

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Honorable Clifton Newman, Circuit Court Judge

JABRIEL L. SINGLETON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2019-001496

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND }

GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)

STATE,)

v.)

JABRIEL L. SINGLETON,)

DEFENDANT.)

TRANSCRIPT OF RECORD

12-GS-40-2982

12-GS-40-2986

March 4, 2013
Columbia, South Carolina

BEFORE :

THE HONORABLE R. KNOX MCMAHON, JUDGE;
AND JURY

APPEARANCES:

KATHRYN CAVANAUGH, ESQ.
NICOLE SIMPSON, ESQ.
JOHN STEADMAN, ESQ.
Assistant Solicitors

TIVIS SUTHERLAND, ESQ.
Attorney for Defendant

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1 THE COURT: This is indictment
2 12-GS-40-2982 and 02986, indictment for murder and
3 attempted murder. The State v. Jabriel Laprinice
4 Singleton. Mr. Singleton present along with his
5 attorney?

6 MR. SUTHERLAND: Yes, Your Honor.

7 THE COURT: All right, thank you. And
8 would you state your name, Mr. Sutherland, for the
9 record.

10 MR. SUTHERLAND: Tivis Sutherland. That's
11 T-I-V-I-S Sutherland. It's like Elvis, but T-I.

12 THE COURT: Thank you. Thank you very
13 much. You may be seated. You may be seated,
14 Mr. Singleton.

15 All right. And the State is present
16 represented by Ms. Cavanaugh, Ms. Simpson, and
17 Mr. Steadman; is that correct?

18 MS. CAVANAUGH: Yes, Your Honor.

19 MR. STEADMAN: Yes, Your Honor.

20 THE COURT: State ready for trial?

21 MS. CAVANAUGH: We are, Your Honor.

22 THE COURT: And the Defense ready for
23 trial?

24 MR. SUTHERLAND: Yes, sir.

25 THE COURT: All right. Mr. Sutherland, I

1 have your requested voir dire. Do you have a
2 proposed potential witness list?

3 MR. SUTHERLAND: Oh, I did turn in a
4 witness list, Your Honor.

5 THE COURT: A witness list? Did you hand
6 it up? I'm sorry.

7 MR. SUTHERLAND: Yes.

8 THE COURT: All right, Solicitor, anything
9 from the State before we send for our jury panel?

10 MS. CAVANAUGH: Your Honor, one of the
11 pretrial motions that we have is related to the
12 co-defendant in this case. Her name is Kenyatha
13 Hickman. She is present along with her attorney
14 Brian Shealy. I'm not — I think Ms. Hickman at in
15 the back or in the lobby area. It's our
16 understanding that she's charged with obstructing
17 justice, charged with and indicted with obstructing
18 justice related to her misleading law enforcement
19 when she gave her first statement and then later,
20 two weeks later, ended up telling the truth
21 regarding what, the fact that she lied the first
22 time and how she could not necessarily provide an
23 alibi for Mr. Singleton the day of the murder and
24 attempted murder. It's my understanding that she is
25 asserting her Fifth Amendment rights in this case.

1 We just wanted to make sure that that was accurate,
2 as well as it's our understanding under case law —
3 and I beg the Court's indulgence. State supreme —
4 South Carolina Supreme Court court case State v.
5 Hughes, which I have a copy of I can provide Your
6 Honor.

7 THE COURT: All right.

8 MS. CAVANAUGH: And the cite on that case
9 is 493 Southeastern 2d 821. It's our understanding
10 that if, that she is in fact, asserting her Fifth
11 Amendment privilege against self-incrimination that
12 neither the State, nor the Defense can call her as a
13 witness in this case, Your Honor.

14 THE COURT: All right, thank you. Now
15 this case indicates that the witness cannot be
16 called to the stand solely for purposes of
17 exercising her Fifth Amendment right against
18 self-incrimination; however, the witness should
19 assert his or her privilege either in-camera or
20 otherwise, so how are we to do that?

21 MS. CAVANAUGH: Well, Your Honor, she's
22 sitting in the back of the courtroom with her
23 lawyer. If we call her as a witness in-camera and
24 just on the record have her indicate whether or not
25 she intends on invoking her Fifth Amendment right.

SW - K. HICKMAN - IN-CAMERA

1 THE COURT: All right, you may do so.

2 MS. CAVANAUGH: State calls Kenyatha
3 Hickman.

4 THE BAILIFF: Place your left hand on the
5 Bible, raise your right hand.

6 WHEREUPON,

7 **KENYATHA HICKMAN,**

8 having been duly sworn by the Clerk of Court,
9 testified as follows:

10 THE CLERK OF COURT: Please have a seat in
11 the witness stand and state your full name for the
12 record. Please spell your first name.

13 THE WITNESS: Kenyatha Hickman.

14 THE CLERK OF COURT: Spell your first
15 name.

16 THE WITNESS: K-E-N-Y-A-T-H-A.

17 MS. CAVANAUGH: Thank you. Keep your
18 voice up please.

19 **P R O F F E R E X A M I N A T I O N**

20 BY MS. CAVANAUGH:

21 Q Ms. Hickman, good morning.

22 A Good morning.

23 Q Are you currently charged and indicted with
24 obstructing of justice related to your involvement
25 in this case that we're here for today?

SW - K. HICKMAN - IN-CAMERA

1 A Yes, ma'am.

2 Q And are you currently represented by counsel?

3 A Yes, ma'am.

4 Q And who is that?

5 A Mr. Shealy.

6 Q And is it your — is it your intention to invoke
7 your Fifth Amendment rights as it relates to
8 testimony in this case?

9 A Yes, ma'am.

10 THE COURT: Thank you. Any other
11 questions, Solicitor?

12 MS. CAVANAUGH: No. No, Your Honor.

13 THE COURT: Do you have any questions, Mr.
14 Sutherland?

15 MR. SUTHERLAND: No questions.

16 THE COURT: Thank you. Thank you very
17 much, Ms. Hickman, you may step down.

18 All right. Well, based on the case you
19 handed up, State v. Hughes, I would say she could
20 not be called as a witness before the jury solely
21 for purposes of exercising her Fifth Amendment
22 rights.

23 MS. CAVANAUGH: Yes, Your Honor. And she
24 has been served with a — as long as it's clear that
25 neither State can call her as a witness, nor

1 defense counsel can. She is served a subpoena so we
2 will be happy to release her from that subpoena
3 based on your ruling.

4 THE COURT: All right, thank you,
5 Solicitor.

6 Mr. Sutherland?

7 MR. SUTHERLAND: I wouldn't do such a
8 thing, Your Honor.

9 THE COURT: All, right, thank you. Thank
10 you very much. She is released from her subpoena.
11 All right, anything further before we bring up our
12 jury, Solicitor?

13 MS. CAVANAUGH: Yes, Your Honor. We do —
14 we have one additional witness that we realized was
15 omitted from our State's witness list. He is deputy
16 Thomas McClam with the Richland County Sheriff's
17 Department.

18 THE COURT: M-C-C-L-A-M?

19 MS. CAVANAUGH: Yes, Your Honor.

20 THE COURT: All right. Anything further?

21 MS. CAVANAUGH: Also Mr. Sutherland handed
22 us his requested voir dire, and we do have a few
23 objections to some of them specifically because
24 we — most of our objections are related to the fact
25 that they are either repetitive or also included in

1 your general charge.

2 THE COURT: All right. If you'll direct
3 me to those you object to, Solicitor.

4 MS. CAVANAUGH: Yes, Your Honor. Number
5 2, once you get to right after subsection L. Once
6 you get to 1, 2, 3, and 4, we believe that those are
7 all included in your general charge.

8 THE COURT: All right. You have other
9 objections?

10 MS. CAVANAUGH: Yes, Your Honor. Under
11 heading number two, discussions. That's on page 3.
12 We believe that number 3 is repetitive to number 1.

13 THE COURT: All right.

14 MS. CAVANAUGH: Also under the discussions
15 heading, again, once we get to page 4 -- it's not
16 numbered on his page, but page 4 right under L.
17 Numbers 1, 2, 3, 4, again are in your general charge
18 and repetitive.

19 THE COURT: All right.

20 MS. CAVANAUGH: On the next page under the
21 heading titled opinions. Under number 6 once you
22 get past F. Again, number 1, 2, 3, and 4 are all
23 repetitive as well as they're included in your
24 general charge.

25 THE COURT: All right.

1 MS. CAVANAUGH: Skipping over to the pages
2 numbered, but it's under subsec-- or heading B,
3 which is prior experience.

4 THE COURT: All right.

5 MS. CAVANAUGH: It's actually right above,
6 right above prior experience number 12. We're okay
7 with that as long as the reciprocal question that's
8 asked, and I believe the reciprocal question is
9 included in our voir dire.

10 THE COURT: All right.

11 MS. CAVANAUGH: Under subsection, under
12 heading number 5, misconceptions regarding the law.
13 We believe that number 17, that's gonna be in your
14 jury charges and you -- I believe at the end of the
15 trial is when that's appropriate, not the beginning.
16 And it's also probably included in your standard
17 charges as well.

18 THE COURT: All right.

19 MS. CAVANAUGH: Beg the Court's
20 indulgence, Your Honor.

21 THE COURT: Yes, ma'am.

22 MS. CAVANAUGH: Number 18 and 19, this is
23 the second to last page, we believe inappropriate as
24 far as voir dire questions are concerned, and it's
25 also in generally included in your standard charges.

1 And number 20, we feel like would place an undue
2 emphasis on the facts in this case and it's not
3 appropriate question for voir dire.

4 THE COURT: Thank you, Solicitor.

5 Mr. Sutherland, do you want to address
6 those objections?

7 MR. SUTHERLAND: Just briefly, Your Honor.
8 It's just an attempt, just an attempt to be
9 thorough. I'll stand on this submission and respect
10 the Court's judgment. I have no objection to the
11 State's proposed voir dire.

12 THE COURT: Thank you. All right,
13 Solicitor, anything further from the State before we
14 bring in our panel?

15 MS. CAVANAUGH: No, Your Honor.

16 THE COURT: Anything from the Defense,
17 Mr. Sutherland?

18 MR. SUTHERLAND: No, sir.

19 THE COURT: All right, if you'd bring us
20 our panel please, Madam Clerk.

21 (WHEREUPON, the jury panel was brought to
22 the courtroom and the following
23 proceedings commenced in open court.)

24 THE COURT: All right, Solicitor, you may
25 call your case for trial.

1 MS. CAVANAUGH: Thank you, Your Honor.
2 The State calls Jabriel Laprince Singleton to trial.
3 These are indictments number 2012-GS-40-2982 for
4 murder as well as 2012-GS-40-2986 for attempted
5 murder.

6 THE COURT: Thank you. Thank you very
7 much, Solicitor.

8 Mr. Sutherland, is Mr. Singleton, your
9 client, present?

10 MR. SUTHERLAND: He is, Your Honor.

11 THE COURT: And are you ready for trial?

12 MR. SUTHERLAND: Yes, sir.

13 THE COURT: Thank you, Mr. Sutherland.
14 Thank you, Mr. Singleton, you may be seated.

15 Good afternoon, ladies and gentlemen of
16 the jury panel. If you'd please give me your
17 complete and undivided attention. My name is
18 Knox McMahon. I'm a circuit court judge from the
19 11th Judicial Circuit which includes Lexington,
20 Edgefield, Saluda and McCormick counties. At this
21 time I'm assigned for a term of Richland County
22 general sessions court in Columbia this week. As
23 you've heard, the State has called a case for trial
24 and momentarily we're going through a procedure for
25 whereby I'll select a trial jury, a fair and

1 impartial jury for the trial of this case for both
2 the State and the Defense.

3 Before I begin that procedure I would like
4 to introduce a number of individuals to you in the
5 courtroom. First to my immediate front is Ms.
6 Falcone with the Clerk's Office. Pleasure to be in
7 Richland County and work with members of the Clerk's
8 office, Ms. Falcone and the others. To my far right
9 is my assigned court reporter for the day,
10 Ms. Elizabeth Harris. Everything that is said has
11 to be taken down for future transcription, if
12 necessary, so when we get to the part if any of you
13 have to respond to some of the questions that I ask,
14 I would ask you to speak up, to speak loudly and
15 clearly so that our court reporter can get it down
16 properly and correctly.

17 To my left is my law clerk Mr. Lee
18 Nettles. Our law clerks stay with us for about a
19 year if they can put up with us that long.
20 Mr. Nettles is a graduate of the Citadel and
21 graduate of the United States of South Carolina Law
22 School and a member of the South Carolina Bar. To
23 my right this week I have — I wrote down the exact
24 term, it's a ranarum. She's doing a week's intern.
25 This is Ms. Strohm to my right. She is a ninth

1 grade high school student and she would be observing
2 this week.

3 With that being said, ladies and
4 gentlemen, you've heard the State has called the
5 case for trial. I'm going to publish or read to you
6 the indictments in this case. Ladies and gentlemen,
7 the indictments are not evidence. The indictments
8 are the formal charging documents by which an
9 individual is placed on notice of the charges that
10 have been brought against him or her. They contain
11 mere allegations and are in no way evidence of any
12 of the allegations contained therein. I publish or
13 read these indictments to you because of the
14 questions that I will follow up. The first
15 indictment 2012-GS-40-296 — and I'm gonna explain
16 to you those numbers. 2012 is obviously the year
17 the indictment was handed down. GS stands for
18 general sessions court which is criminal court. 4-0
19 stands for the County of Richland. It's the 40th
20 alphabetically within the 46 counties of South
21 Carolina. And 02986 is the number of the indictment
22 specifically that went before the grand jury. The
23 other indictment, 2012-40-2982. It is the State
24 versus Jabriel Laprinice Singleton.

25 The indictment reads that Jabriel Laprinice

1 Singleton did in Richland County on or about
2 January 24th, 2012, willfully, feloniously, and
3 intentionally kill the victim Dashawn Jones with
4 malice aforethought either expressed or implied by
5 means of a gunshot wound and the victim did die as a
6 proximate result thereof on or about January 24th,
7 2012 in Richland County in violation of
8 Section 16-3-10 of the South Carolina Code of Laws,
9 1976 as amended.

10 The next indictment, 2986, alleges that
11 Jabriel Laprince Singleton did in Richland County on
12 or about January 24th, 2012, the same date as the
13 first indictment I read, did with the intent to
14 kill, attempt to kill Jonathan Frazier with malice
15 aforethought either expressed or implied, to wit,
16 the defendant did shoot the victim multiple times
17 all in violation of 16-3-29 of the South Carolina
18 Code of Laws of South Carolina 1976 as amended.
19 That is an indictment for attempted murder. Does
20 any member of the jury panel know the defendant in
21 this case Mr. Jabriel Laprince Singleton or either
22 of the named victims listed Dashawn Jones or
23 Jonathan Frazier, if so, please stand.

24 (There was no response.)

25 THE COURT: Ladies and gentlemen, the

1 State is represented by members of the Fifth Circuit
2 Solicitor's Office staff. I would ask, Solicitor,
3 if y'all would each stand and introduce yourself to
4 the jury panel.

5 MS. CAVANAUGH: Good afternoon, my name is
6 Katherine Cavanaugh and I'm assistant solicitor for
7 Richland County.

8 MS. SIMPSON: My name is Nicole Simpson.
9 I'm also assistant solicitor for Richland County.

10 MR. STEADMAN: My name is John Steadman.
11 I'm also assistant solicitor.

12 THE COURT: Thank you. Thank you very
13 much, Solicitors.

14 The defendant is represented by
15 Mr. Sutherland. Mr. Sutherland, if you'd please
16 stand, introduce yourself to the jury panel and your
17 client.

18 MR. SUTHERLAND: Yes, sir. My name is
19 Tivis, T-I-V-I-S -- it's unusual. My last name is
20 Sutherland. I'm privileged to represent
21 Mr. Singleton. His name is Jabriel. Thanks.

22 THE COURT: Thank you. Thank you, Mr.
23 Singleton.

24 Is any member of the jury panel related by
25 blood or marriage, close personal friends, have any

1 business, personal or professional relationship with
2 any of the attorneys involved in the case or either
3 Assistant Solicitors Cavanaugh, Simpson, or
4 Steadman, or Attorney Sutherland, if so, please
5 stand.

6 (There was no response.)

7 THE COURT: Is any member of the jury
8 panel or any member of your immediate family related
9 by blood or marriage or close personal friend or
10 have any business or professional relationship with
11 any employee of the Richland County Solicitor's
12 Office, if so, please stand.

13 (There was no response.)

14 THE COURT: Has any member of the jury
15 panel or any member of your immediate family ever
16 been represented by any of the attorneys involved in
17 the case and/or by any of the attorneys involved in
18 the case, if so, please stand.

19 (There was no response.)

20 THE COURT: The indictment, the
21 indictments, allege shooting incidents that occurred
22 on Jan 24th of 2012 allegedly involving
23 Mr. Singleton and a Mr. Jonathan Frazier and a
24 Mr. Dashawn Jones. Does any member of the jury
25 panel have any knowledge about the case, if so,

1 please stand.

2 (There was no response.)

3 THE COURT: Does any member of the jury
4 panel have any bias or prejudice towards the
5 parties, that being either the State or the subject
6 matter inv— the State or the Defense or the subject
7 matter involved in the case, if so, please stand.

8 (There was no response.)

9 THE COURT: Any member of the jury panel
10 heard or know anything about the case from any
11 source whatsoever, if so, please stand.

12 (There was no response.)

13 THE COURT: Has any member of the jury
14 panel heard anything about the case from any news
15 reports or media or on the internet or in any other
16 manner, if so, please stand.

17 (There was no response.)

18 THE COURT: Has any member of the jury
19 panel or any member of your immediate family ever
20 been employed with the Fifth Circuit Solicitor's
21 Office or any State prosecutor's office, if so,
22 please stand.

23 Yes, sir, your number and name please?

24 THE POTENTIAL JUROR: Juror number 227.

25 THE COURT: I'm sorry, not name. I forget

1 I'm in Richland County. We just go by numbers, I
2 apologize. Give me your number again please.

3 THE POTENTIAL JUROR: Juror number 227.

4 THE COURT: All right.

5 THE POTENTIAL JUROR: Laney (ph)
6 Summerford.

7 THE COURT: All right, step up here for
8 me.

9 THE POTENTIAL JUROR: Step up?

10 THE COURT: Yes, sir, step up here to my
11 court reporter please.

12 (Potential juror approached for an on-the-record
13 discussion.)

14 THE POTENTIAL JUROR: How are you doing?

15 THE COURT: I'm doing good, you?

16 THE POTENTIAL JUROR: My wife is an
17 attorney wit the Morrison Law Firm in Imo and I'm
18 not sure if she has any dealings with the
19 Solicitor's Office in Richland County. I would
20 assume so at some point but just to let you know
21 that.

22 THE COURT: All right. Given -- she does
23 criminal defense work, your wife?

24 THE POTENTIAL JUROR: No, it's
25 governmental entities. Police departments and the

1 sheriff's departments, they represent them.

2 THE COURT: All right. Given the fact
3 that she's employed with that law firm and does that
4 type of representation can you still be a fair and
5 impartial juror in the trial of this case for both
6 the State and the Defense?

7 THE POTENTIAL JUROR: I can be fair, yes,
8 sir.

9 THE COURT: Thank you very much. I
10 believe he will stay with us. Thank you.

11 MS. CAVANAUGH: Your Honor, you said the
12 number was 227. I don't have a 227 on my list.

13 (WHEREUPON, counsel approached the Bench
14 for an off-the-record discussion.)

15 THE COURT: Step back up here for me, sir.
16 Yes, sir, step back up here for me please.

17 (Potential juror Summerford approached for an
18 off-the-record discussion.)

19 THE COURT: Did y'all understand that, Mr.
20 Sutherland, Solicitor?

21 MR. SUTHERLAND: Yes, sir.

22 THE COURT: Thank you. Thank you, madam
23 clerk.

24 THE CLERK OF COURT: Yes, Your Honor.

25 THE COURT: Is any member of the jury

1 panel or any member of your immediate family
2 employed by or currently employed by the Richland
3 County Sheriff's Department, State Law Enforcement
4 Division, or the Columbia Police Department, if so,
5 please stand.

6 Yes, sir, your number and name — your
7 number please.

8 THE POTENTIAL JUROR: 148.

9 THE COURT: Step up here for me please.

10 (Potential juror approached the bench for an
11 on-the-record discussion.)

12 THE POTENTIAL JUROR: How are you doing,
13 Judge?

14 THE COURT: I'm doing good, you? Tell me
15 your number again.

16 THE JUROR: 148, Bersail Jones. My fiance
17 works at DJJ. She's the captain of DJJ. I don't
18 know if that specifies but she's around, she does
19 the youth all day long for 20 years.

20 THE COURT: Given the fact that your
21 fiance is an employee of DJJ, could you still be a
22 fair and impartial juror in the trial of this case
23 for both the State and Defense?

24 THE POTENTIAL JUROR: Yes.

25 THE COURT: Thank you. You may be seated.

1 You may stay with us.

2 (End of bench conference.)

3 THE COURT: Has any member of the jury
4 panel or any member of your immediate family ever
5 been a victim of a crime of violence, if so, please
6 stand.

7 All right, tell me your number, sir.

8 THE POTENTIAL JUROR: Juror 15.

9 THE COURT: If you'd come around to the
10 court reporter.

11 Tell me your number, ma'am.

12 THE POTENTIAL JUROR: 82.

13 THE COURT: And tell me your number,
14 ma'am.

15 THE POTENTIAL JUROR: 83.

16 THE COURT: And yes, sir.

17 THE POTENTIAL JUROR: 114.

18 THE COURT: Say again.

19 THE POTENTIAL JUROR: 114.

20 THE COURT: All right. Yes, your number.

21 THE POTENTIAL JUROR: 188.

22 THE COURT: All right, if y'all would line
23 up over on the right.

24 (Potential juror approached for an on-the-record
25 discussion.)

1 THE COURT: Tell me your number again.

2 THE POTENTIAL JUROR: Juror 15.

3 THE COURT: And was it you or a member of
4 your family.

5 THE POTENTIAL JUROR: No, my family.

6 THE COURT: Member of your family?

7 THE POTENTIAL JUROR: Yes.

8 THE COURT: What relationship?

9 THE POTENTIAL JUROR: My spouse.

10 THE COURT: And could you tell me what the
11 crime was?

12 THE POTENTIAL JUROR: The crime of
13 attempted burglary. They just kicked the back door
14 in.

15 THE COURT: Kicked it?

16 THE POTENTIAL JUROR: Yes, to my house.

17 THE COURT: And when did this happen?

18 THE POTENTIAL JUROR: December 3rd of last
19 year.

20 THE COURT: 12/3/12?

21 THE POTENTIAL JUROR: Yes, sir.

22 THE COURT: And who's prosecuting the
23 case? Who, what entity? Is it the Solicitor's
24 Office here, in Richland County?

25 THE POTENTIAL JUROR: Richland County,

1 that's all I know.

2 THE COURT: You live in the city or county
3 or?

4 THE POTENTIAL JUROR: Blythewood.

5 THE COURT: Blythewood?

6 THE POTENTIAL JUROR: Uh-huh.

7 THE COURT: All right. Given the fact
8 that your wife was a victim of attempted burglary,
9 could you be a fair and impartial juror in the trial
10 of this case for both Mr. Singleton and the State?

11 THE POTENTIAL JUROR: Yes, sir.

12 THE COURT: Thank you. Thank you very
13 much. You may stay with us.

14 All right, yes.

15 (Potential juror approached for an on-the-record
16 discussion.)

17 THE COURT: All right, tell me your number
18 again.

19 THE POTENTIAL JUROR: My number is 188.

20 THE COURT: And were you a victim or was a
21 member of your family?

22 THE POTENTIAL JUROR: My dad was a victim
23 of armed robbery.

24 THE COURT: Your dad was a victim of armed
25 robbery?

1 THE POTENTIAL JUROR: My dad was murdered.
2 He was shot five times from a robbery.

3 THE COURT: When did that happen?

4 THE POTENTIAL JUROR: About five years
5 ago, five years ago.

6 THE COURT: And did it happen here?

7 THE POTENTIAL JUROR: Uh-huh.

8 THE COURT: Did it happen in Richland
9 County?

10 THE POTENTIAL JUROR: Off of 48.

11 THE COURT: All right. Down, down Bluff
12 Road?

13 THE POTENTIAL JUROR: Yes.

14 THE COURT: Was that case prosecuted by
15 the Solicitor's office then?

16 THE POTENTIAL JUROR: Huh?

17 THE COURT: Did they catch who did it?

18 THE POTENTIAL JUROR: No, they did not.

19 THE COURT: Okay, all right.

20 THE POTENTIAL JUROR: I have a question.

21 THE COURT: All right, sure.

22 THE POTENTIAL JUROR: (inaudible.)

23 THE COURT: All right, we'll talk— no,
24 wait, I'm not finished yet.

25 THE POTENTIAL JUROR: Okay.

1 THE COURT: Given the fact that your
2 father was a victim of a crime armed robbery and a
3 victim of a homicide can you still be a fair and
4 impartial juror in the trial of this case for both
5 the State and the Defense?

6 THE POTENTIAL JUROR: Honestly, no.

7 THE COURT: All right, I'm gonna set you
8 aside for the trial of this case, okay. Have a seat
9 in the back.

10 Number 188 is set aside for the trial of
11 this case.

12 All right, yes.

13 (Potential juror approached for an on-the-record
14 discussion)

15 THE COURT: Tell me your number please.

16 THE POTENTIAL JUROR: 83.

17 THE COURT: 83. And tell me your
18 situation. Were you a victim or a member of your
19 family?

20 THE POTENTIAL JUROR: My father was
21 murdered.

22 THE COURT: When did that happen?

23 THE POTENTIAL JUROR: 1969.

24 THE COURT: '69? Here?

25 THE POTENTIAL JUROR: Cleveland.

1 THE COURT: Given the fact that that
2 occurred could you still be a fair and impartial
3 juror in the trial of this case for both the State
4 and Defense?

5 THE POTENTIAL JUROR: I believe so.

6 THE COURT: Now when you say you believe
7 so, I take part of that — have you ever been on
8 jury duty before?

9 THE POTENTIAL JUROR: No, sir.

10 THE COURT: So part of that response it'd
11 be correct to say not ever having done it before
12 wouldn't —

13 THE POTENTIAL JUROR: Correct.

14 THE COURT: And if you were selected as a
15 member of the jury in this case could you base your
16 verdict solely on the evidence presented in the
17 courtroom and the law as I tell you the law is?

18 THE POTENTIAL JUROR: Yes, sir.

19 THE COURT: And setting aside what
20 happened to your father you'd decide it based on the
21 facts of this case?

22 THE POTENTIAL JUROR: The facts of the
23 case.

24 THE COURT: Thank you. I believe you can
25 stay with us. Thank you very much.

1 Yes.

2 (Potential juror approached for an on-the-record
3 discussion.)

4 THE COURT: Good afternoon.

5 THE POTENTIAL JUROR: 114.

6 THE COURT: 114. Tell me your situation.

7 THE POTENTIAL JUROR: My wife was abducted
8 and raped when she was about 12 years old.

9 THE COURT: And about how many years ago
10 was that?

11 THE POTENTIAL JUROR: Oh, that was over
12 almost 35 years ago.

13 THE COURT: Given the fact that that
14 occurred to your wife could you be a fair and
15 impartial juror in the trial of this case for both
16 the State and the Defense?

17 THE POTENTIAL JUROR: Yes, sir.

18 THE COURT: You may stay with us. Thank
19 you very much.

20 Yes, sir.

21 (Potential juror approached for an on-the-record
22 discussion.)

23 THE POTENTIAL JUROR: Good afternoon.

24 THE COURT: Tell me your number again.

25 THE POTENTIAL JUROR: 82.

1 THE COURT: And tell me your situation.

2 THE POTENTIAL JUROR: My oldest son is 38.

3 He's the victim of a simple assault.

4 THE COURT: When did this happen?

5 THE POTENTIAL JUROR: In August on the
6 trial that's coming up the 13th of this month.

7 THE COURT: Okay. And it's simple
8 assault? Okay, given that fact could you be a fair
9 and impartial juror in the trial of this case for
10 both the State and the Defense?

11 THE POTENTIAL JUROR: Yes, sir, I think I
12 could.

13 THE COURT: Thank you. You can stay with
14 us. Thank you very much.

15 (Potential juror approached for an on-the-record
16 discussion.)

17 THE COURT: Good afternoon.

18 THE POTENTIAL JUROR: Hi.

19 THE COURT: And tell me your number
20 please.

21 THE POTENTIAL JUROR: 103.

22 THE COURT: And tell me your situation.

23 THE POTENTIAL JUROR: I have two nephews
24 that were victims of homicide. One happened here in
25 Columbia and the other one was in Alabama.

1 THE COURT: And what — tell me the time
2 of when this occurred? When did the one in Columbia
3 occur?

4 THE POTENTIAL JUROR: Oh, god, it's been
5 so long, that's why I'd forgotten about it.

6 THE COURT: Been a while?

7 THE POTENTIAL JUROR: It's been a very
8 long time. But the one in Alabama, it's been about
9 a year. And he was in the military but he did
10 military — somebody they found him in his
11 garage —

12 THE COURT: Speak up a little bit for Ms.
13 Harris.

14 THE POTENTIAL JUROR: Oh, I'm sorry.

15 THE COURT: It's all right.

16 THE POTENTIAL JUROR: They found him in
17 his garage, they shot him in the head. And that
18 case has not been solved yet; it's still ongoing.

19 THE COURT: Given those facts as far as
20 that occurred to your nephews, could you still be a
21 fair and impartial juror in the trial of this case
22 for both Mr. Singleton and the State?

23 THE POTENTIAL JUROR: I think I could
24 because I don't know, you know, the situations with
25 either of them so I can't just judge —

1 THE COURT: Would you decide —

2 THE POTENTIAL JUROR: But the one in
3 Columbia was solved but the one in Alabama, it's
4 still ongoing but —

5 THE COURT: I didn't mean to interrupt you
6 a minute ago, but you decide — if you were selected
7 as a member of the jury you would decide this case
8 based on the evidence presented —

9 THE POTENTIAL JUROR: Right.

10 THE COURT: —before you in this case —

11 THE POTENTIAL JUROR: I couldn't —

12 THE COURT: Not what had happened to your
13 —

14 THE POTENTIAL JUROR: No, sir.

15 THE COURT: —nephews; is that correct?

16 THE POTENTIAL JUROR: That's correct, I
17 couldn't.

18 THE COURT: And you'd follow the law as I
19 told you to follow it?

20 THE POTENTIAL JUROR: Oh, yes, sir.

21 THE COURT: Thank you. I believe you can
22 stay with us. Thank you very much.

23 (Potential juror approached for on-the-record
24 discussion.)

25 THE COURT: Good afternoon, how are you?

1 THE POTENTIAL JUROR: I'm fine.

2 THE COURT: Tell me your juror number
3 please.

4 THE POTENTIAL JUROR: 198.

5 THE COURT: And tell me your situation
6 please.

7 THE POTENTIAL JUROR: This occurred some
8 years ago, maybe between —

9 THE COURT: Speak up a little bit for me.

10 THE POTENTIAL JUROR: This occurred about,
11 um, maybe 15 or 20 years ago, but I had a first
12 cousin that was almost like a brother to us that was
13 murdered and they never solved the case. It was not
14 in this county. It was in Sumter County some years
15 ago so a violent crime within the family so. It
16 devastated the family.

17 THE COURT: Given that fact could you
18 still be a fair and impartial juror in the trial of
19 this case for both the State and the Defense?

20 THE POTENTIAL JUROR: I think I can.

21 THE COURT: And when you say you think you
22 can —

23 THE POTENTIAL JUROR: I just — I, yeah.

24 THE COURT: You decide the case based on
25 what you hear in this courtroom.

1 THE POTENTIAL JUROR: What I hear,
2 exactly.

3 THE COURT: And the law as I tell you the
4 law is.

5 THE POTENTIAL JUROR: Exactly.

6 THE COURT: Not what may have happened to
7 your first cousin, brother.

8 THE POTENTIAL JUROR: Right, right.

9 THE COURT: Is that right? I believe you
10 can stay with us. Thank you so much.

11 (End of bench conference.)

12 THE COURT: Has any member of the jury
13 panel or any member of your immediate family ever
14 been charged or prosecuted with or convicted of a
15 crime of violence, if so, please stand?

16 (There was no response.)

17 THE POTENTIAL JUROR: Judge, me again.

18 THE COURT: Yes, sir, step back up here
19 for me please.

20 (Potential juror approached for an on-the-record
21 discussion.)

22 THE COURT: Tell me your number again.

23 THE POTENTIAL JUROR: 148.

24 THE COURT: Tell me your situation.

25 THE POTENTIAL JUROR: My nephew, he's

1 committed a murder. He's in prison down in, down in
2 lower, state prison down there in Carolina, but he's
3 in there and he's my nephew.

4 THE COURT: All right. Given the fact
5 that your nephew is in prison and that under those
6 circumstances, could you still be a fair and
7 impartial juror during the trial of this case?

8 THE POTENTIAL JUROR: Yes. You want me to
9 just stand here? You think I might —

10 THE COURT: I just covered them all.
11 Thank you very much.

12 THE POTENTIAL JUROR: Thank you, Judge.

13 THE COURT: Thank you.

14 (End of bench conference.)

15 THE COURT: Is any member of the jury
16 panel or member of your immediate family a member of
17 any organization which involves the support of law
18 enforcement organization such as MADD, Mother's
19 Against Drunk Drivers, or SADD, Students Against
20 Drunk Drivers, CAVE, or CADRE; or does any member of
21 the jury panel or any member of your immediate
22 family belong to or contribute to any organization
23 that supports prisoners' rights such as the
24 Innocence Project, if so, please stand.

25 (There was no response.)

1 THE COURT: I'm gonna to call a list of
2 names of potential witnesses in the trial of this
3 case, ladies and gentlemen. The question, of course
4 is, is any member of the jury panel related by blood
5 or marriage or close personal friends, have any
6 business, personal or professional relationship with
7 any of these individuals whose names I call. I'll
8 ask you, if so, please stand.

9 I will advise you, I would ask if any of
10 the potential witnesses in the trial of this case
11 are present, when your names are called I would ask
12 you to please stand. However, I will advise the
13 jury panel that the witnesses are not required to be
14 present during this proceeding. You may hear names
15 called and no one stands. Further, CPD will stand
16 for Columbia Police Department. SLED will stand for
17 the State Law Enforcement Division and RCSD,
18 Richland County Sheriff's Department. The first
19 five names: Anthony Branham, CPD; Doris Yarborough,
20 SLED; Patricia Crooks, SLED; Ila Simmons,
21 SLED; Joshua Newsome, Richland County Sheriff's
22 Department. The next five names: Steve Pearce,
23 Richland County Sheriff's Department; John G.
24 Roberts, SLED; Shana B. Sorrells, SLED; Investigator
25 Patricia Reed, Richland County Sheriff's

1 Department; Christine Barrickman, Richland County
2 Sheriff's Department. The next five names all with
3 the Richland County Sheriff's Department: Tina
4 Goff, Curtis Burnett, Dayle Blackmon, David Collins,
5 Rachel Grant. The next five names all with the
6 Richland County Sheriff's Department: John Baron,
7 Tara Kinney, Investigator Trish Collins,
8 Investigator Kristin Polis, Investigator Shawn
9 Schroeder. And again, ladies and gentlemen of the
10 jury, the question is if any member of the jury
11 panel or any member of your immediate family is
12 related by blood or marriage or close personal
13 friends or have any business, professional
14 relationship with any of these individuals whose
15 names I continue to call. The next five names all
16 with the Richland County Sheriff's Department:
17 Master Deputy Charley Simpson, Investigator David
18 Unger, deputy Christian — this is Investigator
19 Unger to my front right. Thank you, Investigator.
20 Deputy Christin Ellis, Investigator Trevor Holt,
21 Lieutenant Stan Richards. The next five names all
22 with the Richland County Sheriff's Department:
23 Lieutenant Anna Elsey Cavanaugh, Sergeant Andrew
24 Caldwell, Corporal Raymond Hayhurst, Lieutenant
25 Scott McDonald, Investigator David Goff. The next

1 five names, first four of which are with the
2 Richland County Sheriff's Department: Investigator
3 Richard Carter, Linda Houck, Investigator Kevin
4 Preston, Investigator John Carwell, and Carolyn
5 Jacobs. The next five names: Corey Scarboro,
6 George Sumter, Jr., Randall Dandy, Charles Green,
7 Monica Howell. The next five names: Matthew
8 Howell, Joey Wilson, Georgia Ann Alnur, Rosemary
9 Williams, Kathy Nathan. The next five names:
10 Jonathan Frazier, Mr. Frazier to the, my upper
11 right. Thank you, you may be seated. Robert X.
12 Geter, Doctor Raymond Bynoe, Doctor Amy Durso, Jane
13 Powell with the coroner's office.

14 The next five names: Investigator Mat
15 Ellis, South Carolina Attorney General's Office;
16 Matthew Wilhelm, Richland County EMS; Lieutenant
17 Rich McMahan, Richland County EMS; Jessie Cox,
18 Richland County EMS; Patricia McKnight, custodian of
19 the records for Verizon. The next three: Sue
20 Johnson, custodian of records for T-mobile; Captain
21 Washava Moye with the Alvin S. Glenn Detention
22 Center and a 9-1-1 records custodian; Deputy Thomas
23 McClam, Richland County Sheriff's Department; Shakur
24 Ali, and Jay Phillips. Again, ladies and gentlemen,
25 of those names I called is any member of the jury

1 panel related by blood or marriage, close personal
2 friends, have any business or professional
3 relationship with any of those individuals whose
4 names I just called, if so, please stand.

5 (There was no response.)

6 THE COURT: Any additional voir dire
7 requested from the State, Solicitor?

8 MS. CAVANAUGH: No, Your Honor.

9 THE COURT: From the Defense,
10 Mr. Sutherland?

11 MR. SUTHERLAND: No, sir.

12 THE COURT: Thank you. And finally,
13 ladies and gentlemen, each of you know yourselves
14 best. You know the allegation of the indictment
15 murder, attempted murder. You've heard number of
16 questions that I asked. The goal of this proceeding
17 is to select a fair and impartial juror, jury, for
18 the trial of this case for Mr. Singleton and for the
19 State. So does any member of the jury panel know
20 any reason whatsoever why you feel like you could
21 not be a fair and impartial juror in the trial of
22 this case for both Mr. Singleton and the State, if
23 so, please stand.

24 (There was no response.)

25 THE COURT: No one stands. Thank you very

1 much. I find our panel is qualified.

2 Solicitor, the strikes?

3 MS. CAVANAUGH: Your Honor, ten and five.

4 THE COURT: Do you agree with that, Mr.
5 Sutherland?

6 MR. SUTHERLAND: Yes, sir.

7 THE COURT: All right, thank you. Thank
8 you very much.

9 Madam Clerk, if you'd give us a jury panel
10 please.

11 THE CLERK OF COURT: Yes, Your Honor.
12 Ladies and gentlemen of the jury panel, as I call
13 your number if you'll please come to the microphone
14 at the front of the courtroom. Bring any personal
15 belongings with you. State your number only and
16 your occupation please.

17 Number 219 (white male).

18 THE POTENTIAL JUROR: My number is 219.
19 I'm employed with the South Carolina Department of
20 Education.

21 THE CLERK OF COURT: What says the State?

22 MS. CAVANAUGH: Please present this juror.

23 THE CLERK OF COURT: What says the
24 Defense?

25 MR. SUTHERLAND: Please swear the juror.

1 THE CLERK OF COURT: Please have a seat in
2 the jury box.

3 Number 77 (white male).

4 THE POTENTIAL JUROR: Juror number 77. I
5 work at the Regional Medical Center of Orangeburg.
6 I am a biomedical equipment repair supervisor.

7 THE CLERK OF COURT: What says the State?

8 MS. CAVANAUGH: Please present this juror.

9 THE CLERK OF COURT: What says the
10 Defense?

11 MR. SUTHERLAND: Please excuse the juror.

12 THE CLERK OF COURT: Please have a seat in
13 the back of the courtroom.

14 Number 39 (white male).

15 THE POTENTIAL JUROR: Juror number 39. My
16 name is Doug Burchett and I'm retired.

17 THE CLERK OF COURT: Retired from?

18 THE POTENTIAL JUROR: Government service.

19 THE CLERK OF COURT: What says the State?

20 MS. CAVANAUGH: Please present this juror.

21 THE CLERK OF COURT: What says the
22 Defense?

23 MR. SUTHERLAND: Please swear the juror.

24 THE CLERK OF COURT: Please have a seat in
25 the jury box.

1 Number 254 (white male).

2 THE POTENTIAL JUROR: Juror number 254
3 working as EMT at a private ambulance service.

4 THE CLERK OF COURT: What says the State?

5 MS. CAVANAUGH: Please present this juror.

6 THE CLERK OF COURT: What says the
7 Defense?

8 MR. SUTHERLAND: Please excuse the juror.

9 THE CLERK OF COURT: Please have a seat in
10 the back of the courtroom.

11 Number 66 (white female).

12 THE POTENTIAL JUROR: Juror 66. My name
13 is Anneliese Dessart. I have recently retired from
14 the University of South Carolina, however, I still
15 have (inaudible).

16 THE CLERK OF COURT: What says the State?

17 MS. CAVANAUGH: Please present this juror.

18 THE CLERK OF COURT: What says the
19 Defense?

20 MR. SUTHERLAND: Please swear the juror.

21 THE CLERK OF COURT: Please have seat in
22 the jury box.

23 Number 83 (white female).

24 THE POTENTIAL JUROR: Juror 83. I work
25 for the University of South Carolina as a director

1 of development.

2 THE CLERK OF COURT: What says the State?

3 MS. CAVANAUGH: Please present the juror.

4 THE CLERK OF COURT: What says the

5 Defense?

6 MR. SUTHERLAND: Please excuse the juror.

7 THE CLERK OF COURT: Please have a seat in

8 the back of the courtroom.

9 Number 115 (white female).

10 THE POTENTIAL JUROR: Number 115. I am a
11 librarian at the University of South Carolina.

12 THE CLERK OF COURT: What says the State?

13 MS. CAVANAUGH: Please present this juror.

14 THE CLERK OF COURT: What says the

15 Defense?

16 MR. SUTHERLAND: Please swear the juror.

17 THE CLERK OF COURT: Please have a seat in

18 the jury box.

19 Number 288 (black male).

20 THE POTENTIAL JUROR: Number 288, retired
21 Richland School District 1.

22 THE CLERK OF COURT: What says the State?

23 MS. CAVANAUGH: Please excuse this juror.

24 THE CLERK OF COURT: Please have a seat in

25 the back of the courtroom.

25 THE CLERK OF COURT: What says the State?

1 MS. CAVANAUGH: Please excuse this juror.

2 THE CLERK OF COURT: Please have a seat in
3 the back of the courtroom.

4 Number 15 (black male).

5 THE POTENTIAL JUROR: 15, retired military
6 operation technician international.

7 THE CLERK OF COURT: What says the State?

8 MS. CAVANAUGH: Please present this juror.

9 THE CLERK OF COURT: What says the
10 Defense?

11 MR. SUTHERLAND: Please excuse the juror.

12 THE CLERK OF COURT: Please have a seat in
13 the back of the courtroom.

14 Number 215 (black female).

15 THE POTENTIAL JUROR: Juror 215. I work
16 at the South Carolina Department of Motor Vehicles.

17 THE CLERK OF COURT: What says the State?

18 MS. CAVANAUGH: Please present this juror.

19 THE CLERK OF COURT: What says the
20 Defense?

21 MR. SUTHERLAND: Please swear the juror.

22 THE CLERK OF COURT: Have a seat in the
23 jury box.

24 Number 202 (white male).

25 THE POTENTIAL JUROR: Number 202, sales

1 associate.

2 MR. SUTHERLAND: It's 22?

3 THE CLERK OF COURT: 202.

4 MR. SUTHERLAND: 302?

5 THE CLERK OF COURT: Yeah, 202.

6 THE POTENTIAL JUROR: 202, sales associate
7 with Belk Department Store.

8 THE CLERK OF COURT: What says the State?

9 MS. CAVANAUGH: Please present this juror.

10 THE CLERK OF COURT: What says the
11 Defense?

12 MR. SUTHERLAND: Please excuse the juror.

13 THE CLERK OF COURT: Please have a seat in
14 the back of the courtroom.

15 Number 82 (white female).

16 THE POTENTIAL JUROR: Number 82, I'm a
17 rural mail carrier for the U.S Postal Service.

18 THE CLERK OF COURT: What says the State?

19 MS. CAVANAUGH: Please present this juror.

20 THE CLERK OF COURT: What says the
21 Defense?

22 MR. SUTHERLAND: Please excuse the juror.

23 THE CLERK OF COURT: Please have a seat in
24 the back of courtroom.

25 Number 301 (black female).

1 THE POTENTIAL JUROR: Number 301, I'm
2 retired from Bell South, working part-time
3 (inaudible).

4 THE CLERK OF COURT: What says the State?
5 MS. CAVANAUGH: Please present this juror.

6 THE CLERK OF COURT: What says the
7 Defense?

8 MR. SUTHERLAND: Please excuse the juror.

9 THE CLERK OF COURT: Please have a seat in
10 the back of the courtroom.

11 Number 185 (black female).

12 THE POTENTIAL JUROR: Juror number 185,
13 Department of Probation manager.

14 THE CLERK OF COURT: What says the State?

15 MS. CAVANAUGH: Please present this juror.

16 THE CLERK OF COURT: What says the
17 Defense?

18 MR. SUTHERLAND: Please swear the juror.

19 THE CLERK OF COURT: Please have a seat in
20 the jury box.

21 Number 10 (black female).

22 THE POTENTIAL JUROR: Juror number 10, I'm
23 employed with Blue Cross Blue Shield South Carolina.

24 THE CLERK OF COURT: What says the State?

25 MS. CAVANAUGH: Please present this juror.

1 THE CLERK OF COURT: What says the
2 Defense?

3 MR. SUTHERLAND: Please swear the juror.

4 THE CLERK OF COURT: Please have a seat in
5 the jury box.

6 Number 98 (black female).

7 THE POTENTIAL JUROR: Juror 98, retired
8 from Richland School District 1.

9 THE CLERK OF COURT: What says the State?

10 MS. CAVANAUGH: Please present this juror.

11 THE CLERK OF COURT: What says the
12 Defense?

13 MR. SUTHERLAND: Please excuse the juror.

14 THE CLERK OF COURT: Please have a seat in
15 the back of the courtroom.

16 Strike count is 9 for the Defense, 2 for
17 the State. Number 179 (black male).

18 THE POTENTIAL JUROR: Juror number 179,
19 disabled.

20 THE CLERK OF COURT: What says the State?

21 MS. CAVANAUGH: Please excuse this juror.

22 THE CLERK OF COURT: Please have a seat in
23 the back of the courtroom.

24 Number 189 (black male).

25 THE POTENTIAL JUROR: Juror number 189,

1 work for U.S. Food Service quality control.

2 THE CLERK OF COURT: What says the State?

3 MS. CAVANAUGH: Please present this juror.

4 THE CLERK OF COURT: What says the

5 Defense?

6 MR. SUTHERLAND: Please swear the juror.

7 THE CLERK OF COURT: Please have a seat in
8 the jury box.

9 Number 145 (white male).

10 THE POTENTIAL JUROR: Carpet laying
11 services, number 145,

12 MS. CAVANAUGH: I'm sorry, could he repeat
13 that please.

14 THE POTENTIAL JUROR: 145, carpet laying
15 services.

16 THE CLERK OF COURT: What says the State?

17 MS. CAVANAUGH: Please present this juror.

18 THE CLERK OF COURT: What says the

19 Defense?

20 MR. SUTHERLAND: Please swear the juror.

21 THE CLERK OF COURT: Please have a seat in
22 the jury box.

23 Number 170 (white female).

24 THE POTENTIAL JUROR: Juror 170, I am a
25 registered nurse at Memorial (ph) School District 5.

1 THE CLERK OF COURT: What says the State?

2 MS. CAVANAUGH: Please present this juror.

3 THE CLERK OF COURT: What says the

4 Defense?

5 MR. SUTHERLAND: Please swear the juror.

6 THE CLERK OF COURT: Please have a seat in
7 the jury box.

8 Number 295 (white female).

9 THE POTENTIAL JUROR: Juror 295, I work
10 for Michael Baker, Jr., Incorporated in the
11 financial aid office.

12 THE CLERK OF COURT: What says the State?

13 MS. CAVANAUGH: Please present this juror.

14 THE CLERK OF COURT: What says the

15 Defense?

16 MR. SUTHERLAND: Please excuse the juror.

17 THE CLERK OF COURT: Please have a seat in
18 the back of the courtroom.

19 Number 63 (white female).

20 THE POTENTIAL JUROR: Juror 63, customer
21 service rep/manager at Travelers Insurance.

22 THE CLERK OF COURT: What says the State?

23 MS. CAVANAUGH: Please present this juror.

24 THE CLERK OF COURT: Does Defense

25 challenge for cause?

1 MR. SUTHERLAND: Defense does not
2 challenge for cause.

3 THE CLERK OF COURT: Please have a seat in
4 the jury box.

5 We proceed to strike alternate. State one
6 strike and the Defense two.

7 Number 151 (white male).

8 THE POTENTIAL JUROR: 151, land and
9 building development and maintenance Rockford (ph)
10 Club.

11 THE CLERK OF COURT: What says the State?

12 MS. CAVANAUGH: Please present this juror.

13 THE CLERK OF COURT: What says the
14 Defense?

15 MR. SUTHERLAND: Please swear the juror.

16 THE CLERK OF COURT: Please have a seat in
17 the jury box.

18 Number 161 (black male).

19 THE POTENTIAL JUROR: Juror 161,
20 (inaudible) hospital, (inaudible) assistant.

21 THE CLERK OF COURT: What says the State?

22 MS. CAVANAUGH: Please present this juror.

23 THE CLERK OF COURT: What says Defense?

24 MR. SUTHERLAND: Please swear the juror.

25 THE DEPUTY CLERK OF COURT: You can have a

1 seat in the jury box.

2 THE COURT: Any motions regarding the jury
3 selection process from the State?

4 MS. CAVANAUGH: Nothing on behalf of the
5 State, Your Honor.

6 THE COURT: Defense, Mr. Sutherland?

7 MR. SUTHERLAND: Nothing from Defense.

8 THE COURT: Thank you. Thank you very
9 much.

10 All right, juror number 219.

11 THE JUROR: Yes, sir.

12 THE COURT: You may be seated, remain
13 seated. I'm going to appoint you as foreperson of
14 this jury. If you would please serve in that
15 capacity I will advise you later concerning your
16 duties and responsibilities as the foreperson.
17 Thank you very much for volunteering. It's very
18 important service. Momentarily I'm gonna release
19 the members of the jury that were selected for the
20 trial of this case for the remainder of the day.
21 This case is like most cases. I have certain
22 pretrial matters to take up, and there's no need to
23 hold y'all captive in a jury room while I take those
24 matters up so I'm gonna release you from your jury
25 service for the remainder of the afternoon, the

1 remainder of the evening. And after I give you some
2 further instructions I'll advise you what time
3 you'll return.

4 I remind you while you're on jury duty
5 you're not to discuss this case with others. That
6 includes your fellow jurors, family members, lunch
7 mates, family, friends, or anyone else. If anyone
8 tries to talk with you about the case please let me
9 know immediately. Further, you're not to read,
10 watch, or listen to any news reports or news
11 accounts about the case should there be any. Also,
12 you may not use your computer, cellular phone, or
13 other electronic device with communication
14 capabilities while in attendance at trial or during
15 deliberations. These devices certainly may be used
16 during lunch breaks, evening recesses and such; but
17 they may not be used to obtain and disclose
18 information which is prohibited. Information which
19 is prohibited includes but is not limited to the
20 following, information about a party, a witness, an
21 attorney, or court officer, news accounts or prior
22 news accounts about the case if there were any,
23 information collected through juror research on any
24 topics raised or testimony offered by any witness or
25 information collected through juror research on any

1 other topic that the juror might think would be
2 helpful in deciding the case. Cases are decided
3 based on the evidence and the testimony presented to
4 you to from the witness stand, from the witnesses
5 testifying under oath, and any exhibits, diagrams,
6 photographs, or physical items that are allowed into
7 evidence by the court. You then determine the facts
8 of the case and you would apply it to the law as I
9 tell you the law is. You're the judges of the
10 facts. I cannot tell you what the facts are. I am
11 the judge of the law. You cannot disagree with me
12 as to what the law is or what the law ought to be.
13 Remember to keep an open mind. Do not begin your
14 deliberations until you heard all the evidence, all
15 the testimony in the case. The closing arguments by
16 the attorneys and the instructions on the law by the
17 Court and then directed by the court to begin your
18 deliberations with your fellow jurors in your jury
19 room.

20 Further, just administratively a couple of
21 things. I need to keep up with 14 individuals and
22 as far as seating arrangements I need to keep up
23 with our foreperson that I have appointed and our
24 two alternates. If you, Mr. Foreman, and our two
25 alternates, if y'all would always maintain those

1 seats I would appreciate it very much. As to the
2 other jurors, you may sit anywhere you like in the
3 first three rows. I have found it's been my
4 experience that many jurors are very territorial.
5 They like to sit at the same place each and every
6 time and that's certainly fine. If you want the
7 same view, the same vision of the witness stand, I
8 have no objections to that whatsoever; but remember,
9 you do not have to do that. You can just come in
10 and file in and sit wherever you like in those first
11 three rows. With that being said, I will have some
12 further instructions for you upon your return
13 tomorrow.

14 Tomorrow morning you will get a late
15 start, not the attorneys or the Court. I would ask
16 you to please be back promptly at 11:30. If you'd
17 please be back promptly at 11:30. So you get an
18 afternoon off and you get a late morning in the
19 morning. Of course I'm sure all of you are early
20 risers from hearing the occupations and such. But
21 be that as it may, I'm gonna release you. The
22 bailiff, your bailiff will show you how to exit and
23 enter in the morning upon your return. Any
24 questions?

25 THE JUROR: We enter straight back here

1 or?

2 THE COURT: Yes, ma'am, and the bailiff
3 will show you how to come back and where to report
4 to in your jury room, all right, upon your being
5 excused momentarily. Any other questions? Yes,
6 sir.

7 THE JUROR: Can we bring a note pad?

8 THE COURT: Yes, I will have — I will
9 make those arrangements for you. The clerk's office
10 will provide note pads; is that correct, madam?

11 THE CLERK OF COURT: That's correct.

12 THE COURT: And pens.

13 THE CLERK OF COURT: Yes, Your Honor.

14 THE COURT: And I will have to give you
15 certain instructions concerning the taking of notes.
16 I will do that tomorrow before we begin the trial of
17 the case. Is there another question? All right,
18 thank you very much. Your bailiffs to your right
19 rear, if you would follow your bailiff. Thank you
20 very much. Hope you have a pleasant afternoon and
21 evening.

22 (WHEREUPON, the jury was removed from the
23 courtroom at 1:19 p.m., and the following
24 proceedings commenced in open court.)

25 THE COURT: Any objections to anything

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1 I've told the jury, from the State?

2 MS. CAVANAUGH: No, Your Honor.

3 THE COURT: The Defense?

4 MR. SUTHERLAND: No, sir.

5 THE COURT: All right. Anything further
6 before we take our lunch and recess, Solicitor?

7 MS. CAVANAUGH: No, Your Honor.

8 THE COURT: Mr. Sutherland?

9 MR. SUTHERLAND: No, sir.

10 THE COURT: All right, thank you. Thank
11 you very much. Court will be in recess until, let's
12 say, 2:45. Thank you. Thank you very much.

13 (WHEREUPON, a lunch break was taken.)

14 THE COURT: Solicitor and Mr. Sutherland,
15 I understood y'all had some pretrial motions; is
16 that correct?

17 MR. SUTHERLAND: I defer to the State at
18 this time.

19 MS. CAVANAUGH: Yes, Your Honor, we do.
20 Even though Mr. Sutherland indicated that he has no
21 objection to the photographic lineup coming in,
22 based on the fact the victim and defendant know each
23 other in this case we still out of abundance of
24 caution would like to have a Neil versus Biggers
25 hearing.

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1 MR. SUTHERLAND: Just to clarify, Judge,
2 it was as far as the identification goes, I mean, I
3 would object to the photographic lineup going in
4 based on the mug shots being prejudicial so.

5 THE COURT: Well, that's two separate
6 issues, correct?

7 MR. SUTHERLAND: Yes, sir.

8 THE COURT: All right. All right, well
9 Solicitor, you may proceed.

10 MS. CAVANAUGH: Thank you. At this time
11 the State calls Investigator David Unger.

12 THE COURT: All right, if you'd come
13 around to be sworn please.

14 WHEREUPON,

15 DAVID UNGER,

16 having been duly sworn by the Court, testified as
17 follows:

18 THE COURT: Thank you. If you'd please be
19 seated. State your full name spelling your last.

20 THE WITNESS: David Unger, U-N-G-E-R.

21 DIRECT EXAMINATION

22 BY MS. CAVANAUGH:

23 Q Is it Investigator?

24 A It is.

25 Q Investigator Unger, where are you employed?

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1 A I'm employed with the Richland County Sheriff's
2 Department.

3 Q And how long have you been employed with them?

4 A Just under ten years.

5 Q And what is your current position with the
6 Sheriff's Department?

7 A I'm currently a senior narcotics agent.

8 Q January of 2012 —

9 THE COURT: Is that for seniors who take
10 narcotics or what is that?

11 THE WITNESS: I'm a senior investigator
12 with the narcotics unit.

13 THE COURT: All right, thank you. Thank
14 you, Solicitor, excuse me, go right ahead.

15 BY MS. CAVANAUGH:

16 Q And back in January 2012 what was your position
17 then with the Sheriff's Department?

18 A I was a major crimes investigator and a primary
19 homicide investigator.

20 Q And that was your position on November 24th of
21 2012?

22 A Yes, ma'am.

23 Q And were you the lead investigator in the murder
24 of Dashawn Jones and attempted murder of Jonathan
25 Frazier?

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1 A Yes, ma'am, I was.

2 Q And in this case as relates to Jonathan Frazier,
3 what was his after the incident occurred, what was
4 his condition?

5 A He was in critical condition in ICU at Richland
6 Memorial.

7 Q Okay. And you said Richland memorial. What was
8 the reason for his condition?

9 A Numerous gunshot wounds, one being to the neck.

10 Q Okay. And which investigator went to actually --
11 did you go speak to Jonathan first?

12 A I did. Well, Investigator Goff up there the day
13 of the shooting, but he was not able to speak to
14 him. He was in critical condition. He was being
15 treated by the emergency staff.

16 Q Well, he didn't speak to him, just was able to
17 get limited information; is that correct?

18 A That's correct, yes, ma'am.

19 Q And at that point to your knowledge was
20 Mr. Frazier at least able to relay the first name of
21 the person who shot him?

22 A Yes.

23 Q And what was that?

24 A Jabriel.

25 Q Now did you yourself have opportunity to speak

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1 with Jonathan Frazier the next day on the 25th?

2 A Yes, ma'am, I did.

3 Q And before you spoke to him did you speak to the
4 nurse?

5 A I did.

6 Q And did she indicate to you whether he was aware
7 of his surroundings and able to actually somewhat
8 communicate with you?

9 A Yes, ma'am, I spoke with Nurse Vickers. She
10 stated that he could not. She also stated he was
11 aware of what was happening. At that time I
12 introduced myself to Mr. Frazier.

13 Q And why couldn't he talk at this point?

14 A He had a tube, a trachea tube in him.

15 Q And is that how he appeared to you, aware of his
16 surroundings and what was going on?

17 A Yes, ma'am.

18 Q And was he able to answer the questions as you
19 asked?

20 A He was.

21 Q And how was he able to do that?

22 A Either by nodding yes or no, nodding up and down,
23 or left and right.

24 Q Okay. And do you have your original photo lineup
25 in this case?

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A Yes, ma'am, I do.

(WHEREUPON, State Exhibits Nos. 1 and 2
were marked for identification only.)

BY MS. CAVANAUGH:

Q I'm gonna first show you what's marked as State's
Exhibit 2 for identification purposes. Do you
recognize this document?

A Yes, ma'am.

Q And what is that?

A That's the photographic lineup that I showed
Jonathan Frazier on the 25th of January.

Q And is this the actual original lineup that you
presented him?

A Yes, ma'am.

Q And do you know who actually developed the
lineup?

A I believe it was Lieutenant McDonald.

