

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Calhoun County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUINTIN MILLS,

APPELLANT

APPELLATE CASE NO. 2019-000915

RECORD ON APPEAL

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1 (On the record at 11:12 a.m.)

2 (Pre-marked Defendant's Exhibit No. 1, El Cheapo Video.)

3 (Pre-marked Defendant's Exhibits 2 through 5, photos.)

4 (Pre-marked Defendant's Exhibit 6, video

5 interview of Kendrell Thomas.)

6 THE CLERK OF COURT: All right. Ladies and
7 Gentlemen, going to get you sworn in. I need everybody to
8 stand up and raise your right hand, please.

9 (The jury panel complies and is sworn.)

10 THE COURT: Good morning, ladies and gentlemen of the
11 jury panel. My name is Maite Murphy, and I'm a circuit
12 judge from Dorchester County, and it's a pleasure to be
13 here with you this week here in Calhoun County for a term
14 of General Sessions Court, or what we normally refer to as
15 "criminal court."

16 Your jury service will conclude this Friday. So it's
17 your lucky week that you're called this week because you
18 already have one day behind you. So it'll be a short week
19 for us.

20 Before we begin the jury questioning regarding your
21 qualifications to serve, I must tell you that it's very
22 important that we have complete and accurate information
23 in the jury qualification process.

24 You've met some of the fine folks here in the
25 courtroom. You've got your Clerk of Court, Mr. Ken Hasty,

1 who keeps us all straight and does a fabulous job to keep
2 us organized. You've got members of his staff and of
3 course, you have members of the bar, and bailiff's and the
4 court security, things of that nature, people that may
5 have matters before the Court this week.

6 If you need anything during the week or for some
7 reason you have a concern that you need to speak to me,
8 please contact one of these fine folks and they will be
9 happy to assist you.

10 Ladies and gentlemen, the purpose of this morning's
11 questioning is to determine your general eligibility to
12 serve as jurors in this court. And again, it's important
13 that we have full and complete information.

14 I understand that some of the questions may be a
15 little bit personal, and you may not want to stand in
16 front of the entire panel and disclose that information;
17 however, again, it's important that you do so. I'm going
18 to give you an opportunity to come up individually and
19 speak with me individually if the questions applies to
20 you; or at the very end, I'll ask a very broad question,
21 and if you need to speak to me at that time, I'll ask you
22 to come forward at that time.

23 So please make a mental note that the question does
24 apply to you, there -- either stand and come forward when
25 I ask the question; or at the end of the questioning

1 period, when I give you that broad question, if there's
2 any concerns for -- to come forward at that time.

3 Ladies and gentlemen, here are the questions
4 regarding your qualifications to serve as jurors. Is
5 there any member of the jury panel who is not a citizen of
6 the United States? If so, please stand.

7 (No response.)

8 THE COURT: I find that there is noone standing.

9 Is there any member of the jury panel who is not a
10 resident and citizen of Calhoun County? If so, please
11 stand.

12 (No response.)

13 THE COURT: I find that there is noone standing.

14 Is there any member of the jury panel unable to read,
15 write, speak, or understand the English language? If so,
16 please stand.

17 (No response.)

18 THE COURT: I find that there is noone standing.

19 Does any member of the jury panel have less than a
20 sixth grade education or its equivalent? If so, please
21 stand.

22 (No response.)

23 THE COURT: I find that there is noone standing.

24 Is there any member of the jury panel unable --
25 because of mental or physical infirmities unable to render

1 efficient jury service? For example, does any member of
2 the jury panel have a medical condition which would
3 prevent you from serving on a jury this week? If so,
4 please stand.

5 (No response.)

6 THE COURT: I find that there is noone standing.

7 Has any member of the jury panel been convicted of,
8 by guilty plea or a trial, in a State or Federal court of
9 record, of a crime punishable by imprisonment for more
10 than one year and your civil rights have not been restored
11 by pardon or amnesty?

12 Punishable by more than one year means that your
13 civil -- that your sentence could have been more than one
14 year regardless of what sentence you may have received.

15 (A juror stands.)

16 THE COURT: Sir, would you like to come forward?

17 (The juror complies.)

18 THE COURT: Stand on this side so the court reporter
19 can hear you.

20 (The juror complies.)

21 WHEREUPON the Court, attorneys,
22 and juror confer as follows:

23 THE COURT: Can you tell me your juror number?

24 THE JUROR: My name is Stanley Farman. I don't know
25 my number.

1 THE COURT: Okay. Sir, just confirming, tell me what
2 you have?

3 THE JUROR: I was locked up for breaking and
4 entering, but supposedly the rules --

5 THE COURT: Okay.

6 THE JUROR: -- at 9 years.

7 THE COURT: All right, sir. So that would excuse you
8 from today. Thank you so much.

9 THE JUROR: You're welcome.

10 THE COURT: Thank you.

11 (The juror exits the courtroom.)

12 THE COURT: Is any member of the jury panel a clerk,
13 a deputy clerk of court; a constable, sheriff, or other
14 commissioned law enforcement officer; probate judge,
15 county commissioner, magistrate or other county officer;
16 or is employed within the walls of any courthouse? If so,
17 please stand.

18 (No response.)

