

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Robin S. Stilwell, Circuit Court Judge

Appellant Case No.: 2012-208587

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S.C. Supreme Court

State of South Carolina,.....Respondent,

v.

Terry Gregory,.....Appellant.

RECORD ON APPEAL

VOLUME II of II

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MR. PETERSON ON DIRECT

1 Q. I don't have any further questions for you.

2 THE COURT: Mr. Moyer.

3 CROSS EXAMINATION

4 BY MR. MOYER:

5 Q. How many were sent over to latent prints?

6 A. I think there were approximately nine that were
7 sent over.

8 Q. All right.

9 A. So as far as information on where they would
10 have been, that was on the car itself.

11 Q. And you make a diagram of the car to show
12 where you actually take prints from?

13 A. That's correct, yes.

14 Q. Okay. Let me ask you, you were at the scene
15 the night the incident took place. Right?

16 A. Yes.

17 Q. You actually -- do you remember -- I show you . .

18 SOLICITOR: Your Honor, at this time I would
19 move State's Exhibits 18 and 19 into evidence. I think
20 they are . .

21 MR. BANNISTER: Without objection.

22 SOLICITOR: . . without objection.

23 BY SOLICITOR:

24 Q. Let me show you State's Exhibit 18. Do you re-
25 member the circles that are made in the pavement

1 being droplets of blood, or was that something
2 Mr. Buckholtz would have handled?

3 A. I believe that would have been something he would
4 have handled. Any of those areas that we felt were
5 suspected blood, they were circled so we could come
6 back and test them later.

7 Q. Okay, and did you notice -- when you were pro-
8 cessing the vehicle the next day at your office, you
9 did notice some blood on the inside of the door?

10 A. Yes, I did.

11 Q. The door panel?

12 A. Yes.

13 Q. Suspected blood?

14 A. Yes.

15 Q. And you took photographs of that?

16 A. I did.

17 SOLICITOR: Your Honor, I would move this in, I
18 think without objection from Mr. Bannster, State's
19 Exhibits 43 and 44, 45, 46, 47, into evidence.

20 THE COURT: All right, without objection those
21 are moved into evidence. Let me go back. I think the
22 two before were moved into evidence.

23 SOLICITOR: Yes, sir.

24 THE COURT: The two pictures you asked him about
25 previously. I will note an objection but will note

1 they were moved into the record.

2 SOLICITOR: I would move all those pictures
3 into the record.

4 THE COURT: I will note they are in the record.

5 SOLICITOR: Thank you, Your Honor.

6 BY SOLICITOR:

7 Q. Let me show you State's Exhibit Number 44.
8 Does that show droplets of blood you found on the
9 inside panel?

10 A. Yes, it does.

11 Q. And you actually put some marker there?

12 A. I do have markers on there.

13 Q. And do you notice some blood -- do you remem-
14 ber seeing some blood on the exterior of the vehicle
15 as well?

16 A. Yes, sir.

17 Q. Behind the door panel?

18 A. Yes. Between the driver's door and the bed.

19 Q. Let me show you State's Exhibit Number 47.
20 Is that a photograph of that?

21 A. Yes, it is.

22 Q. And, finally, State's Exhibits 45 and 46, they
23 show some other droplets of blood. Is it true they
24 were actually in the panel, the door panel?

25 A. Actually -- yes, they are in the door panel.

1 Q. And you went back the following day to find the
2 shell casing?

3 A. I did, yes.

4 Q. And you took photographs at that time?

5 A. I did. Also, in the nighttime it was very dif-
6 ficult to see out there, so I decided to go back
7 during the daylight where it would be a little bit
8 more advantageous to find something.

9 I did take additional photographs to put a little
10 bit more perspective into it.

11 Q. Let me show you State's Exhibits 12 and 13.

12 Are those photographs you took?

13 A. I did.

14 SOLICITOR: I would move to have State's Exhi-
15 bits 12 and 13 entered in the record.

16 MR. BANNISTER: Without objection.

17 THE COURT: All right, without objection,
18 State's Exhibits 12 and 13.

19 BY SOLICITOR:

20 Q. And this vehicle, this blue truck, that is
21 parked on the side of the road, is that the vehicle
22 that was there the night before?

23 A. It is.

24 Q. So it was still there in the ditch the following
25 day?

MR. PETERSON ON CROSS

1 A. It was, yes.

2 Q. Okay. I have no further questions.

3 THE COURT: Any Redirect?

4 MR. BANNISTER: No, Your Honor.

5 THE COURT: Thank you, sir. I appreciate your
6 being here.

7 (Witness excused from stand)

8 MR. BANNISTER: Your Honor, I'd call Chris Gary.

9 CHRIS GARY, being duly
10 sworn, testified as follows:

11 CLERK: Would you please state your name for the
12 record?

13 WITNESS: Christopher Gary, G A R Y.

14 DIRECT EXAMINATION

15 BY MR. BANNISTER:

16 Q. Mr. Gary, where do you work?

17 A. I work for the Greenville County Department of
18 Public Safety in the forensics division.

19 Q. What is your position there?

20 A. I'm a latent fingerprint examiner.

21 Q. And did you have occasion to examine some finger-
22 prints that came from the scene at McKelvey Road and
23 Shirley Road on October 10, 2009?

24 A. Yes, sir, I did.

25 Q. And did you have a conclusion as to those

1 fingerprints?

2 A. Yes, sir, I did.

3 Q. What was your conclusion?

4 A. There were actually nine latent fingerprints.

5 I was requested to compare seven individuals.

6 I matched two fingerprints to Terry Dean

7 Gregory. I matched one fingerprint to Gregory Kellet

8 or Kellet Gregory, and I matched three fingerprints

9 to Roger White, Junior.

10 Q. So there were more prints you were trying to
11 match?

12 A. And ones I was able to match.

13 Q. Okay, let me start again. A total of nine?

14 A. Yes.

15 Q. Two of them belonged to Terry Dean Gregory?

16 A. Yes.

17 Q. One belonged to Kellet Gregory?

18 A. Yes, sir.

19 Q. And two belonged to Roger White, Junior?

20 A. Three were matched to Roger White, Junior.

21 Q. So three you could not identify?

22 A. Yes, sir.

23 Q. And was that because you could eliminate who
24 you were comparing them to, or you didn't have enough
25 ridge detail to be able to determine whose prints that

MR. GARY ON DIRECT

1 they were?

2 A. No, sir. The ridge quality was good enough to
3 identify the fingerprints, but they were definitely
4 not the individuals whose prints were submitted for
5 comparison.

6 Q. So we have three unknown fingerprints on the
7 outside of the vehicle?

8 A. Yes, sir. That's correct.

9 Q. Were they at or near the door of the -- the
10 driver's side door -- the door on the driver's side?

11 A. . .

12 Q. Just talking about the three that were unidenti-
13 fied?

14 A. Yes, sir. The three unknowns -- one was from
15 the passenger side door behind the door handle. The
16 second unknown was from the driver's side door below
17 the window, and the third unknown was from the passen-
18 ger side door between the window and door edge.

19 Q. Thank you. Where were the prints that you
20 found that belonged to Roger Lee White, Junior?

21 A. The prints I identified as being Roger Lee White,
22 Junior, were from the driver's side door, between the
23 door handle and window.

24 The second was from the driver's side exterior
25 door below front of door handle.

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MR. GARY ON DIRECT

1 The third is from the driver's side door exter-
2 ior beneath the window.

3 Q. And the prints you are describing for Roger Lee
4 White, Junior, on the driver's side, were they on
5 the outside of the door or inside . .

6 A. No, sir. They were outside of the vehicle.

7 Q. And then the one for Kellet Gregory, where was
8 that found?

9 A. Okay. That palm print was located on the
10 driver's side top edge of the truck bed.

11 Q. Any indication as to how far up or down of the
12 bed that was located?

13 A. I didn't process the scene, but there is a dia-
14 gram. Judging from the diagram, it appears it was
15 up and to the right toward the tailgate area of the
16 back rear tire on the driver's side.

17 Q. And two identified as belonging to Terry Gregory,
18 where were they found?

19 A. The two prints that belong to Terry Dean Gregory
20 -- one was located on the driver's side door exter-
21 ior below the window, and the other was on the driver's
22 side door below the door handle at door edge on
23 exterior of door.

24 MR. GREGORY: No further questions, Your Honor.

25 THE COURT: Mr. Moyer.

1 proceed?

2 MR. BANNISTER: Yes, sir. At this time we would call
3 Steven Gregory.

4 STEVEN GREGORY, being
5 duly sworn, testified as follows:

6 CLERK: Please state your name for the record.

7 WITNESS: Steven Gregory.

8 DIRECT EXAMINATION

9 BY MR. BANNISTER:

10 Q. Mr. Gregory, let me get some general information
11 from you. How old are you?

12 A. Twenty.

13 Q. And I've asked everybody else. How tall are
14 you?

15 A. Five ten, five eleven. Something like that.

16 Q. How much do you weigh?

17 A. About one seventy-two.

18 Q. And where do you currently live?

19 A. At 251 Betsy Road.

20 Q. Is that where you've resided for the last two
21 years?

22 A. Yes.

23 Q. And you are still living there now?

24 A. Yes, sir.

25 Q. You've lived there since October 10th of 2009?

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S. GREGORY ON DIRECT

1 A. Yes, sir.

2 Q. You've been living with your mom since October
3 10th, 2009?

4 A. Yes, sir.

5 Q. Let me jump back for a minute to the -- take you
6 back to October 10, 2009, when you are downtown at
7 Fall for Greenville. Do you remember that day?

8 A. Yes.

9 Q. And I understand you were passing out flyers
10 for Shane's Restaurant. Is that correct?

11 A. Yes.

12 Q. And at that time is when you heard Louanne, your
13 step-mom, call out your name?

14 A. Yes.

15 Q. And so when you turned around, you saw her and
16 your father, Terry, coming toward you?

17 A. Yes.

18 Q. All right, and you all had some -- it initially
19 started out as sort of a casual conversation, how you
20 doing; what's been going on; that kind of thing?

21 A. Yes.

22 Q. Is that a fair statement?

23 A. Uh hm.

24 Q. All right, and then at some point you -- did
25 you tell Terry and Louanne that you didn't want to

S. GREGORY ON DIRECT

1 have anything to do with them?

2 A. No, they just asked where I'd been and asked
3 about school and all that, and then he told me to
4 apologize to her for cussing her out one day when
5 she had called me. I never called her. She had
6 called me.

7 Q. Okay. Did you in fact cuss her out when she had
8 called you?

9 A. Yeah, because she wouldn't leave me alone, and
10 I didn't want to talk to her.

11 Q. So what did you -- how did you cuss her out?

12 A. I don't remember. It was a long time ago. I just
13 remember cussing her out because she told me I had
14 problems and this and that.

15 Q. Would that have been during the summer of 2009?

16 A. I have no idea.

17 Q. Would it have been after the going away party
18 for Kellet? Before he went off to basic training?

19 A. Probably so.

20 Q. Were you at the party, the going away party, for
21 Kellet?

22 A. Yes.

23 Q. Did you have much, if any, loud conversation
24 with either your dad or Louanne after Kellet's going
25 away party?

S. GREGORY ON DIRECT

1 A. No.

2 Q. So other than the conversation where Louanne had
3 called and you answered and then you cussed her out
4 and told her to leave you alone, had there been any
5 other conversations with Louanne or your dad between
6 the going away party and October 10, 2009?

7 A. No.

8 Q. So clearly the next time you see Louanne and
9 Terry or have any conversation with them after cuss-
10 ing Louanne out is at the Fall for Greenville?

11 A. Yes.

12 Q. Did you in fact apologize to her?

13 A. I don't remember what I said, something stupid.
14 I think I said something like you gotta respect
15 your elders, I guess. Something like that.

16 Q. All right, so did -- the conversation only then
17 last -- it didn't last but about a minute or two?

18 A. No.

19 Q. I mean, was Terry in your face when this was
20 going on?

21 A. He wasn't in my face, but before he left he had
22 talked about laying me out right there at Fall for
23 Greenville. Not in my face but he was close.

24 That's when I called Kellet after that and told
25 him. That's why Kellet was all revved up.

S. GREGORY ON DIRECT

1 Q. Did you tell Kellet that your dad made you apolo-
2 gize to Louanne?

3 A. Yes.

4 Q. So Kellet was aware that you had cussed out
5 Louanne and your dad wanted you to apologize to her?

6 A. Yeah.

7 Q. Did -- when was the next time that you heard
8 something about you all meeting up with your dad?

9 A. I talked to Kellet and I called mom, and I don't
10 think I talked to nobody else until I got off work.

11 Q. Okay, so the same conversation with each one of
12 them? One conversation with each one of them or . .

13 A. One conversation with each one of them.

14 Q. So what time did you get off work?

15 A. I don't know. Somewhere around ten o'clock.

16 Q. And you went straight to Betsy Road?

17 A. I went home.

18 Q. When you got to Betsy Road, you have heard a num-
19 ber of people testify as to who was there. I'll just
20 quickly run through it.

21 Roger White, Senior, was there. Right?

22 A. Yes, he was there.

23 Q. And Junior was there?

24 A. Yeah, he was there with the kid.

25 Q. Let's see -- Justin Davis?

S. GREGORY ON DIRECT

1 A. Yes.

2 Q. And Trip Pittman and Justin Lackey were there?

3 A. Yeah.

4 Q. Your mom was there?

5 A. Yes.

6 Q. Anybody else that was there that you can recall,
7 other than the baby?

8 A. No.

9 Q. Did Kellet -- was Kellet home at any time while
10 you were there?

11 A. No.

12 Q. And do you remember giving a deposition to me a
13 while back, back in December of 2010, in my office?

14 A. Yes.

15 Q. When we talked about what had happened back on
16 October 10th?

17 A. Yes.

18 Q. And do you remember asking me -- me asking you
19 about was there any talk about a fight?

20 A. Yes.

21 Q. All right, and do you remember telling me that
22 nobody expected or thought about there being a fight
23 that night?

24 A. I didn't.

25 Q. You didn't say that?

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S. GREGORY ON DIRECT

1 A. I didn't expect a fight.

2 Q. I understand, so the fight was the last thing
3 anybody expected to happen, at least as far as . . .

4 A. As far as I knew.

5 Q. Okay. In fact, that wasn't the purpose of the
6 meeting with your dad, was it?

7 A. I don't know. Kelly had done all that. I was
8 just going with Kelly.

9 Q. All right. Well, wasn't part of the purpose to
10 tell your dad once and for all that we don't want to
11 have any more contact with you?

12 That we want you to leave us alone and we're
13 telling you face to face to quit calling us and ask-
14 ing us to come over?

15 A. Yeah.

16 Q. And that was the -- your mom testified yesterday
17 she was giving you all -- at least Kellet -- advice
18 on how to handle the situation, situation with your dad,
19 and that is what you all were talking about doing?

20 A. Yeah.

21 Q. Telling him you didn't want to have any more
22 contact with him, and this will be the end of it?

23 A. That's . . .

24 Q. Is that a fair statement of what you thought you
25 all were going out to Shirley Road to do?

S. GREGORY ON DIRECT

1 A. Yes.

2 Q. And what -- we've heard a lot of talk about the
3 things that were going on. One of the issues that we
4 talked about was that child support either got stopped
5 or dropped during the summer of 2009. Right?

6 A. . .

7 Q. I mean, that's what happened, regardless of whe-
8 ther that was the issue? That's what happened?

9 A. Yeah.

10 Q. Okay, and there was another issue that involved
11 DHEC being involved because there were tires in the
12 swimming pool at the Betsy Road place?

13 A. Me and Junior cleared them out.

14 Q. So when DHEC got involved over the tires, that
15 was at least something that you all at least believed
16 that Louanne had started up. Is that fair?

17 A. I guess.

18 Q. And then there was the issue about you graduat-
19 ing?

20 A. Yes.

21 Q. You had not graduated when you were supposed to?

22 A. I graduated in one more year.

23 Q. In 2010?

24 A. One one -- 2011.

25 Q. In 2011 -- okay. So you were in the twelfth

S. GREGORY ON DIRECT

1 grade in 2009, and had you graduated when you were
2 supposed to it would have been sometime in June of
3 2009?

4 A. Yes, sir.

5 Q. All right. Setting all of that aside, you be-
6 lieved the issue with your dad -- you all just didn't
7 want to see him any more?

8 A. Yes.

9 Q. And he was upset that you all had cut off commun-
10 ications with him?

11 A. Uh hm.

12 Q. That's what you believed to be one other issue?

13 A. Yeah.

14 Q. Maybe at least if I could go back in time prior
15 to the going away party, had there been effort on
16 Terry's part to kind of get back into your life and
17 Kellet's life?

18 A. Not with me.

19 Q. Not you but maybe with Kellet?

20 A. Maybe with Kelly.

21 Q. All right, so everybody leaves Betsy Road, and
22 you are driving your truck?

23 A. Yeah, me and Dustin were in my truck.

24 Q. And, of course, Roger Lee White is in his truck
25 along with the rest of the crew?

310

S. GREGORY ON DIRECT

1 A. Yes.

2 Q. Again, and there was no discussion about maybe
3 going out there to fight at this point?

4 A. No. We just picked up everybody and left. They
5 wanted to talk to us.

6 Q. And as I understand it, one of the reasons that
7 everybody left was because your mom was going?

8 A. Yeah.

9 Q. So if your mom was going, then everybody was
10 going?

11 A. Yeah.

12 Q. Is that fair?

13 A. Uh hm.

14 Q. When you all got there, were you the last one
15 to pull in?

16 A. Yeah, I was. Everyone went and I followed.

17 Q. Were you the last one to pull into Shirley Road?

18 A. Uh hm, the last one.

19 Q. And were you the last one to pull into the
20 Spinx station before you left to go to Shirley
21 Road?

22 A. Yes, I think so.

23 Q. Did you see Brent Hanvey in the car with Kelly
24 at the Spinx station?

25 A. No.

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S. GREGORY ON DIRECT

1 Q. Did you know he was in the truck -- in Kelly's
2 truck -- there at the Sphinx station?

3 A. I didn't see him in Kelly's truck.

4 Q. Did you know he was there on the scene at Shirley
5 Road?

6 A. I know that now.

7 Q. Did you know it then?

8 A. No.

9 Q. When did you find out?

10 A. I heard about it from everybody but I don't re-
11 member the first day when mom told me.

12 Q. When was that relative to today?

13 A. I don't know. Sometime last year.

14 Q. So sometime last year you heard that Brent
15 Hanvey was there from your mom?

16 A. Yes.

17 Q. And do you remember me asking you that, whether
18 anybody else was out there?

19 A. Yeah.

20 Q. And you didn't tell me Brent Hanvey was there,
21 did you?

22 A. No.

23 Q. And you know that Mr. Moyer asked you if anybody
24 else had been out there?

25 A. Yes.

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S. GREGORY ON DIRECT

1 Q. And you didn't tell him that Brent Hanvey had
2 been out there?

3 A. I didn't know it then.

4 Q. You got asked by Investigator Miller whether any-
5 body else had been out there?

6 A. Yes.

7 Q. And you didn't tell him anybody else had been
8 out there?

9 A. I didn't know it then.

10 Q. Did you tell him after you did know?

11 A. No.

12 Q. Okay. Did -- why did you back into the road or
13 off the road the way that you did?

14 A. I always back in.

15 Q. When you go to the Mall, do you back in?

16 A. So I can pull straight out.

17 Q. When you go in the high school parking lot, you
18 always back in?

19 A. I always like to pull straight out.

20 Q. If there were also cars down in here as -- two
21 cars or trucks down here as indicated on Defense Ex-
22 hibit 4, why back in?

23 A. I didn't want to block traffic.

24 Q. I'm sorry.

25 A. I didn't want to block traffic.

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S. GREGORY ON DIRECT

1 Q. I see, and ultimately your truck got stuck the
2 way you did it?

3 A. Yeah. I tried to get it out but we had all this
4 going on so I just left it there.

5 Q. And then you and everybody in your truck got out
6 and walked back to where Roger White, Senior, Roger
7 White, Junior, Lisa and Kellet were standing, and did
8 you see Terry drive on past you on Shirley Road?

9 A. Yeah.

10 Q. Did you hear Kellet call to say, you missed us; just
11 turn around and come back?

12 A. I don't remember.

13 Q. When Terry got there, did -- what was the first
14 thing he did when he got there?

15 A. Well, he got out the car and when he got out the
16 car he had a flashlight in his hand. I didn't know
17 it was a flashlight then but he had it in his hand.

18 He immediately got out of the car. It wasn't
19 long before he got out.

20 Q. Was he between the interior of the door and
21 the cab?

22 A. Yes. He was -- about half of his body was past
23 the door.

24 Q. Okay, did he stay there or did he ultimately
25 move back or forward?

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S. GREGORY ON DIRECT

1 A. He stayed there for a minute and then he moved
2 back in his door.

3 Q. All right. Did he ever move from the apex of
4 the door at that point?

5 A. Not at that point, no.

6 Q. Okay, when -- do you recall Kelly saying we're
7 here to talk when Terry first got out?

8 A. He said, I thought we was here to talk; put what
9 you got in your hand down.

10 Q. And then didn't Terry say, come over here and
11 we'll talk?

12 A. Yeah, he kept trying to get us to come over
13 there but he still didn't put the flashlight down.

14 Q. All right. Did you all hear each other?

15 A. Well, obviously everybody could hear us appar-
16 ently.

17 Q. Okay, and once there became an issue about put-
18 ting the flashlight down -- if I understand what you
19 told me last time, that's when everybody started yell-
20 ing and screaming?

21 A. They did.

22 Q. And so that would include your mom and Roger,
23 Senior, and Junior . .

24 A. I don't recall Roger, Junior, saying nothing
25 at the time.

S. GREGORY ON DIRECT

1 Q. And while you all were talking about the flash-
2 light is your mom moving toward Terry's pickup truck?

3 A. I don't think she was moving towards it until he
4 came up with the gun.

5 Q. All right, so when the gun comes out, that's
6 when your mom started moving toward the pickup?

7 A. Yes.

8 Q. And when your mom started moving towards him, is
9 that when Kellet and Junior started moving towards
10 him. Is that correct?

11 A. I don't know where Junior was when she started
12 moving toward him. That's when everything got crazy
13 at the door.

14 Q. All right. Well, when everything got crazy at
15 the door, he was there with you, wasn't he?

16 A. He was behind me somewhere, but after mom started
17 kicking the door I just heard Junior yelling, you're
18 not going to kill my mom, you know.

19 Q. Do you remember me asking you -- I said, why
20 didn't you leave when the gun came out?

21 A. Because mom wasn't leaving.

22 Q. Right, and when she's moving toward Terry you all
23 move toward Terry?

24 A. . .

25 Q. I mean, that's what happened, isn't it?

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S. GREGORY ON DIRECT

1 A. Okay. All right.

2 Q. And your mom was trying to get the gun from Terry
3 while he was standing there?

4 A. She was trying to get him to drop it. She was
5 kicking the door.

6 Q. And wasn't she grabbing the door too?

7 A. I don't know if she grabbed the door or not. I
8 know she was kicking the door.

9 Q. All right, and that's when everybody else runs
10 over to the door?

11 A. Yes.

12 Q. Everybody being you, Kellet and Junior are at the
13 door with your mom?

14 A. I was behind mom and so was Kelly.

15 Q. All right, but you are at the door. . .

16 A. We aren't right at the door. She was right
17 at the door.

18 Q. All right. Hold on a second.

19 (Brief pause)

20 BY MR. BANNISTER:

21 Q. All right, please look at page 38, down around
22 line 18.

23 This is the deposition that you gave me back in
24 December of last year.

25 Q. At line 19 I asked you, then I guess as soon as
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S. GREGORY ON DIRECT

1 you all saw her run towards Terry, then you all ran
2 up to the door, and your answer then was, me, Kellet
3 and Junior ran.

4 A. Yes.

5 Q. Then you said, I guess Boss ran over there too?

6 A. Uh hm.

7 Q. So everybody is running toward the door when
8 your mom is up there?

9 A. . .

10 Q. Anything wrong about that?

11 A. No, we ran up there too.

12 Q. Okay, so you all are at the door and your mom
13 is trying to kick the door or loosen the gun, or
14 whatever she was doing, and at some point then Junior
15 gets between the door and the cab of the truck. Is
16 that right?

17 A. True, but he wasn't between the door. He was to-
18 ward the middle of the truck, not -- he wasn't toward
19 the door.

20 Q. So you don't think he got actually past the edge
21 of Terry's door?

22 A. No.

23 Q. All right, did you see Junior grab for the gun?

24 A. Yes.

25 Q. And any question that when Junior grabbed for

S. GREGORY ON DIRECT

- 1 the gun is when Terry shot him?
- 2 A. He did.
- 3 Q. Any question that Boss caught Junior -- Senior
- 4 caught Junior before he hit the ground?
- 5 A. I believe he did.
- 6 Q. And Junior kind of -- when he got shot, was there
- 7 a moment when he was sort of suspended on top of Terry?
- 8 A. I don't think so.
- 9 Q. You don't think so?
- 10 A. No.
- 11 Q. Was there a moment of hesitation before he actu-
- 12 ally dropped to the ground?
- 13 A. It didn't take too long.
- 14 Q. Okay. Kellet, you remember I asked you . .
- 15 A. Steven.
- 16 Q. I'm sorry. You remember I asked you about the
- 17 tattoo you've got?
- 18 A. Yes.
- 19 Q. And do you remember the answer you gave me means
- 20 you do what you have to for the greater good?
- 21 A. Right. Uh huh.
- 22 Q. Do you still abide by those words?
- 23 A. It's still on there, ain't it?
- 24 Q. Okay, so you still abide by those words?
- 25 A. It's still on there, ain't it?

S. GREGORY ON DIRECT

1 MR. BANNISTER: Can I ask you to instruct him
2 to give me a yes or no answer?

3 THE COURT: I understand what his response is.

4 A. He got it.

5 BY MR. BANNISTER:

6 Q. Now, you had some conversations -- well, let me
7 ask you this way.

8 Since October 10, 2009, you have picked up a num-
9 ber of criminal charges. Correct?

10 A. Yep.

11 Q. Have you had conversations with Mr. Moyer about
12 those convictions? Not convictions, but arrests.

13 A. No.

14 Q. Have you had any discussions about say what you
15 need to say, and we'll take care of these charges
16 when they come up?

17 A. No. The ATM charges?

18 Q. Yeah, the burglary second, grand larcenies.
19 I'm asking you if there have been any discussions
20 about them, about you testify one way and . .

21 A. I don't remember anything to that effect.

22 Q. Okay. Well, do you agree with me that -- well,
23 I withdraw the question.

24 The marijuana that was in your truck, that was
25 yours?

S. GREGORY ON DIRECT

1 A. Yes, sir.

2 Q. And had you and Junior smoked marijuana that
3 night?

4 A. No. I wasn't even with Junior that night.

5 Q. So if Junior had marijuana in his system, that
6 didn't come from you?

7 A. No.

8 Q. Did you know that he smoked marijuana?

9 A. I knew he smoked it on occasion.

10 Q. And did you know he did anything else?

11 A. No.

12 Q. Did you know he was messed up that night?

13 A. He wasn't messed up.

14 Q. Junior wasn't messed up?

15 A. He wasn't messed up.

16 MR. BANNISTER: Your Honor, I have no further
17 questions.

18 THE COURT: Mr. Moyer.

19 CROSS EXAMINATION

20 BY MR. MOYER:

21 Q. You are living with your mother?

22 A. Yes, sir.

23 Q. And Roger, Senior?

24 A. Yes, sir.

25 Q. Who else lives there now?

321

S. GREGORY ON CROSS

- 1 A. Kellet and Trip.
- 2 Q. You graduated from high school, and where do
- 3 you work?
- 4 A. I work for my aunt and uncle in their restaurant.
- 5 Q. What's the name of the restaurant?
- 6 A. Shane's.
- 7 Q. That's down Augusta Road?
- 8 A. We've moved.
- 9 Q. And you are moving now, aren't you?
- 10 A. Yeah.
- 11 Q. That's the restaurant that has been discussed as
- 12 the possible meeting place initially?
- 13 A. Yes, it used to be close to Main Street.
- 14 Q. Okay. Now, how long have you been working there?
- 15 A. Five years.
- 16 Q. And you started in high school?
- 17 A. Uh hm.
- 18 Q. Are you working full time now?
- 19 A. Yes, sir.
- 20 Q. Let me talk to you a little bit about your rela-
- 21 tionship with your dad. How did you get along with
- 22 him over the years?
- 23 A. We went every other weekend.
- 24 Q. Well, did you have open hostility?
- 25 A. Not really. The only time it ever got crazy

S. GREGORY ON CROSS

1 was when he talked about my mom sometimes.

2 Q. So you all didn't like that?

3 A. No, we sure didn't.

4 Q. And when did you stop going over there on week-
5 ends? How old were you?

6 A. Around fifteen.

7 Q. And in the months leading up to this incident,
8 you -- things had gotten even worse. Right?

9 A. Yes.

10 Q. And that had to do with child custody payments
11 and that sort of thing?

12 A. I guess.

13 Q. Because you knew your mother was upset about it
14 so you were upset as well?

15 A. . .

16 Q. When you saw him in Fall for Greenville, you had
17 not seen him in what? Three months or so? Is that
18 true?

19 A. Three or more.

20 Q. And had you heard from him?

21 A. No.

22 Q. So did you want to see him that day?

23 A. No.

24 Q. Tell me about the interaction you had with him.
25 Would you describe it as hostile or friendly, or how

S. GREGORY ON CROSS

1 would you describe it?

