talk about this car
9 for a moment, just so -- I don't mean to sidetrack you.
10 This car is a rental; is that correct?

11 A Yes, sir.

12 Q And who rented the car?

13 A A friend of mine rented it for me.

14 Q All right. And were you the one who made the payments
15 for the rental?

16 A Yes, sir.

17 Q So the practical effect of it is this was your rental
18 car?

19 A Yes, sir.

20 Q And you were responsible for it?

21 A Yes, sir.

22 Q And you had allowed Mr. Young to drive it?

23 A Yes, sir.

24 Q After the murder -- after the shooting took place and
25 he gets back in the car and he shot -- and he says he shot

1 someone, you continued to let him drive; is that correct?

2 A Yes, sir.

3 Q And y'all drove to drop Mr. Chapman off, you said?

4 A Yes, sir.

5 Q Generally, where was that in Greenville? Where did
6 y'all drop him off at?

7 A Off of Crestfield at an apartment complex.

8 Q Is it Gilbert Court?

9 A Uh-huh.

10 Q You have to say "yes or "no."

11 A Yes, sir.

12 Q Thank you. All right. Once you drop Mr. Chapman off,
13 where did you go?

14 A To pick up Ms. Crossman.

15 Q All right. And where did you pick up -- that would be
16 Andrea Crossman; is that correct?

17 A Yes, sir.

18 Q Where did you pick her up from?

19 A From Donaldson Center.

20 Q In an RV park?

21 A Yes, sir.

22 Q All right. And is all of this on the south side of
23 Greenville off of White Horse Road?

24 A Yes, sir.

25 Q All right. And when y'all picked up -- when you

1 dropped off Mr. Chapman, did y'all get out of the car or
2 did he just get out and go in or whatever and y'all just
3 drove off?

4 A Yes. He just got out and we drove off.

5 Q All right. When you got to pick up Ms. Crossman, did
6 y'all get out of the car?

7 A Yes, sir.

8 Q And you went in?

9 A Yes, sir.

10 Q Now, you could have disassociated yourself with
11 Mr. Young at that point, couldn't you, and not drove any
12 further -- not let him drive any further? Y'all are out of
13 the car.

14 A Yeah. But I took him -- I was going to drop him off.

15 Q Okay. And you knew -- he had told you he had just
16 shot someone?

17 A Yes, sir.

18 Q But you continued to associate with him and was going
19 to, in fact, drop him off somewhere?

20 A Yes, sir.

21 Q All right. And that was voluntary on your part?

22 A Yes, sir.

23 Q Did you still have the drugs on you, by the way?

24 A I did.

25 Q All right. So once you picked up -- let's talk about

1 how you got Ms. Crossman. You go to the RV park. Tell the
2 jury what happened as far as how she ended up getting with
3 y'all.

4 A We went inside the house and he told her to come, and
5 she came with us.

6 Q Where were y'all going to take her?

7 A They were going to go together. I was going to drop
8 them off somewhere.

9 Q All right. So did she come with you?

10 A Yes, sir.

11 Q Did -- and just to be clear, was there any discussion
12 with Ms. Crossman about this shooting that had just taken
13 place?

14 A No, sir.

15 Q She didn't, as far as you know, know anything about
16 it?

17 A No, sir.

18 Q All right. So she gets in the car. Is she in the
19 front seat? backseat? Where?

20 A Backseat.

21 Q And once y'all pick her up, tell the jury what
22 happened next once y'all got, I think -- well, once y'all
23 picked her up and were headed toward dropping -- you were
24 going to drop the two of them off, tell the jury what
25 happened next.

- 1 A We were pulled over. Blue light.
- 2 Q About where was that?
- 3 A Near Graceland Cemetery.
- 4 Q On White Horse Road?
- 5 A White Horse.
- 6 Q And so a sheriff's deputy got in behind you?
- 7 A Yes, sir.
- 8 Q Did they turn on their blue lights?
- 9 A Yes, sir.
- 10 Q Did he turn on his sirens at any point?
- 11 A Not that I remember.
- 12 Q Okay. But you saw the blue lights?
- 13 A Yes, sir.
- 14 Q Who's driving the car at this point?
- 15 A Mr. Young.
- 16 Q David Adam Young?
- 17 A Yes, sir.
- 18 Q Once he -- and this is about, what, 45 minutes to an
- 19 hour after the shooting?
- 20 A Yes, sir.
- 21 Q All right. And once the blue lights come on, did
- 22 Mr. Young -- what did you expect to happen? Once you saw
- 23 the blue lights, what did you expect Mr. Young to do?
- 24 A Pull over.
- 25 Q Did he do that?

1 A No, sir.

2 Q What did he say, if anything?

3 A He didn't say anything.

4 Q What did he do?

5 A He just kept going.

6 Q Did he speed up?

7 A Yes, sir.

8 Q Did speeds reach 50, 60 miles an hour at some point

9 during the stop -- during the chase?

10 A Yes, sir.

11 Q About how many -- about how long did the police chase

12 y'all with the blue lights on?

13 A For about -- about ten minutes.

14 Q And y'all are driving -- did y'all end up going

15 through Graceland Cemetery?

16 A Yes, sir.

17 Q Did y'all stay on the road in Graceland Cemetery?

18 A No, sir.

19 Q Tell the jury some of the ways y'all went in the

20 cemetery.

21 A We drove over tombstones and -- trying to get out.

22 Q And when you say "we," you mean Mr. Young?

23 A Yes, sir.

24 Q Because you weren't operating the vehicle.

25 A No, I wasn't.

1 Q Did Mr. Young throw anything out of the car while he
2 was trying to get away from the police that you saw?

3 A Yes, sir. I didn't see exactly what he threw out, but
4 was throwing stuff out of the car.

5 Q All right. Did you throw anything out of the car when
6 y'all were running from the police?

7 A I did.

8 Q What?

9 A My scale.

10 Q All right. Drug scales?

11 A Yes, sir.

12 Q All right. And the police stopped y'all over in West
13 Greenville; is that correct? Or the chase ended in West
14 Greenville; is that correct?

15 A Judson.

16 Q Over in the Judson area. I'm sorry.

17 How did the chase end? Did y'all pull over by the
18 side of the road or where?

19 A Pulled in the yard.

20 Q Into someone's driveway?

21 A Yes, sir.

22 Q Once you pulled into the driveway, what -- once
23 Mr. Adams pulled into the driveway, what did you do?

24 A I got out of the car and ran.

25 Q Did you still have the drugs with you?

1 A I did.

2 Q Once you got out of the car and ran, what did you do
3 with the drugs?

4 A I threw them.

5 Q And was this still near the car in someone's yard
6 nearby or was it way, way away?

7 A It was in someone's yard nearby.

8 Q All right. And you were able to get away that night?

9 A Yes, sir.

10 Q And you were arrested and brought back -- brought to
11 the detention center sometime later; is that correct?

12 A Yes, sir.

13 Q All right. Did you see Mr. Young or talk to Mr. Young
14 any time between that night and the time you were arrested
15 again?

16 A No, sir.

17 MR. WESTON: All right. Excuse me, Your Honor. One
18 moment please.

19 THE COURT: Yes.

20 BY MR. WESTON:

21 Q When you were talking -- I want to go back to before
22 y'all got to Bobby T's, all right?

23 A Okay.

24 Q When you were talking to Mr. Young about -- you talked
25 to him about your dissatisfaction with the drugs that you

1 had gotten from Mr. McGee; is that correct?

2 A Yes, sir.

3 Q Did Mr. Young indicate to you about any prior problems
4 he had had with Mr. McGee with drugs or money?

5 A Yes, sir.

6 Q Tell the jury what he said.

7 A He said that he had a bad deal with him a couple years
8 ago any he wasn't satisfied with him.

9 Q Did he talk about an amount of money that was involved
10 in that?

11 A No, sir.

12 Q Are you sure he didn't say an amount of money?

13 A Not to my -- I don't remember him saying an amount.

14 Q Okay. Thank you, ma'am.

15 Oh, I'm sorry. Let me just ask you -- I apologize.

16 As I said at the outset, you were originally charged with
17 murder; is that correct?

18 A Yes, sir.

19 Q And prior to the beginning of this trial, did you
20 enter a plea to the charge of accessory after the fact?

21 A Yes, sir.

22 Q And you did that partly to avoid going to trial with
23 Mr. Young for murder; is that correct?

24 A Yes, sir.

25 Q And in order to get that agreement, was it your

1 understanding that you were required only to tell the truth
2 and the complete truth, is that correct, about what
3 happened that night?

4 A Yes, sir.

5 Q As far as the best you can remember, have you done
6 that?

7 A Yes, sir.

8 MR. WESTON: Thank you, ma'am.

9 THE COURT: Mr. Chambers?

10 CROSS EXAMINATION

11 BY MR. CHAMBERS:

12 Q All right. You've heard about it a lot, but if I
13 understand correctly, you did engage in this drug
14 transaction with Mr. McGee sometime earlier in the day,
15 correct?

16 A Yes, sir.

17 Q And in your estimation, what he sold you was very poor
18 quality cocaine?

19 A Yes, sir.

20 Q And you were very dissatisfied with that?

21 A Yes, sir.

22 Q And you called him. It sounds like the first couple
23 of conversations, he was trying to be helpful, I guess.
24 But wouldn't it be fair to say that after that, you
25 continued to express dissatisfaction with him?

1 A Yes, sir.

2 Q And you were very upset about it, weren't you?

3 A Yes, sir.

4 Q I mean, you weren't just calling him up the way that
5 you are talking in such a reasonable sort of monotone. I
6 would imagine that you would probably let him have it
7 pretty good for essentially ripping you off for \$1,350,
8 correct?

9 A I wasn't yelling. I wasn't yelling at him at all. He
10 was trying to be helpful, and, from my understanding, he
11 was going -- going to help me make it right.

12 Q He was going to make it right?

13 A I guess so.

14 Q When was he going to do that?

15 A He told me he was going to do it the next day because
16 he couldn't get in touch with who he had got it from.

17 Q Oh, okay. So you weren't upset at all?

18 A I was upset, but I wasn't yelling or screaming at him.

19 Q Well, I mean, he was going to give you your money back
20 the next day.

21 A He was going to make it right. He wasn't going to
22 give my money back.

23 Q How was he going to make it right?

24 A He was going to give me what I lost.

25 Q So he was going to give you more drugs?

1 A Yes, sir.

2 Q So it sounds to me then like problem arises, problem
3 resolved.

4 A Yes, sir.

5 Q So you weren't unhappy at all?

6 A Not at the time, no.

7 Q Had no ax to grind.

8 A No ax to grind?

9 Q In other words, you weren't upset. There was no
10 reason for you to be out looking for Marcus McGee or
11 worried about Marcus McGee because you two had resolved
12 your differences.

13 A Yes, sir.

14 Q Okay. And you said that you were at your friend
15 Lori's house, and you were trying to cook up this cocaine,
16 and you just weren't able to do it.

17 A Yes, sir.

18 Q And Mr. Young came by at some point, and he was there.
19 Was he there during the cooking process?

20 A Yes, sir.

21 Q And so he was aware that you weren't able to cook it?

22 A Yes, sir.

23 Q And he was aware that you had these numerous
24 discussions with Marcus McGee?

25 A Yes, sir.

1 Q And he, of course, was aware that the two of you had
2 then resolved your issues and that the next day he was
3 going to make things right?

4 A Yes, sir.

5 Q So he knew all of that had been taken care of?

6 A Yes, sir.

7 Q So at that point, y'all -- everybody is happy,
8 everybody is satisfied. You set about going out to run
9 some errands?

10 A Yes, sir.

11 Q And then you went to -- you made a few sales to
12 different people. In other words, you went and sold some
13 dope to different people at their house; is that your
14 testimony?

15 A Yes, sir.

16 Q All right. And you went to the club called T-shirts
17 at about 2:00 or 3:00?

18 A Yes, sir.

19 Q So when y'all went out together, you -- I mean, you
20 were going to go run these errands, and then it was your
21 plan all along to go hit some clubs together?

22 A It wasn't the plan. That's just what happened.

23 Q Okay. And you had known him, you said, for about
24 three years, but David -- or Adam is a good friend of your
25 dad's; is that right?

1 A Yes, sir.

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

3 A No. That's not how I got to know him. My dad is in
4 prison.

5 Q Oh, okay. But you knew he was a good friend of your
6 dad's?

7 A Yes, sir.

8 Q And he would help you out by driving you around, and
9 you would pay him in drugs?

10 A Yes, sir.

11 Q So y'all went to T-shirts. What did you do while you
12 were at T-shirts?

13 A I had a few drinks.

14 Q What about him?

15 A He had a drink.

16 Q How long were y'all there?

17 A About an hour, hour and a half.

18 Q And then you left. And the whole idea was just to go
19 to another club at that point, to Bobby T's?

20 A Yes, sir.

21 Q You weren't looking for anybody or anything?

22 A No. I called -- I called a friend of mine, and he
23 told me he was there, so that's where we went.

24 Q A friend told you that Marcus McGee was there?

25 A No. He told me that he was there.

1 Q Okay. Who was the friend?

2 A Tyronzo Walker.

3 Q Oh, so you were going to see Tyronzo?

4 A Yes, sir.

5 Q Are you and Tyronzo -- so how are you and Tyronzo
6 friends?

7 A We know each other from the streets.

8 Q All right. Well, I mean, I know a lot of people from
9 the streets. I wouldn't necessarily call them friends.
10 Explain your relationship. I mean, were you going over
11 there specifically to see him?

12 A Yes, sir.

13 Q All right. So your whole reason for going to Bobby
14 T's was to see Tyronzo Walker?

15 A Yes, sir.

16 Q So then y'all pull into the parking lot and you
17 parked?

18 A Yes, sir.

19 Q But then everybody didn't get out, apparently?

20 A No.

21 Q So if you're going to the club and you're specifically
22 going to see Tyronzo Walker, because you said that's the
23 whole reason you went to Bobby T's ---

24 A Yeah. He walked -- he came up to the car.

25 Q Oh, he came up to the car and talked to you?

1 A Yes, sir.

2 Q Did he talk to Adam Young?

3 A I think they might have spoke, but they didn't talk.

4 Q Did he talk to Jack Frost, who was sitting in the back

5 seat?

6 A He spoke to him.

7 Q Okay. Now, I said Jack Frost. That's actually

8 Stephen Chapman, right?

9 A Yes, sir.

10 Q But everyone refers to him -- or did refer to him as

11 Jack Frost?

12 A Yes, sir.

13 Q I believe that Mr. Chapman is deceased now; is that

14 true?

15 A I'm not sure.

16 Q All right. And this guy, Jack Frost, was an older

17 gentleman like Adam Young; is that correct?

18 A Yes, sir.

19 Q And he, like Mr. Young, had sort of salt-and-pepper

20 hair and also had a beard; is that correct?

21 A I think he has a bald head.

22 Q Okay. But he had a beard?

23 A Yes, sir.

24 Q But even though y'all were going there to see

25 Mr. Walker and to go into Bobby T's, you're saying that you

1 didn't get out of the car?

2 A I didn't have plans to go into Bobby T's.

3 Q Oh, you weren't. You were just going to meet Tyronzo
4 out in the parking lot?

5 A Yes, sir.

6 Q So Adam Young just got out and went in with no
7 discussion with any of you?

8 A No discussion about what?

9 Q About anything. I mean, you said, if I heard you
10 correctly, that y'all pulled up there. Of course, you
11 didn't say anything about Mr. Walker a few minutes ago.

12 A I did.

13 Q But y'all pulled up, and he just said, if I remember
14 correctly, "I'm going to take care of this"?

15 A Yeah. Yes, sir.

16 Q Okay. But that was the only discussion was, "I'm
17 going to take care of this"?

18 A Yes, sir.

19 Q No other discussion whatsoever?

20 A No, sir.

21 Q Y'all were just pretty much, I mean, sitting there,
22 and he said, "I'm going to go take care of this." And you
23 stayed where you were and Chapman stayed where he was, and
24 Young walked off?

25 A Yes, sir.

1 Q And you said you didn't know what he was talking
2 about, but you thought it might have something to do with
3 Marcus McGee?

4 A Yes, sir.

5 Q And yet, you and Marcus had mended your fences with
6 each other. You were going to resolve things the next day.

7 A Yes, sir.

8 Q You weren't upset at all?

9 A No, sir.

10 Q You were happy. You were just out hitting some clubs
11 and going to see your friend Tyronzo Walker?

12 A Yes, sir.

13 Q And you said you didn't see any kind of a shooting
14 occur, but you heard it?

15 A Yes, sir.

16 Q Is it your testimony that you never got out of the car
17 at any point?

18 A Yes, sir.

19 Q And then you say that Adam got back in the car and
20 then y'all drove away?

21 A Yes, sir.

22 Q Eventually, you dropped Chapman off someplace?

23 A Yes, sir.

24 Q And then you went over to Andrea Crossman's?

25 A Yes, sir.

- 1 Q And that's a friend of Adam Young's, correct?
- 2 A Yes, sir.
- 3 Q Y'all picked her up?
- 4 A Yes, sir.
- 5 Q No discussion about any of this stuff?
- 6 A I was on the phone.
- 7 Q Talking to Tyronzo?
- 8 A Yes, sir.
- 9 Q With Adam in the car?
- 10 A Yes, sir.
- 11 Q So any discussion that would have been going on, he
- 12 would have heard that?
- 13 A Yes, sir.
- 14 Q So basically, you say you're talking to Tyronzo Walker
- 15 about whether or not Marcus McGee had been shot, and Adam's
- 16 right there in the car with you?
- 17 A Yes, sir.
- 18 Q All right. And then eventually, the police got behind
- 19 you and y'all took off, correct?
- 20 A Yes, sir.
- 21 Q And Adam was driving?
- 22 A Yes, sir.
- 23 Q And your testimony is you didn't throw anything out of
- 24 the car?
- 25 A I did.

1 Q Okay. I thought you said you didn't throw anything
2 until you got out and started running away at the cemetery?

3 A I said I threw my scales.

4 Q Okay. That's right. But you didn't throw anything
5 else?

6 A No, sir.

7 Q But you remember specifically making the statement
8 that -- "Did you throw the pistol out"?

9 A I didn't say that.

10 Q You never said anything about throwing a pistol out?

11 A I asked him what he threw out.

12 Q And you got away, right?

13 A Yes, sir.

14 Q Police didn't catch up with you that night?

15 A No, sir.

16 Q Eventually, you were apprehended and you were charged
17 with murder, just the same as Mr. Young?

18 A Yes, sir.

19 Q And you had some expectation at some point that he was
20 going to cover for you, right? That he was going to say
21 you didn't have anything to do with it?

22 A He called my mom and told her that.

23 Q So your expectation was all along that he would cover
24 for you, that he would take full blame for anything that
25 happened?

1 A Not that he would cover for me.

2 Q Okay. But the truth of the matter is, when this trial
3 docket for today was published, you were on there as a
4 co-defendant with Mr. Young charged with murder.

5 A Yes, sir.

6 MR. WESTON: Objection Your Honor.

7 THE COURT: What's the objection?

8 MR. WESTON: He does not lay the foundation she knows
9 anything about a trial docket or what's on it. She doesn't
10 -- she can't answer that question.

11 MR. CHAMBERS: She answered the question, Your Honor.

12 THE COURT: Okay. Asked and answered. Go ahead.

13 BY MR. CHAMBERS:

14 Q And you just recently, really within the last week or
15 so, struck a deal with the solicitor, correct?

16 A Yes, sir.

17 Q And that deal was that instead of having to stand
18 trial for murder, you were able to plead guilty to the
19 significantly reduced charge of accessory after the fact of
20 murder, correct?

21 A Yes, sir.

22 Q And you were told that you would need to come testify
23 in exchange for that?

24 A Yes, sir.

25 Q And, in fact, you have pled guilty, but have not yet

1 been sentenced; is that correct?

2 A Yes, sir.

3 Q Your sentencing is deferred until after you testify
4 today?

5 A Yes, sir.

6 MR. CHAMBERS: All right. That's all the questions I
7 have for you. Thank you.

8 THE COURT: Anything from the State?

9 MR. WESTON: Just a couple questions, Your Honor, on
10 redirect.

11 REDIRECT EXAMINATION

12 BY MR. WESTON:

13 Q And I guess I'll work backwards. Let's talk about
14 your deal. Was it your understanding that both you and
15 Mr. Young were charged with murder but did not -- not that
16 you were charged instead of him?

17 A Yes. We both were charged.

18 Q All right. And that y'all were charged with the same
19 murder based on each of your participation in that crime
20 was the basis of your charge, was your understanding?

21 A Yes, sir.

22 Q All right. Now, you said in answer to counsel's
23 questions, as y'all were running from the police, you asked
24 him what he threw out the window?

25 A Yes, sir.

1 Q Mr. Young, what did he say?

2 A He didn't answer me.

3 Q But you saw him throw something out the window?

4 A Yes, sir.

5 Q Okay. Now, finally, Mr. Chambers asked you about
6 discussions y'all had before Mr. Young got out and went
7 toward the club when y'all were parked outside?

8 A Yes, sir.

9 Q In answer to one of my questions on direct, you
10 indicated that Mr. Young knew that Mr. McGee was in the
11 club when y'all got there. How would he have known that?

12 A We seen his car outside.

13 Q But there were a lot of cars outside; is that correct?

14 A Yes, sir.

15 Q How do you know that Mr. Young knew that Mr. McGee's
16 car was outside? Did y'all talk about that's his car, or
17 that's Boogie's car or something like that? Wouldn't y'all
18 have had to have a discussion in order for you to know that
19 he knew it?

20 MR. CHAMBERS: Objection, Your Honor. He's leading.

21 THE COURT: Just ask her the question.

22 BY MR. WESTON:

23 Q How do you know that Mr. Young knew that Mr. McGee was
24 in the club?

25 A Because Tyronzo Walker had told us that he was there.

1 Q Let's talk about that then. So when y'all were
2 parked, Tyronzo Walker comes up to your car. Tell the jury
3 what was said about Mr. McGee and being in the club.

4 MR. CHAMBERS: I'm going to object to hearsay, Your
5 Honor.

6 THE COURT: Solicitor?

7 MR. WESTON: Your Honor, this is based on questions
8 that he asked on cross-examination about what the
9 discussions were out in the parking lot.

10 MR. CHAMBERS: I didn't ask anything about what
11 Mr. Walker said.

12 MR. WESTON: I think -- he didn't ask specifically
13 about Mr. Walker. He asked what was said, what discussions
14 there were. He didn't say specifically who. And I'm just
15 following up on that, Your Honor.

16 THE COURT: Let me see the lawyers.

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

18 THE COURT: Go ahead, solicitor.

19 MR. WESTON: Thank you, Your Honor.

20 BY MR. WESTON:

21 Q Without saying what anybody said, were there
22 discussions between you and Mr. Tyronzo Walker and the
23 defendant in the parking lot when he came to the car?

24 A Yes, sir.

25 Q After those discussions, did the defendant get out of

1 the car?

2 A Yes, sir.

3 Q What did he say when he got out of the car?

4 A He was going to handle it.

5 Q I'm sorry. You need to speak louder.

6 A He was going to handle it.

7 Q And what was your understanding as to what he was
8 going to handle?

9 A He was going to talk to Mr. McGee.

10 Q About?

11 A The drug transaction.

12 Q And your dissatisfaction with it?

13 A Yes, sir.

14 MR. WESTON: Thank you, ma'am.

15 THE COURT: Anything?

16 MR. CHAMBERS: No, Your Honor.

17 THE COURT: Okay. Ma'am, please be careful stepping
18 down.

19 MR. WESTON: Your Honor, the State would call

20 Ms. Andrea Crossman.

21 THE COURT: Ms. Crossman?

22 WHEREUPON,

23 ANDREA CROSSMAN,

24 after first having been duly sworn, testified as follows:

25 THE CLERK: Would you please state your name for the

1 record.

2 THE WITNESS: Andrea Crossman.

3 THE CLERK: Thank you.

4 THE COURT: Ma'am, you have a soft voice. I'm going
5 to ask you to speak up so the jury can hear you. Do you
6 understand?

7 DIRECT EXAMINATION

8 BY MR. WESTON:

9 Q Ms. Crossman, how old are you?

10 A 27.

11 Q Okay. You're going to need to speak a little bit
12 louder, Ms. Crossman, or lean a little closer to the
13 microphone so these jurors way down on this end can hear
14 you, okay?

15 How old are you?

16 A 27.

17 Q Thank you. Do you know David Young?

18 A Yes, I do.

19 Q How do you know him?

20 A That's my uncle through marriage.

21 Q And do you know him as David Young or Adam Young?

22 A Adam.

23 Q And do you know Porchae Adams?

24 A Yes, I do.

25 Q Do you know what they call her? Do you know her

1 nickname?

2 A Chop.

3 Q Okay. And did you know Marcus McGee?

4 A Yes, I do.

5 Q Okay. They called him what?

6 A Boogie.

7 Q Boogie. Okay.

8 You were not at Bobby T's at any time on the night
9 that Mr. McGee was killed; is that correct?

10 A Correct.

11 Q All right. Did you see -- about 5:00, 5:30, 6:00 in
12 the morning, did you see David Young and Porchae Adams?

13 A Yes, I did.

14 Q How did you come to see them?

15 A They came to the trailer where I was at in Donaldson.

16 Q About what time was that? Was it early in the
17 morning?

18 A Yeah.

19 Q And when they came in, did both of them come inside?

20 A Yes.

21 Q And what happened when they came inside? What did
22 y'all do?

23 A I didn't -- was drunk, pretty messed up. But I told
24 him, "Are y'all driving?"

25 And he was like, "Yeah."

1 And I was like, "Can I get a ride?"

2 And he was like, "Yeah."

3 Q So he was going to -- they were going to take you
4 home?

5 A Yeah.

6 Q So you got in the car with them?

7 A Uh-huh.

8 Q Was there any discussion about any shooting or
9 Mr. McGee being shot while you were in the car?

10 A Yes.

11 Q What was said?

12 A Well, when I get in, I got in the backseat. And when
13 we was leaving, he was like, "You know Boogie dead."

14 And I was like, "Who?"

15 And he was like, "Boogie."

16 And I was like, "Nah." I said, "I ain't heard that."

17 Q Excuse me a sec. Who said that?

18 A Adam.

19 Q So when they got to you, Mr. Young already knew that
20 Mr. McGee was dead?

21 A Yes, sir.

22 Q And he told you that?

23 A Yes, sir.

24 Q You're sure?

25 A Yes, sir.

1 Q All right. So y'all were driving down, I guess, White
2 Horse Road headed to drop you off. Did the police get in
3 behind you?

4 A Yes, sir.

5 Q About where were y'all when the police got in behind
6 you? Just generally, give the jury some idea of what part
7 of Greenville y'all were in.

8 A White Horse Road by the cemetery.

9 Q All right. Did y'all first notice -- did you first
10 notice them by virtue of their blue lights coming on?

11 A That's the only way I noticed. I thought they was
12 pulling us over because we didn't have our seat belts on.

13 Q And when they got in behind you, did Mr. Young -- was
14 Mr. Young driving?

15 A Yes, sir.

16 Q And did he stop?

17 A No, sir.

18 Q Tell the jury what he did -- what he said and what he
19 did.

20 A "I ain't stopping," and he kept going.

21 Q All right. Did he speed up?

22 A Yes, sir.

23 Q Did the -- about how long did y'all run from the
24 police? And I said y'all running from the police. You
25 were not driving, obviously, but you were in the car.

1 A Yes, sir.

2 Q About how long? Was it five or ten minutes or so?

3 A It was a long time.

4 Q Did you want him to stop?

5 A Yeah. I wanted him to stop.

6 Q Had you done anything wrong ---

7 A No, sir.

8 Q --- other than not wear the seatbelt thing?

9 A No, sir.

10 Q All right. What kind of car were they in, by the way?

11 A A blue car.

12 Q Was it a small car?

13 A Yeah.

14 Q And I think I've already asked you. Was Mr. Young
15 driving?

16 A Uh-huh.

17 Q Was Ms. Porchae Adams in the front seat?

18 A Yes, sir.

19 Q All right. Did you try to get him to stop?

20 A Yes, sir.

21 Q How? What did you say, generally? You may not
22 remember exactly, but generally, what were you saying to
23 him?

24 A "Stop the damn car."

25 Q Were you scared for your safety of having a wreck or

1 something like that?

2 A Yes, sir.

3 Q All right. Did Ms. Adams say anything to him about
4 stopping the car?

5 A No, sir.

6 Q Okay. During the chase, did you see them -- either
7 Mr. Adams [sic] or Ms. Young [sic] throwing anything out of
8 the window?

9 A Yes, sir.

10 Q What did you see them throw out the window?

11 A Different stuff. Pills, drugs, all kinds of stuff.

12 Q Did you hear Mr. Young say anything to Ms. Adams about
13 a gun?

14 A He said, "Did you throw it out?"

15 And she was like, "Yeah."

16 Q I'm sorry. Slow down and ---

17 A Mr. Adam said -- I mean Adam said, "Did you get rid of
18 it?"

19 And she said, "Yeah. It's gone."

20 Q When you said ---

21 A I ---

22 Q Let me finish my question because I'm not
23 understanding exactly what you're saying.

24 Did he say, "Did you get rid of it?" or did he say,
25 "Did you get rid of the gun"?

1 A "Did you get rid of it?"

2 Q And how do you know they were talking about a gun?

3 A I don't know what they was talking about, but she
4 said, "Yeah."

5 Q All right. Do you remember -- well, let me just deal
6 with this now. Do you remember talking to the police after
7 you were arrested or you were detained and subsequently you
8 came and gave the police a statement; is that correct?

9 A Correct.

10 Q Do you remember signing a statement, reading a
11 statement and signing it after you gave them the statement?

12 A Uh-huh.

13 Q I'm going to show you this document. I want you to
14 read -- just look at the underlined line there. Do you see
15 that?

16 A Uh-huh.

17 Q Does that refresh your recollection on what you told
18 the police ---

19 A Yeah. When nobody ---

20 Q Listen to my question. I'm sorry to interrupt you,
21 but you need to listen to my question and you can answer,
22 okay? And you can explain.

23 Do you remember -- does that refresh your recollection
24 as to what you told the police that night?

25 A Yes, sir.

1 Q What did you tell the police that night that was said
2 by Mr. Young?

3 A That you -- she asked him did he get rid of ---

4 Q Speak a little louder into the microphone.

5 A She asked him did he get rid of the pistol. The ---

6 Q Go ahead. I'm sorry.

7 A And yeah. But as he was saying did he get rid -- "Did
8 you get rid of it?" he didn't mention pistol right there.

9 Q Well, I guess I confused you now. I'm sorry. When
10 was pistol mentioned?

11 A It was mentioned after the part where we was on --
12 coming down Seventh Street, the Jet Center. And all she
13 kept saying, "Did you get rid of the pistol?"

14 And he was like, "Yeah."

15 Q So you heard Ms. Porchae Adams say -- ask Mr. Young,
16 "Did you get rid of the pistol"?

17 A Uh-huh.

18 Q And what was his response?

19 A "Yes."

20 Q He said, "Yes"?

21 A Uh-huh.

22 Q Thank you, ma'am.

23 Once -- how did this chase end, ma'am?

24 A They blocked us in, but they was everywhere.

25 Q And so y'all pulled into somebody's -- or he pulled

1 into somebody's driveway; is that correct?

2 A Yes, sir.

3 Q What did you do once the car stopped?

4 A Held my hands up.

5 Q Did you get out and get on the ground like they told
6 you to?

7 A Yes, sir.

8 Q And was Mr. Young -- was Ms. Adams caught there?

9 A No. She jumped off.

10 Q And ran off?

11 A Uh-huh.

12 Q Was Mr. Young caught?

13 A Yes.

14 Q Both of y'all were basically detained by law
15 enforcement; is that correct?

16 A Yes, sir.

17 MR. WESTON: All right. Thank you, ma'am. That's all
18 I have.

19 THE COURT: Mr. Chambers?

20 CROSS EXAMINATION

21 BY MR. CHAMBERS:

22 Q Now, you said that Mr. Young said something about
23 Boogie having been killed at the club; is that right?

24 A He said something about it at the car.

25 Q Okay. But I want to go back to this statement the

1 solicitor was talking to you about. I want you to look at
2 that. Is that the typed statement that you gave to the
3 police?

4 A Yes.

5 Q You've seen this before, right?

6 A Yes.

7 Q You had a chance to look it over?

8 A Yes.

9 Q You signed it?

10 A Yeah. I signed it.

11 Q Okay. And you initialed by each paragraph?

12 A Uh-huh.

13 Q And all of that would indicate that when you gave the
14 statement, it was an accurate statement; would that be fair
15 to say?

16 A Yes.

17 Q Okay. Isn't it true that what you told the police
18 that day is that this discussion about Boogie being killed
19 was when Porchae was talking to somebody on the phone, a
20 guy named Sergio?

