

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Clarendon County

Honorable Kristi F. Curtis, Circuit Court Judge

JUSTIN JERMAINE JOHNSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001991

APPENDIX

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S.C. SUPREME COURT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS NOS. 56-64 (INTERROGATION VIDEOS)**

1

STATE OF SOUTH CAROLINA)
) IN THE MAGISTRATE'S COURT
COUNTY OF CLARENDON)

IN RE: STATE VS. JUSTIN JOHNSON

Preliminary hearing held before the Honorable
Jim Aycock, Magistrate for Clarendon County, at his
Chambers, Manning, South Carolina, commencing at
11:00 A.M. on July 5, 2011 and taken by Doris
Tompkins Brown, Certified Verbatim Reporter and Notary
Public in and for the State of South Carolina.

APPEARANCE

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* Scanned + uploaded *

1 THE COURT: Mr. Justin Jermaine Johnson.

2 You're representing him, sir?

3 MR. YOUNG: Yes, sir. Boyd Young on behalf
4 of the Public Defender's Office for Mr. Johnson.

5 THE COURT: Are you out of Columbia?

6 MR. YOUNG: Yes, sir.

7 THE COURT: Is it hot over there, too?

8 MR. YOUNG: A little hotter, I think.

9 THE COURT: Okay. Glad to have you with us,
10 Mr. Young. For the record, Justin J. Johnson,
11 charged with Murder, M085495; Murder, M085496;
12 Attempted Murder, M085497; Burglary First Degree,
13 M085498; Kidnaping, M085499; Possession of a
14 Weapon During a Violent Crime, M085500. Did we
15 swear you yet, sir?

16 MR. RICHARDS: Yes, sir.

17 THE COURT: You're still sworn, Officer.

18 Are you Mr. Washington?

19 MR. WASHINGTON: Yes, sir.

20 THE COURT: All right. Proceed, sir.

21 EXAMINATION BY MR. WASHINGTON:

22 Q. Can you tell us what led you to charge the Defendant
23 with these offenses on April 6th of this year?

24 A. Yes, sir. On around 9:50 in the morning on 4/6/2011,
25 Clarendon County 911 received a frantic call from a

1 female stating that her boyfriend had a shotgun. They
2 eventually played the tape back and got an address of
3 [REDACTED] Carrisa Lane. That's in the Manning area of
4 Clarendon County. Units started -- were already in
5 route to the area. Deputy Charles Eaddy came across
6 a vehicle that actually flagged him down that was
7 being driven by Mr. Justin Johnson. In the vehicle
8 was a Kashia Carraway and a Minor 2 , a juvenile.
9 They flagged Deputy Eaddy down, stated they were at a
10 residence and that someone had been shot. Deputy
11 Eaddy stated he saw blood on Mr. Johnson and followed
12 the -- Mr. Johnson said he was going to lead them back
13 to the house. Once Deputy Eaddy arrived on scene with
14 the vehicle, he noticed one person in the yard who was
15 unresponsive and was bleeding from the head area. A
16 few minutes afterwards, I arrived on scene with
17 Trooper Robert Falls and Major Pete Surette. Upon
18 arriving, I made contact with Charles Eaddy who was
19 standing next to Justin Johnson and Kashia Carraway.
20 I asked where the person was that was down. He
21 pointed in the direction of the victim, the first
22 victim, who later was identified as a Maxine Carraway.
23 I went -- I checked her vital signs. There was none.
24 It appeared she had been shot in the head. I noticed
25 then a shotgun in the front yard. In walking back

1 over to the area where Mr. Johnson was standing, I
2 heard Kashia Carraway state that her son was in the
3 residence. At that time, me and Trooper Falls got
4 together to clear the residence. I went in first
5 clearing the rooms one at a time. We made our way
6 into the kitchen area. As I looked left, I noticed
7 the second victim who was later -- you'll have to
8 excuse me for a second -- who was later identified as
9 Minor , who was less than one year old, was
10 sitting in the high chair and appeared to have been
11 shot in the face. The child was unresponsive at the
12 time. We cleared the rest of the residence. During
13 the clearing of the residence, we noticed various
14 shotgun shells, expended shotgun shells, in the floor
15 area. I spotted two on the wall where it had been
16 shot. A door, a bathroom door, had been kicked in.
17 It had also been shot. I made my way back outside.
18 After a few minutes to kind of compose ourselves, I
19 went and started speaking with Ms. Kashia Carraway,
20 who seemed really nervous. She was sitting in the
21 back seat of Mr. Johnson's car. Every time I would
22 ask her a question, she would look up in Mr. Johnson's
23 direction. At that time, I separated her off probably
24 fifty feet away from Mr. Johnson at which time she
25 told me in these words, "He did it." I asked a kind

1 of follow-up question. I said, "So, you're telling me
2 he shot these people?" She stated, "Yes, sir." At
3 that time, I went and called Mr. Johnson over to me
4 because he was standing right next to the two year old
5 female. And he came over. At that time, I told him
6 to place his hands behind his back, that he was under
7 arrest for murder. He was then transported to the
8 Sheriff's Office where he was spoken with by
9 Lieutenant Kipp Coker and Investigator Mason Moore.
10 They spoke to him at length -- for hours. There was
11 a story that Mr. Johnson had told that there was a
12 subject named Robert who had came to the residence and
13 who had shot Maxine Carraway, the grandmother, and the
14 nine month old child, Minor , and that he had
15 fled the scene. From my understanding, this went on
16 for hours. Eventually, Justin stated that he was
17 sorry that he had wasted their time and stated that he
18 had shot the grandmother. I believe at that time he
19 was transported to the jail here in Clarendon County.
20 He was wanting to speak with the investigators again.
21 He was brought down the next day. And I believe he
22 spoke with Investigator Mason Moore at which time --
23 and all of these are audio/video recorded -- he stated
24 that he had shot the child in the high chair and that
25 there was never a Robert at the residence. As far as

1 any statements made from Mr. Johnson, that was -- that
2 was pretty much it. SLED Crime Scene Unit came and
3 processed the scene. I haven't got all of their
4 information back. What I do have back so far that I
5 can just give a brief would be the crime scene photos.
6 We did a GSR kit, which is a Gun Shot Residue Kit, on
7 Kashia Carraway, who is the mother of the nine month
8 old victim. We did a Gun Shot Residue on Mr. Johnson
9 as well as Maxine Carraway. The SLED report has
10 returned as far as just the GSR, the Gun Shot Residue.
11 The only person showing any gunshot residue is Mr.
12 Johnson. And at this time, I'm still awaiting other
13 evidence from SLED as far as any DNA evidence from the
14 blood evidence that was recovered from Mr. Johnson's
15 -- it was on his clothing as well as his skin. I
16 think during the -- during the incident at the
17 residence, after it was taking place, he got Ms.
18 Kashia Carraway and the two year old, Minor 2 ,
19 put them in the vehicle, and from statements made by
20 Kashia Carraway, Justin Johnson said, "This is what
21 we're going to tell the police, that this other person
22 was here and this is who done the crime," which, of
23 course, later on, was -- by statements made by Mr.
24 Johnson was found not to be true, and that's what led
25 us to charge him with two counts of Murder. In

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1 reference to the attempted murder, Kashia Carraway was
2 shot at and struck in the left shoulder by a pellet
3 from a shotgun blast. The kidnapping was actually
4 taking Ms. Kashia Carraway from the residence at which
5 time she said she was in fear for her life. And
6 that's what let us up to charging him with the
7 charges.

8 Q. All right. What -- can you speak specifically about
9 the Possession of a Weapon During a Violent Crime?

10 A. Yes. That was the using of a -- it was a Maverick 12
11 gauge pump shotgun that was used actually in the
12 killing of fifty-nine (59) year old Maxine Carraway
13 and nine month old Minor and the shooting of
14 Kashia Carraway. All shell casings that were expended
15 that were recovered from the house, I do actually have
16 the SLED report that states they were fired from the
17 weapon that was found in the front yard, all being
18 consistent with the -- the pellets. They did come
19 from that weapon. I do have that report as well. I
20 got it the other day.

21 Q. Okay. Do you have any information on who the gun may
22 have belonged to?

23 A. Yes. We actually did a trace on it, and it came back
24 to Mr. Johnson.

25 Q. Okay. And you said as far as the Attempted Murder

1 goes, he shot at and hit Kashia in the shoulder?

2 A. Yes, sir. She had one entry wound on her left
3 shoulder from one pellet. She stated she got -- when
4 she went and closed herself in the restroom, in the
5 bathroom of the home, he shot through the door and
6 then kicked the door down, and that's when she was
7 struck in the shoulder.

8 Q. Okay. What statements did Kashia make to you in
9 regard to the kidnapping?

10 A. That he -- she was told to get in the vehicle and,
11 like I say, he put the two year old in the vehicle as
12 well and that they were leaving and they were -- this
13 was the story they were going to tell the police.
14 Now, where they were headed, anything like that, I
15 haven't gotten any statements or anything in reference
16 to that.

17 Q. When did you take the statement of Kashia?

18 A. She actually spoke to SLED Agent Tina Carter. I have
19 her -- her notes and any audio recordings, video
20 recordings, from that; I do have those. But it was
21 Agent Tina Carter.

22 Q. Okay. Did you talk with Eaddy or anyone else who was
23 ---

24 A. I do have a written statement from Deputy Eaddy in
25 reference to his involvement in the case, being

1 flagged down, what he saw. I do have a written or a
2 typed statement rather from him.

3 Q. Did you ever find any fingerprints on the weapon?

4 A. I haven't -- as far as any fingerprint, DNA evidence,
5 I haven't gotten any of those back from SLED, and they
6 actually did all of the processing, which was a large
7 amount of -- of evidence.

8 Q. What was the relationship between the Defendant and
9 the victims and ---

10 A. Mr. Johnson, by everything that I have heard and been
11 told, it was the father of Minor and the
12 grandmother -- well, Ms. Maxine Carraway was Minor
13 , that was his -- she was his great-
14 grandmother. And they lived -- Minor , Minor 2 and Kashia
15 Carraway lived in the residence with Ms. Maxine and
16 her husband at [REDACTED] Carrisa Lane.

17 Q. Do you know if this is a residence that he's familiar
18 with or would have been invited into?

19 A. He's been there before, yes.

20 Q. Okay.

21 A. And I believe he was charged -- I believe I charged
22 him with Burglary as well. We have -- due to picture
23 evidence, there was forced entry in the front door,
24 and on the 911 call, she stated that he was coming
25 with a gun is what the frantic call; you can -- you

1 can make out some of it. There's a lot of screaming.
2 But that -- "My boyfriend has a gun." But the front
3 door had been either kicked -- it was forced open,
4 there was damage to the lock and the jamb of the door.

5 Q. Are you aware of any prior incidents between the
6 Defendant and victim?

7 A. I do believe there was an incident before. I don't
8 have the dates. I might have the -- actually, I do
9 have the -- I have a copy of the report right here.
10 There was a prior incident that took place on December
11 19th, 2010. In this case, Kashia called and stated
12 that Justin Johnson here had taken her against her
13 will. The police stated he had drug her out of a
14 house and taken her and had beat her up. At a later
15 time, Ms. Carraway did in fact change her story and
16 stated none of it was true. And as far as the
17 reasoning behind that, I don't have any direct proof
18 of why she changed her story.

19 Q. All right.

20 MR. WASHINGTON: No further questions,
21 Judge.

22 THE COURT: Thank you, Mr. Washington.

23 Mr. Young?

24 EXAMINATION BY MR. YOUNG:

25 Q. I'm going to pick up where you left off, Investigator

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1 Richards. On the prior incident, she came and said
2 that all of that was a lie; is that correct?

3 A. As far as my knowledge, I wasn't directly involved in
4 that case, but in a brief synopsis of it, I believe
5 that's what happened, is that she recanted her
6 statement in reference to that.

7 Q. All right. Now, I'm going to go back to -- you
8 initially spoke about the 911 call. Have you listened
9 to the 911 call?

10 A. Yes. Numerous times, yes, sir.

11 Q. There's two 911 calls; correct?

12 A. Yes, sir.

13 Q. The first one, there's some yelling; correct?

14 A. Yes, sir.

15 Q. And then it gets disconnected.

16 A. It gets disconnected. There is a second call.

17 Q. 911 calls back?

18 A. Yeah, that I believe we actually made contact from 911
19 to the caller, if I -- if I'm correct. But there was
20 a second call.

21 Q. And the caller originally said those were kids
22 playing?

23 A. The second time, it started that she said that that
24 was my kids and her boyfriend and they got in an
25 argument. This call was more calm, gave a different

1 address. You could hear a voice. You couldn't make
2 out what was being said, but there was a voice kind of
3 off -- off in the background that whenever there's a
4 question asked by dispatch, "Where are you located,
5 what's going on there," there was something being said
6 and then was -- she would answer. At one point, her
7 -- she did get excited again, and she said, "Oh, oh,
8 he's coming back", something along those lines.

9 Q. And then the call suddenly terminates?

10 A. And then the call went out.

11 Q. She did not know the address?

12 A. No, not on the second; she stated she didn't know the
13 address. She gave the numbers to the address, but
14 gave a different road. How we got the address is,
15 they played the first call back, and in listening to
16 it a few times, you can make out [REDACTED] Carrisa Lane,
17 which was said very fast and very -- in an excitable
18 voice, but that's how we actually got the address.

19 Q. And when asked who the boyfriend was, the caller,
20 whoever it was on the phone, did not know the name ---

21 A. No.

22 Q. -- of the male individual?

23 A. She didn't know. There wasn't a name said on the 911
24 call as I recall.

25 Q. And have those tapes been enhanced in any way or ---

1 A. The first call was sent to SLED to see if it could be
2 cleaned up. I have those copies. There's really not
3 a big difference, but I do have the before and after
4 disks of the calls. I do have those, yes.

5 Q. Okay.

6 A. But it was done by SLED, somewhere in their Crime
7 Scene Department. I'm not exactly sure on who the
8 actual person that did it.

9 Q. Okay. So, after the calls, law enforcement was in
10 route, and while in route, one of the officers was
11 flagged down by Mr. Johnson?

12 A. Yeah, he said he was stopped -- well, actually, the
13 call was given out that someone possibly had a gun at
14 the residence. So, a good many people were going. I
15 was actually in route when I heard Deputy Eaddy say he
16 had been flagged down by a vehicle and that the guy
17 had blood on him, that he said he had been at
18 residence that someone got shot. And he follows that
19 car back to [REDACTED] Carrisa Lane.

20 Q. There are no statements from Ms. Carraway at that time
21 about -- help me ---

22 A. No.

23 Q. -- I'm being held here under my duress?

24 A. No.

25 Q. There were no weapons in the car, nothing like that?

1 A. No.

2 Q. The blood on Mr. Johnson, do you know where that was
3 on him?

4 A. I have -- I didn't actually take the blood from him.
5 I know it was just about his body and on his clothing.
6 Other than the pictures that I have on disk that were
7 -- that have been taken to where they took each sample
8 from, there was a list. I know there was -- it was
9 just on his -- on his skin in some places and on his
10 clothing; that's all -- that's the best ---

11 Q. But SLED processed those?

12 A. Yes. Investigator Kipp Coker or Mason Moore took the
13 evidence, took samples from each spot. It's been --
14 it was labeled. On here, I've actually got an actual
15 list numbered One through Eleven and where each blood
16 stain was taken.

17 Q. Okay. Once they got back to the residence, obviously,
18 Maxine was in the front yard?

19 A. Yes, sir, she was laying next to her vehicle and
20 actually had a -- the phone, the house phone, in her
21 hand, and it appeared she had it in her hand when she
22 was shot because there was some damage to her hand and
23 to the phone as well from the shot and she was laying
24 flat on her back in the yard.

25 Q. And the shotgun was near her?

1 A. It was -- it was in the front yard right next to -- I
2 say the front yard -- the entry to the house. It was
3 in the -- in the yard probably twenty foot away from
4 where she was at.

5 Q. Did Ms. Carraway ever give a narrative of he went
6 outside or she came outside and then he shot her and
7 then went inside and did the other shootings or ---

8 A. Kashia stated that she did -- did not know her
9 grandmother was shot until they were going and getting
10 in the vehicle. And when walking out, she stated that
11 her two year old daughter, when they walked out of the
12 house, her two year old, she heard her crying. She
13 looks over, her two year old daughter was standing
14 over the dead grandmother, and that's -- at that
15 moment is when she knew her grandmother was dead.

16 Q. Did she know under what circumstances Minor had been
17 shot?

18 A. She stated she was in the room when it actually
19 happened and to be -- we haven't gotten any direct
20 reason for any of this happening -- but that she was
21 standing there when the child was shot.

22 Q. And Mr. Johnson just walked in and shot the child?

23 A. They were -- during an argument or whatever was going
24 on in the house, hasn't yet been -- like I said, I
25 haven't yet found a reason -- but that the gun was

1 stuck to the child's face and he was shot.

2 Q. Is it at that point in time that he then started
3 shooting at her?

4 A. She stated when -- when he shot the two year old child
5 or the juvenile victim, Minor , when the shot went off,
6 that's when she ran down the hall. There was a shot
7 that goes down the hallway and it kind of skims along
8 the paneling and goes through the wall and she ran
9 into the bedroom -- I mean, into the bathroom rather,
10 which is -- that would be at the end of the hall on
11 the left-hand side. That's where she was when she
12 made the call, the first call.

13 Q. Oh. So, she said that she made the first 911 call
14 from there?

15 A. Yes.

16 Q. Not the grandmother who had the phone in her hand
17 outside?

18 A. We have -- we didn't see where there was any actual
19 connection, any call made to law enforcement from that
20 house phone.

21 Q. From the phone that the grandmother had outside?

22 A. From the phone that the grandmother had.

23 Q. We don't know that she was on the phone with anyone or
24 in the process of making a call. You know, the only
25 person that can answer that ---

1 Q. So, it's your understanding that Kashia Carraway made
2 the 911 call from the bathroom and then hung up and
3 then 911 called her back?

4 A. During the call and you can actually -- you can hear
5 it during the call, like I say, it's very frantic,
6 very excitable; you can actually hear a large, like a
7 very loud noise, and I don't know if it's a -- the
8 door being kicked, a gunshot -- you can't tell. It's
9 just very -- a very loud noise over the phone, and
10 that's when it goes dead.

11 Q. Okay.

12 A. That's when we lose contact with the call.

13 Q. And these are the calls that were sent to SLED?

14 A. Yes.

15 Q. When Kashia is outside in law enforcement's presence,
16 she's initially standing next to Mr. Johnson?

17 A. No, sir, she was sitting -- at one point, she was
18 standing close because they were right near his
19 vehicle, but the door -- the back door and front door
20 were open on the passenger side. The two year old
21 female child was in the front seat. Mr. Johnson was
22 standing in the door with her. This is when I spoke
23 to them. Kashia was sitting in the back seat whenever
24 I first started asking her, you know, -- who is this
25 person, you know, trying to get questions to give out

1 over the radio so they could find out, you know, I
2 could give them information.

3 Q. Had Mr. Johnson already said that there was a guy,
4 Robert, who left or ---

5 A. I hadn't spoken to Justin when I first got there.
6 When I first got there, my priority was to check for
7 any more victims, check to see if the house was
8 cleared, to make sure it was safe for everybody that
9 was back in the yard. After that is when I went and
10 spoke to Kashia. She's actually the first one I made
11 contact with, being she was either the closest one to
12 me, you know, I don't have a reason for that, but
13 she's just the first one I spoke to, you know, at
14 which time she, like I say, every time I would ask her
15 a question, she would look up at the direction of Mr.
16 Johnson and just with a -- with a look of fear on her
17 face. At which time I just said, "Come here." I
18 pulled her away, separated with just normal, -- that's
19 actually a normal procedure in any type of thing when
20 you got more than one person. And at the moment I got
21 away, got her away out of earshot, I stood in between
22 her and Mr. Johnson's direction, she told me, "He did
23 it." She tried -- attempted to write it, but was
24 shaking. She couldn't, you know, it was just a
25 scribble mark. She said, "I'm trying to tell you he

1 did it." And I asked her in plain, "You're telling me

2 he killed these people?" She said, "Yes."

3 Q. Okay. At that time, he was arrested.

4 A. Yes.

5 Q. And transported and interrogated on audio and video?

6 A. Yes, sir.

7 Q. And she was -- was she taken to the hospital?

8 A. At that time, no. I didn't -- at that time, we didn't
9 know she had been struck by anything. After I --
10 after Mr. Johnson was taken away, I went and was
11 speaking with her. I do have some of that on
12 audio/video, a very short clip from a body-worn camera
13 I have. I asked her just a follow-up, "Are you okay,"
14 or "do you need -- you need to be seen by an ambulance
15 or anything like that." She stated, "My shoulder is
16 hurting." And at that time, I kind of moved her shirt
17 and you could see an entry wound; you know, it was a
18 small one. It was a bird-shot pellet. But it was
19 actually in her shoulder.

20 Q. And all the shots were -- all the casings at the scene
21 were bird-shot ---

22 A. Yes.

23 Q. -- pellets, for a twelve gauge shell?

24 A. Yes.

25 Q. All right. As far as how she got into the car with

1 Mr. Johnson when they left the scene prior to running
2 into the officer, did she say to you that she was
3 forced into the car? Did he point the gun at her? I
4 mean, the gun was still at the scene ---

5 A. The gun was still at the scene. She stated during a --
6 I'm not sure -- not exactly sure which interview after
7 speaking with her, that he actually had more
8 ammunition, and once they got into the vehicle, he
9 gave it to her or either put it in the glove
10 compartment. I'm not exactly sure, but it was more of
11 the same type of round found in the glove compartment.
12 It was some bird-shot and one shotgun slug was found
13 in his glove compartment that did match -- the same
14 type. I mean, not the exact.

15 Q. Right.

16 A. There had been an altercation in the residence.
17 Kashia's shirt had been torn off of her. It was found
18 on the front porch on the railing. And from
19 statements, there was an altercation between Mr.
20 Johnson, Kashia and the grandmother to where the
21 grandmother was knocked down, hit in the face. There
22 was furniture broken which you can see in pictures in
23 the first little entry hall to the residence. There
24 was a chair broken. There was blood on the floor,
25 which from Kashia, it was given that that's where a

1 fight took place.

2 Q. She -- she had a shirt on when she ---

3 A. She had a shirt on.

4 Q. She changed?

5 A. What she said, Justin had made her go put on another
6 one because she didn't have any clothing on the top
7 half, from what she told me. That she went into
8 another room, which had some clean clothes kind of on
9 a couch or in an area, and she retrieved a shirt from
10 there before they got in the vehicle.

11 Q. Did she have a phone on her at ---

12 A. She had a phone -- we recovered a couple of phones
13 from the vehicle. She actually had a -- some type of
14 phone on her person that was her grandmother's phone.
15 And I'm not sure which phone, which call came from,
16 I'll have it in here.

17 THE COURT: Let me interject. We're
18 getting into Rule Five activity. We're
19 going way beyond probable cause determination
20 by me. This is a serious type of case. Mr.
21 Boyd, if you have anything you want to do to
22 wrap up, I'd appreciate it.

23 MR. BOYD: Thank you, Your Honor.

24 Q. I just want to talk about the Burglary Charge for a
25 brief second, the forced entry that you said that

1 there were pictures of the lock or ---

2 A. Yeah, it was actually pictures of the door, the lock
3 and the jamb. The lock of the door was -- if you --
4 if a door is forced open, it tends to break the door
5 before it does the lock. The lock is pushed out at an
6 angle. That's the pictures of the door.

7 Q. Did -- did Ms. Carraway say that the door was forced
8 open?

9 A. Yes.

10 Q. Okay. And did she tell you that he was bringing the
11 children back?

12 A. He had already -- they were already back. There was
13 something, a doctor's appointment that was supposed to
14 have taken place, and he had brought them home from
15 there. I believe there was an argument over money is
16 what started the -- started the events that morning.

17 Q. Okay.

18 MR. YOUNG: Beg the Court's indulgence
19 for one second.

20 Q. Were there any footprints or anything like that on the
21 door that would indicate that it was kicked ---

22 A. I didn't see any footprints.

23 Q. Okay.

24 A. It was forced open; I mean, kicked. Shoulders don't
25 leave shoe prints; so, I don't ---

1 Q. I understand.

2 MR. YOUNG: Thank you, Officer. That's all
3 the questions I have at this time, Your Honor.

4 THE COURT: All right. Thank you, Mr.
5 Young. Do you have any Motions to make at this
6 time?

7 MR. YOUNG: No, Your Honor.

8 THE COURT: Thank you, sir. Mr. Washington?

9 MR. WASHINGTON: We would move that all of
10 these charges be sent up to General Sessions.

11 THE COURT: All right. The Court believes
12 that probable cause has been established, number
13 one, by admission of guilt by the Defendant,
14 overwhelming forensics evidence in this matter,
15 very clear, concise testimony by the
16 investigator. We are forwarding all of these six
17 charges to General Sessions for further activity.
18 Thank you.

19

20

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris M. Tompkins, Notary Public in and for the State of South Carolina, certify that I did take the within hearing held before the Honorable Jim Aycock, Magistrate for Clarendon County, at his Chambers, Manning, South Carolina, commencing at 11:00 A.M. on July 5, 2011. I certify that the foregoing pages are a true and accurate transcript of the testimony given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 6th day of September, 2011.

Doris Tompkins Brown CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 5-02-2015

State of South Carolina

Court of General Sessions

County of Clarendon

2011-GS-14-00294

The State of South Carolina

:

:

-VS-

:

TRANSCRIPT OF RECORD

:

Justin Jermaine Johnson

:

March 6, 2014

Columbia, South Carolina

B E F O R E:

The Honorable William Jeffrey Young, Judge.

A P P E A R A N C E S:

Christopher R. Durant, Esquire

Ernest A. Finney, III, Esquire

Attorneys for the State

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Attorney for the Defendant

Daphne D. Helms

Circuit Court Reporter

I N D E X

Witness

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E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>ID.</u>	<u>EV.</u>
S-1	DVD	3	
S-2	DVD	3	
S-3	DVD	3	
S-4	DVD	3	
S-5	DVD	3	
S-6	DVD	3	
S-7	DVD	3	
S-8	DVD	3	
S-9	DVD	3	
S-10	DVD	3	
S-11	DVD	3	

1 (State's Exhibits 1 through 11 were marked for
2 identification only.)

3 **The Court:** Thank you. Please be seated.

4 **Mr. Robinson:** I just need to get my client from the
5 other side if you don't---

6 **The Court:** Yeah. Sure.

7 (Pause in proceedings.)

8 **Mr. Durant:** May it please the Court, Judge?

9 **The Court:** Yes, sir.

10 **Mr. Durant:** This is the State of South Carolina versus
11 Justin Jermaine Johnson on indictment 2011-GS-14-294. I'll
12 pass a copy of the indictment up to Your Honor.

13 **The Court:** All right, sir. Thank you.

14 **Mr. Durant:** Your Honor, as you are aware, this is the
15 defendant's or -- well, really, it's a -- this is a pretrial
16 motion. It's a State -- a Blair hearing.

17 **The Court:** Right.

18 **Mr. Durant:** Or not -- the Jackson v. Denno hearing for
19 admission of the defendant's interview. And, Your Honor, if
20 it pleases the Court, I'd just like to call my first witness.

21 **The Court:** All right. You may do so.

22 **Mr. Durant:** The State would call former Investigator
23 Mason Moore of the Clarendon County Sheriff's Office.

24 **The Court:** And we've got him by Skype.

25 **Mr. Durant:** Your Honor, he is available via Skype.

1 **Mr. Robinson:** And, Your Honor, I think we addressed
2 this just briefly yesterday. I'm not going to object to this
3 testimony by Skype for the purpose of this Jackson v. Denno
4 hearing.

5 **The Court:** Right.

6 **Mr. Robinson:** But may wish to be heard on that for
7 trial purposes later.

8 **The Court:** Okay. And is he under oath there? Is there
9 a notary with him?

10 **Mr. Durant:** Your Honor, there is not at this time. We
11 certainly can---

12 **The Court:** I guess we can put him under oath from here.
13 Do you have any objection to that for the purposes---

14 **Mr. Robinson:** Not for the purposes of this hearing,
15 Your Honor.

16 **The Court:** For trial you may have a problem with it.

17 **Mr. Robinson:** Yes, sir.

18 **The Court:** I may have a problem with it, too, for trial
19 but not... You're going to need to make that so that I can
20 see it as well.

21 (Skype is turned on in the courtroom.)

22 **Mr. Durant:** Yes, sir. Investigator Moore?

23 **Mr. Moore:** Yes, sir.

24 **Mr. Durant:** Can you hear me?

25 **Mr. Moore:** Yeah, I can hear you.

1 **Mr. Durant:** Let me step where I can see you a little
2 bit or where you can see me, I should say.

3 **The Court:** Madam Clerk, would you please place him
4 under oath?

5 **The Clerk:** Yes, sir, I will.

6 Mason Moore, after being duly sworn, testified as
7 follows in camera:

8 Direct Examination

9 By Mr. Durant:

10 Q. Mr. Moore, if you would, tell me: Where are you now?

11 A. I'm in -- just outside of Bozeman, Montana.

12 Q. Okay. How long have you lived in Montana?

13 A. Oh, about -- almost three years now, I believe.

14 Q. Do you work?

15 A. Yes, sir, I do.

16 Q. Who do you work for?

17 A. I work for the Department of Transportation in Montana
18 here for the commercial motor vehicle enforcement.

19 Q. Before going to Montana, where did you live and work?

20 A. I lived in Clarendon County and I worked for the
21 sheriff's office there as an investigator.

22 Q. How long did you work at the sheriff's office here in
23 Clarendon County?

24 A. Four years.

25 Q. Were you working at the sheriff's office in Clarendon

1 County back in April of 2011?

2 A. Yes, sir, I was.

3 Q. Okay. On April the 6th of 2011, did you have occasion
4 to participate in an interview with the defendant in this
5 matter, Justin Jermaine Johnson?

6 A. Yes, sir, I did.

7 Q. And how did that interview come about?

8 A. It was... (sound feed went out)

9 Q. Mr. Moore?

10 A. We basically brought him to the sheriff's office to
11 interview him---

12 Q. Okay. I didn't hear the beginning of that answer. If
13 you would, back up. Tell me: How did that interview come
14 about?

15 A. We had a 9-1-1 call to the sheriff's office about
16 someone being shot, I believe, and we -- during the course of
17 that investigation he was brought down to the sheriff's
18 office for further interview.

19 Q. Okay. Who was present for the interview?

20 A. Myself and Kipp Coker.

21 Q. Mr. Coker worked for the sheriff's office as well?

22 A. Yes, sir, he did or does.

23 Q. Okay. And where did the interview take place?

24 A. In the sheriff's office at the -- at one of the
25 interview rooms there.

1 Q. Okay. During the interview, did the defendant appear to
2 be under the influence of alcohol or drugs?

3 A. No, sir.

4 Q. Did he appear to have any physical or mental disability
5 that would impair or affect his ability to understand your
6 questioning?

7 A. Yes, he... (sound feed went out)

8 Q. Investigator Moore? Mr. Moore?

9 A. Yes, sir.

10 Q. Okay. Did the defendant appear to have any physical or
11 mental disability that would affect his ability to understand
12 your questions?

13 A. No, he did not.

14 Q. Do you believe he was aware of the nature of the
15 investigation?

16 A. Yes, sir, I do.

17 Q. Before any questioning, was he advised of his
18 constitutional rights pursuant to Miranda?

19 A. He was, sir.

20 Q. By who?

21 A. By myself.

22 Q. And how many times was he advised of those rights?

23 A. At least twice.

24 Q. When you advised him of the rights, did you use a card
25 or do you have those rights memorized?

1 A. No, sir, I used a card.

2 Q. Okay. Did you tell him that he had the right to remain
3 silent?

4 A. (Sound feed goes out.) You can hear me now. We've got
5 a little bit of a connection problem but...

6 Q. Did you tell investigator -- or Mr. Johnson that he had
7 a right to remain silent?

8 A. Yes, sir, I did.

9 Q. Did you tell him that he had the right to an attorney?

10 A. Yes, sir, I did.

11 Q. Did you tell him he had a right to have that attorney
12 present with him during questioning?

13 A. Yes, sir, I did.

14 Q. All right. And did you tell him that if he couldn't
15 afford a lawyer that one would be appointed for him?

16 A. Yes, sir, I did.

17 Q. And did you tell him that if at any time he decided that
18 he wished to exercise these rights he could stop the
19 interview?

20 A. Yes, sir, I did.

21 Q. And did he indicate his willingness to proceed with the
22 interview?

23 A. Yes, sir, he did indicate his willingness to proceed.

24 Q. And did you ask him if he wished to waive those rights
25 and talk to you?

1 A. Yes, sir. I think the initial one was when we were
2 collecting the evidence and I didn't ask him that question,
3 but when we actually started to do the interview itself, I
4 did ask him that, whether or not he was willing to talk to us
5 at that time and he said that he was willing to.

6 Q. Okay. And you say that -- that was during the second
7 one. You mean the second time you read him his Miranda
8 rights?

9 A. Yes, sir.

10 Q. Did the defendant -- did the defendant appear to have
11 the intellectual capacity to understand those rights?

12 A. Yes, sir, he did.

13 Q. Did he ever later change his mind and ask to stop
14 questioning?

15 A. No, sir, he did not.

16 Q. Did he ever later ask for an attorney?

17 A. No, sir, he did not.

18 Q. During the interview process, were the defendant's
19 answers -- were they rational and responsive?

20 A. Yes, sir, they were.

21 Q. Was he emotional during the process?

22 A. At times he was, yes.

23 Q. Was he so emotional that you ever had any concerns about
24 his ability to understand his rights?

25 A. No, sir.

1 Q. How long was the defendant questioned?

2 A. Quite a long time. It was an -- it was an in-depth
3 process, but it was -- the questioning itself was four or
4 five hours at least.

5 Q. Okay. Were there any breaks taken during that process?

6 A. Yes, sir, there were a number of breaks.

7 Q. Was the defendant offered food and drink and access to a
8 bathroom?

9 A. Yes, sir, we made sure that he was -- he was able to
10 take a break if he needed it, if he needed to get some water
11 or something to drink or use the bathroom. We asked him
12 several times.

13 Q. Do you remember how many times? And if you don't
14 remember---

15 A. I would say in excess of, you know, four or five times
16 because, you know, over that length of time there were
17 several times where we would -- we would leave the interview
18 room and that sort of thing, and when we left we -- I would
19 say almost every time we asked him, "Hey, you know, do you
20 need anything? Are you doing okay? Do you need to go to the
21 bathroom? Do you need anything to drink?" So...

22 Q. Were there any threats or promises made in exchange for
23 his participation in the interview or his -- any statements
24 that he gave you?

25 A. (The Skype stopped.)

1 Q. Investigator Moore?

2 A. Yes, sir.

3 Q. You kind of broke up after my last question. The
4 question was: Were there ever any threats made in exchange
5 for the defendant's statement?

6 A. There was not.

7 Q. To the best of your knowledge, was the defendant's
8 statement given freely and voluntarily?

9 A. Yes, sir, it was.

10 Q. Was it recorded by video and audio surveillance?

11 A. Yes, sir, it was.

12 **Mr. Durant:** Okay. I beg the Court's indulgence.

13 **The Court:** Yes, sir.

14 By Mr. Durant:

15 Q. Investigator Moore, during the interview what kind of
16 clothing did the defendant have on?

17 A. Initially he was wearing street clothes, like a tee
18 shirt. It was white with some kind of writing on it, and I
19 don't remember if he had blue jeans but pants and then boots
20 like light tan boots.

21 **Court Reporter:** I'm sorry. Like what?

22 **The Witness:** And we collected the evidence because of
23 the blood and stuff that was on it and the torn clothing and,
24 I mean, we put him into an orange jumpsuit from the jail.

25 By Mr. Durant:

1 Q. Let me back up. You said he had on -- tell me what his
2 street clothes were like.

3 A. Yeah. Like a white tee shirt and I can't remember if it
4 was jeans. I think it was jeans, but I'm not sure and then
5 tan boots.

6 Q. At some point y'all had he him change out of those
7 clothes into a jumpsuit for the detention center?

8 A. Yes, sir, we did.

9 Q. Mason, that's all the questions I've got for you right
10 now. If you would, please answer any that Scott Robinson may
11 have for you.

12 A. Yes, sir.

13 **The Court:** Mr. Robinson?

14 **Mr. Robinson:** Thank you, Your Honor. Your Honor,
15 before I begin questioning Investigator Moore, I did want to
16 just put on the record, as Mr. Moore indicated, it was quite
17 a lengthy videotaped interview and Your Honor has had---

18 **The Court:** Yes.

19 **Mr. Robinson:** ---an opportunity to review that, and
20 that's why it's not necessary at this point that we play that
21 in court.

22 **The Court:** Yeah. It's approximately 11 hours.

23 **Mr. Robinson:** Yes, sir. Okay. Thank you.
24
25

Cross-Examination

1
2 By Mr. Robinson:

3 Q. Investigator Moore, how are you this morning?

4 A. I'm good, sir. How are you?

5 Q. Doing good. Let me ask you a few questions, if I could,
6 about your interview with Mr. Johnson. Do you remember the
7 particular date that this interview took place?

8 A. I believe it was April -- April 6th.

9 Q. Of 2011?

10 A. Yes, sir.

11 Q. Okay. And is that the same day that this 9-1-1 call
12 about the shooting came in?

13 A. Yes, sir, it was.

14 Q. So do you remember approximately what time Mr. Johnson
15 was being questioned by you and Investigator Coker at the
16 sheriff's department, what time that began?

17 A. Yes, sir. The interview itself started sometime around
18 -- I believe it was 2:00, the actual interview where we
19 started asking him questions.

20 Q. Okay. And let me clarify that a little bit. His---

21 A. Yes, sir.

22 Q. ---being taken into custody, I think the first portion
23 of that -- of these tapes was y'all doing swabs and
24 collection of D.N.A. and things of that nature? Is that
25 correct?

1 A. Yes, sir.

2 Q. Okay. And would it be safe to say -- and I'm not trying
3 to pin you to an exact time, but this process began within a
4 couple of hours of this shooting on June Burn Road?

5 A. Yes, sir. We started that portion in -- about
6 midmorning, 10, 11:00.

7 Q. Okay. And these shootings took place roughly somewhere
8 9, 9:30?

9 A. Yes, sir.

10 Q. Is the information that you have. I understand you
11 weren't there.

12 A. Yes, sir, it was -- it was just -- just prior to us...

13 Q. Okay. Now -- and do you know who was -- were there any
14 deaths as a result of this shooting?

15 A. Yes, sir, there was two deaths.

16 Q. Okay. And was one of them Mr. Johnson's infant child?

17 A. Yes, sir.

18 Q. Okay. And so within roughly a couple of hours of the
19 death of his infant child, y'all had him in custody at the
20 sheriff's department. Is that correct?

21 A. Yeah. (The Skype stopped)

22 Q. Are you back? Can you hear me?

23 A. Yeah. You broke up just a little bit.

24 Q. Okay. I'll repeat that question. So what I was -- my
25 question was: So within roughly a couple of hours of the

1 death of Mr. Johnson's infant son, he was in y'all's custody
2 at the sheriff's department. Is that correct?

3 A. That's correct. We were interviewing him there at the
4 sheriff's office.

5 Q. Okay. And that interview process, to include the
6 collection of buccal swab, gunshot residue, et cetera, began
7 immediately once y'all got him to the sheriff's department.
8 Is that correct?

9 A. Yes, sir.

10 Q. Okay.

11 A. Within -- within a short time.

12 Q. Okay. Were you at the scene where Mr. Johnson was
13 actually taken into custody?

14 A. Very briefly, yes, sir.

15 Q. Okay. Do you know whether or not he was interviewed or
16 examined by any medical personnel on the scene?

17 A. I do not; no, sir.

18 Q. Okay. Are you aware of whether or not he was checked
19 for any physical injuries?

20 A. By someone -- by EMS or something of that nature?

21 Q. By somebody at the scene.

22 A. No, sir, I'm not aware of that.

23 Q. Okay. Are you aware whether or not he was looked at,
24 evaluated, or talked to anybody relative to whether or not he
25 may have been suffering symptoms of shock?

1 A. No, sir.

2 Q. And did you do any of that type of assessment other than
3 just your visual observation of him?

4 A. No, sir, I didn't, just my -- just my visual
5 observations of him.

6 Q. And do you have any type of special training as an
7 investigator or otherwise to evaluate people who may be
8 suffering from shock or post-traumatic stress disorder or any
9 mental problems of that nature?

10 A. No, sir, I do not.

11 Q. So when Mr. Durant asked you did he have any physical or
12 mental impairments, your answer was, "No," and that's just
13 based on your layman knowledge. You don't have any
14 specialized knowledge to determine that, do you?

15 A. That's correct.

16 Q. Okay. And you will admit or agree with me that this
17 interview began immediately on the heels of a very traumatic
18 situation.

19 A. Yes, within a matter of hours of it. Yes, sir.

20 Q. Okay. And I think you said that the question portion of
21 the interview itself was in excess of four or five hours. Is
22 that correct?

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

24 Q. Okay. And would you be inclined to disagree with me if
25 I told you that the videotapes themselves were in excess of

1 11 hours?

2 A. Total? I would say, yes, sir, because we started in the
3 morning and it was -- it was probably late afternoon when we
4 finished.

5 Q. Okay. At any time during that point from the time that
6 you arrived on the scene at the June Burn Road to the end of
7 this examination, did y'all ever have any type of medical
8 personnel or mental health personnel look at Mr. Johnson to
9 determine whether he was suffering from any type of mental or
10 emotional trauma or shock?

11 A. No, sir, we did not.

12 Q. And to your knowledge -- and I certainly can ask him if
13 you don't know. To your knowledge, is Investigator Coker
14 qualified to make any examinations or ascertations (verbatim)
15 in that neighborhood: Shock, post-traumatic stress disorder,
16 things of that nature? (The Skype stopped) How much of that
17 did you miss, Mason? Most of it?

18 A. You asked me if Kipp Coker had had any of that
19 specialized training, and I said no.

20 Q. Okay. I didn't hear your answer, but thank you. So
21 your testimony was: To the best of your ability, you didn't
22 notice any physical or mental impairment but admit that
23 neither you nor Investigator Coker had any training to
24 recognize that. Is that correct?

25 A. Yes, sir, no specialized training.

1 Q. Okay. And that, to the best of your knowledge, Mr.
2 Johnson was not examined by anyone with such training.

3 A. That's correct.

4 Q. And that this interview followed directly on the heels
5 of what you've already described as a very traumatic
6 situation.

7 A. Yes, sir.

8 Q. Okay. When you were talking with Mr. Johnson, did you
9 ask any specific questions to determine his understanding?
10 For instance, how old he was, how far he went in school,
11 things of that nature or did you simply read him his Miranda
12 rights and begin the interview?

13 A. I myself just read him his Miranda rights. I believe
14 Kipp Coker asked him questions along the line of his name and
15 date of birth and...

16 Q. Do you remember either you or Investigator Coker in your
17 presence asking any questions specifically targeted to help
18 y'all ascertain whether or not he understood what you were
19 asking him?

20 A.. And... (The Skype stopped.)

21 Q. And I didn't hear your answer, Mason. You cut out on
22 me.

23 A. Yeah, just -- just in us -- in making conversation with
24 him, being able to answer our questions back and making
25 coherent answers to our questions.

1 Q. Okay. And do you recall the reason that the interview
2 lasted so long?

3 A. Yeah. It's just basically because we had to collect
4 that evidence and that, of course, took quite a -- quite a...
5 (The Skype stopped)

6 **Mr. Robinson:** We just lost the call.

7 **The Court:** Can you reconnect?

8 **Mr. Robinson:** I don't know if we know how to do that.

9 **The Witness:** I think we got you back now.

10 Unfortunately, we have a little bit of a rainstorm here. I'm
11 a little surprised because the last time we talked to you it
12 was a blizzard, so I apologize for that.

13 By Mr. Robinson:

14 Q. Okay. Hold on just a minute because we've got your
15 audio, but we don't have your video.

16 A. Oh, okay. Let's see here. How about now?

17 Q. Wow. That's scary, but, yes, we have it.

18 A. All right, sir.

19 Q. Okay. And I'm trying to remember... I think you were
20 answered my last question about the reason that the
21 interrogation took such a voluminous amount of time? Was
22 that my last question?

23 A. Yes, sir. That's correct. And my response was that the
24 first portion of it was just the collection of evidence and
25 that took quite an extended period of time, several hours,

1 and then we went into the interview. Obviously it took us
2 time just to talk to him, and then when we -- as we got more
3 information about what was at the scene and the
4 inconsistencies between his stories and what was actually at
5 the scene and this evidence, further knowledge came to us, we
6 would go back and talk to him about those inconsistencies.

7 Q. Okay. And the reality of it is that you ended the
8 interview when you got what you believed to be a confession
9 from Mr. Johnson. Is that correct?

10 A. Yes.

11 Q. Okay.

12 A. As I recall.

13 Q. Do you recall approximately how long that portion of the
14 interview was?

15 A. No, sir, I do not. No.

16 Q. Okay.

17 A. Specifically the -- when he admitted to what actually
18 went on?

19 Q. Yes, sir.

20 A. I do not.

21 Q. Would you agree or disagree with me if it was roughly
22 40 minutes, 45 minutes?

23 A. I would say that would probably be accurate.

24 Q. Okay.

25 A. Yes, sir.

1 Q. And so for several hours prior to that, he told you and
2 Investigator Coker something different. Is that correct?

3 A. Yes, sir, several somethings different as I recall, yes,
4 sir.

5 Q. And, quite simply, y'all didn't quit questioning him
6 until he gave you the responses that y'all thought were
7 accurate?

8 A. Yes, sir, the ones that we knew were accurate but, yes,
9 sir.

10 Q. And throughout this investigation process, I think you
11 just testified that y'all would go out, you and Investigator
12 Coker, either together or separately as information was
13 coming forward and then you would go back in and you would
14 confront Mr. Johnson with that information. Is that correct?

15 A. Yes, sir.

16 Q. And tell him basically: What you're telling us is not
17 adding up because we know X. or we know Y. Do you recall
18 that?

19 A. Yes, sir.

20 Q. So would you agree with my characterization that
21 throughout this interrogation process y'all basically laid
22 the pieces of what y'all perceived the evidence to be out in
23 front of Mr. Johnson?

24 A. Yes, sir.

25 Q. And then at the end he basically capitulated and said:

1 I'm sorry; you're right; that's what happened. And I know it
2 wasn't that short, but I'm -- so you can explain if you need
3 to, but does that more or less characterize it?

4 A. As I recall it, it was him admitting to more of the
5 story of -- or more of what actually we believe occurred.

6 Q. Right.

7 A. So...

8 Q. As y'all told it to him throughout the process. In
9 other words, his initial story involved a third party;
10 correct?

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

12 Q. And throughout the interview process you would come in
13 and say: Justin or Mr. Johnson, we know you're lying about
14 X. because we just found out Y.

15 A. Yes, sir.

16 Q. Okay. And so through that process you provided Mr.
17 Johnson with the evidence that y'all had collected and what
18 you believed it showed in this case. Is that correct?

19 A. At least part of it, yes, sir.

20 Q. Okay. Do you recall at the end, the last 40 to
21 45 minutes when you say that Mr. Johnson basically confessed
22 to what y'all believe happened -- did he provide you with any
23 detailed information that you had not already provided him
24 with throughout the course of this interview?

25 A. Not -- not that I recall, sir.

1 Q. Okay. And I think you -- when Mr. Durant asked you
2 about his emotional state and things of that nature, do you
3 remember having significant discussions with him about God
4 and how God would take this weight from him and God would
5 make everything okay? Do you recall that?

6 A. Yes.

7 Q. And do you recall being very - and I don't want to say
8 affectionate - but you put your hands on him and were
9 touching him and conveying that to him. Do you agree with
10 that?

11 A. Yes.

12 Q. And would you also agree that there were times when
13 Investigator Coker yelled at him, came in and---

14 A. Yes, sir.

15 Q. Came in, called him a liar. "I know you're lying to
16 me," things of that nature?

17 A. Yes, sir.

18 Q. Okay. Did y'all also remember having discussions about
19 what you were going to tell his daughter?

20 A. I don't recall that.

21 Q. Okay. Do you -- let me specifically give you the
22 equivalent of a quote, and again it's yours to remember or
23 not, that there was some discussions towards the end of the
24 interview where Investigator Coker told him -- told Mr.
25 Johnson that, "I'll tell your daughter her daddy was a man,

1 that he told the truth"? Do you remember any of that?

2 A. Yeah, I recall some discussion of that. Yes, sir.

3 Q. Okay. And so did you notice a change in Mr. Johnson's
4 demeanor when you began talking about his daughter and what
5 were you going to tell her and things of that nature?

6 A. I don't recall that, no.

7 Q. Okay. And after I guess roughly about 10 hours of
8 swabbing and interviewing and spiritual counseling and
9 confrontation and providing Mr. Johnson with the evidence and
10 talking about his daughter and things of that nature, that's
11 when he basically said: I'm sorry I wasted y'all's time; go
12 home to your family. And then went into what you equate to a
13 confession?

14 A. And -- yes, and...

15 Q. Okay. And I think you -- and I'm not trying to belabor
16 this point, but I think you've already answered the question
17 that during that particular confession portion, no additional
18 evidence that y'all didn't already have was provided by Mr.
19 Johnson. Is that correct?

20 A. I don't -- I don't -- I don't recall enough to know
21 exactly where the -- if he had given any additional
22 information---

23 Q. Okay.

24 A. ---at that particular time.

25 Q. Nothing that stands out in your mind today.

1 A. You know, there was -- there was -- you know, at some
2 point when I was talking to -- because I also interviewed him
3 the next day but -- because I think he requested to talk to
4 me. But as I recall, I believe during that first -- during
5 this portion -- during that day, he admitted that he was the
6 only one that was holding the shotgun and that he had shot
7 grandmama and I think he admitted that Roger -- I think it
8 was Roger, the other person, that was -- that admitted that
9 he wasn't really there.

10 Q. And would you agree with my characterization---

11 A. I think that -- I think that happened at that portion of
12 the interview.

13 Q. Okay. Would you agree with my characterization that
14 that information came from Mr. Johnson only after y'all had
15 told him: "Look, we know there's no Robert; we know you did
16 this; we know you did that"? In other words, y'all had
17 provided him that evidence or that information prior?

18 A. I think we had discounted his story is what we had done.
19 We had basically taken his story apart.

20 Q. Right, and told him, "There's no Robert. We know you
21 did it"?

22 A. That's correct. Yeah.

23 Q. Okay. During this process, you said you offered Mr.
24 Johnson food and drink. I think he drank a couple of sodas.
25 Is that right?

1 A. Yes, sir.

2 Q. Did he eat anything during this process?

3 A. I don't recall if he ate anything.

4 Q. Do you know whether Mr. Johnson is a diabetic or suffers
5 from any other type of medical condition?

6 A. No, sir. I'm fairly certain that we offered him drink
7 or anything that he needed: Drink, food.

8 Q. I understand. I understand that. My question is: Do
9 you know whether or not he had some sort of medical condition
10 that would have affected if he needed to eat and didn't eat
11 that he may be impaired?

12 A. No, sir.

13 Q. Okay. You told Mr. Durant that he did not appear to be
14 under the influence of alcohol or drugs. Did y'all
15 administer any type of breathalyzer or take a blood sample or
16 anything of that nature?

17 A. No, sir.

18 Q. Never had any professional testing done to assure that
19 Mr. Johnson wasn't under the influence of any type of drugs
20 or alcohol?

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

22 Q. Okay. And again no testing, examination or anything by
23 any physical, medical, or mental personnel to determine
24 whether or not he had any impairments, just yours and
25 Investigator Coker's lay determination that he was fine.

1 A. That's correct. Yes, sir. No professional...

2 Q. Okay. And you mentioned that you talked with Mr.
3 Johnson again the following day at his request?

4 A. Yes, sir.

5 Q. Okay. And hold on just a minute. Court's indulgence.
6 Your Honor, have you viewed that one as well?

7 **The Court:** Yes.

8 By Mr. Robinson:

9 Q. Okay. I just wanted to make sure. Would you agree with
10 I guess my characterization of that interview that he
11 recanted what he had told you at the close of the previous
12 day?

13 A. Recanted as in?

14 Q. In other words, he came back and said---

15 A. As far as what he had done?

16 Q. Yes.

17 A. No.

18 Q. He did not?

19 A. Not that I recall, no, sir.

20 Q. Okay. What do you recall was the substance of that
21 second interview the following day.

22 A. I know that we discussed some of the particulars of
23 the -- of the incident itself, but I don't recall specific --
24 specifically what we discussed or any of that sort of stuff.

25 Q. Okay.

1 A. I just -- I know that there was no, you know,
2 whatever-I-said-yesterday-didn't-happen kind of thing.

3 **Mr. Robinson:** Okay. Court's indulgence for just a
4 moment, Your Honor.

5 **The Court:** All right.

6 **Mr. Robinson:** Just a moment, Investigator Moore. Thank
7 you, Investigator Moore. I don't have any further questions
8 at this time.

9 **The Court:** Any redirect, Mr. Durant?

10 **Mr. Durant:** Just briefly, Judge.

11 Redirect Examination

12 By Mr. Durant:

13 Q. Investigator Moore, earlier Mr. Robinson asked you how
14 long the confession portion of the interview was, and your
15 answer was, "40 to 45 minutes." Is that correct?

16 A. Yes, sir, in that -- in that general neighborhood. I'm
17 not for certain but...

18 Q. And his follow-up question to that was: Didn't the
19 defendant tell you something different for several hours
20 prior to that? And your answer to that question was,
21 "Several somethings different." Tell me what you meant by
22 that.

23 A. Yes, sir. As the process of the interview went on, it
24 was -- the stories -- his story would -- had changed several
25 times, and I can't tell you exactly where it was that his --

1 that his story changed and to what extent, but there was just
2 inconsistencies in his story. And as we pointed those out to
3 him, that's where that -- where there were several variations
4 in his story.

5 Q. And this story that the defendant gave you, did he
6 provide specific details in that story or was it just a
7 general "somebody else did it"?

8 A. There was -- there were some -- there were some details
9 in the -- in the -- in his story.

10 Q. I think you said earlier that he asked to speak to you
11 on the second day during the second interview; is that right?

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

13 Q. Okay. So he contacted law enforcement somehow and said,
14 "Bring me back up for questioning"?

15 A. Yes, sir, he did because we made no -- we didn't attempt
16 to talk to him. To my -- to my knowledge, I believe it was
17 actually his request.

18 Q. Did you read him his Miranda rights again on the second
19 day?

20 A. Yes -- I don't recall specifically, but that's common
21 procedure for us to do that since it had been time for him to
22 sleep on it and that sort of thing, and I would -- I would
23 hazard a guess that that would be yes.

24 Q. And that second interview was recorded by video and
25 audio surveillance as well?

1 A. Yes, sir, it was.

2 Q. During the second interview, did the defendant ever go
3 back -- go back to the story about the third party, Robert?

4 A. No, sir. I believe we eliminated the fact that Roger or
5 Robert was...

6 Q. So whatever he told you on the second day, he never
7 said, "I'm sticking to my original story; it was Robert."

8 A. That's -- that's correct.

9 Q. I beg the Court's indulgence, Your Honor. Investigator
10 Moore -- and you may have answered this earlier. How long
11 had you been practicing or working in law enforcement here in
12 Clarendon County?

13 A. Four years.

14 Q. Okay.

15 A. In Clarendon County.

16 Q. And before that, were you in law enforcement?

17 A. Yes, sir, I was. I worked for the Lexington County
18 Sheriff's Office and also the University of South Carolina as
19 well.

20 Q. Okay. How many---

21 A. Police department.

22 Q. How many total years in law enforcement do you have?

23 A. Eight or nine years.

24 Q. Have you conducted several interviews of suspects during
25 that period of time?

1 A. Yes, sir. Yes, sir, I interviewed multiple individuals.

2 Q. Okay. And during that experience, have you seen
3 defendants exhibit behavior to you which would suggest that
4 they were uncomfortable or they needed some kind of medical
5 assistance?

6 A. . (Pause) I'm trying to recall if any of mine... Yes, I
7 believe we've had them -- we've actually had them request,
8 you know, that, hey, you know, there's -- my head is hurting
9 real bad or something, you know, where they would request
10 medical attention.

11 Q. And I guess my point is or my question is: Do you think
12 that you would recognize if the defendant was uncomfortable
13 and needed some kind of medical assistance?

14 A. Yes, sir. Yeah.

15 **Mr. Robinson:** Your Honor, I'm just going to object to
16 that as asked and answered. He said he didn't have any
17 specific training to do that; it was just his lay experience.
18 So just for the record...

19 **The Court:** Overruled.

20 **Mr. Durant:** Your Honor, I don't -- I don't have any
21 further questions.

22 **The Court:** All right. Any recross?

23 **Mr. Robinson:** No, sir, Your Honor. Nothing further for
24 this witness.

25 **The Court:** All right. Thank you.

1 **Mr. Durant:** Thank you, Investigator.

2 **The Witness:** All right, sir.

3 (The Skype is turned off.)

4 **The Court:** How long do you think your next witness is
5 going to be?

6 **Mr. Durant:** Probably about the same, Your Honor.

7 **The Court:** All right. Why don't we take a short break?
8 We'll take a 15-minute recess.

9 (Whereupon, a short break was taken.)

10 **The Court:** Thank you. Please take your seats. You may
11 call your next witness.

12 **Mr. Durant:** The State calls Major Kipp Coker.

13 Kippton Coker, after being duly sworn, testified as
14 follows in camera:

15 Direct Examination

16 By Mr. Durant:

17 Q. Major Coker?

18 A. Yes, sir.

19 Q. Where do you work?

20 A. Clarendon County Sherrif's Office.

21 Q. How long have you worked at the sheriff's office?

22 A. September will be 15 years.

23 Q. How long have you been in law enforcement?

24 A. Fifteen years. Well, September will be 15 years.

25 Q. Before becoming a major, what were you doing at the

1 sheriff's office?

2 A. Before major, I was captain and then before captain I
3 was on the task force, narcotics task force, and before that
4 I was in investigation.

5 Q. You were working with the sheriff's office back on April
6 the 6th of 2011?

7 A. Yes, sir.

8 Q. Did you have occasion to participate in an interview
9 with the defendant in this case, Justin Johnson?

10 A. Yes, sir.

11 Q. When did that interview take place?

12 A. The day of the incident.

13 Q. April the 6th?

14 A. That's correct..

15 Q. Where did it take place?

16 A. Clarendon County Sheriff's Office interview room.

17 Q. Do you remember who was present for the interview?

18 A. Myself and Investigator Moore and Mr. Johnson.

19 Q. What time did you or did the sheriff's office take the
20 defendant, Johnson, into custody?

21 A. I think it was approximately 10:36 a.m. I arrived at
22 the scene on June Burn Road. As I was walking up, Mr.
23 Johnson was in the back of the patrol car. And there was an
24 investigator that was walking towards me, and I asked where
25 they were going. Said they were taking Mr. Johnson to the

1 sheriff's office, and I advised one of the investigators - I
2 think it was Investigator Clarke - to stay at the scene and I
3 would go help Investigator Moore. So I then turned around
4 and got in my vehicle and followed the patrol car to the
5 sheriff's office.

6 Q. Did y'all take Mr. Johnson directly into the interview
7 room when you got to the sheriff's office?

8 A. Yes, sir.

9 Q. And when you got to the interview room that morning,
10 tell me what you did.

11 A. The first thing I did is asked him for his name and date
12 of birth, just basic information of who he was, his address,
13 Social Security number, and stuff like that.

14 Q. Was he able to provide you with that information?

15 A. Yes, sir.

16 Q. Did he have -- appear to hesitate or have to think about
17 the answers to those questions?

18 A. No, sir.

19 Q. After or when you got him to the interview room, were
20 his Miranda rights read to him?

21 A. Yes, sir, by Investigator Moore.

22 Q. And did you witness the reading of those rights to him?

23 A. Myself and Deputy Barney Dozier. I forgot he was in
24 there, too.

25 Q. Do you recall whether Investigator Moore told him he had

1 the right to remain silent?

2 A. Yes, sir.

3 Q. Do you recall whether he was told that he had the right
4 to an attorney?

5 A. Yes, sir.

6 Q. Do you recall whether he was told that if he couldn't
7 afford an attorney that one would be appointed for him?

8 A. Yes, sir.

9 Q. Do you recall whether he was told that at any point if
10 he decided to exercise those rights he could stop the
11 interview process?

12 A. I can't recall that part because I heard Investigator
13 Moore's -- but I know that the second time that he did do
14 that.

15 Q. Okay. You said there was a second time that his rights
16 were read to him?

17 A. That's correct.

18 Q. Why were his rights read to him a second time?

19 A. Because we walked out and we were just making sure we
20 were covering the basics because we had walked out and was
21 gone a few minutes. So we were just making sure he
22 understood his rights.

23 Q. Do you remember how much time had elapsed between the
24 first time his rights were read and the second?

25 A. No, sir, I don't know exactly what time -- how long it

1 was.

2 Q. When you got him to the interview room that morning, did
3 you go directly into questioning?

4 A. The only question I asked him to start with was his
5 personal information. Then we just started doing tests like
6 the G.S.R., the photographs and stuff like that, and that
7 took a couple of hours, two or three hours, I believe.

8 Q. And during that process of those tests and collection of
9 that evidence, were y'all asking him any questions?

10 A. No, not to my knowledge, just -- if we asked anything is
11 -- you know, "Are you all right? Do you need a bathroom
12 break" or stuff like that, but no -- no questions about the
13 scene or the incident itself.

14 Q. Okay. Do you remember exactly what point that y'all
15 finished those tests and moved into the questioning or
16 interrogation portion of the interview?

17 A. It was that afternoon. I think it was around 2. 2:08,
18 I believe.

19 Q. Okay.

20 A. And that's when the second Miranda was read.

21 Q. Okay. So the second Miranda was before the actual
22 questioning---

23 A. Of the incident, yeah.

24 Q. Did the defendant during this time appear to be under
25 the influence of alcohol or drugs to you?

1 A. No, sir.

2 Q. Did he appear to you to have any physical or mental
3 disability that would affect his ability to understand what
4 was going on?

5 A. No, sir. He was actually helping us with the tests at
6 some point.

7 Q. Okay. What do you mean by that?

8 A. When we were photographing him, he was showing places we
9 had missed to take photographs of his hand.

10 Q. When his Miranda rights were read to him, did he appear
11 to have any trouble understanding those rights?

12 A. No, sir. He understood them.

13 Q. Okay. And during---

14 A. He acknowledged to us -- I'm sorry. He acknowledged to
15 us that he understood.

16 Q. During your 15-year career, do you know how many
17 interviews you've done?

18 A. No, sir. I've done a lot.

19 Q. And during that -- those 15 years, have you ever had a
20 suspect exhibit symptoms that would lead you to believe that
21 they have some kind of physical or mental disability that
22 would warrant some kind of medical attention?