2 A. It wasn't friendly. It ended up getting a lit-
3 tle hostile.

4 Q. And what was it that caused the hostility? What
5 was said?

6 A. One of the last things that was said, he said he
7 was going to lay me out in front of everyone right
8 there.

9 Q. Right there at Fall for Greenville?

10 A. Yeah.

11 Q. Did you get the impression he wanted to fight
12 you there?

13 A. That's what laying me out means, I guess.

14 Q. I mean, did it sound like an idle threat, or
15 did it sound like . . .

16 A. A threat.

17 Q. Did you take it that way?

18 A. Yes.

19 Q. And then you left when he made that comment, is
20 that right?

21 A. Yeah, I left.

22 Q. You turned around and walked away?

23 A. Uh hm.

24 Q. And he upset you, right?

25 A. Right.

S. GREGORY ON CROSS

1 Q. And that's when you called your brother, Kellet?

2 A. Yes.

3 Q. Why did you call Kellet?

4 A. I called to tell him what happened.

5 Q. You all keep in contact about information like
6 that, and Kellet had just gotten back from . .

7 A. Basic training.

8 Q. . . basic training. Right?

9 A. Yes.

10 Q. Either a few months before that or a few weeks?

11 A. About three weeks probably.

12 Q. Three weeks before that?

13 A. Yes.

14 Q. When you told Kellet about this interaction you
15 had with your dad at Fall for Greenville, how did Kellet
16 react?

17 A. Kelly got mad.

18 Q. You knew Kelly was mad? You could tell?

19 A. Yes.

20 Q. And what did he say? Did he say what he was going
21 to do?

22 A. He said he was going to go to the guy who had
23 called me.

24 Q. And then did you have more conversations with
25 Kelly throughout the day?

S. GREGORY ON CROSS

1 A. I think that was probably the last one. Then I
2 called my mom shortly after that.

3 Q. Okay.

4 A. That was all I talked about it.

5 Q. How did you find out that Kellet was going to go
6 and meet with him later that night?

7 A. I think he sent me a text.

8 Q. Okay, but you knew there was going to be a meet-
9 ing after work? You'd be off work about ten?

10 A. He asked me what time I could be out there.

11 Q. And so you got home -- do you remember what he
12 said in the text about -- he just said you were
13 going to meet?

14 A. I think he asked me what time I got off, and I
15 think that was about it.

16 Q. Okay, so did you have any interaction with your
17 dad about this meeting?

18 A. No, I didn't talk to anybody that day after I
19 talked with mom.

20 Q. So did Kellet and Terry work back and forth
21 about where they were going to meet and why they were
22 going to meet?

23 A. Yes.

24 Q. And you didn't have any part of that?

25 A. No.

S. GREGORY ON CROSS

- 1 Q. You didn't know what was going on?
- 2 A. No. I didn't talk to nobody after that.
- 3 Q. You didn't know why Kellet wanted to meet him or
- 4 why your dad wanted to meet you, did you?
- 5 A. No.
- 6 Q. So when you talked about what your thought pro-
- 7 cesses were or why you were going to meet that night,
- 8 that was not based on anything Kellet or your dad had
- 9 told you about the purpose of the meeting?
- 10 A. No.
- 11 Q. Okay, and then you got home and did you ask any-
- 12 body to go along with you?
- 13 A. No. I asked my mom for directions to the
- 14 Spinx gas station.
- 15 Q. Okay, you asked her where the Spinx was?
- 16 A. Yes.
- 17 Q. How far is that from where you lived?
- 18 A. I'd say about fifteen minutes.
- 19 Q. About a fifteen minute drive?
- 20 A. Yeah.
- 21 Q. In the country is that a main road?
- 22 A. I would consider it a back road.
- 23 Q. Okay, and so you got up to the Spinx. Do you
- 24 remember talking to Kellet at that time?
- 25 A. I don't think so. He pulled in and we left.

S. GREGORY ON CROSS

1 Q. So do you remember seeing in Kellet's truck
2 there?

3 A. No. I was behind him.

4 Q. So you got over there to South Shirley Road,
5 and you testified you were the third car to pull in.

6 Were there any other cars there?

7 A. There were no other cars.

8 Q. That was talk about a white Taurus or something.

9 A. I didn't see a white Taurus.

10 Q. Okay. No SUVs?

11 A. No SUVs.

12 Q. You know Brent Hanvey?

13 A. Yes.

14 Q. Do you know what kind of car he drove then?

15 A. No.

16 Q. You don't even know?

17 A. No.

18 Q. But he didn't have a vehicle there?

19 A. No.

20 Q. So after you got stuck in the field, what did
21 you all do? What did you do?

22 A. We all walked over to Bossman's truck.

23 Q. You went to Roger, Senior's truck?

24 A. Yeah.

25 Q. And you all stood there and waited?

S. GREGORY ON CROSS

1 A. Yes.

2 Q. Do you know what you all talked about while you
3 waited?

4 A. I don't.

5 Q. Okay, and then the Defendant showed up and he
6 got out of the truck. Right?

7 A. Uh hm.

8 Q. And did you ever see what was in his hand? Did
9 you ever see that was a flashlight?

10 A. I saw it in his hand. I didn't know it was a
11 flashlight.

12 Q. And at any point did you notice it was a flash-
13 light?

14 A. No, sir.

15 Q. So whatever it was in his hand, was he using
16 that as a flashlight?

17 A. Not that I could see.

18 Q. And at what point -- let me ask you this. Had
19 anybody made any threats toward your father before he
20 pulled the gun out?

21 A. No.

22 Q. And when he got the gun out, did you see what
23 he did with it?

24 A. . .

25 Q. When he got the gun out, did he point it at

S. GREGORY ON CROSS

1 anyone?

2 A. As soon as he got the gun out, that's when my
3 mom started walking over there, and then he put it
4 straight in her face.

5 Q. When you say your mom was walking over there,
6 let's try to talk about the distances.

7 From where you were initially, how far was
8 the truck initially?

9 A. Probably about from me to the investigator.

10 Q. From you to the investigator?

11 A. Yes.

12 Q. So that's how close the trucks were parked, and
13 you all were standing in front of the trucks?

14 A. Yes.

15 Q. About where I am right now?

16 A. Probably a little further back.

17 Q. A little further back?

18 A. About right there.

19 Q. And your mom was behind you?

20 A. Yes.

21 Q. When he pulled out the gun, you said your mom
22 started moving toward him. Is it true she got in
23 front of you?

24 A. She went around me and Kellet, and she got in
25 front of the truck.

S. GREGORY ON CROSS

- 1 Q. In front of the truck?
- 2 A. Yes.
- 3 Q. And he pointed the gun at her?
- 4 A. Yes. Pointed it right in her face.
- 5 Q. Right in her face?
- 6 A. Uh hm.
- 7 Q. And what did he say, if anything?
- 8 A. He said a few things. I remember him saying, I
- 9 will shut you up once for good.
- 10 Q. Okay.
- 11 A. I remember that.
- 12 Q. And had your mom been threatening him?
- 13 A. No.
- 14 Q. Did she have any weapon?
- 15 A. No.
- 16 Q. Did anybody have any weapons?
- 17 A. No.
- 18 Q. Did anybody -- had anybody hit him?
- 19 A. Nobody hit him.
- 20 Q. Nobody got punched at all?
- 21 A. Kellet hit the truck with his hand after Junior
- 22 got shot.
- 23 Q. And that was the back of the truck. Right?
- 24 A. That's all that happened all night.
- 25 Q. Your mom kicked the truck?

S. GREGORY ON CROSS

- 1 A. Yeah, she kicked it.
- 2 Q. But as far as anybody else being injured or hurt,
- 3 isn't it true that Roger, Junior, is the only one
- 4 out of everybody who was there?
- 5 A. Kellet hurt his hand when he hit the truck when
- 6 Junior got shot.
- 7 Q. He hurt his hand?
- 8 A. I think he broke it.
- 9 Q. Did you have any injuries?
- 10 A. No.
- 11 Q. Any injuries to your hands?
- 12 A. No.
- 13 Q. Did you ever strike Terry?
- 14 A. No.
- 15 Q. And did you see anybody strike anybody else?
- 16 A. Nobody got hit.
- 17 Q. Anybody who was there present a weapon to him?
- 18 A. No.
- 19 Q. When he got out of the truck holding the flash-
- 20 light, did he call you and Kellet by name?
- 21 A. Yeah.
- 22 Q. He said, Kellet and Steven come over here?
- 23 A. Yeah.
- 24 Q. What was his -- how would you describe his tone
- 25 of voice or . . .

S. GREGORY ON CROSS

- 1 A. It was deep. It was like, hey, come over here.
- 2 Q. How did you take it?
- 3 A. We told him we'd come over there when he dropped
- 4 what he had in his hand, and he never dropped what he
- 5 had in his hand so we didn't want to walk over there.
- 6 Q. And why is that?
- 7 A. I didn't want to get hit with a flashlight.
- 8 Q. Is that what you thought when he was holding
- 9 that?
- 10 A. He was holding it and he wasn't holding it like
- 11 a flashlight.
- 12 Q. And so that's why you didn't go over there?
- 13 A. Yeah.
- 14 Q. At that point, did you think that he wanted to
- 15 fight you all? Or hit you all?
- 16 A. It happened so fast. I didn't really want to
- 17 talk to him when he had a flashlight in his hand.
- 18 Q. Okay. And when Roger, Junior, went over to the
- 19 Defendant, did he -- was he over there before Terry
- 20 pointed the gun at your mother?
- 21 A. He was there right after that.
- 22 Q. Okay, so is it true that he didn't move over
- 23 there until Terry pointed the gun at your mother?
- 24 A. I don't know where Junior was. As soon as my
- 25 mom started kicking the door and he was pointing a

S. GREGORY ON CROSS

1 gun at her, Junior was over there. He got over
2 there so fast. I don't know how he got over there
3 so fast.

4 Q. Okay, so was he up in the doorway of the truck
5 with Terry?

6 A. Not in the doorway. He was toward the back of
7 the truck.

8 Q. I mean -- I'm talking about when . .

9 A. He was right at the door but he wasn't in the
10 door.

11 Q. When he got shot?

12 A. Uh hm.

13 Q. Okay. Now, before he got shot, before Terry had
14 pointed the gun at your mother, was he over there
15 with Terry?

16 A. That was -- he wasn't there until right before
17 he got shot.

18 Q. Okay. So the reason he went over there at the
19 time he went over there is when Terry pointed a gun
20 at your mother. Is that true?

21 A. Yes.

22 Q. Okay. You talked about your mother kicking his
23 door?

24 A. Yes.

25 Q. You saw that, and that was after Terry pulled the

S. GREGORY ON CROSS

1 pistol?

2 A. Uh hm.

3 Q. And pointed it at your mother?

4 A. Yes.

5 Q. You were -- she was trying to get the gun away
6 from him? Was he . .

7 A. She was trying to get the gun away from him.
8 She was trying to get him to drop it. She was just
9 kicking the door.

10 Q. And you never saw her reach for it?

11 A. I don't think so.

12 Q. Okay. Did you -- do you think it was kind of a
13 defense mechanism to get him to stop?

14 A. I would say so. She ran in front of me and
15 Kelly.

16 Q. I'm sorry.

17 A. I know that's what she was trying to do since she
18 run in front of me and Kelly.

19 Q. So he wouldn't point the gun at you all?

20 A. Yes, she was trying to mediate the situation.

21 Q. Okay. I asked you about other vehicles. Other
22 than the vehicles that are depicted in this diagram,
23 were there any other vehicles out there?

24 A. No.

25 Q. Okay, any other people out there?

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S. GREGORY ON CROSS

1 A. No. Well, they say Brent Hanvey was there but
2 I didn't see him.

3 Q. Okay. Other than him, you didn't see anybody
4 else out there?

5 A. Nobody else out there.

6 Q. You didn't see Brent Hanvey get out of Kellet's
7 truck and run?

8 A. I didn't see him.

9 Q. You were up at the truck. Okay. You did find
10 out about Brent Hanvey later?

11 A. Yes.

12 Q. But you did not tell . . .

13 A. I was asked did I see anybody else, and I didn't
14 see him.

15 Q. You didn't see him but you heard he was there?

16 A. I heard he was there.

17 Q. And you were asked questions about whether any-
18 body else was there, and you said nobody else was
19 there?

20 A. Yes, I didn't see him.

21 Q. Okay. Can you tell us why you didn't tell us
22 Brent Hanvey was there?

23 A. I never saw him there.

24 Q. Never saw him -- okay. You have talked about
25 other charges. Have you and I ever discussed your

S. GREGORY ON CROSS

1 pending charges?

2 A. No.

3 Q. Has it come up in conversation?

4 A. No.

5 Q. And the charges that are pending against you,
6 what are the names of the charges?

7 A. Conspiracy, grand larceny, malicious damage.

8 Q. Okay, and when were you charged with those of-
9 fenses?

10 A. A couple of months ago.

11 Q. And nothing has been resolved or -- the charges
12 are still pending. Right?

13 A. From what I understand.

14 Q. Right. Nothing further.

15 THE COURT: Any Redirect?

16 MR. BANNISTER: A brief Redirect, yes, sir.

17 REDIRECT EXAMINATION

18 BY MR. BANNISTER:

19 Q. Let's take a look at your deposition on page 38 at
20 line 25, going over to the next page. When I asked you
21 where Roger, Junior, was when he got shot, didn't you
22 tell me back in December -- December first of 2010 --
23 that he was inside the door when he was going for the
24 gun?

25 A. Yes, I said it.

S. GREGORY ON REDIRECT

1 Q. Any question that was fresher in your mind in
2 December of last year than it is today?

3 A. Yeah.

4 Q. You and your brother, Kellet, are pretty close?

5 A. Yeah.

6 Q. And in conversations you were having or discus-
7 sion about the meeting with your dad, . .

8 A. We didn't really discuss it.

9 Q. . . well, you had to figure out where you were
10 going to go, didn't you?

11 A. No, we didn't discuss it.

12 Q. Did he at least talk to you on the phone about
13 it?

14 A. No.

15 Q. In that phone call, he didn't mention, hey, I'm
16 meeting dad and I'm going to fight?

17 A. No.

18 Q. No further questions.

19 SOLICITOR: No Recross.

20 THE COURT: Thank you, Mr. Gregory. You can
21 step down.

22 (Witness excused from stand)

23 THE COURT: All right, sir. Call your next wit-
24 ness.

25 MR. BANNISTER: We would call Kellet Gregory.

1 KELLETT GREGORY, being duly
2 sworn, testified as follows:
3 CLERK: Please state your name for the record.
4 WITNESS: Kellet Gregory.
5 DIRECT EXAMINATION
6 BY MR. BANNISTER:
7 Q. All right, Kellet, just like I've asked every-
8 body else, how old are you?
9 A. Twenty-three.
10 Q. And did you graduate from high school?
11 A. Yes, sir.
12 Q. All right, and how tall are you?
13 A. About six foot.
14 Q. And how much do you weigh?
15 A. About a hundred and eighty-something.
16 Q. On October 10th of 2009, as I understand it,
17 you were about two weeks out of basic training at
18 that point. Is that correct?
19 A. Yes, sir.
20 Q. All right, and had you been living at the Betsy
21 Road residence we've talked about?
22 A. Yes, sir.
23 Q. And had you also been living there since you got
24 back from basic training?
25 A. Kinda, sorta. Well, I lived there for a while

K. GREGORY ON DIRECT

1 until January; then I went to where my unit was sent.

2 Q. January of this year?

3 A. Of 2010. January of 2010.

4 Q. So once you got back -- when you got back from --
5 how long were you there from January of 2010?

6 A. I was there about eight weeks.

7 Q. When you came back, did you stay at Betsy Road
8 then?

9 A. Yes, sir.

10 Q. Is that where you currently reside?

11 A. Yes, sir.

12 Q. Your mom lives there also but the property is
13 actually held in trust for you and your brothers, is
14 that correct?

15 A. Yes, sir.

16 Q. So at some point you're going to inherit this
17 property?

18 A. Yes, sir.

19 Q. In basic training, do you all learn about the
20 dangers of allowing somebody to acquire your fire-
21 arms?

22 A. Yes, sir.

23 Q. That's part of the combat training, is don't
24 let somebody get ahold of your firearm?

25 A. Yes, sir.

K. GREGORY ON DIRECT

1 Q. Because there are two problems with that, aren't
2 there?

3 A. Yes, sir.

4 Q. And one of them is that somebody can use the
5 weapon on you?

6 A. Yes, sir.

7 Q. And the other is that in the struggle over the
8 weapon, it can go off and hit somebody other than who
9 you intended?

10 A. Yes, sir.

11 Q. Did you in fact go to a going away party that
12 your dad and Louanne threw for you?

13 A. Yes, sir.

14 Q. Was that roughly around Memorial Day of 2009?

15 A. Yes, sir.

16 Q. Who took you to, I guess, the reserve station
17 or wherever it was when you were actually going to
18 leave -- getting on the bus to actually go wherever
19 it was you were going?

20 A. I really can't remember that. It's been a long
21 time ago.

22 Q. All right, so if your dad said it was him, you
23 wouldn't have any reason to argue?

24 A. No, sir.

25 Q. And at least at that point in time, you had some

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K. GREGORY ON DIRECT

1 relationship with your father?

2 A. Yes, sir.

3 Q. And did you visit Terry fairly regularly up to
4 leaving to go away for basic training?

5 A. Yes, every now and then.

6 Q. Okay, and did you have phone conversations with
7 him on the cel phone?

8 A. I had conversations with Louanne.

9 Q. With Louanne but not Terry?

10 A. He didn't call me.

11 Q. But you were talking?

12 A. Yes, sir.

13 Q. Before -- after you graduated high school, which
14 -- was that June of 2008?

15 A. Yes, sir.

16 Q. All right, and then up to May or June of 2009
17 when you left to go to basic training, were you in
18 school at Greenville Tech?

19 A. Yes, sir.

20 Q. And did -- you were taking a mechanic's class of
21 some type?

22 A. Yes, sir.

23 Q. And you had a pretty sophisticated set of me-
24 chanics' tools?

25 A. Yes, sir.

K. GREGORY ON DIRECT

1 Q. As a part of your training, correct?

2 A. Yes, sir.

3 Q. The tools were not being kept on campus so did
4 you keep those tools at Terry's and Louanne's?

5 A. Not the ones that -- I usually kept them at the
6 shop.

7 Q. Okay. How about your dirt bike? Did you keep
8 that over at Terry and Louanne's?

9 A. Just for maybe like a few days, a week or so.
10 Not long.

11 Q. All right. Didn't you have -- didn't your
12 father give you an air rifle?

13 A. Yes, sir.

14 Q. And didn't that ultimately get stolen out of
15 your truck?

16 A. Yes, sir. It got stolen at the house.

17 Q. At your house?

18 A. Where I had my truck.

19 Q. And do you remember telling Terry and Louanne
20 that you thought Junior was the one that had taken
21 that?

22 A. No, I never said that.

23 Q. Did you have any conversations with your dad or
24 your mom about the fact that you didn't like all of
25 those people being over there at Betsy Road?

K. GREGORY ON DIRECT

- 1 A. I never said that.
- 2 Q. You never said that?
- 3 A. No.
- 4 Q. All right. So at least you all are on speaking
5 terms when you leave to go away?
- 6 A. Yes, sir.
- 7 Q. All right, and then while you are away at boot
8 camp did you have much communication with Terry or
9 Louanne, live communications? I mean, actually talk-
10 ing?
- 11 A. Not really. I didn't use the cel phone that
12 much. Maybe a few times.
- 13 Q. All right, did you have live communication with
14 your brother, Steven?
- 15 A. I did when I got my phone.
- 16 Q. Okay, and did you have live communications with
17 your momma, Lisa?
- 18 A. Yes, sir.
- 19 Q. While you were at boot camp when you got your
20 phone?
- 21 A. Yes, sir.
- 22 Q. But there was no conversation with Terry or
23 Louanne?
- 24 A. No, sir. They sent me maybe a letter or two.
- 25 Q. All right, so while you were at basic training

K. GREGORY ON DIRECT

1 were there some issues developing between Louanne and
2 Terry, your mom, Steven that you became aware of?

3 A. Yes, sir.

4 Q. And was that -- I guess the only people you were
5 talking to was Steven and your mom?

6 A. Yes, sir.

7 Q. So you were getting that information from them
8 basically?

9 A. Yes, sir.

10 Q. When you got back -- well, at some point did
11 you send a letter to Louanne and Terry saying I want
12 an explanation . . .

13 A. Yes, sir.

14 Q. . . and tell me what's going on?

15 A. Yes, sir.

16 Q. What was that -- what issue was that referring
17 to? An explanation for what?

18 A. I just said what was happening at the house.

19 Q. Does that include the tires, DHEC, . . .

20 A. Yes, sir.

21 Q. . . the property and actually the child support?

22 A. Yes, sir.

23 Q. And did that include Steven not graduating and
24 issues around that?

25 A. Yes.

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K. GREGORY ON DIRECT

1 Q. Anything else that was going on?

2 A. Not that I know of.

3 Q. Was your dad and Louanne -- were they leaving
4 you messages to get in touch with them?

5 A. Yes, sir.

6 Q. And so you were making a decision at least to
7 some extent not to call them back or have communica-
8 tion with them?

9 A. I only got a few phone calls so I made
10 them to my mom.

11 Q. All right. So as between the choices of who
12 you were going to call, it wasn't to Louanne and
13 Terry?

14 A. It wasn't, no.

15 Q. When you got back -- you had been back from basic
16 training for about two weeks before October 10th of
17 2009. Correct?

18 A. Yes.

19 Q. And when you got back there was no prohibition
20 on calling to let them know you got home, was there?

21 A. No, sir.

22 Q. So at least when you came back, it was a choice
23 of just not talking to Terry and Louanne?

24 A. Yes, sir.

25 Q. And were they still calling and leaving messages,

K. GREGORY ON DIRECT

1 trying to get you to call them back or get in touch
2 with them?

3 A. Not really. I mean, there may have been a
4 couple maybe.

5 Q. Okay. Did -- so did you know that not speaking
6 with your dad when you got back from basic training
7 was something that would probably hurt his feelings
8 or that he would take the wrong way?

9 A. I didn't care. I didn't know whether they would
10 care or not.

11 Q. So whatever happened while you were gone to basic
12 training had taken you from the point of being will-
13 ing to talk to them to I don't care; I'm not talking
14 to them?

15 A. Yes, sir.

16 Q. So Kellet -- sorry. Steven called you at some
17 point on October 10, 2009, that he had ran into his
18 dad at Call to Greenville?

19 A. Yes, sir.

20 Q. And then it wasn't too much later than that that
21 you finally got a message about calling your dad from
22 Louanne's cel phone. Correct?

23 A. Yes, sir.

24 Q. Did you see that call come in from Louanne Gregory
25 on October 10, 2009?

K. GREGORY ON DIRECT

1 A. I can't remember where I was. I didn't have a
2 good signal. I got a voice mail. Maybe a missed call.

3 Q. Could it have been that you just didn't answer
4 the phone when you saw it was coming from Louanne
5 Gregory?

6 A. Yes.

7 Q. It wouldn't have been unusual for . .

8 A. I wouldn't have answered it.

9 Q. Okay, but the message Terry left you had the
10 effect to get you to call him back briefly?

11 A. Yes, sir.

12 Q. And in that message it was a pretty nasty mes-
13 sage, wasn't it?

14 A. Yes, sir.

15 Q. He said, hey, I just had a little discussion
16 With your brother, and you need to call me?

17 A. That's part of it. That's not the whole thing.

18 Q. And he said, how come you all don't have no f'ing
19 balls. Right?

20 A. Yes, sir.

21 Q. Either one of you or us three need to sit down
22 and talk. Right?

23 A. Or better yet, stand up . .

24 Q. Or better yet stand up and talk?

25 A. Yes, sir.

K. GREGORY ON DIRECT

1 Q. So one day if you grow some balls, you call me.

2 Right?

3 A. Yes, sir.

4 Q. You little chicken shit bastard.

5 A. Yes, sir.

6 Q. That was the message he left?

7 A. Yes, sir.

8 Q. Actually that prompted you to call back at that
9 point?

10 A. Yes, sir.

11 Q. So five months of communication or whatever he
12 was trying to do, and then being unsuccessful in get-
13 ting you to call, and then this message made you say,
14 okay, I'm calling?

15 A. I said, I've had it with them harrassing my mom,
16 my brother, and then harrassing me -- that's the third
17 strike.

18 Q. When you called back to talk to him, at some
19 point in that conversation there were a number of
20 places suggested where you all could meet to talk, is
21 that correct?

22 A. Yes, sir.

23 Q. The first place was downtown?

24 A. Yes, sir.

25 Q. At Fall for Greenville?

K. GREGORY ON DIRECT

1 A. Yes, sir.

2 Q. And so it wasn't like, let's meet at Fall for
3 Greenville downtown to fight? It was, let's meet in
4 downtown Greenville so we can talk. Right?

5 A. Well, when I got that message I assumed he had
6 wanted to fight, so . . .

7 Q. Well, isn't meeting downtown sort of strange if
8 that was what he wanted?

9 A. Yeah, but . . .

10 Q. And then . . .

11 A. . . he had tried to fight Steven downtown in
12 the middle of the street, so . . .

13 Q. That was what Steven thought?

14 A. Yeah, and I believed my brother.

15 Q. Okay, and then they also suggested, did they
16 not, Shane's Restaurant?

17 A. Yes, sir.

18 Q. And those were the two suggestions coming from
19 Louanne and Terry, downtown and Shane's Restaurant.
20 Right?

21 A. Yes, sir.

22 Q. So it wasn't like let's fight at Shane's Res-
23 taurant?

24 A. No. I mean, I don't know.

25 Q. I mean, it wasn't like Terry was saying, let's

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K. GREGORY ON DIRECT

1 meet at Shane's Restaurant because that's where
2 we're going to meet to fight. Right?

3 A. No.

4 Q. It was let's meet at Shane's Restaurant so we
5 can talk?

6 A. No. It wasn't like that.

7 Q. But they suggested Shane's Restaurant?

8 A. Yes, they suggested Shane's Restaurant.

9 Q. All right, and so if your father did not mean
10 what he said, let's stand up and talk, and
11 you thought that was to fight, that's kind of incon-
12 sistent with let's meet at Shane's Restaurant, isn't
13 it?

14 A. When he said standing up, he was insisting he
15 wants to fight.

16 Q. That came at first, right?

17 A. Yes.

18 Q. And then the suggestion to meet downtown came
19 next?

20 A. Yes, sir.

21 Q. And then the suggestion to meet at Shane's came
22 next?

23 A. Yes, sir.

24 Q. And then there was a suggestion you made to meet
25 at the Spinx station?

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K. GREGORY ON DIRECT

1 A. Yes, sir.

2 Q. And that's a gas station out there on Fairview
3 Road. Correct?

4 A. Yes, sir.

5 Q. And it's a fairly large gas station?

6 A. Yes, sir.

7 Q. It's also a convenience store?

8 A. Yes, sir.

9 Q. And inside the store they've got a number of
10 people that work the cash register and there is also
11 like a little like short order station back there for
12 chicken and things like that. Right?

13 A. Yes.

14 Q. It's a well lit area?

15 A. Yes.

16 Q. So those three places at least would suggest
17 something other than, hey, we're going to meet and
18 fight?

19 A. . .

20 Q. In other words, isn't it equally susceptible of
21 the interpretation that we're going to stand up and
22 talk, and your dad had several things you all were
23 going to talk about?

24 A. Why would he say stand up and talk?

25 Q. Huh?

K. GREGORY ON DIRECT

1 A. Why would he say stand up and talk?

2 Q. Well, doesn't that -- couldn't that also mean
3 -- I mean, I imagine it could mean someone was going
4 to fight?

5 A. That's exactly what it means.

6 Q. Well, that's what you believe it meant?

7 A. With my dad, that's what it means.

8 Q. Well, I'm going to ask Terry what he meant, but
9 I'm asking you. That's what you believe that it
10 meant. Right?

11 A. Yes, sir.

12 Q. And did Investigator Miller tell you that also?

13 A. I didn't need no one to tell me that.

14 Q. Did -- so the stand up to talk, it would not
15 have meant that if you met in downtown Greenville at
16 Shane's Restaurant, would it; or inside the Sphinx
17 station, would it?

18 A. Who said we were going to be inside the Sphinx
19 station? We were at McKelvey Road, down about half a
20 mile down the road.

21 Q. Okay. Well, I'm just talking about on the prop-
22 erty of the Sphinx station.

23 A. Yes, sir.

24 Q. That wouldn't have made sense?

25 A. That's what the cop said he calls it.

K. GREGORY ON DIRECT

1 Q. So when -- do you agree with Steven that one of
2 the issues was that you all just didn't want to be
3 around your dad?

4 A. Yes, sir.

5 Q. You wanted to cut off contact with him?

6 A. Yes, sir.

7 Q. All right, and do you agree that that was at
8 least what you intended to tell him when you all were
9 out on Shirley Road?

10 A. Yes, sir.

11 Q. Your purpose in going to Shirley Road and meeting
12 him out there was to say that once and for all you
13 didn't want to have any contact with him; that we're
14 tired of you harrassing us; tired of running into you,
15 and this is it?

16 A. Yes, sir.

17 Q. That's what you wanted to tell him?

18 A. And a final thing was to say what I think.

19 Q. Okay. So at least in your mind while you may
20 have thought stand up and talk meant to fight, in
21 your mind you were going over there with a purpose
22 of telling him what you had to say and that was it?

23 A. Yes, sir.

24 Q. And in your statement that you gave to the po-
25 lice -- do you remember giving a statement to the

K. GREGORY ON DIRECT

1 police?

2 A. Yes, sir.

3 Q. All right. Now, right here where it starts off
4 the sentence, I didn't want the police involved.

5 A. Yes, sir.

6 Q. I knew if we fought at the Spinx, someone would
7 call the police.

8 A. Yes, sir.

9 Q. And that is consistent with what we've been say-
10 ing?

11 A. Yes, sir.

12 Q. It couldn't have been a fight if in your
13 mind you were going there to tell him that we're done
14 with you. Right?