21 A I don't know anything about no phone. I don't
22 remember that. I don't remember that.

23 Q Well, I'll read this to you and you can confirm
24 whether that's in your statement that you just identified.
25 Porchae's talking to someone on the phone, and she said

1 that Sergio [sic], a guy she knows as Boogie, got shot six
2 times.

3 A I mean, I was messed up. But I don't remember her on
4 no phone. I probably did. I probably thought -- I
5 remember the high-speed chase.

6 Q And I'd ask you to look. There's nowhere else in here
7 where you say anything about Adam Young saying anything
8 about Boogie being killed, is there? You can read it.
9 Take your time.

10 A I agree.

11 Q Okay. You didn't say anything about that in this
12 statement, did you?

13 A Hu-uh. I don't see that.

14 Q All right. But you did say, after the solicitor
15 refreshed your memory, that it was Porchae who said --
16 asked Adam if he got rid of the pistol; is that right?

17 A Yes.

18 Q So there's no question she said that?

19 A No. No question.

20 Q And apparently, based on what you said a few minutes
21 ago, she kept saying that because you said she said it
22 several times?

23 A She said, "Did you get rid of it?" first. The pistol
24 part was when -- before she jumped out of the car.

25 MR. CHAMBERS: Okay. That's all the questions I have

1 for you. Thanks.

2 THE COURT: Anything?

3 REDIRECT EXAMINATION

4 BY MR. WESTON:

5 Q And are you just as clear that Mr. Young's response to
6 that was, "Yes, I did"?

7 A Yes, sir.

8 MR. WESTON: Thank you.

9 THE COURT: Thank you. Anything?

10 MR. WESTON: Nothing else for this witness, Your
11 Honor. We ask that she be released from her subpoena.

12 THE COURT: Mr. Chambers?

13 MR. CHAMBERS: Nothing else, Your Honor.

14 THE COURT: No objection? Any objection?

15 MR. CHAMBERS: Oh. Objection to what, Your Honor?

16 THE COURT: To her being released.

17 MR. CHAMBERS: Oh, not at all.

18 THE COURT: Ma'am. You are released from your
19 subpoena. You may stay or leave, whichever you choose.
20 Please be careful.

21 MR. WESTON: Your Honor, may we approach?

22 THE COURT: Certainly.

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

24 THE COURT: Mr. Foreman, ladies and gentlemen of the
25 jury -- you're welcome to stand. That's why I'm standing.

1 Anybody over there, if I didn't tell you, I meant to.

2 You're welcome to stand at any time, if you like.

3 Mr. Foreman, ladies and gentlemen, I'm told by the
4 lawyers here the next witness includes some videotaping and
5 that would run a few minutes, and then it's getting very
6 close to the lunch hour here. And I cut everybody a little
7 short yesterday staffwise because we worked a little longer
8 after you were not here, and worked a little early before
9 you got back, so I owe these ladies a few minutes down
10 here. And so what we're going to do at this time, we're
11 going to break for lunch, and we are going to come back at
12 1:30. We're going to come back at 1:30, be ready to go.
13 So if you would be back in your jury room assembled
14 sometime prior to that. Again, we're all adults here, so
15 just make it whatever time you need to be back there and
16 get the last drink of water and use the facilities, but we
17 will intend to be ready to go at 1:30.

18 Once again, I'll tell the lawyers in the courtroom,
19 I'm not going anywhere. I brought my lunch again. I'm
20 going down. So I'll be here if you have anything we need
21 to talk about before our jury gets back.

22 Do not discuss this case within your own mind or
23 anybody else. Don't try to learn anything about the case.
24 Again, it is vital that all the information you receive
25 about this case comes from within this courtroom. That's

1 the only evidence you may consider.

2 With that, Mr. Foreman, if you'll take your jury to
3 the jury room and be excused from there for lunch. Have a
4 good lunch.

5 (WHEREUPON, the jury exited the courtroom at 11:54 a.m.)

6 THE COURT: Okay. We'll be in recess until 1:30.

7 (WHEREUPON, a recess is taken at 11:54 a.m.)

8 (WHEREUPON, the jury entered the courtroom at 1:33 p.m.)

9 THE COURT: Mr. Foreman, everything good with the
10 jury?

11 JURY FOREMAN: It is, Your Honor.

12 THE COURT: Okay. Mr. Brandon Kimball, Mr. Kimball,
13 Juror 189, you are the first alternate. We've had a juror,
14 because of a family medical problem, has now been excused,
15 and I want to put that on the record. That's with the
16 consent of all the lawyers in the case. But she has been
17 excused. You are now part of the 12, sir.

18 And, Mr. Ryland, you are our alternate at this point
19 in time.

20 Okay. Anything from anybody?

21 MR. WESTON: Nothing from the State, Your Honor.

22 MR. CHAMBERS: Not from the defense, Your Honor.

23 THE COURT: Ready to go?

24 MS. MAJOR: Ready, Your Honor.

25 THE COURT: Solicitor?

1 MS. MAJOR: Your Honor, the State calls William
2 Watkins.

3 WHEREUPON,

4 WILLIAM WATKINS,
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Would you please state your name for the
7 record.

8 THE WITNESS: William Watkins.

9 THE CLERK: Thank you.

10 THE COURT: Solicitor?

11 MS. MAJOR: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MS. MAJOR:

14 Q Officer Watkins, where are you employed?

15 A Greenville County Sheriff's Office.

16 Q How long have you been employed there?

17 A Since May of 2011.

18 Q Currently, what is your role? What title do you have?

19 A I'm assigned to the K-9 unit.

20 Q And were you working at the sheriff's office in
21 January 2013?

22 A I was. Yes, ma'am.

23 Q In what capacity?

24 A I was working Uniform Patrol.

25 Q We have heard generally what Uniform Patrol is, but if

1 you could just briefly refresh our memory of what your
2 duties are as a Uniform Patrol officer.

3 A Our primary job is to respond to calls for service.

4 Q Were you working on January 13, 2013?

5 A I was. Yes, ma'am.

6 Q Were you aware of a shooting that had occurred?

7 A I was. Yes, ma'am.

8 Q What information was provided to you and what was your
9 task that day or what were you on the lookout for?

10 A I was advised that there was a vehicle involved that
11 left the scene. It was a blue in color Chevy Aveo with a
12 South Carolina tag displayed of HDL 675.

13 Q And do y'all -- what's the acronym that you refer to
14 these items that you're maybe out on the lookout for?

15 A It's called a BOLO, be on the lookout. And with
16 Greenville County, we work on four different channels. So
17 the incident occurred down on the south -- south end of
18 town, which is a different channel than the west side,
19 which is what I was working. So they broadcast the
20 information across all four channels so that everybody in
21 the county is aware of what information they had.

22 Q Okay. And so generally, information is broadcast when
23 y'all are out on patrol?

24 A Correct. Yes, ma'am.

25 Q Did you see this blue Chevy Aveo?

1 A I did. Yes, ma'am.

2 Q Did you confirm with dispatch that it was, in fact,
3 the one that there was a BOLO for?

4 A I did. Yes, ma'am.

5 Q What happened after you saw the vehicle?

6 A I saw the vehicle at White Horse -- or actually,
7 Washington Avenue and Easley Bridge. I got behind it. I
8 confirmed that that was the vehicle in question as far as
9 that had been issued on the BOLO, be on the lookout, and
10 activated my emergency equipment, which is my lights and
11 siren, and began to pursue the -- or follow the vehicle.

12 Q Did the vehicle stop?

13 A The vehicle did not stop. No, ma'am.

14 Q Did you follow the vehicle?

15 A I did. Yes, ma'am.

16 Q Are you always permitted to follow vehicles that you
17 stop?

18 A No, ma'am. My supervisor, he acknowledged that the
19 vehicle was not stopping and authorized me to continue to
20 pursue the vehicle.

21 Q So for a routine speeding violation, if the car
22 doesn't stop, can you automatically follow that car?

23 A No.

24 Q And why not?

25 A The severity of the crime. With this being a vehicle

1 involved in a murder from earlier in the night, it met that
2 severity, which we were able to pursue the vehicle.

3 Q So you say that you stopped -- or you saw the vehicle
4 and you turned on your lights and attempted to stop it?

5 A That's correct.

6 Q Okay. And it did not stop?

7 A That's correct.

8 Q Did you see how many people were in the vehicle?

9 A I could tell there were at least two people in the
10 vehicle. I could see at least two heads from behind.

11 Q And where were those two heads?

12 A There was one in the driver's seat, obviously, and
13 then I could tell at least one in the passenger's seat.

14 Q Could you tell if these were -- was man or woman in
15 either seat?

16 A I could not. No, ma'am.

17 Q What happened after you tried to stop the car?

18 A The vehicle slammed on brakes for a moment at White
19 Horse Road and Easley Bridge -- or, actually, White Horse
20 Road and Washington, and then after that continued on to
21 White Horse Road where it then went into the cemetery right
22 at the corner of Pendleton and White Horse.

23 Q Let me back you up. When you saw the car slam on
24 brakes, did you ever exit your vehicle?

25 A I did.

1 Q Okay. And why did you do that?

2 A Because I knew the vehicle -- or the vehicle was
3 supposed to be involved in a shooting earlier in the night,
4 and I know it to be a common task for -- or a common tactic
5 for people to slam on brakes and set us up for an ambush.
6 So I exited my vehicle so I wasn't going to be trapped in
7 my vehicle if that did happen.

8 Q Where did you go?

9 A I went around to the back of my vehicle.

10 Q Okay. And was that to take cover?

11 A That was. Yes, ma'am.

12 Q Okay. Did a vehicle chase ensue?

13 A It did. Yes, ma'am.

14 Q Okay. I want to show you what's been marked as
15 State's Exhibit 16. Do you know what that is?

16 A It's a map of the area.

17 Q Okay. Are you familiar with this area in your patrol
18 of Greenville County?

19 A I am. Yes, ma'am.

20 Q Okay. And did this chase occur in Greenville County?

21 A It did. Yes, ma'am.

22 Q Okay. Is this a fair and accurate depiction of the
23 area?

24 A It is.

25 MS. MAJOR: Your Honor, at this time, the State would

1 move State's Exhibit 16 into evidence and request to
2 publish it to the jury.

3 MR. CHAMBERS: No objection, Your Honor.

4 THE COURT: It's admitted without objection.

5 (WHEREUPON, Plaintiff's Exhibit No. 16 was admitted into
6 evidence.)

7 THE COURT: Yes, ma'am. You may publish it.

8 MS. MAJOR: Thank you.

9 BY MS. MAJOR:

10 Q And, Deputy Watkins, I'm going to ask you to come down
11 here. Be sure to speak up since there is no microphone.

12 A All right.

13 Q But if you can start us -- or show us where you first
14 saw the vehicle, and then just kind of take us through what
15 happened.

16 A Okay. Can I borrow your pen?

17 Q Sure.

18 A We started out at -- this is Easley Bridge right here
19 and this is Washington. This is where I first observed the
20 vehicle. I then got in behind it right here. This is
21 where I initiated my emergency equipment, the lights and
22 siren. We continued down to White Horse -- or to Easley
23 Bridge, North Washington and White Horse. This is where
24 the vehicle slammed on brakes. This is where I exited and
25 moved around to the back of my vehicle for cover, got back

1 in, observed the vehicle continue on to White Horse Road,
2 come into this cemetery right here, moving around to the
3 left side, around this side. I knew there to be a gate
4 over here, so continued to the gate. The gate was locked
5 at that time.

6 We went into the cemetery, around through here,
7 through some trees, back in -- back out onto the paved
8 road, in the cemetery, back out onto White Horse Road, down
9 White Horse on the off-ramp to Pendleton, came all the way
10 down Pendleton to Saco Street, came down Saco. I believe
11 this is Mason right though here. I came into Mason around
12 through here, continued over to Waco Street back in here
13 and then back onto West Street, I believe it is, back onto
14 Easley Bridge, came back down -- down this road right
15 through here and came onto Second Ave., continued down into
16 the Judson community, which is this area here which is
17 known for the Judson Mill, I believe it is. Came back down
18 through here, came down around this turn right here, came
19 down in through -- into Judson, kind of the main area, and
20 then made a lap around, coming back out.

21 Once we came back around this turn again, up until
22 this point, I was the only vehicle in the chase. There was
23 no other deputies involved. Everybody was trying to get to
24 the area.

25 Once we came around this corner, there were

1 approximately -- there were a handful of deputies that
2 arrived during this. We then came back out, came back down
3 onto Eighth Street. And at this corner right here, the
4 vehicle slammed into the curb there causing the back tire
5 to go flat. And then that's when it kind of went on down
6 the street and pulled into the driveway of the house right
7 here on the corner, which is -- I'm not sure of the exact
8 address. I have it in my report (indicating throughout).

9 Q Okay. Thank you. You can step back up.

10 And if you will look at your report and refresh your
11 recollection about where exactly the chase ended.

12 A It was [REDACTED] Second Avenue.

13 Q Okay. During the chase, did you ever see anything
14 being thrown from the vehicle?

15 A I did not.

16 Q And also during this chase, are you radioing in to
17 dispatch to let dispatch know where you are?

18 A I am.

19 Q Okay.

20 A After every turn, every run I made, I advised dispatch
21 of where I was.

22 Q And it's dispatch advising other officers who were on
23 the channels as to your location?

24 A That's correct.

25 Q Okay. Is that how they knew where you were?

1 A Right. Yes, ma'am.

2 Q And, again, tell us where -- how many other officers,
3 approximately, would you estimate -- at least how many
4 other cars caught up with you?

5 A I'd say between five and six. I believe six.

6 Q And was that in the Judson area?

7 A Yes, ma'am.

8 Q Once the car -- where did the car come to a stop?

9 A In the driveway up underneath a -- like a covering for
10 a vehicle.

11 Q Okay. Did it just stop or did it hit anything or ---

12 A It pulled into the driveway and came to a stop.

13 Q Okay. What did you see once it stopped?

14 A I saw somebody come out of the -- or somebody exit the
15 vehicle out of the passenger's side and run around the side
16 of the house. And then at that point, the deputies on
17 scene as well as a couple of highway patrolmen approached
18 the vehicle.

19 Q Were deputies right there when the vehicle stopped
20 along with you?

21 A Correct. Yes, ma'am.

22 Q Did you see the driver?

23 A I did.

24 Q What did the driver do?

25 A He sat -- sat in the driver's side seat -- or driver's

1 seat and waited for us to approach.

2 Q Did you see anybody else in the vehicle?

3 A I did. Yes, ma'am.

4 Q Who was that?

5 A There was a female passenger in the backseat on the
6 back passenger side.

7 Q And what did she do?

8 A She sat there. Yes, ma'am.

9 Q Were those two people arrested?

10 A They were. Yes, ma'am.

11 Q Okay. Did you ever find that passenger -- front seat
12 passenger who ran?

13 A Not that night. No, ma'am.

14 Q What did you do -- or what did you also observe or see
15 other deputies do once the two people who were in the car
16 were arrested? What steps were taken after that?

17 A QO-16, Deputy Fuller, he arrived very shortly after,
18 and he put his K-9 partner on the ground and we began to
19 track for that third person.

20 Q Okay. Did you -- did the dog find anything?

21 A He did locate a brown baggy, I believe it was. It was
22 -- contained something that field tested positive for
23 cocaine.

24 Q Where was that found?

25 A It was in the backyard of, I believe, the neighbor's

1 house.

2 Q And when you say "neighbor's house," you mean of the
3 residence where they had stopped?

4 A Correct. Yes, ma'am.

5 Q When you say "neighbor," do you mean next-door
6 neighbor or ---

7 A Right. Yes, ma'am.

8 Q Okay. What did the dog do?

9 A He began to alert on the -- or pull at the ground
10 where that was.

11 Q Okay. What happened after that? Did y'all continue
12 on with the dog?

13 A That was collected, and then the dog was redirected
14 and continued to track, yes, ma'am.

15 Q Okay. What were you tracking for?

16 A The presence of human odor.

17 Q And, I guess, that was unsuccessful?

18 A Correct. Yes, ma'am.

19 Q Whose car were you in that night?

20 A I was in Deputy Hubber's [phonetic] car.

21 Q Okay. And, actually, let me first show you what's
22 been marked as State's Exhibit 14 and 15. Just look
23 through those and tell me if you recognize that.

24 A (Reviews documents) I do. Yes, ma'am.

25 Q And what are those?

1 A This is pictures of the house where the vehicle came
2 to a stop.

3 Q Okay. Did it fairly and accurately represent what you
4 saw that day ---

5 A They do.

6 Q --- that night?

7 A Yes, ma'am.

8 MS. MAJOR: Early morning, I guess.

9 Your Honor, at this time, the State would move State's
10 Exhibit 14 and 15 into evidence and request permission to
11 publish to the jury.

12 MR. CHAMBERS: No objection, Your Honor.

13 THE COURT: Admitted without objection.

14 (WHEREUPON, Plaintiff's Exhibit Nos. 14 and 15 were
15 admitted into evidence.)

16 THE COURT: You may publish.

17 BY MS. MAJOR:

18 Q Okay. Tell us what we're looking at right there.

19 A This is the residence where the vehicle came to a
20 stop, and that's the carport area that the vehicle came to
21 a stop under.

22 Q Okay. And is that just a closer picture?

23 A It is. Yes, ma'am.

24 Q Okay. Now I'd like you to take a look at State's
25 Exhibit 21.

1 A Yes, ma'am.

2 Q Do you recognize that?

3 A I do.

4 Q Okay. What is that?

5 A This is the DVD copy of the in-car video from the
6 vehicle pursuit.

7 Q Okay. And you said you were in Hubber's car?

8 A I was. Yes, ma'am.

9 Q Okay. How is an in-car video activated?

10 A Once I activate my blue lights, the button for my blue
11 lights, the camera automatically turns itself on.

12 Q Okay. Do these videos have audio with them, as well?

13 A They do. Yes, ma'am.

14 Q Was the audio working in this vehicle?

15 A It works. You can hear it coming in and out. It
16 didn't work the whole time. No, ma'am.

17 Q Okay. And does the video indicate when your lights
18 are on and when your siren is on?

19 A It does.

20 Q And how is that done?

21 A With an L and an S on the top of the screen.

22 Q Okay. Does it indicate when your brakes are on?

23 A It does.

24 Q And how does it do that?

25 A With a B.

1 MS. MAJOR: Okay. If you'll bear with me for just one
2 moment while I -- Your Honor, I don't know if I did this,
3 but the State would move State's Exhibit -- I believe it
4 was 21 into evidence and request permission to publish to
5 the jury.

6 MR. CHAMBERS: No objection.

7 THE COURT: It's admitted without objection.

8 (WHEREUPON, Plaintiff's Exhibit No. 21 was admitted into
9 evidence.)

10 THE COURT: You may publish.

11 (WHEREUPON, a portion of Plaintiff's Exhibit No. 21 was
12 played in open court.)

13 BY MS. MAJOR:

14 Q Now, officer, we see on this video these time stamps.
15 Is that the accurate date that this event occurred in?

16 A It is. Yes, ma'am.

17 Q And I believe that it started at 5:58. Is that
18 accurate time?

19 A Yes, ma'am.

20 Q Okay. Officer, I know there were a lot of turns --
21 twists and turns on that car chase. But on the
22 straightaways, what was the maximum speed that you would
23 estimate your vehicle got up to?

24 A Probably between 60 and 65.

25 Q And we saw the two people being brought out in

1 handcuffs. Was that, in fact, the driver -- was the male
2 the driver?

3 A It was. Yes, ma'am.

4 Q Was the female the backseat passenger?

5 A She was. Yes, ma'am.

6 Q Okay. And do you see the driver of that vehicle in
7 the courtroom today?

8 A I do. Yes, ma'am.

9 Q And where is he?

10 A He's sitting right over there. He's wearing a blue
11 shirt.

12 Q And over to your right or left?

13 A To my right. Yes, ma'am.

14 MS. MAJOR: Okay. Please answer any questions
15 Mr. Chambers has.

16 THE COURT: Mr. Chambers?

17 CROSS EXAMINATION

18 BY MR. CHAMBERS:

19 Q If I understood your testimony correctly, that the --
20 Mr. Young and the backseat passenger never got out of the
21 car; is that correct?

22 A That's correct.

23 Q In fact, they sat there waiting for the police to
24 approach and for them to be apprehended?

25 A Correct.

1 Q Mr. Young, other than obviously running from you in
2 the car, once stopped, he didn't give you any trouble, did
3 he?

4 A That's correct.

5 Q Okay. And the front seat passenger, that's the person
6 that ran away from the car, in fact, got away?

7 A Correct. Yes, sir.

8 Q She was not apprehended that morning; is that correct?

9 A That's correct.

10 MR. CHAMBERS: That's all the questions I have for
11 you. Thank you.

12 THE COURT: Anything further?

13 MS. MAJOR: Nothing from the State, Your Honor.

14 THE COURT: Officer, you may step down.

15 Is he excused?

16 MS. MAJOR: Yes, Your Honor.

17 THE COURT: Any objection?

18 MR. CHAMBERS: No objection, Your Honor.

19 THE COURT: You may stay or leave, whichever you
20 choose.

21 THE WITNESS: Thank you, sir.

22 THE COURT: Thank you.

23 MS. MAJOR: Your Honor, the state calls Gaston
24 Martinez.

25 ///

1 WHEREUPON,

2 GASTON MARTINEZ,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Will you please state your name for the
5 record.

6 THE WITNESS: Deputy Martinez.

7 THE CLERK: Thank you.

8 DIRECT EXAMINATION

9 BY MS. MAJOR:

10 Q Deputy, where are you employed currently?

11 A Greenville County Sheriff's Office.

12 Q How long have you been employed there?

13 A For a little bit over six years.

14 Q What is your role? In what capacity are you employed
15 there currently?

16 A I am currently K-9 unit, K-9 handler.

17 Q What capacity did you hold in January 2013?

18 A I was a deputy II.

19 Q Were you working on January 13, 2013?

20 A Yes, ma'am.

21 Q Did you have an occasion to become involved in the
22 case that we are here for today?

23 A Yes, ma'am.

24 Q Okay. What was your role?

25 A First, we -- I responded to Second Avenue and Judson

1 because it was the transition of the shifts. I was going
2 to relieve people.

3 Q What time do shifts normally run?

4 A At 7:00 in the morning.

5 Q 7:00 in the morning. So would the night shift have
6 been getting off at 7:00 in the morning?

7 A Yes, ma'am.

8 Q And day shift would have been starting at 7:00 in the
9 morning?

10 A Yes, ma'am.

11 Q And you would have been on the day shift that day?

12 A Yes.

13 Q Okay.

14 A So we usually come earlier on Sunday mornings to help
15 them go home earlier.

16 Q So this was a Sunday morning ---

17 A Yes.

18 Q --- is that what you said? Great.

19 A So we -- I responded there to relieve people. Once on
20 the scene, there was numerous deputies there. I was
21 informed by a sergeant at the scene to -- that there was
22 enough people there, and I needed to trace back the route
23 of the pursuit looking for evidence.

24 Q Okay. What were you looking for?

25 A A gun, in particular.

1 Q Okay. Did you learn the route that the pursuit
2 followed?

3 A Yes, ma'am. We were divided into several groups
4 because the pursuit route was extense [sic]. So I was
5 assigned to the general area of Pendleton, Saco and Mason.

6 Q Okay. I'm just going to show you this map. If you
7 could step down here, and just show us generally where you
8 were looking for evidence.

9 A I started right here, and then we were on foot. I
10 can't remember who was with me. There was about three or
11 four deputies, and we were walking. So we were on foot.
12 We began walking this way all the way down on Saco to
13 Mason, and then we turned right on Mason, and I was on the
14 far left side of the street. And when I came to Mason and
15 Ross, that's when I found a silver handgun (indicating
16 throughout).

17 Q Great. Thank you. So where did you see this handgun?

18 A It was on the corner of the house right by a gutter.

19 (WHEREUPON, Plaintiff's Exhibit Nos. 23, 24 and 25 were
20 marked for identification.)

21 Q Okay, Deputy. I'm going to show you what's been
22 marked as State's Exhibit 23, 24 and 25. I'd like you to
23 look through those and tell me if you recognize those.

24 A (Reviews documents) Yes.

25 Q And what are those?

1 A Here's the house and the gutter and the handgun that I
2 found that morning.

3 Q Do those fairly and accurately represent what you saw
4 that morning?

5 A Yes, ma'am.

6 MS. MAJOR: Your Honor, at this time the State moves
7 Exhibits 23, 24 and 25 into evidence and requests
8 permission to publish to the jury.

9 MR. CHAMBERS: No objection, Your Honor.

10 THE COURT: They're admitted without objection.

11 (WHEREUPON, Plaintiff's Exhibit Nos. 23, 24 and 25 were
12 admitted into evidence.)

13 THE COURT: You may publish.

14 BY MS. MAJOR:

15 Q If you'll bear with me for one minute.

16 Okay. Can you tell us what we're looking at here?

17 A That's the house, and here's the gutter, and right
18 here is the gutter.

19 Q Okay. And that street up behind there, do you recall
20 what street that is?

21 A This is Mason, and I believe in front of the house is
22 Ross.

23 Q Okay. Let's see if we have a pointer. We don't. But
24 if you can just kind of circle with your hand -- here we
25 go. Point to where you said that you saw the gun.

1 A It's right here, this silver little dot right here
2 (indicating).

3 Q Right there?

4 A Yes, ma'am.

5 Q Okay. And if you can tell us what that is.

6 A That is, once again, the gun, the corner of the house
7 and the gutter.

8 Q Okay. And that?

9 A That's the gun.

10 Q Okay. What did you do after you saw the gun?

11 A I just left it in place.

12 Q Did you touch it?

13 A No, ma'am.

14 Q Is that normal protocol?

15 A Yes.

16 Q Okay. And what did you do after that?

17 A I notified the sergeant and the investigators, and
18 they advised me to call forensics and wait for forensics to
19 collect the evidence.

20 Q Did you do that?

21 A Yes, ma'am.

22 Q All right. And did anybody else touch the gun?

23 A No, ma'am. Only forensics when they got there to
24 collect.

25 MS. MAJOR: Okay. Thank you. Please answer any

1 questions Mr. Chambers may have.

2 MR. CHAMBERS: Your Honor, I don't have any questions
3 for Deputy Gonzales [sic].

4 THE COURT: Okay.

5 THE WITNESS: Martinez.

6 MR. CHAMBERS: I'm sorry. Martinez. I apologize.

7 THE COURT: Anything further for this witness?

8 MS. MAJOR: No, Your Honor.

9 THE COURT: Is he excused?

10 MS. MAJOR: Yes, Your Honor.

11 THE COURT: Sir, you're released from your subpoena.
12 You may stay or leave, whichever you choose.

13 THE WITNESS: Thank you.

14 WHEREUPON,

15 IONA OOTEN,

16 after first having been duly sworn, testified as follows:

17 THE CLERK: Would you please state your name for the
18 record.

19 THE WITNESS: Yes. It's Iona, I-O-N-A, Ooten,
20 O-O-T-E-N.

21 THE COURT: Thank you.

22 DIRECT EXAMINATION

23 BY MS. MAJOR:

24 Q Ms. Ooten, where are you currently employed?

25 A I'm self-employed.

1 Q Okay. What is the nature of your business?

2 A I own a restaurant.

3 Q Got you. Were you ever employed by the Greenville
4 Department of Public Safety in the forensics division?

5 A I was.

6 Q And when were you employed there?

7 A From 2007 to 2014.

8 Q What is forensics?

9 A Well, the Crime Scene Department that I worked in, our
10 responsibilities were to go out and to collect the
11 evidence, package it and place it into Property and
12 Evidence.

13 Q Do you have a protocol for packaging evidence or is it
14 just thrown into a big bag? Or how do you generally go
15 about collecting evidence?

16 A We always make sure that we're gloved, the evidence is
17 always put in a clean compartment, depending on what the
18 item is. Then when we take it back to the crime scene
19 office, if we have to do any type of work on it there such
20 as looking for fingerprints, DNA swabs, we do that. And
21 then those items get packaged accordingly, and then the
22 item that we took the evidence from then gets placed into
23 one package and sealed.

24 Q Okay. So if you process an item, do you process it at
25 your office?

1 A Correct, yes.

2 Q Were you called out to a scene on January 13, 2013?

3 A I was.

4 Q Okay. Let's start first -- and if you need to refer
5 to your report to refresh your memory, please feel free to
6 do so. Did you respond to Second Avenue?

7 A Yes, I did.

8 Q Okay. What time did you respond there?

9 A I initially got the call at 7:00 in the morning, and I
10 got there at 7:19.

11 Q What did you see there?

12 A When I arrived at that location, I saw a vehicle that
13 the deputies had pretty much surrounded. I believe it was
14 a blue car.

15 Q What did you do after that?

16 A At that scene, I photographed the vehicle.

17 Q What was your next step in this case?

18 A Then I sealed the vehicle because they were going to
19 have it sent to the Crime Scene Unit for -- to process the
20 vehicle all over after they got a search warrant.

21 Q Okay. Did you then go to the Law Enforcement Center?

22 A I was then requested to go to the Law Enforcement
23 Center, yes.

24 Q Okay. What were you asked to do there?

25 A There I was asked to photograph both a male and female

1 as well as take a GSR, gunshot residue, test on both of
2 them.

3 Q Okay. And I'm referring to Item IRO. And what does
4 IRO stand for?

5 A That is my initials, and then the number 1 was just to
6 mark the item number.

7 Q Is that how y'all -- forensics officers will mark
8 items?

9 A Typically, we'll use our initials and then a number or
10 a letter.

11 Q Okay. What was IRO-1, ?what item was that?

12 A It was a gunshot residue that I took off of David
13 Allen [sic] Young.

14 Q Okay. Did you collect other items?

15 A I collected his clothes.

16 Q Okay. And would that be Items IRO-2, 3 and 4?

17 A That's correct.

18 Q Okay. And can you tell us what those items were?

19 A Item No. 2 was a black t-shirt, Item No. 3 was a pair
20 of denim pants, and Item No. 4 was a pair of shoes.

21 Q Okay. Did you collect any items off of Ms. Crossman?

22 A I also obtained a GSR kit from her.

23 Q Okay. And what item number was that?

24 A That would have been Item No. 5.

25 Q Okay. What was your next step in this case?

1 A At that point, I was then requested to go out to
2 [REDACTED] Ross Street where Deputy Martinez had discovered a
3 firearm.

4 Q Okay. What did you see when you got there? Was
5 anybody touching the firearm?

6 A No, no.

7 Q Okay.

8 A I'm sorry.

9 Q Go ahead. What did you do next?

10 A The deputy showed me where they saw the firearm. I
11 then photographed the area, photographed the firearm and
12 the general area, as much as I could of it, and at that
13 point, I then collected it.

14 Q Okay. I'm going to show you what's been marked as
15 State's Exhibit 22. And without showing us what it is, if
16 you will, take a look at that and describe what it is.

17 A It's a .25 caliber handgun.

18 Q Okay. Does it have a serial number on there?

19 A Yes, it does.

20 Q Okay. Let's first start, what was the serial number
21 of the gun that you collected from the scene?

22 A It was 1417259.

23 Q Okay. And can you tell us the serial number on that
24 gun?

25 A It is also 1417259.

1 Q Okay. And is that gun secured?

2 A Correct.

3 Q How is it secured?

4 A It has a lock through the magazine and chamber.

5 MS. MAJOR: Okay. Your Honor, at this time, the State
6 would move State's Exhibit 22 into evidence.

7 MR. CHAMBERS: No objection, Your Honor.

8 THE COURT: It's admitted without objection.

9 (WHEREUPON, Plaintiff's Exhibit No. 22 was admitted into
10 evidence.)

11 THE COURT: It is secured with that locking ---

12 MS. MAJOR: Yes, Your Honor. It is. It is.

13 THE COURT: With no ammunition with it?

14 MS. MAJOR: Correct.

15 THE COURT: Okay. It's admitted.

16 BY MS. MAJOR:

17 Q If you can describe the condition that you found the
18 gun.

19 A Let's see. The firearm had a cartridge in the chamber
20 and then there was another cartridge behind it that was
21 jammed. The firearm also had dirt up in the barrel, the
22 front end of the gun where it appeared to just be shoved
23 into the dirt.

24 Q Okay. Was the firearm -- did it get an item number as
25 well?

1 A Yes. It is IO-1.

2 Q Were you -- did you process this gun?

3 A I processed it for DNA.

4 Q Okay. Did you process it for fingerprints?

5 A I did not.

6 Q Do you find fingerprints on everything that is ever
7 touched?

8 A No.

9 Q All right. What does it take to leave a fingerprint?

10 A Generally, the skin has to be dry but not too dry, it
11 has to be a clean surface, the item itself can't be wet or
12 covered in dirt. It has to have several, several different
13 elements involved in leaving a good print. It has to be a
14 surface that's suitable for the fingerprint to stay on.