19 THE COURT: I find that there is noone standing.

20 Is there any member of the jury panel who has
21 previously served on jury duty in circuit court, not in
22 municipal court, magistrates court, or in Federal court
23 during this calendar year? If so, please stand.

24 (No response.)

25 THE COURT: I find that there is noone standing.

1 Has any member of the jury panel served as a member
2 of the Calhoun County Grand Jury during the past several
3 years? If so, please stand.

4 (No response.)

5 THE COURT: I find that there is noone standing.

6 Ladies and gentlemen, we now move to jury exemptions.
7 State law provides for several exemptions to jury service.
8 An exemption does not mean that you're not qualified to
9 serve, it simply means that you have the right to say, "I
10 choose not to serve."

11 For those of you who are over the age of 65, we would
12 certainly encourage you to please stay with us as you have
13 a tremendous pool of talent. We would encourage you to --
14 to be with us and serve if you're over the age of 65;
15 however, if you're over the age of 6 -- 65 and you wish to
16 be exempt on this basis, please stand.

17 (No response.)

18 THE COURT: I find that there is noone standing.

19 Another exemption concerns prior jury service. No
20 person is required to serve as a juror more often than
21 once every three calendar years; therefore, if any member
22 of the jury panel has served on jury duty during the last
23 two calendar years, you may be exempt from service to this
24 week if you choose to be exempted.

25 Again, this exemption does not apply if your jury

1 service was a municipal court, magistrates court or in
2 Federal court. If this exemption applies to you and you
3 wish to exercise it, please stand.

4 (No response.)

5 THE COURT: I find that there is noone standing.

6 Persons who have served as grand jurors in the last
7 five calendar years may also be exempt from jury service
8 this week. If any member of the jury panel has served on
9 a grand jury during the last five calendar years, if you
10 wish to be exempt on this basis, please stand.

11 (No response.)

12 THE COURT: I find that there is noone standing.

13 The next exemption deals with those of you who have
14 small children. Please listen very carefully to this
15 exemption as it has several parts, all of which must apply
16 for you to be exempt on this basis.

17 If you have a small child or small children under the
18 age of seven years, you have legal custody of your child
19 or children, you have the principle care, custody and
20 control of your child or children, and you're unable to
21 make adequate arrangements for the care of your child or
22 children while performing jury duty this week, if you wish
23 to be exempt on this basis, please stand.

24 (A juror stands.)

25 THE COURT: Yes, ma'am. Would you come forward?

1 THE JUROR: Yes.

2 (The juror complies.)

3 THE COURT: Good Morning.

4 THE JUROR: Good Morning. How are you?

5 THE COURT: Good and your juror number, please.

6 THE JUROR: Syreeta Powell.

7 THE COURT REPORTER: Can't hear her Judge.

8 THE COURT: Ms. Powell come on this way so she can
9 actually hear you.

10 THE JUROR: Syreeta Powell.

11 THE COURT: All right. Ms. Powell, how old is your
12 child?

13 THE JUROR: She's three.

14 THE COURT: She's three?

15 THE JUROR: Yes.

16 THE COURT: And does she go to daycare?

17 THE JUROR: She does go to daycare ...

18 THE COURT: Okay.

19 THE JUROR: ... however, since Thursday, she's been
20 out of school. She has an infection -- at the doctor
21 yesterday.

22 THE COURT: Okay. Oh, my goodness.

23 THE JUROR: And I left her with a neighbor today.

24 THE COURT: Okay.

25 THE JUROR: Besides that -- because my daughter --

1 I'm -- I'm the only primary person to keep her.

2 THE COURT: Okay. Well, let me ask you this then --
3 let me get the sheet.

4 THE JUROR: Okay.

5 THE COURT: We're in a bit of a bind. We need -- we
6 need jurors this week as much as we can. So if you have
7 been selected that you -- you know, if you think your
8 neighbor can help you watch her and you'd be comfortable
9 with that, you'd be okay with that?

10 THE JUROR: I'm staying with her for the moment. I
11 know her enough, a little bit, when my kid gets out of
12 school, I walk -- I pick her son up and take him to her
13 house. But I didn't have anyone to watch my child because
14 I didn't want to get in any trouble.

15 THE COURT: No, I appreciate that.

16 THE JUROR: Yeah, but she's just not eating.

17 THE COURT: She's not eating?

18 THE JUROR: No.

19 THE COURT: Does she have a doctor she goes to?

20 THE JUROR: And she has -- yeah. Hold on, I can show
21 you.

22 THE COURT: That's okay.

23 THE JUROR: It's in my purse, but -- but -- I don't
24 have nothing, but in the car -- basically stating that
25 she's been there since Friday, but she's not eating.
26 She's lost some weight.

1 THE COURT: Okay.

2 THE JUROR: She has not eaten since Thursday.

3 THE COURT: Okay.

4 THE JUROR: But she is drinking, so she's hydrated.

5 THE COURT: Okay.

6 THE JUROR: I just need her to get better.

7 THE COURT: I understand. Is there a week that you
8 think of -- I could transfer you to that would be better?

9 THE JUROR: Sure, that's perfect.

10 THE COURT: One moment.

11 THE JUROR: That's fine.

12 (Brief pause.)