15 A. Where at?

16 Q. I'm sorry. Shirley Road.

17 A. Yes, sir.

18 Q. And again, in your statement down here you said
19 -- let's see here. Where it starts with my mom.

20 My mom, Lisa Brazier, and her boyfriend, Roger
21 White, Senior, his son, Roger White, Junior, Dustin
22 Lackey, my brother, Steven Gregory, my half-brother,
23 Trip, went with me to the field, and the next sen-
24 tence says, I told them that we were going to fight.
25 Right? That's what you put in your statement?

K. GREGORY ON DIRECT

1 A. Yes, sir.

2 Q. And you heard each one of them testify that in
3 their minds you all were going there for the purpose
4 of telling -- of talking and telling Mr. Gregory, of
5 telling Terry, that you don't want anything else to do
6 with them. Right?

7 A. Yes, sir.

8 Q. All right. So they are not lying about what they
9 have told us their understanding of the meeting was,
10 are they?

11 A. No, sir.

12 Q. So what -- would it be fair to say, and I'm try-
13 ing to get this right in my mind here, is that you
14 were mad and in your mind, depending on what was said,
15 you would be willing to fight if that's what it came
16 down to?

17 A. Yes, sir.

18 Q. But your mom and everybody else was saying, look,
19 just tell him this is what is going on and you all
20 didn't want anything to do with him, and then you be
21 done with it?

22 A. Yes, sir.

23 Q. That was advice your mom was giving you?

24 A. My mom told me not to fight.

25 Q. Your mom said, just tell him what you need to

K. GREGORY ON DIRECT

1 tell him and be done with it?

2 A. Yes, sir.

3 Q. So that was the premise of that meeting from
4 your point of view?

5 A. Yes, sir.

6 Q. Other than the stand up and talk, there was no
7 discusson with Terry about a fight? That word was
8 never used, was it?

9 A. No, sir.

10 Q. All right. Was Brent Hanvey there or not?

11 A. Brent Hanvey came to the Spinx with me and he
12 got out but I don't know if he got out right there.
13 I didn't see him when we got there. Maybe he got in
14 my back seat and I just didn't see him.

15 He said he was there, but I remember him get-
16 ting out at the Spinx, but not getting back in. He
17 wasn't in the front seat.

18 Q. What kind of truck do you drive?

19 A. Then I drove a 150.

20 Q. Is it an extended cab?

21 A. An extended cab.

22 Q. So it does have a back seat?

23 A. Yes, sir.

24 Q. Was there anything that kept you from seeing in
25 the back seat as you climbed in the truck?

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K. GREGORY ON DIRECT

1 A. No, sir, but I don't look in the back seat every
2 time I get in it.

3 Q. Okay. Did you see your dad pull past Shirley
4 Road?

5 A. Yes, sir.

6 Q. And is that when you called Louanne and said,
7 hey, you missed us?

8 A. Yes, sir.

9 Q. So that phone call from your cel phone to Louanne's
10 phone was to say, hey, you've already missed us; come
11 back; we're here close?

12 A. Yeah. Yes, sir.

13 Q. And so whatever time is on that cel phone call
14 is at least shortly before Terry actually pulled into
15 Shirley Road?

16 A. Yes, sir.

17 Q. When -- now, Shirley Road was the location you
18 had told your father about. Correct?

19 A. I don't see how he missed us because I had -- I
20 believe I had my headlights on and so did Roger --
21 Roger, Senior.

22 Q. Okay, but in any event they did?

23 A. Yes.

24 Q. And so on this spot on McKelvey Road was your
25 idea to meet there?

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K. GREGORY ON DIRECT

- 1 A. Yes, sir.
- 2 Q. And in fact you originally agreed to meet at
3 the Spinx, but you changed your mind about meeting
4 at the Spinx?
- 5 A. Yes, sir.
- 6 Q. Did -- when Terry got there, did he step out of
7 the vehicle and stand behind his door?
- 8 A. He stepped out like from -- he had about half
9 his body outside the door and that's when I seen what
10 he had in his hand.
- 11 Q. Okay, and then you didn't know it was a flash-
12 light he had?
- 13 A. I didn't know it was a flashlight. It looked
14 long and pretty sturdy.
- 15 Q. Now, you . . .
- 16 A. And you don't really need that when you got to
17 talk to somebody.
- 18 Q. Okay, I understand that is what was going through
19 your mind, but didn't you say, we're here to talk;
20 what have you got in your hand, or words to that ef-
21 fect -- something like that?
- 22 A. Yes, sir.
- 23 Q. And then Terry said -- didn't he hold it up and
24 say, it's a flashlight, and flick it on?
- 25 A. No.

K. GREGORY ON DIRECT

1 Q. No?

2 A. No.

3 Q. Did he say you all come over here and we'll
4 talk?

5 A. Yes, sir.

6 Q. But you all wouldn't go over there when he had
7 the flashlight?

8 A. No, sir.

9 Q. And would it be fair that it was at that point
10 the whole thing starts deteriorating?

11 A. Yes, sir.

12 Q. At that point -- we've heard talk about scream-
13 ing and yelling back and forth, but the conversation
14 got heated at that point?

15 A. Yes, sir.

16 Q. Did you see Louanne pull the gun up?

17 A. I seen her like -- she picked it up. She first
18 had it.

19 Q. Okay. Did you see her hold it up? Point it
20 toward the ceiling like I've got a gun?

21 A. I can't really remember how she held it up. I
22 just remember seeing it.

23 Q. Okay, and at the point of Louanne holding the
24 gun up -- at that point, does anybody start backing
25 off from Terry's vehicle?

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K. GREGORY ON DIRECT

1 A. No, sir. My mom came around. It happened so
2 fast. I seen when he got the gun, and I said, you've
3 got a gun, and then mom went around us and got in
4 front of me and my brother, like any good mom would
5 do, I guess.

6 Q. So when you hear somebody say or when someone
7 is talking about a gun and your mother started moving
8 toward Terry's car . .

9 A. She got in front of us. She didn't move toward
10 the truck. She got in front of us.

11 Q. Okay, and the three of you all were at the truck
12 door?

13 A. Yes, sir.

14 Q. So when Terry had the gun out, you all were by
15 the front door and that's when he points it within
16 inches at her face?

17 A. Yes.

18 Q. And at that point is when, I guess, Junior gets
19 involved?

20 A. When he said -- he said something along the lines
21 of, I'll get you now, or something like that -- some-
22 thing threatening toward her.

23 Q. So was your mom headed toward Terry's truck?
24 That sort of -- everybody else is going . .

25 A. Well, when I saw him swing toward us, I don't

K. GREGORY ON DIRECT

1 know who was behind me, so I didn't see nobody else
2 move.

3 Q. Did -- well, Junior had to move?

4 A. Junior had to move, right.

5 Q. And if Roger White, Senior, caught Junior, he
6 had to be moving. Right?

7 A. Right. Yes, sir.

8 Q. If you are right behind your mom and the gun is
9 only a couple of inches from your mom's face, then
10 you and Steven are at the door. Right?

11 A. Yes, sir.

12 Q. So you all had to get a little bit closer than
13 you were when you were talking about the flashlight.
14 Right?

15 A. Yes, sir.

16 Q. Wasn't it a pretty clear indication when Terry
17 has got the gun out that he wants some distance be-
18 tween him and you all?

19 A. I guess so.

20 Q. And if he had wanted to just start shooting peo-
21 ple, he certainly had a lot of opportunities to do it
22 before he shot Junior. Correct?

23 A. Yes, sir.

24 Q. So Lisa is kicking the door. Are you doing any-
25 thing to try to get the gun away from Terry at that

K. GREGORY ON DIRECT

1 point?

2 A. It all happened so fast, sir. I just remember
3 mom kicking the door and Junior came and tried to grab
4 the gun so he wouldn't shoot my mom, and then he got
5 shot.

6 Q. When you say Junior tried to grab the gun, he
7 ended up between Terry's door and the cab of the
8 truck, is that right?

9 A. No.

10 Q. He ended up on top of Terry, did he not?

11 A. No.

12 Q. He never got inside the door of the truck?

13 A. No, sir. He grabbed the gun at, like, the cor-
14 ner of the cab.

15 Q. Well, no question he was reaching for the gun as
16 he got shot. Is that a fair statement?

17 A. No question about that.

18 Q. Okay. Do you know who the black SUV belongs to?

19 A. No, sir.

20 Q. Do you know who the white Ford Taurus belongs
21 to?

22 A. No, sir.

23 Q. Do you know anybody who has a white car that is
24 either friends with you or Brent Hanvey?

25 A. At that time I don't know who even had a white

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K. GREGORY ON DIRECT

1 car.

2 Q. Okay.

3 A. I don't think his mom even drove a white car at
4 that time.

5 Q. So the two cars that Mr. King and Mr. Cochoran,
6 the ones who lived out there -- it's just a coinci-
7 dence that they saw cars leaving the scene and going
8 up and down the road?

9 A. A car may have gone down that way, so -- I mean,
10 there are probably plenty of cars going down through
11 that way.

12 Q. Where was the party?

13 A. Down the road about five miles probably.

14 Q. And this was the party you had been at?

15 A. It was the party I was at earlier. Yes, sir.

16 Q. And that was when you had the vodka?

17 A. Yes, sir.

18 Q. You had had something to drink that day?

19 A. Yes, sir, I had a little bit to drink.

20 Q. Had you been around Junior at all that day?

21 A. No, sir.

22 MR. BANNISTER: Judge, I think that's all the
23 questions I have at this point.

24 THE COURT: Yes, sir. Mr. Moyer.

25 CROSS EXAMINATION

K. GREGORY ON CROSS

1 Q. Well, how do they come about?

2 A. Well, we had one that I woke up on the ground,
3 and I was the gunner.

4 Q. And it happened three times?

5 A. Yes, sir.

6 Q. When did you get back from Afghanistan?

7 A. I think late March.

8 Q. Okay, and then you started working at (inaudible)
9 Tire?

10 A. Yes, sir.

11 Q. And when did you start working at Lincoln Tire?

12 A. About a month ago.

13 Q. And you are twenty-one years old and you live
14 with your mother and Roger, Senior, right now?

15 A. Yes, sir.

16 Q. Okay. Now, let me ask you a few questions about
17 your relationship to your dad over the years.

18 You said things kind of had gotten worse when
19 you were off in basic training?

20 A. Yes, sir.

21 Q. And that was because of what you were hearing
22 about what was going on back at home?

23 A. Yes, sir.

24 Q. And you did not answer his messages when he
25 would try to call?

K. GREGORY ON CROSS

1 A. No, sir.

2 Q. Well, like I said, I only got a few calls so I
3 would like call my mom and Roger, and then maybe call
4 a friend or something.

5 Q. So you just kind of were done with them?

6 A. Yes, sir.

7 Q. Okay. Now, let's talk about October 10 of 2011.

8 A. Yes, sir.

9 Q. You got a call from Steven, is that right?

10 A. Yes, sir.

11 Q. And how did Steven sound during the call?

12 A. He sounded a little upset, like, you know, dad
13 tried to fight me downtown or we had words. Things like that.

14 Q. Steven is your younger brother?

15 A. Yes, sir.

16 Q. And he's about a couple of years younger?

17 A. Yes, sir.

18 Q. And are you protective of your brother?

19 A. Yes, sir.

20 Q. And it made you mad when you heard that, didn't
21 it?

22 A. Very mad.

23 Q. And in your statement I believe you mentioned it
24 made your blood boil?

25 A. Yes, sir.

K. GREGORY ON CROSS

1 Q. And because you are protective of your brother
2 and protective of your mother, you are angry the way
3 he was treating your mother and what he just tried
4 to do to your brother?

5 A. Yes, sir.

6 Q. And you didn't call him, did you?

7 A. No, sir.

8 Q. You got a call from him?

9 A. Yes, sir.

10 Q. And that is what set everything off?

11 A. Yes, sir.

12 Q. And you . .

13 A. I don't know if it was from a call or what I
14 remember of a voice mail.

15 Q. You got a voice mail?

16 A. Yes, sir.

17 Q. And you actually allowed that to be recorded
18 later on that night by the police?

19 A. Yes, sir, I did.

20 Q. Okay.

21 A. I believe Officer Miller is actually the one . .

22 Q. Were you present when Officer Miller copied the
23 call? Investigator Miller?

24 A. Yes, sir.

25 Q. He didn't change anything, add anything, delete

K. GREGORY ON CROSS

1 anything?

2 A. No, sir.

3 Q. And you have listened to it since, haven't you?

4 A. I heard it. I heard it when you played it.

5 Q. Right, and did you put your initials on . .

6 A. Yes, sir.

7 Q. Is this a copy of the tape you listened to?

8 A. Yes, sir, that's a copy of it.

9 Q. Is that an accurate recitation of that call you
10 received that day?

11 A. Yes, sir.

12 SOLICITOR: Your Honor, I'd move for State's
13 Exhibit Number 48 entered in evidence for purposes of
14 the record.

15 THE COURT: Any objection?

16 MR. BANNISTER: For purposes of this record.

17 THE COURT: All right, State's 48 is entered
18 in the record.

19 (Whereupon, tape of voice mail played for the
20 Court, State's Exhibit 48)

21 BY SOLICITOR:

22 Q. That's the phone call that you received?

23 A. Yes, sir.

24 Q. I'm sorry. That's the voice mail he left on your
25 cel phone?

K. GREGORY ON CROSS

- 1 A. Yes, sir.
- 2 Q. And that was about 2:43 in the afternoon?
- 3 A. Yes, sir. Yes, sir. It was around -- between
- 4 two thirty and three.
- 5 Q. And when you heard that message, how did you
- 6 take that?
- 7 A. I took it as he wanted to fight.
- 8 Q. Did you take it as threatening?
- 9 A. Yes, sir.
- 10 Q. Do you think anybody would?
- 11 A. Yes, sir.
- 12 Q. Now, at that point you called him back after that?
- 13 A. Yes, sir.
- 14 Q. And you had one conversation with him, and then
- 15 he called you back several times after that?
- 16 A. Yes, sir.
- 17 Q. So you had three conversations over a period of
- 18 about an hour?
- 19 A. Yes, sir.
- 20 Q. Tell me about the tone of those conversations?
- 21 Were they friendly, were they hostile?
- 22 A. They weren't friendly, no. It was kinda hostile
- 23 but it definitely weren't friendly.
- 24 Q. And the purpose of those phone calls was to come
- 25 up with a place you were going to meet?

K. GREGORY ON CROSS

1 A. Yes, sir.

2 Q. And you discussed several different places?

3 A. Yes, sir.

4 Q. You discussed, as you've talked about, meeting
5 downtown and Shane's Restaurant?

6 A. Yes, sir.

7 Q. And then you came up with Spinx, because -- is
8 it true that is near where you were?

9 A. It was near where I was. It would be more con-
10 venient.

11 Q. You were over in that area?

12 A. Yes, sir.

13 Q. And you also knew that there was a quiet street
14 right off McKelvey Road?

15 A. Yes, sir.

16 Q. Down Shirley Road?

17 A. Yes, sir.

18 Q. And you knew he lived near there and would be
19 familiar with that area?

20 A. Yes, sir.

21 Q. Did you know he was in downtown?

22 A. I knew he was in downtown earlier but I didn't
23 know where they were then.

24 Q. You didn't know they were spending the night?

25 A. No. I thought he was going to their house.

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K. GREGORY ON CROSS

1 Q. Now, Shane's Restaurant -- do you know what
2 time that closes?

3 A. It closes different times. Like if there is
4 somebody there they will stay late. I mean, they
5 will stay as late as people eat there.

6 Q. Okay, and I won't say it's a quiet place, but
7 it kinda sits way off the road, doesn't it?

8 A. It's not way off the road, but it's off the road,
9 yes, sir.

10 Q. In fact, it's behind the -- what used to be a
11 mortuary there?

12 A. Yes, sir. It's an antique place now, I think.

13 Q. Okay, and it's kind of back behind there?

14 A. Yes, sir.

15 Q. Okay. Now, when you had your conversations with
16 him, is it fair to say that you were going to do
17 whatever he wanted to do when he got there? If he
18 just wanted to talk, you would talk?

19 A. Yes, sir.

20 Q. If he wanted to fight, you were ready to fight?

21 A. Yes, sir.

22 Q. And because you were sick and tired of the way
23 he had been treating you all. Right?

24 A. Yes, sir. Me and my mom and my brother.

25 Q. So you wanted to go out there and be prepared

K. GREGORY ON CROSS

1 for whatever he wanted?

2 A. Yes, sir.

3 Q. Did you intend to fight? I mean, you had not
4 ever been in a fight with him before, had you?

5 A. No, sir.

6 Q. Okay, so based on the threat he made to your bro-
7 ther and the threat he made to you on the telephone,
8 did you think there was a possibility there would be
9 a fight?

10 A. Yes, sir.

11 Q. So you went over to the Spinx, and met up with
12 everybody?

13 A. Yes, sir.

14 Q. And you drove -- you led the way over there to
15 Shirley?

16 A. Yes, sir.

17 Q. Tell us why you ended up parking where you did?

18 A. I just pulled off Fairview -- I can't remember
19 if I came -- there's two ways to get to that road from
20 Fairview. I can't remember -- I think I pulled off
21 Fairview onto McKelvey and just did a U and Roger had
22 just followed in behind me.

23 Q. There is actually another road that comes here?

24 A. Yes, sir.

25 Q. I don't know if it's shorter or not but you could

K. GREGORY ON CROSS

1 have come that way. Right?

2 A. Yes. I think I just came off McKelvey and cir-
3 cled around.

4 Q. Okay, and do you remember seeing your brother
5 get stuck in the field?

6 A. Yes, sir.

7 Q. Were there any other vehicles?

8 A. No, sir.

9 Q. Did you see a white Taurus or a black SUV?

10 A. No, sir.

11 Q. Were there any other people other than what we've
12 talked about?

13 A. No, sir. They say Brent was with me but, like
14 I say, I didn't see Brent. He got out at the
15 Spin x, and I don't remember him getting back in.

16 Q. Okay, and other than Brent Hanvey, anybody else
17 other than the eight people and the baby that we've
18 talked about?

19 A. No, sir.

20 Q. And the Defendant drove up in his vehicle and
21 stopped immediately where the vehicles are depicted in
22 that photograph?

23 A. Yes, sir.

24 Q. Okay.

25 A. None of the vehicles moved after that.

K. GREGORY ON CROSS

- 1 Q. And so the position that we see the vehicles in
2 the photograph is the position they were when this
3 incident took place?
- 4 A. Yes, sir.
- 5 Q. And he immediately got out of his truck?
- 6 A. Yes, sir.
- 7 Q. And you saw a flashlight in his hand?
- 8 A. I seen something that was like about, you know,
9 twelve to fourteen inches, so . . .
- 10 Q. Did you think it was a pipe or . . .
- 11 A. I didn't know what he had so I was thinking it
12 was a weapon of some sort. You know, he was holding
13 it down like it was.
- 14 Q. Okay. Now, you said Brent Hanvey was there. Was
15 -- do you know Justin Weingartner?
- 16 A. Yes, sir.
- 17 Q. Is he the guy shown in this photograph?
- 18 A. Yes, sir. With Jessica Shaw there?
- 19 Q. Uh hm.
- 20 A. Yes, sir.
- 21 Q. He wasn't there?
- 22 A. No, sir.
- 23 Q. Do you know where he was?
- 24 A. He was doing something with the Army. I can't
25 remember, but he was always doing something -- he's

K. GREGORY ON CROSS

1 real big in the service, and I don't know which
2 branch, but he's always doing something. I think he
3 might have been at some school at that time.

4 Q. Okay, but he definitely wasn't there?

5 A. Yes, sir.

6 Q. Now, up until the time the Defendant had the gun
7 in his hand, had anybody made any threat toward your
8 father?

9 A. No, sir.

10 Q. Had anybody approached him?

11 A. No, sir.

12 Q. Swung at him?

13 A. No, sir.

14 Q. Did anybody have a weapon? A. No, sir.

15 Q. Did you have a weapon?

16 A. No, sir.

17 Q. Do you own any firearms?

18 A. I own quite a few, yes, sir.

19 Q. Do you own any handguns?

20 A. Yes, sir.

21 Q. Did you bring any of your handguns with you?

22 A. At the time I didn't own a handgun.

23 Q. You hunt, don't you?

24 A. Yes, sir.

25 Q. Okay, but you have rifles?

K. GREGORY ON CROSS

- 1 A. Yes, sir.
- 2 Q. Shotguns?
- 3 A. Yes, sir.
- 4 Q. Did you have any of those with you?
- 5 A. No.
- 6 Q. Did Brent have any weapon with him?
- 7 A. No, I don't even know if Brent had any guns, to
- 8 be honest with you.
- 9 Q. And you didn't have one?
- 10 A. No, sir.
- 11 Q. Okay, when your father was holding the flashlight
- 12 is that when he called you to come over there?
- 13 A. Yes, sir.
- 14 Q. And what was his - how did you take his tone of
- 15 voice?
- 16 A. It wasn't the most friendly voice, but it wasn't
- 17 like, you know, the most hostile voice.
- 18 Q. Did you think he wanted you to walk over there
- 19 to talk?
- 20 A. I didn't know. I knew he had something in his
- 21 hands and I told him to put it down. I mean, . .
- 22 Q. So you weren't willing to take the risk and go
- 23 over there?
- 24 A. No, sir.
- 25 Q. Were you still ready to fight if he wanted to

K. GREGORY ON CROSS

1 fight you?

2 A. Yes.

3 Q. But not if he had a weapon?

4 A. No, sir.

5 Q. Okay, and then at that point he got the gun from
6 Louanne?

7 A. Yes, sir.

8 Q. You say you saw Louanne with the gun?

9 A. Yes.

10 Q. But you don't know what she did with it?

11 A. I know she was holding the gun, but I don't know
12 how she was holding it in her hand.

13 Q. She didn't threaten you with it or . . .

14 A. I just think she handed it to him. I don't re-
15 member.

16 Q. Did you hear her say anything?

17 A. I don't remember.

18 Q. But she stayed in her vehicle, right?

19 A. Yes, sir.

20 Q. Did anybody ever threaten her at any time?

21 A. No, sir.

22 Q. Did anybody ever go up to her that you know or
23 even say anything about her?

24 A. No, sir.

25 Q. Anybody call her a bitch?

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1 A. Not that I can remember. I don't even know if
2 anybody talked about her.

3 Q. Did anyone -- did you hear anybody say, we're
4 going to kill you, meaning Terry, and your . .

5 A. No, sir. I never heard anybody say that.

6 Q. You didn't want her to have her feelings hurt,
7 did you?

8 A. No, sir.

9 Q. She never . .

10 A. I mean, she -- her and Terry have given mom hell
11 since we've been out here, but I have no feelings for
12 her.

13 Q. If you were going to fight anybody, it was gong
14 to be with him?

15 A. Yes.

16 Q. Okay, and then when -- so he got the handgun from
17 Louanne and what did he do with it?

18 A. I remember him -- I just remember him pointing it
19 at my mom. I remember him -- he had it, and I said,
20 why do you have a gun, and then my mom went around us
21 and got in front of him.

22 Q. Okay, and you said earlier like any mother
23 would do?

24 A. Yes, sir.

25 Q. She was protecting you all?

K. GREGORY ON CROSS

1 A. Yes, sir.

2 Q. And did you see him point the gun at her?

3 A. Yes, sir.

4 Q. And when he did that, is that when people started
5 moving toward him?

6 A. I can't remember that. Like I said, I don't know
7 if that happened or not. My back was turned. I don't
8 know if they were moving or not.

9 Q. Okay, but that's when Roger went over there?

10 A. Junior?

11 Q. Yes.

12 A. I guess. I remember him saying something about
13 killing my mom or something -- he said something along
14 that line, and then she started kicking the door, and
15 then Junior came up, but I don't know where Junior
16 came from.

17 Q. So in addition to pointing the gun at your mother,
18 he actually made a threat toward her?

19 A. Yes, sir.

20 Q. And you've heard other people testify it was
21 something along the lines of, I should silence you
22 now forever?

23 A. Yes, sir.

24 Q. Along that line, and that is when Junior went to
25 grab the gun from him?

K. GREGORY ON CROSS

1 A. She was kicking the door and Junior came -- I
2 don't know where from, it all happened so fast. Junior
3 came out of nowhere and he tried grabbing the gun,
4 saying he wasn't going to kill her or Terry wasn't going
5 to kill my mom.

6 Q. Was it obvious to you what Junior was doing?

7 A. Yes, sir.

8 Q. Did it look like he was trying to strike or hit?

9 A. He wasn't trying to strike or hit. If he was try-
10 ing to strike or hit, somebody would have got hit.

11 Q. But he went for the gun?

12 A. Yes, sir.

13 Q. Okay, and did you ever hit anybody that night?

14 A. No, sir. I did hit the back of his truck after
15 Junior got shot.

16 Q. Back around where your fingerprint was found on
17 the truck?

18 A. It was on the tailgate.

19 Q. Okay, so you hit the tailgate?

20 A. Yes, sir.

21 Q. Did you ever hit anybody?

22 A. No, sir.

23 Q. Other than what happened to your finger from hit-
24 ting the truck, did you have any wounds to yourself?

25 A. No, sir.

K. GREGORY ON CROSS

1 Q. Other than your finger, and Junior dieing, was
2 anybody else there injured or hurt?

3 A. No, sir.

4 Q. Anybody require medical attention?

5 A. No.

6 Q. There was a lot of talk about your mother mov-
7 ing in front of you or moving toward the truck. Did
8 she do so in a hostile way, like she was going after
9 him?

10 A. She was trying to diffuse the situation.

11 Q. Is that the way it appeared to you?

12 A. Yes, sir.

13 Q. And she didn't have a gun or a weapon?

14 A. No. I don't think she even knows how to shoot a
15 gun.

16 Q. Okay. Did anybody ever try to get in Terry's
17 truck?

18 A. No, sir.

19 Q. Okay. You said you had had something to drink.
20 Were you drunk?

21 A. No, sir. If I was drunk, I wouldn't have been
22 driving.

23 Q. I have no further questions.

24 THE COURT: Redirect?

25 MR. BANNISTER: Yes, sir.

K. GREGORY ON REDIRECT

1 REDIRECT EXAMINATION

2 BY MR. BANNISTER:

3 Q. Kicking the door and getting between you and your
4 brother -- was that diffusing the situation?

5 A. Well, she got in between us when I said he had
6 a gun. She got in front of us, and then he pointed
7 it at her.

8 Q. She's kicking the door, yelling and screaming at
9 him. Is that diffusing the situation?

10 A. That's trying to get the gun out of her face,
11 sir.

12 Q. Well, wasn't it always possible for her to say,
13 boys, this has gotten too serious; let's go?

14 A. . .

15 Q. I mean, that was a possibility, that you all
16 could have walked away when you saw he had the gun
17 in his hand?

18 A. Well, when you have your kids behind you and a
19 gun pointed at you, see what you do.

20 Q. That's not my question. You could have walked
21 away when he had the gun, could you not?

22 A. Yes, sir, but my mom got in front of us and I
23 wasn't going to leave my mom.

24 Q. Your mother actually did not diffuse the situa-
25 tion, is that right?

K. GREGORY ON REDIRECT

1 A. She was trying to diffuse it.

2 Q. Well, you all were afraid of the flashlight so
3 you wouldn't go over there, but you weren't afraid to
4 go over there when the gun was there?

5 A. My mom was in between us. I wasn't going to
6 leave my mom.

7 Q. All right, so she escalated the . .

8 Q. She didn't escalate it.

9 Q. Whether she intended to or not?

10 A. She never escalated it. She tried to diffuse
11 it.

12 Q. Did you tell Terry that Roger White, Senior, or
13 Roger White, Junior, or Lisa was going to be there,
14 or Dustin or . .

15 A. I didn't know they were all going to be there,
16 sir.

17 Q. Okay. To your knowledge, did anybody let Terry
18 know that the rest of this crowd was going to be out
19 there?

20 A. No, sir.

21 Q. So that was a shock, or, I should say, there was
22 no way for him to know?

23 A. I guess so.

24 Q. No further questions.

25 RECROSS EXAMINATION

K. GREGORY ON REDIRECT

1 Q. Did you know that Roger, Senior, and everybody
2 else was coming there?

3 A. No, sir.

4 Q. When everybody showed up at the Spin x was the
5 first that you knew everybody else was coming along?

6 A. Yes, sir.

7 Q. Nothing further.

8 REDIRECT EXAMINATION

9 BY MR. BANNISTER:

10 Q. And when you talked to Louanne to say, hey, you
11 missed us, you had an opportunity at that point to
12 say, by the way, you better be aware we've got a
13 crowd here?

14 A. Yes, sir, and they could have said, hey, we've
15 got a gun too.

16 Q. No further questions.

17 THE COURT: You can step down.

18 (Witness excused from stand)

19 MR. BANNISTER: Your Honor, at this point I
20 would call Terry Gregory.

21 THE COURT: I expect Mr. Gregory is going to take
22 a little bit of time, so let's go ahead and take a
23 short break. Then we'll go back on the record.

24 (Whereupon, the Court stood in recess for a brief
25 period, after which the matter was resumed)

1 THE COURT: You may be seated. All right, Mr.
2 Bannister.

3 MR. BANNISTER: We would call Terry Gregory.

4 TERRY GREGORY, being duly
5 sworn, testified as follows:

6 CLERK: Would you please state your name for
7 the record.

8 WITNESS: Terry Gregory.

9 DIRECT EXAMINATION

10 BY MR. BANNISTER:

11 Q. Terry, let's just get right to it. Tell the
12 Court why you shot Roger White, Junior?

13 A. I had no choice. I was in fear for my life,
14 in fear for my wife's life, Louanne, and there was
15 no other choice.

16 Q. What was Roger doing at that point?

17 A. Well, he was reaching for the gun. I had people
18 trying to pull me from my truck. I had people swing-
19 ing at me through the window, and I was -- at that
20 point there was no choice.

21 Q. So at that moment you pulled the trigger, where
22 was Roger White, Junior?

23 A. He was up in the crook of my truck. I was
24 backed all the way back in the -- as far as I could
25 go, and he was coming into the opening of the door.