15 Q Where did you process the gun at?

16 A When I packaged it at the scene, I took it back to the
17 crime scene office and processed it there.

18 Q Did you find other items of evidence in this case?

19 A I was then asked to respond to another street where
20 they had located ammunition.

21 Q Okay. What street was that?

22 A I believe it was ■ Saco Street.

23 Q And what ammunition did you find?

24 A There I also found .25 caliber cartridges.

25 Q Did you photograph those?

1 A I did.

2 Q Did you collect those?

3 A I did.

4 Q Were those assigned an item number?

5 A They were. They were Item No. IO-2.

6 (WHEREUPON, Plaintiff's Exhibit No. 26 was marked for

7 identification.)

8 Q I'm going to show you what's been marked as State's

9 Exhibit 26. Can you tell us what that has on it?

10 A It has one head stamped R-P25 auto cartridge.

11 Q Okay. Does it have an item number on it?

12 A Yes. This is IO-2.

13 Q Okay. Would you have packaged this item in that

14 packaging?

15 A Yes.

16 MS. MAJOR: Okay. Your Honor, at this time, the State

17 moves State's Exhibit 26 into evidence.

18 MR. CHAMBERS: No objection, Your Honor.

19 THE COURT: It's admitted without objection.

20 (WHEREUPON, Plaintiff's Exhibit No. 26 was admitted into

21 evidence.)

22 BY MS. MAJOR:

23 Q And if you can open that and just confirm that it is

24 the . . .

25 A It is.

1 Q Okay. One moment, please.

2 Ms. Ooten, I'm going to ask you just to show the jury,
3 if you could hold that up and show that to them and confirm
4 that that was the gun that you found.

5 A This was the gun that I found.

6 Q And then also ---

7 A This was the bag of ammunition that was located on
8 ■ Saco Street.

9 Q Okay. And that is the same ammunition?

10 A Yes.

11 MS. MAJOR: Okay. Thank you. Please answer any
12 questions Mr. Chambers may have.

13 MR. CHAMBERS: Your Honor, I don't have any questions
14 for Ms. Ooten.

15 THE COURT: All right. Anything further for this
16 witness, Madam Solicitor?

17 MS. MAJOR: No, Your Honor. And she may be excused.

18 THE COURT: Ma'am, you are released from your
19 subpoena. You may stay or leave, whichever. Be careful.

20 THE WITNESS: Thank you.

21 MS. MAJOR: Your Honor, next the State calls Adam
22 Davis.

23 WHEREUPON,

24 ADAM DAVIS,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Would you please state your name for the
2 record.

3 THE WITNESS: It's Adam Patrick Davis.

4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MS. MAJOR:

7 Q Mr. Davis, where are you employed?

8 A I'm currently employed with the Greenville County
9 Forensics Division.

10 Q How long have you been employed there?

11 A Four and a half, almost five years.

12 Q So were you working on January 2013?

13 A Yes, ma'am.

14 Q What are your duties as a forensic officer?

15 A My duty as a forensic officer is to respond to crime
16 scenes and provide digital photography of the crime scenes
17 and then process those scenes for evidence.

18 Q Okay. When you go to a scene, what evidence are you
19 referring to and what are you looking for?

20 A You're looking for things that could possibly be
21 elements of a crime: shell casings, possibly fingerprints,
22 foot wear impressions, blood. Those type of things.

23 Q Do you have a protocol for how you will process
24 evidence or how you will first collect evidence?

25 A Yes, ma'am. We take -- first of all, we take photos

1 of any evidence we're going to collect, then we usually put
2 an evidence placard next to those items, take additional
3 photographs, and then the items collected we usually put in
4 a brown paper bag.

5 Q And if you process any piece of evidence, where do you
6 do that?

7 A Usually, if we process something for prints or blood,
8 we can process it on scene, but most of the time we process
9 that at the Crime Scene Unit office.

10 Q Did you have a chance to work on and process evidence
11 from the case that we're here about today on
12 January 13, 2013?

13 A Yes, ma'am, I did.

14 Q Okay. Where did you first respond?

15 A I originally responded to 330 White Horse Road, the
16 front parking lot of Bobby T's.

17 Q What did you do once you arrived?

18 A Once I arrived, I made contact with Deputy Downing who
19 gave me some basic scene information and had told me that
20 EMS had responded and verified that a victim was deceased.

21 Q What did you first look for?

22 A Well, after that, I made contact with my partner,
23 Dustin Cretchmar [phonetic], who agreed to come help me
24 bring the video camera out and secure digital video of
25 that. Once he arrived, he and I did a walk-through, and we

1 noticed that the victim was deceased between two vehicles
2 in front of the front door of Bobby T's, and then we
3 noticed that there were several shell casings, a beer can,
4 a brown knit hat and a black T-shirt in the parking lot.

5 Q Okay. Let's just start with the items that you
6 collected.

7 A Yes, ma'am.

8 Q How do you identify items that you collect from the
9 scene, just generally?

10 A My items are identified by my initials, APD, and then
11 a 1 that corresponds to that evidence item.

12 Q Okay. What was Item APD-1 that you collected?

13 A Item APD-1 was a suspected projectile fragment, and
14 that was collected from the pavement of the parking lot
15 close to the passenger's side of a 2007 Toyota Camry.

16 Q Okay. What was Item APD-2?

17 A That was a Bud Light beer can that was collected from
18 the pavement of the parking lot by the victim's left knee.

19 Q Okay. And APD-3, 4 and 5, what were those?

20 A Yes, ma'am. Those were shell casings. R-P25 auto
21 shell casings.

22 Q Were those found close to the crime scene?

23 A Yes, ma'am. Either by the victim's knee or underneath
24 the vehicle close to the victim.

25 Q Okay. And Item APD-6?

1 A That was the brown stocking cap.

2 Q Item APD-7?

3 A Is a black unique 4XL t-shirt.

4 Q Okay. And Item APD-8?

5 A That was an additional R-P25 auto shell casing.

6 Q Officer, I'm going to show you what's been marked as
7 items -- State's Exhibit 17, 18, 19 and 20. First tell us
8 what these -- what is on them. The white sticker, what is
9 that?

10 A These are barcodes that I make before I take them to
11 Property and Evidence. And these state -- this is evidence
12 Items AP-3, 4, 5 and 8, which is four of the shell casings.

13 Q Okay. And if you could open those up and without
14 showing them to the jury tell us what those are.

15 A (Witness complies.)

16 Q Without showing it to the jury, can you describe what
17 that is?

18 A Yes, ma'am. It's an R-P25 auto shell casing.

19 Q Okay. And if you could just open the rest of those,
20 please.

21 A (Witness complies.)

22 Q And, Officer, are those the shell casings that you
23 collected from the scene?

24 A Yes, ma'am.

25 MS. MAJOR: Your Honor, at this time, the State would

1 move Exhibits 17, 18, 19 and 20 into evidence.

2 MR. CHAMBERS: No objection, Your Honor.

3 THE COURT: They're admitted without objection.

4 (WHEREUPON, Plaintiff's Exhibit Nos. 17, 18, 19 and 20 were
5 admitted into evidence.)

6 THE COURT: You may publish.

7 BY MS. MAJOR:

8 Q If you can, just hold those up, actually, so the jury
9 can see exactly ---

10 A (Witness complies.)

11 Q And is that typical to put them in the plastic
12 container?

13 A Yes, ma'am. It sure is.

14 Q Okay. Thank you. Did you collect any other items
15 from the scene?

16 A Yes, ma'am. When we were getting ready to move the
17 body, Investigator Newman found a couple items in the
18 victim's pockets: a cell phone, a dollar bill, a receipt
19 and, I believe, a yellow lighter. And he asked me to take
20 possession of those, and I did.

21 Q Okay. And were those marked as APD-9 and -10?

22 A Yes, ma'am, they were.

23 Q And did you also collect another item?

24 A I did. Next to the victim, there was a red Toyota
25 Camry, and we -- my partner and I noted that there was some

1 suspected blood on the rear rim. So a phenolphthalein kit
2 -- or a test for suspected blood was done on a spot from
3 that rim. And a swab of that, it did test positive, so a
4 swab of that blood -- suspected blood was collected. And
5 that was APD-11.

6 Q Okay. And is that typical when you see -- do you need
7 to do a presumptive test to determine whether or not it is
8 blood or suspected blood?

9 A Yes, ma'am. We surely do.

10 Q Did you further process Item APD-2?

11 A I did. Back at the Crime Scene Unit office on
12 January 17th, I examined APD-2, which is the beer can we
13 mentioned earlier, and noted that there was suspected blood
14 on it. So I took a swab. I also did a phenolphthalein
15 presumptive test on that spot of blood there, took a swab
16 of that and also swabbed the rim for possible DNA off the
17 can.

18 Q Okay. And all of these items that you took, where do
19 you put those after you have collected them?

20 A After they're collected on scene, I bring them back to
21 my office. The hat -- the knit hat and the black T-shirt
22 were secured in the Crime Scene Unit drying room. They
23 were wet because it rained that morning. The other items
24 were secured in my personal evidence locker.

25 MS. MAJOR: Okay. I don't have any further questions.

1 Please answer anything Mr. Chambers may have.

2 CROSS EXAMINATION

3 BY MR. CHAMBERS:

4 Q When you arrived at the scene, did you also talk to
5 some witnesses?

6 A Just one, sir. I was informed that Robert Bowens had
7 seen -- or was a witness. He was the only one I talked to.

8 Q And what was your reason for talking to him?

9 A Just getting additional scene information.

10 Q Okay. Would you tell us, please, what Mr. Bowens told
11 you?

12 A I'll ---

13 MS. MAJOR: Objection, Your Honor. Hearsay.

14 MR. CHAMBERS: Your Honor, it goes to prior
15 inconsistent statements that Mr. Bowens testified earlier,
16 and I asked him at that time about statements he may have
17 made to this very officer. So this is all for his
18 impeachment of what Mr. Bowens said. And this, we believe,
19 is a prior inconsistent statement.

20 THE COURT: Solicitor?

21 MS. MAJOR: Your Honor, I'm just not certain that
22 Mr. Bowens' testimony was that he -- Mr. Chambers asked
23 him specifically about this officer and whether it was
24 nailed down as to what the statement was.

25 MR. CHAMBERS: Your Honor, I remember specifically

1 asking him if he had spoken to an officer Adam Davis. He
2 responded that he spoke to several people that he couldn't
3 remember. I then specifically asked him about this
4 statement, if he remembered saying that, and he denied it
5 at that time. And so based on that, I believe it would be
6 admissible for this officer to now testify as to what he
7 was told by Mr. Bowens.

8 THE COURT: All right. Let's do this. Mr. Foreman,
9 ladies and gentlemen, this is one of those times where it's
10 necessary to remove you from our courtroom. It looks like
11 I'm going to have to go back over a few notes here and make
12 some decisions, and it would probably be best if you were
13 not in the courtroom. We've been running about an hour
14 anyway, and another 15 minutes I was going to take a break,
15 so we'll take a break a little bit early at this time.

16 Please do not discuss this case among yourselves, even
17 with yourself. This case is certainly not at an end.
18 We'll take about 15 minutes, Mr. Foreman.

19 (WHEREUPON, the jury exited the courtroom at 2:33 p.m.)

20 THE COURT: Let's see the lawyers up here.

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

22 (WHEREUPON, a recess was taken at 2:34 p.m.)

23 (WHEREUPON, Plaintiff's Exhibit No. 27 marked for
24 identification.)

25 THE COURT: As to your objection, Madam Solicitor, the

1 Court is going to allow Mr. Chambers to continue
2 specifically -- and I want to put this on the record and
3 call your attention to it if you have your rule book,
4 801(d)(1), it being a prior statement that appears to be
5 inconsistent by the prior witness, and that was Mr. Bowen,
6 I believe, or Bowens.

7 MR. WESTON: Yes, sir.

8 THE COURT: All right. And if you look carefully,
9 that is also subject to a Rule 613(b), analysis by
10 extrinsic evidence, and specifically State vs. Slater,
11 S-L-A-T-E-R, that's at 360 S.C. 487, a 2004 case, as well
12 as the State vs. Blalock, B-L-A-L-O-C-K. That's 357 S.C.
13 74. That's a 2003 case where a witness, once presented
14 with the requisite circumstances surrounding an alleged
15 inconsistent statement and continues to deny it before the
16 Court ever making the statement and another person's
17 testimony that the witness did, in fact, make the statement
18 is admissible under 613(b) of the rules of evidence.

19 Mr. Chambers, so with that, I will allow you to
20 continue that line of questioning.

21 MR. CHAMBERS: Thank you, Your Honor.

22 THE COURT: All right. Are we ready for the jury?

23 MR. CHAMBERS: Yes, sir, Your Honor.

24 MS. MAJOR: Yes, sir.

25 THE COURT: All right. Let's have our jury.

1 (WHEREUPON, the jury entered the courtroom at 3:02 p.m.)

2 THE COURT: Mr. Foreman, any matters for this jury?

3 JURY FOREMAN: No, Your Honor.

4 THE COURT: Okay. Thank you.

5 Solicitor? Or Mr. Chambers.

6 BY MR. CHAMBERS:

7 Q All right. Officer Davis, getting back to where we
8 were talking, you've got your report there with you; is
9 that correct?

10 A Yes, sir.

11 Q And as you testified earlier, you did speak to
12 Mr. Bowens?

13 A Correct.

14 Q And do you know who Mr. Bowens was? Did anybody
15 identify what it was he does out there at the club?

16 A No, sir.

17 Q All right. Look on there, please. And I believe it's
18 the third paragraph. And is that a statement that
19 Mr. Bowens made to you, that paragraph?

20 A Yes, sir.

21 Q And when you make these reports, you intend for them
22 to be accurate; is that correct?

23 A Yes, sir.

24 Q All right. Would you read that paragraph then, the
25 statement that Mr. Bowens made to you?

1 A Yes, sir. "The R/O," that being me, "then made
2 contact with Robert Bowens who stated that he did not see
3 the shooting take place. However, he stated that he turned
4 around after hearing the first shot and saw the victim
5 standing at the rear of the two vehicles and another black
6 male standing close to the victim. He stated that he saw a
7 muzzle flash, but he was unable to see what type of handgun
8 the suspect used in the shooting. He stated that he heard
9 approximately four shots."

10 MR. CHAMBERS: All right. Thanks a lot. That's all
11 the questions I have for you.

12 THE COURT: Anything further?

13 MS. MAJOR: No, Your Honor. May this witness be
14 excused?

15 MR. CHAMBERS: No objection, Your Honor.

16 THE COURT: Sir, you may be excused. You may stay
17 with us or leave, whichever you choose.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: Thank you.

20 MS. MAJOR: Your Honor, the State next calls James
21 Armstrong.

22 WHEREUPON,

23 JAMES ARMSTRONG,
24 after first having been duly sworn, testified as follows:

25 THE CLERK: Please be seated and state your name for

1 the record.

2 THE WITNESS: James William Armstrong.

3 DIRECT EXAMINATION

4 BY MS. MAJOR:

5 Q Mr. Armstrong, where are you employed?

6 A I'm employed with the Greenville County Department of
7 Public Safety Forensics Division crime laboratory.

8 Q And in what capacity are you employed there?

9 A I have a dual responsibility as a forensic drug
10 chemist and a forensic firearm examiner.

11 Q How long have you worked for the Department of Public
12 Safety?

13 A Almost 19 years.

14 Q And how long have you worked as a firearm -- analyzing
15 firearms?

16 A Right at 15 years.

17 Q What type of training and experience have you had in
18 these roles?

19 A In the area of firearm identification, I have a
20 bachelor of science degree in chemistry from Reston
21 [phonetic] College. I've trained in the area of firearm
22 identification under the direction of a retired firearm
23 examiner from Philadelphia PD for about two years. I've
24 attended five different armor schools concerning my job. I
25 have attended 14 factory tours watching firearms being

1 manufactured from raw material to finished product. I've
2 also attended four ammunition assembly plants to see how
3 ammunition is assembled. I am a member of the Association
4 of Firearm and Tool Mark Examiners Association. I'm also --
5 I also attended numerous classes sponsored by the Bureau of
6 Alcohol, Tobacco and Firearms in the identification of
7 firearms, serial number restoration and so forth, and I've
8 testified in the area of firearm identification at least 39
9 times in Federal and state court as an expert in firearm
10 ID.

11 Q Are you a member of any associations related to
12 firearms?

13 A Yes, ma'am. It's called AFTE, the Association of
14 Firearm and Tool Mark Examiners.

15 Q Okay. What do you do in your role as an -- examining
16 firearms?

17 A A firearm examiner, I normally compare firearms or
18 fired evidence to each and also do tool mark comparisons.

19 MS. MAJOR: Your Honor, at this time, the State would
20 offer Mr. Armstrong as an expert in firearms examination
21 and comparison.

22 MR. CHAMBERS: No objection, Your Honor.

23 THE COURT: Ladies and gentlemen, as I previously told
24 you, at this time, a person normally cannot give an opinion
25 as to -- except to things that they have seen and heard,

1 sensed or smelled or something of that nature, but there is
2 an exception when someone is qualified by their education,
3 experience, knowledge, skill or training. They are, again,
4 permitted to testify as an expert.

5 This witness has now testified as an expert in
6 firearms examination and comparison. I tell you that that
7 does not mean you must accept his opinion, but it is
8 evidence before you to use in any capacity and give
9 whatever weight or credibility you believe is appropriate.

10 Solicitor?

11 MS. MAJOR: Thank you, Your Honor.

12 BY MS. MAJOR:

13 Q Mr. Armstrong, let's first start, if you will, explain
14 to us what you were asked to do when you have a case as far
15 as what you're asked to compare, what you're asked to do.

16 A In order for me to get a case, an investigator or an
17 officer must fill out what we call a lab request form. And
18 on that lab request form, the officer asked me to identify
19 or compare certain items. Such as this case, the officer
20 asked me to compare a firearm to some fired cartridge
21 casings and fired bullet specimens. I then would go out to
22 our property and evidence room and retrieve those items, go
23 back to my office and conduct my examination.

24 Q How do you conduct an examination when you have a
25 firearm and either bullets or cartridge casings?

1 A When I receive the firearm, I open up all the
2 containers, I inventory what I have, take notes. And from
3 there, I will then also write the item number or have an
4 inventory number on the actual evidence so I can actually
5 keep them separated. And I compare them side by side by
6 way of a comparison microscope. If they're fired cartridge
7 casings, they're side by side; fired bullet specimens side
8 by side.

9 And with the firearm, I will take the firearm to my
10 ballistic retrieval unit and actually test fire the firearm
11 to retrieve test-fired specimens from that firearm to
12 compare to the evidence casings and fired bullet specimens,
13 and then sit down at the microscope and do a side-by-side
14 comparison with those as well. And then once I'm completed
15 with the comparison, I then generate a report and then turn
16 the evidence back in for -- to wait for court.

17 Q So basically, you take a firearm that you retrieved
18 out of Property and Evidence and you will have, I guess,
19 bullets or casings; is that correct?

20 A Yes, ma'am.

21 Q That are also in Property and Evidence?

22 A Yes, ma'am, they are.

23 Q Okay. And then you will test fire the gun?

24 A Yes, ma'am, I do.

25 Q Where do you test fire this gun?

1 A I have a ballistic retrieval trap that is actually in
2 the back parking lot of the Law Enforcement Center. I walk
3 out to there, I load the firearm and then test fire it into
4 that tank. It is a stainless steel tank full of about 600
5 gallons of water which actually stops the projectiles.

6 Q Okay. And you recovered the -- what do you refer to
7 those as the -- those bullets and those casings that you
8 fire?

9 A Those are fired bullet specimens from the actual
10 pistol or whatever the item is at the time.

11 Q Okay. Did you conduct an examination as it relates to
12 this case?

13 A Yes, ma'am, I did.

14 Q Okay. Can you first tell us what firearm, what was
15 the serial number on the firearm that you tested?

16 A Serial number was 1417259.

17 Q And if you can read out the serial number on that gun.

18 A 1417259.

19 Q Was this the gun that you test fired --

20 A Yes, ma'am, it is.

21 Q -- and compared?

22 Okay. So you would have taken that gun out back, you
23 said, to the LEC and fired it into that stainless steel
24 tank?

25 A Yes, ma'am, I did.

1 Q Okay. What did you do next after you had the test
2 fires?

3 A I had my test fires. I also had the evidence, fired
4 cartridge casings and then fired bullet specimens, and I
5 compared them on the microscope side by side.

6 Q Okay. Will you list out -- let's see. First, did you
7 receive or retrieve Item APD-1 from P&E?

8 A Yes, ma'am, I did.

9 Q And by P&E, Property and Evidence.

10 Did you compare -- well, describe to us what that item
11 is.

12 A I found it to be a metal fragment which is consistent
13 with a .25 caliber fired bullet core, but it was not
14 suitable for microscopic comparison purposes.

15 Q And what does that mean?

16 A The -- the -- a fired bullet core or the consistent
17 with fired bullet core is just a lead portion of a fired
18 bullet. Instead of having the jacket on top, which kind of
19 encapsulate it, it's just going to be the lead portion of
20 that bullet.

21 Q Okay. And that was not suitable for a comparison?

22 A That's correct.

23 Q Okay. Did you compare two other bullets in this case?

24 A Yes, ma'am, I did. There's an Item A and Item B.

25 Q Okay. Did you compare those items to the test fires?

1 A Yes, ma'am, I did.

2 Q And what did you conclude?

3 A The Items A and B fired bullets specimens bear similar
4 but insufficient microscopic marks to permit a positive
5 identification to having been fired from the Item IO-1A, a
6 pistol.

7 Q And as it relates to Items APD-3, 4, 5 and 8, describe
8 for us what those items are.

9 A Those are caliber .25 auto fired cartridge casings.

10 Q Okay. And did you compare those to the test-fired
11 cartridge casings?

12 A Yes, ma'am, I did.

13 Q And what did you determine as it relates to that?

14 A The Items APD-3, APD-4, APD-5, APD-8 fired cartridge
15 casings bear similar but insufficient microscopic marks to
16 prevent a positive identification having been fired in the
17 item IO-1A pistol.

18 Q So could these items that you compared or that you
19 analyzed here, could they have come from that gun?

20 A Yes, ma'am.

21 Q But you can't say for certain that they did?

22 A Correct.

23 MS. MAJOR: Okay. Thank you, Mr. Armstrong. Please
24 answer any questions Mr. Chambers may have.

25 MR. CHAMBERS: Your Honor, I don't have any questions

1 for Mr. Armstrong.

2 THE COURT: Thank you.

3 MS. MAJOR: Your Honor, may he be excused?

4 MR. CHAMBERS: No objection.

5 THE COURT: Sir, you may be excused from your
6 subpoena, and you can stay with us or leave, whichever you
7 choose.

8 THE WITNESS: Thank you, sir.

9 THE COURT: Thank you.

10 MR. WESTON: Your Honor, the State would call
11 Mr. Jared Johnson.

12 WHEREUPON,

13 JARED JOHNSON,
14 after first having been duly sworn, testified as follows:

15 THE CLERK: Please be seated. State your name for the
16 record.

17 THE WITNESS: Jared Johnson.

18 DIRECT EXAMINATION

19 BY MR. WESTON:

20 Q Mr. Johnson, with whom are you employed?

21 A Excuse me?

22 Q With whom are you employed?

23 A Greenville County Detention Center.

24 Q And how long have you been employed at the detention
25 center?

1 A For approximately nine years.

2 Q All right. What is your job title?

3 A I'm an officer.

4 Q And what is your job description?

5 A I'm the administrator of the inmate phone system.

6 Q You maintain the records of the phone system and
7 maintain the -- make sure they're working and everything
8 over there?

9 A Yes, sir.

10 Q All right. And let me ask you a little bit about how
11 the phone system works first. If I am an inmate at the Law
12 Enforcement Detention Center and I'm booked in today on any
13 charge, what do I have to go through in order to be able to
14 make phone calls from the jail? If you'll just tell the
15 jury how that works.

16 A You would be given a six-digit PAC number that would
17 be specific to you. They're not reused for any reason.
18 And then you'd be given a four digit PIN number that will
19 be specific to you as well. And then you would have to
20 create a voiceprint. You'd state your name several times
21 until the computer got a good match on your voice, and then
22 it would allow you to process calls.

23 Q Does doing those things set up an account for me for
24 phone calls at the detention center, so to speak?

25 A Yes, sir.

1 Q All right. Now, from a rule's perspective, is anyone
2 else allowed to use my account other than me?

3 A No, sir. It's in the handbook that no one else can
4 use your account.

5 Q In terms of how the phones are set up there, are there
6 a bank of phones in different areas of the detention center
7 that inmates can use?

8 A Yes, sir.

9 Q Are those phones generally monitored by security
10 cameras so that, for instance, if one inmate is on the
11 phone and I'm on another phone, is there someone who would
12 see us switching phones or switching calls? Is that
13 generally monitored?

14 A No, sir.

15 Q Okay. In order for me to make a call, could I use my
16 PIN number and my six-digit -- what did you call it?

17 A PAC number.

18 Q PAC number. I have to put both those things in in
19 order to make a call?

20 A Yes, sir.

21 Q All right. And let's say I did that and then I wanted
22 to give this gentleman the phone for him to make a call.
23 He's another inmate. Would there be any sort of other
24 level of security that would keep him from using my PAC
25 number and my PIN number?

1 A Yes, sir. You would have to state your name. It
2 would have to match what the computer had for your name.
3 Otherwise, the call would not process.

4 Q And is that -- so this is a three-tiered system,
5 basically?

6 A Yes, sir.

7 Q And does that system shut -- does the voice exemplar
8 requirement, is that done at the beginning of the call?

9 A Yes, sir.

10 Q So in order for me to make a call, Jeff Weston from
11 the detention center as an inmate, I would have to enter my
12 PAC number, my PIN number, and I would have to also, at the
13 beginning of each call, state my name?

14 A Yes, sir.

15 Q And does your computer, at that point, compare my name
16 to the original exemplar I gave when I first set up the
17 call?

18 A Yes, sir.

19 Q Just to make sure I'm clear, if it does not match my
20 voice, what happens? What does the computer do?

21 A It lets the inmate know your voice did not match and
22 it terminates the call immediately.

23 Q So when a call is made from the detention center by an
24 inmate, is it reasonable that it is that inmate that's
25 making the call?

1 A Yes, sir.

2 Q All right. Let me ask you what has been marked as
3 State's -- let me show you what's been marked as State's
4 Exhibit No. 27 and ask you if you recognize that.

5 A Yes, sir, I do.

6 Q It's a CD, right?

7 A Yes, sir.

8 Q And what is that?

9 A That's the phone calls from Mr. David Young between a
10 -- certain dates.

11 Q What are the dates on there?

12 A 1/13 of '13 and 3/11 of '13.

13 Q All right. And have you listened to -- and I'm going
14 to ask you -- I'm going to be very specific. When you put
15 that into a computer or -- into a computer for playing, a
16 laptop to play, it will list all the calls; is that
17 correct?

18 A That's correct.

19 Q And will it have a date and time the call was made as
20 well as the length of the call?

21 A Yes, sir.

22 Q All right. I'm going to ask you specifically about a
23 call made on January 13, 2013, at 11:16 a.m. Did you
24 listen to the initial operation and beginning of that call?

25 A Yes, sir, I did.

1 Q And who made that call?

2 A He identifies himself as Adam, I believe.

3 Q And what account was it made on?

4 A David Young.

5 Q All right. Did you listen to the beginning of the
6 call at the setup and beginning so that the call -- and did
7 the call go through?

8 A Yes, sir. The call did process.

9 Q Would that mean that the voice exemplar matched the
10 voice exemplar that David Adam Young would have given when
11 he first set up this in the detention center?

12 A Yes, sir.

13 Q Would it absolutely have to?

14 A Not necessarily.

15 Q It wouldn't have to match his exemplar? I mean, his
16 voice wouldn't have to match?

17 A There have been times where other people have mimicked
18 their voice if their voice was not set up properly.

19 Q But assuming he set it up properly to begin with.

20 A Yes, sir.

21 Q Okay. And the setting up is done under supervision, I
22 assume, of detention center personnel?

23 A Not at this point in time it was not.

24 Q Okay. So did you listen to the beginning of the call
25 on January 14, 2013, at 9:27 a.m. under the account of

1 David Young?

2 A I sure did.

3 Q All right. And did the voice exemplar match the setup
4 of the account of David Adam Young?

5 A Yes, sir.

6 Q Did he use David Adam Young's PIN number?

7 A Yes, sir.

8 Q Did he also use the other number, the other six-digit
9 code number?

10 A Yes, sir.

11 Q Did you listen to the call beginning on January 18,
12 2013, at 7:21 p.m. all from the account of David Young on
13 that CD?

14 A Yes, sir.

15 Q You just listened to the beginning setup and the
16 beginning of the call; is that correct?

17 A Yes, sir.

18 Q You didn't listen to the entire call?

19 A No, sir. I did not.

20 Q All right. And did that call match the exemplar and
21 the PIN number and the account number set up by David Adam
22 Young when he was first booked into the detention center?

23 A Yes, sir.

24 Q Did you listen to a call -- the beginning of a call on
25 January 20, 2013, at 2:24 p.m. on that CD under the account

1 of David Adam Young?

2 A Yes, sir.

3 Q Did that call -- did the voice exemplar match the
4 voice exemplar that David Adam Young would have set up --
5 set up that account?

6 A Yes, sir.

7 Q Would it have had to use David Adam Young's PIN
8 number?

9 A Yes, sir.

10 Q Would it also have had to use David Adam's account
11 number?

12 A Yes, sir.

13 Q Was the call made and completed?

14 A Yes, sir. It was.

15 Q Was it made under the account of David Adam Young from
16 the detention center?

17 A Yes, sir.

18 Q Did you listen to a call on January 21, of 2013, at
19 10:04 p.m. under the account name of David Adam Young?

20 A Yes, sir.

21 Q You just listened, once again, to the beginning of the
22 call, the setup, and that the call -- was it connected?

23 A Yes, sir. It was connected.

24 Q All right. And once again, you didn't listen to the
25 substance of the call?

1 A That's correct.

2 Q Was it set up under the account of David Adam Young
3 that he had set up at the detention center?

4 A Yes, sir.

5 Q Did the voice exemplar match?

6 A Yes, sir.

7 Q Did the -- did it obviously have to use the PIN number
8 of David Adam Young ---

9 A Yes, sir.

10 Q --- that he had been assigned?

11 A Yes, sir.

12 Q Would he also have had to use a six-digit account
13 number that David Adam Young had been assigned?

14 A Yes, sir.

15 Q Would have been assigned. Excused me.

16 Did you also listen to the beginning of a call on
17 January 22, of 2013 at approximately 9:36 a.m. on that CD
18 under the account number of David Adam Young?

19 A Yes, sir.

20 Q Did you -- did the voice exemplar match that of David
21 Adam Young?

22 A Yes, sir.

23 Q Would it have had to use the same PIN number that was
24 assigned to David Adam Young?

25 A Yes, sir.

1 Q Would it have had to use a six-digit -- and I forget
2 -- account number?

3 A PAC number.

4 Q PAC number. Thank you. That was assigned to only
5 David Adam Young at the detention center?

6 A Yes, sir.

7 Q And did the call go through?

8 A Yes, sir.

9 MR. WESTON: All right. Your Honor, the State would
10 offer Exhibit 27 into evidence.

11 MR. CHAMBERS: Your Honor, I would object at this time
12 that the State has not laid a proper foundation. I realize
13 that the State went through his PIN number and this whole
14 process that they use, but as I heard the gentleman testify
15 when asked if there was any way essentially to beat the
16 system, to mimic the system, for somebody else to use
17 somebody's account, his testimony was that that was
18 possible, and there was no way to monitor if somebody else
19 was using it because he said they, at that time, did not
20 monitor that. So it would seem to me that in order to
21 authenticate -- this goes under Rule 901, South Carolina
22 rules of evidence. In order to authenticate a voice or
23 when we're dealing with telephone calls, it would need
24 somebody who could identify the voice on that line,
25 somebody familiar with that voice. And it would certainly

1 not be this gentleman. So our -- we would object to the
2 introduction of any recordings at this point based on lack
3 of foundation, based on lack of authenticity, and would ask
4 that these be excluded from evidence.

5 THE COURT: Solicitor?

6 MR. WESTON: Your Honor, the State's position is that
7 the system, while not infallible, is solid and is a
8 reasonable means of authenticating that the person using
9 the phone is that of the defendant. The primary thing
10 being, Your Honor, aside from the PIN number and the
11 six-digit code number, there's a voice authentication. And
12 while that is possible to be mimicked, it is -- Your Honor,
13 the State's position would be that it is not reasonable to
14 think that someone else could mimic someone's -- that
15 voice, this defendant or any defendant's, any inmate's
16 voice to the point of beating the system, so to speak. And
17 while -- I don't think the Rule 901 requires absolute
18 infallibility, Your Honor.

19 THE COURT: The Court is going to overrule the
20 objection and allow it.

21 (WHEREUPON, Plaintiff's Exhibit No. 27 was admitted into
22 evidence.)

23 THE COURT: Under 901(b)(5), voice identification
24 indicates whether by mechanical or electronic transmission
25 or recording. It certainly goes to the weight of the

1 evidence, Mr. Chambers, but not to its admissibility under
2 901.