13 THE JUROR: That's fine.

14 THE COURT: All right. We'll send you a notice, All
15 right.

16 THE JUROR: Okay.

17 THE COURT: I hope she gets better.

18 (Brief pause.)

19 THE COURT: All right.

20 THE JUROR: Thank you.

21 THE COURT: Okay. Have a good day.

22 (Brief pause.)

23 THE COURT: The next exemption involves those of you
24 who may be attending school at this time or working in
25 some capacity with a school. If this exemption applies to
26 you and you wish to be exempted, I can transfer your

1 service to another term of court which will not conflict
2 with your school responsibilities.

3 Is there any member of the jury panel who is a full-
4 time student, school teacher, school crossing guard,
5 school bus driver, or who serves in any other school-
6 related function who is unable to serve on jury duty this
7 week as a result of that school involvement? If so,
8 please stand.

9 (No response.)

10 THE COURT: I find that there is no one standing.

11 Is there any member of the jury panel who is employed
12 with the Department of Corrections or the penitentiary?
13 If so, if you wish to be exempt on this basis, please
14 stand.

15 (No response.)

16 THE COURT: I find that there is no one standing.

17 Is there any juror who performs services for a
18 business, commercial or agricultural enterprise, which are
19 so essential to the operation of the enterprise that if
20 you were required to perform jury duty, the enterprise
21 would have to close or stop functioning? If so, please
22 stand.

23 (A juror stands.)

24 THE COURT: Yes, sir. Would you come forward?

25 (The juror complies.)

1 THE JUROR: Brian Walker.

2 THE COURT: Good Morning, sir.

3 THE JUROR: Good Morning.

4 THE COURT: What's your ---

5 THE JUROR: Walker.

6 THE COURT: Mr. Walker.

7 THE JUROR: Yes, ma'am.

8 THE COURT: Brian Walker?

9 THE JUROR: Correct.

10 THE COURT: All right. So what's your circumstance?

11 THE JUROR: Wagners, with medical contractor, serve
12 South Carolina. We do 24-hour shifts.

13 THE COURT: Okay.

14 THE JUROR: And we don't always have coverage if
15 somebody calls out. So could get called in if we don't
16 have any, but we may get one. I'm not sure.

17 THE COURT: All right. How about this. We'll --
18 we'll keep you on our list if there's an emergency, then
19 you can go to an alternate for some reason. We'll cross
20 that bridge when we get to it -- I just think that's it.

21 THE JUROR: Okay, that's fine.

22 THE COURT: All right. Thank you.

23 (Juror returns to the panel.)

24 THE COURT: Is there any juror who is a primary
25 caretaker of a severely disabled person who is unable to

1 care for himself or herself and cannot be left unattended?
2 If so, if you wish to be exempt on this basis, please
3 stand.

4 (No response.)

5 THE COURT: I find that there is no one standing.

6 Finally, is there any juror who's a primary caretaker
7 of a person age 65 or over? If you wish to be exempt on
8 this basis, please stand.

9 (No response.)

10 THE COURT: I find that there is no one standing.

11 Ladies and gentlemen, that concludes the statutory
12 list of qualifications and exemptions for jury service.
13 It may be that you are qualified and no exemption applies
14 to you, but jury service this week would constitute an
15 extreme hardship on you for a particular reason.

16 I cannot permanently excuse a qualified juror from
17 jury service, but under extreme and compelling
18 circumstances, I may excuse a juror from this term of
19 court and transfer that juror to a different term of
20 court, particularly those jurors who have not been
21 previously transferred. Please understand that general
22 inconvenience is not a sufficient reason to transfer your
23 service to another term of court.

24 To justify a transfer to another term of court, jury
25 service this week must again constitute an extreme

1 hardship on you for a particular reason.

2 Ladies and gentlemen, this is now the chance for
3 those of you who did not respond earlier to any questions
4 that I asked and those of you who have a compelling reason
5 to request a transfer of your jury service to another week
6 to come forward. If you believe that you are disqualified
7 or exempt from jury service or if you have any questions
8 as to whether you're disqualified or exempt from jury
9 service or if you need to be transferred to another term
10 of court, please come forward at this time.

11 (Several jurors come forward.)

12 WHEREUPON the Court and attorneys
13 speak with jurors outside the hearing of the panel as
14 follows:

15 THE COURT: Good morning, ma'am. Your juror number,
16 please, or your name?

17 THE JUROR: Stephanie Burnette.

18 THE COURT: Ms. Burnette.

19 THE JUROR: Yes.

20 THE COURT: Oh, yes, ma'am, Juror No. 14. What's
21 your situation?

22 THE JUROR: I have a six-week-old grandson --

23 THE COURT: Uh huh.

24 THE JUROR: -- and my daughter-in-law was going to,
25 like, keep out -- to pay -- postpartum. See, she needs to

1 be held -- on the sight hold and I'm supposed to be taking
2 care of the baby.

3 THE COURT: Okay. Who's got the baby now?

4 THE JUROR: My son. He's having to take off of work
5 without pay.

6 THE COURT: Okay. Let me ask you this. We got a
7 couple different circumstances. This technically doesn't
8 apply for -- as far as the child under seven
9 circumstances.