T. GREGORY ON DIRECT

1 Q. Tell me, what was your back in contact with?

2 A. It was sorta of on the steering wheel, this area
3 here.

4 Q. Your back and left shoulder were on the steer-
5 ing wheel?

6 A. Yes.

7 Q. Where was your right shoulder?

8 A. It was up against the door.

9 Q. How far up in relation to the seat were you?

10 A. . .

11 Q. In other words, were you standing straight up,
12 were you leaning back, or how were you?

13 A. I was leaning more back.

14 Q. And when you were leaning more back, was Roger
15 White, Junior, in contact with you physically?

16 A. Yes.

17 Q. Is he on top of you physically?

18 A. Yes.

19 Q. And where did you have the gun located at the
20 moment that you pulled the trigger?

21 A. Down by my right side.

22 Q. And where was your left arm?

23 A. I had it protecting my face.

24 Q. All right, so on your right hand side was the
25 door of the truck?

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T. GREGORY ON DIRECT

1 A. Yes.

2 Q. The inside of the door of the truck?

3 A. Yes.

4 Q. Your back is on the steering wheel and the apex
5 of the door?

6 A. Yes.

7 Q. And your left shoulder was against the steering
8 wheel, and I guess your right elbow was kind of close
9 to the seat?

10 A. Yes.

11 Q. And you were at an angle, being pushed back?

12 A. Yes.

13 Q. Was anyone else with you and Louanne?

14 A. No one.

15 Q. You have -- do you have a concealed weapons permit?

16 A. Yes, I do.

17 Q. How long have you had that?

18 A. About ten years.

19 Q. And did you attend a class to obtain that weapon?

20 A. Twice.

21 Q. When was the second time?

22 A. Several months before this happened my wife took
23 the course and I sat through it with Louanne.

24 Q. All right, is this a -- showing you Defendant's
25 Exhibit Number 10. Is this a photocopy of you and your

T. GREGORY ON DIRECT

1 wife's concealed weapons permit?

2 A. Yes, it is.

3 MR. BANNISTER: Your Honor, I would move to intro-
4 duce that in evidence at this time.

5 THE COURT: Any objection?

6 SOLICITOR: No objection.

7 THE COURT: Without objection, it's entered.

8 BY MR. BANNISTER:

9 Q. The gun that you had that night, did you purchase
10 that locally?

11 A. Yes.

12 Q. And did you have to fill out an application to do
13 that, to purchase that pistol?

14 A. Yes, sir, I did.

15 Q. And it's registered to you?

16 A. Yes, it is.

17 Q. Let me show you what is marked Defense Exhibit 11.
18 Is that the application you filled out for the pistol
19 that you had that night?

20 A. Yes, it is.

21 MR. BANNISTER: I would move to introduce that as
22 Defendant's Exhibit 11, Your Honor.

23 THE COURT: Any objection, sir?

24 SOLICITOR: No, sir.

25 THE COURT: Defense Exhibit 11 admitted.

T. GREGORY ON DIRECT

1 BY MR. BANNISTER:

2 Q. Were you concerned about Louanne when you pulled
3 the trigger?

4 A. Yes, sir.

5 Q. What were you concerned about?

6 A. I was concerned that they was able to get the gun
7 away from me and they could do bodily harm to me and to
8 her.

9 Q. Were you concerned about the struggle for the gun?

10 A. Yes.

11 Q. What were you concerned about?

12 A. That unless I could remain in control of the gun
13 it could go off and hit anyone.

14 Q. Would it be fair to say until he reached for the
15 -- would it be fair to say that it wasn't until Junior had
16 reached for the gun that you made the decision you would
17 have to pull the trigger?

18 A. Yes.

19 Q. And it was at that moment that you decided that?

20 A. Yes.

21 Q. Was that based in part on your training in the con-
22 cealed weapons class?

23 A. Yes.

24 Q. What do they teach you in the concealed weapons train-
25 ing?

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T. GREGORY ON DIRECT

- 1 A. Not to let anyone take your gun away from you.
- 2 Q. For reasons you have already explained?
- 3 A. Yes.
- 4 Q. Terry, how far did you go in school?
- 5 A. I went through high school.
- 6 Q. Where do you live?
- 7 A. Simpsonville. Ashton Drive in Simpsonville.
- 8 Q. How long have you lived there?
- 9 A. About four years.
- 10 Q. Is this a house, trailer, or what is it?
- 11 A. A regular house.
- 12 Q. One story, two story?
- 13 A. Two story.
- 14 Q. And you are paying for that?
- 15 A. Yes.
- 16 Q. Where do you work?
- 17 A. (inaudible) Bakeries.
- 18 Q. Where did you work before that?
- 19 A. Fabrical Corporation.
- 20 Q. How long did you work for Fabrical Corporation?
- 21 A. Twenty years.
- 22 Q. And how long have you been working at the bakery?
- 23 A. A little over a year and a half.
- 24 Q. So how many hours do you usually work a week?
- 25 A. Forty or a little better.

T. GREGORY ON DIRECT

- 1 Q. So you do get some overtime?
- 2 A. Yes.
- 3 Q. What shift do you work now?
- 4 A. Third.
- 5 Q. What shift were you working at Fabrical?
- 6 A. First.
- 7 Q. Did -- how long have you been married to Louanne?
- 8 A. Seventeen years.
- 9 Q. Were there people pushing against the door when
- 10 you pulled the trigger?
- 11 A. Yes, there were.
- 12 Q. Was there pressure from the door against you phy-
- 13 sically when you pulled the trigger?
- 14 A. Yes, there were.
- 15 Q. Did Roger White, Junior -- I guess for a moment
- 16 at least -- was he suspended on top of you between you
- 17 and the door?
- 18 A. Yes.
- 19 Q. Did he double up when you pulled the trigger?
- 20 A. Yes, he did.
- 21 Q. Let me ask you to just use this model of a gun for
- 22 a second. All right, put it in your hand where you
- 23 had the gun at the moment you shot Junior?
- 24 A. I was in this position here.
- 25 Q. Were you standing straight up or were you back

T. GREGORY ON DIRECT

1 on the . . .

2 A. I was more like this.

3 Q. Okay, and describe for us in your words what Junior
4 was doing to grab the gun?

5 A. He was coming in -- I had my arm here, and he was
6 coming in underneath it, this way, to get the gun.

7 Q. So if I put my hand underneath your left arm,
8 would that be . . .

9 A. Yes.

10 Q. And that's when you pulled the trigger?

11 A. Yes.

12 Q. No question he was physically on top of you at
13 the moment you pulled the trigger?

14 A. No question.

15 Q. Let me show you what's been marked as Defendant's
16 Exhibit Number 14. Is that a picture of your gun and
17 the remaining shells that were in the gun?

18 A. Yes, it is.

19 Q. What kind of gun is it?

20 A. It's a Taurus PT 145.

21 MR. BANNISTER: I think by stipulation we can
22 move that in as a Defense Exhibit.

23 SOLICITOR: That's right.

24 THE COURT: It's admitted without objection.

25 BY MR. BANNISTER:

T. GREGORY ON DIRECT

1 Q. Does that weapon have a safety on it?

2 A. Yes, it does.

3 Q. Where is the safety?

4 A. On the slide.

5 Q. Is there any other safety mechanism on that wea-
6 pon?

7 A. No, there's not.

8 Q. None incorporated into the handle of the gun?

9 A. No, there's not.

10 Q. The bullets you had in there, are they standard
11 self defense rounds?

12 A. Yes, they are. They're hollow points.

13 Q. And are you aware of why they make a standard
14 self defense round?

15 A. Yes, sir. It's good on stopability, plus the
16 fact that it won't go through somebody and kill some-
17 one else.

18 Q. So it is your understanding it is less likely to
19 be a through and through and kill somebody else?

20 A. Yes, sir.

21 Q. What was your state of mind at the moment that
22 you pulled the trigger?

23 A. I was trying to think clearly, but I was fright-
24 ened.

25 Q. Were you mad?

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T. GREGORY ON DIRECT

- 1 A. No.
- 2 Q. Were you angry at the time?
- 3 A. No. I was afraid.
- 4 Q. Had you had any reason to be upset at all with
- 5 Roger White, Junior?
- 6 A. No.
- 7 Q. Terry, why didn't you leave before it got to that
- 8 point where you had to pull the trigger?
- 9 A. It escalated so fast I couldn't.
- 10 Q. Did you try to leave?
- 11 A. Yes, I was in the process of leaving when they
- 12 rushed the truck.
- 13 Q. When you first pulled onto Shirley Road -- well,
- 14 let me ask you this. What did you think the meeting
- 15 was about?
- 16 A. . .
- 17 Q. The meeting you were going to have with Kellet
- 18 and Steven.
- 19 A. I was meeting with the boys to find out what was
- 20 going on.
- 21 Q. And you had had -- did you have a going away party
- 22 for Kellet?
- 23 A. Yes, we had.
- 24 Q. At that going away party -- who had come to that
- 25 party?

T. GREGORY ON DIRECT

1 A. Kelly had, Steven had. Kelly had asked if his
2 friend, Brent Hanvey, could come because he was leav-
3 ing that same week for basic training also.

4 Q. All right, and using that moment as a jumping
5 off point -- going back in time to the going away
6 party, how would you describe your relationship with
7 Kelly up to that point?

8 A. Good.

9 Q. Were you all communicating fairly regularly?

10 A. Yes.

11 Q. Were you all seeing each other fairly regularly?

12 A. Yes.

13 Q. Did -- something was mentioned earlier about his
14 keeping a dirt bike at your house?

15 A. Yes, he left it there for a while.

16 Q. And how about the mechanic tools?

17 A. Yes, they stayed there for a couple of months.

18 Q. And what did you understand was the reason he
19 was leaving his tools and his dirt bike over at your
20 house?

21 A. Because he said they would get stolen if he left
22 them at the shop or if he left them at home.

23 Q. Was it your understanding that something else had
24 in fact been stolen?

25 A. Yes. I had given him a gun -- he had seen a

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1 rifle I had in the gun cabinet that he wanted. He had
2 said he wanted to buy it from me because he went hunt-
3 ing, and I took it out of the cabinet and gave it to
4 him.

5 Q. Had you all been hunting before together?

6 A. Yes.

7 Q. Was that sort of a regular deal that you all did?

8 A. It was something that we had just started up.

9 Q. Well, how about describe the relationship with
10 Steven up until the point of the going away party?

11 A. Well, Steven was coming around some. He stays to
12 hisself a lot and won't talk to anybody much. We had
13 tried as much as we could to get him to come around so
14 he did come to the party.

15 He did come over on his birthday.

16 Q. Had you begun to have some concerns about Steven?

17 A. Yes.

18 Q. And what were those concerns?

19 A. Not graduating. We heard rumors that he was mess-
20 ing with a lot of drugs, and there was some stealing
21 that was going on.

22 We heard some rumors about that, and there was
23 some basic concern for him.

24 Q. Up until the going away party comes up, you all
25 not -- you had not had any kind of conversations with

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1 Steven about those things?

2 A. None whatsoever.

3 Q. So at least from your perspective, the going away
4 party was a pleasant experience?

5 A. Yes, very.

6 Q. Did you take Kellet to his -- to wherever he was
7 being deployed from?

8 A. Actually, I met him there.

9 Q. Where did you all meet?

10 A. At the recruiting station in Simpsonville. Him,
11 his mother, Roger, Senior, and his grandmother was
12 there, and then he remembered that he needed a copy
13 of his assignment of deployment, and I carried him home.
14 They all had to go back to work.

15 So I carried him home to get that and brought
16 him back up there.

17 Q. And anything unusual happen?

18 A. No.

19 Q. Everything pleasant then?

20 A. Pleasant, yes.

21 Q. How did you feel about him going into the Army?

22 A. I was very proud of him for doing it.

23 Q. I want to show you what's been marked as Defense
24 Exhibit 13 and ask you to look -- is this your truck?

25 A. Yes, it is.

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1 Q. What is that little sticker that's on the back of
2 the windshield on your truck?

3 A. It says Proud to be a Parent of a Soldier.

4 MR. BANNISTER: I would move this in evidence as a
5 Defense Exhibit.

6 SOLICITOR: Without objection.

7 THE COURT: So without objection it is admitted
8 as Defense Exhibit 13.

9 BY MR. BANNISTER:

10 Q. So you felt like definitely Kelly was heading in
11 the right direction?

12 A. Yes.

13 Q. And now let's take it from the going away party
14 up until October 10, 2009. Was there any tension be-
15 tween you and Kelly from the moment you'd seen him as
16 he was going away until October 10, 2009?

17 A. He had called the next day when he was in Charlotte
18 and said he would be there for another day before they
19 flew out to St. Louis or somewhere in Missouri where
20 they was going, and that he would try to call us when
21 he got there.

22 Q. Did he ever call once he got there?

23 A. No. Lisa had called the next day and talked to
24 Louanne and told her he was there and he was fine.

25 Q. So no issues up to this point?

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1 A. No.

2 Q. So at some point when he'd been gone a day or two,
3 you -- when did you become concerned about what you
4 felt was a lack of communication?

5 A. Well, he had been gone several weeks. I mean, I
6 knew he couldn't communicate at first. We had -- at
7 the party we had give him stationery, we had given him
8 cards, post-cards, stamps -- everything he needed to
9 write us because we knew he wouldn't have his phone.

10 Q. At some point, did you receive a letter from him?

11 A. We finally received a letter, and he was wanting
12 an explanation on what was going on in South Carolina.

13 Q. And did you know what he was referring to?

14 A. No, not everything. No.

15 Q. Did you have some idea of what it might be?

16 A. Yes.

17 Q. What did you believe it might be?

18 A. Where I had the child support stopped.

19 Q. Anything else?

20 A. Our concern with Steven not going to school and
21 drugs. Our concerns were for Steven basically.

22 Q. All right, and that was what you assumed he wanted
23 an explanation for?

24 A. Yes.

25 Q. Okay. Did you have any other conversations with

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1 Kellet or communication with him other than that let-
2 ter, going forward to October 10th?

3 A. We sent him letters and called and left messages
4 on his phone.

5 Q. And this was becoming a one-way street?

6 A. Yes.

7 Q. You would leave him messages and send him letters?

8 A. Yes.

9 Q. And you were not getting any response back?

10 A. Right.

11 Q. And how did that make you feel?

12 A. I was hurt. I was very hurt.

13 Q. Did you expect him to call you back or to write to
14 you?

15 A. I thought he would have, yes.

16 Q. Let's focus now for just a minute on Steven. You
17 talked about what your relationship was up to the party.
18 After the party, . .

19 A. We couldn't get Steven to call back. We called
20 him several times and he wouldn't return phone calls.

21 Q. At some point, did in fact -- were you made aware
22 of a phone conversation he had with Louanne Gregory?

23 A. Yes.

24 Q. And in that conversation, what was your understand-
25 ing of kinda what had happened?

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1 A. He just called up and started cussing her and
2 going on about how we needed to just leave him alone.
3 Actually, he was more mad that we had told the family
4 about some of the things that he was doing -- he was
5 concerned we had told the family. His aunts, uncles
6 and those people.

7 Q. And one of the aunts being Julie Brazier?

8 A. Yes.

9 Q. So now let's get to October 10, 2009. Tell me
10 how you ended up in downtown Greenville that week?

11 A. Well, I had won a weekend stay at the Hyatt, and
12 when I did that I looked forward to see what was going
13 on in Greenville and I picked that weekend to go over
14 there and stay at the Hyatt.

15 Q. How far in advance did you set the reservation
16 up with the Hyatt for Fall for Greenville?

17 A. It was several months.

18 Q. Did you all make plans as you approached that
19 date?

20 A. Yes.

21 Q. And did those plans include other people in the
22 family?

23 A. Yes.

24 Q. And were the plans to meet up for Fall for Greenville?

25 A. Yes.

1 Q. And was that going to be on Saturday and Sunday?

2 A. Yes.

3 Q. What was the plan for Saturday?

4 A. They would just come up downtown and enjoy all
5 the festivities.

6 Q. And they being who?

7 A. Louanne's niece and her daughter, Candace; her
8 daughter, Rita, and her three children, her grand-
9 children.

10 Q. So did you all get to the Hyatt sometime on Fri-
11 day?

12 A. Friday afternoon.

13 Q. Checked in?

14 A. Yes.

15 Q. And did you go back to the house after you had
16 checked in?

17 A. No.

18 Q. Did -- so the gun that was in your truck on
19 October 10th, that was in your truck when you pulled in
20 to the Hyatt?

21 A. Yes.

22 Q. Did you keep a gun there?

23 A. Yes.

24 Q. I'm sorry -- in the truck?

25 A. Yes.

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1 Q. So you have a pistol for your vehicle?

2 A. Yes.

3 Q. Do you have a pistol for your home?

4 A. Yes.

5 Q. So each vehicle has a pistol?

6 A. Yes.

7 Q. And they stay in that vehicle?

8 A. Yes.

9 Q. And you have one in the house that stays there?

10 A. Yes.

11 Q. How long had this pistol, the one we've discussed --
12 how long had that been in the truck?

13 A. In that truck for a year, I know, because I had
14 bought the truck about the year before that.

15 Q. And where did you keep the gun?

16 A. In the center console.

17 Q. Did -- so on October 10, 2009, you all run into
18 Steven?

19 A. Yes.

20 Q. Tell me about that conversation?

21 A. Louanne looked up and saw him and I went up behind
22 her. I didn't see him at first, but as I got close I
23 could see him.

24 We walked up to him and asked how he was doing,
25 what kind of work he was doing, how he had been, and

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1 he said he was fine. I told him then that the first
2 thing you need to do is apologize to Louanne for call-
3 ing up and cussing her like you did.

4 That's when he said, I guess I should respect my
5 elders. It wasn't really an apology, but he did say
6 that.

7 The conversation went on about if Kelly was home,
8 and he said, yes, he had been home a couple of weeks,
9 and I said, well, we need to talk. I said, let's
10 go ahead and talk, and have him call me.

11 And that's when he turned around and walked off.

12 Q. Were you in his face when you were having this
13 conversation?

14 A. No, I wasn't.

15 Q. Were you pointing at him?

16 A. No, I was not.

17 Q. Could he have left at any moment during that
18 conversation?

19 A. Yes.

20 Q. Did he in fact leave in the conversation?

21 A. Yes.

22 Q. Was the conversation a heated conversation?

23 A. No.

24 Q. Did you ever tell him, I will lay you out right
25 here?

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- 1 A. No, I did not.
- 2 Q. Did you ever say anything about laying him out?
- 3 A. No, I did not.
- 4 Q. Was it a shock to you to hear that Kelly had been
- 5 home for a couple of weeks?
- 6 A. It was a shock, yes.
- 7 Q. Why?
- 8 A. We hadn't heard from him.
- 9 Q. Did you expect to hear from him?
- 10 A. Yes.
- 11 Q. When he got home?
- 12 A. I expected to hear from him while he was gone.
- 13 We had already made plans to go to his graduation.
- 14 Q. To Kellet's graduation?
- 15 A. Yes.
- 16 Q. From basic training?
- 17 A. Yes.
- 18 Q. Did -- so at that point, what did you do?
- 19 A. At that point, after I talked with Steven, we
- 20 went back down to where the rest of the family was.
- 21 I got Louanne's phone, her cel phone, and I walked
- 22 off to the side, and I called him and I left a mes-
- 23 sage for him to call me.
- 24 Q. And the message is the one we've already heard?
- 25 A. Yes.

1 Q. I've just had a discussion with your brother. You
2 need to call me. How come you don't have any fucking
3 balls, neither one of you. Need to stand up and talk
4 or better yet we're going to stand up and talk. So
5 one day when you grow some balls, you call me. All right?

6 A. That's it.

7 Q. You little chicken shit bastard?

8 A. That's it.

9 Q. Not exactly words of encouragement and love from
10 a father to his son, is it?

11 A. It's the words to bug him to call me. Yes, it
12 was.

13 Q. Now, when you say it would bug him to call you,
14 what do you mean?

15 A. Just to get him to call me. I mean, I had left
16 several messages for him and he still hadn't ever
17 called me or returned any calls.

18 Q. And this had been going on since he left for basic
19 training?

20 A. Yes.

21 Q. The words you had been leaving him, had they been
22 of this sort?

23 A. No. I may have left one but they was just general
24 conversation. They was either to call me because I
25 needed to find out -- we had gone deer hunting before

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1 and it was time to put in for it.

2 I needed to know if he was going or not so I could
3 put him in for it.

4 Q. So up until this phone message you left him to pro-
5 voke a phone call back, your other attempts had been un-
6 successful?

7 A. Yes.

8 Q. So explain to me again why you used this language at
9 this point in time?

10 A. Because to get him to call me.

11 Q. And did he?

12 A. Yes.

13 Q. What happened in the phone conversation when Kellet
14 called you back?

15 A. Well, it started out sort of heated and after I had
16 talked to him and he talked to me the conversations came
17 down to a point where there was no more yelling, no more
18 hollaring. It was simply where are we going to meet.

19 Q. To do what?

20 A. To talk.

21 Q. When you said we're probably going to stand up and
22 talk, what did you mean?

23 A. I meant we were going to talk like men.

24 Q. About what?

25 A. About what was going on. They needed to quit

1 hiding behind everybody else and we needed to talk.

2 They needed to let me know what was going on.

3 Q. You thought he had been avoiding you at this

4 point?

5 A. Yes..

6 Q. And you felt like he owed you more than that?

7 A. Yes.

8 Q. All right, who suggested meeting at downtown Green-

9 ville?

10 A. I think Louanne said we're downtown in Greenville

11 now. Why don't you come on down here?

12 Q. That was the first proposed meeting place?

13 A. Yes.

14 Q. And then the next one was Shane's Restaurant?

15 A. Shane's Restaurant.

16 Q. How did you think about meeting at Shane's Restaur-

17 ant?

18 A. That's his aunt's restaurant and she would have

19 been there.

20 Q. What good would it do you all to meet there?

21 A. Well, she would have substantiated everything we

22 had to tell him, and she knew everything that was

23 going on.

24 Q. About the child support and the graduation and the

25 tires . .

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1 A. Yes.

2 Q. Had she been involved in some way, shape or form?

3 A. Yes.

4 Q. Did you think he might take it better coming from
5 her than from you?

6 A. Yes.

7 Q. So then was there anything unusual about him chang-
8 ing the meeting to saying he wanted to meet at the
9 Spin x station?

10 A. No.

11 Q. What were you told were the reasons he wanted to
12 meet out there?

13 A. That he would be close by, and he told us about a
14 party somewhere down the hill.

15 Q. In your mind, what did you think of this meeting
16 place?

17 A. Let's get out there and get things settled.

18 Q. Talking or fighting settling?

19 A. Talking.

20 Q. So was anything raised in your mind when the meet-
21 ing got changed to somewhere off of McKelvey Road?

22 A. No.

23 Q. Did you know exactly where it was you were going?

24 A. I knew about. I didn't even know that road existed
25 there, Shirley Rod.

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1 Q. Well, why didn't that raise a red flag? You have
2 now suggested downtown, Shane's and the Spinx station?
3 and they were all public places. What . .

4 A. It didn't raise a red flag for me. It was conven-
5 ient for him to get there. That's the only thing I
6 was thinking.

7 Q. So when you got down there, you actually missed
8 Shirley Road?

9 A. Twice.

10 Q. Twice?

11 A. Yes.

12 Q. Did you see any headlights on when you passed
13 Shirley Road?

14 A. No.

15 Q. Were there any lights on when you came back?

16 A. No. As we went by the road there was some lights
17 flashed.

18 Q. And that is what drew your attention to the road?

19 A. Yes.

20 Q. And is that when you pulled in?

21 A. Well, I had to go down a little ways, and I turned
22 around and came back and pulled in Shirley Road.

23 Q. All right, and by the time you had turned around
24 was Louanne still on the cel phone with Kellet?

25 A. Yes.

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1 Q. When did she get off the cel phone with him?

2 A. About the time we pulled in.

3 Q. So within seconds of that phone call, that starts
4 the beginning of this thing?

5 A. Yes..

6 Q. Were you expecting -- who were you expecting to meet?

7 A. Kelly and Steven.

8 Q. All right, so at what point did you see there
9 were more than Kelly and Steven?

10 A. When I pulled in and pulled up, started pulling
11 toward the vehicles -- as I pulled up, I turned my
12 bright lights on, and when I did that the trucks -- the
13 lights come on on the trucks, shining on us.

14 When I pulled up to stop, I pulled up to stop and
15 I reached in my console and pulled out my flashlight,
16 and when I pulled out my flashlight I picked my gun up
17 and I laid it on top of the console.

18 Q. All right. Was there some -- surely at this point
19 something was saying to you, this might not be so good?

20 A. Yes. You could see -- start to see people moving
21 around back there then.

22 Q. So what were you thinking at that point?

23 A. I didn't really know what was going on. I did see
24 Kelly standing out in front of the truck with his shirt
25 off.

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1 Q. Wasn't that some sort of a red flag to you?

2 A. Yes.

3 Q. That something was going on?

4 A. Yes.

5 Q. So what did you do next?

6 A. I opened the door and my wife told me -- she had
7 said something about him bringing all his friends, and
8 I said, well, let me see what's going on.

9 I stepped out of the truck with the flashlight in
10 my hand, and I actually -- I actually turned it on to
11 shine it in the woods on the other side of the truck to
12 see who was parked over there.

13 Then I turned around and looked behind me to make
14 sure there was nobody in behind me, and I stood at the
15 -- I carried the flashlight and stood between the car
16 and the truck, and I said -- I asked Kelly -- I said,
17 what's going on.

18 Q. All right, and at that point were there words be-
19 tween you and Kellet about I thought we were here to
20 talk?

21 A. No.

22 Q. Did you say anything about come over here and let's
23 talk?

24 A. No, I never said that.

25 Q. What did you say?

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1 A. I said -- when I got out of the truck I said, son,
2 what is going on? At that point Lisa said, there he
3 is; go get him. Kelly said, I can't; he's got something
4 in his hand.

5 Then Junior was standing over here, which I didn't
6 know who he was at the time. He turned around and
7 hollared. He said, all right, everybody -- said Kelly's
8 going to beat on him first and we all will get him.

9 Q. At that point, what did you do?

10 A. I turned to go back in my truck.

11 Q. And what happened next?

12 A. This whole bunch, they had been moving forward
13 this whole time, out from behind the truck and around the
14 trucks, and Junior rushed the truck.

15 Q. How many trucks were out there?

16 A. There was at least two trucks here.

17 Q. As shown on Defense Exhibit 4?

18 A. Yes, sir.

19 Q. All right.

20 A. The trucks as shown, and there was a black SUV and
21 a white Ford Taurus.

22 Q. Where were those located?

23 A. The black SUV, they were kinda on the right side
24 of the road from those two trucks, kinda back from
25 where those two trucks were.

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1 Q. Did anybody pull around them like they were trying
2 to go down Shirley Road?

3 A. No.

4 Q. Was the road completely blocked?

5 A. Yes.

6 Q. All right. When you say you were shining your
7 flashlight, you were pointing to the direction to your
8 left, into the woods?

9 A. Yes. Kinda that way where the lights were.

10 Q. How many people did you see at the moment you de-
11 cided to get back in your truck?

12 A. There was at least ten to twelve that I seen.

13 Q. All right, so let's see if -- we all agree on who
14 was out there that we've already talked about.

15 A. Yes.

16 Q. Who else did you see?

17 A. There was two girls. I have no idea where they
18 were, and there were several more guys out there but I
19 don't know who they were.

20 Q. Did -- you heard Louanne describe a stick?

21 A. Yes.

22 Q. What did the stick look like?

23 A. It was dark and at the time I thought it was a
24 limb, and it had -- you could see where the branches
25 had been cut off. There was long strips where the

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1 branches were cut off.

2 Q. All right, let me show you what's been marked as
3 State's Exhibit Number 2, and I would ask if that looks
4 like the stick you saw that night?

5 A. That looks like the stick. I also found that same
6 stick and found out it wasn't a stick. It's a piece of
7 bamboo like they sell at Walmart. I don't remember if
8 we found it at Walmart first, but we did find out what
9 it was.

10 Q. All right. Can you say with any certainty Justin
11 Weingarten was there?

12 A. No. I remember seeing a person about the same size
13 but as far as it being him I don't know.

14 Q. How certain do you feel about the stick?

15 A. Ninety-nine point nine.

16 Q. Okay. You can't say whether that is in fact the
17 stick?

18 A. Not the exact stick, but it was identical to it.

19 Q. All right, so when they came at you, were you try-
20 ing to get in the truck?

21 A. Yes.

22 Q. So were you trying to leave at that point?

23 A. Yes. I was getting ready to get in the truck when
24 they rushed the front of the truck. That's when
25 Louanne picked up the gun and said, you all need to

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1 get back.

2 Q. Did you see her with the gun?

3 A. Yes.

4 Q. Did you tell her anything?

5 A. Yes, I told her -- I said put the gun down. Let
6 me see if I can handle this.

7 Q. And at that point were they at the truck door?

8 A. They were. At some point they were coming toward
9 the truck and I had my back to the door at this time.
10 What she did -- she did lay the gun down on the center
11 console, and as I was turning around in the truck is
12 when the truck door started coming in on me.

13 Q. And what effect did the door coming in on you have?

14 A. It was pushing in on me.

15 Q. Terry, why aren't there any marks on you? Why
16 weren't there any marks on you?

17 A. Well, they were so packed in there. I had the cab
18 of the truck protecting my back, and the door was pro-
19 tecting me here.

20 Q. And you are indicating to your right?

21 A. Yes, the frame of the door was protecting me, plus
22 when they all pushed in on each other -- they were
23 screaming and grabbing at me through the window, but
24 they weren't making -- there were no good blows coming
25 through like I was backed in there.

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1 Q. And what were you -- were you using your left arm
2 to deflect blows?

