

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM COLLETON COUNTY

Court of Common Pleas

The Honorable Jennifer B. McCoy, Circuit Court Judge

Case No. 2017-CP-15-00383

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S.C. SUPREME COURT

Andre T. Richardson, #336692,

PETITIONER,

v.

State of South Carolina,

RESPONDENT.

Appellate Case No.: 2019-000212

APPENDIX

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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF COLLETON) CASE NUMBERS: 2009-GS-15-0116
 2009-GS-15-0129

STATE OF SOUTH CAROLINA,)
)
 v.) TRANSCRIPT OF RECORD
)
 ANDRE TAFT RICHARDSON, II,)
)
 DEFENDANT.)

September 1ST & 2ND, 2009
 Walterboro, South Carolina

B E F O R E:

THE HONORABLE PERRY M. BUCKNER, JUDGE.

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Jury Selection

State v. Andre Taft Richardson, II

2009-CP-15-0116; 2009-CP-15-0129

September 1st and 2nd, 2009

Juror #	Name	Race	Gender	Jury
56	Jamie S. Gaabo	W	F	1
148	Carolyn M. Smalls	B	F	2
121	Cynthia A. Newman	W	F	3
96	Benjamin A. Kinsey	W	M	4
5	Iesha L. Ancrum	B	F	5
44	Eduardo A. Dominguez	W	M	6
157	James A. Taylor	B	M	7
35	Wendy K. Crosby	W	F	8
31	Allen D. Coggins	W	M	9
70	Joseph Hamilton	B	M	10
25	Janice C. Carter	W	F	11
118	Antonio T. Myers	B	M	12
- - - - -				
20	Faith Y. Bryant	B	F	Alt. 1
115	Martha Murray-Whitlock	B	F	Alt. 2
51	Anita L. Ford	B	F	Alt. 3

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1 **THE COURT:** Is the State ready to proceed?

2 **DEP. SOL. THORNTON:** The State is ready, Your Honor.

3 **THE COURT:** Is the defendant now ready to proceed?

4 **MR. BEACH:** Yes, Your Honor.

5 **THE COURT:** Call your case.

6 **DEP. SOL. THORNTON:** Your Honor, the State is ready to
7 go forward in Indictment Number 2009-GS-15-116, charging the
8 defendant, Andre Taft Richardson, II, to financial identity
9 fraud. We're also prepared to go forward in Indictment
10 2009-GS-15-0129, Your Honor, which charges Andre Taft
11 Richardson, II, with the offense of murder.

12 **THE COURT:** Very well. Ladies and gentlemen, the
13 Solicitor has handed me two pieces of paper, which we call
14 indictments. These indictments are not evidence; these are
15 merely the formal written instruments by which the case is
16 brought into Court. The indictments merely contain the
17 allegations against the defendant.

18 To these indictments, the defendant has pled not
19 guilty. That places the burden on the State of South
20 Carolina to prove each and every element of the offenses in
21 the indictment of financial identity fraud and murder beyond
22 a reasonable doubt, but it will be your duty, ladies and
23 gentlemen, if selected as a juror in the trial of this case,
24 to determine whether or not the State has met that burden.

25 Now, Ladies and gentlemen, earlier this afternoon, I

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1 had the clerk give you an oath while I was qualifying you.
2 I'm now going to ask you questions to determine your
3 impartiality to serve as a juror in the trial of this case.
4 I remind you that the responses you give me about this case
5 are also under oath that you received earlier this afternoon
6 from the Clerk of Court.

7 Now, first of all, I would like for the lawyers who
8 will be trying this case, to stand, face my jury panel,
9 introduce themselves and face my jury panel so they can see
10 you, and in the case of the defendant, I would ask Mr.
11 Beach, that you also have your client stand and face my jury
12 panel, and introduce your client, beginning with counsel for
13 the State of South Carolina.

14 **DEP. SOL. THORNTON:** Your Honor, may it please the
15 Court?

16 **THE COURT:** Yes, sir.

17 **DEP. SOL. THORNTON:** Ladies and gentlemen of the jury,
18 my name is Sean Thornton. I'm the Deputy Solicitor for the
19 Fourteenth Circuit and I supervise Colleton, Allendale and
20 Jasper County as part of our five-county circuit. With me
21 at counsel table is Amanda Haselden, who will be assisting
22 in the prosecuting of this case.

23 **THE COURT:** Thank you, Solicitor. Counsel for the
24 defendant.

25 **MR. BEACH:** May it please the Court?

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1 **THE COURT:** Yes, sir.

2 **MR. BEACH:** Ladies and gentlemen of the jury, I am
3 Harris Beach. I am with the Fourteenth Circuit Public
4 Defender's Office in the Walterboro Office. And with me is
5 Andre Taft Richardson, who's the defendant in this case.
6 I'll be trying it, along with me at counsel table, is my
7 investigator and Ms. Fran Pye, our office manager.

8 **THE COURT:** All right. Ladies and gentlemen, you have
9 not met the lawyers who are going to be trying this case,
10 and you've also met the defendant, Andre Taft Richardson,
11 II; from what town, Mr. Beach?

12 **MR. BEACH:** From Ruffin, Your Honor.

13 **THE COURT:** Ruffin, South Carolina. That's where Mr.
14 Richardson is from, Ladies and gentlemen. I ask you first
15 of all, is any member of my jury panel related by blood,
16 connected by marriage, or a close personal friend of the
17 defendant in this case, who you've just met, Andre Taft
18 Richardson, II, of Ruffin, South Carolina? If so, please
19 stand at this time.

20 **THE COURT:** Let the record reflect. no one is standing.
21 You have also met counsel for the State of South Carolina,
22 Deputy Solicitor, Sean Thornton, and Assistant Solicitor,
23 Amanda Haselden. They are with the Fourteenth Circuit
24 Solicitor's Office. They will be representing the State of
25 South Carolina in the case of the State of South Carolina v.

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1 Andre Taft Richardson, II. I ask if any member of my jury
2 panel is related by blood, connected by marriage, or a close
3 personal friend of either Deputy Solicitor Sean Thornton or
4 Assistant Solicitor, Amanda Haselden, whom you've just met.
5 If so, please stand.

6 (NO RESPONSE.)

7 **THE COURT:** Let the record reflect, no one is standing.
8 I ask if any member of my jury panel ever been represented
9 in the past or currently represented by either Deputy
10 Solicitor Sean Thornton or Assistant Solicitor Amanda
11 Haselden? If you've been represented in the past or
12 currently represented by either of the lawyers for the State
13 of South Carolina in this case, please stand at this time.

14 (NO RESPONSE.)

15 **THE COURT:** Let the record reflect. no one is standing.
16 Any member of my jury panel related by blood, connected by
17 marriage, or a close personal friend of the counsel for the
18 defendant, Andre Taft Richardson, II, that is Harris Beach?
19 If so, please stand.

20 (NO RESPONSE.)

21 **THE COURT:** Has any member of my jury panel ever been
22 represented in the past or currently represented by counsel
23 for the defendant in this case, Mr. Harris Beach of the
24 Colleton County Public Defender's Office? If so, please
25 stand.

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1 (JUROR STANDS.)

2 THE COURT: Yes, ma'am. First, they're going to bring
3 you a microphone. Stand up for me and use the microphone
4 and begin by just giving me your name and juror number for
5 the court reporter. There you go.

6 JUROR: My name is Shawna Connelly and I'm juror 32.

7 THE COURT: All right. Ms. Connelly, listen to me,
8 because I might need to bring you up here, but just listen
9 to my question. Were you represented by Mr. Beach in the
10 past?

11 JUROR: Yes.

12 THE COURT: Has that representation been concluded?

13 JUROR: Yes.

14 THE COURT: The fact -- or are you currently
15 represented by Mr. Beach?

16 JUROR: No, sir.

17 THE COURT: The fact that you were previously
18 represented by Mr. Beach, would that in any way affect your
19 ability to give the State of South Carolina or the defendant
20 in this case, a fair and an impartial trial?

21 JUROR: It wouldn't affect me at all.

22 THE COURT: Thank you, ma'am. You may be seated.
23 You're doing exactly what I asked you to do.

24 Is any other member of my jury panel ever been
25 represented by Mr. Harris Beach in the past, who is counsel

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1 for the defendant in this case, or currently represented by
2 Mr. Harris Beach? If so, please stand.

3 (NO RESPONSE.)

4 **THE COURT:** Let the record reflect, no one is standing.
5 All right. Ladies and gentlemen, if you are selected as a
6 juror in the trial of this case, you must base your decision
7 solely upon evidence introduced during the trial of the case
8 when both sides are present, with the right of cross-
9 examination. I'll be explaining to you if you're selected
10 on the jury what constitutes evidence. It might be sworn
11 testimony, it might be an exhibit, and it might be a
12 stipulation or an agreement.

13 The indictments, ladies and gentlemen, as I told you,
14 is not evidence; but in order to ask you certain questions
15 to determine your impartiality to serve as a juror in the
16 trial of this case, I need to tell you a little bit about
17 the allegations in the indictments to ask you questions, to
18 determine your impartiality to serve as a juror.

19 The defendant is charged in the first indictment, 2009-
20 GS-15-0129, the State v. Andre Taft Richardson, II, with the
21 offense of murder. If you are selected as a juror in the
22 trial of this case, I will explain to you the elements of
23 that offense in my charge to you on the law at the
24 conclusion of the case.

25 From that, the indictment alleges that this offense of

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1 murder occurred in Colleton County on or about October the
2 27th, 2008, and that the defendant, with malice
3 aforethought, that is Andre Taft Richardson, II, did kill
4 and murder the victim, Frederick Steward, S-T-E-W-A-R-D,
5 Madame Court Reporter, by means of shooting the victim
6 multiple times, and that Frederick Steward did die in
7 Colleton County as a proximate result of these actions on
8 October the 27th, 2008. Those are the allegations in the
9 indictment.

10 In indictment 2009-GS-15-0116, the State v. Andre Taft
11 Richardson, II, an indictment for financial identity fraud.
12 This indictment alleges that in Colleton County, on or about
13 November the 20th, 2008, the defendant, Andre Taft
14 Richardson, II, unlawfully and knowingly, without the
15 authorization or permission of Frederick Steward, and/or his
16 Estate, and with the intent to unlawfully appropriate the
17 financial resources of Frederick Steward, and or his Estate,
18 to his own use, or the use of a third person, did access, or
19 attempt to access, the financial resources of Frederick
20 Steward and harm his Estate.

21 It is alleged that the defendant did use the victim's
22 personal bank account to pay for the defendant's Safe Auto
23 Car Insurance, some 24 days after the victim's death. That
24 is the offense of financial identity fraud. To both of
25 these offenses, ladies and gentlemen, the defendant has pled

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1 not guilty. That places the burden on the State to prove
2 the allegations in the indictment beyond a reasonable doubt,
3 and as I told you, it will be your duty to determine whether
4 the State has met that burden. I tell you about the
5 allegations to ask you questions only to determine your
6 impartiality to serve as a juror in the trial of this case.

7 In light of my informing you of the allegations in the
8 indictment, has any of my jurors who are here for jury
9 service this afternoon, heard about, read about, or know
10 anything whatsoever about the facts which are alleged in
11 this case? If so, please stand, at this time.

12 (NO RESPONSE.)

13 **THE COURT:** Let the record reflect, no one is standing.

14 I am advised that the potential witnesses in the trial
15 of this case will be as follows: Ladies and gentlemen of my
16 jury panel, please listen carefully. There may some
17 witnesses in the courtroom, and if they're present when
18 their name is called, I ask that they stand and face my jury
19 panel. Most of these witnesses will not be present. It is
20 a rather long list, so bear with me and listen. I will give
21 you a hometown, as well as the name of the witness. The
22 following are potential witnesses in the trial of this case.
23 I'm going to ask you questions about the list after I read
24 the list. So please listen carefully. Gerald Lingard,
25 Ruffin, South Carolina. Aaron Bradley Virden, V-I-R-D-E-N,

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1 Smoaks, South Carolina. Craig Stivender, Colleton County
2 Sheriff's Office. Theron Grant, formerly Colleton County
3 Sheriff's Office. Dolphus Pinckney, Colleton County
4 Sheriff's Office. Stencil White, Colleton County Sheriff's
5 Office. Bryan Eadon, E-A-D-O-N, Colleton County Fire and
6 Rescue. Richard Sheffield, Jr., Colleton County Fire and
7 Rescue. David Drawdy, Colleton County Fire and Rescue.
8 Joseph Holmes, H-O-L-M-E-S, Colleton County Fire and Rescue.
9 Richard Harvey, Colleton County Coroner. Angela Stallings,
10 formerly Colleton County Sheriff's Office. Jodi Taylor,
11 Jodi, stand up for me and face my jury panel, Colleton
12 County Sheriff's Office. She's standing to your left, my
13 right, ladies and gentlemen. Thank you, you may be seated.
14 Jeff Scott, Colleton County Sheriff's Office. He is
15 standing to your left, my right. Thank you, sir. You may
16 be seated. Roderick Shider, S-H-I-D-E-R, Walterboro, South
17 Carolina. Kevin Nettles, Ruffin, South Carolina. Rickey
18 Breland, Ruffin, South Carolina. Tyrone Kinard, Ruffin,
19 South Carolina. John Yates, Y-A-T-E-S, Cottageville, South
20 Carolina. Mieshia, M-I-E-S-H-I-A, Yates, Ruffin, South
21 Carolina.
22 Allen Inabinett, Colleton County Sheriff's Office,
23 standing to your left, my right. Thank you, sir. You may
24 be seated. Bobby T. Varn, Ruffin, South Carolina. Thomas
25 Walker, Colleton County Sheriff's Office. Ruben Carter,

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1 Colleton County Sheriff's Office, standing to your left, my
2 right. Thank you, sir. You may be seated.

3 Kenneth Whitler, SLED. Dr. Erin Presnell, MUSC,
4 pathologist. Michael Steward, S-T-E-W-A-R-D, Brooklyn, New
5 York. Gean Johnson, Colleton County Sheriff's Office. Rene
6 Stanley, Walterboro, South Carolina. Ted Stanfield,
7 Colleton County Sheriff's Office. Chris Warren, Walterboro
8 Police Department. Tavera Edwards Walterboro Police
9 Departmetn. Harold Frasier, Yemassee, South Carolina.
10 Robesto Diaz, Ruffin, South Carolina. Jason Bryan, Ruffin,
11 South Carolina. Lindsay Breland, Ruffin, South Carolina.
12 Brian Givens, Ruffin, South Carolina. Billy Givens, Ruffin,
13 South Carolina.

14 James Sampson, S-A-M-P-S-O-N, Ruffin, South Carolina.
15 Jerrol, J-E-R-R-O-L, Lingard, Ruffin, South Carolina.
16 Gerwon Lingard, Ruffin, South Carolina. Chris Murray,
17 Smoaks, South Carolina. Sandra Richardson, Ruffin, South
18 Carolina. Shavonne Richardson, Cottageville, South
19 Carolina. Dr. Meri King Martin, M-A-R-T-I-N, MUSC. Dr.
20 Rafor Rogers, MUSC. Dave Thomas, Colleton County Sheriff's
21 Office. Trina Casto, C-A-S-T-O, Walterboro, South Carolina.
22 Andre Taft Richardson, II, Ruffin, South Carolina. Stand and
23 face my jury panel, Mr. Richardson.

24 This is the defendant, Ladies and gentlemen, Andre Taft
25 Richardson, II, of Ruffin, South Carolina. Thank you. You

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1 may be seated. Sandra Richardson, Ruffin, South Carolina.
2 Shavonne Richardson -- I think I've already called those two
3 names.

4 Any additional witnesses from the State of South
5 Carolina?

6 **DEP. SOL. THORNTON:** None from the State, Judge.

7 **THE COURT:** Any additional witnesses from the
8 defendant?

9 **MR. BEACH:** None from the defendant.

10 **THE COURT:** All right. Ladies and gentlemen, is any
11 member of my jury panel related by blood, connected by
12 marriage, or a close personal friend of any of the potential
13 witnesses in the trial of this case whose names I have just
14 called? If so, please stand at this time and remain
15 standing.

16 (JURORS STAND.)

17 **THE COURT:** All right. Step out into the aisle, so I
18 can see you. The gentleman in the very back. He's got the
19 microphone. Give me your name and juror number, please.

20 **JUROR:** Cleveland Gore, juror Sixty-one.

21 **THE COURT:** Mr. Gore, are you related by blood to any
22 of the witnesses, yes or no?

23 **JUROR:** No, Your Honor.

24 **THE COURT:** Are you connected by marriage to any of the
25 potential witnesses?

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1 JUROR: A former marriage.

2 THE COURT: A former marriage? Who is that?

3 JUROR: Brian Givens, I changed his diapers.

4 THE COURT: Hold on a second, now. Brian Givens, you
5 were related to him by a former marriage and you changed his
6 diapers; is that right?

7 JUROR: That's correct, Your Honor.

8 THE COURT: You can be seated Mr. Gore. The fact that
9 you were previously related by marriage to Mr. Givens, would
10 that in any way affect your ability to give the State of
11 South Carolina a fair and an impartial trial?

12 JUROR: It wouldn't affect me at all, Your Honor.

13 THE COURT: Thank you, Mr. Gore. You may be seated.
14 All right. I'm going to start with this lady in the front.
15 Give me your name and juror number, please, for the record,
16 first.

17 JUROR: Shawna Connelly, juror Thirty-two.

18 THE COURT: Counsel, this is juror number Thirty-two,
19 Shawna Connelly, number Thirty-two. Listen to me carefully,
20 yes or no. Are you related by blood to any of the potential
21 witnesses?

22 JUROR: No, sir.

23 THE COURT: Are you connected by marriage to any of the
24 potential witnesses?

25 JUROR: Yes, sir.

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1 THE COURT: Which witnesses?

2 JUROR: Detective Taylor.

3 THE COURT: Ms. Taylor, you're connected to her by
4 marriage?

5 JUROR: Yes, sir.

6 THE COURT: Tell me that marriage relationship so the
7 lawyers will know.

8 JUROR: My sister is married to her brother.

9 THE COURT: All right. Your sister is married to her
10 brother?

11 JUROR: Yes, sir.

12 THE COURT: Which makes her your what?

13 JUROR: Not really anything.

14 THE COURT: But you're doing exactly what I've asked
15 you to do.

16 JUROR: Friend, I guess.

17 THE COURT: I understand. I appreciate you doing that,
18 Ms. Connelly. The fact that your sister is married to her
19 brother, and that doesn't make you related to her by
20 marriage, necessarily, but you wanted to make me aware of
21 that, would that in any way affect your ability to give the
22 State or the defendant a fair and an impartial trial?

23 JUROR: It would not affect me at all.

24 THE COURT: All right. Thank you. You're doing
25 exactly what I'm asking you to do. So even though I'm

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1 smiling, because I had no idea what that relationship was, I
2 had to ask you that.

3 JUROR: You said "connected by marriage".

4 THE COURT: I did. That's exactly -- and that's why I
5 said it, because the lawyers need to have that information
6 in selecting the jury. Thank you, ma'am. You may be
7 seated.

8 Yes, ma'am. Hold the microphone up. Yes, sir, you got
9 a microphone. Give me your name and juror number, please.

10 JUROR: Carlos Hamlin, juror Seventy-one.

11 THE COURT: Hold on one second. Let me check your
12 number.

13 Carlos Hamlin, number Seventy-one, counsel. Listen
14 carefully, hold the microphone up. Are you related by blood
15 to any of the potential witnesses?

16 JUROR: No, sir.

17 THE COURT: Are you connected by marriage to any of the
18 potential witnesses?

19 JUROR: No, sir.

20 THE COURT: Are you a close personal friend of any of
21 the potential witnesses?

22 JUROR: Yes, sir.

23 THE COURT: Who?

24 JUROR: Lindsay Breland.

25 THE COURT: Lindsay Breland of Ruffin, South Carolina.

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1 Is that right?

2 JUROR: Yes, sir.

3 THE COURT: The fact that you're close personal friends
4 with Lindsay Breland of Ruffin, South Carolina, would that
5 in any way affect your ability to give the State of South
6 Carolina or the defendant in this case a fair and an
7 impartial trial?

8 JUROR: No, sir.

9 THE COURT: Thank you, sir. You may be seated.
10 Hand the microphone to my bailiff. Take it back to this
11 lady back here. Yes, ma'am. Your name and juror number,
12 please.

13 JUROR: Rose Jones, Ninety-two.

14 THE COURT: Counsel this is juror number Ninety-two,
15 Rose Marie Jones. Ms. Jones, are you related by blood to
16 any of the potential witnesses?

17 JUROR: Yes, sir.

18 THE COURT: And who is that?

19 JUROR: Chris Murray.

20 THE COURT: Chris who?

21 JUROR: Murray.

22 THE COURT: Chris Murray of Smoaks?

23 JUROR: Yes.

24 THE COURT: How are you related by blood to Chris
25 Murray?

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1 JUROR: Cousin.

2 THE COURT: What cousin?

3 JUROR: His grandmother and my grandmother were
4 sisters.

5 THE COURT: His grandmother and your grandmother were
6 sisters?

7 JUROR: Yes.

8 THE COURT: That's second cousins?

9 JUROR: My mother and his mother, anyway, I think it's
10 like second cousins.

11 THE COURT: Second cousins. All right. The fact that
12 you're second cousins to Ms. Chris Murray, and that they
13 may, or may not be, but they are a potential witness in the
14 trial of this case, and if you are selected as a juror in
15 the trial of this case, would that fact that you're second
16 cousins with a potential witness in any way affect your
17 ability to give the State of South Carolina or the
18 defendant, a fair and an impartial trial?

19 JUROR: No, sir.

20 THE COURT: Thank you, ma'am. You may be seated. Yes,
21 ma'am, back here with the microphone. Your name and juror
22 number, please ma'am.

23 JUROR: Rhonda Tisdale, juror number One Thirty-seven.

24 THE COURT: One moment, please ma'am. We've got so
25 many pages we have to go through. I have you down as Rhonda

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1 Leah Register, is that correct?

2 JUROR: No, sir. It's Tisdale, now.

3 THE COURT: Is it T-E-A-S -- spell it for me.

4 JUROR: T-I-S-D-A-L-E.

5 THE COURT: All right. T-I-S-D-A-L-E, right? ..

6 JUROR: Yes, sir.

7 THE COURT: All right. Ms. Tisdale, counsel, this is
8 juror One Thirty-seven, it's now T-I-S-D-A-L-E. Ms.

9 Tisdale, are you related by blood to any of the potential
10 witnesses?

11 JUROR: No, sir.

12 THE COURT: Are you connected by marriage to any of the
13 potential witnesses?

14 JUROR: No, sir.

15 THE COURT: Are you a close personal friend of any of
16 the potential witnesses?

17 JUROR: Yes, sir.

18 THE COURT: Which witness?

19 JUROR: Richard Harvey.

20 THE COURT: The coroner, Richard Harvey?

21 JUROR: Yes, sir.

22 THE COURT: The fact that you're close personal friends
23 with Richard Harvey, Ms. Tisdale, would that in any way
24 affect your ability to give the State of South Carolina or
25 the defendant in this case, a fair and an impartial trial?

1 JUROR: No, sir.

2 THE COURT: Thank you, ma'am. You may be seated.

3 Yes, ma'am, with the microphone right here. Your name and
4 juror number, please.

5 JUROR: Sissy Sherrill, One Twenty-four.

6 THE COURT: One Twenty-four. One Forty-four, excuse
7 me. Counsel, this is juror number One hundred Forty-four,
8 Sissy Sherrill. Are you related by blood to any of the
9 potential witnesses?

10 JUROR: No, sir.

11 THE COURT: Are you connected by marriage to any of the
12 potential witnesses?

13 JUROR: Previous marriage.

14 THE COURT: All right. By your previous -- are you
15 remarried, now?

16 JUROR: Yes, sir.

17 THE COURT: All right. By your previous marriage, whom
18 were you related to as a potential witness and how?

19 JUROR: It was on my husband's side, Jerrol Lingard and
20 Gerwon.

21 THE COURT: Jerrol Lingard and Gerwon Lingard? Both?

22 JUROR: Yes, sir.

23 THE COURT: All right. By your husband; and how was he
24 related?

25 JUROR: Family. They grew up together. Everybody grew

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1 up together.

2 **THE COURT:** In Ruffin?

3 **JUROR:** Uh-huh.

4 **THE COURT:** All right. So by your previous marriage,
5 you believe your husband was related to Jerrol and Gerwon
6 Lingard and that's why you're standing?

7 **JUROR:** Uh-huh.

8 **THE COURT:** And that's why you're standing and that's
9 your only relationship by marriage, and that's a previous
10 marriage?

11 **JUROR:** Yes.

12 **THE COURT:** The fact that you were previously related
13 to these two potential witnesses by marriage, would that in
14 any way affect your ability to give the State of South
15 Carolina or the defendant in this case, a fair and an
16 impartial trial?

17 **JUROR:** No.

18 **THE COURT:** Thank you, ma'am. Hand the microphone to
19 my bailiff. Who's got the mic? Yes, ma'am, your name and
20 juror number, please.

21 **JUROR:** Earline Green, Sixty-five.

22 **THE COURT:** Sixty-five. Counsel this is juror number
23 Sixty-five, Earline Green. Ms. Green, are you related by
24 blood to any of the potential witnesses?

25 **JUROR:** No.

1 **THE COURT:** Are you connected by marriage to any of the
2 potential witnesses?

3 **JUROR:** No.

4 **THE COURT:** Are you a close personal friend of any of
5 the potential witnesses?

6 **JUROR:** Jerrol Lingard is my mechanic.

7 **THE COURT:** Jerrol Lingard and who? I can't hear you.

8 **JUROR:** A mechanic. He's my mechanic.

9 **MADAME CLERK:** He's her mechanic.

10 **THE COURT:** Oh, he works on your cars or whatever?

11 **JUROR:** Yes, sir.

12 **THE COURT:** All right. And that's just Jerrol Lingard?

13 **JUROR:** Just Jerrol.

14 **THE COURT:** All right. The fact that Mr. Lingard is
15 your mechanic, would that in any way affect your ability to
16 give the State of South Carolina or the defendant a fair and
17 an impartial trial?

18 **JUROR:** No.

19 **THE COURT:** Thank you, ma'am. You may be seated. Yes,
20 sir. Who's got it next?

21 **JUROR:** Robert Stanfield, One Fifty-three.

22 **THE COURT:** Hold on one second for me. Counsel, this
23 is juror number One hundred Fifty-three, Robert R.
24 Stanfield. Mr. Stanfield, are you related by blood to any
25 of the potential witnesses?

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1 JUROR: No, sir.

2 THE COURT: Are you connected by marriage to any of the
3 potential witnesses?

4 JUROR: No, sir.

5 THE COURT: Are you a close personal friend to any of
6 the potential witnesses?

7 JUROR: Yes, sir.

8 THE COURT: Who is that?

9 JUROR: Jodi Taylor.

10 THE COURT: Jodi Taylor, very popular today. Mr.
11 Stanfield, the fact that you are a close personal friend
12 with Jodi Taylor, would that in any way affect your ability
13 to give the State of South Carolina or the defendant in this
14 case a fair and an impartial trial?

15 JUROR: No, sir. It would not.

16 THE COURT: Thank you. Did you used to work out at
17 Asten Hill?

18 JUROR: No, sir.

19 THE COURT: That was a relative of yours?

20 JUROR: Yes, sir.

21 THE COURT: Yes, sir. Thank you. Yes, sir? Name and
22 juror number, please.

23 JUROR: Charles Babb, Number Six.

24 THE COURT: All right. Counsel, this is juror number
25 Six, Charles Babb. Mr. Babb, are you related by blood to

1 any of the potential witnesses?

2 JUROR: No, sir.

3 THE COURT: Are you connected by marriage to any of the
4 potential witnesses?

5 JUROR: No, sir.

6 THE COURT: Are you a close personal friend to any of
7 the potential witnesses?

8 JUROR: No, I'm not exceptionally close; I'm just
9 friends with several of them.

10 THE COURT: Tell me who you are friends with.

11 JUROR: Richard Sheffield, Ricky Breland

12 THE COURT: I don't know that I said -- wait a minute.
13 Yeah, I do. Lindsay Breland.

14 JUROR: Lindsay, all right.

15 THE COURT: Lindsay Breland of Ruffin. Who else?

16 JUROR: Well, I can't remember all the other names.
17 There's a couple that I'm friends with, not real close
18 friends.

19 THE COURT: You got to hold on now, because she can't
20 hear you when you pull that away and do it back. You want
21 me to read the names for you for everybody?

22 JUROR: No, sir. It's not really even gonna affect me.
23 You just told me to stand if I was friends with anyone.

24 THE COURT: No, you're doing exactly what I asked you,
25 Mr. Babb. But don't tell me you can't remember the names,

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1 because I'm gonna re-read them if you can't.

2 JUROR: Well, sir. I remember those two, in
3 particular. I mean, I know ---

4 THE COURT: All right. Let me give you the names from
5 Ruffin. You live near Ruffin, don't you, Mr. Babb? Jerrol
6 Lingard, Ruffin. Kevin Nettles, Ruffin. Ricky Breland,
7 Ruffin. Tyrone Kinard, Ruffin. Myeshia Yates, Ruffin.
8 Bobby Varn, Ruffin. Robesto Diaz, Ruffin. Jason Bryan,
9 Ruffin. Lindsay Breland, Ruffin. Brian Givens, Ruffin.
10 Billy Givens, Ruffin. James Sampson, Ruffin. Jerrol
11 Lingard, Ruffin. Gerwon Lingard, Ruffin. Sandra
12 Richardson, Ruffin. Y'all see any others on there that I
13 missed, from the State?

14 DEP. SOL. THORNTON: No, sir.

15 THE COURT: From the defendant?

16 MR. BEACH: No, sir.

17 THE COURT: Yes, sir?

18 JUROR: But Richard, he's a member of the rescue squad
19 and all.

20 THE COURT: All right. The fact that you're friends
21 with Mr. Sheffield, you are also friends with Ms. Breland,
22 would that in any way affect your ability to give the State
23 of South Carolina or the defendant in this case, Mr. Babb, a
24 fair and an impartial trial?

25 JUROR: No, sir.

1 **THE COURT:** Thank you, sir. You are doing exactly what
2 I'm asking you to do and I appreciate it.

3 In the back, yes, sir? Your name and juror number,
4 please?

5 **JUROR:** William R. Murray, Number One Sixteen.

6 **THE COURT:** Counsel, this is William R. Murray, Juror
7 One-Sixteen. Mr. Murray, are you related by blood to any of
8 the potential witnesses?

9 **JUROR:** Yes, sir.

10 **THE COURT:** And which witnesses are you related by
11 blood to?

12 **JUROR:** Chris Murray.

13 **THE COURT:** And how are you related by blood to Chris
14 Murray?

15 **JUROR:** That's my brother.

16 **THE COURT:** I will excuse you from service in the trial
17 of this case only. Thank you, sir. You may have a seat.

18 All right. Anyone else on my jury panel related by
19 blood, connected by marriage, or a close personal friend of
20 any of the potential witnesses in the trial of this case,
21 whose names I've called out, but I'm happy, and I realize
22 there are a lot of names, ladies and gentlemen, if you can't
23 remember, you let me know, just like Mr. Babb. I want to
24 make sure you know every name so you let me know if you
25 can't remember. But if anybody here for jury duty, related

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1 by blood, connected by marriage, or a close personal friend
2 of any of the potential witnesses in the trial of this case,
3 whose names and hometown I have previously called out, but
4 am more than willing to call them out again, if so, let me
5 know if you want them called out or let me know by standing
6 if anyone is related by blood, connected by marriage, or a
7 close personal friend.

8 (NO RESPONSE.)

9 **THE COURT:** Let the record reflect, no one is standing.
10 Is any member of my jury panel related by blood, connected
11 by marriage, or a close personal friend of Mr. Frederick
12 Steward, or any member of his immediate family? If so,
13 please stand at this time. He is from where, Solicitor?

14 **DEP. SOL. THORNTON:** Ruffin, Your Honor.

15 **THE COURT:** Ruffin, South Carolina, Ladies and
16 gentlemen. If so, please stand at this time.

17 (NO RESPONSE.)

18 **THE COURT:** Let the record reflect, no one is standing.
19 Is any member of my jury panel, or a member of their
20 immediate family let me define that for you: husband, wife,
21 son, daughter, mother, father? Any member -- or brother or
22 sister; is any member of their immediate family, as I
23 defined it, been the victim of a violent crime? Is so,
24 please stand at this time.

25 (JUROR STANDS AND COMES FORWARD.)

1 **THE COURT:** Name and juror number, please, ma'am.

2 **JUROR:** Sissy Sherill, One Forty-four.

3 **THE COURT:** Counsel, this is juror number One hundred
4 and Forty-four, is that right, ma'am?

5 **JUROR:** Uh-huh. Yes, it is.

6 **THE COURT:** All right. Hold on one second. I have so
7 many pages to turn. Counsel, this is juror One forty-four,
8 Sissy Sherrill. Ms. Sherill, were you or a member of your
9 immediate family, a victim of a violent crime?

10 **JUROR:** My husband's son, my step-son.

11 **THE COURT:** Your step-son. The fact that your step-son
12 was the victim of a violent crime involving personal injury,
13 would that in any way affect your ability to give the State
14 in this case or the defendant a fair and an impartial trial?

15 **JUROR:** Yes. Simply the way he was shot and killed,
16 too.

17 **THE COURT:** I don't you need to tell -- do you think it
18 would affect you?

19 **JUROR:** Yes.

20 **THE COURT:** I'll excuse you from the service in the
21 trial of this case only. You may be seated.

22 Yes, ma'am? Your name and juror number, please?

23 **JUROR:** One twenty-five, Judy Padgett.

24 **THE COURT:** All right. Counsel, this is juror number
25 One Twenty-five, Judy Padgett. Ms. Padgett, were you or a

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1 member of your immediate family the victim of a violent
2 crime involving personal injury or the threat of personal
3 injury?

4 JUROR: My brother was killed.

5 THE COURT: All right. The fact that your brother was
6 the victim of a violent crime, would that in any way affect
7 your ability to give the State of South Carolina or the
8 defendant in this case, a fair and an impartial trial?

9 JUROR: Yes, it would.

10 THE COURT: You think it would? I'll excuse you from
11 service in the trial of this case.

12 Yes, ma'am? Your name and juror number, please?

13 JUROR: Elizabeth Barker, Juror Number Nine.

14 THE COURT: Number what?

15 JUROR: Nine.

16 THE COURT: Counsel, this is Elizabeth Barker; is that
17 right?

18 JUROR: That is correct.

19 THE COURT: Juror number Nine. Ms. Barker, were you or
20 a member of your immediate family, the victim of a violent
21 crime, involving personal injury or the threat of personal
22 injury?

23 JUROR: Immediate family, my brother.

24 THE COURT: Your brother. The fact that your brother
25 was the victim of a violent crime, would that in any way

1 affect your ability to give the State of South Carolina, or
2 the defendant in this case, a fair and an impartial trial?

3 JUROR: No.

4 THE COURT: Thank you, ma'am. You may be seated.

5 Yes, ma'am? Your name and juror number for the record,
6 please?

7 JUROR: Cynthia Doster, juror number Forty-five.

8 THE COURT: Counsel, this is juror number Forty-five,
9 Cynthia Doster. Ms. Doster, were you or a member of your
10 immediate family the victim of a violent crime?

11 JUROR: Yes, sir.

12 THE COURT: Was it you or a member of your immediate
13 family?

14 JUROR: My mother.

15 THE COURT: It was who?

16 JUROR: My mother.

17 THE COURT: Mother. The fact that your mother was a
18 victim of a violent crime, would that in any way affect your
19 ability to give the State of South Carolina or the defendant
20 in this case, a fair and an impartial trial?

21 JUROR: No, sir.

22 THE COURT: Thank you, ma'am. You may be seated.

23 Yes, sir. In the back. Your name and juror number,
24 please?

25 JUROR: Alfred Ferguson, Fifty.

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1 **THE COURT:** Number Fifty. Counsel, this is juror
2 number Fifty, Alfred Ferguson. Mr. Ferguson, were you, or
3 was it a member of your immediate family that was a victim
4 of a violent crime involving personal injury or the threat
5 of personal injury? Was it you or a member of your immediate
6 family?

7 **JUROR:** It was my first cousin.

8 **THE COURT:** Your first cousin? All right. I didn't
9 define cousins as part of immediate family. The fact that
10 your first cousin was the victim of a violent crime
11 involving personal injury, would that in any way affect your
12 ability to give the State or the defendant a fair and an
13 impartial trial?

14 **JUROR:** Yes.

15 **THE COURT:** I will excuse you from service in the trial
16 of this case.

17 Yes, ma'am. Your name and juror number in the back,
18 please.

19 **JUROR:** Lori Shearer, juror One Forty-two.

20 **THE COURT:** Counsel, this is juror number One Forty-
21 two, Lori Shearer. Ms. Shearer, was it you or your
22 immediate family?

23 **JUROR:** My sister.

24 **THE COURT:** Your sister? The fact that your sister was
25 the victim of a violent crime, would that in any way affect

1 your ability to give the State of South Carolina or the
2 defendant a fair and an impartial trial?

3 **JUROR:** Absolutely.

4 **THE COURT:** It would?

5 **JUROR:** Yes, absolutely, it would.

6 **THE COURT:** All right. I will excuse you from service
7 in the trial of this case. Thank you, ma'am.

8 Let the record reflect, no one is standing in response
9 to my last question.

10 Is any member of my jury panel a member of, or a
11 contributor to, any group which has as its primary concern
12 the promotion of law enforcement or victim's rights? These
13 groups would include MADD, SADD, CAVE, or CADRE? If so,
14 please stand at this time.

15 Let the record reflect, no one is standing.

16 Any member of my jury panel formed any opinion about
17 the facts which are alleged in this case? If so, please
18 stand.

19 (NO RESPONSE.)

20 **THE COURT:** Let the record reflect, no one is standing.

21 Any member of my jury panel know of any bias, or
22 prejudice they may have about the facts which are alleged in
23 this case? If so, please stand.

24 (NO RESPONSE.)

25 **THE COURT:** Let the record reflect, no one is standing.

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1 Any member of my jury panel formerly a member of the
2 Colleton County Grand Jury, which found the indictments in
3 this case? If so, please stand.

4 (NO RESPONSE.)

5 **THE COURT:** Let the record reflect, no one is standing.
6 Any member of my jury panel formed any opinion about the
7 alleged guilt or innocence of the defendant in this case,
8 Andre Taft Richardson, II? If so, please stand at this
9 time.

10 (NO RESPONSE.)

11 **THE COURT:** Let the record reflect, no one is standing.

12 Any member of my jury know of any reason whatsoever why
13 they can't give the State of South Carolina, or the
14 defendant in this case, Andre Taft Richardson, II, a fair
15 and an impartial trial? If so, please stand at this time.

16 (ONE JUROR STANDS.)

17 **THE COURT:** You may come forward, sir.

18 **BAILIFF:** Juror number Twelve, Your Honor.

19 **THE COURT:** All right. This is juror number Twelve,
20 John Blackmon, B-L-A-C-K-M-O-N. Now, you stood, Mr.
21 Blackmon, in response to my question. Do you know of a
22 reason why you could not be fair?

23 **JUROR:** I just don't think I could be impartial at all.
24 If I thought he did it, I just don't think I could be -- I
25 don't think I could deal with the burden of having a hung

1 jury or anything like that, sir.

2 **THE COURT:** Well, I tell you, Mr. Blackman, what I need
3 for you to do is to use your common sense and listen to the
4 evidence. You don't have anything to do with sentencing,
5 that's the Court's role, that's not the juror's role; is
6 that your concern?

7 **JUROR:** Well, I really don't think -- I know I'm the
8 type that would find someone guilty just because of the
9 crime committed and on his own and stuff.

10 **THE COURT:** Well, Mr. Blackman, here's what I'm going
11 to do then, I can't excuse you for that. I'm going to ask
12 you to stay here. I'm going to be here probably until 5:00
13 or 6:00 tonight. As long as I'm on the bench, you'll be
14 right here.

15 **JUROR:** Yes, sir.

16 **THE COURT:** But I'm not going to have you sit on the
17 jury if you tell me you can't listen to the evidence; but
18 you'll stay here as long as I'm on the bench.

19 **JUROR:** Yes, sir.

20 **THE COURT:** Have a seat in the courtroom and I'll take
21 you out.

22 (JUROR RETURNS TO SEAT.)

23 **THE COURT:** Pat, take out number Twelve. He's staying
24 out; but he's going to stay with me in the courtroom, as
25 long as I'm on the bench, he's going to be here.

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1 Madame Clerk, I've dealt with you on juror number
2 Twelve, Mr. Blackmon, and he understand he will remain in
3 the courtroom with me throughout this week. All right.
4 Any additional voir dire from the State of South Carolina?

5 **DEP. SOL. THORNTON:** No, sir.

6 **THE COURT:** From the defendant?

7 **MR. BEACH:** No, sir.

8 **THE COURT:** Madame Clerk, Counsel, approach.

9 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
10 AND OUT OF THE HEARING OF THE JURY.)

11 **THE COURT:** Madame Clerk, would you give us a jury,
12 please.

13 Ladies and gentlemen, what's happening right now and I
14 appreciate your patience, is that we have to ask certain
15 questions to you under oath to determine your impartiality.
16 The clerk, by computer, right now, is drawing a list of
17 those people who I have determined to be qualified and
18 impartial to serve as a potential juror in the trial of the
19 case. Nobody has seen that list. I haven't seen it, the
20 clerk hasn't seen it, and the lawyers haven't seen it. It's
21 being done right now by computer. The moment that list is
22 drawn by the computer, they will hand it to me and we will
23 begin the jury selection. Your name will be called if
24 you're selected and we'll ask you to come down the middle
25 aisle, turn around and face back toward where Mr. Beach is

1 standing. So you'll be facing the lawyers and you will hear
2 the clerk then call out, "What say the State of South
3 Carolina?" And the State will either then present you as a
4 juror or excuse you. Then, the clerk will say, "What say
5 the defendant?" The defendant will then ask you to either
6 be seated on the jury panel or excuse you. Each side has a
7 definite number of strikes. We will be drawing, in this
8 case three alternate jurors, so bear with us because we want
9 to get the jury selected. We're not going to start the
10 trial for you today. As soon as we select a jury, I'll be
11 excusing you. I appreciate your patience.

12 Now, counsel, I have met with you at the bench, and
13 it's my understanding you both agree the strikes are ten and
14 five; ten for the defendant, five for the State of South
15 Carolina, and two and one on the alternate and you all agree
16 to three alternates; is that correct from the State of South
17 Carolina?

18 **DEP. SOL. THORNTON:** The State agrees, Your Honor.

19 **THE COURT:** Is that correct from the defendant?

20 **MR. BEACH:** Yes, sir.

21 **THE COURT:** Very well. Madame Clerk, if you would,
22 please, would you now give us the jury?

23 **MADAME CLERK:** Yes, sir.

24 Sot to voice discussion between Clerk and Judge.)

25 **MADAME CLERK:** As I call your name, I need you to come

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1 all the way up to my desk, turn around and face the
2 attorney's tables, bring all of your belongings with you.
3 Number Fifty-six, Jamie S. Gaabo (White female.)
4 **MADAME CLERK:** What say ye for the State?
5 **DEP. SOL. THORNTON:** Please present this juror.
6 **MADAME CLERK:** What say ye for the defendant?
7 **MR. BEACH:** Swear the juror.
8 **MADAME CLERK:** Please have a seat in the jury box:
9 Number Six, Charles S. Babb, Jr. What say ye for the State?
10 **DEP. SOL. THORNTON:** Please present this juror.
11 **MADAME CLERK:** What say ye for the defendant?
12 **MR. BEACH:** Please excuse this juror.
13 **MADAME CLERK:** Please have a seat back with the panel.
14 Number Forty-five, Cynthia L. Doster (White female.) What
15 say ye for the State?
16 **DEP. SOL. THORNTON:** Please present this juror.
17 **MADAME CLERK:** What say ye for the defendant?
18 **MR. BEACH:** Please excuse this juror.
19 **MADAME CLERK:** Have a seat back with the panel. One
20 Fifty-three, Robert R. Stanfield (White male.) What say ye
21 for the State?
22 **DEP. SOL. THORNTON:** Please present this juror.
23 **MADAME CLERK:** What say ye for the defendant?
24 **MR. BEACH:** Please excuse this juror.
25 **MADAME CLERK:** Please have a seat back with the panel

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1 in the courtroom. One forty-eight, Carolyn M. Smalls (Black
2 female.) What say ye for the State?

3 **DEP. SOL. THORNTON:** Please present this juror.

4 **MADAME CLERK:** What say ye for the defendant?

5 **MR. BEACH:** Swear the juror.

6 **MADAME CLERK:** Please have a seat in the jury box to
7 your right. One Twenty-one, Cynthia A. Newman (White
8 female.) What say ye for the State?

9 **DEP. SOL. THORNTON:** Please present this juror.

10 **MADAME CLERK:** What say ye for the defendant?

11 **MR. BEACH:** Swear the juror.

12 **MADAME CLERK:** Please have a seat in the jury box.

13 Number Ninety-two, Rose Marie Jones (Black female.) What
14 say ye for the State?

15 **DEP. SOL. THORNTON:** Please excuse the juror from the
16 trial of this case.

17 **MADAME CLERK:** Please have a seat back with the panel.
18 Ninety-six, Benjamin A. Kinsey (White male.) What say ye
19 for the State?

20 **DEP. SOL. THORNTON:** Please present this juror.

21 **MADAME CLERK:** What say ye for the defendant?

22 **MR. BEACH:** Swear the juror.

23 **MADAME CLERK:** Please have a seat in the jury box.

24 Ninety-seven, Carlton W. Kirby (White male). What say ye
25 for the State?

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1 **DEP. SOL. THORNTON:** Please present this juror.
2 **MADAME CLERK:** What say ye for the defendant?
3 **MR. BEACH:** Please excuse this juror.
4 **MADAME CLERK:** Have a seat back with the panel. One
5 Thirty-five, Mary A. Reed (Black female.) What say ye for
6 the State?
7 **DEP. SOL. THORNTON:** Please excuse this juror.
8 **MADAME CLERK:** Have a seat back with the panel. Number
9 Five, Iesha L. Ancrum (Black female.) What say ye for the
10 State?
11 **DEP. SOL. THORNTON:** Please present this juror.
12 **MADAME CLERK:** What say ye for the defendant?
13 **MR. BEACH:** Swear the juror.
14 **MADAME CLERK:** Please have a seat in the jury box.
15 Fifty-three, Linda G. Fowler (White female.) What say ye
16 for the State?
17 **DEP. SOL. THORNTON:** Please present this juror.
18 **MADAME CLERK:** What say ye for the defendant?
19 **MR. BEACH:** Please excuse this juror.
20 **MADAME CLERK:** Have a seat back with the panel.
21 Number Forty-four, Eduardo Dominguez (Hispanic Male.)
22 What say ye for the State?
23 **DEP. SOL. THORNTON:** Please present this juror.
24 **MADAME CLERK:** What say ye for the defendant?
25 **MR. BEACH:** Please swear the juror.

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1 **MADAME CLERK:** Please have a seat in the jury box.

2 Number One Fifty-seven, James A. Taylor (Black male.) What
3 say ye for the State?

4 **DEP. SOL. THORNTON:** Please present this juror.

5 **MADAME CLERK:** What say ye for the defendant?

6 **MR. BEACH:** Swear the juror.

7 **MADAME CLERK:** Please have a seat in the jury box.

8 Number Nine, Elizabeth L. Barker (White female.) What say
9 ye for the State?

10 **DEP. SOL. THORNTON:** Please present this juror.

11 **MADAME CLERK:** What say ye for the defendant?

12 **MR. BEACH:** Please excuse this juror.

13 **MADAME CLERK:** Please have a seat back with the panel.

14 Number Thirty-five, Wendy K. Crosby (White female.) What say
15 ye for the State?

16 **DEP. SOL. THORNTON:** Please present this juror.

17 **MADAME CLERK:** What say ye for the defendant?

18 **MR. BEACH:** Please swear the juror.

19 **MADAME CLERK:** Please have a seat in the jury box.

20 Number Two, Edna V. Adkins (White female.) What say ye for
21 the State?

22 **DEP. SOL. THORNTON:** Please present this juror.

23 **MADAME CLERK:** What say ye for the defendant?

24 **MR. BEACH:** Please excuse this juror.

25 **MADAME CLERK:** Please have a seat back with the panel.

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1 Number Thirty-one, Allen D. Coggins (White male.) What say
2 ye for the State?
3 **DEP. SOL. THORNTON:** Please present this juror.
4 **MADAME CLERK:** What say ye for the defendant?
5 **MR. BEACH:** Please swear the juror.
6 **MADAME CLERK:** Please have a seat in the jury box.
7 Sixty-three, Isiah J. Grant (Black male.) What say ye for
8 the State?
9 **DEP. SOL. THORNTON:** Please excuse this juror.
10 **MADAME CLERK:** Please have a seat back with the panel.
11 Number Seventy, Joseph Hamilton (Black male.) What say ye
12 for the State?
13 **DEP. SOL. THORNTON:** Please present this juror.
14 **MADAME CLERK:** What say ye for the defendant?
15 **MR. BEACH:** Please swear the juror.
16 **MADAME CLERK:** Please have a seat with the jury box.
17 Number Twenty-five, Janice C. Carter (White female.) What
18 say ye for the State?
19 **DEP. SOL. THORNTON:** Please present this juror.
20 **MADAME CLERK:** What say ye for the defendant?
21 **MR. BEACH:** Please swear the juror.
22 **MADAME CLERK:** Please have a seat in the jury box.
23 Number One Thirty-seven, Rhonda L. Tisdale (White female.)
24 What say ye for the State?
25 **DEP. SOL. THORNTON:** Please present this juror.

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1 **MADAME CLERK:** What say ye for the defendant?

2 **MR. BEACH:** Please excuse this juror.

3 **MADAME CLERK:** Please have a seat back with the panel.

4 Number One Eighteen, Antonio T. Myers (Black male.) What
5 say ye for the State?

6 **DEP. SOL. THORNTON:** Please present this juror.

7 **MADAME CLERK:** What say ye for the defendant?

8 **MR. BEACH:** Swear the juror.

9 **MADAME CLERK:** Have a seat in the jury box.

10 **THE COURT:** That's 12, counsel. This will be alternate
11 number one. Strikes are two and one on the alternates.

12 **MADAME CLERK:** Number Twenty, Faith Y. Bryant (Black
13 female.) What say ye for the State?

14 **DEP. SOL. THORNTON:** Please present this juror.

15 **MADAME CLERK:** What say ye for the defendant?

16 **MR. BEACH:** Swear the juror.

17 **MADAME CLERK:** Please have a seat in the jury box.

18 **THE COURT:** Alternate number two; two and one on the
19 alternate.

20 **MADAME CLERK:** One Fifteen, Martha Whitlock (Black
21 female.)

22 **MR. BEACH:** What number was that again?

23 **MADAME CLERK:** One Fifteen. Martha Murray, but it's
24 Whitlock. What say ye for the State?

25 **DEP. SOL. THORNTON:** Please present this juror.

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1 **MADAME CLERK:** What say ye for the defendant?

2 **MR. BEACH:** Swear the juror.

3 **MADAME CLERK:** Please have a seat in the jury box.

4 **THE COURT:** Alternate number three; two and one on the
5 alternate.

6 **MADAME CLERK:** Number One-oh-three, Yolanda J. Lisbon
7 (Black female.) What say ye for the State?

8 **DEP. SOL. THORNTON:** Please excuse this juror.

9 **MADAME CLERK:** Please have a seat back with the panel.
10 Number One Sixty, Sharon M. Tomlinson (White female.) What
11 say ye for the State?

12 **DEP. SOL. THORNTON:** Please present this juror.

13 **MADAME CLERK:** What say ye for the defendant?

14 **MR. BEACH:** Please excuse this juror.

15 **MADAME CLERK:** Please have a seat back with the panel.
16 Number Fifty-one, Anita L. Ford (Black female.) Does the
17 State have any strikes for cause?

18 **DEP. SOL. THORNTON:** No, ma'am. Please present this
19 juror.

20 **MADAME CLERK:** What say ye for the defendant?

21 **MR. BEACH:** Swear the juror.

22 **MADAME CLERK:** Please have a seat in the jury box.

23 **THE COURT:** Are there any matters of law pertaining to
24 the selection of the jury that need to be decided before the
25 jury is sworn, from the State of South Carolina?

1 **DEP. SOL. THORNTON:** No, sir.

2 **THE COURT:** From the defendant?

3 **MR. BEACH:** No, Your Honor.

4 **THE COURT:** You understand that even though I do not
5 plan to swear the jury until tomorrow, your decision is a
6 waiver as to this matter; do you understand that, from the
7 State?

8 **DEP. SOL. THORNTON:** Yes, sir.

9 **THE COURT:** From the defendant?

10 **MR. BEACH:** Yes, sir.

11 **THE COURT:** Very well. All right, ladies and
12 gentlemen, I've kept you here a little late because I wanted
13 to get the jury selected. Here's what I want you to do.
14 Mr. Beach, is going to take -- if you don't know Mr. Beach,
15 he's this gentleman right her beside you. He's going to
16 take you back to your jury room, because I want you to know
17 where your jury room is. That is where I want you to report
18 in the morning. I don't want you to come here. I want you
19 to do a little work for me. Just a little bit tonight. I
20 want you to select a foreperson of the jury. Now, the three
21 of you on the end, my nice three ladies right there, ending
22 with Ms. Ford down there, y'all are alternates. Y'all are
23 just as important as the 12 people on the jury. I happen to
24 have, they put seven on the front row rather than six, and
25 I've got five of you ending with this gentleman. You are

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1 the 12 people on the jury for now. My alternates are going
2 to be with the jury at all times. If for some reason a
3 juror becomes ill or for some valid legal reason cannot
4 continue to serve, you would take their place, but I want
5 you to do some work on selecting a foreperson.

6 Let me tell you the duties of the foreperson. The
7 foreperson presides in the jury room, just like the
8 chairperson of a committee presides in a committee meeting.
9 It is the foreperson's job to see that each and every member
10 of my jury has a full and a fair opportunity to voice their
11 opinions in the jury room once deliberations begin. It's
12 also the foreperson's job to be the jury's spokesperson out
13 here in the courtroom should that need arise during the
14 trial of the case; the foreperson speaks for the entire
15 jury. It's also the foreperson's job to write the jury's
16 verdict, but I'll give you instructions about how to write
17 the verdict in my charge to you on the law at the conclusion
18 of the case. Now, those are the duties: preside in the
19 jury room, sees that everybody gets a chance to speak,
20 writes the jury's verdict, and is the spokesperson for the
21 jury out in the courtroom. Any of the 12 of you are
22 eligible to be the foreperson, not my three alternates, yet,
23 even though they are going to be with you.

24 I want you to quickly, amongst the 12 of you, select a
25 foreperson; he's going to give you a piece of paper. Write

1 the name on the piece of paper. Knock on your jury room
2 door, and give it to my bailiff, he's going to bring it back
3 out. I'm going to then bring you back out and excuse you
4 for the rest of the day. But I need to get that little bit
5 of work done, and it will save us time in the morning. I'm
6 not going to swear you until in the morning, but I want to
7 instruct you, now. You are not to discuss this case. You
8 have not heard any evidence in this case. It would be
9 improper for you to talk about it amongst yourselves or with
10 anybody else. When you are back there in the jury room
11 selecting a foreperson, talk about the weather, talk about
12 television or sports or whatever, but don't talk about this
13 case. When you go home tonight, I don't want you to talk
14 about this case. If somebody -- I know people are curious,
15 when you get home, somebody will say, "Did you get on the
16 jury?" They want to know all about what happened in court.
17 Please tell them that you can't talk about the case. The
18 judge asked you not to. If somebody tries to talk to you
19 about the case, and you tell them you can't talk about it
20 and they persist, you get their name and you give it to me,
21 and I'll handle that problem for you, ladies and gentlemen.
22 That person won't bother you anymore. I promise you that.
23 Now, I'm going to ask you, if you would, to go to your jury
24 room, and select a foreperson. Write the name on a sheet of
25 paper and I'll be right back with you. Thank you.

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1 (5:45 P.M., AUGUST 31, 2009, WHEREUPON THE JURY EXITS
2 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
3 RECORD.)

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

5 DEP. SOL. THORNTON: Your Honor, the only thing I'd
6 ask, since you're going to bring them back in, if you would
7 -- and if I missed it, Judge, I apologize. Would you also
8 instruct them, since I believe our local paper comes out
9 tomorrow ---

10 THE COURT: I'll take care of that when I excuse them
11 for the evening. I understand that.

12 DEP. SOL. THORNTON: Okay.

13 THE COURT: I'll take care of that. All right. Madame
14 Clerk, do they each have the card with the telephone number?

15 MADAME CLERK: Yes, sir.

16 THE COURT: All right. Ladies and gentlemen, if you'll
17 look, for most of you, I see that big smile on your faces
18 out there. Those not selected as a juror, you should have a
19 card with the telephone number -- what is it, Pat, here?

20 MADAME CLERK: 1775.

21 THE COURT: 5-4-9-1-7-7-5, if you don't have a card
22 with that telephone number on it, please raise your hand,
23 I've got plenty more.

24 (ONE JUROR RAISES HAND.)

25 THE COURT: Got a customer in the back here, Deborah.

1 Anybody else need one? All right. I'm going to ask you to
2 call that telephone number. I realize it's 5:45, but we
3 needed to get the jury selected, because we obviously want
4 to complete the trial in the early part of the week. I want
5 to thank you for your patience. Call the number after 6:00.
6 I will have a taped message on that number telling you when,
7 if at all, I might need you to return. There is one message
8 for all jurors, so if the line's busy, just keep calling and
9 you'll get through. If I do ask you to return, you will
10 report to the area of the courtroom that you are seated in
11 now. This side of the courtroom is reserved for my jurors.
12 Please be on time. If one of you is late, all the rest of
13 you have to sit and wait until everyone is present. So
14 please be on time.

15 If anyone of you anticipate you might have a
16 transportation problem, let one of my bailiff's know and
17 I'll provide transportation to get you here on time so that
18 the rest of my jurors don't have to wait. Please be
19 courteous and mindful of your fellow jurors and be on time.
20 There is a taped message and the reason we do that is --
21 when we work all day, every day, I want you to have the most
22 up to date information, so I'll put that message on your
23 tape after 6:00 tonight. Now, with the exception of Mr.
24 Blackmon, you stay with me. Everybody else is excused.
25 Call the number after 6:00.

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1 (5:47 P.M., AUGUST 31ST, 2009, WHEREUPON THE REMAINING
2 JURY PANEL EXITS THE COURTROOM AND THE FOLLOWING PROCEEDINGS
3 ARE HELD ON THE RECORD.)

4 THE COURT: Solicitor, I understand the jury has sent
5 me a note through the bailiff and they have chosen juror
6 number Seventy, Joseph Hamilton, as the foreman of the jury.
7 Any objection, from the State, to making the jury's note a
8 court exhibit in the trial of this case?

9 DEP. SOL. THORNTON: No objection, Judge.

10 THE COURT: From the defendant?

11 MR. BEACH: None, Your Honor.

12 THE COURT: I hand it to the court reporter. Court's
13 Exhibit Number One, without objection. Anything further
14 from the State before I bring the jury?

15 DEP. SOL. THORNTON: Nothing from the State, Judge.

16 THE COURT: From the defendant?

17 MR. BEACH: Nothing, Your Honor.

18 THE COURT: Bring us the jury, please, Odell.

19 (5:55 P.M., AUGUST 31ST, 2009, WHEREUPON THE JURY
20 ENTERS THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD
21 ON THE RECORD.)

22 THE COURT: Congratulations, Mr. Hamilton.

23 JUROR: Thank you, Sir.

24 THE COURT: That will be your seat. Have a seat for
25 me. Watch your step back there, ma'am, on that thing. I

1 don't want anybody to fall. Step up on the box and I've got
2 my alternates down there on the end.

3 All right. Mr. Hamilton, congratulations on your
4 selection as foreman of the jury. That will be your seat
5 throughout the trial of the case, so I'm going to ask you to
6 sit there. The rest of you, except I do like for my
7 alternates to sit on the end down there, you can sit in any
8 order, although I've got the order on my sheet that you were
9 selected, so you'll know, Alternate number one is Ms.
10 Bryant, Alternate number two is Ms. Murray-Whitlock, and
11 Alternate number three is Ms. Ford. So that is normally, if
12 a matter comes up, that's the order in which you were
13 selected.

14 I will talk to the lawyers if an alternate has to be
15 placed on the jury, but you're just as important as a member
16 of the jury, because we don't know whether we'll need you at
17 this point or not. So you're going to be with the jury at
18 all times throughout the trial of the case. If somebody
19 becomes ill or some valid legal reason cannot continue to
20 serve, you'll take their place on the jury.

21 Now, as to the rest of you, you can sit anywhere that
22 you want to, other than my foreperson down here, but I want
23 to warn you about a couple of things. If you want to sit by
24 somebody, just line up in the jury room when you come in you
25 can sit by them. On my back row, I have had some people, if

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1 you look down on the back row, you're going to see there is
2 a pretty large step, out in front of your seat. I've had
3 some people step down there and fall, so I want you to be
4 careful on that back row. When you've gone off the back end
5 of the jury box back there, where you have to step up, you
6 have to step down to get out of the back row. So be careful
7 when you're coming in and out of the jury box.

8 Now, let me tell you what we're going to do, ladies and
9 gentlemen, I'm not swearing you until in the morning.
10 However, I want to warn you about a couple of things. I
11 don't know whether there will be anything on radio, on the
12 newspaper, or on television about this case. Please do not
13 read such, watch such, or listen to such. It would be
14 improper for you to do so. You must decide this case solely
15 upon evidence introduced during the trial of this case when
16 both sides are present with the right of cross-examination.
17 So we ask you not to read the paper, don't watch television
18 -- if it comes on and it's about this case, turn it off,
19 change the channel, but don't watch it. If something is in
20 the paper and the local paper comes out tomorrow, I ask you
21 not to read such. You must decide the case solely upon
22 evidence introduced during the trial of the case when both
23 sides are present with the right of cross-examination. It
24 unfairly prejudices, or hurts, both sides if you decide
25 something based on information that they don't know about.

1 Both have the right to confront the information. You're
2 going to hear it for the first time, just as I will, we'll
3 all hear it together, but it won't be on some source that
4 they don't know about. Does everybody understand that?

5 **MR. FOREPERSON:** Understood.

6 **THE COURT:** Now, as I told you before you left me, when
7 you go home tonight, please don't discuss this case with
8 anyone; not even a member of your own family. Just tell
9 them you can't talk about it. It's important that you keep
10 an open mind and not discuss the case until all the evidence
11 has been introduced, you've heard the final arguments of the
12 attorneys, and you've gotten my charge on the law at the
13 conclusion of the case. I'm going to explain that to you
14 tomorrow.

15 Now, we have some new rules. Each of you got one of
16 these, didn't you? I want you to take a look at this
17 pamphlet because we have some new rules about cell phones
18 and beepers. While you're on the jury, it tells you that
19 you shouldn't discuss the case with others, shouldn't read
20 or listen to any news reports; you shouldn't use a computer,
21 a cell phone, or other electronic devices with communication
22 capabilities. That applies not only when you're in this
23 jury box, but in your jury room and at any time while you're
24 on jury duty. We're very strict about that and we don't
25 like -- what people do now is they are so interested in

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1 using their Blackberry's, because they can received e-mail
2 and receive information, that is absolutely prohibited while
3 you're on jury duty. In a county far from here, we had a
4 jury go out, before we banned cell phones and beepers, and
5 they were discussing a medical issue in their jury room, and
6 one of the jurors reached in their pocket and said, "You
7 know, my brother's a doctor. I'll just call him and ask his
8 opinion on the telephone." Obviously, ladies and gentlemen,
9 that's improper. You must decide the case solely upon
10 evidence introduced during the trial of the case.

11 So we don't allow cell phones or beepers. Please don't
12 bring one with you. I'm required by court rule to
13 confiscate them. I don't want anybody's cell phone or
14 beeper. So please don't bring it and don't use it in your
15 jury room or while you're on jury duty.

16 Now, I'm going to ask y'all to be here tomorrow morning
17 by ten minutes to ten, because we're going to be working
18 before any of you get here in the morning to try to shorten
19 the time your presence might be required. But I want to
20 start at 10:00. Now, I'm estimating at how long it's going
21 to take me out here, that's why I'm starting at 8:30. I
22 want you in that jury room, ready to go, so we can start as
23 close to 10:00 as possible. They are going to have
24 something for you to eat and something for you to drink.
25 I'm going to take excellent care of you while you're on jury

1 duty. I promise you, I will. They will have something for
2 you to nibble on if you get here early. If one of you is
3 late, all the rest of you have to sit and wait if somebody
4 is not punctual.

5 If anybody needs transportation getting here in the
6 morning, you let Mr. Beach know before you leave here
7 tonight. I'll provide transportation. I want all my jurors
8 here on time and I'll be checking to make sure you are here
9 on time. Everybody understand that?

10 **JUROR:** Understood.

11 **THE COURT:** All right. Now, does everybody understand
12 tomorrow, instead of coming back to the courtroom, I want
13 you to report directly to your jury room and I want you here
14 prior to 10:00 in the morning? Everybody understand that?
15 Any questions about any of the instructions that I've given
16 to you? Everybody understands what to do?

17 **JURORS:** Yes.

18 **THE COURT:** I want to thank you for your patience
19 during roll call this afternoon and during the jury
20 qualification and the jury selection. I know that sometimes
21 you think we move slow, but we have a reason for doing that,
22 and obviously, we want to make sure that we select impartial
23 jurors to try to the case. Now, I know that you don't know
24 anything about the case, because you swore to me that you
25 didn't, because I asked you. I don't either. It's designed

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1 that way. It's designed that you keep an open mind and
2 don't know anything about the case and only decide the case
3 based on what you hear in this courtroom when both sides are
4 present, with the right of cross-examination. So don't be
5 concerned that you don't know anything. You're not supposed
6 to know anything about the case. Now, don't be concerned
7 about the law. I will instruct you on the law during the
8 case and at the conclusion of the case, so your job is to
9 listen and to listen carefully. I'm sure that each of you
10 will do that throughout the trial of the case. I thank you.
11 I look forward to seeing you in the morning. We'll try to
12 start as close to 10:00 -- yes, ma'am? You got a question?
13 **FEMALE JUROR:** I'm sorry. May we take notes?
14 **THE COURT:** I'm going to answer that in the morning,
15 but that's a great question and I'll answer it for you now.
16 You are going to see me -- you see I've got a pen in my hand
17 and I've got a notebook up here, my law clerk has got his
18 computer and we're handing each other things, because we
19 work constantly to anticipate what's coming next in a trial.
20 I've tried it both ways. I've allowed the jury to take
21 notes and I've allowed them not to. I ask that you do not
22 take notes. Do you want to know why? Because I've found
23 that if the written note taker makes an error in the written
24 notes, the notes can be harmful, rather than helpful, once
25 you begin your deliberations. So I ask that you do not take

1 notes. I'm going to cover all of that in my opening remarks
2 to you in the morning, but that's a good question.

3 Are there any more questions about the instructions
4 that I've given you for overnight?

5 (NO RESPONSE.)

6 **THE COURT:** All right. I look forward to seeing you in
7 the morning. You're now excused until 10:00 in the morning.
8 Thank you very much.

9 (6:10 P.M., AUGUST 31ST, 2009, WHEREUPON THE JURY EXITS
10 THE COURTROOM AND THE COURT IS IN RECESS UNTIL TUESDAY
11 MORNING.)

12 (8:30 A.M., SEPTEMBER 1ST, 2009, COURT RESUMES;
13 WHEREUPON THE FOLLOWING PROCEEDINGS ARE HELD ON THE RECORD,
14 OUTSIDE THE PRESENCE OF THE JURY.)

15 **THE COURT:** Yesterday we had a problem -- or Becky had
16 a problem with the mask, and I called Harris and Sean into
17 my chambers, and the problem was -- Becky had to explain
18 this to me, because obviously y'all know I'm not aware of
19 all this technology. The problem was when Becky talks into
20 her mask, she talks and it prints out in a code, or is it
21 actual words on a screen?

22 **COURT REPORTER:** Words, real-time.

23 **THE COURT:** If it's keyed to her mask, it actually
24 prints the words out on the screen. She has two backup
25 systems, both are working, but the code on her mask was not

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1 printing the words out and that was the problem. That has
2 been completely fixed and the words are being printed out on
3 the screen and so there is no concern now with the equipment
4 of the court reporter, and I wanted to let Mr. Beach and Mr.
5 Thornton aware of that..

6 My understanding, now, is that there are some
7 statements that the State seeks to admit into evidence in
8 the trial of this case, and Mr. Beach has asked for an in
9 camera hearing, as has the State, pursuant to Jackson v.
10 Denno, and as to the statements, we need to determine the
11 admissibility of the statements; is that correct, Mr. Beach?

12 **MR. BEACH:** That is correct, Your Honor.

13 **THE COURT:** Correct, Mr. Thornton?

14 **DEP. SOL. THORNTON:** Yes, sir.

15 **THE COURT:** All right. Mr. Thornton, at 8:44 now,
16 let's call your first witness.

17 **DEP. SOL. THORNTON:** Yes, sir. Thank you, Your Honor.
18 Would Jodi Taylor please take the stand?

19 **MADAME CLERK:** Please come forward and take the stand.

20 **WHEREUPON, Jodi Taylor is duly sworn.**

21 **THE COURT:** Good morning, Ms. Taylor.

22 **MS. TAYLOR:** Good morning, Judge.

23 **THE COURT:** How are you this morning?

24 **MS. TAYLOR:** Well, I'm good. How are you?

25 **THE COURT:** Doing fine. Pull that over for me. Tap it

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1 for me, Jodi, even though -- Mr. Padgett; need to turn the
2 mic's on. Nothing's on. Mine's not on either. Are we
3 using the screen?

