

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Michael G. Nettles, Circuit Court Judge

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S.C. SUPREME COURT

TORREN M. EADY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-002206

APPENDIX

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED FEB. 18-20, 2014	1
FINAL BRIEF OF APPELLANT	387
FINAL BRIEF OF RESPONDENT	402
<u>STATE V. EADY</u> , 2016-UP-228 (S.C. Ct. App. Filed June 15, 2016).....	424
REMITTITUR	426
APPLICATION FOR POST-CONVICTION RELIEF	427
RETURN AND MOTION TO DISMISS.....	434
CONDITIONAL ORDER OF DISMISSAL	443
FINAL ORDER OF DISMISSAL	452
MOTION TO ALTER/AMEND JUDGMENT	455
ORDER VACATING DISMISSAL	458
AMENDED APPLICATION FOR POST-CONVICTION RELIEF	459
AMENDED RETURN.....	462
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED OCT. 3, 2018	472
ORDER OF DISMISSAL.....	429
INDICTMENTS AND SENTENCE SHEETS.....	549

STATE OF SOUTH CAROLINA	)	
	)	IN GENERAL SEESIONS COURT
COUNTY OF CHARLESTON	)	2012-GS-10-4554, 4555, 4556,
	)	4557, & 4458
State of South Carolina,	)	
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	February 18 - 20, 2014
	)	
Torren Marquiz Eady,	)	Charleston, South Carolina
	)	
DEFENDANT.	)	
	)	

B E F O R E:

THE HONORABLE J.C. NICHOLSON, JR., Judge

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Court Reporter

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Opening statement by Mr. Finch				69
Opening statement by Mr. Lewis				73
Christopher Ware (In-camera)				
By Mr. Finch:	53			
By Mr. Lewis:		58		
Teresa Jenkins				
By Mr. Finch:	76		107	
By Mr. Lewis:		97		108
Gabrielle McCulley				
By Mr. Finch:	109			
By Mr. Lewis:		127		
Antione Foster				
By Mr. Finch:	136			
By Mr. Lewis:		158		
Christopher Ware				
By Mr. Finch:	168		177	
By Mr. Lewis:		173		
Lisa Kubicko				
By Mr. Voigt:	179			
By Mr. Lewis:		189		
Dr. Lee Marie Tormos				
By Mr. Voigt:	194			
Sean Reiter				
By Mr. Finch:	197		228/239	
By Mr. Lewis:		213		
Megan Lukacs				
By Mr. Finch:	248		262	
By Mr. Lewis:		260		264
Deanna Shark				
By Mr. Voigt:	268		274	
By Mr. Lewis:		272		
Charles Champion				
By Mr. Finch:	275			
By Mr. Lewis:		281		

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Andrew Coker				
By Mr. Voigt:	284			
By Mr. Lewis:		290		
Paul McManigal				
By Mr. Finch:	294			
By Mr. Lewis:		302		
Closing Argument by Mr. Finch				313
Closing Argument by Mr. Lewis				332
Jury Charge by the Court				346
Verdict of the jury				366
Sentence of the Court				384
CERTIFICATE OF REPORTER				386

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
S-1	Photograph	51	181
S-2	Photograph	51	181
S-3	Photograph	51	181
S-4	Photograph	51	181
S-5	Photograph	51	118
S-6	Photograph	51	181
S-7	Photograph	51	181
S-8	Photograph	51	181
S-9	Photograph	51	181
S-10	Photograph	51	181
S-11	Photograph	51	181
S-12	Photograph	51	181
S-13	Photograph	51	181
S-14	Photograph	51	181
S-15	Photograph	51	181
S-16	Photograph	51	181
S-17	Photograph	51	181
S-18	Photograph	51	181
S-19	Photograph	51	181
S-20	Photograph	51	181
S-21	Photograph	51	181
S-22	Photograph	51	181
S-23	Photograph	51	79
S-24	Photograph	51	187

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
S-25	Photograph	51	187
S-26	Photograph	51	187
S-27	Photograph	51	286
S-28	Photograph	51	286
S-29	Photograph	51	286
S-30	Photograph	51	286
S-31	Photograph	51	286
S-32	Stipulation	51	248
S-33	Stipulation	51	248
S-34	Stipulation	248	248
S-35	Hat	89	290
S-36	Statement (marked for ID then withdrawn)	121	
S-37	Photo array	172	172
S-38	Advice of rights form	205	207
S-39	Phone records/report	251	251
S-40	Phone extraction	267	299
S-41	2 Cell phones & accessories	287	289
C-1	Photo array (State's 37)	55	
C-2	Defendant's Request to Charge	363	
C-3	Defendant's Request to Charge	363	
C-4	Drawings by Adrian King	376	
C-5	Picture of Adrian King	376	

1 , P R O C E E D I N G S

2 TUESDAY, FEBRUARY 18, 2014

3 (Whereupon, Court convened with all parties present and
4 the jury panel entered the courtroom at 11:43 AM.)

5 POTENTIAL JUROR: My tooth is cracked in my gum.

6 THE COURT: Uh-huh.

7 POTENTIAL JUROR: I told the lady earlier. I was
8 around the air all morning getting worser. It's really,
9 like, hurting.

10 THE COURT: Well did you bring it up this morning?
11 What's wrong with your tooth?

12 POTENTIAL JUROR: It popped in the gum.

13 THE CLERK: She did bring the issue up in front of
14 Judge McDonald. She said to just bring that up to the trial
15 judge.

16 THE COURT: Okay. Your tooth is what now?

17 POTENTIAL JUROR: It popped in the gum.

18 THE COURT: Okay. How long have you had this
19 problem?

20 POTENTIAL JUROR: Just about the day before
21 yesterday.

22 THE COURT: Have you gone to the dentist? Do you
23 have an appointment with the dentist?

24 POTENTIAL JUROR: Yes, I don't have it until next
25 week.

1 THE COURT: Well you can't get one this week?

2 POTENTIAL JUROR: No, sir, I don't have no
3 insurance. I have to pay.

4 THE COURT: Okay. All right. I'll excuse you.
5 Thank you very much. You may leave.

6 What's your name?

7 POTENTIAL JUROR: Martha Jenkins.

8 THE COURT: You know your number?

9 THE CLERK: 139.

10 POTENTIAL JUROR: 139.

11 THE COURT: Okay. All right. 139 is excused.

12 THE CLERK: Thank you, Your Honor.

13 THE COURT: All right. Do we have everybody, all
14 the jurors?

15 THE BAILIFF: All present.

16 THE COURT: Okay. Thank you very much.

17 All right. Ladies and gentlemen of the jury, we're
18 going to be trying a case this week. And the State has
19 charged Torren Eady with the following indictments. Now an
20 indictment is merely the means by which the Defendant's
21 brought before the Court for trial. It's not evidence in
22 any fashion whatsoever as to any innocence or guilt of the
23 charge. It's merely the means by which the Defendant's
24 brought before the Court for trial. And I have five
25 indictments here.

1 The first charge is a murder charge against the
2 Defendant and he's charged on April the 6th, 2012, with
3 killing Adrian King, charged with attempted murder on the
4 same date against Antonio [sic] Foster, April the 6th, same
5 date, with attempted murder on Martel Brown, attempted
6 murder on Garbrielle McCulley, and he's also charged with
7 possession of a firearm during the commission of a crime.
8 So we're going to be trying the Defendant on all five of
9 those indictments.

10 As I said earlier, that's not evidence of any
11 fashion. It's not for you to even consider in whether the
12 Defendant's innocent or guilty. It's merely an
13 administrative process that Defendant's brought before the
14 Court.

15 Now I'm going to ask you certain questions and the
16 first thing I'm going to do is call out a list of names and
17 ask you the same question about each name. I'm going to ask
18 you do you know the individual, are you related by blood or
19 marriage, or have you had any type of contact with the
20 individual. Now when I'm talking about marriages, I'm
21 talking about past marriages as well as present marriages or
22 any future marriages if it's on the immediate horizon.

23 The first name is Teresa Jenkins. Is anybody related
24 by blood or marriage or know Teresa Jenkins? If so, please
25 stand.

1 (No response elicited.)

2 THE COURT: The next name is Gabrielle McCulley.
3 Is anybody related by blood or marriage to Gabrielle
4 McCulley or does anybody know Gabrielle McCulley? If so,
5 please stand.

6 (No response elicited.)

7 THE COURT: The next name is Antione -- how does
8 he pronounce it?

9 MR. FISK: Antione, Judge.

10 THE COURT: -- Antione Foster. The next name is
11 Antione Foster. Anybody related by blood or marriage or
12 does anybody know Antione Foster? If so, please stand.

13 (No response elicited.)

14 THE COURT: The next name is Christopher Patrick
15 Ware of the North Charleston Police Department. Does
16 anybody know Christopher Ware? Is anybody related by blood
17 or marriage? If so, please stand.

18 (No response elicited.)

19 THE COURT: The next name is Lisa Kubicsko, North
20 Charleston Police Department. Is anybody related by blood
21 or marriage? Does anybody know Lisa Kubicsko? If so,
22 please stand.

23 (No response elicited.)

24 THE COURT: The next name is Dr. Lee Marie Tormos,
25 MUSC. Is anybody related by blood or marriage or does

1 anybody know Dr. Tormos? If so, please stand.

2 (No response elicited.)

3 THE COURT: The next name is Detective Sean
4 Patrick Reiter, North Charleston Police Department. Does
5 anybody know Sean Reiter? Anybody related by blood or
6 marriage? If so, please stand.

7 (Potential juror stood.)

8 THE COURT: Yes, sir. Your name?

9 POTENTIAL JUROR: My name's Matthew Houge.

10 THE COURT: What's your number?

11 POTENTIAL JUROR: 124.

12 THE COURT: 124. Yes, sir, Mr. Hogue?

13 POTENTIAL JUROR: I'm a mechanic for the City of
14 North Charleston. I work on the police cars. So I -- I
15 don't know them personally, but I've met them.

16 THE COURT: Okay.

17 POTENTIAL JUROR: Does that count to your ---

18 THE COURT: You're employed there and you know
19 them by name?

20 POTENTIAL JUROR: Yes, sir.

21 THE COURT: Do you have a personal relationship at
22 all with him?

23 POTENTIAL JUROR: No, sir. I just work on their
24 police cars.

25 THE COURT: Pardon me?

1 POTENTIAL JUROR: I just work on their police
2 cars. That's it.

3 THE COURT: Okay. Would that cause you any
4 difficulty in sitting on this jury? Yes or no?

5 POTENTIAL JUROR: No.

6 THE COURT: Can you be fair and impartial to both
7 the State and the Defendant?

8 POTENTIAL JUROR: Yes.

9 THE COURT: Can you base your decision on the
10 testimony you hear in the courtroom?

11 POTENTIAL JUROR: Yes, sir.

12 THE COURT: All right. Thank you, Mr. Hogue.
13 That's juror number 124. Thank you very much.

14 The next name is agent Megan Lukacs, works for SLED
15 in Columbia. Anybody related by blood or marriage or
16 anybody know Agent Lukacs? That's L-U-K-A-C-S. Works at
17 SLED in Columbia. If so, please stand.

18 (No response elicited.)

19 THE COURT: The next name is Deanna Shark.
20 Anybody related by blood or marriage or does anybody know
21 Deanna Shark? If so, please stand.

22 (Potential juror stood.)

23 THE COURT: Yes, ma'am. Your name?

24 POTENTIAL JUROR: Autumn Thompson.

25 THE COURT: Do you know your number?

1 POTENTIAL JUROR: 270.

2 THE COURT: Yes, ma'am, Ms. Thompson? How do you
3 know Ms. Shark?

4 POTENTIAL JUROR: I am hotel management at
5 D'Antilo [phonetic] and where I hired and fired Ms. Deanna
6 Shark within the last, well, couple of years, two years.

7 THE COURT: Okay. She worked for you for a while
8 and she no longer works for you; is that correct?

9 POTENTIAL JUROR: Yes, yes.

10 THE COURT: Would that cause you any difficulty,
11 assuming Ms. Shark's going to testify in this case, sitting
12 on the jury?

13 POTENTIAL JUROR: No, sir.

14 THE COURT: Pardon?

15 POTENTIAL JUROR: No, sir.

16 THE COURT: Can you be fair and impartial to both
17 the State and the Defendant?

18 POTENTIAL JUROR: Yes.

19 THE COURT: Can you base your decision on the
20 testimony you hear in the courtroom?

21 POTENTIAL JUROR: Yes.

22 THE COURT: All right. Thank you, Ms. Thompson.
23 Juror number 270.

24 The next name is Officer Charles Champion, North
25 Charleston Police Department. Is anybody related by blood

1 or marriage or does anybody know Officer Champion? If so,
2 please stand.

3 (No response elicited.)

4 THE COURT: The next name is Investigator Andrew
5 Coker, North Charleston Police Department. Anybody related
6 by blood or marriage or does anybody know Andrew Coker? If
7 so, please stand.

8 (No response elicited.)

9 THE COURT: The next name is Kevan Sherbine, works
10 at the Charleston County Sheriff's Office. Does anybody
11 know Kevan Sherbine or is anybody related by blood or
12 marriage? It's S-H-E-R-B-I-N-E. If so, please stand.

13 (No response elicited.)

14 THE COURT: Next name is Sergeant Paul McManigal,
15 Charleston County Sheriff's Office. Is anybody related by
16 blood or marriage to Sergeant McManigal or does anybody know
17 Sergeant McManigal? If so, please stand.

18 (No response elicited.)

19 THE COURT: The next name is Torren Eady.

20 Mr. Eady, would you please stand?

21 (Defendant complied.)

22 THE COURT: All right. Thank you, Mr. Eady.

23 Is anybody related by blood or marriage or does
24 anybody know Torren Eady? If so, please stand.

25 (No response elicited.)

1 THE COURT: The next name is Da'Quan Eady. Is
2 anybody related by blood or marriage or does anybody know
3 Da'Quan Eady? If so, please stand.

4 (No response elicited.)

5 THE COURT: Solicitor, if you'll stand and
6 introduce yourself, please.

7 MR. FINCH: Thank you, Your Honor.

8 Good morning. My name is Timmy Finch. I'm an
9 assistant solicitor with the Ninth Judicial Circuit in South
10 Carolina. Assisting me in trying this case is Greg Voigt,
11 another assistant solicitor in the office.

12 THE COURT: Does any member of the jury panel have
13 close personal friends with anyone in the solicitor's
14 office, Mr. Finch, Mr. Voigt, or anyone else in the
15 solicitor's office in Charleston County or Berkeley County?
16 If so, please stand.

17 (No response elicited.)

18 THE COURT: Mr. Lewis, if you'll stand and
19 introduce yourself.

20 MR. LEWIS: Thank you, Judge.

21 Ben Lewis from the public defender's office. I
22 represent Torren Eady. Sitting with me this week is
23 Christina Parnell, also from my office.

24 THE COURT: All right. Does anybody on the jury
25 panel have any close personal friends in the solicitor's

1 office here in Charleston -- excuse me -- in the public
2 defender's office here in Charleston County? If so, please
3 stand.

4 (No response elicited.)

5 THE COURT: Is any member of the jury panel or
6 member of your family or close personal friends have any
7 charges pending with the Charleston County Solicitor's
8 Office? If so, please stand.

9 (No response elicited.)

10 THE COURT: Is any member of the jury panel,
11 member of your family, or close personal friend ever been
12 charged or accused with -- of a violent crime? If so,
13 please stand.

14 (No response elicited.)

15 THE COURT: Has any member of the jury panel
16 previously been a witness in a civil or criminal trial? If
17 so, please stand.

18 (No response elicited.)

19 THE COURT: Has any member of the jury panel
20 previously served in a civil or criminal case? If so,
21 please stand.

22 (Potential jurors stood.)

23 THE COURT: Yes, sir. Starting on my left, the
24 gentlemen with the tie. What's your name?

25 POTENTIAL JUROR: Marshall Earhart, juror number

1 80.

2 THE COURT: Yes, sir, Mr. Earhart, where did you
3 serve?

4 POTENTIAL JUROR: In federal court, civil jury,
5 gosh, 12 years ago.

6 THE COURT: Okay. Did you actually hear a trial?

7 POTENTIAL JUROR: Yes, Your Honor.

8 THE COURT: It was a civil matter?

9 POTENTIAL JUROR: Yes, Your Honor.

10 THE COURT: Do you have any bias or prejudice as a
11 result of serving on that jury?

12 POTENTIAL JUROR: No, Your Honor.

13 THE COURT: Can you be fair and impartial in this
14 case?

15 POTENTIAL JUROR: Yes, Your Honor.

16 THE COURT: Can you base your decision on the
17 testimony you hear in the courtroom?

18 POTENTIAL JUROR: Yes, Your Honor.

19 THE COURT: All right. Thank you, Mr. Earhart.
20 Juror number 80.

21 Yes, sir? Gentlemen in the back. Your name?

22 POTENTIAL JUROR: Kevin Murphy, juror number 192.

23 THE COURT: Murphy?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: Okay. Okay, Mr. Murphy.

1 POTENTIAL JUROR: I served on a federal jury in a
2 different state approximately ten years ago.

3 THE COURT: Do you have any bias or prejudice as a
4 result of that service?

5 POTENTIAL JUROR: No, sir.

6 THE COURT: Can you be fair and impartial in this
7 case?

8 POTENTIAL JUROR: I could.

9 THE COURT: Could you base your decision on the
10 testimony you hear in the courtroom?

11 POTENTIAL JUROR: Yes, sir.

12 THE COURT: Thank you, Mr. Murphy. Juror number
13 192.

14 Yes, ma'am? The lady on the front row.

15 POTENTIAL JUROR: Number 39.

16 THE COURT: I'm sorry. What's your name?

17 POTENTIAL JUROR: Mary Beth Brown, number 39.

18 THE COURT: 39. Mary Brown. Yes, ma'am?

19 POTENTIAL JUROR: I -- here, several years ago,
20 criminal jury. I was on -- on the jury and I can be
21 impartial.

22 THE COURT: Okay. Did the jury reach a verdict?

23 POTENTIAL JUROR: Yes, sir.

24 THE COURT: Okay. What was the verdict?

25 POTENTIAL JUROR: Guilty.

1 THE COURT: Okay. Do you have any bias or
2 prejudice towards defendants in general as a result of
3 serving on that jury?

4 POTENTIAL JUROR: No, sir.

5 THE COURT: Can you be fair and impartial in this
6 case?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: Can you base your decision on the
9 testimony you hear in the courtroom?

10 POTENTIAL JUROR: Yes, sir.

11 THE COURT: All right. Thank you, Ms. Brown.
12 Juror number 39.

13 Yes, sir?

14 POTENTIAL JUROR: Timothy Hensch, number 112.

15 THE COURT: 112?

16 POTENTIAL JUROR: Yeah, I was on two civil cases.

17 THE COURT: Hold on a second. Let me find you.

18 I'm not that quick. All right. Go ahead.

19 POTENTIAL JUROR: I was on two civil cases several
20 years ago. Here in Charleston the Court was -- the case was
21 thrown out. It was settled out of court. And I was on
22 another civil case up in New York probably about 20 years
23 ago.

24 THE COURT: Okay. Can you be fair and impartial
25 in this case?

1 POTENTIAL JUROR: Yes, sir.

2 THE COURT: Can you base your decision on the
3 testimony you hear in the courtroom?

4 POTENTIAL JUROR: Yes, sir.

5 THE COURT: Is it Hensch?

6 POTENTIAL JUROR: Yes.

7 THE COURT: All right, Mr. Hensch. Thank you very
8 much. Juror number 112.

9 The lady in the green sweater.

10 POTENTIAL JUROR: Pam Greer, 104.

11 THE COURT: 104. Yes, ma'am, Ms. Greer?

12 POTENTIAL JUROR: I've been on civil juries
13 before.

14 THE COURT: Where?

15 POTENTIAL JUROR: Charleston County.

16 THE COURT: Where?

17 POTENTIAL JUROR: Here.

18 THE COURT: In this courthouse?

19 POTENTIAL JUROR: Yes.

20 THE COURT: Okay. How many did you serve on?

21 POTENTIAL JUROR: Two.

22 THE COURT: Were they civil trials?

23 POTENTIAL JUROR: Yes, sir.

24 THE COURT: Both of them?

25 POTENTIAL JUROR: Yes.

1 THE COURT: All right. Can you be fair and
2 impartial in this case?

3 POTENTIAL JUROR: Yes.

4 THE COURT: Base your decision on the testimony
5 you hear in the courtroom?

6 POTENTIAL JUROR: Yes, sir.

7 THE COURT: All right. Thank you, Ms. Greer.
8 Juror number 104.

9 Yes, sir?

10 POTENTIAL JUROR: My name is Theddis Defee. I
11 served on a civil trial about ---

12 THE COURT: What's your number?

13 POTENTIAL JUROR: Number 69.

14 THE COURT: 69. All right. Start over again if
15 you would, Mr. Defee.

16 POTENTIAL JUROR: I had served on a civil trial
17 about 25 years ago.

18 THE COURT: Whereabouts?

19 POTENTIAL JUROR: Charleston County.

20 THE COURT: In the old courtroom ---

21 POTENTIAL JUROR: Yes, sir.

22 THE COURT: --- on the corner, which is now
23 historical?

24 POTENTIAL JUROR: I can't remember it's been so
25 long.

1 THE COURT: Or was it at North Charleston?

2 POTENTIAL JUROR: I don't remember; I just
3 remember doing it.

4 THE COURT: Okay. Can you be fair and impartial
5 in this case?

6 POTENTIAL JUROR: Absolutely.

7 THE COURT: Can you base your decision on the
8 testimony you hear in the courtroom?

9 POTENTIAL JUROR: Yes.

10 THE COURT: Thank you very much, Mr. Defee. Juror
11 number 69.

12 Yes, sir? Gentlemen on my far right.

13 POTENTIAL JUROR: Juror number 200, William
14 O'neal.

15 THE COURT: 200.

16 POTENTIAL JUROR: I served on a federal jury
17 trial, Judge Duffy. I believe it was civil, a medical
18 malpractice lawsuit.

19 THE COURT: How long ago?

20 POTENTIAL JUROR: I would say five or six years
21 ago.

22 THE COURT: Okay. Can you be fair and impartial
23 in this case?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: All right. Thank you, Mr. O'neal.

1 Juror number 200.

2 Yes, sir?

3 POTENTIAL JUROR: My name's Art Pruett, juror 218.

4 THE COURT: Yes, sir, Mr. Pruett?

5 POTENTIAL JUROR: I served on a civil court here
6 in Charleston.

7 THE COURT: Here in this courthouse?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: How long ago?

10 POTENTIAL JUROR: About a year or two.

11 THE COURT: Okay. Can you be fair and impartial
12 in this case?

13 POTENTIAL JUROR: Yes, sir.

14 THE COURT: Thank you, Mr. Pruett. Juror number
15 218.

16 Yes, ma'am?

17 POTENTIAL JUROR: I'm Clara Ratliff, juror number
18 223.

19 THE COURT: Two what?

20 POTENTIAL JUROR: 223.

21 THE COURT: Okay. Yes, ma'am, Ms. Ratliff?

22 POTENTIAL JUROR: Criminal court, July of 2009,
23 guilty verdict.

24 THE COURT: Here?

25 POTENTIAL JUROR: Here.

1 THE COURT: Do you have any bias or prejudice
2 towards defendants in general as a result of serving on that
3 jury?

4 POTENTIAL JUROR: No. I found it very emotional
5 afterwards though.

6 THE COURT: You found it what?

7 POTENTIAL JUROR: Very emotional.

8 THE COURT: Okay. Was that ---

9 POTENTIAL JUROR: I did it before; I can do it
10 again.

11 THE COURT: Would that service interfere with your
12 ability to be fair and impartial in this case?

13 POTENTIAL JUROR: No, sir.

14 THE COURT: Pardon?

15 POTENTIAL JUROR: No, sir.

16 THE COURT: Can you base your decision on the
17 testimony you hear in the courtroom?

18 POTENTIAL JUROR: Yes, sir.

19 THE COURT: Are you comfortable serving again?

20 POTENTIAL JUROR: No, sir.

21 THE COURT: All right. Come around up front here
22 if you would. But before you come let me talk to the other
23 jurors. Just stand tight for a minute.

24 The gentlemen behind you, what's your name?

25 POTENTIAL JUROR: Cynthia Redden.

1 THE COURT: What number?

2 POTENTIAL JUROR: 224.

3 THE COURT: 224. Yes, ma'am? When did you serve?

4 POTENTIAL JUROR: About 25 years ago.

5 THE COURT: Whereabouts?

6 POTENTIAL JUROR: At the other courthouse right
7 here.

8 THE COURT: Okay. Can you be fair and impartial
9 in this case?

10 POTENTIAL JUROR: Yes.

11 THE COURT: Can you base your decision on the
12 testimony you hear in the courtroom?

13 POTENTIAL JUROR: Yes, sir.

14 THE COURT: Thank you, Ms. Redden.

15 Yes, ma'am, your name?

16 POTENTIAL JUROR: Melinda Sargent, 243.

17 THE COURT: Yes, ma'am, Ms. Sargent?

18 POTENTIAL JUROR: I served in a criminal case over
19 20 years ago in Virginia and the result was a guilty
20 verdict.

21 THE COURT: All right. Do you have any bias or
22 prejudice towards defendants in general as a result of that?

23 POTENTIAL JUROR: No, sir.

24 THE COURT: Can you be fair and impartial in this
25 case?

1 POTENTIAL JUROR: Yes, sir.

2 THE COURT: All right. Thank you, Ms. Sergeant.

3 Juror number 243.

4 All right. Mrs. -- is it Ratliff?

5 POTENTIAL JUROR: Correct.

6 THE COURT: If you'll come around up front. The
7 lawyers can join me up here.

8 (The following side bar was reported.)

9 THE COURT: All right. I believe you said that
10 you were very emotional after the last trial and you would
11 be uncomfortable sitting on this jury; is that right?

12 POTENTIAL JUROR: Correct.

13 THE COURT: Tell me why.

14 POTENTIAL JUROR: Just the fact that you send
15 somebody to jail for their life and making sure that you
16 made the right decision. And, I mean, I voted guilty and I
17 felt like I did the right thing, but it was still emotional.

18 THE COURT: Okay. I understand. I mean that's a
19 perfectly normal reaction. My problem and my question is,
20 would that interfere with your ability to be fair and
21 impartial in this case?

22 POTENTIAL JUROR: I feel like I can be fair and, I
23 mean, I know I've done it. I've been through it and I know
24 I can do it again. If I -- I wouldn't choose to do it, but
25 if I'm put in that position, I would do what I'm told to do.

1 THE COURT: Well not what you're told to do, but
2 what you think is fair.

3 POTENTIAL JUROR: Oh, yes.

4 THE COURT: Not what someone tells you to do.

5 POTENTIAL JUROR: Yes. Just like before I would
6 -- based on what I hear I would make that decision, you
7 know, based on what I hear.

8 THE COURT: Hear where?

9 POTENTIAL JUROR: Here, in the court.

10 THE COURT: In the court. Okay. All right. You
11 think you can do it again?

12 POTENTIAL JUROR: (Nodded.)

13 THE COURT: Or was it so emotional that you don't
14 think you can?

15 POTENTIAL JUROR: No, I mean, I can do it again.
16 I can do it. It's just, I don't choose to do it, but I can
17 do it.

18 THE COURT: Okay. All right. Any questions from
19 the State?

20 Well let me ask you one more. Can you be fair and
21 impartial?

22 POTENTIAL JUROR: Yes, sir.

23 THE COURT: Any questions from the State?

24 MR. FINCH: No. No, Your Honor.

25 THE COURT: Any questions from Defendant?

1 MR. LEWIS: Just briefly, Judge.

2 I'd only want to know, she'd said that she kind of
3 did what she was told to do. I'm just worried, can you make
4 your own decision based on what you hear, not what other
5 people on the panel tell you?

6 POTENTIAL JUROR: No, I made my own decision.
7 It's just my -- the way I handled it after the fact.

8 MR. LEWIS: I got you.

9 I have no problem with her, Judge.

10 THE COURT: Ms. Ratliff, you can go have a seat if
11 you would. Thank you so very much.

12 Mr. Lewis, any motions from either side?

13 MR. FINCH: I don't have any motions.

14 MR. LEWIS: I think she said she could be fair and
15 impartial. I know that she's done it before.

16 THE COURT: Well I understand that, but do you
17 have a motion?

18 MR. LEWIS: No, Judge.

19 THE COURT: Okay. All right. Thank you very
20 much.

21 (End of side bar.)

22 THE COURT: Does any member of the jury panel have
23 any problems following the law as the judge cites it to you
24 even if you believe it's inappropriate or unfair? If you
25 think that or feel that, please stand.

1 (No response elicited.)

2 THE COURT: Does any member of the jury panel have
3 difficulty sitting in judgment of another person due to
4 religious convictions, philosophical beliefs, moral beliefs,
5 or political orientation? If so, please stand.

6 (No response elicited.)

7 THE COURT: Has any member of the jury panel ever
8 had an unpleasant experience with a law enforcement officer
9 to the extent it would impair your -- impair your ability to
10 be fair and impartial? I'm not talking about speeding
11 tickets. If so, please stand. Nobody likes speeding
12 tickets. Has anybody had a bad experience with a police
13 officer? If so, please stand.

14 (No response elicited.)

15 THE COURT: Does any member of the jury panel hold
16 social, ethical, or racial views that would render that
17 juror incapable of being fair and impartial in a case
18 involving a defendant who is from a certain social, ethical,
19 or racial background? If so, please stand.

20 (No response elicited.)

21 THE COURT: Has any member of the jury panel or
22 member or your immediate family been employed in law
23 enforcement? If so, please stand.

24 (Potential jurors stood.)

25 THE COURT: Yes, ma'am? Standing on my left.

1 Your name?

2 POTENTIAL JUROR: Jane McDavid, juror 180.

3 THE COURT: Yes, ma'am, Ms. McDavid?

4 POTENTIAL JUROR: My husband is the resident agent

5 in charge of homeland security investigations.

6 THE COURT: Here in Charleston?

7 POTENTIAL JUROR: (Nodded.)

8 THE COURT: How long has he been stationed here in

9 Charleston?

10 POTENTIAL JUROR: Twelve years.

11 THE COURT: All right. Would that cause you any

12 -- do you have any bias or prejudice towards defendants in

13 general ---

14 POTENTIAL JUROR: No, sir.

15 THE COURT: --- because of your husband's job?

16 POTENTIAL JUROR: No, sir.

17 THE COURT: Can you set that aside and be fair and

18 impartial in this case?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: Thank you, Ms. McDavid.

21 Yes, sir?

22 POTENTIAL JUROR: Kevin Murphy, juror 192.

23 THE COURT: Yes, sir, Mr. Murphy?

24 POTENTIAL JUROR: My father's a retired FBI agent.

25 THE COURT: All right. When did he retire?

1 POTENTIAL JUROR: Approximately ten years ago.

2 THE COURT: Would that cause you any difficulty in
3 sitting on this jury?

4 POTENTIAL JUROR: No, sir.

5 THE COURT: Does your relationship with your
6 father as an FBI agent, would that interfere with your
7 ability to be fair and impartial in this case?

8 POTENTIAL JUROR: No, sir.

9 THE COURT: Thank you, Mr. Murphy.
10 Yes, ma'am. Your name?

11 POTENTIAL JUROR: Chellon Porcher, juror 107.

12 THE COURT: 107?

13 THE CLERK: Your Honor, her name is out of order.
14 It's in between 200 and number 218, the last name changed.

15 THE COURT: How'd the computer do that?

16 THE CLERK: It's where we changed the last names
17 that were pulled from the original database.

18 THE COURT: Oh, okay. All right. Juror number
19 107, Ms. Porcher.

20 POTENTIAL JUROR: I have a sister who is a
21 lieutenant at the detention center and a cousin who's an
22 officer for North Charleston.

23 THE COURT: All right. Would that interfere with
24 your ability to be fair and impartial in this case?

25 POTENTIAL JUROR: No.

1 THE COURT: Can you be fair and impartial?

2 POTENTIAL JUROR: Yes.

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

4 Porcher.

5 THE COURT: Is any member of the jury panel or

6 close -- or relatives or close personal friends been a

7 victim of a crime? If so, please stand.

8 (Potential jurors stood.)

9 THE COURT: Yes, ma'am, your name?

10 POTENTIAL JUROR: I'm Miriam Reese, 227.

11 THE COURT: 227. Yes, ma'am? Who was the victim,

12 Ms. Reese?

13 POTENTIAL JUROR: You say convicted or victim?

14 THE COURT: Victim.

15 POTENTIAL JUROR: Oh, no, sir.

16 THE COURT: I'm sorry. What?

17 POTENTIAL JUROR: I have a cousin that say she

18 was. Her name is Monisha [phonetic] Green, but we don't

19 believe that. I have no problem, Your Honor, serving, doing

20 what I have to do.

21 THE COURT: Okay. All right. Thank you very

22 much.

23 Yes, ma'am?

24 POTENTIAL JUROR: Gretchen Setti, number 244.

25 THE COURT: 244. Yes, ma'am?

1 POTENTIAL JUROR: My sister was held up at gun
2 point.

3 THE COURT: Would that interfere with your ability
4 to sit on this jury?

5 POTENTIAL JUROR: I don't believe so.

6 THE COURT: Can you be fair and impartial?

7 POTENTIAL JUROR: (Nodded.)

8 THE COURT: All right. Thank you, Ms. Setti.
9 Juror number 244.

10 THE COURT: Does any member of the jury panel have
11 any particular opinions or feelings about the crime of
12 murder which would make it difficult for you to serve on
13 this jury since the Defendant is charged with murder? If
14 you feel that way or think that way, please stand.

15 (No response elicited.)

16 THE COURT: Has any member of the jury panel heard
17 anything about this case, read anything in the paper about
18 it, heard anything on TV, or heard anyone talking about it
19 other than what I've told you about it in the courtroom
20 today? If so, please stand.

21 (No response elicited.)

22 THE COURT: Is any member of the jury panel or
23 member of your immediate family a member of CAVE, Citizens
24 Against violent Crime; People Against Rape, PAR; Mothers
25 Against Drunk Driving, MADD; Persons Empowered to Save

1 Teens, PEST; or any other community watch program or other
2 like organization? If you're a member or contribute to any
3 of those organizations, please stand.

4 (Potential juror stood.)

5 THE COURT: Yes, ma'am, your name?

6 POTENTIAL JUROR: Rebecca Fuhr, number 93.

7 THE COURT: I'm sorry. What number?

8 POTENTIAL JUROR: 93.

9 THE COURT: 93. Okay. Yes, ma'am, Ms. Fuhr?

10 POTENTIAL JUROR: I donated to PAR organization in
11 the past.

12 THE COURT: You have to speak up a little bit. I
13 can't hear you.

14 POTENTIAL JUROR: I donated to the PAR, People
15 Against Rape.

16 THE COURT: To PAR?

17 POTENTIAL JUROR: Yes, sir.

18 THE COURT: Okay. How long have you been
19 contributing to it?

20 POTENTIAL JUROR: Just two years.

21 THE COURT: Two years? All right. Would that
22 cause you any difficulty in sitting on this jury?

23 POTENTIAL JUROR: No, sir.

24 THE COURT: Can you be fair and impartial?

25 POTENTIAL JUROR: Yes, sir.

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

2 Has any member of the jury panel formed an opinion
3 concerning the innocence or guilt of Mr. Eady just merely
4 because of the fact that he's here? If you feel that or
5 think that, please stand.

6 (No response elicited.)

7 THE COURT: Does any member of the jury panel live
8 in the Chicora-Cherokee section of North Charleston? If so,
9 please stand.

10 (No response elicited.)

11 THE COURT: Let me see the attorneys up here just
12 a second.

13 (WHEREUPON, an off-the-record bench conference was
14 had.)

15 THE COURT: Does any member of the jury panel
16 regularly read and follow the CharlestonThugLife.com? If
17 anybody's been on that web site and reads it, please stand.

18 POTENTIAL JUROR: I am aware of the web site.
19 Juror 200.

20 THE COURT: What's your name?

21 POTENTIAL JUROR: William O'Neal.

22 THE COURT: All right. Hold on just a second.
23 Come around up front.

24 (Whereupon the following side bar was reported.)

25 THE COURT: Mr. Oneal.

1 POTENTIAL JUROR: Yes, sir.

2 THE COURT: You said you're aware of the web site.

3 POTENTIAL JUROR: Yeah, if I'm correct, that
4 particular blog basically tracks criminals that haven't been
5 convicted yet and captures all the stuff they throw out on
6 Facebook and whatnot. So where the police lax in their --
7 in their detective work, they throw it up so everybody else
8 can see what they have bragged about after a crime.

9 THE COURT: Okay.

10 POTENTIAL JUROR: It's an intermediate between
11 social media and grabs social media information.

12 THE COURT: It's got a lot of credibility? Really
13 know what they're talking about?

14 POTENTIAL JUROR: Absolutely not. Absolutely
15 none.

16 THE COURT: Huh?

17 POTENTIAL JUROR: Absolute none. But like for
18 instance, the guy who killed the guy in Mt. Pleasant who was
19 a law student, they were able to grab the Twitter
20 information that they threw up bragging about it and put it
21 on there so that everyone could see.

22 THE COURT: You subscribe to it on a -- do you
23 look at it on a regular basis?

24 POTENTIAL JUROR: No, my wife occasionally looks
25 at it.

1 THE COURT: Okay. Would it affect you in sitting
2 on this case?

3 POTENTIAL JUROR: No.

4 THE COURT: I don't know what it is exactly, but
5 -- never looked at it -- but do -- your wife looks at it?

6 POTENTIAL JUROR: I mean she's looked at it a
7 couple of times when we've had crimes in Mount Pleasant and
8 whatnot. You're able to see the people who are accused,
9 what they said immediately after they were accused,
10 basically bringing it to a light in public.

11 THE COURT: Okay. Would that affect you in
12 sitting on this jury?

13 POTENTIAL JUROR: Not a bit.

14 THE COURT: Can you be fair and impartial?

15 POTENTIAL JUROR: Yes, sir.

16 THE COURT: Questions from the State?

17 MR. FINCH: None from the State.

18 THE COURT: Any from the Defendant?

19 MR. LEWIS: No, Your Honor. No motions.

20 THE COURT: Any motions?

21 MR. FINCH: No motions.

22 (Whereupon, the side bar was concluded.)

23 THE COURT: Has any member of the jury panel
24 formed or expressed an opinion about any issue or matter
25 involved in this case? If so, please stand.

1 (No response elicited.)

2 THE COURT: Is any member of the jury panel aware
3 of any bias or prejudice towards either the State or the
4 Defendant in this case? If so, please stand.

5 (No response elicited.)

6 THE COURT: Does any member of the jury panel have
7 any reason, personal or otherwise, as to why they cannot
8 serve on this jury? If so, please stand.

9 (No response elicited.)

10 THE COURT: Any further questions from the State?

11 MR. FINCH: No, Your Honor.

12 THE COURT: Any further questions for the
13 Defendant?

14 MR. LEWIS: No, Your Honor.

15 THE COURT: All right. Thank you very much. How
16 much time do you need to look at the sheet?

17 I'll give you a copy of it as soon as he gets it
18 printed. How much time do you need after you get it?

19 MR. FINCH: Five minutes.

20 MR. LEWIS: Five, ten minutes, Judge.

21 THE COURT: Okay. All right. If you'll print us
22 something out, please.

23 THE CLERK: Just one minute, Your Honor.

24 THE COURT: All right, ladies and gentlemen. It's
25 12:20. If you'll be back in the jury room at 12:30 we're

1 going to draw the jury at that time. You're welcome to stay
2 in the courtroom or you can go out in the hall and mill left
3 or mill right. Your choice. Just be back here in ten
4 minutes.

5 (WHEREUPON, a brief recess was taken. After which,
6 the jury panel was in the courtroom when the following
7 matters were had:)

8 THE COURT: Go ahead and give us a jury, please.

9 THE CLERK: Yes, sir.

10 Ladies and gentlemen, whenever I call your name if
11 you would please gather your belongings; you many not be
12 returning to your seat. Make your way to the podium.
13 Please enter the courtroom through those two doors on this
14 side. Make your way to this podium. Once you reach this
15 podium, you're going to turn and face the back of the
16 courtroom and you'll be instructed from that point on.

17 Juror number 223, Clara Ratliff.

18 (Juror number 223, a white female, came forward.)

19 THE CLERK: The State has five strikes and the
20 defense has ten with the State striking first.

21 You may proceed.

22 MR. FINCH: Please excuse the juror.

23 THE CLERK: Ma'am, if you'll please return to your
24 seat, you've been excused from the trial of this case.

25 Juror number 32, Michael Boger.

1 (Juror number 32, a white male, stepped forward.)

2 THE CLERK: What say you for the State?

3 MR. FINCH: Please present the juror.

4 THE CLERK: What say you for the Defendant?

5 MR. LEWIS: Please seat this juror.

6 THE CLERK: Sir, if you'll please make your way to
7 the jury box.

8 JUROR NUMBER 32: Okay.

9 THE CLERK: You've been selected as a juror in the
10 trial of this case.

11 Juror number 181, John McDonald.

12 (Juror number 181, a white male, came forward.)

13 THE CLERK: What say you for the State?

14 MR. FINCH: Please present the juror.

15 THE CLERK: What say you for the Defendant?

16 MR. LEWIS: This is John McDonald?

17 THE CLERK: Yes.

18 MR. LEWIS: Please excuse this juror.

19 THE CLERK: Sir, if you will please return to your
20 seat. You've been excused from the trial of this case.

21 THE CLERK: Juror number 244, Gretchen Setti.

22 (Juror number 244, a white female, came forward.)

23 THE CLERK: What say you for the State?

24 MR. FINCH: Please present the juror.

25 THE CLERK: What say you for the Defendant?

1 MR. LEWIS: Please excuse this juror.

2 THE CLERK: Ma'am, if you will please return to
3 your seat. You've been excused from the trial of this case.

4 Juror number 185, Scott Merritt.

5 (Juror number 185, a white male, came forward.)

6 THE CLERK: What say you for the State?

7 MR. FINCH: Please present the juror.

8 THE CLERK: What say you for the Defendant?

9 MR. LEWIS: Please seat Mr. Merritt.

10 THE CLERK: Sir, if you would please make your way
11 to the jury box; you've been selected as a juror in the
12 trial of this case.

13 Juror 245, James Shaw.

14 (Juror number 245, a white male, came forward.)

15 THE CLERK: What say you for the State?

16 MR. FINCH: Please present the juror.

17 THE CLERK: What say you for the Defendant?

18 MR. LEWIS: Please excuse this juror.

19 THE CLERK: Sir, if you'll please return to your
20 seat; you've been excused from the trial of this case.

21 Juror 39, Mary Beth Brown.

22 (Juror number 39, a white female, came forward.)

23 THE CLERK: What say you for the State?

24 MR. FINCH: Please present the juror.

25 THE CLERK: What say you for the Defendant?

1 MR. LEWIS: Please excuse the juror.

2 THE CLERK: Ma'am, if you would please return to
3 your seat; you've been excused from the trial of this case.

4 Juror number 144, Louis Johnson.

5 (Juror number 144, a black male, came forward.)

6 THE CLERK: What say you for the State?

7 MR. FINCH: Please present the juror.

8 THE CLERK: What say you for the Defendant?

9 MR. LEWIS: Please seat this juror.

10 THE CLERK: Sir, if you'll make your way to the
11 jury box; you've been selected as a juror for the trial of
12 this case.

13 Juror number 83, Idas Ferguson.

14 (No response elicited.)

15 THE CLERK: Juror number 83?

16 (No response elicited.)

17 THE CLERK: I'll continue to the next one.

18 Juror number 228, Frederik Reijners.

19 (Juror number 228, a white male, came forward.)

20 THE CLERK: What say you for the State?

21 MR. FINCH: Please present the juror.

22 THE CLERK: What say you for the Defendant?

23 MR. LEWIS: Please seat this juror.

24 THE CLERK: Sir, if you'll please make your way to
25 the jury box; you've been selected as a juror in the trial

1 of this case.

2 THE CLERK: Juror number 80, Marshall Earhart.

3 (Juror number 80, a white male, came forward.)

4 THE CLERK: What say you for the State?

5 MR. FINCH: Please excuse this juror.

6 THE CLERK: Sir, if you will please return to your
7 seat; you've been excused from the trial of this case.

8 THE CLERK: Juror number 141, Robin Jenkins.

9 (Juror number 141, a black female, came forward.)

10 THE CLERK: What say you for the State?

11 MR. FINCH: Please present the juror.

12 THE CLERK: What say you for the Defendant?

13 MR. LEWIS: Please seat this juror.

14 THE CLERK: Ma'am, if you'll please make your way
15 to the jury box; you've been selected as a juror in the
16 trial of this case.

17 Juror number 218, Arthur Pruett.

18 (Juror number 218, a white male, came forward.)

19 THE CLERK: What say you for the State?

20 MR. FINCH: Please present the juror.

21 THE CLERK: What say you for the Defendant?

22 MR. LEWIS: Please seat this juror.

23 THE CLERK: Sir, if you'll make your way to the
24 jury box; you've been selected as a juror in the trial of
25 this case.

1 Juror number 104, Pamela Greer.

2 (Juror number 104, a white female, came forward.)

3 THE CLERK: What say you for the State?

4 MR. FINCH: Please present the juror.

5 THE CLERK: What say you for the Defendant?

6 MR. LEWIS: Please seat this juror.

7 THE CLERK: Ma'am, if you would make your way to
8 the jury box; you've been selected as a juror in the trial
9 of this case.

10 Juror number 166, Elyssa Linog.

11 (Juror number 166, an Asian female, came forward.)

12 THE CLERK: What say you for the State?

13 MR. FINCH: Please present the juror.

14 THE CLERK: What say you for the Defendant?

15 MR. LEWIS: Please seat this juror.

16 THE CLERK: Ma'am, if you would make your way to
17 the jury box; you've been selected as a juror in the trial
18 of this case.

19 Juror 265, Kathy Tabor.

20 (Juror number 265, a white female, came forward.)

21 THE CLERK: What say you for the State?

22 MR. FINCH: Please present the juror.

23 THE CLERK: What say you for the Defendant?

24 MR. LEWIS: This is Ms. Tabor?

25 THE CLERK: It is.

1 MR. LEWIS: Please seat this juror.

2 THE CLERK: Ma'am, if you'll make your way to the
3 jury box; you've been selected as a juror in the trial of
4 this case.

5 Juror number 200, William O'neal.

6 (Juror number 200, a white male, came forward.)

7 THE CLERK: What say you for the State?

8 MR. FINCH: Please present this juror.

9 THE CLERK: What say you for the Defendant?

10 MR. LEWIS: Please excuse this juror.

11 THE CLERK: Sir, if you would please return to
12 your seat; you've been excused from the trial of this case.

13 The Defendant has exhausted five of their ten
14 strikes.

15 Juror number 180, Jane McDavid.

16 (Juror number 180, a white female, came forward.)

17 THE CLERK: What say you for the State?

18 MR. FINCH: Please present the juror.

19 THE CLERK: What say you for the Defendant?

20 MR. LEWIS: Please excuse this juror.

21 THE CLERK: Ma'am, if you'll please return to your
22 seat; you've been excused from the trial of this case.

23 Juror number 192, Kevin Murphy.

24 (Juror number 192, a white male, came forward.)

25 THE CLERK: What say you for the State?

1 MR. FINCH: Please present the juror.

2 THE CLERK: What say you for the Defendant?

3 MR. LEWIS: Please excuse Mr. Murphy.

4 THE CLERK: Sir, if you would please return to

5 your seat; you've been excused from the trial of this case.

6 Juror number 252, Maritza Simon.

7 (Juror number 252, a black female, came forward.)

8 THE CLERK: What say you for the State?

9 MR. FINCH: Please present the juror.

10 THE CLERK: What say you for the Defendant?

11 MR. LEWIS: Please seat this juror.

12 THE CLERK: Ma'am, if you would please make your

13 way to the jury box; you've been selected as a juror in the

14 trial of this case.

15 Juror number 225, Brad Redding.

16 (Juror number 225, a white male, came forward.)

17 THE CLERK: What say you for the State?

18 MR. FINCH: Please present the juror.

19 THE CLERK: What say you for the Defendant?

20 MR. LEWIS: Please seat this juror.

21 THE CLERK: Sir, if you'll make your way to the

22 jury box; you've been selected as a juror in the trial of

23 this case.

24 Juror number 54, Holly Chappell.

25 (Juror number 54, a white female, came forward.)

1 THE CLERK: What say you for the State?

2 MR. FINCH: Beg the Court's indulgence?

3 Please excuse the juror.

4 THE CLERK: Ma'am, if you would please return to
5 your seat; you've been excused from the trial of this case.

6 The State has two strikes remaining.

7 Juror number 190, Carol Mobley.

8 (Juror number 190, a white female, came forward.)

9 THE CLERK: What say you for the State?

10 MR. FINCH: Please present the juror.

11 THE CLERK: What say you for the Defendant?

12 MR. LEWIS: Please seat Ms. Mobley.

13 THE CLERK: Ma'am, if you would make your way to
14 the jury box; you've been selected as a juror in the trial
15 of this case.

16 Your Honor, how many alternates? Thank you.

17 Now striking for our first alternate. The strikes
18 are one and two.

19 Juror number 227, Miriam Reese.

20 (Juror number 227, a black female, came forward.)

21 THE CLERK: What say you for the State?

22 MR. FINCH: Please excuse the juror.

23 THE CLERK: Ma'am, if you would please return to
24 your seat; you've been excused from the trial of this case.

25 The State has exhausted its only strike.

1 Juror number 241, Victoria Scott.

2 (Juror number 241, a white female, came forward.)

3 THE CLERK: Any challenges from the State?

4 MR. FINCH: None.

5 THE CLERK: What say you for the Defendant?

6 MR. LEWIS: Please seat Ms. Scott.

7 THE CLERK: Ma'am, if you would please make your
8 way up to the jury box; you've been selected as the first
9 alternate in the trial of this case.

10 Now striking for our second alternate. The strikes
11 are one and two.

12 Juror number 297, David Womble.

13 (Juror number 297, a white male, came forward.)

14 THE CLERK: What say you for the State?

15 MR. FINCH: Please present the juror.

16 THE CLERK: What say you for the Defendant?

17 MR. LEWIS: Please seat the juror.

18 THE CLERK: Sir, please make your way to the jury
19 box; you've been selected as the second alternate in the
20 trial of this case.

21 Thank you, Your Honor.

22 THE COURT: Okay. Thank you.

23 Members of the jury, I'm going to ask you to go to
24 the jury room, but before you go I want to tell you that
25 during the trial and at any point in time, I do not want you

1 to do any type of electronic investigation of this case,
2 either TV, radio, newspaper, or on the Internet. No
3 research on the Internet about the case. I want you to make
4 your decision on what you hear in the courtroom. I
5 understand some of you have computers with you. They're
6 going to be worthless as far as you sitting on the jury.
7 You bring them if you want to, but you're going to have to
8 leave them outside the jury room. If y'all go to the jury
9 room, I'll get you back very shortly. Please don't discuss
10 the case among yourselves.

11 (WHEREUPON, the jury leaves the courtroom at 12:45 PM.)

12 THE COURT: All right. Any motions from the State
13 as far as drawing the jury?

14 MR. FINCH: No, Your Honor.

15 THE COURT: Any from the defense?

16 MR. LEWIS: No, Your Honor.

17 THE COURT: All right. The remaining jury members
18 call in after six o'clock. Is there anybody that does not
19 have the number to call after six o'clock tonight? If you
20 do not have the number, please raise your hand.

21 It appears that nobody's raised their hand. You're
22 welcome to stay; otherwise you're excused. But call in
23 after six o'clock tonight and follow those instructions.
24 Thank you very much.

25 (Whereupon, the jury panel left the courtroom.)

1 THE COURT: Let me see the attorneys up here just
2 a second.

3 (WHEREUPON, an off-the-record bench conference was
4 had.)

5 THE COURT: Bring us the jury if you would,
6 please.

7 (WHEREUPON, the jury entered the courtroom at 12:48
8 PM.)

9 THE BAILIFF: The jury's all present, Your Honor.

10 THE COURT: Thank you very much.

11 Mr. Johnson, Mr. Louis Johnson, I'm going to appoint
12 you as foreman. If you'll swap seats with the lady on the
13 end here, please, sir.

14 Mr. Johnson, if you'll sit in that seat and the two
15 alternates sit in that seat. Where the rest of you sit,
16 that's up to how y'all file into the courtroom. We're going
17 to take a lunch break at this time and I've got some matters
18 that I need to take up, some legal matters, before we start
19 taking testimony and hearing opening statements from the
20 attorneys. So what I'm going to do is ask you to be back in
21 the jury room at three o'clock this afternoon. When you
22 come to the courthouse come straight to the jury room. The
23 bailiff will show you where to come at three o'clock.
24 Please don't discuss the case amongst yourself or with
25 anyone else and, as I said earlier, don't do any type of

1 research concerning this case. I want you to base your
2 decision on what you hear in the courtroom, not what you
3 read in the paper or what you see on some blog because it
4 may be correct or it may not be correct. So don't do any
5 research period at any time; home, here, or anywhere. If
6 you'll follow the bailiff, he'll show you where to come to
7 at three o'clock.

8 (WHEREUPON, the jury left the courtroom at 12:50 PM.)

9 THE COURT: We'll start back at two-thirty.

10 MR. LEWIS: Yes, Your Honor.

11 THE COURT: Anything else? Anything we need to
12 tend to in 10 minutes?

13 MR. LEWIS: If you want to try one right now, get
14 one of them done?

15 MR. FINCH: Uh ---

16 THE COURT: It doesn't matter. We can do it at
17 two-thirty.

18 MR. FINCH: We'll do it at two-thirty.

19 MR. LEWIS: Two-thirty is fine.

20 THE COURT: See you at two-thirty.

21 (WHEREUPON, Court stood at ease for the lunch break.)

22 *****

23 *****

24 ***

25 *

1 AFTERNOON SESSION

2 (Whereupon, State's exhibits numbers 1 through 33
3 were premarked for identification purposes.)

4 THE COURT: All right. Which one do you want to
5 hear first?

6 MR. LEWIS: Judge, I've actually withdrawn the
7 *Denno*. We don't need to do that, just the *Biggers*.

8 THE COURT: You're withdrawing the *Jackson Denno*?

9 MR. LEWIS: Yes, Your Honor. I wanted to save
10 time for the other one.

11 THE COURT: So motion to sequester witnesses?

12 MR. LEWIS: Oh, that is still in place.

13 THE COURT: Any objection?

14 MR. FINCH: No objection from the State, Your
15 Honor.

16 THE COURT: All right. We'll sequester the
17 witnesses. Please tell the witnesses not to get off the
18 witness stand and go outside and tell what transpired.

19 MR. FINCH: I'll have my investigator relay that.
20 I believe he's already done that.

21 THE COURT: Okay. And we've got the motion in
22 limine, *Jackson Denno*, you're withdrawing that?

23 MR. LEWIS: Withdrawing that, yes, Your Honor.

24 THE COURT: So the only thing we've got left is
25 the ID?

1 MR. LEWIS: Yes, Your Honor.

2 THE COURT: Okay.

3 MR. FINCH: The State calls Christopher Ware.

4 THE COURT: Let me ask you a couple of questions.

5 I guess, Mr. Lewis, what's -- what is your position on a
6 Biggers hearing? Are you taking the position -- was it a
7 lineup or what was it?

8 MR. LEWIS: It was a photographic lineup.

9 THE COURT: Okay.

10 MR. LEWIS: Should be -- should have been
11 conducted double blindly, consistent with North Charleston
12 procedures. My issue is that ---

13 THE COURT: So it was a photo lineup?

14 MR. LEWIS: Yes, Your Honor.

15 THE COURT: Not a lineup ---

16 MR. LEWIS: Not an in-person lineup and not a show
17 up, the two normally suggested manners of ID. My issue is
18 going to be with the photos chosen themselves, with the six
19 pack itself.

20 THE COURT: Your position is the six pack was
21 suggestive, overly suggestive or what?

22 MR. LEWIS: Yes, Your Honor.

23 THE COURT: Okay.

24 THE COURT: All right. That's your only issue?

25 MR. LEWIS: Well hopefully I will get to the

1 second part of the prong where I'll be able to address the
2 credibility of the witness who had -- and whether he had
3 time or not.

4 THE COURT: Okay.

5 MR. LEWIS: And everything else will fall under
6 the other five factors in *Neil v. Biggers*, in order to make
7 a proper ID.

8 THE COURT: Okay. All right.

9 CHRISTOPHER WARE,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 THE CLERK: Please speak clearly into the
12 microphone and state your first and last name and spell
13 your last for the record.

14 THE WITNESS: Christopher Ware, W-A-R-E.

15 DIRECT EXAMINATION BY MR. FINCH (IN-CAMERA):

16 Q. Good afternoon, Mr. Ware. If you would, tell the
17 Court where it is you're employed.

18 A. City of North Charleston Police Department.

19 Q. And how long have you been with the City?

20 A. Approximately eight years.

21 Q. And what is your position with the North Charleston
22 Police Department?

23 A. Currently I'm the school resource officer.

24 Q. And in August -- I'm sorry -- April 2012 were you
25 employed in that capacity?

1 A. No, sir, I was in the detective division.

2 Q. And as detective in the detective division what were
3 some of the duties and responsibilities you had back in
4 April 2012?

5 A. I would take incident reports that were developed by
6 street patrol officers and expand the investigation from
7 the initial investigation in an attempt to develop suspects
8 and/or bring resolution to the cases.

9 Q. And were you involved in North Charleston Police
10 Department OCA number 2012012281, an event that stemmed
11 from activities on April 6th, 2012?

12 A. Yes, sir.

13 Q. And what was your role in your investigation --
14 excuse me -- what was your role in that investigation?

15 A. In that investigation I was initially sent to the
16 hospital to interview two victims that were transported
17 there from a shooting that occurred on Success Street. And
18 after concluding that event, I went to City Hall to meet
19 with ---

20 Q. And what did you do at the City Hall?

21 A. City Hall. I showed a photographic array to two
22 individuals at City Hall that night.

23 Q. And did you develop that photographic array?

24 A. No, I did not.

25 MR. FINCH: Just Court's exhibit, Your Honor?

1 THE COURT: Yes, sir.

2 (WHEREUPON, a photo lineup was marked as Court's
3 Exhibit Number 1.)

4 Q. Let me show you what's been marked for
5 identification purposes as Court's exhibit number 1. Can
6 you take a look at that document and tell me if you
7 recognize it?

8 A. I do.

9 Q. What is that?

10 A. It's a photographic -- North Charleston standardized
11 form for showing a photographic lineup/array. We do not
12 show lineups. We only show the six picture photographic
13 arrays in there.

14 Q. Okay. And there's some items behind that initial
15 sheet. What are those items?

16 A. These are the individual pictures that were
17 contained in the photographic array which is described on
18 the front page.

19 Q. And who did you show that photographic array to?

20 A. This particular photographic array was shown to
21 Antione Foster.

22 Q. And before showing that photographic array to Mr.
23 Foster were you aware of the identity of the suspect in
24 this case?

25 A. No, sir.

1 Q. Did you have any indication who the suspect may have
2 been judge -- I mean looking at those photographs, those
3 six photographs?

4 A. No, sir.

5 Q. Had you had -- had you been given any indication by
6 the case agent in this case who the suspect was in -- for
7 this array?

8 A. No, sir.

9 Q. Now when you went in to show those photographs to
10 Mr. Foster what's that process? What's the process in
11 general for showing photographs?

12 A. The process in general is to select someone that is
13 not aware of the potential person that you're going to
14 show. That way they're not biased or construed in any way.

15 Q. In this case would that have been you?

16 A. That would have been me in this case. My process
17 which was trained to me as I became -- when I became a
18 detective was to read fully the form on the front, have
19 them initial off each section after I've read it to them,
20 and then I show them the six individual photos. Once the
21 six individual photos are shown they get to see them all
22 regardless whether they identify somebody or not. Once
23 they've identified somebody, if they do, they circle the
24 front of that picture and put their name and/or initials
25 and the date and then they initial and date the back of all

1 the rest so that there's no inclination that they were only
2 shown one photo.

3 Q. And in this -- is there also space on that front
4 sheet for comments?

5 A. There is. Once -- once they've been shown the
6 entirety of the photo and they describe how they recognize
7 the person that they identified, if they identify the
8 subject in the lineup, in the array.

9 Q. And did Mr. Foster identify any individuals from
10 this lineup?

11 A. He did. He selected picture number 5 I believe it
12 was.

13 Q. And those -- this have -- if you could look at each
14 one of those, do those have the initials on the back of
15 each of the photographs?

16 A. Yes, they do.

17 Q. And one of them has an indication on the front of
18 the photograph?

19 A. Yes, sir?

20 Q. Which photograph is that?

21 A. Number 5.

22 Q. And did Mr. Foster write anything in the comments,
23 in that comment section you eluded to?

24 A. He did.

25 Q. And in that did he identify anyone?

1 A. He did. He identified the person in number 5 as the
2 one who shot the night of the incident.

3 MR. FINCH: Beg the Court's indulgence.

4 Q. Do you know if number 5 is a picture of Torren Eady
5 or not?

6 A. I do not at this point. I've never clarified that.

7 MR. FINCH: Thank you. That's all I have at this
8 time. If you'd answer any questions that Mr. Lewis has.

9 CROSS-EXAMINATION BY MR. LEWIS (IN-CAMERA):

10 Q. How are you doing today, detective?

11 A. I'm fine, sir.

12 Q. Is it still detective?

13 A. No, sir, it's Resource Officer Ware.

14 Q. All right. You worked on this on behalf of
15 Detective Reiter?

16 A. Yes, sir.

17 Q. Correct? And so how did you actually get the six
18 photos that were used in the array here?

19 A. I was provided them by Detective Reiter.

20 Q. Okay. So he just handed them to you, said, Will you
21 administer this lineup? And you went and did it?

22 A. Yes, sir.

23 Q. Or the array. Sorry.

24 A. Yes, sir.

25 Q. I want you to -- I'm going to direct your attention

1 to those specific six photos in front of you. Of those can
2 you pick out how many of them do not include white shirts?
3 I include collared when I say that.

4 THE COURT: Does anybody have a copy of those six
5 photos?

6 MR. LEWIS: I have an extra copy I can provide to
7 the Court. Actually I can give you my copy, Judge, if you
8 need it.

9 THE COURT: Oh, that's okay. You use your copy.

10 A. You say how many don't include white shirts?

11 Q. Right. How many do not include any white shirt, an
12 all black shirt -- well a description that would match all
13 black?

14 A. Three of them have -- two have all black, one has
15 black and white and ---

16 THE COURT: Hold on just a second, please.

17 MR. LEWIS: Oh, I'm sorry, Your Honor.

18 THE COURT: I can't listen to you and him. These
19 are the six photos.

20 MR. FINCH: These are the six photos.

21 THE COURT: Well let me see what you gave to the
22 witness.

23 MR. LEWIS: Sorry.

24 (Documents handed up to the Court.)

25 THE COURT: All right. Go ahead.

1 Mr. Lewis, go ahead.

2 MR. LEWIS: Thank you, Judge.

3 BY MR. LEWIS:

4 Q. Officer Ware, you were saying how many of the six
5 photographed individuals were wearing all black clothing in
6 the pictures?

7 A. Two of them.

8 Q. And of those two that are remaining do they have the
9 same style of hair cut or different hair cuts, probably
10 your photos 5 and 6?

11 A. They appear to have the same style of hair cut, one
12 may be a little bit longer than the other.

13 Q. Throughout your work as a police officer, are you
14 familiar with the difference between dreads and singles?

15 A. No, sir.

16 Q. Okay.

17 A. Twisties and dreads, yes.

18 Q. Right. So you would consider -- in your opinion 5
19 and 6 have the same hairstyle?

20 A. Yes, sir.

21 Q. Okay. But of those, the ones that are still
22 remaining, only those two are wearing all black?

23 A. Yes, sir.

24 Q. And this was the lineup that was given to you by
25 Investigator Reiter who was the case agent on the case?

1 A. Yes, sir.

2 Q. Did you know going into the lineup that it was just
3 supposed to basically be confirming something or did you
4 not know anything at all about what was going on?

5 A. I was handed this lineup form and the stack of
6 pictures and say, Can you go show these to these two
7 individuals that are here?

8 Q. Okay. So you showed one set to Antione Foster and
9 then the other set to Gabrielle McCulley?

10 A. No.

11 Q. Or -- which was your other set shown to?

12 A. Rochelle Grant.

13 Q. Okay. And using the same set of pictures for both?

14 A. Different sequential numbers though.

15 Q. But the same six people?

16 A. Yes, sir..

17 Q. All right.

18 MR. LEWIS: Judge, no further questions for him,
19 just my motion.

20 THE COURT: Officer, if number 3's shirt's not
21 black, what color is it?

22 THE WITNESS: Your Honor, it is black, but it
23 does have white. When he asked, he said all black. That's
24 why I would have said that.