3 MR. WESTON: Thank you, Your Honor. Permission to
4 publish, Your Honor.

5 THE COURT: Yes, sir.

6 MR. WESTON: Your Honor, prior to publishing, we don't
7 need this witness anymore because as he's already
8 testified, he's not listened to the substance of the call.
9 If counsel has no objection -- and I don't know whether he
10 wants to examine him first before, but I was going to ask
11 that he be released so he doesn't have to listen to the
12 calls. But I will defer to cross-examination before
13 publishing if it will facilitate getting the witness
14 released.

15 THE COURT: Well, let's do this. I understand he
16 might need to be released, but Mr. Chambers may want to
17 have to ask a few questions.

18 MR. CHAMBERS: I can do that prior to the tapes being
19 played. I'm fine with that.

20 THE COURT: Okay. All right.

21 CROSS EXAMINATION

22 BY MR. CHAMBERS:

23 Q I just really -- any time that -- I assume that one of
24 the things y'all tell these people when they set up the
25 account is that all of their tapes -- I mean all of their

1 phone calls are taped and monitored; is that correct?

2 A Yes. They are advised that their phone calls are
3 monitored and recorded.

4 Q And, in fact, every time that they make a phone call
5 from over there, before the conversation even starts,
6 there's a recording that tells them this conversation is
7 being recorded and monitored; is that correct?

8 A Yes, sir. That's correct.

9 Q In fact, when you listen to the tapes, you can even
10 hear that play, correct?

11 A Yes, sir.

12 Q So anybody making a phone call is very well aware of
13 that?

14 A Yes, sir.

15 MR. CHAMBERS: All right. All the questions I have,
16 Your Honor.

17 THE COURT: Okay. Any objection to him being released
18 then?

19 MR. CHAMBERS: No, Your Honor.

20 MR. WESTON: Thank you, sir.

21 THE COURT: Sir, you may step down.

22 MR. WESTON: Permission to publish the tape, the
23 recordings, Your Honor.

24 THE COURT: Yes, sir.

25 ///

1 (WHEREUPON, a portion of Plaintiff's Exhibit No. 27 was
2 played in open court.)

3 MR. WESTON: Your Honor, we are going to skip certain
4 matters that are irrelevant or that may be prejudicial or
5 that we may feel may be prejudicial, so we're going to skip
6 forward throughout these. Rather than listen to -- if
7 Mr. Chambers wants to -- I'm assuming he's listened to all
8 these tapes.

9 MR. CHAMBERS: I have.

10 MR. WESTON: And I don't know if he has any
11 objections. We feel that there are some matters that may
12 be prejudicial to the defendant that are not relevant to
13 this particular case. But if he would like for us to play
14 the entire tape for purposes of clarity or fairness, we'll
15 be happy to do that.

16 MR. CHAMBERS: No, Your Honor. I'm fine.

17 THE COURT: Okay.

18 (WHEREUPON, a portion of Plaintiff's Exhibit No. 27 was
19 played in open court.)

20 MR. WESTON: Your Honor, we're going to skip ahead
21 again at this point.

22 (WHEREUPON, a portion of Plaintiff's Exhibit No. 27 was
23 played in open court.)

24 MR. WESTON: Your Honor, we are skipping ahead to the
25 next call.

1 (Pause in proceedings.)

2 MR. WESTON: Your Honor, that's all we have.

3 THE COURT: Okay. Anything?

4 MS. MAJOR: Your Honor, the State rests at this time.

5 THE COURT: Okay. Let's see the lawyers about
6 mechanics here a little bit.

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

8 THE COURT: Mr. Foreman, ladies and gentlemen, it is
9 -- it hurts me to stop this early, to tell you the truth
10 about it. But the State has now rested. It would be time
11 for me to take up some matters outside of your presence.
12 That would take a good 30 minutes, and I was just talking
13 with the lawyers here about the nuts and bolts, I call it,
14 of how to mechanically do this. We have someone on the
15 jury panel that has a 5:00 -- has a child issue, or at
16 least I've understood that, so we're going to stop by 5:00
17 anyway so that that person can get that child or
18 grandchild. So I hate for you to sit back there for 30
19 minutes and then us maybe -- I don't want to break up any
20 testimony if we have some going on. Don't know what's
21 going to happen at this point.

22 So I'm going to -- I'm going to agree with the lawyers
23 here that even though it's early, we probably are in a
24 really good spot so as not to have to run late. I don't
25 want to -- can't run late. I'm not going to do that to

1 you. But we'll be ready to go first thing, right?

2 Okay. All right. I'm assured we'll be ready to go.
3 We've still got some other things we can kind of banter
4 around and go through exhibits here and be ready to go in
5 the morning, so I think it's probably a good place to stop.
6 And then tomorrow morning we would anticipate finishing
7 this matter probably by lunchtime or thereabouts, I would
8 think. I'm anticipating that we'll finish it by lunchtime
9 in the morning.

10 Madam Clerk, what do we do about lunch for our jurors?

11 THE CLERK: Typically, if they're going to be
12 deliberating, it's ordered.

13 THE COURT: Okay. Do you have all that material ready
14 for them in the morning?

15 THE CLERK: The bailiffs can help us with that
16 tomorrow.

17 THE COURT: We'll have that for you in the morning.
18 Mr. Bailiff, you take care of that.

19 I anticipate you're going to get this case somewhere
20 before lunchtime. I will ensure that our bailiffs here
21 have some lunch instructions for you so you won't have to
22 worry about that and leaving the courthouse and all that
23 kind of stuff.

24 Again, I caution you not to read and charge you not to
25 read anything about this in the newspaper, don't watch the

1 TV about this story, if anything. I don't know if
2 anything's on there or not. My Gamecocks lost last night,
3 so, you know -- but anyway, just don't watch it. Don't
4 watch anything about it or read anything about it, do any
5 research about it. The State has now rested, and we're
6 going to reconvene in the morning at 9:00 sharp to hear any
7 remaining testimony or any remaining evidence for your
8 consideration.

9 Again, I will make -- as you leave here today, I'm
10 going to -- we're going to stay. We'll make sure we've got
11 instructions for lunch for you tomorrow, and we would
12 anticipate you getting this case sometime tomorrow morning
13 before lunch and then it will be up to you to consider, and
14 at that point would be appropriate for you to begin
15 deliberating.

16 With that, it is early, but we'd better stop at this
17 point.

18 Mr. Foreman, if you'll take the jury back and be
19 excused from the jury room.

20 (WHEREUPON, the jury exited the courtroom at 3:43 p.m.)

21 THE COURT: You want to take up motions first thing in
22 the morning?

23 MR. CHAMBERS: Well, I can go ahead now, Your Honor,
24 because -- and just for the record make my motion for a
25 directed verdict.

1 THE COURT: Okay. All right. Let them get out the
2 door here and I'll hear from you on that.

3 Mr. Chambers?

4 MR. CHAMBERS: I would just argue, Your Honor,
5 obviously, considering the evidence in the light most
6 favorable to the solicitor as to all charges, our position
7 would be that they have failed to prove all of the elements
8 and therefore make a motion for a directed verdict.

9 THE COURT: All right. Madam or Mr. Solicitor?

10 MR. WESTON: Your Honor, the State's position, of
11 course, is that we have, in fact, when the evidence is
12 considered in the light most favorable to the State,
13 presented sufficient evidence that a reasonable juror could
14 find that the defendant is guilty of each one of the
15 charges, evidence to include eyewitness testimony, forensic
16 evidence, testimony of a co-defendant as to his guilt and
17 to admissions as well as admissions from the defendant
18 himself, and that the evidence, a reasonable juror could
19 conclude there is sufficient -- that the Court should
20 conclude there is sufficient evidence that a reasonable
21 juror could find the defendant guilty.

22 THE COURT: All right. Well, the Court is not in the
23 business of weighing the evidence at this point. That is
24 totally within the province of the jury. The Court must
25 consider whether or not there is a scintilla or any --

1 meaning any evidence whatsoever of the three offenses
2 charged in the indictment, and the Court finds there is
3 sufficient evidence. In fact, the record is replete with
4 that evidence. I'm not going to take the time to recite it
5 as to all three charges. So, Mr. Chambers, your motion for
6 a directed verdict on all three are denied.

7 Anything else?

8 MR. WESTON: Nothing from the State at this time, Your
9 Honor.

10 THE COURT: Okay. Be sure -- I know you will,
11 Mr. Chambers, but talk to your client.

12 MR. CHAMBERS: I'm going to do that now before I
13 leave.

14 THE COURT: That's good. Okay. And we'll be ready to
15 go.

16 Anybody needs me, again, I will be here in the morning
17 shortly after 8:00 unless there is another accident on the
18 interstate out there. I had to get off this morning and
19 come through 29. Some big wreck out there.

20 Anyway, I'll be here in the morning. If anybody needs
21 me, you all three have my cell phone number. If you need
22 me, just do -- not an ex parte. Get everybody else on the
23 line.

24 MR. WESTON: Yes, sir.

25 THE COURT: Anything from anybody else?

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

2 THE COURT: Madam Court Reporter, anything? Madam
3 Clerk? Everybody good?

4 Okay. We'll be off the record. We'll be adjourned
5 till 9:00 tomorrow morning.

6 (WHEREUPON, the proceedings are concluded at 3:46 p.m., to
7 be reconvened on Wednesday, February 11, 2015.)

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1 WEDNESDAY, FEBRUARY 11, 2015

2 THE COURT: Solicitor, are we ready?

3 MR. WESTON: The State is ready to proceed, Your
4 Honor.

5 MR. CHAMBERS: Defense is ready, Your Honor.

6 THE COURT: Okay. Do you need some time?

7 MR. CHAMBERS: No. We're good, Your Honor.

8 THE COURT: Mr. Young, I'm going to ask you to stand
9 to be sworn, please.

10 WHEREUPON,

11 DAVID ADAM YOUNG,

12 after first having been duly sworn, testified as follows:

13 THE COURT: And if you'll remain standing with your
14 lawyer. At this time, I want to explain that you have
15 certain rights. And if you do not understand something
16 that I tell you, I want you to tell me that, and I'll be
17 happy to stop and allow you to speak to your lawyer; do you
18 understand?

19 DEFENDANT YOUNG: Yes, sir.

20 THE COURT: We have reached a stage in this trial
21 where you may present your defense. You have the right to
22 claim protections given to you by the Fifth Amendment to
23 the Constitution of the United States which states in part,
24 "No person shall be compelled in any criminal case to be a
25 witness against himself." Sir, you also have the right to

1 claim protections given to you by Article 1, Section 12 of
2 the South Carolina Constitution which states in part, "No
3 person shall be compelled in any criminal case to be a
4 witness against himself." This means that you cannot be
5 required to testify in this case. You have the right to
6 testify on your own behalf, but no one can make you
7 testify. This is a personal right, and no one can waive
8 this right except you.

9 If you decide to testify, you will be subject to the
10 same rules that govern other witnesses, and you may be
11 examined and cross-examined on any relevant issue in this
12 case. Additionally, if you have any convictions involving
13 dishonesty or false statement or for crimes punishable by
14 imprisonment for more than one year and this court
15 determines that the probative value of admitting the
16 evidence outweighs its prejudicial effect to you, the
17 solicitor will be able to introduce your record to attack
18 your credibility.

19 If you decide to testify, the decision on your part
20 must be freely, intelligently and voluntarily made with
21 knowledge of the protections given to you by the
22 constitutions of the United States and of the State of
23 South Carolina and the consequences of your decision. If
24 you decide not to testify, I will instruct jurors they
25 cannot give the fact that you did not testify any

1 consideration whatsoever and that there is to be absolutely
2 no prejudice to you because you did not testify. It is
3 entirely up to you whether or not you testify. You may
4 talk now with your lawyer or family member or a friend or
5 anyone else, but the decision must be yours and yours
6 alone.

7 Sir, do you understand what I've explained to you?

8 DEFENDANT YOUNG: Yes, sir.

9 THE COURT: Do you have any questions about what I
10 have explained?

11 DEFENDANT YOUNG: No, sir.

12 THE COURT: Have you discussed with your lawyer
13 whether you should or should not testify?

14 DEFENDANT YOUNG: I would like to have a minute to
15 talk to him, please.

16 THE COURT: Yes, sir. Take it.

17 (Pause in proceedings.)

18 MR. CHAMBERS: I believe my client has made his
19 decision, Your Honor. I'll let him ---

20 THE COURT: Okay. Sir, if you don't mind standing
21 again. Have you had plenty of time to speak with your
22 lawyer now?

23 DEFENDANT YOUNG: Yes.

24 THE COURT: All right, sir. And do you wish to
25 testify or not testify?

1 DEFENDANT YOUNG: Yes. I do wish to testify.

2 THE COURT: All right. Very good.

3 Are we ready to proceed?

4 MR. WESTON: The State is ready to proceed, Your
5 Honor.

6 MR. CHAMBERS: We're ready to proceed, Your Honor.

7 I would ask the Court to readvise people in the
8 audience against -- about talking, making any noises, any
9 kind of outburst of any kind. If they're not able to do
10 that, then, obviously, we'd like them to not be in the
11 courtroom.

12 THE COURT: Absolutely. I will admonish everyone in
13 the courtroom, same as yesterday, that the defendant has a
14 right to testify. He has elected to do so. That is his
15 constitutional right. I carried a weapon for his right to
16 do so. But if you cannot -- understanding what some of his
17 answers will be, especially on cross-examination, if you
18 cannot control your emotions, we would ask you to please
19 leave quietly now before I bring my jury in. Anybody need
20 to leave, please do so quietly.

21 All right. Thank you.

22 MR. WESTON: Your Honor, before we bring the jury in,
23 I would like to hand up -- I've spoken to counsel about
24 this and he said he doesn't have any objection -- hand up
25 the defendant's NCIC from 2007 forward with circled -- the

1 items that are circled with convictions. If you could just
2 tell us what you would allow us to impeach him with. I
3 know there are two petty larcenies on there, but I think
4 most of the other matters may not be admissible. But I
5 just want -- I just want to make sure we're all on the same
6 page as what is going to be impeachable.

7 And, Your Honor, while you're looking at that, the
8 defendant has -- be advised at the outset of this trial has
9 a conviction for voluntary manslaughter in 1988 in which he
10 received a 30-year sentence. I am not sure of his release
11 date. Assuming it's beyond the ten-year period, the State
12 would, of course, not attempt to impeach him with it unless
13 he puts his character -- puts that character trait into
14 evidence.

15 THE COURT: Yeah. Unless you can -- I think it would
16 be incumbent on the State to establish that it's within the
17 ten years.

18 MR. CHAMBERS: Yeah. It's outside the ten years.

19 THE COURT: It's outside the ten years. Okay. All
20 right. So unless he puts it in for character then, and I
21 think Mr. Chambers would stay away from that.

22 MR. CHAMBERS: I'll try.

23 THE COURT: Okay. Which one are you trying to put in,
24 Solicitor?

25 MR. WESTON: Your Honor, as I understand it, he has

1 two petty larceny convictions that the State would believe
2 would be appropriate.

3 THE COURT: Okay. Do you agree with that,
4 Mr. Chambers?

5 MR. CHAMBERS: It sounds about right. I believe that
6 sounds about right.

7 THE COURT: Okay. All right. Anything further?

8 MR. CHAMBERS: No, Your Honor.

9 MR. WESTON: Nothing from the State, Your Honor.

10 THE COURT: I know you will caution your client about
11 not opening the door you don't want him to open now,
12 Mr. Chambers.

13 We're ready for our jury.

14 (WHEREUPON, the jury entered the courtroom at 9:31 a.m.)

15 THE COURT: Good morning. Everyone.

16 Mr. Foreman, any matters from my jury?

17 JURY FOREMAN: No, Your Honor.

18 THE COURT: Okay. Everybody ready to proceed?

19 MR. CHAMBERS: We are, Your Honor.

20 MR. WESTON: The State is ready, Your Honor.

21 THE COURT: Mr. Chambers?

22 MR. CHAMBERS: Your Honor, I call Adam Young.

23 THE COURT: Mr. Young, come around.

24 ///

25 ///

1 WHEREUPON,

2 DAVID ADAM YOUNG,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Please state your name for the record.

5 THE WITNESS: My name is David Adam Young.

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MR. CHAMBERS:

9 Q Okay, Adam, how old are you right now?

10 A Sir?

11 Q How old are you?

12 A I'm 49.

13 Q And did you grow up here in Greenville?

14 A Piedmont, South Carolina.

15 Q Okay. In Greenville County?

16 A Yes, sir.

17 Q Live there all your life?

18 A Yes, sir.

19 Q And I want to go back to January 12, January 13, 2013,
20 and all the events we've been hearing about the last couple
21 days, okay?

22 A Yes, sir.

23 Q Now, do you know Porchae Adams?

24 A Yes, I do.

25 Q And how do you know Porchae?

1 A I knew her from the streets from dealing drugs.

2 Q All right. Do you also know her father and have a
3 relationship with him?

4 A Yes. Our relationship goes back from the early '70s
5 and '80s.

6 Q And other than knowing her from the streets and her
7 dealing drugs, did you have any kind of a relationship or
8 anything with Porchae?

9 A No, sir, I didn't.

10 Q Were y'all friends?

11 A That's all.

12 Q All right. Did you drive for her?

13 A Yes, I did.

14 Q And what did that entail, you driving for her?

15 A Basically, driving for her, looking out for her,
16 looking out for her best interest and stuff like that.

17 Q And what did you get in exchange for that?

18 A Drugs.

19 Q All right. So at this point in your life, you were a
20 drug user?

21 A Yes, I was.

22 Q And what was your drug of choice?

23 A Crack.

24 Q So you were smoking crack during this time?

25 A Yes, I was.

1 Q And did you primarily get it from Porchae Adams?

2 A Yes, I did. And my cousin.

3 Q Who is your cousin?

4 A Keith Emanuel Smith.

5 Q All right. Is that the fellow they call Toot?

6 A Yes, it is.

7 Q Now, do you remember January 12th, January 13th? Did
8 you see Porchae during that time?

9 A Yes, I did.

10 Q Tell us when you saw her and the occasion on which you
11 saw her and what happened. Just kind of walk us forward.

12 A January 12th I was down, my friend, her house, Laura,
13 and Porchae usually come down and will cook up a product
14 when she purchased it. And she had received some product
15 that wasn't correct.

16 Q All right. And you were there. About what time was
17 that; do you recall?

18 A It was like about 4:00, 4:30 when she arrived.

19 Q And that's p.m., in the afternoon?

20 A Yes, sir.

21 Q So she got there with the product. And the product is
22 what? Cocaine?

23 A Powder cocaine.

24 Q And she was going to cook it up into crack?

25 A Yes, sir.

1 Q And she wasn't able to do that?

2 A No, sir.

3 Q You were there when that was going on?

4 A Yes, sir.

5 Q So tell us what happened from that point forward.

6 A When she attempt to cook it, it wouldn't come back.

7 It's like -- looking like egg yolk. What it was, what you
8 call high-tech flex, was like synthetic cocaine, but it's
9 not cocaine. It's something that peoples use on the street
10 to what you call flim-flamming peoples out of their money.

11 Q So it's -- flex is not cocaine. It's something to
12 fool people?

13 A Yes, sir.

14 Q Basically, to rip people off?

15 A Yes, sir.

16 Q And so when she was not able to cook it up, what did
17 Porchae do?

18 A She -- she got highly upset.

19 Q All right. And then what did she do?

20 A She said, "This mother-fucker got" -- excuse my
21 expression. I apologize for that. But she said, "That MF
22 that -- make this money right."

23 Q All right. Did she make any phone calls in your
24 presence?

25 A She made a bunch of them.

1 Q And based on what you could hear from her
2 conversation, do you know who she was calling?

3 A Yes, I do.

4 Q And what was her demeanor during these phone calls?

5 A "Boogie, you know this shit ain't right, man. I need
6 to get my money back."

7 Q All right. And did y'all leave Laura's at some point?

8 A She left Laura's by herself.

9 Q Do you have any idea where she was going when she
10 left?

11 A No, I don't.

12 Q Did you go with her?

13 A Not at that time.

14 Q All right. So what did you do? Stay at Laura's?

15 A Yeah. I stayed right there at Laura's.

16 Q So Porchae left?

17 A Yes, sir.

18 Q Did she come back at some point?

19 A Yes. She did come back.

20 Q Now, let me ask you, approximately what time was it
21 when she left?

22 A She left around about 6:30, 7:00.

23 Q Approximately what time was it when she came back?

24 A She arrived back right about 11:00, 11:30.

25 Q And when she left, was she driving herself or was

1 somebody else driving?

2 A When she left, she drove there, she'd come back
3 driving herself.

4 Q So she got back, you said, when?

5 A Approximately between 11:00 and 11:30.

6 Q All right. And when she got back, what did y'all do?

7 A She kept continuous calling Boogie.

8 Q All right. And she kept calling. Then what happened?

9 A Then he wouldn't answer the phone.

10 Q And then what did y'all do? Or what did she do?

11 A She started getting in a rage.

12 Q All right. Did y'all leave at some point, the two of
13 you?

14 A Yes, we did.

15 Q And was it just the two of you?

16 A Yes, it was.

17 Q And were you driving?

18 A Yes, I was.

19 Q Were you driving this blue Toyota we heard about?

20 A No. It was a blue Chevrolet.

21 Q Chevrolet. What kind?

22 A Like a little Cruze or something like that. It's a
23 new model car.

24 Q Had you ever driven that car before?

25 A Yes, I have.

1 Q Do you know where the car came from?

2 A She said some dude named Greg rented it for her.
3 Supposed to be a cousin or something like that.

4 Q So what time was it when the two of y'all left?

5 A We left around about 12:30.

6 Q A.m.?

7 A Yes, sir.

8 Q So we're in January 13th now?

9 A Yes, sir.

10 Q And where were y'all headed?

11 A Well, William Buss, Buss You Out bail bondsman had
12 called her. We had to meet him at Home Depot so she could
13 pay him some money.

14 Q Okay. So y'all went to Home Depot to meet the bail
15 bondsman?

16 A Yes, sir.

17 Q Around 12:30?

18 A 12:30, 1:00.

19 Q All right. So -- and is it still just the two of you?

20 A Yes, sir.

21 Q So then you meet with the bail bondsman. And was he
22 there and everything went like it was supposed to?

23 A Yes, sir.

24 Q When y'all left talking to him, what time was it?

25 A About ten after.

1 Q Ten after 1:00?

2 A Yes, sir.

3 Q Where did y'all go then?

4 A She made contact with Marcus McGee.

5 Q All right. So she did talk to Marcus McGee?

6 A Yes, sir.

7 Q It was by telephone?

8 A Yes, sir.

9 Q All right. And what did y'all do after that?

10 A He said to meet him up there at Wade Hampton ---

11 MR. WESTON: Objection, Your Honor.

12 THE COURT: What's the objection?

13 MR. WESTON: There's no foundation. He said she was
14 talking to him on the phone.

15 THE COURT: Mr. Chambers?

16 MR. CHAMBERS: That's okay, Your Honor. I'll do it
17 this way.

18 BY MR. CHAMBERS:

19 Q After this conversation on the phone, did y'all go
20 somewhere?

21 A Yeah. We went to Dodge's on Wade Hampton Boulevard.

22 Q What's Dodge's?

23 A It's like a little gas store and sell chicken and
24 stuff like that.

25 Q And when you went to Dodge's, what did you do?

1 A It was -- we supposed to be meeting Marcus McGee
2 there, Boogie.

3 Q All right. Did you meet him there?

4 A No, sir.

5 Q So you get to Dodge's. He's not there?

6 A No, sir.

7 Q So then what did y'all do?

8 A We leave and come back down to the south end of
9 Greenville.

10 Q And anywhere in particular on the south end of
11 Greenville?

12 A We went down to Donaldson Center to a -- it's a little
13 liquor house down there they call Stephan's, and we went
14 and got some liquor.

15 Q And for people on the jury who may not know what a
16 liquor house is, explain what a liquor house is.

17 A A liquor house is where they sell little beer and
18 liquor, like a little gathering for peoples.

19 Q It's not an ABC store?

20 A No. It's not legal. No, it's not. It's illegal.

21 Q It's usually out of somebody's house?

22 A Yes. Yes, sir.

23 Q So where was this liquor house?

24 A Down in Donaldson Center.

25 Q And what time did y'all go there?

1 A We probably got there about a quarter to 2:00.

2 Q Is it still just you and Porchae?

3 A Yes, sir.

4 Q So you get to the liquor house. What did y'all do?

5 A We got a half a gallon of gin.

6 Q Okay. And did you stay or did you go?

7 A We left.

8 Q And where did you go?

9 A We went up to the Citgo up by the Home Depot and got

10 some Four Lokos and some beer.

11 Q All right. Four Lokos, what are those?

12 A That is a drink.

13 Q Alcoholic?

14 A Alcohol drink.

15 Q All right. So y'all had a half gallon of gin, some

16 Four Lokos and some beers?

17 A Yes, sir.

18 Q And then where did you go?

19 A Then we left there, went down to the village down off

20 of Fork Shoals Road. We had to go meet this fellow called

21 Tadpole.

22 Q Tadpole?

23 A Yes, sir.

24 Q And the village is what?

25 A That's down in Fork Shoals up by Simpsonville and Fork

- 1 Shoals area.
- 2 Q Is that just an area? Is that an apartment complex?
- 3 What is the village?
- 4 A That's a housing -- housing place.
- 5 Q All right. So Tadpole lived in the village?
- 6 A Yes, sir.
- 7 Q So y'all went to see him?
- 8 A Yes, sir.
- 9 Q And what was your reason for going to see Tadpole?
- 10 A To sell him some drugs.
- 11 Q All right. So you went and sold him some drugs?
- 12 A Yes, sir.
- 13 Q How long were you there?
- 14 A Roughly about three minutes. Long enough to serve him
- 15 and leave.
- 16 Q All right. By serving him, that means selling drugs?
- 17 A Sell him some dope and then go.
- 18 Q All right. And then where did you go?
- 19 A We come back up the road and went to Gilbert Court.
- 20 Q Gilbert Court?
- 21 A Yes, sir.
- 22 Q Is that also like a housing complex?
- 23 A That there is apartments.
- 24 Q Apartments?
- 25 A Yes, sir.

1 Q And where are they located?

2 A Off of Crestview Road.

3 Q And who were you going to see when you went there?

4 A Stephen Chapman, aka Jack Frost.

5 Q That's Jack Frost?

6 A Yes, sir.

7 Q Why were you going to get Jack Frost?

8 A Because Marcus McGee had -- Boogie had quit answering
9 his phone, so we know that Jack Frost and Toot and Boogie
10 was good friends.

11 Q All right. So y'all were still trying to hook up with
12 Marcus McGee?

13 A Yes, sir.

14 Q And what was the reason for wanting to find Marcus
15 again?

16 A Because Porchae wanted her money back.

17 Q Do you know how much money it was?

18 A I wasn't there when she purchased the stuff. Only
19 thing I can say at this time is I know she was \$50 short.

20 Q All right. After you picked up Jack Frost, where did
21 y'all go?

22 A We went to T-shirts.

23 Q And that is what?

24 A On White Horse Road.

25 Q Is that a club?

1 A Yes, sir.

2 Q And what time did y'all get to T-shirts?

3 A Around about 2:30, quarter to 3:00.

4 Q All right. And what was your reason for going to
5 T-shirts?

6 A Drink some more alcohol, then try to find somebody to
7 swap cars with us.

8 Q Why did you want to swap cars?

9 A Because didn't really want to be in that car no more
10 because she wanted to get at Boogie.

11 Q All right. She wanted to get at Boogie?

12 A Yes, sir.

13 Q What does that mean?

14 A She wanted her money back or she was going to do
15 something to him.

16 Q All right. So did you switch cars?

17 A Nobody wouldn't swap cars with us.

18 Q All right. Where did you go after that?

19 A We went up to Bobby T's.

20 Q And what was your reason for going to Bobby T's?

21 A Because Ron called her, and she asked Ron did he have
22 any dope. And Ron said, "Yeah" ---

23 MR. WESTON: Objection, Your Honor.

24 THE COURT: I sustain.

25 MR. WESTON: Thank you, Your Honor.

1 BY MR. CHAMBERS:

2 Q Who is Ron?

3 A Ron was Lorenzo [sic] Walker who testified yesterday,
4 sir.

5 Q Tyronzo Walker?

6 A Yeah. Yes, sir.

7 Q So you know that they talked to each other on the
8 phone?

9 A Yeah. They used to go together.

10 Q All right. And that was your reason for going to
11 Bobby T's?

12 A Yes, sir.

13 Q So y'all went to Bobby T's. About what time was it
14 when you got to Bobby T's?

15 A By then it was like 10 or 15 after 3:00.

16 Q All right. What happened when you got to Bobby T's?

17 A Ron come over to the car and talked to her. I was
18 parked right there at the front of the laundromat. The
19 laundromat got a lot of lighting and stuff, and we was
20 parked right there back then.

21 Q Okay. Now, where in relation to the front door is
22 where you parked, the front door of Bobby T's?

23 A That's a long way off.

24 Q Okay. How far away?

25 A I'd say a good 50, 60 feet. Plus it's just like a

1 little plaza. You've got the liquor store, the laundromat,
2 and then you got the party shop, then you got the little
3 road right there, then you've got the privacy fence, and
4 then you've got the entrance of the club, and beside there
5 you've got a garage.

6 Q Okay. If I'm standing facing Bobby T's right now, all
7 right, the front door where y'all parked would be on the
8 right or would it be on the left?

9 A It would be on your left.

10 Q It would be on my left?

11 A Yes, sir.

12 Q So it would be over this way?

13 A Yes, sir.

14 Q And were you on the side or were you in the front?

15 A Right there directly in front of the laundromat. See,
16 you've got the party -- you've got the liquor store, you've
17 got the laundromat, then you've got the party shop. We
18 parked right directly in front of the laundromat.

19 Q So it's just a strip center, and all these businesses,
20 Bobby T's, laundromat, liquor store, all that stuff is in
21 the same strip set?

22 A Yes. Yeah. Right around the corner you've got
23 Pumper's.

24 Q All right. When y'all got there and you parked, you
25 said Ron came over and started talking. Did anybody get

1 out of the car?

2 A No, sir.

3 Q Nobody got out of the car?

4 A No, sir.

5 Q Did anybody ever get out of the car?

6 A Not at that time, sir.

7 Q Okay. Well, at any point, did one of y'all get out of
8 the car in the parking lot at Bobby T's?

9 A Not at that time. It was later on.

10 Q All right. Well, tell me what happened after you
11 talked to Ron.

12 A Well, after talking to Ron and then getting nothing,
13 we left.

14 Q You left?

15 A Yes, sir.

16 Q All right. So you left Bobby T's. And where did you
17 go?

18 A We went over there near Augusta Hill.

19 Q To do what?

20 A My cousin -- my cousin momma live over there behind
21 Augusta Hill.

22 Q All right. And describe where Augusta Hills is, if
23 you can.

24 A That's right off of -- I don't know the name of that
25 road. I think it's Old Augusta Road. It might be Old

1 Augusta Road. I call it Highway 25. That's what I call
2 it. That's the only thing I've ever known it by.

3 But we went over there because Toot mamma Gayle live
4 over there behind Augusta Hill. There's some houses you go
5 around and come -- not turn in Augusta Hill, but you turn
6 -- take that right. When you turn in, you go around a
7 curve. She live over there.

8 Q So what was your reason for going over there?

9 A Because Anthony had called Jack Frost, Anthony Adams
10 had called Jack Frost to let him know ---

11 MR. WESTON: Objection, Your Honor. No foundation.

12 THE COURT: Mr. Chambers?

13 BY MR. CHAMBERS:

14 Q Without saying anything about what anybody said, just
15 tell us why you went over there.

16 A We went over there to meet Anthony Adams and Keith
17 Emanuel Smith.

18 Q And that's Toot?

19 A Yes, sir.

20 Q So did you meet with those two?

21 A No. Because he had called Stephen Chapman to let him
22 know that ---

23 MR. WESTON: Objection, Your Honor.

24 BY MR. CHAMBERS:

25 Q Did you meet with those two?

1 A No, sir.

2 Q All right. So you get over there and you weren't able
3 to meet with those two. Then what did y'all do?

4 A We went back to Bobby T's.

5 Q All right. And when you got back to Bobby T's, what
6 time was that?

7 A That was right at about 20 after 4:00 or 4:30.

8 Q All right. And then where did y'all park when you
9 went back to Bobby T's?

10 A We parked in the back side where the body shop --
11 right behind -- right near Bobby T's right behind, there's
12 a body shop back there where they paint cars and do
13 bodywork.