23 A. They were -- I mean, there were numerous interviews that
24 I've done, but if somebody had a problem, we stopped
25 immediately and called either an ambulance or say, "Look, he

1 just can't do this."

2 Q. So in the past you have recognized those problems before
3 in different suspects?

4 A. Yeah, because some suspects -- some suspects will get in
5 there and just tell you that the walls -- there's a purple
6 elephant on the wall and you know there's -- you know there's
7 some kind of -- we don't need to go further in the interview.

8 Q. Did the defendant in this case, Justin Johnson, exhibit
9 any symptoms that gave you cause for concern of his ability
10 to understand what was going on?

11 A. No, sir. He seemed like he understood everything to me.

12 Q. Okay. And did you ask him if he was okay during the
13 interview process?

14 A. Yes. I asked him several times if he needed anything,
15 was he okay, and every time he said he was fine.

16 Q. And I think you've said that the actual questioning
17 process began sometime that afternoon.

18 A. Yes, sir.

19 Q. Do you remember how long that process lasted?

20 A. A long time. Sometime that night, before midnight.

21 Q. Okay.

22 A. I mean, it was a good -- good while.

23 Q. So it was during the daylight hours that y'all were
24 interviewing him.

25 A. The beginning, yes.

1 Q. Did the defendant ever tell you that he was tired or he
2 needed to rest or a break from the interview process?

3 A. No. We kept asking him and he said he was fine, and as
4 long as he said he was fine, we continued.

5 Q. Were there actually any -- were there any actual breaks
6 taken from the interview process?

7 A. Yes. Yes, he went to the bathroom. We actually offered
8 him food. I think he told me that he doesn't eat hamburgers
9 or something, so we offered him a salad and I think he
10 declined.

11 Q. Do you remember how many times you offered him food or
12 drink?

13 A. It was several. I mean...

14 Q. How many times y'all offered him access to a rest room?

15 A. Every time we walked out of the room we asked him, I
16 believe.

17 Q. Do you remember how many breaks or pauses from
18 questioning that y'all took?

19 A. No, sir, not off the top of my head.

20 Q. Was it more than one?

21 A. Yes.

22 Q. During the process, were there ever any threats or
23 promises made from you in exchange for his statement?

24 A. No, sir.

25 Q. And to the best of your knowledge, was the defendant's

1 statement freely and voluntarily given that day?

2 A. Yes, sir.

3 Q. During the process, did the defendant -- was he able to
4 give you a detailed story of what happened or what he alleged
5 happened?

6 A. In the beginning, yes, he gave us some stories.

7 Q. Did he appear to be an intelligent person?

8 A. What do you mean by intelligent?

9 Q. Well, I -- was he thoughtful? Was he articulate?

10 A. Oh, yeah. He gave us details of a story of -- several
11 stories.

12 Q. Okay. And you say several stories during the process?

13 A. Well, he gave -- he started off with a story of somebody
14 else being there, and during these hours we picked his story
15 apart, but he was also giving us details of the crime scene
16 that wasn't adding up to his story, if you follow me.

17 Q. Okay. Had you been through the crime scene when you
18 first started talking to him?

19 A. No, sir.

20 Q. Okay. So you were getting information from outside?

21 A. That's correct, from the investigators on the scene. I
22 never made it to the crime scene tape.

23 Q. And I want to show you what's been marked for the
24 purposes of identification as State's Exhibits 1 through 11
25 and ask you if you recognize these.

1 A. The -- I recognize the first ten, but the eleventh I
2 don't.

3 Q. Okay. What---

4 A. It says, "Second interview." I wasn't a part of that, I
5 don't think---

6 Q. So you weren't a part of any second interview?

7 A. I don't think I was, no.

8 Q. The first ten disks, tell me what those are.

9 A. Those are the interview with myself and Investigator
10 Moore in Mr. Johnson's interview that day.

11 Q. And so that interview was recorded by some kind of video
12 and audio surveillance?

13 A. That's correct.

14 Q. Tell me how that system works. What -- what---

15 A. We have a digit -- we have a digitized system in
16 investigation that records our interviews. We have two
17 interview rooms. The recording system allows you to record
18 audio and video in these two rooms for approximately an hour,
19 hour and 20 minutes. It varies sometimes. Then it cuts off
20 automatically. You have to go back in and automatically --
21 or -- and push a button and hit record again. That's the way
22 the system is set up. It doesn't record constantly 24/7.

23 Q. So each one of those disks represents one of those
24 segments---

25 A. A segment, yeah. Yes, sir.

1 Q. Does the -- the recording system, does it give you a
2 timestamp on the file so you know what time it started?

3 A. It gives you a date, case number. I don't know about a
4 timestamp. I don't know that.

5 Q. Okay. Do you know whether there were any breaks? At
6 any point during the interview process did the system cut off
7 and you had to run outside and cut it back on?

8 A. Yes, there were times during this interview.

9 Q. So are there periods of the interview that aren't
10 recorded on those then?

11 A. Yes, sir.

12 Q. Do you know how long those periods might be?

13 A. Just a few minutes---

14 Q. Okay.

15 A. ---because when we're in there interviewing, you cannot
16 see the system in the other room. So you kind of have to
17 estimate your time of talking to somebody and then walk out
18 and make sure it's still recording. If it's not, you hit
19 record again.

20 Q. Okay. So if you were to get involved in a line of
21 questioning and not realize how much time had elapsed, the
22 system had cut off on you...

23 A. That's correct.

24 Q. At any point during this process, whether it was
25 recorded or not, were there any threats or promises made to

1 the defendant to get him to answer your questions?

2 A. No, sir.

3 Q. Did the defendant ever -- ever ask for a break and y'all
4 not give it to him?

5 A. If he asked for it, he got it. And then we offered.

6 Q. And---

7 A. But I don't remember him asking us for a break.

8 Q. Do you remember how many times you offered him a break?

9 A. It was -- every time we probably walked out of the room
10 we asked him. When both of us at the same time walked out
11 and left him by himself, we would ask.

12 Q. Did he ever accept your offer to eat anything that day?

13 A. He did use the bathroom a couple of times, and we got
14 him some water and we offered him food and...

15 Q. Do you recall him ever telling you why he didn't want
16 anything to eat?

17 A. He said he didn't eat hamburgers or something, but he --
18 I can't remember -- I remember him saying he doesn't eat
19 hamburgers.

20 Q. Okay.

21 A. So we offered him a salad or something, just get him
22 something, and I think he said he was fine.

23 **Mr. Durant:** I beg the Court's indulgence, Your Honor.

24 **The Court:** Yes, sir.

25 **Mr. Durant:** Major Coker, I don't have any further

1 questions for you. If you would, please answer anyway Mr.
2 Robinson might have.

3 **The Court:** Mr. Robinson?

4 **Mr. Robinson:** Thank you, Your Honor. May it please the
5 Court?

6 Cross-Examination

7 By Mr. Robinson:

8 Q. Major Coker?

9 A. Yes, sir.

10 Q. Now, you were present in here for my questioning of Mr.
11 Moore, and I will try to run through this and not ask you the
12 exact same questions, but some of this redundancy is
13 necessary and I do apologize for that. You don't have any
14 specialized training in recognizing, treating, dealing with,
15 recognizing the symptoms of shock, P.T.S.D. or any other type
16 of mental illnesses, do you?

17 A. No, sir.

18 Q. Do you have any training to recognize diabetes or other
19 dietary deficiencies in your training---

20 A. No.

21 Q. ---as an investigator?

22 A. No, sir.

23 Q. Okay. So the information or the observations that you
24 made about Mr. Johnson's conditions were simply your
25 observations as a lay person.

1 A. Yes, sir.

2 Q. You have no specialized training to determine whether he
3 was intoxicated, impaired, in shock, anything of that nature.

4 A. No, sir.

5 Q. And you never had him tested or examined by anyone who
6 was qualified to make that determination. Is that correct?

7 A. No, sir, I didn't.

8 Q. Okay. The -- tell me -- and I just want to go back to
9 this because I don't recall this and I may be wrong. You
10 said Barney Dozier was there?

11 A. Yeah. I think he's the one that transported him from
12 the scene to the office.

13 Q. But he was never in the interview room with him.

14 A. He was in there when we first got in there, yes---

15 Q. Okay.

16 A. ---because he asked to step out because he had a call, I
17 believe.

18 Q. Okay. Okay. But beyond that, no---

19 A. No, just me and---

20 Q. ---material participation. I just simply didn't
21 remember that---

22 A. Right.

23 Q. ---and I wanted to make sure I hadn't overlooked
24 anything. Is it -- do you have any knowledge of any
25 statements on in-car cameras, body mics or anything like that

1 between Mr. Dozier and Mr. Johnson from the time he was
2 arrested 'til the time that these tapes began?

3 A. No, sir, I have no knowledge of that.

4 Q. Okay. And is Officer Dozier the individual who actually
5 placed Mr. Johnson under arrest at the scene or did he take
6 him for questioning? What happened? Do you know?

7 A. I have no idea. I didn't -- when I walked up to the
8 scene, they were walking out and they were fixing to pull out
9 with him. So who put the cuffs on him in the car, I don't
10 know.

11 Q. Okay. And you didn't get to view any of the crime
12 scene?

13 A. Nothing but the yard, kind of just a quick glance
14 because there was a lot of people, crime scene tape. I
15 probably got from about me to you from the crime scene tape.

16 Q. Okay. But throughout the interview process during that
17 day, which was April the 6th, 2011, y'all got information
18 from the crime scene from other officers as to what evidence
19 was there, what they believed this evidence tended to show,
20 et cetera? Is that correct?

21 A. Yes. They would call and kind of lay out the scene for
22 me because---

23 Q. Okay. And tell me, if you can, who is they.

24 A. I think it was Investigator Tommy Burgess was who I was
25 talking to.

1 Q. Okay.

2 A. Might have been Captain Burgess at that time.

3 Q. Okay. Tommy Burgess.

4 A. Yeah.

5 Q. Okay. And so he would relay this information to you.

6 You would then go back and I think that's where -- when you
7 said y'all were quote/unquote picking his story apart,
8 meaning Mr. Johnson's story?

9 A. Yes. They would tell us different things at the scene.
10 It wasn't adding up to what he was saying.

11 Q. Okay. And this continued, I think you said, late into
12 the night 'til just prior to midnight?

13 A. I think it was -- I don't know exactly what time, but it
14 was before midnight.

15 Q. Okay. And you would agree with me that based on the
16 information that you received that day that this was a very
17 tragic and traumatic event, would you not?

18 A. Yes, sir.

19 Q. And that Mr. Johnson was in custody the entire time.

20 A. From the time I got there, yes.

21 Q. Okay.

22 A. How long he was -- not before then...

23 Q. Right. But from roughly 10:36 when he was in the patrol
24 car---

25 A. That's correct.

1 Q. ---until sometime before midnight up until today, he's
2 been in custody.

3 A. Yeah.

4 Q. Okay. Do you remember him asking you during this
5 interview to try to get updates about his daughter's
6 condition or Kaysha's (phonetic) condition?

7 A. I remember Kaysha. He wanted to know if she was at the
8 house, I think it was.

9 Q. Okay. Did you at some point tell her -- tell Mr.
10 Johnson that Kaysha had been shot? Do you remember telling
11 him that?

12 A. That's his daughter or girl---

13 Q. The baby's mother. Minor² (phonetic) is the daughter.

14 A. I don't think I -- no, I don't recall.

15 Q. Okay.

16 A. I don't remember that.

17 Q. And do you remember him, during the course of this
18 interview, asking about his daughter? How is she? What's
19 going on?

20 A. I remember Kaysha and he was asking if she was at the
21 house, and I think he did ask about his daughter, too.

22 Q. Okay. And do you remember having some discussion with
23 him towards the end of this about, "I'm going to tell your
24 daughter her daddy was a man because he told the truth," and
25 things of that nature?

1 A. Yes, I do remember that.

2 Q. Okay. And that seemed to -- did that seem, from your
3 observation, to have an impact on Mr. Johnson?

4 A. Yes, sir, it did.

5 Q. That was important to him?

6 A. Yes, sir, it was.

7 Q. Okay. Was there some discussion at some point about
8 whether or not he would be able to see his daughter?

9 A. I can't remember. I -- because we talked a lot about
10 his daughter.

11 Q. Right.

12 A. I may have said something about seeing her. I don't
13 know. I can't remember.

14 Q. Okay.

15 A. Because we talked a good bit about his daughter.

16 Q. Right. And that was towards the end of the interview.

17 A. Uh-huh. I think so; yes, sir.

18 Q. Okay. And do you remember at some point a couple of
19 times - and I won't say it was a lot of times and I'm
20 certainly not implying that it was abusive - but that you
21 lost your temper with him because you thought he was lying to
22 you and you told him that?

23 A. Yes, sir.

24 Q. Okay. And do you remember Mr. Moore talking --
25 Investigator Moore talking to him a good bit about how God

1 would help him and, you know, was rubbing his shoulders and
2 holding his arm and---

3 A. Yes, sir.

4 Q. ---different things like that?

5 A. Yes, sir, I remember that.

6 Q. So there was some -- I guess some points in there where,
7 whether intentionally or unintentionally, y'all played to
8 different parts of his emotion, his religious beliefs,
9 concerns for his children, things of that nature. Do you
10 agree with that?

11 A. Yes, sir.

12 Q. Okay. And after doing that, toward the end of the
13 interview, he basically apologized for wasting y'all's time
14 that day?

15 A. He did say that.

16 Q. And said basically, "I'm sorry; I did it. Go home to
17 your family," something to that effect?

18 A. Something to that effect.

19 Q. And from that point forward did he give -- do you recall
20 any detailed information from Mr. Johnson that you didn't
21 already have or that y'all had not already provided to him
22 during the interview process, any facts that startled you and
23 you said, oh, wait a minute, I didn't know that?

24 A. There was a lot of stuff talked about in that interview.
25 Right near the end he did tell us that the gun was pointed at

1 his son and it just went off.

2 Q. Right. But, I mean, you had already known that the
3 child had been shot and---

4 A. Right, but as far as -- see, I didn't walk in the scene.

5 Q. Right.

6 A. So his story, along with the investigators on the scene,
7 I had to -- I went in this interview cold turkey, knowing
8 just only we had two deceased people.

9 Q. Right.

10 A. And so I had to put the two together and then try to
11 get a -- if you follow me.

12 Q. Yeah, and I do. Let me ask you to make sure we're clear
13 on this. You didn't actually go into the interview cold
14 turkey. You went into the interview with the understanding
15 that Kaysha had identified to officers that Mr. Johnson was
16 the one who had done the shooting. Is that accurate?

17 A. Actually I do not think I knew that.

18 Q. They didn't tell you that that's why they had arrested
19 him---

20 A. Not at that point. At some point during that interview
21 I found that out, but I don't think -- when I drove up to the
22 scene, two investigators was leaving and the car was leaving
23 and I said, "Where are you going?" And they said, "We're
24 going to do the tests on Mr. Johnson." So during all that I
25 turned to go back. When I get to the office and get in there

1 and we start doing the tests, I get a phone call and I think
2 it was from Tommy Burgess about -- I'm sorry. I called
3 Investigator Burgess and told him the tests were complete and
4 I said, "He's ready to be talked to. Do you want me to do it
5 or are y'all coming up here to do it?" And he told me and
6 Moore to do it.

7 Q. Okay. But at some point prior---

8 A. And I do not remember anybody telling me -- I'll have to
9 check my notes but...

10 Q. Okay.

11 A. Things that happened at the scene I didn't know prior to
12 me getting there.

13 Q. I understand that. They didn't tell you why they had
14 Mr. Johnson in custody?

15 A. I don't think so. I'd have to look back at my notes,
16 but I don't think so.

17 Q. Okay. So is it your testimony here today that prior to
18 roughly 2:00 p.m. when the actual questioning started, nobody
19 had informed you that---

20 A. Now, by 2:00 I should have known.

21 Q. Okay.

22 A. I have to look back at my notes but---

23 Q. And I'm not trying to trap you on times.

24 A. I know.

25 Q. The question is: When you started the specific

1 interrogation---

2 A. Oh, yes, I knew then.

3 Q. ---you knew at that point---

4 A. Yes. He was a suspect.

5 Q. ---that he had been identified as the shooter.

6 A. Yes, I did know before 2:08.

7 Q. Okay.

8 A. But at 10:36 or 11:00---

9 Q. Right.

10 A. ---when we were doing tests, no.

11 Q. Yeah, and that was kind of semantics. I wasn't trying
12 to say from the very beginning. But from the very beginning
13 of the actual interrogation---

14 A. Yes, I knew that.

15 Q. ---you had information that had at least preconceived in
16 your mind that Mr. Johnson was the guilty party.

17 A. That he was -- yeah.

18 Q. And your questions focused on that.

19 A. Uh-huh.

20 Q. In other words, when he gave you information that didn't
21 fit with that information or the sheriff's department's view
22 of the evidence, you called him out, quote/unquote picked his
23 case or his story apart.

24 A. That's correct.

25 Q. And the interview continued for a long time, a good

1 while, 'til almost midnight when he basically told you the
2 version of the story that fit with what y'all had been
3 telling him all day.

4 A. It fit with the evidence.

5 Q. Right, that you had revealed to him throughout the
6 course of the interview.

7 A. Yes.

8 Q. Okay.

9 A. He would tell me something and I knew he was lying,
10 so...

11 Q. Okay. And you would tell him that.

12 A. Uh-huh.

13 Q. You're lying because I just talked to so-and-so or we've
14 got this or that---

15 A. That's correct.

16 Q. ---and it doesn't fit.

17 A. That's correct.

18 Q. And so at the very end, prior to the conclusion, the
19 last 40, 45 minutes, do you recall any specific details that
20 Mr. Johnson gave you that you didn't have prior or that you
21 hadn't provided to him?

22 A. No, sir, I don't think so.

23 Q. Okay. Other than what you said about---

24 A. Right.

25 Q. ---where Minor (phonetic) had been shot, but you

1 already had that information, just not from personal
2 observation. Is that correct?

3 A. Now---

4 Q. When I asked you this earlier -- and I'm not trying to
5 be confusing and I probably am and I'm sorry. I asked you
6 this question basically earlier, and you said something about
7 Minor being shot, that he had the gun and it went off.

8 A. That was at the end of the interview, yes.

9 Q. Right. But that is not new information to you.

10 A. No, I knew there was a child that was---

11 Q. You knew that. And you took -- he knew that the child
12 had been shot.

13 A. Yeah.

14 Q. Because you had told him that, is that right, that you
15 knew there was a child---

16 A. I probably did. I'd just have to look back at the---

17 Q. Okay. Okay. So what -- what I want to make clear is
18 that there was nothing that---

19 A. No.

20 Q. ---Mr. Johnson told y'all that y'all didn't already know
21 or tell him---

22 A. By that time we knew it.

23 Q. Okay. Nothing -- so there was no specific element, fact
24 or detail that for y'all said it had to be him because we
25 didn't know that.

1 A. Right. I got you now.

2 Q. And you have no idea what happened the next day because
3 you weren't there.

4 A. No. I don't think I was in that interview.

5 Q. And I agree with that characterization; I just want to
6 make sure. Now, tell me -- tell me this because I didn't
7 realize this until the solicitor just asked you these
8 questions about this digitized recording system. Is it your
9 testimony that these 11 hours of tapes have some gaps in them
10 in the questioning?

11 A. They do.

12 Q. And you don't know how much or...

13 A. Without looking at them, each one I could tell you...

14 Q. So in the interview---

15 A. But now -- because there is an incident.

16 Q. And I know what incident you're talking about---

17 A. Right.

18 Q. ---because I looked---

19 A. That is not recorded.

20 Q. ---religiously for that incident and I did not see it
21 where you -- where you claim -- and just for purposes of this
22 hearing, Your Honor, so we can identify this issue -- where
23 you claim Mr. Johnson had some sort of tantrum, hit the wall
24 or kicked the wall or did---

25 A. Hit the table and jumped up and backed himself in a

1 corner.

2 Q. And that's not anywhere on these tapes, is it?

3 A. No, it is not.

4 Q. So my question is: These tapes are not an accurate
5 representation of the entire interview process of Mr.
6 Johnson, are they?

7 A. No, because that incident is not on there, but the
8 majority -- I don't know exactly how many minutes is missing,
9 but like I testified earlier, you have to go out and hit
10 record again because if you get caught up in the interview,
11 an 11-hour -- 11-and-a-half-hour thing, counting the tests --
12 I mean, you know, you get caught up in one thing. You have
13 to stop yourself and say: Wait a minute; let's make sure
14 this is recording.

15 Q. And there's no audible warning, no light---

16 A. No.

17 Q. ---that comes on, nobody in the other room going---

18 A. If somebody is in the other room, they should be hitting
19 the button, but there was times when there was no one in the
20 other room.

21 **Mr. Robinson:** All right. Court's indulgence for just a
22 minute.

23 **The Court:** Yes, sir.

24 **Mr. Robinson:** Just one more question briefly, Your
25 Honor.

1 By Mr. Robinson:

2 Q. Are there occasions when there was somebody else in the
3 other room?

4 A. Yes.

5 Q. Could you tell me who those individuals or who that
6 individual was or the individuals were or do you have that
7 somewhere you could provide to me?

8 A. I know S.L.E.D. Agent Tina Carter was in there at one
9 time.

10 Q. Okay.

11 A. I'll have to look back, but I remember her being in
12 there.

13 Q. Would you make an effort at some point---

14 A. Yes.

15 Q. ---today or tomorrow to see if you have that
16 information---

17 A. Yes.

18 Q. ---please, sir? Okay. Thank you. I don't have any
19 further questions.

20 **The Court:** Any redirect?

21 **Mr. Durant:** Just a few, Your Honor.

22 Redirect Examination

23 By Mr. Durant:

24 Q. Major Coker, do you remember -- when Mr. Johnson gave
25 you his version of events that day, do you remember how many

1 gunshots he told you were fired?

2 A. I think he told me four.

3 Q. Okay. And at that point in the interview process you
4 were just letting him tell his story.

5 A. That's correct.

6 Q. You hadn't confronted him with any evidence, had you?

7 A. No, sir.

8 Q. Okay. And do you know how many -- now do you know how
9 many spent shell casings were found on the scene?

10 A. No, I don't, not in front of me.

11 Q. All right. But, again, when Mr. Johnson told you that
12 there were four shots fired, you wouldn't have had -- at that
13 point you didn't have any way to ascertain whether that was
14 the truth or a lie.

15 A. No, because once -- in a normal crime scene in a
16 shooting when Crime Scene is called in, S.L.E.D. Crime Scene,
17 the entire scene is secured. Nobody walks in until they go
18 in and do their thing. So if you didn't walk through it
19 before you sealed it off, you wouldn't know.

20 **Mr. Durant:** And if I may approach again?

21 **The Court:** You may.

22 **Mr. Durant:** Judge, just for the purposes of this
23 hearing, I'd ask that -- to just put the disk in and point
24 out something to him on it---

25 **The Court:** Certainly.

1 **Mr. Durant:** ---and question him. For the record, this
2 is State's Exhibit 4. Major, if you would, with the Court's
3 permission, step down.

4 **Mr. Robinson:** And, Judge, just if we could for my
5 notes, what disk is this?

6 **The Court:** This is Disk 4.

7 **Mr. Durant:** Four.

8 **The Court:** Turn it a little more this way so I can see
9 it. Thank you.

10 By Mr. Durant:

11 Q. And I asked you earlier, Major Coker, if the individual
12 disk contained a timestamp on the file. I just wanted to --
13 if you would, would you tell me what this 13 dash 58 dash 52
14 is on that file?

15 A. That's -- I don't know.

16 **Mr. Durant:** Okay. In that event, Judge, I don't have
17 any further questions.

18 **The Court:** Okay. Thank you. Any recross based on his
19 redirect?

20 **Mr. Robinson:** No, sir, Your Honor.

21 **The Court:** All right. Thank you. You may step down.
22 Call your next witness.

23 **Mr. Durant:** Your Honor, the State has no further
24 witnesses.

25 **The Court:** Mr. Robinson, do you want to call anybody?

1 **Mr. Robinson:** Can I have about five minutes?

2 **The Court:** You can. We'll go ahead and take a
3 five-minute recess.

4 **Mr. Robinson:** Thank you, Your Honor.

5 **The Court:** Court's in recess until -- let's go ahead
6 and say 12:00.

7 **Mr. Robinson:** Okay. Thank you, Your Honor.

8 (Whereupon, a short break was taken.)

9 **The Court:** Thank you. Please take your seats. All
10 right. Mr. Robinson?

11 **Mr. Robinson:** Thank you, Your Honor. I don't have any
12 evidence or testimony to put on the record at this time.

13 **The Court:** All right. What I'm going to do is I'm
14 waiting to get a few answers on some things, and I will take
15 this matter under advisement. I will notify you in the
16 morning of my ruling.

17 **Mr. Durant:** Your Honor, if I may just for the record, I
18 wanted to state that it's my understanding that the
19 interviews, Disks 1 through 10, and the second interview are
20 Court's exhibits by stipulation of the attorneys in this
21 matter.

22 **The Court:** All right.

23 **Mr. Robinson:** For the purposes of this hearing, yes,
24 sir.

25 **The Court:** Okay.

1 **Mr. Robinson:** And, Your Honor, it is not a Jackson v.
2 Denno and we can address it later. It really just came to my
3 attention quite honestly during Investigator Coker's
4 testimony, but I do have -- whether the State wants to
5 prepare now or do it at sometime later - I'm not trying to do
6 it by sneak attack - an issue about the tapes themselves
7 based on Major Coker's testimony about the recording device
8 and potential gaps in the tapes. So just to make Your Honor
9 aware of that...

10 **The Court:** And you want to make that motion now or do
11 you want to make it in the morning?

12 **Mr. Robinson:** I would probably -- given the fact that I
13 kind of just got that information, I would ask for a little
14 bit of time to do a little bit of research---

15 **The Court:** I mean, most -- most interviews aren't even
16 on tape, so...

17 **Mr. Robinson:** I understand. I just -- I just want to
18 make sure the record is clear and that I'm covered and
19 protected. So if the Court would allow, I'd like to that in
20 the morning as well.

21 **The Court:** Okay. All right. Very well.

22 **Mr. Robinson:** Thank you, Your Honor. Anything else
23 concerning this case?

24 **Mr. Finney:** No, Your Honor.

25 **The Court:** All right. Thank you.

1 **Mr. Durant:** Thank you, Your Honor.

2 (Whereupon, the proceedings were concluded for the day.
3 The following day, March 7, 2014, the hearing continued as
4 follows:)

5 **The Court:** I want to get Mr. Robinson in here. I'm
6 ready to rule on the thing from yesterday. Mr. Robinson?

7 **Mr. Robinson:** Yes, sir. Do I need any additional...

8 **The Court:** I'm giving you my ruling.

9 **Mr. Robinson:** Okay.

10 **The Court:** In State versus Johnson I have reviewed the
11 testimony from yesterday's hearing. I have reviewed the
12 videotapes myself, and I find that the statement made by Mr.
13 Johnson was given freely, voluntarily, knowingly, and
14 intelligently. Although it was over an 11-hour period, he
15 was -- he was Mirandized twice during that. He was very
16 talkative.

17 He was offered ample times to take breaks. He was
18 offered food. He was offered drink. He certainly did not
19 appear to be under excessive I guess oppression in the giving
20 of the confession, and I am going to allow the confession to
21 come into evidence.

22 Now, as far as the question as to the testimony by Skype
23 whenever the trial begins, I have reviewed the law in this
24 case. I have -- I've checked around with other circuit court
25 judges, and apparently it's a pretty common practice,

1 provided that there are certain situations -- I mean, this
2 witness is 2500 miles away. He is not the main witness in
3 this trial. He is an ancillary witness who the majority of
4 what was going on with him -- of course, everything that was
5 going on with him is available on videotape.

6 There was another officer in the room who was available
7 for most of the -- I guess 95 percent of any testimony that
8 this officer would give, it would be just cumulative to a
9 large extent. And so I don't find that there would be any
10 prejudice to the defendant to allow testimony of Officer
11 Moore by use of Skype, so---

12 **Mr. Robinson:** And, Your Honor, I understand your
13 ruling. We haven't really argued on that, and I'm not
14 necessarily asking to do that today. At some point I'd like
15 to put either an argument on the record or---

16 **The Court:** I'll be glad to---

17 **Mr. Robinson:** ---submit a brief---

18 **The Court:** I'll be glad to do that then if there's a --
19 if it changes my mind, but I just -- could you tell me what
20 prejudice it would be to your client?

21 **Mr. Robinson:** Well, Your Honor, I can briefly tell you
22 this and I have some materials that I will be glad to submit
23 for you to review. I think it is violative of the
24 confrontation clause.

25 I also did a good bit of research last night, and I

1 quite frankly couldn't find any cases, reported cases, that
2 had allowed it other than some terrorist cases where the
3 witnesses were in foreign countries. The cases that I saw --
4 and chief justice or Justice Scalia in an opinion that he had
5 written basically said that allowing testimony via Skype,
6 while it may satisfy the cross-examination requirements,
7 confrontation -- that element of the statute---

8 **The Court:** That was a 1990 case out of Maryland; is
9 that correct?

10 **Mr. Robinson:** Well, this was since then; yes, sir. I
11 think that was either Crawford or Maryland v. Craig. The
12 cases that I saw that allowed it were, as I said, either
13 cases where the witnesses were terminally ill, physically
14 unable to travel, international witnesses for matters of
15 national security... Everything else -- there's a case out
16 of New Mexico that I'll be glad to hand you, very similar to
17 this one, was a state chemist. He was simply a chemist to
18 say: I analyzed and it was a drug.

19 The Court originally allowed that Skype testimony. The
20 Supreme Court of New Mexico overruled that and said that that
21 violated the confrontation clause. The confrontation clause
22 and the drafters of the Constitution anticipated, required,
23 and envisioned literal face-to-face confrontation. There are
24 articles and studies that have been done that at least at
25 this point say that the courts have not adopted that being

1 able to view somebody on a video screen with them kind of
2 seeing a vague image of the courtroom has the same impact and
3 import that the framers of the Constitution envisioned by
4 coming in.

5 In other words, there may be more of a propensity to
6 lie. They're not literally facing -- that's kind of like
7 texting someone versus having to talk to them and deal with
8 that confrontation live and in person. The Supreme Court of
9 the United States, as a matter of fact, basically was given a
10 draft-version suggestion to the federal rules of criminal
11 procedure that would allow that and they declined to send
12 that to Congress to act on.

13 So the only reported cases I saw where this was allowed
14 were in child abuse or child cases where there was some
15 special showing, and I think even in the cases -- I think it
16 was the Maryland v. Craig case where such testimony was
17 allowed. There was a test that there was some public policy
18 to protect and some unavailability element. There's a
19 comment to the federal rules that say the courts may now
20 allow that if the witness is unavailable under the federal
21 rules.

22 Under neither the state nor the federal rules do I
23 believe that Investigator moore meets this. It certainly is
24 a convenience issue, but I don't think states' convenience
25 and expense should trump the defendant's right to literally

1 have face-to-face confrontation with his accuser where the
2 jury is able to evaluate his credibility much more candidly,
3 clearly, and visibly with him sitting in the room a few feet
4 away versus an image of him broadcast from several states
5 away.

6 Like I said, I've got some materials that I will be glad
7 to hand up for your review, but I believe it's violative of
8 the confrontation clause and I did not see any cases where it
9 was allowed. The only times I've seen it allowed there were
10 specific exceptions carved out which I don't think the State
11 has met here such as, as I said, unavailability in child
12 cases.

13 **The Court:** Mr. Durant or Solicitor?

14 **Mr. Finney:** May it please the Court, Your Honor? Good
15 morning. Counsel is almost right. This is a special
16 exception and I do think that the Court is correct in saying
17 that this particular witness is the request that we're
18 making. We're not requesting that all our witnesses be
19 Skyped in. Certainly we have live witnesses who were on the
20 scene of this crime back in April.

21 This witness is a cumulative witness. He is supported
22 by the other officer, Mr. Coker, who was present. The whole
23 entire basis of his testimony is on videotape for the jury to
24 ascertain. And the little bit of information that's out
25 there for lawyers to review on this matter supports the

1 Court's decision that in cases where a compelling or a
2 substantial need exists to avoid costs, to avoid
3 inconvenience to the witness, and to pretty much put on the
4 record something that is not substantive but is a matter of
5 tying the chain together, the Court should use, as it does in
6 every case in most states and counties around here -- we do
7 video bond hearings every day in this county and neighboring
8 counties, and as the Court has said, other judges are using
9 this more and more. We would like to think that very soon
10 there's going to be a rule, a court rule, that would apply---

11 **The Court:** Maybe in this case.

12 **Mr. Finney:** Maybe in this case; that's correct. But we
13 think the judge is using judicial economy and the fact that
14 it is not a key witness on a major point that the jury needs
15 to consider.

16 **The Court:** Mr. Robinson, I think my decision would be
17 much different if this was the sole eyewitness to a crime. I
18 would have a problem with this, but, again, he was one of two
19 men who were in that room virtually the whole time, and all
20 of his testimony to some extent is -- you see it on the
21 video. So it's not anything hidden. It just -- this is one
22 that begs for the use of Skype in my opinion, and, therefore,
23 I'm going to allow it. But if you want to supplement the
24 record with anything else, I'll be glad to listen to it.

25 **Mr. Robinson:** Your Honor, I think I've briefly covered

1 on it. Like I say, there are some materials out there, but
2 that is my---

3 **The Court:** And I think with the changing of technology
4 it has gotten to be so good, where it used to be it would
5 drag and you couldn't get the full flavor of a person's
6 testimony because it would be garbled to some extent. But
7 technology now is just amazing and, again, my granddaughter
8 who lives in Texas, we Skype all the time. She comes up and
9 kisses the screen as if I am absolutely right there. It's
10 just amazing. So if the Supreme Court gets an opportunity to
11 look at it through this case, well, so be it.

12 **Mr. Finney:** Thank you, Your Honor.

13 **The Court:** Thank you.

14 **Mr. Robinson:** Thank you, Your Honor.

15 **The Court:** Are there any other motions or -- let's talk
16 about Monday. I imagine we're going to come in here, strike
17 our jury in here. Do you have some motions that we need to
18 take up on Monday afternoon to give them time to get the room
19 to chambers ready? Because I understand they really don't
20 want us having court over there on Monday afternoon if we can
21 do everything here and then start the trial on Tuesday. Does
22 that kind of work for everybody?

23 **Mr. Durant:** We've got a Blair hearing to take care of
24 on Monday.

25 **Mr. Robinson:** I was fixing to say, Your Honor -- I

1 mean, it's, you know -- I hope -- and I will certainly
2 forward to y'all through e-mail... I have a number of
3 requested voir dire questions in this case that's beyond the
4 standard---

5 **The Court:** I would---

6 **Mr. Robinson:** The magnitude of this case---

7 **The Court:** I would well imagine that you would.

8 **Mr. Robinson:** I would think under the circumstances,
9 given the size of the panel, the publicity this case has
10 received, that the voir dire itself is going to take much
11 longer than usual, plus, as Mr. Durant alluded to, we've got
12 the Blair issue to deal with that afternoon. So I don't
13 think we will be wasting any time on Monday doing anything,
14 and in addition, as we had discussed, perhaps over the
15 weekend we can get together on some photographs and kind of
16 put them---

17 **The Court:** Yeah, I just want to be sure that when we
18 start on Tuesday that we're ready to move, that the exhibits
19 have been marked. I mean, there may be some exhibits that
20 are objected to and we can take that up on Monday.

21 **Mr. Robinson:** Yes, sir.

22 **The Court:** So that when we start, the case will flow
23 quickly.

24 **Mr. Durant:** And, Judge, I guess kind of back on the
25 Jackson v. Denno issue, I think it would be our position that

1 the first three hours of the video where the officers are
2 just collecting the gunshot residue and some bloodstains from
3 the defendant, we don't intend to play that portion of the
4 video. I don't know whether Mr. Robinson has an objection to
5 that, but maybe that's something we should take up now as
6 well.

7 **Mr. Robinson:** And I'll be glad to, Your Honor.

8 **The Court:** Yes, sir.

9 **Mr. Robinson:** I would propose to play the entire thing
10 as I think it does go to voluntariness. I think Your Honor
11 made some observations, but, again, under the Jackson v.
12 Denno standard, once you make that determination---

13 **The Court:** It's still for the jury.

14 **Mr. Robinson:** ---that it's allowable, it's still for
15 the jury. So I think, in fairness to my client, they need to
16 see the totality of the circumstances which is---

17 **The Court:** Would you agree though that the part where
18 they're merely extracting evidence from him where there's
19 really no conversation about anything that's going on would
20 probably be cumulative and not necessary?

21 **Mr. Robinson:** Well, not necessarily, Your Honor. His
22 demeanor, his appearance, the timing of it, just so they can
23 get the flavor of exactly what happened... Again, the test
24 here is under the totality of the circumstances. So I think,
25 in fairness to the defendant, the jury should be allowed to

1 see the entire totality of the circumstances.

2 **The Court:** Well, then I guess the question would come
3 up: Would you want to put it in? I mean---

4 **Mr. Robinson:** I certainly would ask to; yes, sir.

5 **The Court:** Okay. But, I mean, in your case.

6 **Mr. Robinson:** Yes, sir.

7 **The Court:** I mean, you always have that---

8 **Mr. Robinson:** I understand. I mean, and that would be
9 again---

10 **The Court:** That they would put in what they wanted and
11 then you could supplement with whatever you---

12 **Mr. Robinson:** Right, just from a timeliness standpoint
13 I do intend to introduce the entire thing, whether it be
14 through the State or whether I need to introduce portions,
15 but I would intend to do that.

16 **The Court:** Okay. Would y'all have any objections to
17 him putting it in without his client taking the stand?

18 **Mr. Finney:** No, Your Honor.

19 **The Court:** Okay.

20 **Mr. Finney:** I mean, it may -- it may trigger -- that
21 would be an introduction of evidence.

22 **The Court:** Well, that would be. He would lose the last
23 argument on that.

24 **Mr. Finney:** But I wouldn't have any objection to that.

25 **The Court:** Okay. All right. I guess we just need to

1 make sure we have a couple of comfortable seats over there as
2 we watch 11 hours of video---

3 **Mr. Robinson:** Pillows and drool pads.

4 **The Court:** All right. Very good, gentlemen. We'll see
5 y'all Monday morning.

6 **Mr. Robinson:** Thank you, Your Honor.

7 (Whereupon, the proceedings were concluded.)
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I, the undersigned Daphne D. Helms, official court reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Clarendon County, South Carolina, on the 6th and 7th of March, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 5, 2015

A handwritten signature in cursive script that reads "Daphne D. Helms". The signature is written in dark ink and is positioned above the printed name.

Daphne D. Helms, court reporter

State of South Carolina

County of Clarendon

In the Court of General Sessions

State of South Carolina,

Plaintiff,

-vs-

Justin Jermaine Johnson,

Defendant.

)
)
)
)
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)
)
)
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)

2011-GS-14-0294

March 10-14 and 18-20, 2014

Transcript of Record

B E F O R E:

The Honorable W. Jeffrey Young, Judge

A P P E A R A N C E S:

Christopher R. DuRant, Esquire
Ernest Adolphus Finney, Esquire
Assistant Solicitors for 3rd Judicial Circuit
Attorneys for the State

Scott L. Robinson, Esquire
Attorney for the Defendant

Bonnie Kelly
Circuit Court Reporter

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VOIR DIRE

Juror #	Name	Race	Sex	Strikes		Def.	Accept
				Ct.	Pl.		
41	Latoya N. Conyers	B	F			X	
12	Lamont Bennett	B	M			X	
164	Joseph K. Smith	W	M			X	
10	Annette Bates	B	F			X	
30	Juan C. Castro Jr.	H	M		X		
160	Frank C. Sexton	W	M		X		
57	Ezekiel R. Ellison	B	M		X		
138	Roxie Ann Nelson	B	F				X
21	Shauntwanet A. Brown	B	F		X		
48	Lula M. Darley	B	F				X
141	Tiffany L. Osborne	W	F				X
197	James L. Williamson	W	M			X	
104	William J. Letourneau	W	M				X
7	Phillis A. Baker	W	F				X
59	Jimmie D. Ethridge	W	F				X
1	Albertis Adams	B	M				X
23	Johnny L. Burke	W	M			X	
179	George T. Tomlin	B	M		X		
11	Mark A. Bellamy	B	M				X
169	Robert J. Stokes	W	M		X		
178	Penny D. Tisdale	W	F				X
18	Victor J. Brailsford	B	M		X		
157	Robert L. Russell	B	M				X
8	Freda L. Bardun	W	F			X	
80	Dominique R. Hilton	B	M				X
40	Herbert Conyers	B	M			X	
16	Henry C. Brailsford	W	M			X	
31	Allethia Clark	B	F				X
121	Gustavo Medina	H	M			X	
54	Mary A. Dozier	B	F			X	
199	Ronald K. Wingard Jr.	W	M				X
24	Tonya D. Byrd	W	F				X
25	Guy L. Cafiero	W	M			X	
22	Rebecca B. Bryant	W	F				X

*For the Court column, please indicate who made the motion to strike the juror "for cause" with a "C" for Court, "P" for Plaintiff, or "D" for Defense.

March 10, 2014

(WHEREUPON, State's Exhibit Numbers 1 through 51
were marked for identification only.)

(WHEREUPON, court convened with all parties present and the following proceedings were had commencing at approximately 2:10 p.m.)

THE COURT: Okay. Solicitor?

MR. FINNEY: Thank you, Your Honor. Good morning. The State of South Carolina, Your Honor, would call docket number 2011-GS-14-0294, State versus Justin Jermaine Johnson, an indictment, six-count indictment, charging -- count one is murder, count two is murder, count three is attempted murder, count four burglary in the first degree, count five kidnapping, and count six possession of a weapon during a violent crime.

THE COURT: All right. Thank you.

All right. Ladies and gentlemen, as the Solicitor said, we are about to begin the trial of Justin Jermaine Johnson on these charges. I'm going to read you the indictment at this time. Count one, murder, that Justin Jermaine Johnson did, in Clarendon County on or about April 6, 2011, willfully, feloniously and intentionally kill the victim, Minor , with malice aforethought, either expressed or implied by means of shooting, and the victim did die as a proximate result

1 thereof on or about April 6, 2011, in Clarendon County in
2 violation of Section § 16-3-10 of the South Carolina Code
3 of Laws 1976 as amended.

4 Count two, murder, that Justin Jermaine Johnson did
5 in Clarendon County on or about April 6, 2011, willfully
6 and feloniously and intentionally killed the victim,
7 Maxine Caraway, with malice aforethought, either
8 expressed or implied, by means of shooting, and the
9 victim did die as a proximate result thereof on or about
10 April 6, 2011, in Clarendon County in violation of
11 Section § 16-3-10 of the South Carolina Code of Laws 1976
12 as amended.

13 Count three, attempted murder, that Justin Jermaine
14 Johnson did in Clarendon on or about 2011/04/06, which
15 would be April 6, 2011, violate section § 16-3-29 of the
16 Code of Laws of South Carolina 1976 as amended, and that
17 the said Justin Jermaine Johnson did, with the intent to
18 kill, attempt to kill another person, Kaisha Caraway,
19 with malice aforethought, either expressed or implied, by
20 shooting at the victim.

21 Count four, burglary in the first degree, that
22 Justin Jermaine Johnson did in Clarendon County on or
23 about April 6, 2011, enter the dwelling of Maxine and
24 John Caraway without consent and with the intent to
25 commit a crime therein, and went in effecting entry or

1 while in the dwelling or in the immediate flight the
2 Defendant was armed with a deadly weapon, to wit a 12-
3 gauge shotgun, in violation of Section § 16-11-311(a) of
4 the Code of Laws of South Carolina 1976 as amended.

5 Count five, kidnapping, that Justin Jermaine Johnson
6 did in Clarendon County on or about April 6, 2011,
7 unlawfully seize, confine, inveigle, decoy, kidnap,
8 abduct, or carry away one Kaisha Caraway without the
9 authority of law in violation of Section § 16-3-910 of
10 the South Carolina Code of Laws 1976 as amended.

11 And count six, possession of a weapon during the
12 commission of a violent crime, that Justin Jermaine
13 Johnson did in Clarendon County on or about April 6,
14 2011, possess a firearm or visibly display what appeared
15 to be a firearm or visibly display a knife during the
16 commission or attempted commission of a violent crime, to
17 wit a 12-gauge shotgun, during two murders, kidnapping,
18 and burglary first in violation of section § 16-23-490 of
19 the South Carolina Code of Laws 1976 as amended.

20 Ladies and gentlemen, let me remind you the fact
21 that the Defendant was arrested, charged and indicted in
22 no way is an indication that he is guilty of these
23 charges. The Defendant has pled not guilty. And
24 therefore, the State has the burden of proving each and
25 every element of each count in the indictment beyond a

1 reasonable doubt. Again, ladies and gentlemen, I remind
2 you that the Defendant does not have to prove his
3 innocence. The burden is completely on the State.

4 Now, ladies and gentlemen, I'm going to remind you
5 -- and the indictment, although it's printed out here, is
6 only the paper that brings this into court and is no way
7 indicative that he committed these crimes.

8 Before we select our jury, there are a number of
9 questions that I'm going to need to ask you. And I'm
10 going to remind you, ladies and gentlemen, that you are
11 still under oath. Now, the reason that you're under oath
12 at this point is this is such a critical stage of the
13 trial. And you know, just like a building must have a
14 firm foundation to be strong and protective of those who
15 live in it, so must a jury be strong as the basis of a
16 fair and impartial trial for those who participate, the
17 Solicitor for the State, and the Defendant who is on
18 trial. And your answers to these questions are the
19 foundation by which these attorneys will build a jury.
20 And they're relying on your truthful answers to help them
21 strike an unbiased jury who will diligently listen to the
22 facts and deliver a just verdict. And ladies and
23 gentlemen, I thank you in advance for your truthfulness
24 as I ask you these questions.

25 The first question is ---

1 MR. ROBINSON: Your Honor, before we start,
2 just briefly -- can I move this?

3 THE COURT: You may. I just was noticing that
4 as well.

5 MR. ROBINSON: It's blocking my view. Thank
6 you, Your Honor.

7 THE COURT: Has anyone in the jury panel ever
8 been related by blood or marriage or had a close personal
9 or business relationship with the Defendant, Justin
10 Jermaine Johnson, who is standing in front with the dark
11 suit on ...

12 If you could turn around so the jury can see you.

13 (WHEREUPON, the Defendant stood and faced the jury.)

14 THE COURT: ... or the alleged victims, Minor
15 or Maxine Caraway or Kaisha Caraway? If
16 so, please stand.

17 All right.

18 THE JUROR: I worked with ---

19 THE COURT: Hold on.

20 I'm going to ask them to come down individually on
21 this particular ...

22 THE CLERK: Juror number 170.

23 THE COURT: Juror 170.

24 THE CLERK: 170.

25 THE COURT: 170. Yes, sir?

1 THE JUROR: I worked with both of the Caraways
2 in their ---

3 THE COURT: Would the fact that you worked with
4 the Caraways make it so that you can't be fair and
5 impartial in this trial?

6 THE JUROR: I'm not sure. I was real close to
7 them.

8 THE COURT: You don't think you could be fair
9 and impartial?

10 THE JUROR: No.

11 THE COURT: All right.

12 This juror can't be fair and impartial. Okay.

13 Thank you. You're excused, sir.

14 THE CLERK: Juror number 127.

15 THE COURT: Yes, sir?

16 THE JUROR: I was friends with the victim and
17 I'm really emotional. I don't want to be around this.

18 THE COURT: You don't think you could be fair
19 and impartial?

20 THE JUROR: No, sir.

21 THE COURT: Thank you, sir. This juror is
22 excused from this trial.

23 THE CLERK: Juror number 12.

24 THE COURT: What's your number? 12?

25 THE JUROR: 12.

1 THE COURT: And what's your name?

2 THE JUROR: Lamont Bennett.

3 THE COURT: All right. Mr. Bennett.

4 THE JUROR: They are kin to my wife. My wife's

5 people.

6 THE COURT: Do you think you could be fair and

7 impartial?

8 THE JUROR: I could.

9 THE COURT: How close -- how close to your wife

10 were they related?

11 THE JUROR: Second, third cousin.

12 THE COURT: This juror's okay for this

13 question.

14 Yes, sir?

15 THE CLERK: Juror number 179.

16 THE COURT: Do you think you could be fair and

17 impartial?

18 THE JUROR: Yes, sir.

19 THE COURT: You can be?

20 Okay for this ...

21 Yes, sir?

22 THE CLERK: Juror number 27 -- 23 I mean.

23 Sorry about that.

24 THE JUROR: I know a John Caraway, but I don't

25 know any details of what's going on.

1 THE COURT: Do you think you could be fair and
2 impartial and listen to the evidence?

3 THE JUROR: I do.

4 THE COURT: Thank you. Very good. Thank you,
5 sir.

6 Now, ladies and gentlemen, this is a list of
7 possible witnesses in this case. I'm going to go through
8 the entire list, and then I'll ask you if anyone has been
9 related by blood or marriage or had a close personal
10 relationship with any of these witnesses: Danny Floyd,
11 Lance Corporal Charles Eaddy of the Clarendon County
12 Sheriff's Office, Kaisha Caraway, John Caraway, Mary
13 Caraway, Henry Abraham, Danisha Brogdon, Lativia Brogdon,
14 Korianda Walker, Charles Jackson, Luke McGowan, Captain
15 Ricky Richards of the Clarendon County Sheriff's Office,
16 Major Kipp Coker of the Clarendon County Sheriff's
17 Office, Investigator Mason Moore formerly of the
18 Clarendon County Sheriff's Office, Investigator Tommy
19 Burgess of the Clarendon County Sheriff's Office,
20 Investigator T.O. Lin Ham formerly of the Clarendon
21 County Sheriff's Office, Investigator Kenneth Clark of
22 the Clarendon County Sheriff's Office, Barbara Proctor
23 formerly of the Clarendon County Sheriff's Office, Maria
24 Rosebloome of the Clarendon County Sheriff's Office, Dr.
25 Cynthia A. Schmall of the Medical University of South

1 Carolina, Special Agent Tina Carter of the State Law
2 Enforcement Division, Special Agent Jeff Crooks of the
3 State Law Enforcement Division, Special Agent Scott
4 Hardee of the State Law Enforcement Division, Ila N.
5 Simmons formerly of the State Law Enforcement Division,
6 Megan Fletcher of the State Law Enforcement Division,
7 Verona Gibson of the State Law Enforcement Division,
8 Vicki Hallman of the State Law Enforcement Division,
9 Catherine Leisy of the State Law Enforcement Division, F.
10 Dan DeFreese of the State Law Enforcement Division, Amy
11 Stephens of the State Law Enforcement Division, Doris
12 Yarborough of the State Law Enforcement Division,
13 Patricia Crooks of the State Law Enforcement Division,
14 and Lisa Waannanen of the State Law Enforcement Division,
15 Deloris Johnson, Harry Devoe, Josie Sheree Johnson,
16 Kimberly Tramice Johnson, Veronica O'dell Johnson, Johnny
17 Lee Lawson, Moses Levy, Jr., Tiffany Renee Ragin, Maxine
18 Ragin, Daniel Simons, Barry Wilder, Coach Leonard
19 Johnson, Willie J. Heggins II, Robert Brogdon, James
20 Brogdon, Lakeisha Brogdon, Maria Rosebloome, Staff
21 Sergeant Blake, Lesheila Boyd, Ms. Shelia Barringer,
22 Coach Thomas Bell, Mr. James Conyers, Jr., Reverend
23 Harold Conyers, Mr. Harold Enhaus, Alfreda Johnson,
24 Frankie Johnson and Annie Blackmon.

25 Is there any member of the jury panel related by

1 blood or marriage or have a close personal or business
2 relationship with any of the witnesses that I have
3 called? If so, please stand.

4 All right. We'll start right over here.

5 Yes, sir. State your name and juror number.

6 THE JUROR: Joshua Miller, 127. The coach.

7 THE COURT: Oh, he's already ...

8 You're already disqualified.

9 All right. State your name and juror number.

10 THE JUROR: Victor Brailsford, 18. And Deloris
11 would be my mother's home nurse.

12 THE COURT: All right. Would the fact that --
13 who was it?

14 THE CLERK: Deloris Johnson, Your Honor.

15 THE COURT: Deloris Johnson. Would the fact
16 that Ms. Johnson had been your mother's home nurse make
17 it so that you can't be fair and impartial and listen to
18 the evidence in this case?

19 THE JUROR: No, sir.

20 THE COURT: Okay. Thank you, sir.

21 Yes, sir?

22 THE JUROR: Juror number 57, Ezekiel Ellison.

23 THE COURT: Okay. Yes, sir.

24 THE JUROR: Deloris is a friend of mine.

25 THE COURT: Would the fact and this is ---

1 THE JUROR: Close friend. Close friend.

2 THE COURT: Deloris Johnson?

3 THE JUROR: That is correct, sir.

4 THE COURT: Would the fact that you know
5 Deloris Johnson make it so that you can't be fair and
6 impartial to the State or the Defendant in this case?

7 THE JUROR: That is correct, sir.

8 THE COURT: You can be fair and impartial?

9 THE JUROR: No, I cannot.

10 THE COURT: You cannot be?

11 THE JUROR: No.

12 THE COURT: All right. Any objection to
13 striking this juror for cause?

14 MR. FINNEY: No, sir.

15 MR. ROBINSON: No, sir.

16 THE COURT: All right. Thank you, sir. Please
17 be seated.

18 Yes, sir, state your ---

19 THE JUROR: Mark Bellamy, juror number 11.

20 Investigator Kenneth Clark.

21 THE COURT: Okay. And would the fact that you
22 know Investigator Kenneth Clark make it so that you can't
23 be fair and impartial to the State or the Defendant in
24 this case?

25 THE JUROR: I can.

1 THE COURT: Thank you, sir.

2 Yes, sir, name and juror number.

3 THE JUROR: I'm Juan Castro, number 30.

4 THE COURT: Yes, sir.

5 THE JUROR: Kenneth Clark.

6 THE COURT: Okay. The fact that you know
7 Kenneth Clark, would that make it so that you can't be
8 fair and impartial to the State or the Defendant in this
9 case?

10 THE JUROR: No, sir.

11 THE COURT: Okay. Thank you, sir.

12 Yes, ma'am?

13 THE JUROR: Arlene Ham, number 73. Lin Ham,
14 formerly of the Sheriff's department, is my brother-in-
15 law.

16 THE COURT: Okay. Would the fact that your
17 brother-in-law used to be with the Sheriff's office make
18 it so that you can't be fair or impartial to the State or
19 to the Defense?

20 THE JUROR: No, sir.

21 THE COURT: All right. Thank you, ma'am.

22 Yes, sir?

23 THE JUROR: Can I come down to talk?

24 THE COURT: Yes, sir.

25 THE CLERK: Juror 161.

1 (WHEREUPON, the following was held on the record, in
2 the presence of the jury panel but out of the
3 hearing of the jury panel.)

4 THE JUROR: I'm John Shaughnessy, number 161.
5 I'm CFO of the hospital and we have misappropriation
6 going on. Tina Carter is one of the investigators
7 working with us, so I didn't know if ---

8 THE COURT: In other words, can you still
9 listen to the evidence in this trial and make a decision
10 based on the evidence?

11 THE JUROR: Yeah. But I just wanted to ---

12 THE COURT: You can listen to the evidence ---

13 THE JUROR: Yeah.

14 THE COURT: Okay. Very good. Thank you, sir.

15 (WHEREUPON, the following was held on the record in
16 open court.)

17 THE COURT: This juror's qualified.

18 All right. Ladies and gentlemen, the attorneys who
19 will be trying this case are Mr. Chip Finney, who's the
20 Solicitor. Mr. Finney, I'd like for you to introduce
21 yourself and your staff.

22 MR. FINNEY: Thank you.

23 Good morning, everyone. My name is Chip Finney. I
24 run the Solicitor's office for the Third Circuit,
25 including Clarendon County. My local lawyer here in

1 Clarendon is Chris DuRant. Chris has been with the
2 office now about three years. And we're very happy to
3 try the case today with him.

4 THE COURT: All right. Mr. Robinson, would you
5 like to introduce yourself and your Public Defender's
6 office and tell them where you work?

7 MR. ROBINSON: Yes, sir. Thank you, Your
8 Honor.

9 My name is Scott Robinson. As the Judge told you,
10 I'm with the Public Defender's office now with Mr. Lewis
11 King Cutter and Ms. Kasha Timmons. Formerly, I was in
12 private practice for seventeen years, primarily with
13 William Johnson and Steve McKenzie and finished up with
14 Billy Coffee, Joe Coffee, Ray Chandler, Sean Kent. And I
15 think that about covers it.

16 THE COURT: All right. Thank you.

17 MR. ROBINSON: Thank you.

18 THE COURT: Ladies and gentlemen, has any
19 member of the jury panel ever been represented by any of
20 these attorneys or on the side of which he was
21 representing someone else or currently represented and
22 that you don't feel that you can -- or have a close
23 personal or business relationship or related by blood or
24 marriage to any of these attorneys? If so, please stand.

25 (No response)

1 MR. FINNEY: Your Honor, may we approach?

2 THE COURT: You may.

3 (WHEREUPON, a bench conference was held off the
4 record.)

5 THE COURT: Has any member of the jury panel
6 formed or expressed an opinion about any issue or matter
7 that's involved in this case? If so, please stand.

8 (No response)

9 THE COURT: All right. Thank you. Ladies and
10 gentlemen, this case involves a prosecution for murder.
11 Would the fact that the murder is charged cause you to
12 favor the State or to resolve a close case in favor of
13 the State? If so, please stand.

14 (No response)

15 THE COURT: Thank you. No one's standing.

16 Would any member of the jury panel tend to give
17 credit to the testimony of a witness who is a law
18 enforcement official or police officer over that of a lay
19 person simply because the witness is a law enforcement
20 official or police officer? If so, please stand.

21 (No response)

22 THE COURT: All right. Thank you. No one's
23 standing.

24 Has anyone read in the Sumter Daily Item, the
25 Clarendon Citizen or the Manning Times or heard any

1 television, radio or any news account revolving around
2 this case that would make it so that you can't be fair
3 and impartial to the State or the Defense in this case?
4 If so, please stand.

5 (No response)

6 THE COURT: All right. Thank you. No one's
7 standing.

8 Has any member of the jury panel or their immediate
9 family ever been the victim of or accused of a crime of
10 violence including kidnapping, burglary, assault, or
11 murder? If so, please stand.

12 (No response)

13 THE COURT: All right. Thank you. No one's
14 standing.

15 Is there any member of the jury panel so opposed to
16 the ownership and/or use of guns that they cannot give
17 both sides a fair trial? If so, please stand.

18 (No response)

19 THE COURT: Thank you. No one's standing.

20 Is there any member of the jury panel who is a
21 contributor of or a member of any organization whose
22 focus is on the purpose of gun control? If so, please
23 stand.

24 (No response)

25 THE COURT: All right. Thank you. No one's

1 standing.

2 Is there any member of the jury panel who is a
3 friend on Facebook or other social media of any of the
4 witnesses or victims in this case? If so, please stand.

5 (No response)

6 THE COURT: All right. Thank you. No one's
7 standing.

8 THE COURT: Does any member of the jury panel
9 follow on any of the witnesses or parties in this matter
10 on Twitter or any other type of social media? If so,
11 please stand.

12 (No response)

13 THE COURT: Thank you. No one is standing.

14 Is there any member of the jury panel or their
15 immediate family who is a contributor to or a member of
16 any group whose focus is the support and furtherance of
17 law enforcement? Such groups would be Mothers Against
18 Drunk Drivers, Students Against Drunk Drivers or Citizens
19 Against Violent Crime. If so, please stand.

20 (No response)

21 THE COURT: All right. Thank you. No one's
22 standing.

23 Has any member of the jury panel or their immediate
24 family ever been involved in a situation of criminal
25 domestic violence? If so, please stand.

1 (No response)

2 THE COURT: All right. Thank you. No one's
3 standing.

4 Is any member of the jury panel or their family a
5 contributor to or a member of any group involved in the
6 advocacy of abolishing criminal domestic violence? If
7 so, please stand.

8 (No response)

9 THE COURT: All right. Thank you. No one's
10 standing.

11 Is any member of the jury panel a member of the
12 Grand Jury which issued the indictment in this case? I
13 doubt it since I'd already asked that other question, but
14 I do need to ask this question.

15 (No response)

16 THE COURT: Thank you. No one's standing.

17 Does any member of the jury panel know of any reason
18 whatsoever why he or she should not serve as a juror in
19 this case with particular emphasis being placed on your
20 ability to be fair and impartial to both the State and
21 the Defendant? If so, please stand.

22 Yes, ma'am. Come forward, please.

23 (WHEREUPON, the following was held on the record, in
24 the presence of the jury panel but out of the
25 hearing of the jury panel.)

1 THE COURT: Please state your name and number,
2 please.

3 THE JUROR: Ruby Player, 145. You see, my
4 mother, my step-mother and father was brutally murdered.

5 THE COURT: And you don't think you could
6 listen to the evidence in this case?

7 THE JUROR: No, no, no. He was murdered by an
8 axe.

9 THE COURT: Did you discuss that with any of
10 the jurors?

11 THE JUROR: No.

12 THE COURT: Thank you, ma'am. We won't call
13 you for this trial.

14 (WHEREUPON, the following was held on the record in
15 open court.)

16 THE COURT: Excuse her for cause.

17 Yes, sir, we've got one more.

18 THE CLERK: Juror number 3.

19 (WHEREUPON, the following was held on the record, in
20 the presence of the jury panel but out of the
21 hearing of the jury panel.)

22 THE JUROR: Women's Advocates. My wife is
23 doing a fund-raiser for WYSE.

24 THE COURT: The fact that your wife -- be fair
25 and impartial?

1 THE JUROR: I really don't know. I'm being
2 honest.

3 THE COURT: Okay. We've got enough. We will
4 strike him for cause. Thank you. Have a seat.

5 (WHEREUPON, a bench conference was held off the
6 record.)

7 THE CLERK: We've got one more. Juror number
8 21.

9 (WHEREUPON, the following was held on the record, in
10 the presence of the jury panel but out of the
11 hearing of the jury panel.)

12 THE COURT: Yes, ma'am?

13 THE JUROR: I have a question. Social media.

14 THE COURT: Are you familiar with any
15 witnesses?

16 THE JUROR: Yes. Kaisha Caraway.

17 THE COURT: You're friends with her?

18 THE JUROR: Uh-huh (affirmative).

19 THE COURT: The fact that you're friends with
20 Kaisha Caraway on social media, could you still be fair
21 and impartial to both the State and the Defendant in this
22 case?

23 THE JUROR: No.

24 THE COURT: So you couldn't listen to the
25 evidence and make a decision? Okay. Have you heard

1 anything about this case?