10 THE JUROR: Uh huh.

11 THE COURT: Do you -- do you think you would --
12 obviously, if you got to take off of work, you can --
13 maybe -- if difficult, we -- or if even -- do you think
14 that you could stay with us in case you're selected? We
15 should be finished by Thursday and then we can finish and
16 you can get your jury serve out of the way.

17 THE JUROR: I mean, if I have to, I have to.

18 THE COURT: Could you make those arrangements? If --
19 if you're selected?

20 THE JUROR: They're out of town. So they're waiting
21 on me to get there, but ...

22 THE COURT: So if you find out this morning if you're
23 selected, you can call them and let them know.

24 THE JUROR: Okay.

25 THE COURT: You okay with that?

1 THE JUROR: Yes.

2 THE COURT: Okay.

3 THE JUROR: There's nobody else to take the baby, but
4 ...

5 THE COURT: Well, hopefully, if your son can take off
6 work, it would be, you know, he ---

7 THE JUROR: He took off today.

8 THE COURT: Right.

9 THE JUROR: And he had to take off yesterday, but
10 they don't get paid to take off.

11 THE COURT: I understand and unfortunately jury
12 service is an inconvenience to all of us and I certainly
13 get that, but the baby's in good hands with him.

14 I think you could -- if you can call him and say if
15 you're selected or not, if you're not selected, then of
16 course you're free to go and you've fulfilled your jury
17 service.

18 THE JUROR: Okay. And I just wanted to check

19 THE COURT: But you'll know this morning, okay.
20 We're going to pick the jury this morning.

21 THE JUROR: Okay.

22 THE COURT: So you'll know this morning, all right?

23 THE JUROR: Okay.

24 THE COURT: All right. Thank you ma'am.

25 (Briefly off the record.)

1 THE COURT: Will Juror No. 24 -- would they please
2 step forward?

3 (A juror comes forward.)

4 COURT REPORTER: You said 21, Your Honor?

5 THE COURT: 24.

6 WHEREUPON the Court and attorneys
7 speak with juror outside the hearing of the panel as
8 follows:

9 THE COURT: Good morning, sir.

10 THE JUROR: Hey, Your Honor.

11 THE COURT: How are you today?

12 THE JUROR: (No response.)

13 THE COURT: Let's review -- not wrong information
14 here. I want you to verify this. (Indicates) Is this
15 you?

16 THE JUROR: It is.

17 THE COURT: Is that your date of birth and would this
18 be ---

19 THE JUROR: That's not my date of birth, but ...

20 THE COURT: That's not your date of birth? Was this
21 -- did you have this charge on your record?

22 THE JUROR: I pled guilty, yes.

23 THE COURT: You pled guilty for that. Okay. All
24 right. So that would actually disqualify you from
25 serving.

1 THE COURT: Ladies and gentlemen of the jury panel,
2 we're about to begin the trial of the case of the *State of*
3 *South Carolina v Quintin Deasean Mills* and also the -- the
4 *State of South Carolina v Derrick Tyler Mills*. I'm going
5 to read to you the indictments in this case, and that is
6 solely for the purpose to see if you know anything about
7 this case, have heard anything about this case, or have
8 any information about this case or any concerns about the
9 allegations the indictments contain.

10 The indictments are not evidence in this case.
11 They're merely the formal charging documents which bring
12 the case into the court, and they're not evidence of
13 anything. They are the allegations that are contained in
14 the indictments.

15 The first indictment is 2017-GS-09-112, *The State of*
16 *South v Quintin Deasean Mills*. It's an indictment for
17 armed robbery and it states that on or about December 13,
18 2014, in Calhoun County, the Defendant, Quintin Deasean
19 Mills did, by use of force, threats, or intimid --
20 intimidation, and while armed with a deadly weapon or
21 while alleging, either by words or action, that he was
22 armed by using a representation of a deadly weapon or any
23 object which a person present during the commission of the
24 robbery reasonably believed to be a deadly weapon, take
25 and carry away goods and/or monies from the person or

1 presence of the victim, Charles Brown, with the intent to
2 permanently deprive the victim of possession of goods or
3 monies. This offense being in violation of the South
4 Carolina Code of Laws as amended.

5 The next indictment is 2017-GS-09-0111, *The State v*
6 *Quintin Deasean Mills*, indictment for murder; and it
7 states that in Calhoun County, on or about December 13,
8 2014, with malice aforethought, the Defendant, Quintin
9 Deasean Mills, did kill one Charles Brown by means of
10 multiple gunshots. The victim did die as a proximate
11 result thereof, this offense being in violation of the
12 common law and South Carolina Code of Laws as amended.

13 The next indictment is 2017-GS-09-0109, *The State v*
14 *Derrick Tyler Mills*. This indictment is for murder and it
15 states that in Calhoun County, on or about December 13,
16 2014, with malice aforethought, the Defendant, Derrick
17 Tyler Mills, did kill one Charles Brown by means of
18 multiple gunshots. The victim did die as a proximate
19 result thereof, this offense being in violation of the
20 common law in the South Carolina Code of Laws as amended.