25 THE COURT: Okay. All right. Go ahead.

1 Anything else?

2 MR. LEWIS: No other questions, Judge, just my
3 motion.

4 THE COURT: Okay. Anything in redirect?

5 MR. FINCH: No, Your Honor.

6 THE COURT: All right. Any further witnesses?

7 MR. FINCH: No, Your Honor.

8 THE COURT: You may step down. Thank you very
9 much.

10 THE WITNESS: Thank you, Your Honor.

11 MR. LEWIS: Judge, I think that the lineup at this
12 point is inherently flawed to get past the first prong as
13 necessary. The description that was originally provided was
14 a person in all black. The photos here do not match that
15 and they leave some sort of difference so it draws attention
16 to the remaining two. Once you get to that point, the
17 hairstyles of those remaining two photos don't match, so
18 leaving one choice.

19 THE COURT: Well I haven't heard any testimony
20 about the all black.

21 MR. LEWIS: Well that would have been the
22 testimony of ---

23 THE COURT: That may come later, but I haven't
24 heard that. The only thing I've heard is he was given these
25 six photographs and took them in and showed them to the

1 people and they picked out number 5. Now what's unduly
2 suggestive about 1 through 6 because I think that's the
3 first prong?

4 MR. LEWIS: Yes, Your Honor.

5 THE COURT: What's unduly suggestive about these
6 pictures in general ---

7 MR. LEWIS: The way that they were prepared.

8 THE COURT: --- that would point you to 5?
9 Pardon?

10 MR. LEWIS: The way that they were prepared,
11 Judge, not the way that they were administered. I have no
12 problem with that.

13 THE COURT: Okay.

14 MR. LEWIS: Just that these six photos aren't
15 consistent across the board. You're supposed to find very
16 similar photos and not leave anything that would draw one's
17 attention to some.

18 THE COURT: Well what would draw your attention to
19 number 5 versus 1, 2, 3, 4, and 6?

20 MR. LEWIS: That he -- 5 and 6 are the only two
21 photos wearing all black as originally described.

22 THE COURT: Well maybe I didn't listen to him.
23 Did he say that he had been told that the alleged shooter
24 was wearing all black?

25 MR. LEWIS: He was not.

1 THE COURT: Well I understand, but that's not into
2 evidence at this point in time. Now you've told me that and
3 I'll take it at face value, but I don't know how that has
4 any ---

5 MR. LEWIS: The six photos themselves on their
6 face would be suggestive if they eliminate people based on
7 their clothing style right from the beginning.

8 THE COURT: Well you've got three people with
9 black shirts, 3, 5, and 6. Although 3 does have a white t-
10 shirt showing in this picture under the black.

11 MR. LEWIS: Yes, sir.

12 THE COURT: So you've got three of the six in
13 black, three -- two in white and one in black and white. So
14 you think the shirts themselves is what's unduly suggestive?

15 MR. LEWIS: I think that and then the next step is
16 the hairstyle that still remains for the remaining two
17 aren't consistent across the board either.

18 THE COURT: All right. Why not?

19 MR. LEWIS: I myself haven't had these hairstyles
20 before.

21 THE COURT: I mean why? They've all got
22 basically, I won't say similar hairstyles, but none of it's
23 combed out flat. They all have curls or dreads or whatever
24 you want to call it, but some sort of fashion or the other.

25 MR. LEWIS: Yes, Your Honor. But there is a

1 distinct difference obviously between say the style of 5 and
2 6, those two that are remaining. One is dreads. The other
3 would be more described as singles, single twists.

4 THE COURT: Okay. Anything else?

5 MR. LEWIS: That's it, Your Honor.

6 THE COURT: All right. Solicitor?

7 MR. FINCH: Thank you, Your Honor.

8 The State's position's that the administration
9 clearly was not suggestive. Officer Ware had no idea who
10 the suspect was. There wasn't anything in the description
11 as far as the testimony regarding all black. Additionally
12 that officer, Officer Ware, testified to administering the
13 photographic lineup form and reading all those items with
14 the person to be identifying.

15 I'll draw the Court's attention to number 6. People
16 may not appear exactly as they did at the time of the event
17 as features such as clothing style, hair color, hairstyle,
18 et cetera, may change even in a short period of time. And
19 that's -- my understanding is that's how the police
20 department procedures are to let people know when making
21 these identifications that there may be slight changes and
22 any variation just goes to the natural variation of time,
23 place, and -- there's no indication that just because it was
24 described or that Mr. Lewis has eluded to that he was
25 described as wearing all black, that the picture would

1 include him wearing all black anyway. There's nothing
2 suggestive about the clothing that he's wearing.

3 The face is what's being identified. The face is
4 what the witness was identifying, what he said he knew, the
5 face of the Defendant. And that's what he was looking for
6 was the face of that Defendant. There's nothing on the face
7 of this that is unduly suggestive within the process or
8 within the content of the lineup.

9 THE COURT: Mr. Lewis, anything in rebuttal very
10 briefly?

11 MR. LEWIS: Judge, all I would add is the same
12 argument that I made before. I think it's enough to get us
13 to the second prong, to address his ability to have made
14 that identification, that ID, and would ask that we move on
15 to that second prong.

16 THE COURT: Well looking at the photographs 1
17 through 6 that were presented, I just don't see anything
18 that's unduly suggestive about it. I know you talked about
19 their shirts, but there's three of them that have black
20 shirts, three of them -- one of them's got black and white,
21 two of them's got white. The hairstyle is different
22 somewhat, but they all have some type of hairstyle. I just
23 don't see anything that would unduly suggest number 5 over
24 the other five to get past the first prong.

25 MR. LEWIS: I understand the Court's ruling,

1 Judge. I just ask that you note my objection for the
2 record.

3 THE COURT: I understand. And I'll ask you again,
4 tell me in these photographs, other than the shirts, and I
5 will concede the fact that number 5's hairstyle, the only
6 similar hairstyle would be, as far as how it's presented,
7 how it's standing up, is possibly number 2 and number 1, but
8 -- and even number 6 is longer, but it's the same type of
9 hairstyle. I just don't see anything about the hairstyle
10 that says, Hey, this guy's different.

11 MR. LEWIS: In my investigation of the case,
12 Judge, I expanded my knowledge of different hairstyles
13 obviously. I still -- what I'm still relying on in my
14 argument was first -- the first part would be the
15 differences between the shirt styles ---

16 THE COURT: Right.

17 MR. LEWIS: --- drawing attention to the remaining
18 two photos. Then the significant difference between the
19 hair. If the Court disagrees with me, I certainly
20 understand, but that was my position on it.

21 THE COURT: Okay. All right. I mean I'll concede
22 that they all six have different hairstyles but I don't see
23 what would be unduly suggestive about number 5's hairstyle
24 versus number 6's hairstyle or the rest of them. So the
25 Court's ruling is I don't think you've gotten past the first

1 prong in that the photographs themselves were unduly
2 suggestive as far as the Biggers ID on that issue is
3 concerned is denied.

4 Now let me see the attorneys up here just a second.

5 (WHEREUPON, an off-the-record bench conference was
6 had.)

7 THE COURT: Are y'all ready to present any
8 testimony today or do you want to do closing [sic] arguments
9 or what do y'all want to do?

10 MR. FINCH: The State's ready to proceed with
11 opening argument or opening statement and then into our
12 first several witnesses.

13 MR. LEWIS: The same, Your Honor.

14 THE COURT: Are you ready, Mr. Lewis?

15 MR. LEWIS: Yes, Your Honor.

16 THE COURT: Okay. Do we have all the jurors?

17 THE BAILIFF: We have them, Judge.

18 THE COURT: Okay. Are y'all ready for opening
19 statements or do you need a short break or what?

20 MR. FINCH: We're ready, Your Honor.

21 MR. LEWIS: As am I, Judge.

22 THE COURT: Okay. Bring us the jury.

23 (WHEREUPON, the jury entered the courtroom at 3:02
24 PM.)

25 THE BAILIFF: All jurors present, Your Honor.

1 THE COURT: Okay. Thank you very much. Will you
2 swear the jury, please?

3 THE CLERK: Absolutely, Your Honor.

4 (WHEREUPON, the oath was administered to the jury.)

5 THE CLERK: Please let the record reflect that all
6 jurors were sworn.

7 THE COURT: Mr. Johnson, you and Ms. Linog swap
8 seats, please. I want you to sit at that seat every time,
9 please, sir.

10 Solicitor.

11 MR. FINCH: Thank you, Your Honor.

12 OPENING STATEMENT BY MR FINCH:

13 On April 6th, 2012, at [REDACTED] Success Street, Adrian
14 King, Gabby McCulley, Antione Foster, Martel Brown assembled
15 on the porch. Martel Brown had just gotten on the porch.
16 It was about ten o'clock at night. While they were sitting
17 there talking, hanging out, -- it's Friday night -- two
18 people came from Spruill Avenue, about a half block
19 distance, and walked right in front of where these people
20 were sitting on the porch listening to music, smoking
21 cigars, and asked if anybody knew about some people coming
22 by his house to gang him earlier.

23 What he was asking about was, Who are these people
24 that came over to my house with my baby mama and started up
25 some yelling and shouting and arguing in front of my mom's

1 house? Who are these people? Am I at the right house? He
2 didn't ask all that. You'll hear what happened.

3 But what -- and you'll hear from the people who were
4 at the house earlier and what had happened then. You'll
5 hear from Teresa Jenkins, Defendant's girlfriend at the
6 time. She was at the house. Some people came by. They
7 were fussing. She doesn't really know what they were
8 fussing about. But after they left the Defendant was angry.
9 So he took the car and he left. She doesn't know where he
10 went, just knows he left and he came back with a couple
11 other guys. One of them was his brother. One was another
12 guy known as TJ.

13 TJ had a long gun. He was trying to keep it by his
14 side. And he said, They're messing with -- they're messing
15 with our guy. Then they left. And they traveled about two
16 blocks when they came in front of those people sitting on
17 the porch and asked that question, Does anybody know about
18 people coming by to gang me?

19 The people on the porch didn't know who he was so
20 they said -- one of them actually said, Man, who are you?
21 And he said, It doesn't matter. Torren Eady said, It
22 doesn't matter and he stepped back, produced a handgun, and
23 fired four shots at the house. And then Torren Eady and the
24 other person who was with him ran back in the direction they
25 came towards Spruill Avenue.

1 One of those bullets hit Adrian King in the head and
2 he fell to the porch and bled. One of them went through the
3 thigh of Martel Brown, through the door, and into the
4 stairs. Two other shots, one went through the door, one
5 through -- another went through a wall and then passed --
6 ricocheted off the wall and into an air conditioning return
7 inside a different apartment. Another bullet was fired into
8 a car that was parked in the driveway at [REDACTED] Success Street
9 in an angle as it was being fired back at the house from the
10 direction that this -- two individuals were known to flee.

11 The people on the porch who didn't get shot made
12 their way inside the house. And after a while -- it took
13 them a few minutes, a few moments, to figure out where was
14 Adrian, who they called Tootie, Where is Tootie? They went
15 outside and that's where they found Tootie on the porch
16 still bleeding. They tended to him, but he died. Died of a
17 gunshot wound to his head.

18 Tootie had just gotten there probably a half an hour
19 before. He didn't even know anything about what was going
20 on. Most of the people on the porch didn't know anything
21 about what was going on. But one person on the porch had an
22 idea what was going on, but he definitely knew who that
23 person standing in front of him was. He definitely knew it
24 was Torren Eady. And he told police, when they showed up,
25 very quickly it was Torren Eady. Well he used the street

1 name, he said it was Tezo or Torren. He didn't know his
2 last name, but he said he could pick him out of a lineup.
3 So the police took him in for some questioning, had him
4 identify someone.

5 Then they set to the task of looking for Torren Eady.
6 They pinged his phones off cell towers. He wasn't in North
7 Charleston anymore. They had to track him down to downtown.
8 The marshals were looking for him. Eventually they located
9 him at his aunt's house ten days later. When they took him
10 into custody he had with him a hat, a hat that you'll hear
11 the witnesses say he left the house in for -- moments before
12 shots were fired and he returned to the house wearing it,
13 that that individual standing in front of those four people
14 had that hat on while they fired a gun right at them,
15 hitting their friend and their other friend in the leg.

16 They also found some phones. You're going to hear
17 about the phone records from the time of April 6th through
18 April 17th, the cell tower information, where the Defendant
19 was traveling, where he was previ -- prior to the shooting,
20 immediately after the shooting, and during the time of the
21 shooting, at least where his cell phone is pinging off, what
22 towers.

23 And you'll also hear about cell phones and web
24 browser information that was taken off of the phones after
25 they were collected when Mr. Eady was arrested.

1 And at the end of all this testimony -- you'll hear
2 from witnesses who were there, you'll hear from technicians,
3 you'll hear from law enforcement -- it will leave you
4 convinced that Torren Eady is guilty of murder, attempted
5 murder, attempted murder, attempted murder, and of
6 possession of a firearm during the commission of a violent
7 crime.

8 MR. LEWIS: May it please the Court?

9 THE COURT: Yes, sir.

10 OPENING STATEMENT BY MR. LEWIS:

11 Good afternoon, ladies and gentlemen. As I told you
12 earlier I'm Benjamin Lewis from the public defender's office
13 and I represent Torren Eady. I assure you that on April 6th
14 that was a tragedy for at least two families, Torren's
15 family, the Eadys, and for Adrian King's family. No one
16 came out as a winner that night, but we cannot continue that
17 tragedy throughout the trial that exists this week.

18 The case before you is one about confusion, karma,
19 and collaboration. As any of you can imagine, a shooting
20 that takes place is going to be incredibly confusing. As
21 the State has mentioned to you, four witnesses -- well
22 unfortunately one has died -- three remaining witnesses that
23 should exist if Torren had committed this crime, that would
24 be able to make this sort of ID, that would be able to say,
25 Yeah, that's the guy that did it. I want you to listen for

1 that and demand that and expect that the State will give you
2 those three people saying, Oh, yeah, that's the guy that did
3 it. Not just one. But you won't hear three people saying
4 that. You'll hear one.

5 And that gets us to the point that I was taking about
6 about karma, confusion of the initial events led to the idea
7 of karma. Antione Foster, the only witness that will say
8 that Torren Eady did this, has a reason to believe that
9 Torren is going to come back and do something to his -- his
10 home. You assume, I do something bad to someone, something
11 bad is going to happen to me. So when this confusion took
12 place, he in his head processed, Oh, this has to be the same
13 guy who I went to confront earlier when I went to -- to get
14 some street justice for supposed transgressions. So he
15 assumed that the boogie man, the man who commits these
16 horrible acts, has to be the same guy. Doesn't mean that it
17 is. This isn't the kind of thing that is easy to see.
18 You'll hear that because other witnesses similarly situated
19 couldn't make the same ID. They couldn't say, Yeah, that's
20 the man who did that shooting. But they were standing on
21 the same porch under the same lights with the same ability
22 to see the person that had done it. It's not there. And it
23 should be had he been the shooter.

24 Yes, we will get into discussing about the bucket
25 hat. I, as a nerd and defense attorney, love talking about

1 forensics. This isn't particularly a forensics case, but
2 what it is is one that should have some. That's something
3 we'll address throughout the case, what should have existed
4 had Torren Eady, my client, been wearing the bucket hat that
5 eventually we'll get out of that bag so that you can see,
6 and committed this crime. The evidence that should have
7 been there is not. That's the corroboration I talked about.
8 Confusion leads to karma which demands corroboration. There
9 should be evidence there. There's not.

10 The State's going to ask you to trust one guy, a guy
11 who has reason to lie, a guy who was simply mistaken.
12 Whatever reason it was, he got it wrong. You can't take
13 that out on Torren. So for those reasons when you're done
14 with this case I ask that you return a verdict of not
15 guilty.

16 I know it sounds bad, murder, attempted murder,
17 attempted murder, attempted murder, possession of a gun.
18 What it is is who did it and they told you not that someone
19 else did it. They said that Torren Eady pulled that
20 trigger. Make them prove it.

21 Thank you, ladies and gentlemen.

22 THE COURT: Solicitor, if you'll call your first
23 witness.

24 MR. FINCH: Thank you, Your Honor. The State
25 calls Teresa Jenkins.

1 **TERESA JENKINS,**
2 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

3 THE CLERK: Please speak clearly into the
4 microphone and if you could, please, say your first and
5 last name and then spell your last name for the record.
6 Thank you.

7 THE WITNESS: Teresa Jenkins, J-E-N-K-I-N-S.
8 DIRECT EXAMINATION BY MR. FINCH:

9 Q. Good afternoon, Ms. Jenkins.
10 A. Hello.
11 Q. If you would, tell the Court how old you are.
12 A. 21.
13 Q. And what part of town do you live in?
14 A. Hollywood.
15 Q. I'm sorry?
16 A. Hollywood.
17 Q. And how long have you lived in Hollywood?
18 A. 21 years.
19 Q. And are you working right now?
20 A. No.
21 Q. Where did you last work?
22 A. The Maids, Hanahan, South Carolina.
23 Q. And do you have any children?
24 A. Yes.
25 Q. Who is that?

- 1 A. My daughter.
- 2 Q. How old is she?
- 3 A. Three months.
- 4 Q. And I'm going to ask you how do you know Torren
- 5 Eady?
- 6 A. We was dating.
- 7 Q. And when did you start dating him?
- 8 A. January 2012.
- 9 Q. About how long did you date him?
- 10 A. Maybe three months.
- 11 Q. Were you guys dating August -- I'm sorry -- April
- 12 6th, 2012?
- 13 A. Yes.
- 14 Q. And I'm going to ask you about the events of April
- 15 6th, 2012. What were you doing that day?
- 16 A. Working.
- 17 Q. And where were you working?
- 18 A. Wyndham Resort, Edisto Island.
- 19 Q. What did you do?
- 20 A. Supervisor.
- 21 Q. And what were your hours on that day? Do you
- 22 recall?
- 23 A. No, I don't remember.
- 24 Q. Do you roughly remember what time you got off work?
- 25 A. Maybe four. Around four or five.

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

2 A. Went to his house to do his sister's hair.

3 Q. And when you say his house, you went to Mr. Eady's
4 house?

5 A. Torren's, yes.

6 Q. And where was that?

7 A. I'm not too familiar with the area.

8 Q. Was that in downtown Charleston or North Charleston?

9 A. North Charleston.

10 Q. North Charleston. And did you leave straight from
11 work to go up to his house?

12 A. I really don't remember. I think I did.

13 Q. Do you remember what time you got to his house?

14 A. No.

15 Q. When you got to the house you said you were there to
16 do his sister's hair?

17 A. Yes.

18 Q. I'm going to show you what's been marked for ID
19 purposes as State's exhibit 23. Can you identify that?
20 What is that?

21 A. That's Torren's house.

22 Q. It's a photograph?

23 A. Yes.

24 Q. Accurately represents the house as you recall it?

25 A. Yes.

1 MR. FINCH: At this time the State would move for
2 the admission of State's 23 into evidence.

3 THE COURT: Any objection?

4 MR. LEWIS: Without objection.

5 THE COURT: All right. 23 admitted without
6 objection.

7 (WHEREUPON, a photograph of Defendant's mom's house,
8 having been previously marked, was admitted into evidence
9 as State's exhibit number 23.)

10 Q. And when you got to Torren's house was that where
11 his mom and sister lived as well?

12 A. Yes.

13 Q. Okay. And you were there to do his sister's hair.
14 What happened after you got there?

15 A. We needed scissors so we sent him to the store to
16 get a pair of scissors for us.

17 Q. And again you say him, you're referring ---

18 A. Torren, yes.

19 Q. You sent Torren to the store to get scissors. And
20 did he walk to the store or did he drive to the store?

21 A. He drove.

22 Q. Whose car did he drive?

23 A. My car.

24 Q. And do you recall how long he was gone?

25 A. No.

- 1 Q. Did it seem like it took longer than it should have?
- 2 A. Just a little longer, yes.
- 3 Q. Were you concerned at all?
- 4 A. A little.
- 5 Q. Well when he got back what happened at the house?
- 6 Did he get scissors?
- 7 A. Yes.
- 8 Q. Did you start doing the sister's hair?
- 9 A. Yes.
- 10 Q. What happened next at the house?
- 11 A. Well exactly what happened, I don't remember exactly
- 12 what happened. I know his baby mama came to the house.
- 13 Q. Do you know who that individual is?
- 14 A. Rochelle Grant.
- 15 Q. So how do you know Rochelle came to the house? Did
- 16 you see her?
- 17 A. No, I heard her voice. And she text his phone
- 18 because I guess she was upset that I was at the house at
- 19 the time. He didn't want her there to bring their son.
- 20 Q. And did you see the text?
- 21 A. Yes.
- 22 Q. What did the text say?
- 23 A. She was coming to slap him.
- 24 Q. And do you know how much time elapsed from the time
- 25 the text was sent until he got there -- or she got there?

1 I apologize.

2 A. No.

3 Q. Well you said you heard her. Describe what you
4 heard.

5 A. She was banging on the door and then he really
6 didn't want to open the door because I guess she was coming
7 inside to try to come after me. I know her voice because
8 before we had an argument before too. So I know her voice.

9 Q. If you look on that screen behind you, would that be
10 the door that Rochelle came to?

11 A. Yes.

12 Q. And she was banging on the door. As we look at that
13 picture to the right-hand side of that, what window does
14 that go to? What room is that behind that window on the
15 right-hand side as we look at it?

16 A. The living room.

17 Q. That side is the living room?

18 A. Yes.

19 Q. Okay. What's over on this side?

20 A. Torren's bedroom.

21 Q. All right. Where were you? Were you inside the
22 house or outside the house?

23 A. Inside.

24 Q. Were you in the living room or the bedroom?

25 A. Living room.

1 Q. Were you able to see who was on the porch at all?

2 A. No.

3 Q. But you could definitely hear Rochelle?

4 A. Yes.

5 Q. Okay. What was Torren doing at that time?

6 A. He just asked her -- no, he said, You bringing these
7 niggers to my mama house.

8 Q. Okay. Did you see how many people were there?

9 A. No.

10 Q. Did you hear other people?

11 A. I don't remember, no.

12 Q. Okay. What happened after that was said?

13 A. She slapped his phone out of his hand, Rochelle.

14 Q. Slapped Torren's phone?

15 A. Yes.

16 Q. And then what happened?

17 A. They left and he came back into the house and that's
18 the time when he went downtown.

19 Q. Well let's slow down. He came back in the house and
20 then what happened? Did he -- did he leave or did he stay?

21 A. He didn't leave right then. Probably five minutes
22 later or six minutes later he left.

23 Q. How did he leave; by car, by foot?

24 A. My car.

25 Q. Your car?

1 A. Yes.

2 Q. And do you know where he went? At that time did you
3 know where he was going?

4 A. No.

5 Q. Did he say anything before he left?

6 A. No.

7 Q. How long was he gone?

8 A. Long enough time for me to text his phone.

9 Q. Okay. Do you -- why did you text him?

10 A. Because I know they just came to the house, well his
11 baby mama, and I guess he would have gone over there to
12 meet up with the guys or...

13 Q. Again ---

14 MR. LEWIS: Objection, Your Honor.

15 THE COURT: What's your legal objection?

16 MR. LEWIS: Speculation.

17 THE COURT: I'll sustain the objection. Just
18 testify to your own knowledge; don't speculate, okay?

19 THE WITNESS: Okay.

20 THE COURT: Please proceed.

21 BY MR. FINCH:

22 Q. Ms. Jenkins, previously you testified that he was
23 gone to the store long enough for you to get concerned.

24 Were you concerned at this point in time?

25 A. Yes.

1 Q. Was your concern based on the altercation?

2 A. Yes.

3 Q. And Mr. Eady's departure right after the
4 altercation?

5 A. Yes.

6 Q. Did he say anything before he left regarding where
7 he might be going in your car?

8 A. No.

9 Q. Did -- when you texted him, did he reply as to where
10 he was with your car?

11 A. No.

12 Q. Did you ever call him to find out where he was?

13 A. I don't remember if I called him.

14 Q. Do you recall about how long he was gone?

15 A. I don't know.

16 Q. You were concerned about the length of time that he
17 was gone because something was up with your car; is that
18 correct?

19 A. Yes.

20 Q. What was the story with your car?

21 A. When it would get overheated it would cut off and
22 jerk. So...

23 Q. So he was gone long enough you were worried that the
24 car might have problems? Did you indicate that to Mr.
25 Eady?

1 A. Yes, he knew about the car.

2 Q. Did you communicate that worry to him? Did you text
3 him or anything to let him know?

4 A. Yes, I text him.

5 Q. And when he returned back -- you don't know how long
6 he was gone, but when he returned back who was with Mr.
7 Eady?

8 A. Him, his brother Da'Quan, TJ, and I think his name
9 was Jigg or something.

10 COURT REPORTER: I'm sorry, Your Honor. I'm
11 having trouble hearing.

12 MR. FINCH: TJ and Jigg.

13 THE COURT: Speak up a little bit so everybody
14 can hear you, please, ma'am.

15 A. TJ and Jigg.

16 Q. Had you met TJ before?

17 A. Yes.

18 Q. Had you met Da'Quan before?

19 A. Yes.

20 Q. Had you met Jigg before?

21 A. Yes.

22 Q. Do you know Jigg's real name?

23 A. No.

24 Q. Do you know TJ's real name?

25 A. No.

1 Q. Did they all come into the house with Torren when
2 they returned?

3 A. Yes.

4 Q. Do you know if they all rode in your car?

5 A. I think. I don't know.

6 MR. LEWIS: Objection, Your Honor.

7 THE COURT: Overruled.

8 MR. LEWIS: Again calls for speculation.

9 THE COURT: Overruled.

10 Q. When they got into the house, were all four of them
11 in the house?

12 A. Yes.

13 Q. What did you notice about any of them? Did anything
14 stick out to you?

15 A. Yes, TJ spoke and said they was messing with Tezo's
16 cousin or something. They was messing with Tezo.

17 Q. And who's Tezo?

18 A. Torren.

19 Q. And what was TJ holding?

20 A. I think a shotgun. A shotgun?

21 Q. It was a shotgun you said?

22 A. A long one on the side or something.

23 Q. How was he holding that long gun?

24 A. On his side.

25 Q. If you could stand up and just show the jury how he

1 was holding that.

2 A. I don't remember.

3 Q. Was he holding it down to his side or was he holding
4 it up in the air?

5 A. Down to his side.

6 Q. Down to his side?

7 A. Yes.

8 Q. But you were able to see that that was a weapon?

9 A. [Nodded.]

10 Q. Did anybody else speak when they came back?

11 A. No.

12 Q. Did Torren say anything?

13 A. No, I don't know.

14 Q. How long did they stay in the house?

15 A. Maybe six minutes. Six minutes I believe.

16 Q. And you don't remember them talking about anything
17 else while they were there?

18 A. No.

19 Q. When they went to leave did you know where they were
20 going?

21 A. No.

22 Q. Did you try to stop anybody?

23 A. Torren.

24 Q. You tried to stop Torren?

25 A. [Nodded.]

1 Q. Why?

2 A. Because I know what happened earlier and I saw the
3 gun TJ had and it got me kind of scared.

4 Q. What were you scared of?

5 A. Torren going towards the guy that was at his house.

6 Q. Did Torren say anything to you?

7 A. Just chill; it will be all right.

8 Q. I'm sorry. Can you repeat that please?

9 A. Just chill; it will be all right.

10 Q. What happened next? Did all four of those guys
11 leave?

12 A. Yes.

13 Q. When Torren left do you remember what he was
14 wearing?

15 A. No.

16 Q. Do you remember if he had a hat on?

17 A. I think he did have his hat. I don't remember.

18 Q. Going to need you to speak up a little bit so the
19 jury can hear you?

20 A. I really don't remember if he had his hat on.

21 Q. Okay. Did he wear a black hat?

22 A. Yes.

23 Q. How would you describe that hat?

24 A. A bucket hat.

25 (WHEREUPON, a hat was marked as State's exhibit

1 number 35 for identification purposes.)

2 Q. I'm going to show you what's been marked for ID
3 purposes only as State's exhibit 35. If you can take a
4 look in that bag and tell me if you can identify what's in
5 that bag.

6 A. His hat.

7 Q. You say his hat. Is that Torren Eady's hat?

8 A. Yes.

9 MR. FINCH: At this time the State would move for
10 admission of State's 35 in evidence.

11 THE COURT: Any objection?

12 MR. LEWIS: Yes, Your Honor. I think there would
13 need to be more foundation laid.

14 THE COURT: I'll sustain the objection.

15 MR. LEWIS: Thank you, Your Honor.

16 Q. After they left the house what was the next thing
17 you remember seeing or hearing?

18 A. Hearing.

19 Q. What did you hear?

20 A. Gunshots.

21 Q. How many gunshots did you hear?

22 A. I don't remember.

23 Q. Was it more than one?

24 A. Yes.

25 Q. More than two?

1 A. I don't remember.

2 Q. Where did they sound like they were coming from?

3 A. I can't say that either. It sounded like it was
4 close to the house though.

5 Q. Close to the house. What's the next thing you
6 remember after hearing those gunshots?

7 A. Torren coming to the back door at his mom house.

8 THE COURT: Speak up now, Ms. Jenkins, please.

9 A. Torren coming to the back door, banging on his
10 mother's back door.

11 Q. And was he saying anything while he was banging on
12 the back door?

13 A. She was trying to find out who he was banging on the
14 door. And he was like, Mama, it's Torren.

15 Q. What's Torren's mom's name?

16 A. Shannon.

17 Q. Was Shannon home when they left to go over -- left
18 to wherever they went?

19 A. Yes.

20 Q. Do you know -- how was Shannon acting?

21 A. She was paranoid. She was shaking, scared.

22 Q. Do you know if she heard the gunshots or not?

23 A. Yes.

24 MR. LEWIS: Objection. Speculation.

25 THE COURT: Overruled. If she heard them she can

1 say yes or no. Question was did she hear the gunshots.

2 MR. LEWIS: Did the mother hear the gunshots, not
3 did the witness.

4 THE COURT: Oh, okay. All right. I'll sustain
5 the objection. I thought you asked her if she heard it.

6 MR. FINCH: May we approach, Your Honor?

7 THE COURT: Yes, sir.

8 (WHEREUPON, an off-the-record bench conference was
9 had.)

10 BY MR. FINCH:

11 Q. Do you know if Shannon heard the gunshots?

12 A. No. The way she was acting I think she did hear the
13 gunshot.

14 Q. After Torren let his mom know it was him, did he
15 come inside the house?

16 A. Yes.

17 Q. What happened once he got inside the house?

18 A. I don't remember.

19 THE COURT: Speak up.

20 A. I don't remember.

21 Q. Did anybody come in the house with him?

22 A. I don't remember that either. I just knew it was

23 ---

24 Q. Was Da'Quan with him?

25 A. I don't remember Da'Quan coming in the house.

1 Q. After Torren came back did you drive him anywhere?

2 A. Yes.

3 Q. Who else was in the car when you drove Torren?

4 A. Da'Quan.

5 Q. Who was -- you were driving. Who was sitting in the
6 front seat?

7 A. Torren.

8 Q. Where was Da'Quan?

9 A. In the back.

10 Q. Did you leave from the house to go to the car?

11 A. Yes.

12 Q. Did all of you go together into the car?

13 A. Yes.

14 Q. So you, Torren, and Da'Quan got in the car. Did you
15 know where to go?

16 A. No.

17 Q. Where did you decide to drive?

18 A. The back way.

19 Q. You say the back way. Who told you where to go?

20 A. Torren.

21 Q. Did you know where you were going?

22 A. No.

23 Q. Did you know -- did Torren tell you the destination
24 where you were going?

25 A. Yes.

1 Q. What did he say?

2 A. He didn't say. He didn't really say. He just gave
3 me directions.

4 Q. Do you know where he ended up?

5 A. Sunny Side.

6 Q. Is that in North Charleston or ---

7 A. Downtown.

8 Q. --- downtown Charleston?

9 A. Downtown.

10 Q. And when you got down to Sunny Side -- well let's go
11 back. Do you remember Torren saying anything to his mother
12 about the people in the house?

13 A. Uh, Call Levi and tell them to come pick you and the
14 kids up.

15 Q. And who is Levi?

16 A. His mom's boyfriend.

17 Q. Do you remember when he said that?

18 A. No.

19 Q. It could have been in the house or on the phone?

20 A. One of the two. I don't remember.

21 Q. Now you drove Torren and Da'Quan together in your
22 car downtown ---

23 A. Yes.

24 Q. --- to Sunny Side? Do you remember the street where
25 you stopped?

1 A. No.

2 Q. Why did you decide to stop at whatever street you
3 did stop at?

4 A. Because that's where he wanted me to stop.

5 Q. And again that's Torren?

6 A. Torren.

7 Q. What was Torren's demeanor when he was in the car
8 with you?

9 A. My car was acting up and he was getting angry, not
10 really angry, but frustrated because the car was acting up
11 and he wanted to get to his destination.

12 Q. Did he want to get there in a hurry?

13 A. I wouldn't say hurry, but he was upset about the
14 car.

15 Q. When you say he was upset, was he yelling? Was he
16 -- how would you say he was upset? How did you know?

17 A. He wasn't upset, but he was getting frustrated with
18 the car because the car kept cutting off and...

19 Q. When -- do you know what happened in between the
20 time that Torren left with Da'Quan and TJ and Jigg and then
21 came back and then you were driving him downtown?

22 A. No.

23 Q. Do you have any ideas based on the way people were
24 acting in the car whether it was good or bad?

25 MR. LEWIS: Objection, Your Honor. Calls for

1 speculation.

2 THE COURT: Overruled. Go ahead.

3 Q. You can answer the question.

4 A. Could you repeat it?

5 Q. Did you have any idea whether whatever happened was
6 good or bad based on how people were acting in the car?

7 A. Bad.

8 Q. After you got downtown did -- and the car was
9 stopped, who got out of the car?

10 A. Torren.

11 Q. Did Da'Quan stay in the car?

12 A. No, he said what he said and he left. He got out
13 the car and said, I hope you don't think Torren did this,
14 man.

15 Q. If you could repeat that a little bit louder for the
16 jury, please.

17 A. I hope you don't think Torren did this, man.

18 Q. And -- but when Torren got out of the car he didn't
19 say anything and you're saying Da'Quan stayed in the car a
20 little bit longer and said that?

21 A. I'm really not sure. I just know he said that.

22 Q. And then did Da'Quan leave the car?

23 A. Yes.

24 Q. Do you know which direction Torren or Da'Quan went?

25 A. No.

1 Q. Where did you go after they left your car?

2 A. Home.

3 Q. And that is back in Hollywood?

4 A. Yes.

5 Q. Do you know about how long it took you to drive back
6 home?

7 A. No.

8 Q. Did you speak to Torren any further that night?

9 A. I don't think -- I don't remember. I don't know.

10 Q. Did you -- do you remember if you spoke to him by
11 phone the next couple of days?

12 A. Yes.

13 Q. What did y'all talk about?

14 A. I don't remember.

15 Q. Did you know where Torren was staying?

16 A. No.

17 Q. Were you contacted by police that night?

18 A. Yes.

19 Q. And did you meet with police?

20 A. Yes.

21 Q. And what did you tell the police?

22 A. What did I tell the police?

23 Q. Everything you just told us?

24 A. Yes.

25 Q. Did the police show you some lineups?

1 A. Yes.

2 Q. Some individuals?

3 A. Yes.

4 Q. As part of the investigation?

5 A. Yes.

6 Q. And you identified some people that they asked you
7 about?

8 A. Yes.

9 Q. Do you remember what Torren's phone number was at
10 the time?

11 A. No. 64 -- 642, I don't remember the last four.

12 MR. FINCH: Nothing further at this time. Please
13 answer any questions Mr. Lewis has.

14 THE COURT: Cross-examination.

15 MR. LEWIS: Thank you, Judge.

16 CROSS-EXAMINATION BY MR. LEWIS:

17 Q. How you doing, Teresa?

18 A. Good.

19 Q. I know you're nervous, but like I told you before,
20 right, just relax. Okay? When we talked you talked about
21 being a nosy girlfriend.

22 A. Yes.

23 Q. Right? What's that mean?

24 A. I would search his room.

25 Q. Keep it up. I'm sorry. I know he's having a hard

1 time hearing you. She probably can hear you. I can't. I
2 know you're soft spoken.

3 A. Yes, sir.

4 Q. What does that mean?

5 A. I would search Torren's room.

6 Q. Okay. Search his room because you were boyfriend
7 and girlfriend?

8 A. Yes.

9 Q. You wanted to see if he was stepping out on you?

10 A. Yes.

11 Q. So you were looking for evidence of that?

12 A. Yes.

13 Q. I don't need to go into whether or not he was a good
14 boyfriend or not so I don't want to find out if you found
15 any evidence of that. Did you find guns?

16 A. No.

17 Q. You didn't find a gun?

18 A. No.

19 Q. No, .38?

20 A. No.

21 Q. No, .357?

22 A. No.

23 Q. No guns?

24 A. No.

25 Q. No sorts of pistols at all, no weapons?

1 A. No.

2 Q. That would have -- as his girlfriend you wouldn't
3 have liked to to see that, right?

4 A. Yes.

5 Q. Try to keep your voice up for me. I know it's hard.
6 I want to talk to you about the confrontation that took
7 place while you were getting ready to do Arianna's hair.
8 Arianna's his sister, right?

9 A. Yes.

10 Q. So you were getting ready to do her hair and you're
11 in the living room?

12 A. Yes.

13 Q. And the real reason you came to the house that day
14 was to do that hair?

15 A. Yes.

16 Q. Right? And you overheard some of this conflict
17 going on outside?

18 A. Yes.

19 Q. You overheard Rochelle Grant's voice?

20 A. Yes.

21 Q. That's his ex, right?

22 A. Yes.

23 Q. One of those -- that's one of the women that you're
24 kind of worried about in his life or were at the time, not
25 now, but at the time?

1 A. Yes.

2 Q. But you can't exactly say, just like the State
3 brought out, what happened -- can't say for certain what
4 happened during that exchange because you're focused inside
5 on the hair?

6 A. Yes.

7 Q. Right? I want to talk to you a little bit about
8 Torren's hair. I know we spoke briefly about this before.

9 A. Yes.

10 Q. What did you to for a living back then?

11 A. Braid.

12 Q. All right. So what's that mean? What do you do? I
13 know it sounds simple, but what is that actually like?

14 A. My hair.

15 Q. And other people's?

16 A. Yes.

17 Q. Okay. So back then -- I've got him cleaned up so he
18 looks nice. What did his hair look like back then?

19 A. Short singles.

20 Q. Singles?

21 A. Yes, braids.

22 Q. Okay. Are singles and dreads the same thing?

23 A. No.

24 Q. There's a difference?

25 A. Yes.

1' Q. I obviously don't have that type of hair so explain
2 to me what's the difference between singles and dreads, if
3 you can.

4 A. I don't know. I never knew how to do dreads so I
5 wouldn't know.

6 Q. Is it a you know it when you see it kind of thing?

7 A. Yes.

8 Q. So what kind of hair did he have?

9 A. Braids.

10 Q. Okay. About how long? Do you remember? And if you
11 don't you can say so, but...

12 A. It was short, but I don't remember.

13 Q. Short?

14 A. Yes.

15 Q. All right. So you would say at the time that all
16 this took place Torren Eady had short singles?

17 A. Yes.

18 Q. Not dreads?

19 A. No.

20 Q. All right. Let's see. I want to talk to you a
21 little bit about you've said that previously you've seen
22 Torren wear a bucket hat?

23 A. Yes.

24 Q. Can you tell one black bucket hat from another black
25 bucket hat? Did he do anything distinctive to his that

1 would identify it for you?

2 A. No.

3 Q. Okay. And there was a little hesitancy. You can't
4 say for certain that night if Torren was even wearing his
5 hat, can you?

6 A. No.

7 Q. I'm sorry. I've got to get a yes or no?

8 A. No.

9 Q. I know it's hard. No?

10 A. No.

11 Q. Thank you, ma'am. So we talked about the
12 confrontation and then several people came back. You said
13 at some point Da'Quan came back and TJ came back, right?

14 A. Yes.

15 Q. Thank you. What's Da'Quan's appearance? What does
16 he look like? What kind of hair does he have? Let's do
17 that.

18 A. Dreads.

19 Q. So Da'Quan has dreads?

20 A. Yes.

21 Q. Let's see. I'm sorry. I printed this small and my
22 eyesight's not too great. Hold on one second.

23 But then you hear some sort of commotion, but you
24 can't say for certain what was being said, but some guys go
25 outside?

1 A. Yes.

2 Q. Right. And you have no idea what took place once
3 they went outside?

4 A. Right.

5 Q. None of those four -- at least four, right?

6 A. Yes.

7 Q. You say Torren goes outside, Da'Quan goes outside,
8 TJ goes outside and another guy that you think his name is
9 Jigg?

10 A. Yes.

11 Q. But all four of them went outside?

12 A. Yes.

13 Q. And once they're outside you have no idea what took
14 place or who did what to whom or what happened, right?

15 A. Right.

16 Q. We spoke briefly before about your being his
17 girlfriend, your searching his room. You said you've never
18 seen Torren with a weapon?

19 A. Right.

20 Q. That night you did see somebody with a weapon,
21 right?

22 A. Yes.

23 Q. A guy named TJ had a shotgun down by his side is
24 what you presented to them?

25 A. Yes.

1 Q. Do you see Torren -- or TJ sitting at that table?

2 A. No.

3 Q. You see Da'Quan sitting at that table?

4 A. No.

5 Q. You see Torren at that table, right?

6 A. Yes.

7 Q. Just him?

8 A. [Nodded.]

9 Q. All right. But never saw Torren with a gun?

10 A. No.

11 Q. Or anything to suggest that he had a gun?

12 A. No.

13 Q. You said that you heard gunshots, unsure about how
14 many?

15 A. Yes.

16 Q. But gunshots are scary, right?

17 A. Yes.

18 Q. Nobody wants to be around them. You want to be away
19 from them, right?

20 A. Yes.

21 Q. And as you are getting ready to leave I believe you
22 told one of the detectives you saw a black car?

23 A. My black car?

24 Q. No, another black car. And if you don't remember
25 that's fine.

1 A. I don't remember.

2 Q. You don't remember that? Okay. But you do know
3 that the people that ended up getting into your car were
4 just two?

5 A. Yes.

6 Q. Da'Quan and Torren?

7 A. Yes.

8 Q. Where there had been four, right?

9 A. [Nodded.]

10 Q. So you have no idea where the other two guys went?

11 A. No.

12 Q. How they left the area, right?

13 A. Right.

14 Q. I want to talk to you a little bit also about being
15 scared. I know you're scared. I know you don't want to be
16 here. I know they don't want to be here. Nobody really
17 wants to be here, but we have to go through this process.
18 You -- you were scared about all of this, right?

19 A. Yes.

20 Q. This whole process. It's not something that you
21 know anything about, right?

22 A. Yes.

23 Q. So you were interviewed by the police and I'm not
24 getting you in any trouble here because they're not going
25 to charge you with anything and they haven't. But-

1 originally you said, I don't know how he got out of there,
2 right?

3 A. I told them.

4 Q. Not at -- at first you said I don't know how and
5 then you corrected to say, Yes, I took him out.

6 A. Oh, okay.

7 Q. Right?

8 A. Yes.

9 Q. So at first a little bit of a lie, but then you
10 corrected yourself and told the truth, right?

11 A. Yes.

12 Q. But you lied because you were scared. It's okay,
13 but is that why?

14 A. Yes.

15 Q. All right. Obviously you didn't do that because
16 you're a bad person. You did that because you were scared,
17 right?

18 A. Yes.

19 MR. LEWIS: One moment, Judge.

20 THE COURT: Yes, sir.

21 Q. The State had brought up one comment that you heard
22 Da'Quan say, I hope you don't think Torren did this.

23 A. Yes.

24 Q. Right?

25 A. Yes.

1 MR. LEWIS: Thank you.

2 No further questions, Judge.

3 THE COURT: Any redirect?

4 REDIRECT EXAMINATION BY MR. FINCH:

5 Q. Teresa, do you recall meeting with my office
6 yesterday?

7 A. Yes.

8 Q. In my office, my investigator?

9 A. Yes.

10 Q. And do you recall telling my investigator that to
11 your recollection at that time yesterday that Torren left
12 wearing a black hat?

13 A. Yes.

14 Q. Do you recall my investigator producing a black hat,
15 holding it up, and showing it to you?

16 A. Yes.

17 Q. Do you recall indicating that that was the black
18 hat?

19 A. Yes.

20 Q. Would you like to take another look at this hat and
21 see if you can identify it? I'm showing you what's State's
22 -- marked as State's 35.

23 THE COURT: Take it out of the bag and show it to
24 her.

25 A. [Nodded] Yes.

1 Q. Yes, this is Torren's hat?

2 A. Yes.

3 Q. Yes, it's the hat he left the house in?

4 A. Yes.

5 MR. FINCH: State would move for admission of
6 State's 35.

7 MR. LEWIS: Judge, I still think it lacks
8 foundation as to how she can ---

9 THE COURT: I'll sustain the objection on
10 relevancy at this point in time.

11 MR. FINCH: That's all I have.

12 THE COURT: Any recross?

13 MR. LEWIS: Just briefly, Judge.

14 THE COURT: Don't go past redirect now, okay?
15 All about a hat.

16 MR. LEWIS: Well about a hat and about
17 committing.

18 THE COURT: Okay.

19 RE CROSS-EXAMINATION BY MR. LEWIS:

20 Q. Teresa, I know you're nervous and I know you're
21 scared. But earlier you had said, I don't know. Do you
22 know or do you not know? Don't -- don't just change
23 because I or he or anybody says something. Do you know or
24 not and it's okay if you ---

25 A. I really don't remember.

1 MR. LEWIS: All right.

2 Thank you, Judge.

3 THE COURT: All right. You may step down. Thank
4 you very much. Call your next witness.

5 MR. FINCH: The State calls Gabrielle McCulley.

6 **GABRIELLE MCCULLEY,**

7 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

8 THE CLERK: Please speak clearly into the
9 microphone and once you're seated state your first and last
10 name and spell your last for the record.

11 THE WITNESS: Yes. Hi, my name is Gabrielle
12 McCulley. My last name is spelled M-C-C-U-L-L-E-Y.

13 DIRECT EXAMINATION BY MR. FINCH:

14 Q. Good afternoon, Ms. McCulley. If you would, tell
15 the Court how old you are.

16 A. I'll be 21 in March.

17 Q. And whereabouts do you live?

18 A. I live on [REDACTED] off Remount Road.

19 Q. In North Charleston?

20 A. Yes, sir.

21 Q. How long have you lived in the Charleston area?

22 A. Since 2001 of December.

23 Q. Did you go to high school here?

24 A. Yes.

25 Q. Where did you go?

1 A. North Charleston High School and Military Magnet.

2 Q. Did you graduate?

3 A. No, sir.

4 Q. Are you working now?

5 A. No, sir.

6 Q. On April 6th, 2012, did you happen to be in the North
7 Charleston area?

8 A. Yes, sir.

9 Q. Were you on Success Street?

10 A. Yes, sir.

11 Q. All right. [REDACTED] Success Street?

12 A. I believe that was the address.

13 Q. What were you doing there?

14 A. Hanging out with some friends.

15 Q. Who were you hanging out with?

16 A. It was several people. It was Sebastian, Caleb,
17 Gerald, TJ, Antione, Adrian, Grip, Animal.

18 Q. These are all nicknames I'm assuming?

19 A. Some are; some are real names.

20 Q. How long -- do you remember what time you got to
21 Success Street that day?

22 A. It was a little after -- it was like around 4:30
23 maybe.

24 Q. And I think you had mentioned Rochelle was there.
25 Was Rochelle around that area?

1 A. She came later.

2 Q. Okay. And that would be Rochelle Grant?

3 A. Yes.

4 Q. What was the nature of her coming around?

5 A. She came around saying something about fighting
6 between ---

7 MR. LEWIS: Objection, Your Honor. Hearsay.

8 THE COURT: I'll sustain the objection.

9 Q. Did Ms. Grant come around Success Street?

10 A. Yes.

11 Q. What did y'all do when she got -- or what happened
12 after she arrived?

13 A. We left.

14 Q. And when you say we, who left?

15 A. Me, Antione, Sebastian, Animal. I believe that was
16 it.

17 Q. And where did you go?

18 A. To Leland.

19 Q. And do you know the address at Leland?

20 A. I don't know the address.

21 Q. If I showed you a picture would you recognize the
22 house?

23 A. Yes.

24 Q. Take a look at the photograph behind you on that
25 screen. This is State's exhibit 23 that's already been

1 admitted into evidence. Is that the house you went to on
2 Leland?

3 A. Yes, sir.

4 Q. And do you remember what time y'all went over there?

5 A. No.

6 Q. Do you remember what the purpose of going over there
7 was?

8 A. To retrieve a child.

9 Q. And once you got to that house what did you do?

10 A. We were standing outside. I was going to go knock
11 on the door until people began to yell behind me.

12 Q. And could you hear what anybody was yelling?

13 A. Something about a fight.

14 Q. And do you know who was yelling?

15 A. No.

16 Q. Do you know if Rochelle was yelling?

17 A. She could have been. I'm not one-hundred percent
18 sure.

19 Q. Okay. Do you know if anybody went up to the door?

20 A. No. I was going to, but then I turned around ---

21 Q. Uh-huh.

22 A. --- just because I don't know the situation and I
23 was not about to put myself in a harmful situation.

24 Q. Okay. So what did you do after you turned around?

25 A. That's when Animal was just like, Just let it be ---

1 MR. LEWIS: Objection, Your Honor. Hearsay.

2 THE COURT: Don't testify what anybody said,
3 okay?

4 Q. After you turned around what did you do?

5 A. Left.

6 Q. Did you hear any arguing behind you?

7 A. No.

8 Q. Who left with you?

9 A. Me, Papa, Sebastain, which is Antione is Papa.

10 Q. Antione's nickname is Papa?

11 A. Yes. Sebastian and Animal.

12 Q. And do you know Animal's real name?

13 A. Michelle, I believe.

14 Q. And what did you all do?

15 A. We went back to Success Street.

16 Q. And about how far away is Success Street from that
17 house on Leland?

18 A. Like literally across the street.

19 Q. Across Spruill Avenue?

20 A. Spruill, yes.

21 Q. So like two blocks maybe or less?

22 A. Not even that. Like literally right across the
23 street. Like as soon as you come to the corner, it's right
24 there.

25 Q. Okay. And you -- y'all went back to Success Street?

1 A. Yes.

2 Q. And what did you do when you got back to Success
3 Street?

4 A. Everybody was just playing around, rapping,
5 listening to music. People were getting their hair done.

6 Q. And at some point in time did you go out on the
7 porch?

8 A. Yes.

9 Q. And who was on the porch with you?

10 A. It was me, Adrian, Papa, and Grip.

11 Q. And Adrian is Adrian King?

12 A. Yes.

13 Q. And his nickname is Tootie?

14 A. Yes.

15 Q. And Antione Foster's nickname is Papa?

16 A. Yes.

17 Q. And you said Grip. That's Martel Brown?

18 A. Yes.

19 Q. Okay. Do you know who lived at that house on Leland
20 Street?

21 A. Not personally. I just heard who lives there.

22 Q. Who did you believe lived there?

23 A. The father of Rochelle's child.

24 Q. Had you ever seen that individual before?

25 A. No, sir.

1 Q. Did you know what that individual looked like?

2 A. No, sir.

3 Q. Had you gotten a description of that individual by
4 any means prior?

5 A. No, sir.

6 Q. When you and Tootie and Grip and Papa were hanging
7 out on the porch, what were y'all doing?

8 A. Talking. We were also smoking.

9 Q. Smoking cigarettes? Smoking what?

10 A. Marijuana.

11 Q. And hanging out on the front porch?

12 A. Yes, sir.

13 Q. Okay. Do you remember what hap -- what happened
14 while you were sitting out on the porch? What happened?

15 A. Two individuals came up.

16 Q. Do you remember which direction they came from?

17 A. They came from around the corner; that's all I know.

18 Q. When you say around the corner?

19 A. Like it's like a corner and it's like, just like
20 around from the house, from like the back area of the house
21 I would say.

22 Q. And do you remember how they were dressed?

23 A. Black. They had on all black and one of them had on
24 a black fisherman's hat.

25 Q. I'm going to show you what's been labeled for

1 identification purposes as State's exhibit 35. Can you
2 identify this item?

3 A. That was the hat.

4 Q. This was the hat?

5 A. That one of the individuals had on.

6 Q. What happened when those two individuals walked up
7 to the house?

8 A. One asked if we knew something about somebody trying
9 to gang them. I asked what they were talking about. He
10 said, I know it wasn't none of y'all. Everything was good.
11 And we thought he was about to leave and that's when
12 somebody started shooting.

13 Q. Okay. You say somebody started shooting. Do you
14 know who it was?

15 A. One out of the two. I'm not sure which one.

16 Q. Okay. And when you were sitting on the porch
17 looking out at the street where were these individuals?
18 Were they in front of you? To the side of you?

19 A. They were like in the front, more to the left.

20 Q. And both of them? Were they standing together or?

21 A. One was standing behind the other one.

22 Q. And the one in front, did he have the hat on or not
23 have the hat on?

24 A. He had the hat on.

25 Q. Was that the same person asking about being ganged?

1 A. Yes.

2 Q. Was that the same person who said, I know it wasn't
3 any of y'all?

4 A. Yes.

5 Q. How do you know somebody started shooting?

6 A. Because I heard gunshots and I seen an orange ball
7 of fire.

8 Q. And what did you do when you heard those gunshots?

9 A. Antione pulled me to the ground.

10 Q. Do you -- Antione Foster ---

11 A. Yes.

12 Q. --- pulled you to the ground? And then what
13 happened?

14 A. He pulled me into the house.

15 Q. I'm going to show you what's been identified as
16 State's exhibit number 5. If you can take a look at that
17 photograph and tell me what that depicts?

18 A. That's where the shooting happened.

19 Q. Okay. And is that a good picture? A fair and
20 accurate representation ---

21 A. Yes.

22 Q. --- of the house?

23 MR. FINCH: Okay. State moves for admission of
24 State's 5.

25 THE COURT: Any objection?

1 MR. LEWIS: Without objection.

2 THE COURT: State's 5 admitted without objection.

3 MR. FINCH: Thank you, Your Honor.

4 (Whereupon, a photograph of the house, having been
5 previously marked, was admitted into evidence as State's
6 exhibit number 5.)

7 Q. If you could just -- you were sitting on the porch.
8 Can you look at that screen behind you and just tell us
9 where that porch is. Just go ahead and you can stand up
10 and just point to it.

11 A. It's on Success Street. I was standing right here
12 [indicated]. I was sitting right here. Papa was in the
13 middle. And Adrian was over here.

14 Q. And where were the people when they came up?

15 A. On this sidewalk right here [indicated].

16 Q. And after Antione pulled you into a door -- which
17 door did y'all go into?

18 A. This one where this man is standing or the officer I
19 believe.

20 Q. Okay. And when you got inside that door did you
21 leave the door open? Was it shut?

22 A. It was shut by that time because Grip came in right
23 after us.

24 Q. And Grip is Martel Brown?

25 A. Yes.

1 Q. And was he injured at all? Did you see?

2 A. He was shot in his leg.

3 Q. What did Grip do when he got inside?

4 A. He just kept saying, They shot me.

5 Q. Okay. You can go ahead and sit back down.

6 / Do you know where Antione was when y'all went
7 inside?

8 A. He went into one of the back bedrooms.

9 Q. And where did you go?

10 A. I was standing in the hallway with everybody else.

11 Q. Okay. What were you doing?

12 A. Just looking and evaluating the situation and
13 calling 911.

14 Q. And at that time did you know where Adrian was?

15 A. Not until -- it took like 40 to 35 seconds before we
16 realized that he was still outside or not there at all.

17 Q. And what happened once you made that realization?

18 A. I screamed, Where's Adrian?

19 Q. Okay. And what did y'all do?

20 A. Gerald came from down the -- the second door is an
21 upstairs apartment. He came from down there and he said,
22 Somebody's outside dead I think. And then that's when Ms.
23 Sandy, I believe is the one, who went out there to look and
24 see who it was.

25 Q. And was it Tootie?

1 A. Yes.

2 Q. You said you called 911?

3 A. Yes.

4 Q. Or some people called 911. And you spoke to the
5 police that night; is that correct?

6 A. Yes.

7 Q. Do you recall if they showed you a lineup of
8 individuals?

9 A. They did.

10 Q. Were you able to identify anybody?

11 A. No.

12 Q. What could you make out of the person that was in
13 front of you?

14 A. I said they were either my height or give or take a
15 few inches.

16 Q. Uh-huh.

17 A. And they had dreads that you could -- like probably
18 [indicated] about here.

19 Q. Okay. And when you say -- could you see this
20 individual's face?

21 A. Not distinct details.

22 Q. You could see -- did they have a hat on?

23 A. Yes.

24 Q. Do you know how long the hair was around the ---

25 A. To about [indicated].

1 Q. --- ears or neck?

2 A. Right here. Like you could barely see the dreads
3 through the hat [indicated].

4 Q. Okay. Did you have enough light to determine
5 whether those were dreads or singles or braids?

6 A. From what I could see, just from the backdrop of the
7 light, because there was no light specifically right there,
8 they looked like dreads.

9 Q. Okay. Could they -- all right. When you -- do you
10 recall giving a statement?

11 A. Yes.

12 Q. Have you had time to look over your statement?

13 A. I haven't seen it. I looked at it a couple times
14 after I wrote it. But as far as today, I haven't seen it.

15 Q. Let me show you what's been marked for ID purposes
16 only.

17 (WHREUPON, Gabrielle McCulley's statement was marked
18 as State's exhibit number 36 for identification purposes.)

19 Q. For ID purposes only as State's exhibit 36. Just
20 take a look at that. Can you identify what that is?

21 A. The statement that I wrote that night.

22 Q. And in that statement you do put someone's name,
23 correct?

24 A. Yes.

25 Q. But you were not able to identify that person?

1 A. No, sir.

2 Q. How did you arrive at that name?

3 A. The reason why is because after everything happened
4 everybody was just talking. A name was ---

5 MR. LEWIS: Objection, Your Honor. Hearsay.

6 THE COURT: Overruled. Go ahead.

7 A. A name was thrown into the situation based on what
8 happened earlier.

9 THE COURT: Mr. Finch, what's the time frame on
10 that?

11 MR. FINCH: I'm sorry?

12 THE COURT: What's the time frame of the
13 conversation?

14 MR. FINCH: The conversation? As far as her
15 statement or as far as what was being said?

16 THE COURT: What was being said.

17 Q. When were people saying -- when were people saying
18 the name that you heard?

19 A. Right after the shooting.

20 Q. Can you describe the people's state of mind or how
21 they were acting when they were saying that?

22 A. Everybody was pretty calm. Nobody was like
23 overreaction. Everybody was just calm and it was kind of
24 like, It was Tezo.

25 Q. Did you -- as far as the person you saw in front of

1 you with the bucket hat though, you weren't able to
2 identify anybody in the lineup; is that correct?

3 A. No, sir.

4 Q. Were you able to identify who the other individual
5 was?

6 A. No, sir.

7 Q. How tall are you?

8 A. Five seven, five eight.

9 Q. And the individual that you saw wearing that hat was
10 a couple of inches taller than you?

11 A. From where I was sitting he looked taller than me.

12 Q. Do you know what kind of build he had?

13 A. Slim.

14 Q. And what was he wearing?

15 A. He had on black shorts, a black shirt, and a black
16 fisherman's hat.

17 Q. And you heard him speak; is that correct?

18 A. Yes.

19 Q. Did you go to the bond hearing in this case?

20 A. Yes.

21 Q. Did you hear the Defendant?

22 MR. LEWIS: Objection, Your Honor.

23 THE COURT: Let him ask the question. Then I'll
24 listen to your objection. I can't -- I've got to hear the
25 question first.

1 MR. LEWIS: This may require a hearing, Judge.

2 THE COURT: Go ahead. Ask the question.

3 Q. Did you hear the Defendant speak at the bond
4 hearing?

5 A. Yes.

6 Q. What did you notice about -- what did you realize
7 when you heard the Defendant speak?

8 A. The voices were ---

9 MR. LEWIS: Objection, Your Honor.

10 A. --- very similar.

11 THE COURT: All right. Hold on a second. Let me
12 see the attorneys up here.

13 (WHEREUPON, an off-the-record bench conference was
14 had.)

15 THE COURT: For the record, I sustain the
16 objection.

17 BY MR. FINCH:

18 Q. How long were you sitting on the porch before folks
19 walked around from Spruill Avenue area?

20 A. From like ---

21 Q. How long were you hanging out on the porch?

22 A. Probably about 20, 30 minutes maybe.

23 Q. Did anybody else walk up to the porch in that period
24 of time while you guys were hanging out outside?

25 A. No.

1 Q. What went through your mind when these individuals
2 came up to the porch?

3 A. Like, really? Like, we're really doing this right
4 now? Like y'all want to ask questions and like then you
5 want to say something's wrong. Like I asked what were they
6 talking about. Nobody else said anything. I looked at
7 them and asked what they were talking about.

8 Q. Did you have time to -- did you engage in a
9 conversation with the individuals that came up?

10 A. They say, What are you talking about? I say what
11 are they talking about. And then he said, I know it wasn't
12 one of y'all. And I went back to my ---

13 Q. What was the first thing that was said?

14 A. Do you know something about somebody trying to gang
15 me?

16 Q. And you asked?

17 A. What are you talking about?

18 Q. And what did that individual say?

19 A. I know it wasn't none of y'all. Everything is good.

20 Q. And what else did that individual say?

21 A. That was it.

22 Q. Well did you notice anything distinctive about that
23 individual's voice?

24 A. It was like it was deep but it wasn't deep enough to
25 say -- like it had -- it had a pitch to it.

1 Q. Did those words that were said and the way they were
2 said and the tone of that voice leave an impression on you?

3 A. Yes.

4 Q. Did you -- did you try to remember that voice?

5 A. Not necessarily.

6 Q. When you think back to those events, whether right
7 afterwards or months later, can you still hear the voice in
8 your head?

9 A. At times when I think about certain -- when I think
10 about it at night.

11 Q. Have you ever heard anyone with a voice like that
12 before or after that night?

13 A. After.

14 Q. When did you hear that voice?

15 MR. LEWIS: Objection, Your Honor.

16 THE COURT: Overruled at this point in time. Go
17 ahead.

18 A. When we went to the bond hearing and the Judge asked
19 Torren his name.

20 Q. And what did he say?

21 A. He said his name is Torren Eady.

22 Q. And how did you respond?

23 A. At that point I had to be taken out of the courtroom
24 because I started shaking and crying.

25 Q. Why were you shaking and crying?

1 A. I was just scared just to hear it again.

2 Q. Hear what again?

3 A. The voice. Like just to hear how he sounded and how
4 he seemed like he still didn't care what he did.

5 MR. LEWIS: Objection, Your Honor.

6 MR. FINCH: I don't have anything further.

7 Please answer any questions ---

8 THE COURT: The objection's overruled as far as
9 the voice is concerned. Okay.

10 Cross-examination.

11 MR. LEWIS: Yes, Your Honor.

12 CROSS-EXAMINATION BY MR. LEWIS:

13 Q. Ma'am, do you work in the recording industry?

14 A. No, sir. I was a band student for -- since sixth
15 grade.

16 A. Okay.

17 Q. Are you a professional musician?

18 A. No, sir.

19 Q. Are you a ventriloquist?

20 A. No, sir.

21 Q. Do you study voices for a living?

22 A. No, sir.

23 Q. Have you done a lineup procedure where you could
24 pick out that man's voice versus my voice versus their
25 voices?

1 A. No, sir.

2 Q. Okay. So the police never brought you anything to
3 say, Hey, do you recognize this, right?

4 A. No.

5 Q. But they arrested him. So at his bond hearing, Oh,
6 yeah, that's him, right?

7 A. That was just -- it was -- I didn't say that was him
8 until after.

9 Q. No, but -- exactly. That's the point. You never
10 said it was him. You looked at a lineup, six pictures that
11 had him in it, ---

12 MR. FINCH: Objection, Your Honor. Arguing.

13 THE COURT: All right. Don't be argumentative.
14 Just ask your question, please.

15 MR. LEWIS: I'm sorry, Judge.

16 THE COURT: Okay?

17 MR. LEWIS: I'll refocus.

18 THE COURT: Refocus and ask questions. Don't
19 argue with her.

20 BY MR. LEWIS:

21 Q. You looked at six photos?

22 A. Yes.

23 Q. One of them included him and you didn't pick him
24 out, did you?

25 A. No.

1 Q. But you claim today that after this time you're able
2 to pick out one voice heard on a video, right, because he
3 wasn't there in person?