2 THE JUROR: (Shook head side to side in the
3 negative)

4 THE COURT: Thank you. And I will give you
5 another opportunity.

6 (WHEREUPON, the following was held on the record in
7 open court.)

8 THE COURT: Ladies and gentlemen, Mr. Justin
9 Jermaine Johnson, of course, is an African American. And
10 would the fact cause you to favor or would it give any
11 bias for or against any African American on trial in this
12 case? If so, please stand.

13 (No response)

14 THE COURT: All right. Thank you. No one's
15 standing.

16 Ladies and gentlemen, I asked you a question about
17 whether you had seen anything in the media and would it
18 affect your ability to be fair and impartial. But I'm
19 going to ask the question again a little differently.
20 Did anyone read anything in the Sumter Daily Item,
21 Clarendon Citizen, The Manning Times, hear any newspaper
22 accounts or television or radio reports concerning this
23 particular incident? If so, please stand.

24 (No response)

25 THE COURT: All right. Thank you.

1 Are there any other questions that the State
2 requests that I ask?

3 MR. FINNEY: No, Your Honor.

4 THE COURT: Any other questions?

5 MR. ROBINSON: Your Honor, question number
6 thirty-one.

7 THE COURT: Okay.

8 Has any juror experienced the death of a minor
9 child? If so, please stand.

10 All right, sir. Would the fact that you have
11 experienced the death of a minor child make it so that
12 you can't be fair and impartial in this case?

13 THE JUROR: No, sir.

14 THE COURT: Okay. Thank you.

15 Yes, sir?

16 THE JUROR: Your Honor, I just had a son that
17 got killed, a minor that got killed.

18 THE COURT: Okay. Well, the fact that you've
19 lost a son make it so that you can't be fair and
20 impartial in this case?

21 THE JUROR: No, sir.

22 THE COURT: All right. Thank you.

23 Yes, sir. Mr. Castro?

24 THE JUROR: Yes, sir. My little cousin.

25 THE COURT: Okay. Would the fact that you've

1 lost a cousin make it so that you can't be fair and
2 impartial in this case?

3 THE JUROR: No, sir.

4 THE COURT: All right. Thank you.

5 Sir, what was your juror name and number?

6 THE JUROR: 147, Harry Pringle.

7 THE COURT: Okay. Thank you.

8 All right. Now, are there any other questions, Mr.
9 Robinson?

10 Yes, ma'am?

11 THE JUROR: I'm sorry. I just want to make sure
12 it's covered. I'm juror 22.

13 THE COURT: Yes, ma'am.

14 THE JUROR: I lost a grandchild due to illness.

15 THE COURT: Okay. And that would not affect
16 your judgement?

17 THE JUROR: No.

18 THE COURT: Okay. Thank you.

19 Mr. Robinson, does that complete your questions?

20 MR. ROBINSON: No, sir.

21 THE COURT: And for the State as well?

22 MR. FINNEY: No, Your Honor.

23 MR. ROBINSON: The Court's indulgence just a
24 minute, Your Honor.

25 THE COURT: Yes, sir.

1 MR. ROBINSON: That completes my requested voir
2 dire. Thank you.

3 THE COURT: All right. Thank you.

4 Ladies and gentlemen, what's going to happen now is
5 the Clerk will call your name. When your name is called
6 ...

7 Do y'all want to bring them up front?

8 THE CLERK: Yes, sir.

9 THE COURT: You'll come forward and turn and
10 face the audience. Ladies and gentlemen, the State and
11 the Defense will have an opportunity to strike you. And
12 they can strike you for any reason or no reason except
13 for by race or gender.

14 Now, ladies and gentlemen, please do not take it
15 personally if you are stricken as a juror in this case.
16 Again, these attorneys have some idea as to the jury that
17 they think would be the most fair and impartial. And
18 that's going to differ between each side. So, please,
19 when you come forward, bring all of your personal items
20 with you so that if you get selected, then you will have
21 them right there with you.

22 All right. Is the State ready to proceed?

23 MR. FINNEY: Yes, Your Honor.

24 (WHEREUPON, a bench conference was held off the
25 record.)

1 THE COURT: Ladies and gentlemen, I do have one
2 more question that the parties have consented to me
3 asking. Has any member of the jury panel heard anything
4 about this case in any way whatsoever while you're here
5 today in the courtroom or in and out of the courtroom?

6 (No response)

7 THE COURT: All right. Thank you. No one is
8 standing.

9 Okay. Are you ready?

10 THE CLERK: As I call your name, as the Judge
11 said, bring your belongings with you, come right through
12 the aisle here and stand right here until I give -- until
13 I tell you to either have a seat in the jury box or
14 either have a seat back in the jury pool.

15 Number 41, Latoya Conyers.

16 What say the State?

17 MR. FINNEY: Please swear the juror.

18 THE CLERK: What say the Defense?

19 MR. ROBINSON: Please excuse Ms. Conyers.

20 THE CLERK: Okay. Have a seat back in the jury
21 pool, please, ma'am.

22 Number 12, Lamont Bennett.

23 What say the State?

24 MR. FINNEY: Please swear the juror.

25 THE CLERK: The Defense?

1 MR. ROBINSON: Please excuse Mr. Bennett.

2 THE CLERK: You can have a seat back in the
3 jury pool, sir. Thank you.

4 Number 164, Joseph K. Smith.

5 What say the State?

6 MR. FINNEY: Please swear the juror.

7 THE CLERK: The Defense?

8 MR. ROBINSON: Please excuse Mr. Smith.

9 THE CLERK: You can have a seat back in the
10 jury pool, sir. Thank you.

11 Number 10, Annette Bates.

12 What say the State?

13 MR. FINNEY: Please swear the juror.

14 THE CLERK: The Defense?

15 MR. ROBINSON: Please excuse Ms. Bates.

16 THE CLERK: You can have a seat back in the
17 jury pool, ma'am. Thank you.

18 Number 30, Juan C. Castro, Jr.

19 What say the State?

20 MR. FINNEY: Please excuse the juror from this
21 trial.

22 THE CLERK: You can have a seat back in the
23 jury room, sir. Thank you.

24 Number 160, Frank C. Sexton.

25 What say the State?

1 MR. FINNEY: Please excuse the juror from this
2 trial.

3 THE CLERK: You can have a seat back in the
4 jury pool, sir. Thank you.

5 Number 138, Roxie Ann Nelson.

6 What say you for the State?

7 MR. FINNEY: Please swear the juror.

8 THE CLERK: The Defense?

9 MR. ROBINSON: Please swear Ms. Nelson.

10 THE CLERK: Have a seat in the jury box, ma'am.
11 Thank you.

12 Number 48, Lula M. Darley.

13 What say the State?

14 MR. FINNEY: Please swear the juror.

15 THE CLERK: The Defense?

16 MR. ROBINSON: Please swear Ms. Darley.

17 THE CLERK: Have a seat in the jury box, ma'am.

18 THE COURT: Let me see the attorneys up here
19 real quick.

20 (WHEREUPON, a bench conference was held off the
21 record.)

22 THE CLERK: Number 21, Shauntwanet Brown.

23 What say the State?

24 MR. FINNEY: Please swear the juror.

25 THE CLERK: The Defense?

1 MR. ROBINSON: Please excuse Ms. Brown.

2 THE CLERK: Okay. You can have a seat back in
3 the jury pool, please, ma'am. Thank you.

4 Number 141, Tiffany L. Osborne.

5 What say the State?

6 MR. FINNEY: Please swear the juror.

7 THE CLERK: The Defense?

8 MR. ROBINSON: Please swear Ms. Osborne.

9 THE CLERK: Just go have a seat in the box,
10 ma'am.

11 Number 197, James L. Williamson.

12 What say the State?

13 MR. FINNEY: Please swear the juror.

14 THE CLERK: And the Defense?

15 MR. ROBINSON: Please excuse Mr. Williams.

16 THE CLERK: Have a seat the jury pool.

17 Number 104, William J. Letourneau.

18 What say the State?

19 MR. FINNEY: 104?

20 THE CLERK: Yes, 104. Uh-huh (affirmative).

21 MR. FINNEY: Please swear the juror.

22 THE CLERK: For the Defense?

23 MR. ROBINSON: Please swear Mr. Letourneau.

24 THE CLERK: Okay. Have a seat in the jury box,
25 sir.

1 Number 7, Phyllis A. Baker.

2 What say the State?

3 MR. FINNEY: Swear the juror.

4 THE CLERK: For the Defense?

5 MR. ROBINSON: Please swear Ms. Baker.

6 THE CLERK: Have a seat in the jury box, ma'am.

7 Number 59, Jimmie D. Ethridge.

8 What say the State?

9 MR. FINNEY: Please swear the juror.

10 THE CLERK: The Defense?

11 MR. ROBINSON: Please swear Ms. Ethridge.

12 THE CLERK: Have a seat in the jury box, ma'am.

13 Thank you.

14 Number 1, Albertis Adams.

15 What say the State?

16 MR. FINNEY: Please swear the juror.

17 THE CLERK: The Defense?

18 MR. ROBINSON: Please swear Mr. Adams.

19 THE CLERK: Number 23, Johnny L. Burke.

20 What say the State?

21 MR. FINNEY: Please swear the juror.

22 THE CLERK: The Defense?

23 MR. ROBINSON: Please excuse Mr. Burke.

24 THE CLERK: Number 179, George T. Tomlin.

25 What say the State?

1 MR. FINNEY: Please excuse the juror for this
2 trial.

3 THE CLERK: Have a seat back in the pool, sir.
4 Thank you.

5 Number 11, Mark A. Bellamy.

6 What say the State?

7 MR. FINNEY: Please swear the juror.

8 THE CLERK: And the Defense?

9 MR. ROBINSON: Please swear Mr. Bellamy.

10 THE CLERK: Have a seat in the jury box, sir.
11 Thank you.

12 Number 169, Robert J. Stokes.

13 What say the State?

14 MR. FINNEY: Please excuse the juror for this
15 trial.

16 THE CLERK: All right. You may have a seat.
17 Thank you.

18 Number 178, Penny D. Tisdale.

19 What say the State?

20 MR. FINNEY: Please swear the juror.

21 THE CLERK: The Defense?

22 MR. ROBINSON: Please swear Ms. Tisdale.

23 THE CLERK: Have a seat in the jury box, ma'am.
24 Thank you.

25 Number 18, Victor J. Brailsford.

1 What say the State?

2 MR. FINNEY: Please excuse the juror from this
3 trial.

4 THE CLERK: You can have a seat back in the
5 jury pool, sir. Thank you.

6 Number 157, Robert L. Russell.

7 What say the State?

8 MR. FINNEY: Please swear the juror.

9 THE CLERK: The Defense?

10 MR. ROBINSON: Please swear Mr. Russell.

11 THE CLERK: Have a seat in the jury box,
12 please, sir. Thank you.

13 Number 8, Freda L. Bardun.

14 What say the State?

15 MR. FINNEY: Please swear the juror.

16 THE CLERK: The Defense?

17 MR. ROBINSON: Please excuse Ms. Bardun.

18 THE CLERK: Number 80, Dominique R. Hilton.

19 What say the State?

20 MR. FINNEY: Please swear the juror.

21 THE CLERK: The Defense?

22 MR. ROBINSON: Please swear Mr. Hilton.

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

24 Number 40, Herbert Conyers.

25 What say the State?

1 MR. FINNEY: Please swear the juror.
2 THE CLERK: The Defense?
3 MR. ROBINSON: Please excuse Mr. Conyers.
4 THE CLERK: Number 16, Henry C. Brailsford.
5 What say the State?
6 MR. FINNEY: Please swear the juror.
7 THE CLERK: And the Defense?
8 MR. ROBINSON: Please excuse Mr. Brailsford.
9 THE CLERK: Number 31, Allethia Clark.
10 What say the State?
11 MR. FINNEY: Please swear the juror.
12 THE CLERK: The Defense.
13 MR. ROBINSON: Please swear Ms. Clark.
14 THE CLERK: Ms. Clark, have a seat in the jury
15 box. Thank you.
16 THE COURT: We'll have two alternates.
17 THE CLERK: Number 121, Gustavo Medina.
18 MR. ROBINSON: Your Honor, is it two and one?
19 THE COURT: Two and one.
20 THE CLERK: What say the State?
21 MR. FINNEY: Please swear the juror.
22 THE CLERK: The Defense?
23 MR. ROBINSON: Please excuse Mr. Medina.
24 THE CLERK: Number 54, Mary A. Dozier.
25 What say the State?

1 MR. FINNEY: Please swear the juror.

2 THE CLERK: The Defense?

3 MR. ROBINSON: Please excuse Ms. Dozier.

4 THE JUROR: Thank you.

5 THE CLERK: Number 199, Ronald K. Wingard, Jr.

6 What say the State?

7 MR. FINNEY: Please swear the juror.

8 THE CLERK: The Defense?

9 MR. ROBINSON: Please swear Mr. Wingard.

10 THE CLERK: Number 24, Tony D. Byrd.

11 What say the State?

12 MR. FINNEY: Please swear the juror.

13 THE CLERK: And the Defense.

14 MR. ROBINSON: Please swear Mr. Byrd.

15 THE COURT: Why don't you call out the names of
16 all of the jurors.

17 MR. ROBINSON: Your Honor, please, could we
18 have a conference with you?

19 THE COURT: You may.

20 (WHEREUPON, a bench conference was held off the
21 record.)

22 THE COURT: All right. Ladies and gentlemen,
23 we're going to have three alternates on this trial. So
24 you'll have another opportunity.

25 THE CLERK: Number 25, Guy L. Cafiero.

1 What say the State?

2 MR. FINNEY: Please swear the juror.

3 THE CLERK: The Defense?

4 MR. ROBINSON: Please excuse Mr. Cafiero.

5 THE CLERK: Number 22, Rebecca B. Bryant.

6 What say the State?

7 MR. FINNEY: Please swear the juror.

8 THE CLERK: The Defense?

9 MR. ROBINSON: Please swear Ms. Bryant.

10 THE CLERK: Okay.

11 THE COURT: All right. You want to call out
12 the name of the jury?

13 THE CLERK: Yes, sir.

14 As I call your name, please raise your hand for us,
15 okay? Roxie Ann Nelson, Lula M. Darley, Tiffany Osborne,
16 William J. Letourneau, Phyllis A. Baker, Jimmie D.
17 Ethridge, Albertis Adams, Mark A. Bellamy, Penny D.
18 Tisdale, Robert L. Russell, Dominique Hilton, Allethia
19 Clark. Okay. And our alternates are: number one is
20 Ronald K. Wingard, Jr., number two is Tonya Byrd, and
21 number three is Rebecca Bryant.

22 Thank you.

23 THE COURT: Thank you, ladies and gentlemen.

24 Y'all will be the jury who will be hearing this trial.

25 We've got a few matters to take up now, so I'm going to

1 send you back to the jury room for just a few minutes.
2 And it's going to be cramped back there. But where we
3 actually try the case, it'll be at another location. So
4 it won't be as cramped as you'll find it back there. But
5 while you're back there, if you could please select
6 amongst yourselves who you want to be the foreperson of
7 your jury. It can be any of the twelve primary jurors;
8 it cannot be the alternates. So if y'all could just take
9 a few minutes and do that, we'll bring you back out here.

10 Thank you, ladies and gentlemen. Please do not
11 discuss anything about the case while you're back there.

12 (WHEREUPON, the jury exited the open court at
13 approximately 12:22 p.m.)

14 THE COURT: Are there any objections to the
15 jury that has been selected or the manner in which they
16 have been selected? From the State?

17 MR. FINNEY: Your Honor, we do have a matter
18 not related to Batson that we would like the Court to
19 address before you go any further.

20 THE COURT: All right, sir.

21 MR. FINNEY: It has been brought to the State's
22 attention that as it concerns juror number 138, who is on
23 the jury as a primary juror, that she may have had a
24 prior relationship with the Defendant or the Defendant's
25 family that she did not disclose to the Court. And we

1 would like to have some inquiry of that, Your Honor,
2 because we do not want her to withhold any information at
3 this point.

4 THE CLERK: Okay. We've got enough alternates.
5 That's why I got an extra alternate, just for something
6 like that.

7 MR. FINNEY: As far as the Batson motion, Your
8 Honor, we do not have any objection to the selection of
9 the jury.

10 THE COURT: Okay. Mr. Robinson?

11 MR. ROBINSON: And none from the Defense, Your
12 Honor.

13 THE COURT: All right. Now, ladies and
14 gentlemen, we have our jury, therefore, you won't be
15 needed today. I'm going to ask that you call back after
16 six p.m. tonight to see if it will be necessary for you
17 to come back here to serve as jurors on other cases this
18 week. I'm not sure what's next in line. But ladies and
19 gentlemen, have a nice day. I won't tell anybody you're
20 not here. So you can do what you want to for the rest of
21 the day. But call back after six.

22 (WHEREUPON, the jury panel exited the open court at
23 approximately 12:24 p.m.)

24 THE COURT: Concerning juror number 138, y'all
25 want me to question her in here, or how do y'all want to

1 handle it? Mr. Robinson, do you consent to her just
2 being taken off?

3 MR. ROBINSON: Your Honor, I mean, I would like
4 for her to be questioned and the Court make that
5 determination. I also find it hard to believe that
6 nobody in the jury panel has read or heard or seen
7 anything about this. There are a number of different
8 reasons that don't indicate deception why people actually
9 doesn't remember anything like that, so I would like the
10 Court ---

11 THE COURT: Hold on one second. Let me see
12 y'all for just a second as well.

13 (WHEREUPON, a bench conference was held off the
14 record.)

15 THE COURT: Well, let's bring -- this is Ms.
16 Osborne.

17 MR. ROBINSON: Nelson.

18 THE COURT: Ms. Nelson, let's bring her in
19 here. Just bring Ms. Nelson. Tell her she's not in
20 trouble. We just need to -- people get all panicked.

21 (WHEREUPON, juror number 138, Roxie Ann Nelson,
22 entered the open court.)

23 THE COURT: Hey, Ms. Nelson. Come on over
24 here. You're not in trouble. Ms. Nelson, one side
25 believes that you knew -- did you teach or did you know
26 the Defendant?

1 THE JUROR: I taught many, many years.

2 THE COURT: The fact that you had taught him,
3 why didn't you disclose that earlier?

4 THE JUROR: I didn't quite understand.

5 THE COURT: Okay. Would the fact that you have
6 taught him many years ago make it so that you can't be
7 fair to both parties in this case?

8 THE JUROR: (No verbal response)

9 THE COURT: You can be or you cannot be?

10 THE JUROR: Cannot.

11 THE COURT: You cannot be? Can you be fair and
12 impartial and to the Defense in this case?

13 THE JUROR: Repeat the question, please.

14 THE COURT: Because of your prior relationship
15 with the Defendant, do you believe that you can be fair
16 and impartial to the State and the Defendant in this
17 case?

18 THE JUROR: I can.

19 THE COURT: You can be fair?

20 THE JUROR: I can be.

21 THE COURT: Any other questions that the State
22 wanted or the Defense wanted to ask?

23 MR. ROBINSON: None from the Defense, Your
24 Honor.

25 THE COURT: Mr. Finney?

1 MR. FINNEY: Your Honor, the State obviously
2 has a motion. But would she be able to disclose to you
3 any relationship she has with the Defendant's family?

4 THE COURT: Do you have any relationship with
5 anyone in the Defendant's family?

6 THE JUROR: No relationship.

7 THE COURT: Okay. Do you have a -- I'm not
8 talking kinship. I'm talking about you having a
9 professional or personal relationship with anybody on the
10 Defense side, such as the lady in the front row.

11 THE JUROR: Yes, I do.

12 THE COURT: Okay. What's your relationship
13 with her?

14 THE JUROR: We taught at the same district.

15 THE COURT: Okay. And do you know her fairly
16 well?

17 THE JUROR: No.

18 THE COURT: And the fact that you know her,
19 would that make it so that you can't be fair and
20 impartial to the State or the Defense in this case?

21 THE JUROR: I can be fair.

22 THE COURT: You can be fair and impartial?

23 THE JUROR: Fair and impartial.

24 MR. FINNEY: No more questions, Your Honor.

25 THE COURT: All right. Thank you, ma'am. You

1 can go on back with the jury. Please do not disclose to
2 any of the other jurors what we talked about.

3 THE JUROR: Yes, sir.

4 THE COURT: Thank you.

5 (WHEREUPON, the juror exited the courtroom.)

6 MR. FINNEY: Your Honor, if it please?

7 THE COURT: Sure.

8 MR. FINNEY: For the record, the State would
9 move the recusal of this juror. Not only did she not
10 disclose her relationship, but she hesitated
11 significantly when you were asking the question about
12 fairness. And she has another relationship with another
13 witness or supporter.

14 THE COURT: All right. Mr. Robinson?

15 MR. ROBINSON: Your Honor, I certainly
16 understand the State's position or concern, I guess. And
17 I guess their argument may have been that they would have
18 used her as a strike, because I do believe they had some
19 left. She was the first juror seated.

20 THE COURT: Right.

21 MR. ROBINSON: I think any hesitation on Ms.
22 Nelson's part -- I don't think it's dishonest -- I think
23 she honestly, as she told, is having trouble
24 understanding. She had to have you repeat, "Can you be
25 fair and impartial?"

1 THE COURT: Well, my concern now if she's got
2 that much trouble understanding, is she going to
3 understand what's going to go on in trial? I
4 intentionally picked an extra alternate. So you are back
5 to where we were. I am going to recuse this juror from
6 this trial. Thank you.

7 Anything else, before I bring our jury panel back?
8 And we want to start tomorrow morning at nine thirty. Is
9 that correct?

10 MR. FINNEY: Yes, sir.

11 THE COURT: Let's bring them back. We'll
12 select one of the alternates out of a hat.

13 THE CLERK: Just give me a minute to write
14 their names down.

15 THE COURT: Okay. Just put 1, 2, and 3, and
16 we'll go in that order.

17 THE CLERK: Just 1, 2, 3? Okay.

18 (WHEREUPON, the jury entered the open court at
19 approximately 12:33 p.m.)

20 THE COURT: Thank you. You may be seated. All
21 right. Ladies and gentlemen -- any objection to me
22 drawing?

23 MR. ROBINSON: No, Your Honor.

24 MR. FINNEY: No, Your Honor.

25 THE COURT: It will be Tonya Byrd. All right.

1 Ladies and gentlemen, who did you select to be your
2 foreperson?

3 THE JUROR: (Raised hand)

4 THE COURT: And your name, sir?

5 THE JUROR: Mark A. Bellamy.

6 THE COURT: Mr. Bellamy, thank you for taking
7 on this important responsibility.

8 And Ms. Nelson, we decided because you knew the
9 Defendant a long time ago, we're going to exclude you
10 from the jury. So you won't have to be on this jury.

11 And Ms. Byrd, we randomly selected you. And you are
12 now a primary juror. Okay?

13 All right. Ladies and gentlemen, again, thank you
14 for participating in this trial. Ladies and gentlemen,
15 this trial won't start until tomorrow morning at nine
16 thirty. So I'm going to dismiss you for the balance of
17 the day. Please do not discuss this case with anyone.
18 Don't go back and go on your computers and try to find
19 any story. The idea is that everything that you will
20 need to render a just and true verdict will come from
21 inside this courtroom. And I'll tell you that over and
22 over again. And I'll tell you the easiest way not to
23 talk about this trial is just don't say anything.

24 I used to work at the National Security Agency when
25 I was in the military. And they said, NSA stood for

1 never say anything. The thing is, if you don't go
2 telling everybody that you've got jury duty on a trial
3 that's coming up, then they're not going to ask you about
4 it. And then you won't be -- because if you tell them,
5 "I've got this trial coming up and I'm on the jury,"
6 they're going to say, "You know, one time I was on a
7 jury, and this is what happened." Well, that doesn't
8 matter. This is a different case. And I don't want
9 anything coming into your commonsense minds that would
10 affect your ability to be fair and impartial in this.

11 So ladies and gentlemen, we've got a long week.
12 Please go home and get a good nights' rest. And please
13 do not discuss the case with anyone. If you see anything
14 in the news tomorrow morning, please do not read it. Any
15 questions?

16 THE JUROR: Yes, sir. We do have a question.
17 You said something before we left earlier about that we
18 wouldn't be back there, we'd be trying it someplace else?

19 THE COURT: Yeah. I was going to follow up on
20 that.

21 THE JUROR: Okay.

22 THE COURT: The trial will take -- you won't
23 come back here. You'll go to the County offices.

24 Is that where it is?

25 THE CLERK: The County, the new County

1 Administration Building in the old Bi-Lo Shopping Center.

2 THE COURT: 411 Sunset Drive. It's where you
3 go to pay your taxes is where you go to be jurors. All
4 right. Thank you, ladies ---

5 Yes, sir.

6 THE JUROR: That's where we meet at in the
7 morning, right?

8 THE COURT: That's where you go in the morning.
9 Nine-thirty tomorrow morning.

10 THE JUROR: Nine-thirty, okay.

11 THE COURT: There will be a lot more room, and
12 it will be a much better place. And we can't wait to get
13 back into the big courthouse. That could be about three
14 years on that. Tomorrow there will be somebody there
15 absolutely. From this point forward, you'll be guided
16 everywhere you go.

17 THE CLERK: And we'll all be there tomorrow
18 morning to sign you all in. Okay? We're going to take
19 good care of you.

20 THE COURT: Thank you, ladies and gentlemen.
21 Have a wonderful day.

22 (WHEREUPON, the jury exited the open court at
23 approximately 12:37 p.m.)

24 THE COURT: You may be seated. Why don't we go
25 ahead and take our recess now and then come back at two

1 o'clock. We'll do all of our pre-trial motions, get all
2 of our exhibits pre-marked and we'll be ready to rock and
3 roll tomorrow morning at nine.

4 MR. FINNEY: Thank you, Your Honor.

5 MR. ROBINSON: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (WHEREUPON, court stood at recess for a lunch break
8 during which State's Exhibit Number 52 was marked
9 for identification only.)

10 THE COURT: All right.

11 MR. DURANT: Your Honor, the State's ready to
12 proceed with the hearing of the Defendant's competence
13 pursuant to State v. Blair.

14 THE COURT: All right. Call your first
15 witness.

16 MR. DURANT: The State calls Dr. Richard
17 Frierson.

18 (WHEREUPON, witness was duly sworn.)

19 THE COURT: You may proceed.

20 **RICHARD FRIERSON,**

21 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. DURANT:

24 Q. Dr. Frierson, what is your occupation?

25 A. I am a forensic psychiatrist.

1 Q. And are you licensed to practice in South Carolina?

2 A. Yes.

3 Q. And how long have you been licensed?

4 A. I've been licensed to practice medicine since 1989.

5 Q. And you say you're a forensic psychiatrist. So
6 forensics, is that the area that you specialize in?

7 A. Yes.

8 Q. Is there a professional board or organization in
9 South Carolina that certifies that specialty?

10 A. There is a national board, the American Board of
11 Psychiatry and Neurology, which offers board
12 certification in general and forensic psychiatry, and I'm
13 boarded in both specialities.

14 Q. And how long have you been board certified?

15 A. Since 1992.

16 Q. Would you briefly run through your educational
17 background for us?

18 A. Sure. My undergraduate degree was actually a
19 bachelor's of music which I got from the University of
20 South Carolina in 1984. I then went to medical school
21 and graduated the University of South Carolina School of
22 Medicine in 1988. I completed four years of residency in
23 general psychiatry at William S. Hall Psychiatric
24 Institute in 1992. I then completed a one-year
25 fellowship in forensic psychiatry in 1993.

1 Q. And since 1993 when you completed that fellowship,
2 where have you been practicing?

3 A. From probably from '93 until about 2008, I was
4 working at the Department of Mental Health doing court
5 evaluations. And then from 2008 I moved from the
6 Department of Mental Health to the University of South
7 Carolina School of Medicine where I'm currently employed.
8 However, through a contract I continue to do evaluations
9 for the Department of Mental Health.

10 Q. Beyond your formal education, have you obtained any
11 further education or training in the field of forensic
12 psychiatry?

13 A. I mean, we're required to do continuing medical
14 education. I do approximately thirty hours a year.

15 Q. Are you involved in teaching in that field?

16 A. I am. I run the forensic psychiatry fellowship at
17 the university where we train people who are completing
18 their residency in psychiatry to become forensic
19 psychiatrists.

20 Q. Have you previously been qualified to give expert
21 testimony in a judicial proceeding?

22 A. Yes.

23 Q. In general sessions court?

24 A. Yes.

25 Q. How many times?

1 A. I'm not sure exactly. It's over two hundred. I can
2 tell you I've testified in every county in South Carolina
3 except one.

4 Q. When was the last time you were qualified as an
5 expert?

6 A. This morning.

7 MR. DURANT: Your Honor, at this time, I'd ask
8 -- or the State would offer Dr. Richard Frierson as an
9 expert in the field of forensic psychiatry.

10 THE COURT: Any objection, Mr. Robinson, or
11 would you like to voir dire him first?

12 MR. ROBINSON: I'm not ignoring Your Honor.
13 I'm thinking. Obviously, Your Honor, based on those
14 qualifications and my knowledge of Dr. Frierson, I
15 wouldn't have any questions.

16 THE COURT: All right. Well, I will deem him
17 to be an expert in forensic psychology. You may proceed
18 to ask him questions concerning that.

19 Q. Dr. Frierson, did you receive an order from the
20 Court to examine this Defendant, Justin Johnson,
21 concerning his competency to stand trial?

22 A. Yes.

23 Q. And did you obtain some information prior to an
24 exam?

25 A. We did.

1 Q. When was that exam done?

2 A. The competency evaluation was conducted in Columbia
3 on January 17, 2013.

4 Q. Who was present for the evaluation?

5 A. I was the primary examiner. There was another
6 doctor, Dr. Raynia McGee, who was the secondary examiner.
7 There was also a social worker, Tia Thomas, present as
8 well as a fourth-year medical student that was rotating
9 with me, Evan Diegal.

10 Q. Tell me what information, if any, did you review
11 prior to the examination?

12 A. Well, in addition to the court order, we had all of
13 the arrest warrants in this case, the two arrest warrants
14 for murder, one for attempted murder, one for kidnapping,
15 one for burglary and one for possession of a weapon
16 during the commission of a violent crime. We had
17 incident reports related to the alleged offense. We had
18 some notes from, I guess, investigators and people who
19 were, I guess, initially contacted and related to the
20 alleged offense. We obtained a social history from the
21 Defendant's mother to get some background information.

22 Q. During the examination itself, tell me what was
23 done?

24 A. The first thing we do is we find out how things are
25 going for him in the detention center. We screen him for

1 signs and symptoms of mental illness. We go over any
2 psychiatric history, whether he's ever been hospitalized
3 inpatient or received outpatient psychiatric treatment.
4 We go over his history of using alcohol or any illicit
5 substances. We go over his medical history, history of
6 surgeries, allergies. We go over his family history with
7 particular interest in whether there has been a family
8 history of any mental illness. Then we do a social
9 history, which is from childhood to adulthood. I mean,
10 how was his early development, schooling, behavior as a
11 child? How has he held employment? What kind of jobs
12 has he had? How far did he go in school? What kind of
13 relationships has he had? Does he have children? Ever
14 been married? Those sorts of things.

15 Then we do a mental status examination which just
16 looks to see how clearly he's thinking on the day that we
17 see him. And then most importantly, we do a competency
18 assessment which we ask him a series of questions related
19 to court proceedings and the courtroom. Does he
20 understand what the judge does, the solicitor or the
21 defense attorney, what a jury is, what their function is,
22 how he could plead, what he's charged with? What could
23 happen if he's convicted? What's a plea bargain? How
24 does that work? What is evidence? How does evidence
25 work? What's a witness? We ask him to problem-solve

1 within the legal system. We say, "What would you do if
2 someone was lying about you on the witness stand?" "How
3 would you handle that?" So all of those things in
4 addition to his ability to relate to us goes into our
5 opinion regarding his competency.

6 Q. How much time did you spend with the Defendant that
7 day?

8 A. On that day I believe it was one hour and fifty
9 minutes, so just short of two hours.

10 Q. And did you have an opportunity to meet with Mr.
11 Johnson again today?

12 A. Yeah. I met with him twice since then. I met with
13 him today, yes.

14 Q. You alluded to this earlier. But you are familiar
15 with the legal standard for weighing the competency to
16 stand trial?

17 A. Yes.

18 Q. And what was done to determine if the Defendant met
19 these standards in the area of his ability to understand
20 the proceedings?

21 A. Yes. The standard, if that's what you're asking, is
22 a statutory annotation section § 44-23-410. It requires
23 that the Defendant has an understanding of the
24 proceedings against him and has the ability to rationally
25 consult with his attorney regarding a defense. Mr.

1 Johnson performed very well on our competency assessment.
2 He knew what he was charged with, what could happen if he
3 would be convicted. I mean, there was a little bit -- he
4 didn't realize at first about the burglary charge and the
5 kidnapping, but he understood them and was able to define
6 what the allegations are against him that would
7 constitute those charges. He understands the role of his
8 attorney, and was able to state what he would like his
9 attorney to do for him. He said that he trusts his
10 attorney. He reiterated that this morning -- I mean,
11 this afternoon -- with me that he believes Mr. Robinson
12 is doing a good job and that he is able to work with him
13 well.

14 He understands the role of the Solicitor. He
15 understands the role of the Judge and the jury. He
16 understood that there were twelve jurors on a jury. He
17 knew that the verdict had to be unanimous.

18 He was aware of the pleas of guilty and not guilty,
19 was able to define them. He understands that a plea
20 bargain would be a deal that he would make as part of his
21 sentence. He understood that he would have to plead
22 guilty if he were to take a plea bargain. We thought
23 that he was competent to accept or reject a plea offer in
24 his case.

25 He correctly solved the hypothetical problem. He

1 understood what to do if someone was lying about him. He
2 understands the importance of appropriate courtroom
3 behavior and that you cannot make an outburst, or that
4 could be viewed unfavorably.

5 He was able to discuss potential evidence and gave
6 examples of evidence including a gunshot residue test.
7 He was able to state a desired outcome. And he answered
8 all of our questions that we had of him in a way that we
9 could understand him. And it's our opinion that he would
10 be able to answer his attorney's questions in a way that
11 his attorney should be able to understand him.

12 So based on his courtroom knowledge and his ability
13 to interact with us and, therefore, hopefully interact
14 with his attorney, we reached an opinion that he has
15 sufficient understanding of the legal systems and a
16 rational ability to consult with his counsel. Therefore,
17 we believe that he is competent to stand trial.

18 Q. Any evidence that Mr. Johnson is intellectually
19 disabled?

20 A. No.

21 Q. Any evidence that Mr. Johnson has any form of mental
22 illness?

23 A. No. He has -- first of all, he graduated near the
24 top of his high school class. I mean, he was a very
25 bright student. There was no evidence of intellectual

1 impairment. And he has never been treated for mental
2 illness. He's never sought treatment for mental illness.
3 He's never been diagnosed with a mental illness. He's
4 undergone screening as part of his service because he was
5 in the military. But other than that, he has never
6 received treatment, and there's no history of mental
7 illness.

8 Q. Just to reiterate, what is your expert opinion to a
9 reasonable degree of medical certainty regarding Justin
10 Johnson's competency to stand trial?

11 A. It's my opinion that he is currently competent to
12 stand trial.

13 Q. And Dr. Frierson, I want to show ---

14 MR. DURANT: And first let me mark this as a
15 Court's exhibit.

16 (WHEREUPON, Court's Exhibit Number 1 was marked for
17 identification only.)

18 Q. Dr. Frierson, let me show you what's been marked as
19 Court's Exhibit 1 and ask if you recognize that?

20 A. This appears to be a copy of the report I prepared
21 in January of 2013 containing the findings of my
22 competency assessment.

23 MR. DURANT: And, Your Honor, I'd ask to admit
24 that report.

25 THE COURT: Any objection, Mr. Robinson?

1 MR. ROBINSON: Did he -- I mean, he's
2 authenticated it comes in?

3 THE COURT: He's authenticated it. Okay.
4 Without objection.

5 (WHEREUPON, Court's Exhibit Number 1 was admitted
6 for purposes of the hearing.)

7 THE COURT: Go ahead.

8 Q. Dr. Frierson, if I may just briefly continue. You
9 alluded to having met with Mr. Johnson twice since this
10 initial competency evaluation. What was the first time
11 you met with him after that?

12 A. I met with him on June 17th of 2013.

13 Q. And was that pursuant to a court order for an
14 evaluation of his criminal responsibility capacity to
15 perform?

16 A. Yes.

17 Q. Again, that exam was done on June 17th of 2013?

18 A. Yes.

19 Q. Who was present for that exam?

20 A. I was present. There was a social worker present,
21 Tia Thomas. She had been present at the previous one.
22 She was the second examiner. And there was a Clemson
23 University senior who was going into medical school who
24 was shadowing me.

25 Q. The information that you reviewed prior to that

1 exam, is that the same information you testified to
2 before?

3 A. Yes. I mean, we did get some medical records from
4 the Clarendon County Detention Center just to ascertain
5 that he wasn't getting any treatment. Those came in
6 after the January evaluation.

7 Q. How much time did you spend with Mr. Johnson?

8 A. On that day another hour.

9 Q. And, again, are you familiar with the legal
10 standards relating to criminal responsibility and
11 capacity to conform?

12 A. Yes.

13 Q. What was done to determine if the Defendant met
14 those standards?

15 A. Well, the standards are outlined in South Carolina
16 Code Section § 17-24-10 which states, "At the time of the
17 commission of the act constituting the alleged offense,
18 the Defendant, as a result of mental disease or defect,
19 lacked the capacity to distinguish legal or moral right
20 from legal or moral wrong or to recognize the particular
21 act charged is legally or morally wrong." The key part
22 is due to mental illness or defect. We didn't find
23 there's a mental illness in Mr. Johnson or a defect. So,
24 therefore, he doesn't even meet the threshold of looking.
25 But we asked him further to tell us what happened in his

1 own words about the alleged offenses. And from what he
2 reported, he did not report signs and symptoms of any
3 mental illness at the time of the alleged offenses.
4 Therefore, it was our opinion that he would have been
5 responsible and would have had capacity to conform.

6 MR. DURANT: Let me mark this as Court's
7 Exhibit 2.

8 (WHEREUPON, Court's Exhibit Number 2 was marked for
9 identification only.)

10 Q. And ask if you recognize that?

11 A. This is a copy of the report I submitted related to
12 criminal responsibility and capacity to conform in June.
13 I notice that, and I noticed preparing for this hearing,
14 that I left out a zero in 2013. So it's a typo. I
15 apologize to the Court.

16 MR. DURANT: Judge, again, I would ask that we
17 make that a copy of the Court's record for this
18 proceeding.

19 MR. ROBINSON: No objection.

20 THE COURT: Without objection.

21 (WHEREUPON, Court's Exhibit Number 2 was admitted
22 for purposes of the hearing.)

23 MR. DURANT: Your Honor, and I don't have any
24 further questions of Dr. Frierson.

25 THE COURT: Mr. Robinson?

1 MR. ROBINSON: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. ROBINSON:

4 Q. Thank you for being here today, Dr. Frierson. Go
5 with me again, if you would, through the source documents
6 that you reviewed prior to your first meeting and I guess
7 prior to the second meeting with Mr. Johnson.

8 A. The court order, the arrest warrants, the incident
9 report, the police incident report. There were documents
10 that had titles on them. I'm just going to read you
11 titles, okay? "Burgess' notes, Lance Corporal Charles
12 Eaddy, K. Coker notes, case notes of Investigator Ricky
13 Richards, case notes of Investigator Kenneth Clark." And
14 then the social history we got from his mother.

15 Then in June, the exact same thing except we also
16 had some medical records from the Clarendon County
17 Detention Center.

18 Q. And was there anything remarkable in those medical
19 records, or did it, in fact, just confirm, like you said,
20 he wasn't receiving any treatment or anything of that
21 nature?

22 A. They say the only medicine he was on was some Zantac
23 which is a stomach medicine for acid reflux. He's not
24 receiving any mental health treatment in the jail. He's
25 not requested to see mental health. And that confirms

1 what he tells me today.

2 Q. You reported in the report itself that Mr. Johnson
3 reported that he did not remember what had happened that
4 day; is that correct?

5 A. Correct.

6 Q. And what did you make of that? Did you find
7 anything to substantiate that?

8 A. There are lots of reasons people might not remember
9 things. In a case like this, there was allegedly a
10 tremendous discharge of anger. And sometimes people can
11 become so angry and do something that later their mind
12 does not let them recall what they did. That's not
13 necessarily evidence of mental illness. It's a sort of
14 protective thing that our mind does because you can't
15 stand to believe that you could have done this. So you
16 don't remember doing it even though you may have done it.
17 And I'm not saying he did it. Okay? That's not my
18 issue. But that's one possible explanation for why
19 someone might not remember.

20 There are other things including intoxication with
21 alcohol or drugs at the time of an offense. I don't
22 think we had evidence of that in this case. There's some
23 rare things like if he had had some sort of seizure. But
24 the behaviors that are alleged are not consistent with
25 any behavior that could happen during an epileptic

1 seizure because the alleged violence is very targeted and
2 goal directed. And that's not what you see in people
3 that are violent during some sort of seizure.

4 Then, of course, there's also -- and I didn't get
5 the sense in this case. I'm not saying I got the sense
6 here. There's also the possibility of malingering memory
7 impairment or saying you don't remember when you actually
8 do.

9 Q. And let me ask you to characterize that. I
10 understand you're not necessarily saying that applies to
11 here. But malingering memory loss would be basically --
12 is it your testimony that would be an overt or a
13 conscious act?

14 A. Yeah. It's faking.

15 Q. In other words, it's not a condition he can't
16 control if that would be the case. That's, listen, this
17 is what I'm going to say?

18 A. (Nodded head up and down in the affirmative)

19 Q. Okay. Let me ask you this. In this particular
20 instance, you were not able to determine specifically
21 whether his memory loss was real or malingering or
22 anything else; is that correct?

23 A. I didn't have the impression that it was
24 malingering. I felt that it's most consistent with just
25 blocking it out. But in looking at his criminal

1 responsibility, we look at his behaviors all around this.
2 And there was a ruse to say that someone else committed
3 these acts in order to avoid having to take
4 responsibility for them. That sort of thing would be
5 indicative of someone who knew that it was wrong if they
6 had committed the act.

7 Q. Would there ever be an occasion in your experience
8 that somebody witnessed a traumatic event that perhaps
9 they didn't cause or participate in, but the actual sight
10 of it itself would be traumatic enough to cause a block-
11 out?

12 A. Yes.

13 Q. Okay. And were you able to determine whether that
14 was present in this particular case?

15 A. No.

16 Q. Or you can't say one or the other?

17 A. I'm not saying that he did it and doesn't remember
18 or that he witnessed someone else doing it and doesn't
19 remember. I'm just reporting that he said he doesn't
20 remember some aspects of it, and that's not an element of
21 knowing right from wrong or being able to conform. And
22 it's not a bar to his being able to work with an attorney
23 on a defense.

24 Q. Right. As far as knowing right from wrong or
25 anything of that nature, the information that you got --

1 I think you just testified that none of the behavior that
2 was reported was consistent with something that could
3 happen during an epileptic seizure?

4 A. Correct.

5 Q. That information obviously didn't come from Mr.
6 Johnson, did it, because he couldn't remember anything?

7 A. Correct. That came from my reading of all the
8 police reports and the statements of various people like
9 the surviving victim and the investigators, yes.

10 Q. Okay. So you got that side of the story, and your
11 observations were simply based on that and Mr. Johnson's
12 reactions to that?

13 A. Yes.

14 Q. Okay. The fact that real or perceived or
15 malingered memory loss, you don't think that causes an
16 inability or a problem under the ability to assist one's
17 attorney in the defense of a matter?

18 A. Right. There is case law on this issue that we use.
19 I don't know if y'all use it or not. But the case is
20 something called Wilson versus U.S. where a federal
21 appeals court has held that you do not have to remember
22 your crime to be competent. The issue is can you look at
23 the evidence as gathered by police authorities and be
24 able to put that together as to what must have happened,
25 even though you don't remember it. And whether he's able

1 to tell you what he does remember, like before that
2 things about his life, but actually remembering the
3 alleged offense in total is not a requirement for
4 competency. Otherwise, probably everybody who's a
5 defendant would just say I don't remember, and then they
6 wouldn't have to be tried.

7 Q. Understood. And so the case -- I understand that's
8 your interpretation of the holding and ---

9 A. That's how we teach forensic psychiatry. And that's
10 what we teach is that you don't -- now, there is in that
11 case a little bit of an exception. And that is if -- in
12 order to be competent and not remember, there's a
13 requirement that the government theory of the case
14 primarily negates -- the evidence negates the likelihood
15 of innocence.

16 Q. Okay. And did you, I guess, look at this ---

17 A. That's not my job. That's the Judge's job.

18 Q. Okay. Well, what I'm asking is did you do anything
19 in your examination to determine if there was any other
20 possible explanation for what could have happened that
21 would weigh in on that issue, whether or not there's no
22 way that Mr. Johnson could be telling the truth or that
23 his memory loss could matter or that it may be relevant
24 or germane?

25 A. I did not. I don't think that is the role of the

1 forensic psychiatrist. Whether there's other evidence
2 that doesn't negate all possibilities -- that negates all
3 possibilities of guilty is for the trier of fact.

4 Q. And let me ask you this. He received no diagnosis
5 whatsoever?

6 A. Correct. I do not find evidence of mental illness.

7 Q. And no defects?

8 A. Correct.

9 Q. Is there any possibility that he could have had some
10 sort of a -- I think you described that there was a
11 tremendous outburst of anger or outpouring of anger --
12 and I'm asking this because I'm certainly not a forensic
13 psychiatrist -- any type of psychotic break that could
14 have triggered this or this could have been the result of
15 that would equate to a defect if not a mental illness of
16 longstanding history?

17 A. In my opinion, no. I mean, I think there would have
18 been some evidence along the way of really psychotic
19 symptoms. There was no reported psychotic symptoms. He
20 was not delusional about the victims in any way. And
21 delusions don't just start and stop quickly; they develop
22 over time.

23 Q. Well, now, your statement, "He was not delusional,"
24 that's an assumption on your part, isn't it?

25 A. Well, he didn't have any preconceived notions about

1 the alleged child -- I keep saying alleged. The child is
2 not alleged.

3 Q. The child?

4 A. The child who was allegedly killed or ---

5 Q. The deceased child?

6 A. --- or the deceased ---

7 Q. Grandmother?

8 A. --- grandmother. He didn't think they were
9 poisoning him or they were out to get -- he didn't have
10 preconceived delusional thoughts about those people,
11 which we would expect if there was psychotic mental
12 illness that impaired someone's knowledge of
13 wrongfulness.

14 Q. Is it your experience that there can arise an
15 occasion where there is so much stress brought on by
16 anything that even without a pre-existing mental illness
17 or defect or perhaps one that's asymptomatic that someone
18 -- and for a lack of a better -- snap and not be able to
19 control their actions for that period of time?

20 A. If that were the case, I wouldn't expect someone to
21 be able to plan an alternative explanation right
22 afterwards. I mean, I don't think psychotic breaks
23 happen and then are over in a matter of thirty minutes to
24 an hour. And I think there would have been residual
25 symptoms of such a thing in the jail that were visible

1 after his arrest.

2 Q. Okay. Now, when you say an alternative statement,
3 are you referring -- did you watch any of Mr. Johnson's
4 videotaped statements?

5 A. No.

6 Q. Do you have any idea how long that was?

7 A. I have no idea.

8 Q. Where did you get the information that there was an
9 alternative theory or story about what happened?

10 A. I don't recall. I think he told me that -- there
11 was the name Robert. He and -- he states that the first
12 thing he remembers was standing in the living room with
13 the shotgun after this allegedly happened. And I want to
14 say this correctly. I don't know if it's Kaisha or ---

15 Q. Kaisha?

16 A. --- Kaisha told him, "This is what we're going to
17 say." And then he says that they planned to say a person
18 named Robert did it, referring to the alleged crime. He
19 admits that he was aware that his son had been shot and
20 that Kaisha Caraway's grandmother had been shot before he
21 left the house. He said it's possible that he shot them,
22 but he doesn't remember the actual act of doing that.

23 Q. But based on that information, he's not actually the
24 one, at least according to that statement, that came up
25 with the alternate story?

1 A. He didn't come up with it, but he ---

2 Q. He went along with it.

3 A. --- went along with it. That's his statement.

4 Q. Right. I understand that. But let's assume, just
5 for argument's sake, that that is an accurate statement.

6 A. Uh-huh (affirmative).

7 Q. In light of what you testified to about typically if
8 somebody has a psychotic break, they then typically can't
9 immediately come up with a story. If somebody else came
10 up with the story, would that change your opinion just
11 him being able to follow directions and somebody say,
12 "Say XYZ"?

13 A. No.

14 Q. That would not change your opinion?

15 A. No.

16 Q. That would still ---

17 A. Not with this fact pattern, no.

18 Q. Okay. And I'm familiar with the facts, and I'm sure
19 everybody else is. But if you could put that in context
20 for me. What do you mean with -- not with this fact
21 pattern?

22 A. He was able to engage in purposeful behaviors.

23 Driving okay without wrecking the car. He says that when
24 they saw the police officer, they stopped and was able to
25 get out there and told them that there had been a

1 shooting. He led the police up to the house. He tells
2 the police that Robert shot the two victims. He
3 remembered that he had a shotgun in the trunk at some
4 point. And all of these are sort of rational -- not
5 necessarily what I would do. But they're not -- they
6 indicate a capacity for rational thought, logical
7 thought.

8 Q. And is what you're telling me that if somebody has a
9 psychotic break or, quote, unquote, snaps, that within a
10 relatively short period of time, they typically do not
11 regain that ability; it lasts longer?

12 A. Correct.

13 Q. Approximately how long would you expect in your
14 experience a psychotic break to manifest itself?

15 A. I don't think psychotic breaks -- even if they
16 happen relatively suddenly, I do not believe that they
17 resolve without some sort of psychiatric intervention.
18 And he never got a psychiatric intervention, and he's
19 rational. And even after that, when I see him, he's not
20 had any psychiatric intervention. And he's not --
21 there's no symptoms of psychosis.

22 Q. Now, you would agree with me he really wouldn't be
23 able to control from that point forward whether he had
24 psychiatric intervention because he was incarcerated?

25 A. Well, it's been my experience that normally the jail

1 medical personnel when they check him in, or even police
2 officers when they are interrogating somebody, will
3 notice something's not right. They seem confused. You
4 know, I'm thinking about the recent case in the news of
5 the woman who drove her children or tried to drive her
6 children into the ocean. You know, the police on the
7 scene said she looked confused, dazed. Someone said she
8 looked like she was possessed. I mean, you know, there
9 was a look about her that was readily apparent to those
10 right around her. I would suspect something like that
11 would be noticeable.

12 Q. Would you expect, given your examinations of Mr.
13 Johnson, somebody given his level of intelligence and
14 competency that you have concluded he has to experience
15 some emotion or other symptoms immediately after an event
16 of this nature occurring?

17 A. I think almost anybody would, yes, experience some
18 sort of emotion after this.

19 Q. And if we assume for argument's sake -- because I
20 realize that you tell me you have not seen the interviews
21 -- in the interviews he basically shows no emotion.
22 Would that cause you some concern as to a possible
23 indicator that there's some problem, mental defect,
24 mental condition, something going on?

25 A. Not necessarily. I mean, some people after a

1 traumatic event, that they separate out the emotion from
2 what they do remember. And they look very matter of fact.
3 But that's, once again, your mind, your brain, protecting
4 yourself from becoming overwhelmed. We call that defense
5 mechanism. There's a fancy name for it. Isolation of
6 affect. The emotion that goes with the memory is kept at
7 bay because it's too painful to allow yourself to feel
8 it. That's an unconscious process that the brain does.
9 Q. Okay. So that would be nothing that ---
10 A. That he could control, no.
11 Q. Whether he did or did not try to make that happen,
12 it just happened?
13 A. Right.
14 Q. But it doesn't necessarily indicate a cause for
15 concern of a mental illness or anything like that?
16 A. No.
17 Q. If, in fact, you had been questioning Mr. Johnson
18 immediately after this event, the day of the event,
19 within a few hours and no emotion, would you have done
20 any further inquiry, testing for drugs, alcohol, just to
21 check and eliminate those concerns?
22 A. Not if he was rational in what he was saying. The
23 lack of emotion after something like this wouldn't
24 necessarily make me think, "oh, something's wrong with
25 them. We've got to get him evaluated."

1 Q. Okay.

2 A. As long as he was rational in what he was saying.

3 MR. ROBINSON: The Court's indulgence for just
4 a moment, Your Honor.

5 THE COURT: Yes, sir.

6 Q. Dr. Frierson, I think I may just have one more
7 question and I guess on how you answer that question.
8 You said -- and I'm trying to make sure I characterize
9 this correctly for you as clearly as I can. That the
10 fact that there was no emotion doesn't necessarily
11 indicate good bad or indifferent. It's just isolation of
12 affect.

13 A. Affect.

14 Q. And there appear to be rational behaviors, et
15 cetera?

16 A. Yeah. Now, I'm not referring to his statement.

17 Q. Right. That's what I was going to ask you.

18 A. I wish I had been given that, but I wasn't, so I
19 cannot -- you know, I didn't know of its existence, so I
20 ---

21 Q. Let me ask you this. In light of what you've got,
22 the fact that there's an eleven-hour videotaped
23 interrogation of Mr. Johnson that occurred the same day
24 and began within a couple of hours of this event, would
25 that possibly shed more light and cause you to perhaps

1 feel that it would be necessary to an accurate
2 determination of competency and/or criminal
3 responsibility?

4 A. I don't think it at all relates to competency.

5 Q. Okay.

6 A. It would be a rare thing for something on that video
7 to make me think he has a mental illness. And even if it
8 did, I don't understand how it would get to the point of
9 impacting his criminal responsibility given the sort of
10 coverup behaviors that he went along with right after
11 this happened, assuming he did.

12 Q. Okay. I'm going to put this in the form of a
13 million-dollar question. To a reasonable degree of
14 medical certainty in your field of expertise, can you
15 tell this Court that there is nothing in that videotape
16 that could possibly change your diagnosis of his capacity
17 -- I mean, I'm sorry -- his criminal responsibility?

18 A. I'd rather -- would rather -- I hate to say that,
19 answer that question when it's something I haven't seen.

20 Q. And that's my concern.

21 A. And that's why I don't want to answer that question
22 in that manner and respond affirmatively to that
23 question. I will say this, that it would be an
24 exceedingly rare event -- given what I know about the
25 fact pattern of this case, what I know about Mr. Johnson

1 in my time with him and my interviewing him, it would be
2 an incredibly rare event that I would see something in
3 that that I think would impact my opinion on criminal
4 responsibility. I'm not going to say never, but it would
5 be an exceedingly rare event. Let me say that
6 differently. It would be a rare possibility that I could
7 see something. But I don't -- it might make me think
8 there might have been something going on at the time that
9 could impair capacity to conform, but I doubt it would
10 reach to the level given what I know about the fact
11 pattern and what he says about impaired criminal
12 responsibility.

13 Q. And I understand you understand -- and I know you do
14 probably better than I do -- the purpose of this
15 particular hearing as far as the capacity to conform.
16 And my question is, as an expert, can you tell this Court
17 with the reasonable degree of certainty required that you
18 don't need to see those videotapes before you can
19 definitively tell them that there's not a problem with
20 Mr. Johnson's criminal responsibility and perhaps
21 capacity to conform?

22 A. I'm going to say that there's no evidence he has
23 mental illness.

24 Q. Okay.

25 A. And based on the fact that there's no evidence that

1 he's mentally ill, I feel comfortable saying that he does
2 not meet the criteria for lacking criminal responsibility
3 or lacking capacity to conform because he doesn't have a
4 mental illness. There's no history of psychiatric
5 treatment. He's never seen a psychiatrist. He's never
6 complained of mental health symptoms. He doesn't
7 complain of them to me. He doesn't complain of mental
8 health symptoms at the time of the offense. His
9 behaviors around the time of the offense are very self-
10 protective. So having said that, absent something -- I
11 mean, you said that he didn't have much facial expression
12 or emotions during those interviews. That would not rise
13 to a level to make me think he's mentally ill unless
14 there's something else on the tape, some bizarre
15 statements ---

16 Q. Well, and let me ask you this. And I don't mean to
17 cut you off. But I think you would appreciate that I'm
18 not qualified to tell you what might be on that tape that
19 may affect that. That would be something that you would
20 need to look at; correct? Or an expert in your field
21 before you could make that determination with certainty?

22 A. Yes. I mean, I -- there are lots of cases that we
23 render opinions where we are not provided certain pieces
24 of evidence. You know, we ask for everything. We don't
25 have a reason to know that -- sometimes I ask for other

1 things because I find out they exist.

2 Q. Right.

3 A. I'll have a defendant that says, they videotaped me
4 doing something. And especially -- not in every case.
5 But especially if I think this person has mental illness
6 or I have some concern. There's a case in Lexington
7 right now where I -- I said, "I want to see his mental
8 state immediately following his arrest because I think it
9 could be relevant." And I asked for that. And I
10 actually called the solicitor and said, "Send it to me."
11 But I did not do that in this case. I did not know that
12 this existed. And I had no reason, knowing it exists
13 now, to demand that I see it before I can give an opinion
14 given what I know about the fact pattern, his history,
15 and my interactions with him.

16 Q. So it's your testimony that you can meet -- testify
17 with the degree of certainty required without reviewing
18 this, that there's nothing in there that would change
19 your opinion, and your opinion would not be changed by
20 watching that video?

21 A. Once again, I'm not going to say that because I
22 haven't see it.

23 Q. Okay. I mean, if you're refusing to answer the
24 question ---

25 A. I'm not refusing to answer the question.

1 THE COURT: He just can't just give you the
2 answer you're asking for.

3 MR. ROBINSON: Okay.

4 Q. I mean, then that would be no. It's either yes or
5 no.

6 A. That's a no, then.

7 Q. Okay. Thank you. I'm not ---

8 A. There could be something rare on that thing that I
9 -- you know, that might change my opinion, but it would
10 be one in two thousand, five thousand. I don't know. It
11 would be something exceeding rare for me to have
12 encountered in my history of how I've done these
13 evaluations and what I've seen.

14 Q. Okay. Thank you.

15 THE COURT: Any redirect?

16 MR. DURANT: Just a few questions.

17 REDIRECT EXAMINATION

18 BY MR. DURANT:

19 Q. Dr. Frierson, when you met with Mr. Johnson today,
20 did he indicate to you that he was prepared to go to
21 trial? Were you able to evaluate whether or not he had
22 the ability now to assist his attorney in the preparation
23 of trial?

24 A. Yes. He, you know, told me about jury selection.

25 Told me about what information his attorney had about the

1 potential jurors before they were selected. He indicated
2 that his attorney asked him some questions about, "What
3 do you think of this juror? Do you want ..." -- you
4 know, and he was able to interact with his attorney
5 regarding that.

6 Q. Okay.

7 A. He's on no medicines. He's not complaining of
8 significant depression, psychotic symptoms. He was
9 oriented. He was pleasant and rational with me today.

10 Q. And again, just to clarify, Doctor, I believe you
11 told Mr. Robinson that no matter what may be on this
12 statement of the Defendant, that it would not at all
13 relate to his competency to stand trial. Is that ---

14 A. That's correct.

15 MR. DURANT: Your Honor, I don't have any
16 further questions.

17 THE COURT: Any recross?

18 MR. ROBINSON: No, sir, Your Honor.

19 THE COURT: All right. Thank you. You may
20 step down. Thank you for your testimony.

21 THE WITNESS: Am I excused to go back to
22 Columbia?

23 THE COURT: Any objection to him being excused?

24 MR. DURANT: None from the State, Your Honor.

25 THE COURT: Have a safe drive back to Columbia.

1 MR. ROBINSON: Thank you, sir.

2 MR. DURANT: Judge, that's all the testimony we
3 have. I'll be happy to present an argument.

4 THE COURT: Mr. Robinson, do you want to ---

5 MR. ROBINSON: Let me double check.

6 (WHEREUPON, Mr. Robinson conferred with Defendant
7 off the record.)

8 MR. ROBINSON: I don't have any witnesses to
9 present, Your Honor.

10 THE COURT: All right. Very well. I'll hear
11 from the attorneys at this point.

12 MR. DURANT: Your Honor, you heard Dr.
13 Frierson's qualifications. He's well qualified to render
14 an opinion. Did so and has evaluated Mr. Johnson, has
15 met with him three times now. According to Dr. Frierson
16 he never even gave Mr. Johnson so much as any diagnosis.
17 He testified that he does not have any mental illness, no
18 mental deficiencies. His opinion to a reasonable degree
19 of medical certainty was that he was competent to stand
20 trial and even stated that though he had not seen the
21 Defendant's interview, that would not have any bearing on
22 his opinion in this matter.

23 As far as the second issue, Dr. Frierson did testify
24 today that his opinion, to a reasonable degree of medical
25 certainty, was that Mr. Johnson also had -- was

1 criminally responsible and had the capacity to conform.
2 Mr. Robinson has presented him with a hypothetical
3 regarding that -- the Defendant's interview. Of course,
4 Mr. Robinson's in possession of that interview. He would
5 have had the opportunity to show Dr. Frierson any portion
6 of that interview he wished for him to view here in
7 court. And as Your Honor is well aware, criminal
8 responsibility is a separate issue altogether from the
9 competency to stand trial. A Blair hearing relates to
10 competency to stand trail. Section § 44-23-410 does not
11 apply to an evaluation for criminal responsibility. Of
12 course, Mr. Robinson has the opportunity, if he so
13 desires, to bring in his own expert during the trial
14 relating to Mr. Johnson's criminal responsibility or
15 capacity to conform. But it's not an issue pre-trial on
16 the subject of competency to stand trail. And the
17 evidence from Dr. Frierson is clear that he is convinced,
18 and to a reasonable degree of medical certainty, that
19 Justin Johnson is competent to stand trial.

20 THE COURT: All right.

21 Mr. Robinson?

22 MR. ROBINSON: Thank you, Your Honor. And I
23 would certainly agree with the characterization about Dr.
24 Frierson's testimony that he said it would not change his
25 competency. I understand the focus of the hearing. The

1 problem is, honestly, until today, I did not realize that
2 Dr. Frierson had not watched the video. And the problem
3 that I've got is he submitted a report that he refused to
4 answer the question as to whether or not that report
5 could stand without him watching the video. And after
6 being badgered a little bit, I guess, by me, said, "No."
7 He could not say that to the required certainty. I
8 understand that this is not the thrust of the Blair
9 hearing. But certainly with this information being
10 brought before the Court that there is, even from the
11 State's expert witness, some question about Mr. Johnson's
12 criminal responsibility regarding ---

13 THE COURT: I don't think there's much
14 question. He sat here and said one in twenty-five
15 hundred, thousands.

16 MR. ROBINSON: Your Honor, I don't think it
17 matters. I think in a criminal case, especially for
18 murder, the standard is not close enough.