Q Okay. And what did you say, what did you say if
anything, to Jonathan Frazier, the victim in this
case, before you showed it to him?

A Before I showed the lineup I told him that I was
gonna show him a series of six photographs. I said
the person that shot him may or may want be in these
photographs, at which time I said take your time and
take look at each photograph individually and if you

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1 see the person that shot you please point him out to
2 me.

3 Q And did he indicate the person who shot him was,
4 in fact, in that lineup?

5 A Yes, ma'am, he did.

6 Q And which picture was that?

7 A Number 6.

8 Q Did he memorialize that in any way? Did he make
9 any marks on the paper to indicate that?

10 A Yes, ma'am. At that time he had his hands tied
11 down which is common for patients in ICU. Nurse
12 McVickers untied his hand, gave him a pen, and he
13 scribbled on the picture itself.

14 Q And it's common — because of his trachea, right?

15 A They didn't want him pulling out his trachea when
16 he wakes up. At any given time somebody might wake
17 up and not know what's going on so they didn't want
18 him to pull his trachea out.

19 Q And actually, even in your investigative report
20 you identified or you indicated that this first
21 lineup is the one he scribbled on it; is that right?

22 A Yes, ma'am. Yes, ma'am.

23 Q And which photograph did he pick out?

24 A It would be number 6, the far right bottom
25 picture.

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1 Q And who is that a photograph of?

2 A Jabriel Singleton.

3 Q Now on the 25th had you already developed a
4 suspect at that time?

5 A Yes, we had.

6 Q And who was that?

7 A Jabriel Singleton.

8 Q And on the 25th when you were asking Mr. Frazier
9 questions was he, he was able to identify that he —
10 was he able to say that he knew who shot him?

11 A He — not verbally, through nodding up and down
12 and left and right.

13 Q And he was also able to nod as far as like
14 details when you asked him about the incident?

15 A Yes, ma'am. I asked specific questions
16 formulated in yes or no answers. I could ask him
17 yes or no, then he would give me a yes or a no.

18 Q Okay. Now two days later did you go back to the
19 hospital to speak with Mr. Frazier?

20 A Yes, ma'am, I did.

21 Q And what day was that?

22 A That was on January 27th, 2012.

23 Q Okay. At this point what was his condition?

24 A He still had the trachea in, but he was much more
25 alert. He was as alert as we're talking. He just

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1 couldn't speak with me because his mouth was wired
2 shut and he still had the trachea in; but he was
3 completely alert, was no longer in immediate threat.

4 Q No longer critical condition?

5 A Yes, ma'am.

6 Q Again, at that point on the 27th did he same
7 aware of his surroundings and able to understand
8 your questions?

9 A Yes, ma'am.

10 Q Now by January 27th, 2012 had — was Mr.
11 Singleton already arrested at that point?

12 A Yes, ma'am, he had been arrested on the 26th.

13 Q And through the course of your investigation did
14 you learn that the victim actually was familiar with
15 Mr. Singleton?

16 A Yes, ma'am.

17 Q Okay. I'm gonna show you what's marked as
18 State's Exhibit Number 1. Do you recognize this
19 document?

20 A Yes, ma'am, I do. It's the second photographic
21 lineup that I showed Jonathan Frazier on the 27th.

22 Q And is it, in fact, the same one which you showed
23 him from the 25th?

24 A It is.

25 Q And once again, who developed that lineup?

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1 A Lieutenant McDonald.

2 Q And when you presented that to Mr. Frazier before
3 you presented it to him what did you say?

4 A Same thing I said before. I said, I'm gonna show
5 you a series of photographs, six photographs. I
6 said, the person that shot you may or may not be in
7 this photograph. I want you to look at each
8 photograph individually, and if you see the person
9 that shot you please point him out to me.

10 Q And was he able to identify who the shooter was
11 in that photographic lineup?

12 A Yes, ma'am, he picked out number 6 which is the
13 far right bottom picture.

14 Q And who is that a picture of?

15 A Jabriel Singleton.

16 Q And how did he memorialize or document in any way
17 that he picked number six?

18 A Yes, ma'am, he did. He circled it and initialed
19 it which is common for us. The first time he wasn't
20 able to because of his condition but this time he
21 was.

22 MS. CAVANAUGH: Beg the Court's
23 indulgence.

24 THE COURT: Yes, ma'am.

25 BY MS. CAVANAUGH:

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1 Q As far as developing a photo lineup, what
2 considerations are taken into account?

3 A We try to get obviously the age, body features,
4 facial features, as close as we can without, without
5 trying to make any kind of prejudice towards the
6 actual photo that we want, which would be the
7 defendant. We look at everything we can. We try to
8 get skin tone correct. We try to get, you know, if
9 there's tattoos or something of that nature we try
10 to omit that or put it in whether the defendant has
11 one or not.

12 Q And that's done in all photographic lineups?

13 A Yes, ma'am.

14 Q And was that done in this case?

15 A Yes, ma'am.

16 MS. CAVANAUGH: Beg the Court's
17 indulgence. Thank you no further questions.

18 THE COURT: Thank you, Solicitor.
19 Mr. Sutherland.

20 MR. SUTHERLAND: If it please the Court,
21 briefly, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. SUTHERLAND:

24 Q Sir, as I understand your testimony, the photo
25 identification and the photo line-up, the ID in the

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1 lineup was accurate for a number of reasons. You
2 stated that he answered your questions and he
3 understood the questions?

4 A Yes, sir.

5 Q Is that correct? And you felt that he fully
6 understood everything that you were asking him at
7 that time?

8 A Yes, sir. I asked other questions as well. It
9 wasn't just a photographic lineup.

10 Q Sure, sure.

11 A A brief yes or no interview.

12 Q But despite his condition which was, you know, he
13 was in a trauma center there?

14 A Yes, sir.

15 Q He was alert, aware, knew what was going on?

16 A That's correct, sir.

17 Q And so he observed the photo lineup. What was
18 his reaction, was there any delay?

19 A No, sir.

20 Q And so immediately?

21 A Correct, yes, sir.

22 Q But you did testify that you had to sort of help
23 him as far as getting where he could scribble on it?

24 A They had to untie -- his hands were actually
25 tied, one hand was tied down; the other one bandaged

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1 up. And she had that untied. I handed him my pad.
2 He scribbled it.

3 Q So but again, as I understand you he was fully
4 alert and aware and lucid at that time?

5 A Correct.

6 MR. SUTHERLAND: No further questions,
7 Your Honor.

8 THE COURT: Redirect solicitor.

9 MS. CAVANAUGH: No further questions of
10 Mr. Unger on this issue.

11 THE COURT: Thank you, Investigator. You
12 may step down.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Solicitor, you may call your
15 next witness.

16 MS. CAVANAUGH: At this time the State
17 calls Jonathan Frazier.

18 WHEREUPON,

19 **JOHNATHAN FRAZIER,**
20 having been duly sworn by the Clerk of Court,
21 testified as follows:

22 THE CLERK OF COURT: Thank you. Please
23 have a seat in the witness stand and state your full
24 name for the record.

25 THE WITNESS: Jonathan Frazier.

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DIRECT EXAMINATION

1

2 BY MS. CAVANAUGH:

3 Q Good afternoon, Mr. Frazier?

4 A Good afternoon.

5 THE COURT: Speak up.

6 BY MS. CAVANAUGH:

7 Q Where are you from?

8 A All right. I was from New York, New York, born
9 and raised.

10 Q Okay. And where do you live now?

11 A On Leesburg Road.

12 Q Okay. Where did you live — where did you move
13 to, when did you move from New York to here?

14 A 2006.

15 Q Okay. And where did you move in 2006, what area
16 of Columbia?

17 A Leesburg, Leesburg.

18 Q Leesburg?

19 A Yeah.

20 Q Okay. I'm gonna bring your attention to why
21 we're here today, bring your attention to
22 January 24th of 2012. What occurred on that day
23 just in general terms to you?

24 A We was —

25 Q Just, were you shot on November 24th?

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1 A Yes, ma'am.

2 Q Okay, multiple times?

3 A Yes, ma'am.

4 Q Were you familiar with the person who shot you?

5 A Yes, ma'am.

6 Q Okay. And who did you know him? What -- what
7 did you know him by?

8 A Jabriel.

9 Q And how did you know him?

10 A From around the way, like neighborhood from
11 around the neighborhood.

12 Q And approximately how long before January 24th of
13 2012 did you know him?

14 A About a year-and-a-half, two years.

15 Q Okay. And just estimate, if you can, how many
16 times did you have occasion to hang around him or
17 see him or talk to him?

18 A Quite a few, a couple. A couple of times, a
19 couple of times.

20 Q I'm gonna direct your attention to the time that
21 you spent at the Richland Memorial Hospital, okay?

22 A Yes.

23 Q Approximately how long were you in the hospital?

24 A I think three weeks, three weeks. Yeah, three
25 weeks.

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1 Q Maybe two, two weeks?

2 A Yeah, yeah, two.

3 Q Okay. While you were at the hospital do you
4 remember speaking to several investigators and
5 members of the Richland County Sheriff's Department?

6 A Yes, I remember speaking to them.

7 Q Okay. Do you remember being shown — I'm gonna
8 show you what's marked as State's Exhibit Number 1.
9 Do you recognize this document?

10 A Yes, ma'am.

11 Q Okay. And what is that?

12 A That's Jabriel. That's the dude that shot me.
13 That's Jabriel.

14 Q I know but what is this actual document?

15 A Photo lineup.

16 Q Is this what you were shown by one of the
17 investigators while you were at the hospital?

18 A Yes. Yes, ma'am.

19 Q Okay. Do you remember it being Investigator
20 Unger that showed it to you?

21 A Yes.

22 Q Okay. Now when he presented that to you did he
23 indicate that the shooter was definitely in that
24 lineup?

25 A Huh-uh.

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- 1 Q Okay. Did you recognize anyone in that lineup?
- 2 A Yes.
- 3 Q And who did you recognize? Which picture did you
- 4 recognize?
- 5 A By the one on the right.
- 6 Q And who is that a picture of?
- 7 A Jabriel.
- 8 Q And did you write on here indicating number 6 was
- 9 who you recognized?
- 10 A Yeah, yes, ma'am.
- 11 Q What did you do?
- 12 A I circled it. I wrote my initials on it.
- 13 Q And that's your writing?
- 14 A Yes.
- 15 Q Now did this incident, did this occur during the
- 16 daytime?
- 17 A Yes, yes, ma'am.
- 18 Q And approximately how long were you around the
- 19 defendant before he shot you?
- 20 A I'd say about, about like two hours.
- 21 Q Okay. And do you see the person that you know as
- 22 Jabriel, the person who shot you in the courtroom
- 23 today?
- 24 A Yes, ma'am.
- 25 Q And what is he wearing?

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1 A Blue shirt, white jacket.

2 Q And is he sitting over there at the defense
3 table?

4 A Yes.

5 MS. CAVANAUGH: Your Honor, let the record
6 reflect he's identified Mr. Singleton as the
7 shooter.

8 THE COURT: So reflected.

9 BY MS. CAVANAUGH:

10 Q Now I'm gonna show you what's marked as State's
11 Exhibit Number 2. You — do you know what this is?

12 A Yeah, that's the same.

13 Q Do you remember being shown this photographic
14 lineup?

15 A I can't remember that.

16 Q You can't remember this one?

17 A Huh-uh.

18 Q But you clearly remember being shown this one?

19 A Yes, yes.

20 Q And identifying that bottom right picture as the
21 shooter?

22 A Yes.

23 MS. CAVANAUGH: Beg the Court's
24 indulgence. No further questions at this time.

25 THE COURT: Thank you, Ms. Solicitor.

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1 Mr. Sutherland.

2 MR. SUTHERLAND: Please the Court, briefly
3 Your Honor.

4 **RECROSS-EXAMINATION**

5 BY MR. SUTHERLAND:

6 Q Mr. Frazier, you just testified that you don't
7 remember being shown one of these lineups. You only
8 remember being shown the lineup one time?

9 A Yes, sir.

10 Q But it was that initial lineup when you were
11 first in there that you — I mean, you definitely
12 remember that, no two ways about it; is that
13 correct?

14 A The initials, the one with the initials. That's
15 the only one that I remember.

16 Q Speak up a little more so the judge can hear
17 you.

18 A The one with my initials, that's the only one
19 that I seen, that I can remember seeing.

20 Q Yeah, but it was the first one that they showed
21 you?

22 A Yes, the first one, yes.

23 Q So the first in time. And you recall the events
24 surrounding your being shown that lineup, I mean,
25 you remember that pretty good?

1 A Yes.

2 Q Okay. No further questions.

3 MR. SUTHERLAND: Thank you, Your Honor.

4 THE COURT: Redirect, Solicitor?

5 MS. CAVANAUGH: Just one question, Your
6 Honor, or two questions.

7 **REDIRECT EXAMINATION**

8 BY MS. CAVANAUGH:

9 Q Mr. Frazier, you only remember being shown one
10 photographic lineup; is that right?

11 A Yes, ma'am.

12 Q And I show you what's marked State's Exhibit
13 Number 1. This is the one you remember, right?

14 A Yes, ma'am.

15 Q Where you initialed?

16 A Yes, ma'am.

17 Q And circled?

18 A Yes, ma'am.

19 MS. CAVANAUGH: No further questions.

20 THE COURT: Recross?

21 MR. SUTHERLAND: No, sir.

22 THE COURT: Thank you very much,

23 Mr. Frazier. You may step down.

24 All right, Solicitor.

25 MS. CAVANAUGH: Your Honor, at this time

1 we just ask for the admission of the photographic
2 lineup, only the one that Mr. Frazier clearly
3 remembers which is State's Exhibit I believe it's
4 number 1. Yes, it's number 1.

5 THE COURT: All right. Would you hand up
6 the exhibit please, Solicitor.

7 (Tendered to the Court.)

8 THE COURT: Thank you, Solicitor. All
9 right, Mr. Sutherland, does the defendant intend to
10 offer or present any evidence or testimony in this
11 regard?

12 MR. SUTHERLAND: No, sir, it's, I mean,
13 it's the position of the Defense that they knew one
14 another. We're not challenging that fact. We're
15 not challenging the identification in any way that
16 where he looks at a photo lineup and sees someone
17 he's known for a year-and-a-half, two years, he's
18 able to pick him out of that lineup. We don't have
19 an issue with the identification, Your Honor.

20 THE COURT: All right. So what — tell me
21 what your motion is then.

22 MR. SUTHERLAND: Oh, just with respect to
23 the introduction of the mug shots themselves I just
24 feel that it would be cumulative to the
25 identification, and we're not challenging the

1 identification in any way and that it would have —
2 there would be no probative value to it in that the
3 defense isn't challenging the identification.
4 Therefore, whatever, however limiting any prejudice
5 may be with the introduction of the line-up, it
6 would still outweigh the probative value since the
7 defense isn't challenging identifications.

8 THE COURT: All right, thank you.

9 MR. SUTHERLAND: And if I may briefly,
10 just there's no demonstrable mean for them to do so
11 in light of those circumstances.

12 THE COURT: All right, Solicitor, you care
13 to respond?

14 MS. CAVANAUGH: Beg the Court's
15 indulgence. Your Honor, we would cite State v.
16 Stephens. It's a — that's Court of Appeals case,
17 South Carolina recent case. The cite is 728
18 Southeastern Second 68, and that these — first of
19 all, these aren't, these aren't necessarily mug
20 shots. These are actually booking photos.
21 Neither — no one in the photographic lineup has
22 jail clothing on. There's no information on the
23 lineup to indicate that these are mug shots
24 suggestive of a prior criminal record, and if — I
25 mean, I don't believe there is. No, there's not.

1 If Mr. Sutherland is concerned about the numbers
2 below that, we will be happy to redact those numbers
3 but those in no way indicate those are photos taken
4 from, you know, the jail. They could come from DMV
5 or any other source, right. And at the bottom where
6 it does have the evidence web cite information we
7 will be happy to redact that before it's shown to
8 the jury. As far as it being unnecessary for our
9 case, we aren't limited in any way to prove to sim—
10 to admit any all the evidence in this case that led
11 to the defendant's arrest. It is — it was part of
12 their investigation even though Mr. Frazier was
13 familiar with him. At this point he only knew, he
14 only was familiar with Jabriel's first name so it is
15 probative for our case — just to show that the
16 investigator stood up in the course of their
17 investigation actually make the arrest of this
18 defendant.

19 THE COURT: All right, thank you.

20 Yes, sir, Mr. Sutherland.

21 MR. SUTHERLAND: If I may, circumstance I
22 believe that Stephens was a case where the defense
23 had vigorously challenged the identification
24 throughout the trial and had really made a big deal
25 about the identification throughout the trial. What

1 I was relying on was just that I recall old rule. I
2 believe think it was State versus Tate about the
3 potentially about the introduction of mug shots
4 being potentially reversible error where again, the
5 State needs to show a demonstrable need for that. I
6 don't believe that they have shown that need for
7 that in light of that fact that we're not
8 challenging that identification between two people
9 that know one another. Further, it's — I believe
10 that the State just argued, you know, that they're
11 entitled to introduce, you know, their evidence to
12 decide which of their evidence — that's, I think
13 that's what I heard, that they put in to prove a
14 certain fact and that it's probative. There's no
15 need for anything probative on the issue. We're not
16 challenging the identification, and at no point
17 throughout this process would we challenge
18 identification. I know that they knew each. And
19 Mr. Frazier knows that they knew each other.
20 Mr. Singleton knows that they knew each other so
21 just identification is not an issue in this case,
22 sir.

23 THE COURT: Perhaps I missed something. I
24 don't recall testimony there were mug shots or
25 booking reports. The only statements I heard about

1 that is from the lawyers. Nobody's told me, or
2 nobody's testified that these photographs are either
3 mug shots or booking. I don't disbelieve you, you
4 or the Solicitor, I don't mean it like that, but...

5 MR. SUTHERLAND: Certainly.

6 THE COURT: I don't decide issues based on
7 attorney arguments in that regard.

8 MR. SUTHERLAND: Yes, sir.

9 THE COURT: Factually now, did I miss
10 that? I didn't recall Detective Unger testifying —
11 what I recall him testifying to is Lieutenant
12 McDonald compared it.

13 MR. SUTHERLAND: You know, 'cause I
14 actually believe his only testimony in that regard
15 was that they entered the different thing. I
16 remember him testifying about tattoos, height, and
17 weight. But I do believe that the system that they
18 use, they — don't y'all use the Alvin S. Glenn —
19 well, we can't go there now, but I do believe they
20 use the Alvin S. Glenn jail web site to create
21 lineups apparently.

22 THE COURT: Now I don't disagree with you.

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: You, nor the solicitor
25 probably be qualified to testify on that. I'm not

1 saying that; I'm just saying I didn't hear it in the
2 record. I do agree with you it appears that
3 Stephens was a hotly contested identification issue
4 and it cites State versus Ford and State versus
5 Tate. And when you go to State versus Ford it says
6 the introduction of a mug shot, quote mug shot, of a
7 defendant is reversible error unless, number one,
8 the State has a demonstrable need to introduce the
9 photograph. Number two, the photograph shown to the
10 jury does not suggest the defendant has a prior
11 criminal record; and three, the photograph is not
12 introduced in such a way as to draw attention to its
13 origin or implication citing State versus Tate.
14 These photographs, the individuals in them as was
15 pointed out in Stephens all appear to be in civilian
16 or street right clothes. They do not appear to be
17 in jail jumpsuits although the one in the lower left
18 may be; I'm not exactly sure. That would be number
19 86954. There are numbers under there which I would
20 circumstantially somewhat assume would go to a
21 booking number because as the Solicitor pointed out
22 at the bottom, there is a web site
23 jail@richlandonline.com secure lineup default so
24 that does lead one to that circumstantial assumption
25 that's it's either a booking photograph or a mug

1 shot and I'm not sure the difference between those
2 two items. I think given the numbers, they may not
3 be relevant or they're not actually probative that
4 they have those numbers on them, nor the information
5 down at the bottom. The only concern I have is the
6 State has a demonstrable need to introduce the
7 photograph. And if you're saying that we stipulate
8 to identification as the, as the defendant is the
9 shooter, that's one issue. The other issue of
10 course is that demonstrable need may be the
11 credibility of Mr. Frazier, living victim, with the
12 ability to and the credibility to properly identify
13 the individual that shot him. Do you care to
14 address any of those issues, Mr. Sutherland?

15 MR. SUTHERLAND: Sir, I understand where
16 the State might with respect to bolstering his
17 credibility regarding the identification, the
18 Defense certainly would not challenge his
19 credibility with regard to the identification. We
20 aren't saying that they don't know each other and
21 that's, I mean, that's where we are with respect to
22 that to the I.D. We're not going to challenge the
23 I.D. in any fashion. I'm glad that Your Honor did
24 point out to me that jail@richlandonline is at the
25 bottom of —

1 THE COURT: Well, the Solicitor actually
2 had already addressed it also. She, in those terms,
3 as I did see it but she addressed it before I did.
4 You can thank the solicitor also.

5 MR. SUTHERLAND: So I hope that that may
6 suffice to show that those are mug shots. And
7 myself, mug shots, booking photos, I just refer to
8 them as mug shots because of the case law from the
9 way Tate and Ford, I mean — more often when I hear
10 booking photos I hear officers and investigators
11 talking about booking photos. And having been
12 outside the law, a regular person most of my life, I
13 use those sorts of terms mug shots rather than the
14 official terms. But, I would say I do believe that
15 they fail on demonstrable need in that we're not
16 challenging the identification between two people
17 that have known each other for two years, sir.

18 THE COURT: Thank you very much,
19 Mr. Sutherland.

20 MR. SUTHERLAND: Thank you, Your Honor.

21 THE COURT: Yes, Solicitor.

22 MS. CAVANAUGH: Your Honor, we, at this
23 point we have no idea what the defendant's defense
24 is going to be. It's not about bolstering Jonathan
25 Frazier's credibility. The victim Mr. Frazier only

1 knew Jabriel by his first name so this was one of
2 the steps in the investigation that the
3 investigators took to establish that the person he
4 knew as Jabriel and the person who shot him was
5 indeed Jabriel Singleton. It was one that they took
6 to establish that. So we do, and again, it just
7 goes to, it does go to our credibility as far as his
8 awareness level and ability to give the
9 investigators details about the incident through
10 nodding his head and shaking his head, including
11 identification of the shooter. So we do feel that
12 we have a demonstrable need to introduce the
13 photographic line up as admissible evidence in this
14 case.

15 THE COURT: Well, let me do this,
16 Solicitor. Certainly the testimony that was offered
17 is admissible, but I would like to take the
18 opportunity to re-read State versus Tate and do a
19 little bit of further research so the photographs
20 themselves, testimony is admissible. The testimony
21 from Detective Unger and Mr. Frazier about being
22 shown photographic lineups about, identifying the
23 individual, about that individual being Jabriel
24 Singleton, the officer testified to that. I just
25 want to look a little bit further at the actual

1 photographs themselves so I'll take that issue under
2 advisement. I'll look at those cases tonight.

3 MS. CAVANAUGH: On one more thing, Your
4 Honor.

5 THE COURT: Yes, ma'am.

6 MS. CAVANAUGH: As far as the — I pointed
7 out on the photographic line up where it says
8 jailrichlandonline.com, we will be happy to so it's
9 not obvious anything has been whited out or
10 redacted, we'll be happy to trim the bottom off of
11 that lineup so that the jail website is not shown to
12 the jurors in this case.

13 THE COURT: And perhaps the numbers under
14 the individuals' names. I don't know if that can
15 be — well, I know some people that can do it where
16 you can scan it in and remove it like that and
17 remove the numbers, I'm not one of them, but I do
18 know people that can do such things as that perhaps.
19 But let me look at those other cases about the
20 actual photographs themselves. The testimony is
21 clearly admissible.

22 MS. CAVANAUGH: Okay.

23 THE COURT: All right. Thank you,
24 Solicitor. All right, our next pretrial motion?

25 MS. SIMPSON: Your Honor, at this time the

1 State will move under Jackson v. Denno to admit the
2 defendant's statement.

3 THE COURT: All right.

4 MS. SIMPSON: The State calls Investigator
5 Unger to the stand.

6 THE COURT: You're still under oath.

7 THE WITNESS: Yes, Your Honor.

8 THE COURT: Thank you.

9 **DIRECT EXAMINATION**

10 BY MS. SIMPSON:

11 Q Investigator Unger, where are you employed?

12 A Richland County Sheriff's Department.

13 Q And what do you do there?

14 A I'm currently a senior narcotics agent.

15 Q And back on January 24th of 2012 were you working
16 at Richland County?

17 A Yes, ma'am, I was.

18 Q And did you have occasion to become involved in
19 this case?

20 A Yes, ma'am, I was assigned as the primary
21 homicide investigator for this case.

22 Q And did you have the opportunity to speak with
23 the defendant on January 26th of 2012?

24 A Yes, ma'am, I did.

25 Q Was the defendant actually under arrest at that

1 time?

2 A He was.

3 Q And was he advised of his rights?

4 A He was.

5 Q Can you tell us how that was done.

6 A Yes, ma'am. On the 26th he was brought up to our
7 headquarters which is 5623 Two Notch Road. We have
8 a large open area with a bunch of cubicles and
9 against the wall there's offices. I used one of the
10 offices, there's Sergeant Don Robinson's office. He
11 was brought in. Handcuffs were taken off. He was
12 sat down in the presence of myself and Investigator
13 Preston. We have a common form that we use up at
14 CID for advisement of rights.

15 Q And hold on just a moment.

16 (WHEREUPON, State Exhibit No. 3 was marked
17 for identification only.)

18 BY MS. SIMPSON:

19 Q And I'm showing you State's Exhibit 3. What is
20 that?

21 A That is our Richland County Sheriff's Department
22 interrogation advice of rights.

23 Q Okay. And how was this procedure conducted?

24 A Okay. The way that I do it, you know, everybody
25 does it a little bit different; but the way I do it

1 is I fill out demographic information on the top;
2 the suspect's name Jabriel Singleton; the place
3 where it's being administered, 5623 Two Notch
4 Road; the officers present during the interview
5 which would be Unger and Preston; the date it was
6 conducted which is January 26th, 2012; and then the
7 time that I started it, which was 13:14 or 1:14 p.m.
8 Q And then do you actually go through those rights?
9 A Yes, ma'am. The first section we have is your
10 rights. The way I do it is, I read each sentence by
11 itself, I stop, I ask the person that I'm reading
12 this to, if this person Jabriel Singleton, if he
13 understands that. If he indicates he does
14 understand it, I put a check mark by it. So I would
15 do the first question. I would ask -- before we ask
16 you any questions you must understand your rights.
17 I would ask Mr. Singleton if he understands it. He
18 indicated he did and I put a check mark next to it.
19 The next question I ask, you have the right to
20 remain silent. I ask him if he understands. He
21 says he does and put a check mark next to it.
22 Anything you say can be used against you in court.
23 I asked if he understood that; he said he did. I
24 put a check next to it. You have the right to talk
25 to a lawyer for advice before we ask you any

1 questions and to have a lawyer with you during any
2 questioning. If he understands that, he indicated
3 he did. I put a check mark next to it. If you
4 cannot afford a lawyer one would be appointed for
5 you before any questioning if you wish. I asked if
6 he understand that; he indicated he did. I put a
7 check mark by it. If you decide to stop — I'm
8 sorry, if you decide to answer questions now without
9 a lawyer present you still have the right to stop
10 answering at any time. You also have the right to
11 stop answering at any time until then you talk to a
12 lawyer. I asked if he understood that; he indicated
13 he did. I put a check mark next it to.

14 Q And as you're reading in addition to him telling
15 you that he understood, did he appear to understand
16 his rights?

17 A Yes, ma'am, he did.

18 Q Was he under the influence or anything that
19 seemed to be hindering him —

20 A No, he did not appear.

21 Q —in his ability to understand?

22 A No, ma'am.

23 Q Is there another portion on that on —

24 A Yes, ma'am.

25 Q —State's Exhibit 3 regarding the waiver of

1 rights?

2 A Yes, ma'am, there is. Same thing applies as the
3 above. I read it. It's a paragraph, and then I
4 asked if he understood. The paragraph is: "I have
5 read this statement of my rights, understand what my
6 rights are. I am willing to talk and answer
7 questions. I understand and know what I am doing.
8 No promises have been made to me. No pressure or
9 coercion of any kind has been used against me. And
10 I asked him if he understood that." He indicated he
11 did and put a check mark next to it.

12 Q And looking at both, backing up just a little
13 bit, in addition to the checks as he understood did
14 he actually acknowledge his understanding in some
15 way?

16 A He did. He signed it with his signature.

17 Q And under the waiver of rights, the second part
18 of the form, did he also acknowledge that he waived
19 his rights?

20 A Yes, ma'am, he did. He acknowledged by his
21 signature.

22 Q And did he indicate he wished to speak with you?

23 A Yes, ma'am, he did.

24 Q And was he willing to speak with you?

25 A Yes, ma'am, he was.

1 Q Did he ask for an attorney at any point?

2 A He did not.

3 Q Did anyone, or anyone — did you or anyone in
4 your presence threaten or coerce him in any way to
5 talk to you?

6 A No, ma'am, I did not.

7 Q Did you make him any promises?

8 A I did not.

9 Q Tell us about your interview with the defendant.
10 Was it strictly written statement or did you speak
11 verbally? How did that happen?

12 A It started out speaking verbally. I like to hear
13 everything that happened. Once I've gotten what
14 they have to say verbally, at that time I will then
15 put it in writing. I'll have them go over the exact
16 thing they went over with me initially, and I will
17 do it word for word as much as I can into the
18 statement written.

19 Q Okay. Did you, in fact, do that in this case?

20 A Yes, ma'am, I did.

21 Q Okay, so speaking after your conversation, I
22 guess verbal conversations as well as your just
23 general interview of the defendant, do you
24 memorialize that interview in some way within your
25 own notes?

1 A Yes, ma'am, I put it into my investigative
2 followup.

3 Q And basing a little bit, is the information in
4 your follow up, I guess, more expansive or is there
5 other information that's not provided in the written
6 statement?

7 A Yes, ma'am. Whatever that he told me I put into
8 my investigative followup.

9 Q And can you go through that conversation for the
10 Court at this time.

11 A Yes, ma'am, I can. You want line by line or just
12 read the whole thing?

13 Q Line by line from the point where you began
14 interviewing him.

15 A All right. I would put, I advised Singleton of
16 his Miranda warnings and writing at 13:14 hours,
17 which he waived stating he was willing to talk about
18 the event. I told Singleton he's being arrested for
19 homicide of Dashawn Breeze Jones and the attempted
20 murder of Jonathan Crash Frazier. Singleton stated
21 that he met his — you want me to put a meeting or
22 is it okay in pretrial?

23 Q For purposes of this hearing go ahead. I'm sure
24 we have an issue regarding the probation agent that
25 the defendant claimed he was meeting with.

1 A Singleton stated that he met his probation
2 officer at 1100 hours. He stated that after the
3 meeting he went to a recording studio on Anwood
4 Drive. He stated that Breeze and Crash were at the
5 studio. Singleton stated there was others at the
6 studio as well. Singleton stated that he was
7 chilling and smoking weed inside and outside. He
8 stated that he left the studio at 12 or 1300 hours
9 and went to girlfriend Kenyatha Hickman's house off
10 of Leesburg Road. Singleton stated that he was
11 there, he was at her house all day. Singleton
12 stated he did not leave until later in the evening.
13 Singleton stated that he went to Club Crush. I
14 asked if he left his girlfriend's house at all
15 before going to Club Crush in the evening; he stated
16 no. He stated he left at 21 or 2200 hours to go to
17 the club. I asked if he spoke with Breeze or Crash
18 after he left the studio and he stated that Breeze
19 called wanting to buy some weed. He told Breeze
20 that he did not have any yet. Singleton stated that
21 he would be a few minutes and he might have some.
22 Singleton stated that he called back and he told him
23 that he was not giving him enough time to get the
24 weed. I asked if he was in Hopkins at all during
25 the afternoon, and he stated that, stated no. I

1 asked if he killed Breeze and shot Crash and he
2 stated that he did not. I printed the statement and
3 presented it to Singleton.

4 Q And so at this point y'all are talking and you're
5 also writing a statement, correct?

6 A Yes, ma'am.

7 Q And at any point during this verbal conversation
8 did he request an attorney?

9 A No, ma'am.

10 Q Did he say he wanted to stop talking to you?

11 A No, ma'am.

12 Q And did he speak with you freely and voluntarily?

13 A Yes, ma'am.

14 (WHEREUPON, State Exhibit No. 4 was marked
15 for identification only.)

16 BY MS. SIMPSON:

17 Q Investigator Unger, I'm gonna show you State's
18 Exhibit 4. So you recognize that?

19 A Yes, ma'am, that's the written statement that I
20 produced and typed for Jabriel.

21 Q And on what date and time did this occur?

22 A The actual written statement was on the 26th of
23 January, 2012, and I started typing it at 1322 or
24 1:22 p.m.

25 Q Okay. And at this point had the defendant been

1 advised of his rights?

2 A He had.

3 Q And he was actually under arrest at this point as
4 well?

5 A He was.

6 Q And did the written statement come subsequent to
7 your verbal conversation with him or kind of was it
8 mixed —

9 A Yes, ma'am.

10 Q —-together?

11 A No, it was — I got the verbal portion first, and
12 once he finished that then I had him give it to me
13 again at which point I did it in writing.

14 Q Okay. And tell us about this statement and how
15 it went with respect to your writing of the
16 statement, typing out the statement.

17 A Okay, I asked him to — I'll let him know that
18 I'm gonna stop him often when we do these because at
19 this point I'm doing it word for word what he says.

20 Q So you're actually typing as he indicates his
21 answers?

22 A Yes, ma'am. I'm not a very fast typer either so
23 I will stop them, and when I start to lose track
24 I'll stop them, tell them stop for me. And I warn
25 them about it before I take the statement as well.

1 I say, I'm gonna stop you numerous times, I'm not
2 trying to be rude, I just need to write what you
3 say. And that's what we'll do.

4 Q Okay. And what exactly was said in this
5 statement?

6 A All right. The first written portion is again
7 another advisement of rights with his name on it.
8 Would you like me to go over that again?

9 Q Yes, word for word.

10 A Word for word. I, Jabriel Singleton, — first it
11 says Columbia, South Carolina. This is the first
12 day of — or I'm sorry, January 26th, 2012 at 1322
13 in the presence of Investigator Unger/Preston of the
14 Richland County Sheriff's Department. I, Jabriel
15 Singleton, understand I have the right to remain
16 silent. Anything I say can be used against me in
17 court. I have the right to talk to a lawyer for
18 advice before you ask me any questions and have a
19 lawyer with me during my questioning. I understand
20 if I cannot afford a lawyer one will be appointed
21 for me before any questioning if you wish. If I
22 decide to answer questions now without a lawyer
23 present I still have the right to stop answering at
24 any time. I also have the right to stop answering
25 at any time until I talk to a lawyer. Do make the

1 following statement, the first thing I put is a
2 question with my name Unger/Preston, question mark.
3 The next thing is answer, Singleton. The first
4 question I asked: Tell me about your day on
5 Tuesday, January 24th, 2012 while you were with
6 Dashawn Breeze Jones and Jonathan Crash Frazier.
7 Q And just so we're clear here, we have some
8 nicknames. Breeze is referring to who?
9 A Dashawn Jones.
10 Q And that is, is he the murder victim?
11 A Yes.
12 Q And who is Crash referring to?
13 A Jonathan Frazier.
14 Q Okay, continue.
15 A His answer is: "I had to meet my probation
16 officer 11 a.m. in the morning. After that I went
17 to the studio on Anwood Drive. Breeze and Crash
18 were at the studio, Nick, and some others. There
19 were so many people. We were hanging out smoking
20 weed and chilling. That was outside and inside. I
21 left the studio at 12:01. I went to my girlfriend's
22 Kenyatha Hickman's house on Leesburg Road. I was
23 over there all day, did not leave until later that
24 night. I went to Club Crush later in the evening.
25 The next question I asked, do you have any — or did

1 you leave your girlfriend's house at all before
2 going to Club Crush in the evening. Answer is no.
3 Question, the next question was, what time in the
4 evening did you go to Club Crush? Answer was nine
5 or ten p.m. The next question, did you speak with
6 Breeze or Crash after you left the studio? Answer
7 is, yes, he called me and asked to buy some weed. I
8 told him that I did not have any yet. I told him it
9 would be a few minutes and I might have some. He
10 called back again. It did not take time — I'm
11 sorry, it did not take him time to call me back. It
12 seemed like he was in a hurry to do something. I
13 told him that he was not giving me enough time to
14 get it. It seemed like he was in a hurry to make a
15 play. The next question was, did you go to Hopkins
16 at all that afternoon? The answer is no. The next
17 question is, did you kill Breeze and shoot Crash?
18 Answer is no, sir. The next question, is there
19 anything else you want to add to your statement?
20 Answer is, no, sir.
21 Q Now as you're doing this, as I said, did he ask
22 for an attorney?
23 A No, ma'am, he did not.
24 Q Did you deprive him of any creature comforts
25 during this process?

- 1 A No, I did not.
- 2 Q If he wanted to go to the restroom what would you
3 have done?
- 4 A I would have taken him to the restroom.
- 5 Q And what about food? Would you have allowed him
6 to eat?
- 7 A Yes.
- 8 Q And in this case did you actually allow him to go
9 to the restroom or eat?
- 10 A I did. Give me one second and I will — he was
11 given water at 14:35 hours and used the bathroom at
12 14:54 hours.
- 13 Q Okay. And during the statement did you threaten
14 or coerce him in any way?
- 15 A No, ma'am, I did not.
- 16 Q I want to turn your attention to the portion
17 where a signature is required. Did he actually sign
18 this statement?
- 19 A No, ma'am, he did not. He told me he wasn't
20 going to sign anything.
- 21 Q Okay. And so he did not sign a statement?
- 22 A He did not.
- 23 Q Did you give him the statement to review?
- 24 A I did.
- 25 Q Can you tell us about that?

1 A After we're done the first thing we tell him once
2 I'm done printing it is you need to read over this
3 statement, make sure I didn't add anything or take
4 anything out that you said, at which time I hand him
5 the statement to do that.

6 Q And did he actually — did you hand him State's
7 Exhibit 4?

8 A Yes, ma'am, I did.

9 Q Did he look through it?

10 A Yes, ma'am, he did.

11 Q Did he appear to understand what the statement
12 was saying?

13 A Yes, ma'am, he did.

14 Q Did he ask to change anything in the statement?

15 A He did not.

16 Q Did he indicate that anything that was written
17 here was inaccurate or was not what he said?

18 A No, he did not.

19 Q So essentially the only thing he didn't do was
20 sign the statement?

21 A That's correct.

22 Q And do you force anyone to sign a statement?

23 A No, ma'am.

24 Q And do you threaten or coerce them to sign it?

25 A No, ma'am.

1 Q So since he didn't want to sign the statement you
2 didn't require them to sign it?

3 A That's correct.

4 Q But he did, in fact, sign State's Exhibit 3, the
5 advice of rights form?

6 A Yes, ma'am.

7 Q Including the waiver?

8 A Yes, ma'am.

9 Q And he indicated that — or he did speak with you
10 freely and voluntarily?

11 A Yes, ma'am.

12 Q Going back to your verbal conversation, I believe
13 you stopped at a portion in your followup. There's
14 actually another portion beginning I inform
15 Singleton that I believed he was lying?

16 A Yes, ma'am.

17 Q Can you read from that portion on — was this
18 part of your conversation with him?

19 A Yes, ma'am.

20 Q Can you tell us about that?

21 A Yes, ma'am. "I informed Singleton I believed he
22 was lieing. I told him Crash picked him out of the
23 photographic lineup, ad he stated he was lying. I
24 told him that his cell phone bounced off towers in
25 Hopkins. He stated that was his father's house. I

1 asked if his father's house was moving; he did not
2 answer. Singleton made the comment that there's not
3 a self-defense law in South Carolina." Singleton
4 did not make any other statements.

5 Q So outside of those verbal statements to you as
6 well as the written statement was that all the
7 conversation that you had with him?

8 A Yes, ma'am.

9 Q With respect to this case?

10 A Yes, ma'am.

11 Q And he was never promised anything—

12 A No, ma'am.

13 Q —to give these statements, correct?

14 A No, ma'am.

15 Q Thank you.

16 THE COURT: All right, Mr. Sutherland.

17 MR. SUTHERLAND: Please the Court, sir.

18 THE COURT: Yes, sir.

19 **CROSS-EXAMINATION**

20 BY MR. SUTHERLAND:

21 Q Sir, how long was Mr. Singleton in custody when
22 he got to you? It wasn't too long, was it?

23 A No, sir. 12:57 I was notified that he was under
24 arrest. He had been arrested from Best Hotel room
25 118. He arrived at headquarters 13:10. I advised

- 1 him 13:14.
- 2 Q All right. What sort of condition was he in when
- 3 he arrived?
- 4 A As what do you mean?
- 5 Q Physical condition?
- 6 A He seemed fine.
- 7 Q Did you ask him if he'd been roughed up during
- 8 the arrest?
- 9 A No, sir.
- 10 Q Did not ask him that?
- 11 A No.
- 12 Q Had he been tazed?
- 13 A I did not ask him.
- 14 Q Were you — are you aware today whether he had
- 15 been tazed?
- 16 A No, sir, I'm not.
- 17 Q So you're not aware today—
- 18 A No.
- 19 Q —that he got tazed?
- 20 A No.
- 21 Q Okay. You testified, let's see, 13:14 so that
- 22 puts water about an hour out, bathroom
- 23 hour-and-a-half out?
- 24 A That's correct.
- 25 Q You also testified that he said he didn't want a

1 lawyer and he did not want to stop talking, right?

2 A That's correct.

3 Q But he did stop talking?

4 A Yes.

5 Q All right. At the point that he stopped talking
6 he said — you said that he refused to sign the
7 statement?

8 A That's correct.

9 Q Is that when he stopped talking or when you —

10 A No.

11 Q The litany you just went through?

12 A The litany I just went through. No more
13 statements were taken after that or no more talking
14 was after that.

15 Q Okay, so just — you're saying I think you're
16 lying about X, you're lying about Y, and that was
17 pretty much the end of it?

18 A He made — I believe he made one last comment
19 which was that there's no self-defense law in South
20 Carolina and that was it.

21 Q Okay. Now he hadn't requested a lawyer or
22 anything at that point?

23 A No, sir.

24 Q So when he says there's no self-defense law in
25 South Carolina, I mean, I'm looking at the page in

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1 your report, it doesn't look like you said anything
2 else to him?

3 A No, it was over. We were, I mean, I took him to
4 the bathroom, got him some water. The warrants were
5 read to him and I believe he was transported shortly
6 after that.

7 Q All right. There — well, there is a
8 self-defense law in South Carolina.

9 A It's not my statement, it's his statement.

10 MR. SUTHERLAND: Your Honor, I have no
11 further questions.

12 THE COURT: Thank you, Mr. Sutherland.
13 Redirect, Solicitor?

14 MS. SIMPSON: No, Your Honor, not from the
15 State.

16 THE COURT: Thank you. Thank you again,
17 Detective Unger. You may step down.

18 THE WITNESS: Thank you, Your Honor.

19 MS. SIMPSON: Your Honor, that's all the
20 witnesses from the State on this issue.

21 THE COURT: All right, thank you. Thank
22 you, Solicitor.

23 Mr. Sutherland.

24 MR. SUTHERLAND: Beg the Court's
25 indulgence.

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1 THE COURT: Certainly.

2 MR. SUTHERLAND: May it please the Court,
3 sir, I'd like to call Jabriel Singleton to the
4 stand.

5 THE COURT: All right. If you'd come
6 around to be sworn please.

7 WHEREUPON,

8 JABRIEL SINGLETON,
9 having been duly sworn by the Clerk of Court,
10 testified as follows:

11 THE CLERK OF COURT: Thank you. Please
12 have a seat in the witness stand. State your full
13 name for the record and please spell your first
14 name.

15 THE WITNESS: My name is Jabriel
16 Singleton, J-A-B-R-I-E-L.

17 **DIRECT EXAMINATION**

18 BY MR. SUTHERLAND:

19 Q Sorry to surprise you like this, I just have one
20 question for you. Why did you refuse to sign that
21 statement?

22 A Because that's not all that I said.

23 THE COURT: Speak up for me please.

24 THE WITNESS: That's not all that I said.

25 MR. SUTHERLAND: Okay, thank you. No

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1 further questions, Your Honor.

2 **CROSS-EXAMINATION**

3 BY MS. SIMPSON:

4 Q So your counsel just asked you why you refused to
5 sign the statement?

6 A Yes, ma'am.

7 Q And you responded that's not all that you said,
8 right?

9 A Yes.

10 Q So you said some of it, but that wasn't all?

11 A Yes.

12 Q What else did you say that's not in the
13 statement?

14 MR. SUTHERLAND: I believe that's out of
15 the scope of the hearing, Your Honor.

16 THE COURT: Explain that to me,
17 Mr. Sutherland.

18 MR. SUTHERLAND: Well, his testimony is
19 that it didn't contain everything that I said,
20 that's why I refused to sign it. She's attempting
21 to elicit further testimony for what did you say.
22 The point of his testimony is that he refused to
23 sign it because it didn't have everything that he
24 said in it.

25 THE COURT: Well, I'm the fact finder at

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1 this stage under the standard of preponderance of
2 the evidence which means I would have to weigh the
3 credibility of the witnesses that testify during the
4 in-camera hearing. With that being said I overrule
5 your objection.

6 MR. SUTHERLAND: Thank you, sir.

7 MS. SIMPSON: Thank you, Your Honor.

8 BY MS. SIMPSON:

9 Q I'm showing you State's Exhibit 4, do you
10 recognize this?

11 A Yes, ma'am.

12 Q And is that the statement that you refused to
13 sign?

14 A Some of it, yes, ma'am.

15 Q Some of it —

16 THE COURT: Speak up, I'm sorry, I
17 couldn't understand you.

18 THE WITNESS: Some of it.

19 BY MS. SIMPSON:

20 Q Still can't hear, speak up a little bit so
21 everybody can hear.

22 A I say, yes, ma'am, that is some of the statement.

23 Q That some of it? So there was more?

24 A Yes, ma'am.

25 Q More typed stuff?

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1 A Yes, ma'am.

2 Q Well, what else did that other typed statement
3 have in it?

4 A Just like a few other things, nothing much.

5 Q A few other things, nothing much? Well, what
6 exactly is a few other things, nothing much?

7 A Basically like more questions that he asked.

8 Q More questions, okay. Let me back you up. This
9 is your statement, right? It's just not all of it,
10 correct?

11 A Yes, ma'am.

12 Q So you did — Investigator Unger did ask you
13 these questions?

14 A Yes, ma'am.

15 Q And you responded with your answers?

16 A Yes, ma'am.

17 Q But there's something else he asked you about?

18 A Yes, ma'am.

19 Q Well, what else did he ask you about that wasn't
20 in here? And I can show you State's Exhibit 4.

21 A Basically like the beginning part when I came in,
22 when I came in they did ask me if I was roughed up,
23 roughed up a little bit.

24 Q Okay. So let me just, and I need to just make
25 sure I'm clear. When you came into the interview

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1 after they advised you, right?

2 A Yes, ma'am.

3 Q Then you're saying that Investigator Unger asked
4 whether you were roughed up?

5 A Yes, ma'am.

6 Q And what did you say?

7 A Yes, ma'am. I said yes, I was roughed up a
8 little bit.

9 Q You said you were roughed up a little bit?

10 A Yes, ma'am.

11 Q Did you expand any further, tell him anything
12 else about being roughed up?

13 A Nothing other than the questions he asked.

14 Q So he asked you more questions about being
15 roughed up?

16 A No, just the question on the statement after
17 that.

18 Q So the only reason you didn't sign your statement
19 is because they didn't put that portion about
20 roughing you up. Is that your testimony today?

21 A I just didn't feel comfortable with signing the
22 statement.

23 Q So you just didn't feel comfortable with signing
24 it?

25 A Yes, ma'am.

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- 1 Q But the statement is your statement?
- 2 A Most of it.
- 3 Q Most of it?
- 4 A Yes, ma'am.
- 5 Q So some of that statement is not your statement?
- 6 A Yeah, I don't really remember like everything he
- 7 asked me all that day, but I know it's not
- 8 everything 'cause there was more to it.
- 9 Q So there was more — and I'm sorry, just bear
- 10 with me. So there was more than what's provided in
- 11 State's Exhibit 4?
- 12 A Yes, ma'am.
- 13 Q But this is accurate, this is what they showed
- 14 you, this was your statement?
- 15 A Yes, ma'am.
- 16 Q And you just didn't sign it because you didn't
- 17 feel comfortable?
- 18 A Yes, ma'am.
- 19 Q And did you understand everything he was asking
- 20 you?
- 21 A Most of it, yes, ma'am.
- 22 Q Most of it? 'Cause he was asking you about what
- 23 happened?
- 24 A Yes, ma'am.
- 25 Q And so the only reason you didn't sign is because

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1 the roughing up part was left out?

2 A And I didn't feel comfortable without signing it.

3 Q Why didn't you feel comfortable?

4 A What I leave repetition, I just didn't feel
5 comfortable.

6 Q Okay, but you talked to them and you gave them a
7 statement?

8 A Yes, ma'am.

9 MS. SIMPSON: Beg the Court's indulgence.

10 THE COURT: Yes, ma'am.

11 BY MS. SIMPSON:

12 Q Now just so we're clear 'cause some stuff's a
13 little vague, I want to make sure that your answers
14 are the answers that you provided in this statement,
15 okay. You remember Investigator Unger asking you or
16 saying, tell me about your day on Tuesday,
17 January 24th of 2012, while you were with Dashawn
18 Breeze Jones and Jonathan Crash Frazier, right?

19 A Yes, ma'am.

20 Q You answered, "I had to meet my probation officer
21 at 11 a.m. in the morning. After that I went to the
22 studio on Anwood Drive. Breeze and Crash were at
23 the studio, Nick, and some others. There were so
24 many people. We were hanging out smoking weed and
25 chilling. I was outside and inside. I left the

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1 studio around 12 or 1. I went to my girlfriend's
2 Kenyatha Hickman's house off Leesburg Road. I was
3 over there all day. I did not leave there until
4 later that night. I went to Club Crush later that
5 evening." Is that your answer?

6 A Yes, some of what I said.

7 Q So you said some more?

8 A Yeah, some of it — yes, ma'am, I said a little
9 more. Some of it, like that's not all the statement
10 though. There's more questions he asked me.

11 Q Okay, so, well, I'm going into the other
12 questions —

13 MR. SUTHERLAND: Your Honor, I think we're
14 getting towards asked and answered. He keeps saying
15 that's not everything I said, and she keeps saying,
16 going over the same thing. I believe he's asked and
17 answered. I believe his answer is that's not
18 everything I said.

19 MS. SIMPSON: Your Honor, if I may respond
20 briefly. With respect to the defendant's responses,
21 he is being vague as to, yeah, that's some of what I
22 said, not what I said. At this point I am merely
23 going through the questions and the answers to make
24 sure that those were, in fact, the answers to the
25 questions that Investigator Unger asked him limited

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1 to the statement.

2 THE COURT: All right, you may proceed,
3 Solicitor.

4 MS. SIMPSON: Thank you, Your Honor.

5 BY MS. SIMPSON:

6 Q So that was your answer. And I'll show you so
7 we're clear on State's Exhibit 4, that was your
8 answer that I just read to you, correct?

9 A Yes, ma'am.

10 Q Okay. And then the next question, did you leave
11 your girlfriend's house at all before going to Club
12 Crush in the evening? Your answer, no. Is that
13 correct?

14 A Yes, ma'am.

15 Q Okay. Next question, what time in the evening
16 did you go to Club Crush? Your response, about 9 or
17 10 p.m.?

18 A Yes, ma'am.

19 Q Next question, did you speak with Breeze or Crash
20 after you left the studio? Your response, yes, he
21 called me and asked me to buy some weed. I told him
22 that I did not have any yet. I told him that it
23 would be a few minutes and I might have some. He
24 called back again. It did not take long to call
25 back, or call me back. It seemed like he was in a

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1 hurry to do something. I told him that he is not
2 giving me enough time to get it. It seemed like he
3 was in a hurry to make a play. Was that your
4 answer?

5 A Some of it. It's not exactly like what I said.

6 Q Do you remember what you said?

7 A I mean, saying I could get him some.

8 Q Okay, so you — additionally you were saying you
9 could get him some?

10 A Yes, ma'am.

11 Q Okay. So you added that would have been
12 something that was left out of your statement that
13 you could get him the weed?

14 A Yes, ma'am.

15 Q Okay. Anything else on that question?

16 A No.

17 Q Okay. Next question, did you go to Hopkins at
18 all that afternoon? Your response, no. Is that
19 right?

20 A I don't remember.

21 Q Okay, you don't remember if that was your
22 response?

23 A No, ma'am.

24 Q Did you kill Breeze and shoot Crash? Your
25 answer, no, sir.

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1 A Yes, ma'am.

2 Q That's right. And finally, is there anything
3 else you want to add to your statement? Right? And
4 you answered, no, sir.

5 A Yes, ma'am.

6 Q So Investigator Unger gave you the opportunity to
7 add to your statement, right? That's that question
8 and I'll show you.

9 A I believe so but I'm not too sure.

10 Q Well, was that your response, no, sir, or is that
11 wrong too?

12 A I believe so; I'm not too sure.

13 Q You believe so. So you don't want to add
14 anything else to your statement?

15 A No, ma'am.

16 Q That was it? And then you just didn't sign it
17 because you didn't comfortable?

18 A Yes, ma'am.

19 MS. SIMPSON: That's all I have of this
20 witness.

21 THE COURT: Thank you, Solicitor.

22 Redirect, Mr. Sutherland?

23 MR. SUTHERLAND: Yes, sir, thank you, Your
24 Honor.

25 THE COURT: Certainly.

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REDIRECT EXAMINATION

BY MR. SUTHERLAND:

Q So to go all the way back where we started, I did hear additional reason why you didn't want to sign it; but you didn't want to sign the statement because it didn't have everything that you told to the investigator in it. That's your testimony as I understand it, right?

A Yes, sir.

Q You also mentioned that you weren't comfortable signing anything without an attorney present?

A Yes, sir.

MR. SUTHERLAND: No further questions, Your Honor.

THE COURT: We have recross?

MS. SIMPSON: Brief. Briefly, Your Honor.

RECROSS-EXAMINATION

BY MS. SIMPSON:

Q Now the fact you felt uncomfortable you just felt uncomfortable, right? You didn't tell Investigator Unger that you felt uncomfortable?

A Yes, ma'am, basically I told him that.

Q Well, you told him that you refused to sign it, right?

A I refused to sign it because I didn't feel

1 comfortable with everything that was in that.

2 Q And that's what you told him, you refused to sign
3 it because you didn't feel comfortable with
4 everything that was in it?

5 A I didn't feel comfortable, didn't want to sign
6 it.

7 MS. SIMPSON: All right. Nothing further.

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

10 Any additional witnesses from the Defense?

11 MR. SUTHERLAND: No, sir.

12 THE COURT: Anything further from the
13 State as far as witnesses or testimony, Solicitor?

14 MS. SIMPSON: No, Your Honor, not on this
15 issue.

16 THE COURT: All right, I'll be glad to
17 hear from you, Solicitor.

18 MS. SIMPSON: Your Honor, respectfully I
19 believe we heard from Investigator Unger on this
20 issue regarding voluntariness of the statement. The
21 defendant was, in fact, arrested at this time. He
22 was in custody so the question of whether Miranda
23 was required is not an issue. In this case Miranda
24 was given. State's Exhibit 3, I believe, the
25 defendant was advised of his rights. He did

1 indicate on that form that he understood those
2 rights by both signing his name under that; and as
3 Investigator Unger went through and checked them off
4 individually he indicated he understood. He also
5 signed a waiver of rights, and State's Exhibit 3
6 indicating that he read his rights, understood what
7 they were and were willing to answer questions. At
8 that point Investigator Unger has testified that
9 there was a verbal conversation with the defendant
10 in addition to a statement that was reduced to
11 writing. At no point did the defendant ask for an
12 attorney. He was not promised anything, no threats
13 were made. He was not coerced. It was clear to
14 Investigator Unger that he understood those rights
15 that were being given to him, that he was not under
16 the influence of anything that might affect his
17 ability to understand; and he did in fact, speak
18 with him on that issue.

19 Your Honor, we have I guess essentially
20 two statements or two conversations that we're
21 seeking, Investigator Unger's verbal conversation
22 with him that's memorialized in his investigative
23 report as well as his written statements. I believe
24 that we've met our burden of a preponderance of the
25 evidence that his waiver was given freely and

1 voluntarily. Even with the defendant's own
2 testimony, Your Honor, at no point did he indicate
3 to Investigator Unger that he required an attorney
4 or that he did not wish to speak with him. The only
5 issue we get to the defendant's, I guess,
6 comfortable level is with respect to signing the
7 statement at the end. I believe my last question to
8 him was what was told to Investigator Unger
9 regarding him not wanting to sign. He said that he
10 was uncomfortable; he just didn't feel like signing
11 it because everything wasn't in there. Not that he
12 was requesting an attorney, not that that was not
13 his statement, and at no point did he himself
14 indicate that he did not willingly talk to law
15 enforcement in this case.

16 THE COURT: Thank you, Solicitor.

17 Mr. Sutherland.

18 MR. SUTHERLAND: Thank you, Your Honor.

19 While I do believe that the testimony that was
20 elicited by the solicitor was that he wasn't
21 comfortable signing anything without an attorney
22 present, and his testimony from him was in the very
23 beginning of things that he didn't want to sign it
24 because it didn't have everything that he said in
25 it. I think I've got just a pretty straight forward

1 and simple proposition on this. He refused to sign
2 this. This is not signed by him. This is not
3 notarized. This is not his statement. This is the
4 investigator typing on a piece of — typing on a
5 computer and printing out a piece of paper. I don't
6 believe that this could be said to be his statement
7 both in light of the testimony but in light of the
8 fact that it's not signed and it's not notarized.
9 It is a piece of paper with the investigator's
10 typing on it. Now whether the State wants to go
11 into, well this particular detail is on this
12 particular detail is oh, he said this one is okay
13 and you know, he's quibbling with this, that, and
14 the other. The bottom line is he didn't sign the
15 thing and he refused to sign it. I mean, that's a
16 fact irrespective of anything that they might argue
17 here, and I believe that his refusal to sign it
18 should be dispositive of whether or not he agreed
19 that that was his statement. He testified that it
20 wasn't, that he disagreed with certain things in it
21 in addition to the material that was developed with
22 respect to wanting to have an attorney present. But
23 in the end, if people don't sign things, you know,
24 they're not signed, and it — that statement doesn't
25 become his until it's signed and notarized.

1 Now if they want to introduce, which if
2 they want to introduce the testimony about the
3 things that they said to one another, that's one
4 thing. He disagrees with it to whatever extent, he
5 didn't sign it, I don't think that the statement
6 itself should be admitted. The conversations, I
7 mean, those I haven't heard anything about awful
8 things being done to him. I mean, he — the
9 investigator testified he didn't know that he was
10 tazed. He wasn't in custody that long. He wasn't
11 deprived food or water. I didn't hear any testimony
12 about any threats. I don't see where the
13 conversation itself could be rendered involuntary.
14 But what I do see is that he refused to sign the
15 statement and that should be dispositive of whether
16 or not that's his statement, Your Honor.

17 THE COURT: Thank you. You have a case
18 that says that?

19 MR. SUTHERLAND: I do not have a case.
20 There's a — there was an appeal State versus Wilder
21 but I think that was actually my case and the
22 written statement was kept out. I'm not aware of an
23 unsigned written statement being admitted. Of
24 course, I haven't been doing this forever.

25 THE COURT: You implying I have?

1 MR. SUTHERLAND: No, sir, not at all.
2 It's just, there's a lot of things have gone on, and
3 I was overseas for a while and kind of unaware of.