3 A. Yes.

4 Q. How about your back?

5 A. My back was to the cab of the truck.

6 Q. And where was the only real opening there was to
7 get at you?

8 A. The window of the door.

9 Q. And did Junior come in through that opening?

10 A. Yes, he was coming in the window, and there was two
11 -- three or four behind him, coming up behind him.

12 Q. Are you the kind of guy who bruises easily?

13 A. No.

14 Q. Are you -- I've asked everybody else. How tall
15 are you?

16 A. Six foot.

17 Q. And how much do you weigh?

18 A. Three twenty-five.

19 Q. How many people would you say were at the door,
20 coming in at you?

21 A. At the door there was at least eight.

22 Q. How many had started coming in the opening?

23 A. There was three, maybe four, right there.

24 Q. So they were coming up behind you?

25 A. Yes.

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1 Q. Do you know who was behind you?

2 A. No.

3 Q. There were people -- while they was coming at
4 you, were they still pushing on the doors?

5 A. Yes..

6 Q. Was the door completely open as far as it would
7 go?

8 A. No, it was pushed in some.

9 Q. So the only thing keeping the door from shutting
10 was you?

11 A. Yes.

12 Q. Was there -- at the time people were at the door,
13 pushing the door, how many was that?

14 A. Three or four.

15 Q. Describe for me how you get from the flashlight
16 and Louanne holding the gun to you've got the pistol
17 in your right hand?

18 A. I had laid the flashlight in the seat of the truck
19 when I came back to the door. As Junior was coming
20 in on me I was being pushed back like this, and then I
21 reached over with my right hand over my left shoulder
22 and I grabbed the gun.

23 Q. Was the console level with your left shoulder?

24 A. Yes, pretty much.

25 Q. So was your back contacting the flat part of the

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1 seat?

2 A. Yes.

3 Q. And was your right shoulder at or below where . .

4 SOLICITOR: Your Honor, I'm going to object to his
5 leading.

6 THE COURT: With respect to your objection, I would
7 sustain the objection.

8 BY MR. BANNISTER:

9 Q. Where was your right shoulder?

10 A. My right shoulder was against the steering wheel.

11 Q. And where was your left elbow?

12 A. It was in the seat.

13 Q. So once you got the pistol in your right hand, de-
14 scribe for me what happened next?

15 A. At that point I came forward and I shoved Junior
16 back this way and I came up with the gun straight up
17 in the air and presented it so everybody could see it,
18 and I told him to get back.

19 Q. And what response did he make at that point?

20 A. At that point Junior stepped back one step, and he
21 looked at me and said, I ain't afraid of no fucking gun;
22 I'm going to kill you and your bitch; and you're a big
23 pussy for bringing a gun to a fight. There were sev-
24 eral things like that, and that's when he lunged forward
25 at me.

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1 Q. And what was his demeanor or affect? How did his
2 face look?

3 A. He was -- his eyes were wild looking. He was def-
4 initely on something. He was -- his whole attitude --
5 he was jumping around, running around. He was defin-
6 itely on something.

7 Q. How about the rest of the crowd that was there?

8 A. The rest of the crowd? I really couldn't tell but
9 I could see they were at the door on me. There was def-
10 initely something going on.

11 Q. So once you say, get back, what did Junior do at
12 that point?

13 A. At that point is when he -- like I said, he lunged
14 forward -- he came forward to get the gun and the rest
15 of them were back behind him, at this time still push-
16 ing on the door, and he come through the window.

17 Q. And is this as you were describing earlier, that
18 he got up kinda under your left arm?

19 A. Yes.

20 Q. Any question he was reaching for the gun?

21 A. None whatsoever.

22 Q. I can't remember if I asked you this or not, but
23 after you pulled the trigger was he hung up on top of
24 you?

25 A. Oh, yes.

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1 Q. What did you do next?

2 A. I was still like this and he was lunging further
3 this way. I think my arm was on top of his head and
4 I still had the gun down here. He sit there just for a
5 moment and then he just kind of collapsed down and he
6 fell backward.

7 Q. Did you do anything at that point?

8 A. At that point, I was still trying to -- they were
9 still trying to come in through the window at me, as he
10 was laying on the ground.

11 Q. Was anybody else like physically on top of you?

12 A. No.

13 Q. What -- so what did you do next?

14 A. Someone hollared out, he shot Junior.

15 Q. And what did you do?

16 A. At that point I still stayed in the crook of the
17 door. I had the gun back up here this way, and my
18 back was up against the steering wheel.

19 Q. You are showing us, but can you describe what your
20 right hand was doing?

21 A. In my right hand I was holding the gun pointed up,
22 straight up.

23 Q. And the gun was level with what? Your face?

24 A. Probably, yes.

25 Q. And you actually had to tell Louanne to call nine

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1 one one?

2 A. Yes.

3 Q. And did she?

4 A. Yes. I had actually said you need to call nine

5 one one. I think as soon as I picked the gun up I said

6 to call nine one one. She was trying to call them before

7 I actually ever shot him.

8 Q. Was there anything else that was going on -- let

9 me ask you this. When did you ultimately put the gun

10 down?

11 A. When the officer got there.

12 Q. Why did you hold on to the gun from the time you

13 shot Junior until the officer got there?

14 A. Some of them were still there.

15 Q. And what were they doing?

16 A. Some were running around and hitting on the back

17 of the truck. They were still running into the door,

18 shoving the door. We was being threatened, that I

19 wouldn't always have that gun; that they would kill me

20 and that bitch too whenever we didn't have a gun.

21 That went on the whole time until the officer got

22 there.

23 Q. Did you give Louanne any instructions to give the

24 nine one one person?

25 A. They asked her if I still had the gun, and I turned

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1 around and I said, tell them, yes, I do, and I will
2 give it to the officer when he arrives her.

3 Q. So what was your state of mind at this point?

4 A. I was thinking clear at this time.

5 Q. Mad, angry?

6 A. Still afraid.

7 Q. How was Louanne acting?

8 A. She was hysterical. She was extremely scared.

9 Q. At this point, were you still worried about her
10 safety?

11 A. Yes.

12 Q. Were you still worried about your safety?

13 A. Yes.

14 Q. Did you see anybody leave?

15 A. Yes.

16 Q. Describe as best you can what you saw and who you
17 saw leave?

18 A. There was a black SUV and a white Ford Taurus, and
19 the white Ford Taurus actually pulled up and was going
20 to come out that way but ended up backing up and going
21 the other way.

22 Those vehicles are the ones that left.

23 Q. Did you hear the cars crank up?

24 A. Yes.

25 Q. See any lights come on?

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1 A. Yes.

2 Q. Then they left the scene?

3 A. Yes.

4 Q. What about the people? Did you see them?

5 A. Yes, sir. I seen -- the one for sure that I seen
6 was the one with the stick, and he came up --he walked
7 up on the side of the road beside the truck, and he cut
8 out toward McKelvey Road.

9 Q. Going through the woods?

10 A. Yes, he actually -- I just thought he walked up
11 into the woods, but once the officer got there and they
12 walked me up there I could see there are homes up there,
13 and he had walked up through there.

14 Q. Did you speak with some of the officers on the
15 scene when they got there?

16 A. Yes.

17 Q. Once the officers got there, describe what you did?

18 A. When the officer pulled up, he pulled up and he
19 shined his lights on me. He got out of his car with
20 his gun drawn. At this moment, I took my gun from my
21 right hand and I laid the barrel in my left hand this
22 way.

23 That way I was holding it with the barrel -- and I
24 walked over and stepped over Junior and walked out
25 towards him.

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1 At this point, he told me to lay the gun on the
2 ground, lay the gun on the ground, and to take a few
3 steps back.

4 Q. And from that moment until after you had given your
5 statement, did you have any contact with Louanne?

6 A. No.

7 Q. Did they keep you all separated until both of you
8 had given your statements?

9 A. I didn't see her again for several weeks.

10 Q. Do you recall hearing -- well, where was -- let
11 me take you back for a second, to when Junior was shot.

12 Do you recall Roger White, Senior, being there
13 with Junior?

14 A. Yes.

15 Q. Do you recall him saying words to the effect of,
16 you brought a gun to a fist fight?

17 A. Yes.

18 Q. Did you say anything back to him?

19 A. Yes.

20 Q. What did you say?

21 A. I said I didn't know I was coming to a fight.

22 Q. Did -- have you been able to hear back the nine
23 one one call?

24 A. Yes.

25 (Tape being played).

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1 Q. Terry, listen close to this and tell me which
2 voice is Roger, Senior.

3 (Tape playing)

4 A. That's me.

5 Q. Is that you saying I didn't know I was going to a
6 fist fight?

7 A. Yes.

8 Q. And was that in response to him talking to you about
9 bringing a gun to a fist fight.

10 A. Yes.

11 MR. BANNISTER: Judge, just for the record, that
12 is at 9 52 on the nine one one call that comes from
13 Louanne's cel phone.

14 BY MR. BANNISTER:

15 Q. Terry, let me show you what's been marked as De-
16 fendant's Exhibit Number 12. Is that your truck?

17 A. Yes, sir.

18 MR. BANNISTER: Judge, there has been already en-
19 tered a picture of this, but I wanted Mr. Gregory to
20 make some notations on this one.

21 Q. When you got your truck back, weren't there some
22 dents in the door?

23 A. Yes.

24 Q. And if you would, just the best you can, circle
25 where those dents were?

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1 A. There was one here -- one here which is still in
2 there. There was a bigger one right down here, and it
3 seems like there was one right in here.

4 Q. Okay. Were those there before the night of this
5 altercation?

6 A. No.

7 Q. And do you believe that is from them pushing on
8 the door?

9 A. Yes.

10 MR. BANNISTER: Your Honor, if I could have a sec-
11 ond.

12 (Brief pause)

13 MR. BANNISTER: I have no further questions at
14 this time.

15 THE COURT: Mr. Moyer.

16 CROSS EXAMINATION

17 BY SOLICITOR:

18 Q. Let me start off by asking you, you . .

19 A. I can't hear you.

20 Q. I'm sorry. Let me start off by asking you about a
21 statement you made that night. Do you recognize this
22 statement?

23 A. Yes.

24 Q. And you gave it to Investigator Mike Jarvis?

25 A. Yes.

MR. GREGORY ON CROSS

1 Q. And it was typed out and you signed it?

2 A. Yes.

3 Q. And that was given voluntarily?

4 A. Yes.

5 Q. No one forced you into giving it?

6 A. No.

7 Q. And no one threatened you?

8 A. No.

9 Q. No one promised you anything in order to get you
10 to give a statement?

11 A. No.

12 Q. Okay. I show you State's Exhibit 49. Do you
13 recognize that?

14 A. Yes, I do.

15 Q. What is it?

16 A. The statement I gave.

17 Q. Look at that and make sure that is the complete
18 statement you gave.

19 A. Yes.

20 SOLICITOR: At this time I would move State's Ex-
21 hibit 49 into the record.

22 THE COURT: Any objection?

23 MR. BANNISTER: The previous objection.

24 THE COURT: Over objection, I'll allow it in for
25 purposes of this hearing.

MR. GREGORY ON CROSS

1 BY SOLICITOR:

2 Q. I'm just going to leave this here so we can refer
3 to it later.

4 A. Okay.

5 SOLICITOR: Your Honor, at this time we would move
6 for State's Exhibit 17 to be entered into the record.

7 THE COURT: Any objection, sir?

8 MR. BANNISTER: No, sir.

9 THE COURT: All right, entered for the purpose of
10 this record.

11 (Brief pause)

12 Q. All right, Mr. Gregory. I just want to be sure
13 we are clear on where exactly you were standing when
14 you shot Mr. White. Okay?

15 A. Yes, sir.

16 Q. And so let's take a look at this photograph. That
17 is a picture of your truck?

18 A. Yes.

19 Q. And that is a picture of the way your truck was
20 positioned when the incident took place?

21 A. Yes.

22 Q. And that is where Mr. White fell?

23 A. Yes.

24 Q. When he was shot -- correct? Now, are you telling
25 us you were here in the crux of the door toward the

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1 steering wheel?

2 A. Yes, as close as I could get up in there.

3 Q. So your right shoulder, is it fair to say, was
4 right up against -- in the crook of the door and . .

5 Q. My right shoulder wasn't that far.

6 Q. How far would you say it was?

7 A. About -- just come at me. Somewhere right in
8 there.

9 Q. Somewhere right in here?

10 A. Yes, sir.

11 Q. And your left shoulder then, would it -- is it fair
12 to say it would have been all the way over here towards
13 the side of the truck?

14 A. Um, I'm pretty big but I'm not that wide.

15 Q. Okay, and you are standing somewhere around in here?

16 A. Yes.

17 Q. Okay, and the door then was pushed up against you?

18 A. Yes.

19 Q. Okay, and when you're standing there in that posi-
20 tion, and you talked about how the door was pushed up
21 against you, how high would that door have been on your
22 body?

23 A. Which part?

24 Q. I'm talking about the top of the door.

25 A. The top of the door? The top of the door would

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1 have been up over my head.

2 Q. It would have been up over your head?

3 A. Yes, somewhere right about my head, right in here.

4 Q. Okay, and so you were free and the window was
5 down?

6 A. Yes.

7 Q. And so you would have had your arms in between the
8 door -- the window frame. Is that correct?

9 A. My arms in between the window frame?

10 Q. Yes.

11 A. If I was reaching out toward down there?

12 Q. Yes.

13 A. Yes.

14 Q. But your right arm, is it fair to say, it was on
15 the other side of this . . .

16 A. No.

17 Q. So it was within the window frame?

18 A. Yes.

19 Q. And the door was pressed up against you?

20 A. Yes.

21 Q. Okay, I just want to be clear about where you act-
22 ually were.

23 Now, let's talk for a minute about where Mr. White
24 was when you shot him. You said he was right up on top
25 of you?

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- 1 A. . .
- 2 Q. You said he was on top of you?
- 3 A. When I shot him?
- 4 Q. Yes.
- 5 A. He was coming in this-away. He was bent down,
6 coming in. Bent down and starting to come towards the
7 door.
- 8 Q. And if I understand you right, you have your door
9 over here and the door was pushed up against you?
- 10 A. The door was going in and out. They were pushing
11 in and out. They were fighting both ways, pushing the
12 door in and out and trying to reach in there.
- 13 Q. When you shot he was on the inside of the door?
- 14 A. Yeah, no question about that.
- 15 Q. There's no question about that?
- 16 A. No question.
- 17 Q. And the door was being pushed up against you by
18 other people, according to what you're telling us, and
19 he somehow got in between the door and your stomach?
- 20 A. I was turned this way.
- 21 Q. You were turned this way?
- 22 A. Yes.
- 23 Q. How close was he to you when you shot him?
- 24 A. He was right on me.
- 25 Q. There was contact made?

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1 A. Yes, he was right on me.

2 Q. And your pistol was actually touching or just mili-
3 meters away from his neck when you shot him?

4 A. Yes.

5 Q. So he would have been -- where would his head have
6 been in relation to your body?

7 A. His head would have been right in there.

8 Q. So you say it was essentially over -- are you
9 pointing to your right breast?

10 A. Yeah, shoulder area.

11 Q. And the door would have been right behind his back?

12 A. Yes.

13 Q. And do you know whether the bullet entered his
14 neck?

15 A. Yes.

16 Q. On the left side of his body?

17 A. Yes.

18 Q. And so you were able to get the gun around him
19 and shoot him like this?

20 A. Yes.

21 Q. Tell me what you were wearing that night?

22 A. I had on jeans and a tee shirt.

23 Q. Was it a red tee shirt?

24 A. Yes.

25 Q. Take a look at some photographs. These are State's

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1 Exhibits 39 through 42.

2 Take a look at those. Is that what you were wear-
3 ing that night?

4 A. Yes.

5 Q. You didn't have any coat on on top of that?

6 A. No.

7 Q. And those pictures were taken at the Law Enforce-
8 ment Center that night?

9 A. Yes.

10 Q. And you had them on at the incident?

11 A. Yes.

12 Q. And at the time you gave your statement?

13 A. Yes.

14 Q. Those are the pants you had on?

15 A. Yes.

16 Q. And the shoes you had on?

17 A. Yes.

18 SOLICITOR: Your Honor, at this time we'd move
19 State's Exhibits 39 through 42 into evidence.

20 MR. BANNISTER: Without objection.

21 THE COURT: Without objection they are admitted.

22 BY SOLICITOR:

23 Q. And are you aware of the fact, sir, that the only
24 blood that was found on you was a few specks of blood on
25 your pants and some blood spatters that were on your

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1 shoes?

2 A. It was on my shoes, on my socks. It was on my
3 pants.

4 Q. But there is no blood on your shirt?

5 A. No.

6 Q. Are you aware of that fact?

7 A. I know.

8 Q. Are you aware -- well, take a look at these photo-
9 graphs.

10 A. What am I looking for?

11 Q. Is there any blood?

12 A. No, not that I know of.

13 Q. There aren't even any drops of blood on your shirt?

14 A. Not that I see. You wouldn't be able to see them
15 on here anyway. My arms was in the way.

16 Q. We'll have some testimony about that later.

17 Are you aware of the fact that the door -- the
18 only blood that was found -- you've seen photographs
19 of the door?

20 A. Yeah.

21 Q. There were a few specks of blood on the door but
22 there was no big puddle of blood?

23 A. There was blood there.

24 Q. But no big spots of blood either on you or on
25 that door?

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1 A. Yes.

2 Q. Are you aware of the fact that when you shot Roger,
3 Junior, the bullet struck the jugular vein?

4 A. No.

5 Q. Do you know that now?

6 A. Since you just told me, yes.

7 Q. Okay, and there will be testimony about that com-
8 ing up.

9 Are you aware of the fact that on the ground where
10 Rodney, Junior, was found, there was a large puddle
11 of blood?

12 A. I knew that was there.

13 Q. You knew it was there?

14 A. Yes.

15 Q. Can you explain why there was no blood on your
16 shirt or on that door?

17 A. Can I explain? No, uh uh.

18 Q. Now, let's talk a little bit more about the events
19 that led up to that day.

20 You talked about your relationship with Kellet
21 and Steven, and you talked about how your relationship
22 with Steven was fairly rocky?

23 A. Yes.

24 Q. And it happened over the years and it was particu-
25 larly over the previous two months. Correct?

T. GREGORY ON CROSS

1 A. Previous two months? No.

2 Q. Okay.

3 A. The previous two months it was better.

4 Q. Well, you said in your statement that because of
5 the problems with child support that things had gotten
6 kind of worse?

7 A. Yeah, I see what you're saying. Up to the party
8 things were better but after Kelly left they were
9 worse.

10 Q. In fact, you hadn't spoken with Steven in months?

11 A. Right.

12 Q. And then you saw him there in Greenville?

13 A. Yes.

14 Q. And you -- in fact, you even put in your statement
15 that when you saw him you could tell he didn't want to
16 talk to you?

17 A. No, I don't think he wanted to.

18 Q. Take a look at your statement.

19 A. You will have to tell me where that's at. I
20 can't find it.

21 Q. Okay. Is there any question that Kellet wouldn't
22 answer your phone calls at that time?

23 A. Yes, around that time. Yes, that's right.

24 Q. And when you saw Steven -- when you saw Steven
25 you had that conversation with him, and it's true that

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1 during that conversation you told him that he needed
2 to stop cussing out your wife?

3 A. I told him he needed to apologize to her for doing
4 it, not to stop doing it. He needed to apologize to
5 her for it.

6 Q. And Steven just turned and walked away at that
7 time, didn't he?

8 A. No.

9 Q. You had more conversation?

10 A. Yes.

11 Q. But whatever that conversation was, he was upset
12 enough that he called his brother, Kellet?

13 A. From what I understand now, yes.

14 Q. And how long after that conversation was it that
15 you called Kellet?

16 A. Probably five or ten minutes.

17 Q. So within a few minutes after that when you called
18 Kellet is when you made that comment about we need to
19 talk -- sit down and talk and then you said stand up
20 and talk?

21 A. That's it, yes.

22 Q. That sounds like a threat to me.

23 A. I don't care what it sounds like to you.

24 Q. What does that mean?

25 A. It provoked him into calling me just like I meant

1 for it to. We need to talk. We need to stand and
2 talk like men. We don't need to jump around and talk
3 behind each other's backs and go through other people,
4 you know, to find out what's going on.

5 You know, we need to talk to each other and find
6 out what's going on.

7 Q. Well, he wasn't having any contact with you at all.
8 It wasn't like he'd been talking about your back?

9 A. Yes, he was. He was -- all the information he was
10 getting was what somebody else was telling him and not
11 what really was going on.

12 Q. Okay, and take a look here in your statement, about
13 four lines up from the bottom.

14 At the end of this line you state in your statement,
15 when I talked with Steven he didn't really want to talk?

16 A. Steven never wants to talk. He'll stand there and
17 be real quiet, kind of uh, uh -- he won't speak hisself
18 out.

19 Q. That's not what you said in your statement. You
20 said on this occasion he did not want to talk?

21 A. And that's exactly what I just said.

22 Q. So he did not want to talk to you but you persisted
23 in this conversation?

24 A. Yes..

25 Q. And then you called Kellet and made this comment

T. GREGORY ON CROSS

1 about we need to talk, and that's when Kellet called
2 back, and Kellet was angry, wasn't he?

3 A. Yes.

4 Q. He was angry because someone had threatened his
5 brother?

6 A. I did not threaten his brother.

7 Q. Then why was he angry?

8 A. Because his brother had told him I had threatened
9 him, from what I'm understanding now.

10 Q. And if you hadn't threatened him, why would he
11 say that?

12 A. Well, we found out in here that Steven had told him
13 that. I never . .

14 Q. If you had had a pleasant conversation with Steven
15 with no undertones or fight or anything like that, what
16 in that conversation would make him angry enough, upset
17 enough, to call his brother and say you wanted to
18 fight him?

19 A. . .

20 MR. BANNISTER: Object to the form of the ques-
21 tion.

22 THE COURT: I would respectfully overrule the ob-
23 jection.

24 BY SOLICITOR:

25 Q. You may answer.

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- 1 A. Repeat the question again.
- 2 Q. If you had just had a pleasant conversation with
- 3 Steven, . . .
- 4 A. Yes.
- 5 Q. . . in which you -- the whole point of it was you
- 6 wanted to get together and have a chat?
- 7 A. Right.
- 8 Q. Why would Steven turn around and call his brother
- 9 to say you wanted to fight him?
- 10 A. That's something you need to ask him and not me.
- 11 He's the one that did it.
- 12 Q. So with no reason, after a pleasant conversation,
- 13 somehow something got Steven upset enough to call his
- 14 brother to say you wanted to meet him and fight?
- 15 A. Exactly.
- 16 Q. For no reason?
- 17 A. Exactly.
- 18 Q. And then based on that, this conversation with
- 19 Kellet is upsetting enough -- based on your conversa-
- 20 tion Kellet called you and he was angry?
- 21 A. Yes.
- 22 Q. Because he takes up for his own brother, doesn't
- 23 he?
- 24 A. Sometimes yes, sometimes no.
- 25 Q. It's his younger brother. Right?

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1 A. Yes.

2 Q. And Kellet -- you know Kellet can be a little hot-
3 headed, don't you?

4 A. He never has been with me.

5 Q. He hasn't been with you?

6 A. No.

7 Q. You're not aware -- that's not your opinion of
8 Kellet?

9 A. No.

10 Q. And so when he called, you could tell he was angry,
11 and did you have a conversation about what you meant in
12 that telephone call?

13 A. . .

14 Q. When you said we need to stand up and talk?

15 A. Yes, we did.

16 Q. And what did you tell him?

17 A. I told him we needed to talk; we needed to get
18 this stuff worked out. I needed to find out what was
19 going on, and he needed to find out what was going on.

20 Q. Why did you tell him he needed to grow some balls?

21 A. Because he would not call me. He was afraid to call
22 me or did not want to call me, or anything else.

23 Q. Why do it take balls to call you?

24 A. I don't know. Why does it?

25 Q. I'm asking you the question.

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1 A. I don't know.

2 Q. Why would it -- it would take balls to get together
3 and fight, wouldn't it?

4 A. Now you're leading me up to saying we were going
5 there to fight.

6 Q. You called him a chicken-shit bastard, didn't you?

7 A. Yes, sir, I did.

8 Q. Why did you call him a chicken-shit bastard?

9 A. For not calling me back or not answering phone calls,
10 for not standing up to me.

11 Q. Not wanting to get together with you to fight?

12 A. No, I never said that.

13 Q. Well, then you had these conversations over the
14 next hour about where to meet, and you all talked about
15 different places?

16 A. Yes.

17 Q. And when the other places came up, like Shane's, or
18 maybe downtown or whatever, you all didn't go there be-
19 cause Kellet was saying, no, that's too public?

20 A. Yes.

21 Q. Why was that a concern?

22 A. I didn't think it was a concern at the time.

23 Q. Okay. Well, now he's saying about I don't want
24 to meet there because it's too public, so what is the
25 concern about having a conversation in a public place?

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1 A. I'm not sure why he -- I did not know at the time
2 why other than the fact that it was where he wanted to
3 meet and it was convenient to where he was at.

4 Q. The Sp.inx was very convenient to where you all
5 were too?

6 A. No, we were not home.

7 Q. And the meeting was not being there because it
8 was too public and you don't want the police involved.
9 Is that right?

10 A. I never said that, no.

11 Q. Well, why else would it be?

12 A. I don't know.

13 Q. Well, why would Kellet say he didn't want to meet
14 there because it was too public?

15 A. . .

16 Q. Why did that not trigger something in your mind
17 about why there is a concern about it being public?

18 A. There was no concern for none of that. I never
19 expected what happened to happen. I would have never
20 left downtown Greenville if I had known anything was
21 happening like that.

22 The reason I did is because I was taking my one
23 opportunity I thought I was going to have to meet with the
24 boys.

25 Q. Why at eleven o'clock at night?

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1 A. Because after Steven got off it was my opportunity
2 to talk with them. I mean, I loved my boys very much.
3 I still do. I'm very concerned for them, and right now
4 especially.

5 It was a big deal and I thought there might not be
6 another chance to do it.

7 Q. You didn't even discuss another chance to do it,
8 did you?

9 A. Yes, I had actually asked them to come over to the
10 house the next day, and he said, no, he . .

11 Q. You don't say that in your statement, do you?

12 A. I don't remember if I did or not. I'm not say-
13 ing yes or no.

14 Q. You would have spent the night there in downtown
15 Greenville?

16 A. Yes.

17 Q. And did you have plans for the next day?

18 A. Yes.

19 Q. What plans?

20 A. The grandkids were going to come back up there with
21 Angela.

22 Q. And you were going to walk around downtown?

23 A. Yes.

24 Q. In downtown somewhere and have breakfast somewhere,
25 I assume?

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1 A. Yes. The room I had for the weekend included a
2 free breakfast.

3 Q. And you were going to then go home the next day?

4 A. Yes.

5 Q. Sunday afternoon?

6 A. Yes.

7 Q. When you talked to Steven and Kellet about where
8 and when to meet you never said, why don't we just get
9 together for Sunday lunch?

10 A. Not to Steven.

11 Q. When you were talking to Kellet, you never said,
12 let's just get together tomorrow and talk about it at
13 lunch?

14 A. I did say about the next day them coming to our
15 house, and he said, no, I won't come to your house.

16 Q. That's what you say now?

17 A. It's what I said then.

18 Q. Did you suggest going somewhere other than your
19 house the next day?

20 A. No.

21 Q. And so from where you were, it was a thirty minute
22 drive or forty minutes drive to downtown Greenville?

23 A. About thirty.

24 Q. Down in this area on McKelvey Road?

25 A. Yes.

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- 1 Q. And the plan was to meet there about eleven o'clock.
2 Right?
3 A. Yes.
4 Q. Because Steven got off work at ten?
5 A. Yes..
6 Q. So this was important enough to you that you were
7 in the middle of the night . .
8 A. Yes.
9 Q. . . leave downtown Greenville . .
10 A. Yes.
11 Q. . . to drive down there and have whatever talk
12 there would be, and go back?
13 A. Yes.
14 Q. At midnight?
15 A. Yes.
16 Q. Isn't the truth the reason you went there was it
17 was your chance to get in a fight with Kellet?
18 A. No, that is not the reason.
19 Q. You knew that he was in a mood to fight you, and
20 you weren't going to back down?
21 A. In our last conversation, he was not.
22 Q. Now, you arrived down there on McKelvey Road, and
23 as you -- at some point you got out a large flashlight?
24 Isn't that true?
25 A. You'll have to tell me what large is.

T. GREGORY ON CROSS

1 Q. Well, the flashlight that's in this photograph?

2 A. Yes.

3 Q. How big is the flashlight?

4 A. It's a C-cell three cell flashlight. It's maybe
5 ten inches long.

6 Q. And is this how it is, in the photograph?

7 A. Yes.

8 Q. And you got that out for what reason?

9 A. Because it was dark.

10 Q. You got that out at what time?

11 A. When I pulled up and stopped.

12 Q. In fact, according to your statement, you got the
13 flashlight out and you say, as you were turning on the
14 street? Bottom of the first page, third line up.

15 You talk about how as you were turning onto the
16 street next to the field on South Shirley, you opened
17 your center console and took the flashlight out, so you
18 got that out even before you pulled up there?

19 You were actually turning onto . .

20 A. Turned onto Shirley. I pulled right on in there
21 and then I was stopped.

22 Q. You had your headlights on?

23 A. Yes.

24 Q. And you were getting that flashlight out because
25 you were expecting a fight and you wanted something to use

1 for a weapon?

2 A. No. If I was getting -- I wouldn't get out of the
3 truck with a flashlight if I had a pistol laying there.

4 Q. You can use a flashlight as a weapon just as well
5 as you can a pistol, can't you?

6 A. Not hardly.

7 Q. Well, you can't maybe kill somebody with it, but:
8 you can fight somebody with it?

9 A. I guess, if that's what you think you can do.

10 Q. Now, you talk about -- you testified how after
11 you were standing up next to your car -- you talked
12 about how you got pinched in the door. I want you to
13 explain to us again how you were able to get the hand-
14 gun?

