

 ORIGINAL

VOLUME TWO

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

RECEIVED

OCT 10 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAQWAN M. JOHNSON,

APPELLANT

APPELLATE CASE NO. 2012-212696

RECORD ON APPEAL

RECEIVED

OCT 10 2014

SC Court of Appeals

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, SC 29202-0192
(803) 576-1800

Attorneys for Respondent

**VOLUME TWO OF TWO
PAGES 501-872**

INDEX

INDEX	i

VOLUME ONE

TRIAL TRANSCRIPT (May 21-22, 2013)	1

MOTION FOR CONTINUANCE	2

<u>SCHMERBER</u> MOTION	16

TESTIMONY

ARTHUR THOMAS

Cross-Examination by Mr. Collins	16

JURY TRIAL TRANSCRIPT (July 26, July 30-August 3, 2012)	24

PRE-TRIAL MOTIONS (Continuance, Rule 5, <u>Brady</u> , <u>Neil v. Biggers</u> , Motion In Limine)	25

JURY QUALIFICATION	105

OPENING STATEMENT BY MR. SHELLENBERG	111

OPENING STATEMENT BY MR. NEWTON	115

TESTIMONY

ANDREW RICHBOURG

Direct Examination by Mr. Shellenberg	122

Cross-Examination by Mr. Newton	125

KENNETH ST. JOHN

Direct Examination by Ms. Walker	128

Cross-Examination by Mr. Collins	132

CLARISSA MACK

Direct Examination by Mr. Shellenberg	136

Cross-Examination by Mr. Newton	139

JEROME SINGLETON

Direct Examination by Mr. Shellenberg	140

Cross-Examination by Mr. Collins	145

Re-Direct Examination by Mr. Shellenberg	148

LAMETTRESS STEVENSON

Direct Examination by Ms. Walker	148
Cross-Examination by Mr. Newton.....	153

WALTER ROSE

Direct Examination by Ms. Campbell	156
Cross-Examination by Mr. Collins	227
Redirect Examination by Ms. Campbell	236
Recross Examination by Mr. Collins.....	238

SUSAN JOHNSON

Direct Examination by Mr. Shellenberg	239

KAREN MILBRODT

Direct Examination by Mr. Shellenberg	244

WHITNEY WILSON

Direct Examination by Ms. Walker	254
Cross-Examination by Mr. Collins	260
Redirect Examination by Ms. Walker	262
Recross Examination by Mr. Collins.....	263

QUESTIONING OF CO-DEFENDANTS

DETRICK WALKER AND TERENCE PATTERSON	268
MARQUEZ QUAYSHAWN PROPHET	274

MARQUEZ QUAYSHAWN PROPHET (In-Camera)

Direct Examination by Ms. Campbell	276
Cross-Examination by Mr. Newton.....	283

TESTIMONY

MARQUEZ QUAYSHAWN PROPHET

Direct Examination by Ms. Campbell	304
Cross-Examination by Mr. Newton.....	332
Redirect Examination by Ms. Campbell	338

DETRICK WALKER

Direct Examination by Ms. Campbell	344
Cross-Examination by Mr. Newton.....	378

BRITTNEY RUSSELL

Direct Examination by Ms. Walker	385
Cross-Examination by Mr. Collins.....	391

BRADLEY J. MARCUS	
Direct Examination by Ms. Walker	398
TAMMIE MOORE	
Direct Examination by Mr. Shellenberg	412
Cross-Examination by Mr. Collins	416
DORIS YARBOROUGH	
Direct Examination by Mr. Shellenberg	417
Cross-Examination by Mr. Collins	418
JOHN ROBERTS	
Direct Examination by Ms. Campbell	419
Cross-Examination by Mr. Collins	430
RONTRELL HENDERSON	433
LAMANDA SMITH	
Direct Examination by Ms. Walker	440
Cross- Examination by Mr. Newton	444
Redirect Examination by Ms. Walker	446
FRIEDA WYATT	
Direct Examination by Mr. Shellenberg	447
Cross-Examination by Mr. Collins	450
GRAY AMICK	
Direct Examination by Ms. Campbell	453
Direct Examination by Ms. Campbell (In-Camera)	470
Cross-Examination by Mr. Collins (In-Camera)	470
Direct Examination by Ms. Campbell	474
Cross-Examination by Mr. Collins	479
Redirect Examination by Ms. Campbell	484
Recross Examination by Mr. Collins	485
DAVID JEFFREY COLLINS	
Direct Examination by Ms. Campbell	486

VOLUME TWO

Direct Examination by Ms. Campbell	501
Cross-Examination by Mr. Collins	528
Redirect Examination by Ms. Campbell	535

DONNA MARTIN	
Direct Examination by Mr. Shellenberg.....	537
WILLIAM CEDARSTAFF	
Direct Examination by Mr. Shellenberg.....	539
STEPHEN GRIFFEY	
Direct Examination by Mr. Shellenberg.....	541
Cross-Examination by Mr. Newton.....	542
KELVIN GRIFFIN	
Direct Examination by Ms. Campbell	543
Direct Examination by Ms. Campbell (In-Camera)	545
Cross-Examination by Mr. Collins (In-Camera).....	548
Direct Examination by Ms. Campbell	554
Cross-Examination by Mr. Collins.....	557
ARTHUR L. THOMAS	
Direct Examination by Ms. Campbell (In-Camera)	576
Cross-Examination by Mr. Collins (In-Camera).....	581
RONTRELL HENDERSON	
Direct Examination by Ms. Campbell (In-Camera)	585
Cross-Examination by Mr. Collins (In-Camera).....	587
KEVIN REESE	
Direct Examination by Ms. Campbell	596
Direct Examination by Ms. Campbell	608
ARTHUR L. THOMAS	
Direct Examination by Ms. Campbell	611
Cross-Examination by Mr. Collins.....	661
Cross-Examination by Mr. Collins.....	674
Redirect Examination by Ms. Campbell	698
Direct Examination by Ms. Campbell (In-Camera)	701
Redirect Examination by Ms. Campbell	709
Recross Examination by Mr. Collins.....	713
RONTRELL HENDERSON	
Direct Examination by Ms. Campbell	714
Direct Examination by Ms. Campbell (In-Camera)	721
Cross-Examination by Mr. Collins.....	732
KEVIN REESE	
Direct Examination by Ms. Campbell	753

Cross-Examination by Mr. Newton.....	761
Redirect Examination by Ms. Campbell	770
Recross Examination by Mr. Newton.....	771
VINCE SCOGGINS	
Direct Examination by Ms. Walker.....	774
Cross-Examination by Mr. Newton.....	780
STATE RESTS.....	781
DIRECTED VERDICT BY MR. NEWTON.....	782
DEFENSE RESTS	783
CLOSING ARGUMENT BY MS. CAMPBELL.....	784
CLOSING ARGUMENT BY MR. COLLINS.....	830
CHARGE ON THE LAW.....	844
VERDICT.....	865
SENTENCING.....	867
INDICTMENT	868
CERTIFICATE OF COUNSEL.....	872

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

608

1 A Yes.

2 Q In this case, however, every gun was a
3 semiautomatic; is that correct?

4 A That is correct.

5 Q So if the gun was fired, say, at the crime scene,
6 typically it would leave a shell casing or expel a
7 shell casing at least at the scene?

8 A If it's functioning properly, yes.

9 Q Is there any way you can determine, prior to
10 testing, which way the shell casing will be
11 expelled or does it depend on the gun?

12 A It depends on the gun. The manufacture and design
13 of the firearm and the design characteristics of
14 the firearm will generally dictate what direction
15 and how far it will eject cartridge cases; however,
16 until you actually test a specific firearm under
17 control conditions, you don't know exactly how far
18 and exactly what direction they will eject.

19 Q I want to talk a little bit about the actual
20 evidence that was submitted to you in this case.
21 First I show you State's Exhibit Number 123. Do
22 you recognize that?

23 A These envelopes and the outer packaging all bear my
24 markings I placed on them in the laboratory so
25 that I could identify these items later. It

1 indicates that it contains items 4 through 23 on my
2 report.

3 Q Those are your numbering systems; is that correct?

4 A It will be our numbering systems. It correlates
5 with the City of Columbia or C.P.D. item numbers 1
6 through 20.

7 Q On the front of these packages to try to make it a
8 little bit easier, do you actually put the numbers
9 with a I. in front of them as far as how they are
10 referred to on your report?

11 A Yes. It would be like the I., which stands for
12 item, this particular bag is marked I-4 through 23.

13 Q And those indicate what item number that we will
14 refer to later?

15 A It's State's Exhibit 123.

16 Q I show you State's Exhibit Number 124. Did you
17 also receive that evidence?

18 A This also bears my markings for what would be my
19 items 24 through 36 and item 57 for my report.

20 Q I show you State's Exhibit Number 126. Do you
21 recognize that?

22 A Yes, this also bears my markings. It indicates
23 containing items 37 through 41 from my report.

24 Q I show you State's Exhibit Number 127.

25 A This also bears my markings indicated as containing

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

610

1 items 42 through 45 in my report.

2 Q I show you State's Exhibit 134.

3 A This also bears my markings and indicated as
4 containing items 46, 47, and 48 in my report.

5 MS. CAMPBELL: Beg the Court's indulgence.

6 (Pause.)

7 BY MS. CAMPBELL:

8 Q Finally, I don't know if you exactly examined this,
9 which is part of a bullet.

10 A Yes, this has my markings on it indicated for items
11 -- they also bear my initials for item 49 to my
12 report.

13 Q And that State's Exhibit 128 for the record?

14 A Yes, it is.

15 Q Once you received all this evidence -- and there
16 was a lot in this case -- what did you do?

17 A Once I had documented everything and prepared
18 everything for further examination and had test
19 fired the firearms, I then moved into the
20 microscopic comparison portion of the examination.

21 What I am doing here, especially with the
22 cartridge cases -- and specifically talking first
23 about cartridge cases -- I am looking for markings
24 that are left, again, by the firearm when the
25 cartridge is fired from the gun.

1 Usually the best markings we will receive or
2 that we look at are left by the breech face, which
3 is the face of the bullet or on a fired gun on the
4 cartridge.

5 I would have taken each of these items and
6 compared them with each other and also compared
7 them with the appropriate test fired ammunition
8 components or test fired cartridge cases from the
9 submitted guns.

10 Q And when you receive what are called cartridge
11 casings, why is it that you are able to make a
12 comparison and come to a conclusion typically?

13 A Those markings that are left on the cartridge case,
14 again, may be unique to the particular firearm that
15 fired them. As part of our training, we examine
16 thousands of cartridge cases and compare them with
17 each other, both from firearms that we know fired
18 the same cartridge case and also from firearms that
19 are of the same caliber type but are from different
20 firearms. We have learned to identify which
21 markings are consistent with being produced by the
22 same firearm versus those which may be produced by
23 multiple firearms.

24 In this particular case, what I am looking for
25 are markings that would have been made by or are

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

612

1 unique to one particular firearm. By looking at
2 that item versus another one under a comparison
3 microscope, that allows me to look at them both
4 simultaneously side by side. I can look to see
5 where these markings match, which is what I did in
6 this case.

7 Q Without going into the details of what you found,
8 were you able to make some comparisons as far as
9 the cartridge casings in this case and come to
10 conclusions?

11 A I was.

12 Q Have you also received either projectiles or parts
13 of bullets in this case as well?

14 A I did.

15 Q Were you able to make any comparisons on those to
16 any conclusions?

17 A I examined all the fired cartridge cases -- excuse
18 me -- all the fired projectiles and bullets and
19 performed microscopic comparisons on them. I was
20 able to come to some conclusions on that, and I was
21 also able to come to some conclusions as to caliber
22 and possible source for these projectiles.

23 Q Can you go through with the jury briefly in
24 whatever order that you want to proceed as to what
25 your conclusions were when you looked at this

1 evidence?

2 A Yes. Beginning with State's Exhibit 123 -- and
3 give me a moment to count these so I can give a
4 good number.

5 Q Yes, sir.

6 A I counted 20 fired 7.62 by 39-millimeter cartridge
7 cases. I compared each of these with each other
8 and also with the test fires from the appropriate
9 submitted firearms, which would have been the
10 S.K.S. Sporter and the Ewbank E.M.A.K.M.
11 semiautomatic pistol. I was able to conclude,
12 based on my examination of these items, that they
13 had been fired by the Ewbank pistol.

14 Q The one -- the pistol that doesn't look like a
15 pistol?

16 A That's correct.

17 Q And you were able to come to the conclusion that
18 they were fired by that one gun?

19 A It is my opinion that these were fired by that gun,
20 yes.

21 Q Which -- taken the evidence in whatever order --

22 THE COURT: What number is that Ewbank pistol,
23 Solicitor? Can you tell me?

24 BY MS. CAMPBELL:

25 Q Is it the brown one?

DAVID COLLINS -- DIRECT --- MS. CAMPBELL

614

1 A It's the short one.

2 Q (Indicating)?

3 A That's it.

4 MS. CAMPBELL: State's Exhibit 132.

5 THE COURT: One-thirty-two?

6 MS. CAMPBELL: Yes, sir.

7 A Next I examined a group of cartridge cases --
8 excuse me for just a moment -- a total of 14, .40
9 S&W caliber cartridge cases. Those are the type of
10 ammunition you normally find in semiautomatic
11 pistols.

12 That would have been represented by or
13 contained in State's Exhibit 124, my items 24
14 through 36, item 57, and also my item 43, which is
15 contained in this envelope.

16 That group of cartridge cases was examined and
17 compared with each other. There were no .40 S&W
18 caliber firearms submitted for me to compare them
19 with, but I was able to conclude that all of them
20 had been fired in the same S&W caliber firearm.

21 Q So you were able to compare them to each other and
22 determine that they were fired by the same rifle or
23 gun?

24 A Same firearm.

25 Q Firearm, sorry.

1 A Yes.

2 Q But you were not submitted one that it matched to?

3 A That's correct. Next I examined a total of five
4 fired .45 auto caliber cartridge cases, which are
5 contained in State's Exhibit 126. I was able to
6 conclude that all of those had been fired by the
7 Essex Arms .45 auto caliber pistol that was
8 submitted.

9 Q By which gun?

10 A The .45-caliber pistol that was submitted from the
11 Richland County Sheriff's Department in this case.

12 Q So that is going to be the handgun?

13 A That's correct.

14 Q Were you able to make any other conclusions as far
15 as evidence in this case?

16 A I was able to examine the fired projectiles or
17 bullet fragments. Going through those briefly,
18 item number 42 in my report, I was able to look at
19 it and conclude that it had not been fired by the
20 .223 or 5.56-millimeter caliber rifle based on
21 differences in the rifling characteristics that I
22 was able to note.

23 Comparisons of this with the test fires from
24 the two 7.62-caliber firearms that were submitted
25 were inconclusive due to the damaged condition of

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

616

1 this projectile, and also comparisons of that item
2 with other similar bullet fragments were also
3 inconclusive.

4 The same results would have applied to my case
5 number, my item number 45, which is another
6 fragment contained in this envelope. Again, that
7 would have had the same results. It was
8 inconclusive versus the 7.62-caliber rifles that
9 were submitted due to its damaged condition. I was
10 able to exclude the 5.56-caliber rifles that were
11 fired.

12 The same results would have applied to this
13 projectile, which is State's Exhibit 128. I was
14 able to conclude this was not fired by the
15 5.56-caliber rifle; but, again, due to its damaged
16 condition, I was inconclusive in my comparison
17 efforts of this towards the other two 7.62-caliber
18 firearms that were submitted.

19 There was another projectile submitted, which
20 was my item 44. Again, it's in this package with
21 State's Exhibit 127. I was able to conclude that
22 it was most consistent with .40-caliber or
23 10-millimeter caliber ammunition.

24 The rifling characteristics that were on it
25 were specifically most consistent with having been

1 produced by a Hi-Point brand semiautomatic pistol,
2 and it was not fired by any submitted firearms in
3 this case.

4 I was able to also exclude it as having -- it
5 was not fired by the same firearm that fired any of
6 the other fragments or projectiles in this case.
7 That essentially concludes my examination of fired
8 projectiles in this case.

9 Q So as far as the fired projectiles, when you are
10 saying some of them were sent but they were
11 inconclusive, what does that mean to us?

12 A What inconclusive means is that there were markings
13 present that may have been suitable for
14 identification with a specific firearm if there was
15 not as much damage present.

16 We were able to do some things. We were able
17 to exclude some firearms based on some differences
18 that you see in the rifling characteristics or the
19 impressions of the grooves found in the barrel of
20 the firearm on these bullets.

21 When a firearm is manufactured, they use
22 certain techniques that place firearm grooves in
23 the barrel of a gun called rifling. This rifling
24 is there to cause the bullet to spin when it leaves
25 the barrel and thus be stabilized in flight.

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

618

1 Different manufacturers will use different
2 number rifling grooves or different dimensions so
3 you can look at those dimensions of those impressed
4 grooves on the surface of a fired bullet and
5 sometimes come to a conclusion as to what type of
6 firearm may have fired it.

7 That's what I was able to do in this case is
8 not only use that information to say that some of
9 these bullets may have been fired by these two
10 7.62-caliber firearms or by other firearms of the
11 same caliber and rifling characteristics, but you
12 can also use that to exclude firearm if they have
13 grossly different rifling characteristics, which
14 was the case with the .45 auto pistol versus these
15 projectiles and the 5.56-millimeter caliber rifle.

16 But inconclusive essentially means we can't
17 tell if it was fired by the gun, but we can also
18 not exclude it as possibly being fired by the
19 gun.

20 Q And is -- is it the .40-caliber shell casings we
21 referred to?

22 A There was a number of .40-caliber shell casings and
23 one .40-caliber projectile.

24 Q Were you ever able to match those to any firearm?

25 A No.

1 Q So a .40-caliber gun, what would that be? What
2 type of gun?

3 A Most commonly it's found as a semiautomatic pistol,
4 although there are some .40-caliber semiautomatic
5 carbines or rifles on the market.

6 Q Most commonly that would be a .45 or a pistol,
7 which is what we refer to as a handgun?

8 A That is correct. The projectile that was recovered
9 had rifling impressions on it that are specifically
10 found in Hi-Point brands.

11 Q That would be a handgun?

12 A It's available as a handgun or a carbine.

13 Q What is a carbine?

14 A It's a short barrel rifle.

15 Q I want to show you what has been marked -- it has
16 not been marked.

17 (State's Exhibit Number 152 is marked for
18 identification).

19 BY MS. CAMPBELL:

20 Q Did you prepare this chart?

21 A I did.

22 Q And does it accurately reflect the actual
23 comparisons where you were able to match something
24 in this case?

25 A Yes.

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

620

1 Q From the crime scenes?

2 A Yes. What you see here is at the top, the top
3 section of this --

4 Q Let me get it into evidence first.

5 MS. CAMPBELL: Your Honor, at this time we
6 offer it into evidence, I believe without objection.

7 MR. COLLINS: No objection.

8 THE COURT: One-fifty-two is in evidence
9 without objection.

10 (State's Exhibit Number 152 is received into
11 evidence.)

12 BY MS. CAMPBELL:

13 Q You have already testified to pretty much
14 everything in this chart, but basically how were
15 you able to break it down and help the jury keep --
16 because there is so much evidence in this case --
17 to keep it straight?

18 A What I did when I created this chart was I divided
19 it into three different types of evidence. It was
20 the firearms that were submitted in this case.
21 Item 1, the 5.56-millimeter rifle is not shown
22 here, as I did not compare it or match it with any
23 fired evidence.

24 The fired cartridge case evidence from this
25 case was listed separately because there was so

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

621

1 much of it. The last section here reflects simply
2 the .45-caliber firearm that was submitted from the
3 Richland County Sheriff's Department.

4 What I then did was color code each item so
5 that you could see the relationship between -- that
6 I was able to establish between each item in the
7 fired evidence.

8 Item 2, being the Ewbank's pistol, is having
9 been identified as firing these cartridge cases
10 that are listed in green. The .45 pistol is also
11 indicated as having fired these .45 auto caliber
12 cartridge cases.

13 The .40-caliber cartridge cases were not
14 matched to any firearm or identified to any
15 firearm; therefore, they were by themselves in
16 blue.

17 Q And based on the shell casings that were submitted
18 to you at the scene, can you say at least how many
19 guns were shooting?

20 A We had three. I was just referring to my report.
21 We had a total of three firearms based on just the
22 cartridge cases that would be fired at the scene.

23 Q And just for the record this chart only reflects
24 the actual matches you are able to make from the
25 cartridge cases at the scene?

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

622

1 A That reflects identifications or matches that were
2 made. It doesn't reflect other results that were
3 made and other examinations.

4 Q Such as what you just testified to about the
5 projectiles?

6 A Such as inclusives or examinations of unfired
7 ammunition.

8 Q That's where I want to go now, to the unfired
9 ammunition as well. There is a gun in this case
10 that is commonly referred to as a .223?

11 A Yes, that is the 5.65 by .45-millimeter caliber
12 rifle, which is my number one. It is also capable
13 of firing what they call .223 Remington ammunition,
14 virtually interchangeable.

15 Q So in this courtroom there has been some reference
16 to the .223, but you are referring to it as what?

17 A 5.45 by 45-millimeter designation, which is the
18 military designation for the cartridge. Again,
19 they are essentially interchangeable.

20 Q They are interchangeable?

21 A Yes.

22 Q So if it has been referred to as a .223, we now are
23 talking about the same --

24 A That's correct.

25 Q -- ammunition as well as the same gun?

- 1 A Yes.
- 2 Q And I believe on these boxes it is labeled as a
- 3 .223; is that correct?
- 4 A It could be. There are some here also listed as
- 5 .223.
- 6 Q How much ammunition, live ammunition, did you
- 7 receive that would be suitable for the .223 or
- 8 5-point whatever you called it?
- 9 A I received a total of two unfired cartridges of
- 10 that caliber from the scene. Additionally, there
- 11 were 25 unfired cartridges that were recovered,
- 12 submitted with the firearm.
- 13 Q With the firearm itself?
- 14 A That is my understanding. They came in all at the
- 15 same time, yes.
- 16 Q And can you pull out those pieces of evidence. I
- 17 want to talk about them for a minute.
- 18 A These are the two unfired cartridges from the
- 19 scene, and these were the 25 that were submitted
- 20 with the firearm.
- 21 Q And that's actually been marked separately as
- 22 State's Exhibit Number 130 and State's Exhibit
- 23 Number 125; is that correct?
- 24 A Yes, that is correct.
- 25 Q When you looked at this evidence, was this evidence

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

624

1 suitable for having been fired by what I am
2 referring to as the .223?

3 A It is the correct caliber of ammunition and
4 suitable for use in that firearm.

5 Q Would it have been suitable for use in the other
6 assault rifles that were submitted in this case?

7 A No, it would not.

8 Q Would it be suitable for use in the handgun that
9 was submitted in this case?

10 A No, it would not.

11 Q So how many guns was it suitable -- were these live
12 rounds suitable for use in?

13 A The only firearm in this case that was submitted to
14 me that these cartridges would be suitable for use
15 in would have been my item one or the 5.56 by
16 45-millimeter caliber ammunition.

17 Q Again, we are talking about the same weapon,
18 whether it's referred to as a .223 or 5.4 --
19 whenever you said?

20 A Yes.

21 Q When you did your examination of those two separate
22 submissions of live rounds, what did you observe?

23 A The first thing I observed when I looked at the two
24 from the scene was that it was based on the head
25 stamp, which is markings that are stamped on the

1 base of the cartridge which identify the source or
2 brand and caliber.

3 Q Can I interrupt you?

4 MS. CAMPBELL: Your Honor, may he step down so
5 he can show the jury.

6 THE COURT: Yes. Gloves?

7 THE WITNESS: No, Your Honor. I'm fine.

8 MR. COLLINS: We would ask that he use gloves.

9 THE COURT: Do we have gloves?

10 MS. CAMPBELL: We have gloves, Your Honor.

11 (Witness leaves the witness stand).

12 BY MS. CAMPBELL:

13 Q That is State's Exhibit?

14 A This is State's Exhibit 125.

15 Q Thank you, sir. If you can come over here and turn
16 this way so the court reporter can hear you better.
17 It's hard to hear in here.

18 A I will pull one out for presentation. This is an
19 unfired cartridge. The head stamp area I was
20 referring to is here (indicating) on the base. At
21 the time of manufacture, the manufacturer was
22 stamped onto this. It's the identifying
23 information that allows us to identify what brand
24 it is and what source it is and also the caliber --

25 Q Can you speak up just a little more.

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

626

1 A Sometimes there is typically always information as
2 to caliber and source, whatever the brand may be,
3 and there may be other information there. In some
4 cases you will see the year of manufacture and
5 other things present.

6 Q What was your observation when you looked at that
7 evidence?

8 A My first observation when I looked at this was I
9 was able to identify the caliber, but I had never
10 seen this particular head stamp before as far as
11 the manufacturer.

12 I had to do some research on it to determine
13 where it came from. This is actually of South
14 Korean origin. It is consistent with a military
15 surplus type source, but it was manufactured in
16 South Korea .

17 Q And you said you had -- how long have you been in
18 this business?

19 A As of today I have been doing this for 22 years.

20 Q And you said you had to do research. Why did you
21 have to do research on this certain brand of
22 ammunition?

23 A I just had never seen it before. Whenever I see a
24 brand or type of ammunition that I have not seen
25 before and can't readily recognize it from the

1 markings, I will do research to identify where it
2 came from.

3 Q And how many examinations of ammunition have you
4 done over the years?

5 A Thousands.

6 Q And you had never seen this before?

7 A Not this particular brand.

8 Q So it would be unusual?

9 A It was unusual to me at the time, yes.

10 Q And once you observed that information, what was
11 the actual head stamp on this?

12 A I'll have to look at my notes because this is so
13 small I can't read it with my glasses. The serial
14 number -- excuse me -- the number on there or the
15 head stamp information is P.S.D.10. The P.S.D. is
16 the information that is specific to the
17 manufacturer.

18 It's in South Korea; so I will probably
19 butcher the pronunciation for this. Please forgive
20 me. Poongsong Dongrae. Dongrae is the actual
21 facility in which it was manufactured. Poongsong
22 is the manufacturer itself. The 10, I didn't find
23 conclusive information for what that means. It
24 probably means the year of manufacture, 2010.

25 Q And as far as once you had determined what the

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

628

1 actual make and model of the actual bullet itself
2 was, were you able to make a determination
3 comparing it to any guns?

4 A No.

5 Q Why not?

6 A I did not note any markings on there that would
7 have been suitable for comparison back to a
8 particular firearm. It wasn't fired in the gun,
9 which gives you the most markings. Any loading or
10 cycling marks were not readily apparent during my
11 examination.

12 Q And even if the bullet had been, say, loaded into a
13 gun and discharged out, is it necessarily going to
14 leave markings?

15 A It may not.

16 Q In fact, are there other ways that -- there
17 wouldn't be any markings if it's never been in a
18 gun?

19 A It could be dropped or otherwise -- it may have
20 never been in a gun, may have been in a gun and
21 something wasn't marked in a way that I was able to
22 readily notice to make an identification.

23 Q So even if a gun -- if a live round such as that is
24 actually in a gun, chambered and is ejected, it may
25 not leave a mark?

- 1 A It may not leave a mark that I note during my
2 initial examination.
- 3 Q And in this case did you note any marks?
- 4 A I did not note any marks, no.
- 5 Q The two bullets that were submitted in State's
6 Exhibit Number 125, you mentioned the head stamp.
7 Were the head stamps the same on both of these?
- 8 A Yes.
- 9 Q What does that indicate to you?
- 10 A That they came from the same factory.
- 11 Q The same factory?
- 12 A Yes.
- 13 Q Typically when you buy ammunition, how is it
14 bought?
- 15 A Typically it's boxed in this manner (indicating).
16 I don't know how many would be in a box. The
17 normal quantity that you would find would be 20
18 rounds to 30 rounds in a box.
- 19 Q You also received additional live rounds in this
20 case, which have been marked as State's Exhibit
21 Number 130?
- 22 A Yes.
- 23 Q What were your initial observations when you
24 examined that evidence?
- 25 A A total of 25 cartridge cases were contained in

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

630

1 this bag. My examination of them revealed that 15
2 of them were of the same caliber brand and type as
3 the two that I initially examined. They also came
4 from the same South Korean source. The other ten
5 were manufactured by Winchester, which is a common
6 source.

7 Q That is a common source?

8 A Yes.

9 Q So it's not -- it doesn't have the same unique
10 nature as the ones that were submitted in 125, as
11 well as -- how many of those?

12 A Fifteen of these were the same caliber as the ones
13 found at the scene.

14 Q If you can step --

15 A The same caliber brand and type.

16 Q If you can step down and just show the jury the
17 difference between the two.

18 A This (indicating) is one of the Winchesters.
19 Visually it appears the same. It's the same
20 caliber ammunition, the difference being the head
21 stamp on the base is different.

22 This one says W.C.C., Winchester Cartridge
23 Company. It has an N.A.T.O. acceptance stamp on
24 the base, which indicates that it has met the
25 standards required by the N.A.T.O. treaty

1 organization for use in military firearms. It also
2 has the year of manufacture, which I can't quite
3 read from here.

4 The other ammunition with the Korean origin is
5 the same dimensionally. You will see that it has a
6 green painted tip on the bullet. This is something
7 that we see in more modern military type ammunition
8 of this caliber. It has a different type of bullet
9 loaded into it, but it is interchangeable as far as
10 being able to be fired from the same firearm.

11 Q Again, how many of those were the Korean?

12 A Fifteen.

13 Q The rest were of the same brand, which was what?

14 A The other ten were Winchester.

15 Q You mentioned that -- you can retake the stand.

16 A (Witness resumes the witness stand).

17 Q You mentioned that these guns were all in working
18 order. Are you familiar with the concept of having
19 a gun jam or is that something that can happen even
20 when the gun is in working order?

21 A It's a common term that is used to describe a
22 feeding or ejecting malfunction in a firearm. It
23 is something that can happen with virtually any
24 firearm, depending on the circumstances under which
25 it is being used. Even a gun that functions

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

632

1 flawlessly for thousands of rounds may all of a
2 sudden jam or fail to properly cycle feed or eject
3 ammunition.

4 Q If a gun were to jam -- and that means it just
5 won't fire; is that correct?

6 A That means that something has happened in it
7 typically that it has not extracted properly or
8 ejected properly the fired ammunition or it is not
9 procedurally feeding the ammunition.

10 Another malfunction that may occur is a
11 misfire where the gun functions, the hammers falls,
12 the striker hits the firing pin and the cartridge,
13 and it simply doesn't fire.

14 That is something I don't consider to be a jam
15 as it can be readily cleared by a trained shooter
16 very quickly. A jam may require some additional
17 special methods to clear in the field.

18 Q If a person were attempting to unjam a gun, would
19 they maybe -- could they eject possible ammunition
20 from the gun in an attempt?

21 A Depending on how they do it. It's possible that
22 you could leave unfired ammunition on the ground at
23 the scene if you were trying to clear a
24 malfunction.

25 Q To your knowledge did anyone or did you request

1 that any -- you did the D.N.A. swabs' collection
2 yourself; is that correct?

3 A Yes, ma'am.

4 Q And then those were submitted into evidence?

5 A That's correct.

6 Q Did you make any attempt to have these cartridge
7 cases or any of the ammunition fingerprinted?

8 A No.

9 Q Why not?

10 A That would have been something I would have
11 expected to happen before it was submitted to us.

12 Q And that wouldn't be your process; would it?

13 A No.

14 Q However, in this day and time, D.N.A. is typically
15 what is done and you did that?

16 A That is a common procedure for us to swab fired
17 cartridge cases if there was no indication that it
18 has been done in the field.

19 Q And, again, State's Exhibit Number 125 and 130
20 would all be suitable for being fired by the .223
21 or 5-point whatever you said?

22 A 5.56-millimeter.

23 Q And none of these other guns?

24 A That's correct.

25 Q And, again, those bullets would be suitable for any

DAVID COLLINS -- DIRECT -- MS. CAMPBELL

634

1 type of handgun?

2 A Like the 7.62-millimeter handgun that we have here,
3 there are some rarely encountered 5.56-millimeter
4 handguns.

5 MS. CAMPBELL: Beg the Court's indulgence.

6 (Pause.)

7 MS. CAMPBELL: That's all. Thank you.

8 THE COURT: Mr. Foreman, ladies and
9 gentlemen -- if you would just remain in place,
10 Mr. Collins -- I believe we will take our lunch recess.
11 During the recess I would remind you, do not discuss
12 this case with anyone.

13 Please do not watch, listen to, read any news
14 accounts about the case. Do not use your computer or
15 cellular phone to do any internet research or any
16 independent research. Remember to keep an open mind.

17 Do not begin your deliberations until I
18 instruct you to do so. If you would please be back at
19 2:45. Please be back in place at 2:45. I hope y'all
20 have a pleasant lunch.

21 Sheriff, if y'all would escort our jury,
22 please, and Mr. Bailiff. Thank you very much.

23 (The jury is excused for lunch at 1:20 P.M.)

24 THE COURT: Mr. Collins, you may certainly
25 step down during this luncheon recess. You may not

1 THE COURT: Thank you. Thank you very much.
2 Welcome back, ladies and gentlemen. I hope y'all had a
3 pleasant lunch. We are continuing the trial of the case
4 by the cross examination of the witness, Mr. Collins, by
5 Mr. Collins.

6 MR. COLLINS: Thank you, Your Honor.

7 THE COURT: Please give the parties your
8 complete and undivided attention.

9 CROSS EXAMINATION

10 BY MR. COLLINS:

11 Q Good afternoon.

12 A Good afternoon.

13 Q I want to start off, of the three guns that you
14 examined, are those legal to have in the United
15 States?

16 A Yes, they are.

17 Q And those can be purchased?

18 A Yes, they can.

19 Q And, in fact, in particular the .223 or I believe
20 it's a Roman Arms S.A.R.3?

21 A Romarm's.

22 Q Romarm's. That can be purchased for about 3 or
23 \$400; can't it?

24 A At one time it could, yes.

25 Q Can it not be purchased now?

DAVID COLLINS -- CROSS -- MR. COLLINS

637

1 A It could be purchased now, but I think it would be
2 hard stretched to find one for that low a price.

3 Q If you just went on the internet and looked it up,
4 you couldn't find one for 3 or \$400.

5 A I haven't tried to find one lately.

6 Q And this particular S.A.R.3 you test fired it, and
7 you testified it was functional; right?

8 A Yes, it was.

9 Q It didn't jam on you; did it?

10 A Not on me.

11 Q And I believe you also testified there was no
12 markings on any of that .223 ammunition that you
13 can identify with a particular gun?

14 A I didn't notice any.

15 Q And you looked for it; right?

16 A I do a cursory examination looking for it. It was
17 not a specific request in this case. So I did not
18 do an in-depth examination.

19 Q This case has been pending for over two years?

20 A Yes, sir.

21 Q That type of ammunition, 5.56, 45 times 45, you can
22 get a box of 20 of those for eight bucks; can't
23 you?

24 A Yes, sir.

25 Q They are cheap?

- 1 A It can be very inexpensive.
- 2 Q Now, I want to kind of move on to the shell casings
3 and how you analyze those. I want to kind of clear
4 that up a little bit. You said there were 20 shell
5 casings from the scene of Gable Oaks that you
6 identified were fired by the A.K.47 in this case?
- 7 A The A.K. bearing pistol, yes.
- 8 Q The A.K. bearing pistol. That would be item number
9 two?
- 10 A In my report yes, it's item two.
- 11 Q No doubt about it that gun fired those?
- 12 A It is my opinion that those cartridge cases were
13 fired by that gun.
- 14 Q There were 14 -- I might be wrong. Please correct
15 me if I am -- 14 .40-caliber shell casings at the
16 scene?
- 17 A I believe that is my count as well, .40-caliber
18 cartridge casings and 14 were found.
- 19 Q Those were all fired by the same gun?
- 20 A By one gun, yes.
- 21 Q And that same gun that fired those .40-caliber
22 pistols also fired some shell casings in another
23 Richland County case; right?
- 24 A If I can refer to my notes for a minute.
- 25 Q Sure.

DAVID COLLINS -- CROSS -- MR. COLLINS

639

- 1 A Yes, I identified those cartridge cases with three
2 other cartridge cases from another incident which
3 occurred in Richland County.
- 4 Q The Studio 54 shooting?
- 5 A Yes.
- 6 Q Within a couple of hours of this incident?
- 7 A I forgot the time frame but it was very close to
8 it.
- 9 Q And the S.K.S. gun that you have in evidence, did
10 you match any shell casings from that Studio 54
11 shooting to that S.K.S. gun?
- 12 A Again, if I can refer to my notes.
- 13 Q Sure.
- 14 A Yes, the S.K.S. in this case, which is my item 3,
15 did fire a total of -- well, my count is 19
16 cartridge cases at the Studio 54 incident.
- 17 Q No doubt about it, in your opinion that S.K.S. gun
18 fired those shell casings?
- 19 A Yes.
- 20 Q That S.K.S. gun that was recovered at the same
21 location as the A.K. pistol?
- 22 A I'm not privy to the information of where it was
23 recovered.
- 24 Q And now you said you routinely take D.N.A. swabs of
25 shell casings. You probably took D.N.A. swabs from

1 the shell casings gathered from the Studio 54
2 incident; right?

3 A I would have or actually in that case, as they
4 would have been routed through our crime scene unit
5 before they came to me, our crime scene unit would
6 have done that.

7 Q So somebody in Richland County should have those
8 swabs somewhere; right?

9 A Yes.

10 Q And it wouldn't be your fault if they were lost or
11 nobody said anything about them?

12 A The ones from the Studio 54 case?

13 Q The ones from Studio 54.

14 A No.

15 Q To your knowledge you have no idea if those have
16 ever been tested or handed off to anybody?

17 A I do not have any information on that, sir.

18 Q Those were shell casings fired by the guns in
19 evidence here in court today in your opinion? The
20 one gun, S.K.S.?

21 A The S.K.S. did fire shell casings from that scene,
22 as did whatever gun fired the .40 ammo.

23 Q Now, you referred to your notes a number of times.
24 You take a lot of notes as you are going through
25 and doing this type of analysis; right?

1 A Yes, sir.

2 Q There are a lot of different evidence numbers, and
3 it got a little confusing because of all the
4 different departments; right?

5 A This was a difficult case to manage.

6 Q And, in fact, you turned over your whole list you
7 call bench notes?

8 A Yes.

9 Q I guess that is a scientific term?

10 A That's the term we use and that is what I am
11 working from here.

12 Q And you turned that over to the Solicitor's Office,
13 who then turned it over to us. It's kind of how it
14 works?

15 A Yes, sir.

16 Q You testified on direct examination that you had
17 never seen the P.S.D. head stamp before ever;
18 right?

19 A Yes.

20 Q You said you did a little research and found out it
21 was a South Korean company, and you had never seen
22 one of those?

23 A One had never come across my desk.

24 Q Okay. I want to refer you to page 28 of your bench
25 notes.

- 1 A Yes.
- 2 Q Was this the internet research you are talking
3 about, looking up the Association of Firearm and
4 Tool Mark Examiners image gallery?
- 5 A Yes, sir.
- 6 Q I want to direct your attention to the paragraph in
7 the middle. It says that Poongsong started
8 manufacturing supporting ammunition since early of
9 1980s and rose to one of the leading manufacturers
10 in the world?
- 11 A Yes.
- 12 Q That's contained in your report that you turned
13 over to the Solicitor's Office?
- 14 A It's contained in my bench notes.
- 15 Q Are you familiar with P.M.C. Manufacturing?
- 16 A I am.
- 17 Q Are you aware that Poongsong merged with P.M.C. in
18 2006?
- 19 A I was aware that P.M.C. ammunition originated from
20 Korea. It would not surprise me that they had
21 merged with Poongsong.
- 22 Q Would it surprise you if it's one of the -- or if
23 not the largest -- manufacturer of this type
24 ammunition in the world?
- 25 A It would not surprise me, no.

DAVID COLLINS -- REDIRECT -- MS. CAMPBELL

643

1 MR. COLLINS: No further questions.

2 THE COURT: Redirect, Solicitor?

3 MS. CAMPBELL: Just a couple of questions.

4 **REDIRECT EXAMINATION**

5 BY MS. CAMPBELL:

6 Q You never seen it here in South Carolina?

7 A I have never seen ammunition of this caliber with
8 this particular head stamp in this State before
9 this incident.

10 Q He asked you about no marks on the live rounds that
11 we can refer to that belong to the S.K.S.?

12 A Yes, ma'am.

13 Q Were you aware that the live rounds were actually
14 loaded in the gun?

15 MR. COLLINS: Objection, leading.

16 THE COURT: You can rephrase your question,
17 Solicitor.

18 BY MS. CAMPBELL:

19 Q What were you aware of about where the live rounds,
20 the 25 live rounds, had been recovered?

21 A It was my understanding that they had been
22 recovered with the firearm, but I do not know
23 exactly where they came from.

24 Q As far as the physical location?

25 A As far as the physical location.

1 Q But those didn't have any marks on them anyway even
2 if they had been loaded in the gun?

3 A I, again, would not have examined them, those that
4 were not found at the scene for those types of
5 marks specifically. So I don't know.

6 Q The two that you found at the scene definitely
7 didn't have any marks on them? From the scene?

8 A My initial examination did not reveal obvious marks
9 that would be suitable, obviously suitable, for
10 that type of examination. I did not do an in-depth
11 examination as it wasn't specifically requested on
12 that item to do that.

13 Q And finally you don't --

14 MR. COLLINS: Objection, leading.

15 THE COURT: "And finally?" I will sustain
16 that objection, "and finally."

17 MS. CAMPBELL: I'm sorry. I won't say, "and
18 finally."

19 BY MS. CAMPBELL:

20 Q The ammunition that we are referring to with either
21 the .223 or whatever ammunition we referred to,
22 when is the first time you have ever seen this?

23 A The first time I had seen that particular head
24 stamp was when I examined this case.

25 Q Thank you.

DONNA MARTIN -- DIRECT -- MR. SHELLENBERG

645

1 THE COURT: Recross, Mr. Collins?

2 MR. COLLINS: Nothing, Your Honor.

3 THE COURT: Thank you. Thank you very much,
4 Agent Collins. You may step down.

5 (Witness leaves the witness stand.)

6 THE COURT: Solicitor, you may call your next
7 witness.

8 MR. SHELLENBERG: The State calls Donna
9 Martin.

10 THE COURT: If you would come around and be
11 sworn for us, please.

12 DONNA MARTIN, being
13 first duly sworn, testifies as follows:

14 CLERK: State your name for the record.

15 THE WITNESS: Donna Martin.

16 DIRECT EXAMINATION

17 BY MR. SHELLENBERG:

18 Q Who do you work for?

19 A The City of Columbia Police Department.

20 Q In what capacity?

21 A Evidence supervisor.

22 Q And what did you do in the evidence room?

23 A We intake evidence and hold it for all court cases.

24 Q I am going to show you what is marked as State's
25 128. Will you look at that. Do you recognize

1 that?

2 A Yes, I do.

3 Q And what is it?

4 A It's a bullet.

5 Q And who did you receive that from?

6 A I received it from Investigator Thomas.

7 Q And when did you receive it?

8 A June 29, 2010.

9 Q Into evidence?

10 A Yes.

11 Q And did it appear to have been tampered with in any
12 way?

13 A No.

14 Q And who did you transfer it to?

15 A We transferred it -- well, we put it into the
16 system and just log it in and put it on the shelf
17 with the rest of the property.

18 Q While it was in your control, did it substantially
19 change or alter or anything?

20 A No.

21 MR. SHELLENBERG: No further questions.

22 THE COURT: Mr. Newton?

23 MR. NEWTON: Your Honor, we have no questions
24 for this witness.

25 THE COURT: Thank you. Thank you very much

WILLIAM CEDARSTAFF -- DIRECT -- MR. COLLINS

647

1 for being with us. You may step down.

2 (Witness leaves the witness stand.)

3 THE COURT: You may call your next witness.

4 MR. SHELLENBERG: The State calls William
5 Cedarstaff.

6 THE COURT: Come around and be sworn for us,
7 please.

8 WILLIAM CEDARSTAFF, being
9 first duly sworn, testifies as follows:

10 CLERK: State your name for the record.

11 THE WITNESS: William Cedarstaff,
12 C-E-D-A-R-S-T-A-F-F.

13 DIRECT EXAMINATION

14 BY MR. SHELLENBERG:

15 Q Who do you work for?

16 A Richland County Sheriff's Department.

17 Q In what capacity?

18 A I'm an evidence technician.

19 Q What does that entail?

20 A I take in any and all evidence that the officers
21 and investigators pick up at a scene. They bring
22 it to us. We log it in into a database, assign it
23 a sequence number, and then put it up until it's
24 called for.

25 Q I will show you what has been marked as State's

1 128. Take a look at that. Do you recognize that?

2 A This was brought in from the Columbia Police
3 Department for us to be analyzed.

4 Q Do you know the date it was brought in?

5 A That would be June 29, 2010, at 4:02 in the
6 afternoon.

7 Q Did the package appear to have been tampered with
8 in any way?

9 A Not at the time it was entered, no.

10 Q What did you do with it?

11 A I logged it in, along with the other evidence, and
12 assigned it to a bin and to that particular case
13 number.

14 Q While it was in your custody, did it substantially
15 change, alter, do anything to it?

16 A Not while it was in our custody, no, sir.

17 MR. SHELLENBERG: Nothing further, Your Honor.

18 MR. NEWTON: No questions for this witness,
19 Your Honor.

20 THE COURT: Thank you. Thank you very much.
21 Thank you for being with us today. You may step down.

22 (Witness leaves the witness stand.)

23 THE COURT: You may call your next witness.

24 MR. SHELLENBERG: Your Honor, the State calls
25 Stephen Griffey.

STEPHEN GRIFFEY -- DIRECT -- MR. SHELLENBERG

649

1 THE COURT: If you would come around and be
2 sworn for us, please.

3 STEPHEN GRIFFEY, being
4 first duly sworn, testifies as follows:

5 CLERK: State your name for the record.

6 THE WITNESS: Stephen Griffey, G-R-I-F-F-E-Y.

7 COURT REPORTER: Stephen with a P-H or V?

8 THE WITNESS: P-H.

9 DIRECT EXAMINATION

10 BY MR. SHELLENBERG:

11 Q Who do you work for?

12 A The Richland County Sheriff's Department, sir.

13 Q In what capacity?

14 A I am currently working with the criminal
15 investigation division.

16 Q What were your duties back on June 30, 2010?

17 A I was working as an evidence custodian.

18 Q All right. I will show you what has been marked as
19 State's 128. Can you take a look at that?

20 A Yes, sir.

21 Q Do you recognize it?

22 A I am looking for the number, sir. Yes, sir.

23 Q Where did you get that item from?

24 A These items were in the evidence room, sir.

25 Q What date did you get it?

1 A It was on June the 30th, 2010.

2 Q And did it appear to have been tampered with in any
3 way?

4 A No, sir, not at all.

5 Q Who did you give it to?

6 A David Collins.

7 Q On what day?

8 A It was on June the 30th, 2010, sir.

9 Q And while it was in your custody, did you
10 substantially change it, alter it, do anything to
11 it?

12 A No, sir, not at all.

13 Q No further questions. Thank you.

14 A Thank you, sir.

15 MR. NEWTON: Your Honor, real briefly.

16 CROSS EXAMINATION

17 BY MR. NEWTON:

18 Q Officer Griffey?

19 A Yes, sir.

20 Q Were you ever given swabs from an incident that
21 occurred at Studio 54 on the night of June 19th and
22 June 20th?