14 Q So you parked behind Bobby T's?

15 A Yes, sir.

16 Q And when you got there, did anybody come out to your
17 car?

18 A Yes, sir.

19 Q Who?

20 A Anthony Adams.

21 Q Anthony Adams came out to the car. Anybody else come
22 out to the car?

23 A No, sir.

24 Q All right. Did any of y'all get out of the car?

25 A Not at that time, sir.

1 Q All right. So nobody got out. Did y'all leave Bobby
2 T's again?

3 A No, sir.

4 Q You sat in the car?

5 A Yes, sir.

6 Q For how long?

7 A Roughly about 20, 25 minutes.

8 Q Why were y'all sitting there?

9 A Because Anthony had gave me and Jack some crack and we
10 was sitting in the parking lot smoking it.

11 Q All right. So you were smoking crack. After you
12 smoked crack, what did anybody -- what did y'all do, all of
13 you? There's still three of you in the car, right?

14 A Yes, sir.

15 Q All right. What did y'all do?

16 A Jack had got a phone call.

17 Q All right. And then did anybody ever get out of the
18 car?

19 A Not at that point.

20 Q At any point, did somebody get out of the car?

21 A Yes. Yes, I did. I got out of the car around about
22 5:00.

23 Q All right. So -- and what was your reason for getting
24 out of the car?

25 A Because Jack had received a phone call from Keith

1 Emanuel Smith, Toot.

2 Q All right. And so based on that phone call, were you
3 then going into the club?

4 A Yes. He let me know to come in because it was him and
5 Boogie and Jay Rock, they was already in the club.

6 Q All right. So you went into the club?

7 A Yes, sir.

8 Q Was there somebody there at the front door that, you
9 know, was greeting people as they got there to the club?

10 A It was the bouncer patting peoples down.

11 Q All right. Did you also have to pay some money to get
12 in?

13 A Yeah. \$5.

14 Q You paid \$5 to go in, and he patted you down?

15 A Yes, sir.

16 Q Did you have a weapon on you?

17 A No, sir.

18 Q Did you have a weapon, period?

19 A No, sir.

20 Q All right. To your knowledge, did anybody in the
21 vehicle with you have a weapon?

22 A Yes, sir.

23 Q Who had a weapon?

24 A It was two weapons.

25 Q Who had weapons?

1 A Stephen Chapman and Porchae Adams.

2 Q But you did not have a weapon?

3 A No, sir.

4 Q And when you went in the club, it was for sure you
5 didn't have a weapon with you?

6 A Absolutely positive without a shadow of a doubt.

7 Q So you went into the club. And what did you do?

8 A I got me a Bud Light. I got a stool, and I seen him
9 sitting over there because I know he was going to be
10 sitting there because when my cousin had told Steve where
11 they was going to be sitting at.

12 Q They, who are you talking about?

13 A Jay Rock; Keith Emanuel Smith, aka, Toot; and Boogie.

14 Q All right. And did you sit with them or did you sit
15 somewhere else?

16 A I sit in front of them.

17 Q Meaning -- I mean ---

18 A I grabbed a stool. Then they was like against the
19 wall right there, and I got a stool, and I sat right there.
20 And I say, "What you going to do about that money, man?"

21 Q All right. So, I mean, you -- you pulled up to him
22 and started talking. You weren't sitting across the room
23 facing him?

24 A No.

25 Q You actually went over and sat down where they were?

1 A Yes, yes, yes.

2 Q All right. So you went over and asked, "What are you
3 going to do about that money"?

4 A Yes.

5 Q And so y'all had a conversation?

6 A Yes.

7 Q How did that conversation go?

8 A He just simply ignored me. But Toot take the
9 initiation saying, "I give somebody a thousand dollars to
10 knock that old dumb old man out."

11 Q Talking about you?

12 A Yeah.

13 Q All right. And so it sounds like y'all were not able
14 to resolve anything?

15 A No, sir.

16 Q And what was your reason for going to talk to him?

17 A Because Porchae asked me to.

18 Q And so I take it that at some point, you left the
19 club?

20 A Yes. I went to the bathroom. And after I was coming
21 out the bathroom, I seen him, I seen Toot, Boogie and Jay
22 Rock going out the door.

23 Q So they were going out the door?

24 A Yes, sir.

25 Q And what did you do as they were going out the door?

1 A At that time, my phone was still on, and I say, "They
2 coming out."

3 Q Who did you say that to?

4 A Stephen Chapman.

5 Q All right. So did they walk out ahead of you or
6 behind you or did you go out with them at all? I mean,
7 tell us what happened.

8 A They was -- they was like 20 to 25 feet ahead of me.
9 The club ain't really that big. So when you come out the
10 bathroom, the DJ booth's sitting right there, the bathroom
11 right there. So when I came out the bathroom, I seen them
12 as they was going out. And I said, "They coming out the
13 door."

14 Q All right. So they walked out. And then did you go
15 out? Did you follow them out?

16 A Yes. I went out. I went out.

17 Q How far behind them were you?

18 A I had managed to catch up to them like about 12 to 15
19 feet.

20 Q All right. And so what happened when y'all got
21 outside?

22 A When I ---

23 Q Where were you headed, by the way? Were you headed to
24 the car?

25 A When I was here, I was -- I was going to ask him for

1 the last time, "What you going to do about that money?"

2 Q All right. So you were still talking to him?

3 A Yes, sir.

4 Q All right. Y'all headed outside. So just tell the
5 jury what happened when y'all got outside.

6 A When we get outside, he say, "MF, didn't I tell you,"
7 and he reached. And when he reached, that's when he got
8 shot.

9 Q All right. Did you shoot him?

10 A No, sir.

11 Q Do you know who shot him?

12 A It had to be between Porchae and Jack Frost. I don't
13 know which one. I can't say. I know it had to be between
14 one of them two.

15 Q Did you see the shot?

16 A I just heard it.

17 Q You just heard it.

18 A Yes.

19 Q So where were you standing in relation to Boogie?

20 A I was like -- like I said, I was between 12 and 15
21 feet behind him.

22 Q All right. So you were -- was he facing you when he
23 was -- when he was talking to you and saying what you just
24 said?

25 A Well, he say -- what he say, "That MF, didn't I tell

1 you to quit messing with me about" -- when he reached --
2 when somebody said, "Yo," he turned around. That's when he
3 got it.

4 Q Okay. And you didn't see the shot?

5 A No, sir. But it had to be between one of them two.
6 But after that, I said, "You little red -- where that
7 little red nigger at?" And everybody attention went on me.

8 Q Okay. Where -- how many shots were there; do you
9 remember?

10 A Roughly three, four, somewhere along in there.

11 Q Did you -- so what did you do after you -- after these
12 shots?

13 A I walked around and got in the car.

14 Q You walked around and got in the car. Okay. And did
15 y'all leave?

16 A Yeah. I droved [sic] off.

17 Q Who was with you when you left?

18 A The same three that was in the car at first: me,
19 Stephen Chapman and Porchae Adams.

20 Q All right. Any discussion at all in the car about
21 what happened?

22 A No.

23 Q And so where did you go after you left the club?

24 A Went to Gilbert Court and dropped Steve Chapman off.

25 Q Dropped him off back at his house?

1 A Yes, sir. After we -- we backed in, we talked for a
2 second, and said, "Well, everybody be good, be cool, man,"
3 whatever, whatnot. And we left.

4 Q So where did you and Porchae go after that?

5 A We went to the RV trailer park down there on Donaldson
6 Center.

7 Q And what was your reason for going there?

8 A I went and seen this dude called Jay Rock. Another
9 Jay Rock.

10 Q A different Jay Rock?

11 A Yes, sir.

12 Q So you know two Jay Rocks?

13 A Yes, sir. The other one's name Lorenzo Taver
14 [phonetic].

15 Q All right. And after you saw Jay Rock, what did you
16 and Porchae do?

17 A Well, I seen my cousin Andrea stumbling around. I
18 say, "You need a ride home?" because I was going to take
19 her home.

20 Q So that was Andrea Crossman?

21 A Yes, sir.

22 Q So she was there with Jay Rock?

23 A Yes, sir.

24 Q That's not where she lived?

25 A No, sir. She lived on -- she lived on Somerset.

1 Q And what condition was she in?

2 A Drunk, high, as usual.

3 Q Was she pretty bad off?

4 A Yes, sir. That's why I was offering to take her home
5 because I didn't want nobody trying to take advantage of
6 her.

7 Q All right. So y'all were giving her a ride?

8 A Yes, sir.

9 Q And you left, and at some point, did the police get
10 behind you and turn on blue lights?

11 A After we got up by the Palms and I crossed through, I
12 seen the patrol car. I don't know the name of the road.
13 But he got behind me, and as we got up near where the
14 church, and as you're getting ready to exit off on White
15 Horse Road, he hits his blue lights.

16 Q All right. And so in the video, it looked like, at
17 one point, you hit your brakes, came to a stop; is that
18 right?

19 A Yes, I did. Because she say, "Stop." And after she
20 say, "Stop," and he stopped and get out, then he
21 floorboard. That's what I did.

22 Q All right. So you took off?

23 A Yes, sir.

24 Q We saw the video of the chase, and it looked like you
25 were doing your best to try and get away; would that be

1 fair to say?

2 A Yes, sir.

3 Q And what was your reason for running from the police?

4 A Because I was scared because I didn't have no license.

5 Q All right. Did y'all have drugs and stuff in the car?

6 A Yes, sir. Still had the old synthetic stuff.

7 Q All right. And, of course, you knew that Porchae had
8 shot somebody.

9 A Her or Jack Frost.

10 Q Oh, Jack Frost. Somebody.

11 A One of them shot him. It wasn't me.

12 Q Do you remember Porchae saying anything to you about a
13 gun as you were driving?

14 A She said, "You need to try to get away from them
15 because I need to get away because I need to throw this
16 stuff out of the car."

17 Q All right. And did Andrea know anything about
18 anything that was going on?

19 A Well, Porchae was on the phone talking to this dude
20 named Sergio, and she was saying, "Sergio, is he dead? Is
21 he dead?"

22 Q Okay. So she was talking to Sergio about that?

23 A Yes, sir.

24 Q And it looked like the police eventually got y'all
25 stopped?

- 1 A Yes, sir.
- 2 Q And did you remain in the car?
- 3 A Yes, sir. But before he stopped us, I was letting her
4 know by saying, "If you did something drastic, Porchae,
5 that I need to know. And if you did, I'm going to make
6 sure you get up out of this car, okay? But you need to get
7 rid of the stuff. You need to do whatever. And whatever
8 you do, don't let nobody hurt you out here because they
9 will be trying to get with you."
- 10 Q All right. And so what happened after you told her
11 that?
- 12 A Well, I said, "Just hold on." Because she said, "Slow
13 down. Slow down. I'll just jump out and roll."
- 14 I said, "No. You'll get hurt." I said, "Just bear
15 with me. I'll be able to shake them."
- 16 Q All right. So -- but when y'all got to a stop, it
17 appeared that she got out and ran; is that right?
- 18 A Yeah. Before the car even stopped real good, she had
19 jumped out.
- 20 Q And was that part of what y'all had talked about?
- 21 A Yes, sir.
- 22 Q But you and Andrea stayed in the car?
- 23 A Yes, sir.
- 24 Q And then you were taken into custody?
- 25 A Yes, sir.

1 Q Porchae got away?

2 A Yes, sir.

3 Q And then at that point, you went to jail, correct?

4 A Yes, sir.

5 Q Were you trying to help Porchae?

6 A Well, what I had done, when I was talking to her, I
7 let her know when I was talking to her, "Get away from the
8 officer, do not sign no statement, do not say nothing,
9 period, okay? Because if you do, you're going to force me
10 to tell the truth about the whole situation, okay?" I
11 said, "Don't do that. Don't -- whatever" -- I said, "It
12 don't make no difference what they say, what they promise,
13 don't sign no statement, okay? Just don't do that."

14 Q Why -- it sounds like you were -- I mean, you said you
15 were aware that everybody was kind of focusing on you; is
16 that right?

17 A Yes, sir.

18 Q So why were you willing to take the heat for Porchae?

19 A Because the simple fact she's a young -- she's a young
20 girl. She's got her whole life ahead of her, okay. And --
21 and I know she wouldn't be able to protect herself in that
22 world because Boogie have some associates that is not to be
23 played with or messed with, okay.

24 Q Let me ask you this. When you were coming out of the
25 club and you said you were unarmed, do you feel like you

1 were in any danger?

2 A Well, at certain points I did because of my cousin,
3 Keith Emanuel Smith. He ain't nothing to be messing with
4 neither.

5 Q I thought I heard you testify that Boogie was reaching
6 for something.

7 A Yeah. He was reaching for a gun.

8 Q Do you think you were in danger at that point?

9 A I know that I was in danger at that point because he
10 had brought that pistol with him.

11 Q Okay. But he got shot before you got shot, right?

12 A Yes, sir. And I was -- whoever shot him, I was
13 thankful for them saving me. That's why I felt at liberty
14 to do what I had to do for her.

15 Q All right. Now, you heard those phone calls
16 yesterday?

17 A Yes, I did.

18 Q Was that you in those phone calls?

19 A Yes, it is.

20 Q All right. And were you aware that these calls were
21 being recorded?

22 A Yes, I did.

23 Q So were you aware that anything that you said could be
24 used against you at some point?

25 A Yes, I did.

1 Q Who were -- the first tape that we heard where you
2 were talking to a gentleman, who was that gentleman that
3 you were talking to?

4 A I would rather not -- I can tell you his street name,
5 but for his real name ---

6 Q Well, let me just ask you this. Is it a friend of
7 yours?

8 A He's my cousin.

9 Q All right. And the second person that you were
10 talking to is a female. Who was that?

11 A She's -- like I said earlier and I say again, I would
12 not say these people's name because ---

13 Q Somebody that was a friend of yours, though ---

14 A Yes.

15 Q --- is that fair to say?

16 A Yes.

17 Q In those conversations, you talked about having shot
18 Boogie; is that right?

19 A Yes, I did.

20 Q If you didn't shoot Boogie, why would you tell people
21 that you did?

22 A To protect Porchae.

23 Q Well, how is that protecting Porchae? I mean ---

24 A Because she saved me. What would you do if someone
25 saved you?

1 Q I understand that. But you weren't talking to the
2 police. You were talking to people that were friends of
3 yours.

4 A Yes.

5 Q How would that do anything to help Porchae?

6 A Another thing, to make me look big. Because, you
7 know, people is always look at a crack smoker is scum on
8 the earth to look down. That's why people have a tendency
9 of taking advantage of them, not dealing straight with
10 them. It's just like you's a throw-away. But they's the
11 one intoxicating with this person.

12 Q Were you being truthful when you said that you killed
13 Boogie?

14 A No, I wasn't.

15 Q Do you know who shot Boogie?

16 A If I had to pit my life on it, I would say Porchae.

17 Q The gun that we saw introduced into evidence, this
18 little .25 semi-automatic, had you ever seen this before?

19 A Yes, I have.

20 Q Okay. And where did you see this?

21 A Porchae Adams.

22 Q That was her gun?

23 A Yes, sir.

24 Q You're certain of that?

25 A Yes, sir.

1 Q Do you remember what kind of gun -- or did you ever
2 see the gun that Jack Frost had?

3 A .32.

4 Q Was it a revolver?

5 A Yes, sir.

6 Q So he had a revolver?

7 A Yes, sir.

8 Q And for people that may not know, what's the
9 difference? What does a revolver look like as opposed to
10 what that looks like?

11 A Automatic, the shell casing come back. A revolver,
12 they'll stay in when you fire it.

13 Q And does it have like a cylinder that turns each time
14 you fire?

15 A Yeah. A cylinder. Six-cylinder, yeah.

16 MR. CHAMBER: All right, Mr. Young. That's all the
17 questions I have for you. Please answer any questions that
18 the solicitor might have.

19 THE COURT: Solicitor?

20 MR. WESTON: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. WESTON:

23 Q Mr. Young, I'm going to have to insist, first, that
24 you tell us who those people are. Let's get that out of
25 the way first. Who were you talking to on the phone? Your

1 -- this woman, what is her name? Because we can go get
2 her.

3 A Well, number one, while ---

4 Q Excuse me, sir. You need to answer my question first,
5 then you can explain. What is the woman's name you were
6 talking to on the phone? You are under oath, and you are
7 required to answer my question.

8 MR. WESTON: Your Honor, I would ask the Court to
9 direct the witness to answer.

10 THE COURT: Yes, sir.

11 Sir, you took the stand. You're under oath. Answer
12 the man's question.

13 THE WITNESS: Her name is Cassandra Brockman.

14 BY MR. WESTON:

15 Q Where does Ms. Brockman live?

16 A She live on ■ Lockwood Avenue.

17 Q Is that here in Greenville?

18 A Yes, sir.

19 Q Who was the man you were talking to on the phone?
20 What is his name?

21 A Ray.

22 Q Ray what?

23 A Ray Young.

24 Q And where does Mr. Young live?

25 A Well, he stayed in ■ -- Apartment ■, Fleetwood.

1 Q And so when you were talking to them on the phone ---

2 A Yes, sir.

3 Q --- you were acting John Wayne. When you were talking
4 to them and telling about how you killed somebody, you were
5 just doing a John Wayne impression that I did it, but
6 actually somebody else did it. This was all an act. Is
7 that what you're telling this jury?

8 A I don't understand what you're saying, sir.

9 Q You lied to them, is what you're saying outright. You
10 admitted to killing this man, and now you're telling this
11 jury that you lied to them to protect Porchae Adams. Isn't
12 that what you're saying?

13 A I don't recall what you -- explain -- I don't
14 understand. Explain it to me, sir.

15 Q It's not complicated, sir. But I'll ---

16 A Thank you, sir.

17 Q --- I'll break it down to its basic atoms.

18 A Yes, sir.

19 Q In answer to your lawyer's questions when he asked you
20 why did you say you killed Marcus McGee when you didn't,
21 and you said to protect Porchae.

22 A Yes, sir.

23 Q So you lied to these people. You were acting when you
24 were boasting about you went gangster style on him and I
25 popped two in him. Those were lies, and you were acting

1 when you told him that on the phone. Is that what you're
2 saying?

3 A You're talking about the peoples on the phone, sir?

4 Q Right.

5 A Oh, yes, sir. Yes, sir.

6 Q You were just acting. You were doing your best John
7 Wayne/Denzel?

8 A Yes, sir.

9 Q To protect Porchae Adams?

10 A Yes, sir.

11 Q Okay. Let's start with what we can agree on, all
12 right?

13 A Yes, sir.

14 Q And I'm going to let you explain. I need you to
15 answer "yes" or "no" if what I am saying is true, and then
16 you can explain as much as you like, okay? But I need you
17 to start with "yes" or "no."

18 A Yes, sir.

19 Q Let's deal with this failure to stop and get that out
20 of the way. You were driving the car that we saw in that
21 video that the police were chasing?

22 A Yes, sir.

23 Q And you saw the blue lights and heard the sirens
24 behind you?

25 A Heard the blue light, but ain't no siren.

1 Q You didn't hear the sirens that we heard in and out on
2 that tape?

3 A No. They didn't come on till after we went through
4 the cemetery.

5 Q But they came on and you kept going?

6 A Yes, sir.

7 Q And you did not stop.

8 A No, sir.

9 Q So you failed to stop for a blue light?

10 A Yes, sir.

11 Q And that was a conscious act on your part?

12 A Yes, sir.

13 Q You attempted to flee from the police?

14 A Yes, sir.

15 Q Okay. Let's -- so that's done.

16 A Yes.

17 Q All right. Let's talk about this drug deal. You were
18 the driver for Porchae Adams?

19 A Yes, sir.

20 Q And she paid you in crack?

21 A Yes, sir.

22 Q You were not romantically involved with her?

23 A No, sir.

24 Q She was not your girlfriend?

25 A No, sir.

1 Q You basically just drove her around, and you, I think,
2 said took care of her?

3 A Yes, sir.

4 Q Took care of the drug deal?

5 A Yes, sir.

6 Q And you were worried. You talked a little bit at the
7 end of your direct examination about how you were concerned
8 about her because she couldn't take care of herself and she
9 was a woman and all that stuff. You were basically her
10 protector.

11 A Yes, sir.

12 Q And you're protecting her to the point now where
13 you're in court saying that you lied for her and took a
14 murder rap. You were that much of a protector for her,
15 weren't you?

16 A Took a murder rap?

17 Q You told people that you committed a murder on the
18 telephone.

19 A Yeah. On the telephone.

20 Q Right. To your friends and cousins, you took a murder
21 rap for her. You were her protector, weren't you?

22 A Yes, sir.

23 Q You went in that club trying to get money from
24 somebody. I mean, you didn't have nothing to do with this
25 drug deal, did you, sir?

1 A No.

2 Q Nothing?

3 A No, sir.

4 Q You didn't have no money involved in this, did you?

5 A No, sir.

6 Q You didn't have any romantic relationship with her?

7 A No, sir.

8 Q You went in there because she told you to, didn't she?

9 A No. She didn't tell me that, sir.

10 Q You took it upon yourself to confront a man ---

11 A She asked me to.

12 Q Excuse me. I'm sorry. She asked you to ---

13 A Yes, sir.

14 Q --- and you did it?

15 A Yes, sir.

16 Q Because she was giving you drugs?

17 A Yes, sir.

18 Q You worked for her?

19 A Yes, sir. Basically, yes, sir.

20 Q You were in her organization?

21 A I can't -- I -- I wouldn't say it's an organization,

22 sir.

23 Q You were in her employ. She paid you with drugs. You

24 collected and enforced her drug deals, didn't you?

25 A I didn't enforce nothing, sir. And as far as being

1 her employee, I wasn't her -- not her employee, sir.

2 Q When you went into Bobby T's and talked to Marcus
3 McGee about giving that money back ---

4 A Yes.

5 Q --- what did -- if he said "no," which he did or
6 ignored you, I think you said ---

7 A He simply ignored me, sir.

8 Q What did you expect to do then? Play rock, paper,
9 scissors with him? How were you going to get the money
10 back?

11 A Just like I say, sir. When I asked him about the
12 money and Toot say, "I'll give somebody a thousand dollars
13 to knock this old man out," I went to the bathroom. I was
14 going back to the car and let her know, hey, y'all do what
15 you do.

16 Q So you're telling this jury that in the world of
17 dealing ounces of cocaine, the person who works for the
18 drug dealer who she tells to go in there and get the money
19 goes in and asks for the money, and then if he just ignores
20 him, he just walks away? You're telling this jury that's
21 the way it works in the world of drug dealing?

22 A Yes, sir. See, you've got to be in the world of drugs
23 in order to understand and know about the drug deal, sir.
24 If you've never been there or done that, you really can't
25 liberlate [phonetic] on it or speak on it like that, sir.

1 Q So you don't use -- so you don't use any threats or
2 force or intimidation to get people to pay back money?

3 A I never done that a day in my life, sir.

4 Q And that's what you're telling this jury?

5 A That's the truth.

6 Q She could have done that, couldn't she?

7 A No. Because ---

8 Q You didn't need to -- you didn't need to protect her
9 for that. She could have went in, begged to be given the
10 money back.

11 A No. It ain't -- according to begging sir, it's the
12 point of knowing you done something wrong. You can't just
13 go around taking from peoples and thinking it's okay.

14 Q But she didn't take from you, did she? She didn't
15 take a dime from you, did she?

16 A When she --

17 Q Did she take a dime from you, "yes" or "no"?

18 A No, sir.

19 Q Don't give us the lecture about it's wrong. She could
20 have collected, was my question. It was her money, her
21 deal. If all she was going to do is ask, couldn't she have
22 done that, sir?

23 A If -- if she was ---

24 Q You have to answer "yes" or "no" and then you can
25 explain. Couldn't she have collected herself if all she

1 was going to do was ask?

2 A No.

3 Q Why could she not ask? Did she not speak English?

4 A She speak very good English.

5 Q Did she not know Marcus McGee?

6 A I don't know about the relationship her and Marcus

7 McGee had.

8 Q She knew him, didn't she? "Yes" or "no," sir. Come

9 on. You know the answer to that.

10 A I -- no. I don't know the answer to that because if I

11 do, I ---

12 Q You don't know whether she knew Marcus McGee?

13 A The only thing I knew, she had a drug transaction with

14 him.

15 Q Well, she had to know him, didn't you -- didn't she?

16 A She had a drug transaction with plenty of people.

17 Q So you're telling this jury now that you don't even

18 know whether she knew Marcus McGee or not.

19 A You don't have ---

20 Q That's your story now?

21 A You don't have to know a person to get drugs, sir.

22 Q So I could just walk out on the street and talk ---

23 A Yeah. If you ---

24 Q Excuse me. I could talk to that lady right there in

25 the black. I don't know her. I would go and say -- most

1 people would go and say, "Could you give me some drugs?"

2 Is that what you're telling this jury, sir?

3 A If you've got the money, you can purchase drugs, sir.

4 You ain't going to find ---

5 Q From somebody you don't know?

6 A Yeah. You can -- you can -- you can get hookups.

7 Q You in the drug world, that's how you do it?

8 A Yeah.

9 Q You just go up to strangers and buy ounces of cocaine?

10 A That's why when you have fellows standing on the
11 corner, they don't know peoples. A car pulled up, and if
12 they say, "I've got the crack," you have three or four
13 peoples run up to a car. That's facts. They all do that.

14 Q All right, sir. Just so I'm clear ---

15 A Yes, sir.

16 Q --- you went -- you worked for Porchae Adams?

17 A No, sir. I didn't work for her.

18 Q You just said you did a few minutes ago.

19 A No. I didn't say ---

20 Q She paid you in crack.

21 A She paid me. I ---

22 Q It's hard to remember a lie, isn't it, sir?

23 A No, no, no.

24 MR. CHAMBERS: Objection, Your Honor. Let ---

25 MR. WESTON: I'm sorry, Your Honor. I apologize.

1 THE COURT: Now let me do this. My court reporter can
2 only take one voice at a time.

3 THE WITNESS: Yes, sir.

4 MR. WESTON: Yes, sir, Your Honor. My apologies.

5 THE COURT: All right.

6 BY MR. WESTON:

7 Q It's hard to remember what you just finished saying a
8 few minutes ago when it ain't the truth, ain't it, sir?
9 You just said ---

10 MR. CHAMBERS: Objection, Your Honor. Objection, Your
11 Honor. He's arguing with this witness.

12 MR. WESTON: I'll ask him a question.

13 THE COURT: He's on cross.

14 MR. WESTON: Thank you, Your Honor.

15 BY MR. WESTON:

16 Q You just said a few minutes ago, and the court
17 reporter can play it back, if you'd like, I said you worked
18 for Porchae Adams and she paid you in crack, and you said
19 yes. Now you're saying you didn't work for her. Which is
20 it, sir? Did you work for her or not?

21 A No. You -- you made it sound like I was her -- she
22 was my boss man like she was -- I was the employee. It
23 ain't like that. I just drove for her every now and again.
24 It wasn't like I drove for her every day.

25 Q But you worked for her from time to time and she paid

1 you in crack. That's what you said a few minutes ago.

2 A Yeah. When she needed me around to help her out,
3 yeah.

4 Q Help her do what?

5 A Make sure nobody don't take advantage of you. You
6 know, the ---

7 Q Excuse me. How do you keep somebody from taking
8 advantage of her? What do you do?

9 A Huh?

10 Q What would you do if I was going to try to take
11 advantage of Porchae Adams? What would you do?

12 A What would I do?

13 Q Yes, sir.

14 A I would let you know, now, don't do that, man.

15 Q And what would you do if I continued to do it?

16 A The only thing I can tell you, be careful.

17 Q So you would say, "Be careful, sir"?

18 A That's right.

19 Q And what would you do if I continued to do it?

20 A Well, nine time out of ten she's going to shoot you.

21 Q No. What would you do?

22 A I ain't going to do nothing but just tell you to be
23 careful. It's my job, man.

24 Q Let's move on.

25 This is funny sir? This is funny to you?

- 1 A No. It ain't nothing funny. I'm just -- I was
2 just ---
- 3 Q Well, why are you laughing then?
- 4 A Because you laughed a while ago, right?
- 5 Q So you worked occasionally for Porchae Adams?
- 6 A Yes, sir.
- 7 Q And she paid you in crack?
- 8 A Yes, sir.
- 9 Q And part of your job was to drive her car, drive her
10 around to crack deals?
- 11 A Drive -- drive her around, sir.
- 12 Q To sell crack to people?
- 13 A Yeah.
- 14 Q And to go -- when she asked you to, to go and ask
15 somebody to give her her money back?
- 16 A Yes, sir.
- 17 Q And use whatever means you need to do to try to talk
18 to them to get the money back?
- 19 A Not use every means to do -- get the money, but to go
20 talk to them, sir.
- 21 Q Okay. And on this particular night, you knew she was
22 dissatisfied with the deal?
- 23 A Yes, sir.
- 24 Q And according to your story, you knew that she -- you
25 and she were looking for him?

1 A Uh-huh. Yes, sir.

2 Q And y'all came to the club. You knew he was inside
3 once you got there?

4 A Only way I know he was in the club -- like I told my
5 lawyer, the only way I know he was in the club because of
6 the telephone call she made and the people that was at the
7 club, sir. That's what I say, sir.

8 Q And I'm not asking you how you know. I'm just saying
9 once y'all got to the club, you knew he was inside?

10 A Yes. She had a ---

11 Q That's all I asked you, sir.

12 A Yes, sir.

13 Q I'm not trying to trick you.

14 A I understand that.

15 Q And she knew he was inside?

16 A Yes, sir.

17 Q And according to you, you knew she was armed?

18 A Yes, sir.

19 Q And so you went in the club to ask him about the
20 money?

21 A Yes, sir.

22 Q According -- this is your story now, not mine.

23 A Yeah.

24 Q This is your story.

25 A Yeah.

1 Q And when he didn't give you the money, you saw -- you
2 just sat there and waited or went to the bathroom. You saw
3 him leaving?

4 A Yes, sir. Who I saw leaving with him, sir.

5 Q But I'm just saying you saw Marcus McGee leaving, sir,
6 didn't you? "Yes" or "no"?

7 A Yeah. I seen two --

8 Q "Yes" or "no"?

9 A --- and Marcus McGee leaving, sir. All three of them,
10 sir.

11 Q You saw him leaving with two other people. Fine.

12 A Yes, sir.

13 Q But you saw him leaving.

14 A Yes, sir.

15 Q You then called them on the phone ---

16 A No. I just ---

17 Q Let me finish, please. And told them he was leaving.
18 Isn't that what you said?

19 A No. I said my phone's already on, and I told them he
20 was coming out the door. That's what I said, sir.

21 Q So you told them, you warned them he was coming out?

22 A Yes, sir.

23 Q You went out and followed him out?

24 A Uh-huh.

25 Q According to your story.

1 A Yes, sir.

2 Q One of the two of them then came up and shot him and
3 killed him?

4 A No. After he reached, then he got shot, sir. That's
5 what I said, sir.

6 Q Now, you've heard all the evidence in this case. You
7 know that there was no gun, right? That he didn't have a
8 gun? You've heard from the police, you've heard from the
9 bouncer, you've heard from all the people who came over
10 there. You know he never had a gun. Now you know that,
11 right?

12 A Sir ---

13 Q You never -- excuse me. You never saw a gun, did you,
14 that night?

15 A I saw -- I saw a reach.

16 Q I didn't ask you if you saw a reach. Did you see a
17 gun that night on Marcus McGee?

18 A I saw a reach, sir.

19 MR. WESTON: Your Honor, I would ask the witness to
20 answer my question, then he can explain.

21 THE COURT: Yes, sir.

22 Answer "yes" or "no."

23 BY MR. WESTON:

24 Q Did you see a gun on Bobby -- on Marcus McGee that
25 night ---

1 A No.

2 Q --- "yes" or "no"?

3 A No.

4 Q And now you know from all the things you've heard in
5 this courtroom, there's no evidence he had a gun.

6 A His -- it's a statement, sir, that was given that his
7 body, when the MS [sic] and officer arrived on scene, his
8 pants were pulled down to his knee because Keith Emanuel
9 Smith ---

10 MR. WESTON: Objection, Your Honor. There's no
11 evidence.

12 MR. CHAMBERS: Your Honor, he's answering the ---

13 MR. WESTON: He's basically saying stuff that's not in
14 the record now.

15 THE WITNESS: I'm answering the question, sir.

16 THE COURT: Let me see the lawyers.

17 THE WITNESS: I'm answering the question.

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

19 BY MR. WESTON:

20 Q Where were we? You called and warned them, the people
21 with the guns that you were with, that you had driven there
22 who were mad at him, that he was coming outside?

23 A That ain't where we was at, sir. We was at the part
24 about him ---

25 Q But is that true, "yes" or "no"?

1 A Yes.

2 Q And once he got outside, at some point, one of the two
3 of them, according to you, shot him after you had warned
4 him he was coming outside?

5 A Yes, sir.

6 Q After which you then walked back to the car with them?

7 A I didn't say that, sir.

8 Q Well, I guess the answer is "no," right?

9 A No, sir.

10 Q Did you walk back to the car by yourself?

11 A Yes, sir.

12 Q Let's talk about that, because I'm confused on the
13 logistics here. When the shots were fired, you were
14 standing near Marcus McGee; is that correct?