4 **DEP. SOL. THORNTON:** Not this morning, Judge, but we
5 will be for the jury, and I went ahead and got it ready.

6 **THE COURT:** Tap yours, now. It looks like we are
7 ready. Would you state your full name and spell your last
8 name for the record, please, ma'am.

9 **MS. TAYLOR:** Jodi Taylor, T-A-Y-L-O-R.

10 **THE COURT:** Very well. Your witness, counsel.

11 **DIRECT EXAMINATION**

12 **BY DEP. SOL. THORNTON**

13 **Q** Ms. Taylor, who do you work for?

14 **A** Colleton County Sheriff's Office.

15 **Q** All right. And did you work in that capacity on
16 October 27th, 2008?

17 **A** Yes, sir.

18 **Q** On that date, did you have occasion to the defendant,
19 Andre Taft Richardson, the second?

20 **A** Yes, sir, I did.

21 **Q** All right. Where you were at when you talked to Mr.
22 Richardson?

23 **A** We were out on the scene on Bethel Road.

24 **Q** All right. And when you say "scene", you mean crime
25 scene?

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- 1 A Yes, sir.
- 2 Q All right. What was that crime?
- 3 A It was a murder.
- 4 Q All right. Who was the victim in that case?
- 5 A Mr. Freddie Steward.
- 6 Q All right. Is that the case that we're here about
- 7 today?
- 8 A Yes, sir.
- 9 Q All right. And had you placed Mr. Richardson under
- 10 arrest at that point?
- 11 A No, sir.
- 12 Q Was he in custody?
- 13 A No, sir.
- 14 Q Did you have him handcuffed?
- 15 A No, sir.
- 16 Q Did you threaten him in any way?
- 17 A No, I did not.
- 18 Q Did you promise him anything?
- 19 A No, sir.
- 20 Q All right. Did he sign -- I want to --
- 21 **DEP. SOL. THORNTON:** Your Honor, may I approach?
- 22 **THE COURT:** You may.
- 23 Q I want to hand you a document that has yet to be
- 24 marked; do you recognize that document?
- 25 A Yes, I do.

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1 Q All right. Is that what is called a "voluntary
2 statement form"?

3 A It is.

4 Q And is there a language on that form that indicates
5 that it is voluntary?

6 A Yes, there is.

7 Q Would you, please, read that section?

8 A "I declare that the voluntary statement is made to the
9 aforesaid person of my own free will without promise of hope
10 or reward, without fear, or threat of physical harm, without
11 coercion, favor, or offer of favor, without leniency, by any
12 person or persons whomsoever."

13 Q Now, the particular form that I've handed you and you
14 just read that from, is that a statement given by Mr.
15 Richardson to you?

16 A It is.

17 Q All right. And did Mr. Richardson sign that statement
18 in your presence?

19 A He did.

20 Q And underneath his signature, where it says "witness",
21 is that your signature?

22 A It is.

23 Q It indicates it was completed at 3:43 p.m. on October
24 the 27th; is that correct?

25 A That's correct.

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1 Q All right. And if you would, please, for the Court's
2 information, publish what is on what you've identified as
3 Mr. Richardson's statement.

4 A Okay. "I woke up this morning at 10:00 A.M. and
5 watched TV for about an hour and a half. My grandfather's
6 room is right near the kitchen. I noticed that he was not
7 home. He came home at about 11:30 A.M. with some bags in
8 his hand. I believe they were brown, plastic shopping bags.
9 I left the house around 11:45 A.M., headed to Springtown to
10 meet my cousin, Akeem Shider, but before I got to his
11 mother's house, he called me and said he had already left
12 and was on Highway 15, on the way to PeeDee's to get a part
13 for his new tires and we were going to meet there. I went
14 to get a haircut at Hodge's on Main Street before going to
15 PeeDee's. After being there 30 to 40 minutes, my cousin,
16 Myeshia called my cell and told me what had happened to my
17 grandfather. I tried to call my mother (Sandra Richardson)
18 several times on her cell, but didn't get her until I called
19 her work number. I picked her up from her job (Dr. Rhodes'
20 Office). My sister called me and told me where my
21 grandfather was and we came to the scene at Bethel Road.
22 Statement written for me by Detective Jodi Taylor."

23 Q All right. You wrote the statement?

24 A Yes.

25 Q Did you allow him to read it and review it?

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1 A Yes.

2 Q Did he review and indicate that it was correct?

3 A Yes.

4 Q Did he sign it?

5 A Yes.

6 Q Did you witness his signature?

7 A I did.

8 Q Did he appear to understand what you had written down?

9 A Yes.

10 Q What you wrote down is what his statement to you was?

11 A Yes, it was.

12 Q Did he appear to be under the influence of any
13 narcotics or anything else at that time where he wouldn't
14 understand what he was doing?

15 A No.

16 DEP. SOL. THORNTON: I have nothing further of this
17 witness, Your Honor, as to this first statement.

18 THE COURT: Are you going to mark this statement for
19 purposes of this hearing, as a Court's Exhibit?

20 DEP. SOL. THORNTON: I can, Your Honor. I just wanted
21 her to publish it so you knew what the statement would be.
22 I'm happy to mark it. I don't think we need to, Judge.
23 That's why I wanted her to publish it.

24 THE COURT: Very well. Mr. Beach, cross-examination?

25 MR. BEACH: Thank you, Your Honor.

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CROSS-EXAMINATION

BY MR. BEACH:

Q At any time did he leave the scene of the crime?

A No, sir.

Q You say he was not under arrest at that time?

A No, sir.

Q Was he a suspect at that time?

A No, sir.

Q This was at the crime scene?

A Yes, sir.

Q Is it usual practice to have someone write a statement at the crime scene?

A Well, at that time, we were trying to determine the steps of the victim's day. The defendant was one of the last persons to see him alive that morning, so were trying to determine the steps of the day and what had happened.

Q But he did not admit to any complicity of the crime?

A "Complicity", can you explain?

Q He didn't admit doing it?

A No, he did not.

MR. BEACH: No other questions, Your Honor.

THE COURT: Very well. Redirect?

DEP. SOL. THORNTON: Your Honor, I have none, and Ms. Taylor would be the only witness as to this statement. However the Court wants to do them, one at a time, or do

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1 them all together.

2 **THE COURT:** Mr. Beach, is there any objection to the
3 admissibility of this statement?

4 **MR. BEACH:** Yes, Your Honor.

5 **THE COURT:** Be happy to hear from you at this time.
6 Just a moment before we proceed. In light of the fact that
7 there's no redirect, is there any reason Ms. Taylor can't
8 step down, Solicitor?

9 **DEP. SOL. THORNTON:** None from the State, Judge.

10 **THE COURT:** Ms. Taylor, you may step down. Remain with
11 us if you will. Mr. Beach, I'll be happy to hear from you
12 at this time.

13 **MR. BEACH:** Your Honor, I would object to the
14 introduction of this particular statement. First of all,
15 it's not a confession. It is not a statement of any
16 interest. It has no probative value whatsoever. Now, I
17 think what the State wants to do is to tack several of these
18 statements together and talk about some sort of progression,
19 but he did not admit to doing anything and he has not made
20 any incriminating statement at this point. I think it would
21 prejudicial for the jury to hear what he said preliminarily,
22 as opposed to what he may have said at a later date. For
23 that reason, I would ask that the Court exclude this
24 statement.

25 **THE COURT:** Mr. Thornton?

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1 **DEP. SOL. THORNTON:** Nothing, Your Honor. Mr. Beach is
2 exactly right in his factual statement, which is, I am going
3 to string these statements together, if the Court lets them
4 in, as you will see in the next few minutes, Judge.

5 Mr. Richardson, in this case, first said, "I don't know -
6 nothing and I didn't see nothing." And the last statement
7 that he gave, which is a three hour and forty-five minute
8 interview with Allen Inabinett, he talks about a mysterious
9 group of ninja-clad people that came in and kidnapped him
10 and his grandfather, and that is some five or six months
11 later after he had plenty of time to get his story together,
12 what he wanted to tell. I think it is admissible. It's his
13 statement ---

14 **THE COURT:** The objection, as I understand it, Mr.
15 Thornton, as Mr. Beach, as just stated, is going to take it
16 one at a time. Both of you are very familiar with future
17 statements; I'm not, so I'm going to do them one at a time
18 right now. Mr. Beach objects to this statement on the basis
19 that it is not inculpatory. In fact, Mr. Beach, in cross-
20 examination of Ms. Taylor was whether or not this statement
21 was incriminating or implicated Mr. Beach's client in this
22 event, in which she replied, "It did not."

23 In fact, the statement, according to Ms. Taylor, is
24 exculpatory, rather than inculpatory, and that was the basis
25 of Mr. Beach's objection, because he thinks it's prejudicial

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1 to admit the statement where you may have later statements
2 that could be argued to me inconsistent with this statement.
3 I'm happy to hear from you on the basis of that. Mr. Beach,
4 apparently, does not contest custody. So that's not the
5 issue here. You understand the basis ---

6 **MR. BEACH:** That's correct.

7 **THE COURT:** --- and he says that's correct.

8 **DEP. SOL. THORNTON:** I understand his raising his
9 objection, Judge. I don't -- I don't recognize that as an
10 objection under the rules, Your Honor, but the fact is that
11 it's a statement made by the defendant and custody is not an
12 issue. Therefore, the only issue is was it in totality
13 circumstances, voluntary. It's a voluntary statement that
14 he gave to Detective Taylor. He signed it, he wasn't in
15 custody, he wasn't promised anything; he wasn't threatened
16 in any way. I think it is admissible as a statement by the
17 statement.

18 **THE COURT:** All right. Mr. Beach, does the defendant
19 wish to put up any evidence on this statement?

20 **MR. BEACH:** No, Your Honor.

21 **THE COURT:** Very well. Mr. Beach, I understand your
22 objections. I do not believe Miranda warnings are
23 applicable to a voluntary statement, which are not the
24 product of interrogations, which is not the basis and you
25 forthrightly told me that's not the basis of your objection.

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1 In other words, as to this statement, custodial
2 interrogation is not the issue. I'm going to consider each
3 statement separately on the record. This is as to the first
4 statement. I've carefully considered the evidence
5 presented, which is the testimony of Ms. Taylor as to the
6 statement, which has been offered by the State. The
7 defendant has not offered any evidence as to this statement
8 and I'm convinced by a preponderance of the evidence that
9 the statement is admissible.

10 I overrule your objection that there may be some
11 inconsistency. I think inconsistency is more for the Trier
12 of facts, and I think that it could be relevant; it may not
13 be relevant, but that will be up to the jury. I do not
14 believe the fact that there may be some inconsistency in a
15 later statement is a basis to exclude it at this point, and
16 I find that the statement is admissible. I will, of course,
17 charge the jury concerning voluntariness, which is also not
18 the subject of your objection as to the first statement, and
19 I find it's admissible. Let's move along, Solicitor.

20 **DEP. SOL. THORNTON:** The State calls Detective Jeff
21 Scott to the stand.

22 **THE COURT:** Come around, please, and be sworn for me.

23 **MADAME CLERK:** Please raise your right hand and place
24 your left hand on the Bible.

25 **WHEREUPON,** Detective Jeff Scott is duly sworn.

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1 **THE COURT:** Please, if you would, I've got jurors
2 coming in. I want to make sure that I don't have any jurors
3 in the courtroom during this hearing. Do you understand,
4 Ms. Cobb? Have I got anybody on this door? Please make
5 sure no jurors come in the courtroom, now. I'm assuming,
6 and I want the record to reflect that, obviously, the
7 defendant is present, along with his attorney, and the staff
8 of the public defender's office, and the staff of the
9 Solicitor's Office. There are a number of people in the
10 courtroom. My understanding from counsel is there are other
11 people in the courtroom; actually, Mr. Lemacks came in at
12 ten minutes to nine this morning. Where are you, Jay?

13 **MR. LEMACKS:** Right here.

14 **THE COURT:** Welcome.

15 **MR. LEMACKS:** Thank you, Your Honor.

16 **THE COURT:** It is my understanding that all the people
17 in the courtroom are not jurors; is that correct, Solicitor?

18 **DEP. SOL. THORNTON:** That is correct, Your Honor.

19 **THE COURT:** You satisfied with that Mr. Beach?

20 **MR. BEACH:** Yes, Your Honor.

21 **THE COURT:** Very well. Would you state your full name
22 and spell your last name for the court reporter?

23 **WITNESS:** Detective Jeff Scott, S-C-O-T-T.

24 **THE COURT:** Your witness, counsel.

25 **DEP. SOL. THORNTON:** Thank you.

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DIRECT EXAMINATION

BY DEP. SOL. THORNTON:

Q Detective Scott, who do you work for?

A Colleton County Sheriff's Office.

Q All right, sir. And did you work for the Colleton
County Sheriff's Office in October of 2008?

A Yes, I did.

Q And did you remain employed with them throughout this
entire time?

A Yes, I did.

Q All right, sir. And have you ever had an occasion to
work on the case of the State v. Andre Taft Richardson, II?

A That's correct.

Q And did you talk with Mr. Richardson as it relates to
the murder of Freddie Steward?

A Yes, I did.

Q All right, sir. And could you identify, for the
record, Mr. Richardson?

A Yes, I can. He's the gentleman over here in the blue
sweater vest, sitting next to Mr. Beach.

Q Have you talked to him, sir?

A Yes, I did.

Q Did you talk to him on one occasion or more than one?

A More than one.

Q All right, sir. When was the first time you talked to

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1 him about this case?

2 A The first time I saw Mr. Richardson was October the
3 29th, 2008.

4 Q All right, sir. And where did you talk to him?

5 A Colleton County Sheriff's Office, Criminal
6 Investigation Division Annex.

7 Q All right, sir. And was he under arrest at that time?

8 A No, he was not.

9 Q How did he get there?

10 A He actually came there with his mother.

11 Q All right. So did you bring him in, in a patrol car?

12 A No, sir, I did not.

13 Q All right. So he voluntarily came in?

14 A Yes, sir. He was there with his mother and I took that
15 as my opportunity to talk to him about the case.

16 Q All right. Did he talk to you?

17 A Yes, sir, he did.

18 Q All right. Before you talked to him, did you read him
19 his rights?

20 A Yes, sir, I did.

21 Q All right.

22 DEP. SOL. THORNTON: May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 Q Mr. Scott, I'm handing you what's been marked as

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1 Court's Exhibit Number One, for the purposes of this
2 hearing. Do you recognize that document?

3 A. Yes, sir, I do.

4 Q And what is it, sir?

5 A It is a Colleton County Sheriff's Office Miranda Rights
6 form.

7 Q All right, sir. And is it filled out for any
8 particular person?

9 A Yes, sir, it is.

10 Q And who is it?

11 A Mr. Andre Richardson.

12 Q And is that the form that you read to the defendant in
13 this case?

14 A Yes, it is.

15 Q All right. Would you please indicate what his rights
16 are on that form?

17 A Yes, sir. Number one says: you have the right to
18 remain silent. Number two says: anything you say can and
19 will be used against you in a court of law. Number three
20 says: you have the right to talk to your lawyer and have him
21 present with you while you're being questioned. Number four
22 says: if you cannot afford to hire a lawyer, one will be
23 appointed to represent you before being questioned. Number
24 five says: you can decide at any time to exercise these
25 rights and not answer any questions or make any statements,

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1 and below that there is a signature, and at the bottom of
2 the form is the waiver of rights, which I read, "I have read
3 and have had read to me the above statement of my rights,
4 and I understand each of those rights. Having those rights
-5 in mind, I waive them and willingly make a statement."

6 Q All right, sir. And did Mr. Richardson indicate by
7 initialing that he understood his rights?

8 A Yes, sir. One through five was initialed by Mr.
9 Richardson.

10 Q All right. Did he then sign the form and agree to talk
11 to you ?

12 A Yes, sir, he did.

13 Q All right, sir. And did you threaten him in any way?

14 A No, sir.

15 Q Did you place him in custody at that time?

16 A No, sir.

17 Q Was he free to leave at that time?

18 A Yes, sir.

19 Q And did you promise him anything if he talked to you?

20 A No, sir..

21 Q Did you threaten him in any way to talk to you?

22 A No, sir.

23 Q Did he seem to understand what his rights were when he
24 was initialing?

25 A Yes, sir.

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1 Q All right. Did he agree to talk to you?

2 A Yes, sir.

3 Q What did he tell you?

4 A Mr. Richardson told me the morning of the 27th, the day
5 of Mr. Freddie's death, that he woke up around 10 a.m.,
6 noticed his grandfather was not home. He stated that a
7 short time later his grandfather did come home, at which
8 time he exited the residence somewhere around 11:30, 11:45,
9 to go meet with Roderick Shider, to go to Pee Dee's to get a
10 part for a tire. Then, from there, they were going to leave
11 Mr. Shider's vehicle at Pee Dee's and then head to Beaufort.
12 Mr. Richardson's vehicle, he stated that when he got on Red
13 Root Road, he made a phone call to Mr. Shider, and Mr.
14 Shider said he was already on 15, so therefore, Mr.
15 Richardson said he had turned back around and headed back in
16 the direction of the Red Root Road, Bethel Road area. He
17 did not pass any vehicles on his way to town. He proceeded
18 to get gas, as well as stop off at the One Stop, which is
19 the unemployment office, and then from there he went to
20 Hodge's Barber Shop. While he was at Hodge's Barber Shop he
21 received a call from Myeshia Yates advising him that
22 somebody had killed Mr. Freddie. Mr. Richardson then
23 attempted to phone call his mother, made contact with her at
24 her job, and then left the barber shop, picked up his
25 mother, and proceeded to the crime scene.

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1 Q All right, sir. And did you videotape this?

2 A Yes, sir.

3 Q All right. Has that videotape been provided to the
4 defense, Mr. Beach, as well as my office?

5 A Yes, sir, it has.

6 Q At any time during this interview, did Mr. Richardson
7 indicate that he was in any way -- the last question that
8 was asked of the last witness, complicit, or in other words,
9 did he say he did anything to his grandfather?

10 A No, sir, he did not.

11 Q So, basically, it was, "I don't know nothing. I didn't
12 see anything"?

13 A Correct.

14 Q All right, sir. Have you talked to him on other
15 occasions?

16 A Yes, sir, I did.

17 Q All right, sir.

18 DEP. SOL. THORNTON: Your Honor, I'll stop here. I
19 have, I believe, two more discussions which don't amount to
20 a whole lot with Mr. Richardson making statements from this.
21 I can stop here and let Mr. Beach cross, and he can argue
22 the statement, or I can ---

23 THE COURT: I'm going to take them separately. I think
24 I'm required ---

25 DEP. SOL. THORNTON: Yes, sir.

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1 THE COURT: --- to take the statements separately.

2 DEP. SOL. THORNTON: As to this statement, Your Honor,
3 I have no further questions of Detective Scott.

4 THE COURT: Very well. Mr. Beach, cross-examination as
5 to this statement? Now, is this -- you told me, is this a
6 video?

7 DEP. SOL. THORNTON: I'm not playing the videos, Your
8 Honor. That's why I'm having the officers recite ---

9 THE COURT: So the only thing you're going to do is
10 have the officer orally testify as to this statement?

11 DEP. SOL. THORNTON: Yes, sir.

12 THE COURT: And it will not include any additional
13 matter other than what the officers told us during this
14 Jackson v. Denno hearing?

15 DEP. SOL. THORNTON: That's correct, sir. Other than
16 what he's already testified.

17 THE COURT: You understand, Mr. Beach?

18 MR. BEACH: It's my understanding that they're not
19 going to use the video?

20 THE COURT: It's the State's intention not to use the
21 video, but, of course, you could -- are you objecting to
22 this statement?

23 MR. BEACH: Yes, on the same grounds as the other, Your
24 Honor.

25 THE COURT: All right. Well, I'll let you cross-

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1 examine, first, and then we'll take up the matter of the
2 video.

3 MR. BEACH: Okay.

4 CROSS-EXAMINATION

5 BY MR. BEACH:

6 Q Detective Scott, you say he did not object to doing it;
7 is that correct?

8 A Correct.

9 Q And he was in there with his mother?

10 A He came to the office with his mother. The interview
11 was conducted one-on-one.

12 Q Did you also interview his mother?

13 A Yes, I did.

14 Q Was she asked to come in that day?

15 A Not by me, sir.

16 Q Did anybody else ask her?

17 A I don't have any knowledge of that.

18 Q All right. Did you interview him one-on-one or was
19 anybody else in the room?

20 A Just me and Mr. Richardson.

21 Q And you gave him his Miranda warnings?

22 A Yes, I did.

23 Q You told him he was a suspect?

24 A No, sir.

25 THE COURT: What was your answer?

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1 DET. SCOTT: No, sir.

2 Q Did he at any time ask for an attorney?

3 A No, sir.

4 Q Okay. Did he ask to see anybody, his mother, or
5 anybody else during the interview?

6 A No, sir.

7 Q All right.

8 MR. BEACH: No further questions, Your Honor.

9 THE COURT: Redirect, as to this statement only?

10 DEP. SOL. THORNTON: None, Your Honor.

11 THE COURT: Very well. You may step down, Mr. Scott.

12 Does the State intend to introduce any other evidence
13 on this statement?

14 DEP. SOL. THORNTON: Your Honor, the State doesn't
15 intend to introduce any other evidence as to this statement.
16 I would like to clarify something.

17 THE COURT: Are you going to call him for the next
18 statement?

19 DEP. SOL. THORNTON: Yes, sir.

20 THE COURT: Mr. Scott, come on back.

21 DEP. SOL. THORNTON: I do want to get one point clear
22 with the Court. I'm going to -- the tapes are available.
23 Mr. Beach asked if ---

24 THE COURT: Well, let me take that up before -- I have
25 to hear what it is that Mr. Beach is complaining about in

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1 order to rule on it.

2 **DEP. SOL. THORNTON:** Yes, sir.

3 **THE COURT:** Now, my understanding from you is you do
4 not intend to introduce, as to this second statement, the
5 videotapes?

6 **DEP. SOL. THORNTON:** No, sir, I don't.

7 **THE COURT:** That's all I need to know. Mr. Beach, does
8 the defendant intend to introduce any evidence concerning
9 this second oral statement, which will be the testimony of
10 Mr. Scott?

11 **MR. BEACH:** No, Your Honor.

12 **THE COURT:** All right. Mr. Beach, do you object to the
13 admissibility of this second oral statement that Mr. Scott's
14 going to testify to concerning your client?

15 **MR. BEACH:** I do, Your Honor. It's based on the same
16 argument that I had with the previous statement.

17 **THE COURT:** The fact that it is exculpatory rather than
18 inculpatory, which you know and I know goes to the weight,
19 rather than admissibility.

20 **MR. BEACH:** Yes, sir.

21 **THE COURT:** However, that's the basis and not any other
22 objection on voluntariness or custodial interrogation?

23 **MR. BEACH:** No, sir.

24 **THE COURT:** All right, sir. Mr. Thornton, you want to
25 be heard on this? The objection is that the statement is

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1 exculpatory rather than inculpatory, and Mr. Beach believes
2 on that basis it's inadmissible, because there may be later
3 statements that the jury could infer that there is
4 inconsistency, which I am more than willing to hear from you
5 on, although I think that is, as I've suggested, Mr. Beach,
6 a matter for the jury.

7 **DEP. SOL. THORNTON:** The State would rely on previous
8 argument.

9 **THE COURT:** I will certainly instruct the jury
10 concerning any statement of voluntariness. Mr. Beach, your
11 objection is respectfully overruled, but let me say as to
12 this statement, I find that before the statement was
13 obtained by the defendant, even though Mr. Beach has not
14 objected, that the defendant was fully advised of his rights
15 under the 5th and the 6th Amendment of the Constitution of
16 the United States, and that the defendant was also advised
17 of his Constitutional safeguards, pursuant to Miranda v.
18 Arizona.

19 I also find by the preponderance of the evidence that
20 the defendant knowingly and intelligently waived his rights
21 under the 5th and 6th Amendments of the Constitution, and
22 under Miranda, and that the statement was obtained from the
23 defendant, and was freely and voluntarily given without
24 duress, without coercion and without undue influence,
25 reward, or promise of reward, and without threat or injury,

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1 and without compulsion or inducement of any kind, and that
2 such statement was a voluntary product of the free and
3 unconstrained will of the defendant. I make all of those
4 findings by the preponderance of the evidence and I
5 therefore find that as to what I will call the second
6 statement, which is the oral testimony of Mr. Scott, that
7 the statement is admissible into evidence.

8 Now, Mr. Beach, I don't know that you certainly have a
9 ground for objection. Mr. Thornton was trying to argue
10 before you object. The State has every right to decide how
11 they want to introduce their evidence, just as you have
12 every right to yours. It is my understanding from the
13 statements of the Solicitor that they do not intend to
14 introduce the video, which you have already reviewed on
15 behalf of your client, of this second statement. They only
16 intend to call Mr. Scott and have him describe the contents
17 of the video, as he did during this Jackson v. Denno
18 hearing; you understand that?

19 MR. BEACH: Yes, sir.

20 THE COURT: All right. Any other objection that you
21 haven't made as to this second statement?

22 MR. BEACH: Your Honor, I believe that the video itself
23 is the best evidence, and I believe the State is going to be
24 able to use this statement

25 THE COURT: Can you cite me any law that requires the

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1 State to introduce the video when you can introduce it and
2 you can cross-examine about it and talk about the lack
3 thereof.

4 MR. BEACH: Yes, sir.

5 THE COURT: Well, then tell me how your client's
6 prejudiced by that when you have the right to cross-
7 examination?

8 MR. BEACH: Well, I -- I can't, Your Honor.

9 THE COURT: I didn't think so. I think that takes care
10 of that matter, Mr. Beach. I don't believe that's a basis
11 upon which you can require the State, no more than the State
12 can require you, to put up certain evidence, and to the
13 extent that you're objecting on that, it's overruled. Let's
14 move to the third statement, Mr. Thornton.

15 THE COURT: You're still under oath, Mr. Scott. Direct
16 examination as to the third statement.

17 DIRECT EXAMINATION

18 BY DEP. SOL. THORNTON:

19 Q Detective Scott, I'm going to hand you what's been
20 marked now as Court's Exhibit Number Two for purposes of
21 this hearing. Can you identify that form, sir?

22 A Yes, sir, I can.

23 Q All right. Is that form similar to the one you
24 described under Court's Exhibit Number One?

25 A Yes, sir, it is.

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- 1 Q All right, sir. Is that your Miranda Right's Form?
- 2 A Yes, sir, it is.
- 3 Q Was that form filled out and signed by Mr. Andre
- 4 Richardson?
- 5 A Yes, sir, it was.
- 6 Q What date was it?
- 7 A February 20th, 2009.
- 8 Q All right, sir. And was he in custody at that time?
- 9 A At that time, yes, sir.
- 10 Q All right. And when you talked to him, you knew he was
- 11 in custody; is that correct?
- 12 A That's correct.
- 13 Q All right, sir. Where did this interview occur?
- 14 A At the Colleton County Sheriff's Office, Criminal
- 15 Investigation Division Annex.
- 16 Q All right, sir. And how did this discussion come
- 17 about?
- 18 A A warrant was issued for Mr. Richardson for the
- 19 financial transactions that occurred on Mr. Steward's
- 20 account after his death, at which time, myself and Mr.
- 21 Inabinett conducted a traffic stop on Mr. Richardson on
- 22 Bells Highway. He was placed into custody and brought back
- 23 to the Annex and re-interviewed as to the homicide, as well
- 24 as the transaction.
- 25 Q All right, sir. And that was on what day, now?

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- 1 A That was on the 20th day of February, 2009.
- 2 Q So February 20th, '09?
- 3 A Yes, sir.
- 4 Q All right, sir. Did you read him his rights as you did
- 5 in the first statement?
- 6 A Yes, sir, I did.
- 7 Q And did he initial those rights?
- 8 A Yes, sir, he did.
- 9 Q And can you read for me what those rights are?
- 10 A Yes, sir. Number one, you have the right to remain
- 11 silent. Number two, anything you say, can and will be used
- 12 against you in a court of law. Number three, you have the
- 13 right to talk to a lawyer and have him with you while you
- 14 are being questioned. Number four, if you cannot afford to
- 15 hire a lawyer, one will be appointed to represent you before
- 16 being questioned. Number five, you can decide at any time
- 17 to exercise these rights and not answer any questions or
- 18 make any statements. Again, at the bottom, the waiver of
- 19 rights, I read as, I have read and have had read to me the
- 20 above statement of my rights, and I understand each of those
- 21 rights. Having those rights in mind, I waive them and
- 22 willingly make a statement."
- 23 Q All right, sir. And did he initial all of his rights?
- 24 A Yes, sir, he did.
- 25 Q Did he sign that form?

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1 A Yes, sir, he did.

2 Q Did he do so in your presence?

3 A Yes, sir, he did.

4 Q Did you threaten him in any way?

5 A No, sir.

6 Q Did you promise him anything if he talked to you?

7 A No, sir.

8 Q Did he seem to understand what he was doing?

9 A Yes, sir.

10 Q And once he had filled this form out and signed it, did
11 he talk to you?

12 A Yes, sir.

13 Q And what was the essence of this conversation?

14 A Basically the same as the original statement, which
15 is ---

16 THE COURT: For purposes of the record, Mr. Scott, we
17 have two statements that the Court has looked at. When you
18 say the "original statement", and for purposes of Mr.
19 Beach's cross-examination, you need to tell us what
20 statement you are referring to.

21 A The statement made on the 29th day of October, '08.

22 Q Was that his first statement?

23 A The first day that I interviewed him.

24 Q All right. So his statement to you now was very
25 similar to the one that he had given before?

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- 1 A That's correct.
- 2 Q All right. He didn't admit anything different or tell
- 3 you anything different?
- 4 A No, sir.
- 5 Q All right. Did you indicate to him that you thought he
- 6 was being truthful or not truthful?
- 7 A Not truthful.
- 8 Q All right, sir. So you basically told him he was
- 9 lying; is that right?
- 10 A Yes, sir.
- 11 Q Did he change his story at all?
- 12 A No, sir.
- 13 Q Did he tell you about any mysterious people that had
- 14 kidnapped him or anything like that?
- 15 A No, sir.
- 16 Q You're sure?
- 17 A Yes, sir.
- 18 Q Okay.
- 19 DEP. SOL. THORNTON: I don't have anything further as
- 20 to this statement, Your Honor.
- 21 THE COURT: This will be the third statement. Let's
- 22 refer to it by date.
- 23 DEP. SOL. THORNTON: I apologize, Your Honor. This is
- 24 the February the 20th, 2009 statement. With regard to that
- 25 statement, I have no further questions.

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1 **THE COURT:** Hold on a second, Mr. Thornton. Is this
2 statement in writing or on video?

3 **DEP. SOL. THORNTON:** This statement ---

4 **Q** Was this video recorded?

5 **A** Yes, sir, it was.

6 **Q** All right, sir. And did you make a copy of that
7 available to Mr. Beach and myself?

8 **A** Yes, sir.

9 **THE COURT:** Does the State intend to try to introduce
10 the video?

11 **DEP. SOL. THORNTON:** No.

12 **THE COURT:** Just to have this witness describe what
13 he's told us that was consistent with the prior statement?

14 **DEP. SOL. THORNTON:** Yes, sir.

15 **THE COURT:** All right. Anything else on the
16 voluntariness or custodial interrogation for purposes of
17 Jackson Denno, from the State?

18 **DEP. SOL. THORNTON:** No, sir, other than the State
19 concedes that it was custodial interrogation, and the proper
20 thing for the Court to decide is whether it's voluntary
21 under the circumstances, but we concede it was custodial
22 interrogation.

23 **THE COURT:** Very well. Mr. Beach, cross-examination as
24 to this third statement.

25 **MR. BEACH:** Thank you, Your Honor.

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CROSS-EXAMINATION

- 1
- 2 **BY MR. BEACH:**
- 3 **Q** Was anyone with him when you interrogated him?
- 4 **A** No, sir.
- 5 **Q** Was anyone with you?
- 6 **A** No, sir.
- 7 **Q** And this was videotaped?
- 8 **A** Yes, sir.
- 9 **Q** Now, he did not admit to the crime; is that correct?
- 10 **A** Correct.
- 11 **Q** You had him in there on the financial card fraud?
- 12 **A** That's correct. As well as the homicide.
- 13 **Q** You had also arrested him on the homicide?
- 14 **A** No, sir. No, sir. I had him in there on the financial
- 15 card fraud, interviewing him with regard to the homicide as
- 16 well.
- 17 **Q** So you had not arrested him on the homicide yet?
- 18 **A** No, sir.
- 19 **Q** And he did not admit to either one; is that correct?
- 20 **A** Not to me.
- 21 **Q** Did he admit to anybody else? At that time?
- 22 **A** At that time, I believe the victim's advocate came in
- 23 there and I believe, again, I can't testify to that, and
- 24 made some statements to her about the financial fraud.
- 25 **Q** This is a separate statement?

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1 A No, sir. It was all recorded at the same time.

2 Q Did he ask for an attorney?

3 A No, sir.

4 Q And had he been appointed an attorney at that time?

5 A No, sir..

6 MR. BEACH: No other questions, Your Honor.

7 THE COURT: Any other evidence from the State as to
8 this third statement?

9 DEP. SOL. THORNTON: No, sir.

10 THE COURT: Does the defendant intend to introduce any
11 evidence, as to this third statement?

12 MR. BEACH: No, Your Honor.

13 THE COURT: Does the defendant have an objection to the
14 admissibility to the third statement?

15 MR. BEACH: Same objection we had before, Your Honor.

16 THE COURT: Mr. Thornton, I don't need to hear from you
17 on this, for the same reasons I've elicited on the record
18 prior to this, the objection is that it's exculpatory rather
19 than inculpatory, and that there may be some future
20 statements which the jury could infer were inconsistent, and
21 on that basis, Mr. Beach seeks to exclude them. He does not
22 object on voluntariness or custodial interrogation as to
23 this third statement.

24 I find once again, as I did with the second statement,
25 and I want to make sure the record is correct before this

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1 statement, which also is the subject of the video, but the
2 State doesn't intend, Mr. Beach, to introduce the video,
3 just have the witness testify as he did during this hearing
4 and you cross-examine him. The recorded statement was
5 obtained from the defendant. The defendant was advised of
6 his rights under the 5th and 6th Amendment, and also the
7 Constitutional safeguards that are required by Miranda v.
8 Arizona. I find that the defendant knowingly and
9 intelligently waived his rights, and I think we have Court's
10 Exhibit Number 2 in connection thereof, in which the
11 defendant has placed his initials by the rights and has
12 signed it, witnessed by Mr. Scott. I find that he knowingly
13 and intelligently waived his rights under the 5th and 6th
14 Amendments of the Constitution and under Miranda.

15 I find that the alleged statement here, obtained from
16 the defendant, which the State has advised the Court is
17 going to be introduced through testimony of Mr. Scott, which
18 I'm calling the third statement, was freely and voluntarily
19 given without duress, without coercion, without undue
20 influence, without reward, promise, or hope of reward, and
21 without threat of injury, or without compulsion or
22 inducement of any kind, and that such statement was a
23 voluntary product of the free and unconstrained will of the
24 defendant.

25 I make these findings as to the third statement by the

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1 preponderance of the evidence introduced, since the State
2 has introduced the evidence and the defendant has chosen not
3 to, and I therefore find that the third statement is
4 admissible into evidence. Let's proceed.

5 **DEP. SOL. THORNTON:** Thank you, Your Honor.

6 **Q** Detective Scott, I'm going to hand you what's been pre-
7 marked as Court's Exhibit Number Three, for purposes of this
8 hearing. Can you identify that form?

9 **A** Yes, sir, I can.

10 **Q** Is that a form that is similar to the other forms that
11 you have already talked about, Court's Exhibit Number's One
12 and Two in this case?

13 **A** Yes, sir, it is.

14 **Q** Is that form in reference to a statement you got from
15 Mr. Richardson on February the 24th of 2009?

16 **A** Yes, it is.

17 **Q** So that would be four days later than the statement you
18 just testified about; is that correct?

19 **A** Yes, that's correct.

20 **Q** All right, sir. So as to statement number four, did
21 you -- which took place on February the 24th of 2009, did
22 you read Mr. Richardson -- let me back up a second. He was
23 still in custody; is that correct?

24 **A** That's correct.

25 **Q** All right, sir. Where did this interview take place?

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1 A At the Colleton County Sheriff's Office, Criminal
2 Investigation Division Annex.

3 Q How did this conversation occur?

4 A On the 24th of February, 2009, I interviewed -- excuse
5 me, I placed Mr. Richardson in custody for the homicide of
6 Mr. Freddie Steward. At which time he was interviewed at
7 the Annex. This interview was me telling Mr. Richardson
8 that we already know his previous story, which was given to
9 me on the 20th of February, as well as the 29th of October,
10 and me telling him that I knew he was lying to me, and that
11 if he didn't have anything else to say, then that was it.

12 Q Before we get to that, did you read him his Miranda
13 rights?

14 A Yes, sir, I did.

15 Q All right, sir. And would you indicate what those
16 rights are?

17 A Yes, sir. Number one, you have the right to remain
18 silent. Number two, anything you say, can and will be used
19 against you in a court of law. Number three, you have the
20 right to talk to a lawyer and have him present with you
21 while you are being questioned. Number four, if you cannot
22 afford to hire a lawyer, one will be appointed to represent
23 you before being questioned. Number five, you can decide at
24 any time to exercise these rights and not answer any
25 questions or make any statements. Again, at the bottom, the

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1 waiver of rights, I read as, I have read and have had read
2 to me the above statement of my rights, and I understand
3 each of those rights. Having those rights in mind, I waive
4 them and willingly make a statement."

5 Q All right, sir. Did he initial those rights?

6 A Yes, sir, he did.

7 Q Did he sign indicating that he wanted to talk to you?

8 A Yes, sir.

9 Q And when I say "he", I'm referring to the defendant in
10 this case, Andre Taft Richardson, II; is that correct?

11 A That's correct, sir.

12 Q And from what you said earlier, you told him that you
13 thought he was lying in all of his previous statements, the
14 statement you took on February 20th, the statement on
15 October the 29th as well; is that correct?

16 A That's correct.

17 Q All right, sir. And was his response different in any
18 way?

19 A No, sir.

20 Q All right. Did he admit to doing anything?

21 A No, sir.

22 Q All right. So he was sticking with the same story, in
23 other words?

24 A Yes, sir.

25 Q Did you threaten him in any way?

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1 A No, sir.

2 Q Did you promise him anything?

3 A No, sir.

4 Q All right.

5 DEP. SOL. THORNTON: Your Honor, at this time, the
6 State stipulates that it was custodial interrogation. We
7 would not seek to introduce this ---

8 Q Was this videotaped, sir?

9 A Yes, sir.

10 Q Did you provide that videotape to Mr. Beach and myself?

11 A Yes, sir.

12 Q All right.

13 DEP. SOL. THORNTON: Judge, the State does not intend
14 to introduce the video in this case. It's been made
15 available, if Mr. Beach does at some point. All I'm going
16 to do is have the officer orally repeat what he has just
17 said on the stand in front of the jury, if you find that
18 it's admissible, Judge. As to the statement on February the
19 24th of 2009 ---

20 THE COURT: Which is statement number four, February
21 24th, 2009.

22 DEP. SOL. THORNTON: Yes, sir. The State has nothing
23 further.

24 THE COURT: All right. Let me see Court's Exhibit
25 Number Three. Mr. Beach, cross-examination.

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1 MR. BEACH: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. BEACH:

4 Q How long had he been under arrest for the murder?

5 A We arrested him that day.

6 Q That day?

7 A That's correct.

8 Q Now, the previous statement, he was just under arrest
9 for the financial fraud?

10 A That's correct.

11 Q Okay. But he was arrested on the 24th?

12 A That's correct.

13 Q And when was he arrested before the magistrate?

14 A For the ---

15 Q For the murder.

16 A For the murder? I'm not sure at this time. I'd have
17 to look back at my notes.

18 Q Y'all took him before the magistrate that same day, did
19 you not?

20 A I don't recall, sir.

21 Q Did you take him to the magistrate before he gave this
22 statement or after he did the statement?

23 A It would be after. When we arrested him, we took him
24 straight to the Annex.

25 Q And he did not admit anything to do with the crime?

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1 A No, sir.

2 MR. BEACH: That's all the questions I have, Your
3 Honor.

4 THE COURT: Redirect?

5 DEP. SOL. THORNTON: None, Judge.

6 THE COURT: Mr. Beach, do you object as to
7 admissibility of statement number four, also dated February
8 24th, 2009? Which I understand Mr. Beach, for purposes of
9 this Jackson Denno hearing, you have copies of the video,
10 you've reviewed them with your client in preparation for the
11 trial of all of these videos.

12 MR. BEACH: Yes, sir.

13 THE COURT: The State intends only to call this
14 Officer, Officer Scott, and have him orally testify to only
15 what you've heard during this Jackson Denno hearing, and of
16 course you've had the opportunity to cross-examine. I want
17 to make sure, do you wish to introduce any evidence for the
18 Court to consider in regards to statement number four, dated
19 February 24th, 2009?

20 MR. BEACH: No, Your Honor.

21 THE COURT: All right. Do you have any objections to
22 statement number four?

23 MR. BEACH: The objection is the same as we had on the
24 others, Your Honor.

25 THE COURT: And for the reasons as I have put forth as

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1 to your objections, I have considered the fact that you
2 presented no evidence for cross-examination of the witness,
3 and I make my findings by a preponderance of the evidence.
4 The objection is not on voluntariness, as to statement
5 number four, or custodial interrogation, which frankly is
6 conceded by the State.

7 I've reviewed Court's Exhibit Number Three, which is
8 the Miranda Rights form, signed by the defendant, as well as
9 initialed and witnessed by Officer Scott and is dated
10 February 24th, 2009. The objection is respectfully
11 overruled. The objection is on the basis that this
12 statement is exculpatory, or non-incriminating, rather than
13 inculpatory, and that Mr. Beach believes that it could be
14 inferred if later statements are admitted that it is
15 inconsistent, and therefore, asked me to exclude it on that
16 basis.

17 I find that before this statement, Number Four, was
18 obtained from the defendant and the defendant was advised of
19 his rights under the 5th and 6th Amendment, and in the
20 Constitutional safeguards, pursuant to Miranda v. Arizona, I
21 find that the defendant, in writing, knowingly and
22 intelligently waived his rights under the 5th and 6th
23 Amendment, and the Constitutional safeguards under Miranda
24 v. Arizona. I find that the alleged statement from the
25 defendant was freely, voluntarily given without duress,

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1 without coercion, without undue influence, without reward,
2 without promise of reward, or hope of reward, without
3 promise of leniency, without threat of injury, without
4 compulsion or inducement of any kind, and that the statement
5 was the voluntary produce of the free and unconstrained will
6 of the defendant. I make all of those findings by the
7 preponderance of the evidence as to statement number four,
8 dated February 24th, 2009.

9 And I find that the oral testimony of this witness, as
10 to statement number four, is admissible into evidence. And,
11 of course, Mr. Beach, you have the perfect right to cross-
12 examine as to the video, and the perfect right, if you so
13 choose, but you certainly aren't required to do so, to
14 introduce the video. But the State is advising you that
15 they do not intend to introduce it as this time.

16 MR. BEACH: Yes, sir.

17 THE COURT: Let's proceed.

18 DEP. SOL. THORNTON: Thank you, Your Honor. That's all
19 for Detective Scott.

20 THE COURT: Detective Scott, you may step down. Watch
21 your step there. Call your next witness.

22 DEP. SOL. THORNTON: Your Honor, I'm going to need one
23 moment.

24 THE COURT: All right.

25 (BRIEF PAUSE IN THE COURTROOM.)

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1 **THE COURT:** Mr. Beach, Mr. Thornton, would you both
2 approach?

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
4 AND OUT OF THE HEARING OF THOSE PRESENT.)

5 **THE COURT:** Let the record reflect, we had a conference
6 at the bench. Mr. Beach tells me as to this next statement
7 that it is on video, but he does not object to the contents
8 of the video. He is going to object to the voluntariness; is
9 that correct, Mr. Beach?

10 **MR. BEACH:** That's correct, Your Honor.

11 **THE COURT:** And this is the last one, right?

12 **DEP. SOL. THORNTON:** There are two, Judge. One brief
13 one ---

14 **THE COURT:** They're on video?

15 **DEP. SOL. THORNTON:** No, sir. There's only one that --
16 of the video that I would seek to introduce to the jury at
17 this point. There's only one on video.

18 (Sotto voice discussion between Mr. Beach and Mr.
19 Thornton.)

20 **DEP. SOL. THORNTON:** Okay. There are two that are on
21 video, Judge.

22 **THE COURT:** Mr. Beach has copies of those?

23 **DEP. SOL. THORNTON:** He's been given copies of every
24 video. Both of them are statements to Det. Inabinett, Your
25 Honor, for the record. I believe one was taken in late

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1 October right after this happened. The other was done in
2 April of 2009. The April of 2009, which is the last
3 statement, is approximately three hours and 40 minutes,
4 roughly, long. And for the record, Your Honor, after the
5 conference at the bench to clarify what I was saying
6 earlier, the only video that I, at this point, intend to
7 introduce, is the three hour and forty-five minute video,
8 although I will not publish it to the jury, I will make it
9 available to them. I think the detective can orally
10 represent what occurred.

11 However, Your Honor, if Mr. Beach gets up and starts
12 asking my witnesses on the stand, well, where are these
13 videos? Why didn't you have them? Then, at that point, I
14 will seek to introduce them. I'm trying to shorten it
15 without making the jury listen to six or seven hours worth
16 of video for a five minute statement.

17 **THE COURT:** For a five minute statement? I don't quite
18 understand.

19 **DEP. SOL. THORNTON:** There are multiple videos, Judge.
20 It takes time to get them in the room and then the
21 statements are drawn out for what an officer can do on the
22 stand in five minutes, it would take them an hour to ---

23 **THE COURT:** You're referring to the oral testimony of
24 the officer versus the length of the video?

25 **DEP. SOL. THORNTON:** Yes, sir.

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1 **THE COURT:** All right. I understand that, and I want
2 the record to be clear that counsel told me at the bench,
3 Mr. Beach has every right to cross-examine your witnesses
4 and ask where the video is. He knows that and I know that.
5 I'll certainly allow him to do that. If that is the case,
6 what you're saying is that you won't promise you won't
7 introduce the entire video. Mr. Beach has been very candid
8 with the Court at the bench and tells me he doesn't object
9 to the contents of any of this. He's been objecting on
10 inconsistency, exculpatory versus inculpatory, as to the
11 first four.

12 As to either, now since you've said there's two, Mr.
13 Beach, do you object to voluntariness on both number five
14 and number six? Or is it just number six, the three hour
15 and forty-five minute?

16 **MR. BEACH:** The three hour and forty-five minutes.

17 **THE COURT:** That's the only one you're objecting to on
18 voluntariness?

19 **MR. BEACH:** Yes, sir.

20 **THE COURT:** But you do not require the Court, on behalf
21 of your client, to review the three hour and forty-five
22 minute video, which you have already reviewed and made
23 available as part of this hearing. You want me to consider
24 the voluntariness before the video was obtained?

25 **MR. BEACH:** Yes, sir.

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1 **THE COURT:** All right. Let's proceed then, Solicitor.

2 **DEP. SOL. THORNTON:** Thank you. Your Honor, he's not
3 going to object to the admissibility, then, of the fifth
4 statement, and I'll just save us time and go straight to the
5 last one.

6 **THE COURT:** You're not objecting to the fifth
7 statement?

8 **MR. BEACH:** It's just our same objection, Your Honor.

9 **THE COURT:** Well, I need to hear that then.

10 **DEP. SOL. THORNTON:** The State calls Lt. Inabinett to
11 the stand, Your Honor.

12 WHEREUPON, Lt. Allen Inabinett is duly sworn.

13 **THE COURT:** Pull that microphone down. State your full
14 name and spell your last name.

15 **LT. INABINETT:** Fred Allen, the last name I will spell
16 first, I-N-A-B-I-N-E-T-T, Inabinett.

17 **DIRECT EXAMINATION**

18 **BY DEP. SOL. THORNTON:**

19 **Q** Mr. Inabinett, who do you work for?

20 **A** Colleton County Sheriff's Office.

21 **Q** Have you worked for them continuously since October of
22 2008?

23 **A** Yes, sir, I have.

24 **Q** All right, sir. And have you talked to the defendant
25 in this case, Andre T. Richardson, II?

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- 1 A Yes, sir, I did.
- 2 Q Did you talk to him on more than one occasion?
- 3 A Yes, sir, I did.
- 4 DEP. SOL. THORNTON: Your Honor, may I approach?
- 5 THE COURT: You may.
- 6 Q I'm going to hand you what's been marked as Court's
- 7 Exhibit Number Four, which is that a Miranda Rights form,
- 8 sir?
- 9 A Yes, sir, it is.
- 10 Q All right. And was that Miranda Rights form completed
- 11 on October the 28th of 2008?
- 12 A Yes, sir.
- 13 Q And who was that form given -- or who was the rights on
- 14 that form, who were they read to, sir?
- 15 A The defendant, Mr. Andre Richardson.
- 16 Q All right. And what were the rights that were read to
- 17 him on that day?
- 18 A May I point out one issue real quick, sir?
- 19 Q Yes, sir.
- 20 A On the date I see where I located the 28th.
- 21 Q Yes, sir.
- 22 A Okay. 22:45. Actually, that's an error on my behalf.
- 23 We started on the 27th, the day of the homicide and it
- 24 finished off into the morning hours of the 28th.
- 25 Q All right, sir.

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- 1 A The date was 10-28, but actually it says 10-27 when we
2 started.
- 3 Q So you started on 10-27 and you finished it on 10-28;
4 is that correct?
- 5 A Correct. That is correct.
- 6 Q All right, sir. Would you read the rights for me,
7 please?
- 8 A Yes, sir. Number one, you have the right to remain
9 silent. Number two, anything you say, can and will be used
10 against you in a court of law. Number three, you have the
11 right to talk to a lawyer and have him present with you
12 while being questioned. Number four, if you cannot afford
13 to hire a lawyer, one will be appointed to represent you
14 before being questioned. Number five, you can decide at any
15 time to exercise these rights and not answer any questions
16 or make any statements. Below is a waiver of rights section
17 and it goes as follows: I have read and have had read to me
18 the above statement of my rights, and I understand each of
19 those rights. Having those rights in mind, I waive them and
20 willingly make a statement."
- 21 Q All right, sir. Did Mr. Richardson initial all of his
22 rights?
- 23 A Yes, sir.
- 24 Q And did he -- did he sign where it says he waived the
25 rights and wished to speak to you?

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- 1 A Yes, sir.
- 2 Q And did he speak to you?
- 3 A Yes, he did.
- 4 Q Was he under arrest at that time?
- 5 A No, sir.
- 6 Q Was he free to go if he didn't want to talk to you?
- 7 A Yes, sir.
- 8 Q Did you threaten him in any way?
- 9 A No, sir.
- 10 Q Did you promise him anything?
- 11 A I did not.
- 12 Q And did he agree to talk to you anyway?
- 13 A Yes, he did.
- 14 Q All right, sir. And what did he tell you?
- 15 A He basically gave the indication that he was home the
- 16 morning of, saw the granddad come in, he was in his own
- 17 bedroom. He went through a chain of events that led to him
- 18 leaving the residence, going to the barber shop and went on
- 19 to describe his day, which was very similar to what he gave
- 20 after the next several days of interviews with Detective
- 21 Scott. At the end of this interview, I asked him would he
- 22 please submit to a GSR, which is a gunshot residue.
- 23 Q All right. GSR is the gunshot residue test?
- 24 A That is correct.
- 25 Q All right, sir. What did he tell you?

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1 A He refused to do the gunshot residue test. I then
2 asked him if he would consent to a search of his vehicle,
3 which was a white in color Mustang, tinted windows, black
4 racing stripes and black rims. He also refused to consent
5 to a search.

6 Q All right, sir. Was that the essence of what his
7 statement was what you talked to him about that day?

8 A Yes, sir.

9 Q All right. And did you videotape this?

10 A I did.

11 Q And did you make that video available to Mr. Beach?

12 A I did.

13 DEP. SOL. THORNTON: Your Honor, as to this statement,
14 this is all we have.

15 THE COURT: This is the fifth? October 27th - October
16 28th, 2008 statement?

17 DEP. SOL. THORNTON: It is, Your Honor. With regard to
18 that statement, I have no further questions of Det.
19 Inabinett. For the record, my intent is to have the officer
20 orally go over the contents of the statement. I would not
21 seek to introduce it unless, of course, Mr. Beach brings up
22 the fact that I haven't introduced it, at which time I would
23 seek to introduce the video.

24 THE COURT: All right. I want to make sure Madame
25 Clerk, in light of the fact that this seems to become a

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1 video case, and a lengthy video case, that we're going to
2 have capability -- obviously, with the videos of this
3 length, the jury is going to have to come back in the
4 courtroom to see it where we've got the screen. I think
5 it's dangerous to put videos in the jury room. Do you both
6 agree, Mr. Thornton?

7 **DEP. SOL. THORNTON:** Yes, sir.

8 **THE COURT:** Mr. Beach?

9 **MR. BEACH:** Yes, sir.

10 **THE COURT:** All right. Mr. Beach, cross-examination
11 of this witness, as to statement number five, October 27th -
12 October 28th, 2008.

13 **MR. BEACH:** Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 **BY MR. BEACH:**

16 **Q** He did not admit to anything in that statement; is that
17 correct?

18 **A** No, sir, he did not.

19 **Q** But he did refuse to take the GSR test?

20 **A** Yes, sir.

21 **Q** Did you ever do a GSR test on him?

22 **A** No, sir.

23 **Q** Did you ever search his automobile?

24 **A** Not that afternoon, no, sir. Eventually, we did.

25 **Q** And did you find anything in the search?

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- 1 A I was not present during the search. I don't know.
- 2 Q Was anybody with you when you interrogated him at this
- 3 time?
- 4 A No, sir.
- 5 Q And this was videotaped?
- 6 A Yes, sir.
- 7 Q And this was at the Annex?
- 8 A That's correct.
- 9 Q Was he brought into the Annex or he volunteered to show
- 10 up?
- 11 A He voluntarily came in his own vehicle.
- 12 Q Did anyone come with him?
- 13 A No, sir. He was alone.
- 14 Q At any time, did he ask to see an attorney?
- 15 A No, sir.
- 16 Q At any time, did he ask to see anybody other than an
- 17 attorney?
- 18 A No, sir.
- 19 MR. BEACH: No further questions, Your Honor.
- 20 THE COURT: Any further witnesses from the State as to
- 21 statement number five?
- 22 DEP. SOL. THORNTON: No, sir.
- 23 THE COURT: Does the defendant intend to introduce any
- 24 evidence as to statement number five?
- 25 MR. BEACH: I'm sorry, Your Honor.

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1 **THE COURT:** I understand. You can't listen to me and
2 answer my questions and talk to your investigator at the
3 same time.

4 **MR. BEACH:** I apologize, Your Honor.

5 **THE COURT:** That's fine, but when I'm asking a lawyer a
6 question, please don't pull him aside. He can't hear what
7 I'm asking. Now, I have to repeat it for him. If you need
8 time, any of you, to talk to a lawyer, I'll give you that
9 time, but don't do it while I'm talking to him because he
10 has no idea what I asked him, do you Mr. Beach?

11 **MR. BEACH:** That's correct, Your Honor.

12 **THE COURT:** I understand. Trying to do two things at
13 once.

14 **MR. BEACH:** Yes, sir.

15 **THE COURT:** Now, and I want to make sure everybody
16 understands this. I don't mind a bit stopping and letting
17 you confer with the lawyer, whether it be Mr. Richardson and
18 his client or members of your staff or the Solicitor's
19 Office. But the one thing that I don't want you to do is
20 when I'm asking a question of a lawyer, for you to start
21 talking to him to remind him of something. Mr. Beach, my
22 question to you was, do you intend to introduce any evidence
23 as to statement number five on behalf of the defendant?

24 **MR. BEACH:** No, sir.

25 **THE COURT:** All right. Do you have any objection as to

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1 statement number five?

2 MR. BEACH: Again, the same objection we had earlier.

3 THE COURT: State it for the record.

4 MR. BEACH: We would object to the introduction of this
5 because it is exculpatory and because it is prejudicial, we
6 believe ---

7 THE COURT: Mr. Beach, how can exculpatory, not
8 incriminating your client, be prejudicial?

9 MR. BEACH: Well, Your Honor, it's -- our position is
10 when you take all these statements together and couple them
11 with the final statement, then it's prejudicial in that it
12 tends to show that there is a different statement. I mean,
13 he has made statements. He didn't have to say anything.

14 THE COURT: Well, wouldn't, in a search for the truth
15 in a trial, it be up to the jury to determine if there was
16 any inconsistency? Because under your theory, if there was
17 ever any inconsistency, no statement would be allowed to be
18 admitted into evidence, simply because it was exculpatory.

19 MR. BEACH: Well, the statement itself is that he
20 didn't have anything to do with the crime. It doesn't add
21 anything to the entry of it. It's relevant because it
22 doesn't add any facts to what's being brought out by the
23 Court

24 THE COURT: Mr. Beach, the fact that your client gets
25 to tell the jury through these officer's testimony through a

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1 video that he had no involvement in the crime as he has pled
2 not guilty, you don't think would assist your client and the
3 Trier of fact in determining what the truth is in this
4 matter?

5 MR. BEACH: No, sir, I don't .

6 THE COURT: I see. Well, that objection is
7 respectfully overruled, Mr. Beach. I see absolutely no
8 prejudice to the defendant from that objection. As to the
9 fifth statement, I find that it was obtained and I've
10 reviewed -- let me see the Court's exhibit. I've reviewed
11 Court's Exhibit Number Four and I find that the alleged
12 statement was obtained from the defendant and he was advised
13 of his rights under the 5th and the 6th Amendment of the
14 United States Constitution, and the defendant was advised of
15 his Constitutional safeguards required by Miranda v.
16 Arizona.

17 I find that the defendant in Court's Exhibit Number
18 Four, knowingly and intelligently waived his rights under
19 the 5th and 6th Amendments of the Constitution and the
20 Constitutional safeguards required by Miranda, that he
21 expressed it in writing by initialing his Miranda rights,
22 signing his name. This was witnessed by Fred Inabinett on
23 October -- it's dated October the 28th on Court's Exhibit
24 Number Four and what the witness has said again on October
25 the 27th of 2008. I find that the statement obtained from

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1 defendant was freely and voluntarily given. There is no
2 objection on voluntariness, without coercion, without undue
3 influence, without reward or promise or hope of reward,
4 without promise of leniency, without threat of injury and
5 without compulsion or inducement of any kind, and that such
6 statement was the voluntary product of the free and
7 unconstrained will of the defendant. I make all of those
8 findings by the preponderance of the evidence, and I
9 therefore find that the statement is admissible.

10 As to Statement Number Four, which is dated, according
11 to Mr. Inabinett's testimony, actually began on the 27th of
12 October, 2008, and competed on the 28th of October, 2008,
13 which is not reflected in writing on Court's Exhibit Number
14 Five, but it's based on his testimony. Let's proceed.

15 **DEP. SOL. THORNTON:** May I approach, Judge?

16 **THE COURT:** You may.

17 **Q** Mr. Inabinett, you're still under oath. I'm going to
18 hand you two documents that have been marked Court's Exhibit
19 Number's Five and Number Six. Can you identify the first
20 one for me, Exhibit Number Five?

21 **A** Yes, sir. Number Five is a request to staff, which is
22 a standard document used in the Colleton County Detention
23 Center.

24 **Q** All right. And is that a request that you've seen
25 before?

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- 1 A Yes, sir. This is a standard inmate request.
- 2 Q All right. Court's Exhibit Number Five, that document,
3 is that a document you've seen before?
- 4 A Yes, sir.
- 5 Q All right, sir. And was that document delivered to
6 you?
- 7 A It was delivered to the Annex. I did take possession
8 of it.
- 9 Q All right, sir. Who is it a request from?
- 10 A It's a request from Andre Richardson on the 27th of
11 February, 2009.
- 12 Q All right. And what is it a request for?
- 13 A "Nature of request: I need to talk to Jeff Scott, A-S-
14 A-P."
- 15 Q Now, Jeff Scott, was he the same Jeff Scott that works
16 at the Annex with you?
- 17 A Yes, sir.
- 18 Q All right. Was Jeff Scott available to talk to Mr.
19 Richardson?
- 20 A No, sir. He was out of town.
- 21 Q All right, sir. Did somebody else talk to Mr.
22 Richardson?
- 23 A Yes, sir.
- 24 Q Who was that?
- 25 A I did.

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1 Q All right, sir. I now direct you to Court's Exhibit
2 Number Six. Can you tell me what that document is, sir?
3 A Yes, sir. This is the Colleton County Miranda Rights
4 Form.

5 Q Is that the Miranda Rights Form that you did in
6 February of 2009?

7 A Yes, sir.

8 Q And what is the date on that?

9 A February 27th, 2009.

10 Q All right, sir.

11 THE COURT: Just a moment. Mr. Beach, because I'm
12 assuming what you told me at the bench, there is no
13 objection to the Court's exhibits for purposes of this
14 hearing only?

15 MR. BEACH: That's correct.

16 THE COURT: All right. One through Six are admitted
17 for purposes of this hearing only. Court's exhibits,
18 without objection. Proceed.

19 (WHEREUPON, COURT EXHIBITS ONE THROUGH SIX ARE RECEIVED
20 INTO EVIDENCE FOR THIS HEARING ONLY.)

21 DEP. SOL. THORNTON: Thank you.

22 Q February 27th, 2009, is that the last time that you are
23 aware of that anyone has talked to the defendant in this
24 case?

25 A Yes, sir. That is correct.

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1 Q All right, sir. And did you talk to the defendant?

2 A I did.

3 Q And did he -- in the Miranda Waiver Form, did he
4 initial all his rights?

5 A He did, and I made clear to make him understand that
6 this was a request from himself to speak to law enforcement.

7 Q In other words, that he initiated contact?

8 A That is correct.

9 Q And did you do that on videotape?

10 A Yes, sir.

11 Q All right. Did you read him his rights on video?

12 A I did.

13 Q Did he indicate he understood his rights?

14 A Yes, sir.

15 Q Would you go over those briefly?

16 A Yes, sir. "One, you have the right to remain silent.
17 Two, anything you say can and will be used against you in a
18 court of law. Three, you have the right to talk to a lawyer
19 and have him present with you while being questioned. Four,
20 if you cannot afford to hire a lawyer, one will be appointed
21 to represent you before being questioned. Five, you can
22 decide at any time to exercise these rights and not answer
23 any questions or make any statements." Wavier of rights
24 section: "I have now read and have had read to me the above
25 statements of my rights. I understand each of these rights.

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1 Having those rights in mind, I waive them and willingly make
2 a statement."

3 Q All right, sir. And did Mr. Richardson indicate that
4 he understood all of his rights?

5 A Yes, sir.

6 Q Did he sign waiving those rights in wanting to talk to
7 you?

8 A Yes, sir.

9 Q And did he talk to you?

10 A Yes, sir.

11 Q Is this the interview that you've heard me reference
12 that is some three hours long?

13 A Yes, sir.

14 Q All right, sir. Can you summarize for us what his
15 statements to you about the -- Mr. Steward's death?

16 A Yes, sir. Mr. Richardson had stated that he was home
17 at Steward Lane, where he resided at, in his bedroom,
18 asleep. He was awoken by a touch. When he opened his eyes,
19 there was a gentleman with a black glove on, black overalls
20 and black jumpsuit, and black mask on that was tucked into
21 his suit.

22 He put his hand over his mouth and a handgun, revolver-
23 type handgun pointed at his head. He then made him get up
24 out of his bed and escorted him from the bedroom to the
25 living room, which is, I believe, 156 Steward Lane, which is

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1 the residence of the victim, Mr. Freddie Steward.

2 When he entered into the living room, he said he saw
3 his granddad, Mr. Steward, the victim, already in the living
4 room with at least two other subjects, both wearing all
5 black, overall jumpsuit type, black gloves, and some type of
6 black mask that was completely covering their total skin
7 tone. I asked him if he could determine if they were white
8 or black. He said he could not determine their race, except
9 they were males and they sounded to be white males trying to
10 act black.

11 He said that the subjects then sat him down on the sofa
12 with his granddad, made reference to "we want the money" or
13 "we need the money." His grandfather declined to give them
14 any money. He said the individuals that had the handgun
15 pointed at him then made him relinquish his car keys, which
16 he did. The subject then left in his white mustang, black
17 rims, black racing stripe and tinted windows, with a spoiler
18 on the back, for approximately 10 minutes -- excuse me,
19 approximately 20 minutes timeframe.

20 He then returned. The three subjects told granddad and
21 the defendant they were going to go for a ride. They had
22 intentions to go to a BB&T bank in Walterboro to withdraw
23 the defendant's money from his personal account. The
24 defendant stated that he and his grandfather left in his
25 grandfather's silver car, which is a silver Ford Focus. His

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1 grandfather was driving, a bad guy, unknown subject up
2 front, the defendant in the back seat, another unknown
3 subject, a bad guy, in the back seat. He also stated that
4 they left one subject back at his residence, which is 156
5 Steward Lane. He was unsure what he was doing when he left,
6 but he remained at the residence.

7 They left Steward Lane, went down and made a right on
8 Red Root Road, traveled Red Root toward Bethel, made a right
9 on Bethel Road. He indicated that, once again, they were en
10 route to BB&T Bank, which is in Walterboro.

11 About halfway down Bethel Road, they pulled over and
12 the subject told granddad, "We need the money. We want the
13 money." Once again, the granddad had, I think, quoted some
14 scripture about the Lord not going to be able to bless him
15 because he was doing bad deeds. The bad guy in the front
16 seat then made his grandfather exit the car. The bad guy in
17 the back seat then exited the back seat, left Andre -- left
18 the defendant in the back seat alone. The subjects then
19 took the grandfather, Mr. Steward, to the back of his
20 vehicle, Ford Focus, opened the trunk, gave him directions
21 to get in the trunk. Granddad refused and there was some
22 kind of scuffle. He then heard several shots go off and he
23 did not exit the vehicle. He sat inside the vehicle the
24 whole time. At which time, he then heard his car pull up,
25 the white Mustang, black rims, black stripes, tinted windows

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1 with a white spoiler. He heard his Mustang pull up behind
2 his grandfather's car. At this time, the third subject
3 exited and asked the first two subjects, "What happened?
4 What went wrong?"

5 At this time, a fourth car pulled up, which is now a
6 fourth subject, asked the three subjects already on scene,
7 "What happened? What went wrong?" At that time, the
8 defendant stated that the three subjects then got into the
9 car, it was a dark colored car, with the fourth subject, and
10 one of them told him, "This is what happens when you don't
11 cooperate, and if you tell anybody, we'll harm you, your
12 sister and your mom." Then they took off. At this time,
13 the defendant then, after the car fled, he exited his
14 grandpa's vehicle, got in his vehicle, which was the white
15 Mustang, left, and went to the barber shop to get a hair
16 cut.

17 Q All right. Did you also talk to him about some money
18 that was missing from his grandfather's account?

19 A I did.

20 Q And did he admit to you that he had taken some money
21 without his grandfather's permission after his death?

22 A He did. I cannot recall the exact amount, but he did
23 use his grandfather's account after he was deceased to pay a
24 car note and, I think, the car insurance.

25 Q And he did admit this, didn't he?

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- 1 A Yes, sir.
- 2 Q And this is all videotaped?
- 3 A Yes, sir.
- 4 Q All right. Did you threaten him in any way or promise
- 5 him anything to get him to talk to you?
- 6 A No, sir.
- 7 Q All right. Once again, on videotape, you talked to
- 8 him and he sent a request over, this was him asking to
- 9 talk to, well, to Jeff Scott, who was unavailable; is that
- 10 correct?
- 11 A Yes, sir.
- 12 Q And did you promise him anything or threaten him in any
- 13 way?
- 14 A No, sir.
- 15 Q All right, sir. And did he seem to understand his
- 16 rights when he was talking to you?
- 17 A He did.
- 18 Q All right, sir.
- 19 DEP. SOL. THORNTON: Your Honor, as to the final
- 20 statement, which I believe is Statement Number Six. I
- 21 have no further questions for this witness, and this is
- 22 the one I would, regardless of what Mr. Beach says, would
- 23 seek to introduce the videotape as previously discussed.
- 24 THE COURT: All right. Cross-examination?
- 25 MR. BEACH: Thank you, Your Honor.

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CROSS-EXAMINATION

1
2 **BY MR. BEACH:**

3 **Q** What date is this statement?

4 **A** February 27th, 2009.

5 **Q** February 27th?

6 **A** Yes, sir.

7 **Q** And I believe he had been arraigned on February the --
8 the -- in front of Judge Cobb on February the 25th?

9 **A** I'm not certain of the exact date. He had an
10 arraignment.

11 **Q** Were you at the arraignment?

12 **A** I can't recall, sir.

13 **DEP. SOL. THORNTON:** Your Honor?

14 **THE COURT:** Yes, sir?

15 **DEP. SOL. THORNTON:** The State will stipulate that he
16 had already been arraigned, Judge.

17 **THE COURT:** Proceed.

18 **Q** And he was appointed a public defender on the 25th?

19 **A** That's normal protocol, Yes, sir.

20 **Q** And this was on the 27th?

21 **A** Yes, sir, that's correct.

22 **Q** Did y'all at any time notify the public defender's
23 office or anybody that he was going to be interrogated?

24 **A** I don't recall. I don't believe so. I don't recall.

25 **Q** Did you notify anybody?

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1 A I didn't, no, sir. Not at the time.

2 Q Was there an attorney present?

3 A No, sir.

4 Q At any time was he reminded that he could have
5 requested an appointed attorney?

6 A Yes, sir. When I Mirandized him, I always stipulate in
7 the Miranda warnings, Miranda number three, that's what I
8 always do. That they keep in mind their right to counsel.
9 At any time they can request that. So he was well aware of
10 his right to counsel.