15 A. I was -- at that point the door wasn't pinching me
16 and I had -- Roger, Junior, was in the door with me and
17 he was pushing me backward.

18 Q. Roger, Junior, was pushing you before you got the
19 pistol?

20 A. Yes.

21 Q. And you -- sorry. Go ahead.

22 A. Yes, he was pushing on me.

23 Q. And the pistol was on the center console?

24 A. Yes, it was.

25 Q. And I want you to explain to us how you were able

T. GREGORY ON CROSS

1 while you were being pushed against the door -- how you
2 were able to reach all the way back to the center of
3 your truck to get the gun?

4 A. Well, you say all the way back. I'm already near
5 the gun.

6 Q. How far were you -- reach again?

7 A. . .

8 Q. And that's your back shoulder?

9 A. No, I wasn't back on my back shoulder.

10 Q. And you're telling us -- how far can you get your
11 hand behind your shoulder?

12 A. . .

13 Q. You're telling us reaching that far would enable
14 you to reach the gun?

15 A. Yes.

16 Q. While you were being pinched up against the door?

17 A. At that time I wasn't being pinched up against the
18 door.

19 Q. Well, where Lisa and Kellet were?

20 A. They were outside the door.

21 Q. And what were they doing at that time?

22 A. They were pushing in on the door and Junior was
23 pushing out on the door.

24 Q. Why was Junior pushing out on the door?

25 A. So he could get in on me.

T. GREGORY ON CROSS

1 Q. That's what you believe?

2 A. No, that's what I know.

3 Q. And your testimony is that you were able to reach
4 around and get the gun at that time?

5 A. Yes..

6 Q. You didn't turn around?

7 A. No.

8 Q. You just reached behind your shoulder and got the
9 gun. Now, you testified at least three times today that
10 you were concerned not only for yourself but for your
11 wife?

12 A. Yes.

13 Q. You never mention your wife in your statement, do
14 you?

15 A. I don't know. I'd have to look and see.

16 As far as being concerned for us?

17 Q. Yes.

18 A. I don't recall if I did or I didn't.

19 (Brief pause)

20 Q. You never mention in your statement that you were
21 at all concerned about your wife?

22 A. I don't know.

23 Q. And you never mention in your statement that some-
24 body said, we're going to shoot you and your bitch?

25 A. I don't remember if I did or not. I don't think

T. GREGORY ON CROSS

1 I said that either.

2 Q. You never mention that either. You never saw any
3 weapons on anybody, did you?

4 A. I saw a stick.

5 Q. You saw a stick?

6 A. Yeah.

7 Q. Did anybody come up and hit you with the stick?

8 A. No.

9 Q. You mentioned someone that was standing back by the
10 truck?

11 A. Standing next to the side of the truck.

12 Q. And you said you saw a stick?

13 A. Yes.

14 Q. But no one hit you with a stick?

15 A. Right.

16 Q. No one threatened you with a stick?

17 A. No.

18 Q. No one swung it at you?

19 A. No.

20 Q. No one pointed a gun at you?

21 A. No.

22 Q. Nobody had a knife?

23 A. Not that I know of. I don't know.

24 Q. And you never discussed in your statement that

25 anybody said they were going to kill you or shoot you

T. GREGORY ON CROSS

1 or stab you or anything like that?

2 A. No.

3 Q. You never said you were afraid for your life, did
4 you?

5 A. Yes, I did. I believe I did say that somewhere.

6 Q. Well, there is no question that your testimony is
7 that they were hitting you through the window?

8 A. They were, yes.

9 Q. Your window was down?

10 A. Yes.

11 Q. And the door was being pressed up against you?

12 A. Uh hm.

13 Q. Pressed up against you enough that you felt threat-
14 ened and scared?

15 A. Yes.

16 Q. And the door -- your wife said they were actually
17 beating you?

18 A. They were swinging at me, yes. Like I was saying
19 earlier, the blows weren't very effective whatsoever.

20 Q. Well, you didn't say that at the time, did you,
21 when you gave your statement?

22 A. No.

23 Q. You say that now because you know that there wasn't
24 a single mark on your body? You know that there wasn't
25 a single bruise, wasn't a single scratch?

T. GREGORY ON CROSS

1 A. No.

2 Q. There wasn't any redness on your arm where you
3 said you were putting your arm up to deflect blows? There
4 wasn't anything -- not a single mark on you, your head,
5 your face, your torso or anywhere? Are you aware of
6 that?

7 A. Yes.

8 Q. I have nothing further.

9 THE COURT: Any Redirect?

10 REDIRECT EXAMINATION

11 BY MR. BANNISTER:

12 Q. Let me hand you again your statement. Did you say
13 you got your gun out and gave it to your wife in case
14 things went bad?

15 A. Yes.

16 Q. Did you have some concern about your wife?

17 A. Yes. That was the concern.

18 Q. And down here when you were saying that you were
19 telling them to get back and they weren't getting back,
20 does it need to be said that you were in fear at that
21 point?

22 A. I wouldn't think so.

23 Q. Did you in fact have blood on your right hand after
24 you shot Roger, Junior?

25 A. Yes.

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T. GREGORY ON REDIRECT

- 1 Q. And in the picture . .
- 2 A. I believe it was on my left hand.
- 3 Q. Left hand?
- 4 A. My left hand.
- 5 Q. Your fingers had blood on them?
- 6 A. Yes.
- 7 Q. And let me show you State's Exhibit Number 17, and
- 8 where Roger, Junior's foot is -- do you see that?
- 9 A. Yes.
- 10 Q. Is that approximately where his feet were when you
- 11 pulled the trigger?
- 12 A. You can see his knees are bent up so his feet would
- 13 have been down a little further. I mean, he was inside
- 14 the door right there where it's at.
- 15 Q. I think I heard it said there were no drops of blood
- 16 inside the car. I'm showing you Exhibit -- State's Exhibit
- 17 43, 44 and 45 . .
- 18 A. Yes.
- 19 Q. . . and 46.
- 20 A. Yes.
- 21 Q. These are blood drops?
- 22 A. It looks like what they are to me.
- 23 Q. And is that your blood?
- 24 A. No.
- 25 Q. If we all agree nobody else was bleeding, whose

T. GREGORY ON REDIRECT

1 blood has that got to be?

2 A. That must have been and would have to be Roger,
3 Junior's.

4 Q. This little arrow right here on State's Exhibit
5 Number 44, is it just below the windshield?

6 A. Yes. The window.

7 Q. The driver's side window?

8 A. Yes.

9 Q. And is it above -- I guess that would be the con-
10 trols for your door?

11 A. Yes.

12 Q. Do you know anything about how fast somebody bleeds
13 or doesn't bleed when they are shot? Can you answer . .

14 A. I'm not familiar with that, no.

15 Q. That's all the questions I have.

16 THE COURT: Any Recross?

17 SOLICITOR: No, Your Honor.

18 THE COURT: Thank you, Mr. Gregory. You can step
19 down.

20 (Witness excused from stand)

21 MR. BANNISTER: I would call Officer Buckholtz.

22 TYLER BUCKHOLTZ, being duly
23 sworn, testified as follows:

24 CLERK: Please have a seat and state your name for
25 the record.

MR. BUCKHOLTZ ON DIRECT

1 WITNESS: Tyler Buckholtz,

2 DIRECT EXAMINATION

3 BY MR. BANNISTER:

4 Q. Where do you work?

5 A. Greenville County Forensics.

6 Q. And what is your job?

7 A. I'm currently a latent fingerprint examiner.

8 Q. Were you a latent print examiner at the time we're
9 talking about here?

10 A. At the time I worked with the crime scene unit.

11 Q. Okay, so at the time you worked with the crime scene
12 unit, did you have occasion to come out to McKelvey Road
13 and Shirley Road on October 10, 2009?

14 A. Yes, sir.

15 Q. And it was late in the night so maybe it was Octo-
16 ber 11th when you got there, but what was your purpose
17 in being there?

18 A. I came out with the crime scene unit to process
19 the scene and document any evidence that was there, to
20 photograph it, and collect it when it was found.

21 Q. Did you in fact find some blood on the interior of
22 the driver's side door of the truck?

23 A. Yes..

24 MR. BANNISTER: Judge, I think we have stipulated
25 the blood is Roger White, Junior's, that was inside the

MR. BUCKHOLTZ ON DIRECT

1 truck.

2 BY MR. BANNISTER:

3 Q. Where was the blood in the truck?

4 A. The blood was on the driver's side, just behind
5 the driver's side front door handle on the interior.
6 I took photographs beginning at the bottom of the site
7 and all the way around the entire scene to show the layout
8 of the vehicles and position of the body, and any other
9 evidence we saw.

10 We took the weapon that was in the deputy's car as
11 well as photographs of the suspect and the victim on the
12 scene.

13 Q. As a part of your duties out there, did you actu-
14 ally have to talk to the Defendant.

15 A. Yes. I took a gunshot residue kit from him, and as
16 a part of that collection there are administrative ques-
17 tions that we ask.

18 Q. And with regard to the administrative question of
19 Terry Gregory, and that's the suspect . .

20 A. Okay. Some of the questions I asked, is there any
21 debris or blood on the subject's hands? If yes, de-
22 scribe it.

23 There was blood on his left palm.

24 I asked him his occupation, and he said he was an
25 electronics technician.

1 Had he washed his hands since the shooting, and he
2 said no.

3 Was he right or left handed, and he said right
4 handed.

5 Hobbies, and he said hunting, and the last time he
6 had done that was a week prior.

7 And then the next question says, write a brief de-
8 scription of the subject's activities between the time
9 of the shooting and the time of gunshot residue collec-
10 tion. So I asked him what happened between the time of
11 the shooting and the current time I was speaking to him.

12 Q. What was his reply?

13 A. His response was that he -- he stated that he held
14 the gun until the officer was on the scene and he fired
15 one shot and he held the gun in his right hand.

16 He also -- these are field notes I wrote down. He
17 stated -- when I initially asked him that question he
18 stated that he shot one time and told the others to get
19 back.

20 He said they had him up against the truck attack-
21 ing him and he killed him.

22 Q. Did you do a gunshot residue test on Mr. Gregory
23 at the scene?

24 A. Yes.

25 Q. And ultimately that came back negative?

MR. BUCKHOLTZ ON DIRECT

1 A. That's correct.

2 Q. All right. Did you do a gunshot residue on the vic-
3 tim, Roger Lee White, Junior?

4 A. I did not. That was probably done at the autopsy
5 by whoever attended.

6 Q. Anything else of note that you found on the scene?

7 A. Not particularly that I think I need to speak to.
8 There was a hat laying in the road that you can see on
9 the diagram.

10 The door was right there and his arm and head were
11 right next to the rear driver's side tire.

12 Q. Were his feet in between -- sorry. Were the de-
13 eased's feet located right at the opening to the inter-
14 ior of the truck?

15 A. Yes.

16 Q. And you documented that with photographs?

17 A. Yes.

18 Q. With a description?

19 A. Yes. I described where he was resting.

20 MR. BANNISTER: Judge, I've got Defendant's Exhibit
21 12, a disk of the photos, and I believe the State is in
22 agreement.

23 SOLICITOR: Without objection.

24 THE COURT: Defendant's 12 in evidence.

25 MR. BANNISTER: The reason is that there are some

MR. BUCKHOLTZ ON DIRECT

1 things that are clearer on the actual digital images
2 than they are once the photograph is printed out.

3 THE COURT: Without objection they are admitted.

4 BY MR. BANNISTER:

5 Q. Did you also talk to Mrs. Louanne Gregory?

6 A. Yes. I also conducted a gunshot residue kit on
7 her.

8 Q. During that same colloquy with her, did she make
9 any statements to you?

10 A. I'd have to look at the sheet to refresh my memory
11 of it. She stated she was right handed. She had no
12 blood on her hands; had not washed her hands.

13 She stated she was disabled, no hobbies, and she
14 stated that she stood back and waited for the police to
15 come and smoked three cigarettes since the time of the
16 shooting to the time of the GSR kit.

17 She also stated she handled the weapon prior to the
18 suspect firing.

19 Q. Make any other statements?

20 A. Not that I have on here.

21 Q. Would it help you if I showed you your report?

22 A. I asked her how many shots were fired, and she
23 stated one. She then stated they were trying to kill
24 him and they would have beaten him to death.

25 Q. Was there an exit wound in the deceased?

MR. BUCKHOLTZ ON DIRECT

1 A. Not that I remember. I didn't attend the autopsy
2 but I don't remember seeing one.

3 Q. No more questions.

4 THE COURT: Cross examination.

5 CROSS EXAMINATION

6 BY SOLICITOR:

7 Q. Are you aware that all of the persons tested came
8 back negative?

9 A. Yes.

10 Q. Okay. Now, you did not test everybody who was
11 there?

12 A. We tested his clothes.

13 Q. The victim's clothes, you're talking about?

14 A. Yes.

15 Q. They all came back negative?

16 A. Right.

17 SOLICITOR: At this time, we'd offer State's Exhibit
18 Number 37 in evidence.

19 THE COURT: Any objection, sir?

20 MR. BANNISTER: No.

21 THE COURT: All right, without objection.

22 BY SOLICITOR:

23 Q. Do you recognize this photograph?

24 A. Yes.

25 Q. Is that a picture of the Defendant's truck?

MR. BUCKHOLTZ ON CROSS

1 any blood on him, on his clothing?

2 A. Yes. He had -- I observed it on his right hand, his
3 left hand, right shoe and left pant leg.

4 Q. How -- what quantity are we talking about?

5 A. On his shoe, just a -- you know, fifteen or so
6 splatters on there. On his hand there was -- I mean, you
7 can see.

8 Q. You took a photograph of the blood on his hand?

9 A. Right, and on his pants there was a small smear about
10 this wide.

11 Q. Any on his shirt?

12 A. Not that I noticed.

13 Q. Not that you observed?

14 A. No.

15 Q. And he told you he had not washed his hands?

16 A. Correct.

17 Q. You have to ask that question before you take a
18 gunshot residue test?

19 A. Yes.

20 Q. The pictures I just moved into the record, are as
21 you saw the Defendant on the scene?

22 A. Yes.

23 Q. During the time you talked to him, did he appear to
24 be in any physical distress to you?

25 A. No. He was very calm and cooperative.

MR. BUCKHOLTZ ON CROSS

1 Q. Did he complain of any injuries to you?

2 A. When we got -- not at the scene. When we got to
3 the Law Enforcement Center.

4 Q. We'll talk about that in a minute. Out there at
5 the scene. . .

6 A. No.

7 Q. . . did he complain?

8 A. Not at the scene.

9 Q. He didn't complain of any injuries?

10 A. No.

11 Q. There was not ambulance called or anything, nor was
12 he taken to a hospital or anything?

13 A. No.

14 Q. He was taken to the Law Enforcement Center?

15 A. I believe so. I didn't transport Mr. Gregory
16 from the scene.

17 Q. And you said he seemed fairly calm?

18 A. Yes.

19 Q. Did you say he was cooperative?

20 A. Yes.

21 Q. Now, you then met with him back at the Law Enforce-
22 ment Center?

23 A. Yes.

24 Q. Where he was being interviewed by the investigators?

25 A. Correct.

MR. BUCKHOLTZ ON CROSS

1 Q. And he -- the purpose of that was to take more
2 photographs?

3 A. Yes, and to collect his clothing. As standard
4 procedure in a case like this, we will photograph him
5 clothed and then collect his clothing and photograph
6 him unclothed.

7 Q. You took photographs of him unclothed?

8 A. Yes.

9 Q. And the purpose of taking photographs of him un-
10 clothed is to look for injuries. Is that right?

11 A. Yes.

12 Q. And you knew there was an allegation of self-defense?

13 A. Yes.

14 Q. And you were looking for any injuries or any kind
15 of wounds whatsoever?

16 A. Any kind, yes.

17 Q. And did you observe any injuries whatsoever?

18 A. No.

19 Q. Did you talk to him about any possibility of injury?

20 A. Yes. I asked if he knew of anywhere he had been
21 hit or anything like that, and he said he thought he
22 had been hit on his left side. So I took pictures all
23 the way around but I didn't see any marks. I took
24 pictures all the way around the surface of his head but
25 I didn't see any marks.

MR. BUCKHOLTZ ON CROSS

1 Q. You didn't see any marks on his head?

2 A. No.

3 Q. Did you see any marks on his arms?

4 A. No.

5 Q. Any redness?

6 A. No.

7 Q. Did you see any mark whatsoever that looked as
8 though a blow had been struck?

9 A. No.

10 Q. I hand you State's Exhibits Numbers 20 through 36,
11 which I believe . .

12 SOLICITOR: I need to have Exhibits 20 through 36 en-
13 tered in the record.

14 THE COURT: Objection?

15 MR. BANNISTER: Without objection.

16 THE COURT: Admitted without objection.

17 BY SOLICITOR:

18 Q. Briefly, are these the photographs you took of the
19 Defendant on the night of October 10th?

20 A. Yes.

21 Q. About what time did you take those photographs?

22 A. That was after I had cleared from the scene. When
23 I arrived at the Law Enforcement Center at 3:07 and before
24 I left the Law Enforcement Center at 3:38 -- between 3:07
25 and 3:38.

DR. FULCHER ON DIRECT

1 -- I hate to say this -- a therapeutic dose but not a
2 huge amount at all.

3 We typically see it in the two hundred to six hun-
4 dred nanograms per mil with someone severely impaired.

5 Q. Are you looking to whether or not it is contributory
6 to the death?

7 A. I am, yes. The interpretation of its intoxicant
8 effects on an individual are speculative, because every-
9 one will metabolize and be affected by drugs differently,
10 and, of course, I am always seeing people who are dead
11 and so we just have to assume certain things.

12 Q. Actually, it's more likely than not that the meth-
13 amphetamine is an illegal street drug?

14 A. Given that we have a low amount, I would argue if
15 he had used a non-prescription inhaler it could have
16 been that.

17 More likely than not, it is an illegal street drug,
18 just based on the levels I'm seeing. To be honest with
19 you, I could probably go either way on that. I did not
20 request them to determine the isomers, and without that
21 information I could not actually tell you if this is an
22 illegal street drug or not.

23 If he had had a prescription for atarol or dexatrine.
24 -- now, the amphetamine, unless he had a prescription
25 for atarol or dexatrine, he would not have had it in

DR. FULCHER ON DIRECT

1 his system, and that in this type of case would have
2 been a metabolite or a biproduct of the ingestion of
3 amphetamine, or methamphetamine. Sorry.

4 Q. So . . .

5 A. I probably shouldn't go there.

6 Q. Is there any way to estimate when or what dose was
7 taken by the deceased which resulted in what was found?

8 A. There is no good way to approximate that, as, once
9 again, the metabolism is unique to the individual.

10 So it is, once again, speculative.

11 Q. All right. Let's talk about the delta nine THC and
12 the delta nine carboxyl THC.

13 A. The delta nine THC was present at five point four
14 nanograms per mililiter, and the delta nine carboxyl
15 THC was present at twenty-two nanograms per mil.

16 These drugs are the active and inactive metabolites
17 -- actually, the delta nine THC is in fact the active
18 metabolite of marijuana, or the active ingredient, and
19 that is what you consume that gives you the intoxicant
20 effects of marijuana.

21 The delta nine THC is what your body converts that
22 to in the liver to be passed out through the urine and
23 such, to be eliminated from the body.

24 Q. All right. If I understood the last conversation
25 we had, it is most likely that the deceased ingested the

DR. FULCHER ON DIRECT

1 marijuana within two hours of his death, based on these
2 levels?

3 A. The actual metabolite of the active ingredient typ-
4 ically would be in ranges of -- let's see -- several hours,
5 yes.

6 So when we do autopsies, unless someone has smoked
7 fairly recently, we rarely see the active ingredient. We
8 typically see the metabolite that hangs out longer.

9 At the national lab we use, the level of the actual
10 ingredient falls below their detectable level within
11 several hours.

12 So, yes, he did consume marijuana most likely sev-
13 eral hours before his demise.

14 Q. Do you have an opinion as to how drugs interact with
15 another compound, the effects?

16 A. It very well can. In a case like this, the situa-
17 tion is compounded because you have a depressant, ethanol,
18 that is having kind of an opposite effect on the ampheta-
19 mines.

20 And when you have marijuana, which is a depressant
21 to some degree and also has some hallucinogenic effects
22 to some small degree -- I can't speak in particulars
23 about this case, although at any time you have a combina-
24 tion of drugs the effects are usually hard to predict in
25 that individual.

DR. FULCHER ON DIRECT

1 It is dangerous, of course, to have this many drugs
2 in your system.

3 Q. What potentially could be the effects of the drugs
4 in this combination?

5 A. In this combination, I would say I'd have to refrain
6 from answering that, not knowing his metabolism for these
7 drugs, and also I should mention, which I haven't yet,
8 that the effects of amphetamine, marijuana and alcohol --
9 there is some potentiation of the body of the person
10 where the actual effect is lessened if you are a serious
11 alcoholic.

12 A point O eight might not be that big a deal to you
13 if you've never drunk before and you have that much al-
14 cohol. Obviously you might be more intoxicated.

15 So as far as the intoxicant effects, it is difficult
16 to make that determination.

17 Q. In your autopsy report, you said that the drugs
18 were beyond contributory. That doesn't mean that he
19 wasn't intoxicated?

20 A. Oh, no, actually not. That means they are non-contribu-
21 tory to the cause of death; meaning, these quantities of
22 drugs can in no way cause the demise.

23 Q. The -- you used to work in Virginia?

24 A. I did. Richmond, Virginia.

25 Q. And in Virginia as a part of your duties in the

DR. FULCHER ON DIRECT

1 coroner's office, I believe, you actually collected GSR
2 kits, is that correct?

3 A. We did. We collected GSR at autopsy. In Greenville
4 County that is performed by forensics.

5 Q. We have negative GSR kits in the notes here. Is there
6 -- in your opinion, is there anything of any value found
7 in negative GSR?

8 A. There is not. You want me to explain?

9 Q. Yes, sir, to some degree. I think the Judge is very
10 familiar with GSR so you don't need to go into a complete
11 explanation.

12 I just want to know if you think there was any . .

13 A. No, I do not read too much in a negative GSR.

14 Q. Okay. If I understand you correctly, the deceased has
15 an entrance wound and no exit wound?

16 A. Correct.

17 Q. Any other wounds on the deceased that would have pro-
18 duced any blood?

19 A. None that I saw, no.

20 Q. So if we have a number of blood drops at the scene . .

21 A. Yes.

22 Q. . . that is identified as the deceased's blood, then
23 that would have had to have fallen from the entrance wound
24 at his neck?

25 A. Yes.

DR. FULCHER ON DIRECT

1 Q. Okay, and do you remember me showing you some pictures
2 a while back of some blood drops?

3 A. Yes, I do.

4 Q. I'm showing you what has been marked as State's Exhibit
5 Numbers 46, 45, 44. Do you see the pattern those drops are
6 forming?

7 A. Yes, I can.

8 Q. All right, and I guess you are not a blood-splatter
9 expert, are you?

10 A. No, I'm not a blood-spatter expert. I have some
11 training based on my work in Richmond, Virginia, in inter-
12 preting blood spatter.

13 Q. All right, and does that appear to be unmolested drops
14 of blood that are just laying there in the map-holder?
15 Sorry. The map-holder in the door of this vehicle, State's
16 Exhibit 46?

17 A. Yes.

18 Q. All right. Is there any way to say how fast the de-
19 ceased would have been bleeding from this wound to the
20 neck?

21 A. As I recall, the vessels' damage are the left sub-
22 clavian and the left internal jugular. These are both
23 large caliber vessels which would produce significant
24 amounts of blood.

25 Depending on how you had your neck situated -- some

DR. FULCHER ON DIRECT

1 times the skin can slightly seal that off but with any
2 movement at all I would expect it to bleed very, very
3 quickly.

4 Q. And -- okay, so let me kind of see if I can put it
5 in a package a little bit for you.

6 A. Yes.

7 Q. What I want to ask you about is the wound path of
8 the bullet.

9 A. Yes.

10 Q. If I could just get you to hold the gun in your
11 right hand . .

12 A. Yes.

13 Q. . . and could you hold it kind of down by your
14 right side, if you don't mind, and stand up for a moment.

15 All right, and, if you would, just put your
16 left hand up like this.

17 All right. If I were to come at the gun and I
18 was grabbing it and I was pulling on the gun with the
19 gun at or near my neck.

20 A. Yes.

21 Q. I'm bending over from the waist.

22 A. Yes.

23 Q. Would that scenario be consistent with the bullet
24 path that you saw in the wound of the deceased?

25 A. It would.

DR. FULCHER ON CROSS

1 let me look to see if they were bagged. The hands were
2 in paper bags. It would be inappropriate for me to
3 do an autopsy, particularly that of a homicide, and
4 not thoroughly examine the individual's hands.

5 Q. Because you were looking for -- you know self-
6 defense has come up as a defense or . .

7 A. Absolutely, and I see no evidence that his hands
8 struck anything to speak of. That is not to say
9 they were not injured if they struck an individual
10 or something soft.

11 Q. Okay.

12 A. So certainly he did not punch a car door. I
13 would think he would have abrasions or something if
14 he had.

15 Q. Okay. No other sign of trauma to his body?

16 A. None at all.

17 Q. Now, let me ask you about the gunshot wound
18 to his neck. It was a close and very close contact
19 wound?

20 A. Yes.

21 Q. And can you point out on your body again where
22 the bullet went into his body?

23 A. Lateral to the sternocleidomastoid muscle right
24 above the clavicle. In the neck here, the notch of
25 the neck, if you will, so kind of right in that

DR. FULCHER ON CROSS

1 area, the bottom of the neck.

2 Q. Now, you mentioned it struck the jugular?

3 A. It did and passes through the external or the
4 internal jugular -- I believe it strikes the internal
5 jugular. Yes.

6 Q. Which would cause a massive amount of bleeding?

7 A. Yes.

8 Q. With that and with the subclavius you would have
9 significant bleeding. These vessels are responsible
10 for taking a lot of blood to various extremities in
11 the head and the body and are on someone his size
12 probably in the diameter of the pencil eraser or big-
13 ger with high pressure blood coming in, so, yes, sig-
14 nificant bleeding.

15 Q. And you would expect it to happen pretty quickly?

16 A. Within seconds, absolutely.

17 Q. Within seconds?

18 A. Absolutely. Very shortly. A second, I would
19 say, more than likely.

20 Q. And would it cause -- can you tell us or can
21 you describe how the blood would have exited the
22 body?

23 A. Well, in the jugular -- when I mention high
24 pressure, that is the lower vessel under the other ves-
25 sel. The subclavian would have been under arterial

DR. FULCHER ON CROSS

1 pressure. The actual jugular is draining blood from
2 the head and there is much lower pressure. So this
3 is more of a oozing type of blood.

4 Q. So there would be a lot of blood?

5 A. To a lay person it would look like tons of blood,
6 and I'm not saying it wouldn't bleed significantly,
7 but as far as arterial spurting it should not do that,
8 largely because the subclavian was a little lower in
9 the chest cavity.

10 I think most of the blood seen at the scene prob-
11 ably came from the first vessel that was injured,
12 which was in fact the jugular.

13 Q. Okay, you were shown some photographs with some
14 blood . .

15 A. Yes.

16 Q. . . spatters?

17 A. Yes, there is some blood spatter, yes, in those
18 photographs.

19 Q. You can't say how that blood got there obviously?

20 A. No.

21 Q. And so if you were told that somebody had held
22 a shirt against the wound and the shirt was saturated
23 and the shirt was later moved, would there have been
24 blood -- I mean, could it just have possibly have
25 come from that source as . .

DR. FULCHER ON CROSS

1 A. Absolutely. I cannot tell you that. The only
2 thing I can tell you is that given the shape of
3 this blood spatter trajectory and to get into the
4 bottom of the map-holder, it came from largely down-
5 wards and not from the side because it would be on
6 the side obviously.

7 Q. Okay. So would you expect somebody in the po-
8 sition that was -- well, let me take you back a few
9 minutes to your Direct Examination when Mr. Bannister
10 positioned himself close to you to show where the vic-
11 tim was in relation to the suspect.

12 Would you expect having the head right here near
13 the torso, would you expect there to be blood on the
14 torso as well?

15 A. Typically you would, although I don't say that
16 -- obviously I wasn't there and don't know the exact
17 position of the body when it was shot.

18 Like I did say before, if you crank the neck at
19 certain areas, sometimes you can hold back that flow
20 of blood for a few seconds. It's possible.

21 Q. If somebody touches the neck or . . .

22 A. Let's say your neck is bent when you got shot,
23 the friction of the skin at the entrance wound will
24 save a few seconds -- not minutes, but seconds -- to
25 keep blood from going out.

DR. FULCHER ON CROSS

1 But once you move and the wound is opened up,
2 in turn, the neck -- obviously we're not shooting
3 an immoveable object. The skin is flexible, and as
4 it moves the blood can move in various directions.

5 Q. But you would expect blood to be on the person,
6 on the pants, on the car door -- excuse me.

7 A. Sure.

8 Q. This is the car door and if the head were here,
9 would that get blood either on the person, on the
10 car door, or down below?

11 A. Typically.

12 Q. And you would see a large amount?

13 A. A large amount, yes.

14 Q. More than just some droplets?

15 A. This is a relatively small amount of blood for
16 the wound I described. However, once again, I cannot
17 prove or disprove the amount of blood that came out
18 when the person was shot, obviously.

19 Q. Okay. When you first came in contact with Mr.
20 White, he was dressed, is that correct?

21 A. Yes. The coroner's officer leaves them dressed.
22 They come to us in a sealed body bag, and we examine
23 their clothing.

24 Q. He had a shirt on?

25 A. He did, yes. He had a shirt on, two undershirts

DR. FULCHER ON CROSS

1 actually, and we have a red tee shirt that did show
2 a defect on the neck overlying the gunshot wound,
3 which likely corresponds to the entrance wound.