15 A I was 12 to 15 feet behind him, sir.

16 Q Okay. So that's pretty near.

17 And once the shots were fired, you went directly to
18 the car, is what you said?

19 A Yes, sir.

20 Q How could it possibly be then, sir, that they were
21 already in the car when you got there? How could that
22 possibly be if they were the ones that shot him? How is
23 that possible? That defies the laws of physics and
24 geometry and just common sense. How did they get to the
25 car before you?

1 A Can I answer now, sir?

2 Q Yes, sir. You can answer.

3 A Because the simple fact, if you recall, I said, "What
4 about that little red nigger?" That brought the attention
5 on me. That gave them time to get back to the car because
6 you can go right beside Bobby T's. Between the shop and
7 Bobby T's is a little -- a path right there. You cut right
8 between them and come in the back side where the car was
9 parked there, sir. I did say that.

10 Q So when you -- so the words "where that little red N
11 at?" delayed you so long that they were able to get to the
12 car and get in the car before you; is that what you're
13 saying?

14 A Yes, sir.

15 Q Just by saying that one sentence, that delayed you for
16 like two minutes. That's what you said you said, and then
17 you walked to the car. That's just what you said.

18 A Sir, I didn't say nothing about no two minutes, sir.

19 Q But it delayed you to the point where they could get
20 in the car before you even saw?

21 A Yes, sir.

22 Q Just because you said one sentence. All right.

23 You get in the car now. Is it your testimony to this
24 jury that once you got in that car, the three of y'all,
25 nobody said a word about this shooting that just took

1 place? Is that what you're telling this jury?

2 A Not until we got to Gilbert Court, sir.

3 Q Okay. What was said then? You said y'all never
4 talked about it.

5 A No. I said -- I said we didn't talk about it leaving
6 the club. But I said, when we got to Gilbert Court and
7 parked, everybody said, "Be good. Be cool, man. Take
8 care." That's what I said, sir.

9 Q Yes, sir. But that's not about the shooting I asked
10 you. I want you to listen to my question. After you got
11 in the car till the time y'all separated, not one of y'all
12 talked about the fact that somebody had just shot somebody
13 and killed them. There was no conversation in this car
14 about that. Is that what you're telling this jury, sir?

15 A I didn't say that, sir.

16 Q Then what's the conversation about the shooting then?

17 A What I say ---

18 Q No, no. Listen to me. Was there a conversation in
19 the car about the shooting, "yes" or "no"?

20 A Not at that time, sir.

21 Q Well, when was there a conversation about this
22 shooting?

23 A Like I say, sir, when we got to Gilbert Court and
24 parked beside Jack Frost house, that's when we said,
25 "Everybody be cool. Keep your head up, man. Keep your

1 mouth shut," sir. That's what I said, sir.

2 Q So nobody talked about who shot him?

3 A Not until we got to Gilbert Court, sir.

4 Q So when you got to Gilbert Court, did somebody talk
5 about who shot him?

6 A Nobody that's there. Everybody said, sir, "Keep your
7 head up. Be cool. And everybody be good," sir.

8 Q All right. So then after you have warned, confronted
9 the person that owed your drug dealer boss money and after
10 he has rebuked you and ignored you, and after he goes to
11 leave and you warn them that he's coming outside, and after
12 according to you one of them shoots him ---

13 A Yes, sir.

14 Q -- and after you then drive them away from the
15 scene ---

16 A Yes, sir.

17 Q --- you drop one of them off?

18 A Yes, sir.

19 Q And then you went and picked up a woman?

20 A Went to -- and went down to Jay Rocks. I didn't say I
21 was going to go pick up no woman. I didn't say that, sir.

22 Q Well, let me just ---

23 A I say ---

24 Q I apologize. I'm sorry. I didn't mean to suggest it
25 that way.

1 You went to help some -- this lady was -- you didn't
2 go to pick her up, but you were -- she was intoxicated, and
3 you were trying to help her. That's fine. I'm not
4 suggesting anything otherwise.

5 You had no intention of calling the police, did you,
6 or telling about what happened, did you?

7 A Like I say before, sir ---

8 Q It's a "yes" or "no," sir, then you can explain. Did
9 you have any intention of calling the police and telling
10 them what happened?

11 A No, sir.

12 Q You were going to protect these people who just killed
13 somebody because you were part of this, weren't you? You
14 can't be in it but not of it. Either you're with them or
15 you're not. You say that one of them shot somebody. You
16 were not going to call the police, so you were trying to
17 protect these people, weren't you? "Yes" or "no"?

18 A Yes, sir.

19 Q And you drove them away from the scene, didn't you?

20 A Yes, sir.

21 Q And then when you told finally in the jail -- when you
22 were in jail bragging about killing somebody to your cousin
23 and this other person, that was all an act?

24 A Yes, sir.

25 Q When you said, and I quote, "I went at him gangster

1 style," that was just an act?

2 A Yes, sir.

3 Q And you've got no responsibility for this man's death,
4 whatsoever?

5 A No, sir.

6 Q Your hand -- their hands are not your hands in terms
7 of what they did?

8 A No, sir. I was just thankful she saved my life, sir,
9 like I say again, sir. Because Boogie is about that ---

10 MR. WESTON: I understand. Thank you very much.

11 Nothing further, Your Honor.

12 THE COURT: Mr. Chambers?

13 MR. CHAMBERS: No redirect, Your Honor.

14 THE COURT: Thank you.

15 Sir, you may step down.

16 THE WITNESS: Thank you.

17 THE COURT: Please be careful.

18 MR. CHAMBERS: Your Honor, the defense rests.

19 THE COURT: Okay.

20 MR. WESTON: No rebuttal from the State, Your Honor.

21 THE COURT: Nothing? Okay.

22 Mr. Foreman, ladies and gentlemen of the jury, this
23 case is now ended with the testimony and the evidence that
24 will be presented to you. It is now necessary that I take
25 up some matters with the lawyers, and one of the things

1 that I have to take up with the lawyers is to go over all
2 of the evidence that's here on the evidence table with our
3 court reporter. This will take a few minutes. Actually,
4 it will take more than a few minutes.

5 But to give you an idea of where we are here, all this
6 evidence belongs to you and we have to account for it which
7 is why it has numbers assigned to it. Madame Court
8 Reporter will assist us. She has a list here. We have to
9 make sure that everything is there before we send it to you
10 in the jury room.

11 So mechanically here speaking, what will happen is I'm
12 going to excuse you to go in your jury room where you can
13 use the facilities, stretch your legs, stand, do what have
14 you. We'll take care of some nuts and bolts, things like
15 that. Probably be 30, 40 minutes, something like -- close
16 to the top of the hour. Close to the top of the hour, I'm
17 anticipating, after which we will receive you back into the
18 courtroom and then the lawyers will then give closing
19 statements, and I will then charge the law to you.

20 After they finish their statements and I tell you what
21 the law is on each of the elements on the indictments
22 charged, I will then send you back to the jury room, and
23 I'll also send back to you the evidence.

24 Now, I'm going to tell you ahead of time, there is
25 some ammunition there and there is a firearm there. I know

1 the firearm is secure, but it is my policy, and I think
2 it's a policy of all -- of the State, that I cannot send
3 ammunition and the firearm at the same time, even though it
4 is safe with a locking device through it. So I will keep
5 one of those out here, and whenever you are inspecting one
6 of those items and want the other one, if you'll simply
7 tell the bailiff -- and I'll tell more about that -- but he
8 will simply come and get the other item and bring that one
9 back. So I cannot put the ammunition and a firearm
10 together at the same time. So please understand and bear
11 with me on that. Everything else will be yours in the
12 room.

13 Also, it is my custom, I'll tell you ahead of time,
14 that in the event that you need anything played back that's
15 recorded, we will do that here. I do not send a computer
16 back there. I'll bring you back to the courtroom and we
17 will play it here in open court.

18 So with those nuts-and-bolts instructions,
19 Mr. Foreman, please do not begin deliberations, ladies and
20 gentlemen. The case is ended, but you have not been
21 charged with the law yet so it is not permissible for you
22 to begin your deliberations at this time. But it won't be
23 very long.

24 Mr. Foreman, if you'll take your jury out.

25 (WHEREUPON, the jury exited the courtroom at 10:27 a.m.)

1 THE COURT: Mr. Chambers?

2 MR. CHAMBERS: Your Honor for the record, I would
3 renew my motion for a directed verdict.

4 THE COURT: Yes, sir. And for the reasons previously
5 stated, that is denied.

6 Anything else?

7 MR. CHAMBERS: No, Your Honor.

8 MR. WESTON: Nothing from the State at this time, Your
9 Honor.

10 THE COURT: Okay. It is my custom to have a jury
11 charge conference, gentlemen, lady, and if you will join me
12 in chambers in about five or six minutes, give you a chance
13 to use the facilities, and then just come together and come
14 on back to chambers and we'll look at it.

15 (WHEREUPON, a recess is taken at 10:28 a.m.)

16 THE COURT: Let the record reflect the defendant is
17 back in the courtroom and everyone is ready. Also, we'll
18 put on the record that during the recess, we had a jury
19 charge conference with all of the lawyers present. I have
20 given a copy of my jury charge to all of the lawyers, and I
21 understand everyone has reviewed it, and at this time,
22 there are no objections. Is that true from the State?

23 MS. MAJOR: Yes, Your Honor.

24 THE COURT: Okay. From the defense?

25 MR. CHAMBERS: It's true, Your Honor.

1 THE COURT: Okay. Thank you very much. All right.

2 Ready for closing?

3 MR. CHAMBERS: Yes, sir.

4 THE COURT: Okay. We'll have our jury.

5 (WHEREUPON, the jury entered the courtroom at 11:25 a.m.)

6 THE COURT: Mr. Foreman, any matters from the jury?

7 JURY FOREMAN: No, sir.

8 THE COURT: Okay. All right. Gentlemen?

9 CLOSING ARGUMENTS

10 MR. CHAMBERS: If it please the Court, Your Honor,
11 Solicitor. All right. Ladies and gentlemen, we have come
12 to the point where you are about to go back and deliberate.
13 You've gotten all the evidence in the case that you're
14 going to get, and you're going to make your decision.
15 You're going to do it based on the evidence like we
16 discussed, keeping in mind that the solicitor has to
17 present evidence to you that will leave you firmly
18 convinced of Adam Young's guilt.

19 Now, let me just say up front, don't waste any time
20 worrying about the failure to stop for a blue light.
21 Clearly guilty of that. All right. You can find him
22 guilty of that. I'm not even going to waste your time
23 discussing that.

24 I want to talk to you about his murder charge. And
25 once you have gotten a glimpse of, through this trial,

1 probably for the first time this sort of drug subculture
2 that exists in society, certainly exists here in Greenville
3 County, people that are sort of creatures of the night.
4 While most of us are home sleeping, these people are out
5 doing the sorts of things that you heard about throughout
6 this trial, and it's just something that most of us don't
7 deal with on a day-to-day basis. You got to hear about
8 liquor houses and people being flexed and just it's a
9 vernacular and sort of community all of its own.

10 Specifically what Adam Young is accused of having done
11 is with malice aforethought having killed Marcus McGee,
12 also known as Boogie. And to that he has pleaded not
13 guilty.

14 Now, let's start with what we heard last, and that was
15 the recordings of phone calls that were made from the jail,
16 which, to any reasonable listener, would appear to be
17 admissions of guilt by Mr. Young. Clearly, he said that he
18 was the shooter and he was talking to two different people
19 that you heard in those conversations. But when he
20 testified today, he told you, first of all, "I knew I was
21 being recorded," and we know that for certain. You could
22 hear that on the phone calls. He knows before every phone
23 call is made, it says, "These calls are being recorded,"
24 and they're being monitored, so he knew that people would
25 be listening to those phone calls.

1 So at that point, either he didn't care that anybody
2 was listening, or, as he told you, he was intentionally not
3 telling the truth to these people. On the one hand, he
4 said he was doing some boasting because, I guess, he liked
5 the attention. The other thing was, he was in that --
6 still in that mode of trying to protect Porchae because
7 there were people out there that he said wanted to possibly
8 hurt Porchae. He didn't want to do that. All right.

9 And, you know, I would not be -- I would be stupid,
10 probably, to stand here and say that it takes a little
11 something to believe that. Because why would somebody do
12 that? And if that was your plan, it's a stupid plan. But
13 that's why you have to go back and look at all the evidence
14 and ask yourself: When I look at all the other evidence in
15 this case, is it reasonable that he wouldn't tell the
16 truth? Is there evidence that would support the fact that
17 he was not the shooter in this case? And I will tell you
18 that there is plenty of evidence to indicate that he was
19 not the shooter in this case. And so basically, what I
20 want to do is just walk through each of the witnesses that
21 came and what they had to say and how it points to the fact
22 that he was telling the truth in this case.

23 Now, the first witnesses that you heard from were from
24 law enforcement. That was Deputies Holman and Napolitano.
25 And basically, what they testified to were that they got

1 out there to the scene, they were among the first to
2 respond. Deputy Holman said that he helped secure the
3 scene. The crime tape or anything -- nothing had gotten up
4 yet. He said that there wasn't a huge crowd out there, but
5 there was some disarray, probably 15 to 20 people around
6 the parking lot. And they started about the business of
7 segregating people out, getting witnesses separated so they
8 could talk to people.

9 Two people he talked to were Tyronzo Walker and David
10 Walker. Didn't get into what they may have said or
11 anything, but just that he talked to them. And then other
12 than that, he helped secure the scene.

13 And really, all Deputy Napolitano did was to try and
14 preserve the integrity of the crime scene by securing it.
15 And there was some discussion about how important that is
16 because can't get a really true picture of what may have
17 happened and what the evidence in the case is if it's been
18 tampered with, if things have walked away, if things have
19 been carried away. All right. So that's why that was
20 important.

21 Then we heard from the decedent in this case,
22 Mr. McGee, his girlfriend, Elisha, Elisha Green. And she
23 confirmed, based with what everybody said, and that is that
24 there was a drug deal earlier in the day between Porchae
25 Adams, one that everybody acknowledges Adam Young didn't

1 have anything to do with. They met up at this Citgo where,
2 I believe, there's also a McDonald's, and they were in
3 Elisha's car. Marcus sold an ounce of cocaine to Porchae
4 Adams, they went about -- they went on their way, and then
5 Elisha went home and Marcus was with her.

6 And after a while, she said that Porchae started to
7 blow up Marcus's phone, called him over and over and over
8 again. And what she could gather from that conversation
9 was that Porchae wasn't happy. She thought that she had
10 been flexed, that she had been sold something that wasn't
11 what it was purported to be. And she said that Boogie had
12 tried to make it right, had talked to her and finally just
13 got fed up with her and didn't want to have anything to do
14 with her anymore and told her not to call back. And so
15 that's where things were left.

16 You also remember that after she heard about her
17 boyfriend, Boogie, having been shot, that she started to
18 think about Porchae. And she said that Porchae even called
19 her after this, and she said, "Porchae, did you have
20 something to do with this?" Because she knew that there
21 had been trouble between the two of them.

22 Then we hear from Mr. Bowens. Mr. Bowens is very
23 interesting. He was the bouncer. He was the guy that was
24 working at the front door. This was at the club Bobby T's.
25 And you'll remember that he remembered Marcus McGee and he

1 remembered Keith Smith coming to the club. He said that he
2 knew them from the club, that he had seen him in there
3 before, and he also said that he remembered Mr. Young
4 coming at some point, and he said that he -- they don't
5 have a metal detector. Okay. He says they pat everybody
6 down, and he was sure that nobody could get in there with a
7 gun.

8 But, now, I want you to keep in mind the kinds of
9 people that hang out at this place. He said that there
10 were other entries where people could get guns into the
11 club, although he said, "Not if my staff's on duty." But
12 this is also a club, if you'll remember, where Toot, Keith
13 Smith, said, "We were there smoking a blunt." A blunt is
14 basically marijuana in a cigar. So I don't know how many
15 clubs you've been to where they let you sit there and smoke
16 marijuana in the middle of the restaurant or the bar, but
17 apparently you can do that here. So that's the kind of
18 clientele that we're dealing with, that's the kind of
19 establishment that we're dealing with.

20 And then he testified. And he was very specific about
21 it, he was very resolute in his testimony. He was very
22 sure of everything that he had to say. And that was that
23 he saw Marcus McGee walk out the front of Bobby T's. And
24 he said that he walked -- you saw where those two cars were
25 parked right in front of Bobby T's. And he said he walked

1 a straight line right up to about where he got midway of
2 the cars where, I guess, the door handle would be.

3 Now, he said, when he testified yesterday, that he had
4 his back to White Horse Road. So his back would have been
5 to those two cars and he was facing Bobby T's. Said he
6 heard the first shot. Said he then turned and he saw, he
7 said, Adam Young. He was certain it was Adam Young. There
8 was no question in his mind it was Adam Young continuing to
9 shoot Marcus McGee as he fell. And he fell right there at
10 that spot. And you saw where -- you can see where the
11 blood is, which would indicate that that's where Marcus
12 McGee was standing when he was shot.

13 But keep a few things in mind. First of all, if all
14 you had to consider was his testimony, there are things
15 about it that you have to call into question. He says he
16 continued to look, no fear at all even though he's just a
17 few feet away from where he says somebody is unloading a
18 gun into another person, that he didn't duck, he didn't
19 run, he didn't go for cover. He just stood there and
20 watched, which in and of itself, at least to me, sort of
21 belies common sense. Because I don't think anybody, even
22 if it was an experienced officer or combat veteran,
23 wouldn't be looking to take cover if there was shooting
24 going on like that because you never know when somebody
25 might get hit by a stray bullet.

1 But here's the thing. That wasn't the only statement
2 that he gave. That's the statement he gave you from the
3 stand. But you heard Adam Davis, who was a crime scene
4 investigator, came in here and testified that on the night
5 that this happened when presumably something would be
6 freshest in his mind, that this is what Mr. Bowens told
7 him. He stated he did not see the shooting take place,
8 period. Did not see the shooting take place.

9 However, he stated that he turned around after hearing
10 the first shot and saw the victim standing at the rear of
11 two vehicles. Now, not in between the vehicles where he's
12 testified to and where the blood spot appears to be, but
13 behind the two vehicles, and another black male standing
14 close to the victim. He stated that he saw a muzzle flash.
15 And when he testified yesterday, he claimed that he saw the
16 shooting clear as day and that he could even tell what kind
17 of weapon it was. He said he thought it was a .38
18 revolver. Now, we know that the weapon used wasn't a .38
19 revolver, but he said that that's what it looked like to
20 him, and he could see it, that when he talked to officer
21 Davis, he said that he saw a muzzle flash, but he was
22 unable to see what type of handgun the suspect used in the
23 shooting. He said he stated he heard approximately four
24 shots.

25 So on the night this happened, couldn't see the gun,

1 didn't see the shooter, but then he comes in here and he's
2 all certain about what he saw. That's not evidence that
3 you can rely on, folks. That's not something that proves
4 anything beyond a reasonable doubt. So if you had to bet
5 something that was important to you on it, would you rely
6 on that testimony to say that Adam Young shot anybody?

7 And he didn't mention anything at all about Tyronzo
8 Walker being out there. Tyronzo Walker said he was there.

9 Then we heard from Toot Smith, Keith Smith, best
10 friend in the world to Marcus McGee. He told you that on
11 the stand. There was discussion about him being cousins
12 with Adam Young, but he said, "I've got no feeling at all
13 for Adam Young."

14 Marcus McGee was his best friend in all the world, and
15 had been for quite some time. He said that they were there
16 at the club, that they were smoking a blunt. He said that
17 they got word that there were people out there that were
18 looking for him because he talked about the fact that Adam
19 came in, Adam talking to him about giving the money back,
20 and that, essentially, Marcus McGee ignored him. And so he
21 then got up and left the club. And then a short time
22 after, Toot said he left and he went with David Walker who
23 had come in, and they were going to get in David Walker's
24 car, which had been moved to the front. He said he went
25 around and got in the passenger's seat and he said David

1 Walker got into the driver's seat, and they were sitting
2 there waiting for Boogie to come out. He said at some
3 point he never saw Boogie come out, but he heard a gunshot
4 and then somebody told him, and he went, and he went to
5 Marcus McGee's body.

6 And this is important, folks. He admits that he went
7 to Marcus McGee's body. He says that he leaned over and he
8 started shaking the body, he was trying to shake him to
9 come back. But there's no question that he went to the
10 body.

11 And I asked him, "Did you take anything from him?
12 Drugs? guns? Anything like that?"

13 "No. I didn't do anything like that."

14 But here's the strange thing. He left. He left the
15 scene. Now he said it's because he was afraid. But we
16 know the police got there very shortly, and we also know
17 that if he was really out there and he was a witness to
18 anything that was going on, the people that he claimed to
19 be afraid of had left. There wasn't any reason in the
20 world for him to leave the scene unless he was leaving the
21 scene to get rid of something that he didn't want anybody
22 to find like a gun.

23 And it would make perfect sense that a drug dealer, a
24 reputed drug dealer would carry a gun, because this can't
25 be the first time that he's had people that were upset with

1 him. It just makes absolute sense. Can't get around the
2 fact that he was there and that he left and he went home
3 and then he came back. And, again, he didn't make any
4 mention of Tyronzo Walker leaving him. No mention
5 whatsoever.

6 Then we get to Tyronzo Walker who says, "I was an
7 eyewitness. Not only was I an eyewitness, but I was
8 standing right by Marcus McGee when he got shot." I mean,
9 literally, right by him, like so close they he could just
10 kind of go like that and touch him.

11 But nobody else said anything about seeing Tyronzo
12 Walker leaving. So why would Tyronzo Walker say that? He
13 would say that because he now knows that Porchae Adams, who
14 was charged with murder and who has now been allowed to
15 plea to accessory after the fact of murder, is coming
16 forward, and she is cooperating. And we know that he is a
17 friend of Porchae Adams because he was the one that called
18 her before she got there. He was the one that went out to
19 the car and talked to her. And now he's saying, "Well, I
20 was right there and I saw the whole thing." It's awfully
21 convenient that he's going to put the gun in Adam Young's
22 hand.

23 One person we didn't hear from, which I find odd, he
24 was on the witness list, if you remember, when we called
25 out witnesses beforehand, was David Walker, Little David,

1 who was Tyronzo's brother. He is presumably an eyewitness
2 to this. Multiple people put him right there.

3 Now, Tyronzo said that David wasn't in the car when it
4 happened, but we heard from other people that David was
5 right there in the front seat of this car right here, this
6 car. And, you know, if, in fact, as the blood spot would
7 indicate, Marcus McGee was shot right here -- now Tyronzo
8 had him being shot out here someplace. The first statement
9 of the bouncer had him being shot behind the cars. But you
10 can see where it happened. That means that David Walker
11 would have been right there. He would have had a front row
12 seat. He would have seen everything that was happening,
13 and yet they don't call him as a witness. They made the
14 decision not to call him.

15 Then we get Porchae Adams. And folks, from her
16 demeanor alone, you can tell that Porchae's not telling the
17 truth. But she is trying to save herself, and she did.
18 She's not going to be convicted of murder.

19 She's the one that had the beef with Marcus McGee to
20 begin with. She's the one that got ripped off. She's the
21 one that was on the phone mad. She was the one to spend
22 all the time looking for him. But to hear her tell it,
23 "Yeah, he sold me some stuff, but we made it right. He was
24 going to give me my money back the next day. I wasn't even
25 mad at him. I wasn't even looking for him. Everything was

1 okay between us. You know, Adam and I went out, we stopped
2 at a couple of places, we sold drugs, and then basically,
3 we went clubbing. We went over to T-shirts and we had a
4 few drinks, and then we were going over to Bobby T's
5 because Tyronzo, Ron, called and said, 'Come on over here.'
6 Didn't have anything in the world to do with Marcus McGee.
7 We didn't know Marcus McGee was there until we pulled up
8 and we saw his car."

9 She said she didn't remember any discussion when they
10 left. She said that, you know, she didn't see the shooting
11 but that Adam came back and got in the car. And Adam said
12 -- and I'm not going to give you the whole quote because I
13 don't want to say anything that's offensive -- but
14 supposedly got back in the car and said, "I killed that."
15 And she said that was the only discussion. The only
16 discussion.

17 And then they drove away. And then they got involved
18 in this high-speed chase.

19 She says that she didn't know anything about a pistol,
20 that she never said anything about a pistol. But you heard
21 from Andrea Crossman that as they're involved in this case,
22 she heard Porchae Adams say repeatedly, "Did you get rid of
23 the pistol? Did you get rid of the pistol?" Her concern
24 was about the pistol, which would certainly indicate that
25 the pistol belonged to her.

1 And she conveniently said, "Oh, I know he had a pistol
2 because he tried to sell it to me earlier in the day." But
3 she was the one that was concerned about getting rid of the
4 pistol, and she said it over and over. And Andrea
5 Crossman, who wasn't even present for anything else other
6 than when she was in the car for this chase, is the one
7 that tells you that.

8 Then you hear that when they finally do get stopped,
9 who is the one that gets out and runs away? Who's the one
10 that got away? It was Porchae Adams. And we know that as
11 Porchae is running away, not only is she getting away, but
12 she's getting rid of stuff as she's going. And how do we
13 know that? Because Officer -- or Deputy Walters told you
14 that the K-9 found some cocaine located in a backyard at
15 the area where they were stopped. Adam Young never got out
16 of the car. Andrea never got out of the car. Adam Young
17 complied with everything the police asked him to do, didn't
18 fight. They took him into custody, and they took him down
19 to the jail.

20 And, folks, then we get to Iona Ooten, and she is a
21 very important witness. She was the forensics officer, and
22 she is one who can corroborate in large part what he told
23 you about not having a gun and not being the shooter. She
24 said -- she talked about how they went to different places
25 and they did different things.

1 But one of the things was she went to where they
2 recovered the gun right here, .25-caliber semi-automatic.
3 The ME, when he testified, said that it was low caliber
4 shots. This is a low caliber. The forensics, James
5 Armstrong, said that it was a .25 automatic. Those slugs
6 that were taken out of the body, .25 automatic. He said he
7 couldn't say for certain that this was the gun, but he
8 couldn't rule it out either. But we do know it was a
9 .25 automatic, and this was found in the yard as you saw.
10 All right.

11 So Ms. Ooten takes it into her possession. Now, she
12 says they don't dust it for fingerprints, because
13 apparently, she said, it was unlikely they would get any
14 fingerprints. I would question why you don't at least try,
15 but they didn't. That's fine. But what they did test for
16 was DNA, because apparently, there's a thought that you
17 could get some DNA. And they certainly had Mr. Young in
18 custody. No problem getting DNA from him if they want to
19 compare it to this gun to see if he ever had it in his
20 hand. We don't know whether they did that or not because
21 we didn't hear about any results from DNA. So presumably,
22 either they didn't test it or they tested him and they
23 didn't find anything. We don't know.

24 But here's the one that's really important. She said
25 that they check, that they did a gunshot residue test,

1 gunshot residue test on Mr. Young. And what that is is
2 they can tell whether somebody has fired a gun recently or
3 not because it leaves a substance on your hand that can be
4 easily tested for. And she said that they did that with
5 him. Did you hear any results? We know they tested, but
6 apparently no evidence that he held that gun. In fact, I
7 guess we would have to assume, based on the fact that we
8 didn't hear about it, that there is no evidence that he was
9 holding a gun. Corroborates what he's saying. He didn't
10 have the gun. He did not fire a gun. Had he done that,
11 we'd have some results from this gunshot residue test.
12 That's why they do it. That's why it's important.
13 Corroborates exactly what he told you from the witness
14 stand that somebody else fired the gun.

15 The other thing that's really important is this. We
16 heard that there were three people in the car that Adam
17 Young was driving there at Bobby T's. Adam Young was
18 driving, Porchae Adams was in the driver -- or the
19 passenger's seat and Jack Frost, Mr. Chapman, was in the
20 back. Those were the people that were in the car when they
21 left. Several people that testified made reference to a
22 man in a black hoodie, even people who said that they
23 recognized Adam Young said he had on a black hoodie. Some
24 people said that they didn't know who the shooter was,
25 couldn't identify, still said black hoodie. All right.

1 When the car was stopped and they arrested these
2 people, he wasn't wearing a black hoodie. And more
3 importantly, they took all of his clothes into their
4 possession, put it in Property and Evidence, but they also
5 processed the car. No black hoodie was ever located
6 despite the fact that they executed search warrants,
7 searched everything, took everything into possession. No
8 black hoodie. So we've got no gunshot residue and we've
9 got no black hoodie, which means that, in all likelihood,
10 if anybody was wearing a black hoodie, it was the person
11 that got out of the car, the person that they let off very
12 shortly after leaving Bobby T's, and that was Jack Frost.
13 That's, in all likelihood, who the black hoodie person was
14 that people claimed that they saw.

15 So, folks, you get to make the decision, and you have
16 to ask yourself: Am I firmly convinced based on the
17 evidence that's before me? You don't get to fill in the
18 blanks for them. You don't get to say, "Eh, you know, I
19 think he probably did it." You have to be definitely sure.
20 That's another way of saying "firmly convinced." In other
21 words, when you get back there and you start going through
22 this evidence and you have questions, why didn't I hear
23 this, or what about that, that's reasonable doubt, folks.

24 You've got testimony from several people. Here's the
25 thing. Everybody's always going to get things a little bit

1 different. That's just how things -- that's just how life
2 is. Nobody is going to get everything exactly the same.
3 But if people are telling the truth, if everybody sort of
4 witnessed the same thing, they are going to be consistent
5 in most regards.

6 But as you listened to the witnesses in this case, all
7 of whom you kind of get the idea would be almost impossible
8 to ever get a straight answer out of anybody, their
9 versions of what happened are wildly different. I mean,
10 I'm not going to go through every bit of it. You listened
11 to the same things I listened to. And the fact of the
12 matter is, if y'all get back there and you start to have
13 some discussions about it and you're not sure about
14 something, this young lady over here has taken down
15 everything that's been said, and she's got it recorded. So
16 if you need to, you come right back out here and listen to
17 testimony again. And this is a murder trial after all, so
18 I would ask you if that's something you feel like you need,
19 by all means, do that. If you don't want to just rely on
20 your memory, by all means, do that.

21 But we had everybody that testified, had parties
22 involved in different places, different parties, some
23 there, some not there, people coming out at different
24 times. No consistency whatsoever in any of them. I mean,
25 everybody is inconsistent. And so you have to ask

1 yourself -- and, you know, Adam Young didn't have to take
2 the stand. He didn't have to testify. But he did, and he
3 went through, and he told you, and he explained the tapes.

4 And, you know, the tapes, you know, they're damage.
5 They're admissions. But you can believe what he said
6 because the evidence supports it. And the most critical
7 evidence is no -- no DNA, no gunshot residue, and no
8 hoodie. The gun was not in his hand. He did not fire the
9 gun.

10 His Honor is going to tell you that it is not against
11 the law to merely be present when something happens. And
12 bear in mind, he told you that Marcus McGee was reaching as
13 though he were going for a gun. Now, he didn't say he saw
14 a gun. And if he wanted to lie instead of tell the truth,
15 the easiest thing in the world would be to say, "I saw a
16 gun." But he said, as he saw Marcus McGee reaching,
17 somebody said something to him, Marcus McGee turned and,
18 bam, that's when he heard the shots. And he said there was
19 about three or four shots, and he didn't see who shot him.
20 And he said that he said something, stood there for a
21 minute, and then he went back to the car that he had come
22 in. That's what he told you. It is clear that somebody
23 else shot.

24 Now, the solicitor may make the argument, well, let's
25 say that he's telling you the absolute truth and one is the

1 hand of all. In other words, if they went there to do some
2 act of violence on Marcus McGee, then he's just as guilty
3 whether he pulled the trigger or not. And under the right
4 circumstances, that would be true. But he has to -- there
5 has to have been some plan for something like that, and it
6 has to be something that he was actively involved in. To
7 merely have been present is not enough.

8 Now, what he told you was, "I went in there to talk to
9 Marcus McGee. He ignored me, and I left." And he said, "I
10 went to the bathroom, and I saw them walking out, and I was
11 going to walk out behind them. And I was on the phone, I
12 guess, with Porchae and said, 'They're on their way out.'"
13 It wasn't -- you know, there's no evidence that there was
14 an ambush out there waiting, but he lured them out, that
15 that is what he went in there for. He went in there to
16 talk to them about getting the money back.

17 Now, Porchae told you that there wasn't even a beef,
18 that they had worked things out completely. But, again,
19 going on what he said, they walked out. There was no plan
20 to shoot anybody. He had no reason to believe anybody was
21 going to get shot. Yeah, she had a gun. She's a drug
22 dealer, just like Marcus McGee was a drug dealer. Would
23 expect all these people to have guns. But that's not
24 enough.

25 Here's how "hand of one, hand of all" works. If I go

1 by and get Mr. Weston here, and I say, "Hey, man, carry me
2 over to the Spinx. I want to get a six pack of beer," and
3 on the way over there, I say, "You know what? I'm going to
4 rob this place while we're there, while I'm in there. You
5 just wait for me outside. That's all you have to do."