11 Q But he already had counsel.

12 A Exactly. And he was aware that he was allowed of that,
13 and also that he did request to speak to law enforcement.

14 Q But y'all did not contact our office or anybody on his
15 behalf, even though we had been appointed?

16 A I didn't, not right then, I didn't.

17 MR. BEACH: No other questions, Your Honor.

18 THE COURT: Redirect?

19 DEP. SOL. THORNTON: None, sir.

20 THE COURT: Does the State intend to introduce any
21 other evidence in connection with Statement Number Six?

22 DEP. SOL. THORNTON: Not as to this hearing, Judge. We
23 would seek to introduce the videotape in front of the jury,
24 but not as to this hearing, no, sir.

25 THE COURT: Mr. Beach, does the defendant intend to

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1 introduce any evidence as to purposes of this hearing, as to
2 Statement Number Six?

3 **MR. BEACH:** No, Your Honor.

4 **THE COURT:** Mr. Beach, I understand you have an
5 objection as to voluntariness, as to Statement Number Six.

6 **MR. BEACH:** We do, Your Honor.

7 **THE COURT:** Happy to hear from you.

8 **MR. BEACH:** Your Honor, according to the record, he was
9 taken in front of Judge Cobb and he was arraigned on the
10 25th. He was questioned as to indigence status. He
11 requested an attorney at that time and we were appointed at
12 that time. The appointment was not transmitted to our
13 office until the 27th, but this interrogation was on the
14 27th and we feel that it was not voluntary, that we were
15 appointed counsel, that the State knew he had been appointed
16 counsel for this young man, and that they should have, at
17 the very least, contacted us so that we could talk with him
18 during this situation. I know that he did initiate the
19 contact, but this is a situation where we had not even
20 gotten the transmittal, which is shown on the records as
21 being transmitted to our office on the 27th. We didn't even
22 get the transmittal until ---

23 **THE COURT:** What transmittal are you talking about?

24 **MR. BEACH:** The transmittal from the Clerk's office to
25 our office telling us we had been appointed to this case.

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1 **THE COURT:** The same day of Statement Number Six is the
2 same day it was transmitted to your office?

3 **MR. BEACH:** That's correct, Your Honor.

4 **THE COURT:** Mr. Beach, you've been to many arraignments
5 in your life?

6 **MR. BEACH:** Yes, sir.

7 **THE COURT:** And the defendant is advised at the
8 arraignment as to how he pleads, correct?

9 **MR. BEACH:** That's correct.

10 **THE COURT:** The defendant obviously told Judge Cobb
11 that he pled not guilty.

12 **MR. BEACH:** Yes, sir.

13 **THE COURT:** All right. And then at that point is it
14 customary for the defendant to be advised if they request an
15 attorney whether or not an attorney has been appointed or
16 does your office have to wait to contact that person to let
17 them know after you're notified of the appointment, Mr.
18 Beach?

19 **MR. BEACH:** We contact them immediately upon ---

20 **THE COURT:** Once you hear from the Clerk's office?

21 **MR. BEACH:** Yes, sir. Maybe not immediately, but, of
22 course, in this case, the seriousness of this.

23 **THE COURT:** I understand, but what you're telling me
24 is that the practice is when you're notified by the Clerk
25 that you've been appointed, you in turn then immediately

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1 contact your client to let them know that your office has
2 been appointed?

3 MR. BEACH: Yes, sir.

4 THE COURT: And nothing is mentioned of that during a
5 formal arraignment proceeding?

6 MR. BEACH: Well, according to the stamp on the warrant
7 is that we were appointed on that particular day.

8 THE COURT: The stamp on what warrant?

9 MR. BEACH: On his arrest warrant for murder.

10 THE COURT: You want to show that to the Court?

11 MR. BEACH: Which is in our motion that we passed up.
12 I do have one right here.

13 (Mr. Beach passes up a copy.)

14 THE COURT: I've got it. The defendant is referring,
15 Solicitor, to Warrant M100778, which is the warrant for
16 murder. It has on the back of the warrant, bail set by W. E.
17 Cobb, 2-25-09. It says no bond, circuit court. Obviously
18 meaning that a circuit judge would have to set the bond.
19 Then it has a stamp over to the right hand side which says
20 "Appointed public defender as attorney", and somebody wrote
21 in "2-25-09" and somebody also wrote in "arraigned 2-25-09,
22 W. E. Cobb."

23 MR. BEACH: I'm assuming that it was the clerk at the
24 arraignment, Your Honor.

25 THE COURT: All right. So your objection is that even

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1 though Mr. Richardson, in Court's Exhibit Five, requested
2 the contact, even though Mr. Richardson was advised of his
3 right to talk to a lawyer and have the lawyer present while
4 he was being questioned, that you object to the fact that
5 arraignment was held on February 25th, transmitted to your
6 office on February 27th, and that on February 27th, when
7 this statement was obtained, because your office wasn't
8 contacted, you believe it's inadmissible?

9 **MR. BEACH:** Yes, sir.

10 **THE COURT:** Thank you. Mr. Thornton?

11 **DEP. SOL. THORNTON:** Thank you, Judge. I understand
12 that Mr. Beach's argument. However, case law is clear that
13 when the defendant initiates contact, this is a 6th
14 Amendment question as I understand the phrasing of Mr.
15 Beach's argument, in other words ---

16 **THE COURT:** Right to counsel rather than self-
17 incrimination?

18 **DEP. SOL. THORNTON:** Yes, sir. And Judge, it's case
19 law ---

20 **THE COURT:** I think the 5th Amendment still applies ---

21 **DEP. SOL. THORNTON:** Yes, sir.

22 **THE COURT:** --- which is why you would need to obtain a
23 waiver, but he is arguing the 6th Amendment objection. He
24 called it voluntariness, but he says that the fact that his
25 office was not notified since apparently someone wrote on

1 the back of the arrest warrant, "Public defender as attorney
2 on 2-25-09", or somebody filled in that date on the back of
3 the arrest warrant.

4 **DEP. SOL. THORNTON:** And Judge, I will tell you there
5 are two problems with that. Problem Number One is case law
6 is well settled that when the defendant initiates the
7 contact, there is no 6th Amendment issue. We're not
8 required to notify anybody.

9 The second problem of that is, Judge, and forgive me
10 for not having the case cited with the exact date, I think
11 it's Montejo v. the U. S. Supreme Court case. It's come out
12 within the last two to three months, dealing specifically
13 with 6th Amendment issues. I will get that to the Court.
14 It basically says there is no distinction between a 5th and
15 6th Amendment, that if the person makes a voluntary waiver
16 after he or she has been advised of their rights, it is
17 irrelevant whether they are already represented by counsel.

18 It's a case that has come out in the last three months.
19 I will get it for the Court, but I will stand on the
20 objection, since I don't have that case cited, or stand on
21 the argument, Judge, that he initiated contact and that
22 takes care of the 6th Amendment problem in and of itself.
23 But I will provide the Court with the U. S. Supreme Court
24 case which basically flips the prior 6th Amendment right to
25 counsel issue when it comes to whether they've got a lawyer

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1 or not. I deeply apologize to the Court for not having that
2 site.

3 **THE COURT:** Thank you. Mr. Beach, I want the record to
4 be clear. We had a conference at the bench and I offered to
5 -- since the State intends to introduce a three hour and
6 forty-five minute video, which you've already reviewed, you
7 told me for purposes of your objection, under Jackson v.
8 Denno, that you do not ask the Court to review the contents
9 of that video, that you merely want me to consider -- you
10 call it a voluntariness objection, the Solicitor's calling
11 it a 6th Amendment objection because you were failed to be
12 notified. Regardless of how you characterize the objection,
13 that is your sole objection that you do not require the
14 Court to review the video on behalf of your client for
15 purposes of this Jackson Denno hearing; is that correct?

16 **MR. BEACH:** That's correct, Your Honor. I don't think
17 that will have anything to do with the arguments we're
18 making.

19 **THE COURT:** Very well. Thank you, Mr. Beach. Let the
20 record reflect that I have reviewed Court's Exhibit Number
21 Five, which is the request by Mr. Richardson and it has his
22 name on it and it has "I need to talk to Jeff Scott, A-S-A-
23 P." It has the signature of Staff Sergeant Aiken, dated
24 February the 27th, '09. I have also reviewed the arrest
25 warrant that Mr. Beach handed to me.

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1 Mr. Beach cites in his motion for voluntariness,
2 Jackson v. Denno, and cites whether or not his objection in
3 his written motion, as well as the defendant's 6th Amendment
4 right to counsel was violated, and he bases it on the arrest
5 warrant. He concedes that the contact as to Statement
6 Number Six was initiated, which is very clear, as Mr. Beach
7 intends to introduce no other evidence on this, it's clear
8 that his client initiated the request for the meeting on
9 February 27th, 2009, which resulted in this video.

10 It is Mr. Beach's position that on behalf of the
11 defendant that his 6th Amendment right to counsel was
12 violated by him not being notified. I agree with the
13 Solicitor that I believe this is a 6th Amendment issue, not
14 necessarily a voluntariness issue, although in arguing in
15 the broad scope of voluntariness, but I think it is a 6th
16 Amendment right to counsel. I have reviewed also Court's
17 Exhibit Number Six, because I read it in conjunction with
18 Court's Exhibit Number Five, all of which have been admitted
19 without objection by the defendant for purposes of this
20 hearing.

21 The Court's Exhibit Number Six, the defendant was
22 advised of his 5th Amendment rights to remain silent, the
23 defendant was advised before any video was obtained, that
24 anything he said could and would be used against him in a
25 court of law. The defendant was advised that he had a right

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1 to talk to a lawyer and have the lawyer present while he was
2 being questioned before the Sixth statement was obtained.
3 The defendant was also advised that if he couldn't afford a
4 lawyer, one would be appointed to represent him before being
5 questioned, and if he decided at any time to exercise these
6 rights and not answer anymore questions or make any
7 statements, he was advised of that.

8 He waived all of those rights because he initiated the
9 contact and I find here, first of all, as to Mr. Beach's
10 Sixth Amendment objection, right to counsel, because the
11 defendant initiated contact, I do not believe that Mr. Beach
12 was required to be notified. This was not contact initiated
13 by law enforcement. The defendant was in custody and the
14 defendant initiated this contact. I have also carefully
15 considered all of the evidence, which has been offered by
16 the State. The defendant chooses not to introduce any
17 evidence as to Statement Number Six; is that correct, Mr.
18 Beach?

19 **MR. BEACH:** That's correct, Your Honor.

20 **THE COURT:** I'm convinced, by a preponderance of the
21 evidence, that before this alleged video, which I've offered
22 to stop and review it at this time, but Mr. Beach tells me
23 for purposes of his objection, that that's not necessary on
24 behalf of the defendant. That he wants me to consider it
25 under the 6th Amendment objection, which he's placed in

1 writing; and before this statement was obtained from the
2 defendant, the defendant was advised of his rights under
3 both the 5th and the 6th Amendments to the Constitution of
4 the United States and the Constitutional safeguards required
5 by Miranda. I find that the defendant waived those rights
6 knowingly and intelligently under the 5th and 6th Amendments
7 of the Constitution and the Constitutional safeguards
8 required by Miranda, and that he did so in writing on
9 Court's Exhibit Number Six by initialing each one of his
10 Miranda rights and by signing his name which was witnessed
11 by Detective Fred Inabinett, and dated February 27th, 2009,
12 on Court's Exhibit Number Six.

13 I also find that the statement obtained from the
14 defendant was freely and voluntarily given without duress,
15 without coercion, without undue influence, without reward,
16 without promise or hope of reward, without promise of
17 leniency, without threat of injury, without precaution or
18 inducement of any kind, and that such statement was the
19 voluntary produce of the free and unconstrained will of the
20 defendant. I make all of the foregoing conclusions by the
21 preponderance of the evidence and I therefore find that this
22 statement is admissible into evidence.

23 Mr. Beach, the Court respectfully overrules your
24 objection under the 6th Amendment grounds that you should
25 have been notified, and I find the statement is admissible;

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1 however, it will be my contention to charge the jury
2 concerning voluntariness, as well as Miranda warnings, so
3 that they understand the constitutional safeguards afforded
4 to your client prior to giving any statement.

5 All right, Solicitor, is there any other evidence for
6 purposes of Jackson v. Denno?

7 **DEP. SOL. THORNTON:** Nothing else, Your Honor, other
8 than I do have that cite for you if the Court would like it.

9 **THE COURT:** Yes, sir.

10 **DEP. SOL. THORNTON:** It is Montejo, M-O-N-T-E-J-O, v.
11 Louisiana, 129 Supreme Court, 2079. It was decided May
12 26th, 2009, and I just wanted to point that out to the
13 Court.

14 **THE COURT:** Very well. Which also holds that it was
15 not a requirement to notify counsel under the 6th Amendment.

16 **DEP. SOL. THORNTON:** It does, Your Honor.

17 **THE COURT:** Because the defendant initiated contact?

18 **DEP. SOL. THORNTON:** No, sir. It takes even away even
19 the initiated contact. My understanding of the case
20 basically says that as long as the voluntariness is looked
21 at, they overrule Michigan v. Jackson in that case.

22 **THE COURT:** All right. Print the case out for me. I
23 want to thank Ms. Haselden on the record for finding the
24 case for you, Solicitor, so that you could give me the cite,
25 and please provide a copy to Mr. Beach. I'll review it

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1 since I haven't had the chance to look at it yet to make
2 sure there's nothing in that case that would be inconsistent
3 with my ruling, which I've placed on the record. Now, I
4 think -- do we have all the jury?

5 **BAILIFF:** Yes, sir.

6 **THE COURT:** Got everybody? All fifteen? Three
7 alternates and twelve jurors?

8 **BAILIFF:** All fifteen.

9 **THE COURT:** Counsel, I'm going to take my five minute
10 break right now. This will be your break. It's my
11 intention to move forward. We'll take five minutes.

12 (Off the record, briefly.)

13 **THE COURT:** Good morning. Is the State ready to
14 proceed?

15 **DEP. SOL. THORNTON:** Yes, sir.

16 **THE COURT:** Is the defendant ready to proceed?

17 **MR. BEACH:** Yes, Your Honor.

18 **THE COURT:** Bring us the jury, please.

19 (10:35 A.M., SEPTEMBER 1, 2009, WHEREUPON THE JURY ENTERS

20 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
21 RECORD.)

22 **THE COURT:** Good morning, Mr. Foreman, ladies and
23 gentlemen of the jury, I want to thank you for being here on
24 time. We've been working since early this morning. As I
25 told you, I wanted to start as close as 10:00, but we had to

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Jury Sworn
Trial begins

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1 run over, with the hope that we would try to shorten the
2 time that your presence might be required, ladies and
3 gentlemen. Madame Clerk, would you please swear the jury?

4 **MADAME CLERK:** Yes, I will. Mr. Foreman, ladies and
5 gentlemen of the jury, please stand and be sworn. Raise
6 your right hand.

7 **WHEREUPON, THE JURY IS DULY SWORN.**

8 **THE COURT:** All right. Ladies and gentlemen, before we
9 begin this trial, I want to tell you that this trial
10 probably will be different from what you might expect. I
11 find that to be so true when I'm dealing with people who
12 aren't accustomed to being in the courtroom, as many of you
13 probably are not, as those of us who are here everyday on a
14 regular basis. Many people, ladies and gentlemen, believe
15 and they don't have the chance to attend, as each of you
16 are doing, an actual court session, and they may believe, or
17 think from watching television, or going to a movie, or
18 reading in a book, that trials are always full of high drama
19 and intense action, and riveting and entertaining
20 circumstances, such programs as CSI and Cold Case and LA
21 Law, things of that nature.

22 While all of those things, drama, entertainment, may be
23 true at times, an actual trial, as you are now getting ready
24 to witness as a member of the jury, an actual trial is not
25 for entertainment.

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Judge's Instructions to Jury

1 An actual trial, ladies and gentlemen, is a fundamental
2 part of our democracy. It is a search for the truth.
3 Searching for the truth in an effort to make sure that
4 justice is done between the parties before the Court..

5 Searching for the truth and making sure that justice is
6 done is often slow. It is often deliberate. It is often
7 repetitive. The exact opposite of what many of you may have
8 seen on television, or seen in a movie, or read in a book.
9 This courtroom, ladies and gentlemen, is a place of honor.
10 It is dedicated to the protection and the preservation of
11 citizen's rights through what many people have called the
12 greatest justice system in the entire world.

13 The attorneys appearing before you, ladies and
14 gentlemen, are advocates for the parties they represent; but
15 first and foremost, ladies and gentlemen, the attorneys are
16 officers of this Court, and as officers of this Court, the
17 attorneys are sworn to uphold the integrity and the fairness
18 of our judicial system, and to help you, ladies and
19 gentlemen, in a search for the truth.

20 You should expect the attorneys to be professional, you
21 should expect the attorneys to be competent, to be prepared,
22 and you should expect the attorneys to be ethical in the
23 discharge of their duties to their clients.

24 I want you to remember now that each of you have taken
25 an oath from the Clerk of Court of Colleton County, just

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1 like the attorneys have taken an oath, and I have taken an
2 oath. You, also, as jurors, are expected to reach a fair
3 and a just verdict in this case. You're expected to be
4 professional, to be ethical and truthful, and to be
5 reasonable in the discharge of your duties as jurors.

6 Before we even begin this trial, I want to thank each
7 and every one of you, on behalf of Colleton County and this
8 Court, for accepting what I believe to be a very important
9 responsibility of jury service, and I want to thank each and
10 every one of you for your contribution as jurors to our
11 justice system. Without you, ladies and gentlemen of the
12 jury, justice can never be accomplished in a courtroom, and
13 I thank you on behalf of Colleton County and this Court for
14 that service.

15 All right, Mr. Foreman, and ladies and gentlemen, let
16 me tell you a little bit about how we're going to proceed.
17 First of all, the case that we're going to try, ladies and
18 gentlemen, is the case of State of South Carolina, as I told
19 you when I was asking you questions yesterday, versus Andre
20 Taft Richardson, II. I'm holding in my hand, Mr. Foreman,
21 and ladies and gentlemen of the jury, two pieces of paper.
22 Mr. Richardson is, of course, the defendant in the cases,
23 and the cases are brought by the State of South Carolina.

24 The defendant is charged by these pieces of paper I
25 hold in my hand; you'll see there are two of them. We call

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1 them indictments. They are filed in this Court. He is
2 charged with the crime of murder and he is charged with the
3 crime of financial identity fraud.

4 Now, the elements of those crimes, I'm going to explain
5 all about it to you at the conclusion of the case, in my
6 charge to you on the law. So the elements of the crimes
7 will be explained to you later. You should understand right
8 now that these two pieces of paper, which we call
9 indictments, are simply the charges by which the case is
10 brought into this Court. These are the formal written
11 documents, by which the case is brought into this Court and
12 these indictments are not, in any sense, evidence of any of
13 the allegations contained in the indictments.

14 Now, the defendant has pled not guilty to each of these
15 indictments. The State of South Carolina, therefore, has
16 the burden of proving each of the essential elements that
17 I'm going to explain to you at the end of the case in my
18 charge to you on the law. The State has the burden of
19 proving the elements of each of the offenses in these
20 indictments, beyond a reasonable doubt, and it will be your
21 duty, ladies and gentlemen, to decide whether or not the
22 State has met that burden.

23 It is your solemn responsibility to decide or determine
24 the guilt or the innocence of the defendant, and your
25 verdict, ladies and gentlemen, must be based solely on the

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1 evidence as it is presented during the trial, and on the
2 law, as I instruct it to you to be, during the trial and at
3 the end of the trial.

4 Now, in just a minute, the Deputy Solicitor, or
5 Assistant Solicitor, will make what is called an opening
6 statement, in which he or she will explain the issues in
7 this case, or at least what he or she contends to be the
8 issues in this case, as an advocate for their client.
9 Following that, the attorney for the defendant will make an
10 opening statement.

11 Now, I want to tell you right now, the attorneys have
12 worked hard to prepare the case; believe me, I've been
13 working them sine 8:25 this morning, ladies and gentlemen,
14 long before you got here. They've worked hard to prepare
15 the case. But what the attorneys tell you in opening
16 statement, or any question they ask during the trial, where
17 they suggest facts, or in their closing argument to you at
18 the conclusion of the case, is not evidence. What the
19 attorneys say is not evidence. They are advocates for their
20 respective parties.

21 You, ladies and gentlemen, must make your decision, not
22 from -- I want you to listen carefully to the attorneys, but
23 what they tell you is not evidence in this case, it is only,
24 in the opening statement, what their contentions are as to
25 the issues in this case. You must decide this case, as a

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1 juror, solely upon evidence introduced in this courtroom,
2 when both sides are present, with the right of cross-
3 examination.

4 Now, what is evidence? I told you I would explain that
5 to you. The evidence in this case will be presented to you
6 by witnesses that will testify under oath from this witness
7 stand, or by some exhibit like a document, a photograph, a
8 model, which may be introduced into evidence; but you won't
9 see an exhibit until you hear me say, as a matter of law,
10 "It's in evidence." And once I say "It's in evidence", as
11 to an exhibit, that means it will be available to you in
12 your jury room during your deliberations.

13 Evidence may also take the form, sometimes in a case,
14 of a stipulation, an agreement of fact, where the parties
15 agree on a certain fact, where you don't have to decide on a
16 certain fact, they agree a fact is true. So evidence is
17 testimony from the witness stand, an exhibit that you will
18 hear me say that is in evidence, like a photograph, or it
19 may even be a stipulation. That is what evidence is for you
20 to consider, as a jury, during the trial of this case.

21 Now, in your consideration of the evidence, you should
22 remember that throughout this trial, that under the
23 Constitution of the State of South Carolina, you, and you
24 twelve jurors alone, are the sole judges of the facts in
25 this case, and no one but you, the twelve of you, will be

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1 permitted to consider the facts from the evidence, to weigh
2 the facts.

3 The same law that makes you, the jury, the sole judges
4 of the facts, makes me the sole judge of the law. I cannot
5 invade your province and tell you, suggest to you, or
6 comment to you, what the facts are in this case, and you,
7 ladies and gentlemen of the jury, should not invade my
8 province and differ with me about what the law is. You're
9 the sole judges of the facts; I'm the sole judge of the law.

10 Everything that I say during the course of this trial
11 is being taken down by my court reporter, Becky Hill, seated
12 below me. If I make a mistake as to the law, to the
13 detriment of either party, they can appeal the case to an
14 Appellate Court, and if the Appellate Court agrees that I
15 have made a mistake on the law, they'll reverse the case and
16 send it back for a new trial.

17 So don't any of you worry about whether or not I have
18 told you the law correctly, that is somebody else's worry.
19 That is not your concern as a jury. Your job is to take the
20 law as I give it to you during this trial and then during my
21 charge to you on the law at the conclusion of the trial, and
22 apply it to the facts as you as a jury find them to be,
23 based on evidence introduced during the trial of the case.
24 And that means based on testimony from the witness stand,
25 any exhibits which have been introduced into evidence during

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1 the trial of the case, or any stipulation that might occur
2 between the parties or their attorneys during the trial of
3 the case.

4 After doing that, ladies and gentlemen of the jury, you
5 will then, at the conclusion of the case, render your
6 verdict after you've heard all of the evidence and heard my
7 charge on the law, and the closing arguments of the
8 attorneys, you will then render your verdict, a true and
9 just verdict, under that oath, which each of you just took
10 from Pat Grant, Clerk of Court for Colleton County.

11 Now from time to time during the trial of this case, if
12 it's like many others that I've tried, you may hear one of
13 the attorneys say something like, "Your Honor, I believe we
14 have a question of law", or "A matter of law, that we'd like
15 to discuss with you", or "Your Honor, may we approach the
16 bench?" Or I might, just as I just did, ask you to leave
17 the courtroom while I take up a matter of law as I did
18 earlier in this proceeding, prior to your being sworn. When
19 I estimated that we'd be ready at 10:00, it took until
20 10:30.

21 Now, you probably want to know why we do that, because
22 you hear us talking up there and you see me smiling, or you
23 try to read my face and you're trying to figure out what's
24 going on. Let me explain that to you so you'll understand
25 that. Right now, before we start, the reason for this is

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1 just what I told you earlier. It's not because we're trying
2 to hide anything, it's just because of what I've just said.
3 You're the sole judges of the facts. I'm the sole judge of
4 the law. I can't make any comment to you about the facts,
5 and you shouldn't differ with me about the law.

6 So the custom in this state is when I have to rule on a
7 matter of law with the attorneys, by necessity, I have to
8 say something about the facts in ruling on whether or not a
9 particular piece of law applies to this case. So the custom
10 is to excuse you from the courtroom when such discussions
11 take place, so that you will not, as a juror, be influenced
12 by anything that I say or do in ruling on whether a
13 particular piece of law applies in making some comment to
14 the attorneys about the facts. So please understand that if
15 I ask you to leave it's so that you can keep an open mind.
16 I can do my job and you can do yours, and that you won't be
17 influenced by anything that I might say or do in ruling on
18 whether a particular piece of law applies to this case.

19 And again, in that connection, let me emphasize to you
20 again, that you, and you twelve jurors alone, each of you
21 are the sole judges of the facts in this matter, and if at
22 any time, because I know, I understand how people are. They
23 think they can look at people's faces sometime and read
24 what's going on. If you at any time should gather from
25 anything that I might say or do during the course of this

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1 trial, that I have any opinion whatsoever about the facts in
2 this case, please erase that from your mind, because the law
3 doesn't allow me to have an opinion about the facts in this
4 case, and you are the sole judges of the facts in this case.

5 Now, how do you do that? If you're the sole judges of
6 the facts, how do you determine as a juror, what the true
7 facts are? Well, ladies and gentlemen of the jury, you
8 will, of necessity, have to pass upon the credibility, which
9 is a legal term, simply meaning the believability, of the
10 witnesses who will testify during the trial of this case.
11 Let me illustrate our roles again. It will be my
12 responsibility as the presiding judge, to rule as a matter
13 of law as to whether certain testimony is admissible or not
14 as evidence. I've been working on that today. But once
15 I've allowed the testimony to be admitted into evidence,
16 whether or not you believe the testimony is solely a matter
17 for you, the jury, to determine.

18 In passing upon the believability, or credibility, of
19 the witnesses who will testify during the trial of this
20 case, you have the right as a jury to take into
21 consideration the interest of any witness, the bias of any
22 witness, the prejudice of any witness, the opportunity for
23 the witness to have observed the matters of things about
24 which he or she may testify. You may even take into
25 consideration the demeanor of the witness, or the appearance

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1 of the witness, while the witness is on the witness stand,
2 in your making a decision about the believability or
3 credibility of a witness.

4 And that means, Mr. Foreman, ladies and gentlemen of
5 the jury, it is your duty, under your sworn oath that you
6 took from the Clerk of Court, as jurors to pay close
7 attention to the witnesses, to observe the witnesses, to
8 listen to the witnesses. Don't let your thoughts wander,
9 ladies and gentlemen, so that if you give strict attention
10 to the witnesses, you will, ladies and gentlemen, at the
11 conclusion of all the testimony in this case, and after the
12 final arguments of the attorneys, and my charge on the law
13 by the Court to you, you will, from listening and observing
14 as a juror, be in a position to determine what the true
15 facts are and apply the law as I give it to you at the
16 conclusion of the case, to the facts as you find them to be
17 based on evidence introduced during the trial of the case,
18 and thus, render a true and a just verdict in the case.

19 Now, ladies and gentlemen of the jury, you must not
20 consider anything that you may have read or heard about this
21 case outside of this courtroom, whether before or during
22 this trial, and until I submit this case to you, and I give
23 you instructions to start deliberating, you must not discuss
24 this case with anyone, your fellow jurors, not even a member
25 of your own family. And after it is submitted to you, you

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1 must discuss it only in your jury room with your fellow
2 jurors.

3 It is very important, ladies and gentlemen, that each
4 of you keep an open mind and not decide the case until the
5 entire matter has been submitted to you under my
6 instructions at the conclusion of the case.

7 Now, I don't know if there will be anything on radio,
8 television, or in the newspaper about this case. I instruct
9 you not to read such, watch such, or listen to such. You
10 must decide this case solely upon evidence introduced in
11 this courtroom, when both sides are present, with the right
12 of cross-examination.

13 It will be your added duty, Mr. Foreman, to preside in
14 the jury room and to be the jury spokesperson out here in
15 the courtroom, should that need arise during the trial. It
16 will also be your duty to write the jury's verdict, but I
17 will give you further instructions about that.

18 Now, my law clerk has a special job with you, Mr.
19 Foreman, that's these pieces of paper I hold in my hand.
20 He's going to be looking for you at the conclusion of this
21 case. He's going to want your signature on these
22 indictments for the jury, so don't leave because he's going
23 to be looking for you to sign them.

24 I'm going to be giving you a separate verdict form, but
25 he'll want you to sign the indictments to show that the

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1 indictments correlate to your verdict at the completion of
2 the case. So, I will see that you and the jury are informed
3 about that in my charge at the conclusion of the case.

4 All right. Now, a couple of housekeeping matters so we
5 can get started. All the lawyers know this, you see how
6 loud I'm talking to you right now, and I've got the
7 microphone on. I talk loud, and I told you I've shot a
8 shotgun all my life and have a hearing loss from shooting
9 that shotgun. I wear a hearing aid in this ear because of
10 it, so obviously, when people have a hearing problem, they
11 talk loud, because they can't hear.

12 Unfortunately, we have some people (inaudible
13 whispering) and that presents a problem for some of the
14 jurors. It's amazing how the change in your voice can
15 affect some witnesses. If at any time a member of the jury
16 cannot hear, and I'll be watching all 15 of you throughout
17 the trial, you raise your hand for me. I can turn it up.
18 I've got microphones located everywhere and I check it
19 constantly to make sure, so I want you to be able to hear at
20 all times throughout the trial of the case. All you have to
21 do is raise your hand for me if you can't hear.

22 If an exhibit, and you've heard me say -- because
23 you're not going to see it. One exception to that, which I
24 won't go into now, is a demonstrative exhibit, which may not
25 be introduced into evidence, but I permit them to show to

1 you, and I'll explain that to you later if necessary. But
2 if an exhibit is introduced into evidence and you can't see
3 it, raise your hand for me. I'll be watching you. I want
4 my jurors to be able to hear and to see at all times
5 throughout the trial of the case.

6 Now, had a good question yesterday about note taking.
7 I ask that you do not take written notes, and you know why
8 now, because I've found -- I've tried it and I've found that
9 when a person makes an error in the written notes, the notes
10 can be harmful, rather than helpful, once deliberations
11 begin. So I'm asking you to listen, don't try to take
12 written notes.

13 Now, we are making an audio, not a video, but an audio
14 recording, so if you wanted to hear the entire testimony of
15 a witness again, I can replay an audio portion only of any
16 witness's testimony. So don't be worried if you can't
17 remember if you had to hear it again, we could play it for
18 you again, which is why I'm asking you to listen and not
19 take written notes.

20 Now, ladies and gentlemen, we do not allow jurors to
21 ask questions here in the courtroom, normally. If, at any
22 time, Mr. Foreman, a member of the jury has a question, here
23 is the procedure we follow. If you are not already in your
24 jury room, then you will, along with the rest of the jury,
25 retire to your jury room. You will write the question on a

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1 piece of paper, knock on the jury room door, give it to my
2 bailiff; he will bring it out to me. I will then rule as a
3 matter of law whether or not the question can or cannot be
4 answered, just as I would any question asked by either one
5 of the attorneys during the trial of the case. So that's
6 the way we handle the jury questions. You put it in writing
7 outside the courtroom, wait on me to rule on it, and I'll
8 let you know whether the question can or cannot be answered.

9 Now, we've gotten -- we've had a little problem with
10 technology. I told you that so I want to -- we actually
11 have a new Supreme Court Rule. You are not allowed to use a
12 computer, cellular phone, or any electronic device with
13 communication capabilities to obtain or disclose information
14 about the case when they are not, obviously, in court. That
15 would be information about any party, any witness, or any
16 attorney, or any court officer, or news account of the case,
17 or any information that might be collected by a device to do
18 research on a topic raised or testimony offered by any
19 witness or any information collected by you by any type of
20 research on any topic that you, as a juror, thought would be
21 helpful in deciding the case. That is not permitted. That
22 is strictly prohibited. You cannot use a computer, a cell
23 phone, or any other electronic device with communication
24 capabilities, while in this trial, during deliberations, so
25 I ask you, please, not to use any electronic device to try

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1 probably wonder, I told you the State's going to speak
2 first. The State has the burden of proof. The State is
3 going to present evidence first. We follow certain orders
4 based on the Rules of Court.

5 I do not intend, right now, ladies and gentlemen, that
6 anything I'm saying to you now, I'm just trying to give you
7 an overview about your role, but anything I say to you now
8 shouldn't be construed by you as a charge on the law,
9 because that's not what I'm doing right now. I'm just
10 giving you a little bit of an overview because I'm going to
11 charge you the law that applies to this case after I hear
12 the evidence and you hear the evidence. Neither one of us
13 has heard the evidence in this case. Once I've determined
14 the admissibility of the evidence, I will charge you the law
15 that applies to this case at the conclusion of the trial.

16 This little statement that I have made to you has been
17 an attempt on my part to briefly explain to you some of the
18 procedure that we use in the courtroom that we follow in the
19 trial of the case, so that you'll have, hopefully as a
20 juror, a better understanding as to what may be happening
21 from time to time during the trial of this case.

22 Now, I want you to understand a couple of things. When
23 you are going in and out of the courtroom, everybody wants
24 to be courteous, but the lawyers know they can't talk to
25 you. Okay? That's strictly prohibited. They know that.

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1 They want to be courteous, they want to smile, but
2 understand that they can't talk to you. They will talk to
3 you when both sides are present in the courtroom. Nor are
4 you permitted, obviously, to talk to someone who is not a
5 lawyer in this case, a party or any other person. So I want
6 you to understand we enforce those rules carefully.

7 Now, in order to preserve anyone's rights, I always
8 give the parties, since I've made some opening remarks to
9 you, an opportunity to take exception or objection to
10 anything that I may have said.

11 Any exceptions or objections, from the State of South
12 Carolina?

13 **DEP. SOL. THORNTON:** None, Your Honor.

14 **THE COURT:** From the defendant?

15 **MR. BEACH:** None, Your Honor.

16 **THE COURT:** Very well. Ladies and gentlemen of the
17 jury, I ask that you give the lawyers your careful
18 consideration. We will now begin the trial of the case.
19 Ms. Haselden?

20 **MR. BEACH:** Thank you, Your Honor. May it please the
21 Court?

22 **THE COURT:** Yes, ma'am.

23 **OPENING STATEMENT**

24 **ASST. SOL. HASELDEN:** Good morning, ladies and
25 gentlemen. On October 27, 2008, 80-year-old Freddie Steward

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1 was shot ten times with a 9 mm handgun and left to die on
2 the side of Bethel Road in Ruffin, right here in Colleton
3 County. Andre Richardson, the man who murdered Mr. Freddie
4 Steward, was also Freddie Steward's grandson.

5 Now, the morning of October 27th, 2008, the defendant's
6 very distinguished white Mustang, black tinted windows, and
7 black racing stripe, with a white spoiler, was seen multiple
8 times in the area driving back and forth near the crime
9 scene.

10 The defendant in this case also gave several statements
11 to law enforcement giving multiple conflicting versions of
12 what happened that day. Then, not even a full month later
13 on November 20th, 2008, the defendant stole money from his
14 dead grandfather's checking account. Throughout this trial
15 you're going to hear evidence, like the Judge has already
16 told you, testimony from a bunch of different people.
17 First, you're going to hear from some witnesses who were out
18 there that day. You're going to hear from the EMS and the
19 firefighters that responded from the Colleton County Fire
20 and Rescue. You're going to hear from a variety of
21 officers, the Colleton County Sheriff's Office, who
22 responded to the scene that day and who also were involved
23 with the investigation after that day. You're going to hear
24 from a doctor from MUSC. You're going to hear from Richard
25 Harvey, the Colleton County Coroner. You're going to hear

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1 from some other folks.

2 The Judge has already talked to you about the different
3 types of evidence, but I do want to ask you to pay close
4 attention like he's already said and also use your common
5 sense when you're listening to all this testimony, and
6 perhaps viewing some other exhibits, maybe some maps, maybe
7 some videos, maybe some other forms, photographs, or
8 something else. But I ask you to use your common sense and
9 pay close attention so that at the end of this trial you can
10 do your duty and return a true and just verdict. Thank you.

11 THE COURT: Mr. Beach?

12 MR. BEACH: May it please the Court?

13 THE COURT: Yes, sir.

14 OPENING STATEMENT

15 MR. BEACH: Ladies and gentlemen, the Solicitor has
16 told you a whole lot of things about this case, but one of
17 the things she hasn't told you is that this case is a little
18 different than most cases. It is based on circumstantial
19 evidence. You're not going to have somebody up here with
20 proverbial smoking gun. Nobody's going to tell you, "I saw
21 him do this." Nobody's going to tell you, "This is the gun
22 he did it with. Here's his fingerprint." Nobody's going to
23 tell you that this is his DNA. Nobody's going to tell you
24 that because none of that exists. What we have is what's
25 called a circumstantial case.

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1 Now, the judge is going to talk to you about certain
2 things. There's direct evidence, "I saw you do it."
3 There's circumstantial evidence where you add up things to
4 come to a conclusion. That's what the State has,
5 circumstantial evidence. What they're going to try to do is
6 to present all this evidence and say it adds up to one
7 conclusion, that conclusion is that Andre Richardson killed
8 his grandfather. We say "No, that's not the only
9 conclusion. That's not even the conclusion." With
10 circumstantial evidence, you have, you remember the old
11 pictograph's where you follow the numbers 1, 2, 3, 4, 5?
12 That's a box. The State says that proves it. Well you can
13 do 1, 2, 3, 4, 5, and have a rectangle, so that's different.
14 The State has to prove to you beyond a reasonable doubt that
15 this man did this. He has to prove to you beyond a
16 reasonable doubt that he stole money from him. And I ask
17 you to look at the evidence very carefully, and weigh it,
18 and look at all this and see if it adds up. See if what
19 they're saying tells you that he did what he's accused of
20 doing. He comes in here and pleads not guilty. He says, "I
21 didn't do it." We talk about these statements. They're
22 going to all say, "I didn't do it." Just ask you to look at
23 everything, weigh everything, and when you get through, you
24 know, use your common sense. Have they actually shown him
25 shooting and killing Mr. Steward? If they didn't, then

Direct Examination of JERROL LINGARD by Asst. Sol. Haselden

1 there's only one verdict. Thank you.

2 THE COURT: Call your first witness.

3 ASST. SOL. HASELDEN: Thank you, Your Honor. The State
4 calls Jerrol Lingard.

5 MADAME CLERK: Please come forward and be sworn.

6 WHEREUPON, THE MR. JERROL LINGARD WAS DULY SWORN.

7 MADAME CLERK: Please have a seat on the witness stand
8 and state your full name for the record.

9 THE COURT: Have a seat, make yourself comfortable.
10 Adjust that microphone, that's going to amplify your voice
11 for my ladies on the back row can hear you and I want you to
12 speak up. State your full name and spell your last name for
13 the court reporter if you would, please.

14 WITNESS: Jerrol Lingard, L-I-N-G-A-R-D.

15 THE COURT: Everybody hear all right down there?

16 (JURORS NOD IN AGREEMENT.)

17 THE COURT: Your witness, counsel.

18 DEP. SOL. HASELDEN: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY ASST. SOL. HASELDEN:

21 Q Mr. Lingard, did you drive down Bethel Road out in
22 Ruffin in Colleton County on October 27th, 2008?

23 A Yes.

24 Q Did you notice anything out of the ordinary?

25 A Yes.

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- 1 Q What did you see?
- 2 A I saw a light colored car parked on the side of the
3 road. The emergency flashers on.
- 4 Q Okay. Was there anyone near the car?
- 5 A There was -- well, I was driving down Bethel Road and I
6 went pass the car and I saw a man laying on the ground.
- 7 Q Yes, sir.
- 8 A Behind the car.
- 9 Q Did you stop?
- 10 A Well, I turned around. I went past and turned around.
11 I turned around again and pulled over on the side of the
12 road.
- 13 Q Okay. What did you do after you pulled over?
- 14 A Called 9-1-1.
- 15 Q Okay. What did you tell 9-1-1?
- 16 A I told them there was a car parked on the side of the
17 road with a man laying behind it.
- 18 Q Okay. Did you get out of your car?
- 19 A No.
- 20 Q Did anyone else arrive on-scene while you were there?
- 21 A Yes.
- 22 Q Who was that?
- 23 A The first person was my neighbor.
- 24 Q Okay. Who was that?
- 25 A Her name was -- I can't remember her name right now.

Direct Examination of JERROL LINGARD by Asst. Sol. Haselden

- 1 Q That's okay, sir. Did she stop?
- 2 A Yes.
- 3 Q Did you talk to her?
- 4 A Yes. She got out of her car and came walking back and
- 5 she said, "Who's that man?"
- 6 Q Okay.
- 7 A I said, "I don't know."
- 8 Q Okay. Did she then leave?
- 9 A I think she hung around for a minute.
- 10 Q For a minute?
- 11 A Uh-huh.
- 12 Q Did a Mr. Virden with the United States Postal Service
- 13 arrive?
- 14 A Yes.
- 15 Q What happened when he arrived?
- 16 A He, well, he went past and then he backed up.
- 17 Q Okay.
- 18 A And at that time, he got out.
- 19 Q Okay. And did y'all walk over to the gentleman's body
- 20 lying on the ground?
- 21 A Yes.
- 22 Q And what did you see when you approached him?
- 23 A I saw cartridges just scattered on the ground.
- 24 Q Shell casings?
- 25 A Yes.

- 1 Q Okay. Could you see that the gentleman on the ground
2 had been shot?
- 3 A Well, I saw blood.
- 4 Q Okay. Did you leave the scene?
- 5 A I left the scene after the mail carrier told me I could
6 go.
- 7 Q Okay. Why did you leave?
- 8 A Because I had my two little grandchildren in the car.
- 9 Q Okay. Did you return to the scene after you dropped
10 the grandchildren off?
- 11 A No. I returned to the scene, but I was going to
12 Walterboro.
- 13 Q Okay.
- 14 A And I got a call asking me to come back.
- 15 Q Okay. Did you then give a statement to Cpl. Craig
16 Stivender?
- 17 A Yes.
- 18 Q And did -- who all did you tell about this incident,
19 other than Cpl. Stivender that day?
- 20 A When I left the scene, I went to Ms. Emma Steward's
21 house and nobody came to the door. I left there and went to
22 Bishop Howard's brother's house and I told him.
- 23 Q Okay.
- 24 A And I asked him would he go back over there to Ms.
25 Emma's house and let them know.

Direct Examination of JERROL LINGARD by Asst. Sol. Haselden

1 Q Okay. But you did not identify the gentleman that had
2 been shot?

3 A I identified him after the mail carrier came, and he
4 was the one that said somebody ---

5 Q Okay.

6 ASST. SOL. HASELDEN: Just a moment's indulgence, Your
7 Honor.

8 Q Did you at any time tell a Gerwon or a Gerole Lingard
9 what had happened?

10 A Yes, I -- I called Jerome first.

11 Q Okay. And what did you tell Jerome?

12 A I said Mr. Freddie Steward, somebody murdered him by
13 the road.

14 Q Okay. Did you tell him where this had happened?

15 A Did I tell him where?

16 Q Yes.

17 A Yes.

18 Q And did you also call a Gerwon Lingard?

19 A Yes.

20 Q And did you tell him the same thing?

21 A Yes.

22 Q Did you call anyone else that you can remember?

23 A No.

24 Q Okay. Mr. Lingard, this might seem like a strange
25 question, but is the part of Bethel Road that you stopped at

Cross-Examination of JERROL LINGARD by Mr. Beach

1 out in Ruffin, but is that in Colleton County?

2 A Yes.

3 ASST. SOL. HASELDEN: I have no further questions.

4 THE COURT: Cross-examination?

5 MR. BEACH: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. BEACH:

8 Q Did you see anybody else on the scene when you got
9 there that day?

10 A No, sir.

11 Q No other cars?

12 A No, sir.

13 Q No other people?.

14 A No, sir.

15 Q Did anybody else come up other than the people that you
16 just told the State?

17 A No, sir.

18 Q Nobody else came up?

19 A No, sir.

20 Q Is that a fairly remote area, that particular stretch
21 of road?

22 A What do you mean by remote?

23 Q Are there any houses around it?

24 A There's a trailer further down the road.

25 Q How far down the road?

Cross-Examination of JERROL LINGARD by Mr. Beach

- 1 **A** I'd say, maybe, a half a mile.
- 2 **Q** Do you know who lives there?
- 3 **A** No.
- 4 **Q** And you were coming from where?
- 5 **A** I was coming from Lowcountry Highway side.
- 6 **Q** Okay. You were coming from your house?
- 7 **A** Yes.
- 8 **Q** And you were going to Walterboro?
- 9 **A** Right.
- 10 **MR. BEACH:** No other questions, Your Honor. Thank you,
11 sir.
- 12 **THE COURT:** Redirect?
- 13 **ASST. SOL. HASELDEN:** None, Your Honor.
- 14 **THE COURT:** As to this witness?
- 15 **ASST. SOL. HASELDEN:** I ask that he be excused.
- 16 **THE COURT:** Any objection?
- 17 **MR. BEACH:** No objection.
- 18 **THE COURT:** You may step down, Mr. Lingard, and you are
19 excused. If you'd like to stay, we'd love to keep you in
20 the courtroom, but you're excused if you'd like to leave.
- 21 Call your next witness.
- 22 **ASST. SOL. HASELDEN:** Thank you. The State calls Aaron
23 Bradley Virden.
- 24 **WHEREUPON, THE WITNESS WAS DULY SWORN.**
- 25 **MADAME CLERK:** Please have a seat on the witness stand.

Direct Examination of AARON BRADLEY VIRDEN by Asst. Sol. Haselden

1 State your full name for the record.

2 THE COURT: Adjust that microphone. State your full
3 name and spell your last name.

4 MR. VIRDEN: My name is Aaron Bradley Virden, V-I-R-D-
5 E-N.

6 THE COURT: Your witness, counsel.

7 ASST. SOL. HASELDEN: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY ASST. SOL. HASELDEN:

10 Q Mr. Virden, who do you work for?

11 A United States Postal Service.

12 Q And were you working for the postal service on October
13 27th, 2008?

14 A Yes, ma'am.

15 Q Did you drive down Bethel Road and see a silver car
16 parked by the side with a man lying on the road?

17 A Yes, ma'am.

18 Q And what did you do?

19 A Well, whenever I left my mailbox prior to getting to
20 that position, I noticed that Mr. Lingard's truck was on the
21 right side of the road and Mr. Freddie Steward, which I
22 carried his mail; so therefore, I noticed his car, on the
23 left side. As I went past the vehicles, I noticed that, you
24 know, a man lying on the road behind the car. So I backed
25 up and went to Mr. Lingard and asked him if -- if something

Direct Examination of AARON BRADLEY VIRDEN by Asst. Sol. Haselden

1 was wrong. He said, No, that he didn't know, that he had
2 tried to call -- asked the man to get up, and at the time I
3 was talking to him, another lady pulled up behind Mr.
4 Lingard. I told him, "Well, let me walk over and check and
5 see if there's something wrong if he might have had an
6 accident." And as I approached Mr. Freddie's body, I
7 noticed that there was blood on his chest, blood on one of
8 his arms, and I did notice some shells on the ground behind
9 -- in the grass area, behind his body. I came back over and
10 told Mr. Lingard that it appears that he was shot. He had
11 two young kids with him and that's when I told him, you
12 know, if he wanted to leave, since the kids didn't need to
13 see something like that, you know, that I would stay on the
14 scene and give a full witness statement to it.

15 Q Okay. So you immediately recognized the victim,
16 Freddie Steward?

17 A Yes, ma'am.

18 Q And this part of Bethel Road, do you remember where it
19 was?

20 A It is just past the power line that crosses that road.

21 Q Okay. But it is in Colleton County?

22 A It is in Colleton County.

23 Q Okay. And you saw, can you answer me, how many shell
24 casings?

25 A I counted three that I could visually see; but I didn't

1 want to get any closer.

2 Q Did you call anyone after you saw the scene?

3 A I had to notify my acting supervisor at my office that
4 I could not continue the mail route. I had to notify my
5 postmaster, which was on detail here at the Walterboro Post
6 Office and let him know what was going on because I was
7 actually hindering the mail at that point, so.

8 Q Okay. Who arrived on scene after you?

9 A There was a Sheriff's Deputy that came up from Bethel
10 Road side. They come up from, I think, it's Red Root Road
11 side. They come up that way.

12 Q And did you stay on scene after the Deputy arrived?

13 A Yes, ma'am, I was there until they dismissed me.

14 Q Okay. And did anyone search your car that day?

15 A Yes, ma'am, they searched my vehicle and everything, my
16 personal self and everything.

17 Q Okay. Do you remember making a statement that day?

18 A Yes, ma'am.

19 Q All right.

20 ASST. SOL. HASELDEN: Just a moment's indulgence, Your
21 Honor.

22 Q Did you tell law enforcement what you just told me
23 right now?

24 A Yes, ma'am.

25 Q And do you recall seeing any signs of life from Mr.

Cross-Examination of AARON BRADLEY VIRDEN by Mr. Beach

1 Freddie Steward at that time?

2 A No, ma'am.

3 ASST. SOL. HASELDEN: I have no further questions at
4 this time.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. BEACH:

8 Q What time of day was this?

9 A I remember looking back at my cell phone when I called
10 my supervisor and it must have been around 12:30, I think,
11 12:38, something in that area.

12 Q And when you came up, was anybody else there other than
13 Mr. Lingard?

14 A Just Mr. Lingard was there when I got there.

15 Q Okay. And you were -- you saw Mr. Lingard stop; is
16 that correct?

17 A Actually, I think he had just stopped before I noticed
18 the vehicles on the side of the road.

19 Q Was he still in his car?

20 A He was still in his truck, yes, sir.

21 Q And was there another car there?

22 A There was -- the other lady pulled up behind Mr.
23 Lingard after I actually had backed up, you know, to Mr.
24 Lingard's truck.

25 Q Was there a car there ---

Cross-Examination of AARON BRADLEY VIRDEN by Mr. Beach

1 A Well, Mr. Freddie's car was on the opposite side of the
2 road.

3 Q Are you familiar with Mr. Freddie's car?

4 A Yes, sir, very familiar.

5 Q And what direction was it pointing in?

6 A It was facing going towards Lowcountry Highway.

7 Q Were the doors open?

8 A I -- I think the driver's side door was and I think the
9 trunk was open.

10 Q The trunk was open?

11 A Yes, sir.

12 Q Did you see anybody else on the scene, other than those
13 folks?

14 A That was it.

15 Q No other questions. Thank you, sir.

16 THE COURT: Redirect?

17 ASST. SOL. HASELDEN: None, Your Honor.

18 THE COURT: As to this witness?

19 ASST. SOL. HASELDEN: We ask that he be excused, Your
20 Honor.

21 THE COURT: Any objection?

22 MR. BEACH: No objection.

23 THE COURT: Mr. Virden, you may step down. Happy for
24 you to stay with us or you may be excused from the
25 courtroom.

Direct Examination of CRAIG STIVENDER by Asst. Sol. Haselden

1 MR. VIRDEN: Thank you, sir.

2 THE COURT: Thank you. Call your next witness.

3 ASST. SOL. HASELDEN: The State calls Craig Stivender.

4 WHEREUPON, THE WITNESS WAS DULY SWORN.

5 MADAME CLERK: Please have a seat on the witness stand.

6 State your full name for the record.

7 THE COURT: Make yourself comfortable. Pull that

8 microphone over. State your full name for the court

9 reporter and spell your last name.

10 MR. LINGARD: My name is Craig Allen Stivender, S-T-I-
11 V-E-N-D-E-R.

12 THE COURT: Your witness, counsel.

13 ASST. SOL. HASELDEN: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY ASST. SOL. HASELDEN:

16 Q Officer Stivender, who do you work for?

17 A I work for the Colleton County Sheriff's Department.

18 Q And what's your official title there?

19 A I am a Sergeant at the Colleton County Sheriff's
20 Department.

21 Q And were you working for the Colleton County Sheriff's
22 Office on October 27th, 2008?

23 A Yes.

24 Q Did you respond to a call out at the 3000 block of
25 Bethel Road in Ruffin?

Direct Examination of CRAIG STIVENDER by Asst. Sol. Haselden

1 A Yes, ma'am, I did.

2 Q And what happened when you got there?

3 A Upon arrival, I found the victim, Mr. Freddie Steward,
4 laying on the ground behind his vehicle. He appeared to
5 have been shot. He was bleeding. The vehicle was parked on
6 the right hand side of the road. I came from Red Root end.
7 The vehicle had its flashers on and the trunk was open. I
8 spoke to a Mr. Virden on scene who stated that he had come
9 upon two vehicles parked by the side of the road and that he
10 had spoken to a Mr. Lingard. Mr. Lingard had left the
11 scene; that they had both walked over to the victim and
12 observed that he had been shot and called law enforcement.

13 Q Officer Stivender, did you notice any shell casings?

14 A Yes, I did.

15 Q How many did you notice?

16 A At that time, approximately three.

17 Q Did you notice any signs of life from the victim,
18 Freddie Steward, at that point?

19 A No, ma'am.

20 Q Who all was at the location other than Mr. Virden and
21 yourself?

22 A Upon arrival, myself and Sgt. Grant, who was hired at
23 the Sheriff's Department at that time, arrived approximately
24 the same time I did. There was Mr. Virden and the victim at
25 that time.

Direct Examination of CRAIG STIVENDER by Asst. Sol. Haselden

1 Q Okay. Who arrived after you and Sgt. Grant got there?

2 A Several other deputies from the Colleton County

3 Sheriff's Department arrived shortly after Mr. Lingard came.

4 back after the crime scene had been secured, along with

5 several family members and friends.

6 Q Okay. Did you secure the crime scene?

7 A Yes, ma'am, I did.

8 Q How did you secure the crime scene?

9 A I secured the crime scene by taping off the end on Red

10 Root Road and I had my other officers on scene tape off the

11 opposite end of the road. We also kept anyone else who had

12 not entered the crime scene from coming into the crime

13 scene, with the exception of medical and law enforcement.

14 Q So Colleton County EMS arrived after you?

15 A Yes, ma'am.

16 Q Okay. Did you speak -- beg your pardon, did you take a

17 statement from anyone other than Mr. Virden?

18 A Yes, ma'am. I gave the statement form to Mr. Lingard

19 and spoke to him.

20 Q Okay.

21 ASST. SOL. HASELDEN: Just a moment, Your Honor.

22 (BRIEF PAUSE.)

23 I have no further questions.

24 MR. BEACH: May it please the Court?

25 THE COURT: Yes, sir.

Cross-Examination of CRAIG STIVENDER by Mr. Beach

CROSS-EXAMINATION

1
2 BY MR. BEACH:

3 Q What time of day was this?

4 A If I recall correctly, it was approximately 12:30 when
5 I received the call.

6 Q And when you arrived on scene, how long did it take you
7 to get to the scene?

8 A I don't recall exactly. Probably, 20 minutes or less.

9 Q When you arrived, who was there?

10 A Upon arrival, the only people there were myself, Sgt.
11 Grant, and Mr. Virden, and the victim.

12 Q Who was Mr. Virden?

13 A Mr. Virden worked for the postal service. He's the
14 gentleman who just testified.

15 Q Just testified. Okay. Now, did you find a gun?

16 A No, sir. We didn't.

17 Q Did you find anything other than the three casings?

18 A No, sir.

19 Q And what was the condition of the car that Mr. Steward
20 had been in?

21 A The car was parked on the right hand side of the road,
22 the trunk was open on the car, and the emergency flashers
23 were on.

24 Q Were any doors open?

25 A I do not recall.

Redirect Examination of CRAIG STIVENDER by Asst. Sol. Haselden

1 Q And those were the only people who were there are the
2 ones that you mentioned?

3 A Yes, sir, when I arrived; yes, sir.

4 Q Was it a clear day, a cloudy day, rainy, or what was
5 the situation?

6 A To the best of my knowledge, it had possibly had a
7 light drizzle earlier that day, but at this point in time,
8 it was clear.

9 Q No other questions. Thank you, sir.

10 THE COURT: Redirect?

11 ASST. SOL. HASELDEN: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY ASST. SOL. HASELDEN:

14 Q Sgt. Stivender, did you process the crime scene?

15 A No, ma'am, I did not.

16 Q You just secured it?

17 A Yes, ma'am.

18 Q So if additional evidence were found, that would be up
19 to one of the investigators, correct?

20 A Yes, ma'am.

21 ASST. SOL. HASELDEN: I have no further questions.

22 Thank you.

23 THE COURT: Re-cross, limited to redirect.

24 MR. BEACH: No re-cross.

25 THE COURT: As to this witness, Ms. Haselden?

Direct Examination of THERON GRANT by Asst. Sol. Haselden

1 ASST. SOL. HASELDEN: I ask that he be excused.

2 THE COURT: Any objection, Mr. Beach?

3 MR. BEACH: None, Your Honor.

4 THE COURT: You may step down, officer. You are
5 excused or-you may remain with us as you desire.

6 Call your next witness.

7 ASST. SOL. HASELDEN: The State calls Theron Grant.

8 MADAME CLERK: Please come forward to be sworn. Place
9 your left hand on the Bible and raise your right.

10 WHEREUPON, THE WITNESS IS DULY SWORN.

11 MADAME CLERK: Please have a seat up on the witness
12 stand and state your name for the record.

13 THE COURT: Have a seat. Make yourself comfortable.
14 Pull that microphone over. It's going to amplify your
15 voice. I want you to begin by stating your first and last
16 name, spell your last name for the court reporter, if you
17 would please. Speak into the microphone so that the jurors
18 can hear you.

19 MR. GRANT: Theron Grant, G-R-A-N-T.

20 THE COURT: Your witness, counsel.

21 ASST. SOL. HASELDEN: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY ASST. SOL. HASELDEN:

24 Q Officer Grant, who do you work for?

25 A Dorchester County Sheriff's Office.

Direct Examination of THERON GRANT by Asst. Sol. Haselden

1 Q Did you work for Colleton County Sheriff's Office in
2 October of 2008?

3 A I did.

4 Q And did you respond to a call out on the 3000 block of
5 Bethel Road in Ruffin?

6 A Yes, ma'am, I did.

7 Q Can you tell me what happened when you arrived on
8 scene?

9 A When I got there I noticed a vehicle was parked by the
10 road. I can't remember exactly what color right now. And
11 the victim was lying behind the vehicle, I believe. Then, I
12 noticed there were several, appeared to be gunshots wounds
13 that he had sustained.

14 Q Did the victim have any signs of life at that point
15 when you arrived on scene?

16 A No, ma'am, he didn't.

17 Q Did you notice anything around the victim?

18 A I did start to mark several gun casings.

19 Q Did you speak to any witnesses out there?

20 A I did speak with the gentleman that called -- I can't
21 recall his name right at this moment, but I believe he
22 worked for the mail service and he told me what he had saw
23 when he came up, that he had notified the Sheriff's Office.

24 Q Okay. Did you notify anyone after you arrived on
25 scene?

Direct Examination of THERON GRANT by Asst. Sol. Haselden

1 A I'm pretty sure I did, but I can't recall who at this
2 moment.

3 Q Do you remember speaking to any witnesses, other than
4 Mr. Virden on the scene?

5 A No, ma'am.

6 Q Who arrived after you and Cpl. Stivender -- pardon me,
7 Sgt. Stivender were there?

8 A I believe Lt. Pinckney, Sgt. White, and investigative
9 unit.

10 Q Was Colleton County Fire and Rescue there before or
11 after you?

12 A They were there after I was. Yeah, after I was.

13 Q Did you help secure the scene?

14 A I did.

15 Q Do you remember what you did to help secure the scene?

16 A Helped tape it off. I took some measurements for the
17 investigations unit, just whatever they needed me to do to
18 assist with the investigation.

19 ASST. SOL. HASELDEN: I have no further questions.

20 THE COURT: Cross-examination?

21 MR. BEACH: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. BEACH:

24 Q What time did you arrive there?

25 A Maybe 10:30 in the morning.

Cross-Examination of THERON GRANT by Mr. Beach

- 1 Q Ten-thirty in the morning?
- 2 A I'm not sure, sir. I believe so; I can't say definite
3 for sure.
- 4 Q And who was there when you got there?
- 5 A The mail carrier.
- 6 Q Now, how long did you stay there?
- 7 A Until well over two hours or so.
- 8 Q Now, did you help process the scene?
- 9 A Yes, sir.
- 10 Q And did you find a gun?
- 11 A No, sir.
- 12 Q Did you find anything other than those shell casings
13 you talked to us about?
- 14 A No, sir.
- 15 Q And what was the condition of the car when you got
16 there?
- 17 A It was ---
- 18 Q Mr. Steward's car?
- 19 A I can't -- it was in fine condition. It was pulled off
20 to the side of the road on the grassy area.
- 21 Q Were the doors open or closed?
- 22 A I can't recall.
- 23 MR. BEACH: No further questions, Your Honor.
- 24 THE COURT: Redirect?
- 25 ASST. SOL. HASELDEN: Briefly, Your Honor.

Redirect Examination of THERON GRANT by Asst. Sol. Haselden

1 REDIRECT EXAMINATION

2 BY ASST. SOL. HASELDEN:

3 Q Officer Grant, do you remember writing a supplemental
4 report for this case?

5 A I do.

6 Q Does it reference what time you arrived?

7 A One-oh-nine.

8 Q That's 1:09 p.m.?

9 A Yes, ma'am.

10 Q On October 27th, 2008?

11 A Yes, ma'am.

12 ASST. SOL. HASELDEN: No further questions, Your Honor.

13 THE COURT: Re-cross, limited to redirect, counsel?

14 MR. BEACH: None, Your Honor.

15 THE COURT: Very well. As to this witness, Solicitor?

16 ASST. SOL. HASELDEN: I ask that he be excused, Your
17 Honor.

18 THE COURT: Any objection, Mr. Beach?

19 MR. BEACH: No, sir.

20 THE COURT: Mr. Grant, you may step down. You may
21 remain with us if you would like to, but you're excused from
22 the courtroom.

23 MR. GRANT: Thank you, sir.

24 THE COURT: Call your next witness, Solicitor.

25 ASST. SOL. HASELDEN: The State calls Brian Eadon.

Direct Examination of BRIAN EADON by Asst. Sol. Haselden

1 WHEREUPON, THE WITNESS IS DULY SWORN.

2 MADAME CLERK: Please have a seat on the witness stand
3 and state your full name for the record.

4 THE COURT: Have a seat. Pull that microphone down and
5 - adjust it. The end of it always comes off, so don't let
6 that bother you. You just stick it back on. It's one of
7 those things we never have gotten fixed. State your full
8 name for the record and spell your last name for the court
9 reporter.

10 MR. EADON: Brian Eadon, E-A-D-O-N.

11 THE COURT: Your witness, counsel. Speak up for me so
12 my jurors on the end can hear you, Mr. Eadon.

13 DIRECT EXAMINATION

14 BY ASST. SOL. HASELDEN:

15 Q Mr. Eadon, who do you work for?

16 A Colleton County Fire Rescue.

17 Q And what's your position there?

18 A Firefighter, EMT.

19 Q And were you called out to 3000 Bethel Road in Ruffin
20 on October 27th, 2008?

21 A Yes, ma'am.

22 Q And what was that call about?

23 A It went out as a patient needing to be checked.

24 Q Do you remember what time you were dispatched?

25 A Approximately five till one.

- 1 Q Okay. And who was on the truck with you?
- 2 A Just me.
- 3 Q Okay. When you got to the scene, were you allowed to
- 4 go right out there?
- 5 A Yes, ma'am.
- 6 Q Were you asked to allow Colleton County Sheriff's
- 7 Office to secure the scene first?
- 8 A Yes, ma'am, while on route.
- 9 Q Okay. So when you got to the scene, you were alone on
- 10 the truck?
- 11 A Yes, ma'am.
- 12 Q Was any EMS with you at the time?
- 13 A No, ma'am.
- 14 Q When you got to the scene, what did you do?
- 15 A I parked the fire engine approximately 20 yards away
- 16 from the vehicle with the patient lying behind it and got
- 17 out and walked up to the patient and checked for a pulse and
- 18 to see if he was breathing.
- 19 Q And what did you find after you checked his pulse and
- 20 checked for breath?
- 21 A There was no signs of either, or life, at all.
- 22 Q Okay. Did you observe any other evidence around the
- 23 victim?
- 24 A There were shell casings right beside the patient.
- 25 Q Okay. Did you disturb any of it?

Direct Examination of BRIAN EADON by Asst. Sol. Haselden

1 A I believe I possibly could have stepped on one.

2 Q But you didn't significantly move any evidence or
3 destroy it?

4 A No, ma'am.

5 Q Okay. Did a medic unit arrive after you?

6 A Yes, ma'am.

7 Q And what did you do once they arrived?

8 A They entered the scene with me and I helped them obtain
9 the marker on the patient, the leads.

10 Q Okay. Did you come back out to the scene later that
11 afternoon with the fire truck?

12 A Yes, ma'am.

13 Q Why?

14 A To spray off blood off the roadway.

15 Q Is that a standard operating procedure?

16 A Yes, ma'am.

17 ASST. SOL. HASELDEN: A moment's indulgence, Your
18 Honor.

19 (BRIEF PAUSE.)

20 ASST. SOL. HASELDEN: I have no further questions, Your
21 Honor.

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION

24 BY MR. BEACH:

25 Q There was blood on the roadway?

Cross-Examination of BRIAN EADON by Mr. Beach

1 A Yes, sir.

2 Q Where did you find the body?

3 A It was right on the edge of the roadway.

4 Q On the edge of the roadway. Okay. Was it in the
5 roadway or on the grass or what?

6 A I'm not actually sure.

7 Q How much blood was on the roadway?

8 A I don't remember.

9 Q Do you remember it being a lot of blood or just a small
10 amount?

11 A It was a smaller amount. It wasn't a lot.

12 Q Did you see a gun or anything out there?

13 A No, sir.

14 MR. BEACH: I don't have any other questions, Your
15 Honor.

16 THE COURT: Redirect?

17 ASST. SOL. HASELDEN: None, Your Honor.

18 THE COURT: As to this witness?

19 ASST. SOL. HASELDEN: Ask that he be excused, Your
20 Honor.

21 THE COURT: Any objection, Mr. Beach?

22 MR. BEACH: No, sir.

23 THE COURT: You may step down, Mr. Eadon. You are
24 excused from the courtroom or you can remain with us as you
25 wish. Call your next witness.

Direct Examination of DAVID DRAWDY by Asst. Sol. Haselden

1 ASST. SOL. HASELDEN: The State calls David Drawdy.

2 WHEREUPON, THE WITNESS IS DULY SWORN.

3 MADAME CLERK: Please have a seat on the witness stand
4 and state your full name for the record.

5 THE COURT: Have a seat and make yourself comfortable.
6 State your name and spell your last name for the court
7 reporter.

8 MR. DRAWDY: David Willie Drawdy, III. D-R-A-W-D-Y.

9 THE COURT: Your witness, counsel.

10 DIRECT EXAMINATION

11 BY ASST. SOL. HASELDEN:

12 Q Mr. Drawdy, who do you work for?

13 A Colleton County Fire and Rescue.

14 Q Were you working for them last October 27th, 2008?

15 A I was.

16 Q And were you responding to a scene at 3000 block Bethel
17 Road here in Ruffin?

18 A I did.

19 Q And who was with you on that call?

20 A My partner.

21 Q And who is your partner?

22 A Homes -- I can't. . .

23 Q Are you referring to Joseph?

24 A Joseph, oh yes. I couldn't think of his name.

25 Q Okay. That's okay. And what happened when you got to

Direct Examination of DAVID DRAWDY by Asst. Sol. Haselden

1 the scene, Mr. Drawdy?

2 A We was approached by Mr. Eadon. He gave us a quick
3 report of what he had found. After I had went to the
4 patient, found that he was pulseless and apnic, neck felt to
5 be slightly rigid, which is what we call rigamortis.

6 Q Now, pulseless means?

7 A No pulse?

8 Q Apnic?

9 A Apnic means no breathing.

10 Q No breathing. Okay. Did you hook up a cardiac monitor
11 to the victim at that time?

12 A I did.

13 Q And what did that cardiac monitor show you?

14 A It showed a systo lead and three of our leads.

15 Q Would you mind explaining to me what all that means?

16 A Asystolic means there is no heartbeat in his heart, no
17 activity -- electrical activity in the heart at all.

18 Q Okay. And what were those leads?

19 A Lead 1, lead 2, and lead 3.

20 Q Okay. And what are those?

21 A They are directions that we look at through the heart,
22 cross and down, and back across the heart.

23 Q Did you remove any of the victim's clothing in order to
24 attach those leads?

25 A No, I did not.

Direct Examination of DAVID DRAWDY by Asst. Sol. Haselden

- 1 Q Could you tell that the victim had been shot ---
- 2 A Yes, I could.
- 3 Q --- because you didn't remove his clothing?
- 4 A Yes, I did. He appeared to be shot at least in the
- 5 chest and abdomen.
- 6 Q So you saw multiple gunshot wounds?
- 7 A What appeared to be.
- 8 Q Okay. So the victim had absolutely no signs of life,
- 9 according to both you checking for breath and no sign of the
- 10 machine?
- 11 A That's right.
- 12 Q So you did not attempt to resuscitate the victim?
- 13 A No.
- 14 Q And why was that?
- 15 A Because the neck felt like it was stiff and that's
- 16 rigormortis, and that's the only way I could try to open an
- 17 airway, it was real hard to open, and that's usually signs
- 18 of a person being down for a period of time.
- 19 Q Okay. Do you remember seeing anything else out at the
- 20 scene?
- 21 A There was some casings and the trunk was open on the
- 22 vehicle.
- 23 Q Okay. Did you observe any of those casings?
- 24 A Possible some of the casings ---
- 25 Q But you didn't remove any of the casings or destroy

1 any casings?