21 The next indictment is indictment No. 2017-GS-09-0110,
22 *The State v Derrick Tyler Mills*, indictment for armed
23 robbery. And it states that on or about December 13, 2014,
24 in Calhoun County, the Defendant, Derrick Tyler Mills, did,
25 by use of force, threats or intimidation, and while armed

1 with a deadly weapon or while alleging, either by words or
2 action, that he was armed with a deadly weapon or
3 representation of a deadly weapon or any object which a
4 person present during the commission of the robbery
5 reasonably believed to be a deadly weapon, take and carry
6 away the goods and/or monies from the person or presence of
7 the victim, Charles Brown, with the intent to deprive the
8 victim of possession of the goods or monies, this offense
9 being in violation of the South Carolina Code of Laws as
10 amended.

11 Before we begin the selection process, I'm going to
12 ask the Solicitor to please stand and introduce himself and
13 all the members of his office, please.

14 MR. LUPTON: Thank you, Your Honor. My name is Ted
15 Lupton. I'm Assistant Solicitor here at the First Circuit.
16 I cover Calhoun County. The Solicitor -- the elected
17 Solicitor is David Pasco who is here from -- from Saint
18 Matthews.

19 Here with me today we've got Investigator Greg
20 Whetstone who's with our office and our SLED agent and our
21 victim's advocate Tammy Craven. And that's the only
22 members of the staff we have. The rest of the staff
23 members aren't here.

24 THE COURT: Ladies and gentlemen of the jury panel,
25 anyone related by blood or marriage or has a close,

1 personal, or social relationship with any members of the
2 Solicitors Office or has ever been represented in any
3 capacity by their office or had a case against them? If
4 so, please stand.

5 (No response.)

6 THE COURT: I find that there is noone standing.

7 And Mr. Leiendecker, I'll allow you to please do the
8 same.

9 MR. LEIENDECKER: Thank you, Your Honor. My name is
10 Mark Leiendecker and I am the First Circuit Public Defender
11 for the entire First Circuit, including Calhoun County.

12 With me today trying the case is attorney Breen
13 Stevens, who is the attorney in charge of Calhoun County.
14 My investigator, Mr. John Tisdale is all -- also here, as
15 well as Elizabeth Comen, a law clerk in the First Circuit
16 Public Defenders Office.

17 THE COURT: Thank you, sir. Same question, ladies and
18 gentlemen: Anyone related by blood or marriage or has a
19 close personal or social relationship with any members of
20 their office or has ever been represented by them in any
21 capacity or had a case against them? If so, please stand.

22 (No response.)

23 THE COURT: I find that there is noone standing.

24 Mr. Farley, if you'd please do the same.

25 MR. FARLEY: Thank you. Ladies and gentlemen, my

1 name's Andrew B. Farley. I'm a private attorney and I
2 represent lots of defendants in Calhoun and Orangeburg
3 County. And here I am today representing Quintin Deasean
4 Mills.

5 THE COURT: Ladies and gentlemen, is anyone related by
6 blood or marriage or has a close personal or social
7 relationship with Mr. Farley or his office or has ever been
8 represented by him in any capacity or had a case against
9 him? If so, please stand.

10 (No response.)

11 THE COURT: I find that there is noone standing.

12 Ladies and gentlemen, I'm going to read to you a list
13 of potential witnesses in this case and I'll ask you the
14 same question afterwards, if you have any relationship --
15 if you're related or have any social connection to the list
16 of potential witnesses.

17 If the witnesses are in the courtroom, if you'd please
18 stand so that the jury can see you.

19 THE COURT: (As read) Jarvis Mack, Vincent Kendrell
20 Thompson, Ralph Crapse, Stanley Graham.

21 (Person stands.)

22 THE COURT: Richard Herron, Jimmy Orso.

23 THE COURT: Pat Regalis.

24 (Person stands.)

25 THE COURT: Matt Trenthan, Kendra Williams, Thomas

1 Darnell, Tiffany Hezel Edwards, Michele Eichenmiller,
2 Catherine Leisy, Amy Stephens, James Tallon, Chris Golden,
3 Graham Williams, Melinda Whorley, C. Whiznot.

4 THE COURT: Diedra Dozier.

5 (Person stands.)

6 THE COURT: Dr. Janice Ross, Rebecca Franklin, Charlie
7 Brown.

8 THE COURT: We have Quintin Mills.

9 (One defendant stands.)

10 THE COURT: Modesty Jackson.

11 (Person stands.)

12 THE COURT: John Sutton.

13 (Person stands.)

14 THE COURT: Shameika Eglan.

15 (Person stands.)

16 THE COURT: Jonathan Richardson.

17 (Person stands.)

18 THE COURT: John Tisdale, Janika Mills, Derrick Mills.

19 (One defendant stands.)

20 THE COURT: Johnny Mae Mills and Colton Mills.

21 Ladies and gentlemen, those are the list of
22 potential witnesses in this case. Anyone related by blood
23 or marriage or has a close, personal or social relationship
24 with any of the potential witnesses? If so, please stand.

25 (No response.)

1 THE COURT: I find that there is no one standing.

2 Ladies and gentlemen, I'm going to introduce you to
3 Derrick Tyler Mills and Quintin Desean Mills. These are
4 the gentlemen seated -- seated at the counsel table here on
5 the left (indicates.) Anyone related by blood or marriage
6 or have a close personal or social relationship with either
7 of these gentlemen? If so, please stand.