4 Q. I have nothing further.

5 THE COURT: Redirect?

6 MR. BANNISTER: Yes, briefly.

7 REDIRECT EXAMINATION

8 BY MR. BANNISTER:

9 Q. Getting back to my hypothetical question I was
10 asking you, where the decedent was bent over, pull-
11 ing on the gun, and the gun goes off.

12 A. Yes.

13 Q. The car door is to the left.

14 A. Yes.

15 Q. And he's pulling on the gun. Would the wound line
16 up pretty closely with the map-holder and the blood?

17 A. It would.

18 Q. The blood on the door?

19 A. Yes, you could definitely say that.

20 Q. All right, and on Exhibit 44 you have a small
21 bit of blood around the point where the controls are
22 for the window on the driver's side door of the
23 truck.

24 If that in fact is the deceased's blood . .

25 A. Yes.

DR. FULCHER ON REDIRECT

1 Q. . . it likely would not have gone upwards? Is
2 that what you're implying?

3 A. Yeah. The wound -- when the weapon was fired the
4 wound when the weapon was fired was most likely above
5 the first drop of blood on the door. That is not an
6 absolutely obviously. It could have been sprayed
7 around, but typically speaking the blood goes down under
8 the direction of gravity.

9 Q. From anything you have seen, would it have been
10 inconsistent with the following scenario: I've got a
11 deceased bent over, the gunshot to the neck, and
12 then for a moment, whether it was a second or half
13 a second, however long, if the door was being pressed
14 in and the body hangs up and then eventually falls
15 to the ground?

16 A. Absolutely. That's possible.

17 Q. Was there -- and just so I'm clear, if someone
18 is holding the deceased's body up off the ground,
19 once the gunshot is administered he's going straight
20 down?

21 A. Sure. It should, absolutely.

22 MR. BANNISTER: No further questions, Judge.

23 THE COURT: Recross.

24 SOLICITOR: No further questions.

25 THE COURT: Thank you for being here, Doctor.

MR. HANVEY ON DIRECT

1 DIRECT EXAMINATION

2 BY SOLICITOR:

3 Q. You said Marcus Brent Hanvey?

4 A. Yes.

5 Q. How old are you?

6 A. Twenty-one.

7 Q. Where do you work?

8 A. Lindl Signs.

9 Q. And you also, I understand, are in the military of
10 some sort?

11 A. Yes, I'm in the National Guard.

12 Q. And have you been deployed or . .

13 A. I haven't been deployed to Afghanistan. I've had
14 the training to go.

15 Q. And you know Kellet?

16 A. Yes, I do.

17 Q. And Steven Gregory and the family?

18 A. Yes, sir.

19 Q. Did you know Roger, Junior, the deceased?

20 A. Yes, sir.

21 Q. Was he a good friend of yours?

22 A. We went to school together, and I had seen him
23 around campus.

24 Q. Was Kellet a good friend of yours?

25 A. Yes.

MR. HANVEY ON DIRECT

1 Q. I'm going to take you back to October the 10th of
2 2009. Okay, the day that Roger, Junior, was killed.

3 Okay? You remember that day?

4 A. Yes, sir.

5 Q. Okay.

6 A. I'd been drinking.

7 Q. Okay, we're going to get into that in just a min-
8 ute. The fact that you had been drinking that day,
9 does it cloud your recollection of the events to some
10 degree?

11 A. To some degree.

12 Q. Okay. Now, you were with Kellet Gregory?

13 A. Yes.

14 Q. Where were you all hanging out that day?

15 A. We had a bonfire at my grandmother's house.

16 Q. Where does your grandmother live?

17 A. Up McKelvey Road a few miles.

18 Q. A few miles from where this incident took place?

19 A. Yes, sir.

20 Q. So you were with Kellet, and were there other
21 people there too?

22 A. Yes.

23 Q. It was a party?

24 A. Yes.

25 Q. And did you have it during daylight hours or . .

MR. HANVEY ON DIRECT

1 A. It was toward the end of the day, at dusk sort of.

2 Q. And you had had a lot to drink that day?

3 A. Yes.

4 Q. And would you say you got intoxicated?

5 A. I was intoxicated.

6 Q. And what kind of car did you own back then?

7 A. A silver Camaro.

8 Q. Did you drive it that day, that night?

9 A. No, sir.

10 Q. Okay. You were too intoxicated to drive?

11 A. Yes, sir.

12 Q. So you were with Kellet?

13 A. Yes, sir.

14 Q. And do you remember Kellet getting a phone call
15 from his brother at any point?

16 A. I hadn't spoke with him about the phone call, but
17 they were having arguments.

18 Q. Who was having arguments?

19 A. Kellet and his brother and his dad.

20 Q. And you're talking about that day or previous to
21 that day?

22 A. That night.

23 Q. That night?

24 A. Or during that day.

25 Q. And how did you find out they were having

MR. HANVEY ON DIRECT

1 arguments?

2 A. He talked to me about the voice mail.

3 Q. Okay, and did he play the voice mail for you?

4 A. No, he told me about it.

5 Q. He told you about it. Okay, and Kellet was
6 angry?

7 A. He didn't like what was said.

8 Q. And you all ended up leaving your grandmother's
9 place at some point?

10 A. Yes, sir.

11 Q. Did you live there?

12 A. I lived in the house right next to her drive-
13 way. We were next door neighbors.

14 Q. Down McKelvey Road?

15 A. Yes, sir.

16 Q. And if you would look at this map. This is
17 Fairview Road and McKelvey is down this way?

18 A. Yes, sir.

19 Q. A few miles?

20 A. Yes, sir.

21 Q. When you left with Kellet, where did you all go?

22 A. To the Sphinx.

23 Q. The Sphinx station?

24 A. Yes, sir.

25 Q. Up on Fairview -- the intersection with Fairview

MR. HANVEY ON DIRECT

1 at McKelvey Road?

2 A. Yes, sir.

3 Q. Do you remember what happened next?

4 A. He went in and got some beer, and I had seen
5 Roger's truck there but I didn't really get out or
6 nothing.

7 Q. You saw Roger's truck?

8 A. Yes, sir.

9 Q. Roger, Senior?

10 A. Yeah.

11 Q. And you know Roger, Senior?

12 A. Yes, sir.

13 Q. Did you stay in the truck or did you get out?

14 A. I stayed in the truck.

15 Q. Where were you seated in the truck?

16 A. In the passenger's seat, sir.

17 Q. The front?

18 A. In the front.

19 Q. Okay. There is a back seat, isn't there?

20 A. Yes, sir. It's a small one.

21 Q. Okay. Now, do you remember after getting the
22 beer and all that you all left the Sphinx?

23 A. Yes, sir.

24 Q. And where did you all end up going?

25 A. We ended up going to Shirley Road.

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MR. HANVEY ON DIRECT

1 Q. Did you know why you were going there?

2 A. After he got back in the truck, we were talking
3 about what they were going to do was meet their dad.

4 Q. And what did he talk about was going to happen
5 then?

6 A. I guess they were going to discuss their problems.

7 Q. To discuss their problems. Do you remember what
8 he said about why they were meeting?

9 A. I knew there had been some issues about the
10 child support.

11 Q. Okay.

12 A. I heard that.

13 Q. You heard that. Did you hear what the purpose of
14 this meeting was on Shirley Road?

15 A. The voice mail.

16 Q. And what was your understanding of the meeting
17 of why it was to be? Why were they getting together
18 at eleven o'clock at night?

19 A. My guess would be to fight.

20 Q. Was that the way it came across to you?

21 A. It came across to me that way.

22 Q. Why were you going along?

23 A. I was with Kellet and we had for two weeks stuck
24 together. So I didn't want Kellet to go somewhere and
25 get hurt.

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MR. HANVEY ON DIRECT

1 Q. So were you going to help him?

2 A. No, I wasn't going to help. I was just making sure
3 nothing went wrong.

4 Q. Okay.

5 A. In the fight.

6 Q. Did Kellet have any weapons with him?

7 A. No, sir.

8 Q. Did you have any weapons with you?

9 A. No, sir.

10 Q. Did you know Steven was coming?

11 A. I didn't know he was until at the Sphinx.

12 Q. When you got to the Sphinx, did you find out that
13 Steven was coming too?

14 A. Yes.

15 Q. Before then you had just thought it was going to
16 be Kellet and his dad?

17 A. Yes.

18 Q. Did you know -- there was a group of people with
19 Steven too, wasn't there?

20 A. There were people in his truck, yes, sir.

21 Q. There were people in his truck. Do you remember
22 seeing Steven's truck?

23 A. I don't remember seeing Steven's truck at the
24 Sphinx.

25 Q. But you saw him when he parked on Shirley Road?

MR. HANVEY ON DIRECT

1 A. Yes.

2 Q. Do you remember seeing other people in Roger,
3 Senior's truck?

4 A. I know that Junior -- Roger, Junior, was in there
5 with Senior.

6 Q. Okay. Do you remember seeing anybody else?

7 A. I believe Justin Davis was in the back of his
8 truck.

9 Q. And could you tell there were other people in the
10 truck?

11 A. When they opened the door but you can't see in
12 the truck.

13 Q. Because of tinted windows?

14 A. Yes.

15 Q. And -- okay. But you didn't know they all were
16 going to be coming with Kellet to meet his daddy?

17 A. No, sir.

18 Q. And then you all drove over to South Shirley Road,
19 just a mile or so away from the Sphinx?

20 A. Yes.

21 Q. And what happened when you drove -- when you
22 turned off McKelvey Road onto South Shirley Road?

23 A. We parked there and Kelly got out of the truck
24 and they -- I heard somebody say, there he is, that
25 SOB, and then he came back.

MR. HANVEY ON DIRECT

1 Q. Did you stay in the truck?

2 A. Yes, sir.

3 Q. Did you ever get out?

4 A. No, sir.

5 Q. How many vehicles were there?

6 A. Roger's truck was next to us and Steven's truck
7 was in the ditch.

8 Q. Okay. I want to show you a diagram that was en-
9 tered into evidence. Do the drawings of the trucks
10 indicate accurately where Roger, Senior and Kellet's
11 trucks were parked?

12 A. Yes.

13 Q. And does this drawing of a truck indicate accur-
14 ately where Steven's truck was?

15 A. Yes, sir.

16 Q. Do you remember -- did you know why Steven was in
17 the vehicle?

18 A. No, I didn't know how he got there or how he got
19 stuck in the field.

20 Q. But you know he got stuck?

21 A. Yeah, I know he got stuck.

22 Q. How do you . . .

23 A. Afterwards, after the fact.

24 Q. Is that what they told you?

25 A. Yes, sir.

MR. HANVEY ON DIRECT

1 Q. Okay. Well, tell us what happened. You parked
2 there and you said somebody said, there goes the SOB.
3 What happened after that?

4 A. Um, Kellet was at the truck, and I'm not sure who
5 else was at the truck. Somebody yelled, he's got a
6 gun, and then it wasn't not even a minute later there
7 was a gunshot.

8 Q. And were you watching the whole incident unfold?

9 A. I was like leaned up on the window. I was about
10 to pass out, drunk.

11 Q. Well, let's talk about that. How -- you were
12 drunk enough you were about to pass out?

13 A. Yes, sir. I was way intoxicated.

14 Q. You were extremely intoxicated?

15 A. Yes.

16 Q. Okay. When you -- well, you were close to the
17 location where Rodney, Junior, got shot?

18 A. Yes, sir.

19 Q. What did you see happening prior to him getting
20 shot?

21 A. Prior to him being shot, I could tell there was
22 . . .

23 Q. I'm sorry.

24 A. Prior to him being shot, I could tell there was
25 Roger and Kellet and Lisa -- I seem them three guys out

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MR. HANVEY ON DIRECT

1 there but I didn't see anybody else out there, and they
2 was fumbling around, like wrestling and yelling.

3 Q. Tell me what you mean by fumbling around and wrest-
4 ling?

5 A. Like they were just standing around, like you could
6 hear yelling, but there was no, like, punching or any-
7 thing like that.

8 Q. Did you see anybody punching?

9 A. No, sir.

10 Q. Now, you used the term wrestling. What do you
11 mean by that?

12 A. Like fumbling around -- just crowded around each
13 other moving.

14 Q. Around each other?

15 A. Yes.

16 Q. And where they in relation to the Defendant, Terry
17 Gregory's, truck?

18 A. Kinda diagonal away from it.

19 Q. Let me ask you to step down and show us on this
20 map.

21 A. Around in this area right there.

22 Q. So near the right front part of his car?

23 A. Uh hm.

24 Q. Did you see the Defendant?

25 A. I did not see him.

MR. HANVEY ON DIRECT

1 Q. Was the Defendant's truck door, driver's side door
2 open or closed?

3 A. Open.

4 Q. And was the Defendant in or outside of the vehicle?

5 A. When they were talking, yeah, he was inside the
6 door.

7 Q. What do you mean? Was he sitting inside the ve-
8 hicle?

9 A. No, sir.

10 Q. Was he standing outside the vehicle?

11 A. Yes, sir. Like, the door -- the door was open this
12 way, and he was like right here behind the door.

13 Q. Kinda right behind the door?

14 A. Yes, sir.

15 Q. Was he staying close to the door?

16 A. Staying close but it was like right behind it.

17 Q. Did you ever see anything in his hands?

18 A. I couldn't see like in his hands.

19 Q. The headlights were on?

20 A. Yes, sir.

21 Q. Were the Defendant's headlights on?

22 A. Yes, sir.

23 Q. Were Kellet's and Roger's headlights on?

24 A. Yes, sir.

25 Q. So there was plenty of light?

MR. HANVEY ON DIRECT

1 A. Yes, sir.

2 Q. You could see well?

3 A. Yes, sir.

4 Q. Okay, and then you heard somebody say, he's got a
5 gun?

6 A. Yes.

7 Q. Before you heard somebody say, he's got a gun, did
8 you see anybody ever strike or run at or attack the
9 Defendant?

10 A. No, sir.

11 Q. In fact, the whole time did you see anybody hit him
12 at all?

13 A. No, sir.

14 Q. Did you see anybody with a weapon?

15 A. No, sir.

16 Q. Okay, so you heard somebody say, he's got a gun,
17 and did you see what Roger, Junior, did when he heard
18 that?

19 A. No, sir.

20 Q. You didn't see where Roger went?

21 A. No, sir.

22 Q. You just heard the gunshot?

23 A. Yes, sir.

24 Q. And then what did you see after you heard the gun-
25 shot?

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MR. HANVEY ON DIRECT

1 A. I didn't see anything. I took off -- I jumped out
2 of the truck and ran behind the truck, ran straight for
3 the woods.

4 Q. Show me where you -- step down again to show me
5 where you went?

6 A. I went -- I jumped out of Kellet's truck and ran
7 up through the woods and later back on the road.

8 Q. Did you call somebody?

9 A. Yes, sir.

10 Q. Who did you call?

11 A. Tyler Hammonds.

12 Q. Tyler Hanvey?

13 A. Hammonds.

14 Q. Is he a friend of yours?

15 A. Yes, sir.

16 Q. Was he over at the bonfire also?

17 A. Yes.

18 Q. What kind of vehicle did he have?

19 A. A blue van.

20 Q. Dark blue?

21 A. Yes.

22 Q. Okay. Let me ask you to step down once again.

23 I'm sorry. And if you could -- have you seen this map
24 before?

25 A. I seen it here.

MR. HANVEY ON DIRECT

1 Q. Not before today?

2 A. No.

3 Q. Take a moment to orient yourself. This being Fair-
4 view Road here, this being McKelvey, this being South
5 Shirley where the incident took place, are you familiar
6 with the fact a fire station is somewhere back here?

7 A. Yes.

8 Q. You told us you ran in this direction?

9 A. Yes, sir.

10 Q. And you say you called your friend Tyler?

11 A. Yes.

12 Q. To come pick you up?

13 A. Yes, sir.

14 Q. And did he pick you up?

15 A. Yes, sir.

16 Q. Where did he pick you up?

17 A. It was -- I could see the fire department from
18 where I was at, and I could see an ambulance right here.
19 I got picked up right about in here.

20 Q. Somewhere in here on McKelvey Road?

21 A. Yes.

22 Q. What direction did -- was it a dark blue van?

23 A. Yes.

24 Q. What direction did it come in?

25 A. From this way.

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MR. HANVEY ON DIRECT

1 Q. Okay.

2 A. It came in this way.

3 Q. And you got in the van and did you go back to the
4 party?

5 A. Yes.

6 Q. Did you ever go back to the location where this hap-
7 pened?

8 A. No, sir.

9 Q. Did you ever tell the police or anybody that you
10 were there when this happened?

11 A. No, sir.

12 Q. Any reason you didn't do so?

13 A. No, sir. I just didn't go back.

14 Q. I'm sorry.

15 A. I just didn't go back.

16 Q. Before you got out to run, had you gotten out of
17 the vehicle at all over there?

18 A. No, sir.

19 Q. Other than Roger, Senior's, truck which was to your
20 immediate right, were there any other vehicles in the
21 road?

22 A. No, sir.

23 Q. None at all?

24 A. No, just Kellet's truck and Roger, Senior's truck.

25 Q. Are you sure about that?

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MR. HANVEY ON DIRECT

1 A. I'm pretty sure there was nobody else there.

2 Q. Did you ever tell anybody -- I'm sure you talked
3 about this afterward with Kellet and Steven and every-
4 body.

5 A. Yes, sir.

6 Q. Did you find out what happened?

7 A. Yes, sir. That night I was trying to get ahold of
8 Kellet, to figure out what happened, who got shot.

9 Q. Did you call and ask him who got shot?

10 A. Briefly, and he told me Roger, Junior, had been
11 shot, but he didn't tell me if he was okay.

12 Q. Did you talk about whether or not you wanted to get
13 involved?

14 A. Before -- I didn't want -- no.

15 Q. Had you done any drugs that day?

16 A. No, sir.

17 Q. But you were intoxicated?

18 A. Yes, sir.

19 Q. Did you get and do you still get drug tested?

20 A. Yes, sir.

21 Q. At random or are they scheduled?

22 A. At random.

23 Q. Answer any questions Mr. Bannister might have.

24 CROSS EXAMINATION

25 BY MR. BANNISTER:

MR. HANVEY ON CROSS

1 Q. Initially you testified that when you were talking
2 to Kellet about meeting his dad, they were going to dis-
3 cuss some problems and some issues about child support?

4 A. Yes, sir.

5 Q. And then you said it was your guess that there could
6 be a fight?

7 A. Yes.

8 Q. That was something you assumed could happen based on
9 the message from his dad?

10 A. Yes, sir.

11 Q. Is that fair?

12 A. Yes, sir.

13 Q. The reason you all got beer at the Sphinx, as I un-
14 derstand it, was because you all had already drank all the
15 beer you had before?

16 A. Yes, sir. We were running low.

17 Q. Any question you and Kellet had had something to
18 drink?

19 A. No, none.

20 Q. And any question that you rode in the front seat to
21 the Sphinx station and from the Sphinx station over to
22 Shirley Road?

23 A. No.

24 Q. You didn't climb in the back seat and pass out on
25 the seat back there?

MR. HANVEY ON CROSS

1 A. No, sir. I was just laying at the window.

2 Q. The people you saw at Shirley Road was when everybody
3 was stopped. Did any of them kind of look back at you or
4 did you kind of acknowledge some of them?

5 A. I didn't tell anybody I was there or say hey or
6 nothing. I looked around.

7 Q. Did any of the people there call out to you in the
8 truck?

9 A. I don't think so.

10 Q. Where you got picked up on McKelvey Road, if I saw
11 correctly -- if I was to make a mark here on Exhibit
12 Number 5, would that be about where you got picked up?

13 A. Yes, sir. About there.

14 Q. So if I put a BH next to that, that would be where
15 Brent Hanvey got picked up by a blue van?

16 A. Yes.

17 Q. And in which direction did you all go down McKelvey
18 Road?

19 A. . .

20 Q. Back down Shirley Road or . . .

21 A. Back toward my house.

22 Q. Which would have been . .

23 A. Your left as you're looking at it.

24 Q. If north is up, it would have been west?

25 A. Yes, sir.

MR. HANVEY ON CROSS

1 Q. All right. No further questions.

2 THE COURT: Redirect?

3 SOLICITOR: No further questions, Your Honor.

4 (Witness excused from stand)

5 SOLICITOR: State calls Justin Davis to the stand.

6 JUSTIN DAVIS, being duly

7 sworn, testified as follows:

8 CLERK: State your name for the record, please.

9 WITNESS: Justin Davis.

10 DIRECT EXAMINATION

11 BY SOLICITOR:

12 Q. Justin, how old are you?

13 A. Twenty-three.

14 Q. How far did you go in school?

15 A. I graduated high school in '07 and went a while to
16 Tech.

17 Q. And where are you working?

18 A. (inaudible)

19 Q. Are you married or single?

20 A. I'm not married but I have a girlfriend.

21 Q. You were very good friends with Roger White, Junior?

22 A. Yes, sir.

23 Q. And you have known him for quite a while?

24 A. Yes, sir.

25 When I moved down here I met him.

MR. DAVIS ON DIRECT

1 Q. And do you know Steven and Kellet?

2 A. I know them all.

3 Q. And you also know Trip and Lisa Brazier and
4 Roger, Senior, of course?

5 A. Yes, sir.

6 Q. Let me take you to the events of October 10th of
7 2009.

8 A. Yes, sir.

9 Q. The day Roger, Junior, died -- were you with Roger
10 that day?

11 A. Right.

12 Q. Where were you all spending time?

13 A. Originally Roger was at work and he wanted me to
14 meet him at his house.

15 Q. Work was where?

16 A. For his dad.

17 Q. He worked at his father's . . .

18 A. Yes.

19 Q. . . auto shop. Okay, so he wanted you to meet him
20 there?

21 A. Yes. He was going to take a shower when he got
22 off.

23 Q. Okay.

24 A. So we come over there to his parents' house.

25 Q. How long did you stay at his house first?

516

MR. DAVIS ON DIRECT

1 A. I'd say twenty or thirty minutes.

2 Q. How far away did you live from him?

3 A. About a mile.

4 Q. You live on Betsy Road?

5 A. Yes.

6 Q. And do you know around what time of day it was when
7 you got over to his parents' house?

8 A. Well, I know he got off work at two something -- oh,
9 at his parents' house?

10 Q. Yeah.

11 A. About three o'clock or later.

12 Q. Three or later?

13 A. Yes, sir.

14 Q. Now, did you know -- prior to getting over to his
15 father's house, Lisa Brazier's house, did you know any-
16 thing about the trouble that was going on between Kelly,
17 Steven and his father?

18 A. No.

19 Q. Do you know Terry Gregory?

20 A. No, sir.

21 Q. Did you know him at that time?

22 A. No, sir.

23 Q. Never met him?

24 A. No, sir.

25 Q. Had you heard about him? A. I don't know.

MR. DAVIS ON DIRECT

1 Q. All right. So you got over to Roger, Senior's, house
2 and the other people we've heard about over the last two
3 days were already there?

4 A. Yes, sir.

5 Q. Trip and Dustin, Roger, Senior, and Lisa Brazier?

6 A. Yes, sir.

7 Q. And do you know what you were doing?

8 A. Watching the race, eating.

9 Q. So you were there most of the afternoon?

10 A. Yes.

11 Q. All the way up until the time you all left to go over
12 to this location?

13 A. Yes, sir.

14 Q. During that afternoon did you find out about what
15 we've heard here?

16 A. I heard a little about it but I wasn't really pay-
17 ing attention.

18 Q. It was nothing that concerned you?

19 A. No, it wasn't.

20 Q. It was between Steven and Kellet and maybe Mr.
21 Gregory, so you weren't paying much attention?

22 A. No, sir.

23 Q. You remember Steven getting home?

24 A. Yes, sir.

25 Q. And he got home sometime after ten o'clock, ten or

MR. DAVIS ON DIRECT

1 ten thirty?

2 A. Around ten I'd say.

3 Q. Did you spend any time with Steven after he got
4 home?

5 A. No.

6 Q. Now, you heard that he was going to be leaving?

7 A. Yes, sir.

8 Q. How did you find out about that?

9 A. Because he was asking his mother for directions.

10 Q. How was Steven acting?

11 A. Normal.

12 Q. He was acting normal?

13 A. Well, he was becoming frustrated whenever he was
14 fixing to leave.

15 Q. And there was talk about Steven was going to go --
16 what did you hear Steven say he was going to do?

17 A. I just heard he was going to have a discussion
18 with his father. I didn't know where he was going or
19 what not.

20 Q. Did you know what it was about?

21 A. No, sir.

22 Q. Didn't know where or what it was about. Did you
23 know Kellet was going to be there?

24 A. I didn't know at that time, no, sir.

25 Q. Why did you go?

MR. DAVIS ON DIRECT

- 1 A. Because Junior was going.
- 2 Q. Junior is your best friend, so you were going to go
- 3 with him?
- 4 A. Yes, sir.
- 5 Q. So you all got in the truck with Roger, Senior?
- 6 Junior's dad?
- 7 A. Yes, sir.
- 8 Q. And also in that truck was Lisa Brazier and the
- 9 baby. Is that it?
- 10 A. Roger, Senior, Lisa and me, Junior and the baby.
- 11 Q. You were in the back seat?
- 12 A. Yes, sir.
- 13 Q. And you saw Steven and Dustin and Trip getting in
- 14 Steven's truck?
- 15 A. Yes.
- 16 Q. And you all drove over to the Sphinx?
- 17 A. Yes, sir.
- 18 Q. Is that when you found out Kellet was going to be
- 19 involved?
- 20 A. I found out on the way to meet Kellet at the
- 21 Sphinx.
- 22 Q. Okay, and did you find out why Kellet was going to
- 23 meet with his father?
- 24 A. . .
- 25 Q. I mean, were they talking about it?

MR. DAVIS ON DIRECT

1 A. I didn't really care about the situation because I
2 didn't think it was anything to do with me. I wasn't
3 asking questions or anything -- paying attention to them.

4 Q. Okay. So you got to the Sphinx. What do you re-
5 member about the Sphinx?

6 A. I remember seeing Kellet's truck there and as soon
7 as we got there we left.

8 Q. And you followed Kellet's truck?

9 A. Well, I wasn't driving, but we did follow.

10 Q. The vehicle you were in followed Kellet's truck?

11 A. Yes.

12 Q. And you went up to this location we've been talk-
13 ing about?

14 A. Yes.

15 Q. How many of you left the Sphinx to go over there?

16 A. Just Roger's truck and Kellet's and Steven's.

17 Q. No other vehicles?

18 A. No, sir.

19 Q. No other cars or SUVs?

20 A. No, sir.

21 Q. What happened when you got to South Shirley Road?

22 A. We pulled in and we turned around and parked. That's
23 when Scuba got stuck.

24 Q. Who is Scuba?

25 A. Steven.

MR. DAVIS ON DIRECT

1 Q. Okay.

2 A. And I seen him when he got his truck stuck.

3 Q. Did you get out of your truck?

4 A. Yes, sir.

5 Q. At some point you saw Brent Hanvey?

6 A. Yes.

7 Q. In the truck?

8 A. I didn't see him in the truck. I seen him after the
9 shot was fired.

10 Q. After the shot was fired?

11 A. Yes, sir.

12 Q. What did you see him do?

13 A. Run.

14 Q. Did you recognize him?

15 A. Yes, sir.

16 Q. You didn't talk to him?

17 A. No.

18 Q. He just ran?

19 A. I saw him run.

20 Q. Other than Brent Hanvey and the other people we've
21 just mentioned, was there anybody else there at that lo-
22 cation?

23 A. No, sir.

24 Q. Waiting for the Defendant to get there?

25 A. No sir.

MR. DAVIS ON DIRECT

1 Q. Any other people, any other cars?

2 A. Absolutely none.

3 Q. No other cars pulled up and blocked off the road?

4 A. The only car that pulled up South Shirley was after
5 the shot was fired and he asked what's going on, and I
6 said, you don't even want to know; just turn around, and
7 so he turned his car around, going back down South Shirley.

8 Q. What direction was his car coming from? McKelvey
9 Road or South Shirley?

10 A. He was coming up South Shirley like he was coming
11 to McKelvey.

12 Q. So he was coming from behind the vehicles?

13 A. Yes, sir.

14 Q. Behind you?

15 A. Yes, sir.

16 Q. And this was after the shot was fired but before the
17 police got there?

18 A. Yes.

19 Q. And you just told this person to turn around, and
20 that's what they did?

21 A. Yes, sir.

22 Q. Now, do you remember -- was it a truck or car?

23 A. I think it was an Eclipse, a real small car.

24 Q. And just one person in it?

25 A. Yes, sir.

MR. DAVIS ON DIRECT

1 Q. Did that person have anything to do with this in-
2 cident?

3 A. No, sir.

4 Q. As far as you could tell, it was just some person
5 who happened to ride by?

6 A. Yes, sir.

7 Q. Okay. Now, let's talk about the events that led
8 up to the shooting. When you parked there on South
9 Shirley Road, did you get out of your vehicles?

10 A. Yes, sir.

11 Q. Right away?

12 A. Yes.

13 Q. Where did you go and what did you do?

14 A. Dustin was a little bit behind me, and looking at
15 the diagram this is Roger, Senior's truck here.

16 Q. You got out of Senior's truck. Is it a four door?

17 A. Yes, sir.

18 Q. You got out of the back?

19 A. Passenger side.

20 Q. And this is where you stood, right back here?

21 A. Yes, sir.

22 Q. Did you see any kind of weapons or anything?

23 A. No, sir.

24 Q. Did you see anybody with a weapon?

25 A. No, sir.

MR. DAVIS ON DIRECT

1 Q. And so you stood there, and Dustin was behind you?

2 A. Trip and Dustin, yes, sir.

3 Q. And the others were in front?

4 A. In between Kellet's truck and Roger, Senior's truck,
5 yes, sir.

6 Q. Roger, Junior, Roger, Senior, Lisa, Steven and
7 Kellet were over in this area?

8 A. Yes.

9 Q. Okay. So you waited a few minutes until they got
10 there, and tell us what happened when Terry Gregory had
11 pulled up?