4 THE COURT: I understand. Thank you.

5 MR. SUTHERLAND: Thank you.

6 THE COURT: Solicitor, may I see State's 3
7 and State's 4.

8 MS. SIMPSON: Yes, Your Honor.

9 THE COURT: All right. At this stage I
10 review it to determine under preponderance of the
11 evidence whether or not the statement was made and
12 whether or not the statement was voluntary. As both
13 attorneys state it's not — it's clearly a situation
14 of custodial interrogation Miranda required. I
15 mean, there's no issue that but that Miranda was
16 given properly, that he was properly advised of his
17 rights, that he waived those rights. And looking at
18 State's Exhibit Number 3 there are two signatures
19 there. Clearly there was no coercion, undue
20 influence, threats, promises, anything of that
21 nature. The officer explained the procedure he
22 uses, whereby, he just talks to an individual after
23 they've been properly advised; and if they have
24 waived their rights and then he reduces that to a
25 typed document. When I look at the typed document

1 it's consistent — it also has another explanation
2 of his rights, but it's consistent with the
3 statements that the officer said the defendant
4 verbalized to him. He's reducing it to writing. I
5 know of no case that says that would be dispositive
6 by his failure to, failure to sign. The jury must
7 first determine whether or not the statement was
8 made and then determine if it was made voluntarily.
9 It's clear that it was made by a preponderance of
10 the evidence at this stage voluntarily made under
11 the proper constitutional guidelines. State's 3 and
12 4 are admissible.

13 Why don't we take — we have other
14 pretrial motions, is that correct, Solicitor?

15 MS. SIMPSON: That is correct.

16 THE COURT: Let's take about a 15 minute
17 recess. Thank you very much.

18 (WHEREUPON, a recess was taken from the
19 proceedings.)

20 THE COURT: All right, you have other
21 motions, Solicitor?

22 MS. SIMPSON: Well, Your Honor, I just had
23 a conversation with defense counsel and it's
24 actually his, I guess, motion or issue; but I've
25 agree, the State agrees, the mention of the

1 probation agent or the fact that the defendant was
2 visiting with his probation agent. In both the
3 statement from Investigator Unger as well as the
4 actual written statement, we can agree to redact
5 that out of his written statement and the
6 investigator will, understands that he doesn't
7 didn't need to testify regarding, I guess, the
8 defendant's probation status.

9 MR. SUTHERLAND: Any of the witnesses.

10 MS. SIMPSON: Yeah, we'll — and our
11 witnesses will know not to discuss the fact that the
12 defendant was on probation.

13 THE COURT: All right. Thank you,
14 Solicitor.

15 Is that correct, Mr. Sutherland?

16 MR. SUTHERLAND: Yes, sir. And Judge,
17 there's also been a development with my DNA motion.
18 They've given me this consent form so it's —

19 THE COURT: They've given you what, I
20 apologize.

21 MR. SUTHERLAND: A consent to, for DNA
22 evidence, gave me an consent form from, it's
23 February 23rd, 2010, so it appears my client didn't
24 remember even giving the swab. It's an old 2010
25 case; and they apparently had, had consented to DNA

1 swab in that case and that's the swab that they used
2 to test in this case. I, you know, I was unaware of
3 this, part of my motion was — I checked, I don't
4 see any Smerber order or anything like that, and I
5 don't have a consent form. I didn't see a consent
6 form when we went through their trial notebooks up
7 there so that was really the big where did it come
8 from; and now that I understand that there was
9 consent — albeit it may be a little bit late
10 here — there won't be an issue with respect to DNA
11 in that regard, you know, being involuntary because
12 they produced the consent form and I was looking for
13 either a court order or consent form.

14 THE COURT: All right.

15 MR. SUTHERLAND: So what — that would
16 turn into a motion in limine with respect to this
17 2010 case is, I wouldn't want them mentioning that
18 they got the DNA swab in another case. I think that
19 would be improper introduction of prior bad acts
20 evidence so I certainly wouldn't be opening the door
21 to them asking them when they took it or anything
22 like that. I think, you know, just the standard
23 question about packaging and handling it would be
24 appropriate; but I just wouldn't want them to
25 mention this 2010 case either in addition to the

1 juvenile probation case.

2 THE COURT: All right. Solicitor?

3 MS. SIMPSON: Thank you, Your Honor. In
4 Investigator Unger's investigative report it does
5 state that Mr. Singleton's profile was already
6 available so Mr. Sutherland was aware of that. We
7 also provided the chain of custody and the property
8 report for that 2010 case last week when Mr.
9 Sutherland asked for the property report. We will
10 be happy — and he was aware that Mr. Singleton did
11 have a prior burglary, armed robbery case pending in
12 our office. We will be happy to limit our questions
13 as it relates to the chain of custody witnesses for
14 Mr. Singleton's buccal swab. We'll just ask — we
15 will not mention any dates whatsoever about when it
16 was obtained, just did you come into contact with
17 his, a known standard, how is it packaged, that sort
18 of thing. We will not ask about dates or times so
19 that that prior burglary is not implied in any
20 manner.

21 THE COURT: Mr. Sutherland.

22 MR. SUTHERLAND: Just to be clear, that
23 property report Thursday afternoon giving this
24 today, filed Rule 5 back in May on this case and
25 filed renewed Rule 5 three weeks ago today when I

1 fun out we were trying the case today so, I mean, I
2 didn't have it. I have it, it's consent form, it's
3 my client's signature. Ultimately just deep in my
4 concern is now any mention of the other case so if
5 they're not gonna mention it we should just be able
6 to proceed, sir.

7 THE COURT: All right. Thank you, Mr.
8 Sutherland.

9 Does that cover it, Solicitor?

10 MS. SIMPSON: Yes, Your Honor.

11 THE COURT: All right, thank you.

12 MR. SUTHERLAND: Thank you, Your Honor.

13 THE COURT: So do we have other motions
14 or?

15 MS. SIMPSON: Your Honor, we have just
16 three brief motions relates to certain, just a few
17 suppression motions. One is related to the deceased
18 victim Dashawn Jones' prior record. Mr. Sutherland
19 did ask for that specifically; we provided it to
20 him. He does have a couple of convictions on his
21 record, but we would ask that absolutely no mention
22 whatsoever is made as far as Dashawn Jones' prior
23 record. He is not available to testify obviously so
24 we would just make that motion at this time. His
25 credibility is not an issue because he's not here.

1 THE COURT: Mr. Sutherland.

2 MR. SUTHERLAND: Well, I hadn't actually
3 anticipated, anticipated asking, I guess it would be
4 Investigator Unger, about his prior record. Now you
5 know, where he lived previously, things of that
6 nature which I was able to glean from the wrap sheet
7 from New York and from here in South Carolina. But
8 I don't believe drug offenses he has on there, I
9 don't think there's any question once we get into
10 the evidence there's gonna be any question about
11 what this is, this all about, it's about drugs. I
12 didn't see any grounds of violence on his record so
13 I wasn't planning on asking about his prior record.

14 THE COURT: You're not plan—

15 MR. SUTHERLAND: No, sir. No, sir.

16 THE COURT: All right, thank you, Mr.
17 Sutherland.

18 MS. SIMPSON: Another motion we have, Your
19 Honor, is we have in Mr. Sutherland referencing,
20 there's one time this is mentioned, it's on the DNA
21 analyst Rachel Grant bench note. It's mentioned
22 that the victim Jonathan Frazier is suspected in
23 other crimes; that's the only time that this is
24 mentioned. It has no relevance to this particular
25 case, and we just move to exclude any mention of

1 that of 402 and 403.

2 MR. SUTHERLAND: I do intend to ask Rachel
3 Grant about the report that says that the victim was
4 a suspect in other crimes, Your Honor. He will be
5 here; he will be testifying. I think it's relevant.
6 I don't — that's about all I got to say, sir.

7 THE COURT: Yes, ma'am.

8 MS. SIMPSON: And I believe the standard
9 is that there has to be clear and convincing
10 evidence of any type of prior bad act, and in this
11 case that literally is the only time that it's
12 mentioned that he's a suspect in other crimes and I
13 don't believe that that meets the standard of clear
14 and convincing evidence in order for Mr. Sutherland
15 to be able to reference that or ask the victim about
16 that. It doesn't mention specifics or anything like
17 that.

18 THE COURT: May I see the report.

19 MS. SIMPSON: Yes, Your Honor. In
20 addition to that, Your Honor, the investigator, our
21 lead investigator, Investigator Unger, can't even
22 remember why that was even mentioned or as no
23 additional information related to this comment.

24 THE COURT: All right, Mr. Sutherland.

25 MR. SUTHERLAND: And I would just add, you

1 know, Your Honor, here we've got the lead
2 investigator in this case talking to the DNA analyst
3 after he turns the alleged victims' in this case DNA
4 over to her telling her that he's a suspect in other
5 cases. I think it's a legitimate area of inquiry.
6 I mean, they — when they turned over the, the DNA
7 analysis stuff in this case, there wasn't anything
8 turned over to with respect to him. I think it
9 would be appropriate for me to ask her if there were
10 any matches in any particular cases, that this is
11 certainly potentially exculpatory. It might support
12 the defense self-defense if it is the case that, you
13 know, he's linked to other robberies involving drugs
14 or whatever the case might be. I mean, I certainly
15 wouldn't make suggestions leading was it a armed
16 case, was it a this case, what kind of case it is.
17 I think it's relevant from a defense standpoint.
18 And again, I think it's a valid line of questioning,
19 sir.

20 THE COURT: Was his DNA, Mr. Frazier's DNA
21 put into the data base?

22 MS. SIMPSON: Well, it was put into the
23 Richland County Sheriff's Department data base. I'm
24 not sure if they had to ask Ms. grant If they'd
25 limit it to just this case since he was a victim in

1 this case, if they'd limit it to just analysis in
2 this case or if it's just put in the data base in
3 general. I don't know the answer to that question.

4 THE COURT: Why would a DNA analyst who is
5 familiar with the data base and familiar with the
6 manner in which cases are solved or DNA analysis be
7 informed that this person's, this person whose DNA
8 you have is a suspect in other crimes, why would
9 that DNA analyst then not put it in the data base,
10 Solicitor?

11 MS. SIMPSON: She may have, Your Honor. I
12 don't know, I don't know the answer to that question
13 without her specifically telling me that. But in
14 this particular case I believe it is a fishing
15 expedition. It has no bearing on her analysis of
16 the evidence in this case, and Mr. — and the
17 standard for any prior bad act is clear and
18 convincing evidence.

19 THE COURT: I understand the standard,
20 Solicitor, but I'm not sure who is holding the rod
21 when they're fishing. If it's DNA put into data
22 base and it it comes back that it doesn't hit in
23 anything, well then that's, looks like to me that
24 would be to the benefit to the State.

25 MS. SIMPSON: Yes, Your Honor, I agree.

1 THE COURT: I don't know the answer to
2 this legal question until I hear the analyst or to
3 this evidentiary question until I hear the analyst
4 testify in camera concerning what steps, if any, she
5 took to make a determination. Right now it's, it
6 doesn't even rise to the level of speculation right
7 now, or perhaps it does rise to level of speculation
8 right now. I know the solicitor referred to
9 Detective Unger not having memory of telling her
10 this, is that correct, Solicitor, what you told me?

11 MS. SIMPSON: That is my understanding
12 from the investigator, yes, sir.

13 THE COURT: I'll be glad to hear from the
14 analyst in-camera before I make a decision as to
15 that; but right now it is, it does not rise to a
16 level of an evidentiary standard that I will allow
17 but I'll be glad to hear the proffer in-camera
18 Mr. Sutherland and Solicitor.

19 MS. SIMPSON: And Your Honor, we can do —
20 is it okay with the Court we do that right before
21 she testifies in the case.

22 THE COURT: Certainly, yes, ma'am,
23 certainly.

24 MS. SIMPSON: And then the other —

25 THE COURT: Y'all, I leave that up to

1 y'all to remind me, keep it on your radar, which I
2 know you will.

3 MR. SUTHERLAND: Yes, sir.

4 THE COURT: Thank you.

5 MS. SIMPSON: If I may approach again.

6 THE COURT: Yes, ma'am, certainly. All
7 right, there was a third area, Solicitor.

8 MS. SIMPSON: Yes, Your Honor. There was
9 a search warrant executed at the victim, both
10 victims' homes actually to obtain any evidence
11 relevant to this case. Dashawn Jones' home, there
12 was various — I can't estimate, maybe ten rounds of
13 ammunition located of different brand, different
14 caliber in his home in I believe like a cigar type
15 box. There was also I believe marijuana located at
16 his home and paraphernalia associated with smoking
17 marijuana. We have no, we do not object to any of
18 any of the testimony related to marijuana being
19 found in this home since this did, on both the
20 defendant and the living victims' account, involve
21 marijuana so we have no issue with what. However,
22 we do have a motion to suppress any mention of the
23 various rounds ammunition that was located at his
24 home. We have absolutely no evidence in this case,
25 even from the defendant's own account, at this point

1 based on his statement to the investigator. We have
2 no other evidence that there were ever any other
3 guns that were seen other than the one that the
4 victim had, I mean the defendant, Jabriel Singleton
5 had, excuse me. The cartridge casings and that were
6 collected at the scene, all were consistent from
7 being fired from the same weapon except for I
8 believe there was one unfired cartridge located at
9 the scene that's consistent with a 357 revolver
10 which the State submits was used in this case. The
11 shell, the ammunition that was located in the
12 victim's home, Dashawn Jones', is not consistent
13 with any of the shell casings or the unfired
14 cartridge that was located at the home we move to
15 suppress any mention of that under relevance 42, as
16 well as confusion of the issue in front of the jury
17 430.

18 THE COURT: Thank you. Thank you,
19 Solicitor.

20 Mr. Sutherland.

21 MR. SUTHERLAND: Please the Court, I
22 believe that their argument is that there was no
23 other weapon found at the scene. Well, they didn't
24 find the weapon that they're claiming was used by
25 Mr. Singleton. They're saying he didn't mention it

1 in his statement anything about another firearm.
2 Well, I mean, it's pretty plain that that statement
3 is not true. It's plain to everybody involved that
4 the statement is not true. And in order, in a
5 situation where he's likely to take the stand or
6 even if he weren't likely to take the stand, in a
7 situation where there were firearms involved I think
8 it's relevant where the victim had I lie like 12712
9 gauge rounds four, five 40 caliber rounds, a couple
10 of 45 caliber rounds, ammunition for several
11 different firearms was found in this house pursuant
12 to their search warrant. They searched for it; they
13 found it. They're keeping it in evidence. I don't
14 see where that can confuse any sort of issue in this
15 case. Obviously I'm not telling them completely
16 what, you know, what we're going to do and I do
17 anticipate him taking the stand and I don't see what
18 their interest is — frankly, I don't see them
19 having any legitimate interest in keeping the jury
20 from knowing that all these various forms of
21 ammunition were in this house. I think that's
22 actually probably something that the jury should
23 know and the jury should be able to consider, Your
24 Honor.

25 THE COURT: I can't, I can't figure out

1 the relevancy of the ammo in a victim's home. I
2 assume that the -- I don't know where the homicide
3 happened, of course, and the shooting.

4 MR. SUTHERLAND: Yes, sir.

5 THE COURT: I mean, I take it it was not
6 at the victim's home, either victims' home.

7 MR. SUTHERLAND: It was not -- it was in
8 the vehicle that was being driven by Mr. Jones, by
9 Dashawn Jones.

10 THE COURT: At this point I don't see the
11 relevancy of it. Now relevancy can change,
12 Mr. Sutherland, as you know, but.

13 MR. SUTHERLAND: Yes, sir, and perhaps if
14 the need should arise I might be able to re-call
15 Investigator Unger during the defense case.

16 THE COURT: Certainly, yes, sir.

17 MR. SUTHERLAND: Thank you, sir.

18 THE COURT: If evidence becomes relevant
19 or any time during the trial you or the solicitor,
20 I've ruled one way and you think the other side has
21 opened the door or something like that, all you have
22 to do is tell me. If you have a matter of law you'd
23 like to take up with me and I will be glad to
24 revisit that issue. Just because I rule now when I
25 haven't heard anything but the limited testimony on

1 the lineup and the statement on relevancy does not
2 mean that that may not shift as the testimony
3 unfolds before me and before the jury.

4 MR. SUTHERLAND: Yes, sir.

5 THE COURT: All right. So these are
6 in-camera rulings, at least the two out of three I
7 made.

8 MS. SIMPSON: Your Honor, that is the
9 extent of our, of the State's motions, pretrial
10 motions.

11 THE COURT: Thank you, Solicitor. Did you
12 have any other motions, Mr. Sutherland.

13 MR. SUTHERLAND: That's everything from
14 Defense, sir.

15 THE COURT: All right, thank you. Thank
16 you very much. And Court will be in recess until
17 11:30 did we say?

18 MR. SUTHERLAND: Yes, sir.

19 THE COURT: 11:30 in the morning. Thank
20 you. Thank you very much. Hope y'all have a
21 pleasant evening.

22 (WHEREUPON, the proceedings were concluded
23 and reconvened on March 5, 2013.)

24
25 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

1 **C E R T I F I C A T E O F R E P O R T E R**

2
3
4 STATE OF SOUTH CAROLINA)
5 COUNTY OF FLORENCE }

6
7 I, FRANCES BAKIS-RAY, Registered
8 Professional Reporter (RPR), court reporter for the
9 State of South Carolina, Twelfth Judicial Circuit,
10 do hereby certify that the foregoing proceeding was
11 transcribed for Elizabeth Harris through
12 computer-aided transcription; that the foregoing
13 transcript contains a true record of the proceedings
14 to the best of my ability.

15 I further certify that I am neither
16 counsel for, nor related to nor employed by any of
17 the parties connected to the action, nor am I
18 financially interested in the action.

19 Witness my hand at Florence, South
20 Carolina, this 5th day of March, 2014.

21
22 Frances B. Ray
23 FRANCES BAKIS-RAY, RPR
24
25

STATE OF SOUTH CAROLINA) }
COUNTY OF RICHLAND) GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)

STATE,)

v.)

JABRIEL L. SINGLETON,)

DEFENDANT.)

TRANSCRIPT OF RECORD

12-GS-40-2982

12-GS-40-2986

March 5, 2013
Columbia, South Carolina

BEFORE:

THE HONORABLE R. KNOX MCMAHON, JUDGE;
AND JURY

APPEARANCES:

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FRANCES BAKIS-RAY, RPR
Circuit Court Reporter
Typed for Crystal Holmes

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EXHIBITS

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1	Photo lineup	/110
2	Photo lineup	
3	Advisement of rights form	/802
4	Written statement	
5	Photo of truck	11/109
6	Photo of glove	11/106
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Defendant's:

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3	Map	11

1 (WHEREUPON, State Exhibits Nos. 5 through 65, 67,
2 69, 71, 73, 80 through 89, 92, 95, 97-130, 133, 137,
3 138, 140, 141, 142, 146, 148, 150-152, 155-235,
4 239-241, 251-255 and Defense Exhibits 1, 2 and 3
5 were marked for identification only.)

6 THE COURT: Solicitor, and Mr. Sutherland,
7 before I begin —

8 MR. SUTHERLAND: Yes, sir.

9 THE COURT: And the defendant is present.
10 I've reviewed State's Exhibit No. 4, and State's 4
11 is the document that was typed by Detective Unger as
12 a result of the verbal — as a result of the
13 conversation that he had with Mr. Singleton. As I
14 recall his testimony, he said, well, first I, after
15 advisement of the rights, I talked to the suspect,
16 asked him to tell me what happened and he testified
17 as to that conversation. Then he says I reduced it,
18 I reduced it to writing and I'm — I forget exactly
19 how he put it. If he — he said I'm not a fast
20 typer. He said in the reverse in terms I am a slow
21 typer. I will check as we go along and then when
22 presents it to the defendant for the defendant to
23 review and make any corrections or additions. And
24 Mr. Jabriel Singleton then does not sign it. All of
25 that testimony is admissible. I do not think the

1 document itself is admissible; and the reason I say
2 that, it's in the nature of a — it's more than a
3 mere police report, but it's still in the nature of
4 a police report; that he either — the detective is
5 documenting what, whether it be the defendant or any
6 other witness for that matter, he could talk to any
7 other witness and then say, prepare a witness
8 statement and the witness can say, well, I am not
9 going to sign it, then it's not a written statement.
10 The officer can testify to all of that fully and
11 completely. There's no constitutional issues even
12 addressed by the Defense as far as —

13 MR. SUTHERLAND: Yes, sir.

14 THE COURT: —the voluntariness of the
15 verbal statement or the voluntariness of State's 4;
16 but I have, I have concerns that it would be looked
17 at more like a police report. Now I will say this,
18 Solicitor, that's as far as the case in chief. You
19 know, subject to cross-examination that's a
20 different evidentiary rule, one to look at as to
21 whether or not, whether or not the party could be
22 impeached by a document unsigned which is not his
23 written statement. He can certainly be impeached;
24 but whether or not it would be admissible —

25 MS. SIMPSON: Your Honor, just so I'm

1 clear.

2 THE COURT: Yes, ma'am.

3 MS. SIMPSON: To make sure the witness is,
4 testifies completely. He can actually —
5 Investigator Unger can actually publish the
6 statement in question/answer format; it's just that
7 the physical statement itself is not coming in,
8 correct?

9 MR. SUTHERLAND: Well, I — as far as him
10 speaking about the conversation and what was relayed
11 to him, I mean, that's perfectly understandable.
12 Our only objection was the submission to the jury.

13 THE COURT: I think he can. I think he
14 can publish it.

15 MR. SUTHERLAND: Yes, Your Honor.

16 THE COURT: And I think perhaps if the
17 case goes to the jury — I don't prejudge a case —
18 but if the case goes to a jury, the first question
19 they may ask is can we see a copy of the documents
20 that the officer prepared on the statement of
21 defendant so he can go through it fully and
22 completely. He can testify to it, and it can be
23 identified as State's Exhibit No. 4 for
24 identification purposes only. But I don't think the
25 document itself can go into evidence. Does that

1 clarify?

2 MS. SIMPSON: It is. Thank you, Your
3 Honor.

4 THE COURT: Thank you. Mr. Sutherland?

5 MR. SUTHERLAND: Yes, sir. Thank you,
6 Your Honor.

7 THE COURT: All right. The other thing
8 is, when I looked at State versus Floyd and Tate and
9 Stevens on I believe it would be State's Exhibit No.
10 1, that's the photographic lineup that Mr. Frazier
11 identified and he circled and initialed. That's the
12 one he says he remembered. When you look at those
13 three factors under State v. Floyd, the question of
14 the introduction — well, the statement is recorded
15 as the introduction of, quote, mug shot of the
16 defendant is reversible error unless: Number one,
17 the State has a demonstrable need to introduce the
18 photograph; number two, the photograph shown to the
19 jury does not suggest the defendant has a criminal
20 record; and number three, the photograph is not
21 introduced in such a way as to draw attention to its
22 origin or implication. Upon proper redaction of
23 State's Exhibit No. 1, I believe — or number 1,
24 there's been no testimony that any of these are mug
25 shots or booking reports as far as testimony from

1 the witness stand as I recall it. If there has been
2 such testimony and I just don't recall it, I think
3 identification is always an issue for the State, and
4 I don't think just because a defendant says, well,
5 I'm not gonna challenge identification, that that
6 then makes that prong not provable by the State. I
7 think the State has to prove its case beyond a
8 reasonable doubt including the identification of the
9 defendant, not that the identification of the
10 defendant with the photograph circled and initialed
11 to Jabriel Singleton, but that the photograph
12 circled and initialed is the shooter of Frazier
13 and/or of Mr. Jones and is identified as such by
14 Mr. Frazier, the victim, was the alleged attempted
15 murder. So I think the State has that demonstrative
16 need to introduce the photograph, even given the
17 position of the Defendant. We're not going to
18 question the identification.

19 Number two, the photograph shown to the
20 jury does not suggest that the defendant has a
21 criminal record. If it's properly redacted it would
22 not suggest that. All of the individuals' head
23 shots, neck shots, partially their shoulders.
24 They're dressed differently in civilian clothes.
25 One may have on a jumpsuit that is still difficult

1 to determine if that's correct or not, or the
2 redaction should include the redaction of the
3 numbers below each photograph and the redactions at
4 the bottom of the page concerning jail Richland
5 Online.com. And the third aspect is the photograph
6 is not introduced in such a way to draw attention to
7 its origin or implication, and that's by way of not
8 eliciting testimony from the officer that it come
9 from a data bank of those who have previously been
10 arrested for something of this nature. So I would
11 allow, if there is proper redaction of State's 1 in
12 evidence. Mr. Frazier does not recall State's
13 Exhibit No. 2.

14 MS. CAVANAUGH: That's correct.

15 THE COURT: So that would just — that's
16 not — that would not be allowed into evidence. I
17 understand you're not offering that at this time.

18 MS. CAVANAUGH: No, you're okay.

19 THE COURT: All right. Anything further
20 on that point then, Solicitor?

21 MS. CAVANAUGH: As far as the redactions
22 are concerned the bottom website information will be
23 ease just to trim off. The numbers, I guess, we'll
24 just have to white it out with the — in the least
25 obvious manner. It will be under each of them.

1 THE COURT: All right. Well, I mean, just
2 show it, show it to -- well, let me ask,
3 Mr. Sutherland, do you have anything to add?

4 MR. SUTHERLAND: No, sir. I understand
5 the Court's ruling and their redaction is going to
6 be the inmate number and of the jail at Richland
7 Online.com and on the bottom. And it's -- as long
8 as it's unapparent as possible. I know they have --
9 well, shoot. Perhaps they would be able to, perhaps
10 submit a photocopy of it if they would white
11 everything out and photocopy it and submit that, I
12 think that'd be the easiest way just in my opinion
13 to comply with.

14 THE COURT: Sure. And I'll will be glad
15 to look at the redacted version, Solicitor, and I
16 will be glad to look at it.

17 MR. SUTHERLAND: Yes, sir.

18 THE COURT: All right?

19 MS. CAVANAUGH: Yes, sir.

20 THE COURT: All right. Thank you,
21 Solicitor.

22 The third thing is, is there a firearm in
23 this case?

24 MS. CAVANAUGH: There is -- there is no
25 firearm recovered in this case. There's not a

1 firearm in evidence, Your Honor.

2 THE COURT: All right. So there would not
3 be a firearm displayed to the jury during the course
4 of this trial?

5 MS. CAVANAUGH: That's correct.

6 THE COURT: All right. By either side?

7 MR. SUTHERLAND: No, sir.

8 THE COURT: All right, thank you. Thank
9 you very much. Anything further, Solicitor, before
10 we bring out our jury?

11 MS. CAVANAUGH: Your Honor, we would just
12 like to review our reciprocal Rule 5 at this time.
13 Mr. Sutherland handed us a witness list. While it
14 is short we have not received anything in response
15 to our reciprocal Rule 5.

16 THE COURT: All right. Mr. Sutherland.

17 MR. SUTHERLAND: I have nothing for them,
18 Your Honor.

19 THE COURT: All right. Anything further
20 from the Defense, Mr. Sutherland?

21 MR. SUTHERLAND: No, sir.

22 THE COURT: All right, thank you. Thank
23 you very much. All right, see if you can wrangle
24 our jury in here for us please if they're all here.

25 THE BAILIFF: Yes, sir. All jurors are

1 present.

2 THE COURT: Thank you. Thank you very
3 much, Madam Bailiff.

4 Madam Clerk, would you place our jurors
5 under oath.

6 (Whereupon, the jury was sworn.)

7 CLERK: Thank you. You may be seated.

8 THE COURT: Madame Forelady, ladies and
9 gentlemen of the jury, good morning. I hope y'all
10 had a pleasant evening. Welcome back. I appreciate
11 your promptness. I assure you the delay of getting
12 you out in the courtroom about ten minutes after the
13 appointed start time had nothing to do with the
14 parties in this matter. They were here not on time
15 but early working very diligently to move the trial
16 along. I would be remiss if I didn't draw your
17 attention to we have our another court reporter
18 today, Ms. Holmes. I've worked with Ms. Holmes many
19 times in the past and always a pleasure to work with
20 her here in Richland County.

21 And Mr. Foreman, ladies and gentlemen, the
22 case we're about to try is the case of the State v.
23 Jabriel Iaprince Singleton. I would ask you to
24 please give me your complete and undivided attention
25 as I give you some opening instructions. What I now

1 say is intended to serve as an introduction to the
2 trial of this case. My remarks at this time are not
3 a charge or instruction on the law. I will instruct
4 you on the law that applies to this case at the end
5 of the trial before you retire to your verdict.
6 This is just merely an explanation of the procedures
7 we will follow in the trial so that you will better
8 understand what may be happening.

9 I noticed you all have note pads and pens
10 and there was a request yesterday as to whether or
11 not you would be allowed to take notes. You may
12 take notes during the trial of this case; however,
13 please remember that some people are better note
14 takers than others. I actually happen to be a very
15 good note taker. I just can't read them at the end
16 when I go back and review them. A juror's notes, I
17 would advise, should not be given any greater weight
18 than the recollection or memory of other jurors.
19 The recollections of individual jurors should be
20 considered as reliable as notes taken by other
21 jurors.

22 I would also point out to you that when
23 you're taking notes you may not notice the body
24 language or the demeanor of a particular witness
25 while on the witness stand which may be used by you

1 in deciding a witness's credibility. I would also
2 advise that during the course of the trial when we
3 take breaks or lunch and recesses or over the even
4 recesses I'll ask you to leave your notes upside
5 down on your chair and then upon your return they
6 will be there. You cannot have them in your jury
7 room until the case is submitted to you for your
8 deliberations. The notes will be secured so you may
9 want to write your juror number on them. Your notes
10 will be secured by the Clerk's Office during the
11 recesses, either lunch break in the morning or
12 overnight.

13 Jabriel Laprinice Singleton, the defendant
14 in this case, is charged by indictments filed with
15 this Court with the crime of murder and attempted
16 murder, the elements of which will be explained to
17 you later. Again, ladies and gentlemen, these
18 indictments are simply the charge by which the cases
19 are brought into court, and they are not in any
20 sense evidence of any of the allegations they
21 contain. The defendant has pled not guilty to these
22 indictments the. State to my front right,
23 therefore, has the burden of proof of proving each
24 of the elements of the indictments beyond a
25 reasonable doubt. I always try to remember that the

1 party closest to the jury has the burden of proof in
2 the case. The State has the burden of proving its
3 case beyond a reasonable doubt, and it will be your
4 duty, ladies and gentlemen to decide whether the
5 State meets its burden.

6 Your purpose as jurors is to find and
7 determine the facts. You are the sole judge of the
8 facts. If at any time I make any comment concerning
9 the facts you must disregard it. You are to
10 determine the facts from the testimony that you hear
11 and any other evidence introduced into court. It is
12 you to determine the inferences which you feel may
13 properly be drawn from the evidence. It is
14 especially important that you perform your duty of
15 determining the facts diligently and conscientiously
16 because ordinarily there is no way to correct an
17 erroneous determination of the facts by a juror.

18 Now, on the other hand and with equal
19 emphasis, the same law that make you the judges of
20 the facts make me the judge of the law. The law as
21 given by the Court is the only law you may consider.
22 You must accept and follow it even though you may
23 disagree with it. I cannot tell you what the facts
24 are, and you cannot disagree with me about what the
25 law is or should be. Your job is to take the law as

1 I give it to you and apply it to the facts as you
2 find them to be from the testimony of the witnesses
3 testifying under oath and any other evidence that is
4 introduced. After doing that, you will render your
5 verdict a true and just verdicts under the solemn
6 oath that you have just taken as jurors.

7 It is important that you keep an open mind
8 and not decide any issues in the case until all of
9 the evidence has been presented, the parties have
10 made their closing arguments, and I have instructed
11 you on the law that you must apply. It is your
12 solemn responsibility to determine the guilt or the
13 innocence of the defendant, and your verdicts must
14 be based solely on the evidence as it is presented
15 to you during this trial and on the law as I
16 instruct you during and at the close of the trial.

17 Now, in just a moment the Solicitor will
18 make what is called an opening statement in which
19 the Solicitor will explain to you the issues in the
20 case or at least what the Solicitor thinks the
21 issues are in the case. Mr. Sutherland, the
22 attorney for the defendant, may also make an opening
23 statement, although he is not required to do so.
24 What the attorneys tell you during their opening
25 statements or closing arguments is not evidence in

1 the case. It is only their contention as to what
2 the issues are. Further, ladies and gentlemen, the
3 questions of the attorneys is not evidence. That is
4 the frame work by which the testimony is extracted
5 from the witnesses testifying under oath. It is the
6 responses of the witnesses to the questions of the
7 attorneys that is the evidence in the case that you
8 must base your rulings on the facts and the
9 credibility of those witnesses on. The evidence
10 will be presented to you by the testimony of those
11 sworn witnesses from the witness stand and by any
12 exhibits that may be introduced into evidence.

13 From time to time during the trial you may
14 hear — or during this trial, you may hear one of
15 the attorneys say something like, Your Honor, I
16 believe we have a question of law or a matter of law
17 to discuss with you; or Your Honor, may we approach
18 the Bench. Or sometimes I myself might find it
19 necessary to excuse you from the courtroom for a
20 short while so that the attorneys and I can discuss
21 a matter of law. The reason for this is because you
22 are the judges of the facts in this case; and
23 sometimes when I am discussing matters of law with
24 the attorneys, it may be necessary for me to make
25 some comment as to the facts in connection with

1 ruling whether or not a particular law applies. I
2 am not supposed to tell you what I think the facts
3 are so I will excuse you from the courtroom while
4 these discussions take place so that in no way will
5 you be influenced by anything that I might say or do
6 in connection with the facts.

7 In determining what the true facts are,
8 ladies and gentlemen, in using your good judgment
9 and your common sense you must decide whether or not
10 the testimony of the witnesses is believable. It
11 will be my responsibility to rule as a matter of law
12 as to whether or not certain testimony is admissible
13 at all or not. But once the testimony is admitted,
14 whether or not you believe it is solely for you the
15 jury to determine. In deciding whether to believe a
16 witness you have right to consider the interest of
17 any witness, the bias of any witness, the prejudice
18 of any witness, the opportunity for the witness to
19 have seen or heard the things of the matters about
20 which he or she may testify and the demeanor, or the
21 way the witness acts on the witness stand. You have
22 a right to consider anything that is in the record
23 that will help you evaluate the testimony of the
24 witness. That means it will be your duty to pay
25 close attention to these witnesses, to observe them,

1 to listen to them, to pay close attention to the
2 attorneys and to the Court. Don't let your thoughts
3 wander but give strict attention to the testimony in
4 this case so that at the end of all of the testimony
5 after the closing arguments by the attorneys, the
6 instruction on the law by the Court, you will then
7 be in the position to determine what the true facts
8 are and to apply the law to those facts as you find
9 them to be and thus render fair and just verdicts in
10 this case.

11 It will be your added responsibility, Mr.
12 Foreman, to preside in the jury room and to be the
13 jury's spokesperson here in court. It will also be
14 your duty to write the verdict, but I will give you
15 further instructions about that at the conclusion
16 over the case.

17 Just a couple of administrative matters.
18 Many times during the course of the trial if a
19 document is introduced or a photograph or like, it
20 may be handed to our foreperson while you're out
21 here in the courtroom in your jury box and passed
22 among members of the jury. You may look at that
23 item or that items all you wish. Please keep in
24 mind, if I allow an item into evidence you will also
25 have it with you in your jury room at the time of

1 your deliberations so that will not be the only
2 opportunity, the only time you get to view a
3 photograph or a document or any other type of item
4 of evidence. I don't know what may or may not be
5 introduced; I just tell you that. Again, look at it
6 all you wish to in the courtroom keeping in mind you
7 will have it in your jury room also.

8 Breaks, I have a real simple rule about
9 taking break. It works really well. When I want to
10 take a break we take a break. That just works out
11 great. Well, this is not some type of a judicial
12 marathon. If you sit out here too long listening
13 is — listening, you have to keep focused to listen.

14 If you lose your focus, if your thoughts start to
15 wander, if you need a break, please raise your hand.
16 Y'all will take y'all's break; we will take our
17 break. This is not some type of judicial marathon
18 in any manner whatsoever, so please, let me know and
19 we will accommodate you in that regard.

20 If a witness is testifying and you cannot
21 hear the witness, particularly those of you a little
22 bit further away, again, please let he know. There
23 is a speaker system in here; however, if you cannot
24 hear a particular witness just raise your hand and
25 we'll — if you can't hear the testimony you won't

1 able to evaluate and determine what the true facts
2 are. Again, please, please, let me know.

3 All right. In order to preserve
4 everyone's rights, I will give the parties an
5 opportunity to object to anything I said to the
6 jury.

7 Any objection from the State, Solicitor?

8 MS. SIMPSON: No, Your Honor.

9 THE COURT: From the Defense,
10 Mr. Sutherland?

11 MR. SUTHERLAND: No, sir.

12 THE COURT: All right. With that we will
13 now begin the trial. Solicitor, you may address the
14 jury.

15 MS. SIMPSON: Thank you, Your Honor, may
16 it please the Court.

17 Not one, but two, two lives forever
18 changed the hands of the defendant Jabriel
19 Singleton. First, Dashawn Jones fondly referred to
20 by his friends and family as King Breeze or simply
21 Breeze. His life was changed in the most permanent
22 way, ended far too soon at the young age of 25,
23 leaving his family without a son, a brother, an
24 uncle, a cousin, and his young child without a
25 father.

1 MR. SUTHERLAND: Objection, Your Honor.
2 I'm sorry that's technically it's inflammatory.

3 THE COURT: I can't hear you.

4 MR. SUTHERLAND: It's inflammatory, Your
5 Honor.

6 THE COURT: All right. Well, Solicitor,
7 you can move along. Thank you, thank you very much.
8 I will advise the jury at the close of the case that
9 you cannot base your verdict on compassion,
10 prejudice, or any other type of emotion. That would
11 not be at issue in the case. Thank you. Thank you
12 very much.

13 You may continue, Solicitor.

14 MS. SIMPSON: Thank you, Your Honor.

15 Shawn was found in the driver's seat of
16 his girlfriend's car. He suffered eight gunshot
17 wounds, six bullets would be recovered from inside
18 his body. Eight shots: One to the right clavicle,
19 one to his right shoulder, one to his arm, one to
20 his upper leg, two to his abdomen, and one to his
21 head, and one to his forehead close range, I submit,
22 execution style. Nearly all of these shots were
23 fatal. Unarmed, he never saw it coming, never had
24 it coming, and certainly didn't deserve to die this
25 way. Not one, but two lives forever changed.

1 Second, Jonathan Frazier, left for dead by
2 the defendant. Fortunately he survived, but at what
3 cost? Sitting in the passenger seat of the vehicle
4 he hears the shots, realizes Shawn's been hit and
5 he's been hit. He passes out briefly and he comes
6 to, and he sees the defendant now standing on the
7 driver's side of the vehicle reloading his 357
8 (indicating) revolver. His only thought, I cannot
9 die this way, I don't want to die like this. And so
10 unarmed and weak, issues with breathing, he fights
11 to survive. He rushes at the defendant and they
12 struggle for the gun, but the defendant is able to
13 maintain the control he had all along. And he backs
14 Jonathan back into the car at gunpoint, more shots,
15 and Jonathan passes out again. And I submit that
16 him passing out just very well may have saved his
17 life because the defendant thought he was dead,
18 thought he finished the job. And when Jonathan came
19 to, he saw Deshawn's lifeless body in the driver's
20 seat of the car and realizes he's been shot in the
21 neck and the shoulder, is bleeding, there's a hole
22 through his hand, and he crawls to the dirt road and
23 somehow manages to get to his feet to find help and
24 he does. But Jonathan didn't just suffer the life
25 threatening injuries that day or the permanent

1 physical injuries that he carries with him now. The
2 mental damage is perhaps the greatest. His own life
3 inches away from death, seeing his best friend shot
4 and brutally murdered in front of him. Never
5 trusting, always looking over his shoulder, never
6 wanting to be around people.

7 Oh, the defendant took much more from
8 Jonathan that day, something that he will never get
9 back. And all this for what? Several hundred
10 dollars, some weed, marijuana that the defendant was
11 never going to sale them anyway. Make no mistake
12 about it, members of the jury, whatever his reasons,
13 this was, this is cold-blooded murder.

14 So what happened on January 24th of 2012?
15 Well, it started out like any other day. Dashawn
16 went to his friend Jonathan's house to pick him up
17 sometime in the late morning so that they could hang
18 out. They drove to a recording studio as they often
19 did, and Jonathan will tell you how they arrived.
20 They hung out for a short time and Dashawn was seen
21 talking to the defendant. And Dashawn tells
22 Jonathan, come on, let's go. When they get in the
23 car Dashawn tells Jonathan I've actually set up to
24 buy a few ounces of weed and an X-box from Jabriel.
25 We're supposed to meet him at his girlfriend's house

1 on 2121 Daly Street. Jonathan says, all right. So
2 they drive to the defendant's girlfriend's house,
3 and you will learn that her name is Kenyatta
4 Hickman. Well, they get there and they await for
5 the defendant to arrive for a period of time.
6 Finally the defendant shows up. When he does he
7 asked Dashawn, can you take my girlfriend and her
8 friend to Zaxby's. Shawn says, yeah, sure. And at
9 this point Dashawn is driving, Jonathan is in the
10 front passenger seat of the vehicle, the defendant
11 seated in the back seat along with Kenyatta and her
12 friend. So Dashawn goes to the Zaxby's and he drops
13 the girls off leaving only Dashawn, Jonathan, and
14 the defendant in the car.

15 Well, the defendant tells them they're
16 going to the country and that is essentially what
17 they call the Hopkins area. Now Dashawn knew
18 Hopkins, and so he drove; he knew how to get there.
19 But when they arrived it was the defendant who was
20 directing them where to go, where to turn, where
21 they needed to be. And they drove around for a
22 period of time smoking a little bit of marijuana,
23 small talk. Jonathan will tell you everything was
24 fine. The defendant even had his gun out, but
25 Jonathan didn't think anything of it. They were

1 just driving around and Jonathan knew the defendant.
2 Dashawn knew him even better. There was nothing
3 threatening or suspicious about this situation. And
4 finally, the defendant directs them down a dirt
5 road, Prioleau Road out in Hopkins. And he tells
6 him, hey, go right there (indicating). And it's in
7 front of a house. And this property you'll learn
8 about, fairly big yard, woods surrounding it, and
9 the dirt road, somewhat secluded. It's about early
10 afternoon at this point. Dashawn backs in the car,
11 puts it in park, keys still in the ignition.

12 They're still talking and everything is fine.
13 Jonathan will tell you they assumed they were just
14 waiting on T-man to show up, that this is where they
15 were supposed to be per the defendant.

16 Now the defendant gets out of the back
17 passenger side of the vehicle. Shawn and Jonathan
18 still seated in car. And he has his gun. And he
19 asked Jonathan, hey man, you want to shoot my gun?
20 Jonathan is like, no, I don't want to shoot another
21 man's gun. There in the county they're hanging out.
22 Shawn even picks at him a little bit for not wanting
23 to shoot the gun, but the next thing he hears are
24 shots. Jonathan assumes that the defendant is just
25 shooting in the air, but then the driver's side

1 window shatters and Jonathan realizes that they're
2 being shot at. He's been hit; Dashawn's been hit.
3 And Jonathan passes out, comes to, and now he sees
4 the defendant on the driver's side of the vehicle,
5 as I told you earlier, reloading that 357 revolver.
6 That takes effort. And Jonathan looking at the
7 defendant, I don't want to die, I cannot die like
8 this. Unarmed he rushes him. As I said, they
9 struggled. The defendant backs him up at gunpoint
10 to the passenger seat where he was seated and
11 demands his cell phone. Give me your cell phone,
12 man, I got to go. Jonathan tosses it. And give me
13 the keys too. But Jonathan will tell you, he didn't
14 want to turn because the minute he did he knew the
15 defendant was going to shoot him in the back of the
16 head, but more shots. And Jonathan passes out. He
17 comes to, Dashawn isn't moving, and he's bleeding
18 from the neck and shoulder. Gunshot wound, hole in
19 his hand, and he crawls through the yard to Prioleau
20 Road where he gets to his feet and walks s for help.
21 Fortunately he ends up at Monica Howell's who you'll
22 hear from. Now her front door was open, but the
23 glass storm door was closed and Jonathan makes his
24 way up to the front porch and fortunately for him,
25 Monica happened to be home helping her mother. He

1 begins banging on the storm door, help me please,
2 help me please. Monica comes to the door and sees
3 Jonathan, sees the wound, sees the blood. She
4 remembers so much blood. And she doesn't know him
5 and doesn't even realize that this is real just yet;
6 but there's Jonathan, help me please, I'm not going
7 to hurt you, I need to hide, he's going to kill me.
8 Monica calls 9-1-1. She's on the phone with the
9 9-1-1 operator telling Jonathan, help is on the way.
10 Operator is asking what's happening, what's going
11 on. And Monica is relaying that to Jonathan on the
12 front porch. Operator says, who shot him, who shot
13 him? Ja-bi-ja something, something like Jabriel.
14 Now, Jonathan is having trouble breathing. He's
15 been shot in the neck, and they're on the phone with
16 the 9-11 operator.

17 Shortly thereafter, Jonathan his face and
18 voice full of fear begins pointing, there is he,
19 that's him, he's going to kill me. Monica looks out
20 the door and sees a black male, skinny, wearing all
21 black, coming down that dirt road that is just
22 beside her house and up the road in front of her
23 towards Minervaville, which you'll learn about. And
24 he is running away from the sirens that are quickly
25 closing in. Short time after that officers arrived.

1 And you're gonna hear from Deputy Ellis who
2 encountered Jonathan, what happened, do you know who
3 shot you? Jabriel, Jabriel. But they don't know
4 about Dashawn yet until Jonathan is being loaded up
5 into EMS into the ambulance, he says what about my
6 friend, what about my friend, he's down the dirt
7 road. And Jonathan is transported with life
8 threatening injuries. And Deputy Ellis goes down
9 that dirt road because it's right by Monica's house
10 so she assumes maybe this is it. She goes down the
11 road and she finds Dashawn in the driver's seat of
12 the car. Investigators are called out to the scene.
13 Now the suspect is nowhere to be found so K-9 units
14 are called out. One K-9 unit is called out to
15 search for the suspect. A second unit is called out
16 to do what is called a particle search, essentially
17 a search for weapons. Both of those searches
18 occurred with negative results. But the
19 investigations begun and crime scene investigators
20 respond to the scene, and you're gonna hear from
21 them. And they process the scene, collected items
22 of evidence, photographed those items of evidence,
23 collected swabs for possible DNA, lifted for
24 fingerprints, and lifted for gunshot residue, GSR as
25 it's commonly referred to. You're gonna hear from

1 them. They collected a number of items in this case
2 including some spent shell casings that were found
3 at the scene. Now, you will learn from them that
4 all of those spent shell casings bore the same
5 stamp, .38 Winchester, which being shot by a 357
6 revolver and they all matched consistent with having
7 been fired by the same gun.

8 Now of importance, you're also going to
9 learn about a glove that was found at the scene a
10 short distance away from the car, a black glove with
11 a glitter-type star. And this glove becomes
12 important because Jonathan remembers that the
13 defendant had it with him at some point during this
14 shooting. Well, that glove is tested and it comes
15 back with the defendant's DNA as well as gunshot
16 residue, which is consistent with it having been
17 near a gun or holding a gun when they fired.

18 Now, you're gonna to hear about course of
19 the investigation and ultimately investigators are
20 able to develop Jabriel Singleton as the suspect,
21 and so they go to his last known address, his
22 mother's house. But they don't find him and they
23 don't find anything that would lead them to believe
24 that he'd been living there recently. But they do
25 learn the defendant's cell phone number and that

1 cell phone number will ultimately lead them to [REDACTED]
2 [REDACTED], his father's house. Now, numerous units are
3 responding because they are on a search for a
4 suspect. They are on a search for a suspect that is
5 clearly on the run. They arrived at Coral Hill, and
6 officers observe a subject in the woods matching the
7 description of Jabriel and they attempt to apprehend
8 him but are unsuccessful. However, they do locate
9 where that subject was a jacket and a the cell phone
10 that comes back to Jabriel. The investigation
11 continues. The search continues. And ultimately
12 and finally, officers are lead to the America's Best
13 Value Inn which is just off Garner's Ferry here in
14 Columbia away from the Hopkins area, away from where
15 this crime scene occurred, and it's there that they
16 actually apprehend and arrest the defendant who is
17 found hiding behind his girlfriend, Kenyatta
18 Hickman, in the bathroom.

19 Now the defendant was arrested for these
20 charges sand advised of his rights and he spoke with
21 law enforcement and he gave a statement. And he
22 indicated in that statement that, yes, he knew them,
23 and that he'd been at the recording studio that day,
24 that he was even gonna, or supposed to sell weed to
25 them but they never got up with them and he was

1 never in Hopkins, never where this crime scene
2 occurred at the time it occurred. He was at his
3 girlfriend's house all day until he went to Club
4 Crush which was located off Broad River.
5 Fortunately for him the phone records in this case
6 and other evidence contradict his statement and
7 showed that he was not where he indicated he was;
8 but I submit that he was in Hopkins and that he did
9 commit these crimes.

10 Now, law enforcement also talked to his
11 girlfriend Kenyatta Hickman and she gave them a
12 statement. She was not under arrest at this time.
13 And they continued their investigation. They
14 reinterviewed Jonathan and at that point they
15 determined that Kenyatta needed to be charged with
16 obstruction of justice based on her statement. And
17 she is currently charged with obstructing justice,
18 and so she was arrested and advised of her rights
19 and gives a second statement, a different statement.

20 Now members of the jury, those are
21 essentially the facts that you will learn throughout
22 this week.

23 Good afternoon, my name is Nicole Simpson,
24 and I along with my cocounsels, Ms. Cavanaugh and
25 John Steadman, together we represent the State of

1 South Carolina, the citizens of Richland County, and
2 the victims in this case.

3 Now as solicitors it is our job to
4 prosecutor all crimes that occur here in Richland
5 County, but I want to take just a moment to thank
6 you, to thank you for your time, your patience, and
7 your service in this case. It is often said that
8 jury duty is perhaps the greatest service that a man
9 or woman can render his or her country during times
10 of peace. Well, that couldn't be more true than it
11 is here today because this is a very important case.
12 It is important to the State, it is important to the
13 Defendant, and it is important to the victims and
14 their family. And while our system of justice could
15 do without the lawyers, could do without the judges,
16 it cannot do without you, and so I thank you.

17 Now, as a result of his actions the
18 defendant has been charged with one count of murder
19 in the death of Dashawn Jones and one count of
20 attempted murder for the shooting of Jonathan
21 Frazier. Now in every criminal case there's an
22 important, very important, legal principle, and that
23 is, that the defendant is presumed innocent until
24 proven guilty and that is how it should be. The
25 State wouldn't have it any other way. And as the

1 State, we bear the burden of proof in this case just
2 as we do in the prosecution of every criminal case.
3 And what that means is that we must prove to you
4 beyond a reasonable doubt each element of the crimes
5 for which the defendant is charged. But remember,
6 that every criminal defendant who is ever convicted
7 at a jury trial started at his trial presumed
8 innocent until he was ultimately found guilty beyond
9 a reasonable doubt by a jury of his peers. So while
10 our burden is high, as it should be, it is not
11 unsurmountable and I can tell you that we welcome
12 our burden here today.

13 Now murder is probably one of our most
14 serious offenses, and yet, has probably the shortest
15 definition. A person is guilty of murder if he
16 kills another with malice aforethought either
17 expressed or implied. Now attempted murder is very
18 similar. It is a person who acts with an intent, an
19 intent to kill another with malice aforethought,
20 either expressed or implied. So what is malice?
21 And you'll hear more about that later, but it is
22 essentially an ill will or hatred. It does not
23 necessarily impart ill will or hatred or hostility
24 toward any specific individual, but rather, a
25 malignant and reckless disregard for the lives and

1 safety of others. It is a depraved and malignant
2 heart.

3 Now members of the jury, with at a minimum
4 nine gunshots to two unarmed victims, I can tell you
5 that this case reeks of malice. And what malice is
6 not, is motive. We don't have to prove motive, and
7 it is also not premeditation. Malice need exist at
8 the time that the fatal blow is struck. And as I
9 said earlier, whatever his motive may have been,
10 this is cold-blooded murder.

11 Now we must prove those elements to you
12 beyond a reasonable doubt. You will hear that
13 phrase a lot, but what exactly is proof beyond a
14 reasonable doubt? It is proof that leaves you
15 firmly convinced of the defendant's guilt. There
16 are very few things that we know in this world with
17 absolute certainty, and the law does not require the
18 State to produce proof that overcomes all doubt or
19 every possible doubt, but only that doubt which is
20 reasonable in the law.

21 Now the roles in this courtroom are very
22 defined. As the State, we serve as ministers of
23 justice and it's our job to bring to you the
24 relevant admissible evidence to prove our case.
25 Defense counsel's job is to represent his client to

1 the best of his ability and ensure his client's
2 right to a fair trial. And as His Honor told you
3 earlier, it is his job to instruct on the law as you
4 are to apply it to the facts in this case. And if
5 ever there's a discrepancy between what any of the
6 attorneys in this case say and His Honor, you are to
7 follow his instructions and his rulings to you. But
8 with that said, no one — and I mean no one — is
9 going to question that you have the most important
10 job in this case because you are the sole judges and
11 finders of fact and what that means is that each of
12 you here today is wearing a black robe and
13 individually and collectively you must decide if the
14 defendant is guilty.

15 Let's be clear, we're not here to solve a
16 mystery; this isn't TV. And we do not expect you to
17 solve a mystery. And as the State, it is our job to
18 give you all the tools that you need to do your
19 jobs, and we plan to do just that through the
20 evidence produced during this trial. Now some of
21 that evidence will be physical evidence, evidence
22 that you can see, you can touch or hear, such as the
23 9-1-1 tape, photographs, diagrams, the shell casings
24 that were collected at the scene, and the glove,
25 things of this nature. But most of that evidence is

1 going to come from right here on this witness stand,
2 and you're going to hear from the number of
3 witnesses. You're going to hear from the responding
4 officer who spoke with Jonathan, as well as Monica
5 Howell, the house that Jonathan was able to get
6 help. And you're gonna hear from the investigators
7 who investigated this case, as well as the crime
8 scene investigators who processed the scene,
9 collected evidence. You're going to here from
10 experts in this case including the DNA analyst who
11 analyzed the DNA as well as the forensic scientist
12 who analyzed the gunshot residue in this case.
13 You're going to hear from an expert regarding cell
14 phone records in this case, as well as the forensic
15 pathologist who conducted the autopsy and removed
16 those six bullets from Dashawn Jones. You're also
17 gonna hear Jonathan Frazier, and he is going to take
18 this witness stand and tell you what happened to
19 him, tell you about how the defendant shot him and
20 his best friend.

21 Now, it's up to you to judge the
22 credibility of each and every witness that takes the
23 stand; and based on your determination, you can
24 believe some of what a witness says or all of what a
25 witness says or you don't have to believe anything

1 that a witness says. You can believe one against
2 many or many against one; that is solely for you to
3 decide. But we do ask that you consider several
4 things: the witness's demeanor on the stand, was
5 that witness hesitant or forthright when testifying,
6 is the testimony of that witness corroborated by
7 other evidence, is it consistent within itself?
8 Perhaps most importantly, did this witness have any
9 reason whatsoever to be biased or prejudice in this
10 case?

11 Now there are two very important witnesses
12 that will not take this witness stand, and that is
13 common sense and human nature. And we are gonna
14 ask that you use your common sense and what you know
15 about human nature when you decide this case. The
16 law, members of the jury, is a pledge that citizens
17 will do justice to one another and the precepts of
18 the are these: To live honorably, to injure no
19 other man, and to render each man his due. I said
20 that the best measure of a society is the quality of
21 its justice, and it is your job, your duty, here
22 today and throughout this week to find the truth and
23 to seek justice and at the end of this case my
24 cocounsel Ms. Kathryn Cavanagh is going to come
25 before you, and she is going to ask you for the

1 victim that the evidence will support and that
2 justice demands. She is going to ask that you find
3 the defendant Jabriel Singleton guilty of murder and
4 guilty of attempted murder. Guilty.

5 THE COURT: Thank you. Thank you,
6 Solicitor.

7 Mr. Sutherland.

8 MR. SUTHERLAND: May it please the Court,
9 Your Honor.

10 THE COURT: Yes, sir.

11 MR. SUTHERLAND: Ladies and gentlemen, we
12 sort of met a little bit yesterday. Again, my name
13 is Tivis, T-I-V-I-S. It's an unusual name. But I'd
14 like to try to sort of bring things into focus a
15 little bit. What we did hear was a story. It's the
16 government's story in this case. It's the
17 government's version of events, their
18 characterization of individuals pleading and so
19 forth and all that kind of business. I mean, that
20 really was calculated to, you know, draw you in and
21 get you on board and to see things through the
22 prison through which they want you to view the
23 evidence in the case. It's actually pretty straight
24 forward. There are going to be a lot of witnesses.
25 As she said, there's gonna be, you know, street

1 cops, investigators, CSI technicians, the fiber
2 people like she said from TV. There are gonna be
3 their lab people, various scientists of DNA and
4 pathologists and all that. The government has
5 experts on everything from anthropology to zoology.
6 They have the resources to come hard out to an
7 American citizen who is accused of a crime. They
8 come out in single spies but then Italians after
9 people; but I think the significant thing for
10 everybody here to remember is, that this is a
11 government accusing a citizen of a crime. They will
12 have to prove that what they say happened and it
13 happened the way that they said it happened, and
14 under those particular circumstances. This isn't a
15 murder at all.

16 I know the solicitor had a chart. I don't
17 know if she showed it to you or not, but murder is
18 pretty start forward. As she said, it's an unlawful
19 killing with malice aforethought. And there was
20 talk about gravity in evil, look at the Latin root
21 of the word malice, you pretty much know anything
22 you need to know in that regard with that particular
23 instruction on malice. The Court is going to give a
24 lot of instructions on the law at the end of the
25 case. I am not going to sit up here and cherry pick

1 one or the other which is try to do a basic
2 explanation of what this is about.

3 Now, in order to get to here (indicating),
4 we have to have an unlawful killing. It may sound
5 kind of intuitive but there is such a thing as
6 lawful killing. It's called self-defense in South
7 Carolina. This is a right that's probably been
8 around since hunter gatherer times and it's
9 developed in our legal system probably going all the
10 way back to the bearings and the Magna Carta through
11 the reformation, the enlightenment, the Declaration
12 of Independence, everything that sort of falls to
13 where we are where we respect the individual more
14 than we respect the power, the authority, the
15 government. That's what this is about. They have a
16 lot of power. They're going to put it on display.
17 That's not going to change the facts of this case.
18 However many times the government lawyers can tell
19 that particular story in the opening and if they
20 want to repeat it two or three times in the closing,
21 it's not going to change the facts of this case.

22 If we don't have an unlawful killing, if
23 it's a lawful killing, we don't even reach the
24 question of malice in this case. I don't want to
25 sit up here and scattershot and potentially be

1 distracting. What I would ask all of you do is go
2 ahead and put aside what I said, put aside what any
3 lawyer has said to you, and listen to the facts
4 objectively and think critically, recognize — she
5 was talking about credibility of witnesses and bias
6 or prejudice. Every one of these government agents
7 coming up here that's going to testify at this trial
8 is here for a purpose; and they, they don't come to
9 lose. Just critically evaluate what you hear. At
10 the end of the day there'll basically be two
11 propositions that you're looking at, was this
12 self-defense or was this murder as the State claims?
13 It's not a murder, it's a case of self-defense. I
14 know the talk of guns, drugs, and money kind of gets
15 people thinking negatively about people. Well, you
16 know, we take people as they are in this county; and
17 if people run around messing around drugs, gun, and
18 money, we still take a matter like this with the
19 utmost seriousness. It's the most great offense
20 that the government can allege against a citizen.
21 It's a dire situation. So please listen to the
22 evidence, keep it in mind, at the end of the case
23 finder of the facts I will have a lot more to say
24 once you've heard the evidence. I won't
25 characterize it beforehand other than to say that

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1 this is a case of self-defense. Thank you. We will
2 be spending a lot of time together.

3 THE COURT: Mr. Sutherland, would you mind
4 taking the —

5 MR. SUTHERLAND: Oh, yes, sir sorry.

6 THE COURT: —down. Thank you. Thank
7 you very much, Mr. Sutherland.

8 Solicitor, you may call your first
9 witness.

10 MS. SIMPSON: The State calls Deputy
11 Kristen Ellis.

12 WHEREUPON,

13 **KRISTEN ELLIS,**
14 after having been duly sworn, testified as follows:

15 THE CLERK: Have a seat in the witness
16 chair. State your name for the record and please
17 spell your first name.

18 THE WITNESS: My name is Kristen Ellis,
19 K-R-I-S-T-E-N. Last name is E-L-L-I-S.

20 **DIRECT EXAMINATION**

21 **BY MS. SIMPSON:**

22 Q Where are you employed?

23 A Richland County Sheriff's Department.

24 Q And how long have you been with Richland County?

25 A May will be three years.

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1 Q Three years?