8 (No response.)

9 THE COURT: I find that there is no one standing.

10 Is there any member of the jury panel who is a member
11 of or a contributor to any group which has its primary
12 concern the promotion of law enforcement or victim's
13 rights? These groups would include, but are not limited
14 to, M.A.D.D., S.A.D.D., Citizens Against Violent Crime, and
15 the NRA. If so, please stand.

16 (No response.)

17 THE COURT: I find that there is no one standing.

18 Does any member of the jury panel or any close friend
19 or relative live in or frequent the Sugar Hill area of
20 Sandy Run in Calhoun County? If so, please stand.

21 (No response.)

22 THE COURT: I find that there is no one standing.

23 Ladies and gentlemen of the jury panel, has any member
24 of the jury panel read anything about this case, heard
25 anything about this case, or know anything about this case

1 whatsoever, whether it's before today, whether anything in
2 the newspapers or any media or talking to anybody, whether
3 before today or even during your time here in the
4 courthouse this morning? If so, please stand.

5 (No response.)

6 THE COURT: I find that there is noone standing.

7 Ladies and gentlemen of the jury panel, you've heard
8 what the allegations are in this case. There's a charge
9 for armed robbery and a charge for murder for each of the
10 defendants. I've read the indictments to you. Based upon
11 your personal experience, that of your family, your
12 friends, based on your experience, whether it's at work or
13 anything whatsoever; whether it's you, your relatives,
14 friends, anything whatsoever, based on the type of case
15 that this is that would cause you in any way to hesitate in
16 your ability to be fully fair and impartial to both the
17 State and to the Defense. If so, please stand.

18 (A juror stands.)

19 THE COURT: Yes, ma'am. Would you please come
20 forward?

21 (The juror complies.)

22 WHEREUPON the Court and attorneys
23 speak with juror outside the hearing of the panel as
24 follows:

25 THE COURT: Good morning, ma'am.

1 THE JUROR: Good Morning.

2 THE COURT: Would you tell me your juror number,
3 please?

4 THE JUROR: Sergeant --

5 THE COURT: Or your name?

6 THE JUROR: Sergeant McGee.

7 THE COURT: Ms. McGee?

8 THE JUROR: Number 86.

9 THE COURT: Yes. 80 --

10 THE JUROR: 89.

11 THE COURT: 89. Yes, ma'am. Can you tell me what
12 your concern is?

13 THE JUROR: My husband spent 11 years in prison.

14 THE COURT: Okay. Anything you tell me -- is -- is he
15 out now or is ---

16 THE JUROR: Yeah. He's out now.

17 THE COURT: --- has it been awhile? And can you tell
18 me what for?

19 THE JUROR: Felony DUI.

20 THE COURT: Okay. As long as it's a different type of
21 circumstance.

22 THE JUROR: Whenever he went to court --

23 THE COURT: Yes, ma'am.

24 THE JUROR: -- they had somebody else's name in his
25 paperwork and the judge wouldn't even look at it.

1 THE COURT: Okay.

2 THE JUROR: So I mean, I -- I couldn't --

3 THE COURT: Well, you obviously -- you have some
4 concerns obviously involved with the system. I get that.

5 THE JUROR: Uh-huh.

6 THE COURT: And obviously that -- it's been a little
7 while. As far as --

8 THE JUROR: Yeah. But he did 13 -- I mean, 11-and-a-
9 half years, and it shoulda been throwed [sic] out.

10 THE COURT: Okay. So based upon your experience with
11 your husband, you don't think you could be fair and
12 impartial in this case and listen to evidence?

13 THE JUROR: I don't think I could send nobody [sic] to
14 prison. No.

15 THE COURT: But you understand that wouldn't be your
16 job?

17 (The Court and juror speak simultaneously.)

18 THE JUROR: Yeah, I know. But I just ---

19 THE COURT: And you would ---

20 THE JUROR: --- I don't feel that ---

21 THE COURT: --- listen to facts ---

22 THE JUROR: Uh-huh.

23 THE COURT: --- from the witness stand and make a
24 determination as to whether -- you're -- you'd be the judge
25 of facts.

1 THE JUROR: Uh-huh.

2 THE COURT: And you'd listen to the testimony and
3 listen to the testimony and make your determination as to
4 what you think the facts are. Do you think you could do
5 that?

6 THE JUROR: (No audible response.)

7 THE COURT: All right, ma'am. So I'm just going to
8 ask you -- I'm going to pull you from the actual panel, but
9 I'm going to ask you to sit until I excuse the entire jury,
10 all right?

11 THE JUROR: Okay.

12 (The juror returns to the panel.)

13 WHEREUPON the Court and attorneys
14 speak with a second juror outside the hearing of the panel
15 as follows:

16 THE COURT: Yes, ma'am? Good morning.

17 THE JUROR: Good Morning.

18 THE COURT: How are you today?

19 THE JUROR: I'm fine.

20 THE COURT: And your juror number, please?

21 THE JUROR: I think it's 54.

22 THE COURT: 54. You're Ms. Gilyard?

23 THE JUROR: Yes.

24 THE COURT: Yes, ma'am. Can you tell me what your
25 situation is?

1 THE JUROR: I --

2 THE COURT: You gotta speak up just a little bit.
3 She's gotta hear what you're saying.

4 THE JUROR: Yes, ma'am. It's not really a situation.
5 It's the fact that I do not feel comfortable this week. I
6 actually am scared. Reason why, I went to school with one
7 of the family members sitting back there and it's connected
8 to the trial and I don't feel comfortable.