19 THE COURT: Well, it's to a degree of medical
20 certainty.

21 MR. ROBINSON: Yeah. He said, "No."

22 THE COURT: But you posed him with a different
23 question than he was asked when he did his evaluation.

24 MR. ROBINSON: I simply posed him with, "Can
25 you reiterate that opinion now knowing there's a video

1 without watching it?" That's all I did. I didn't change
2 what the fact of the video were. I just said, "Can you
3 say to a reasonable degree of certainty without seeing
4 that, that it would not change your opinion?" "I don't
5 want to answer that in the affirmative," and then just
6 said, "No."

7 THE COURT: And then he said, no, it would not
8 change his opinion.

9 MR. ROBINSON: No, no, no. He said he can't
10 say that it wouldn't change his opinion. The problem is,
11 we've got an issue now. I don't want to delay or derail
12 this trial. If Dr. Frierson can look at those tonight
13 and doesn't change his opinion, that's fine. But I
14 certainly think under the circumstances of this case that
15 Mr. Johnson is entitled to every reasonable doubt. And
16 there's a reasonable doubt from the State's own expert as
17 to whether or not he had the capacity to conform his
18 conduct, then we can't go forward at this point until
19 that issue has been resolved by the State. And I
20 understand. I'm sorry. But I didn't know that until
21 today. That came up during the hearing. That wasn't
22 something I planned. That was in response to some
23 questions. I didn't realize, honestly, that he had not
24 reviewed those video tapes. So I would at least ask the
25 Court to direct him to watch those videotapes and be

1 prepared to at least supplement the criminal capacity. I
2 mean, if it doesn't change it, that's fine, and we can go
3 forward. Because if it does change it, then ---

4 THE COURT: Well, he said he didn't think he
5 needed to see it. I mean, he says he has lots ---

6 MR. ROBINSON: It's clear that he doesn't want
7 to spend eleven hours. He said he could not answer that
8 particular question to a reasonable degree of certainty.

9 THE COURT: He said he did not think he needed
10 to see it.

11 MR. ROBINSON: Okay.

12 THE COURT: And his report stands, and he's
13 confident in his report.

14 MR. ROBINSON: Okay. I think his testimony
15 speaks for himself, that he would not put that confidence
16 in his report when directly asked in light of that
17 without seeing. Clearly, he doesn't want to watch it.
18 And it may not change it. I think the Defendant is
19 entitled to the reasonable doubt and at least to have him
20 review that to supplement it. And we can go forward with
21 the trial while that happens. And if it does change it,
22 then certainly he can come back and the trial can be
23 stopped if there's an issue. I'm not trying to delay the
24 trial. I'm simply trying to make sure that Mr. Johnson
25 has all of his rights protected, including a potential

1 that could change his criminal responsibility.

2 MR. DURANT: Judge, may I reply just quickly?

3 THE COURT: You may.

4 MR. DURANT: Judge, again, I just want to
5 reiterate that State v. Blair requires the State to prove
6 competency before trial. It does not require the State
7 to prove capacity to conform or criminal responsibility
8 pre-trial. Now, Mr. Robinson has been in possession of
9 Dr. Frierson's report since June of last year. So nine
10 months he's had that report. That report details the
11 information reviewed by Dr. Frierson. So Mr. Robinson
12 has been well aware of the information reviewed and what
13 information was not reviewed by Dr. Frierson. If he so
14 desired to have his own expert review or evaluate Mr.
15 Johnson pertaining to his criminal responsibility or
16 capacity to conform, he's had the right to do that.
17 That's not something the State has to prove pre-trial.
18 We've got to prove competency, and we've done that.

19 THE COURT: All right. Anything further?

20 MR. ROBINSON: No, Your Honor.

21 THE COURT: I heard his testimony. He was
22 clear that he found that the Defendant had a sufficient
23 factual and rational understanding of the proceedings
24 against him and that the present ability to assist his
25 attorney with the preparation of the defense. That is

1 what is required for Blair.

2 As to his criminal responsibility, I don't think I
3 have to rule on that. If the doctor decides that he
4 wants to see it, you can make it available to him. But
5 if he doesn't want to see it, then he doesn't have to see
6 it.

7 All right. Thank you. Anything else? What do we
8 have ---

9 MR. ROBINSON: Your Honor, I do have a motion
10 based on ---

11 THE COURT: Yes, sir.

12 MR. ROBINSON: I guess it's a two-part motion
13 for a mistrial. The first motion being, Your Honor --
14 and I took a photograph. I didn't know how else to
15 preserve it, but I could certainly call one of the
16 jailers if the Court would deem appropriate. Mr. Johnson
17 was requested and was brought here today in street
18 clothes that he has on now. The holding cell is on the
19 other side of the courthouse immediately adjacent and
20 within full view of where the jurors were assembling this
21 morning. Mr. Johnson was brought in there, although in
22 plain clothes, but with his hands cuffed in front of him
23 in a pair of orange handcuffs and escorted by at least
24 three and perhaps four jail personnel. And certainly
25 that act, I don't think, was overt or on purpose or

1 anything. That's the way they are typically instructed
2 to bring them, and that's where they brought him. The
3 problem is at that point in time the jury saw him come
4 through there with all indicia of being incarcerated and
5 under heavy guard. Now, clearly, the right to be --
6 appear in street clothes goes beyond just your outward
7 appearance. It is the appearance of whether or not
8 you're in custody because that prejudices Mr. Johnson's
9 rights. I think clearly under what happened this morning
10 -- and like I said, if the Court desires some testimony
11 from one of the guards to substantiate this, because I
12 don't want it to be based on my testimony, I'll be glad
13 to call him. I think Mr. Johnson's rights have been
14 prejudiced by the jury seeing him like that, and the
15 entire jury pool was tainted. And, therefore, I'm going
16 to ask the Court to disqualify the jury that we've
17 selected and declare a mistrial in this case until
18 another jury panel can be assembled.

19 THE COURT: All right. Mr. DuRant?

20 MR. DURANT: Judge, by Mr. Robinson's own
21 admission, the Defendant was in street clothes when he
22 was shown before the jury. Your Honor, I would argue
23 that even if there was some prejudice, that it would be
24 minimal in this case when the Defendant is charged with
25 two murders. I don't believe the jury is under any

1 illusions that a Defendant charged with multiple murders
2 would have to be in custody or potentially could be in
3 custody. Your Honor asked the question during jury
4 selection whether anybody in the jury panel knew of any
5 other reason other than the ones that you specified -- if
6 they knew of any other reason that they couldn't give Mr.
7 Johnson a fair trial. No one stood up. I believe that
8 he has been -- the jury selection was carefully and
9 calculated as done by you, Your Honor. And nobody that
10 we didn't remove indicated any reason that they couldn't
11 be fair and impartial in this matter. And nobody brought
12 up that incident. No jurors seemed to think it was
13 something that they needed to bring to Your Honor's
14 attention. I don't believe that there was any prejudice
15 to the Defendant.

16 THE COURT: All right. Thank you.

17 Mr. Robinson, it's your motion. I'll give you the
18 last word.

19 MR. ROBINSON: Thank you, Your Honor. Just
20 briefly. The problem is two things. First of all, Mr.
21 DuRant said, you know, the prejudice would have been
22 minimal because the jury wouldn't expect -- they don't
23 have that right. They have to come in here clean slate,
24 presumed innocent, no preconceived notions. So to say,
25 "It's a double murder; they would expect him to be in

1 custody," I think that particular ideology violates his
2 constitutional rights. They're not allowed to think
3 that. And if they do think that, then they're not
4 qualified to serve on the jury panel because they have to
5 come in here, "He's innocent. He's presumed innocent.
6 He remains that way." And Your Honor is well familiar
7 with that charge and those instructions.

8 The other problem is we're now shifting it to the
9 jurors' perspective. The problem is we can't guarantee
10 that. And these trials, this Court, this justice system,
11 is set up to do everything it can to safeguard Mr.
12 Johnson's rights, not necessarily the convenience -- and
13 I understand it would be a tremendous inconvenience. And
14 nobody is any more ready to proceed with this trial than
15 myself and Mr. Johnson and his family. But I can't
16 ignore these types of things. If he had come in in a
17 jumpsuit, you know, to what degree. The problem is when
18 you start trying to put degrees on it. Orange handcuffs,
19 in custody, with three or four guards, regardless of how
20 many, right there in front of the jury takes away that
21 right for him not to be viewed in that light. To try to
22 come back and do an inquiry -- there was no way, quite
23 frankly, for me to ask that in voir dire, because I would
24 have re-rung the bell. I can't un-ring the bell. I
25 brought that to the ---

1 THE COURT: Well, what we did, we did have him
2 come in with you without handcuffs on and everything like
3 that. Their last view of the Defendant before jury
4 selection was coming in as a free man.

5 MR. ROBINSON: I understand their last view,
6 Your Honor. But again, I think that's a slippery slope
7 and a dangerous place to be is to try to quantify and
8 qualify when and how it matters. It was within an hour,
9 the same morning, the same clothes, a very small
10 courtroom. I don't if anybody was -- you know, that saw
11 him. I'm not saying that everybody in the jury panel saw
12 him. I don't know. I wasn't there. But I think to err
13 on the side of caution to protect Mr. Johnson's rights,
14 that it would be incumbent on the Court to declare a
15 mistrial. And so I would ask Your Honor to do that.

16 THE COURT: All right. I'm going to deny your
17 motion. I think the jurors -- I asked them many times,
18 was there any bias? Was there anything that they needed
19 to tell me? Was there any reason they didn't think they
20 could go forward. And although you make a compelling and
21 sincere argument, I don't think it's the law of this
22 state, so I'm going to deny your motion.

23 MR. ROBINSON: Your Honor, it's a two-part.

24 THE COURT: Oh, okay.

25 MR. ROBINSON: It's separate, but it's another

1 mistrial motion. After we finished the initial
2 qualification and the exemption questions for the jurors,
3 the Court took a break so we could bring Mr. Johnson in
4 here, get the questions and go through the voir dire.
5 Prior to the voir dire, but after qualifications,
6 exemptions, et cetera, it has come to my attention that
7 there was a conversation in the hall, part of which I
8 witnessed.

9 Now, I can't tell you what was said in front of me.
10 But I can tell you that there was a conversation between
11 Investigator Richards and Mr. Robert Brogdon because I
12 walked up on the conversation. And they were literally
13 closer than arm-lengths to a couple of jurors standing in
14 the hall. And I simply asked them not to talk -- I could
15 hear they were talking about the case. And I said,
16 "Please don't talk about the case. Jurors are in here."
17 I walked off.

18 Mr. Brogdon found me later. And I'm prepared to put
19 him on the stand to testify to the effect of this
20 conversation. But there was substantive conversation
21 about the evidence, the existence of evidence in this
22 case, the weight of that evidence and the Defendant's
23 guilt in the hallway to him in front of jurors standing
24 around.

25 That, I think, quite frankly is inexcusable. That

1 is not the Court's fault and not the Court's personnel.
2 But certainly these officers should know better. They
3 know how to act. They've been trained. And regardless
4 of what their emotion is or what was said, they have to
5 make sure that justice prevails and the Defendant's
6 rights are protected. That happened after you asked is
7 there any reason anybody can't serve.

8 Now, we went through some specific voir dire.

9 THE COURT: Well, then I asked the jurors
10 specifically did they know anything about this case that
11 did not come from within the four walls of this
12 courtroom, and they said, "No."

13 MR. ROBINSON: Yes, sir. And the problem is
14 they may not have known at that time that it was about
15 this case. They may not know until Investigator Richards
16 takes the stand or until Mr. Brogdon takes the stand.
17 And then the lightbulb goes on and says, oh, yeah.
18 That's the one that said he was overwhelmingly guilty.

19 THE COURT: Well, I'm sure Mr. DuRant's going
20 to say in his opening statement that he committed this
21 murder. And I'm going to tell the jurors, as I always
22 do, that the only evidence of this case comes from this
23 witness stand and from any other exhibits. So even what
24 you tell them -- and I'm sure Mr. DuRant is not going to
25 pass up the opportunity to talk about these murders

1 tomorrow morning. And I'm going to instruct the jurors
2 that they have to make their decision based upon what
3 they hear here. Would you like to argue?

4 MR. DURANT: No, sir. I'd just like to say
5 that my recollection of your last question during jury
6 selection was whether or not any member of the jury panel
7 had heard anything today.

8 THE COURT: I mean, that was what this was
9 based upon. And I asked the jury specifically, and no
10 one stood up. I mean, I have to take them at their word
11 as well.

12 MR. ROBINSON: And based on that, Your Honor,
13 just so the record's clear, do you want me to call Mr.
14 Brogdon?

15 THE COURT: I don't need -- I assume if it was
16 said, it was said. But whether they heard it or not --
17 you know, I don't know whether any of the jurors read
18 about this in the newspaper. I mean, that could happen.
19 It's amazing what people, when they're in a different
20 situation, don't see.

21 MR. ROBINSON: Don't see, yeah.

22 THE COURT: You assume they heard it. And
23 going back to the other one about the handcuffs, I had a
24 Defendant in Sumter who tried a case in his prison garb
25 with foot shackles on and won the case. So it's just

1 hard to judge on that. But I think I'm going to deny
2 this motion as well.

3 MR. ROBINSON: Okay. Thank you, Your Honor.
4 Let me double check before I turn you loose.

5 THE COURT: Well, I think we've still got some
6 other things to go over concerning ---

7 MR. ROBINSON: We do. We have some evidentiary
8 issues.

9 (WHEREUPON, Mr. Robinson conferred off the record
10 with the Defendant.)

11 MR. ROBINSON: I don't have any further motions
12 at this time, Your Honor.

13 THE COURT: Thank you, Mr. Robinson. Why don't
14 we take about a ten-minute recess, and then we'll come
15 back and do the -- how long do you think it's going to
16 take to ---

17 MR. ROBINSON: Honestly, if all we're doing is
18 going through these photos, maybe thirty or forty-five
19 minutes tops.

20 THE COURT: Okay.

21 MR. ROBINSON: There's some of them I have no
22 problem with. A couple I have some questions that we ---

23 THE COURT: Can y'all go ahead and let me look
24 at them while we take a break? That way I'm somewhat
25 familiar with them.

1 MR. ROBINSON: Yes, sir. I don't have any
2 problem with them.

3 THE COURT: Okay. Thank you, David. Court's
4 in recess for ten minutes.

5 (WHEREUPON, court stood in recess for a short break
6 during which State's Exhibit Number 53 and 54 were
7 marked for identification only.)

8 MR. ROBINSON: Your Honor, if I could, I would
9 just like to briefly go through these photographs and
10 exhibits. I think they're either -- there's 53 now. And
11 just briefly lodge any potential objection that I may
12 have ...

13 THE COURT: Okay.

14 MR. ROBINSON: ... and let the Court rule on
15 that as we go.

16 THE COURT: All right.

17 MR. ROBINSON: The first thing, Your Honor, I
18 would like to do -- I certainly don't have any problem
19 with a number of these given the proper authentication.
20 In other words, I just don't want to say, yes, this
21 picture comes in. I presume, and I do know Mr. DuRant
22 and Mr. Finney ---

23 THE COURT: Have y'all got the photographer or
24 the person who was on the scene?

25 MR. ROBINSON: --- they're going to be able to

1 call the right people to ---

2 THE COURT: Right.

3 MR. ROBINSON: --- authenticate these
4 documents. So subject to ---

5 THE COURT: Laying the foundation.

6 MR. ROBINSON: --- authentication and
7 documentation. And for instance, State's Exhibits 1 and
8 2 show Mr. Johnson as he appeared at the time he was
9 arrested. There appears to be blood on his shirt. I
10 would certainly stipulate that these pictures would come
11 in as an accurate representation subject to
12 authentication, but not in any way conceding what the
13 blood is, whose it is, how it got ---

14 THE COURT: Right. I don't think anybody's
15 asking you to do that.

16 MR. ROBINSON: Okay. I just want to be clear.
17 I don't want to give anything away. So with those
18 reservations, State's 1, 2 ---

19 THE COURT: If you want to just walk through
20 them and tell me which ones you have objections to and
21 don't have objections.

22 MR. ROBINSON: Okay. No objection to 3, 4, 5,
23 6, again, with the authentication information.

24 THE COURT: Sure.

25 MR. ROBINSON: Number 7 -- and I don't want the

1 State to necessarily give away its case. I'm not sure
2 what the relevance of that particular ---

3 THE COURT: I don't either.

4 MR. ROBINSON: That's the credit card, picture
5 of the credit card. And if you don't want to tell me
6 now, that's fine. We can just mark that as an objection
7 and we can deal with that later.

8 MR. FINNEY: There's going to be testimony by
9 Ms. Kaisha Caraway about an argument between she and the
10 Defendant regarding financial problems they were having.
11 And that's the credit card that is the ---

12 THE COURT: Was the bone of contention?

13 MR. FINNEY: That's correct.

14 MR. ROBINSON: And certainly, I think it would
15 speak for itself once it's authenticated that she has a
16 credit card with that name and number on it.

17 THE COURT: Right.

18 MR. ROBINSON: So that would be number 7.
19 Number 8, I really don't know. I'm, again, going to
20 presume 8 and 9 are sills on the doors at the ---

21 THE COURT: Probably when you ...

22 Any chain of custody I would guess ---

23 MR. FINNEY: That's correct, Your Honor.

24 MR. ROBINSON: Okay. And that's fine to that
25 extent. No objection to those. Number 10, no objection.

1 11, no objection. 12, no objection. Let me put these
2 down so I can -- 13, again, depending on the explanation
3 and the authentication, no specific objection at this
4 point.

5 THE COURT: Right.

6 MR. ROBINSON: 14, no objection. 15 ---

7 THE COURT: I think there's two pictures of ---

8 MR. ROBINSON: There's two of those, yes. I
9 think that unless there's some major difference, I would
10 just ask them to only submit one, because I think they're
11 duplicative.

12 THE COURT: I don't know what their reason is.
13 What was the reason for two of them?

14 MR. ROBINSON: I don't -- let me see if I can
15 find the other one, Your Honor.

16 THE COURT: It's towards the end.

17 MR. ROBINSON: Yes, sir, I remember that, it
18 being toward the end.

19 THE COURT: It's right before that picture.

20 MR. ROBINSON: Yes, 42 and 15.

21 THE COURT: I think they're ---

22 MR. FINNEY: 42, Your Honor, has the shell
23 casing that we believe caused the death of the baby in
24 the picture itself. 12 is just ---

25 MR. ROBINSON: I'm sorry. It's 15.

1 MR. FINNEY: I'm sorry, 15.

2 MR. ROBINSON: I said 14. It's 15 and 42.

3 MR. FINNEY: So we're talking about 15 and 42?

4 MR. ROBINSON: Yes, sir.

5 THE COURT: And I understand, Mr. Robinson,
6 that there is a picture of a child who is deceased. And
7 if there was more to them than that, I would have -- I
8 would agree with you, as I have done in many a trial that
9 involved children. But quite frankly, he looks like he's
10 sleeping.

11 MR. ROBINSON: I understand. I just -- I don't
12 see the reason for two pictures that look almost
13 identical.

14 THE COURT: As long as they've got some reason,
15 I tend to let them in, so ...

16 MR. ROBINSON: Okay.

17 MR. FINNEY: We did want both to show that the
18 room ---

19 THE COURT: Okay.

20 MR. FINNEY: This is a better view of the room
21 in 15 than it is in 42, but 42 has the evidence.

22 MR. ROBINSON: And I certainly understand the
23 reasoning behind that, but we'd object to the picture's
24 being duplicative and unnecessary and subject to the
25 Court's ruling.

1 THE COURT: All right.

2 MR. ROBINSON: Thank you. 16, Your Honor, I
3 would have no objection. 17, no objection. 18, no
4 objection. 19, no objection. Just let me make sure I
5 know what 20 is.

6 MR. FINNEY: I think that's the bathroom door.

7 MR. ROBINSON: That's the bathroom door?

8 MR. FINNEY: Yes.

9 MR. ROBINSON: Okay.

10 No objection to that, Your Honor. No objection to
11 21, 22, 23. I guess I would, again, take the position
12 that 23 and 24 are basically the same picture, and I
13 don't think they're particularly prejudicial. I
14 understand ---

15 THE COURT: I don't think they're prejudicial
16 at all.

17 MR. ROBINSON: And I think quite frankly they
18 bear on the burglary issues. So they certainly are
19 intended to be prejudicial to some effect. But ---

20 THE COURT: They wouldn't put them in if they
21 weren't somewhat prejudicial.

22 MR. ROBINSON: That's right. 25, 26, 27, 28,
23 29, 30, 31, 32, 33, no objection to those. And I will
24 make this objection -- I have a feeling I know how the
25 Court's going to rule on this one -- on number 34, that I

1 think that one is also -- is a slightly different angle
2 of several photographs that are in here. It depicts one
3 of the victims, Ms. Maxine Caraway's body, laying beside
4 her car with some numbers around it. And there are ---

5 THE COURT: The numbers designate -- showing
6 shell casings?

7 MR. FINNEY: As to other items, personal items.

8 THE COURT: Okay. Okay.

9 MR. FINNEY: Yes, sir.

10 MR. ROBINSON: So I just again think that one
11 is ---

12 THE COURT: I think the nature of that picture
13 is -- anytime you put a body in, the Defense always
14 objects.

15 MR. ROBINSON: Right.

16 THE COURT: But that's not a -- it wouldn't
17 shock the jury to the extent that ---

18 MR. ROBINSON: 35, certainly no objection. 36,
19 37, 38, those three, Your Honor, I would object to all
20 three of those. I am well aware that the Court is
21 probably going to allow at least one of those in to show
22 -- even though they are very graphic -- perhaps to show
23 the condition of the victim's body. There are not any
24 other pictures that show it from that particular angle
25 prior to these pictures, but it is graphic of the wound.

1 But I certainly think if any of them come in, that it
2 perhaps should be 36. 37 and 38 are simply closeups ---

3 THE COURT: Closeups.

4 MR. ROBINSON: --- that I don't believe show
5 anything other than a number card in one of them that is
6 not revealed in the first one and are -- those probably,
7 quite frankly, would be shocking. And I think that the
8 prejudicial harm would outweigh any probative value,
9 especially in light of number 36 potentially coming in.
10 So I would move that 37 and 38 be stricken.

11 THE COURT: As far as 37 and 38 ---

12 MR. ROBINSON: Yes, sir.

13 THE COURT: --- what was the -- what is your
14 particular reason for wanting to put those into evidence,
15 if I let the other one in?

16 MR. FINNEY: There are two reasons. Number
17 one, the 36 and -- excuse me. 37 and 38 do show the
18 proximity of the telephone ---

19 THE COURT: Isn't that shown in that one as
20 well?

21 MR. ROBINSON: Yes, sir.

22 MR. FINNEY: It's just a clearer view, Your
23 Honor. We wanted that to be seen clearly. The other
24 reason is that there was testimony given to the law
25 enforcement that Ms. Caraway suffered a broken nose or a

1 nose injury at the hands of the Defendant which caused
2 her to leave the residence and go and get in a car to try
3 to go get treatment at the hospital. And we wanted that
4 to be clearly ---

5 THE COURT: Is there any way that you can focus
6 in on the nose and mouth area ---

7 MR. ROBINSON: That would be my request, to
8 crop out the ---

9 THE COURT: I mean, I've done that before. You
10 can crop out some of this area ---

11 MR. ROBINSON: If, you know, we could go from
12 that, quite frankly, the eyebrows down or something that
13 shows the nose area. And certainly the ---

14 MR. FINNEY: I don't think that'll be a
15 problem, Your Honor. We'll get the law enforcement ---

16 THE COURT: I mean, that's the wonderful part
17 about digital photography ---

18 MR. FINNEY: Right. Right.

19 THE COURT: --- is you can -- I would tend to
20 say if you -- and I understand. As they are, I think,
21 Mr. Robinson, I will sustain any objection. If you crop
22 them down, I may -- those may not be ---

23 MR. FINNEY: All right. All right, sir.

24 THE COURT: He may not win on those.

25 MR. FINNEY: All right, sir. That's fine. We

1 will take these and bring them back tomorrow.

2 THE COURT: Okay.

3 MR. ROBINSON: And, Your Honor, just for the
4 record, I understand ---

5 THE COURT: You're still objecting to that one.

6 MR. ROBINSON: I still object to 36 as well. I
7 just wanted to make sure that was on the record.

8 THE COURT: But I'm telling you that if nothing
9 changes, I'm going to overrule your objection.

10 MR. ROBINSON: And 37, Your Honor ---

11 MR. FINNEY: 39, I think.

12 MR. ROBINSON: I'm sorry, 39. You're right.

13 THE COURT: 39.

14 MR. ROBINSON: I believe -- although it's
15 somewhat graphic, I believe it does depict an injury that
16 is reported in the autopsy and some other findings that
17 there was a shot through the hand as well. And that
18 clearly shows that. So I would object for the record,
19 but I don't really have a really good argument for that
20 one, quite frankly.

21 THE COURT: All right.

22 MR. ROBINSON: 40, no objection. 41, no
23 objection, and 42 is the earlier one that I objected to
24 ---

25 THE COURT: Right.

1 MR. ROBINSON: --- that I think it duplicates
2 the earlier photo of Minor deceased in the high chair.
3 43, I really don't -- I think I know what this is, but
4 I'm not sure what the relevance of that is.

5 THE COURT: That's a hairpiece, isn't it?

6 MR. ROBINSON: Yes, sir.

7 THE COURT: That's just a hairpiece.

8 MR. FINNEY: It's shown there. But this one
9 had the marker in it, so we just wanted to give it some -
10 --

11 MR. ROBINSON: And I will object to that, to
12 the relevance. I don't know what it is. But, you know,
13 subject to that objection, beyond that once that
14 satisfies the Court, I don't know that I would have an
15 objection to that 43 and 44. 45, again, a relevance
16 question. But beyond that, no objection. It doesn't
17 appear to be inflammatory or shocking or egregious,
18 anything of that nature. 46 is the bathroom door.

19 MR. FINNEY: That's correct.

20 MR. ROBINSON: So I would have no objection to
21 that. 47 appears to be the bathroom sink ---

22 MR. FINNEY: Right.

23 MR. ROBINSON: --- with some bird shot looking
24 indentions between the wall and the mirror and the sink
25 area. And I think no objection to 47, 48, 49, 50 and 51,

1 is, again, just a closeup of that bathroom area that
2 shows what I presume the State will say is where the bird
3 shot went through the door and into the bathroom. And 52
4 and 53, I have no objection. I have had -- for the
5 record, 53 is a diagram of the floor plan of the victim's
6 home. Mr. Johnson has looked at that ---

7 THE COURT: That's a fair and accurate ---

8 MR. ROBINSON: --- with myself and Solicitor
9 DuRant, and he believes it to be a fair and accurate
10 representation of the layout of the home, so I have no
11 objection to that one.

12 THE COURT: All right. And we'll take up those
13 other two tomorrow morning first thing.

14 MR. ROBINSON: Yes, sir.

15 THE COURT: I mean, it's probably going to be a
16 while before you put in those pictures anyway?

17 MR. FINNEY: Yes, sir. That's fine.

18 THE COURT: All right.

19 MR. DURANT: Judge, we -- just to put on the
20 record, of course, we had a Jackson v. Denno hearing
21 last week. I did want to make the Court aware of a few
22 references in that -- in the Defendant's interview to a
23 prior altercation that he had with one of the victims in
24 this case, Kaisha Caraway. He was arrested for CDV and
25 kidnapping, I believe, back in December of 2010, which

1 had been three or four months prior to this incident. He
2 mentions that altercation, the Defendant does, a few
3 times during the interview. I have marked the time on
4 each disk in my notes of the references. But I just want
5 to make the Court aware before that happens to be played
6 ---

7 THE COURT: Well, you could actually --
8 couldn't you stop it and start it over and ---

9 MR. DURANT: We could, and that's what I would
10 suggest. That's what I would ask.

11 THE COURT: I think that would work. And I
12 think y'all have said -- Mr. Robinson, you just wanted to
13 put in the 45 minutes prior to his making his
14 incriminating statements; is that correct? Or what did
15 y'all want to put the ---

16 MR. DURANT: Well, I thought I understood the
17 Court's ruling to be that if I was going to play that, I
18 had to play the entire interrogation portion. So that
19 was my intent.

20 THE COURT: Okay.

21 MR. DURANT: But not to offer the first three
22 hours, or three disk of the collection of evidence part.

23 THE COURT: That's fine. Okay.

24 MR. ROBINSON: And, Your Honor, that is my
25 understanding of what your ruling was and, I guess, for

1 lack of a better term, a stipulation that if I wanted the
2 three hours of buccal swab GSR photographs in, I would
3 have to put that in as evidence in my -- whether it's
4 through one of their witnesses or whatever. But it would
5 count as evidence put in by the Defendant.

6 THE COURT: That's correct. It would count ---

7 MR. ROBINSON: And I understand that, Your
8 Honor. I don't have any problem with that.

9 THE COURT: Okay. All right. I guess we're
10 going to get a lot of time to watch the video?

11 MR. DURANT: Yes, sir.

12 THE COURT: Realistically, I'm just trying to
13 -- how long do you think this trial is going to take? I
14 don't want the jurors to think they're going to get out
15 of here -- I want to kind of let them know as soon as
16 possible if we're going into another week.

17 MR. DURANT: Judge, I would anticipate calling
18 about twenty-five witnesses. And I believe a number of
19 those will be fairly short.

20 THE COURT: And some of them are going to be
21 very long.

22 MR. DURANT: On chain of custody, I collected
23 this piece of evidence, that sort of thing. Some of them
24 are going to be lengthy. It's tough for me to estimate,
25 Judge. When I do, I'm always wrong. I would hope to

1 finish the State's presentation on Friday.

2 THE COURT: Okay.

3 MR. ROBINSON: And I would concur with that,
4 that it may be -- Friday would be hopeful, quite frankly,
5 given -- especially with the video coming in.

6 THE COURT: I just really -- I don't see -- I
7 really -- and you're probably -- since you don't get last
8 argument, you're probably going to put up a defense,
9 being the good lawyer that you are. I guess probably by
10 Wednesday I will notify Court Administration that they
11 may need to have somebody fill in for me over in Lee
12 County.

13 MR. ROBINSON: I was fixing to say, the good
14 thing -- and I did address that with Mr. Durant, sensing
15 that we may not finish -- is I told him you were supposed
16 to be in Lee County the following week with myself and
17 Mr. Cutter and Ms. Timmons. So it certainly could be a
18 worse situation for you to have to be somewhere else more
19 inconvenient.

20 THE COURT: Yeah. That's right.

21 MR. ROBINSON: But I think we would be doing a
22 champion's pass to try this in a week, quite frankly.

23 THE COURT: And it needs to be fleshed-out as
24 any serious case needs to be. All right. Anything else
25 we have for today?

1 MR. ROBINSON: I don't think so, Your Honor.

2 THE COURT: All right. I'd like to go see the
3 facilities where we're going to be, just so I have an
4 idea. So I think we're -- we'll adjourn with court
5 starting at 9:30 tomorrow morning.

6 (WHEREUPON, court stood in recess for the day at
7 approximately 3:44 p.m.)

8 **March 11, 2014**

9 (WHEREUPON, court convened with all parties present
10 and the following proceedings were had commencing at
11 approximately 10:13 a.m.)

12 (WHEREUPON, State's Exhibit Numbers 37 and 38 were
13 remarked for identification to substitute for
14 originals.)

15 THE COURT: We have one matter we need to take
16 up with a juror before we start.

17 How about bring out the juror?

18 (WHEREUPON, the juror entered the courtroom.)

19 THE COURT: Mr. Adams, if you could step right
20 over there. Mr. Adams, it's come to our attention
21 through you -- thank you -- that there is a possible
22 conflict of interest, that you have may known the
23 Defendant in times past. So what the safest thing for us
24 to do -- and that's why have extra alternates -- is to
25 release you as a juror and replace you with ---

1 Which juror would it be?

2 THE CLERK: Mr. Wingard.

3 THE COURT: Mr. Wingard?

4 THE CLERK: Ronald Wingard.

5 THE COURT: Ronald Wingard.

6 So that relieves you from any further duties in this
7 trial. You're welcome to stay; you're welcome to go back
8 to your work. And they will pay you for yesterday and
9 today.

10 THE JUROR: Thank you, sir.

11 THE COURT: All right. Thank you, sir.

12 (WHEREUPON, the juror exited the courtroom.)

13 THE COURT: Is there anything from the State or
14 the Defense before we begin?

15 MR. FINNEY: Good morning, Your Honor.

16 THE COURT: Good morning.

17 MR. FINNEY: For the benefit of the record, we
18 have substituted two photographs that were objected to
19 yesterday, they being number 37 and 38. And we have
20 substituted two photographs of Ms. Caraway. One is now
21 marked 37. It is a closeup cropped view of the injuries
22 to her nose. And then 38 is the one that will replace
23 the old 38, which is a picture of Ms. Caraway.

24 THE COURT: And you've seen these, Mr.
25 Robinson?

1 MR. ROBINSON: Yes, sir, Your Honor. And I
2 think 38 is the pre-death photograph?

3 THE COURT: Right. Just an everyday
4 photograph. Any objection to 38?

5 MR. ROBINSON: Yes, sir.

6 THE COURT: What's your objection to that?

7 MR. ROBINSON: Your Honor, I don't know that
8 her pre-death condition would be relevant to anything in
9 this case, quite frankly. And I think that it plays on
10 the jury's sympathies and compassions and is certainly
11 more prejudicial than it is probative. It's not
12 probative of anything relevant to this case. Certainly,
13 the medical personnel can testify that she was alive. In
14 other words, there's no question that she died on that
15 date. So I don't believe that that does anything other
16 than appeal to the passions and caprice of the jury. And
17 on those grounds, I would object.

18 THE COURT: Mr. Finney?

19 MR. FINNEY: If Your Honor please, we believe
20 that it is within the jury's province to know Ms. --
21 something about Ms. Caraway while she was alive. That
22 picture represents her separate and apart from this
23 proceeding. It is not shown to arouse any passion or
24 prejudice. It is just a picture to substantiate what she
25 looked like prior to her injuries on April the 6th.

1 THE COURT: All right. I'm going to overrule
2 your objection. And then the other one for the ---

3 MR. FINNEY: 37.

4 THE COURT: You cropped number 37.

5 MR. FINNEY: Yes, sir, to show the injuries she
6 sustained on that day.

7 THE COURT: Specifically of the facial?

8 MR. FINNEY: Yes, sir.

9 THE COURT: Mr. Robinson?

10 MR. ROBINSON: Your Honor, I would object to
11 that one as well. There is a photograph in evidence,
12 probably 36 if I'm guessing correctly, that shows her not
13 as close up. I'm not aware that Mr. Johnson is in any
14 way charged with a crime related to breaking her nose and
15 that that injury is not relevant to the murder charge
16 which was allegedly -- I'm assuming testimony will be
17 induced that it was brought about by a shotgun. I think
18 that picture is shocking, is disturbing. There's another
19 picture in evidence that displays all of the information
20 shown in there, just not as up close and disturbing and
21 shocking. Again, the injury to the nose he's not been
22 charged with that. That's not part of the cause of
23 death. There are no allegations of anything about
24 breaking her nose that I think are relevant to the
25 charges for which Mr. Johnson is on trial. And based on

1 that, I would object to that photograph coming in as
2 well.

3 THE COURT: I'm going to reserve my ruling on
4 that. And looking at this again, I'm going to wonder if
5 you can crop it down even more into just an area such as
6 that. But -- and that I may allow. But right now, I'm
7 just going hold to my ruling until the time comes and
8 depending upon what evidence comes in.

9 MR. ROBINSON: And in case I didn't, Your
10 Honor, it's a relevance issue. The injury's not
11 relevant.

12 THE COURT: Any objection to 54 showing that?

13 MR. ROBINSON: The same type injury that --
14 again, the identity of the child is not in question --
15 showing -- especially a child in a happy state, prior to
16 death, is going to be very emotional to the jury. It
17 does not lend anything to the case whatsoever other than
18 to stir the emotions of the jury. This is a case --
19 although it is going to be very emotional, it's supposed
20 to be decided without emotion on the jury's behalf based
21 simply on the facts of the case. And that picture lends
22 nothing to the case. Identity is not an issue. That
23 doesn't demonstrate -- you know, I don't think cause of
24 death is going to be an issue based on the information
25 that I've been provided. So, again, I don't think that

1 lends anything to the case other than plays on the
2 emotion and sympathy of the jury to perhaps cloud their
3 judgment.

4 THE COURT: Okay. I'm going to overrule you on
5 that as well. I think who the person was is a part of
6 this case.

7 Anything else?

8 MR. ROBINSON: Yes, sir, Your Honor. Before we
9 get started -- this is just a matter of court efficiency
10 quite frankly. It is my understanding that the State
11 intends to call the 9-1-1 Emergency Services Director to
12 authenticate the 9-1-1 phone call and that would be their
13 first witness. I would have an authentication objection
14 to that, being that it's not the operator that actually
15 took the call and identified it. And I'm not sure, quite
16 frankly, that that is a regularly kept business record, a
17 9-1-1 call. And I just didn't know whether Your Honor
18 wanted to deal with that now to save some time ---

19 THE COURT: Yeah. I would. I'd rather go
20 ahead and do it.

21 MR. ROBINSON: --- instead of dealing with that
22 in front of the jury.

23 THE COURT: All right. You're standing up, Mr.
24 DuRant.

25 MR. DURANT: Yes, sir. I intend to handle that

1 witness. I would contend and argue that through Rule
2 901, that testimony by any witness with knowledge of the
3 matter is what it's claimed to be is sufficient to
4 authenticate. I anticipate the 9-1-1 director testifying
5 to the fact that he is the custodian of records at
6 dispatch, that those records are kept in the normal
7 course of business, that he provided that record to law
8 enforcement.

9 THE COURT: Okay. I'm going to overrule your
10 objection. I think it comes in. It's just like you
11 don't have to have the actual photographer as long as you
12 have somebody testify that that's a reasonable
13 representation. So, therefore, I am going to allow it
14 in.

15 MR. ROBINSON: And, Your Honor, just for the
16 record, I will renew that at the time ---

17 THE COURT: Certainly.

18 MR. ROBINSON: --- and we'll save some of this
19 ---

20 THE COURT: All right. Thank you.

21 All right. Let's bring our jury in and have them
22 sworn.

23 (WHEREUPON, the jury entered the open court at
24 approximately 10:20 a.m.)

25 THE COURT: Thank you. Good morning, ladies

1 and gentlemen.

2 THE JURY: Good morning.

3 THE COURT: I think you can see you do have a
4 lot more room in your jury room, and there's a lot more
5 space here for everybody. One of the jurors, Mr. Adams,
6 had a potential conflict, so I have relieved him. We
7 have randomly selected Mr. Wingard as the new primary
8 juror. So that leaves us with one alternate to go
9 forward from here. So we will proceed with that.

10 Would you please swear the jury?

11 THE CLERK: Yes, sir.

12 (WHEREUPON, the jury was duly sworn.)

13 THE COURT: Yes, sir.

14 (WHEREUPON, a bench conference was held off the
15 record.)

16 THE COURT: Well, good morning again, ladies
17 and gentlemen. And thank you again for being jurors in
18 this case. Before we begin this trial, I want to tell
19 you that this will probably be different from what you
20 might expect. You know, most people never have an
21 opportunity to participate in an actual court session as
22 you are doing now and may think from watching TV, movies,
23 or reading in books that trials are always full of high
24 drama, intense actions, and riveting circumstances.

25 Now, while all these things might be true at times,

1 this trial is not for entertainment. This is a real
2 trial which is a fundamental part of our democracy. And
3 it's a search for the truth in an effort to make sure
4 that justice is done. And searching for the truth and
5 ensuring that justice is done is often slow, deliberate,
6 repetitive, the exact opposite of what you've seen on TV,
7 movies or read in books.

8 Now, ladies and gentlemen, this courtroom -- and
9 this is a court of law at this time, even though it's
10 normally the county council chambers, but for our
11 purposes, it is the court of law -- is a place that is
12 dedicated to the protection and the preservation of our
13 citizens' rights through what has been called and what I
14 truly believe to be the greatest justice system ever
15 created by mankind.

16 The attorneys who are appearing before you are
17 advocates for the parties that they represent. But first
18 and foremost, they are officers of this court who are
19 sworn to uphold the integrity and the fairness of our
20 judicial system and to help you in your search for the
21 truth.

22 Ladies and gentlemen, you should expect them to be
23 professional, competent, and ethical in the
24 representation of their clients' interest. And remember,
25 ladies and gentlemen, you also just took an oath to

1 listen to the evidence in this case and reach a fair and
2 just verdict. And you're expected to be professional,
3 reasonable, and ethical as well. Again, thank you for
4 your service as jurors for this case.

5 Now, ladies and gentlemen, what I'm going to tell
6 you now is just intended to serve as an introduction of
7 the trial of this case. These remarks are not a charge
8 on the law. I will charge you the law that is applicable
9 to this particular case at the end of the trial. This is
10 merely an explanation of the procedures that we will
11 follow so you may better understand what is happening.

12 Ladies and gentlemen, let me tell you up-front that
13 you will not be allowed to take notes during this trial.
14 Therefore, it's very important that you listen throughout
15 this trial.

16 Now, ladies and gentlemen, the Defendant is charged
17 by indictments filed in this court with murder, two
18 counts, attempted murder, kidnapping, burglary in the
19 first degree, and possession of a weapon during the
20 commission of a violent crime. Now, ladies and gentlemen
21 the specific elements of each of these charges will be
22 explained to you later.

23 Now, ladies and gentlemen, as I told you yesterday,
24 the indictment charging the Defendant is simply the
25 document by which this case gets into court, and it is

1 not in any sense evidence of any of the charges contained
2 therein. The Defendant has pled not guilty to the
3 charges in the indictment. So the State, therefore, has
4 the burden of proving each and every element of each
5 charge in the indictment beyond a reasonable doubt. And
6 it will be your duty as jurors to decide whether the
7 State has met that burden.

8 Now, ladies and gentlemen, your purpose is to
9 determine the facts in this case. You're to determine
10 the facts in this case from the testimony that will be
11 presented from the witness stand and any other exhibits
12 that are introduced here in court. It will be up to you
13 to determine the inferences which you believe may be
14 properly drawn from the evidence that is presented.

15 And ladies and gentlemen, it is especially important
16 that you perform your duty diligently and conscientiously
17 because ordinarily there is no way to correct an
18 erroneous determination of facts by a jury.

19 Ladies and gentlemen, on the other hand, but with
20 equal emphasis, the same law that makes you the judges of
21 the facts, makes me the judge of the law. The law, as
22 given to you by me, is the only law that you may
23 consider. You must accept the law as I give it to you
24 and follow it even though you may disagree. And I will
25 make an agreement with you, that I will not tell you what

1 the facts are, and you will not disagree with me about
2 what the law is or what you think the law should be.
3 Your job as jurors is to take the law as I give it to
4 you, apply it to the facts as you find them from the
5 testimony of the witness and any other evidence that is
6 presented, and after hearing that evidence, you will
7 deliberate and render a true and just verdict under the
8 solemn oath that you just took as jurors.

9 Now, ladies and gentlemen, until I advise you to
10 begin your deliberations at the conclusion of this case,
11 you must not discuss the case with others, including your
12 fellow jurors, except when authorized to do so by me.
13 You may not use a computer, cellular phone, or other
14 electronic device with communications capabilities while
15 in attendance here at trial or during your deliberations.
16 Now, you may use these devices when we break for lunch or
17 when you go home for the evening. But even then, you may
18 not use them to disclose any information about the case
19 when you're not in court.

20 Information about the case would include, but
21 certainly would not be limited to information about a
22 party, a witness, an attorney, or any other court
23 officer, any news accounts about the case, any
24 information collected through juror research on any topic
25 raised or any testimony offered by any witness or any

1 information collected during juror research on any topic
2 that you think might be helpful in deciding this case.

3 Now, ladies and gentlemen, after the case is
4 submitted to you, you must discuss it only in the jury
5 room with your fellow jurors. The attorneys in this case
6 and anyone else involved are advised that they are not to
7 talk to you. So if you see anyone involved in this case
8 around this small square or in this small town, and they
9 don't even say hello while the trial is going on, well,
10 they're not being unfriendly; they're just following my
11 instructions, ladies and gentlemen.

12 Now, ladies and gentlemen, it's very important that
13 you keep an open mind and not decide any issue in this
14 case until all the evidence has been presented, the
15 attorneys have made their closing arguments, and I have
16 instructed you on the law that is applicable to this
17 case.

18 Ladies and gentlemen, it is your solemn
19 responsibility to determine the guilt or innocence of the
20 Defendant. And your verdict must be based solely on the
21 evidence as it is presented during this trial and on the
22 law as I instruct it to you during and at the close of
23 the trial.

24 Now, ladies and gentlemen, in just a moment the
25 Solicitor will make what is called an opening statement

1 in which he will explain to you what he believes the
2 issues are in this case. The attorney for the Defendant
3 may also make an opening statement, although he is not
4 required to do so. But what the attorneys tell you
5 during their opening statement, I remind you, is not
6 evidence in this case. It is only their contention as to
7 what they believe the issues are in this matter.

8 Now, from time to time during this trial, you may
9 hear one of the lawyers saying something like, "Your
10 Honor, I believe we have a question or a matter of law
11 that we need to discuss with you," or "Your Honor, may we
12 approach the bench?" Or sometimes I might find it
13 necessary to excuse you from the courtroom for a short
14 time while the attorneys and I discuss a matter of law.
15 And the reason for this is, as I said, you are the judges
16 of the facts. And sometimes when I'm discussing a matter
17 of law with the attorneys, it may be necessary for me to
18 make some comment as to the fact in connection as to
19 whether or not in ruling whether a particular law
20 applies. And as I've said, I'm not supposed to tell you
21 what the facts are. So I will excuse you from the
22 courtroom or for these conversations while these
23 discussions take place so that you will in no way be
24 influenced by anything that I might say or do in
25 connection with the facts.

1 Now, ladies and gentlemen, also during the trial,
2 you may hear one of the attorneys make an objection to
3 certain evidence that is about to be presented. Now,
4 whether I sustain, which would be to grant, or overrule,
5 which would be to deny, the objection should not be
6 construed that I favor one side over the other. I do
7 not. Nor should you infer that the objecting party is
8 trying to hide something from you. In this Court, as in
9 all situations in life, there are certain rules that must
10 be followed. And the attorneys, as officers of this
11 court, are merely trying to follow the rules of evidence
12 in making their objections. And I am only ruling based
13 upon what I believe the law of the State of South
14 Carolina to be concerning the evidence being presented.

15 Now, ladies and gentlemen, in determining what the
16 true facts are in this case, you must decide whether or
17 not the testimony of a witness is believable. Now, it
18 will be my responsibility to rule as a matter of law as
19 to whether certain testimony is admitted. But once the
20 testimony is admitted, whether or not you decide to
21 believe it is solely for you as jurors to determine.

22 And in deciding whether to believe a witness, you
23 have a right to consider the interest of any witness, the
24 bias of any witness, the prejudice of any witness, the
25 opportunity for the witness to have observed the matters

1 and things about which the witness may testify, and you
2 may examine the way the witness acts on the witness
3 stand.

4 Now, ladies and gentlemen, you will have a right to
5 consider anything that is in the record that will help
6 you evaluate the testimony of the witness. And that
7 means that it is your responsibility to pay close
8 attention to these witnesses, to observe these witnesses,
9 to listen to the witnesses and pay close attention to the
10 attorneys and to the Court.

11 Ladies and gentlemen, please don't let your thoughts
12 wander, but please give strict attention to the testimony
13 in this case. So at the end of all of the evidence and
14 the testimony and the argument of counsel by the
15 attorneys -- argument of counsel and the charge on the
16 law by me, you will then be in a position to determine
17 what the true facts are and to apply the law to those
18 facts and thus render a true and just verdict.

19 And Mr. Foreman, in addition, it will be your
20 responsibility to preside in the jury room and be the
21 jurors' spokesman here in the Court. It will also be
22 your responsibility to write down the verdict on the
23 verdict form. But I will provide you with more
24 information at the appropriate time.

25 Now, ladies and gentlemen, in order to preserve

1 everyone's rights, I will give the State and the
2 Defendant an opportunity to object to anything that I
3 have stated to you at this time.

4 Does the State have any objection to anything that
5 I've stated?

6 MR. FINNEY: No, Your Honor.

7 THE COURT: Does the Defense have any
8 objection?

9 MR. ROBINSON: No objection, Your Honor. But
10 may we approach?

11 THE COURT: You may.

12 (WHEREUPON, a bench conference was held off the
13 record.)

14 THE COURT: Ladies and gentlemen, I did have a
15 request -- there was a short article in the Item, and I
16 had instructed you not to read the newspaper. Has any
17 juror read anything about this case this morning?

18 (No response)

19 THE COURT: Okay. And I'm going to give you a
20 blanket. Please do us all a favor. And I know you may
21 still get the Item at your home or whatever, but please
22 do not read it this week. The Item is present, and
23 they're going to publish what they -- probably not much
24 more than what y'all see here. But we want you to be --
25 hear only from in here. Not any outside source. And I

1 appreciate that. Thank you, ladies and gentlemen.

2 Is the State ready to proceed?

3 MR. FINNEY: We are, Your Honor.

4 THE COURT: All right.

5 MR. FINNEY: Good morning, Your Honor.

6 Mr. Robinson.

7 MR. ROBINSON: Good morning.

8 MR. FINNEY: Good morning, ladies and
9 gentlemen.

10 THE JURORS: (In unison) Good morning.

11 OPENING STATEMENT

12 BY MR. FINNEY:

13 Mr. Foreman, my name is Chip Finney. And I have the
14 honor, the pleasure, and the responsibility of trying
15 this case today for the State of South Carolina. I've
16 got my favorite Clarendon lawyer, Mr. Chris DuRant,
17 because this is a big case. We decided we would work on
18 it together.

19 Today is a special day. It's a special day for
20 Justin Johnson because he's going to get a trial. He's
21 going to get his day in court. He's got a good lawyer.
22 He's got a fair judge. We've got the court reporter.
23 His trial is going to begin.

24 It's also special for the Caraways. John and Maxine
25 Caraway are some of the best people that you'd ever want

1 to come across. Today is [REDACTED], Maxine Caraway's
2 birthday. She would have been fifty-two years old --
3 excuse me -- sixty-two years old today. They were
4 married a long time.

5 They were a loving family, which is going to be
6 proved to you by the evidence, because they opened up
7 their house to their granddaughter, Kaisha Caraway, and
8 her children, Minor 2 and Minor . The whole family just
9 lived together out on Carissa Lane in Clarendon County
10 off the June Burn Road. They were living together,
11 taking care of each other, making progress.

12 John Caraway had been a hard worker for many years
13 at his job. Ms. Caraway, Maxine, was a homemaker.
14 Kaisha was in school, trying to get an education, trying
15 to do better for her kids.

16 You will hear from the evidence that we present over
17 the next few days that this normal, loving, Clarendon
18 County family had one problem. And that is Justin
19 Johnson who wanted to have things go his way, who wanted
20 to make sure that he was the center of attention. When
21 he didn't get that attention, things didn't go well, for
22 Kaisha, the kids, for the Caraways.

23 What brought us here today is the fact that on April
24 the 6th, 2011, we intend to prove that Justin Caraway
25 [sic] intentionally, maliciously with aforethought,

1 malice aforethought, which is the legal definition of bad
2 feelings, hatred, ill will.

3 He prepared himself by going to get a gun that he
4 had purchased, a pump shotgun, by going to get the
5 shotgun shells to go in that gun, by taking that gun with
6 his kids in the car back to the house on Carissa Lane
7 where Ms. Kaisha was waiting. And that he subsequently
8 started using his fists to harm the people in that house,
9 mainly Maxine Caraway and Kaisha. And that after a fist
10 fight, an altercation, he got that shotgun.

11 Ladies and gentlemen, he didn't stop shooting until
12 he ran out of bullets. We're going to prove to you that
13 he fired the first shot at the grandmother in the front
14 yard as she was trying to get to the hospital because he
15 had struck her and broken her nose. She didn't make it
16 to the car. The second shot, he walked inside, and in a
17 fit of rage, he fired the weapon at a nine-month-old
18 Minor sitting in a high chair.

19 He then turned the gun on Kaisha who was trying to
20 run for her life. And you will see evidence that he
21 fired a third shot down the hallway at her as she ran for
22 her life, missing her. She was able to get to a
23 bathroom, close the door and put a block -- what was
24 called a gun safe they used for storage of towels and
25 sheets. She blocked the door with the gun safe. He

1 fired the last shot through the door at her to try to get
2 to her. At that point, there were no more bullets.

3 He's charged with two counts of murder, one count of
4 attempted murder of Kaisha. He's charged with burglary
5 first degree and breaking into the house. And we will
6 show you the doorframe that he crashed the door, the door
7 from the outside, crashed it in to get in the house. We
8 will show you that he later took Kaisha away from the
9 house against her will with still having the gun, put her
10 in the car with another child that was still living,
11 Minor 2 , and took them on a purported trip to the police
12 station to report this crime.

13 He wasn't going to report this crime that he had
14 done. He had made up a story, a story about a man who
15 never existed named Robert. And he wanted Kaisha to help
16 him prove to the police officers that Robert did this
17 crime and that Robert caused all this tragedy.

18 The first moment that Kaisha was able to talk to an
19 officer after being kidnapped and taken away, she told
20 what happened. "He did it. He shot my grandmother. He
21 shot my baby."

22 We will present every piece of evidence that we have
23 been able to gather from the good officers of Clarendon
24 County law enforcement who have put in time and time and
25 time. The one thing I learned about police officers when

1 I got this job was they don't to knock off at five
2 o'clock. They have to stay until the job is done.

3 You will see that not only did they do a good job of
4 investigating, taking photographs and getting the DNA and
5 everything that could be gotten, they also did something
6 very smart. They put Justin in a room with a camera and
7 they asked him over and over, "Tell us what happened.
8 Tell us what happened. Tell us what happened." And over
9 and over, Justin refused to tell the truth. It took
10 eight hours of interrogation. And you will see all of
11 that on videotape.

12 This is not a question of an accident. You do not
13 pump a shotgun four times and claim accidental death.
14 This is a case where he has been charged with exactly the
15 violation of law that the facts support. Two counts of
16 murder, one count of attempted murder, one count of
17 kidnapping, one count of burglary, and one count of
18 possession of a weapon during a violent crime. Six
19 charges. Six charges. Every one supported by the
20 evidence.

21 We have been working on this case for three years.
22 We need you to give us the next three days, to keep your
23 mind open, to listen to the evidence, and to wait until
24 the case is concluded to decide.

25 There are no winners in this case. None. But there

1 is a need for us in this community to have responsibility
2 for our actions and to treat one another fairly. When
3 one of us does not treat one fairly, he must be held
4 responsible. Thank you.

5 THE COURT: Thank you, Solicitor.

6 Mr. Robinson?

7 MR. ROBINSON: Thank you, Your Honor. May it
8 please the Court.

9 THE COURT: Yes, sir.

10 MR. ROBINSON: Good morning, Your Honor, Mr.
11 Finney, Mr. DuRant.

12 MR. FINNEY: Good morning.

13 MR. DURANT: Good morning.

14 OPENING STATEMENT

15 BY MR. ROBINSON:

16 Ladies and gentlemen, of the jury, I would -- and
17 probably a lot of defense attorneys don't do this. I
18 don't know what your perception is. But I will agree
19 with Mr. Finney's statement that he made to you before he
20 sat down, that there are no winners here. There are no
21 winners. There is absolutely nothing that anybody in
22 this courtroom can do to undo the tragedy that happened
23 that day. Nothing. And as Mr. Finney told you, what
24 your role here is to impartially seek the truth, which is
25 justice in this particular case.

1 Now, he's told you some facts that cannot be
2 disputed. Minor is dead. Ms. Maxine Caraway is
3 dead. And they were two fine people. No argument about
4 that. But those feelings, those emotions, those
5 realities don't make evidence speak to things that aren't
6 there.

7 This is going to be an emotional case. You are not
8 allowed to let your emotions creep in and cloud your
9 judgment and cloud your vision and cloud your
10 impartiality. It's very sad.

11 There are going to be some items of evidence that
12 are difficult for you to look at. They're difficult for
13 me to look at. And I think if you'll remember the
14 selection process we went through yesterday, we did not
15 just randomly draw thirteen, fourteen, fifteen names out
16 of a hat and y'all sat up there. Y'all came up and stood
17 in front of us, and each attorney had an opportunity to
18 excuse you or to seat you, which means you're not a
19 random jury.

20 This is another thing that the State and I have
21 agreed on. That you are the best jury that we can have
22 to decide this case. And that's a job that, quite
23 frankly, that I do not envy of you all because this is a
24 difficult matter. It is emotional. It is sad. But you
25 have to put all of that aside and use your judgment, your

1 life experiences, your common sense, your everyday
2 knowledge in the context that the Judge will give you
3 with the law and apply it to the facts as they actually
4 are.

5 Now, the Solicitor told you that law enforcement had
6 done a good job in this case. They gathered every piece
7 of evidence that they were able to gather. He talked
8 about DNA and some other things. And you're certainly
9 going to hear a lot of testimony about that. There are,
10 in fact, a lot of items of evidence. But there are also
11 a lot of questions that I think you're going to hear
12 throughout this case. Items of evidence that weren't
13 analyzed, weren't tested, weren't gathered. Questions
14 that I don't think the State can answer. And I want you
15 to pay close attention to what the Solicitor told you, to
16 what he promised you that the evidence would show because
17 that is the State's burden.

18 They have made these charges against Mr. Johnson. A
19 man who was a model student, well-liked by his teachers,
20 did well in school, was an exemplary student. And you'll
21 hear testimony about that.

22 Nothing about this day was ordinary. Nothing about
23 this day made sense. Nothing about this day fits. But
24 your job is not to become emotionally involved and
25 overwhelmed by the sadness of this situation and say,

1 "Somebody's got to be punished." You have to make sure
2 that the State carries its burden. That is an oath that
3 you have sworn to. And it is the most important thing,
4 quite frankly, that we have in this society. Because if
5 that means nothing, then everything else that this
6 justice system stands for, our way of life, means
7 nothing.

8 Mr. Johnson is not guilty. The Judge has told you
9 that. He sits here today an innocent man. And there is
10 nothing that anyone can do to change that except you
11 twelve jurors in your jury room, and only, only if the
12 State convinces you beyond a reasonable doubt that each
13 and every accusation that they have leveled against him
14 is true and supported by the evidence.

15 Now, the State has a theory of what happened in this
16 particular case. And what they're going to do over the
17 next -- I hope it's three days. I doubt it's going to be
18 that short, quite frankly -- but over the next several
19 days is to present evidence to you that they hope
20 validates that theory or supports that theory. And your
21 job is to determine is that really what this evidence
22 shows. Does it really prove that? Does it rise to that
23 level? Am I convinced that this is what happened? And
24 there are going to be, like I said, questions that are
25 not going to be able to be answered.

1 And as the Judge told you, evidence will come from
2 that witness stand, through these exhibits. But there's
3 also another kind of evidence that you will never see.
4 It's evidence of reasonable doubt of those questions that
5 cannot be answered, that cannot satisfy you beyond a
6 reasonable doubt as to exactly what happened or to who
7 did this or why.

8 So my sole request to you at this point -- I'm not
9 going to promise you anything other than this is going to
10 be a long week. But to request that you do what we've
11 trusted you to, that you listen closely, that you pay
12 attention. And I'm not going to expect for y'all to
13 remain emotionless throughout this trial. But you be
14 able to separate that from your job, from your duty, to
15 give this case the consideration that it requires and
16 that it deserves and to make sure that justice is done in
17 this case. No matter how hard that is or how sad it is,
18 but that is what you have to do. And that's all that we
19 are asking of you.

20 And I thank you very much for your willingness to
21 serve. I know y'all didn't get to volunteer. But you
22 showed up for jury duty. You showed up to court. You
23 could have shrugged it off. Maybe you would have gotten
24 in trouble, maybe not. But you took your civic
25 responsibility seriously, and we appreciate that. Mr.

1 Johnson appreciates that because this is the most
2 important day of his life. This week will be the most
3 important week of his life. He's been accused of some
4 horrible things. And the only thing standing between him
5 and judgment for those is twelve impartial jurors who
6 have promised and sworn to take their job seriously and
7 to give him a fair and impartial trial. And that is all
8 that we will ask of you this week.

9 And, again, I thank you for your service.

10 THE COURT: Thank you, Mr. Robinson.

11 The State may call its first witness.

12 MR. DURANT: Thank you, Your Honor. The State
13 calls Danny Floyd.

14 **DANNY FLOYD,**

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. DURANT:

18 Q. Mr. Floyd, where are you employed?

19 A. I'm employed with the E 9-1-1 Center for Clarendon
20 County.

21 Q. The E 9-1-1 Center?

22 A. Yes.

23 Q. And how long have you worked there?

24 A. Thirty-three years.

25 Q. And in what capacity?

1 A. The last twenty-four years have been as director.

2 Q. As director?

3 A. Yes.

4 Q. Tell me, what services does the 9-1-1 Center in
5 Clarendon County provide?

6 A. We provide all emergency response and all emergency
7 services for Clarendon County, EMS, fire, law
8 enforcement, police department, everything.

9 Q. Do you receive distress calls at 9-1-1?

10 A. Yes, we do.

11 Q. And do the -- is part your service to direct
12 officers to respond to those calls?

13 A. We do.

14 Q. On April the 6th of 2011, did dispatch or Clarendon
15 County 9-1-1 direct officers to respond to [REDACTED] Carissa
16 Lane in Manning?

17 A. We did.

18 Q. And what was that in response to?

19 A. It was in response to a 9-1-1 hangup. Actually, a
20 9-1-1 call, a 9-1-1 hangup that originated from that
21 address.

22 Q. Was that call recorded?

23 A. Yes, it was.

24 Q. And as director, are you the custodian of those
25 records?

1 A. I am.

2 Q. Are they kept in the normal course of business?

3 A. Yes, they are.

4 (WHEREUPON, State's Exhibit Number 55 was marked for
5 identification only.)

6 Q. I'm going to show you what's been marked as State's
7 Exhibit 55 for purposes of identification. Do you
8 recognize that?

9 A. Yes, I do.

10 Q. Tell us what it is.

11 A. It is actually a cassette tape, a copy of the DVD of
12 the actual call that was made into the 9-1-1 center. The
13 first call is actually a hangup call where the call was
14 made and the dispatcher heard all the commotion and all
15 the stuff that went on.

16 MR. ROBINSON: Your Honor, at this point, I'm
17 going to -- I think once they put the tape in, it'll
18 speak for itself. But he's not ---

19 THE COURT: Sustained.

20 MR. ROBINSON: --- authorized ---

21 THE COURT: Sustained.

22 Q. Director, did you make a recording of that call for
23 law enforcement?

24 A. I did.

25 Q. And is this a fair and accurate representation of

1 that recording?