4 A. No.

5 Q. He's over a video screen?

6 A. Yes.

7 Q. So it's like watching TV?

8 A. Yes.

9 Q. And you can identify that watching TV as him?

10 A. Yes.

11 Q. All right. We'll get back to track.

12 So you were one of four people on that porch, right,
13 during the shooting?

14 A. Yes, sir.

15 Q. You, Papa, Grip, and Tootie?

16 A. Yes.

17 Q. Okay. Tootie obviously can't be here unfortunately
18 to testify. But you're here.

19 A. Yes.

20 Q. You couldn't pick him out, right?

21 A. Yes, I could not.

22 Q. Martel Brown is Grip. He was also on the porch with
23 you?

24 A. Yes.

25 Q. Okay. And the last person was Antione Foster?

1 A. Yes.

2 Q. Papa. All right. You were actually one of the
3 people that went over to his house to confront him?

4 A. Yes.

5 Q. You didn't call 911 if you had a problem, did you?

6 A. No.

7 Q. You chose to take the law into your own hands and go
8 over there?

9 A. Yes, pretty much.

10 Q. But you didn't see anybody there? He never came
11 out? You didn't get a chance to see his face at that
12 point?

13 A. No.

14 Q. But you were told, Hey, that's Tezo in there, right?

15 A. Yes.

16 Q. That's the same name that you repeated having heard
17 other people say it?

18 A. Yes.

19 Q. Not because you have any clue who Tezo is.

20 A. Yes.

21 Q. Not because you have any clue who Torren Eady is,
22 right?

23 A. Yes.

24 Q. Just because somebody called a name?

25 A. Yes.

1 Q. Okay. When you went over there -- you mentioned a
2 bunch of people and I was trying to write everybody's name
3 down and I couldn't keep up. Were there also some guys
4 behind you too?

5 A. Just Sebastian and Papa.

6 Q. So what's the total number of people y'all took over
7 to his house?

8 A. Four. And then Rochelle had somebody with her.

9 Q. Okay. So that -- how many would that be? Five
10 total? Six total?

11 A. Six.

12 Q. Six total, okay, went over to confront Torren.

13 A. Yes.

14 Q. But never saw him?

15 A. Yes.

16 Q. You said that the shooter was wearing a black bucket
17 cap?

18 A. Yes.

19 Q. And you could see -- when you gestured on yourself
20 you put them about here [indicated].

21 A. Here. Not quite to the shoulder, but above.

22 Q. But below the ear?

23 A. Yes.

24 Q. Definitely below the ear?

25 A. Yes.

1 Q. And they were dreads, not singles?

2 A. From what I could tell.

3 Q. Okay. So you -- I mean you saw dreads. That's what
4 you said?

5 A. Yes.

6 Q. That's what you told them. That's what you're
7 telling now?

8 A. Yes.

9 Q. But you weren't able to see his -- at first you said
10 I think I can ID him, but later you couldn't?

11 A. Yes.

12 Q. Okay. So at one point you thought you'd seen the
13 actual shooter's face, right?

14 A. Not distinct details, but ---

15 Q. But you thought you could make an ID?

16 A. Yes.

17 Q. But you could not identify him as having done
18 anything wrong?

19 A. Yes.

20 Q. Right?

21 A. Yes.

22 Q. Okay. You said that people were sort of rehashing
23 this name Tezo. Was it Papa or can you even remember?

24 A. It wasn't him. By this point he was just not saying
25 anything to anybody.

1 Q. Okay. But you didn't recognize who had done it,
2 right?

3 A. Not -- no.

4 MR. LEWIS: One moment, Judge.

5 THE COURT: Yes, sir.

6 (Pause.)

7 Q. I did need to clarify one point. You said the guy
8 with the bucket hat didn't shoot or did he shoot or can you
9 be sure?

10 A. I wasn't sure which one was actually shooting.

11 Q. Okay. So you don't know --

12 A. Because I was looking at my phone.

13 Q. Okay. So you don't know which of the two fired, but
14 you said you saw the ---

15 A. The flash.

16 Q. --- the explosion, right?

17 A. Yes.

18 Q. So you saw at least the area?

19 A. Yes.

20 Q. But you're not sure which of the two guys it was?

21 A. Yeah. Because they were standing -- one was behind
22 the other one.

23 Q. Okay. And then...

24 MR. LEWIS: Can we get that porch back up?

25 Q. So what you'd said on direct is basically you and

1 Adrian and Antione are all standing in that area where you
2 see these two guys over on the far right, just right there
3 in front of that door?

4 A. We were spread out across the porch.

5 Q. I mean but like -- see how there's a column -- let's
6 see -- how there's a column there?

7 A. Yeah, we were sitting just on the steps.

8 Q. On this side or on this side?

9 A. On top of the steps.

10 Q. Right here [indicated]?

11 A. Yes.

12 Q. All of you were right here?

13 A. Yes.

14 Q. Could you touch? Like if you reached out would you
15 be able to hold hands?

16 A. Yes.

17 Q. Okay. So within five feet of each other?

18 A. Yes.

19 Q. So Papa was right next to you?

20 A. Yes.

21 Q. And you couldn't make an ID?

22 A. No.

23 MR. LEWIS: All right. No further questions,
24 Judge.

25 THE COURT: Any redirect?

1 MR. FINCH: No, Your Honor.

2 THE COURT: All right. You may step down. Thank
3 you very much.

4 MR. FINCH: State calls Antione Foster.

5 THE COURT: Hold on a second. Let me see the
6 lawyers up here.

7 (WHEREUPON, an off-the-record bench conference was
8 had.)

9 MR. FINCH: State calls Antione Foster.

10 THE CLERK: Your Honor, one of the jurors has
11 requested a notebook. Do you mind if I --

12 THE COURT: What?

13 THE CLERK: Do you mind if I pass out notebooks
14 for the jury panel?

15 THE COURT: Yeah. We'll do it first thing in the
16 morning, okay? Who wants note pads? Four, five? Okay.
17 All right.

18 Go ahead and pass them out. We'll wait while you do
19 it.

20 THE CLERK: Yes, sir.

21 (WHEREUPON, notebooks were passed out to the jury.)

22 MR. FINCH: May we approach, Your Honor?

23 THE COURT: Yes, sir.

24 (WHEREUPON, an off-the-record bench conference was
25 had.)

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ANTIONE FOSTER,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: You can be seated. Be sure to speak clearly into the microphone.

THE COURT: All right. Has everybody that wants pads got pads, got something to write with? All right. Write your name on the inside of the pad, please.

THE CLERK: State you first and last name, then spell your last name for the record. Thank you.

THE COURT: All right. Hold on a second. As far as the the notes are concerned, the clerk will keep the notes during the trial. When you start your deliberations I'll give them to you to take to the jury room. So when you leave the courtroom leave them in your chair and we'll redistribute them tomorrow.

Please proceed.

MR. FINCH: Thank you, Your Honor.

DIRECT EXAMINATION BY MR. FINCH:

Q. Good afternoon, Mr. Foster.

A. Good afternoon.

Q. If I could have you speak direct into that mic so that the court reporter can hear you and so the jury can hear you and the judge can hear you.

Where are you living nowadays, what State?

A. North Carolina.

1 Q. If you could speak up a little bit, please.

2 A. North Carolina.

3 Q. And you going to school?

4 A. No.

5 Q. Working?

6 A. No.

7 Q. Did you apply to school?

8 A. Yeah.

9 Q. When -- back in 2012, in April, did you live in
10 Charleston?

11 A. Yeah.

12 Q. What part of Charleston?

13 A. North Charleston.

14 THE COURT: Mr. Foster, speak up so everybody can
15 hear you, please, sir.

16 A. North Charleston.

17 THE COURT: Lean into the microphone and speak
18 up.

19 Q. How old are you, Mr. Foster?

20 A. 18.

21 Q. When you -- back in 2012 when you were living in
22 North Charleston, where were you living?

23 A. On Leland.

24 Q. What was the address on Leland?

25 A. [REDACTED].

- 1 Q. And did you know your neighbors?
- 2 A. Not at first.
- 3 Q. Did you know the Eady family?
- 4 A. No, I only knew one of them.
- 5 Q. Who'd you know?
- 6 A. Torren.
- 7 Q. And is Torren in the courtroom today?
- 8 A. Right there.
- 9 Q. Sitting over between those two attorneys?
- 10 A. Yeah.
- 11 Q. How did you know Torren?
- 12 A. Because I used to watch his son.
- 13 Q. You said you used to watch his son?
- 14 A. Yeah.
- 15 Q. Why'd you watch his son?
- 16 A. Because that baby mama asked me to.
- 17 Q. And were you friends with the baby mama?
- 18 A. Yeah.
- 19 Q. Did you used to go with her?
- 20 A. A while ago.
- 21 Q. But you're still friends with her?
- 22 A. I mean we don't talk like that anymore.
- 23 Q. At the time, two years ago?
- 24 A. Yeah, I was.
- 25 Q. And in April 2012 how long do you think you had

1 known Mr. Eady at that time?

2 A. Not long. I seen him twice.

3 Q. You'd seen him twice before?

4 A. Uh-huh.

5 Q. When -- when are those times? What was going on
6 that you saw him twice before?

7 A. One time I seen him at -- at her house. She was
8 doing his hair.

9 Q. At who's house?

10 A. At Rochelle's.

11 Q. She was doing his hair?

12 A. Yeah. And I dropped his son off. And last time I
13 seen him at her house again.

14 Q. Okay. And did you see him again the night of April
15 6th, 2012?

16 A. Yeah.

17 Q. Where did you see him?

18 A. In front of my house.

19 Q. In front of your house?

20 A. In front of my other house I got on Success.

21 COURT REPORTER: I'm sorry?

22 MR. FINCH: If you would speak up a little bit,
23 please.

24 A. I was on Success at my other house with my friends.

25 Q. One of your friend's house on success?

1 A. Yeah.

2 Q. I'm going to show you what's been admitted as
3 State's exhibit number 5. Is that a photo of the house
4 where you were on Success Street?

5 A. Yeah.

6 Q. And on that photograph are some stairs. Were you
7 sitting on those stairs?

8 A. Yeah.

9 Q. There's a screen behind you. Can you indicate where
10 you were sitting on those stairs?

11 A. Where that white thing at.

12 Q. You need to stand up and touch that screen if you
13 can. Point right to it.

14 A. Right there [indicated].

15 Q. All right. Who else was on the porch with you?

16 A. Me, Adrian, and Gabrielle.

17 Q. What were you guys doing on the porch?

18 A. Smoke.

19 Q. And just hanging out? Do you remember how long you
20 were hanging out?

21 A. Probably 30 minutes. Gabrielle'd been over there.

22 Q. Gabrielle had been over there?

23 A. Yeah, but Adrian just had showed up.

24 Q. Okay. Earlier in the day did you go over to Torren
25 Eady's house?

- 1 A. No.
- 2 Q. Pardon me?
- 3 A. No.
- 4 Q. Were you over in the area when other people went to
- 5 his house?
- 6 A. The second time when I went to go get my brother.
- 7 Q. The second time what?
- 8 A. When my brother went over there.
- 9 Q. Who's your brother?
- 10 A. Gerald.
- 11 Q. Gerald?
- 12 A. Yeah.
- 13 Q. And Gerald went over there with who?
- 14 A. Rochelle.
- 15 Q. With Rochelle?
- 16 A. Yeah.
- 17 Q. Anybody else?
- 18 A. One of his homeboys.
- 19 Q. One of his homeboys?
- 20 A. Yeah.
- 21 Q. Did Gabby go?
- 22 A. I think she did.
- 23 Q. So you and Gabby and Gerald and Rochelle and one of
- 24 Gerald's homeboys, et cetera, some other people went over
- 25 to Torren's house?

1 A. We ain't exactly go to his house. I was standing in
2 front of my house. I stay next door so.

3 Q. You stay next door. So you said you were staying in
4 front of your house?

5 A. Yeah. But, I mean, they all was out -- we all was
6 out there, but, you know, be staying next door. We all was
7 outside in front.

8 Q. Did -- what was going on at that house?

9 A. Nothing really. But what happened, I mean, I guess
10 Rochelle got into an argument with him and and I think my
11 brother wanted to go see what was going on or whatever so
12 she came and got him then they went back on Leland Street.
13 And then after I came from Leland Street ---

14 COURT REPORTER: I'm sorry.

15 MR. FINCH: You need to speak up for the court
16 reporter.

17 A. After -- when they were going on Leland Street I was
18 already on Success Street and she had -- she was like, Well
19 where my cousin at? Told me he was upstairs. Went
20 upstairs and got him.

21 MR. LEWIS: Objection to hearsay, I think.

22 THE COURT: Overruled. Go ahead.

23 Q. Go ahead.

24 A. She went upstairs and got him. I went in the house,
25 returned my mama clothes, came back out to see him turn the

1 corner. So I went over there with him.

2 MR. FINCH: Okay.

3 COURT REPORTER: I'm sorry?

4 MR. FINCH: If I ---

5 COURT REPORTER: He needs to say that again.

6 THE COURT: Re-say what you just said. The court
7 reporter's having a hard time hearing you.

8 A. I said after I returned with the clothes for my
9 mama, I seen him turn the corner to go over on Leland
10 Street. And then I followed behind him.

11 Q. Okay. So let's break it down. First you were over
12 at your ---

13 A. Yeah.

14 Q. --- over by your house to get some clothes for your
15 mom?

16 A. On Leland Street.

17 Q. On Leland Street.

18 A. Yeah, Leland.

19 Q. Then you returned those clothes to here, Success
20 Street?

21 A. Yeah.

22 THE COURT: Why don't you lead the witness so we
23 can get through this, okay? I'll let you lead the witness.

24 MR. FINCH: Thank you, Your Honor.

25 Q. So then you returned to Success Street; is that

1 correct?

2 A. Uh-huh.

3 Q. You returned the clothes to your mother ---

4 A. Uh-huh.

5 Q. --- after she asked for those clothes. And then you
6 said Rochelle came over? Rochelle come over to the Success
7 Street, correct?

8 A. Yeah, she was coming down Success Street. And then
9 ---

10 Q. And she wanted to find where Gerald was; is that
11 correct?

12 A. Yeah. Yeah.

13 Q. Her cousin?

14 A. Yeah.

15 Q. And they went up -- she went upstairs and got him,
16 correct?

17 A. Yeah.

18 Q. And then they came down and then went over to Leland
19 Street?

20 A. Yeah.

21 Q. And about that time you were coming out after
22 delivering the clothes, correct?

23 A. Uh-huh.

24 Q. And then y'all went over to -- you followed that
25 group over to Leland street?

1 A. (Nodded.)

2 Q. So you were over ---

3 THE COURT: All right. Don't shake your head.

4 Yes or no?

5 A. Yes, sir.

6 THE COURT: And say it loud, please, sir.

7 A. Yes, sir.

8 Q. So there was a crowd that went over to Leland Street
9 and you followed behind them?

10 A. Yes.

11 Q. Okay. So some people might look at that and think
12 you were in that group or you might think -- you might say
13 you were following that group, but nonetheless, y'all went
14 over to Leland Street?

15 A. Uh-huh.

16 Q. And Rochelle went up to Torren's door?

17 A. Yes.

18 Q. Was she fussing up there?

19 A. I mean, yeah, both of them was. And then that's --
20 I guess that's when my cousin -- my -- Gerald went over
21 there.

22 Q. Gerald went over there because of some fussing?

23 A. Yeah, because she -- I guess she came and told him
24 that or whatever.

25 Q. When she came back to get Gerald, you think that's

1 what she told him and that's why he went over there because
2 there had been some problems?

3 A. Uh-huh.

4 Q. Okay. Did you see Torren Eady come outside the
5 house at that time?

6 A. No, because I was on Success.

7 Q. Because you left and went back to Success?

8 A. You talking about when I was already ---

9 Q. After everyone went over, when you followed everyone
10 over to Leland Street, did you see Torren come out of the
11 door of that house?

12 A. No.

13 Q. Did you see him outside on the porch arguing with
14 Rochelle or anybody else at that time?

15 A. Nah, not at that time.

16 Q. Okay. When you were over collecting the clothes the
17 first time, did you see Torren Eady?

18 A. Yeah, he was in the doorway, but she was on the
19 porch like directly in front of the door.

20 Q. Where you keeping an eye on things or...

21 A. I really wasn't, but I just looked over and heard
22 them arguing and then I just kept walking.

23 Q. And you went back to Success Street?

24 A. Uh-huh.

25 Q. I'm sorry. You -- yeah, you went back to Success

1 Street and that's when Rochelle, you're saying, left there,
2 came and got Gerald, then y'all went back. So there's two
3 times that you were on Leland but only one time with that
4 group of people with Rochelle?

5 A. Uh-huh.

6 Q. Okay.

7 COURT REPORTER: I'm sorry?

8 A. Yes, sir.

9 Q. When you got back to Success Street, after you left
10 -- not the time you brought the clothes back -- but after
11 you left when you left Rochelle and Gerald there, you went
12 back to Success Street; is that correct?

13 A. Yeah, I went back to Success.

14 Q. Okay. What were you doing back at Success Street?

15 A. I went to Success Street, went in the house, sat in
16 there with my mom. She was cutting hair. And then Adrian
17 called.

18 Q. Who is Adrian? Also named Tootie?

19 A. Yeah. He had called and he was like, You want me to
20 come over there to chill with you or whatever? I said, I
21 don't care, because I wasn't really thinking too much about
22 the problem that just happened or whatever because it
23 really wasn't that serious. So I had went back home. He
24 had call the phone. He asked me ---

25 Q. When you say he?

1 A. Adrian.

2 Q. Adrian. Okay.

3 A. He asked me, Do you want to -- did I want him to
4 come over there. I said, I don't care. So he came over,
5 sat on the porch, smoked a couple cigars, and for like 30
6 minutes. And then that's when he came around the corner.

7 Q. Who came around the corner?

8 A. Torren.

9 Q. Did you know it was Torren when you saw people
10 coming around the corner?

11 A. I knowed it was him when he was in my face like from
12 probably from me to you.

13 Q. From me to you is about how close Torren was to you
14 when he came up to the house?

15 A. Yeah.

16 Q. Do you remember what he was wearing?

17 A. Black.

18 Q. How did you know it was Torren?

19 A. Because I know his face. I know how he looks.

20 Q. And what did Torren say to you at that time?

21 A. I mean he didn't say nothing directly to me. He was
22 just like, Y'all know the people that tried to gang me or
23 whatever. And I was like, I don't know what you're talking
24 about. Then Adrian was like, I don't know. I ain't got
25 nothing to do with it. And then one of my mom's customers

1 had came outside and he was counting his money. He asked
2 who -- he asked who Torren was. Torren said, It don't
3 matter, and he started shooting. Okay. Her customer got
4 shot in the leg and Adrian got shot in the head.

5 Q. When -- let's go back a little bit. When somebody
6 -- you said your mom's customer said, Who are you? Is that
7 Grip?

8 A. Uh-huh.

9 Q. Martel Brown?

10 A. Yeah.

11 Q. Do you know -- where was Martel Brown standing when
12 he said that?

13 A. In front of that right there [indicated].

14 Q. If you could stand up and just point where he was
15 standing.

16 A. Right there [indicated].

17 Q. And you're saying that the Defendant -- what did he
18 say after Martel Brown asked who he was?

19 A. He said, It don't matter.

20 Q. And then what happened?

21 A. He shot it up.

22 Q. Who was shooting?

23 A. Torren.

24 Q. Where was he shooting?

25 A. At ---

1 Q. You can use that pointer if you need to.

2 A. He was shooting directly at all of us. We were
3 sitting right there [indicated].

4 Q. What did you do when you -- did you see the gun in
5 his hand?

6 A. Yeah.

7 Q. Do you know what kind of gun it was?

8 A. A revolver.

9 Q. Did you see him pull the trigger?

10 A. Yeah.

11 Q. What did you do after he started shooting?

12 A. Ran in the house.

13 Q. Did you go inside with anybody else?

14 A. Gabrielle and Marty.

15 Q. Was the door open or shut when you went to the door?

16 A. It was shut.

17 Q. Is that the door that's open in that photograph
18 there?

19 A. Uh-huh.

20 Q. And what did you do when you went inside that door?

21 A. Ran to the back.

22 Q. Did you see where the individuals -- how many people
23 walked up to the house?

24 A. Two.

25 Q. And it was Torren Eady and did you know who the

1 other person was?

2 A. No.

3 Q. Did you ever get a good look at that person?

4 A. No.

5 COURT REPORTER: I'm sorry, Your Honor.

6 A. No, sir.

7 Q. Do you know which way they went afterwards?

8 A. Like toward Spruill.

9 Q. And would that be in this direction? Looking at
10 that picture which direction is Spruill?

11 A. The right [indicated]. The right side.

12 Q. And after you were inside you come -- when did you
13 realize Tootie had been shot?

14 A. When I came back to the hallway.

15 Q. And how did you realize that?

16 A. Because he was laying on the porch dead.

17 Q. Could you see where he had been shot?

18 A. Yeah.

19 Q. And where was that?

20 A. In the head right there [indicated].

21 Q. What did you do after that?

22 A. Really didn't do nothing. The police, they came and
23 started questioning us and put us in the back, whoever was
24 out there, in the backseat.

25 Q. Did they put you in a police car?

1 A. Yeah.

2 Q. Did you tell the police anything at that time?

3 A. No. They had took me to the station.

4 Q. Did you tell them you knew who did it?

5 A. No, they was like ---

6 Q. I'm going to need you to speak up, please.

7 A. Yeah, they asked me.

8 Q. Did you know who it was?

9 A. And they showed me a lineup.

10 A. Did they show you a lineup at City Hall?

11 A. Yeah.

12 Q. Okay. So at the scene did you tell officers you
13 knew who did it?

14 A. After they showed me the lineup.

15 Q. After they showed you the lineup?

16 A. Uh-huh.

17 Q. Do you recall meeting an officer on the street?

18 A. No.

19 Q. Do you recall talking to an officer in the front
20 seat of his car?

21 A. Oh, yeah, he had stopped up at my house or whatever.

22 Q. Okay. The night this happened did you talk to
23 police officers at the scene near Success Street?

24 A. No, I didn't talk to them then.

25 Q. Do you recall giving a statement or talking to an

1 officer in his vehicle, his unmarked vehicle?

2 A. I didn't.

3 MR. LEWIS: Asked and answered.

4 THE COURT: Overruled.

5 A. I didn't talk to him in the car.

6 Q. You didn't talk to him in the car? When you went
7 down to City Hall did you give a statement to the police?

8 A. Uh-huh, yes.

9 Q. What did you tell the police?

10 A. They was asking me -- after they showed me the
11 lineup they were asking me did I know who any of these
12 people was. And they asked me was I sure it was this
13 person or this person. And I was like, like, No, for the
14 first few, then I seen who it was.

15 Q. Okay. So -- but do you -- let's talk about your
16 statement. When you talked to the police, did you give
17 them -- do you remember giving them a statement when you
18 met with them, with their detectives?

19 A. They just wrote down like me saying that I know that
20 was him.

21 Q. And did they show you a lineup?

22 A. Yeah.

23 Q. Do you remember them asking you if you could
24 identify that individual if they showed you some
25 photographs?

1 A. Yeah.

2 Q. And did you say yes or no?

3 A. I said yes.

4 Q. Did you tell them you knew his first name?

5 A. I really didn't know his first name at first.

6 Q. Did you know his street name?

7 A. Yeah.

8 Q. And what was his street name?

9 A. Tezo.

10 Q. And did the -- when Tezo came up to the house, did
11 you have an opportunity to get a good look at his face?

12 A. Yeah.

13 Q. And you said you'd seen him before?

14 A. Yep.

15 Q. Twice before at least?

16 A. Yeah.

17 Q. Did you know who it was right when that individual
18 walked up in front of you?

19 A. Like when he was approaching me I didn't know who he
20 was at first until he stopped and starting talking to us.

21 Q. He stopped and started talking. Who was stopped --
22 who was in front of you talking?

23 A. Torren. Torren.

24 Q. Who shot the house?

25 A. Torren.

1 Q. Is that Torren?

2 A. Yes.

3 Q. I'm going to show you what's been marked as State's
4 exhibit number 1. Take a look at that document., Can you
5 identify what that is?

6 A. Yeah.

7 Q. What is that?

8 A. A lineup.

9 Q. That's the lineup of photographs that the police
10 showed you?

11 A. Yeah.

12 Q. Okay. And that top sheet, what is that?

13 A. Statement.

14 Q. Is that some -- the paperwork that went with that
15 lineup ---

16 A. Yeah.

17 Q. --- that you went through and they explained to you
18 how the lineup process works?

19 A. Yes, sir.

20 Q. And they told you that person may or may not be in
21 that set of photographs?

22 A. Uh-huh.

23 Q. And did you pick a photograph out of those?

24 A. Not the first one. She showed me two sets of
25 lineups.

1 Q. Look at that set right there.

2 A. Yeah, it was this set right here.

3 Q. I'm sorry?

4 A. It was this here.

5 Q. That's the set of photographs you identified
6 somebody?

7 A. Yeah.

8 Q. What number did you identify in that?

9 A. Five.

10 THE COURT: What did he say? I didn't hear him.

11 MR. FINCH: He said five.

12 THE COURT: Okay.

13 Q. Did you write anything on the front of that
14 document?

15 A. Yeah.

16 Q. What did you write on the front of that document?

17 A. Said, This is Torren.

18 THE COURT: All right. Speak up. I can't hear
19 you.

20 A. I said, This is Torren, the one who shot my friend,
21 and another one who had nothing to do with it. They were
22 shot on Success Street last at my mom's house. Positive.

23 Q. What was that last word?

24 A. Positive.

25 Q. I'm positive? Now, so you guys were out there on

1 the porch smoking cigars, smoking weed; is that correct?

2 A. Yeah.

3 Q. Okay. And you've been convicted of shoplifting ---

4 A. Uh-huh.

5 Q. --- previously; is that correct?

6 A. Yes, sir.

7 Q. When you told the police that and identified Torren
8 as the person who shot your friend, you were positive of
9 that, correct?

10 A. Uh-huh.

11 Q. And you'd seen Torren before?

12 A. Uh-huh, yes, sir.

13 Q. And your testimony today is that Torren Eady was the
14 one who stood in front of you on Success Street?

15 A. Yes, sir.

16 Q. And Torren Eady's the one who shot at the house?

17 A. Yes, sir.

18 Q. Shot at you and Gabby and Grip?

19 A. Yes, sir.

20 Q. And the one who shot Tootie?

21 A. Yes, sir.

22 MR. FINCH: Nothing further at this time. Please
23 answer any questions Mr. Lewis may have.

24 THE COURT: Cross-examination.

25 MR. LEWIS: Thank you, Judge.

1 CROSS-EXAMINATION BY MR. LEWIS:

2 Q. One of the first things that you said was that you'd
3 only seen him twice before, right?

4 A. Yes, sir.

5 Q. And that night it was dark?

6 A. Yes, sir.

7 Q. And scary, right?

8 A. Kind of.

9 Q. You're not scared of gunshots?

10 A. I been around them plenty of times.

11 Q. Okay. I'd be scared. I'd be really scared of
12 gunshots. But you weren't scared? That's just normal?

13 A. I mean it was shocking, but it wasn't scary. I mean
14 it was surprising.

15 Q. Okay. And I'm sorry, man. I'm having a really hard
16 time hearing you.

17 A. I said -- I said it was surprising.

18 Q. Surprising. Okay. So what you testified to on
19 direct is that a bunch of other people went over to
20 confront Torren, but you didn't, right?

21 A. The first time, I mean, I ain't never been
22 confronting him or anything. But I know they was with
23 Rochelle.

24 Q. Okay.

25 A. When I was leaving the house from getting clothes on

1 Success, ---

2 Q. Uh-huh.

3 A. --- all right, that was the first group of people
4 that I was over there with them. But I don't know. They
5 -- they weren't saying too much. It was just her and him.
6 And then when I was leaving, they were leaving the other
7 way.

8 Q. Okay. I may have not asked that question very
9 artfully. You went with a group of people to go to his
10 house to fight with him, right?

11 A. No, not to fight.

12 Q. Okay. In your words, what was your reason for going
13 over there?

14 A. I was -- I went over there because my brother went
15 over there, my closest friend, Gerald?

16 Q. So you wanted to have his back?

17 A. No, I just wanted to go see what was going on with
18 him.

19 Q. Just wandering around?

20 A. Yeah, basically.

21 Q. Okay. So then you -- I just have to clarify this.
22 So then you did not go over there to confront him?

23 A. I mean I didn't say nothing to him. I never seen
24 him.

25 Q. I know you didn't see him. I said did you go over

1 there for the purpose of confronting him?

2 A. Yes, but I wasn't the one confronting him.

3 Q. Okay. So -- and that eventually is what you told
4 the police, right?

5 A. Yeah.

6 Q. So at first you kind of did this same thing where, I
7 wasn't really going over there to confront him and then
8 finally you told the truth?

9 A. I didn't go to confront him.

10 Q. Okay. Never mind, now we're back. Okay. Never
11 mind. So other people went over to confront him and you
12 were with them?

13 A. Yes.

14 Q. There we go. Good enough. So during the shooting
15 there were only four of you on the porch, right?

16 A. At the time, yeah, it was four of us.

17 Q. Okay. So unfortunately Ant -- or Adrian was out
18 there?

19 A. Yes.

20 Q. And he died?

21 A. Yes.

22 Q. But the people who are still alive are you, right?

23 A. Yes.

24 Q. Martel. You called him customer?

25 A. Well, he is a customer because he get his hair done,

1 ---

2 Q. Okay.

3 A. --- cut by my mother.

4 Q. Okay. And Gabby?

5 A. Yeah.

6 Q. And this same picture of the porch, you've said that
7 the three of y'all or four of y'all at the time were
8 sitting on the stairs right up there, right?

9 A. Yeah.

10 Q. So within arms reach of each other?

11 A. I could touch Gabby right here [indicated].

12 Q. So like just right there?

13 A. She was right here [indicated].

14 Q. Okay.

15 A. Tootie was over here [indicated].

16 Q. Okay.

17 A. And Marty was leaving out of the house.

18 Q. Okay. But Marty came out ---

19 A. Yeah, he came out.

20 Q. --- and confronted the shooter?

21 A. Yeah, he came out and he stood right there
22 [indicated] and asked him who he was.

23 Q. Okay. I guess my point is y'all were just right
24 next to each other, though? I mean like if you -- if you
25 wanted to hold hands, you could?

1 A. Yeah.

2 Q. Okay. You said that you're positive it was Torren
3 and he pulled a gun and he shot. How many guns did he
4 have?

5 A. One.

6 Q. Just one gun? Was only one gun shooting?

7 A. That's all I seen going off.

8 Q. Okay. So you only saw one gun?

9 A. Yeah.

10 Q. Okay. I mean I understand it's an incredibly --
11 like it's -- well you said it didn't scare you, but it was
12 confusing. But you went running after it happened, right?

13 A. Uh-huh.

14 Q. Okay. So you weren't just sitting there taking
15 notes trying to see what was happening, you're trying to
16 save your life, you're trying to run?

17 A. Uh-huh.

18 Q. Okay.

19 A. But I knew who I was talking to.

20 Q. Huh?

21 A. I said, Yes, but I knew who I was talking to.

22 Q. You knew who you were talking to?

23 A. Yes, when they -- when Torren approached I knew who
24 it was like right then and there. Torren was standing
25 right there.

1 Q. Are you saying you were the one talking to him?

2 A. He said -- no. When he came up and he stood
3 directly in front of us, like right here [indicated] ---

4 Q. Okay.

5 A. --- and asked did anyone try to gang him or
6 something. And we were like, Nah. And that's all we said.

7 Q. Is that what he said or did he say, Coming over here
8 popping that shit? Something like that.

9 A. No, he was like -- he was just like, Did anybody --
10 he said, Which one of y'all boys try to come and gang me or
11 whatever.

12 Q. So he didn't say that other phrase that I just said?
13 That's not what you told the police?

14 A. No, I didn't tell nobody that.

15 Q. You didn't tell -- you never said that to the
16 police?

17 A. No.

18 Q. No?

19 A. No.

20 Q. All right. Thank you. So something about being
21 ganged is what you are saying today that was said?

22 A. Yeah.

23 Q. Right. Okay. And you said you could see them kind
24 of going down Spruill?

25 A. Uh-huh.

1 Q. Or going toward Spruill because I guess if you're
2 standing on the porch you can't really see anything other
3 -- that's behind you, right? You can't see through the
4 building?

5 A. No.

6 Q. Okay. So Spruill would be over to your left, right?

7 A. Yeah, if I was -- yeah.

8 Q. Yeah. So that leaves the entire peninsula of
9 Charleston where people can be going, right?

10 A. Yeah.

11 Q. All right. You can't say -- I know you said today,
12 you're saying today that it's Torren, but you can't say
13 where he would have been before this? You didn't see him,
14 right?

15 A. I told you I seen him at his house when he was
16 talking to Rochelle the first time.

17 Q. No, no. I mean like right before.

18 A. No, I didn't see him right before then.

19 Q. Okay. You said that -- is the only Eady that you
20 know, Torren? You don't know his brother?

21 A. I mean, yeah, I've talked to him before.

22 Q. So you've seen Da'Quan before?

23 A. Yeah.

24 Q. What kind of hair does Da'Quan have?

25 A. Dreads like mine.

1 Q. Dreads like yours?

2 A. Yeah.

3 Q. Yours are dreads, right?

4 A. Yeah.

5 Q. Not singles?

6 A. No, they dreads.

7 Q. Okay. That's what I thought. I've just got to ask.

8 MR. LEWIS: One moment, Judge.

9 THE COURT: Yes, sir.

10 (WHEREUPON, Mr. Lewis conferred privately at counsel
11 table.)

12 MR. LEWIS: No further questions, Judge.

13 THE COURT: Okay. Any redirect?

14 MR. FINCH: No, Your Honor.

15 THE COURT: Okay. Any reason Mr. Foster can't be
16 excused?

17 MR. FINCH: None from the State, Your Honor.

18 MR. LEWIS: No, Judge.

19 THE COURT: All right, Mr. Foster. You may step
20 down. You may be excused. Thank you very much.

21 All right. Mr. Foreman, ladies and gentlemen of the
22 jury, we're going to stop at this time. Please leave your
23 note pads in your chairs. Please don't discuss the case
24 amongst yourselves. As I told you earlier, don't do any
25 type of independent research about the case and we are

1 going to adjourn at this time and we'll reconvene in the
2 morning at ten o'clock. Be back in your jury room at ten
3 o'clock. We'll get started at that time. Have a good
4 evening.

5 (WHEREUPON, the jury was excused from the courtroom
6 at 5:00 PM.)

7 THE COURT: Anything from the State before we
8 adjourn?

9 MR. FINCH: No, Your Honor.

10 THE COURT: Anything from the defense?

11 MR. LEWIS: No, Your Honor.

12 THE COURT: All right. From the deputy's
13 standpoint, do we need to let this crowd go at separate
14 times?

15 THE DEPUTY: We'll take care of it.

16 THE COURT: Okay. Y'all will take care of it?
17 Okay.

18 We'll adjourn until ten o'clock in the morning.

19 MR. FINCH: Ten o'clock?

20 MR. LEWIS: Ten o'clock?

21 THE COURT: Ten o'clock.

22 MR. LEWIS: Thank you, Judge.

23 MR. FINCH: Thank you, Judge.

24 (WHEREUPON, the trial of this case was recessed
25 for the day.)

1 WEDNESDAY, FEBRUARY 19, 2014

2 THE COURT: Anything from the State before we
3 bring the jury?

4 MR. FINCH: No, Your Honor.

5 THE COURT: Anything from the defense?

6 MR. LEWIS: No, Your Honor.

7 THE COURT: We got the Defendant?

8 MR. LEWIS: He's coming.

9 THE COURT: Okay. We got all the jurors?

10 THE BAILIFF: Yes, sir.

11 (WHEREUPON, the Defendant entered the courtroom at
12 10:25 AM.)

13 THE COURT: Who's going to be your next witness?

14 MR. FINCH: That will be Christopher Ware.

15 THE COURT: All right, sir. Would you bring us
16 the jury, please?

17 THE BAILIFF: Yes, sir.

18 (WHEREUPON, the jury entered the courtroom at
19 10:27 AM.)

20 THE COURT: All right. Does everybody have their
21 pad?

22 Call your next witness, please.

23 MR. FINCH: The State calls Christopher Ware.

24 **CHRISTOPHER WARE,**

25 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

1 THE CLERK: You may be seated. Please speak
2 clearly and loudly into the microphone. Please state your
3 first and last name; then spell your last for the record.
4 Thank you, sir.

5 THE WITNESS: Christopher Ware, W-A-R-E.

6 DIRECT EXAMINATION BY MR. FINCH:

7 Q. Good morning, Mr. Ware.

8 A. Morning.

9 Q. If you would, tell the Court where it is that you're
10 employed.

11 A. City of North Charleston Police Department.

12 Q. And what's your position with the city of
13 Charleston?

14 A. Currently I'm a school resource officer.

15 Q. And how long have you been with North Charleston
16 Police Department?

17 A. Approximately eight years.

18 Q. In 2012, April 2012, what was your position?

19 A. I was a detective.

20 Q. And on -- were you involved in the investigation of
21 a -- let me go back. What are some of the duties and
22 responsibilities you have as a detective with North
23 Charleston?

24 A. As a detective I would investigate preliminary
25 reports done by patrol officers, try to bring them to a

1 resolution, also respond to major activities, crimes, and
2 investigate them and try to develop suspects and/or make
3 arrests in such cases.

4 Q. And did you have any involvement in the
5 investigation of North Charleston OCA number 2012-012281
6 centered around events from April 6, 2012?

7 A. Yes, sir.

8 Q. And what was your involvement with the investigation
9 of that case?

10 A. I initially responded to the scene -- to the
11 hospital in reference to two victims of a shooting that
12 were transported to the hospital. Once there I learned
13 that one victim was deceased and another one was being
14 treated for a shot to his leg. I subsequently did GSR
15 testing on the victim at the hospital, met with the
16 coroner, and spoke briefly with the second victim who was
17 then transported back to City Hall.

18 After the hospital situation and whatnot was handled
19 then I responded back to City Hall where I showed two
20 photographic arrays to witnesses.

21 Q. You mentioned GSR. Can you explain to the jury what
22 that is?

23 A. GSR is an acronym for gunshot residue. Whenever
24 there's a shooting we GSR test the hands of both victims
25 and suspects who are developed if they're developed in a

1 timely fashion.

2 Q. When you say a timely fashion, do those kits
3 prescribe a time frame for collection?

4 A. They do. I don't recall the exact time frame.

5 Q. Tell us how you go about collecting gunshot residue
6 evidence with those kits.

7 A. It comes in a pre-sealed kit where it's actually got
8 the directions. And inside that kit there is different
9 little things, little containers, where you can splotch,
10 it's got sticky particles on it so it'll pick up any
11 gunshot residue that may be on the hand. There's also some
12 alcohol swab -- not alcohol swabs, but a swab with a
13 solution that you rub on the palms, the back of the hand,
14 and each individual finger on each hand. Those kits are
15 then resealed and sent off to SLED for examination.

16 Q. And you performed that GSR test from the kit on
17 Adrian King, ---

18 A. Yes, sir.

19 Q. --- the deceased victim? But not on Martel Brown?

20 A. No, sir.

21 Q. Then you went back up to City Hall. You said you
22 showed two photographic arrays. I'm going to show you
23 what's been marked as Court's exhibit number 1. If you can
24 identify that item?

25 A. This is the photographic array form from North

1 Charleston Police Department. It's a standardized form and
2 it's followed by six individual photographs.

3 Q. And in general when you're giving a -- showing a
4 photographic array, what's the process?

5 A. The process is to first sit down with the person
6 who's being shown the array, read off the form. Each
7 individual line has directions as to whether it's an array
8 or a photographic lineup and what to look for, what not to
9 look for as far as clothing and hairstyle and whatnot.
10 They initial that off.

11 Then once that's done I show them the six individual
12 pictures one at a time. If they identify somebody, then
13 they circle the front of that one. They put their name and
14 date on it. If they -- on the other remaining five
15 photographs they initial the back of those pages. Once
16 that process is completed, then they sign off on the form
17 and they write a brief statement saying how they recognized
18 that individual that they identified.

19 Q. And is this the photographic array that you showed
20 the night of April 7th, 2012?

21 A. Yes, sir.

22 Q. Who did you show that to?

23 A. Antione Foster.

24 MR. FINCH: At this time the State would move for
25 the admission of Court's exhibit 1 into evidence.

1 THE COURT: Any ob -- Court's? What number are
2 you going to use it for the State?

3 MR. FINCH: 37.

4 THE COURT: 37? Any objection to 37?

5 MR. LEWIS: Just my previous objection be noted
6 for the record.

7 THE COURT: Okay. For the record, those
8 objections are overruled. I'll admit -- do you have any
9 other objection on the admissibility of the pictures other
10 than what you've already made previously?

11 MR. LEWIS: No additional objections, Your Honor.

12 THE COURT: All right. 37 admitted with
13 objection.

14 (WHEREUPON, the photographic lineup, having been
15 previously marked as Court's exhibit 1, was marked and
16 admitted into evidence as State's exhibit number 37.)

17 BY MR. FINCH:

18 Q. I'm going to show you now what has been admitted
19 into evidence as State's 37. Did Antione Foster -- was he
20 able to make an identification based on that array?

21 A. He identified the subject in picture number 5.

22 Q. And did he make any comments in -- on the front page
23 regarding his identification?

24 A. He advised that the person he identified is the one
25 who shot his friend.

1 Q. Did he provide a name?

2 A. Torren.

3 Q. And do you have people who make identifications give
4 any sort of rating as to percentage, probability, or
5 anything?

6 A. Generally they decide whether they're positive.
7 Sometimes they'll put percentages. In this case he
8 indicated he was positive that this was the person he saw.

9 Q. And prior to him -- prior to you showing him that
10 lineup, did you have any idea who was in that lineup?

11 A. I did not.

12 Q. Did you indicate in any way to Mr. Foster who he
13 should pick out of that photo array or lineup?

14 A. No, sir.

15 Q. Do you know -- I have no -- no further questions.

16 MR. FINCH: Please answer any questions Mr. Lewis
17 has.

18 THE COURT: Cross-examination.

19 MR. LEWIS: Thank you, Judge.

20 CROSS-EXAMINATION BY MR. LEWIS:

21 Q. Morning officer.

22 A. Good morning.

23 Q. I want to talk to you briefly just about the array
24 that you worked with that day. Your involvement as far as
25 you're testifying to today focuses specifically on that,

1 right?

2 A. Yes, sir.

3 Q. Let's kind of pick that up. From ---

4 THE COURT: Permission to approach the witness,
5 Judge?

6 THE COURT: Yes, sir.

7 MR. LEWIS: Thank you.

8 Q. All right. And you've already said that this was
9 the same that you administered to Antione Foster?

10 A. Yes, sir.

11 Q. Okay. At a previous hearing you and I had an
12 opportunity to talk about this a little bit and there has
13 been testimony, you weren't privy to it, but that the
14 shooter was wearing all black. We talked about this
15 yesterday if you remember. How many of these photos --
16 I'll give them back to you before I start asking about them
17 -- how many of those photos is the person in the array
18 wearing all black? Not black -- not some black and some
19 white, but just all black?

20 A. There's one.

21 Q. Okay. And which one is that?

22 A. Number 6.

23 Q. Okay. What about number 5?

24 A. I'm not sure what color his shirt is. These are
25 black and white photos. But it doesn't appear to me that

1 it's -- it might have some black in it, but it's also got
2 another color, the stripe that comes across the chest.

3 Q. Okay. How about dark?

4 A. Dark? Dark colors? There's two that are wearing
5 all dark colored shirts.

6 Q. Okay. And if I may, let me grab those two from you.
7 You can keep the rest of them. Just 5 and 6, the two
8 wearing dark.

9 Q. You said that -- let's see if I can do this right --
10 this -- this was the one that Antione Foster had
11 identified?

12 A. Yes, sir.

13 Q. Okay. And that is his hair and that is his clothing
14 in this photo?

15 A. Yes, sir.

16 Q. Okay. I know it seems like a really silly question
17 for me to ask you looking at that picture. Does his hair
18 come below his ears?

19 A. It does not appear to, no.

20 Q. Okay. So of this lineup I asked you which or how
21 many were wearing only dark clothing and it was that photo
22 and this photo. Now does his hair come below his ears?

23 A. Yeah. Not below. It's covering some of his ears,
24 yes.

25 Q. Okay. Well I meant, about that right, unless I'm

1 making something up.

2 A. Oh, no. No, okay. Yeah, yeah, yeah.

3 Q. Okay.

4 A. I didn't see that. I was looking over there.

5 Q. No, it's fine. It's fine. But certainly the photo
6 that he identified did not have the person with hair coming
7 below their ears?

8 A. No, sir.

9 Q. And when we talked about it yesterday you and I were
10 both somewhat confused as to certain hairstyles, but there
11 is definitely a difference between those styles of hair,
12 right?

13 A. They are both twisties. One's probably a little
14 thicker than the other.

15 Q. And longer?

16 A. Yeah.

17 Q. Okay. Twisties, dreads, singles, all different
18 descriptors for certain types of hair, right?

19 A. Yes, sir.

20 Q. Okay. After he made that ID he wrote out a
21 statement for you a little bit on the front of that that
22 says, This is Torren. So going into it he was trying to
23 pick out Torren, right? That was the target?

24 A. I -- I don't know. I was handed this lineup and
25 advised, Please, go show this to a witness.

1 Q. Okay.

2 A. I didn't know who he was trying to identify.

3 Q. Well you were given that by Detective Reiter?

4 A. Yes, sir.

5 Q. Okay. So at least he would hope -- hopefully he
6 would know who he's trying to have you pick out?

7 A. Yes, sir.

8 Q. All right.

9 MR. LEWIS: One second, Judge.

10 THE COURT: Yes, sir.

11 (WHEREUPON, Mr. Lewis spoke briefly with co-counsel
12 at counsel table.)

13 Q. Just to clarify because it may have confused my co-
14 counsel and I want to make sure that it's clear, he wrote
15 the statement after he picked out number 5?

16 A. Yes, sir.

17 Q. Correct? Okay.

18 MR. LEWIS: No further questions.

19 THE COURT: Any redirect?

20 MR. FINCH: Yes, Your Honor.

21 REDIRECT EXAMINATION BY MR. FINCH:

22 Q. Mr. Ware, if you could take a look at State's 37 and
23 read line number 6 as you would have read it to Mr. Foster.

24 A. People may not appear exactly as they did at the
25 time of the event because features such as clothing style,

1 hair color, hair style, et cetera, may change even in a
2 short period of time.

3 Q. And did he initial that?

4 A. Yes, he did.

5 Q. That he understood?

6 A. Yes, sir.

7 Q. And you have no indication that any of those photos
8 were taken at the time this incident occurred?

9 A. No indication of that.

10 MR. FINCH: Thank you. No further questions.

11 THE COURT: Any recross?

12 MR. LEWIS: No, Judge.

13 THE COURT: You may step down. Thank you very
14 much.

15 Any reason he can't be excused?

16 MR. LEWIS: No, Your Honor.

17 THE COURT: Officer Ware, you may be excused.
18 Thank you so very much.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Call your next witness, please.

21 MR. VOIGT: State calls Lisa Kubicsko.

22 LISA KUBICKO,

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 THE CLERK: You may be seated. Please speak
25 loudly and clearly into the microphone and state your first

1 and last name and spell your last name for the record,
2 please.

3 THE WITNESS: Lisa Kubicko, K-U-B-I-C-S-K-O.

4 DIRECT EXAMINATION BY MR. VOIGT:

5 Q. Ms. Kubicko, how are you employed?

6 A. I'm employed with North Charleston Police Department
7 as a civilian forensic technician.

8 Q. And how long have you been in that position?

9 A. I hit my three-year mark in December.

10 Q. And what are some of the duties that you have in
11 your current role?

12 A. Our duties are to respond to criminal
13 investigations, anywhere from burglaries to robberies,
14 shootings, homicides. Once we come on scene we'll take
15 photos and document the scene, take notes, sometimes video.
16 We document evidence, locate evidence, collect it, take it
17 back to the office, package it, send it up to SLED for
18 testing, process for fingerprints, DNA.

19 Q. Okay. Did you receive any sort of specialized
20 training or in-house training to let you know how to do
21 this sort of thing?

22 A. Yes.

23 Q. Does North Charleston have a set of guidelines, what
24 they're looking for in a crime technician?

25 A. Yes.

1 Q. And you try as best you can to abide by those and
2 follow those?

3 A. Yes.

4 Q. And what's the first thing you do when you arrive at
5 a crime scene generally, something -- a homicide, something
6 of considerable magnitude?

7 A. Generally I'll grab my camera so that I can document
8 the scene, how it is upon my arrival. And I'll usually
9 make contact with the responding officers or detectives to
10 talk about what they know so far about the case because
11 that sometimes will affect, you know, what I need to do
12 first or any special circumstances that I need to know
13 about.

14 Q. Is every crime scene somewhat different?

15 A. Yes.

16 Q. So do you try to tailor what you do to the specific
17 needs of that particular crime scene and what the
18 investigator may ask for?

19 A. No. We do our own investigation and sometimes we
20 go through our own process, every scene we go to. So we
21 are making decisions on our own, processing how we see fit,
22 as well as finding out what -- what they know, which will
23 kind of change sometimes what we need to do.

24 Q. On April 6th, 2012, were you called out to a scene at
25 [REDACTED] Success Street in North Charleston?

1 A. Yes.

2 Q. And what was the first thing you did on that scene?

3 A. First thing I did was grab my camera. I arrived
4 upon scene very soon. So I wanted to snap a few pictures
5 to document how the scene was as soon I got there.

6 Q. Okay. I'm going to ---

7 MR. VOIGT: May I approach the witness, Your
8 Honor?

9 THE COURT: Yes, sir.

10 Q. I'm going to show you what's been previously marked
11 as State's 1 through 22 and ask you to take a look at those
12 and see if you can identify them.

13 THE COURT: Do you have an objection to 1 through
14 22? I think 5's already been admitted.

15 MR. LEWIS: They're all without objection.

16 THE COURT: All right. 1 through 22's admitted
17 without objection, although 5's previously admitted without
18 objection.

19 MR. VOIGT: Thank you very much, Your Honor.

20 (WHEREUPON, photographs, having been previously
21 marked, were admitted into evidence as State's exhibits
22 numbers 1 through 4 and 6 through 22.)

23 Q. Are those the -- are those some of the photographs
24 that you took at the crime scene at [REDACTED] Success Street?

25 A. Yes, they are all photos that I took.

1 Q. Okay. And what is that first photograph, photograph
2 number 1? What does that depict?

3 A. This is one of the first photos that I took when I
4 arrived on the scene. The victim was lying on the front
5 porch so I wanted to photograph -- EMS was tending to him
6 -- so just wanted to photograph where he was upon my
7 arrival.

8 Q. Okay. So this -- this behind you here depicts Mr.
9 King when you arrived and what was happening to him --
10 obviously he's being tended to by medical professionals,
11 EMS. Not much more we can say about that. Those are the
12 steps of Success Street?

13 A. Yes.

14 Q. But those aren't the only photos. I'm going to put
15 up what's been previously marked as State's 2. What do
16 those numbers indicate?

17 A. Those are evidence placards that I'll lay next to
18 evidence to document and photograph what I'm finding just
19 to make it more visible. Also it will assign it a number
20 so that I can keep track and collect the items.

21 Q. Do you know what's significant -- when you first
22 come across a crime scene and you see a Tropicana bottle
23 like that, do you know if it's significant or not?

24 A. At that point in time I don't know. In this case
25 for me knowing that that was the specific crime scene in my

1 head I'm thinking about who may have been on the porch when
2 the incident occurred. So any items on the porch could be
3 of interest to me if we need to know who was there at that
4 time.

5 Q. Now I'm going to show you what's been previously
6 marked as State's 10. What is that?

7 A. That is a bullet hole. That was in the rear
8 passenger door of a red Dodge that was in the driveway on
9 the scene.

10 Q. I'm going to show you what's been marked as State's
11 9. Is that that same red Dodge?

12 A. Yes.

13 Q. Now what's sticking out of that Dodge?

14 A. That is ---

15 Q. The door?

16 A. That's a trajectory rod. We'll place those in
17 bullet holes to get a good directionality on where the
18 bullet traveled from.

19 Q. Is that a foolproof way of knowing the direction of
20 travel of a projectile?

21 A. Yes. In some situations, no. In that case we won't
22 use trajectory rods. But as long as you have two distinct
23 holes, then it's a good accurate because it will lock that
24 rod in place of where it's supposed to be.

25 Q. Okay. So that Dodge was shot up from some position

1 further back from where that trajectory rod points?

2 A. Yes.

3 Q. Is that the porch where Mr. King's body was found?

4 A. Yes.

5 Q. And this is obviously after paramedics have removed
6 him and there's been some sort of processing of this scene?

7 A. Yes.

8 Q. And what's the purpose of the crime tape?

9 A. To set up a perimeter so that nobody can come in and
10 disturb the crime scene. That was one that was close.
11 There were other ones that were even further back to keep
12 people even further away.

13 Q. Now I'm going to show you what's been marked as
14 State's 13. What does State's 13 depict?

15 A. This is the door to [REDACTED] Right in front of
16 that door is the top of the porch where the victim was
17 found. So this depicts three bullet holes, two in the door
18 and one in the wooden wall, showing the directionality
19 again with where the bullets came from.

20 Q. And I'm going to put up here what's been previously
21 marked as State's 16. What does that show?

22 A. That is showing where the bullets went through the
23 door and into the stairs.

24 Q. Did you find any projectiles at this scene?

25 A. Yes.

1 Q. Approximately how many did you find? Do you know?

2 A. Yes. Four.

3 Q. I'm going to show you what's been marked as State's

4 17. I guess that was number 9 in your notation?

5 A. Yes.

6 Q. Where was that found?

7 A. That was found -- it was pulled out of the bullet
8 hole that was marked by number 10 in the previous picture.

9 Q. Okay. What does that depict? I'm sorry. I'm
10 showing you now what's been marked as State's 21..

11 A. That is the bullet hole from number 6. That was the
12 entry into the wooden wall that went through the wall and
13 it grazed the wall to the right there. And then number 9
14 is the entry hole into that air duct. And there is a
15 projectile found in that air duct.

16 Q. Now at the time you are out there do you have any
17 idea who you're looking for, what exactly kind of evidence
18 you're looking for, or is your goal to kind of capture as
19 much as you can and figure it out later?

20 A. Capture as much as I can.

21 Q. Now pursuant to your investigation did you take DNA
22 swabs off of things and other sort of things?

23 A. Yes.

24 Q. Okay. I think you seized a slipper or two slippers?

25 A. Two slippers.

1 Q. A lighter?

2 A. Yes.

3 Q. Did you ever have any idea of what those items may
4 or may not have been important for? I mean when you're
5 seizing them, you're seizing them just in case they may be
6 important?

7 A. Correct, in case they may be important. Also just
8 collecting all the evidence. The lighter came out of a
9 pair of pants from the other victim that was inside the
10 residence. And the slippers were near the victim.

11 Q. Okay. Now that night you also had the occasion to
12 go to another location; isn't that correct?

13 A. Yes.

14 Q. And that would have been at [REDACTED] is
15 that correct?

16 A. Yes.

17 Q. And were you directed there by detectives?

18 A. Yes.

19 Q. Okay. And...

20 MR. VOIGT: At this time, Your Honor, I would
21 offer State's 24, 25, and 26.

22 THE COURT: Any objection?

23 MR. LEWIS: Without objection.

24 THE COURT: 24, 25, and 26 admitted without
25 objection.

1 (WHEREUPON, photographs, having been previously
2 marked, were admitted into evidence as State's exhibits
3 numbers 24, 25, and 26.)

4 Q. And do you know whose residence that may have been?

5 A. Possibly the suspect's in the case.

6 Q. Okay. And that was the night of the shooting you
7 were -- you went ---

8 A. Yes.

9 Q. --- and looked at that particular location?

10 A. [Nodded].

11 Q. Were you directed to a particular bedroom where the
12 suspect may have stayed?

13 A. Yes.

14 Q. And did you take photographs of that scene?

15 A. Yes.

16 Q. And what did you seize there?

17 A. There I collected -- we searched the room. In the
18 closet, in a Timberland shoe box, we located a nine
19 millimeter live round, meaning an unfired bullet, from the
20 box. There was also a clear cup and inside there was
21 another nine millimeter round and also a projectile, which
22 was later found to be not fired. And we also found a 20-
23 gauge shotgun.

24 Q. A long gun of some sort?

25 A. Yes.

1 Q. Okay. And this is what's been previously marked as
2 State's 24. Is this a picture of the bedroom that you
3 searched?

4 A. Yes.

5 Q. And there appears to be a white bed and a bed with
6 some sort of brown covering on it?

7 A. Yes.

8 Q. Is this what you found near the white bed?

9 A. Yes, it was tucked in under the bed a little bit
10 further. We pulled it out to photograph it.

11 Q. And that was State's 25. This is State's 26. Did
12 you then move it to take a better photograph of it?

13 A. Yes.

14 Q. And that's the long gun that was found there in the
15 bedroom at [REDACTED], which would have been the
16 Eady residences?

17 A. Yes.

18 MR. VOIGT: One moment, Your Honor.

19 Q. All right. Now directing your attention back to
20 Success Street, the first scene that you went to, did you
21 find any shotgun shells there?

22 A. No.

23 MR. VOIGT: Please answer any question that Mr.
24 Lewis may have.

25 THE COURT: Cross-examination.

1 MR. LEWIS: Thank you, Judge.

2 CROSS-EXAMINATION BY MR. LEWIS:

3 Q. How are you doing this morning?

4 A. Good.

5 Q. Okay. I assure you this will will be painless. All
6 right. So I want to start kind of at the end of your
7 testimony where you talked about locating, collecting,
8 photographing nine millimeter live rounds?

9 A. Yes.

10 Q. We're in South Carolina so the vast majority of us
11 have a little bit of experience with firearms. But are
12 nine millimeter the same thing as say a 20-gauge shotgun
13 round?

14 A. No.

15 Q. There's no way you can mistake one for the other?

16 A. No.

17 Q. So when you went over to the scene you put in
18 trajectory rods. You know definitively this was some
19 weapon other than a shotgun?

20 A. Yes.

21 Q. I mean I guess in theory you could have had a .410
22 with a slug but it would have made still a bigger hole than
23 what you were dealing with at the scene?

24 A. Yes. And usually with shotgun shells you're dealing
25 with the pellets as well and you'll see those in most of

1 them.

2 Q. So it's going to be whole pellets around -- so a lot
3 of smaller indentations or holes around that?

4 A. Yes.

5 Q. So no reason at all to believe that a shotgun was
6 involved in this specific incident?

7 A. Correct.

8 Q. Also wanted to -- let's talk a little bit about
9 pistol rounds. .380 or .357 -- I'm sorry. .38 or .357,
10 those are not the same thing as a nine millimeter?

11 A. No.

12 Q. Correct? So you would be able to tell the
13 difference again between those two calibers or actually --
14 now I'm messing myself up -- but between those two types of
15 bullets?

16 A. Not at the scene, no.

17 Q. Well not with your naked eye?

18 A. Correct.

19 Q. That would involve further investigation by SLED?

20 A. Yes.

21 Q. Comparisons, you know, stuff that you didn't have to
22 do in this case?

23 A. Yes.

24 Q. Okay. Now we'll get back to the DNA. You said part
25 of what you do as a crime scene tech is when you arrive,

1 part of it is finding out the whodunit of it, if you can?

2 A. Correct.

3 Q. So you mentioned DNA and fingerprints and things

4 like that. But none of that really has -- at least at [REDACTED]

5 Success Street -- comes back to anybody? Nothing

6 specifically there, correct?

7 A. The DNA has not been tested.

8 Q. DNA was never tested?

9 A. No.

10 Q. Okay. Only items I think that you swabbed there

11 though would have been like a Tropicana bottle and ---

12 A. The Sparks can.

13 Q. And Sparks can. Just ---

14 A. And some swabs from the long gun.

15 Q. Okay. That would have been at a different scene

16 back at [REDACTED] Leland Street?

17 A. Yes.

18 Q. Okay. But all the other DNA would have been

19 collected from the first scene where the shooting took

20 place?

21 A. Those items were collected there; however, the swabs

22 were done back at the lab.

23 Q. Okay. Sorry I guess I asked that kind of

24 inartfully. But that's where they came from?

25 A. Yes.

1 Q. Okay. So from your involvement you basically
2 collected all that and moved it on down the line for other
3 people to try to put the pieces together to figure out what
4 happened?

5 A. Yes.

6 Q. Okay. And I know it may seem silly, but you can't
7 say who did what, right?

8 A. In this case there was no fingerprints to be
9 analyzed. There's no DNA that has to do with the scene
10 itself. So in this case -- the weapon, the murder weapon,
11 was not recovered. Therefore any evidence in this case was
12 not able to be found.

13 Q. Okay.

14 MR. LEWIS: One second, Judge.

15 THE COURT: Yes, sir.

16 (WHEREUPON, Mr. Lewis spoke with Defendant privately
17 at counsel table.)

18 BY MR. LEWIS:

19 Q. One of the photos that you had taken -- I'm going to
20 throw it up there, but I'll show it to you first -- you
21 identified as one that you've taken, I'm referencing
22 State's 24, and you had mentioned on direct there are two
23 beds in that room.

24 A. Yes.

25 Q. Seems like a pretty simple question, but two beds

1 would suggest two people?

2 A. Yes.

3 Q. Right? Okay. Or at least two people. But you
4 can't say whose bed was whose? You can't say who was in
5 that room? There were no further -- you didn't conduct any
6 further forensic investigations of that room to see who was
7 in there that night?

8 A. No. However, the people that live at the residence
9 were there and they did tell officers who sleeps where.

10 Q. Right. But -- and I'm not trying to be mean to you.
11 But part of your job as a crime scene investigator is to
12 corroborate that, right?

13 A. Correct.

14 Q. If you can. I mean a lot of times we want to just
15 take people at their word, but sometimes we need to follow
16 up, right?

17 A. Yes. In this situation it didn't have any bearing
18 on the case as to ---

19 Q. As to who may have been ---

20 A. As to who slept in what bed.

21 Q. Okay. So you didn't think it had any bearing as to
22 who may have been in that room before the shooting took
23 place?

24 A. Anyone could have put anything under someone else's
25 bed or ---

1 Q. Absolutely.

2 MR. LEWIS: No further questions.

3 THE COURT: Any redirect?

4 MR. VOIGT: No redirect, Your Honor.

5 THE COURT: You may step down. Thank you very
6 much. Any reason she can't be excused?

7 MR. LEWIS: No, Judge.

8 THE COURT: Call your next witness.

9 MR. VOIGT: The State calls Dr. Lee Marie Tormos.

10 DR. LEE MARIE TORMOS,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE CLERK: You may be seated. Once seated, if
13 you could please state your first and last name and spell
14 your last for the record, please.

15 THE WITNESS: Hi. My name is Lee, L-E-E, Tormos,
16 T-O-R-M, as in Mary, -O-S.

17 DIRECT EXAMINATION BY MR. VOIGT:

18 Q. Dr. Tormos, where are you employed?

19 A. I'm currently employed at the Medical University of
20 South Carolina.

21 Q. And in what capacity are you employed there?

22 A. I'm an anatomic clinical pathologist in charge,
23 among other things, of doing forensic autopsies.

24 Q. Okay. And how long have you been doing forensic
25 autopsies?

1 A. About five-and-a-half years.

2 Q. Approximately how many autopsies have you conducted?

3 A. Over a thousand.

4 Q. And have you received any specialized training in
5 forensic autopsies?

6 A. Yes, sir.

7 Q. And have -- describe that training.

8 A. My training consists of a one year sub-specialty
9 training after becoming pathologist, which is a specialty
10 of medicine. So first I went to medical school. Then I
11 became a pathologist, which is a specialty training that
12 takes four years. And then I did a sub-specialty training
13 in forensic pathology for an additional year, a total of 13
14 years.

15 Q. Have you ever been qualified in the field of
16 forensic pathology as an expert?

17 A. Yes, sir.

18 Q. Have you ever failed to be qualified as an expert in
19 that field?

20 A. No, sir.

21 MR. VOIGT: At this time the State would offer a
22 stipulation that Dr. Tormos is an expert in the field of
23 forensic pathology.