2 A Uh-huh.

3 Q And what do you do there?

4 A I'm a road deputy. I work the road.

5 Q And as a road deputy tell the jury a little bit
6 about what you do?

7 A We respond to calls of service when people are in
8 need of, you know, any kind of — when you call
9 9-1-1 we're the one — we're the people that respond
10 to y'all.

11 Q So any, any type of call from —

12 A Any type.

13 Q —assaults to murder?

14 A To losing a cat to murders to larcenies. You
15 know, anything that citizens need help with.

16 Q And back on January 24th of 2012 were you working
17 in that capacity as road deputy?

18 A Yes, I was.

19 Q And did you actually have the opportunity to
20 become involved in this case?

21 A Yes, I did.

22 Q Can you tell us about that?

23 A With the — what occurred on January 24th?

24 Q Tell us how and when you responded?

25 A Okay. On January 24th, 2012, we received a

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1 dispatched call to a gentleman who had been shot.
2 All road deputies, when we get calls like that we
3 respond lights and siren. Upon arrival myself and a
4 couple of other deputies observed, ran up to the
5 house and observed the — Mr. Frazier sitting on the
6 front porch. He was leaning against the brick
7 column. He wasn't taking very well. I immediately
8 saw a hole through his right hand. He was not being
9 able to breathe. He said he had got shot in the
10 neck. I did see a bullet hole in the side of his
11 neck. He started talking about a man was dressed in
12 all black. That got put out on the radio. Other
13 deputies immediately swarmed the area trying to find
14 the subject. He was -- he was still trying to talk.
15 He kept asking me — I can't breathe, I can't
16 breathe, where's EMS. I said, they're coming,
17 they're coming, do you know who did this to you? He
18 said Jabriel. That's all I could get out of him.
19 And he kept asking me, you know, where's EMS. I
20 asked him, don't talk, you can't breathe well, just
21 wait for EMS, they're coming, I promise. EMS got
22 there. They started removing his clothes to make
23 sure there was no more bullet wounds. Upon getting
24 loaded up on the EMS he mentioned his friend. He
25 said, my friend, my friend. I said, who, who are

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1 you talking about? He said, my friend, he was with
2 me, he got shot, I think he's dead. And I said
3 okay. And so he got pissed off with EMS 'cause he
4 was not doing well.

5 Q Let me stop you just for a moment.

6 A Uh-huh.

7 Q And do you have your report with you?

8 A I do.

9 Q Do you recall what time you actually got the call
10 and when you responded?

11 A The call came in at 2:30 and I responded six
12 minutes later at 2:36.

13 Q Okay. so you were fairly close, quick response?

14 A Yes.

15 Q Where exactly did you respond to?

16 A We responded to 212 Masonry Circle.

17 Q And is that here in Richland County?

18 A It is.

19 Q Okay. And so, I guess now we're up to the point
20 where Jonathan has told you about his friend?

21 A Uh-huh, yes, ma'am.

22 Q What —

23 MR. SUTHERLAND: Judge, sorry, just, it's
24 too much hearsay, sir.

25 THE COURT: I don't know how to respond to

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1 —

2 MR. SUTHERLAND: Objection to the hearsay
3 rule respect to what Jonathan Frazier —

4 THE COURT: I sustain your objection as to
5 the hearsay but I don't think that question
6 specifically was.

7 MR. SUTHERLAND: Yes, sir, I had just been
8 sort of sitting there —

9 THE COURT: Rephrase the question again,
10 Solicitor.

11 BY MS. SIMPSON:

12 Q Okay. Once you received information from
13 Jonathan — don't tell us what it was — but what
14 did you do?

15 A After I received that information I jumped into
16 my vehicle because he was being transported. There
17 was nothing for me to do there. I jumped,
18 immediately jumped in my vehicle, a dirt road was
19 mentioned. I drove down the dirt road creeping
20 along because I didn't know where I was supposed to
21 find his friend. My came around the corner on
22 Prioleau and noticed a vehicle backed into a
23 driveway which ended up being 157 Prioleau.

24 Q So that's really close to Masonry?

25 A It is. The house — Masonry Circle, the house on

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1 Masonry Circle, and then right if you're looking a
2 the house right to the left of the house is the dirt
3 road.

4 Q Okay, and that's Prioleau?

5 A Yes, ma'am. And then you go up the dirt road.
6 You round the short sharp corner to the right, and
7 then a little ways up about 100-yards up you can see
8 a house. That's where I noticed the vehicle. I
9 came over the road and said that I'd found a
10 vehicle. At that point I couldn't see anything yet.
11 I got out of my vehicle and walked up to the
12 vehicle, and that's when I immediately noticed that
13 there was a window that had been shattered. I put
14 that on my radio so I had other units coming to me
15 at this point. Upon approaching the vehicle I
16 noticed the victim in the driver's side
17 unresponsive.

18 Q And briefly, I know we said about 100-yards off
19 the road. Can you describe the location at Prioleau
20 Road, the area?

21 A Left side is nothing but woods. On the right
22 side of the house there's woods and then it opens up
23 into a, you know, the area where the house is
24 sitting in a small field, the house. And then
25 there's other woods that are separating other

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1 houses.

2 Q Okay, and so you observed Dashawn or —

3 A As —

4 Q Has he been identified at that point?

5 A He had not been identified at this point, no,
6 ma'am.

7 Q And other units are in response?

8 A Yes, ma'am.

9 Q What, what was your next step?

10 A Immediately, as soon as I observed, you know, it
11 was very obvious that he was unresponsive.
12 Immediately set up a — immediately backed away from
13 the vehicle. My supervisors were in route. I
14 got — went to my car, got out my crime scene tape
15 which we'll all supposed to have in the back of our
16 cars and taped off the area, including the vehicle
17 and the entire house.

18 Q And so you were actually the one who set up the
19 crime scene tape?

20 A I did.

21 Q And how large would you say this perimeter was?

22 A Oh, boy.

23 Q Just an estimate will be fine?

24 A Okay. I don't even know.

25 Q Fairly large?

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1 A Yeah, I mean, half an acre, fourth of an acre.
2 I'm not very good. It included the house. It
3 included from the wood line to the house which was
4 about 100-yards so it included from that wood line
5 all around the house. The house isn't huge but it's
6 not small either.

7 Q Uh-huh.

8 A And then back around there along the roadway.

9 Q And what exactly does a secure crime scene entail
10 as far as you were concerned?

11 A I'm ---

12 Q Setting up the crime scene tape, did do you
13 anything else?

14 A Yes. A crime scene log is immediately created
15 and the responding officer is the one who creates
16 the crime scene log which logs in anybody who comes
17 to that scene and crosses over that tape, they have
18 to be logged into this crime scene log.

19 Q And were you actually responsible for maintaining
20 the log in this case?

21 A Yes, I was.

22 Q And once investigators arrived what do you do?

23 A Stand by, continue keeping up with the crime
24 scene log and anything that the investigators need
25 from me.

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1 Q Okay. So it's not really your job to interview
2 witnesses or collect evidence?

3 A No, ma'am, that's not my job.

4 Q Okay, and do you have any more involvement with
5 respect to the case?

6 A No, ma'am.

7 MS. SIMPSON: Beg the Court's indulgence.

8 THE COURT: Yes, ma'am.

9 BY MS. SIMPSON:

10 Q And we kind of have two locations, the Masonry
11 Circle and the 157 Prioleau Road?

12 A Correct.

13 Q What county is the 157 Prioleau Road located in?

14 A Both in Richland County.

15 Q Both in Richland County?

16 A Yes, ma'am.

17 Q Thank you.

18 THE COURT: Thank you, Solicitor.

19 Mr. Sutherland.

20 MR. SUTHERLAND: Please the Court, sir.

21 THE COURT: Yes, sir.

22 **CROSS - EXAMINATION**

23 **BY MR. SUTHERLAND:**

24 Q Ms. Ellis, how are you?

25 A I'm good, how are you?

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1 Q Good, good. I was wondering, do you have your
2 incident report with you?

3 A I do.

4 Q You mind if I take it?

5 MR. SUTHERLAND: May I approach, Judge.

6 THE COURT: Yes, sir, certainly.

7 BY MR. SUTHERLAND:

8 Q Do you mind if I take a look at it?

9 A There's a couple different copies of it. I have
10 Ace's and —

11 THE COURT: I'm sorry, I can't hear when
12 y'all talk real close. You tend to take a little
13 soft. If you talk any softer you may as well not
14 talk at all.

15 BY MR. SUTHERLAND:

16 Q So you have the Ace's computer version?

17 A I also have my version —

18 Q Okay. And —

19 A —which is not.

20 Q That's what I was interested in.

21 A It's not a complete — you have to go to Aces.

22 Q Well, what is —

23 A For some reason our doesn't print out the entire
24 copy.

25 Q Well, what had happened was I didn't have page

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1 two of your report, and there's not going to be a
2 lot of quibbling on here, you know, with —

3 MS. SIMPSON: Objection, Your Honor, is
4 that a question for the witness?

5 THE COURT: Yes, sir, if would you ask her
6 a question.

7 MR. SUTHERLAND: Okay, sorry.

8 THE COURT: That's all right.

9 BY MR. SUTHERLAND:

10 Q And this is what I received?

11 A Okay.

12 Q And I was wondering if you see any problems with
13 what I received from the State as far as your
14 report, like the name down there?

15 MS. SIMPSON: Objection, Your Honor, any
16 problems is a little vague and overbroad. If he
17 could just be a little more specific in what he's
18 asking.

19 THE COURT: Rephrase your question, Mr.
20 Sutherland.

21 BY MR. SUTHERLAND:

22 Q You see where your name is on your report?

23 A Yes, this isn't mine.

24 Q And that — but that has the same language as
25 your report, doesn't it?

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1 A Yes, I have no idea why that gentleman -- I know
2 who that is but he's not the one that wrote the
3 report.

4 Q Okay. And I'm just sort of curious as to how
5 that happened. The name Mark Anthony Patterson?

6 A Uh-huh.

7 Q And obviously you're Kristen Ellis?

8 A Correct.

9 Q And there a couple more, I think a couple of more
10 differences. On your report you had as the
11 suspect's name unknown black male?

12 A Correct.

13 Q And here it has Mr. Singleton, Jabriel Laprinice
14 Singleton on it?

15 A Where do you see Jabriel Singleton?

16 Q Oh, just suspect. Under suspect on there.

17 A Okay.

18 Q On yours it just says unknown black male and on
19 this one it has Singleton, Jabriel (indicating)?

20 A I mean the wording, the wording is mine so I'm --
21 I would have --

22 Q But just on yours under suspect on the original
23 report you had on unknown black male, correct?

24 A Correct.

25 Q Okay. But on this one it's got Mark Anthony

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1 Patterson as the reporting officer and it also has
2 Jabriel Singleton as the suspect rather than unknown
3 black male.

4 A Correct. That's -- he's using my narrative.

5 Q Well, I was just wondering how -- who can -- I
6 mean, who has access to this where they can generate
7 your report and change it from your name to Mark
8 Patterson?

9 A Nobody can change my report.

10 Q So that is very mysterious to you indeed I
11 suppose?

12 A Yes, sir, very much so.

13 Q Okay. And you, I mean, you wouldn't -- so as far
14 you as know nobody can go in and change your report
15 the way it has been changed?

16 A No, not the way it's been changed, no.

17 Q Okay.

18 A In order for -- when we do our reports they get
19 sent -- if there's a correction they have to be sent
20 back to the officer who wrote the report for that
21 correction to be made. Nobody can go in and change
22 my report --

23 Q So if somebody had to --

24 A --except for myself.

25 Q --come back to you and say, we're going to put

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1 Mark Anthony Patterson's name in the place of your
2 name on your report in order to do this, I mean,
3 that's your understanding of the procedure at the
4 sheriff's department? I know it sounds silly but I
5 just can't figure this out.

6 A I can't really help you. I'm not sure.

7 Q All right. Well, it's just a mystery to me and
8 trying to find out really what's going on, where did
9 this come from?

10 A That would be interesting. I am not sure.

11 Q Now, your testimony -- and you know, I had to
12 object about saying what other people said?

13 A Sure.

14 Q But your testimony was you arrived on the scene?

15 A Correct.

16 Q And I believe Mr. Frazier was sort of slipped
17 over on the porch?

18 A Correct.

19 Q You observed a hole, gunshot wound in his hand?

20 A A hole in his hand and a hole in his neck.

21 Q And you effectively sat there with him. You did
22 ask him some questions. I'm not asking you what his
23 responses were. But just sort of took care of him
24 until EMS was on the way, or EMS had arrived?

25 A Correct.

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- 1 Q All right. That's when you made your way back
2 to, was it 157 Prioleau?
- 3 A Prioleau.
- 4 Q Okay. Now were you speaking about Masonry Circle
5 or was it — I think it was Prioleau where you said
6 there just a large amount of woods rights next to
7 it? Was it the —
- 8 A Well, if you ever —
- 9 Q Or was it both of them 'cause it's Hopkins?
- 10 A It's Hopkins.
- 11 Q Okay.
- 12 A But Prioleau, it does — if I remember correctly,
13 it's been a while — does along the left side is
14 nothing, but wood along the dirt road.
- 15 Q And that road short of going through the incident
16 location around to Masonry Circle sort of just
17 snakes around those woods if; do you not remember?
- 18 A Prioleau to Masonry Circle goes, goes around to
19 the right.
- 20 Q Okay.
- 21 A Bordering the woods on the left.
- 22 Q Okay. And if I were to say to you it's .41
23 miles, would that sound about —
- 24 A .14 miles?
- 25 Q Or point — actually .41 by the road?

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1 A Probably —

2 Q The same, next to the —

3 A From Masonry to Prioleau? Probably, that sounds
4 right, close to being right.

5 Q Okay. And I would like to take you over to when
6 you first drove up at the address at Prioleau?

7 A Correct.

8 Q You said that you observed an SUV?

9 A On — yes, it was an SUV on Prioleau, yes.

10 Q And the driver side window was shattered; is that
11 correct?

12 A Correct. That was the side that was facing me
13 when I drove up.

14 Q So you saw the immediately. Now the other
15 windows in the vehicle, where the passenger windows
16 rolled down or do you have a specific recollection
17 of?

18 A I don't. I know that the passenger side door was
19 opened, but as far as the rolling of windows down I
20 couldn't tell you.

21 Q Okay. And they bring people on afterwards. At
22 that point you said that he was nonresponsive. Did
23 you call that in —

24 A Yes.

25 Q —at that point?

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1 A Of course.

2 Q And as far as securing the crime scene, once you
3 got the tape out and you said you taped off about
4 half acre or so?

5 A Yes.

6 Q Okay. Once that was done you just maintained the
7 crime scene log until the investigators came?

8 A Right. Their response was pretty immediate.

9 Q Okay. And do you recall, I believe it was 17
10 people total in and out of the crime scene according
11 to the crime scene log?

12 A That's — I have the crime scene log right here.

13 Q Okay. If you would, I'm not asking for times or
14 anything but just to get this in the record, you can
15 just start with yourself here at the top and just
16 read through the names?

17 A Some of the names you cannot read. Myself,
18 Investigator Baker, McMahon — I don't know if I
19 pronounced that right, not sure. Investigator
20 White, my supervisor Corporal Enzor, Investigator
21 Unger, Lieutenant Pritchard, Deputy Pierce, K-9
22 Pierce, Deputy K-9 Cilcoin (ph).

23 Q Okay.

24 A K.E. Johnson, K. Polis, the initials THH, J.
25 Powell, C. Ross, a name that I cannot —

SW - K. ELLIS - CROSS

1 Q It might be Richards.

2 A Possibly Richards, P. Elsi, and Butler.

3 Q And that last guy is just the tow guy it appears
4 from the log?

5 A He's the one that towed the vehicle.

6 Q Okay. Just back — the last, there are two names
7 in one slot at the end of the first page and that
8 says Pierce and Cilcoin. And those are the K-9
9 officers?

10 A Correct.

11 Q Okay. And those are the only K-9 officers that
12 entered the scene. This is according to the crime
13 scene log; is that correct?

14 A Yes.

15 Q Okay, then good. And if you would, this may be
16 the last thing. Up at the top after it says crime
17 scene log, if you could just read into the record
18 what it says —

19 MS. SIMPSON: Objection, Your Honor. If
20 he wants to place the document in evidence that's
21 one thing; but just having her read from the
22 document that's not in evidence, I'm gonna object to
23 that.

24 THE COURT: If you would rephrase the
25 question.

SW - K. ELLIS - CROSS

1 MR. SUTHERLAND: Yes, sir, absolutely.

2 BY MR. SUTHERLAND:

3 Q Is anyone entering the crime scene, must they
4 complete the information below on the crime scene
5 log, must they complete information on the crimes
6 scene log, anybody entering the crime scene?

7 A They are supposed to.

8 Q Okay. Now, they're supposed to? I mean, it's
9 pretty serious, you know, as far as the integrity of
10 the crime scene?

11 A Uh-huh.

12 Q So anyone entering generally, I guess
13 specifically, people sign in on a crime scene log
14 when they enter a crime scene; don't they?

15 A Correct.

16 Q Okay. And once secured no one is allowed into
17 the crime scene until after the approval of the
18 crime scene investigator in charge of the scene; is
19 that correct?

20 A It's usually once crime scene investigators
21 respond the crime scene gets turned over to them.

22 Q And so they, like, Stan Richards, Elsi Polis,
23 those would have been the people that would have
24 been in charge of the crime scene once they showed
25 up?

SW K. ELLIS - REDIRECT

1 A Correct.

2 Q And —

3 A As you see they were listed at the very end.

4 Q Yeah. And I did notice their individual
5 handwriting on here. Okay. Thank you. I have no
6 further questions at this time.

7 A Uh-huh.

8 THE COURT: Redirect?

9 MS. SIMPSON: Briefly, Your Honor.

10 **REDIRECT EXAMINATION**

11 **BY MS. SIMPSON:**

12 Q Counsel talked at length about your report in
13 this case?

14 A Yes, ma'am.

15 Q I believe, just to make sure, I'm not exactly
16 sure what he was referring to, but I'm going to show
17 you your report. Is that your report?

18 A That is my report.

19 Q And he mentioned that it's listed as unknown on
20 the front of that report?

21 A Correct.

22 Q Okay. And why is that?

23 A We are trying — unless we know who the person
24 is, then we don't list them as the subject. We put
25 then on another, the possible subjects, on another

SW K. ELLIS - REDIRECT

1 sheet of paper.

2 Q Okay. And I want to direct you to the second
3 page of your report. Did you indicate a subject on
4 that page?

5 A Yes, ma'am.

6 Q And who ---

7 A This was per the investigator followup. Go
8 ahead, I'm sorry.

9 Q Who is that that's indicated on there?

10 A Jabriel.

11 Q Okay. And this is your report?

12 A That is.

13 Q Correct?

14 A That is my report.

15 Q And you do both an incident report and
16 supplemental incident report as information comes to
17 you.

18 A Right, and it just depends on the --- I mean,
19 sometimes just the incident report that on when
20 something this large. If we have extra information
21 that we need to pass on to the investigator, then
22 those go into the other report.

23 Q And did you document your conversation with
24 Jonathan as well?

25 A Yes, ma'am.

SW K. ELLIS - REDIRECT

1 Q Now going to the crime scene and the log, the
2 crime scene as it's secured is a perimeter with
3 tape, correct?

4 A Correct.

5 Q Does everyone who necessarily comes out to
6 Prioleau Road enter within that crime scene?

7 A No.

8 Q So there may be other officers out there that
9 don't necessarily cross the tape?

10 A Absolutely. It's discouraged for those people to
11 come in.

12 Q Thank you. On that crime scene log there are a
13 number of names, correct?

14 A Yes, ma'am.

15 Q Are they all from the same agencies?

16 A Richland County — no, there's other ones.

17 Richland County Sheriff's Department?

18 Q Correct?

19 A Yeah, there's other. You've got EMS and the
20 coroner's office.

21 Q In addition to Richland County?

22 A Yes, ma'am.

23 Q Thank you.

24 MS. SIMPSON: Nothing further, Your Honor.

25 THE COURT: Recross.

SW - K. ELLIS - RECROSS

1 MR. SUTHERLAND: Just briefly, Your Honor.

2 **RECROSS - EXAMINATION**

3 **BY MR. SUTHERLAND:**

4 Q I mean, you remember me showing this thing that
5 says Mark Patterson, responding officer, right?

6 A His name is at the bottom of the report, but
7 that's not his report.

8 Q That's your report?

9 A That's my report.

10 Q You have no idea how that happened?

11 A I have no idea how that happened.

12 Q All right, thank you.

13 MR. SUTHERLAND: No further questions.

14 THE COURT: Thank you. Thank you very
15 much, deputy. You may step down.

16 All right, Solicitor, you may call your
17 next witness.

18 MR. STEADMAN: The State calls Rich
19 McMahan.

20 THE WITNESS: Come around and be sworn,
21 please.

22 WHEREUPON,

23 **RICH MCMAHAN,**

24 after having been duly sworn, testified as follows:

25 THE CLERK: Thank you. Have a seat in

SW - R. MCMAHAN - DIRECT

1 The witness chair. State your name for the record
2 and please spell your last name.

3 THE WITNESS: My last name is spelled
4 M-C-M-A-H-A-N.

5 THE CLERK: And first name?

6 THE WITNESS: Rich.

7 **DIRECT EXAMINATION**

8 **BY MR. STEADMAN:**

9 Q Good morning sir, where are you employed?

10 A Richland County Emergency Medical Services.

11 Q And how long have you been employed there?

12 A Fifteen years.

13 Q What position do you hold with them?

14 A I am currently an assistant shift manager.

15 Q What is your rank?

16 A Lieutenant.

17 Q As a Lieutenant and assistant shift supervisor
18 are you in charge of other units?

19 A Yes, at some point in time we're -- I'm in charge
20 of anywhere from 13 to 20 EMS's at one time.

21 Q And these are ambulance units that you're in
22 charge of?

23 A That's correct.

24 Q As part of your job do you respond to calls with
25 those ambulance units?

SW - R. MCMAHAN - DIRECT

- 1 A Yes, we do.
- 2 Q Okay. I want to take you to January 24th, 2012.
- 3 Were you working on that day?
- 4 A I was.
- 5 Q And did you receive information about possible
- 6 shooting victims near Masonry Circle in Hopkins,
- 7 South Carolina?
- 8 A That's correct.
- 9 Q And is that address in Richland County?
- 10 A It is.
- 11 Q What was the nature of the information that you
- 12 received about that call?
- 13 A The initial response was for gunshot wound.
- 14 Q How long did it take to get to the scene?
- 15 A Looking at the times I would have to estimate
- 16 probably about maybe, 12, 15 minutes at the most,
- 17 give or take.
- 18 Q Do you have a copy of the report in front of you?
- 19 A I do.
- 20 Q Feel free to respond — refer to that.
- 21 A Okay.
- 22 Q So how long did it take you?
- 23 A Approximately about, like I said, about 12
- 24 minutes. My arrival time was at 14:37 and the
- 25 dispatcher to my punch-in arrival time on the scene.

SW - R. MOMAHAN - DIRECT

1 Q Now is that report that you have in front of you
2 is that something you've created?

3 A That's correct.

4 Q How about the time on the report?

5 A I did not create the time.

6 Q Who was there when you arrived at the scene?

7 A There was an additional ambulance that was on the
8 scene. I do not remember the ambulance number but
9 just the crew that was there.

10 Q And who were you with when you responded?

11 A I was by myself.

12 Q And when you responded there was one other
13 ambulance on the scene with you?

14 A One ambulance, that's correct. They were there
15 before I was.

16 Q Do you know about how long they were there before
17 you?

18 A I do not know.

19 Q Well, what did you observe once you're arrived at
20 the scene?

21 A When I arrived I saw the ambulance just sitting
22 out, and I went to the back of the ambulance. The
23 patient was — one of the victim's was still with
24 the ambulance. And I noticed to the crew that, has
25 this patient been shot, and they said, yes, time to

SW - R. MCMAHAN - DIRECT

- 1 get out and go.
- 2 Q You gave them the okay to go?
- 3 A Yeah, I gave a direct order to go to the hospital
- 4 with the shooting victim.
- 5 Q And who was man retrieved?
- 6 A I do not know the victim's name.
- 7 Q Okay. But do you know what the status of that
- 8 victim was in the ambulance?
- 9 A At the time he was alive.
- 10 Q Okay. After you did that, after you gave the
- 11 ambulance the okay to leave, what did do you after
- 12 that?
- 13 A I was informed by, I believe his name was
- 14 Investigator Johnson, there was a possible another
- 15 victim, and I was escorted to the scene where the
- 16 possible victim was.
- 17 Q And where was that in location to where you first
- 18 arrived?
- 19 A It was off the dirt -- I believe it was a dirt
- 20 road down back underneath the tree near some houses.
- 21 Q Off of Prioleau Road?
- 22 A I couldn't tell you.
- 23 Q And what did you observe once he took you to that
- 24 location?
- 25 A Again, Investigator Johnson escorted me to the

SW - R. MCMAHAN - DIRECT

1 SUV type vehicle, and as I — excuse me, let me
2 remember this here. I found a black male sitting in
3 this small SUV type vehicle with an obvious hole
4 through his head, and at that time I checked for,
5 you know, for a carotid pulse as well as looking at
6 his chest, looking at his mouth to see if there was
7 any sounds of life. And after about 10 to 15
8 seconds found nothing.

9 Q And in a situation like this is that the first
10 thing you check for?

11 A Yes. When we arrive on a scene we have what we
12 call the primary survey. We assess airway for any
13 circulation, you know, for immediate and life
14 threatening situation. And this person at the time
15 did not have any, any signs of life.

16 Q The signs of life, can you just briefly describe
17 what you're looking for, the signs of life?

18 A I was feeling for pulses in the neck, the carotid
19 pulse, and I'm also looking for the chest to rise
20 and fall as the patient breathes and he did not have
21 any of that.

22 Q He did not have any of that?

23 A No.

24 Q And did you pronounce him dead on the scene?

25 A I did. And he was dead, I pronounced him dead

SW - R. MCMAHAN - CROSS

1 at 1500 hours.

2 Q And after you did that what's the procedure that
3 you follow after pronouncing somebody dead?

4 A I was escorted out of the crime scene by
5 Investigator Hayhurst (ph). When I — when we
6 pronounce a person dead we obtain as much
7 information as possible about the victim and at that
8 time there wasn't any information available since
9 it was a crime scene I was escorted out.

10 Q So was this body transported by your ---

11 A No.

12 Q ---department?

13 A No.

14 Q And so you left the body at the crime scene?

15 A In the driver's seat of the vehicle that I found
16 him in.

17 Q Thank you. No further questions.

18 THE COURT: Thank you, Officer.

19 Mr. Sutherland.

20 MR. SUTHERLAND: Briefly, Your Honor.

21 **CROSS - EXAMINATION**

22 **BY MR. SUTHERLAND:**

23 Q Sir, you just mentioned that you were escorted
24 out, had to escorted out of the crime scene so you
25 were in the secured crime scene. You had somebody

SW - R. MCMAHAN - CROSS

1 basically with you at all time; is that correct?

2 A That's correct.

3 Q And you could not go anywhere, do anything,
4 without that person being there; is that correct?

5 A Right, without his direction.

6 Q Okay. No further questions. Thank you.

7 THE COURT: Redirect, Solicitor?

8 MR. STEADMAN: No, Your Honor.

9 THE COURT: You may step down.

10 Solicitor, you may call your next witness.

11 MS. CAVANAUGH: Your Honor, may we
12 approach.

13 THE COURT: Yes, ma'am, certainly.

14 (Whereupon, there was an off-the-record
15 Bench conference.)

16 THE COURT: All right. I realize the
17 jury's only been here about an hour and thirty-five
18 minutes, but we're gonna take our lunch and recess
19 at that this point.

20 Mr. Foreman and ladies and gentlemen of
21 the jury, I remind you that during this recess
22 you're not to discuss this case with others. That
23 includes your fellow jurors, lunch mates, family,
24 friends, or any one else. If anyone tries to talk
25 with you about the case please let me know. Do not

1 read, listen to, or watch any news reports about the
2 case should there be any. Do not use your computer,
3 cellular phone, or electronic device, or any other
4 method to obtain or disclose information about the
5 case which is prohibited. Information which is
6 prohibited includes but is not limited to the
7 following: Information about the party, a witness,
8 or attorney or court officer; prior news accounts of
9 the case, if any, information collected through
10 juror research on any topic raised or any testimony
11 offered by any witness, or information collected
12 through juror research on any topic the juror might
13 think would be helpful in deciding this case.
14 Remember, you decide the case based on the evidence
15 and testimony presented to you before the witnesses
16 testifying under oath in this courtroom and the law
17 as I tell you the law is. Do not do any independent
18 investigation or any investigation on the internet.
19 Please keep an open mind.

20 With that being said, if you leave your
21 notes I hope you all put your numbers on there. If
22 you'd leave your notes upside down on your chair
23 upon your exit the Clerk's Office will secure those
24 during the lunch and recess. I would ask you to
25 please be back promptly at 2:30. If you'd please be

1 back at 2:30 you're now excused. I hope y'all have
2 a pleasant lunch. Thank you. Thank you very much.

3 (The jury is removed from the courtroom at
4 1:03, and the following proceedings
5 commenced in open court.)

6 THE COURT: All right. Anything further
7 from the State, Solicitor?

8 MS. SIMPSON: No, Your Honor, not at this
9 time.

10 THE COURT: Defense?

11 MR. SUTHERLAND: No, sir.

12 THE COURT: If y'all would please be back
13 at 2:30. Court will be in recess until 2:15.

14 (WHEREUPON, a lunch break was taken.)

15 THE COURT: All right. Anything before we
16 bring our jury out? From the State, Solicitor?

17 MS. CAVANAUGH: Your Honor, we were able
18 to the best of our abilities to make a redacted
19 version of the photographic lineup that we are
20 introducing through the next witness Jonathan
21 Frazier and he had no objections to it. Would you
22 like to see it as well?

23 THE COURT: Yes, ma'am, please.

24 MS. CAVANAUGH: 1-B is apparently the
25 original and 1 is what we'll be introducing.

1 THE COURT: All right. Any objection, Mr.
2 Sutherland?

3 MR. SUTHERLAND: Outside my previous
4 objection, no, sir.

5 THE COURT: All right. Thank you. Thank
6 you very much. Thank you, Solicitor. Anything
7 further, Solicitor?

8 MS. CAVANAUGH: No. No, Your Honor.

9 THE COURT: Mr. Sutherland?

10 MR. SUTHERLAND: Just out an abundance of
11 caution, sir, the wrap sheet that was turned over to
12 me for their next witness doesn't show any
13 convictions, and I just move to settle his record on
14 record, Judge.

15 MS. CAVANAUGH: Yes, Your Honor, we — at
16 Mr. Sutherland's request sometime last week or
17 before we did pull Mr. Frazier's record and there
18 appears — there's only one arrest from 2007, simple
19 possession of marijuana that has no, that shows no
20 disposition. Even if it did, we would submit that's
21 not admissible. And then there's one from New York
22 that was dismissed with — without prejudice back in
23 2005 it looks like. And that's the only record that
24 we — it's actually Delaware not New York, that we
25 found on Mr. Frazier.

1 THE COURT: All right. Anything before we
2 bring the jury?

3 MR. SUTHERLAND: No, sir.

4 (The jury was returned to the courtroom at
5 2:43 p.m., and the following proceedings
6 commenced in court.)

7 THE BAILIFF: The jury panel's present,
8 Judge, Your Honor.

9 THE COURT: Thank you. Thank you very
10 much. Welcome back, ladies and gentlemen of the
11 jury, I hope y'all had a pleasant lunch. I
12 apologize for the delay. I assure you it was not
13 caused by the parties in the case; that is, they
14 were not here on time. They were here and working
15 very diligently.

16 With that being said, y'all have your
17 notes. We will continue the trial of the case by
18 the presentation of evidence and testimony by the
19 State in its case and chief.

20 Solicitor, you may call your next witness.

21 MS. CAVANAUGH: Thank you, Your Honor.
22 The State calls Jonathan Frazier.

23 THE COURT: All right. If you'd come
24 around and be sworn.

25 WHEREUPON,

SW - J. FRAZIER - DIRECT

1 **JONATHAN FRAZIER,**
2 having been duly sworn by the Clerk of Court,
3 testified as follows:

4 THE CLERK: Thank you. Please have a seat
5 in the witness stand. State your full name for the
6 record.

7 THE WITNESS: Jonathan Frazier.

8 **DIRECT EXAMINATION**

9 **BY MS. CAVANAUGH:**

10 Q Good afternoon, Mr. Frazier.

11 A Good afternoon.

12 Q Jonathan, how old are you?

13 A 29.

14 Q And where are you from?

15 A Brooklyn, New York.

16 Q And when did you move to South Carolina?

17 A In 2006.

18 Q And who did you move to South Carolina with?

19 A My grandma.

20 Q Okay. Does your mom also live in South Carolina?

21 A Yes. Yes, ma'am.

22 Q And when did she move here?

23 A She came down here in 2006 too.

24 Q So it was you and your grandmother?

25 A Uh-huh.

SW - J. FRAZIER - DIRECT

1 Q And what — do you live in Columbia?

2 A Yes.

3 Q And how long have you lived in the Columbia area?

4 A Since 2006.

5 Q I'm going to direct your attention to

6 January 24th, of last year?

7 A Yes.

8 Q Do you remember that day?

9 A Yes, ma'am, I remember that day.

10 Q Okay. Can you tell me how you started that day.

11 A I started that day probably 11, like 11, 11:15,
12 11:30. My cousin Dashawn Breeze, he told me that he
13 was outside and started a regular day. I went
14 outside and then we headed to the studio.

15 Q Let me stop you, you said — who were you with?

16 A Dashawn Breeze.

17 Q And his last name, is it Jones?

18 A Yes. Yes, ma'am.

19 Q And his nickname was Breeze?

20 A Yes.

21 Q When you say he was your cousin, is he really a
22 blood relative or was he just your best friend?

23 A My best friend, not blood relative.

24 Q Okay. And so you met with Dashawn around what
25 time?

SW - J. FRAZIER - DIRECT

- 1 A Like 11:15, 11:30.
- 2 Q And where did y'all go?
- 3 A To the studio.
- 4 Q And did he pick you up?
- 5 A Yes.
- 6 Q Now how long had you known Dashawn?
- 7 A I say around 2007, around there.
- 8 Q So about five years?
- 9 A Yeah.
- 10 Q And how — how did you know him?
- 11 A I met him from around the way. We just got tight
- 12 from then.
- 13 Q So that morning you went to the recording studio?
- 14 A Yes, ma'am.
- 15 Q And where, where was that located?
- 16 A It's in Anders Way(ph) the name of the street is?
- 17 Q In Columbia?
- 18 A Yes.
- 19 Q And what were y'all doing at the studio?
- 20 A We were really — we went to the studio. We
- 21 pulled in there. We was talking in the car for
- 22 about like five minutes, and then that's when
- 23 Jabriel pulled up in like a little blue SUV. Then I
- 24 went into the studio and my cousin, like, I say five
- 25 or six minutes, he came and said, hey, we got to go,

SW - J. FRAZIER - DIRECT

1 and then he came and got me.

2 Q So you didn't spend a lot of time at the
3 recording studio that morning?

4 A No.

5 Q And what — whose car was Dashawn driving that
6 day?

7 A His girl — I ain't say a friend a girl, but it
8 was a friend.

9 Q Okay. And what color was it?

10 A Blue.

11 Q And was it just you — initially was it just you
12 and Dashawn in the car?

13 A Yes, ma'am.

14 Q Were there other people at the recording studio
15 inside?

16 A There was a couple of people in there.

17 Q Okay.

18 A A couple.

19 Q Okay. And what, what do y'all do at the
20 recording studio? What do you mean — what is meant
21 by the recording studio?

22 A Make music.

23 Q Okay. And is that what Dashawn liked to do?

24 A Yes, yes.

25 Q So you didn't spend much time there?

SW - J. FRAZIER - DIRECT

- 1 A No, ma'am.
- 2 Q And Dashawn spoke to you about leaving?
- 3 A Yeah, he came and got me —
- 4 Q Okay.
- 5 A —pretty much.
- 6 Q And what was your understanding, what did he want
- 7 to do?
- 8 A After he came and got me we was just supposed to
- 9 go get a couple of ounces of weed and an X-box.
- 10 Q Weed, you mean marijuana?
- 11 A Yes, yes.
- 12 Q And also an X-box?
- 13 A Yes.
- 14 Q And who you were supposed to get that from?
- 15 A We supposed to get it through the girl, through
- 16 his cousin.
- 17 Q Okay. Through whose cousin?
- 18 A Jabriel cousin (indicating).
- 19 Q But he was gonna set it up?
- 20 A Yes.
- 21 Q And again, how much did Dashawn tell you that he
- 22 wanted to buy?
- 23 A Like four ounces.
- 24 Q And about how much does that cost?
- 25 A I say about 3, 300, 350.

SW - J. FRAZIER - DIRECT

1 Q Dollars?

2 A Yes.

3 Q Now did you know — did you know Jabriel before
4 January 24, 2012?

5 A Yes, ma'am.

6 Q About how long?

7 A I say about year-and-a-half, two years.

8 Q And how did you know him?

9 A From around the neighborhood.

10 Q And did you know what his last name was?

11 A No, ma'am.

12 Q Just you knew him by his first name?

13 A Yes.

14 Q Now when y'all left the recording studio was it
15 just you and Dashawn?

16 A Yes.

17 Q Okay. And where did y'all go next?

18 A We went to — he had — we had to meet him by his
19 girlfriend house.

20 Q Who is him?

21 A Jabriel.

22 Q Okay. Did know his girlfriend?

23 A No, ma'am.

24 Q Did you know her name?

25 A No.

SW - J. FRAZIER - DIRECT

- 1 Q Did you remember where, what her address was?
- 2 A I just remember -- it's either 1212 or 2121.
- 3 That's the only number. I think it 2121. I don't
- 4 know the street or anything, but it's right down the
- 5 block from Prioleau Street.
- 6 Q Okay, you just remember the numbers?
- 7 A Yes. Yes.
- 8 Q And either 1212 or ---
- 9 A 2121.
- 10 Q And you didn't know his girlfriend you said?
- 11 A No, ma'am.
- 12 Q So is that where y'all went?
- 13 A Yes.
- 14 Q And what happened once you got to her house?
- 15 A We was waiting for a little second for Jabriel to
- 16 come.
- 17 Q Okay. And when you say a little second, it was a
- 18 period of time, right?
- 19 A Yeah, like 20 minutes.
- 20 Q Okay. And y'all just waited outside?
- 21 A Yes.
- 22 Q Did you ever get out of the car?
- 23 A No.
- 24 Q Did Dashawn ever get out of the car?
- 25 A No.

SW - J. FRAZIER - DIRECT

1 Q Did Dashawn have to call and find out where he
2 was?

3 A I think he called him once or twice, yes.

4 Q And once again, Dashawn was driving?

5 A Yes, ma'am.

6 Q And is this the car, the car that y'all were in
7 that day, is the car that he was normally — that he
8 normally drove?

9 A Yes.

10 Q Did Jabriel eventually show up to his
11 girlfriend's house?

12 A Yes, he showed up there.

13 Q Did he come in somebody else's car?

14 A Yeah, a little blue SUV.

15 Q Okay. And what happened once he got there?

16 A He came and he came, went in the house real
17 quick. Then came and asked us if we can drop his
18 girl and friend out at Zaxby's.

19 Q Okay. And did Dashawn agree to do that?

20 A Yes, ma'am.

21 Q Where did everybody sit once they got in the car?

22 A The two girls and Jabriel was in the back.

23 Breeze was driving and I was in the passenger seat.

24 Q Okay. So did you take — did Dashawn take them
25 to Zaxby's?

SW - J. FRAZIER - DIRECT

- 1 A Yes, ma'am.
- 2 Q And who got out of the car once y'all arrived at
- 3 Zaxby's?
- 4 A They all got out of the car, Jabriel and the two
- 5 females.
- 6 Q Okay. Who came back in the car?
- 7 A Jabriel.
- 8 Q And where did he sit once he got back in the car?
- 9 A Behind me.
- 10 Q What happened -- what did y'all do once he got
- 11 back in the car?
- 12 A We got back -- we was on the way. We rolled up a
- 13 little blunt so we and then we smoked one on the way
- 14 to Hopkins.
- 15 Q Okay. And who was, who was directing where to
- 16 go? Whose idea was it to go to Hopkins?
- 17 A Jabriel.
- 18 Q Okay. And so what was -- what was the plan at
- 19 that point, what was your understanding?
- 20 A We was going to get some weed and X-box.
- 21 Q Who was supposed to be providing this?
- 22 A T-man.
- 23 Q Okay. And what was Jabriel doing while he was in
- 24 the back seat?
- 25 A We was just all talking, talking real like, like

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1 civilized people.

2 Q Okay. And was he on the phone?

3 A He wasn't on the phone quite not yet, not yet, as
4 we going down he wasn't on the phone.

5 Q Okay. At some point did he get on the phone?

6 A Yes.

7 Q And when was that?

8 A When we got into Hopkins. As we going up one
9 spot that he had got on the phone talking, talking.
10 Then we had to go to the other place, that's where
11 we end up -- that's where the accident happen at.

12 Q Okay. And about how long were y'all driving
13 around? Can you estimate?

14 A About 30 minutes, about 30, 40 minutes.

15 Q Once y'all got into Hopkins who was telling
16 Dashawn where to go?

17 A Jabriel.

18 Q Okay. And you mentioned someone named T-man.
19 Did you know who T-man was?

20 A Yes, I saw him a few times, yes.

21 Q And who was this person supposed to be? Is this
22 somebody related to Jabriel?

23 A Yeah, supposed to be his cousin.

24 Q Okay. Did you know T-man personally?

25 A Huh-uh, not on a personal level.

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- 1 Q What did Jabriel — what did you notice that
2 Jabriel had with him?
- 3 A As we was getting out 'cause he had his gun on
4 his lap, but I wasn't paying any mind. I'm just
5 thinking how he got it on his lap in case if the
6 police go by and he want to throw it, he gonna run
7 with it. I wasn't thinking of anything 'cause we
8 talking, laughing, everything going on.
- 9 Q So at that point you didn't feel threatened at
10 all?
- 11 A No. No, ma'am.
- 12 Q And where was the gun again?
- 13 A On his lap.
- 14 Q Did you, did you get a look at it?
- 15 A Yes.
- 16 Q What did it look like?
- 17 A A silver 357 with a black rubber grip.
- 18 Q Okay. Did he say anything to you about the gun,
19 about the type of gun?
- 20 A No, he was just saying it was seven shots; that
21 was it.
- 22 Q He told you that?
- 23 A Yes.
- 24 Q What else did you notice was in the back seat?
- 25 A A glove with like little — a glittery glove, a

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1 little glittery glove.

2 Q Was it also black?

3 A Yeah, it was black, yes, ma'am.

4 MS. CAVANAUGH: Beg the Court's
5 indulgence.

6 MR. SUTHERLAND: I just object to
7 foundation, Judge.

8 THE COURT: All right, you can question
9 him about it.

10 MS. CAVANAUGH: Thank you.

11 THE COURT: See if you can lay the
12 foundation.

13 BY MS. CAVANAUGH:

14 Q Jonathan, I'm gonna show what's marked as State's
15 Exhibit Number 7. Do you recognize that?

16 A Yes.

17 Q What is that a picture of?

18 A The glove.

19 Q Does that look like the glove that you saw in the
20 back seat?

21 A Yes, it do. Yes.

22 MS. CAVANAUGH: Your Honor, at this time I
23 move to introduce State's Exhibit 7 into evidence.

24 (WHEREUPON, State Exhibit No. 7
25 was admitted into evidence.)

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- 1 BY MS. CAVANAUGH:
2 Q Where did you see the glove?
3 A In the back seat.
4 Q With Jabriel?
5 A Yes.
6 Q Now, when was the first time you noticed the gun
7 in his lap? Was it before Zaxby's or after Zaxby's?
8 A After Zaxby's.
9 Q After his girlfriend already got out the car?
10 A Yes.
11 Q So y'all are driving around Hopkins, and you said
12 that he was giving directions once y'all got into
13 Hopkins?
14 A Yes, ma'am.
15 Q Okay. What, what type of road did he direct
16 y'all down?
17 A A dirt road.
18 Q Okay. Did you know what road it was?
19 A Huh-uh.
20 Q Were you familiar with that particular area of
21 Hopkins?
22 A No, ma'am.
23 Q What happened once Dashawn turned down the dirt
24 road?
25 A He turned around the dirt road. We going I

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1 think -- we passed a few houses. I think the
2 address like 157. He was like, that's it right
3 there, then we backed in.

4 Q So Dashawn backed in the driveway?

5 A Yes, ma'am.

6 Q Did you know whose house this was?

7 A No, ma'am.

8 Q Did Jabriel act like he knew whose house this
9 was?

10 A Yes.

11 Q Up until this point had you ever -- have you seen
12 the marijuana that Dashawn was supposed to buy from
13 Jabriel?

14 A No, no.

15 Q In fact, did you ever see it that day?

16 A No.

17 Q As Dashawn is backing into the driveway was
18 Jabriel still on the phone?

19 A No, no.

20 Q So he was off the phone at this point?

21 A Yes.

22 Q Did Dashawn park the car?

23 A Yes.

24 Q What happened when he parked the car?

25 A As we parked it then that's when he get out,

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- 1 Jabriel get out. Then he said G, G, you want to
2 shoot the gun? I'm like, I don't want to shoot the
3 gun, I don't want to shoot another man gun. Then my
4 cuz Breeze, Dashawn, he's like you a punk, you a
5 punk. We laughed about it; we laughed about it.
6 Then a few seconds later I just heard shots.
- 7 Q Okay. So did Jabriel get out of the car?
- 8 A Yes.
- 9 Q When he was asking you about the gun was he out
10 of the car?
- 11 A Yes, ma'am.
- 12 Q What side of the car was he on?
- 13 A On my side (indicating).
- 14 Q Your side?
- 15 A Yes.
- 16 Q And how was your window, is your window all the
17 way up?
- 18 A Huh-uh, my window was kind of down.
- 19 Q So you could hear what he was saying?
- 20 A Yes.
- 21 Q So you did not want to shoot his gun?
- 22 A No, ma'am.
- 23 Q And Dashawn was joking with you about that?
- 24 A Yeah.
- 25 Q Now what happened next?

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- 1 A A few seconds later I just heard shots. And
2 first I'm thinking he shoot him in the head till I
3 see the window break, the driver's seat window
4 break. And then that's when I -- shots just hearing
5 them, and I got hit in my back like upper shoulder
6 (indicating). And then my right hand hit the top of
7 the car. Then I seen my cuz, Dashawn Breeze, I seen
8 him get shot like in the back towards the back area
9 and then it was just guns, bom, bom, bom, bom, just
10 heard shots.
- 11 Q This all happened really fast?
- 12 A Yes, yes, ma'am.
- 13 Q And again, at this point he is on your side of
14 the car?
- 15 A My -- yes.
- 16 Q I mean, can you estimate how many gunshots you
17 heard?
- 18 A No.
- 19 Q A lot?
- 20 A Yeah.
- 21 Q And your cousin Dashawn was shot?
- 22 A Yes.
- 23 Q And you were shot?
- 24 A Yes.
- 25 Q And you're still in the passenger side?

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1 A Yes.

2 Q And Dashawn's still on the driver's side?

3 A Yes, ma'am.

4 Q At any point —

5 MR. SUTHERLAND: Objection to that, just
6 leading.

7 A Your Honor.

8 THE COURT: All right. You can rephrase
9 the question. Go right ahead, Solicitor.

10 BY MS. CAVANAUGH:

11 Q At this point had either you or Dashawn exited
12 the vehicle?

13 A No.

14 Q What happened to you at this point?

15 A Before — me and my cousin, he had after we had
16 shot Dashawn throw him the money, then he still kept
17 firing and I just remember blacking out a little bit
18 after that.

19 Q So you are awake, you are conscious when you saw
20 Dashawn give him the money?

21 A He threw it. He didn't give it to him; he just
22 threw it.

23 Q And what did he say? Dashawn?

24 A He said, here, take it. That's all.

25 Q And it was a couple of hundred dollars?

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1 A Yes.

2 Q What happened next to you?

3 A To me, that's when I had blacked out, passed out,
4 a little after that.

5 Q And were you shot at this point?

6 A Yes.

7 Q What's your next memory?

8 A I just remember kind of like getting up and
9 seeing him on the driver's side by the little —
10 away from the driver's side reloading. Then in my
11 head I'm like, I can't go out like this, I can't go
12 out this like, and I just went and rushed him.

13 Q So he — where was he at this point? Where was
14 Jabriel at this point?

15 A By the driver's side a little distance away.

16 Q And what did it appear to you that he was doing?

17 A Reloading.

18 Q And what was your thought?

19 A That I ain't about to go out like this, go, go
20 for what I know, that's all.

21 Q And what was Dashawn's condition at this point?

22 A He was down. He was down over the steering
23 wheel.

24 Q Was he moving?

25 A Huh-uh.

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1 Q What did you do next?

2 A I got out of the car. We rushed and we tussling
3 for a little second, tussling a little for a second.

4 Q Let me stop you. What do you mean by tussling?

5 A Like grabbing, grabbing (indicating). I was just
6 trying to grab, then he backing me down, he down, he
7 backing me down —

8 Q How is he — I'm sorry to interrupt you. How is
9 he backing you down?

10 A Pointing the gun to me.

11 Q Okay. And, and is he — describe how he's
12 backing you down.

13 A Face to face, back up, back up, get back in the
14 car, get back in the car.

15 Q So he had the gun pointed at you?

16 A Yes.

17 Q And where, where did this — where did he back
18 you around? Was it the front of the car?

19 A He backed me down back to the side like around
20 the back of the car back to the passenger side.

21 Q Okay. And then what happened, what happened
22 then?

23 A Then he told me — he said, throw me your phone,
24 I got to get away. I said, don't kill me, look what
25 you did to my cousin.

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1 Q Say that say that again one more time. You said
2 throw me your phone —

3 A He said throw me your phone, I got to get away.

4 Q Okay.

5 A Then he stood back and I said don't kill me, look
6 what you did to my cousin.

7 Q Did you give him the phone?

8 A Yes.

9 Q And what, what happened after you gave him the
10 phone?

11 A I get in the car.

12 Q And what happened next?

13 A I get in the car, and he tell me to pass him the
14 keys, pass me the keys. But in my head I hoped I
15 can turn around, while he got the gun on me and
16 shoot me in the back of the head.

17 Q Where are you sitting at this point?

18 A In the passenger seat.

19 Q And are the keys in the ignition?

20 A Yes, ma'am.

21 Q So did you give him — did you reach for those
22 keys?

23 A No, ma'am.

24 Q What did you — what happened next?

25 A Then all I heard, there it go, I heard two more

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- 1 shots, bomb, bomb.
- 2 Q You heard, there it go?
- 3 A Yeah, there it go.
- 4 Q And who said that?
- 5 A Jabriel.
- 6 Q Did one — did any of those shots hit you?
- 7 A Hit my hand, yes, ma'am.
- 8 Q After he shot your hand what happened?
- 9 A I just remember feeling my body, like, shaking
- 10 for a little something. Then I went out and past
- 11 out again.
- 12 Q And you were still in the passenger seat?
- 13 A Yes. No, I passed out over — I was by the gas
- 14 pedal and the brake. That's what I remember, waking
- 15 up from over there.
- 16 Q So you — were you still sitting?
- 17 A No, I was leaning over (indicating).
- 18 Q Say that again?
- 19 A I was leaning over.
- 20 Q What were you leaning over?
- 21 A Breeze — Dashawn's legs.
- 22 Q Okay. So when you woke up what were you looking
- 23 at?
- 24 A His legs.
- 25 Q And was Dashawn, was he moving at all?

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1 A No, ma'am.

2 Q What'd you do once you're waking up the second
3 time?

4 A After I got up I got, up and I just looked at him
5 and I seen him over the steering wheel. Then at
6 first I was just going to lay there. I was just
7 going to lay, just lay there, but then I got out.
8 When I got out I had fell, then I was just crawling
9 a little bit until I got to the dirt road I got up.
10 I passed, I'd say, one or two houses but I wanted to
11 pass a house, a nice house to go to. Then I seen
12 one where the door was opened, but the glass door
13 was closed at the front door.

14 Q So were you able to crawl and then walk to get
15 help?

16 A Yes, ma'am.

17 Q Do you remember where this house was in relation
18 to the dirt road? Was it right next to it?

19 A I want to say right next to it, probably the next
20 house. It was a couple ways down, not this far but
21 a couple of ways down.

22 Q Is it -- are you bleeding at this point?

23 A Yes, ma'am.

24 Q What else did you notice? Were you having any
25 other trouble?

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- 1 A I just felt -- I was getting weak and it felt
2 like a rock in my throat. I couldn't do anything.
3 I couldn't do nothing.
- 4 Q At this point, other than your hand shot and the
5 back shot that you mentioned already, did you know
6 anywhere else that you were shot?
- 7 A Huh-uh.
- 8 Q But you just felt what, your breath go away?
- 9 A It felt like a rock, like, I couldn't breathe or
10 swallow or anything.
- 11 Q And before, just to back up just a little bit,
12 before you got to that porch did you ever see anyone
13 else at this area (indicating), at the shooting
14 scene, 157 Prioleau Road?
- 15 A No, ma'am.
- 16 Q Just you, Jabriel, and Dashawn?
- 17 A Yes, ma'am.
- 18 Q Just to be clear, did anyone other than Jabriel
19 have a gun?
- 20 A No, ma'am.
- 21 Q Once you got to the porch that you -- the house
22 that you talked about, what did you do?
- 23 A I was just knocking on the door asking for help.
24 That's about when I find this older lady, and I was
25 just telling her, I told her you call the cops, I'll

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1 hide in your backyard, I'll hide in the backyard.

2 Q Okay. And why did you want to hide?

3 A 'cause I ain't know where he would have been at.

4 Q Okay. And did she call 9-1-1 for you?

5 A Yes, ma'am.

6 Q And did you know her in any way?

7 A No, ma'am.

8 Q At this point you knew who shot you?

9 A Yes.

10 Q And were you able to tell her that?

11 A Yes, I was trying to get it out. Yes, I told
12 her.

13 Q When you were on her porch what did you see?

14 A I seen Jabriel passing while she was on the phone
15 talking to —

16 Q And where did you, where did you see him?

17 A On the road. I don't know the road but there's a
18 road right by her house, side of her house. It's
19 like a little distance. It's a little close but
20 right a little ways there.

21 Q And did tell her you saw him?

22 A Yes.

23 Q Are you also having trouble breathing at this
24 point?

25 A Yes, ma'am.

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1 Q Do you remember the Richland County Sheriff's
2 Department? Do you remember any of the deputies
3 coming to you?

4 A I remember somebody talking to me. I just, I
5 just kept asking them, like thinking I'm about to
6 die, thinking I'm about to die. He was just telling
7 me if you see him don't worry, that's all.

8 Q Say that, say that last part again.

9 A He was telling me, if you see him don't worry.
10 He was telling me, don't worry.

11 Q Who was telling that?

12 A The officer.

13 Q Do you remember EMS coming, the ambulance coming
14 to where you were?

15 A Yes, I remember. Yes.

16 Q Okay. And at this point were you able to tell
17 them anything about Dashawn?

18 A Yes, after they get me into the — after they get
19 me into the vehicle they was like, what about my
20 cousin, what about my cousin. They was asking me.
21 I was like, he got shot too.

22 Q Because you didn't know if they knew about him
23 yet, right?

24 A Huh-uh.

25 Q Were you able at least point in which direction

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1 he was?

2 A Yeah, I said down the dirt road, yes.

3 Q And I'm gonna back up just a little bit.

4 MS. CAVANAUGH: Beg the Court's
5 indulgence.

6 BY MS. CAVANAUGH:

7 Q Johnathan, I'm to show you what is marked as
8 State's 5. Do you recognize that?

9 A Yes, that's the truck.

10 Q That's the truck? And where is it parked?

11 A By a tree.

12 Q Is that the house that y'all pulled up at?

13 A Yes, ma'am.

14 Q Okay. Is that the truck that Dashawn was driving
15 that day?

16 A Yes, ma'am.

17 MS. CAVANAUGH: Your Honor, at this time
18 I'd ask to move State's Exhibit 5 into evidence.

19 MR. SUTHERLAND: No objection.

20 THE COURT: State's 5 into evidence.

21 (State's Exhibit No. 5 was admitted into
22 evidence.)

23 MS. SIMPSON:

24 MS. CAVANAUGH: Permission to publish to
25 the jury.

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1 BY MS. CAVANAUGH:

2 Q I'm also gonna show you a closer photo of that
3 car. Do you recognize what's depicted in State's
4 Exhibit 6?

5 A Yes, ma'am.

6 Q What is that?

7 A The car.

8 Q That Dashawn was driving?

9 A Yeah.

10 MS. SIMPSON: Your Honor, at this time I'd
11 ask to move State's Exhibit 6 into evidence.

12 MR. SUTHERLAND: No objection, Your Honor.

13 THE COURT: State's 6 in evidence without
14 objection.

15 (State Exhibit No. 6 was admitted into
16 evidence.)

17 BY MS. CAVANAUGH:

18 Q Now were you transported to the hospital this
19 afternoon, on the 24th?

20 A Yes, ma'am.

21 Q And about how long did you spend in the hospital?

22 A Two, three weeks.

23 Q And what kind of treatment did you receive at the
24 hospital? Did you have any surgeries?

25 A No, I still got the bullet in my neck. I ain't

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1 had surgery. I just had my jaw wired and the trach,
2 that's all.

3 Q What about that — what about the bullet that
4 went through your hand?

5 A It was straight through. They just wrapped it up
6 and for me; therefore, I mean, I still can't feel
7 my — I ain't got no feeling in my fingers though.

8 Q What did you say about your neck?

9 A I just had a trach but the bullet still in there.
10 I just had a trach in there, that's all. I didn't
11 have any surgery.

12 Q Okay. And where is — to your understanding
13 where is the bullet still in you?

14 A It's like on my esophagus right here
15 (indicating).

16 Q Okay. And do you know what happened to the one
17 that went through your back?

18 A It went straight through.

19 Q But you stayed in the hospital for at least two
20 weeks?

21 A Yes, ma'am.

22 Q Do you remember investigators coming to speak to
23 you while you're at the hospital?

24 A Yes, I remember that.

25 Q Were there several?

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- 1 A I can't remember several. I just remember like
2 two officers.
- 3 Q Okay. But you remember, what did you say?
- 4 A I said I just remember like two officers, that's
5 all I. Don't remember several.
- 6 Q Okay. Do you remember what unit you were in at
7 the hospital early on, what unit of the hospital?
- 8 A Trauma.
- 9 Q Trauma. So the first couple of days you spent in
10 the trauma unit?
- 11 A Yes.
- 12 Q When the investigators came that you remember,
13 were you able to — how were you first able to
14 answer their questions?
- 15 A Just — I just remember answering them and
16 probably shaking my head or mumbling it out.
- 17 Q Because, what did you say was in your neck and
18 your throat?
- 19 A A trach.
- 20 Q A trach?
- 21 A (The witness nodded head.)
- 22 Q Did you also have to have your jaw wired shut at
23 some point?
- 24 A Yes, ma'am. When I woke up my mouth was wired.
- 25 Q And why was that?

SW - J. FRAZIER - DIRECT

1 A Because the bullet had went through. It went
2 through the head (indicating) and then crossed over
3 to here (indicating).

4 Q How long was your jaw wired shut?

5 A Nine weeks.

6 Q I'm gonna show you what's marked as State's
7 Exhibit 1. Do you recognize that?

8 A Yes, ma'am.

9 Q And what is that? What is that?

10 A The photo lineup that the officer showed me.

11 Q Okay. And do you — do you have a clear memory
12 of particular lineup being shown to you?

13 A Yes, ma'am. Yes.

14 Q And when the officer, when the investigator
15 showed this to you what did he say to you about it?

16 A He said —

17 MR. SUTHERLAND: Hearsay, Your Honor.

18 THE COURT: Overruled.

19 BY MS. CAVANAUGH:

20 Q Yes, sir.

21 A He said the person might be on this paper or he
22 might not be on this paper. If you can identify
23 him, identify him.

24 Q And when you say person what do you mean?

25 A Jabriel.

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1 Q The person -- and who is that in this case?