2 A Right.

3 Q Okay. I have no further questions. You may answer any
4 questions Mr. Beach may have for you.

5 CROSS-EXAMINATION

6 BY MR. BEACH:

7 Q Were you able to determine time of death?

8 A No, sir.

9 Q How long does it usually take for rigormortis to get to
10 that stage?

11 A I can't answer that. It takes a little while.

12 Q Okay. Did you see a gun or anything on the scene?

13 A No, sir.

14 Q Did you see any other vehicles, other than police
15 vehicles?

16 A The patient's vehicle, which was right ahead of us.
17 The fire apparatus that responded, and ---

18 Q Is there a fairly remote area?

19 A Yes, sir.

20 THE COURT: You have to say "yes" or "no".

21 A Yes.

22 MR. BEACH: I don't think I have any further questions,
23 Your Honor.

24 THE COURT: Redirect?

25 ASST. SOL. HASELDEN: None, Your Honor.

Direct Examination of JOSEPH HOLMES by Asst. Sol. Haselden

1 THE COURT: As to the witness?

2 ASST. SOL. HASELDEN: Ask that he be excused.

3 THE COURT: Any objections?

4 MR. BEACH: No, sir.

5 THE COURT: - You may step down Mr. Drawdy. You may stay
6 with us in the courtroom or you are free to leave.

7 Call your next witness, counsel.

8 ASST. SOL. HASELDEN: The State calls Joseph Holmes.

9 WHEREUPON, THE WITNESS IS DULY SWORN.

10 MADAME CLERK: Have a seat on the witness stand. State
11 your full name for the record.

12 THE COURT: Good afternoon. Have a seat and pull that
13 microphone and adjust it. Speak into it and give me your
14 full name and spell your last name for the court reporter,
15 if you would.

16 MR. HOLMES: Joseph Simpson Holmes, II. Holmes, H-O-L-
17 M-E-S.

18 THE COURT: Your witness, counsel.

19 ASST. SOL. HASELDEN: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY ASST. SOL. HASELDEN:

22 Q Mr. Holmes, who do you work for?

23 A Colleton County Fire Rescue.

24 Q And what's your position there?

25 A Firefighter EMT.

Direct Examination of JOSEPH HOLMES by Asst. Sol. Haselden

1 Q What level of EMT are you?

2 A EMT Basic.

3 Q Were you in that position on October 27th, 2008?

4 A Yes, I was.

5 Q Did you respond to the call out at 3000 Bethel Road in
6 Ruffin?

7 A Yes, I did.

8 Q And can you tell me about that call?

9 A We responded to Bethel Road for a patient to be
10 checked. We found the Sheriff's Office on the scene, one
11 vehicle off the road with the trunk open, one patient laying
12 on the ground laying behind it. The Sheriff's Office had
13 secured the scene already.

14 Q Who was with you?

15 A My partner, David Drawdy.

16 Q And were you driving?

17 A Yes.

18 Q And when you got to the crime scene, what happened?

19 A My partner grabbed the cardiac monitor and I grabbed
20 the other medical equipment. He proceeded to the scene and
21 I followed him.

22 Q What did the victim appear like to you?

23 A Not moving, unconscious, no signs of life.

24 Q Did you see any wounds on the victim?

25 A I saw bullet holes, what appeared to be bullet holes,

Direct Examination of JOSEPH HOLMES by Asst. Sol. Haselden

- 1 and that's all the wounds I saw.
- 2 Q Okay. Did you help Mr. Drawdy with the cardio monitor
3 system?
- 4 A The cardiac ---
- 5 Q Cardiac monitor.
- 6 A Cardiac monitor, yes.
- 7 Q And how did you help him?
- 8 A Just assisting and placing the leads on the patient.
- 9 Q Okay. And the leads returned no signs of life?
- 10 A Yes.
- 11 Q Can you tell me how long you normally run this machine?
- 12 A Thirty seconds to a minute. Enough time for any type
13 of electrical activity to come across.
- 14 Q Okay. And is that how long you ran it in this case?
- 15 A I do not recall how long we ran it.
- 16 Q But the machine showed no signs of electrical activity
17 to you?
- 18 A Right.
- 19 Q Okay. Did you call Dispatch to notify the coroner
20 while you were out there?
- 21 A I do not recall if I called or if my partner called.
- 22 Q But is it a standard operating procedure for y'all to
23 call the coroner once you find no sign of life?
- 24 A Yes, it is.
- 25 Q Okay. Did you disturb any evidence while you were out

1 at the scene?

2 A I believe I did step on one shell casing that was
3 laying next to the body.

4 Q Did you remove that casing from the scene?

5 A No, I left it where it was.

6 Q I have no further questions, Mr. Hughes.

7 THE COURT: Cross-examination?

8 MR. BEACH: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. BEACH:

11 Q Did you see a gun on the premises?

12 A No, sir, I did not.

13 Q Were you able to determine how long this man had been
14 dead?

15 A No, sir.

16 Q Can you tell from the amount of rigormortis or would
17 that need to be left up to somebody else?

18 A That's left up to somebody else.

19 Q Okay. Did you see anybody else out there other than
20 the law enforcement personnel and the other Fire and Rescue
21 people?

22 A I believe the mail carrier was there, also, and the
23 patient, but that was all.

24 MR. BEACH: No other questions, Your Honor.

25 THE COURT: Redirect?

Cross-Examination of JOSEPH HOLMES by Mr. Beach

1 **ASST. SOL. HASELDEN:** None, Your Honor.

2 **THE COURT:** As to the witness?

3 **ASST. SOL. HASELDEN:** Ask that he be excused.

4 **THE COURT:** Any objection?

5 **MR. BEACH:** None, Your Honor.

6 **THE COURT:** You may step down, Mr. Holmes. You are
7 excused from the courtroom or you may remain with us as you
8 wish.

9 Call your next witness.

10 **ASST. SOL. HASELDEN:** The State calls Richard Harvey.

11 (BRIEF PAUSE.)

12 Your Honor, the witness is downstairs in another room.
13 Someone is getting him now.

14 **THE COURT:** I understand. He's being brought up to the
15 courtroom, ladies and gentlemen, bear with us.

16 (THE WITNESS ENTERS THE COURTROOM.)

17 **MADAME CLERK:** Please come forward and be sworn.

18 WHEREUPON, THE MR. RICHARD HARVEY IS DULY SWORN.

19 **MADAME CLERK:** Please have a seat on the witness stand.
20 State your full name for the record.

21 **THE COURT:** Mr. Harvey, how are you?

22 **MR. HARVEY:** I'm fine.

23 **THE COURT:** Make yourself comfortable. Pull that
24 microphone. It's going to amplify your voice. It's not
25 recording; it's amplifying so the ladies at the end can hear

Direct Examination of RICHARD HARVEY by Asst. Sol. Haselden

1 you. Would you begin by stating your full name, first and
2 last, and spelling your name for the court reporter?

3 MR. HARVEY: Richard McClellan Harvey, Senior, H-A-R-
4 V-E-Y.

5 THE COURT: Your witness, Solicitor.

6 ASST. SOL. HASELDEN: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY ASST. SOL. HASELDEN:

9 Q Mr. Harvey, who do you work for?

10 A I work for Colleton County.

11 Q And what is your position for Colleton County?

12 A I'm the Colleton County Coroner.

13 Q Were you the Colleton County Coroner on October 27th,
14 2008?

15 A Yes, I was.

16 Q Did you respond out to the Bethel Road in Ruffin?

17 A Yes, I did.

18 Q And can you tell me why you responded out there?

19 A There was a gentleman found who had been shot and left
20 on the side of the road.

21 Q Okay. And did you arrive and certify him dead?

22 A Yes, ma'am, I did.

23 Q Do you remember what time that was?

24 A I do not recall right off the top of my head.

25 Q Okay.

Direct Examination of RICHARD HARVEY by Asst. Sol. Haselden

1 **ASST. SOL. HASELDEN:** Your Honor, may I approach the
2 witness?

3 **THE COURT:** You may.

4 **Q** Mr. Harvey, can you review that document, please?

5 **A** Yes.

6 **Q** Do you recognize that document?

7 **A** Yes, I do.

8 **Q** And does that document refresh your memory as to what
9 time he was pronounced dead?

10 **A** Yes, it does.

11 **Q** Can you please inform the Court of that time?

12 **A** Thirteen-forty.

13 **Q** Okay. After Mr. Steward was pronounced dead, what did
14 you do with the body?

15 **A** We transferred the body to the Medical University of
16 South Carolina for forensic autopsy.

17 **Q** Was the body in your control and secure at all times on
18 the way to MUSC?

19 **A** Yes, ma'am, it was.

20 **Q** Okay.

21 **ASST. SOL. HASELDEN:** I have no further questions.
22 May I approach the witness?

23 **THE COURT:** You may.

24 **Q** Thank you, Mr. Harvey. If you could just answer any
25 questions that Mr. Beach has for you.

CROSS-EXAMINATION

1
2 **BY MR. BEACH:**

3 **Q** Mr. Harvey, the body was sent to MUSC for an autopsy?

4 **A** Yes, sir.

5 **Q** And did you examine the body before it left?

6 **A** Yes, sir.

7 **Q** Did you find any cuts or bruises on the hands of the
8 decedent?

9 **A** As I remember, there was a wound to one of the
10 decedent's hands, yes.

11 **Q** What kind of wound was that?

12 **A** A gunshot wound.

13 **Q** Gunshot wound?

14 **A** Yes.

15 **Q** Was there any other defensive wounds or anything else?

16 **A** Not that I recall right off.

17 **Q** Did you see a gun or anything out there?

18 **A** No, sir.

19 **Q** Did you see anybody else out there other than the law
20 enforcement personnel and the fire and rescue people?

21 **A** Not other than bystanders.

22 **Q** No other questions. Thank you.

23 **A** Yes, sir.

24 **THE COURT:** Redirect?

25 **ASST. SOL. HASELDEN:** None, Your Honor.

Cross-Examination of RICHARD HARVEY by Mr. Beach

1 THE COURT: As to this witness?

2 ASST. SOL. HASELDEN: We ask that he be excused.

3 THE COURT: Any objection?

4 MR. BEACH: None, Your Honor.

5 THE COURT: Mr. Harvey, you can remain with us if you
6 wish, but you are excused from the courtroom.

7 MR. HARVEY: Thank you, sir.

8 THE COURT: Thank you very much. You may step down.
9 Call your next witness.

10 ASST. SOL. HASELDEN: State calls Angela Stallings to
11 the stand.

12 (WITNESS APPROACHES.)

13 WHEREUPON, MS. STALLINGS IS DULY SWORN.

14 MADAME CLERK: Please have a seat up on the witness
15 stand and state your full name for the record.

16 THE COURT: Ms. Stallings, how are you?

17 MR. STALLINGS: All right.

18 THE COURT: Nice to see you.

19 MR. STALLINGS: Thank you.

20 THE COURT: You know what to do and you know when to do
21 it. Go ahead.

22 MR. STALLINGS: Angela McAlister Stallings, S-T-A-L-L-
23 I-N-G-S.

24 DIRECT EXAMINATION

25 BY DEP. SOL. THORNTON:

Direct Examination of ANGELA STALLINGS by Dep. Sol. Thornton

1 Q Angela, who do you currently work for?

2 A The Cottageville Police Department.

3 Q Okay. In October -- October 27th of 2008, who did you
4 work for then?

5 A The Colleton County Sheriff's Office.

6 Q All right. And did you respond out to Bethel Road in
7 reference to the murder of Freddie Steward?

8 A Yes, I did.

9 Q All right. And what was your job at the scene?

10 A When I arrived on scene, it was myself and Investigator
11 Carter. We approached, we made contact with Sgt. Stivender.

12 The scene had already been secured. We just immediately
13 began processing the scene, collecting evidence. We did
14 several different things that day while we were out there.

15 Q All right. Let me ask you a question: did you take
16 some photographs while you were out there?

17 A Yes, I did.

18 Q And was Allen Inabinett, who I believe is now a
19 Lieutenant with the Sheriff's Department, was he out there
20 with you that day?

21 A He arrived shortly after I did, yes, sir.

22 Q And did he collect the majority of the evidence that
23 was out there?

24 A That is correct.

25 DEP. SOL. THORNTON: Your Honor, the Court's indulgence

Direct Examination of ANGELA STALLINGS by Dep. Sol. Thornton

1 for just a moment.

2 THE COURT: Yes, sir.

3 (BRIEF PAUSE WHILE SOLICITOR GETS EVIDENCE.)

4 DEP. SOL. THORNTON: Thank you for the time, Your
5 Honor. I'm going to have these pre-marked, if I could.

6 THE COURT: One exhibit or several?

7 DEP. SOL. THORNTON: I'm going to do it all as one
8 exhibit, Your Honor. There are 15 photographs.

9 THE COURT: Very well.

10 (COURT REPORTER MARKS PHOTOGRAPHS AS STATE'S EXHIBIT.)

11 DEP. SOL. THORNTON: May I approach, Judge?

12 THE COURT: You may.

13 Q Angela, I've handed you what's been marked for
14 identification as Court's Exhibit Number One. It's
15 consisting of 15 photographs. Can you identify ---

16 THE COURT: Is this a Court's Exhibit?

17 DEP. SOL. THORNTON: For identification, at this point
18 only, Judge.

19 THE COURT: You said "Court's Exhibit".

20 DEP. SOL. THORNTON: I apologize. State's Exhibit
21 Number One for the purpose of identification.

22 Q Detective Stallings, that document is actually a
23 collection of 15 photographs, is it not?

24 A It is.

25 Q All right. Do you recognize those photographs?

Direct Examination of ANGELA STALLINGS by Dep. Sol. Thornton

1 A Yes, sir. I do.

2 Q All right. What are those photographs of?

3 A The crime scene and starts off with an overview of the
4 scene and then it's broken down to each item that was
5 marked.

6 Q All right. Does that -- do those 15 photographs all
7 accurately represent the condition of the victim and the
8 condition of the scene on that day?

9 A Yes, sir.

10 DEP. SOL. THORNTON: I ask that they be moved into
11 evidence at this time, Judge.

12 THE COURT: Any objection, Mr. Beach?

13 MR. BEACH: None, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury, State's
15 Exhibit One, consisting of 15 photographs, will be admitted
16 into evidence without objection. State's Number One, 15
17 photographs total in evidence.

18 (WHEREUPON, STATE'S EXHIBIT NUMBER ONE IS RECEIVED INTO
19 EVIDENCE.)

20 THE COURT: You may now publish to the jury, counsel.

21 DEP. SOL. THORNTON: Your Honor, with the Court's
22 permission, I will wait on publishing to the jury until
23 after the lunch break. I'm going to do it electronically
24 with digital copies I have.

25 THE COURT: Very well. They're in evidence, ladies and

Direct Examination of ANGELA STALLINGS by Dep. Sol. Thornton

1 gentlemen of the jury. State's One in evidence without
2 objection. You may proceed.

3 **DEP. SOL. THORNTON:** Thank you very much, Judge.

4 **Q** Angela, other than taking photographs, you indicated
5 you were assisting the other detectives?

6 **A** That's correct.

7 **Q** All right. And is that in processing the crime scene?

8 **A** Correct.

9 **Q** Do you know if a gun was ever recovered?

10 **A** Not to my knowledge.

11 **Q** Were there multiple shell casings found?

12 **A** Yes, sir.

13 **Q** All right. And are there pictures in that State's
14 Exhibit Number One of those shell casings that were found?

15 **A** Yes, sir.

16 **Q** And did Allen Inabinett, did he collect those items?

17 **A** I believe so. At that time, him and Detective Carter
18 were the evidence custodians. So I believe he was one of
19 the ones. Myself and Det. Carter marked it, and I believe
20 Lt. Inabinett collected it, yes, sir.

21 **DEP. SOL. THORNTON:** Your Honor, the Court's indulgence
22 one moment.

23 **THE COURT:** Yes, sir.

24 **Q** Angela, did you also stop at one of the houses in that
25 area to see if you could come across anybody that heard

Direct Examination of ANGELA STALLINGS by Dep. Sol. Thornton

1 anything or seen anything unusual?

2 A That is correct.

3 Q All right. And what was the result of that, if
4 anything?

5 A They did not recall anything. And the residents that I
6 saw that were located between the incident location and back
7 towards Red Root Road.

8 Q Based on the direction the victim's car was pointed in
9 when it was pulled over, if it had continued on down Bethel
10 Road, what would you get to?

11 A Lowcountry Highway.

12 Q Okay. And would you be going down Bethel Road the
13 direction Mr. Steward's car was going in, would you be going
14 toward Walterboro or away from Walterboro.

15 A The way his car was facing, he was going away from
16 Walterboro.

17 Q So, for example, if you were supposedly going to the
18 bank in Walterboro, you would not be headed that direction;
19 would that be right?

20 A That is correct.

21 Q I don't have anything further at this time. Thank you
22 very much.

23 THE COURT: Cross-examination?

24 MR. BEACH: Thank you, Your Honor.

25 CROSS-EXAMINATION

Cross-Examination of ANGELA STALLINGS by Mr. Beach

1 BY MR. BEACH:

2 Q Where exactly is Bethel Road?

3 A Bethel Road it's easy, but I can describe it. If you
4 take Highway 64 West, which is considered Bells Highway, out
5 of town, past Wal-Mart, you would go approximately, I
6 believe, 9 or 10 miles. You turn on Azalea Patch Road.
7 Azalea Patch actually runs from Highway 64 Bells Highway all
8 the way through to Highway 63, which is Snyders Highway.
9 Bethel Road, if you turn off of Azalea Patch, Bethel Road is
10 to the right, approximately, I believe it's a mile and two-
11 tenths down to the right, is Bethel Road. Azalea Patch,
12 Bethel Road runs all the way through it to Lowcountry
13 Highway. You cross Red Root Road and then you go on to
14 Lowcountry Highway, and it was a section between Red Root
15 and Lowcountry where he was found.

16 Q All right. Now, Lowcountry Highway, that's Highway 21?

17 A Correct.

18 Q And so you could continue on and still go to
19 Walterboro, could you not?

20 A The long way around, yes, sir.

21 Q I mean, it's -- so you could go toward Highway 64 or
22 you could go toward Highway 63?

23 A That is correct.

24 Q Either way, you would go into Walterboro?

25 A Yes.

1 Q Okay. Now, when you got there, did you find a gun?

2 A No, sir. I did not.

3 Q Did you find anything other than the shell casings, a
4 body, and the automobile?

5 A There was some keys found on the ground. I believe near
6 the leg of the victim. I did mark some spent tire
7 impressions that were at the rear of the victim's vehicle
8 and behind where the victim was found laying.

9 Q So that would indicate there would have been another
10 car there?

11 A I felt there was, yes, sir, from -- it appeared to be
12 fresh spin-out tire marks, yes, sir.

13 Q Were you able to take tire impressions or anything?

14 A We did measurements. I believe the condition of the
15 tire impressions, we weren't able to make a cast of it.

16 Q Okay. But you did not find a gun?

17 A No, sir.

18 Q Did you find -- the shell casings that you found, were
19 they from the same caliber gun or did you find different
20 calibers?

21 A It was one caliber.

22 Q Well, was Mr. Steward's body there when you arrived?

23 A Yes, sir.

24 MR. BEACH: I have no other questions, Your Honor.

25 Q Thank you, ma'am.

Cross-Examination of ANGELA STALLINGS by Mr. Beach

1 **THE COURT:** Redirect?

2 **DEP. SOL. THORNTON:** None, Your Honor. I'd ask that
3 this witness be excused, but subject to recall.

4 **THE COURT:** Mr. Beach, any objection to this witness
5 being excused?

6 **MR. BEACH:** None, Your Honor.

7 **THE COURT:** You may step down. You can stay with us
8 because you're subject to recall, if you would, but you're
9 excused from the courtroom.

10 Call your next witness.

11 **DEP. SOL. THORNTON:** The State calls Jodi Taylor to the
12 stand.

13 **WHEREUPON, MS. TAYLOR IS DULY SWORN.**

14 **MADAME CLERK:** Please take a seat on the witness stand
15 and state your full name for the record.

16 **THE COURT:** How are you?

17 **MS. TAYLOR:** I'm doing fine.

18 **THE COURT:** You know what to do.

19 **MADAME CLERK:** Yes, sir.

20 **THE COURT:** All right.

21 **MS. TAYLOR:** My name is Jodi Taylor, T-A-Y-L-O-R.

22 **THE COURT:** Your witness, Solicitor.

23 **DEP. SOL. THORNTON:** Thank you, Your Honor.

24 **DIRECT EXAMINATION**

25 **BY DEP. SOL. THORNTON:**

- 1 Q Ms. Taylor, who do you work for?
- 2 A Colleton County Sheriff's Office.
- 3 Q And did you work for the Colleton County Sheriff's
- 4 Office in October, October 27th to be exact, in 2008?
- 5 A Yes, I did.
- 6 Q All right. And did you, at any time, respond out to
- 7 the scene on Bethel Road?
- 8 A Yes, I did.
- 9 Q All right. Was that in reference to the one Freddie
- 10 Steward?
- 11 A That's correct.
- 12 Q All right. Now, did you take a statement at that time
- 13 from the defendant in this case?
- 14 A Yes, I did.
- 15 Q Can you identify the person you took the statement
- 16 from?
- 17 A He's the gentleman in the dark blue sweater sitting at
- 18 the defense table next to Mr. Beach.
- 19 Q The defendant, Andre Taft Richardson, the second?
- 20 A Yes, sir.
- 21 Q Det. Taylor, I want to ask you if you recognize ---
- 22 **DEP. SOL. THORNTON:** With the Court's permission?
- 23 **THE COURT:** You may.
- 24 Q State's Exhibit Number Two for identification?
- 25 A Yes, I do.

Direct Examination of JODI TAYLOR by Dep. Sol. Thornton

- 1 Q And what is that?
- 2 A It's a statement that I took from the defendant at the
3 scene.
- 4 Q And was he, at that point, was that right at the scene
5 while all of this was going on?
- 6 A Yes, sir.
- 7 Q All right. Was he a suspect at that time?
- 8 A No, sir. He was not.
- 9 Q Did he voluntarily agree to talk to you?
- 10 A Yes, sir.
- 11 Q All right. And is that an accurate representation of
12 what his statement to you was?
- 13 A Yes, sir.
- 14 Q And did he sign that statement?
- 15 A He did.
- 16 Q And did he do so in your presence?
- 17 A He did.
- 18 Q Is that a statement that he wrote, or did you write it
19 based on what he told you?
- 20 A I wrote it based on the statement that he gave to me.
- 21 Q All right. And then did you allow him to review it?
- 22 A Yes, I did.
- 23 Q Did he do so?
- 24 A Yes, he did.
- 25 Q Did he sign it at that point?

Direct Examination of JODI TAYLOR by Dep. Sol. Thornton

1 A Yes, he did.

2 DEP. SOL. THORNTON: Your Honor, at this point, I'd ask
3 that State's Exhibit Number Two be admitted into evidence.

4 THE COURT: Counsel approach.

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
6 AND OUT OF THE HEARING OF THE JURY.)

7 DEP. SOL. THORNTON: Your Honor, if I could go into a
8 few more things.

9 THE COURT: Yes, sir.

10 Q Ms. Taylor, did you threaten the defendant in this case
11 in order to get him to talk to you?

12 A No, sir, I did not.

13 Q Did you promise him anything?

14 A No, sir.

15 Q And again, he wasn't even a suspect at this time, was
16 he?

17 A No, sir, he was not.

18 DEP. SOL. THORNTON: Your Honor, at this time, based on
19 my questions, I'd ask that State's Exhibit Number Two be
20 moved into evidence.

21 THE COURT: Mr. Beach, subject to the Court's earlier
22 ruling as a matter of law, is there anything else?

23 MR. BEACH: That's all.

24 THE COURT: Very well. Ladies and gentlemen of the
25 jury, State's Exhibit Number Two will be admitted into

Direct Examination of JODI TAYLOR by Dep. Sol. Thornton

1 evidence. State's Two, in evidence.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER TWO IS RECEIVED INTO
3 EVIDENCE.)

4 **THE COURT:** You may publish to the jury, counsel.

5 **DEP. SOL. THORNTON:** Thank you very much.

6 **Q** Ms. Taylor, if you would, please read that to the jury.

7 **A** "I woke up this morning at 10:00 A.M. and watched TV
8 for about an hour and a half. My grandfather's room is
9 right near the kitchen. I noticed that he was not home. He
10 came home about 11:30 A.M. with some bag in his hand. I
11 believe they were brown, plastic shopping bags.

12 I left the house around 11:45 A.M. headed to Springtown
13 to meet my cousin, Akeem Shider, but before I got to his
14 mother's house he called me and said that he had already
15 left and was on Highway 15, on the way to PeeDee's, to get a
16 part for his new tires and we were going to meet there. I
17 went to get a hair cut at Hodges on Main Street before going
18 to PeeDee's. After being there 30 to 40 minutes, my cousin,
19 Myeshia, called my cell and told me what had happened to my
20 grandfather.

21 I tried to call my mother (Sandra Richardson) several
22 times on her cell, but did not get her until I called her
23 work number. I picked her up from her job (Dr. Rhodes
24 office). My sister called me and told me where my
25 grandfather was and he came -- and we came to the scene at

1 Bethel Road. Statement written for me by Det. Jody Taylor."

2 Q Is that the complete story that he told you that day?

3 A Yes.

4 Q Is there anything that you forgot to write down, like
5 maybe four or five people in full, black gear with masks on
6 and black paint under their eyes that kidnapped him and his
7 grandfather?

8 THE COURT: Just a moment. Yes, sir?

9 MR. BEACH: Objection, Your Honor. None of that is in
10 evidence and it's purely speculative.

11 THE COURT: It's sustained on the grounds of leading,
12 counsel. Rephrase the question.

13 Q Was there anything else that he told you that day or
14 was that it?

15 A This is his complete statement to me at that time.

16 Q Did you also take statements from other people involved
17 in this case?

18 A I did.

19 Q All right. Was that the only statement that you took
20 from the defendant, Mr. Richardson?

21 A Yes, that was all from him.

22 DEP. SOL. THORNTON: I have nothing further at this
23 time. Please answer any questions Mr. Beach has.

24 THE COURT: Cross-examination.

25 MR. BEACH: Thank you, Your Honor.

Cross-Examination of JODI TAYLOR by Mr. Beach

CROSS-EXAMINATION

1
2 BY MR. BEACH:

3 Q Why did you write the statement and not have him write
4 it?

5 A When I approached the defendant, I asked him if he was
6 willing to give a statement in regards to purpose of
7 establishing a timeline of the victim's whereabouts, and who
8 he may or may not have come in contact with that morning,
9 and he told me that he would give the statement, and so I
10 instructed him on the filling out the top portion and the
11 proper procedure for giving a voluntary statement, and he
12 asked me, he said, "Would you mind writing it for me? I'm a
13 little upset right now." So, I wrote the statement for him.

14 Q Was he visibly upset?

15 A Yes, sir. I would say he was. His hands were shaking,
16 his voice was shaking, that sort of thing.

17 Q And in his statement, at any time did he admit harming
18 his grandfather?

19 A No, he didn't.

20 MR. BEACH: No other questions. Thank you.

21 THE COURT: Redirect?

22 DEP. SOL. THORNTON: None, Judge. I'd ask that this
23 witness be excused, but subject to recall.

24 THE COURT: Any objection?

25 MR. BEACH: None, Your Honor.

Cross-Examination of JODI TAYLOR by Mr. Beach

1 **THE COURT:** You may step down. Hand that to the court
2 reporter. Thank you very much. Watch your step.

3 Call your next witness.

4 **DEP. SOL. THORNTON:** Your Honor, may I approach?

5 **THE COURT:** You may. Mr. Beach?

6 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
7 AND OUT OF THE HEARING OF THE JURY.)

8 **THE COURT:** Ladies and gentlemen, let me tell you,
9 because we do a lot of planning, so you will know, because
10 we started late this morning, I'm going to take another
11 witness and then we're going to adjourn for lunch.

12 Normally, I take a break in the morning. I'm trying to
13 move so that I get you home in a timely fashion, so I want
14 each of you to understand. If at any time somebody needs a
15 break, just raise your hand for me. I promise you I'll be
16 watching; otherwise, we're going to take our break --
17 normally, I take a mid-morning break and a mid-afternoon
18 break, but we started -- even though we started long before
19 you this morning, the reason I didn't take a mid-morning
20 break was because we started late this morning. I thank you
21 for your cooperation and patience.

22 Call your next witness, Solicitor.

23 **DEP. SOL. THORNTON:** The State calls Jeff Scott to the
24 stand, Your Honor.

25 **THE COURT:** Mr. Scott, please come around and be sworn

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

1 by the Clerk of Court.

2 WHEREUPON, DET. JEFF SCOTT WAS DULY SWORN.

3 MADAME CLERK: Please have a seat on the witness stand
4 and state your full name for the record.

5 MR. SCOTT: Detective Jeff Scott, S-C-O-T-T.

6 THE COURT: Your witness, counsel.

7 DEP. SOL. THORNTON: Thank you, Judge.

8 DIRECT EXAMINATION

9 BY DEP. SOL. THORNTON:

10 Q Det. Scott, who do you work for?

11 A Colleton County Sheriff's Office.

12 Q Did you work for them on October 27th, 2008?

13 A Yes, sir. I did.

14 Q And are you one of the case officers on -- or are you
15 my case officer on the State v. Andre Taft Richardson, II?

16 A Yes, sir. I am.

17 Q All right. Did you respond out to the scene that day?

18 A No, sir. I did not.

19 Q All right, sir. Were you assigned this case after
20 that?

21 A Yes, sir. That's correct.

22 Q Did you process any of the evidence or take any
23 photographs in this case?

24 A Yes, sir. I did.

25 DEP. SOL. THORNTON: Your Honor, with the Court's

1 permission to approach?

2 THE COURT: You may.

3 Q I've handed you what's been marked for identification
4 State's Number Three and Four; can you identify those
5 photographs?

6 A Yes, sir. I can.

7 Q All right. Now, State's Exhibit Number Three is two
8 photographs; is that correct?

9 A That's correct.

10 Q All right. And what are those photographs of?

11 A State's Exhibit Number Three is a photograph of the
12 passenger side rear seat of the victim, Mr. Steward's Ford
13 Focus vehicle. The second photograph in that is a
14 projective that's been removed from the rear of the seat of
15 that vehicle.

16 Q All right. And what about State's Exhibit Number Four?

17 A State's Exhibit Number Four are photographs of the
18 defendant's Andre Richardson, 2006 Ford Mustang.

19 Q All right, sir. How were you able to determine it was
20 Mr. Richardson's Mustang?

21 A Mr. Richardson was in possession of the vehicle. He
22 did bring it to the office, as well as he did state that it
23 was his vehicle.

24 Q All right. Let me ask you a question, Det. Scott. You
25 said that -- with regard to State's Exhibit Number Three,

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

- 1 you said that was the seat?
- 2 A Yes, sir.
- 3 Q And then the bullet that was dug out of the seat,
- 4 basically; is that what it is?
- 5 A Yes, sir. That is correct.
- 6 Q All right. Now, where did that seat come from?
- 7 A That seat came from the rear passenger side area of the
- 8 victim, Freddie Steward's Ford Focus vehicle.
- 9 Q All right. Who got the seat out of the vehicle?
- 10 A That would be myself.
- 11 Q All right, sir. I'm going to hand you what's been
- 12 marked for identification as State's Exhibit Number Five.
- 13 Can you identify that item, please?
- 14 A Yes, sir. I can.
- 15 Q What is that?
- 16 A This is the rear passenger seat, again, from the
- 17 victim's, Freddie Steward, Ford Focus vehicle.
- 18 Q All right. And is that the seat that's identified in
- 19 these photographs?
- 20 A Yes, sir. It is.
- 21 Q Is that the seat that the slug was dug out of?
- 22 A Yes, sir. It is.
- 23 Q Are those photographs an accurate representation of the
- 24 seat as it was at that time, the bullet as it was at that
- 25 time, and also the defendant's car?

1 A Yes, sir. That's correct.

2 DEP. SOL. THORNTON: Your Honor, at this time, I'd ask
3 that State's Three, Four and Five be moved into evidence.

4 THE COURT: Have you showed the photographs to counsel?

5 DEP. SOL. THORNTON: They've already been shown to
6 counsel.

7 THE COURT: Any objection?

8 MR. BEACH: No objection, Your Honor.

9 THE COURT: As to Three, Four and Five?

10 MR. BEACH: Three, Four or Five.

11 THE COURT: Ladies and gentlemen of the jury, State's
12 Exhibits Three, Four, and Five will be admitted into
13 evidence without objection. State's Three, Four and Five
14 are now in evidence.

15 (WHEREUPON, STATE'S EXHIBITS THREE, FOUR AND FIVE ARE
16 RECEIVED INTO EVIDENCE.)

17 THE COURT: You may publish to the jury.

18 DEP. SOL. THORNTON: Your Honor, again, we will wait to
19 after the lunch break and do it digitally, if that is okay
20 with the Court.

21 THE COURT: You may proceed.

22 DEP. SOL. THORNTON: Thank you, Judge.

23 Q Mr. Scott, did you talk to the defendant, Andre Taft
24 Richardson, II, in this case?

25 A Yes, sir. That's correct.

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

1 Q And I'm going to hand you what's been marked for
2 identification as State's Exhibit Number Six. Can you
3 identify that for me?

4 A Yes, sir. That is the Colleton County Sheriff's
5 Office's statement of Miranda Rights Form.

6 Q All right. And what is that form designed for?

7 A This form is designed to advise an individual of their
8 Miranda Rights.

9 Q And who is that? Do you recognize that particular
10 form?

11 A Yes, I do. It is Andre Richardson.

12 Q All right. And is that the statement given to you --
13 in reference to a statement given to you by Mr. Richardson?

14 A That's correct.

15 Q All right, sir. Can you tell us what the rights are on
16 that statement?

17 A Number 1, you have the right to remain silent. Number
18 2, anything you say can and will be used against you in a
19 court of law. Number 3, You have the right to talk to a
20 lawyer and have him present with you while you are being
21 questioned. Number 4, if you can't afford to hire a lawyer,
22 one will be appointed to represent you before being
23 questioned. Number 5, you can decide at any time to
24 exercise these rights and not answer any questions or make
25 any statements." The waiver of rights, I'll read as

1 follows: "I have read and have had read to me the above
2 statement of rights and I understand each of those rights.
3 Having those rights in mind, I waive them and willingly make
4 a statement."

5 Q All right, sir. And did you read that form and show
6 that form to Andre Richardson?

7 A Yes, sir. I did.

8 Q Did he initial by each of his rights?

9 A Yes, sir. He did.

10 Q Did he sign waiving those rights and agree to talk to
11 you?

12 A Yes, sir. He did.

13 Q All right, sir. Is that form the form that you used on
14 October -- I believe this is the 28th?

15 A 29th.

16 Q I'm sorry, sir. October 29th of 2008, is that the form
17 you used prior to talking to him?

18 A Yes, sir. That is correct.

19 DEP. SOL. THORNTON: Your Honor, at this time, I would
20 ask that State's Exhibit Number Six be moved into evidence.

21 THE COURT: Subject to my earlier ruling, anything
22 additional?

23 MR. BEACH: None, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, State's
25 Exhibit Number Six will be admitted into evidence in the

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

1 trial of this case. State's Exhibit Number Six is now in
2 evidence.

3 (WHEREUPON, STATE'S EXHIBIT SIX IS RECEIVED INTO
4 EVIDENCE.)

5 THE COURT: You may publish to the jury.

6 DEP. SOL. THORNTON: Thank you, Your Honor.

7 Q Did you talk to Mr. Richardson after he signed and
8 filled out that form?

9 A Yes, sir. I did.

10 Q All right, sir. What did he tell you?

11 A Mr. Richardson stated to me that on the morning of
12 October 27th, 2008, he woke up somewhere around 10:00 a.m.
13 He noticed that his grandfather was not home. Shortly
14 after, his grandfather did return home. Mr. Richardson
15 stated that roughly around 11:30, 11:45, he departed the
16 residence of 156 Steward's Lane, which is also the residence
17 of the victim, turned left out of Steward's Lane onto Red
18 Root Road, in the direction of Bells Highway, to meet Akeem
19 Shider at PeeDee's Wheel and Tires to get a part for a
20 vehicle. Mr. Richardson stated that while he was en route,
21 he phone called Mr. Shider, who said that he had already
22 departed his residence and was already traveling down 15.
23 Mr. Richardson stated that he, at that point, turned around
24 and headed back in the direction of Steward's Lane, which is
25 the opposite direction of Bells Highway, and stated to me

1 that he did not pass any vehicles. He then proceeded to
2 stop and get gas, and then from there he went to the One
3 Stop, which is the Job Service, located on Mable T. Willis,
4 and from there he left and proceeded to the barber shop
5 where he was at for approximately 40 minutes when he
6 received a call from Myeshia Yates telling him that somebody
7 had killed Mr. Freddie.

8 His statement to her was "Why would somebody want to
9 kill your Uncle Freddie." And she said, "No, your
10 grandfather, Freddie." He, at that point, I believe the
11 phone conversation ended. A little while later he stated
12 that he called Myeshia back and got directions to the
13 incident location. At which time, he proceeded to his
14 mother's job, picked her up and then on to the crime scene.

15 Q All right, sir. And that was what he related to you,
16 correct?

17 A That is correct.

18 Q Is that the complete story that he told you on that
19 date?

20 A That is correct.

21 Q He didn't include any other details or anything else?

22 A That's correct.

23 Q All right, sir. I'm going to hand you what's been
24 marked as State's Exhibit Number Seven, for identification.
25 Can you identify that document?

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

- 1 A Yes, sir. I can.
- 2 Q All right, sir. And what is that document?
- 3 A This is a Colleton County Sheriff's Office statement of
- 4 Miranda Form.
- 5 Q All right. Is that Miranda Form the same, in essence,
- 6 as the one we just saw or just read to the jury?
- 7 A That's correct.
- 8 Q Does it list the same rights on it?
- 9 A That's correct.
- 10 Q Is that form, State's Exhibit Number Seven, does it
- 11 relate to any particular person?
- 12 A Yes, sir. It does.
- 13 Q And who is that person?
- 14 A Mr. Andre Richardson?
- 15 Q All right, sir. Is that a form that you had him fill
- 16 out prior to a second conversation with Mr. Richardson?
- 17 A That is correct.
- 18 Q All right, sir. And did you read him the same rights
- 19 that you referenced earlier?
- 20 A Yes, sir. I did.
- 21 Q Did he initial by each of those rights?
- 22 A Yes, sir. He did.
- 23 Q Did he agree to sign a waiver?
- 24 A Yes, sir. He did.
- 25 Q And did he sign the waiver and speak to you?

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

1 A That's correct.

2 Q Is that an accurate representation of that form?

3 A Yes, sir. It is.

4 DEP. SOL. THORNTON: Your Honor, I'd ask that State's
5 Exhibit Number Seven be moved into evidence.

6 THE COURT: Counsel approach.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
8 AND OUT OF THE HEARING OF THE JURY.)

9 Q Det. Scott, going back to what was marked as State's
10 Exhibit Number Six, does that reference a statement that was
11 referred to on October 29th, 2008; is that correct?

12 A Correct.

13 Q And that was the first statement that you took with Mr.
14 Richardson; is that right?

15 A That's correct.

16 Q All right, sir. Did you promise him anything in order
17 to get him to talk to you?

18 A No, sir. I did not.

19 Q Did you threaten him in any way to get him to talk to
20 you?

21 A No, sir. I did not.

22 Q All right. Then you read him those rights; is that
23 correct?

24 A That's correct.

25 Q He initialed his rights. And did he seem to you that

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

1 he understood what he was doing?

2 A Yes, sir.

3 Q Now with regard to State's Exhibit Number Seven, that
4 is in reference to a conversation that occurred when? What
5 is the date of that, sir?

6 A The date of this particular conversation was on
7 February the 20th of 2009.

8 Q So some four months or so, or almost four months later;
9 is that correct?

10 A That's correct.

11 Q All right, sir. So State's Exhibit Number Seven is
12 dated February the 20th, 2009; is that correct?

13 A Yes, sir. That's correct.

14 Q All right, sir. And that would be the second statement
15 that you received from Mr. Richardson; is that correct?

16 A That is correct.

17 Q So did you make any promises to get him to talk to you
18 on that day?

19 A No, sir. I did not.

20 Q Did you threaten him in any way to get him to talk to
21 you?

22 A No, sir. I did not.

23 Q All right. Did you read him those rights?

24 A Yes, sir. I did.

25 Q Did he initial behind all of the rights that you've

1 already read to the jury?

2 A Yes, sir. That's correct.

3 Q All right, sir. And did he indicate to you or did you
4 see him, based on your experience as an officer, that he
5 understood what he was doing?

6 A Yes, sir.

7 DEP. SOL. THORNTON: Judge, I'd ask that State's
8 Exhibit Number Seven be moved into evidence at this time.

9 THE COURT: Subject to my earlier ruling on State's
10 Exhibit Number Seven, is there anything additional?

11 MR. BEACH: No, Your Honor.

12 THE COURT: Ladies and gentlemen of the jury, State's
13 Exhibit Number Seven will be admitted into evidence.

14 (WHEREUPON, STATE'S EXHIBIT NUMBER SEVEN IS RECEIVED
15 INTO EVIDENCE.)

16 THE COURT: You may publish and proceed, counsel.

17 DEP. SOL. THORNTON: Thank you, Judge.

18 Q Det. Scott, what did he tell you on February 20th,
19 2009, in this conversation?

20 A Basically, the same thing that was relayed to me on
21 October the 29th, 2008, which is the story of how he got up
22 that morning, what he did and where he went, and what he was
23 told by other parties transpired.

24 Q All right, sir. So would you say it was similar or the
25 same as the previous statement he gave you on October the

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

- 1 29th?
- 2 A Yes, sir.
- 3 Q All right. I'm going to hand you what's been marked as
- 4 State's Exhibit Number Eight for identification. Can you
- 5 identify that document, sir?
- 6 A Yes, sir.
- 7 Q Is that another Miranda waiver of rights form?
- 8 A Yes, sir.
- 9 Q Is it the same as the two that you've already testified
- 10 to as far as what's on the form?
- 11 A Yes, sir. It is.
- 12 Q All right. What date does that form show?
- 13 A This date shows February the 24th of 2009.
- 14 Q All right, sir. So the third conversation you had with
- 15 him then was February the 24th, 2009, some four days after
- 16 the second conversation; is that correct?
- 17 A That's correct.
- 18 Q All right. Did you go over the form with him again?
- 19 A Yes, sir. I did.
- 20 Q Did you go over all the rights that you've already
- 21 testified to and talked about?
- 22 A Yes, sir. I did.
- 23 Q All right. Does the form show that he initialed next
- 24 to each of those rights?
- 25 A Yes, sir. It does.

1 Q Did he sign the waiver?

2 A Yes, sir. He did.

3 Q All right. And did he agree to give a statement to you
4 again?

5 A Yes, sir. He did.

6 Q All right. Did you promise him anything on that
7 conversation?

8 A No, sir. I did not.

9 Q Did you threaten him in any way on that conversation?

10 A No, sir. I did not.

11 Q Did he seem to indicate to you that he understood what
12 was going on and do what he was doing and he agreed to talk
13 to you?

14 A Yes, sir.

15 **DEP. SOL. THORNTON:** Your Honor, I'd ask that State
16 Exhibit Number Eight be admitted into evidence.

17 **THE COURT:** Mr. Beach, anything additional subject to
18 my earlier ruling?

19 **MR. BEACH:** Nothing, Your Honor.

20 **THE COURT:** Very well. State's Exhibit Number Eight
21 will be admitted into evidence. State's Exhibit Number
22 Eight is now in evidence.

23 (WHEREUPON, STATE'S EXHIBIT NUMBER EIGHT IS RECEIVED
24 INTO EVIDENCE.)

25 **THE COURT:** You may publish and proceed.

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

1 **DEP. SOL. THORNTON:** Thank you, Judge.

2 **Q** Det. Scott, what did he talk to you about this third
3 time?

4 **A** This third interview was more of a interview that was
5 conducted by myself letting the defendant know that his
6 previous stories to me, I felt, were false, basically. I
7 didn't feel like he was being truthful with me. So, this
8 interview was more of myself talking than it was him. Just
9 trying to convey to him that his previous stories, I felt,
10 were not accurate.

11 **Q** All right. Let me ask you a question, in any of these
12 conversations, which would have been October 29th was the
13 first one, of 2008. February 20th was the second one and
14 February the 24th was the third one. In any of these
15 conversations, did you talk to him about a cell phone or him
16 making a cell phone call the morning that his grandfather
17 was killed?

18 **A** Yes, sir. I did.

19 **Q** All right. What did he indicate in his first statement
20 to you, just to reiterate, where did he say he was that
21 morning?

22 **A** Mr. Richardson stated to me that he was at his
23 residence, at which time he called his residence from his
24 cell phone.

25 **Q** All right. So he first told you that he was at his

1 house?

2 A That's correct.

3 Q All right. And the first statement he gave you, and
4 the statement I'm referring to, is the October the 29th
5 statement; did he tell you that he made a cell phone call to
6 his house or did he tell you that he was at home?

7 A He did tell me he was at home.

8 Q All right, sir. Did you, at some point after that,
9 tell him that you knew he had called his house that morning?

10 A Yes, sir. I did.

11 Q And is that one of the things that you talked about
12 where you said you didn't think he was telling the truth?

13 A Yes, sir. That's correct.

14 Q Is that because it would seem odd to call your house in
15 the morning, if you were there?

16 A That's correct.

17 Q Did he give you some explanation as to why if he was
18 home he would call his own house from his cell phone?

19 A Yes, sir. He did.

20 Q All right, sir. Other than that, did he change his
21 story at that point?

22 A No, sir.

23 Q So he continued to maintain, basically, he didn't know
24 anything and he didn't see anything?

25 A That's correct.

Direct Examination of JEFF SCOTT by Dep. Sol. Thornton

1 Q Except he did change it a little bit about the cell
2 phone and added that part in once you told him you knew he
3 had made a phone call; is that right?

4 A That's correct.

5 DEP. SOL. THORNTON: Court's indulgence, Your Honor.

6 THE COURT: Yes, sir.

7 Q Det. Scott, there has been reference made two or three
8 times to a Mr. Shider, a cousin of the defendant's; is that
9 correct?

10 A That is correct.

11 Q Could you go back over what he told you about Mr.
12 Shider in reference to that day?

13 A Yes, sir. In reference to the morning of the 29th of
14 October, when I originally interviewed Mr. Richardson, the
15 statement was made to me in reference to Mr. Akeem Shider
16 that he was to meet up with him at PeeDee's Tires, I
17 believe, for a part for Mr. Shider's vehicle. They were to
18 leave Mr. Shider's vehicle at PeeDee's Tires, at which time
19 they were to take Mr. Richardson's vehicle and proceed on to
20 Beaufort.

21 Q All right, sir. As a result of these conversations
22 with the defendant in this case, did you go and talk to Mr.
23 Shider, his cousin?

24 A Yes, sir. I did.

25 Q And did you obtain a statement from him?

1 A Yes, sir. That's correct.

2 DEP. SOL. THORNTON: Your Honor, Court's indulgence.

3 THE COURT: Yes, sir.

4 Q Det. Scott, were you a member of any team that went out
5 trying to search for the murder weapon in this case?

6 A Because I was the lead investigator on it, we enlisted
7 the help of the Department of Natural Resources Diving Team
8 to attempt to locate the murder weapon.

9 Q And what kind of diving -- I mean, is it a diving team
10 that they drag ponds where they could ---

11 A Basically, they -- anybody in water, they are equipped,
12 and again, I'm not an expert on diving, they are equipped to
13 attempt to locate and recover evidence of a crime, as well
14 as persons that may have gone missing and things of that
15 nature.

16 Q And did they do so in this case?

17 A No weapon was recovered.

18 Q But did they attempt to find it?

19 A Yes, sir. An attempt was made.

20 Q All right, sir. To your knowledge, as the case
21 officer, has any gun ever been recovered in this case?

22 A No, sir. It has not.

23 Q All right, sir.

24 DEP. SOL. THORNTON: I have no further questions at
25 this time, Your Honor.

Cross-Examination of JEFF SCOTT by Mr. Beach

1 **THE COURT:** Very well. Cross-examination.

2 **CROSS-EXAMINATION**

3 **BY MR. BEACH:**

4 **Q** These statements that he made, at any time did he say
5 that he had harmed Freddie Steward?

6 **A** No, sir. He did not.

7 **Q** And you gave him his Miranda rights all three times and
8 you talked to him all three times?

9 **A** Yes, sir. That's correct.

10 **Q** Now, I am intrigued by this -- this cushion came out of
11 the ---

12 **THE COURT:** Please refer to the exhibit number for the
13 record.

14 **MR. BEACH:** I'm sorry, Your Honor. Exhibit ---

15 **DEP. SOL. THORNTON:** I believe it's Exhibit Number
16 Five, Judge.

17 **MR. BEACH:** It is Five.

18 **Q** Exhibit Five; this came out of Freddie Steward's car?

19 **A** That is correct.

20 **Q** Did you take it out of the car?

21 **A** Yes, I did.

22 **Q** And where was it located in the car?

23 **A** It is the, again, passenger-side, rear seat back.

24 **Q** So if you pulled this seat down, then you're looking in
25 the trunk; is that correct?

Cross-Examination of JEFF SCOTT by Mr. Beach

- 1 A Yes, sir. That's correct.
- 2 Q And this was the seat behind the passenger?
- 3 A That's correct.
- 4 Q And you found bullet holes in it?
- 5 A Yes, sir. We did find one -- what appeared to be one
6 bullet hole.
- 7 Q One bullet hole. Did you find the round?
- 8 A Yes, sir. We did recover the round.
- 9 Q Were you able to ballistically match the round with the
10 round that killed Mr. Steward?
- 11 A I can't testify to that as evidence is currently -- is
12 normally sent to the State Law Enforcement Division for
13 analysis.
- 14 Q Okay. Now, the trunk was open; was it not?
- 15 A Yes, sir. That's correct.
- 16 Q And there were no holes in the trunk or anything like
17 that?
- 18 A No, sir.
- 19 Q So somebody from the outside fired into the back of
20 this seat?
- 21 A A round did strike the back of that seat; that's
22 correct.
- 23 Q And it was fired from outside the vehicle?
- 24 A I'm unsure of exactly the location where the round
25 could have been fired but it did strike the back of that

Cross-Examination of JEFF SCOTT by Mr. Beach

- 1 seat.
- 2 Q But it didn't come from the inside?
- 3 A No, sir.
- 4 Q So it came from somewhere in the trunk?
- 5 A The rear -- the rear seat.
- 6 Q It didn't go all the way through?
- 7 A No, sir. It did not.
- 8 Q Now, where was Mr. Steward's body found with the-- in
- 9 regard to that particular seat cushion?
- 10 A I cannot respond to that as I did not respond to the
- 11 crime scene that day.
- 12 Q Were any other bullets found anywhere else?
- 13 A Again, if there were any others found at the scene that
- 14 day, I cannot testify to that. I did find a fragment of a
- 15 round located in the molding of the trunk area of Mr.
- 16 Steward's vehicle.
- 17 Q In the molding of the trunk area?
- 18 A That's correct.
- 19 Q Were you able to determine whether it was the same
- 20 caliber as the other rounds?
- 21 A Again, all evidence that is collected is sent to State
- 22 Law Enforcement Division for comparison. This particular
- 23 piece of evidence was a fragment from a round, which was
- 24 very small basically.
- 25 Q Okay. How many shell casings did you find?

1 A Again, at the crime scene, I can't testify. I did not
2 go to the crime scene that day.

3 Q Where was the car when you found this evidence?

4 A Mr. Steward's vehicle was towed from the crime scene
5 that day back to our office which is the Colleton County
6 Criminal Investigation Division Annex, which is my office.
7 It was locked and secured in a bay, at which time a search
8 warrant was done on the vehicle, at which time I executed
9 said search warrant.

10 MR. BEACH: No other questions, Your Honor.

11 THE COURT: Redirect?

12 DEP. SOL. THORNTON: None, Your Honor.

13 THE COURT: As to this witness?

14 DEP. SOL. THORNTON: He's my case officer, Judge. I'd
15 ask that he be allowed to remain.

16 THE COURT: All right. Mr. Scott, if you will step
17 down.

18 Mr. Foreman, ladies and gentlemen of the jury, we're
19 going to stop at this point for your lunch break. I have a
20 note that your lunch has arrived. I will give you a quick
21 break. During your lunch break, please do not discuss the
22 case. You have not heard all of the evidence in the case,
23 so it would be improper for you to discuss it.

24 Now, Mr. Foreman, if I have any smokers on the jury,
25 smoking is prohibited in the courthouse. However, a bailiff

1 will take you outside if you need to smoke. I can allow
2 that only at this point prior to your deliberations, but
3 I'll let you do that, if I have a smoker, during the lunch
4 break. Talk about anything else; just don't talk about the
5 case.

6 (JUROR RAISES HAND.)

7 **THE COURT:** Yes, ma'am?

8 **FEMALE JUROR:** What if we have one of those questions?

9 **THE COURT:** If you have a question, let the foreman
10 know. He'll write it down and they'll send it to me. Write
11 it on a piece of paper. It will be brought out to me and
12 I'll rule, just like I would any question asked by the
13 attorneys, whether or not the question can or cannot be
14 answered. Okay? Anything else from anybody?

15 (NO RESPONSE.)

16 **THE COURT:** All right. I hope you have a pleasant
17 lunch. You may return to your jury room at this time.

18 (12:50 P.M., SEPTEMBER 1, 2009, WHEREUPON THE JURY
19 EXITS THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD
20 ON THE RECORD.)

21 **THE COURT:** Anything on the record outside the presence
22 of the jury, from the State?

23 **DEP. SOL. THORNTON:** None from the State, Judge.

24 **THE COURT:** From the defendant?

25 **MR. BEACH:** Nothing, Your Honor.

1 **THE COURT:** It appears that we've covered 11 witnesses
2 since we actually began testimony at 11:00, so I'm pleased
3 we've made a little progress so far. I understand from Mr.
4 Padgett that your lunch has arrived. I'd like to begin back
5 around 1:45. This Court is now recessed for lunch.

6 (WHEREIN COURT IS RECESSED FOR LUNCH;
7 THEREAFTER, AT 1:55 P.M., COURT RESUMES SESSION.)

8 **THE COURT:** Is the State ready to proceed?

9 **DEP. SOL. THORNTON:** The State's ready, Your Honor.

10 **THE COURT:** Is the defendant ready to proceed?

11 **MR. BEACH:** Defendant's ready, Your Honor.

12 **THE COURT:** Wonderful. Bring us the jury, please
13 ma'am.

14 (1:55 P.M., SEPTEMBER 1, 2009, WHEREUPON THE JURY
15 ENTERS THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD
16 ON THE RECORD.)

17 **THE COURT:** If you've got a question, you need to bring
18 it to me.

19 (BAILIFF TAKES JURY NOTE TO THE COURT.)

20 **THE COURT:** Counsel approach.

21 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
22 AND OUT OF THE HEARING OF THE JURY.)

23 **THE COURT:** Mr. Foreman, ladies and gentlemen of the
24 jury, I have your question, actually questions, 1 and 2.
25 Let me tell you the answer to that question. You must

1 decide that question based upon the evidence presented.
2 during the trial of the case. Without objection, I mark the
3 written questions from the jury as Court's Exhibit ---

4 **COURT REPORTER:** Two.

5 **THE COURT:** No, we had something during the pre-trial.
6 What exhibit number ---

7 **COURT REPORTER:** Number Seven.

8 **THE COURT:** Court's Exhibit Number Seven. Any
9 objection from the State?

10 **DEP. SOL. THORNTON:** No, sir.

11 **THE COURT:** From the defendant?

12 **MR. BEACH:** No, Your Honor.

13 **THE COURT:** Any objection to the Court's comments and
14 response to the jury's questions from the State?

15 **DEP. SOL. THORNTON:** None, Your Honor.

16 **THE COURT:** From the defendant?

17 **MR. BEACH:** No, Your Honor.

18 **THE COURT:** Very well. Ladies and gentlemen, I remind
19 you of my response. Please listen carefully to the
20 evidence, as we're just beginning the evidence in the trial
21 of this case; and in response to each of those questions,
22 the answer is you must decide the case based on the evidence
23 presented.

24 You may call your next witness, Solicitor.

25 **DEP. SOL. THORNTON:** Your Honor, with the Court's

1 permission, I'm going to go ahead and publish the earlier
2 exhibits, the photographs.

3 **THE COURT:** State has admitted Exhibits One through
4 Eight. Exhibit One is 15 photographs.

5 **DEP. SOL. THORNTON:** This would be Exhibit Number One,
6 Your Honor, and Number Three and Number Four.

7 (WHEREUPON, THE STATE COMMENCES THE VIDEO PRESENTATION
8 OF STATE'S EXHIBITS ONE, THREE, AND FOUR.)

9 **THE COURT:** Identify for the record what the jury is
10 seeing.

11 **DEP. SOL. THORNTON:** Yes, sir, Your Honor. This is
12 State's Exhibit Number One, consisting of 15 photographs of
13 the crime scene on Bethel Road, on October 27th, 2008. The
14 first picture is the overview, Judge, which shows the car of
15 Mr. Freddie Steward, as has been testified to, along with
16 the body of Mr. Freddie Steward, as it laid partially in the
17 roadway on Bethel Road.

18 The next photograph is the defendant -- excuse me, the
19 victim in the case laying on the road with several markers
20 around him, which would be indicative of the evidence in
21 this case, Your Honor. As you can see from the photograph,
22 number one, and some of the other numbers were shell
23 casings.

24 Next picture, Your Honor, and several in succession,
25 are of the different items, number 1 and number 2 both being

1 shell casings, along with numbers 3 and 4.

2 The next photograph, Your Honor, is the backseat of Mr.
3 Steward's vehicle. Eleven, Your Honor, and Twelve, are the
4 next two pictures with markers 11 and 12 seen to be in them
5 showing the entire spinout marks.

6 Next, Your Honor, are multiple bullet holes in the
7 clothing of Mr. Steward as he lays. Sixteen, Your Honor, is
8 also a picture of marker 16 indicating a shell casing.

9 Next set of photographs, Judge, would be Exhibit Number
10 Three. The first is the back of the seat that has been
11 admitted into evidence as Exhibit Number Five, showing the
12 bullet hole. The next photograph is the photograph of the
13 slug that was removed, Your Honor, from that seat.

14 This would be the three photographs from Exhibit Number
15 Four, I believe, Your Honor, which shows the defendant's
16 Mustang, three separate photographs of it, Your Honor. That
17 would be the State's publishing to the jury, those
18 photographs, and of course, they'll have those photographs
19 in the jury room.

20 **THE COURT:** Is that everything with the projector?

21 **DEP. SOL. THORNTON:** It is for now, Your Honor.

22 **THE COURT:** Can you give me the lights, please Pat?

23 (LIGHTS ARE TURNED BACK ON AND THE FOLLOWING PROCEEDS.)

24 **THE COURT:** Call your next witness.

25 **DEP. SOL. THORNTON:** Roger Shider.

Direct Examination of AKEEM SHIDER by Dep. Sol. Thornton

1 WHEREUPON, THE WITNESS IS DULY SWORN.

2 MADAME CLERK: Please have a seat on the witness stand
3 and state your full name for the record.

4 THE COURT: How are you doing? Have yourself a seat.
5 Pull that over. I want you to speak into that mic for me
6 and speak up because I need for those people down at the end
7 of the row to hear you. Begin by stating your full name and
8 spelling your last name for the jury.

9 MR. SHIDER: My name is Roger Akeem Lamar Shider, S-H-
10 I-D-E-R.

11 THE COURT: Your witness.

12 DEP. SOL. THORNTON: Thank you.

13 DIRECT EXAMINATION

14 BY DEP. SOL. THORNTON:

15 Q Mr. Shider, are you related to the defendant, Andre
16 Richardson?

17 A Yes, sir.

18 Q All right. How are y'all related?

19 A Cousin.

20 Q All right, sir. Do you remember back on October 27th
21 of 2008 when Mr. Freddie Steward was killed?

22 A Yes, sir.

23 Q All right, sir. Do you remember giving a statement to
24 a detective on October the 29th of 2008?

25 A Yes, sir.

Direct Examination of AKEEM SHIDER by Dep. Sol. Thornton

1 Q All right. Do you see the detective in the room that
2 you gave the statement to?

3 A (INDICATING DET. JEFF SCOTT.)

4 Q You indicated Det. Jeff Scott?

5 A That's the guy right there.

6 Q All right, sir. And did he ask you some questions
7 about what you did on that day, October 27th?

8 A Yes.

9 Q All right, sir. Do you remember what you told him or
10 do you need to look at your statement?

11 A I remember what I told him.

12 Q All right, sir. Go ahead.

13 A I told him I got up at 7:00, something like that, to
14 crank my grandmother car up, and went back in the house
15 about -- after that I went back in the house and went back
16 to sleep, got back up like 12 or 1, went to PeeDee's to get
17 a part for my car. Went to New York Wire to see if I could
18 get my job back, and other than that, when I was coming from
19 New York Wire, I got a phone call from "Dre", Andre, and he
20 told me that his -- his grandfather was killed and he said
21 that he got a phone call from Myeshia Yates and that --
22 saying that -- she was telling him that somebody shot his
23 grandfather.

24 Q All right, sir. Did he come to your house that day?

25 A No, he never came.

Direct Examination of AKEEM SHIDER by Dep. Sol. Thornton

1 Q All right. So, I'm sorry, I should have been more
2 specific. When I say "he", I mean Andre Richardson. Did he
3 come to your house?

4 A No, sir.

5 Q Did he call you that morning and tell you he was coming
6 to meet you to go somewhere?

7 A Yes, he called me either that morning or that
8 afternoon, I think.

9 Q Okay. Well, in here, in your statement that you just
10 talked about, it said that he called you after you got back
11 up at 1:00; is that right?

12 A Yes, sir.

13 Q All right. Is that when he called you?

14 A Yes, sir.

15 Q Did he call you before that and tell you he was coming
16 to pick you up?

17 A No, sir.

18 Q So the only phone call you got from him that day was
19 after 1:00 when you got back up and was riding around; is
20 that right?

21 A Yes, sir.

22 **DEP. SOL. THORNTON:** Court's indulgence, Your Honor.

23 Q I don't have any further questions. Thank you very
24 much. Mr. Shider, if you'll answer anything that Mr. Beach
25 has for you.

Cross-Examination of AKEEM SHIDER by Mr. Beach

1 MR. BEACH: May it please the Court?

2 THE COURT: Yes, sir. Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. BEACH:

5 Q Mr. Shider, did you talk with anybody on the phone that
6 morning?

7 A No, sir.

8 Q You don't recall talking to Andre?

9 A Not that morning.

10 Q Did you talk to him the previous morning?

11 A I talked to him a lot, but I don't remember talking to
12 him that morning.

13 Q Y'all do talk a lot?

14 A Yes, sir.

15 Q And you say you were up fairly early that morning?

16 A Yes, sir, cranking my grandma's car up to go to work?

17 Q And what time did you get back to your house?

18 A What time I got back from cranking the car up or ---

19 Q After you picked up the car; what time did you get
20 back?

21 A No, I cranked the car. The car was already in the
22 yard. I cranked the car.

23 Q Oh, okay. Cranked the car?

24 A Yes, sir.

25 Q Okay. And about what time was this?

- 1 A It was like 7:00, 7:25 or something like that.
- 2 Q Then what did you do?
- 3 A Went back to bed.
- 4 Q When was the last time you had talked to Andre prior
-5 to that?
- 6 A Probably the day before that, probably. Like I say, we
7 talk a lot.
- 8 Q Y'all do talk a lot?
- 9 A (WITNESS NODS.)
- 10 Q Okay. Y'all close?
- 11 A Yes, sir.
- 12 Q Was he working at New York Wire with you?
- 13 A Before I got locked up, he was working with me.
- 14 Q Was he laid off, also?
- 15 A I'm guessing he was. I think he probably was. I'm not
16 sure. I can't remember. I'm not sure.
- 17 Q Okay. But y'all was supposed to go somewhere and get a
18 part for a car?
- 19 A Well, I was supposed to go to PeeDee's, I went to
20 PeeDee's to get a part for the car and we was supposed to go
21 to Beaufort that day, but we didn't go.
- 22 Q Had y'all been talking about that for a while?
- 23 A Yes, sir.
- 24 Q Several days?
- 25 A Uh-huh.

Cross-Examination of AKEEM SHIDER by Mr. Beach

1 MR. BEACH: No other questions, Your Honor.

2 THE COURT: Redirect?

3 DEP. SOL. THORNTON: Yes, sir.

4 Q But your testimony earlier was that he didn't call you
5 that day, the day that all this happened, until afternoon;
6 is that right?

7 A Afternoon, yes, sir.

8 Q And that conversation was he told you that somebody,
9 that Myeshia Yates had called him and told him that his
10 granddaddy was shot; is that right?

11 A Yes, sir.

12 DEP. SOL. THORNTON: Nothing further.

13 THE COURT: Re-cross, limited to redirect?

14 MR. BEACH: Nothing, Your Honor.

15 THE COURT: As to this witness, Solicitor?

16 DEP. SOL. THORNTON: I'd ask that he be excused, Your
17 Honor. THE COURT: Any objection, Mr. Beach?

18 MR. BEACH: No objection, Your Honor.

19 THE COURT: Mr. Shider, you may step down and you are
20 excused from the courtroom. Call your next witness.

21 DEP. SOL. THORNTON: Kevin Nettles.

22 WHEREUPON, MR. KEVIN NETTLES WAS DULY SWORN.

23 MADAME CLERK: Please have a seat on the witness stand
24 and state your full name for the record, please.

25 THE COURT: Good afternoon to you. Pull that

Direct Examination of KEVIN NETTLES by Dep. Sol. Thornton

1 microphone up, adjust it, try to speak into it if you can.
2 It's amplifying your voice. State your full name and spell
3 your last name for me.

4 **MR. NETTLES:** My name is Kevin Daniel Nettles. My last
5 name is spelled N-E-T-T-L-E-S.

6 **THE COURT:** Your witness, counsel.

7 **DEP. SOL. THORNTON:** Thank you, sir.

8 **OPENING STATEMENT**

9 **BY DEP. SOL. THORNTON:**

10 **Q** Mr. Nettles, where do you live, sir?

11 **A** I live on the corner of Bethel and Red Root Road.

12 **Q** All right. I know this has been a while, but back on
13 October 27th of 2008, did you -- do you recall being
14 interviewed by a police officer?

15 **A** Yes, sir.

16 **Q** All right. And did you give a statement to that
17 officer?

18 **A** Yes, sir.

19 **Q** All right. And are you holding in your hand a copy of
20 the statement that you gave?

21 **A** Yes, sir.

22 **Q** All right, sir. And if you need to refresh your memory
23 with that, please go ahead; but do you recall what you
24 talked about or what you told the officer that day?

25 **A** Yes, sir.

Direct Examination of KEVIN NETTLES by Dep. Sol. Thornton

1 Q All right. Could you tell us, please?

2 A My wife had got up to go to work and I was waiting on
3 my ride for the logger woods. My son had stayed home
4 because he was sick. The logging truck didn't come up
5 because it was hazy, rainy that day and so, about 10:30 or
6 11:00, we went outside to cut the grass. Well, in the
7 meanwhile, I had kept hearing this loud car race up and down
8 the road. It was a Mustang, a white, creamish-looking
9 Mustang, like the Highway Patrol drive. That's pretty much
10 it.

11 Q All right, sir. And you saw this vehicle several times
12 going up and down the road?

13 A I seen it go up and down the road approximately,
14 exactly four or five times to my knowledge.

15 Q All right. And would this be an area considered to be
16 the 300 block, or around that area, of Bethel Road?

17 A Well, I'm not -- well, it went up and down Red Root
18 Road this way ---

19 Q Yes, sir.

20 A --- and then it went up a short distance on Bethel,
21 back and forth this way, because you could hear how loud the
22 pipes was.

23 Q Yes, sir.

24 A But I can't say nothing else.

25 Q Okay. That's fine. Do you know anything else about

1 this case, sir, or is that it?

2 A No, sir.

3 Q And that's what you told the officer that day?

4 A Yes, sir.

5 Q All right, sir. Would you be able to positively
6 identify the car or you just know a general description?

7 A It was like a highway patrol, the whole body style the
8 highway patrol use, with the trunk and all, like Mr. James
9 Brown used to drive.

10 Q Okay, sir. And you said loud pipes on it?

11 A It had loud pipes and dark windows. I could tell you
12 that much.

13 Q All right, sir. Thank you very much. Nothing further.
14 Please answer any questions that Mr. Beach has for you.

15 THE COURT: Cross-examination?

16 MR. BEACH: Thank you, Your Honor. Court's indulgence
17 for just a moment.

18 CROSS-EXAMINATION

19 BY MR. BEACH:

20 Q You were cutting the grass that day?

21 A I went outside to cut the grass with my son, yes, sir.

22 Q Okay. Were you cutting it when this car went by?

23 A Well, we heard this car racing up and down the road, I
24 went outside. And when I went outside, I got my lawn mower
25 out of the shed.

Cross-Examination of KEVIN NETTLES by Mr. Beach

1 Q Oh.

2 A I had seen the car, previously, looking out the window.

3 Q So you weren't on the lawnmower or anything like that
4 when the car was going back and forth?

5 A No, my son was on the lawnmower. I was in the yard. I
6 seen it go up and down the road, like I said, on a couple of
7 occasions.

8 Q Okay. And how far were you from the road where this
9 car was?

10 A Probably from here to that monument out there. I mean,
11 my house is right there by the road. I mean, I can't miss
12 it.

13 Q Could you see the driver?

14 A No, sir. I could not. It had dark, tinted windows.

15 Q Okay. So you couldn't see who was driving the car?

16 A No, sir. I could not.

17 Q It went up and down the road about four times?

18 A Several times, four or five times.

19 Q Okay. Thank you, sir.

20 THE COURT: Redirect?

21 DEP. SOL. THORNTON: None, Your Honor. I ask that he
22 be excused.

23 THE COURT: Any objection, Mr. Beach?

24 MR. BEACH: No, Your Honor.

25 THE COURT: Mr. Nettles, you may step down. You can

1 remain with us if you like, but you are excused from the
2 courtroom.