24 THE COURT: Do you agree that she's an expert in
25 forensic pathology?

1 MR. LEWIS: Without objection, Judge. Clearly
2 she's qualified.

3 THE COURT: Okay.

4 Q. Doctor, did you have the occasion to conduct an
5 autopsy of Mr. Adrian King on the 7th of April 2012?

6 A. That is correct.

7 Q. How did Mr. King die?

8 A. The cause of death was determined to be a gunshot
9 wound to the head.

10 Q. If you can, describe to the jury the nature of this
11 gunshot wound. How did it prove to be fatal?

12 A. The gunshot entered the left temple, this being
13 about half an inch in front of the left ear attachment, and
14 it entered the cranial cavity, skirting through the -- the
15 bones of the base of the skull where it fractured the
16 bones. It ricocheted off the base of the skull and went up
17 into the brain.

18 Q. And what parts of the brain were damaged?

19 A. He had hemorrhage around the entire brain and
20 leakage of fluid down the nose and out the ears. He had
21 destruction of the right optic nerve. And he also had
22 destruction of the right basal ganglia.

23 Q. He basically didn't have a chance once he received
24 that wound?

25 A. The wound would have been fatal.

1 MR. VOIGT: One moment, Judge.

2 No further questions, Your Honor.

3 THE COURT: Any cross-examination?

4 MR. LEWIS: No questions, Judge.

5 THE COURT: All right. Doctor, thank you very
6 much. You may be excused. Thank you for being here.

7 Call your next witness.

8 MR. FINCH: The State calls Detective Sean
9 Reiter.

10 SEAN REITER,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE CLERK: You may be seated.

13 THE WITNESS: Thank you.

14 THE CLERK: If you could, please state your first
15 and last name and spell your last for the record, please,
16 sir.

17 THE WITNESS: Sean Reiter. The last name is R-E-
18 I-T-E-R.

19 DIRECT EXAMINATION BY MR. FINCH:

20 Q. Good morning, Mr. Reiter.

21 A. Good morning, sir.

22 Q. If you would, tell the Court where it is that you're
23 employed.

24 A. I work for the North Charleston Police Department.

25 Q. And how long have you been with the police

1 department?

2 A. Five years.

3 Q. And back in 2012 what was your position with North
4 Charleston?

5 A. I was assigned as a detective.

6 Q. And what are some of the duties and responsibilities
7 of a detective at North Charleston?

8 A. We investigate crimes that are assigned by our
9 supervisor and also respond to crimes in progress or
10 recently-occurred crimes at the request of patrol
11 supervisors.

12 Q. And in that capacity did you investigate a crime
13 that occurred 2012, April 6th, NCPD OCD -- I'm sorry -- OCA
14 2012012281?

15 A. Yes, sir.

16 Q. And in fact you're the case agent for that; is that
17 correct?

18 A. That is correct, sir.

19 Q. And what are the duties and responsibilities of a
20 case agent with North Charleston?

21 A. As case agent it's my responsibility to insure a
22 thorough investigation. I had the ability to direct other
23 detectives and even detective supervisors. If I need a
24 task accomplished I will give them specific instructions,
25 have them carry out the duties, and they'll report back to

1 me with their findings.

2 Q. Then you chart the course of the investigation based
3 on information given by the other ---

4 A. Correct.

5 Q. --- other detectives, other officers?

6 A. Yes.

7 Q. Let's turn our focus then to April 6th, 2012, at [REDACTED]
8 Success scene -- Success Street. How did you first
9 encounter that scene?

10 A. I happened to be working that night. We have -- in
11 detective division there are three separate shifts so we
12 have nearly 24-hour coverage. I happened to be working
13 that evening and heard the call go out and responded to the
14 scene. I arrived probably less than 10 minutes after the
15 call had gone out.

16 Q. And what was the scene like when you arrived?

17 A. I pulled up and parked on Spruill Avenue just before
18 Success and I could see that Success was blocked off by a
19 police car. And as I approached the crime scene, Officer
20 Potts approached me and told me he had an eyewitness to the
21 case. So I briefly spoke with the eyewitness and
22 determined he needed to be interviewed further and moved
23 him to my vehicle.

24 Q. Did you speak with that eyewitness in your vehicle?

25 A. I did.

1 Q. Do you remember the name of that eye witness?

2 A. It was Antione Foster.

3 Q. And about how long did you speak with him in your
4 vehicle?

5 A. Probably about 15 minutes.

6 Q. And do you remember how soon after you arrived at
7 the crime scene on Success Street before you encountered
8 Mr. Foster?

9 A. It was immediate. I walked out of my car, took
10 about ten steps, and Officer Potts approached me with
11 Antione.

12 Q. Was anybody else with Officer Potts and Antione at
13 that time?

14 A. No, sir.

15 Q. What -- and you put Mr. Foster then into your
16 vehicle?

17 A. That is correct.

18 Q. The front seat or backseat?

19 A. In the front seat.

20 Q. About how long until you spoke with Mr. Foster after
21 putting him in your vehicle?

22 A. It was -- I sat down with him.

23 Q. Was anybody else in the vehicle?

24 A. No, sir.

25 Q. What -- did Mr. Foster -- was he able to identify a

1 suspect in this case?

2 A. He was.

3 Q. Based on what Mr. Foster told you, what did you do
4 next?

5 A. I was directed to take him back to City Hall for
6 further interview and once we arrived at City Hall I began
7 to develop a photographic six-pack based on information
8 received, with Torren Eady as the suspect.

9 Q. Did you have any indication that Mr. Foster would be
10 able to pick out the suspect from a photographic array?

11 A. Yes.

12 Q. And how did you get that information?

13 A. I asked him during the interview, which I recorded
14 in my vehicle, if he'd be able to identify the suspect in a
15 series of photographs and he advised me that he could.

16 Q. And how -- you said you recorded that. How did you
17 record that?

18 A. We were all issued digital recorders.

19 Q. So you made a digital audio recording of that?

20 A. That is correct.

21 Q. And after talking to Mr. Foster, did you transport
22 him back to City Hall?

23 A. I did.

24 Q. Was he then able to -- was he then shown the
25 photographic array?

1 A. He was. He was put in a room by himself and was
2 interviewed by then Detective Sergeant Johnson. And after
3 I completed the photo lineup I showed it to Detective
4 Sergeant Johnson for her approval and she approved the
5 lineup. I then handed the lineup to Detective Ware along
6 with the lineup sheet that he mentioned earlier and he want
7 went into the room and showed the lineup.

8 Q. Did you indicate to Mr. Ware who the suspect was?

9 A. No, sir.

10 Q. And Mr. Foster was able to make an identification?

11 A. That is correct.

12 Q. What did you do with that information after an
13 identification was made?

14 A. After his interview, several other interviews, based
15 on the identification we felt we had enough information to
16 prepare warrants for murder, three counts of attempted
17 murder, and possession of a firearm during the commission
18 of a violent crime.

19 Q. What other investigative involvement did you have
20 with this case, specific investigative involvement?

21 A. I prepared search warrants for cell phones and some
22 of them I executed, others for cell phone records were left
23 for other detectives and they executed them.

24 Q. Did you do gunshot residue analysis?

25 A. I did on Martel Brown.

1 Q. By that I mean you collected the kit from Martel
2 Brown?

3 A. I did.

4 Q. And if you would -- we got a little bit of that from
5 Officer Ware -- but what -- how does that hap -- how does
6 that go -- you go about collecting that information or that
7 potential evidence?

8 A. The kit is very self explanatory. It includes
9 gloves and a very basic set of instructions for you to
10 follow on. Do one hand first with -- as Detective Ware
11 indicated you stamp the back of the hand, the front of the
12 hand. And then with the saline swabs there are two control
13 ones you immediately put aside. Wet them with the fluid,
14 put them into a container so that they are the control.
15 And then you swab the -- the hands.

16 Q. Do you ever do collection on clothing?

17 A. No, we do not.

18 Q. Why is that?

19 A. The kit is designed specifically for hands. There
20 are no instructions for clothing. It's very specific that
21 it is for hands.

22 Q. Are there any other separate gunshot residue
23 collection kits for clothing?

24 A. None that the North Charleston Police Department
25 uses.

1 Q. How about the time frame for collection? Is there a
2 specific time frame laid out in that collection kit?

3 A. There is. I'm not sure exactly. I want to say it's
4 four to five hours from incident time.

5 Q. So if you encountered an individual outside of that
6 time frame, would you do gunshot residue collection?

7 A. It's not likely because by then the evidence would
8 presumably be lost.

9 Q. Did you speak to Teresa Jenkins in the investigation
10 of this case?

11 A. I did.

12 Q. And you got a statement from her?

13 A. Yes, also recorded.

14 Q. Audio recorded?

15 A. Yes, sir.

16 Q. And did you speak -- who else did you speak to
17 directly in this case?

18 A. I spoke to Gabrielle McCulley.

19 Q. Anyone else?

20 A. I interviewed Mr. Eady after he was arrested.

21 Q. Let's talk about that. Do you recall the date you
22 spoke to Mr. Eady?

23 A. I was contacted April 17th, late. So by the time I
24 spoke with him I believe it had rolled over to the 18th of
25 April.

1 Q. And when you met with Mr. Eady, where did you meet
2 with him?

3 A. In an interview room at North Charleston City Hall
4 in the detective bureau.

5 Q. And at the time that you met with Mr. Eady, was he
6 in custody?

7 A. He was.

8 Q. Was he free to leave?

9 A. He was not.

10 (WHEREUPON, an advice of rights form was marked as
11 State's exhibit number 38 for identification purposes.)

12 Q. I'm going to show you what's been marked for
13 identification purposes as State's number 38. If you'll
14 just take a look at that and see if you can identify it.

15 A. It is a copy of the advice of rights that I and
16 Detective Hughes provided to Mr. Eady.

17 Q. And is that a standardized form that North
18 Charleston uses?

19 A. Yes, absolutely.

20 Q. And the purpose of that is to explain the rights to
21 a defendant or a suspect ---

22 A. Correct.

23 Q. --- regarding a statement?

24 A. Yes, sir.

25 Q. And we commonly refer to those as Miranda rights?

1 A. Yes, sir.

2 Q. And prior to administering that form and discussing
3 those rights with Mr. Eady, did you have a conversation
4 with him?

5 A. Yes. Generally when I conduct an interview I'll
6 spend a few minutes talking with the person. That way I
7 can gauge their mental capacity, make sure they're not
8 intoxicated or perhaps on any other drugs or medication and
9 just to get a little background information from them and
10 establish a rapport with them.

11 Q. And in that conversation did you discuss the
12 potential crime that you were investigating?

13 A. No, absolutely not. We -- I discussed his
14 background, his upbringing, schools he went to.

15 Q. And in your assessment of Mr. Eady at that time, was
16 he of sound mind to make a decision regarding any waiver of
17 his rights?

18 A. Absolutely.

19 Q. And did you go through the form with him?

20 A. I do. When I present it, I turn the form upside
21 down so they can read it. I read it with them. And before
22 I start I tell them, If you have any questions about
23 anything, stop me. I'll explain something to you in a
24 different way. So I read him the rights and he advised me
25 that he understood them all.

1 Q. Did he sign that paper indicating a waiver of those
2 rights?

3 A. He did. And I also had him read the waiver at the
4 bottom out loud to me, which he did. I then asked him to
5 explain what that meant to him and he told me that he
6 understood that he had these rights, but that he wanted to
7 talk to me. /

8 MR. FINCH: At this time the State would move for
9 the admission of State's 38.

10 THE COURT: Any objection?

11 MR. LEWIS: No objection.

12 THE COURT: All right. 38 admitted without
13 objection.

14 (WHEREUPON, State's exhibit number 38, having been
15 previously marked, was admitted into evidence.)

16 Q. After Mr. Eady -- after he signed that paper, waived
17 his rights and decided to speak to you, did he give you a
18 statement?

19 A. He did.

20 Q. If you would, encapsulate that for the jury. If you
21 could summarize that statement. How long -- how long did
22 you speak, first?

23 A. About two hours.

24 Q. And if you could tell the jury the summary of the
25 statement that he gave to you.

1 A. Essentially he discussed the disagreement where
2 people showed up at his porch and briefly touched on that
3 and then said that he and Teresa went downtown. She
4 dropped him off. He went home and he then started walking
5 to a store to buy a blunt and received a phone call or
6 someone on the street stopped him and said, Oh, I heard you
7 were shot. And that's kind of where his story ended.

8 Q. Did he provide any cell phone number for you for his
9 own personal cell phone?

10 A. Yes, he did.

11 Q. All right. What was that number?

12 A. The number's [REDACTED].

13 Q. Did he indicate whether or not he had that cell
14 phone with him?

15 A. He did. I specifically asked him if he had his
16 phone with him the entire time and he advised that he did.

17 Q. And that would have been the entire time from the
18 time of the argument on Leland Street until throughout that
19 night?

20 A. Correct.

21 Q. Throughout all the activities of that night?

22 A. Yes, sir.

23 Q. Do you know if a cell phone -- as the case agent you
24 have the ability to look at all the evidence in the case.
25 Do you know if a cell phone was recovered at the time of

1 Mr. Eady's arrest.

2 A. Yes.

3 Q. Do you know the number on that cell phone?

4 A. Yes, it was [REDACTED].

5 Q. So the same number that he provided for you the
6 night that he was arrested as having with him the night of
7 the incident, that phone was also found with him at the
8 time of his arrest?

9 A. Yes, sir.

10 Q. About how long after the night of the incident was
11 Mr. Eady arrested?

12 A. It was approximately 10, 11 days.

13 Q. When did you swear out the warrants for Mr. Eady's
14 arrest?

15 A. That night. I prepared the affidavits that night
16 and they were signed by Detective McDonald the following
17 morning.

18 Q. And so we are clear that would have been the seventh

19 ---

20 A. Seventh, yes, sir.

21 Q. --- of April?

22 A. Yes, sir.

23 Q. And he was arrested the 17th?

24 A. Yes, sir.

25 Q. How does the process work with a warrant? Were you

1 -- when a warrant is issued, or at least in this case, were
2 you -- is North Charleston actively looking for Mr. Eady?

3 A. Yes, we have a unit we call the Intelligence-Led
4 Policing Unit. Essentially their job is to track
5 fugitives, especially for major crimes. So when a
6 detective has a case where they need a person arrested, we
7 will make copies of the warrants and any background
8 information, give it to a member of ILP and they will do
9 their best to track them.

10 Q. And in this case you eluded to some search warrants.
11 Did you -- what did you look for with those search warrants
12 in this case?

13 A. We did a search warrant for the [REDACTED] number for
14 phone records, as well as tower locations for calls and
15 text messages.

16 Q. What use is that to the police?

17 A. It gives us an idea of where the Defendant was
18 located, not the Defendant, but the owner of the phone was
19 located at any given time when a call or text was sent or
20 received.

21 Q. And you used that or will ILP or others use that
22 information to potentially track a suspect?

23 A. Yes, and they have other methods of actively
24 tracking cell phones.

25 Q. And you received information regarding that

1 telephone number of [REDACTED]

2 A. Yes, sir.

3 Q. Who did you receive that from?

4 A. Cricket Wireless.

5 Q. And that's the provider of that cell phone ---

6 A. Yes.

7 Q. --- service? And what information did that include?

8 A. It gave us a specific history that we had asked for
9 to include the entire day of the shooting and up to the
10 point where we had sent the search warrant. So it was a
11 several-day window we were looking for.

12 The information came back with a list of his calls,
13 missed, sent, and as well as text messages sent and
14 received and tower locations for all those.

15 Q. How about the phones or the phone that was taken
16 from the Defendant or near the Defendant when he was
17 arrested on the 17th? Did you search those phones or have
18 those phones searched?

19 A. Yeah, there were two phones recovered at the time of
20 his arrest; one being the 642 number and the other an
21 unknown number. I completed search warrants for -- to have
22 the information downloaded off the phones. It's known --
23 it's called Cell Break is the name of the software. And
24 once the search warrants were signed by a judge, I took the
25 phones over to Sergeant McManigal with the Charleston

1 County Sheriff's Office because they have the Cell Break
2 technology there and he completed, we call it, a dump of
3 the phones.

4 Q. And were you able to look at that? Did you get
5 information back from Sergeant McManigal?

6 A. Yes, sir.

7 Q. And as the case agent you were able to take a look
8 at all that information?

9 A. Yes. On the unknown phone there were some videos
10 which were taken on the phone and they clearly show the
11 Defendant taking self portraits and videos of himself and
12 his son.

13 Q. Was there a time stamp for those videos?

14 A. Yes.

15 Q. And what was the time or the date on those videos?

16 A. It was actually I believe the morning of the 17th.

17 Q. Did you -- while Mr. Eady was giving a statement,
18 was there any other information provided about his
19 whereabouts the night of April 6th into April 7th? What was
20 the complete -- what was the complete version of events
21 that he provided?

22 A. He stated that he -- after he -- Teresa took him
23 downtown, that he stayed downtown, stopped by a family
24 member's house, and then stayed downtown after that.

25 MR. FINCH: Thank you, Detective Reiter. Please

1 answer any questions Mr. Lewis has.

2 THE WITNESS: Yes.

3 THE COURT: Cross-examination.

4 MR. LEWIS: Thank you, Judge.

5 CROSS-EXAMINATION BY MR. LEWIS:

6 A. Good morning.

7 Q. You beat me to it. Good morning. I want to talk to
8 you first off about lies in investigations.

9 A. Yes, sir.

10 Q. You are a police officer?

11 A. Yes.

12 Q. A detective. You're used to being lied to?

13 A. Yes.

14 Q. By everybody? By witnesses, by suspects, by
15 victims, by everybody, and you have to try to sort out
16 what's the truth?

17 A. Yes, sir.

18 Q. So often times you're given half truths. Often
19 times people just try to distance themselves from the
20 scene?

21 A. Correct.

22 Q. Right? They don't -- I don't want anything to do
23 with this. I wasn't there. I don't know anything about
24 it.

25 A. Yes, sir.

1 Q. Doesn't mean it's the truth. It's just what they
2 told you?

3 A. Yes, sir.

4 Q. It also doesn't necessarily from the very beginning
5 mean that they committed the crime. It just means they
6 didn't tell you the truth, right?

7 A. True.

8 Q. So you get -- throughout your investigations you get
9 lies for a number of reasons. People are scared. They
10 don't want to get themselves in trouble. They don't want
11 to get someone else in trouble. Right?

12 A. Yes, sir.

13 Q. Covering up for somebody, just not liking the
14 police. I mean you work in North Charleston, right?

15 A. Yes, sir.

16 Q. Do you have -- I mean do witnesses always just come
17 forward and say, Hey, Detective Reiter, I want to tell you
18 all about it?

19 A. It happens. It -- I mean I can't say it doesn't
20 happen or it does -- it does happen.

21 Q. Which is more common? What usually happens? Do you
22 have witnesses that are always there ready to cooperate
23 with you or do you kind of have to pull some teeth to get
24 them to talk to you?

25 A. It depends. Sometime we do have to search for

1 witnesses. Other times they do come forward.

2 Q. Okay. And on that night you had four witnesses on
3 the porch. Unfortunately, as I've brought up several
4 times, one of those witnesses, well, is the decedent in the
5 case, is the deceased?

6 A. Yes.

7 Q. Adrian King? But the other three put themselves on
8 the porch?

9 A. Yes, sir.

10 Q. We've got Martel Brown, Gabrielle McCulley, and
11 Antione Foster?

12 A. Yes, sir.

13 Q. Okay. Getting back to lies a little bit. And
14 please do not take this the wrong way because I approve of
15 the tactic. As a police officer sometimes you have to lie
16 to suspects?

17 A. Yes.

18 Q. You have to give them a way out?

19 A. Yes, sir.

20 Q. For example, in a case you might propose, Hey, this
21 is a self-defense. They drew on you, you had to shoot
22 back, right? You know, you might feed them something like
23 that?

24 A. Yes, sir.

25 Q. To get them to commit. To get them to say, Hey, I

1 was there. Oh, yeah, you're right. It was just self-
2 defense. Right?

3 A. Yes, sir.

4 Q. Or I just blacked out. I just snapped. I don't
5 know why I did it, but I did it. That sort of -- you will
6 give them that, You're are not a bad guy, you just were in
7 a bad situation. You snapped. Sometimes you'll use that?

8 A. Yes, sir.

9 Q. Sometimes you'll say, We've got DNA. We've got 15
10 witnesses. They all saw you do this. Now I'm not saying
11 you did that in this case. But sometimes you use those
12 sorts of tactics to get people to say things?

13 A. Yes, sir.

14 Q. Doesn't mean that they're true, right?

15 A. Correct.

16 Q. You know if we get down to the brass tacks of it,
17 that's technically a lie. But as I said at the beginning,
18 that's part of your job, right?

19 A. Right. And you use these mistruths very sparingly.
20 You don't -- because if you open yourself up and they say,
21 I know you didn't. That guy didn't see me because I know
22 he was over there.

23 Q. Right.

24 A. So it's not all that common. You don't use it
25 frequently. That's not your lead-off interview technique.

1 Q. No, of course. But if it will help move the ball
2 for you and you see the time is right to do it, you'll use
3 one of those techniques?

4 A. Yes, sir.

5 Q. So for example when you spoke with Torren you said,
6 They identified you?

7 A. Yes, sir.

8 Q. They? Implying more than one person?

9 A. Yes, sir.

10 Q. More than one person didn't claim to identify him,
11 right?

12 A. Correct.

13 Q. Just one person made that claim?

14 A. Yes, sir.

15 Q. Other people couldn't, right?

16 A. Yes.

17 Q. And there were three surviving people on that porch?

18 A. Correct.

19 Q. Okay. I want to talk to you a little bit, before we
20 go into some of the other parts, about being the case
21 agent. Buck stops with you, right?

22 A. Correct.

23 Q. So big strategic decisions, deciding who you are
24 going to arrest, you're the guy?

25 A. Not necessarily. In this case my sergeant and

1 lieutenant were actively involved in the investigation. So
2 if anything I wanted to do, I would still have to bounce
3 off of them for approval. I couldn't just go out and sign
4 murder warrants on five or six people just because ---

5 Q. Right.

6 A. --- I thought they might be involved. I would have
7 to get approval through them before I made any arrests like
8 that.

9 Q. Okay. We've all got policies like that.

10 A. Absolutely.

11 Q. How many people are seated at that table?

12 A. Two.

13 Q. Okay. Just Torren Eady and my co-chair right?

14 A. Correct.

15 Q. Based on your investigation in the case,
16 specifically what you learned through Teresa, you had at
17 least three, maybe four or five players, right?

18 A. Correct.

19 Q. Torren was one. He was named, as was Da'Quan Eady
20 and TJ?

21 A. Correct.

22 Q. But no arrest warrants were ever issued for them?

23 A. No, sir.

24 Q. Even though one of them was seen armed with a gun.
25 Now grant it, a shotgun, but still with a gun, right?

1 A. Correct.

2 Q. And so the only thing in your investigation that was
3 different between these players, one witness, Antione
4 Foster, right?

5 A. Correct.

6 Q. So just because Antione Foster said it, you got an
7 arrest warrant for him, not the other guys?

8 A. Correct, because none of the other witnesses even
9 implied that they could see the second or more parties
10 clearly. The only person that anyone -- that Antione said
11 he could see was the front person. He said the other
12 person was standing in the back. So he would have been
13 identifying shadows if he'd identified anyone.

14 Q. Right. So the only person that claims anything
15 about ID was Antione?

16 A. Correct.

17 Q. Nobody else?

18 A. Correct. Because Martel Brown said he was just
19 walking out the door so he never even got a good look at
20 the people. So I wouldn't expect him to have made an
21 identification because he said, I had literally just
22 stepped on the porch as it happened.

23 Q. Okay. But he was there long enough to get shot in
24 the leg?

25 A. Bullets travel fast.

1 Q. That's true. But he was on the outside of the door
2 when that took place?

3 A. Correct.

4 Q. Okay. You can't do all the work in this
5 investigation yourself so you have to delegate to other
6 people. They bring it back to you and let you make your
7 decision about what took place?

8 A. Correct.

9 Q. So decisions about witnesses to talk to, phones to
10 get subpoenas for, things like that, you make that
11 decision?

12 A. That is correct.

13 Q. Did you try to get a subpoena or a phone dump or a
14 search warrant for Da'Quan Eady's phone?

15 A. To my knowledge we never obtained his phone number,
16 so no.

17 Q. Okay. Well that's a little bit of double talk.
18 You're the man. You make that happen. It doesn't happen
19 on its own; you have to make that happen, right?

20 A. Right. And I can't say that we didn't look for it,
21 but we were unable to identify his phone number. I can't
22 do a search warrant on a number that I don't know.

23 Q. Okay. But you can use a name?

24 A. No, I could not go just send off search warrants to
25 every major carrier out there and say look for the name

1 Da'Quan Eady and I need phone records for his phone. You
2 can't do that.

3 Q. Now I'm going to have to call myself as witness. So
4 you're saying that's not possible? You can't even send
5 that subpoena?

6 A. I'm sure I could.

7 Q. Okay. I mean ---

8 A. But people don't always have their phones in their
9 names. For instance, the phone that Torren was using came
10 back registered to a different name.

11 Q. Right.

12 A. But it's the one he used. So if I searched for his
13 phone by his name, I wouldn't have got any records back.

14 Q. Does that mean that we don't try? You should still
15 try, right?

16 A. That's not something that really came up in our
17 investigation.

18 Q. The name certainly did?

19 A. Correct.

20 Q. Several names did. And they're not seated here,
21 just him?

22 A. Correct.

23 Q. Just because Antione said that?

24 A. Correct.

25 Q. Spoke a little bit about gunshot residue and you

1 said North Charleston doesn't want -- doesn't know how to
2 do GSR off of clothing or they don't have the kits for it?

3 A. It's just not something that we do.

4 Q. Okay. But it doesn't mean it can't be done?

5 A. Potentially, yes, it could be done, but ---

6 Q. It's chemicals that are on our hands, particles
7 after we fire a weapon?

8 A. Correct.

9 Q. So as a detective you have to qualify, what every
10 year, every couple of years, with firearms?

11 A. Annually, yes, sir. Annually.

12 Q. Annually, every year. So you're familiar with how
13 firearms work and you know when you go to the range and you
14 shoot a gun, the powder comes back on you; you leave
15 smelling like the range?

16 A. Correct.

17 Q. It's on your clothes. So you can get GSR off of
18 clothing if you choose to try?

19 A. Yes. The reason you use the hands is because if I'm
20 wearing a long-sleeve shirt, I can take that shirt off and
21 discard it, it's still going to be on my hands.

22 Q. Well and the reason you have a limit of five to six
23 hours is most of us better be washed our hands too, right?

24 A. Correct.

25 Q. So that's why you have that sort of limit. And in

1 this kind of case the reason that you GSR tested the victim
2 and GSR tested one of the other people on the porch, not
3 all of them, but one of them, was just to see if somebody
4 fired back, to see if it was that sort of self-defense
5 style situation?

6 A. Correct.

7 Q. But only tested two of them? Didn't test Antione
8 Foster?

9 A. The -- if I recall, the direction to conduct the GSR
10 kits came from Sergeant Johnson because I think she perhaps
11 thought that Martel Brown had something do with it. He was
12 the intended target.

13 Q. Okay. So did you follow up on Martel Brown as the
14 intended target or did you just give up on that?

15 A. No, we -- after interviewing him and other people we
16 learned he was simply there to get his hair cut and he had
17 nothing going on that would lead us to believe that he was
18 the target.

19 Q. Okay. But never followed up with getting the GSR
20 test on anybody else, the other two people that were still
21 on the porch?

22 A. Correct.

23 Q. Gabrielle McCulley or Antione Foster?

24 A. Correct.

25 Q. Okay. And, yes, I certainly understand that you're

1 saying somebody can take off their clothing, they can
2 change their clothing. This is really about what can be
3 done, what should be done, not what has to be done. So
4 would you say at this point that you could have been more
5 thorough?

6 A. Torren was arrested 10 days later so there was
7 nothing for us to test. After 10 days he could wash his
8 clothes 50 times so there's not going to be anything left
9 on the clothing. The evidentiary value after 10 days is
10 zero on clothing.

11 Q. I'm not just talking about him. I'm talking about
12 the whole investigation. I'm talking about Da'Quan and I'm
13 talking about TJ.

14 A. No, I'm confident that we have the one who pulled
15 the trigger.

16 Q. Based on what Antione Foster told you?

17 A. And the descriptions given by Gabrielle McCulley.
18 It matches. And the information we obtained from Teresa.
19 It all comes together along with the cell phones. And his
20 story he told me, his cell phone tracking is the complete
21 opposite of what he told us.

22 Q. Right. So he lied to you, but he didn't confess to
23 you. He didn't say, I did this, right?

24 A. If he didn't do it, he would have nothing to lie
25 about. Why lie about this story?

1 Q. Need I go back to the very beginning of what I
2 talked to you about, why we lie? Who we cover up for? You
3 admitted to it then. Are you going to change it now?

4 A. No, absolutely not. No.

5 Q. Okay. So that's why people can lie to you. You
6 can't know what's in someone else's heads. What you can
7 say is you said this and I don't think that that's true,
8 but you can't say why they did it, right?

9 A. True.

10 Q. So we've talked about the gunshot residue. We've
11 talked a little bit about DNA. Did you get the DNA results
12 in this case?

13 A. We did not.

14 Q. Didn't? But you submitted them?

15 A. Correct.

16 Q. Just didn't want to wait for it?

17 A. In terms of what?

18 Q. Evidentiary value. Fingerprints had been debunked
19 for the most part. DNA, still one in 19-, 20-, 30-, 50-
20 trillion more people that had ever existed, still pretty
21 good science. Didn't wait for that. Don't have those
22 results. Might get them six months from now. Don't have
23 those today?

24 A. Are you taking about before I got the warrant
25 signed? I don't understand where you're -- what you're

1 saying.

2 Q. Okay. You got search warrants for people's DNA,
3 right?

4 A. Yes.

5 Q. To compare to evidence. You submitted that, but
6 we're trying this case without that?

7 A. Correct.

8 Q. You don't care what it says. We're just going to go
9 ahead and throw this up against the wall?

10 A. Taking the case to trial is not my decision.

11 Q. That's true. I'll give you that. Part of your
12 investigation also looked at these other people, these
13 other players, right?

14 A. Correct.

15 Q. You looked at Da'Quan; you looked at his past,
16 right?

17 A. Correct.

18 Q. You looked at his mug shot, looked at his hair.
19 What kind of hair did he have?

20 A. If you'll let me look, I'll tell you what picture I
21 had.

22 He had a little bit of longer twists.

23 Q. Dreads?

24 A. I would call them twists, not dreads. But I mean

25 ---

1 Q. How about this, do they come down below his ears?

2 A. Yes.

3 Q. Okay. I want to talk to you about Torren's
4 interview. I've pretty much conceded at this point that he
5 lied to you about where he was. We'll get more
6 corroboration for them here in a minute. But he told you
7 he didn't do it, right?

8 A. Correct.

9 Q. Just because he lied about one thing doesn't demand
10 that he's lying about something else?

11 A. No.

12 Q. He said he was scared, right? Wanted to try to get
13 a lawyer, but ---

14 A. I don't remember him ever saying he was scared. And
15 his father was the one who told him that he would get him a
16 lawyer. He never, himself, made the effort to my
17 knowledge.

18 Q. Well he ended up with me, so clearly he's not got
19 any money, correct?

20 A. Correct.

21 Q. He should have surrendered. Let's get that out in
22 the open. Right?

23 A. One would hope.

24 Q. I mean in any situation it's not a good idea to not
25 turn yourself in, right?

1 A. Correct.

2 Q. But as you said, his father told him to wait to get
3 a lawyer or he said that to you?

4 A. Yes.

5 Q. Okay. So you were able to still arrest him. You
6 were still able to talk to him?

7 A. Yes, sir.

8 Q. He may not have said exactly what you wanted him to
9 say, but he did talk to you?

10 A. Correct.

11 MR. LEWIS: One moment, Judge.

12 THE COURT: Yes, sir.

13 (WHEREUPON, Mr. Lewis conferred at counsel table
14 with co-counsel and the Defendant.)

15 MR. LEWIS: No further questions, Judge.

16 THE COURT: Any redirect?

17 MR. FINCH: Yes, Your Honor.

18 REDIRECT EXAMINATION BY MR. FINCH:

19 Q. Detective Reiter, I want to touch on a couple things
20 Mr. Lewis asked you about. First is when you're
21 interviewing a suspect and you may tell stories or lies or
22 maybe leak a little information from others; is that
23 correct?

24 A. Yes, sir.

25 Q. And some of that information that you discussed with

1 Mr. Eady you got from people you interviewed in the case,
2 correct?

3 A. That is correct.

4 Q. All right. I want to focus on when you were asking
5 Mr. Eady about potential self-defense.

6 A. Yes, sir.

7 Q. Did you ask Mr. Eady if maybe somebody reached for
8 their side?

9 A. Yes.

10 Q. Where did you get that information from?

11 MR. LEWIS: Objection, Your Honor. Hearsay.

12 THE COURT: Overruled. He said where did he get
13 it from. Go ahead.

14 A. During the course of the investigation it came to
15 light that when he was dropped off downtown ---

16 MR. LEWIS: Objection, Your Honor. We need to
17 approach.

18 THE COURT: All right. Come on up.

19 (WHEREUPON, an off-the-record bench conference was
20 had:)

21 THE COURT: Mr. Foreman, ladies and gentlemen of
22 the jury, I'm going to ask you to go to the jury room.
23 We've been here about an hour and 20 minutes. So we'll go
24 ahead and take a morning break. But I've got to rule on an
25 objection. And I generally would send you out of the

1 courtroom because during the trial I'm not permitted to
2 comment on the facts and I'm going to have to rule on this
3 objection and I'm going to have to listen to some testimony
4 and I want to be free to comment on the facts and make a
5 determination whether the evidence is admissible or not.

6 So for that reason I'm going send you to the jury
7 room and at the same time y'all go ahead and take your
8 morning break and I'll get you back after we finish the
9 testimony and after we take a break. I'm just not sure how
10 long that's going to take.

11 Please do not discuss the case amongst yourselves or
12 use any method to do any type of investigation of the case.
13 I'll get you back just as soon as we finish.

14 (WHEREUPON, the jury left the courtroom at 11:45 AM
15 and the following proceedings were had outside the jury's
16 presence:)

17 THE COURT: All right. Mr. Lewis, you've got an
18 objection. What is your objection? Hearsay, I believe you
19 said, okay?

20 MR. LEWIS: Yes, Your Honor.

21 THE COURT: All right. Mr. Finch, if you would
22 put on the record where you're going and what you're trying
23 to do. Then I'll listen, if I need to, to the testimony.

24 MR. FINCH: Thank you, Your Honor.

25 On cross-examination the detective testified that he

1 received certain information from a variety of parties that
2 then guided his conversation with the Defendant, Mr. Eady.
3 In that he alluded to, and Mr. Lewis brought out on
4 cross-examination, some of those things are true and some of
5 those things aren't true. But he used those as a motivation
6 to try to see if as part of the statement the Defendant
7 would go down the road of potential self-defense, voluntary
8 manslaughter, heat of passion, set of facts. In that one of
9 the things that the detective asked about and was
10 specifically addressed by Mr. Lewis was a potential self-
11 defense.

12 In my conversation and reading the file and Sergeant
13 -- and Detective Reiter was aware that Teresa Jenkins, and
14 from his conversation with Teresa Jenkins, prior to the
15 arrest of the Defendant and while they were driving in the
16 car, the Defendant said ---

17 THE COURT: Now this is Teresa Jenkins?

18 MR. FINCH: Teresa Jenkins, that's correct.

19 THE COURT: Okay.

20 MR. FINCH: Teresa Jenkins told Detective Reiter
21 several things. One of those was that the Defendant said,
22 That nigga reached for his side, didn't he, or something to
23 that affect. At that time his brother Da'Quan Eady, who was
24 in the car with him said, We good, we good, or something to
25 that affect. That was reported to Detective Reiter.

1 That information was relayed during the conversation
2 with the Defendant almost in those exact terms. He said to
3 him, Did somebody reach for their side? Maybe that guy
4 reached for his side. Is that what happened? And then
5 Defendant replied, No, that's not what happened and he went
6 down his original statement that was recounted by the
7 detective that indeed there was a beef at the door, that
8 Teresa Jenkins drove him downtown, and then she left for
9 Hollywood, and he stayed downtown where others approached
10 him and said that they heard he'd been shot on Success
11 Street.

12 The testimony would be that that's the motivation
13 for him asking that question, the motivation for going down
14 that line of questioning regarding -- regarding potential
15 self-defense and working that portion of the interview with
16 the Defendant is the genesis and use and utility of that
17 statement provided by Teresa Jenkins.

18 It's not being offered to necessarily say that
19 somebody did reach for their side or that he even thought he
20 did. It's just impetus to the conversation, a piece of
21 information he gained from Teresa Jenkins and it goes to
22 thoroughness of his investigation, that this is a small
23 fact, and maybe even a misleading fact as characterized by
24 Mr. Lewis, to get the conversation started with the
25 Defendant. Eventually he denied that had happened or that

1 this took place.

2 It's the State's position that it's not being offered
3 for the truth of the matter asserted in that statement, but
4 rather as information that the detective used to further his
5 investigation.

6 THE COURT: All right. Mr. Lewis?

7 MR. LEWIS: Judge, Teresa testified ---

8 THE COURT: Hold on just a second.

9 MR. LEWIS: Teresa testified. They didn't ask
10 her about that.

11 THE COURT: I know, but you brought up the issue
12 of self-defense and you were insinuating -- I don't know
13 what you were insinuating, but you brought up the issue of
14 self-defense. So now they want to address the issue of
15 self-defense, okay.

16 Now I don't know where you are headed. Are you going
17 to argue self-defense in this case?

18 MR. LEWIS: Never. Not a chance. Not in a
19 hundred million years. I wasn't suggesting that it was
20 self-defense. This is a whodunit and I've said it on day
21 one and I've said it throughout.

22 THE COURT: I understand, but ---

23 MR. LEWIS: Trying to back door this statement in,
24 Judge, ---

25 THE COURT: Well I'm not sure even if you opened

1 the door, that makes her statement admissible through this
2 client. I do think that he should be entitled to ask this
3 officer what he told him since you insinuated that he was
4 lying, and sometimes he was lying, as what transpired in the
5 conversation with the Defendant.

6 MR. LEWIS: Absolutely.

7 THE COURT: About did somebody reach for a gun or
8 however he wants to do it. My inclination is to limit you
9 to that. Not necessarily where you got the information
10 from, but let him tell what he asked the Defendant and what
11 the Defendant responded. Okay?

12 MR. LEWIS: I have no objection to that. He can
13 certainly ask that.

14 THE COURT: Well let me hear the State's position
15 on that issue, okay, Mr. Finch?

16 MR. FINCH: Just so that I'm clear, the ruling
17 would be that I can ask him whether or not he asked if
18 somebody had reached for his side.

19 THE COURT: You can ask him whatever he told the
20 Defendant at the time or what the Defendant's reaction was,
21 okay, or what he -- whatever transpired in that
22 conversation. Has it been reduced to writing?

23 MR. FINCH: It's an audio recording.

24 THE COURT: Well has it been transcribed?

25 MR. FINCH: I know that Mr. Lewis has transcribed

1 it. I have not transcribed it.

2 THE COURT: Okay. Well whatever transpired in
3 that conversation you can go into even though -- even though
4 in my opinion some of it is based upon this hearsay. But
5 I'm not going to let you go into what Teresa literally told
6 this Defendant. Now if you want to call Teresa, I'll be
7 happy to let you recall her.

8 MR. FINCH: I may choose to do that.

9 THE COURT: Okay? Because I think he opened the
10 door to the extent that he was talking about you lie to
11 defendants, you tell the truth, sometimes you lie, sometimes
12 you don't. So I think you can develop that, okay?

13 MR. FINCH: Well I -- and along those lines then I
14 would pursue this, is that Mr. Lewis asked you about lying,
15 that sometimes you lie to defendants to get them to talk and
16 you represent things that aren't true or that you developed
17 out of you own imagination in order to get someone to talk,
18 but this is not something he developed out of his own
19 imagination. This is something that came from somebody ---

20 THE COURT: Well I understand. He can say he
21 received information and what he asked him based on
22 information. I'm just not going to let him testify what
23 Teresa told him.

24 MR. FINCH: That's fine. I understand the Court's
25 ruling and ---

1 THE COURT: You understand what I'm saying?

2 MR. FINCH: I understand exactly what you're
3 saying and I'm fine with that ruling, Your Honor. I have no
4 objection to that ruling.

5 MR. LEWIS: I just need to make sure that I
6 understand it. Mr. Finch may be faster than me.

7 THE COURT: Well let's say this. If you don't
8 like what he's doing, make your objection and I'll rule.
9 Okay?

10 MR. LEWIS: I just don't want to have to do this
11 again.

12 THE COURT: I'm going to let him go into what
13 transpired in the conversation with your client. Okay?

14 MR. LEWIS: Absolutely.

15 THE COURT: Between him and her, whatever he told
16 him and whatever his response was.

17 MR. LEWIS: That's -- what he said?

18 THE COURT: I don't know if that clarifies what
19 I'm saying.

20 MR. LEWIS: I hope so. I just don't want anything
21 to be said, Teresa suggested this, so you did that.

22 THE COURT: All right. For the record your
23 objection is sustained as to what Teresa specifically told
24 him. I have no problem with him saying, I obtained this
25 information from another source, blah, blah, and then

1 whatever he asked him.

2 MR. LEWIS: But not -- just to clarify, Judge,
3 but not to say, This other source told me that you said
4 this, because that's not what was asked. What was asked is
5 did he reach for his side. He can certainly ask that.

6 THE COURT: Well I don't know what he's going to
7 ask. We'll just have to deal with it at that time.

8 MR. FINCH: The question ---

9 THE COURT: Anything else we need to talk about
10 in-camera before we ---

11 MR. LEWIS: We may want to just proffer one
12 question.

13 MR. FINCH: The question that I would ask is, What
14 did you ask Mr. Eady?

15 And the answer likely, that -- did you -- maybe he
16 reached for his side, maybe that's what happened.

17 How did you develop that question?

18 From information gathered.

19 THE COURT: I have no problem with that.

20 MR. FINCH: Thank you, Your Honor.

21 THE COURT: Okay. Just make your objection as we
22 go through it, okay? And I'll make a decision on whatever
23 your objection is, okay?

24 MR. LEWIS: Thank you, Judge.

25 THE COURT: All right. We'll take about a 10, 15-

1 minute break.

2 MR. FINCH: Thank you, Your Honor.

3 THE COURT: How many more witnesses do you have
4 lined up for this morning?

5 MR. FINCH: For this morning? Everybody
6 essentially is here so we can go until the Court wants to
7 take a break. I have -- we have some stipulations right
8 after this to read in, should take about ---

9 THE COURT: Have you got the SLED agent here?

10 MR. FINCH: SLED agent is here.

11 THE COURT: Okay.

12 MR. FINCH: And we have stipulations prior to the
13 SLED agent. That will take just a couple of minutes. It's
14 three stipulations. And the next two, at least two
15 witnesses, I know are here.

16 THE COURT: Okay. All right. That's fine. We'll
17 take about a 10 or 15-minute break.

18 MR. FINCH: Thank you, Your Honor.

19 THE COURT: Don't discuss the case during the
20 break, okay?

21 THE WITNESS: Yes, sir.

22 (WHEREUPON, a brief recess was taken.)

23 THE COURT: Anything from the State before we
24 bring the jury in?

25 MR. FINCH: No, Your Honor.

1 THE COURT: Anything from the Defendant?

2 MR. LEWIS: No, Your Honor.

3 THE COURT: Bring us the jury, please, sir.

4 (WHEREUPON, the jury returned to the courtroom at
5 12:20 PM.)

6 THE BAILIFF: All jurors present, Your Honor.

7 THE COURT: Thank you very much. All right. If
8 you'll, please, proceed.

9 MR. FINCH: Thank you, Your Honor.

10 REDIRECT EXAMINATION BY MR. FINCH (CONT'D):

11 Q. Detective Reiter, when we left off we were
12 discussing how Mr. Lewis had touched on during the process
13 of an interrogation or getting a statement from a defendant
14 sometimes you tell lies, sometimes you shake the truth,
15 sometimes you let a little information out; is that
16 correct?

17 A. That is correct, sir.

18 Q. And sometimes that information is gathered from a
19 variety of sources and sometimes you invent it out of your
20 own head?

21 A. That is correct.

22 Q. Mr. Lewis also asked you about a line of questioning
23 designed to elicit potential self-defense?

24 A. Correct.

25 Q. Do you recall what you asked Mr. Eady regarding

1 whether there was a situation involving self-defense?

2 A. Yes, I suggested to him that perhaps one of the
3 people on the porch had reached for their side as if going
4 for a gun.

5 Q. And is that something that you invented out of your
6 own head?

7 A. No, it's not. That came up during the
8 investigation. It was suggested that perhaps he had said
9 that.

10 MR. LEWIS: Objection.

11 THE COURT: Overruled. Go ahead.

12 Q. Mr. Lewis also asked you about in his subjective
13 lies and people not wanting to help with investigations et
14 cetera, that sometimes people don't want to talk to the
15 police?

16 A. Correct.

17 Q. Sometimes people do want to talk to the police. And
18 sometimes they tell a little bit of a lie and sometimes
19 they tell the truth. In your training, are you trained in
20 different ways to perceive whether someone's lying to you?

21 MR. LEWIS: Objection, Your Honor.

22 THE COURT: I'll sustain the objection unless you
23 lay some ground work. He can talk about what he observes
24 along those line, but not the ultimate question about
25 whether they're lying or not lying, okay?

1 Q. Do you receive training in observing people's
2 demeanor when they're giving statements?

3 A. Yes, I've attended two different investigator
4 schools. Additionally through the hundreds of interviews
5 I've conducted I've developed a sense to read body
6 language.

7 MR. LEWIS: Objection.

8 THE COURT: What's your legal objection?

9 MR. LEWIS: He's not an expert. He can't be
10 qualified.

11 THE COURT: What's your legal objection?

12 MR. LEWIS: Speculation and opinion.

13 THE COURT: Overruled.

14 Q. Do you also take the information that anybody gives
15 you and try to corroborate that information?

16 A. Absolutely.

17 Q. And during your investigation did you have
18 information or evidence regarding the whereabouts or the
19 use of a telephone Mr. Eady was said to -- had told you
20 that he was using?

21 A. Yes, I completed a search warrant and we received
22 the records.

23 Q. Did that match up with what Mr. Eady told you about
24 his whereabouts that evening?

25 A. It did for about a third of the evening. He was in

1 North Charleston. We verified he was in North Charleston
2 on the records. He said he went downtown. The records
3 show he went downtown. He said he stayed downtown, but the
4 records show that the phone was used later in North
5 Charleston. And he himself said he had the phone the
6 entire time.

7 Q. Let me ask you about DNA. Mr. Lewis touched on DNA.
8 And DNA swabs were taken in this case. Do you recall what
9 they were taken from?

10 A. I personally took one from Mr. Eady in jail. I just
11 needed a search warrant for his DNA.

12 Q. And those were to be compared to what item of
13 evidence?

14 A. The shotgun and some of the other evidence recovered
15 from the crime scene.

16 Q. Was -- to your knowledge is that DNA investigation
17 analysis of the shotgun pending?

18 A. Yes, from my understanding SLED has not yet
19 processed the DNA.

20 Q. On the shotgun?

21 A. Correct.

22 Q. Is there any evidence in your investigation that any
23 of the shots into the house or the car were made by a
24 shotgun?

25 A. Not at all.

1 Q. Is there any indication that Mr. Eady was alleged to
2 have been carrying a shotgun?

3 A. None whatsoever.

4 Q. During your -- let me ask you this. I just want to
5 touch on this. You spoke to Antione Foster, you said,
6 right after you arrived?

7 A. Correct.

8 Q. And do you recall what time you arrived?

9 A. The call was dispatched at 10:07 PM and I would say
10 I was there within ten minutes.

11 Q. Okay. So do you know the incident time? Is that --
12 is the dispatch time the same as the incident time?

13 A. The incident time would have been a minute or two
14 prior, just the time it takes for someone to call 911 and
15 the dispatcher to get the address and then dispatch it.

16 Q. So around ten o'clock or so?

17 A. Roughly, yes, sir.

18 Q. And this address, [REDACTED] Success Street's in
19 Charleston County?

20 A. It is, sir.

21 MR. FINCH: Thank you. I have nothing further.
22 Please answer anything Mr. Lewis may have.

23 THE COURT: Recross?

24 MR. LEWIS: Just one second, Judge.

25 THE COURT: Okay.

1 (Pause.)

2 MR. LEWIS: No further questions, Judge.

3 THE COURT: You may step down. Thank you very
4 much.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Call your next witness, please.

7 MR. FINCH: Your Honor, may we approach?

8 THE COURT: Yes, sir.

9 (WHEREUPON, an off-the-record bench conference was
10 had.)

11 THE COURT: All right. Ladies and gentlemen of
12 the jury, the parties have entered into a stipulation. What
13 that means is that they have agreed that these facts are
14 correct and they're going to read the stipulation into the
15 record and you would accept it as if it was sworn testimony
16 coming from the witness stand, that the parties have agreed
17 that this stipulation is correct.

18 Please proceed.

19 MR. FINCH: Thank you, Your Honor. May it please
20 the Court?

21 Regarding State's exhibit number 32, attorneys for
22 the State and the defense agree and stipulate to the
23 following: the North Charleston Police Department, NCPD case
24 number 201212281, four complete bullets and one bullet
25 fragment were collected by NCPD crime scene investigators.

1 Subsequently these items were taken by Alex Tichi [phonetic]
2 of NCPD to the State Law Enforcement Division, SLED, in
3 Columbia, South Carolina where the case was assigned SLED
4 lab number L12-04410.

5 At SLED the items were assigned SLED item numbers as
6 follows: Item number 1, a fired bullet retrieved from the
7 left side of the stairs by [REDACTED] Item number
8 2, a fired bullet retrieved from the right side of the
9 stairs by [REDACTED] Item number three, a fired
10 bullet retrieved from the AC/heating duct; Item number 4, a
11 fired bullet retrieved from the rear passenger door; Item
12 number 12, a fired bullet fragment retrieved from the
13 victim.

14 Suzanne Cromer of SLED performed the analysis on
15 these items. Items 1, 2, 3, and 12 were determined to all
16 be fired from the same firearm, either a .38 special or a
17 .357 Magnum of an undetermined make. Item number 4 was
18 determined to be from either a .38 special or a .357 Magnum,
19 but not to have come from the same firearm as Items 1, 2, 3,
20 and 12.

21 At all times the items were stored and transported in
22 accordance with SLED and NCPD policies. At no time were the
23 items damaged or changed from the original condition from
24 the time of collection until the time of the work done by
25 Suzanne Cromer.

1 Regarding State's exhibit number 33, attorneys for
2 the State and defense agree and stipulate to the following:
3 In North Charleston Police Department, NCPD, case number
4 2012012281, an item labeled GSR kit was collected from the
5 victim, Adrian Lennell King, and another item labeled GSR
6 kit was collected from the victim, Martel Bernard Brown.
7 Both items were submitted into evidence by Lisa Kubicsko on
8 April 7th, 2012. Subsequently these items were taken by
9 Alex Tichi of NCPD to the State Law Enforcement Division,
10 SLED, in Columbia, South Carolina, for SLED lab number L12-
11 04410. At SLED the GSR kit from Adrian King was assigned
12 SLED number -- SLED item number 8. The GSR kit from victim
13 Martel Brown was assigned SLED item number 9. Agent John
14 Roberts of SLED then performed gunshot residue analysis on
15 each item.

16 Roberts subcategorized each item into four parts
17 representing the left palm, left back, right palm, and the
18 right back for each victim; 8.1, 8.2, 8.3, and 8.4 as well
19 as 9.1, 9.2, 9.3, and 9.4 respectively. The results for
20 items 8.1, 8.2, 8.3, and 8.4 revealed that there was no
21 presence of gunshot residue on victim King. The results for
22 items 9.1, 9.2, 9.3, and 9.4 revealed that there was no
23 presence of gunshot residue on victim Brown.

24 At no time were the items damaged or changed from the
25 original condition from the time of collection until the

1 time of the work done by John Roberts.

2 Regarding State's exhibit number 34, attorneys for
3 the State and the defense agree and stipulate to the
4 following: in North Charleston Police Department, NCPD, case
5 number 2012012281 and in response to a search warrant from
6 NCPD New Star, Incorporated, provided the telephone records
7 for [REDACTED]. The records include incoming and outgoing
8 phone calls, the duration of the calls, and the cellular
9 towers used to make and/or receive the calls. Additionally
10 the GPS coordinates for the locations of the cell towers was
11 included in the information packet.

12 Matthew Case, an authorized agent for custodian of
13 records for New Star, Incorporated, has provided the Court
14 with a certification regarding the records for [REDACTED],
15 that the records: a) were made at or near the time of the
16 occurrence of the matters set forth in the records by or
17 from information transmitted by a person with knowledge of
18 those matters, were kept in the course of a regularly
19 conducted business activity, and, c) were made by regularly
20 conducted activity as a regular practice. The records are
21 provided by -- as provided by New Star are attached and
22 incorporated by reference into this stipulation.

23 At this time the State would move for admission of
24 State's 32, 33, and 34 into evidence.

25 THE COURT: I understand it's without objection,

1 correct?

2 MR. LEWIS: Without objection.

3 THE COURT: All right. 32, 33, 34 admitted
4 without objection based upon the stipulations establishing
5 various custodian aspect of the records and I guess the
6 handling of the bullets and the chain of custody.

7 Thank you very much. You can call your next
8 witness.

9 (WHEREUPON, stipulations, having been previously
10 marked, were admitted into evidence as State's exhibits 32
11 and 33. Another stipulation was marked and admitted into
12 evidence as State's exhibit number 34.)

13 MR. FINCH: The State calls Agent Megan Lukacs.

14 MEGAN LUKACS,

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 THE CLERK: You may be seated. Please speak
17 clearly into the microphone. State your first and last
18 name and spell your last for the record.

19 THE WITNESS: Okay. My name is Megan Lukacs, L-
20 U-K-A-C-S.

21 DIRECT EXAMINATION BY MR. FINCH:

22 Q. Good afternoon, Ms. Lukacs. If you could, tell the
23 Court where it is you're employed.

24 A. I'm employed with SLED, State Law Enforcement
25 Division, of South Carolina.

1 Q. And what do you do there at SLED?

2 A. I'm a crime -- a criminal intelligence analyst.

3 Q. And what are some of the things you analyze as part
4 of your job at SLED?

5 A. I analyze a variety of things. I identify and
6 locate suspects of criminal activity through various data
7 bases and social media. And I also do a lot of phone toll
8 analysis.

9 Q. And were you asked to do some phone analysis for
10 North Charleston Police Department case 201212281?

11 A. Yes.

12 Q. And what information did you use as part of your
13 analysis?

14 A. I used cell tower information and phone records from
15 Cricket Wireless.

16 Q. I'm going to show you what's been admitted into
17 evidence as State's 34. The second and subsequent pages,
18 can you identify that document?

19 A. Yes, sir. This is a copy of the -- the call records
20 from Cricket that I used.

21 Q. And what are some of the things that are included on
22 those call records?

23 A. Included in the call records are the target phone
24 number that the call records are from, cell tower
25 information, the cell site numbers, and the calls received,

1 and also direction of the calls, times, dates.

2 Q. Okay. And when you say the cell tower number,
3 that's a designation given to an actual tower and a
4 physical spot?

5 A. Yes.

6 Q. And then Cricket assigns a number to those?

7 A. Yes, sir.

8 Q. So they can figure out where things are happening.

9 And then do those -- would you also have the GPS
10 coordinates for where that's located?

11 A. Yes, sir. Those are located in the cell site
12 information that are also sent from Cricket.

13 Q. And using that information, did you prepare a report
14 regarding the use of that phone during a targeted time
15 frame?

16 A. Yes, sir. I constructed a map using the cell site
17 in the call records.

18 Q. And I'm going to show you what's been marked for
19 identification purposes as State's exhibit number 39. Can
20 you identify that document?

21 A. Yes, sir. This is the results of the map that I
22 created from the call records and the cell site
23 information.

24 Q. And if you would ---

25 MR. FINCH: Well first, State would move for the

1 admission of State's 39.

2 MR. LEWIS: Without objection.

3 THE COURT: All right. 39 admitted without
4 objection.

5 (WHEREUPON, a cell phone records report was marked
6 and admitted into evidence as State's exhibit number 39.)

7 Q. If you would, initially just walk us through the
8 process by which you plotted which towers were used at
9 certain times for the period that you were investigating.

10 A. Okay. I used what -- a program called My Cell
11 MapPoint and I loaded the Cricket call records, the cell
12 site information, onto the program using the GPS
13 coordinates. It's more accurate than the addresses that
14 are located in the cell site information. From there I
15 found the corresponding cell towers that were used in the
16 call records of that cell phone and I added them as well to
17 the map.

18 Q. I'm going to -- now we discussed previously that
19 there was incoming and outgoing calls onto this phone; is
20 that correct?

21 A. Yes, sir.

22 Q. When -- how did you determine which -- which calls
23 you were plotting on this map?

24 A. Yes, sir. I actually looked at the direction of the
25 calls. Listed in the how to read the call records that

1 Cricket supplied there are -- which is MO, MT, ML, and LM.
2 MO is mobile to mobile originating. So that is when the
3 cell phone made a call. And that would be in the O site of
4 the call records, which is the originating site. Mobile to
5 mobile terminating is -- would be in the T site, the
6 terminating site. When a phone -- a call was sent to the
7 phone. Mobile to -- or ML is mobile to land, which is --
8 would be in the O site, the originating site. And LM,
9 which is land to mobile, would be in the terminating site.

10 Q. So when you plotted this were you looking just to
11 where the target number, [REDACTED], which tower it was
12 using, whether it was making or receiving the call?

13 A. Yes, sir.

14 Q. And based on that data and the GPS coordinates that
15 you had, you plotted a map of the use of this phone; is
16 that correct?

17 A. Yes, sir.

18 Q. I'm going to show you one of the pages of State's
19 39. What are we looking at here?

20 A. This -- this is the -- I'm sorry -- the cell site
21 information, the cell towers that were used to make or
22 receive a call that was in the call records.

23 Q. And just as an overview, many in the court may be
24 familiar with this view, but what are we looking at here,
25 as far as a map?

1 A. Okay. These are -- the circles which you see are
2 the cone or the strength of the tower and the -- the pie-
3 shaped, which is labeled 1, 2, and 3, those are the sectors
4 or the direction of the cell phone use.

5 Q. And those 1, 2, and 3 -- on the tower there's
6 antennas that are broadcast in sections, right? There's
7 three -- are there three pieces per antenna that divide
8 that 360 into 120-degree coverage areas?

9 A. Yes. They were -- actually it's like a 360 view and
10 they're cut up into sections.

11 Q. Okay. So that one antenna covers an area roughly
12 120 degrees if it's covering all 360 degrees?

13 A. Uh-huh.

14 Q. And there's a little overlap so there's no dropped
15 calls?

16 A. Yes. The -- the -- It's not finite. The service is
17 not like you walk outside the circle and your call is
18 dropped. It's kind of like a hand-off zone. So once you
19 go a certain amount it might be handed off to a different
20 tower.

21 Q. And you're familiar with the Charleston area?

22 A. A little bit, yes, sir.

23 Q. And this is a map. Can you tell us we're looking at
24 -- if you take a look at the screen right behind you there,
25 is that area -- you can use this pointer -- down at the

1 bottom right area is that the Charleston peninsula we're
2 looking at?

3 A. Yes, sir.

4 Q. All right. And up further that's a northerly
5 direction?

6 A. Uh-huh, yes, sir.

7 Q. So this will tell us -- well let me get back to the
8 circle of coverage. How did you arrive at the distance or
9 the radius for that circle of coverage that you plotted on
10 the map?

11 A. Yes, sir. What I did was I plotted all of the
12 Cricket cell phone towers in that area and they are, like I
13 said, they're allowed to overlap a little bit. So I
14 measured them far enough so that they would be overlapping
15 just a little bit, so you could see the hand-off zones.

16 Q. So on that map are there other towers that weren't
17 in use that you used to estimate the distance?

18 A. Yes, sir. They'll be in red. And the ones that are
19 in use will be in gray. The ones not in use would be in
20 red.

21 Q. Do you have a copy of your report up there to refer
22 to if I asked you about some times?

23 A. Yes, sir.

24 Q. We are limited by the magnification we have here,
25 but -- before I ask you that, essentially we are looking at

1 what you plotted as the cell tower that Cricket says that
2 cell phone was using at a specific time?

3 A. Yes, sir.

4 Q. It's not going to give us -- for instance if an
5 individual started the call in one cell and then they drove
6 somewhere else, will cricket's information provide us with
7 a series of cells as they're handed off or just the
8 originating site?

9 A. It basically would be the originating site where the
10 phone was made. I mean only way the records will tell you
11 is when -- what time the next call was received or called.

12 Q. So at roughly eight o'clock -- at roughly eight
13 o'clock what tower was the cell phone using at that time?

14 A. Roughly eight o'clock it was using 321 I believe,
15 which is ---

16 Q. And if you can indicate on the map where 321 is.

17 A. Can I -- you actually have the smaller view?
18 Because you really can't see the numbers up there.

19 Q. Let me show you ---

20 THE COURT: If it will help you can stand up, if
21 that will help you.

22 THE WITNESS: They are still kind of fuzzy.

23 THE COURT: Okay.

24 Q. Let me do this one here.

25 A. Yep. That's a little bit better. Thank you. At

1 8:01 he was -- or the cell phone was at 321 which I believe
2 would be right here.

3 Q. And that's down in the south end of the Charleston
4 peninsula?

5 A. Yes, sir.

6 Q. And what about roughly eight-thirty.

7 A. Around eight-thirty, let's see, would be at 365.
8 Would be up here.

9 Q. Okay. Which sector? Do you know?

10 A. This is going to be Sector 2. It'll be this one
11 right here [indicated].

12 Q. And what about nine o'clock?

13 A. Nine o'clock? It'd be 365 and Sector 1. So that
14 would be right here [indicated].

15 Q. And there's some other indications up there on that
16 cell tower right above Sector 1 right here.

17 A. Yes, sir.

18 Q. What is that?

19 A. The green dot is going to be the Defendant's
20 residence and the purple is going to be the incident
21 location.

22 Q. [REDACTED]

23 A. Yes, sir.

24 Q. And at nine-thirty where was the -- right around
25 nine-thirty where was the Defendant's phone? Which tower

1 was receiving information from the Defendant's phone?

2 A. It would be 322, which would be, I believe, up here
3 I believe [indicated]. I think. Sorry.

4 Q. And as we get closer, say nine-forty-five-ish time
5 frame, where was the Defendant's phone?

6 A. It's going to be 322. So it's mobile to mobile
7 originating. So it would be Sector 1, 322.

8 Q. And where is that on the map?

9 A. Would be up here [indicated].

10 Q. Down in the northern part of the peninsula?

11 A. Yes.

12 Q. And right around ten o'clock where was the
13 Defendant's phone? Which tower was in use for the
14 Defendant's phone?

15 A. Around ten o'clock it is going to be -- so that
16 would be 325. So that would be -- actually that would be
17 up there [indicated].

18 Q. I'm going to show you the next page in your report.
19 Does that give a little bit better view?

20 A. Uh-huh, yes, sir. Ten o'clock it would be -- it
21 would be Tower 325 in Sector 2. It'd be up here
22 [indicated].

23 Q. And shortly after ten o'clock the Defendant's phone
24 is hitting off what tower, say ten minutes past ten?

25 A. Ten minutes past, okay. 365 in Sector 3. So right

1 here [indicated].

2 Q. And around ten-twenty where is -- what sector or
3 which tower is the Defendant's phone? Back to the prior
4 page in your report.

5 A. Three-sixty -- it'd be three-sixty -- You said --
6 I'm sorry -- ten-twenty?

7 Q. About say ten-twenty.

8 A. Okay. Ten-twenty it was going to be at like Sector
9 365 and 3 still. And so it'd be ---

10 Q. About ten-thirty?

11 A. That is going to be -- I'm sorry. It would be three
12 -- well 365 cell tower -- I'm sorry. Cell tower 365,
13 Sector 2. It would be this one right here [indicated].

14 Q. And then a little bit later, say ten-forty-five time
15 frame.

16 A. It will be 380. So it'd be up here [indicated].
17 I'm sorry. 380, Sector 2. Sorry. Right there
18 [indicated].

19 Q. Now I'm going to ask you a couple of questions just
20 in general about this technology. You are able to with
21 this MapPoint program and the information that's given to
22 you that's been stipulated by the State and defense here,
23 you're able to plot which tower was being used by that
24 phone, whether it was receiving or sending a call, correct?