2 A The person who shot me.

3 Q Okay. And were you able to identify the person
4 who shot you?

5 A Yes, ma'am.

6 Q And how did you identify -- which picture did you
7 pick out?

8 A The lower one on the right.

9 Q And who is that a picture of?

10 A Jabriel.

11 Q Did you memorialize that in any way as far as
12 making marks on the paper to indicate which ones?

13 A Yes, ma'am.

14 Q What did you do?

15 A I circled it and then my initials on it.

16 Q You did that yourself?

17 A Yes.

18 MS. CAVANAUGH: Your Honor, at this time I
19 move State Exhibit 1 into evidence.

20 MR. SUTHERLAND: Okay. Just renewing my
21 previous objection.

22 THE COURT: All right, State's 1 in
23 evidence.

24 (State's Exhibit No. 1, photo lineup, was
25 admitted into evidence.)

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1 MS. CAVANAUGH: Permission to publish it
2 to the jury.

3 THE COURT: Yes, ma'am.

4 BY MS. CAVANAUGH:

5 Q A couple weeks after the shooting do you remember
6 speaking with Investigator Unger?

7 A Yes, ma'am.

8 Q At that point were you able to give him a
9 statement as far as what in detail about what
10 occurred that day?

11 A Yes, ma'am.

12 Q Okay. And did you tell him to the best of your
13 knowledge everything that happened that afternoon?

14 A Yes.

15 Q Were you initially hesitant to tell members of
16 the Richland County Sheriff's Department that
17 Dashawn was there to actually purchase marijuana?

18 A Not really.

19 Q But initially did you say that you were there to
20 buy this X-box or also marijuana?

21 A I said both.

22 Q You did, okay.

23 A (The witness nodded head.)

24 Q Okay. And again, that day in the car did you
25 ever see the marijuana that Dashawn was supposed to

SW - J. FRAZIER - DIRECT

1 buy?

2 A No, ma'am.

3 Q Did you ever see the X-box that he was supposed
4 to buy?

5 A No, ma'am.

6 Q After you were released from the hospital what
7 was your recovery like from the gunshot wound?

8 A I couldn't hardly walk like I wanted to walk. My
9 insides was still weak, 'and my muscles, I had to
10 eat liquid diet for about nine weeks.

11 Q Do you have any permanent issues from the
12 shooting?

13 A Yeah, my mouth and neck still lock up time to
14 time. I can't feel my fingers.

15 Q That's in your right hand?

16 A Yes, ma'am.

17 MS. CAVANAUGH: Beg the Court's
18 indulgence.

19 THE COURT: Yes, ma'am.

20 BY MS. CAVANAUGH:

21 Q Just a few more questions. You said the first
22 couple of days you were in the trauma unit?

23 A Yes, ma'am.

24 Q Were you on medication those first couple of days
25 for pain and those types of things?

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1 A Yes.

2 Q And I know this is hard for you, but do you see
3 the person who you knew as Jabriel in the courtroom
4 today?

5 A Yes, ma'am.

6 Q Where is he sitting?

7 A Right there (indicates).

8 Q And what is he wearing?

9 A White jacket, blue shirt.

10 Q And is that the person that shot Dashawn Jones

11 —

12 A Yes, ma'am.

13 Q —on January 24th, 2012?

14 A Yes, ma'am.

15 Q Is that the person that shot you on January 24,
16 2012?

17 A Yes, ma'am.

18 MS. CAVANAUGH: Your Honor, let the record
19 reflect he's identified the defendant as the
20 shooter.

21 THE COURT: So reflected.

22 MS. CAVANAUGH: Thank you. No further
23 questions. Please answer any questions from the
24 Defense.

25

CROSS - EXAMINATION

SW - J. FRAZIER - CROSS

1 BY MR. SUTHERLAND:

2 Q Mr. Frazier, your name is Jonathan Frazier?

3 A Yes, sir.

4 Q And you testified that you moved here from New
5 York?4?

6 A Yes.

7 Q Was your name Jonathan Frazier in New York?

8 A I had it as Johnson but, yes, when I was in New
9 York I had got it changed in time some years ago.

10 Q Okay.

11 A My last name, changed to my father last name.
12 That's what I did.

13 Q Okay, all right. And your nickname is Crash?

14 A Yes.

15 Q Dashawn Jones, he's just a friend of yours, not
16 your cousin but his name is Dashawn Jones?

17 A Yes.

18 Q Is also Tyler Edwards?

19 A Huh-uh.

20 Q You never heard that?

21 A Huh-uh.

22 Q Okay. But you have heard King Breeze?

23 A Yes.

24 Q Okay. I really just want to ask you, you talked
25 to a couple of investigators. You testified about

SW - J. FRAZIER - CROSS

1 that. And I wanted to ask you about what you had
2 said to Investigator Golf. You had told him that
3 there were two vehicles. Do you remember that?

4 A No, sir.

5 Q And that you were following Jabriel to get some
6 X-boxes. Do you remember that?

7 A We wasn't following — we wasn't following
8 anybody.

9 Q Do you remember telling, him though, that you
10 were following him in another car?

11 A No.

12 Q That you were following him down the dirt road
13 and that he stopped?

14 MS. CAVANAUGH: Objection, he's
15 mischaracterizing this report.

16 MR. SUTHERLAND: I'm not mischaracterizing
17 the report. That's what the report says.

18 THE COURT: Direct the comment to the
19 Court. Step out please, ladies and gentlemen.
20 Leave your note on the chair.

21 (The jury is removed from the courtroom at
22 3:24 p.m.)

23 THE COURT: All right. What's the
24 objection, Solicitor?

25 MS. CAVANAUGH: What Mr. Sutherland is

1 attempting to get through Jonathan is inadmissible
2 hearsay, and he's also -- he can get this line of
3 questioning through Investigator Goff. But he's
4 mischaracterizing the report in front of the jury.

5 MR. SUTHERLAND: Your Honor, if I may, I
6 do have the report and I'm asking him if he
7 remembers telling Invest---

8 THE COURT: Well, show me the report --

9 MR. SUTHERLAND: Yes, sir.

10 THE COURT: ---one of you please.

11 MR. SUTHERLAND: Sir, I just added a
12 parenthetical around the section I was just asking
13 him.

14 THE COURT: All right. What's your
15 objection, Solicitor?

16 MS. CAVANAUGH: Your Honor, it's -- this
17 is an investigator summary of what the victim is
18 saying as he was getting ready to go into go
19 basically into surgery. He can't refresh the
20 witness's recollection about statements he made from
21 another investigator's summary. Also, there's never
22 any mention, unless Mr. Sutherland can point to
23 this, directly about two cars. Following could be
24 following Jabriel's directions. I don't see
25 anywhere in here about two cars. So he's improperly

1 refreshing this witness's recollection through
2 someone else's notes and mis—

3 THE COURT: Well, I think he can — I'm
4 sorry, I didn't mean to interrupt you.

5 MS. CAVANAUGH: Just mischaracterizing
6 what this investigator even wrote down. There's
7 never any mention about two cars. Following could
8 mean following directions.

9 MR. SUTHERLAND: Well, following somebody
10 down a dirt road, Judge, I mean, it's speaking
11 English. Is whether you're following, is he on foot
12 maybe and they're following in the vehicle. I don't
13 know understand the solicitor's point. I mean, it's
14 pretty straight forward from the language, sir.

15 THE COURT: You can impeach the a based on
16 613(a). You can ask him if he made the statements .

17 MR. SUTHERLAND: Yes, sir.

18 THE COURT: Now, you can't re-state the
19 statements he alleged, made.

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: So prior — if it's prior
22 inconsistent statement you can cross-examine him on
23 it, but it may only be English. You just can't add
24 English words that aren't on the paper.

25 MR. SUTHERLAND: Yes, sir, I will

1 certainly rephrase the followup.

2 THE COURT: Solicitor, you care to
3 respond?

4 MS. CAVANAUGH: Right. And just as long
5 as he's limited to 613(a). He just seems to be
6 attempting to publish Investigator Goff's summary
7 through this witness which we believe is improper.

8 MR. SUTHERLAND: And I'm just asking if he
9 told investigator Golf what's, that he told these
10 things to Investigator Golf, and I'm assuming
11 Investigator Golf is going to testify, maybe say
12 something else, but the report is what it is, sir.

13 THE COURT: I think he can impeach under
14 613 on prior inconsistent statements. He can say
15 yes, I did, or no I didn't. I mean, that's up to
16 the witness whether he says, yes, I made that
17 statement, or no, I didn't make that statement.
18 Then of course, Solicitor, you can come back and say
19 well, when was this statement taken; well, it was
20 when I was under the care and treatment at the
21 trauma unit at Richland County or Palmetto Richland
22 Hospital and I was — had a trach or had this or
23 that or the other.

24 Bring us our jury please.

25 MR. SUTHERLAND: Yes, sir.

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1 (The jury was returned to the courtroom at
2 3:28 p.m.)

3 THE BAILIFF: All jurors are present.

4 THE COURT: Thank you. Thank you very
5 much, Solicitor.

6 Mr. Sutherland, you may continue.

7 MR. SUTHERLAND: May it please the Court.

8 THE COURT: Yes, sir.

9 BY MR. SUTHERLAND:

10 Q Do you remember saying that you were following
11 him down a dirt road and he stopped? Do you
12 remember saying that to Investigator Golf?

13 A No, no.

14 Q Do you remember saying he got out of the car and
15 pulled a gun on you and on King Breeze, do you
16 remember saying that?

17 A No.

18 Q Do you remember saying you and Mr. Singleton
19 fought over the gun?

20 A Yes.

21 Q Do you remember saying that is when you were shot
22 in the hand?

23 A No.

24 Q Do you remember saying that you started running
25 and were shot in the back while running? Do you

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1 remember saying that?

2 A No.

3 Q Okay. Now, according to your testimony here in
4 your later statement to Investigator Unger that you
5 were going to get some weed and some X-boxes?

6 A Some weed and a X-box.

7 Q One X-box?

8 A Yes.

9 Q Just taking out of your statement. Now, you
10 testified that a quarter pound of marijuana cost
11 350-dollars?

12 A Yea, 300, 350.

13 Q Now, that would be — there's a range of prices
14 with, I mean, all marijuana doesn't cost the same.
15 Is it that particular kind that you were going to
16 get was going to cost 350-dollars?

17 A 300 or 350.

18 Q And do you know what kind it was that you were
19 going to get?

20 A Just some regular marijuana.

21 Q Okay. And retail X-boxes are expensive, but how
22 much were y'all going to pay for this X-box?

23 A Like a hundred.

24 THE COURT: Say that again.

25 THE WITNESS: Like a hundred.

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1 BY MR. SUTHERLAND:

2 Q Okay. So you were gonna pay 100-dollars for the
3 X-box and you were gonna pay 350-dollars for the
4 weed?

5 A 300, 350, yes.

6 Q Okay. So that's 4, 450-dollars?

7 A Yes.

8 Q Okay. Now, in the -- in your statement -- and
9 let me flip to it here. The solicitor had asked you
10 a question and -- or it may have been in opening; I
11 can't recall. But the solicitor had said that you'd
12 thrown several hundred dollars. Do you remember --
13 or that King Breeze had won several hundred dollars.
14 Do you remember telling Investigator Unger that he
15 threw a couple of hundred dollars at him?

16 A Yeah, he through a couple hundred dollars, yeah.

17 Q All right. Now, I believe you had 30-dollars on,
18 on you at the time, or do you -- are you sure? Do
19 you know, do you remember?

20 A No.

21 Q And I believe King Breeze had 70-dollars on him
22 at the time?

23 MS. CAVANAUGH: Objection.

24 THE COURT: There's no facts in evidence.

25 MR. SUTHERLAND: Yes, sir.

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1 THE COURT: You got to lay the foundation
2 for that. The witness has got to testify.

3 MR. SUTHERLAND: Yes, sir.

4 BY MR. SUTHERLAND:

5 Q So in order for y'all the buy the weed and the
6 X-boxes you would have had to have 450-dollars on
7 you to do that if that's what you were going to do;
8 is that correct? Do you agree?

9 A Yes.

10 Q Okay. Did you have 450-dollars?

11 A I didn't have it.

12 Q Okay. Do you know if King Breeze had
13 450-dollars?

14 A Yes.

15 Q You saw 450-dollars?

16 A He pulled out a couple of hundred.

17 Q Okay, a couple of hundred. You see, the question
18 becomes how do you buy something that's 450-dollars
19 for a couple of hundred dollars?

20 A What do you mean?

21 Q If you only have a couple of a hundred dollars on
22 you —

23 A A couple of hundred could be two, three, four,
24 five. It's a couple.

25 Q Okay. So a couple of hundred could be

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1 500-dollars?

2 A It could be three, four, five.

3 Q Three, four, five. So a few hundred dollars
4 could be 900, 1000, 1200-dollars I guess?

5 A I don't know.

6 Q Okay, all right. Now, you had -- you had
7 testified that he had gotten out of the vehicle and
8 was on the passenger side of the vehicle?

9 A Right behind me, yes, sir.

10 Q And that he was discharging a firearm into the
11 vehicle from the passenger side?

12 A Yeah.

13 Q And that -- that you were both shot at that time?

14 A Yes.

15 Q Okay. And that you passed out?

16 A Yes, after the -- after he pull the gun and all
17 that, yeah.

18 Q Okay. Now, when you told -- did you tell
19 Investigator Unger that you passed out just for a
20 second or?

21 A I just remember telling him I passed out.

22 Q Okay. Did you ever at any time reach under the
23 front seat of the vehicle beyond your testimony that
24 you woke up reaching under the front seat of the
25 vehicle, did you ever reach under the front seat of

SW - J. FRAZIER - REDIRECT

1 the vehicle for a firearm?

2 A No. No, sir.

3 Q Did you or did King Breeze have a 9 millimeter
4 handgun in the vehicle?

5 A No, sir.

6 Q A .40 caliber handgun?

7 A No, sir.

8 Q A .45 caliber handgun?

9 A No, sir.

10 Q Did you have a shotgun in the vehicle?

11 A No, sir.

12 Q But you all had an ounce of weed back at
13 Dashawn's house; is that correct?

14 A I ain't know if he had had it.

15 THE COURT: Okay.

16 MR. SUTHERLAND: I have no further
17 questions at this time, Your Honor.

18 THE COURT: Redirect, Solicitor?

19 **REDIRECT EXAMINATION**

20 **BY MS. CAVANAUGH:**

21 Q Just a couple of questions, Jonathan. The first
22 couple of days you were in the hospital what unit
23 were you in?

24 A Trauma unit.

25 Q Did you ever tell any investigator in the case

SW - J. FRAZIER - REDIRECT

1 that there were two cars?

2 A No, ma'am.

3 Q At 157 Prioleau Road?

4 A No, ma'am.

5 Q Did you ever tell any investigator in this case
6 that Jabriel was not in your car when y'all were
7 headed to 157 Prioleau Road?

8 A No, ma'am.

9 Q Did you ever tell any investigator in this case
10 that you were running when you got shot?

11 A No, ma'am.

12 Q And he asked — Mr. Sutherland asked you about
13 fighting over the gun. Again, what did you do after
14 you woke up the first time?

15 A I got out of the car and then I rushed him.

16 Q And why did do that?

17 A Because I seen him reloading and I wasn't
18 gonna — to myself I say I ain't about to go out
19 like this.

20 Q And what was Dashawn's condition at this time?

21 A He was down.

22 Q And were you shot?

23 A Yes.

24 Q So this was in an effort to save your life?

25 A Yes.

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1 Q And again, Dashawn was the buyer this day, not
2 you, right?

3 A Yes.

4 MS. CAVANAUGH: Beg the Court's
5 indulgence.

6 Thank you, Jonathan?

7 THE COURT: Recross.

8 **RECROSS - EXAMINATION**

9 **BY MR. SUTHERLAND:**

10 Q According to your testimony you had been shot
11 several times and you got out of the car and you
12 rushed Mr. Singleton who had a firearm but he did
13 not shoot you?

14 A Yes, he reloaded. I guess he was messing up.

15 Q So well you said — you testified earlier that he
16 just backed you in the car saying back —

17 A I said after we was tussling he backed me down.

18 Q You said after you were tussling that he backed
19 you into the car with the firearm saying get in the
20 car, get in the car —

21 A Yeah.

22 Q —get in the car.

23 A Yes, yes.

24 Q My only question to you is after you'd been shot
25 several times, your testimony now is that when you

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1 attacked him for the first time he did not shoot
2 you; is that correct?

3 A No, he did not.

4 Q Okay. Thank you.

5 THE COURT: Thank you very much,
6 Mr. Frazier. You may step down.

7 All right, Solicitor, you may call you are
8 next witness.

9 MR. STEADMAN: The State calls Kenneth
10 Brown.

11 WHEREUPON,

12 **KENNETH BROWN,**
13 after having been duly sworn, testified as follows:

14 THE CLERK: Thank you. Please have a seat
15 in the witness stand and state your full name for
16 the record.

17 THE WITNESS: Kenneth Brown.

18 **DIRECT EXAMINATION**

19 BY MR. STEADMAN:

20 Q Good afternoon, sir, where are you employed?

21 A Columbia, Richland, 9-1-1 communications.

22 Q How long have you been employed there?

23 A As of November first of this year will be 14
24 years.

25 Q What is your position with 9-1-1?

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1 A I am the training officer, training manager and
2 coordinate of all training as applies to new
3 employees, seasoned employees from the time they're
4 employed until they retire.

5 Q And you said this was Columbia Richland 9-1-1
6 communication?

7 A Yes.

8 Q What does that encompass?

9 A It is the combined 9-1-1 center that was funded
10 by the City of Columbia and Richland County
11 together.

12 Q And as you're -- you say that your position is?

13 A Training officer.

14 Q Training officer?

15 A And manager, yes, sir.

16 Q All right. So are you familiar with how 9-1-1
17 records are created and maintained?

18 A Yes, sir.

19 Q How are they created?

20 A They are created any time someone calls, any
21 incident a telephone call comes in whether it's
22 9-1-1 or administrative line, all of our phone calls
23 are recorded and they're kept for a duration of 90
24 plus days depending on what the circumstances are,
25 and we can recall that information digitally at any

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1 time.

2 Q And this is the actual recording itself?

3 A Yes, as well as the CAD report. CAD report is a
4 computer aided dispatch report. It is generated any
5 time a telecommunicator or call taker creates a call
6 for the purposes of police, fire, and EMS response.

7 Q And that CAD Report is different from a 9-1-1
8 phone call?

9 A Yes, it is.

10 Q And who actually creates the CAD report?

11 A The CAD report is created by the employee, and
12 those documents are kept archived accordingly.

13 Q And is this person that types up the CAD report
14 also the same person that's on the phone with the
15 complainant?

16 A It can be. Just to kind of a brief synopsis, if
17 you were working in the organization and you were
18 call taker, you were talking to the actual caller I
19 could be across the room from you seeing what you
20 have typed and dispatched the police, fire, and EMS
21 accordingly at the same time the call is being
22 generated.

23 Q So, the person making the CAD report and the
24 person talking on the phone, are they in the same
25 room?

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1 A Yes, sir.

2 Q And are these records, the CAD report and
3 the 9-1-1 call, are these stored or created in the
4 ordinary course of business?

5 A Yes.

6 MR. SUTHERLAND: Your Honor, I don't
7 see — I would object. I don't see the purpose of
8 introducing the 9-1-1 call. They got the witnesses
9 here to testify.

10 MR. STEADMAN: Your Honor, may we
11 approach?

12 THE COURT: Sure, yes, sir.

13 (Whereupon, there was an off-the-record
14 Bench conference.)

15 THE COURT: Thank you very much.

16 Mr. Sutherland.

17 MR. SUTHERLAND: Yes, sir.

18 THE COURT: Subject to your objection.

19 BY MR. STEADMAN:

20 Q Sir, I'm showing you what's —

21 THE COURT: Lay the proper foundation.

22 MR. STEADMAN: Yes, sir.

23 BY MR. STEADMAN:

24 Q I show you what's marked as State's Exhibit 20,
25 do you recognize that?

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1 A Yes, sir.

2 Q Have you had the opportunity to listen to this
3 before you came here to testify?

4 A Yes, sir.

5 Q And on this CD did you listen to the recording?

6 A Yes.

7 Q And what was that recording?

8 A It was a primary recording — there are actually
9 two recordings on the CD. The first recording is a
10 recording of the actual 9-1-1 call taken from start
11 to finish. The second portion of this recording is
12 where the dispatcher is dispatching the officers to
13 that location based on what was created.

14 Q The only one we're concerned about here today is
15 the, the actual 9-1-1 phone call, not anything else
16 that happened on the radio?

17 A Yes, sir.

18 Q Okay. And once again, how many voices can you
19 hear on this 9-1-1 phone call?

20 A You hear the call taker, and you hear the caller
21 on that particular tape.

22 Q And once again, was this 9-1-1 phone call created
23 in the ordinary course of your business?

24 A Yes, sir. Yes, sir.

25 MR. STEADMAN: Your Honor, at this point

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1 the State would offer this evidence.

2 MR. SUTHERLAND: And just with our
3 previous objection I just want to make absolutely
4 sure that the hour-and-a-half radio chatter is not
5 on there.

6 MR. STEADMAN: May we approach, Your
7 Honor?

8 THE COURT: Sure.

9 (Whereupon, there was an off-the-record
10 Bench conference.)

11 THE COURT: All right, thank you,
12 Mr. Sutherland.

13 Solicitor, you may continue.

14 MR. STEADMAN: Yes, sir. Your Honor,
15 permission to publish to the jury.

16 THE COURT: The 9-1-1 call may be
17 published to the jury.

18 MR. SUTHERLAND: Thank you, sir.

19 MR. STEADMAN: Thank you, Your Honor.

20 (Whereupon, the 9-1-1 call was published
21 to the jury.)

22 MR. STEADMAN: Thank you, sir. No further
23 questions. Answer any questions the Defense may
24 have.

25 MR. SUTHERLAND: No questions of this

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1 witness, Your Honor.

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

5 All right, Mr. Foreman, ladies and
6 gentlemen, I believe we will take our afternoon
7 recess about 15 minutes. Please leave your notes
8 out here. Do not discuss the case during the brief
9 recess. You may now go with your bailiffs.

10 (The jury is removed from the courtroom at
11 3:58 p.m.)

12 THE COURT: All right, court will be in
13 recess 15 minutes.

14 MS. CAVANAUGH: Your Honor, just briefly,
15 we have seven witnesses here. About how long do you
16 anticipate going on? The sheriff's department —

17 THE COURT: I work about 5:30.

18 MS. CAVANAUGH: All right, thank you.

19 THE COURT: Depending on what we have that
20 particular witness. Thank you.

21 (Whereupon, a short recess was held.)

22 THE COURT: All right, Solicitor, anything
23 before we bring in that jury, from the State?

24 MS. CAVANAUGH: Yes, Your Honor. There is
25 actually one juror, No. 145, Michael Johnson. Our

1 investigator, Kristen Polis with the Richland County
2 Sheriff's Department, recognized him when she came
3 in. He is apparently a volunteer with Richland
4 County. He's not actually employed, is my
5 understanding, but he is a volunteer so I'm assuming
6 that counsel will want for sure to question on this
7 issue. He did not stand up with respect to the
8 employment questions; but that may have been because
9 he is a volunteer, not an employee.

10 THE COURT: All right. Mr. Sutherland.

11 MR. SUTHERLAND: Well, Your Honor, I just
12 ask that he be excused from the jury, I mean,
13 withholding information from the Court, his
14 relationship to law enforcement.

15 THE COURT: Bring me jury number 145
16 please.

17 (Juror No. 145 is returned to the
18 courtroom.)

19 THE COURT: You're juror number 145?

20 THE JUROR: Yes, sir.

21 THE COURT: Are you a volunteer with the
22 Richland County Sheriff's Department?

23 THE JUROR: Yes, sir.

24 THE COURT: I have asked some questions.
25 I did not ask the question about persons that

1 volunteer with Richland County. I think I asked
2 about employment, and you're not employed with
3 Richland County Sheriff's Department?

4 THE JUROR: No, sir.

5 THE COURT: Do you know a number of
6 officers with the Richland County Sheriff's
7 Department?

8 THE JUROR: I know some of them, not real
9 close.

10 THE COURT: You know them?

11 THE JUROR: (The juror nods.)

12 THE COURT: Is that a yes?

13 THE JUROR: Yes, sir.

14 THE COURT: I'm sorry, I have to get it on
15 the record. Do you know any of those whose names I
16 called?

17 THE JUROR: Yeah, I didn't, you know,
18 realize that meant like real close relationships.

19 THE COURT: Step around here a little
20 closer. Step up here for me. Step up here.

21 (Juror approaches the Bench for an on-the-record
22 discussion.)

23 THE JUROR: I didn't realize you mean like
24 close, close, relationship but then maybe, I didn't
25 realize you mean real close. That's why I didn't

1 say anything.

2 THE COURT: All right. So there's a
3 number of them whose names I called on the witness
4 list who you know but don't have a close
5 relationship with.

6 THE JUROR: Yes, sir.

7 THE COURT: Is that a fair statement?

8 THE JUROR: Yes, sir.

9 THE COURT: You may casually know them or
10 know them on sight but not have the close
11 relationship?

12 THE JUROR: Yes, sir.

13 THE COURT: How, how — volunteering, do
14 you put in X so many hours a week or month or?

15 THE JUROR: You got to have a current
16 number of hours during the month, usually answer
17 phones for one of the regions.

18 THE COURT: Are you a volunteer deputy?

19 THE JUROR: Volunteer. No, it's volunteer
20 for like going working at fairgrounds and special
21 events or working at a region answering phones or
22 —

23 THE COURT: How long you been doing that?

24 THE JUROR: About almost five years.

25 THE COURT: Have you had any conversation

1 with any of your fellow jurors about that?

2 THE JUROR: (Juror shakes head.)

3 THE COURT: Is that a no?

4 THE JUROR: No, sir.

5 THE COURT: Sorry, I have to get it down.

6 THE JUROR: Oh, no, sir.

7 THE COURT: And why didn't you tell me
8 that? Why didn't share that information with me?

9 THE JUROR: I didn't realize that I though
10 when you said it talk about like if you had a close
11 relationship or employed with them, actually got a
12 paycheck with them. That's why I didn't mention it.

13 THE COURT: All right. Thank you. Thank
14 you very much. You may step right outside the door.

15 THE JUROR: Yes, sir.

16 (Juror is removed from the courtroom.)

17 THE COURT: At this time juror number 145
18 will remain the hallway, not back in the jury room.

19 THE BAILIFF: Yes, sir.

20 THE COURT: Thank you, Madam Bailiff.

21 All right, solicitor.

22 MS. CAVANAUGH: Yes, Your Honor. We'll
23 leave it in your discretion as to what you wish to
24 do. I do know we have two alternates in this case
25 and I — we'll leave it in your discretion.

1 THE COURT: All right. Any other
2 questions you would like me to ask 145, Solicitor?

3 MS. CAVANAUGH: None from the State.

4 THE COURT: Mr. Sutherland?

5 MS. CAVANAUGH: No, sir. I mean, I'm
6 obviously concerned that he did state for the record
7 that he did not have any conversations with
8 volunteer work with any of the jurors. And taking
9 that at face value I don't see where there's any
10 sort of damage that's been done. What I am
11 concerned about his capacity to be forthcoming
12 considering in his colloquy with the Court he says,
13 I didn't know that you meant a close, close
14 relationship, I have relationships with people, I
15 just — I didn't feel — I just wasn't comfortable
16 with his demeanor and his answers to the questions.

17 THE COURT: You want to ask him some more
18 questions I'll bring him in here, place him under
19 oath, and you can voir dire him all you want.

20 MR. SUTHERLAND: Yes, sir, I would
21 certainly appreciate that.

22 THE COURT: I'll be glad to allow you to
23 do that.

24 MR. SUTHERLAND: Thank you, sir. It may
25 be brief, Your Honor.

1 THE COURT: You want to bring Mr. 145 back
2 in.

3 (Juror No. 145 was returned to the courtroom.)

4 THE COURT: Would you step over here for
5 me please. Would you place this juror under oath
6 for me please.

7 THE CLERK: Yes, Your Honor.

8 WHEREUPON,

9 Juror No. 145,
10 after having been duly sworn, testified as follows:

11 THE CLERK: Thank you. Please have a seat
12 in the witness stand.

13 THE COURT: Let me explain to him what I
14 am doing first, Mr. Sutherland.

15 Mr. Juror 145, I'm going to allow the
16 parties if they choose to, -- there's no right or
17 wrong answer; it's just whatever your answers are.
18 You understand what I'm saying?

19 THE JUROR: Yes, sir.

20 THE COURT: And if you would answer their
21 questions to the best of your ability I would
22 certainly thank you very much. Mr. Sutherland.

23 E-X-A-M-I-N-A-T-I-O-N

24 BY MR. SUTHERLAND:

25 Q Sir, if you would, have you had many

1 conservations with your fellow jurors?

2 THE COURT: No, sir, that's not where
3 we're going. Conversations with fellow jurors is
4 not —

5 MR. SUTHERLAND: Yes, sir.

6 THE COURT: —relevant.

7 MR. SUTHERLAND: Yes, sir.

8 THE COURT: Limit it to conversation
9 concerning his volunteering with the Richland County
10 Sheriff's Department.

11 BY MR. SUTHERLAND:

12 Q With respect to your volunteering with the
13 sheriff's department, your work down at the
14 fairgrounds, your knowledge that you knew some of
15 the individual officers who were going to testify,
16 have you had any conversations with juror fellow
17 jurors in that regard.

18 A No, sir.

19 Q You have not?

20 A No, sir.

21 Q Okay. Thank you.

22 THE COURT: Any other questions?

23 MR. SUTHERLAND: No, sir.

24 THE COURT: Solicitor, you have any
25 questions?

1 MS. CAVANAUGH: No, Your Honor.

2 THE COURT: All right. Juror number 145,
3 I'm going to release you from service on the jury.
4 I can -- I can take the hit so I take this hit
5 because I didn't properly ask the jurors questions
6 that would be inclusive of volunteering for a law
7 enforcement agency. You have not done anything
8 wrong whatsoever.

9 THE JUROR: (The juror nods.)

10 THE COURT: If I thought you had done
11 something wrong by withholding information from me I
12 would take a different action than I'm taking now.
13 But be that as I may, I do not feel lie you have,
14 but you've been forthcoming in your responses to the
15 Court and in the technical responses to the
16 questions which I asked the questions that the
17 parties wanted me to ask up to a certain point and
18 even the ones that I didn't ask did not cover
19 volunteering. But thank you very much for your
20 civic minds in this matter. Thank you thank you
21 very much.

22 THE JUROR: Okay.

23 THE COURT: All right.

24 (Prospective juror No. 145 was released from jury
25 service.)

1 THE COURT: I think the procedure for
2 selecting an alternate in a case such as in a
3 criminal case, you put their names in a hat and you
4 pull one out, correct?

5 THE CLERK: I have a tupperware.

6 THE COURT: You don't have a cigarette
7 box?

8 THE CLERK: No, sir.

9 MR. SUTHERLAND: I would like to express
10 my thanks to Investigator Polis for pointing that
11 out to the Solicitor's Office and bringing that to
12 the Court's attention.

13 THE COURT: Thank you, yes, sir. Well
14 put, Mr. Sutherland and Solicitor.

15 Do y'all have any objection to the clerk
16 pulling it out as opposed to a person under the age
17 of nine or unsighted individual.

18 MS. SIMPSON: No, Your Honor.

19 MR. SUTHERLAND: No, sir.

20 THE COURT: Okay, thank you.

21 THE CLERK: Number 151. 151.

22 THE COURT: All right. 151 has now been
23 promoted from alternate to a member of the jury.

24 Number 161 will be our alternate.

25 THE CLERK: Yes, sir, Your Honor.

1 THE COURT: All right. Anything further
2 before we bring in our jury, Solicitor?

3 MS. SIMPSON: Nothing else from the State.

4 MR. SUTHERLAND: Nothing from the Defense.

5 (The jury was returned to the courtroom at
6 4:34 p.m.)

7 THE BAILIFF: All the jury panel is
8 present, Judge.

9 THE COURT: All right. Juror number 151,
10 you have been promoted from alternate juror to a
11 member of the jury. Was juror number 145 taking
12 notes? Are there notes in that chair?

13 (Jurors reply no.)

14 THE COURT: All right. Thank you very
15 much. So you can now maintain the seat there for
16 us. 161 will remain in the position of alternate.

17 All right, with that being said we will
18 continue in the trial of the case by the
19 presentation of evidence and testimony by the State.

20 Solicitor, you may call the next witness.

21 MS. SIMPSON: Thank you, Your Honor, the
22 State calls Monica Howell.

23 THE COURT: If you will come around and be
24 sworn.

25 WHEREUPON,

SW - M. HOWELL - DIRECT

1 **MONICA HOWELL,**
2 after having been duly sworn, testified as follows:
3 THE CLERK: I need you to speak up please.
4 Thank you. Have seat in the witness stand. Please
5 state your full name for the record.

6 THE WITNESS: Monica Howell.

7 **DIRECT EXAMINATION**

8 **BY MS. SIMPSON:**

9 Q Good afternoon, Ms. Howell?

10 A Good afternoon.

11 Q How old are you?

12 A 33.

13 Q And do you have any children?

14 A Yes.

15 Q How many?

16 A Three.

17 Q And where do you live?

18 A 212 Masonry Circle.

19 Q And is that in the Columbia area, Hopkins area,
20 what part of town?

21 A Hopkins.

22 Q And how long have you been living in the Hopkins
23 area?

24 A Thirty-three years.

25 Q Thirty-three years?

SW - M. HOWELL - DIRECT

1 A Uh-huh.

2 Q All of your life?

3 A Yes.

4 Q I want to go back to January 24th of 2012, the
5 reason we're here. Do you recall that day?

6 A Yes.

7 Q And can you please tell the jury what happened
8 earlier in the day, right before this incident?

9 A My mom had just come home from the hospital so
10 two times a day I had to change her wound so I was
11 in position to change her wound at the time and the
12 incident.

13 Q And do you remember, I guess, we're talking about
14 the incident, can you tell us what happened?

15 A Yes. There was a knock at the door, a desperate
16 knock at the door. I got to the door and the
17 gentleman was there, blood was everywhere. He was
18 just pleading for help.

19 Q Okay. And pleading for help, what was he saying?

20 A He kept assuring me he wasn't going to hurt me,
21 that he just needed somewhere to hide and I called
22 911 for him.

23 Q Okay. And describe for the jury when you enter
24 your house how were the doors?

25 A The front doors open and the storm door was

SW - M. HOWELL - DIRECT

- 1 locked so.
- 2 Q So you have a storm door. Is it glass, screen?
- 3 A Glass.
- 4 Q So the glass storm door was locked?
- 5 A Yes.
- 6 Q But the front door was opened?
- 7 A Yes.
- 8 Q And you didn't -- I mean, was it already opened
- 9 before --
- 10 A Yes.
- 11 Q --before he came on to the porch?
- 12 A (The witness nodded head.)
- 13 Q And upon seeing him tell us what you saw?
- 14 A I saw a hole in his hand the size of a quarter,
- 15 and he was grabbing at his throat and he couldn't,
- 16 he barely could speak, he was trying to catch his
- 17 breath but he was desperate for attention.
- 18 Q And what did you do?
- 19 A I called 9-1-1.
- 20 Q And can you -- I guess we just heard the 9-1-1
- 21 call. Were you in here for that?
- 22 A Yes.
- 23 Q And is that you?
- 24 A Yes.
- 25 Q Okay. So when you called 9-1-1 where, where was

SW - M. HOWELL - DIRECT

1 Jonathan at this point?

2 A He was still trying to get in the front door. He
3 just wanted somewhere to hide, but I told him he
4 couldn't come in.

5 Q Okay. And I'm calling him Jonathan. Did you
6 know his name at the time?

7 A No.

8 Q So you'd never seen him before?

9 A No.

10 Q So he's on your porch bloody, you don't know.

11 A (The witness nodded head.)

12 Q And he's asking — he's saying he wants to hide?

13 A Yes, in the back until help arrived and I told
14 him he couldn't go in the back but he could stay
15 right by the brick column and I would call 9-1-1 for
16 him.

17 Q And by the brick column, I want to show you a
18 picture marked as State's Exhibit 43. Do you
19 recognize this?

20 A Yes.

21 Q What is that?

22 A The front porch and the column he was hiding
23 behind.

24 Q Does it fairly and accurately represent your
25 house and your porch on that day?

SW - M. HOWELL - DIRECT

1 A Yes.

2 MS. SIMPSON: Your Honor, at this time I'd
3 like to introduce State's Exhibit 43 into evidence.

4 MR. SUTHERLAND: Without objection.

5 THE COURT: All right, State's 43 into
6 evidence without objection.

7 (State's Exhibit No. 43 was admitted into
8 evidence.)

9 BY MS. SIMPSON:

10 Q Now, this is your front porch. The doors are
11 closed now, right?

12 A Yes.

13 Q Where was Jonathan on your front porch and if you
14 could just point that out.

15 A He was in here, the footing on the door, trying
16 to get in just behind.

17 Q Okay. So at first he's standing on the side of
18 the column trying to get in the door?

19 A Yes.

20 Q At some point does he go to another column?

21 A To this one (indicating) to hide.

22 Q Okay. So he's still on your porch but he's
23 behind the columns trying to hide. Did he say what
24 he was trying to hide from?

25 A Yes, he said he just got shot and he was trying

SW - M. HOWELL - DIRECT

1 to hide from the shooter.

2 Q Okay. And at this point, and I know a lot is
3 going on at one time.

4 A Uh-huh.

5 Q You're on the phone with 9-1-1?

6 A (The witness nodded head.)

7 Q What happens while you're on the phone with the
8 9-1-1 operator, what's she saying to you?

9 A She's asking me to ask him questions like what's
10 his name, his age, and did he know the shooter and
11 at that time he said yes.

12 Q Do you remember what he said?

13 A Yes, he said his name was Jabriel.

14 Q Okay. And was he having any difficulties with
15 speaking or talking to you?

16 A His breath was getting short, but he was
17 answering all of the questions that the 9-1-1
18 operator was asking me to ask him.

19 Q And you said there was a hole in his hand?

20 A Yes, the size of a quarter.

21 Q The size of a quarter. So you could actually see
22 through —

23 A See through his hand.

24 Q Okay. And did he have anything in his hands?

25 A A pack of Newport cigarettes.

SW - M. HOWELL - DIRECT

1 Q Okay. So he was kind of holding —

2 A Yes.

3 Q —those cigarettes? And while you're on the
4 phone with 9-1-1 did you eventually lose contact
5 with them?

6 A Yes, I was on a cordless phone.

7 Q Okay, cordless phone?

8 A Uh-huh.

9 Q So it doesn't have great service everywhere you
10 go —

11 A No.

12 Q —out in Hopkins?

13 A Huh-uh.

14 Q And you were able to get in contact with them
15 again —

16 A Yes.

17 Q —a second time?

18 A I called back again.

19 Q You actually called them back?

20 A Yes.

21 Q Now, at some point while Jonathan's on the porch
22 did you see anything else before the officers
23 arrived?

24 A Yes.

25 Q Can you tell the jury about that?

SW - M. HOWELL - DIRECT

1 A Yes. Jonathan was hiding on the porch and he
2 said, there he go right there, he's going to come
3 and kill me. And then that's when I told the
4 9-1-1 dispatcher that he was running, the gentleman
5 in all black.

6 Q Okay. So the gentleman, you actually saw this
7 young man running?

8 A Yes.

9 Q And who directed you to him?

10 A Jonathan.

11 Q So he was pointing out —

12 A Yes.

13 Q —saying that's hit him?

14 A Uh-huh.

15 Q That's him?

16 A Uh-huh.

17 Q And what else did he say?

18 A He was going to kill me.

19 Q Okay. Now, when you observed him — now tell us,
20 are you still in the house at this point?

21 A Yes. He's still on the outside of the glass
22 door.

23 Q Okay, but it's a glass door?

24 A Yes.

25 Q And can you see pretty well all around you?

SW - M. HOWELL - DIRECT

1 A You can see the whole neighborhood.

2 Q Okay, and what time of day was this?

3 A About two, after two. It was almost time for my
4 daughter to come home on the school bus.

5 Q Okay, so it's daylight outside, sunny?

6 A Yes.

7 Q I'm going to show you some pictures, State's
8 Exhibits 8 through 19.

9 MR. SUTHERLAND: Without objection, Your
10 Honor.

11 THE COURT: 8 through 19?

12 MS. SIMPSON: Yes, Your Honor.

13 BY MS. SIMPSON:

14 Q Can you glance through these pictures and tell us
15 if you recognize these.

16 A Yes, this is the side, this is the side of my
17 house.

18 THE COURT: Speak up just a little bit for
19 me, Ms. Howell.

20 THE WITNESS: Yes, sir. This is the side
21 of the house, and this is the side showing the front
22 of the yard.

23 THE COURT: Which one did you say is this?

24 MS. SIMPSON: And they're not introduced.

25 BY MS. SIMPSON:

SW - M. HOWELL - DIRECT

1 Q I guess, are these generally of your house ---

2 A Yes.

3 Q ---and area?

4 A Yes.

5 Q And that's actually, is that how your house looks
6 now?

7 A Yes.

8 Q So they're more recent than the photograph we
9 just saw?

10 A Yes.

11 MS. SIMPSON: Your Honor, at this time the
12 State would introduce 8 through 19 into evidence.

13 MR. SUTHERLAND: Again, without objection.

14 THE COURT: Without objection State's 8
15 through 19 is in evidence.

16 (State's Exhibits 8 through 19 were
17 admitted into evidence.)

18 BY MS. SIMPSON:

19 Q Now I'm gonna go through these kind of one at a
20 time. When you saw the young man -- and I guess,
21 describe for the jury what roads are around you?

22 A Prioleau Road, Minervaville, Cabin Creek.

23 Q And what road do you live on?

24 A Masonry Circle.

25 Q Okay. So where in respect to your house does

SW - M. HOWELL - DIRECT

1 Prioleau run?

2 A It's sitting to the right side.

3 Q Okay. And I'm showing you State's Exhibit 8.

4 A Yes.

5 Q Where — what are we seeing?

6 A If you had to come out a little closer this is

7 Prioleau Road (indicating).

8 Q Okay. So we're looking from Prioleau Road

9 towards your house?

10 A Yes.

11 Q And State's Exhibit 8. And that's the dirt road

12 beside you?

13 A Yes.

14 Q Okay. And was the gentleman wearing black, was

15 he on Prioleau Road when you saw him, or where was

16 he first?

17 A He was coming off of, through the wooded area

18 onto Minervaville Road.

19 Q Okay, so —

20 A And the wooded area is from Prioleau. You can

21 off Prioleau through woods and then.

22 Q Okay. I'm showing you State's Exhibit 11. Can

23 we kind of see the wooded area in that picture?

24 A Yes, right here (indicating).

25 Q Okay. So the wooded area over here (indicating)

SW - M. HOWELL - DIRECT

- 1 is where you saw him?
- 2 A Uh-huh.
- 3 Q Now, Minervaville, where is that road in
- 4 relationship to your house?
- 5 A This is Minervaville.
- 6 Q Okay. So Minervaville is up top (indicating)?
- 7 A Yes.
- 8 Q And in front of you you're on Masonry?
- 9 A Yes.
- 10 Q And then Cabin Creek —
- 11 A Is the —
- 12 Q —runs parallel to which street?
- 13 A Masonry and Minervaville.
- 14 Q Okay.
- 15 A Is in the middle.
- 16 Q Okay.
- 17 A Yeah.
- 18 Q And so you saw the gentleman — were you able to
- 19 get a pretty good look at him?
- 20 A I just saw he had on all black. He had on a
- 21 black war hat, black shirt, and black jeans.
- 22 Q Okay, so you were able to that. Do you remember
- 23 whether he was skinny, was he bigger, smaller?
- 24 A Slim, a slim guy. He wasn't a big guy.
- 25 Q And was he walking or he was running?

SW - M. HOWELL - DIRECT

1 A He was running trying to hold his pants up.

2 Q So he's actually running —

3 A Holding his pants up.

4 Q —keeping his pants up. At this point when you
5 see him can you hear any sirens or anything? Are
6 the police on their way?

7 A The 9-1-1 operator, she told me that they was on
8 their way to the scene; but after he got out of my
9 eyesight, that's when I heard the sirens.

10 Q Okay. And what direction were the sirens coming
11 from?

12 A From Cabin Creek.

13 Q From Cabin Creek?

14 A Uh-huh.

15 Q Now is that in the same direction as Minervaville
16 or were they coming from the opposite direction?

17 A It's on Fourth (ph) Street. This here is Cabin
18 Creek Way and this is Minervaville (indicating).

19 Q So they just missed —

20 A They just had missed — if they had come down —

21 Q —the subject?

22 A —Minervaville, then they would have ran into
23 the suspect.

24 Q Okay. And I want to back up just for a little
25 bit. When Jonathan — I guess you didn't actually

SW - M. HOWELL - DIRECT

1 see him come up on your porch, correct?

2 A No.

3 Q When officers arrived what did you do?

4 A I went out to show them that — show the two
5 female deputies that he was hiding behind the brick
6 column.

7 Q Okay, and he was hurt. So you were telling
8 them —

9 A Yes.

10 Q —that this is the house?

11 A That he was — this is the house and he was right
12 here.

13 Q Okay. And when they got up there what did you do
14 at that point?

15 A The EMT took over. The deputies and EMT took
16 over.

17 Q And were you standing there while all of this was
18 going on?

19 A Yes, because they had to remove his clothes.

20 Q So you saw them remove the clothes?

21 A Uh-huh.

22 Q And did those clothes stay on your porch?

23 A Yes.

24 Q What happened after the ambulance left?

25 A Went around to the second scene because the

SW - M. HOWELL - DIRECT

- 1 gentleman had told them that it was someone else and
2 they went around to Prioleau Road.
- 3 Q Okay, so he told them there was somebody else?
- 4 A Uh-huh.
- 5 Q And what are you doing? Did they just leave your
6 house or what did they tell you to do?
- 7 A They told me do not touch anything on the porch
8 and a deputy was on the way. And about two minutes
9 later the deputy was there and didn't leave until
10 they finished on Prioleau Road.
- 11 Q And did investigators come back to your house
12 later on that day?
- 13 A Yes, after they finished up Prioleau Road.
- 14 Q And when they came back did you watch what they
15 were doing, or did they just tell you we're gonna
16 work here?
- 17 A They just said we're gonna work here and took
18 pictures.
- 19 Q Okay.
- 20 A And at that time I was trying to calm my twins.
- 21 Q You got twins?
- 22 A Yes.
- 23 Q They were trying to get out —
- 24 A Yes.
- 25 Q —I guess. Now, at some point when they leave

SW - M. HOWELL - DIRECT

1 can you still see anything?

2 A Yes.

3 Q Tell us what was left behind.

4 A A lot of blood that we had to clean off of the
5 front porch and the door. He lost a lot of blood.

6 Q Okay. And you could see where the blood was
7 located, right?

8 A Yes.

9 Q And I want to show you State's Exhibit 12.

10 A Uh-huh.

11 Q Can you tell the jury what's in State's Exhibit
12 12?

13 A Yes, a walk way where he had a trail of blood
14 where he came up the front porch to seek help.

15 Q Okay, so he — now, this State's Exhibit 12, this
16 is a recent picture?

17 A Yes.

18 Q So the blood, y'all have already cleaned it up a
19 long time ago?

20 A Yes, yes.

21 Q So he walked up the path. It's kind of a ramp
22 almost —

23 A Yes, uh-huh.

24 Q —to your porch. That's where the blood trail
25 was?

SW - M. HOWELL - DIRECT

1 A Yes.

2 Q What's over in that direction coming up there?

3 How -- is there a fence around your house or how is
4 that set up?

5 A The way that he came up from the ramp?

6 Q Yes, ma'am.

7 A He came through the fence, the gate, and came
8 across the grass. Then he came up the ramp and
9 that's where the trail of blood was.

10 Q Okay. And you said he lost a lot of blood?

11 A Yes.

12 Q Now, did you ever see the other victim in this
13 case?

14 A No.

15 Q No. And did you actually speak with law
16 enforcement officers at some point and tell them
17 what you knew?

18 A Yes, after they finished on Prioleau Road.

19 Q Okay, and did you give them a written statement?

20 A Yes.

21 Q And you didn't know Jonathan?

22 A No.

23 Q Did you see him with a weapon on your porch?

24 A No, and they left his clothes on the porch.

25 Q And so they left everything --

SW - M. HOWELL - DIRECT

1 A They left everything.

2 Q —and you never saw anything?

3 A They left his underwear. They left everything,
4 his jacket, his hat, his cigarettes. So I didn't
5 see no sign of a gun.

6 Q Okay. And when nobody else was there and it was
7 just you and him, you didn't see a gun at that point
8 ether?

9 A No, he just kept assuring me that he wasn't going
10 to hurt me so.

11 Q He wasn't going to hurt you and he needed a place
12 to hide?

13 A Yes.

14 Q Okay. Now, we mentioned the hole in his hand and
15 Newports. What was he doing with the Newports?

16 A I guess he was trying to apply pressure to the
17 hole.

18 Q To his hand?

19 A To his hand.

20 Q So he realized there was a hole in his hand?

21 A Yes.

22 Q At some point did he let go of the Newports?

23 A Yes. Once he saw the blood just kept pouring out
24 and pouring out, he just, he was getting weak, very
25 weak, getting weaker.

SW - M. HOWELL - DIRECT

1 Q And so he was getting weaker right in front of
2 your eyes?

3 A Yes.

4 Q And he let's go of the Newports?

5 A Yes, uh-huh.

6 Q All right. Thank you.

7 A Uh-huh.

8 MR. SUTHERLAND: If it please the Court,
9 Your Honor.

10 THE COURT: Yes, sir.

11 **CROSS - EXAMINATION**

12 **BY MR. SUTHERLAND:**

13 Q Ma'am, this is not going to take too long. I'd
14 like to just quick walk you through the statement
15 that you made. I believe I it was Mat Ellis?

16 A Who?

17 Q Was it Mat Ellis that investigated, that took
18 your statement?

19 A I don't know his name.

20 Q Okay. And what I'll do is I'll just read it and
21 I'll stop —

22 MS. SIMPSON: Objection, Your Honor, with
23 respect to counsel's intention just to read her
24 statement to her.

25 MR. SUTHERLAND: Well, I'm telling her

SW - M. HOWELL - CROSS

1 what I'm going to do, Judge.

2 THE COURT: Just ask your question.

3 BY MR. SUTHERLAND:

4 Q What I will do, I'll read a little bit, I will
5 stop, and I will check with you and say, you know,
6 do you remember telling him, saying that to the
7 investigator. And that's the way I'm going to go
8 forward. Okay, the question is: Tell me what
9 happened today at your house. I was inside giving
10 my mom a bath.?

11 MS. SIMPSON: Objection, Your Honor, with
12 respect to the for of this line of questioning.

13 THE COURT: The form of the question. You
14 have to rephrase the question.

15 MR. SUTHERLAND: Okay, thank you, sir.

16 BY MR. SUTHERLAND:

17 Q You had told the investigator that you were
18 inside giving your mom a bath and that she just got
19 out the hospital, right?

20 A Uh-huh.

21 Q You said: I heard someone banging on the door
22 and told my mom I was going to see who it was?

23 A Yes.

24 Q Is that correct? And then you said: When I got
25 to the door a guy was there holding his hands

SW - M. HOWELL - CROSS

- 1 together with a pack of Newport cigarettes?
- 2 A Uh-huh, yes.
- 3 Q Is that what you said?
- 4 A (The witness nodded head.)
- 5 Q He then fell backwards on the porch post and told
- 6 me he wasn't going to hurt me, that he just needed
- 7 help?
- 8 A Yes.
- 9 Q I called 9-1-1 and was telling then what he was
- 10 telling me. You said that at that time?
- 11 A Yes.
- 12 Q I was giving him his name and date of birth. He
- 13 was saying his throat hurt and he couldn't breathe?
- 14 A Yes.
- 15 Q Okay. Dispatch asked me to ask if you knew who
- 16 shot him and you said it was Jabriel is what you
- 17 wrote down at the top?
- 18 A Yes.
- 19 Q The guy on my porch so a guy running and said,
- 20 there he goes right there?
- 21 A Uh-huh.
- 22 Q I saw this guy. He was running on Minervaville
- 23 Road towards Cabin Creek?
- 24 A Yes.
- 25 Q I told the dispatcher this and where to send the

SW - M. HOWELL - CROSS

1 police?

2 A Yes.

3 Q I could see a hole in his left hand and blood was
4 coming through the jacket on his back?

5 A Uh-huh.

6 Q Did the guy on the porch tell you anything else?
7 That answer, your answer was no. Do you recall
8 that?

9 A Yes, he didn't say anything else.

10 Q Okay, all right. I think as far as your
11 observations of everything, you looked and you saw a
12 guy running up the road as you — and the clothing
13 you described?

14 A Yes, black wool hat, black shirt, and black
15 jeans.

16 Q And was trying to hold his pants up?

17 A Hold his pants up.

18 Q Okay, thank you.

19 MR. SUTHERLAND: No further questions,
20 Your Honor.

21 THE COURT: Thank you, Mr. Sutherland.

22 Redirect?

23 **R E D I R E C T E X A M I N A T I O N**

24 **BY MS. SIMPSON:**

25 Q Do you remember telling law enforcement that you

SW - M. HOWELL - REDIRECT

1 were able to describe the guy that you saw running?

2 A Just that he was a black male with a black wool
3 hat on, a black shirt, and black pants.

4 Q Okay, and I'm gonna show you, is that your
5 statement, part of it?

6 A Yes.

7 Q And direct your attention to the bottom. Now,
8 we're a year from the time this happened, right?

9 A Uh-huh.

10 Q Would your memory have been better then?

11 A Yeah.

12 Q And did you actually give more of a description
13 to police at this time?

14 A Yes, a dark skin black male, skin—

15 THE COURT: Speak up a little bit for me.

16 THE WITNESS: A dark skin black male skin
17 with a wool hat, black jeans and a black shirt.

18 BY MS. SIMPSON:

19 Q Okay. And you even said that he was in the late
20 20s?

21 A Yes.

22 Q And was about 5'8", 5'9"?

23 A Yes.

24 Q Right. Now, Minervaville and Cabin Creek, can
25 you kind of tell us how those roads intersect?

SW - M. HOWELL - REDIRECT

1 A Yes. Minervaville ---

2 MR. SUTHERLAND: Objection, beyond the
3 scope of the cross-exam or the ---

4 THE COURT: I will allow it under 611.
5 You may continue.

6 MS. SIMPSON: Thank you, Your Honor.

7 BY MS. SIMPSON:

8 Q Okay.

9 A It runs into Cabin Creek.

10 Q Okay. So Minervaville, and I'm gonna show you ---
11 now I'm a little turned around. Bear with me just a
12 moment. Okay, State's Exhibit 11, Minervaville is
13 to the right of your house if I'm stand on the front
14 porch?

15 A Yes.

16 Q And Cabin Creek, you're saying that intersects
17 with Minervaville?

18 A Yes. On Minervaville went up and when you get to
19 the stop sign that's Cabin Creek (indicating).

20 Q Okay, thank you.

21 A Uh-huh.

22 MS. SIMPSON: Nothing further, Your Honor.

23 THE COURT: Re-cross?

24 **RECROSS - EXAMINATION**

25

SW - M. HOWELL - RECROSS

1 **BY MR. SUTHERLAND:**

2 Q As I understand on redirect from the solicitor,
3 your memory would have been better at the time you
4 wrote the statement than it is here today 14 months
5 ago?

6 A Oh, I remember it like it was yesterday.

7 Q But your testimony — she just asked you would
8 your memory have been better back then than it would
9 be today and you answered yes.

10 A Yes, as far the description, yeah.

11 Q Okay. Well, sure, that's what I was trying to
12 make sure. Thank you.

13 A Uh-huh.

14 THE COURT: Thank you very much. You may
15 step down.

16 THE WITNESS: Okay.

17 THE COURT: All right, Solicitor, you may
18 call your next witness.

19 MS. SIMPSON: The State calls Investigator
20 Kristen Polis.

21 THE COURT: Come around to be sworn
22 please.

23 WHEREUPON,

24 **KRISTEN POLIS,**

25 after having been duly sworn, testified as follows:

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1 THE CLERK: Thank you. Please have a seat
2 on the witness stand. Please state your name for
3 the record. Please spell your first and last name.

4 THE WITNESS: Yes, ma'am. My name is
5 Kristen K-R-I-S-T-E-N, Polis, P-O-L-I-S.

6 DIRECT EXAMINATION

7 BY MS. SIMPSON:

8 Q Investigator Polis, where are you employed?

9 A I work for the Richland County Sheriff's
10 Department in the crime scene unit.

11 Q And how long have been with Richland County?

12 A I've been with the county for ten years and this
13 is my sixth year in the crime scene division.

14 Q Okay, and what exactly is the crime scene unit?

15 A We're a group of investigators who respond out.
16 Their primary duties are to search for and locate
17 physical evidence that we'll preserve and collect
18 that we can do different forms of testing, analysis
19 on it, and when we can we'll try to interpret the
20 results of that analysis that we do.

21 Q Can you tell the jury a little bit about your
22 training in crime scene investigation?

23 A Yes. I've got a bachelors degree from Charleston
24 Southern University in criminal justice and
25 psychology. I've got a masters degree from the

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1 University of South Carolina in social work. And
2 upon coming to the crime scene division, we have an
3 internal training program that we all have to
4 complete and it's a comprehensive program that
5 covers all the areas of processing that we're gonna
6 be responsible for. So we talk about fingerprints,
7 shoe impressions, tire impressions, collection of
8 DNA evidence, trajectory analysis, bloodstain
9 analysis, all those different categories. And we
10 read all of the leading forensic literature that's
11 in the field. There's written tests on each area as
12 well as practical tests. So in areas that we have
13 to work we have to pass a written test and be
14 considered proficient in the processing of that
15 particular topic. That program took me 20 months to
16 complete from beginning to end. After I completed
17 that program -- in addition to that program, some,
18 some training that we had externally where we go out
19 to different conferences and courses. And I've had
20 courses in basic and advanced photography and
21 fingerprinting, both collection and comparison.
22 I've had courses of basic and advanced bloodstain
23 analysis, DNA overview, and forensic pathology, and
24 there's more courses that we take so that we're all
25 proficient in all these areas, both trained in-house

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1 and externally as well. I'm also certified through
2 the internal association for identification — I'm
3 sorry, international association of identification
4 as a crime scene investigator. That's an outside
5 body that administers written tests that you have to
6 take and pass. And then you have certification that
7 has to be maintained so we're re-tested every five
8 years to keep that certification.

9 Q So you actually participate in continuing
10 educational courses as well?

11 A We do, yes.

12 Q Have you ever been qualified as an expert before?

13 A Yes.

14 Q About how many times?

15 A I did not count before I came. Approximately 10
16 to 12.

17 Q Okay.

18 MS. SIMPSON: Your Honor, at this time the
19 State would offer Investigator Kristen Polis as an
20 expert in crime scene investigation.

21 THE COURT: All right, Mr. Sutherland.

22 MR. SUTHERLAND: I mean, I don't doubt her
23 credentials. I mean, this is about the evidence
24 that's been collected. She just collected evidence
25 at the scene. I'm not aware that she's going to

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1 offer opinion testimony.

2 THE COURT: Well I, as you know, I don't
3 know what's coming.

4 MR. SUTHERLAND: I don't object to her
5 qualifications.

6 THE COURT: All right, thank you. Thank
7 you very much, Mr. Sutherland.

8 Mr. Foreman, ladies and gentlemen of the
9 jury, normally a person cannot give opinion
10 testimony. Normally when a person testifies, they
11 must testify as to either what they saw, heard, or
12 scent by smell or something of that nature.
13 However, there is an exception to someone that's
14 qualified because of education, experience, or
15 training. They are permitted give their opinion in
16 certain areas if the Court qualifies them in that
17 way. This witness, Investigator Kristen Polis, will
18 be qualified in the area of crime scene
19 investigation to give opinion testimony in that
20 area. That does not mean that you must accept the
21 opinion or basis of the opinion, but it is evidence
22 for you, the jury, to use in any way you see fit.
23 Thank you. Thank you very much.