3 MR. NETTLES: I can go?

4 THE COURT: Yes, sir.

5 MR. NETTLES: Thank you, sir. -

6 THE COURT: Call your next witness.

7 DEP. SOL. THORNTON: Ricky Breland.

8 WHEREUPON, MR. RICKY BRELAND WAS DULY SWORN.

9 MADAME CLERK: Please have a seat on the witness stand
10 and state your full name for the record.

11 THE COURT: Have a seat and make yourself comfortable.
12 Adjust the microphone. State your full name and spell your
13 last name for the court reporter.

14 MR. BRELAND: My name is Ricky Breland, B-R-E-L-A-N-D.

15 THE COURT: Your witness, Solicitor.

16 DEP. SOL. THORNTON: Thank you, Judge.

17 DIRECT EXAMINATION

18 BY DEP. SOL. THORNTON:

19 Q Mr. Breland, where do you live, sir?

20 A On Bethel Road.

21 Q All right, sir. And going back to October 27th, 2008,
22 do you recall giving a statement on or about that day to a
23 member of the Colleton County Sheriff's Office?

24 A Yes, sir.

25 Q All right, sir. And were they asking you about any

Cross-Examination of RICKY BRELAND by Mr. Beach

- 1 suspicious activity on that day?
- 2 A Yes, sir.
- 3 Q All right, sir. And did you tell them about something
- 4 that you thought was a little unusual or odd?
- 5 A Yeah, I seen that white Mustang on that road, probably -
- 6 five or six times that morning, driving real slow and where
- 7 it went it wasn't gone very long, it was right back.
- 8 Q All right, sir. And you said this happened several
- 9 times?
- 10 A Uh-huh.
- 11 THE COURT: You have to say "yes" or "no".
- 12 A Yes, sir.
- 13 DEP. SOL. THORNTON: Sorry, Judge.
- 14 Q Was that on the morning of October the 27th?
- 15 A Yes, sir.
- 16 Q All right, sir. Did you describe it in your statement?
- 17 A What?
- 18 Q The car?
- 19 A Yeah.
- 20 Q All right, sir. Do you remember the description?
- 21 A Well, it was white and it had the stripes down it, and
- 22 had the blacked-out rims.
- 23 Q All right, sir. Do you remember if the stripe was a
- 24 light color or a dark color?
- 25 A Kind of a dark color.

Cross-Examination of RICKY BRELAND by Mr. Beach

1 Q All right, sir. And do you know what kind of car it
2 was?

3 A A Ford Mustang is all I know.

4 Q So a Ford Mustang with blacked-out rims and you said
5 "light in color with a black stripe or a dark stripe"; is
6 that right?

7 A Uh-huh.

8 Q And your testimony is you saw it that morning, October
9 27th, 2008, going by several times?

10 A Yes -- Yes, sir.

11 Q All right, sir. And what was it that drew your
12 attention to it?

13 A Well, I was getting ready to cut grass and I was in the
14 yard shortly after 9:00, and I saw it going by real slow,
15 didn't really think nothing of it, and by the time I got on
16 the lawnmower, after cutting the front part of the yard, it
17 came back by again, and then later on, it came back by again
18 and again and again. Looked like it was looking for
19 something or other. I thought it might have wanted to stop
20 and talk to me, I didn't know.

21 Q All right, sir. Were you able to identify anybody in
22 the vehicle?

23 A No, no.

24 Q Thank you, sir.

25 DEP. SOL. THORNTON: Your Honor, I have nothing further

Cross-Examination of RICKY BRELAND by Mr. Beach

1 at this time.

2 Q Thank you, Mr. Breland. Please answer any questions
3 Mr. Beach may have.

4 THE COURT: Cross-examination?

5 MR. BEACH: If it please the Court?

6 CROSS-EXAMINATION

7 BY MR. BEACH:

8 Q Mr. Breland, what time of the morning was this?

9 A It was shortly after 9:00.

10 Q 9:00 in the morning?

11 A Yeah.

12 Q Okay. And you said it came by several times?

13 A Yeah.

14 Q What kind of time period are we talking about?

15 A Well, usually I get on the lawnmower around 9:30,
16 because the grass is always wet, and it usually takes me
17 from 9:30 to quarter to eleven, about 11:00, to cut my
18 grass, so during that time I was on the lawnmower when I saw
19 the car.

20 Q Okay. And was it going back and forth that entire
21 time?

22 A Yeah, it was probably, I don't know, about 20 to 30
23 minutes apart, you know, but all I can tell you is like I
24 said, the hour and forty-five minutes it took me to cut
25 grass, I seen it four or five times.

Cross-Examination of RICKY BRELAND by Mr. Beach

1 Q Okay. Now, you couldn't tell who was in it?

2 A No.

3 Q Could you tell how many people were in it?

4 A No.

5 Q Okay. About how far away from the car were you?

6 A I was probably 50 yards.

7 Q No other questions. Thank you, sir.

8 THE COURT: Redirect?

9 DEP. SOL. THORNTON: None, Your Honor. I ask that he
10 be excused.

11 THE COURT: Any objection?

12 MR. BEACH: None, Your Honor.

13 THE COURT: You may step down and you are excused from
14 the courtroom, or you may remain with us if you so desire.

15 Call your next witness.

16 DEP. SOL. THORNTON: Thank you, Your Honor. Tyrone
17 Kinard.

18 MADAME CLERK: Please come forward and be sworn.

19 WHEREUPON, MR. KINARD WAS DULY SWORN.

20 MADAME CLERK: Please have a seat on the witness stand
21 and state your full name for the record.

22 THE COURT: Have a seat and make yourself comfortable.
23 State your full name and spell your last name for the court
24 reporter.

25 MR. KINARD: My name is Tyrone Randy Kinard, K-I-N-

Direct Examination of TYRONE KINARD by Dep. Sol. Thornton

1 A-R-D.

2 THE COURT: Your witness, counsel.

3 DEP. SOL. THORNTON: Thank you, Judge.

4 DIRECT EXAMINATION

5 BY DEP. SOL. THORNTON:

6 Q Mr. Kinard, where do you live, sir?

7 A 2102 Southern Charm Road.

8 Q All right, sir. And on October the 31st of 2008, did

9 you give a statement to a member of law enforcement with the

10 Sheriff's Office?

11 A Yes, sir.

12 Q All right, sir. Have you been provided a copy of that

13 statement to refresh your memory?

14 A Yes, sir.

15 Q Okay. Thank you, sir. Were you questioned about

16 anything that you might have seen or noticed on the morning

17 of October 27th, or sometime in the late morning hours of

18 October the 27th, 2008?

19 A Yes, sir.

20 Q All right, sir. What did you tell the officer? What

21 did you see on that morning?

22 A We was working on -- I drive a truck and we was logging

23 on Red Root Road, right across from where the old nightclub

24 is at, so we was working right beside the highway. About,

25 maybe about 11:30 or so, I was standing outside the highway

Direct Examination of TYRONE KINARD by Dep. Sol. Thornton

1 while they was loading the truck.

2 Q Let me ask you a question. You have to help me with
3 this, I know you're a lot more familiar with that area than
4 I am. On Red Root Road, is where you're talking about, is
5 that somewhere close to Bethel Road?

6 A Yes, it's less than half a mile from Bethel Road.

7 Q All right, sir. I'm sorry for interrupting. Go ahead.

8 A I was standing beside the highway and this black and
9 white -- well, this white Mustang with black stripes, it
10 went down and it came back. It went down and it came back.
11 It was like maybe 15 or 20 minutes intervals in between it.
12 Shortly ---

13 Q All right, sir. I'm sorry to interrupt you, but have
14 you ever seen that car before?

15 A Yes.

16 Q All right, sir. Do you know who owns that car?

17 A I don't know him personally, but I know I've seen the
18 car in the neighborhood before.

19 Q All right, sir. Go ahead.

20 A Shortly after that, maybe, on the last trip down, maybe
21 around a quarter to twelve, or something like that, Mr.
22 Steward came by shortly after that, because I was getting
23 ready to pull out.

24 Q And let me ask you a question: when you say Mr.
25 Steward, do you mean Freddie Steward, the victim in this

Direct Examination of TYRONE KINARD by Dep. Sol. Thornton

- 1 case?
- 2 A Yes, sir.
- 3 Q And do you know Mr. Steward to look at him?
- 4 A Yes, sir.
- 5 Q All right, sir. Go ahead.
- 6 A Maybe about a quarter to twelve, somewhere in there,
- 7 Mr. Steward came by, heading towards Bethel Road.
- 8 Q All right, sir. What kind of car was he in, do you
- 9 remember?
- 10 A A little silver car. I know it was a Ford, but what
- 11 kind, I'm not sure.
- 12 Q All right, sir. Did it have -- there's been testimony,
- 13 I'm sure you heard earlier, about a Mustang having dark,
- 14 tinted windows. Did Mr. Freddie's car have dark, tinted
- 15 windows?
- 16 A No, sir.
- 17 Q All right, sir. Could you see inside the car good?
- 18 A Yes, sir.
- 19 Q All right. You saw it well enough to see it was Mr.
- 20 Freddie?
- 21 A Yes, sir.
- 22 Q All right, sir. Was there a bunch of people in the car
- 23 with him?
- 24 A No, he was by himself.
- 25 Q All right, sir. Do you think you were close enough you

Direct Examination of TYRONE KINARD by Dep. Sol. Thornton

1 would have seen if there would have been anybody else in the
2 car with him?

3 A I was standing right there by the white line.

4 Q All right, sir. No question in your mind that he was
5 by himself?

6 A No question.

7 Q All right, sir. Go ahead.

8 A He came by, like I said, about a quarter of twelve,
9 maybe 10 minutes after the white car went down the last
10 time, and I never saw it after that. At that point, I was
11 loaded, I strapped down, and I left out.

12 Q All right. Now, after you said you never saw him
13 again, you never saw Mr. Freddie's car come back by?

14 A Mr. Freddie's car only went down one time.

15 Q All right, sir. Did you see the white Mustang come
16 back by?

17 A To the best of my knowledge, I don't remember seeing it
18 come back. I want to say it was like a 15-minute interval,
19 every time it went down and came back, it went down and came
20 back. I'm not a hundred percent sure on the last trip did
21 he come back through or did he stay down when he went down
22 Bethel Road, well, towards Bethel Road.

23 Q All right. No question in your mind that Mr. Freddie
24 Steward went by there about a quarter to twelve, and he was
25 by himself?

Cross-Examination of TYRONE KINARD by Mr. Beach

1 A About a quarter to twelve, he was by himself.

2 DEP. SOL. THORNTON: Court's indulgence, Your Honor,
3 one moment.

4 Q I have no further questions, Mr. Kinard. Thank you
5 very much. Please answer any questions Mr. Beach has for
6 you.

CROSS-EXAMINATION

8 BY MR. BEACH:

9 Q Mr. Kinard, were you working that day?

10 A Yes, sir.

11 Q What were you doing?

12 A I was standing there getting loaded. I drive a truck,
13 so I was standing there while the truck was getting loaded.

14 Q Okay. So you weren't loading the truck?

15 A No, sir.

16 Q Now, did Mr. Steward speak to you when he went by?

17 A No, sir.

18 Q You know him, though, don't you?

19 A Yes, sir.

20 Q Okay. And what made you pay attention to his car?

21 A Just standing beside the highway, just watching the
22 road, because we was backing in right off the highway, and
23 the nose of the truck was right there at the line, so I was
24 standing right in front of the truck.

25 Q Was he headed toward his house or away from his house?

- 1 A Away from his house.
- 2 Q Away from his house?
- 3 A Yes, sir.
- 4 Q Now, what was the weather like that day?
- 5 A Kind of misty, kind of hazy day. It was clear, but it
- 6 was kind of hazy, like it had already rained.
- 7 Q Was he speeding or was he just driving normally or was
- 8 he driving slow?
- 9 A He was driving slow.
- 10 Q Now, you say it was a quarter to twelve, could it have
- 11 been earlier than that?
- 12 A It could have been a little earlier than that.
- 13 Q How much earlier than that?
- 14 A Maybe 15 minutes or so.
- 15 Q It could have been 11:30?
- 16 A Could have been 11:30, yes, sir.
- 17 Q Could have been later than that?
- 18 A No, it wasn't later than that.
- 19 Q So this was between 11:30 and a quarter to twelve?
- 20 A Somewhere in that ballpark, yes, sir.
- 21 Q Now, how long after that did you leave that area?
- 22 A Maybe about another five to ten minutes, because
- 23 shortly after he came through, I was loaded. I got trimmed
- 24 up and left out. So long enough to strap the load down and
- 25 come out the woods.

Cross-Examination of TYRONE KINARD by Mr. Beach

- 1 Q Did you hear any gun shots or anything?
- 2 A No, sir. We on a logging job. You wouldn't heard
- 3 nothing out there anyway.
- 4 Q Okay. And you said this was on Bethel Road?
- 5 A On Red Root Road.
- 6 Q Red Root Road?
- 7 A Yes, sir.
- 8 Q Okay. How far away is Bethel Road?
- 9 A Maybe a half a mile.
- 10 Q Was he headed toward Bethel Road or away from Bethel
- 11 Road?
- 12 A Toward Bethel Road.
- 13 Q And you say you didn't speak to him when he went by.
- 14 Did you wave to him or anything?
- 15 A I waved to him, but he had both hands on the steering
- 16 wheel. He was looking straight ahead.
- 17 Q Okay.
- 18 MR. BEACH: Just a moment, Your Honor. (BRIEF PAUSE.)
- 19 No further questions, Your Honor.
- 20 THE COURT: Redirect?
- 21 DEP. SOL. THORNTON: None, Your Honor. I ask that this
- 22 witness be excused.
- 23 THE COURT: Mr. Beach?
- 24 MR. BEACH: No objection.
- 25 THE COURT: You may step down, Mr. Kinard, and you can

Direct Examination of JOHN YATES by Dep. Sol. Thornton

1 remain with us or you may be excused from the courtroom.

2 MR. KINARD: Thank you.

3 THE COURT: Call your next witness.

4 DEP. SOL. THORNTON: John Yates.

5 WHEREUPON, MR. YATES WAS DULY SWORN.

6 MADAME CLERK: Please have a seat on the witness stand
7 and state your full name for the record.

8 THE COURT: Have a seat and make yourself comfortable.
9 Pull that microphone over. Don't lean too far over. I want
10 you to stay fairly close, but I want you to be comfortable.
11 State your full name and spell your last name for the court
12 reporter.

13 MR. YATES: John Yates, Y-A-T-E-S.

14 THE COURT: Your witness, counsel.

15 DEP. SOL. THORNTON: Thank you, Judge.

16 DIRECT EXAMINATION

17 BY DEP. SOL. THORNTON:

18 Q Mr. Yates, where do you live?

19 A Walterboro.

20 Q All right, sir. And do you work at the barber shop?

21 A Yes, sir.

22 Q All right, sir. And which barber shop is that?

23 A Right here, right up the street. Hodges' Barber and
24 Beauty.

25 Q Hodges' Barber and Beauty, that's right here in town,

Direct Examination of JOHN YATES by Dep. Sol. Thornton

1 right?

2 A Yes, sir.

3 Q All right. Do you know the defendant in this case,
4 Andre Richardson, II?

5 A Yes, sir.

6 Q All right, sir. Do you remember on October the 27th of
7 2008 at the barber shop, giving a statement to law
8 enforcement?

9 A Yes, sir.

10 Q All right, sir. And do you need a copy of that
11 statement or can you remember fairly well what you told him?

12 A I remember it fairly well what I told him -- her, but I
13 still need a copy of it.

14 Q Yes, sir. Happy to give it to you.

15 DEP. SOL. THORNTON: Your Honor, may I approach?

16 THE COURT: You may.

17 DEP. SOL. THORNTON: (HANDS COPY OF STATEMENT TO
18 WITNESS.)

19 Q Have you had a chance to look at it, Mr. Yates?

20 A Yes, sir.

21 Q All right. Would you just reiterate what you told law
22 enforcement that day about what you had -- what contact, if
23 any, you had with the defendant that day?

24 A Well, about 12:43 I received a call from Mr.

25 Richardson. He stated that he was coming to get a haircut.

1 He got there about 1:00 and probably left there about 1:40.

2 Q All right, sir. And when he called you at -- I think
3 in your statement it says 12:41, but somewhere around 12:40
4 when he called you, what was the purpose of his phone call?
5 What was he calling you for?

6 A Oh, to get a haircut. He always calls and makes
7 appointments for his haircut.

8 Q All right, sir. So he called and made an appointment
9 to get his hair cut?

10 A Yes, sir.

11 Q All right. And when he got there, did you cut his hair
12 that day?

13 A Yes, sir, but he said he got a phone call and he had to
14 leave, that someone, one of my cousins called him and told
15 him that someone had killed his grandfather.

16 Q All right. And would that cousin be Myeshia Yates?

17 A Yes, sir.

18 Q All right. And he had indicated that Myeshia had
19 called him?

20 A Yes, sir.

21 Q All right. But you never did get back with him that
22 day?

23 A Yes, he came back a little later on that day.

24 Q Okay. Did he get his hair cut then?

25 A No, he told me what happened and what not and stuff

Direct Examination of JOHN YATES by Dep. Sol. Thornton

1 like that. He was real upset about it.

2 Q All right. When he told you what happened, what did he
3 tell you? Did he just tell you that his grandfather was
4 dead?

5 A No, he told me previous before that ---

6 Q Okay.

7 A --- that his grandfather got shot. He just came
8 through. I was trying to console him and stuff like that.

9 Q I understand. Did he tell you that he knew anything
10 about it or ---

11 A No, he was puzzled, like, you know.

12 Q All right, sir. But he did call you that day between
13 12:30 and 1:00, somewhere around 12:40, and told you he was
14 coming to get his hair cut?

15 A Yes, sir.

16 Q Didn't mention to you anything at that point about his
17 grandfather being shot or anything else?

18 A No, sir. Everything ---

19 Q I have nothing -- I'm sorry, go ahead.

20 A Everything sounded normal.

21 Q Okay, sir. I have nothing further at this time. Thank
22 you very much. Please answer any questions that Mr. Beach
23 has for you.

24 THE COURT: Cross-examination?

25 MR. BEACH: Thank you, Your Honor.

Cross-Examination of JOHN YATES by Mr. Beach

CROSS-EXAMINATION

2 BY MR. BEACH:

3 Q Did he seem visibly upset?

4 A Before or after?

5 Q After he got the call from Myeshia?

6 A Oh, yes. He was really upset.

7 Q Did he leave then?

8 A I finished him up and -- I was just finishing him up
9 and he left.

10 Q How long before he came back?

11 A Oh, maybe an hour or so. Maybe two or three hours or
12 so, after he was with his family and stuff like that.

13 Q Was he still upset?

14 A Yes, sir. He was still upset.

15 Q Okay. Had you ever seen him that upset?

16 A No, sir.

17 Q You know him pretty well, don't you?

18 A Yes, sir.

19 Q Did he tell you anything about him having to do with
20 this killing?

21 A No, sir. He -- we talked about it and he said he
22 wasn't -- I heard rumors and stuff like that, and he said,
23 No, he wouldn't have nothing to do with stuff like that.
24 You know, we was real close, so I asked him, and stuff like
25 that, but he said he didn't have no part of nothing like

Redirect Examination of JOHN YATES by Dep. Sol. Thornton

1 that.

2 Q He never admitted having any part in it?

3 A No, sir.

4 MR. BEACH: Indulge me just a moment, Your Honor.

5 No other questions.

6 THE COURT: Redirect?

7 DEP. SOL. THORNTON: One question.

8 REDIRECT EXAMINATION

9 BY DEP. SOL. THORNTON:

10 Q Mr. Yates, you talked about he was -- you said "visibly
11 upset" after he got the phone call from Myeshia Yates, or
12 whatever.

13 A Yes, sir.

14 Q But when he called you at 12:40 and talked about
15 getting his hair cut and when he showed up there, he didn't
16 seem upset then, did he?

17 A No, sir.

18 DEP. SOL. THORNTON: No further questions, Your Honor.

19 THE COURT: Re-cross, limited to redirect?

20 RE-CROSS-EXAMINATION

21 BY MR. BEACH:

22 Q Are you certain about the time that he called you the
23 first time?

24 A I'm pretty sure. I'm pretty sure when he called he
25 just confirmed like he wanted his hair cut, and stuff like

Recross-Examination of JOHN YATES by Mr. Beach

1 that, because he always called to make appointments for his
2 haircut.

3 Q Could it have been earlier than 12:40?

4 A It could have been. I'm just giving a quote of that
5 time, but it could have been, you know, but.

6 Q How much earlier could it have been?

7 A Not that much earlier. Not like -- probably like 11:30
8 or something like that, but not -- not 11:00 or 10:00 or
9 nothing like that.

10 Q Okay.

11 MR. BEACH: No other questions, Your Honor.

12 THE COURT: As to this witness?

13 DEP. SOL. THORNTON: Ask that he be excused, Your
14 Honor.

15 THE COURT: Any objection?

16 MR. BEACH: None, Your Honor.

17 THE COURT: Mr. Yates, you may step down. You may
18 remain with us if you'd like, or you are excused from the
19 courtroom.

20 Call your next witness.

21 DEP. SOL. THORNTON: Myeshia Yates.

22 MADAME CLERK: Please come forward to be sworn.

23 WHEREUPON, MS. YATES WAS DULY SWORN.

24 MADAME CLERK: Please have a seat on the witness stand
25 and state your full name for the record.

Direct Examination of MYESHIA YATES by Dep. Sol. Thornton

1 **THE COURT:** Good afternoon. Have a seat and make
2 yourself comfortable. Pull that microphone over to you.
3 Speak into it. Speak up so they can hear you. It's going
4 to make your voice louder. State your full name and spell
5 your last name for the court reporter.

6 **MS. YATES:** Myeshia Shantay Yates, Y-A-T-E-S.

7 **THE COURT:** Very good. Your witness, counsel.

8 **DEP. SOL. THORNTON:** Thank you, Your Honor.

9 **DIRECT EXAMINATION**

10 **BY DEP. SOL. THORNTON:**

11 **Q** Ms. Yates, where do you live?

12 **A** I live at 2576 Southern Charm Road.

13 **Q** Okay. And did you live there on or about October the
14 27th ---

15 **A** I did.

16 **Q** --- 2008? I'm sorry.

17 **A** Yes, sir.

18 **Q** Okay. Ms. Yates, I know you've been in here, so some
19 of these questions are going to seem silly to you, but I
20 just have a couple of questions for you. Did -- are you
21 related to the defendant in this case, Mr. Andre Taft
22 Richardson, II?

23 **A** Yes, I am.

24 **Q** And how are you related to him, Ma'am?

25 **A** Cousin.

Direct Examination of MYESHIA YATES by Dep. Sol. Thornton

1 Q All right. And on October the 27th, did you receive a
2 phone call from Mr. Lingard?

3 A I did.

4 Q All right. And did he inform you that Mr. Freddie
5 Steward had been killed?

6 A Yes, sir.

7 Q All right, ma'am. And did you make any phone calls
8 after that?

9 A Yeah, I called Andre Richardson.

10 Q All right. And did you relate to him what you had
11 heard?

12 A I did.

13 Q Okay. And other than that, ma'am, do you have any
14 connection to anything else that went on or is that your
15 statement you gave to law enforcement, basically, that you
16 had received a call from Mr. Lingard and you had passed that
17 information on to Mr. Richardson?

18 A Yes, sir. Correct.

19 DEP. SOL. THORNTON: I have no further questions, Your
20 Honor. Thank you.

21 THE COURT: Cross-examination?

22 CROSS-EXAMINATION

23 BY MR. BEACH:

24 Q Ms. Yates, what time did you call the defendant?

25 A I cannot recall the time, but it had to be probably

Cross-Examination of MYESHIA YATES by Mr. Beach

- 1 after 12:00; I know, I remember that.
- 2 Q After 12:00?
- 3 A After 12, correct.
- 4 Q Could it have been after 1:00?
- 5 A I don't remember the exact time.
- 6 Q And you knew that he lived with his grandfather; is
- 7 that correct?
- 8 A You talking about Mr. Richardson?
- 9 Q Yes.
- 10 A I do, correct.
- 11 Q That's why you called him?
- 12 A Yes, but that was his grandfather. We're family
- 13 related, that's why I knew to call Andre, because, you know,
- 14 I didn't have his mom or somebody else's number in my phone,
- 15 but I had 'Dre's number.
- 16 Q Are you close to 'Dre?
- 17 A Not really close. 'Dre is probably more closer to my
- 18 other cousins, male cousins, than he is to me.
- 19 Q Have you ever seen him with any money?
- 20 A No, I haven't.
- 21 Q And are you -- were you very close to the decedent?
- 22 A I can kind of say close. I mean, he was a great uncle
- 23 to me and we lived within the neighborhood, and when my
- 24 father and my Grandmoma come, we would all get together and
- 25 from time to time, I would see him within Red Root, because

Cross-Examination of MYESHIA YATES by Mr. Beach

1 I lived there and we would talk.

2 Q Where were you when this happened?

3 A I was at work, at the Wendy's, in Wal-Mart.

4 Q At Wal-Mart?

5 A Yes, sir.

6 Q And are you married?

7 A No, I'm not.

8 Q A boyfriend?

9 A I do.

10 Q What's his name?

11 A Kenneth Manigo.

12 Q And where was he when this happened?

13 A In Walterboro.

14 Q Do you know where in Walterboro?

15 A I don't know, but I think you're talking about my kid's
16 father versus my boyfriend.

17 MR. BEACH: A moment's indulgence, Your Honor.

18 Q Are we talking about your boyfriend or your baby's
19 father?

20 A I mean, you have to tell me who you talking about
21 because like I said, my boyfriend's my boyfriend. My kid's
22 father, they are two different people.

23 Q Okay. Well, who's your boyfriend?

24 A Kenneth Manigo.

25 Q Kenneth Manigo?

Cross-Examination of MYESHIA YATES by Mr. Beach

1 A Correct.

2 Q Okay.

3 MR. BEACH: No other questions, Your Honor.

4 THE COURT: Redirect?

5 DEP. SOL. THORNTON: None, Your Honor.

6 THE COURT: Have a seat ma'am.

7 MS. YATES: Oh.

8 THE COURT: Any questions?

9 DEP. SOL. THORNTON: None, Your Honor. I'd ask that

10 she be excused.

11 THE COURT: Any objections?

12 MR. BEACH: No, Your Honor.

13 THE COURT: You may step down, Ms. Yates. You are

14 excused from the courtroom or you may remain with us as you

15 wish.

16 Call your next witness.

17 DEP. SOL. THORNTON: Bobby Varn.

18 MADAME CLERK: Please come forward to be sworn. Place

19 your left hand on the Bible and raise your right.

20 WHEREUPON MR. VARN WAS DULY SWORN.

21 MADAME CLERK: Please have a seat on the witness stand

22 and state your full name for the record.

23 THE COURT: Good afternoon. Have a seat for me.

24 Adjust that microphone. Speak up for me so my people on the

25 end of the row can hear you. Make yourself comfortable.

Direct Examination of BOBBY VARN by Dep. Sol. Thornton

1 State your full name and spell your last name for the court
2 reporter.

3 MR. VARN: Bobby Tyshawn Varn, V-A-R-N.

4 THE COURT: Got to speak up a little bit, Mr. Varn.
5 Turn it up for me, Pat.

6 THE COURT: Your witness, counsel.

7 DEP. SOL. THORNTON: Thank you.

8 DIRECT EXAMINATION

9 BY DEP. SOL. THORNTON:

10 Q Mr. Varn, where do you live, sir?

11 A 2587 Sunshine Road.

12 Q All right. Do you know the defendant in this case, Mr.
13 Andre Taft Richardson?

14 A Yeah, that's my cousin.

15 Q Your cousin?

16 A Yeah.

17 Q All right, sir. Mr. Varn, have you ever owned a
18 handgun? A pistol?

19 A That's correct. Yeah.

20 Q All right, sir. Have you ever had a pistol stolen?

21 A That's correct.

22 Q All right. What caliber was that pistol?

23 A A 9 mm.

24 Q All right, sir. And did you report it stolen?

25 A That's correct.

Direct Examination of BOBBY VARN by Dep. Sol. Thornton

- 1 Q Do you remember when that was?
- 2 A I don't know the exact date, now. It's been a while.
- 3 I can't -- I can't ---
- 4 Q More than six months ago?
- 5 A Yeah.
- 6 Q More than a year ago?
- 7 A Yeah.
- 8 Q All right, sir. Would it have been on or about on
- 9 December of 2007? Does that sound about right?
- 10 A Yeah, it was like in the later year, I believe.
- 11 Q Okay. But it has been some time?
- 12 A Yeah.
- 13 Q And did you report that?
- 14 A Same day, yeah.
- 15 Q All right, sir. And when you reported it, did you talk
- 16 to an officer with the Sheriff's Department on that day?
- 17 Did they come out to make a report?
- 18 A Yeah, Tommy -- Officer back there.
- 19 Q You're pointing -- are you pointing at Officer Walker
- 20 with the Colleton County Sheriff's Office?
- 21 A Yes.
- 22 Q All right, sir. And you talked to him on that day?
- 23 A Uh-huh.
- 24 Q All right, sir. You said Mr. Richardson is your
- 25 cousin. Where was the gun stolen?

Direct Examination of BOBBY VARN by Dep. Sol. Thornton

- 1 A At my workplace, New York Wire.
- 2 Q You work at New York Wire?
- 3 A Uh-huh.
- 4 Q All right. And did Mr. Richardson work there with you?
- 5 A Yeah, I work first shift, but he-had worked third
- 6 shift.
- 7 Q All right, sir. So y'all -- but he did work at the
- 8 same place?
- 9 A Yeah.
- 10 Q All right. Is there anything unusual about the vehicle
- 11 you were driving at that time, sir?
- 12 A My window was broken.
- 13 Q All right.
- 14 A It would only go up a certain way.
- 15 Q All right. Did that make it easier to get into your
- 16 car?
- 17 A Yeah.
- 18 Q So if somebody knew your gun was in there, would it
- 19 have been easy for them to get in and take it?
- 20 A Yeah, unless they break or bust the window or
- 21 something.
- 22 Q All right, sir. But could they have gotten in to take
- 23 the gun and steal it?
- 24 A Yeah.
- 25 Q Is that where your gun was stolen from was your car?

Direct Examination of BOBBY VARN by Dep. Sol. Thornton

1 A Yeah, inside the middle glove box. That's where I keep
2 my gun at.

3 Q All right, sir. And did you give a statement, Mr.
4 Varn, did you talk to Det. Inabinett about October the 27th,
5 or sometime after that, after Mr. Freddie Steward was killed
6 in 2008, do you remember talking to Mr. Inabinett?

7 A Yeah, I talked to him.

8 Q All right, sir. And did you -- let me back up for a
9 second. Were you given a -- as part of your gun when you
10 bought your gun, did anything else come with the gun?

11 A The cleaning utensils and some guns that you buy from
12 the manufacturer, they come with a shell casing, to show
13 that it works or whatever.

14 Q So like a test fire?

15 A Yeah.

16 Q All right, sir. And did you still have the test fire
17 cartridge from your gun?

18 A Yeah.

19 Q All right, sir. And did you turn that over to Det.
20 Inabinett?

21 A Yeah.

22 Q All right, sir. And when you turned that over to Det.
23 Inabinett, is that when you talked to him briefly about this
24 case?

25 A It's been a while ago, so I guess I had to talk about

Direct Examination of BOBBY VARN by Dep. Sol. Thornton

1 it, I guess.

2 Q I understand. On October the 27th of 2008, where were
3 you on that day? If it would help your memory ---

4 DEP. SOL. THORNTON: Your Honor, may I approach?

5 THE COURT: You may.

6 Q Mr. Varn, I'm going to hand you what's been marked as
7 State's Exhibit Number Nine for identification. Can you
8 look at that and review that briefly and tell me what that
9 is?

10 A My work record.

11 Q All right, sir. And does that indicate that it's a
12 certified copy of your punch-in and punch-out time?

13 A Yeah.

14 Q All right, sir. And what day is highlighted?

15 A 10-27-08.

16 Q So October the 27th of 2008, does that record indicate
17 that you were at work and punched in at 8:00 in the morning
18 and punched out at 4:00?

19 A Yeah.

20 Q Is that accurate? Is that where you were that day?

21 A Uh-huh.

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

23 A Yes.

24 DEP. SOL. THORNTON: Your Honor, at this time, I'd ask
25 that State's Exhibit Number Nine be moved into evidence.

Direct Examination of BOBBY VARN by Dep. Sol. Thornton

1 I've shown it to Mr. Beach.

2 THE COURT: Any objection?

3 MR. BEACH: No, Your Honor.

4 THE COURT: Ladies and gentlemen of the jury, State
5 Exhibit Number Nine will be admitted into evidence without
6 objection. State's Exhibit Nine is in evidence.

7 (WHEREUPON, STATE'S EXHIBIT NUMBER NINE IS RECEIVED
8 INTO EVIDENCE.)

9 THE COURT: You may publish and proceed.

10 DEP. SOL. THORNTON: Thank you, Your Honor. I've laid
11 it up for the jury to look at it if they wish.

12 Your Honor, Court's indulgence one moment, please.

13 THE COURT: Yes, sir.

14 Q I'm going to hand you what's been marked for
15 identification as State Exhibit Number Ten. Is that the
16 envelope with the shell casing that you gave to Det.
17 Inabinett, that you talked about earlier, from your gun?

18 A Yeah, it look -- yeah.

19 Q All right, sir. Does it indicate on the envelope who
20 the manufacturer is and identifying marks on it?

21 A Yeah. Ruger 9 mm.

22 Q All right, sir. And you've testified you turned that
23 over to Det. Inabinett; is that correct?

24 A Yeah.

25 Q All right, sir. Thank you very much, Mr. Varn. I have

Cross-Examination of BOBBY VARN by Mr. Beach

1 no further questions for you. Please answer anything Mr.
2 Beach has for you.

3 **THE COURT:** Cross-examination?

4 **MR. BEACH:** Thank you, Your Honor.

5 **CROSS-EXAMINATION**

6 **BY MR. BEACH:**

7 **Q** Mr. Varn, are you good friends with Mr. Richardson?

8 **A** Yeah, we like brothers.

9 **Q** Y'all been friends for a long time?

10 **A** Yeah.

11 **Q** Y'all both were working at New York Wire?

12 **A** Yes.

13 **Q** Now, when was the last time you saw your gun prior to
14 when you noticed it was missing?

15 **A** The day that I report it missing. That's the first
16 thing I do when I get in my car, I check for my gun. But
17 that morning, it was there. When I got off, I don't know
18 what time it got stolen, but when I got in my car, that's
19 the first thing I do is check, see if it's there. It wasn't
20 there, so I called the police.

21 **Q** That morning when you went to New York Wire, you
22 checked the glove compartment and your gun was in there?

23 **A** I put it in there.

24 **Q** Okay. And when you got back from getting off your
25 shift -- you work, what, the first shift?

Cross-Examination of BOBBY VARN by Mr. Beach

- 1 A Uh-huh.
- 2 Q And when you got back from first shift, did you check
3 it at that time?
- 4 A That's the first thing I do is I check for my gun.
- 5 Q Now, did you check your car to see if it was locked?
- 6 A That's a habit, after I check -- my -- yeah, it was
7 locked. I press the button before I get inside. I never
8 reach for the knob.
- 9 Q You do that every time?
- 10 A Yeah, it's a habit. That's what I do.
- 11 Q Now, the broken window, is it easy to get up and down?
- 12 A It's like off track, the motor had blow up, I don't
13 know; something's wrong with it.
- 14 Q You can push it down, right?
- 15 A Yeah.
- 16 Q All right. When you got in the car and found your gun,
17 was missing, was the window down or was it up ?
- 18 A It was down like a little crack and like in between a
19 little gap, kind of.
- 20 Q How little of a gap? One inch? Two inches?
- 21 A I don't know, like a little, I can't -- about like
22 that.
- 23 Q Do you sometimes keep it open for ventilation?
- 24 A Nah.
- 25 Q Now, did you ever see Andre with your gun?

Cross-Examination of BOBBY VARN by Mr. Beach

- 1 A No.
- 2 Q Never seen it?
- 3 A Unh-unh.
- 4 Q Did you contact him about whether or not he took your
- 5 gun?
- 6 A Ask him if he -- ask him if he stole it from me?
- 7 Q Yes.
- 8 A No.
- 9 Q Never asked him?
- 10 A No.
- 11 Q Okay. How many people work at New York Wire?
- 12 A A bunch. I ain't know. A whole bunch of them. A lot.
- 13 Q You work the first shift?
- 14 A Yeah.
- 15 Q And Andre was working Third shift?
- 16 A Yeah.
- 17 Q Did those overlap at any time?
- 18 A Yeah, I guess when they changing it, changing the
- 19 shifts.
- 20 Q And you park in the company parking lot?
- 21 A Uh-huh.
- 22 THE COURT: You have to say "yes" or "no".
- 23 A Yes.
- 24 Q Is that parking lot lighted?
- 25 A It happened in the morning. Yeah, there's light.

Cross-Examination of BOBBY VARN by Mr. Beach

- 1 Q Okay. Well, your shift is from 8:00 in the morning
2 until 4:00 in the afternoon?
- 3 A Yeah, first shift, eight to four.
- 4 Q And Andre's shift would be when?
- 5 A Third shift is from 12 until 8.
- 6 Q Midnight until 8 in the morning?
- 7 A Yes.
- 8 Q Okay. Now that parking lot is lighted? Are there not
9 also cameras in the parking lot?
- 10 A I don't work -- I don't work there at nighttime, so I
11 don't know if it was lighted or not. I come in the morning.
- 12 Q Do you know if there are cameras out there?
- 13 A Yeah, they had cameras out there.
- 14 Q Did you ever check the camera footage to see if you
15 could find out who ---
- 16 A They said that they don't be directly point in the
17 parking lot. They point on the doorways.
- 18 Q Doorways?
- 19 A Yeah. And the gate.
- 20 Q Now, you say you and Andre are good friends?
- 21 A Real close.
- 22 Q Now, do you remember a couple months prior to this
23 happening, being over at your house and Andre having some
24 money?
- 25 A How long ago?

Cross-Examination of BOBBY VARN by Mr. Beach

1 Q Maybe a couple months before this shooting happened?

2 A Yes.

3 Q Do you remember y'all sitting on the bed counting
4 money?.

5 A Yes.

6 Q Do you remember how much money it was?

7 A I'd say we count about between ten and thirteen
8 thousand.

9 Q And who's money was it?

10 A His money.

11 Q Did he take it with him?

12 A Yeah, I ain't got no money.

13 Q Okay. But you do remember that night? Was anybody
14 else there?

15 A Night, day -- at the house?

16 Q At the house when y'all were counting?

17 A Who all was in the house?

18 Q Yeah, was anybody else there?

19 A My momma, my daddy, and my brother.

20 Q Were they in the room with y'all when y'all were
21 counting the money?

22 A Not my momma and daddy.

23 Q How about your brother?

24 A Yeah.

25 Q Who was your brother?

Cross-Examination of BOBBY VARN by Mr. Beach

1 A Andre Varn.

2 MR. BEACH: Just a moment, Your Honor.

3 No other questions, Your Honor.

4 THE COURT: Redirect?

5 DEP. SOL. THORNTON: None, Your Honor. Ask that he be
6 excused.

7 THE COURT: Mr. Beach, any objection?

8 MR. BEACH: No objection.

9 THE COURT: Mr. Varn, you may step down and you are
10 excused from the courtroom or you may remain in the
11 courtroom as you so desire.

12 Call your next witness.

13 DEP. SOL. THORNTON: Thomas Walker.

14 MADAME CLERK: Please come forward and be sworn.

15 WHEREUPON MR. WALKER WAS DULY SWORN.

16 MADAME CLERK: Please have a seat on the witness stand.
17 State your full name for the record.

18 THE COURT: Have a seat and make yourself comfortable.
19 State your full name and spell your last name for the court
20 reporter.

21 MR. WALKER: Thomas Walker. Last spelling, last name,
22 W-A-L-K-E-R.

23 DIRECT EXAMINATION

24 BY DEP. SOL. THORNTON

25 Q Mr. Walker, who do you work for, sir?

Direct Examination of THOMAS WALKER by Dep. Sol. Thornton

1 A Colleton County Sheriff's Office, sir.

2 Q And did you work for the Sheriff's Department in
3 December of 2007?

4 A Yes, sir.

5 Q All right, sir. Do you remember going out to New York
6 Wire in reference to a stolen firearm?

7 A Yes, sir. I do.

8 Q All right, sir. And who was the person who was
9 reporting this gun stolen?

10 A Mr. Bobby Varn.

11 Q All right. Did you do a report?

12 A I did.

13 Q All right, sir. And again, this was in December 2007?

14 A Correct.

15 Q All right. And did he indicate at that time to you
16 about his window being messed up and easy to go up and down?

17 A Yes, sir. He did.

18 Q All right, sir. And was there any other damage to the
19 vehicle that you could tell ?

20 A NOT that I could tell, sir.

21 Q All right, sir. Did Mr. Varn state to you about
22 whether or not you would be able to retrieve any
23 fingerprints off of it he thought?

24 A When I responded to the scene, I asked him if he
25 entered the vehicle, you know, maybe I might would be able

Cross-Examination of THOMAS WALKER by Mr. Beach

1 to get some fingerprints off of something. He stated, "No,
2 he went inside the vehicle and he checked for his gun
3 already in the spot that he always places it at." So he
4 said that I probably wouldn't be able to get anything and I
5 agreed with him being that he already checked in all of
6 these spots.

7 Q All right, sir. But there's no question that he did
8 report this gun stolen in December of 2007?

9 A Right, right.

10 Q Thank you. I have nothing further. Please answer any
11 questions Mr. Beach Have a seat and make yourself
12 comfortable. State your full name and spell your last name
13 for the court reporter.

14 THE COURT: Cross-examination?

15 MR. BEACH: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. BEACH:

18 Q You said there were no fingerprints in the car?

19 A No, sir. I didn't.

20 Q Did y'all check for fingerprints at all?

21 A No, sir.

22 Q Just because he told you that he didn't think you'd
23 find any?

24 A Well, like I said, when I responded to the scene, he
25 stated that he went inside the vehicle and he checked,

Cross-Examination of THOMAS WALKER by Mr. Beach

1 looked for his gun, where he always places it at. So at
2 that particular time, you know, I agree.

3 Q Did he tell you that he thought somebody might have
4 pulled his window down?

5 A Yes, sir. He did. Well, he stated that his window was
6 broken. His driver's side window, it can down easily. I
7 asked him did he check it and he said that he did.

8 Q When you got there, was his door unlocked?

9 A I do not know. I do not recall.

10 Q But no fingerprints were taken?

11 A No, sir.

12 Q None were attempted?

13 A No, sir.

14 MR. BEACH: No other questions, Your Honor.

15 THE COURT: Redirect?

16 DEP. SOL. THORNTON: Nothing, Judge. I ask that he be
17 excused.

18 THE COURT: Any objection, Mr. Beach?

19 MR. BEACH: No, Your Honor.

20 THE COURT: Very well. Mr. Walker, you may step down.
21 You can remain with us or you are excused from the
22 courtroom.

23 Call your next witness.

24 DEP. SOL. THORNTON: Allen Inabinett.

25 WHEREUPON, DET. INABINETT WAS DULY SWORN.

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 **MADAME CLERK:** Please have a seat on the witness stand.
2 State your name for the record.

3 **THE COURT:** Have a seat and make yourself comfortable.
4 State your full name and spell your last name for the court
5 reporter.

6 **DET. INABINETT:** Fred Allen, last name I will spell
7 first, I-N-A-B-I-N-E-T-T, Inabinett.

8 **THE COURT:** Your witness, counsel.

9 **DEP. SOL. THORNTON:** Thank you, Your Honor.

10 **DIRECT EXAMINATION**

11 **BY DEP. SOL. THORNTON:**

12 **Q** Mr. Inabinett, who do you work for?

13 **A** Colleton County Sheriff's Office.

14 **Q** All right, sir. And what is your job at the Colleton
15 County Sheriff's Office?

16 **A** Currently, I'm assigned to Criminal Investigations
17 where I am now the Lieutenant.

18 **Q** All right, sir. And did you work for the Sheriff's
19 Office on or about October the 27th, 2008?

20 **A** Yes, sir. I did.

21 **Q** All right, sir. Did you respond out to the scene on, I
22 believe it's been referred to as Bethel Road, the 300 block
23 of Bethel Road?

24 **A** Yes, I did.

25 **Q** All right, sir. And although we talked about this

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 before, is that in Colleton County, sir?

2 A Yes, it is in Colleton County.

3 Q And when you got to the scene, sir, what did you see?

4 A I responded as a secondary unit per the request of Ms.
5 Stallings. Upon my arrival, the limited process had already
6 took place where Ms. Stallings and Det. Carter had already
7 marked several pieces of evidence. At that time, I then
8 took over the majority of the crime scene process.

9 Q All right. Lieutenant, did you collect any evidence
10 from the scene?

11 A Yes, I did. There were numerous items marked as
12 evidentiary value. I then did the measurements and
13 collected the majority of the evidence.

14 Q All right.

15 DEP. SOL. THORNTON: Court's permission, Your Honor, to
16 approach?

17 THE COURT: You may.

18 Q Lt. Inabinett, I've handed you what's been marked for
19 identification as State's Exhibit Number Eleven, being an
20 envelope containing other envelopes inside it. Would you
21 examine that and see if you can tell me what's inside?

22 A Yes, sir.

23 THE COURT: Counsel approach.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
25 AND OUT OF THE HEARING OF THE JURY.)

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 Q Go ahead, Mr. Inabinett.

2 A Those are spent shell casings from the crime scene on
3 Bethel Road.

4 Q All right, sir. Is each one of those shell casings in
5 a separate bag?

6 A Yes, sir.

7 Q All right. Did you mark those bags so that you could
8 identify them?

9 A That is correct.

10 Q All right. And as to exhibit number eleven, which
11 again, is a large envelope containing many smaller bags, in
12 each one of those clear bags there appears to be a brown
13 bag; is that correct, sir?

14 A That is correct.

15 Q What did you place the bullets in -- excuse me, they're
16 not bullets. The casings, what did you place the casings in
17 when you picked them up off the scene?

18 A Initially, they were placed inside of a brown paper
19 bag.

20 Q All right, sir. And is that the brown paper bag that I
21 see that is inside the clear plastic bags?

22 A That is correct.

23 Q All right, sir. What did you do with them once you got
24 them from the scene?

25 A After the initial collection, at the time I was also

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 one of two evidence custodians, and I then logged them into
2 the evidence locker at the Sheriff's Department.

3 Q All right, sir. And to your knowledge, were those
4 later sent to SLED?

5 A Yes, sir. They were then submitted for processing at
6 SLED.

7 Q Now, did you, yourself, take them to SLED or was that
8 done by someone else?

9 A No, sir. They were taken by Det. Carter, who was the
10 second custodian, as well.

11 Q All right, sir. And is there any doubt in your mind
12 that those are the shell casings that you retrieved?

13 A That is correct.

14 Q All right, sir. Det. Inabinett, I'm going to show you
15 what's been marked for identification as State's Exhibit
16 Number Ten, can you identify that for me, please?

17 A Yes, sir. This is the shell casing that I received
18 from Mr. Bobby T. Varn.

19 Q All right. And what did you do with that casing when
20 you got it, sir?

21 A Once again, I logged it in at our evidence locker at
22 the Sheriff's Department, and then later it was submitted to
23 SLED for comparison.

24 Q All right, sir. And was that submitted for comparison
25 to the casings recovered at the crime scene?

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 A That is correct. This single shell casing, along with
2 approximately six other shell casings were compared.

3 Q All right. And again, Lt. Inabinett, did you
4 personally carry this or was this carried by someone else to
5 SLED?

6 A No, sir. That shell casing, along with the other
7 evidence, was transferred by Det. Carter.

8 Q All right, sir.

9 DEP. SOL. THORNTON: Your Honor, Court's indulgence for
10 one moment, please.

11 THE COURT: Mr. Beach, you and Mr. Thornton approach.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
13 AND OUT OF THE HEARING OF THE JURY.)

14 Q Det. Inabinett, with regard to Exhibit Number Ten that
15 I've shown you, being a single shell casing you retrieved
16 from Bobby Varn, while it was in your custody, did you alter
17 it or change its state or nature of it in any way?

18 A No, I did not.

19 Q Did you attempt to put any tool markings or any other
20 markings on it at all?

21 A No, sir.

22 Q All right, sir. With regard to Exhibit Number Eleven,
23 which is multiple shell casings you said you recovered from
24 the scene, did you alter them or change them in any way,
25 shape, or form once they were in your custody?

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 A No, I did not.

2 Q Did you attempt to put any tool markings or any other
3 markings on them while you had them in your custody?

4 A No, sir.

5 DEP. SOL. THORNTON: Becky, do you have any gloves?

6 (COURT REPORTER HANDS GLOVES TO SOLICITOR.)

7 DEP. SOL. THORNTON: I apologize for the delay, Judge.
8 There are multiple bags.

9 (COURT REPORTER MARKS BAGS AS EXHIBIT.)

10 DEP. SOL. THORNTON: Your Honor, may I approach the
11 witness?

12 Q Lt. Inabinett, for simplification's sake, I'm handing
13 you what's been marked for identification as Exhibit Number
14 Twelve, which is going to be one, two, three, four, five red
15 biohazard bags. Without getting too much, I only have one
16 pair of gloves, Lieutenant, can you identify for me what's
17 in these bags based on the evidence tags, and if you need to
18 pop open the seal, you can, sir. Can you identify what
19 these are for me?

20 A Yes, sir.

21 Q Lieutenant, if I could ask you to wait one moment, we
22 have some more gloves. I'd ask that you go ahead and put
23 these on.

24 A (WITNESS COMPLIES.)

25 Q Since you're gloved, if you would go ahead and open

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

- 1 those and tell me what's inside, sir.
- 2 A Yes, sir. (BRIEF PAUSE WHILE OPENING FIVE BAGS.)
- 3 Q Lt. Inabinett, can you identify what's contained in
- 4 those five bags?
- 5 A Yes, sir. Those are personal items, or personal
- 6 effects, that we normally refer to from the autopsy of the
- 7 victim, Mr. Freddie Steward.
- 8 Q Did you attend that autopsy?
- 9 A Yes, I did.
- 10 Q All right, sir. Are part of those items clothes?
- 11 A Yes, sir. The majority are clothing. Several other
- 12 items are a wristwatch and some money, paper currency.
- 13 Q I'm sorry, money?
- 14 A Yes, sir.
- 15 Q I see, so he had money on his when the autopsy was
- 16 performed?
- 17 A Yes, sir. If I may, I can explain the process.
- 18 Q Yes, sir.
- 19 A Normally, in an autopsy, the subject is brought out
- 20 into the autopsy room in the same state or condition he is
- 21 brought in. At this time, I was present. Mr. Steward was
- 22 still clothed. Prior to any further procedures ---
- 23 Q Mr. Inabinett, let me stop you right there. You said
- 24 he was "clothed", was he clothed in the same clothes that
- 25 you saw him in at the scene?

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 A Yes, sir.

2 Q All right, sir. So he had not been undressed between
3 the scene where you saw him and the autopsy when they
4 brought him out?

5 A No, sir. He was still clothed.-

6 Q Did he appear to be -- I understand the body condition
7 may have changed, but was he in the same clothing and appear
8 to be in the same state.

9 A Yes, sir, he was.

10 Q Please go ahead.

11 A The next several steps, when they empty your pockets or
12 remove any jewelry that you have on, at this time, when they
13 emptied Mr. Steward's pockets, there was a -- after being
14 counted, there was approximately \$139 of cash on his person,
15 along with a wristwatch and some other items.

16 Q So he still had a watch on him, as well as \$139?

17 A That's correct, and there was a wallet as well.

18 Q All right, sir. And are those the items that are
19 located in State's Exhibit Number Twelve?

20 A Yes, sir.

21 Q All right, sir. And what did you do with those items
22 that you got?

23 A After I took possession of them, I then secured them
24 and logged them into our evidence locker at the Sheriff's
25 Department.

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 Q And when you say "secured them", does that mean put in
2 the bags or evidence tagged? How do you do that?

3 A Correct. From the autopsy, the pathologist assistant
4 had already marked the evidence with their tags and autopsy
5 and put them in at least one Bio bag.

6 Q All right, sir. And that was done in your presence; is
7 that correct?

8 A Yes, sir. That is correct.

9 Q All right. Have they been altered or changed in any
10 way, based on what you see now, as they were from the
11 pathology?

12 A No, sir.

13 Q All right, sir. Did you, yourself, change them or
14 alter them in any way between the time the pathologist gave
15 them to you and the time you logged them into evidence?

16 A No, sir.

17 DEP. SOL. THORNTON: Your Honor, at this time, I would
18 ask that State's Exhibit Number Twelve, consisting of the
19 five bags, be moved into evidence.

20 THE COURT: Any objection as to State's Twelve?

21 MR. BEACH: None, Your Honor.

22 THE COURT: Ladies and gentlemen of the jury, State's
23 Exhibit Number Twelve will be admitted into evidence without
24 objection. State's Twelve is now in evidence.

25 (WHEREUPON, STATE'S EXHIBIT NUMBER TWELVE IS RECEIVED

1 INTO EVIDENCE.)

2 THE COURT: You may publish to the jury.

3 DEP. SOL. THORNTON: Your Honor, at this time, rather
4 than publish to the jury, I've only got one set of gloves.
5 With the Court's permission, I'd ask Lt. Inabinett to just
6 come down and place them right here for now.

7 THE COURT: Pat, let me hold the portable microphone
8 and have somebody -- you want him to talk or you want him to
9 just show it?

10 DEP. SOL. THORNTON: No, sir. I'll just have him bring
11 the clothes out, Judge. I don't think he needs to ---

12 THE COURT: Mr. Beach, you may come around to the back
13 end of the jury box, so that you can view what's going to be
14 shown to the jury. You may step down, Lt. Inabinett.

15 DEP. SOL. THORNTON: Thank you, Judge.

16 Q Mr. Inabinett, when you get set, if you would, please,
17 just pull out the clothing. Specifically, the T-shirt and
18 the other items that Mr. Steward had on him that day, sir.

19 A This is tagged and marked as a white, short-sleeve, T-
20 shirt. This was worn by Mr. Steward, which is now dried
21 blood, but this was the T-shirt that was cut off of the
22 victim, Mr. Steward at the autopsy.

23 This is the -- what was actually on his person. It was
24 once again removed at the autopsy.

25 Q Lieutenant, if you would, go to the other items that he

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 had around his torso, the jacket.

2 A This item is tagged as a blue and red, white-striped,
3 long-sleeved, button down shirt, flannel type. Once again,
4 this is what the victim, Mr. Steward, had on at autopsy.
5 Also has a gunshot hole. Here is a hole from a projectile.

6 Q Also, Lieutenant, you retrieved the money and the watch
7 that were found. Did you retain those as well?

8 A I did. Yes, sir.

9 This bag is just his sweater cap and his pair of boots.
10 This is Mr. Steward's wallet, which was once again, on
11 his person. I'm sorry, correction, this wallet was in the
12 center console of his vehicle, silver in color, Ford Focus,
13 at the crime scene; but it was taken, along with the victim,
14 to MUSC.

15 This is a wristwatch and cash from Mr. Steward at the
16 autopsy, which was removed by the pathologist and was
17 secured, also.

18 Q Thank you, Lieutenant, if you would repackage that back
19 in the bags as best you can, and just leave it here by the
20 court reporter.

21 A (WITNESS COMPLIES.)

22 DEP. SOL. THORNTON: Your Honor, while he's doing that,
23 may we approach about a scheduling matter?

24 THE COURT: You may.

25 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 AND OUT OF THE HEARING OF THE JURY.)

2 THE COURT: Mr. Foreman, ladies and gentlemen of the
3 jury -- stay right here with me, Fred.

4 LT. INABINETT: Yes, sir.

5 THE COURT: Mr. Foreman, ladies and gentlemen of the
6 jury, I'm going to take my mid-afternoon break at this
7 point. Please do not discuss the case. You've not heard
8 all of the evidence in the case. I want you to have a
9 chance to stretch your legs, use the restroom, take a little
10 break. I'll be right back with you in just a couple of
11 minutes, so please don't talk about the case. Talk about
12 the weather, anything, sports, but don't talk about the
13 case. Thank you, you may retire to your jury room.

14 (3:16 P.M., SEPTEMBER 1, 2009, WHEREUPON THE JURY EXITS
15 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
16 RECORD.)

17 THE COURT: All right. Mr. Inabinett, you are, of
18 course, in the middle of your examination. I want everybody
19 to be able to take a break. You cannot discuss your
20 testimony with any lawyer for the State, or any lawyer for
21 the defendant, or anyone else during this break. Feel free
22 to get up and take your break, use the restroom, be back on
23 the witness stand. We're going to take about 10 minutes,
24 but you're in the middle of your examination and you can't
25 discuss your testimony during the break.

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 DET. INABINETT: Yes, sir. I understand.

2 THE COURT: All right. Anything outside the presence
3 of the jury from the State?

4 DEP. SOL. THORNTON: No, sir.

5 THE COURT: From the defendant?

6 MR. BEACH: No, sir.

7 THE COURT: My understanding, counsel, is that at the
8 bench, you worked out an agreement concerning the
9 admissibility of the testimony. When we finish the break, I
10 need to see you quickly in chambers on a scheduling matter
11 when we finish the break. I'd like for you to see if you
12 could publish that agreement so there is a clear
13 understanding on the record of what you reached at the
14 bench. You understand, Mr. Beach?

15 MR. BEACH: Yes, sir.

16 THE COURT: Mr. Thornton?

17 DEP. SOL. THORNTON: Yes, sir.

18 THE COURT: We'll take 10 minutes at this time.

19 (Off the record at 3:20 P.M.; back on the record at 3:48
20 P.M.)

21 THE COURT: Anything further from the State before I
22 bring the jury in? You want to put the agreement on the
23 record?

24 DEP. SOL. THORNTON: Yes, sir. And it may be moot at
25 this time, Judge, based on the discussion in the back; but

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 just for clarification for the record, my intent is to
2 introduce the video that is a long video, from Det.
3 Inabinett when he interviewed Mr. Richardson, which is the
4 statement we talked about in our pre-trial hearing, of
5 February the 27th, 2009. I do not intend to publish it
6 because it is so long.

7 **THE COURT:** You told me it was three hours and forty-
8 five minutes.

9 **DEP. SOL. THORNTON:** It's either two hours and forty-
10 five minutes or three, I can't remember, Judge, but I know
11 it's around three hours long. What I'm going to do is ask
12 Det. Inabinett what the contents of the statement were and I
13 wanted to state for the record that I will be introducing it
14 and if Mr. Beach, for whatever reason, decides he wants it
15 published, I don't consider that -- and I'll stipulate that
16 that is not his introduction of evidence, that it is my
17 evidence being introduced. It's already introduced and he
18 will just be playing it for the jury. I don't think he
19 would lose final argument based on that, if that's a concern
20 for him.

21 **THE COURT:** Mr. Beach advised the Court in chambers
22 that he would intend to cross-examine this witness
23 concerning that statement, but it was not his intention at
24 this time to require the State to play the entire statement.
25 Am I quoting you correctly, Mr. Beach?

The State of South Carolina v. Andre Taft Richardson, II
Judge's Instructions to Jury

150

1 to obtain information, because as I have tried to point out
2 to you, just like reading the newspaper, and I certainly
3 read newspapers, as I'm sure many of you do, or watching TV,
4 or listening to the radio, the parties don't have a chance
5 to confront that information.

6 They don't have a chance to cross-examine that
7 information, and if you based your decision on something
8 that you got on the computer or something you read in the
9 newspaper or heard on the radio, there's no way for them to
10 rebut it. It is fundamentally unfair in our system. So we
11 ask you please don't read the paper, listen to the radio,
12 watch TV, or use electronic device to try to obtain
13 information about any issue raised during the trial of this
14 case.

15 Now, ladies and gentlemen, I've told you that the
16 attorneys have worked hard, and they have. What they tell
17 you isn't evidence, and I want you to decide the case based
18 on evidence. They are advocates. They are going to try to
19 assist you, but always remember they are advocates for their
20 parties, both the State of South Carolina and the defendant.
21 I want you to listen to them, but I want you to understand
22 that they are advocates for their respective clients. They
23 are going to get up here now and they are going to begin
24 with opening statements. I want each of you to understand
25 that we have an order that we follow in the courtroom. You

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 MR. BEACH: That's correct, Your Honor.

2 THE COURT: Has Mr. Thornton accurately stated the
3 agreement?

4 MR. BEACH: Yes, sir. I believe he has.

5 THE COURT: Very well. Thank you, Mr. Beach. Anything
6 further from the State before I bring in the jury?

7 DEP. SOL. THORNTON: No, sir.

8 THE COURT: Anything further from the defendant before
9 I bring in the jury?

10 MR. BEACH: No, sir.

11 THE COURT: Bring us the jury, please, ma'am.

12 All right, Fred, you're in the middle of your
13 examination.

14 LT. INABINETT: Yes, sir.

15 (3:50 P.M., SEPTEMBER 1, 2009, WHEREUPON THE JURY ENTERS THE
16 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
17 RECORD.)

18 THE COURT: All right. Ladies and gentlemen of the
19 jury, we'll now continue with the testimony in the trial of
20 this case. This witness is still under oath and we're in
21 direct examination. Solicitor, you may proceed.

22 DEP. SOL. THORNTON: Thank you, Judge.

23 DIRECT EXAMINATION CONTINUED

24 BY DEP. SOL. THORNTON:

25 Q Lieutenant, in your investigation in this case, did you

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 have a chance to talk to or get a statement from the
2 defendant, Andre Taft Richardson?

3 A Yes, sir. I did.

4 Q And did you talk to him on one occasion?

5 A No, sir. On two different occasions.

6 Q All right, sir. To repeat that, did you talk to him on
7 one occasion or more than one occasion?

8 A On two different occasions.

9 Q All right. And was the first time you talked to him on
10 October the 28th, I believe, of 2008?

11 A Yes, sir.

12 Q All right. I'm going to hand you what's been marked
13 for identification purposes as State Exhibit Number
14 Thirteen. Can you identify that document for me?

15 A Yes, I can.

16 Q What is it, sir?

17 A This is the standard Colleton County Miranda Right's
18 Form.

19 Q All right, sir. And is that Miranda Right's Form for
20 any particular person?

21 A Yes, sir. This is for the defendant, Andre Richardson.

22 Q All right, sir. And does that form have what people
23 see on TV as your Miranda Rights about the right to remain
24 silent, and so forth?

25 A That is correct.

1 Q All right, sir. Would you read off the rights that are
2 listed on that form, please?

3 A Yes, sir. One, you have the right to remain silent.
4 Two, anything you say can or will be used against you in a
5 court of law. Three, you have the right to talk to a lawyer
6 and have him present with you while being questioned. Four,
7 if you cannot afford to hire a lawyer, one will be appointed
8 to represent you before being questioned. Five, you can
9 decide at any time to exercise these rights and not answer
10 any questions or make any statements. The second half is
11 the waiver of rights section. "I have read and have had
12 read to me the above statement of my rights. I understand
13 each of those rights. Having those rights in mind, I waive
14 them and willingly make a statement."

15 Q All right, sir. On October the 28th, did Mr.
16 Richardson initial by each of those rights?

17 A Yes, sir. He did.

18 Q And did he sign the waiver?

19 A Yes, sir. He did.

20 Q All right, sir. And did he agree to talk to you?

21 A Yes, sir. He did.

22 Q All right, sir. And at that time, was he in custody or
23 had he been arrested?

24 A No, he was not.

25 Q All right, sir. Did you threaten him in any way to get

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 him to talk to you?

2 A No, sir.

3 Q All right. Did you promise him anything in order to
4 get him to talk to you?

5 A No, sir.

6 Q All right. But did he talk to you at that time?

7 A Yes, he did.

8 Q All right. Now, was this statement the night of the
9 27th on into the morning of the 28th?

10 A That is correct. The date of the actual incident. I
11 think we started around 11:45, 11:50 timeframe, and the
12 interview progressed into the night, which after midnight is
13 the next day, 10-28.

14 Q So is the 10-28-2008 that is referenced on that Miranda
15 Rights Form, is that what it refers to, that it was
16 concluded on the 28th?

17 A That is correct, yes.

18 Q All right. What did Mr. Richardson tell you, if
19 anything?

20 A He basically started out with the similar comments that
21 were mentioned by Det. Taylor and Det. Scott about waking up
22 that morning, trying to make contact with one of his
23 cousins. Then, going to Walterboro to have his hair cut,
24 and things of that nature. At the latter part of our
25 interview, I asked him if he would consent to a gunshot

1 residue test, which is commonly known as GSR, and he
2 refused. The, I asked him if he would consent to a search
3 of his vehicle, which is a white Mustang, and he also
4 refused.

5 Q All-right, sir. Did you feel you had enough evidence,
6 or any evidence, at that point to make an arrest?

7 A Not at that time, just basically an interview trying to
8 establish the last time Mr. Steward was seen alive.

9 Q Okay. So to recap what he basically said, he got up,
10 tried to get in contact with his cousin, ran a few errands,
11 and then went and -- went to get a haircut?

12 A Yes, sir, basically.

13 Q All right. But he refused to give a GSR kit and he
14 also refused consent to search his vehicle; is that right?

15 A That is correct.

16 Q All right, sir. And again, Det. Inabinett, is that
17 State Exhibit Number Thirteen, for identification, is that
18 the form that he signed off the evening of the 27th and then
19 the morning of the 28th?

20 A Yes, it is.

21 DEP. SOL. THORNTON: Your Honor, at this time, I'd ask
22 that that be moved into evidence as State's Exhibit Number
23 Thirteen.

24 THE COURT: Any objection other than subject to my
25 prior ruling, anything additional?

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 **MR. BEACH:** Nothing additional, Your Honor.

2 **THE COURT:** Very well. Ladies and gentlemen of the
3 jury, State's Exhibit Number Thirteen will be admitted into
4 evidence. State's Thirteen is now in evidence.

5 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTEEN IS RECEIVED
6 INTO EVIDENCE.)

7 **THE COURT:** You may publish.

8 **DEP. SOL. THORNTON:** Thank you, Your Honor.

9 Your Honor, may I approach the witness?

10 **THE COURT:** You may.

11 **Q** Lt. Inabinett, I'm handing you now what's been marked
12 for identification purposes as State Exhibit Number's
13 Fourteen and Fifteen, I believe.

14 **A** Yes, sir.

15 **Q** Can you identify those documents?

16 **A** I can. Number Fourteen is the common form we use at
17 the Colleton County Detention Center. It's classified as a
18 request of staff, which is an inmate request.

19 **Q** All right. And who is that request from?

20 **A** This form, the defendant, Andre Richardson.

21 **Q** All right. So this is after his arrest?

22 **A** Yes, sir. This is dated February the 27th, 2009.

23 **Q** All right. And in February of 2009, what did the
24 request for Mr. Richardson say?

25 **A** It stated, "I need to talk to Jeff Scott, ASAP." and

1 it was signed by Sgt. Aiken, who is a member of the Colleton
2 County Detention Center, and dated 2-27-09.

3 Q All right. And was Jeff Scott available on 2-27-09 to
4 go talk to Mr. Richardson?

5 A No, sir. He was out of town.

6 Q All right. And did anybody go talk to him that day?

7 A Yes, sir. I had him brought over to the Colleton
8 County Sheriff's Department Annex.

9 Q All right, sir. And did you conduct an interview?

10 A Yes, I did.

11 Q All right. And what, if you could identify for me,
12 State's Exhibit Number Fifteen.

13 A State Exhibit Number Fifteen is the standard Colleton
14 County Miranda Rights Form.

15 Q Is that the same Miranda Rights Form, the same type of
16 Miranda Rights Form that you identified in State's Exhibit
17 Number Thirteen that's now been introduced into evidence?

18 A That is correct. Yes, sir, it is.

19 Q All right, sir. Does it list the same rights?

20 A It does.

21 Q All right, sir. Did he -- he being Andre Richardson,
22 did he initial by each of those blanks?

23 A Yes, he did.

24 Q All right. And did he agree to talk with you?

25 A Yes.

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1 Q All right. And as a matter of fact, based on State's
2 Exhibit, for identification, Number Fourteen, he had made
3 the request to talk; is that correct?

4 A That is correct.

5 Q Did you promise him anything to get him to talk to you?

6 A No, I did not.

7 Q All right. Did you threaten him in any way to get him
8 to talk to you?

9 A No, sir.

10 DEP. SOL. THORNTON: Your Honor, at this time, I'd ask
11 that State Exhibit Number's Fourteen and Fifteen be admitted
12 into evidence.

13 THE COURT: Subject to my earlier ruling, Mr. Beach, is
14 there anything additional on Fourteen and Fifteen?

15 MR. BEACH: Nothing, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury, State's
17 Exhibits Fourteen and Fifteen will be admitted into
18 evidence. Fourteen and Fifteen are now in evidence.

19 (WHEREUPON, STATE'S EXHIBIT NUMBERS FOURTEEN AND
20 FIFTEEN ARE RECEIVED INTO EVIDENCE.)

21 THE COURT: You may proceed and publish.

22 DEP. SOL. THORNTON: Thank you, Your Honor.

23 Q Lt. Inabinett, did you conduct a fairly thorough
24 interview with him at that time?

25 A Yes, sir.

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1 Q All right. Did you record this interview?

2 A Yes, I did.

3 Q Approximately, how long was the interview?

4 A Approximately three hours and forty-five or three hours
5 and fifty-five minutes, approximately.

6 Q All right. I'm going to hand you what's been marked
7 for identification, State's Exhibit Sixteen. Can you
8 identify that for me, sir?