23 A No. The only thing I had with this case was I was
24 releasing items to David Collins.

25 MR. NEWTON: No further questions.

KELVIN GRIFFIN -- DIRECT -- MS. CAMPBELL

651

1 THE COURT: Redirect?

2 MR. SHELLENBERG: No, Your Honor.

3 THE COURT: Thank you. Thank you very much
4 for being with us. You may step down.

5 THE WITNESS: Thank you, sir.

6 (Witness leaves the witness stand.)

7 THE COURT: You may call your next witness.

8 MS. CAMPBELL: The State would call
9 Investigator Kelvin Griffin.

10 KELVIN GRIFFIN, being
11 first duly sworn, testifies as follows:

12 CLERK: State your name for the record.

13 THE WITNESS: Investigator Kelvin Griffin,
14 G-R-I-F-F-I-N.

15 DIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q Investigator Griffin, where are you employed?

18 A Richland County Sheriff's Department.

19 Q What do you do there, sir?

20 A I'm on the gang unit.

21 Q On the gang unit?

22 A Yes, ma'am.

23 Q How long have you been with the gang unit?

24 A Five years.

25 Q What do your duties include as being part of the

1 gang unit?

2 A We investigate any crime that we do that is gang
3 related. Anything that is gang related, we deal
4 with.

5 Q I want to turn your attention back to 2010. Did
6 you have an occasion to respond to a house where
7 Mr. Daqwan Johnson lived?

8 A Yes, ma'am, I did.

9 Q What was that address?

10 A [REDACTED].

11 Q [REDACTED]. And when you went to that
12 house that day, did you make contact with Daqwan
13 Johnson?

14 A Yes, ma'am, I did.

15 Q And did you know -- could you recognize him?

16 A Yes, ma'am, I recognized him from a photo.

17 Q And when you made contact with him that day, where
18 did you make contact?

19 A In the yard at [REDACTED].

20 Q What date was that?

21 A That was the 24th. June 24, 2010.

22 Q June 24, 2010. When you made contact with him, did
23 you have a conversation?

24 A Yes, ma'am.

25 Q And did he admit certain things to you during that

KELVIN GRIFFIN -- DIRECT -- MS. CAMPBELL

653

1 conversation?

2 MR. COLLINS: Objection, Your Honor.

3 THE COURT: Rephrase the question, Solicitor.

4 MS. CAMPBELL: Your Honor, we may have a
5 matter to take up. May we approach?

6 THE COURT: Yes, ma'am.

7 (Whereupon there was a bench conference off
8 the record in the presence of the jury but out of the
9 hearing of the jury.)

10 THE COURT: Step out, ladies and gentlemen.
11 Please do not discuss the case during this brief recess.

12 (The jury retires to the jury room.)

13 MS. CAMPBELL: May I proceed, Your Honor?

14 THE COURT: Well, what is your objection?

15 MR. COLLINS: The objection was it seemed that
16 the solicitor was eliciting a statement made by the
17 defendant while he was potentially in the custody of law
18 enforcement. We haven't had a hearing according to
19 Denno. I just want to be able to have an opportunity to
20 deal with that outside the presence of the jury.

21 THE COURT: You may proceed, Solicitor.

22 MS. CAMPBELL: Yes, sir.

23 **IN CAMERA DIRECT EXAMINATION**

24 BY MS. CAMPBELL:

25 Q When you got to [REDACTED], where did you

KELVIN GRIFFIN -- IN CAMERA DIRECT -- MS. CAMPBELL 654

1 first observe the defendant in this case?

2 A He was sitting in a black-in-color Crown Victoria
3 in the driver's seat.

4 Q What did you notice immediately upon walking
5 towards the vehicle?

6 A I smelled a strong odor of marijuana.

7 Q And at that point was the defendant taken into
8 custody?

9 A At that point he was not. I took him into custody
10 shortly after, yes, ma'am.

11 Q And once he was in your custody, did he volunteer
12 any information?

13 A Yes. First, he volunteered he had a weapon in his
14 waistband.

15 Q Was that in response to any of your questioning or
16 did he volunteer that information?

17 A He volunteered it.

18 Q And then what else did he indicate to you?

19 A He told me that they had just smoked a marijuana
20 cigarette, which is called a blunt. He said a
21 blunt.

22 Q And at that point he was still in your custody?

23 A Yes, he was in my custody.

24 Q At any point were you questioning him without
25 giving him his rights or anything like that or was

KELVIN GRIFFIN -- IN CAMERA DIRECT -- MS. CAMPBELL 655

- 1 he volunteering this information?
- 2 A He volunteered the information.
- 3 Q It was not in response to any questioning?
- 4 A No, there was no questioning.
- 5 Q Did you then -- he was already in your custody at
- 6 that point. Were you able to locate the marijuana
- 7 and the handgun?
- 8 A Yes, ma'am, I did.
- 9 Q Where was the marijuana and handgun located?
- 10 A It was in his pants pocket.
- 11 Q In his pants pocket?
- 12 A Yes, ma'am.
- 13 Q Did you confiscate those items?
- 14 A Yes, ma'am.
- 15 Q What kind of handgun was it?
- 16 A It was a Ruger 9-millimeter. Do you need the
- 17 serial number? Serial number 31048359.
- 18 Q And at that point he was in your custody and
- 19 remained in your custody?
- 20 A Yes, ma'am.
- 21 Q Then where did you take him from there?
- 22 A We turned him over to the C.P.D.
- 23 Q And that would be Sergeant Thomas and those people?
- 24 A Yes.
- 25 Q And where did that actually -- where did you

1 actually relinquish him to C.P.D.?

2 A On the scene.

3 Q On the scene?

4 A Yes, ma'am.

5 Q So they responded out to the scene?

6 A They responded to the scene, their investigators
7 did.

8 MS. CAMPBELL: The only thing he can testify
9 about is he actually -- they got consent to go into the
10 house, and he was the one that actually observed the
11 weapon sticking out from under the bed and then called
12 in -- didn't touch the weapon -- called in officers from
13 C.P.D. That's how they ended up coming out.

14 THE COURT: Are you through with your
15 examination now, Ms. Campbell?

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: Mr. Collins?

18 MR. COLLINS: Thank you, Your Honor.

19 **IN CAMERA CROSS EXAMINATION**

20 BY MR. COLLINS:

21 Q It is officer or investigator?

22 A Either one, sir. It doesn't matter.

23 Q I will go with Investigator. Investigator Griffin,
24 when you went out there, you were out there to
25 serve a bench warrant on Mr. Johnson; right?

KELVIN GRIFFIN -- IN CAMERA CROSS -- MR. COLLINS 657

1 A Yes, sir.

2 Q And you knew that he was wanted for the murder;
3 right?

4 A As a suspect, not wanted.

5 Q As a suspect?

6 A As a suspect, yes, sir.

7 Q In fact, the whole Country got a big bulletin about
8 "Proceed with caution"; right?

9 A I wouldn't say that, but yeah.

10 Q Your testimony here today is you just walked up to
11 the car, and you guys casually started having a
12 conversation?

13 A I didn't say we casually had a conversation. What
14 I said was when we walked up to the car,
15 Mr. Johnson was in there smoking a blunt.

16 Q Did you have your guns drawn?

17 A Did I have mine? No, sir. No, sir. No guns were
18 drawn.

19 Q You testified you recognized him as soon as you saw
20 him; right?

21 A Yes, sir, we had a picture of him.

22 Q So your testimony is that you just walked up to the
23 car without drawing your weapon?

24 A Yes, sir.

25 MR. COLLINS: I don't have anymore questions,

1 Your Honor. I do have a couple of issues.

2 THE COURT: All right.

3 MR. COLLINS: As far as the statement, it does
4 seem --

5 THE COURT: Let me ask one thing. Solicitor,
6 do you have any other evidence or testimony you want to
7 present?

8 MS. CAMPBELL: Not on this issue.

9 THE COURT: On Jackson versus Denno?

10 MS. CAMPBELL: No, sir, not on this issue.

11 THE COURT: Thank you. Mr. Collins, you may
12 proceed.

13 MR. COLLINS: On the Denno issue, I will admit
14 to the Court they probably have satisfied that, that it
15 was a voluntary statement. However, Your Honor,
16 introducing testimony about a handgun in his waistband
17 and using illegal drugs four to five days after the
18 murder, I don't see how it's relevant. I think it's
19 highly prejudicial, and the prejudicial nature of it
20 totally outweighs the probative nature.

21 There is no evidence that a 9-millimeter was
22 connected with the murder scene in this case, Your
23 Honor. They haven't presented any evidence to this
24 point that it is connected to anything. I think it's
25 being entered just to show that he is the kind of guy

1 that would ride around with a gun, which is
2 impermissible..

3 THE COURT: Solicitor.

4 MS. CAMPBELL: May it please the Court, Your
5 Honor. The purpose of this is the only thing we are
6 trying to do -- and I purposefully told him not to go
7 into the fact that he was wanted on another bench
8 warrant because that would be prejudicial -- the only
9 purpose we are showing is that he, in fact, took him
10 into lawful custody at that time.

11 There has to be some way to explain. If he
12 wants to say at that point, Did you place him in lawful
13 custody or arrest him lawfully on an unrelated matter, I
14 could advise the witness to say something like that.
15 Our only concern is I don't want the jury to think we
16 just up and randomly arrested him because there was no
17 arrest warrant out for the murder at this point.

18 THE COURT: What was the bench warrant for?

19 MS. CAMPBELL: Let me check, Your Honor.

20 THE COURT: Does the officer know?

21 THE WITNESS: I think I have a copy of it
22 right here if you want to give it to him.

23 THE COURT: If you know, that's fine.

24 THE WITNESS: I have a copy of it, Your Honor,
25 if you want it. It was out of the City, and it was a

1 C.P.D. warrant. He was found guilty in his absence. I
2 can't really see it. It's not dark on there. There has
3 been about five copies of it. You can barely see it,
4 Your Honor.

5 MR. COLLINS: Your Honor, if I can make a
6 suggestion, I think an easy fix to this is you can say:
7 Mr. Johnson was detained. He was found in a black Crown
8 Victoria and was detained. I think that satisfies
9 everything that they are trying to do.

10 He can testify about the gun that was found in
11 the house because obviously it would be relevant to
12 the -- it could be matched up with the ammunition, but I
13 don't think any of the other information is relevant in
14 this case.

15 MS. CAMPBELL: My concern with the emphasis in
16 front of the jury is that we just randomly in Richland
17 County walk up to people and detain them. In this case
18 there is no directive from the gang unit of Richland
19 County to get him without having proper service. They
20 just can't do that and detain people randomly. If he
21 wants to -- if we want to phrase it: At that point did
22 you then place him lawfully in detention, and he is
23 stipulating it was a lawful detention.

24 MR. COLLINS: I think detained solves the
25 problem, Your Honor. I don't see a problem with

1 detained.

2 THE COURT: Isn't detained part of the word
3 detention? Perhaps I better look it up in the Funk and
4 Wagnall. It seems like detain is part of detention.

5 MS. CAMPBELL: Your Honor, we would say that
6 he was lawfully arrested at that point on an unrelated
7 matter.

8 THE COURT: Do you have a problem with that?

9 MR. COLLINS: Not with that, Your Honor.

10 THE COURT: And she can say he was placed
11 under lawful arrest.

12 MS. CAMPBELL: That he was placed under lawful
13 arrest.

14 THE COURT: Lawfully arrested.

15 MS. CAMPBELL: And limit it to that.

16 THE COURT: Yes.

17 MS. CAMPBELL: Can I lead him through that?

18 THE COURT: That's my ruling.

19 MS. CAMPBELL: Thank you.

20 THE COURT: I don't think marijuana is
21 admissible. I don't think the gun is admissible.

22 MS. CAMPBELL: Certainly.

23 THE COURT: The fact that he is carrying a
24 9-millimeter five days later, I don't see the
25 circumstantial nature of that hooking up to the 19th at

1 either Gable Oaks or Studio 54.

2 MS. CAMPBELL: Just for clarification, my
3 question will be: At that point was he lawfully
4 arrested? And then I will move on to they got consent
5 to search the house and show him the picture of the
6 gun.

7 THE COURT: Do you understand that, Officer?

8 THE WITNESS: Yes, sir.

9 THE COURT: Anything further before we bring
10 our jury back in, Mr. Collins?

11 MR. COLLINS: No, Your Honor.

12 THE COURT: Bring the jury.

13 (The jury returns to the courtroom.)

14 THE COURT: Solicitor, you may continue.

15 Thank you, Mr. Collins.

16 DIRECT EXAMINATION

17 BY MS. CAMPBELL:

18 Q At that point as you approached the car and made
19 contact with Mr. Daqwan Johnson, was he placed
20 under lawful arrest?

21 A Yes, ma'am, he was.

22 Q Did you detain him there at the scene during that
23 period of time?

24 A Yes.

25 Q During that time period, did you also make contact

KELVIN GRIFFIN -- DIRECT -- MS. CAMPBELL

663

1 with the grandmother?

2 A Yes, I did.

3 Q And did she give you consent to do anything?

4 A Yes, ma'am, she gave us consent to search the
5 residence for weapons.

6 Q At that point did you enter the house?

7 A Yes, we did.

8 Q Was there a certain bedroom that you were able to
9 identify who occupied that bedroom?

10 A Yes, she pointed out Mr. Johnson's bedroom; and as
11 we approached the bedroom, there was a weapon under
12 the bed.

13 Q I want to show you what has been marked as State's
14 Exhibit 113. Do you recognize that?

15 A Yes.

16 Q Is that, in fact, how it appeared that day when
17 y'all entered the house?

18 A Yes, ma'am, it was.

19 Q Whose bedroom was this?

20 A That was the bedroom she identified as Daqwan
21 Johnson's bedroom.

22 Q And at that point did y'all feel it was prudent to
23 back out of the house?

24 A Yes, ma'am.

25 Q Did you then contact the Columbia Police

1 Department?

2 A Yes, ma'am.

3 Q And after you contacted the Columbia Police
4 Department, did they respond to the scene at

5 [REDACTED]

6 MR. COLLINS: Objection to leading, Your
7 Honor.

8 THE COURT: Rephrase the question, Solicitor.

9 BY MS. CAMPBELL:

10 Q Where did they respond to?

11 A They came to the scene, which is [REDACTED]

12 [REDACTED].

13 Q [REDACTED]?

14 A [REDACTED].

15 Q At that point what did you do with Mr. Johnson?

16 A We turned him over to the City, to the City
17 investigators.

18 Q Are you aware whether or not they conducted their
19 own search of the house?

20 A I think they got a search warrant for the residence
21 in order to obtain the weapon.

22 MS. CAMPBELL: Beg the Court's indulgence.

23 THE COURT: Yes, ma'am.

24 (Pause.)

25 BY MS. CAMPBELL:

KELVIN GRIFFIN -- CROSS -- MR. COLLINS

665

1 Q The person that you lawfully arrested that day and
2 detained, do you see him here in the courtroom?

3 A Yes, ma'am.

4 Q Can you point him out for the jury?

5 A Yes, ma'am, Mr. Johnson right there (indicating).

6 Q Where is he seated at the table?

7 A In between the two guys, other guys, in the middle.

8 MS. CAMPBELL: Your Honor, may the record
9 reflect he has identified the defendant?

10 THE COURT: So reflected.

11 MS. CAMPBELL: I don't have anything further.

12 THE COURT: Mr. Collins?

13 MR. COLLINS: May it please the Court.

14 **CROSS EXAMINATION**

15 BY MR. COLLINS:

16 Q Was anybody with Daqwan when you arrested him?

17 A Yes, sir, there was.

18 Q Who was with him?

19 A It was a young lady by the name of -- the last name
20 Snowden, Channel Snowden.

21 THE COURT: Spell that name for me.

22 THE WITNESS: First name or last name, sir?

23 THE COURT: Both.

24 THE WITNESS: The first name is C-H-A-N-N-E-L,
25 and the last name is S-N-O-W-D-E-N.

1 A She was in the front seat of the vehicle, the front
2 passenger seat, and there was a Brian Campbell in
3 the rear passenger seat.

4 Q Brian Campbell had dreadlocks?

5 A At this time, sir, I couldn't tell you.

6 Q You don't remember?

7 A Not the dreadlocks, no. Are you talking long
8 dreads or are you talking twists?

9 Q Short ones.

10 A Short twists maybe, not dreads.

11 Q Similar to the hairstyle of Mr. Johnson at the same
12 time?

13 A Similar to his.

14 MR. COLLINS: No further questions.

15 THE COURT: Redirect, Solicitor?

16 MS. CAMPBELL: No, sir.

17 THE COURT: Thank you very much, Officer.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: You may step down.

20 (Witness leaves the witness stand.)

21 THE COURT: You may call your next witness.

22 MS. CAMPBELL: Your Honor, at this time we
23 would like to take up that matter that came up earlier.

24 THE COURT: All right. Well, our jury is
25 getting their exercise today. If you would step back to

1 your jury room momentarily, ladies and gentlemen. Thank
2 you very much.

3 (The jury retires to the jury room.)

4 THE COURT: I take it that matter is with
5 Mr. Lee?

6 MS. CAMPBELL: Yes, sir.

7 THE COURT: Mr. Lee, what is your client's --
8 is it Mr. Henderson?

9 MR. LEE: Yes, sir.

10 THE COURT: What is your client's position at
11 this time?

12 MR. LEE: He still does not wish to testify.
13 He intends to plead the Fifth if called to the stand.

14 THE COURT: Solicitor?

15 MS. CAMPBELL: May it please the Court, Your
16 Honor. I think pursuant to Thrift and Morris that
17 immunity, transactional immunity at least, can be
18 granted to him for purposes of his testimony today.

19 I'm not aware of any case law or anything out
20 there that says we wouldn't have the right to do that
21 and then proceed to put him on the stand. That would
22 effectively extinguish any Fifth Amendment rights he may
23 have.

24 I understand we aren't allowed to put him up
25 there just to invoke his Fifth Amendment rights. At

1 this point he wouldn't have one if he is free from
2 prosecution.

3 THE COURT: I don't understand where he fits
4 into this puzzle. Was he a codefendant?

5 MS. CAMPBELL: Can I give you some background?
6 No, sir, he is not a codefendant.

7 THE COURT: Explain it to me.

8 MS. CAMPBELL: He is merely a witness at the
9 scene. He made contact with or made contact by -- the
10 Columbia Police Department made contact with him. At
11 that point he was there the night of the shooting. He
12 witnessed the shooting. He said he saw three of the
13 shooters coming through.

14 He recognized one of them as the man he had
15 known for about nine years who he knew as G-man or
16 B-man, who would be the defendant. He was then shown a
17 photo lineup, and he identified Daqwan Johnson as one of
18 the shooters.

19 THE COURT: How is that incriminating?

20 MS. CAMPBELL: I don't think it is.

21 THE COURT: How is any of that testimonial?

22 MR. COLLINS: The Solicitor's Office notified
23 us that when they went to interview him regarding that
24 statement, he said that he made it up. That would be
25 giving false information to police, which he could be

1 charged for. He said that statement was not true; he
2 made it up.

3 THE COURT: It depends on what he says on the
4 stand. That's what we are arguing over, false
5 information to the police?

6 MR. LEE: That's one of them, Your Honor. I
7 still renew my previous objection. I have read both
8 cases, Morris and the other one, Thrift.

9 THE COURT: Morris and Thrift?

10 MR. LEE: Thrift, correct, Your Honor. Thrift
11 addresses the fact that transactional immunity is part
12 of use immunity. We agree with that. Transactional
13 immunity is what is called for under the South Carolina
14 Constitution for immunity. We get that, Your Honor.

15 Still neither of the cases address -- Morris,
16 I believe, is irrelevant to this case, that being
17 compelled. There is no issue here of that. This would
18 clearly be governmental compelling -- the government
19 compelling testimony from Mr. Henderson.

20 Neither of the cases address the issue of
21 federal immunity, Your Honor. I know this is not the
22 appropriate venue for it, but this government, this
23 agency, the Solicitor's Office here, does not have the
24 power to grant federal immunity with questions regarding
25 to gang activity, guns, drugs, any sort of

1 conspiratorial affiliation.

2 Any of those kinds of questions either asked
3 by the prosecution or the defense would likely have my
4 client self incriminate himself. This is the exact case
5 that the Federal Government just picked up a group of
6 people for the gang activity, for guns, for drugs. Any
7 type of questions that relate to those with my client
8 would be self incriminating himself. He has a right not
9 to do that.

10 Your Honor, I don't understand how I can in
11 good faith tell him and advise my client to: Give up
12 your Fifth Amendment right because this State has
13 offered you immunity from giving false information to
14 police when he is incriminating himself for much higher
15 penalties.

16 THE COURT: Are you going to ask him those
17 questions?

18 MS. CAMPBELL: No, sir. I don't think by the
19 rules that I can ask him those questions.

20 MR. LEE: My question -- I anticipated this
21 response. My question is what if the defense asks him
22 these questions? The defense is entitled to cross
23 examination.

24 I have informed my client, as of right now
25 before I know your ruling, Your Honor, I have advised

1 him to plead the Fifth to any questions regarding those
2 things if this Court compels him to testify based on the
3 immunity offered by the State.

4 I don't know how to approach it if the defense
5 cross examines him on those questions for bias or any
6 sort of questions that may help their case. I'm at a
7 loss, Your Honor.

8 I don't know how to prevent my client from
9 self incriminating himself because of some offer of
10 immunity for possibly a giving false information to
11 police charge or whatever charge on the State level when
12 he is incriminating himself or possibly incriminating
13 himself for much stiffer penalties.

14 THE COURT: I don't know what the defense is
15 going to ask either, Mr. Lee.

16 MR. LEE: It's still our position that he does
17 not want to testify. He wants to plead the Fifth. I
18 believe this is --

19 THE COURT: Did he give a written statement?

20 MS. CAMPBELL: Yes, sir, and he picked him out
21 of a photo lineup.

22 MR. LEE: And he has told them that -- he has
23 told law enforcement he recanted.

24 THE COURT: I don't think he has got any Fifth
25 Amendment rights. I think the State can call him as a

1 witness. If he says, I don't remember anything, they
2 can use the statement to refresh his memory. Did you
3 make that statement?

4 MR. LEE: We respect whatever your ruling is,
5 Your Honor.

6 MR. COLLINS: Your Honor?

7 THE COURT: Yes, sir.

8 MR. COLLINS: First off, two issues. One, we
9 need to have a Neil v. Biggers hearing. If he gets on
10 the stand and says he lied about it, I don't think that
11 identification should be allowed in because it's
12 obviously not reliable and shouldn't be presented to the
13 jury.

14 THE COURT: So it's the truth when a witness
15 say it's a lie, but it's not the truth when the witness
16 said he didn't lie? That's a jury issue. That's a
17 strict jury issue. I can't sit here and make a decision
18 about somebody that says, Well, I lied. Liars testify
19 all the time.

20 MR. COLLINS: Your Honor, I would also -- the
21 second issue we have is Rule 105, limited admissibility
22 with reference to State versus Bottoms, where the
23 prosecution seeks to admit prior inconsistent statements
24 as substantive evidence, which is actually the situation
25 here.

1 They are trying to get in a prior inconsistent
2 statement of an identification. They are going under
3 the ruse of impeachment; however, they are offering this
4 for substantive evidence in this case. I would direct
5 your attention --

6 THE COURT: Doesn't State versus Copeland back
7 in the '70s authorize that?

8 MR. COLLINS: State versus Bottoms in 1973
9 reversed the case for that exact reason.

10 THE COURT: Did it reverse Copeland?

11 MR. COLLINS: I'm not sure about that case,
12 but in Bottoms it was a young lady who was put on the
13 stand when they knew that she was going to recant on her
14 previous statements. The prosecution introduced those
15 previous statements, asked her about those previous
16 statements, and harped on them in closings.

17 Our Supreme Court of South Carolina reversed
18 the case for that reason saying that the prosecution
19 should not be allowed to introduce evidence under the
20 ruse of impeachment. They can't put a witness up just
21 to impeach her to introduce outside evidence.

22 It's a bit convoluted but I believe Rule 105
23 encompasses it. Rule 105 talks about what evidence is
24 admissible as to one party or for one purpose but not
25 admissible as to another party or for other purpose.

1 The Court upon request shall restrict the evidence to
2 its proper scope and instruct the jury accordingly.

3 In the notes it says this is concurrence with
4 State versus Baccus. State versus Baccus says that in
5 this type situation, the prosecution is not allowed to
6 do what they are attempting to do.

7 THE COURT: What is that cite on Bottoms?

8 MS. CAMPBELL: I am looking for it too.

9 MR. NEWTON: Your Honor, if I may, I can
10 approach with a printed copy. We have another one for
11 the State.

12 MS. CAMPBELL: That would be helpful. This is
13 a 1973 case.

14 MR. NEWTON: And it has been incorporated in
15 Rule 105, the current Rule 105.

16 (Pause.)

17 MS. CAMPBELL: Your Honor, we would be
18 proceeding under 613, which outlines exactly how and
19 when I am allowed to impeach a witness.

20 THE COURT: You said 613, Solicitor?

21 MS. CAMPBELL: Yes, Your Honor. Under 607 it
22 says the credibility of any witness may be attacked by
23 any party, including the party calling the witness.
24 Then under 613 it talks about the use of prior
25 statements.

1 THE COURT: In the notes to Rule 613 -- just a
2 minute. Let me look at Copeland real quick. Copeland
3 was a 1982 case out of Berkeley County. I think it
4 substantially changed the law quite frankly at that
5 time. Both Copeland and Bottoms were prior to the
6 codification of the rules of evidence, I believe. When
7 were the rules of evidence codified, the late '80s?

8 MS. CAMPBELL: I think so. I think the late
9 '80s or early '90s.

10 THE COURT: It's says: Heretofore, South
11 Carolina has followed the traditional rules of
12 testimony. An inconsistent statement is admissible only
13 to impeach the credibility of the witness. You have to
14 give a limited instruction in that regard.

15 Henceforth from today we will allow testimony
16 of prior inconsistent statements to be used as
17 substantive evidence when the declarant testifies at
18 trial and is subject to cross examination. That was the
19 case I was referring to as far as follow up to Baccus.

20 But if we look at Rule 613, one case it cites
21 is State versus Moses. Moses argued the trial court
22 erred in admitting statements made by a witness as a
23 prior inconsistent statement under Rule 613. The
24 defendant argues no foundation was made. The Court
25 erred in denied the defense motion to strike certain

1 testimony in that regard.

2 Rule 613 of our rules of evidence says that
3 extrinsic evidence of prior inconsistent statement by a
4 witness is not admissible unless the witness is advised
5 of the substance of the statement, the time and place it
6 was allegedly made, and the person to whom it was made
7 and is given the opportunity to explain or deny the
8 statement.

9 If the witness does not admit he had made the
10 prior inconsistent statement, extrinsic evidence of such
11 statement is admissible; however, if the witness admits
12 to making the prior statement, extrinsic evidence the
13 prior statement is made is inadmissible.

14 A prior inconsistent statement may be admitted
15 as substantive evidence when the declarant testifies at
16 trial and is subject to cross examination, State versus
17 Stokes, a 2009 case. Our Court requires a foundation
18 before admitting a prior inconsistent statement.

19 Of course, both Bottoms and Copeland were
20 prior to the rules of evidence. From where I understand
21 Mr. Henderson fits in, as far as eyewitness testimony,
22 that's not incriminating. The Fifth Amendment protects
23 someone from testimony that may incriminate himself or
24 herself.

25 So I would rule that he has no Fifth Amendment

1 right not to testify to non-incriminating facts that he
2 may know. He cannot take the Fifth Amendment on
3 something that is non-incriminating. She can give
4 transactional immunity if it is a failure to -- a false
5 report to the police.

6 MR. LEE: Your Honor, everything that
7 transactional immunity -- just so I can explain it to my
8 client.

9 THE COURT: Sure.

10 MR. LEE: -- I am going to assume it is going
11 to be -- you are saying he has no Fifth Amendment right
12 as to questions that are not self incriminating, other
13 than the stuff she is giving him transactional immunity
14 for.

15 If she asks -- if she were to ask,
16 hypothetically, if she were to ask something about prior
17 drug use or prior gang activity, he can then plead the
18 Fifth? That would be incriminating; correct?

19 MS. CAMPBELL: Correct.

20 THE COURT: I think that would be
21 incriminating as to --

22 MR. LEE: As to something else, not pertaining
23 to what he has got immunity for. Give me two minutes to
24 advise my client, and we will be ready to go.

25 MS. CAMPBELL: Before he leaves, if we can

1 clear up his prior record.

2 THE COURT: Let me give Mr. Collins an
3 opportunity to respond.

4 MR. COLLINS: Our position would be that we
5 are seeking -- if Ms. Campbell plans on reading the
6 prior statement --

7 THE COURT: I think you have got to lay the
8 foundation. I think in South Carolina she has to lay
9 the foundation.

10 MR. COLLINS: My next issue would be we would
11 request a hearing under Neil v. Biggers. Potentially he
12 could do an in-court identification. I don't think he
13 is, but I think we are afforded the right to have that
14 hearing.

15 THE COURT: Is he going to do an in-court
16 identification?

17 MS. CAMPBELL: We have no idea what he's going
18 to do, Your Honor. We are hoping -- he knows G-man.

19 THE COURT: That's true. You don't know. it's
20 hard to predict what Mr. Henderson may do.

21 MS. CAMPBELL: We would be glad to have a
22 hearing. We call Sergeant Thomas for the hearing.

23 THE COURT: Let's let Mr. Lee go talk to his
24 client. I will give you about ten minutes. Court will
25 be in recess about ten minutes.

1 (Whereupon there is a recess.)

2 THE COURT: Yes, ma'am.

3 MS. CAMPBELL: Your Honor, as far as his prior
4 record, I don't know if we could settle that.

5 THE COURT: Certainly.

6 MS. CAMPBELL: I have got from 2005, assault
7 and battery of a high and aggravated nature. From 2008,
8 a burglary in the second degree conviction. From 2010,
9 a forgery conviction. This last one looks like a
10 probation violation. Do you agree with that?

11 He does have pending in our office, Your
12 Honor, which I think they are allowed to get into,
13 burglary in the first, receiving stolen goods, burglary
14 in the second degree, and burglary in the second degree.

15 THE COURT: All right.

16 (Attorneys confer.)

17 THE COURT: Where is Mr. Henderson?

18 MS. CAMPBELL: He is coming. His lawyer just
19 walked in the courtroom. So now we can go down and get
20 him.

21 (Pause.)

22 MS. CAMPBELL: Can we take up another matter?

23 THE COURT: Yes, ma'am.

24 MS. CAMPBELL: We are getting ready to get
25 into the investigation of the case. There are some

1 third-party guilt issues in the case. There were two --
2 and we have conceded, and, of course, it has come to
3 Your Honor's attention -- there was a man named Thomas
4 O.B. Williams who was initially charged in this case and
5 never served with a warrant.

6 Then he was excluded as being one of the
7 persons that participated in this case during the course
8 of the investigation. We know they get to have the
9 right to go into that fully. We concede that because of
10 the closeness.

11 However, there are two other witnesses that
12 were interviewed in the case that claimed to have
13 information, a Sharnice Reese, who claimed to be out
14 there that night, and gave some names of Noonie Dean,
15 Raheme Bethel, and Whoop. Your Honor, we would think
16 that would be excluded under third-party guilt.

17 In addition to that, there is a Kapunda
18 Bannister, who gave a statement, an oral statement,
19 implicating a guy named Bean as being a shooter that
20 night. We think that would be excluded under
21 third-party guilt.

22 I do not know or have any idea whether or not
23 he intends to try to get into that, but I would just
24 bring that to the Court's attention that we would be
25 seeking to exclude that under State versus Cope and the

1 progeny.

2 MR. COLLINS: Your Honor, my understanding of
3 third-party guilt is if we are trying to introduce
4 evidence of third-party guilt, I believe I can cross
5 examine the investigator about the integrity of the
6 investigation and the leads he followed up on. I don't
7 believe third-party guilt applies to that.

8 MS. CAMPBELL: Respectfully, Your Honor, I
9 don't know any other reason he would go into that, the
10 investigation. Admittedly, he has a right to go into
11 the fact that they actually got a warrant on Thomas O.B.
12 Williams in this case.

13 However, just these assertions, which they
14 then investigated and just throwing out names -- and the
15 only reason I am bringing this up is because I have
16 noticed they have thrown in some questions about those
17 at different times.

18 THE COURT: You don't have to tell me your
19 strategy, Mr. Collins, if you don't want to. Maybe this
20 is not a strategy question, but how do you propose to
21 ask the question: Did you receive information on
22 witness X.? Did you follow up on that information? Is
23 that the point you are making?

24 MR. COLLINS: Quite possibly. I think that is
25 the proper way to get into it if you are attacking the

1 credibility and the integrity of the investigation. We
2 are not offering it for the truth of the matter and we
3 are not offering anything into evidence.

4 I am simply cross examining the investigator,
5 the lead investigator, on this homicide and asking him
6 about the information he received during the
7 investigation.

8 THE COURT: There is always that thin line
9 between hearsay, the integrity of the investigation, and
10 third-party guilt. I think you can ask questions in the
11 proper form about the follow-up that the officer did on
12 the information that they received from a particular
13 witness.

14 I don't think you can publish the witness'
15 statement, so to speak, through your cross examination.
16 In other words, I think the solicitor can publish
17 perhaps the next's witness' statement. That's the only
18 point I am making. It depends on the form of the
19 question and if there is a proper objection at that
20 time.

21 MS. CAMPBELL: Yes, Your Honor. The only
22 other quick thing I would like to bring up is the
23 defendant in this case did give a self-serving
24 statement. We are not going into it, and we would
25 admonish the defense that we consider it self-serving,

1 and we are not going to mention it in any way.

2 MR. COLLINS: Your Honor, we may have a
3 different take on it because I believe that also goes
4 into the integrity of the investigation, if the
5 defendant gave him information and he didn't follow up
6 on it. If he didn't even read the statement, I think I
7 should be allowed --

8 THE COURT: You can ask him if he gave him a
9 statement, but you can't ask him what the statement
10 was.

11 MR. COLLINS: Your Honor, I understand that.
12 I plan on focusing on the actions of the investigator,
13 not the content of the statement.

14 THE COURT: That depends on the form of the
15 question also. Self-serving statements are not
16 admissible.

17 MS. CAMPBELL: Thank you. Your Honor, may I
18 approach with the stipulation we have agreed to, but I'm
19 not sure. I would just put on the record that
20 Mr. Collins did approach me at the break and did admit
21 that I had given him the information about Mr. Williams
22 being in the C.O.D.I.S. earlier today. He just had
23 forgotten and co-counsel reminded him.

24 THE COURT: All right. I see Mr. Henderson
25 present in the courtroom. Mr. Lee?

1 MR. LEE: Yes, sir, we are prepared to go.

2 THE COURT: Solicitor?

3 MS. CAMPBELL: May I call Sergeant Thomas?

4 THE COURT: And you are going to call him
5 for?

6 MS. CAMPBELL: It's for the showing of the
7 lineup.

8 THE COURT: You can. Does he have to be
9 sequestered, Mr. Henderson, while Sergeant Thomas
10 testifies?

11 MS. CAMPBELL: Would you like me to call him
12 first?

13 THE COURT: No, you don't have to call him
14 first. They just need to put him in the -- wherever
15 they put him through that door.

16 MR. COLLINS: Your Honor, I think it was our
17 motion. We would ask that Rontrell be called first, but
18 he is already out of the courtroom. That's fine to go
19 with Investigator Thomas.

20 MS. CAMPBELL: The State calls Sergeant
21 Thomas.

22 ARTHUR L. THOMAS, being
23 first duly sworn, testifies as follows:

24 CLERK: State your name for the record.

25 THE WITNESS: Arthur L. Thomas.

ARTHUR THOMAS -- IN CAMERA DIRECT -- MS. CAMPBELL 685

IN CAMERA DIRECT EXAMINATION

BY MS. CAMPBELL:

Q Sergeant Thomas, where are you employed?

A The City of Columbia Police Department.

Q What do you do there, sir?

A I am the supervisor over the special victims' unit.

Q I will turn your attention back to June of 2010.

Did you become involved in the investigation of the Gable Oaks murder case?

A Yes, I did.

Q And during the course of your investigation, did you get information that led you to a Rontrell Henderson?

A Yes, I did.

Q Where did you make contact with Mr. Henderson?

A Mr. Henderson, at the police department, there was a CrimeStoppers tip indicating that he may have knowledge of the shooting. We located him, brought him to the police department where we then interviewed him in reference to the CrimeStoppers tip.

Q That would have been on what date? Do you remember?

A I don't have my notes. I'm sorry -- on 6/24/2010.

Q Once you brought him to headquarters, was he able

ARTHUR THOMAS -- IN CAMERA DIRECT -- MS. CAMPBELL 686

- 1 to give you certain information?
- 2 A Yes.
- 3 Q And specifically what was his role as he described
- 4 it to you?
- 5 A He was merely a bystander, a witness to the actual
- 6 shooting incident itself, whereas he recognized
- 7 three bodies and identified one of the shooters.
- 8 Q One of the shooters, did he indicate to you whether
- 9 or not he had known him for any length of time?
- 10 A An extended period of time. I can't remember
- 11 specifically, but it was about eight or nine years
- 12 or so.
- 13 Q During the course of that, did you then develop a
- 14 photographic lineup based on the information that
- 15 he was able to give you?
- 16 A I did.
- 17 Q Did he know him by his real name or by a nickname?
- 18 A This street name used was G-man.
- 19 Q Did he have an alternate street name that he used
- 20 sometimes?
- 21 A Sometimes B-man was used.
- 22 Q And were you able to develop a lineup or have one
- 23 developed in this case?
- 24 A Yes, I was.
- 25 Q I will show you what I haven't yet marked. Let me

ARTHUR THOMAS -- IN CAMERA DIRECT -- MS. CAMPBELL 687

1 mark it and this one also.

2 (State's Exhibit Number 153-154 are marked for
3 identification).

4 BY MS. CAMPBELL:

5 Q I show you what has been marked as State's Exhibit
6 Number 153. Do you recognize that?

7 A Yes, this is the photo lineup I generated.

8 Q Tell the judge exactly what measures you took in
9 showing him that photo lineup?

10 A Once he advised that he knew G-man and knew him for
11 a period of time, we already had lineups generated
12 with six photos. One included Mr. Johnson, which
13 was known as G-man out on the streets.

14 What I did was when I came in the interview
15 room, I turned the photo lineup upside-down, slid
16 it to him. I asked him to turn the paper over,
17 observe the six photos, and if he saw anyone in the
18 photo that he believed was G-man, to identify him.

19 He did so and he identified photo number four,
20 which is Daqwan Johnson, which is the defendant, as
21 the person he knows as G-man. That's the person he
22 saw do the shooting out in Gable Oaks Apartments.

23 Q That information he had related to you prior to you
24 showing the lineup?

25 A That's correct.

ARTHUR THOMAS -- IN CAMERA DIRECT -- MS. CAMPBELL 688

- 1 Q When you showed him the lineup, did you influence
2 him in any way.
- 3 A No, I did not.
- 4 Q Did you tell him who to pick?
- 5 A No, I did not.
- 6 Q Did you do anything that would influence him in who
7 he recognized in that lineup?
- 8 A No, I did not.
- 9 Q Did you tell him he had to pick out anyone?
- 10 A No, I did not.
- 11 Q In fact, when he looked at the six photos that you
12 presented to him, approximately how long was it
13 before he indicated?
- 14 A It didn't take him long at all. He went directly
15 to number four, pointed him out, and said, "That's
16 G-man."
- 17 Q Who is the person in number four?
- 18 A Number four is Daqwan Johnson, the defendant.
- 19 Q I want to show you State's Exhibit Number 154.
20 After he identified the person, did you then fill
21 out that form?
- 22 A Yes, I did.
- 23 Q Did he acknowledge that is who he recognized on
24 that form?
- 25 A Yes, he did.

ARTHUR THOMAS -- IN CAMERA CROSS -- MR. COLLINS 689

1 Q Is that his signature?

2 A Yes, it is.

3 Q At any time when you were with him, did you give
4 him any information or try to influence him in any
5 way to make him pick anybody?

6 A No, I did not.

7 Q This was the information he came to you with?

8 A That is correct. He initially came from a
9 CrimeStopper's tip, which included his name as a
10 possible witness to locate.

11 Q And did he also give you a written statement that
12 day?

13 A Yes, he did.

14 Q Thank you.

15 MS. CAMPBELL: I don't have anything further.

16 THE COURT: Mr. Collins?

17 MR. COLLINS: Thank you, Your Honor.

18 **IN CAMERA CROSS EXAMINATION**

19 BY MR. COLLINS:

20 Q The CrimeStoppers tip report actually said he was
21 one of the shooters; didn't it?

22 A I would have to look at it to be specific on it.

23 Q You didn't bring your notes with you?

24 A No, I did not. If you show it to me, I will let
25 you know.

ARTHUR THOMAS -- IN CAMERA CROSS -- MR. COLLINS 690

1 MR. COLLINS: If I may have this marked.

2 (Defendant's Exhibit Number 4 is marked for
3 identification).

4 BY MR. COLLINS:

5 Q Do you recognize this?

6 A Okay.

7 Q The CrimeStopper tip says he was involved in the
8 shooting; correct?

9 A (Pause.) It said he was among four of the guys,
10 yes.

11 Q That he was involved in the shooting; right? And
12 that he was part of the Folk Nation gang?

13 A Right. It says G-man and Rontrell are Folk Nation
14 gang members.

15 Q And how did you make contact with Rontrell?

16 A Again, I can't recall specifically. I believe we
17 located him and then interviewed him, had him come
18 to headquarters.

19 Q Did you detain him?

20 A No.

21 Q Did you detain him?

22 A No, we located him and then we interviewed him. We
23 didn't detain him. He was not under arrest when he
24 was interviewed, no.

25 Q How was he transported from wherever you located

ARTHUR THOMAS -- IN CAMERA CROSS -- MR. COLLINS 691

1 him to the headquarters?

2 A To be honest I can't recall.

3 Q Did he walk? Did he drive?

4 A I can't recall specifically, but he came to
5 headquarters and was interviewed. He was not
6 arrested. He was not detained at the time.

7 Q Did he turn himself in or did somebody from the
8 City Police Department give him a ride?

9 A To be honest with you, we made contact with him.
10 It may have been at the [REDACTED] address, but he
11 came in voluntarily and spoke with us, yes.

12 Q I'm sorry. I was --

13 A I can't tell you how he was transported because I
14 can't recall.

15 Q You don't know if he turned himself in?

16 A I cannot recall how he came in.

17 Q Do you recall what kind of room you talked to him
18 in?

19 A Standard interview room, one of three that we had
20 at that time.

21 Q No windows?

22 A No windows.

23 Q It was you and Kevin Reese in there; right?

24 A That is correct.

25 Q You recorded this?

ARTHUR THOMAS -- IN CAMERA CROSS -- MR. COLLINS 692

1 A I can't recall recording him because he wasn't a
2 suspect at the time, but he gave me a written
3 statement.

4 Q The CrimeStopper tip report said he was involved in
5 the shooting; right?

6 A Okay.

7 Q So you didn't record any of this?

8 A No, I did not.

9 Q No audio? No video?

10 A I have already stated that.

11 Q Do you recall how long you talked to him?

12 A No, I cannot recall how long. He gave a very brief
13 statement. He did a very quick I.D. So I would
14 imagine 45 minutes to an hour, tops.

15 Q You would imagine that. Okay.

16 MR. COLLINS: I don't have anymore questions
17 of this witness.

18 THE COURT: Redirect?

19 MS. CAMPBELL: No, sir.

20 THE COURT: Thank you very much, Officer. You
21 may step down.

22 THE WITNESS: Thank you, Your Honor.

23 (Witness leaves the witness stand.)

24 THE COURT: Solicitor?

25 MS. CAMPBELL: Your Honor, at this time we

693
RONTRELL HENDERSON -- IN CAMERA DIRECT -- MS. CAMPBELL

1 call Rontrell Henderson.

2 RONTRELL HENDERSON, being
3 first duly sworn, testifies as follows:

4 CLERK: State your name for the record,
5 please.

6 THE WITNESS: My name is Rontrell Henderson.

7 IN CAMERA DIRECT EXAMINATION

8 BY MS. CAMPBELL:

9 Q Mr. Henderson, how old are you?

10 A I'm 22.

11 Q Do you know Daqwan Johnson or G-man? Do you know
12 him?

13 A No.

14 Q You don't know Daqwan Johnson?

15 A (Witness shakes head.) (Indicating negative
16 response.)

17 Q Do you know a guy named G-man?

18 A No.

19 Q Do you remember meeting with the police back on
20 June 24, 2010?

21 A Yes, I do.

22 Q Do you remember them showing you some pictures that
23 day?

24 A Yes, I do.

25 Q I will show you what has been marked as State's

694
RONTRELL HENDERSON -- IN CAMERA DIRECT -- MS. CAMPBELL

- 1 Exhibit 153. Do you recognize that?
- 2 A Yeah.
- 3 Q And are those your initials on the side?
- 4 A Yeah.
- 5 Q Are those your initials? I'm sorry. I didn't hear
- 6 you.
- 7 A Yeah.
- 8 Q And I believe that's the date too as well; isn't
- 9 it?
- 10 A Yeah.
- 11 Q Do you remember circling that picture?
- 12 A Yeah.
- 13 Q I show you State's Exhibit Number 154. Do you
- 14 recognize the signature on that page?
- 15 A Yeah.
- 16 Q Whose signature is that?
- 17 A That's my signature.
- 18 Q And do you remember telling the police that you
- 19 recognized number four as G-man as reflected right
- 20 here on this piece of paper?
- 21 A Yes, I do but I was lying about the situation.
- 22 Q Okay. But they didn't -- what did they say to you
- 23 when they showed you the pictures, even though you
- 24 were lying about the situation?
- 25 A They asked me did I know him. They asked me did I

695
RONTRELL HENDERSON -- IN CAMERA CROSS -- MR. COLLINS

1 know him. You know what I'm saying? I tell them,
2 you know what I'm saying, but I was lying the whole
3 time.

4 Q Do you remember telling them you had known him for
5 nine years?

6 A Huh?

7 Q Do you remember telling them you had known for nine
8 years?

9 A Yeah, I was lying about that too.

10 Q Lying about that too. Are you in a gang?

11 A I plead the Fifth.

12 Q Okay. But you did pick him out that day?

13 A Yeah, I was lying.

14 Q Got it.

15 MS. CAMPBELL: That's all I have, Your Honor.

16 MR. COLLINS: May it please the Court.

17 IN CAMERA CROSS EXAMINATION

18 BY MR. COLLINS:

19 Q So you didn't see G-man out there the night of that
20 shooting?

21 A No, I was lying. I lied about the whole thing.

22 Q I want to take you back to when the investigators
23 picked you up back in 2010. They came and arrested
24 you at your house; didn't they?