2 A. It is.

3 MR. DURANT: Your Honor, at this time, I'd ask
4 to admit State's Exhibit 55 into evidence.

5 THE COURT: All right. Any objection, Mr.
6 Robinson?

7 MR. ROBINSON: No objection, Your Honor.

8 THE COURT: Without objection. State's Exhibit
9 Number 55 is admitted.

10 (WHEREUPON, State's Exhibit Number 55 was admitted
11 into evidence.)

12 MR. DURANT: And I ask permission to publish it
13 for the jury.

14 THE COURT: Certainly you may let the jury
15 listen to it.

16 (WHEREUPON, State's Exhibit Number 55 was published
17 for the jury.)

18 Q. Okay. Director, the voice of the dispatcher you can
19 hear there, who was that?

20 A. That's Ms. Unar (phonic).

21 Q. She works for you?

22 A. Yes, she does.

23 Q. How long has she been working for you?

24 A. Approximately nine years.

25 Q. And what did dispatch or 9-1-1 do in response to

1 that call?

2 A. We actually sent a deputy to Carissa Lane because
3 the address she was giving is in Florence County. She
4 was actually giving an address in Florence County.
5 That's where she moved from apparently.

6 Q. The second address of Park View?

7 A. Park View or Park Lane, whatever it was that she
8 gave to start off with, the -- what actually happens the
9 dispatcher did what they call a retransmit.

10 MR. ROBINSON: Your Honor -- and I just want to
11 make sure that Mr. Floyd is testifying to this from his
12 own knowledge, not to what the dispatcher did unless he
13 observed that.

14 THE COURT: Rephrase your question.

15 Q. Mr. Floyd, based on your personal knowledge, what
16 did dispatch do, if you know, in response to that call?

17 A. Well, I was actually in the room when this
18 transpired. And she sent a deputy after obtaining the
19 information from the LENE screen. It is a feed that
20 comes in from the phone company that identifies the
21 location, phone number, address, everything on the
22 caller. And sent a deputy to that address.

23 Q. That Carissa Lane address?

24 A. The Carissa Lane address, yes.

25 MR. DURANT: Your Honor, I don't have any

1 further questions for Mr. Floyd.

2 THE COURT: All right.

3 Mr. Robinson, cross-examination?

4 MR. ROBINSON: Just briefly.

5 CROSS-EXAMINATION

6 BY MR. ROBINSON:

7 Q. Mr. Floyd, your only involvement with this was being
8 present when that call came in and then what you just
9 testified about finding out that address and sending it
10 out?

11 A. Yeah. I was in the radio room when all of this was
12 going on, yes.

13 Q. Okay. Beyond that, you have no first-hand knowledge
14 of anything else?

15 A. As far as the case, no, sir.

16 Q. Okay.

17 MR. ROBINSON: Thank you, Your Honor. No
18 further questions.

19 THE COURT: All right. Thank you.

20 Any redirect?

21 MR. DURANT: No, sir, Your Honor.

22 THE COURT: All right. Thank you. You may
23 step down. Any objection to this witness being excused?

24 MR. DURANT: Not from the State, Your Honor.

25 MR. ROBINSON: No objection.

1 THE COURT: All right. Thank you. Have a good
2 day, sir.

3 MR. DURANT: May it please the Court?

4 THE COURT: Yes, sir.

5 MR. DURANT: The State would call Lance
6 Corporal Charles Eaddy.

7 THE COURT: Corporal Eaddy.

8 **CHARLES EADDY,**

9 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. DURANT:

12 Q. Deputy Eaddy, where do you work?

13 A. Clarendon County Sheriff's Office.

14 Q. How long have you worked there?

15 A. Fourteen years.

16 Q. What is your position at the Sheriff's office?

17 A. I work civil process.

18 Q. One of your duties as a civil process server is to
19 serve legal papers on individuals?

20 A. Yes, sir.

21 Q. Were you working on April 6th of 2011?

22 A. Yes, sir.

23 Q. In that same capacity?

24 A. Yes.

25 Q. Did you have occasion to come in contact with the

- 1 Defendant in this case, Justin Johnson, on that date?
- 2 A. Yes, I did.
- 3 Q. How did that come about?
- 4 A. I was at 521 and 301. And ---
- 5 Q. Heading out of Manning?
- 6 A. Heading out of Manning, yes. And he was on -- and I
- 7 saw a car come across the intersection where I was. And
- 8 for some reason I kind of watched it come by me because
- 9 he was looking at me.
- 10 Q. When you say the -- is that the railroad tracks,
- 11 just as you go ---
- 12 A. Yes, sir. It's the railroad at 301 and 521.
- 13 Q. Okay.
- 14 A. I was stopped right there at the light, and he came
- 15 across. And he circled around me to the side, to my
- 16 right side.
- 17 Q. What kind of car was he driving?
- 18 A. He was driving a -- I think it was a Gray Hyundai.
- 19 Q. You're at the stoplight, and he circles around you?
- 20 A. Yes, sir. And he come up to the right side, and I
- 21 rolled my window down. And he told me someone just shot
- 22 his girlfriend's grandmother. And I looked over at him,
- 23 and I said, "Where'd this happen?" And then I noticed
- 24 blood on his sleeve of his tee shirt. And then I told
- 25 him, I said, "Well, you lead the way, and I'll follow."

1 Q. Is the individual that you saw with the blood on his
2 shirt in the courtroom today?

3 A. Yes, sir.

4 Q. Would you point him out to us?

5 A. Right there.

6 Q. After he told you what had happened, what did you
7 do?

8 A. Well, we proceeded down June Burn. And as we was
9 going, I radioed dispatch. I asked them did they have a
10 report of a shooting. And they told me, "No." And I
11 told them someone just reported a shooting at Carissa
12 Lane. And then they told me they would get EMS on the
13 way.

14 Q. How far did you have to travel down June Burn Road
15 to get to the location?

16 A. Maybe six or seven miles.

17 Q. And did you follow him all the way there?

18 A. Yes, sir.

19 Q. Any other patrol vehicles or law enforcement there
20 when you got to the scene?

21 A. No, sir.

22 Q. You were the first responder?

23 A. Yes, sir.

24 Q. Tell us what you saw when you got there.

25 A. When I turned in, he went straight. I made a right

1 at the house. When I make the right, I saw a victim
2 laying on the ground. And I dispatched. I called back
3 on my cop radio telling them people was laying on the
4 ground. I get out of my vehicle. And I looked to the
5 left. There was a gun on the ground. But I went up to
6 her. I started up to her, and I see a pool of blood. So
7 I turn around. I didn't go up to her.

8 Q. Was anybody else in the car with the Defendant?

9 A. Yes.

10 Q. Who? Or how many people?

11 A. Two.

12 Q. Who were they? Do you know?

13 A. Not by name. But I mean, I know one of them ---

14 Q. Male? Female? Child? Adult?

15 A. A child and a female.

16 Q. I want to show you what's been marked for the
17 purposes of identification as State's Exhibit 10. And
18 I'll ask if you recognize that?

19 A. Yes.

20 Q. What is it?

21 A. That's the picture of the residence I went to.

22 Q. Is this how the scene looked when you arrived?

23 A. Yes, sir.

24 Q. Has it been altered or edited in any way?

25 A. No, sir. Not by looking, no, sir.

1 MR. DURANT: Your Honor, at this time, I'd ask
2 to admit State's Exhibit 10 into evidence.

3 THE COURT: Any objection?

4 MR. ROBINSON: No objection.

5 THE COURT: Without objection, State's Exhibit
6 10 is admitted.

7 (WHEREUPON, State's Exhibit Number 10 was admitted
8 into evidence.)

9 MR. DURANT: And I ask permission to publish it
10 to the jury as well, Your Honor.

11 THE COURT: You may.

12 MR. DURANT: I beg the Court's indulgence as I
13 switch my wires around.

14 (WHEREUPON, State's Exhibit Number 10 was published
15 for the jury.)

16 Q. Deputy Eaddy, if you would, with the Court's
17 permission, step over here for me.

18 (WHEREUPON, the witness stepped down from the
19 witness stand.)

20 Q. And I'd ask you to point out to the jury where the
21 body is that you said you saw when you arrived at the
22 scene as well as the gun?

23 A. That's the body right here to your right.

24 Q. Step up here with me and point on the actual
25 picture.

1 A. Right there's the body, and right there's the gun.

2 Q. Okay. While you're here, let me show you what's
3 been marked as State's Exhibit 11 and ask you if you
4 recognize that?

5 A. Yes.

6 Q. And what is that?

7 A. The same photo. The same picture. It's taken at a
8 different angle.

9 Q. Okay. And is this a fair representation of the
10 scene as you found it that day?

11 A. Yes, sir.

12 MR. ROBINSON: No objection, Your Honor.

13 THE COURT: This is State's Exhibit Number 11?

14 MR. DURANT: Yes, sir.

15 THE COURT: It's admitted without objection.

16 (WHEREUPON, State's Exhibit Number 11 was admitted
17 into evidence.)

18 MR. DURANT: And I ask permission to publish
19 this exhibit as well.

20 THE COURT: You may.

21 (WHEREUPON, State's Exhibit Number 11 was published
22 to the jury.)

23 Q. Again, Deputy, if you would, would you point out the
24 victim that you found as well as the gun?

25 A. This the victim, and that's the gun.

1 Q. You can have your seat back.

2 (WHEREUPON, the witness resumed the witness stand.)

3 Q. Deputy, after you arrived on the scene, did you
4 notify dispatch of what you found?

5 A. Yes, I did.

6 Q. Did you attempt to check on the victim on the
7 ground?

8 A. I went up. I went close to her. But like I say,
9 when I saw the puddle of blood, I turned around.

10 Q. So you didn't check her vitals or anything?

11 A. No, sir.

12 Q. Did you question the Defendant or the other
13 individual in the vehicle about what had happened?

14 A. Not what happened. The only thing I asked them, who
15 was Robert, because I tried to get that information so I
16 could get it back to the officer on the road.

17 Q. And where did you get the name Robert from?

18 A. That's what I heard across the radio.

19 Q. Did the Defendant or the other individual in the car
20 make any statements to you?

21 A. No statement. The only thing -- like I say, the
22 only thing I asked them was who was Robert.

23 Q. And did anybody respond?

24 A. They didn't know.

25 Q. Let me ask you, when y'all got to the house and you

1 say the Defendant parked -- where did he park?

2 A. I turned to the right, and he went straight on
3 because it's a -- you could turn to the right and go up
4 to the house. And then you can drive on. He pulled
5 straight up.

6 Q. Did he get out of the vehicle?

7 A. Yes, he did.

8 Q. And where did he go when he got out of the vehicle?

9 A. He came around to the passenger side.

10 Q. And he stood ---

11 A. Stood in the door.

12 Q. In the doorway of the passenger's side.

13 A. Yes.

14 Q. So the door -- the passenger side door of the
15 vehicle was open?

16 A. Yes.

17 Q. Who was sitting in the passenger side of the
18 vehicle?

19 A. The female subject.

20 Q. The adult.

21 A. The adult, yes, sir.

22 Q. And was he standing over her?

23 A. I wouldn't say exactly standing over her, but he was
24 in the door. And she was sitting down.

25 Q. Okay. She was sitting and he was standing?

1 A. Yes, sir.

2 Q. Did you have any further involvement in this case
3 after -- I assume at some point other officers arrived?

4 A. Yes, sir.

5 Q. Did you have any further involvement in this case
6 once other officers responded?

7 A. No, sir.

8 MR. DURANT: I beg the Court's indulgence.

9 THE COURT: Yes, sir.

10 Q. Did you stay at the crime scene for some time, or
11 did you leave immediately? What did ...

12 A. I stayed at the crime scene for quite a while. I
13 stayed, and anybody that come into the crime scene, I
14 took their name.

15 Q. You took their names? So you kept a log of people
16 who came into ---

17 A. Yes, sir. I keep a log of who come in.

18 Q. But beyond that, you didn't have any involvement in
19 the case?

20 A. No, sir.

21 Q. Deputy Eaddy, thank you for your testimony. I don't
22 have any further questions.

23 A. You're welcome.

24 THE COURT: Mr. Robinson?

25 MR. ROBINSON: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR ROBINSON:

3 Q. Deputy Eaddy, I notice that you've got some
4 paperwork up there with you. And I notice you didn't
5 look at it, which is pretty good. Are you testifying
6 today from your actual memory of this case, or have you
7 reviewed some notes or other matters in preparation for
8 your testimony?

9 A. I looked at my notes, and I've got a pretty good
10 remembrance of it.

11 Q. Okay. But you did look at your notes?

12 A. Yeah, before I came in.

13 Q. Okay. Are those your notes that you have right
14 there?

15 A. Yes, sir.

16 MR. ROBINSON: Your Honor, permission to glance
17 at those.

18 THE COURT: You may.

19 Q. May I look at those real quick?

20 (WHEREUPON, Mr. Robinson reviewed notes.)

21 Q. Thank you.

22 A. You're welcome.

23 Q. Let me ask you just a few questions about what you
24 recall that day. Now, the photographs that the State has
25 put into evidence that you identified, you said that they

- 1 accurately represent the scene the best you can recall?
- 2 A. Yes, sir.
- 3 Q. And that you took down the names of everybody who
- 4 entered the crime scene that day?
- 5 A. Yes, sir.
- 6 Q. Do you have an idea of when that particular
- 7 photograph was taken? I mean, I know it was taken that
- 8 day. But was it -- did you take that photograph?
- 9 A. No, sir.
- 10 Q. Was it taken after several other people arrived?
- 11 A. I would say, yes, but I didn't see no one took that
- 12 photo.
- 13 Q. Okay. Do you know if SLED took that photograph or
- 14 someone in your department?
- 15 A. No, sir. I don't know who took it.
- 16 Q. Okay. Would you agree with me that throughout the
- 17 course of that day, that there were some twenty-odd
- 18 officers from SLED or the Sheriff's department or other
- 19 law enforcement that came in and out of this crime scene?
- 20 A. I don't know the exact number, but ---
- 21 Q. It was a lot of them, wasn't it?
- 22 A. Yes, sir.
- 23 Q. Okay. And you don't really have any idea whether
- 24 that picture was taken before these people came in and
- 25 out of the crime scene or after; is that correct?

1 A. That's correct.

2 Q. Okay. Now, you said that the car at 521 and 301,
3 right there at the railroad tracks, turned around and
4 they actually flagged you down; is that correct?

5 A. Yes, sir. Where I was stopping, yes, sir.

6 Q. And they came up to you?

7 A. Came up to me.

8 Q. Mr. Johnson was driving the car?

9 A. Yes, sir.

10 Q. When he saw you, he didn't hit the gas and go the
11 other way?

12 A. No, sir.

13 Q. Was he -- did you see him holding a gun to anybody
14 in the car?

15 A. No, sir.

16 Q. Did he have a gun in the car?

17 A. To the best of my knowledge, no, sir.

18 Q. Okay. The only gun that you're aware of is that gun
19 in that picture; is that right?

20 A. Yes, sir.

21 Q. And it was laying in the yard when y'all pulled up;
22 is that right?

23 A. That's right.

24 Q. And you didn't -- when Mr. Johnson first pulled up
25 beside you, did you pull your weapon on him?

- 1 A. No, sir.
- 2 Q. Did you stick him in handcuffs or put him in the
3 car?
- 4 A. No, sir.
- 5 Q. Was anybody in the car crying or screaming, "Help
6 me, help me," or anything of that nature?
- 7 A. No, sir.
- 8 Q. Okay. Mr. Johnson told you what had happened, that
9 somebody had shot Ms. Kaisha's grandmother, Ms. Maxine?
- 10 A. Yes, sir.
- 11 Q. And you said, lead the way; is that right?
- 12 A. That's right.
- 13 Q. And he took you back to the house; is that correct?
- 14 A. That's correct.
- 15 Q. He didn't try to run from you then?
- 16 A. No, sir.
- 17 Q. When you turned in and turned to the right and he
18 went straight, he didn't take off down a dirt road or do
19 a u-turn and squeal out the yard?
- 20 A. No, sir.
- 21 Q. Did you ever see him do anything that caused you to
22 be concerned for your safety around Mr. Johnson?
- 23 A. No.
- 24 Q. Was he acting in a threatening way?
- 25 A. No, sir.

1 Q. Did he seem to be outraged or angry?

2 A. No, sir.

3 Q. And the Robert that you were asking about, you heard
4 that across the radio; is that right?

5 A. That's right.

6 Q. You didn't hear that from Mr. Johnson, did you?

7 A. No, sir.

8 MR. ROBINSON: Thank you. I don't have any
9 further questions.

10 THE COURT: Any redirect?

11 MR. DURANT: Just one follow-up.

12 REDIRECT EXAMINATION

13 BY MR. DURANT:

14 Q. Deputy, the two items that you identified in that
15 photograph, the body and the gun, had they been moved
16 from their original location that you found them from
17 when that photograph was taken?

18 A. No, sir.

19 Q. Okay.

20 MR. DURANT: No further questions.

21 THE COURT: All right. Any recross?

22 MR. ROBINSON: No, sir.

23 THE COURT: Thank you. Any objection to this
24 witness being excused?

25 MR. ROBINSON: No objection.

1 THE COURT: Thank you.

2 All right. We've been in here for over an hour.

3 Why don't we take a ten-minute recess. They'll provide
4 you a Coca-Cola or coffee or anything you want in there.

5 Please do not discuss anything about the case while
6 you're in your jury room. Thank you.

7 Hold it. Let the jury ...

8 (WHEREUPON, the jury exited the open courtroom at
9 approximately 11:15 a.m.)

10 THE COURT: Now the court is in recess.

11 MR. ROBINSON: Thank you.

12 (WHEREUPON, court stood at recess for a short
13 break.)

14 MR. DURANT: Judge, may we approach real quick?

15 THE COURT: You may.

16 (WHEREUPON, a bench conference was held off the
17 record.)

18 THE COURT: Anything on the record before we
19 bring the jury in?

20 MR. FINNEY: No, Your Honor.

21 MR. ROBINSON: No, Your Honor.

22 THE COURT: Okay. Let's bring our jury.

23 (WHEREUPON, the jury entered the open court at
24 approximately 11:32 a.m.)

25 THE COURT: All right. Thank you. You may be

1 seated.

2 Ms. Byrd, I understand that the glare from out there
3 is bothering you. And anybody else, if it's a problem,
4 if you need to wear sunglasses, because y'all are looking
5 out that way. That's for a particular purpose. We're
6 not trying to be cool or anything.

7 All right. The State may call its next witness.

8 MR. DURANT: Thank you, Your Honor. The State
9 calls Mr. John Caraway.

10 **JOHN CARAWAY, JR.,**

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. DURANT:

14 Q. Mr. Caraway, where do you live?

15 A. [REDACTED] Carissa Lane, Manning.

16 Q. And how long have you lived there?

17 A. Twenty-five years.

18 Q. Twenty-five years?

19 A. Yeah, approximately.

20 Q. Mr. Caraway, Ms. Maxine Caraway that we've spoken
21 about in court here today, was that your wife?

22 A. Yes, it was.

23 Q. How long were y'all married?

24 A. Thirty-seven years.

25 Q. I'm going to show you what's been marked as State's

1 Exhibit 38 and ask if you recognize that?

2 A. This is her.

3 Q. Is that Ms. Maxine?

4 A. Yes, it is.

5 MR. DURANT: Your Honor, I just want to ask to
6 admit State's 38 into evidence.

7 THE COURT: Any objection?

8 MR. ROBINSON: Subject to my prior objection.

9 THE COURT: Overruled.

10 MR. DURANT: Permission to publish to the jury.

11 THE COURT: State's Exhibit Number 38 is
12 admitted over the Defendant's objection. You may
13 publish.

14 (WHEREUPON, State's Exhibit Number 38 was admitted
15 into evidence and published for the jury.)

16 Q. How old was Ms. Maxine in that picture?

17 A. She would be sixty-two today.

18 Q. How old was she in this picture?

19 A. Well, three years from now, so I guess she'd be
20 fifty-eight, fifty-nine.

21 Q. Let me show you what's been marked as State's
22 Exhibit 52 and ask what this is?

23 A. This is June Burn Road. I really can't make it out.

24 Q. Okay. You just recognize June Burn Road ---

25 A. Yeah.

1 Q. --- but you don't recognize the houses?

2 A. No.

3 Q. Mr. John, I'm going to go back to April the 6th of
4 2011 and just ask you a few questions. Well, let me back
5 up. Do you work?

6 A. Yes, I do.

7 Q. Where do you work?

8 A. Pilgrim's Pride in Sumter.

9 Q. Were you working there back in 2011?

10 A. Yeah.

11 Q. And did you work on April the 6th of 2011?

12 A. Yes, I did.

13 Q. Do you remember what day of the week it was?

14 A. I don't.

15 Q. What time do you have to go to work?

16 A. I think it was about eight thirty.

17 Q. Okay. Did you drive to work?

18 A. Yes, I did.

19 Q. When you left to go to work that day, who was at
20 your house?

21 A. Justin was there.

22 Q. Justin Johnson?

23 A. Yes, he was.

24 Q. Who else was there?

25 A. My wife.

- 1 Q. Ms. Maxine?
- 2 A. Yeah.
- 3 Q. Did she work?
- 4 A. No.
- 5 Q. And was she awake when you left home that day?
- 6 A. Yes, she was.
- 7 Q. And what was she doing?
- 8 A. She was -- well, she'd just got up before I leave,
- 9 and the two grand kids was there, the boy and the girl.
- 10 Q. The two grand -- what are their names?
- 11 A. Great grand kids. Kaisha -- I mean, Minor 2 and
- 12 Minor .
- 13 Q. Were the great grandchildren's mother there as well?
- 14 A. Yeah. Maxine was. Kaisha was, yeah.
- 15 Q. Okay. Was everybody awake when you left home?
- 16 A. Yeah.
- 17 Q. How about Mr. Johnson? Did he live there?
- 18 A. No.
- 19 Q. What was he doing there at eight thirty in the
- 20 morning?
- 21 A. I asked my wife what was he doing there so early.
- 22 She said he came to take the ---
- 23 MR. ROBINSON: Your Honor, I'm going to object
- 24 to that.
- 25 THE COURT: Sustained.

1 A. He came to take the baby to the doctor.

2 THE COURT: Sir, sir, you can't say anything.

3 I sustained the objection.

4 THE WITNESS: Okay.

5 THE COURT: Thank you.

6 Q. Don't tell me what anybody else said. Mr. Johnson
7 didn't stay there overnight?

8 A. No.

9 Q. He had come there at some point that morning?

10 A. Yes.

11 Q. Did you have any conversation with Mr. Johnson that
12 day?

13 A. No.

14 Q. Was he inside the house when you left?

15 A. I think he was still at the car.

16 Q. He was outside at the car?

17 A. Yeah.

18 Q. Do you remember what his car looked like?

19 A. I don't even remember.

20 Q. Was it unusual for Mr. Johnson to be at your house?

21 A. Was it what?

22 Q. Was it unusual for Mr. Johnson to be at your house?

23 A. Well, I thought it was after they had broke up, my
24 granddaughter and him had broke up. I thought it was
25 unusual.

1 Q. And that's your granddaughter, Kaisha?

2 A. Yeah.

3 Q. So she had been dating Mr. Johnson at some point in
4 time?

5 A. Yeah.

6 Q. And as far as you know, were they dating on April
7 the 6th of 2011?

8 A. Not that I know of.

9 Q. The two great grandchildren that you mentioned,
10 Minor 2 and Minor , are those Mr. Johnson's children?

11 A. As far as I know.

12 Q. As far as you know? Did Mr. Johnson come around to
13 your house often?

14 A. Not too often.

15 Q. After you left home that day and you went to work,
16 at some point were you contacted and informed of what had
17 happened?

18 A. Yes.

19 Q. Do you remember who contacted you?

20 A. A guy I work with, he contacted me. He said I need
21 to go up front. He said I needed to go up to personnel.
22 I didn't know what had happened.

23 Q. Did you drive back home?

24 A. No.

25 Q. Did somebody come get you or what?

1 A. No. Personnel told me that a deputy sheriff was out
2 there, needed to see me. And he told me I need to go
3 home. He was going to take me as far as the county line.

4 Q. And do you remember what time of day that was?

5 A. I think that must have been around nine. I'm not
6 sure.

7 Q. Sometime in the morning?

8 A. Yeah, in the morning.

9 Q. Do you remember about how long you had been at work
10 when that had happened?

11 A. Maybe thirty-five minutes or thirty minutes. It
12 wasn't long.

13 Q. After you saw Mr. Johnson that morning, did you ever
14 see him again on April 6th?

15 A. I saw his car.

16 Q. Where?

17 A. Turning toward Wal-Mart, cause when I left, I went
18 by the Bank of Clarendon and went down the Old Georgetown
19 Road to go -- there's a truck stop turning going to
20 Sumter. And just before I got to that light, I saw his
21 car going down in to Wal-Mart.

22 Q. Did you notice whether anybody was in the car with
23 him?

24 A. I couldn't see because the children was in there. I
25 couldn't see them in the car seat.

1 Q. Mr. Johnson [sic], I want to show you what's been
2 marked as State's Exhibit 23 and ask you what that is?

3 A. That's my front door.

4 Q. The front door to your house at [REDACTED] Carissa Lane?

5 A. That's right.

6 Q. Was it in that condition when you left for work that
7 morning?

8 A. No.

9 MR. DURANT: Your Honor, at this time I'd ask
10 to admit State's Exhibit 23 into evidence.

11 THE COURT: Any objection?

12 MR. ROBINSON: Your Honor, I don't think that's
13 been properly authenticated. He just testified it wasn't
14 in that condition when he left. So I don't there's been
15 a proper foundation.

16 THE COURT: Right. You'll have to get that
17 through another witness. Sustained.

18 Q. Mr. Johnson, I'm going to also show you State's
19 Exhibit 24 and ask if you recognize that?

20 A. Yes.

21 Q. What is it?

22 A. The front door of my house.

23 Q. And was it in that condition when you left for work
24 on April 6th of 2011?

25 A. No.

1 Q. Okay.

2 MR. DURANT: I beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 Q. Mr. Caraway, when you saw Justin Johnson the second
5 time on April the 6th near Wal-Mart, in which direction
6 was he headed?

7 A. Toward the truck stop.

8 Q. Towards Paxville?

9 A. Yeah.

10 Q. When you got to the house that morning after the --
11 a deputy took you to the house?

12 A. No. He stopped at the county line where Clarendon
13 County picked me up and took me on to the house.

14 Q. A Clarendon County deputy met you at the ---

15 A. Yes.

16 Q. When you got to the house, tell me what you learned
17 had happened.

18 A. I never got to the house. The closer we get, I saw
19 a lot of cars and people standing around the lane. So I
20 asked them what had happened, what was going on at my
21 house? So he just drove on up and told me to get out and
22 go talk with the sheriff.

23 Q. And at some point, were you given the information
24 about what had happened that day?

25 A. Yeah. The sheriff told me right then that there had

1 been a fatality at my house. And they got the person
2 what did it.

3 MR. ROBINSON: Your Honor, I'm going to object.
4 That's hearsay.

5 THE COURT: Sustained.

6 Q. Were you given any information about who the victims
7 were of the fatalities?

8 A. They said two fatalities.

9 Q. Of the two fatalities, were you given information
10 about who the victims were?

11 A. I don't think so.

12 Q. And were you told who was dead?

13 MR. ROBINSON: Your Honor, I think he's asking
14 him to testify to hearsay. I mean, clearly that would
15 have had to come from somebody else.

16 THE COURT: Sustained.

17 Q. Mr. Caraway, when you got back to your house that
18 morning, you say there were a lot of vehicles in the
19 yard? Was Justin Johnson's vehicle in the yard that day,
20 the same car as you had seen?

21 A. (Nodded head up and down in the affirmative.)

22 MADAM COURT REPORTER: Is that a yes?

23 THE COURT: You need to answer yes or no, sir.

24 A. Yes.

25 Q. Mr. Johnson's car was in the yard that morning?

1 A. Yes.

2 Q. Is that the same vehicle you had seen in town
3 earlier?

4 A. Yes.

5 Q. The same vehicle that he had been in at your house
6 in when you left for work?

7 A. Yes.

8 MR. DURANT: Your Honor, I don't have any
9 further questions.

10 THE COURT: Mr. Robinson?

11 MR. ROBINSON: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. ROBINSON:

14 Q. Mr. Caraway, I want to just ask you a few questions.
15 I know this is difficult. I apologize for having to go
16 through this, but I do appreciate your willingness to do
17 this.

18 What time did you have to be at work at Pilgrim's
19 Pride in Sumter that particular morning?

20 A. I can't really say right now because that was three
21 years ago. And I go all different times in the day. Any
22 different time. But I know it was after seven.

23 Q. Okay.

24 A. Around about eight or eight thirty.

25 Q. And you said you were going to the bank before you

- 1 went to work?
- 2 A. Yeah.
- 3 Q. To the Bank of Clarendon?
- 4 A. Yeah.
- 5 Q. Did you transact some business at the Bank of
- 6 Clarendon?
- 7 A. I intended to. But, now, whether I did, I don't
- 8 remember.
- 9 Q. Okay. Did anybody ask you that day or subsequent
- 10 when they were talking about this whether you went to the
- 11 Bank of Clarendon?
- 12 A. No.
- 13 Q. Nobody asked you where you were?
- 14 A. No.
- 15 Q. When did you tell law enforcement about seeing Mr.
- 16 Johnson's car out toward Wal-Mart?
- 17 A. (No verbal response)
- 18 Q. Was that within a few days of this happening?
- 19 A. I think so, yes.
- 20 Q. So they were asking you some questions?
- 21 A. Yes.
- 22 Q. And in response to their questions you told them, "I
- 23 saw his car after I left the house out toward Wal-Mart"?
- 24 A. Yeah, going toward.
- 25 Q. Right. And you told them I was headed to the Bank

1 of Clarendon?

2 A. Well, I had done been by the Bank of Clarendon.

3 Q. Okay. And so you did some business at the Bank of
4 Clarendon?

5 A. Well, I don't know that I did business or they were
6 -- too early. I don't know. But I did been by there.

7 Q. Okay. To your knowledge, did anybody ask for your
8 banking records to see what time you went to the Bank of
9 Clarendon specifically?

10 A. No.

11 Q. Do you have any idea what time specifically you were
12 in Manning that morning?

13 A. No.

14 Q. Okay. So you don't know exactly what time it was
15 when you saw Justin the second time in Manning?

16 A. No, not exactly.

17 Q. Rough guesstimate, what time do you think it was
18 when he was heading out towards Wal-Mart?

19 A. Well, if I had to be to work by eight-thirty -- so
20 it had to be -- I don't know -- something 'till eight, I
21 guess.

22 Q. Okay. So when you left your house -- and that's
23 what I was asking earlier. You said -- you talked about
24 eight-thirty. And I just didn't understand whether that
25 was when you had to be at work or when you left the

- 1 house. That's all I'm trying to get straight in my mind.
- 2 So you think you had to be at work at eight thirty?
- 3 A. That's what I'm thinking now.
- 4 Q. Okay. That's fine. And I know that's been a long
- 5 time ago ---
- 6 A. Yes, sir.
- 7 Q. --- and that's what I'm saying.
- 8 A. Yes, sir.
- 9 Q. I'm trying to keep it straight with -- so you think
- 10 you saw Justin prior to eight o'clock? If you had to go
- 11 by the Bank of Clarendon or at least try to go by the
- 12 Bank of Clarendon, and then get all the way to Sumter, it
- 13 would take -- how long would it take you to get to
- 14 Manning -- I mean Sumter to Manning?
- 15 A. From Sumter to Manning, about thirty-five minutes.
- 16 Q. So you would have had to leave -- not your house.
- 17 I'm talking about the town of Manning, downtown. It
- 18 takes you about thirty-five minutes?
- 19 A. I would think so.
- 20 Q. Okay. So it would have been before eight o'clock
- 21 when you needed to leave the town of Manning to get to
- 22 your job?
- 23 A. Probably so.
- 24 Q. Okay. So based on that, you believe it would have
- 25 been prior to eight o'clock when you saw Justin in town?

1 A. It could have been. Could have been.

2 Q. Okay. Now, you testified that when you left the
3 house that morning, whatever time it was the first time,
4 Justin was there in the yard?

5 A. Yes.

6 Q. Is that right?

7 A. Yes.

8 Q. And Kaisha, your wife, and your great grands were
9 there; right?

10 A. Right.

11 Q. Okay. I think you said Justin -- did y'all speak at
12 all when you left the yard?

13 A. Normally, I'd say, "Good morning."

14 Q. Okay. Did he do anything that caused you fear to
15 leave him at your house?

16 A. No.

17 Q. Act out of the way?

18 A. No.

19 Q. Say anything ugly?

20 A. No.

21 Q. Did he look angry to you?

22 A. No.

23 Q. Did you see him with a gun or do anything like that?

24 A. No.

25 Q. Nothing at that point to cause you any concern

1 whatsoever?

2 A. No.

3 Q. Did you -- when you saw Justin's car the second time
4 or Justin in his car headed out toward Wal-Mart going
5 towards Paxville, did you call anybody on the phone or
6 tell anybody or you just remembered that later?

7 A. No. Just went on to work.

8 Q. Okay. You didn't ever call Kaisha and say,
9 "Justin's over here"?

10 A. No.

11 Q. Okay.

12 MR. ROBINSON: The Court's indulgence for just
13 a moment.

14 THE COURT: Yes, sir.

15 MR. ROBINSON: No further questions, Your
16 Honor.

17 THE COURT: Any redirect?

18 MR. DURANT: Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. DURANT:

21 Q. Mr. Caraway, I don't want to pin you down on time,
22 but Mr. Robinson asked you several different ways what
23 time it was when you saw Mr. Johnson. Let me just ask
24 you this. Was it after he had been at your house that
25 morning?

1 A. Yes.

2 Q. When you saw him in Manning ---

3 A. Yes.

4 Q. --- that was after you'd seen him at your house
5 earlier?

6 A. Yes.

7 Q. Okay.

8 MR. DURANT: I don't have any further
9 questions.

10 THE COURT: All right. Thank you.

11 Any recross based on that?

12 MR. ROBINSON: No, thank you.

13 THE COURT: Thank you. You may step down.

14 MR. DURANT: Your Honor, we intend to call a
15 rather lengthy witness, and we'd like to take our lunch
16 break at this time if you don't mind.

17 THE COURT: All right. Well, yeah, we'll do
18 that.

19 Ladies and gentlemen, we're going to go ahead and
20 break early for lunch. And we'll reconvene at one
21 thirty. So that gives you a fairly long lunch period.
22 But be back here a little bit before one thirty, and then
23 we'll have a full afternoon. Please do not discuss the
24 case with anyone as you leave. And I will need to see
25 the Foreman for just a moment. If you could stay, Mr.

1 Bellamy. Thank you, ladies and gentlemen.

2 (WHEREUPON, the jury exited the open court at
3 approximately 11:51 a.m.)

4 THE COURT: Please be seated. Please be
5 seated.

6 All right. Now the court is in recess.

7 (WHEREUPON, court stood in recess for a lunch
8 break.)

9 THE COURT: Thank you.

10 (WHEREUPON, a bench conference was held off the
11 record.)

12 THE COURT: Court will be in recess for ten
13 more minutes.

14 (WHEREUPON, court stood at recess for a short
15 break.)

16 THE COURT: Thank you, ladies and gentlemen.
17 Please take your seats. Anything further before we bring
18 the jury in?

19 MR. DURANT: No, sir, Your Honor.

20 MR. ROBINSON: No, sir, Your Honor.

21 THE COURT: Let's bring our jury.

22 (WHEREUPON, the jury entered the open court at
23 approximately 2:03 p.m.)

24 THE COURT: You may be seated.

25 THE BAILIFF: We've got one more juror.

1 THE COURT: Thank you.

2 Ladies and gentlemen, I hope you had a nice lunch.
3 I hope you didn't eat a whole lot. I had a jury one time
4 that all went out and had a huge lunch, and we went long
5 in the afternoon. And as we were going, one of the
6 jurors fell completely asleep. So I hope you didn't eat
7 a great amount. We'll take a number of breaks to make
8 sure you stay alert. Quite frankly, the sun shining
9 brightly may keep you awake just on its own.

10 (WHEREUPON, the juror entered the courtroom.)

11 THE COURT: Have you we got everybody here now?
12 I think we do, yes.

13 All right. The State may call its next witness.

14 MR. FINNEY: Thank you, Your Honor. We call
15 Kaisha Caraway.

16 **KAISHA CARAWAY,**

17 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION

19 BY MR. FINNEY:

20 Q. How are you today?

21 A. I'm okay.

22 THE COURT: Ma'am, you're going to have to
23 speak up louder so we can all hear you, all right?

24 THE WITNESS: Okay.

25 THE COURT: Thank you.

- 1 Q. Tell the ladies and gentlemen your name.
- 2 A. Kaisha Caraway.
- 3 Q. Good. That's fine. Tell us a little bit about you.
- 4 Where do you live?
- 5 A. I now live in Sumter, but I grew up in Manning.
- 6 Q. All right. And your grandmother was Maxine Caraway?
- 7 A. Yes.
- 8 Q. All right. And in April of 2006 -- excuse me.
- 9 April of 2013 -- I'm sorry. I'm confused. In April of
- 10 2011, you were living with Ms. Maxine Caraway and her
- 11 husband John?
- 12 A. Yes.
- 13 Q. Tell us how old you were then.
- 14 A. Twenty-one.
- 15 Q. All right. And tell us a little bit about your
- 16 life. Did you go to high school in Clarendon County?
- 17 A. Yes.
- 18 Q. When did you graduate? What school?
- 19 A. Manning High School in 2008.
- 20 Q. 2008. And after high school, did you go on to study
- 21 or go to work or what?
- 22 A. I was in the National Guard for a while, but I got
- 23 out once I got pregnant with my daughter.
- 24 Q. All right. And you had two children in your life?
- 25 A. Yes.

- 1 Q. And your daughter is the oldest?
- 2 A. Yes.
- 3 Q. What's her name?
- 4 A. Minor 2 .
- 5 Q. And spell that for us?
- 6 A. Minor 2 .
- 7 Q. And do you call her Minor 2 ?
- 8 A. Yes.
- 9 Q. Minor 2 ?
- 10 A. Yes.
- 11 Q. And what year was she born?
- 12 A. 2009.
- 13 Q. All right. And did you subsequently have another
- 14 child named Minor ?
- 15 A. Yes.
- 16 Q. What year was he born?
- 17 A. 2010.
- 18 Q. All right. So you had Minor 2 in 2009, Minor in
- 19 2010?
- 20 A. Yes.
- 21 Q. All right. Now, do you know Justin Johnson?
- 22 A. Yes.
- 23 Q. Where did you meet him?
- 24 A. At drill with the National Guard.
- 25 Q. All right. And where were you drilling at that

- 1 time?
- 2 A. In Hemingway.
- 3 Q. All right. And this was the Army Guard?
- 4 A. Army National Guard.
- 5 Q. And did you know him before you met him at drill?
- 6 A. No.
- 7 Q. All right. So you all were in the same unit?
- 8 A. Yes.
- 9 Q. And as a result of that, you all became romantic?
- 10 A. Yes.
- 11 Q. All right. How long did that take? How long did
- 12 you all know and go out and date before you became
- 13 romantic?
- 14 A. I don't remember.
- 15 Q. All right. After a while and because of a
- 16 relationship you had with Justin -- who was the father of
- 17 Minor 2
- 18 A. Justin.
- 19 Q. All right. And she was born in 2000 ---
- 20 A. 9.
- 21 Q. 9. What month?
- 22 A. February.
- 23 Q. All right. And after she was born, did you all
- 24 change your relationship? In other words, did you ever
- 25 get married?

1 A. No.

2 Q. All right. Did you ever move in together?

3 A. No.

4 Q. Did you ever live with him and his family?

5 A. No.

6 Q. Did he ever live with you and your family?

7 A. No.

8 Q. Okay. And after the baby was born, Minor 2 did that
9 ever change? Did that ever change after she was born?

10 A. No.

11 Q. Okay. During the time after Minor 2 was born until
12 Minor was born, you were out of drill then?

13 A. Yes.

14 Q. All right. And what were you doing in your life
15 after the baby girl was born?

16 A. I was going to school at Central Carolina.

17 Q. All right. Is that in Sumter, or is that here?

18 A. It's in Manning.

19 Q. In Manning? Is that at Dubose?

20 A. Yes.

21 Q. And what were you studying?

22 A. At the time, nursing.

23 Q. Nursing? All right. Where were you living when you
24 had the baby and was studying nursing?

25 A. With my grandparents.

- 1 Q. And give me the address there.
- 2 A. [REDACTED] Carissa Lane, Manning.
- 3 Q. All right. Can you tell the jury a little bit, just
- 4 -- because I don't think we've done this. How would you
- 5 leave here today and get to Carissa? Some general
- 6 directions.
- 7 A. It would be straight down this highway.
- 8 Q. This highway right out here?
- 9 A. Yes. And you would turn left by Piggly Wiggly.
- 10 Q. At the Piggly Wiggly turn left?
- 11 A. And then go all the way down to right in front of
- 12 where EZ Mart is on the side of City Train (phonic), make
- 13 the right, and then at the light make a left. And it's
- 14 going through the swamp.
- 15 Q. Right.
- 16 A. And then at the light at the swamp, you would make a
- 17 right and then another quick right on June Burn.
- 18 Q. All right. So you make a right off of 521?
- 19 A. Yes.
- 20 Q. That's the road the school is on, Dubose?
- 21 A. Yes.
- 22 Q. And once you get on June Burn, how long do you have
- 23 to go down before you get to Carissa?
- 24 A. About five or six miles.
- 25 Q. All right. When you get to Carissa, is there -- Mr.

1 Caraway's house is off the road there?

2 A. Yes, it's off the road.

3 Q. All right. And how many people lived there in that
4 house in April of 2011? Just name them.

5 A. Me, Minor , Minor2 , my grandfather and my
6 grandmother.

7 Q. All right. Five people. When you went to school,
8 was that during the day or during the evening or both?

9 A. I went online unless I had a test.

10 Q. All right. So you had online training?

11 A. Yes.

12 Q. And did you have a computer?

13 A. Yes.

14 Q. How did you get the computer?

15 A. My grandmother bought a laptop for me.

16 Q. All right. And how far into the training -- were
17 you one semester in, two semesters into your training
18 when this incident happened, the shooting at the house?

19 A. I wasn't going to Central Carolina then.

20 Q. All right. Were you still doing online training?

21 A. Yes. I was going to Ford Sale (phonic), Ford mobile
22 technician.

23 Q. All right. And was that still online?

24 A. Yes.

25 Q. All right. Now, when you're doing your online

- 1 training, it's up to you to set your schedule? Did you
2 have to go down to the library or go to the classes?
- 3 A. They sent me a laptop for that school.
- 4 Q. All right. And you were using it to prepare your
5 classes?
- 6 A. Yes.
- 7 Q. All right. At the time who was taking care of
8 Minor2 in 2011 and the baby, Minor ?
- 9 A. I was.
- 10 Q. All right. So you were doing -- you were basically
11 an at-home student with at-home daycare responsibilities?
- 12 A. Yes.
- 13 Q. All right. When Minor was born, that was in 2009?
- 14 A. 2010.
- 15 Q. I'm sorry. 2010. He was born where?
- 16 A. Clarendon Memorial Hospital.
- 17 Q. All right. And did you have a discussion with the
18 father of the child? Who was the father of the child?
- 19 A. Justin.
- 20 Q. He knew about that?
- 21 A. Yes.
- 22 Q. Was he there when the baby was born?
- 23 A. No.
- 24 Q. After the baby was born up until the baby was killed
25 -- the baby was nine months old?

1 A. Yes.

2 Q. All right. Would you identify this, please, for me?

3 This is State's Exhibit Number 54? Can you tell us what
4 this is?

5 A. A picture of Minor .

6 Q. And this was Minor at about how old?

7 A. Seven months.

8 Q. All right.

9 MR. FINNEY: I'd like to introduce it into
10 evidence.

11 THE COURT: Any objection?

12 MR. ROBINSON: I just renew my earlier
13 objection, Your Honor.

14 THE COURT: Overruled.

15 (WHEREUPON, State's Exhibit Number 54 was admitted
16 into evidence.)

17 MR. FINNEY: Permission to publish it?

18 THE COURT: Yes.

19 (WHEREUPON, State's Exhibit Number 54 was published
20 to the jury.)

21 Q. Where was this picture taken?

22 A. At our house on Carissa Lane.

23 Q. All right. Did you take the picture?

24 A. Yes.

25 Q. All right. And he was about seven months old?

1 A. Yes.

2 Q. Now, is that an accurate representation of how he
3 looked when he was seven months old?

4 A. Yes.

5 Q. He's kind of a big baby?

6 A. Yes.

7 Q. All right. When you were at the house in April of
8 2011 and you had a nine-month-old boy and a two-year-old
9 girl, were you getting help from Justin? Support as far
10 as his time, his money, any kind of support?

11 A. Very little.

12 Q. All right. How often would you see him for help in
13 transporting the children or taking the children out or
14 anything like that?

15 MR. ROBINSON: Your Honor, I have an objection.
16 I understand some of this. But basically what we've got
17 is every question that the Solicitor is asking is either
18 leading or suggests the answer. I would really prefer to
19 have the witness testify rather than ---

20 THE COURT: Right.

21 MR. ROBINSON: And I understand it saves time.
22 But as we go forward into the substance of this, I would
23 ask that he ---

24 THE COURT: All right. Watch your questions,
25 Solicitor.

1 MR. ROBINSON: Thank you.

2 Q. How much time and effort would Justin spending
3 helping you with the children?

4 A. He mostly helped with Minor 2 and it was maybe once a
5 week, if that.

6 Q. All right. During this time in April, did you have
7 an occasion to set up a medical appointment for the
8 children?

9 A. Yes.

10 Q. All right. And where did you have the medical
11 appointment set up at?

12 A. At Black -- it was Black River at the time. Black
13 River Health Care.

14 Q. Is that a clinic here in Manning?

15 A. Yes.

16 Q. Had the children been seen there before?

17 A. Yes.

18 Q. All right. On April the 6th did you have a
19 discussion either that day or the day before about
20 getting the kids to the medical clinic?

21 MR. ROBINSON: Your Honor -- and I'm going to
22 renew the objection again. The answers are in the
23 question. The witness is just saying yes or no. This is
24 direct. He can perhaps ask her to account the events of
25 that day.

- 1 THE COURT: All right. Solicitor, if you could
2 kind of not lead.
- 3 Q. Did you have any discussions with Justin ---
4 A. Yes.
- 5 Q. --- regarding the children?
6 A. Yes.
- 7 Q. What was that discussion about?
8 A. Taking them to the doctor that morning.
- 9 Q. All right. And what was the resolution? What did
10 you all come to understand?
11 A. When I initially asked him, he said he wasn't going
12 to be able to take them.
- 13 Q. He was not?
14 A. Yeah, he was not.
- 15 Q. Did you have a car in April of 2011?
16 A. I did not.
- 17 Q. And did Ms. Maxine have a car?
18 A. Yes.
- 19 Q. And did Mr. John have a car?
20 A. Yes.
- 21 Q. And how did you get from one place to another if you
22 needed a ride?
23 A. My grandmother took me mostly or my grandfather if
24 he was off work.
- 25 Q. All right. When did you see Justin at your house on

1 April the 6th, 2011?

2 A. It was first thing that morning.

3 Q. All right.

4 A. He called and said he was outside.

5 Q. He called you on the phone?

6 A. Yes. And said he was outside.

7 Q. And were you expecting him?

8 A. No.

9 Q. All right. What was your reaction to him being
10 there? What did you do next?

11 A. I asked him why he was there. He said he was going
12 to take the kids to the doctor. And so I got up and
13 began getting them dressed.

14 Q. So you got up out of what?

15 A. Out of bed.

16 Q. You were still in the bed when he got there?

17 A. Yes.

18 Q. And he called you?

19 A. Yes.

20 Q. All right. You hadn't prepared the children?

21 A. No.

22 Q. All right. How long did that take to prepare the
23 children?

24 A. About thirty minutes.

25 Q. While you were preparing the children, was Justin

- 1 inside your house?
- 2 A. No. He was outside. I actually took Minor outside
- 3 and asked him to finish getting Minor dressed so that I
- 4 could get Minor2 dressed.
- 5 Q. All right. How did you take Minor outside?
- 6 A. He was in a blanket, and I had his clothes with me.
- 7 Q. Did you have to take anything else out?
- 8 A. His car seat and his bag.
- 9 Q. All right. And those items you took out to ---
- 10 A. The car, yes.
- 11 Q. All right. I want to show you what's been marked as
- 12 State's Exhibit Number 25 and ask if you can identify it?
- 13 A. Yes.
- 14 Q. Tell us what that is.
- 15 A. Justin's car.
- 16 Q. All right. What color is the car?
- 17 A. Dark gray.
- 18 MR. FINNEY: All right. Any objection?
- 19 MR. ROBINSON: No, no objection.
- 20 THE COURT: Without objection, State's Exhibit
- 21 -- what is this?
- 22 MR. FINNEY: 25, Your Honor.
- 23 THE COURT: --- 25 is admitted.
- 24 (WHEREUPON, State's Exhibit Number 25 was admitted
- 25 into evidence.)

1 Q. Had he had that car for a long period of time?

2 A. I think it was since maybe January or February of
3 that year.

4 Q. All right. Is that the car he was in that morning
5 of April 6th when he was at the house?

6 A. Yes.

7 Q. All right. After you took the baby out, what was
8 your next responsibility that day?

9 A. Taking Minor 2 -- getting Minor 2 dressed.

10 Q. All right. Could the baby walk?

11 A. No.

12 Q. How about Minor 2

13 A. Yes.

14 Q. She was about two?

15 A. Yes.

16 Q. Did you have to carry anything out with Minor 2

17 A. Her car seat.

18 Q. All right. And where did you put Minor 2 in the car?

19 A. In the back seat with her car seat.

20 Q. And how about Minor ?

21 A. He was already in the back seat.

22 Q. All right. Did you have any discussions with Mr.
23 Johnson that morning about the children and where they
24 were going?

25 A. Just -- he wanted me to go with them, but I didn't

1 feel comfortable with it. So I just told him where they
2 were going and what was wrong with them so he could tell
3 the doctor.

4 Q. All right. Had you had any conversation with him
5 earlier that day on April 6th about going with him
6 anywhere or doing anything for him to help him?

7 A. No.

8 Q. All right. Had he been to Black River Health Care
9 before with the children?

10 A. I honestly don't remember.

11 Q. You don't remember? Had you ever been with the kids
12 at Black River with Justin before April the 6th?

13 A. He's dropped us off, but he's never been in.

14 Q. All right. Now, at the time that the kids were in
15 the car, did Justin leave immediately?

16 A. No.

17 Q. Why not?

18 A. He still wanted me to go with them.

19 Q. All right. And what was the nature of your
20 conversation with him about that?

21 A. I didn't want to go with him. I told him he would
22 be fine to take them by his self.

23 Q. All right. Let me ask you this, now. At this time
24 in your relationship with Justin, April 6th, 2011 -- the
25 baby's nine months old -- had you all been seeing each

1 other on and off? Regularly? Not regularly? Had you
2 been in any kind of ongoing relationship with Justin?

3 A. No. We were together at the time.

4 Q. All right. And was that true since the baby was
5 born, Minor was born?

6 A. Yes.

7 Q. So in over nine months, you hadn't been out on a
8 date with him, a movie or out of town to see a friend or
9 go to a party?

10 A. We would go to his house with the kids. But to go
11 out, no.

12 Q. And where was he living at the time that these
13 events were going on in the spring of 2011? Where was
14 Justin living?

15 A. I don't know exactly where it's at, but with his
16 girlfriend at the time.

17 Q. All right. When you say you had been to his house
18 with the children, that was whose house?

19 A. His mom's house.

20 Q. And where was that house at?

21 A. In Davis Station.

22 MADAM COURT REPORTER: I'm sorry?

23 THE WITNESS: Davis Station.

24 Q. Once you decided that you were not going to Black
25 River on that particular morning, did he leave with the

- 1 children?
- 2 A. No. He still stayed for a while.
- 3 Q. How long was that?
- 4 A. About twenty minutes.
- 5 Q. Would you describe to the jury his demeanor, his --
- 6 describe how he was talking with you, how he was acting
- 7 after you told him you weren't going?
- 8 A. He was angry. He threatened to break into the
- 9 house. And at that time, I told him that my grandparents
- 10 were in there. And he said he didn't care. He was
- 11 upset.
- 12 Q. Was he threatening?
- 13 A. Yes.
- 14 Q. Was your grandmother still inside?
- 15 A. Yes.
- 16 Q. All right. And was your grandfather still inside?
- 17 A. Yes, but he left.
- 18 Q. After a while, what happened? Tell us what
- 19 happened.
- 20 A. After the phone went out, he said that he ---
- 21 Q. Say that again.
- 22 A. After a while, his phone went dead. He was still
- 23 outside. But his phone went dead as we were on the
- 24 phone. I ---
- 25 Q. Let me back up. When you had put the kids in the

1 car and ---

2 A. Yes.

3 Q. --- you were having these words with him, you were
4 on the telephone with him?

5 A. Yes. I was back inside.

6 Q. I see. So you were inside the house; he was still
7 out in the yard in the car?

8 A. Yes.

9 Q. How long did you talk on the telephone?

10 A. Maybe five minutes.

11 Q. All right. Then you said the phone went dead?

12 A. Yes.

13 Q. His phone?

14 A. Yes.

15 Q. All right. What happened next?

16 A. Then I went to the door and saw he was still
17 outside. So I called his mom and asked his mother to
18 call him and ask him to leave so he didn't get in any
19 trouble.

20 Q. And you spoke with his mother ---

21 A. Yes.

22 Q. --- on the telephone?

23 A. Yes.

24 Q. You say his phone was dead?

25 A. Yes.

- 1 Q. How was his mother going to call him?
- 2 A. At the time, I didn't know it was dead.
- 3 Q. All right. At some point, did he drive off out of
- 4 the yard at Carissa?
- 5 A. Yes.
- 6 Q. And he had the kids with him?
- 7 A. Yes.
- 8 Q. How long was he gone?
- 9 A. About ---
- 10 Q. Before you saw him again?
- 11 A. About thirty minutes.
- 12 Q. And during that time, did you do anything as far as
- 13 checking on the children?
- 14 A. I called Black River to see if they were there. I
- 15 wanted -- I remembered something that I wanted to tell
- 16 the doctor. And I couldn't get in contact with him, so I
- 17 called Black River.
- 18 Q. All right. And ---
- 19 A. But they said ---
- 20 Q. You can't say what they said to you.
- 21 A. All right.
- 22 Q. As a result of the conversation, you knew ---
- 23 MR. ROBINSON: Judge, I'm going to object. I
- 24 mean, he's ---
- 25 THE COURT: Rephrase your question.

1 Q. As a result of the conversation -- had you seen the
2 kids since he left with them out of your yard?

3 A. No.

4 Q. When he came back, you said it was about thirty
5 minutes later?

6 A. Yes.

7 Q. You were still at home?

8 A. Yes.

9 Q. All right. When he came back, tell us what
10 happened. What did he do with the children?

11 A. He took Minor 2 out of her car seat. She walked in
12 the house. He brought Minor in the house in his car
13 seat.

14 Q. And were there any statements made? Did you ask
15 anything of him about the children?

16 A. I just asked why they never made it to the doctor.

17 Q. All right. And what was his response?

18 A. He said they weren't taking walk-ins.

19 Q. All right. And did that lead to more words between
20 the two of you?

21 A. I just asked him -- he was supposed to bring the
22 kids some items. And I asked him if he had them with him
23 at that time.

24 Q. And did he have the item?

25 A. No. He went to the trunk. But when he went in the

- 1 trunk, he just brought back a cup. He didn't have
2 anything else.
- 3 Q. A cup?
- 4 A. Yes.
- 5 Q. Was it like ---
- 6 A. A baby cup.
- 7 Q. A baby cup. When he got to your house, was he still
8 driving that gray car?
- 9 A. Yes.
- 10 Q. And he helped -- or you -- you watched him unload
11 the children and the car seats?
- 12 A. Yes. I was standing in the door. And he brought
13 them to the porch, and I took them on into the house.
- 14 Q. All right. Was your grandmother still home at that
15 time?
- 16 A. Yes.
- 17 Q. And your grandfather?
- 18 A. He had already went to work.
- 19 Q. All right. Tell us what happened next.
- 20 A. He asked me a couple of times to go with him still.
21 And I didn't. He got in the car to leave. And as I was
22 shutting the door, he got out of the car and ran back to
23 the house.
- 24 Q. To the house ---
- 25 A. To the door, yes.

1 Q. What happened after he ran back to the house?

2 A. He pushed through the door, and he began fighting
3 me.

4 Q. Was the door what you consider the front door?

5 A. Yes.

6 Q. Was it closed when he pushed it open?

7 A. I was in the process of closing it.

8 Q. All right. And had you gotten it to the sill where
9 it clicked?

10 A. Yes. I was about to lock it.

11 Q. Did you know he was coming in the door?

12 A. Yes.

13 Q. All right. How did you know it?

14 A. I saw he was running towards the door. That's what
15 caused me to go ahead and shut it.

16 Q. All right. What was your state of mind at the time?

17 A. I was afraid.

18 Q. All right. And why you were afraid?

19 A. Because I knew why he was running towards the door.

20 Q. After he came into the door, was there any damage to
21 the door when he came in?

22 A. I didn't see any. Before he came in?

23 Q. Before he came?

24 A. No.

25 Q. All right. Was the door operating correctly?

1 A. Yes.

2 Q. All right. I want to show you what's been marked as
3 State's Exhibit 23 and ask if you can identify that?

4 A. That's the front door.

5 Q. All right. What is that object down to the left on
6 that picture?

7 A. Minor2 car seat.

8 Q. Had Minor2 car seat been sent to the doctor that
9 morning?

10 A. Yes.

11 Q. And it was back in the house?

12 A. Yes.

13 Q. All right. I also want to show you what's been
14 marked as State's Exhibit 24. Can you identify that?

15 A. That's the front door.

16 Q. All right. Was it in that condition before April
17 the 6th?

18 A. No.

19 Q. All right.

20 MR. DURANT: Move to introduce.

21 Q. Was the door in this condition before April 6th?

22 A. No, it was not.

23 Q. All right. After the shooting, did you have a
24 chance to go back to the house after April 6th?

25 A. Yes.

1 Q. Did you see the door after April 6th?

2 A. No.

3 MR. ROBINSON: Your Honor, again, I have an
4 authentication issue. If she can't say that ---

5 THE COURT: Sustained, if she can't verify
6 those.

7 MR. FINNEY: Thank you.

8 Q. After he pushed in the door, you testified he
9 started fighting you?

10 A. Yes.

11 Q. How did he fight you?

12 A. He began pushing me and pulling and punching me.

13 Q. All right. And where was he punching you?

14 A. All over.

15 Q. All right. And did you fight back?

16 A. I tried.

17 Q. All right. Where at this time were the children?

18 A. Minor was in his high chair. 'Minor 2 was sitting on
19 a chair, and she was looking around the corner.

20 Q. All right. Would you describe for the jury a little
21 bit about the house that you lived in in Carissa? I want
22 to show you State's Exhibit Number 53 and ask if you can
23 identify this.

24 A. Yes. It's the house.

25 Q. Which house?

- 1 A. At Carissa Lane, my grandparents' house.
- 2 Q. This is the Caraway house?
- 3 A. Yes.
- 4 Q. All right. And do you recognize -- did you have
- 5 anything to do with preparing this?
- 6 A. No.
- 7 Q. All right. But you recognize the floor plan?
- 8 A. Yes.
- 9 Q. Is it an accurate representation of the floor plan
- 10 of the house that Mr. John and Maxine Caraway lived in?
- 11 A. Yes.
- 12 Q. And you lived there also?
- 13 A. Yes.
- 14 MR. FINNEY: Move to admit.
- 15 MR. ROBINSON: We would have no objection.
- 16 THE COURT: Without objection, State's Exhibit
- 17 -- this is 52?
- 18 MR. FINNEY: 53.
- 19 THE COURT: 53 is admitted. Assuming you want
- 20 to put it into evidence.
- 21 MR. FINNEY: I do want to put it into evidence,
- 22 Your Honor.
- 23 (WHEREUPON, State's Exhibit Number 53 was admitted
- 24 into evidence.)
- 25 Q. Ms. Kaisha, can you see that?

1 A. A little.

2 Q. Come around here, please, ma'am.

3 (WHEREUPON, the witness stepped down from the
4 witness stand.)

5 Q. Can you tell us where the front door is that you say
6 -- that you identified in that picture I showed you,
7 State's Exhibit Number ---

8 A. Right here.

9 Q. And let me ask you this now. This is the bathroom?
10 Can you point out the bathroom?

11 A. Wait. I pointed to the wrong door. That's the
12 front door. This is the back.

13 Q. All right. Where is the bathroom?

14 A. Right here.

15 Q. And is there just one bathroom in the house?

16 A. Yes.

17 Q. All right. I want you to speak up so the ladies and
18 gentlemen can hear you. So where is the front door that
19 is shown in State's Exhibit Number 10, which I believe
20 has already been admitted into evidence?

21 A. Right here.

22 Q. All right. And that door -- is there a porch area
23 outside that door?

24 A. Yes. Right here.

25 Q. All right. And that's the porch area on the sketch?

- 1 A. (Nodded head up and down in the affirmative.)
- 2 Q. And is that the porch area you see in State's
- 3 Exhibit Number 10?
- 4 A. Yes.
- 5 Q. All right. Now, in this particular sketch, once you
- 6 go onto the porch, there is a wooden door there?
- 7 A. Yes.
- 8 Q. Is it a solid wooden door? Does it have windows in
- 9 it?
- 10 A. At that time the door did have a window.
- 11 Q. It did have a window?
- 12 A. Yes.
- 13 Q. So you could see out into the front yard?
- 14 A. Yes.
- 15 Q. All right. And your testimony is that you tried to
- 16 close the door to keep him from coming in; he pushed his
- 17 way in?
- 18 A. Yes.
- 19 Q. When you all started fighting, tell us where the
- 20 fighting was taking place.
- 21 A. In this room.
- 22 Q. In that area?
- 23 A. Yeah.
- 24 Q. All right. And how would you get from that room
- 25 into the rest of the house?

1 A. Through the door right there.

2 Q. All right. And tell us where Minor was, the baby
3 boy, in the house?

4 A. He was in a high chair right here.

5 Q. All right. And where was the little girl, Minor 2

6 A. She was sitting on this chair looking out the door.

7 Q. All right. Now, where was your grandmother, if you
8 know?

9 A. I don't know.

10 Q. All right. As a result of the actions between you
11 and Mr. Justin Johnson, did your grandmother come into
12 that area?

13 A. Yes.

14 Q. All right.

15 A. She came to the -- she stood in the door. There are
16 some steps under that door because that part of the house
17 is higher than that portion. And she stood to the door
18 and asked what was going on.