9 A Yes, I can.

10 Q And what is that?

11 A This is a downloaded version of the interview that the
12 defendant and myself conducted.

13 Q All right, sir. And at my request, did you review
14 that?

15 A Yes, I did.

16 Q All right, sir. And is that an accurate copy of what
17 occurred?

18 A Yes, it is.

19 Q All right, sir. Has it been altered in any way or is
20 it an accurate representation of the events on 2-27-09 in
21 your interview with Andre Richardson?

22 A That's correct. It has not been altered, just
23 downloaded.

24 DEP. SOL. THORNTON: Your Honor, I would ask at this
25 time that State's Exhibit Number Sixteen be admitted into

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 evidence.

2 **THE COURT:** Subject to my earlier ruling, Mr. Beach,
3 anything additional?

4 **MR. BEACH:** No, sir.

5 **THE COURT:** Ladies and gentlemen of the jury, State's
6 Exhibit Sixteen will be admitted into evidence in the trial
7 of this case. State's Sixteen is now in evidence.

8 (WHEREUPON, STATE'S EXHIBIT SIXTEEN IS NOW RECEIVED
9 INTO EVIDENCE.)

10 **THE COURT:** You may proceed and or publish, Solicitor.

11 **DEP. SOL. THORNTON:** Thank you. Your Honor, due to the
12 length of the tape, I'm just going to have the Detective
13 reiterate it orally. If the jury wishes to view it, of
14 course they can at another time.

15 **Q** Det. Inabinett, to shorten this up so we're not sitting
16 here for three hours and some odd minutes watching a tape,
17 can you tell the jury what the defendant told you on this
18 date?

19 **A** Yes, sir. At the beginning of our interview, once
20 again I Mirandized him and let him know that it was his
21 request to make contact with law enforcement. At that
22 point, I conducted the interview. Mr. Richardson, the
23 defendant, said that he was awakened that morning in this
24 bedroom, which he lived at 156 Steward Lane, which is in
25 Colleton County. He was awakened by an individual dressed

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1 in all black: black gloves on, black mask tucked inside of
2 his shirt. The individual had placed his hand over his
3 mouth. And when he awoke, he had a revolver-type weapon,
4 handgun, pointed at his head. He was then escorted, or
5 directed to get up out of his bed and then move into the
6 living room, where he at that time, saw his grandfather, the
7 victim, Mr. Freddie Steward. Mr. Richardson stated that
8 there were two other gentlemen dressed similar, or
9 identical, more or less, to the first individual - all in
10 black with an overall jumpsuit type, black gloves, black
11 mask on with it tucked inside of their shirt. And I asked
12 him could you indicate what race the individuals may have
13 been. And he said, "I could not tell their race, but they
14 sounded like they were white guys trying to act black."

15 He went on to state that the individuals had asked the
16 victim, Mr. Steward, for some money, or where is the money
17 at? Mr. Steward had declined to give any money over or
18 relinquish any money.

19 At that time, the individuals that had the gun pointed
20 at the defendant had demanded the keys. Mr. Richardson
21 stated that he did deliver the keys to this individual in
22 all black, and at that time, he left his residence in Mr.
23 Richardson's Mustang, which is a white Mustang, black rims,
24 black racing stripes from the hood to the trunk, loud pipes
25 and a spoiler. The defendant stated that for approximately

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1 20 minutes or so, the individual was gone in his Mustang.
2 When the individual returned, he was still in the same
3 outfit. He told the defendant, as well as the victim, Mr.
4 Steward, that we going to take a ride. They was en route to
5 BB&T Bank in Walterboro.

6 At that time, the defendant stated that he, along with
7 the victim, were then escorted to the victim's silver in
8 color, Ford Focus. At which time, the victim, Mr. Steward,
9 was the driver. The subject in black was a passenger. The
10 defendant was a back seat passenger, and a second subject
11 dressed in black, was a backseat passenger. He stated,
12 also, that, "he" being the defendant, stated that they left
13 the third subject dressed in black with a mask on and black
14 gloves, at the victim's house, at 156 Steward Lane.

15 The victim and the defendant and the two subjects then
16 left Steward Lane, traveled to Red Root Road, went down Red
17 Root Road, made a right, straight down Red Root Road, then
18 made a right onto Bethel Road, and in this process, they
19 were supposed to go to BB&T Bank in Walterboro to withdraw
20 some money from the defendant's personal account. (CLEARS
21 THROAT.) Excuse me.

22 Throughout this course of traveling, the subject's kept
23 demanding that the victim relinquish his money, in which he
24 said, "I'm not." And he quoted some type of scripture from
25 the Bible about their conduct. The defendant stated that

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1 after they turned onto Bethel Road, shortly after, they
2 pulled over onto the side of the road. The individual in
3 the front seat, dressed in black, made the victim, Mr.
4 Steward, exit the vehicle, and then the second individual in
5 the back seat that was dressed in black, exited the vehicle,
6 leaving the defendant in the back seat.

7 At this time, both individuals that were dressed in
8 black escorted the victim to the trunk of his vehicle. At
9 which time, Mr. Richardson stated that he remained in the
10 car, alone, the whole time, and he overheard some type of
11 altercation, or scuffle, between the individuals and the
12 victim. He later stated that he then heard several gun
13 shots. After the gun shots went off, he never did exit the
14 vehicle. He stayed inside the vehicle and then he heard his
15 car pull up, which is the white Mustang with tinted windows,
16 dark rims, black stripes across the hood and the trunk, and
17 a white spoiler with the loud pipes.

18 After that car approached, it was being driven by the
19 third subject that was left at the residence. He overheard
20 the subject mention about what happened or what went wrong?
21 In the course of that, a fourth car pulled up, which was a
22 dark colored vehicle, being driven by a fourth subject, who
23 never did exit, but stayed inside the dark colored vehicle.
24 At that time, the other three individuals replied to the
25 driver, he asked the same question, "What happened? What

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1 went wrong?" The response was, basically, "The old man
2 didn't want to cooperate." At that point, the individuals
3 then got into the dark colored car. One individual told Mr.
4 Richardson that this is what happens when you don't
5 cooperate and if you tell anybody what happened, then "I'll
6 harm you, your sister, and your mom. At that point, they
7 fled the scene in the dark vehicle headed toward Lowcountry
8 Highway. Mr. Richardson said that he remained inside his
9 grandfather's vehicle the whole time until they left, after
10 that he exited, got in his vehicle, and left and went to
11 Walterboro to get a haircut.

12 Q I'm sorry. You said that he -- after, according to his
13 story, just to recap this. So according to his story, you
14 have at least a total of four gunmen dressed in black, is
15 that correct?

16 A That is correct.

17 Q They're dressed head to toe in black, with masks on, to
18 the point that he can't tell whether they're black or white
19 skin tone; is that correct?

20 A That is correct.

21 Q All right, sir. Had he ever told you this story
22 before?

23 A No, sir. This was the first time that he gave this
24 rendition of what happened.

25 Q All right. So according to him, these four guys

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1 dressed all in black, these mysterious gunmen kidnapped him
2 and his grandfather; is that right?

3 A Yes, sir.

4 Q And two of them -- so there's four people riding in Mr.
5 Freddie's car, according to this statement from the
6 defendant; is that right?

7 A That is correct. Himself, the victim, and the two
8 masked individuals.

9 Q The two mysterious, all-in-black, gunmen?

10 A Yes, sir.

11 Q All right, sir. Lieutenant, you had indicated that the
12 defendant told you that the purpose of this was to go to the
13 bank in Walterboro?

14 A That is correct.

15 Q All right, sir. What direction were they headed in?
16 Were they headed towards Walterboro?

17 A No, sir. Actually, that route was actually taking them
18 further out into the county.

19 Q All right. You heard Mr. Beach ask some of the other
20 witnesses about this being a rural area and kind of out in
21 the middle of nowhere or whatever, but if they had continued
22 on the way they were going, would they have gotten to
23 Walterboro, or would they have been getting farther away
24 from it?

25 A No, sir. They would actually have been heading more

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 toward the Ruffin area, which is farther out into the
2 county.

3 Q All right, sir. And so his statement was that they
4 were going to rob him or get him to go to the bank and take
5 his money; is that right?

6 A That is correct, yes.

7 Q And they happened to bring his car along. One of the
8 gunmen brought the defendant's car out there; is that right?
9 According to his statement?

10 A According to his statement, yes. After the gunshots
11 went off, that's when he heard his vehicle pull up.

12 Q All right, sir. And according to his statement, they
13 conveniently left that vehicle for him to then drive away
14 in; is that right?

15 A That is correct, yes.

16 Q And his statement to you at that time was he was
17 obviously so distraught and shaken up by the cold-blooded
18 murder of his grandfather that he went to get a haircut?

19 A Right. He said after they left, he then got into his
20 own vehicle and went to Walterboro to get a haircut.

21 Q To your knowledge, and your talking with the other
22 witnesses you heard testify today, had he ever mentioned
23 that to anybody before February 27th?

24 A No, sir, not that rendition that he gave to myself, no.

25 Q And this would have been approximately four months

1 after this occurred, after the murder occurred?

2 A Right. Yes, sir, that's correct.

3 Q All right. So after these mysterious four gunmen
4 kidnapped him that nobody else has apparently seen, after
5 they kidnapped him and took him away from Walterboro to go
6 to Walterboro to get to the bank, and before they, you know,
7 after they leave him with his car, conveniently, so he can
8 drive away and go be upset and get a haircut, what happened
9 after that, according to him?

10 A Basically, after he went to the barber to get a
11 haircut, he didn't make contact with anybody else, and
12 that's basically where him and I stopped the interview at.
13 He got real upset and real emotional to that effect.

14 Q Did you ask him about the fact that he really hadn't
15 talked about this before and it had been four months and he
16 hadn't mentioned it before?

17 A I did and he mentioned that he was just so scared and
18 shaken up that he had never really been threatened of
19 kidnapped before and he was worried about the safety of his
20 mother.

21 Q So he was worried about the safety of his mom, so
22 that's why he went and got a haircut at the barber shop?

23 A Yes, sir.

24 Q And just to reiterate, Det. Inabinett, he's saying that
25 they were going to rob his grandfather; is that right?

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1 A Right. He was awoken. They was already in the house
2 and was asking his grandfather, "Where is the money?" or
3 "Give me the money."

4 Q What was in his grandfather's pocket when you were at
5 the autopsy?

6 A \$139 in cash.

7 Q Det. Inabinett, did you ask him about anything else in
8 regards to his grandfather or his grandfather's checking
9 account in that statement?

10 A I did. I asked him about the incident where after his
11 grandfather's death, the defendant paid his car insurance
12 and car note with his grandfather's personal account.

13 Q After his grandfather was murdered?

14 A Yes, sir.

15 Q Obviously, he was still upset. Did you ask him about
16 that?

17 A I did. He did admit that he did use his account to pay
18 his car insurance and car note.

19 Q So he admitted to you that he used his dead
20 grandfather's account to pay his own bill?

21 A Yes, sir.

22 Q Did he indicate to you that he had his permission prior
23 to his murder to do that?

24 A Not to my knowledge.

25 Q All right. Did he, in fact, during the interview, say

Direct Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 that, yeah, he knew that was wrong and he shouldn't have
2 done that, or something to that effect?

3 A More or less, when I asked him about it, he did say
4 that yes, I did use his account to pay for my car note and
5 car insurance.

6 Q So in October he talks to you the same day this happens
7 and says, you know, I got up. I didn't see anything. I
8 don't know anything. You know, talks about getting up and
9 going to see his cousin and then he goes to get his hair
10 cut; is that right?

11 A Right, yes, sir.

12 Q All right. Never indicated anything to you about these
13 strange, you know, ninja-clad gunmen that are running around
14 Colleton County, apparently. Did he mention that to you in
15 October?

16 A No, sir. He did not.

17 Q To your knowledge, did he mention that to you in the
18 repeated statements that you've heard testified to by Jeff
19 Scott?

20 A No, sir. He did not.

21 Q All right. This is -- so four months later is the
22 first time you've ever heard this; is that right?

23 A Yes, sir. That is correct.

24 Q And after he spins this story about these four
25 mysterious, or at least four, of course, I suppose there

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1 could have been more. I suppose there could have been ten
2 or twelve, but at least four that we know of, according to
3 him, gunmen, dressed
4 all in black, suited up, masked and everything else, leaving
5 him a convenient car for him to drive away in, and then he
6 gets upset and goes and gets his hair cut.

7 After all of that, he then admits to you that he used
8 his dead grandfather's account to pay his own bill; is that
9 right?

10 A Yes, sir. He did.

11 DEP. SOL. THORNTON: Court's indulgence for one moment.

12 Q I have nothing further at this time. Lieutenant, if
13 you'd please answer any questions that Mr. Beach has.

14 THE COURT: Cross-examination?

15 MR. BEACH: May we approach, Your Honor?

16 THE COURT: You may.

17 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
18 AND OUT OF THE HEARING OF THE JURY.)

19 THE COURT: Mr. Foreman, ladies and gentlemen of the
20 jury, we've made tremendous progress. I've conferred with
21 them about scheduling. I told you I'd be mindful of your
22 time this week, and I wouldn't waste your time. You can see
23 that we're trying to move in an expeditious manner to
24 complete testimony. Obviously, the cross-examination of
25 this witness will take a little while and rather than keep

1 you here late, since I kept you here last night late, I'm
2 going to stop at this point for today. It is my belief that
3 we can finish the testimony in the trial of this case,
4 hopefully tomorrow, but we are going to be real close. It
5 might go a little bit over into Thursday, but we will
6 definitely have it completed by Thursday morning, just as we
7 told you when we began the trial that we thought it could be
8 completed on Wednesday or Thursday, so I wanted to make sure
9 the train stayed on the track, ladies and gentlemen.

10 I want to thank you for your willingness to serve and
11 your patience, as I instructed you last night, please don't
12 discuss this case with anyone. I want you to be back in
13 your jury room prior to 9:30 in the morning so we can get
14 started in the morning and try to complete as much as
15 possible. We still have more witnesses. I'm going to try
16 to get as much completed as I can because I'm mindful of
17 your time and I want to get you home in a timely fashion.
18 We might start a little bit after 9:30, based on some
19 scheduling things, but if you're here at 9:30, we're going
20 to start as close -- I will not be in a long hearing in the
21 morning as I was this morning, so somewhere between 9:30 and
22 9:45 we ought to get started, if not right at 9:30.

23 I don't know if there will be anything on the TV or
24 radio or the newspaper. Please do not read such, watch
25 such, or listen to such. As I've instructed you throughout

1 this trial, you must decide this case solely and only upon
2 evidence introduced in the trial of this case when both
3 sides are present with the right of cross-examination.

4 Now, if someone comes up to you and is curious and
5 says, "Tell me what's going on. Are you on the jury?" Just
6 say to them as courteously as you can, "I'm on the jury and
7 the judge has asked me not to talk about it." If they
8 persist in wanting to talk to you, just get their name, give
9 it to me, and I'll take care of the problem for you, ladies
10 and gentlemen. I hope everybody has a pleasant evening.
11 When you come back tomorrow, report to your jury room prior
12 to 9:30. You may leave the courtroom for the day at this
13 time. Everyone else remain seated while the jury is
14 leaving.

15 **THE COURT:** All right. Mr. Inabinett, normally we do
16 not break a witness in the middle of direct and cross-
17 examination. Because of the lateness of the hour and
18 because Mr. Beach asked on behalf of his client to do so,
19 I've granted his request to give him overnight before he
20 cross-examines. In light of that fact, I'm going to have to
21 ask you not to discuss your testimony during the overnight
22 recess with anyone, because you're still subject to cross-
23 examination, just as I did during the recess we took earlier
24 today. Do you understand?

25 **LT. INABINETT:** Yes, sir. I do.

1 **THE COURT:** All right. Now, it's my understanding from
2 talking to the lawyers that the State has no more than four,
3 up to six, additional witnesses?

4 **DEP. SOL. THORNTON:** That's correct, Judge. I think it
5 will just be four, but there might be a possibility of six.

6 **THE COURT:** I understand that and that's fine. It's my
7 belief so that everybody can plan; I intend to at least
8 complete the testimony tomorrow. I'm not going to say
9 because of the hour that we will want to submit the case to
10 the jury tomorrow, because I don't like giving the jury a
11 case too late in the day which requires them to be here away
12 from their homes at night. I would much rather them have
13 the case in the morning so they can work during normal
14 hours.

15 As you know, we've covered now, we're on, by my count,
16 we've covered 20 witnesses today since 11:00, so we've made
17 progress in this. I believe the train is on the track,
18 because I wanted to make sure we didn't keep the jury late.

19 Now, Mr. Inabinett is aware of the restriction
20 concerning his testimony. Mr. Beach, he won't be discussing
21 his testimony during the overnight recess. I think that
22 covers everything. However, I would ask that if either one
23 of you have any requests to charge, I would ask that you
24 submit those to my law clerk. Does the State have any
25 requests for charge?

1 **DEP. SOL. THORNTON:** No, Your Honor. I think the Court
2 has already indicated in some of our pre-trial conferences
3 your intention to do the circumstantial and direct evidence.

4 **THE COURT:** I will be charging direct and
5 circumstantial, and Mr. Beach has indicated to me that he
6 believes this is an up or down case on the indictment. He's
7 not asking for any lesser included offenses.

8 **MR. BEACH:** That's correct, Your Honor.

9 **DEP. SOL. THORNTON:** There will be expert testimony and
10 if Your Honor hears it, which will be tomorrow, Judge, from
11 ---

12 **THE COURT:** We're going to charge expert witnesses.

13 **DEP. SOL. THORNTON:** Other than that, Judge, I think
14 your standard charge. I've got a SLED person coming as an
15 expert, and Dr. Presnell, the Pathologist.

16 **THE COURT:** I understand that completely. Mr. Beach,
17 does the defendant have any requests to charge?

18 **MR. BEACH:** Not at this time, Your Honor.

19 **THE COURT:** Well, I'm going to ask you, Mr. Beach,
20 because when you hand them up to me too late, I'm trying to
21 incorporate it. Do you anticipate having any at this time?

22 **MR. BEACH:** I do not, Your Honor. Based on what we've
23 talked about, and what I've talked about with the Solicitor,
24 and with my knowledge and your standard charges, I don't
25 think we will.

1 **THE COURT:** Well, it's my intention, I'll prepare a
2 verdict form, which I will show you for your approval and
3 Mr. Thornton's, it's my intention, this is a matter of
4 custom not to submit the indictments to the jury.

5 **MR. BEACH:** Yes, sir.

6 **THE COURT:** Although I do have the foreman write the
7 verdict on the indictment, which is my law clerk's job, and
8 he's going to learn that since he's never had that
9 experience in criminal court before. It is my intention to
10 charge voluntariness, which you, of course, would want
11 charged. It would be my intention to charge my charge,
12 which you have heard many times on direct and circumstantial
13 evidence. It would be my intention to charge murder. You
14 have told me that you are not requesting any lesser included
15 offenses, and unless the evidence tomorrow suggests
16 something, obviously, Mr. Beach, I don't believe that there
17 is any evidence to support a lesser included offense, at
18 this stage of the trial; do you agree?

19 **MR. BEACH:** Yes, sir. I agree, Your Honor.

20 **THE COURT:** It would also be my intention to charge my
21 charge, which you've heard many times, on expert witnesses.
22 At this time, Mr. Beach, can you think of any additional
23 requests that you might have based on the evidence that
24 you've heard so far today?

25 **MR. BEACH:** I do not, Your Honor.

1 **THE COURT:** Very well. All right, counsel. Then, I
2 think we're in relatively good shape. I would like for
3 y'all to be here by 9:30 in the morning. Anything further
4 from the State before we adjourn for the evening?

5 **DEP. SOL. THORNTON:** No, sir.

6 **THE COURT:** Anything further from the defendant?

7 **MR. BEACH:** No, sir.

8 **THE COURT:** The defendant's in custody. We're in
9 recess until 9:30 a.m. tomorrow morning. You may step down,
10 Fred.

11 (WHEREUPON, THE TRIAL IN THIS CASE IS ADJOURNED UNTIL
12 9:30 A.M. WEDNESDAY MORNING.)

13 **THE COURT:** Does the State have anything on the record
14 before we begin, outside the presence of the jury?

15 **DEP. SOL. THORNTON:** No, sir.

16 **THE COURT:** Does the defendant?

17 **MR. BEACH:** No, Your Honor.

18 **THE COURT:** Very well. Would you bring us the jury,
19 please ma'am?

20 (9:45 A.M., WEDNESDAY, SEPTEMBER 2, 2009, WHEREUPON
21 THE JURY ENTERS THE COURTROOM AND THE FOLLOWING PROCEEDINGS
22 ARE HELD ON THE RECORD.)

23 **THE COURT:** (TO THE JURORS.) Good morning, watch your
24 step. There we go. All right. Mr. Foreman, ladies and
25 gentlemen of the jury, you will recall when we adjourned

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 yesterday, this witness was on the witness stand and is
2 still under oath. Direct examination has been concluded.
3 We will now have the cross-examination of this witness, who
4 is Det. Inabinett.

5 Mr. Beach, cross-examination.

6 MR. BEACH: May it please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. BEACH:

10 Q Det. Inabinett, please tell the jury you didn't sit
11 there all night long?

12 A No, ma'am, no sir, I did not. (LAUGHTER.)

13 Q Yesterday, when you were testifying, you talked about a
14 gunshot residue test. Do you recall that?

15 A Yes, sir.

16 Q I believe you said you had offered a gunshot residue
17 test to the defendant and he had refused to take it?

18 A I did. That was the night of 10-27-08.

19 Q And about what time was that?

20 A Between 11:45 and then midnight to the early morning
21 hours of 10-28-08.

22 Q And what time did the, to the best of your knowledge,
23 did this shooting occur?

24 A We had an approximate timeframe of 12:50 p.m. Well,
25 let me back up, between 12:30 and 12:50 p.m., approximately,

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 on the afternoon of 10-27-08.

2 Q Thank you, sir. Isn't it true that gunshot residue
3 dissipates after about six hours?

4 A That's approximately correct. Yes, about six hours.

5 Q And-didn't you tell that to the defendant?

6 A I did.

7 Q And he declined to take the test?

8 A Yes, he still refused, but I was willing to try to make
9 the effort to try the GSR kit.

10 Q Okay. Now, I call your attention to the statement he
11 made, this was the last statement, not the earlier ones.
12 This is the one that is on DVD and is available for the jury
13 to look at if they want to. Do you recall that statement?

14 A I do.

15 Q Did you administer -- did you interrogate him at that
16 time?

17 A Say that again, sir.

18 Q Did you interrogate him for that statement?

19 A I interviewed the defendant, Andre Richardson, on the
20 date of February 27th, 2009.

21 Q And where did you do that interrogation?

22 A The interview was conducted at the Colleton County
23 Sheriff's Department Annex.

24 Q Now, prior to the interview, did you give him his
25 Miranda warnings?

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 A I did. Also, it was the inmate request that prompted
2 our interview.

3 Q He asked to see you, didn't he?

4 A Yes, he did.

5 Q Actually, he asked to see Det. Scott.

6 A That is correct. He asked for Det. Scott per an inmate
7 request and Det. Scott was unavailable at the time.

8 Q He agreed to talk with you?

9 A Yes, he did.

10 Q Now, what was the condition he was in at that time?
11 What was his mental condition?

12 A Well, I'm no expert, so I cannot explain that, but he
13 was in custody at the time.

14 Q Was he coherent?

15 A Yes, sir.

16 Q Was he excited?

17 A No, sir. He seemed calm and normal at the beginning.

18 Q At the beginning? Did that break down later?

19 A Eventually, he began to shed some tears and seemed real
20 emotional during the latter part of that interview.

21 Q At any time during the interview, did he admit to
22 shooting Mr. Steward?

23 A No, sir. He never did admit to shooting or harming his
24 grandfather.

25 Q Now, on the tape, did he immediately come out and tell

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 you all this stuff or did it take a while?

2 A No, sir. It took some time. We had a normal, bland
3 conversation, but then, eventually, into the process of the
4 interview, he then started to disclose his version of what
5 took place.

6 Q All right. Now, his version of what took place. As I
7 understand it, he told you that he was at home that day.

8 A That is correct.

9 Q And that three men came to his house.

10 A Correct.

11 Q And one of them woke him up with a gun in his face.

12 A That's what he stated, yes.

13 Q And had him come into the living room?

14 A Yes, sir.

15 Q Who lived in that house?

16 A At the time, to the best of my knowledge, the victim,
17 Mr. Freddie Steward, and the address is 156 Steward Lane,
18 the defendant Mr. Richardson's grandson, and Mr. Steward's
19 actual adult daughter, Ms. Sandra Richardson, and I believe
20 her two youngest sons. I think they're twins, I believe.

21 Q And who all did he tell you was home when these
22 intruders came in?

23 A He stated that he was in the bed asleep and when he was
24 awoken the only person he saw was the grandfather, besides
25 the other two subjects in the living room.

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 Q So momma was not there and the brothers were not there?

2 A No, sir. To the best of my knowledge, his mom was at
3 work and her two sons were at school at Colleton County High
4 School.

5 Q Did he tell you about what time this was in the
6 morning?

7 A I can't recall the exact time, but it was early in the
8 morning.

9 Q Now, after they arrived, as I understand it, the
10 grandfather was already there?

11 A His statement was when he was awakened by the subject
12 and directed to walk in to the living room area, he saw his
13 grandfather already in the living room with two other
14 individuals.

15 Q So there were three individuals, along with the
16 defendant and the victim?

17 A Yes, sir.

18 Q And then one of these people took his car keys; is that
19 correct?

20 A From his statement he said that the individual who
21 initially had him at gunpoint, had commanded his car keys,
22 and he did give them his car keys.

23 Q And he gave them the car keys?

24 A Yes, he did.

25 Q Okay. What did the guy do then?

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 A From Mr. Richardson's statement, the subject then left
2 156 Steward Lane, unknown of his location of personal
3 travel, but he said that he had left for approximately 20
4 minutes or so.

5 Q While he was gone, what did the other two gunmen do?

6 A Basically just stayed in the home with the defendant
7 and the victim and occasionally demanded money from the
8 victim, Mr. Steward.

9 Q And did he say anything about him having any money?

10 A From his statement, being the defendant, that Mr.
11 Steward, the victim, refused to relinquish any money at the
12 time.

13 Q What about the defendant? Didn't the defendant have a
14 quantity of money on him?

15 A Not to my knowledge, no, sir.

16 Q Didn't he say on there that he had money and they took
17 his money, also?

18 A I can't recall that. There was a -- a discussion about
19 \$13,000 that he had at one time, but it wasn't the day of
20 this supposed armed robbery or kidnapping.

21 Q Did they know about the \$13,000, was that part of the
22 discussion?

23 A No, sir. That part of the discussion was totally
24 different from the individuals who come into the home. That
25 was a topic that him and I spoke about in the course of

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 everything. At one given point in his life, "his" being the
2 defendant, had approximately \$13,000 one afternoon or so.

3 Q This is the same \$13,000 that Bobby T. Yates testified
4 about yesterday?

5 A Yes, sir. - That's correct.

6 Q Now, these people, did they search the house?

7 A I'm not certain. I don't know. He didn't speak of
8 that. He just said that they were in the living room and
9 they kept asking the victim, Mr. Steward, for some money or
10 the money.

11 Q Wasn't there an incident with a safe in the house?

12 A I can't recall. It's possible, but I can't recall
13 right now.

14 Q This would be shown on the tape if they had talked
15 about it?

16 A Yes, sir. Everything is on the tape.

17 Q Now, after -- did they wait until the man with the
18 automobile came back before anything else happened?

19 A Yes, sir. Per the defendant's statement, once the
20 individual that left in his vehicle, which was the white
21 Mustang with black rims, tinted windows, black racing
22 stripes across the hood and trunk area, loud pipes, once
23 that car returned, then the two subjects inside the home
24 said, "Let's take a ride. We're going to the bank," which
25 was BB&T Bank in Walterboro.

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 Q Did he know where this other man had been with his car?

2 A No, sir.

3 Q Now, then what happened? As I understand it, Mr.

4 Steward, the decedent, and the defendant, and two of the men
5 got into Mr. Steward's car; is that correct?

6 A Correct. Mr. Richardson stated that upon leaving 156

7 Steward Lane, the victim, which was his grandfather, Mr.

8 Freddie Steward, was driving his silver in color, Ford

9 Focus, with one subject, bad guy, guy in black, in the front

10 seat. Mr. Richardson, the defendant, was also in the back

11 seat with another masked subject and they left Steward Lane.

12 Q And where did they go?

13 A Per the defendant, they were en route to the bank in

14 Walterboro, BB&T Bank. They traveled down Steward Lane to

15 Red Root Road and then made a right onto Bethel.

16 Q Who was driving the car?

17 A The granddaddy, grandpa.

18 Q Granddaddy was driving the car? Okay. Did he say they

19 appeared to know where they were going?

20 A He just said they were going towards Walterboro and his

21 granddaddy had turned on Bethel Road and that's when they

22 stopped shortly after that.

23 Q All right. Now, if you get on Bethel Road, can you go

24 to Walterboro?

25 A You can, yes, sir. It's possible.

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 Q Now, when they went down the road, what happened to
2 make them stop?

3 A I'm not sure. He really didn't specify. He just said
4 that there was a -- the whole time he alleged that the
5 victim, Mr. Steward, had constantly refused the request from
6 the masked gunman, the bad guys, and he quoted some
7 scripture about the Lord not approving of their conduct,
8 something to that effect, and then eventually pulled over on
9 the side of Bethel Road.

10 Q Granddaddy pulled over on the side of the road?

11 A Right, yes, sir.

12 Q What happened after that, according to the defendant's
13 statement on tape?

14 A According to Mr. Richardson, after the victim stopped,
15 the subject that was in the front with the victim exited and
16 made the victim, Mr. Steward exit. The masked subject in
17 the back seat then exited the vehicle. Both masked subjects
18 took the victim, Mr. Steward, to the rear of his vehicle and
19 the trunk was also up.

20 Q How did they open the trunk? Was it opened from inside
21 the car or did they open it with a key?

22 A I'm not positive. He did not state. He just said that
23 they took him to the rear of the car. When we got on scene,
24 law enforcement, that is, the trunk was up with the flashers
25 on.

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 Q Trunk was up and the flashers were on?

2 A Right, but the defendant didn't -- wasn't very clear on
3 how the trunk got up, but he said that the two masked
4 gunmen, the bad guys, had taken the victim, Mr. Steward, to
5 the back of his car. Some kind of altercation took place.
6 He heard a struggle of some sort. At this time, the
7 defendant, Mr. Richardson had stayed seated inside the
8 silver Ford Focus the entire time.

9 Q Was he told to stay there?

10 A I'm not certain. I don't know. At this point, he
11 heard gunshots go off. He never did check. He just sat in
12 the vehicle. He was frightened. Shortly thereafter, he
13 heard, "he" being the defendant, heard his Mustang, the
14 white Mustang with tinted windows, dark rims, racing
15 stripes, and the loud pipes, approach their location and
16 pull up behind the victim's vehicle. At that point, the two
17 gunmen and the guy who was driving his car, the masked
18 subject, had some type of conversation of "what went wrong?"
19 or "what happened?"

20 Q All right. But he heard the gunshots inside the car;
21 is that what he testified to?

22 A Yes, sir. He stated that he did hear several gunshots
23 go off.

24 Q Did he say he saw anything from where he was seated
25 inside the car?

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 A To the best of my remembrance, he said, "No, he
2 continued to look forward and just stayed in the car."

3 Q Was the backseat gunman in the car with him when this
4 altercation took place or was he outside?

5 A No, sir. He stated, "he" being the defendant, stated
6 the backseat gunman had exited the vehicle, along with the
7 front seat gunman, and they both had taken the grandfather
8 to the back of the silver Ford Focus.

9 Q So he was the only one in the vehicle? The defendant
10 was the only one in the vehicle?

11 A Yes, sir. The defendant was the only one in the
12 vehicle and I do believe he had his cell phone with him.

13 Q What happened after -- he had a cell phone?

14 A I think he did.

15 Q Okay. What happened after -- after he said he heard
16 the gunshots?

17 A After he heard the gunshots, that's when he heard his
18 Mustang, "him" being the defendant, his white Mustang pull
19 up, the subject that they left at Steward Lane, undoubtedly,
20 driving the Mustang now. When it -- when that car
21 approached their scene, their location, the two gunmen that
22 were originally on scene with him and the third gunman
23 conversated about what happened or what went wrong. Shortly
24 after that, a fourth gunman, a masked gunman, pulled up in
25 some dark colored vehicle, and asked a very similar

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 statement, "What happened?" or "What went wrong?" And then
2 the subjects then entered into the black or dark colored
3 vehicle and told the defendant, Mr. Richardson, "This is
4 what happens when you don't cooperate."

5 Q - Was he still in the backseat of the car?

6 A Yes, sir. From his -- from the defendant's statement,
7 he never exited the grey Ford Focus until all four subjects
8 left the scene in this dark colored vehicle and that's when
9 he exited, got into his Mustang, and went to Waltherboro to
10 get a haircut..

11 Q Now, did he see this other fellow, the fourth person
12 come up?

13 A He said that there was another car that pulled up,
14 another dark colored vehicle with a gunman, but the gunman
15 was described as being in black clothing, a jumpsuit,
16 overall-type clothing, black gloves, with some kind of black
17 mask on, tucked inside of their shirts. He couldn't tell
18 their race at all. That they sound like they were white
19 guys trying to act black.

20 Q The guy in the car who drove up, was he dressed the
21 same?

22 A Yes, sir.

23 Q So the defendant could see the fourth person, also?

24 A Yes, sir.

25 Q Did he identify the car?

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 A He just described it as a dark colored car, I think.
2 Black, navy, dark color.

3 Q But he never exited the back seat of Mr. Steward's car
4 until after the gunmen had left; is that correct?

5 A That is correct. He remained inside the Ford Focus at
6 all times until the gunmen left the scene and then he
7 exited, got into his Mustang, came to Walterboro and got a
8 haircut.

9 Q Okay. Now, you asked him something about the money out
10 of Mr. Steward's account; is that correct?

11 A We briefly spoke about the account that he used to pay
12 his car insurance and car note with, after his death,
13 correct.

14 Q Now, the payment out of that account was it a check or
15 was it a draw?

16 A No, sir. It was a telephone transaction where he had
17 to actually give the account routing number, so the
18 defendant was in possession of the routing number of the
19 victim, Mr. Steward, after his death.

20 Q Do you know when that request was made?

21 A I do. We had it logged in. The actual Safe Auto, and
22 I think it's Ford Motor Credit Company, I do believe, if I'm
23 not mistaken, had a voice recording of the defendant giving
24 the routing number and approving the authorization of
25 payment.

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 Q Hadn't he been doing that for several months?

2 A I'm not certain, but this one was definitely after his
3 death.

4 Q So it was an automatic withdrawal after the death of
5 Mr. Steward?

6 A That is correct.

7 Q Now, and all this is on this videotape?

8 A Right. The actual transaction is not on the videotape.

9 Q Right.

10 A That's a whole separate tape.

11 Q Everything you've told us here is your recollection
12 from what is on the videotape and is available to the jurors
13 if they want to see it?

14 A Yes, sir.

15 MR. BEACH: Indulgence just a moment, Your Honor.

16 (BRIEF PAUSE.)

17 THE COURT: Anything further, Mr. Beach?

18 MR. BEACH: Yes, Your Honor.

19 Q After he gave you this statement, did y'all go back to
20 the -- to the house and examine it as part of the crime
21 scene?

22 A I can't recall. It was in February when he gave this.
23 We've been to the location numerous times and had various
24 contacts with Ms. Richardson, who has been extremely
25 helpful.

Cross-Examination of DET. ALLEN INABINETT by Mr. Harris Beach

1 Q I know y'all had talked with them a good bit, was there
2 any attempt to attain any fingerprints or anything like that
3 from the house? Any forensic evidence from the house that
4 would bear on his statement?

5 A Initially, on the 27th of October, 2008, law
6 enforcement did go out to the house. I wasn't present at
7 that. I was at the crime scene, but several attempts were
8 made to process the crime scene at the residence, as well as
9 the defendant's vehicle, which that's one he actually
10 refused to consent to search on that same day of.

11 Q Was anything found at the house? Any fingerprints of
12 any other people or any cigarette butts or anything like
13 that that may have led you to investigate anyone else?

14 A I'm not certain. I was not at the location, which is
15 156 Steward Lane. I was on Bethel Road.

16 Q Okay. Did you find any other evidence on Bethel Road
17 that led to anybody else being there? Any cigarette butts
18 or anything like that outside the car?

19 A Being that it's a public road, it's hard to say who may
20 have tossed out cigarette butts or things of that nature,
21 but we collected everything in that general area that we saw
22 of evidentiary value. In that process, I think there was a
23 cigarette -- cigar tip of some sort that was collected and
24 sent off to SLED for analysis.

25 Q Was it sent off for DNA analysis?

Redirect Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 A To my knowledge, yes.

2 Q And do you have that back yet?

3 A I don't believe their standard -- a result came back.
4 I'm uncertain.

5 MR. BEACH: Just a moment, Your Honor. No further --
6 questions, Your Honor.

7 THE COURT: Redirect.

8 DEP. SOL. THORNTON: Just a few questions.

9 REDIRECT EXAMINATION

10 BY DEP. SOL. THORNTON:

11 Q Lt. Inabinett, you talked about this Safe Auto and Ford
12 Credit or Safe Auto transaction that occurred. I want to
13 get something straight. Mr. Beach asked you if it -- his
14 last question was, is it an automatic transfer? Now you
15 testified that you have no knowledge of this happening
16 before or not happening before. The only thing you knew
17 about is what the defendant told you; is that correct?

18 A That is correct.

19 Q All right, sir. And that was sometime after his death
20 that occurred; is that right?

21 A Right. Yes, sir. This occurred after the death of Mr.
22 Steward where the defendant did call in.

23 Q When you talk about automatic, do you mean automated in
24 that it was not a check, it had to be done over the phone?

25 A Correct. It was automated because he used the actual

Redirect Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 routing number of the personal account.

2 Q And did Mr. Richardson indicate to you in any way that
3 he thought it was okay for him to do that or is that
4 something he thought he shouldn't have done?

5 A To my knowledge, he assumed it was okay, and he done
6 it.

7 Q Let me rephrase that question, if they viewed the
8 videotape, would there -- if they feel like it, would there
9 be information on there where he indicated to you that he
10 felt bad about doing that after his grandfather had died?

11 A There is video of that interview and from my knowledge
12 and his presentation, he was okay with it. He wasn't
13 remorseful at all about that part.

14 Q All right, sir. Was one of the things he talked about,
15 you've described several times, the masks and the dark
16 clothing, did he also tell you about other ways they
17 concealed their identity?

18 A He just mentioned about the gloves he was wearing, the
19 overall black coverall, jumpsuit-type overall setup and how
20 they had it tucked in inside to conceal their total race.
21 He just kept saying that they sounded like white guys trying
22 to act black.

23 Q Did he tell you anything about them wearing makeup or
24 football makeup to cover around their eyes?

25 A He may have mentioned about the football, the line that

Redirect Examination of DET. ALLEN INABINETT by Dep. Sol. Thornton

1 football players -- he may have. I can't remember. He
2 mentioned something about some kind of line, but he
3 specifically spoke about he couldn't tell their race and
4 they was trying to sound like white guys trying to act
5 black.

6 Q All right, sir. Mr. Beach asked you could you get to
7 Walterboro from Bethel Road, and you indicated "yes"; is
8 that correct?

9 A Yes, you can, sir.

10 Q Was the car facing going towards Walterboro when it
11 pulled over or was the car facing going away from Walterboro
12 when it pulled over?

13 A When the victim's car, the silver Ford Focus, when it
14 stopped on Bethel Road, it was in the direction of
15 Lowcountry Highway, which is going toward, like, the
16 countryside of the county, toward Ruffin area.

17 Q Did he explain to you why he called his home phone from
18 his cell phone if he was at the house that morning?

19 A He really didn't explain it in detail. Just that that
20 was one of the normal things he would do. He was just home
21 and called his own house from the cell phone.

22 Q All right, sir. One other question, did he bother to
23 tell you whether he checked on his murdered grandfather
24 before he went and got a haircut?

25 A No, sir. He said that once the individuals, the four

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1 gunmen, the masked guys left the scene, he got in his car
2 and went to the barber shop to get a haircut in Walterboro.

3 Q So he didn't even stop to check his own grandfather
4 before he went and got that all-important haircut.

5 A He didn't mention about checking him.

6 DEP. SOL. THORNTON: No further questions.

7 THE COURT: Re-cross, limited to redirect.

8 MR. BEACH: Yes, Your Honor.

9 **RECROSS-EXAMINATION**

10 **BY MR. BEACH:**

11 Q You said you can get from Bethel Road to Walterboro.
12 Can you get to Walterboro going the direction he was going?

13 A You can, sir. It's not the most direct route, but you
14 can take a left on Lowcountry Highway and then hit the back
15 end of Walterboro, which would probably put you out of the
16 way about 25 miles or so out of the way; but you can.

17 Q I've been out there a good many times. That's a pretty
18 much a labyrinth of roads out there, isn't it?

19 A Sir?

20 Q Isn't there a whole lot of roads that come in all
21 together around the Hudson Mill area?

22 A Yes, sir. There is a little intersection, a belt-line
23 type intersection, but there's several different ways, but
24 the incident location, the direction the car was parked, if
25 you go straight ahead, you would intersect Lowcountry

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1 Highway. You would either make a left or a right. Right
2 goes back into the county to the Ruffin area; left would
3 take you back into Walterboro, which is approximately 25
4 miles out of the way.

5 Q Now, going to the withdrawal, didn't he specifically
6 tell you on that tape that his grandfather had approved
7 those withdrawals in the past?

8 A I can't recall, but I do know the last transaction was
9 after the death of his grandfather, and he was in possession
10 of the routing number.

11 Q But this was -- is on the tape, the complete
12 conversation with him?

13 A Right, yes, sir. And there's also a conversation with
14 the Safe Auto and Ford Motor Credit Company.

15 Q Right. Thank you, sir.

16 THE COURT: Anything else of this witness?

17 DEP. SOL. THORNTON: Nothing, Judge, but I would ask
18 that he remain.

19 THE COURT: Lieutenant, you may step down.

20 Counsel approach; Pat, would you come to the bench,
21 also, please?

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
23 AND OUT OF THE HEARING OF THE JURY.)

24 THE COURT: Mr. Foreman, ladies and gentlemen of the
25 jury, I'm doing some planning right now to try to

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1 accommodate your time, and I have to make estimates, I have
2 to get estimates from the clerk and estimates from the
3 lawyers, and I appreciate your patience. I'm going to take
4 my mid-morning break. I'm trying to accommodate an awful
5 lot of schedules here, yours and schedules of people from
6 out of town, and also trying to make sure that we have
7 everything run smoothly for you. During our break, they are
8 going to give you a menu for lunch order. We're going to
9 try to stop for lunch a little earlier today, because we're
10 planning around 12:00, 12:15, so please fill out your lunch
11 order. Do not discuss this case during the break, as I've
12 instructed you. I'll be back with you just as quickly as I
13 possibly can. As soon as they tell me you've done your
14 order, I'm starting back. So, please retire to your jury
15 room and let's take our mid-morning break at this time.

16 (10:20 A.M., SEPTEMBER 2, 2009, WHEREUPON THE JURY
17 EXITS THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD
18 ON THE RECORD.)

19 THE COURT: Is the State ready to proceed?

20 DEP. SOL. THORNTON: Your Honor, we have a matter to
21 take up.

22 THE COURT: Please approach. Do we need it on the
23 record?

24 DEP. SOL. THORNTON: Yes, sir. We need it on the
25 record.

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1 **THE COURT:** All right.

2 **DEP. SOL. THORNTON:** Your Honor, it actually is good
3 news for the Court, Judge. Mr. Beach and I have talked and
4 have gotten a couple of agreements. I just want to put them
5 on record so I can send some people home and then we will
6 need to redo it in front of the jury.

7 My understanding from Mr. Beach, Your Honor, is that he
8 will stipulate as to the credentials of Dr. Presnell, so
9 that I won't have to go through her entire history, we can
10 just declare her an expert in Pathology. Also, Your Honor,
11 it is my understanding from Mr. Beach that he will not, at
12 this point, after discussions with his client, contest the
13 chain of custody or the examination of the casings that are
14 State's Exhibit, I believe it's Ten and Eleven.

15 **THE COURT:** That is correct. You had them marked for
16 identification, but they're not in evidence.

17 **DEP. SOL. THORNTON:** Eleven being the casings removed
18 from the crime scene, around the victim's body, Your Honor.
19 Ten being the casing that was received from Mr. Bobby Varn,
20 who had indicated his gun had been stolen some two years
21 ago.

22 **THE COURT:** I do have -- is State's Twelve, while we're
23 on this, because I have marked State's Twelve -- is that in
24 evidence?

25 **COURT REPORTER:** Yes, sir.

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1 **THE COURT:** All right.

2 **DEP. SOL. THORNTON:** The only two that I have that are
3 not in evidence, Judge, are Ten and Eleven. Mr. Beach, it
4 is my understanding, he will not -- he will stipulate to
5 both the chain of custody on these items, as well as the
6 fact they've been compared microscopically, and that State's
7 Ten and State's Eleven were all fired by the same gun.

8 **THE COURT:** Mr. Beach, has the Solicitor accurately
9 stated the stipulation in this case?

10 **MR. BEACH:** He has, Your Honor.

11 **THE COURT:** Mr. Beach, for the record, and I want to
12 make sure, I'll ask, you've had the opportunity to talk to
13 Mr. Richardson about the stipulations?

14 **MR. BEACH:** Yes, sir.

15 **THE COURT:** And he's in agreement?

16 **MR. BEACH:** Yes, sir.

17 **THE COURT:** Is that correct, Mr. Richardson?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** All right. You understand that the
20 stipulation means that the State will not have to prove the
21 chain of custody for the casings?

22 **DEFENDANT:** Yes, sir.

23 **THE COURT:** You understand that?

24 **DEFENDANT:** Yes, sir.

25 **THE COURT:** All right. And also Mr. Beach is

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1 stipulating to the qualifications of the pathologist, Dr.
2 Presnell, who I think is in the courtroom, is she not?

3 **DEP. SOL. THORNTON:** She is, Judge.

4 **THE COURT:** I see her there. She's ready to go back to
5 Charleston and Mr. Whitler is ready to go back to Columbia.
6 Happy to have you folks in our 187-year-old courthouse. You
7 need to take a look around since y'all don't have that in
8 Charleston. We like to remind Charlestonians of that, Dr.
9 Presnell, every now and then. This courthouse is actually
10 187 years old. Yes, sir?

11 **DEP. SOL. THORNTON:** Judge, since you did ask the
12 defendant, you may also want to ask him that he understands
13 that it's not just the chain he's stipulating to, but it's
14 also ---

15 **THE COURT:** He's absolutely correct, Mr. Richardson.
16 Mr. Beach knows this and he's told me that he agrees and I
17 want to make sure you understand. He's also stipulating
18 that Exhibits Ten and Eleven, and which one is which?

19 **DEP. SOL. THORNTON:** Ten is the single casing received
20 from Bobby Varn's gun that was stolen. Eleven are the
21 casings pulled from the crime scene.

22 **THE COURT:** He is stipulating that they were fired by
23 the same weapon; is that correct, Solicitor?

24 **DEP. SOL. THORNTON:** Yes, Your Honor.

25 **THE COURT:** Is that correct, Mr. Beach?

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1 **MR. BEACH:** It is, Your Honor.

2 **THE COURT:** Is that your understanding also, Mr.
3 Richardson, it won't be necessary for the State to have to
4 prove that?

5 **MR. RICHARDSON:** Yes, sir.

6 **THE COURT:** Very well.

7 **DEP. SOL. THORNTON:** Your Honor, at this time ---

8 **THE COURT:** I will charge the jury about stipulations.

9 **DEP. SOL. THORNTON:** Yes, sir. And we can put it in --
10 I'd like to do that when they first come out, go ahead and
11 get that squared away and call Dr. Presnell, but with the
12 Court's permission, I'll go ahead and let Mr. Whitler go.

13 **THE COURT:** Mr. Whitler, you are now excused from the
14 courtroom in light of the stipulation by the defendant.

15 **DEP. SOL. THORNTON:** Thank you very much, Judge.

16 **THE COURT:** Are you ready to proceed, now?

17 **DEP. SOL. THORNTON:** Yes, sir.

18 **THE COURT:** Is the defendant ready?

19 **MR. BEACH:** Yes, Your Honor.

20 **THE COURT:** Bring us the jury, please.

21 (10:42 A.M., SEPTEMBER 2nd, 2009, WHEREUPON THE JURY ENTERS
22 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
23 RECORD.)

24 **THE COURT:** All right. Mr. Foreman, ladies and
25 gentlemen of the jury, we've been working and we think we

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1 have shortened the time that your presence might be
2 required. I understand that there's a matter that you would
3 like to take up by way of stipulation; is that correct,
4 counsel?

5 **DEP. SOL. THORNTON:** There is, Your Honor. Your Honor,
6 there are two stipulations in this case that Mr. Beach and I
7 have agreed to. The first stipulation is that Mr. Beach
8 stipulates to the qualifications of Dr. Presnell as an
9 expert. She's testified, as the Court noticed, probably
10 hundred of times, Your Honor, and several times in front of
11 you.

12 The second stipulation, Your Honor, relates to items
13 Number Ten and Eleven, State's Exhibits Ten and Eleven. Two
14 stipulations, Judge. One, that Mr. Beach will stipulate as
15 to the chain of custody being complete. Two, that he will
16 stipulate that both State's Ten and the casings from State's
17 Eleven were all fired by the same weapon, that being the
18 shell casing, Number Ten, that was received from Bobby Varn
19 of a pistol that was stolen in December of 2007.

20 **THE COURT:** Is that correct, Mr. Beach?

21 **MR. BEACH:** That's correct, Your Honor.

22 **THE COURT:** In light of that, Solicitor, is it your
23 intention at this time, to offer State's Ten and Eleven into
24 evidence?

25 **DEP. SOL. THORNTON:** It is. Now that you've got the

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1 agreement of defense, Your Honor.

2 **THE COURT:** Without objection; is that correct, Mr.
3 Beach?

4 **MR. BEACH:** That's correct, Your Honor.

5 **- THE COURT:** Ladies and gentlemen of the jury, State's
6 Exhibit Number Ten and Eleven are now in evidence without
7 objection in the trial of this case. State's Ten and
8 Eleven.

9 (WHEREUPON, STATE'S EXHIBIT 10 AND STATE'S EXHIBIT
10 ELEVEN ARE RECEIVED INTO EVIDENCE.)

11 **THE COURT:** I hope you'll listen carefully to the
12 stipulation. I'll be talking to you about a stipulation in
13 my charge to you on the law at the conclusion of the case.
14 Any other matters before we call our next witness,
15 Solicitor?

16 **DEP. SOL. THORNTON:** No, sir.

17 **THE COURT:** Very well. Call your next witness.

18 **DEP. SOL. THORNTON:** Dr. Presnell.

19 WHEREUPON, DR. PRESNELL WAS DULY SWORN.

20 **MADAME CLERK:** Please have a seat on the witness stand
21 and state your full name for the record.

22 **THE COURT:** Have a seat and make yourself comfortable.
23 State your full name and spell your last name for the
24 record.

25 **DR. PRESNELL:** My name is Susan Anne Presnell. The

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1 last name is P-R-E-S-N-E-L-L.

2 THE COURT: All right, Solicitor.

3 DEP. SOL. THORNTON: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY DEP. SOL. THORNTON:

6 Q Dr. Presnell, where do you work?

7 A I'm a forensic pathologist at MUSC, the Medical
8 University of South Carolina, right in Charleston.

9 Q And what is that you do for MUSC?

10 A I'm forensic pathologist, so I -- well, just to kind of
11 give a little background of forensic pathology, everyone is
12 getting a little more familiar with it these days with the
13 TV shows and all, but forensic pathology is actually a sub-
14 specialty of pathology. Pathology is actually what most
15 pathologists practice is the study of disease. So any type
16 of tissue that is removed from a patient when you go to your
17 family doctor and they do a skin biopsy, or like the GYN, a
18 pap smear, any tissue that is taken off of a patient and
19 sent to the pathologist, the pathologist examines it and
20 then they diagnose: is it cancer or not? Is it infection?
21 Is it inflammation? What is the diagnosis?

22 So, I'm trained in pathology, but then I also sub-
23 specialized in forensic pathology, where instead of looking
24 at a piece of tissue or looking at a deceased person, we're
25 looking at the entire body. And instead of looking just for

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1 diseases, which we also look for diseases, because sometimes
2 that isn't the cause of death, we also evaluate trauma and
3 examine the body for trauma. Ultimately, through that
4 process, the process being an autopsy, we come up with the
5 cause and manner of death. So that's what I do for a
6 living, autopsy's, forensic autopsy.

7 Q Thank you, very much, Doctor. Did you have occasion on
8 October the 28th of 2008 at approximately 9:00 A.M. to do an
9 autopsy.

10 A Yes, we began our autopsy at 9:00 in the morning on
11 October 28, 2008, on Mr. Freddie Steward.

12 Q All right. And could you briefly describe to the jury
13 what you found during that autopsy?

14 A This is a complex case. There were multiple, multiple
15 holes, and not the type that to match, but to summarize it,
16 just overall, the victim had ten gunshot wounds to his body.
17 Two of them were on his left arm and the left hand. These
18 were pretty superficial. They didn't go through much but
19 the top tissue of skin.

20 So we have two on the -- one on the elbow area on the
21 left upper arm/elbow area, and the left hand. That leaves
22 eight. Eight are to the torso. Of the eight to the torso,
23 there is one right above the collar bone, there is one right
24 in the middle of the right chest. So of the eight, two are
25 on the front. The remaining six are across the back. All

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1 the way from the right shoulder all the way down to the left
2 backside.

3 With the bullets entering the body, because there are
4 eight of them, there's a lot of criss-crossing and crossing
5 of pathways. Usually, we just track to see the pathway of a
6 bullet all the way to the body and what did it strike.
7 Because there was so much criss-crossing of the pathways, it
8 was hard to show individual pathways. But, basically, those
9 eight bullets managed to go through both the right and left
10 lungs, the heart multiple times, the aorta multiple times;
11 the aorta is the big vessel leading from the heart taking
12 blood to the rest of your body.

13 It went through the liver, it went through the spleen,
14 it went through the pancreas, it went through the
15 intestines, it went through multiple ribs, they went through
16 the vertebral column, the backbone, and also the collarbone,
17 the one that was right above the collarbone, and one of the
18 ones on the shoulder also broke the upper arm bone, the
19 humerus, and the scapula, the medical term is scapula. I'm
20 trying to remember the layman's term for it, but the bone
21 back here that makes up your shoulder, that partly makes up
22 your shoulder.

23 With all those injuries, he had a lot of internal
24 bleeding, and ultimately we grouped them all together as the
25 cause of death being these multiple eight gunshot wounds to

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1 his torso and then additional, the two gunshot wounds to his
2 left arm as contributory. There was one additional deep
3 groove on his back that was superficial. It didn't go
4 through more than skin and underlying soft tissue. It was
5 just an elongated groove on his back suggestive of the
6 graze.

7 Q Dr. Presnell, is it fair to say that due to the number
8 of bullets and the significant damage that occurred inside
9 Mr. Steward's body that it was impossible for you to even
10 track the individual bullet paths?

11 A We tracked the path as far as we could until they all
12 started criss-crossing, because we have, for instance, the
13 one that entered on the right side of his back, fracturing
14 the second rib and into the chest cavity, and then it hits
15 where all the rest of them start criss-crossing.

16 Q Doctor, what is the official cause of death in this
17 case?

18 A Well, we, basically, we just listed the organs that it
19 penetrated, the heart, the aorta, the liver, the pancreas,
20 the spleen, the left kidney and the intestines, and those
21 perforations, due to the multiple gunshot wounds to his
22 torso.

23 Q And what was the manner of death deemed by your office?

24 A The manner of death was homicide, meaning death at the
25 hands of another.

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1 Q Thank you, Doctor. I have nothing further.
2 THE COURT: Cross-examination.
3 MR. BEACH: No questions of this witness, Your Honor.
4 THE COURT: As to this witness, Solicitor?
5 DEP. SOL. THORNTON: Your Honor, with my thanks, I ask
6 that Dr. Presnell be excused.
7 THE COURT: Mr. Beach, any objection to this witness
8 being excused?
9 MR. BEACH: No, Your Honor.
10 THE COURT: Drive careful, Dr. Presnell. You may step
11 down. Thank you very much.
12 DR. PRESNELL: Thank you.
13 THE COURT: Ladies and gentlemen, so you'll know in
14 light of the stipulation that just occurred, that was
15 published to you by counsel in this case, normally the law
16 does not permit a witness to get on the witness stand and
17 give opinion testimony. An exception to this rule, an
18 opinion rule that we have for those witnesses, we call
19 expert witnesses. A witness who by virtue of their
20 training, their education, or experience, claims to be an
21 expert in some field.
22 In this case, the parties stipulated that Dr. Presnell
23 was an expert in the field of Pathology. You should
24 consider the qualifications, and therefore, she was
25 permitted to give an opinion testimony. You should consider

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1 their qualifications and the credibility, or the
2 believability, of the expert and the reasons given for his
3 or her opinion. You are not bound by any expert opinion.
4 You give it the weight, if any, to which you deem it should
5 be entitled, as a juror.

6 All right. Call your next witness.

7 **DEP. SOL. THORNTON:** The State calls Renee Stanley.

8 **MADAME CLERK:** Please come forward and be sworn.

9 WHEREUPON, MS. STANLEY WAS DULY SWORN.

10 **MADAME CLERK:** Please have a seat on the witness stand
11 and state your full name for the record.

12 **THE COURT:** Have a seat and make yourself comfortable.
13 State your full name and spell your last name for the court
14 reporter.

15 **MS. STANLEY:** My name is Renee Dennis Stanley, S-T-A-N-
16 L-E-Y.

17 **DIRECT EXAMINATION**

18 **BY DEP. SOL. THORNTON:**

19 **Q** Ms. Stanley, who do you work for?

20 **A** BB&T.

21 **Q** I realize that's a silly questions, since you have your
22 name badge on, but I'm required to ask. Do you know a man
23 by the name of Freddie Steward?

24 **A** I do.

25 **Q** All right. And did you see him on the morning of

Direct Examination of RENEE STANLEY by Dep. Sol. Thornton

- 1 October 27, 2008?
- 2 A Yes, I did.
- 3 Q And did he come into the bank to make a transaction?
- 4 A Yes, he did.
- 5 Q All right. Is he an account holder at your bank? -
- 6 A Yes, he is.
- 7 Q All right. And at my request, did you examine the
- 8 records of your bank?
- 9 A I did.
- 10 Q And was there a transaction that occurred after October
- 11 the 27th, 2008, on that account?
- 12 A There was.
- 13 Q All right. Can you describe what type of transaction
- 14 that was?
- 15 A It was a telephonic draft that was taken from the
- 16 client's account.
- 17 Q All right. And what is required in order to do a
- 18 telephonic draft out of somebody's account? In other words,
- 19 what type of information would I need if I wanted to do
- 20 that?
- 21 A You would have to provide the person with your routing
- 22 number and your account number.
- 23 Q And what is the routing number? Is that the number
- 24 that's tied to the bank?
- 25 A Yes, it is.

Cross-Examination of RENEE STANLEY by Mr. Harris Beach

1 Q All right. And do you know who the names on the
2 account for Mr. Steward were? Was it just his name or was
3 it a joint account?

4 A It was a joint account. It was held by Mr. Freddie
5 Steward and Mr. Michael Steward.

6 Q All right. Was the name Andre Richardson anywhere on
7 that account?

8 A No, it wasn't.

9 Q Was he a signatory on the account?

10 A No, he was not.

11 Q All right. Was there anything in your records to
12 indicate that he had the victim's -- excuse me, Mr.
13 Steward's permission to use the account?

14 A No, there was not.

15 Q Thank you. I have nothing further for you.

16 THE COURT: Cross-examination.

17 CROSS-EXAMINATION

18 BY MR. BEACH:

19 Q What is your position at BB&T?

20 A I'm a relationship banker.

21 Q And as such, are you the keeper of the records?

22 A We have a home office that stores our records, but yes,
23 we can obtain them.

24 Q So you have access to all of Freddie Steward's banking
25 records; is that correct?

Cross-Examination of RENEE STANLEY by Mr. Harris Beach

- 1 A Yes, sir.
- 2 Q Now, this withdrawal, do you know what it was for?
- 3 A It was a payment made to Ford Motor Credit.
- 4 Q Ford Motor Credit. Okay. And do you know who owns the
- 5 vehicle for which this payment was being made?
- 6 A No, I do not.
- 7 Q Has this payment been made in the past?
- 8 A I do not know.
- 9 Q Did you not check the records to see whether or not
- 10 this same withdrawal had been made over the past months?
- 11 A No, sir. I was not asked to.
- 12 Q Would those records reflect that?
- 13 A I'm not sure.
- 14 MR. BEACH: Just one moment, Your Honor.
- 15 Q At any time, did Mr. Steward tell you that anybody was
- 16 accessing his account without his permission?
- 17 A No, he did not.
- 18 Q Had he ever made a complaint about anybody taking money
- 19 out of his account?
- 20 A Not that I'm aware of.
- 21 Q Now, this particular -- excuse me, this particular
- 22 access, it was by telephone?
- 23 A That's what it states on the statement, yes.
- 24 Q And to whom was it made?
- 25 A Which -- the \$400 transaction?

Cross-Examination of RENEE STANLEY by Mr. Harris Beach

1 Q Yes.

2 A To Ford.

3 Q To Ford?

4 A Uh-huh.

5 Q And Ford requested the transaction?

6 A Ford submitted the transaction to BB&T for payment.

7 Q So Ford is the one who gave you the routing number and
8 the customer identification number, the account number, is
9 that correct?

10 A Ford is the one that submitted it to BB&T for payment.

11 Q And how do you make a connection with that and Andre
12 Richardson?

13 DEP. SOL. THORNTON: Objection, Your Honor. That calls
14 for speculation. The jury is going to be the one to
15 determine who the connection is to. She can just provide
16 the information on the account.

17 THE COURT: Counsel approach.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
19 AND OUT OF THE HEARING OF THE JURY.)

20 THE COURT: The objection is sustained in part and
21 overruled in part and the question needs to be rephrased for
22 the witness. Proceed. Cross-examination.

23 MR. BEACH: Thank you, Your Honor.

24 Q As I understood your earlier answer, the request was
25 made by Ford Motor Credit Company.

Cross-Examination of RENEE STANLEY by Mr. Harris Beach

- 1 A It was submitted by Ford Motor Credit Company.
- 2 Q And they're the ones who gave you the routing number,
3 or gave your company the routing number, and gave the
4 account number; is that correct?
- 5 A That is correct.
- 6 Q And this was the account for Mr. Freddie Steward?
- 7 A Yes.
- 8 Q Do you have any information about who owned the
9 automobile?
- 10 A No, I do not.
- 11 Q So you don't know whether it was owned by Mr. Freddie
12 Steward or Mr. Andre Richardson or anybody else?
- 13 A No, sir. I do not.
- 14 Q And did you handle this transaction yourself?
- 15 A No, sir.
- 16 Q So you're just speaking from what the records tell you?
- 17 A Yes.
- 18 MR. BEACH: No other questions, Your Honor.
- 19 THE COURT: Redirect?
- 20 DEP. SOL. THORNTON: None, Your Honor. Ask that she be
21 excused.
- 22 THE COURT: Any objection, Mr. Beach?
- 23 MR. BEACH: None, Your Honor.
- 24 THE COURT: You may step down. Be careful, and you are
25 excused from the courtroom. Call your next witness.

1 **DEP. SOL. THORNTON:** Your Honor, Court's indulgence for
2 one moment.

3 Your Honor, at this time, the State rests.

4 **THE COURT:** Very well. Are there any matters of law
5 that I need to take up at this time, Mr. Beach?

6 **MR. BEACH:** No, Your Honor. Well, yes, Your Honor,
7 there is.

8 **THE COURT:** Mr. Foreman, ladies and gentlemen of the
9 jury, I have to take up a quick matter of law. I'll be with
10 you in just a moment. So please retire to your jury room.
11 Don't discuss the case and let me take up the matter of law
12 and I'll be right back with you.

13 (11:00 A.M., SEPTEMBER 2n., 2009, WHEREUPON THE JURY
14 EXITS THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD
15 ON THE RECORD.) 1

16 **THE COURT:** Yes, sir, Mr. Beach?

17 **MR. BEACH:** Your Honor, I would move for a directed
18 verdict, with regard to both charges. With regard to the
19 charge of financial information fraud ---

20 **THE COURT:** Financial identity fraud.

21 **MR. BEACH:** Financial identity fraud, Your Honor. I
22 would move for a directed verdict on several grounds. First
23 of all, the testimony from the witness is that the payment
24 request was made by Ford Motor Company, was not made by the
25 defendant, and there was no connection with the defendant

1 with anything having to do with this payment. There is no
2 testimony whatsoever that the car in question that was the
3 subject of the payment, was owned by Mr. Steward, or was
4 owned by Mr. Richardson. There's no connection with that
5 whatsoever. And I believe that unless the State can show
6 that this was a payment for something owned by, and titled
7 to, and owned by Mr. Richardson, that there's no way they
8 can show that this particular request for payment was for
9 someone else's benefit or was for some fraudulent use. That
10 would be the basis of our motion for that, Your Honor.

11 **THE COURT:** Very well.

12 **MR. BEACH:** The motion on the second one is on the
13 murder case, I do not believe when you put all of this
14 together, the State has come anywhere near showing prima
15 fascie case of murder beyond a reasonable doubt against Mr.
16 Richardson. They have no gun; they have no evidence that he
17 committed the crime. They have an alternative theory that
18 it's all the elements of the circumstantial evidence, the
19 same as their primary. They have no motive. They have
20 nothing to show that this case, this crime, was committed by
21 Mr. Richardson, or that he had any motive to do it or that
22 he had any participation in it.

23 **THE COURT:** Mr. Beach, when I last checked, motive was
24 not an element of the offense of murder.

25 **MR. BEACH:** That's true, Your Honor. That's true, but

1 there's just no evidence that he committed the murder.
2 There's nothing that ties him in with the actual commission
3 of the murder.

4 **THE COURT:** Very well. Thank you, Mr. Beach.

5 Mr. Thornton, I'll be happy to hear you on the directed
6 verdict motion.

7 **DEP. SOL. THORNTON:** Your Honor, as to the first
8 motion, I'd ask that you -- respectfully that you decline
9 Mr. Beach's request for a directed verdict. As to the
10 financial transaction card fraud, Ms. Stanley indicated the
11 payment was made on a date after his death, which was after
12 October the 27th, 2008. The payment was telephonic in
13 nature. I asked her what was required for you to be able to
14 do that, and she said you had to have the account number and
15 the routing number to do that, which is financial
16 information.

17 **THE COURT:** How does it tie to the defendant?

18 **DEP. SOL. THORNTON:** Because the defendant testified or
19 the defendant told that to Allen Inabinett who testified
20 that he told him he used the account after his grandfather's
21 death to Ford ---

22 **THE COURT:** Is that on ---

23 **DEP. SOL. THORNTON:** --- Motor Credit.

24 **THE COURT:** --- the tape? Just a moment. Is that on
25 the tape, which is the exhibit -- what's the exhibit number

1 of the tape?

2 COURT REPORTER: Sixteen.

3 THE COURT: It's on Exhibit Sixteen?

4 DEP. SOL. THORNTON: Yes, sir. It's also my
5 recollection that he testified to it on the stand.

6 THE COURT: I'm going to withhold my ruling on this,
7 Mr. Beach, until and I'm going to ask Mr. Inabinett to cue
8 the tape for me. I want to see the portion of Exhibit
9 Sixteen that deals with this issue.

10 MR. BEACH: Yes, sir.

11 THE COURT: Now, I understand that I've had the
12 testimony of Lt. Inabinett, who is testifying to his
13 recollection of what is on there, but I want to see.
14 Because the statute says that a person is guilty of
15 financial identity fraud when he -- not someone else,
16 without the authorization or permission of another person,
17 and with the intent of unlawfully appropriating the
18 financial resources of that person to his own use.
19 Knowingly and willfully accesses, or attempts to access, the
20 financial resources of the other person through the use of
21 identifying information; and the key is the definition in
22 the statute of identifying information, it is defined as
23 "person identifying information, which includes the
24 financial account number or credit card or debit card number
25 in combination with any required security code, access code,

1 or password that would permit access to a financial account,
2 so I need to review that in order to determine if there is
3 evidence to support it.

4 It is true that Ms. Stanley testified that she needed
5 for a telephone request a routing number and an account
6 number, and that the defendant was not on the account, even
7 though it was a joint account with other people, the
8 defendant was not on the account and that her bank showed no
9 permission to the defendant, according to the bank records
10 for him to use the account. That is true.

11 However, she also said on cross-examination that the
12 person who made the -- the entity who made the telephone
13 request was Ford Motor Credit and not the defendant. I need
14 to see whether there's any evidence for purposes of this
15 directed verdict motion to support the argument that you're
16 making to me.

17 Now, I believe there is from the Lieutenant, but that's
18 his recollection and I think it's incumbent upon me for him
19 to check the tape, set it up, get to that spot, let me look
20 at it to rule on this motion.

21 Let's move to the directed verdict motion for murder.

22 **DEP. SOL. THORNTON:** Your Honor, as to murder, the
23 defendant himself puts himself at the scene, puts his car at
24 the scene, which matches the evidence in this case by
25 eyewitnesses who saw Mr. Steward and saw his car, or a car

1 similar to his, in that vicinity at that time.

2 He, also, Judge, due to the outrageous statement that
3 he makes about the other people involved, which does not
4 flow at all with the evidence, I understand it's a
5 circumstantial case. I've said that from the very-
6 beginning.