25 A. Yes, sir.

1 Q. And what can you tell us about the tower that's in
2 use by a phone?

3 A. All I can tell you is that from the call records
4 they give me the corresponding cell towers that are being
5 -- the cell phone is hitting off of at that certain time.
6 And they will actually -- like Cricket, they will put them
7 into sectors, so Sector 2, Sector 3, so it can kind of give
8 you a narrow view of maybe what direction that cell phone
9 was going or in at that time.

10 Q. Okay. So it's not GPS reports. We're not following
11 somebody in live time?

12 A. No, sir.

13 Q. With this technology?

14 A. No, sir.

15 Q. It's not going to tell us whose using the phone?

16 A. No, sir.

17 Q. And -- but under normal circumstances, if we can
18 characterize that, does it tell a cell phone -- a cellular
19 telephone phone tend to hit the closest tower?

20 A. Yes, sir.

21 Q. Are there any -- what are some reasons that maybe it
22 doesn't hit the closest tower?

23 A. There are some scenarios whether -- it depends on
24 the time of day, how much traffic that cell phone has -- or
25 cell tower has. If the cell tower has a lot of information

1 it could be bounced off to another one. So it's -- there's
2 possible scenarios for that.

3 Q. But in general it hits the closest tower?

4 A. Yes, sir.

5 Q. So with this technology, although not as
6 sophisticated as GPS, gives us a good picture of where the
7 phone is being used relative to those towers?

8 A. Yes, sir.

9 MR. FINCH: That's all I have for right now.
10 Please answer any questions Mr. Lewis has.

11 THE COURT: Cross-examination, Mr. Lewis?

12 MR. LEWIS: Thank you, Judge.

13 CROSS-EXAMINATION BY MR. LEWIS:

14 Q. I think this will probably be incredibly brief and
15 I'll try not to scare you. So Mr. Finch brought it up on
16 direct, this isn't as great as if you had an iCloud account
17 or something like that so that you can say it is at this
18 building right now?

19 A. Yes, sir. It's not GPS. You know, it's not going
20 to give you the exact address.

21 Q. So you have to kind of extrapolate and kind of make
22 a guess?

23 A. A good-faith estimate, yes, sir.

24 Q. And it's a pretty big area we're dealing with,
25 right?

1 A. Yes, sir.

2 Q. So for example on this map there's a whole lot of
3 stuff going on in there on any given day?

4 A. Yes, sir.

5 Q. A whole lot of people living, shopping, eating
6 dinner, living their lives?

7 A. Yes, sir.

8 Q. So you can't say at any specific time this phone is
9 exactly here like you could if it was GPS?

10 A. That's correct, sir. I can't tell exactly what
11 address that cell phone is at.

12 Q. And you actually corrected yourself and I really
13 appreciate it. You said the Defendant was -- the phone
14 was. Because you actually can't say if this phone is in my
15 pocket. You can say it's pinging to this sort of location?

16 A. Yes, sir. Yeah, I can't tell you who had the phone.
17 I can just tell you where the cell phone was hitting off
18 of.

19 Q. So it's -- this is basically really broad stuff?

20 A. Yes, sir.

21 Q. North Charleston versus Downtown?

22 A. Uh-huh.

23 MR. LEWIS: All right. No further questions,
24 Judge.

25 THE COURT: Any redirect?

1 MR. FINCH: Yes, Your Honor.

2 REDIRECT EXAMINATION BY MR. FINCH:

3 Q. At around ten o'clock -- looking at this exhibit
4 that's on the screen behind you -- around ten o'clock the
5 Defendant's phone is pinging off towers right in the
6 vicinity of [REDACTED] as plotted on your map; is
7 that correct?

8 A. Yes, sir.

9 Q. Right around ten o'clock and then shortly
10 thereafter?

11 A. Yes, sir.

12 Q. Right before?

13 A. Yes, sir.

14 Q. And that's North Charleston, correct?

15 A. Yes, sir.

16 Q. And the map you showed earlier of all these cell
17 towers as maps shows a variety of towers in between.
18 Previously we were looking at these two?

19 A. Uh-huh.

20 Q. Now we look -- we can see all the way down the
21 peninsula, correct?

22 A. Yes, sir.

23 Q. So it wasn't hitting off any towers in Charleston;
24 it was North Charleston?

25 A. Yes, sir. During the -- between eight and ten, a

1 little bit after.

2 Q. Right at ten o'clock or so?

3 A. Yes, sir.

4 Q. Not down in the lower peninsula at that other cell
5 tower?

6 A. Yes, sir.

7 Q. And normal circumstances, just like Mr. Lewis
8 pointed out, when people are doing their thing, it's going
9 to -- if it wasn't hitting off the closest tower, it might
10 get the next closest tower?

11 A. Yes, sir.

12 Q. And there's a bunch of towers in between downtown
13 Charleston and the incident location?

14 A. Yes, sir.

15 Q. And in fact, when you look at that and look at this
16 report with it, you estimated the strength of those cell
17 towers, correct?

18 A. Yes, sir.

19 Q. And the Defendant's house and the incident location
20 are very close to one another on that map, aren't they?

21 A. Yes, sir.

22 Q. And the overlay zone, as you best estimate, is very
23 close to there, correct?

24 A. Yes, sir.

25 Q. And from the call record reports and then your map

1 are -- is the Defendant's phone pinging off those two
2 towers alternatively?

3 A. Yes, sir. During those times he's -- it's hitting
4 off of those two towers.

5 Q. So right in the middle of where they intersect,
6 right at the time of the murder, the Defendant's phone is
7 pinging off both those phones [sic] at ten o'clock or so?

8 A. Yes, sir, it's hitting off those two towers.

9 MR. FINCH: Thank you very much.

10 THE COURT: Any recross?

11 MR. LEWIS: Very briefly.

12 RECROSS-EXAMINATION BY MR. LEWIS:

13 Q. So Mr. Finch asked you about ten o'clock exactly.
14 At ten o'clock exactly, right?

15 A. Yes, sir.

16 Q. That says ten o'clock, doesn't it? My eyesight's
17 not as goods as everybody else's.

18 A. Yes, sir.

19 Q. But I think it says ten and that was Sector 2?

20 A. Uh-huh.

21 Q. Which we're putting a little bit too much weight on
22 it I think because if it's Sector 2, neither of those two
23 residences are in Sector 2, are they?

24 A. It -- it depends, sir. Like I said, I trupted the
25 -- the cone or the strength of the tower to overlap a

1 little bit. So you would have to -- to get an accurate
2 strength of the tower you would have to talk to Cricket to
3 get how far it went out.

4 Q. Okay. So with using your guess though ---

5 A. Uh-huh.

6 Q. --- those two, the purple and the green are not
7 within ---

8 A. Not within my cone, no, sir.

9 Q. Okay. So they were outside of that?

10 A. Yes, sir.

11 MR. LEWIS: Thank you. Nothing further, Judge.

12 THE COURT: Okay. Thank you very much. You may
13 step down and be excused. Thank you very much.

14 All right. Ladies and gentlemen of the jury, it's
15 one o'clock. We're going to take a lunch break at this
16 time. Please don't discuss the case amongst yourselves.
17 If you'll be back in the jury room at two-thirty we'll get
18 started at that time. Leave your note pads in the chair
19 and have a good lunch. See you at two-thirty.

20 (WHEREUPON, the jury was excused from the courtroom
21 at 12:56 PM.)

22 THE COURT: Anything from the State before we
23 break for lunch?

24 MR. FINCH: No, Your Honor.

25 THE COURT: Anything from the Defendant?

1 MR. LEWIS: No, Your Honor.

2 THE COURT: Let me see you up here just a second.

3 (WHEREUPON, an off-the-record bench conference was
4 had; then proceedings adjourned for the luncheon recess.)

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AFTERNOON SESSION

THE COURT: Anything from the State before we bring the jury?

MR. FINCH: No, Your Honor.

THE COURT: Anything from the defense?

MR. LEWIS: Just charges, but we can discuss them later if you want to.

THE COURT: We can do that later.

MR. LEWIS: All right. Then nothing, Your Honor.

THE COURT: Bring us the jury, please.

(WHEREUPON, a phone extraction, was marked for identification purposes as State's exhibit number 40.)

(WHEREUPON, the jury entered the courtroom at 2:35 PM.)

THE BAILIFF: Jurors all present, Your Honor.

THE COURT: Thank you very much. Call your next witness, please.

MR. VOIGT: The State calls Deanna Shark.

DEANNA SHARK,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: You may be seated. Please speak clearly into the microphone. State your first and last name and then spell your last for the record, please. Thank you.

MS. SHARK: Deanna Shark, S-H-A-R-K.

1 DIRECT EXAMINATION BY MR. VOIGT:

2 Q. Ms. Shark, thank you for coming down. Are you
3 related to Torren Eady?

4 A. Yes, sir.

5 Q. And how are you related to him?

6 A. He's my nephew.

7 Q. Do you live at [REDACTED] [REDACTED]?

8 A. Yes, sir.

9 Q. And how long have you lived there?

10 A. Three years.

11 Q. And who do you live there with?

12 A. Me and my three children.

13 Q. And in April of 2012 did Cor -- Torren come to stay
14 with you?

15 A. He did not come stay with me, but he came to my
16 house.

17 Q. Okay. Did he stay at your house?

18 A. For a weekend.

19 Q. For a weekend?

20 A. Yes, sir.

21 Q. And how did he get there?

22 A. My sister called me and asked me to ---

23 MR. LEWIS: Objection, Your Honor. Hearsay.

24 THE COURT: Overruled. Go ahead.

25 Q. Go ahead and answer.

1 A. She asked me to answer my phone if he calls me.

2 Q. Did she tell you any specific number that he would
3 be calling from?

4 A. No, sir.

5 Q. Okay. Did you know his normal cell phone number?

6 A. No, sir.

7 Q. So he called and you answered. Is that correct?

8 A. Yes, sir.

9 Q. Did he tell you why he was coming to stay with you
10 for the weekend?

11 A. No, sir.

12 Q. Did he seem nervous when he talked to you?

13 A. No.

14 Q. Had he ever come and stayed with you for the weekend
15 before?

16 A. Yeah, they have.

17 Q. Okay. When was -- before April of 2012 when was the
18 last time he had stayed with you for the weekend?

19 A. It has been a couple years because I wasn't living
20 here.

21 Q. Okay. When you say here, you mean in the Charleston
22 area?

23 A. Yes, sir.

24 Q. Okay. So he had visited you previously when you
25 lived somewhere else?

1 A. Yes, sir.

2 Q. And did he come with just him -- that time, did he
3 come with just himself or other members of your family?

4 A. Just him.

5 Q. Just him. Did he drive to your apartment or did you
6 go get him?

7 A. I picked him up.

8 Q. Okay. What did he have with him when you picked him
9 up?

10 A. His little duffle bag.

11 Q. Did he tell you why he had to stay with you?

12 A. No.

13 Q. Did you and your children stay in the apartment at
14 the same time as Torren?

15 A. The weekend he was with me?

16 Q. Yeah.

17 A. No.

18 Q. Why not?

19 A. Because they went to my parents for the weekend and
20 I had previous arrangements that weekend.

21 Q. Did he know that you had had these previous
22 arrangements before he came to stay with you?

23 A. No.

24 Q. So for how many days did he stay in your apartment?

25 A. He stayed with me Friday night until Tuesday.

- 1 Q. Until the police got there?
- 2 A. Yes, sir.
- 3 Q. Were you there when the police got there?
- 4 A. Yes, I was.
- 5 Q. Did you tell the police he was there?
- 6 A. No, I did not.
- 7 Q. Why not?
- 8 A. Because they didn't ask me.
- 9 Q. Did they ask you if there was anybody in your house?
- 10 A. Yes, they did.
- 11 Q. Did you tell them that Torren was there?
- 12 A. No, I didn't.
- 13 Q. Did Torren have any cell phones with him when he
- 14 came?
- 15 A. I think he did; I'm not sure.
- 16 Q. Okay. During those times that you were there with
- 17 Torren, did you or anybody in your family use those cell
- 18 phones?
- 19 A. No, we have our own.
- 20 Q. So you would have used your own cell phones?
- 21 A. Yes.
- 22 Q. Where did he keep his stuff in your house?
- 23 A. Downstairs where he stayed in the living room.
- 24 Q. Were you hiding Torren?
- 25 A. No, sir.

1 Q. One moment.

2 (Pause.)

3 MR. VOIGT: Thank you. No further questions.

4 THE COURT: Any questions? Cross-examination.

5 MR. LEWIS: Thank you, Your Honor.

6 CROSS EXAMINATION BY MR. LEWIS:

7 Q. Good afternoon, Ms. Shark. How you doing?

8 A. Good. How are you?

9 Q. I'm hanging in there. I wanted to ask you briefly.
10 I was a little bit confused by the time line. So you said
11 you picked him up. When did you pick him up?

12 A. It was late Friday night between ten and ten-thirty.

13 Q. Okay. All right. And then you said your children
14 had previous engagements to go to your mom's?

15 A. Yes, sir.

16 Q. Okay. Did -- and I was a little confused -- did you
17 go with them as well? And ---

18 A. No.

19 Q. --- leave Torren as far as you know -- knew alone or
20 did you stay?

21 A. No. They went to my mom's and I went somewhere
22 else.

23 Q. You went somewhere else?

24 A. Yes.

25 Q. So what's the total amount of time that you can't

1 say who was in your home?

2 A. I can't say because I wasn't there ---

3 Q. Well ---

4 A. --- that weekend.

5 Q. --- that's what I'm asking. When did you leave?

6 A. After I dropped him off on Friday.

7 Q. What time would you say that was?

8 A. I picked him up about ten-thirty. We probably got
9 back to my house about eleven and I left after that.

10 Q. Okay. So eleven PM Friday night?

11 A. Yes.

12 Q. When did you come back?

13 A. I didn't come back until Sunday afternoon.

14 Q. Okay. And I know this is a silly-sounding question,
15 but the answer is pretty simple. What happened at your
16 house between eleven PM Friday and Sunday afternoon when
17 you got back?

18 A. I don't know.

19 Q. Exactly. Okay. So do you know who came?

20 A. No.

21 Q. Do you know who went?

22 A. No.

23 Q. Do you know if they had a house party?

24 A. No.

25 Q. You have no clue what happened during the time from

1 eleven PM Friday until Sunday afternoon?

2 A. No.

3 Q. All right. Thank you, ma'am.

4 A. Uh-huh.

5 MR. LEWIS: No further questions.

6 THE COURT: Any redirect?

7 REDIRECT EXAMINATION BY MR. VOIGT:

8 Q. Where did you pick Torren up from?

9 A. Downtown.

10 Q. Does Torren stay downtown?

11 A. No.

12 Q. Okay. This was April. How old are your children?

13 A. Twenty-three, nineteen, and seventeen.

14 Q. Was the seventeen-year old in school?

15 A. Yes.

16 Q. Okay. You left on Friday night?

17 A. Yes, sir.

18 Q. You didn't come back until Sunday afternoon?

19 A. Yes.

20 Q. But on Tuesday when Torren got arrested inside your
21 house, your kids were not there?

22 A. They were there.

23 Q. They were there?

24 A. Yes.

25 Q. They had come back?

1 A. Yes.

2 Q. All right. So when the police asked you if anybody
3 was home -- strike that.

4 MR VOIGT: Thank you, Your Honor.

5 THE COURT: Recross?

6 MR. LEWIS: I'm good, Judge. Thank you.

7 THE COURT: All right. You may step down. Thank
8 you very much.

9 Call your next witness.

10 MR. FINCH: The State calls Charles Champion.

11 **CHARLES CHAMPION,**

12 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

13 THE CLERK: Please speak clearly into the
14 microphone. And if you could, please state your first and
15 last name and then spell your last for the record..

16 THE WITNESS: Charles Champion, C-H-A-M-P-I-O-N.

17 DIRECT EXAMINATION BY MR. FINCH:

18 Q. Good afternoon, Mr. Champion. If you would, tell
19 the Court where you're employed.

20 A. North Charleston Police Department.

21 Q. And what is your position with North Charleston?

22 A. I'm on the Intelligence-Led Policing Unit. It's a
23 full-time SWAT team.

24 Q. And what are some of the duties and responsibilities
25 on the ILP?

1 A. Apprehending fugitives, responding to high risk or
2 high threat-level situations.

3 Q. Did you hold that position back in April 2012?

4 A. Yes, sir.

5 Q. And during April 2012, did you have occasion to
6 search for one Torren Eady?

7 A. Yes, sir.

8 Q. And about how long did you search for Mr. Eady?

9 A. I believe we worked continuously on that case for a
10 little over two weeks.

11 Q. I want to direct your attention to Tuesday, April
12 17th, 2012, at [REDACTED]. Are you
13 familiar with that address?

14 A. Yes, sir.

15 Q. And on that date and time what was going on over
16 there at [REDACTED]?

17 A. My unit had received some information and responded
18 to that address in reference to attempting to locate Torren
19 Eady because he had outstanding warrants through our
20 agency.

21 Q. And when you went to that address did you make
22 contact with anyone?

23 A. Yes, sir.

24 Q. Who was that?

25 A. Deanna Shark.

1 Q. And was she the owner of that residence or person
2 listed as ---

3 A. She was the tenant, yes, sir.

4 Q. And did you ask any questions of Ms. Shark?

5 A. I did. I had asked if -- well first I asked if she
6 was the actual tenant of the residence. After that I asked
7 her if she was home alone or if she had other people in the
8 residence with her.

9 Q. What was her response?

10 A. She advised that she -- there was no other males
11 inside her residence.

12 Q. When she told you that, were you able to see inside
13 the residence from where you were outside?

14 A. No, sir.

15 Q. Did you ask Ms. Shark if you could search the
16 residence?

17 A. Yes, sir.

18 Q. And did she let you?

19 A. Yes, sir.

20 Q. Take us through that. When you go in to search the
21 residence, how did that unfold?

22 A. Well typically my unit operates as a team so we
23 typically have three or four people there, a couple people
24 outside the residence just in case somebody should flee.
25 When we went into the residence I was speaking with Ms.

1 Shark about other people being there. I explained to her
2 that we were there looking for a warrant suspect and asked
3 her for consent to verify that there were no other males
4 inside the residence. She assured me that there wasn't,
5 gave me consent to search the residence. At that time the
6 other officers engaged in dialogue with her while I went
7 upstairs to check the bedrooms.

8 Q. Did you go upstairs alone or with others?

9 A. I actually went upstairs alone. There were two
10 other officers checking the downstairs area such as the
11 kitchen and the bathroom. And as I proceeded up the steps,
12 Ms. Shark advised me that there was a young female, her
13 daughter, inside one of the bedrooms sleeping.

14 Q. Was that door open or shut?

15 A. It was open. As I went into the bedroom I -- I saw
16 the female laying on the bed. I checked around her,
17 checked the areas underneath the bed and the closet area,
18 then came back out towards the first bathroom right there
19 at the bedroom.

20 I went into the bathroom and there were -- there
21 were no lights on in the bathroom. The shower curtain was
22 approximately a quarter of the way forward, so I had a view
23 of three quarters of the shower, but I couldn't see behind
24 that last part of the shower curtain. As I advanced into
25 the bathroom to look behind the shower curtain, I observed

1 a black male standing up against the wall trying to conceal
2 himself with the shower curtain. I saw his tennis shoes,
3 saw his torso.

4 I began calling him out of the bathtub and was able
5 to positively identify that it was in fact Torren Eady.

6 Q. And did Mr. Eady say anything to you at that time?

7 A. No. He was hesitant on following my commands. I
8 had to repeat my commands to him a couple of times and he
9 slowly stepped out of the bathtub. I was asking him to
10 turn around and face away from me. He kept looking -- kind
11 of looking past me at the doorway, at which point I
12 positioned myself in between him and the doorway just in
13 case he tried to run out.

14 Q. Did you have your -- your weapon withdrawn at this
15 time?

16 A. Yes, sir.

17 Q. Was it pointed at the Defendant?

18 A. Yes, sir.

19 Q. And were you speaking these commands or were you
20 yelling the commands?

21 A. I was yelling them.

22 Q. Did anybody else in the house hear you that you know
23 of?

24 A. Yes, sir. The -- obviously I hadn't called for any
25 of the officers to come up, but when I started yelling the

1 commands I heard my teammates coming up the steps to me.

2 Q. When you -- you and the rest of the team show up at
3 any residence are you wearing uniforms?

4 A. Yes, sir.

5 Q. The same uniform as you're wearing now or a
6 different uniform?

7 A. We wear two different uniforms. One is the uniform
8 I am wearing now. The other is a long-sleeve police t-
9 shirt. It has our North Charleston badge on it along with
10 Police written down the side, and it's got North Charleston
11 Swat on the back, along with green BDUs.

12 Q. And BDU's is ---

13 A. Battle ---

14 Q. --- Army pants?

15 A. Yes, sir. Battle dress uniform. It's -- it's a
16 military term.

17 Q. Okay. And you were wearing that when you went to
18 Ridge Brook Drive? You were wearing that uniform at Ridge
19 Brook Drive?

20 A. I can't recall which uniform we had on.

21 Q. But you had a uniform on?

22 A. Yes, sir. We ---

23 Q. You identified yourself as police?

24 A. Yes, sir.

25 Q. You said the bathroom was dark. Was any part of the

1 rest of the house darkened?

2 A. Yeah, there were various lights that were off
3 upstairs but I -- I can't recall as to which rooms.

4 Q. And before you entered the house in speaking to Ms.
5 Sh -- I assume -- were you speaking to her outside? Ms.
6 Shark?

7 A. Ms. Shark? When we first made approach to the
8 residence and she answered the door, I asked her if I could
9 step inside to speak with her. I typically do this with
10 every house we go to in the event that -- it eliminates
11 neighbors and other people from talking about numerous
12 police officers standing outside the residence. It's a --
13 almost a privacy matter.

14 Q. And would you have then -- if you were able to,
15 would you have looked in -- tried to look in through the
16 windows if you could ---

17 A. Yes, sir.

18 Q. --- from the outside? And you were not able to see
19 through those windows?

20 A. No, sir.

21 MR. FINCH: Thank you. I have nothing further.
22 Please answer any questions Mr. Lewis has.

23 THE COURT: Cross-examination.

24 MR. LEWIS: Thank you, Judge.

25 CROSS EXAMINATION BY MR. LEWIS:

1 Q. Officer Champion, you said you're there to do a
2 basic warrant service, fugitive apprehension, that kind of
3 thing?

4 A. Yes, sir.

5 Q. When you were speaking with the homeowner, what name
6 did you say you were looking for?

7 A. I don't recall.

8 Q. Did you say Torren Eady?

9 A. Again I -- I don't recall. We -- we were in fact
10 there looking for him, but depending on the demeanor of the
11 homeowners sometimes we will give an alias or a different
12 name just on the fact, or the account, that if they believe
13 we are there looking for the individual they are harboring
14 they'll refuse to give us any cooperation.

15 Q. So a little white lie, just to kind of get inside
16 the residence to get the ability to search, right?

17 A. I'm not saying I did it that time. I'm saying we
18 have done that before. I don't recall what name I gave
19 her. I don't -- to be honest with you I don't recall that
20 I gave her a name. I asked her -- I told her that we were
21 there looking for a warrant suspect and asked her if there
22 were any males in the house.

23 Q. Okay. So you don't remember whether you gave a name
24 or not?

25 A. Correct.

1 Q. But it -- sometimes the way ILP does business, you
2 will give a false name to see if you can get access to the
3 house?

4 A. Yes.

5 Q. I'm looking for Billy Joe. And you know Billy Joe
6 isn't going to be in there because you're looking for his
7 brother. But they say, Oh yeah, come on in, you can look
8 for Billy Joe. And then you find his brother, right?

9 A. Yes.

10 Q. I mean I don't have a problem with it. I think it's
11 a good tactic. I would do it too.

12 You went upstairs alone?

13 A. Yes.

14 Q. That probably wasn't a good tactic normally?

15 A. Nah.

16 Q. But he didn't try to fight you?

17 A. [Shook head.]

18 Q. He didn't try to run out. You said his eyes looked
19 like they were trying to glance past something, but he
20 didn't fight you, right?

21 A. No, sir.

22 Q. You're used to people hiding. That is kind of why
23 you guys go in there to do these sort of sweeps, right?

24 A. Yes, sir.

25 Q. Call it what it is. He was hiding from you, right?

1 A. Yes, sir.

2 Q. Kind of huddled in the shower, trying to hide so
3 that you can't see him, right?

4 A. Yes, sir.

5 Q. Okay. But once you got him, he went with you.
6 Probably a pretty scary situation, gun drawn, being yelled
7 at, guy in the military outfit, that sort of thing, right?

8 A. Yes, sir.

9 MR. LEWIS: No further questions, Judge.

10 THE COURT: Any redirect?

11 MR. FINCH: No, Your Honor.

12 THE COURT: You may step down. Thank you very
13 much.

14 Call your next witness.

15 MR. VOIGT: Andrew Coker.

16 **ANDREW COKER,**

17 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

18 THE CLERK: Please speak clearly into the
19 microphone and state your first and last name and then
20 spell your last for the record, please, sir.

21 THE WITNESS: Robert Andrew Coker, C-O-K-E-R.

22 DIRECT EXAMINATION BY MR. VOIGT:

23 Q. Officer Coker, where are you assigned right now?

24 A. I am assigned to the patrol division of North
25 Charleston Police Department.

1 Q. That is a fairly recent development, right?

2 A. As of a little over a year ago. Yes, sir.

3 Q. Okay. Before that -- you've been with North
4 Charleston a considerable amount of time, haven't you?

5 A. Twenty-three years, yes, sir.

6 Q. And during that time though you've had other
7 assignments?

8 A. Yes, sir.

9 Q. And -- and most notably did you work in North
10 Charleston's Crime Scene Unit?

11 A. Yes, I did, for almost seven years.

12 Q. And were you so assigned in April of 2012?

13 A. Yes, I was.

14 Q. Okay. And on April 17th, 18th, of 2012, did you have
15 the occasion to assist in a search warrant at [REDACTED]
16 [REDACTED] in North Charleston?

17 A. Yes, sir, I did.

18 Q. And what was your role as a crime scene technician
19 during that search warrant?

20 A. It was -- well it was my responsibility to show up,
21 document the scene with photographs, and collect any items
22 of evidence as were pointed out to me by the investigating
23 officers or detectives.

24 Q. Okay. And I'm going to show you five photographs
25 that have been marked State's 27 through 31 and ask you if

1 these were the photograph that you made of that particular
2 scene.

3 A. Yes, they are.

4 MR. VOIGT: At this time the State would offer to
5 file and introduce State's ---

6 THE COURT: Okay. 27 through 31.

7 MR. LEWIS: No objection.

8 THE COURT: All right. 27 through 31 admitted
9 without objection.

10 (WHEREUPON, photographs, having been previously
11 marked, were admitted into evidence as State's exhibits
12 numbers 27 through 31.)

13 Q. This is State's 27. Now this is at [REDACTED] -- or [REDACTED]

14 [REDACTED] What does that particular picture depict?

15 A. It depicts a couple of cell phones sitting on a
16 chair in a bedroom.

17 Q. Okay. And when you're out photographing things are
18 you directed to what might be important or what might not
19 be important?

20 A. In this case I was, yes.

21 Q. Okay. So in some cases you kind of go and you
22 cater -- and you try to capture everything. In this case
23 you're looking for very specific things?

24 A. That's correct.

25 Q. In this case, two cell phones? Is that two cell

1 phones?

2 A. It appears to be.

3 Q. I'm going to show you -- all right. Let me mark it
4 first and then I'll show it to you.

5 (WHEREUPON, two cell phones and accessories, were
6 marked as State's exhibit number 41 for identification
7 purposes.)

8 Q. I'm going to show you what I'm marking as State's
9 41.

10 THE COURT: What number?

11 COURT REPORTER: Forty-one.

12 THE COURT: What's 40?

13 COURT REPORTER: Oh, I marked it at the break.

14 THE COURT: Huh?

15 COURT REPORTER: It's a document. I marked it at
16 the break.

17 THE COURT: Okay.

18 Q. Let me ask you to identify the contents of that
19 particular bag.

20 A. The contents of this bag are two cell phones, three
21 cell phone batteries, and a cell phone charging cord.

22 Q. And is that what's displayed in State's 27, the
23 picture that's up on the screen there?

24 A. It appears to be.

25 Q. Okay. So -- now you take a picture of it and then

1 you -- did you place that into evidence?

2 A. Yes, I did.

3 Q. And how do you know that you placed it into
4 evidence?

5 A. Because it's indicated on the face of the bag who
6 collected the items and I actually prepared this label and
7 applied it to the items before I submitted them to the
8 evidence.

9 Q. And why do you make labels like that? What is the
10 purpose of that?

11 A. To keep specifi -- specific information such as the
12 case number, the date and/or times collected, what the
13 items are that are collected, and who collected the items.

14 Q. So in this case it has the North Charleston OCA
15 number?

16 A. Correct.

17 Q. Which is 2012012281?

18 A. Yes.

19 Q. Okay. It has who collected it. That's you?

20 A. That's correct.

21 Q. And the address where it was collected.

22 A. Right.

23 MR. VOIGT: At this time the State would offer to
24 file and introduce State's 41.

25 THE COURT: Any objection?

1 MR. LEWIS: No objection.

2 THE COURT: 41 admitted without objection.

3 (WHEREUPON, State's exhibit number 41, having been
4 previously marked, was admitted into evidence.)

5 Q. I'm going to show you up here on the screen what's
6 been previously marked as State's 29. What does that
7 depict?

8 A. That depicts a black hat that was sitting in the
9 sink.

10 Q. State's 30, I'm going to go down to the bottom here,
11 you actually have a date stamp here, the date stamp on that
12 photo, so you know -- so you know when you took the picture
13 more or less?

14 A. That's correct. The camera applies the date and time
15 stamp.

16 Q. Then that would be approximately 1:33 in the
17 morning?

18 A. Yes, sir.

19 Q. Because you -- do you use military time to be more
20 accurate?

21 A. Yes, sir.

22 Q. Okay. So that's a hat in the sink?

23 A. Yes, sir.

24 Q. And you were directed to that particular hat?

25 A. Yes, I was.

1 Q. Okay. I'm going to show you what has been
2 previously marked as State's 35 and ask you to identify
3 that.

4 A. Yes, sir, this is the hat that I collected from the
5 sink.

6 Q. So you collected the hat that's in that picture.
7 You put it in the bag and created a tag and put it into
8 evidence?

9 A. Yes, sir, that's correct.

10 MR. VOIGT: At this time the State would offer
11 State's 35 into evidence.

12 THE COURT: Any objection?

13 MR. LEWIS: Relevance.

14 THE COURT: Overruled. 35 admitted with
15 objection.

16 (WHEREUPON, State's exhibit number 35, having been
17 previously marked, was admitted into evidence.)

18 MR. VOIGT: Thank you. One moment, sir.

19 The State would tender this witness, Your Honor.

20 THE COURT: Cross-examination.

21 MR. LEWIS: Thank you, Judge.

22 CROSS EXAMINATION BY MR. LEWIS:

23 Q. Officer Coker, you said 23 years ---

24 A. Yes, sir.

25 Q. --- with North Charleston? How much of that was

1 with Crime Scene?

2 A. A little over six-and-a-half, almost seven years.

3 Q. So a good term?

4 A. Yes, sir.

5 Q. And more than just -- they've called you in here
6 today to kind of say, Hey, this is what I found?

7 A. That's correct.

8 Q. You also would take samples of certain things, test
9 things for fingerprints, take DNA swabs, things like that?

10 A. If necessary, yes, sir, or requested to.

11 Q. Okay. This is the -- these are the phones that you
12 just iden -- oh, that is the hat, where are the phones?

13 Over here. Okay. So these are the phones that you took
14 into evidence?

15 A. That's correct.

16 Q. So nice flat surface -- I always get this when I'm
17 interviewing or cross-examining ---

18 A. Uh-huh.

19 Q. --- officers. This is perfect for fingerprints,
20 right?

21 A. It can be.

22 Q. Nice. Beautiful. And now my prints are on it,
23 right?

24 A. It can be, yes, sir.

25 Q. Okay. I'll let them look at it when they go back.

1 Did you test those items for fingerprints to see who the
2 last person was who handled them?

3 A. I did not process those items. No, sir.

4 Q. So they -- do you know if they were processed?

5 A. I do not know if they were processed. I simply
6 collected -- photographed, collected them, and submitted
7 them to the evidence locker.

8 Q. Okay. Normally wouldn't you have done your
9 fingerprint analysis and swab right there and put it in?

10 A. If -- if I were requested to process the item for
11 that ---

12 Q. Okay.

13 A. --- specific evidence I would have, yes.

14 Q. So nobody told you you needed to do that so you
15 didn't do it?

16 A. That's correct on this case.

17 Q. Okay. So forensically all you can say about that is
18 that I saw them there, I picked them up, I stuck them in a
19 bag?

20 A. Correct.

21 Q. Don't know who touched them. Don't know what they
22 are other than that?

23 A. That's correct.

24 Q. Okay. When -- I see that this is in a -- this, the
25 hat, is in a normal bag, not a wet storage bag. So it was

1 dry when you recovered it?

2 A. As I recall it was dry.

3 Q. You would have noted in your report that it was wet
4 had it been wet or if it had been tampered with in any way
5 as far as you could tell?

6 A. If it was significantly wet it would have been
7 noticed. If it was just slightly damp I likely would not
8 have noted -- made note of it being wet unless that
9 affected the packaging of it.

10 Q. Okay. But in this case you didn't note anything
11 like that?

12 A. Correct.

13 Q. So just like with the cell phones, no idea what was
14 done with that hat, who was wearing that hat, no DNA
15 samples taken from that hat, no GSR examination of that
16 hat. It's -- it's a hat; that's what you know?

17 A. That's correct.

18 Q. Okay.

19 MR. LEWIS: One second, Judge.

20 THE COURT: Yes, sir.

21 MR. LEWIS: No further questions, Judge.

22 THE COURT: Any redirect?

23 MR. VOIGT: No, redirect, Your Honor.

24 THE COURT: You may step down. Thank you very
25 much.

1 Call your next witness.

2 MR. FINCH: The State calls Sergeant Paul
3 McManigal.

4 PAUL MCMANIGAL,
5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 THE CLERK: You may be seated. Sir, if you could
7 please speak clearly into the microphone. State your first
8 and your last name; spell your last for the record.

9 THE WITNESS: Paul David McManigal, M-C-M-A-N-I-
10 G-A-L.

11 DIRECT EXAMINATION BY MR. FINCH:

12 Q. Good afternoon, Sergeant. If you would tell the
13 Court where it is that you're employed.

14 A. I work for the Charleston County Sheriff's Office.

15 Q. And what do you do for the Sheriff's Office?

16 A. I am the supervisor of Forensic Services and I also
17 run the Computer Crimes Lab.

18 Q. And in that position are you called on by other
19 agencies to do analysis for them?

20 A. Yes, I am.

21 Q. And in reference to this case did North Charleston
22 ask you to process any items of evidence for them?

23 A. I received two cell phones from them to be
24 processed.

25 Q. I am going to show you what has been previously

1 entered into evidence, State's 41. Can you identify these
2 items?

3 A. Those are the two cell phones that I received from
4 North Charleston.

5 Q. Okay. And tell us what you did with those cell
6 phones.

7 A. I did what we call a cell phone dump. We connect it
8 to a machine called a Cellebrite UFED, which is a universal
9 forensic extraction device. And it downloads all the data
10 from the cell phone and places it into a report
11 automatically.

12 Q. And does that make a copy of the cell phone or its
13 digital data?

14 A. It extracts all the data from the cell phone.

15 Q. And so any data that's on that phone as to the use
16 would be copied onto this -- this report?

17 A. That's correct.

18 Q. So things like telephone calls made?

19 A. Yes. Telephone calls, contact lists, web history,
20 photographs, things like that.

21 Q. All right. I want to ask you about contacts.

22 A. Yes, sir.

23 Q. You went through two phones and on the -- I believe
24 the -- the Kyocera phone, the one that was identified with
25 the phone number 642 [REDACTED].

1 A. Yes, sir.

2 Q. If you could tell us what phone numbers correspond
3 to the following contacts.

4 A. Yes, sir.

5 Q. Quan?

6 A. One moment while I find the contact list.

7 Q. It's Q-U-A-N, Quan.

8 A. Quan is listed as 843-735 [REDACTED].

9 Q. How about Moms?

10 A. Moms is listed as 843-926 [REDACTED].

11 Q. How about Levy?

12 A. Levy is listed as 843-518 [REDACTED].

13 Q. How about Jigg?

14 A. I'm sorry?

15 Q. Jigg, J-I-G-G.

16 A. Jigg is listed as 843-801 [REDACTED].

17 Q. How about Resa, R-E-S-A?

18 A. Resa is listed as 843-557 [REDACTED].

19 Q. And if there is on there a Dreq, D-R-E-Q?

20 A. D-R-E-Q is listed as 843-826 [REDACTED].

21 Q. And finally BM?

22 A. BM is listed as 843-566 [REDACTED].

23 Q. I want to turn your attention to the other phone,
24 the Samsung that you took a look at. I think Mr. Lewis
25 just showed you the smooth face of that phone.

1 A. Yes, sir.

2 Q. I'm sorry. Mr. Coker -- he showed Mr. Coker the
3 smooth face of that phone. On that item what forensic
4 extraction did you do on that phone?

5 A. This phone required two separate extractions.
6 Occasionally the automatic extraction using the UFED does
7 not work correctly and I can only capture part of the
8 data. In this case the phone would lock up as soon as I
9 started trying to read the internal -- the external memory
10 card. A lot of phones have a memory card that you can
11 insert into the phone to add on memory. In this case I had
12 to do the memory card separately using a computer forensic
13 program.

14 Q. And so you extracted from the phone information from
15 that SD card and from the phone itself?

16 A. Using the Cellebrite UFED I extracted information
17 from the phone and the SIM card itself. And then I used a
18 -- a program called FTK, which is a Forensic Tool Kit, to
19 extract the data from the SD card separately.

20 Q. And from the SD card did you -- were you able to
21 extract videos that had been taken on that phone?

22 A. Yes, sir.

23 Q. And that -- and on the other you were able to
24 extract a web-browsing history?

25 A. Yes, sir, a web history was recovered.

1 Q. And you provided this return of all of these -- this
2 information, this report, to Officer Reiter?

3 A. Yes, sir.

4 Q. And in a digital format?

5 A. I -- I put both of the reports on a CD and provided
6 him with copies.

7 Q. I want to turn your attention to the web-browsing
8 history on that phone.

9 A. Yes, sir.

10 Q. First I would like to show you what has been marked
11 for identification purposes as State's 40. Can you
12 identify this item?

13 A. These are selected pages from the report that I
14 provided.

15 Q. And other than a redaction on the final page of that
16 document, are those selected pages an accurate
17 representation of the extraction report you provided to
18 Detective Reiter?

19 A. Yes, sir, they appear to be an exact copy.

20 MR. FINCH: At this time the State would move for
21 the admission of State's 40.

22 THE COURT: Any objection?

23 MR. LEWIS: No objection.

24 THE COURT: 40 admitted without objection.

25 (WHEREUPON, State's exhibit number 40, having been

1 previously marked, was admitted into evidence.)

2 Q. I'm going to turn your attention to the -- the first
3 page that I just showed you. It's entitled Extraction
4 Report. That just gives us the data about when -- what was
5 done and by whom?

6 A. Yes, sir.

7 Q. And the phone serial number, things of that nature?

8 A. All the basic information that's extracted from the
9 phone, plus some data that I have added, including my name
10 and contact information.

11 Q. I'm going to show you the second page of this
12 extracted report at the top here. What are we looking at
13 here?

14 A. This is the web browsing history started -- starting
15 with the most recent entry.

16 Q. And up at the top there is the time stamp of March
17 27, 2012; is that correct?

18 A. That's correct.

19 Q. What does UTC mean?

20 A. UTC, it's -- it's universal time. It stands for
21 Coordinated Universal Time, but it's actually abbreviated
22 UTC. UTC is a standard measurement of time, as Greenwich
23 Mean Time many people are familiar with. The United States
24 has several different time zones all based off of UTC. For
25 instance, Eastern Daylight Time would be UTC minus four

1 hours. So you would -- if it was noon Universal Time then
2 in Eastern Daylight Time would equivilate to 8:00 AM.

3 Q. So from looking at this entry on that time stamp,
4 the 2:45 PM would be 10:45 AM on March 27th, 2012?

5 A. That would be correct.

6 Q. And there's a -- appears to be an email up top that
7 is a response and the first two words are, Hey, Torren?

8 A. Yes, sir.

9 Q. And is that a -- do we know what that is? Is that
10 an email that he would have received or the phone would
11 have received?

12 A. That -- that is an email. With Android phones you
13 are required to enter a Google email account and you
14 automatically receive welcome messages from Google. In
15 this case, this is a welcome mes -- message from Google
16 when the phone was created.

17 Q. And that would have been on March 27th?

18 A. The date on the email was March 27th, yes, sir.

19 Q. And then I'm going to go to the next page of this
20 report. As we pull up in -- it pulls up a web history time
21 line. It says time line and then in parenthesis it says
22 277. Have you found that item?

23 A. I -- I'm sorry.

24 Q. The report.

25 A. You're looking for a particular web-history number?

1 Q. No, the web history on this time line of web
2 searches. You can look at the screen behind you.

3 A. Yes, sir.

4 Q. All right. And that again is coming with a time
5 stamp. Is that correct?

6 A. Yeah, the entry number five, web history, is a web
7 search conducted on April -- it would have been April 6th,
8 or correction April 17th at 6:18 PM. You had to subtract
9 four hours from the time.

10 Q. Okay. And what was that a search for?

11 A. In this case the entry number five was a -- was just
12 a Google -- hitting the Google page. Entry number six
13 below that was the return on a search history for how long
14 does gun powder stay on the skin.

15 Q. So the phone was used to search the Internet to find
16 out an answer to a question of how long does gun powder
17 residue stay on your skin?

18 A. That's correct. The -- the actual history begins on
19 April the 16th at about 11:41 at night. At -- the web
20 browser went to a -- a web crawler, which is a search
21 engine. And the exact entry was how long does gun powder
22 stay on the skin. The first item returned under web
23 crawler is a chacha.com page that add -- addresses a
24 question how long does gun powder residue stay on your
25 skin. And that page was visited at April 16th at 11:45.

1 Q. And that's adjusting for the UTC?

2 A. That's adjusting it for UTC, yes, sir. That --
3 that's Eastern Daylight Time.

4 Q. And then the subsequent web addresses or pages
5 visited also address that gun powder residue question?

6 A. Yes, sir.

7 MR. FINCH: That's all I have. Please answer any
8 questions Mr. Lewis may have.

9 THE COURT: Cross-examination.

10 MR. LEWIS: Thank you, Judge.

11 CROSS-EXAMINATION BY MR. LEWIS:

12 Q. Is it Detective, Sergeant? I missed that part.

13 A. Sergeant.

14 Q. Sergeant. Good afternoon, Sergeant.

15 A. Good afternoon.

16 Q. In the days and times of the Internet can you say
17 for certain who actually did that search?

18 A. I cannot say who conducted the search on the phone.

19 Q. Can you say why that person did that search?

20 A. I cannot.

21 Q. So all you can say is that someone took that phone
22 and did that search?

23 A. That's correct.

24 MR. LEWIS: One moment, Judge.

25 (Pause.)

1 Q. Just to expand on that idea just a little bit more,
2 I could have done that?

3 A. If you had access to the phone, you could have, yes,
4 sir.

5 Q. I could have done that for someone else?

6 A. Yes, sir.

7 Q. I could have done that for myself because I was
8 worried about something?

9 A. Yes, sir.

10 Q. I could have done that because I do not know what
11 gunshot residue is, how long it stays, doesn't have to mean
12 a specific thing? I could have searched for that for any
13 number of reasons?

14 A. That's correct.

15 MR. LEWIS: Nothing further, Judge.

16 THE COURT: Okay. Any recross -- excuse me,
17 redirect?

18 MR. FINCH: No, Your Honor.

19 THE COURT: You may step down. Thank you so very
20 much.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: Call your next witness.

23 MR. FINCH: Your Honor, the State rests.

24 THE COURT: All right, Mr. Foreman, ladies and
25 gentlemen of the jury, I'm going to have to take up some

1 legal matters at this time. I'm going to ask you to go to
2 the jury room. Please don't discuss the case amongst
3 yourselves. I'll get you back very shortly.

4 (WHEREUPON, the jury exited the courtroom at 3:23
5 PM.)

6 THE COURT: Any motions from the State?

7 MR. FINCH: No, Your Honor.

8 THE COURT: Any motions from the Defendant?

9 MR. LEWIS: Yes, Your Honor. At this time the
10 defense moves for a directed verdict. Identity is the most
11 important part of this case. Clearly an identity has not
12 been established to show that Torren was the person that did
13 in fact pull the trigger that night. Because we believe
14 that the State has failed to meet its burden of proving
15 identity, we ask the Court grant our motion for a directed
16 verdict.

17 THE COURT: Motion denied. Any other motions?

18 MR. LEWIS: None at this time, Judge.

19 THE COURT: Okay. Are you -- all right. Mr.
20 Eady, if you will stand and raise your right hand please.

21 **TORREN EADY,**

22 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

23 THE COURT: All right. Mr. Eady, did you -- have
24 you had an opportunity to talk to your attorney about your
25 Fifth Amendment rights to remain silent?

1 THE DEFENDANT: I did.

2 THE COURT: Speak up so I can hear you.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you had ample opportunity to talk
5 to your attorney about it?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you understood the conversations
8 that you have had with him?

9 THE DEFENDANT: Yes, sir.

10 MR. LEWIS: Keep your voice up.

11 THE COURT: All right. I'm going to ask you some
12 questions about -- if you want to talk to your attorney
13 about any of the questions I ask, let me know and I'll give
14 you the opportunity do that. Do you understand?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Do you understand under
17 the Fifth Amendment of the Constitution, no one can compel
18 you to testify against yourself? Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand that's a personal
21 privilege that you have? No one else has that privilege but
22 you. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You have to make the decision whether
25 you want to testify or not testify, not your attorney, not

1 anyone else, not your mom, not your dad, or anyone else. Do
2 you understand?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: That's a personal decision that you
5 have. Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: If you elect not to testify, your
8 failure to testify cannot be used by the State as an
9 inference of guilt. Your failure to testify cannot be
10 considered by the jury and I will so charge the jury and
11 tell the jury. Do you understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: If you elect to testify, then you
14 assume the role of a witness. Do you understand?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: In other words, if a question is asked
17 of you, you will be required to answer it if -- if it's
18 appropriate under the Rules of Court and the Rules of
19 Evidence. Do you understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: It's not like when you see on
22 television, somebody takes the stand and they will take the
23 Fifth to one question and then they'll answer another
24 question. You either take the stand and answer the
25 questions or you don't take the stand. Do you understand?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Any questions about that?

3 THE DEFENDANT: No, sir.

4 THE COURT: Has anybody forced you or threatened
5 you to make you testify or make you not testify?

6 THE DEFENDANT: No, sir.

7 THE COURT: Has anybody put any pressure on you?

8 THE DEFENDANT: No, sir.

9 THE COURT: All right. Have you understood the
10 questions that I have asked you?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you wish to talk to your attorney
13 any further about your right to testify?

14 THE DEFENDANT: No, sir.

15 THE COURT: Do you have any questions of what --
16 about what I have explained to you?

17 THE DEFENDANT: No, sir.

18 THE COURT: All right. Do you wish to testify?

19 THE DEFENDANT: No, sir.

20 THE COURT: Okay. All right. Are you going to
21 offer any other witnesses?

22 MR. LEWIS: Can I have just a ---

23 THE COURT: Yes, sir.

24 MR. LEWIS: --- brief moment, Judge?

25 THE COURT: Yes, sir.

1 (WHEREUPON, a private conversation took place between
2 counsel, the Defendant, and co-counsel.)

3 MR. LEWIS: Judge, we will be prepared to rest.

4 THE COURT: Pardon?

5 MR. LEWIS: We will be prepared to rest in front
6 of the presence of the jury.

7 THE COURT: Okay. So you're not going to call any
8 witnesses?

9 MR. LEWIS: No, Your Honor.

10 THE COURT: Okay. All right. Bring us the jury,
11 please.

12 (WHEREUPON, the jury returned to the courtroom at
13 approximately 3:39 PM.)

14 THE BAILIFF: The jurors are all seated, Your
15 Honor.

16 THE COURT: All right. Thank you very much. Is
17 the defense going to offer any testimony?

18 MR. LEWIS: No, Your Honor. The defense rests.

19 THE COURT: Okay. Thank you so very much.

20 All right. Ladies and gentlemen of the jury, what we
21 are going to do is we are going to take -- take a break at
22 this -- at this time. And in the morning we will finish the
23 trial. The only thing left will be closing arguments and
24 charge.

25 But I will -- would like to tell you that -- before in

1 the morning that in the state of South Carolina, under the
2 Constitution of South Carolina, a Defendant does not have to
3 prove his innocence. The obligation in criminal court is
4 for the State to prove the Defendant guilty beyond a
5 reasonable doubt. The fact that the Defendant chooses not
6 to testify, he has -- has that right under the United States
7 Constitution and the State Constitution under the Fifth
8 Amendment to remain silent. And you are not to consider
9 that in any factor whatsoever of whether his innocence or
10 guilt. He is just exercising his constitutional right as to
11 not testify. And I wanted to explain that to you up front
12 today because he has no obligation to testify. And you are
13 not to take any inference from that whatsoever as to his
14 innocence or his guilt.

15 All right. In the morning I will expand upon that
16 somewhat in the charge after the closing arguments tomorrow.

17 Now let me see the attorneys up here just a second.

18 (WHEREUPON, an off-the-record bench conference was
19 held.)

20 THE COURT: All right. Mr. Foreman, ladies and
21 gentlemen of the jury, we -- as I said earlier, we're going
22 to take a break at this time. If you'll be back in the jury
23 room at ten o'clock in the morning we'll finish the trial
24 with the closing arguments and charge. Please do not
25 discuss the case amongst yourselves. Leave your note pads

1 in your chairs. And I will see you in the morning at ten
2 o'clock.

3 Let -- let me say this to you before I go. I
4 apologize for being late this morning. I had an eye
5 appointment with the doctor this morning at quarter to eight
6 and it took a whole lot longer than I thought. So I was
7 about 15 or 20 minutes late. I apologize. That was my
8 fault, not any of the parties. I just wanted to explain
9 that to you. But I'll be here in the morning. Y'all have a
10 good evening.

11 (WHEREUPON, the jury was excused from the courtroom at
12 3:32 PM.)

13 THE COURT: All right. We'll go off the record.

14 (WHEREUPON, an off-the-record conference was held.)

15 THE COURT: All right. Mr. Lewis, we need to go
16 back on the record. You need to make a motion; is that
17 correct?

18 MR. LEWIS: Yes, Your Honor.

19 THE COURT: Be glad to hear you.

20 MR. LEWIS: Judge, I renew all my previous
21 objections and my motion for a directed verdict in light of
22 the defense closing.

23 THE COURT: All your previous motions are denied
24 and your directed verdict motion is now denied.

25 MR. LEWIS: Thank you, Your Honor.

1 THE COURT: All right. Anything else?

2 MR. FINCH: Nothing from the State, Your Honor.

3 THE COURT: Anything from the Defendant?

4 MR. LEWIS: No, Your Honor.

5 THE COURT: All right. I'll see you in the
6 morning at 9:30.

7 MR. FINCH: Thank you, Your Honor.

8 MR. LEWIS: Thank you, Your Honor.

9 (WHEREUPON, the trial of this case was recessed for the
10 day.)

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1 THURSDAY, FEBRUARY 20, 2014

2 THE COURT: I think I'm going to have an informal
3 charge conference if y'all want to come up here.

4 (WHEREUPON, an off-the-record charge conference was
5 had.)

6 THE COURT: All right. Anything from the State
7 before we bring the jury?

8 MR. FINCH: No, Your Honor.

9 THE COURT: Ready for the arguments?

10 MR. FINCH: Yes, sir.

11 THE COURT: Is the defense ready?

12 MR. LEWIS: Yes, Your Honor.

13 THE COURT: All right. Bring us the jury, please,
14 sir.

15 (WHEREUPON, the jury entered the courtroom at 10:28
16 AM.)

17 THE BAILIFF: All jurors present, Your Honor.

18 THE COURT: Okay. Thank you very much.

19 All right. Mr. Foreman, ladies and gentlemen of the
20 jury, I just want to ask anybody -- has anybody read
21 anything or heard anything about the case last night or
22 yesterday or any point in time? Have you heard anybody
23 talking about the case outside the courtroom? If you have,
24 would you raise your hand?

25 (No response elicited.)

1 THE COURT: Okay. Thank you very much.

2 Solicitor?

3 MR. FINCH: Thank you, Your Honor. May it please
4 the Court?

5 CLOSING ARGUMENT BY MR. FINCH:

6 I would like to start off just by saying a simple
7 thank you for your participation in the justice system for
8 South Carolina. The jury plays an important role in being
9 the judge of the facts. The State presents the facts as --
10 as alleged. And it's the State's burden to prove to you
11 beyond a reasonable doubt that the facts support the charge
12 that is brought to the Court by the indictment and that
13 indeed prove that the Defendant is guilty beyond a
14 reasonable doubt.

15 But before I get into the facts, I want to talk just
16 briefly about what reasonable doubt is. It is not a
17 concrete concept. The reasonable doubt -- and the judge
18 will instruct you on this when he -- when he gives you your
19 instructions -- is that reasonable doubt is not beyond all
20 doubt. Because if you knew exactly what happened without
21 any doubt, we would have called you as witnesses. You
22 weren't at the scene. So you don't know exactly, without
23 any doubt, what happened. But that is not what you're
24 charged with making a decision based on. It's beyond a
25 reasonable doubt. A reasonable doubt is that which would

1 lead -- which would cause someone, a reasonable person, to
2 hesitate to act.

3 Now hesitation is different than deliberation. I am
4 going to ask you to deliberate. There is a lot of
5 circumstantial evidence in this case and there's also direct
6 evidence in this case. And the judge will explain those to
7 you. What is important is to take your time, sift through
8 all the evidence. And the State's convinced at the close of
9 that when you've deliberated, talked to each other, shared
10 your common experiences, and your common sense, which is all
11 we can ask of you, to use your common sense and apply it to
12 the facts the State has alleged and presented to you through
13 evidence, that you'll find the defendant guilty of the
14 charged crimes; murder, attempted murder, attempted murder,
15 attempted murder, and possession of a firearm during the
16 commission of a violent crime.

17 Now at the beginning of this trial, which was just
18 Tuesday, not long ago, but it may seem that way because
19 there has been lot of information produced since then. That
20 is why it's going to be important for me to go through the
21 evidence presented by the State to make sure you have the
22 information and I'll be -- and I'll provide you with
23 reasonable inferences you can take from that information.
24 But it's up to you to make the determination on guilt and
25 innocence.

1 Now at the beginning of this trial I told you the
2 facts that the State was alleging. I told you what happened
3 at [REDACTED] Success Street. I told you what happened on April
4 6th and precipitated that event. There was a beef, some
5 sort of argument, a couple blocks away, across the street.
6 A couple hours later, or an hour-and-a-half or so later, one
7 of the members of the household, perhaps the target of that
8 argument, came over to [REDACTED] Success Street looking for the
9 people who were there to gang him at his house earlier.
10 Then he said it didn't matter if those people were the ones
11 who were there and then started shooting, indiscriminately
12 shooting directly at people feet in front of him.

13 He killed Adrian King. He wounded Martel Brown. And
14 miraculously, Antoine Foster and Gabby McCulley escaped
15 injury, physical injury at least, and were able to testify
16 here.

17 At the beginning of this trial Mr. Lewis started off
18 by giving you some themes to think about: confusion, karma,
19 corroboration. Well as I review the facts with you and the
20 evidence and the testimony that's presented, I'm going to
21 show you there's no confusion in this case. There's plenty
22 of corroboration. And karma, karma doesn't even have a
23 place in this discussion. Karma is a concept that your act
24 -- karma is literally the act, the deed, that then leads to
25 consequences. Depending on different religious

1 interpretations of karma, it explains the life we have
2 today. It explains consequences in the future. But it
3 doesn't explain what happened to Adrian King. There's been
4 no testimony that Adrian King deserved to be sitting there
5 on the porch with his friends and then shot in the head.
6 For what? What crime did he commit? Spending time with his
7 friends. Sure, he was smoking weed. Antoine Foster was
8 smoking weed. Gabby McCulley was smoking weed. Martel
9 Brown was getting his hair cut.

10 Karma has no place in this discussion. What has a
11 place in this disc -- discussion is the evidence presented
12 to you from that stand and the evidence that you're going to
13 take back with you in the jury deliberation room. Now let
14 us go -- I want to go over that because it has been a long
15 couple of days.

16 Let's start off with the testimony from Teresa
17 Jenkins. Clearly Teresa Jenkins was not thrilled to be
18 here. She was under oath and talking about somebody that
19 she used to spend time with, used to be with, her boyfriend.
20 And I am not going to pretend to you that she told a hundred
21 percent of the story and filled in all the details. But she
22 was charged with not lying. And maybe she saw omissions or
23 tried to soften the blow to the person sitting at that table
24 over there. But the facts remain that everything Teresa
25 Jenkins did tell you was corroborated by other testimony,

1 corroborated by people who have nothing to do with the
2 individuals involved in this case. There's no reason for
3 Megan Lukacs to tell you that the ph -- cell phone used
4 absolutely corroborated what happened and what Mr. Eady did
5 during that day.

6 But what did she tell us? Teresa told us there was a
7 fight. Everybody told us there was a fight on Leland Street
8 or some sort of argument between Rochelle Grant, the baby
9 mama of the Defendant, and the Defendant. What's important
10 is the small pieces of what happened afterwards.

11 The Defendant got angry, took the car, left. Left long
12 enough that she was concerned about where he went.

13 He came back with two individuals, his brother and
14 somebody named TJ. I'm sorry, three individuals. And Jigg,
15 make it a fourth individual. What's interesting is TJ had a
16 gun. He might -- TJ is holding a gun, the gun she sees, a
17 shotgun. Testimony, not related to this crime as far as
18 being used to shoot at or kill anyone. But then those
19 individuals left, dressed all in black, the Defendant with a
20 hat on.

21 Teresa Jenkins wanted to stop Torren, not TJ, not
22 Da'Quan, not Jigg, because she was afraid of what he might
23 do. She was afraid of what revenge he might seek. There
24 was no testimony that she tried to stop TJ from doing
25 anything or calm Da'Quan down. And she -- she said that was

1 his hat. That's his hat. And then she said, Uh, I don't
2 know, just don't know. It's up to you to judge the
3 credibility of the witnesses. That's your job.

4 Let's talk about Gabby McCulley. Gabby McCulley,
5 sitting on the porch with her friends. She told you what
6 she saw. Somebody came up, all dressed in black with a hat
7 on, some description of hair, couldn't really make out the
8 face. She told you, Is this really happening? Are we
9 really in a situation where some beef over there may have
10 led to this? She had never seen Torren Eady before. She
11 didn't know him. She was looking at her phone, thinking is
12 this really happening? Until, gun fire. And then Antoine
13 Foster helped her get in the house.

14 Now what is interesting about what she testified to?
15 The person in front was doing all the talking. The person
16 in the front was asking the questions, Who came by to gang
17 me? I know it wasn't any of y'all. It don't matter. And
18 somebody was behind that individual. Not to the side, not
19 near, behind that individual. One of those people shot.
20 Well doesn't make any sense that the person behind the
21 person in front would do the shooting, otherwise, we'd know
22 who was standing in front because they'd have been shot in
23 the back. Because if you look at the photographs from the
24 crime scene, and I will show them to you in a little bit,
25 all those bullet holes in the house are going straight into

1 the house from where Mr. Eady was standing.

2 And what else about Gabby was testified to? Gabby
3 was looking at her phone and she heard a voice. She didn't
4 have any plan regarding hearing a voice, but she heard a
5 voice and it made an impression on her. And then Mr. Eady
6 was arrested. She went to the bond hearing. Why did she go
7 to the bond hearing? Well she's a victim of a crime. She
8 has an interest in the bond hearing. She has an interest to
9 what goes on at that bond hearing, what the determination is
10 from that bond judge. She has every right to be there. And
11 not only is she a victim; her friend was killed.

12 She did not go there with a plan of anything other
13 than to participate in her right as a victim of a crime.
14 And then she heard a voice. She heard the Defendant talking
15 and immediately collapsed, and wept, and was removed, an
16 involuntary reaction to what she heard. She didn't come in
17 with some master plan of, Good, we'll just -- I'll get all
18 drama queen on this. I will get all histrionic and just
19 fall out. That's an involuntary physiological reaction.

20 Oh, and about Antoine Foster. Antoine Foster is not
21 going to win any prizes for public speaking. I can tell you
22 that. Antoine Foster doesn't go to school or maybe he's
23 starting next week. Doesn't have a job. Antoine Foster is
24 the kind of guy in a lot of different neighborhoods. Pick a
25 neighborhood. He's that guy who sort of shuffles around the

1 neighborhood and he -- what's going on over here? He's --
2 he's just the guy who is kind of always around. He wasn't a
3 hundred percent clear and didn't make a whole lot of sense
4 when he was talking about these events of the day because
5 they don't really make sense. They are kind of random.
6 Well there was something going on over here. My mom asked
7 me to go across the street so I went across the street, got
8 some clothes. That's fine. I came back. There were some
9 people hanging out. A buddy called me up, Do you want to go
10 hang out? I don't care.

11 Antoine Foster doesn't have a whole lot of cares in the
12 world. But he's not a bad guy. He's watching his baby.
13 He's taken that on for Rochelle Grant, for that guy. He is
14 actually -- maybe he's not your choice of baby sitter, but
15 he's not a bad guy.

16 And it doesn't make a whole lot of sense necessarily,
17 Well we're just going to follow the crowd over and maybe
18 start some fight or beef -- see a fight. Lots of crowds
19 look -- a lot of people go and watch fights and -- at bars
20 and, you know, those are the things that attract crowds.
21 Fine. And he wanted to sit on the porch and smoke some
22 weed.

23 I can't change Antoine Foster. I don't want to
24 change Antoine Foster. But think about what Antoine Foster
25 was clear about and when he's been clear about it.

1 You heard Detective Reiter talk about how difficult
2 it is to get people to participate in investigations,
3 particularly violent crimes. There can be a stigma against
4 participation, testifying, being an informant, snitch.
5 From the moment police arrived Antoine Foster said, I know
6 who did it. Torren, Tezo. I don't know his last name.
7 Told them he could pick him out of a lineup.

8 Detective Reiter got there in short order. A lot of
9 police were there. And by the time he got there, Antoine
10 Foster had already spoken to a police officer who presented
11 him to Detective Reiter and said, This guy knows something.
12 Yeah.

13 And I'm sure one point the defense will want to make
14 is that, Wait there's three people there that are sitting on
15 that porch. How come only one guy can identify him? Well
16 that's not exactly true, is it? Gabby McCulley did identify
17 him through his voice. Antoine Foster identified him in
18 what way? He knew him. He lived next door. He watched his
19 kid. He had seen him before when he either dropped off the
20 child or he'd seen him arguing with Rochelle Grant. He
21 didn't tell you, Oh yeah, I knew him from the moment -- no.
22 He said when he got close, he knew who he was talking to.

23 You could imagine in your life how you may know
24 someone in a fairly casual relationship ---

25 MR. LEWIS: Objection, Your Honor, Golden Rule.

1 THE COURT: Overruled, go ahead.

2 MR. FINCH: --- that you might recognize, that you
3 know casually and you recognize them. You know who they
4 are. You can pick them out. That's what Antoine Foster
5 did. He knew who was standing in front of him. He
6 testified to that. He testified in this courtroom almost
7 two years after the event. He testified within minutes --
8 he didn't testify, I apologize -- he informed investigators
9 within minutes and then again later that night picked Torren
10 Eady out of the six pack of photos. Gave a statement. Sat
11 in that chair and said, Torren. Torren. Torren. When I
12 asked him, Who shot at the house? Who shot at you? Who
13 shot Adrian King? The answers never changed.

14 Now like I said Antoine Foster is not the most
15 articulate individual. And maybe that would have made my
16 job a little bit easier if he came out here and clearly and
17 crisply said everything that he had put in his statement.
18 Antoine Foster, from the moment this event occurred, knew
19 who did it.

20 Now that is the direct evidence you have. That was day
21 one. That's the direct evidence, the testimony you got from
22 the people who were at the scene or nearby. Teresa will
23 provide some framework for the event. That brings me to the
24 corroboration.

25 Teresa Jenkins told you a time line of events -- a

1 loose time line of events. Torren was at the house. Torren
2 left. He went somewhere. She didn't know. Gone for long
3 enough to be worried, about an hour or so. Came back with a
4 couple individuals, left for a few moments -- a few minutes.
5 Went back to the house. She drove him back downtown. She
6 drove Da'Quan and Torren downtown.