19 Q. After she said what was going on, did you have
20 occasion to talk to her or speak to her?

21 A. No.

22 Q. All right. Why is that?

23 A. Because once she came down the steps, he jumped onto
24 her and began fighting her.

25 Q. All right. Go ahead and sit back down.

1 (WHEREUPON, the witness resumed the witness stand.)

2 Q. After you and Justin started this tussling in the
3 front room, you say Ms. Maxine came into the room?

4 A. Yes.

5 Q. She got involved in the altercation as well?

6 A. Yes.

7 Q. What were you saying, if anything, at that time?

8 A. I was asking him to stop.

9 Q. All right. And did he stop?

10 A. No.

11 Q. All right. Tell us a little bit about how you were
12 treated in terms of your physical. Did you have anything
13 taken off of you in this fight?

14 A. Not at that time, no.

15 Q. Were you wearing natural hair, or did you have some
16 kind of artificial hair?

17 A. I had on a wig at the time.

18 Q. All right.

19 MR. ROBINSON: And, Your Honor, I'm going to
20 renew my objection again. I would really like this
21 testimony to come from the witness and not the Solicitor.

22 THE COURT: All right. Overruled. I think
23 this is harmless.

24 Q. I'm going to show you what's State's Exhibit 43.

25 Can you tell us what that is?

1 A. That's my wig.

2 Q. All right. And is that an accurate representation
3 of how your wig looked after the fight?

4 A. Yes.

5 Q. All right. Do you remember the wig coming off?

6 A. Yes. After Justin was punching my grandmother in
7 the face and she was trying to fight back, and they fell.
8 And I had gone up the steps to get the phone that was on
9 the counter. And he came in and pulled me back, and it
10 came off.

11 Q. All right.

12 MR. FINNEY: State's Exhibit Number 43 for
13 evidence.

14 THE COURT: Any objection?

15 MR. ROBINSON: No objection.

16 THE COURT: Without objection, State's Exhibit
17 Number 43 is admitted.

18 (WHEREUPON, State's Exhibit Number 43 was admitted
19 into evidence.)

20 Q. Could you tell from that picture, ma'am, what room
21 that is in?

22 A. It's in the room with the chairs where Minor and
23 Minor 2 was at.

24 Q. Looking at exhibit 53, is that the room that the
25 fight started in, or is that the room where the children

1 were sitting?

2 A. The room where the children were.

3 Q. After the fight with your grandmother started, did
4 you have occasion to see her sustain any injuries to her
5 face?

6 A. Yes. She had scratches on her, and she also had a
7 broken nose.

8 Q. All right. And who broke her nose?

9 A. Justin.

10 Q. How did he break it?

11 A. When he punched her in the face.

12 Q. Did you see that punch?

13 A. Yes.

14 Q. All right. As a result of her sustaining that
15 injury, what happened to her?

16 A. She was actually going to the hospital. She --
17 while I was being dragged out, she ran past up the
18 stairs, back into the room where the kids were to get her
19 keys. She said she wanted to go to the hospital.

20 Q. All right. To your knowledge, did she ever come out
21 of the house?

22 A. Yes.

23 Q. And where was she -- according to your
24 understanding, where was she going?

25 A. She was getting in her car to go to the hospital.

1 Q. All right. Earlier we saw a picture of the outside
2 of the house. I believe it's State's Exhibit Number 10.

3 Did she have an automobile?

4 A. Yes.

5 Q. Is that the automobile in State's Exhibit Number 10?

6 A. Yes.

7 Q. All right. And is that where the automobile was
8 when she was leaving the house to go ---

9 A. Yes.

10 Q. --- to go to the hospital?

11 A. Yes.

12 Q. All right. Is that where she kept her automobile
13 most of the time?

14 A. Yes.

15 Q. Did she get out of the house to go to get in her
16 automobile?

17 A. Yes.

18 Q. Where were you at that time?

19 A. I was being dragged off the porch, and she ran past
20 us off of the porch.

21 Q. And this is the front porch area?

22 A. Yes.

23 Q. Referring to State's Exhibit Number 53, can you
24 point to the area you're talking about off the porch?

25 A. Right here where the bricks are at.

- 1 Q. All right. And you were being drug by who?
- 2 A. Justin.
- 3 Q. How was he dragging you?
- 4 A. By my shirt, the back of my shirt.
- 5 Q. What color shirt did you have on?
- 6 A. I don't remember.
- 7 Q. All right. Do you remember what else you might have
- 8 had on that morning?
- 9 A. I know I had on some pink and white Air Force Ones.
- 10 Q. Which are what?
- 11 A. My sneakers.
- 12 Q. Tennis shoes?
- 13 A. Yes.
- 14 Q. And do you know if you had on a skirt or pants or
- 15 ---
- 16 A. I had on jeans.
- 17 Q. All right. What happened to you as a result of
- 18 being pulled off the porch?
- 19 A. When my grandmother ran past, Justin tried to stop
- 20 her. So he loosened the grip on my shirt, and I was able
- 21 to slip out of my shirt and run back into the house.
- 22 Q. All right. At this point you, Justin, and your
- 23 grandmother are all outside on the ground area?
- 24 A. And 'Minor 2 yes.
- 25 Q. And 'Minor 2

1 A. Yes.

2 Q. Where was Minor ?

3 A. He was still in the high chair.

4 Q. All right. And at this point he's by himself?

5 A. Yes.

6 Q. What happened next? When he loosened the grip on
7 you, you say ---

8 A. I slipped out of my shirt, and I ran back into the
9 house. I turned around as I was running back just to
10 make sure that 'Minor2 was still behind my grandmother.
11 And I saw that they were standing by my grandmother's
12 car. She was bent over at the car fumbling -- I don't
13 know what she had in her hand. And 'Minor2 was behind her,
14 and Justin was standing beside them, but he was walking
15 away from them.

16 Q. When you got pulled out of your shirt, how did that
17 happen?

18 A. I just slipped out of my shirt so that I could get
19 away from him.

20 Q. And what happened to the shirt that you slipped out
21 of?

22 A. He threw it down to go behind by grandmother.

23 Q. Did it come off of your body?

24 A. Yes.

25 Q. Over your head?

- 1 A. Yes.
- 2 Q. And do you know what happened to it?
- 3 A. He threw it.
- 4 Q. All right. So at that point you didn't have a shirt
- 5 on?
- 6 A. No.
- 7 Q. You were going where?
- 8 A. Into the house to find a phone.
- 9 Q. All right. Where was Justin the last time you saw
- 10 him at that point?
- 11 A. Beside my grandmother's car.
- 12 Q. All right. And where was your grandmother?
- 13 A. She was by her car as well.
- 14 Q. Did you make it back inside?
- 15 A. Yes.
- 16 Q. All right. What was the first thing you did?
- 17 A. I looked on the counter for the phone.
- 18 Q. All right. And did you find it?
- 19 A. I didn't.
- 20 Q. All right. What did you do next?
- 21 A. I ran down the hall, and that's when I realized that
- 22 the phone was actually in that room. But when I ran back
- 23 from the car, I never found the house phone, but I got my
- 24 grandmother's cell phone.
- 25 Q. All right. And where did you locate your

1 grandmother's cell phone?

2 A. On the counter.

3 Q. And can you point out to the jury on this home
4 sketch, number 53, where the counter is?

5 A. It would be right here.

6 Q. All right. What did you do when you found the
7 phone?

8 A. I began running back down the hall, but then I
9 stopped because I realized that Minor was still in the
10 high chair.

11 Q. All right. And what happened next?

12 A. When I stopped to look at Minor , at the same time
13 Justin was coming back in the house, into the room that
14 we were in.

15 Q. All right. And is that the room with the chairs?

16 A. Yes.

17 Q. All right. When Justin came back in the house,
18 describe what he was doing.

19 A. He just walked back into the room, was kind of in a
20 rush. And he had a shotgun in his hand.

21 Q. Had you seen the shotgun before?

22 A. No.

23 Q. All right. Do you know where he got it from?

24 A. No.

25 Q. When he had the shotgun in his hands in the room,

- 1 what was he doing with it?
- 2 A. He had it pointed at me.
- 3 Q. Where were you in the room, if you can tell us by
- 4 looking again at this sketch, 53? Where were you in the
- 5 room when you first saw Justin?
- 6 A. I was right there.
- 7 Q. All right. And is this a hallway here?
- 8 A. Yes.
- 9 Q. All right. Where was -- how did Justin Johnson get
- 10 in the room that afternoon, that morning?
- 11 A. Through this door.
- 12 Q. Through that door?
- 13 A. Yes..
- 14 Q. When he came in the room, was he by himself?
- 15 A. Yes.
- 16 Q. Minor 2 wasn't with him?
- 17 A. No.
- 18 Q. Your grandmother wasn't with him?
- 19 A. No.
- 20 Q. And describe for us again where the high chair would
- 21 have been?
- 22 A. Right here.
- 23 Q. All right. So the three of you, you, the baby, and
- 24 Justin, were in the room at this time?
- 25 A. Yes.

1 Q. After he pointed the gun at you, did he say
2 anything?

3 A. He said, you made me do this. And when he said
4 that, I closed my eyes.

5 Q. What did you think? Why did you close your eyes?

6 A. Because I thought he was about to shoot me.

7 Q. What happened next?

8 A. I heard the gunshot, but then I realized that I
9 never felt anything hit me. So I opened my eyes and
10 realized that he had shot Minor .

11 Q. Once you realized that, what was your next move?

12 A. I turned and ran down the hall.

13 Q. All right. Would that be towards -- you show the
14 jury which way you ran down the hall.

15 A. I ran this way into the bathroom.

16 Q. All right. And what did you do when you got to the
17 bathroom?

18 A. I shut the door and locked it. And then there was a
19 cabinet that was right there, and I pushed it in front of
20 the door.

21 Q. All right. So were you able to get in the bathroom
22 and close the door?

23 A. Yes.

24 Q. All right. Did the door close?

25 A. Yes.

1 Q. Was the door in good working order that day?

2 A. Yes.

3 Q. And after you got in the bathroom and closed the
4 door, did you -- were you able to move the cabinet in
5 front of the door?

6 A. Yes. I had it pushed in front of the door.

7 Q. And what happened next?

8 A. And that's when I called 9-1-1.

9 Q. On what phone?

10 A. My grandmother's cell phone.

11 Q. When you called 9-1-1, you told them what?

12 MR. ROBINSON: Your Honor, I'm going to object.
13 She's getting ready to tell them what she told them. I
14 just ---

15 THE COURT: Yeah. Rephrase your question to
16 ensure that she tells them what she said.

17 Q. Why did you call 9-1-1?

18 A. Because Justin had shot Minor , and I called them
19 and told them that I needed help.

20 Q. At this point, did you -- while you were in the
21 bathroom, did you know where your grandmother was?

22 A. No.

23 Q. Did you know where your daughter was?

24 A. No.

25 Q. As far as you knew, you were the only person in the

1 house other than Minor ?

2 A. Yes.

3 Q. Could you hear Mr. Johnson in the house?

4 A. Yes. I knew he was outside of the bathroom door
5 because I could hear him rattling, trying to get it open.

6 Q. All right. The bathroom door, did it have a handle
7 on the outside and on the inside?

8 A. Yes.

9 Q. And were those knobs, hand knobs, in good working
10 order?

11 A. Yes.

12 Q. What happened after you dialed 9-1-1 and made the
13 call to the 9-1-1 operator?

14 A. While I was on the phone with them, he shot the door
15 open and came in with the shotgun pointed at me. So I
16 closed -- my grandmother had a flip phone. I closed it,
17 and I ended up falling over the cabinet because was
18 trying to back farther away from him.

19 Q. All right. Did you see him at that point in the
20 room with you?

21 A. Yes.

22 Q. What, if anything, did he say to you at that point?

23 A. He didn't say anything. I told him that I had
24 called 9-1-1 and that they were on the way.

25 Q. What, if anything, did he say to you at that point?

- 1 A. I don't remember him saying anything.
- 2 Q. All right. Did you get a call from 9-1-1 back to
- 3 your grandmother's phone?
- 4 A. Yes. They called back twice.
- 5 Q. All right. And during those conversations, did you
- 6 tell the 9-1-1 operator anything about where you were?
- 7 A. The first time I didn't answer. And they called
- 8 back. And at that time, I told him if I didn't answer
- 9 they were going to go ahead and send somebody out anyway.
- 10 Q. You told who?
- 11 A. Justin.
- 12 Q. All right. You told Justin they were going to call
- 13 somebody to come.
- 14 A. That they was going to send somebody out if I didn't
- 15 answer the phone.
- 16 Q. All right. And so where was he at the point where
- 17 the 9-1-1 calls were coming back to your house? Where
- 18 was he and you?
- 19 A. I was in the bathroom laying on the floor on the
- 20 cabinet.
- 21 Q. And where was he?
- 22 A. He was standing over me with me with the gun pointed
- 23 at me.
- 24 Q. Did you know whether or not he still had ammunition
- 25 shells in the gun?

1 A. No.

2 Q. What was your thought at that point?

3 A. That if I didn't do what he said, he was going to
4 kill me too.

5 Q. Were you trying to be -- tell us how you were trying
6 to act towards him?

7 A. I was just trying to do everything he said do.

8 Q. All right. In your ability to talk with him, did he
9 tell you anything to do or not to do or say or not to
10 say? Can you describe for us what he was saying at this
11 time?

12 A. He told me, "Tell them that the call was a mistake."
13 And at that time, the 9-1-1 operator said, no, it wasn't
14 because she could hear what was going on. That's when he
15 told them to tell them that that I was my grandmother and
16 that my granddaughter and her boyfriend was arguing. She
17 asked for the address, and he gave me the address to give
18 them and told me to tell them that the boyfriend's name
19 was Robert.

20 Q. All right. All of this information that you were
21 talking with Justin about is in the bathroom?

22 A. No. I don't remember why, but we left out of the
23 bathroom and walked back into the room where Minor was
24 at.

25 Q. All right. And how long did you stay there?

- 1 A. About five minutes. And that's when I heard Minor 2
2 cry.
- 3 Q. And where was Minor 2 cry coming from?
- 4 A. Outside.
- 5 Q. All right. Did you have the occasion to go outside?
- 6 A. No. He went outside and went and got her. And I
7 asked him why he left her outside by herself. And that's
8 when he said she wasn't by herself. And that's when I
9 went to my door and realized that my grandmother was
10 shot.
- 11 Q. And did you see your grandmother outside?
- 12 A. Yes. She was laying on the ground beside her car.
- 13 Q. When you ran down the hall and got in the bathroom,
14 can you tell us this area on State's Exhibit Number 53,
15 the hallway area right near the bathroom, is there a door
16 that goes -- whose room is this in the back here?
- 17 A. My grandfather's.
- 18 Q. That's John's room?
- 19 A. Yes.
- 20 Q. Was there any damage to that area of the wall where
21 Mr. John Caraway's door was prior to Justin being in the
22 house?
- 23 A. No.
- 24 Q. All right. Can I show you State's Exhibit Number 48
25 and ask you if you can identify it?

1 A. That's the wall across from the bathroom by my
2 grandfather's door.

3 Q. Where is the bathroom? If you were in the bathroom,
4 would that be looking out of the bathroom?

5 A. Yes, straight in front of it.

6 Q. All right. Can you identify what's in State's
7 Exhibit Number 46?

8 A. That would be the bathroom door.

9 Q. All right. And can you tell with -- is that an
10 accurate representation of how it looked after the shot
11 went through the door?

12 A. Yes.

13 Q. Was there any holes or anything wrong with the door
14 beforehand?

15 A. No.

16 Q. I want to show you State's Exhibit Number 51, ask if
17 you can identify that?

18 A. That's the area above the sink, between the sink and
19 the mirrors in the bathroom.

20 Q. All right. And the mirror in the bathroom is above
21 the sink?

22 A. Yes. It's a medicine cabinet.

23 Q. Do you see anything that looks unusual in this
24 picture that wasn't there before April the 6th?

25 A. Yes. The holes in the paneling.

1 Q. And where did those holes come from?

2 A. From when Justin shot through the door.

3 MR. FINNEY: Your Honor, I ask that we put
4 these into evidence.

5 THE COURT: Any objection, Mr. Robinson?

6 MR. ROBINSON: No objection, Your Honor.

7 THE COURT: And what are the numbers on these
8 again?

9 MR. FINNEY: This is exhibit number 51, Your
10 Honor.

11 THE COURT: Just give me the numbers. 51?

12 MR. FINNEY: Also exhibit 46 and also exhibit
13 48.

14 THE COURT: Which are all admitted without
15 objection.

16 (WHEREUPON, State's Exhibit Numbers 46, 48, and 51,
17 were admitted into evidence.)

18 Q. As far as that being the doorknob, that is the
19 doorknob to the bathroom?

20 A. Yes.

21 Q. When you were in the bathroom and the door was shot,
22 were you in a position to leave the bathroom? Was there
23 any other way -- like, was there two doors to the
24 bathroom?

25 A. No.

1 Q. I'm going to ask you to look at State's Exhibit
2 Number 17 and ask if you can identify that?

3 A. That's inside the bathroom.

4 Q. All right. And is that picture taken looking
5 outside or looking inside the bathroom?

6 A. Looking inside.

7 Q. And is that the area of the house that you were in?

8 A. Yes.

9 Q. The cabinet that you say that you used to block the
10 door, do you see it in that picture?

11 A. It's on the floor.

12 Q. All right. Right next to what?

13 A. The toilet.

14 Q. All right. And I also want to show you number 16,
15 State's Exhibit 16. Tell us, do you recognize that?

16 A. Yes. That's down the hallway.

17 Q. All right. Can you tell from that picture, State's
18 Exhibit Number 16, what direction were you running when
19 you were running down the hallway toward the bathroom?
20 Where is the bathroom in that picture?

21 A. The bathroom is right here.

22 Q. On which side of the picture?

23 A. When you're looking at it, it's on the left.

24 Q. On the left side?

25 A. Uh-huh (affirmative).

1 Q. At the end of the hallway?

2 A. Yes.

3 Q. And are these accurate representations of how the
4 house looked on April the 6th?

5 A. Yes.

6 MR. FINNEY: Without objection, Your Honor,
7 number 16 and 17.

8 THE COURT: Any objection?

9 MR. ROBINSON: No, that's correct, Your Honor.

10 THE COURT: All right. Without objection, 16
11 and 17 are admitted.

12 (WHEREUPON, State's Exhibit Numbers 16 and 17 were
13 admitted into evidence.)

14 Q. In looking at State's Exhibit Number 16, that
15 hallway is the hallway that you ran down?

16 A. Yes.

17 Q. Where is the bathroom in that hallway?

18 A. On the left.

19 Q. Is it the last door on the left?

20 A. Yes, before you go into the room.

21 Q. All right. This door right here, this brown door
22 right here, tell us whose room that is. Is that a room
23 or a hallway?

24 A. That's not a door. It's the hallway that leads to
25 the back door, and there's another bedroom back there as

1 well.

2 Q. All right. And this door right here, that room that
3 is at the end of the hallway, whose room is that?

4 A. My grandfather's.

5 Q. All right. And this mark right here on that
6 picture, was that there before Justin came in with the
7 shotgun?

8 A. No.

9 Q. All right. Looking at State's Exhibit Number 17, is
10 that an accurate representation of the bathroom door
11 after Justin came and shot into it?

12 A. Yes.

13 Q. All right. And you said at the bottom of number 17,
14 there is a item that is described by you as a cabinet?

15 A. Yes.

16 Q. And that cabinet is where?

17 A. On the floor by the toilet.

18 Q. By the toilet?

19 A. Yes.

20 Q. Is that it there?

21 A. Yes.

22 Q. And you were behind the door, behind the cabinet,
23 when the shotgun blast came through the door?

24 A. Yes.

25 Q. Were you injured as a result of the shotgun blast in

1 the bathroom?

2 A. Yes.

3 Q. Can you tell the ladies and gentlemen where you were
4 shot?

5 A. In my left shoulder.

6 Q. I'm going to ask you to look at State's Exhibit
7 Number 5 and tell us if you recognize that?

8 A. Yes. It's my left shoulder.

9 Q. All right. And is that after you'd been shot?

10 A. Yes.

11 Q. And where was this picture taken?

12 A. In the hospital, Clarendon Memorial.

13 Q. About how long after the shooting was this picture
14 taken?

15 A. About forty-five minutes.

16 MR. ROBINSON: No objection to that, Your
17 Honor.

18 THE COURT: Without objection, State's Exhibit
19 Number 5 is admitted into evidence.

20 (WHEREUPON, State's Exhibit Number 5 was admitted
21 into evidence.)

22 Q. Did you know you were shot when the police got there
23 that morning?

24 A. No.

25 Q. To your knowledge, did you have other injuries as a

1 result of the struggle and fight that you described in
2 your testimony?

3 A. Not that I can remember.

4 Q. All right. Did you have any treatment at the
5 hospital for anything other than your shoulder?

6 A. No.

7 Q. After you called 9-1-1, do you remember telling the
8 9-1-1 operator that my daughter and her boyfriend are
9 arguing?

10 A. Yes.

11 Q. Why did you say that?

12 A. That's what Justin told me to tell them. I was
13 supposed to be acting as if I was my grandmother.

14 Q. And so you said that to the 9-1-1 operator?

15 A. Yes.

16 Q. When the 9-1-1 operator asked you for your name,
17 what did you say?

18 A. I don't remember.

19 Q. Do you remember saying that, "He has a gun," to the
20 9-1-1 operator?

21 A. Yes.

22 Q. Who were you telling the operator had a gun?

23 A. I was supposed to be pretending that the Robert
24 person was coming back in the house.

25 Q. All right. And do you remember telling that 9-1-1

- 1 operator the name of the person as being Robert?
- 2 A. Yes.
- 3 Q. Where did you get that name from?
- 4 A. That's what Justin told me to tell them.
- 5 Q. At any time did you tell Justin that we need to
- 6 blame this on somebody else and that I'm going to make up
- 7 a story to tell the 9-1-1 operator?
- 8 A. No.
- 9 Q. At the time that you were being told what to do, was
- 10 Justin still armed with a shotgun?
- 11 A. Yes. He had it pointed at me as I was on the phone.
- 12 Q. At the end of the 9-1-1 call, it sounds like you
- 13 said, "Oh, my God. Okay." What was going on at that
- 14 point?
- 15 A. That was when I had realized. As I was on the phone
- 16 with 9-1-1, I had walked outside.
- 17 Q. And saw what?
- 18 A. My grandmother's body outside with Minor 2
- 19 Q. After that, the call went dead.
- 20 A. I hung up the phone.
- 21 Q. Did you make any more calls?
- 22 A. No.
- 23 Q. Did you continue to do what Justin told you to do?
- 24 A. Yes.
- 25 Q. What was the next thing that you did?

1 A. I went into a room in the house to get a shirt and
2 put on so that we could leave.

3 Q. All right. And where was it discussed that you were
4 going?

5 A. He said we were going to the police station to tell
6 them what had happened. Well, not what really happened,
7 but the story about Robert.

8 Q. All right. At the time, did he still have a gun?

9 A. Yes.

10 Q. Where was Minor 2 at the time that you went and put
11 your shirt on?

12 A. She had walked into the room. She had already come
13 back in the house, and she was standing in the den in
14 front of Minor 's high chair.

15 Q. Did she stay there while you went to get the shirt?

16 A. Yes.

17 Q. How long did you stay in the house after you
18 realized that your grandmother had been shot?

19 A. It was about two minutes. Long enough for me to
20 walk in and find a shirt and put it on.

21 Q. All right. At that time, all of you left, you Minor 2
22 and Justin, left the house at the same time and went and
23 got in the gray car?

24 A. Yes.

25 Q. What happened next?

- 1 A. When we got in the car, I put Minor 2 in my lap and he
2 put the gun in the back seat. And so I asked, I said,
3 "Well, if you're going to tell them that Robert did it,
4 then you shouldn't have the gun because they're going to
5 ask how you got the gun." Because I didn't want the gun
6 to go with us.
- 7 Q. All right. So what did he do with the gun?
- 8 A. He took it and placed it in the front yard.
- 9 Q. All right. Was his car parked nearby your
10 grandmother's car at the time?
- 11 A. It was parked a little bit behind it.
- 12 Q. All right. So how did he -- where did he -- when
13 the gun got placed in the yard, according to State's
14 Exhibit Number 10, the gun was right near the porch
15 steps?
- 16 A. Yes.
- 17 Q. Where was his car in this picture when he ---
- 18 A. It's parked right there. When he got out, he just
19 placed it beside the car and drove around.
- 20 Q. All right. And was his car facing the house at this
21 time?
- 22 A. It was kind of diagonal to it.
- 23 Q. All right. The front of his car was closer to the
24 house, not the back of the car?
- 25 A. Yes.

1 Q. Did you see Justin go in the trunk of his car at any
2 time that morning?

3 A. After he brought the kids back, but I never saw the
4 gun. I just saw him in the trunk.

5 Q. Had you ever seen that gun before?

6 A. No.

7 Q. Once you got in the car with Justin and with Minor 2
8 and you were leaving Carissa, did you take your cell
9 phone with you?

10 A. I had my grandmother's cell phone with me.

11 Q. All right. And did you use it again?

12 A. No.

13 Q. Did you have any opportunity to use the cell phone
14 from the time you left your grandmother's house to the
15 time you saw Police Officer Eaddy?

16 A. No.

17 Q. Why didn't you use the phone?

18 A. I was afraid.

19 Q. When you saw the Police Officer Eaddy, did you say
20 anything to him? Were you ever out of the car again?

21 A. Not until we got back to the house.

22 Q. All right. So you drove down June Burn, found
23 Police Officer Eaddy, turned right around and came back
24 to June -- down June Burn to Carissa?

25 A. Yeah.

- 1 Q. How long did that process take?
- 2 A. About ten minutes.
- 3 Q. During this ten minutes, was there any talking going
- 4 on?
- 5 A. Just getting the details of the story, and Justin
- 6 was asking was I going to stick with the story when the
- 7 police got to the house.
- 8 Q. And what did you tell him?
- 9 A. I told him at the time, "Yes."
- 10 Q. And who was giving you the details of the story?
- 11 A. Justin.
- 12 Q. And where was your babyMinor 2 ?
- 13 A. She was sitting in my lap.
- 14 Q. And were you in the front seat?
- 15 A. Yes.
- 16 Q. And he was driving?
- 17 A. Yes.
- 18 Q. After you got back to Carissa, Officer Eaddy was
- 19 behind you?
- 20 A. Yes.
- 21 Q. How long was it before other officers started to
- 22 arrive?
- 23 A. Maybe three or four minutes. I don't really
- 24 remember.
- 25 Q. Did Officer Eaddy ever leave you and Justin alone

- 1 once he got to the house?
- 2 A. No.
- 3 Q. To go inside and see what was going on in the house
- 4 or anything like that?
- 5 A. No.
- 6 Q. He stayed with you until the other officers arrive?
- 7 A. Yes.
- 8 Q. Did you or Justin make any statements to Officer
- 9 Eaddy while this was going on?
- 10 A. No.
- 11 Q. All right. After the other officers arrived and
- 12 things were getting done, did you have occasion to be
- 13 taken away from Justin, away from the car, the gray car?
- 14 A. Yes.
- 15 Q. Do you remember who took you away from the gray car?
- 16 A. Investigator Richards.
- 17 Q. All right. And was that the first time that you had
- 18 been one-on-one with somebody other than Justin?
- 19 A. Yes.
- 20 Q. What happened as a result of your talking to
- 21 Richards?
- 22 A. He asked me what had happened. And when he asked
- 23 me, I took his pen out of his hand and was able to write
- 24 on his paper that he did it.
- 25 Q. He did it?

- 1 A. Yes.
- 2 Q. And who were you referring to as 'he'?
- 3 A. Justin.
- 4 Q. How were you feeling? What was your state at that
- 5 point?
- 6 A. I was still scared, but I felt a little better
- 7 because there were officers there.
- 8 Q. All right. How long before you got a chance to be
- 9 taken for medical treatment after Officer Richards and
- 10 you talked?
- 11 A. About fifteen minutes.
- 12 Q. Did you see Justin with the police officers while
- 13 you were leaving?
- 14 A. No.
- 15 Q. Okay. Did you have Minor 2 with you when you left to
- 16 go get medical treatment?
- 17 A. Yes.
- 18 Q. And did Minor 2 stay with you for basically the rest
- 19 of the morning?
- 20 A. Yes.
- 21 Q. All right. They took you to the hospital?
- 22 A. Yes.
- 23 Q. Do you remember giving a statement to a law
- 24 enforcement officer at the hospital?
- 25 A. Yes.

1 Q. All right. And did you basically tell them what had
2 happened that morning between you and Justin?

3 A. I told them what I could remember at the time. I
4 was still scared and shaken up.

5 Q. All right. Did you -- do you know how long you
6 stayed at the hospital with the doctors and the
7 investigators?

8 A. I don't remember.

9 Q. All right. Do you remember what happened to --
10 where did you go after you left the hospital?

11 A. After we left, I went with Ms. Rhonda Rainey to the
12 Sheriff's office.

13 Q. All right. And Ms. Rhonda Rainey, she's here, the
14 lady at the front row of the court?

15 A. Yes.

16 Q. She's who?

17 A. The victim's advocate.

18 Q. And you stayed with the victim advocate getting
19 yourself kind of settled down?

20 A. Yes.

21 Q. Where did you spend the night that night?

22 A. At my great grandmother's house on Little Star Road.

23 Q. And your great grandmother, is she on the Caraway
24 side?

25 A. Yes.

1 Q. That would be John's mother?

2 A. Yes.

3 Q. And did Minor 2 stay there with you?

4 A. Yes.

5 Q. Before you went to your great grandmother's house
6 that evening, did you have an opportunity to give another
7 statement to another law enforcement officer later that
8 afternoon, maybe around five o'clock?

9 A. Yes. While I was getting -- they were doing the
10 gunpowder residue test, they asked more questions.

11 Q. All right. And the gunpowder residue test, tell the
12 ladies and gentlemen what that involves.

13 A. They took swabs of my hand to see if any gunpowder
14 residue was on it.

15 Q. All right. And where were those swabs taken at, if
16 you remember? Was it at the hospital?

17 A. No. At the Sheriff's department.

18 Q. And that would have been after you had been
19 discharged from the hospital?

20 A. Yes.

21 Q. Did you go back to Carissa the next day or the day
22 after that, or was -- how long before you went back to
23 Carissa?

24 A. They released it -- they didn't release it that
25 night. They released it later on in the evening, the

1 next evening, and we went back.

2 Q. Okay. Everything you had for your daughter was
3 there still?

4 A. Yes.

5 MR. FINNEY: Your Honor, may I have a moment,
6 please?

7 THE COURT: You may.

8 MR. FINNEY: Thank you, Your Honor. If it
9 please the Court, there are two more exhibits I need.

10 Q. I'm going to ask you a few more questions about the
11 inside of the house just so that we can be clear on it.
12 I want to show you State's Exhibit Number 22 and ask if
13 you can describe what's in that picture?

14 A. That's the view from the room where Minor was at to
15 the outside.

16 Q. All right. The room that Minor was in in the
17 highchair, is it part of the room with the pattern on the
18 floor?

19 A. No.

20 Q. All right. The room with the pattern on the floor,
21 what do you call that room?

22 A. That's just the dining room as soon as you're
23 walking out.

24 Q. All right. And is that the dining room which is the
25 next room off the porch?

- 1 A. Yes.
- 2 Q. The outside porch?
- 3 A. Yes.
- 4 Q. This is the dining room?
- 5 A. Yes.
- 6 Q. What do you call this room?
- 7 A. The den.
- 8 Q. The den. And so State's Exhibit Number 22 shows a
- 9 picture of the dining room floor ---
- 10 A. And the porch.
- 11 Q. And the porch. And what else?
- 12 A. And the outside.
- 13 Q. All right.
- 14 MR. ROBINSON: No objection to that photograph.
- 15 THE COURT: And that's State's Exhibit Number
- 16 ---
- 17 MR. FINNEY: 22, Your Honor. I'm sorry.
- 18 THE COURT: 22.
- 19 MR. FINNEY: Thank you.
- 20 (WHEREUPON, State's Exhibit Number 22 was admitted
- 21 into evidence.)
- 22 Q. Can you tell the ladies and gentlemen of the jury,
- 23 what is that item -- I apologize. It seems like it's
- 24 darker there. What is this item in the middle of the
- 25 floor on State's Exhibit Number 22?

1 A. It's Minor 2 car seat.

2 Q. What color is Minor 2 car seat?

3 A. Pink.

4 Q. All right. I'm going to show you what's been marked
5 as State's Exhibit Number 12 and ask if you can identify
6 that?

7 A. That's the door leading into the dining room and the
8 porch.

9 Q. All right. So the bottom part of this picture shows
10 what floor?

11 A. The porch.

12 Q. And the top part shows?

13 A. The dining room.

14 Q. All right.

15 MR. ROBINSON: No objection to that exhibit.

16 THE COURT: Without objection, State's Exhibit
17 Number 12 is admitted.

18 (WHEREUPON, State's Exhibit Number 12 was admitted
19 into evidence.)

20 Q. Is that a picture of the car seat that Minor 2 was
21 riding in that day?

22 A. Yes.

23 Q. All right. And you said this area is the floor of
24 the porch?

25 A. Yes.

1 Q. This is the door, the front door?

2 A. Yes.

3 Q. And this is the floor of the dining room?

4 A. Yes.

5 Q. What is this right here in the top left portion of
6 that?

7 A. It's a chair that goes to the table in the dining
8 room.

9 Q. And would you please identify what's marked in
10 State's Exhibit 13?

11 A. The chair in the dining room and Minor 's car seat.

12 Q. All right. And were those items in that room when
13 the struggle between you and Mr. Johnson took place?

14 A. Yes.

15 Q. Is that an accurate representation of the items in
16 the room and the room they were in?

17 A. Yes.

18 Q. All right. And can you tell me, based on this
19 photograph, whether there's any evidence of anything as a
20 result of the struggle?

21 A. Blood.

22 Q. And was the blood there before?

23 A. No.

24 MR. ROBINSON: No objection.

25 MR. FINNEY: This is State's Exhibit Number 13.

1 THE COURT: It's admitted without objection.

2 (WHEREUPON, State's Exhibit Number 13 was admitted
3 into evidence.)

4 Q. This car seat belongs to who?

5 A. Minor .

6 Q. All right. And this chair was part of a set?

7 A. Yes.

8 Q. All right. And these markings on the chair here and
9 on the floor are what?

10 A. Blood.

11 Q. All right. Is that the room, the dining room or the
12 den area where the struggle took place?

13 A. The dining room. The room right off of the porch.

14 Q. The room right off of the porch? All right. Two
15 more pictures and I'll be finished. I show you State's
16 Exhibit Number 41. Could you describe what that is?

17 A. 'Minor 2 car seat.

18 Q. Is that an accurate representation of the car seat?

19 A. Yes.

20 Q. All right. And how long did you have that car seat
21 before April 2011?

22 A. About two months.

23 Q. All right. Let me also show you State's Exhibit
24 Number 40 and ask you -- see if you can tell me, is the
25 car seat in that picture?

1 A. Yes.

2 Q. Is that an accurate representation of the front
3 porch area of the house?

4 A. Yes.

5 Q. All right.

6 MR. ROBINSON: No objection to 40 or 41.

7 THE COURT: All right. 40 and 41 are admitted
8 without objection.

9 (WHEREUPON, State's Exhibit Numbers 40 and 41 were
10 admitted into evidence.)

11 Q. State's Exhibit Number 41, is that Minor 2 car seat?

12 A. Yes.

13 Q. Can you tell where it is in this picture?

14 A. It's laying on the floor in the door.

15 Q. All right. And does it have anything on it that is
16 unusual?

17 A. Blood.

18 Q. All right. This is exhibit number 40. Is this the
19 front porch area of the house?

20 A. Yes.

21 Q. Is this the same car seat that we just saw in
22 exhibit number 41?

23 A. Yes.

24 Q. Minor 2 car seat?

25 A. Yes.

1 Q. All right. Can you identify for you us what is this
2 object right here?

3 A. My shirt.

4 Q. All right. What shirt are you talking about?

5 A. The shirt that I slipped out of.

6 Q. All right. And how did you slip out of it?

7 A. I was being dragged out of the house, and I -- my
8 arms were up, and I slipped out of it.

9 Q. So once you came out of the shirt, where were you
10 heading at that point?

11 A. I ran back into the house.

12 Q. Back over the car seat?

13 A. Yes.

14 Q. Was the car seat there when you went back into the
15 house?

16 A. Yes.

17 Q. So you had to jump over it?

18 A. Yes.

19 Q. When you saw Justin Johnson come in the house that
20 afternoon with the shotgun and point it at you and you
21 closed your eyes, what happened next?

22 A. I heard a gunshot. When I heard the gunshot, I
23 realized that I never felt myself being hit, so I opened
24 my eyes.

25 Q. Was that the first gunshot you had heard that

- 1 afternoon?
- 2 A. Yes.
- 3 Q. That morning?
- 4 A. Yes.
- 5 Q. When you opened your eyes, what did you see?
- 6 A. I saw that he actually had the gun pointed at Minor
- 7 and that Minor was taking a breath, a deep breath.
- 8 MADAM COURT REPORTER: I'm sorry?
- 9 A. I saw that he had the gun pointed at Minor and that
- 10 Minor was taking a deep breath.
- 11 Q. Did Minor move or say anything after that?
- 12 A. No. His head dropped.
- 13 Q. He was in the high chair?
- 14 A. Yes.
- 15 Q. Once you saw Minor drop his head, what was your
- 16 next move?
- 17 A. I ran down the hall.
- 18 Q. Did you hear a gunshot as you were running down the
- 19 hall?
- 20 A. No.
- 21 Q. When you got down the hall, what was your next move?
- 22 A. Into the bathroom.
- 23 Q. And the door was closed?
- 24 A. I shut the door, locked it, and then pushed the
- 25 cabinet in front of it.

1 Q. Did you hear a gunshot at that point?

2 A. Yes.

3 Q. And where did that gunshot go to as far as you could
4 tell?

5 A. It went through the door. That's how he got into
6 the bathroom.

7 Q. And once you were in the bathroom with Mr. Justin,
8 did you see him still holding the shotgun?

9 A. Yes. When he shot in, it knocked the cabinet down.
10 And I ran towards the tub, and that caused me to fall
11 over the cabinet. He had the gun pointed at me.

12 Q. And did he maintain possession of that gun until you
13 left the house with him, going out the front door with
14 'Minor2 to get in the car?

15 A. Yes.

16 Q. Is there any question in your mind who caused the
17 death of Minor ?

18 A. No.

19 Q. Who was that?

20 A. Justin.

21 Q. Is there any doubt in your mind who shot the gun
22 that came through the bathroom while you were in there?

23 A. No.

24 Q. Who shot the gun?

25 A. Justin.

1 MR. FINNEY: Nothing further.

2 THE COURT: All right. We'll take a fifteen
3 minute recess before we have our -- please do not discuss
4 anything about the case while you're in your jury room.

5 (WHEREUPON, the jury exited the open court at
6 approximately 3:13 p.m.)

7 THE COURT: All right. Court will be in
8 recess. I would remind the witness that she is still on
9 the stand and may not speak to anyone concerning her
10 testimony. Thank you. The Court's in recess for
11 fifteen.

12 (WHEREUPON, court stood at recess for a short
13 break.)

14 THE COURT: All right. The witness will resume
15 the stand.

16 (WHEREUPON, the witness resumed the witness stand.)

17 THE COURT: Let's bring our jury in.

18 (WHEREUPON, the jury entered the open court at
19 approximately 3:36 p.m.)

20 THE COURT: All right. Thank you. You may be
21 seated.

22 Now, ladies and gentlemen, I tell the jurors this
23 every -- I go all over the State. And jurors get very
24 territorial with their seats as soon as they come in.
25 But if y'all want to sit in a different place each time,

1 you're welcome to do that. But they are very
2 territorial.

3 Mr. Robinson, are you ready to proceed with cross-
4 examination?

5 MR. ROBINSON: Yes, sir, Your Honor.

6 THE COURT: All right.

7 CROSS-EXAMINATION

8 BY MR. ROBINSON:

9 Q. Ms. Caraway, are you doing okay?

10 A. Yes.

11 Q. I understand this is difficult, but please bear with
12 me. This is not pleasant for any of us, but it's a
13 necessity that we have to deal with.

14 Let me ask you, first of all, on April 6th, of 2011,
15 you've recounted some of what happened that day from the
16 Solicitor; is that correct?

17 A. Yes.

18 Q. Is what you told the Solicitor the entirety of what
19 happened that day?

20 A. It's a little bit.

21 Q. A little bit?

22 A. A little bit that was left out different.

23 Q. And tell me specifically what you can recall right
24 now that you left out that is different?

25 A. I remember that when Justin left the gun, he took

1 the shells out, and the shells went with us.

2 Q. So when the Solicitor asked you or said earlier that
3 the shotgun was emptied, that's not accurate, is it?

4 A. Yes.

5 Q. It is accurate?

6 A. I don't know about the shotgun, so I don't know
7 whether the shells come out when they're shot or not, but
8 ---

9 Q. Well, let me ask you about what you just said. When
10 Mr. Johnson, according to your testimony, went to leave
11 the shotgun in the yard, he took the shells out of the
12 gun and put them in his pocket?

13 A. Yes.

14 Q. So there were still shells in the gun?

15 A. Yes.

16 Q. Okay. So the statement that was made that the gun
17 was shot until it was empty or Mr. Johnson didn't quit
18 shooting until the gun was empty is not accurate, is it?

19 A. No.

20 Q. There were still shells in the gun?

21 A. Yes.

22 Q. Okay. And when he took the shells out of the gun --
23 you're actually the one that suggested that he leave the
24 gun?

25 A. Yes.

1 Q. And why did you suggest that?

2 A. Because I would feel safer with it at the house when
3 we were leaving instead of in the car with me.

4 Q. So basically you tricked him?

5 A. Yes.

6 Q. And convinced him that it would be easier to come up
7 with this story if he left it there?

8 A. Yes.

9 Q. Now, let me take you back to what precipitated this
10 whole thing because I don't know that you necessarily
11 talked about that either. How did this start? Y'all
12 were arguing about the children going to the doctor?

13 A. Because I didn't want to go with them. He had
14 already had the children in the car and wanted me to go
15 as well, but I didn't see where I was necessary to go.

16 Q. That's all you can remember today about what
17 happened?

18 A. And I remember that there was an argument. He was
19 supposed to bring -- I can't remember if it was money or
20 what the items were, but he was supposed to bring
21 something for the kids that wasn't there.

22 Q. Okay. So you expected him to bring you some money
23 that day?

24 A. Either money or the ---

25 Q. The goods?

- 1 A. Yes.
- 2 Q. Kind of in lieu of child support?
- 3 A. Yes.
- 4 Q. Okay. And why did you have that expectation?
- 5 A. Because he was their father.
- 6 Q. I understand that. But I mean, you -- I think the
- 7 Solicitor asked you earlier if it surprised you when he
- 8 showed up that day. And you said it did. Do you
- 9 remember that?
- 10 A. Yes.
- 11 Q. So if you weren't expecting him, why would you
- 12 expect him to bring money unexpected or goods unexpected?
- 13 A. Because when we talked the evening before I asked
- 14 him to. He said, "No." And that's why it surprised me
- 15 when he showed up because he said he wasn't.
- 16 Q. Okay. And when you talked the evening before, you
- 17 talked about money?
- 18 A. Yes.
- 19 Q. And what was the substance of that conversation?
- 20 A. I don't really remember much, but I remember him --
- 21 he was supposed to bring the kids some items. He had
- 22 asked me to meet him that night, but I didn't feel
- 23 comfortable meeting him in the Wal-Mart's parking lot.
- 24 Q. Okay. And have you told anybody that, that he asked
- 25 you to meet him in the Wal-Mart parking lot?

1 A. Yes.

2 Q. Who did you tell that to?

3 A. I can't remember her name, but when we -- when I was
4 being interviewed after everything happened.

5 Q. Okay. Do you remember how many times you were
6 interviewed within a few days after this happened,
7 immediately after this happened?

8 A. I remember twice.

9 Q. Twice? And who do you remember being involved with
10 those interviews?

11 A. The SLED agent.

12 Q. Ms. Carter?

13 A. Yes.

14 Q. And where did she interview you?

15 A. Once at the hospital and once at the Sheriff's
16 department.

17 Q. Okay. And the hospital, that was the day of?

18 A. Yes.

19 Q. And later that day when I think you talked about
20 doing the gunshot residue test ...

21 A. Yes.

22 Q. ... did you talk with her and Investigator Clark
23 again?

24 A. Yes.

25 Q. Okay. So that was twice that day?

- 1 A. Yes.
- 2 Q. And then wasn't there another interview with her as
- 3 well?
- 4 A. Yes.
- 5 Q. And that was the day after Minor 's funeral?
- 6 A. I'm not sure what day it was, but I remember going
- 7 down to the Sheriff's department.
- 8 Q. And do you remember specifically when you talked to
- 9 her -- let's start with at the hospital. Do you remember
- 10 what you told her happened?
- 11 A. Not right offhand.
- 12 Q. Do you remember telling her why y'all were arguing?
- 13 A. I remember telling her. I don't remember exactly
- 14 what I told her.
- 15 Q. Okay. Did y'all have an argument because you saw
- 16 something on the computer about Mr. Johnson and talking
- 17 to another lady, another female?
- 18 A. I remember that, yes.
- 19 Q. Okay. And is that what happened?
- 20 A. It's what began the argument on the 5th. It was the
- 21 night before.
- 22 Q. The night before. Did y'all have any argument about
- 23 that on the 6th, that next morning?
- 24 A. No.
- 25 Q. Did y'all argue about his PIN number on the 6th?

1 A. It was my PIN number to my debit card. On the 5th,
2 we argued. And I told him I didn't want anything else to
3 do with him, so I changed my debit card PIN.

4 Q. Now, was it your account or his account?

5 A. Mine.

6 Q. Do you remember telling SLED officers that you
7 didn't have an account, that y'all had an account
8 together because you at one time had some money in there?

9 A. My account. It was my account, and he had a
10 secondary card to my account.

11 Q. Okay. So he was the secondary?

12 A. Yes.

13 Q. Okay. And do you remember telling the SLED officers
14 that?

15 A. Yes.

16 Q. After the funeral, that's what you believe you told
17 them?

18 A. Yes.

19 Q. So if I remember something otherwise, that's
20 incorrect?

21 A. That's what I remember, yes.

22 Q. Okay. Well, let me ask you right now, today, are
23 you certain that this is your account and Mr. Johnson is
24 the secondary card holder?

25 A. Yes.

- 1 Q. Okay. So was he putting money in that account?
- 2 A. He had some military money, his GI Bill, was going
- 3 to that account.
- 4 Q. Okay. So it was your account; right?
- 5 A. Yes.
- 6 Q. His money was going in it?
- 7 A. Yes.
- 8 Q. You had a card?
- 9 A. Yes.
- 10 Q. And you're the only one that had the PIN?
- 11 A. He had a card as well, but I had ---
- 12 Q. You had changed the PIN?
- 13 A. Yes.
- 14 Q. So he couldn't use his card to get any money?
- 15 A. No.
- 16 Q. But you could?
- 17 A. Yes. But I had already told him that I was going to
- 18 disconnect it.
- 19 Q. Okay. So why did you need him to bring you some
- 20 money or goods if you had his money in an account that he
- 21 couldn't access that only you could access?
- 22 A. I mostly asked him to actually bring the products
- 23 because I didn't have a car. But if he didn't want to go
- 24 into the store to get them, that he could bring the money
- 25 and I'd find a way. But it was easier for him to buy the

1 stuff.

2 Q. Okay. Do you remember telling Ms. Carter and Mr.

3 Clark when they were doing the gunshot test that Mr.

4 Johnson had asked you for money?

5 A. Yes.

6 Q. Okay. So which one happened?

7 A. That was the night before. He had asked -- he was

8 in Sumter, and he had asked if I had any money because

9 his GI Bill had not come in yet. But at the time, I

10 didn't have any. And that's when I told him I didn't

11 have any. I needed some from him. I believe it was for

12 diapers.

13 Q. Okay. You didn't have any money, but he needed

14 money; right?

15 A. Yes.

16 Q. But his money was in your account that he couldn't

17 get to?

18 A. It came on the 6th, that morning.

19 Q. Okay. And how do you know that?

20 A. I checked.

21 Q. You checked that morning?

22 A. Yes.

23 Q. And did y'all have some discussion that morning

24 about him not being able to get his money?

25 A. After he came back, yes.

- 1 Q. Okay. And what was that?
- 2 A. He asked about the PIN, and I told him I had changed
- 3 it.
- 4 Q. Okay. And were y'all -- now, you said that y'all
- 5 hadn't been together for nine months or longer?
- 6 A. No.
- 7 Q. Is that right?
- 8 A. Yes.
- 9 Q. Why was he still on your account?
- 10 A. He had a joint card. We still conversated (phonic).
- 11 And with us having a joint account, that he put his money
- 12 in the account for the kids that I would have it.
- 13 Q. Okay.
- 14 A. Because I didn't have a car. So if he was at drill
- 15 or wasn't around, he could still load it onto the card
- 16 and I had access to it.
- 17 Q. His GI Bill went straight into your account?
- 18 A. Yes.
- 19 Q. Even after y'all were broken up; right?
- 20 A. Yes.
- 21 Q. He was living with another woman?
- 22 A. Yes.
- 23 Q. And you had told him you had moved on and y'all,
- 24 quote, unquote, weren't together?
- 25 A. Yes.

1 Q. Okay. And how long had that arrangement gone on
2 prior? When did y'all open the account together?

3 A. The account was opened -- I'm not sure when, but I
4 want to say in 2010. But the GI Bill wouldn't have
5 started coming in until about January or February.

6 Q. So y'all opened an account in 2010, and he started
7 getting money in January or February?

8 A. Uh-huh (affirmative).

9 Q. And y'all had broken up in what part of 2010?

10 A. We stopped talking in -- it was a little after
11 Minor was born, June or July.

12 Q. Okay. Do you have any recollection that you told
13 law enforcement during one of your interviews that Justin
14 was mad because you told him that you weren't going to be
15 with him anymore?

16 A. Yes.

17 Q. And you told him that that day?

18 A. I told him on the 5th that I was tired of the back
19 and forth because he wasn't going to change. And that's
20 why I changed the PIN and cut his card off.

21 Q. Okay. So you didn't cut his card off until the day
22 before?

23 A. Yes.

24 Q. Okay. And you told him -- I mean -- and I'm trying
25 to understand this. Y'all hadn't been together for nine

1 months?

2 A. No. We still conversated. We still had
3 conversations. He still came to pick me up and would
4 spend time with the kids, but we weren't together.

5 Q. Okay. Tell me what you mean by conversated or
6 conversations? Does that literally just mean talking ---

7 A. Yes.

8 Q. --- or is that kind of what kids say today when
9 we're talking or we're texting? I'm kind of old. I
10 don't understand that.

11 A. No. We would actually pick up the phone and have a
12 conversation. He would call and ask how Minor 2 was.
13 Every now and then, he would ask about Minor , but he
14 would call.

15 Q. Would you consider what y'all had a dating-type
16 relationship?

17 A. No.

18 Q. And he was living with another girl?

19 A. Yes.

20 Q. So why would it be upsetting to him if you said,
21 "We're not getting together"?

22 A. I'm not sure.

23 Q. Because that had been the status quo for some time;
24 hadn't it?

25 A. It was off and on. I would -- I was in an off-and-

1 on relationship, so we would discuss getting back
2 together. And it was just the fact of I don't want to
3 discuss it anymore. And I would do things for him. If I
4 had money, I would help him out. And I wasn't willing to
5 do it anymore.

6 Q. All right. Well, let me ask you this. And this is
7 probably somewhat indelicate, but I'm just trying to
8 understand. You said y'all had an off-and-on
9 relationship. Did y'all have a physical relationship at
10 times during that nine-month period since you and Justin
11 had broken up?

12 A. Not to my memory, no.

13 Q. No? So what are you saying when you mean off and
14 on?

15 A. We would consider ourselves being
16 boyfriend/girlfriend, but he was never really around for
17 us to actually to see each other. Or if he did, it would
18 be with the kids. It wasn't a one-on-one type of thing.

19 Q. Did you and Justin ever live with Justin's mother?

20 A. No.

21 Q. Never?

22 A. No.

23 Q. Y'all ever stay over there?

24 A. We would spend the night, me and the kids would stay
25 the night, if he wanted to spend time.

- 1 Q. And that was obviously after Minor was born,
2 visiting with the kids?
- 3 A. Yes.
- 4 Q. So that would have been in the period of time that
5 y'all were supposedly broken up?
- 6 A. Yes.
- 7 Q. So during that period of time, you and the kids
8 would spend the night with Justin at his mom's sometimes?
- 9 A. Yes.
- 10 Q. Now, when Justin showed up to take the kids, what
11 time of the morning was that?
- 12 A. It was about seven-thirty, eight o'clock.
- 13 Q. Okay. And you're certain of that?
- 14 A. It may be a little bit earlier. I'm not sure.
- 15 Q. Okay. On Wednesday ---
- 16 A. April the 6th.
- 17 Q. --- April 6th, 2011, he was at your house seven-
18 thirty or eight o'clock give or take?
- 19 A. Yes.
- 20 Q. Okay. And he got the children at that time?
- 21 A. Yes.
- 22 Q. And where did he take them?
- 23 A. I don't know.
- 24 Q. Where did you think he was taking them?
- 25 A. To the doctor.

1 Q. Okay. Do you have any idea of what time Black River
2 opened?

3 A. Black River opened at eight or eight thirty.

4 Q. Okay. And you had an appointment later that day?

5 A. Yes.

6 Q. But not for the kids?

7 A. I had an appointment and they had an appointment,
8 but he wasn't willing to take me to the doctor and then
9 sit at the doctor with them. And it was more important
10 for them to go. So when he came, I told him he could
11 take them and I would just find a way to my appointment
12 later.

13 Q. And you're positive right now that the kids had an
14 appointment and not that you were taking them as a walk-
15 in when you went for your appointment?

16 A. To my memory, one of them had an appointment. I
17 don't remember which one. And the other was supposed to
18 be doing a walk-in. I had already spoken with the doctor
19 the day before, and they said that it was okay.

20 Q. And which doctor did you talk to?

21 A. Black River. I talked to the nurse.

22 Q. Okay. Which nurse did you talk to?

23 A. I don't remember.

24 Q. And that was the day before? That would have been

25 ---

- 1 A. April 5th.
- 2 Q. April the 5th. Do you remember what time of day
- 3 that was?
- 4 A. I don't.
- 5 Q. I mean, was it morning, later in the afternoon?
- 6 A. I know it was right in the middle of the day.
- 7 Q. Okay. So on the morning of April the 6th, Justin
- 8 did not ask you for money?
- 9 A. No.
- 10 Q. But you did ask him for money?
- 11 A. Yes.
- 12 Q. Did you ask him once he got to your house or prior
- 13 to him coming to your house?
- 14 A. Once he got there, I asked if he had gotten the
- 15 stuff for the kids, and he told me that he had the money.
- 16 Q. He told you he had the money with him?
- 17 A. Yeah. At that time, I had already taken Minor
- 18 outside to him, and I was inside getting Minor 2 dressed.
- 19 And, also, we were having a phone conversation. And he
- 20 told me that he had it outside, to come outside and get
- 21 it.
- 22 Q. Okay. Did you go outside?
- 23 A. I went outside to take Minor 2 into the car. And when
- 24 I asked him for it -- after I put her in the car, I went
- 25 to the driver's side, and he asked me to get in.

1 Q. And y'all had an argument at that point in time?

2 A. Yes, because I wouldn't get in.

3 Q. Okay. And how bad was that argument?

4 A. It wasn't really bad. He just kind of asked me to
5 get in, and I asked him for the money because I didn't
6 feel like I needed to get in the car to just be handed
7 some money. And he told me he wasn't going to give it to
8 me. So I just walked away. I walked back in the house.

9 Q. So that's not the argument like you testified
10 earlier where he disrespected your grandparents and
11 threatened to knock the door down and told you he didn't
12 care about them?

13 A. That was after I got inside the house and he called
14 back and asked me to come outside.

15 Q. You said that was a telephone call?

16 A. Yes.

17 Q. Okay. And at what point during that argument --
18 were you outside when your grandfather left, or you were
19 inside?

20 A. I was inside.

21 Q. Did you tell your grandfather before he left, "Wait
22 a minute. Don't go out there. Justin's threatening
23 you."?

24 A. No.

25 Q. You didn't?

- 1 A. No.
- 2 Q. Why?
- 3 A. I didn't feel like I needed to.
- 4 Q. You didn't believe Justin?
- 5 A. No.
- 6 Q. You didn't think he was capable of that?
- 7 A. No.
- 8 Q. Okay. So you weren't really scared of him; you were
- 9 more aggravated with him?
- 10 A. Yes.
- 11 Q. Okay. So he then -- the phone went dead and left?
- 12 A. At the time, I didn't know that his phone went dead,
- 13 but it disconnected.
- 14 Q. Okay. And then what happened?
- 15 A. He sat outside for a while. And I called his
- 16 mother, and that's when I asked her to call him and ask
- 17 him to leave. And she said she was going to call the
- 18 police. And when I went to look, he was gone. So I
- 19 don't know if she called him, but he was gone.
- 20 Q. And that's when he left and presumably went to
- 21 Manning?
- 22 A. Yes.
- 23 Q. Because you heard your grandfather testify that he
- 24 saw him at Wal-Mart?
- 25 A. Yes.

- 1 Q. Did he call you and tell you that?
- 2 A. No.
- 3 Q. How did you find that out?
- 4 A. I had spoke with my grandfather.
- 5 Q. When?
- 6 A. At the hospital.
- 7 Q. At the hospital?
- 8 A. Yeah.
- 9 Q. After this had happened?
- 10 A. Yes.
- 11 Q. Okay. So you and your grandfather had a
- 12 conversation at the hospital where he told you that he
- 13 had seen Justin?
- 14 A. Yes.
- 15 Q. And when you told law enforcement that your
- 16 grandfather told you that, you meant afterwards?
- 17 A. Yes.
- 18 Q. You didn't know that before hand?
- 19 A. No.
- 20 Q. Okay. Let's talk about when Justin was gone and you
- 21 called Black River, found out he wasn't there, they
- 22 wouldn't take walk-ins or whatever. What did you do at
- 23 that point?
- 24 A. I called his mother to see if she knew whether he
- 25 had taken them to her house.

- 1 Q. How long had he been gone at that point?
- 2 A. About fifteen, twenty minutes.
- 3 Q. From your house on June Burn Road? What made you
- 4 call Black River that quick?
- 5 A. Because I remembered something that I hadn't told
- 6 him, and I wasn't able to get him on his phone. So I
- 7 called him -- the doctors because I figured they were
- 8 already there. I could let the doctor know and they
- 9 could write it down.
- 10 Q. Okay. So when you found out that he wasn't there,
- 11 when did you decide that you were going to call the
- 12 police and report him for kidnapping?
- 13 A. I didn't call the police. Before I had a chance to
- 14 call them, he called me.
- 15 Q. Right. So my question is why did you decide in that
- 16 short of a period of time that you were going to report
- 17 him for kidnapping the children?
- 18 A. Because I didn't know where they were.
- 19 Q. Okay. They'd only been gone fifteen or twenty
- 20 minutes?
- 21 A. Uh-huh (affirmative).
- 22 Q. How long does it take to get from Black River to
- 23 your house?
- 24 A. About ten minutes at most.
- 25 Q. Ten minutes. So because he was out of touch for

1 about ten minutes, you were going to report him for
2 kidnapping?

3 A. Yes.

4 Q. And why was that?

5 A. Because I knew he was mad and because he had my kids
6 with him.

7 Q. Okay. Did you think they were in danger?

8 A. Yes.

9 Q. So why did you let them go with him?

10 A. At that time, I didn't think that they were in
11 danger. I thought that they were going to the doctor.

12 Q. Okay. So when you found out that they weren't at
13 the doctor, then you thought they were in danger?

14 A. Yes.

15 Q. And what did he do from the time you put them in the
16 car to let them go to that point in time that changed
17 your mind?

18 A. He didn't know where he was going to go.

19 Q. Okay. And what did you think they were in danger
20 of?

21 A. I don't know. I didn't know where they were.

22 Q. And his phone had cut off, right, before he left the
23 house?

24 A. Yes.

25 Q. Did you remember that? That his phone had cut off,

1 you said, "Hey, his phone's dead, let me give him a few
2 minutes"?

3 A. Yes.

4 Q. Okay. And then he called right back, didn't he?

5 A. He called back about -- it was maybe a twenty-five
6 to thirty-minute time frame between the time that it cut
7 off and the time he finally called back.

8 Q. How long after you called Black River and found out
9 that he was not there with the children and decided you
10 were going to report him for kidnapping, did he call you?
11 How much time had elapsed?

12 A. About five or ten minutes.

13 Q. Okay. So once you decided your children were in
14 danger and he had kidnapped them, you decided to wait
15 five or ten minutes to call the police?

16 A. No. After I got off the phone with Black River, I
17 called his mother. And when I asked to see if maybe he
18 had taken them down there, that he had forgotten
19 something and needed to go down there before he took them
20 to the doctor. And she said that she didn't know where
21 they were. And so that's when I decided to call.

22 Q. So immediately after you hung up with his mother,
23 you were getting ready to call the police and he called?

24 A. After I called his mother, I called a friend of mine
25 that I know was in Manning and asked her to kind of look

1 to see if maybe she saw the car. And when she said she
2 didn't see it, that she was there -- because some time
3 had passed since I had called Black River, and I didn't
4 want to call them back. And once she said his car wasn't
5 there, that's when I was beginning to call the police.

6 Q. Okay. Tell me about this friend in Manning. Who
7 did you call in Manning?

8 A. Jerah Dozier (phonic)..

9 Q. Jerah?

10 A. Dozier.

11 Q. Okay. And who is Jerah Dozier?

12 A. That is my best friend.

13 Q. Okay. Is her father in law enforcement?

14 A. Yes.

15 Q. Okay. Who is that? Is that Mr. Barney Dozier?

16 A. Yes.

17 Q. Okay. He's a deputy with the Sheriff's department?

18 A. Yes.

19 Q. You close to Mr. Barney also?

20 A. Yes.

21 Q. Do you remember telling somebody he was like a
22 father to you?

23 A. Yes.

24 Q. Did you try to call Mr. Dozier? Did you get Jerah
25 to call her dad and say, "Hey, Justin's got my babies.

- 1 I'm scared"?
- 2 A. No.
- 3 Q. Okay. So eventually Justin called you back?
- 4 A. Yes.
- 5 Q. Okay. What was that conversation about?
- 6 A. He asked about the PIN. And I asked him why didn't
- 7 he go to the doctor. And he said he was coming down the
- 8 road.
- 9 Q. He said he was coming down the road?
- 10 A. He was coming back down June Burn to bring them
- 11 back.
- 12 Q. So he never answered why he didn't go to the doctor?
- 13 A. Not until he got there.
- 14 Q. And what was the deal with the PIN? He just asked
- 15 you about the PIN and no further conversation?
- 16 A. I didn't answer him. And when he said he was coming
- 17 down the road, we got off the phone.
- 18 Q. Did you call anybody else when he told you he was
- 19 coming back to the house?
- 20 A. No.
- 21 Q. Were you scared at that point?
- 22 A. Kind of.
- 23 Q. Of what?
- 24 A. Of him and his temper.
- 25 Q. Okay. He got a bad temper?