6 And he says, "All right, man. But I'm not down with
7 hurting anybody."

8 I say, "Don't worry."

9 I walk in there and rob the place, kill the cashier,
10 come back out. Guess what? He's not only guilty of armed
11 robbery, he's guilty of murder. Because he knew I was
12 going in there with a gun, and it's reasonably foreseeable
13 that I would kill somebody in an armed robbery.

14 On the other hand, if we had gone over there, same
15 place, and I said, "I'm going to get a six pack of beer.
16 And, by the way, I recognize that girl that's working in
17 there, and she owes me some money. I'm going to go in
18 there and talk to her about it," and he sits out there and
19 waits, but I go in there, and we get into it with each
20 other and I kill that girl, I come back out, that's not his
21 fault. He didn't have anything to do with it. He's not
22 guilty.

23 Now, he did help drive Porchae away. He did help
24 Porchae get away. And, I guess, that would make him an
25 accessory after the fact, which is not what he's charged

1 with. That is, conveniently enough, what Porchae Adams
2 plead guilty to instead of murder. They didn't "hand of
3 one, hand of all" her. They didn't do that to her, even
4 though supposedly she's the mastermind behind the whole
5 thing. She's the one who set the whole thing up. It was
6 all her fault.

7 Ladies and gentlemen, there's just a lot wrong with
8 this case. There's not a solid foundation there for them
9 to build a case. They certainly haven't proven the case
10 beyond a reasonable doubt.

11 We appreciate you being here. Mr. Young has been
12 waiting for this day and his day in court, and we look
13 forward to your decision in this case.

14 I'll tell you again that when you look at the
15 evidence, there's not enough there. The gun was not in his
16 hand. If it was, you would have seen the gunshot residue
17 come back and it would have seen positive. You would have
18 seen some DNA. They would have found a hoodie. He's not
19 the one. The appropriate verdict in this case is not
20 guilty.

21 I appreciate your attention. I thank you, and I'm
22 going to do the hardest thing I'm going to have to do at
23 any point in this trial, and that is listen to the
24 solicitor give her closing argument, which I can't respond
25 to. I wish I could. But you know what the evidence is in

1 the case.. You know the evidence that you don't have in
2 this case. Just keep that in mind. Thank you.

3 THE COURT: Yes, ma'am.

4 MS. MAJOR: May it please the Court. Ladies and
5 gentlemen, we have presented our case to you. It's now in
6 your hands to begin your deliberations. This is a court of
7 justice and it's a court of truth, and sometimes that
8 process can be slow and deliberate, so I thank you for your
9 time and attention in listening to this. Because the
10 stakes are high. It doesn't get any higher than this. And
11 we recognize that, and we recognize that this is our burden
12 beyond a reasonable doubt. We tried to streamline this
13 case as much as possible but also give you all of the
14 important evidence that you need to decide this case.

15 We told you in the beginning of this trial that this
16 case was about street revenge. It's about one man thinking
17 he can do whatever he wants, however he wants to do --
18 accomplish a goal, to kill somebody. It's about David Adam
19 Young killing the victim, Marcus McGee, with malice
20 aforethought. It's about the defendant murdering the
21 victim.

22 We've heard lots of testimony about the defendant --
23 or, excuse me -- the victim, Marcus's actions. He sold
24 drugs. He sold drugs. That was how he made his money.
25 I'm sure we don't agree with his lifestyle. He wasn't

1 making an honest living. But regardless of how we feel
2 about how he was making his money, we have laws in this
3 country, in this state and in Greenville County. One of
4 those laws is you cannot murder somebody. It doesn't
5 matter if they sold drugs. It doesn't matter if they
6 flexed you. It doesn't matter if you think that they did
7 you wrong. You can't murder somebody. We don't tolerate
8 that. It's against the law. So not only is this case
9 about street revenge, but it's also about upholding the law
10 and having it apply to everyone. It doesn't not apply to
11 somebody just because their victim happens to have sold
12 some bad drugs.

13 We've been dealing with this case for about three days
14 now, so you've heard numerous witnesses from the stand and
15 you have some physical evidence here and some pictures.
16 I'd like to go over with you the evidence that we have
17 presented and shown that we have proved this case beyond a
18 reasonable doubt. And as you know, the defendant has been
19 charged with three crimes: failure to stop for a blue
20 light, murder, and possession of a weapon during a violent
21 crime.

22 So let's start with the failure to stop. Even though
23 it sounds like they're conceding that, it's still our
24 burden to prove to you beyond a reasonable doubt that he's
25 guilty of failing to stop for those blue lights. You heard

1 from Officer Watkins, and you saw the video where that blue
2 Chevy Aveo, Officer Watkins attempted to stop it. It had
3 been wanted in connection with that shooting. You saw the
4 chase, you saw how the car didn't stop, you saw the L and
5 the S for lights and siren. The audio wasn't working, but
6 you heard it go in and out so you could hear the siren.
7 The car clearly didn't stop.

8 You heard from Porchae Adams and Andrea Crossman.
9 They were in the car. You also heard from the defendant.
10 So we have met that burden beyond a reasonable doubt.

11 So let's get to the heart of this case, murder.
12 That's why we're here. You heard from Dr. Fulcher. He
13 told you that the cause of death was a gunshot wound to the
14 head. The manner of death was homicide. And he testified
15 that the gunshot wound was approximately two to eight
16 inches away, close -- close shot.

17 You heard from Elisha Green who told you about the
18 drug deal earlier that day and how Porchae Adams had been
19 calling the victim and wasn't happy.

20 You then heard from Robert Bowens, the bouncer. He
21 told you that he saw the defendant go into the club and
22 then stayed in there for about -- he patted him down.
23 Didn't find a weapon. He stayed in there for about
24 10 minutes and then he saw him exit. About 30 minutes
25 later, he sees the victim, Robert Bowens sees the victim,

1 Marcus McGee, leaving. He told you that his back was to
2 White Horse Road and he hears a shot. He did not see that
3 shot and he has been consistent about that. Did not see
4 that shot. Hears the shot, turns around. Okay. I think
5 from the stand he said he was about this far away standing
6 at the door. He saw it. He was right there.

7 So he sees Marcus McGee falling down, and then he sees
8 the shooter shoots three more times. That's what he told
9 you on the stand, that's what he told police. And in my
10 opinion, it's consistent. He said he didn't see the
11 shooting. By that, he means the first shot. He turns
12 around and sees the muzzle flashing. Told you no one
13 disturbed the body.

14 Also that night he was shown a lineup with Marcus --
15 with David Adam Young, No. 5. He circles it and writes,
16 "This is the shooter." Mr. Bowens doesn't know the
17 defendant, he doesn't know Marcus, he has no reason to lie.
18 He identified him that night. He has been consistent.
19 Maybe -- maybe he said that the body was towards the rear
20 of the vehicle or in the middle of the vehicle. That
21 doesn't matter. He's been consistent about who the shooter
22 was: No. 5, the defendant. This is the shooter.

23 We heard from Keith Smith, Keith "Toot" Smith who
24 confirmed what the defendant said on the stand, that the
25 defendant went and confronted him about this \$1,350, about

1 this money. He knows who the defendant is. It's his
2 cousin. He knows him well. He knows what he was wearing
3 that night when he went in. He did not say that he saw the
4 face of the shooter when the shooting took place, but he
5 did see that same black hoodie.

6 You heard from Porchae Adams. Porchae Adams was also
7 charged with murder in connection with this -- with these
8 events. The solicitor's office decided to plead her to
9 accessory after the fact. There are many, many reasons why
10 that decision was made. She was offered to plead to
11 accessory after the fact in exchange for her truthful
12 testimony on the stand. Her plea agreement has nothing to
13 do with the defendant's actions. Nothing. She wasn't
14 offered this plea agreement before this took place.
15 Has nothing to do . . .

16 I don't want -- I want you to keep focus on what the
17 defendant did. They want to push it off and somehow make
18 her plea agreement make him not responsible for killing a
19 man. We're here because of what he did, and Porchae told
20 you what happened that night. She told you that he had a
21 gun. She told you they went to Bobby T's. She told you
22 they pulled up, waited, he then gets out, says, "I'm going
23 to handle this," and he comes back, says, "I killed him."

24 We heard from Officer Napolitano and Holman, the
25 officers who were first on the scene. Told you how they

1 responded. They secured the crime area, radioed
2 information out, controlled the crowd, separated witnesses
3 and transported witnesses.

4 We heard from Iona Ooten with forensics. She was
5 called out to the scene on the route of the chase where the
6 gun was found right here and ammunition back up on Saco
7 Street. She told you she secured the gun. It was a
8 .25-caliber gun and the ammunition was for a .25-caliber
9 gun.

10 You heard from James Armstrong. He was the firearms
11 expert. He told you that he test fired this gun that was
12 found on the scene. He told you how he test fires or how
13 he makes comparison. He puts a gun, a test fire in here,
14 takes it out to the shooting barrel back behind the Law
15 Enforcement Center, and that's stainless steel, and he
16 takes that bullet and those casings and compares them to
17 what we have. He compared them to the two bullets found in
18 Marcus's body, and compared it to the casings that were
19 found on scene. And although he couldn't say for certain
20 that that came from this gun, it's consistent.

21 Also this black hoodie. There are all these red
22 herrings in the case the defense wants to divert your
23 attention to. You heard from the defendant himself they
24 made two other stops. That black hoodie could have been at
25 either one of those places. He could have thrown it out on

1 the road. He had ample opportunity. The shooting takes
2 place at 5:28 and we don't see the defendant again until, I
3 believe it was, 5:58.

4 And then the jail calls. You heard the defendant
5 admit what he did. These versions of -- that the defense
6 wants to tell you about, they're not wildly different.
7 People's perceptions are different. Everybody is going to
8 tell you a little bit different story that's their
9 perspective. They're not wildly different. They're very
10 consistent.

11 So not every killing of another person, not every
12 homicide is a murder. Murder requires malice. The judge
13 will instruct you on what malice is. He is going to tell
14 you that it is ill-will, hatred or hostility towards
15 another human being. I like to think of it as just being
16 mean, being cold and malicious.

17 The defendant was malicious, mean and cold when he
18 killed the defendant. They were on a hunt for Marcus McGee
19 that night. He goes inside and confronts him about the
20 \$1,350, and Marcus blows him off. And apparently, Keith
21 Smith said another nasty comment to him about knocking him
22 off the bar stool, and he's mad. And so he walks outside
23 the club, which is what Robert Bowens told you.

24 And then the defendant lies in wait for Marcus to walk
25 out. Marcus comes out, and the defendant sees him and he

1 pounces. You heard Tyronzo Walker say that he heard the
2 shooter call the victim's name three times, "Boogie,
3 Boogie, hey, Boogie," and then something to the effect of,
4 "You better give that back." And before Marcus can turn
5 his head to focus on who is calling his name, bam, bam,
6 point-blank. It's malicious, it's mean, it's cold, it's
7 malice.

8 Okay. So he's not done. Mr. McGee is falling down
9 and then, bam, bam, bam, three more times. It's malicious,
10 mean and cold. He puts his hoodie back up and calmly walks
11 away and gets in the car.

12 Porchae Adams told you that night before the shooting
13 he said, "I'm going to go handle this." And when he gets
14 back into the car, he says, "I just killed that man."
15 Malicious, mean and cold.

16 After that incident, his complete break with reality
17 and law is not done. Officer Watkins gets behind him. Not
18 only does he -- does this defendant think that he can shoot
19 somebody point-blank in front of all these people, he also
20 thinks that he doesn't need to stop for police when they
21 see this blue Chevy Aveo that's wanted in connection with
22 this shooting. And he drives through a cemetery over
23 graves, much less, to try to get away.

24 We also heard the jail calls. We heard the complete
25 lack of remorse, the boastful tone, and the complete

1 disregard of human life. We heard him say, "Got a chance
2 to straighten that money up. Oh, y'all playin'. Watch
3 this." And we also heard about a prior, I guess, grudge
4 that he had against Marcus from back in 2008 over \$14,000
5 and like there ain't going to be no repercussions, that he
6 shot him gangster style.

7 And he's talking to his good friends here. I don't
8 understand the rationale in protecting Porchae. Why is he
9 going to tell his good friends, who he won't even get up on
10 the stand, a complete lie to protect Porchae? How does
11 that protect her? Like he's some knight in shining armor.

12 He also talks to a lady and tells her that he's
13 "shitting me out of my money."

14 "What do you mean?"

15 "I mean \$1,350. He gave me some bad shit. I told him
16 to give me my money, give me my money. And he didn't give
17 it to me, so I shot him." That's consistent with what the
18 witnesses said. Give that money back, give that back.

19 And then she asks, "How many times did you shoot that
20 boy?"

21 "I guess I dropped about four in him."

22 She says, "Why did you do that?"

23 "Because I know exactly what spot to shoot him in."

24 That is malicious, mean and cold, and that is malice.

25 We didn't play all of the jail calls for you. We just

1 wanted to give you a flavor. They're in evidence, if you
2 feel the need to go back and listen to what we have put in
3 evidence.

4 And finally, the possession of a weapon during a
5 violent crime, that is also fairly straightforward. It's
6 that the defendant committed murder, which is a violent
7 crime, and he did so while possessing a deadly weapon.

8 We heard from the defendant. And his testimony is
9 somewhat consistent with Porchae's as far as the events
10 leading up to that night. They went to different spots
11 around. Even under his version, he's still guilty. He
12 knows what Porchae wants, he knows -- he's her enforcer.
13 He knows that he is going to go in there and confront
14 Marcus McGee, and that if Marcus says, "No, I'm not giving
15 you your money back," he's really going to say, "Okay, be
16 careful"? Come on. Come on.

17 He was on the hunt for the victim that night along
18 with Porchae. And he claims that she knew that she [sic]
19 was armed. He's in the club, and he sees them walking out
20 and he's on the phone. They're coming out. And I believe
21 he said that he saw the victim reaching for something, and
22 yet he's sitting there looking at the victim but doesn't
23 see the shooter. Come on. And then the shooter, who was
24 either Porchae or Jack Frost, gets away, goes to the car,
25 and then the attention is diverted on him which buys them

1 time to get to the car? But regardless, he is admitting to
2 being an accomplice to this murder. He drives them away.
3 He helps them dispose of the evidence. They're all
4 throwing guns and ammunition out.

5 He has the motive, the biggest motive to lie, and it's
6 a shame that he got up on the stand and lied under oath and
7 tells the truth on a jail call. Maybe he -- he probably
8 knew that those phone calls were being recorded. Maybe he
9 didn't think that anybody would be listening to them.
10 That's probably what it is. He wasn't doing it to be a
11 knight in shining armor to protect Porchae.

12 Again, ladies and gentlemen, you probably don't agree
13 with selling drugs and the defendant's lifestyle and how he
14 made money, but we still live in a civilized society. We
15 have rules. We have laws. You're not exempt from the law
16 and from taking the law into your own hands just because
17 somebody sells drugs.

18 Beyond a reasonable doubt, that is our burden to prove
19 this case to you. Now, beyond reasonable doubt does not
20 mean beyond all doubt, it does not mean beyond all possible
21 doubt, and it doesn't mean that you don't question this
22 evidence. It doesn't mean that you don't go back there and
23 deliberate among yourselves and pose questions to each
24 other. It means you carefully review the evidence, and
25 after you've done that and thought about that, you're

1 firmly convinced of the defendant's guilt. Just because he
2 proposed a different version doesn't mean that he's not
3 guilty beyond a reasonable doubt. It's your job to take
4 all of the evidence, weigh it and be firmly convinced that
5 this defendant murdered the victim.

6 As I said, justice can be a slow and deliberate
7 process. But it has to be. We have presented all of the
8 relevant evidence to you and tried to streamline this as
9 much as we could. I assure you that we have presented
10 everything you need to decide this case. We could have
11 extended this case several more days by calling all of the
12 witnesses involved and everybody who touched a piece of
13 evidence, but we're not going to present to you evidence
14 that you don't need, that doesn't mean anything. We are
15 presenting the significant evidence and not going to
16 present you with a witness that basically doesn't say
17 anything and doesn't help you make your decision.

18 We can't test everything. There's a lot of stuff
19 tested. I mean, this isn't some unlimited resources. I
20 mean, it's the government, it's the government agency. We
21 cannot test everything. It's just not possible. They can
22 collect lots, more than they can actually test. And that's
23 just the nature of the world.

24 So I submit to you that we have proven this case
25 beyond a reasonable doubt. The defendant killed the victim

1 in cold blood, and I ask that you return a verdict of
2 guilty.

3 THE COURT: Thank you.

4 CHARGE ON THE LAW

5 THE COURT: Mr. Foreman and ladies and gentlemen of
6 the jury, you have seen and heard all of the evidence
7 presented in this case as well as the arguments of the
8 lawyers, and it is now my duty and obligation to instruct
9 you on the law that is applicable to this case. It will
10 then be your solemn duty and obligation to begin your
11 deliberations through which process you will decide the
12 facts, apply the law as I instruct it, and render a fair
13 and impartial decision.

14 It is your exclusive duty to determine what the facts
15 are in this case. You do that based on your own common
16 sense, examination and evaluation of the testimony and
17 other evidence received during the trial of this case. You
18 12 jurors alone will decide what effect, value and weight
19 is to be given to any particular testimony or other
20 evidence received. Quite simply, your ultimate goal is to
21 find the truth in this case, and by doing so, you will have
22 fulfilled your obligations as jurors in this case in giving
23 both the State and the defendant a fair and impartial trial
24 based on evidence presented and the law as I instruct it.

25 The indictments charge the defendant with the offenses

1 of murder, possession of a weapon during the commission of
2 a violent crime, and failure to stop for a blue light. I
3 remind you that the fact the defendant was arrested,
4 charged, and indicted in this case is not evidence and
5 cannot be considered by you as evidence of guilt in this
6 case, nor does it create any presumption or inference of
7 guilt. The documents simply are the formal written
8 instruments which contain the charges made against the
9 defendant. It is the documents by which the case is
10 brought before this court.

11 The defendant has entered a plea of not guilty to all
12 charges in both indictments, and that plea puts the burden
13 squarely on the State of South Carolina to prove him
14 guilty. A person charged with committing a criminal
15 offense in this state is never required to prove himself
16 innocent.

17 I charge you that it is a cardinal, important, and
18 vital rule of law that in a criminal trial, no matter what
19 the seriousness of the charge for which the defendant
20 stands charged, the defendant will always be presumed to be
21 innocent of the crime for which the indictment was issued
22 unless guilt has been proven by evidence satisfying you of
23 that guilt beyond a reasonable doubt. This presumption of
24 innocence does not end when you begin your deliberations,
25 but it accompanies the defendant throughout the trial and

1 until you reach a verdict of guilt based on evidence
2 satisfying you of that guilt beyond a reasonable doubt.

3 The presumption of innocence is like a robe of
4 innocence placed about the shoulders of the defendant which
5 remains with him from the moment of his arrest and
6 continues until it has been stripped from his shoulders by
7 evidence satisfying you of his guilt beyond a reasonable
8 doubt.

9 The presumption of innocence is not mere legal theory
10 or a legal phrase, but a substantial right to which every
11 defendant is entitled unless you 12 jurors are satisfied
12 from the evidence of his guilt beyond a reasonable doubt.

13 I remind you that during this trial, you and I have
14 certain duties to perform. As the trial judge, it is my
15 responsibility to preside over the trial of this case and I
16 also have the duty to rule on the admissibility of evidence
17 offered during the trial. You are to consider the evidence
18 before you. You are to consider only the testimony which
19 has been presented from the witness stand, any exhibits
20 which have been made a part of the record, and any
21 stipulations of counsel.

22 I have the additional duty to charge you the law in
23 this case. As the presiding judge, I am the sole judge of
24 the law in this case, and it is your duty as jurors to
25 accept it and apply it as I now state it to you. If you

1 have any idea as to what the law is or what the law ought
2 to be or what the law should be and it does not agree with
3 what I tell you, you must abandon your idea because you are
4 sworn to accept the law and apply it exactly as I state it
5 to you.

6 In every case tried in this court before a jury, you
7 the jury become the sole and exclusive judges of the facts.
8 A trial judge cannot intimate, state, comment on or make
9 any statement to a jury about the facts in the case. You
10 the jury are the sole judges of the facts of the case and
11 you are not to infer from what I have said during the
12 progress of this trial in ruling upon admissibility of
13 evidence or otherwise or anything that I now say to you
14 during my instructions that I have an opinion about this
15 case. The law of South Carolina does not allow me to have
16 an opinion about the facts in this case. This is a matter
17 solely for you, Mr. Foreman and ladies and gentlemen of the
18 jury, to determine. As jurors, it is your duty to
19 determine the effect, value, weight and truth of the
20 evidence presented during the trial.

21 The State has the burden of proving the defendant
22 guilty beyond a reasonable doubt. Ladies and gentlemen,
23 proof beyond a reasonable doubt is proof that leaves you
24 firmly convinced of the defendant's guilt. I tell you
25 there are very few things in this world that we know with

1 absolute certainty, and in criminal cases, the law does not
2 require proof that overcomes every possible doubt. A
3 reasonable doubt may also be described as the kind of doubt
4 that would cause a reasonable person to hesitate to act.
5 If you have such a doubt as to the guilt of the defendant,
6 then he would be entitled to a verdict of not guilty.

7 Reasonable doubt may arise from evidence which is in
8 the case or from the absence of lack of evidence in a case.
9 Based on your consideration of the evidence, if you are
10 firmly convinced that the defendant is guilty of the crimes
11 charged, you must find him guilty. If, on the other hand,
12 you think there is a real possibility that he is not
13 guilty, you must give him the benefit of the doubt and find
14 him not guilty. You alone must make the determination of
15 whether or not a reasonable doubt exists as to the guilt of
16 the defendant.

17 There are two types of evidence which are generally
18 presented during a trial: direct evidence and
19 circumstantial evidence. Direct evidence is the testimony
20 of a person who claims to have actual knowledge of a fact
21 such as an eyewitness. It is evidence which immediately
22 establishes the main fact to be proved.

23 Circumstantial evidence is proof of a chain of facts
24 and circumstances indicating the existence of a fact. It
25 is evidence which immediately establishes collateral facts

1 from which the main fact may be inferred. Circumstantial
2 evidence is based on inference and not on personal
3 knowledge or observation.

4 The law makes absolutely no distinction between the
5 weight or value to be given to either direct or
6 circumstantial evidence, nor is a greater degree of
7 certainty required of circumstantial evidence than of
8 direct evidence. You should weigh all of the evidence in
9 this case, and after doing so, if you are not convinced of
10 the guilt of the defendant beyond a reasonable doubt, you
11 must find him not guilty.

12 Under the constitution of this state, you are the
13 finders of the facts, and necessarily you must determine
14 the credibility of witnesses who have testified.
15 Credibility simply means believability. It becomes your
16 duty as jurors to analyze and to evaluate the evidence and
17 determine which evidence convinces you of its truth.

18 In determining believability of a witness who may have
19 testified, you may believe one witness over several or
20 several witnesses over one. You may believe a part of the
21 testimony of a witness and reject the remaining part of
22 that same witness's testimony. You may believe the
23 testimony of a witness in its entirety or reject the
24 testimony of a witness in its entirety. You may consider
25 whether any witness has exhibited to you any interest,

1 bias, prejudice or other motive in this case. You may also
2 consider the appearance and manner of a witness while on
3 the witness stand. Simply put, do you believe the witness
4 was telling the truth. You may consider how the witness
5 came to know the facts to which he or she testified and
6 whether or not the witness had an opportunity to hear,
7 observe or perceive a fact by means of their senses.
8 Whatever your good judgment and common sense tells you is
9 the most believable testimony is the testimony that you
10 should accept and reject the testimony which you find not
11 to be credible or believable.

12 The rules of evidence ordinarily do not permit
13 witnesses to testify to opinions or conclusions. An
14 exception to the rule exists for witnesses we've referred
15 to as an expert witness. A witness who, by education,
16 experience or skill has become an expert in some art,
17 science, profession or calling may state an opinion as to
18 relevant and material facts in which the witness claims to
19 be an expert and may also state the reasons for the
20 opinion. You should consider any expert opinion received
21 in evidence like any other evidence and give it the weight
22 you think it deserves.

23 If you decide that the opinion of an expert witness is
24 not based on sufficient education and experience, or if you
25 conclude that the reasons given in support of the opinion

1 are not sound, or that the opinion is outweighed by other
2 evidence, you may disregard the opinion in its entirety.
3 An expert witness's testimony is to be given no greater
4 weight than that of other witnesses simply because the
5 witness is an expert. Further, you are not required to
6 accept the expert's opinion even though it is not
7 contradicted.

8 Criminal intent is a necessary element of each crime
9 that must be proved by the State beyond a reasonable doubt.
10 Criminal intent is always a matter that must be determined
11 by the jury from the circumstances surrounding the
12 situation.

13 There is no way to prove intent to a mathematical
14 certainty. Medical science cannot dissect a person's brain
15 and determine what he or she had in mind, so the law says
16 that criminal intent may be inferred from the circumstances
17 shown to have existed. This is how a jury makes a
18 determination whether or not the element requiring intent
19 was present.

20 Criminal intent is a state of mind which operated
21 jointly with an act is the commission of a crime. Criminal
22 intent is a state of mind, a conscious wrongdoing, so it is
23 up to you, ladies and gentlemen of the jury, to determine
24 what the defendant intended to do based on the
25 circumstances shown to have existed.

1 I tell you that the State must prove criminal intent
2 beyond a reasonable doubt just as the State must prove
3 every element beyond a reasonable doubt as I previously
4 explained. It is not necessary to establish intent by
5 direct and positive evidence, but intent may be established
6 by inference in the same way as any other fact by taking
7 into consideration the acts of the parties and all the
8 facts and circumstances of the case. While the State may
9 prove motive, it is unnecessary for the State to do so, but
10 the State must prove intent.

11 I have instructed you that the defendant is charged
12 with the offense of murder, and I will now read to you in
13 part Section 16-3-10 of the South Carolina Code of Laws
14 that says, "Murder is the killing of any person with malice
15 aforethought, either expressed or implied." The defendant
16 is charged with murder, specifically that David Adam Young
17 did, in the County of Greenville, State of South Carolina,
18 on or about January 13, 2013, unlawfully and with malice
19 aforethought kill Marcus McGee by means of shooting him,
20 and that Mr. McGee died as a proximate result, all in
21 violation of the Code of Laws of this state.

22 The State must prove beyond a reasonable doubt that
23 the defendant killed another person with malice
24 aforethought. Malice is hatred, ill-will or hostility
25 towards another person. It is the intentional doing of a

1 wrongful act without just cause or excuse and with an
2 intent to inflict an injury under certain circumstances
3 that the law will infer or under circumstances that the law
4 will infer an evil intent.

5 Malice aforethought does not require that malice exist
6 for any particular time before the act is committed, but
7 malice must exist in the mind of the defendant just before
8 and at the time the act is committed; therefore, there must
9 be a combination of previous intent, evil intent and the
10 act.

11 Malice aforethought may be expressed or inferred. The
12 terms "expressed" or "inferred" do not mean different kinds
13 of malice, but merely mean the manner in which malice may
14 be shown, that is, either by direct evidence or inference
15 from the facts and circumstances proven.

16 Express malice is shown when a person speaks words
17 which express hatred or ill-will for another or when the
18 person prepared beforehand to do the act which was later
19 accomplished. Malice may be inferred from conduct showing
20 a total disregard for human life. Inferred malice may also
21 arise when the deed is done with a deadly weapon.

22 A deadly weapon is an article, instrument or a
23 substance which is likely to cause death or great bodily
24 harm. Whether an instrument has been used as a weapon
25 depends on the facts and circumstances of each case.

1 A person engaged in the commission of an unlawful act
2 is legally responsible for all the consequences which
3 naturally or necessarily flowed from the act as one of its
4 probable and natural consequences even though what was done
5 was not intended as a part of the original design.

6 The defendant is charged with possession of a firearm
7 during the commission of a violent crime, specifically that
8 David Adam Young did, in the County of Greenville, State of
9 South Carolina, on or about January 13, 2013, possessed or
10 visibly displayed a handgun during the commission or
11 attempted commission of a violent crime, that being murder.
12 Section 16-23-490 of the South Carolina Code of Law
13 provides if a person is in possession of a firearm or
14 visibly displays what appears to be a firearm during the
15 commission of a violent crime and is convicted of
16 committing or attempting to commit a violent crime as
17 defined by state law, he is guilty of this offense.

18 "Firearm" is defined as any gun, rifle, revolver,
19 pistol or any weapon which will or is designed to or may
20 readily be converted to expel a projectile. Section
21 16-1-60 of the Code of Laws provides that murder is a
22 violent crime.

23 For you to find the defendant guilty of the separate
24 offense of possession of a firearm during the commission of
25 a violent crime, you must first find the defendant guilty

1 of either committing a violent crime or attempting to
2 commit a violent crime, in this case, the crime of murder.
3 If you find the defendant guilty of murder, you must then
4 determine whether the State has proved beyond a reasonable
5 doubt that the defendant was in possession of a firearm or
6 visibly displayed what appeared to be a firearm during the
7 commission of a violent crime.

8 "Possession" means more than simply having an object
9 in one's possession. Conviction of possession requires
10 proof of possession, either actual or constructive, coupled
11 with knowledge of the firearm's presence. Possession can
12 be shown by either actual possession or constructive
13 possession.

14 Actual possession occurs when the firearm is in the
15 actual physical custody of the person charged with the
16 possession. Proof of constructive possession, along with
17 knowledge of the presence of the firearm, is sufficient to
18 support a conviction for possession of a firearm. To prove
19 constructive possession, the State must show that a
20 defendant had dominion or control or the right to exercise
21 dominion or control over the firearm.

22 Constructive possession may be established through
23 either direct or circumstantial evidence, and possession
24 may be shared. Possession requires more than mere
25 presence. Possession may be inferred from the

1 circumstances and may be imputed to anyone who has the
2 power and intent to control the disposition and use of the
3 firearm.

4 To be guilty as an aider or abettor, the participant
5 must have knowledge of the principal's criminal conduct.
6 Mere presence at the scene is not sufficient to establish
7 guilt as an aider or abettor. The mere presence of a
8 defendant where a crime has occurred or the mere
9 association by a defendant with people who have committed a
10 crime is insufficient proof that the defendant has
11 committed a crime.

12 Evidence that an individual is present at the time a
13 crime is committed is not in and of itself sufficient proof
14 that the individual committed a crime. The mere knowledge
15 that another person is going to commit a crime, even if the
16 defendant is present when the crime was committed, is not
17 sufficient to convict the defendant as a principal.

18 The State must prove beyond a reasonable doubt by
19 competent evidence the theory of the hand of one is the
20 hand of all. To be guilty of a crime, a person must
21 personally commit the crime or be present at the scene of
22 the crime and intentionally or through a common design aid,
23 abet or assist in the commission of that crime through some
24 overt act. A principal in a crime is one who either
25 actually commits the crime or is present, aiding, abetting

1 or assisting in the commission of the crime. Presence at
2 the scene of the crime by a prearrangement to aid,
3 encourage or abet in the perpetration of the crime
4 constitutes guilt as a principal.

5 When a person does an act in the presence of and with
6 the assistance of another, the act is done by both. Where
7 two or more acting with a common plan or intent are present
8 at the commission of a crime, it does not matter who
9 actually commits the crime. All are guilty. The hand of
10 one is the hand of all. "Present" means to be sufficiently
11 near to aid and abet and assist in the commission of a
12 crime.

13 Intent is also a necessary element, for there must
14 have been a common design or intent to commit the crime,
15 and the crime must have been committed pursuant to that
16 plan with the person aiding and abetting by some overt act.

17 The burden is on the State to prove every element of
18 the crime charged. If you find, after reviewing all the
19 evidence, that the State has proved the defendant was only
20 present at the scene of a crime and that the State has not
21 proved beyond a reasonable doubt any participation in the
22 crime, then you are required to find the defendant not
23 guilty.

24 The defendant is charged with failure to stop for a
25 blue light, specifically that David Adam Young did, in

1 Greenville County, South Carolina, on or about January 13,
2 2013, willfully, knowingly and unlawfully commit the
3 offense of failure to stop for a law enforcement vehicle in
4 that while driving on a road, street or highway of the
5 State of South Carolina did intentionally fail to stop when
6 signaled to do so by a law enforcement vehicle using blue
7 lights and/or a siren. Section 56-5-750 of our Code of
8 Laws defines the offense of failure to stop for a blue
9 light as in the absence of mitigating circumstances, it is
10 unlawful for a motor vehicle driver, while driving on a
11 road, street or highway of the state, to fail to stop when
12 signaled by a law enforcement vehicle by means of a siren
13 or flashing light.

14 An attempt to increase speed of a vehicle or in
15 another manner avoid the pursuing law enforcement vehicle
16 when signaled by a siren or flashing light is prima facie
17 evidence of a violation. Failure to see the flashing light
18 or hear the siren does not excuse a failure to stop when
19 the distance between the vehicles and other road conditions
20 are such that it would be reasonable for a driver to hear
21 or see the signals from a law enforcement vehicle.