25 A Yes.

RONTRELL HENDERSON -- IN CAMERA CROSS -- MR. COLLINS⁶⁹⁶

- 1 Q They arrested you on a bench warrant?
- 2 A Yeah, they arrested me on a probation violation.
- 3 Well, they was trying to charge me with the murder.
- 4 Q Did they tell you that?
- 5 A Yeah, they was on some, like: Well, I know you
- 6 know something about it. If you don't basically
- 7 give up the information, I will charge you with
- 8 this murder.
- 9 Q Investigator Thomas told you that or Investigator
- 10 Reese?
- 11 A It was another investigator. See, they wasn't even
- 12 at the house. It was another investigator that
- 13 came to the house.
- 14 Q Okay. Did they put you in handcuffs?
- 15 A Yes.
- 16 Q Did they take you to headquarters?
- 17 A Yes..
- 18 Q Were you still handcuffed there at headquarters?
- 19 A Yes.
- 20 Q You didn't go there because you wanted to go there;
- 21 did you?
- 22 A No.
- 23 Q Did you feel like you could leave at any point in
- 24 time?
- 25 A No.

RONTRELL HENDERSON -- IN CAMERA CROSS -- MR. COLLINS⁶⁹⁷

1 Q Did you feel like you were going to get charged
2 with murder unless you told them something?

3 A Yes.

4 Q Did you just pick a picture off that lineup so you
5 could get out of that situation?

6 A Yes.

7 MR. COLLINS: I don't have anymore questions,
8 Your Honor.

9 THE COURT: Anything further, Solicitor?

10 MS. CAMPBELL: No, sir.

11 THE COURT: He is back in the custody of the
12 sheriff.

13 You may step down, Mr. Henderson.

14 (Witness leaves the witness stand.)

15 THE COURT: Solicitor.

16 MS. CAMPBELL: Your Honor, as far as the
17 testimony before you today, he says he lied, but he did
18 not say that -- he admitted to actually picking him out
19 and showing it to the police. He didn't contradict
20 anything Sergeant Thomas said about how it was
21 presented.

22 THE COURT: Thank you. Mr. Collins?

23 MR. COLLINS: Your Honor, based on the
24 testimony about how this identification was made, I
25 think it's egregious for Investigator Thomas to say that

1 he wasn't under arrest when, in fact, he was arrested on
2 a bench warrant.

3 I think eventually we would like to call
4 Investigator Pegram who was the person who served the
5 probation bench warrant on him and detained him. When
6 Investigator Thomas testified to it, it could possibly
7 be false information or at least questionable.

8 THE COURT: If you want to call a witness, I
9 would be glad to hear from them.

10 MR. COLLINS: Investigator Pegram, we have a
11 report in discovery where he arrested Mr. Henderson on a
12 probation violation bench warrant. So he was in
13 custody, which is contradictory to what Investigator
14 Thomas just testified to.

15 Be that as it may, I think the testimony of
16 Mr. Henderson shows that this was a very suggestive type
17 lineup. They put him in a situation where they
18 threatened to charge him with murder unless he gave them
19 some type of information.

20 I don't think there is any way in the world
21 that this identification should be submitted to the
22 jury. I don't think it meets the factors of Biggers of
23 being a reliable identification or being non-suggestive.
24 You can't be anymore suggestive than to threaten to
25 charge someone with murder.

1 That being said, Your Honor, I think the way
2 he has testified, he remembered making the statement,
3 that he lied, and that he remembered everything that he
4 did.

5 The prosecution cannot get into extrinsic
6 evidence about that statement. Without the extrinsic
7 evidence about what is in his statement, there is
8 absolutely no reason to put him on the stand, other than
9 to confuse the jury.

10 THE COURT: Thank you. Again, going back to
11 Neil v. Biggers, there's that's two-prong inquiry to
12 determine whether due process requires suppression of
13 eyewitness identification. The Court looks at it on a
14 case-by-case basis, whether the identification resulted
15 from unnecessary or unduly suggestive police procedures.

16 The only police procedures that have been
17 testified to before me are that he was at the Columbia
18 Police Department. He, the witness, was placed in a
19 standard interview room with one officer, Sergeant
20 Thomas. Sergeant Thomas says, I don't know how he got
21 there. He didn't know if he walked or rode.

22 He said he gave him the statement that was all
23 based on the Crimestoppers tip. That statement was that
24 he had seen three bodies and identified -- knew one of
25 those three bodies and had known him for a period of

1 time.

2 Would someone please hand me State's Exhibit
3 Number 153 for identification and State's Exhibit Number
4 154.

5 MS. CAMPBELL: I apologize, Your Honor.

6 (Hands to Court.)

7 THE COURT: Thank you. The officer testified
8 that he handed -- State's 153 was placed on the table,
9 upside-down, slid it over to the witness, Mr. Henderson,
10 because Mr. Henderson had said one of three bodies he
11 recognized was an individual he knew as G-man.

12 The officer did not direct him, according to
13 his testimony, to pick out any particular individual,
14 did not unduly influence him in any manner. The witness
15 then circled, according to his testimony, number four.
16 The date was 6/24/10 at 2:05 P.M. The officer testifies
17 this process took, he estimated, about 45 minutes.

18 Then there is State's 154 that indicates on
19 this same date, 6/24/10, he was shown six pictures. He,
20 Mr. Henderson, was shown six picture at Number 1 Justice
21 Square, and he picked out picture number four; identity
22 photo, Six-man, G-man, or B-man, which is the person who
23 committed the crime of murder of G-50; date of the
24 incident, 6/19/10. It was signed by a Rontrell
25 Henderson. There is an address and a phone number on

1 154.

2 I do not think that involves suggestive police
3 procedures. There was only five days of time between
4 the crime and the confrontation. The officer testified
5 it was a quick identification, which indicates a level
6 of certainty demonstrated by the witness at the
7 confrontation. With that being said, I do not think it
8 is inadmissible under Neil versus Biggers.

9 Any other issues, Mr. Collins?

10 MR. COLLINS: Going back to the point I made
11 at the end of Biggers, given the testimony Mr. Henderson
12 gave in this hearing, he admits he made the prior
13 statement; and the foundation was set where there is no
14 admissible, extrinsic evidence about that statement.
15 Without the extrinsic evidence about the details of that
16 statement, there is nothing relevant for his testimony
17 here today.

18 THE COURT: It depends on how the question is
19 asked in front of the jury.

20 MR. COLLINS: Your Honor, it would be our
21 position that the State shouldn't be allowed to get into
22 any details of his statement or the photo lineup because
23 that would be extrinsic evidence.

24 THE COURT: The State has got the right to
25 call the witness under Neil v. Biggers, and I don't know

1 of any other rule -- unless you direct me to it -- that
2 says that I can prohibit the State from calling a
3 witness. I don't know what rule to apply.

4 Rule 607 says the credibility of a witness may
5 be attacked by any party, including the party calling
6 the witness. So I don't know how to tell the State, You
7 can't call that witness.

8 MR. COLLINS: I guess we will deal with it
9 during the testimony.

10 THE COURT: If you object to the form of the
11 question or the manner in which the question is, I think
12 you can certainly do so. My ruling just went to Neil v.
13 Biggers.

14 MR. COLLINS: Just for the record so it's
15 clear, in that written statement the initial description
16 that he gave of the three men were wearing black and had
17 masks on.

18 THE COURT: Nobody has shown me a statement.
19 I have ruled and nobody has yet told me -- all I have
20 heard is this testimony here. Nobody has handed me up
21 Mr. Henderson's statement for me to consider that in my
22 ruling. I'm not fussing at you, Mr. Collins. I don't
23 mean it like that. I'm not clairvoyant.

24 MR. COLLINS: I apologize. I thought you had
25 a copy of the statement up there. You mentioned two

KEVIN REESE -- DIRECT -- MS. CAMPBELL

703

1 different numbers.

2 THE COURT: No, I was just talking about the
3 photo lineup and the confirmation signature of
4 Mr. Henderson. I haven't seen his statement. The only
5 thing I know about it is he gave one, and it was short.

6 MR. COLLINS: I apologize.

7 THE COURT: I just don't have it. Are we
8 ready for our jury?

9 MS. CAMPBELL: Yes, Your Honor.

10 (The jury returns to the courtroom.)

11 THE COURT: Welcome back, ladies and
12 gentlemen. Thank you again for your patience with the
13 Court. We are continuing the trial of the case by the
14 presentation of evidence and testimony by the State in
15 its case in chief.

16 Solicitor, you may call your next witness.

17 MS. CAMPBELL: Your Honor, at this time we
18 would call Sergeant Kevin Reese.

19 KEVIN REESE, being
20 first duly sworn, testifies as follows:

21 CLERK: State your name for the record.

22 THE WITNESS: Kevin Reese.

23 DIRECT EXAMINATION

24 BY MS. CAMPBELL:

25 Q Sergeant Reese, where are you employed?

- 1 A Columbia Police Department.
- 2 Q What do you do there, sir?
- 3 A I supervise the B-cap unit and violent crimes
- 4 against persons --
- 5 Q Let me back this up just a second.
- 6 A I supervise a team of investigators. We are
- 7 charged with investigating homicides and violent
- 8 crimes.
- 9 Q And back in 2010, the summer of 2010, what did your
- 10 duties include?
- 11 A I was an investigator with that unit.
- 12 Q And in this case specifically, did you assist
- 13 anyone in the investigation of certain parts of
- 14 this case?
- 15 A I did.
- 16 Q Who were you assisting?
- 17 A The officer back at that time, Sergeant Thomas, was
- 18 an investigator, and I was assisting him with this
- 19 case.
- 20 Q Were there other events going on that also demanded
- 21 some of your attention?
- 22 A Yes, there was.
- 23 Q What kind of events were going on?
- 24 A There was another homicide that was going on.
- 25 Q On June 19th, the date and the evening this

KEVIN REESE -- DIRECT -- MS. CAMPBELL

705

1 happened, did you become aware that there had been
2 a murder at the Gable Oaks apartment complex?

3 A At some point I did. On June the 19th, I was out
4 of town at a school. When I got back into town, as
5 a matter of fact, the other homicide happened after
6 this one. But when I got back, I started helping
7 Investigator Thomas. We are partners.

8 Q Specifically on June 21st, I believe is the first
9 time you had any real involvement in this case?

10 A Yes. The 21st?

11 Q Yes.

12 A That is correct.

13 Q That date did you and Investigator -- now Sergeant
14 Thomas -- go to the Gable Oaks apartment complex?

15 A Yes, we did.

16 Q What was the purpose for y'all going there that
17 day?

18 A We went there to review -- see whether or not there
19 was a video because we know Gable Oaks has video
20 cameras.

21 Q And while you were there, did you meet with
22 management?

23 A We did.

24 Q I believe you testified earlier. Were you able to
25 view any video while you were there that day?

- 1 A I believe we did. I know at some point we got to
2 see it. I don't recall whether he was able to
3 bring it up that day or not, but at some point we
4 know it existed.
- 5 Q Moving your attention to two days later, on
6 June 23, 2010, did you become aware of a shooting
7 that occurred at Studio 54 located in the County?
- 8 A Yes, we did.
- 9 Q And did y'all make contact with investigators from
10 Richland County about that shooting in conjunction
11 with your murder at Gable Oaks?
- 12 A We met with them. That's right.
- 13 Q And at that point was there certain information
14 about an automobile that was involved in this case
15 that was becoming significant in your
16 investigation?
- 17 A Yes, it was.
- 18 Q And what automobile was that?
- 19 A It was a gray Buick.
- 20 Q That day, without saying what the information was,
21 did you receive certain information and were able
22 to locate the Buick that ultimately became involved
23 in this case?
- 24 A Yes, we did.
- 25 Q And over the course of the next several days, did

KEVIN REESE -- DIRECT -- MS. CAMPBELL

707

1 you assist in interviewing people in this case?

2 A Yes, ma'am.

3 Q Specifically, I want to ask you -- because Sergeant
4 Thomas is the lead investigator in this case?

5 A That's right.

6 Q Just by virtue of the fact that someone has to be.
7 In this case were there specific phone numbers that
8 y'all felt were necessary to get some phone records
9 on?

10 A Yes.

11 Q I am going to show you what is marked as State's
12 Exhibit Number 140, 139, and 141.

13 A Okay.

14 Q The phone numbers that y'all requested from, I
15 believe, two different companies. Were those phone
16 numbers that were associated with certain people in
17 this investigation?

18 MR. NEWTON: Objection, Your Honor. I believe
19 we have a matter of law to take up.

20 THE COURT: Step up here to the bench.

21 (Whereupon there was a bench conference off
22 the record in the presence of the jury but out of the
23 hearing of the jury.).

24 THE COURT: Step out, please. Step out,
25 please, ladies and gentlemen of the jury.

1 (The jury retires to the jury room.)

2 THE COURT: What is your objection,
3 Mr. Newton?

4 MR. NEWTON: Your Honor, first off, based on
5 the testimony we are hearing right now, phone records
6 were compiled by the State, either through the
7 Solicitor's Office or through this investigator in 2010.
8 We have been informed numerous times that no phone
9 records were requested until 2012. So that's the first
10 problem we are having.

11 THE COURT: So you object -- let me make sure
12 I am tracking -- the first objection is the Solicitor's
13 Office did not request phone records until 2011?

14 MR. NEWTON: Your Honor, that is not what I
15 said, Your Honor.

16 THE COURT: That's what you said. You can
17 restate it if you want --

18 MR. NEWTON: No, Your Honor.

19 THE COURT: Don't interrupt. Tell me your
20 first objection.

21 MR. NEWTON: The State, either through the
22 Solicitor's Office or by this investigator or Richland
23 County -- that was my first beginning, Your Honor -- has
24 told us repeatedly that they did not request phone
25 records until 2012.

1 Now, the way this testimony was going, it
2 sounded like and it was being projected by this
3 investigator that they compiled phone records as early
4 as 2010 when this case began. That is what we are
5 concerned about. We were told repeatedly about this,
6 and we were not given phone records until 2012.

7 THE COURT: So your first objection is that
8 either the Solicitor's Office, the Columbia Police
9 Department, or the Richland County Sheriff's Department
10 told you that they did not request records until 2012?

11 MR. NEWTON: That was what they told us, yes,
12 Your Honor.

13 THE COURT: So that's your objection?

14 MR. NEWTON: Yes.

15 THE COURT: Your first objection?

16 MR. NEWTON: Yes, sir.

17 THE COURT: What is your second objection?

18 MR. NEWTON: Your Honor, I would ask --
19 because this is something that would be more clearly
20 made by Mr. Collins -- who brought this matter to your
21 attention.

22 THE COURT: You objected.

23 MR. NEWTON: I did object, Your Honor.

24 THE COURT: I would be glad to hear from you,
25 Mr. Collins.

1 MR. COLLINS: Thank you, Your Honor. The
2 reason for this is I have had this case longer than
3 Mr. Newton. He joined it recently in May. I believe
4 where the solicitor is trying to head with this and to
5 introduce these phone records, I believe it was stated
6 that he requested them back in 2010.

7 If they are seeking to introduce these phone
8 records based on information given to them by other
9 people about who these numbers belonged to, we want to
10 object to that and state the reasons outside the
11 presence of the jury.

12 Because that would be based on hearsay because
13 that information is being offered for the truth of the
14 matter to authenticate the phone records and make them
15 part of the case. They had witnesses that were called
16 that they did not ask about whose phone numbers belonged
17 to who.

18 THE COURT: That's because y'all objected. I
19 told you, you can't prove everything on a pin point.
20 That was the point I was making then. You didn't want
21 them to go into it, and I ruled in your favor at that
22 time. Be that as it may, so it's hearsay for the second
23 reason?

24 MR. COLLINS: There is more than one number
25 requested for the phone records here. There is one

1 that is Mia Johnson's, but they also have Marquez -- a
2 number they attribute to Marquez Prophet, who they
3 called as a witness and didn't ask him anything about
4 phone records.

5 They also have Terrance Patterson, a number
6 they attribute to him, and they want to connect that
7 with all these different numbers. They are seeking to
8 introduce these phone records through this investigator.

9 The only thing that could authenticate those
10 numbers is hearsay, which you would have to depend on
11 the truth of that matter to authenticate those records.
12 So we would object to any of those records being
13 admitted through this witness.

14 THE COURT: I read this federal case one time
15 where there was a massive plane crash. They had all
16 these transcripts of the radio transmissions of the
17 tower, the air traffic control, the pilot, and emergency
18 services. So the Court put all the witnesses up at the
19 same time, nine witnesses at the same time.

20 They would ask this witness and that witness
21 so they would know simultaneously what was occurring
22 during this period of time. So you want -- it doesn't
23 matter what you want. It's hearsay. Do you have the
24 witnesses here on the phone records?

25 MS. CAMPBELL: No, Your Honor. We flew them

1 in and then flew them out. They did come in from out of
2 town. They were available for cross examination. Their
3 objection at the point was relevance. So we are trying
4 to make them relevant.

5 THE COURT: These are authenticated?

6 MS. CAMPBELL: They are authenticated, the
7 ones I am attempting to put up.

8 THE COURT: Now it becomes whether they are
9 relevant or not.

10 MR. COLLINS: And if the relevance is based on
11 hearsay testimony, we object.

12 THE COURT: It's not hearsay if they have been
13 properly authenticated by the custodian of the records.
14 The custodian of the records has authenticated those
15 records.

16 MR. COLLINS: I understand the authentication
17 of those records from the phone company; however, as far
18 as getting into how they are relevant and asking this
19 investigator about hearsay information about who those
20 numbers belong to, that's what we are objecting to.

21 THE COURT: If it's on those records, it's
22 relevant to the case.

23 MR. COLLINS: There is subscriber information
24 in the record. They are not in evidence.

25 THE COURT: I understand.

1 MR. COLLINS: There is no name and there is
2 no --

3 THE COURT: Court will be in recess for 15
4 minutes. Thank you very much.

5 (Whereupon there is a recess.).

6 THE COURT: Anything further you would like to
7 put on the record, Mr. Collins, Mr. Newton?

8 MR. COLLINS: Your Honor, just to add -- we
9 were discussing this -- I believe it was three -- two
10 different numbers, two or three different numbers.
11 There is one number in particular. It was a [REDACTED]
12 number, ending in [REDACTED].

13 That number was provided to the investigators
14 by the codefendant Brian Campbell. That's the only
15 source of that number who it belonged to, as belonging
16 to Daqwan Johnson.

17 Brian Campbell is an unavailable witness for
18 this trial. He has invoked his Fifth Amendment right.
19 To allow the investigator to testify to that phone
20 number being attributed to Mr. Johnson would be
21 inadmissible hearsay and would also violate Crawford and
22 our right of confrontation for who that phone number
23 belonged to because Brian Campbell is an unavailable
24 witness for this trial. So for that number in
25 particular, it violates Crawford and it's hearsay.

1 THE COURT: Is it in those records?

2 MR. COLLINS: The number, it ends in [REDACTED],
3 [REDACTED], I believe. That one in particular, they are
4 seeking to get in testimony from Investigator Reese to
5 attribute that number to Mr. Johnson, which is where I
6 am gathering that they are trying to go with this.

7 That would be inadmissible hearsy, and it
8 would violate our right to confrontation because of the
9 source of that information was Brian Campbell, and that
10 was the only source of that information.

11 THE COURT: Was it in those records?

12 MR. COLLINS: I'm sorry. I'm not tracking.

13 THE COURT: It's 139, 140, or 141. Is the
14 number in those records?

15 MR. COLLINS: One of the records is for that
16 one number.

17 THE COURT: All right. That's the whole
18 reason we had the custodian here. They are not hearsay.
19 If you would read Rule 803(6). That's why the custodian
20 testified. Rule 803(6), hearsay exception, availability
21 of the declarant immaterial. The foundation was
22 properly laid. The custodian testified they are held in
23 the course of business. That is therefore an exception
24 to the hearsay rule.

25 The reason I didn't allow them to go any

1 further with the evidence custodian is relevance. So
2 the whole issue now becomes relevance. Is it relevant?
3 They are authenticated also, I would add, under 901. Go
4 right ahead, Mr. Collins.

5 MR. COLLINS: Our argument isn't that the
6 actual records are hearsay. Our argument is that they
7 are seeking to obtain information from this investigator
8 about who these records belong to. That information
9 would be hearsay and would violate the right of
10 confrontation in Crawford from our point of view.

11 THE COURT: Not if it's in those records
12 because that are an exception to the hearsay rule under
13 830(6) and 901. They have been properly authenticated.
14 Clearly there is an exception under 803. That was the
15 whole argument y'all had with those two ladies, and the
16 point y'all made with those two ladies that were the
17 custodian of the records.

18 MR. COLLINS: I think I might need to explain
19 the records a little bit better. There is one number
20 attributed to Mia Johnson. That's not the [REDACTED] number
21 that they are attributing to Mr. Johnson. There is no
22 name on the [REDACTED] records.

23 It's simply an Excel spreadsheet. That's all
24 it is. It's not relevant without the information coming
25 from Brian Campbell, which if it came in, it would

1 violate our right to confrontation as to that witness
2 and would be hearsay for the investigator to talk about.

3 THE COURT: I will repeat myself my final
4 time. The records are an exception to the hearsay rule.
5 That's what is before me right now, 803(6). If they
6 then meet the standard of relevancy or if you object on
7 relevancy or some other objection, I will rule at that
8 time.

9 Anything further, Solicitor?

10 MS. CAMPBELL: No, sir.

11 THE COURT: Bring us our jury, please. The
12 witness can retake the stand.

13 KEVIN REESE, having been
14 previously duly sworn, resumed the witness stand.

15 (The jury returns to the courtroom).

16 THE COURT: Thank you. Thank you, Mr. Newton
17 Mr. Collins.

18 Solicitor, you may continue.

19 MS. CAMPBELL: Thank you; Your Honor.

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q During the course of your investigation, did
23 certain phone numbers become associated and
24 relevant in this case?

25 A Yes, ma'am.

KEVIN REESE -- DIRECT -- MS. CAMPBELL

717

1 Q And specifically as to Brian Campbell, was there a
2 certain phone number that became relevant?

3 MR. NEWTON: Objection, Your Honor. This is
4 not to the previous stated hearsay. This is to our
5 client's constitutional right to --

6 THE COURT: Step out, please, ladies and
7 gentlemen of the jury.

8 (The jury retires to the jury room.)

9 THE COURT: What is your objection?

10 MR. NEWTON: Your Honor, introducing this
11 evidence violates my client's constitutional right to
12 confront witnesses.

13 THE COURT: Granted, sustained. Bring the
14 jury, please.

15 (The jury returns to the courtroom.)

16 THE COURT: You may continue, Solicitor.

17 **DIRECT EXAMINATION**

18 **BY MS. CAMPBELL:**

19 Q During the course of the investigation, did you get
20 information about a Brian Campbell?

21 A Yes, ma'am.

22 Q And during the course of the investigation, did you
23 also get information about a phone number
24 associated with Brian Campbell?

25 A Yes, we did.

1 Q Is that information actually on a public website?

2 A Yes, it is.

3 MS. CAMPBELL: Your Honor, at this time we
4 would ask for the phone number.

5 BY MS. CAMPBELL:

6 Q What phone number was that?

7 MR. NEWTON: Objection, Your Honor. Again, I
8 believe this is going into what we just went into.

9 THE COURT: Step up here.

10 (Whereupon there was a bench conference off
11 the record in the presence of the jury but out of the
12 hearing of the jury.)

13 MS. CAMPBELL: Your Honor, may this witness
14 step down for now?

15 THE COURT: Yes, ma'am. Thank you.

16 (Witness leaves the witness stand.)

17 THE COURT: Call your next witness.

18 MS. CAMPBELL: The State would call Sergeant
19 Thomas.

20 ARTHUR L. THOMAS, being
21 first duly sworn, testifies as follows:

22 CLERK: State your name for the record.

23 MR. COLLINS: Your Honor, I apologize. May we
24 approach very briefly?

25 THE COURT: Sure.

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

719

1 (Whereupon there was a bench conference off
2 the record in the presence of the jury but out of the
3 hearing of the jury.) conference state your name

4 THE WITNESS: Arthur L. Thomas.

5 **DIRECT EXAMINATION**

6 BY MS. CAMPBELL:

7 Q Sergeant Thomas, where are you employed?

8 A City of Columbia Police Department.

9 Q What do you do there, sir?

10 A I'm the supervisor over the special victims' unit.

11 Q As a supervisor of the special victims' unit, what
12 unit is that?

13 A That's what is known as the sex crimes unit.

14 Q As that supervisor, what do your duties include?

15 A I oversee ten employees that investigate and assist
16 in victims that are subject to violent sexual
17 crimes or crimes against a spouse, elderly death,
18 infant death, missing persons, and so forth.

19 Q Back in June of 2010, you were working at the
20 Columbia Police Department?

21 A That's correct.

22 Q What were your duties back then?

23 A Back then I investigated homicides.

24 Q And who was your partner at the time?

25 A Investigator Kevin Reese.

1 Q Did he assist you in some of the investigation in
2 this case?

3 A Yes, he did.

4 Q In a homicide case typically tell this jury how you
5 get involved and what you do?

6 A Normally in a nighttime event, we are called out.
7 We are on call 24/7, seven days a week. We receive
8 a call for a location and a possible either assault
9 of a high and aggravated nature or homicide itself.
10 We are dispatched by our supervisor at the time,
11 which was Sergeant Babin.

12 Q When did this homicide occur?

13 A This homicide occurred on June 19, 2010.

14 Q Approximately what time of night did it occur?

15 A Approximately 2305 hours.

16 Q And that's military. What does that mean?

17 A 11:05.

18 Q Thank you. In the evening?

19 A Yes.

20 Q And when did you actually -- or did you actually
21 respond to the scene that night?

22 A Yes. Upon receiving a call from Sergeant Babin, he
23 indicated that there was a melee of gunfire, two
24 shot and one possibly deceased. I was dispatched
25 to [REDACTED] and instructed to go to 23-E

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

721

1 where one of the victims may be dead in the unit
2 itself, the apartment itself.

3 Q So you actually responded to the apartment complex?

4 A I did.

5 Q And you are familiar with that area?

6 A I am quite familiar with it, yes.

7 Q Because you actually own the apartment complex
8 nearby?

9 A Yes, I do.

10 Q And that night when you responded to Gable Oaks --
11 and did it used to go by a different name?

12 A A lot of people still refer to it as Ashley
13 Apartments. They went under different ownership,
14 and they changed it to Gable Oaks Apartments.

15 Q And when you responded out that night, did you try
16 to make contact with certain people?

17 A Yes.

18 Q And in this case were people forthcoming?

19 A No. We spoke to people that were out with the
20 incident itself. We got a limited amount of
21 information in the beginning of the investigation,
22 which is quite common.

23 Q While you were out there, did you make contact with
24 a Ms. Brittany Ruffin?

25 A I did.

1 Q What was her relationship to the victim?

2 A She was a friend of the victim. In fact, she was
3 the reason that the victim and his girlfriend had
4 come over. They were going to a club event. The
5 young ladies wanted to go in the house and put
6 their makeup on, get their outfits ready, while the
7 victim was outside sitting on top of the hood of a
8 car eating like a Hardee's burger or something of
9 that nature.

10 So they were the reason he was actually in the
11 community. He did not live there. He just brought
12 his girlfriend by so they could pick up Ms. Ruffin
13 and from there go to the club.

14 Q Did you also speak to a Ms. Lamettress Stevenson?

15 A I did. Ms. Stevenson resided, I believe, in 23-F,
16 which is the apartment adjacent to 23-E. When I
17 spoke with her, she advised that she was also
18 struck by a round as she was fleeing to her home
19 toward her children. It happened during the melee
20 of gunfire.

21 Q That next day in the daylight hours, did you
22 continue your investigation?

23 A I did.

24 Q And during that next day did you make contact with
25 a Mr. Whitney -- what is his name -- Wilson?

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

723

1 A Whitney Wilson?

2 Q Yes.

3 A Yes, ma'am.

4 Q And you can't say what he said to you, but without
5 going into that, was he able to give you
6 information about the events that occurred earlier
7 in the day that may or may not have been related to
8 this or ended up being related to this?

9 A Yes, he was.

10 Q And the next day did you make contact with a
11 Kenneth St. John? On the 21st?

12 A The 21st, yes.

13 Q And you can't say what he said to you, but was he
14 able to give you information about his observations
15 of the event that's occurred that day?

16 A Yes, he gave me additional information.

17 Q Did you also become, during this time period, aware
18 that an autopsy had been performed?

19 A Yes.

20 Q And had the cause of death been determined by the
21 pathologist or the Coroner's Office?

22 A Yes, the cause of death was due to one gunshot
23 wound. The victim bled out after being shot in the
24 back.

25 Q So this was definitely a homicide?

1 A Definitely a homicide.

2 Q In addition to that, had there been another person
3 that was wounded during this shooting?

4 A Yes.

5 Q Was that Ms. Stevenson?

6 A That was Ms. Stevenson. She was grazed by a
7 bullet, again, as she was fleeing to cover her kids
8 and didn't drop to the ground. Her injuries were
9 not fatal. I believe E.M.S. treated her and then
10 actually left the complex.

11 Q That same day, on the 21st, did you actually go
12 back to the Gable Oaks apartment complex and make
13 contact with management?

14 A Yes.

15 Q And were they able to provide you with some
16 important information as far as your investigation?

17 A Yes, they were. They were able to provide me with
18 video of the actual incidents, the daytime incident
19 with the Whitney subject which involved a Buick
20 LeSabre, and then the nighttime incident of the
21 actual shooting itself.

22 There are cameras -- they had still motion
23 cameras and they also had cameras that had motion
24 sensors to them. So as the activity would occur,
25 the camera would zoom into certain locations,

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

725

1 depending on what type of motion. So we were able
2 to get an idea of what transpired in the melee of
3 gunfire that night.

4 Q And was there a specific area of the complex where
5 you were able to see certain people coming and
6 going?

7 A Yes. That area -- I was shocked that they had
8 this -- they had a night vision camera aimed at the
9 cut, which is a problem area for the complex.
10 That's how it was explained to me. Subjects come
11 through the cut quite frequently.

12 That night five subjects entered through that
13 cut. The night vision camera illuminates them
14 better than you would in a standard camera, like
15 you have in the front area of the complex itself.
16 So that became very intricate in this investigation
17 as it went on.

18 Q And let me back up. I skipped something. During
19 the course of the night when you initially went out
20 there, were crime scene investigators -- were they
21 called in to process the crime scene?

22 A Yes.

23 Q Was that information or at least the preliminary
24 information given to you as far as shell casings,
25 projectiles, and things recovered at the scene?

1 A Absolutely. The crime scene was large in nature.
2 There were several apartments that were struck.
3 There were a number of vehicles that were struck as
4 well.

5 There were a number of shell casings and
6 bullets at different points within the complex
7 itself. So it's one of my larger crime scenes
8 since I have been investigating homicides.

9 Q And that night while you were there, did the crime
10 scene people come in and actually collect the
11 evidence and document it and do everything they
12 were supposed to do?

13 A Yes, they did, as Sergeant Rose mentioned earlier
14 in his testimony.

15 Q And then later that week, I believe, was that
16 evidence forwarded to Richland County for testing?

17 A Yes, it was.

18 Q When you viewed the video, you mentioned different
19 times of day that became significant in that video?

20 A That is correct.

21 Q And maybe I missed this when you were saying it,
22 but the first part of the day, was there something
23 that you could observe on the video that was
24 significant?

25 A That's correct. On the first portion of the day on

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

727

1 the 19th, approximately three-something in the
2 afternoon, we could observe Whitney actually taking
3 trash to a dumpster. As he dumps the trash, there
4 is a silver four-door vehicle that rolls up beside
5 him.

6 As it drives past, the subjects in the vehicle
7 draw out weapons and fire upon him where he has to
8 flee. You can see some of that in the video until
9 it cuts out towards the tail end of it.

10 You also see where the vehicle speeds off, and
11 then it turns and pulls back to, I guess, see if
12 the subject is going to pop back out. When he does
13 not, then it takes off swiftly. It doesn't even
14 hurry after the first incident.

15 Q At this point you had already talked to Mr. Wilson;
16 is that correct?

17 A That is correct.

18 Q And on the 21st at this point, you don't have any
19 concrete information as to any of the five
20 defendants in this case?

21 A No, not at this juncture. We are still canvassing
22 the area, interviewing witnesses and so forth. So
23 we do not have positive identification on any of
24 the five subjects at this time.

25 Q During the course of your investigation, were you

1 aware of approximately how many people were
2 actually out in that parking lot when the shooting
3 occurred?

4 A It was a high number. During the murder itself,
5 there could have been anywhere between 25 to 30, 40
6 people. In the video you can see little children
7 at the playground. You can see younger people and
8 you can see the adults, along with the victim and
9 his associates and friends. Just a number of
10 people were out when the actual shooting itself
11 happened.

12 Q But because of the nature of this offense, the time
13 of day, things of that nature, was it a difficult
14 one to find witnesses?

15 A Yes. When you have a homicide of this nature,
16 people are very reluctant to speak to law
17 enforcement at all. Sometimes even when they speak
18 to us, later they may not want to talk about it any
19 further. We just continue to question anyone and
20 everyone we could to see if we could identify the
21 perpetrators in this particular incident.

22 Q As far as the identity of the people when you see
23 them going through the cut in this video that we
24 are about to show the jury or publish to the jury,
25 are you able to actually see the faces themselves?

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

729

1 A I'm not. I doubt if they will be able to clearly
2 see the faces themselves.

3 Q But did this video become significant later when
4 you were interviewing people like Marquez Prophet?

5 A Most definitely.

6 MS. CAMPBELL: Your Honor, at this time I
7 would ask permission to publish the video.

8 THE COURT: Yes, ma'am, you may publish it.

9 MS. CAMPBELL: Your Honor, may the witness
10 step down so he can point out a few important areas?

11 THE COURT: Yes. Just keep your voice up,
12 Sergeant, when you are away from the microphone.

13 THE WITNESS: Yes, sir, I will.

14 (Witness leaves the witness stand.)

15 BY MS. CAMPBELL:

16 Q If you will step over on this side and talk really
17 loud so the court reporter can hear you.

18 A Yes, ma'am.

19 (State's Exhibit Number 2 is played for the
20 jury. During the playing of the video, the following is
21 reported.)

22 BY MS. CAMPBELL:

23 Q What does this show? What area of the apartment
24 complex?

25 A This is the area near the park that I talked about

1 earlier. This is actually the daytime event. This
2 is actually the daytime event with Whitney as the
3 victim.

4 He is currently heading to the dumpster area
5 or actually I believe already dumped the trash and
6 is heading back. As the video plays out, again, I
7 told you the motion cameras will zoom in on their
8 own. It will zoom in and out depending on what
9 type of motion.

10 This is the four-door vehicle, the Buick, that
11 pulls up beside him. Again, as it's going out of
12 the camera is when they actually draw their weapon
13 and shoot at the victim who has to flee from the
14 area.

15 If you back up a little bit, you may be
16 able -- I know it's hard. I think right as this
17 vehicle turns, you will see right here, a subject
18 will start coming out of the passenger side. You
19 see that? I know it's quick. He is out of the
20 passenger side window. He actually already has his
21 weapon in hand when that occurs.

22 The victim is then shot at. He flees, takes
23 cover, and the vehicle then drives -- not fast --
24 but drives to another location and attempts to turn
25 around to do another drive-by, but by the victim

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

731

1 does not pop out. I think that is another shot.

2 I think at 15:27:37 you will see the camera
3 will pick up the car in motion. This is one. At
4 15:27:37 you will see the vehicle pull in, back up
5 to reset, maybe reload, and then takes off. Again,
6 it's a four-door, silver-colored Buick. I think
7 it's a LeSabre. This becomes very important later
8 in my investigation.

9 Again, the camera is adjusting to the motion.
10 Again, the four-door Buick LeSabre backs up, the
11 back window is down. When he doesn't pop back out,
12 the vehicle takes off.

13 Q If we can show the one that shows the nighttime
14 events. You mentioned that this is what type of
15 camera?

16 A Again, this is a night vision camera. Again, when
17 I saw this, it was very shocking to me that the
18 complex had this. It will illuminate better than
19 the standard camera when you see the other part of
20 the shooting incident. You will see the difference
21 between the two. It's targeted at a pathway that
22 leads from the complex out to this complex that is
23 used a lot.

24 Q What did you just see?

25 A This is one of the suspects going through. That is

1 the second, third. As they are coming through,
2 they all are armed with some type weapon, be it --
3 of course, three of the subjects had the weapons
4 that are on the table here today. That was the
5 last subject, Mr. Brian Campbell.

6 MR. COLLINS: Objection, Your Honor, and move
7 to strike that last statement.

8 THE COURT: Sustained.

9 A Again, it shows the entry of all five perpetrators
10 just prior to the shooting. Again, if you look,
11 there's a weapon there. This one you can't see his
12 as good. I think he has it right there on the
13 side. This one has a weapon in hand and this one,
14 a weapon in hand.

15 Now, with this video you will see the
16 difference in the night camera vision and the
17 actual standard cameras. It's not illuminated as
18 well, but as the camera moves with the action, you
19 will be able to actually see more detail. Again, it's
20 motion activated. It will start zooming in as soon
21 as certain activity starts.

22 This should start at 23:12 in just a few
23 seconds. It will start making motion. The victim
24 and several of the victims are here ducking from
25 the gunfire. The melee has started. The rounds

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

733

1 are being fired. This subject is going to get up
2 and return fire.

3 Q Is that the victim?

4 A Right there.

5 Q That's the victim who ran off?

6 A Correct. Here is the victim laying very low on the
7 car. That's the blue -- one of the cars you saw
8 earlier. This is another subject that was out
9 there at the time.

10 As it plays you will see that this subject
11 will get up and start to flee toward the
12 apartments. Number 23 is right in front of him.
13 This subject will actually get up and return fire.

14 Q That is a gun?

15 A Yes, this is a pistol in his hand. This will pick
16 up right at 23:12:05. What I am going to show you
17 here is as the subjects come through the cut, there
18 will be a gun, a long gun, fired from the shadows
19 right in this area. Here it is. It will start
20 firing. You can see the muzzle flash from the
21 weapon as he retreats.

22 The last section is kind of self-explanatory.
23 This is after all the firing, and it's only 23:12.
24 It didn't make much time for them to come in, lay
25 down 40 to 50 rounds of ammo, and leave, still with

- 1 weapons in hand.
- 2 Q Is that it?
- 3 A Yes, ma'am.
- 4 Q You can have a seat.
- 5 A (Witness resumes the witness stand.)
- 6 Q On June 22nd did officers with your department
- 7 interview Lamanda Smith?
- 8 A June 22nd?
- 9 Q Yes, sir.
- 10 A Yes.
- 11 Q And was she able to -- you can't say what she
- 12 said -- was she able to give y'all information as
- 13 far as what she observed that night?
- 14 A Yes. Lamanda spoke with you fine folk earlier in
- 15 reference to what she saw off of [REDACTED]
- 16 Street. She was able to give us a statement on
- 17 what she saw there.
- 18 Q Going to the next day, June 23rd of 2010, did you
- 19 set up a meeting with the Richland County Sheriff's
- 20 Department?
- 21 A Yes, I did.
- 22 Q Who were you meeting with at the Richland County
- 23 Sheriff's Department?
- 24 A I met with their gang task force unit.
- 25 Q Why did you want to meet with the gang task force

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

735

1 that day?

2 A As we continued this investigation, we found that
3 the incident itself was gang related. The area
4 which I just showed you is known as a Blood gang
5 territory. All subjects in that area are Bloods,
6 and they protect that area.

7 We were receiving information that the
8 perpetrators in this particular incident were Folk
9 Nation members or associates and that there was an
10 ongoing beef between them, ongoing shootings
11 throughout the City and the County. So we decided
12 to get with the task force and join together to
13 look at it this particular situation.

14 Q And at that meeting with the County, you had
15 already developed information about the car?

16 A Yes.

17 Q And were you able to provide them with any
18 photographs?

19 A Yes, I did.

20 Q And did you pass out that information --

21 A Yes, I did.

22 Q -- to them. Did you meet with them about what
23 information they had about the Studio 54 shooting?

24 A Yes. We spoke in reference to the incidents that
25 happened with my particular murder and then shortly

1 thereafter a shooting at Studio 54, which through
2 our investigation we found it was connected. It
3 was a retaliation shooting for the shooting that
4 happened at Gable Oaks.

5 Q And just to be sure at this point, you didn't have
6 the Johnson vehicle in your custody?

7 A No, I did not have the vehicle in custody at this
8 junction.

9 Q Was there something you told the gang task force
10 that was significant about some molding on the
11 door?

12 A Yes. The description given by subjects with this
13 vehicle said that the driver's side door would be
14 missing molding. They described the vehicle as
15 silver, some say tan or something in color, a
16 Buick. They weren't certain if it was a LeSabre or
17 a Regal, but the molding itself was very important
18 to us because it was missing from the side,
19 driver's side door.

20 Q I show you State's Exhibit 95. This was taken
21 later after the Johnson vehicle was in custody;
22 right?

23 A That's correct.

24 Q And did that description match once you found the
25 Johnson vehicle?

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

737

1 A Yes, the description of the vehicle matched to a
2 tee once the vehicle was recovered.

3 Q Later that day did you receive another phone call
4 from the Richland County Sheriff's Department?

5 A I did.

6 Q And specifically -- you can't say what they said to
7 you specifically -- but did you receive information
8 about a certain report that had been filed?

9 A Yes. I received information that a vehicle fitting
10 the description of the vehicle I was looking for
11 with molding missing was reported vandalized and
12 was located at Jimmy Rivers tow company off of Two
13 Notch Road.

14 When we went to that location, that vehicle in
15 fact was at that location. It was missing the
16 molding that we broadcast to the task force. When
17 we spoke to the owners of the company itself, we
18 discovered that that vehicle was turned in, and it
19 belonged to a Mia Johnson and the defendant, Daqwan
20 Johnson.

21 Q And I don't have the piece of paper, but it
22 belonged to whom?

23 A Mia Johnson and Daqwan Johnson, which is the
24 defendant. Mia Johnson is his mother.

25 Q What is the relationship between Daqwan Johnson and

1 Mia Johnson?

2 A Again, mother and son.

3 Q At that point did you make any efforts in order to
4 get custody of that car?

5 A Yes.

6 Q What happened?

7 A Once we saw the car at that location, it was
8 riddled with bullet holes. It had missing molding.
9 I instructed my investigators to do a search
10 warrant. I had my C.S.I. agents come out and
11 process the car, take photos there, and then take
12 the car back to police headquarters for additional
13 processing.

14 Q From the car were they able to get certain
15 information, including some papers from the glove
16 box, with identifying names on them?

17 A Yes, they were.

18 Q Whose name is on those papers?

19 A The names on the papers is the defendant, Daqwan
20 Johnson. There is also additional paperwork that
21 has Daqwan Johnson's name on it, additional
22 paperwork belonging to Daqwan Johnson.

23 Q The next day on June the 24th, did investigators
24 that were assisting you in this investigation make
25 contact with a Rontrell Henderson?

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

739

1 A Yes, they did.

2 Q And was he brought to headquarters, and did you
3 interview him?

4 A He was brought to headquarters, and he was
5 interviewed by me, yes.

6 Q And you can't say what he said, but was he able to
7 give you information that was pertinent to your
8 investigation?

9 A Yes, he was.

10 Q Were you able to show him a lineup?

11 MR. COLLINS: Objection, Your Honor.

12 THE COURT: Restate the question.

13 MS. CAMPBELL: Was he able to show him a
14 lineup.

15 THE COURT: To who?

16 MS. CAMPBELL: Rontrell Henderson.

17 THE COURT: I would allow that question.

18 A Yes, I was.

19 Q And without saying what he did or what he said to
20 you, was that information that became important to
21 your investigation?

22 A Yes, he did.

23 Q That day did you become aware that the County task
24 force was able to make a lawful arrest and locate
25 the defendant in this case?

1 A Yes, I was.

2 Q And where was the defendant located by the County
3 that day?

4 A This was on June 24th. I was called and notified
5 that the County had made a lawful arrest at
6 [REDACTED], which is Daqwan Johnson's
7 grandmother's home.

8 They apparently got consent to go in and
9 observed a weapon under Daqwan Johnson's bed. When
10 they observed that weapon, they immediately backed
11 out, called us.

12 Myself, investigator Reese, and several of my
13 other team members went to Daqwan Johnson's
14 grandmother's house so that we could execute a
15 search warrant to retrieve that weapon from under
16 the bed.

17 Q And prior to retrieving that weapon, did you,
18 again, as you had with the car, get a lawful search
19 warrant in this case?

20 A Yes, we did obtain a search warrant in order to get
21 that car.

22 Q Once the judge had signed off on the search
23 warrant, did you then go execute the search warrant
24 and find the actual .223 weapon and collect it?

25 A Yes, we did. I had one of my team members do a

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

741

1 warrant. They executed the search warrant, and we
2 collected that as evidence.

3 Q At this point had you been made aware of the type
4 of information and/or shell casings that had been
5 found at the scene of the crime?

6 A Yes, I had.

7 Q Was the fact that this was a .223 significant in
8 your investigation?

9 A The fact that this weapon under Daqwan Johnson's
10 bed was a .223 assault rifle was quite evident with
11 the case that we had been working, the murder
12 there. Two rounds at the scene of the murder,
13 unfired, were .223 ammunition rounds. So it was
14 quite a positive thing that we located that weapon.

15 Q [REDACTED] Street, [REDACTED], where is that?
16 Here in Richland County?

17 A [REDACTED] Street runs off of [REDACTED], just up from
18 the Greenview area, maybe a mile or so.

19 Q In order to do that, if you go out North Main
20 Street, is it accessible from there?

21 A Yes, you can take North Main, cross over, and get
22 to [REDACTED] Street, yes.

23 Q Were you aware whether or not that gun was loaded
24 when they recovered it?

25 A I was informed that there were rounds in the weapon

1 at the time that it was located, and I believe
2 those rounds were taken out or a cartridge was
3 removed. Everything was taken into property.

4 Q Once you went to the [REDACTED] address,
5 did you actually take custody of the defendant in
6 this case?

7 A Yes.

8 Q Was he transported back to headquarters?

9 A Yes, he was.

10 Q That same day did you make contact with Brian
11 Campbell?

12 A Yes, I did.

13 Q And did you -- without saying what he said -- did
14 you interview Mr. Campbell?

15 A Yes, I did.

16 Q That day did you get -- based on the totality of
17 your investigation up to that point -- did you get
18 a murder warrant on anyone in this case?

19 A Yes, I did.

20 Q Who did you get a murder warrant on?

21 A Based on the totality of my investigation, I
22 obtained warrants for Daqwan Johnson.

23 Q For what charges?

24 A For murder and attempted murder.

25 Q The next day on the 25th, after further review in

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

743

1 this case, did you get additional warrants based on
2 the information you had up to that point?

3 A Yes. Based on everything in my investigation, I
4 obtained additional warrants on several other
5 subjects, codefendants, in this murder and
6 attempted murder case.