7 The fact of the matter is, Judge, he puts himself at
8 the scene of the homicide, the death and murder of his
9 grandfather. The only thing he doesn't admit to is pulling
10 the trigger, and the story that he tells in combination with
11 all the other circumstantial evidence about where he went
12 afterwards. The fact that he lied to law enforcement for
13 several months before this occurred, then he comes up with
14 this story and putting himself at the scene. I think in the
15 light most favorable to the State, Judge, that a jury could
16 very well find him guilty of a circumstantial evidence
17 murder. There is no requirement in the law that I'm aware
18 of, Judge, that requires direct eye-witness testimony,
19 that's the whole reason that we have circumstantial evidence
20 charge. I would also agree with the Judge that there is no
21 element of motive in a murder case.

22 **THE COURT:** Mr. Beach, at this stage on the murder
23 indictment, your motion for directed verdict is respectfully
24 denied. I believe I have to take the evidence in the light
25 most favorable at this state, as you know, to the non-moving

1 party.

2 MR. BEACH: Yes, sir.

3 THE COURT: And I'm looking not to the weight of the
4 evidence, but the existence or non-existence of the
5 evidence. I mean, you certainly have the right to argue to
6 the jury about a lack of motive, which I'm certain, knowing
7 you, Mr. Beach, we've been together a long time as lawyers,
8 long before I was on the bench, that you will take advantage
9 of every opportunity to protect the interest of your client.
10 On the other side of that fence, Mr. Beach, your motion
11 is more addressed to the weight of the evidence, rather than
12 the existence. And the standard that I must use at this
13 point is the existence of evidence or non-existence, as you
14 well know, so that motion is denied.

15 Now, during this break, I'm going to ask, Becky, if you
16 will hand the tape to Mr. Beach and Sean, if you'll put it
17 in the machine. Run it forward and get me to the point I
18 want to review the portion dealing with that. Mr. Beach, I
19 want to see it in order to rule on this other motion.

20 I understand -- Mr. Thornton is absolutely correct when
21 he tells me, and I'll have her play it back, if necessary,
22 that Lt. Inabinett has already testified his recollection
23 was to what he said, but when he got to that, Lt. Inabinett
24 also said that he wasn't sure about the detail. I want to
25 see the details now in light of your motion; do you

1 understand that?

2 **MR. BEACH:** Yes, sir. Your Honor, may we bring up one
3 more point on that?

4 **THE COURT:** Yes, sir.

5 **MR. BEACH:** Part of our motion for directed verdict
6 would be there is no corpus delecti, because there has been
7 no showing that this taking out of money was for anyone
8 else's property. They haven't shown who the car was --
9 whose name was actually on the car.

10 **THE COURT:** Mr. Beach, if he has admitted on the tape
11 that is in evidence that he did it, Mr. Beach, I believe
12 that's sufficient for purposes of Section 16-13-510, as far
13 as existence of evidence. Tell me why you think corpus
14 delecti is not existent. You talking about on the financial
15 identity fraud?

16 **MR. BEACH:** Yes, sir. I think that you've got to show
17 that there is an intent to defraud. If there is property
18 that does not belong ---

19 **THE COURT:** It doesn't say "intent to defraud"; it
20 says "knowingly and willfully" ---

21 **MR. BEACH:** Yes, sir.

22 **THE COURT:** "With the intent of unlawfully
23 appropriating the financial resources of that person for
24 your own use."

25 **MR. BEACH:** Yes, sir.

1 **THE COURT:** My understanding, from what I'm being told,
2 is that once I review the tape, that he's going to say that
3 it was for his use, or his bill, and that he did it.

4 Now, there are some inferences that can be drawn either
5 way from this evidence, but we're at the directed verdict
6 stage, that's the reason I need to look at the tape in order
7 to ascertain whether or not there is sufficient evidence to
8 submit it to the jury under 16-13-510 of our code; do you
9 understand what I'm saying?

10 **MR. BEACH:** Yes, sir.

11 **THE COURT:** Now, if there's something else you want to
12 tell me, I'm not trying to cut you off, but if there's
13 something else on corpus delecti, I want you to tell me what
14 that argument is, because your argument was that this was
15 Ford Motor Credit, and not the defendant, and there was no
16 evidence in the record that the defendant did it.

17 **MR. BEACH:** That's correct.

18 **THE COURT:** Now, Mr. Thornton's arguing that the
19 evidence in the record so far is Lt. Inabinett, and I'll be
20 happy to replay that for you, because he certainly testified
21 to his recollection, but when he got to details, he said
22 that he couldn't remember all the details, is my
23 recollection.

24 **MR. BEACH:** Yes, sir.

25 **THE COURT:** But he said it would be reflected on what

1 is now State's Exhibit Number Sixteen, which I intend to
2 review. Is there anything else you want to tell me?

3 MR. BEACH: No, Your Honor.

4 THE COURT: All right. In that case, y'all put the
5 tape up. I'm going to look at it during this break. We'll
6 take a few minutes while y'all are cueing it. Let me know
7 when you've got it. This is too important a decision, Mr.
8 Beach, for me not to look at it.

9 MR. BEACH: Yes, sir.

10 (OFF THE RECORD FROM 11:12 A.M. - 1:25 P.M.)

11 THE COURT: I have listened during the break, so that
12 the record is clear, I have listened three times now to the
13 testimony of Lt. Inabinett. The part where he tries to
14 recall the details of what he was told by the defendant,
15 which is expressed on State's Exhibit Sixteen, and in order
16 to -- Mr. Beach has changed grounds for his motion during
17 this break after reviewing the tape of Lt. Inabinett's
18 testimony. I want to make sure I understand it completely,
19 so let me view what you found on -- it is State's Sixteen,
20 isn't it?

21 DEP. SOL. THORNTON: I believe so, but I'm afraid to
22 pull it out, Judge.

23 THE COURT: State's Sixteen. And what the Solicitor
24 and Lt. Inabinett, and the Asst. Solicitor, Ms. Haselden,
25 have found is what they believe to be the portion of State's

1 Exhibit Sixteen, which represents the evidence of what Lt.
2 Inabinett was told by the defendant concerning the financial
3 identity fraud; is that correct, Solicitor?

4 **DEP. SOL. THORNTON:** Yes, sir. There's actually two
5 references: a fairly large reference, and then there's a
6 smaller reference later. And for the record, Ms. Haselden
7 found it.

8 **THE COURT:** Very well. Thank you, Ms. Haselden.

9 (WHEREUPON, the video portion of the State's Exhibit
10 Sixteen is played for the Court.)

11 **DEP. SOL. THORNTON:** I'm going to pause it there,
12 momentarily, Judge. Since I've sat here where I can listen
13 to it, Mr. Inabinett asked him, "Let me ask you a question,
14 why didn't you tell this stuff to us when we put you up the
15 other night? Better yet, why are you paying your car note
16 and insurance with your granddaddy's, or with the account,
17 or something, and his response is, he goes in and says,
18 "Well, I did it before, but I understand I didn't have his
19 permission after the fact, even after his death." And
20 that's what he's talking about is using his grandfather's
21 account, paying the car note and insurance, is what's
22 referenced on the tape.

23 **THE COURT:** Let me ask you this, Mr. Thornton, Mr.
24 Beach has raised this point and I want to make sure. The
25 indictment says Safe Auto Car Insurance. Lt. Inabinett's

1 testimony was he starts with Safe Auto Car Insurance, and
2 then he says, "I think Ford Motor Credit". Now, I'm
3 assuming, but I don't know, is there any evidence in this
4 case, at this point, from this individual that Ford Motor
5 Credit was requiring him to maintain insurance on a vehicle
6 as part of financing it?

7 **DEP. SOL. THORNTON:** No, sir. It's car note and
8 insurance.

9 **THE COURT:** Car note and what?

10 **DEP. SOL. THORNTON:** And insurance. Why were you
11 making your car note and insurance payment, or something to
12 that effect, from your granddaddy's account? And that's --
13 and the only other reference he makes to it, he doesn't
14 mention Safe Auto, and I will stipulate to that, nor Ford
15 Motor Credit, by name. It's just ---

16 **MR. BEACH:** Car note.

17 **DEP. SOL. THORNTON:** --- it says "car note and
18 insurance" is Mr. Inabinett's question, that's his response,
19 at 2:32, which I'll be happy to play for the Court, he makes
20 another brief reference two hours and thirty-two minutes,
21 which I can set it -- put it right to.

22 **THE COURT:** Have I now heard -- what he's saying is I
23 had permission to -- he just said, "I had permission after
24 the fact."

25 **DEP. SOL. THORNTON:** No, sir. He said, "I didn't have

1 permission after the fact." And Mr. Inabinett said, he
2 said, the defendant indicated I won't plead guilty because I
3 can go in and tell the Judge about that I had permission
4 before, and I done it." And Allen says, "Well, you got the
5 line of -- that's the line of speech. He said, "You have
6 the line of death"; before death is one thing and after
7 death is another.

8 **THE COURT:** Replay that for me and let's hear it again.

9 **DEP. SOL. THORNTON:** The entire part or just that?

10 **THE COURT:** Just what you just played.

11 **DEP. SOL. THORNTON:** Yes, sir.

12 (WHEREUPON, THE VIDEO RESUMES PLAYING.)

13 **THE COURT:** All right. Is that it or is there another
14 part?

15 **DEP. SOL. THORNTON:** There is another brief part where
16 he indicates he used his grandfather's account that is ---

17 **THE COURT:** Lt. Inabinett, do we need Ms. Haselden to
18 operate the equipment?

19 **DEP. SOL. THORNTON:** I'll be happy for her to come do
20 it, Judge, if you'd like.

21 **THE COURT:** I just want to make sure. I have to ask
22 the Lieutenant.

23 (WHEREUPON, THE VIDEO RESUMES PLAYING, AGAIN.)

24 **THE COURT:** Can y'all hear over there, Charles? If he
25 doesn't put that microphone up it gets a little distorted.

1 That's it?

2 (VIDEO STOPS.)

3 DEP. SOL. THORNTON: Yes, sir. He said -- right before
4 that he said, "My uncle got mad at me for taking money out
5 of my grandfather's account after he was dead."

6 THE COURT: All right.

7 (WHEREUPON, THE VIDEO IS STOPPED.)

8 THE COURT: Now, Mr. Beach, during this break, you've
9 had the opportunity to listen to the court reporter's
10 unofficial tape recording of the Lt. Inabinett's testimony,
11 as has this Court, as has Mr. Thornton.

12 MR. BEACH: Yes, sir.

13 THE COURT: We have now seen the video portion that the
14 State wants me to see, it's State's Exhibit Number Sixteen,
15 representing what your client told Lt. Inabinett about the
16 financial identity fraud.

17 MR. BEACH: Yes, sir.

18 THE COURT: I've ruled on your directed verdict motion
19 on murder. I'm now willing to listen to you on your
20 directed verdict motion, now that you've had the benefit of
21 this time, on the financial identity fraud.

22 MR. BEACH: Thank you, Your Honor. This has been very
23 helpful with the tapes and everything -- just a moment, Your
24 Honor.

25 (BRIEF PAUSE.)

1 Sorry, Your Honor, I dropped my papers on the floor.

2 He was indicted by the Grand Jury for using the account
3 for Safe Auto Car Insurance. No evidence ---

4 **THE COURT:** It actually says that he was indicted for
5 knowingly and unlawfully, without the authorization of
6 Freddie Steward, or his Estate, and with the intent to
7 unlawfully appropriate the financial resources of Freddie
8 Steward, and/or his Estate, to his own use, did access, or
9 attempt to access, the financial resources of Freddie
10 Steward and/or his estate." Then, it says, "to wit, he used
11 the victim's personal bank account to pay to Safe Auto some
12 24 days after the victim's death."

13 **MR. BEACH:** Yes, sir. That's correct.

14 **THE COURT:** There's general language and then there's
15 specific language.

16 **MR. BEACH:** Yes, sir. Yes, sir. And there's been no
17 evidence presented to this Court that any money was taken
18 out to Safe Auto. The lady who testified ---

19 **THE COURT:** By this stamp. There's been evidence from
20 Lt. Inabinett, he says Safe Auto, then he says, I believe
21 Ford Motor Credit, as if they were both transactions, and
22 according to Mr. Thornton's hearing and mine, and I believe
23 yours, the defendant says "insurance and credit." They just
24 don't say Safe Auto on the State's Exhibit Sixteen; am I not
25 correct?

1 **MR. BEACH:** I believe you are correct, Your Honor.

2 **THE COURT:** Now, I agree with you that Ms. Stanley only
3 testified, if I recall her testimony, I had to listen to
4 that again, but my notes show that she said "You need a
5 routing number and an account number for a telephone
6 transfer," and she said the defendant was not on the
7 account, as the account holder or a joint account holder.
8 He did not have any permission, according to the bank's
9 records, to use the bank account.

10 **MR. BEACH:** But the only thing she testified to was ---

11 **THE COURT:** She said there was a payment to Ford Motor
12 Credit by telephone transfer. She wasn't asked by anyone
13 about Safe Auto.

14 **MR. BEACH:** No, sir, but I did ask her if there were
15 any others, and she said she didn't know.

16 **THE COURT:** You asked her whether or not prior to death
17 there had been any others, and she said she was only asked
18 to look at this one as a request.

19 **MR. BEACH:** Yes, sir.

20 **THE COURT:** But that she had access to the records.

21 **MR. BEACH:** Yes, sir. That is exactly what she said.
22 Our position is that there's no corpus delecti, there's no
23 evidence that there was any call for any money from this
24 account based upon any offer -- any statements made by the
25 defendant for Safe Auto. Now, it's a different situation

1 for Ford Motor. We know that there was one for Ford Motor,
2 but the State, how can they charge in an indictment on one
3 and it was in evidence on another, and then have that cover
4 the indictment. I think that it fails to supply the corpus
5 delecti.

6 **THE COURT:** Thank you, sir. Mr. Thornton?

7 **DEP. SOL. THORNTON:** Thank you, Your Honor. I think
8 based on the -- I understand Mr. Beach's argument, but I
9 think respectfully that based on the question by Mr.
10 Inabinett, which did reference car note and insurance, it
11 was answered by the defendant in this case. He talked about
12 it on two different occasions and one, that he took money
13 out of his grandfather's account after he was dead, that he
14 was going to plead guilty because he knew that was wrong,
15 and in the second place that his uncle and folks were mad at
16 him because he had taken money out of his grandfather's
17 account after he was dead. I think that fact, plus Ms.
18 Stanley testifying that he didn't have permission, I think
19 you have independent evidence that he didn't have permission
20 to go into the account. He didn't have permission to use
21 the account. He was asked about insurance and a car note,
22 and he admitted to both.

23 **THE COURT:** I agree. I think there is sufficient
24 evidence in this case to submit it to the jury. I'd like to
25 point out what both of you have forgotten. Lt. Inabinett

1 testified that he had a -- he called it one time "a log",
2 and then he said that he had a "telephone recording of the
3 defendant," and he said, Lt. Inabinett used the words "Safe
4 Auto" and then he tried to correct himself, because he was,
5 of course, speaking from memory, which is why I took this
6 two-hour break. Then, he said Ford Motor Credit. He first
7 said Safe Auto, then, I think Ford Motor Credit.

8 It's clear to me that the indictment places you on
9 notice, Mr. Beach, to defend the defense of financial
10 identity fraud, in that your client is charged with the
11 intent of "to unlawfully, willfully and knowingly,
12 appropriate the financial resources of Frederick Steward and
13 his estate", who is on you.

14 It is true, Mr. Beach, you're absolutely correct to
15 point out to this Court that Ms. Stanley never used the term
16 Safe Auto, nor was she asked any question about Safe Auto by
17 Mr. Thornton or you. You did ask her about whether or not
18 she looked at whether he had permission prior to the death
19 of the decedent, and she said she wasn't asked to look at
20 that, but that she had access to the records.

21 To my knowledge, no request for that -- I don't think
22 that puts us in the case of directing a verdict, because I
23 think there is evidence from which I would be required to
24 submit the case to the jury when you combine the testimony
25 of the Lieutenant and the testimony that I've now reviewed

1 on State's Exhibit Sixteen, because the word "insurance" was
2 used and Ford Motor Credit. In fact, it appears to me that
3 we're talking about -- I don't whether we're talking about -
4 - and I don't think there is any evidence to this, whether
5 it's one transaction required by the credit company or
6 whether there were two telephone, but the inference can be
7 there were two or one, I don't know, but I believe that's up
8 to the jury to decide as the finder of fact and not this
9 Court as a matter of law. Therefore, your motion for
10 directed verdict is respectfully denied.

11 Mr. Beach, would you and your client please come around
12 in front of the clerk of court to be sworn?

13 (MR. BEACH AND DEFENDANT, MR. RICHARDSON, COME AROUND TO
14 CLERK.)

15 MADAME CLERK: Please raise your right hand.

16 WHEREUPON, THE DEFENDANT, MR. ANDRE RICHARDSON, WAS
17 DULY SWORN.)

18 THE COURT: All right. I want you to state your full
19 name for the record, please.

20 MR. RICHARDSON: Andre Taft Richardson, II.

21 THE COURT: Mr. Richardson, at this time, I'm going to
22 explain to you certain of your rights. If you do not
23 understand anything that I say, stop me and let me know. If
24 you want me to explain anything in further detail, you let
25 me know. Do you understand?

1 **MADAME CLERK:** Yes, sir.

2 **THE COURT:** All right. We've now reached the state of
3 the trial where you may present your defense. You have the
4 right to testify in your own behalf, however, no one -- no
5 one can make you testify. In the event you have a record
6 for any conviction involving dishonesty or false statement
7 or any crime punishable by imprisonment of more than one
8 year, and this Court determines that the probative value of
9 admitting this evidence outweighs it's prejudicial effect to
10 you, the Solicitor would be able to impeach or introduce
11 this record for impeachment purposes to attack your
12 credibility or your believability.

13 If you elect not to take the witness stand, I will
14 charge the jury in my charge on the law of this case that
15 they are not to give the fact that you did not testify any
16 consideration whatsoever, and there is to be absolutely no
17 prejudice or legal prejudice to you because you did not
18 testify.

19 The matter of whether you testify, Mr. Richardson, will
20 be left entirely up to you, as to whether or not you
21 testify. Certainly, I will give you the opportunity to talk
22 with your attorney, but the ultimate decision as to whether
23 or not you testify -- you can get advice from your attorney,
24 but the decision as to whether or not you testify is not
25 your attorneys, it is yours. The matter is entirely left up

1 to you. Have you understood what I've just told you?

2 MR. RICHARDSON: Yes, sir.

3 THE COURT: Mr. Beach, would you and your client like a
4 moment to talk or are you ready to tell me at this time, in
5 talking with your client, whether or not your client -- I
6 understand from you, Mr. Beach, and I assume, Solicitor,
7 you're going to tell me, he has no record?

8 DEP. SOL. THORNTON: Your Honor, the State attests that
9 he has no record I can impeach him on.

10 MR. BEACH: That's correct, Your Honor.

11 THE COURT: All right. Mr. Beach, have you and your
12 client have enough time to discuss the matter of whether or
13 not he will testify?

14 MR. BEACH: I believe we have, Your Honor.

15 THE COURT: Is that right, Mr. Richardson?

16 MR. RICHARDSON: Yes, sir.

17 THE COURT: Mr. Richardson, are you ready to tell me
18 now whether or not you want to testify in the trial of this
19 case?

20 MR. RICHARDSON: Yes, sir.

21 THE COURT: And what is your decision as to whether or
22 not you wish to testify in the trial of this case?

23 MR. RICHARDSON: I don't, Sir.

24 THE COURT: You do not? Yes or no?

25 MR. RICHARDSON: Oh, no, sir.

1 THE COURT: All right. And that is your decision?

2 MR. RICHARDSON: Yes, sir.

3 THE COURT: And not your attorney's decision?

4 MR. RICHARDSON: Yes, sir.

5 THE COURT: And no one forced you into that decision?

6 MR. RICHARDSON: No, sir.

7 THE COURT: And you understand everything I've told you
8 about your right to testify and my charge to the jury if you
9 do not testify?

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: Very well. You may return to your seat.

12 Mr. Beach, is it the defense's intention to present any
13 evidence to the jury?

14 MR. BEACH: It is not, Your Honor.

15 THE COURT: All right. Now, Becky, I need to make sure
16 we have -- Sean, the first thing that I can see that's
17 probably going to happen, and Harris knows this, is that the
18 jury is probably going to want to look at State's Number
19 Sixteen. The first thing I want you to do and I want Harris
20 to be satisfied before I bring them back, is I want you to
21 cue it back to the beginning, so that it's in the courtroom,
22 because they're going to have to watch it, and Mr. Beach
23 agrees, out here in the courtroom.

24 DEP. SOL. THORNTON: Yes, sir.

25 (BRIEF PAUSE WHILE SOLICITOR CUES THE DVD.)

1 **DEP. SOL. THORNTON:** Your Honor, it is cued up. I will
2 need to turn the projector back on if that's what they want
3 to do. But ---

4 **THE COURT:** As long as it's set for the beginning.

5 **DEP. SOL. THORNTON:** Yes, sir.

6 **THE COURT:** All right. Now, Mr. Beach is not
7 presenting any evidence, Mr. Thornton, but I went over this
8 with Mr. Beach, I haven't had a chance to go over it with
9 you. I'll do it on the record. Both of you have looked at
10 the verdict form and told me that you're satisfied with the
11 verdict form. Is that correct, from the Solicitor?

12 **DEP. SOL. THORNTON:** It is, Your Honor.

13 **THE COURT:** Is that correct, from the defendant?

14 **MR. BEACH:** It is, Your Honor.

15 **THE COURT:** All right. I told Mr. Beach that the
16 following things would be charged by the Court, and I told
17 him that because you walked back to look, he stayed in the
18 back with me, so I want to give you the benefit of exactly
19 what I told Mr. Beach.

20 It is the Court's intention to charge presumption of
21 innocence. It is the Court's intention to charge reasonable
22 doubt. It is the Court's intention to charge the duties of
23 the judge and a trial jury. It is the Court's intention to
24 charge direct and circumstantial evidence. It is the
25 Court's intention to charge stipulations. It is the Court's

1 intention to charge credibility of witnesses. It is the
2 Court's intention to charge expert witnesses. It is the
3 Court's intention to charge statement of a defendant. It is
4 now the Court's intention to charge the failure of the
5 defendant to testify.

6 I will also give my multiple charge charge, which
7 basically says that each charge is a separate and distinct
8 offense. You must decide each charge separately on the
9 evidence and the law applies to it uninfluenced by your
10 decision as to any other charge. If you find the defendant
11 guilty of financial identity fraud, then you can also find
12 the defendant either guilty or not guilty of murder, or vice
13 versa. You will be asked to write a separate verdict of
14 guilty or not guilty for each charge. I will charge
15 criminal intent.

16 I will charge the following for financial identity
17 fraud, under 16-13-510 under the Code of Laws of South
18 Carolina. Please listen carefully. I've been over this
19 with Mr. Beach. I've amplified it a little bit.

20 A person is guilty of financial identity fraud when he,
21 without the authorization or permission of another person
22 and with the intent to unlawfully appropriate the financial
23 resources of that person to his own use or the use of a
24 third party, knowingly and willfully:

25 1. Obtains or records identifying information which

1 would assist in obtaining the financial records of the other
2 person or

3 2. Which is the reason I directed the verdict,
4 accesses or attempts to access the financial resources of
5 the other person. So first, if you just get the identifying
6 information and then if you use it to actually access the --
7 it says accesses, or attempts to access, the financial
8 resources of the other person through the use of identifying
9 information, personal identifying information, means the
10 first name or first initial and last name in combination
11 with and linked to financial account number or credit card
12 or debit card number in combination with any requiredd
13 security codes, access code, or passwords, that would permit
14 access to a financial account.

15 I will define for the jury since it says knowingly a
16 person is said to have knowingly and he is aware that result
17 is practically certain to follow from his conduct, whatever
18 his desire may be as to that result.

19 Further, a person is said to act willfully, which is
20 also in the statute, if the intended result is actually what
21 comes to pass. I will charge -- do both of you understand
22 my charge on financial identity fraud?

23 **MR. BEACH:** Yes, Your Honor.

24 **DEP. SOL. THORNTON:** I do, Your Honor.

25 **THE COURT:** I will charge murder and you've seen the

1 verdict form. Does the State have any other additional
2 requests for charge or would you like to hear me read any of
3 the portions of the charge that I've outlined?

4 **DEP. SOL. THORNTON:** No, sir. I've heard your standard
5 charges, Judge, and the State is satisfied.

6 **THE COURT:** Does the defendant want me to read any
7 portion of the charge or does the defendant have any other
8 requests to charge or any exceptions to the charge that I've
9 told you I'm going to charge at this time?

10 **MR. BEACH:** No, Your Honor, on all accounts.

11 **THE COURT:** Very well. I've got the verdict form. I
12 have the charge. The defendant has not presented any
13 evidence in this case. Mr. Beach, when I call them back,
14 you will rest in front of them, therefore, there will be no
15 reply by the State, and we'll go straight to argument. Mr.
16 Thornton, who is going to argue for the State of South
17 Carolina?

18 **DEP. SOL. THORNTON:** I will, Judge.

19 **THE COURT:** Good. And Mr. Beach, you will have last
20 argument since you did not present any evidence, you
21 understand?

22 **MR. BEACH:** Yes, sir.

23 **THE COURT:** Mr. Thornton, how much time do you think
24 you will need? Take as much time as you want.

25 **DEP. SOL. THORNTON:** Fifteen minutes, Judge. Twenty at

1 the maximum.

2 **THE COURT:** Mr. Beach?

3 **MR. BEACH:** I think about the same, Your Honor.

4 **THE COURT:** Very well. Then, I anticipate that we
5 ought to get this case to the jury by 3:00, which would have
6 been my hope since it is not five minutes to two. Anything
7 further from the State before I bring in the jury?

8 **DEP. SOL. THORNTON:** None, Your Honor.

9 **THE COURT:** Anything further from the defendant before
10 I bring in the jury?

11 **MR. BEACH:** Nothing, Your Honor.

12 **THE COURT:** Bring us the jury, please.

13 (1:52 P.M., SEPTEMBER 2, 2009, WHEREUPON THE JURY
14 ENTERS THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD
15 ON THE RECORD.)

16 **THE COURT:** Ladies and gentlemen, I know you are all
17 curious. I sent you out because I had a matter of law and
18 thought I was going to be right back with you and that's why
19 I tell you I have to estimate things. Let me explain to you
20 that I had to do some research and we had to spend a great
21 deal of time listening to a tape that you already know is
22 very long in this matter, and that we've been working the
23 entire time that you've been gone.

24 So I want you to understand I appreciate your patience.
25 It's very important that I have all the information I need

1 in order to rule on matters of law. So thank you for your
2 patience and your time, and understanding. We never know
3 when that happens and that's what occurred in this instance.

4 All right. You've now heard the evidence from the
5 State of South Carolina, we will now hear from the
6 defendant.

7 Mr. Beach, you may call your first witness.

8 **MR. BEACH:** May it please the Court?

9 **THE COURT:** Yes, sir.

10 **MR. BEACH:** Your Honor, we will not offer any
11 independent evidence of our own and we rest at this time.

12 **THE COURT:** And you wish to renew the motions that you
13 made at the close of the State's case earlier?

14 **MR. BEACH:** Yes, sir, I do.

15 **THE COURT:** So noted for the record. Thank you very
16 much.

17 Ladies and gentlemen, you have now heard all the
18 evidence in this case. We will now hear the final arguments
19 of the attorneys, followed by my charge to you on the law in
20 this case. I ask that you give the attorneys your careful
21 consideration. Mr. Thornton?

22 **DEP. SOL. THORNTON:** Thank you, Your Honor. May it
23 please the Court?

24 **THE COURT:** Yes, sir.

25 **CLOSING ARGUMENT**

1 BY DEP. SOL. THORNTON:

2 October the 27th, 2008, on Bethel Road, the victim in
3 this case, Mr. Freddie Steward, was brutally murdered, shot
4 10 times. Shot to death by his own grandson, Andre
5 Richardson. You're going to hear a lot probably in Mr.
6 Beach's closing argument, you heard from him in the
7 beginning about a circumstantial case. And this is a
8 circumstantial case.

9 I didn't put up any eyewitnesses that say, "I saw Andre
10 shoot Freddie Steward." But what is the evidence that we do
11 have? And the Judge is going to charge you on the law.
12 He'll talk to you about circumstantial evidence and direct
13 evidence and the fact that they're treated equal. Just
14 because it's a circumstantial case doesn't make it a lesser
15 case than a direct evidence case. You have to analyze all
16 of the evidence.

17 What does the evidence tell us? Out of his own mouth,
18 he puts himself at the crime scene when his grandfather was
19 killed. You heard Lt. Inabinett talk about that statement.
20 If you wish to view it, all three hours, I believe, and
21 fifty-six minutes of it, after we looked at it this
22 afternoon. If you wish to do that, you can. Out of his own
23 mouth, he puts himself at the scene of the crime when it
24 happens. So it's undisputed that it was his car there, that
25 it was him that was there, "him" being the defendant, and

1 that he was there when his grandfather was murdered. The
2 only question in this case is did he do it or did the four
3 masked, all in black, figures that mysteriously creeped
4 around Colleton County, managed to cloak themselves in some
5 type of invisibility magic as they drove by with four people
6 in a car, when I've got an eyewitness that got up here and
7 told you that Mr. Freddie was in his car by himself. What
8 makes more sense?

9 You remember when Ms. Haselden got up, from my office,
10 and she told you, we want you to use your common sense.
11 What did we do? What makes more sense? That's what you've
12 got to look at in this case. What is it that makes sense?

13 Mr. Beach may get up, I don't know what he's going to
14 say, he gets the last chance to talk. I don't get to talk
15 after now. He may talk to you about well, the State hasn't
16 proven a motive.

17 The judge is going to tell you what the elements are, I
18 don't have to prove motive. It's not a requirement. I
19 don't know why it happened; if I did, I would have put
20 somebody up here to tell you. But we do know what happened.
21 There's no question that Mr. Steward was murdered. Shot to
22 death 10 times on Bethel Road. No question that Andre
23 Richardson was at the scene. No question that his car was
24 at the scene. The only dispute is: was he the one that did
25 the killing or was it the four people that he mentioned.

1 That's the only question. Everything else he's admitted.
2 He admits in his statement that he stole money from his
3 grandfather's account, after he was dead.

4 So let's look at what the evidence shows. That the
5 evidence is independent from witnesses, plus what Det.
6 Inabinett testified that the defendant told him. You've got
7 three different witnesses that got up here and talked to you
8 about the fact that they saw the Mustang driving back and
9 forth that day. Remember that? All of them were able to
10 identify the same type of Mustang, similar Mustang with the
11 blacked-out rims, tinted windows, racing stripe. They
12 didn't identify Mr. Richardson driving it, because it had
13 the tinted windows. But they saw it, back and forth all
14 morning. What was it that the defendant said in his first
15 statement, and his second, and his third, and his fourth,
16 and his fifth statement? I don't know what you're talking
17 about. I was in bed at home asleep that morning. Then, I
18 got up and -- and we'll get into that in a minute. But I've
19 got three eyewitnesses that say his car was there in that
20 area riding up and down the road. He's got five statements
21 that say, "No, I was in bed."

22 He also is in bed, supposedly, at home, but makes a
23 cell phone call that morning from his cell phone to his home
24 phone. Now, if you're at home in the morning, why would you
25 call your house phone from your cell phone? Next, I was

1 meeting my cousin, Akeem, or Roderick, Shider. We were
2 going to get some equipment, and I called him and he told me
3 he was already on the road, so I turned around so we could
4 meet up. His own cousin, Mr. Shider, got up and what did he
5 tell you? I didn't hear from him all morning. I got up at
6 7:30, I cranked my -- I think he said Grandmoma's car, went
7 back to bed, got up about 1:00, and remember by 1:00 of that
8 afternoon, Mr. Richardson has already gone to the barber
9 shop, which we'll get into in a minute.

10 Mr. Shider says, "No, that isn't true. I didn't talk
11 to him that morning. It was afternoon when I talked to
12 him." All right. There's another lie. So what else do we
13 have? So you've got the fact that he's lying for five
14 statements: I don't know anything. I didn't see anything.
15 I was at home and asleep. You've got his statement that he
16 gave to Jodi Taylor, which is State's Exhibit Number Two.
17 "I woke up this morning at 10:00 a.m. and watched TV for an
18 hour and a half. It's 11:30. My grandfather's room is
19 right near the kitchen. I noticed he was not home. He came
20 home about 11:30 with some bags in his hand. I believe they
21 were brown, plastic shopping bags.

22 I left the house around 11:45 and headed to Springtown
23 to meet my cousin, Keem Shider, but before I got to meet --
24 before I got to his mother's house, he called me and said he
25 had already left and was on Highway 15 on the way to

1 PeeDee's to get a part for his new tires and we were going
2 to meet there. Then, I went to get a haircut at Hodges on
3 Main Street." Anywhere in there about these mysterious four
4 people, dressed in black that murdered his grandfather? No.

5 - You've got that statement in evidence for yourselves to
6 review. You've heard testimony about the other statements.
7 You've got the final statement, almost some four hours of
8 videotape. Supposedly, these four people kidnap him -- at
9 least four months later after he's had time to cook up a
10 good story, or at least what he thinks is a good story.
11 Some four months later when he supposedly finally comes
12 clean and tells the truth, he talks about these four
13 mysterious men that somehow in the middle of the day get
14 into his house. He wakes up and one of them has his hand
15 over his mouth and he goes through this elaborate telling of
16 what goes on.

17 A couple of things don't make sense, though, other than
18 the fact that they're all dressed like Ninja's and,
19 apparently, nobody gets to see them. What did he say they
20 were going to do? Rob granddaddy, right? They were going
21 in the wrong direction. Do you remember the officer's
22 testimony? They were headed away from Walterboro. Of
23 course, Mr. Beach asked, "Couldn't you get to Walterboro by
24 there? Well, that's true, but you could go sit in
25 Jacksonville, Florida, and be headed to Miami, and say,

1 "Well, can't you get there on I-95?" Well, yeah, if you
2 turn around and come back a couple hundred miles, you can.

3 The fact is the car, pulled off to the side of the
4 road, was going away from Walterboro. If they were taking
5 him to rob, get him to go to the bank, why was he going in
6 the wrong direction? Do we think Mr. Freddie was confused?
7 You just heard testimony from Renee Stanley that told you he
8 had been there that morning. He knows where BB&T is. He
9 was just there on Saturday morning -- excuse me, not
10 Saturday morning, on the 27th, the day he was killed.

11 So they're headed in the wrong direction. In addition,
12 you've got an eyewitness standing right next to the road
13 that knows Mr. Freddie and sees him drive by, somewhere
14 around, I think he said 12:30, 12:45, or 11:30, in that
15 area. Late morning, early afternoon, before Mr. Freddie's
16 body was discovered. Who sees him, knows Mr. Freddie and
17 says, "Yeah, I saw him. Mr. Freddie doesn't have tinted
18 windows on his car." Was he by himself? Yes, he was. You
19 can see the car in the photographs what kind of car it is.
20 You can look at it. It would be pretty tough to hide three
21 or four other people inside that car, driving right by
22 somebody standing on the side of the road, watching. It
23 doesn't make sense. None of that adds up.

24 If you're going to rob somebody, why would you leave
25 \$139 in cash on them? So these are the best cloaked, but

1 worst robbers in the history of Colleton County. They're
2 smart enough to get in unnoticed, to kidnap two people in
3 broad daylight, and murder one, but then they do some of the
4 most colossally stupid things I have ever heard in a crime.
5 They head the wrong way to town to the bank they're supposed
6 to be going to get money out of. They're supposed to be
7 robbing somebody, but they leave \$139 in his pocket, along
8 with a watch. They leave an eyewitness to the case sitting
9 in the backseat of the car after they cold-blooded murdered
10 one of them, and they conveniently leave his car for him to
11 drive away, also.

12 You remember the testimony of Officer Inabinett, that
13 the defendant said they brought my car. Why would two of
14 them ride with Mr. Freddie and the defendant? Then, another
15 one bring his car, and then another one bring the robber's
16 car? None of this makes any sense.

17 Again, you are all adults. You've got to use your
18 common sense when you're looking at this. What makes the
19 most sense in this case? That Andre did it or that the four
20 mysterious people, dressed all in black, did it?

21 What about the gun? Bobby Varn, friend of Andre
22 Richardson. They work at the same place. His testimony was
23 when Mr. Beach asked him, Andre worked third shift, he
24 worked first shift. Remember that? Third shift gets off
25 right as first shift goes in. He notices his gun missing,

1 and we've stipulated and they're in evidence, there is no
2 question that the gun Bobby Varn had stolen from him in
3 December of 2007 is this casing and there's no question that
4 that casing matches the casings pulled from the ground Mr.
5 Freddie's body. Okay? So Bobby Varn's gun is the gun that
6 did it.

7 Now, Mr. Beach asked a question that I thought was
8 good. He asked a question, "Well, how many people work at
9 New York Wire?" Well, it's probably a lot of them. How
10 many people work at New York Wire, who drive a white
11 Mustang, with blacked-out rims, tinted windows, who put
12 themselves at the crime scene, who put themselves at the
13 crime scene when Mr. Freddie was killed, who refused a
14 gunshot residue test, and refused consent to search their
15 vehicle, who also happened to be kidnapped by these four
16 people? I submit to you that there's only one, and he's
17 sitting right there at that table right there.

18 This isn't about how many people work at New York Wire.
19 This is about Andre Richardson and whether or not he's the
20 one that killed his grandfather, and the State submits to
21 you that he is, ladies and gentlemen, because that's what
22 makes sense. Mr. Beach talked about the State counting one
23 side, two sides, and it's a box or it's a rectangle, well,
24 you know what? No matter how you slice it, no matter what
25 shape he wants to talk about, Andre Richardson's butt is

1 right in the middle of it. Every time, no matter how you
2 slice it; no matter what things you want to use or what
3 little tricks you want the jury to look at, the fact of the
4 matter is he puts himself there when Mr. Freddie gets
5 killed. The only question is did he do it or did the four
6 mysterious people, dressed in black, do it?

7 If what he says is true, you would have to believe all
8 of the things he talked about in his statement to Det.
9 Inabinett. That four people got in, they kidnapped him,
10 they took them both to this location on Bethel Road, they
11 left him sitting in the car where he never moved. They took
12 his grandfather out of the car, after going the wrong way to
13 Walterboro and leaving \$139 in his pocket, they killed Mr.
14 Freddie, shooting him 10 times in a cold-blooded manner, but
15 then they're going to leave an eyewitness with his own car
16 there. That in and of itself should tell you that that
17 story is ridiculous. But then you add to that what he does
18 afterwards. If he were scared, if he was worried, if he was
19 upset, that he had just been kidnapped and witnessed this
20 horrible crime, why didn't he check on his grandfather? Did
21 he check on his grandfather? No. What did he do? He went
22 to get his damn hair cut, because his hair cut is so
23 important that he doesn't call 9-1-1, he doesn't go to the
24 police, he doesn't go to a relative. He doesn't go to
25 anybody. You remember we talked about Myeshia Yates calling

1 to tell him what had happened? Hell, he already knew about
2 it, even according to his own statement. Did he say, "Yeah,
3 I was there. You know there's people working around. We
4 got to call the police, go to the police." No, he didn't
5 say any of that. He left, according to his statement, if
6 you believe it; he left his dead grandfather on the side of
7 the road when he went to get a haircut.

8 You remember what Mr. Yates testified to? He called on
9 the way to schedule his haircut. His story doesn't make
10 sense. October the 27th, Freddie Steward is brutally gunned
11 down and left on the side of the road to die. His own
12 grandson, who supposedly has all of this good information
13 about the assailants, doesn't say a word to the police for
14 four months. He's got six opportunities to talk to them.
15 He says nothing until he cooks this one up.

16 And worst of all, Ladies and gentlemen, he doesn't even
17 wait until the dirt on his granddaddy's grave has settled
18 before he starts stealing money out of his account.

19 After you've listened to all of the evidence, after
20 you've looked at the exhibits, view the videotape if you
21 need to, there's only story that makes sense. There's only
22 one issue that makes sense in this case. And that's that
23 Andre Richardson, who you've had a chance to view all the
24 time to tell if he looks like somebody who is upset about
25 his granddaddy being killed. You've had the chance to look

1 at him. You've had the chance to view the evidence you are
2 the finders of fact. The State submits to you there's only
3 one story that makes sense, and that's that Andre Taft
4 Richardson murdered his granddaddy and then went and got a
5 damn haircut.

6 THE COURT: Mr. Beach?

7 MR. BEACH: May it please the Court?

8 THE COURT: Yes, sir.

9 CLOSING ARGUMENT

10 BY MR. BEACH:

11 Ladies and gentlemen of the jury, first, thank you for
12 your attention. Circumstantial cases are harder than most
13 because you have to listen to everything. You have to
14 listen to all of the evidence, the nuances of the evidence
15 and try to put all these things together. I told you when
16 we started, this is a circumstantial evidence case.

17 Now, circumstantial evidence, as the judge is going
18 tell you, it's just as good as any other evidence. It's
19 just that you have to work a little harder to put it all
20 together.

21 In a circumstantial evidence case, you take all the
22 factors and add them together, like putting together a
23 puzzle. Like putting together that little star or
24 rectangle, or whatever I used the first time. You've got
25 one, two, three, four, five, and the State says that means

1 murder. Well, if it's different, if it's one, two, three,
2 four, five, it might be a parallelogram, not murder. It may
3 be different. But that's what you have to decide when you
4 go back in your jury room. You have to take all this
5 evidence and look at it.

6 Now, the compact disc, if you want to see that, it's
7 available. We're not holding anything back from you. It's
8 just been synopsisized and people have testified to what's in
9 it. But you have the right to listen to it, every bit of it
10 if you want to.

11 Now, let's talk about the case. There are a couple of
12 things that have bothered me about it throughout this
13 presentation and one, let's talk about the financial fraud,
14 first. That's probably the simplest one. The judge is
15 going to tell you what's in the statute about this financial
16 identity fraud. Basically, what it is, is stealing
17 somebody's identity in order to access their account to get
18 money.

19 Well, there's been no evidence, whatsoever, from
20 anybody, that any money was taken for auto insurance, which
21 is what he is indicted for, auto insurance. Now, there's
22 some question about a car payment, but nothing about auto
23 insurance. I think that that means he is not guilty of that
24 particular charge because there is no evidence of it.

25 Now, the murder. Let's talk about the murder.

1 Somebody killed Freddie Steward. Somebody shot him down on
2 the road and they ought to pay for that. But the person who
3 pays for it ought to be the person the State can say beyond
4 a reasonable doubt that they did it. Not somebody they can
5 dance around the facts that do not connect. Not that they
6 can stand up here and say Oh, our story is more plausible
7 than his story. It's not a question of who's story is
8 better, it's a question of who did it. It's a question of
9 who shot Freddie Steward ten times, beyond a reasonable
10 doubt? And I submit to you Ladies and gentlemen that there
11 is no connection in any of this between this man, the
12 defendant, and that act. There just isn't any. There's no
13 gun. He may have access to a gun. There's no gun. There's
14 no anything. No forensic evidence whatsoever that he had
15 anything to do with this. They didn't go back and recheck
16 the house after he made a statement to see if there were any
17 fingerprints, or to see if there were any forensics to back
18 up his statement. It was almost as if it was anticlimactic.
19 They didn't really care. They weren't going to go back and
20 do anything. The stealing of the gun out of Mr. Yates' car,
21 they didn't take fingerprints.

22 They didn't investigate. They didn't come to Mr.
23 Richardson and question him about the gun. They didn't do
24 anything about that gun except write it down and write it
25 off and it disappeared.

1 The State says well that proves that Andre Richardson
2 stole this man's gun because he was working third shift, or
3 first shift, whichever it was, at New York Wire. A whole
4 bunch of people work those shifts, and I would think that
5 anybody could wiggle that window, get that gun and go. But
6 it seems to me like they'd be leaving some fingerprints that
7 nobody ever checked for. The gun never shows up again.
8 According to the State's theory, it miraculously appears
9 when Andre Richardson, for no reason, murders his
10 grandfather. And that's another thing that's bothering me.
11 This is his grandfather. This is not a shooting on the
12 street, this is not a drive by, this isn't an argument over
13 drugs or over a woman or anything like that, this is his
14 grandfather who was killed. They lived together. They
15 lived together in that house on Steward's Lane. It's not
16 like these were two people far apart. Why would he kill
17 him? What earthly reason would he have to kill him?

18 Now, the Solicitor has told you, and he's quite correct
19 that he doesn't have to prove motive. He doesn't have to,
20 but he also asked you to use your common sense, and if you
21 use your common sense there's got to be some reason for a
22 killing. You're robbing somebody or you're doing something
23 that you're not supposed to be doing.

24 Let's talk about robbing. You know, he's also charge
25 with financial fraud. The only reason for that is to make

1 him look bad in front of you, make it look like he was
2 stealing from his granddaddy. Remember what the testimony
3 was, and it's on this disc, that you can look at, is that he
4 got these payments made on and on and on. Now, the one
5 afterwards, it's the same as the others. It's a common
6 thread, common thing that had always been done, but does
7 that mean he was stealing from his granddaddy? Does that
8 mean he was taking things that he wasn't supposed to that he
9 didn't have any right to?

10 Granddaddy had been to the bank that morning. He
11 didn't complain to the bank about anyone taking money out of
12 his account, looks to me like he would have seen that. He
13 didn't seem to be a very rich man. But say that he was.
14 Say if he was stealing money out of that account. Does that
15 give him a motive to kill his grandfather? Usually, I would
16 think not, but you don't have to have a motive to kill
17 anybody. But taking money from them, might be pretty good
18 hope.

19 Remember something else, one point we brought out in
20 cross-examination of Mr. Tommy Yates, Mr. Richardson had
21 money. He had \$13,000, just before this happened, just 60
22 days or so before this happened, they all sat down on Mr.
23 Yates' bed and they counted it out. Remember what Mr. Yates
24 said, yep, give it back to Andre, because I don't have any
25 money. He had money. If he had been taking money from his

1 grandfather and his grandfather caught him and raised the
2 devil about it, first of all, is his grandfather going to
3 swear out charges against him? Probably not. But even if
4 he were, what's to stop Andre from taking the money and
5 paying Granddaddy back? The economic motive is not there.
6 There's been no testimony of any other motive. There's been
7 no other testimony to tell you if there's any bad blood
8 between Andre and Granddaddy, nothing whatsoever. Just a
9 bunch of circumstances, if put together, point to Andre's
10 story, really just as convincingly as it does to the State's
11 story. Now, the car was going in the wrong direction. Was
12 it? I asked the officer about this area. I think my
13 question started out with it being a labyrinth, a spider's
14 web of little roads out there and he agreed with me; that
15 this would go back to 21 and you could go back down and go
16 right by the bank. It's a little out of the way. Do you
17 remember who was driving the car? Granddaddy was driving
18 the car. Granddaddy wasn't happy. Granddaddy wasn't happy
19 at all. He was fussing and fuming the whole way. He was
20 spouting scripture and all sorts of stuff. He was in charge
21 of that car. He was driving around. He could have driven
22 the wrong way. Finally, something happened, they pulled off
23 and decided they weren't going to put up with this anymore.
24 Now, the money on granddaddy. Granddaddy had a hundred and
25 some odd dollars on him. He had it in his wallet, which was

1 sitting in the console in the car. It's not like they
2 pulled him out and pulled his wallet out and grabbed his
3 money and gone. It's not like they wouldn't have overlooked
4 it, not being where it was. Something happened, they took
5 granddaddy out, probably to try to convince him that he
6 should go along with them, go to the bank, get the money
7 out, they'd already been to the house. They either missed
8 Andre's money or they had it. They wanted his money now,
9 they were greedy. Go to the back of the car to convince
10 him. They open up the car, open up the trunk. You know,
11 that's where you're going to end up if you don't do what we
12 want you to do, and granddaddy not going to take it.
13 Granddaddy was a feisty fellow. They shot granddaddy.
14 Somebody went berserk and killed him. Shot him down. Now,
15 the State says, "Oh, no. That couldn't have happened. It
16 couldn't have happened that way." Andre was still in the
17 car. Why did you believe that that's could have happened,
18 could very well have been the situation. You believe it
19 because of the seat cushion. Where is that seat cushion?
20 Here it is. You believe it because of the seat cushion.
21 Whoever was doing the shooting opened fire on the car, too.
22 Andre's sitting in the back seat. Two bullet holes. One in
23 the seat cushion. Thank goodness it was on the other side
24 of Andre and not where he was sitting. Although it didn't
25 go all the way through, and another one in the rim to the

1 trunk. Remember what the testimony was all of the shell
2 casings came from the same gun. So whoever gunned down
3 Freddie Steward, either turned that gun at the beginning or
4 in the middle or at the end on the car in which Andre
5 Richardson was seated in the backseat. Is there any
6 evidence to say that's not true? No. Is there any evidence
7 to say that is true? It's right there. Whoever it was,
8 shot the old man, turned on him. Now, why didn't he take
9 Andre out of the car and kill him? Why not? Because he
10 looked at him and said, "This is what's going to happen to
11 you and your momma and your brothers if you say anything
12 about this. We're going to put you in a body bag. That's
13 on the tape. We're going to kill you. We're going to kill
14 all your family. Why pull him out and shoot him, because
15 he's a witness. That's a multiple murder then. It's not
16 the same as a single killing, that's treated differently,
17 that's a multiple murder. They didn't do that.

18 Now, the State says that couldn't have happened. The
19 evidence all points toward that scenario, just as it does
20 toward the State's conclusion; although the State's theory
21 has no legs, because it has no reason for the killing. Now,
22 somebody -- like I said earlier, somebody can kill somebody
23 for no reason at all, they can do that. It's been done.
24 But think about it, this is your grandfather. This is the
25 man you live with. This is the man who's helping you pay

1 your car payment. You going to kill the goose that laid the
2 golden egg. He's helping you with your payments. He's
3 helping you get along. He's helping you get by, and you
4 kill him? You shoot him 10 times? Shooting somebody 10
5 times that sounds to me like that's rage or somebody just
6 going totally berserk, or somebody losing control. It's not
7 a control killing. It's not anything like that.

8 Ladies and gentlemen, when you add all of this up,
9 there are inconsistencies on both sides. The telephone call
10 -- I don't know what happened with that telephone call.
11 Maybe he tried and didn't get through. But the bottom line
12 of it is if you take all the State's evidence and put it
13 together like a puzzle, does it point to Andre Richardson as
14 the only person who could have killed this man, Freddie
15 Steward? I think if you put it together all it shows is
16 that he was in the vicinity and that's all. It doesn't show
17 anything else. And you have to have something to convict
18 somebody of murder. You have to have real evidence, not
19 that circumstantial evidence isn't real evidence, but you
20 have to have evidence that adds up to he did it beyond a
21 reasonable doubt. Most cases are a lot simpler. Most cases
22 you've got somebody pointing to him saying he did it or
23 you've got a big old pile of forensic evidence,
24 fingerprints, DNA, and all this stuff that you see on CSI
25 and programs like that that point to that person. You don't

1 have that here.

2 What the State is asking you to do is do a leap of
3 faith, take this pile of evidence and then jump over on top
4 of Andre Richardson. That's not the way we do it. We do it
5 by reasonable doubt. If they can't prove Andre did it, then
6 you ought to find him not guilty. If he didn't get anything
7 for his auto insurance out of the bank, as the bank
8 testified, he got something for Ford Motor Credit, but not
9 for the auto insurance, then you ought to find him not
10 guilty. And that's what I'm asking you to do, Ladies and
11 gentlemen, to weigh all of this, put it all together, think
12 about it as long as you want to, watch this disc if you want
13 to and come back with a not guilty verdict. Thank you.

14 **JURY CHARGE**

15 **THE COURT:** Mr. Foreman, ladies and gentlemen of the
16 jury, it's now my duty to charge you on the law in this
17 case. The State of South Carolina has charged the
18 defendant, Andre Taft Richardson, II, with first of all,
19 financial identity fraud in Indictment Number 2009-GS-15-
20 0116, and murder in Indictment number 2009-GS-15-0129. I
21 remind you that the fact that the defendant was arrested,
22 the fact that the defendant was charged, and the fact that
23 the defendant was indicted, is not evidence in this case.
24 Nor does it create any presumption or inference of guilt.
25 These indictments, these documents are simply the formal

1 written instruments in which contain the charges made
2 against the defendant and they are the formal documents by
3 which the case is brought into this Court of General
4 Sessions.

5 Now, ladies and gentlemen, the defendant has pled not
6 guilty to these indictments. And that plea of not guilty by
7 the defendant puts the burden on the State of South Carolina
8 to prove the defendant guilty beyond a reasonable doubt. A
9 person that is charged with committing a criminal offense in
10 South Carolina is never required to prove himself or herself
11 innocent.

12 I charge you, ladies and gentlemen, that it is an
13 important rule of law that the defendant in a criminal
14 trial, no matter what the seriousness of the charge may be,
15 will always be presumed to be innocent of the crime for
16 which the indictment was issued, unless guilt has been
17 proven by evidence, satisfying you of that guilt beyond a
18 reasonable doubt.

19 The presumption of innocence does not end, ladies and
20 gentlemen, when you begin your deliberations. But it
21 accompanies the defendant throughout the entire trial, until
22 you, as the jury, reach a verdict of guilt based on evidence
23 satisfying you of that guilt beyond a reasonable doubt.

24 The presumption of innocence is not just a mere legal
25 theory. It's not just a legal phrase. It is a substantial

1 right to which every defendant is entitled, unless you, the
2 jury, are satisfied from the evidence of the defendant's
3 guilt beyond a reasonable doubt.

4 What is a "reasonable doubt" in the law? A reasonable
5 doubt is the kind of doubt that would cause a reasonable
6 person to hesitate to act. The State has the burden of
7 proving the defendant guilty beyond a reasonable doubt.
8 Some of you may have served as jurors in civil court, where
9 in civil court, unlike a criminal case, you were told that
10 it is only necessary to prove that a fact is more likely
11 true than not true. We call that in civil court by the
12 greater weight or the preponderance of the evidence in a
13 civil case.

14 In a criminal case, ladies and gentlemen of the jury,
15 the State's proof must be more than that. It must be beyond
16 a reasonable doubt. Proof beyond a reasonable doubt is
17 proof that leaves you firmly convinced of the defendant's
18 guilt.

19 There are very few things in this world that we know
20 with absolute certainty, and in criminal cases, the law does
21 not require proof that overcomes every possible doubt. If,
22 based on your consideration of the evidence, you are firmly
23 convinced that the defendant is guilty of the crime charged,
24 you must find the defendant guilty. On the other hand, if
25 you think there's a real possibility that the defendant is

1 not guilty, you must give the defendant the benefit of the
2 doubt and find the defendant not guilty.

3 I remind you, ladies and gentlemen, that during this
4 trial, you and I have had certain duties to perform. As a
5 trial judge, it's been my responsibility to preside over the
6 trial of the case, and I also have the duty to rule on the
7 admissibility of evidence offered during the trial of this
8 case.

9 You, as a jury, are only to consider the competent
10 evidence before you. If there was any testimony ordered
11 stricken from the record in this case during this trial, you
12 should disregard that testimony. You are to consider only
13 the testimony which has been presented from the witness
14 stand, any exhibits which have been made a part of the
15 record in this case, and any stipulations of counsel which
16 occurred during the trial of this case.

17 I, also, as the presiding judge have the additional
18 duty to charge you the law that applies to this case. As
19 the presiding judge, I am the sole judge of the law, and it
20 is your duty as jurors to accept and apply the law exactly
21 as I now state it to you. If any of you walked into this
22 courtroom, and you already had any idea as to what you think
23 the law is or what the law ought to be, and it does not
24 agree with what I'm now telling you what the law is, you
25 must as a juror abandon any of your preconceived ideas,

1 because you are sworn in that oath which each of you took,
2 to accept and apply the law exactly as I state it to you,
3 now.

4 In every case tried in this Courtroom before a jury,
5 the jury becomes the sole and exclusive judges of the facts
6 in the case. A trial judge, such as myself, cannot
7 intimate, state, comment on, or make any statement
8 whatsoever, to a trial jury, such as yourself, about the
9 facts in a case.

10 Since you, the jury, are the sole judge of the facts of
11 this case, you are not to infer from what I have said during
12 the progress of this trial, and ruling upon the
13 admissibility of evidence, or otherwise, or anything that I
14 now say during this instruction to you on the law, that I
15 have any opinion, whatsoever, about the facts in this case.
16 The law does not allow me to have an opinion about the facts
17 in this case. This is a matter solely for you, ladies and
18 gentlemen of the jury, to determine.

19 As jurors, then, you remember that it is your duty
20 under your oath, to determine the effect, the value, weight
21 and truth of the evidence presented during the trial of this
22 case.

23 Ladies and gentlemen, there are two types of evidence
24 that are generally presented during a trial, and like many
25 things in the law, ladies and gentlemen of the jury, we have

1 names for those types of evidence. We call the two types of
2 evidence, direct evidence and circumstantial evidence.

3 Direct evidence is the testimony of a person who claims
4 to have actual knowledge of a fact, such as an eyewitness to
5 an event. It is evidence which immediately establishes the
6 main fact to be proved.

7 Circumstantial evidence, as contrasted with direct
8 evidence, is proof of a chain of facts and circumstances
9 indicating the existence of a fact. Circumstantial evidence
10 is evidence which establishes collateral facts, from which
11 the main fact may or may not be inferred. Circumstantial
12 evidence is based on inference and not on personal knowledge
13 or personal observation.

14 The law makes absolutely no distinction between a
15 weight or value to be given to either direct or
16 circumstantial evidence, nor is a greater degree of
17 certainty required of circumstantial evidence than of direct
18 evidence. You as a jury should weigh all of the evidence in
19 this case, both direct and circumstantial. After weighing
20 all of the evidence, if you are not convinced of the guilt
21 of the defendant beyond a reasonable doubt, you must find
22 the defendant not guilty.

23 On the other hand, after weighing all of the evidence
24 in this case, both direct and circumstantial, if you are
25 convinced of the guilt of the defendant beyond a reasonable

1. doubt, you must find the defendant guilty.

2. I charge you, ladies and gentlemen, and I told you
3. during the trial, as I recall in my comments to you that a
4. stipulation is an agreement, it is an admission or a
5. concession that is usually made in a judicial proceeding by
6. the parties or their attorneys. Stipulations are binding,
7. of course, upon those who make the stipulations.

8. A stipulation is an agreement, an understanding if you
9. will. The Court and the jury must accept stipulations as
10. binding upon the parties. If counsel for the parties have
11. stipulated to any fact or any fact has been admitted by the
12. stipulation, you will regard that fact as being conclusively
13. proved as to the party or parties making the stipulation or
14. admission as a fact.

15. Necessarily, as I told you at the outset of the trial,
16. you as a jury must determine the credibility of the
17. witnesses who have testified during this case. Credibility
18. simply means believability. It becomes your duty as jurors
19. to analyze and to evaluate the evidence and determine which
20. evidence convinces you of its truth.

21. In determining the believability of witnesses who have
22. testified in this case, you may believe one witness over
23. several witnesses, or several witnesses over one. You may
24. believe a part of the testimony of a witness, and reject the
25. remaining part of the testimony of that same witness. You

1 may believe the testimony of a witness in its entirety or
2 you may reject the witness's testimony in its entirety.

3 You may consider whether any witness has exhibited to
4 you any interest, any bias, any prejudice, or other motives
5 in this case. You may also consider the appearance, or the
6 manner, of the witness while on the witness stand. We call
7 that the demeanor of the witness while the witness is on the
8 witness stand in judging the credibility, or the
9 believability, of the witnesses who have testified during
10 the trial of this case.

11 Now as I told you during the trial of this case,
12 ordinarily, witnesses are not permitted to get on this
13 witness stand and say, "My opinion is so-and-so. My
14 conclusion is so-and-so." The rules of evidence do not
15 permit witnesses to testify to opinions or conclusions. An
16 exception to this rule exists for those witnesses that we
17 call "expert witnesses". A witness, who by education,
18 training, or experience, has become, or claims to have
19 become, an expert in some art, science, profession or
20 calling. They state an opinion as to material matters in
21 which the witness claims to be an expert, and they'll also
22 state the reasons for his or her opinion if qualified as an
23 expert by the Court.

24 You should consider any expert opinion received in
25 evidence in this case, and just like any other evidence in

1 this case, you give it the weight you think it deserves. If
2 you decide that the opinion of an expert witness is not
3 based on sufficient education or experience, or if you
4 should conclude, as a jury, that the reasons given in
5 support of the opinion are not sound, or that the opinion is
6 outweighed by other evidence, you may disregard the expert
7 opinion entirely.

8 An expert witness's opinion is to be given no greater
9 weight than that of other witnesses, simply because the
10 witness is an expert.

11 I charge you, ladies and gentlemen, that a statement or
12 statements, plural, alleged to have been made by the
13 defendant have been admitted into evidence during the trial
14 of this case. While the Court is determined that the
15 statements are admissible, I instruct you, ladies and
16 gentlemen, and charge you that you make the ultimate
17 decision of whether or not the defendant made any statement
18 or statements. If the defendant did make a statement, in
19 your determination, you must determine also whether the
20 statement or statements were made by the defendant
21 voluntarily and of his own free will. This means that the
22 statement or statements were not caused by pressure, or
23 caused by force, or fear, or threats, or coercion, or
24 intimidation or by hope of a promise of leniency or a reward
25 of any kind.

1 In determining whether the statement or statements were
2 voluntary, you as a jury should consider both the
3 characteristics of the defendant and the details of the
4 questioning. Some of the factors that you may consider if
5 in evidence in the trial of this case are the age of the
6 defendant, the defendant's education or lack of education,
7 the defendant's mental ability or capacity, the defendant's
8 IQ or intelligence, the defendant's background or
9 environment, length and place of tension, the nature of the
10 questioning and the advice, or lack thereof, to the
11 defendant of his constitutional rights, including, but not
12 limited to, constitutional right to remain silent, that any
13 statement could be used against him in a court of law, the
14 right to have a lawyer present and if he could not afford a
15 lawyer, one would be appointed to represent him without any
16 cost and that he could stop making a statement at any time.
17 You, as a jury, must carefully consider all of the
18 surrounding circumstances based on evidence introduced
19 during the trial of the case before you give any weight to
20 an alleged statement or statements.

21 The State has the burden of proving beyond a reasonable
22 doubt that the alleged statement or statements were
23 voluntary. If you determine they were, you may give the
24 statement or statements any further consideration that you
25 as a jury deem proper. You must decide what weight, if any,

1 should be given to the alleged statement or statements. If
2 you determine the alleged statement or statements were not
3 the free and voluntary statement of the defendant, you
4 should not consider the statement or statements at all.

5 I instruct you, ladies and gentlemen, and emphasize the
6 fact that the defendant did not testify, and that is not a
7 factor to be considered by you, the jury, in any way in your
8 deliberations and in your consideration of the guilt or the
9 innocence of the defendant. It must not be considered by
10 you in any manner whatsoever in your jury room. A defendant
11 has a constitutional right to remain silent and the
12 assertion of your constitutional right to remain silent must
13 not be considered by you in your deliberations.

14 I repeat that under that oath which each of you took,
15 you are to draw no conclusions whatsoever as a juror, from
16 the fact that the defendant in this case did not testify.
17 The fact that the defendant did not testify should not even
18 be discussed in your jury room.

19 The burden of proof, as I have stated to you, is on the
20 State of South Carolina. The defendant is not required to
21 prove his innocence. The burden of proof remains on the
22 State of South Carolina to prove guilt beyond a reasonable
23 doubt.

24 Now, the indictments in this case allege different
25 offenses against the defendant. As I told you at the

1 outset, the charges are one indictment charges financial
2 identity theft and the other indictment charges murder.
3 Each charge is a separate and a distinct offense. You as a
4 jury must decide each charge separately on the evidence and
5 the law that applies to it uninfluenced by your decision as
6 to any other charge.

7 If you find the defendant guilty, for example, of
8 financial identity fraud, in this case, then you can also
9 find the defendant guilty or not guilty of murder. You will
10 be asked to write a separate verdict of guilty or not guilty
11 for each charge, following the instructions that I will give
12 you on your verdict form, Mr. Foreman.

13 I will now define for you the offenses in this case.
14 First, in order to establish criminal liability, criminal
15 intent is required. For example, for any particular crime,
16 just by example, purpose, or intent, or malice, or
17 recklessness, or even in some cases, criminal negligence.
18 Those are examples of criminal intent. Criminal intent must
19 be proven by the State beyond a reasonable doubt.

20 Criminal intent is always a matter that must be
21 determined by the jury from the circumstances surrounding
22 the situation, based on evidence introduced during the trial
23 of this case.

24 There is no way, ladies and gentlemen, to prove intent
25 to a mathematical certainty. There is no way medical

1 science can dissect a person's brain and determine what that
2 person had in mind; so the law says, ladies and gentlemen,
3 that criminal intent may be inferred from the circumstances
4 shown to have existed. This, ladies and gentlemen, is how
5 you as a jury make a determination of whether or not any
6 element in a crime requiring intent was present.

7 It is not necessary to establish intent by direct
8 evidence, but intent may be established by inference in the
9 same way as any other fact, by taking into consideration the
10 acts of the parties, and all the facts and circumstances of
11 the case based on evidence introduced during the trial of
12 the case.

13 Criminal intent is a mental state, a conscious
14 wrongdoing. It is up to you, as a jury, to determine what
15 the defendant intended to do, based on the circumstances
16 shown to have existed, from evidence introduced during the
17 trial of the case.

18 Criminal intent can arise from action or a failure to
19 act. It may arise from negligence, recklessness, or an
20 indifference to duty, or to consequences considered by the
21 law to be the equivalent of criminal intent.

22 Now, I charge you, ladies and gentlemen, in this case,
23 the defendant, Andre Taft Richardson, II, is charged in
24 Indictment Number 2009-GS-15-0116, with the offense of
25 financial identity fraud. A person is guilty of financial

1 identity fraud when he or she, without the authorization or
2 permission of another person, and with the intent to
3 unlawfully appropriate the financial resources of that
4 person to their own use or his own use or the use of a third
5 party, knowingly and willfully obtains or records
6 identifying information which would assist in accessing the
7 financial records of the other person; or a person is guilty
8 of financial identity fraud when he, without the
9 authorization and permission of the other person, and with
10 the intent to unlawfully appropriate financial resources of
11 that person to his own use or the use of a third party,
12 knowingly and willfully accesses or attempts to access the
13 financial resources of the other person through the use of
14 identifying information. Identifying information is defined
15 under the Code of Laws of South Carolina as personal
16 identifying information, which means the first name or first
17 initial and last name, in combination with and linked to
18 account numbers or credit card number or debit card number,
19 in combination with any required security code, access code,
20 or password that would permit access to a person's financial
21 account.

22 A person is said to act knowingly if he is aware that a
23 result is practically certain to follow from his conduct.
24 Whatever his desire may be is to that result. Further, a
25 person is said to act willfully if he intended the result

1 which actually comes to pass.

2 I charge you, ladies and gentlemen that in Indictment
3 Number 2009-GS-15-0129, the State charges the defendant,
4 Andre Taft Richardson, II, with the offense of Murder. The
5 State, for the offense of murder, must prove beyond a
6 reasonable doubt that the defendant killed another person
7 with malice aforethought.

8 Malice is hatred, ill-will, or hostility towards
9 another person. It is the intentional doing of a wrongful
10 act without just cause or excuse, and with an intent to
11 inflict an injury or under circumstances the law infers an
12 evil intent.

13 Malice aforethought does not require that malice exist
14 for an particular time before the act is committed, but
15 malice must exist in the mind of the defendant just before
16 and at the time of the act being committed. There must,
17 therefore, be a combination of the previous evil intent and
18 the act.

19 Malice aforethought may be expressed or inferred.
20 Those terms "expressed" and "inferred" do not mean different
21 kinds of malice, but merely the manner in which malice may
22 be shown to exist. That is, either by direct evidence or by
23 inference, from the facts and circumstances, which are
24 proved based on evidence introduced during the trial of the
25 case.

1 Express malice is shown when a person speaks words
2 which express hatred or ill-will for another, or when the
3 person, beforehand, prepared to do the act, which was later
4 accomplished. For example, lying in wait for a person, or
5 any other act or preparation going to show that the deed was
6 in the defendant's mind, would be express malice. Malice
7 may be inferred from conduct showing a total disregard for
8 human life. Inferred malice may also arise when the deed is
9 done with a deadly weapon.

10 A deadly weapon is any article, instrument, or
11 substance, which is likely to cause death, or great bodily
12 harm; whether an instrument has been used as a deadly weapon
13 depends on the facts and circumstances of each case, based
14 on evidence introduced during the trial of the case.

15 Now, Mr. Foreman, Ladies and gentlemen, I told you that
16 I had prepared a verdict form for you. Pay absolutely no
17 attention, ladies and gentlemen of the jury, to the order in
18 which we wrote the forms of verdict. We obviously had to
19 write one before the other in order to prepare the verdict
20 form, so the order has no significance, whatsoever.

21 I have put on the verdict form the title of the case.
22 It says at the top, State of South Carolina, County of
23 Colleton, Court of General Sessions, and has the indictment
24 numbers below it, and then it says State of South Carolina
25 v. Andre Taft Richardson, II, and it has the word "verdict"

1 in the caption at the top.

2 Underneath that caption, I have question number one,
3 which says, "We, the jury, by unanimous consent, ~~find~~ find the
4 defendant, Andre Taft Richardson, II, in Indictment Number
5 2009-GS-15-0116," and the first form of verdict under
6 question one is guilty of financial identity fraud. If that
7 be your form of verdict, Mr. Foreman, you would check on the
8 line beside that form of verdict. The second form of verdict
9 under number one asking We, the jury, by unanimous consent,
10 find the defendant, Andre Taft Richardson, II, in Indictment
11 Number 2009-GS-15-0116, the second form of verdict is: not
12 guilty of financial identity fraud. If that be your form of
13 verdict, Mr. Foreman, you would check on the line beside
14 that form of verdict. You cannot find both forms of verdict
15 as to question one. You must find one or the other, guilty
16 or not guilty.