24 Solicitor, you may continue.

25

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1 BY MS. SIMPSON:

2 Q Back on January 24 of 2012 were you still working
3 in your present capacity?

4 A Yes, I was.

5 Q And did you have occasion to become involved in
6 this case?

7 A I did.

8 Q Where did you first respond and when?

9 A The first location I was called to was 157
10 Prioleau Road, and I -- I received the call at 2:50
11 p.m. and I arrived on the scene at 3:18 p.m.

12 Q Okay, and what did you observe when you first
13 arrived?

14 A When I got on scene I met the deputies that had
15 been there. From the time they arrived they secured
16 that location. So what that means is they put the
17 yellow crime scene tape around and began maintaining
18 log. What the crime scene log does is it tells us
19 that from the time they arrived there these are the
20 people who have entered and left the scene. I made
21 contact with them. I got the briefing about the
22 incident and what they knew. I signed in on the
23 crime scene log and began my work.

24 Q Okay. And can you tell the jury about the
25 location and what you observed about the incident?

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1 A Yes. The 157 Prioleau road was located down a
2 dirt road. There's a residence there, and it was an
3 opened garage off to the side with no vehicles
4 underneath. And a blue SUV was parked kind of next
5 to the porch. You know, it would be backed in if
6 you were looking at it from the dirt road.

7 Q And once you arrived and made these evaluations
8 what did you do?

9 A One of the main things that we begin in our work
10 is photography because as much as we can we want to
11 preserve things in the original condition that they
12 were in. So as I'm looking at what is there, I'm
13 also taking photographs of everything, the overall
14 location up close, pictures of evidence that we
15 find, the vehicle that's there. We've — we looked
16 on the ground in the area around and on the property
17 and located the different items of evidence and
18 marked those.

19 Q Okay. And let's go through, what were some of
20 the items that were marked?

21 A Close to the vehicle on the driver's side of the
22 vehicle there were a group of fired cartridge
23 casings, shell casings, after a gun is fired. This
24 is a piece that's left from the bullet. And there
25 were a group of five shell casings that were beside

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1 the vehicle on the ground. I marked all of those
2 with evidence markers alleged A, B, C, D, and E, and
3 that was located to the right of the driver's side
4 of that vehicle. In addition to that, on the
5 passenger side we located the Food Lion plastic bag.
6 At that time we didn't know what was in it. We went
7 ahead and marked that so that it could be
8 photographed and collected. And I believe those are
9 the only items that were in close proximity to the
10 vehicle.

11 Q To the actual vehicle itself?

12 A Yes.

13 Q I'm gonna show you what's been marked State's
14 Exhibit 21 through 32. Do you recognize these
15 photographs?

16 A Yes, I do.

17 Q And do they fairly and accurately depict the
18 scene?

19 A Yes, they do.

20 MS. SIMPSON: Your Honor, at this time the
21 State would offer State's 21 through 32 into
22 evidence.

23 MR. SUTHERLAND: Without objection, Your
24 Honor.

25 THE WITNESS: State's 21 through 32 is in

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1 evidence without objection.

2 (State's Exhibit Nos. 21 through 32 were
3 admitted into evidence.)

4 BY MS. SIMPSON:

5 Q I'm going to show you State's Exhibit 21 and 22.
6 I believe you indicated you photograph first,
7 correct?

8 A That's correct.

9 Q And what are we seeing in those photographs?

10 A These are the fired cartridge casings and shell
11 casings that were found in the group on the ground,

12 Q Okay. So they're fairly close proximity?

13 A To the vehicle, yes — or to each other, I'm
14 sorry.

15 Q And in State's 23, can you tell us what we see
16 there?

17 A This is the residence that I was referring to
18 (indicating). Here is the dirt road (indicating) \
19 that would run down this way (indicating). You can
20 see where the officers have got the scene tapped off
21 with the yellow crime scene tape, and this the SUV,
22 the vehicle that I referred to, parked outside the
23 porch.

24 Q And in this have you marked the evidence, the
25 shell casings?

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1 A Yes, there's markers here (indicating) and
2 there's also some in the foreground we talked about,
3 yes.

4 Q And we also see some orange flags. What are,
5 what do those indicate?

6 A In this case when we located those shell casings
7 we marked them with, with the flags. We did not
8 want them to be disturbed. The flags are not
9 something that we would always use, but in this
10 particular case these were located very close to the
11 vehicle as was the deceased victim who was in the
12 driver's seat of the vehicle and we needed to be
13 able to remove his body from the vehicle so that we
14 could examine his condition. And had we left the
15 shell casings there for that process they would not
16 be in their position as they should be and anyone of
17 us could have stepped on and damaged them. So in an
18 effort to be cautious we went ahead and marked these
19 with the flags so that we'd still have the location
20 but the actual items of evidence were collected so
21 that they would be preserved.

22 Q Okay. And in State's Exhibit 26, is that just a
23 closeup version?

24 A Yes.

25 Q And the shattered window, is that window, is that

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1 how it was when you observed it?

2 A Yes, when I arrived we noticed that the driver's
3 side window was shattered.

4 Q And these casings, I believe markers A through E,
5 what's side of the car were they located on?

6 A Those are on the driver's side.

7 Q And these are photographed and marked, correct?

8 A That's correct.

9 Q And do you maintain a report in this case
10 regarding, I guess, whatever activity you may do
11 with respect to a crime scene?

12 A We issue reports on all of our — anything
13 involved with the scene we complete a report on it.

14 Q And did you have a report in this case?

15 A Yes, ma'am.

16 Q And did you indicate in your report where those
17 cartridge cases were found?

18 A I did in two different places. In the narrative
19 I describe how cartridge cases are located in next
20 to the driver's side of the window. There's also a
21 list where I discuss those fired cartridges cases as
22 well.

23 Q And I guess first with respect to those, what,
24 what type of cartridges were those? Did they have a
25 stamp indicated on them?

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1 A They do. All cartridges have a head stamp and in
2 that case it said Winchester 38 SPL so we know
3 that's going to be a .38 caliber.

4 Q Okay. And so they all have the same stamp or
5 different stamps?

6 A They all have the same stamp, A through E.

7 Q Now, in your report I believe that you
8 indicated -- you said this in several places -- and
9 on one side it says actually the passenger side of
10 the vehicle?

11 A That's correct. In the narrative I documented it
12 correctly it's on the driver's side. I made an
13 error that I did not catch until I did my report.
14 On the list of items collected, on that side I
15 indicated that they were found on the passenger side
16 of the vehicle; but as you can see in the pictures,
17 they were on the driver's side. By memory, I know
18 they were on the driver's side and it's also
19 sketched, completed, and it demonstrates in the
20 sketch that there were on the drivers side so in
21 that one location it's just that error.

22 Q And did you actually collect those shell casings
23 as well?

24 A I did.

25 Q I'm gonna show you what's been marked State's

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1 Exhibit.

2 MS. SIMPSON: Beg the Court's indulgence.

3 BY MS. SIMPSON:

4 Q I'm gonna show you what's been marked as State's
5 Exhibit 156. Do you recognize 156?

6 A Yes. This is my packaging labeled to contain
7 fired cartridge casings A, B, C, D, and E, F, which
8 is an unfired cartridge casing and then G and H,
9 which are two other fired cartridge casings.

10 Q Okay. And you recognize this because you said
11 it's your packaging?

12 A Yes.

13 Q So you actually collected and properly sealed
14 these items?

15 A That's right.

16 Q And what did you do with these items once they
17 were packaged and sealed?

18 A We submit them to our evidence section. They
19 retain all of our evidence. Different items,
20 depending on what they are, they go to different
21 divisions for testing. And the case investigator
22 will request, if there's anything additional they
23 would have done to those. Prior to submitting those
24 they are also fingerprinted and swabbed for some
25 DNA.

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1 Q Okay. Can you tell us your process for
2 fingerprinting these cartridges.

3 A Yes. When we collect evidence at the scene we
4 bring it back to the headquarters to process. We
5 have in our lab a large fuming chamber, and what we
6 do is called cyanoacrylate fume. You may have heard
7 it called superglue fuming, and that's the same
8 thing. We have the chamber that is contained and
9 when we close it it's completely sealed off so what
10 we will just place each item of evidence inside the
11 chamber. In there we have a warming plate, and on
12 the warming plate we will place superglue, and then
13 we also have a humidifier. So we can seal that unit
14 off and we can raise the humidity in that chamber;
15 and then at that point when the humidity reaches
16 that level, that superglue will start to create
17 fumes and the fumes are gonna fall down and they're
18 going to settle over whatever items are in the
19 chamber. So if there should be a fingerprint on the
20 item, these fumes are gonna settle over it and they
21 are going to harden and that's gonna detect anything
22 that might be on the surface of an item. So we can
23 take those items, once they have the superglue
24 fuming completed, try to process them with powder.
25 The powder will enable us to see if there's

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1 fingerprints on there. When you, you know, as we
2 are all living, functioning and touching things, our
3 bodies constantly all different processes and one of
4 those is that we're sweating. Our hands are always
5 sweating and there's different that are in sweat we
6 touch things we can leave a deposit behind. So what
7 we're doing with fingerprint powders is they're
8 formulated to adhere to what is left behind so we
9 can take something that we cannot see and those
10 powders will attach to it and then it will become
11 visual, it's something that we can look at, try to
12 lift. We can photograph it first, try to lift it
13 with tapes. There's several other processing
14 techniques that we use; but in this case that's what
15 we did, superglue fuming and black powder.

16 Q And were those results positive, negative for
17 these items?

18 A They were negative.

19 Q I actually want to show you what's been marked as
20 State's Exhibits 38 through 50.

21 MR. SUTHERLAND: Without objection, Your
22 Honor.

23 THE COURT: 38 through 60, Solicitor?

24 MS. SIMPSON: I believe it's 50, Your
25 Honor.

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1 THE COURT: 50.

2 MS. SIMPSON: 50.

3 (WHEREUPON, State Exhibit Nos. 38 through
4 42, 44 through 50 were admitted into
5 evidence.)

6 BY MS. SIMPSON:

7 Q And I believe you mentioned G and H are two fired
8 cartridges as well that you collected per the
9 evidence bag.

10 A That's correct.

11 Q And those are fired cartridges for G and H,
12 correct?

13 A That's correct.

14 Q You also collected an unfired cartridge I believe
15 marker F?

16 A That's correct.

17 MS. SIMPSON: Your Honor, at this time the
18 State would introduce State's Exhibit 156 into
19 evidence.

20 MR. SUTHERLAND: No objection, Your Honor.
21 (State's Exhibit 156 was admitted into
22 evidence.)

23 THE WITNESS: Can I clarify what you just
24 said?

25 BY MS. SIMPSON:

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1 Q Yes.

2 A G and H were collected actually by Investigator
3 Holt —

4 Q Okay.

5 A —and then turned it over to me, —

6 BY MS. SIMPSON:

7 Q Okay.

8 A —but I marked and photographed them.

9 Q Okay. And so G and H, I'm gonna show you State's
10 Exhibit 42. Can you tell the jury — I know we're
11 somewhat far away, what we're seeing there and —

12 MR. SUTHERLAND: If I may briefly, I'm
13 sorry. I'm sorry, if I may briefly. So G and H,
14 you didn't introduce the shells. You're just asking
15 about the pictures you mentioned?

16 MS. SIMPSON: No, I introduced State's
17 156.

18 COURT: That's through — what's the
19 objection?

20 MR. SUTHERLAND: There was previous
21 testimony that she had collected the items and then
22 corrected her testimony that Trevor Holt had
23 collected the items, and that would be — that would
24 just be my objection, Your Honor.

25 MS. SIMPSON: I believe her testimony was

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1 that —

2 COURT: May I see State's 156, please?

3 MS. SIMPSON: Yes.

4 THE COURT: Step out, ladies and
5 gentlemen, leave your notes, do not discuss the
6 case.

7 (The jury retires from the courtroom.) at
8 5:20 p.m.)

9 THE COURT: What's your objection,
10 Mr. Sutherland?

11 MR. SUTHERLAND: My only issue was
12 Investigator Polis had testified — Nicole had asked
13 her do you remember collecting G and H. I believe
14 —

15 THE COURT: Investigator Nicole?

16 MR. SUTHERLAND: I'm sorry, Ms. Simpson.

17 THE COURT: Oh, the Solicitor, okay. All
18 right.

19 MR. SUTHERLAND: Yes, sir.

20 THE COURT: Thank you.

21 MR. SUTHERLAND: And I believe
22 Investigator Polis said yes, I remember and I said
23 no objection and then I believe Investigator Polis
24 said, wait a minute, Trevor Holt collected those two
25 items and so I sort of reverse my non-objection —

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1 THE COURT: F and G?

2 MR. SUTHERLAND: I believe it was G and H,
3 sir. So I sort of reverse myself on the
4 non-objection on G and H just on that basis, I mean,
5 if she collected them.

6 MS. SIMPSON: And Your Honor, I believe
7 her testimony was that Investigator Holt did collect
8 them, that they kind of work in teams, and turned
9 them over to her and she actually is the one who
10 sealed them and packaged and submitted them items to
11 evidence.

12 THE COURT: I wasn't tracking, Solicitor.
13 Where did F and G, where were they collected?

14 MS. SIMPSON: Well, G and H, Your Honor,
15 and —

16 THE COURT: G and H.

17 MS. SIMPSON: They are collected at the
18 crime scene. She is photographing them. I will be
19 happy to show you a photograph if you wish. There's
20 some -- I'm not very good with distances, but a
21 little ways away from the vehicle where this
22 incident occurred on the property.

23 THE COURT: Where did F come from?

24 MS. SIMPSON: F, the unfired cartridge
25 casing is also nearby. I don't believe it's

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1 indicated in this picture, and I have not introduced
2 the pictures with respect to F. But I believe they
3 are -- F is nearby G and H, Your Honor.

4 THE WITNESS: It's centrally located.

5 MS. SIMPSON: Centrally located.

6 THE COURT: And then again your objection,
7 Mr. Sutherland, is?

8 MR. SUTHERLAND: My objection would be
9 that just Investigator Holt should testify for the
10 shell casings that he's collected as far the
11 foundation for introducing them. I mean, I didn't
12 have an objection when Investigator Polis testified
13 that she did collect them. It's just when she
14 remembered -- and it was a leading question by the
15 way, but the State had asked about G and H.

16 THE COURT: And what about F?

17 MR. SUTHERLAND: And it would be the same
18 for item F if her reversal of her testimony is the
19 same it was taken at the time as.

20 THE COURT: All right. Well, it would
21 appear to me then you have no objection to State's
22 156, items A through E.

23 MR. SUTHERLAND: That's correct.

24 THE COURT: Which is the fired shell
25 casings or cartridges on the driver's side of the

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1 vehicle.

2 MR. SUTHERLAND: That's correct, Your
3 Honor.

4 THE COURT: And I'm not sure if Detective
5 Polis or Detective Holt recovered F, G, and H.

6 MS. SIMPSON: I believe Investigator Holt
7 has testified that she actually collected F.

8 THE COURT: All right.

9 MS. SIMPSON: A and H were the only shell
10 casings that were actually collected by and turned
11 over to her.

12 MR. SUTHERLAND: And in that instance I
13 would withdraw my objection to F.

14 THE COURT: All right. So 156-A through
15 -F is in evidence without objection.

16 MR. SUTHERLAND: Yes, sir.

17 THE COURT: Although nobody is looking at
18 this unsealed package. I know there's something in
19 that package is what it says is in that package.
20 And G and H are for I.D. purposes only at this time.

21 MS. SIMPSON: Yes, Your Honor.

22 MR. SUTHERLAND: Okay. Thank you, sir.

23 THE COURT: All right. And if we find out
24 if it's something different we'll certainly revisit
25 that, but I believe it's shell casings.

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1 MR. SUTHERLAND: Certainly. Thank you,
2 Your Honor.

3 THE COURT: All right, ready for the jury,
4 Solicitor?

5 MS. SIMPSON: We are, Your Honor.

6 THE COURT: You're giving me a note?

7 THE BAILIFF: Yes, sir.

8 THE COURT: All right, thank you. All
9 right, bring us our jury please.

10 (The jury was returned to the courtroom at
11 5:27 p.m.)

12 THE BAILIFF: All jurors present, Your
13 Honor.

14 THE COURT: Thank you. Thank you very
15 much..

16 Mr. Foreman, ladies and gentlemen, I
17 received your note. I would respond to that note in
18 the following manner. I make this assumption — if
19 this assumption is incorrect please advise me, Mr.
20 Foreman. I make the assumption that this question
21 was asked by one juror keeping his or her own
22 counsel directed to the foreperson to author the
23 note and/or to sign the note by number. Is that
24 correct?

25 THE FOREPERSON: That is correct, Your

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1 Honor.

2 THE COURT: All right. Our law has: (a)
3 not developed to the point where jurors can ask
4 questions. That's not fussing at you or anything of
5 that nature. It's just that you cannot ask
6 questions as far as during the presentation of
7 testimony. The parties will present their case in
8 the manner in which they present it. All evidence
9 doesn't necessarily come in on the point of a
10 pencil. What may come in through one witness, if
11 there are blanks I make no comment that there are or
12 not, may be filled in by another witness; may not,
13 that's up to y'all to decide. But as far as this is
14 concerned, the Court cannot respond to this in any
15 manner, and I would just ask you to — as this
16 indicates to me, you are giving it your utmost
17 attention to the trial of this case, and I would ask
18 you to continue to give the parties your complete
19 and undivided attention. Thank you. Thank you very
20 much, Mr. Foreman, ladies and gentlemen.

21 Solicitor, you may continue.

22 MS. SIMPSON: Thank you, Your Honor.

23 BY MS. SIMPSON:

24 Q I believe we were discussing State's Exhibit 42
25 and what we're seeing in there. Can you tell us

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1 what we see in State's Exhibit 42.

2 A Yes. The items marked G and H are two fired
3 shell casings, and the item marked here, number
4 three, is actually a glove. And as you can see this
5 house is back here in the background, and again,
6 that dirt road is gonna be right up through here.
7 And these are close to the edge of the road way.

8 Q Okay. And those are items that you marked and
9 photographed?

10 A That's correct.

11 Q Who actually collected those items of evidence?

12 A All of those items were collected by Investigator
13 Holt.

14 Q I want to show you what's been marked as State's
15 Exhibits 53 through 57. Defense counsel has had an
16 opportunity to review these. Do you recognize
17 those?

18 A Yes, I do.

19 Q Okay, and what are they?

20 A They're, again, just different photographs of the
21 exterior of the residence showing the vehicle, the
22 house, and the different items of evidence.

23 Q And do they fairly and actually depict the scene
24 as you recall it from that day?

25 A Yes, they do.

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1 MS. SIMPSON: Your Honor, at this time the
2 State would introduce State's Exhibits 53 through 57
3 into evidence.

4 MR. SUTHERLAND: There's no objection,
5 sir.

6 THE COURT: State Exhibits 53 through 57
7 are in evidence without objection.

8 (State Exhibit Nos. 53 through 57 were
9 admitted into evidence.)

10 BY MS. SIMPSON:

11 Q What exactly is F?

12 A Item F is an unfired cartridge casing which means
13 it's a bore that's never been fired. That head
14 stamp on that one indicates GFL 357 magnum so that's
15 a 357.

16 Q Okay, so it's actually the full bullet,
17 everything?

18 A Correct.

19 Q And the other shell casings that you found at the
20 scene?

21 A The casings are the portion that's left behind
22 after the bullet is fired.

23 Q Okay, so this one was never fired?

24 A Correct.

25 Q And did you actually collect that item ---

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1 A I did.

2 Q —of evidence as well?

3 A Yes.

4 Q I want to show you — did you also have the
5 opportunity to mark some additional items of
6 evidence to include markers 2 and — or 1 and 2?

7 A Yes, I did.

8 Q I'm showing you what's been marked as State's
9 Exhibits 33 through 37. Do you recognize these?

10 A Yes, I do.

11 Q And what are those?

12 A These are photographs of the items going to be
13 marked and photographed.

14 MS. SIMPSON: The State would introduce
15 State's 33 through 37 into evidence.

16 MR. SUTHERLAND: No objection.

17 THE COURT: State's 33 through 37 is in
18 evidence without objection.

19 (State's Exhibit Nos. 33 through 37 were
20 admitted into evidence.)

21 BY MS. SIMPSON:

22 Q State's Exhibit 33, are these the unmarked
23 locations?

24 A That's correct, they are.

25 Q And what is State's Exhibit — or I'm sorry, I'm

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1 showing you State's Exhibit 34. What is that?

2 A This is item 1 and it is a blue cigarette
3 lighter.

4 Q And in State's Exhibit 35 are we seeing the same
5 lighter?

6 A Just a closeup of the same item.

7 Q State's Exhibit 36, what do we see there?

8 A This is a pack of Newport cigarettes marked as
9 item number 2.

10 Q Do you ever mark things with the same number or
11 are they marked individually?

12 A They're individually marked.

13 Q And was that all the evidence that you actually
14 marked or was there -- were there additional items?

15 A That's everything that was marked.

16 Q And I believe we spoke earlier you did mark the
17 Food Lion bag as well you indicated?

18 A I did.

19 Q I'm gonna show you State's Exhibit 51 and 52.
20 And what do we see in State's 51 and 52?

21 A It's a plastic Foot Lion shopping bag that we
22 found located on the passenger side of the vehicle
23 and this we marked with evidence marker number 5.

24 MS. SIMPSON: Your Honor, at this time the
25 State would introduce State's 51 and 52 into

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1 evidence.

2 MR. SUTHERLAND: No objection.

3 THE COURT: State's 51 and 52 is in
4 evidence without objection.

5 (State's Exhibit Nos. 51 and 52 were
6 admitted into evidence.)

7 BY MS. SIMPSON:

8 Q Now as far as items you collected, did you find
9 any weapons out there?

10 A I did not.

11 Q So all you found were the shell casings, correct?

12 A And the one unfired cartridge, yes.

13 Q And the one unfired. But no knife?

14 A No.

15 Q No weapons were located?

16 A No.

17 Q All right. What did you do next after marking
18 the items and photographing them?

19 A As I said before, we went in, collected the shell
20 casings that were located close to the vehicle. And
21 then at that time we moved to the vehicle where the
22 victim's body was inside. We started by taking
23 photographs of exactly how he was positioned inside
24 that vehicle.

25 Q Okay. So he was still on scene in the vehicle as

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1 he was left —

2 A Yes.

3 Q —at the time of the shooting?

4 A That's correct.

5 Q And what did you observe when you looked into the
6 vehicle?

7 A Okay, there was blood in the — on a number of
8 surfaces on the inside of the vehicle. The
9 ignition, the key was in the ignition and it was
10 switched forward but the car was not cranked up. As
11 we said before the driver side window was shattered.
12 There are reddish brown stains that we believed to
13 be blood on the ignition switch. And I was advised
14 by the deputies that when they — the front
15 passenger door was closed when I got there. They
16 said that initially had been opened but the wind had
17 blown it closed. So when I observed that it was
18 also closed.

19 Q Okay, and at some point did something happen with
20 respect to the victim's body?

21 A Yes, we — after photographs were taken inside
22 the car we removed the body from the car so we could
23 examine the injuries a little bit more closely.

24 Q Okay, and tell us what you did.

25 A Okay. First, the victim was dressed in a black

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1 T-shirt and he had on blue jeans with boxer shorts
2 underneath. The jeans had a belt. He was also
3 wearing brown shoes. There were a couple of
4 necklaces that he was wearing and those had some
5 damage on them. He was also wearing a watch and he
6 had two band type bracelets like rubber bands.
7 We -- the corner's office at that point is on the
8 scene and when the coroner's office is there their
9 duties are actually with the body. And so what we
10 do together is we look at what's present. Jane
11 Powell was the representative from the coroner's
12 office, and she cut open the pockets of the -- back
13 pockets of the blue jeans so that we could safely
14 take the contents out of them. And what we located,
15 the back left pocket there was 40-dollars in cash
16 and the back right pocket there were two condoms.
17 Those specific items were collected by Investigator
18 Holt. In the front pockets, in his front and left
19 pocket, there was a clear plastic baggie, two tubes
20 chapstick, and blue lighter. He had 32-dollars in
21 cash and a dollar and sixty cents in change, and
22 then I collected all of those items.
23 Q Okay. And what did you do with the items once
24 they were collected?
25 A Those items were just photographed and then

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1 submitted to evidence to hold.

2 Q Okay. And did you make any observations with
3 respect to the deceased victim's clothing at the
4 scene?

5 A Yeah. We did observe on his shirt there were
6 some bright blue fibers, and those were photographed
7 and they were collected using trace tape by
8 Investigator Holt.

9 Q And what exactly is trace tape?

10 A It's just an adhesive tape or a large wide piece
11 we can use to take if you have things like hairs or
12 fibers that you would easily lose in other, you
13 know, there's not really a great way to collect
14 those. You can actually use this tape to pick them
15 up and then you have them on a piece of tape if
16 they're ever needed.

17 Q Okay. And did you observe any injuries to the
18 victim's body, —

19 A I did.

20 Q —the possible injuries?

21 A Yes. He had multiple injuries: One located on
22 the forehead, one kind of on the throat, upper chest
23 area; several to the abdomen; and two on the right
24 arm; and then there was also damage to the pelvic
25 area of the blue jeans. At the time on the scene we

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1 removed the clothing but you know, damage consistent
2 with gunshot on the, on the exterior clothing.

3 Q Okay. And so you actually observed on his hand
4 the potential, I guess, impact ---

5 A Impact, yes.

6 Q ---point of defect in his clothing as well as the
7 injury to his body?

8 A We did not remove the clothing at that time so
9 ---

10 Q Okay, on the pants?

11 A Yes, on the pants. The upper body we can see.

12 Q And what did you do after you made these
13 observations?

14 A All of those injuries were photographed and
15 another step that we take prior to having the body
16 transported is we will bag the hand. And the reason
17 we do that is that will protect any trace evidence
18 that may be present on the hand so that we can
19 collect it at later time. So here we actually had
20 placed bags on the hand and we'll use tape and will
21 initial over the tape seal.

22 Q And did you actually bag the victim's hand in
23 this case?

24 A Yes, I did.

25 Q And at some point was a determination made to

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1 remove the bags?

2 A We did determine that we should go ahead and take
3 the bags off. And the reason for that was, the
4 victim's identity at that point had not been
5 absolutely confirmed so one way we can do that is
6 through fingerprinting. So we wanted to go ahead
7 and get these fingerprinted so we could expedite the
8 process making sure that we knew he was. Before we
9 were able to collect fingerprints though, we had to
10 go ahead and collect a GSR kit. That will be the
11 first thing that we do because that's going to
12 collect things that are on the skin. So before we
13 add anything like ink we're gonna go ahead and
14 collect that GSR kit.

15 Q Describe for the jury what the GSR kit is and how
16 it's collected?

17 A A GSR kit is a gunshot residue due kit, and what
18 they do is we're looking for the things that are
19 left behind. When you shoot a gun, those may be
20 deposited on the skin. So the main components of
21 the bullets are lead, barium, and antimony so what
22 we will do is there's a collection process that's
23 been developed and it's two steps. One is
24 individual stickie tabs is what we refer to them as,
25 just little vials that they have a stickie into it,

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1 and you literally just press them on the surface of
2 the skin. We do that all over each side of the hand
3 separately. And after we collect that we will go
4 behind and we will collect swabs, and we do that
5 from the front and back of each palm moving the
6 fingers on the hands. After we collect those
7 things, then package them all, they can be submitted
8 to SLED and SLED will DO the analysis on them to so
9 if there's any residue left on the hands.

10 Q I believe you said GSR are possible shooters. A
11 person who has GSR on their hands, are they
12 necessarily a shooter in a case?

13 A Not necessarily. Handling a weapon possibly
14 leave a residue behind on your hands so there are
15 different ways that, you know, that it can because
16 it doesn't necessarily indicate that you have
17 recently shot.

18 Q Or have been around a gun when it was fired,
19 correct?

20 A That's correct, you just had the deposit on your
21 hands.

22 Q And I want to show you what's been marked as
23 State's 157. Do you recognize that?

24 A This is the packaging for the gunshot residue kit
25 that I collected.

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1 Q Okay. And so that is the kit that you collected?

2 A Should be exactly.

3 MS. SIMPSON: At this time the State would
4 introduce State's Exhibit 157 into evidence.

5 MR. SUTHERLAND: No objection.

6 THE COURT: State's 157 is in evidence
7 without objection.

8 (State Exhibit No. 157 was admitted into
9 evidence.)

10 BY MS. SIMPSON:

11 Q And once you collect this kit what is done with
12 it?

13 A We submit it to our evidence station where
14 they're gonna securely maintain it, and it's — if
15 the case investigator wants it to be processed, we
16 will have it sent over to SLED where they will do
17 the analysis on it.

18 Q Okay. So the case investigator determines
19 whether or it will be submitted for testing?

20 A That's correct. They just know all the factors
21 of a case, and therefore, they'll make a
22 determination if they need it most of the time.

23 Q Okay. And you don't actually do the testing for
24 the GSR?

25 A That's correct. At that time my sergeant,

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1 Sergeant Richards, was also on scene, and he rolled
2 a set of fingerprints.

3 Q Okay. And after the prints had been rolled and
4 the GSR collected what, what occurred with the
5 victim's body?

6 A We have a -- there's a body removal service
7 arranged -- through the coroner's office. They
8 respond to the location and they will, they will
9 actually place the body in a bag and the bag is then
10 sealed with a lock and that will be transported for
11 autopsy.

12 Q All right. And after the items of evidence have
13 been marked and collected and the victim's body
14 removed, did you do anything else on this day?

15 A We had the vehicle towed to our forensic garage
16 so that it could be processed, and I think we were
17 complete there.

18 Q All right. And do you memorialize kind of your
19 findings with respect to collecting evidence as to
20 where, where you collected it from, how far away it
21 was, and things of that nature?

22 A In multiple ways through our photography we'll
23 take measurements of items and if we to have
24 relocate them can put them in the back --

25 Q Okay. And do you do sketches as well?

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1 A Yes, we do at times just to kind of hands on,
2 draw a raw sketch of the location.

3 Q And did you do a crime scene sketch in this case?

4 A I did.

5 Q I want to show you what's been marked as State's
6 Exhibit 158. Do you recognize that?

7 A I do.

8 Q And what is it?

9 A This is the blown up version of the sketch that I
10 made of that scene.

11 MS. SIMPSON: Your Honor, at this time the
12 State would introduce State's Exhibit No. 158 into
13 evidence.

14 MR. SUTHERLAND: No objection.

15 THE COURT: 158 is in evidence without
16 objection.

17 (States Exhibit No. 158 was admitted into
18 evidence.)

19 MS. SIMPSON: Permission for the witness
20 to step down, Your Honor.

21 THE COURT: Yes, just keep your voice up,
22 you're away from the microphone.

23 THE WITNESS: Yes, sir.

24 BY MS. SIMPSON:

25 Q All right. So State's 158 is — and I'll trade

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1 spots so that the court reporter can hear you.

2 A Okay.

3 THE COURT: Let me come around you first
4 so I can see. Also, the solicitor stand over here.

5 MS. SIMPSON: All right.

6 THE COURT: Thank you.

7 BY MS. SIMPSON:

8 Q Okay. Now, all right, is this — is your sketch
9 to scale?

10 A No, it is not.

11 Q And how are — do you do something in order to
12 reflect the actual distances and things of that
13 nature?

14 A We do document the measurements of these
15 different items. In this case we took
16 measurements — I don't have my notes in front of
17 me, but we pick out specific points of the location
18 and then we'll take two measurements from that item
19 to the specific points so that should we ever need
20 to put them back we have two measurements to get
21 them back approximately in the same position.

22 Q Okay. And just tell us what we're seeing here.

23 A Okay.

24 Q Is this —

25 A This is Prioleau Road. This is that dirt road

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1 that I was telling you about, and the house is
2 oriented this way and has the open garage
3 (indicating). And remember we said the vehicle was
4 kind of backed in if you were looking from the
5 roadway so this is the front of the vehicle, this
6 would be the back. And then I just added the
7 license plate number just to show that this would be
8 the back of the vehicle where the tag would be.

9 Q Okay. And what are we seeing over here indicated
10 on your diagram at A through E?

11 A This is the group of shell casings that we found
12 on the driver's side of the vehicle on the ground.

13 Q All right. And are there other items of evidence
14 near the car as well?

15 A Again, we have the Food Lion bag which was on the
16 passenger side.

17 Q What else is indicated on this diagram?

18 A Just centrally located on the opened area we have
19 what we marked the items one and two which over
20 here, cigarette lighter and Newport pack. And then
21 closer to the roadway we have the glove, and we also
22 have a cigarette butt that was located here. And G
23 and H are the other two fired cartridges that we
24 located.

25 Q So, and all the items that you collected are

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1 actually indicated on here?

2 A I believe so.

3 Q What is the area like around here (indicating)?

4 I know this is the dirt road. What would be on the
5 left -- I guess my right side, and your right side
6 of this diagram?

7 A Everything that mostly would be incorporated in
8 the diagram was just kind of an open field. There
9 were a few trees and then, you know, you start
10 getting in other residences and things.

11 Q And I guess the best guestimate without looking
12 at your notes, are these things fairly in close
13 proximity like you can stand in the middle of the
14 yard and see 4-G and -H as well as A through E?

15 A Yeah, I think you could. I mean, there is a good
16 bit of, you know, this is a group, this was kind of
17 centrally located and these are more grouped
18 together. But probably from the center you would be
19 able to see most everything.

20 Q But the glove was collected from the road?

21 A Yeah, that was up by the roadway.

22 Q And the one unfired shell casing, that wasn't
23 near any of the spent shell casings, correct?

24 A That's correct.

25 Q Thank you.

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1 A (The witness returned her seat.)

2 Q Okay. On January 24th, did you have the occasion
3 to respond to a different location?

4 A I did.

5 Q And where did you respond?

6 A When I left Prioleau Road I went to 212 Masonry
7 Circle.

8 Q And what was your — what was the significance of
9 212 Masonry Circle?

10 A I was advised that there were clothing items that
11 had been left at that location by a second victim
12 who had been transported to the hospital who also
13 had injuries.

14 Q All right. I'm going to show you...

15 MS. SIMPSON: Beg the Court's indulgence.

16 MR. SUTHERLAND: Sorry, Your Honor.

17 BY MS. SIMPSON:

18 Q I'm gonna show you State's 58, 59, 60, 61, 67,
19 62, 63, 64 and 65. Do you recognize these?

20 A Yes these are the items of clothing. They were
21 on the porch at 212 Masonry Circle.

22 Q Okay.?

23 MS. SIMPSON: Your Honor, at this time the
24 State would introduce State's 58 through 65. We're
25 not introducing 66, and introducing State's 67.

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1 MR. SUTHERLAND: No objection.

2 THE COURT: State's Exhibits 58 through 65
3 and State's 67 is in evidence.

4 (State Exhibits Nos. 58 through 65 and 67
5 were admitted into evidence.)

6 BY MS. SIMPSON:

7 Q When you arrived at the location what did you
8 observe?

9 A I met with Lieutenant Pritchard who is one of
10 our — the lieutenant, one of the supervisors over
11 that area, and he was standing by with these items
12 which were located on the front porch, and they were
13 just kind of scattered around in different
14 locations. There were reddish brown stains we
15 believed to be blood on the porch and on the
16 clothing, and in addition to the items of clothings
17 there was a pack of Newport cigarettes and also a
18 cap.

19 Q I'm showing you State's 58. Is that what you
20 observed?

21 A Yes, it is.

22 Q And the clothing, what was your understanding
23 with respect to why the clothing were strung about?

24 A I was advised that the second victim had gone to
25 this residence to try to get aid, and the clothing

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1 was left behind there which was transported back to
2 EMS.

3 Q And it's hard to tell from the pictures but was
4 it becoming evening or darker at this time —

5 A Yes.

6 Q —when you made it to process, I guess, the
7 second location?

8 A I was 6:05 p.m. when I arrived there so, yes.

9 Q Okay. And I'm gonna show you State's Exhibit 61.
10 Are those the reddish brown stains on the ground
11 that you're referring to as possible blood?

12 A Yes, they are.

13 Q And did you, in fact, collect these items?

14 A I collected the items of clothing and the
15 cigarettes and the stocking cap.

16 Q And what did you do with those items once you
17 collected them?

18 A They were wet. They had blood on them so I took
19 them back to our main headquarters which is located
20 on Two Notch Road, and we have in our forensic
21 garage drying chambers which are just secured units
22 where we can seal things if they're potential fire
23 hazards and we can dry them in there so they'll be
24 dried safely. And all these items were placed in a
25 drying chambers to dry. We use those chambers only

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1 one case at a time so there's no other -- they're
2 not put in with other clothing, just would simply
3 contain what we have in this particular case. And
4 they're left in there for a period of time until
5 they're dry, and we can take those out and then I
6 believe are photographed and they're packaged.

7 Q All right. I want to show you dry what's been
8 marked as State Exhibit 159.

9 MR. SUTHERLAND: If it please the Court,
10 if I may discuss a matter on record, Judge.

11 THE COURT: All right. Mr. Foreman,
12 ladies and gentlemen of the jury, please leave your
13 notes, step out momentarily. Do not discuss the
14 case during the brief recess.

15 (The jury is removed from the courtroom at
16 5:55 p.m. and the following proceedings
17 were commenced.)

18 THE COURT: All right, yes, sir.

19 MR. SUTHERLAND: I'd just like to briefly
20 view the items for the condition of them and the
21 amount, potential amount of blood that might be on
22 them, just to take a look at them prior to their
23 introduction.

24 MS. SIMPSON: And Your Honor, if I may
25 just briefly, just so the Court's aware, defense

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1 counsel had the opportunity to view the evidence I
2 believe at the sheriff's department along with my
3 co-counsel Ms. Cavanaugh and Investigator Unger. He
4 had the opportunity to open up anything he wanted to
5 at that point to view all of the items. Of course I
6 have no issue with him wanting to view them now but
7 prior to their introduction he had the opportunity
8 to view each and every piece of evidence in this
9 case.

10 MR. SUTHERLAND: Yes, sir, I'm not saying
11 that they're springing this on me by any measure.

12 THE COURT: I understand. Let me ask you
13 this, Solicitor, are you going to display the items
14 to the jury this afternoon?

15 MS. SIMPSON: I was not. I was just going
16 to introduce them -- because they are bloodstained
17 and we do have the photographs, I was not actually
18 going to pull out the bloody shirt at this point.

19 THE COURT: All right. Why don't we press
20 on. I'll make them for identification purposes only
21 at this time. That will give you an opportunity to
22 look at them at a later time and we can press on
23 now.

24 MR. SUTHERLAND: Yes, sir.

25 THE COURT: Is that suitable, Solicitor?

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1 MS. SIMPSON: Yes, Your Honor.

2 THE COURT: Is that suitable, Mr —

3 MR. SUTHERLAND: Yes, sir. Thank you,
4 Your Honor.

5 THE COURT: Thank you. Bring us our jury
6 please.

7 (WHEREUPON, the jury was returned to the
8 courtroom at approximately 5:56 p.m., and
9 the following proceedings commenced in
10 open court.)

11 THE BAILIFF: All jurors present, Your
12 Honor.

13 THE COURT: Thank you. Thank you very
14 much.

15 You may proceed, Solicitor.

16 MS. SIMPSON: Okay, Your Honor.

17 BY MS. SIMPSON:

18 Q State's 159 for identification purposes, do you
19 recognize these?

20 A This is my packaging for the different items of
21 clothing that I collected from Masonry.

22 Q Okay. And what items are indicated in this
23 packaging?

24 A There's a black Nike women's sweatshirt, a white
25 Hanes hoodie sweatshirt, a blue and orange athletic

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1 jacket that has the New York Knicks on it. Koman
2 brand bluejeans, one pair of black and blue tennis
3 shoes, one pack of Newport cigarettes, and a gray
4 stocking cap.

5 Q Okay. And are these the items that you collected
6 off the porch?

7 A They are.

8 Q I'm going to show you what's been marked as
9 State's Exhibit 97 through 108. All right, do you
10 recognize these?

11 A Yes, I do.

12 Q Okay. And what are they?

13 A These are photographs of the damaged areas to the
14 clothing and also some money that was collected from
15 the pocket of the bluejeans.

16 Q Okay. And are these photographs of the items
17 collected in State's Exhibit 159?

18 A Yes, they are.

19 Q And what is State's 197 -- or 97, I apologize.

20 A These -- it was money that was in the right front
21 --

22 THE COURT: Let me ask you something, are
23 those in evidence? Have you offered them?

24 MS. SIMPSON: Oh, I'm sorry, he said
25 without objection. Your Honor, at this time the

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1 State would offer State's 97 through 108 into
2 evidence.

3 THE COURT: Did I miss that?

4 MR. SUTHERLAND: I had told her that when
5 we're together as she was walking away, and I
6 believe it just sort of got jumbled up.

7 THE COURT: 97 through 108 is in evidence
8 without objection.

9 MR. SUTHERLAND: No objection, Your
10 Honor. I believe it just got jumbled up.

11 THE COURT: Thank you. Thank you very
12 much. You may proceed.

13 MS. SIMPSON: Thank you, Your Honor.

14 (State's Exhibit Nos. 97 through 108 were
15 admitted into evidence.)

16 BY MS. SIMPSON:

17 Q What do we have here?

18 A That was some — money that was located in the
19 right front jeans pocket: One 10-dollar bill and
20 five 1-dollar bills.

21 Q Okay, so a total of 15-dollars?

22 A Yes, ma'am.

23 Q And this is the victim who was later identified
24 as Jonathan Frazier, or at that point you knew to be
25 Jonathan Frazier?

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1 A I did know by name that I knew as the second
2 victim.

3 Q Okay. And State's Exhibit 98 and 99, what are
4 these?

5 A This is the stocking cap that was collected.
6 It's got blood stains on it.

7 Q Okay. And that was found on the porch —

8 A Yes, ma'am.

9 Q —as well? And State's 100, what do we see
10 there?

11 A This the Newport cigarettes also found on the
12 porch.

13 Q And the Newports, are those the reddish brown
14 stains —

15 A Yes.

16 Q —as probable blood?

17 A Yes.

18 Q And that's State's 100. Then finally we have
19 several pictures here and State's 102, 103, 104,
20 105, 107, and 106 I believe. What are we seeing in
21 these photographs?

22 A This is the blue and orange jacket, and what we
23 do is place the scale in there to show where a
24 defect is and also get an idea of the defect. Here
25 in this area you can see this defect is marked.

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1 Q Okay, and by defect what is meant by that
2 terminology?

3 A It's kind of an overall term for damage that
4 would be there. We may think we know what it is.
5 We may not know what it is, but it will all be
6 considered a defect. It wasn't, you know, on the
7 clothing intentionally.

8 Q Okay. And is State's 103 what we just saw?

9 A And this is a closeup.

10 Q A closeup.

11 A Yes.

12 Q And that is a defect?

13 A Correct.

14 Q And what are we seeing in State's 104?

15 A This is actually a pulled back shot just more of
16 an overall. It's kind of -- I believe it's in the
17 shoulder area. This would be down the sleeve.

18 Q Okay. And also in the jacket are there reddish
19 brown stains on the jacket itself as well?

20 A Yes, there are.

21 Q Probable bloodstains?

22 A Probable blood.

23 Q And in State's Exhibit 105, what -- are these
24 different defects?

25 A It is. It's just damage, and I believe this is

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1 on one of the sleeves.

2 Q And the color of that jacket is what?

3 A It's kind of a bright blue and it has the orange
4 and black trim.

5 Q And moving back a little bit in your testimony as
6 well, some trace evidence was collected off the
7 deceased victim as well?

8 A That's correct.

9 Q And what was that evidence?

10 A There were some blue fibers that were collected
11 from the shirt, the victim's shirt.

12 Q Okay. In State's 106 we're just seeing
13 additional defects in the clotting?

14 A That's correct.

15 Q And after photographing and marking these items
16 what did you do?

17 A They were packaged and submitted to our evidence
18 section to be held securely.

19 Q And did you do some additional processing in this
20 case?

21 A I did all of the fired cartridge casings that we
22 collected on the scene. I fingerprinted as I
23 described before.

24 Q And did you also collect some swabs in this case?

25 A Yes, there were fingerprinted and they were

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1 swabbed for DNA.

2 Q And exactly what items did you swab for potential
3 evidence?

4 A The group of fired cartridges: A, B, C, D, E.
5 That would be groupings found together by the
6 vehicle. They were swabbed. Unfired cartridge
7 which we marked as F. The cigarette lighter, which
8 we marked as evidence number one. Newport cigarette
9 pack that we wanted -- the one from the scene, not
10 the one from the porch. That one was swabbed. The
11 Food Lion plastic bag was swabbed. And then
12 evidence H and G, which were the two fired
13 cartridges casings that were found a little bit
14 closer to the roadway, those were swabbed.

15 Q All right, I'm gonna show you what's been marked
16 as State's 171.

17 MR. SUTHERLAND: No objection.

18 BY THE COURT:

19 Q Do you recognize State's 171?

20 A Yes, this is my packaging from the swabs that I
21 just listed.

22 MS. SIMPSON: And Your Honor, at this time
23 the State would introduce State's 171 into evidence.

24 THE COURT: State's 171 is in evidence
25 without objection.

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1 (State's Exhibit No. 171 was admitted into
2 evidence.)

3 BY MS. SIMPSON:

4 Q And these are the swabs. What is done with the
5 swabs?

6 A I submit them to our evidence section and they
7 can be analyzed by our DNA section. They try to
8 process them and see if they can obtain any DNA from
9 the swabs.

10 Q And do you actually make the decision as to which
11 swabs will be collected, or is that for the
12 investigator?

13 A I decide which ones to collect. As I'm
14 processing they will make the request for the ones
15 that they would like to be analyzed.

16 Q Okay. And just briefly, how are the swabs taken?
17 That may be a somewhat self-explanatory but.

18 A A swab is actually just like a Q-tip with a long,
19 long wood stick on it. We use distilled water. If
20 we're working on something that's had a dry surface,
21 and we will just moisten the tip of the swab and
22 actually scrub it on the item. What we're hoping is
23 that if anything was transferred to that item we
24 would be picking it up on that swab. It's then
25 placed into a cardboard box, and each cardboard box

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1 is labeled with the location it was collected from
2 as well as the case number, the date it was
3 collected, and the individual that collected it.
4 And all those then packaged and are then sealed with
5 evidence tape.

6 Q And I'll back up just a little bit and I
7 apologize. I should have shown this to you earlier.
8 State's Exhibit 172?

9 MR. SUTHERLAND: No objection.

10 BY MS. SIMPSON:

11 Q All right. Do you recognize State's 172?

12 A Yeah, these are the additional items that we
13 collected from Prioleau Road, the incident location,
14 the pack of Newport cigarettes, the blue lighter,
15 and the Food Lion grocery bag.

16 Q And again, all these items, that's your packaging

17 —

18 A That's correct.

19 Q —your seal?

20 A Yes.

21 Q And State's 173?

22 MR. SUTHERLAND: Without objection.

23 THE COURT: No objection?

24 MR. SUTHERLAND: No, sir.

25 BY THE COURT:

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1 Q Do you recognize State's 173?

2 A Yes. These are the — this is the money that was
3 collected from bluejeans that were reported to me
4 that belonged to Mr. Frazier.

5 Q And again, you placed that, that's your seal —

6 A That's correct.

7 Q —properly collected?

8 A Yes.

9 MS. SIMPSON: Your Honor, at this time the
10 State would introduce 173.

11 THE COURT: And 173 and 172 in evidence.
12 (State's Exhibits No. 172 and 173 were
13 admitted into evidence.)

14 MS. SIMPSON: At this time I am going to
15 show you state's 174.

16 MR. SUTHERLAND: No objection, sir.

17 BY MS. SIMPSON:

18 Q Do you recognize these items as well?

19 A These items were collected — these are the items
20 that we described that were collected from
21 Mr. Jones' pants pockets. I collected the items
22 that were in his front pocket, front left pocket.

23 Q Okay. And these items were collected at the
24 crime scene on Prioleau Road?

25 A That's correct.

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1 Q And all of this -- all these items are indicated
2 in your photographs --

3 A That's correct.

4 Q --as well, as you had opportunity?

5 A Yes, ma'am.

6 MS. SIMPSON: Your Honor, at this time the
7 State would introduce State's 174.

8 THE COURT: 174 is in evidence without
9 objection.

10 (State's Exhibit No. 174 was admitted into
11 evidence.)

12 MS. SIMPSON: Thank you.

13 BY MS. SIMPSON:

14 Q Investigator Polis, was that the extent of your
15 involvement in this case?

16 A Yes, ma'am.

17 Q Thank you. Please answer any questions from the
18 defense.

19 THE COURT: Thank you. Thank you,
20 Solicitor.

21 Mr. Sutherland.

22 **CROSS - EXAMINATION**

23 **BY MR. SUTHERLAND:**

24 Q Investigator Polis, how are you?

25 A Good, and you?

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1 Q I'm doing well. I actually don't have a lot of
2 questions. I understand that took a lot of time to
3 introduce. Just general observations about the
4 crime scene when you arrived, I believe your
5 testimony was that the driver's side window was
6 shattered?

7 A Yes, sir.

8 Q And the two windows on the passenger side were
9 partially rolled down or?

10 A Let me refer to my notes. I do have the
11 passenger window was partially rolled down. I'm
12 remembering that as being the front seat.

13 Q Okay. Also, did you look around the outside of
14 the car?

15 A Yes, sir.

16 Q Did you notice any impact points on the outside
17 of the vehicle?

18 A Not that I recall; however, it was — that
19 vehicle was towed so that it could be processed in
20 detail at a later time.

21 Q Okay. And the amount of money that was found in
22 Dashawn Jones' pocket, is that approximately
23 70-dollars?

24 A Let me check. 40-dollars in the back left
25 pocket, 32-dollars and 1.60-cent in change in the

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1 front left pocket.

2 Q Okay. And Jonathan Frazier, did he have
3 30-dollars on him?

4 THE COURT: Say that question again.

5 MR. SUTHERLAND: I asked if -- this last
6 question was, Jonathan Frazier, did he have
7 30-dollars on him?

8 THE COURT: Thank you.

9 THE WITNESS: The money that I collected
10 from the bluejeans was one 10-dollar bill and five
11 1-dollar bills. I never directly interacted with
12 Mr. Frazier, but those were the jeans and they told
13 me --

14 BY MR. SUTHERLAND:

15 Q Okay. So it was 15-dollars?

16 A Yes, sir.

17 Q Okay. And you went through about all the shell
18 casings, the lighter, the pack of Newports, the two
19 unfired cartridges that Investigator Holt collected,
20 the glove out by the road, and I believe two more
21 shell casings. And you'd spoken about some blue
22 fibers you observed on Dashawn Jones' shirt?

23 A Yes, sir.

24 Q And those were Trevor Holt collected those with
25 trace tape?

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1 A That's correct.

2 Q Okay. And just to be sure, I don't want to dash
3 to the finish here. Oh, well, the .38 caliber shell
4 casings, the unfired cartridge was 357 magnum?

5 A That's correct.

6 Q Were they all Winchester or just the 38s?

7 A The head stamp on all the 38s were Winchester, 38
8 SPL. The head stamp on the 357 was GFL 357 mag.

9 Q Okay. You testified about the, collecting the
10 gunshot residence due abs?

11 A The — yes, sir, it's tabs as well as swabs, yes.

12 Q Okay, tabs and swabs. And that was both from Mr.
13 Frazier and Jones?

14 A I only interacted — I never interacted with Mr.
15 Frazier so that was just for Mr. Jones.

16 MR. SUTHERLAND: Beg the Court's
17 indulgence.

18 THE COURT: Certainly.

19 MR. SUTHERLAND: Your Honor, no further
20 questions.

21 THE COURT: Thank you.

22 MR. SUTHERLAND: Thank you.

23 THE COURT: Redirect, Solicitor.

24 MS. SIMPSON: Briefly, Your Honor.

25 MR. SUTHERLAND: Okay, your Honor, I'm

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1 sorry, I have a matter of law with respect to the
2 photographs.

3 THE COURT: That's quite all right. You
4 do not need to apologize, Mr. Sutherland.

5 Mr. Foreman, ladies and gentlemen, please
6 step out for a moment. Do not discuss the case
7 through the brief recess.

8 (The jury is removed from the courtroom at
9 6:15 p.m.)

10 THE COURT: All right, Mr. Sutherland.

11 MR. SUTHERLAND: If it please the Court,
12 sir, the State wishes to introduce photographs. And
13 based on my cross-examination which I basically just
14 went over what they went over on direct, I just feel
15 like they should have been introduced on direct.
16 And if we get beyond that, there's some bloody
17 photos. There's a shirt that's all soaked in blood,
18 and I just object to that as prejudicial so.

19 THE COURT: Let me see the photographs,
20 Ms. Solicitor.

21 MS. SIMPSON: And Your Honor, if I may
22 just briefly respond as well.

23 THE COURT: Sure.

24 MS. SIMPSON: These items are actually the
25 items in the box that we limited for identification

1 purposes only. They're not duplicates or cumulative
2 items of evidence. He asked questions regarding the
3 blue fibers. Those are indicated on these pictures
4 as well from the jacket as well as on, I believe the
5 black hoodie. So we are seeking to introduce these.
6 And as far as the prejudicial value, Your Honor, the
7 mere fact that there is blood from a shooting
8 victim, I don't know that the prejudicial value is
9 substantially outweighed by any probative value in
10 this case. It doesn't show the victim in the
11 clothing or anything of that nature; but it does
12 indicate the defects or impact points on those
13 items, which are in the box which have only been
14 introduced for identification purposes.

15 THE COURT: Which one did you have a 403
16 objection, Mr. Sutherland, to —

17 MR. SUTHERLAND: The — I'm sorry, Your
18 Honor.

19 THE COURT: To the Knicks jacket this
20 appear to be —

21 MR. SUTHERLAND: Yes, sir. Actually it's
22 just the white T-shirt, and I mean, ultimately if
23 these are introduced because I talked about fibers
24 and respond and say, then I don't see where these
25 are relative to the issue of fibers being on the

1 front of that jacket. And they're just bloody and
2 an on the jacket. And also the value, the point is
3 to show that there are blue fibers on this jacket, I
4 mean, we've discussed that certainly.

5 MS. SIMPSON: And in addition, Your Honor,
6 I will be happy to do one of those pictures of the
7 shirts if his argument is the 403. However, I
8 believe it is relevant and probative at this point
9 especially considering that those items are not in
10 evidence until defense counsel has a chance to
11 review after the witness is already off the stand.

12 THE COURT: All right. Well, y'all have
13 probably figured out my pattern. 611(D)
14 re-examination re-call, the witness may be
15 reexamined as to the same matter which he or she
16 testified only in the discretion of the Court. But
17 without exception, he or she may be re-examined as
18 to any new matter brought out during
19 cross-examination. After the examination of the
20 witness has been concluded by all the parties
21 through the action, that witness may be re-called
22 only in the discretion of the Court. This rule
23 shall not limit the right of a party to re-call a
24 witness in rebuttal. I generally let good trial
25 lawyers try their cases.

1 MR. SUTHERLAND: Yes, sir.

2 THE COURT: So the witness could actually
3 be if you conclude her testimony, the Solicitor
4 could, the witness could be excused and she could
5 re-call her in the discretion of the Court.

6 MR. SUTHERLAND: Yes, sir.

7 THE COURT: So I try to be very cognizant
8 of the fact that they can — that she or you could
9 re-call a witness and go into the matter that could
10 have been gone in on direct. I don't think these
11 are admissible because you talked about the blue
12 fibers, and I think perhaps these, some of these
13 could have been admissible on direct if she offered
14 them. Now here's the question, if you're going to
15 have the bloody items, then why do you need pictures
16 of the bloody items?

17 MS. SIMPSON: Well, Your Honor —

18 THE COURT: The only reason I didn't allow
19 the State to give 158 — excuse me, 159 into
20 evidence earlier is because he just didn't have the
21 opportunity to look at them just prior to them being
22 introduced, not that he didn't have opportunity in
23 the past. So why do you need the photographs and
24 the items?

25 MS. SIMPSON: Well Your Honor, at this

1 point particularly with bloody items of evidence, if
2 the jury -- while we do want to introduce our
3 evidence so that the State presents a full and
4 complete case, as far as the jurors being required
5 to pull out the pieces of evidence, of course, they
6 have that option but the photographs are helpful if
7 they do not want to handle the bloody items of
8 evidence. Additionally, Your Honor, nothing is
9 cumulative. While I could call this witness, she's
10 going to be the only one that's really able to
11 discuss Mr. Frazier's items of clothing as I believe
12 this is the last step in the line with respect to
13 those items so you know, she's not going to have the
14 chance for me to display those bloody items which,
15 just to be quite frank, Your Honor, I would prefer
16 not to have to open up those and show the jury if we
17 have photographs available.

18 THE COURT: All right. 170 I will allow
19 in evidence, not 169, not 167 which is the closeup
20 on the T-shirt. I will allow 166. I will not 168.
21 168, 167, I will not allow under 403 and their being
22 cumulative. 169, these two evidence, those are
23 items of Mr. Frazier.

24 As to the items from Mr. Jones, I will
25 allow 160. 161 I will not allow under 403. 162 I

1 would allow. And I'm not sure what 163 is showing.

2 MS. SIMPSON: Your Honor, those are up
3 close points with the blue fibers, and this
4 (inaudible) —

5 THE COURT: I will allow 162 but not
6 allowing 161 under 403.

7 MR. SUTHERLAND: Thank you, sir. .

8 THE COURT: All right, thank you. Bring
9 us our jury please.

10 MS. SIMPSON: Thank you, Your Honor.

11 (WHEREUPON, State Exhibits Nos. 160, 162,
12 163, 166 and 170 were admitted into
13 evidence.)

14 (The jury was returned to the courtroom at
15 6:23 p.m.)

16 THE BAILIFF: All jurors present, Your
17 Honor.

18 THE COURT: Thank you. Thank you very
19 much. Thank you, Mr. Sutherland.

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: Solicitor, you may proceed.

22 MS. SIMPSON: Thank you, Your Honor.

23 BY MS. SIMPSON:

24 Q Investigator Polis, let me ask you this, I show
25 you State's Exhibits 160, 162, 163 and 166 and 170.

1 Do you recognize these?

2 THE COURT: And tell me the numbers again,
3 Solicitor. State them again.

4 MS. SIMPSON: 160, 162, 163, 166 and 170.

5 THE COURT: All right. Mr. Sutherland?

6 MR. SUTHERLAND: None other than the
7 previous objections.

8 THE COURT: All right. 160, 162, 163, -66
9 and -70 are in evidence over previous objection.
10 161, 165 was not offered. Thank you, Solicitor.

11 MS. SIMPSON: Thank you, Your Honor.

12 BY MS. SIMPSON:

13 Q Tell the jury what we're seeing in State's
14 Exhibit 160.

15 A This is a photograph of the black hooded Nike
16 sweatshirt that reddish brown, red blood stain on
17 the front, probable blood.

18 Q And that's to the, I guess, upper left chest
19 area?

20 A That's correct.

21 Q And was this one of the items collected from the
22 porch —

23 A Yes, it is.

24 Q —you understood to be whose clothing?

25 A Frazier's, Mr. Frazier's.

1 Q All right. And then in State's Exhibit 162 what
2 are we seeing there? And 163?

3 A These are -- they're harder to see because it's
4 on a black background the way it's printed, but
5 these are the defects that are in the clothing area.
6 It looks like it's on a longer hood there.

7 Q All right. So these are kind of up towards the
8 upper part as well --

9 A Yes.

10 Q --and the blood? And in State's exhibit, I
11 believe we have 166 and 170, what are we seeing on
12 those items?

13 A 166 is the white Hanes undershirt. It has
14 reddish stains and it also has two defects here at
15 the top, top of the shoulder. The other is the
16 Knicks jacket and you can see the reddish brown
17 stains here, some of the defects that you've already
18 seen in the closeup photographs.

19 Q All right. And all of these items are from
20 Masonry?

21 A That's correct, front porch of Masonry.

22 MS. SIMPSON: Thank you, Investigator
23 Polis. That's all I have.

24 THE COURT: Mr. Sutherland?

25 MR. SUTHERLAND: Nothing further, Your

1 Honor.

2 THE COURT: Thank you. Thank you very
3 much, Investigator Polis. You may step down.

4 Mr. Foreman, ladies and gentlemen, I think
5 perhaps now would be a good time for us to take our
6 evening recess. Thank you very much for your
7 diligence and hard work throughout the day. You
8 will find that my pattern is such that when a
9 witness is called I do like to try to complete that
10 witness's testimony within the same time frame. I
11 don't really like to break over lunch over the
12 evening recess for the witness. I think it's better
13 to do the direct, cross, recross, if necessary. But
14 I do appreciate y'all's willingness to work this
15 late and to be focused and attentive as you have
16 been.