7 Q Based on the information from Brian Campbell, as
8 well as corroborative information from other
9 people, who all did you get warrants on at that
10 time, in addition to Daqwan Johnson?

11 MR. COLLINS: Objection, Your Honor.

12 THE COURT: Restate the question, please.

13 MS. CAMPBELL: I said in addition to the
14 warrants that he had already gotten on Daqwan Johnson,
15 who all did he get warrants on on the 25th?

16 MR. COLLINS: Your Honor, that was not the
17 question. She said: Based on what Brian Campbell told
18 you, who all did you get warrants on?

19 MS. CAMPBELL: No, sir. If I said that, I
20 misspoke.

21 THE COURT: If she said that, that question is
22 withdrawn. You may ask your next question, Solicitor.

23 MS. CAMPBELL: Yes, sir.

24 BY MS. CAMPBELL:

25 Q Based on all the information that you had gathered

1 up to this point, you had already gotten warrants,
2 I believe, on Daqwan Johnson?

3 A I had.

4 Q And based on that information that you had, up
5 until to that point, who did you get additional
6 warrants on?

7 A Based on the information obtained in my
8 investigation, I was able to get warrants on
9 Marquez Prophet, Detrick Walker, and Terrance
10 Patterson at that juncture.

11 Q Did you also get a warrant on a Thomas O'Bryan
12 Williams?

13 A I did.

14 Q Did you later withdraw that warrant?

15 A I did.

16 Q And is that unusual in a case as information
17 develops, either corroborating or not corroborating
18 what a witness may tell you?

19 A What I try to do is corroborate my facts on any
20 subjects that I draw warrants on. If I cannot
21 corroborate those facts with evidence, I.D. and so
22 forth, I will withdraw the warrant. That's what
23 happened with Thomas O'Bryan Williams.

24 Q At this point you had interviewed Brian Campbell.
25 At a later date, based on continuing investigation,

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

745

1 did you get a warrant on Brian Campbell as well?

2 A That's correct. In continuing my investigation,
3 following up other leads and so forth, speaking
4 with other subjects, I did obtain warrants on Brian
5 Campbell as well.

6 Q On the 25th did you also make contact with a
7 Coretta Johnson at 3630 Medical Drive?

8 A The 25th?

9 Q Yes, sir.

10 A Give me a moment. Yes, I did.

11 Q And where is Medical Drive, 3630 Medical Drive?

12 A 3630 Medical Drive is right off North Main and
13 Sunset, just down from Richland Memorial Hospital,
14 right -- maybe a half a block away from the Budget
15 Inn, right in that area there, a block up from
16 Richland Memorial.

17 Q When you made contact with Ms. Johnson, what
18 happened?

19 A Upon making contact with Ms. Johnson, I made
20 inquiries in reference to possible weapons in her
21 residence that had been stored there by
22 Mr. Johnson's codefendants.

23 I asked for permission to search her home for
24 those weapons. She gave me consent to search her
25 home for those weapons. We located two assault

1 weapons under her bed at this location.

2 Q And were you aware of Ms. Johnson's relationship to
3 any of the defendants, five defendants in this
4 case?

5 A That's correct. During the course of my
6 investigation, I was made aware that Ms. Johnson
7 was in relations with the defendant, Terrance
8 Patterson.

9 Q And that was one of the people you had a murder
10 warrant for at that point?

11 A That is correct.

12 Q So during the course of your investigation, you
13 knew to go to Medical Drive?

14 A Yes.

15 Q On that same day around 10:00 o'clock P.M., did
16 Detrick Walker turn himself in?

17 A Yes, he did.

18 Q And where did he initially turn himself into?

19 A Detrick initially turned himself into the Richland
20 County Sheriff's Department. A lot of people are
21 more aware of the Two Notch Road location than they
22 are of the City of Columbia's location off of
23 Washington Street. So that is not uncommon when
24 subjects turn themselves in. They normally go to
25 Richland County, and that's where he went.

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

747

1 Q Did you actually go and pick him up that evening?

2 A I did.

3 Q And that evening was he arrested for murder and
4 attempted murder?

5 A Yes, he was.

6 Q And when you met with Mr. Walker -- let me back up.
7 Did you transport him back to headquarters?

8 A Yes.

9 Q And once he was at headquarters, did you advise him
10 of his rights?

11 A Yes.

12 Q After placing him under arrest?

13 A Yes.

14 Q And once he was advised of his rights, did he talk
15 to you?

16 A Yes.

17 Q And you can't say what he said to you, but was he
18 able to give you information that corroborated
19 other information in your investigation?

20 A His information did, in fact, corroborate other
21 information that I had gathered through my
22 investigation and, in fact, implicated himself.

23 Q Sergeant, as you are going along with these murder
24 involvements, especially involving gangs, is the
25 information evolving as you go along?

1 A Yes, it does, every day.

2 Q So at this point you had the opportunity to talk to
3 Mr. Brian Campbell, as well as Detrick Walker in
4 this case; is that correct?

5 A That is correct.

6 Q The next day on June 26th around 5:30 A.M., did
7 another one of the defendants in this case turn
8 himself in?

9 A On the 26th?

10 Q Yes, sir.

11 A Yes, at approximately 5:30 A.M. Marquez Prophet
12 turned himself in.

13 Q That morning, once he turned himself in, did you
14 then place him under arrest?

15 A I did.

16 Q And at that point did you take a statement from
17 him?

18 A I did.

19 Q You can't say what he said, but was he able to give
20 you information?

21 A He, in fact, as the others corroborated what I had
22 discovered within my investigation in reference to
23 what transpired with the shooting.

24 Q As far as your investigation went in this case,
25 there were at least two or three shooters there at

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

749

1 the scene that day?

2 A Yes.

3 Q One of those was a shooter that we see on the video
4 shooting back?

5 A Yes.

6 Q Is it unusual when you meet with a suspect in a
7 case for him to admit but minimize his involvement?

8 MR. COLLINS: Objection, Your Honor.

9 THE COURT: Overruled.

10 A That happens quite frequently during the course of
11 our investigation. When we are interviewing, a
12 subject will often minimize their position in the
13 crime, particularly when you are talking murder and
14 attempted murder. So it's not uncommon.

15 Q So at this point you had in custody four out of the
16 five people in this case?

17 A I did.

18 Q Excuse me, three out of the five people in this
19 case. You didn't have Brian Campbell then?

20 A Brian was not a suspect.

21 Q Nor did you have Terrance Patterson?

22 A My apologies. We didn't have Terrance.

23 Q Over the course of the next week or two, did you
24 make attempts to locate Terrance Patterson?

25 A Yes, I did.

1 Q And where was Terrance Patterson actually located?

2 A I had to make connections with the marshal
3 services. My information led me to Detroit. My
4 sources take me to the fact that Terrance had fled
5 to Detroit. I made contact with my marshals in
6 that division up there, and he was located at a
7 family member's home in Detroit. So I went to
8 Detroit.

9 Q And I believe you actually met with the marshals on
10 what date?

11 A In reference to Terrance, we met on -- July 13th is
12 when I first informed the marshals that I had
13 information that he was up there.

14 Q And then what was the next day that you received
15 information about Terrance Patterson's whereabouts?

16 A On the 29th.

17 Q Look at your notes.

18 A I'm sorry.

19 Q On the 16th?

20 A My writing is bad. On 7/16 I received a phone call
21 advising me that they got Terrance in Detroit. He
22 was in custody.

23 Q Then later that month -- I believe you mentioned
24 the date of the 29th -- was he extradited back?

25 A That's correct. We went to Detroit to extradite

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

751

1 him. We brought him back on the 29th.

2 Q Again, all that was done through legal means?

3 A Yes.

4 Q When you said you brought him back, did you
5 actually travel to Detroit to get him?

6 A Yes, I did.

7 Q On the 29th did you then -- he was already under
8 arrest, I guess?

9 A Yes, he was under arrest.

10 Q Did you advise him of his rights as you had the
11 others?

12 MR. COLLINS: Objection, Your Honor.

13 THE COURT: What is the basis for your
14 objection?

15 MR. COLLINS: Getting into unavailable
16 witnesses to testify.

17 THE COURT: I think she can ask that question.

18 MS. CAMPBELL: Thank you, Your Honor.

19 A He was advised of his rights.

20 Q And at that point was he interviewed?

21 A At that point he was interviewed.

22 Q And you can't say what he said, but was he able to
23 give you information?

24 A He too was able to corroborate the information that
25 I had about the shooters --

1 MR. COLLINS: Objection, Your Honor.

2 THE COURT: It's overruled.

3 BY MS. CAMPBELL:

4 Q Go ahead, sir.

5 A He too was able to corroborate information that I
6 had through my ongoing investigation on the
7 perpetrators.

8 Q And later was Brian Campbell also arrested?

9 A Yes, he was.

10 Q And you had already interviewed him?

11 A Yes, I had.

12 Q I am going to show you a number of photographs that
13 have been marked. These are State's Exhibits 155
14 through 159. First I will ask you if you recognize
15 these?

16 A Yes, I do.

17 Q What are those photographs?

18 A These are photographs of all the defendants in this
19 case.

20 Q And those would have been taken around the time
21 they were arrested?

22 A That is correct.

23 MS. CAMPBELL: Your Honor, at this time I
24 offer 155 through 159.

25 THE COURT: Mr. Collins?

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

753

1 MR. COLLINS: No objection.

2 THE COURT: State's 155 through 159 are in
3 evidence without objection.

4 (State's Exhibits Number 155-159 are received
5 into evidence.)

6 BY MS. CAMPBELL:

7 Q I will show you State's Exhibit 155. Do you know
8 who that is?

9 A Yes.

10 Q Who is that?

11 A This is Brian Campbell.

12 Q Is that how he appeared?

13 A Yes.

14 Q When he was arrested?

15 A That is correct.

16 Q And that's how his hair appeared?

17 A That's correct.

18 Q State's Exhibit 156?

19 A This is the defendant, Daqwan Johnson. This is how
20 he appeared on the day I arrested him.

21 Q And do you see him here in the courtroom today?

22 A Yes, I do.

23 Q Has his appearance changed somewhat?

24 A Yes, it has.

25 Q Just for the record can you point him out to the

1 jury.

2 A He is the young man sitting between the two defense
3 attorneys there.

4 Q What is he wearing?

5 A A dark-colored suit and greenish-color tie.

6 MS. CAMPBELL: Your Honor, may the record
7 reflect he has identified the defendant?

8 THE COURT: So reflected.

9 BY MS. CAMPBELL:

10 Q This is how he appeared when you actually arrested
11 him on what date?

12 A That was on the 24th.

13 Q Which would be how many days after the actual
14 shooting?

15 A Approximately five days after the actual shooting
16 itself, which was on the 19th.

17 Q I show you State's Exhibit Number 157. Do you
18 recognize that?

19 A Yes, I do.

20 Q Who is that?

21 A This is Terrance Patterson, again, another
22 codefendant in this case.

23 Q And he is the one that was actually where when he
24 was apprehended?

25 A He was actually in Detroit when I went to get him.

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

755

1 Q State's Exhibit 158?

2 A This is another codefendant. This is Marquez
3 Prophet.

4 Q Is he the one that testified earlier? Yesterday?

5 A He testified on yesterday.

6 Q Is that how he appeared?

7 A Yes, that's how he appeared on the day he was
8 arrested.

9 Q Finally, State's Exhibit 159?

10 A This is Detrick Walker. He also testified and this
11 is what he looked like on the day of his arrest.
12 He's a codefendant in this case.

13 MS. CAMPBELL: Your Honor, permission to
14 publish?

15 THE COURT: Yes, ma'am.

16 BY MS. CAMPBELL:

17 Q During the course of the investigation, did you
18 become aware that Mr. Whitney Wilson was actually
19 shown a photo lineup on June 23rd?

20 A Yes.

21 Q I will show you what is marked for I.D. only, this
22 photo lineup. Do you recognize that?

23 A Yes, I do.

24 Q Is that the lineup that was shown to him?

25 A Yes, it was.

1 Q And what was the purpose in showing him that
2 lineup?

3 A We were trying to identify subjects from the
4 earlier shooting that I showed on the video with
5 the same car.

6 Q And was he able to positively identify anyone?

7 A He was not able to positively identify anyone.

8 Q However, was he able to narrow it down to three?

9 A Yes, he circled three subjects in the lineup
10 itself.

11 Q Which included --

12 MR. COLLINS: Objection, Your Honor.

13 THE COURT: Rephrase your question Solicitor.

14 BY MS. CAMPBELL:

15 Q I guess, what did that include?

16 MR. COLLINS: Objection, Your Honor.

17 THE COURT: What is the basis?

18 MR. COLLINS: May we approach?

19 THE COURT: Yes, sir.

20 (Whereupon there was a bench conference off
21 the record in the presence of the jury but out of the
22 hearing of the jury.)

23 THE COURT: Thank you, Mr. Collins.

24 BY MS. CAMPBELL:

25 Q And in this photo lineup, State's Exhibit 142 for

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

757

1 I.D., was he able to narrow it down to how many
2 people?

3 A He was able to narrow it down to three individuals
4 in that lineup.

5 Q And of the three individuals he was able to narrow
6 it down to, which of the defendants in this case
7 were included in that?

8 A Of the three individuals he was able to narrow it
9 down to, the defendant was included in what he
10 circled.

11 Q In the investigation did you also collect a bullet
12 fragment from one of the automobiles that had been
13 shot out there at the Gable Oaks that night?

14 A Yes, that came in sometime later.

15 Q And how did you get that, that I can't find?

16 A Throughout this investigation people were calling.
17 Again, this was a massive scene. Rounds had
18 penetrated cars, houses, apartments throughout the
19 complex. We were getting calls and people were
20 coming in and stating that they were recovering
21 rounds and bullet fragments. This was, in fact,
22 one of those cases. I think the name is on there.

23 Q I show you State's 128.

24 A Yes.

25 Q Is that the bullet fragment you recovered?

1 A Yes.

2 Q Again, how did you get that?

3 A Michael Samuels brought it in. He is one of the
4 many victims with the vehicles and houses that were
5 listed in the report. As he was cleaning up his
6 vehicle, it fell out from the back seat somewhere.
7 He brought it into headquarters and turned it in,
8 and I tagged it into property.

9 Q During the time period you had it in your custody,
10 did you tamper it or alter with it in any way?

11 A No, I did not.

12 MS. CAMPBELL: Your Honor, at this time I
13 offer State's 128.

14 MR. COLLINS: I believe it's already in
15 evidence but no objection.

16 THE COURT: One-twenty-eight is in evidence
17 without objection.

18 (State's Exhibit Number 128 is received into
19 evidence.)

20 BY MS. CAMPBELL:

21 Q Just so you can I.D. it, I will show you State's
22 Exhibits 153 and 154. Don't say what's in it or
23 what he did, but is that the photo lineup that you
24 showed to Rontrell Henderson?

25 A Yes, it is.

ARTHUR THOMAS -- DIRECT -- MS. CAMPBELL

759

1 Q Did you ever request any fingerprints be done in
2 this case?

3 A No, I did not.

4 Q Why is that, sir?

5 A The shell casings and so forth recovered were
6 fired. It's difficult to get a readable print on
7 such small objects. Our I.D. people require
8 certain points of a finger to be present to
9 actually get an identifiable print. So I didn't
10 feel it necessary to do so.

11 Q Is it typical nowadays in today's age to do D.N.A.
12 in lieu of that?

13 A Yes.

14 Q And as far as any fingerprinting off the .223,
15 where was that gun found?

16 A The .223 rifle, again, was found at [REDACTED]
17 [REDACTED] under the defendant's bed at his
18 grandmother's home.

19 Q There has been reference to a shooting that
20 occurred at Studio 54. That wasn't your
21 investigation?

22 A No, that shooting occurred in the County. I have
23 very little information on that, outside of what I
24 have from the task force.

25 Q But was there any video from that shooting that is

1 available?

2 A No, there was not.

3 Q As far as this case, is this the first trial in
4 this case?

5 A Yes, this is the first trial.

6 Q And who else who was charged in this case still has
7 pending charges?

8 A All other defendants have murder and attempted
9 murder charges pending: Marquez, Detrick,
10 Terrance, and Brian Campbell.

11 MS. CAMPBELL: Beg the Court's indulgence.

12 THE COURT: Yes, ma'am.

13 MS. CAMPBELL: That's all I have, Your Honor.

14 THE COURT: Thank you. Thank you very much.

15 Do you want to break for the evening?

16 MR. COLLINS: Yes, sir, Your Honor.

17 THE COURT: Thank you. Thank you,
18 Mr. Collins.

19 Ladies and gentlemen, perhaps now would be a
20 good time to take our evening recess. I appreciate your
21 work ethic today and the patience and your willingness
22 to work late.

23 I am going to release you for your evening
24 recess. I would ask you to remember my instructions.
25 Do not talk with anyone about the case. Do not watch,

1 THE COURT: Mr. Collins and Solicitor, I
2 looked at an issue last night, and I wanted to address
3 it with you. There was a line of questioning by the
4 State of Sergeant Thomas concerning the arrest of
5 Mr. Patterson and Mr. Campbell concerning the advisement
6 of rights of Mr. Patterson and Mr. Campbell, concerning
7 whether or not Mr. Campbell and Mr. Patterson gave a
8 statement and then was that corroborated.

9 The defense objected. The defense didn't
10 object to all those questions, but they objected to some
11 of those questions. In an abundance of precaution, I
12 think the question of whether or not the statement was
13 corroborated by Patterson or Campbell should not be part
14 of the record.

15 Do you want a -- do you want me to strike that
16 from the record, Mr. Collins, that question and that
17 answer? Do you want me to give a curative instruction?
18 What would the defense prefer?

19 MR. COLLINS: Your Honor, I also thought about
20 it and discussed it with a number of colleagues as well.
21 My position is now, coupling that with the solicitor's
22 opening argument talking about what the three
23 codefendants would say -- and we only heard from two of
24 the three -- coupled with the officer being allowed to
25 say that their statements corroborated the evidence, our

1 objection would be that it cannot be cured, and we ask
2 for a mistrial because of that.

3 THE COURT: I understand that. There are
4 several issues there. Number one, you didn't object to
5 the solicitor's opening or ask for a motion for
6 mistrial, nor yesterday did you ask for a motion for
7 mistrial, although you timely objected. I have no
8 problem with (A), you asking for a mistrial or (B), you
9 having timely objected.

10 It's kind of a bootstrap issue, and I'm not
11 sure those -- maybe it's more boot-string issues, and
12 I'm not sure those strings actually fit the boots being
13 worn to be honest with you. It's not a direct
14 connection, but it did give me pause for concern last
15 night to think through it and look at some cases.

16 When I advise a jury -- just like a defendant
17 not testifying -- when I advise them that I am striking
18 something from the record, I go further and tell them
19 they are not to even consider it or discuss it in their
20 deliberations, that that would be a violation of their
21 oath. I do try to emphasize those points.

22 I do not think it's -- even coupled
23 cumulatively with those others that you brought forward
24 to the Court and such -- that this Court would declare a
25 mistrial in that regard. Do you want to think about a

1 curative instruction, the timing of a curative
2 instruction, and/or the striking? I would certainly
3 consider that.

4 MR. COLLINS: Your Honor, I guess my position
5 is and what I am relating to the Court is I should have
6 asked for a mistrial. You are correct I did not ask for
7 a mistrial at the time, and I should have.

8 My concern is if I consent to a curative, I
9 lose any possibility of having the mistrial motion
10 preserved, even if there is a possibly the Court could
11 interpret it differently.

12 There is also another part of Investigator
13 Thomas' testimony where he identified one of the people
14 he interviewed in the video as Brian Campbell. I
15 objected and moved to strike. You sustained the
16 objection, but we didn't actually instruct the jury to
17 strike that portion of that testimony either.

18 THE COURT: And I would be glad to do that. I
19 would be glad --

20 MR. COLLINS: That portion, I could consent to
21 a curative as to: You are not to take that into
22 consideration. But the other, Your Honor, just for the
23 record, I don't feel that I could consent to a curative.
24 I don't think it can be cured because I should have
25 asked for a mistrial then, and I am now.

1 THE COURT: I understand the dilemma a defense
2 lawyer gets in in this regard. Quite frankly, it's a
3 dilemma for the prosecution and for the Court in that
4 regard.

5 As I say, I'm not -- I'm certainly not trying
6 to trap you into consenting into a curative instruction;
7 however, if you think strategically that will be an
8 appropriate thing to do, I will give a curative
9 instruction, number one.

10 Number two, independent of the curative
11 instruction, I will strike that testimony from the
12 record. It's kind of separate and distinct from a
13 curative instruction. If you want to think about it or
14 the timing of it, Sergeant Thomas hasn't finished
15 testifying at this point either.

16 MR. COLLINS: Your Honor, may I be given about
17 five or ten minutes to go consult with our Deputy Public
18 defender. If we are going to do a curative, I would
19 like to have it done right before my cross.

20 THE COURT: Certainly.

21 MR. COLLINS: Thank you, Your Honor. I will
22 be right back.

23 (Whereupon there is a recess.)

24 THE COURT: Mr. Collins, have you had the
25 opportunity to speak with your consultants?

1 MR. COLLINS: Yes, Your Honor. I appreciate
2 the time as well. I believe, Your Honor, we would like
3 to have a curative instruction right before the start of
4 the cross examination, something to the effect -- and we
5 will leave some of it in Your Honor's discretion -- but
6 something to the effect that:

7 There was certain testimony by Investigator
8 Thomas yesterday concerning statements of Mr. Terrance
9 Patterson and Brian Campbell concerning corroboration.
10 This evidence was objected to as inadmissible and should
11 be stricken from the record and not be considered by you
12 whatsoever in deciding this case, something along those
13 lines, Your Honor.

14 THE COURT: All right. Thank you very much.
15 Anything from the State before we bring in our jury?

16 MS. CAMPBELL: No, sir.

17 THE COURT: Defense?

18 MR. COLLINS: No, sir.

19 THE COURT: Bring the jury, please.

20 (The jury returns to the courtroom at
21 9:47 A.M.)

22 THE COURT: Good morning, ladies and gentlemen
23 of the jury panel. Welcome back. I know I received two
24 other notes yesterday evening concerning individual
25 jurors' schedules. We have been given information that

1 the jury had questions concerning our schedule, which
2 includes y'all's schedule.

3 As far as the juror that has fears beyond next
4 Wednesday -- although as Winston Churchill said, I can
5 predict the future but only a very little bit of it -- I
6 don't think we would go beyond next Wednesday. Having
7 said that, I probably have no credibility with y'all
8 when it comes to the timing of issues, but I do not
9 think it would go beyond next Wednesday.

10 Another juror has concerns if we go beyond
11 Monday. I do not think we would go beyond Monday. I
12 will see where we get to today as far as the State's
13 case and the defense case. If it's concluded today, I
14 will probably have the attorneys do their closing
15 arguments today and instruct the jury on the law and
16 have you deliberate today, perhaps into the later
17 evening hours.

18 If we do not get as far as that process, I
19 will probably have the jury discuss their schedule, just
20 their schedule, amongst themselves. I, of course, would
21 be willing to work tomorrow. Of course, I know that is
22 a Saturday. I would be willing to work tomorrow if the
23 jury would agree to that. I have worked Sunday
24 afternoons. I do not prefer to do that for a number of
25 reasons. Or we can break for the weekend and come back

1 Monday. We may not get to those issues, may not even
2 get to that point.

3 But if I see we are headed to that point, I
4 will ask you, Mr. Foreman, to discuss that with your
5 fellow juror members as far as the timing. Those two
6 jurors who would have concerns, as I say, beyond Monday
7 or beyond Wednesday, I think we will be concluded before
8 those kick in.

9 You will note another member of the jury has
10 been released from his service. So we are down to 12
11 jurors. I need 12 jurors. Everybody looks great.
12 Everybody looks well. So we will press on. Thank you
13 again for your patience with the Court and your
14 attention to the parties that you have shown.

15 With that being said, before we recall the
16 witness, Sergeant Thomas, who is now being subject to
17 cross examination by the defense, Mr. Collins, there was
18 some testimony during the course of Sergeant Thomas
19 being on the stand. That testimony concerned Terrance
20 Patterson and Brian Campbell.

21 The testimony regarded whether or not Terrance
22 Patterson and Brian Campbell provided a statement to law
23 enforcement and if that statement was in the nature of
24 corroboration. I advise you and inform you that that
25 testimony I am striking from the record, both the

1 questioning and the response to that question.

2 Whether or not Terrance Patterson gave a
3 corroborating statement or whether or not Brian Campbell
4 gave a corroborating statement is stricken from the
5 record. It will not and should not be considered by you
6 in any manner in your deliberations in reaching your
7 verdicts in this case.

8 It should not even be discussed by you in the
9 jury room. You have all taken an oath that you will
10 follow my instructions. I have so instructed you in
11 regard to that part of the testimony as to Terrance
12 Patterson and Brian Campbell. I am sure that you will
13 follow the Court's instruction.

14 Further, during the course of Sergeant Thomas'
15 testimony during the presentation of the videotape,
16 there was an identification or a statement made by
17 Sergeant Thomas pointing, "This was Brian Campbell."
18 The defense objected to that testimony. I sustained or
19 granted the defense's objection.

20 The defense also made a motion to strike. At
21 the time I did not respond to that motion to strike. I
22 am striking that question and don't recall specifically
23 if that was in response to a specific question, but I am
24 striking that response from the record. I am striking
25 that statement by the sergeant from the record.

ARTHUR THOMAS -- CROSS -- MR. COLLINS

774

1 Again, that would not be part of your
2 deliberations and your consideration of the verdicts in
3 this case. I'm sure you would -- it should not even be
4 discussed in the jury room, that answer and that
5 response.

6 With that being said, Sergeant, will you come
7 back around and retake the stand. You are still under
8 oath.

9 THE WITNESS: Yes, sir.

10 ARTHUR L. THOMAS, having been
11 previously duly sworn, resumed the witness stand and
12 testified as follows:

13 THE COURT: Mr. Collins.

14 MR. COLLINS: Thank you, Your Honor.

15 **CROSS EXAMINATION**

16 BY MR. COLLINS:

17 Q Good morning.

18 A Good morning.

19 Q You are the lead investigator on this case; right?

20 A That is correct.

21 Q That kind of means you are in charge of everybody
22 that is helping out in this case; right?

23 A I pretty much orchestrate everything.

24 Q You orchestrate everything?

25 A That's correct.

- 1 Q As an investigator it's important that you take
2 notes as you go; right?
- 3 A Yes, we take notes as we go.
- 4 Q Can you speak up.
- 5 A That is correct.
- 6 Q And what you do with those notes is you incorporate
7 that into a report; right? At some point you
8 incorporate your notes that you take into a report?
- 9 A We call it case notes.
- 10 Q Case notes that are typed out on computer?
- 11 A That is correct.
- 12 Q With the title and subsections?
- 13 A That is correct.
- 14 Q And your report, you've got to keep it detailed;
15 right?
- 16 A I do.
- 17 Q Accurate?
- 18 A I do.
- 19 Q And thorough?
- 20 A I do.
- 21 Q And you can go back and add something to these case
22 notes at any point in time during the
23 investigation?
- 24 A I can.
- 25 Q You can; right?

ARTHUR THOMAS -- CROSS -- MR. COLLINS

776

1 A Yes.

2 Q And, in fact, the report you have, you have been
3 looking through that all week; haven't you?

4 A Yes, sir.

5 Q Refreshing your memory about what you did a couple
6 of years ago?

7 A This case was two and a half years ago; so yes.

8 Q Exactly. I want to take you -- just trying to
9 clarify a few things about the order in which you
10 talked to people going back to June of 2010. The
11 first person you talked to was Rontrell Henderson;
12 right? Or one of the first main persons?

13 A I spoke to a number of people. Rontrell was one of
14 many. He was not the first. I spoke to a number
15 of people at the scene.

16 Q I am talking about specifically Rontrell Henderson,
17 Brian Campbell, Daqwan Johnson -- I'm sorry --
18 Detrick Walker and Terrance Patterson. Just
19 considering those five people right there.

20 A Okay.

21 Q Rontrell Henderson was the first out of those
22 people that you talked to; right?

23 A That is correct.

24 Q And you got in touch with him because of a
25 CrimeStopper tip?

1 A That is correct.

2 Q And the CrimeStopper tip --

3 MS. CAMPBELL: Objection, Your Honor. May we
4 approach?

5 THE COURT: Yes, ma'am.

6 (Whereupon there was a bench conference off
7 the record in the presence of the jury but out of the
8 hearing of the jury.)

9 THE COURT: You may continue, Mr. Collins.

10 BY MR. COLLINS:

11 Q I will back up. Out of those names that I listed
12 earlier, Rontrell was the first person you talked
13 to; right?

14 A That is correct.

15 Q Next you talked to B.K., Brian Campbell?

16 A That is correct.

17 Q And after that then you talked to Daqwan Johnson;
18 right?

19 A That is correct.

20 Q He gave you a written statement?

21 MS. CAMPBELL: Objection, Your Honor.

22 THE COURT: I would overrule that objection.

23 Q He gave you a written statement?

24 A He provided a statement.

25 THE COURT: What was that answer, Sergeant?

1 THE WITNESS: He provided a statement.

2 THE COURT: Thank you.

3 BY MR. COLLINS:

4 Q You didn't even bother to read that statement; did
5 you?

6 A I read it in depth.

7 Q I'm sorry?

8 A I read it in depth.

9 Q Do you remember testifying at a preliminary hearing
10 in this case? Do you remember testifying at
11 another hearing?

12 A I remember testifying, right.

13 Q Do you remember taking an oath to tell the truth,
14 the whole truth and nothing but the truth, and even
15 God to come down and help you tell the truth if you
16 had trouble.

17 A Okay.

18 THE COURT: I don't think that is part of the
19 oath.

20 A Make your point.

21 THE COURT: Form the question properly.

22 MR. COLLINS: Beg the Court's indulgence.

23 (Pause.)

24 BY MR. COLLINS:

25 Q We will move on. I will find that later.

1 A Okay, Counsel.

2 Q You testified now that you read that statement very
3 thoroughly?

4 A I read that statement a number of times. Yes, sir,
5 I have.

6 Q So after you talked to Johnson, Daqwan Johnson, you
7 talked with Detrick Walker?

8 A That sounds like the proper -- go ahead. I believe
9 that is correct.

10 Q All right. At that time you had -- at that time in
11 June of 2010, early July of 2010, you had a murder
12 warrant sworn out for Thomas O'Bryan Williams?

13 A That is correct.

14 Q And then later you talked to Terrance Patterson at
15 the end of July?

16 A That is correct.

17 Q So for the month of July you had a murder warrant
18 for Thomas O'Bryan?

19 A That warrant was voided.

20 Q But you swore it out?

21 A I did, in fact, swear one out.

22 Q And I believe you testified that that is not
23 unusual, to swear a murder warrant out and then
24 void it?

25 A During the course of the investigation, there may

1 be information provided us in reference to a case
2 which we feel gives us probable cause to swear out
3 a warrant. I work very diligently to ensure that I
4 corroborate my probable cause. So the
5 investigation doesn't cease, which is the basic
6 probable cause.

7 In the beginning of the investigation, I had
8 some probable cause to swear out a warrant for
9 Thomas O'Bryan Williams. As the investigation
10 continued, the evidence and so forth corroborated
11 differently, as far as who participated in this
12 murder. I could not corroborate O'Bryan's
13 participation in this murder. Thereafter, I voided
14 the warrant. All other subjects were corroborated.

15 MR. COLLINS: Your Honor, I move to have that
16 last statement stricken from the record.

17 MS. CAMPBELL: Your Honor, that was responsive
18 to his question.

19 MR. COLLINS: My question was whether or not
20 it was unusual to swear out a murder warrant and then
21 void. It had nothing to do with his response.

22 THE WITNESS: I was explaining how that
23 transpires in the investigation, sir.

24 MR. COLLINS: I move to strike and move for a
25 mistrial at this time.

1 THE COURT: Step up here. I'm not -- when you
2 said that last part, I'm not sure exactly what you were
3 talking about.

4 (Whereupon there was a bench conference off
5 the record in the presence of the jury but out of the
6 hearing of the jury.)

7 THE COURT: Step out, ladies and gentlemen.
8 Do not discuss the case.

9 (The jury retires to the jury room.)

10 THE COURT: May I have the last question and
11 last answer, Madame Court Reporter.

12 COURT REPORTER: Question: "And I believe you
13 testified that that is not unusual, to swear a murder
14 warrant out and then void it?"

15 Answer: "During the course of the
16 investigation, there may be information provided us in
17 reference to a case which we feel gives us probable
18 cause to swear out a warrant. I work very diligently to
19 ensure that I corroborate my probable cause. So the
20 investigation doesn't cease, which is the basic probable
21 cause.

22 In the beginning of the investigation, I had
23 some probable cause to swear out a warrant for Thomas
24 O'Bryan Williams. As the investigation continued, the
25 evidence and so forth corroborated differently, as far

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 as who participated in this murder. I could not
2 corroborate O'Bryan's participation in this murder.
3 Thereafter, I voided the warrant. All other subjects
4 were corroborated."

5 THE COURT: What part of that answer -- what
6 are you objecting to, Mr. Collins?

7 MR. COLLINS: "All other subjects were
8 corroborated." It was not responsive to my question.

9 THE COURT: Well, when you think through it,
10 in a sense it is. Because he is saying I get a warrant
11 for a suspect Williams. Is that correct, Thomas O.B.
12 Williams? Isn't that the individual? He said, As I go
13 through the investigation, I attempt to corroborate the
14 probable cause.

15 I am unable to corroborate the probable cause
16 as to Mr. Williams, and that's why I void that warrant.
17 I am able to corroborate the probable cause as to the
18 other -- well, all other subjects were corroborated is
19 the way he puts it. So his answer is responsive to why
20 he voids -- gets the warrant and then voids the warrant
21 for Mr. Williams.

22 MR. COLLINS: Your Honor, again, my question
23 was not specifically to this case. In fact, my question
24 was: You testified it's not unusual to swear out a
25 murder warrant and then void it. That has nothing to do

1 with this case. What he testified to is that's it not
2 unusual, that it's his practice at some point to swear
3 out murder warrants and then void them.

4 THE COURT: Well, if it has nothing to do with
5 this case, then the case wasn't relevant. Why ask
6 irrelevant questions if it has nothing to do with the
7 case? The question should be relevant to this case. I
8 understand you are talking about procedure as opposed to
9 this particular case.

10 MR. COLLINS: Yes, Your Honor.

11 THE COURT: I understand that.

12 MR. COLLINS: Considering we just went through
13 the motion to strike this same sort of testimony from
14 yesterday, and he offered a lengthy explanation that was
15 unresponsive to my question, that's the reason I
16 objected and moved to strike and moved for a mistrial.

17 THE COURT: Yes, Solicitor.

18 MS. CAMPBELL: Your Honor, I would note too
19 that I believe the question before that was in reference
20 to, You swore out a warrant on Williams or another
21 person in this case that you voided. You testified it
22 wasn't unusual, and then he went into this question.

23 THE COURT: The whole -- he can't be asked
24 that in a vacuum: Why do you get a murder warrant for a
25 suspect and then void it? His explanation is: Well, I

1 couldn't corroborate information as to Mr. Williams. I
2 could as to the others. I will strike all other
3 subjects were corroborated. All other subjects were
4 corroborated. Solicitor?

5 MS. CAMPBELL: Your Honor, respectfully we
6 think that is probative because that goes to the very
7 reason and explains why, because Thomas O'Bryan Williams
8 not corroborated. Otherwise the jury is left with the
9 impression that it didn't corroborate.

10 He opened the door by going there. We didn't.
11 Your Honor, he opened the door. He wanted an
12 explanation as to why Thomas O'Bryan Williams' warrant
13 was withdrawn. That is part of the reason why Thomas
14 O'Bryan Williams' warrant was withdrawn.

15 In fact, it is the overriding reason why his
16 warrant was withdrawn. He had probable cause initially
17 from Brian Campbell's statement; however, after that,
18 having interviewed everyone else involved and reviewing
19 the evidence and things of that nature, he no longer had
20 corroborating evidence. However, it's essential that
21 he was able to corroborate that everyone else was
22 involved.

23 THE COURT: I think Mr. Collins' concern --
24 and I could be wrong about this -- I think his concern
25 is the issue of corroboration versus non-corroboration

1 and the inference -- these are the leaps that a jury has
2 to make, the subjects, meaning the defendant and
3 codefendants and the non-testifying codefendants, and
4 that's all corroboration.

5 I understand the sergeant's response. The
6 actual answer -- if the question was answered and the
7 last part, that was not phrased as to the other
8 subjects. I think his main concern is the issue of
9 corroboration. I don't know.

10 MS. CAMPBELL: But Your Honor, it is essential
11 as to why -- because they are the ones that opened this
12 door in opening statement. They talked about how O.B.
13 is the person, the set king, the person they are afraid
14 of, all this.

15 Then they have gone into the fact that he was
16 charged, which he was. Now they want an explanation in
17 a vacuum as to why he was uncharged. Part of the
18 explanation -- and, Your Honor, a great deal is that
19 issue. They opened the door. When they want an
20 explanation, that is an essential part of the
21 explanation.

22 I understand your concern about the
23 non-testifying codefendants. But the investigation --
24 and he has already brought up the integrity of this
25 investigation. Part of the investigation was

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 interviewing everyone. He can't go into the details of
2 what they told him.

3 However, Your Honor, the fact is that all the
4 statements that were taken from the other witnesses in
5 this case, other than Brian Campbell, corroborated who
6 was charged in this case and I think he has a right to
7 explain that to the jury, and he asked the question.

8 THE COURT: Mr. Collins?

9 MR. COLLINS: Your Honor, I never asked why.

10 THE COURT: Well, you asked him if it's
11 unusual.

12 MR. COLLINS: I said you testified it's not
13 unusual to swear out murder warrants and then void them.
14 That's not asking why they voided this warrant. I'm not
15 getting into details about this warrant. That was his
16 practice of swearing out murder warrants and then
17 voiding them, and he testified to that.

18 THE COURT: And he can explain that.

19 MR. COLLINS: I believe he did explain it up
20 until the point -- the portion that you are going to
21 strike. He explained that he had probable cause, got
22 new evidence, it didn't corroborate, and he voided the
23 warrant. We don't need to go into other people's
24 information.

25 THE COURT: I will strike it but you need to

1 stay away from it. If it comes back up, it comes back
2 up.

3 MR. COLLINS: Thank you, Your Honor.

4 THE COURT: Bring us the jury.

5 (The jury returns to the courtroom.)

6 THE COURT: Ladies and gentlemen, during the
7 response to the last question, there was a phrase in
8 there, "All other subjects were corroborated," five
9 words. Those words are struck from the record. They
10 are not part of your consideration of the evidence in
11 this case. Thank you very much.

12 Mr. Collins, you may ask your next question.

13 MR. COLLINS: Thank you, Your Honor.

14 **CROSS EXAMINATION**

15 BY MR. COLLINS:

16 Q Sergeant Thomas, I will back up just a little bit.
17 You said that you have read Mr. Daqwan Johnson's
18 written statement?

19 A That is correct.

20 Q When did you read it?

21 A I read it a number of times.

22 THE COURT: Speak up for me just a little bit.

23 THE WITNESS: I read it a number of times.

24 THE COURT: Thank you very much, Sergeant.

25 BY MR. COLLINS:

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 Q When was the first time you read it?

2 A I glanced at it when he first wrote it, and I read
3 it in detail many times thereafter.

4 Q And when was that thereafter?

5 A Many times thereafter. I can't tell you any time
6 specifically.

7 Q Did you ever read it before July 21, 2010?

8 A July 21st? Again, I glanced at it. I deemed it
9 what I deemed it at the time, and I moved from
10 there.

11 Q I will have to ask one more time. I'm not asking
12 if you glanced at it. Did you read it before
13 July 21st?

14 A I read over the statement.

15 Q Okay. So you don't remember saying, "I didn't read
16 it on July 21, 2010," at a separate hearing under
17 oath?

18 A I don't.

19 Q You don't remember saying that. We have got
20 pictures of the five codefendants in this case. I
21 believe Ms. Campbell introduced those through you,
22 the head shots?

23 A That is correct.

24 Q Let's give this jury a little bit better
25 description of who we are talking about here.

1 Okay? You have seen all five of these codefendants
2 in person; right?

3 A Yes, I have.

4 Q Marquez Prophet, he is five foot five
5 approximately? He is somewhere around five foot
6 five; correct?

7 A Approximately.

8 Q Approximately about 140, 150-pounds?

9 A I am trying to visualize him. I will go with what
10 you say there.

11 Q And had short hair at the time back then?

12 A Yes, as in his picture. It's short.

13 Q Detrick Walker, about five foot five?

14 A Five-five, five-seven. I can't really --

15 Q Well, you've looked over --

16 A -- as far as height and weight, I can't really
17 respond. I can tell you that I can identify them
18 in the pictures right now. But just seeing him
19 this week, I barely recall the height and weight
20 from two years ago. I can go by the photos, yes.

21 Q As the lead investigator, you reviewed all the
22 other police officers' reports and booking
23 information; correct?

24 A Booking information is in my files, that's correct.

25 Q And height and weight is included in those reports;

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 is it not?

2 A It should be, yes.

3 Q And you reviewed those records?

4 A Two years ago.

5 Q Terrance Patterson is about five foot nine?

6 A I can go with your approximation, Counselor.

7 Again, as stated before, I can't tell you.

8 Q About 160-pounds?

9 A I won't argue with you.

10 Q Short hair?

11 A Correct.

12 Q Daqwan Johnson, five foot nine? Approximately five
13 foot nine?

14 A I will give you that too.

15 Q That is what is in the reports; isn't it?

16 A If you have that before you. I can't really
17 respond to something I don't have before me. I
18 will go with that as well, Counselor.

19 Q About 160-pounds?

20 A I will go with that.

21 Q And at the time had short dreadlock hair?

22 A Yes, he had dreads.

23 Q Brian Campbell, B.K., five foot six approximately?

24 A I will have to go with whatever you have before
25 you, sir.

1 Q So you have no memory about how tall he is?

2 A Sir, I can't tell you how many people I have locked
3 up for murder in the past two and a half years. I
4 will not remember heights and weights. But if
5 that's what you say, I will go along with whatever
6 you say. You may have looked at some documentation
7 more recently that you referred to. I have nothing
8 to refer to.

9 Q And you would agree with me that Brian Campbell is
10 about 130, 135-pounds?

11 A If you seen something that says that, then I will
12 have to agree with that.

13 MS. CAMPBELL: Your Honor, if he could provide
14 him with the documentation. If it's in the file and has
15 been provided to him, I think he can make an accurate
16 assessment for the jury and have accurate information.

17 MR. COLLINS: If she would like to clarify
18 that, she is more than welcome to do that on redirect.

19 THE COURT: You can ask your next question.

20 BY MR. COLLINS:

21 Q And Brian Campbell had dreads too?

22 A That is correct.

23 Q And Thomas O.B. Williams, you remember him; right?

24 A Yes.

25 Q He is six foot one; isn't he?

- 1 A I don't know how tall O.B. is, like I don't know
2 how tall the other guys are.
- 3 Q Dark skinned?
- 4 A He is dark skinned.
- 5 Q Had somewhat of a goatee?
- 6 A I cannot remember that.
- 7 Q He was roughly about 165-pounds?
- 8 A I will go again with your notes, Counsel.
- 9 Q The only guy over six foot out of the bunch?
- 10 A Again, I will go with your notes on that as well.
- 11 Q And you have a picture of Brian O.B. Williams in
12 your notes in preparation for this case in your
13 case jacket; don't you?
- 14 A I have numerous pictures of numerous people, yes, I
15 did. He is one of them.
- 16 Q I want to talk to you about Lamanda Smith. Do you
17 know her?
- 18 A Lamanda Smith?
- 19 Q Do you know her?
- 20 A Yes, she testified.
- 21 Q She lives in your building; right?
- 22 A She does or she used to, not presently.
- 23 Q You heard her testify?
- 24 A I did.
- 25 Q And she said she saw one of these guys?

- 1 A Uh-huh. (Indicating affirmative response.)
- 2 Q Without a mask on; right?
- 3 A I believe that was the testimony.
- 4 Q And she said he was tall; right?
- 5 A Okay.
- 6 Q Dark skinned?
- 7 A Okay.
- 8 Q Muscular build; right?
- 9 A Okay.
- 10 Q And facial hair, maybe a goatee?
- 11 A I believe she said something in that regard.
- 12 Q And you reviewed her statement in preparation for
- 13 this trial; right?
- 14 A Yes, sir.
- 15 Q Now, going back to Daqwan Johnson's statement, you
- 16 have read it numerous times; right?
- 17 A Yes.
- 18 Q You read it numerous times. Have you ever
- 19 interviewed the club manager from Studio 54?
- 20 A No, I did not.
- 21 Q You never interviewed --
- 22 MS. CAMPBELL: Objection, Your Honor. I
- 23 believe this is -- may we approach?
- 24 THE COURT: Yes, ma'am.
- 25 (Whereupon there was a bench conference off

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 the record in the presence of the jury but out of the
2 hearing of the jury.)

3 THE COURT: You may proceed, Mr. Collins.

4 BY MR. COLLINS:

5 Q You never interviewed Berry Heyward?

6 A No, I did not.

7 Q He is the manager of Studio 54. It's in your case
8 file; right?

9 A No, I did not interview anyone from Studio 54.

10 Q Did you ever interview Felicia Cassandra Morris?

11 A I don't know who Ms. Morris is.

12 Q You don't know who that is?

13 A I didn't interview her.

14 Q She goes by Sandy?

15 A I don't recall that. If you can reference it
16 somewhere.

17 Q You don't know anything about a birthday party at
18 Studio 54?

19 A Only what was mentioned throughout my investigation
20 and communicated through the task force. The task
21 force with Richland County interviewed a number of
22 people in reference to their case at Studio 54.
23 That was not my case. So I did not interview those
24 individuals.

25 Q You never bothered to look around for a flyer for

- 1 this party for Sandy?
- 2 A (No response.)
- 3 Q Is that a no?
- 4 A Again, I don't know who Sandy is.
- 5 Q Never interviewed Deidra Morris?
- 6 A I don't know who Deidra Morris is.
- 7 Q And never interviewed any of their friends?
- 8 A I don't know who those individuals are.
- 9 Q You never pulled the video from the Gaz-Bah gas
- 10 station from 10:00 o'clock June 19th?
- 11 A My murder happened at 11:00 o'clock. There was no
- 12 need for me to pull a video at 10:00 o'clock.
- 13 Q And you never pulled any video from the Hillingdale
- 14 Apartments?
- 15 A I don't know if Hillingdale actually has any video.
- 16 Q Don't even know if they have it?
- 17 A I don't.
- 18 Q Let's change directions here a little bit.
- 19 A Sure.
- 20 Q I want to take you to Whitney Wilson.
- 21 A Whitney Wilson.
- 22 Q There was a lineup that has been introduced into
- 23 evidence where he circled three of the six; right?
- 24 A That's correct.
- 25 Q So he circled 50 percent of that lineup; right?