17 Under question two on the verdict form, "We, the jury,
18 by unanimous consent, find the defendant, Andre Taft
19 Richardson, II, in Indictment Number 2009-GS-15-0129, first
20 form of verdict under question two is guilty of murder. If
21 that be your form of verdict, Mr. Foreman, you would check
22 on the line beside that form of verdict. Under question
23 two, "We the jury, by unanimous consent, find the defendant,
24 Andre Taft Richardson, II, in Indictment Number 2009-GS-15-
25 0129, not guilty of murder is the second form of verdict

1 under that question two. If that be your form of verdict,
2 you would check for the entire jury, Mr. Foreman, on the
3 line beside that form of verdict. You would then sign your
4 name, Mr. Foreman, on the line where it says "Foreperson"
5 and fill in today's date, which is September 2nd, 2009.
6 When you have reached a verdict, Mr. Foreman, after you have
7 filled out the verdict form, signed it and dated it for the
8 jury, you will knock on the jury room door, inform the
9 bailiff that you've reached a verdict, and we will then
10 bring you back in to the courtroom to publish your verdict.

11 Now, Ladies and gentlemen of the jury, your verdict
12 must be unanimous, that is all twelve of you must agree on
13 the verdict. Mr. Foreman, ladies and gentlemen of the jury,
14 I've now charged you on the law in order to help guide you
15 to a fair and a just result in this case. You are the
16 judges of the facts in this case based on the evidence
17 introduced during the trial of this case, and based on your
18 determination of the facts in this case and the law as I've
19 now explained it to you, you will soon go to your jury room
20 to begin your deliberations.

21 I want to remind you that we took a lot of time, but
22 you've been selected as fair and impartial jurors. You were
23 sworn under that oath to fairly and impartially try and
24 determine the facts of this case and when you comply with
25 that oath to do so, no one can criticize your verdict. You

1 are to decide the case based solely on the evidence that
2 you've heard from the sworn witnesses who have testified
3 before you, along with the exhibits that have been
4 introduced into evidence, which you will have with you in
5 your jury room, and any stipulations that have occurred
6 during the trial of this case.

7 You must decide the issues in this case, ladies and
8 gentlemen, without emotion, without any bias, without any
9 prejudice towards either of the parties in this case. You
10 cannot allow yourself as a juror to be governed by prejudice
11 for or against any person or party. You cannot allow
12 yourself to be governed by public opinion or by any other
13 arbitrary factor that is not in evidence, such as emotion.

14 Both the defendant and the State of South Carolina have
15 the absolute right to expect that each of you on this jury
16 will carefully and impartially consider all of the evidence
17 in this case and that you will also follow the law as I have
18 instructed it to you to be in reaching your verdict in this
19 case.

20 All right. Ladies and gentlemen of the jury, I'm going
21 to ask you at this time if you will retire to your jury
22 room. Do not begin your deliberations yet. I might have to
23 bring you back for some brief additional instructions, so I
24 don't want you to begin your deliberations just yet. When
25 it is time for you to begin your deliberation, I will send

1 the verdict form in to you by the bailiff and tell the
2 bailiff to instruct you that you may now commence your
3 deliberations, along with the exhibits which have been
4 introduced into evidence during the trial of the case.

5 It is true, Mr. Foreman, and ladies and gentlemen of
6 the jury, that one of the exhibits, I think just one ---
7 Counsel approach.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
9 AND OUT OF THE HEARING OF THE JURY.)

10 **THE COURT:** It is true, Ladies and gentlemen, counsel
11 has reminded me, we have one exhibit, which is a disc. In
12 order to view that exhibit, you will need to do that in the
13 courtroom where we have the equipment set up and the screen.
14 So if you would like to see that, just let me know. We are
15 prepared for you at any time to view that exhibit as you so
16 desire, which was introduced during the trial of the case.
17 The other exhibits will be with you in the jury room. Do
18 not begin your deliberations until I instruct you to do so.
19 I want my alternates, the three of you, to sit right where
20 you are. The rest of you may retire to your jury room at
21 this time.

22 (3:04 P.M., SEPTEMBER 2, 2009, WHEREUPON THE JURY EXITS
23 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
24 RECORD.)

25 **THE COURT:** Ladies, first of all, on behalf of Colleton

1 County and this Court, I want to thank you for your service.
2 I can tell you this concludes your jury service for the
3 week, so I'm going to be excusing you for the balance of the
4 week. Nobody became sick or for some other legal reason
5 could not continue to serve as a juror, so this concludes
6 your service in the trial of this case as an alternate
7 juror, and on behalf of Colleton County and this Court, I
8 want to thank you for that service.

9 I remind you, and I hope that you will say this to
10 others, unless people are willing to serve on the jury,
11 ladies and gentlemen, and give of their time, justice cannot
12 be accomplished in the courtroom and I want to thank you for
13 that service. Your service is concluded this week; it also
14 means that you are exempt for three years from jury service
15 because of your willingness to serve this week.

16 Now, I promised you and I'll keep my word, if there are
17 any questions you want to ask me, don't be bashful. You're
18 excused now and you're not going back in the jury room.
19 I'll answer any questions that any of the three of you have
20 about anything that happened in court this week, and now's
21 your time to ask me, because I'm willing to answer anything
22 you want to know. Do any of you have any questions you
23 would like to ask me?

24 (NO RESPONSE.)

25 THE COURT: Did we treat you okay?

1 **JURORS:** Yes.

2 **THE COURT:** Were we good to you?

3 **JURORS:** Yes.

4 **THE COURT:** Could you understand the lawyers when they
5 spoke? - Was the sound okay and could you see everything that
6 went on?

7 **JURORS:** Yes.

8 **THE COURT:** We'll be sending you a check in the mail,
9 which is not enough for your service, at the address that
10 you gave us. You're excused for the balance of the week and
11 you may leave the courtroom at this time. Thank you very
12 much and have a nice day.

13 Any exceptions or additions to the charge from the
14 State of South Carolina?

15 **DEP. SOL. THORNTON:** None, Your Honor.

16 **THE COURT:** Any exceptions or additions to the charge
17 from the defendant?

18 **MR. BEACH:** None, Your Honor.

19 **THE COURT:** I'd ask you both to come forward and
20 certify on the record that you're satisfied the court
21 reporter has all the exhibits, that you both agree that
22 Exhibit Sixteen should remain in the courtroom because of
23 the equipment that the jury needs to have to view it, and
24 that you have no objections to the bailiff taking the
25 remaining exhibits with the exception of Exhibit Sixteen,

1 into the jury, along with the verdict form, and the bailiff
2 telling the jury they may now commence their deliberations.

3 THE COURT: Is the State so satisfied that the court
4 reporter has the exhibits?

5 DEP. SOL. THORNTON: Yes, Your Honor.

6 THE COURT: Do you have any objection, first of all, to
7 keeping Exhibit Sixteen in the courtroom because of the
8 equipment necessary to display Exhibit Sixteen?

9 DEP. SOL. THORNTON: No objection, Your Honor.

10 THE COURT: And you're satisfied that the bailiff now
11 has the remaining exhibits?

12 DEP. SOL. THORNTON: I am, Your Honor.

13 THE COURT: And you have no objection to the bailiff
14 taking the verdict form and the exhibits into the jury and
15 the bailiff telling the jury they may now commence their
16 deliberations?

17 DEP. SOL. THORNTON: No objection, Judge.

18 THE COURT: Is the defendant so satisfied that the
19 court reporter has the exhibits?

20 MR. BEACH: Yes, Your Honor.

21 THE COURT: And do you agree that Exhibit Sixteen
22 should remain in the courtroom because of the equipment
23 necessary to display Exhibit Sixteen?

24 MR. BEACH: Yes, sir.

25 THE COURT: And with the exception of State's Exhibit

1 Sixteen, you agree that the bailiff has all the remaining
2 exhibits?

3 MR. BEACH: Yes, sir.

4 THE COURT: Do you have any objection to the bailiff
5 taking the exhibits, along with my verdict form, which you
6 have previously approved, into the jury, and telling the
7 jury they may now commence their deliberation?

8 MR. BEACH: I have no objection, Your Honor.

9 THE COURT: Very well. Please take it in to the jury
10 and tell the jury to commence their deliberations.

11 (WHEREUPON THE BAILIFF TAKES THE VERDICT FORM AND THE
12 EXHIBITS ONE THROUGH FIFTEEN INTO THE JURY ROOM FOR THE JURY
13 TO BEGIN THEIR DELIBERATION.)

14 THE COURT: I've been informed by the Solicitor's
15 Office that this tape is three hours and fifty-five minutes.
16 If they start right now, it will be 8:00 tonight before it's
17 over. I will tell them we will play it all or a portion. I
18 know that I've got a juror in the courtroom and I have a
19 student that is observing, but I'm going to let them decide.
20 Is that fair enough or does the defendant just want to
21 insist that the entire thing be played. Apparently, it's
22 not unanimous, from the note, that they all want to -- well,
23 the way they wrote it is they all decided they would because
24 several wanted to.

25 MR. BEACH: Yes, sir. I don't know how it would be

1 edited, Your Honor.

2 **THE COURT:** No, no, I'm talking about them telling me
3 at any point they want to stop, just to let me know. You
4 got any problem with that, Solicitor?

5 **DEP. SOL. THORNTON:** No, Your Honor. I will tell the
6 Court, and Mr. Beach already knows this, of course, this is
7 a police interview and there is language in there. It is
8 what it is. Just to let you know.

9 **THE COURT:** As I recall, Mr. Thornton, you used
10 language in your closing argument that Mr. Beach didn't
11 object to.

12 **DEP. SOL. THORNTON:** I did, Your Honor, but that was
13 for effect.

14 **THE COURT:** I forgot, all the world's a stage, Mr.
15 Beach.

16 **DEP. SOL. THORNTON:** I'm just letting the Court know.

17 **THE COURT:** All right. It's my intention -- I'm coming
18 ma'am, bring it on to me. Maybe they changed their mind.
19 (READS 2nd NOTE FROM JURY.) The jury is listening very
20 carefully. I'll get to that in just a minute.

21 It is my intention on the first question, that the
22 entire jury pool will view the entire video. Any objection
23 to making this note a Court's exhibit, from the State?

24 **DEP. SOL. THORNTON:** No, sir.

25 **THE COURT:** From the defendant?

1 MR. BEACH: No, Your Honor.

2 THE COURT: This will be Court's Exhibit Number Eight.

3 All right. Mr. Thornton, my intention is to tell them
4 it's Three hours and fifty-five minutes, Fred?

5 DEP. SOL. THORNTON: Fifty-six, Your Honor.

6 THE COURT: And the foreman needs to tell me at any
7 time that they seen all they want to see. Is that okay, Mr.
8 Beach?

9 MR. BEACH: Yes, sir.

10 THE COURT: Mr. Thornton?

11 DEP. SOL. THORNTON: Yes, sir.

12 THE COURT: All right. We now have a new question from
13 the jury. This question reads: What was the car payment
14 monthly of the Ford Mustang? Question Two: The financial
15 identity fraud, did it cover the car monthly payment or the
16 car insurance? I believe the answer to these questions is
17 you must decide this case based on the evidence presented.
18 Do you agree, Solicitor?

19 DEP. SOL. THORNTON: I do, Your Honor.

20 THE COURT: You agree?

21 MR. BEACH: I do, Your Honor.

22 THE COURT: Do y'all want me to write it on there or do
23 you want me to tell them when they come back to view the
24 video? Does it suit y'all for me just to tell them?

25 DEP. SOL. THORNTON: It does, from the State, Judge.

1 THE COURT: All right. Mr. Beach?

2 MR. BEACH: Yes, Your Honor.

3 THE COURT: All right. Any objection to making this
4 second note a Court's Exhibit?

- 5 DEP. SOL. THORNTON: No, sir.

6 THE COURT: From the defendant?

7 MR. BEACH: No, Your Honor.

8 THE COURT: Mark this as Court's Exhibit Number Nine
9 and hand it back to me.

10 Anything further from the State before I bring the
11 jury?

12 DEP. SOL. THORNTON: No, sir.

13 THE COURT: From the defendant?

14 MR. BEACH: No, sir.

15 THE COURT: Is the equipment cued to start from the
16 beginning?

17 DEP. SOL. THORNTON: Yes, sir.

18 THE COURT: Are you satisfied with that?

19 MR. BEACH: Yes, sir.

20 THE COURT: All right. Ma'am, bring us the jury.

21 (3:45 P.M., SEPTEMBER 2, 2009, WHEREUPON THE JURY ENTERS THE
22 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
23 RECORD.)

24 THE COURT: Mr. Foreman, ladies and gentlemen of the
25 jury, I've got both of your notes. Let me start with the

1 first one. You wrote me that certain juror numbers, and
2 it's not necessary that you do that, but I appreciate your
3 thoroughness, and the entire jury pool wants to see the
4 video. As you can see, I've got it cued for you. I'm going
5 to make sure that we try to put a microphone closer to it.
6 This video is three hours and fifty-six minutes, just short
7 of four hours. Be happy to show you the entire thing. Mr.
8 Foreman, if at any time the jury is satisfied with what
9 they've seen and you want me to stop, you let me know as the
10 foreperson of the jury. You understand that?

11 **MR. FOREMAN:** Correct.

12 **THE COURT:** All right. As to your second note to me --
13 the first one was Court's Exhibit Number Eight, and this one
14 is now Court's Exhibit Number Nine, without objection, where
15 you asked what was the car payment monthly of the Mustang
16 and the financial identity fraud, did it cover the car
17 monthly payment or the car insurance. The answer to both of
18 these questions is you must decide this case based on the
19 evidence presented in the trial of this case.

20 All right. If you would please, cue the video in
21 response to the jury's questions.

22 (3:49 P.M., WHEREUPON, THE SOLICITOR BEGINS THE DVD.)

23 **THE COURT:** Can you increase the volume any more than
24 what we have it.

25 **DEP. SOL. THORNTON:** I think we can.

1 **MADAME CLERK:** Let me turn up the volume.

2 **THE COURT:** You have to understand that this is the
3 equipment that we're going to try to play it for you as best
4 we can in the form that we have it. It may not be -- we'll
5 give it to you the best we can. Let's proceed.

6 (WHEREUPON, THE VIDEO AGAIN COMMENCES.)

7 (4:33 P.M., THE FOREMAN REQUESTS THAT THE VIDEO BE
8 STOPPED.)

9 **MR. FOREMAN:** Yes, sir. We are finished with the video
10 portion. We'd like to continue with our deliberations.

11 **THE COURT:** You'd like to continue with your
12 deliberations?

13 **MR. FOREMAN:** Yes, sir.

14 **THE COURT:** Very well. You may return to your jury
15 room and commence with your deliberations.

16 (4:34 P.M., SEPTEMBER 2, 2009, WHEREUPON THE JURY EXITS
17 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
18 RECORD.)

19 **THE COURT:** Any objections or exceptions about the
20 Court's comments to the jury, from the State?

21 **DEP. SOL. THORNTON:** No, sir, Your Honor.

22 **THE COURT:** From the defendant?

23 **MR. BEACH:** No, Your Honor.

24 **THE COURT:** All right. We'll be at ease while the jury
25 continues their deliberations.

1 (6:50 P.M., WHEREUPON, THE JURY INFORMS THE BAILIFF
2 THAT THEY HAVE REACHED A VERDICT IN THE TRIAL OF THIS CASE.)

3 THE COURT: Thank you, please be seated. I'm advised
4 by my bailiff and my law clerk that the jury has reached a
5 verdict. Pat, are you ready?

6 MADAME CLERK: Yes, sir.

7 THE COURT: All right. Bring us the jury.

8 (6:51 P.M., SEPTEMBER 2, 2009, WHEREUPON THE JURY ENTERES
9 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
10 RECORD.)

11 THE COURT: You may publish the verdict.

12 MADAME CLERK: Indictment Number 2009-GS-15-0129 and
13 Indictment Number 2009-GS-15-0116, the State of South
14 Carolina v. Andre Taft Richardson, II. We, the jury, by
15 unanimous consent, find the defendant, Andre Taft
16 Richardson, II, in Indictment Number 2009-GS-15-0116, guilty
17 of financial identity fraud.

18 We, the jury, by unanimous consent, find the defendant,
19 Andre Taft Richardson, II, in Indictment Number 2009-GS-15-
20 0129, guilty of murder. Signed by Foreperson, Joseph
21 Hamilton.

22 If this is your verdict, please raise your right hand.

23 (TWELVE JURORS RAISE THEIR HANDS.)

24 MADAME CLERK: Thank you. You may put your hand down.

25 THE COURT: Let the record reflect that 12 hands were

1 raised. You may be seated, Mr. Beach, along with the
2 defendant. Mr. Beach, is there anything further from the
3 jury before I excuse them from the courtroom?

4 MR. BEACH: I ask that the jury be polled, Your Honor.

5 THE COURT: Madame Clerk, please poll the jury

6 MADAME CLERK: As I call your name, please reply.

7 Joseph Hamilton, is this your verdict?

8 JUROR: Yes.

9 MADAME CLERK: Is it still your verdict?

10 JUROR: Yes.

11 MADAME CLERK: Jaime Dubois, is this your verdict?

12 JUROR: Yes.

13 MADAME CLERK: Is it still your verdict?

14 JUROR: Yes.

15 MADAME CLERK: Carolyn M. Smalls, is this your verdict?

16 JUROR: Yes.

17 MADAME CLERK: Is it still your verdict?

18 JUROR: Yes.

19 MADAME CLERK: Cynthia A. Newman, is this your verdict?

20 JUROR: Yes.

21 MADAME CLERK: Is it still your verdict?

22 JUROR: Yes.

23 MADAME CLERK: Benjamin A. Kinsey, is this your

24 verdict?

25 JUROR: Yes.

1 MADAME CLERK: Is it still your verdict?
2 JUROR: Yes.
3 MADAME CLERK: Iesha L. Ancrum, is this your verdict?
4 JUROR: Yes.
5 MADAME CLERK: Is it still your verdict?
6 JUROR: Yes.
7 MADAME CLERK: Eduardo A. Dominguez, is this your
8 verdict?
9 JUROR: Yes.
10 MADAME CLERK: Is it still your verdict?
11 JUROR: Yes.
12 MADAME CLERK: James A. Taylor, is this your verdict?
13 JUROR: Yes.
14 MADAME CLERK: Is it still your verdict?
15 JUROR: Yes.
16 MADAME CLERK: Wendy K. Crosby, is this your verdict?
17 JUROR: Yes.
18 MADAME CLERK: Is it still your verdict?
19 JUROR: Yes.
20 MADAME CLERK: Allen D. Coggins, is this your verdict?
21 JUROR: Yes.
22 MADAME CLERK: Is it still your verdict?
23 JUROR: Yes.
24 MADAME CLERK: Janice E. Carter, is this your verdict?
25 JUROR: Yes.

1 MADAME CLERK: Is it still your verdict?

2 JUROR: Yes.

3 MADAME CLERK: Antonio T. Myers, is this your verdict?

4 JUROR: Yes.

5 MADAME CLERK: Is it still your verdict?

6 JUROR: Yes.

7 MADAME CLERK: Your Honor, the jury has been polled.

8 THE COURT: Mr. Beach, the jury is polled. The verdict
9 stands. Anything further from the defendant before I excuse
10 the jury?

11 MR. BEACH: Nothing, Your Honor.

12 THE COURT: Mr. Foreman, ladies and gentlemen of the
13 jury, first of all on behalf of Colleton County, I want to
14 thank you for your service in this case. All a court and
15 the parties can ask of a jury is that you listen and listen
16 carefully. I watched each of you during the trial and each
17 of you did that.

18 Now, this concludes your jury service for the week, and
19 if you remember, I told you that you would be exempt from
20 jury service for three years as a result of your service
21 this week. Now, the exemption will apply if you choose to
22 claim your exemption, in the event that you're selected by
23 the computer.

24 I wanted you to know a couple of things. Sentencing in
25 this case will take place in just a few minutes and I invite

1 you if you would like to stay, that's my role, not yours.
2 But I invite you if you'd like to stay for sentencing. You
3 may remain seated in the jury box or you can have a seat out
4 in the courtroom. It's a public proceeding and we'd be
5 happy for you to stay. If any of you need a work excuse
6 from serving on the jury this week, Pat Grant will be
7 available at the door for you since nobody's downstairs.
8 She will meet you at the door that you've been using to go
9 to your jury room. She has work excuses for those of you
10 that need it. We'll be mailing you a check for your jury
11 service at the address that you provided to us. I know it's
12 an inadequate amount but we very much appreciate your jury
13 service.

14 Now, I made you a promise and I always keep my promise,
15 or try to. If anybody has any questions about what went on
16 this week, I'll be happy to try to answer those questions.

17 (NO RESPONSE.)

18 **THE COURT:** I want to make sure we treated you okay.
19 Did we do so, Mr. Foreman?

20 **JURY FOREMAN:** Yes, sir.

21 **THE COURT:** Anybody got any questions they want to ask
22 me about what went on in court this week? Yes, sir?

23 **JURY FOREMAN:** You said after this point in this trial
24 you would have me to stand by to sign documents.

25 **THE COURT:** You see this young man seated beside me?

1 JURY FOREMAN: Yes, sir.

2 THE COURT: I can assure you he has those documents in
3 his hand right now. His name is Nick Rivera. I introduced
4 him earlier this week, my law clerk. Did I tell you he was
5 a scholarship soccer player for Clemson? He runs very well
6 and I actually believe, Mr. Hamilton, he can probably catch
7 anybody on the jury. I know he can catch me. What he's
8 going to ask you to do is write what is on the verdict form
9 on the indictments and he's going to meet you right out the
10 door and get you to do that. That's -- don't think we've
11 forgotten about that, we haven't. We appreciate you calling
12 that to our attention. Anybody else got a question?

13 (NO RESPONSE.)

14 THE COURT: Now, if you'd like to stay right where you
15 are, you can or you can stay in the courtroom. I'm going to
16 give Pat time to get to the door for those of you that need
17 to go. Each of you are now excused for jury service for the
18 balance of the week. If you'd like to leave the courtroom,
19 you may do so. Everyone else stay seated while the jurors
20 leave the courtroom.

21 (THEREFORE, JURORS LEAVE THE COURTROOM.)

22 (7:00 P.M., SENTENCING IN THE TRIAL OF THIS CASE.)

23 THE COURT: Are we on the record, Becky?

24 COURT REPORTER: Yes, sir.

25 THE COURT: Are there any post-verdict motions from the

1 defendant?

2 **MR. BEACH:** Your Honor, I would ask that we make post-
3 verdict motions in the morning. My client is visibly upset
4 over the -- over the decision of the jury. His family is
5 not here with him and he wanted them present in case this
6 were to happen. In case he were to be sentenced and
7 everything. Due to the lateness of the hour, I would
8 request that we do this first thing in the morning.

9 **THE COURT:** Mr. Thornton?

10 **DEP. SOL. THORNTON:** Your Honor, the State's in
11 opposition to that. I understand that his client, who has
12 just been convicted of murder has had a long day, but so has
13 everybody else in the courtroom. You know, the victim in
14 this case, Judge, and his family deserve to have justice and
15 not to be put off. In addition to that, I'm sure that the
16 Sheriff's Department will be ready to transport him at the
17 earliest opportunity. I see no reason to delay this
18 overnight. We have the jury panel here who's been sitting
19 here for two days and some of them want to see the sentence
20 as well, Judge. We're ready to move the train down the
21 tracks, Your Honor.

22 **THE COURT:** Mr. Beach, I have to balance both sides in
23 that argument. I feel like we need to go ahead and make
24 post-verdict motions at this time, because I obviously have
25 members of the victim's family that have waited in the

1 courtroom and I have members of the jury who want to stay
2 for sentencing. I'll be happy to hear from you at this
3 time.

4 **MR. BEACH:** Thank you, Your Honor. Your Honor, we
5 would renew our previous motions and move for a new trial
6 based on our assertion that the State did not put forward a
7 prima fascia case and that the jury's verdict was not based
8 upon the evidence, but was based upon some other -- some
9 other entity other than the evidence. And that the
10 defendant should be granted a new trial.

11 **THE COURT:** Mr. Beach, for the reasons I enunciated on
12 the record at the close of the State's case and I'll make
13 sure the record is clear for you, I also allowed you to make
14 the same motions you made at the directed verdict stage at
15 the close of all the evidence and I noted earlier on the
16 record that it was marked as if made at the close of all the
17 evidence.

18 **MR. BEACH:** Yes, sir.

19 **THE COURT:** Your motion for a new trial is respectfully
20 denied. I believe that it was an issue for the jury, and
21 for that reason I have to deny your motion for a new trial.
22 I believe it was a jury issue.

23 **MR. BEACH:** Thank you, Your Honor.

24 **THE COURT:** Thank you.

25 **MR. BEACH:** We have no other post-trial motions.

1 **THE COURT:** Very well. Mr. Beach, I need for you and
2 your client to come around as soon as the sentence sheet is
3 prepared for sentencing.

4 **DEP. SOL. THORNTON:** May I approach for the sentencing
5 sheets?

6 **THE COURT:** You may. I'll give you a moment if you
7 need a moment, Mr. Beach, but I'm, obviously, due to the
8 lateness of the hour, got people, a number of people waiting
9 in the courtroom.

10 (BRIEF PAUSE.)

11 **THE COURT:** All right, Mr. Beach. I need for you and
12 your client to come around for sentencing. Come right up to
13 the microphone. I'll be happy to hear from you first, Mr.
14 Beach, in mitigation.

15 **MR. BEACH:** Thank you, Your Honor. He is 22 years old.
16 He has no criminal record. He has no arrests or anything
17 and other than this incident, he has been a model citizen.
18 He worked at New York Wire, but was laid off when the
19 economy went bad a few months ago and he is -- he has a good
20 family. They've stood by him. They're not here this
21 afternoon. When they started playing the CD, they left to
22 come back in the morning, and they've supported him all
23 along. They've been in my office constantly. He has never
24 shown any violent tendencies. He's never shown anything
25 that would lead me to believe that he could do such a thing.

1 As a result, we would ask for the Court to be as lenient as
2 possible under these circumstances.

3 **THE COURT:** Very well. Solicitor?

4 **DEP. SOL. THORNTON:** Your Honor, I'm not going to go
5 back into the evidence. You've certainly been here. You've
6 heard the evidence in this case. I will tell you the
7 defendant has no prior record of which I'm aware. I will
8 tell you, Judge, I don't know how much more brutal you can
9 be than to murder your own grandfather and leave him dead by
10 the side of the road with ten bullet holes in him. I feel,
11 Judge, that it is incumbent on me to ask you for the maximum
12 sentence in this case of life imprisonment. It's rare that
13 I've seen a case this heinous and cold-blooded, and the jury
14 has spoken. The State's position is the right verdict was
15 reached, Judge, and I think it's time for him to pay the
16 price.

17 **THE COURT:** Is there anyone, Mr. Beach, on behalf of
18 the defendant, here, that you wish to address the Court in
19 mitigation; and is there anyone here, on behalf of the
20 victim's family for the State, that wishes to address the
21 Court for purposes of sentencing? First, from the State?

22 **DEP. SOL. THORNTON:** Your Honor, if you will allow me
23 to check, I do have one member here.

24 **THE COURT:** All right.

25 **MR. RICHARDSON:** I know I ain't do this. You know I

1 ain't do this.

2 THE COURT: Mr. Richardson?

3 MR. RICHARDSON: You know it.

4 THE COURT: Mr. Richardson?

5 DEP. SOL. THORNTON: Your Honor, they indicate that I
6 have covered it sufficiently for them to express their
7 wishes.

8 THE COURT: Mr. Beach, is there anyone else you have to
9 speak?

10 MR. BEACH: No, Your Honor.

11 THE COURT: Mr. Beach, is there anything else from the
12 defendant?

13 MR. BEACH: No, Your Honor.

14 THE COURT: Anything else from the State?

15 DEP. SOL. THORNTON: No, sir.

16 THE COURT: Let me tell you that, and of course I have
17 members of the jury present, I listened to the evidence in
18 this case and I fully believe there was evidence to support
19 the verdict, which is the reason that I made the rulings
20 that I made. Although, very often in a case, evidence is
21 disputed; there is factual evidence, and I agree, Mr. Beach,
22 with you and Mr. Thornton's characterization that this is a
23 circumstantial evidence case.

24 However, the crime that was committed here, and I
25 certainly understand the jury's feelings on the case. The

1 crime that was committed here was particularly gruesome and
2 heinous and a tragedy to our community. It is not within
3 this Court's power in giving a sentence to restore, which I
4 wish we had the power to restore human life. Because of the
5 fact -- I take into consideration that the defendant has no
6 prior criminal record. I take into consideration the
7 evidence in this case. On the murder indictment, which is
8 Indictment Number 2009-GS-15-0129, the sentence of this
9 Court is the defendant is committed to the State Department
10 of Corrections for a term of 35 years.

11 On Indictment 2009-GS-15-0116, financial identity
12 fraud, the sentence of the Court is the defendant is
13 committed to the State Department of Corrections for a term
14 of five years. Those sentences will run concurrent to each
15 other.

16 **DEP. SOL. THORNTON:** Thank you, Your Honor.
17
18
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25

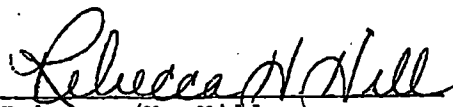
STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

CERTIFICATE

I, REBECCA H. HILL, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had in the trial of the captioned case, in the Court of General Sessions for Colleton County, South Carolina, on the 1st and 2nd days of September 2009.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

JANUARY 28, 2010


Rebecca H. Hill,

Official Court Reporter

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDRE T. RICHARDSON,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

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Chief Appellate Defender

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Division of Appellate Defense
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the court erred by refusing to direct a verdict of acquittal since the state did not present substantial circumstantial evidence appellant murdered his grandfather since the fact appellant belatedly told the police what happened, after having denied direct knowledge of who killed his grandfather, merely raised a suspicion appellant was actually the murderer?

STATEMENT OF THE CASE

Appellant was indicted by the Colleton County grand jury for the offenses of murder and financial identity fraud. R. 455. His case was called to trial on September 1, 2009 before the Honorable Perry M. Buckner, and a jury. Harris S. Beach represented appellant. Sean Thornton was the deputy solicitor. R. 1.

On September 2, 2009 the jury found appellant guilty on both counts. R. 440, ll. 12-21. Judge Buckner sentenced appellant to thirty-five years imprisonment for murder, and five year imprisonment, concurrent, for financial identity fraud. R. 451, ll. 7-15.

This appeal follows.

ARGUMENT

The court erred by refusing to direct a verdict of acquittal since the state did not present substantial circumstantial evidence appellant murdered his grandfather since the fact appellant belatedly told the police what happened, after having denied direct knowledge of who killed his grandfather, merely raised a suspicion appellant was actually the murderer.

Relevant Facts

The defense objected to the admission of appellant's first five statements to the police on the grounds that they were exculpatory, and not statements against interest. Appellant told the police in five separate statements from October 27, 2008 until February 24, 2009, that he only learned his grandfather had been killed when his cousin, Myeshia Yates, called him on his cell phone while appellant was getting a haircut on October 27, 2008. The state argued that because appellant's sixth statement to the police, on February 27, 2009, stated that he and his grandfather were kidnapped by four gunmen wanting all of their money, and that appellant was being held captive when one of the gunmen killed his grandfather, that the other exculpatory five statements to the police were admissible so the jury could weigh the inconsistency. R. 60-63; 68; 72-75; Tr. 81-82; R. 87; 90-91; R. 111; 117-131. The judge ruled all of appellant's statements were admissible. R. 110, l. 25-113, l. 14; 123-133, l. 21.

Appellant's eighty-year-old grandfather was found lying by the side of Bethel Road in rural Colleton County in the late morning or early afternoon hours of October 27, 2008. His silver Ford was parked not far from his body. R. 163, l. 10-164, l. 22.

The decedent had been shot ten times and the trunk of his car was open. R. 166, l. 9-167, l. 11. That fact was significant since in appellant's last statement to the police -- where

he chronicled how he and his grandfather were kidnapped by the four masked men -- appellant told police that the gunmen opened the trunk on his grandfather's car and told him to get into the trunk. Appellant then heard gun shots after his decedent grandfather refused to get in the trunk. R. 309, l. 15-313, l. 11.

The state's case against appellant consisted of the fact his final statement to the police was inconsistent with his earlier statements, *that appellant refused to waive his rights and allow the police to search his car*, and that he refused to allow the police to swab his hands for gunshot residue many hours after the shooting. As seen above, appellant told the police in his first five statements that while he was getting a haircut his cousin, Myeshia Yates, called his cell phone and told him their grandfather had been shot and killed. R. 206, l. 6-207, l. 3.

Investigator Jodi Taylor said appellant was visibly upset after his grandfather's body was found which was the day of his first statement. "[H]is hands were shaking, his voice was shaking that sort of thing." R. 208, ll. 14-16. Myeshia Yates testified that she indeed called appellant and informed him his grandfather's body had been found, and that his grandfather had been shot dead. Myeshia was unsure of the exact time of this call on October 27, 2008, but she stated it could have in the afternoon. R. 267, l. 1-268, l. 3. The state argued appellant already knew his grandfather had been shot and killed when Myeshia called him at the barbershop.

However, the barber, John Yates testified that appellant acted normal when he called to confirm his haircut, as he normally did, at about 12:43 p.m. However, appellant became very upset after Myeshia called him at the barbershop. R. 261, l. 2-262, l. 20.

Detective Fred Inabinet testified that on October 28, 2008 appellant refused to consent to a search of his white Mustang, and he refused to cooperate with a "GSR kit." R. 303, l. 14-304, l. 15. On February 27, 2009, three days after he was arrested, appellant sent a note that he needed to talk "to Investigator Jeff Scott ASAP." R. 305, l. 15-307, l. 15. Scott admitted appellant cried as he related to the police that he and his grandfather were awakened at gunpoint by men dressed in black with masks and guns. Appellant told the police his grandfather refused to give the men any money, and that he was ultimately shot when he refused to get into the trunk of his car. R. 309, l. 15-310, l. 18.

Appellant also related that he gave the keys to one of the gunmen who left in his car. A couple of the other gunmen then took appellant and his grandfather on the trip in his grandfather's car. This trip was to end at the BB&T bank in Walterboro where his grandfather banked. Appellant's cousin, Bobby Varn, testified that a couple months before the shooting he saw appellant count between ten and thirteen thousand dollars of his money out on his bed. Varn did not know where or how appellant got such a large sum of cash. R. 280, l. 22-281, l. 10.

Varn's gun was stolen from his car at the New York Wire restaurant where appellant worked third shift, and Varn worked the first shift. The stolen gun was determined to be the murder weapon when a bullet found in the decedent's body was matched to it.

Detective Inabinet acknowledged he was aware that there was evidence appellant had thirteen thousand dollars in his possession at one point. R. 331, l. 16-333, l. 17. Appellant said while they were being held hostage inside his grandfather's car, another one of the gunmen drove up behind them in appellant's Mustang on Bethel Road. Appellant told Inabinet that when his grandfather continued to refuse to give the gunmen money a

couple of them took his grandfather out of his car, appellant heard the trunk opening, and then gunshots. R. 334, 1. 12- 335, 1. 19. Appellant said after the shooting the men left in their own car leaving appellant's car abandoned. Appellant got into his own car and drove to get a haircut. R. 336, 1. 9- 337, 1. 10.

Defense counsel conceded that while the state did not have to prove a motive for the murder the jury was left with only suspicion that appellant killed his grandfather. Counsel Beach moved for a directed verdict on that basis. The solicitor continued to rely on the fact appellant's final statement was inconsistent from his five prior statements to the police that he only learned of the murder when Myeshia telephoned him at the barber shop. The judge denied the motion for a directed verdict. R. 364, 1. 1- 369, 1. 25.

Discussion

Appellant understands the state does not have to prove a motive for the murder. However, the trial judge has a duty to direct a verdict unless the state presents substantial circumstantial evidence of the defendant's guilt. See, State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004).

Here, there was not substantial circumstantial evidence supporting the submission of the murder case to the jury. The fact appellant only told the police what occurred after he was arrested for murder certainly did not constitute substantial circumstantial evidence of his guilt. Two inconsistent statements (five stating the same thing, and one another) did not amount to substantial circumstantial evidence appellant killed his grandfather.

The mysterious circumstances that existed in this case alone provided a rational explanation for appellant's reluctance to talk to the police. Further, appellant's refusal to allow the police to search his car was an assertion of his rights. Further, the GSR test that

was offered was a sham because more than six hours had passed since the murder, and the state did not have to ask for appellant's consent if it thought the test would produce inculpatory evidence.

Further, the fact that appellant worked at the same establishment as his cousin in a small rural community, where the gun traced to the murder was stolen, was also insufficient to justify submission of this case to the jury.

Unlike State v. Al-Amin, 353 S.C. 405, 478 S.E.2d 32 (Ct. App. 2003) the evidence in this case did not rise to the level of substantial circumstantial evidence. In Al-Amin the defendant was seen dragging something out of his apartment that was consistent with it being a human body wrapped in a sheet. The blanket was found near the dumpster near Al-Amin's apartment. The victim's blood was found in Al-Amin's closet on a construction bolt. The gouge marks to the victim's head appeared to be the same size as that bolt. Al-Amin also reported to the police station with scratches on the left side of his face, on his cheek and lips, which were indicative of a struggle. Al-Amin's apartment had also been cleaned and human blood was detected on the shower curtain and carpet. Moreover, Al-Amin was the last person seen with the victim inside Al-Amin's apartment.

The same is true of State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000), in which Martin's car or one very similar to it was spotted in the victim's parking lot on the night of the murder. Martin and the co-defendant both made inculpatory statements that "someone may have died tonight" or "some shit happened tonight" when they were late picking up Martin's girlfriend from the bar where she worked. Evidence linked to the crime scene was also found in the trash outside the bar where Martin's girlfriend worked. Our Supreme

Court held this nonetheless did not rise to the level of substantial circumstantial evidence, and granted an order of acquittal based on the judge's refusal to direct a verdict.

The same was true in State v. Schrock, 283 S.C. 129, 322 S.E.2d 450 (1984) where the Court held a directed verdict should have been issue. In Schrock the evidence was also much more inculpatory of Schrock than the evidence here against appellant. Numerous witnesses placed Schrock near the murder scene. The evidence linked to Schrock included Marlboro cigarettes in the area where Schrock admitted he smoked Marlboro cigarettes. Schrock admitted being in the area of the murder, and a footprint similar to his was found at the crime scene.

Here the state sought to convict appellant because he was not forth coming with the events about the violent kidnapping in his first five statements. The state strongly relied on the fact five of appellant's statements stated the same thing and the last told the narrative of the kidnapping and murder. The evidence in this case did not rise to the level of substantial circumstantial evidence and the judge should have directed a verdict. See, State v. Martin; State v. Schrock, *supra*.

CONCLUSION

By reason of the foregoing argument, this Court should issue a verdict of acquittal

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 6th day of January, 2011.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDRE T. RICHARDSON,

APPELLANT

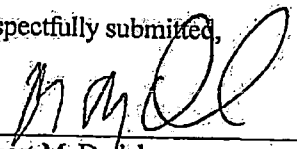
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Andre T. Richardson II states:

1. He is Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge Perry M. Buckner, which was held from September 21-22, 2009, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Andre T. Richardson II.

Respectfully submitted,


Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 6th day of January, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

January 6, 2011



Robert M. Dudek
Chief Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

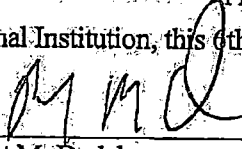
V.

ANDRE T. RICHARDSON,

APPELLANT

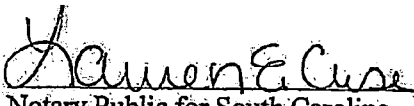
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201; and a copy of the Final Anders Brief of Appellant and Record on Appeal have been served on Andre T. Richardson, II, #336692 at Lieber Correctional Institution, this 6th day of January, 2011.


Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 6th day of January, 2011.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014

470

ATTORNEY GENERAL'S OFFICE

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Respondent ORDER: TRANSCRIPT

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OTHER:

The South Carolina Court of Appeals

The State,

v.

Andre Taft Richardson,

Appellant.

The Honorable Perry M. Buckner
 Colleton County
 Trial Court Case No. 2009-GS-15-00116
 2009-GS-15-00129

ORDER

Counsel for Appellant has submitted a brief pursuant to Anders v. California, 386 U.S. 738 (1967), and has petitioned this Court to be relieved as counsel. We deny the petition to be relieved and direct the parties to brief the following issue:

Did the circuit court err in denying Richardson's motion for a directed verdict on his murder charge in light of State v. Bostick, 392 S.C. 134, 708 S.E.2d 774 (2011) and State v. Odems, Op. No. 27084 (S.C. Sup. Ct. filed Dec. 28, 2011) (Shearouse Adv. Sh. No. 46 at 87)?

Appellant shall file and serve a brief addressing this issue within thirty (30) days of the date of this Order. Respondent shall file and serve its brief within thirty (30) days thereafter.

IT IS SO ORDERED

John Cannon, Jr. C.J.
Thomas C. Hoff J.
Paul E. Short, Jr. J.

Columbia, South Carolina

cc: Andre Taft Richardson
Chief Appellate Defender Robert M. Dudek
Attorney General Alan Wilson
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Donald J. Zelenka

FILED

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDRE T. RICHARDSON,

APPELLANT

BRIEF OF APPELLANT

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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the circuit court err in denying Richardson's motion for a directed verdict on his murder charge in light of State v. Bostick, 392 S.C. 134, 708 S.E.2d 774 (2011) and State v. Odems, Op. No. 27084 (S.C. Sup. Ct. filed Dec. 28, 2011) (Shearouse Adv. Sh. No. 46 at 87)?

STATEMENT OF THE CASE

Appellant was indicted by the Colleton County grand jury for the offenses of murder and financial identity fraud. R. 455. His case was called to trial on September 1, 2009 before the Honorable Perry M. Buckner, and a jury. Harris S. Beach represented appellant. Sean Thornton was the deputy solicitor. R. 1.

On September 2, 2009 the jury found appellant guilty on both counts. R. 440, ll. 12-21. Judge Buckner sentenced appellant to thirty-five years imprisonment for murder, and five year imprisonment, concurrent, for financial identity fraud. R. 451, ll. 7-15.

Appellant filed an Anders brief on the directed verdict issue. In light of Bostick and Odems this Court correctly ordered the issue re-briefed.

This brief of appellant follows.

ARGUMENT

The circuit court erred in denying Richardson's motion for a directed verdict on his murder charge in light of *State v. Bostick*, 392 S.C. 134, 708 S.E.2d 774 (2011) and *State v. Odems*, Op. No. 27084 (S.C. Sup. Ct. filed Dec. 28, 2011) (Shearouse Adv. Sh. No. 46 at 87).

Relevant Facts

The defense objected to the admission of appellant's first five statements to the police on the grounds that they were exculpatory, and not statements against interest. Appellant told the police in five separate statements from October 27, 2008 until February 24, 2009, that he only learned his grandfather had been killed when his cousin, Myeshia Yates, called him on his cell phone while appellant was getting a haircut on October 27, 2008. The state argued that because appellant's sixth statement to the police, on February 27, 2009, stated that he and his grandfather were kidnapped by four gunmen wanting all of their money, and that appellant was being held captive when one of the gunmen killed his grandfather, that the other exculpatory five statements to the police were admissible so the jury could weigh the inconsistency. R. 60-63; 68; 72-75; Tr. 81-82; R. 87; 90-91; R. 111; 117-131. The judge ruled all of appellant's statements were admissible. R. 110, l. 25- 113, l. 14; 123, l. 2- 133, l. 21.

Appellant's eighty-year-old grandfather was found lying by the side of Bethel Road in rural Colleton County in the late morning or early afternoon hours of October 27, 2008. His silver Ford was parked not far from his body. R. 162, l. 8- 168, l. 14. The driver who found the body, Jerrol Lingard, called 911. R. 158, l. 1-159, l. 21.

The decedent had been shot ten times and the trunk of his car was open. R. 166, 1. 9-168, 1. 11. That fact was significant since in appellant's last statement to the police -- where he chronicled how he and his grandfather were kidnapped by the four masked men -- appellant told police that the gunmen opened the trunk on his grandfather's car and told him to get into the trunk. Appellant's decedent grandfather refused to get in the trunk and appellant then heard gunshots. R. 309, 1. 15-313, 1. 11.

In that statement appellant told Detective Allen Inabinett -- and Inabinett relayed the statement to the jury in his own words -- that appellant was awakened by an individual in all black. That man placed his hand over appellant's mouth and he pointed a gun at his head and took him into the living room where his decedent grandfather was being held. The grandfather refused to give the robbers any money and eventually they were told "we were going to take a ride. They was en route to BB&T Bank in Walterboro. R. 311, 22-313, 1. 5.

The decedent was forced to drive his silver Ford with one of the masked robbers "in all black" in the front seat and appellant in the back seat with the second masked robber "dressed in all black." A third accomplice stayed at their house. During the drive to the bank the robbers continuously demanded the decedent "[r]elinquish his money, in which he said, 'I'm not.' And he quoted some type of scripture from the Bible about their conduct." The robber in the front seat ordered the decedent to pull over at some point and they "escorted the victim to the trunk of his vehicle." Appellant heard "some type of altercation or scuffle, between the individuals and the victim. He later stated he heard several gunshots." The third robber then drove into the area in appellant's White Mustang with its "loud pipes." A fourth car also pulled up and these apparent accomplices inquired: "What

happened? What went wrong? The response basically was "the old man did want to cooperate." R. 311, l. 22 - 315, l. 3.

One of the robbers told appellant that was what happened when people did not cooperate and he threatened appellant, his sister, and his mother "[i]f you tell anybody what happened." The men then left appellant alone in the decedent's car, left in another car, and they "fled the scene in the dark vehicle headed toward Lowcountry Highway." Appellant got out of his decedent grandfather's car when he thought it was safe, got in his own car, and drove to Walterboro. R. 315, l. 3-16.

The state's case against appellant consisted of the fact this final statement to the police was inconsistent with his earlier statements, *that appellant refused to waive his rights and allow the police to search his car*, and that he refused to allow the police to swab his hands for gunshot residue many hours after the shooting. As seen above, appellant told the police in his first five statements that while he was getting a haircut his cousin, Myeshia Yates, called his cell phone and told him their grandfather had been shot and killed. R. 206, l. 6-207, l. 3.

Investigator Jodi Taylor said appellant was visibly upset after his grandfather's body was found which was the day of his first statement. "[H]is hands were shaking, his voice was shaking that sort of thing." R. 208, ll. 14-16. Myeshia Yates testified that she indeed called appellant and informed him his grandfather's body had been found, and that his grandfather had been shot dead. Myeshia was unsure of the exact time of this call on October 27, 2008, but she stated it could have in the afternoon. R. 267, l. 1-268, l. 3.

The state, given its theory of the case, obviously argued appellant already knew his grandfather had been shot and killed when Myeshia called him at the barbershop.

However, the barber, John Yates testified that appellant acted normal when he called to confirm his haircut, as he normally did, at about 12:43 p.m. Conversely, appellant became very upset after Myeshia called him at the barbershop. R. 261, l. 2-262, l. 20.

Detective Inabinett also testified that on October 28, 2008 appellant refused to consent to a search of his white Mustang, and he refused to cooperate with a "GSR kit." R. 303, l. 14-304, l. 15. On February 27, 2009, three days after he was arrested, appellant sent a note that he needed to talk "to Investigator Jeff Scott ASAP." R. 305, l. 15-307, l. 15.

Scott admitted appellant cried as he related to the police that he and his grandfather were awakened at gunpoint by men dressed in black with masks and guns. Appellant told the police, as ssen, his grandfather refused to give the men any money, and that he was ultimately shot when he refused to get into the trunk of his car. R. 309, l. 15-310, l. 18.

Appellant's cousin, Bobby Varn, testified that a couple months before the shooting he saw appellant count between ten and thirteen thousand dollars of his money out on his bed. Varn did not know where or how appellant got such a large sum of cash. R. 280, l. 22-282, l. 10. Detective Inabinett acknowledged he was aware that there was evidence appellant had thirteen thousand dollars in his possession at one point. R. 331, l. 16-333, l. 17.

Varn's gun was stolen from his car at the New York Wire restaurant where appellant worked third shift, and Varn worked the first shift. The stolen gun was determined to be the murder weapon when a bullet found in the decedent's body was matched to it.

Defense counsel argued that the state did not have to prove a motive for the murder so the jury was left with only suspicion that appellant killed his grandfather. Counsel Beach

moved for a directed verdict on that basis. The solicitor continued to rely on the fact appellant's final statement was inconsistent from his five prior statements to the police that he only learned of the murder when Myeshia telephoned him at the barber shop. The judge denied the motion for a directed verdict. R. 364, I. 1-369, I. 25.

In his closing argument the solicitor told the jury he did not have any eyewitnesses and that the case was purely circumstantial. He added: "I don't have to prove motive. It's not a requirement. *I don't know what happened*; if I did I would have put somebody up here to tell you. . . No question that his car was at the scene. The only dispute is he the one that did the killing or was it the four people that he mentioned." R. 394, I. 9-395, I. 25.

Discussion

Appellant understands the state does not have to prove a motive for the murder. However, the trial judge has a duty to direct a verdict unless the state presents substantial circumstantial evidence of the defendant's guilt. See, State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004).

Here, there was not substantial circumstantial evidence supporting the submission of the murder case to the jury. The fact appellant only told the police what occurred after he was arrested for murder certainly did not constitute substantial circumstantial evidence of his guilt. Two inconsistent statements (five stating the same thing, and one - still exculpatory - another thing) did not amount to substantial circumstantial evidence appellant killed his grandfather.

The mysterious circumstances that existed in this case alone provided a rational explanation for appellant's reluctance to talk to the police. Further, appellant's refusal to

allow the police to search his car was an assertion of his rights. Further, the GSR test that was offered was a sham because more than six hours had passed since the murder.

Further, the fact that appellant worked at the same establishment as his cousin in a small rural community, where the gun traced to the murder was stolen, was also insufficient to justify submission of this case to the jury.

In State v. Bostick, 392 S.C. 134, 708 S.E.2d 774 (2011), and State v. Odems, 395 S.C. 582, 720 S.E.2d 48 (2011), the Supreme Court considered cases which involved serious suspicion of the defendant's guilt based on the state's evidence. However, in both cases the Court concluded that the state had failed to introduce "substantial circumstantial evidence" and therefore both defendants were granted directed verdicts of acquittal.

In State v. Bostick, 392 S.C. 134, 708 S.E.2d 774 (2011), Bostick's next door neighbor's house caught on fire -- it was determined to be an arson -- and Ms. Polite died. There was some evidence she died of blunt force trauma before the fire but that was by no means conclusive.

Two days after the fire investigators found a plethora of items belonging to Ms. Polite in the "burn pile" belonging to Bostick's mother about 300 yards away. Kerosene or diesel fuel was likely used to attempt to burn the "stolen" items, and Bostick's mother said she used neither substance in the burn pile. State v. Bostick, 392 S.C. 134, 136-139, 708 S.E.2d 774, 775-777 (2011).

Blood was found on Bostick jean's but the DNA testing was inconclusive for Ms. Polite's blood. A chemical analysis of Bostick shoe's revealed a fresh pattern of gasoline. The Supreme Court disagreed with the state's argument that Bostick's directed verdict motion went to the weight of the evidence and not its sufficiency as "substantial

circumstantial evidence." The Court determined the state failed to offer "substantial circumstantial evidence" of Bostick's guilt. State v. Bostick, 392 S.C. 134, 136-139, 708 S.E.2d 774, 775-777 (2011).

One of the cases the Court relied on in Bostick was in State v. Schrock, 288 S.C. 129, 322 S.E.2d 450 (1984), where the Supreme Court held that evidence the defendant was in the area of the murder scene, and that footprints at the scene were similar to his and were found in the area where the defendant was walking were insufficient to take the case to the jury. In State v. Schrock, there was also evidence that Marlboro cigarette butts were found at the murder scene, and the defendant admitted to the police that he smoked Marlboro cigarettes. However, tests performed on an oil can did not supply *any conclusive connection* between the crime scene and the defendant. The Supreme Court held the defendant was entitled to a directed verdict.

In State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000) the Supreme Court also held the defendant was entitled to a directed verdict in that murder case. There was evidence a vehicle was seen on the night of the murder in the victim's apartment complex that was very similar to the car in which Martin and his co-defendant were traveling that night. Further, when Martin and his co-defendant were late picking up Martin's girlfriend the defendant told her "some shit happened," and the co-defendant added, "somebody may have died tonight." State v. Martin, 340 S.C. at 600, 533 S.E.2d at 601.

Evidence tied to the murder scene in Martin was also found in trash cans surrounding the bar where Martin's girlfriend worked. This Court held that all of this evidence, while certainly raising a very real suspicion of Martin's guilt, was insufficient to withstand a directed verdict motion.

In State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000) another case cited in Bostick, the Court noted that the victim testified that Mitchell had been over to his house on a couple of occasions, and that Mitchell had also attended a social gathering at the victim's home for about forty-five minutes to one hour. A police officer investigating the burglary found glass on the floor, and there was a screen from which the officer was able to get an identifiable fingerprint. That fingerprint *matched Mitchell*.

The Supreme Court held that the state had failed to produce substantial circumstantial evidence reasonably tending to prove the guilt of the accused, and that a directed verdict should have been issued. The fingerprint did not prove entry for purposes of the burglary the Court held, and it noted that Mitchell had been to the burglarized house at least three times prior to the burglary.

In State v. Odems, 395 S.C. 582, 720 S.E.2d 48 (2011), the Supreme Court considered evidence that a relative was driving past the house being burglarized and she saw two black men knocking on the door and then taking objects from the house. She telephoned 911 while she watched the burglary from a hidden area across the street, and the vehicle matching the burglar's car was stopped by the police a short time later while driving towards North Carolina.

Odems was one of the three black men in the vehicle. All three men fled. Odems asked a woman in a nearby trailer to lie to the police for him, and tell them he was her husband. The woman refused and Odems was arrested along with the other two men. An abundance of the property stolen in the burglary was found in the abandoned car from which the men had fled.

The defense in Odems was that the defendant asked the other two men, his cousins, for a ride after the burglary when he saw them at a convenience store getting gas, and he was only riding with them when they were stopped by the police. It was a mere presence case. The state ridiculed the defense case arguing any assertion that the men would stop for gas at a nearby station after committing the burglary was preposterous.

This Court in affirming emphasized the defendant's flight from the scene as inconsistent with his innocence and strongly indicative of his guilt in the burglary and grand larceny. The same was true of the defendant asking the woman to lie for him to the police after he fled. The state had essentially argued before this Court that the defendant's assertion that he fled because the driver of the car had a suspended license was also incredible.

However, the Supreme Court again found that while the state presented evidence which raised a suspicion of the defendant's guilt, it did not rise to the level of "substantial circumstantial evidence." Another factor in Odems was that the co-defendants refused to implicate Odems, and the Court noted the traditional jury instruction on circumstantial evidence, while now abandoned, still illustrated the lack of evidence against the defendant:

Every circumstance relied upon by the State be proven beyond a reasonable doubt; and . . . all of the circumstances proven be consistent with each other and taken together, *point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis.*

State v. Odems 395 S.C. 582, 590-591, 720 S.E.2d 48, 52-53 (2011). (emphasis added).

In State v. Arnold, 361 S.C. 386, 605 S.E.2d 529 (2004), the Supreme Court affirmed the holding of this Court that a directed verdict should have been issued. The victim, Cox, was shot, and his body was found off of a road in Colleton County.

On the last day Cox was seen alive he borrowed a friend's BMW Z3 to go to the dentist's office. The car was found in a parking lot in Johnson City, Tennessee and *there was evidence the defendant telephoned a friend from 10 miles away from the car. The defendant's fingerprints were found inside the car.* The Supreme Court agreed that the state only proved that the defendant was in the BMW on the last day that Cox was seen alive, and that was insufficient evidence to make this a jury question.

Unlike State v. Al-Amin, 353 S.C. 405, 478 S.E.2d 32 (Ct. App. 2003) the evidence in this case did not rise to the level of substantial circumstantial evidence. In Al-Amin the defendant was seen dragging something out of his apartment that was consistent with it being a human body wrapped in a sheet. The blanket was found close to the dumpster which was near Al-Amin's apartment. The victim's blood was found in Al-Amin's closet on a construction bolt. The gouge marks to the victim's head appeared to be the same size as that bolt. Al-Amin also reported to the police station with scratches on the left side of his face, on his cheek and lips, which were indicative of a struggle. Al-Amin's apartment had also been cleaned and human blood was detected on the shower curtain and carpet. Moreover, Al-Amin was the last person seen with the victim inside Al-Amin's apartment.

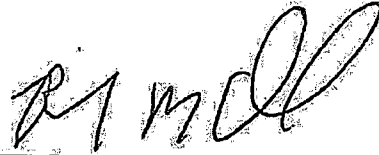
Here the state sought to convict appellant because he was not forthcoming with the events about the violent kidnapping in his first five statements. The state strongly relied on the fact five of appellant's statements stated the same thing and the last told the narrative of the kidnapping and murder as seen above.

People, particularly minority groups, are fearful of giving the police a statement that places them in the area of where a crime was committed for fear of being implicated in the crime, and not believed. The state in this case only offered evidence raising a suspicion that appellant killed his grandfather. The evidence in this case did not rise to the level of substantial circumstantial evidence and the judge should have directed a verdict. See, State v. Hernandez, 382 S.C. 620, 677 S.E.2d 603 (2009); State v. Bostick; State v. Odems; State v. Arnold; State v. Martin; State v. Schrock, *supra*.

CONCLUSION

By reason of the foregoing argument, this Court should issue a verdict of acquittal.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R M Dudek', written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 1st day of June, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDRE T. RICHARDSON,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Brief of Appellant in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 1st day of June, 2012.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 1st day of June, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 16, 2021

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**Appeal from Colleton County
Perry Buckner, Circuit Court Judge**

Appellate Case No. 2009-139266

STATE OF SOUTH CAROLINA,

Respondent,

v.

ANDRE T. RICHARDSON,

Appellant

BRIEF OF RESPONDENT

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COURT'S STATEMENT OF ISSUE ON APPEAL

Did the circuit court err in denying Richardson's motion for a directed verdict on his murder charge in light of State v. Bostick, 392 S.C. 134, 708 S.E.2d 774 (2011) and State v. Odems, Op. No. 27084 (S.C. Ct. filed Dec. 28, 2011) (Shearhouse Adv. Sh. No. 46 at 87)?

RESPONDENT'S STATEMENT OF THE CASE

The Appellant, Andre T. Richardson, II, was indicted at the June 26, 2009 term of the Court of General Sessions for Colleton County for financial identity fraud and murder. The charges arose from the October 27, 2008 murder of Frederick Steward. ROA 455-58. On September 1, 2009, the indictments were called to trial before the Honorable Perry M. Buckner, presiding judge. The Appellant was present and represented by Harris S. Beach, Public Defender of the 14th Circuit. The prosecution was handled by Sean P. Thornton of the Fourteenth Circuit Solicitor's Office. On September 2, 2009, the jury found Appellant guilty on both indictments. ROA 440. The Appellant was sentenced by Judge Buckner to terms of thirty-five (35) years imprisonment for murder and five (5) years, concurrent, for financial identity fraud. ROA 451, II. 7-15.

The Appellant made a timely appeal. The Appellant is represented by Robert M. Dudek of the S.C. Commission on Indigent Defense, Division of Appellate Defense. On January 6, 2011, counsel made a Final Anders Brief of Appellant and Petition to be Relieved as Counsel. A pro se brief was filed by the Appellant. On February 1, 2012 the South Carolina Court of Appeals issued an order denying the petition to be relieved as counsel and directed the parties to brief the following issue:

Did the circuit court err in denying Richardson's motion for a directed verdict on his murder charge in light of State v. Bostick, 392 S.C. 134, 708 S.E.2d 774 (2011) and State v. Odems, Op. No. 27084 (S.C. Sup. Ct. filed Dec. 28, 2011) (Shearhouse Adv. Sh. No. 46 at 87)?

State v. Richardson, Order (S.C. Ct. App. February 1, 2012). The Appellant made his "Brief of Appellant" on June 1, 2012. This briefing follows.

ARGUMENT

The Circuit court properly denied a motion for directed verdict on murder where substantial circumstantial evidence existed including the Appellant's inconsistent and fantastical statements and his own actions after the murder.

This is a case about the murder of 80 year old Freddie Steward by his grandson, Andre Richardson, on October 27, 2008. Although based upon circumstantial evidence, taking it in the light most favorable to the prosecution it ultimately reveals a conclusion that Richardson shot his grandfather ten times and dumped him on the side of a road, then left him there and coldly went and got a haircut, feigning ignorance of the event for almost four months. At that point in February 2009, Richardson sought out law enforcement and in an interview of almost four hours proceeded to give a new fantastical story about how he and his grandfather abducted from their home by four (4) masked Ninja-like marauders, drove them out to a highway, pull his grandfather out of Appellant's vehicle and shot him ten (10) times.¹ Respondent submits that viewing the record as whole, the trial judge properly denied the motion.

Relating implausible, conflicting tales to the jury can be rationally viewed as further circumstantial evidence indicating guilt. U.S. v. Burgos, 94 F.3d 849, 867 -868 (4th Cir. 1996). See, e.g., Wright v. West, 505 U.S. 277, at 295-96, 112 S.Ct. 2482 at 2492 (1992) (explaining

¹ See State v. Vanderhorst, 257 S.C. 114, 117, 184 S.E.2d 540, 541 (1971) ("When the evidence is susceptible of more than one reasonable inference, questions of fact must be submitted to the jury. Among other considerations is the credibility of the witnesses, including that of the appellant himself"). Also U.S. v. Williams, 390 F.3d 1319 (11th Cir. 2004) (a statement by a defendant if disbelieved by a jury may be considered as substantive evidence of guilt, citing U.S. v. Brown, 53 F.3d 312, 314 (11th Cir. 1995). "By substantive" we mean evidence adduced for the purpose of proving a fact in issue as opposed to evidence given for the purpose of discrediting a witness (i.e., showing that he is unworthy of belief), or of corroborating his testimony.").

that a defendant's contradictory, vague, and evasive answers contribute to a finding of guilt); United States v. Johnson, 64 F.3d 1120, 1128 (8th Cir.1995) (observing that lying to law enforcement agents contributes to a finding of guilt), cert. denied, 516 U.S. 1139, 116 S.Ct. 971, 133 L.Ed.2d 891 (1996); United States v. Stanley, 24 F.3d 1314, 1321 (11th Cir.1994) (noting that conflicting statements and implausible stories are indicia of guilt and enter the calculus for sustaining conspiracy convictions); United States v. Casilla, 20 F.3d 600, 606 (5th Cir.) (explaining that trial testimony that is inconsistent with various statements made to customs officials, especially when accompanied by other circumstantial evidence, gives rise to a reasonable inference that a defendant participated in a narcotics conspiracy and attempted to conceal his participation), cert. denied, 513 U.S. 892, 115 S.Ct. 240, 130 L.Ed.2d 163 (1994); United States v. Solis, 841 F.2d 307, 310 (9th Cir.1988) (stating that "making up an implausible cover story" is a circumstance contributing to a finding of guilt in connection with a drug conspiracy).

Indeed, in United States v. Bennett, 848 F.2d 1134, 1139 (11th Cir.1988), the Eleventh Circuit recognized "that a defendant's implausible explanation may constitute positive evidence in support of a jury verdict," and noted that such a finding was particularly apropos because the defendants' "explanation of their activities was dubious, if not wholly incredible." Observing that juries take account of incredible tales, Bennett explained that "[a] reasonable jury might well disbelieve the explanation and conclude that the [defendants] were lying in an attempt to cover up illegal activities." *Id.* A defendant's credibility is a material consideration in establishing guilt, and if a defendant "take[s] the stand ... and denies the charges and the jury thinks he's a liar, this becomes evidence of guilt to add to the other evidence." United States v. Zafiro, 945 F.2d 881,

888 (7th Cir.1991), aff'd, 506 U.S. 534, 113 S.Ct. 933, 122 L.Ed.2d 317 (1993). As the Wright Court explained, "[i]n evaluating [the defendant's] testimony ... the jury was entitled to discount [the defendant's] credibility ... [a]nd if the jury did disbelieve [the defendant], it was further entitled to consider whatever it concluded to be perjured testimony as affirmative evidence of guilt." Wright, 505 U.S. at 296, 112 S.Ct. at 2492. Preposterous as Richardson's February statement may seem, the jury could have believed it, but obviously the jury did not. Determining credibility of witnesses and resolving conflicting testimony falls within the province of the factfinder, not the reviewing court. See U.S. v. Burgos, 94 F.3d 849, 867-868 (4th Cir. 1996).

STANDARD OF REVIEW

An appellate court reviews the denial of a directed verdict by viewing the evidence and all reasonable inferences to be drawn therefrom in the light most favorable to the State. State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006).² "If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, [an appellate court] must find the case was properly submitted to the jury." *Id.* at 292-93, 625 S.E.2d at 648. The trial court may not consider the weight of the evidence. *Id.* at 292, 625 S.E.2d at 648. However, "when the [circumstantial] evidence presented merely raises a suspicion of guilt," the trial court should direct a verdict in favor of the accused. State v. Bostick, 392 S.C. 134, 142, 708 S.E.2d 774, 778 (2011) (citing State v. Cherry, 361 S.C. 588, 594, 606 S.E.2d 475, 478 (2004)).

²See also Holland v. United States, 348 U.S. 121, 140 (1954) ("Admittedly, circumstantial evidence may in some cases point to a wholly incorrect result. Yet this is equally true of testimonial evidence. In both instances, a jury is asked to weigh the chances that the evidence correctly points to guilt against the possibility of inaccuracy or ambiguous inference. In both, the jury must use its experience with people and events in weighing the probabilities. If the jury is convinced beyond a reasonable doubt, we can require no more.")

A mere suspicion is a belief that is inspired by "facts or circumstances which do not amount to proof." State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001). Accord State v. Gilliland, 2012 WL 5935618, 3 (S.C. App., November 28, 2012).³

Respondents would note that most important, a statement by a defendant, if disbelieved by the jury, may be considered as substantive evidence of the defendant's guilt. U.S. v. Brown, 53 F.3d 312, 314 (11th Cir. 1995); U.S. v. Kendrick, 682 F.3d 974 (11th Cir. 2012) ("See, e.g., United States v. Allison, 908 F.2d 1531, 1535 (11th Cir. 1990); United States v. Howard, 895 F.2d 722, 724-25 (11th Cir. 1990); United States v. Bennett, 848 F.2d 1134, 1139 (11th Cir. 1988); United States v. Eley, 723 F.2d 1522, 1525 (11th Cir. 1984). "By "substantive evidence" we mean evidence "adduced for the purpose of proving a fact in issue, as opposed to evidence given for the purpose of discrediting a witness (i.e., showing that he is unworthy of belief), or of corroborating his testimony." See Black's Law Dictionary 1429 (6th ed. 1990). To be more specific, we [the 11th Circuit] have said that, when a defendant chooses to testify, he runs the risk that if disbelieved "the jury might conclude the opposite of his testimony is true." Atkins

³A case should be submitted to the jury when the evidence is circumstantial "if there is any substantial evidence which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced." State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000); see also State v. Williams, 321 S.C. 327, 332, 468 S.E.2d 626, 629 (1996). "The jury weighs the evidence but when there is an absence of evidence, it becomes the duty of the trial judge to direct a verdict...." State v. Schrock, 283 S.C. 129, 134, 322 S.E.2d 450, 452-53 (1984). Evidence must constitute positive proof of facts and circumstances which reasonably tends to prove guilt. *Id.* at 133, 322 S.E.2d at 452 (citing State v. Manis, 214 S.C. 99, 51 S.E.2d 370 (1949)). "Unless there is a total failure of competent evidence as to the charges alleged, refusal by the trial judge to direct a verdict of acquittal is not error." State v. Irvin, 270 S.C. 539, 543, 243 S.E.2d 195, 197 (1978) (citing State v. Massey, 267 S.C. 432, 229 S.E.2d 332 (1976)). On appeal of the denial of a directed verdict of acquittal, this Court must look at the evidence in the light most favorable to the State. State v. Martin, 340 S.C. 597, 602, 533 S.E.2d 572, 574 (2000).

v. Singletary, 965 F.2d 961 n. 7 (11th Cir.1992); accord United States v. Sharif, 893 F.2d 1212, 1214 (11th Cir.1990).” U.S. v. Brown, 53 F.3d 312, 314 (11th Cir. 1995). The jury could also properly consider appellant's false exculpatory statements upon his arrest as substantive evidence of his guilty intent. See, e.g., United States v. Eley, 723 F.2d 1522, 1525 (11th Cir.1984).

How The Directed Verdict Issue was Raised

After the State completed its case in chief, the defense moved for a directed verdict of acquittal on both the murder charge and the financial identity fraud. ROA 366-68. Pertinent to the murder charge, defense counsel Beach argued that the State had not shown a prima facie case against Richardson. He asserted that “they have no gun” and no evidence that he committed the crime, but rested upon an alternative theory on the elements of circumstantial evidence. Particularly, he claimed the State had no motive and nothing to show Richardson’s participation in the crime. ROA 367.

Deputy Solicitor Thornton urged denial of the motions. As to the financial transaction card fraud, he pointed out that Ms. Stanley indicated that a payment was made after his death and after October 27, 2008 in a telephonic transaction. ROA 366, II. 7-13. He said that knowledge of an account number and routing number would be necessary to accomplish it. See ROA 361, II. 15-25. As to how the Appellant would be tied into that transaction, the prosecution noted that Appellant had told Allen Inabinett that he had used the account after his grandfather’s death to Ford Motor Credit. ROA 368, II. 17-24, citing State Exhibit 16 and ROA 340, II. 1-6.

Concerning the murder charge, Solicitor Thornton stated that the Appellant had placed himself and his car at the scene which matched the evidence by eyewitnesses who saw Mr.