17 Please, I remind you again — you will be
18 able to repeat this back to me before the end of the
19 week — do not discuss the case with anyone
20 including your fellow jurors, family, friends, or
21 anyone else. Do not watch any news reports about
22 the case. Do not, do not use your computer, any
23 other electronic device or communication
24 capabilities to, to research any information which
25 is prohibited by the court as I have previously

1 explained to you. Do not do any investigation on
2 the internet or on your own.

3 Remember to keep an open mind. Do not
4 begin your deliberations until you're directed to do
5 by the Court. I would ask you to please leave your
6 notes in your chair. The clerk's office will secure
7 them for the evening, and I will ask you please be
8 back promptly at 9:30 in the morning. If you'd
9 please be back promptly at 9:30 in the morning.
10 Thank you very much. I hope y'all have a pleasant
11 evening.

12 (The jury is removed from the courtroom at
13 6:30 p.m. and the following proceedings
14 commenced in open court.)

15 THE COURT: All right, where is photograph
16 161?

17 MS. SIMPSON: I believe I put them back
18 over here since they weren't being introduced.

19 THE COURT: Did you mark this please for
20 identification purposes only?

21 MS. SIMPSON: Yes, Your Honor.

22 THE COURT: 164 and 165 also?

23 MS. SIMPSON: 164, -61. And I believe I
24 also have 167, -68 and -69.

25 THE COURT: And that would be all of the

1 photographs?

2 MS. SIMPSON: Yes, Your Honor.

3 THE COURT: In other words, it was 160
4 through 170?

5 MS. SIMPSON: Yes, I believe that's
6 correct.

7 THE COURT: 161, 164, 165, 167 and 168?

8 MS. SIMPSON: Yes, Your Honor.

9 THE COURT: All right, would you mark
10 those for identification purposes only?

11 MS. SIMPSON: Uh-huh.

12 THE COURT: Madam court reporter, I know
13 you will do something. Make sure they're kept
14 separate and distinct.

15 All right, anything further from the State
16 before we take our evening recess, Solicitor?

17 MS. SIMPSON: Do we not, I guess —

18 MS. CAVANAUGH: Your Honor, if — because
19 we started, had a late start today, and obviously
20 with only five witnesses or however many we put up,
21 we went all the way to 6:30, and maybe in the
22 morning we can just instruct the jury that we
23 might — so that we don't go into the next week and
24 they can just plan for child care needs or anything
25 up until six for tomorrow and Thursday that would be

1 helpful.

2 THE COURT: All right.

3 MS. SIMPSON: Just address that in the
4 morning.

5 THE COURT: All right, I'll think about
6 it. Thank you, Ms. Solicitor.

7 MS. CAVANAUGH: Thank you, Your Honor.

8 THE COURT: All right, Mr. Sutherland?

9 MR. SUTHERLAND: Nothing further, sir.

10 THE COURT: Thank you. Thank you very
11 much. Hope y'all have a pleasant evening. See you
12 promptly at 9:30 in the morning.

13 (Whereupon, court was adjourned for the
14 day and resumed on March 6, 2013.)

15 THE COURT: One of the jurors had to walk
16 back out to his car and get his glasses; I
17 understand that.

18 Anything from the State?

19 MS. SIMPSON: No, Your Honor.

20 THE COURT: From the Defense?

21 MR. SUTHERLAND: No, sir.

22 THE COURT: All right. As soon as we get
23 the word that he's back — all right, we have all
24 our jurors?

25 BAILIFF: Yes, sir.

1 THE COURT: All right, if you will bring
2 them out.

3 BAILLIFF: Yes, sir.

4 (The jury was returned to the courtroom at
5 9:32 a.m. and the following proceedings
6 commenced.)

7 BAILLIFF: The jury's seated, Your Honor.

8 THE COURT: Thank you, Mr. Bailiff.

9 Mr. Foreman, ladies and gentlemen of the
10 jury, good morning. I hope y'all had a pleasant
11 evening. Welcome back. I would remind you, again,
12 that throughout the course of this case you're not
13 to have any discussions with anyone about the case.
14 That includes your fellow jurors, family, friends,
15 or anyone else. If anyone tries to talk with you
16 about the case please let me know immediately. Has
17 anyone had any discussion about the case up to this
18 point, if so, please stand.

19 (There was on response.)

20 THE COURT: Has anyone attempted to talk
21 to any number of the jury panel about the case, if
22 so, please stand.

23 (There was no response.)

24 THE COURT: Let the record reflect that no
25 one stands upon the questioning of the Court as to

1 those inquiries.

2 With that being said, we will continue
3 with the trial of the case, the presentation of
4 evidence and testimony by the State in its case and
5 chief. I would ask you to give the parties your
6 complete and undivided attention as you have done
7 throughout the trial of this case.

8 With that being said, Solicitor, you may
9 call your next witness.

10 MS. SIMPSON: Thank you, Your Honor, may
11 it please the Court. The State calls Doctor Raymond
12 Bynoe.

13 WHEREUPON,

14 **RAYMOND BYNOE,**
15 after having been duly sworn, testified as follows:

16 THE CLERK: Thank you. Please have a seat
17 in the witness stand. State your name for the
18 record, please spell your last name.

19 THE WITNESS: Raymond Bynoe, B-Y-N-O-E.

20 **DIRECT EXAMINATION**

21 **BY MS. SIMPSON:**

22 Q Good morning, Doctor Bynoe?

23 A Good morning.

24 Q What is your profession?

25 A I am general surgeon who has a special interest

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1 in trauma and critical care.

2 Q And how long have you been licensed to practice?

3 A Since 1979.

4 Q Where are you currently employed?

5 A I'm employed by the University South Carolina
6 School of Medicine Department of Medicine. I work
7 at Palmetto Health as the medical director for the
8 trauma and critical care services at Palmetto
9 Health.

10 Q Okay. And what do some your duties include as
11 the medical director?

12 A For basically organizing, establishing the
13 program, maintaining certification for physicians
14 who work with us on surgery for individuals who are
15 injured in critical care for people who are injured
16 who had traumatic injuries.

17 Q So you oversee as well as actually participate in
18 surgeries and trauma —

19 A Yes, ma'am.

20 Q —practice? Can you please tell the jury a
21 little bit about your educational background and
22 training?

23 A I went to undergraduate at Lincoln University in
24 Pennsylvania. Went to medical school at the
25 university, Medical University of South Carolina

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1 School of Medicine down in Charleston, came and did
2 my surgery training here in Columbia, South Carolina
3 at Palmetto Health Richland University of South
4 Carolina. Went to Memphis, Tennessee and then
5 returned back to be a part of the program. And
6 subsequently in 1998 became the director of the
7 program.

8 Q All right. And do you have, I guess, specialized
9 training with respect to trauma?

10 A Yes, ma'am, that's what I did in Memphis,
11 Tennessee.

12 Q And are you currently required to participate in
13 any sort of continuing educational requirements?

14 A Yes, ma'am.

15 Q As a trauma surgeon what type of surgeries are
16 you qualified to perform?

17 A Yes.

18 Q Everything?

19 A Just about everything. I mean, we do vascular
20 surgery, thoracic surgery, abdominal surgery. We do
21 those things in the chest, neck, those sort of
22 things. We don't do orthopedic injuries. We don't
23 do facial fractures but participate in the overall
24 care of the patient.

25 Q And I kind of want to talk some about trauma.

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1 Can you explain exactly what the trauma unit deals
2 with?

3 A Yes. Everything from a falls to complex falls
4 from greater heights than buildings, car crashes,
5 penetrating trauma which means stabbings, gunshots,
6 objects that people may be impaled with. We deal
7 with most of care in term of trauma that involves
8 the entire gamut. Burns, we don't necessarily treat
9 burns, but we take care of them and send them to
10 Augusta so there's a host of things that we do
11 involved in the whole process.

12 Q So is trauma essentially emergency medicine
13 somewhat, or does it include emergency medicine?

14 A Yes.

15 Q And have you been qualitted as an expert before?

16 A Yes, ma'am.

17 Q About how many times?

18 A A number of times since I've been doing this
19 since 1984 as well attending. So since 1984 to now,
20 a host of times since I've dealt with trauma and
21 critical care a lot, as well as non-trauma general
22 surgery cases.

23 MS. SIMPSON: Your Honor, at this time the
24 State would offer Doctor Bynoe as an expert in
25 trauma, critical care as well as general surgery.

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1 MR. SUTHERLAND: No objections.

2 BY MS. SIMPSON:

3 Q Doctor Bynoe, do you have —

4 THE COURT: Give me just a minute please.

5 MS. SIMPSON: I'm sorry.

6 THE COURT: Trauma, critical care, and
7 general surgery.

8 MS. SIMPSON: Yes, Your Honor.

9 THE COURT: All right. Mr. Foreman,
10 ladies and gentlemen of the jury, again, normally a
11 person cannot give opinion testimony. Normally when
12 a person testifies they may testify as to what they
13 either saw or heard or sense by smell or something
14 of that nature. However, there is an exception for
15 someone who's qualified by education or training in
16 a particular art, science, or profession. They are
17 permitted to give their opinions in certain areas if
18 the court qualifies them in that way. This witness,
19 Doctor Raymond Bynoe, will be qualified in the areas
20 of trauma surgery, critical care, and general
21 surgery.

22 Were there any others, Solicitor?

23 MS. SIMPSON: No, Your Honor, that's all.

24 THE COURT: To give opinion testimony in
25 those areas. That does not mean that you must

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1 accept the opinions, but it is evidence for you, the
2 jury, to use in any way you see fit. Thank you.

3 Thank you very much, Ms. Solicitor, you
4 may continue.

5 MS. SIMPSON: Thank you, Your Honor.

6 BY MS. SIMPSON:

7 Q Doctor Bynoe, did you have occasion to see
8 Jonathan Frazier professionally?

9 A Yes, ma'am.

10 Q And where and when did you see Mr. Frazier?

11 A He was brought to the emergency department as a
12 trauma patient on January 24th, 2012.

13 Q Okay. When he as admitted was he under your care
14 or were there other trauma surgeons treating him?

15 A Well, it's kind of a group practice. I mean,
16 it's not one of us, it's a team of individuals that
17 are involved in it. Doctor Watson and myself both
18 responded to the call on the afternoon in which he
19 was injured, and both of us arrived at the emergency
20 department in taking care of him. There were a
21 number of other things going on so Doctor Watson did
22 one thing, and I did another thing and we were there
23 with him together.

24 Q Okay. And when he was admitted to the emergency
25 room on the 24th what was his status?

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1 A Critical. Basically he presented with airway
2 issues. He had sustained an injury to from a
3 gunshot wound that basically penetrated the left
4 neck, left shoulder, and in that region, which were
5 the most critical ones because when he arrived he
6 had difficulty breathing, had stridor, which means
7 that stridor is when the windpipe is partially
8 occluding. When you breathe you're having to work
9 harder to breathe than you normally would because of
10 constriction on the pipe. It's kind of looking at
11 it as some partial occlusion thereof in the airway
12 in which making that assessment we realized that he
13 needed to have control of his airway. Normally we
14 just put the windpipe down his — tube down the
15 windpipe. Because of this and the nature of the
16 injuries to his upper face and those sort of things,
17 we felt as though he needed to have what we call a
18 tracheostomy where we make a incision in your neck
19 for over your Adams apple. Basically the section
20 down the trachea, make a opening in the trachea and
21 put a tube below the area of the potential injury is
22 what we reflected to do with him because of his
23 airway issues.

24 Q And did you actually perform the tracheotomy?

25 A Yes, ma'am.

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1 Q Am I pronouncing it right?

2 A Yes, ma'am, tracheostomy.

3 Q And during that procedure were you able to
4 actually control his airway?

5 A Yes, ma'am.

6 Q The surgery was successful?

7 A Yes, ma'am —

8 Q Okay.

9 A —for that.

10 Q And you said that it's a team of you all. What
11 was your position with respect to Mr. Frazier's
12 term?

13 A I was a participant actively involved in the
14 caring for that process, you know, the decision
15 making process of whether or not he needs to go into
16 the operating room, go into the operating room.
17 Those were the decisions that I made and we took him
18 up to the operating room to gain control of that.
19 Once that was done, then we were able to go back and
20 try to identify any additional injuries because
21 without an airway you can only live for about five
22 minutes if you don't have an airway. So that's the
23 nature of the process. You're trying to make sure
24 you gain control of the airway. Without that
25 there's no life on this earth and so that was our

SW - R. BYNOE - DIRECT

1 main objective at this point.

2 Q So had Mr. Frazier not received treatment to his
3 airway, could that have potentially been fatal?

4 A Yes, ma'am.

5 Q Once that was under control what did you do, or
6 what did you determine was the next course of
7 action?

8 A Well, the next course of action was to go back
9 and identify any additional injuries. So from, once
10 we were able to gain airway, get control of that, we
11 subsequently decided at that point that we needed to
12 do special imaging studies to look for where the
13 path of the missile may have gone and what it may
14 have injured. In doing that we were able to
15 identify that there was a -- we did what we call a
16 computed tomography, better known as a CAT scan, is
17 what everybody calls it now. That's where we go in.
18 It takes 3-D. We get 3-D reconstruction of the body
19 and different areas of the body to identify, help
20 identify injuries. We decided that now that we had
21 airway we could now go back and look to identify.
22 When we did the tracheostomy we did not identify any
23 active hemorrhage that was life threatening at that
24 moment, but we needed to go back and see what may,
25 what other structures may have been injured. In

SW - R. BYNOE - DIRECT

1 doing that, we did identify two injuries. One was
2 that he had a fracture of his cervical spine which
3 is at the — there are seven cervical spine little
4 bodies, little bricks, that are stabbed in the neck.
5 His second cervical vertebrae had a fracture to it,
6 and he also had injury to the blood vessels that
7 carried blood to the brain, the carotid artery. On
8 the left side there was a what we call a pipe again.
9 And there are three different layers within the
10 pipe, the carotid, in your blood vessels. So there
11 was a injury in what we call the inner most
12 dissection which is the most, the inner most level
13 of the blood vessel that was injured. And at that
14 point in time we consulted our surgical colonies to
15 be involved and to help take care of that particular
16 process. And their decision was the fact that we
17 would put him on blood thinning medication to keep
18 this tear from dissecting and clotting up.

19 Q And what are the complications that can arise
20 when the blood vessels clot in the carotid artery?

21 A Stroke. You would have — just like someone that
22 had a stroke from atherosclerosis, if you had
23 hardening of the blood vessels in that same manner,
24 heart attack, that sort of thing. When you get
25 calcium in that position within the vessels you

SW - R. BYNOE - DIRECT

1 would get a stroke or a heart attack because that
2 section can continue to dissect, those vessels could
3 clot off and you could end up with weakness on the
4 side. It would be the opposite side of the injury
5 so if you have a left-sided injury it would be a
6 right-sided stroke because the way the brain works
7 and how fibers cross could affect the opposite side
8 of the injury so that was our main concern.

9 Q And was anything done with respect to the
10 fractures that he suffered?

11 A They elected to keep him in a collar at that
12 point in time, and that was his medical main event
13 for that particular problem that I remember
14 correctly.

15 Q And with respect to additional consultation
16 ordered, were you able to identify any other
17 injuries to Mr. Frazier?

18 A Yeah, he had a mandible fracture which is the
19 jaw, the big bone that comes down around your face
20 and making the contour of your face. He had a
21 fracture there. We consulted doctors, an oral
22 surgeon, to come in and do oral fixation on that.

23 Q Okay. And did you identify any additional
24 injuries?

25 A He had a hand fracture as well, and the bone

SW - R. BYNOE - DIRECT

1 doctor was asked to participate in that process for,
2 for his hand.

3 Q With respect to all of the consultations that
4 were ordered, can you describe for the jury or just
5 tell us who Mr. Frazier was directed to see or what
6 areas?

7 A Say that again.

8 Q As far as the consultations, who was consulted?

9 A The orthopedics for the hand fracture, and the
10 oral surgeon who would take care of the mandible
11 fracture, the jaw bone fracture, the neurosurgeons
12 who had worked with the spinal fracture and the
13 injuries to the blood vessel.

14 Q All right. And in your review of the records did
15 you find where a bullet or bullet fragments were
16 still located inside Mr. Frazier?

17 A Yes, ma'am, he had a — still has a fragment from
18 the bullet in his face around the mandible fracture.

19 Q And why wasn't that bullet potentially removed or
20 what might some of the reasons be?

21 A Most of the time we don't remove bullet fragments
22 unless they're right underneath the skin and you can
23 actually feel it so you're not injured trying to get
24 the bullet out to injure something else that would
25 cause more harm. The only times that we do go after

SW - R. BYNOE - DIRECT

1 bullets is if they're in the heart because they can
2 embolize or if they're in a major blood vessel and
3 they can kind of go down. Most of the time we don't
4 take bullets out anymore.

5 Q Okay, that bullet will remain in Mr. Frazier?

6 A Unless it comes to the point where you can
7 actually feel it under the skin and it's very
8 palpable, and all we'll do is make a skin incision
9 to get it out and to the fatty tissue as opposed to
10 trying to go down where you would actually injure
11 nerves and those sort of things because there are a
12 number of nerves that come out and supply
13 innervation, motor function, sensory function in
14 those areas.

15 Q And pardon my layman's knowledge, this may have
16 been addressed with respect to your conversation on
17 the mandible injuries that he received. Was his jaw
18 wired shut?

19 A Yes, ma'am.

20 Q Can you tell the jury about that based on your
21 review of the records?

22 A Basically that's done because it's like any
23 broken bone, if you're moving it it's not going to
24 heal right. So what you do is you try to fixate it,
25 try to get it sort of stable, it doesn't move. And

SW - R. BYNOE - DIRECT

1 you do that so they wire the jaw. They put in
2 plates, then they wire the jaw. Sometimes they'll
3 put plates. Sometime they just wire the jaw and
4 move it. If there's a segment missing they will put
5 the plate in for calcium growth and that sort of
6 thing in it. But you try to immobilize it so that
7 it gets a chance to heal, the calcium being laid
8 down, bone growth reoccurring. That's what it's
9 for.

10 Q Okay. And how long is that?

11 A I don't know. It depends on the x-ray findings
12 that you -- see when he goes to followup with the
13 patient doctors. They will determine whether or
14 not they feel as though that it's good bone growth,
15 that it's healing well. Most of the time it's six
16 to eight weeks, sometimes it can be longer, but it's
17 a minimum of six to eight weeks for most wiring and
18 most in that process.

19 Q So the rest would depend on the individual --

20 A Yes.

21 Q --in each case?

22 A And the physician taking care of him.

23 Q The records indicate that a toxicology screen was
24 taken of Mr. Frazier at the item of his admission.
25 What is that screen and what's the purpose for a

SW - R. BYNOE - DIRECT

1 doctor to perform that screen?

2 A Well, we look for drugs in the system and it's
3 mainly done to help us in terms of not saying that
4 someone had drugs in or out, but it's to help us in
5 terms of long care when they're in the hospital. We
6 identify that you have a specific issue with drugs
7 that we may -- or if we have a psychiatrist that
8 works with us on our patients that would help to
9 care for the individual pending the fact that they
10 may have withdrawal symptoms from different drugs,
11 and that's the whole purpose of it.

12 Q You didn't actually conduct the toxicology screen
13 in this case, correct?

14 A No. I -- no. I -- I mean, it's ordered on
15 everyone that comes through the hospital,
16 particularly someone involved in some traumatic
17 injury but I don't actually do it and --

18 Q Okay. And did the records indicate whether the
19 screen on Mr. Frazier came back positive for
20 cannabinoids or marijuana?

21 MR. SUTHERLAND: I'm sorry, Judge, that --
22 I mean, that is hearsay.

23 THE COURT: Is it part of the record?

24 MS. SIMPSON: I'll move along.

25 THE COURT: I'll sustain the objection.

SW - R. BYNOE - DIRECT

1 You can call the lab tech.

2 BY MS. SIMPSON:

3 Q At some point did you determine that Mr. Frazier
4 could be discharged?

5 A Yes, ma'am.

6 Q How is that determination made?

7 A Based on his clinical condition. Was he able to
8 swallow appropriately, tolerate a diet, pain
9 control, those sort of things. That's how we make
10 that decision, that he's -- cognitively, is he okay
11 in terms of being able to understand what he needs
12 to do and not do so those things are done. And the
13 fact that when we -- when we discussed with the
14 consultants that we had, the facial doctor, the
15 neuro doctor, make sure those things that we
16 identified that they're being medically treated.

17 Q And what date did you determine that Mr. Frazier
18 could be discharged?

19 A It was February 6.

20 Q Of 2012?

21 A Yes, ma'am.

22 Q And was Mr. Frazier given instructions with
23 respect to any follow-up appointments or emergency
24 situations?

25 A Yes, ma'am.

SW - R. BYNOE - DIRECT

1 Q And was he also prescribed some medications to
2 continue on for the period of time?

3 A Should have been, yes, ma'am. I don't have —

4 Q Okay.

5 A I don't have that specifically, the drugs that
6 we...

7 Q And I believe —

8 A We do, yes. He went home on pain medication.
9 There's medication to help to thin the blood out.
10 It's called Flavix. It keeps the platelets from
11 sticking together so you don't extend the clot. And
12 he went home on a oral antibiotic for the fracture.

13 Q All right. And were you responsible for any of
14 the follow-up treatment, or did that go on to other
15 areas?

16 A Go on to other areas.

17 Q All right. Doctor, is it uncommon for people who
18 have been shot in the next, or just shot, to suffer
19 from some type of shock or memory loss?

20 A Posttraumatic stress. That's why we have the
21 trauma to participate in the whole process with
22 individuals.

23 Q And again, if Mr. Frazier had not received
24 treatment within a short period of time after being
25 shot would his injuries have been fatal?

SW - R. BYNOE - DIRECT

1 A Could have been.

2 Q Could have been fatal?

3 A Yes, ma'am.

4 MS. SIMPSON: Beg the Court's indulgence.

5 COURT: Yes, ma'am.

6 MS. SIMPSON: Thank you, Doctor. Please
7 answer any questions from the Defense.

8 THE COURT: Thank you, Solicitor.

9 MR. SUTHERLAND: I have no questions for
10 this witness.

11 THE COURT: Thank you very much, Doctor
12 Bynoe ---

13 THE WITNESS: Yes, sir.

14 THE COURT: ---for being with us today.
15 You may step down. You may be excused.

16 THE WITNESS: Yes, sir.

17 THE COURT: All right, Solicitor.

18 MS. CAVANAUGH: The State calls Deputy
19 Allen Thomas McLamb.

20 THE COURT: Come around to be sworn for us
21 please.

22 WHEREUPON,

23 **ALLEN THOMAS MCLAMB,**

24 after having been duly sworn, testified as follows:

25 THE CLERK: Thank you. Please have a seat

SW - A. MCLAMB - DIRECT

1 in the witness stand. State your full name for the
2 record and please spell our last name.

3 THE WITNESS: Allen Thomas McLamb,
4 M-C-L-A-M-B.

5 DIRECT EXAMINATION

6 BY MS. CAVANAUGH:

7 Q Is it Deputy McLamb?

8 A Yes, ma'am.

9 Q Deputy McLamb, where are you employed?

10 A The Richland County Sheriff's Department.

11 Q And how long have you worked there?

12 A I'm in my seventh year.

13 Q Seventh?

14 A Yes, ma'am.

15 Q What is your current position at the sheriff's
16 department?

17 A My current position is I'm on K-9 specialist. I
18 work with the K-9 team.

19 Q And can you briefly describe what's meant by the
20 K-9 team?

21 A Basically I'm a K-9 handler. I'm assigned to a
22 dog. My dog has several different functions within
23 the sheriff's department. My role is to be his
24 handler, use him on a daily basis when I'm working,
25 maintain his training, training records. We respond

SW - A. MCLAMB - DIRECT

1 to many different calls. It can be drug searches,
2 searches for people who are brand. My dog is one of
3 the ones that can do what's called an article search
4 where if someone throws something or there's an area
5 suspected that may contain evidence that's been
6 touched by a human he can go out and look for it.

7 Q And which particular dog is assigned to you?

8 A My dog is K-9 Renso (ph).

9 Q And what breed is K-9 Renso?

10 A He's a Belgian malinois.

11 Q And were you — I'm going to direct your
12 attention to January 24th of 2012. Were you asked
13 to respond to a location?

14 A Yes, ma'am, I was. I was requested by
15 Investigator Ted Unger to respond to Masonry Circle
16 which is down in the Hopkins area.

17 Q Okay. And did you in fact respond there?

18 A I did.

19 Q And what, what did you do — why — what was your
20 understanding of why you were called there?

21 A I was called there — he stated that there was an
22 area that he needed an article search dog for to
23 possibly go and locate a weapon, a gun, in a certain
24 area that possibly would be related to a shooting
25 that just occurred.

SW - A. MCLAMB - DIRECT

- 1 Q And what, what did you do upon arrival? Where
2 did you go with your K-9?
- 3 A I was pointed to a certain area off Masonry
4 Circle or — yeah, Masonry Circle. It was between
5 — it was near and between Masonry Circle and
6 Prioleau Road. He stated this was this area he
7 wanted me to search. At that point I got my dog out
8 of the car, walked him to that area, gave him the
9 commands. I released him from his lease. This is
10 something he does not under full control so that he
11 can have the ability to search a large area on his
12 own. And then we performed the search for the area
13 that we were given to search.
- 14 Q Did you ever actually — did you observe the
15 crime scene from where, the crime scene that was
16 secured from where you were?
- 17 A I never observed the crime scene. My main focus
18 when I'm on scene is the dog. There's a lot of
19 different cues, a lot of body language we have to
20 read, and so my main focus is watching him, and
21 watching for any type of sudden head turns or
22 changes in his breathing, his head going up, his
23 head going down. All these things are indicators of
24 what's called being human odor. He's actually
25 smelling human odor that he's looking for.

SW - A. McLAMB - DIRECT

1 Q So the unit yourself never went in to actually
2 secure the crime scene?

3 A No, ma'am, we never went in the crime scene.

4 Q And neither did K-9 Renso?

5 A No, ma'am.

6 Q Okay. And was a weapon, in fact, recovered in
7 the area that you responded to?

8 A No, there was never a weapon that we recovered in
9 the area that we were searching.

10 Q Did K-9 Renso locate anything during this, during
11 this search of track?

12 A No, ma'am.

13 MS. CAVANAUGH: Beg the Court's
14 indulgence.

15 Thank you, Deputy McLamb. Please answer
16 any questions from Mr. Sutherland.

17 MR. SUTHERLAND: May it please the Court.

18 THE COURT: Mr. Sutherland.

19 **CROSS - EXAMINATION**

20 **BY MR. SUTHERLAND:**

21 Q Sir, how are you?

22 A Good, how are you?

23 Q I'm doing pretty well. I'm looking at your
24 report here. I got it on my phone. They emailed it
25 to me Monday morning. It says that you searched the

SW - A. MCLAMB - CROSS

1 grass and the weeds in the back yard of 213, the
2 place where you searched?

3 A It was, it was an area between Masonry Circle.
4 It was grass, weeds, limbs, fallen trees. It was
5 just a thinned out, almost like a wooded area.

6 Q Okay. And then just the information that you had
7 was that you said you had spoke with Investigator
8 Unger?

9 A Correct.

10 Q There was a possibility that a firearm used had
11 been thrown somewhere behind the location. So
12 that's your information that you had when you got to
13 the scene?

14 A Correct.

15 Q So you testified you didn't go near the crime
16 scene?

17 A No, sir.

18 Q Okay. Thank you. No further questions.

19 THE COURT: Any redirect, Solicitor?

20 MS. CAVANAUGH: Beg the Court's
21 indulgence. No further questions.

22 THE COURT: Thank you. Thank you very
23 much, Deputy. You may step down. You may be
24 excused.

25 All right, Solicitor.

SW - A. MCLAMB - CROSS

1 MS. SIMPSON: The State calls Investigator
2 Richard Carter.

3 THE COURT: Please come around and be
4 sworn Investigator Carter.

5 WHEREUPON,

6 RICHARD CARTER,
7 after having been duly sworn, testified as follows:

8 THE CLERK: Thank you. Please have a seat
9 in the witness stand and state your full name for
10 the record.

11 THE WITNESS: Richard Carter.

12 DIRECT EXAMINATION

13 BY MS. SIMPSON:

14 Q Investigator Carter, where are you employed?

15 A I'm employed with the Richland County Sheriff's
16 Department.

17 Q How long have you been with Richland County?

18 A Nine-and-a-half years.

19 Q All right. And what do you do there?

20 A Currently I am a special victim unit
21 investigator. I primarily investigate cases
22 involving sexual assaults, child abuse, and
23 vulnerable adult cases.

24 Q And as an investigator with the special victims
25 unit, what do your duties include?

SW - R. CARTER - DIRECT

1 A Well, they include primarily investigating sexual
2 assaults, child abuse cases. We -- I'm also here
3 every seven to eight weeks. We are required to be
4 on-call for a week; and when we go on-call we are,
5 you know, we could get called to respond to cases
6 that are outside of what we primarily do on a daily
7 basis.

8 Q Okay, so as an on-call investigator you can
9 respond from shootings or carjackings, anything?

10 A Correct.

11 Q And did you have occasion to assist in this case?

12 A I did.

13 Q And how did that occur?

14 A January 24th, 2012 Sergeant Ellis, who was my
15 on-call unit shift supervisor ser at the time, had
16 contacted me and requested me to respond to Masonry
17 Circle Road.

18 Q Okay, and when you responded to Masonry what
19 happened when you arrived?

20 A I actually -- when I arrived I learned that the
21 incident location was actually down the dirt road at
22 that time.

23 Q Okay, and did you proceed down the dirt road?

24 A I did.

25 Q And was that actuality Prioleau Road?

SW - R. CARTER - DIRECT

1 A That was.

2 Q Who was on scene when you arrived?

3 A When I arrived Richland County Coroner's Office
4 was there, sheriff's department crime scene unit was
5 there, the K-9 units were there, and Investigator
6 Unger was there.

7 Q Okay. And was Investigator Unger designated as
8 the lead investigator on this case?

9 A Yes, ma'am.

10 Q And at his request what did do you?

11 A At his request I proceeded to 220 Prioleau Road
12 where Lieutenant Pritchard with the Sheriff's
13 Department, he was a Breather (ph) 1 supervisor, was
14 located.

15 Q Okay. And when you arrived at -- sorry, what,
16 down Prioleau Road and met with Lieutenant
17 Pritchard, what was your purpose of going to meet
18 with him?

19 A To go talk with him regarding a person that may
20 have information regarding what had occurred.

21 Q Okay. And what happened when you made contact
22 with Lieutenant Pritchard?

23 A When I got there he was on -- actually on the
24 phone speaking to the owner of the house at 157
25 Prioleau Road. He provided me with some information

SW - R. CARTER - DIRECT

1 regarding a person who actually rents that house,
2 was a man by the name of Joe Singleton.

3 Q So the status of that prop— the owner didn't
4 live there; it was a rental property?

5 A Correct.

6 Q And you stated that Joe Singleton was renting
7 that property?

8 A Yes.

9 Q Did you have any indication of how long he'd been
10 renting the property?

11 A He had said — he told me that he had been there
12 for about four months.

13 Q Okay. And were you able to speak with
14 Mr. Singleton at that time?

15 A No.

16 Q Okay. And did you have the opportunity, I guess,
17 or were you responsible for kind of canvassing and
18 talking to other witnesses in this case?

19 A Yes.

20 Q Or potential witnesses?

21 A Yes.

22 Q And you can't tell me what he said, but did you
23 have occasion to speak with Mr. Matthew Howell?

24 A Yes.

25 Q And did you also speak with Monica Howell?

SW - R. CARTER - DIRECT

1 A Yes.

2 Q And was she able to provide you with some
3 information about this incident?

4 A Yes.

5 Q Did you also speak with a Leon Croxton?

6 A Yes.

7 Q In this case did you have occasion to respond —
8 and I believe all this is occurring on January 24th,
9 correct?

10 A Yes.

11 Q To [REDACTED] in Columbia?

12 A Yes.

13 Q What was that location and why did you respond?

14 A That is where Mr. Prioleau who is the owner of
15 the residence at 157 Prioleau Road lived at. My
16 purpose of going there was to obtain his rental
17 contact.

18 Q Okay. And why did you need the rental contact?

19 A To show to in, you know, Mr. Singleton, Joe
20 Singleton was the renter here and also because it
21 contained personal information pertaining to where
22 to contact him.

23 Q Okay. And so was it your understanding that
24 Mr. Singleton was not at home while this
25 investigation is going on?

SW - R. CARTER - DIRECT

1 A Correct.

2 Q So you were essentially trying to locate him?

3 A Yes.

4 Q And did you obtain a good, ultimately a good
5 number for Mr. Singleton?

6 A Yes.

7 Q And were you able to make contact with him?

8 A I believe I did.

9 Q Okay. And did you determine whether it was
10 necessary to actually meet with him and speak with
11 him yourself?

12 A No.

13 Q And why was that?

14 A I believe Investigator Unger and Sergeant Ellis
15 at the time had already made contact with him.

16 Q Okay, so they'd already spoke with Mr. Singleton
17 by the time he made contact with you?

18 A Correct.

19 Q Or you made contact with him?

20 A Correct.

21 Q And is that the extent of your involvement in
22 this case?

23 A Yes, ma'am.

24 Q All right, thank you.

25 MR. SUTHERLAND: If it please the Court.

SW - R. CARTER - DIRECT

1 THE COURT: Yes, sir.

2 CROSS - EXAMINATION

3 BY MR. SUTHERLAND:

4 Q Before the seed begins to germinate here I let a
5 little bit of hearsay in. This Joe Singleton who
6 owns this house that is not related in any way,
7 shape, or form to Mr. Jabriel Singleton; is that
8 correct?

9 A Correct.

10 Q Okay. So very briefly, I guess the most, you
11 know, the most significant thing you went and spoke
12 with Ms. Howell at the time?

13 A Yes.

14 Q Okay. And she told you —

15 MS. SIMPSON: Objection, Your Honor,
16 improper hearsay.

17 THE COURT: Sustain the objection.

18 MR. SUTHERLAND: She's previously
19 testified, Judge.

20 THE COURT: I will sustain the objection.

21 MR. SUTHERLAND: I'm sorry, Your Honor?

22 THE COURT: I will sustain the objection.

23 MR. SUTHERLAND: Okay, thank you. I have
24 no further questions.

25 THE COURT: Any redirect?

SW - R. CARTER - CROSS

1 MS. SIMPSON: No, Your Honor.

2 THE COURT: Thank you very much.

3 Detective Carter. You may step down. You may be
4 excused.

5 Solicitor, you may call your next witness.

6 MS. SIMPSON: The State calls Stan
7 Richards.

8 WHEREUPON,

9 **STAN RICHARDS,**
10 after having been duly sworn, testified as follows:

11 THE CLERK: Have a seat in the witness
12 stand and state your full name for the record.

13 THE WITNESS: Stan Richards.

14 **D I R E C T E X A M I N A T I O N**

15 **BY MS. SIMPSON:**

16 Q Good morning, Sergeant Richards.

17 A Good morning.

18 Q Where are you employed?

19 A Richland County Sheriff's Department crime scene
20 unit.

21 Q How long have you been employed at the Sheriff's
22 Department?

23 A I came to work at the Sheriff's Department in
24 1994, and I've been with the crime scene unit a
25 little over ten years.

SW - S. RICHARDS - DIRECT

1 Q Can you describe your educational background?

2 A I was in the military for 20 years before I went
3 to work with the Sheriff's Department. I attended
4 several different colleges and universities where I
5 received my degree in criminal justice from Saint
6 Louis University. I also am a graduate of U.S. army
7 command general (inaudible) offices.

8 Q Okay. And what type of training have you
9 received as a crime scene investigator?

10 A Well, I've been with the crime scene unit and
11 trained all of the disciplines that we work in,
12 where numerous courses in each, and they — some of
13 those include numerous courses in blood stain
14 pattern analysis, shooting incident reconstruction,
15 latent print development and comparison, footwear
16 comparison and development, also some
17 reconstruction, crime scene reconstruction and crime
18 scene investigation. I'm also, have received
19 certification as a crime scene investigator as a
20 footwear examiner and a blood stain pattern examiner
21 through the International Association for
22 Identification.

23 Q Okay, thank you. Have, have you testified in
24 court before throughout your career?

25 A I have.

SW - S. RICHARDS - DIRECT

1 Q And have you been qualified as an expert in the
2 filed of crime scene investigations when you
3 testified?

4 A I have.

5 Q And approximately how many times?

6 A Thirty times.

7 Q Excuse me?

8 A Thirty.

9 Q Thirty? Okay.?

10 MS. CAVANAUGH: Your Honor, at this time
11 I'd ask Stan Richards be qualified as an expert in
12 the field of crime scene investigations.

13 MR. SUTHERLAND: No objection.

14 THE COURT: All right. Again, ladies and
15 gentlemen, you've heard my instruction concerning
16 opinion testimony. Normally a person, a witness may
17 only be allowed to testify as to what they saw,
18 heard, or sense by smell or something of that
19 nature. However, there is an exception when someone
20 has an expertise in a particular area based on
21 training or experience or some art, science, or
22 field. This witness, Sergeant Richards, will be
23 qualified as an expert in the field of crime scene
24 investigation to give opinion testimony in that
25 area. That does not mean you must accept the

SW - S. RICHARDS - DIRECT

1 opinion but you give it whatever weight you, the
2 jury, deem appropriate.

3 Thank you, Solicitor, you may continue.

4 BY MS. SIMPSON:

5 Q Sergeant Richards, did you have occasion to
6 respond to 157 Prioleau Road on January 24th, 2012?

7 A I did.

8 Q And what time did you respond to that location?

9 A I arrived about 4:04 in the afternoon.

10 Q Okay. And who actually called you to the scene?

11 A Well, I knew that I had units responding. I knew
12 I was the acting sergeant for the crime scene unit.
13 Also, we had a on-call supervisor. Any time there
14 is — usually every time there is a death scene a
15 supervisor responds. I knew I had units respond to
16 this location so I responded also.

17 Q Okay. And what type of scene were you notified
18 this was?

19 A Notified that it was a death scene, they had a
20 deceased victim.

21 Q Okay. So when you got to 157 Prioleau Road who
22 all was there already?

23 A Two of my units were already there. That
24 included Investigator Polis who testified yesterday,
25 and Investigator Holt.

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1 Q Okay. And was the crime scene secure at this
2 point?

3 A It was.

4 Q And what did you first observe once you there as
5 far the deceased?

6 A Well, I saw the deceased inside the vehicle,
7 which was a blue Suzuki, in the driver's seat and
8 what appeared to be probable blood and some
9 injuries to his face that I could tell at that
10 point. I also observed some fired cartridge casings
11 on the driver's side on the ground on the exterior
12 of the vehicle, and Investigator Holt and
13 Investigator Polis were working to document the
14 scene.

15 Q Okay. At this point was the identity of the
16 deceased known at this point?

17 A At that point, no.

18 Q Okay. And did you actually assist in determining
19 his identity?

20 A Yes. After several things were done in
21 documenting the scene and some collection was done
22 and as Investigator Holt indicated the deceased was
23 removed from the vehicle. His hands had been bagged
24 at that time in preparation for transport; however,
25 we were not able to find any indication or learn the

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1 identification of the deceased at that time so a
2 decision was made to remove the bags to go ahead and
3 GSR his hand which had to be done first, which he
4 did, and then I will print any prints of the
5 deceased.

6 Q And you mentioned the GSR test. You didn't
7 actually do that?

8 A No.

9 Q Okay. That was done by another investigator?

10 A Yes.

11 Q But you did roll what's called post-mortem
12 prints?

13 A Yes, ma'am.

14 MS. SIMPSON: Beg the Court's indulgence.

15 BY MS. SIMPSON:

16 Q I show you what's marked as State's Exhibit 180.
17 Do you — what is this package marked?

18 A It is marked post-mortem prints, Dashawn Jones.

19 Q Okay. And once you took these from the victim
20 what did you do with them?

21 A I proceeded the prints that I rolled at the scene
22 to Investigator Baker who also there in order to
23 transport those back to our latent print analysis so
24 we could run those prints see if we could get an
25 I.D. on the victim. I did that on a chain of

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1 custody to him, from me to him. Then he in turn
2 back to our latent print analyst Investigator
3 Trousseau.

4 Q And were they already packaged ---

5 A They were in an envelope, yes.

6 Q ---when you turned them in over to Investigator
7 Baker?

8 A They were in an envelope, yes.

9 Q Sealed envelope?

10 A I don't remember if I sealed it, but they were
11 transported by him through chain of custody.

12 Q Okay.?

13 MS. SIMPSON: Beg the Court's indulgence.
14 Your Honor, at this time we offer State's Exhibit
15 180 into evidence.

16 MR. SUTHERLAND: Without objection.

17 THE COURT: All right. 180 is in evidence
18 without objection.

19 (State Exhibit No. 180 was admitted into
20 evidence.)

21 BY MS. SIMPSON:

22 Q How long did you actually stay at 157 Prioleau
23 Road this day?

24 A Till about 6:00 that afternoon, evening.

25 Q And what else were you actually --- what else was

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1 your involvement at the crime scene? Was it just
2 supervisory role?

3 A It was, but we have a methodology that we usually
4 process any type of scene. That includes an
5 assessment observation going into documentations and
6 searching and collecting and then finally
7 processing. My role as supervisor usually entails
8 observation and assessment portion of it. That
9 means that I'm there answering any questions that
10 the lead investigator, which was Investigator Polis,
11 might have, make any suggestions about the process
12 and what's ongoing, make an assessment myself for
13 some -- for the possibility of following on the
14 process if anything looks, just kind of towards the
15 vehicle itself for future processing.

16 Q Okay. And was the crime -- when you, when you
17 left was the crime scene released around this
18 evening?

19 A It was released around that time, yes.

20 Q And what is meant that? What do you mean by
21 that?

22 A That means we get the -- the deceased was
23 transported at that time and gone from the scene.
24 All the evidence that we had marked and documented
25 had been collected, the vehicle was going to be held

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1 at our forensic garage for processing so that was
2 going to be towed or had been towed and everything
3 had been done that we felt we had completed the
4 processing that particular crime scene so being
5 released meant that it was no longer secured.

6 Q Thank you. What was your next involvement with
7 this case?

8 A We did receive the vehicle at our forensic garage
9 which was the '02 — 2002 Suzuki, and I, around 9:25
10 the morning of the 25th began the processing of that
11 vehicle along with Lieutenant Ellis at that time,
12 which is now Lieutenant Cavanagh.

13 Q And where, where is this processing done?

14 A We have a forensic garage that's at our
15 headquarters, a secure forensic garage, that the
16 only access to it is individuals in the forensic
17 division and that's where we process the majority of
18 the vehicles for major crimes.

19 Q And was the car secure up until this point?

20 A Yes.

21 Q Okay. You said you started around 9:25 that
22 morning?

23 A That's correct.

24 Q And about what time did you finish?

25 A About 4:00 that afternoon.

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1 Q Now before you actually begin processing the
2 vehicle do you have the owner's con— did you have
3 the owner's consent to process at this time?

4 A Yes.

5 Q And to your knowledge who was the owner? Did you
6 have a written consent form?

7 A Yes, I have a written consent that was given by
8 a, it looks like Rosa Marie Williamson.

9 Q Okay. And what type of vehicle was it?

10 A It was a 2002 blue Suzuki Metro.

11 MS. SIMPSON: Beg the Court's indulgence.

12 MR. SUTHERLAND: No objection.

13 BY MS. SIMPSON:

14 Q Sergeant Richards, I'm gonna show you what's
15 marked as State's Exhibit 109 through 112 and ask if
16 you recognize the vehicle depicted in that car.

17 A Yes, this is the vehicle that was transferred
18 from the scene at Prioleau —

19 Q And what did you observe about the windows of the
20 vehicle?

21 A Well, the left front driver's window was
22 shattered and that was observed at the scene —

23 THE COURT: Are these in evidence, excuse
24 me?

25 MS. SIMPSON: Oh, I apologize. Your

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1 Honor, at this time I ask to introduce State's
2 Exhibits 109 through 112 in evidence.

3 THE COURT: That's without objection, Mr.
4 Sutherland?

5 MR. SUTHERLAND: No objection, sir.

6 THE COURT: 109 through 112 is in evidence
7 without objection. Excuse me for interrupting, Ms.
8 Simpson.

9 MS. SIMPSON: You're welcome.

10 (State's Exhibit Nos. 109 through 112 were
11 admitted into evidence.)

12 BY MS. SIMPSON:

13 Q Can you go ahead about what you were doing with
14 the windows of the driver's side of the car.

15 A Yes. The driver's side window was shattered.

16 That was observed of course at the scene also and
17 the glass. Now we placed some plastic over the

18 window for transport. That was still on the window
19 in the garage when we took the photographs. On the

20 right side of the passenger side the rear window was
21 partially down a few inches. The front passenger

22 window was down almost half way.

23 Q And what about the left passenger, the left rear
24 passenger?

25 A The left rear passenger window was up.

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1 Q And what did you observe about any impact points
2 on the vehicle?
3 A Yeah, I observed a -- I called in at that point
4 what has to be to the left rear bumper of the
5 vehicle; it was quite large. It was circular and
6 larger than I felt like, and I observed this when it
7 was at the scene too and looked at it at the scene.
8 It appeared to me in my opinion a much larger than
9 what would have been a projectile impact; but it
10 was, like I say, quite large. It had protruding
11 fractures from that up to the top of the bumper
12 itself. There was some -- at the time I looked at
13 it at the scene I saw some very faint discoloration
14 around the hole itself, and of the crack even though
15 it was made of plastic. And so I felt at that time
16 that probably wasn't an impact point. When we got
17 back to the forensic garage, however, and we
18 received the consent form from the owner, the owner
19 did verify that that was an old damage to the
20 vehicle. And I did look while we were at the scene
21 itself to make sure there was no impact beyond the
22 bumper itself underneath the vehicle which it was
23 not and that there was no projectiles around the
24 area on the ground where something might could have
25 ricocheted, and there was not.

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1 Q And did you also observe some, what looked like
2 rust on that?

3 A There was discoloration around there, yes.

4 Q Discoloration?

5 A It was plastic.

6 Q Once you took some photographs before you started
7 marking the car of the outside, what, did you
8 collect anything from the inside?

9 A Yes, I did. I was given information by
10 investigators that they were wanting to try to get
11 any electrical devices or phones of that nature as
12 soon as possible that might help with the
13 investigation. So I observed inside the vehicle an
14 Apple phone, an Otter box with cables, a Verizon
15 cell phone and what I call a Belton tune cast.
16 Those area things were in the console area. I was
17 very careful to initiate entry into it because I
18 knew I was going to process the gunshot residue, but
19 I did retrieve those items. Those items were turned
20 over to Lieutenant Cavanagh on a chain of custody
21 form.

22 Q And I show you what's marked as State's Exhibit
23 120. Do you recognize that?

24 A Yes, that's the console area with a photograph of
25 the electronic devices bearing that's what I

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1 retrieved.

2 MS. SIMPSON: Your Honor, at this time I
3 offer State's Exhibit 120 into evidence.

4 MR. SUTHERLAND: No objections.

5 THE COURT: 120 is in evidence without
6 objection.

7 (State's Exhibit No. 120 was admitted into
8 evidence.)

9 BY MS. SIMPSON:

10 Q Once you retrieved these items what did you do
11 next?

12 A I began the processing. I always begin with
13 documentation which is the photographs. I did not
14 want to go into the interior to start with because,
15 again, the GSR collection. So I begin the process
16 with the interior of the vehicle, photograph the
17 entire exterior of the vehicle, and begin processing
18 for latent prints at that time.

19 Q Okay. And when you processed the exterior for
20 latent prints can you briefly explain how you do
21 that?

22 A Okay. I think you have probably already talked
23 about how someone leaves a print on an item. It's
24 the same way on a vehicle because the moisture and
25 stuff on your fingertips have pores so you can leave

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1 moisture on the things that you touch. You can, but
2 that doesn't mean you always will. So those things
3 are called latent prints because you can't see them
4 so we have to try to enhance those prints if there
5 are any there. We do that by way of using powder
6 which is a carbon based powder. We use a brush, we
7 go over the entire outside of the vehicle at this
8 time for processing the interior, see if we can
9 enhance or develop any type of latent print. If we
10 find some at that time that we photograph, mark,
11 photograph, and lifted.

12 Q And when you refer to a lift does that refer to
13 potentially one latent print, or is it just appear
14 to have been a area, a concentrated area?

15 A We got a concentrated area of prints that may or
16 may not come off the same vantage. They may be
17 overlapping prints. It could be; but if we can get
18 it on one lift and put it on one card, you can have
19 multiple prints or impressions on a card.

20 Q And just because you're able to lift a latent
21 print does that necessarily mean it's going to be
22 usable later on?

23 A No. Sometimes you can tell if you have some
24 ridge detail and the ridge that I'm talking about,
25 you're able to look at them on whatever you're

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1 processing. So yeah, there's some. Sometimes you
2 can't tell. So if we have an impression that looks
3 like an impression that looks an impression of a
4 finger or something like that, we can go ahead and
5 lift those anyway, put them on a card, send them to
6 our latent print analyst who is trained in those
7 areas where most of us are; but that's her job, and
8 she will look at them in detail to see if they're
9 usable prints.

10 Q And before we actually got to marking of these
11 prints, when you refer to the right side and the
12 left side of the vehicle, is that as if you are
13 sitting in the vehicle?

14 A That's if you were sitting in the vehicle so the
15 passenger side would be the right side and the
16 driver side would be the left side.

17 Q Okay. Can you now begin to go through the prints
18 that you were actually able to lift, the latents
19 actually?

20 A Yes. Keep in mind this is the exterior of the
21 vehicle. In talking about processing the exterior
22 right side of the vehicle which is the passenger of
23 the vehicle. I collected four cards from the right
24 front window exterior, and I marked those one
25 through four and those were submitted to a latent

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1 print session. I developed one card from the right
2 front door exterior which was marked number five and
3 submitted for latent print session. I marked one
4 card from the right rear of the passenger exterior
5 window which was marked number six and submitted the
6 latent print session. I had developed one card from
7 the right rear door, the right passenger door,
8 marked number seven and submitted it to the latent
9 print session.

10 Q So it -- I'm gonna show you what's marked State's
11 113 through 115. Do you recognize these?

12 A These are -- I marked and developed latent
13 impression and lifted those.

14 Q Okay.?

15 MS. CAVANAUGH: Your Honor, at this item
16 I'd ask State's 113 through 115 be introduced into
17 evidence.

18 MR. SUTHERLAND: No objections.

19 THE COURT: State's 113, 114, 115 is
20 admitted.

21 (WHEREUPON, State Exhibits Nos. 113, 114,
22 115 were admitted into evidence.)

23 BY MS. CAVANAUGH:

24 Q Next we move on the exterior left side of the
25 vehicle?

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1 A I did.

2 Q And were you able to lift any impressions off of
3 the left side of the vehicle?

4 A I developed one card latent impression from the
5 left front door, that's exterior driver's door. It
6 was marked number eight and submitted to latent
7 print session.

8 Q I show you what's marked State's Exhibit 116. Do
9 you recognize this?

10 A Yes.

11 Q Does that show marked number 8?

12 A It does.

13 MS. SIMPSON: Your Honor, I'd like to have
14 this admitted State's Exhibit 116 into evidence.

15 THE COURT: Say that number again.

16 MS. CAVANAUGH: 116.

17 THE COURT: All right.

18 MR. SUTHERLAND: I have no objection, Your
19 Honor.

20 THE COURT: 116 is in evidence without
21 objection.

22 (State's Exhibit No. 116 was admitted into
23 evidence.)

24 BY MS. SIMPSON:

25 Q What was your next step after you finished

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1 lifting the impressions from the exterior of the
2 vehicle?

3 A After the exterior process I moved to the
4 interior. That's when we begin gunshot residue
5 collection if possible, collecting. That had to be
6 done before we did anything else. So, I processed
7 the interior which was — I processed the interior
8 four doors, right and left, and then I processed the
9 overhead ceiling of the interior of the vehicle
10 above the four seating area inside the vehicle for
11 possible gunshot residue.

12 Q And how do you actually go about making these
13 lifts?

14 A The lifts of gunshot residue on a vehicle means
15 only what we call stick tab or lift tabs. It has a,
16 on the end just a little round tab and you just
17 stick it to wherever you want to on the sides or on
18 the door areas, or up above the ceiling. It can be
19 on the seating area, anywhere you determine or you
20 think there is possibility of being gunshot
21 residence. We do that, we fill out a form that's
22 needed, place it in a sealed container, then we
23 submit those to evidence where they go to SLED and
24 SLED does the analyzing.

25 Q So SLED does the actual testing?

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1 A Yes.

2 Q And you mentioned that it's important to do this
3 before you begin the processing of the interior of
4 the vehicle?

5 A Yes.

6 Q Why is that?

7 A Because gunshot residue is very fragile. It's
8 microscopic particles we're dealing with 'cause you
9 can't see them so you're trying to determine to the
10 best of your ability where you think those will be,
11 could be. Those are the areas that you process, but
12 you to have be very careful, like I say, because
13 they can be destroyed very easily. And so that's
14 what you do first on the interior.

15 Q And I show you what's marked as State's Exhibit
16 181. Do you recognize his package?

17 A I do, that's my package. That's the GSR kit I
18 submitted to SLED.

19 Q Okay. And do you actually do the sealing before
20 you submit it to SLED?

21 A Yes, I do.

22 Q Okay.

23 A It has my initials on the back on the seal.

24 MR. SUTHERLAND: No objections.

25 MS. CAVANAUGH: Your Honor, at this time

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1 we'd move to introduce State's 181 into evidence.

2 THE COURT: 181?

3 MS. CAVANAUGH: Yes, Your Honor.

4 THE COURT: All right. State's 181 is in
5 evidence without objection.

6 (State's Exhibit 181 was admitted into
7 evidence.)

8 BY MS. CAVANAUGH:

9 Q Once you finish testing for or collecting for
10 potential gunshot residue, what did do you next?

11 A Well, there's always documentation that
12 continues, and that's the interior of the vehicle
13 like the photographs that need to be done on the
14 interior at that time. I would have taken and I did
15 take some photographs from outside when the doors
16 were opened before I went in to do the GSR. And now
17 I'm gonna get inside the vehicle and we take more
18 extensive photographs or document and I begin the
19 latent print process.

20 Now in a vehicle it can be -- latent
21 prints can be resulted just using the powder that we
22 use or we can also use these superglue that you
23 heard about yesterday that we use inside the
24 laboratory, but you do that inside the cars and
25 that's what I did in this incident. You make sure

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1 the car is secure. You did that with all the
2 windows including securing the window that had been
3 shattered and we placed a cannister of item we
4 call — that's called hot shot. It's simply the
5 same thing that's used inside a fuming tank in the
6 lab. It's cyanoacrylate. We let that go and the
7 fumes go inside the interior of the vehicle itself.
8 After that's completed we're able to go in and
9 observe any possible prints that might have been
10 developed at that time, but then we still go over
11 that and try to enhance or develop more prints with
12 the powder throughout the interior of the vehicle.
13 Q And on the interior right side doors and windows
14 did you observe what could be potential prints?
15 A Yes. On the interior of the vehicle I developed
16 two cards from the right and rear window interior
17 which would have been the rear passenger side, and
18 they were marked 9 and 10. And those cards were
19 developed and lifted and submitted to latent print
20 section. Also, I did not get anything, made myself
21 some smudging, but no impressions from the left side
22 of the interior of the vehicle; but I did develop
23 one card from the rearview mirror which was marked
24 as number 11 and it was lifted and submitted to
25 latent print section.

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1 Q I show you what's been marked as State's Exhibit
2 117 and 118. Do you recognize these?

3 A Yes. That's 9, 10, and 11 that I marked and
4 documented and that's what I was lifting the paper
5 from.

6 Q And this was on the interior of the vehicle?

7 A It was.

8 MS. SIMPSON: Your Honor, at this time we
9 move to introduce State's Exhibit No. 117 and 118
10 into evidence.

11 MR. SUTHERLAND: No objections, sir.

12 THE COURT: 117 and 118 is in evidence
13 without objection.

14 (State's Exhibit Nos. 117 and 118 were
15 admitted into evidence.)

16 BY MS. CAVANAUGH:

17 Q And finally, as far as the print process is
18 concerned, did you put these lifts into a sealed
19 bag?

20 A Yes.

21 Q I show you what's marked as State's Exhibit 182.
22 Do you recognize this?

23 A That's my writing, and this is the eleven cards
24 that I lifted from the vehicle and sealed by me,
25 which is my initials and dated. And this was

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1 submitted to latent print section.

2 Q Okay. And is she the one who actually marks them
3 11 — 2 through 112?

4 A The latent print analyst, yes.

5 Q Okay.

6 MR. SUTHERLAND: Okay, no objections, sir.

7 THE COURT: All right.

8 MS. CAVANAUGH: Your Honor, at this time
9 we move to introduce State's Exhibit 182 into
10 evidence.

11 THE COURT: State's 182 is admitted into
12 evidence without objection.

13 (State's Exhibit No. 182 was admitted into
14 evidence.)

15 BY MS. CAVANAUGH:

16 Q Now, once you're finished lifting possible prints
17 what did you do next, Dr. Richards?

18 A Then I moved to document and mark photograph red
19 brownish stains which in my experience I believed or
20 I believed to be possible blood. And this was found
21 in the interior of the vehicle. So I did that
22 marking A and B first, which was the only two that I
23 marked on the exterior of the vehicle. Those were
24 on the right front door handle and the right rear
25 door right above the panel. The remaining reddish

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1 brown stains which I marked, which are the patterns
2 that I saw inside the vehicle, were marked as number
3 C through T.

4 Q Okay. So you said the only reddish brown stain
5 that you observed on the exterior of the vehicle
6 were marked A and B?

7 A Correct.

8 MS. CAVANAUGH: Beg the Court's
9 indulgence.

10 MS. SIMPSON: Your Honor, at this time the
11 — I mean, excuse me. Do you have any objections?

12 MR. SUTHERLAND: No objections.

13 BY MS. CAVANAUGH:

14 Q Do you recognize this photograph?

15 A Yes, that's marker A. That would have been on
16 the right door front handle. That would have been
17 the passenger exterior door handle.

18 Q Okay.?

19 MS. CAVANAUGH: Your Honor, at this time
20 we move to introduce State's 119 into evidence,
21 which is included in the marking with the latent
22 prints.

23 (State's Exhibit 119 was
24 admitted into evidence.)
25

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1 BY MS. CAVANAUGH:

2 Q Did you not mark and photograph the interior of
3 the vehicle?

4 A I did.

5 Q And markers C through H, can you -- I'm gonna ask
6 you to look through the photographs first, see if
7 you recognize the State's 122 through 130.

8 A Yes. Those were stains and/or patterns that were
9 marked by me that are documented on the interior of
10 the vehicle.

11 MS. CAVANAUGH: Beg the Court's
12 indulgence.

13 MR. SUTHERLAND: No objections.

14 MS. CAVANAUGH: Your Honor, at this time I
15 move to introduce State's Exhibits 122 through 130
16 into evidence.

17 THE COURT: All right. 122 through 130 is
18 in evidence without objection.

19 (State's Exhibits No. 122 through 130 were
20 admitted into evidence.)

21 BY MS. CAVANAUGH:

22 Q And I'm gonna ask you now to go through each
23 marker as I show to the jury. What does marker C
24 depict?

25 A Marker C are stains from the interior of the

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1 right front door.

2 Q And what do these stains appear to you to be
3 actually?

4 A I would have to see the stain. C is going to be
5 marking the interior right front door. That's on
6 the door handle itself. It appears to be a transfer
7 of some kind, transfer meaning that an item that has
8 blood on it, it touched to another item, transport
9 of blood then occurs, so this seems to be a transfer
10 in my opinion.

11 Q So they do appear to be blood?

12 A Yes.

13 Q Marker D, what does that depict?

14 A It's from the right front window. I'll have to
15 see it. That also appears to be a transfer of some
16 kind from the bloody item to the window itself
17 making the transfer.

18 Q You said the right front window?

19 A Yes.

20 Q And marker E?

21 A Marker E is from the right front dash area above
22 the passenger seat itself that is — appears to be
23 some kind of impact stain, maybe combined with
24 tissue.

25 Q That was on the front right dashboard?

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1 A I was.

2 Q Again I show you what's marked as F, marker F.

3 Where was that located?

4 A That was on the passenger side console right down
5 at the bottom in front of the passenger seat, and
6 that appears to be a grip stain.