1 A That is correct.

2 Q And Daqwan Johnson's picture is the only one of
3 these codefendants included in that lineup; isn't
4 it?

5 A That is correct.

6 Q Brian Campbell's picture is not in that lineup?

7 A No. I only put one possible subject in each lineup
8 that I do. I wouldn't put multiple subjects in
9 there.

10 Q Did you show him a lineup with Brian Campbell's
11 picture?

12 A I did not show him a lineup of Brian Campbell.

13 Q Did you show him a lineup with any other potential
14 suspects in it?

15 A I showed him a lineup of the owner of the potential
16 vehicle in question.

17 Q So is that a no, you didn't show any other lineups?

18 A Which was your client. That's the only lineup I
19 showed.

20 Q All right. You got information throughout your
21 investigation that Brian Campbell was driving that
22 Buick throughout that day; didn't you?

23 A I did. I think others have testified to that this
24 week.

25 Q I want to take you to Weeny, Edward Miller. Are

1 you familiar with him?

2 A Yes.

3 Q You talked to him; didn't you?

4 A Yes, I did talk to Weeny, who was the intended
5 target.

6 Q He gave a statement; right?

7 A Yes, he did.

8 Q We haven't seen him in here; have we?

9 A No, you have not.

10 Q Did Weeny have beefs with some people?

11 A I don't know what all the beefs were about. This
12 was a gang-related shooting, and Weeny is in the
13 opposite gang of your client.

14 Q Weeny dated a Kimberly Sumter; didn't he?

15 A That's correct.

16 Q And Kimberly Sumter worked with Brian Campbell at
17 Bojangle's; right?

18 A That's correct.

19 Q And you found out that Brian Campbell was at
20 Bojangle's in a Buick on June 19th in the afternoon
21 with Kimberly Sumter; didn't you?

22 A That is correct.

23 Q And that he was bragging about having guns in that
24 Buick?

25 A That is correct.

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 Q She didn't say anything about Daqwan Johnson in
2 that car at Bojangle's?

3 A That was earlier in the day, and she did not. She
4 did mention, if you want to say what she
5 mentioned --

6 Q I am asking you what she mentioned at Bojangle's.

7 MS. CAMPBELL: Objection, Your Honor, if he
8 can finish his question (verbatim).

9 THE COURT: I'm sorry?

10 MS. CAMPBELL: I think he can finish his
11 answer.

12 A She did mention the night of the shooting a G-man
13 as a possible shooter.

14 Q Who else did she mention as a possible shooter?

15 MS. CAMPBELL: Objection, Your Honor.

16 THE COURT: What is the objection, Solicitor?

17 MS. CAMPBELL: Third-party guilt.

18 THE COURT: Step up here.

19 (Whereupon there was a bench conference off
20 the record in the presence of the jury but out of the
21 hearing of the jury.)

22 THE COURT: Thank you, Mr. Collins. You may
23 continue.

24 BY MR. COLLINS:

25 Q You asked Kimberly Sumter some questions; didn't

1 you?

2 A I'm sure I did, yes.

3 Q I'm sorry?

4 A I'm sure I did.

5 Q And you asked her about somebody named Noonie?

6 MS. CAMPBELL: Objection, Your Honor. I think
7 you just ruled on this.

8 THE COURT: I will allow him to answer that
9 question if he knows the response to it. He can ask the
10 question. If he knows the response, he can respond to
11 the question.

12 A Yes.

13 Q And you asked her about somebody named Bean?

14 A Yes.

15 Q And she said she knew both?

16 MS. CAMPBELL: Objection, Your Honor.

17 THE COURT: I will allow that answer.

18 A Yes.

19 Q Throughout your investigation you also got
20 information that Brian Campbell was driving the
21 Buick on [REDACTED] when it was shot at; right?

22 A I'm certain there was testimony given here today --
23 this week -- in regard to that as well, yes.

24 Q And possibly a couple of other people were in the
25 car with him at that time?

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 A That is correct.

2 Q But not Daqwan Johnson?

3 A Not until the actual shooting occurred.

4 Q So that's twice on June 19th we hear about Brian
5 Campbell driving this Buick; right?

6 A That is correct.

7 Q I believe the testimony was that Brian Campbell was
8 driving the Buick later that night around
9 11:00 o'clock too; right?

10 A The entire time during the investigation, it was
11 discovered Mr. Campbell was the driver of the
12 vehicle in the execution of the shooting.

13 Q And through your investigation you learned that
14 Daqwan Johnson drives a -- sometimes drives a gold
15 Tahoe?

16 A A gold Tahoe was mentioned. I think he said his
17 lady friend may have a Tahoe. I can't remember.

18 Q And you don't know who his lady friend is?

19 A He didn't give a name.

20 Q And you didn't try to find out?

21 A He didn't give a name.

22 Q I want to take you now to Gable Oaks, June 19th.

23 A Uh-huh. (Indicating affirmative response.)

24 Q You had a bunch of investigators helping out there?

25 A It was a massive crime scene. I had over 20, 30

1 officers our there trying to secure that place.

2 Q And they did a good job securing that crime scene?

3 A They did what they could do for the territory that
4 we had. I thought they did an excellent job.

5 Q Collected a lot of evidence for you to have at your
6 disposal?

7 A They collected all they could collect under those
8 circumstances, yes.

9 Q Investigated potential leads? Talked with people
10 at the apartment complex; correct?

11 A We canvassed the area, spoke to who would speak to
12 us at a given time, and then continued to do so
13 throughout the investigation, yes.

14 Q One of those investigators that helped you out was
15 Investigator Reeves?

16 A Reeves. Okay. Yes. Again, I had over 20, 30
17 officers out there. Reeves was one of the new
18 investigators.

19 Q Again, you have reviewed this case file in
20 preparation for this trial; haven't you?

21 A Yes.

22 Q And Reeves' report would be included in your case
23 file; wouldn't it?

24 A It should be, yes.

25 Q And he got a lead about the shooter working at

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 Bojangle's?

2 A I don't have it before me but that's possible. If
3 you are referring to my notes or anything of that
4 nature, I can look at it.

5 Q We can go forward. That's okay.

6 A Thank you.

7 Q Let's stay at Gable Oaks for now.

8 A Okay.

9 Q There were a number of witnesses that were
10 interviewed, more than we have seen here in court;
11 correct?

12 A That is correct. I interviewed over 50 or more
13 people throughout this investigation.

14 Q You interviewed over 50 or more people?

15 A Uh-huh. (Indicating affirmative response.)

16 Q Your entire report is 12 pages long; isn't it?

17 A Typed.

18 Q So you don't have notes from all 50 of those
19 interviews; do you?

20 A No. Some were nothing for the most part.

21 Q You determined they were nothing?

22 A Right. I could not bring into any corroboration of
23 anything they said to me. So I had to go on and
24 move through my investigation.

25 Q No documents or no notes were preserved on any of

1 them?

2 A I couldn't corroborate anything.

3 Q Many of the witnesses out at Gable Oaks Apartments
4 about the time of June 19th actually picked
5 different people out of photo lineups; correct?

6 A Again, what was given could not be corroborated,
7 sir.

8 Q Is that a yes?

9 A There were other lineups shown. As names are
10 given, there are other lineups shown, yes.

11 Q There were other lineups where people circled other
12 people and picked them out of lineups; correct?

13 A For different reasons, that's correct.

14 Q And you got many different names potentially being
15 involved in this case?

16 A I had some names. I may have had a total of 10 to
17 12 names related.

18 Q You got information about a white van potentially
19 being at the shooting in the afternoon; correct?

20 A The shooting in the afternoon?

21 Q Or at night?

22 A There was something mentioned about a van in the
23 nighttime shooting, but there was no van. There
24 was a lady unloading groceries in a van on the
25 daytime shooting.

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 Again, as people give statements if I cannot
2 corroborate the information that they have given
3 me, I put it to the side and focus on what I can
4 corroborate.

5 That's what I have done in this investigation.
6 Many statements were given that I could not
7 corroborate through what they gave to be factual in
8 any way, through evidence or anything else.

9 Q And that's all documented in your 12 pages of
10 notes?

11 A It is documented of what this case -- that has been
12 corroborated in my notes, yes.

13 Q And you talked with Sharnice Reese; correct?

14 A Sharnice Reese?

15 Q Somebody talked to Sharnice Reese?

16 A Okay.

17 Q Sharnice Reese, one of the witnesses that was at
18 the shooting?

19 A Okay. I remember Sharnice. That was another one,
20 Sharnice, as I continued my investigation was
21 not --

22 Q Sir, I'm not trying to interrupt. The question was
23 you or someone else talked to Sharnice?

24 A I spoke to Sharnice Reese, yes, and her story could
25 not be corroborated.

- 1 Q She gave a written statement?
- 2 A Correct.
- 3 Q Her story was -- you say it couldn't be
4 corroborated. There were many different names
5 given?
- 6 A They could not be corroborated.
- 7 Q And she gave specifics in that statement?
- 8 A Her statement could not be corroborated in any way.
- 9 Q All right. You reviewed the video from Gable Oaks.
10 We have been through it here in court. You have
11 probably watched it many other times; correct?
- 12 A Yes, sir.
- 13 Q In the case file you also got a report from a
14 security service about the night of the shooting;
15 correct?
- 16 A I believe there was some type of report in that,
17 that is correct.
- 18 Q In that report it stated that someone was
19 handcuffed and put into a City of Columbia Police
20 Department patrol car at 11:46 P.M. on June 19th;
21 correct?
- 22 A That has been brought to my attention. That is
23 correct.
- 24 Q And you can't find any kind of documentation
25 anywhere in the City of Columbia Police Department

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 that can tell anybody who that was or why he was
2 detained?

3 A I have gone through the commanders. I've gone
4 through 9-1-1 records and so forth. The only thing
5 that we can come up with at that time frame was the
6 murder itself.

7 Oftentimes with these type of cases, people
8 may be detained for a period of time. An officer
9 may question them and cut them lose, and no report
10 or case number is generated because of that. If he
11 answers questions correctly, they cut them lose.

12 Because we can find no records of anyone being
13 cuffed and arrested at that time frame, I can only
14 assume that that's what transpired. There is no
15 record of anybody going into custody, and I have
16 checked our records, dispatch, checked with the
17 commander. I just cannot...

18 Q So your testimony is that somebody can be put in
19 handcuffs and put in a patrol car, and it could be
20 possible to have not a single written record of
21 this?

22 A That's what I'm saying. If he answers the
23 questions correctly, and apparently they cut him
24 lose.

25 Q I want to take you to the Studio 54 shooting. You

1 are familiar with that; aren't you?

2 A I am only familiar through information that was
3 provided to me by the task force, which was some
4 general information. The information that I
5 focused on was information dealing with my
6 suspects. I can't talk in depth about Studio 54.
7 I have no in-depth information on that.

8 Q Let's talk about what is connected. You got 19
9 shell casings matched to a gun sitting on this
10 table; don't you? That were found at the Studio 54
11 parking lot?

12 A Again, I think that was testified to by the
13 Richland County forensic person, but that is not my
14 case. You will have to speak with them.

15 Q You have to admit that is connected with your case;
16 don't you?

17 A Again, it's not my case. I believe that was stated
18 today or this week that there was some shell
19 casings from that. We, as a task force and I, got
20 together, met. We knew that --

21 COURT REPORTER: Wait a minute. I could not
22 hear you. As you got together with the task force,
23 what?

24 A As the task force and I met, we knew that the
25 shooters were related. It was retaliatory gang

ARTHUR THOMAS -- CROSS -- MR. COLLINS

1 shooters. So I'm not surprised, no.

2 Q And you also know there were three shell casings
3 that were fired by the same gun that was used at
4 the Gable Oaks shooting; right? Shell casings
5 found at Studio 54 that were fired by the same gun
6 that was used at the Gable Oaks scene?

7 A I believe that it was testified by Detrick Walker
8 that he shot at Studio 54. I think he testified to
9 that this week. He shot at the Gable Oaks
10 shooting.

11 Q So, yes, there were shell casing at Studio 54 that
12 were fired by the same gun that was used at Gable
13 Oaks; correct?

14 A I believe that is correct.

15 Q Correct. We heard testimony that there were swabs
16 taken from those shell casings found at Studio 54;
17 correct?

18 A We did have testimony to that effect. That is
19 correct.

20 Q Those were never tested; were they?

21 A I can't recall any testing done on those.

22 Q You never requested that they be tested?

23 A I don't think there is any testimony to that
24 effect. I did not request that, no.

25 Q And they took swabs from the Buick in this case;

1 right?

2 A Correct.

3 Q They took swabs from each door handle? Each place
4 in the car?

5 A Yes.

6 Q And there were cigarette butts in the car; correct?

7 A Correct.

8 Q Those were never tested?

9 A I did not select to test the vehicle because the
10 vehicle belonged to the defendant. We pulled out
11 registration paperwork and other paperwork that
12 identified the vehicle as being the defendant's and
13 his mother's. There was no need to swab for his
14 D.N.A. on his vehicle.

15 Q Is that a no?

16 A That's a no.

17 Q Thank you. Now, there was some D.N.A. testing in
18 this case; correct?

19 A I believe the County asked for some D.N.A. It was
20 not requested by myself.

21 Q You weren't even aware there were D.N.A. swabs from
22 shell casings until May of this year; were you?

23 A I did not request any D.N.A. testing, but I believe
24 the County requested some from the Studio 54
25 shooting in trying to relate the cases to one

1 another. It was not requested by myself.

2 Q You never asked about them?

3 A I did not request D.N.A.

4 Q And we didn't find out about them until May of this
5 year; right?

6 A I did not request any.

7 Q And we had five guys siting in jail for two years?

8 A Correct, but it's not only D.N.A.

9 Q As it turns out, there is a D.N.A. profile on one
10 of those .40-caliber shell casings that doesn't
11 match any of the five defendants? That is correct;
12 right?

13 A That is correct.

14 Q We still have shell casing and swabs out there
15 somewhere from shell casings from the S.K.S. There
16 might be swabs from the shell casings from the
17 S.K.S. that were used at Studio 54 --

18 A Again, I can't comment on the Studio 54 shooting.
19 I don't know details about that. I can only speak
20 on my murder case.

21 Q And the S.K.S. that you are telling this jury was
22 brought to the murder scene at Gable Oaks, that
23 S.K.S. was matched to shell casings a few hours
24 later at Studio 54. There are still D.N.A. swabs
25 or something out there on those shell casing to

1 your knowledge?

2 A Again, I cannot speak to the Studio 54 shooting.

3 But, yes, the S.K.S. involved in my shooting is
4 here today.

5 Q You are not interested in any kind of D.N.A.
6 evidence; are you?

7 A I'm not interested in the Studio 54 shooting. I
8 think those officers have done a great job on that
9 particular shooting.

10 MR. COLLINS: Nothing further, Your Honor.

11 THE COURT: Redirect, Solicitor?

12 MS. CAMPBELL: Yes, sir.

13 **REDIRECT EXAMINATION**

14 BY MS. CAMPBELL:

15 Q Sir, I will talk about the Gable Oaks murder.

16 A Yes, ma'am.

17 Q There has been much talk about -- what time of
18 night did the Gable Oaks murder and attempted
19 murder occur?

20 A It occurred at 11:00 o'clock, by 11:05.

21 Q The Studio 54 murder -- which was investigated by a
22 different agency?

23 A That is correct.

24 Q What time of night did that happen?

25 A I was looking at the report here. It happened at

1 2:20 in the morning.

2 Q 2:20 A.M.?

3 A That is correct.

4 Q So that would be approximately how many hours after
5 the first murder?

6 A Approximately two hours and some minutes after the
7 first murder.

8 Q As far as the case we are here on today with Daqwan
9 Johnson -- not the other codefendants -- and their
10 cases are still what?

11 A They are still pending.

12 Q What gun do we link him to?

13 A We link him to the .223 assault weapon, which was
14 found up under his bed loaded, with weapons that
15 matched weapons from the crime scene.

16 Q And in your investigation was there any evidence
17 linking Daqwan Johnson to this gun and to the crime
18 scene we are here about?

19 A Again, yes.

20 Q What is it?

21 A Through our investigation, again, the weapon itself
22 was recovered under the defendant's bed at his
23 grandmother's house at [REDACTED]. The
24 weapon, again, was loaded with ammunition that was,
25 in fact, recovered from [REDACTED]. Two

1 rounds were recovered at that particular site, and
2 those rounds matched the rounds found in the
3 weapon.

4 Q And the weapon was found where?

5 A Under Daqwan's bed at his grandmother's house.

6 Q Under this man's bed?

7 A The defendant's bed.

8 Q He also asked about Brian Campbell?

9 A Yes.

10 Q During the course of your investigation, did you
11 become aware of what the relationship is between
12 Brian Campbell and Daqwan Johnson?

13 A Yes, I did.

14 Q What is that relationship?

15 MR. COLLINS: Objection, Your Honor.

16 THE COURT: Overruled.

17 A They are friends and associates.

18 Q And, in fact, he asked you about only showing one
19 lineup to Whitney Wilson?

20 A That's correct.

21 Q And who are the two, during the course of your
22 investigation, who are the two people in that car
23 during the course of your investigation during the
24 shooting of Whitney Wilson?

25 A During the course of my investigation in the

ARTHUR THOMAS -- IN CAMERA DIRECT -- MS. CAMPBELL 814

1 shooting of Whitney --

2 MR. COLLINS: Objection, Your Honor.

3 THE COURT: What is the objection?

4 MR. COLLINS: It calls for hearsay and
5 Crawford issues.

6 THE COURT: You asked it. I overrule the
7 objection. Step up here. Step up here. I want to make
8 sure I have got it right.

9 (Whereupon there was a bench conference off
10 the record in the presence of the jury but out of the
11 hearing of the jury.)

12 THE COURT: Step out, ladies and gentlemen.

13 (The jury retires to the jury room.)

14 THE COURT: Restate your question for me,
15 Solicitor.

16 IN CAMERA DIRECT EXAMINATION

17 BY MS. CAMPBELL:

18 Q During the course of your investigation, did you
19 get evidence about who was in the car during the
20 shooting of Whitney Wilson?

21 A Yes, I did.

22 MS. CAMPBELL: And then my next question
23 following up was: Who was that?

24 THE COURT: What is the answer?

25 THE WITNESS: Daqwan Johnson and Brian

1 Campbell.

2 THE COURT: What is the objection,
3 Mr. Collins?

4 MR. COLLINS: Your Honor, there is absolutely
5 no evidence that Daqwan Johnson was in that car unless
6 there would be evidence coming from Brian Campbell that
7 Daqwan Johnson was with him during that afternoon
8 shooting, and that would be a violation of our right to
9 confront Brian Campbell.

10 THE COURT: Why didn't it go to the integrity
11 of the investigation?

12 MR. COLLINS: It's a separate issue, Your
13 Honor. It's his right to confrontation. They are
14 implicating our client into a shooting. I believe we
15 have a right to confront the only person who gave that
16 piece of information.

17 THE COURT: Say that again.

18 MR. COLLINS: If the jury is going to hear
19 that our client is implicated in the shooting during the
20 daytime and if that information came from an unavailable
21 witness, we should have the right to confront that
22 witness where that information came from.

23 THE COURT: Where did that information come
24 from?

25 MS. CAMPBELL: From -- I can ask him that

ARTHUR THOMAS -- IN CAMERA DIRECT -- MS. CAMPBELL 816

1 specifically.

2 THE COURT: Go ahead.

3 BY MS. CAMPBELL:

4 Q Where did that information from?

5 A The information came from Terrance Patterson.

6 THE COURT: Terrance Patterson?

7 THE WITNESS: Yes, sir.

8 THE COURT: I would sustain that objection.

9 That's a codefendant.

10 MS. CAMPBELL: Yes, Your Honor. The only
11 other thing, while the jury is out, if I can bring up
12 one other line that I think may be a problem. Your
13 Honor, he went through specifically, with third-party
14 guilt, he asked specific questions about other names,
15 other witnesses that were shown lineups, things of that
16 nature. At this point I think I have a right to go
17 through with him what evidence points to Daqwan Johnson.
18 He opened that door.

19 THE COURT: I thought he answered that
20 question about the gun being under the bed.

21 MS. CAMPBELL: Yes, sir, but it's more than
22 that. This jury has a right now. He has brought up --
23 and I didn't object -- he went through the other people,
24 that there were other people involved with witnesses.
25 There were other photo lineups shown.

1 The inference that he is making is that there
2 was other information brought. He went through
3 specifically: One witness gave you other names. He
4 went through all that.

5 At this point I think I have the right -- so
6 that the jury understands fully -- what his
7 investigation showed. He opened that door. Again, Your
8 Honor, and you warned him -- you told him. I'm sorry --
9 that if he opened the door, again, it can come in.

10 THE COURT: What is the answer?

11 MS. CAMPBELL: The answer is going to be --
12 it's going to be interviewing everyone involved in the
13 case, everyone involved in this case, other than Daquan
14 Johnson, plus the gun, plus the car, point to this
15 defendant.

16 At this point all the jury knows is that all
17 these other people -- because he asked these
18 questions -- gave other statements, named other people,
19 were shown other lineups. He chose to go through it.

20 THE COURT: He can ask it based on his
21 interviews with the witnesses, but it's got to exclude
22 Mr. Patterson and Mr. Campbell. As you can tell,
23 Solicitor, I have an issue with Mr. Patterson and
24 Mr. Campbell.

25 MS. CAMPBELL: Yes, sir, I am aware that you

1 do. We wouldn't be going there if, Your Honor, he
2 didn't open the door.

3 THE COURT: I understand.

4 MS. CAMPBELL: It's just not quite right that
5 he can sit there and impugn the integrity of this
6 investigation and the reason that this man is charged
7 without us being able to say that obviously -- and even
8 went there before, Your Honor, respectfully and opened
9 the door somewhat with his questioning about O.B.

10 That, coupled with the most recent line of
11 questions, Your Honor, I think allows us to get into
12 exactly why -- not in detail, Your Honor. We are not
13 going to go into what the statements were, but the
14 reason why this man has charged him and he remains
15 charged and he is before this jury for murder. It's
16 kind of like he can't have his cake...

17 THE COURT: I think you can go into as far as
18 the integrity of the investigation. Still at the same
19 time, I think there is a serious constitutional issue
20 about non-testifying codefendants.

21 MS. CAMPBELL: Can he make -- I don't mean to
22 second-guess it, but can he make a general statement
23 that having investigated this case and this
24 investigation has been ongoing, does everything
25 corroborate Daqwan Johnson as being involved in this

1 murder? I would not specifically say -- I will try to
2 make it vanilla.

3 THE COURT: I think if you limit it to the
4 witness statements because Mr. Patterson and
5 Mr. Campbell have not been witnesses. I don't want to
6 bootstrap to the jury statements made by non-testifying
7 codefendants.

8 MS. CAMPBELL: I understand your concern, Your
9 Honor. I am just saying I think the record reflects he
10 has opened the door. If not we would just make that
11 general -- I don't want to have to get anymore testimony
12 from the record because it doesn't look good. So I am
13 trying to preempt this and find out from the Court what
14 parameters I can go into.

15 THE COURT: Based on his interviews with
16 witnesses -- yes, Mr. Collins.

17 MR. COLLINS: Your Honor, I believe if you say
18 witnesses, we need to clarify it as witnesses who have
19 testified here in court.

20 THE COURT: That's not only what she's asking
21 for. You asked about Clarice Reese or Sharnice Reese.
22 I can't read my writing. You have asked about others.
23 So it really is based on the totality of his
24 investigation.

25 Based on the totality of his work product and

1 the work product of the other officers involved in the
2 case and looking at the case file as a whole, it did
3 corroborate Mr. Johnson being involved in the shooting.
4 So the answer to that is yes.

5 Part of that corroboration, of course, is the
6 two non-testifying codefendants, I take it. Again, I
7 haven't read those statements. So I assume they are not
8 either self-serving or Johnson serving statements in
9 that regard.

10 I was trying to figure a way for her to --
11 where the State can ask that question and follow up your
12 questions on the integrity of the investigation without
13 getting into the non-testifying codefendants.

14 MR. COLLINS: My concern is that if we lump
15 the witnesses -- all witnesses corroborate that --
16 that's not -- it's just not true. There's a lot of
17 witness -- and I didn't go into specific names and
18 specific details which would have been hearsay -- but
19 there are many witnesses that they interviewed that gave
20 completely different names as being involved in the
21 shooting that does not corroborate it.

22 So I don't know if he is going to testify to
23 all witnesses corroborating what he did; but if he does
24 that, I think it opens the door for me to go into very
25 specifically each person that gave him non-corroborating

1 evidence.

2 THE COURT: Well, then it may open the door
3 for her to go into specifically each person that gave
4 corroborating evidence. That's the point she's making.
5 It's going to be a general answer in that regard. You
6 cross examined him generally about statements, about
7 others names. I believe the officer testified that it
8 was about 10 or 12 names given.

9 MR. COLLINS: Your Honor, if they are going to
10 testify as far as testifying witnesses and as long as we
11 are not getting into the area with Brian Campbell and
12 Terrance Patterson, they can get into general responses
13 on that, but we can't waive the confrontation for those
14 two witnesses.

15 THE COURT: I'm not asking you to waive
16 confrontation. I'm not asking you that at all.

17 MR. COLLINS: Thank you, Your Honor.

18 THE COURT: Solicitor, you can form the proper
19 question excluding those two codefendants.

20 MS. CAMPBELL: Okay, Your Honor. I
21 understand.

22 THE COURT: Bring us the jury, please.

23 (The jury returns to the courtroom.)

24 THE COURT: Solicitor.

25 MS. CAMPBELL: Thank you, Your Honor.

REDIRECT EXAMINATION

1

2 BY MS. CAMPBELL:

3 Q In talking to Mr. Wilson, Whitney Wilson, in the
4 case, did he indicate that he got a good look at
5 one of the people in the car or both of the
6 people?

7 A One.

8 Q Based on the information you had at that point, did
9 you show him what is marked as State's 142 for I.D.
10 purposes?

11 A I did.

12 Q Was that appropriate in this case?

13 A It was.

14 Q And what was his response?

15 A Again, he circled three photos.

16 Q And who was included in those?

17 A Number 4, which is the defendant, was included in
18 the three that he circled.

19 Q Based on the fact that he didn't get a good look at
20 the actual driver, was there any need to show him
21 another photo lineup?

22 A I did not show him that.

23 Q He asked you about someone being put into a police
24 car sometime after the shooting?

25 A Yes.

1 Q Is that unusual in a case when there are a number
2 of people out there in the area?

3 A Many things transpire when we have that type of
4 shooting incident, that magnitude. There may be
5 some other things that would transpire. Again, I
6 am uncertain what that may have been. It was not
7 related to my murder case.

8 Q And he also asked you about talking to Weeny, the
9 intended target in this case?

10 A Yes.

11 Q Was he able to give you any information about the
12 identity of anyone who participated in this?

13 A He was not able.

14 Q As far as what corroborated your investigation, did
15 you also -- you can't say what they are right
16 now -- get certain phone numbers related to certain
17 people in this case?

18 A I did.

19 Q Including whom?

20 A Including the defendant.

21 Q As well as Brian Campbell?

22 A That's correct.

23 MR. COLLINS: Objection, Your Honor.

24 THE COURT: She can ask that question. I
25 overrule that objection.

1 BY MS. CAMPBELL:

2 Q And at a later time were phone records procured in
3 this case?

4 A Yes, they were.

5 Q Did that corroborate again the information --

6 MR. COLLINS: Objection, Your Honor.

7 THE COURT: It's overruled.

8 BY MS. CAMPBELL:

9 Q Did that corroborate, again, the parties involved
10 in this case?

11 A Yes, it did.

12 Q And the information was given to you specifically
13 by Marquez Prophet?

14 MR. COLLINS: Objection, Your Honor.

15 THE COURT: Is that part of his investigation?

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: That's overruled.

18 A That's correct.

19 Q As far as Studio 54 -- which occurred how many
20 hours after this?

21 A Approximately two and a half hours.

22 Q And that was handled by a different agency?

23 A Yes, it was.

24 Q And it was linked to this case however; is that
25 correct?

1 A Yes, it was.

2 Q And as far as any information that relates to this
3 case, that has been related to the jury?

4 A It has.

5 Q To this murder. Do you know whether or not the
6 defendant was present when the 2:20 A.M. shooting
7 at Studio 54 took place?

8 A The information I received was that he was present.
9 In fact, his vehicle was shot up at that location.
10 There is an incident report to that effect for the
11 County.

12 Q He mentioned about the video that was shown to the
13 jury which shows -- what we showed to the jury
14 yesterday?

15 A Yes.

16 Q Did you try to see if there was any other video
17 showing any of the actual shooting that occurred,
18 other than what was produced?

19 A That's the video I focused on.

20 Q There were no cameras that showed anything else?

21 A No.

22 Q During the course of your investigation, did you
23 get a phone -- did you make contact with Terrance
24 Patterson, one of his girlfriends?

25 A Yes, I did.

1 Q You can't say what it was, but was she able to give
2 you a phone number?

3 A Yes, she was.

4 MR. COLLINS: Objection, Your Honor.

5 THE COURT: She can ask the question if she
6 ever gave him a phone number. That's overruled.

7 BY MS. CAMPBELL:

8 Q And that was memorialized in your follow-up notes?

9 A Yes, it was.

10 Q He also asked you about your 12 pages of follow-up
11 notes. As far as all the information, it's a lot
12 of information in this case?

13 A Yes.

14 Q And that's been provided to us and the defense?

15 A Yes, it has.

16 Q Thank you.

17 MS. CAMPBELL: Nothing further.

18 THE COURT: Recross, Mr. Collins?

19 MR. COLLINS: One thing I forgot to ask.

20 **RECROSS EXAMINATION**

21 BY MR. COLLINS:

22 Q When Daqwan was arrested, Brian Campbell was with
23 him; right?

24 A Yes, he was.

25 MR. COLLINS: Nothing further.

1 THE COURT: Thank you. Thank you very much,
2 Sergeant.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: You may step down.

5 (Witness leaves the witness stand.)

6 THE COURT: Call your next witness.

7 MS. CAMPBELL: The State would call Rontrell
8 Henderson.

9 THE COURT: Mr. Henderson?

10 MS. CAMPBELL: Mr. Henderson.

11 THE COURT: If you would come around and be
12 sworn for us, please, Mr. Henderson.

13 RONTRELL HENDERSON, being
14 first duly sworn, testifies as follows:

15 CLERK: State your name for the record.

16 THE WITNESS: Rontrell Henderson.

17 **DIRECT EXAMINATION**

18 BY MS. CAMPBELL:

19 Q Mr. Henderson, how old are you?

20 A I'm 22.

21 Q Where did you grow up?

22 A I grew up in Batesburg Leesville.

23 Q Batesburg Leesville?

24 A (Witness nods.) (Indicating affirmative response.)

25 Q Do you hang out in Columbia a lot?

1 A Yes.

2 Q Where do you hang out typically?

3 A Where I hang out? On Percival.

4 Q On Percival. I want to turn your attention back to
5 June 19, 2010. Were you hanging out at the Gable
6 Oaks Apartments?

7 A No.

8 Q You weren't there that night?

9 A No.

10 Q So your testimony here today is that you were not
11 at Gable Oaks Apartments when this shooting
12 occurred?

13 A Yes, I was not there.

14 Q And do you remember back in June of 2010 making
15 contact -- the police making contact with you?

16 A Yes, I do.

17 Q They came and found you?

18 A Yes.

19 Q And do you remember them transporting you? I
20 believe you were under arrest; weren't you?

21 A Yes.

22 Q Transporting you to police headquarters?

23 A Yes.

24 Q And do you remember getting to police headquarters
25 at Number 1 Justice Square? You may not know the

1 address.

2 A Yes.

3 Q When you got there, do you remember making contact
4 with Sergeant Thomas?

5 A Yes.

6 Q And when you made contact with him, do you remember
7 giving him a statement?

8 A Yes, I did give him a statement. I basically was
9 lying about the statement because he was trying to
10 charge me with murder.

11 Q So your testimony here today is you were lying
12 about the statement because he was trying to charge
13 you with murder?

14 A Yes.

15 Q What did you tell them in the statement that you
16 were lying about?

17 A What did I tell them?

18 Q Yes.

19 MR. COLLINS: Objection, Your Honor.

20 THE COURT: Rephrase that question. I think
21 you have to lay a proper foundation.

22 BY MS. CAMPBELL:

23 Q Are you now claiming that statement was a lie?

24 A Yes.

25 Q And I want to show you a three-page statement. Is

1 that your statement?

2 A Yes.

3 Q Is that your signature on the bottom of each page?

4 A Yes, but it's a lie about the whole thing.

5 Q I understand today it's a lie. But back when you
6 gave this statement, did you give them this
7 information?

8 A Yes.

9 Q And what information did you give them? You can
10 use this.

11 MR. COLLINS: Objection, Your Honor.

12 THE COURT: Comply with Rule 613. Look at
13 Rule 613, Solicitor.

14 BY MS. CAMPBELL:

15 Q Do you remember being there on June 24, 2010,
16 around 2:15 P.M.?

17 MR. COLLINS: Objection, Your Honor. She is
18 just reading -- trying to read the statement into
19 evidence at this point.

20 THE COURT: I overrule that objection. I did
21 not take asking being at a location a particular time as
22 reading the statement. Comply with Rule 613.

23 MS. CAMPBELL: Yes, Your Honor.

24 BY MS. CAMPBELL:

25 Q Do you remember giving them a statement about being

1 there the night of the shooting?

2 MR. COLLINS: Objection, Your Honor.

3 THE COURT: Step out please, ladies and
4 gentlemen.

5 (The jury retires to the jury room.)

6 THE COURT: As I understand Rule 613(b),
7 extrinsic evidence, prior inconsistent statement by a
8 witness is not admissible unless the witness is advised
9 of the substance of the statement, the time and place it
10 was allegedly made, and the person to whom it was made
11 and given an opportunity to explain or deny the
12 statement. I don't see how the State is prohibited from
13 laying that foundation.

14 MR. COLLINS: Your Honor, she has asked about
15 where he was, who he gave it to, and what the statement
16 was about. He said it was a lie. She can't then walk
17 around with the statement in her hand and start reading
18 from it.

19 That is introducing extrinsic evidence by
20 reading his prior statement into the record and asking
21 him: Is this what you said then? That is extrinsic
22 evidence that she is not allowed to get into.

23 THE COURT: You will have to show me a case
24 that says an attorney can't walk around with a statement
25 in their hand. I would like to read that case, number

1 one. Number two, it further says rule -- what was that
2 last question he objected to, Madame Court Reporter?

3 COURT REPORTER: "Do you remember giving them
4 a statement about being there the night of the
5 shooting?"

6 THE COURT: How is that walking around,
7 publishing the statement: Do you remember being there
8 giving a statement?

9 MR. COLLINS: Your Honor, I am objecting in
10 anticipation because I don't want the lid to be opened.
11 It's my position that any contents of that statement --
12 they have already gone through that he was picked up,
13 was taken into headquarters, he gave a statement and
14 that it was a lie. He said he was not there that night.

15 Now she is going into the statement. She is
16 saying you were there this night. Do you remember
17 saying this? Do you remember saying that? I am
18 objecting in anticipation so the jury doesn't hear it
19 before I object.

20 THE COURT: I think she has got a basis to lay
21 the proper foundation before she can ask the question.

22 MS. CAMPBELL: Yes, Your Honor. The whole
23 purpose of impeachment is to show he gave a prior
24 inconsistent statement. Therefore I have to ask him
25 about the prior inconsistent statement.

1 THE COURT: He can explain it, deny it.

2 MR. COLLINS: My objection is that you are not
3 allowed to read the statement into evidence, which she
4 is attempting to do. You are allowed to talk about the
5 substance, that you lied about the statement, you were
6 giving it to a certain person on a certain day. He
7 admitted that he did. He said it was a lie. That has
8 already been satisfied; therefore, no extrinsic evidence
9 is admissible at this point.

10 THE COURT: I disagree that she's reading it
11 into evidence. She can ask -- the solicitor can ask the
12 question if she has a reasonable basis for asking the
13 question specifically in that statement of this witness,
14 and he can admit or deny it.

15 MR. COLLINS: Just for purposes of the record,
16 if she is going to be allowed to go through each
17 question and answer, I would like to object -- any
18 contents of that statement preserved for the record so I
19 don't have to stand up and object on each question.

20 THE COURT: I'm not sure I can do that.
21 Mr. Collins. I don't have any objections to that being
22 done, but I never know if there is a conviction what an
23 appellate court may do.

24 I understand the dilemma of defense lawyers in
25 a continuing objection. In other words, I don't want to

834
RONTRELL HENDERSON -- IN CAMERA DIRECT -- MS. CAMPBELL

1 indicate to you that I think that absolutely preserves
2 your objection. It does as far as this Court is
3 concerned, but that becomes irrelevant at some point in
4 time.

5 MR. COLLINS: I understand. Thank you, Your
6 Honor.

7 THE COURT: Solicitor, I would like to hear
8 his testimony in camera as to the prior statement.

9 MS. CAMPBELL: Just what I intend to ask him?

10 THE COURT: Yes, ma'am.

11 MS. CAMPBELL: I will proffer it. Your Honor,
12 I have already advised him of the time and place and to
13 whom.

14 THE COURT: Yes, ma'am.

15 IN CAMERA DIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q Do you remember telling investigators that you were
18 out there that night when the shooting occurred?

19 A Yes, I did.

20 Q And do you remember telling them that you
21 recognized one of the three men that you saw
22 associated with guns?

23 A Yes.

24 Q Do you remember telling them that you recognized
25 him?

835
RONTRELL HENDERSON -- IN CAMERA DIRECT -- MS. CAMPBELL

1 A Yes.

2 Q And that you had known him for nine years?

3 A Yes.

4 Q And you remember telling him his name was G-man?

5 A Yes, but it's all a lie though.

6 Q I understand that part.

7 MS. CAMPBELL: Then I will go through: This
8 is the written statement you gave, and then I would go
9 through the photo lineup.

10 THE COURT: What is your objection,
11 Mr. Collins?

12 MR. COLLINS: We think the photo lineup and
13 the written statement would be extrinsic evidence --

14 COURT REPORTER: I'm sorry. I cannot hear
15 you.

16 MR. COLLINS: Going through the photo lineup
17 and the written statement, particularly within the
18 statement, that is offering extrinsic evidence. He was
19 advised of when, where, and the substance of the
20 statement, which is where he was on the 19th.

21 He said he did make that statement. It was a
22 lie. Further extrinsic evidence is not admissible under
23 State versus Glenn as cited in the rule. It's our
24 position that she is going through statement line by
25 line and introducing the photo lineup. That is the

1 extrinsic evidence that is not allowed.

2 THE COURT: Well, it's an interesting issue in
3 the sense that he does not deny making the prior
4 inconsistent statement. He admits making the prior
5 inconsistent statement. However, an attorney can ask
6 any question for which the attorney has a reasonable
7 basis for asking.

8 I was looking at Carmack and Fossick. I was
9 looking at those two cases. For the extrinsic evidence
10 to be admissible, there has to be some type of denial of
11 the statement, not -- he has not denied making it. He
12 just says it's a lie.

13 But I still don't think that prohibits a
14 lawyer from asking -- that has a reasonable basis for
15 asking the questions to ask the questions. The
16 statement itself may not be admissible or the
17 photographic lineup.

18 I don't see how that prohibits her -- the
19 Solicitor -- from cross examining the witness because
20 you can impeach your own witness. You don't vouch for
21 your witness' credibility. Did you say so and so and so
22 and so? Yes or no? Did you say so and so and so and
23 so? Yes or no.

24 The statement itself may not be admissible,
25 but there is still a reasonable basis. I read that in

1 this Carmack case and whatever I said that other case
2 was, Fossick. When the issue is whether the witness
3 admitted making the prior inconsistent, the admission
4 must be unequivocal.

5 Generally where the witness has responded with
6 anything less than an unequivocal admission, trial
7 courts have granted wide latitude to allow extrinsic
8 evidence proving the statement. I think she can cross
9 examine based on it, but the statement itself is not
10 admissible.

11 MR. COLLINS: We would ask that the physical
12 photo lineup and the physical statement not be used as
13 props and handed up. That would be extrinsic evidence
14 going towards the jury.

15 MS. CAMPBELL: Your Honor, the photo lineup
16 would be a different issue. That is not impeaching with
17 the statement. I agree the statement doesn't come in,
18 but the photo lineup he was shown, who he picked out,
19 and that's a different issue.

20 MR. COLLINS: That's extrinsic evidence.

21 THE COURT: He may not deny -- what is he
22 going to say about the photo lineup?

23 MS. CAMPBELL: Yesterday, Your Honor, he said
24 there was a photo lineup and he picked him out.

25 MR. COLLINS: And he was lying.

1 THE COURT: He was lying about picking him
2 out?

3 MS. CAMPBELL: No.

4 THE COURT: That's two separate documents, 153
5 and 154.

6 MR. COLLINS: Your Honor, I have an objection
7 to the reading of the statement and the use of the photo
8 lineup. My position is that it's extrinsic evidence. I
9 will state that for the record. I respect the Court's
10 ruling and we can go forward.

11 THE COURT: I understand but when you
12 characterize it as a reading of the statement into the
13 record, I'm not allowing that. It's just like if you
14 cross examine and you are looking at the officer's notes
15 while you are cross examining him, she can look at --
16 the jury doesn't know what she may be looking at.

17 Of course, the witness can be shown their
18 statement at times. So I'm not allowing the solicitor
19 to read or publish the statement. I will allow her to
20 cross examine the witness based on the statement. I
21 understand your objection in that regard.

22 MR. COLLINS: Thank you, Your Honor.

23 THE COURT: Bring the jury.

24 (The jury returns to the courtroom.)

25 THE COURT: You may continue, Solicitor.

1 MS. CAMPBELL: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q Do you remember meeting with the investigators and
5 giving them a statement?

6 A Yes, ma'am.

7 Q And do you remember back on June 24, 2010, at
8 police headquarters telling them that you were out
9 there the night when the shooting occurred?

10 A Yes, but it was a lie.

11 Q Okay. That's what you are saying now. And that
12 you saw three men that you thought were involved in
13 the shooting?

14 A Yes.

15 Q Two of them had guns?

16 A Yes.

17 Q And that you recognized --

18 THE COURT: Speak up a little bit for me,
19 please, Mr. Henderson.

20 A Yes.

21 Q And you recognized one of the men with guns?

22 A Yes.

23 Q And you identified him as G-man?

24 A Yes, but it was a lie and --

25 COURT REPORTER: I'm sorry. Wait a minute.

1 But it was a lie and what? I didn't understand you.

2 A Yes, it was a lie, but it was made up.

3 Q And that you had known G-man for nine years and
4 that's how you recognized him?

5 A Yeah, that was a lie too.

6 Q Do you remember, after signing all three pages of
7 this statement as the truth, being shown State's
8 Exhibit 153?

9 MR. COLLINS: Over previous objections, Your
10 Honor.

11 THE COURT: Yes, sir, so noted.

12 A Yes.

13 Q And when they showed you that lineup, you picked
14 out one of them?

15 A Yes.

16 Q Is that the one that is circled here? And I think
17 that is your handwriting next to it?

18 A Yes.

19 MS. CAMPBELL: Your Honor, at this time we
20 would offer State's Exhibit 153 into evidence.

21 MR. COLLINS: Objection, Your Honor.

22 THE COURT: The objection is noted. State's
23 153 is in evidence subject to previous objection.

24 (State's Exhibit Number 153 is received into
25 evidence.)

1 BY MS. CAMPBELL:

2 Q After that the investigators had you memorialize
3 that that's who you recognized in State's Exhibit
4 154?

5 A Yes.

6 MS. CAMPBELL: Your Honor, at this time I
7 would offer a copy of the photo lineup affidavit as 154.

8 MR. COLLINS: Same objection.

9 THE COURT: State's 154 is in evidence subject
10 to previous objection.

11 (State's Exhibit Number 154 is received into
12 evidence.)

13 BY MS. CAMPBELL:

14 Q Do you remember last week meeting with an
15 investigator from my office?

16 A Last week?

17 Q Yes, sir.

18 A Where? At my house or?

19 Q You tell me.

20 A I remember when the investigator came to my house,
21 and I did inform him that everything that I said
22 was a lie.

23 Q But first you went through the statement, and you
24 told him it was all correct?

25 A No.

1 Q Then he told you about going to court. Do you
2 remember that?

3 A He came to my house and he basically tell me -- you
4 know what I'm saying -- everything that was in the
5 statement. I tell him. I let him know beforehand
6 like all of it was a lie. I did make it up. He
7 said he would have -- somebody would get in touch
8 with me about that.

9 Q Do you remember telling him that after you had gone
10 over the statement and told him it was true?

11 A No.

12 Q Then he told you you were going to have come to
13 court with a subpoena? Do you remember that part?

14 A Yeah.

15 Q Then you told him you didn't want to go to court,
16 you made it all up?

17 A I told him before that.

18 Q Okay. That's your testimony.

19 MR. COLLINS: Your Honor, we may have a matter
20 of law we need to take up.

21 THE COURT: Step up here just a moment.

22 (Whereupon there was a bench conference off
23 the record in the presence of the jury but out of the
24 hearing of the jury.)

25 BY MS. CAMPBELL:

- 1 Q Do you have a prior record?
- 2 A Do I have a prior record?
- 3 Q Yes, sir.
- 4 A Yes.
- 5 Q From 2005 you have an assault and battery of a high
6 and aggravated nature?
- 7 A Yes.
- 8 Q Does that sound right? In 2008 --
- 9 THE COURT: Speak up for me, please,
- 10 Mr. Henderson.
- 11 A Yes.
- 12 Q In 2008 burglary in the second degree?
- 13 A Yes.
- 14 Q 2010, forgery?
- 15 A Yes.
- 16 Q And currently you have pending charges?
- 17 A Yes.
- 18 Q Including burglary in the first degree?
- 19 A Yes.
- 20 Q Do you know what that carries?
- 21 A Yes.
- 22 Q What does it carry?
- 23 A Fifteen to life.
- 24 Q Fifteen to life? Is that what you said?
- 25 A Yes.

- 1 Q I'm sorry. I just didn't hear you.
- 2 A Yes.
- 3 Q Receiving stolen goods?
- 4 A Yes.
- 5 Q Do you know what that carries?
- 6 A No.
- 7 Q Burglary in the second degree?
- 8 A Yes.
- 9 Q Do you know what that carries?
- 10 A Yes.
- 11 Q What does that carry?
- 12 A That's zero to 10.
- 13 Q Two to ten?
- 14 A Zero to ten.
- 15 Q Zero to ten. I apologize for misunderstanding.
- 16 And another burglary in the second?
- 17 A Yes.
- 18 Q Is your lawyer here in the courtroom today?
- 19 A Yes.
- 20 Q Can you point him out for the jury?
- 21 A (Indicating.)
- 22 Q Is he over here? That's him sitting back there?
- 23 A Yes.
- 24 Q You don't want to be here today? Do you want to be
- 25 here today?

1 A Do I want to be here today?

2 Q Yes.

3 A I mean, yeah.

4 Q You want to be here? Are you scared?

5 A Scared of what?

6 MS. CAMPBELL: That's all I have, Your Honor.

7 THE COURT: Mr. Collins?

8 MR. COLLINS: May it please the Court.

9 **CROSS EXAMINATION**

10 BY MR. COLLINS:

11 Q I believe you said that they threatened you. They
12 said they were going to charge you with murder
13 unless you gave them information?