7 And take a look at those phone records. That is what
8 the phone records will tell you. Torren Eady is up in North
9 Charleston prior to this event, right around the time of
10 that altercation. Then goes downtown. You will have the
11 phone records. They're in evidence. You can take them back
12 and you can match up the times to the towers.

13 And again Megan Lukacs, who told you, and I hope you
14 remember, that those little cones of reception aren't exact.
15 There's a big difference in the tip of the peninsula and
16 North Charleston. You will see where Torren Eady's phone is
17 traveling, a phone that he told Detective Reiter he had with
18 him the entire time.

19 Now it's not going to tell you where he was at every
20 single minute, only in calls -- incoming and outgoing calls.
21 That's important because yesterday Mr. Lewis pointed out to
22 Megan Lukacs, that even by your own map, this falls outside
23 this estimated cone of cover -- well first of all Megan
24 Lukacs told you, go outside that little cone doesn't mean
25 that you lose the call. This is just an estimate, a guess

1 as best we can estimate.

2 But also nobody was saying that Torren Eady was on the
3 phone when he was standing in front of [REDACTED] Success Seet --
4 Street shooting at people. But that phone was used right
5 before and right after and right there, which isn't what
6 Torren Eady told the police. Not we went downtown. There
7 was a beef going downtown. That was it. Next thing you
8 know people are saying that he got shot on Success Street.
9 That's what he told the police.

10 How about Patrick Ware? Patrick Ware, he showed a
11 lineup to Antoine Foster. He didn't know anybody involved.
12 He didn't try to get anybody to pick anybody at all. He
13 just presented a lineup. And what did he tell you? Same
14 thing Ant -- Antoine told you. This is the one who shot my
15 friend and another one of my friends and no one had nothing
16 to do with it. I'm positive. That will be back with you
17 there too. That is Antoine's writing. He was positive.

18 Lisa Kubicsko told you about gunshots, where the
19 gunshots went. You can take a look at the pictures that
20 Lisa Kubicsko took. Those are the trajectory rods. Just
21 like Antoine said, He started firing. And then the people
22 dressed in black ran towards Spruill Avenue. Look at that
23 photo. There's another shot back into that car that was in
24 the driveway in the direct -- taken from the direction of
25 travel.

1 I already talked a little bit about Megan Lukacs. And
2 she explained to you, again, that's how those phone calls
3 work. Take your time if you need to look at it. That's why
4 you have it. That's why it's in evidence. She told you
5 where the Defendant was -- or his phone was being used, what
6 towers were closest to it. It doesn't mean necessarily that
7 that is always the closest tower, but it gave us a real good
8 picture without GPS, with the limits of the phone records we
9 have, of the general travel of the Defendant. He just
10 wasn't downtown. He was at Success Street, standing in
11 front of that porch, shooting at people that had nothing to
12 do with him because it didn't matter.

13 That's the gist of the evidence you have, the testimony
14 and the evidence you can take back there. You also have the
15 phones, phones that were in possession of the Defendant and
16 you have the records of those. We also have another phone
17 that was found with him right next to his other phone, a
18 phone that he logged onto, created a Gmail account. You can
19 see the email from Gmail back to him, Hey, Torren. That was
20 created before the events in question. That phone was found
21 with his items.

22 Deanne Shark told you nobody else used those phones.
23 Nobody was -- nobody needed to. They had their own phones.
24 Those were found with his stuff down in the living room
25 where he stayed, just like Deanne Shark told you. And that

1 was after she got home. That search is from Monday night.
2 He was arrested on Tuesday night. She got home Sunday
3 afternoon. So anything that happened over the weekend is
4 not an issue on that web search. Sure is an interesting web
5 search.

6 So what do all those facts give you? What can you
7 infer from those facts, from the testimony, the evidence
8 that you've been given that came from that stand or from
9 stipulations? Well I think it's reasonable to infer the
10 following: about four-thirty, five o'clock Teresa Jenkins
11 got off of work. She went up to Torren Eady's house to do
12 his sister's hair. At some point Rochelle Grant dropped off
13 the child and there was some sort of drama because Teresa
14 Jenkins was there and she didn't want the baby there while
15 Teresa was there. So she sent a text that says I'm going to
16 come slap you. And she came over there with some friends.

17 Antoine Foster saw that interaction and he went back
18 to [REDACTED] Success Street. At that time Rochelle was making
19 her way back over to [REDACTED] Success Street to go get Gerald.
20 That is the one Antoine was referring to as his brother, his
21 best friend, his closest friend, Gerald. And he used to
22 stay at [REDACTED] Success Street.

23 So Gerald and Rochelle and some other folks, Sebastian
24 was mentioned. And then Gabby went. A whole bunch of
25 people. And then Antoine saw that and he said, I'm going to

1 -- let me go and get Gerald's back, see what's going on.
2 Gabby wanted to see if there was going to be some drama. So
3 they all walked over to Leland Street, about a block and a
4 half away. They got there and drama started. There was
5 some yelling. Gabby said, I don't want any of this.
6 Antoine wasn't interested anymore. They turned around and
7 went back to Success Street.

8 Well whatever happened there really got Torren Eady
9 mad. Teresa Jenkins told you about that. Because
10 immediately after that he left, took her car, and drove.
11 Gone, because he went to pick up Da'Quan, TJ, Jigg. And he
12 did. He went down there and brought them back and he called
13 them along the way. Phone records are there. Sergeant
14 McManigal testified it's the phones that he was calling --
15 the phone numbers that correspond to those contacts I asked
16 him about, Quan, TJ -- or Quan, Jigg, et cetera.

17 So he went down and called them, picked them up, and
18 they drove back up. They got back to [REDACTED] and they
19 got together, all dressed in black, the Defendant with his
20 hat on.

21 Why do you wear a hat? To disguise what you look like.
22 It's nighttime. Black hat pulled down.

23 So there's TJ with a long gun, says, Man they're
24 messing with our boy. And they leave. Teresa tries to stop
25 Torren. Why? Because she testified she knew something bad

1 was going to happen. She knew. She was afraid that this
2 was going to be related to what happened earlier, what made
3 him leave. She testified to that.

4 And then two individuals made their way in front of
5 [REDACTED] Success Street. We don't know where the other people
6 were standing or whether they even walked across the street.
7 Do not know. And that individual standing behind Torren
8 Eady may have been his brother, may have been TJ, may have
9 been Jigg. Nobody's been able to identify him. Nobody did
10 identify him. You didn't hear any testimony about any
11 identifications.

12 But Antoine Foster told you he knew it was Torren Eady
13 standing in front of him. Torren Eady then did exactly what
14 you have been told from sworn witnesses, shot up that porch
15 and he killed Adrian King and he injured -- physically
16 injured Martel Brown, almost killed him. Shot bullets right
17 over top of the heads of Gabby and Antoine. Look at the
18 trajectory. Then he went back to [REDACTED] He told
19 Teresa to drive him. And he told her where to go. She
20 didn't know where to go. She knew something bad had
21 happened. She heard the shots. Everybody is freaking out.
22 So she drove him back downtown.

23 And along the way, Da'Quan says, right as he's getting
24 out, I hope you don't think Torren did this -- or did that,
25 man. Did what? It wasn't, Man, you didn't see what just

1 happened to us or, Whew, what did we just witness? Did it.
2 It's an interesting choice of words.

3 So then Torren's downtown, he gets out and -- gets out
4 of the car and disappears. Makes some calls. Look at the
5 call records. Calls Quan. Quan. Quan. Calls his mom.
6 I can only imagine why somebody that young is calling their
7 mom. Scared. Troubled. Didn't know what to do. So he's
8 calling mom and eventually mom calls her sister. We don't
9 know what the mom said to sister, but enough to say, If
10 Torren calls you, answer the phone. Take care -- take care
11 of Torren or whatever. We don't know what she said.

12 All we know is Deanna Shark went downtown, picked him
13 up almost a week later -- about a week later. And then she
14 left. Her adult children were off at the house of the
15 grandparents. For whatever reason, she decided not to be in
16 the house that weekend. And she came back.

17 And then almost ten days after Adrian King, Martel
18 Brown, and Antoine Foster and Gabby McCulley were shot at or
19 shot and killed, the phone he had, the phone no one else
20 used, right at the time when everybody else was there,
21 searched how long does gun powder stay on your skin.

22 There's only one reason to wonder about that. Mr.
23 Lewis might tell you, and I know he brought it up on
24 cross-examination, maybe he searched that for somebody else.
25 Maybe somebody else did it. We don't have any testimony

1 that anybody else used that phone. I can't imagine, and it
2 would be hard to imagine, who else you'd be so concerned
3 about that type of information.

4 It had been almost ten days. The police had been
5 looking for him, actively searching for him. You heard
6 Officer Champion talk about that process. That's evidence,
7 potential evidence, it's gun powder residue on the skin.
8 You heard me. The State searches for it. There's a time
9 line, four hours or so. But if you don't know that, you
10 need to look for it. To figure out what happens next. Do I
11 surrender? Not without -- not with this evidence on me.
12 Maybe I should see how long it lasts or how do you get rid
13 of it?

14 And then he's arrested. And after that arrest, he
15 tells you -- tells the detectives a story. And you heard
16 Detective Reiter talk about truths and untruths and half
17 truths. Well, works both ways. Detectives use that tactic
18 -- use a little bit of the truth, maybe a little bit of a
19 lie because that might trigger something and somebody they
20 want to get information from. Mr. Lewis said he agreed with
21 that tactic. It's a good tactic. Why? Because most lies
22 -- the best lies, have a little bit of the truth in them.

23 So let us think about the story the Defendant told.
24 There was a beef. Check. Teresa drove me alone downtown.
25 I got out. People said I'd been shot.

1 What wasn't included in that story was the crucial
2 hour-and-a-half that has affected that family's life. Has
3 affected Antoine Foster, Gabby McCulley, who still hears
4 that voice, Martel Brown. That hour-and-a-half or two hours
5 span of time where there was a beef.

6 Let us fill in the blank. Torren Eady went downtown,
7 got Quan, got TJ, got others. Got guns. Went over to
8 Success Street. Killed someone. Almost killed three other
9 people with a handgun. Ran back home. Teresa drove him
10 downtown.

11 We've provided you with the gap. We provided you with
12 direct evidence from witnesses at the scene, people who were
13 involved in the activities right before and right after this
14 event, and forensic evidence that supports everything they
15 say.

16 The only verdict that makes sense in light of this
17 evidence is guilty.

18 THE COURT: Mr. Lewis.

19 MR. LEWIS: Thank you, Judge.

20 Good morning, ladies and gentlemen.

21 THE COURT: Mr. Lewis, just take one -- just a
22 second. Ladies and gentlemen, if y'all want to stand up and
23 stretch, just stand up and stretch for a few minutes and --
24 stand up. Stretch. Everybody stand up and stretch. Relax
25 for a minute. Okay? Get your attention span back. Okay?

1 All right. Have a seat. Go ahead, Mr. Lewis.

2 MR. LEWIS: I'm not going to be that long-winded,
3 Judge.

4 THE COURT: Okay.

5 MR. LEWIS: Now that the Judge has helped me out,
6 y'all are refocused. Good morning.

7 JUROR: Good morning.

8 CLOSING ARGUMENT BY MR. LEWIS:

9 I did tell you at the beginning of the trial that
10 this was going to be about confusion and karma and
11 corroboration. Karma isn't about I think that anything bad
12 should have ever happened to Adrian king. He should be
13 alive. He should not have been killed and the person who
14 did it, should not have done it. We don't know who that
15 person is. That's the issue.

16 Karma came back in regards to Antoine Foster. That's
17 why he thinks the boogiemer has to be Torren. That's why
18 he expects that. The person who is going to come and hurt
19 my people is the person that I went to confront. Now he
20 kind of lied to you a little bit that, half truths about,
21 I'm kind of with them, I'm kind of not, but I want to have
22 my friend's back, but I'm not really there.

23 Let's talk about lies. Every single person you have
24 heard from had some lie, whether it was something as
25 meaningless as, Well I'll -- I'll say that I'm looking for

1 this guy when I'm actually looking for someone else. I love
2 those tactics. I'm a defense attorney, but I don't like
3 crime. I want people to get caught if they're breaking the
4 law.

5 People lie out of fear, about not wanting to be
6 confronted, about not wanting to have to get involved.
7 Nobody wants to be here. Y'all don't want to be here. No
8 one in this courtroom wants to be here. Our perfect day
9 would have been somewhere else, but we have to be here to
10 deal with this.

11 You might lie to cover up for someone else. You
12 might lie to justify your actions. For example, you'll lie
13 to say, This is why I said this person because it must have
14 been him. It had to be. It couldn't be anybody else.
15 Wanting to do well at one's job and get information from the
16 suspect. I do like that tactic. It's a good tactic. But
17 to tell someone, Hey, we've got multiple witnesses that
18 identify you is a lie. That's a lie. You can't caption it
19 in any other way. It's a lie.

20 Not wanting to get into trouble for giving someone a
21 ride, that's why Teresa lied. And she admitted it. Good
22 for her. Everybody in this lied to you. The biggest lie,
23 of course, is Antoine Foster. I will get to him. I have a
24 few pages just devoted to him.

25 Calling someone's name because you think you're

1 right, that's what Gabrielle McCulley did in her -- when she
2 told you, She said Tezo did it. She doesn't know who Tezo
3 is. She said Tezo because Antoine said Tezo. She doesn't
4 know who that guy is. She'd never seen that face before.
5 The good news for Torren is that she was given the
6 opportunity to say, Yeah, that's the guy who did it. She
7 got that same set of pictures that y'all are going to have
8 back there. Look at his face. Look at those pictures. If
9 that's the person that killed your friend and shot another
10 friend and was this far away, then you would recognize him.
11 They put all their eggs in one basket and it's Antoine
12 Foster. It's a bad place to invest.

13 I want to talk a little bit at this point about the
14 nosy girlfriend, which was actually, again, good for us. I
15 love that Teresa searched his house regularly to see if he
16 was stepping out on her because that means there is no gun.
17 He's not got that .38. He's not got that .357 that was used
18 to take their son from them. He doesn't have that.
19 Now we can't say what Da'Quan had. We can't say what TJ
20 had. We can't say what Jigg had. Those guys were out there
21 just as much as Teresa says that Torren was. The nosy
22 girlfriend is definitely a good thing. Teresa puts four
23 people leaving that house, can't say what happens after
24 that. Neither can they. They want you to believe Antoine
25 Foster because that's all they've got. They want you to

1 believe him. I wouldn't believe him as far as I can throw
2 him. I used to be in better shape. I couldn't throw him
3 very far now.

4 What she did say is that she never saw Torren with a
5 weapon. Never. Not once. That's not him. We don't know
6 what the other people that were out there, Jigg, TJ,
7 Da'Quan, and maybe somebody else whose name we don't know,
8 could have had or could have done. The quote that they
9 used, they think it's damning. I think it is the most
10 amazing quote to come out of this trial. And I don't think
11 I could have gotten to it, but for them. I hope you don't
12 think Torren did this.

13 What that quote means is Torren didn't. Maybe I did.
14 Maybe somebody else did. But not him. That's what that
15 means. It can't be interpreted in a damning way. It's
16 interpreted as, I know who did it, so say Da'Quan, but you
17 don't know who he's talking about. But you do know he's
18 saying he didn't do it.

19 There's been a lot of discussion about this bucket
20 hat. They treated it as incredibly important. Teresa --
21 they -- they said it as fact today that Teresa said
22 definitively, Yes, he had that hat on when he left. I hope
23 you remember how that line of questioning actually went
24 down. She repeatedly said -- the most common words out of
25 Teresa's mouth were, I don't know. They badgered her. And

1 she said, Okay. Yeah, I guess he did. But then I empowered
2 her, which is what I hope you all feel as well, to make your
3 own decision. What actually happened? Don't let them push
4 you around. Don't let him push you around. Don't let me
5 push you around. What actually happened? And then she told
6 the truth. I don't know. Don't let that push the ball.
7 That's not what makes a decision. That's one of those facts
8 that they treat as incredibly important, but isn't.

9 I want to talk about hair. They don't think that the
10 hair's very important. They kind of flew right past that.
11 But hair's pretty significant in this case. This is an ID
12 case. I'm not saying that whoever committed this horrible
13 crime did it in self-defense. There's no suggestion of
14 that. Do not -- please, don't even think that I'm
15 suggesting that at any point. The person who did this is a
16 murderer, a killer. That's all there is to it. It's not
17 him. The person who did it had dreads. It's a specific
18 type of hair, a type of hair that actually requires you cut
19 it off your head if you want to change it. Braids now you
20 can pick out, but it takes a long process. It's not the
21 kind of thing that you can commit a murder and immediately
22 change your look. You can't do that.

23 The one witness that we might actually be able to
24 believe is Gabrielle McCulley. She says that the person
25 that committed this crime had dreads that came down to about

1 here [indicated]. Not to the shoulders, but down so that
2 she can see them below that hat at a downward angle,
3 standing on the stairs -- or actually sitting on the stairs,
4 looking down at the people shooting at her, she can see
5 those. He never had hair anywhere close to that length.
6 That's not him.

7 Who had dreads like that? The one thing that Antoine
8 Foster actually said clearly in the whole -- with his whole
9 testimony was, You know Da'Quan? Yeah, he had dreads like
10 mine. Okay. Da'Quan Eady matched that description, not
11 Torren.

12 They belittled the importance of the three survivors
13 that should have been able to make this ID. That's
14 incredibly important. If this had been a one-witness case,
15 there was only one person on that porch that survived, then,
16 yes, it would be much more powerful. That's not what
17 happened. There are three people. They did not even
18 present Martel Brown to you. What did he see? Certainly
19 didn't identify Torren.

20 They gave her the same lineup that they gave Antoine
21 Foster. So she got to look at his face for as long as she
22 needed to, couldn't say that it was him. But she did say
23 that it was a guy with dreads that came down to here
24 [indicated]. Not like he's ever had. Not singles like he
25 had, but dreads that were longer than the hair that he ever

1 had. Didn't match him.

2 Those three survivors should have been there in that
3 chair to say, That's the guy that did it if he had. And he
4 didn't do it. That's why you didn't hear from them. That's
5 why you didn't hear them, because he did not do this. He
6 did not commit this crime.

7 I want to focus now on Antoine Foster, specifically.
8 At some point he just had to be walked through it by Mr.
9 Finch because he couldn't tell you what had happened. But
10 what he did say, the lies that immediately came out of his
11 mouth that are incredibly important is, I never talked to
12 the cops that night. I didn't do it. They had to use
13 Reiter to impeach their own witness to say, Yeah, actually
14 he did sit in the front seat of my car and I have a video --
15 or an audio recorder and I recorded him that night. But
16 Antoine Foster said, Nah, I didn't meet with a cop that
17 night. I didn't do that until later. He's lying to you or
18 he's wrong. Either way, he can't be trusted. That's the
19 only evidence that they have. You cannot trust that. You
20 cannot -- you cannot convict that man based on that.

21 The first few sentences out of his mouth were a lie
22 or mistake and it doesn't really matter which it was because
23 it's not true. Doesn't matter if he's mistaken. It doesn't
24 matter if he's lying. All that matters is the
25 interpretation that you all get from that.

1 He refused to acknowledge that he was actually
2 going over with these people to go to Torren's house, that
3 sort of double talk that didn't make any sense. He won't
4 even tell you all the truth about that. He's constantly
5 changing about what he said happened. Yep, they're lying.
6 The one thing that he was consistent about is that he said
7 it was Torren. But he's just wrong about that. He may be
8 consistent about one thing, but he is wrong.

9 Also smoking weed on the porch listening to music,
10 can you imagine -- I can't imagine a scene that's designed
11 to create more distractions. Intoxication, music, talking
12 to friends. It's nighttime. It's distracting. He said
13 it's not scary when gunshots go off. I -- I don't really
14 know what significance that has for him, but he did run to
15 the back of the house and hide, which would suggest that he
16 was scared. So he can't even tell you the truth that he's
17 scared when people get shot. That's terrifying. I would --
18 I mean, I assume. I have never had to -- to experience that
19 myself. I can't imagine how traumatic it would be and the
20 sort of memories that would be meshed with from that sort of
21 event.

22 As I said, he claimed to have nothing to do with the
23 supposed motive of this case, that confrontation that took
24 place at the very beginning, but that is why he gets the
25 name Torren. That's why he gets the name Tezo to try to

1 make a connection where there is none. That's who he
2 expected to come back at him. Torren doesn't match that
3 description. That's not who did it. It may have been
4 Da'Quan. It may have been TJ. It may have been Jigg. It
5 may have been the other person that was out there, but it
6 wasn't him because he just doesn't match. It's not him.

7 As I said, whether you're lying or simply mistaken
8 does not matter. What matters is the statement itself.
9 Antoine is wrong. But even for the sake of argument, if you
10 want to try to believe what he says, in the most important
11 decisions of our lives, of my life, -- I mean try to put you
12 in that position -- we want a second opinion. Should I quit
13 my job? Should I sell my house? Should I move? Should I
14 get that treatment? Should I have that surgery? We get a
15 second opinion. Law, medicine, specifically, we get second
16 opinions. Why? Because they're incredibly important. We
17 don't want to believe the first thing that we hear. So we
18 want to check it out. They got a second opinion. They
19 should have had a third opinion. Neither one of those
20 confirmed that Torren did it.

21 This voice stuff is offensive. To suggest that a
22 person's voice that you heard one time say one sentence, you
23 can ID later after he's been arrested, after he's in that
24 jump suit that makes him look like a criminal, and say, Oh,
25 yeah, it's got to be him. Well of course your mind is going

1 to make that connection and of course you're going to think
2 that. It doesn't mean it's right. We want more than one
3 opinion. A reasonable person consults about those important
4 decisions in our life. You had that available to you to
5 help you make this decision. They couldn't give it you
6 because it wasn't true.

7 I already talked briefly about hair. I know it may
8 seem like a trivial detail but it's incredibly, incredibly
9 important. And I may not be conveying it well because I am
10 learning about it myself through this trial, learning about
11 the differences in hair styles. But I do know the
12 difference between lengths. I know when something's down to
13 here [indicated] or when something is up here [indicated].
14 Torren's hair was never long enough to have been seen under
15 that hat as described by Gabrielle McCulley.

16 There was a stipulation that actually was important
17 -- that I think was important, that has just kind of been
18 glossed over. None of the witness that were out there are
19 accurate enough to talk about the fact that there are two
20 guns, there's two people shooting. No witness said, Oh,
21 yeah, I saw Torren and he's double fisting. He's shooting
22 both guns.

23 Two guns were used. Four bullets hit the house and
24 unfortunately killed Adrian King. The other bullet struck
25 the car. Two shooters. Those two shooters, weapons never

1 found. Certainly not in the car with Teresa. She didn't
2 describe seeing them putting guns away, dropping them off so
3 that they could discard guns, having them move those guns
4 around. The other two guys, she doesn't know where they
5 went. She doesn't know what they took with them, what they
6 did. I want you -- I -- I understand we just kind of
7 glossed through that. That is an important fact as well,
8 the fact that two guns were involved, two shooters at least.
9 We just don't know what happened, but what we do know, he
10 did not match the description.

11 You have had time this week to hear about the
12 alternative suspects. I've repeated a lot of their names
13 for you now. He's the only one here. And I asked Detective
14 Reiter, What's the difference between Torren and the other
15 guys. The only difference he could tell you was Antoine
16 Foster. And as I said, that is what they are relying on for
17 you to buy what he's selling. And he is not believable.

18 The DNA is still pending. That was an amazing point.
19 I didn't choose -- it is not -- taking a case to trial is
20 not my decision. Another great quote that I really enjoyed
21 in this case. When there's evidence to be had, guess what?
22 You wait for it. We didn't wait. We're here. That could
23 have proven the person that actually handled that gun.
24 Yeah, maybe it is TJ. Maybe that's right. Maybe TJ then
25 went out there so you've got a reason to talk to him.

1 Didn't wait. Didn't do it. Didn't do the investigation
2 that should have been done and could have been done.

3 Now I talked a lot to confront other people about the
4 lies that they have told. He's not perfect. He lied too.
5 He lied about where he was. That doesn't mean that he lied
6 because he did it. Just like I said in the beginning, there
7 are lots of reasons to lie. You can lie to cover up for
8 your family. You can lie because you're scared. You can
9 lie because you don't like the police. It doesn't mean that
10 he is the killer.

11 Da'Quan and he were taken away from there together.
12 Torren didn't say, I hope you don't think Da'Quan did this.
13 Da'Quan said, I hope you don't think Torren did this.
14 Da'Quan exonerated, in that comment, Torren, not the other
15 way around.

16 The State has presented their version throughout
17 this. The truth remains. They just don't have it. I know
18 that that's a horrible way for you all to think about
19 because you want to give this family justice and I want that
20 for them too. But that doesn't mean that you get that
21 justice by sending -- sorry, you don't get that just by
22 convicting an innocent man. You don't get that by
23 convicting him based off of words of Antoine Foster, a man
24 that is not believable.

25 I want to talk to you all a little bit now about voir

1 dire. It seemed incredibly insignificant at the beginning,
2 the questions that we ask. And this is just something that
3 I've dealt with as a criminal defense lawyer my entire
4 career. At the very beginning they asked you, who here has
5 made a decision about the guilt or innocence of Torren Eady?
6 And nobody stood up. That question is correct in the first
7 half; who here has made a decision about the guilt of Torren
8 Eady? But all of you have to make a decision about the
9 innocence of Torren Eady because as he sat in that chair on
10 day one, he is an innocent man. And until they prove to
11 you beyond a reasonable doubt that he is guilty, he's still
12 an innocent man.

13 It -- it happens to me too. I see the news. I see
14 the article. I see the guy's mugshot and I say, I wonder
15 what he did? You may have walked in here and said, I wonder
16 what he did. No. I wonder what he's accused of doing.
17 They have to prove that to you and they can't because it
18 didn't happen and they can't because of the weak witnesses
19 that they brought.

20 This is the highest standard, beyond a reasonable
21 doubt. I know it's thrown around. You see it on TV. It's
22 the highest standard that exists in the law. We start at
23 the bottom. Preponderance of evidence. It's the lowest
24 possible standard. That's what you have to have to take
25 somebody's money away from them in a lawsuit. You go up

1 from that to clear and convincing evidence. That's what you
2 have to have to take somebody's kids from them, put somebody
3 in a mental hospital, get them probated, committed because
4 they've got a drug or substance abuse problem. That's here
5 [indicated].

6 Then we are up here at beyond a reasonable doubt.
7 Would you take someone's children away from them because of
8 what Antoine Foster told you? Would you take someone and
9 put them in a mental hospital because of what Antoine Foster
10 told you? I would cer -- I would hope you certainly
11 wouldn't based on that. So you certainly would -- shouldn't
12 be able to meet the highest possible standard that we have
13 to convict an innocent man based on that testimony. He
14 remains innocent. He was innocent when he came in; he is
15 innocent now. The evidence has not changed that.

16 I am asking that, ladies and gentlemen, when you
17 retire, you think about everything that I've said. You
18 think about the evidence that's been presented to you. You
19 think about the confusion that took place that night and the
20 desire for people to find a reason for what happened. I
21 agree with him. I don't think Antoine's necessarily a bad
22 person. He's just wrong. But he wanted to find a reason
23 that his friend was dead so he wants to blame him, but he
24 didn't do it.

25 The only verdict that's left for you to find after

1 all that is not guilty of all charges.

2 Thank you, ladies and gentlemen.

3 THE COURT: Thank you, sir. I appreciate it.

4 MR. LEWIS: Thank you, Judge.

5 THE COURT: All right. Mr. Foreman, ladies and
6 gentlemen of the jury, I will give you a copy of the --
7 these instructions in written form and during your
8 deliberations you may refer to the instructions to guide
9 your decision making. You must consider the instructions as
10 a whole, not follow some and ignore others. Mr. Foreman,
11 please return the instructions to the Court after you have
12 reached a verdict.

13 I've allowed you to take notes during the trial of
14 this case; however, please remember that some people are
15 better note takers than others. Jurors' notes should not be
16 given any greater weight than the recollection of other
17 jurors. The recollection of individual jurors should be
18 considered as reliable as notes taken by any of the jurors.
19 I also warn you that when you are taking notes you may not
20 notice the body language of the witness, which could be used
21 by you to decide the witness's credibility.

22 Presumption of innocence. The Defendant's pled not
23 guilty to these indictments which places the burden on the
24 State to prove the Defendant guilty. A person charged with
25 committing a criminal offense in South Carolina is never

1 required to prove himself innocent. I charge you, it's a
2 vital and important rule of law that the Defendant in a
3 criminal trial, no matter what the seriousness of the crime may
4 be, must also be presumed to be innocent until his guilt has
5 been proven beyond a reasonable doubt.

6 This presumption of innocence remains with the
7 Defendant at all times, from the moment he appears in court,
8 throughout the trial, until you, the jury, reach a verdict
9 of guilt beyond a reasonable doubt based on the testimony
10 and evidence which has been presented. This presumption of
11 in -- innocence is a substantial right to which every
12 Defendant is entitled, unless and until you reach a verdict
13 of guilty beyond a reasonable doubt. If you, the jury, do
14 not find the Defendant guilty beyond a reasonable doubt, it
15 is your duty to acquit the Defendant.

16 Now what is reasonable doubt? A reasonable doubt is
17 the kind of doubt that would cause a reasonable person to
18 hesitate to act. The State has the burden of proving the
19 Defendant guilty beyond a reasonable doubt.

20 Some of you may have served as jurors in civil cases
21 where you were told it is only necessary to prove a fact is
22 more likely true than not. Such is a greater weight or
23 preponderance of the evidence. However, in criminal cases
24 the State must be more powerful than that. It must be
25 beyond a reasonable doubt. Proof beyond a reasonable doubt

1 is proof that leaves you firmly convinced of the Defendant's
2 guilt. There are very few things in this world that we know
3 with absolute certainty. And in criminal cases, the law
4 does not require proof that overcomes every possible doubt.
5 If based on your consideration of the evidence, you're
6 firmly convinced that the Defendant is guilty of the crime
7 charged, you're to find the Defendant guilty. If you on --
8 on the other hand, you think there's a real possibility the
9 Defendant's not guilty, give the Defendant the benefit of
10 the doubt and find the Defendant not guilty.

11 Under our Constitution and Code of Laws, only you,
12 the jury, can make findings of facts. I'm not permitted to
13 indicate to you how I may feel about the testimony and the
14 evidence which has been presented. Throughout the trial
15 it's been my intention to be fair and impartial to each of
16 the parties involved.

17 Necessarily you must determine the credibility of the
18 witnesses, which means the believability of the witnesses.
19 It's your duty as jurors to analyze and evaluate the
20 evidence and to determine which evidence convinces you of
21 its truth. As you decide whether or not to believe a
22 witness' testimony about a particular matter, you may
23 consider the following: The manner or appearance of the
24 witness while on the witness stand; was he or she
25 straightforward or hesitant in answering the testimony of

1 the witness; was it consistent or inconsistent; how the
2 witness came to know the facts that he or she testified; was
3 the witness present during the incident or did the witness
4 happen on the scene after; the reason the witness wants to
5 give testimony which would help/hurt one side or the other;
6 has the witness exhibited any interest, bias, prejudice,
7 other motive in the case? Thus, you may consider whether a
8 particular witness may gain some other reward, payment,
9 personal advantage, or vindication for his or her testimony.

10 The strength of the witness, testimony of the witness.
11 Was the testimony of the witness strengthened or weakened by
12 other testimony evidence? The duration and length of time
13 between the incident and when they were reported. Would the
14 duration and length of time weaken or strengthen the
15 witness' testimony? Were prior statements made by the
16 witness consistent or inconsistent with the witness'
17 testimony?

18 In determining the believability of a witness who
19 testified in this case, you may believe one witness over
20 several or several over one. You may believe a part of the
21 testimony of a witness and reflect the remaining part -- and
22 reject the remaining part of the testimony of the same
23 witness. You may believe the testimony of a witness in its
24 entirety or reject the testimony of a witness in its
25 entirety. Of course you do not determine the truth by

1 merely counting the number of witnesses presented by each
2 side.

3 The same constitutional laws which designate and make
4 you the finders of fact, make me the sole instructor of the
5 law. It's my duty to charge you the law applicable in this
6 case and it's your duty as jurors to accept and apply the
7 law as I now state it to you. The lawyers are not the
8 instructors of the law and you must accept the law and apply
9 the law exactly as I state it to you. You must not base
10 your decision making on your idea of what the law is or what
11 you think the law should be.

12 The evidence or lack of evidence which you are to
13 decide the facts including the following: the sworn
14 testimony of witnesses both on direct and cross-examination,
15 regardless of who called the witness; the exhibits that have
16 been received into evidence by the Court; any facts agreed
17 or stipulated to by the lawyers.

18 The following things are not evidence; you may not
19 consider them in deciding the facts. Arguments and
20 statements by the lawyers are not evidence. The lawyers are
21 not witnesses. The opening statements, closing arguments,
22 and other statements are intended to help you interpret the
23 evidence, but are not evidence. If the facts as you
24 remember them are different from the lawyers' statements,
25 your memory controls.

1 Questions or objections by the lawyers are not
2 evidence. Lawyers have a duty to their clients to make
3 objections when they believe a question is improper under
4 the rules of evidence. You should not allow objections or
5 the Court's ruling on the objections to influence you.

6 Testimony that has been stricken, that you've been
7 instructed to disregard, is not evidence, must not be
8 considered.

9 Anything you may have seen on television, read in the
10 newspaper, on the Internet, or heard from others when Court
11 is not in session is not evidence.

12 You should base your decision solely on the sworn
13 testimony of witnesses, exhibits received into evidence by
14 the Court, and any facts agreed to or stipulated by the
15 attorneys.

16 The fact the Defendant was arrested, charged, and
17 indicted in this case is not evidence, cannot be considered
18 evidence of guilt, nor does it create any presumption or
19 inference of guilt. The indictments are simply written --
20 formal written instruments which contains the charges made
21 against the Defendant.

22 Direct and circumstantial evidence. There are two
23 types of evidence which are generally presented during a
24 trial: direct evidence and circumstantial evidence.

25 Direct evidence directly proves the existence of a fact

1 that does not require deduction. Circumstantial evidence is
2 proof of a chain of facts or circumstances indicate the
3 existence of a fact.

4 Crimes may be proved by circumstantial evidence. The
5 law makes no distinction between the weight or value to be
6 given to either direct or circumstantial evidence. However,
7 to the extent the State relies on circumstantial evidence,
8 all of the circumstances must be consistent with each other,
9 when taken together point to the conclusion to the guilt of
10 the accused beyond a reasonable doubt. If these
11 circumstances merely portray the Defendant's behavior
12 suspicious, the proof has failed.

13 The State has the burden of proving the Defendant
14 guilty beyond a reasonable doubt. His burden rests with the
15 State regardless of whether the State relies on direct
16 evidence, circumstantial evidence, or some combination of
17 the two.

18 Fifth Amendment right to remain silent. I instruct
19 you and emphasize that the fact the Defendant did not
20 testify is not a fact to be considered by you in any way in
21 your deliberations and your consideration on the question of
22 the guilt or the innocence of the Defendant. It must not be
23 considered by you in any manner whatsoever.

24 A Defendant has the Constitutional right to remain
25 silent and the assertion of this right must not be

1 considered by you in your deliberations. I repeat, under
2 your oath, you are to draw no conclusion whatsoever from the
3 fact that the Defendant in this case did not testify. The
4 fact that this Defendant did not testify should not even be
5 discussed in the jury room.

6 The burden of proof, as I have stated to you, is on
7 the State. The Defendant's not required to prove his
8 innocence. The burden of proof remains on the State to
9 prove guilt beyond a reasonable doubt.

10 Murder. The Defendant is the charged with murder.
11 The State must prove beyond a reasonable doubt that the
12 Defendant killed another person with malice aforethought.

13 Malice is hatred, ill will, hostility towards another
14 person. It is the intentional doing of a wrongful act
15 without just cause or excuse with the intent to inflict an
16 injury under circumstances the law would infer an evil
17 intent.

18 Malice aforethought. It's not required that malice
19 exist at any particular time before the act is committed,
20 but malice must exist -- exist in the mind of the Defendant
21 just before and at the time that the act is committed.
22 Therefore, there must be a combination of the previous evil
23 intent and the act.

24 Malice aforethought may be expressed or inferred.
25 These terms expressed and inferred do not mean different

1 kinds of malice, but merely the matter in which malice may
2 be shown to exist, that it's either by direct evidence or by
3 inference to the facts and circumstances which are proved.

4 Express malice is shown when a person speaks words
5 which express hatred or ill will for another or when the
6 person prepared beforehand to do the act which was later
7 accomplished. For example, lying in wait for a person or
8 any other acts of preparation going to show the deed was
9 within the Defendant's mind, would be express malice.

10 Malice may be inferred from conduct showing a total
11 disregard for human life. Inferred malice may also arise
12 when the deed is done with a deadly weapon.

13 A deadly weapon is any instrument, article, or
14 substance which is likely to cause death or great bodily
15 harm. Whether an instrument has been used as a deadly
16 weapon depends upon the facts and circumstances of each
17 case.

18 The following are examples of instruments that would
19 be deadly weapons: a pistol, shotgun, a rifle, a dirk, a
20 dagger, a knife, a slingshot, metal knuckles, a razor,
21 gasoline, a firebomb, Molotov cocktail, lighter fluid. A
22 gun may be a deadly weapon even if it's not operated.

23 If facts are proved beyond a reasonable doubt
24 sufficient to raise an inference of malice to your
25 satisfaction, this inference will be simply an evidentiary

1 fact to be considered by you, the jury, along with other
2 evidence in the case. You may give it the weight you decide
3 it should receive.

4 Attempted murder. The State has also charged the
5 Defendant with three counts of attempted murder. The State
6 must prove that the Defendant attempted to kill another
7 person with malice aforethought, either express or implied.

8 An attempt is the effort to accomplish a crime which
9 does not succeed. An attempt includes a specific intent to
10 do a particular criminal act, along with the act falling
11 short of the act intended.

12 The State must show more than mere preparation
13 intent. There must be some overt act committed in the
14 effort to commit the crime.

15 Intent means intended the results which actually
16 occurred, not accidentally or involuntarily. Intent may be
17 shown by acts and conduct of the Defendant and other
18 circumstances in which you may naturally and reasonably
19 infer intent.

20 The State must prove that the Defendant attempted to
21 kill another person with malice aforethought, express or
22 implied.

23 I've already explained to you the definition of
24 malice aforethought in the murder charge. A specific intent
25 to kill is not an element of attempted murder, but there is

1 a general intent to commit serious bodily harm.

2 Intent means intended results which actually
3 occurred, not accidentally or involuntary. Intent may be
4 shown by acts of conduct of the Defendant and other
5 circumstances which you may naturally refer -- excuse me --
6 which you may naturally and reasonably infer intent.

7 Evidence of the character of the act, the character
8 of the instrument used, the manner in which it was used, the
9 purpose to be accomplished, and result in wounds or
10 injuries, may be considered in determining the intent with
11 which the act was committed. Intent may also be inferred
12 when it's demonstrated the Defendant voluntarily and
13 willfully commits the act, the natural intent of which is to
14 destroy another's life.

15 Possession of a weapon during the commission of a
16 violent crime. The Defendant is charged with possession of
17 a weapon during the commission or attempt to commit a
18 violent crime. The State must prove beyond a reasonable
19 doubt the Defendant was in possession of a firearm or
20 visibly displayed what appeared to be a firearm, during the
21 commission of a violent crime.

22 A firearm means any machine gun, automatic rifle,
23 revolver, pistol, or any weapon which will -- is designed or
24 may be readily converted to expel a projectile.

25 A knife means an instrument or tool with a sharp

1 cutting blade, whether or not fastened to a handle, which
2 can be used to inflict, cut, slash, or wound.

3 To find the Defendant guilty of possession of a
4 deadly weapon during the commission of a violent crime you
5 must first find the Defendant guilty of either committing a
6 violent crime or attempting to commit a violent crime.

7 Murder, attempted murder, or violent crimes. The
8 State must prove beyond a reasonable doubt that the weapon
9 furthered, advanced, or helped in the commission of the
10 crime.

11 Identification. An issue in this case was
12 identification of the Defendant as the person who committed
13 the crime charged. The State has the burden of proving the
14 identity beyond a reasonable doubt. You must be satisfied
15 beyond a reasonable doubt of the accuracy of the
16 identification of the Defendant before you may convict the
17 defendant.

18 Identification testimony is expression of belief or
19 impression by a witness. You must determine the accuracy of
20 the identification of the Defendant. You must consider the
21 believability of each identification witness in the same way
22 as any other witness. You may consider whether the witness
23 had an adequate opportunity to observe the Defendant at time
24 of the offense. This will be affected by things like how
25 long or short a time was available, how far or close the

1 witness was, the lighting conditions, whether the witness
2 had the chance to see or know the person in the past. You
3 may consider the mental state and other physical condition
4 of the eyewitness.

5 Once again, I instruct you, the burden of proof on
6 the State extends to ev -- every element of the crime
7 charged and this specifically includes the burden of proof
8 beyond a reasonable doubt, the identity of the Defendant as
9 the person who committed the crime.

10 If after examining the testimony there is reasonable
11 doubt as to accuracy of the identification, you must find
12 the Defendant not guilty.

13 In determining the innocence and guilt of the
14 Defendant, you cannot consider any possible penalty for any
15 particular crime. The punishment for the crime is a matter
16 for me to determine and should never be considered by you in
17 any way whatsoever in arriving at an impartial verdict as to
18 guilt or innocence of the Defendant.

19 You have been selected as fair and impartial jurors,
20 jurors sworn to impartially try and determine the facts of
21 this case and when you comply with your oath to do so, no
22 one would have the right to criticize your verdict and
23 you'll fully discharge your duty as a juror.

24 You decide this case according to the testimony that
25 you've heard from the lips of the sworn witnesses along with

1 other evidence introduced. I charge you, as jurors, you
2 must make the decision in this case without bias, without
3 prejudice to any party. Do not allow yourself to be guided
4 by sympathy, prejudice, passion, public opinion, or any
5 other arbitrary factor.

6 Both the State and the Defendant have the right to
7 expect that each one of you will carefully and impartially
8 consider all the evidence in the case and you'll follow the
9 law as I've it explained you.

10 Nothing I may have said or done over the course of
11 this trial has been in any way intended to express or
12 suggest a view of this case or opinion as to the facts,
13 weight of the evidence, to the credibility of the witnesses.
14 If you believe any of my actions or words indicate
15 otherwise, you must disregard such and form your own view of
16 this case or your own opinion as to the facts, weight of the
17 evidence, and the credibility of the witnesses.

18 Mr. Foreman, and ladies and gentlemen of the jury, I
19 have prepared five verdict forms. And at the top it has the
20 State versus Mr. Eady. And it has the case caption and
21 says, As to indictment number, gives the indictment number,
22 Murder as to the victim, Adrian King, we the jury
23 unanimously find the Defendant not guilty or guilty, a place
24 for you to sign and date.

25 The next verdict form, As to indictment number, it

1 gives the number, Attempted Murder as to the victim,
2 Gabrielle McCulley, we the jury unanimously find guilty or
3 not guilty, a place for you to sign.

4 As to indictment number, it gives the indictment
5 number, Attempted Murder as to the victim, Martel Brown, we
6 the jury unanimously find the defendant guilty or not
7 guilty.

8 As to indictment number, it gives the indictment
9 number, Attempted Murder as to the victim Antonio [sic]
10 Foster, we the jury unanimously find the Defendant not
11 guilty, guilty.

12 And then as to indictment number, gives the number,
13 possession of a firearm during the commission of a violent
14 crime, we the jury unanimously find the Defendant not
15 guilty, guilty, of possession of a firearm during the
16 commission of a violent crime.

17 So there's five indictments. Mr. Foreman, members of
18 the jury, you can find the Defendant guilty of all five.
19 You can find the defendant guil -- not guilty of all five.
20 Or you can find him of one, two, three. That's your
21 decision based upon the facts that you determine.

22 You can find him guilty of murder without the attempt
23 or you can find him guilty of attempted murder without the
24 murder or however.

25 As to the possession of the firearm, as I said

1 earlier, you have to find the Defendant guilty of one of the
2 four violent crimes, the three attempts or the murder,
3 before he can be found guilty of the commission of a crime
4 with a -- possession of a weapon during the commission of a
5 violent crime. Because you have to be guilty of the violent
6 crime, before you can be possession -- be guilty of the
7 possession of the firearm during the commission of the
8 violent crime.

9 Now Mr. Foreman, ladies and gentlemen of the jury, as
10 I said earlier, your verdict has to be unanimous. I will
11 tell you that it's a collective reasoning process on your
12 part. I would ask you to respect each other's opinions.
13 Review the evidence. Look at the evidence.

14 Excuse me.

15 As I said earlier it's a give and take on all twelve
16 of you's part. Listen to your viewpoints. Listen to each
17 viewpoints. Respect those opinions. Change your opinion if
18 necessary. You don't have to. But review the evidence and
19 reach a fair and just verdict based upon what you've heard
20 here in the courtroom.

21 Now, Mr. Foreman, I'm going to ask you to go to the
22 jury room. However, do not begin your deliberations until
23 the bailiff brings the verdict forms to you, the charge
24 book, and all the exhibits that have been admitted into
25 evidence because I have to take my charge up with the

1 attorneys. I may have to bring you back and tell you
2 something different or add something to it and I don't want
3 you to start your deliberations until I have addressed that
4 issue with the attorneys.

5 The alternates, Mr. -- Victoria Scott and Mr. Womble,
6 if y'all would just keep your seats while the jury goes to
7 the jury room.

8 Mr. Foreman, members of the jury, take your note pads
9 with you. Follow the bailiff to the jury room.

10 (WHEREUPON, the jury exited the courtroom at 11:36 AM.)

11 THE COURT: All right. Any exception to the
12 charge from the State?

13 MR. VOIGT: No, Your Honor.

14 THE COURT: Any exception to the charge from the
15 Defendant?

16 MR. LEWIS: No, Your Honor.

17 THE COURT: You don't?

18 MR. LEWIS: No, Your Honor.

19 THE COURT: I thought you had two?

20 MR. LEWIS: Oh, ab -- yes, Your Honor. I'm sorry.
21 I would ask that you make the two that we've -- you've
22 previously discussed with us, a part of the Court's exhibit.

23 THE COURT: All right. The mere presence?

24 MR. LEWIS: Yes, Your Honor.

25 THE COURT: All right. That is marked as Court's

1 exhibit number 3. That is denied.

2 THE COURT: And then you had a request for, I
3 believe, ---

4 MR. LEWIS: A longer ID.

5 THE COURT: Identification; is that correct?

6 MR. LEWIS: Yes, Your Honor.

7 THE COURT: You're asking the Court to make those
8 two charges?

9 MR. LEWIS: Yes, Your Honor.

10 THE COURT: All right. That mo -- that is denied.
11 And I have marked both Requests to Charge as number one and
12 number two and Court's exhibit 2 and 3.

13 (WHEREUPON, Defendant's Requests to Charge were marked
14 as Court's exhibits numbers 2 and 3.)

15 MR. LEWIS: Thank you, Your Honor.

16 THE COURT: Okay. All right. If y'all would come
17 forward and make sure all the exhibits are present, put on
18 the record if they are present, and --

19 MR. VOIGT: Yes, sir.

20 THE COURT: -- we'll tell jury to begin their
21 deliberations.

22 (WHEREUPON, counsel approached and reviewed exhibits.)

23 THE COURT: All right. We got every -- all of
24 them?

25 MR. LEWIS: Yes, sir.

1 MR. VOIGT: Yes, sir.

2 THE COURT: Got everything? All right. Mr.

3 Bailiff, will you get the exhibits to the Clerk and tell the
4 jury they can begin their deliberations? Did you give the
5 pads -- note pads to them?

6 THE BAILIFF: Yes, sir.

7 THE COURT: Okay. All right. The two bailiffs
8 step back -- I mean the alternates should step out in the
9 hall. I'll be with you in just a second.

10 All right. Y'all going to be around or were you going
11 to go back to your office?

12 MR. LEWIS: I -- we can find cell numbers. I can
13 do whatever the Court wants.

14 THE COURT: Well just give the -- when the clerk
15 gets back -- or give them to my law clerk, the cell phone
16 numbers, and we'll call you if we need you. Otherwise we
17 will wait -- wait a jury verdict.

18 (WHEREUPON, the jury was told to begin their
19 deliberations at approximately 11:40 AM and the trial was
20 recessed while awaiting a verdict from the jury.)

21 (WHEREUPON, everyone reassembled in the courtroom at
22 1:25 PM.)

23 THE COURT: Anything from the State before we
24 bring the jury?

25 MR. VOIGT: Only that the victims' families are on

1 their way.

2 MR. LEWIS: As is the defense family.

3 THE COURT: The what?

4 MR. FINCH: The families apparently are on their
5 way here.

6 THE COURT: Well ---

7 MR. FINCH: --- defense -- the defense family.

8 THE COURT: They -- they can get here when they
9 get here. Anything else from the defense?

10 MR. LEWIS: No, Your Honor.

11 THE COURT: We need the Defendant. Bring us the
12 jury, please.

13 (WHEREUPON, the jury entered the courtroom at 1:30 PM.)

14 THE BAILIFF: The jurors are present, Your Honor.

15 THE COURT: Thank you very much.

16 Mr. Foreman, I understand the jury has reached a
17 verdict. Would you mind handing the verdict forms to the
18 bailiff, please sir?

19 (Verdict handed up to the Court.)

20 THE COURT: Mr. Foreman, I have written on these
21 indictments that I've referred to, your verdict and I've
22 dated today, February 20th, '14, and right above -- I want
23 you to sign where it says Foreperson. Mr. Bailiff, if
24 you'll come hand this to the Foreman, please.

25 You got anything to write with? You need a pen?

1 THE BAILIFF: I've got a pen.

2 MR. FOREMAN: No, Your Honor. I need a pen.

3 THE BAILIFF: I've got a pen.

4 THE COURT: You've got a pen? Okay.

5 (Verdicts handed to jury foreman, then given to the
6 Clerk.)

7 THE COURT: Thank you very much. All right. Mr.
8 Clerk, if you'll publish the verdict, please.

9 THE CLERK: Thank you, Your Honor. The State of
10 South Carolina versus Torren Eady. As to indictment number
11 2012-GS-10-04554, Murder as to the victim, Adrian King; we,
12 the jury, unanimously find the Defendant guilty of murder as
13 to the victim, Adrian King. Signed Foreperson, February
14 20th, 2014.

15 As to indictment number 2012-GS-10-04555, Attempted
16 Murder as to the victim, Gabrielle McCulley; we, the jury,
17 unanimously find the Defendant guilty of attempted murder as
18 to the victim, Gabrielle McCulley. Signed Foreperson,
19 February 20th, 2014.

20 As to indictment number 2012-GS-10-04556, Attempted
21 Murder as to the victim, Martel Brown; we, the jury,
22 unanimously find the Defendant guilty of attempted murder as
23 to the victim, Martel Brown.

24 As to indictment number 2012-GS-10-04557, Attempted
25 Murder as to the victim, Antoine Foster; we, the jury,

1 unanimously find the Defendant guilty of attempted murder as
2 to the victim, Antoine Foster.

3 As to Indictment Number 2012-GS-10-04558, Possession of
4 a Firearm During the Commission of a Violent Crime; we, the
5 jury, unanimously find the Defendant guilty of possession of
6 a firearm during the commission of a violent crime. Signed
7 Foreperson, February 20th, 2014.

8 Mr. Foreperson, ladies and gentlemen of the jury, if
9 this is your verdict, if you would please raise your hand.

10 (All hands raised.)

11 THE CLERK: Please let the record reflect that all
12 jurors raised their hand.

13 THE COURT: Okay. Thank you. All right, any ---

14 MR. LEWIS: Would you poll, Judge?

15 THE COURT: You want the jury polled?

16 MR. LEWIS: Yes, please, Judge.

17 THE COURT: All right. If you would poll the
18 jury, please.

19 THE CLERK: Yes, Your Honor.

20 Ladies and gentlemen, whenever I call your juror
21 number, if you would please raise your hand to signify that
22 that is you. I'm going to first -- I'm going to ask two
23 questions. Please respond to each question appropriately.

24 Starting with the Foreperson, Juror Number 144, this is
25 your verdict?

1 JUROR NUMBER 144: Yes, sir.

2 THE CLERK: Is this still your verdict?

3 JUROR NUMBER 144: Yes, sir.

4 THE CLERK: Thank you.

5 Juror Number 32, is this your verdict?

6 JUROR NUMBER 32: Yes, sir.

7 THE CLERK: Is this still your verdict?

8 JUROR NUMBER 32: Yes, sir.

9 THE CLERK: Thank you.

10 Juror Number 185, is this your verdict?

11 JUROR NUMBER 185: Yes, sir.

12 THE CLERK: Is this still your verdict?

13 JUROR NUMBER 185: Yes, sir.

14 THE CLERK: Thank you.

15 Juror 228, is this your verdict?

16 JUROR NUMBER 228: Yes, it is.

17 THE CLERK: Is it still your verdict?

18 JUROR NUMBER 228: Yes, it is.

19 THE CLERK: Thank you.

20 Juror 141, is this your verdict?

21 JUROR NUMBER 141: Yes, sir.

22 THE CLERK: Is it still your verdict?

23 JUROR NUMBER 141: Yes, sir.

24 THE CLERK: Thank you.

25 Juror 218, is this your verdict?

1 JUROR NUMBER 218: Yes.

2 THE CLERK: Is this still your verdict?

3 JUROR NUMBER 218: Yes.

4 THE CLERK: Thank you.

5 Juror 104, is this your verdict?

6 JUROR NUMBER 104: Yes, sir.

7 THE CLERK: Is this still your verdict?

8 JUROR NUMBER 104: Yes, sir.

9 THE CLERK: Thank you.

10 Juror 166, is this your verdict?

11 JUROR NUMBER 166: Yes.

12 THE CLERK: Is it still your verdict?

13 JUROR NUMBER 166: Yes.

14 THE CLERK: Juror 265, is this your verdict?

15 JUROR NUMBER 265: Yes, sir.

16 THE CLERK: Is this still your verdict?

17 JUROR NUMBER 265: Yes, sir.

18 THE CLERK: Thank you.

19 Juror 252, is this your verdict?

20 JUROR NUMBER 252: Yes, sir.

21 THE CLERK: Is it still your verdict?

22 JUROR NUMBER 252: Yes, sir.

23 THE CLERK: Thank you.

24 Juror 225, is this your verdict?

25 JUROR NUMBER 225: Yes, sir.

1 THE CLERK: Is this still your verdict?

2 JUROR NUMBER 225: Yes, sir.

3 THE CLERK: Thank you.

4 Juror 190, is this your verdict?

5 JUROR NUMBER 190: Yes.

6 THE CLERK: Is this still your verdict?

7 JUROR NUMBER 190: Yes.

8 THE CLERK: Your Honor, the jury's been polled and
9 the verdict stands.

10 THE COURT: Okay. Thank you very much.

11 All right. Mr. Lewis, do you have any -- any motions
12 for the Court? Do you want the ten days to make them in
13 writing or how do you want to proceed?

14 MR. LEWIS: Yes, Your Honor.

15 THE COURT: Pardon?

16 MR. LEWIS: We ask for the ten days.

17 THE COURT: Pardon? You want your ten days?

18 MR. LEWIS: First, we would ---

19 THE COURT: I -- I know, but I'm just asking -- I
20 will give you the ten days if you want. All right.

21 Let me hear you on sentencing, okay? First of all let
22 me hear from the State on sentencing.

23 MR. FINCH: Your Honor, you've been present
24 obviously the entire time for the facts of the case. I do
25 know that at the appropriate time the victim's family --

1 victim Adrian King's family, member of -- representatives of
2 the family would like to address the Court.

3 It's the position of the State, Your Honor, that as you
4 can plainly see the facts of this case, we are dealing with
5 an individual who had absolute disregard for other human
6 safety and concern.

7 THE COURT: What's his criminal history?

8 MR. FINCH: He has -- he has no convictions, Your
9 Honor.

10 THE COURT: Well what about charges?

11 MR. FINCH: He was -- he was -- he had a marijuana
12 charge and that was ex -- I believe that was expunged.

13 MR. LEWIS: It was dismissed.

14 MR. FINCH: It was dismissed and then expunged.

15 THE COURT: All right. So that's all?

16 MR. FINCH: That's all his entire adult history.
17 I have nothing from the juvenile history.

18 THE COURT: Okay. Anything else you want me to
19 hear before I hear from the victim's?

20 MR. FINCH: No, Your Honor.

21 THE COURT: -- family? I will be glad to hear
22 you. I've heard the facts. I don't need to get into the
23 facts.

24 MR. FINCH: No, nothing -- nothing from the State,
25 Your Honor.

1 THE COURT: Okay.

2 Mr. Voigt, anything you'd like to add on behalf of the
3 State, co-counsel?

4 MR. VOIGT: No, Your Honor.

5 THE COURT: Okay. All right. Who do you want me
6 to hear from, Solicitor?

7 MR. FINCH: Your Honor, may I approach?

8 THE COURT: Yes, sir.

9 MR. FINCH: This is a picture of the victim,
10 Adrian King. And these are just -- these are some drawings
11 and some effects of his that I think they will be addressing
12 as they speak.

13 THE COURT: These drawings were written by Mr.
14 King?

15 MR. FINCH: I believe those drawings were made by
16 Mr. King.

17 THE COURT: Is that correct?

18 MR. FINCH: That's correct, Your Honor.

19 THE COURT: How old are the drawings?

20 MS. GOODMAN: Probably about two to three years.

21 THE COURT: I'm sorry. How about?

22 MS. GOODMAN: About two to three years.

23 THE COURT: Two to three years. How old -- how --
24 was it your son?

25 MS. GOODMAN: Yes, sir.

1 THE COURT: And your name?

2 MS. GOODMAN: My name is Adrienne King Goodman.

3 THE COURT: Okay. And how -- and how old was he?

4 MS. GOODMAN: At the time that he was killed he
5 was 21.

6 THE COURT: Okay. I'm awfully sorry for your
7 loss. It's a real tragedy for you as well as the Defendant
8 and their family. I'm awful sorry for your loss.

9 MS. GOODMAN: Yes, sir.

10 THE COURT: I'll be glad to hear anything else you
11 would like to tell me.

12 MS. GOODMAN: I just wanted to -- just speak on
13 Adrian as far as the type of person he was. Just a very
14 sweet, kind, loving person. Very artistically talented as
15 you can see by the items that I provided for you. With such
16 a bright future and already willing to go to school, he was
17 registered to go for mechanical engineering, and just never
18 got the chance to fulfill that dream of his because his life
19 was snuffed out from him so rapidly. And I just wanted to
20 just bring to your attention about the innocent life that,
21 you know, that was taken.

22 THE COURT: Well he's a fine looking young man and
23 ---

24 MS. GOODMAN: Yes.

25 THE COURT: --- some of the art -- the artwork is

1 very good.

2 MS. GOODMAN: Yes, sir. And that smile is what we
3 saw everyday and that was what kept me going from time to
4 time. When I would have a rough time, he would just come in
5 the room and say something silly. He would call me
6 Shortness. That's my nickname from him. And Tootie would
7 just say, you know, Hey, Shortness, and love me or hug me or
8 smile. You know, sometimes that would just make the bad
9 things that were happening at the time just go away because
10 he had that kind of smile that would just light up the room
11 and just warm your spirit.

12 And it has just -- it's been hard. It's been trying.
13 Losing him, you know, is hard. Some people say time heals
14 all wounds, but, you know, that's more than a wound, with a
15 scab over it.

16 When he died, a part of me died also. He was my eldest
17 child. And he just had so much going for him. Just so
18 much. And I think back on that last moment that I spent
19 with him. You know, it was a bittersweet moment because we
20 were at the induction ceremony for myself. And he just was
21 so attentive, which he always was. He wanted to make sure
22 that everything was okay with me. He saw to himself last.
23 He saw to my sister. He saw to my mother, who is not with
24 us today. She's at home. He saw to my -- my daughter, his
25 sister, just to make sure that everybody had what they

1 needed. And after he made sure that we were well, he went
2 back and tended to himself.

3 And that's the type of free spirit he was. He would
4 help anyone that he could help at any moment with -- for any
5 reason. And it would just -- an awful feeling to have come
6 from such a beautiful event, to have to have such a phone
7 call.

8 That drive was the longest drive I have ever taken in
9 my life. And getting down to the hospital and having to
10 take that long walk into that back room and waiting for a
11 doctor, the chaplain, police officers, to come in to make me
12 aware that my son had been killed. Which when I got the
13 news, in my heart I already knew that he was gone. Very,
14 very few people survive a gunshot wound to the head.
15 And I just cannot express enough how it has torn my life
16 into pieces, how this travesty has forever changed me, my
17 children, my entire family.

18 And I just ask, Your Honor, to please, just please
19 consider what we've been through, what we're going through
20 at this moment, and what we will forever go through for the
21 rest of our lives. Thank you.

22 THE COURT: Anybody else, like to say anything?

23 (No response elicited.)

24 THE COURT: I -- I remember listening -- I
25 remember a quote that Rose Kennedy made, I read in a

1 magazine or newspaper, who lost her son, President Kennedy,
2 as well as her other son, Robert Kennedy, made a statement,
3 said, The pain never goes away, just time has a way of
4 putting some scar tissue over the pain, but it never fully
5 goes away. You just learn to sort of live with it. And I'm
6 awful sorry for your loss. I wish you the best.

7 MS. GOODMAN: Thank you so much.

8 THE COURT: Let me mark this as Court's exhibit
9 number what? Four, five?

10 (WHEREUPON, drawings by Adrian King were marked as
11 Court's exhibit number 4 and a picture of Adrian King was
12 marked as Court's exhibit number 5.)

13 THE COURT: Anybody else? Anybody else,
14 Solicitor, that you want me to hear from?

15 MR. FINCH: No, Your Honor.

16 THE COURT: All right. I'll be glad to hear from
17 you, from the defense side, please.

18 MR. LEWIS: Thank you, Judge.

19 THE COURT: Mr. Lewis.

20 MR. LEWIS: The jury has spoken, obviously, with
21 their verdict. As you are aware from his record, he has no
22 record. He was 19 at the time.

23 THE COURT: He was 19? How old is he now?

24 MR. LEWIS: 21 now, Judge.

25 THE COURT: How long has he been jail?

1 MR. LEWIS: It was six hundred and -- one second,
2 Judge. Six-hundred-and-seventy-four days.

3 THE COURT: Six-hundred-and-seventy-four days?

4 MR. LEWIS: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. LEWIS: I obviously can't have my client speak
7 at this point for reasons that the Court understands.

8 THE COURT: Well, no, I don't understand, because
9 I do want to hear from him. Let me -- let me go over these
10 -- I'm not asking him to talk about the facts of the case at
11 all. But if you don't want me to hear from him, that's
12 fine. You're welcome to do that. That's your prerogative.
13 If he -- if he wants to tell the Court something, if you
14 want me to hear from him, that's fine too. I'm not going to
15 force that issue. And I understand that murder's thirty to
16 life, correct?

17 MR. LEWIS: Yes, Your Honor.

18 THE COURT: And all the attempts are up to thirty?

19 MR. LEWIS: Yes, Your Honor.

20 THE COURT: And possession is five?

21 MR. LEWIS: Yes, Your Honor.

22 THE COURT: Okay. All right. What kind of
23 education did he have? Tell me something about him. I'm
24 getting ready to sentence him.

25 MR. LEWIS: Judge, he went through the eighth

1 grade and then he got his GED. He had recently moved to
2 Success Street, had only been there for about five days.
3 He's from a close-knit family, but hadn't really -- just
4 like Mr. King, hadn't had an opportunity to make his way
5 really anywhere yet in his life.

6 I do reiterate that this is certainly out of his
7 character from his record. I would ask that the Court be as
8 lenient as it can be. I understand the serious nature of
9 the case. I understand that it's a minimum of thirty. He
10 is a young man, still has potential to have a life at some
11 point if the Court gives him that ability by not imposing a
12 life sentence on him.

13 I'd ask that you give him the shot to one day see the
14 outside of a prison. Just historically speaking, it would
15 make a better inmate. And maybe he can better himself ---

16 THE COURT: I'm sorry. You want me to do what
17 now?

18 MR. LEWIS: Give him something less than life,
19 Judge.

20 THE COURT: Oh, I understand. Okay. What else
21 -- you said something about ---

22 MR. LEWIS: I -- I said that usually ---

23 THE COURT: --- something about shock. What did
24 you say?

25 MR. LEWIS: Oh, give him a shot, Judge. Give him

1 a chance ---

2 THE COURT: Oh, okay.

3 MR. LEWIS: --- to see the outside.

4 THE COURT: Okay.

5 MR. LEWIS: I would just ask that you give him

6 that opportunity. I know his his aunt would like to speak

7 on his behalf.