9 THE COURT: Okay. Well, let me ask you -- let me ask
10 you a couple of different questions --

11 THE JUROR: Okay.

12 THE COURT: -- as far as that's concerned because
13 obviously you're -- you're qualified to serve; but when you
14 say you went to school with -- with one of the family
15 members, can you tell me who?

16 THE JUROR: Derrick Mill in the back, the defendant in
17 the trial. I went to school with both of them and I don't
18 feel comfortable doing this.

19 THE COURT: Okay. You went to high school with them?

20 THE JUROR: Yes.

21 THE COURT: Okay. And when you went to --

22 THE JUROR: With the defendant on trial. Yeah.

23 UNKNOWN MALE: Derrick, Sr.

24 THE COURT: And then one of the potential witnesses;
25 is that correct?

1 THE JUROR: Yes.

2 THE COURT: All right. And how long ago was that?

3 THE JUROR: We were all together at Weaver ---

4 THE COURT REPORTER: Can't hear.

5 THE COURT: You want to come around this way?

6 THE JUROR: --- and he graduated in '08.

7 THE COURT: You're kinda soft spoken, so --

8 THE JUROR: I'm sorry.

9 THE COURT: That's okay.

10 THE JUROR: In 2012, I graduated by the same class,
11 that I can think or a year behind me.

12 THE COURT: Okay. Now, obviously in a small
13 community people, know each other and you know, I
14 understand that. Did you visit each other's home or were
15 you friends where you call each other ---

16 THE JUROR: No.

17 THE COURT: --- anything of that nature?

18 THE JUROR: No. But like associates, and you know,
19 like whatever, like I see him in the hall kinda 'cause he
20 was living in one place and I was living in ---

21 THE COURT: Okay.

22 THE JUROR: --- another place. So ...

23 THE COURT: Well -- and that's -- that's normal in a
24 small community for you to -- for you to know someone.

25 Have you heard anything about this particular case?

1 THE JUROR: No ma'am.

2 THE COURT: Okay. So you know nothing about this
3 particular case?

4 THE JUROR: No, ma'am.

5 THE COURT: The fact that you knew him in high
6 school, can you set that aside in this case and be fair
7 and impartial and just listen to the testimony and make
8 your determination of the facts based upon what you hear
9 from the witness stand? Can you do that?

10 THE JUROR: (No audible response.)

11 THE COURT: Now, let me ask -- ask you this way
12 'cause I know it's -- it's hard. These circumstances are
13 difficult --

14 THE JUROR: Uh-huh.

15 THE COURT: -- and I get that. And it's difficult
16 for everyone, and it -- it sounds like you're
17 acquaintances with him, but you don't know him personally.

18 THE JUROR: Uh-huh. That's one of the things. We
19 were social at the ---

20 THE COURT: Okay.

21 THE JUROR: I wasn't close with the one on the trial,
22 but I was with one of the witness.

23 THE COURT: Can you tell me which witness again?

24 THE JUROR: Derrick.

25 THE COURT: And he's related to one of the

1 Defendants?

2 THE JUROR: Yeah.

3 THE COURT: Okay. And as far as close, can you
4 describe how close y'all were?

5 THE JUROR: Like, we would get together. I would --
6 he would, you know, have it -- you know, have a
7 conversation or whatever -- was like -- not like best
8 friends type like relationship, but we had a, you know ---

9 THE COURT: Mutual friends --

10 THE JUROR: Yeah.

11 THE COURT: --- in common. You'd say "Hello" when
12 you saw each other?

13 THE JUROR: Yeah.

14 THE COURT: Okay. And I don't know what his -- his
15 role is. But again, could you set that aside in this case
16 and listen to the testimony, just -- just based on your
17 determination of the facts, be fair and impartial to both
18 sides and listen; can you do that?

19 THE JUROR: (No audible response.)

20 THE COURT: Okay. Is that a "yes"?

21 THE JUROR: Yes, ma'am.

22 THE COURT: Okay. Just want to make sure that --
23 obviously -- again, it's a small community. You may know
24 people that we're asking to be fair and impartial to both
25 sides, listen to the testimony as it comes from the

1 witness stand. Can you do that and apply the facts to the
2 law as I give them to you and you make a determination as
3 to what you think the facts are? Can you be fully fair
4 and impartial to both sides and listen to the testimony?

5 (No audible response.)

6 THE COURT: Is that a "yes"?

7 THE JUROR: Yes.

8 THE COURT: Okay. All right. And will you follow
9 the law as I give it to you?

10 THE JUROR: Yes.

11 THE COURT: All right, ma'am. Thank you.

12 THE JUROR: Okay.

13 (The juror returns to the panel.)