14 A Yes.

15 Q Speak up.

16 A Yes, Your Honor.

17 Q I'm not Your Honor.

18 A Yes.

19 Q So you thought you were in trouble?

20 A Yeah.

21 Q And you hadn't done anything; had you?

22 A Not at all.

23 Q They were feeding you information, trying to get
24 you to say something; weren't they?

25 A Yeah.

1 Q They just wanted you to sign a statement; right?

2 A Right.

3 Q Pick somebody -- this person -- out of a lineup;
4 right?

5 A Yeah.

6 Q Otherwise you thought you might go to jail for
7 murder?

8 A Yeah.

9 Q And now you have a lawyer; right?

10 A Yeah.

11 Q And you understand that they couldn't just do that;
12 right?

13 A Yeah.

14 Q Now you are here today to tell the truth?

15 A Yeah.

16 Q You told the Solicitor's Office and their
17 investigator repeatedly that that statement was a
18 lie?

19 A Yeah.

20 Q Thank you.

21 THE COURT: Redirect, Solicitor?

22 MS. CAMPBELL: No, sir.

23 THE COURT: Thank you, Mr. Henderson.

24 He is back in the custody of the Richland
25 County Sheriff's Department.

1 Thank you for being here, Mr. Lee.

2 (Witness leaves the witness stand.)

3 THE COURT: You may call your next witness.

4 MS. WALKER: Your Honor, at this time the
5 State calls Sergeant Vince Goggins.

6 VINCE GOGGINS, being
7 first duly sworn, testifies as follows:

8 MR. NEWTON: Your Honor, may we approach?

9 THE COURT: Mr. Foreman, ladies and gentlemen
10 of the jury, we will take about a 15-minute recess.
11 Step to your jury room. Do not discuss the case during
12 this brief recess.

13 (The jury retires to the jury room.)

14 MS. CAMPBELL: Your Honor, if we could, we had
15 asked for some dates of birth from the defense. If we
16 go ahead and run raps, that might save a minute or two.

17 THE COURT: Are you going to make copies for
18 Mr. Collins and Mr. Newton, Solicitor?

19 MS. CAMPBELL: We are doing that right now.

20 THE COURT: Anything else, Mr. Collins?

21 MR. COLLINS: Your Honor, just to put on the
22 record.

23 THE COURT: Yes, sir.

24 MR. COLLINS: To put on the record the matter
25 we brought up at the bench.

1 THE COURT: Yes, sir.

2 MR. COLLINS: Rontrell Henderson in his
3 testimony testified that the investigator from the
4 Solicitor's Office came to his home. Since he is
5 already gone, I wanted to ask him out of the presence of
6 the jury when that was. It seemed to be before he was
7 arrested. He was arrested last Sunday, I believe.

8 We weren't notified until last week of the
9 information that he said in his statement and his photo
10 identification of our client was fictitious and a lie.
11 He testified that the investigator came to his home well
12 before then and that he had told them it was a lie back
13 then.

14 That was never turned over to the defense,
15 which we find that is a Brady violation. We could have
16 gone and interviewed Mr. Henderson before he picked up
17 all these heavy, serious charges and lawyered up. We
18 possibly could have found some more information and
19 explored it, specifically gang involvement and different
20 things like that that he may have been willing to talk
21 to us about.

22 At this point he can't. He is pleading the
23 Fifth, but I find it a little disturbing, that that
24 information was available to the Solicitor's Office and
25 not related to us either. So at this point the only

1 remedy I can think of is to move for a mistrial at this
2 point, Your Honor.

3 THE COURT: Solicitor.

4 MS. WALKER: May I respond, Your Honor?

5 THE COURT: Yes.

6 MS. WALKER: As Your Honor knows, this trial
7 was set back in May. Back in May this witness,
8 Mr. Henderson, had not been arrested. That's when our
9 investigator went to his home. At that point in time,
10 everything was fine. The statement was correct. He was
11 good to go.

12 He got arrested and last week is when our
13 investigator went and talked to him, went through the
14 statement with him. Everything was fine. He was good
15 to go and we told him we would need him to testify.
16 That's when, you know, Oh I made all that up.

17 That's the first time we heard about that. We
18 immediately turned that over to defense counsel. For
19 them to allege some sort of Brady violation, I think
20 would be an untrue statement.

21 Furthermore, Your Honor, in terms of their
22 ability to go and interview him after he was lawyered
23 up, I spoke with Mr. Lee after he was appointed to
24 represent Mr. Henderson. He informed me that he told
25 them that they could go speak with his client. I don't

1 understand how there has been any sort of violations.

2 THE COURT: Do you care to respond?

3 MR. COLLINS: Just the part about Mr. Lee. We
4 were told we could go speak with him but on only
5 specific facts, that he pleaded the Fifth on other
6 things.

7 THE COURT: Well, if the time frame is
8 correct -- and I take the solicitor as an officer of the
9 Court -- one of their investigators goes out there back
10 in May, and the statement is consistent at that time.
11 His interview is consistent with the statement that he
12 gave to Sergeant Thomas.

13 Then when we run up to trial is when he
14 changes. The solicitor said they notified y'all
15 immediately upon that. I would find that would not be
16 any type of Brady violation. It was turned over in a
17 timely manner.

18 Of course, if he was out jail all that time
19 back in May, y'all could have had access to him, as well
20 as the Solicitor's Office. He wasn't represented to my
21 knowledge or have any pending charges to my knowledge
22 during that period of time. Thank you very much. Court
23 will be in recess 15 minutes.

24 (Whereupon there is a recess.)

25 THE COURT: Anything before we bring in our

1 jury, Solicitor?

2 MS. CAMPBELL: No, sir.

3 THE COURT: Mr. Collins?

4 MR. COLLINS: I am still reviewing what was
5 provided for the upcoming witness. Part of it was the
6 key to how to read other gang reports. That has been
7 turned over previously since May, and I would ask for
8 more time to be able to review it. Again, we did
9 specifically ask for this at the beginning of the trial,
10 and we just now got it.

11 THE COURT: Yes, ma'am.

12 MS. CAMPBELL: Respectfully, Your Honor, he
13 asked me yesterday for what information that Sergeant
14 Goggins was reviewing. I told him that I wasn't aware
15 but if he wanted to ask the Court for it, he was welcome
16 to do that. That conversation took place yesterday.

17 THE COURT: How much more time do you need?

18 MR. COLLINS: I'm unsure at this point, Your
19 Honor.

20 THE COURT: Do y'all have another witness you
21 can call, Solicitor?

22 MS. CAMPBELL: Your Honor, the next issue we
23 have coming up is on the phone records again as far as
24 authentication of the phone numbers.

25 THE COURT: You wanted to visit that issue

1 anyway; didn't you?

2 MS. CAMPBELL: Yes, sir.

3 THE COURT: I would be glad to hear that.

4 MS. CAMPBELL: Your Honor, as far as making
5 it -- as an officer of the Court, and we can put up more
6 testimony specifically as to where each and every phone
7 number we were referring to came from. It was from the
8 course of the investigation.

9 Through their investigation these numbers came
10 up, and they were linked specifically to certain people:
11 Brian Campbell, Daquan Johnson, Terrance Patterson, and
12 Marquez Prophet.

13 Your Honor, I would hand up certain case law.
14 Your Honor, I tried to find -- and if I may, I am
15 handing up a U.S. Supreme Court case. As far as -- I
16 believe their objection is addressed under Crawford.

17 THE COURT: Yes, ma'am, that was their
18 objection. That's my understanding, under Crawford.

19 MS. CAMPBELL: That was my understanding of
20 their objection, Your Honor.

21 THE COURT: Yes, ma'am.

22 MS. CAMPBELL: Your Honor, in Crawford versus
23 Washington, I believe the first requirement is the
24 statement has to be testimonial. Typically that is a
25 statement given in response to interrogation for use by

1 the prosecution. I think it has to be hearsay.

2 As you pointed out in court repeatedly
3 yesterday, Your Honor, that these documents are not
4 hearsay by the rules. They are not an out-of-court
5 statement. They are not hearsay because they have been
6 authenticated as business records, and therefore hearsay
7 doesn't -- Crawford addressed the hearsay exception.

8 Basically if the officer testifies that based
9 on his investigation, he found the number to be that of
10 Daqwan, there is no hearsay. If he testified to the
11 specifics of how he heard it from B.K., then it would be
12 hearsay.

13 Phone records are not hearsay. Hearsay is an
14 out-of-court statement offered for the truth of the
15 matter asserted. Phone records are not statements.
16 Information given by machines or printouts are not
17 statements. Your Honor, we have handed up Williams
18 versus Illinois, which is a U.S. Supreme Court case that
19 correlates this principle.

20 Your Honor, in the case of Marquez Prophet and
21 his phone numbers, Your Honor, under State versus
22 Stokes, I believe that they have been given the
23 opportunity to cross examine him, and therefore it would
24 not be any problem with that.

25 In addition, Your Honor, in order to find

1 another way in order to authenticate these records, we
2 also got from a public document -- which actually was
3 provided to the defense and is a public record, Your
4 Honor, at the Richland County Sheriff's Department -- an
5 incident report is a public record.

6 The vandalism report that was filed with the
7 Studio 54 case, which has been provided in discovery,
8 lists on there Mia Johnson as the complainant and the
9 phone number. The 466 phone number is one of the sets
10 of records we are talking about.

11 If you then find that that information was
12 gotten through an independent source, the 466 number
13 then leads you to the [REDACTED] number, which is the
14 other set of phone records we were talking about. There
15 are numerous phone calls back and forth between those
16 two numbers.

17 The first number, the 466 number, is directly
18 correlated to Daqwan through his mother, and the second
19 number is directly correlated to Daqwan through the
20 investigation. That makes it relevant at that point.

21 When you review the [REDACTED] record numbers -- and
22 I am using these terms loosely, Your Honor -- it also
23 leads to the third set of records because the time
24 period of all those phone numbers are reflected on the
25 records as the time periods we are talking about.

1 THE COURT: Let me see 139, 140, and 141.

2 MS. CAMPBELL: Yes, sir.

3 THE COURT: Please.

4 MS. CAMPBELL: May I approach?

5 THE COURT: Yes, ma'am.

6 (Hands to Court.)

7 MS. CAMPBELL: Your Honor, the only case we
8 could find that basically address this was a Georgia
9 case -- which I think it did, and I haven't read it
10 thoroughly -- but I think it's the Troutman case. I
11 couldn't find any in South Carolina. The Troutman case
12 does address about phone numbers found during the course
13 of an investigation.

14 THE COURT: I agree entirely with Troutman. I
15 wrote that down in my notes yesterday, which I can't
16 find. There are many ways to prove a phone number.
17 When you call that number, you don't have to have the
18 records to prove the phone number.

19 You can say, Well, I dialed Number X. How
20 many times did you dial it? How many times was it
21 answered? Who answered that phone? That's
22 circumstantial evidence that the person answering the
23 phone is the phone number.

24 I don't think you have to have a particular
25 record. Yesterday I thought his objection was that he

1 wouldn't have a right to confront the witnesses against
2 his client because the detective had to have learned
3 that the [REDACTED], the [REDACTED], he would have to have
4 learned it from some third party, and he would not have
5 his right to confront that third party, how he knows --
6 that's Campbell's phone number? Is that the one we are
7 referring to, Campbell?

8 MS. CAMPBELL: That's one of Daqwan Johnson's
9 home boys.

10 THE COURT: That the [REDACTED] is Daqwan Johnson's.
11 If you have got a party with knowledge, he can testify
12 to that if you call that party. If you have other
13 records that show that, they are admissible otherwise.

14 MS. CAMPBELL: Your Honor, the number is
15 reflected in the 477 number and the records itself,
16 calls back and forth. That would directly be related to
17 Mia Johnson, who is Daqwan's mother.

18 THE COURT: I see the number reflected in here
19 and I see it highlighted different places, [REDACTED] and
20 it is in State's 139, which appears to be the billing
21 account in the name of Mia Johnson.

22 I'm not questioning that. I'm not questioning
23 that. I'm not questioning that this is admissible as
24 far as [REDACTED] is concerned, but there is no subscriber
25 information in this record.

1 MS. CAMPBELL: Yes, sir.

2 THE COURT: That's my question.

3 MS. CAMPBELL: Yes, sir, it's the type of
4 phone that doesn't have that is my understanding. It's
5 like a burn phone, I have been told, Your Honor. I
6 don't know about all this stuff. The subscriber
7 information would not reveal the identity of who is
8 using it.

9 Your Honor, if we can put it in subject to the
10 fact that this was the phone number that was making
11 phone calls back and forth to Mia Johnson, the only
12 personal related to Mia Johnson in this case is Daqwan
13 Johnson. We can do that.

14 THE COURT: Yes, sir.

15 MR. NEWTON: Maybe I can kind of possibly
16 clarify and further argue our Crawford position?

17 THE COURT: Sure.

18 MR. NEWTON: The only way the State has linked
19 [REDACTED] is through a statement made by Brian Campbell
20 saying that is Daqwan Johnson's phone number.

21 THE COURT: That's not in evidence for the
22 jury.

23 MR. NEWTON: Right, it's not in evidence.
24 That's what we are arguing against. If the State is
25 able, through other means, is able to get Mia Johnson's

1 number in and the phone records for that, that is fine.

2 But there can be no link, just because this
3 phone number is called back and forth with this Mia
4 Johnson 477, it has to be her son's number. The only
5 way they know it's her son's number is from an
6 unavailable witness' testimonial statement, and we have
7 never had a chance to cross examine him on it.

8 THE COURT: That won't be before the jury.

9 MR. NEWTON: Okay.

10 THE COURT: That won't be before the jury.
11 That just goes before the jury as far as circumstantial
12 evidence is concerned, did she receive a phone number at
13 a certain point in time, the ones they have highlighted
14 on the 19th, I believe, and the inferences that may be
15 properly be drawn by the jury.

16 MR. NEWTON: Yes.

17 THE COURT: Whether their foundation -- their
18 foundation is their investigation and it can rely on
19 hearsay, but that's a non-testifying codefendant. What
20 would be before the jury would be circumstantial
21 evidence.

22 They may have a party with knowledge that
23 called Mr. Johnson at [REDACTED] or called that number,
24 and Mr. Johnson answered the phone and said, I called
25 [REDACTED] and I talked to Mr. Johnson.

1 MR. NEWTON: Yes.

2 THE COURT: I think I understand y'all's
3 objection on Crawford.

4 MR. NEWTON: I want to make sure we are clear
5 because the State in their presentation and in their
6 argument were very elusive as to how they received this
7 phone number.

8 What they said is they got it through the
9 investigation, which I guess is technically correct; but
10 more on point, they received it from an unavailable
11 witness.

12 That's where they first get this number. This
13 number is nowhere found. Mr. Johnson gives the 477
14 number as his primary number in every single piece of
15 public access records when the investigator asks him.

16 The only time this number is referred in this
17 discovery that we received is in the statement, and I
18 have their typed up statement from Brian Campbell, and
19 he gives it to the officers. It's the only place it
20 appears. It's the only place it ever comes up.

21 Terrence Patterson doesn't give it to them.
22 Marquez Prophet doesn't give it to them. Detrick Walker
23 doesn't give it to them. Nobody they interviewed gave
24 them the 509 number.

25 So we would argue that they are postulating a

1 tenuous relationship here between the mother and this
2 possible number that is called a bunch of times. We
3 asked for the relevance, why would they be introducing
4 his mother's phone number and phone records and all of
5 these mountains of phone calls that were made between
6 them just to show that she called this number a bunch of
7 times.

8 I think that's an inference leading to --
9 leading to a thing brought upon the State where they are
10 getting out what they want, but they have only gotten it
11 from an unavailable witness.

12 THE COURT: That's irrelevant. As long as
13 that witness isn't -- as long as they are not saying, I
14 got this phone number from this witness who is not
15 testifying, they are not putting that before the jury.

16 MR. NEWTON: Your Honor, I would still hold --
17 I understand your ruling on it. It can't come in
18 through Mr. Campbell but they can bring it in. I would
19 like to further address the 238 number that is another
20 non-subscribed number.

21 That number is attributed to them as being
22 Brian Campbell's number. That was given to them by
23 Brian Campbell. We argue that that is a confrontation
24 clause issue.

25 The State says you can also get this

1 information in a public access on the Richland County
2 jail's website. Unless it's somewhere else and there is
3 a thousand of pieces of evidence -- so I can't say that
4 it's directly somewhere else -- if they are saying that
5 the number is on the public access of the jail website,
6 that is incorrect.

7 The public access to the jail website just
8 gives them their name and their -- it gives them basic
9 information. The secured access that you have to have,
10 someone with secured access, provides that, which I'm
11 not sure is something that should be used to further
12 their investigation.

13 But regardless we still -- we hold our
14 objections as we have had. We appreciate and understand
15 the ruling on the 509, and we ask for it to follow with
16 the 238 number.

17 THE COURT: Thank you. Thank you, Mr. Newton.
18 Anything further, Solicitor?

19 MS. CAMPBELL: No, sir, not on this point.

20 THE COURT: I thought you mentioned a report
21 from Studio 54.

22 MS. CAMPBELL: I'm sorry, Your Honor? A
23 report?

24 THE COURT: Yes, I thought you mentioned that.

25 MS. CAMPBELL: If I may approach. May I

1 approach?

2 THE COURT: Yes, ma'am.

3 (Hands to Court.)

4 MS. CAMPBELL: Your Honor, may I approach
5 again. I would like to hand up some requests to charge.

6 THE COURT: Yes, ma'am, if you would give them
7 to my law clerk. Are you going to offer information off
8 of this report?

9 MS. CAMPBELL: Yes, sir.

10 THE COURT: The Richland County Sheriff's
11 Department report of the shooting incident and property
12 damage at Studio 54?

13 MS. CAMPBELL: Yes, Your Honor.

14 THE COURT: And what information?

15 MS. CAMPBELL: That's a public document, Your
16 Honor. The only information is the phone number that is
17 linked to Mia Johnson in that case, which is reflected
18 in the records. That's all the information.

19 MR. NEWTON: I mean, normally police reports
20 aren't admissible. I am hoping they are not saying that
21 they want to admit the vandalism report into evidence.

22 MS. CAMPBELL: No.

23 THE COURT: I think they just want the name
24 and number.

25 MS. CAMPBELL: That's it.

1 THE COURT: That corresponds to 139.

2 MS. CAMPBELL: Yes, sir.

3 THE COURT: Then 509 comes in because it's in
4 139.

5 MS. CAMPBELL: Yes, sir.

6 THE COURT: It would be circumstantial. What
7 about the 238 number, which is exhibit 140?

8 MS. CAMPBELL: Your Honor, the 238 number is
9 also in, I believe, 139, and it's the number that is
10 frequently called that day.

11 THE COURT: All right.

12 MR. COLLINS: Your Honor, just going back
13 briefly, we talked about it earlier, on the [REDACTED],
14 I'm not sure exactly which evidence number that is.

15 THE COURT: Are you talking about the ones
16 that have the text messages?

17 MR. COLLINS: Yes, Your Honor.

18 THE COURT: One-forty-one.

19 MR. COLLINS: On 141 the first two pages that
20 the solicitor turned in with those record is a key for
21 how to read the documents. I have gone back and
22 double-checked, and I know the exact date we got an
23 e-mail with the attachment, which was in Adobe format
24 form.

25 We did not receive the first two pages to

1 that. We did not have a key for how to read those. The
2 key indicates that there are cell phone tower
3 coordinates on the first column of the phone calls. You
4 can see from that printout, which is pretty close to
5 what we got in Adobe format, it could not be expanded
6 because we were in an Excel document.

7 There is no way we could have known that there
8 was cell tower information on there. We are saying that
9 is a discovery violation. The first two pages were not
10 provided to us.

11 The remedy is that the key not be admitted
12 into evidence and that they not be able to use
13 information that was not available to us. There is no
14 way we could have known that information was contained
15 therein.

16 THE COURT: Who is going to testify? Who do
17 you intend to testify as to 141, Solicitor?

18 MS. CAMPBELL: Eventually, Your Honor,
19 Lieutenant Goggins will be called as an expert to
20 testify to the phone records. Your Honor, there is no
21 cell tower information in this case.

22 THE COURT: She said there is no cell tower
23 information.

24 MR. COLLINS: The key indicates that the first
25 column is cell tower information, I believe. We still

1 haven't gotten a copy of the first two pages. I believe
2 I looked at it today, and it said something about cell
3 phone tower information.

4 THE COURT: We will revisit that when Officer
5 Goggins testifies. In his area of expertise, he may be
6 able to testify to knowledge of the key without the key
7 coming into evidence. I will take that up under
8 advisement I will not rule at this time. Bring the
9 jury, please.

10 Have Sergeant Goggins come back around to the
11 witness stand, please.

12 MR. COLLINS: Are we going straight to Officer
13 Goggins?

14 THE COURT: He is the one who is on the stand,
15 yes, sir.

16 MR. COLLINS: Your Honor, I still haven't had
17 any opportunity.

18 THE COURT: How much time do you need?

19 MR. COLLINS: Well, we now have the key on how
20 to read numerous, numerous reports that were provided
21 since May.

22 THE COURT: Do you have another witness you
23 can call, Solicitor?

24 MS. CAMPBELL: Yes, sir.

25 THE COURT: Call your next witness. I am not

KEVIN REESE -- DIRECT -- MS. CAMPBELL

1 breaking for lunch until the State rests.

2 (The jury returns to the courtroom.)

3 THE COURT: Solicitor, you may call your next
4 witness.

5 MS. CAMPBELL: The State recalls Sergeant
6 Reese.

7 THE COURT: You are still under.

8 THE WITNESS: Thank you, Your Honor.

9 KEVIN REESE, having been
10 previously duly sworn, resumed the witness stand and
11 testified as follows:

12 **DIRECT EXAMINATION**

13 BY MS. CAMPBELL:

14 Q Sergeant Reese, yesterday we were talking about
15 some phone numbers in this case?

16 A Yes, ma'am.

17 Q Did you become aware of certain phone numbers
18 related to this case?

19 A I did.

20 Q Specifically I want to refer you to an incident
21 report. It's actually a vandalism report. Can you
22 see who the complainant is on this report?

23 A Yes, ma'am, Mia Johnson.

24 Q What is Mia Johnson's relationship to Daqwan
25 Johnson?

1 A That is his mother.

2 Q And is there a phone number that is reflected
3 there?

4 A The phone number is [REDACTED].

5 Q Is that a public document as far as you know?

6 A Yes, ma'am.

7 Q And that would have been the information provided
8 by Ms. Johnson?

9 A That's correct.

10 Q And have you had the opportunity to review certain
11 records with that phone number?

12 A Yes, I have.

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

14 THE COURT: Yes, ma'am.

15 (Pause.)

16 BY MS. CAMPBELL:

17 Q I hand you what has been marked as State's Exhibit
18 139 -- I want to make sure I hand you the right
19 ones -- are those the phone records that were
20 requested in this case?

21 A Yes, it is.

22 Q And did those become relevant during the course of
23 your investigation?

24 A It did.

25 MS. CAMPBELL: Your Honor, at this time we

KEVIN REESE -- DIRECT -- MS. CAMPBELL

1 offer 139 into evidence?

2 MR. NEWTON: Over our previous stated
3 objections.

4 THE COURT: I'm not sure what those are. If
5 you would approach the bench.

6 MR. NEWTON: One-thirty-nine.

7 THE COURT: If you would step up to the bench.
8 I'm not sure what the previous stated objections were.

9 (Whereupon there was a bench conference off
10 the record in the presence of the jury but out of the
11 hearing of the jury.)

12 THE COURT: State's 139, the objection is
13 based on Rule 401, relevancy, and I reaffirm my previous
14 rulings. Thank you, Mr. Newton.

15 You may proceed, Solicitor.

16 (State's Exhibit Number 139 is received into
17 evidence.)

18 BY MS. CAMPBELL:

19 Q In reviewing the records in 139, was there another
20 number that was frequently called by Daqwan
21 Johnson's mother?

22 A Yes, it was.

23 Q Let me back up for a second. What was the number
24 with Ms. Johnson that the records are reflecting in
25 139?

1 A [REDACTED].

2 Q And during the course of reviewing those, did it
3 lead -- in reviewing those records and in the
4 course of your investigation -- was there another
5 number reflected in those records that became
6 relevant?

7 MR. NEWTON: Objection, Your Honor, our
8 previously stated objection to the log issue that was
9 brought up.

10 THE COURT: I would renew my previous rulings.

11 BY MS. CAMPBELL:

12 Q You can answer.

13 A I'm sorry. Yes, it was.

14 Q What is that number?

15 A [REDACTED].

16 Q Have you had an opportunity to review those
17 records?

18 A Yes, I have.

19 Q State's Exhibit 141 for I.D., are those records
20 having to do with [REDACTED]?

21 A That's correct.

22 Q And were those relevant to your investigation?

23 A Yes, it was.

24 Q And those are also the phone numbers that are
25 called in those records of [REDACTED]?

KEVIN REESE -- DIRECT -- MS. CAMPBELL

1 A Yes, ma'am.

2 Q In addition to that --

3 MS. CAMPBELL: Your Honor, at this time we
4 offer 141 into evidence.

5 MR. NEWTON: Your Honor, again, our previously
6 stated objections, not only to the confrontation cause,
7 they are also hearsay, including relevance, and to our
8 objection to portions of the cell phone records that
9 were not provided.

10 THE COURT: Mark those first two pages for
11 identification only, Solicitor 141-A, the first two
12 pages. The remaining pages are in evidence as 141,
13 subject to the previous stated objection.

14 (State's Exhibit Number 141 is received into
15 evidence.)

16 (State's Exhibit Number 141-A is marked for
17 identification).

18 BY MS. CAMPBELL:

19 Q In a review of the numbers, the records of 141
20 which are now in evidence, did you come up with a
21 third number that became relevant during your
22 investigation?

23 A Yes, I did.

24 Q What number was that?

25 A [REDACTED] --

1 MR. NEWTON: Objection, Your Honor, our
2 previously stated objection to this.

3 THE COURT: I renew my previous rulings. You
4 may continue, Solicitor.

5 A [REDACTED].

6 Q I show you State's Exhibit Number 140.

7 A Yes, ma'am.

8 Q And are those the records that belong to [REDACTED]?

9 A Yes, it is.

10 MS. CAMPBELL: At this time we offer into
11 evidence 140.

12 MR. NEWTON: Your Honor, our previously stated
13 objection.

14 THE COURT: One-forty is in evidence subject
15 to the previous objection.

16 (State's Exhibit Number 140 is received into
17 evidence.)

18 BY MS. CAMPBELL:

19 Q During the course of the investigation in this
20 case, did you all become aware of the interviews
21 with Marquez Prophet and different people that
22 there was a series of phone calls that day?

23 A Yes, we did.

24 Q Are familiar with the term a burn phone or a
25 prepaid phone?

KEVIN REESE -- DIRECT -- MS. CAMPBELL

1 A I am.

2 Q Are those unusual in this case -- in cases such as
3 this? I'm sorry.

4 A No.

5 Q Explain to the jury how those are used by people?

6 A It has been my experience through my law
7 enforcement investigative capacity that burn phones
8 or throw phones, they are phones that you can
9 acquire that does not require a name on it or a
10 bill to it. You just pay monthly. If you want to
11 keep the phone services going, you just go to a
12 local store, drop some money, and they will
13 continue the services.

14 Q I notice in these three documents which I have had
15 you review, only one of them has what is called
16 subscriber information.

17 A That's right.

18 Q Which one was that?

19 A That was the 477 number.

20 Q [REDACTED]?

21 A That's right.

22 Q And who was that subscriber information to?

23 A Ms. Johnson.

24 Q Mia Johnson?

25 A Right.

1 Q And the number that is most frequently called on
2 her phone records is the next number?

3 A The [REDACTED] number.

4 Q During the course of this investigation, were you
5 able to relate this to a certain person in this
6 case?

7 MR. NEWTON: Objection, Your Honor.

8 THE COURT: She can ask if he related it. I
9 would allow that question.

10 MS. CAMPBELL: And I will follow up with one
11 that won't violate.

12 BY MS. CAMPBELL:

13 Q And who is the only person that was charged in this
14 case whose phone number is related to Mia Johnson?

15 A That would be the defendant.

16 Q Daqwan Johnson?

17 A Daqwan Johnson.

18 Q And then through his records, you were able to
19 relate a number of phone calls to that third
20 number?

21 A That's right.

22 Q Did those phone records corroborate information you
23 were able to get from, say, Mr. Prophet?

24 A Yes, it did.

25 Q As well as other people?

KEVIN REESE -- CROSS -- MR. NEWTON

1 A That's right.

2 MR. NEWTON: Objection, Your Honor. I believe
3 that we move to strike the answer to that question.

4 THE COURT: It's overruled.

5 MS. CAMPBELL: Thank you.

6 BY MS. CAMPBELL:

7 Q There is a mention of a somebody being at
8 Hillingdale Apartments, some video there. Are you
9 familiar with where Hillingdale Apartments is?

10 A I am very familiar with Hillingdale.

11 Q During the course of your investigation, did y'all
12 get any video from there?

13 A No, Hillingdale does not have videotapes.

14 Q Thank you, sir.

15 MS. CAMPBELL: I have nothing further, Your
16 Honor.

17 THE COURT: Thank you. Mr. Newton?

18 MR. NEWTON: May I approach?

19 THE COURT: Yes, sir.

20 CROSS EXAMINATION

21 BY MR. NEWTON:

22 Q Investigator Reese, I guess it's good afternoon at
23 this point. I will ask you a couple -- a few
24 questions here. I will apologize because I'm a lot
25 more inexperienced than you are experienced as an

1 officer, but I have some questions I feel like I
2 should ask you.

3 MS. CAMPBELL: Objection, Your Honor.

4 THE COURT: You may continue.

5 MR. NEWTON: I'm just introducing -- I'm
6 sorry.

7 THE COURT: You may continue. Please
8 continue.

9 BY MR. NEWTON:

10 Q How long have you been a police officer?

11 A I started in 1978. I have been a cop over 32
12 years?

13 Q And how long of that time has been spent as an
14 investigator?

15 A Going on 11, 12 years, something like that, maybe a
16 little bit more.

17 Q Just guessing, how many major crimes have you
18 investigated?

19 A Are you talking homicides or are you talking about
20 all major crimes?

21 Q Major violent crimes, things that might possibly be
22 on the news?

23 A I can count.

24 Q Over a hundred?

25 A Yeah.

1 Q By sitting at this table, would you be considered a
2 lead investigator or a co-lead investigator in this
3 case?

4 A Thomas is the lead investigator. He is my partner.

5 Q So together you guys were the investigators, and
6 you have been here the entire time; correct?

7 A I have been here the entire time.

8 Q Now, Ms. Campbell went over a bit of this. What
9 were your responsibilities during this
10 investigation, just general responsibilities, as
11 his partner?

12 A I assisted in the investigation.

13 Q And you see all the papers out here. Would you
14 consider this a huge investigation?

15 A I would consider it a huge investigation, yes.

16 Q One that although y'all only had charges here in
17 the Columbia Police Department for the shooting
18 death of Gary Reese and the attempted murder of
19 Lamettress Stevenson, would you say there was
20 multiple shootings and multiple incidents involved
21 during this day?

22 A Are you asking me would I agree with that
23 statement?

24 Q Yes.

25 A That day?

1 Q Yes, that day.

2 A Yes, there were two different shootings.

3 Q Now, during the investigation there was a lot of
4 people to interview; right? This was a crowded
5 apartment complex; correct?

6 A Right.

7 Q And you were able, during this investigation, to
8 talk to some of these people; correct?

9 A I wasn't there at the onset of this investigation.
10 All the people that were interviewed were prior to
11 me getting there.

12 Q But you did have the chance during the course of
13 this investigation to interview a lot of people; is
14 that correct?

15 A I assisted in the interviewing, some of it.

16 Q And, again, there was a lot of evidence to go over.
17 You reviewed a lot of evidence in this case. Is
18 that a fair assessment?

19 A If you would be a bit more specific, I could
20 probably answer it better.

21 Q Being his partner, for every person that he speaks
22 to or you speak to, you guys go over this
23 information; right?

24 A Right.

25 Q And if any other types of information come in, any

KEVIN REESE --- CROSS -- MR. NEWTON

1 other reports come in, you do get a chance to look
2 at them and you do look at them; right?

3 A In this case not necessarily, no.

4 Q Not necessarily?

5 A No.

6 Q But you were attached to this case at the
7 beginning; correct?

8 A Huh-uh. (Indicating negative response.)

9 Q No? You only came in, what, during the interviews
10 after the arrests were made or before? When did
11 you come in?

12 A I came in a couple of days later after the incident
13 started.

14 Q You did get -- there was video surveillance, and
15 you did get a chance to look at that; right?

16 A I looked at the video.

17 Q And it looks like you made contact -- this was from
18 yesterday. I apologize -- but I made a note that
19 you had made contact with people from Studio 54,
20 and the investigation from that incident. Is that
21 true? I realize it's a very general question, but
22 you did have a chance to look at things from Studio
23 54; correct?

24 A No. I think we had a meeting with the
25 investigators that were working that case. I

1 didn't look at any of the documents.

2 Q This was a huge case? Is that a fair thing to say?
3 And there were other investigators involved;
4 correct?

5 A That's right.

6 Q I will just name a couple of them and make sure
7 that I am right about this. But from the police
8 department, Investigator Holdorf was involved? He
9 wrote case notes about this?

10 A What's the name?

11 Q Investigator Holdorf.

12 A I don't remember.

13 Q Investigator Joe Clarke?

14 A I don't know who that is.

15 Q Investigator Hutto?

16 A Hutto is an officer.

17 Q And he wrote case notes for this?

18 A Officer Hutto?

19 Q Yes.

20 A If you've got case notes, then Hutto wrote case
21 notes. I am answering the question you asked the
22 best I can.

23 Q And Investigator Mendez (verbatim)?

24 A Menendez?

25 Q Menendez.

KEVIN REESE -- CROSS -- MR. NEWTON

1 A Yeah.

2 Q She wrote case notes right; correct?

3 A Right.

4 MR. NEWTON: Beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 (Pause.)

7 MR. NEWTON: If I could mark these, please.

8 (Defendant's Exhibits Number 5-6 are marked
9 for identification).

10 BY MR. NEWTON:

11 Q I may have mispronounced the investigator's name,
12 which I thought it was Holdorf. I will hand you
13 two pieces of paper here and ask if these refresh
14 your memory as to Investigator Joe Clarke and
15 Investigator Holdorf. Did you ever get a chance to
16 look at these?

17 A No.

18 Q No? By looking at them though, do they pertain to
19 your investigation or your partner, Investigator
20 Thomas?

21 A This pertains to Studio 54 and Bella Vista Trailer
22 Park, Lot 5. That's what I see in here.

23 Q In a huge case like this and it's been over two
24 years, Investigator Thomas testified that he has a
25 11-page report. How long is your investigative

1 report?

2 A Are you talking about the case notes?

3 Q I'm talking about -- yes, I'm talking about the
4 case notes.

5 A I don't have case notes.

6 Q You don't have any case notes? Did you take any
7 notes at all?

8 A Huh-uh. (Indicating negative response.)

9 Q No?

10 A No.

11 Q So when you went and reviewed the video, you took
12 absolutely no notes of this?

13 A No.

14 Q And when you made contact and had that meeting
15 about Studio 54, you took no notes on this?

16 A No.

17 Q And when you found out information about the Buick
18 LeSabre, as you said yesterday, you took no notes
19 about that?

20 A No, sir.

21 Q When you insisted in interviewing various people in
22 this case, you took no notes about it?

23 A When I insisted?

24 Q When you assisted in taking interviews with people
25 in this case, did you take notes?

KEVIN REESE -- REDIRECT -- MS. CAMPBELL

1 A No.

2 Q When you requested phone records in this case, did
3 you take notes of that?

4 A I didn't request phone records.

5 Q You never requested phone records for this. When
6 you checked on the Hillingdale Apartment videos,
7 did you take a record? Did you take any notes that
8 said Investigator Reese was here?

9 A No.

10 Q Is this a fair and accurate representation of the
11 notes you took in this case?

12 A (No response.)

13 Q I showed you a blank piece of paper.

14 A Yeah, I'm aware of that, Counselor.

15 MR. NEWTON: No further questions.

16 THE COURT: Redirect, Solicitor?

17 MS. CAMPBELL: Yes, sir.

18 REDIRECT EXAMINATION

19 BY MS. CAMPBELL:

20 Q You reviewed and participated in the investigation
21 at Gable Oaks; is that correct?

22 A I'm sorry?

23 Q You assisted Sergeant Thomas in the Gable Oaks
24 investigation?

25 A I did.

1 Q And he asked you specifically about Investigator
2 Joe Clarke and Investigator Travis Holdorf?

3 A Right.

4 Q They work for the Richland County Sheriff's
5 Department; is that correct?

6 A That's right.

7 Q But he asked you if they worked for C.P.D. and if
8 you knew who they were?

9 A Right, and I don't know who they are, those
10 investigators.

11 Q Because they were involved in a separate
12 investigation; isn't that correct?

13 A That's right.

14 Q Just so we don't mislead the jury.

15 A Right.

16 Q Were there case notes and follow-up notes done in
17 this case?

18 A It was.

19 Q In standard procedure, when you are working with
20 Sergeant Thomas and he is the lead, who does the
21 notes?

22 A When I am the lead and Thomas is with me, then I
23 take care of all the case notes and vice-versa, as
24 in this case. Had I gone anywhere without Thomas,
25 which I did not, then I would have made case notes.

1 Q And so what you did was memorialized in Thomas'
2 notes?

3 A Right. It keeps down redundancy.

4 Q Finally, he asked you about when you interviewed
5 witnesses in this case whether or not you had
6 specific notes. Is that memorialized in various
7 ways?

8 A Right.

9 Q So there would be some record of it happening?

10 A Right.

11 Q And that was done in this case?

12 A That's right.

13 Q Either by notes?

14 A That's right.

15 Q Written statements?

16 A Yes.

17 Q Or recorded statements?

18 A Yes.

19 Q Thank you.

20 MS. CAMPBELL: I don't have anything further,
21 Your Honor.

22 THE COURT: Recross?

23 **RECROSS EXAMINATION**

24 **BY MR. NEWTON:**

25 Q Does your name appear anywhere in Investigator

1 Thomas' notes that says that you were part of this
2 investigation signing off?

3 A Counselor, no. My name is not on that blank sheet
4 of paper you just showed.

5 MR. NEWTON: I have no further questions, Your
6 Honor.

7 THE COURT: Thank you very much, Detective.
8 You may step down.

9 THE WITNESS: Thank you, Your Honor.
10 (Witness leaves the witness stand.)

11 THE COURT: Solicitor, you may call your next
12 witness.

13 MS. CAMPBELL: Your Honor, may we approach?

14 (Whereupon there was a bench conference off
15 the record in the presence of the jury but out of the
16 hearing of the jury.)

17 THE COURT: You have one further witness,
18 Solicitor?

19 MS. CAMPBELL: Yes, sir.

20 THE COURT: Ladies and gentlemen, we are going
21 to take our luncheon recess. I would ask you to recall
22 my instructions. Do not discuss this case with anyone.
23 If anyone tries to talk with you, please let me know
24 immediately.

25 Do not do any investigation on your own or on

1 the internet. Remember to keep an open mind and do not
2 begin your deliberations until you are instructed to do
3 so by the Court. Please be back at 2:15. Please be
4 back in your jury room promptly at 2:15. Thank you very
5 much.

6 (The jury is excused for lunch at 1:00 P.M.)

7 THE COURT: Would that give you adequate time,
8 Mr. Collins, to review the key or the documents that
9 were provided?

10 MR. COLLINS: Yes, sir. Mr. Newton and I will
11 do that over lunch.

12 THE COURT: Anything before we break for
13 lunch?

14 MS. CAMPBELL: No, sir, Your Honor. I did ask
15 for dates of birth on their possible witnesses to try to
16 get that. They were not able to give me that. They
17 will be here this afternoon, and we can run them then if
18 they put up a case. I do not know.

19 As far as scheduling, Your Honor, assuming our
20 next witness takes less than 30 minutes, assuming -- and
21 that's a big assumption in this case -- would your
22 intention be to close this afternoon?

23 THE COURT: Depending on the defense, that's
24 my intentions. It depends on how long the defense case
25 may take.

1 MS. WALKER: Yes, Your Honor.

2 (The jury returns to the courtroom at
3 2:19 P.M.)

4 THE COURT: Welcome back. I hope y'all had a
5 pleasant lunch. We are continuing the trial of the case
6 by the presentation of evidence and testimony by the
7 State in its case in chief.

8 Solicitor, you may call your next witness.

9 MS. WALKER: Your Honor, the State calls Vince
10 Goggins to the stand.

11 THE COURT: I believe you have already been
12 placed under oath in front of jury. You can retake the
13 stand.

14 VINCE GOGGINS, having been
15 previously duly sworn, resumed the witness stand and
16 testified as follows:

17 MS. WALKER: May it please the Court, Your
18 Honor.

19 THE COURT: Yes, ma'am.

20 MS. WALKER: Thank you.

21 **DIRECT EXAMINATION**

22 BY MS. WALKER:

23 Q Sergeant Goggins, where are you employed?

24 A Richland County Sheriff's Department.

25 Q And specifically in what division of the Sheriff's

1 Department?

2 A Currently with the gang unit.

3 Q And how long have you been with the gang unit?

4 A Approximately five years now.

5 Q And can you please tell the jury a little bit about
6 your training in terms of gang investigation?

7 A Well, I'm the current supervisor of the gang unit.
8 We are responsible for information sharing,
9 maintaining documentation, criteria reports on
10 known gang members, investigating all gang-related
11 crimes within Richland County, and then preparation
12 with the criminal enforcement within high crime
13 areas of Richland County as well.

14 After college I became a certified law
15 enforcement officer through the South Carolina
16 Criminal Justice Academy back in 1998. I've
17 actually presented over 200 presentations
18 nationwide to communities, religious organizations,
19 educational organizations, businesses, and local
20 documentaries, such as "Gangland, Beyond Scared
21 Straight." I have been deemed an expert in
22 courtroom testimony as of last year with the case
23 of the State of South Carolina --

24 MR. NEWTON: Objection, Your Honor. I don't
25 believe that he needs to go into the name of the case.

1 THE COURT: He can. But if he has been
2 qualified as an expert before, he doesn't need to go
3 into that particular case, whatever it is.

4 MS. WALKER: Thank you, Your Honor.

5 BY MS. WALKER:

6 Q Have you published materials on gang violence and
7 gang investigation?

8 A I have. I have published a book through Thomas and
9 Reuters *Investigating Gang Crimes*. It was done
10 with myself and five other coauthors nationwide
11 within the United States.

12 MS. WALKER: Your Honor, at this point we
13 would ask that Sergeant Goggins be admitted as an expert
14 in gang investigation.

15 THE COURT: Any objections, Mr. Newton?

16 MR. NEWTON: No objection, Your Honor.

17 THE COURT: Ladies and gentlemen, you recall
18 several times I have advised you that normally a person
19 cannot give opinion testimony. Normally when a person
20 testifies, they must testify as to either what they saw,
21 heard, or sensed by smell or something of that nature.

22 However, there is an exception if someone has
23 training or education or experience in a particular
24 field or area of expertise if the Court qualifies them
25 that way.

VINCE GOGGINS -- DIRECT -- MS. WALKER

1 This witness will be qualified in the area of
2 gang investigations to give opinion testimony in that
3 area. That does not mean that you must accept the
4 opinion. It is evidence for you to use in any way you
5 the jury sees fit.

6 Thank you, Solicitor. You may continue.

7 MS. WALKER: Thank you, Your Honor.

8 BY MS. WALKER:

9 Q There had been a lot of talk in this courtroom this
10 week about Bloods and Folk. Are those terms you
11 are familiar with?

12 A Yes, ma'am.

13 Q Can you please tell me a little bit about the
14 criminal gang known as the Bloods?

15 A The Bloods was formed back in the '70s in
16 California. It's a street gang that was formed as
17 a rivalry to the Crips street gang for protection
18 purposes.

19 Q And the Folk?

20 A The Folk Nation was actually a Chicago based gang
21 that was formed in the prison system of Chicago.
22 That was just an alliance of multiple gangs that
23 fall under the Folk Nation.

24 Q From their different origins, have those gangs come
25 here to Columbia?

1 A Yes.

2 Q And have you investigated those gangs?

3 A I have.

4 Q I want to ask you a little bit about some of the
5 terms that have been used this week. We heard the
6 term doughnut. Is that a term of significance to
7 you?

8 A That is a term of significance mainly to the Folk
9 Nation. One of their founding fathers was actually
10 supposedly killed in a doughnut shop. So that is
11 perceived to be disrespect to the Folk Nation.

12 Q So if I am talking to a Folk Nation gang member and
13 say, "Doughnut," I am being disrespectful?

14 A You are being disrespectful to the Folk Nation.

15 Q We have heard a number of -- let me ask you this.
16 Is it common for members of these gangs to go by
17 nicknames or street names.

18 A It is.

19 Q We have heard a number of those used here in the
20 courtroom. The name B.K. is that significant in
21 terms of gang vernacular?

22 A That is typically the only time that you will see a
23 Folk Nation gang member use B. without
24 disrespecting them in some form or fashion. B.K.
25 for Folk Nation gang members stands basically for

VINCE GOGGINS -- DIRECT -- MS. WALKER

1 Blood Killer.

2 Q We have heard of various nicknames attributed to
3 Daqwan Johnson, including G-man and B-man. If a
4 member of a gang were to change their nickname from
5 B-man to G-man, would that be significant?

6 A That would. Basically initially if the name was
7 B-man and switched over to G-man, that's one of the
8 ways that they are disrespecting the Blood Nation
9 by dropping the B. and changing to a G., which the
10 Folk Nation generally do to show that he is a
11 gangster under the Folk Nation line. So it's
12 another way of disrespecting the Blood gang.

13 Q There has been a lot of talk as well about Thomas
14 O'Bryan Williams and being -- I think he was called
15 a Folk set leader. Are there different sects of
16 the Folk Nation here in Columbia?

17 A Definitely several different sections. Depending
18 on where you live, it's very turf oriented; so yes.

19 Q And would, in your experience and your expertise,
20 Thomas O'Bryan Williams, would he belong to the
21 sect of Folk Nation that we are talking about here
22 this week?

23 A No, he would not.

24 Q He would belong to an entirely different sect?

25 A An entirely different sect.

1 Q Would members of one sect of Folk Nation take
2 murder raps and blame other people in their own
3 sect for a murder that Thomas O'Bryan Williams
4 committed?

5 A No, they would not.

6 Q In 2010 you were with the gang unit then?

7 A Yes, I was.

8 Q How were the relationships between the Bloods and
9 the Folk in 2010?

10 A They have been rivalries since the inception of the
11 Folk Nation and Bloods nation. So it has always
12 been a rivalry here in Richland County as well.

13 Q So violence between those two gangs, was that going
14 on in 2010 here in Columbia?

15 A Yes, it was.

16 MS. WALKER: Beg the Court's indulgence.

17 (Pause.)