8 THE COURT: All right. Anything else you want to

9 tell me about personally? Has he worked anywhere? Has he

10 ever had any employment?

11 MR. LEWIS: Judge, one moment.

12 As you heard he does have a young child named after

13 him, Torren, Jr. He was having difficulty finding work when

14 he moved from downtown to North Charleston so he didn't have

15 a job when he was arrested about two years ago.

16 THE COURT: Okay. You want me to hear from his

17 aunt?

18 MR. LEWIS: I do.

19 THE COURT: Okay.

20 MR. LEWIS: And I will talk with him briefly, but

21 I would like for you to hear from him.

22 MS. WARREN: I am his aunt and ---

23 THE COURT: What's your name?

24 MS. WARREN: Collette Warren.

25 THE COURT: Yes, ma'am.

1 MS. WARREN: He was in the process of getting with
2 my son to leave Charleston because my son is a prep master
3 -- he didn't even have time enough to do that. Now I -- my
4 heart goes out to the family because I've been through this
5 myself. But, you know, I put my faith in the court system
6 to at least look at the fact that you can't convict somebody
7 for something they really did not do. And he is not going
8 to have a chance at that. We was hoping that everything
9 worked out perfectly because he -- he's got a job when he
10 leave here.

11 THE COURT: Anything you want to tell me about
12 him?

13 MS. WARREN: He's never been in trouble. They
14 have been with me most of the time. I mean they went to
15 school. When he felt like that wasn't for him he said,
16 Auntie, I want to leave and he left. He went to go better
17 himself. When he came back with his papers, he already knew
18 what he was going to do. I just had to wait on my son to
19 come back and get him. They were going to leave that -- the
20 weekend of all this foolishness. Well I can't call it
21 foolishness because everyone who's in this, have family, has
22 lost, and we're losing now. He -- he's never been a problem
23 child, never got into any trouble, besides that marijuana
24 thing that got expunged. He went to school. He ---

25 THE COURT: What? He dropped out of school at the

1 eighth grade?

2 MS. WARREN: Yeah, he went to a -- a boot camp ---

3 THE COURT: Okay.

4 MS. WARREN: --- to get his educa - to better
5 himself education-wise. He was leaving ---

6 THE COURT: Do you know why he dropped out in the
7 eighth grade?

8 MS. WARREN: He said it just wasn't for him, that
9 he just couldn't keep up. But at least he was strong enough
10 a man now to realize ---

11 THE COURT: Did he ever get his GED?

12 MS. WARREN: Yes, he did.

13 THE COURT: When did he get it?

14 MS. WARREN: I'm not sure of exactly when he got
15 it.

16 THE COURT: Do you know how he got it?

17 MS. WARREN: They took him through classes or
18 whatever they did with him.

19 THE COURT: Okay.

20 MS. WARREN: And when he came back he was -- he
21 was fine. Like I said he had just -- he had not even been
22 back here that long.

23 I know in my heart that he did not do this. I'm pretty
24 certain ---

25 THE COURT: I'm not going to debate that issue

1 with you. I want to know about him personally because I am
2 getting ready to sentence him.

3 MS. WARREN: He's a beautiful person. He's a
4 homey person basically because when they're home all he
5 wants is that video game. They don't want anything else.
6 They will come out and sit on the porch every now and then,
7 help me with my business because I own my own personal
8 catering company. They worried about helping me deliver
9 food, helping me break into the business just so I can start
10 my own. And this is what my oldest son does, which is his
11 first cousin. He's a -- he travels. Somebody looked out
12 for me and took him and was -- they were all leaving. They
13 travel from state to state doing what they do, preparing
14 food for big games and whatnot and do shows. He was just
15 getting -- just getting it together. They were young.

16 THE COURT: Okay. Thank you so very much. I
17 appreciate hearing from you. Anybody else you would like
18 for me to hear from?

19 COURT REPORTER: Can I get her name again? I'm
20 sorry, Your Honor.

21 MR. LEWIS: What's your name?

22 MS. WARREN: Collette Warren.

23 MR. LEWIS: Collette Warren.

24 COURT REPORTER: Thank you.

25 MR. LEWIS: One second, Judge.

1 THE COURT: You got some sentence sheets coming?

2 MR. FINCH: Yes, sir.

3 MR. LEWIS: I do want you to hear from his mother.

4 MS. EADY: Hi, Judge.

5 MR. LEWIS: Try to keep your voice up, okay?

6 MS. EADY: Hi, Judge. My name is Sharon Eady.

7 I'm Torren Eady's mother.

8 COURT REPORTER: I'm sorry. I can't hear.

9 MS. EADY: He is my child ---

10 THE COURT: I'm sorry.

11 MR. LEWIS: You have got to keep your voice up.

12 THE COURT: The Court Reporter couldn't hear you.

13 Speak up.

14 MS. EADY: Torren Eady is my child and I can only
15 say that he is a good child. He got his education, not
16 through the -- not through the school system but through
17 another way, the BMI Institute in Beaufort. And -- and this
18 has never been a...

19 THE COURT: Anything else?

20 MR. LEWIS: Judge, yes, she just ---

21 THE COURT: Thank you so very much. I appreciate
22 hearing from you. Yes, sir?

23 MR. LEWIS: Just briefly.

24 THE COURT: Yes, sir.

25 MR. LEWIS: I know that both sides are

1 experiencing an incredible amount of pain. And having --
2 having discussions with his family, I know that they're very
3 sorry. And I'm sure that there will come a time ---

4 THE COURT: Mr. Eady, is there anything you would
5 like to say to the Court?

6 THE DEFENDANT: I want to say that I apologize to
7 the victim family and everything, but I ain't did this. I
8 don't even fit the description of the person who did this.
9 But I don't know who it was so I can't answer that.

10 MR. LEWIS: Judge, I just ask that you give him a
11 chance.

12 THE COURT: I'm sorry. What?

13 MR. LEWIS: I would just ask that you give him a
14 chance to get out some day.

15 (Pause.)

16 THE COURT: All right. Mr. Eady, indictment
17 number 4554, Murder, sentenced to the State Department of
18 Corrections for a period of 45 years. That's concurrent
19 with the other indictment. Give you credit for 624 days.
20 Concurrent means they run together.

21 On the other three Attempted Murder charges, give you
22 ten years on each one. They run concurrent.

23 On the Possession of a Firearm Commission of a Violent
24 Crime, five years, and it runs concurrent. Concurrent means
25 they run together.

1 You've got 45 years with credit of 624 days. Good luck
2 to you. Thank you very much.

3 MR. LEWIS: Thank you, Your Honor.

4 THE COURT: I'll give you ten days to get your
5 motions.

6 MR. LEWIS: Yes, Your Honor.

7 THE COURT: All right. Thank y'all.

8 Mr. Foreman, ladies and gentlemen of the jury, if
9 you'll follow the Bailiff to the jury room.

10 (WHEREUPON, the jury was excused from the courtroom at
11 1:57 PM.)

12 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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CERTIFICATE OF REPORTER

I, the undersigned Missy Brown, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and evidence introduced, to the best of my skill and ability, in the hearing of the captioned case, as recorded by Sharon Vizer and transcribed by me, relative to appeal, in the Court of General Sessions for Charleston County, South Carolina, on the 18th, 19th, and 20th days of February, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 22, 2014

Missy Brown

Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TORREN MARQUIZE EADY,

APPELLANT

APPELLATE CASE NO. 2014-000375

FINAL BRIEF OF APPELLANT

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ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF CONTENTS	1
TABLE OF AUTHORITIES.....	2
STATEMENT OF ISSUES ON APPEAL.....	3
STATEMENT OF THE CASE	4
ARGUMENT	
1.	
The court erred by refusing to charge “mere presence” and “mere association” are insufficient to convict where there were allegedly two men present at the time of the shooting, it was undisputed several eyewitnesses were unable to identify which one was the shooter, and where there was also evidence the shooter acted spontaneously since this instruction was necessary given the facts of this case.	5
Relevant Facts.....	5
Discussion.....	8
2.	
The court erred by allowing witness Teresa Jenkins to speculate that something “bad had happened” based on the way the appellant and the other man “were acting” when she dropped them off in Charleston on the day of the incident, since it was improper for the solicitor to elicit such improper speculation.	10
Relevant Facts.....	10
Discussion.....	10
CONCLUSION.....	12

TABLE OF AUTHORITIES

Cases

<u>State v. Mattison</u> , 388 S.C. 469, 697 S.E.2d 578 (2010).....	8, 9
<u>Norman v. Stevenson Theaters, Inc.</u> , 159 S.C. 191, 156 S.E.2d 357 (1931).....	10
<u>South Carolina State Highway Department v. Westboro Weaving Company</u> , 244 S.C. 516, 137 S.E.2d 776 (1964).....	10
<u>State v. Barroso</u> , 328 S.C. 268, 493, S.E.2d 854 (1997).....	8
<u>State v. Hill</u> , 268 S.C. 390, 234 S.E.2d 219 (1977)	9
<u>State v. Leonard</u> , 292 S.C. 133, 355 S.E.2d 270 (1987)	8
<u>State v. Lyle</u> , 125 S.C. 406, 118 S.E.2d 803 (1923)	10
<u>State v. Stokes</u> , 279 S.C. 191, 304 S.E.2d 814 (1983)	10

STATEMENT OF ISSUES ON APPEAL

1.

Whether the court erred by refusing to charge "mere presence" and "mere association" are insufficient to convict where there were allegedly two men present at the time of the shooting, it was undisputed several eyewitnesses were unable to identify which one was the shooter, and where there was also evidence the shooter acted spontaneously since this instruction was necessary given the facts of this case?

2.

Whether the court erred by allowing witness Teresa Jenkins to speculate that something "bad had happened" based on the way the appellant and the other man "were acting" when she dropped them off in Charleston on the day of the incident, since it was improper for the solicitor to elicit such improper speculation?

3.

STATEMENT OF THE CASE

Appellant was indicted by the Charleston County Grand Jury for the offenses of murder, three counts of attempted murder, and possession of a firearm during a violent crime. R. 286 – R. 293. His case was called to trial on February 18, 2014 before the Honorable J.C. Nicholson, Jr., and a jury. Benjamin Lewis and Christina Parnell represented appellant. Timothy Finch and Gregory Voigt were the assistant solicitors. R. 1.

On February 20, 2014 the jury found appellant guilty on all counts. R. 281, l. 9 – 282, l. 7. Judge Nicholson sentenced appellant to forty-five years imprisonment for murder, and concurrent ten year sentences for each count of attempted murder. Judge Nicholson also imposed a five-year concurrent sentence for possession of a firearm during a violent crime. R. 283, l. 16 – 284, l. 2.

This appeal follows.

ARGUMENTS

1.

The court erred by refusing to charge “mere presence” and “mere association” are insufficient to convict where there were allegedly two men present at the time of the shooting, it was undisputed several eyewitnesses were unable to identify which one was the shooter, and where there was also evidence the shooter acted spontaneously since this instruction was necessary given the facts of this case.

Relevant Facts

The identity of the shooter was the key issue in this case. Gabrielle McCulley testified she was on the front porch smoking marijuana with several other people at the time the shooting occurred. “Everyone was just playing around, rapping, listening to music. People were getting their hair done.” R. 47, l. 2 – 48, l. 12. Gabrielle remembered “two individuals came up . . . they came from around the corner; that’s all I know.” “They had on all black and one of them had on a black fisherman’s hat.” R. 48, l. 18 – 49, l. 5.

Gabrielle remembered: “One [man] asked if we knew something about somebody trying to gang them. I asked what they were talking about. He said, I know it wasn’t none of y’all. Everything was good. And we thought he was about to leave and that’s when somebody started shooting.” R. 49, l. 6 – 50, l. 14.

Gabrielle was not sure which one of the two men was the shooter. “One out of the two. I’m not sure which one.” Gabrielle remembered “I heard gunshots and I seen an orange ball of fire . . . Antoine [Foster] pulled me to the ground . . . he pulled me into the house.” R. 49, l. 6 – 50, l. 14.

Detective Sean Reiter investigated the April 6, 2012 shooting. R. 128, l. 20 – 130, l. 15. Reiter recalled: “I briefly spoke with the eyewitness and determined that he needed to be interviewed further and moved him to my vehicle.” R. 130, ll. 16-20. That witness was Antoine Foster. R. 131, ll. 1-2.

Reiter admitted that Antoine Foster would be the only witness who claimed he could identify appellant as the shooter. Reiter acknowledged that other people could not identify the shooter, and that there were three surviving eyewitnesses on the porch where the shooting occurred that night. R. 148, ll. 5-18.

Teresa Jenkins was dating appellant on the day of the incident. She was working as a supervisor at the Wyndham Resort on Edisto Island, and she went by the house where appellant and his mother lived in Charleston after work. R. 9, l. 1 – R. 12, l. 18.

Teresa remembered that day that appellant’s ex-girlfriend, Rochelle Grant, came to appellant’s door, and she “was banging on the door and then he [appellant] really didn’t want to open the door because I guess she was coming inside to try to come after me. I know her voice because before we had an argument before too. So I know her voice.” R. 14, ll. 3-11.

Teresa testified that appellant asked Rochelle why she brought people over to his mother’s house to try to cause trouble, and Rochelle slapped appellant’s cell phone out of his hands. R. 15, ll. 5-13. Teresa said appellant left after that, and she sent a text message to his phone. R. 16, ll. 2-12.

Given the identification problems in this case the state would try and make much of the fact that appellant apparently wore a hat at times. However, Jenkins could not remember

if appellant was wearing his hat that day. It was clear she could only speculate. R. 21, ll. 10-24.

At some point Teresa heard gunshots down the street. Appellant returned to the house, and he knocked on the door. After he came inside Teresa gave appellant and Da'Quan a ride. R. 21, l. 1 – 23, l. 14.

Teresa drove appellant and Da'Quan in her car to a part of Charleston she was not familiar with. R. 28, ll. 5-17. As seen in issue two, Teresa was asked to by the solicitor to speculate about what might have occurred, and she answered that she thought something bad had happened. R. 28, ll. 5-7.

As stated, Gabrielle McCulley remembered being on the porch smoking pot and listening to music but she and other witnesses were unable to identify the shooter. R. 48, l. 13 – 50, l. 14.

Antoine Foster was the man who claimed appellant was the shooter. Foster testified he remembered Rochelle Grant going to appellant's house and "fussing up there." R. 78, ll. 11-21. Foster claimed while they were sitting on the porch a short time later that appellant came to their house and he said: "Y'all know the people that tried to gang me or whatever. And I was like, I don't know what you're talking about. Then Adrian was like, I don't know. I ain't got nothing to do with it. And then one of my mom's customers had come outside and he was counting his money. He asked who -- he asked who Torren [appellant] was. Torren said, 'it don't matter, and he started shooting.' Okay. Her customer got shot in the leg and Adrian got shot in the head." R. 81, l. 2 – 82, l. 4. Foster said he was not aware of who the other man was with appellant. R. 83, l. 25 – 84, l. 2.

Foster said he was shown photographic lineups, and he identified appellant. R. 86, 1. 9 – 89, 1. 9. He said appellant's photograph was number five in the six man array. R. 89, 11. 8-17; 102, 1. 19 – 104, 1. 2.

Detective Reiter testified he interviewed appellant, and that appellant told him that his girlfriend Teresa dropped him off after the people "showed up at his porch." Appellant told Detective Reiter that he walked to the store and he received a call "or someone on the street stopped him and said, 'oh, I heard you were shot.' And that's kind of where his story ended." R. 139, 11. 1-7. Reiter testified that appellant was arrested ten or eleven days later. R. 140, 11. 10-12.

The judge refused to charge mere presence based upon the evidence in this case and he made appellant's request to charge on mere presence and mere association an exhibit. Court's Exhibit 3. R. p. 285. R. 277, 1. 14 – 278, 1. 14. The requested instruction was a correct instruction on the law that "mere presence at the scene is not sufficient to prove someone guilty of a crime. A defendant's presence where a crime is being committed or mere association with a person who commits a crime does not make the defendant an accomplice or an aider and abettor of the person committing the crime..." R. 285. Court's Exhibit 3.

Discussion

In State v. Mattison, 388 S.C. 469, 697 S.E.2d 578 (2010) the Supreme Court noted that mere presence at the scene is not sufficient to establish guilt as an aider or abettor. In State v. Leonard, 292 S.C. 133, 137, 355 S.E.2d 270, 272 (1987), the Court held that mere association is insufficient to establish guilt, and there must be presence at the scene of the crime by pre-arrangement to aid, encourage, or abet in perpetration of the crime to constitute

guilt as a principal. State v. Barroso, 328 S.C. 268, 272, 493, S.E.2d 854, 856 (1997); State v. Hill, 268 S.C. 390, 395-96, 234 S.E.2d 219, 221 (1977). The Court in State v. Mattison held that, under the unusual facts of that case, Mattison received the “mere presence” and “mere association” jury charges that he was entitled to although not in the exact form he sought.

Here, conversely, the judge refused to charge mere presence and mere association. Court’s Exhibit 3 was a correct charge on the law and the judge had an obligation to instruct it in this case. R. p. 285. There was evidence two men were present and one of them was the shooter. Identification was the major issue in this case since only one witness, Antoine Foster, out of all the eyewitnesses claimed appellant could be identified as the shooter.

Further, accomplice liability or “the hand of one is the hand of all” was not a real issue in this case. The judge erred by refusing to give this “mere presence” and “mere association” jury instruction where it was undoubtedly called for by the facts of this case. The evidence, particularly the testimony of Gabrielle McCully showed that one of the two men may have acted impulsively in opening fire on the people on the porch without the prior knowledge of the other man present. Appellant should be granted a new trial.

2.

The court erred by allowing witness Teresa Jenkins to speculate that something bad had happened based on the way appellant and the other man “were acting” when she dropped them off in Charleston on the day of the incident, since it was improper for the solicitor to elicit such improper speculation.

Relevant facts

During the testimony of Teresa Jenkins she explained how she drove appellant and Da’Quan to another part of Charleston. The solicitor asked Teresa whether she thought something good or something bad had happened based upon the way the men were acting in the car. Over the defense objection that this question called for “speculation,” Teresa answered she thought something bad had happened. R. 27, l. 23 – 28, l. 7. Teresa then said Da’Quan told her he hoped she did not think appellant had done anything wrong. R. 28, ll. 15-21.

Discussion

The Supreme Court has held that questions calling for speculation are improper. Statements that ask a witness to draw conclusions from events they did not see are equally improper questions calling for sheer speculation. See State v. Stokes, 279 S.C. 191, 304 S.E.2d 814 (1983); South Carolina State Highway Department v. Westboro Weaving Company, 244 S.C. 516, 137 S.E.2d 776 (1964); Norman v. Stevenson Theaters, Inc., 159 S.C. 191, 156 S.E.2d 357 (1931).

In State v. Stokes the Court held in that State v. Lyle, 125 S.C. 406, 118 S.E.2d 803 (1923), “other bad acts” case that even if there was a connection between the prior act, the trial judge erred in allowing the child to speculate concerning Stokes’ intentions. The Court

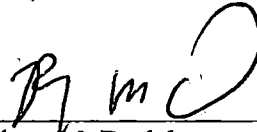
found her testimony that Stokes intended to rape her was obviously her own conclusion, rather than a fact within her personal knowledge.

Here, Teresa speculated that she thought something bad had happened by the way appellant and Da'Quan were acting. That speculation was particularly prejudicial when considered in light of her testimony that Da'Quan told her he hoped she did not think appellant "had done this." Teresa was able to testify as a fact witness about what she observed. Her speculation and her conclusions that she thought something bad had happened by the way the two men were acting was not admissible, and it was highly prejudicial. State v. Stokes, Supra. Appellant should be granted a new trial.

CONCLUSION

By reason of the foregoing arguments, appellant's conviction should be reversed and this case remanded to the Charleston County Court of General Sessions for a new trial.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R M Dudek', written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

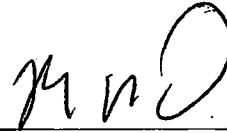
This 29th day of June, 2015

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

June 29, 2015

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SC Court of Appeals



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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 Appeal from Charleston County
 J. C. Buddy Nicholson, Jr., Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

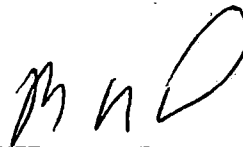
TORREN MARQUIZE EADY,

APPELLANT

APPELLATE CASE NO. 2014-000375

 CERTIFICATE OF SERVICE

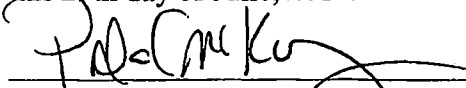
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Melody J. Brown, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 29th day of June, 2015.



 Robert M. Dudek
 Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
 this 29th day of June, 2015.

 (L.S.)
 Notary Public for South Carolina
 My Commission Expires. July 24, 2022.

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions
J.C. Nicholson, Jr., Circuit Court Judge

The State,		Respondent,
	v.	
Torren Marquize Eady,		Appellant.

Appellate Case No. 2014-000375

FINAL BRIEF OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
APPELLANT’S STATEMENT OF ISSUES ON APPEAL	1
RESPONDENT’S COUNTER STATEMENT OF ISSUES ON APPEAL	1
RESPONDENT’S STATEMENT OF THE CASE	2
RESPONDENT’S STATEMENT OF FACTS.....	3
ARGUMENT.....	7

I.

The trial judge did not abuse his discretion in declining to charge mere presence where the judge neither charged accomplice liability nor did the State rely upon accomplice liability to prove guilt. 7

II.

The trial judge did not abuse his discretion in allowing Jenkins to testify as to her impression that something “bad” had happened as the testimony described her own impressions from observed actions and events after the shooting and was not mere speculation. 12

CONCLUSION.....	16

TABLE OF AUTHORITIES

State Cases:

<i>Arnold v. State</i> , 309 S.C. 157, 420 S.E.2d 834 (1992)	15
<i>Gibbs v. State</i> , 403 S.C. 484, 744 S.E.2d 170 (2013)	11
<i>State v. Adkins</i> , 353 S.C. 312, 577 S.E.2d 460 (Ct.App. 2003).....	11
<i>State v. Austin</i> , 299 S.C. 456, 385 S.E.2d 830 (1989)	10
<i>State v. Bailey</i> , 298 S.C. 1, 377 S.E.2d 581 (1989)	15
<i>State v. Blurton</i> , 352 S.C. 203, 573 S.E.2d 802 (2002)	8
<i>State v. Bottoms</i> , 260 S.C. 187, 195 S.E.2d 116 (1973)	13
<i>State v. Brandt</i> , 393 S.C. 526, 713 S.E.2d 591 (2011)	10
<i>State v. Frazier</i> , 357 S.C. 161, 592 S.E.2d 621 (2004)	12, 14
<i>State v. James</i> , 386 S.C. 650, 689 S.E.2d 643 (Ct. App. 2010).....	9
<i>State v. Lee</i> , 298 S.C. 362, 380 S.E.2d 834 (1989)	8, 9
<i>State v. Leonard</i> , 292 S.C. 133, 355 S.E.2d 270 (1987)	8
<i>State v. Logan</i> , 405 S.C. 83, 747 S.E.2d 444 (2013)	10
<i>State v. Lyle</i> , 125 S.C. 406, 118 S.E. 803 (1923)	13
<i>State v. Mansfield</i> , 343 S.C. 66, 538 S.E.2d 257 (Ct.App. 2000).....	12
<i>State v. Mattison</i> , 388 S.C. 469, 697 S.E.2d 578 (2010)	10
<i>State v. McClinton</i> , 265 S.C. 171, 217 S.E.2d 584 (1975)	14
<i>State v. Patterson</i> , 324 S.C. 5, 482 S.E.2d 760 (1997)	7
<i>State v. Pickens</i> , 320 S.C. 528, 466 S.E.2d 364 (1996)	15

<i>State v. Price,</i> 368 S.C. 494, 629 S.E.2d 363 (2006)	15
<i>State v. Stokes,</i> 279 S.C. 191.....	13
<i>State v. Stokes,</i> 339 S.C. 154, 528 S.E.2d 430 (Ct.App. 2000).....	10
<i>State v. Williams,</i> 321 S.C. 455, 469 S.E.2d 49 (1996)	13
<i>State v. Williams,</i> 367 S.C. 192, 624 S.E.2d 443 (Ct.App. 2005).....	10

State Court Rules:

Rule 20 (b), SCRCrimP	7
Rule 602, SCORE	12
Rule 701, SCORE	13, 14, 15

APPELLANT'S STATEMENT OF ISSUES ON APPEAL**I.**

Whether the court erred by refusing to charge "mere presence" and "mere association" are insufficient to convict where there were allegedly two men present at the time of the shooting, it was undisputed several eye witnesses were unable to identify which one was the shooter, and where there was also evidence the shooter acted spontaneously since this instruction was necessary given the facts of this case?

II.

Whether the court erred by allowing witness Teresa Jenkins to speculate that something "bad had happened" based on the way the appellant and the other man "were acting" when she dropped them off in Charleston on the day of the incident, since it was improper for the solicitor to elicit such improper speculation?
(FBOA, p. 1).

RESPONDENT'S COUNTER STATEMENT OF ISSUES ON APPEAL**I.**

Whether the trial judge abused his discretion in declining to charge mere presence where the judge neither charged accomplice liability nor did the State rely upon accomplice liability to prove guilt.

II.

Whether the trial judge abuse his discretion in allowing Jenkins to testify as to her impression that something "bad" had happened as the testimony described her own impressions from observed actions and events after the shooting and was not mere speculation.

RESPONDENT'S STATEMENT OF THE CASE

A Charleston County Grand Jury indicted Appellant, Torren Marquize Eady in August 2012 for murder, three counts of attempted murder and possession of a firearm during the commission of a violent crime. (R. pp. 286–293). A jury trial was held February 18 – 20, 2014, before the Honorable J.C. Nicholson, Jr. The jury convicted as charged. (R. p. 281, line 9 – p. 282, line 7). The judge sentenced Appellant to forty-five (45) years for murder, ten (10) years, concurrent, on each attempted murder, and five (5) years, concurrent, for the weapon charge. (R. p. 283, line 16 – p. 284, line 2). This appeal follows.

RESPONDENT'S STATEMENT OF FACTS

The jury convicted Appellant of murder, three counts of attempted murder, and possession of a weapon during the commission of a violent crime. All charges stemmed from one incident that occurred at a residence in North Charleston on April 6, 2012. The evidence showed Appellant became upset over a former girlfriend's confrontation at his home earlier the same day, rounded up three individuals and at least two guns, went to the nearby home where the friends were and opened fire. One individual – who was not a part of the earlier confrontation – was killed on the porch. Three others individuals were also on the porch. One received a gunshot to the leg, while the other two escaped physical injury. The following facts support the instant summary:

Teresa Jenkins testified that she was dating Appellant at the time of the shooting. She went to Appellant's home on the afternoon of April 6, 2012. While there, Appellant's former girlfriend and "baby mama," Rochelle Grant, approached the house, banged on the door, and shouted. Jenkins testified she saw a text to Appellant from Grant that she was "coming to slap him." (R. p. 10, line 14 – p. 11, line 9; p. 13, line 11 – p. 14, line 8). She was not alone. Jenkins testified that Appellant confronted Grant and stated: "You bringing these n*****s to my mama house." (R. p. 15, lines 5-7). Grant slapped Appellant's phone from his hand then left. (R. p. 15, lines 12-17). Jenkins testified that after the incident, Appellant left for a period of time only to come back with brother Da'Quan, TJ and Jigg. TJ referenced that "they" had been "messing with Tezo," another name for Appellant. TJ had a long gun at his side. (R. p. 18, line 5 – p. 19, line 24). The group left, and, shortly after, Jenkins heard gunshots. (R. p. 20, lines 14-15; p. 22, lines 16-24). Jenkins testified that Appellant came to the back door of his home and asked to be let in. (R. p. 23, lines 5-14).

She would later take him and Da'Quan downtown at Appellant's request. Da'Quan said to Jenkins: "I hope you don't think Torren did this, man." (R. p. 25, line 1 – p. 28, line 17).

In describing the precursor event to the shooting, attempted murder victim Gabrielle McCulley testified that several individuals left the house where the murder would later occur and walked the short distance to the Eady home along with Grant. She understood they were going to "retrieve a child," but they later dispersed after the yelling, and walked the short – less than two blocks – distance back to the home where the murder occurred. (R. p. 143, line 6 – p. 46, line 24). Later that same evening, while she was on the porch with others, she saw "[t]wo individuals" approach the house from around the corner. They were dressed in black and one wore "a black fisherman's hat." (R. p. 48, lines 13-24). McCulley testified that the one with the hat was in front and asked about being "ganged." (R. p. 49, line 6 – p. 50, line 3). They were then fired upon. (R. p. 49, line 8 – p. 50, line 7). McCulley, along with Antione Foster, and Martel Brown, went into the house. Brown had been shot in the leg. Adrian King was shot and believed dead on the porch. (R. p. 51, line 16 – p. 53, line 1). She could not identify Appellant from a photographic lineup, but recognized his voice when she attended a bond hearing. (R. p. 53, lines 7-11; p. 56, line 14 – p. 60, line 4).

Antione Foster, another attempted murder victim, also testified as to the prior confrontation by Grant at the Eady home. (R. p. 77, line 6 – p. 79, line 24). He was familiar with Appellant as he had previously kept Appellant's young son, being friends with Grant. (R. p. 71, lines 3-18). Foster testified that after his return from the Eady home, murder victim Adrian King had called and arranged to come over. (R. p. 80, lines 15-24). While on the porch with King and others, Foster saw Appellant approach with another individual. (R.

p. 81, lines 3-19; p. 83, line 22 – p. 84, line 4). Appellant asked about the people who tried to “gang” him. (R. p. 81, lines 21 – 25). Martel Brown walked outside on the porch, after having gotten a haircut from Foster’s mother, and asked who Appellant was, but Appellant stated, “It don’t matter, and he started shooting.” Foster testified Brown was shot in the leg and King was shot in the head. (R. p. 81, line 25 – p. 82, line 4). Foster identified the gun as a revolver. (R. p. 83, lines 7-8). Foster testified that he went directly to the police station and identified Appellant for the officers, having viewed a prepared six photograph array. (R. p. 86, line 10 – p. 89, line 24; p. 102, line 19 – p. 104, line 2). He testified that Appellant was the one who shot at him and the others on the porch. (R. p. 90, lines 13-21). Foster testified that he only saw Appellant with one gun, and that was the only gun that he witnessed being fired. (R. p. 95, lines 2-9).

Forensic pathologist Dr. Lee Marie Tormos testified King died from the gunshot wound to his head, the bullet having entered his left temple, went to the base of his skull, fractured the bones and bounced into his brain. (R. p. 127, lines 4-25).

Investigators retrieved 9mm rounds, a “projectile ... not fired,” and a shotgun from the Eady home. (R. p. 118, lines 4-25). The parties stipulated that “four complete bullets and one bullet fragment” were recovered from the scene. Three bullets and the fragment were fired by one gun, either a .38 special or a .357 Magnum. The remaining bullet was fired by a .38 special or a .357 Magnum, but not the same one. (R. p. 166, line 21 – p. 167, line 20).

After several interviews, officers prepared warrants for Appellant’s arrest. (R. p. 133, lines 14-18). The arrest warrants were prepared the same night and were completed the next morning, on April 7, 2012; however, Appellant could not be located and arrested until

April 17, 2012. (R. p. 140, lines 10-24). He was apprehended at an aunt's home. When officer initially arrived at the home the aunt denied that any males were present. Appellant was found attempting to hide behind a shower curtain. (R. p. 198, line 4 – p. 200, line 13).

Appellant spoke to officers the day after his arrest, but merely stated he had no involvement with the shooting; rather, he simply stated he went downtown with Jenkins after the Grant altercation. (R. p. 139, lines 1-7).

Appellant's cell phones were recovered after his arrest. (R. p. 139, line 23- p. 140, line 9; p. 206, line 14 – p. 208, line 21). Cell phone records to the phone Appellant admitted was his were consistent with the general location and times recounted by the witnesses rather than his statement to police. (R. p. 184, line 3 – p. 186, line 8). Appellant confirmed to officers that his cell phone was with him during the "activities of that night." (R. p. 139, lines 15-22). Another phone that was retrieved with his admitted cell phone at the aunt's residence showed not only an email addressed to him but also a search of interest made on April 16, 2012, after the shooting and prior to Appellant's arrest: "how long does gun powder stay on the skin." (R. p. 220, line 11 – p. 223, line 6). At the same time the phones were recovered, officers also found a black hat which was admitted as State's Exhibit 35. (R. p. 210, line 22 – p. 211, line 17). Attempted murder victim McCulley testified the hat was the one she saw on the individual in front who spoke before the shooting. (R. p. 149, lines 1-12).

ARGUMENT

I.

The trial judge did not abuse his discretion in declining to charge mere presence where the judge neither charged accomplice liability nor did the State rely upon accomplice liability to prove guilt.

Relevant Facts:

Counsel apparently requested a mere presence charge, and, upon prompting by the trial judge, asked that the request to charge (along with a request for a “longer” identification charge) be made a court exhibit. There was no argument on the specific necessity, nor an actual objection. (R. p. 277, line 11 – p. 278, line 14). Even so, Appellant argues in this appeal that his request to charge on mere presence, Court Exhibit 3, was a correct statement of law and “the judge had an obligation to instruct it in this case.” (FBOA, p. 9). Appellant is generally correct that mere presence is not sufficient proof of a crime, but that principle is irrelevant to the case.¹

Discussion:

As a first matter, it appears that challenge to the failure to charge may well be waived as Appellant failed to place a specific objection on the record. Rule 20 (b), SCRCrimP provides that the objection to the failure to charge “shall state distinctly the matter objected to and the grounds for the objection.” Further, Section (b) also provides that the “[f]ailure to object in accordance with this rule shall constitute a waiver of objection.” The basis for the charge and its relevance to the case was not sufficiently set out to preserve the issue. See *general State v. Patterson*, 324 S.C. 5, 17, 482 S.E.2d 760, 766 (1997)

¹ Appellant’s request to charge actually cites to a case that does not address mere presence but criminal intent for bribery and distribution of cocaine. The text of the request, though, references mere presence and mere association.

("general objection which does not specify the particular ground on which the objection is based is insufficient to preserve a question for review.") (citations and internal quotation marks omitted). At any rate, it is clear the request was made and the argument presented in this appeal does not show that the charge was warranted.

"The purpose of a jury instruction is 'to enlighten the jury and to aid it in arriving at a correct verdict. It is error to give instructions which are calculated to confuse or mislead the jury.'" *State v. Blurton*, 352 S.C. 203, 207-208, 573 S.E.2d 802, 804 (2002) (quoting *State v. Leonard*, 292 S.C. 133, 137, 355 S.E.2d 270, 273 (1987)). Specifically, "[p]roviding instructions to the jury which do not fit the facts of the case may tend to confuse the jury." *State v. Lee*, 298 S.C. 362, 364, 380 S.E.2d 834, 836 (1989). "It is error to give instructions which are calculated to confuse or mislead the jury." *State v. Leonard*, 292 S.C. 133, 137, 355 S.E.2d 270, 273 (1987).

Simply, the requested charge was not necessary. However, several factually inaccuracies in Appellant's argument should be addressed at the outset of the discussion. Appellant is incorrect to suggest that the evidence presented at trial reflected one shooter. (FBOA, p. 9, "There was evidence two men were present and one of them was the shooter."). The stipulation indicated at least two guns were fired at the scene. (See R. p. 166, line 21 – p. 167, line 20). Foster did not testify there was only one gun; rather, he testified that he only saw the one Appellant was firing. (R. p. 95, lines 2-9). In fact, defense counsel relied upon same in his closing. (See R. p. 256, line 16 – p. 257, line 10). Appellant then argues that only one witness identified him as "the" shooter. (FBOA, p. 9). This is also incorrect. Two witnesses identified Appellant as a participant – one as an actual shooter, his recognition of Appellant based on knowing Appellant prior to the shooting, (R. p. 81, lines

7-19, Testimony of Antione Foster), and one as a participant, the individual who spoke, by voice identification at a subsequent bond hearing, (R. p. 53, lines 7-11; p. 56, line 14 – p. 60, line 4, Testimony of Gabrielle McCulley). Thus, the only issue was the reliability of the identification. The trial judge instructed the jury on credibility of the witnesses, and specifically identification and the State's burden of proof in showing beyond a reasonable doubt that the defendant committed the crime. (See R. p. 263, line 17 – p. 265, line 2; p. 272, line 11 – p. 273, line 12). There was no charge on accomplice liability, nor did the State seek conviction by accomplice liability."

The State argued, consistent with the eyewitness testimony, that Appellant approached the home where the murder occurred, initially engaged in conversation, then began to fire. Further, and in circumstantial support of the fact Appellant did at least some of the shooting, the State also noted Appellant fled the scene, hid downtown and searched how long gun powder stays on the skin. (See R. p. 242, line 8 – p. 244, line 21). Critically, defense counsel did not argue Appellant was merely there, but argued that the eyewitness was incorrect in his identification of Appellant as the shooter. (See R. p. 250, lines 4-18; p. 252, line 7 – p. 255, line 6; p. 257, lines 7-10; p. 260, lines 20-24). In fact, Appellant's statement did not reflect that he was at the home where the murder occurred at all. (See Tr. p. 139, lines 1-7).² The charge of mere presence was not warranted. *State v. Lee*, 298 S.C. at 365, 380 S.E.2d at 836 ("State below tended to show Lee exercised actual possession and control over the cocaine. Thus, 'mere presence' was not an instruction supported by the evidence presented by the State at trial."); *State v. James*, 386 S.C. 650, 654, 689 S.E.2d

² Appellant did not present witnesses; however, his statement was admitted in the State's case.

643, 645 (Ct. App. 2010) (“A charge of mere presence was not warranted under an accomplice liability theory for two reasons. First, the State’s theory of the case did not involve accomplice liability. ... Second, we find James’s position that he was merely present at the scene of a crime but did not commit the crime untenable considering the fact that defense counsel conceded there was no evidence that anyone other than James was present at the scene.”); *State v. Stokes*, 339 S.C. 154, 164, 528 S.E.2d 430, 435 (Ct.App. 2000) (“Under the State’s view of the evidence, Stokes was the sole person present and committed the assault himself. Conversely, Stokes maintained he was not present at the commission of the assault upon the child.”).

A judge’s refusal to give a requested charge will not be reversed unless appellant shows an abuse of discretion. *State v. Mattison*, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010). “A request to charge a correct statement of the law on an issue raised by the indictment and the evidence presented at trial should not be refused.” *State v. Austin*, 299 S.C. 456, 458, 385 S.E.2d 830, 831 (1989). “If there is any evidence to support a charge, the trial court should grant the request.” *State v. Brandt*, 393 S.C. 526, 549-550, 713 S.E.2d 591, 603 (2011) (*quoting State v. Williams*, 367 S.C. 192, 195, 624 S.E.2d 443, 445 (Ct.App. 2005)). Here, there was no abuse of discretion, and no error in rejecting the request to charge, as the request was not warranted on the facts.

If, however, any error did occur, such error would be harmless in light of the remainder of the charge and specifically the carefully crafted charge on identification. *See, e.g., State v. Logan*, 405 S.C. 83, 94, 747 S.E.2d 444, 449 (2013) (“erroneous jury instructions are subject to a harmless error analysis”); *Mattison*, 388 S.C. at 478, 697 S.E.2d at 583 (“A jury charge is correct if, when the charge is read as a whole, it contains the

correct definition and adequately covers the law.”) (*quoting State v. Adkins*, 353 S.C. 312, 318, 577 S.E.2d 460, 464 (Ct.App. 2003)). *Cf. Gibbs v. State*, 403 S.C. 484, 496, 744 S.E.2d 170, 176 (2013) (finding no prejudice in counsel’s failure to request an alibi charge “[g]iven the clarity of the jury charge requiring the State to prove identity beyond a reasonable doubt”). Yet, the record is most comfortably read as not requiring the requested charge. Therefore, there was no error. Appellant’s argument to the contrary should be rejected.

II.

The trial judge did not abuse his discretion in allowing Jenkins to testify as to her impression that something “bad” had happened as the testimony described her own impressions from observed actions and events after the shooting and was not mere speculation.

Relevant Facts:

During Teresa Jenkins testimony concerning the drive downtown after the shooting, the solicitor asked if she had “any ideas based on the way people were acting in the car” whether something good or bad had happened. (R. p. 27, lines 23-24). Defense counsel objected and argued the question “call[ed] for speculation.” (R. p. 27, line 25 – p. 28, line 1). The trial judge overruled the objection without comment. (R. p. 28, line 2). Jenkins answered merely “bad.” (R. p. 28, line 7).

In the appeal, Appellant argues that trial judge erred as Jenkins testimony was improper speculation. (FBOA, p. 11).

Discussion:

“[E]videntiary rulings of the trial court will not be reversed on appeal absent an abuse of discretion or the commission of legal error which results in prejudice to the defendant.” *State v. Mansfield*, 343 S.C. 66, 77, 538 S.E.2d 257, 263 (Ct.App. 2000). Here, Appellant can show neither error nor prejudice.

“A witness may not testify to a matter unless evidence is introduced sufficient to a finding that the witness has personal knowledge of the matter.” Rule 602, SCRE. Purely speculative testimony does not satisfy the requirement. *State v. Frazier*, 357 S.C. 161, 167, 592 S.E.2d 621, 624 (2004)(witness testimony disallowed where witness did not know when statement attributed to defendant was made, or to whom the defendant was speaking,

or exactly what was said). However, there is a difference between inferences from one's own observations and mere speculation. "The opinion or inference of a lay witness is admissible if it is a) rationally based on the perception of the witness, b) helpful to the determination of a fact in issue, and c) does not require special knowledge." *State v. Williams*, 321 S.C. 455, 463, 469 S.E.2d 49, 54 (1996) (citing Rule 701, SCRE). *See also State v. Bottoms*, 260 S.C. 187, 196, 195 S.E.2d 116, 119 - 120 (1973) (lay opinion admissible where based on personal observation of facts). Simply, "impressions drawn from collected, observed facts" are not properly categorized as speculation. *Williams*, 321 S.C. 464, 469 S.E.2d at 54. *Williams* is on point and controlling.

In *Williams*, a surviving victim was allowed to testify to her belief that the murder victim may have stolen drugs which may have been a motive for the murder. The Court noted the belief "was reasonably based upon her observation of the transaction which had just occurred, and the fact that she had previously known Victim to do such things." 321 S.C. at 464, 469 S.E.2d at 54. The Court reasoned "her opinion was rationally based upon the events which had transpired and was helpful to the jury's determination as to why Williams chased and shot at them." *Id.* Thus, it concluded there was no abuse of discretion in admission of this testimony.³

Likewise, in the instant case, based on the behavior of the individuals, along with what she had previously testified to (*i.e.* the confrontation with Grant, the amassing of

³ Appellant relies upon *State v. Stokes*, 279 S.C. 191, 304, S.E.2d 814 (1983). (FBOA, p. 10). Williams similarly relied upon *Stokes*. 321 S.C. at 463, 469 S.E.2d at 54. The Supreme Court found "*Stokes* is inapplicable" as it involved the offer of proof to show "common scheme or plan" under *State v. Lyle*, 125 S.C. 406, 118 S.E. 803 (1923)" and the testimony in *Williams* was not offered in proof of "common scheme or plan." *Id.* at n. 3. *Stokes* is likewise not applicable in the instant case.

confederates, the shooting heard from the house, the quick return and need to flee to the downtown area), Jenkins testimony she believed something “bad” had happened was reasonably based on her discrete knowledge and observations. Thus, the testimony was not speculative and was admissible.

Further, Respondent notes in contrast that earlier in Jenkin’s testimony, there was an objection to speculation that was sustained. In response to the solicitor’s question as to why Jenkins had sent a text to Appellant after he left the Eady home after the Grant confrontation, part of her answer veered to “guessing” what may have been occurring. (R. p. 16, lines 10-12). The trial judge sustained the objection and cautioned: “Just testify to your own knowledge; don’t speculate, okay?” (R. p. 16, lines 17-18). *See Frazier*, 357 S.C. at 167, 592 S.E.2d at 624 (finding testimony witness “guessed” defendant spoke to a specific person and “believed” the overheard threats “too speculative to be admitted”). Critically, the opinion at issue here based on Jenkins personal observation of the people in the situation differs dramatically from the “guess” previously overruled. Moreover, the record supports the opinion, which required no “special knowledge, skill, experience or training,” could assist the jury specifically in considering the testimony as to whether Appellant simply left for downtown (as he alleged in his statement), or if there was flight from the murder scene. Thus, the evidence meets the admissibility standard in Rule 701. *See also State v. McClinton*, 265 S.C. 171, 176-177, 217 S.E.2d 584, 586 (1975) (“Both McCormick and Wigmore reason that conclusions or opinions of laymen should be rejected only when they are superfluous in the sense that they will be of no value to the jury.”); Again, the evidence was properly admitted.

Finally, any error in the admission of this brief, non-specific opinion that something “bad” had occurred, would be harmless beyond a reasonable doubt. “[A]n insubstantial error not affecting the result of the trial is harmless where guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached.” *State v. Price*, 368 S.C. 494, 500, 629 S.E.2d 363, 366 (2006) (citing *State v. Bailey*, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989)); *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). “Where a review of the entire record establishes the error is harmless beyond a reasonable doubt, the conviction should not be reversed.” *Price*, 368 S.C. at 499, 629 S.E.2d at 366 (citing *State v. Pickens*, 320 S.C. 528, 531, 466 S.E.2d 364, 366 (1996)). Here, there is substantial and solid evidence of guilt. The eyewitness identification by an individual who knew Appellant in a social sense, and a surviving witness who recognized Appellant’s voice, along with evidence of opportunity, motive, subsequent flight, inconsistent statement, and an internet search for how long gun powder stays on skin, demonstrates overwhelming evidence of guilt as a principal such that any error in the admission of the limited and vague opinion testimony would be harmless.

However, the testimony was admissible under *Williams* and Rule 701, SCRE. The trial judge did not abuse his discretion in allowing the testimony. Appellant’s argument to the contrary should be rejected.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment, conviction, and sentence of the lower court should be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

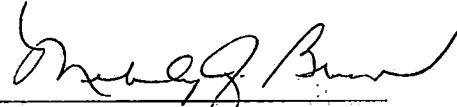
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ATTORNEYS FOR RESPONDENT

June 29, 2015.
Columbia, South Carolina.

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions
J.C. Nicholson, Jr., Circuit Court Judge

The State,

Respondent,

v.

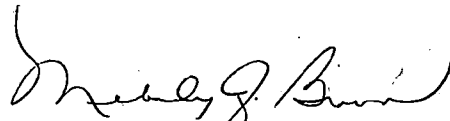
Torren Marquize Eady,

Appellant.

Appellate Case No. 2014-000375

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the August 13, 2007 Order of the South Carolina Supreme Court, "Re Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."


MELODY J. BROWN
Senior Assistant Attorney General
S.C. Bar No. 14244

Office of the Attorney General
Post office Box 11549
Columbia, SC 29211-1549
(803) 734-6305

ATTORNEYS FOR RESPONDENT

June 29, 2015.
Columbia, South Carolina.

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

JUN 29 2015

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions
J.C. Nicholson, Jr., Circuit Court Judge

SC Court of Appeals

The State,

Respondent,

v.

Torren Marquize Eady,

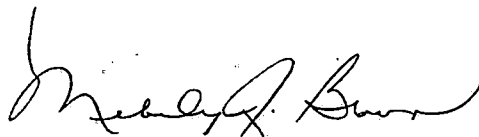
Appellant.

Appellate Case No. 2014-000375

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served the *Final Brief of Respondent* and *Certificate of Compliance* on Appellant by depositing copies in the United States mail, postage prepaid, to his attorney of record, addressed as follows:

Chief Appellate Defender Robert M. Dudek
South Carolina Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
Columbia, South Carolina 29211-1589

This 29th day of June, 2015.

MELODY J. BROWN
Senior Assistant Attorney General
S.C. Bar No. 14244

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Torren Marquize Eady, Appellant.

Appellate Case No. 2014-000375

Appeal From Charleston County
J.C. Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2016-UP-288
Submitted January 1, 2016 – Filed June 15, 2016

AFFIRMED

Chief Appellate Defender Robert Michael Dudek, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Donald J. Zelenka, and Senior
Assistant Attorney General Melody Jane Brown, all of
Columbia; and Solicitor Scarlett Anne Wilson, of
Charleston, for Respondent.

PER CURIAM: Torren Marquize Eady appeals his convictions for murder, attempted murder, and possession of a weapon during a violent crime, arguing the trial court erred in (1) refusing to charge the jury on mere presence and mere association and (2) permitting a witness to provide speculative testimony. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the trial court erred in refusing to charge the jury on mere presence and mere association: *State v. Commander*, 396 S.C. 254, 270, 721 S.E.2d 413, 421-22 (2011) ("An appellate court will not reverse the trial [court's] decision regarding a jury charge absent an abuse of discretion." (quoting *State v. Mattison*, 388 S.C. 469, 479, 697 S.E.2d 578, 584 (2010))); *State v. James*, 386 S.C. 650, 653, 689 S.E.2d 643, 645 (Ct. App. 2010) ("The defendant is entitled to a mere presence charge if the evidence supports it."); *id.* at 653-54, 689 S.E.2d at 645 (stating a mere presence charge is applicable when "there is some doubt over whether a person is guilty of a crime by virtue of accomplice liability" (quoting *State v. Dennis*, 321 S.C. 413, 420, 468 S.E.2d 674, 678 (Ct. App. 1996))); *id.* at 653-54, 689 S.E.2d at 645 (holding a mere presence charge was not warranted when the State's theory did not involve accomplice liability).
2. As to whether the trial court erred in permitting a witness to provide speculative testimony: *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) ("The admission of evidence is within the discretion of the trial court and will not be reversed absent an abuse of discretion."); Rule 701, SCRE (stating a lay witness may testify to opinions or inferences that are rationally based on the perception of the witness, helpful to the determination of a fact in issue, and do not require special knowledge, skill, experience, or training); *State v. Williams*, 321 S.C. 455, 463-64, 469 S.E.2d 49, 54 (1996) (finding the trial court did not abuse its discretion in admitting testimony that the victim must have provided the defendant with bad crack cocaine or broken his crack cocaine because the witness's opinion was rationally based on the events that transpired and was helpful to the jury's determination of the defendant's motive).

AFFIRMED.¹

HUFF, SHORT and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 01, 2016

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

REMITTITUR

Re: The State v. Torren M. Eady
Lower Court Case No. 2012GS1004554, 2012GS1004555,
2012GS1004556, 2012GS1004557, 2012GS1004558
Appellate Case No. 2014-000375

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire
Robert Michael Dudek, Esquire
Donald J. Zelenka, Esquire
Melody Jane Brown, Esquire
John W. McIntosh, Esquire
Scarlett Anne Wilson, Esquire

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Charleston)

Torren M. Eady # 358893,)

Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina, Attorney General,)
Respondent.)

IN THE COURT OF COMMON PLEAS

Case No. 2012 GS 100 4554-58

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Litcher Correctional Institution
2. Name and location of Court which imposed sentence Charleston County General Session Court
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Murder: 2012-GS-10-4554
 - (b) (3) Counts Attempted Murder: 2012-GS-10-4555-4556-4557
 - (c) Possession of a Firearm: 2012-GS-10-4458
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 20, 2014 sentenced to 45 years in Prison
 - (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. The South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. _____

ii. Denied

iii. _____

(c) the date of each such result:

i. _____

ii. May, 2015

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) N/A

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: See Attach Sheet

(a) _____

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10): See Attach Sheet

(a) _____

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(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. No

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. N/A

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. N/A

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. N/A

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

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?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. N/A

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) This is the first opportunity to present any claims to any Court

(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. Benjamin Lewis, Esq.
 - ii. Christina Parnell, Esq.
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Trial and sentencing
 - ii. _____
 - iii. _____

19. State clearly the relief you seek in filing this application:

New Trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of)

VERIFICATION

I, _____, 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.

Tamara Eady 358893

SWORN to and subscribed before me this 11th
day of March, 2016

Catharine A. Anderson (L.S.)
Notary Public

My Commission Expires: December 22, 2018

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, 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.

Tarren Eady

Applicant

SWORN or affirmed to and subscribed before me this
11th day of March, 2018

Cashine A. Amason

Notary Public

My Commission Expires: December 22, 2018

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Torren M. Eady, SCDC #358893

Applicant,

v.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2017-CP-10-358

RETURN AND MOTION TO DISMISS

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR")
filed on January 23, 2017 would respectfully show this Court:

I. Procedural Posture

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court.

In August, 2012, the Charleston County Grand Jury indicted Applicant for Murder (2012-GS-10-04554), for Attempted Murder (2012-GS-10-04555, 2012-GS-10-04556, 2012-GS-10-04557), and for Possession of a Firearm During the Commission of a Violent Crime (2012-GS-10-04558).

Applicant was represented by Benjamin Lewis, Esquire and Christina Parnall, Esquire. The State was represented by Assistant Solicitor Timothy Finch and Assistant Solicitor Gregory Voigt. Applicant proceeded to a jury trial before the Honorable J.C. Nicholson. On December 20th, 2014 the Jury convicted Applicant as indicted. The Court sentenced Applicant to a forty-five year sentence on the Murder, ten year sentences on the Attempted Murders, and a five year sentence on the Possession of a Firearm During the Commission of a Violent Crime, all of which were to be served concurrently.

The Applicant filed an appeal. Applicant was represented by Robert Dudek, Esquire. The State was represented by Senior Assistant Deputy Attorney General Melody Brown.¹ The South Carolina Court of Appeals considered the Appeal without Oral Argument. The South Carolina Court of Appeals affirmed his conviction on June 15, 2016. State v. Eady, 2016-UP-288 (2016). The Remittitur was sent on July 1, 2016.

II. Facts of the Case

At trial, the evidence showed Applicant became upset over a former girlfriend's confrontation at his home earlier the same day, rounded up three individuals and at least two guns, went to the nearby home where the friends were and opened fire. One individual – who was not a part of the earlier confrontation – was killed on the porch. Three other individuals were also on the porch. One received a gunshot to the leg, while the other two escaped physical injury. The following facts support the instant summary:

Teresa Jenkins testified that she was dating Applicant at the time of the shooting. She went to Applicant's home on the afternoon of April 6, 2012. While there, Applicant's former girlfriend and mother of his child, Rochelle Grant, approached the house, banged on the door, and shouted. Jenkins testified she saw a text to Applicant from Grant that she was "coming to slap him." (Tr. p. 77, line 14 – p. 78, line 9; p. 80, line 11 – p. 81, line 8). She was not alone. Jenkins testified that Applicant confronted Grant and stated: "You bringing these n*****s to my mama house." (Tr. p. 82, lines 5-7). Grant slapped Applicant's phone from his hand then left. (Tr. p. 82, lines 12-17). Jenkins testified that after the incident, Applicant left for a period of time only to come back with brother Da'Quan, TJ and Jigg. TJ referenced that "they" had been "messing with Tezo," another name for Applicant. TJ had a long gun at his side. (Tr. p. 85, line 5 – p. 86, line 24). The group left, and, shortly after, Jenkins heard gunshots. (Tr. p. 87, lines 14-

¹ At the time, Ms. Brown's title was Senior Assistant Attorney General, which is reflected on the Briefs.

15; p. 89, lines 16-24). Jenkins testified that Applicant came to the back door of his home and asked to be let in. (Tr. p. 90, lines 5-14). She would later take him and Da'Quan downtown at Applicant's request. Da'Quan said to Jenkins: "I hope you don't think Torren did this, man." (Tr. p. 92, line 1 – p. 95, line 17).

In describing the precursor event to the shooting, attempted murder victim Gabrielle McCulley testified that several individuals left the house where the murder would later occur and walked the short distance to the Eady home along with Grant. She understood they were going to "retrieve a child," but they later disbursed after the yelling, and walked the short – less than two blocks – distance back to the home where the murder occurred. (Tr. p. 110, line 6 – p. 113, line 24). Later that same evening, while she was on the porch with others, she saw "[t]wo individuals" approach the house from around the corner. They were dressed in black and one wore "a black fisherman's hat." (Tr. p. 115, lines 13-24). McCulley testified that the one with the hat was in front and asked about being "ganged." (Tr. p. 116, line 6 – p. 117, line 3). They were then fired upon. (Tr. p. 116, line 8 – p. 117, line 7). McCulley, along with Antione Foster, and Martel Brown, went into the house. Brown had been shot in the leg. Adrian King was shot on and believed dead on the porch. (Tr. p. 118, line 16 – p. 120, line 1). She could not identify Applicant from a photographic lineup, but recognized his voice when she attended a bond hearing. (Tr. p. 120, lines 7-11; p. 123, line 14 – p. 127, line 4).

Antione Foster, another attempted murder victim, also testified as to the prior confrontation by Grant at the Eady home. (Tr. p. 144, line 6 – p. 146, line 24). He was familiar with Applicant as he had previously kept Applicant's young son, being friends with Grant. (Tr. p. 138, lines 3-18). Foster testified that after his return from the Eady home, murder victim Adrian King had called and arranged to come over. (Tr. p. 147, lines 15-24). While on the

porch with King and others, Foster saw Applicant approach with another individual. (Tr. p. 148, lines 3-19; p. 150, line 22 – p. 151, line 4). Applicant asked about the people who tried to “gang” him. (Tr. p. 148, lines 21 – 25). Martel Brown walked outside on the porch, after having gotten a haircut from Foster’s mother, and asked who Applicant was, but Applicant stated, “It don’t matter, and he started shooting.” Foster testified Brown was shot in the leg and King was shot in the head. (Tr. p. 148, line 25 – p. 149, line 4). Foster identified the gun as a revolver. (Tr. p. 150, lines 7-8). Foster testified that he went directly to the police station and identified Applicant for the officers, having viewed a prepared six photograph array. (Tr. p. 153, line 10 – p. 156, line 24; p. 171, line 19 – p. 173, line 2). He testified that Applicant was the one who shot at him and the others on the porch. (Tr. p. 157, lines 13-21). Foster testified that he only saw Applicant with one gun, and that was the only gun that he witnessed being fired. (Tr. p. 162, lines 2-9).

Forensic pathologist Dr. Lee Marie Tormos testified King died from the gunshot wound to his head, the bullet having entered his left temple, went to the base of his skull, fractured the bones and bounced into his brain. (Tr. p. 196, lines 4-25).

Investigators retrieved 9mm rounds, a “projectile ... not fired,” and a shotgun from the Eady home. (Tr. p. 187, lines 4-25). The parties stipulated that “four complete bullets and one bullet fragment” were recovered from the scene. Three bullets and the fragment were fired by one gun, either a .38 special or a .357 Magnum. The remaining bullet was fired by a .38 special or a .357 Magnum, but not the same one. (Tr. p. 244, line 21 – p. 245, line 20).

After several interviews, officers prepared warrants for Applicant’s arrest. (Tr. p. 202, lines 14-18). The arrest warrants were prepared the same night and were completed the next morning, on April 7, 2012; however, Applicant could not be located and arrested until April 17,

2012. (Tr. p. 209, lines 10-24). He was apprehended at an aunt's home. When officer initially arrived at the home the aunt denied that any males were present. Appellant was found attempting to hide behind a shower curtain. (Tr. p. 277, line 4 – p. 279, line 13).

Applicant spoke to officers the day after his arrest, but merely stated he had no involvement with the shooting; rather, he simply stated he went downtown with Jenkins after the Grant altercation. (Tr. p. 208, lines 1-7).

Applicant's cell phones were recovered after his arrest. (Tr. p. 208, line 23- p. 209, line 9; p. 285, line 14 – p. 287, line 21). Cell phone records to the phone Applicant admitted was his were consistent with the general location and times recounted by the witnesses rather than his statement to police. (Tr. p. 262, line 3 – p. 264, line 8). Applicant confirmed to officers that his cell phone was with him during the "activities of that night." (Tr. p. 208, lines 15-22). Another phone that was retrieved with his admitted cell phone at the aunt's residence showed not only an email addressed to him but also a search of interest made on April 16, 2012, after the shooting and prior to Applicant's arrest: "how long does gun powder stay on the skin." (Tr. p. 299, line 11 – p. 302, line 6). At the same time the phones were recovered, officers also found a black hat which was admitted as State's Exhibit 35. (Tr. p. 289, line 22 – p. 290, line 17). Attempted murder victim McCulley testified the hat was the one she saw on the individual in front who spoke before the shooting. (Tr. p. 116, lines 1-12).

III. Applicant's Filing

In his Filing, Applicant answers Question 10 of the Application for Post-Conviction Relief with the words "See Attach Sheet." However, Applicant failed to attach anything to his application. As such, Applicant's filing contains no cognizable claims as a basis for relief.

IV. State's Position as to Applicant's Claims

Applicant has failed to state a claim as a basis for relief which is allowed under the Uniform Post-Conviction relief Act. S.C. Code Ann. § 17-27-20. As such the Application is meritless and should be dismissed. Rule 12(b)(6) of the SCRCF.

Respondent requests that the application lacking any claim whatsoever be dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....
S.C. Code Ann. § 17-27-20.

PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). In this case, Applicant by failing to state any claim in his application, Applicant has failed to collaterally attack the validity of his conviction or sentence.

For these reasons and pursuant to Rule 12(b)(6), SCRCF, the Court should dismiss the Application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

V. State's Assertion and Reservation of Rights

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), SCRCP. 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, SCRCP. 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), SCRCP.

VI. Request for Dismissal

Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws and Rule 12 of the South Carolina Rules of Civil Procedure on the basis that the Applicant has failed to state facts sufficient to constitute a cause of action and therefore the action should be dismissed.

VII. Conclusion

WHEREFORE, Respondent requests that Applicant's Application for Post-Conviction relief be Dismissed.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON

Senior Assistant Deputy Attorney General

JUDAH N. VANSYCKEL

Assistant Attorney General

By:

Judah N. Vansyckel

ATTORNEYS FOR RESPONDENT

Office of the Attorney General

Post Office Box 11549

Columbia, SC 29211

Telephone: (803) 734-3737

7-18

, 2017

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

TORREN EADY, #358893

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2017-CP-10-358

AFFIDAVIT OF SERVICE BY MAIL

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 and Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Torren Eady, #358893
 McCormick Correctional Institution
 386 Redemption Way
 McCormick, SC 29899

DATED this the 18th day of July, 2017.

Jennifer Jennison
 Jennifer Jennison, Legal Assistant
 For Respondent

cc
AG
AT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Torren M. Eady, SCDC #358893)

Applicant,)

v.)

State of South Carolina)

Respondent,)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2017-CP-10-358

**CONDITIONAL ORDER OF
DISMISSAL**

2017 JUL 26 PM 1:07
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief ("PCR") filed on January 23, 2017. Respondent has filed a Return and Motion to Dismiss, in which it asserts that the Application should be summarily dismissed.

I. Procedural Posture

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court.

In August, 2012, the Charleston County Grand Jury indicted Applicant for Murder (2012-GS-10-04554), for Attempted Murder (2012-GS-10-04555, 2012-GS-10-04556, 2012-GS-10-04557), and for Possession of a Firearm During the Commission of a Violent Crime (2012-GS-10-04558).

Applicant was represented by Benjamin Lewis, Esquire and Christina Parnall, Esquire. The State was represented by Assistant Solicitor Timothy Finch and Assistant Solicitor Gregory Voigt. Applicant proceeded to a jury trial before the Honorable J.C. Nicholson. On December 20th, 2014 the Jury convicted Applicant as indicted. The Court sentenced Applicant to a forty-five year sentence on the Murder, ten year sentences on the Attempted Murders, and a five year

10/9
[Signature]

sentence on the Possession of a Firearm During the Commission of a Violent Crime, all of which were to be served concurrently.

The Applicant filed an appeal. Applicant was represented by Robert Dudek, Esquire. The State was represented by Senior Assistant Deputy Attorney General Melody Brown.¹ The South Carolina Court of Appeals considered the Appeal without Oral Argument. The South Carolina Court of Appeals affirmed his conviction on June 15, 2016. State v. Eady, 2016-UP-288 (2016). The Remittitur was sent on July 1, 2016.