1 A. Yes.

2 Q. You've seen it before?

3 A. Yes.

4 Q. And was -- did he sound madder to you on the phone
5 when you were talking to him then than when he was in the
6 yard and you were talking to him on the phone?

7 A. Not really.

8 Q. Okay. So, again, what changed when you said he was
9 in the yard and you were in the house and you weren't
10 scared because you didn't take him seriously to now
11 you're kind of starting to take him seriously coming down
12 the road?

13 A. Because I know that I have to come in contact with
14 him because I have to get the kids back.

15 Q. Okay. So he comes back to the house; is that right?

16 A. Yes.

17 Q. Do you know what time it is then roughly?

18 A. No.

19 Q. No idea? Ten thirty? Eleven o'clock? Twelve
20 o'clock?

21 A. Maybe nine thirty, ten.

22 Q. Nine thirty or ten? What happens when he pulls up
23 in the yard?

24 A. I stand in the front door, and he brings -- he took
25 'Minor2 out of her car seat and let her walk and placed her

- 1 car seat in front of me. Then he went back and got
2 Minor in his car seat, and he brought back the diaper
3 bag. And once all that stuff was in the house, that's
4 when he went and opened his trunk.
- 5 Q. And that's when he gave you the baby cup?
- 6 A. The cup.
- 7 Q. Okay. And did y'all argue then?
- 8 A. No. He just continued to ask me to get in the car.
- 9 Q. Okay. And you refused?
- 10 A. Yes.
- 11 Q. And at what point did he start to drive off?
- 12 A. He got back in the car. I told him I was going -- I
13 was supposed to be changing the PIN back for him. And he
14 got in the car and he started pull off, but then he
15 stopped and got back out.
- 16 Q. You didn't stop him?
- 17 A. No.
- 18 Q. You sure?
- 19 A. Positive.
- 20 Q. Why would you have told law enforcement that?
- 21 A. I don't know.
- 22 Q. That as he was driving off, you remembered he hadn't
23 given you the money, so you tried to stop him to get the
24 money from him. Do you remember telling anybody that on
25 April the 6th?

1 A. No.

2 Q. Okay. So it's your testimony today that he went to
3 leave and then stopped himself?

4 A. Yes. I may have stopped him. I don't remember.
5 It's been three years.

6 Q. Okay. Well, did you do anything before today to
7 refresh your memory a little bit?

8 A. Yes, I did.

9 Q. What did you do?

10 A. I thought about it. I went back to the house and
11 kind of walked through it.

12 Q. Did you look over any of your previous statements?

13 A. Yes.

14 Q. Okay. And did you try to refresh your memory?

15 A. Yes.

16 Q. But when you testified earlier, you still left some
17 stuff out?

18 A. Yes.

19 Q. That's because you're nervous?

20 A. Yes.

21 Q. Okay. Do you remember talking to the SLED agents,
22 Ms. Carter and the other lady, another female?

23 A. Yes.

24 Q. That was after the funeral?

25 A. I don't remember.

- 1 Q. It wasn't the day of the event?
- 2 A. I remember talking to Ms. Carter, but I don't
- 3 remember anybody else being there.
- 4 Q. Do you remember talking to them about a DNA sample?
- 5 A. Yes.
- 6 Q. And what did you need that for?
- 7 A. I didn't need one. They were asking if I had one
- 8 done.
- 9 Q. Who was asking?
- 10 A. The SLED agent.
- 11 Q. Okay. You don't remember telling them you needed
- 12 one to give the Army?
- 13 A. No.
- 14 Q. To get some insurance?
- 15 A. No.
- 16 Q. You have no recollection of that?
- 17 A. No.
- 18 Q. Okay. And did you send a DNA sample to the Army?
- 19 A. No, I didn't.
- 20 Q. Did you ask somebody at SLED to do that for you?
- 21 A. No, I didn't.
- 22 Q. Did you get any money from the Army?
- 23 A. No, I didn't.
- 24 Q. Did you ask for any?
- 25 A. No, I didn't.

1 Q. Okay. Now, were you angry with Justin because he
2 had another child?

3 A. No.

4 Q. You weren't?

5 A. No.

6 Q. You don't remember telling anybody that you were
7 angry with Justin about that?

8 A. No.

9 Q. That you were mad because he was giving money to
10 somebody else and wouldn't give it to your children?

11 A. I remember that, that I was mad that he was doing
12 for the child, but I wasn't mad about the child.

13 Q. Okay. Well, that's what I'm saying. You were mad
14 that he was, quote, giving money to a child he wasn't
15 sure was his when he had two he knew was his and he
16 wasn't doing anything. Do you remember telling them
17 that?

18 A. Yes.

19 Q. And y'all had argued about that the night before, on
20 April the 5th, the night of?

21 A. Yes.

22 Q. And that's when you changed his PIN, isn't it?

23 A. No.

24 Q. You'd already changed it?

25 A. The PIN got changed after that.

- 1 Q. After? Well, that's what I said. You changed his
2 PIN after y'all had that argument, right?
- 3 A. Yes.
- 4 Q. Okay. Now, some of Justin's story, you say the
5 information about this Robert guy, that that came from
6 Justin?
- 7 A. Yes.
- 8 Q. And how was Justin when he was talking to you about
9 making the story up?
- 10 A. He was a little nervous. He still had the gun
11 pointed at me. And he was telling me what to tell the 9-
12 1-1 operator on the phone.
- 13 Q. Was he mad and mean and angry?
- 14 A. He was still very frustrated.
- 15 Q. Well, I mean, were you scared of him at that point?
16 Other than the gun, was he doing anything else to make
17 you be afraid of him, or he was just ---
- 18 A. Yeah. He was standing me over me.
- 19 Q. I understand that. But I mean, his demeanor, the
20 way he was looking and acting and talking, was it yelling
21 and screaming or was it ---
- 22 A. He was whispering so that they couldn't hear him.
- 23 Q. He was whispering?
- 24 A. Yes.
- 25 Q. And that's why they couldn't hear him on the tape?

1 A. Yes.

2 Q. So somebody that had -- in your testimony had just
3 shot his child, shot down the hall at you, shot the door,
4 kicked the door down, had a gun in your face was
5 whispering at you?

6 A. Yes.

7 Q. Okay. And how long did he continue to whisper at
8 you?

9 A. Throughout the 9-1-1 call.

10 Q. Okay. And when you hung up the phone, did he
11 continue to whisper to you?

12 A. He began talking louder.

13 Q. Just regular talking?

14 A. A little bit louder.

15 Q. Was he yelling at you?

16 A. Not yelling, but it wasn't normal. His voice was
17 raised.

18 Q. Was he threatening you?

19 A. No. He was just telling me to go ahead and get a
20 shirt.

21 Q. Okay. When do you remember first telling law
22 enforcement that Mr. Johnson was hitting you and your
23 grandmother?

24 A. I don't remember when I told them.

25 Q. Did you tell them that in your interviews on April

1 the 6th?

2 A. I don't remember if I did or not.

3 Q. Okay. Did you remember that that happened on April
4 the 6th?

5 A. Yes.

6 Q. Okay. And on that particular day when he was
7 hitting your grandmother, where were you at that moment
8 when he was hitting your grandmother?

9 A. In the same room.

10 Q. Okay. And what did you do?

11 A. I tried to stop him.

12 Q. You physically grabbed him?

13 A. I was on the floor because when she came in the
14 room, he threw me on the floor and jumped on her. And
15 every time I got up, he kind of stopped hitting her and
16 knocked me back down.

17 Q. Okay. And when did he -- I guess at one of those
18 points when he got off of her to knock you back down, she
19 got up to go to the hospital?

20 A. That was after -- after he -- the last time I fell,
21 that's when he started punching her and punched her in
22 the nose. And they both fell. And she asked him why he
23 was doing it. And he told her it was because of the PIN.
24 And she told me to go and change the PIN. And when I got
25 up to go get the phone to call, that's when he came

1 behind me and began dragging me out of the house. And
2 that's when she said, well, I need to go to the hospital.

3 Q. Okay. So she was going out of the house to go to
4 the hospital?

5 A. Yes.

6 Q. Do you know where the car keys were when she went
7 out of the house?

8 A. On the counter.

9 Q. So how was she going to the hospital?

10 A. The car.

11 Q. With the car keys on the counter?

12 A. I don't know why she didn't take them. I guess she
13 was ---

14 Q. But she had something in her hand, didn't she?

15 A. Yes.

16 Q. What did she have in her hand?

17 A. I don't know.

18 Q. You don't remember?

19 A. I didn't see it.

20 Q. You don't remember telling the police that she had
21 the telephone.

22 A. I remember telling them that the phone -- but they
23 had already asked me about it. I didn't really see what
24 she had.

25 Q. Okay. So she was out there, but she didn't have the

- 1 car keys?
- 2 A. No.
- 3 Q. And when did you realize that she didn't have the
- 4 car keys?
- 5 A. After everything was happening.
- 6 Q. Okay.
- 7 A. I honestly didn't realize that she didn't have the
- 8 car keys until after they had released the house back to
- 9 us and they were in there.
- 10 Q. So she went out of the house to go to the hospital?
- 11 A. Yes.
- 12 Q. You ran in another room looking for a phone?
- 13 A. Yes.
- 14 Q. And you don't really know what happened to your
- 15 grandmother until you came back out after everything was
- 16 over and saw her lying on the ground; is that right?
- 17 A. Yes.
- 18 Q. You didn't see anybody do anything to her?
- 19 A. No.
- 20 Q. You didn't hear any gunshots?
- 21 A. No.
- 22 Q. You have no idea what happened to her?
- 23 A. No.
- 24 Q. How many gunshots do you remember hearing that day?
- 25 A. Two.

1 Q. Two? And which two was that? Do you remember which
2 two that was?

3 A. The one that killed Minor and the one that opened
4 the door.

5 Q. Okay. And how many gunshots, if you know, happened
6 that day? Do you know?

7 A. Four.

8 Q. Four? Did you ever touch the gun?

9 A. No.

10 Q. You're sure?

11 A. I touched the barrel of it to move it, but I never
12 -- other than the barrel, no.

13 Q. Did you touch the pump handle part of the gun?

14 A. Not to my knowledge, no.

15 Q. Okay. And in the bathroom, I believe there was
16 water in the sink. You remember that?

17 A. I don't remember if there was water in the sink or
18 not.

19 Q. You weren't in there washing your hands?

20 A. No.

21 Q. Okay. The police came about what time? What time
22 do you remember meeting Officer Eaddy on the road?

23 A. Maybe about eleven.

24 Q. Okay. And shortly -- y'all went back to the house,
25 right?

- 1 A. Yes.
- 2 Q. And shortly thereafter, Justin was arrested and
3 taken away?
- 4 A. Yes.
- 5 Q. Okay. Where did you go after that?
- 6 A. To the hospital.
- 7 Q. Okay. And when you went to the hospital, you
8 changed -- they took your clothes? Did the police get
9 your clothes?
- 10 A. I can't remember if they took them at the hospital
11 or not, but they did take them.
- 12 Q. You went to the hospital and put on a gown?
- 13 A. Yes.
- 14 Q. Did they clean you with anything, alcohol or
15 Betadine or anything that ---
- 16 A. They cleaned my shoulder, yes.
- 17 Q. Okay. Do you remember washing your hands or going
18 to the bathroom at all from that time until five o'clock
19 that afternoon?
- 20 A. No.
- 21 Q. You don't remember any of that?
- 22 A. No.
- 23 Q. Do you think you went to the bathroom at some point
24 in between there?
- 25 A. I probably didn't.

1 Q. Probably didn't? Okay. And when you were
2 interviewed at five o'clock that afternoon, did you have
3 on the hospital gown?

4 A. No.

5 Q. What did you have on?

6 A. I had on some clothes that my friend had brought me.

7 Q. And did you change at the hospital?

8 A. Yes.

9 Q. And did you go straight from the hospital to the
10 Sheriff's department for the interview?

11 A. Yes.

12 Q. So you were at the hospital from eleven thirty,
13 twelve o'clock to about five o'clock?

14 A. Yes.

15 Q. Okay. Did they have to put you under, knock you
16 out, give you anesthesia to get the pellet out, or did
17 they leave it in?

18 A. No. They took it out. They did x-rays to see where
19 it was. And then they gave me a shot to numb the area,
20 and then they gave me a tetanus shot and then they
21 stitched it up.

22 Q. Okay. Did they kind of -- how many rooms did you go
23 in in the hospital? Did they run you around a good bit?
24 I know because I've been there.

25 A. I just ---

1 Q. If you had to get x-rays you went in a waiting room,
2 and then you went into the x-ray room; is that right?

3 A. I went straight from the room that they had me in to
4 the x-ray room.

5 Q. Okay. And then did you come back to the same room?

6 A. And I went straight back.

7 Q. Okay. And you stayed in that room until they let
8 you go?

9 A. Yes.

10 Q. Okay. And when you went into x-ray, do you remember
11 them putting the shield on you or whatever ---

12 A. Yes.

13 Q. --- the heavy, the lead drape cover?

14 A. Yes.

15 Q. Did they lie you down or they just took it with you
16 standing up?

17 A. They took it with me standing.

18 Q. Okay. When you first talked to the officers at the
19 scene that day, you were talking with Mr. Eaddy, but you
20 didn't really tell him anything; is that right?

21 A. Yes.

22 Q. The first person you told something to was the
23 investigator?

24 A. Yes.

25 Q. Mr. Richards?

- 1 A. Yes.
- 2 Q. And did you verbally tell him something, or did you
- 3 write a note?
- 4 A. I wrote it down on his pad.
- 5 Q. And what did you write on his pad?
- 6 A. "He did it."
- 7 Q. "He did it"?
- 8 A. Yes.
- 9 Q. Are you sure you did that?
- 10 A. Yes.
- 11 Q. Did you start to write it and didn't finish?
- 12 A. Yes.
- 13 Q. What did you end up writing?
- 14 A. I don't remember.
- 15 Q. So you didn't actually write, "He did it," that's
- 16 what you intended to write?
- 17 A. I wrote, I started out, and then I stopped and was
- 18 able to write, "He did it."
- 19 Q. So you did get that written down?
- 20 A. Yes.
- 21 Q. And did you give that to Investigator Richards?
- 22 A. Yes.
- 23 Q. And as far as you know, he kept it?
- 24 A. Yes.
- 25 Q. Have you seen that note again since then?

1 A. No.

2 MR. ROBINSON: The Court's indulgence just a
3 moment, Your Honor.

4 THE COURT: Yes, sir.

5 Q. Do you remember Solicitor Finney asking you if you'd
6 ever seen that gun before?

7 A. Yes.

8 Q. And what did you tell him?

9 A. No.

10 Q. Are you sure you'd never seen that gun before?

11 A. Yes.

12 Q. You're positive?

13 A. Yes.

14 Q. You don't remember telling the SLED agent that Mr.
15 Johnson had pulled that gun on you before one time at
16 your mama's house?

17 A. No.

18 Q. Do you remember that now?

19 A. That was at his mother's house, but ---

20 Q. So he pulled that same gun on you at his mother's
21 house?

22 A. I don't know if it was that same gun, but it was a
23 gun.

24 Q. And you talked about that in the interview after the
25 funeral. Do you remember that?

1 A. No.

2 Q. You just remember that because I just reminded you
3 just now?

4 A. Yeah.

5 Q. Okay. And even after me reminding you or asking
6 things about the insurance and the DNA, you don't
7 remember having any conversation with anybody about that?

8 A. I remember they -- I don't remember asking them. I
9 do remember them asking did I have a DNA test because he
10 had told them that it wasn't his son, and they wanted
11 that. But I don't remember asking them for one. I
12 didn't need one.

13 Q. Okay. And that was SLED that asked you about it,
14 not an insurance company or the Army or anybody?

15 A. No.

16 Q. Ms. Caraway, let me hand you these two different
17 documents. They have the same date on them. One of them
18 says five o'clock p.m., and one of them says eleven
19 o'clock a.m. And I want you to look at them real quick
20 because I don't want to trick you or make you answer
21 something that you're not familiar with. Take enough
22 time to look at them until you think you are familiar
23 that you know what they are and then just let me know.
24 Okay?

25 A. Okay.

1 MR. FINNEY: Judge, may we approach?

2 THE COURT: You may.

3 (WHEREUPON, a bench conference was held off the
4 record.)

5 THE COURT: All right. Mr. Robinson?

6 MR. ROBINSON: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 CONTINUED BY MR. ROBINSON:

9 Q. Ms. Caraway, have you had a chance -- and I'm not
10 trying to rush you. If you haven't had a chance, then
11 that's fine. If you want some more time, that's fine.
12 Just let me know. Have you looked through those?

13 A. Yes.

14 Q. Does anything in those statements -- and I realize
15 that you haven't signed them -- but is there anything in
16 those statements help you with any of the questions that
17 I've asked you here today?

18 A. It brings back my memory a little bit.

19 Q. Okay. Tell me, if you can, specifically what
20 memories it brings back that you didn't have.

21 A. Just more of the little things that happened before.

22 Q. Like what?

23 A. Like the conversation we had the day before.

24 Q. And what were those about?

25 A. One of the conversations while he was waiting to

1 pick up one of his friend's girlfriend from work. And we
2 talked about the money. It reminded me of the argument
3 we had because of his other daughter.

4 Q. So you do remember arguing with him about the other
5 daughter and giving her money and not your kids?

6 A. Yes.

7 Q. Okay. Can I ---

8 A. Yes.

9 Q. Do you need to look at it? What about anything in
10 there that refreshes your recollection about whether or
11 not you actually stopped him when he went to leave?

12 A. Yes.

13 Q. And what happened there? What do you now remember?

14 A. I asked him about the money, but he told me that if
15 I wasn't going to go with him I couldn't get it.

16 Q. And then he went to leave; right?

17 A. He was already in the process of leaving, then he
18 stopped.

19 Q. Okay.

20 A. And then he said, "Well, if you go with me, I'll
21 give you the money." And that's when I said, "No." and
22 went to shut the door and he got out and ran towards the
23 house.

24 Q. So you still don't remember stopping him?

25 A. I stopped him and asked him -- when he got in the

1 car and was leaving, he asked me to go with him. He got
2 in the car. I stopped him and asked him about it. He
3 told me that if I did not -- if I wasn't going to go with
4 him, he wasn't going to give it to him. And so I said,
5 "Okay," and went to shut the door. And that's when he
6 got out of the car.

7 Q. Okay. And so I want to make sure I'm clear. When
8 he went to leave that particular time, he'd already put
9 the kids back in the house; it was just him in the car.
10 Right?

11 A. Yes.

12 Q. He was getting ready to leave?

13 A. Yes.

14 Q. Y'all had some discussions -- you told him you
15 weren't going to go with him -- and then he went to
16 leave. And then you stopped him and said, "Hey, how
17 about my money?" And he said, "Only if you get in the
18 car." And you said, "Never mind"?

19 A. Yes.

20 Q. And went in the house, and that's when he came on
21 in?

22 A. Yes.

23 Q. Did you see him coming?

24 A. Yes.

25 Q. Did he say any -- I mean, did he yell or scream or

1 ---

2 A. No. But I was still standing at the door, so I saw
3 that he was coming.

4 Q. Okay. But when he got out, did he slam the door and
5 cuss and stomp up to the house or ---

6 A. He slammed the door and took out running towards the
7 house.

8 Q. He was running towards the house?

9 A. Yes.

10 Q. Okay. Did he have a gun in his hand then?

11 A. No.

12 Q. Do you know when he got the gun?

13 A. No.

14 Q. Did you see him get the gun out of the car?

15 A. No.

16 Q. Did he ever ask you to go to Wal-Mart for him and
17 get some papers on this particular gun? Do you remember
18 that?

19 A. It wasn't -- I don't remember if it was that gun,
20 but I remember him saying he needed to go to Wal-Mart to
21 get some papers for a gun.

22 Q. He never asked you to do that?

23 A. No.

24 MR. ROBINSON: Judge, I think that concludes
25 the questions I can answer or ask right now. I've got

1 some technical issues that I probably need to deal with.
2 So if this is a convenient time, I'd ask the Court for a
3 break.

4 THE COURT: All right. Does the State have any
5 objection?

6 MR. FINNEY: No objection.

7 THE COURT: All right. That's fine. This will
8 work out well.

9 All right. Ladies and gentlemen of the jury, we're
10 going to take a break for the day for y'all. We'll
11 probably still have a few minutes that we'll take up
12 here, but y'all can leave.

13 Please do not read any media tomorrow morning. Do
14 not look at anything on TV. Just don't talk about the
15 case at all. And have a nice evening and get a good
16 night's rest. Thank you.

17 Nine-thirty tomorrow morning right here.

18 (WHEREUPON, the jury exited the open court at
19 approximately 4:27 p.m.)

20 THE COURT: You may step down, but you may not
21 discuss the case with anyone overnight as well. You can
22 talk about other things, but you can't talk about the
23 case. Clear?

24 THE WITNESS: Yes, sir.

25 THE COURT: Okay.

1 All right. Mr. Robinson, I understand there's
2 something you want to put on the record?

3 MR. ROBINSON: Yes, sir, Your Honor. And the
4 Court was gracious enough to break. I intend to -- once
5 the Solicitors have had a chance to review it and perhaps
6 discuss it -- put on the record or introduce into
7 evidence the videotape of Ms. Caraway's interview with
8 SLED agent Tina Carter and Roxanne Bethay (phonic). I
9 think one of the things Mr. DuRant had asked was that I
10 put on the record the things that I thought were
11 contradicted. I don't know if you want me to do that or
12 if they need to watch it and then perhaps ---

13 THE COURT: Why don't we do that in the morning
14 at, say, nine o'clock. We'll start at nine. We'll bring
15 the jury back at ten. But that'll give y'all an
16 opportunity to review it as well as Mr. Robinson.

17 MR. ROBINSON: Okay. And, Your Honor, the
18 other thing I did want to put on there, on this
19 particular video there are a number of statements made by
20 Ms. Caraway, Kaisha Caraway, that quite frankly are
21 probably inadmissible. And I believe that the State
22 would stipulate that there is some inadmissible
23 information that would need to be redacted.

24 THE COURT: Such as other crimes and offenses?

25 MR. ROBINSON: Other crimes, a prior CDV, other

1 bad acts for which there are no convictions. My client
2 has no convictions. After consultation with my client
3 warning him of the dangers of that, the possibility that
4 the door is then opened for the State to address
5 potential prior bad acts that otherwise they would not be
6 able to address, he has expressed a desire to put this
7 tape in in its entirety, thereby waiving any objection
8 ---

9 THE COURT: Absolutely.

10 MR. ROBINSON: --- for prior bad act. I just
11 want to put that on the record. And if the Court wants
12 to examine him real quickly at this point ---

13 THE COURT: I'm not going to examine him at
14 this point in time. I'll talk to him before he -- if he
15 wants to testify.

16 MR. ROBINSON: I got it.

17 THE COURT: But as far as your putting stuff
18 in, that's between the two of y'all.

19 MR. ROBINSON: That's fine.

20 THE COURT: And if he changes his mind
21 overnight ...

22 MR. ROBINSON: Certainly, I'll advise him ---

23 THE COURT: ... I'll reserve -- give him the
24 right to reserve that, to object in the morning as well.

25 MR. ROBINSON: All right.

1 THE COURT: All right. Anything further from
2 the State?

3 MR. FINNEY: I don't believe so, Your Honor.
4 Thank you. If it doesn't -- if you don't mind, Your
5 Honor, it has come to our attention through some
6 testimony this morning of John Caraway that the timing of
7 certain events this morning are going to be important.
8 Mr. Robinson, on cross-examination of Mr. Caraway,
9 expressed some uneasiness about the witnesses seeing Mr.
10 Johnson driving in front of Wal-Mart on Wednesday
11 morning. We have a receipt and a video of Mr. Johnson at
12 an ATM machine a mile away from the Wal-Mart dated and
13 timed that day. We didn't think we were going to need to
14 put it in, but now out of an abundance of caution, we
15 would like to put it in. The witness that we will need
16 is not on our witness list. It's a store manager of the
17 EZ-Mart. We have called her today. We're trying to get
18 her. She's in Orangeburg. We believe she can come and
19 verify that the video is an accurate representation of
20 customers at her store. And then there's a receipt found
21 in Mr. Johnson's pocket from that location. We would
22 like to put the Court on notice so that in the morning
23 you might ask the jury if there's any connection with the
24 store manager who lives in Orangeburg and hasn't worked
25 here for quite some time.

1 THE COURT: All right.

2 MR. FINNEY: Thank you, sir.

3 THE COURT: All right. Anything further?

4 MR. ROBINSON: Your Honor, just -- I think
5 they've given me the video. I just don't know that I've
6 seen the receipt. And if I have -- just if they would
7 show me the receipt. I'm familiar with the video. And,
8 also, if I could have access to the audio that we
9 discussed earlier.

10 THE COURT: All right. Very well. Thank you,
11 gentlemen. And is everything going okay with this
12 facility? I think ...

13 Ms. Beulah, is there anything we need to modify as
14 far as the entrance of the Defendant or ---

15 MR. ROBINSON: Well, the only thing, Your
16 Honor, with the entrance, the timing is going to have to
17 be -- because it's a glass front area.

18 THE COURT: Well, he will be here earlier
19 tomorrow because we're starting at nine.

20 MR. ROBINSON: I understand.

21 THE COURT: The jury's not going to be here
22 until nine-thirty.

23 MR. ROBINSON: And the only other problem --
24 and Ms. Beulah's aware of this and we're working on it --
25 we don't have anywhere that I can talk in private with my

1 client other than a corridor in the hall.

2 THE COURT: We'll try to have something for you
3 by the morning.

4 MR. ROBINSON: Thank you.

5 THE COURT: All right. Thank you. Court's
6 adjourned until nine o'clock in the morning. Thank you.

7 (WHEREUPON, court stood in recess for the day at
8 approximately 4:33 p.m.)

9 **March 12, 2014**

10 (WHEREUPON, court convened with all parties present,
11 and the following proceedings were had commencing at
12 approximately 9:46 a.m.)

13 (WHEREUPON, the witness resumed the witness stand.)

14 (WHEREUPON, Defendant's Exhibit Number 1 was marked
15 for identification.)

16 THE COURT: Is there anything else we need to
17 take up outside the presence of the jury before I bring
18 them in?

19 From the State?

20 MR. FINNEY: No, Your Honor.

21 THE COURT: From the Defense?

22 MR. ROBINSON: No, sir, Your Honor.

23 THE COURT: All right. Let's bring our jury
24 in.

25 (WHEREUPON, the jury entered the open court at

1 approximately 9:46 a.m.)

2 THE COURT: You may be seated.

3 Well, good morning, ladies and gentlemen. I hope
4 y'all had a nice evening. It's not as beautiful out
5 there today, so -- as it was yesterday. I know yesterday
6 it was calling to you all day. Like I said, I hope you
7 got a good night's sleep because we've got a long day.
8 And I want to tell you, I appreciate your being on time.
9 Nothing makes a trial go better than the jury being here
10 when they're supposed to be here. Because if you're
11 here, I'll make everybody else be. I'll make a deal with
12 you on that. All right?

13 Ladies and gentlemen, there's a potential for one
14 more witness in this case. And I need to ask you about
15 it because I didn't ask you when we were going through
16 the voir dire. But there's a Charles Weathersbee who
17 lives in Sumter. He was the store manager of EZ Shop
18 Number 28. Does any member of the jury panel know Mr.
19 Weathersby or have a close personal or business
20 relationship or related to by blood or marriage? If so,
21 please raise your hand.

22 (No response)

23 THE COURT: All right. Thank you. Ladies and
24 gentlemen, I told you not to look at the paper today, but
25 did anybody happen to see any articles about this case?

1 (No response)

2 THE COURT: All right. Very well. Thank you.

3 All right. Mr. Robinson, are you ready to proceed?

4 MR. ROBINSON: Yes, sir, Your honor.

5 THE COURT: Good morning.

6 THE WITNESS: Good morning.

7 CROSS-EXAMINATION

8 CONTINUED BY MR. ROBINSON:

9 Q. Ms. Caraway, good morning.

10 A. Good morning.

11 Q. I'll try to take you back to yesterday afternoon,
12 and it seems like a long time ago and in other ways too
13 short a time ago. But we're back here at this again. I
14 was asking you some questions yesterday about the
15 interviews, and you told me that you remembered you had
16 three separate interviews?

17 A. Yes.

18 Q. Do you remember an interview with Tina Carter and
19 Roxanne Bethay of SLED on April the 13th?

20 A. Yes.

21 Q. And that was the day after Minor 's funeral?

22 A. Yes.

23 MR. ROBINSON: Your Honor ---

24 Q. Do you know whether or not that was recorded?

25 A. I don't.

1 MR. ROBINSON: Your Honor, at this point I
2 would ask to move into evidence the tape recording of
3 that particular interview.

4 THE COURT: All right. And I believe that's
5 without objection. Is that correct?

6 MR. FINNEY: Yes, sir.

7 THE COURT: Without objection Defense Exhibit
8 Number 1?

9 MR. ROBINSON: Yes, sir.

10 THE COURT: All right.

11 (WHEREUPON, Defendant's Exhibit Number 1 was
12 admitted into evidence.)

13 MR. ROBINSON: Ladies and gentlemen, bear with
14 me just a moment. Let me see if I can -- I'm going to
15 hope it doesn't make that noise it made a minute ago.

16 THE COURT: Grab your ears if it does. You'll
17 hear the dogs howling.

18 Is this a video tape or just an audio?

19 MR. ROBINSON: It's a video, Your Honor.

20 THE COURT: Okay.

21 (WHEREUPON, Defendant's Exhibit Number 1 was
22 published for the jury.)

23 MR. ROBINSON: May I pause that just a little
24 bit?

25 THE COURT: Yeah.

1 MR. ROBINSON: We obviously have to adjust the
2 sound on that. Does somebody know how to turn that up
3 just a little bit?

4 (WHEREUPON, the publication of Defendant's Exhibit
5 Number 1 resumed.)

6 Q. Ms. Caraway, you remember me asking you about that
7 yesterday?

8 A. Yes.

9 Q. And you just -- you didn't remember that?

10 A. No, I didn't.

11 Q. Okay. Does that refresh your memory a little bit?

12 A. Yes.

13 Q. So you did, in fact, ask about DNA so you could get
14 some insurance money?

15 A. I did.

16 Q. And did you get any?

17 A. No, I didn't.

18 Q. And that was the day after the funeral.

19 A. Yes.

20 Q. And you, that particular day, had already called the
21 Army, the doctor's office ---

22 A. I called before -- it was before that day that I
23 spoke with them. And that was the only day that I had
24 time to go to the police.

25 Q. So prior to that, you had already started contacting

1 them, the Army or whoever, about getting this money prior
2 to the funeral?

3 A. Yes, I did.

4 Q. Do you remember when you first contacted them about
5 trying to get some insurance money?

6 A. I don't.

7 Q. Was it a day or two or after?

8 A. I don't remember.

9 Q. And you told me yesterday that you'd never seen that
10 gun before?

11 A. Yes, sir.

12 Q. Which is accurate, that you've never seen it before
13 or you have seen it before?

14 A. I don't know whether it's the same gun or not.

15 Q. Well, you seemed pretty -- you saw your testimony?

16 A. Yes.

17 Q. Did you tell the officers that you weren't sure if
18 it was the same gun?

19 A. Yes. No, I didn't.

20 Q. You told them, "Yeah, that's the same gun"?

21 A. Yes.

22 Q. You were pretty sure then, right?

23 A. I'm not sure what I had going on then.

24 Q. Okay. But you agree with me today is almost three
25 years later?

1 A. Yes.

2 Q. That was about a week later?

3 A. Yes.

4 Q. Would you agree that your memory was probably better
5 then than it is now?

6 A. It may have been. I was still in shock and going
7 through a lot there, so ...

8 Q. Okay. But not so in shock that you couldn't start
9 working on this insurance money?

10 A. It wasn't necessarily insurance money. I actually
11 called for support for my daughter that was still living.
12 And they mentioned the insurance because she wouldn't be
13 able to get any assistance from them.

14 Q. You're talking about support, like financial
15 support?

16 A. Yes.

17 Q. Okay. Not mental health or anything?

18 A. No.

19 Q. You didn't check on that?

20 A. I did. But I did that through the victim's
21 advocate.

22 Q. Okay. Let me take you back to yesterday and make
23 sure I'm clear on a couple of things that you told me
24 because you did tell me that you had some memories, and
25 then you looked at some statements and some things

1 changed. With regard to, I think, what has been marked
2 State's Exhibit Number 53 -- can you see that okay?

3 A. Yes.

4 Q. I'm trying to see whether the jury can see it.

5 Would you come around, please, ma'am? That'll make it a
6 little bit easier probably for everyone to see.

7 (WHEREUPON, the witness stepped down from the
8 witness stand.)

9 Q. And I just want to try to be clear. If you would,
10 how about make sure I'm straight. Where was Minor
11 sitting in that particular dining room?

12 A. Right here.

13 Q. Okay. And at the time that you allege the shooting
14 occurred, where was Mr. Johnson?

15 A. Right here.

16 Q. He was over there?

17 A. Yes.

18 Q. Approximately how far away from Minor would you say
19 he was? How wide is that room? Do you know?

20 A. It's not very wide.

21 Q. Ten or twelve feet?

22 A. It might be about as far as I am from the Judge.

23 Q. Okay. And I'm not trying to lock you in to any
24 specific details. And show me again where you were,
25 please, ma'am?

1 A. I was right in here.

2 Q. Okay. And you said he originally had the gun
3 pointed at you?

4 A. Yes.

5 Q. And you closed your eyes?

6 A. Yes.

7 Q. And when you opened -- you heard a gunshot?

8 A. Yes.

9 Q. Opened your eyes, and that's when you saw Minor
10 slumped in the chair?

11 A. Yes. And the gun was pointed towards him.

12 Q. Okay. You can have a seat.

13 (WHEREUPON, the witness resumed the witness stand.)

14 Q. And the -- did --- (audio screech)

15 MR. ROBINSON: That can't possibly be me.

16 Q. Now, when you and Justin -- you say that you and
17 Justin were fighting in the hallway or foyer area going
18 into the house?

19 A. Yes.

20 Q. And your grandmother came in and kind of intervened?

21 A. Yes.

22 Q. And I think you told the jury that Justin was
23 fighting with your grandmother, and then he would hold
24 you, and then he would fight her and hold you and kind of
25 going back and forth?

1 A. Yes.

2 Q. Did you -- and your grandmother, did you help her up
3 at any point in time or grab her or hold her or anything
4 of that nature?

5 A. No. He was kind of positioned between us.

6 Q. Okay. You never came in contact with your
7 grandmother?

8 A. At one point I did, but that was after things had
9 kind of calmed down and we were sitting -- after they
10 fell and I was already sitting on the floor.

11 Q. Wait a minute. After things calmed down?

12 A. Not calmed down as far as calmed down. But after he
13 punched her and they both fell, there was like a second
14 when everybody was kind of catching their breath when my
15 grandmother asked him why he was doing it. And he told
16 her about the card, about the PIN on the card where I
17 reached out for her to get up so that I could go in the
18 room to get the phone because she told me to change the
19 PIN for him so he would leave.

20 Q. Was he between y'all at that point in time?

21 A. He wasn't between us. He was sitting -- we were
22 kind of in a triangle shape. He wasn't really in-between
23 us.

24 Q. Okay. So y'all have had this brouhaha where Mr.
25 Johnson was just wailing on everybody, and then y'all

1 just all kind of fell on the floor and had a chat?

2 A. It wasn't really a chat. It was more so -- he --

3 after they fell, he wasn't hitting her. And she asked

4 him why he was doing it.

5 Q. Now, I thought you told the jury that was

6 beforehand?

7 A. No.

8 Q. So you're telling us that this man that you're

9 claiming went into a rage and killed two people, in the

10 middle of that rage, calmed down, caught his breath,

11 explained to your grandmother rationally why he was doing

12 this irrational behavior, and then flipped back out. Is

13 that what you're telling me?

14 A. It wasn't rational. He was still yelling. And,

15 well, you know, "She changed my PIN." My grandmother

16 told me to change it back. When she told me to change

17 the PIN back and I got up and walked into the room to get

18 the phone, that's when he began dragging me outside.

19 Q. So he stopped attacking y'all, had a loud

20 conversation but wasn't holding you, punching you,

21 beating you or anything, let you get up to go get a

22 phone, talking to your grandmother, then came and drug

23 you back out and started again?

24 A. Because at the same time I was trying to get up,

25 that's when she began saying she wanted to go to the

1 hospital. And he was -- I got up. I leaned on her to
2 get up. And he was kind of trying to still keep her
3 because I guess he didn't want her to go to the hospital.
4 But she was saying she needed to go to the hospital.

5 Q. And then she left?

6 A. No. As he was dragging me down the stairs, she ran
7 past me, and then she ran back outside. That's when she
8 went to the counter, and I thought she was getting her
9 keys.

10 Q. So she went in the house, passed y'all into the
11 house to get something off the counter that you thought
12 were the keys ---

13 A. Yes.

14 Q. --- that were all the way in the kitchen; right?

15 A. No. There's a counter. It's shown in the picture.
16 It's longer than it is in the picture. And it's right
17 there by the door.

18 Q. Okay. So it was kind of right by the door?

19 A. Yes.

20 Q. Okay. So she went there to get the keys but didn't
21 get them; right?

22 A. Right.

23 Q. And ran back outside?

24 A. Yes.

25 Q. And when she ran back outside, your shirt came off?

1 A. Yes.

2 Q. Okay. And tell me was Justin hitting y'all then,
3 screaming then, or ---

4 A. He was dragging me outside.

5 Q. Okay. Your shirt came off.

6 A. When my grandmother ran past us, his grip on me
7 loosened, and I was able to slip out of my shirt and run
8 back in the house.

9 Q. Okay. And that's when he went outside?

10 A. We were already outside.

11 Q. So y'all were fighting outside?

12 A. He dragged me from the room, the same room that
13 Minor was sitting in, he dragged me out and to the
14 porch. And right after you come off of the porch,
15 there's like a brick layout on the ground. And we were
16 there. And my grandmother ran off the porch past us.
17 And then that's when he loosened the grip and I was able
18 to slip out of my shirt and go back into the house.

19 Q. Okay. So when he was dragging you down the porch
20 and your grandmother was in the house, was she about as
21 far away as we are now from y'all?

22 A. She was a bit further.

23 Q. A bit further. Not where Justin could grab her?

24 A. No.

25 Q. And he didn't have a gun at that time?

- 1 A. No.
- 2 Q. And she had a phone in her hand; right?
- 3 A. That's what they told me. I don't know what she
- 4 had. I didn't see anything in her hand.
- 5 Q. So she had a phone. She didn't call 9-1-1. And
- 6 your testimony is she went to get in her car and left the
- 7 keys on the counter right where she was standing?
- 8 A. Yes.
- 9 Q. And that at some point after all of that, after all
- 10 of those opportunities, that then Mr. Johnson escalated
- 11 to where he went to his vehicle and got a gun?
- 12 A. Yes.
- 13 Q. Now, when you got away -- when he was dragging you
- 14 and your grandmother ran past and you got away and went
- 15 in the house, you went into a bedroom?
- 16 A. I went down the hallway into my grandfather's
- 17 bedroom.
- 18 Q. Okay. Did you find a telephone?
- 19 A. No, I did not.
- 20 Q. You came back out?
- 21 A. Into the room with the counter and saw my
- 22 grandmother's cell phone and got her cell phone.
- 23 Q. Okay. Did you call 9-1-1?
- 24 A. Not at that time, no.
- 25 Q. Why not?

1 A. Because at that time, when I was going back down the
2 hall away from the door, it felt safer to be away from
3 the door so if he came in, I could -- I would have been
4 able to talk to him and still been safe. And I turned
5 around to get Minor , and that's when he was coming back
6 up the stairs.

7 Q. Okay. And so you just stopped?

8 A. Yes.

9 Q. And you were several feet away from Minor ?

10 A. Yes.

11 Q. And at that point in time you had not heard any
12 gunshots; right?

13 A. No. .

14 Q. Okay. And then you close your eyes and you heard
15 one?

16 A. Yes.

17 Q. Mr. Johnson didn't say anything before you heard
18 that gunshot?

19 A. Yes. He said I made him do it.

20 Q. Before the gunshot?

21 A. Yes. The gun was pointed at me. He said, "You made
22 me do this."

23 Q. Okay.

24 A. And I closed my eyes because I thought he was going
25 to shoot me.

- 1 Q. Okay. And then you ran down the hall?
- 2 A. After the shot.
- 3 Q. After the shot?
- 4 A. Yes.
- 5 Q. You ran down back the other direction?
- 6 A. Yes.
- 7 Q. Down the hall and locked yourself in the bathroom?
- 8 A. Yes.
- 9 Q. And the only other shot you heard was the doorknob?
- 10 A. Yes.
- 11 Q. Now, you told us that when you called 9-1-1 from the
- 12 bathroom ---
- 13 A. Yes.
- 14 Q. --- that the first time, Mr. Johnson wasn't in
- 15 there; he was coming down the hall?
- 16 A. He was at the door already.
- 17 Q. Okay. And you hung up when he shot the door or
- 18 something?
- 19 A. Yes.
- 20 Q. Did you hang up before he shot the door?
- 21 A. No.
- 22 Q. Could you hear the shot clearly?
- 23 A. Yes.
- 24 Q. And after that he came in, and you were laying on
- 25 the floor?

- 1 A. Yes.
- 2 Q. Gun ---
- 3 A. Pointed at me.
- 4 Q. Okay. And was he yelling then?
- 5 A. Yes.
- 6 Q. Okay. And 9-1-1 called back?
- 7 A. Yes.
- 8 Q. And was he still very upset and irate?
- 9 A. Yes.
- 10 Q. And you were on the phone with 9-1-1 while he was
- 11 doing all of this?
- 12 A. I didn't answer the first time they called back.
- 13 Q. Okay. But I mean at some point when they called
- 14 back the second time, did he still have the gun on you?
- 15 A. Yes, he did.
- 16 Q. Okay. And he was telling you what to say?
- 17 A. Yes.
- 18 Q. While you were on the phone?
- 19 A. Yes.
- 20 Q. During that conversation that was recorded; correct?
- 21 A. Yes.
- 22 Q. Okay. Did you listen to that tape?
- 23 A. Yes.
- 24 Q. Did you hear his voice telling you clearly what to
- 25 say?

1 A. No, I didn't. But he was whispering, so I wouldn't
2 have been able to hear.

3 Q. You just said he was yelling at you with a gun in
4 your face?

5 A. Yes. And then when they called back, he was telling
6 me what to say. So he was whispering ---

7 Q. He started whispering? He could control his temper
8 that quick, from killing two people, a gun in your face,
9 yelling at you to, (whispering) "Tell them it was
10 Robert"?

11 A. Yes.

12 Q. That's your testimony?

13 A. Yes.

14 Q. Okay. And you're sure that's accurate?

15 A. I'm positive.

16 Q. And there's nothing that would recall your memory
17 otherwise, another statement or something?

18 A. No.

19 Q. Okay. Do you know how many times you called or
20 tried to call Mr. Johnson that particular morning that
21 you weren't expecting him?

22 A. It was quite a few. Not before he came. But after
23 he came, it was quite a few.

24 Q. From -- I think you said yesterday you think the
25 first call was between seven forty-two or seven forty-

1 six. You remember that?

2 A. Something around that time, yes.

3 Q. So between that time and about nine forty a.m., do
4 you know how many times you called him?

5 A. Probably about fifteen, twenty.

6 Q. Okay. Fifteen or twenty times? And what were you
7 calling him that many times for?

8 A. Because he had my kids.

9 Q. Okay. Well, at some point he was back at the house,
10 wasn't he?

11 A. Once he came back, I didn't have to call him
12 anymore.

13 Q. But you said several times you talked to him on the
14 cell phone while he was at the house?

15 A. While he was there, yes, we was talking.

16 Q. Okay. So while all this threatening behavior and
17 terrible stuff is going on in this time frame and you're
18 worried about a kidnapping and him fighting you and
19 disrespecting your grandparents and knocking down the
20 door, you had time to make twenty-one phone calls just to
21 Mr. Johnson, but not one to 9-1-1?

22 A. No, because when I called his mother and asked her
23 to keep from him getting in trouble to call, she said she
24 was going to call.

25 Q. How about you called your best friend, Ms. Dozier,

- 1 didn't you?
- 2 A. Yes.
- 3 Q. Her dad's a cop, isn't he?
- 4 A. Yes.
- 5 Q. Did you call them again ---
- 6 A. No, I didn't.
- 7 Q. --- and say, "Hey, Justin's going crazy. I'm
- 8 scared. I need some help. Somebody get out here"?
- 9 A. I didn't have time to call anybody when -- once he
- 10 got back to the house, I didn't have time to call
- 11 anybody.
- 12 Q. Well, you told this jury yesterday that he was
- 13 acting mad and disrespectful before he left the house
- 14 with the children the first time.
- 15 A. And then he left. And I ---
- 16 Q. But he had your children?
- 17 A. Yes. But they were his kids also.
- 18 Q. So did that scare you or not?
- 19 A. Not at that time. But once I realized they weren't
- 20 where they were supposed to be, it did.
- 21 Q. So ten minutes -- at one point driving off, you're
- 22 not scared. They're his kids although he's mad and
- 23 threatening everybody. Ten minutes later, because
- 24 they're not at Black River that takes five or eight or
- 25 ten minutes to get to, you're going to report him for

1 kidnapping, but then you never do?

2 A. Because before I had a chance to call, I gave him
3 the benefit of the doubt. I called his mother to see if
4 he was home. She didn't know where he was at. I called
5 somebody that was in town that didn't see his car. And
6 before I had the chance to call, he called me. So I knew
7 that he was on the way back. So there was no need to
8 call. He was on the way back home.

9 Q. Isn't it true that you were wearing him out about
10 money?

11 A. To support the kids, yes.

12 Q. Okay. That's not what you told us yesterday, is it?

13 A. No.

14 Q. Why didn't you tell us that yesterday?

15 A. I don't remember being asked.

16 Q. You don't remember me asking you about changing his
17 PIN and y'all arguing about money and all of these
18 things?

19 A. I remember the argument about money, but I wasn't
20 asking him about money that day. But in the course of --
21 we had a two-year-old and a nine-month-old -- yes, I did
22 ask for money.

23 Q. You asked -- you actually -- how many times that
24 particular day, April 6th, 2011, did you call the bank?

25 A. I called the bank maybe three.

1 Q. Three times that morning?

2 A. Yes.

3 Q. For what reason?

4 A. Because I had -- I had money that was supposed to be
5 going there. I called to get the PIN changed. Then once
6 I called to get the PIN changed, I called to ensure the
7 -- to see if the money was there. Then I called back to
8 change -- to see if the PIN changed because it wasn't
9 able to be changed online anymore.

10 Q. Okay. And that money was worrying you a pretty good
11 bit that day, wasn't it?

12 A. Not necessarily the money. More so the diapers.

13 Q. Well, it must have been money. You called and
14 checked the account from the hospital?

15 A. Yes, I did.

16 Q. After your grandmother and your son had been shot,
17 you were in the hospital being treated for a gunshot
18 wound, and you called the bank to check on your money?

19 A. I did.

20 Q. Yeah. But you weren't worried about money that day?

21 A. I had a two-year-old that needed diapers. It wasn't
22 necessary ---

23 Q. That day?

24 A. Yes.

25 Q. In the hospital?

1 A. Yes.

2 Q. And you were ---

3 A. I couldn't go back to the house, so she had to get
4 some.

5 Q. Okay. And did you call the Army that day to start
6 checking on the insurance?

7 A. I don't recall.

8 Q. So you had money on your mind from the get-go,
9 didn't you?

10 A. No. I had my children being taken care of being on
11 my mind.

12 Q. Okay. Now, who took care of Justin's money?

13 A. He did.

14 Q. He did?

15 A. Yes.

16 Q. You don't remember telling anybody that you took
17 care of everything for him?

18 A. As far as making phone calls. But as far as him and
19 his money, I didn't.

20 Q. But it was in your account?

21 A. Yes.

22 Q. That you had the PIN?

23 A. Yes.

24 Q. That he couldn't get to?

25 A. After that day. But before that day, he could.

1 Q. So you changed it that day?

2 A. It was either the 5th or the 6th. I don't remember
3 which one.

4 Q. Let me ask you this. Do you remember on April the
5 6th, 2011, you talked to the police formally twice; is
6 that right?

7 A. Yes.

8 Q. And then you talked to them again on the 13th
9 formally on a recorded statement; right?

10 A. Yes.

11 Q. And I gave you a chance yesterday to look through
12 those written statements?

13 A. Yes.

14 Q. Do you recall mentioning something about this black
15 wig to anybody?

16 A. No.

17 Q. When did you first remember the black wig was
18 important?

19 A. When they asked if I had one on.

20 Q. When did they ask you that?

21 A. I don't remember the first time I was asked about
22 it.

23 Q. Okay. It wasn't the day that it happened?

24 A. I don't remember being asked about it. But a lot of
25 things happened that day, so ...

1 Q. But you didn't tell them about it?

2 A. No.

3 Q. You didn't discuss today's testimony with anybody,
4 did you?

5 A. No, I did not.

6 Q. Okay. Did you watch any videos or read any reports
7 to refresh your memory?

8 A. No.

9 Q. Okay.

10 MR. ROBINSON: The Court's indulgence for just
11 a minute, Your Honor.

12 THE COURT: Yes, sir.

13 Q. Ms. Caraway, when you were on the phone with the 9-
14 1-1 operator the second time, and I think there was
15 something on there that said, "Oh, my, God." Okay. Do
16 you remember that?

17 A. Yes.

18 Q. What happened when you said that? Why did you say
19 that?

20 A. That's after I realized that 'Minor2 was outside and I
21 realized that my grandmother was outside.

22 Q. And how did you realize that?

23 A. Minor2 began crying. And I asked Justin why he left
24 her outside by herself. He said that she wasn't by
25 herself. And I walked out to see who was with her.

1 Q. And y'all were having this conversation while you
2 were on the phone with the 9-1-1 operator?

3 A. Yes.

4 Q. Do you have any explanation why that conversation's
5 not on the 9-1-1 tape?

6 A. Because I moved the phone so they couldn't hear me.

7 Q. Okay. You moved the phone away from your head so
8 the man with the gun in your face, the operator couldn't
9 hear that?

10 A. Yes.

11 Q. That's your testimony?

12 A. Yes.

13 Q. And one final question just to make sure because I
14 know I've been going through a lot of stuff over and
15 over. And this is kind of confusing to me, and I want to
16 make sure I'm clear. The police, when they did your
17 gunshot residue test, that was after you left the
18 hospital back at the police station with Investigator
19 Kenny Clark about five o'clock on that afternoon?

20 A. Yes.

21 Q. And you're positive about that?

22 A. Yes.

23 Q. Okay.

24 MR. ROBINSON: I don't have any further
25 questions, Your Honor. Thank you.

1 THE COURT: Thank you.

2 Any recross [sic] from the State?

3 MR. FINNEY: If it please the Court?

4 THE COURT: Yes, sir.

5 REDIRECT EXAMINATION

6 BY MR. FINNEY:

7 Q. Good morning.

8 A. Good morning.

9 Q. Why was it important to you to talk to the police
10 officers after Minor and Ms. Caraway's funeral about the
11 money, the ten thousand dollars?

12 A. Because I had already -- I was receiving assistance
13 from DSS. And my two years were up, and they actually
14 made the suggestion that because Minor2 still needed to be
15 supported, I still had a child that was living, maybe
16 they would be able to assist being that I wasn't working.
17 I was in school.

18 Q. When the family made arrangements for the funeral,
19 was there -- was Ms. Caraway and Minor buried on the
20 same day?

21 A. Yes. They were buried together.

22 Q. In the same casket?

23 A. Yes. He was buried in my grandmother's arms.

24 Q. When you told Mr. Robinson that there was an
25 account, did you have a PIN card, an ATM card for that

1 account?

2 A. Yes.

3 Q. I want to show you a picture of what's been marked
4 as State's Exhibit Number 7 and ask if you can identify
5 it?

6 A. That's my card for that account.

7 Q. Where did you get the card from?

8 A. It was a prepaid card.

9 MR. ROBINSON: No objection.

10 THE COURT: And State's Exhibit Number 7, no
11 objection?

12 MR. ROBINSON: No objection, Your Honor.

13 THE COURT: Without objection, State's Exhibit
14 Number 7 is admitted.

15 MR. FINNEY: Thank you.

16 (WHEREUPON, State's Exhibit Number 7 was admitted
17 into evidence.)

18 Q. Whose name is on that card?

19 A. My name.

20 Q. And was there another card too?

21 A. Yes.

22 Q. And whose name is on that card?

23 A. Justin's.

24 Q. All right. And how long had you had that account
25 before April of 2011?

1 A. It was maybe October, November. I'm not really
2 sure.

3 Q. October, November of ---

4 A. The year before.

5 Q. --- 2010?

6 A. Yes.

7 Q. And when you got the account, at the time you opened
8 the account, did you get Justin on the account?

9 A. No.

10 Q. How long before he got on the account?

11 A. It was about three months.

12 Q. All right. So maybe the end of the year beginning
13 of January?

14 A. The beginning of January, right.

15 Q. And did he have the PIN number -- from the time he
16 got authorized, did he have the PIN number?

17 A. Yes.

18 Q. And did he use the account?

19 A. Yes.

20 Q. All right. Did you all talk? In other words, did
21 you call him and say, "I've got to go downtown and I'm
22 going to use the account today"? Did he do the same
23 thing with you?

24 A. No.

25 Q. All right. How would you know when money had been

- 1 taken out of the account by Mr. Johnson?
- 2 A. I would have to look.
- 3 Q. How would you look?
- 4 A. I had online access.
- 5 Q. So on the computer?
- 6 A. Yes.
- 7 Q. All right. When you changed the PIN, you think it
- 8 was April the 5th or April the 6th in the nighttime
- 9 hours?
- 10 A. It was either late on the 5th or early on the 6th.
- 11 It was early in the morning.
- 12 Q. And before that time, his money that was going to
- 13 the account from the military would be accessible by him?
- 14 A. Yes.
- 15 Q. All right. Now, let me ask you a question. When
- 16 was the first time he knew that the PIN had been changed?
- 17 A. He mentioned it when he got back with the kids.
- 18 Q. When he got back from traveling with the kids. That
- 19 would have been on the 6th of April?
- 20 A. Yes.
- 21 Q. And what did he want you to do at that point when he
- 22 mentioned it, about knowing that -- how did you find out
- 23 that he didn't know -- excuse me. Let me change that.
- 24 How did he tell that he knew the PIN had been changed?
- 25 A. He asked if I had changed the PIN.

1 Q. All right. Did he say he had been anywhere to check
2 on the PIN being changed?

3 A. No.

4 Q. All right. Now, when he got back with the kids, was
5 he in any better mood ---

6 A. No.

7 Q. --- or spirits of talking with you?

8 A. No.

9 Q. Did he still want you to go with him after the kids
10 were brought back to the house?

11 A. Yes, he still want me to get in the car.

12 Q. And you told him, "No"?

13 A. Yes.

14 Q. Did he tell you where he wanted to take you?

15 A. No.

16 Q. All right. Now, you say you don't know when he went
17 out to the car. You didn't see him go out to the car to
18 get the gun?

19 A. No.

20 Q. All right. What was your state of mind before he
21 came in with the gun? When you saw the gun the first
22 time, what was your state of mind about what you had been
23 through with your grandmother?

24 A. As far as the fight?

25 Q. Yes?

1 A. I was nervous. I was scared because I didn't know
2 whether -- when I left out from outside, she was by her
3 car, so I didn't know whether he was still outside or
4 whether she had gotten in the car and he had gone behind
5 her. So I was upset and trying to get help.

6 Q. All right. Do you remember being interviewed by
7 police officers and telling them what Justin Johnson told
8 you after the fight regarding the account and the PIN?

9 A. No.

10 Q. When you made the 9-1-1 call, what were you trying
11 to do the first time you made the 9-1-1 call?

12 A. Get help.

13 Q. And what changed you from asking the police to come
14 to on the second call telling the 9-1-1 operator, "It was
15 just my kids playing. There's nothing to worry about"?

16 A. I had a gun pointed at me.

17 Q. At the time you made the second 9-1-1 call, did you
18 know what state your grandmother was in?

19 A. No.

20 Q. How long did it take you before you found that out?

21 A. About five minutes.

22 Q. All right. And during that time, did you have the
23 opportunity to call 9-1-1 again?

24 A. No.

25 Q. Why?

1 A. I was on the phone with them when I found out.

2 Q. Well, after that first call, after you tried to push
3 the operator away from bringing the police officers out
4 there, after that call was ended, did you have the
5 opportunity before you found out about grandmother to
6 call 9-1-1 again?

7 A. No.

8 Q. Why?

9 A. When I found her, I was already on the phone with
10 them. And after I hung up, that's when Justin said that
11 we needed to go ahead and leave before they sent someone
12 out.

13 Q. And what were you trying to do during those minutes
14 after you found out about grandmother? Before you left
15 Carissa Lane in the car, what were you trying to do as
16 far as Justin?

17 A. I was trying to just do what he said so that I
18 didn't get shot as well.

19 Q. All right.

20 MR. FINNEY: Nothing further.

21 THE COURT: Recross, Mr. Robinson?

22 MR. ROBINSON: I don't believe so, Your Honor.

23 No recross.

24 THE COURT: All right. Thank you. You may
25 step down. The State may call it's next witness.

1 MR. DURANT: Thank you, Your Honor. The State
2 calls Investigator Ricky Richards.

3 **RICKY RICHARDS,**

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. DURANT:

7 Q. Good morning. I believe I called you Investigator
8 Richards when I called you. But are you Captain Richards
9 now?

10 A. Yeah, I'm captain now at the Sheriff's office.

11 Q. Tell the jury where you -- the Sheriff's office?

12 A. I work at the Clarendon County Sheriff's Office.
13 I'm a captain, part of the command staff who oversees
14 daily goings on of the Sheriff's office.

15 Q. How long have you worked at the Sheriff's office?

16 A. I've been there a little bit over seven years here.
17 And prior to that, I worked at Sumter County Sheriff's
18 Office for about four and a half.

19 Q. Before being promoted to captain at Clarendon County
20 Sheriff's Office, what was your position?

21 A. I was an investigator.

22 Q. All right. Now, let me ask you now about April 6th
23 of 2011. Do you remember that day?

24 A. Yes, sir.

25 Q. At some point, were you dispatched to [REDACTED] Carissa

1 Lane in Manning?

2 A. Yes. I was in my vehicle in Manning just riding
3 around. A call came out that there was a suspect
4 possibly at [REDACTED] Carissa Lane, that they'd gotten a
5 frantic call.

6 Q. Let me stop you right there. First of all, is [REDACTED]
7 Carissa Lane in Clarendon County?

8 A. Yes.

9 Q. All right. Now, again, do you remember exactly how
10 that call came through to you?

11 A. It just came over the radio. Normally, if the
12 dispatcher thinks it's more of an urgent call, she'll
13 just give the call out. Gave it out. And just by the
14 sound of her voice, it sounded like something was to it.
15 I activated my blue lights being in town and headed that
16 direction.

17 Q. Do you remember about what time of day it was that
18 you were dispatched?

19 A. It was around ten, give or take.

20 Q. So how far away were you?

21 A. Eight miles, seven or eight miles, maybe.

22 Q. When you arrived on the scene, were there other
23 officers present?

24 A. Yes.

25 Q. Who was there?

1 A. At that time, it was just Officer Charles Eaddy was
2 there, and a trooper had arrived a second ahead of me.
3 He was actually right in front of me while we were in
4 route.

5 Q. All right. Let me show you what's been marked as
6 State's exhibit 52 and ask you to identify that for me.

7 A. Yes, sir. That appears to be like a GPS view of the
8 residence.

9 Q. Does it appear to be an accurate representation of
10 the area?

11 A. Yes.

12 MR. DURANT: Your Honor, I'd ask to admit
13 State's 52 into evidence.

14 THE COURT: Any objection?

15 MR. ROBINSON: No objection.

16 THE COURT: Without objection, State's Exhibit
17 52 is admitted.

18 (WHEREUPON, State's Exhibit Number 52 was admitted
19 into evidence.)

20 Q. And let me -- if you would, for the jury, if you
21 would just point out, where is June Burn Road?

22 A. This will be June Burn Road here.

23 Q. And which direction is Manning?

24 A. Manning would be in this direction, Highway 301.

25 Q. When you approached the Carissa Lane or the house

1 itself, tell me where you parked.

2 A. Myself and the trooper parked right in this area
3 well away from the actual yard of the residence.

4 Q. And if you would, point out exactly which residence
5 on the map are we talking about?

6 A. It's going to be this one on the back right here.

7 Q. And in which direction does the house face? I mean,
8 where is the front of the house?

9 A. The front of the house actually faces the driveway
10 here. So it would be facing the same way as if you were
11 on June Burn going back toward Manning.

12 Q. Okay. And so this area that juts out the front, is
13 that the porch area?

14 A. Yes, sir.

15 Q. Do you remember when you arrived on the scene, was
16 the Defendant's vehicle there already?

17 A. Yeah. He was parked -- the tree here. There was a
18 pickup truck in this area. And he was parked right over
19 in this area of the yard.

20 Q. When you drove or when you walked up into the yard,
21 tell me, what was the first thing you noticed?

22 A. A deputy was standing next to Mr. Johnson, Kaisha
23 Caraway, and there was a small child there. While in
24 route, I'd heard over the radio there was a person down
25 on the ground which would have been over to my right at

1 that point. At that time, I went over and checked that
2 person.

3 Q. Was that the victim, Maxine Caraway?

4 A. Yes, sir.

5 Q. All right. You say you went and checked her. Did
6 you check her vital signs?

7 A. Yes, sir.

8 Q. And was she responsive?

9 A. No.

10 Q. Tell the jury exactly how you found her.

11 A. She was laying flat on her back, her hands kind of
12 out to the side. Had a really bad wound to the back of
13 her head. There was -- you know, you could see brain
14 matter and blood. And on this side of her head was a
15 cell phone. The back had been -- the back was off of it
16 because it was laying kind of in -- right there in that
17 area.