22 In order to establish a violation for failure to stop
23 for a blue light, the State must prove beyond a reasonable
24 doubt the defendant was driving a motor vehicle, he was
25 driving it on a road, street or highway in South Carolina,

1 the defendant was signaled to stop by a law enforcement
2 vehicle by means of a siren or flashing light, and he did
3 not stop. The signal requiring a motorist to stop may be
4 given by way of siren or flashing light, but both are not
5 required.

6 Now, Mr. Foreman, ladies and gentlemen, you have been
7 selected as fair and impartial jurors, sworn to impartially
8 try and determine the facts of this case, and when you
9 comply with your oath to do so, you will have fully
10 discharged your duty as jurors. You are to decide this
11 case according to the testimony that you have heard from
12 sworn witnesses along with the other evidence introduced.
13 During your deliberations, you may only discuss the case in
14 the jury room with your fellow jurors because they have
15 seen and heard the same evidence you have seen and heard.
16 However, you must not discuss the case with anyone else
17 until you have returned a verdict and the case is at an
18 end.

19 In the event that a juror takes a break, ladies and
20 gentlemen, to go to the restroom or for any other reason,
21 deliberations must stop until that juror has rejoined the
22 group. You must only deliberate in the presence of all
23 jurors.

24 After your service has ended and you have the right to
25 either discuss your verdict or to choose not to do so, you

1 have the right not to discuss your verdict.

2 Now, ladies and gentlemen, I charge you that your
3 verdict must be a unanimous one. Mr. Foreman, when the
4 jury agrees on a verdict, you will indicate your verdict in
5 the space provided on a verdict form and sign your name as
6 the foreman, then knock on the jury room door and inform
7 the bailiff you have reached a verdict. And at that time,
8 we will return you to the courtroom and receive your
9 verdict.

10 Now, Mr. Foreman, this is the form of which I speak.
11 It is a two-page -- one-and-a-half-page document. It has
12 the caption of the case. The defendant is charged with
13 three offenses. It has the indictment numbers. Again, it
14 has the caption of the case, the State of South Carolina
15 vs. David Adam Young, and the numbers.

16 Number one, we the jury unanimously find the
17 defendant, David Adam Young, on the charge of murder, not
18 guilty or guilty. Number two, we the jury unanimously find
19 the defendant, David Adam Young, on the charge of
20 possession of a weapon during the commission of a violent
21 crime, not guilty or guilty. Number three, we the jury
22 unanimously find the defendant, David Adam Young, on the
23 charge of failure to stop for a blue light, not guilty or
24 guilty.

25 The place to sign your name is on the second page

1 where it says, "I certify this decision was the unanimous
2 decision of the jury." It has foreperson there and today's
3 date in Greenville, South Carolina.

4 I charge you and tell you there is no significance
5 whatsoever to whether not guilty comes before guilty or
6 whether guilty comes before not guilty. This is merely a
7 form that has been created and I use in every case. Again,
8 there is no significance to the order, but there are three
9 questions, three issues, three offenses before you for your
10 consideration.

11 Mr. Foreman and ladies and gentlemen, I am going to
12 ask you to retire to the jury room. Do not begin your
13 deliberations.

14 Is lunch back there for them Mr. Bailiff?

15 THE BAILIFF: Yes, sir.

16 THE COURT: Your lunch is there. You may eat, if you
17 choose, but do not begin your deliberations, please.

18 All 13 will go back. When I send the exhibits back to
19 you -- as I've told you, they are here, they belong to you.
20 We're going to send those back to you. When I send those
21 exhibits back there, my bailiff will get my alternate and,
22 sir, he will take you to a secluded and secure spot so that
23 when you leave that room, you will take your lunch with you
24 if you've not already eaten, and it will just be a couple
25 of minutes. But I would take it to a new location. You're

1 not allowed in the jury room while they deliberate, but you
2 must be secured.

3 Again, Mr. Foreman, I will not send the ammunition and
4 the firearm. I will send the firearm first. Whenever you
5 desire to look at the ammunition, if you will knock on the
6 door and hand that particular exhibit to the bailiff, he
7 will return to the courtroom, he will secure that, and he
8 will retrieve the ammunition, and then he will deliver that
9 to you. I will not allow ammunition and a weapon in the
10 same room at the same time.

11 Mr. Foreman, you may take the jury out.

12 (WHEREUPON, the jury exited the courtroom at 12:45 p.m.)

13 THE COURT: Anything from the State?

14 MS. MAJOR: Nothing from the State, Your Honor.

15 THE COURT: From the defense?

16 MR. CHAMBERS: No, Your Honor.

17 THE COURT: Okay. Lady, gentlemen, if you will come
18 forward and look at the exhibits.

19 (WHEREUPON, a recess is taken at 12:45 p.m.)

20 THE COURT: Let me caution everyone, again, this court
21 will not tolerate any outbursts. This is a very serious
22 matter and it's highly charged, and I understand that. If
23 you cannot control yourself, I'm going to ask you to leave
24 quietly now before my jury comes in, okay? Please leave
25 quietly now. I will not have any outbursts. If I do, my

1 law enforcement officers will take those person or persons
2 into custody. That is summary contempt of the Court, and I
3 will deal with that today. I don't have to have a trial on
4 it because it happens in the presence of this court. So if
5 anybody wants to leave now, please take the next 30 seconds
6 to do so.

7 Okay. We'll have our jury.

8 (WHEREUPON, the jury entered the courtroom at 2:04 p.m.)

9 THE COURT: Mr. Foreman, has the jury reached a
10 verdict?

11 JURY FOREMAN: We have, Your Honor.

12 THE COURT: If you would hand that to my bailiff,
13 please.

14 Madam Clerk, if you'll publish the verdict.

15 VERDICT

16 THE CLERK: Your Honor, this is Case No.
17 2013-GS-23-10607 and 10608, the State vs. David Adam Young.
18 We the jury unanimously find the defendant, David Adam
19 Young, on the charge of murder, guilty.

20 We the jury unanimously find the defendant, David Adam
21 Young, on the charge of possession of a weapon during the
22 commission of a violent crime, guilty.

23 We the jury unanimously find the defendant, David Adam
24 Young, on the charge of failure to stop for a blue light,
25 guilty.

1 I certify this decision was the unanimous decision of
2 the jury, Stephen Eastland, foreperson.

3 If this is your verdict, please raise your right hand.

4 (WHEREUPON, the jury members raised their hands.)

5 THE CLERK: Thank you.

6 THE COURT: Poling of the jury by the State?

7 MR. WESTON: No, sir, Your Honor.

8 THE COURT: By the defense?

9 MR. CHAMBERS: No, Your Honor.

10 THE COURT: All right. Mr. Foreman and ladies and
11 gentlemen of the jury, that concludes your service on this
12 case. We appreciate you so very much, your attention and
13 your service.

14 Is there a panel?

15 THE CLERK: They're excused for the rest of the week.

16 THE COURT: They're excused for the rest of the week.
17 We will start another trial tomorrow, but you 13 are
18 excused for the rest of the week. That will conclude your
19 service for this week.

20 You are welcome at any time to come to this
21 courthouse. This courthouse belongs to you and is your
22 courtroom, and I encourage you to do so.

23 Mr. Foreman, the last thing you have to do, if you
24 would come forward, please, Madame Clerk, you must sign the
25 indictments.

1 (Pause in proceedings.)

2 THE COURT: Mr. Foreman, if you will now take your
3 jury back to the jury room, you will be released from
4 there. Again, thank you so very much for your service.

5 (WHEREUPON, the jury exits the courtroom at 2:08 p.m.)

6 THE COURT: Matters from the State?

7 MR. WESTON: Nothing from the State, Your Honor.

8 THE COURT: Defense?

9 MR. CHAMBERS: Just make sure that I'm able to check
10 the record for review, Your Honor. I'll make a motion for
11 a new trial motion and a motion for a verdict
12 notwithstanding -- or a judgment notwithstanding the
13 verdict.

14 THE COURT: All right. The motion for a new trial is
15 denied, and the motion for a judgment notwithstanding the
16 verdict is also denied, although that's a civil motion and
17 not a criminal motion. But it's denied as well, for the
18 record. But you are protected, Mr. Chambers.

19 Matters prior to sentencing from the State?

20 MR. WESTON: Yes, sir, Your Honor. We have got the
21 notice of the State's intention to seek life without parole
22 as well as the affidavits of service evidencing service of
23 which upon the defendant as well as his attorney and a copy
24 of the -- a certified copy of the prior conviction of the
25 most serious offense, and we'll hand that up to the Court.

1 THE COURT: Anything, Mr. Chambers, on that?

2 MR. CHAMBERS: I just ask the Court, Your Honor,
3 again, so that it's clear on the record, that the Court
4 inspects those and that you make a finding on the record
5 that they have complied with what they're supposed to do.

6 THE COURT: All right. Let me have those documents.
7 We'll make them a State's exhibit, I suppose.

8 (Pause in proceedings.)

9 THE COURT: Any objection to these documents,
10 Mr. Chambers?

11 MR. CHAMBERS: No, Your Honor.

12 THE COURT: No doubt as to their authenticity?

13 MR. CHAMBERS: No, sir. They appear to be authentic.

14 THE COURT: Okay. All right. The Court makes a
15 finding the State has complied, and I'm going to make these
16 -- I'll tell you, I'll make them a Court's exhibit, Madam
17 Court Reporter.

18 THE COURT: Anything further from the State?

19 MR. WESTON: No, sir, Your Honor. We do have -- I'll
20 just advise the Court that we have three members of the
21 victim's family who would like to briefly be heard at the
22 appropriate time regarding sentence.

23 THE COURT: Okay. Mr. Chambers, I'll be happy to hear
24 from you or your client.

25 MR. CHAMBERS: Your Honor, I mean, given the Court's

1 finding that they have complied with the life without
2 parole, our position would be that there's really nothing
3 that can be said at this point. I mean, the Court pretty
4 much has to impose the life without parole sentence. So we
5 don't have anything to add. I mean, I guess, I -- we don't
6 have anything to add.

7 MR. WESTON: Thank you, Sir.

8 Okay. Mr. Solicitor, I'll be happy to hear. But I've
9 heard all the facts.

10 MR. WESTON: I'm sorry, Your Honor. I just --

11 THE COURT: I'd be happy to hear from the victims.
12 And I don't want to minimize that, but I've heard the facts
13 of the case.

14 MR. WESTON: All right.

15 MS. DIXON: My name is Portia David Dixon [phonetic].
16 I'm his aunt, Marcus McGee's aunt.

17 I just want to say I just want full justice for my
18 family, Your Honor. He was a good kid. I don't agree with
19 everything he did in his life, but he was an adult. But I
20 just want the Court to just give him -- give justice for my
21 family, my sister, all of his aunts who -- just like his
22 mom. It's seven children in our family from my mom and
23 dad, and we're like a pack. He didn't have only one
24 mother, he had six women in his life, strong women, you
25 know, who looked out for him. And we just want justice for

1 my family, sir.

2 THE COURT: Ma'am I don't have any discretion.

3 MS. DIXON: Thank you.

4 THE COURT: I don't have any discretion in this case.

5 MS. DIXON: Thank you.

6 THE COURT: The legislature has set the penalty.

7 I'd be happy to hear from anybody who chooses to be
8 heard. Tell me your name, please.

9 MS. MCGEE: Chiquita McGee.

10 THE COURT: Yes, Ms. McGee.

11 MS. MCGEE: That was my brother. He was my only
12 brother. He was my best friend, he was my daughter's only
13 uncle on both sides. So with him not being here, it's like
14 a struggle every day to answer her questions. "Well,
15 Mommy, where's my uncle?" "Well, Mommy, why did he do
16 that?"

17 He picked my daughter up every day from school. She
18 doesn't have that. And sometimes, I mean, we've got the
19 picture, but the pictures, it's just not enough. So even
20 though he's got life without parole, it's not going to
21 bring him back.

22 THE COURT: Thank you. Anybody else?

23 MS. JAMES: Francis James. I'm his sister. And that
24 was my only brother, and it was my mom's only son. And,
25 you know, this is difficult for our family because it has

1 never happened. So that's a hard pill to swallow, chew,
2 anything because we've never had anybody murdered in our
3 family before. And I have two kids, and neither one of
4 them even got to meet him. My son was just beginning to
5 know who his uncle is because he's only 4. My daughter is
6 1. So neither one of them know him, you know. And his
7 kids don't know him.

8 He has a 1-year-old son, a 6-year-old daughter and a
9 12-year-old son. The 12-year-old is the only one that
10 really remembers him. And this is -- took a very bad
11 impact on him. He's talking about killing himself,
12 committing suicide, and that's a lot for a 12-year-old, you
13 know. So that's very hurtful, you know.

14 And like she said, just because what kind of lifestyle
15 a person has, it has no impact on them. That doesn't make
16 them a bad person. That's just the life that they chose,
17 you know. Don't -- don't anyone in here know how their
18 child is going to turn out. The only thing you can do is
19 raise them the right way. You don't know how they're going
20 to turn out. The only thing you can do is pray that they
21 take the path that you want them to take in life. It was
22 just very hurtful.

23 THE COURT: Yes, ma'am. Thank you.

24 See the lawyers just a minute.

25 MR. WESTON: Yes Sir, Your Honor.

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

2 SENTENCE

3 THE COURT: Mr. Young, if you and your lawyer will
4 stand, please.

5 On the charge of a blue light, 2013-0608, you are
6 confined to the State Department of Corrections for a
7 period of one year, concurrent with the other indictment,
8 credit for any time you have served.

9 On Indictment 2013-0607, you're confined to the State
10 Department of Corrections for a period of life. It's
11 concurrent with the other indictment, credit for any time
12 served.

13 Good luck, sir.

14 Lady and gentlemen, thank you so very much for the
15 professionalism that you have shown in this courtroom.
16 Very much appreciated. Enjoyed trying the case with you.
17 Thank you.

18 MR. WESTON: Thank you, Your Honor.

19 THE COURT: That concludes this hearing.

20 (WHEREUPON, Court's Exhibit No. 1 was marked for
21 identification.)

22 *****END OF TRANSCRIPT OF RECORD*****
23
24
25

1 CERTIFICATE OF REPORTER

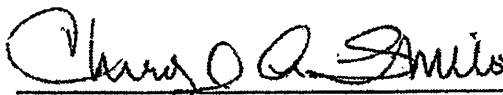
2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF GREENVILLE)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South Carolina,
9 do hereby certify that the foregoing is a true, accurate
10 and complete Transcript of Record of the proceedings had
11 and evidence introduced in the trial of the captioned case,
12 relative to appeal, in the Court of General Sessions for
13 Greenville County, South Carolina, on the 9th, 10th and
14 11th day of February, 2015.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17
18 June 1, 2015
19
20

21 
22

23 Cheryl A. Smith, CVR-M

24 Court Reporter
25

FORM 5

STATE OF SOUTH CAROLINA)

County of GREENVILLE)DAVID ADAM YOUNG #146369)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2017-CP-23- 06470APPLICATION FOR
POST-CONVICTION RELIEFFILED
CLERK OF COURT
PAID
2017 OCT 13 AM 11:40**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention MCCORMICK CORRECTIONAL INST. 386 - REDEMPTION
WAY, SOUTH CAROLINA - 29899
2. Name and location of Court which imposed sentence GREENVILLE GENERAL
SESSION
3. Name(s) of co-defendant(s) (if any) POSSIMA ADAMS
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013-GS-23-010607 - LIFE SENTENCE.
 - (b) 2013-GS-23-010608

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) _____
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. STATE OF SOUTH CAROLINA IN THE COURT OF APPEALS.
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. AFFIRMED.
- iii. _____
- (c) the date of each such result:
- i. DISMISSED.
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. DISMISSED.
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) FAILURE TO CALL WITNESS.
- (c) FAILURE TO OBJECT TO OFFER, BEING QUALIFIED AS VOICE EXPERT.
11. State concisely and in the same order the facts which support each of the grounds set out in (10): TRIAL JUDGE ERRORED BY ALLOWING GUN INTO EVIDENCE. FAILURE TO OBJECT BY COUNSELOR.
- (a) INSUFFICIENT EVIDENCE.
- (b) FAILURE TO INVESTIGATE.
- (c) COUNSELOR FAILURE TO PROTECT CLIENTS, DUE PROCESS RIGHTS, 6TH 14TH CON. AMENDS. 456
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. A
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. A
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. N/A
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. N/A
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (b) your trial, if any? ☒ _____
 (c) your sentencing? _____
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. _____

 ii. _____

 iii. _____

(b) the proceedings at which each such attorney represented you:

i. TRIAL By Jury.

 ii. _____

 iii. _____

19. State clearly the relief you seek in filing this application:

VACATE SENTENCE.

20. Are you now under sentence from any other court that you have not challenged?

N/A

STATE OF SOUTH CAROLINA)

County of GREENVILLE)

VERIFICATION

I, DAVID ADAM YOUNG, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

David Adam Young

SWORN to and subscribed before me this 27
day of September, 2017.

J. Franklin (L.S.)
Notary Public

My Commission Expires: 12.16.2019

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, DAVID ADAM YOUNG, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

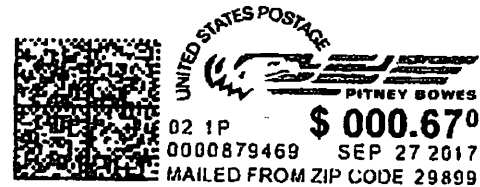
David Adam Young
Applicant

SWORN or affirmed to and subscribed before me this
27 day of September, 2017.

JCF Franklin
Notary Public

My Commission Expires: 12-16-2019

DAVID Adam Young # 146369
 McCrack CONSTITUTIONAL Inst.
 386-REDEMPTION Way
 McCrack SC 29899



2017-CP-23- 06470

PAUL B. WICKENSIMER

GREENVILLE COUNTY CLERK OF COURT
 305 - EAST NORTH STREET

2950132121 COOT

GREENVILLE, South Carolina 29601

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

David A. Young, 146369

Applicant,

V.

State of South Carolina,

Respondent.

**IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT**

2017-CP-23-6470

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR")
filed on October 13, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In November of 2013, the Greenville County Grand Jury indicted Applicant for murder and possession of a weapon during the commission of a violent crime (2013-GS-23-0607). Applicant was also indicted for failure to stop for a blue light (2013-GS-23-0608). Randall L. Chambers, Esquire, represented Applicant. Applicant proceeded to trial on February 9 2015, before the Honorable R. Keith Kelly, and a jury. The jury found Applicant guilty as indicted to all charges. The state had served its notice of intent to seek a life sentence if Applicant was convicted of murder. Thereafter, Judge Kelly sentenced Applicant to life imprisonment and imposed a one year concurrent term for failure to stop for a blue light.

Applicant filed a timely notice of appeal. Robert M. Dudek, Esquire, of the Office of

Appellate Defense perfected the appeal. The South Carolina Court of Appeals dismissed Applicant's appeal after review pursuant to Anders v. California¹ on February 1, 2017. State v. Young, Op. No. 2017-UP-168 (S.C. Ct. App. filed April 19, 2017). The remittitur was returned to the circuit court on May 8, 2017.

Attached to this Return are the records of the Greenville County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the Applicant's appellate records. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. Trial Judge erred by allowing gun into evidence. Failure to object by counselor
 - b. Insufficient evidence
 - c. Failure to investigate
 - d. Counselor failure to protect clients due process rights, 6th and 14th const. Amend
 - e. Failure to investigate for the person who shot the deceased, the victim.
2. Failure to call witness
3. Failure to object to officer being qualified as voice expert
4. Failure to investigate the person that remove items / and weapons

III.

Respondent interprets all of Applicant's allegations to be ineffective assistance of counsel. Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's

¹ 386 U.S. 738 (1967).

conduct so undermined the proper functioning of the adversarial process" that the proceeding "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

V.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VI.

WHEREFORE, having made its Return, Respondent requests an evidentiary hearing be held on any claims so requiring one.

[SIGNATURE PAGE FOLLOWS]

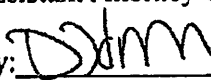
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

January 17, 2018

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2017-CP-23-6470

DAVID A. YOUNG, 146369)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

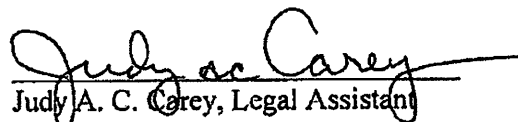
STATE OF SOUTH CAROLINA,)

Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Susannah C. Ross, Esquire
Ross & Enderlin, PA
330 East Coffee Street
Greenville SC 29601

DATED this 17th day of January, 2018.


 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS
2017-CP-23-06470

DAVID ADAM YOUNG,
APPLICANT,)

vs.)

TRANSCRIPT OF RECORD

STATE OF SOUTH CAROLINA,
RESPONDENT,)

ORIGINAL

October 23, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE.

A P P E A R A N C E S:

RODNEY W. RICHEY, ESQ.
Attorney for the Applicant

DESHAWN H. MITCHELL, ESQ.
Assistant Attorney General

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

Page No.(AW) DAVID ADAM YOUNG:

Direct Examination by Mr. Richey.....4
Cross-Examination by Mr. Mitchell.....13
Redirect Examination by Mr. Richey.....21
Examination by the Court.....21

(RW) RANDALL LEE CHAMBERS:

Direct Examination by Mr. Mitchell.....23
Cross-Examination by Mr. Richey.....32

(AW) DAVID ADAM YOUNG:

Direct Examination by Mr. Richey.....35
Examination by the Court.....37

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: Yes, sir.

MR. MITCHELL: May it please the Court.

This is 2017-CP-23-6470, David Young v. the State of South Carolina. The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court.

In November of 2013, the Greenville County Grand Jury indicted Applicant for murder and possession of a weapon during the commission of a violent crime. The Applicant was, also, indicted for failure to stop for a blue light.

Mr. Randall Chambers represented the Applicant. The Applicant proceeded to trial on February 9th, 2015, before the Honorable R. Keith Kelly and a jury. The jury found Applicant guilty as indicted to all charges.

The State had served its notice of intent to seek a life sentence if Applicant was convicted of murder. Thereafter, Judge Kelly sentenced the Applicant to life imprisonment.

The Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed the Applicant's appeal after a review pursuant to Anders v. California.

The Applicant filed a PCR application on October 13th, 2017, alleging ineffective assistance of counsel.

1 He's present in the courtroom today and represented by
2 Mr. Richey.

3 THE COURT: All right. Mr. Richey.

4 MR. RICHEY: Thank you, Your Honor.

5 We'd call Mr. David Young.

6 THE COURT: Mr. Young, come forward please, sir. If
7 you'll come over here. Madam Clerk is going to swear you
8 in once you get close to that Bible.

9 THE CLERK: Mr. Young, please place your left hand on
10 the Bible and raise your right hand.

11 WHEREUPON,

12 DAVID ADAM YOUNG,
13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 You may be seated.

16 And please state your full name for the record.

17 THE WITNESS: David Adam Young.

18 DIRECT EXAMINATION

19 BY MR. RICHEY:

20 Q Mr. Young, are you currently in the Department of
21 Corrections?

22 A Yes, sir.

23 Q And what are you there for?

24 A Murder.

25 Q Okay. And were you convicted in Greenville County?

1 A Yes, sir.

2 Q And did you -- did you plead guilty or have a jury
3 trial?

4 A Jury trial.

5 Q And who represented you on these charges?

6 A Mr. Randy Chambers.

7 Q And you filed an application for post-conviction
8 relief because you believe he did not effectively
9 represent you; is that correct?

10 A That's correct.

11 Q And can you tell me -- one of the issues that you
12 have -- let -- let me go back to this. Did you discuss
13 the case with him?

14 A A week before trial.

15 Q Okay. And one week. Any time prior to that?

16 A A couple of visits just coming to see me and just
17 talk to me, basically. But, really, it wasn't nothing to
18 prepare me for trial, and stuff like that.

19 Q Okay. You had discovery in this case; is that
20 correct?

21 A Yes.

22 Q And -- and did you and Mr. Chambers sit down and
23 discuss the discovery?

24 A No.

25 Q Okay. What I mean by discuss it, did he have a

1 meeting with you where he went through the paperwork, the
2 reports, and all that with you?

3 A No, not -- no.

4 Q Okay. So did you have -- did you physically have the
5 discovery?

6 A Yeah. I had -- yes. Because J.C. brung it to me.

7 Q Okay. And so when he came to visit you, you didn't
8 sit down and talk with him about the things you filed, any
9 of the discovery, or any of that?

10 A No.

11 Q And so prior to trial, y'all had no discussions about
12 the issues in the case?

13 A A week before trial, he came and saw me and told me
14 the offer that they made to me. And I said, Nah, I don't
15 want that offer.

16 Q And what was that offer?

17 A 30 years.

18 Q And were you looking for a specific offer, other than
19 that?

20 A Well, no. Because I didn't -- no.

21 Q Well, let's go -- just for the Court, let's go back.
22 This was -- this was a shooting; is that correct?

23 A Correct.

24 Q And this shooting happened at a nightclub; correct?

25 A Correct.

1 Q And -- and this shooting happened over an alleged
2 drug transaction; correct?

3 A Correct.

4 Q And there were multiple -- there were multiple people
5 involved when this thing was going on; correct?

6 A Correct.

7 Q That -- that was a -- that was a -- I'll use the
8 phrase associate of yours who testified and who purchased
9 supposedly drugs from the victim; correct?

10 A Correct.

11 Q And that was a dispute about whether those were real
12 drugs or fake drugs; correct?

13 A Correct.

14 Q And that fact scenario kind of set up the shooting;
15 correct?

16 A Correct.

17 Q Okay. And -- and you had a relationship with the
18 female who supposedly bought the drugs; correct?

19 A Correct. Cousin.

20 Q Okay. And -- and the -- y'all -- or she went to that
21 club that night to confront that gentleman, or talk to him
22 about the drugs, the fake drugs?

23 A I went and confronted him. But she was outside the
24 club.

25 Q All right. And -- and -- and you believe that you

1 did not do the shooting; correct?

2 A Correct. I know I didn't.

3 Q Okay. And who did the shooting?

4 A She or Jack Frost one did it.

5 Q And who is Jack Frost?

6 A He's another cousin of ours, Steven Chapman.

7 Q And so Jack Frost was at the club; correct?

8 A Yeah. With her outside, yes.

9 Q Okay. And you believe the two of them did the
10 shooting, one of the two of them; correct?

11 A Correct.

12 Q Did you talk to Mr. Chambers about that?

13 A Well, this didn't come out until the day of trial
14 when we were sitting at the table and talked.

15 Q It didn't come out the day -- until the day of trial?

16 A Yeah. Until we sat over there at the table and
17 talked, yes.

18 Q Okay. So prior to trial, y'all didn't discuss any of
19 that?

20 A No.

21 Q Why not?

22 A I don't know. I was dumb to the facts of the law
23 then. And stuff that I discovered and looked back on --
24 and I know better now, that I could have been represented
25 better. Because if I had of, I wouldn't be right here

1 today talking to y'all.

2 Q Let me go back to something real quick. The issue of
3 the -- one of the other two people shooting the guy, you
4 and Mr. Chambers did not talk about that until the day of
5 trial?

6 A Right.

7 Q Okay. Did you -- did you try to tell him before
8 then, or what?

9 A Yeah. I told him, I think, one time. I said I
10 wasn't the shooter. Because it wasn't never no physical
11 evidence to pick me as the shooter as far as DNA, or blood
12 spatter, or gun powder residue. Because I was caught 20
13 minutes later. And I could have been represented better
14 if them people would have been cross-examined. And it
15 would have shown that I couldn't have been the shooter.

16 Q Okay. Let -- during your trial, there were some
17 tapes admitted from the jail; correct?

18 A Right.

19 Q And -- and those tapes were not beneficial to you;
20 correct?

21 A Correct.

22 Q Would you say that?

23 A Yes. It wasn't -- because I didn't get to hear them
24 until -- actually, until I came in court. Prior to court,
25 I never got to hear none of them tapes. I never got to,

1 basically, control my own destiny. Because if I'd have
2 heard what was really said, it might have been a different
3 outcome. But I never got to hear the tapes. When he come
4 to see me a week before trial, he didn't bring no tapes
5 with him.

6 Q So -- so those tapes that -- that they played at
7 trial were not helpful to your case; correct?

8 A Correct.

9 Q Okay. And in those tapes, you were alleged to have
10 said you did this; correct?

11 A Yes.

12 Q And -- and you talked to Mr. Chambers about why you
13 said that on those tapes; right, or did you?

14 A Right, yeah. I told him why I said it right there in
15 the courtroom.

16 Q Okay. So -- so prior to the trial, you didn't listen
17 to the tapes with Mr. Chambers so you could tell him --

18 A No.

19 Q -- why that was on the tape; correct?

20 A Correct. No, sir.

21 Q Okay. And -- and at the time you were down at the
22 jail, were you trying to protect somebody?

23 A Yes. Because I know they was going to get at her --

24 Q You knew what?

25 A I know they were going to get at her, or do something

1 to her, you know.

2 Q And -- and those -- those tapes were admitted in the
3 trial. And it's your -- it's your position that the State
4 did not prove that that was your actual voice; correct?

5 A Correct. They didn't. Because the fellow that they
6 allegedly used for an expert, he don't even qualify for an
7 expert because he works at the jail.

8 Q And you believe the State should have proved that
9 that was, actually, your voice prior to doing that?

10 A Yes. Because you can go to the detention center and
11 you can pick up the phone -- like, I might want to use
12 your phone. I can go to your phone and say,
13 huff [phonetic], and it'll pick up your voice that that's,
14 actually, you, but it's not you because it's a recording.

15 How can that be admitted as a expert -- how could he
16 be admitted as an expert voice recognition and you didn't
17 do that?

18 Q And you believe that Mr. Chambers did not
19 investigate, actually, the person who, actually, shot the
20 victim; correct?

21 A Yes. Because if there would have been an
22 investigation done in the matter, there would have been
23 more witnesses called for that that was there in the
24 parking lot that, actually, seen it, that wasn't called
25 forth to testify.

1 Q So do you believe you had enough time with your
2 lawyer to properly prepare for this case?

3 A No, I didn't, sir.

4 Q Did -- did y'all talk about any trial strategy in the
5 case?

6 A No, we didn't, sir.

7 Q None at all?

8 A None at all.

9 Q Did y'all -- did y'all talk about how the evidence
10 was for or against you?

11 A Not before the trial, no, sir. Because if we had
12 have, people that should have been cross-examined wasn't
13 cross-examined to show proof of physical and DNA evidence
14 that I wasn't the shooter.

15 Q If -- if y'all had discussed the case prior to trial,
16 if you had listened to the tapes, heard the discovery, saw
17 the discovery, and reviewed it with Mr. Chambers, do you
18 believe that there was an offer out there you -- you would
19 have accepted?

20 A Well, yes, I probably would have because of my -- my
21 past. Because my past really got me where I need to be.
22 But if I was properly prepared before trial the way I was
23 supposed to have been, I never would have been in the
24 predicament that I'm in right now.

25 Q So it's your testimony that you're absolutely

1 innocent of shooting and killing this gentleman?

2 A I am, yes. Not only physical, but DNA and forensic
3 all will show that I am not the shooter.

4 MR. RICHEY: Thank you.

5 Answer any questions the Attorney General may have
6 for you.

7 THE COURT: Mr. Mitchell.

8 MR. MITCHELL: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. MITCHELL:

11 Q Good morning, Mr. Young.

12 How are you?

13 A All right, sir.

14 How are you doing?

15 Q I'm doing well.

16 Sir, I just -- I heard Mr. Richey ask you about the
17 phone recordings from the jail. So I just want to make
18 sure the record is clear. If you had -- you said if you
19 had heard those, you would have pled guilty prior to going
20 to trial?

21 A It would have been a different outgoing instead of
22 going to trial, probably, yes. It probably would have.

23 Q So yes?

24 A Yes.

25 Q Okay. So let me ask you, how many times, just for

1 the record's sake, did you meet with Mr. Chambers prior to
2 going to trial?

3 A Within two years and a month, about three -- about
4 three times.

5 Q Three times?

6 A Yes, three times.

7 Q Okay. And so during those meetings, did he talk
8 about the discovery in the case with you?

9 A Huh-uh.

10 Q Did you -- did you have a copy of it?

11 A Yeah. I had my own because J.C. brought it to me,
12 the investigator from the public defender's office.

13 Q So the investigator brought it to you?

14 A Right.

15 Q Okay. So you never talked to Mr. Chambers about any
16 of the discovery in the case?

17 A Huh-uh.

18 Q Okay. During --

19 THE COURT: Is that a "no"?

20 THE WITNESS: No. No, sir.

21 THE COURT: All right.

22 BY MR. MITCHELL:

23 Q Okay. So you had three meetings with him. What did
24 you guys talk about during those meetings?

25 A Basically, I did the majority of the talking.