II. Facts of the Case

At trial, the evidence showed Applicant became upset over a former girlfriend's confrontation at his home earlier the same day, rounded up three individuals and at least two guns, went to the nearby home where the friends were and opened fire. One individual – who was not a part of the earlier confrontation – was killed on the porch. Three other individuals were also on the porch. One received a gunshot to the leg, while the other two escaped physical injury. The following facts support the instant summary:

Teresa Jenkins testified that she was dating Applicant at the time of the shooting. She went to Applicant's home on the afternoon of April 6, 2012. While there, Applicant's former girlfriend and mother of his child, Rochelle Grant, approached the house, banged on the door, and shouted. Jenkins testified she saw a text to Applicant from Grant that she was "coming to slap him." (Tr. p. 77, line 14 – p. 78, line 9; p. 80, line 11 – p. 81, line 8). She was not alone. Jenkins testified that Applicant confronted Grant and stated: "You bringing these n*****s to my mama house." (Tr. p. 82, lines 5-7). Grant slapped Applicant's phone from his hand then left. (Tr. p. 82, lines 12-17). Jenkins testified that after the incident, Applicant left for a period of time only to come back with brother Da'Quan, TJ and Jigg. TJ referenced that "they" had been

¹ At the time, Ms. Brown's title was Senior Assistant Attorney General, which is reflected on the Briefs.

"messaging with Tezo," another name for Applicant. TJ had a long gun at his side. (Tr. p. 85, line 5 – p. 86, line 24). The group left, and, shortly after, Jenkins heard gunshots. (Tr. p. 87, lines 14-15; p. 89, lines 16-24). Jenkins testified that Applicant came to the back door of his home and asked to be let in. (Tr. p. 90, lines 5-14). She would later take him and Da'Quan downtown at Applicant's request. Da'Quan said to Jenkins: "I hope you don't think Torren did this, man." (Tr. p. 92, line 1 – p. 95, line 17).

In describing the precursor event to the shooting, attempted murder victim Gabrielle McCulley testified that several individuals left the house where the murder would later occur and walked the short distance to the Eady home along with Grant. She understood they were going to "retrieve a child," but they later disbursed after the yelling, and walked the short – less than two blocks – distance back to the home where the murder occurred. (Tr. p. 110, line 6 – p. 113, line 24). Later that same evening, while she was on the porch with others, she saw "[t]wo individuals" approach the house from around the corner. They were dressed in black and one wore "a black fisherman's hat." (Tr. p. 115, lines 13-24). McCulley testified that the one with the hat was in front and asked about being "ganged." (Tr. p. 116, line 6 – p. 117, line 3). They were then fired upon. (Tr. p. 116, line 8 – p. 117, line 7). McCulley, along with Antione Foster, and Martel Brown, went into the house. Brown had been shot in the leg. Adrian King was shot on and believed dead on the porch. (Tr. p. 118, line 16 – p. 120, line 1). She could not identify Applicant from a photographic lineup, but recognized his voice when she attended a bond hearing. (Tr. p. 120, lines 7-11; p. 123, line 14 – p. 127, line 4).

Antione Foster, another attempted murder victim, also testified as to the prior confrontation by Grant at the Eady home. (Tr. p. 144, line 6 – p. 146, line 24). He was familiar with Applicant as he had previously kept Applicant's young son, being friends with Grant. (Tr.

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p. 138, lines 3-18). Foster testified that after his return from the Eady home, murder victim Adrian King had called and arranged to come over. (Tr. p. 147, lines 15-24). While on the porch with King and others, Foster saw Applicant approach with another individual. (Tr. p. 148, lines 3-19; p. 150, line 22 – p. 151, line 4). Applicant asked about the people who tried to “gang” him. (Tr. p. 148, lines 21 – 25). Martel Brown walked outside on the porch, after having gotten a haircut from Foster’s mother, and asked who Applicant was, but Applicant stated, “It don’t matter, and he started shooting.” Foster testified Brown was shot in the leg and King was shot in the head. (Tr. p. 148, line 25 – p. 149, line 4). Foster identified the gun as a revolver. (Tr. p. 150, lines 7-8). Foster testified that he went directly to the police station and identified Applicant for the officers, having viewed a prepared six photograph array. (Tr. p. 153, line 10 – p. 156, line 24; p. 171, line 19 – p. 173, line 2). He testified that Applicant was the one who shot at him and the others on the porch. (Tr. p. 157, lines 13-21). Foster testified that he only saw Applicant with one gun, and that was the only gun that he witnessed being fired. (Tr. p. 162, lines 2-9).

Forensic pathologist Dr. Lee Marie Tormos testified King died from the gunshot wound to his head, the bullet having entered his left temple, went to the base of his skull, fractured the bones and bounced into his brain. (Tr. p. 196, lines 4-25).

Investigators retrieved 9mm rounds, a “projectile ... not fired,” and a shotgun from the Eady home. (Tr. p. 187, lines 4-25). The parties stipulated that “four complete bullets and one bullet fragment” were recovered from the scene. Three bullets and the fragment were fired by one gun, either a .38 special or a .357 Magnum. The remaining bullet was fired by a .38 special or a .357 Magnum, but not the same one. (Tr. p. 244, line 21 – p. 245, line 20).

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After several interviews, officers prepared warrants for Applicant's arrest. (Tr. p. 202, lines 14-18). The arrest warrants were prepared the same night and were completed the next morning, on April 7, 2012; however, Applicant could not be located and arrested until April 17, 2012. (Tr. p. 209, lines 10-24). He was apprehended at an aunt's home. When officer initially arrived at the home the aunt denied that any males were present. Appellant was found attempting to hide behind a shower curtain. (Tr. p. 277, line 4 – p. 279, line 13).

Applicant spoke to officers the day after his arrest, but merely stated he had no involvement with the shooting; rather, he simply stated he went downtown with Jenkins after the Grant altercation. (Tr. p. 208, lines 1-7).

Applicant's cell phones were recovered after his arrest. (Tr. p. 208, line 23- p. 209, line 9; p. 285, line 14 – p. 287, line 21). Cell phone records to the phone Applicant admitted was his were consistent with the general location and times recounted by the witnesses rather than his statement to police. (Tr. p. 262, line 3 – p. 264, line 8). Applicant confirmed to officers that his cell phone was with him during the "activities of that night." (Tr. p. 208, lines 15-22). Another phone that was retrieved with his admitted cell phone at the aunt's residence showed not only an email addressed to him but also a search of interest made on April 16, 2012, after the shooting and prior to Applicant's arrest: "how long does gun powder stay on the skin." (Tr. p. 299, line 11 – p. 302, line 6). At the same time the phones were recovered, officers also found a black hat which was admitted as State's Exhibit 35. (Tr. p. 289, line 22 – p. 290, line 17). Attempted murder victim McCulley testified the hat was the one she saw on the individual in front who spoke before the shooting. (Tr. p. 116, lines 1-12).

III. Applicant's Filing

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In his Filing, Applicant answers Question 10 of the Application for Post-Conviction Relief with the words "See Attach Sheet." However, Applicant failed to attach anything to his application. As such, Applicant's filing contains no cognizable claims as a basis for relief.

IV. Applicable Law

Under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....
S.C. Code Ann. § 17-27-20.

PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Pursuant to Rule 12(b)(6), SCRPC, a Court should dismiss an Application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

V. Findings of Fact and Conclusions of Law

This Court finds that Applicant has failed to assert any grounds for relief available under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

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1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy...

S.C. Code Ann. § 17-27-20.

PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Pursuant to Rule 12(b)(6), SCRCP, a Court should dismiss an Application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

Applicant has stated no grounds as the basis for the application for Post-Conviction relief. Applicant has failed to set forth any of the statutorily required grounds for Post-Conviction Relief. S.C. Code Ann. §17-27-10 to -160. Applicant's Application thus fails to collaterally attack the validity of the conviction or sentence as required under Al-Shabazz v. State. 338 S.C. 354, 527 S.E.2d 742 (2000). As Applicant has failed to state a cognizable claim, his Application must be dismissed pursuant to Rule 12(b)(6), SCRCP.

VI. Conclusion

Based on the foregoing facts, the Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Applicant failed to state a claim cognizable under the South Carolina Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

(signature block on next page)

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[Handwritten signature]

AND IT IS SO ORDERED this 21st day of July, 2017.

Deadra Jefferson
Deadra Jefferson
Presiding Judge
Ninth Judicial Circuit

Chas., South Carolina

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Torren M. Eady, SCDC #358893

Applicant,

v.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2017-CP-10-358

FINAL ORDER OF DISMISSAL

2018 MAY 21 PM 3:26
JULIE A. BUCHHEIT
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief ("PCR") filed on January 23, 2017. Respondent has filed a Return and Motion to Dismiss requesting the application be summarily dismissed.

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court.

In August, 2012, the Charleston County Grand Jury indicted Applicant for murder (2012-GS-10-04554), for attempted murder (2012-GS-10-04555, 2012-GS-10-04556, 2012-GS-10-04557), and for possession of a firearm during the commission of a violent crime (2012-GS-10-04558). Applicant was represented by Benjamin Lewis, Esquire and Christina Parnall, Esquire. The State was represented by Assistant Solicitor Timothy Finch and Assistant Solicitor Gregory Voigt. Applicant proceeded to a jury trial before the Honorable J.C. Nicholson. On December 20th, 2014 the Jury convicted Applicant as indicted. The Court sentenced Applicant to a forty-five year sentence on the murder, ten year sentences on the attempted murders, and a five year sentence on the possession of a firearm during the commission of a violent crime, all of which were to be served concurrently.

The Applicant filed an appeal. Applicant was represented by Robert Dudek, Esquire. The State was represented by Senior Assistant Deputy Attorney General Melody Brown.¹ The South Carolina Court of Appeals considered the Appeal without Oral Argument. The South Carolina Court of Appeals affirmed his conviction on June 15, 2016. State v. Eady, 2016-UP-288 (2016). The Remittitur was sent on July 1, 2016.

II.

Pursuant to Respondents request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed July 21, 2017 and filed July 26, 2017, provisionally denying and dismissing this action, while giving the Applicant 20 days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated July 27, 2017, serving the above-mentioned Conditional Order of Dismissal on Applicant.

III.

Applicant has failed to respond to either Respondent's motion to dismiss or this Court's Conditional Order of Dismissal. Therefore, this Court finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

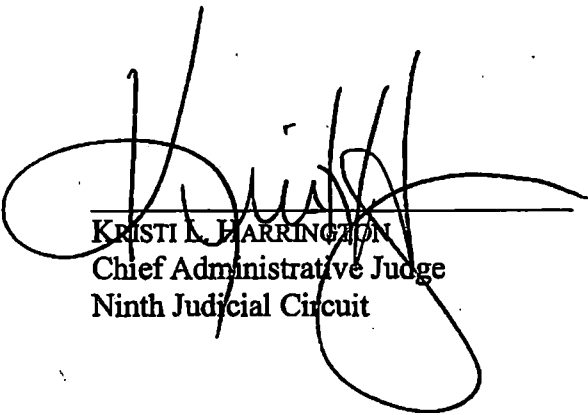
¹ At the time, Ms. Brown's title was Senior Assistant Attorney General, which is reflected on the Briefs.

IV.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within 30 days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 14th day of May, 2018.



KRISTI L. HARRINGTON
Chief Administrative Judge
Ninth Judicial Circuit

Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE #: 2017-CP-10-0358
	)	
TORREN EADY,	)	
Applicant,	)	
	)	
vs.	)	MOTION TO ALTER/ AMEND JUDGMENT
	)	
STATE OF SOUTH CAROLINA,	)	
Respondent.	)	
	)	

Now comes the defendant, by and through his undersigned attorney, moving to alter or amend the Order of Dismissal pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. Counsel received a copy of the filed Order on May 29, 2018. The Order should be rescinded and a full, evidentiary, Post Conviction Relief (PCR) Hearing should be scheduled. The Applicant bases his requests on the following grounds:

1. The Application for PCR was filed pro se but timely,
2. The Respondent requested dismissal before providing the Applicant with a transcript of the trial,
3. The actions of the Respondent prevented the Applicant from his right to "one bite at the apple".

PROCEDURAL HISTORY

Mr. Eady filed his pro se Application on January 23, 2017. In the Application, he indicates that his grounds for relief are listed on an attached sheet.¹ Under-signed counsel was appointed to represent Mr. Eady on March 9, 2017. On July 18, 2017, the Respondent sent The Honorable Deadra L. Jefferson a proposed Conditional Order of Dismissal for failure to make any cognizable claims. No trial transcript was ever provided to the Applicant by the State.² Judge Jefferson signed

¹ Application is attached as Exhibit "A" and client's assertion appears on page 2, line 10.

² Mr. Eady was convicted after a three day jury trial, February 18 – 20, 2014.

the Conditional Dismissal on July 21, 2017. On May 2, 2018, the Respondent sent a proposed Final Order of Dismissal to the Honorable Kristi L. Harrington. This order mirrors the previous Conditional Order of Dismissal. Judge Harrington signed the order on May 14, 2018.

Many factors contributed to the dismissal of the PCR Application and many factors call for the dismissal to be rescinded. In the nearly ten months that passed between the Conditional Order and Final Order, the Applicant's attorney spoke with at least three different Assistant Attorneys General for Charleston County PCR cases. No transcript was ever provided to appointed counsel. In all other PCR cases that this attorney has been appointed, the State has provided trial transcripts, usually with the filing of the Return.

Mr. Davis was appointed to provide the Mr. Eady with competent, legal counsel. Surely, Mr. Davis' appointment was intended to provide actual assistance and not just the appearance of representation. However, without the benefit of the trial transcript, counsel could not have fulfilled his ethical obligation to seek out all cognizable PCR claims from trial attorneys' conduct over the three day trial.³ Furthermore, a generic "ineffective assistance of counsel" claim could not have been made, in good faith, without a factual basis found in the trial transcript.⁴ Additionally, the Applicant has been housed at McCormick Correctional Institution. McCormick Correctional Institution has been on "lock-down" since the deadly incident at Lee Correctional Institution (among other reasons, because inmates transferred from McCormick were involved in the incident).⁵ This safety procedure prevented blocked even attorney telephone calls into the institution for a period of time.

Clearly, though appointed to represent the Applicant, Mr. Eady did not receive adequate representation since his attorney was denied the opportunity to review the trial transcript prior to the

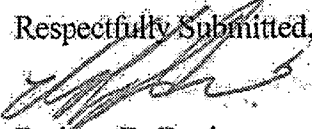
³ Rule 1.3, Diligence. South Carolina Rules of Professional Conduct.

⁴ Rule 3.1, Meritorious Claims and Contentions. South Carolina Rules of Professional Conduct.

⁵ <http://www.thestate.com/news/local/crime/article208982794.html>

dismissal of the PCR. The Court should rescind the Final Order of Dismissal, order the State to provide a copy of the trial transcript to the Applicant, allow the Applicant ten (10) days following receipt of the transcript to file an Amended Application and grant a full evidentiary hearing on the merits. On, in the alternative, schedule a hearing on this motion.

Respectfully Submitted,


Rodney D. Davis

Charleston, SC

6/6, 2018

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
)
)

CASE #: 2017-CP-10-0358

TORREN EADY,
Applicant,

vs.

STATE OF SOUTH CAROLINA,
Respondent.

ORDER VACATING DISMISSAL

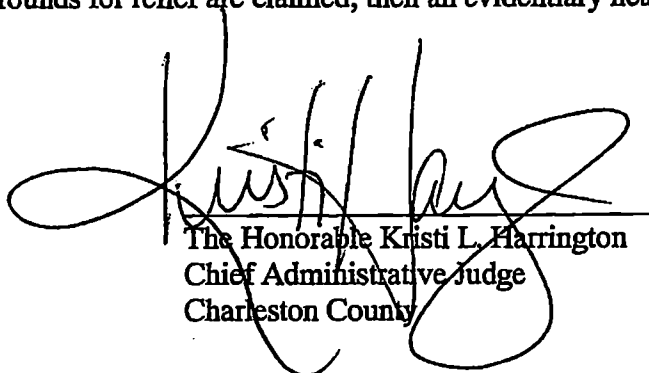
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CLERK OF COURT

The Applicant filed a Motion to Alter or Amend the Final Order of Dismissal pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. After serving the Motion on the State, the parties discussed alternatives for relief. On June 13, 2018, at the Charleston County Judicial Center, the Chief Administrative Judge Harrington discussed this matter with counsel for both parties.

The State provided the Applicant with a copy of the trial transcript. The Applicant requested time to review the transcript and amend the Application in a timely manner. So, with consent of the State, the Court vacates it's May 14, 2018, Order of Dismissal. Mr. Eady's Post Conviction Relief Action is reinstated.

Further, it is ordered that the Applicant must file an Amended Application on or before Monday, July 2, 2018. If cognizable grounds for relief are claimed, then an evidentiary hearing will be scheduled on this matter.

IT IS SO ORDERED!



The Honorable Kristi L. Harrington
Chief Administrative Judge
Charleston County

Charleston, South Carolina

June 13, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO: 2017-CP-10-0358
TORREN EADY,	)	
	)	
Applicant,	)	
	)	AMENDED APPLICATION FOR
vs.	)	POST CONVICTION RELIEF
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

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 CLERK OF COURT

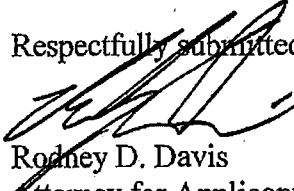
The Applicant, Torren Eady, now having the benefit of appointed counsel, alleges the following:

1. Torren Eady is detained at McCormick Correctional Institution under Inmate Number: 358893.
2. He was indicted in Charleston County for Murder, Attempted Murder (x3), and Possession of a Weapon During a Violent Crime (Weapon) in August, 2012 under Indictment Numbers: 2012-GS-10-4554 - 58.
3. On February 20, 2014, after a three day trial before the Honorable J.C. Nicholson, Jr., he was convicted on all charges and sentenced to forty (40) years on Murder, ten (10) years on every Attempted Murder, and five (5) years on the Weapon charge, to be served concurrently.
4. He was represented by Ben Lewis on these charges (trial attorney).
5. The Applicant filed a timely appeal of his conviction.
6. The South Carolina Court of Appeals confirmed the conviction and filed the Remittitur on July 1, 2016.
7. The Applicant filed an *in forma pauperis* application for post conviction relief on January 23, 2017.
8. The undersigned counsel, Rodney D. Davis, was appointed to represent the Applicant on March 9, 2017.
9. The State filed a Return and Motion to Dismiss on July 18, 2017.

10. A Conditional Order of Dismissal was filed on July 26, 2017, signed by the Honorable Deadra Jefferson.
11. A Final Order of Dismissal was filed on May 21, 2018, signed by the Honorable Kristi Harrington.
12. The Applicant filed a Motion to Alter/ Amend Judgment on June 6, 2018.
13. An Order Vacating Dismissal was filed on Judge Harrington June 14, 2018.
14. The Applicant incorporates the claims of ineffective assistance from his original Application (his original "Attached Sheet" that he intended to file with his Application is included as Exhibit "A" for record keeping purposes only).
15. The Applicant amends the original Application to alleged that the trial attorney was ineffective for failing to fully investigate the case.
16. The Applicant amends the original Application to alleged that the trial attorney was ineffective for failing to properly advise the Applicant prior to trial.
17. The Applicant amends the original Application to alleged that the trial attorney was ineffective for failing to request a Jackson v. Denno hearing.¹
18. The Applicant amends the original Application to alleged that the trial attorney was ineffective for failing to fully prepare, discuss and/ or present all potential defenses.

Wherefore, based on this Amended Application, the Applicant requests that a hearing on the merits scheduled.

Respectfully submitted,


Rodney D. Davis
Attorney for Applicant
101 Meeting Street, 5th Floor
Charleston, SC 29401
Davis@LowcountryLawOffice.com
(843) 882-5065

July 2, 18

¹ Jackson v. Denno, 378 U.S. 368 (1964)

Pursuant to S.C. Code of Laws section 17-25-45 (A) an application for Post Conviction Relief filed pursuant to Chapter 17 section 17-27-20 (1)(b) must be filed within one (1) year after entry of a Judgment or Conviction or within one (1) year after the sending of the remittitur to the Lower Court from an appeal of the final decision upon an appeal which ever is later.

Applicant set forth this cause of action pursuant to the Jurisdiction that are set forth in Chapter 17 section 17-27-20 (1)(b) "Collateral attack upon any grounds of alleged error heretofore available under this Uniform Post Conviction Act that are being submitted or amended."

The Applicant asserts two (2) grounds for relief at this time (1) ineffective assistance of trial Counsel (2) Actual innocence. Applicant also asserts that due to his lack of understanding of the Law Applicant request that Counsel be appointed pursuant to Fl. 1(d) SCRLV.P. and S.C. Code of Law 17-27-90.

Applicant asserts that there are further grounds to be raised, but due to the lack of records and without such and the assistance of Counsel, it would be chronologically impossible for the Applicant to carry such a burden to show his entitlement for relief by a preponderance of the evidence, and for the appointment of Counsel to insure that all available grounds for relief are included in the application under S.C. Code of Laws 17-27-90.

Therefore, Applicant request that this Court appoint Counsel in the above mention application. Applicant moves this Honorable Court to grant leave to amend this application in this cause of action due to the lack of Counsel and Applicant is a Lay Person at Law.

Applicant seeks this Court approval of this application so that Applicant right to a PCR won't be deem abandon due to the fact that Applicant has only one (1) year to file this Application from the date of a final Judgment or from the remittitur to the Lower Court which ever comes first.

Respectfully Submitted,

March
~~February~~ 11, 2016

Torren Eady
Torren M. Eady #358893

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Torren M. Eady, SCDC #358893

Applicant,

v.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2017-CP-10-358

AMENDED RETURN

The State, making its amended return to the application for post-conviction relief (PCR) filed on January 23, 2017 would respectfully show this Court:

I. Procedural History

Applicant, Torren M. Eady, is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court.

During its August 2012, term, the Charleston County Grand Jury indicted Applicant for murder (2012-GS-10-04554), four counts of attempted murder (2012-GS-10-04555, 2012-GS-10-04556, 2012-GS-10-04557), and for possession of a firearm during the commission of a violent crime (2012-GS-10-04558). Assistant Public Defenders Benjamin Lewis and Christina Parnall, Esquire represented Applicant. Assistant Solicitors Timothy Finch and Gregory Voigt prosecuted the case. Applicant proceeded to a jury trial before the Honorable J.C. Nicholson, circuit court judge, and December 20, 2014, the jury convicted Applicant as indicted. Judge Nicholson sentenced Applicant to forty-five years imprisonment for murder, ten years imprisonment for each attempted murder, and five years' imprisonment for possession of a firearm during the commission of a violent crime, all of which were to be served concurrently.

Applicant filed an appeal and was represented by Chief Appellate Defender Robert Dudek, of the South Carolina Commission on Indigent Defense-Office of Appellate Defense. On appeal, Applicant raised the following issues:

1. The court erred by refusing to charge “mere presence” and “mere association” are insufficient to convict where there were allegedly two men present at the time of the shooting, it was undisputed several eyewitnesses were unable to identify which one was the shooter, and where there was also evidence the shooter acted spontaneously since this instruction was necessary given the facts of this case.
2. The court erred by allowing witness Teresa Jenkins to speculate that something “bad had happened” based on the way the appellant and the other man “were acting” when she dropped them off in Charleston on the day of the incident, since it was improper for the solicitor to elicit such improper speculation.

Following briefing, the South Carolina court of Appeals affirmed Applicants convictions and sentence by unpublished opinion. State v. Eady, 2016-UP-288 (filed June 15, 2016). The Remittitur was issued on July 1, 2016.

II. Facts of the Case

At trial, the evidence showed Applicant became upset over a former girlfriend’s confrontation at his home earlier the same day, rounded up three individuals and at least two guns, went to the nearby home where the friends were and opened fire. One individual- who was not a part of the earlier confrontation- was killed on the porch. Three other individuals were also on the porch. One received a gunshot to the leg, while the other two escaped physical injury. The following facts support the instant summary.

Teresa Jenkins testified that she was dating Applicant at the time of the shooting. She went to Applicant’s home on the afternoon of April 6, 2012. While there, Applicant’s former girlfriend and mother of his child, Rochelle Grant, approached the house, banged on the door, and shouted. Jenkins testified she saw a text to Applicant from Grant that she was “coming to slap him.” (Tr. p. 77, line 14 – p. 78 line 9; p. 80, line 11 – p. 81, line 8). She was not alone.

Jenkins testified that Applicant confronted Grant and stated: "You bringing these n****s to my mama house." (Tr. p 82, lines 5-7). Grant slapped Applicant's phone from his hand then left. (Tr. p. 82, lines 12-17). Jenkins testified that after the incident, Applicant left for a period of time only to come back with Da'Quan, TJ, and Jigg. TJ referenced that "they" had been "messing with Tezo," another name for Applicant. TJ had a long gun at this side. (Tr. p. 85, line 5 – p. 86, line 24). The group left, and, shortly after, Jenkins heard gunshots. (Tr. p. 87, lines 14-15; p. 89, lines 16-24). Jenkins testified that Applicant came to the back door of his home and asked to be let in. (Tr. p. 90, lines 5-14). She would later take him and Da'Quan downtown at Applicant's request. Da'Quan said to Jenkins: "I hope you don't think Torren did this, man." (Tr. p. 92, line 1 – p. 95, line 17).

In describing the precursor event to the shooting, attempted murder victim Gabrielle McCulley testified that several individuals left the house where the murder would alter occur and walked the short distance to the Eady home along with Grant. She understood they were going to "retrieve a child," but they later disbursed after the yelling, and walked the short – less than two blocks – distance back to the home where the murder occurred. (Tr. p. 110, line 6 – p. 113, line 24). Later that same evening, while she was on the porch with others, she saw "two individuals" approach the house from around the corner. They were dressed in black and one wore "a black fisherman's hat." (Tr. p. 115, lines 13-24). McCulley testified that the one with the hat was in front and asked about being "ganged." (Tr. p. 116, line 6 – p. 117, line 3). They were then fired upon. (Tr. p. 116, line 8 – p. 117, line 7). McCulley, along with Antione Foster, and Martel Brown, went into the house. Brown had been shot in the leg. Adrian King was shot on and believed dead on the porch. (Tr. p. 118, line 16 – p. 120, line 1). She could not identify Applicant

from a photographic lineup, but recognized his voice when she attended a bond hearing. (Tr. p. 120, lines 7-11; p. 123, line 14 – p. 127, line 4).

Antione Foster, another attempted murder victim, also testified as to the prior confrontation by Grant at the Eady home. (Tr. p. 144, line 6 – p. 146, line 24). He was familiar with Applicant as he had previously kept Applicant's young son, being friends with Grant. (Tr. p. 138, lines 3-18). Foster testified that after his return from the Eady home, murder victim Adrian King had called and arranged to come over. (Tr. p. 147, lines 15-24). While on the porch with King and others, Foster saw Applicant approach with another individual. (Tr. p. 148, lines 3-19; p. 150, line 22 – p. 151, line 4). Applicant asked about the people who tried to "gang" him. (Tr. p. 148, lines 21-25). Martel Brown walked outside on the porch, after having gotten a haircut from Foster's mother, and asked who Applicant was, but Applicant stated, "It don't matter, and he started shooting." Foster testified Brown was shot in the leg and King was shot in the head. (Tr. p. 148, line 25 – p. 149, line 4). Foster identified the gun as a revolver. (Tr. p. 150, lines 7-8). Foster testified that he went directly to the police station and identified Applicant for the officers, having viewed a prepared six photograph array. (Tr. p. 153, line 10 – p. 156, line 24; p. 171, line 19 – p. 173, line 2). He testified that Applicant was the one who shot at him and the others on the porch. (Tr. p. 157, lines 13-21). Foster testified that he only saw Applicant with one gun, and that was the only gun that he witnessed being fired. (Tr. p. 162, lines 2-9).

Forensic pathologist Dr. Lee Marie Tormos testified King died from the gunshot wound to his head, the bullet having entered his left temple, went to the base of his skull, fractured the bones and bounced into his brain. (Tr. p. 196, lines 4-25).

Investigators retrieved 9mm rounds, a "projectile... not fired," and a shotgun from the Eady home. (Tr. p. 187, lines 4-25). The parties stipulated that "four complete bullets and one

bullet fragment” were recovered from the scene. Three bullets and the fragment were fired by one gun, either a .38 special or a .357 Magnum. The remaining bullet was fired by a .38 special or a .357 Magnum, but not the same one. (Tr. p. 244, line 21 – p. 245, line 20).

After several interviews, officers prepared warrants for Applicant’s arrest. (Tr. p. 202, lines 14-18). The arrest warrants were prepared the same night and were completed the next morning, on April 7, 2012; however, Applicant could not be located and arrested until April 17, 2012. (Tr. p. 209, lines 10-24). He was apprehended at an aunt’s home. When officer initially arrived at the home the aunt denied that any males were present. Appellant was found attempting to hide behind a shower curtain. (Tr. p. 277, line 4 – p. 279, line 13).

Applicant spoke to officers the day after his arrest, but merely stated he had no involvement with the shooting; rather, he simply stated he went downtown with Jenkins after the Grant altercation. (Tr. p. 208, lines 1-7).

Applicant’s cell phones were recovered after his arrest. (Tr. p. 208, line 23 – p. 209, line 9; p. 285, line 14 – p. 287, line 21). Cell phone records to the phone Applicant admitted was his were consistent with the general location and times recounted by the witnesses rather than his statement to police. (Tr. p. 262, line 3 – p. 264, line 8). Applicant confirmed to officers that his cell phone was with him during the “activities of that night.” (Tr. p. 208, lines 15-22). Another phone that was retrieved with his admitted cell phone at the aunt’s residence showed not only an email addressed to him but also a search of interest made on April 16, 2012, after the shooting and prior to Applicant’s arrest: “how long does gun powder stay on the skin.” (Tr. p. 299, line 11 – p. 302, line 6). At the same time the phones were recovered, officers also found a black hat which was admitted as State’s Exhibit 35. (Tr. p. 289, line 22 – p. 290, line 17). Attempted

murder victim McCulley testified the hat was the one she saw on the individual in front who spoke before the shooting. (Tr. p. 116, liens 1-12).

III. Current Post-Conviction Relief Action

The Applicant filed an *in forma pauperis* application for post-conviction relief on January 23, 2017. Applicant was appointed Rodney D. Davis esquire as counsel on March 9, 2017.

The State filed its Return and Motion to Dismiss on July 18, 2017, arguing the application should be summarily dismissed for failing to raise a cognizable claim for relief. On July 26, 2017 the Honorable Deadra Jefferson, acting in her capacity as Chief Administrative Judge for Charleston County Common Pleas, signed a Conditional Order of Dismissal, provisionally dismissing the action for failure to state a claim but giving Applicant, through counsel, twenty days to provide a sufficient reason as to why the application should not become final. Applicant failed to respond to the motion to dismiss or the conditional order of dismissal. On May 21, 2018 the Honorable Kristi Harrington, acting in her capacity as Chief Administrative Judge for Charleston County Common Pleas, signed the Final Order of Dismissal. The Applicant filed a Motion to Alter/Amend Judgment on June 6, 2018. An Order Vacating Dismissal was filed on Judge Harrington on June 14, 2018.

Thereafter, on July 2, 2018, Applicant through counsel, filed an amended application for post-conviction relief. In this amended application, Applicant incorporates the previously mentioned attachment (the State still has not been provided with the attachment) and sets forth the following grounds for post-conviction relief:

1. Trial counsel was ineffective for failing to properly advise the Applicant prior to trial.
2. Trial counsel was ineffective for failing to request a Jackson v. Denno hearing.

3. Trial counsel was ineffective for failing to fully prepare, discuss and/or present all potential defenses.

Applicant also requests that a hearing on the merits be scheduled.

IV. Response to Applicant's Allegations of Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of trial counsel are without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E. 2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgement." (citing Strickland, 466 U.S. at 690). An applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is reasonable probability that,

but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegations 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).

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in the post-conviction relief 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), SCRCPP. 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, SCRCPP, 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), SCRCPP.

Pursuant to §17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

V. Response to Any and All other Allegations

Each and every allegation contained within the application and amended application not expressly admitted, qualified, or explained in this amended return is hereby denied.

VI. Conclusion

WHEREFORE, Respondent requests the Court's dismissal of all other allegations as set forth in Applicant's original application be made final. Moreover, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN LIMBAUGH
Assistant Attorney General

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September 17, 2018

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Torren M. Eady, SCDC #358893

Applicant,

v.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2017-CP-10-358

Affidavit of Service by Mail

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 **Amended Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney D. Davis, Esquire
Charleston County Public Defender
101 Meeting Street, 5th Floor
Charleston, SC 29401

DATED this the 17th day of September, 2018.


Jennifer Jennison, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	2017-CP-10-00358
TORREN M. EADY,	)	
	)	
Applicant,	)	Transcript of Record
	)	Post-Conviction Relief
vs.	)	
	)	October 3, 2018
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

B E F O R E:

Honorable Michael G. Nettles
Charleston County Courthouse
Charleston, South Carolina

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

Rodney D. Davis, Esquire
Attorney for Applicant

Benjamin Limbaugh, Esquire
Attorney for Respondent

Kay H. Richardson
Circuit Court Reporter

I N D E XOCTOBER 3, 2018Pg.

By the Court	3
Torren Eaddy	
By the Court	6
Benjamin Carter Lewis	
Direct by Davis	9
Cross by Limbaugh	22
Torren Eaddy	
Direct by Davis	29
Benjamin Carter Lewis	
Reply Direct by Limbaugh	37
By the Court	38
Ruling of the Court	52
Certificate of Court Reporter	57

E X H I B I T SNo.IDEV

(No exhibits were marked or admitted.)

1 OCTOBER 3, 2018 - 1:02 P.M.

2 BY THE COURT:

3 MR. LIMBAUGH: May it please the Court? The next matter
4 is Torren Eady v. State of South Carolina, docket number 2017-
5 CP-10-358. Charleston County Grand Jury indicted Applicant
6 for murder, four counts of attempted murder, and for
7 possession of a firearm during the commission of a violent
8 crime. Assistant Public Defenders, Benjamin Lewis and
9 Christina Parnell, Esquire, represented Applicant. Assistant
10 Solicitors Timothy Finch and Gregory Voigt prosecuted the
11 case. Applicant proceeded to a trial -- jury trial before the
12 Honorable J.C. Nicholson, and December 20th, 2014, the jury
13 convicted Applicant as indicted. Judge Nicholson sentenced
14 Applicant to 45 years imprisonment for murder, 10 years
15 imprisonment for each attempted murder, and five years
16 imprisonment for possession of a firearm during the commission
17 of a violent crime. All of which were to be served
18 concurrently.

19 Applicant filed an appeal and was represented by Chief
20 Appellate Defender Robert Dudek of the South Carolina
21 Commission of Indigent Defense Office of Appellate Defense.
22 Following briefing, the South Carolina Court of Appeals
23 affirmed Applicant's convictions and sentence by unpublished
24 opinion.

25 The applicant filed an in forma pauperis application for

1 post-conviction relief on January 23rd, 2017. Applicant was
2 appointed Rodney D. Davis, Esquire as counsel on March 9th,
3 2017. The state filed its return and motion to dismiss on
4 July the 18th, 2017 arguing the application should be
5 summarily dismissed for failing to raise a cognizable claim
6 for relief. On July 26th, 2017, the Honorable Deadre
7 Jefferson, acting in her capacity as Chief Administrative
8 Judge for Charleston County Common Pleas, signed a conditional
9 order of dismissal provisionally dismissing the action for
10 failure to state a claim but giving Applicant through counsel
11 20 days to provide a sufficient reason as to why the
12 application should not be become final. Applicant failed to
13 respond to the motion to dismiss or the conditional order of
14 dismissal. On May 21st, 2018, the Honorable Kristi
15 Harrington, acting in her capacity as Chief Administrative
16 Judge for Charleston County Common Pleas, signed a final order
17 of dismissal. The applicant filed a motion to alter or amend
18 judgment on June 6th, 2018. An order vacating dismissal was
19 filed by Judge Harrington on June 14th, 2018. Thereafter, on
20 July 2nd, 2018, Applicant through counsel filed an amended
21 application for post-conviction relief. In this amended
22 application, Applicant incorporates the previously mentioned
23 attachment and sets forth the following grounds for post-
24 conviction relief: Trial counsel was ineffective for failing
25 to properly advise the applicant prior to trial; trial counsel

1 was ineffective for failing to request a *Jackson v. Denno*
2 hearing; and trial counsel was ineffective for failing to
3 fully prepare, discuss and/or present all potential defenses.

4 THE COURT: Mr. Davis, you're recognized.

5 MR. DAVIS: Thank you, Judge.

6 A couple of housekeeping matters, the reason the Rule 59
7 was filed and Judge Harrington reopened it was the state
8 consented that the transcript had never been provided. So, I
9 have no transcript even after the dismissal. So, the state
10 conceded they had never provided that and we reopened it on
11 the state's consent, so we -- I certainly appreciate that. I
12 certainly now have the trial transcript. The other thing,
13 Judge, is it's murder, three attempted murders not four, and a
14 weapons charge. And in fact, over the lunch break -- and I
15 appreciate the ability to do that, Judge -- I've spoken with
16 my client who is here from SCDC. So, I've advised him that,
17 again, if we are successful, if he -- even if the state
18 appealed, he's successful in appeal, he's got a murder charge
19 which is 30 to life, day for day on a life is to die in
20 prison; three attempted murder charges, which is zero to 30 on
21 each, so if consecutive, 30/60/90; and a flat five years on
22 the weapon during a violent crime. His current sentence, as
23 the state indicated, 45/10/10/10/5, all concurrent. So, he --
24 the only way to improve is to go forward, but the only way to
25 bring in the possibility of something worse than 45 is to

1 continue. I've spoken with him about it, but we could get
2 that on the record, I'd appreciate it.

3 THE COURT: Yes, sir. Your full name?

4 MR. EADY: My name is Torren Eady.

5 THE COURT: Pardon?

6 MR. EADY: Torren Eady.

7 THE COURT: Okay. Raise your right hand as the clerk
8 administers the oath.

9 TORREN EADY, HAVING BEEN DULY SWORN,
10 TESTIFIES AS FOLLOWS:

11 THE COURT: All right. You've heard what your lawyer has
12 said. Have y'all talked about this matter in great detail?

13 MR. EADY: I'm ready. I talked to him downstairs.

14 THE COURT: Okay. I tell you what I'm gonna do. I'm
15 gonna -- in order for us to get down to testimony in the --
16 like in the transcript that you've read, you can't talk when
17 I'm talking and I can't talk when you're talking. Let's agree
18 to do that. Okay?

19 MR. EADY: Okay.

20 THE COURT: All right. Have you understood all of your
21 conversations with your lawyer?

22 MR. EADY: Yeah.

23 THE COURT: And you're satisfied with your lawyer?

24 MR. EADY: Yeah, he -- what he said, everything sounded -
25 - everything, but I ---

1 THE COURT: Okay. And you understand that if you go
2 forward and you're successful in this hearing, it might be
3 that you end up with a worse sentence, a longer sentence?

4 MR. EADY: Yeah, I understand, sir.

5 THE COURT: Pardon?

6 MR. EADY: Yes, I understand. Okay, I apologize. I
7 understand, sir.

8 THE COURT: All right. And no one has put any pressure
9 on you to file this application or to go forward here today?

10 MR. EADY: No, all this, me doing my paperwork that I've
11 been doing.

12 THE COURT: But nobody pressured you?

13 MR. EADY: Nobody pressure me. Everything all right.

14 THE COURT: It's your decision to do that?

15 MR. EADY: Yeah.

16 THE COURT: Is that a yes?

17 MR. EADY: Yes, yes, sir.

18 THE COURT: Okay. And you want to move forward here
19 today?

20 MR. EADY: Yes, sir.

21 THE COURT: All right. And you've understood all your
22 conversations with your lawyer?

23 MR. EADY: Yes, sir.

24 THE COURT: And you're satisfied with him?

25 MR. EADY: Yes, sir.

1 THE COURT: All right. We'll proceed forward.

2 MR. DAVIS: Thank you very much, Your Honor.

3 THE COURT: You can have a seat.

4 And I'm gonna ask you can delineate the specific issues -
5 that you've set forth and plan to go forward with here today?

6 MR. DAVIS: I will, Judge. I have given the state
7 basically my outline of what I intend to go through. And,
8 Judge, I will actually call Mr. Lewis first. There were some
9 things -- Mr. Eady had filed his pro se application listing
10 several things. Actually, when he first filed it the attached
11 sheet wasn't included. I filed a basically general amended
12 application. There are -- there's conduct at trial dealing
13 with failure to request a mistrial, opening the door to
14 certain testimony, failing to get expert witnesses about some
15 phone evidence, and an issue about not -- withdrawing a *Denno*
16 motion, and finally no objection to a jury charge. Those
17 would be the objections to Mr. Lewis' conduct at trial.
18 Finally, Judge, and I told the state about this this morning,
19 in meeting with my client over the break, I believe I
20 misunderstood previously, I believe he'll testify also that
21 there was a offer -- one offer made that was rejected and
22 he'll have testimony about his lawyer's performance about that
23 objection. That is something I made the Court -- the state
24 aware of as soon as I was able to, Judge. So, that would be
25 ---

1 THE COURT: You may call your first witness.

2 MR. DAVIS: We'd call Mr. Lewis.

3 THE COURT: Yes, sir. Please come forward. I'm gonna
4 ask you if you could to place your left hand on the Bible and
5 raise your right hand as the clerk administers the oath.

6 MR. LEWIS: Yes, Your Honor.

7 THE COURT: You can set your paperwork down. There you
8 go.

9 BENJAMIN CARTER LEWIS, HAVING BEEN
10 DULY SWORN, TESTIFIED AS FOLLOWS:

11 CLERK: Please have a seat and, for the record, state
12 your name and spell your last.

13 MR. LEWIS: Yes, ma'am. It's Benjamin Carter Lewis, L-E-
14 W-I-S.

15 DIRECT EXAMINATION OF BENJAMIN CARTER LEWIS BY MR. DAVIS:

16 Q: Mr. Lewis, at the time you represented Mr. Eady you were
17 at the public defender's office?

18 A: Yes, sir.

19 Q: And when were you licensed as a lawyer?

20 A: It would've been right before -- right before I was
21 hired. So, I started December 3rd, 2007; so probably the --
22 right before that.

23 Q: Okay. So, 11 years, approximately?

24 A: Yes, sir.

25 Q: I want to get straight to, you had a chance to review the

1 transcript and your file?

2 A: I have. Not as thoroughly as I would have obviously
3 before trial, but I can certainly be directed to anything you
4 need.

5 Q: And I think you have a box back here; is that your
6 original file?

7 A: It is.

8 Q: All right. First of all, can you give a quick summary of
9 the dates, allegations -- the factual allegations against Mr.
10 Eady?

11 A: I don't remember any of the names, and I apologize for
12 that. I've had a lot of cases between then and now. So, the
13 way I remember it was the state was alleging that there had
14 been an argument earlier in the day derived from a
15 relationship with a woman, a very young woman, between two men
16 who had sort of been talking to her. One of them was my
17 client. They were -- the allegation by the state was that
18 there was a confrontation at my client's home. He'd only been
19 there for a few days, which was across the street diagonally
20 probably a hundred yards from the scene where ultimately the
21 decedent was killed. The suggestion was a group of young
22 people went over to my client's house, confronted him later --
23 I guess, their suggestion would be, he got an opportunity to
24 think about that, got mad about it, got a group of people
25 together, went over and shot up the house where ultimately --

1 the decedent was somebody who had nothing to do with anything
2 in regards to the case. And then the other counts of the
3 attempted murder were the porch was just full of random
4 people. I can go on from there if you need me to.

5 Q: No, that is fine. That's a quick synopsis of it. After
6 arrest, do you recall that he gave a statement to law
7 enforcement?

8 A: Yes.

9 Q: So, we have an identification issue and a statement issue
10 prior to going to trial, correct?

11 A: Yeah, and several others, but yeah at least those two,
12 yeah.

13 Q: You had filed a *Biggers* -- a written *Biggers* motion and a
14 written *Denno* motion?

15 A: Yes. I believe so.

16 Q: I'm sorry?

17 A: I believe so. I can't remember if I filed it; usually I
18 do just sort of a -- right before trial.

19 Q: Whether it was clocked in with the clerk or not it was
20 certainly made aware to the Judge?

21 A: Yes.

22 Q: You had a pretrial hearing on the *Biggers* identity issue?

23 A: Yes.

24 Q: You withdrew the *Denno* motion, however, correct?

25 A: I did.

1 Q: Why?

2 A: I've thought about it since then. It's hard to get right
3 back into my exact state of mind at the time. What I've come
4 up with, having thought back on it was it was likely that I
5 didn't think that it was too damning, and that I believed that
6 there had been sort of an understanding that he wasn't one of
7 the normal clients that he could argue, yeah, he's
8 intellectual disabled, or he has a substance abuse issue, or
9 he wasn't Mirandized, or he's already under pressure or, you
10 know, they're depriving him of water, or they're not letting
11 him use the restroom, or anything else to sort of coerce his
12 testimony. I don't remember any of those red flags. As I
13 looked back over my sort of handmade transcript today, I saw a
14 lot of issues with later the cops being incredibly aggressive
15 with him, you know, just threatening him about like, you know,
16 you're gonna do life, or you're gonna do all this time, good
17 luck at trial; that kind of stuff. But, the state would've
18 never sought to elicit that testimony, and so I wasn't
19 particularly worried about those comments coming in.
20 Hopefully, that explained it well.

21 Q: You didn't think the evidence would hurt you too much,
22 what he had told the cops, right -- that's one reason, right?

23 A: Right.

24 Q: The other reason, to paraphrase, you didn't think you had
25 a successful claim under *Denno* to block it?

1 A: Right. And for better or worse -- and it's kind of how I
2 practice law, and like I said, for better or worse, I think
3 that the Court will often give me more credence if I file what
4 I believe in and argue what I believe in rather than, hey, I
5 could file this, but it may not get me ---

6 Q: Now, during the course of the trial, you made points to
7 point out -- or you made a point to highlight, you had a
8 couple of different officers to admit they'd lied?

9 A: Right.

10 Q: And yet you withdrew the *Denno* and therefore didn't
11 preserve that issue for appeal?

12 A: I did not.

13 Q: During the trial, there's testimony by a Ms. McCauley
14 (spelled phonetically), and some of her testimony dealt with
15 being able to identify Mr. Eady by voice at a bond hearing.
16 Do you recall that general testimony?

17 A: I -- let's see -- yes, I do.

18 Q: And for the Court, on Page 124, Line 9, when the state
19 first attempted to get into her being able to identify his
20 voice from hearing it allegedly for the second time at a bond
21 hearing, you objected on Line 9, Page 124, and the Court
22 sustained that objection. Do you have the transcript with
23 you?

24 A: I do. Yes.

25 Q: Is that accurate? Then three pages later, Page 127, Line

1 5, just three pages later, the solicitor, Mr. Finch, attempts
2 to go into that line of questioning again and you objected
3 again, correct?

4 A: Yes.

5 Q: Basically then, the state just kind of stopped
6 questioning him. In fact, I think Judge Nicholson overruled
7 you but the state basically was done with that witness; is
8 that ---

9 A: That's what it looks like. It then goes into my cross.

10 Q: So, that's the second time within a matter of minutes
11 they were trying to back into an area that the Judge blocked
12 them from and you never made an attempt to request for a
13 mistrial based on the state trying to get back into that a
14 second time?

15 A: I did not.

16 Q: All right. You and I have talked briefly about this case
17 in preparation for the PCR hearing?

18 A: Yes.

19 Q: To your credit, you had mentioned -- you highlighted
20 something to me that the state had gotten some information off
21 the phone and had a phone-tracking witness testify?

22 A: The historical cell site data.

23 Q: Thank you. On that issue, did you ever seek to have that
24 evidence reviewed by your own expert?

25 A: I did not.

1 Q: Can you tell the Court why you didn't?

2 A: As I thought back over this case, I -- that is one of my
3 regrets. So, I think that I was able to bring out much of the
4 science through the cross examination. But, in theory, had I
5 hired my own expert, I might've been able to sort of track
6 Torren's path. The issue was there was also some facts that
7 may not have correlated perfectly with our statement, so that
8 would've been problematic, but -- so, you know, hindsight is
9 always 20/20. I could've hired an expert and they could've
10 given me something; I could've hired an expert and they could
11 not have. I used some of the information that I'd had from
12 previous experience to fashion my cross and I thought that I
13 was able to successfully get out the arguments that I was
14 making about how inaccurate they can be, how it can show
15 directionality. But, obviously, the lawyer that I was four
16 years ago doesn't know it as well as the lawyer that's here
17 now.

18 Q: That is important for one major reason in that that
19 historical cell site data -- am I saying that right?

20 A: Uh-huh, (affirmative response).

21 Q: --- contradict the statement that Mr. Eady gave to
22 police?

23 A: That it could show that he wasn't in a specific place at
24 a specific time, yes.

25 THE COURT: Did you say that one of the reasons why it

1 would've been problematic is that the information that would
2 likely come out be inconsistent with a statement?

3 A: That was my concern. So, the idea being -- I can hire an
4 expert, but I may not like the answer that I get, and then if
5 they prepared a report and I intend to use it and I -- out of
6 an abundance of caution, looking back on it now, the best way
7 to handle it may have been to hire an expert and have them
8 tell it's the exact same as what the state's expert has. But
9 even then, it's still not that precise. It's not like DNA,
10 it's not like other forensic evidence that we use. And, the
11 science is not as solid as they were trying to make it out to
12 be and that's what I was trying to focus on during cross was
13 to say, look, guys, you can say he's not in, you know, another
14 county but you can't say he's at this address at this time.
15 It's not that precise. Twenty-six miles of a range around a
16 tower; it's not that precise.

17 THE COURT: And you were able to effectuate that through
18 your cross?

19 A: I felt that way until I lost. But, my argument was
20 there. I think my argument was sound. The jury may not have
21 agreed with -- well, the jury did not agree with me.

22 BY MR. DAVIS:

23 Q: You did question about even with that evidence, actual
24 possession of the phone or who is carrying it, you got it in,
25 correct?

1 A: Right, so even if you're saying that that phone was in
2 this location or this general location at this time, doesn't
3 mean that he's got his phone. In our line of work, phones
4 don't necessarily stay with one party throughout.

5 Q: Speaking of that, there is a phone that was seized that
6 belonged to my client's brother; is that right?

7 A: I believe so. I can't say definitively.

8 Q: I'll put it this way, you don't recall getting evidence
9 either historical cell site data or a dump of information from
10 the brother's phone being turned over into evidence?

11 A: I did.

12 Q: At some point, did you and Mr. Eady entertain a defense
13 third-party guilt, that it was his brother?

14 A: I wanted to. I don't think -- yeah, well, there were
15 discussions about it. I don't necessarily think I could've
16 gotten a blessing to do that.

17 Q: And so law enforcement didn't do a dump for cell site
18 data of that phone nor did you?

19 A: No, I did not.

20 THE COURT: Of that phone?

21 MR. DAVIS: Of the brother's phone; yes, Your Honor.

22 BY MR. DAVIS:

23 Q: Mr. Lewis, I'm gonna ask you to maybe help myself and the
24 Court on this. On Page 229, I'll kind of set the scene, and
25 it's a little jilted between a conversation that the

1 solicitor, and then Judge Nicholson and you. But on 229 --
2 and you correct me if I'm wrong on this -- it's Detective --
3 Officer -- Detective Reader (spelled phonetically) testified.
4 The state is doing direct examination, you have already
5 crossed, and you focused on how law enforcement could tell
6 white lies or, hey, we got statements by witnesses against
7 you, that kind thing, and you went into that in cross. And
8 then on 229, Line 16 you object because the solicitor is
9 basically trying to claim how the detective knew or claimed to
10 know that Mr. Eady was downtown. And they're trying to do
11 that by questioning that detective about Ms. Teresa Jenkins'
12 statement to law enforcement?

13 A: Right. So, I did reread over this again. And the way
14 that I remembered it was it felt to me as if they were trying
15 to backdoor in Teresa's testimony about reaching for the side.

16 Q: She'd already testified?

17 A: Right, and ---

18 Q: She already testified ---

19 A: So, they could've asked her at that opportunity -- every
20 witness has an -- you know, you can't impeach somebody if you
21 haven't first given them an opportunity to admit or deny.

22 Q: So, the state during her testimony never talked about her
23 telling law enforcement that Mr. Eady was downtown?

24 A: Right.

25 Q: Yet, now they're trying to get into through the

1 detective?

2 A: Right.

3 Q: Okay. You objected to that on Line 16. And then there's
4 a discussion -- and Judge, you'll have the -- obviously, you
5 can -- my take on that is Judge Nicholson pared down the scope
6 but allowed them to get into it because you were questioning
7 the detective about his honesty and dishonesty and basically
8 the Judge said you opened the door and let them get into that.
9 Do you recall if that was his reason?

10 A: I do recall that that was the Court's reasoning to do
11 that.

12 Q: Okay. Two final issues, Mr. Lewis. Just a moment ago I
13 was asking about -- and I'm gonna tie this back in so you can
14 fully explain the *Denno*, you withdrawal of that. We had
15 talked recently and there was at least discussions about
16 third-party guilt, correct?

17 A: Yes. I brought it into the closing. I sort of just
18 threw that out there because Da Quan was kind enough to show
19 up for trial.

20 Q: And Da Quan is Torren's brother.

21 A: Torren's brother who had a hairstyle that matched the
22 original description of the person from who I believed to be
23 unbiased witnesses said that that -- the shooter, the actual
24 shooter had dreads. Torren did not. I wanted to blame Da
25 Quan; I didn't have Torren's blessing necessarily to do that.

1 Q: But you did go into great detail on any witnesses you
2 could about the different hairstyles?

3 A: Absolutely.

4 Q: And how it didn't match what Torren was actually wearing,
5 even in the photograph that was used to identify him, correct?

6 A: Right. Well, a long discussion about braids and twists
7 and dreads and cornrows, I think in ---

8 Q: Just to fully flesh out the withdraw of the Denno, and
9 make sure I get this right, in the statements to law
10 enforcement, Torren has said he wasn't there, right? That was
11 -- I'm obviously -- to one point, but he denied being present;
12 is that correct?

13 A: Yes.

14 Q: If he's not present then he can't claim I'm there but my
15 brother with the different hairstyle did it, right? Was that
16 the ---

17 A: You mean with withdrawing it?

18 Q: Yes.

19 A: So, also sometimes, what's good for the goose is sort of
20 good for the gander. Sometimes, if I don't think that my
21 client may take the stand anyway, yeah, bring the statement in
22 or bring in parts of it. So, I can say from the very
23 beginning, as soon as you talked to him, he said he wasn't
24 there, you know, and then object to little bits and pieces
25 that aren't admissible for whatever reason. In regards to the

1 third-party guilt, I follow the old -- I think it's the old
2 approach where you have to believe that you can present enough
3 evidence yourself, you basically bring the burden upon
4 yourself in order to argue that and I didn't think that I
5 could do it based solely on hairstyle and that their being
6 brothers, I sort of threw a Hail Mary in closing trying to
7 say, hey guys, third-party guilt, please don't do this, but
8 the jury didn't go for that.

9 Q: How hard -- and because again his statement is in saying
10 he wasn't there.

11 A: Right.

12 Q: Finally, on Page 354, jury instructions by Judge
13 Nicholson, Line 11 and 12 -- the Court has the record, but
14 I'll paraphrase -- the Judge gave the malice may be inferred
15 by use of a deadly weapon charge.

16 A: It did.

17 Q: And you made no objection at that time or at any time
18 prior to the verdict?

19 A: I did not.

20 Q: And you could have under the *Belcher* case, which is a
21 2009 case?

22 A: Yes.

23 THE COURT: That was before or after that case?

24 MR. DAVIS: This was '14. This was February 18th through
25 20th of 2014.

1 BY MR. DAVIS:

2 Q: Thank you, Mr. Lewis, no other questions.

3 Thank you, Your Honor.

4 THE COURT: Cross examination?

5 MR. LIMBAUGH: Thank you, Your Honor.

6 CROSS EXAMINATION OF BENJAMIN CARTER LEWIS BY MR. LIMBAUGH:

7 Q: How are you, Mr. Lewis?

8 A: Doing well.

9 Q: How many times do you think you met with the applicant
10 before trial?

11 A: Let's see if I can try to give you a more accurate -- at
12 least eight.

13 Q: At least eight? All right. You say you were fairly
14 involved in this case, this was a pretty extensive case as far
15 as discovery and investigation?

16 A: Very. Yeah, I was -- yeah, it was.

17 Q: So, you moved for Rule 5 and *Brady*; did you get all that
18 in discovery?

19 A: Yes.

20 Q: Okay. You review all that discovery with your client?

21 A: Yes.

22 Q: Pretty in-depth?

23 A: Yeah, I mean, murder case, so crime scene visits, other
24 visits. The thing that I shared I think with both sides on
25 this one was desperately wanting him to take a plea and

1 meeting with him and his mother at the Al Cannon Detention
2 Center, like getting permission to bring her into the booth
3 with me because we had an offer of 25 on voluntary. And, I
4 mean, it's -- an eyewitness case is tough. It's really,
5 really tough. And I didn't want him to take that chance. So,
6 yeah, I mean, it bothered me, the whole thing bothered me.

7 Q: And you mentioned that -- so, not only did you meet with
8 your client, you met with family at least on a few occasions?

9 A: Family, witnesses, random people just sort of out -- we
10 went out and did some canvassing over in that area.

11 Q: Just kind of get a background and general feeling?

12 A: Yeah.

13 Q: Did you go over the elements of all the charges with your
14 client?

15 A: I can't remember the exact conversation, but I'm sure
16 that I did. Murder, unlike a lot of other offenses, is
17 actually surprisingly simple.

18 Q: So, it would be common practice for you to do so?

19 A: Yes.

20 Q: Especially in a case of this magnitude?

21 A: Yes. And especially when we're going over -- when I was
22 so, so aggressively pushing a plea, explaining why we don't
23 want to risk life on a case where they don't have to prove
24 much other than that you did it, that you pulled the trigger.

25 Q: That kind of comes to my next question. You explained to

1 him the possible penalties he was facing in going to trial?

2 A: Yes. In every case, I prepare a file summary that
3 includes each charge, the penalty, if it's a most serious or a
4 serious offense, if it's parole eligible, that kind of stuff.

5 Q: And it's -- you discussed possible defenses. Can you
6 just tell me basically again, I know you went into on direct
7 with Mr. Davis, but what your basic strategy was?

8 A: That it wasn't him, that this was -- you know, my
9 thought, you know, today looking over the transcript again, I
10 referred to it as a whodunit. You know, with every crime you
11 have to prove identity, and that was where I focused. The --
12 what happened itself, you know, I know what the case law says
13 about malice and things like that, and I've been refreshed on
14 it today, but whoever did it -- it would've been tough to say,
15 well, this was done in self-defense or this was done for some
16 other justifiable reason. So, we were sort of limited to
17 identity.

18 Q: You expressed earlier that this was gonna be a tough case
19 because of the eyewitness. Do you remember who identified him
20 specifically?

21 A: I think that that is Antoine Pappa Foster (spelled
22 phonetically).

23 Q: Do you remember how Mr. Foster knew your client?

24 A: What I talked about at the very beginning, I think -- I
25 can't -- I haven't read it again today, but I believe there

1 was some sort of connection between Brianna or one of these
2 other girls that was someone's child's mother. I think it was
3 Torren's child's mother and that there had been some back and
4 forth and that she had sort of -- she thrived on drama,
5 there's -- the way that I can describe that.

6 Q: So, it wouldn't have been somebody that just passed him
7 on the street once and then identify him in court ---

8 A: Yeah, when you're running into the *Denno* stuff, you have
9 those problems, you know, sometimes they don't even have to --
10 sometimes they could -- in theory, law enforcement could have
11 in this case probably presented a single photograph and said,
12 hey, do you know who this person is, and he would've said
13 Torren, you know, the guy I'm having issues with.

14 Q: So, kind of -- the *Denno* hearing, your position from what
15 I heard earlier is basically that you didn't think this was --
16 what he said was -- I mean, he basically said he was downtown
17 and wasn't there; is that correct?

18 A: Right. I mean, there was -- there was obviously more
19 included in it that could be parsed out, but yeah, he said
20 that I did not do this. They fed him lines that law
21 enforcement often will, hey, will you bite on this? Will you
22 say, oh, it's self-defense and then lock people in, and he did
23 not do that. So, I thought those were actually good for us.

24 Q: And as far as you know, there's nothing that says that a
25 police officer can't do that while questioning him; is that

1 correct?

2 A: Lying during questioning?

3 Q: Yes.

4 A: Oh, no, no, no. We've gotten them to admit that that's
5 part of their job before.

6 Q: Right. Just wanted to make sure we were ---

7 A: Yeah.

8 Q: To go to the cell phone, you expressed earlier that
9 hiring an expert might be problematic because he could go
10 against his prior statement to police. Can you just go over
11 that one more time?

12 A: So, the -- my understanding of the way that the cell site
13 data works is that it's divided -- it divides a call location
14 into sectors. So, you can determine directionality but you
15 can't necessarily determine location. I could -- I guess I
16 didn't say that perfectly well. If we hired an expert,
17 there's nothing that says I have to call that person. So, I
18 can pay the money, I can hire somebody, and they can say,
19 yeah, the state got it right but the state would never know
20 that I had done that. It would've been done under seal. So,
21 yes, I could've gone that route. I didn't necessarily see
22 anything that any expert could've picked apart necessarily
23 with the data. Unlike, you know, if you had DNA and you have
24 a mixture, yeah, you need an expert on that to attack that.
25 With this, it wasn't -- I didn't feel like it was there.

1 Q: And I believe you said earlier that you got out of some
2 witnesses of this area on cross ---

3 A: I felt like I did, yes.

4 Q: Okay. I'll make this point clear -- if I can clear it up
5 for the Court. I believe -- I'm not exactly sure in the
6 transcript where but you said you would never approach this as
7 a self-defense case, it was about malice.

8 A: Right.

9 Q: And when you said that ---

10 A: I did read over it today. I don't remember what page it
11 was on but I'd said something like not in a million years or
12 it's never been that, it never will be that. It was not a
13 self-defense case. I would've been -- I can't imagine a
14 factual scenario where someone could argue self-defense when
15 the allegation is there's people standing on a porch with no
16 prior controversy, a little bit of discussion and then shots
17 being fired. It had to be identity.

18 MR. LIMBAUGH: Moment's indulgence, Your Honor.

19 BY MR. LIMBAUGH:

20 Q: Just briefly, on the voice identification issue at the
21 bond hearing, did you not move for a mistrial on any trial
22 strategy or what was the thought process there?

23 A: No, it's -- I guess in the moment I didn't think it was
24 that egregious, but it was obviously damning, someone being
25 able to say, yeah, I recognize his voice. But also, the other

1 side of that is I'm -- as I thought about it again, I'm kind
2 of surprised I won on the first objection because if you know
3 somebody's voice, you can say you know somebody's voice. But,
4 I got it the first time.

5 Q: That all I have.

6 THE COURT: Any redirect?

7 MR. DAVIS: No, Your Honor.

8 Thank you, Mr. Lewis.

9 THE COURT: Just one second.

10 Very good. You may step down.

11 MR. LEWIS: Yes, Your Honor.

12 MR. DAVIS: If I could have just one moment.

13 (REPORTER'S NOTE: Mr. Davis confers with Applicant.)

14 MR. DAVIS: Thank you, Your Honor. We would call Mr.
15 Eady as the next witness.

16 THE COURT: Mr. Eady, please come forward. I'm gonna ask
17 you if you could to place your left hand on the Bible and
18 raise your right hand as the clerk administers the oath.

19 TORREN EADY, HAVING BEEN DULY SWORN,

20 TESTIFIED AS FOLLOWS:

21 CLERK: Have a seat and state your name for the record,
22 please, and spell your last.

23 MR. EADY: All right. My name is Torren Eady. Last name
24 E-A-D-Y.

25 DIRECT EXAMINATION OF TORREN EADY BY MR. DAVIS:

1 Q: Let's just start with a little bit of background, Mr.
2 Eady. When were you born?

3 A: [REDACTED].

4 Q: And where did you grow up; here in Charleston?

5 A: Yeah, downtown.

6 Q: Okay. Where did you go to school?

7 A: First went to Mitchell, then went to Burk. I had get
8 (inaudible) at 15; I get my GED when I was 16.

9 Q: Say that again?

10 A: I had get (inaudible) at 15; I get my GED when I was 16.

11 Q: Okay. You got your GED when you were 16?

12 A: Uh-huh, (affirmative response).

13 Q: I'm gonna cut to a direct issue that you want to complain
14 about. There was an offer brought to you by Mr. Lewis; is
15 that right?

16 A: Yeah.

17 Q: Can you tell Judge Nettles what that offer was?

18 A: Twenty-five years.

19 Q: A sentence of 25 years to what charge? What were you
20 asking ---

21 A: Altogether, 25 years.

22 Q: Okay. But I'm saying, murder, attempted murder, gun ---

23 A: The murder, the three attempted murder, and the
24 possession of weapon during the commission of a violent crime,
25 that's all together 25 years.