12 A. He pulled up and I noticed his door was open, and
13 he got out and said something to Kellet and Steven
14 about coming over here or something, and I heard Kellet
15 saying, whatever is in your hand -- I didn't know he had
16 something in his hand at the time, but he said, I'm not
17 coming over there with that in your hand.

18 Q. Okay, what happened after that?

19 A. It just kept going on about what's in your hand or
20 what not.

21 Q. Steven and Kellet -- were they up by his truck
22 when they were saying that?

23 A. Yes, sir, at the side of his truck.

24 Q. They had moved over there close to his truck?

25 A. Yes, sir.

MR. DAVIS ON DIRECT

1 Q. So when he pulled up, it was in this area?

2 A. And in front of him was Lisa Brazier, Steven and
3 Kellet.

4 Q. And Roger, Junior, Roger, Senior, stayed back in
5 this area?

6 A. Yes.

7 Q. So they moved up here to talk to him?

8 A. Yes, sir.

9 Q. And that's when you heard we're not coming over
10 there when you have that in your hand?

11 A. Yes, sir.

12 Q. And what do you remember happening next?

13 A. It happened so fast -- I know that once he did
14 put the flashlight down they were arguing and what
15 not, and I seen he had a gun.

16 Q. You could see he had a gun?

17 A. The lady was holding the gun at first.

18 Q. What was she doing with the gun?

19 A. She was kinda flashing it at everybody.

20 Q. You saw it?

21 A. Yes, sir.

22 Q. And then what -- did you see the gun go into Terry's
23 hand?

24 A. I didn't see the gun go into his hand, but I knew
25 he had the gun.

MR. DAVIS ON DIRECT

1 Q. What was he doing with the gun?

2 A. He was kinda like holding it and I remember
3 him pointing it at Lisa Brazier and saying, I'll get
4 you, or shut you up for good.

5 Q. Okay.

6 A. And at that point Lisa kicked the door while he
7 had the gun in his hand, and that's when Roger, Junior,
8 grabbed for it.

9 Q. Now, before he had the gun on Lisa Brazier, had
10 anybody attacked the Defendant?

11 A. Absolutely not.

12 Q. Had anybody hit him?

13 A. No, sir.

14 Q. In fact, in this whole incident from beginning to
15 end, did anybody ever hit the Defendant?

16 A. No.

17 Q. You never saw that at all?

18 A. No, sir.

19 Q. Anybody ever go after him with a weapon?

20 A. No, sir.

21 Q. Tell us what you saw Roger, Junior, do?

22 A. Well, as soon as he pointed that gun at her, I seen
23 Roger, Junior, up there.

24 Q. Did you see how he got there?

25 A. No, sir. It happened so fast. I just seen him

MR. DAVIS ON DIRECT

1 there.

2 Q. Okay, he came around behind the door?

3 A. Yes, sir.

4 Q. And what did you see Junior do?

5 A. I seen him go for the gun and that's when I heard
6 the shot.

7 Q. Could you see where the gun was when he shot him?

8 A. No.

9 Q. You just heard the gun?

10 A. Yes, sir.

11 Q. Did you see whether Roger was in a standing posi-
12 tion or was he bent over?

13 A. He was crouched a little bit.

14 Q. Crouched a little bit but you could still see him?

15 A. Yes.

16 Q. So you could see him when he got shot?

17 A. Yes, sir.

18 Q. You could see his head?

19 A. Yes, sir. I seen him fall to the ground.

20 Q. So could you tell how close he was to Terry?

21 A. I don't know how close he was, but I know he was
22 close.

23 Q. He was close and he was behind the door?

24 A. Yes, sir.

25 Q. Okay. You could not -- had he -- did you see Roger,

MR. DAVIS ON DIRECT

1 Junior, reaching?

2 A. Yes.

3 Q. Kind of describe what he was doing as he was
4 reaching -- what you saw?

5 A. He was standing with his arm out grabbing for the
6 gun.

7 Q. With his arm out, so he was behind the door at
8 this time. Right?

9 A. When the door was open, it was kind of like where
10 the door would come in. They weren't all the way
11 in the truck.

12 Q. They weren't all the way in . .

13 A. At the corner of the truck. No, sir.

14 Q. And Terry already had the gun in his hand?

15 A. Yes, sir. I don't know where he had the gun but
16 I know he had the gun.

17 Q. And so they were -- well, you talked about the
18 door being -- this is the door and this is the truck,
19 and stop me where you think he was?

20 A. I'd say he was at the edge of the door.

21 Q. Where I am here?

22 A. Toward the outside part of the door. He wasn't

23 . .

24 Q. Was he back here?

25 A. No, sir.

MR. DAVIS ON DIRECT

1 Q. Did you ever see the door being pressed against him
2 or him being pinched?

3 A. Only when Lisa was kicking the door. I didn't see
4 nobody pushing the door on him, no, sir.

5 Q. So Roger would have been around this area where my
6 hand is?

7 A. Yes.

8 Q. And that's when he got shot?

9 A. When he got shot.

10 Q. And after he was shot, what happened?

11 A. The first thing I saw was Brent running. That's
12 the first thing I saw, and I remember Trip yelling out,
13 he shot Junior, he shot Junior, and that's when Roger,
14 Senior, run out there, and Roger, Senior, is like, give
15 me your shirt, give me your shirt to stop the bleeding,
16 and I give him my shirt.

17 Q. What about Kellet?

18 A. He was -- you could tell he was mad. I mean, he
19 was still out there.

20 Q. Was his shirt off or not?

21 A. I think he took his shirt off when Roger told him
22 to.

23 Q. Okay, so that's when his shirt was off?

24 A. Yes, sir.

25 Q. You both gave him your shirts?

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MR. DAVIS ON DIRECT

1 A. Yes, sir.

2 Q. What did Senior do with your shirts?

3 A. Put them on Junior.

4 Q. And did you stay up there with Roger, Junior?

5 A. No. Lisa Brazier was trying to call the police
6 and she was up next to the road trying to get the
7 street number or what not, and I walked over that way.

8 Q. So you walked with her towards McKelvey Road?

9 A. Yes, I did.

10 Q. Did anybody ever try to get in Terry's truck?

11 A. No, sir.

12 Q. Did you see anybody show any interest in his truck?

13 A. No, sir.

14 Q. Anybody talk about being interested in his truck?

15 A. No.

16 Q. What about his wife, Louanne? Did anybody ever
17 make any threats against her?

18 A. No, sir.

19 Q. Before the shot, did you hear anybody say anything
20 -- wait until I finish the question -- did you hear
21 anybody say, we're going to get you and that bitch?

22 A. No, sir.

23 Q. That never was said?

24 A. No.

25 Q. Was anybody even paying attention to the

531

MR. DAVIS ON DIRECT

1 Defendant's wife?

2 A. No, sir.

3 Q. It was the Defendant who was the focus of this

4 . . .

5 A. Yes, sir.

6 Q. Okay. Now, in your police statement that night,
7 you mention everybody else that was out there, but you
8 don't mention Brent Hanvey?

9 A. Yes, sir.

10 Q. Tell us why you did not?

11 A. I didn't see him at Lisa Brazier's house, and
12 I didn't see him at the Sphinx. I saw him that one
13 time for a brief second. That's why I didn't think it
14 was relevant.

15 Q. You knew he was there?

16 A. Yes.

17 Q. But you didn't mention it?

18 A. No. I didn't know he was there until after the
19 shot.

20 Q. And the first time you mentioned him is when you
21 spoke to me? That's the first time it came out?

22 A. Yes.

23 Q. You are the one who mentioned to me he was there,
24 right?

25 A. Yes, sir.

MR. DAVIS ON DIRECT

1 Q. Even though you didn't think it was relevant, you
2 still didn't tell, when you knew the police had to
3 do an investigation into this? Right?

4 Did you not think it would be important to tell
5 the police that Hanvey was there?

6 A. I didn't think it would be that important. All he
7 did was ran.

8 Q. Was something said before you went to the Law En-
9 forcement Center about not bringing him up. . .

10 A. I knew it would come out but . .

11 Q. Let me finish the question. Did -- was something
12 said before you went to the Law Enforcement Center about
13 not -- let's not bring up the fact that Brent was out
14 there?

15 A. I didn't hear that, but I'm not sure it wasn't said.

16 Q. Do you remember how that comment was phrased? How
17 it was said? Was it something along the gist of what
18 I just said?

19 A. Yes.

20 Q. You don't know who said it?

21 A. No.

22 Q. Do you know who else may have heard it?

23 A. No, sir.

24 Q. Please answer any questions the Defense may have.

25 CROSS EXAMINATION

MR. DAVIS ON CROSS

1 BY MR. BANNISTER:

2 Q. How old are you?

3 A. Twenty-three.

4 Q. How tall are you?

5 A. Six foot two.

6 Q. How much do you weigh?

7 A. Two sixty-five.

8 Q. Do you remember giving a statement to Officer Martin
9 back on October 11, 2009?

10 A. Yes, sir.

11 Q. Do you remember telling him in that statement --
12 what you are describing to him is after Terry got there.
13 I think you said they all started arguing with Terry?

14 A. Yes, sir, that being Kellet, Steven and Lisa.

15 Q. All right, and some hateful things were being said
16 back and forth by all of them?

17 A. Yes, sir.

18 Q. And you were in the back of Senior's truck, and I
19 think you said you were trying to hold Trip and Dustin
20 back, so they wanted to get into the argument?

21 A. No, this was after the shot.

22 Q. That's not what it says right here.

23 A. It doesn't say when. It says I was holding them
24 back.

25 Q. Okay. Well, we can at least agree that the

MR. DAVIS ON CROSS

1 sequence you put in your statement was they all started
2 arguing with Terry; I was in the back of Big Roger's
3 truck, trying to hold Trip and Dustin back.

4 Then the next statement is, you knew who Steven
5 is, who Dustin is, who Trip is, and then you say, I saw
6 Terry point a gun at Lisa and slam his truck door . .

7 A. Lisa slammed his truck door.

8 Q. . . on Terry?

9 A. Yes.

10 Q. And then you say, I saw Roger, Junior, run up, and
11 you put this in there -- and open the door. Right? And
12 attempt to get the gun away from Terry. Right?

13 A. Yes.

14 Q. So if somebody said to keep Brent Hanvey's name
15 out of it, it's got to be somebody who has testified
16 here, and they had you all in a group together while
17 they were sorting through the crime scene. Is that
18 fair?

19 A. Yes.

20 Q. I don't have any further questions.

21 THE COURT: Redirect?

22 SOLICITOR: No, Your Honor.

23 THE COURT: Thank you. You can step down.

24 (Witness excused from stand)

25 SOLICITOR: State calls Chris Miller.

1 CHRISTOPHER MILLER, being duly
2 sworn, testified as follows:
3 CLERK: Please state your name for the record.
4 WITNESS: Christopher Todd Miller.
5 DIRECT EXAMINATION
6 BY SOLICITOR:
7 Q. Where are you employed?
8 A. Greenville County Sheriff's Office.
9 Q. And what is your position?
10 A. I'm a homicide investigator.
11 Q. And were you involved in the investigation that
12 is now in Court?
13 A. Yes, I was lead investigator.
14 Q. I just have a few questions for you about that.
15 You went to the scene that night?
16 A. Correct.
17 Q. And you were the one who instructed Investigator
18 Rhea to search the vehicles?
19 A. That's correct.
20 Q. Were all the individuals who were present, people
21 who have testified the last two days, were they also
22 searched to see if they had any weapons on them?
23 A. Yes, everyone was searched.
24 Q. And did anybody have a weapon?
25 A. No.

MR. MILLER ON DIRECT

1 Q. Other than the pistol that the Defendant had sur-
2 rendered when Deputy Giles arrived on the scene, were
3 any other weapons found at the incident location?

4 A. No, sir.

5 Q. No handguns, no knives, no sticks, no clubs, no
6 bats?

7 A. Nothing.

8 Q. Okay. Now, handing you State's Exhibit Number
9 52, do you recognize what is depicted in that photo-
10 graph?

11 A. I do.

12 Q. What is shown in that photograph?

13 A. That is Mr. Gregory, Terry Gregory's, pickup
14 truck, and that is the body of Roger White, Junior,
15 as I found the body when I arrived.

16 Q. Okay. Was the sheet on him when you got there?

17 A. Yes, sir. It was placed there by EMS.

18 Q. Okay.

19 SOLICITOR: I move to have Exhibit 52 entered
20 into the record.

21 THE COURT: Any objection?

22 MR. BANNISTER: No objection.

23 THE COURT: Admitted in the record.

24 BY SOLICITOR:

25 Q. And did you -- was the sheet lifted for you when

537

MR. MILLER ON DIRECT

1 you got there?

2 A. Yes. I lifted it myself.

3 Q. So you observed the victim?

4 A. I did.

5 Q. You saw the gunshot wound in the neck?

6 A. I did.

7 Q. Was there a large -- would you describe a large
8 amount of blood in any area around that pickup truck?

9 A. Yes, there was, up towards the victim's head.

10 Q. Okay. There have been some photographs entered
11 into evidence that show some blood spatters and so
12 forth on the truck.

13 Did you see that that night? Observe that that
14 night?

15 A. I did.

16 Q. Did you see any large pools of blood anywhere near
17 or inside this area that is formed by the door and
18 the truck? Did you see any large pools in that
19 area?

20 A. No, there was none.

21 Q. On the ground or . . .

22 A. There were a few drops on the ground.

23 Q. And so the large amount of blood was back here
24 where his head was?

25 A. That's correct.

MR. MILLER ON DIRECT

1 Q. Was the Defendant, Terry Gregory, at the scene
2 when you arrived?

3 A. Yes, he was still there.

4 Q. And can you describe -- did you speak to him?

5 A. No, I did not.

6 Q. Did you spend any time around him there?

7 A. No.

8 Q. He was transported to the Law Enforcement Center?

9 A. My instruction when I arrived was -- forensics
10 was on the scene. I asked them to do a GSR kit on
11 him and go ahead and get him away from the scene.

12 Q. Was he taken to any medical treatment facilities?

13 A. No, sir.

14 Q. Did you have some contact with him at the Law
15 Enforcement Center later on that night?

16 A. Yes. After I got finished processing the scene
17 for forensics I met with Investigator Jarvis who was
18 with Mr. Gregory, and then I had a brief conversation
19 with him then.

20 I had a brief conversation during the word process-
21 ing.

22 Q. And when you had a conversation with him, that was --
23 already he had already given a statement to Investigator
24 Jarvis?

25 A. Yes.

MR. MILLER ON DIRECT

1 Q. Investigator Jarvis is the one who took the state-
2 ment from him?

3 A. Yes.

4 Q. Did the Defendant show any signs of being in any
5 distress physically?

6 A. None whatsoever. I mean, he was very calm, was
7 very polite, very cooperative. He didn't show any emotion
8 whatsoever.

9 Q. Did he complain of any injuries?

10 A. He said that he had been hit and so forth, but I
11 looked at him and I didn't see any injuries at all, nor
12 did the photos that were taken. I didn't see any injur-
13 ies at all.

14 Q. Did he complain of any part of his body being sore
15 or painful?

16 A. No, he did not.

17 Q. And then you served warrants on him?

18 A. That's correct.

19 Q. And you took him -- where did you take him after
20 you served the warrants on him at the Law Enforcement
21 Center?

22 A. Took him to the jail.

23 Q. He wasn't taken to the emergency room or a hospital
24 or anything?

25 A. No, sir.

MR. MILLER ON DIRECT

1 Q. Was he taken to the infirmary at the jail?

2 A. No.

3 Q. He was just booked in as anybody would be booked
4 in the jail?

5 A. Yes, sir. He was turned over to detention.

6 Q. Okay. Please answer any questions Mr. Bannister
7 might have.

8 THE COURT: Cross examine.

9 CROSS EXAMINATION

10 BY MR. BANNISTER:

11 Q. Have you talked to any of the individuals who
12 have testified here today as a part of your investi-
13 gation?

14 A. Yes.

15 Q. All right, and the ones you talked to, did you
16 ask them very specifically if anybody else was out at
17 the scene?

18 A. Yes, sir, because of the claims from the Gregories,
19 Mr. and Mrs. Gregory, that there was fifteen or twenty
20 people.

21 Q. Were you aware at the beginning of the investiga-
22 tion about the nine one one call that had come in from
23 people seeing others leaving the scene?

24 A. Yes.

25 Q. And did you do any investigation or talk to those

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MR. MILLER ON CROSS

1 individuals to find out who left the scene?

2 A. We attempted to but we were unable to identify any-
3 one who left the scene.

4 Q. And as a detective -- you didn't start out as a de-
5 tective, I assume?

6 A. Right.

7 Q. It's a tier and you have to be certified
8 for your levels?

9 A. Yes.

10 Q. And does that include also the weapons retention
11 techniques that they teach you?

12 A. That is part of the training, yes.

13 Q. And so is it a part of that that one of the options
14 you always have when a situation of weapons retention
15 is there is you can pull the trigger?

16 A. That -- I've never -- that was a part of my train-
17 ing, yes.

18 Q. Before you pull the trigger, are you going to let
19 somebody have your weapon?

20 A. No. We are taught to try to get our weapon away,
21 to protect it and hold it down; try to keep it away from
22 anyone.

23 Q. And they can grab it while you're doing that, right?

24 A. If it's not in my holster, yes.

25 Q. Unholstered weapons retention -- so if it is not in

MR. MILLER ON CROSS

1 your holster and someone is trying to get at it, you
2 are taught to try to keep them away and try to keep
3 it pointed at the suspect?

4 A. Yes, I understand what you're saying. Yes, sir.

5 Q. Okay, and so -- but once a suspect is actually
6 able to get his hands on the gun, then one of the op-
7 tions there is that you can pull the trigger?

8 A. Yes, sir. Absolutely.

9 Q. And so you can use force, up to and including
10 deadly force, to prevent someone from getting your wea-
11 pon, and that is what you are trained to do?

12 A. Yes.

13 Q. No further questions.

14 THE COURT: Any Redirect?

15 SOLICITOR: Your Honor, at this time the State
16 would move to have State's Exhibit Number 53 moved
17 into the record.

18 THE COURT: Any objections?

19 MR. BANNISTER: The prior objection, for the record.

20 REDIRECT EXAMINATION

21 BY SOLICITOR:

22 Q. Investigator Miller, is that another photograph of
23 the location where you found the victim?

24 A. Yes, it is.

25 Q. And just from another angle than the one I showed

MR. MILLER ON REDIRECT

1 you previously? It is just a different angle from shown
2 to you previously?

3 A. Yes. That's the angle I saw as I was approach-
4 ing.

5 Q. And, once again, the bulk of the blood is where
6 we can see it on the blanket that's on top of the vic-
7 tim?

8 A. Right there.

9 Q. Nothing further.

10 THE COURT: Anything on Recross?

11 MR. BANNISTER: No, sir.

12 THE COURT: Thank you. You may step down.

13 (Witness excused from stand)

14 SOLICITOR: State would call Investigator
15 Jarvis.

16 MICHAEL JARVIS, being duly sworn,
17 testified as follows:

18 CLERK: Please state your name for the record.

19 WITNESS: Michael Steven Jarvis.

20 DIRECT EXAMINATION

21 BY SOLICITOR:

22 Q. Investigator Jarvis, you are employed by the
23 Greenville County Sheriff's Office?

24 A. Yes, sir.

25 Q. How long have you been in the Sheriff's Office?

MR. JARVIS ON DIRECT

1 A. Thirteen years.

2 Q. And what is your position at the Sheriff's Of-
3 fice?

4 A. I'm currently a supervisor in the criminal inves-
5 tigative division.

6 Q. What was your position in 2009?

7 A. I was an investigator for the armed robbery di-
8 vision, and I was on call for any calls after hours.

9 Q. And that didn't include just armed robberies?

10 A. Correct.

11 Q. Were you involved in the case that is currently
12 before the Court?

13 A. Yes, sir.

14 Q. What were you asked to do?

15 A. I was called by Investigator Miller, who asked
16 me to go to the Law Enforcement Center and interview
17 the Defendant.

18 Q. All right.

19 A. Terry Gregory.

20 Q. And did you go to the scene at all?

21 A. No.

22 Q. You went directly to the Law Enforcement Center?

23 A. Yes, sir.

24 Q. You took the statement that was given by the De-
25 fendant?

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MR. JARVIS ON DIRECT

1 A. That's correct.

2 Q. How would you describe his emotional affect while
3 he was with you?

4 A. He seemed calm, relaxed -- just seemed normal.

5 Q. Did he show any signs of being in physical distress
6 at all?

7 A. No.

8 Q. Did he complain of injuries to his body?

9 A. Not to me.

10 Q. Did he complain of any soreness?

11 A. No.

12 Q. Did he ask to go to the emergency room or ask for
13 any kind of medical attention whatsoever?

14 A. No.

15 Q. Did you notice any blood on his person?

16 A. I saw what I believed was blood on his hands.

17 Q. Okay.

18 A. It looked kind of smeared, and also on his pants
19 and his shoes. He had on a long sleeve sweater also
20 or something like that. I couldn't really tell on that.

21 Q. But you didn't note any blood on his shirt?

22 A. I don't recall if I saw any or not.

23 Q. You didn't note anything in your report?

24 A. I did not.

25 Q. If you had seen anything, would you put it in your

MR. JARVIS ON DIRECT

1 report?

2 A. Yes.

3 Q. Did you point out the blood you said you saw on
4 his person -- did you point that out to the forensics
5 officer who arrived to take photographs?

6 A. Yes, I asked him to take photographs of it.

7 Q. Okay. I'm going to show you what have been marked
8 State's Exhibits 54 through 56.

9 A. . .

10 SOLICITOR: Let me first ask to have these entered
11 into the record.

12 THE COURT: Any objection?

13 MR. BANNISTER: No objection.

14 THE COURT: Without objection, they are moved into
15 the record.

16 BY SOLICITOR:

17 Q. Take a look at all three pictures. Do they depict
18 the Defendant and the suspected blood you saw on the
19 Defendant on the night of October 10th?

20 A. Yes.

21 Q. Of 2009?

22 A. Yes.

23 Q. So that shows the little bit of blood that was on
24 his hands?

25 A. Correct.

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MR. JARVIS ON DIRECT

1 Q. And the blood spatter that was on his shoes?

2 A. Correct.

3 Q. Okay. I have nothing further. Please answer any
4 questions the Defense might have.

5 CROSS EXAMINATION

6 BY MR. BANNISTER:

7 Q. Investigator Jarvis, I assume -- well, you have a
8 right to request a test for the purpose of determining
9 an alcohol content of someone who has used a firearm?

10 A. Yes.

11 Q. You did not do that in this case with Mr. Gregory,
12 did you?

13 A. I was not requested to do that.

14 Q. Well, that would have been your call, I guess, if
15 you thought Mr. Gregory was drinking?

16 A. He told me he had not been drinking.

17 Q. And nothing that you saw indicated that that was
18 not the case?

19 A. Correct.

20 Q. Thank you. No further questions.

21 SOLICITOR: No other questions, Your Honor.

22 THE COURT: Thank you, sir. I appreciate it. You
23 may step down.

24 (Witness excused from stand)

25 SOLICITOR: Your Honor, I have one more brief

1 witness, and I understand he just pulled up to the
2 Courthouse a few minutes ago.

3 THE COURT: You just want to take a brief break?

4 SOLICITOR: A brief one.

5 THE COURT: Okay. Just send word through the
6 Bailiff when you are ready to start back.

7 SOLICITOR: Thank you.

8 (A brief recess was taken, after which the matter
9 was resumed)

10 THE COURT: All right, Mr. Moyer. You can proceed,
11 sir.

12 SOLICITOR: Thank you, Your Honor. The State calls
13 Mr. Jiles.

14 MATTHEW JILES, being duly sworn,
15 testified as follows:

16 CLERK: Please state your name for the record.

17 WITNESS: Matthew Scott Jiles.

18 DIRECT EXAMINATION

19 BY SOLICITOR:

20 Q. You are employed by the Greenville County Sher-
21 iff's Department?

22 A. I am.

23 Q. How long have you been with the Sheriff's Office?

24 A. Three years.

25 Q. Were you working on the night of October 10 of

MR. JILES ON DIRECT

1 2009?

2 A. I was.

3 Q. You had been with them about one year at that
4 time?

5 A. Yes..

6 Q. Did you respond to the call on South Shirley
7 Road the evening of October 10, 2009, involving the
8 death of Roger White, Junior?

9 A. Yes, sir.

10 Q. And do you recall what time you were dispatched to
11 that call?

12 A. I don't remember exactly. I think it was shortly
13 before eleven o'clock. I think shortly before eleven.

14 Q. Okay, and did you put a time on the incident report?

15 A. I did. I don't know when the call actually came
16 out. I put it down as ten forty-five P.M. and I had
17 arrived on the scene at eleven O eight.

18 Q. You arrived at eleven O eight and you got the
19 call around ten forty-five?

20 A. Yes, sir, or shortly thereafter.

21 Q. Would it surprise you to know that the nine one
22 one call came in at ten fifty-two P.M.?

23 A. It would.

24 Q. I mean, would you dispute that?

25 A. I wouldn't. I think from talking to the gentlemen

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MR. JILES ON DIRECT

1 there the time I had was about ten forty-five.

2 Q. So you just put down an approximation?

3 A. Yes. That was just from talking to different people at
4 the crime scene.

5 Q. Okay, so you arrived about eleven O eight, and
6 what did you find upon arrival?

7 A. When I arrived on the scene, I was flagged down by
8 Lisa Brazier who was standing at the corner of South
9 Shirley Road and McKelvey.

10 Q. Using our diagram, would that have been up in
11 this area right here?

12 A. Yes. She -- as I was driving on McKelvey Road and
13 going to South Shirley, she stepped out there at the cor-
14 ner of South Shirley and McKelvey, and she said her
15 ex-husband had just shot someone.

16 I pulled in, exited my vehicle, and asked her,
17 you know, where he was. I saw some people standing be-
18 side the victim. I observed someone laying on the
19 ground that I assumed was the victim.

20 I didn't immediately see the Defendant but people
21 began pointing, he's got a gun, he's got a gun.

22 That's when he stepped outside and I saw he had
23 something down by his side. I told him to drop the
24 weapon. I believe I told him twice to drop the wea-
25 pon, and he immediately sat the weapon down.

MR. JILES ON DIRECT

1 I asked him to step away from it, and which he
2 did. I told him to turn around and put his hands
3 behind his back.

4 I handcuffed him, retrieved his weapon, and walked
5 him back to my vehicle.

6 Q. Okay, and did you put him in the back of your
7 vehicle?

8 A. Yes, I did.

9 Q. And did you -- what did you do with the pistol?

10 A. I put it in the front seat of my car and then
11 locked my car back.

12 Q. And there is no way for someone in the back of
13 your car to get in the front seat?

14 A. No, sir.

15 Q. Now, did you have any more contact with the Defen-
16 dant at any point that evening?

17 A. I did go back to him and asked him his name and
18 advised him of his Miranda Rights.

19 Q. You went over his Miranda Warnings with him at
20 your vehicle?

21 A. Yes, sir.

22 Q. So you had a little bit of interaction with him
23 right then?

24 A. Yes.

25 Q. During that time you spoke to him, how was he

MR. JILES ON DIRECT

1 acting?

2 A. He was pretty much the calmest person on the
3 scene that I encountered.

4 Q. So you remember him being calm?

5 A. Yes.

6 Q. And is it fair to say that everybody else there,
7 other than his wife, was there in relation to the per-
8 son who had just been killed. Correct?

9 A. Yes.

10 Q. So it would not be surprising or unusual for peo-
11 ple in that position to be very upset?

12 A. Yes.

13 Q. You've been to other death investigations or
14 death situations during your career?

15 A. Yes.

16 Q. Now, did he complain of any injuries to you?

17 A. He didn't. I didn't observe any injuries.

18 Q. You didn't observe any injuries and he didn't
19 complain of any? Did he complain of any pain or any
20 discomfort?

21 A. No.

22 Q. You didn't interview him about what happened, did
23 you?

24 A. No.

25 Q. That was taken care of by the investigators?

1 I am always very reluctant to ask the attorneys
2 to submit proposed Orders because in a lot of instances
3 it just becomes busy work. I don't believe in busy
4 work as I know you all have enough to do.

5 But in this case I think that it would be instruc-
6 tive to the Court to have proposed Orders from each
7 of you so you can set forth any theories you would ad-
8 vance for your arguments.

9 I suffer from no delusions. I recognize that my
10 ruling in this case is essentially a mechanism whereby
11 you get to the Appellate Courts in this State, and,
12 therefore, your giving me proposed Orders will also help
13 you to hone the arguments you intend to make perhaps at
14 a later date.

15 So I will ask you how much time would you like to
16 have to submit proposed Orders in this case? I'll give
17 you up to thirty days.

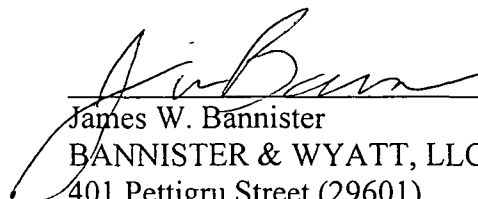
18 (Discussion between counsel and the Court concern-
19 ing scheduling)

20 THE COURT: Let's just say by the end of the month,
21 November 30th. If either of you wants an extension of
22 time -- I want to give you a reasonable time to get them
23 to me, so if you need a day or two extension to get it
24 out just let me know.

25 Let's just say, proposed Orders by November 30th.

Certificate Of Counsel

The undersigned certifies that the Record On Appeal contains all material proposed to be included by any of the parties and not any other material, and, further, complies with Supreme Court Order dated August 13, 2007, regarding personal identifiers and sensitive information.



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