18 MS. WALKER: No further questions, Your Honor.

19 THE COURT: Thank you. Mr. Newton?

20 **CROSS EXAMINATION**

21 BY MR. NEWTON:

22 Q Sergeant Goggins; is that correct?

23 A Yes, sir, that's correct.

24 Q Through the preparation for your testimony today,
25 did you refer to your book and use your book to

VINCE GOGGINS -- CROSS -- MR. NEWTON

1 come here and testify?

2 A In what form?

3 Q The literature that you have published, did you
4 refer to that in preparation for your testimony?

5 A No, I didn't have to do that.

6 Q Are you aware that Brian Campbell's full name is
7 Brian Keith -- with a K. -- Campbell?

8 A No, I'm not.

9 MR. NEWTON: No further questions.

10 THE COURT: Redirect, Solicitor?

11 MS. WALKER: No, Your Honor.

12 THE COURT: Thank you. Thank you very much
13 for being with us, Sergeant.

14 THE WITNESS: Thank you.

15 THE COURT: You may step down and you may be
16 excused.

17 (Witness leaves the witness stand.)

18 THE COURT: Solicitor, you may call your next
19 witness.

20 MS. WALKER: Your Honor, at this time the
21 State rests.

22 THE COURT: Thank you. Thank you very much.

23 Mr. Foreman, ladies and gentlemen of the jury,
24 as you have heard, the State has rested. That means you
25 have heard all the evidence and all the testimony you

1 are going to hear from the State in its case in chief.

2 I am now required to meet with the attorneys
3 outside of your presence. I would ask you to please go
4 to your jury room. Do not discuss this case during this
5 brief recess. Thank you very much.

6 (The jury retires to the jury room.)

7 THE COURT: Any motions on behalf of the
8 defense, Mr. Collins, Mr. Newton?

9 MR. NEWTON: Your Honor, we at this time move
10 for a directed verdict. We do not believe -- as to the
11 murder charge of Gary Reese, the State has not produced
12 enough evidence to go forward in this case.

13 Specifically to the attempted murder, we do
14 not believe there has been enough evidence set forth
15 through the testimony and the evidence produced that the
16 injury that was sustained by Lamettress Stevenson in
17 this case was caused by the actions of either
18 Mr. Johnson himself or in a hand of one, hand of all
19 nature by the people involved.

20 The only testimony and the only evidence that
21 we have is Lamettress Stevenson saying that she was
22 outside. She heard gunfire. She ran inside. She was
23 hurt, and a police officer said, "I think you have been
24 shot."

25 There are pictures in this case of this

1 THE COURT: Mr. Foreman, ladies and gentlemen
2 of the jury, as you heard before this recess, the State
3 has rested its case in chief. The defendant now has an
4 opportunity to present evidence or testimony if he
5 chooses to do so.

6 A defendant in South Carolina is never
7 required -- has no duty -- to prove himself or herself
8 innocent. A defendant in South Carolina is presumed to
9 be innocent of all the charges. The State has the
10 burden of proving its case, each and every element of
11 the offenses charged, by proof beyond a reasonable
12 doubt.

13 However, if a defendant chooses to present
14 evidence or testimony, he may certainly do so. So we
15 will now turn our attention to the defense attorney and
16 ask Mr. Collins: You may call your first witness.

17 MR. COLLINS: Your Honor, the defense rests.

18 THE COURT: Thank you. Thank you very much,
19 Mr. Collins.

20 With that being said, ladies and gentlemen,
21 you have heard all the evidence and all the testimony
22 that you are going to hear in the trial of this case.
23 We are now at the point of the closing arguments by the
24 attorneys. The procedure we follow is the State would
25 close first -- Mr. Bailiff, would you hand me his note,

1 introduced into evidence.

2 Further, one juror's notes is no better than
3 another juror's recollection. Some people are note
4 takers. Some people are good note takers. But also
5 remember while you are taking the note, you could miss
6 something also, but you are welcome to take notes during
7 the closing arguments.

8 The procedure we follow is the State closes
9 first, the State being the party that has the burden of
10 proving its case beyond a reasonable doubt. That will
11 be followed by the attorney for the defendant,
12 Mr. Johnson. Thereafter, I will charge or instruct you
13 on the law. If you would please give the parties your
14 complete and undivided attention, as you have done
15 throughout the trial of this case.

16 With that being said, Solicitor.

17 **CLOSING ARGUMENT**

18 MS. CAMPBELL: May it please the Court. Good
19 afternoon. The first thing I want to do on behalf of
20 the State of South Carolina and the citizens of Richland
21 County is to thank you for your service in this case.

22 I know when you showed up on Monday morning,
23 you may have anticipated you might sit in on a wreck
24 case or maybe a stolen vehicle, but you probably didn't
25 anticipate the type of evidence that you were going to

1 have to listen to as this week progressed, even if it
2 was inartfully presented on our behalf.

3 So thank you for your attention. I watched
4 you. You all paid attention. A great man once said
5 that jury service is the greatest service one can give
6 to one's country in times of peace.

7 And even though we have family members and
8 friends who are having to serve our country abroad or
9 here in the states, your role in this case, I think as
10 you have become aware as the week progressed, is very
11 important. It is very important to the State of South
12 Carolina and this defendant.

13 Now, I am going to talk a little bit about the
14 law, and then I will talk to you a little bit about what
15 the facts are in this case. Then the defense is going
16 to get up here and have the opportunity to do the same.

17 If I misquote anything that you heard in this
18 courtroom, it is not intentional. Please take the
19 evidence as you heard it. In that same vein, if either
20 side misquotes the facts, remember, you are the sole
21 fact finders in this case. It is up to you to determine
22 the evidence that has been presented by the State has
23 proven or not proven.

24 You also must, after you hear from us, the
25 judge will instruct you on what the law is that you are

1 to apply. You take the law as the judge gives it to
2 you. Again, if either side mischaracterizes it, you
3 remember what he says to you because he is the sole
4 finder of what the law is that you have to apply.

5 You have heard all the evidence that you are
6 allowed to consider in this case. What is evidence? It
7 is the sworn testimony and the actual exhibits that were
8 actually entered in this case.

9 That is what you must consider, and that's the
10 basis upon which you must make your verdict. It's the
11 testimony and the physical evidence. It's not on
12 questions, fishing expeditions, innuendo, conjecture,
13 speculation, or just plain wishful thinking. That is
14 not evidence.

15 The roles in this room, as the judge described
16 to you at the very beginning of the case, is delineated
17 for a reason. They are very important. The State's
18 role is to bring before you all the relevant, admissible
19 evidence in the case.

20 The judge's role is very different. He is to
21 determine what evidence, by our rules of law -- and you
22 have seen us go back and forth -- can actually come
23 before you, be sworn to, admitted, so that you can
24 consider it. The defense attorney's job in this case is
25 to defend his client to the best of his ability.

1 But by far, ladies and gentlemen, no one will
2 argue that the most important role in this courtroom is
3 yours. Each of you individually and then collectively,
4 once the judge has instructed you on what the law is,
5 the 12 of you must go back there and determine beyond a
6 reasonable doubt who was responsible for this brutal
7 retaliation gang-war murder that occurred on June the
8 19th.

9 I want to apologize if we have done
10 anything -- Ms. Walker, Mr. Shellenberg -- have done
11 anything to offend you. At times there has been legal
12 wrangling back and forth. Evidence is admissible; it's
13 not evidence. We lay a foundation. It comes back a
14 different way. Our questions at times have been
15 inartful, sloppy, clumsy. Please don't hold that
16 against the State in our presentation of this case.

17 Now, criminal cases are somewhat unique as you
18 have may seen. It is unique because the defendant, by
19 our Constitution, has an absolute right to confront any
20 and all witnesses that come before him. He has an
21 absolute right to confront them.

22 You have heard live testimony. You have heard
23 reference to reports, such as the autopsy, the D.N.A.
24 reports, things of that nature that aren't before you.
25 They are not in evidence, and the reason for that is

1 very simple.

2 In criminal cases the law recognizes that you
3 should have an opportunity to observe each and every
4 person, basically judge their credibility and make them
5 appear before you.

6 The pathologist from Richland Memorial
7 appeared before you so you could judge his credibility.
8 Experts with ballistics appeared before you so you can
9 judge their credibility.

10 There are no videotaped depositions. There
11 are no audiotaped depositions. You have heard reference
12 after reference to statements that were taken in this
13 case with various people. None of that is admissible.
14 Because you, under our law, should judge each and every
15 witness.

16 You have also heard reference to a number of
17 investigators, people that participated in the search
18 warrants, things of that nature. The State is allowed
19 to bring before you each and every relevant witness. We
20 cannot bring before you every witness to say the same
21 thing over and over. It's considered cumulative
22 evidence. That is the reason for that.

23 You also understand -- and let me do this
24 first. In this case, perhaps more than any other, the
25 burden of proof is on the State of South Carolina to

1 prove this defendant, Daqwan Johnson, G-man, guilty
2 beyond a reasonable doubt. I submit, ladies and
3 gentlemen, in this case, perhaps more than any other,
4 that is a burden the State welcomes.

5 Now, what does proof beyond a reasonable doubt
6 mean? The judge will instruct you in a little bit about
7 how you can consider it. Perhaps the simplest
8 explanation of proof beyond a reasonable doubt is it's
9 proof that would cause a reasonable man to hesitate to
10 act. It's a very simple definition.

11 But our Courts have gone a little further in
12 defining what proof beyond a reasonable doubt is and
13 what the burden is on the State. In our Courts the
14 following definition has been used: Proof beyond a
15 reasonable doubt is proof that leaves you firmly
16 convinced of the defendant's guilt.

17 Again, let me repeat that: Firmly convinced
18 of the defendant's guilt. There are very few things in
19 this world that we know with absolute certainty. In
20 criminal cases such as this, the law does not require
21 proof that overcomes every possible doubt.

22 If based on your consideration of the
23 evidence, you are firmly convinced that the defendant is
24 guilty of the crime charged, you must find him guilty.
25 If, on the other hand, you think there is a real

1 possibility he is not guilty, then you must find him not
2 guilty. So that gives you a little bit about reasonable
3 doubt.

4 Anyone can doubt anything. We don't have to
5 overcome every possible doubt. We just merely have to
6 present evidence that convinces you and leaves you
7 firmly convinced of the defendant's guilt. That's the
8 law that you will apply. Listen to the judge. He will
9 tell you that's what it is.

10 Now, you are going to have two different
11 verdicts to come to when you go back there. They arise
12 out of the same chain of events that occurred on
13 June the 19th. The two charges that are going to be
14 before you are murder and attempted murder.

15 Listen as the judge charges you on these two
16 because the elements are essentially the same, but he
17 will go through each because each is a separate charge.
18 Very simply, ladies and gentlemen, the definition of
19 murder in our State -- and we aren't one of those states
20 that have first degree, second degree, it's murder.

21 The definition of murder, to be the most
22 heinous crime that can be committed, is perhaps the
23 shortest. Very simply under our Code of Laws, 16-3-10,
24 murder is defined as the killing of any person with
25 malice aforethought, express or inferred.

1 What do those terms mean? What is malice
2 aforethought, either express or inferred? Express or
3 inferred doesn't mean different types of malice, just
4 the way in which the malice itself is expressed. The
5 judge will instruct you some of this language, and some
6 of it he may not.

7 But the Courts have held that malice be
8 inferred from conduct showing a total disregard for
9 human life. It's a legal term implying wickedness and
10 excluding just cause or excuse. It indicates a foreign
11 purpose or a design to do a wrongful act under
12 circumstances that excludes the legal right to do it.

13 It is something that springs from wickedness,
14 depravity, from a heart devoid of social duty and
15 fatally bent on mischief. In other words, malice is a
16 mental state, and it may be inferred from facts and
17 circumstances proven by the State.

18 Malice can go further. It can be actual ill
19 will, hatred, hostility towards another. I submit,
20 ladies and gentlemen, I would be very surprised if
21 anyone gets up here and argues this is anything but
22 murder. It doesn't get any more malicious than this.
23 This case reeks of malice.

24 It is the intentional doing of a wrongful act
25 without just cause or excuse and with an intent to

1 inflict an injury or under circumstances where the law
2 will infer evil intent. Express malice is shown when a
3 person speaks words which express hatred or ill will.

4 Malice may be inferred from conduct showing a
5 total disregard for human life. The judge will instruct
6 you on that: Conduct showing a total disregard for
7 human life. I submit when five men arm themselves,
8 acting together, go to their destination where their
9 rival gang lives and start shooting up the place, that's
10 malice.

11 When determining whether malice is present, as
12 far as intent, malice or intent may also be inferred
13 when it's demonstrated that the defendant voluntarily
14 and willfully commits an act, the natural tendency of
15 which is to destroy another's life.

16 Now, it's the term malice aforethought. What
17 does aforethought mean? You will not hear the judge
18 instruct you that we have to prove premeditation,
19 although in this case we have. You will not hear the
20 judge say that we even have to prove what the motive
21 was, although we have in this case.

22 However, all we have to prove -- because in
23 murder cases the law recognizes that sometimes not each
24 and every second can be described. So you must infer
25 from the acts that were there what was going on. In

1 this case that is not an issue. It was planned, it was
2 plotted, and it was executed.

3 The only problem in this case was when that
4 man's gun didn't work, but luckily for him he brought
5 his friends, his associates, his home boys, and they got
6 the job done. They may not have gotten the person they
7 wanted, Weeny, but they took out one that was just as
8 good, and then they went and celebrated at the party.

9 The judge will instruct you that malice need
10 not exist for any appreciable period of time before the
11 act of killing occurs. Malice may be conceived at the
12 very moment the fatal blow is given. In other words,
13 there must be, from the conduct shown, some correlation
14 between malice and the shooting of the gun. That is not
15 an issue I submit in this case.

16 There are two other theories of law that are
17 very important in this case. Because as you have heard,
18 there are five people charged with murder. There are
19 five people charge with attempted murder. There is one
20 bullet that killed Gary Reese, and there is one bullet
21 that grazed Lamettress Stevenson.

22 Under our law everyone that is present aiding
23 and abetting is considered a principal in the crime and;
24 in fact, is held responsible. The theory of that -- and
25 listen very carefully because the judge will have a much

1 longer charge on this -- is the hand of one is the hand
2 of all. It's the easiest way to put it.

3 When one or more people combine together, say
4 if I decide to get Ms. Walker and go and commit an armed
5 robbery and I send her in and I tell her before she goes
6 in, Don't shoot the clerk, I am still responsible for
7 her actions once she goes in there and shoots the clerk
8 because we have formed together to go commit the common
9 design, be it robbery -- and it doesn't even have to be
10 the conclusion of what happened. That's the hand of one
11 is the hand of all.

12 Very simply, ladies and gentlemen, the judge
13 will charge you that if a crime is committed by two or
14 more people who are acting together in committing a
15 crime, the act of one is the act of all.

16 A person who joins with another to commit an
17 unlawful act is criminally responsible for everything
18 done by the other person which happens as a probable or
19 natural consequence of the acts done in carrying out the
20 common plan and purpose.

21 For example, two people can be guilty of
22 killing another when only one of the two had a gun,
23 there was only one bullet, and only one of the two fired
24 the shot that caused the death.

25 If two or more people are acting together --

1 are together, acting together, assisting each other in
2 committing the offense, the act of one is the act of all
3 or as it is sometimes said, the hand of one is the hand
4 of all.

5 The judge will also instruct you that mere
6 presence at a crime scene does not constitute guilt, but
7 I submit, ladies and gentlemen, no one will get up here
8 and argue that any of the five people there that night
9 were not acting together as a common scheme. There were
10 no innocents drag-alongs. Innocent drag-alongs don't
11 arm themselves in order to go to a shooting.

12 You also heard evidence that the intended
13 target was not Gary Reese. In fact, the intended
14 target, as far as I can tell, was anybody they could
15 shoot up there that night.

16 They sprayed the place. You saw the cars.
17 You saw where the bullets went. One went all the way
18 across the parking lot, across the playground -- and I
19 will show you the diagram in a minute -- into another
20 apartment.

21 There were several that entered apartments.
22 You even saw the photos of the ones where they shot in
23 between pictures of the children, and you have heard how
24 many children were out there.

25 Transferred intent is another doctrine under

1 our law. What is transferred intent? It's when a
2 defendant with malice aforethought intends to unlawfully
3 kill or seriously injure one person but by mistakes or
4 inadvertence -- and this is the exact language he will
5 give you so listen to what the judge gives you. This is
6 the gist of what he will tell you -- kills a different
7 person from the one he intended to kill, the law holds
8 the defendant responsible because of felonious intent.

9 Merely transferring intent from the original
10 person the defendant attempted to kill to the actual
11 person killed, if malice is found at the time of the
12 killing, even if a third party is killed rather than the
13 intended victim, the defendant is guilty of murder.
14 This concept is known as transferred intent.

15 Under this doctrine the defendant's intent to
16 kill his intended victim is said to be transferred to
17 his actual victim. The degree of guilt is the same as
18 it would have been if the attempt had resulted in the
19 death of the person to which he was aiming.

20 So listen carefully. The judge will instruct
21 you this. It does not matter who he actually wanted to
22 shoot that night if you find -- and I submit, ladies and
23 gentlemen, in this case there is malice -- if you find
24 there is malice, it doesn't matter who actually got hit.

25 It's actually worse in some ways that they

1 just sprayed the crowd, not caring who died, and that's
2 murder, be it if he sprays the crowd and kills one and
3 injures one or walks into some place and kills 12.

4 Voluntary intoxication. You have heard some
5 testimony from one of the witnesses that the defendants
6 were drinking and smoking something before all this
7 happened.

8 The law recognizes that when a person chooses
9 to get voluntarily intoxicated -- in other words, drinks
10 on their own or takes drugs on their own -- and becomes
11 inebriated and does something that they may not have
12 done when sober, the law does not relieve them of
13 responsibility just because they decided to get high.

14 Voluntary intoxication is never an excuse or a
15 defense to a crime. A person who voluntarily renders
16 himself intoxicated is no less responsible for his acts
17 while in such condition.

18 If a person voluntarily drinks intoxicating
19 liquors or takes drugs and becomes intoxicated and while
20 in that condition commits an act that would be a crime
21 if it had been committed by a sober person, the fact of
22 drunkenness or intoxication would not relieve the
23 intoxicated person of responsibility. That's the law.

24 Now, there are two types of evidence that you
25 are going to hear in this case. The judge may or may

1 not instruct you on this. There is direct evidence and
2 circumstantial evidence. What does this means? It's
3 simply the way in which the evidence was observed.

4 Direct evidence tends to be, say, eyewitness
5 testimony. It's evidence that is perceived through the
6 senses: what you hear, what you smell, what you touch,
7 what you see, through the senses. That is direct
8 evidence.

9 Some of the direct evidence in this case is
10 you have heard from a number of eyewitnesses to explain
11 to you what happened. You heard from Ms. Brittany
12 Ruffin who saw what happened after the victim had been
13 shot.

14 You heard from Ms. Lamanda Smith who saw the
15 perpetrators actually running from the scene and
16 getting into the Buick, the silver Buick, things of that
17 nature. They are not able to identify anyone, but they
18 do kind of fill in the gaps and help you. Well, in this
19 case you have a video to tell you what happened in this
20 case.

21 Circumstantial evidence is basically the type
22 of evidence from which you can infer what happened. In
23 this case circumstantial evidence would be, say, the
24 finding of the .223 rifle underneath Daqwan Johnson's
25 bed four days after the actual shooting.

1 It happens to be a .223 rifle that is loaded
2 with the same unique type of ammunition -- I understand
3 it's worldwide but it's not here in South Carolina --
4 that is circumstantial evidence that points to the guilt
5 of the defendant.

6 That is simply one piece of evidence in this
7 case, and I submit there are a lot of different pieces
8 of evidence in this case, all the way up until you talk
9 about two of the people who participated in this crime
10 who choose to testify.

11 We cannot compel them -- that's why I asked
12 them those questions -- to testify. They have a Fifth
13 Amendment right not to. They chose to testify and, of
14 course, they chose to hope for leniency.

15 Circumstantial evidence. A good example of
16 that is, say, I went to bed one night and I looked out
17 the window before I went to bed. The ground was
18 green -- or brown, I guess, it would be in the winter.

19 When I got up the next morning, as far as I
20 could see there was snow on the ground.

21 Circumstantially -- and a clear inference you can
22 make -- from the facts of what you observed the next
23 morning is that it snowed overnight.

24 As you listen to the defense in this case,
25 they would have you believe that your next-door neighbor

1 spent \$20,000 to get a snow machine to come in and just
2 blow snow all over the place in the middle of the
3 summer.

4 That is not a reasonable inference. So you
5 can use -- and we will talk more about circumstantial
6 evidence and how all the evidence in this case comes
7 together -- in order to determine what happened back on
8 the 19th of June, two years ago.

9 You also will be instructed on criminal
10 intent. In every case the State must prove criminal
11 intent. In determining criminal intent, it's kind of
12 the state of mind of the defendant at the time. You
13 can't really -- it's a conscious wrongdoing on the part
14 of the defendant. That's not an issue in this case.

15 Because as you heard in the beginning -- and I
16 will get back to this -- the defense stood up here and
17 the first thing they said to you was he is an innocent
18 man. He wasn't there. That's what they said in their
19 opening.

20 The judge will instruct you that we can't take
21 a person and dissect their brain open and look inside
22 their brain to determine what their criminal intent was.
23 We can't determine to any mathematical certainty what
24 they were thinking at the time.

25 Therefore you must look at their actions and

1 what they did, at or around the time of the actual
2 crime, in determining whether there was criminal intent.
3 Ladies and gentlemen, criminal intent, it doesn't get
4 anymore criminal than this.

5 The judge has also instructed you and he has
6 instructed you throughout the trial of this case about
7 expert testimony. Very simply, the law recognizes that
8 certain people, because of their training and their
9 education, are allowed to get up before you and give an
10 opinion.

11 I have no expertise. I have no training in
12 any area that I could do that. However, other people --
13 such as Dr. Amick, the D.N.A. expert, such as David
14 Collins, the expert with the ballistics, such as
15 Dr. Marcus, the pathologist in this case -- they are
16 allowed to come before you and actually examine
17 evidence, do testing, and render opinions. That was
18 done in this case.

19 Now, finally I want to talk to you just a
20 little bit about the law of credibility. The judge will
21 instruct you in determining credibility -- and it's just
22 believability. It's totally up to you, each of you
23 individually and then once you get back there.

24 In determining what the credible evidence is,
25 sometimes, as in this case, the most credible evidence

1 comes from some unlikely sources. As you have heard and
2 you heard from the investigators, these cases involving
3 gangs are difficult, and you have come to understand
4 why.

5 No one wants to get involved. And why should
6 they? No one wants to come forward. Why would they?
7 These are difficult cases. Luckily in this case on this
8 night he miscalculated. There is credible evidence and
9 a lot of it in this case.

10 Credibility. You can believe one witness
11 against many, many against one. You can believe part of
12 a witness' testimony, all of it, none of it. It's
13 totally up to you.

14 The judge will instruct you that you can look
15 at their demeanor, how they presented. Was there bias
16 or prejudice? Do they have a reason, say, to change
17 their statement once they got in court? Do they have
18 any other possible biases or prejudices to testify one
19 way or the other?

20 I submit, ladies and gentlemen, when you look
21 at this record as a whole, even when you will look at
22 the two codefendants in this case, what makes them
23 credible?

24 What makes them most credible is what they
25 tell you. And what they do tell you about what they are

1 willing to admit about their participation that night is
2 corroborated by the evidence, by the diagrams, by the
3 guns that are found. It's corroborated.

4 Credibility. You will hear maybe one say it a
5 little bit different from another. What makes them
6 credible? You even saw Detrick Walker as he saw people
7 enter the courtroom. What made him credible? He froze.

8 Credibility is totally up to you, but the most
9 important thing -- the most important aid, ladies and
10 gentlemen, you have, each of you, in determining
11 credibility is your common sense. This case boils down
12 to that because it's about common sense. It's about
13 human nature. It's about gangs.

14 Now, in preparing for trial, you always try to
15 figure out what the defense is going to be. It was no
16 different in this case. Typically in a murder case its
17 either an I.D. case -- wrong guy.

18 Or there is only one eyewitness. They
19 identified the wrong person. It's just a mistake on
20 their part. Or maybe it was like self-defense. Listen
21 carefully. The judge will not instruct you on any
22 self-defense in this case. It's not a self-defense
23 case. Or it was just a drug deal gone bad.

24 But as I have listened to opening argument and
25 I have seen the questioning over the last four days,

1 this case is a little more unique than that. Because it
2 is some weird brand or combination of: It is a huge
3 frame-up of poor, innocent Daqwan Johnson. The first
4 words out Mr. Newton's mouth was he is an innocent man.

5 As this trial has progressed, the theory of
6 the defense is that there is some huge conspiracy going
7 on between the Columbia Police Department, the Richland
8 County Sheriff's Department, S.L.E.D., the Blood gangs
9 and some of his home boys in order to frame this
10 innocent man in order to find him guilty. That's the
11 theory.

12 Does that even make any sense? And the State
13 brought all the evidence before you that was admissible
14 that we could get into --

15 MR. COLLINS: Objection, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury,
17 the State has the burden of proving its case beyond a
18 reasonable doubt. The burden never shifts. You are the
19 finders of the fact. The facts should be as you
20 determine them to be from the evidence, and any
21 inferences that may properly be drawn.

22 Thank you, Solicitor. Thank you, Mr. Collins.
23 You may continue.

24 MS. CAMPBELL: Thank you. The State has
25 brought before you the evidence, whether it implicates

1 or may not implicate him. We brought before you the
2 D.N.A. evidence. That was what we brought before you.

3 They will stand up here and argue in a minute
4 that we didn't do the testing in a timely manner. It
5 doesn't affect the results. We did the testing and
6 brought the results in here.

7 It doesn't implicate Daqwan Johnson, and it
8 doesn't implicate Marquez Prophet, who admitted to you
9 he is a murderer and an attempted murderer. It doesn't
10 implicate Detrick Walker, who admitted to you he is a
11 murderer and an attempted murderer. It doesn't
12 implicate Terrance Patterson or Brian Campbell.

13 But that's part of them doing their job and to
14 make sure that when you look at the Columbia Police
15 Department, the Richland County Sheriff's Department,
16 they did their job.

17 I submit, ladies and gentlemen, when the
18 defense gets up here and starts talking about how Kevin
19 Reese -- and starts floating around with some blank
20 paper -- which I submit is offensive. They did their
21 job.

22 They got through all the evidence. They had
23 preliminary evidence implicating someone else. They
24 kept investigating to make sure that when this case came
25 to court, it was for the right reasons and the right

1 people. They did their job.

2 The defense is going to get up here, and I
3 don't know what all they are going to argue, but I can
4 try to anticipate because this is the last time I have
5 the opportunity to address you.

6 They can talk about how you can't convict
7 because there is no D.N.A. evidence in this case. They
8 are right. There is no D.N.A. evidence that implicates
9 him because it's not the type of crime where there is
10 D.N.A. evidence.

11 It is not a stabbing up close and personal
12 where someone gets blood on their clothes that can later
13 be linked to the victim to say the defendant struggled.
14 It's not the type of case where there is a break-in,
15 where maybe at the point of entry, they cut themselves
16 and left blood. We are down to all we are talking about
17 is touch D.N.A. off a shell casing and a gun.

18 I submit, ladies and gentlemen, they are going
19 to say you can't convict him of that. I submit even if
20 Daqwan Johnson's D.N.A. had been on that .223 that was
21 found under his bed at his grandmother's house, they
22 would say, Oh, that doesn't mean anything. I mean, you
23 don't know how long it's been there. It was found under
24 the bed. It doesn't mean he was there three days
25 before.

1 They are going to talk about how we didn't
2 test anything in the car. It's Daqwan Johnson's car.
3 It's his. They are going to say, Oh, the testing might
4 have shown that O.B. smoked a cigarette. We don't even
5 know if he smokes. That's a reason for acquittal? Just
6 ignore all the evidence.

7 There is an old joke about a preacher and a
8 lawyer walking down the road, and they are on the
9 sidewalk and it has rained the night before and next to
10 the sidewalk is a mud puddle. It's a big puddle, about
11 this thick (indicating) filled with water.

12 The preacher looks down and he says, Oh, there
13 is a silver dollar. The lawyer looks over and picks up
14 the stick, and he stirs up the water and the silt and
15 the mud and covers it. It can't be seen. He looks at
16 the preacher and he says, What silver dollar?

17 Ladies and gentlemen, I want to take this
18 opportunity for just a few more minutes of your time --
19 this is important -- to talk about the cold, hard facts
20 that point overwhelmingly and at least beyond a
21 reasonable doubt that back on July 19th of 2010, this
22 man had a beef. It had been going back and forth, and
23 he was going to make sure he got it this time.

24 So he get his guys because he is mad about the
25 shooting up of his car. That's what this case is about.

1 An innocent man? To believe he is innocent, he just
2 happens to be the most unlucky person in the world to be
3 identified by Whitney Wilson or at least narrowed down
4 to three.

5 He happens to be in a car that matches the
6 description of his car, which y'all can see on the video
7 is missing a part, the molding on the car; who happens
8 to be friends with Brian Campbell who everybody puts in
9 the car; who happens to be in the same group of men, and
10 these are his home boys.

11 This is an amazing frame-up by his friends?
12 That's the theory? The defense will also get up here
13 and talk about how we didn't test for gunshot residue on
14 the clothes or on the car. You heard from the S.L.E.D.
15 agent why we don't do that.

16 He will talk about how him when poor
17 Ms. Smith, Lamanda Smith, described the person she said
18 he was tall, had a dark complexion, clean shaven, may
19 have had a goatee.

20 Tall is a relative term when she is standing
21 out there and watches armed men run by her to get
22 into -- guess what car again? Daqwan Johnson's. He
23 doesn't pick his friends well or does he? Common sense.
24 Does it make sense? She describes him as tall and dark
25 skinned.

1 You look at the booking photos, and those are
2 the gentlemen -- some of them four days, some over two
3 months later -- and you will see. She is not able to
4 identify anyone.

5 So they want you to focus on her because you
6 are going to ignore the fact of like what Rontrell
7 Henderson was willing to do that day, and he is not
8 anymore. He made that clear.

9 I submit, ladies and gentlemen, you saw him
10 here today in the courtroom. Why is he telling a lie?
11 Oh, and he's telling this lie, and isn't it miraculous
12 because he didn't say the police told him who to pick
13 out. Remember, it's lies. It's a lie. I didn't know
14 him. I didn't know anybody.

15 But he was able to -- this is another amazing
16 point -- to be lucky enough to know that the shooter or
17 one of the shooter's nicknames was G-man, and he was
18 able to pick out the right person out of a lineup.

19 He didn't say the police told him which one to
20 pick even when he got up here today. That is amazing.
21 No, ladies and gentlemen. That is what makes it
22 credible. He was out there. He doesn't want anything
23 do with this case. And can you blame him? To have to
24 come in open court and testify? He wasn't scared,
25 remember?

1 They asked about a video at Hillingdale. I
2 don't know what that has to do with this case. There
3 isn't any video from Hillingdale. Then they got off to
4 Studio 54. It seems like when they aren't yelling
5 O.B.'s name -- which we will get back to in a minute --
6 they yell Studio 54.

7 Remember from the timeline -- and I will go
8 through the timeline -- there is a three-hour plus
9 difference between the shooting at Gable Oaks around
10 11:10 P.M. and the shooting at Studio 54 in retaliation.
11 We brought those facts before you.

12 In a little over 12 hours, there are four
13 shootings between rival gang members, which just
14 happened to be his home boys in his car with his gun.
15 That's not a coincidence, ladies and gentlemen. That's
16 guilt.

17 So what did the State bring before you? What
18 were we able to prove? You heard from many witnesses
19 for the State. The first officer on the scene secured
20 the scene the best he could. It was a massive scene.

21 However, what is interesting and very telling
22 in this, and the reason we put in these (indicating) is
23 you can look at this when you go back and actually --
24 there's so much ammunition. It's hard to tell where
25 everyone was.

1 That's the reason for these. If you use this
2 (indicating) with this (indicating), you can tell
3 actually where people were standing approximately. You
4 heard from the expert. Once the gun is fired, it
5 expels.

6 What is significant as to these? Evidence of
7 37 through 42. We put in the video that shows where
8 Kendrick Mann shot back. You see the video, and you
9 take -- luckily we have the video. Because you can see
10 in the video, they are down on the ground before
11 Kendrick Mann can ever get up and shoot back.

12 What corroborates the video is they find the
13 shell casings right here (indicating), right where the
14 car was parked with the Hardee's bag on top of it.
15 Remember? The shell casings were all found in this area
16 where they went down. You actually see the victim run
17 back this way (indicating) towards his apartment.

18 Remember evidence 46? That was the gunshot
19 that actually went into the apartment next door to where
20 he ran. So we know that area is corroborated. It's
21 hard, when we first put this evidence before you, to
22 kind of tell where everything is because you don't know
23 the entire story yet, but we have to put it up in some
24 order.

25 Then you will hear evidence about how the

1 majority of the 7.62 shell casings, which are the
2 assault rifles -- and let me be the first to say. No
3 one is saying that the bullets were fired by him. It
4 was his beef, it was his idea, and it was his mission,
5 but he is not the one that fired the bullets. We
6 totally want to put that in front of you. We don't have
7 to prove that. Listen to the judge.

8 Evidence 1 through 21, all those shell casings
9 right in this area (indicating). You also heard about
10 evidence, the .40-caliber -- excuse me -- shell casings,
11 which are 24 through 28 and 30 through 36, all in this
12 area (indicating). They fanned out when they went. It
13 was almost like a military experience. You can see them
14 peel off when they come in and out.

15 Then you see the shell casings from the .45,
16 which was later used in the subsequent -- when they went
17 back -- the Bloods went back to try to get them at
18 Studio 54. So everything that was said as far as where
19 everybody was in the shooting was corroborated.

20 The State does not have to prove to you who
21 exactly shot the fatal shot. What we do have to prove
22 is they were all there. I submit, ladies and gentlemen,
23 the video alone speaks volumes on that.

24 It had started earlier in the day and it
25 continued through the whole night. But look at this

1 carefully. You will have this guide when you get back
2 there so you can see where the shell casings are and
3 what they are.

4 This chart, State's Exhibit Number 152, is
5 just a summary, which also is helpful as to where the
6 shell casings were located. The point of all this is
7 that it totally corroborates what the State says
8 happened.

9 They are going to bring up the fact that one
10 of the assault rifles was used later on and that you
11 can't believe Noonie because he didn't say that there
12 was an assault rifle later on. Ladies and gentlemen,
13 did he know about it? Did he forget it? Did he just
14 not tell you?

15 You don't have to believe everything out of
16 either one of those codefendants. All you have to
17 believe is what is corroborated by the evidence. I
18 submit, ladies and gentlemen, the evidence, the physical
19 evidence, that corroborates what they told you happened,
20 along with the other witnesses, is overwhelming.

21 You also heard that he participated in the
22 search warrant where State's Exhibit 129 was found. You
23 will have this gun back in the jury room with you. This
24 is legal. It can be bought off the street. It's not
25 necessarily traceable. What is this gun and where was

1 it found?

2 This, ladies and gentlemen, just happens to be
3 a .223 or a 5.4-whatever. You remember what he
4 testified to? It's the same gun we are talking about
5 and the same ammunition. What is almost better than
6 D.N.A. in this case? What was found at the crime scene,
7 state's Exhibit Number 125, two live rounds.

8 Is that consistent with what the evidence
9 showed? Did they fall out of his pocket? Did his gun
10 jam? Whichever. You heard evidence about how he even
11 complained about that afterwards or something.

12 But what is unique is that then when you get
13 back, in the chamber is State's Exhibit 131, and in the
14 clip are -- however many. Is it 25 more rounds? And
15 where is the gun found? Under Daqwan Johnson's bed four
16 days later when the police go there and place him under
17 a lawful arrest.

18 They did their job. They backed out. They
19 got a lawful search warrant. They made sure everything
20 was done legally. Nobody's right were violated in this
21 case.

22 The car. You will hear how Buddy Rose went
23 and processed the car. The car is riddled with bullet
24 holes, be it from the first shooting or the second
25 shooting.

1 When we are talking about shootings -- I will
2 get back to that -- because there were so many that day.
3 It's almost appalling to think that this is going on in
4 Columbia.

5 You heard from Officer Tammie Moore,
6 Lieutenant Frieda Wyatt, who found the gun at the
7 graveside. We were the first to put it before you.
8 Gary Reese was a member of the Blood gang, and I will
9 talk to you a little bit about hierarchy in the gang in
10 a minute.

11 You heard from Investigator Kelvin Griffin who
12 actually was there. He was the first one that saw the
13 guns sticking out from underneath the bed, just like in
14 the photo which I don't have right now. Y'all will have
15 it back there with you. He found the gun. He did his
16 job, called in C.P.D.

17 You heard from Sergeant Kevin Reese and A.L.
18 Thomas. As I listened to the cross on them, we have
19 heard a lot about what they didn't do. Did they request
20 that the swabs from Studio 54 be tested?

21 Studio 54 happened over three hours after
22 this. What happened at Studio 54 was another crime in
23 which another person was charged. What could be proven
24 from Studio 54 swabs being tested?

25 You heard the cross about how they talked to a

1 lot of people. They did their job. What they put up as
2 a negative -- yeah, they talked to a lot of people --
3 they tried and they got the evidence, unfortunately for
4 him. They talked to different people.

5 Who did they talk to? Jerome Singleton. They
6 went there. They got video from Jerome Singleton, the
7 manager. Luckily for us in this case there was video.
8 What was the video able to show you?

9 We know it was in the middle of the night.
10 Who kind of went in? You can't describe or tell which
11 one is which, but you can see that the men went in and
12 went out.

13 You can see one of them actually did the
14 shooting. You can see the muzzle flash. More
15 importantly, you see the shooting that occurred earlier
16 in the day which corroborates Whitney Wilson. You heard
17 from Brittany Ruffin. She was merely there when the
18 victim died there in the apartment and was taken off.

19 You heard from Ms. Stevenson. She was there
20 that night. She was there with her children. Remember?
21 She ran into the apartment. She was so panicked she
22 didn't even know she was shot until later. She didn't
23 even go to the hospital for treatment. She was worried
24 about her children. However, she was shot and that is
25 the attempted murder.

1 Listen carefully as the judge tells you and
2 charges you attempted murder. We don't have to prove
3 that the bullet caused some serious damage or permanent
4 damage for it to be attempted murder. All we have to
5 prove is that it was the same intent he had when he
6 actually did kill Gary Reese. I submit, ladies and
7 gentlemen, the two are synonymous.

8 Kenneth St. John. What did he tell you? He
9 was able to tell you what he observed that day and what
10 happened in the first shooting. He was able to give you
11 information about what they were saying in the back
12 seat. He heard the word doughnut, which is a derogatory
13 term. This isn't gang related?

14 Who else were you able to hear from? Whitney
15 Wilson. He was able to get a look only at one of the
16 two people. The defense says you can't convict because
17 they didn't show him a second photo lineup. He only saw
18 one of them. He was able to narrow it down, which
19 happened to include guess who? The defendant, Daqwan
20 Johnson.

21 And guess what the car is described like? You
22 don't have to guess what the car is described like
23 because you have a video of the car. The car is the
24 same gray Buick which seems to be the common theme, just
25 as is Mr. Daqwan Johnson in this whole case.

1 You heard from Lamanda Smith. She saw, again,
2 what? Them coming out of the back. She lived in the
3 next door apartment complex. Remember? When she came
4 out of the back, she sees four or five guys running.
5 She sees them get into guess what car? The Buick.

6 You heard from Rontrell Henderson. And what
7 was Rontrell Henderson able to tell you? He didn't want
8 to be here. He ain't cooperating, and he doesn't want
9 to say anything against anybody.

10 MR. COLLINS: Objection, Your Honor,
11 misstatement of facts.

12 THE COURT: Excuse me?

13 MR. COLLINS: Misstatement of evidence, I
14 think.

15 THE COURT: Ladies and gentlemen, again, you
16 are the finders of the facts. The facts will be as you
17 determine them to be from the testimony of the witnesses
18 testifying from the witness stand and any inferences you
19 think may be properly be drawn from the evidence.

20 Thank you, Mr. Collins.

21 You may continue, Solicitor.

22 MS. CAMPBELL: Thank you. What was he able to
23 tell you? Yeah, he gave a statement. It was a lie.
24 You saw him. You judge him. I don't mean to put words
25 in his mouth. Did he want to give any evidence in this

1 case? No.

2 But back when this happened, he was willing to
3 help the police. It's amazing because he saw what he
4 saw that day, and he was able to tell the police about
5 it. He said -- and what makes him credible -- is he
6 only saw like three of them. They had guns. He was
7 able to recognize one.

8 And who did he recognize? The one who he knew
9 as G-man. Then when he was shown a photo lineup -- and
10 he got up there and as much as he didn't want to testify
11 today and much as he wanted it all to be a lie -- he was
12 able to pick out guess who? Daqwan Johnson, as the one
13 who he was able to recognize out there that night.

14 You heard from Marquez Prophet, Noonie. I
15 submit, ladies and gentlemen, Noonie's testimony,
16 especially out of those two codefendants rang the most
17 true. Because what was he able to tell you?

18 He is the youngest. He went out there. He
19 had his handgun. He came to court and he testified. He
20 didn't have to. I could not compel him to come to court
21 and testify. He chose to. Yeah, he hopes for some
22 leniency in this case from the State, but there are
23 absolutely no deals and no evidence of any deals in this
24 case.

25 He testified. He told you what he remembered

1 that night about who had what gun, who did what. I
2 submit, ladies and gentlemen, it makes him credible
3 because he told the police that at the time. If there
4 had been any inconsistencies in his story, the defense
5 would have brought them up.

6 He tells the truth. He hopes for a deal. He
7 doesn't know if he gets one. He got up here charged
8 with murder and attempted murder and in giving evidence
9 in this case, confesses to his role and his own guilt.
10 I submit, ladies and gentlemen, that makes him credible.

11 Did he get sucked into this? Yes, but at
12 least he came forward and he did the right thing when it
13 was necessary. We couldn't compel him to come into
14 court. He has that right but he chose to, with his
15 lawyer's help.

16 You heard from Detrick Walker who also chose
17 to come into court and talk to you. You saw Mr. Walker
18 and what was interesting with him is when I started
19 questioning him, he looked over and he froze. You saw
20 his demeanor. Don't let me put words in your mouth.
21 You remember what he did.

22 Then at that moment then all of a sudden the
23 story is, Oh, we got fired upon first. I never shot.
24 You have seen the rounds that go to the handgun. Did he
25 shoot?

1 He was one of the two with the handguns. The
2 other one was Noonie, which makes sense. He even tried
3 to protect his home boy up there today. "We got shot
4 upon first. We just had to shoot back."

5 Ladies and gentlemen, you have the video. You
6 have testimony from the other codefendant as to what
7 happened. That's not what happened. But even in here
8 facing him, he tried to help him. That's what your home
9 boy does.

10 You also heard from experts in the case. John
11 Roberts from S.L.E.D., the victim had no gunshot residue
12 on his hand. He had not handled a gun or shot a gun
13 that night. You have a video which corroborates that.

14 You heard from Dr. Gray Amick. He came before
15 you and he said he did testing on the shell casings and
16 the guns. He was able to get it. The one gun came back
17 with an unknown sample that excluded the defendant.

18 It excluded all the codefendants on all the
19 guns, but -- and it excluded O.B., who I will get back
20 to in a minute, who seems to be the one name we keep
21 going back to to try to point to someone, I guess, worse
22 than him.

23 You also heard from Investigator David
24 Collins. His testimony in this case was very important
25 because he was the one -- and I submit who did a good

1 job -- of examining all the evidence in this case in
2 order to determine which gun fired what.

3 In this case, ladies and gentlemen, unlike
4 most murders, we actually recovered some guns. We
5 didn't get a handgun, but at least we got this. We
6 didn't get cell phones, but at least we got the guns,
7 these guns. That was Investigator David Collins.

8 Then you heard from Sergeant Vince Goggins.
9 The important part with him was so much talk about the
10 gangs and how they are set up. There are different
11 sects within the community. There is the North Main
12 sect, which is all --

13 MR. COLLINS: Objection, Your Honor, not in
14 evidence.

15 THE COURT: Ms. Campbell, you may proceed.
16 Confine it to the record.

17 MS. CAMPBELL: Yes, sir.

18 THE COURT: And the reasonable inferences
19 therefrom.

20 MS. CAMPBELL: If I say anything different
21 from you what remember he just testified to, it's what
22 he testified to. He testified to the different groups,
23 the different sects, even within the Folk Nation. He
24 told you about how the Bloods and the Folk have had a
25 long-going feud.

1 I submit, ladies and gentlemen, and I want to
2 talk about the facts and timeline of what happened that
3 day, as well as the investigation just another minute
4 before I sit down. You heard from Dr. Bradley who said
5 obviously the cause of death was the gunshot wound.

6 The timeline in this case is important.
7 Because basically in this 12 or 13-hour period, there
8 are four separate shootings. The first occurred
9 somewhere around 3:00 o'clock. I am not holding myself
10 to that number, whatever he said and whatever the time
11 stamp that is actually on the video.

12 You have seen that, the Whitney Wilson
13 shooting or where he was shot at that day. You can see
14 most of it when the car comes through and turns around.
15 All that video is there.

16 The next shooting occurs on [REDACTED] You
17 have the testimony of the codefendant in this case,
18 Marquez Prophet, who talked about what happened in that.
19 What is important in that is that is what then started
20 this whole chain of events that led to the murder.

21 Because once his car was shot up, who did they
22 immediately call -- and I will get back to the phone
23 records in a second -- they started calling up Daqwan.
24 "They just tried to take us out." You remember the
25 language. I don't mean to misquote, whatever he said

1 about how that happened.

2 Then what happened next? They go find G-man.
3 They get G-man from his friend girl's house. They then
4 go across to -- or wherever T. was -- because they had
5 to get T. involved he has got the guns at that point.
6 Obviously he doesn't keep the guns all the time.

7 At that point they go over to Medical Drive
8 where they all chill and smoke and drink, and at that
9 point they are able to get the guns. So what do each
10 and every one of them do? They arm themselves. Detrick
11 already said he was armed with his own handgun, which
12 may be true.

13 At that point they leave there. They go. You
14 saw the video. They are there for a purpose. The
15 purpose is to kill, hurt, maim, or whatever. It doesn't
16 matter, as long as it's the Bloods. It doesn't get any
17 more malicious than this.

18 Then they peel out. And what do they do?
19 They go to the party. Somebody changes clothes. I
20 can't remember which one said that. They get rid of at
21 least some of the guns at some point, and they go to a
22 party, where at 2:20 A.M. there is yet another shooting.
23 Luckily in this case O.B. happens to be at the same
24 club, and that's how it was him.

25 After that, the next day, they interview

1 Kimbrell Sumter. The defense elicited this information.
2 She was able to give police information that said G-man
3 was involved. The next day, on the 21st -- on the 23rd,
4 I'm sorry -- they go to Gable Oaks. They are able to
5 get the video.