18 Q. When you said the back, you mean the battery cover?

19 A. That covered the battery, yes, sir. Just at that
20 time, I checked her vitals to see where we were at in the
21 call. I didn't -- at that point didn't really take a
22 complete overview of what was -- what she looked like at
23 that time. I did at a later time. But I checked her
24 vitals. At that time, my goal was to try to secure the
25 scene. We didn't know if there was someone else, there

1 was a person with a gun. We didn't -- at that point we
2 didn't know what, you know, what was going on.

3 Q. After checking on Ms. Maxine, who we now know was
4 Kaisha Caraway's grandmother, what did you do?

5 A. I walked back in the direction of Deputy Eaddy, Mr.
6 Johnson, Kaisha and the little girl. And I made it about
7 halfway to them. And I heard Ms. Caraway make mention of
8 her baby being in the house.

9 Q. Okay. So one of the subjects with Deputy Eaddy was
10 Kaisha Caraway?

11 A. Yes.

12 Q. When I heard that, I -- at first, it didn't
13 register. So I asked them again what they'd said,
14 because I was probably twenty yards or so. At that time,
15 Deputy Eaddy kind of repeated it to me, that there was a
16 baby in the house. At that time, I -- Trooper Falls,
17 Robert Falls, was the trooper there with me. He was
18 within a few feet of me. I said, "I need you to help me
19 clear this house." Our purpose at that point was to find
20 this child.

21 Q. And did y'all enter the house at that point?

22 A. Yes, sir.

23 Q. Which door did you enter through?

24 A. We came up to the porch area, noticed some drops of
25 blood on the floor, a car seat kind of in the doorway.

1 At that point, we already had our pistols out. I was in
2 the lead, and Robert was my backup. We cleared the first
3 room to the right, the first room to the left ---

4 Q. Let me pause just for a second there. I show you
5 State's 53. This is the first room to the right that you
6 cleared?

7 A. Yes.

8 Q. What kind of room was that?

9 A. It was just a room that had a small couch or a chair
10 in it like -- I think I remember a bookshelf being in
11 there. There was a room directly to the left. It was --
12 whatever was in there was covered up with plastic, like
13 they'd been painting it.

14 Q. When you entered that room through the front door,
15 was there anything remarkable about the front door?

16 A. You could tell it had been kicked in due to the
17 tumbler on the doorknob was bent. And there was a little
18 bit of damage to the doorjamb.

19 Q. And describe what you encountered as you moved into
20 that front room there.

21 A. At the front door -- you walk in the porch -- can I
22 get up and -- it'd probably be better if I ...

23 (WHEREUPON, the witness stepped down from the
24 witness stand.)

25 THE COURT: Please speak up when you're down

1 there.

2 THE WITNESS: Yes, sir.

3 A. As we approached the front, the porch here, we
4 noticed a shotgun shell on the porch. Entered the door,
5 cleared to the right first, cleared to the left. Got to
6 this door -- let me see. Kind of quick peek the door,
7 which is just take a quick look to make sure there's no
8 one in there, to the right.

9 Q. What area of the house is that?

10 A. This would be the kitchen over here. There was a
11 table in there. Quick peek that way. Nothing. The
12 whole time, I'm advising Trooper Falls what I'm seeing.
13 I stick my head back in the door this time, a quick peek
14 to the left, and I come back and I tell Robert Falls we
15 have a child in a highchair, but the child wasn't crying
16 or anything. At that time, he just appeared to be in the
17 highchair. Advised him of that, came through -- once we
18 cleared this area and this room, I had Trooper Falls kind
19 of stand here. I went over and checked the child,
20 checked the vital signs. I could see he appeared to have
21 been shot in the face.

22 Q. Was the child responsive?

23 A. No, sir, not at all.

24 Q. At that time, we have to -- we still have to finish
25 clearing the house. We make our way down the hallway,

1 clearing rooms as we go. There's a doorway here. We
2 could notice that a shot from a shotgun -- just being
3 from years of having a shotgun -- where the pellets have
4 skidded down the wall and went through the door. Got
5 through this. This is a bathroom here. Got to the
6 bathroom and cleared that. We noticed the door had been
7 almost -- the top of the door was kind of broken in. And
8 there was a shotgun hole where a shotgun had been shot
9 through the door. And we could tell that by also where
10 the pellets had hit the wall behind the sink. And there
11 was a shotgun shell, a spent shotgun shell, and the
12 wadding was right here in the doorway. Once we got it
13 cleared, we came out, exited. Robert Falls stayed in the
14 yard at that time.

15 Q. Before we go any further, let me show you some
16 pictures.

17 (WHEREUPON, the witness resumed the witness stand.)

18 Q. State's Exhibit 11 -- it's already in evidence -- is
19 this the scene as you found it that day?

20 A. Yes, sir.

21 Q. Okay. And tell me what you see out in the yard
22 there?

23 A. Right here next to the car is Ms. Maxine. The
24 shotgun in the front yard is how we found it when we
25 arrived at the scene, just laying in the front yard. But

1 that's exactly how we found the front yard.

2 Q. I show you what's been marked as State's Exhibits 12
3 and 13, which I believe are both in evidence, and ask if
4 you recognize this?

5 A. Yes, sir.

6 Q. What is it?

7 A. Number 12 is the actual front door. It had come off
8 of the porch into that front room. That is actually
9 inside of that front room.

10 Q. Okay. So this is the front, this room?

11 A. Yes, sir.

12 Q. And what's the -- the baby car seat was it in the
13 doorway?

14 A. It was just like it is there. We stepped over
15 everything.

16 Q. And the broken chairs, that hadn't been moved?

17 A. No, we didn't touch anything.

18 Q. Did you take that picture?

19 A. I believe I may have. I know I took some pictures,
20 twenty pictures or so.

21 Q. Let me show you State's Exhibit 23 and ask if you
22 recognize that?

23 A. Yes, sir. That's going to be the door entering into
24 the house. And that's -- what I called the tumbler of
25 the knob and how it's pushed back.

1 Q. Was it in that condition when you found it?

2 A. Yes.

3 Q. Is that a fair and accurate representation of it?

4 A. Yes.

5 MR. DURANT: Your Honor, at this point I'd ask
6 to admit State's Exhibit 23 into evidence.

7 MR. ROBINSON: No objection.

8 THE COURT: Without objection, State's Exhibit
9 23 is admitted.

10 (WHEREUPON, State's Exhibit Number 23 was admitted
11 into evidence.)

12 Q. If you would, identify 24 for me as well.

13 A. That's just another angle of that same door.

14 MR. ROBINSON: And no objection to that one
15 either, Your Honor.

16 THE COURT: Without objection, State's Exhibit
17 Number 24 is admitted.

18 (WHEREUPON, State's Exhibit Number 24 was admitted
19 into evidence.)

20 MR. DURANT: Ask permission to publish it for
21 the jury.

22 THE COURT: Yes, sir.

23 (WHEREUPON, State's Exhibit Number 24 was published
24 to the jury.)

25 Q. And that's the front door to the house?

1 A. Yes, sir.

2 Q. And that's how you found it when you first arrived?

3 A. Yes.

4 Q. And you were the first officer in the house?

5 A. Yes, sir.

6 Q. And I'm going to show you what's been marked State's
7 Exhibit 17 and ask you if you recognize that.

8 A. That's the bathroom of the residence there.

9 Q. Is this in the condition you found it that day?

10 A. Yes, sir.

11 MR. DURANT: And I believe 17 is in evidence as
12 well?

13 THE COURT: It is.

14 Q. State's Exhibit 18, tell me what that is.

15 A. That's a view of straight down the doorjamb of the
16 bathroom of a shotgun, spent shotgun shell. And here's
17 the wadding or a wadding from a shotgun shell.

18 Q. And this is how you found the bathroom area that
19 day?

20 A. Yes.

21 MR. DURANT: I believe 18 is in evidence as
22 well. If not, I'd ask ---

23 THE COURT: It's not.

24 MR. DURANT: I'd ask ---

25 MR. ROBINSON: No objection.

1 THE COURT: Without objection, now it is in
2 evidence.

3 (WHEREUPON, State's Exhibit Number 18 was admitted
4 into evidence.)

5 Q. The shotgun shell that's exhibited in that picture,
6 is that a used or fired shell?

7 A. Yeah, that's a spent or a used.

8 Q. State's Exhibit 20, I ask you if you recognize that?

9 A. That's a picture from inside of the bathroom looking
10 out at the doorknob. That's the doorknob, and that's the
11 hole I was referencing to that had been shot through the
12 door.

13 Q. Is that the condition that you found the door that
14 day?

15 A. Yes.

16 Q. The bathroom door?

17 A. Yes.

18 MR. DURANT: I'd ask to admit State's Exhibit
19 20.

20 THE COURT: Any objection?

21 MR. ROBINSON: No objection.

22 THE COURT: Without objection, State's Exhibit
23 20 is admitted.

24 (WHEREUPON, State's Exhibit Number 20 was admitted
25 into evidence.)

1 Q. I show you State's Exhibit 21, which I believe is in
2 evidence already. So that would ---

3 A. It's a picture of at the end of the hall. Like I
4 said, the pellets had skidded or scraped along the edge
5 of the hallway and went through the wall.

6 MR. ROBINSON: Your Honor, I would object to
7 that characterization. He can say that's what he
8 believes it to be. He has not been qualified as an
9 expert in that, and I think the picture speaks for
10 itself.

11 THE COURT: All right. So do you have any
12 objection to the picture?

13 MR. ROBINSON: Not to the photograph, Your
14 Honor. Just to his description.

15 THE COURT: All right.

16 (WHEREUPON, State's Exhibit Number 21 was admitted
17 into evidence.)

18 Q. Captain Richards, if you would point out on the
19 diagram what area of the house this picture was taken
20 from?

21 (WHEREUPON, the witness stepped down from the
22 witness stand.)

23 A. It's going to be -- this is the hallway. It would
24 be at the end of the hallway, going into this room. A
25 little small piece of wall there at the -- that's where

1 the picture is right here.

2 (WHEREUPON, the witness resumed the witness stand.)

3 MR. DURANT: I beg the Court's indulgence, Your
4 Honor.

5 Q. All right. Finally, Officer, I'm going to show you
6 what's been marked as State's Exhibit 15, which is not in
7 evidence yet and just ask if you recognize that?

8 A. Yes, sir. That's the baby I found.

9 Q. Is that the condition and the area of the home that
10 you found the child?

11 A. Yes.

12 Q. Is that a fair representation of it?

13 A. Yeah.

14 MR. DURANT: And, Your Honor, at this time I'd
15 ask to admit State's Exhibit 15 into evidence.

16 THE COURT: Any objection?

17 MR. ROBINSON: Your Honor, I'd just renew my
18 previous objection to it.

19 THE COURT: Overruled. State's Exhibit 15 is
20 in evidence.

21 MR. DURANT: Your Honor, I'd ask permission to
22 publish to the jury.

23 THE COURT: You may publish it.

24 (WHEREUPON, State's Exhibit Number 15 was published
25 to the jury.)

1 Q. Captain Richards, is that how you found Minor
2 on April 6th, 2011?

3 A. Yes, sir.

4 Q. And, again, when you checked his vital signs, was he
5 responsive?

6 A. No.

7 Q. Captain, do you remember how many spent shell
8 casings you found at the scene that day?

9 A. I believe there was four.

10 Q. Let me try to ask this in a way you can understand
11 it. Based on the impact evidence that you found at the
12 scene, how many shells had you believed had been fired
13 that day?

14 A. The four.

15 Q. What I mean, is there evidence at the scene of four
16 shells making contact with something?

17 A. Yes.

18 Q. And where were those shells? Where was that
19 evidence?

20 A. First would have been Ms. Maxine, second would have
21 the baby Minor , third was the wall, and fourth was the
22 bathroom door.

23 Q. Do you remember where the spent shell casings were
24 located?

25 A. I remember the one on the porch, but there was two

1 in a room where Minor was at and one inside the bathroom
2 door.

3 Q. Let me show you State's Exhibit 33 and ask if you
4 recognize that?

5 A. That's a spent shotgun shell.

6 Q. Do you remember where that shell was located?

7 A. I remember that one was on the porch because it was
8 standing up on the brass.

9 Q. It was standing up on the brass when you found it?

10 A. Yes. Just like it is.

11 Q. Do you find that odd?

12 A. It happens.

13 MR. DURANT: I'd ask to admit State's Exhibit
14 33 into evidence.

15 THE COURT: Is there any objection?

16 MR. ROBINSON: No objection.

17 THE COURT: Without objection, State's Number
18 33 is admitted.

19 (WHEREUPON, State's Exhibit Number 33 was admitted
20 into evidence.)

21 Q. I'm going to show you State's Exhibit 14 and ask you
22 if you recognize that?

23 A. That's in the same room as the kitchen, like a
24 little living area. There's a shell casing here on the
25 floor going into what looked to be like a family room

1 type room. Another shell casing here at the entrance to
2 the hallway.

3 MR. DURANT: And, Your Honor, if it's not in
4 evidence already, I'd ask to admit State's 14.

5 MR. ROBINSON: No objection.

6 THE COURT: Without objection, State's Exhibit
7 14 is admitted.

8 (WHEREUPON, State's Exhibit Number 14 was admitted
9 into evidence.)

10 Q. If you would, come up here and just point out to the
11 jurors where the shell casings were or where they are in
12 the picture.

13 (WHEREUPON, the witness stepped down from the
14 witness stand.)

15 A. The first one's going to be right here. The second
16 is here.

17 Q. Okay. And now, looking at the diagram, if you could
18 kind of point out where those shell casings would be
19 located in the diagram?

20 A. The first one would be in this doorway. The second
21 one would be right in this area here, right beside ---

22 Q. The shell casing on the porch and one here and one
23 ---

24 A. And one here.

25 Q. And, again, these are all expended shell casings?

1 A. Yes, sir.

2 (WHEREUPON, the witness resumed the witness stand.)

3 Q. I show you State's Exhibit 42, ask if you recognize
4 that?

5 A. That's a picture from a little bit farther back of
6 the baby to include the shotgun shell in the floor.

7 MR. DURANT: And I'd ask to admit State's
8 Exhibit 42 in evidence.

9 MR. ROBINSON: Your Honor, could we approach
10 real quick?

11 THE COURT: You may.

12 (WHEREUPON, a bench conference was held off the
13 record.)

14 MR. ROBINSON: Your Honor, just for the record,
15 I do object.

16 THE COURT: All right. I'll give you an
17 opportunity to put it on the record.

18 MR. DURANT: Your Honor, I'd ask to publish
19 State's Exhibit 42?

20 THE COURT: You may.

21 (WHEREUPON, State's Exhibit Number 42 was published
22 to the jury.)

23 Q. Now, Officer, if you would, point out where that
24 second spent shell casing was found in relation to Minor

25 ?

1 A. Over here first?

2 Q. Well, if you would just look at the picture.

3 A. The shell casing was here. This, again, would be in
4 this doorway. That picture's from this room looking out.

5 (WHEREUPON, the witness resumed the witness stand.)

6 Q. I'm going to show you State's 37 and ask if you
7 recognize that?

8 A. Yes, sir. That's Ms. Maxine.

9 Q. Okay. Is this the condition that you found Ms.
10 Maxine in on April 6th, 2011?

11 A. Yes, sir.

12 MR. DURANT: I'd ask ---

13 THE COURT: Any objection?

14 MR. ROBINSON: I renew my previous objection.

15 THE COURT: Overruled.

16 (WHEREUPON, State's Exhibit Number 37 was admitted
17 into evidence.)

18 MR. DURANT: And I ask that State's 37 be
19 published to the jury.

20 (WHEREUPON, State's Exhibit Number 37 was published
21 to the jury.)

22 Q. Finally, Captain, I show you State's 39 and ask if
23 you recognize that?

24 A. That's Ms. Maxine's left hand and arm.

25 MR. ROBINSON: No objection.

1 THE COURT: Without objection, State's Exhibit
2 39 is admitted.

3 (WHEREUPON, State's Exhibit Number 39 was admitted
4 into evidence.)

5 Q. Is 39 the condition that you found Ms. Maxine in
6 that day?

7 A. Yes, sir.

8 Q. Captain, when you finished clearing the residence
9 and went outside -- and I guess -- did you see the
10 shotgun before you went inside?

11 A. Yes, sir, I did.

12 Q. Were you able to tell whether that shotgun was a
13 pump or an automatic?

14 A. I could see it was a pump shotgun, yes.

15 Q. Will you briefly explain to us what the difference
16 is?

17 A. A pump shotgun just uses -- you have to actually use
18 your muscles or whatever to take and expend a shell out
19 and put one in due to a pump action. That's why they
20 call it a pump. The other would be a semiautomatic,
21 which the mechanism in the gun does it itself.

22 Q. So a pump shotgun takes some affirmative action to
23 reload a shell?

24 A. Yes.

25 Q. And also to expend a shell?

1 A. Yes.

2 Q. Well, let me get back to -- after you cleared the
3 residence, what did you do?

4 A. By this time, there was more people there. I walked
5 out of the residence. Robert stayed in the yard. Well,
6 I don't know where Robert stayed. I walked down the
7 driveway to kind of get my composure. I passed the
8 Sheriff and I grabbed him by the shirt and told him, "No
9 one else goes in this house." I told him, "No one else."

10 Q. Had you been assigned as the chief investigator at
11 that point?

12 A. I guess you could say that. I believe Captain Baker
13 was there as well. As far as I can remember, I just told
14 him, "No one else goes in the house." I told them
15 briefly what I'd saw in the house. And at this time,
16 people were doing crime scene tape, kind of taping off
17 the area. I went to the back of my truck and knelt down
18 for a few minutes just to get my composure to clear my
19 head so I could get to work, figure out who done this.

20 Q. Once you left your vehicle, what did you do?

21 A. At that point, I walked back into the yard and
22 walked over to Mr. Johnson's car where he was standing.
23 The two-year-old girl Minor² Deputy Eaddy, and Kaisha was
24 sitting in the back seat, kind of on the edge of the seat
25 at this time, with her feet out on the ground. I walked

1 up ---

2 Q. In the passenger's side of the car?

3 A. Yeah, it was on the passenger's side. I noticed
4 kind of briefly at that time that Mr. Johnson's shirt
5 looked like it had been not ripped but pulled. The neck
6 had been pulled out and he had blood on his shirt. The
7 story I was being told at the time didn't really add up
8 to me.

9 Q. Who were you being told a story by?

10 A. I was told it was some guy named Robert driving a
11 white car ---

12 MR. ROBINSON: Your Honor, may we ---

13 THE COURT: Hold on.

14 MR. ROBINSON: --- approach real quick?

15 (WHEREUPON, a bench conference was held off the
16 record.)

17 Q. Now, let me rephrase that question. Did you have
18 any conversations with Kaisha Caraway at the back of the
19 car?

20 A. Yes.

21 Q. Did you ask her what had happened?

22 A. Yes.

23 Q. What did she tell you?

24 A. All she would -- at first all she would say is that
25 it was a guy named Robert. I asked her if she knew a

1 last name. She seemed not to -- she told me she didn't
2 know his last name. The more I asked her questions or
3 attempted to ask her questions, she wouldn't answer. And
4 every time I would ask her a question, she would look up
5 at Mr. Johnson.

6 Q. He was standing near her?

7 A. Yes.

8 Q. Where was he standing in relation to her?

9 A. Both of the passenger doors were open to the
10 vehicle. Minor 2 was on the front passenger seat, and Mr.
11 Johnson was standing in that doorway. The back door was
12 open, and Kaisha was sitting in the back seat of the car.
13 So they were all -- all three people were within a couple
14 feet of each other. But every time I would ask her a
15 question, she would kind of look up, and she would shake
16 her head no. And the more questions I asked, she
17 eventually slid farther back in the car. And I asked her
18 again -- I said, "You need to tell me what happened here
19 today." And she just looked up and shook her head no.
20 At that time, I got her out of the car, and we walked
21 twenty, thirty feet away from the car.

22 Q. Just you and Kaisha?

23 A. Just me and Kaisha. Where the car was sitting, I
24 was in-between her and the car with my back to Mr.
25 Johnson's car. At that time, I said, "Tell me what

1 happened." And I had a notebook pad in my hand and a
2 pen. She took the pen out of my hand and was attempting
3 to write something on the paper. But she was, all I can
4 say is -- shaking. Like violently shaking. Just
5 shaking. And what she wrote was just -- due to shaking I
6 would guess is that I couldn't understand what was on the
7 paper. So I asked her again. I said, "Tell me what
8 happened." She said, "I'm trying to tell you. He done
9 it," and pointed towards Mr. Johnson.

10 Q. The individual she pointed to she said had done it,
11 is he in the courtroom today?

12 A. Yes, sir.

13 Q. Where is he?

14 A. Right here.

15 Q. In the dark suit and blue tie?

16 A. Yes, sir.

17 Q. After Kaisha Caraway told you that Justin Johnson
18 had done it, what did you do?

19 A. I told her to stay there. I walked over a few more
20 feet toward the vehicle, and I called for Mr. Johnson to
21 come over and talk with me for a minute, mainly to get
22 him away from the two-year-old. And once he approached
23 me, I told him to turn around and put his hands behind
24 his back.

25 Q. And you arrested Mr. Johnson at the time?

1 A. I told him he was under arrest.

2 MR. DURANT: I beg the Court's indulgence. I
3 don't have any further questions of Captain Richards.

4 THE COURT: All right. We've been in here for
5 an hour and twenty minutes. We're going to take a short
6 break before we do the cross-examination.

7 Ladies and gentlemen, please do not discuss anything
8 about the case while you're back there. Thank you.

9 (WHEREUPON, the jury exited the open court at
10 approximately 11:03 a.m.)

11 THE COURT: All right. Hold on. Please sit
12 down. We're not finished in here yet. I let them out.
13 Mr. Robinson still needs to place something on the
14 record.

15 Bailiffs, do not let anyone get up until I say
16 they're excused.

17 MR. ROBINSON: Your Honor, the Court's
18 indulgence for just a minute.

19 THE COURT: Yes, sir.

20 MR. ROBINSON: I need to get the exhibit
21 number.

22 MR. FINNEY: 42, I believe.

23 MR. ROBINSON: Yes, sir, Your Honor. With
24 respect to exhibit 42, State's Exhibit 42, my objection
25 for the record, Your Honor, is I believe that that

1 particular photograph is misleading to the jury. In
2 light of the fact that the relation of the shotgun shell
3 and Investigator Richards' testimony about where things
4 were located, they would draw an improper inference that
5 there's some indication that that particular shotgun
6 shell was the shell that was fired that killed Minor .
7 Mr. Richards is not an expert, did not offer an expert
8 opinion. But clearly, I think that the inference is
9 improper that can be drawn from that. And I think it's
10 misleading to the jury, specifically the fact that he
11 pointed it out. Now, when the exhibit was previously
12 marked, I didn't understand the significance or didn't
13 see that as a particular problem. But the context in
14 which that shotgun shell is shown with Minor and Mr.
15 Richards' testimony clearly suggests that there's an
16 inference that that shell killed the child. I believe
17 that is ---

18 THE COURT: Well, I think you'll have ample
19 opportunity to cross-examine the ballistics expert on it
20 at that point in time.

21 Would y'all like to make a statement?

22 MR. DURANT: Judge, I don't believe I did -- in
23 fact, I don't believe I even elicited testimony from
24 Investigator Richards later on that this was a pump
25 shotgun and it would have required some affirmative

1 action from Mr. Johnson to expend a shell, which suggests
2 that that's not necessarily where the shot was fired;
3 it's where the shell was spent.

4 THE COURT: Right. Okay.

5 As I said, I overruled your objection at the time,
6 continuing. But you wanted to put it on the record.

7 MR. ROBINSON: Thank you, Your Honor.

8 THE COURT: So you have.

9 All right. Now, we'll be in recess for the next
10 fifteen minutes. Thank you.

11 (WHEREUPON, court stood in recess for a short
12 break.)

13 THE COURT: Thank you. Take your seats.

14 MR. ROBINSON: Judge, one thing ---

15 THE COURT: Hold on.

16 MR. ROBINSON: Just real quickly before you
17 bring the jury in.

18 THE COURT: Yes, sir.

19 MR. ROBINSON: Thank you, Your Honor. Just for
20 clarification, Your Honor, I wanted to put on the record
21 so it would be clear. It's more of a stipulation than
22 anything else. Defense Exhibit Number 1 is in evidence.
23 It is obviously a DVD of videotaped testimony.

24 THE COURT: Yes, sir.

25 MR. ROBINSON: It's approximately an hour and

1 some minutes long. I only played for the jury about
2 seven or eight minutes. I was going to put on the record
3 what was played, and also just put on the record that the
4 stipulation was that during deliberations if they wanted
5 to view that, we'd bring them back out here.

6 THE COURT: Watch it here rather than -- I
7 never -- I never let jurors have control of the disk to
8 watch it however they want to.

9 MR. ROBINSON: And, Your Honor, if my numbers
10 are correct, I put into evidence two minutes and twenty-
11 four seconds through seven minutes and fifty-five seconds
12 as well as thirty-five minutes and fifty seconds through
13 thirty-six minutes and two seconds. Those are the only
14 two portions I ---

15 THE COURT: Is that what y'all's understanding
16 is as well, Solicitor?

17 MR. DURANT: Yes, Your Honor.

18 THE COURT: Very well. Thank you.
19 Let's bring our jury in.

20 (WHEREUPON, the witness resumed the witness stand
21 after which the jury entered the open court at
22 approximately 11:27 a.m.)

23 THE COURT: All right. Mr. Robinson, you may
24 cross-examine the witness.

25 MR. ROBINSON: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. ROBINSON:

3 Q. Captain Richards, please forgive me if I slip up and
4 call you 'Investigator.'

5 A. That's fine.

6 Q. You've been an investigator for a while, and I've
7 addressed you as such on a number of occasions. I will
8 do my best to recognize you as Captain.

9 You talked a little bit with the jury under direct
10 examination about your experience with the Sheriff's
11 office?

12 A. Yes.

13 Q. How long were you actually in investigations?

14 A. At that point?

15 Q. Yes, sir, at that point in time.

16 A. About a year and a half.

17 Q. And before that you were a patrol officer, or were
18 you a narcotics officer?

19 A. I was a patrol sergeant. And before that, I worked
20 in Sumter as a just a patrol deputy.

21 Q. Okay. And when you moved or were promoted from
22 patrol sergeant to investigator, did you undergo any
23 additional specific training to be an investigator?

24 A. I've been to crime scene investigation. I've been
25 to murder investigation. Numerous other investigative

1 classes.

2 Q. Okay.

3 MADAM COURT REPORTER: I'm sorry. Say that
4 again. Someone coughed.

5 A. I've been to numerous investigator classes at the
6 academy.

7 MR. ROBINSON: And I'm going to move this
8 board. I believe that's blocking some of the sound to
9 the court reporter.

10 Q. And those classes obviously, in addition to your
11 general law enforcement training, teach you techniques,
12 things that you should do to make sure that an
13 investigation is handled properly; is that correct?

14 A. That's correct.

15 Q. And can you agree with me that the chief role of an
16 investigator is to not just collect evidence against a
17 specific individual, but also to eliminate all other
18 possible suspects?

19 A. Yeah.

20 Q. In other words, it's dangerous as an investigator to
21 decide in advance what happened and only collect evidence
22 towards that end?

23 A. Yeah.

24 Q. You have to look at all the available evidence and
25 eliminate all other possibilities; is that correct?

1 A. Correct.

2 Q. Okay. Now, when you placed Mr. Johnson under arrest
3 at the scene on April the 6th, 2011, I think you had
4 testified that you had gotten some information on the
5 radio, not real clear at all; correct?

6 A. Correct.

7 Q. Responded to the scene?

8 A. Yes.

9 Q. You and Trooper Falls appeared at the house?

10 A. That's right.

11 Q. And it was clearly upsetting ---

12 A. Yes.

13 Q. --- what you saw, and it's still upsetting?

14 A. Yes.

15 Q. And when you came out of the house, it took you a
16 few minutes to gain your composure?

17 A. A couple of minutes, yeah.

18 Q. And would it be fair to say that you were mad about
19 somebody killing a child?

20 A. Of course I was mad.

21 Q. Okay. And after a few minutes of gaining your
22 composure, you walked over to the car to kind of see if
23 you could figure out what was going on?

24 A. Yes.

25 Q. And Ms. Caraway gave you some signs that made you

- 1 think you needed to talk to her alone?
- 2 A. That's right.
- 3 Q. She told you that Mr. Johnson had done it?
- 4 A. Yes.
- 5 Q. And then you basically arrested him?
- 6 A. That's right.
- 7 Q. Okay. At that point, you had no -- he wasn't
- 8 holding the gun when you got there, no other evidence
- 9 other than what you've told us; is that correct?
- 10 A. That's right.
- 11 Q. Hypothetically, in that situation, given the
- 12 information that you had at that point in time, if Mr.
- 13 Johnson had called you aside and said, "Kaisha Caraway
- 14 did this," would you have immediately arrested her?
- 15 A. Yeah.
- 16 Q. Okay. And if you had immediately arrested her
- 17 during the course of your investigation, would you have
- 18 tried to eliminate Mr. Johnson as a potential suspect?
- 19 A. Yes.
- 20 Q. And tell me how you would have done that? What
- 21 steps would you have taken?
- 22 A. As far as to eliminate someone?
- 23 Q. Yes, sir.
- 24 A. That's why normally we take GSR from everyone on
- 25 scene, get statements, use the statements. Sometimes you

1 even get multiple statements. We're asking them the same
2 questions over and over. Whatever names we're usually
3 given, we try to check them out to either eliminate them
4 or have them as a suspect.

5 Q. Okay. So in this particular case, you realize there
6 was quite a lengthy interrogation of Mr. Johnson?

7 A. That's right.

8 Q. Eight hours plus or minus of questioning; is that
9 correct?

10 A. Yes, I believe that's right.

11 Q. You didn't engage in the questioning of Mr. Johnson?

12 A. No.

13 Q. And the questioning of Kaisha Caraway, a couple of
14 hours?

15 A. Possibly. I mean, I don't have a number, but, yeah,
16 it was a couple of hours.

17 Q. Much shorter than Mr. Johnson's interrogation?

18 A. That's right.

19 Q. And Ms. Caraway at the scene originally gave you the
20 Robert story?

21 A. Yes. That's the name she gave me at first. That's
22 right.

23 Q. And then at some point later changed the story?

24 A. Yeah. Within a few minutes.

25 Q. Okay. Now, let's talk about this process of

1 eliminating suspects, gathering evidence, things of that
2 nature. When you were talking to Kaisha with Justin
3 standing -- in the car, now, she was in the front seat or
4 the back seat?

5 A. She was in the back seat.

6 Q. Back seat, okay. I couldn't remember whether you
7 said front or back. And he was standing by the front
8 seat?

9 A. That's right.

10 Q. Okay. Did you get between them at some point?

11 A. The door was open. I was standing in the opening of
12 the back door maybe four feet from her.

13 Q. Okay. When you arrived and Deputy Eaddy was
14 standing there with them, did you observe either one of
15 them to be hysterical, overly emotional?

16 A. No.

17 Q. Would it be safe to say quite frankly that they
18 perhaps weren't that emotional?

19 A. Yeah, I could say that.

20 Q. Would it be fair to say that when you pulled Ms.
21 Caraway aside and talked to her that she was somewhat
22 lacking in emotion?

23 A. I mean, she wasn't crying, but I could tell she was
24 physically -- she was at least shaking quite a bit.

25 Q. And did you have any occasions to come into contact

1 with her after that, Ms. Caraway?

2 A. Once or twice, yeah.

3 Q. And did she have moments where she broke down and
4 cried with you or ---

5 A. Not with me, no.

6 Q. Okay. So have you ever seen her cry?

7 A. No, I haven't.

8 Q. Were you in the courtroom when that video was played
9 earlier of her testimony?

10 A. No, sir. I stepped out.

11 Q. Would you -- is it somewhat surprising to you that
12 she wasn't crying and more shaken?

13 A. I can't say that it was surprising. But then,
14 again, I don't know what the normal reaction would be in
15 that situation.

16 Q. She didn't react the way you would react, did she?

17 A. No, I wouldn't say that. Most people wouldn't.

18 Q. And you got a little choked up today?

19 A. Yes, I did.

20 Q. And I think a lot of people did, quite frankly,
21 including me.

22 A. That's right.

23 Q. And you would expect that to be the normal reaction?

24 MR. DURANT: Objection, Your Honor. He's not
25 an expert ---

1 THE COURT: Sustained.

2 Q. And are you still mad about this today?

3 A. Not mad, no.

4 Q. So at the point when Ms. Caraway, on April the 6th,
5 2011, told you, "Justin did it" ...

6 A. That's right.

7 Q. ... from that point forward, did you believe anybody
8 else had done it?

9 A. No.

10 Q. You were convinced right then that Mr. Johnson had
11 done it?

12 A. That's correct.

13 Q. Okay. Even though you had absolutely no evidence
14 whatsoever to connect Mr. Johnson other than her
15 statement?

16 A. That's right.

17 Q. Okay. Wouldn't you agree that it is your job as an
18 impartial, unbiased investigator to remain somewhat
19 neutral in an investigation?

20 A. Yeah.

21 Q. And that having an emotional state in an
22 investigation can lead to unintentional oversights,
23 biases, slants, things of that nature?

24 A. It can.

25 Q. Okay. Now -- and in this particular case, there

1 were some things that didn't happen the way they should
2 happen. Would you agree with that?

3 A. I would imagine so. I mean, I don't know exactly
4 what you're talking about.

5 Q. Well, let me go through a few things with you. You
6 talked about GSR earlier?

7 A. Yes.

8 Q. That's gunshot residue; right?

9 A. That's right.

10 Q. And you're not -- have you ever been qualified as an
11 expert in gunshot residue?

12 A. Not an expert, but I've taken samples before.

13 Q. Okay. And in taking samples, y'all have standards
14 or protocol that you're supposed to follow; is that
15 correct?

16 A. There's instructions on the packet we get, yeah.

17 Q. Y'all have never had any other training about how to
18 take gunshot residue from a person?

19 A. Me personally, at a crime scene class, we did cover
20 that briefly. An hour or two.

21 Q. And is it fair to say that gunshot residue, that
22 they teach you to take it as quickly as possible after an
23 arrest or after a situation?

24 A. Yeah, we normally try to do that.

25 Q. Okay. And that's because it can dissipate over

1 time?

2 A. I believe so, yeah.

3 Q. And have you ever heard the term, "bagging the
4 hands"?

5 A. I've done it on deceased people before.

6 Q. Yeah. And don't they also recommend that you wear
7 gloves before you touch somebody that's going to get a
8 gunshot residue test?

9 A. I believe so.

10 Q. Okay. And the reason for that is to avoid
11 contamination or removal; is that right?

12 A. That's right.

13 Q. And in your training, did they teach you that
14 gunshot residue can be transferred from a police officer,
15 police car, anywhere where there's been gunshot residue,
16 onto another surface?

17 A. I believe it can, yeah.

18 Q. Okay. And you had actually drawn your weapon
19 moments before you touched Mr. Johnson's hands to put him
20 in handcuffs; is that right?

21 A. Yeah, I'd drawn my weapon.

22 Q. Did you have on gloves when you cuffed Mr. Johnson?

23 A. No.

24 Q. Did you bag Mr. Johnson's hands?

25 A. No.

1 Q. Did you cuff him behind his back?

2 A. Yeah.

3 Q. So when he got into whoever's patrol car, his hands
4 were directly in contact with the seat behind him?

5 A. I didn't put him in the car, so I don't know if he
6 was in the back or the front or ...

7 Q. Whatever seat, if his hands ---

8 A. It would have to have touched the seat, of course.

9 Q. Okay. And you would agree that in your training
10 they tell you that a patrol car is a good place to get
11 contaminated with gunshot residue?

12 A. I would imagine that, you know, contaminations of
13 all types.

14 Q. Okay. And when Mr. Johnson went to the Sheriff's
15 department for his lengthy interrogation, are you aware
16 the first, or one of the first things that was performed
17 was his clothes were collected?

18 A. I wasn't there. I don't know what the first thing
19 that was done.

20 Q. Okay. As far as to your knowledge, were his clothes
21 taken and put in evidence?

22 A. At some point, because we have them in evidence, so
23 they would have had to have been taken.

24 Q. And do you know whether or not his clothing was
25 tested?

1 A. I know it was tested for DNA and some other stuff,
2 but I don't know exactly what the tests were. I didn't
3 ...

4 Q. Okay. And do you know if anybody else's clothes
5 were tested for anything?

6 A. I don't know. I can't say that I do.

7 Q. Well, let me ask you this. You're the lead
8 investigator on this case?

9 A. You could say that.

10 Q. And I'm just asking because I'm trying to figure
11 out. If you don't know, who would know exactly what was
12 done?

13 A. Well, normally a homicide case -- in investigations,
14 normally if it happens, normally the whole group of
15 investigators usually works as a team to try to get
16 things done because one person can't be in three
17 different places.

18 Q. And do y'all coordinate that or keep some kind of
19 record of who's working on what?

20 A. Most of the time, yeah.

21 Q. Okay. Do you know who was in charge of collecting
22 clothing and things of that nature?

23 A. I just knew that Kipp Coker and Mason Moore was
24 doing the interviews.

25 Q. Okay.

1 A. You know, at that time -- I know now who done it.

2 But at the time, I was at the crime scene just trying to
3 assist SLED anyway they -- whatever they needed from me,
4 if anything.

5 Q. And do you know if anybody else's clothes were
6 analyzed?

7 A. I don't know.

8 Q. Okay. And would you agree with me that in a case
9 like this everybody obviously that survived at the scene
10 should be processed to eliminate any other suspects?

11 A. I would imagine so, yeah.

12 Q. Okay. And that would probably be -- if you were in
13 charge and had done that, that's what you would think
14 would be proper?

15 A. Yeah.

16 Q. And the reason for that is, quite frankly, people
17 don't always tell the truth. Would you agree with that?

18 A. I can agree with that, yes.

19 Q. And that that is the purpose of gathering and
20 collecting evidence, to see how it adds up?

21 A. That's right.

22 Q. Okay. Do you know if y'all tested anybody's
23 clothing for gunshot residue?

24 A. I don't know for gunshot residue. I know some blood
25 tests was done on some other stuff, but I don't know if

1 gunshot residue was tested on anybody.

2 Q. And, again, I understand you're not a gunshot
3 residue expert. But in your training and knowing gunshot
4 residue, is it your understanding that gunshot residue
5 can appear on people even if they haven't fired a gun?

6 A. Not that I know of.

7 Q. Okay. So if there's gunshot residue present on
8 somebody, it's your understanding that that means they
9 fired a weapon?

10 A. Most of the time.

11 Q. You said, "Most of the time"?

12 A. I mean, I don't -- I've never dealt in a case where
13 one -- we wouldn't test just a random person to see if
14 they had gunshot residue.

15 Q. Okay.

16 A. Normally you tested if you -- we think you fired a
17 weapon.

18 Q. So -- and, again, that procedure should be done as
19 close in time as possible?

20 A. That's what they suggest, yeah.

21 Q. That's what you've been trained in?

22 A. That's right.

23 Q. Any idea in your trainings that tell you how long
24 GSR will last?

25 A. No. I've never been given a definite number.

1 Q. Okay. Now, you testified also to the Solicitor that
2 the door had been kicked in? Is that ...

3 A. Kicked in. Well, 'kicked in' is a term I use.

4 Kicked in, pushed in.

5 Q. Forced in?

6 A. Forced in. I mean ---

7 Q. There's no evidence that it was a foot or shoulder
8 or a bat or anything else?

9 A. A foot or shoulder, nothing. You're correct.

10 Q. The damage to the tumbler?

11 A. At some point that door had been forced in, yeah.

12 Q. Okay. And you testified about the shotgun shells
13 and their locations. You're not any kind of a ballistics
14 expert, are you?

15 A. No.

16 Q. Okay. So you can't offer any testimony of any
17 certainty how long those shells had been there, what gun
18 they came from, whether they were involved in this or not
19 at all, can you?

20 A. No, I can't.

21 Q. Okay. So their relation to any victims, articles of
22 furniture, that means absolutely nothing to you, does it?

23 A. No. I mean, I can't tell you what gun it came from
24 or anything.

25 Q. Now, you also told the Solicitor that it was a pump

1 shotgun?

2 A. Yes.

3 Q. And that it required, I think, affirmative action or
4 intentional effort?

5 A. Yeah.

6 Q. But would you agree in your -- you've fired a pump
7 shotgun?

8 A. Many, many times.

9 Q. Okay. Have you ever shot with female officers?

10 A. I don't understand.

11 Q. Have you ever been around a female officer that shot
12 a pump shotgun?

13 A. Yes.

14 Q. From your observation, is there anything about a
15 pump shotgun that would eliminate a woman from being able
16 to fire it or work the action?

17 A. As long as you have two arms you can normally fire a
18 pump.

19 Q. Okay. When you were at the scene, processing the
20 scene, tell me roughly how that happened. You said you
21 -- let me get us to that point, because I don't want you
22 to start from the beginning like you did in ---

23 A. How I ended up there?

24 Q. No, sir. No, sir. You cleared the house with
25 Trooper Falls?

1 A. That's right.

2 Q. Then y'all said, "Nobody else goes in." Right?

3 A. That's right.

4 Q. At what point did people then -- and I don't mean
5 people -- law enforcement personnel start going in to
6 process the scene?

7 A. When SLED crime scene arrived.

8 Q. Okay. Roughly, what time was that?

9 A. Hour and a half, two hours. I don't remember
10 exactly. However long it took them to get there.

11 Q. And did you assist SLED in processing the scene?

12 A. I did not assist in -- the only thing that we done
13 -- I done with SLED, aside from a few pictures I took of
14 the residence, was do a brief walk-through. Kind of show
15 them where ---

16 Q. What you had found?

17 A. --- what I'd seen was at. And then from there, I
18 stayed outside. They collected pictures. Everything was
19 on them once that point took place.

20 Q. Okay. Throughout the course of this investigation,
21 you've never wavered in your belief that Mr. Johnson did
22 this?

23 A. No.

24 Q. You knew from the first moment Ms. Caraway uttered
25 those words to you?

1 A. Yes.

2 Q. And you've done everything in your power since that
3 time to make sure that you bring evidence to this Court
4 to prove that?

5 A. I've done everything that -- I say we've done
6 everything, because it was a group effort, to follow
7 everything up afterwards. And whatever evidence we got
8 back is what you have, whether it's against Mr. Johnson
9 or for Mr. Johnson.

10 Q. And as far as the collection process, you've
11 testified to everything that you know about?

12 A. Yeah.

13 MR. ROBINSON: Courts indulgence?

14 MR. ROBINSON: Yes, sir.

15 Q. Investigator Richards, just a couple more quick
16 questions. When you first arrived at the scene and were
17 talking with the individuals there, I think you said you
18 noticed some blood on Mr. Johnson's shirt?

19 A. Yeah.

20 Q. Do you recall asking him at any point about whether
21 or not he had an injury or looking for an injury?

22 A. No. At that point -- you have to think about the
23 time frame. When I walk up, it's very brief to when I go
24 to check the first victim. There's only, you know,
25 thirty seconds or so, a minute, of standing there talking

1 with them. Once I saw a person on the ground, my focus
2 then went to check on that person. Then I heard there
3 was a baby in the house. My focus shifted to finding
4 that baby, seeing if they were okay, what have you, at
5 that point. So I didn't actually take -- I didn't stop
6 at that point and try to interview him at that point
7 about any blood on him.

8 Q. Well -- and the reason I asked you that, you
9 testified on direct that she was looking at you, and you
10 noticed his shirt looked like it had been pulled and had
11 blood on it?

12 A. And that was afterwards.

13 Q. Okay. That was after you had already arrested him?

14 A. No, no.

15 Q. Okay. And that's what I'm talking about. After you
16 cleared the residence?

17 A. After I cleared the residence, that's when I went to
18 my vehicle for a minute or two. In between -- well,
19 walking to the vehicle, that's when I told the Sheriff
20 and Captain Baker that no one else needed to go in the
21 house. I walked to the back, to the bumper of my truck
22 for a minute or two. From that point is when I walked
23 back to the car and was talking with Kaisha. And that's
24 when Mr. Johnson was -- he was an arm's reach away, three
25 or four feet.

1 Q. Right.

2 A. And that's when I really noticed that it had been
3 pulled. Or at least it appeared to. It had been pulled,
4 and there was blood across the front.

5 Q. And you presumed that to be evidence of guilt, not
6 evidence of being a victim?

7 A. I presumed it to be evidence.

8 Q. Okay. But you didn't ask him?

9 A. Not at that time.

10 Q. When you pulled Ms. Caraway out of the vehicle, took
11 her over there and talked to her, was she holding Minor 2
12 the daughter?

13 A. No.

14 Q. Where was Minor 2 ?

15 A. Mr. Johnson was standing over Minor 2 . She was on the
16 front seat, front passenger seat. He was standing in the
17 doorway of the front-passenger seat.

18 Q. Okay. And so you then, within a brief period of
19 time, went and arrested Mr. Johnson yourself?

20 A. No. I called him over to me.

21 Q. Okay.

22 A. Because my concern at that point was there was
23 another child there.

24 Q. Okay. I understand. So did you separate yourself
25 from Kaisha ---

1 A. Yes.

2 Q. --- and then call Mr. Johnson over?

3 A. Yes.

4 Q. Okay. And then after Mr. Johnson was arrested,
5 someone else transported him to the ---

6 A. At that point I called Tommy Burgess -- he was
7 working for the Sheriff's office at the time -- and
8 Robert Falls over. They came over. I believe it was
9 Robert that escorted him to a vehicle. I don't know
10 whose vehicle it was. They transported him to the
11 Sheriff's office.

12 Q. Okay. Did you talk with Kaisha again after that at
13 the scene?

14 A. Briefly, I did.

15 Q. And was she holding the daughter at that point?

16 A. She was then, yes.

17 Q. Okay. And did she tell you that at that point in
18 time she had changed shirts?

19 A. Said she had put on a shirt.

20 Q. Okay.

21 A. I believe she was on the phone when I walked back
22 up. At the time we had had these mobile video little
23 cameras. They turned out to be terrible because it would
24 only last for a few minutes. I had gotten that. And I
25 believe there's a few minutes of video talking with her.

1 I believe she was on the phone. And that's when I
2 believe I located -- I found out she'd been hit with a
3 pellet in the shoulder, what appeared to be hit by a
4 pellet in the shoulder.

5 Q. Do you know who she was on the phone with at that
6 point?

7 A. I have no idea.

8 Q. Have you made any effort ---

9 A. No.

10 Q. --- before today to ascertain who she was on the
11 phone with?

12 A. I don't remember asking that day.

13 Q. Did y'all subpoena her phone records?

14 A. I believe they were.

15 Q. Okay. And within minutes of all of this happening,
16 you arresting in front of her the man she claims killed
17 her mother -- I mean, her grandmother and her son, she's
18 on the phone with somebody?

19 A. That's right.

20 Q. For three years you didn't think it was important to
21 see who that may have been?

22 A. I don't remember ever asking her.

23 Q. I understand that. You don't think that could have
24 possibly been important?

25 A. I never thought about it.

1 Q. And the reason you didn't think about it, you think
2 Mr. Johnson did it?

3 A. Yeah, I think he did it.

4 Q. Okay. So there's no reason to check to see if she
5 was talking to somebody who might have been named Robert
6 or that there may be a conversation with anybody else and
7 that there may be some other evidence as a result of that
8 phone conversation?

9 A. No, I didn't check the phone. That's right.

10 Q. Thank you.

11 MR. ROBINSON: I don't have any further
12 questions.

13 THE COURT: Any redirect?

14 MR. DURANT: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. DURANT:

17 Q. Captain Richards, there were some questions about
18 your knowledge of the gunshot residue testing procedures
19 and whether or not they needed to be done as quickly as
20 possible. Do you know which investigator did the gunshot
21 residue test of Kaisha Caraway?

22 A. I know now it was Kipp Coker and Mason Moore in the
23 room while it was being done.

24 Q. But Kaisha?

25 A. Oh, of Kaisha? I believe it was Kenneth Clark did

1 it with Kaisha at the hospital.

2 Q. At the hospital, you say?

3 A. Yes.

4 Q. And there was a question about whether you had drawn
5 your weapon a short time before cuffing Mr. Johnson. Had
6 you fired your weapon?

7 A. I'd fired it probably like a week or two, a couple
8 of weeks before. I never go a month without firing it.
9 But my normal practice, I clean it after I shoot it.

10 Q. Okay. So it hadn't been fired in a couple of weeks,
11 and you ---

12 A. It had been fired in a day or so that I can ...

13 Q. And you would have cleaned it after the last time
14 you fired it?

15 A. I did.

16 Q. Was the blood on Mr. Johnson's shirt, on the
17 Defendant's shirt at the scene, do you know whether or
18 not that was tested by SLED?

19 A. I believe it was.

20 Q. Okay. And as far as the process of eliminating
21 suspects at the scene, did you observe any injuries to
22 Kaisha Caraway?

23 A. I believe she had some blood on her face somewhere,
24 but I didn't observe any major thing that stuck out to
25 me.

1 Q. Finally, do you know whether it's standard Sheriff's
2 office procedure that a victim such as Ms. Caraway would
3 have been allowed to call her family at the scene?

4 A. Certain circumstances, yeah, I could see that
5 happening.

6 MR. DURANT: I don't have any further
7 questions.

8 THE COURT: Any recross based on his redirect?

9 MR. ROBINSON: The Court's indulgence?

10 THE COURT: Yes.

11 MR. ROBINSON: No, sir. No recross.

12 THE COURT: All right. Thank you.

13 Captain Richards, you may step down.

14 Any objection to this witness being excused?

15 MR. ROBINSON: None, Your Honor.

16 THE COURT: All right. Thank you.

17 MR. FINNEY: If it please the Court, Your
18 Honor, we have a witness that is standing by in Montana,
19 and we believe that we're going to have to hook up the
20 machine to get him connected. If we could have the jury
21 to take a five- or a ten-minute break, we believe we can
22 accomplish that now before the lunch hour.

23 THE COURT: How long do you think the
24 testimony's going to be?

25 MR. FINNEY: We think thirty to forty minutes

1 at most, Your Honor.

2 THE COURT: Okay. All right.

3 Very well, ladies and gentlemen. We'll take a short
4 break. Please do not discuss anything about the case
5 while you're back there.

6 (WHEREUPON, the jury exited the open court at
7 approximately 11:56 a.m.)

8 THE COURT: All right. The court will be in
9 recess for ten minutes.

10 (WHEREUPON, court stood in recess for a short
11 break.)

12 THE COURT: Anything before we bring the jury
13 in?

14 MR. ROBINSON: Yes, sir, Your Honor. I
15 understand we're about to get into the Skype. I just
16 want to renew the objection that I made last week just
17 for the record.

18 THE COURT: All right. Very well. I've
19 overruled your objection. Skype has been used in many
20 courts in this state and have been used in death penalty
21 trials as well, so I'm satisfied that based upon some of
22 the testimony that I heard that it'll be fine.

23 All right. Let's bring our jury in. And I'll
24 explain to them.

25 (WHEREUPON, the jury entered the open court at

1 approximately 12:12 p.m.)

2 THE COURT: All right. Ladies and gentlemen,
3 through the miracles of modern technology, you are about
4 to watch the testimony of a witness who is at this very
5 moment in Montana. Now, this witness will be sworn just
6 like any witness that is here. The witness will be
7 questioned by the Solicitor and the Defendant just as if
8 they were sitting there. And it's going to be live. So,
9 again, through the marvels of modern technology, this
10 witness is able to be here, and you should give it the
11 weight that you think it should have. But for all
12 practical practices that witness is right there.

13 All right. Is the State ready to proceed?

14 MR. DURANT: Yes, sir, Your Honor. The State
15 calls Mason Moore.

16 (WHEREUPON, Mason Moore appeared via Skype.)

17 MR. DURANT: Mr. Moore?

18 THE WITNESS: Yes, sir.

19 MR. DURANT: Can you hear me?

20 THE WITNESS: Yes, sir, I can hear you.

21 MR. DURANT: First of all, Mr. Moore, do you
22 have a notary public there with you?

23 THE WITNESS: Yes, sir, I do.

24 MR. DURANT: If you would, please have her
25 identify herself.

1 THE NOTARY: My name is Terry Major. I am the
2 Clerk of Court with the Gallatin County Justice Court in
3 Boseman, Montana.

4 MR. DURANT: Ma'am, would you please administer
5 the oath to Mr. Moore at this time?

6 THE NOTARY: (No verbal response)

7 MR. DURANT: Ma'am, would you please administer
8 the oath to Mr. Moore?

9 THE NOTARY: Yes, sir. Officer Moore, do you
10 solemnly swear that the information contained your
11 testimony is true and correct to best of your knowledge,
12 so help you God?

13 THE WITNESS: I do.

14 **MASON MOORE,**

15 BEING FIRST DULY SWORN, TESTIFIED VIA SKYPE AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. DURANT:

18 Q. Mr. Moore, where do you live?

19 A. I live in Three Forks, Montana.

20 Q. How long have you lived in Montana?

21 A. Almost three years now.

22 Q. Before you moved to Montana, where did you live?

23 A. I lived in Clarendon County, South Carolina.

24 Q. And where did you work when you lived in Clarendon
25 County?

1 A. I worked for the Clarendon County Sheriff's Office.

2 Q. In what capacity did you work for the Sheriff's
3 office?

4 A. As an investigator.

5 Q. How long did you work as an investigator at the
6 Clarendon County Sheriff's Office?

7 A. Two years.

8 Q. Do you remember -- were you working as an
9 investigator at the Sheriff's office back on April 6th of
10 2011?

11 A. Yes, sir, I was.

12 Q. And do you remember that day?

13 A. Yes, sir, I do.

14 Q. And tell me what you did on that day.

15 A. I interviewed Justin Johnson along with Kipp Coker
16 at the interview room of the Sheriff's office.

17 Q. Okay. Are those -- you and Mr. Johnson and Kipp
18 Coker, are those the only individuals present for that
19 interview?

20 A. Yes, sir.

21 Q. When you interviewed Mr. Johnson, did he appear to
22 be under the influence of alcohol or drugs?

23 A. No, sir, he did not.

24 Q. Did he appear to have any physical or mental
25 disability that would affect his ability to understand?

1 A. No, sir.

2 Q. Do you believe or do you know whether he was aware
3 of the nature of the investigation?

4 A. Yes, sir.

5 Q. How did that investigation come about?

6 A. (No response)

7 Q. Mr. Moore?

8 (WHEREUPON, Internet connection was lost and
9 subsequently restored.)

10 Q. Mr. Moore, can you hear me?

11 A. I can hear you, yes, sir. I don't have video
12 though.

13 Q. Is there a button you can ...

14 A. Yes, sir. I think it's working right now. I have
15 you now, sir.

16 Q. Okay. I believe my last question was, "How did the
17 investigation come about that day?"

18 A. Yes, sir. I believe a call was received by the
19 Sheriff's office about an incident occurring on, I
20 believe it was, Carissa Lane, and units responded out
21 there.

22 Q. Do you know what kind of incident?

23 A. I believe it was where somebody had been shot.

24 Q. And were there fatalities?

25 A. Yes, sir, there were.

1 Q. When you interviewed Mr. Johnson, was he advised of
2 his constitutional rights pursuant to Miranda prior to
3 any questioning?

4 A. Yes, sir, he was. I read him his rights myself.

5 Q. How many times did you read him his rights?

6 A. I believe it was three times, once when we initially
7 brought him into the room, and then when we -- and then I
8 read them a third time on the second day.

9 Q. Okay. Back up. We lost part of that last answer.
10 You read him his rights once when you brought him in the
11 room, and then ...

12 A. Again when we actually started asking him questions.
13 And then a third time the following day.

14 Q. Did you use a Miranda card to reference those
15 rights?

16 A. Yes, sir, I did.

17 Q. Did you tell him he had the right to remain silent?

18 A. I did, sir.

19 Q. Did you tell him that anything he said could be used
20 against him in a court of law?

21 A. Yes, sir.

22 Q. And did you tell him that he had a right to have an
23 attorney and have that attorney present there with him
24 during questioning?

25 A. Yes.

1 Q. And did you tell him that if he couldn't afford an
2 attorney, that one would be appointed for him?

3 A. Yes.

4 Q. And did he decide -- did you tell him that if he
5 decided to exercise his rights at any time, he had that
6 right?

7 A. Yes, sir.

8 Q. Did he appear to have any trouble understanding
9 those rights?

10 A. No, sir, he did not.

11 Q. How did he respond?

12 A. He responded to each question that he understood
13 them. When I asked him specifically if he understood his
14 rights as I read it to him, he responded with, "Yes,"
15 and did so on all of those occasions that (Skype
16 connection interrupted) Are you still there?

17 Q. Yeah.

18 MR. ROBINSON: Your Honor, could you ask him to
19 repeat his answer.

20 THE COURT: Yeah, ask him to repeat his answer.

21 Q. If you would repeat your answer to that last
22 question.

23 A. Okay. The last question I heard was whether or not
24 he responded in the affirmative to the questions that I
25 asked him about his Miranda, and he did so.

1 Q. Did he waive his rights at that time and then decide
2 to proceed with the interview?

3 A. Yes, sir.

4 Q. If you would, tell me where did the interview take
5 place?

6 A. It took place in the interview room of the Sheriff's
7 office.

8 Q. During the questioning, did his answers appear to be
9 rational and responsive?

10 A. Yes, sir, they did.

11 Q. Was he -- at any point during the interview, was he
12 so emotional that you had concerns about his ability to
13 understand his rights?

14 A. No, sir.

15 Q. Do you remember how long the Defendant was
16 questioned?

17 A. The questioning portion itself was a number of
18 hours. And sometime around noon, I think, until about
19 ...

20 Q. Okay. We missed the end of that answer. You said
21 sometime around noon until when?

22 A. Until about, I believe, five or six o'clock.

23 Q. Were any breaks taken during the questioning
24 process?

25 A. Yes, sir, there were. There were several breaks in

1 which we offered him bathroom breaks or anything to drink
2 or eat. We did that on numerous occasions.

3 Q. Was the Defendant offered food -- well, you just
4 said. How many times was he offered access to food,
5 drink, or bathroom?

6 A. A number -- I would say more than five would be my
7 guess. It was quite a number of times.

8 Q. Were there any threats or promises made in exchange
9 for his statement or speaking to you that day?

10 A. No, sir.

11 Q. To the best of your knowledge, was the Defendant
12 Justin Johnson's statement given freely and voluntarily
13 that day?

14 A. Yes, sir.

15 Q. Was it recorded?

16 A. Yes, sir, it was.

17 Q. And by video or audio?

18 A. Video and audio.

19 Q. Okay.

20 A. Both.

21 Q. All right. Let me back up to ---

22 A. I'm sorry. When it -- can you hear me, Chris?

23 Q. I can hear you, but I don't see you.

24 A. Okay. I don't see you. Hold on just a second. All
25 right. It's working on -- okay. I can see you now, sir.

1 Q. Okay. The last question I asked was whether or not
2 the interviews with Mr. Johnson was recorded by a video
3 and audio surveillance system?

4 A. It was, yes, sir.

5 Q. And you said that you read him his rights three
6 times. Was there more than one interview that you
7 conducted with Mr. Johnson?

8 A. Yes, sir. There was an interview that we conducted
9 that day. And then he requested to speak to me the next
10 day, the following day.

11 Q. So the following day interview, that was at his
12 request?

13 A. Yes, sir, it was.

14 Q. Did he contact you?

15 A. Yeah. He contacted the Sheriff's office for me.

16 Q. Okay. And let me back up. You said when you first
17 brought Mr. Johnson in that you read him his rights?

18 A. (No verbal response)

19 Q. Can you hear me, Mason?

20 A. Yes, sir, I can hear you.

21 Q. Okay. When you first brought Mr. Johnson in, did
22 you conduct any tests on him?

23 A. Yes. Yes, sir. We collected a GSR, which is a
24 gunshot residue kit. We also took pictures of his
25 person. We also collected his clothes as well.

1 Q. Was Mr. Coker in the room with you when you
2 collected that gunshot residue?

3 A. Yes, sir, he was.

4 Q. Had you done that before?

5 A. Yes, sir. I've collect quite a few gunshot residue
6 in the past. And he also read me the directions.

7 Q. Okay. You said read he you the directions. Where
8 do the directions come from?

9 A. It comes from inside the package. It comes in a
10 kit. And you open up the kit and all of the instruments
11 that they use to collect it are inside the kit along with
12 instructions, and a pair of gloves as well.

13 Q. And the instructions to tell you what to do?

14 A. Yes, sir, they give you step-by-step instructions.

15 Q. Where did the kit come from?

16 A. (No verbal response)

17 Q. Mason?

18 A. Yes, sir, I can hear you.

19 Q. The last question was where did the gunshot residue
20 kit come from? Who prepares that?

21 A. I believe it's prepared by a company that produces
22 those. I can't tell you specifically what the company
23 is. But it's a -- it comes in a sealed packet.

24 Q. When you finished collecting the gunshot residue,
25 did you put it back into a sealed packet?

1 A. Yes, sir. It provides evidence tapes or ways to
2 secure those envelopes. And you secure them. And I
3 believe I initialed and dated it. That's usually what I
4 do when I seal those.

5 Q. And after you sealed that kit, do you remember what
6 you did with it?

7 A. We turned it in to evidence to be sent to SLED for
8 processing.

9 MR. DURANT: I beg the Court's indulgence one
10 moment.

11 THE COURT: Yes.

12 Q. Mr. Moore, as a result of the interview, do you
13 remember how many CD or compact disks were recorded?

14 A. I believe your questions is, "How many CDs or
15 compact disks were recorded?" And it was multiple CDs.
16 It was several. I don't recall the specific number, but
17 it was several.

18 MR. DURANT: Your Honor, I don't have any
19 further questions for Mr. Moore.

20 Q. If you would, please answer any Mr. Robinson has for
21 you.

22 THE COURT: Mr. Robinson?

23 MR. ROBINSON: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. ROBINSON:

1 Q. I guess it's good morning to you out there,
2 Investigator?

3 A. Yes, sir, it is.

4 Q. Let me ask you a few questions, if I could, about
5 the process. Do you remember approximately when you left
6 Clarendon County?

7 A. Yeah. It would be in October, I believe, of 2011.

8 Q. And in preparation for your testimony today, did you
9 make any notes or review any notes?

10 A. Yes. I looked at the interview.

11 Q. Okay. You watched the videotape of the interview?

12 A. Yes, sir, I did.

13 Q. Okay. Do you have -- have you reviewed any other
14 notes or anything that you have there with you today?

15 A. No, sir.

16 Q. Okay. Now, you talked with the Solicitor about your
17 interview with Mr. Johnson. And you said he didn't
18 appear to be on alcohol or drugs; is that right?

19 A. Yes, sir. We had a little break there. But as far
20 as him appearing to be on alcohol or drugs, he did not
21 appear to be under the influence of anything at all when
22 I talked to him.

23 Q. Okay. And you base that just on your life
24 experience?

25 A. Yes, sir. At that time, I'd had almost twelve years