7 Q And where was marker G found?

8 A G is the interior of the right front seat itself,
9 and those are just stains that had went into the
10 seat and a flow top pattern across the back of the
11 seat from possible blood that saturated into the
12 seat itself, the seat being of a fiber type, or
13 cloth, and these were saturating to the seat.

14 Q Is that the front right passenger seat?

15 A Yes, it is.

16 Q And then finally marker H, what is that — where
17 was that marker taken from?

18 A That was a stain on the interior, right and rear
19 door.

20 Q And are those little dots that you can see?

21 A Yes, that was interior right rear door down at
22 the bottom of the door. These are circular stains
23 that were on that portion of the door that would
24 indicate an impact stain, impact pattern.

25 Q Okay. And then it appears you moved as far the

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1 markings go, towards the back of the vehicle; is
2 that correct?

3 A Well, I did mark some in the rear area, yes.

4 MS. CAVANAUGH: Beg the Court's
5 indulgence.

6 BY MS. CAVANAUGH:

7 Q I'm gonna show what's marked as State's Exhibit
8 137 and 138. What does this depict?

9 A State's 137 depicts the sitting in the car, right
10 side of the driver's seat, which is the area between
11 the two seats the console goes in between. Okay,
12 this is stains or patterns that is on that right
13 side of the driver's seat. That's State's 137. 138
14 is marked by me as K and that is the interior left
15 rear handle above the door itself, interior, the
16 rear handle that you pull up to get out of the
17 vehicle. It had a stain on it also.

18 Q Okay. And you marked that as K?

19 A Yes.

20 Q And what does this appear to be to you?

21 MS. CAVANAUGH: I'm sorry, at this point
22 I'd like to introduce 137 and 138 into evidence,
23 Your Honor.

24 MR. SUTHERLAND: No objection to those
25 two, sir.

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1 THE COURT: 137 and 138 is in evidence
2 without objection.

3 (State's Exhibits No. 137 and 138 were
4 admitted into evidence.)

5 BY MS. SIMPSON:

6 Q Is this the front seat?

7 A It is.

8 Q And what does this ---

9 A On the driver's seat.

10 Q What do these stains appear to be to you?

11 A Those are flow pattern down the side of the seat
12 itself.

13 Q Okay. And K?

14 A K could be some kind of, I believe, an impact
15 pattern. It's got a circular indication to it, but
16 I believe there was some tissue in that also.

17 Q And you marked the --- the I marker was right
18 below the driver's seat in the back?

19 A The I marker was on the rear interior center rear
20 seat. That is between the two front seats but on
21 the back seat in the middle right behind the
22 console.

23 Q And the driver's seat was actually pulled, pushed
24 pretty far back?

25 A In the down position, yes.

SW - S. RICHARDS - DIRECT

1 Q And I will show you what's marked as -- what do L
2 and M, where did you find -- where did you mark
3 these particular stains?

4 A Marked as L was the left rear interior window.
5 Marked as M was interior body left front door.

6 Q I show you what's marked as State's Exhibits 133
7 and 140. Are these depicted in that photo?

8 A Yes, they are. That was L and M.

9 Q And moving to the --

10 THE COURT: Are those in evidence?

11 MS. CAVANAUGH: Oh, I'm sorry. Your
12 Honor, I apologize, there are so many photographs.
13 At this point I would introduce 133 and 140 into
14 evidence.

15 MR. SUTHERLAND: No objections.

16 THE COURT: Say again.

17 MS. SIMPSON: 133 and 140.

18 THE COURT: 133 and 140 is in evidence
19 without objection.

20 (State's Exhibits No. 133 and 140 were
21 admitted into evidence.)

22 BY MS. CAVANAUGH:

23 Q Did you then mark the front seat, the front
24 driver's seat, and the surrounding area?

25 A The driver's seat, yes. The left driver's seat,

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1 excuse me. That was marked as N.

2 Q As N?

3 A Yes.

4 Q And did you also mark the steering wheel?

5 A Yes, that was marked as O.

6 MR. SUTHERLAND: Your Honor, if — I may
7 have one matter of law with that just one photo.

8 THE COURT: All right. Just step up here
9 please.

10 (Whereupon, an off-the-record Bench
11 conference was held.)

12 BY MR. SIMPSON:

13 Q I'm gonna show you what's marked as State's
14 Exhibit 142 and 146. Does this depict what you
15 marked on the driver's seat and the steering wheel?

16 A Yes, it does.

17 Q And does that appear to be blood reflecting glass
18 in the driver's seat?

19 A It does.

20 SOLICITOR: Your Honor, at this time I'd
21 like introduce 142 and 146.

22 MS. CAVANAUGH: That's 142.

23 THE COURT: 146.

24 MR. SUTHERLAND: No objection as to those
25 too, sir.

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1 THE COURT: All right. 142 and 146 is in
2 evidence.

3 (State's Exhibits Nos. 142 and 146 were
4 admitted into evidence.)

5 BY MS. CAVANAUGH:

6 Q And then finally, what did you mark — what was
7 marker Q of, Sergeant Rush?

8 A Marker Q was the driver's door.

9 Q And marker R?

10 A Was the rear floor area behind the driver's seat.

11 MR. SUTHERLAND: I have no objections,
12 Your Honor.

13 THE COURT: All right, what numbers,
14 Solicitor?

15 MS. CAVANAUGH: 148 and 150.

16 BY MS. CAVANAUGH:

17 Q Do these depict driver's seat?

18 A They do.

19 Q And is that State's Exhibit 148 and 150?

20 A Yes, it is.

21 MS. CAVANAUGH: Your Honor, at this time
22 I'd like to introduce 148 and 150 into evidence.)

23 THE COURT: Without objection?

24 MR. SUTHERLAND: Without objection, sir.

25 (State's Exhibit Nos. 148 and 150 were

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1 admitted into evidence.)

2 BY MS. CAVANAUGH:

3 Q And then finally, marker S and T, what were
4 those, what were those of?

5 A Marker S was located in the right rear door
6 frame. That appeared to be the impact stains.
7 Marker T was the right front door frame, both
8 leading to the interior, also impact stains.

9 Q And are these depicted in State's Exhibit 151 and
10 152? And again, marker T was of the right front
11 passenger?

12 THE COURT: Those have not been
13 introduced.

14 MS. CAVANAUGH: Oh, I'm sorry. Your
15 Honor, at this time I move to introduce State's
16 Exhibit 151 and 152 into evidence.

17 MR. SUTHERLAND: And without objection,
18 Your Honor.

19 THE COURT: All right. 151 and 152 is in
20 evidence.

21 (WHEREUPON, State Exhibits Nos. 151 and
22 152 were admitted into evidence.)

23 MS. CAVANAUGH: And marker T, was that in
24 the right front passenger right by the mirror or
25 the -- what's the pull down called?

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1 A It was on the right interior, right front of the
2 door frame.

3 Q Okay. And that's on the passenger's side?

4 A Yes.

5 Q Where was the large majority of the blood stains
6 located in this vehicle?

7 A Probably in the front area.

8 Q Did you actually take swabs of any of these
9 markers?

10 A Yes, I did. I actually took swabs of marker A
11 and marker B which was the two stains that were on
12 the exterior of the vehicle on the right side
13 passenger's side.

14 Q And how did you package these once you obtained
15 this wallet?

16 A I placed third-degree the we used mark
17 indicating the place in the envelopes with secured
18 and submitted to evidence.

19 Q And did you also swab any of the other areas of
20 the vehicle that didn't have markers?

21 A Yes. I swabbed the exterior right front door
22 handle and exterior front passenger door handle. I
23 swabbed, of course as I already said, the stain at
24 marker A. I swabbed the exterior of the right rear
25 door handle which was the rear passenger side door

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1 handle. I also swabbed exterior top of the right
2 front door, and I swabbed the top of the right rear
3 door. (Inaudible) passenger side. Those swabs were
4 also packaged and placed into evidence.

5 MR. SUTHERLAND: Okay, no objections, sir.

6 MS. CAVANAUGH: I show you State's Exhibit
7 183. Do you recognize that?

8 A Yes. Those are swabs I just indicated in the
9 packaging and initialed by me and submitted in
10 evidence.

11 MS. CAVANAUGH: Okay. And they're sealed
12 when you package them?

13 A The packages are sealed, yes, ma'am.

14 MS. SIMPSON: Your Honor, at this time I
15 move State's Exhibit 183 into evidence.

16 THE COURT: All right, that's without
17 objection?

18 MR. SUTHERLAND: Yes, sir.

19 (State's Exhibit No. 183 was admitted into
20 evidence.)

21 MS. CAVANAUGH: And what was your purpose
22 of actually taking the swabs, not of the markers,
23 but of each of the door handles?

24 A Possibility of DNA, and you don't know if there
25 is or there isn't. Possibility also exists on the

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1 door handle, touching and opening the door, and so
2 that was the reason for those swabs on the door
3 handle.

4 Q And did another investigator actually swab the
5 other markers of the vehicle that we just went
6 through?

7 A Yes, Lieutenant Cavanagh was out there and also
8 assisting and processing the vehicle. She swabbed
9 the remaining stains which were C through T from the
10 interior of the vehicle.

11 Q And there's one more, Sergeant Richards. There's
12 one more stain that I forgot to ask you about.

13 MR. SUTHERLAND: No objections.

14 BY MS. CAVANAUGH:

15 Q I'm going to show you what's marked as State's
16 Exhibit 155. Is that of the ignition of this
17 vehicle?

18 A That is the key in the ignition of the vehicle,
19 yes.

20 Q And what is on that ignition?

21 A That's a reddish brown stain which appears to be
22 possible blood.

23 MS. CAVANAUGH: Your Honor, at this time
24 I'd move to introduce State's 155 into evidence.

25 THE COURT: 155 is in evidence without

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1 objection.

2 (State's Exhibit No. 155 admitted into
3 evidence.)

4 MS. CAVANAUGH: And did you also do any
5 trace taping of the vehicle?

6 A Yes. We did trace taping on all of the interior
7 seating areas and the trace tape is what has already
8 been alluded again yesterday. If you know what
9 trace tape is and what was important, fibers, and
10 hair, and things of that nature and that trace tape
11 is also submitted to evidence.

12 Q And what's the purpose of this process, Sergeant
13 Richards?

14 A Trace tape is exactly what it sounds like.
15 You're looking at trace evidence which could
16 possibly be hair, fibers off clothing, fibers of any
17 type, anything that would lead you to an individual
18 or individuals that may have been in that vehicle.

19 Q Test for possible DNA, if requested?

20 A For trace tape?

21 Q Yes, or not as —

22 A You have to talk to DNA people about that. I'm
23 not sure they would be able to —

24 Q Okay. Is this — I'm going to show you what's
25 marked as State's Exhibit 184. Is this —

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1 A Yes. That's the envelope that I placed in the
2 trace tape, and it was sealed and submitted to
3 evidence.

4 MS. SIMPSON: Your Honor, at this time I'd
5 move to introduce State's 184 into evidence.

6 MR. SUTHERLAND: No objection, sir.

7 THE COURT: 184 is in evidence without
8 objection.

9 (WHEREUPON, State Exhibit No. 184
10 1 admitted into evidence.)

11 BY MS. SIMPSON:

12 Q Now did you actually do anything else on the 25th
13 related to this case?

14 A Yes. Lieutenant Cavanagh and myself, after all
15 of that was completed we did research of the
16 vehicle, interior of the vehicle, for any remaining
17 or any type of items that we could find particularly
18 concentrating on the impact points of any type or
19 maybe projectile cartridge casing, anything that
20 would be significant to the shooting incident, and
21 it was negative.

22 Q Okay. And the following, the following day, did
23 you have any involvement with the investigation?

24 A The following day, which was the 26th, I returned
25 to the forensic garage along with Investigator Holt.

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1 He and I together did another search of the interior
2 of the vehicle for the same type of items just to
3 make sure, and it was also negative.

4 Q Okay. So, did you ever locate any projectiles in
5 the vehicle?

6 A No, ma'am.

7 Q And in your experience as a crime scene
8 investigator, even if there's an exiting wound from
9 a person that's sitting in the vehicle, is it
10 unusual that you wouldn't find a projectile in the
11 car?

12 A Well, you've got possibilities of windows being
13 down and windows shattered, and things of that
14 nature. It's not an impossibility, no.

15 MS. SIMPSON: Beg the Court's indulgence.

16 BY MS. SIMPSON:

17 Q Sergeant Richards, was that the extent of your
18 involvement in this case?

19 A Yes, it was.

20 Q Thank you very much. No further questions for
21 this witness. At this point please answer any
22 questions from Mr. Sutherland.

23 THE COURT: Thank you. Thank you,
24 Solicitor.

25 Mr. Sutherland.

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1 MR. SUTHERLAND: May it please the Court,
2 sir.

3 CROSS - EXAMINATION

4 BY MR. SUTHERLAND:

5 Q Mr. Richards, how you are?

6 A Fine, sir.

7 Q There were just a couple of things that seemed
8 like they went by on direct pretty quick and just
9 talking about, you know, the different sorts of
10 blood stains —

11 A Yes, sir.

12 Q —that were in the different pictures because I
13 have learned over time as you know, it can be kind
14 of tricky and say different things.

15 A It can.

16 Q I wanted to ask — well, I guess the first thing
17 while I'm looking, C, your testimony was it appeared
18 to be a transfer?

19 A Yes, sir.

20 Q And I was just wondering, just if you could just
21 explain to the jury what a transfer stain is?

22 A Yeah, a transfer is when a bloody item, it can be
23 a hand or anything else, comes in contact with
24 another item and that blood, if it is blood, or any
25 type of liquid is transferred then to the second

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1 item, okay, they transfer.

2 Q Okay. So there was C and D your testimony was
3 that these were transfers? A drip stain, item F,
4 just what would distinguish the drip stain in the
5 photo?

6 A It would be -- a drip stain is a stain that is
7 freed up or falling from a blood source of higher
8 elevation. It falls through gravity. And then when
9 it hits, it's -- you can see a lip or elongated type
10 of stain because it remains in motion and flows
11 downward when it hits the target so that's what
12 you're going to see elongated type things what
13 circled when it hits 90-degree down on the ground.
14 So that's what a drip stain is and what it looks
15 like when you see one.

16 Q Okay. And what about an impact pattern?

17 A Impact pattern can be two different type stains
18 that you see. It can be circular or it can be
19 elliptical like we just talked about, the elongated
20 type. But they're smaller because impact stains are
21 smaller because of the force that's applied to the
22 blood source at the time. It's a heavier force of
23 something that could be a smaller stain, say the
24 force 100 feet or second or more which you would
25 might get in a gunshot.

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1 Q Yes, sir.

2 A And those stains will be much, much, smaller than
3 something that you would have a drip stain for
4 instance, we just talked about, that would be coming
5 from a blood source through gravity. Those could be
6 much larger. They're all impact stains. When I
7 talk about drip stain, spatter, or cast off or
8 elongated stain of any kind, all those are impact
9 stains.

10 Q All right. Thank you, sir. I just wanted to be
11 clear.

12 A Yes, sir.

13 Q Because there were several different pictures
14 that mean several different things. Now beyond that
15 I actually don't have too much more for you. Your
16 testimony of the condition of the vehicle, I think
17 it was a little more precise than other testimony
18 that we've heard, but it was the front passenger's
19 side window was a few inches down?

20 A Yes, few inches down. No, no, no, — let me
21 refresh my notes. I don't want to say something
22 that's wrong.

23 Q Certainly, absolutely. That could be awful.

24 A Okay. The front passenger side was about half
25 way down. The rear passenger window was several

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1 inches.

2 Q Was the one —

3 A Several.

4 Q —with several inches down?

5 A Yes.

6 Q So I had it backwards. And just a little bit
7 more about the whole impact point on the left rear
8 of the vehicle?

9 A Uh-huh.

10 Q I believe your testimony was that you weren't
11 certain whether it was an firearm or whether it was
12 a projectile and that you had spoken with the owner
13 of the vehicle?

14 A At the scene itself I was almost certain it was a
15 projectile just because of how big it was.

16 Q Okay.

17 A Okay. And the crack that developed above it
18 also. It looked like some type of impact, but maybe
19 not from a firearm; however, saying that, you always
20 look anyway underneath to make sure there's not a
21 second impact point somewhere under there and then
22 look around and make sure there's not a projectile
23 found. You'll always do those things even though
24 you feel like that it's not. I felt like it was
25 verified the following day, just still had the

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1 vehicle there, still looking at the impact point by
2 the owner saying that there was old damage. So that
3 was my determination, yes, sir.

4 Q And you testified about the GSR enough I think.
5 And there were just — there were two telephones
6 that you had recovered?

7 A Yes. I got it in my, in my report Verizon cell
8 phone, and an Apple phone and a Otter box.

9 Q Okay. And that's actually it. Thank you, sir.
10 No further questions at this time.

11 THE COURT: Redirect, Solicitor.

12 MS. SIMPSON: No, Your Honor.

13 THE COURT: Thank you. Thank you very
14 much. You may step down.

15 All right. Thank you very much. Ladies
16 and gentlemen of the jury, perhaps now would be a
17 good time to take our morning recess. Please
18 remember, during this recess do not discuss the case
19 with any one including your fellow jurors. Remember
20 to keep an open mind and not begin your
21 deliberations until you're instructed to do so by
22 the Court. We'll take, well, we'll say we'll get
23 back at 11:30 so that's — 15, about 19 minutes or
24 so. Thank you. Thank you very much. You may now
25 go with your bailiff. Leave your notes.

1 (The jury is removed from the courtroom at
2 11:09 a.m.)

3 THE COURT: All right, Solicitor, would
4 you please mark State's 141 for identification
5 purposes only and state for the record what the item
6 was.

7 MS. SIMPSON: Yes, Your Honor. State's
8 141 is a photograph of the interior of the vehicle
9 driver's side. It depicts M, P, and O markers. I
10 believe Mr. Sutherland had an objection that it was
11 cumulative. We agreed to only use one of these.
12 That's what State's 141 is.

13 THE COURT: And I ruled that it was
14 cumulative so 141 is marked for identification
15 purposes only.

16 And Mr. Sutherland, on your
17 cross-examination of Investigator Carter —

18 MR. SUTHERLAND: Yes, sir.

19 THE COURT: —you began questioning him
20 concerning a prior statement was that he made taken
21 from Ms. Monica Howard.

22 MR. SUTHERLAND: Yes, sir.

23 THE COURT: And as part of your objection
24 you stated that, well, she's testified. My
25 understanding it still hearsay under 801-C. It

1 would not be admissible unless it met one of the
2 exceptions under 801-D. Now if it does, if you
3 allege it does, I'll certainly be happy to hear you,
4 hear you about that proffer.

5 MR. SUTHERLAND: Well, sir, it's
6 ultimately not significant. I mean, I do, I do
7 believe that I was able to sort of go through it
8 with the witness. And during the direct examination
9 she had said, you know, her memory was better then
10 than it is now; but I think everything is fine with
11 respect to that particular witness. Thank you
12 though, sir.

13 THE COURT: I don't know of a particular
14 case that says — I think it used to be the case,
15 but I don't know a particular case that says just
16 because a witness testifies that then all of his or
17 her out of court statements —

18 MR. SUTHERLAND: Oh, yes, sir.

19 THE COURT: —deemed admissible except,
20 unless it's under one of those exceptions since you
21 didn't cite me one of those exceptions. But if want
22 to revisit it, I'll have Sergeant Carter re-called,
23 and you can make that proffer if you want.

24 MR. SUTHERLAND: Yes, sir. I appreciate
25 it, Your Honor, but I'm satisfied.

1 THE COURT: Okay. Anything further,
2 Solicitor, before we take our break?

3 MS. SIMPSON: No, Your Honor.

4 THE COURT: Mr. Sutherland?

5 MR. SUTHERLAND: No, sir.

6 THE COURT: All right.

7 MR. SUTHERLAND: Thank you.

8 THE COURT: We'll be in recess until
9 11:30. Thank you very much.

10 (Whereupon, a short recess was held.)

11 THE COURT: All right. Anything from the
12 State before we bring in our jury?

13 MS. SIMPSON: Nothing from the State, Your
14 Honor.

15 THE COURT: The Defense?

16 MR. SUTHERLAND: No, sir.

17 (The jury was returned to the courtroom at
18 11:32 a.m. and the following proceedings
19 commenced.)

20 THE BAILIFF: The jury's seated, Your
21 Honor.

22 THE COURT: Thank you very much. Welcome
23 back, ladies and gentlemen. Please continue to give
24 the parties your complete and undivided attention.

25 Solicitor, you may call your first

1 witness.

2 MS. SIMPSON: Thank you, Your Honor. The
3 State calls Lieutenant Anna Elsi Cavanagh.

4 THE COURT: All right, if you'd come
5 around and be sworn please.

6 WHEREUPON,

7 **ANNA CAVANAGH,**

8 after having been duly sworn, testified as follows:

9 THE CLERK: Thank you. Please have a seat
10 in the witness stand and state your full name for
11 the record, and please spell your first and last
12 name.

13 THE WITNESS: Anna Cavanagh, A-N-N-A
14 C-A-V-A-N-A-G-H.

15 **D I R E C T E X A M I N A T I O N**

16 **BY MS. SIMPSON:**

17 Q Lieutenant Cavanagh, where are you employed?

18 A The Richland County Sheriff's Department.

19 Q And what is your position there?

20 A I am the lieutenant of the crime scene latent
21 print section.

22 Q How long have you been the lieutenant?

23 A I was five years in July.

24 Q Okay. And how long have you been with Richland
25 County?

SW - A. CAVANAGH - DIRECT

1 A I started with the county in July of 1996 and I
2 was promoted to the crime scene unit in October of
3 '98.

4 Q Okay. So you have about, my math is horrible,
5 13?

6 A Fourteen years.

7 Q Can you tell the jury a little bit about your
8 educational background and training?

9 A I graduated from the College of Charleston with a
10 bachelors of science in biology. I received my
11 masters from University of Florida in forensic DNA
12 and serology. I had on-the-job training once I was
13 promoted to the crime scene unit internally; and
14 then I've taken part of several courses throughout
15 my career in crime scene that include blood pattern
16 analysis, bloodstain pattern analysis, crime scene
17 reconstruction, latent print, forensic ridgeology,
18 latent print comparison. I am certified through the
19 International Association of Identification in crime
20 scene as a crime scene analyst. I graduated from
21 the FBI National Academy in June of 2011 and I am
22 also the assessor for that lab.

23 Q Okay. And as a lieutenant are you still active
24 in processing crime scenes and crime scene
25 investigations?

SW - A. CAVANAGH - DIRECT

- 1 A I am. My primary duties are the overall
2 operation of the unit and that includes writing and
3 implementing policies and procedures, budgeting,
4 ordering supplies, scheduling; but I am still part
5 of that supervisor on-call that Sergeant Richards
6 talked about for any major scene to assist with.
- 7 Q Turning to January 24th of 2012, did you become
8 involved in this case?
- 9 A I did.
- 10 Q When and where did you respond?
- 11 A I responded to 157 Prioleau at around 4:11 in the
12 afternoon on the 24th.
- 13 Q And when you arrived at the scene were other
14 crime scene investigators already present?
- 15 A Yes, Investigator Polis, Investigator Hold and
16 Sergeant Richards were on scene.
- 17 Q Okay. And what did you observe when you arrived?
- 18 A The scene, the crime scene was already secured.
19 Several items of evidence were already marked and
20 had been collected prior to my arrival, and the
21 investigators on scene were in the process of
22 documenting the scene.
- 23 Q And what did you do next after learning that, I
24 guess, they were already in process?
- 25 A Yes.

SW - A. CAVANAGH - DIRECT

1 Q In the process of processing the scene?

2 A Sure. When I responded I just help complete
3 assessment and do a search of the area for any
4 additional evidence; and in addition to be a
5 resource for them if they needed any additional
6 equipment, any other resources on the scene, just
7 really basically just helping with the investigators
8 who were already there on the scene.

9 Q And at some point did you leave the crime scene
10 location?

11 A I did. I left a little after 6.

12 Q Okay. And where did go?

13 A I responded back to our lab at headquarters. As
14 Sergeant Richards explained to you earlier the
15 postmortem prints from the victim had been
16 transported to the lab for our latent print analyst
17 to examine, and I was responding there to verify the
18 originals.

19 Q Okay. And on January 25th, I believe the next
20 day, did you have the opportunity to process some
21 items of evidence in this case?

22 A I did. Sergeant Richards had collected a couple
23 of phones and cables from the vehicle from the
24 scene, and the investigators wanted to try to get
25 their hands on them as soon as possible to try to

SW - A. CAVANAGH - DIRECT

1 get any information from the phones. So he turned
2 the phones over to me and I processed them,
3 processed them for fingerprints again. It's already
4 been explained to you as cyanoacrylate -- it's a
5 fancy word for superglue -- and a black powder and I
6 then submitted them into evidence after I processed
7 and swabbed those.

8 Q With respect to your processing using the black
9 powder what were the results of that testing?

10 A They were negative.

11 Q So you weren't able to lift any fingerprints from
12 those items?

13 A No.

14 Q And I believe you indicated you collected swabs
15 as well?

16 A I did.

17 Q And what was the purpose of collecting those
18 swabs?

19 A Again, that's the touch DNA possibility
20 collecting them to see if we could, if it's
21 determined later by the investigators that those
22 need to be analyze for possible touch DNA.

23 Q And were photographs of those items taken as
24 well?

25 A Sergeant Richards took them prior to removing

SW - A. CAVANAGH - DIRECT

1 them from the vehicle.

2 Q Later on that day did you assist Sergeant
3 Richards in processing the vehicle associated in
4 this case?

5 A I did.

6 Q And where did that processing take place?

7 A It was at our secure garage at 5623 Two Notch
8 Road, our headquarters.

9 Q And what vehicle, or we discussed it some, but
10 what vehicle did you process?

11 A I was a 2002 Suzuki, blue in color.

12 Q And what was the significance of the vehicle?

13 A This was the vehicle that was towed from the
14 scene. The vehicle was located on Prioleau Road.

15 Q And can you explain to the jury your role in
16 processing the car?

17 A Sure. As I said earlier and actually heard
18 Sergeant Richards testify, he began processing, was
19 processing. While I was processing the phones he
20 was working on the vehicle. So I went out there to
21 assist him. I swabbed some areas of the vehicle
22 initially on the exterior of the vehicle. I swabbed
23 the handles on the driver's door and the rear
24 driver's side door handles. I also swabbed the
25 interior passenger side door handle and the front

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1 and rear door handle and the handle ---

2 Q Okay, and those were all the exterior handles on
3 the car or interior handles?

4 A The exterior I did just the driver's side.

5 Q Okay. And when you collected these swabs, were
6 there actually markers in place or were you just
7 swabbing the area ---

8 A You mean the location of the handles?

9 Q Yes.

10 A No.

11 Q I'm gonna show you what's been marked as State's
12 Exhibit 185. Do you recognize this?

13 A Yes. These are the swabs from the passenger side
14 front rear door handles and the driver's door
15 handles, the rear mirror, the gear shift and the
16 steering wheel.

17 Q Now we've talked some about swabs. What exactly
18 do you do when you swab? How do you go about
19 swabbing or determining what to swab?

20 A Sure. The actual swabs is -- I think it was
21 explained yesterday like a large Q-tip and they're
22 all sterile, all self-contained and all packaged
23 prior to us using them. We open the package. If
24 the item is still wet, we just swab the item
25 directly and put it in its own container. And that

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1 container is marked with where it's collected and
2 time we collected it and the case that it's involved
3 with. If the item is dried or if we're looking for
4 a touch DNA we would moisten that Q-tip with just
5 some water, swab it, and package it the same way.

6 Q Okay. And the swabs collected in State's 185,
7 were all these collected by you?

8 A Yes.

9 Q And properly sealed and packaged?

10 A Yes.

11 MS. SIMPSON: Your Honor, at this time the
12 State would seek to introduce State's 185 into
13 evidence.

14 MR. SUTHERLAND: No objections.

15 THE COURT: 185 is in evidence without
16 objection.

17 (State's Exhibit No. 185 was admitted into
18 evidence.)

19 BY MS. SIMPSON:

20 Q And I believe we heard from Sergeant Richards
21 regarding some of the markers in this case. What
22 observations did you make with respect to possible
23 blood stains?

24 A There were numerous stains from the vehicle that
25 were on the ground we believed to be blood that

SW - A. CAVANAGH - DIRECT

1 Sergeant marked and photographed, and then I went
2 through them and swabbed those markers, stains on
3 those markers.

4 Q Okay. And we've seen a number of photographs.
5 When you — just as, for example in State's 152
6 marker T, how do you swab that area around the
7 marker?

8 A We just, again, take that Q-tip and swab as much
9 of the stain we can get on that Q-tip as we can for
10 analysis.

11 Q Okay. And did you swab all of the markers in
12 this case?

13 A I did C through 10. Sergeant Richards did A and
14 B.

15 Q Okay, I'm going to show you what's been marked as
16 State's Exhibit 186. Do you recognize these?

17 A Yes, these are the swabs for markers C through T
18 taken from the blue Suzuki.

19 Q Okay. And did you collect those swabs and
20 properly seal them —

21 A I did.

22 Q —and packaged them? And once you did that
23 where were they submitted?

24 A They were submitted to our evidence and processed
25 to be held or submitted to another section for

SW - A. CAVANAGH - DIRECT

1 analysis.

2 Q Okay.

3 MS. SIMPSON: Your Honor, at this time the
4 State would introduce State's Exhibit 186 into
5 evidence.

6 MR. SUTHERLAND: No objections.

7 THE COURT: 186 is in evidence without
8 objection.

9 (State's Exhibit 186 was admitted into
10 evidence.)

11 BY MS. SIMPSON:

12 Q And then I believe, and I passed over this, you
13 did some swabs on the exterior handles, correct?

14 A I did that initially.

15 Q I'm gonna show you what's marked State's Exhibit
16 187. Do you recognize this?

17 A Yes, this is from the four swabs I collected from
18 the exterior driver's door and door handle, and the
19 rear driver's side door handle and left (ph) door
20 handle.

21 Q And again, these swabs were?

22 A Collected by me, packaged and submitted to
23 evidence processing section.

24 MS. SIMPSON: Your Honor, at this time the
25 State would introduce State's 187 into evidence.

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1 MR. SUTHERLAND: No objections, sir.

2 THE COURT: State's 187 is in evidence
3 without objection.

4 (State's Exhibit No. 187 was admitted into
5 evidence.)

6 BY MS. SIMPSON:

7 Q Now Lieutenant Cavanagh, do you actually make the
8 determination as to what swabs will or will not be
9 tested?

10 A No, I do not.

11 Q Okay, who makes that determination?

12 A Generally the lead investigator will get with the
13 DNA analyst and determine what they feel is the most
14 probative.

15 Q Okay. And in this case did you also the
16 opportunity to verify or examine the conclusions of
17 the latent print examiner?

18 A I did.

19 Q And what were those prints related to?

20 A Identification of the victim.

21 Q And is that the extent of your involvement in
22 this case?

23 A Yes.

24 Q Thank you.

25 THE COURT: Thank you, Ms. Solicitor.

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1 Mr. Sutherland.

2 MR. SUTHERLAND: Yes, sir. May it please
3 the Court.

4 **CROSS - EXAMINATION**

5 **BY MR. SUTHERLAND:**

6 Q I don't have a lot for you. Lieutenant Richards
7 had given you those two cell phones?

8 A Sergeant Richards did.

9 Q Oh, sorry, Sergeant Richards. I demoted him.

10 A (The witness nodded head.)

11 Q I do want to ask you something. We went out to
12 Pal Road a couple of weeks ago to look at the
13 vehicle.

14 A (The witness nodded head.)

15 Q And looking through there, there's a bottle of
16 Hidden Ranch dressing in the back seat of the
17 vehicle. Did you see — did you — and I just
18 haven't heard anybody talk about it. Were you aware
19 of that, or did you see that in there or?

20 A I don't recall that specifically. I don't know
21 if that would have had any —

22 Q Okay.

23 A —bearing on what I was looking for
24 specifically. I don't recall.

25 Q Okay. It's just been sort of bugged me a little

SW - A. CAVANAGH - CROSS

1 bit, just wondered where it come from. Thank you
2 though.

3 THE COURT: Redirect?

4 MS. SIMPSON: No, Your Honor.

5 THE COURT: Thank you. You may step down.
6 You may be excused.

7 Solicitor, you may call your next witness.

8 MS. SIMPSON: The State would call
9 Investigator David Goff to the stand.

10 THE COURT: Come around.

11 WHEREUPON,

12 **DAVID GOFF,**

13 after having been duly sworn, testified as follows:

14 THE CLERK: Thank you. Please have a seat
15 in the witness stand and state your full name for
16 the record.

17 THE WITNESS: David Goff.

18 **D I R E C T E X A M I N A T I O N**

19 **BY MS. SIMPSON:**

20 Q Investigator Goff, where are you employed?

21 A Richland County Sheriff's Department.

22 Q How long have been with the sheriff's department?

23 A 27 years.

24 Q And what's your position there?

25 A I'm senior investigator in arson and asset

SW - D. GOFF - DIRECT

1 forfeitures at this time.

2 Q Okay. And what do some of your duties include?

3 I know arson is failure specialized.

4 A Yes, ma'am.

5 Q Can you tell the jury a little bit about that?

6 A In arson investigations I'm the — I get my
7 directions from the fire marshal office. They go to
8 crime and fire scene. They determine that it's of
9 sufficient nature then they call me out. They
10 process the scene. I then pick up, I then
11 investigate and conclude who, what, when, and how.)

12 Q And even though your an arson investigator do you
13 have occasion to become involved in other types of
14 investigations?

15 A Yes, ma'am.

16 Q How does that typically occur?

17 A At — at the time of this case we had a rotation
18 shift; and I was assigned to one, with a member of
19 that shift with five investigators and the
20 supervisor. And we investigated whatever comes
21 down, comes at us.

22 Q So back on January 24th, how exactly did you
23 become involved in this case and where were you
24 requested to respond?

25 A I received a phone call from my sergeant at the

SW - D. GOFF - DIRECT

1 time, Sergeant Mat Ellis, to respond to the Richland
2 County Memorial Hospital to a shooting, a victim was
3 in route and for me to try to talk to him.

4 Q And did you have the name of the victim at that
5 time?

6 A I did not.

7 Q What happened when you responded to the hospital?

8 A When I arrived at the hospital the victim was not
9 there. I waited a few minutes and the victim
10 arrived. I did learn that the victim's name was
11 Jonathan Frazier.

12 Q And what was Mr. Frazier's condition when he
13 arrived?

14 A He was sitting on the grand stretcher. He was
15 having trouble breathing. He had been shot in his
16 right hand, his left shoulder, and the left side of
17 his neck. They had a just an oxygen mask over his
18 face at the item.

19 Q Okay, did you request to speak with him?

20 A I did.

21 Q And were you advised by the doctors as to whether
22 you could speak with him?

23 A Yes, they were getting ready — they made the
24 determination they were gonna put a breathing tube
25 down his throat and would have to put him to sleep

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1 to do so, and for me to hurry up and talk to him
2 before they did. And so I did, I tried to talk to
3 him. I did try to speak to him at that time.

4 Q Okay. And you indicated he was still having
5 difficulty breathing?

6 A Yes, ma'am, he was gasping for breath.

7 Q Okay. So were doctors pressing you? Did you
8 have a limited amount of time?

9 A Very limited. I was basically told to hurry up.

10 Q And what was your main concern with respect to
11 this conversation?

12 A To see if he can tell me who shot him.

13 Q Okay. And you said you were able to speak with
14 him?

15 A Yes.

16 Q Briefly?

17 A And I asked him the question — I introduced
18 myself, told him who I was and why I was there, and
19 I asked, who shot you. And —

20 Q And did he say who shot him?

21 A He said the name Jabriel or something to that
22 effect.

23 Q Okay. And did he also — at this point had the
24 doctors given him some medication to help him sleep?

25 A Yes, ma'am. He was already starting to show

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1 signs. His eyes were getting real heavy.

2 Q Okay. In addition to telling you who shot him,
3 was he attempting to tell you about what happened?

4 A Yes, ma'am. He was trying to tell me what
5 happened. I was having difficulty understanding him
6 between gasps and incoherence. It appeared to me
7 he said he would, had been, had went to a location
8 with Jabriel and were following him, and that he --
9 Jabriel jumped out and the gun shot, they fought
10 over it, and that's when he was shot.

11 Q And during this whole situation he's having
12 difficulty talking?

13 A Yes, ma'am.

14 Q And were you able to actually obtain a written
15 statement from him --

16 A Oh, no, ma'am.

17 Q --the second time?

18 A No, ma'am. He was -- one hand was bandaged up
19 and the other one had IVs in it.

20 Q Okay. So was this just centrally I guess -- did
21 you form a report in this case?

22 A Yes, ma'am.

23 Q And did your report essentially an interpretation
24 of what he was telling you --

25 A That's correct, yes.

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1 Q ---as best you can understand him?

2 A That's correct.

3 Q At some point how long, how long was that
4 conversation with Mr. Frazier?

5 A Forty-five seconds to a minute at the most.

6 Q And what happened next?

7 A They took him to CAT scan, CT scan. The doctor
8 told me it was going to be a while before he come
9 back down so I left my card told him if anything
10 changes please give me a call back. And I left, I
11 left the ER.

12 Q Okay, so was he actually drifting off to sleep

13 ---

14 A Yes, ma'am.

15 Q ---after your conversation with him?

16 A Very rapidly.

17 Q When you left the hospital where did you go?

18 A I went back to my office.

19 Q Okay. And at some point later that same day did
20 you return to the hospital?

21 A Yes, ma'am, I went back to the hospital to check
22 on, check the status of him and was advised that he
23 was -- he could not talk to me until the next day.
24 And even then he could not talk because of the tube,
25 but he would be able to acknowledge that he

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1 understand by shaking his head.

2 Q Okay, so you actually spoke with — who were his,
3 the trauma doctors that you spoke with?

4 A The ER doctor was Doctor Jennings and the trauma
5 doctor was Doctor Watson.

6 Q And did you also make contact with a Tracey
7 Johnson?

8 A I did.

9 Q And what was her relationship to Mr. Frazier?

10 A She was the victim's mother.

11 Q And through her did you learn some information
12 about who the possible deceased victim may be?

13 A She said he — only person she knew he hung out
14 with by a nickname. That's all she knew. She
15 didn't know a real name.

16 Q Okay. And were you also able to obtain some
17 phone numbers from her as well?

18 A I did. I got the victim, Mr. Frazier's phone
19 number and hers.

20 Q And what was Mr. Frazier's number that you
21 received?

22 A 803-403-5760.

23 Q Okay. Moving to January 26 of 2012, a couple
24 days later, did you assist in getting a search
25 warrant?

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1 A I did.

2 MS. SIMPSON: Beg the Court's indulgence.

3 BY MS. SIMPSON:

4 Q And what was the location for the search warrant?

5 A The location was room number 118 at the America
6 Best Value Inn located at 131 Veterans Road in
7 Richland County.

8 Q Okay. And Veterans Road, is that — can you tell
9 us kind of where that is.

10 A It's off Garners Ferry Road right near the VA
11 hospital.

12 Q Okay. So is it a ways down from the Hopkins kind
13 of area?

14 A It's back in bound from Hopkins, yes, ma'am.

15 Q Back in bounds towards Columbia?

16 A That's correct, yes, ma'am.

17 Q And what was the significance of that location?

18 A Received information that Mr. — the subject had
19 been found, located there. They also found some
20 items in the room that needed — were deemed
21 necessary to try to collect.

22 Q Okay. And I apologize, you said this was the
23 location where the defendant and his girlfriend
24 were found?

25 A That's correct.

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1 Q Were you actually there and present at the arrest
2 of the defendant?

3 A No, I was not.

4 Q Okay. So your participation was with respect to
5 the search?

6 A That's correct.

7 Q And did you assist in just getting the search
8 warrant or the actual search itself?

9 A Both.

10 Q Okay. And who else, or where there any other
11 officers assisting you?

12 A Investigator Caldwell assisted me in the search.
13 I had sent to Judge Michael Davis's office to obtain
14 a search warrant that had already been sent to me.
15 I had — I signed it in front of the judge and then
16 proceeded to the location where I met Investigator
17 Caldwell.

18 Q And what type of items were y'all looking for?

19 A The item that we were looking for was of a
20 firearm, 38 or 357 caliber, paperwork associated
21 with firearms, and also any forensic evidence
22 related to the homicide, limited to blood, hair,
23 fiber, DNA, fingerprints.

24 Q So anything relevant —

25 A Correct.

SW - D. GOFF - DIRECT

1 Q —to the possible investigation? And let's be
2 clear, this location, is it a hotel room?

3 A Yes.

4 Q Okay. So it's not a permanent residence?

5 A That's correct.

6 Q And did you all actually collect some items —

7 A We did.

8 Q —from that room? What items did you collect?

9 A You want the whole list?

10 Q Yes, please?

11 A Okay. We recovered a black square D bag with a
12 Ziplock bag full of green leafy material, an empty
13 Ziplock bag found inside of it found on the right
14 hand side — excuse me, right side shelf of the bed
15 that was found by Investigator Caldwell. A digital
16 scale found on the night stand on the right of the
17 bed also found by Caldwell. An empty Hennessy
18 cognac bottle found on the night stand to the right
19 side of the bed by Investigator Caldwell. Roll of
20 cigars with green leaf material found between the
21 headboards and wall by Investigator Caldwell. A
22 pair of black sized eight and half Air Jordans with
23 clear baggie with green leaf material inside the
24 left shoe found on the floor on the right side of
25 the bed. Opened box — opened empty box of Ziploc

SW - D. GOFF - DIRECT

1 sandwich bags found on the table by Caldwell. A
2 gray sweatshirt by hoodie found on the chair by
3 Investigator Caldwell. And a room key to room
4 number 118 found on the right side of the bed by
5 Caldwell.

6 Q Okay. And did you actually collect these items?

7 A We did, yes, ma'am.

8 Q Let me show you what's been marked as State's
9 Exhibit 189.

10 MR. SUTHERLAND: Beg the Court's
11 indulgence. I'd like to look at these items of
12 evidence from the hotel room prior to their
13 introduction.

14 THE COURT: All right. And that'd be I.D.
15 only at the time?

16 MR. SUTHERLAND: I.D. only would be fine,
17 Your Honor.

18 THE COURT: You want to look at them now?

19 MS. SIMPSON: Your Honor, there aren't
20 very many items so this probably won't take long.

21 THE COURT: What happened to State's 188?

22 MS. SIMPSON: State's 188 is marked. It's
23 not been introduced yet, Your Honor.

24 THE COURT: Okay. All right, thank you.

25 MR. SUTHERLAND: Okay. Without objection,

SW - D. GOFF - DIRECT

1 Your Honor.

2 BY MS. SIMPSON:

3 Q I'm gonna show you State's 189. Do you recognize
4 this package as it's being opened now?

5 A Yeah, I do. This is the items that I placed in
6 evidence.

7 Q And what specific items are in this?

8 A In this box is a black square nylon bag, an empty
9 plastic bag, plastic bag containing green leaf
10 material, empty box some small sandwich bags, brown
11 cigarette, one digit-weight set of scales, and small
12 plastic bag containing green plant material.

13 Q Okay. And are these the items that you
14 collected?

15 A That's correct.

16 Q And then you properly sealed them and packaged
17 them?

18 A Correct.

19 Q And what did you do with them once you —

20 A Take them into evidence.

21 MS. SIMPSON: Your Honor, at this time the
22 State would introduce State's 189 into evidence.

23 THE COURT: All right. State's 189 is in
24 evidence without objection.

25 (State's Exhibit No. 189 was admitted into

SW - D. GOFF - DIRECT

1 evidence.)

2 BY MS. SIMPSON:

3 Q I'm going to show you what's also been marked as
4 State's 190.

5 MR. SUTHERLAND: Beg the Court's
6 indulgence.

7 THE COURT: Yes, sir.

8 THE WITNESS: I have -- I have a knife.

9 MR. SUTHERLAND: We can't bring those
10 things in court. Okay, without objection, Your
11 Honor.

12 THE COURT: All right.

13 MS. SIMPSON: Okay.

14 BY MS. SIMPSON:

15 Q I want to show you State's Exhibit 190. Do you
16 recognize that?

17 A Yes, ma'am. The second box of evidence that I
18 packaged and put into evidence.

19 Q Okay. And are these additional items from the
20 hotel room?

21 A Correct, these are the last four items.

22 Q And with respect to the items that you found,
23 where was the marijuana located?

24 MR. SUTHERLAND: Objection, Your Honor.
25 There's been no drug analysis testimony as to the

SW - D. GOFF - DIRECT

1 nature of the substance.

2 THE COURT: Sustained.

3 MS. SIMPSON: Your Honor, I believe my
4 question was just with respect to where it was
5 located in the hotel room.

6 THE COURT: There's no testimony in the
7 record that was what was located.

8 MS. SIMPSON: It is, Your Honor, and it's
9 evidence. May we approach.

10 THE COURT: All right.

11 (Whereupon, there was an off-the-record
12 Bench conference.)

13 THE COURT: Thank you, Solicitor. Thank
14 you, Mr. Sutherland.

15 MS. SIMPSON: Thank you.

16 BY MS. SIMPSON:

17 Q Investigator Goff, where was the green plant like
18 material located?

19 A It was found inside the black square D bag found
20 on the right side.

21 Q So —

22 A Right side of the bed.

23 Q The right side of the bed?

24 A Yes, ma'am.

25 Q So, and I guess all these items were actually in

SW - D. GOFF - DIRECT

1 the nylon bag?

2 A They were kind of — they were set — some of
3 them were found on night stands, on the table and
4 stuff inside the room.

5 Q Okay. So they've been placed in this bag?

6 A Right, that's correct.

7 Q As well as the clothing that you collected, was
8 that scattered around the room or was it found in a
9 specific location?

10 A The sweatshirt hoodie was found on the chair, and
11 the shoe were found on the floor on the right side
12 of the bed.

13 Q Okay. And backtracking just a little bit, when
14 you were at the hospital on the 24th did you
15 actually collect a pair of socks?

16 A I did.

17 Q From the victim?

18 A That's correct.

19 Q I'm gonna show you what's been marked as State's
20 188.

21 MR. SUTHERLAND: No objection, sir.

22 BY MS. SIMPSON:

23 Q Do you recognize this?

24 A Yes, ma'am.

25 Q And what is that?

SW - D. GOFF - DIRECT

1 A It's a pair of plastic bag containing one pair of
2 white socks from Mr. Jonathan Frazier.

3 MS. SIMPSON: Your Honor, at this time
4 the State would introduce State's 188 into evidence.

5 THE COURT: State's 188 is in evidence
6 without objection.

7 Also 190, did you offer 190, Solicitor?

8 MS. SIMPSON: I did -- oh, I may not have
9 finished. Your Honor, I know it was without
10 objection, but Your Honor, I would offer State's 190
11 into evidence as well.

12 THE COURT: State's 190 is in evidence as
13 well.

14 (State's Exhibit No. 190 was admitted into
15 evidence.)

16 BY MS. SIMPSON:

17 Q This was the extent of your involvement with
18 respect to this case.

19 A Yes, ma'am.

20 MS. SIMPSON: Thank you, Investigator.

21 THE COURT: Thank you, Solicitor.

22 Mr. Sutherland.

23 **CROSS - EXAMINATION**

24 **BY MR. SUTHERLAND:**

25 Q I'm just briefly gonna ask you a little bit about

SW - D. GOFF - CROSS

1 your testimony about the report.

2 A Okay.

3 Q Let's see, you testified basically about this
4 already, but in your report you say that the victim
5 stated that he and his friend were following Jabriel
6 to get some X-boxes; is that correct, sir?

7 A Yes, sir.

8 Q Okay. The victim stated they followed Jabriel
9 down a dirt road and he stopped; is that correct,
10 sir?

11 A That's correct.

12 Q When he got out of the car and pulled a gun on
13 them; is that correct, sir?

14 A That's what he said.

15 Q The victim stated that he and Jabriel fought over
16 the gun and that is when he was shot in the hand; is
17 that correct, sir?

18 A Yes, sir.

19 Q He started running, and that is when he was shot
20 in the back; is that correct, sir?

21 A That's correct.

22 Q Thank you, sir. No further questions.

23 THE COURT: Redirect, Solicitor?

24 **REDIRECT EXAMINATION**

25 **BY MS. SIMPSON:**

SW - D. GOFF - REDIRECT

1 Q Again, Investigator Goff, this is your report,
2 correct?

3 A That's correct.

4 Q And not his written statement?

5 A That's correct.

6 Q And you were having difficulty understanding him
7 at this time?

8 A That's correct.

9 Q He had an oxygen mask on?

10 A Yes.

11 Q Difficulty breathing?

12 A Yes, sir.

13 Q And his state, he'd just been shot, right?

14 A Yes, sir.

15 Q This was his initial visit to the emergency room?

16 A That's correct.

17 Q Thank you.

18 THE COURT: Recross?

19 MR. SUTHERLAND: Just briefly.

20 **RECROSS - EXAMINATION**

21 **BY MR. SUTHERLAND:**

22 Q You believe that that same story as Mat Ellis; is
23 that correct, sir? That same information?

24 A Yes.

25 MR. SUTHERLAND: Okay, no further

SW - D. GOFF - RECROSS

1 questions.

2 THE COURT: Thank you, Detective Goff, you
3 may step down. You may be excused.

4 Solicitor, you may call your next witness.

5 MR. STEADMAN: The State calls Trish Odom.

6 THE COURT: Come around and be sworn.

7 WHEREUPON,

8 **TRISHA ODOM,**

9 after having been duly sworn, testified as follows:

10 THE CLERK: Thank you. Please have a seat
11 in the witness stand and state your full name for
12 the record.

13 THE WITNESS: Trisha Collins Odom. My
14 last name is O-D-O-M.

15 **D I R E C T E X A M I N A T I O N**

16 **BY MR. STEADMAN:**

17 Q Good morning, ma'am. Where are you employed?

18 A I'm employed at the Richland county Sheriff's
19 Department.

20 Q And what is your position with the Richland
21 County Sheriff's Department?

22 A I am the senior latent prints analyst for the
23 crime scene latent print section.

24 Q And do you have a rank or title associated with
25 that situation?

SW - T. ODOM - DIRECT

1 A I'm a senior investigator.

2 Q Okay. So I'll call you Investigator Odom?

3 A That will be fine, thank you.

4 Q So how long have you been a senior latent print
5 analyst?

6 A I've been an analyst since December of 1999, but
7 I believe I obtained the title of senior latent
8 prints analyst in 2006.

9 Q So you were an analyst from 1999 to 2006, then
10 you were a senior latent print analyst from 2006
11 until now?

12 A Right. The title was actually created when we
13 were getting our (inaudible) accreditation, and I
14 received the title.

15 Q Are you the only one in this position at the
16 Sheriff's Department?

17 A I'm not the only analyst, no.

18 Q And why don't you tell me a little bit about your
19 background and experience as a latent print analyst?

20 A Okay. I was promoted to crime scene lab in
21 December of 1999; and during that period I started a
22 training program, a mentor program with some of the
23 more experienced crime scene latent print analysts.
24 I started looking at latent prints and then also
25 began taking the courses outside of our internal

SW - T. ODOM - DIRECT

1 training. I've had classes in the chemical
2 development of latent prints, advanced palm print
3 identification, basic fingerprint training, I.D.
4 tech school, forensic ridgology, recovery of
5 fingerprint evidence from human skin, a complex
6 latent prints examination class, and some other
7 local classes that were put on by the association,
8 association for identification of the local chapter.

9 Q And have you had occasion to testify in court
10 before as an expert in the field of latent print
11 analysis?

12 A I have.

13 Q About how many times have you done that?

14 A 22.

15 MR. STEADMAN: Your Honor, at this time I
16 would offer Trisha Odom as a latent print analyst
17 expert.

18 MR. SUTHERLAND: No objection, sir.

19 THE COURT: All right. Again, Mr.
20 Foreman, ladies and gentlemen, you've heard my
21 charge several times in this area. Normally a
22 person cannot give opinion testimony. Normally when
23 a person testifies they can only testify to what
24 they saw, heard, or sensed by smell or thing of this
25 nature. However, there is an exception when someone

SW - T. ODOM - DIRECT

1 is because of education or they are permitted to
2 give their opinions in certain areas if the Court
3 qualifies them that way. This witness,
4 Investigator Trisha Odom, will be qualified in the
5 area of latent print analysis to give opinion
6 testimony in that area. That does not mean you must
7 accept the opinion; but it is evidence for you, the
8 jury, to use in any way you see fit.

9 Thank you, Solicitor, you may continue.

10 BY MR. STEADMAN:

11 Q Investigator, do you have a copy of the report
12 you did in this case with you?

13 A I do. I actually did two separate reports.

14 Q Okay. Please feel free to refer to that. When
15 did you become involved in this case?

16 A I was notified in the late afternoon hours of
17 January the 24th, 2012, that there had been a death
18 and I was asked to help identify the victim.

19 Q And did you have items submitted to you for
20 analysis in order to identify the deceased?

21 A I did. I was given a strip or two strips of
22 post-mortem fingerprints that were inked I believe
23 at the crime scene.

24 Q Do you know who did those post-mortem prints?

25 A I don't know who inked them. Investigator John

SW - T. ODOM - DIRECT

1 Baker gave them to me.

2 Q Okay. And did you have the occasion to compare
3 those post-mortem prints with a known standard?

4 A I did.

5 Q For Dashawn Jones?

6 A That's correct.

7 Q And were you able to make any conclusions with
8 respect to that?

9 A I did. I looked at the left thumb. Excuse me, I
10 looked at the left thumb of the post-mortem prints
11 and the left thumb of the victim Dashawn Jones and
12 was able to determine that they were made by the
13 same source.

14 Q Thank you, Investigator. And what was the next
15 point you became involved with the case?

16 A I was later asked to compare known standards with
17 the latent print cards that had been collected from
18 the crime scene.

19 Q And I just want to ask you briefly about the
20 fingerprints. What is a latent print?

21 A Now a latent print, that's a relative term that
22 we use for all the prints that are recovered from
23 the crime scene; and it can't be the typical print
24 that you think of that really are latent, the ones
25 that are unseen, that you have to add powder to them

SW - T. ODOM - DIRECT

1 or chemicals to be able to see them. It can also
2 include visible prints that are in blood or oil or
3 any other substance or also any three initial prints
4 that you might be able to find in, say, something
5 like, say, silly putty if you were to pick that up.

6 Q When you compare the fingerprints to known
7 standards what kind of indicator do you look for on
8 the prints in order to make your analysis?

9 A If you take a look at your fingertips and your
10 palms you see that the entire area is covered with
11 these little lines. We call these lines ridges,
12 they're friction ridges. And their function is to
13 help you grip. So on everybody in the entire world
14 that's ever existed, all of their fingertips, all of
15 their palm area, all of their actually the soles of
16 their feet, they're covered in these ridges and
17 there are little features that are on each of these,
18 on the ridges. You have ridges that will be flowing
19 and then split into two. We call these lacrications
20 (ph). You'll have a situation where the ridge
21 flows, then stops. We call that an ending ridge.
22 And then we have a very, very short ridge that's
23 literally just a dot and we refer to those as dots.
24 And where these, these what we call minutia points
25 are called in details that are found in relation to

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1 one another on the fingerprint how we determine
2 whether or not a particular person made the print
3 found at a crime scene or any other place.

4 Q And once again, you said latent fingerprints are
5 fingerprints that are lifted from a crime scene?

6 A Right. That's just an ongoing term to use for
7 any kind of crime scene print.

8 Q And were there latent prints submitted to you for
9 analysis in this case?

10 A There were.

11 Q Now, when you -- who submitted those latent
12 fingerprints to you?

13 A Sergeant Richards did.

14 Q And can you please briefly go over the latent
15 prints that were submitted to you for analysis.

16 A Sure. We had a total of 11 cards that were
17 submitted from the crime scene. In my report which
18 you'll see is the first one is called L-1, and that
19 would be the actual post-mortem print that we
20 identified. So everything that was L-2 and forward
21 are actually the latent prints from the crime scene.
22 When I receive a latent print card what I'll do is,
23 I'll give the card itself a number, an L number,
24 just latent number whatever. In this case the very
25 first latent that was recovered from the crime

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1 scene, that card was L-2. So I received 11 cards
2 that had varying numbers of individual latent prints
3 on them, and then I did comparisons with each of
4 those to the known prints that I was asked to look
5 at.

6 Q Now you just mentioned the known standard prints
7 that you also received. What were the known
8 standards that you received in this case for
9 analysis?

10 A I was asked to look at Dashawn Jones, Jonathan
11 Frazier, Jabriel Singleton, and Garfield Belton.

12 Q And in this case were you able to make any
13 conclusions?

14 A I was.

15 Q All right. Why don't we start off with the --
16 we'll go down the list through your report.

17 A Okay.

18 Q Tell me, what was the first conclusion that you
19 were able to come to?

20 A The first card was L-2, and it had two
21 fingerprints on it that we compared. The first one
22 which was sub-number .1 was of no value, meaning
23 that there was not enough ridge detail on it to ever
24 make a comparison or determination. So it goes no
25 further than that, and we will never be able to make

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1 a determination on that.

2 The second one and L-2 point -- I'm sorry,
3 L-2 actually came from the right front window of the
4 exterior of the blue Suzuki. The L-2.2, we were
5 able to determine that it was not made by Jones,
6 Frazier, or Singleton, and we were not able to make
7 a determination on Mr. Belton.

8 L-3 came from the right front window of
9 the exterior of the blue Suzuki, and it had three
10 sub-numbers on it: One, two and three. All three
11 of these were of no value. The next one is L-4, and
12 it came from the right front exterior window of the
13 blue Suzuki. It was also of no value.

14 Q And ma'am, if you don't mind if I stop you, what
15 do you mean by no value?

16 A There is no value. There's not enough friction
17 ridge detail on there to ever make a determination
18 of the source.

19 Q Okay, thank you. You may continue.

20 A L-5 came from the right front door of the
21 exterior of the blue Suzuki. It was sub-numbered
22 with .1 and .2 .1 was not made by any of the known
23 prints that were submitted to us, and .2 was of no
24 value. L-6 came from the right rear window of
25 exterior of the blue Suzuki, and it was inconclusive

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1 to all four subjects that we looked at. We were not
2 able to make a determination on any of them. L-6.2,
3 same location that it came from, we were able to
4 determine it was not made by any of the subjects.
5 L-7.1 was from the right rear door of the exterior
6 of the blue Suzuki and it inconclusive to all the
7 subjects that we looked at.

8 L-8.1 was found on the exterior left front
9 above the door on the blue Suzuki, and we determined
10 that was made by Mr. Belton's right palm. L-9.1,
11 which came from the ext— excuse me, the interior
12 right rear window of the blue Suzuki was not made by
13 Mr. Jones, Mr. Singleton, or Mr. Belton. We were
14 unable to make a determination on Mr. Frazier.
15 L-10.1 was from the interior right rear window of
16 the blue Suzuki. It was not made by Mr. Jones,
17 Mr. Singleton, Mr. Belton, and it was inconclusive
18 to Mr. Frazier.

19 Q Okay.

20 A L-11 had two sub-numbers on it, 1 and 2. They
21 both came from the rear view mirror of the blue
22 Suzuki. L-11.1 was made by Mr. Jones' right thumb.
23 L-11.2 of no value.

24 L-12 had three sub-numbers, 1, 2 and 3.
25 They all came from the right front window of the

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1 exterior of the blue Suzuki. L-1 -- excuse, L-12.1
2 one was of no value. L-12.2 was not made by any of
3 the subjects. And L-12.3 was of no value.

4 Q And now, so you used various classification when
5 you went through your list. You've said that some
6 were inconclusive, some were made by the same
7 source, and some were not made by the same source.
8 Can you explain just briefly of how those
9 classifications of the prints?

10 A Sure. When you look at fingerprints the first
11 thing we do is determine, are they of value? If we
12 determine they're not of value, that's all we do;
13 then we don't go any further than that. If we
14 determine they are of value, then we'll actually do
15 a comparison. And the three results we can get when
16 we do comparison are: That it was made by the same
17 source, which is called identification; it was not
18 made by the same source which means that the known
19 source was excluded as print or inconclusive, which
20 means we just cant tell. And that can be caused by
21 a couple of things. You can have an insufficient
22 latent print which means that there's just not
23 enough ridge detail on the latent fingerprint that
24 you got from the crime scene to actually make a
25 determination conclusively, or it could be that the