6 So at that point they know they are looking
7 for the Buick. They are able to see it in the Whitney
8 Wilson part and that there are five armed men. They
9 also talk to some other lay witness I haven't put in
10 here. I am just giving you the highlights. I left out
11 a couple of things.

12 Then you go to 6/23. They meet with the
13 Richland County Sheriff's Department gang team. They
14 give out the car description. That day they were able
15 to meet with Whitney Wilson. They show him a photo
16 lineup, and he is able to narrow it down to three
17 people, including the defendant.

18 That same day they then get a call back from
19 the Richland County Sheriff's Department who had found a
20 report where they get the information about the car
21 being in the body shop. They are able to get the car
22 and tow it and process it. It's riddled with gun holes
23 and is missing the molding that is significant.

24 They then go and the County is able to make --
25 the gang investigator -- is able to make a lawful arrest

1 of the defendant at [REDACTED]. There he
2 observes the .223 rifle and the ammo that has actually
3 one in the chamber, which you have right there.

4 At that point they are then taken into
5 custody. They interview Brian Campbell. Then they
6 interview Daqwan Johnson. That day they are able to get
7 their murder arrest warrant on Daqwan Johnson.

8 The next day, on the 24th, Rontrell Henderson
9 is interviewed. In his interview he indicates who he
10 saw and recognized that day. He then is shown a photo
11 lineup and is able to pick out the person he knew as a
12 G-man and recognized out there that night.

13 On the 25th, the next day, arrest warrants for
14 Prophet, Walker, Patterson, and at that point Williams,
15 who is later exonerated. The police did their job. As
16 sergeant Thomas told you, his job is to make sure, even
17 if they have probable cause, to corroborate and make
18 sure they have the right person. They did their job
19 above and beyond in this case.

20 On the 25th Detrick Walker turns himself in.
21 They are able to interview him. He gives information
22 similar to what he testified to. The next day Marquez
23 Prophet, early morning hours, turns himself in. He is
24 interviewed. He is able to give them information.

25 Then on the 29th of July, after Terrance

1 Patterson is extradited back from -- where was it?
2 Minnesota? Michigan? Somewhere like that -- he is
3 interviewed. Then on August 23rd Brian Campbell is
4 arrested. That is the chain of events that occurred.

5 What is significant in looking at the
6 telephone records? If you look at the records, there is
7 a 466 number that is Mia Johnson. It has subscriber
8 information. It's the only one we have with subscriber
9 information. From that you can see a number that is
10 called frequently. It is [REDACTED].

11 The only person in this case that is related
12 to Mia Johnson is Daqwan Johnson or G-man. If you look
13 at the phone calls that happen in this case, which
14 corroborate the calling back and forth, you will see
15 from 11:09 to 11:15 P.M. -- it should be -- there is a
16 six-minute gap. Look at the records. You will have
17 them, State's Exhibit 141.

18 On page 36 of 66, there is a six-minute gap.
19 He makes phone calls constantly all that evening. Look
20 at this. There is a six-minute gap. You look at the
21 video. They enter Gable Oaks through the cut at
22 11:10 P.M. They are back out at 11:12 P.M., which
23 happens to correspond with the one time period he is not
24 making phone calls.

25 The police investigated this case. They got

1 the name G-man. They did their job. They interviewed.
2 They followed up. It wasn't like this case broke the
3 first day. This was a thorough investigation.

4 As much as the defense would have you think
5 because they talked to other people and other people's
6 name came up, something about Bojangle's keeps coming
7 up -- I think Brian Campbell worked at Bojangle's, and
8 Brian Campbell is his cohort.

9 They got the name G-man. They followed up on
10 it. They talked to witnesses. They talked to Rontrell
11 Henderson. They talked to Whitney Wilson. They found
12 the gun that was underneath the bed. I submit, ladies
13 and gentlemen, at that point that's more than enough to
14 convict this defendant.

15 Eyewitness I.D. There is another person
16 putting him in the same car shooting earlier in the day.
17 The car was in custody riddled with bullet holes. They
18 happened to find the assault weapon that matches, I
19 submit, the same ammunition, which is unique, at least
20 here in South Carolina, under his bed. That alone is
21 enough.

22 You don't have to stop there because you have
23 heard from other witnesses other information, from
24 Noonie, from Detrick. The evidence in this case
25 unfortunately points to no other conclusion than this

1 defendant is guilty.

2 It was his beef. It's his gang. The State
3 does not have to prove he fired the fatal shot. You
4 have heard that each and every one of these defendants
5 still have charges. They will have their opportunity to
6 have their day in court. He is the first because it's
7 his beef.

8 Daqwan Johnson counted on a few facts. He
9 counted on the fact that if he went into the Blood
10 territory, no one would ever be brave enough to come
11 forward to talk to the police or say anything against
12 him. He counted on the fact that even if they came
13 forward, I mean, they are Bloods. They live over there
14 in Gable Oaks. Who is going to believe them any way?

15 He counted on the fact that this was just
16 another gang shooting. Would the police even bother to
17 do their job? Would they even care enough? Why would
18 they put the time and the effort into it?

19 He counted on the fact that even if the police
20 did and they arrested him, even if it went to court, the
21 witnesses wouldn't come forward. They are not going to
22 come in open court and testify against him. He counted
23 on the fact that no jury would believe those types of
24 witnesses.

25 He didn't count on the ballistics. He didn't

1 count on the police doing their job. He didn't count on
2 people actually coming forward. Daqwan Johnson
3 miscalculated. Gary Reese was a Blood member, but he
4 was a human being. Don't let him count on the fact that
5 the jury won't think his life was worth anything.

6 All the State asks is that you hold him
7 responsible for what he did that night, for his role,
8 his participation, just like every one of these other
9 codefendants in what he did. Hold him responsible for
10 his decisions. Stop the violence. Thank you.

11 THE COURT: Thank you, Solicitor.

12 We will now hear from Mr. Collins or behalf of
13 the defendant. Mr. Collins.

14 **CLOSING ARGUMENT**

15 MR. COLLINS: Thank you, Your Honor. In case
16 you guys haven't noticed, I take a lot of notes. I
17 brought them up here with me because we really charged
18 through this case. It's kind of a grueling schedule.
19 We got through it all this week. I want to make sure I
20 didn't forget anything.

21 I am glad you guys decided to take notes too,
22 but just remember. You can listen to any of the
23 testimony again if you want to. You don't have to rely
24 on what Ms. Campbell said are the facts. You can listen
25 to it all over again.

1 I'm not going to go through all the details.
2 You guys were paying attention. You heard from the
3 witnesses. You got to see them, and you got see to what
4 was done and what wasn't done. You will make your mind
5 up based on your own common sense and your own
6 perception.

7 Now, there is one thing I will ask you to do,
8 though. The issue of gloves came up in this case. I am
9 asking if you examine these shell casings that have not
10 been tested yesterday from the Studio 54 shootout where
11 it was matched to the gun that they are saying was at
12 this murder scene, the same person that loaded that gun
13 is the person who fired it at Studio 54.

14 I am asking if you handle those shell casings,
15 which may or may not have been swabbed for D.N.A.,
16 please ask to get some gloves. The reason for that is
17 they have got the wrong person sitting over there.

18 There is somebody that was involved in this
19 case that is going to get away with it. That's the
20 bottom line. But they can still do work. We have got
21 to preserve some evidence. Please use gloves if you
22 handle that evidence.

23 Now, I don't know about you guys but I'm a
24 little confused about some of this stuff here. I don't
25 have a clear picture of what they presented. We have

1 heard from some witnesses. We have heard about other
2 stuff. We have heard all questions not answered,
3 questions not asked, leads not followed up on.

4 We have heard from two witnesses, two
5 codefendants, and their stories don't even match up. It
6 sort of matches up but not really. They are up here,
7 two young kids, both of them 20 years or younger, both
8 of them on video not wearing a mask caught dead to
9 right, willing to do anything they can to get out of
10 trouble.

11 We are talking about jail cells. They are
12 looking at the rest of their lives and you know it. A
13 jail cell, the dimensions here (indicating) to here
14 (indicating) to the witness box and there.

15 Included in that space is a steel latrine and
16 a bucket and a cellmate. They are looking at the rest
17 of their lives in that box while somebody at this table
18 helps them out.

19 Ms. Campbell made a huge deal about no deals
20 have been made. "I haven't made any deals to you."
21 That doesn't keep her from making a deal after this
22 trial. Remember that. That's a lot of motivation to
23 say what the State wants them to say on the stand.

24 I can't think of any better motivation than to
25 try to get out of jail one day earlier. One day would

1 make a difference. They have families. They want to
2 celebrate the holidays with those families. They will
3 do whatever it takes to get out of there.

4 Mr. Newton came up here and started out. We
5 heard from the State. They said they were going to give
6 you three codefendants. We only heard from two. So
7 where is this person and where is that person? We were
8 ready to ask some questions, and those questions have
9 not been answered.

10 But the one thing we do know, the first thing
11 out of Mr. Newton's mouth, was Mr. Johnson is an
12 innocent man. If you remember the first thing out of
13 Your Honor's mouth was he is an innocent man.

14 He still is an innocent man. He is an
15 innocent man until you decide they have met their burden
16 of proof, and they haven't met it in this case. So,
17 yes, he is an innocent man. For her to say something
18 different is just wrong.

19 Now, I want to touch on the phone records,
20 which was brought up at the end of the trial. Hey, here
21 is Mia Johnson's phone number. It's Daqwan's mom. Here
22 is one number that is called a lot. This has got to be
23 Daqwan's number. Then here look at the timing.

24 That is a big jump there. Okay. I've had a
25 cell phone since I was 18 years old. I have the same

1 number. It's in my dad's name. He got a deal with the
2 company he worked for. If you get the records, it's
3 going to say Dennis Collins. It's my phone. We don't
4 know whose phone that [REDACTED] number was.

5 We don't know how it's linked to anything in
6 this case. They are trying to stretch and push things
7 together to make it fit when it doesn't fit. If you can
8 figure those out, more power to you. But I'm telling
9 you from the information they presented, I don't see how
10 that is relevant to this case whatsoever.

11 Now, the person -- and going back to the phone
12 records -- the person they put on the stand to talk
13 about how we are going to get in these phone records was
14 Investigator Reese.

15 He was kicked back, taking it easy. He didn't
16 bother to take a single note in this entire case.
17 That's who they are going to rely on to introduce phone
18 records and do the complicated putting it together and
19 the tracking system without taking a single note?

20 Does that even make sense to you or is that
21 stretching and trying to find something so they come in
22 here and make this big pile of evidence that doesn't
23 implicate Daqwan Johnson. It implicates other people in
24 the case.

25 They say, Hey, look at all this evidence.

1 Look at how many things we submitted. He must be
2 guilty. That's what they did. They make a big show
3 here, a big pile of stuff. They needed to introduce it,
4 but's there stuff that isn't here. The evidence log
5 that was admitted into evidence. If you remember when
6 the officer was testifying, this is what they put in.

7 If you remember when I cross examined him,
8 there is stuff that is not on this list that was omitted
9 that is in evidence that has not been tested: Shell
10 casings from the S.K.S., .40-caliber cell casings that
11 were at Studio 54 and at the murder scene, swabs
12 taken -- I hope.

13 David Collins said that he usually does that,
14 but nobody knows where the swabs are. It has not been
15 tested. They just want to leave it out and push it away
16 and not think about it. I'm not up here saying because
17 there is one profile, that means you have to acquit.

18 What I'm saying is there is an answer out
19 there. We have one profile. Let's see if that profile
20 is on something else. Let's see if there is another
21 profile. Hey, let's enter it into something bigger than
22 just the local database. Let's go statewide. Let's go
23 nationwide.

24 MS. CAMPBELL: Objection, Your Honor. He is
25 quoting the testimony wrong. I would ask him to stay in

1 the testimony.

2 THE COURT: I can't hear you.

3 MS. CAMPBELL: I would just ask him to stay in
4 the testimony.

5 THE COURT: Again, ladies and gentlemen, the
6 facts are for your decision, the facts and inferences
7 therefrom drawn from the evidence and the testimony
8 presented from the witness stand.

9 Thank you, Solicitor. You may proceed,
10 Mr. Collins.

11 MR. COLLINS: Some of the other things that
12 were presented, this Buick. Every time it comes up,
13 Daqwan Johnson's car. Who was driving that car the
14 entire day? Go back and listen to the testimony. Brian
15 Campbell, in the car at Bojangle's around 2:00 o'clock.
16 Brian Campbell, 2:00 or 3:00 o'clock, Gable Oaks,
17 driving that car.

18 They make this big deal about this
19 identification where Whitney Wilson circles half of the
20 lineup. It's six guys with dreadlocks and he circles
21 half of them. That's not an identification. He had a
22 50/50 chance to circle Daqwan Johnson's picture. That
23 means nothing.

24 Had they had Brian Campbell's picture in that
25 lineup, there is a 50/50 shot he would have circled that

1 one, too. That's not even evidence. We know Brian
2 Campbell was driving that car all day. They introduced
3 the paperwork, that Daqwan Johnson's paperwork was in
4 the car. That paperwork was five or six months old.

5 We heard testimony that Daqwan Johnson drives
6 a gold Tahoe, drives his girlfriend's car. If you had a
7 choice of a beat-up Buick '98 or a gold Tahoe, which one
8 are you going to drive? You are going to let your
9 friend drive your car. You are going to drive the nice
10 Tahoe.

11 They keep trying to interchange Brian Campbell
12 and Daqwan Johnson, but the bottom line is the testimony
13 we have heard. Brian Campbell was driving that car all
14 day and into the night. Swabs from D.N.A. from inside
15 of the car, why should we test it? It's definitely
16 going to come back to Daqwan Johnson. Why not test it?

17 We have already got one profile from a shell
18 casing. There is one way to get D.N.A. on a shell
19 casing is when you load it into the magazine. When the
20 person that owns the gun loads the magazine and touches
21 it, it leaves their D.N.A.

22 We know there is one D.N.A. profile who they
23 haven't arrested who shot the .40-caliber gun and
24 potentially killed somebody. I think it was probably
25 the A.K.47, but we don't know. They didn't do any

1 trajectory analysis, but that's probably a good guess.

2 We have one profile. We will see if that
3 same -- what would it mean if that same profile could be
4 matched or couldn't be excluded from a profile that was
5 from, say, the passenger door in the Buick.

6 Does that change the whole theory of the case?
7 They don't test because they know it might not
8 corroborate what they have. It could contradict what
9 they have and they don't want that.

10 Investigator Thomas doesn't like D.N.A. It
11 might not add up with what he already has. Think about
12 why they don't want to test this stuff. Why would you
13 swab it if you don't want to test it?

14 They are bringing up here two codefendants'
15 testimony and how do you -- when it's a fictional story,
16 it's hard to keep it together. There is going to be
17 discrepancies. How do you test a story to see if it's
18 fictional or practical?

19 You look at hard evidence. You look at
20 D.N.A., fingerprints, things like that. They say this
21 isn't the type case for D.N.A. Yes, it is. There was
22 D.N.A. It was tested. All five were excluded from the
23 one thing they got, and there is still more to test. So
24 don't let them tell you this isn't a case where there
25 isn't D.N.A. because there is.

1 I will let you go through the boards and
2 figure out where each shell casing was and everything
3 like that. It's obvious the guns were fired. It
4 happened. There was an A.K.47 fired from the field.
5 The .40-caliber handgun was fired somewhere down the
6 breezeway. I will let you go back there and you guys
7 can take a look at it.

8 The two bullets that are .223 bullets made by
9 the leading manufacturer of that type of ammunition in
10 the world were found at the scene. You heard David
11 Collins say that there is nothing from the defendant
12 that is tied to the .223.

13 That is circumstantial evidence. I will
14 submit it's powerful circumstantial evidence, but I want
15 you to pay attention. That's the reason I asked the
16 question more than once.

17 Daqwan Johnson was arrested with Brian
18 Campbell. You might think that would be incriminating,
19 but when you think about it, think about this scenario.
20 Hey, Buddy. Thanks for letting me borrow your car. It
21 turns out there have been three or four shootings with
22 the Blood gang members in that car. You might need a
23 gun to protect yourself. There might be somebody coming
24 after you because people know this is your car. Take
25 this .223.

1 Is that a possibility? That's a real
2 possibility. You didn't hear from Brian Campbell. We
3 are talking about a gun, cheap gun, cheap ammunition.
4 It's legal to get it. It's not the only -- it can't be
5 the only .223 in the world. They mass produce them.
6 There's a lot of real possibilities for how that gun
7 ends up with Daqwan Johnson.

8 Now we have had many names, many leads, many
9 things not obtained. It comes down, again, to two young
10 men, two codefendants. That's what they are leaning on.
11 Then I don't know why they put Rontrell Henderson on the
12 stand, but I'm glad they did. I am glad they did.

13 Because he exposed a little window, a little
14 window. We don't usually get to see this. People don't
15 usually get on the stand and admit this. He told you, I
16 made a statement up because they said they were going to
17 charge me with murder unless I gave them something.

18 They will deny that until the dogs come home.
19 But, again, I want you to judge his credibility. That
20 was believable. If they are willing to do that with
21 him, what might they have done with other people in this
22 case? They want you to rely on witness testimony.

23 Investigator Thomas didn't even want to test
24 the D.N.A. because if it's contradicts what he gets
25 through whatever means necessary, what he got may not

1 stand up because D.N.A. is strong. Witness testimony
2 can be very weak. There's more questions to ask
3 yourselves when you go back there.

4 Now, the gang expert that came up at the end,
5 he can't be that great of an expert if all this stuff is
6 going on in Richland County. Does he really know the
7 ins and outs of all these gangs and who is in what? If
8 he did, you wouldn't think all this stuff would be going
9 on in Richland County.

10 We know he works for the Richland County
11 Sheriff's Department, going for funding. He goes all
12 over the country. They have to show that they are
13 trying to get this stuff off the street, but is he
14 really an expert?

15 Now, Ms. Campbell, I made a few notes as she
16 was talking. She came up here and said, You know, this
17 is kind of a sloppy case, sloppy questions, sloppy
18 answers. Don't hold that against them. You do hold
19 that against them. They have the burden of proof.

20 Ladies and gentlemen, this table is powerful.
21 You might as well put a little moon here and a palmetto
22 tree here in the middle because this is the entire State
23 of South Carolina. They have got every resource in this
24 entire state:

25 South Carolina Law Enforcement Division. You

1 heard from some of them. They've got the S.L.E.D. lab.
2 They have got the Richland County lab. They have got
3 the Richland County Sheriff's Department. They've got
4 the City of Columbia Police Department. They have got a
5 lot of resources at that table.

6 She talked about hand of one, hand of all.
7 That applies to them too. Hand of one is the hand of
8 all. They are responsible for each and every individual
9 part. They can't say, Well, that wasn't our case. So
10 we didn't really look into that. This was all one case
11 and it was all tied together. That's obvious.

12 They worked together. They can work together
13 and are supposed to work together. They are supposed to
14 work together so we can get to the evidence and find out
15 the truth so that we get the right person on trial and
16 not the wrong person, like Daqwan Johnson.

17 I'm not going to sit here and tell you I have
18 got a crystal ball and can tell you exactly who this
19 person was that was involved in the shooting. I can
20 tell you that it was somebody other than Daqwan Johnson,
21 and it was somebody who probably matches to that one
22 D.N.A. profile that they have or to one of the D.N.A.
23 profiles they will hopefully get in the future. I'm not
24 going to put my trust in two witnesses begging for their
25 life.

1 Again, I want to thank you for your attention.
2 I want to thank you for taking this seriously. At times
3 things get a little heated. People get a little worked
4 up and things like that. It's because this is a serious
5 matter.

6 It's a serious matter because he is fighting
7 for his life as well. It's a serious matter because
8 this is really, really horrific stuff that is going on
9 in this County. We need to make sure we get the right
10 people held responsible. Let's finish the investigation
11 so we make sure we have the right people. It's not done
12 yet.

13 THE COURT: Thank you. Thank you very much,
14 Mr. Collins.

15 (Whereupon the Court charges the jury as
16 follows.)

17 THE COURT: Ladies and gentlemen of the jury
18 panel, if you would please give me your complete and
19 undivided attention.

20 Mr. Collins or one of the solicitors, would
21 y'all move this?

22 MS. CAMPBELL: Yes, sir. I apologize.

23 THE COURT: I am going to charge you or
24 instruct you on the law that applies to this case. The
25 procedure I use is I charge the general criminal law

1 that applies to all criminal cases in South Carolina.

2 Thereafter, I will charge you the specific
3 charges in the indictment. Then I will charge you the
4 form of verdict. Usually when I change from one topic
5 to another, I will give you the paragraph of the area I
6 am fixing to cover.

7 Charge, arrest, indictment not evidence. The
8 indictments charge the defendant with murder and
9 attempted murder. I will remind you that the fact that
10 the defendant was arrested, charged, and indicted in
11 this case is not evidence and cannot be considered by
12 you as evidence of guilt in this case, nor does it
13 create any presumption or inference of guilt.

14 The indictments, these documents, are simply
15 the formal written instruments which contain the charges
16 made against the defendant. They are the formal
17 documents by which the cases are brought into court.

18 Now, the indictments in this case allege two
19 different offenses by the defendant. The charges are
20 attempted murder and murder. Each indictment charges a
21 separate and distinct offense.

22 You must decide each indictment separately on
23 the evidence and the law that applies to it uninfluenced
24 by your decision as to the other indictment. The
25 defendant may be convicted or acquitted on any or all of

1 the offenses charged or may be found not guilty of one
2 and guilty of the another. You consider those
3 separately and distinctly. You will be asked to write a
4 separate verdict of guilty or not guilty for each
5 indictment.

6 Presumption of innocence. The defendant has
7 pled not guilty to these indictments. That plea puts
8 the burden on the State to prove the defendant guilty.
9 A person charged with committing a criminal offense in
10 South Carolina is never required to prove himself
11 innocent.

12 I instruct you that it is an important rule of
13 the law that the defendant in a criminal trial, no
14 matter what the seriousness of the charge may be, will
15 always be presumed to be innocent of the crime for which
16 the indictment was issued unless guilt has been proven
17 satisfying you the jury of that guilt beyond a
18 reasonable doubt.

19 The presumption of innocence does not end when
20 you begin your deliberations, but it accompanies the
21 defendant throughout the trial until you reach a verdict
22 of guilt based on evidence satisfying you of that guilt
23 beyond a reasonable doubt.

24 The presumption of innocence has been said to
25 be like a robe of righteousness placed about the

1 shoulders of the defendant which remains with the
2 defendant until it has been stripped from the defendant
3 by evidence satisfying you of the defendant's guilt
4 beyond a reasonable doubt.

5 The presumption of innocence is not a mere
6 legal theory. It's not just a legal phrase. It is a
7 substantial right to which every defendant is entitled
8 unless you the jury are satisfied from the evidence of
9 the defendant's guilt beyond a reasonable doubt.

10 What is a reasonable doubt? A reasonable
11 doubt in the law is the kind of doubt that would cause a
12 reasonable person to hesitate to act. The State has the
13 burden of proving the defendant guilty beyond a
14 reasonable doubt.

15 Some of you in the past may have served as
16 jurors in civil cases where you were told that it is
17 only necessary to prove that a fact is more likely true
18 than not true, such as by the greater weight or the
19 preponderance of the evidence.

20 In criminal cases the State's proof must be
21 more powerful than that. It must be beyond a reasonable
22 doubt. Proof beyond a reasonable doubt is proof that
23 leaves you firmly convinced of the defendant's guilt.
24 There are very few things in the world we know with
25 absolute certainty, and in criminal cases the law does

1 not require proof that overcomes every possible doubt.

2 If based on your consideration of the
3 evidence, you are firmly convinced that the defendant is
4 guilty of the crime charged, you must find the defendant
5 guilty. If, on the other hand, you think there is a
6 real possibility that the defendant is not guilty, you
7 must give the defendant the benefit of the doubt and
8 find him not guilty.

9 Duties of the trial jury and trial judge. I
10 remind you that during this trial, you and I have
11 certain duties to perform. As the trial judge, it is my
12 responsibility to preside over the trial of this case,
13 and I also have the duty to trial rule on the
14 admissibility of evidence offered during this trial.

15 You are to consider only the competent
16 evidence before you. If there was any testimony ordered
17 stricken from the record in this case during this trial,
18 you must disregard that testimony. You are to consider
19 only the testimony which has been presented from the
20 witness stand and any exhibits which have been made a
21 part of the record in this case.

22 I have the additional duty to charge you the
23 law that applies to this case. As the presiding judge,
24 I am the sole judge of the law of this case, and it is
25 your duty as jurors to accept and apply the law as I now

1 state it to you.

2 If you already have any idea as to what the
3 law is or what the law ought to be and it does not agree
4 with what I now tell you the law is, you must abandon or
5 disregard your idea because you are sworn to accept the
6 law and apply the law exactly as I state it to you.

7 In every case tried in this Court before a
8 jury, the jury becomes the sole and exclusive judge of
9 the facts in a case. A trial judge cannot intimate,
10 state, comment on, or make any statement to a trial jury
11 about the facts in a case.

12 Since you the jury are the sole judge of the
13 facts, you are not to infer from what I have said during
14 the progress of this trial in ruling upon the
15 admissibility of evidence or otherwise or anything that
16 I say now during the course of this instruction to you
17 that I have an opinion about the facts in this case.

18 The law does not allow me to have an opinion
19 about the facts in this case. That is a matter solely
20 for you the jury to determine. As jurors it is your
21 duty to determine the effect, the value, the weight, and
22 the truth of the evidence that has been presented during
23 this trial.

24 Direct and circumstantial evidence. There are
25 two types of evidence which are generally presented

1 during a trial, direct evidence and circumstantial
2 evidence.

3 Direct evidence is the testimony of a person
4 who claims to have actual knowledge of a fact, such as
5 an eyewitness or an ear witness. It is evidence which
6 immediately establishes the main fact to be proved.

7 Circumstantial evidence is proof of a chain of
8 facts and circumstances indicating the existence of a
9 fact. It is evidence which immediately establishes
10 collateral facts from which the main fact may be
11 inferred. Circumstantial evidence is based on inference
12 and not on personal knowledge or observation.

13 The law, our law, makes absolutely no
14 distinction between the weight or the value to be given
15 to either direct or circumstantial evidence, nor is
16 there a greater degree of certainty required of
17 circumstantial evidence than of direct evidence.

18 You should weigh all of the evidence in this
19 case. After weighing all of the evidence if you are not
20 convinced of the guilt of the defendant beyond a
21 reasonable doubt, you must find the defendant not
22 guilty.

23 Credibility of witnesses. Necessarily you
24 must determine the credibility of the witnesses who have
25 testified in this case. Credibility simply means

1 believability. It becomes your duty as jurors to
2 analyze and to evaluate the evidence and determine which
3 evidence convinces you of its truth.

4 In determining the believability of witnesses
5 who have testified in this case, in using your good
6 judgment and your common sense, you may believe one
7 witness over several or several over one. You may
8 believe part of the testimony of a witness and reject
9 the remaining part of the testimony of that same
10 witness.

11 You may believe the testimony of a witness in
12 its entirety or reject the testimony of a witness in its
13 entirety. You may consider whether any witness has
14 exhibited to you any interest, bias, prejudice, or other
15 motive in this case.

16 You may also consider the appearance and the
17 manner of the witness while on the witness stand. Your
18 search is for the truth, regardless of from what source
19 that truth may come.

20 Expert witnesses. You have heard me say part
21 of this throughout the course of the trial. The rules
22 of evidence ordinarily do not permit witnesses to
23 testify as to opinions or conclusions.

24 An exception to this exists for witnesses that
25 we call expert witnesses. A witness, who by education

1 and experience, has become expert in some art, science,
2 profession, or calling may state an opinion as to
3 relevant and material matter in which the witness claims
4 to be an expert and may also state the reason for that
5 opinion.

6 You should consider any expert opinion
7 received in evidence in this case and like any other
8 evidence give it the weight you think it deserves. If
9 you decide that the opinion on an expert is not based on
10 sufficient education or experience or if you conclude
11 that the reasons given in support of the opinion are not
12 sound or that the opinion is outweighed by other
13 evidence, you may disregard the opinion entirely.

14 An expert witness' testimony is to be given no
15 greater weight than that of any other witness simply
16 because the witness is an expert. Further, you are not
17 required to accept an expert's opinion even though it
18 may be uncontradicted.

19 Prior record of a witness. A person who has a
20 past criminal record is competent to testify during a
21 trial. A past record does not affect the ability of
22 that witness to testify.

23 The past record may only be considered by you,
24 if at all, in determining the witness' believability.
25 Remember, you are the sole judges of the facts in the

1 case and of the believability of any and all of the
2 witnesses.

3 I instruct you and emphasize that the fact
4 that the defendant did not testify is not a factor to be
5 considered by you in any way in your deliberation and in
6 your consideration of the question of the guilt or
7 innocence of the defendant. It must not be considered
8 by you in any manner whatsoever.

9 A defendant has the constitutional right to
10 remain silent, and the assertion of this right must not
11 be considered by you in your deliberations. I repeat,
12 under your oath you are to draw no conclusions
13 whatsoever from the fact that the defendant in this case
14 did not testify.

15 The fact that this defendant did not testify
16 should not even be discussed in the jury room. The
17 burden of proof, as I have stated to you, is on the
18 State. The defendant is not required to prove his
19 innocence. The burden of proof remains on the State to
20 prove guilt beyond a reasonable doubt.

21 Now, some general but more specific charges as
22 to this case. First is what is known as the hand of one
23 is the hand of all. If a crime is committed by two or
24 more people who are acting together in committing a
25 crime, the act of one is the act of all.

1 A person who joins with another to commit an
2 unlawful act is criminally responsible for everything
3 done by the other person which happens as a probable or
4 natural consequence of the act done in carrying out the
5 common plan and purpose.

6 For example, two people can be guilty of
7 killing another person when only one of the two had a
8 gun, there was only one bullet, and only one of the two
9 fired the shot that caused the death.

10 If two or more people are together, acting
11 together, assisting each other in committing the
12 offense, the act of one is the act of all; or as it is
13 sometimes said, the hand of one is the hand of all.

14 Prior knowledge that a crime is going to be
15 committed without more is not sufficient to make a
16 person guilty of that crime. Mere knowledge that
17 another person is going to commit a crime, even if the
18 defendant is present when the crime is committed, is not
19 sufficient to convict the defendant as a principal.

20 Guilt as a principal is shown by actual or
21 constructive presence at the scene as a result of prior
22 arrangements. Therefore, a finding of a prior arranged
23 plan or common scheme is necessary for a finding of
24 guilt as a principal. The State must prove beyond a
25 reasonable doubt by competent evidence the theory of the

1 hand of one is the hand of all.

2 Ladies and gentlemen, a principal in a crime
3 is one who either actually commits the crime or who is
4 present aiding, abetting, or assisting in the commission
5 of the crime. When a person does an act in the presence
6 of and with the assistance of another, the act is done
7 by both.

8 Where two or more, acting with a common plan
9 or intent, are present at the commission of a crime, it
10 does not matter who actually commits the crime. All are
11 guilty. The hand of one is the hand of all.

12 Present at the commission of the crime means
13 to be sufficiently near to aid and abet and assist in
14 the commission of a crime. However, mere presence at
15 the scene of a crime is not sufficient to convict one as
16 a principal on the theory of aiding and abetting.

17 Intent is also a necessary element, for there
18 must have been a common design or intent to commit the
19 crime, and the crime must have been committed pursuant
20 to that common plan with the person aiding and abetting
21 by some overt act.

22 Intent means intending the result which
23 actually occurs, not accidentally or involuntary.
24 Intent may be shown by acts and conduct of a defendant
25 and other circumstances from which you may naturally and

1 reasonably infer intent. The State must prove these
2 elements beyond a reasonable doubt. That is the charge
3 of the hand of one is the hand of all.

4 Identification. An issue in this case is the
5 identification of the defendant as the person who
6 committed the crime charged. The State has the burden
7 of proving identity beyond a reasonable doubt. You must
8 be satisfied beyond a reasonable doubt of the accuracy
9 of the identification of the defendant before you may
10 convict the defendant.

11 Identification testimony is an expression of
12 belief or impression by a witness. You must determine
13 the accuracy of any identification of the defendant.
14 You must consider the believability of each
15 identification witness in the same way as any other
16 witness.

17 You may consider whether the witness had an
18 adequate opportunity to observe the offender at the time
19 of the offense. This may be affected by things like how
20 long or short a time was available, how far or close the
21 witness was, the lighting conditions, and whether the
22 witness had the chance to see or know the person in the
23 past.

24 Once again I instruct you, the burden of proof
25 is on the State, and it extends to each element of the

1 crime charged. This specifically includes the burden of
2 proving beyond a reasonable doubt the identity of the
3 defendant as the person who committed the crime or was
4 present aiding and abetting at the time of the
5 commission of the crime. If after examining the
6 testimony, you have a reasonable doubt as to the
7 accuracy of the identification, you must find the
8 defendant not guilty.

9 Criminal intent. In order to establish
10 criminal liability, criminal intent is required. For
11 example, the mental state required to be proven by the
12 State for a particular crime might be purpose, intent,
13 knowledge, recklessness or criminal negligence.

14 Criminal intent must be proven by the State
15 beyond a reasonable doubt. Criminal intent is always a
16 matter that must be determined by the jury from the
17 circumstances surrounding the situation.

18 There is no way to prove intent to a
19 mathematical certainty. There is no way medical science
20 can dissect a person's brain and determine what the
21 person had in mind.

22 So our law says that criminal intent may be
23 inferred from the circumstances shown to have existed.
24 This is how you make your determination of whether or
25 not the element requiring intent is present.

1 It is not necessary to establish intent by
2 direct and positive evidence, but intent may be
3 established by inference, in the same way as any other
4 fact, by taking into consideration the acts of the
5 parties and all the facts and circumstances of the case.

6 Criminal intent is a mental state, a conscious
7 wrongdoing. It is up to you to determine what the
8 defendant intended to do based on the circumstances
9 shown to have existed.

10 Criminal intent can arise from an action or a
11 failure to act. It may arise from negligence,
12 recklessness, or an indifference to duty or to
13 consequences that is considered by the law to be the
14 equivalent of criminal intent. Voluntary intoxication
15 does not preclude one's ability to act with malice
16 aforethought and is not a defense to a crime.

17 Transferred intent. If the defendant -- and I
18 will explain malice aforethought after this charge -- if
19 the defendant with malice aforethought attempts to kill
20 another person but by mistake injures or kills a
21 different person, the defendant still has the intent to
22 kill.

23 The intent to kill is merely transferred from
24 the original person the defendant attempted to kill to
25 the actual person killed or injured. The defendant

1 would be guilty of murder or attempted murder depending
2 on the life or death of the intended victim just as if
3 the attempt had resulted in the death or injury of the
4 person the defendant murdered or attempted to murder.

5 Ladies and gentlemen, those are the general
6 charges. If you would please continue to give me your
7 complete and undivided attention. I assure you the end
8 of my instructions are in sight.

9 I am now going to charge you on the law of
10 murder and thereafter on the law of attempted murder.
11 The defendant is charged with murder. The State must
12 prove beyond a reasonable doubt the defendant killed or
13 was present aiding and abetting another person with
14 malice aforethought.

15 Malice is hatred, ill will, or hostility
16 towards another person. It is the intentional doing of
17 a wrongful act without just cause or excuse and with an
18 intent to inflict an injury or under circumstances that
19 the law would infer as an evil intent.

20 Malice aforethought does not require that
21 malice -- the hatred, the ill will, and hostility -- it
22 does not require that that malice exist for any
23 particular period of time before the act is committed,
24 but malice must exist in the mind of the defendant just
25 before and at the time the act is committed. Therefore,

1 there must be a combination of the previous evil intent
2 and the act.

3 Malice aforethought may be express or
4 inferred. These terms express or inferred do not mean
5 different types or kinds of malice but merely the manner
6 in which malice may be shown to exist. That is either
7 by direct evidence or by inference from the facts and
8 circumstances which are proved.

9 Express malice is shown when a person speaks
10 words which express hatred or ill will for another
11 person or when the person prepared beforehand to do the
12 act which was later accomplished.

13 For example, lying in wait for a person or any
14 other act in preparation going to show that the deed was
15 within the defendant's mind would be express malice.
16 Malice may be implied from conduct showing a total
17 disregard for human life.

18 Attempted murder. The defendant is also
19 charged with attempted murder. Attempted murder is when
20 a person, who with intent to kill, attempts to kill
21 another person with malice aforethought, either express
22 or implied. I will not repeat the definition of malice
23 and aforethought or malice express or implied.

24 However, again, malice may be implied from the
25 conduct showing a total disregard for human life. Of

1 course, ladies and gentlemen, as to both of these
2 charges, the hand of one, the hand of all, and
3 transferred intent would apply if you so find.

4 I will define for you the term attempt. An
5 attempt is an effort to accomplish a crime which does
6 not succeed. An attempt includes a specific intent to
7 do a particular criminal act, along with an act falling
8 short of the act intended. The State must show more
9 than mere preparation and intent. There must be some
10 overt act committed in the effort to commit the crime.

11 Intent means intending the result which
12 actually occurred, not accidentally or involuntarily.
13 Intent may be shown by acts and conduct of the defendant
14 and other circumstances from which you may naturally and
15 reasonably infer intent.

16 Once again, ladies and gentlemen, to prove
17 attempted murder the State must prove beyond a
18 reasonable doubt that the defendant attempted to kill
19 another person with malice aforethought.

20 Again, ladies and gentlemen, as to both of
21 those charges, voluntary intoxication is not a defense
22 as to both of those charges depending on your
23 determination of the evidence.

24 The hand of one, hand of all would apply. As
25 to both of those charges, transferred intent would

1 apply, again, depending on your determination of the
2 facts of the case.

3 Finally, ladies and gentlemen, there are two
4 possible verdicts which you may find as to each
5 indictment in this case. There is no significance
6 whatsoever in the order which I list or state these
7 possibly verdicts.

8 Mr. Foreman, you will have a verdict form in
9 the jury room with you. I state these only because --
10 in this order -- only because one must be stated first.
11 You will see the indictment number.

12 As to attempted murder, we the jury
13 unanimously find the defendant -- and it has got the
14 word guilty and then the words not guilty. Below that
15 it has murder and the word guilty and words not guilty.

16 Depending upon your determination of the
17 evidence, if after your consideration of the evidence in
18 this case if the jury unanimously agrees that the State
19 has met its burden of proof beyond a reasonable doubt as
20 to the attempted murder, I would ask you, Mr. Foreman,
21 to check to the left of the word guilty and circle both
22 that checkmark and the word guilty.

23 If you find the State has failed to proved its
24 case beyond a reasonable doubt as to the charge of
25 attempted murder, I would ask you to check to the left

1 of the two words not guilty and circle both -- all
2 three, the checkmark and the two words not guilty. It
3 would be the same as to the charge of murder.

4 Ladies and gentlemen, your verdicts must be a
5 unanimous verdict. All 12 of you must agree. After
6 y'all have reached verdicts on both cases, Mr. Foreman,
7 and you have signed the form as the presiding juror and
8 dated 3 August 12, if you would then knock on the jury
9 room door, inform the bailiff that you have reached a
10 verdict. At that time we will receive you back into the
11 courtroom.

12 Momentarily I am going to ask you to return to
13 your jury room. Do not begin your deliberations until
14 you are instructed to do so by the Court or by the
15 clerk. They will check the evidence. The evidence will
16 be delivered to you, unless I have to bring you out for
17 further instructions.

18 I first intend to send in the firearms with no
19 live ammunition. If at some point in time you want to
20 examine the ammunition, of course, Mr. Foreman, the
21 firearms would have to come out. The ammunition can
22 come in.

23 If you have any questions during the course of
24 your deliberations, Mr. Foreman, I really don't need to
25 give you any instructions on how to write a note. You

1 just write me a note, knock on the jury room door, and I
2 will certainly respond. Thank you very much. If you
3 would now go with your bailiff to your jury room. Do
4 not begin deliberating until you are instructed to do
5 so.

6 (The jury retires to the jury room.)

7 THE COURT: Solicitor, any exceptions?

8 MS. CAMPBELL: No, sir.

9 THE COURT: Mr. Collins, Mr. Newton?

10 MR. COLLINS: No exceptions.

11 THE COURT: If y'all would check the evidence.
12 I think in 150 there is some live ammo.

13 MS. CAMPBELL: Yes, sir, I will get that out.

14 THE COURT: I don't think it was actually
15 introduced. It happened to be in the box.

16 MS. CAMPBELL: I don't think there was any
17 reference to live ammo in the box, just the gun and the
18 box itself.

19 THE COURT: If you would remove that. Do you
20 have any objections?

21 MR. COLLINS: No, Your Honor.

22 THE COURT: If you would remove that and also
23 the magazine.

24 MR. COLLINS: Your Honor, the other issue we
25 may have is the video is on the solicitor's laptop. I

1 don't know if they are planning on how to review that;
2 but if there is other stuff on that laptop, we don't
3 want it going back to the jury.

4 THE COURT: Y'all can figure that out,
5 whatever y'all have.

6 (The jury commences its deliberation at
7 5:55 P.M.)

8 (The following occurs at 7:50 P.M.)

9 THE COURT: For any spectators in the
10 courtroom, I would advise you that many times the taking
11 of a verdict can be emotional for one side, the other,
12 or for both.

13 I do not allow any outbursts, any show of
14 emotions in any manner. So if you think you cannot
15 control your emotions or reactions, I would ask you to
16 please leave at this time.

17 If there is any show of emotions, I would ask
18 the sheriff to take those persons acting in such a
19 manner into the custody of the sheriff. I will deal
20 with them for contempt, and I can incarcerate people for
21 up to six months for contempt of court. I assume if you
22 stay then you are indicating to the Court that you are
23 able to control your emotions.

24 Anything from the State before we bring in our
25 jury, Solicitor?

1 MS. CAMPBELL: No, sir.

2 THE COURT: Defense?

3 MR. COLLINS: No, sir.

4 THE COURT: Bring our jury, please.

5 (The jury returns to open court to report its
6 verdict.)

7 THE COURT: Madame Clerk.

8 CLERK: Mr. Foreman, have you reached your
9 verdicts?

10 FOREMAN: We have.

11 CLERK: Would you please hand it to the
12 bailiff.

13 (Hands to Court.)

14 THE COURT: Madame Clerk, if you would publish
15 our verdicts, please.

16 (Whereupon the verdicts of the jury are
17 published as follows).

18 CLERK: In the Court of General Sessions for
19 the Fifth Judicial Circuit, the State of South Carolina,
20 County of Richland, the State of South Carolina versus
21 Daqwan Johnson. On Indictment Number 2011-GS-40-863 and
22 885, Indictment Number 2011-GS-40-885, as to attempted
23 murder, we the jury unanimously find the defendant
24 guilty.

25 On Indictment Number 2011-GS-40-863, as to

1 murder we the jury unanimously find the defendant,
2 guilty. It is signed by the foreperson and dated the
3 3rd of August, 2012.

4 Mr. Foreman, is this your verdict and the
5 verdict of the entire jury?

6 FOREMAN: Yes, ma'am, it is.

7 CLERK: Thank you.

8 THE COURT: Anything further from the jury
9 from the State?

10 MS. CAMPBELL: No, sir.

11 THE COURT: From the defense?

12 MR. COLLINS: We just you ask to poll the
13 jury, Your Honor.

14 THE COURT: Madame Clerk, would you explain
15 that procedure to the jury, please.

16 CLERK: Yes, Your Honor. Mr. Foreman, ladies
17 and gentlemen of the jury, I will call each of your
18 number. I am going to ask you two questions. I need
19 you to answer verbally to each question.

20 Number 138, was this your verdict?

21 JUROR: It was.

22 CLERK: Is it still your verdict?

23 JUROR: It is.

24 CLERK: Number 121, was this your verdict?

25 JUROR: It was.

1 MS. CAMPBELL: Yes, sir.

2 THE COURT: I'm sorry it has to come to this,
3 Mr. Johnson. I am sorry for the family of Mr. Reese and
4 for Mr. Reese himself and the young lady that got shot.
5 I'm sorry that it has come to this point in your life
6 that you are facing this type of sentence, but behavior
7 has consequences.

8 I don't relish putting young men or women --
9 men or women of any age -- in prison for a lengthy
10 prison sentence, but when the facts require it, I do it.
11 You seemed to be a very intelligent young man when I
12 interviewed you during the course of the trial.
13 Mr. Newton has spoke very highly of you. Your lawyers
14 did an excellent job for you. But at the same time
15 behavior has consequences.

16 On 11-GS-40-0885, attempted murder, the
17 defendant is committed to the State Department of
18 Corrections for a determinate term of 30 years. On
19 2011-GS-40-0863, the offense of murder, the defendant is
20 committed to the State Department of Corrections for a
21 determinate term of 50 years. Those are concurrent.
22 Good luck to you, Mr. Johnson. Credit for all time
23 served.

24 MR. NEWTON: Thank you, Your Honor.

25 THE COURT: Thank you. Anything further,

WITNESSES

✓
(S) AL THOMAS – Columbia Police Department

ARREST WARRANT NUMBER

K668247

ACTION OF GRAND JURY

TRUE BILL

Mena Gardner
Foreperson of Grand Jury

Date:

FEB 09 2011

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-40-0863

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2011

42

THE STATE

vs.

DAQWAN MARQUELL JOHNSON

**Indictment for
MURDER**

SC Code: 16-03-0010

CDR Code: 0116

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

868

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on FEBRUARY 9, 2011, the
Grand Jurors of Richland County present upon their oath:

MURDER

CDR: 0116 16-03-0010, 0020

That DAQWAN MARQUELL JOHNSON did in Richland County, on or about June 19, 2010, willfully, feloniously, and intentionally kill the victim, GARY REESE, with malice aforethought, either express or implied, by means of GUNSHOT WOUND(S), and the victim did die as a proximate result thereof, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended. ✓

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

WITNESSES

✓
(S) AL Thomas - Columbia Police Department

ARREST WARRANT NUMBER

K668248

ACTION OF GRAND JURY

TRUE BILL

Neena Gardiner
Foreperson of Grand Jury
Date: FEB 09 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011-GS-40-0885

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

February TERM 2011

42

**THE STATE
vs.**

Daqwan M Johnson

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-03-0029
CDR Code: 3410

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

870

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 9, 2011, the Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Daqwan M Johnson did in Richland County on or about June 19, 2010, did with the intent to kill, attempt to kill Lamettress Stevens with malice aforethought, either expressed or implied. All in violation of SC Code of Laws § 16-3-29 (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAN JOHNSON, SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

October 10th, 2014



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

OCT 10 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

R. Knox McMahon, Circuit Court Judge

ORIGINAL

RECEIVED

OCT 10 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

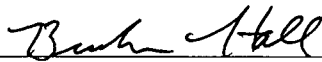
DAQWAN M. JOHNSON,

APPELLANT

APPELLATE CASE NO. 2012-212696

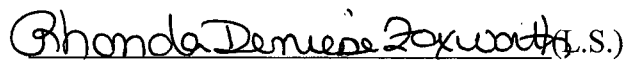
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 10th day of October, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 10th day of October, 2014.



Rhonda Demere Foxworth (S.)
Notary Public for South Carolina
My Commission Expires: October 17, 2021