14 WHEREUPON the Court and attorneys
15 speak with another juror outside the hearing of the panel
16 as follows:

17 THE COURT: Yes, ma'am? Good morning.

18 THE JUROR: Good morning.

19 THE COURT: Your juror number, please, or your name?

20 THE JUROR: Avalda Morris.

21 THE COURT: Ms. Morris?

22 THE JUROR: Yes.

23 THE COURT: Yes, ma'am. Who do you know?

24 THE JUROR: I don't know anybody here.

25 THE COURT: Okay.

1 THE JUROR: I have a person who was murdered. He
2 never was found and ever since then, I -- I have --

3 THE COURT: It's a difficult situation.

4 THE JUROR: Yes. And right now, I'm thinking -- I'm
5 nervous. I'm nervous at this trial --

6 THE COURT: Okay.

7 THE JUROR: And I never forget. They've never been
8 found. So I don't think I could do this. I'm still
9 angry.

10 THE COURT: Well, I -- I understand. Let me ask you
11 a couple -- verify how -- okay. Let me ask you a couple
12 of questions, okay? How long ago did this happen?

13 THE JUROR: Ten years.

14 THE COURT: Ten years ago?

15 THE JUROR: Uh-huh.

16 THE COURT: And obviously a difficult circumstance
17 for your family.

18 THE JUROR: Yes.

19 THE COURT And the fact that noone was ever
20 apprehended or brought to justice. So there's a lot of
21 unanswered questions in your circumstance.

22 THE JUROR: Yes.

23 THE COURT: And you understand that every case is
24 different?

25 THE JUROR: I just couldn't.

1 THE COURT: Well, I -- you don't know that yet. Just
2 -- so as a juror you would be called to listen to the
3 testimony --

4 THE JUROR: Uh-huh.

5 THE COURT: -- and listen to the facts as they come
6 from the witness stand.

7 THE JUROR: Okay.

8 THE COURT: Be fair and impartial to both sides, to
9 the State and to the Defense.

10 They're entitled to -- to presumption of innocence,
11 and it's up to the State to present evidence to satisfy a
12 juror of -- of guilt beyond a reasonable doubt.

13 So you just make a determination of the facts in this
14 particular case based on the evidence as it comes from the
15 witness stand. Do you think you can set what happened to
16 your family aside?

17 THE JUROR: No.

18 THE COURT: Okay. All right. I'll go ahead and
19 excuse you then, Ms. Morris.

20 Just for the record, she does seem like she's
21 obviously distraught.

22 And it would be a difficult situation for you, so
23 you're free to go.

24 THE JUROR: Okay.

25 (The juror exits the courtroom.)

1 WHEREUPON the Court and attorneys
2 speak with another juror outside the hearing of the panel
3 as follows:

4 THE COURT: Good morning, ma'am. How are you today?

5 THE JUROR: I'm okay.

6 THE COURT: And your juror number, please, or your
7 name?

8 THE JUROR: 68.

9 THE COURT: 68? Ms. Huggins?

10 THE JUROR: Yeah. Yes.

11 THE COURT: Yes, ma'am?

12 THE JUROR: I just want to make sure that I need to
13 let you know this. Where -- none of my -- but I was in
14 the area when this happened.

15 THE COURT: Okay.

16 THE JUROR: I have taught -- I taught -- I was in the
17 school where he was going and shouldn't have -- and it may
18 be difficult not --

19 THE COURT: Okay.

20 THE JUROR: Not adults.

21 THE COURT: I understand.

22 THE JUROR: So I mean, you know, I just --

23 THE COURT: So you basically had some information
24 about that case? You knew -- you -- you'd heard that
25 something had happened, and that --

1 THE JUROR: Right.

2 THE COURT: Okay.

3 THE JUROR: Right -- to it. Just that I -- you know,
4 like I said, it's connected to them --

5 THE COURT: Sure.

6 THE JUROR: -- weird situation.

7 THE COURT: And that happens in a small community all
8 the time.

9 THE JUROR: Exactly. I just --

10 THE COURT: No. I appreciate you letting me know.

11 I guess my next question is: Do you think you can
12 set that aside and listen to the evidence solely as it
13 comes from the witness stand and make a determination of
14 the facts solely from what you hear in this courtroom?

15 THE JUROR: I think so, yes.

16 THE COURT: Well, can you?

17 THE JUROR: Yes.

18 THE COURT: Okay. Will you be fully fair and
19 impartial to both sides?

20 THE JUROR: Yes.

21 THE COURT: And will you follow the law as I give it
22 to you?

23 THE JUROR: Yes.

24 THE COURT: All right. Thank you, ma'am.

25 THE JUROR: (Indicates the court reporter) I know

1 her. I -- I don't know that it matters if our sons went
2 to school together.

3 THE COURT: Can you set your personal -- your
4 relationship aside with our court reporter? She's
5 obviously not a witness, but takes down the testimony.
6 Can you set that aside?

7 THE JUROR: Yes.

8 THE COURT: Okay. Thank you, ma'am.

9 (The juror returns to the panel.)

10 THE COURT: Has any member of the jury panel formed
11 or expressed in any -- any opinion about any potential
12 issue or matter in this case? If so, please stand.

13 (No response.)

14 THE COURT: I find that there is noone standing.

15 Is there any member of the jury panel that was a
16 member of the grand jury which issued the indictments in
17 this case? If so, please stand.

18 (No response.)

19 THE COURT: I find that there is noone standing.

20 Is there any member of the jury panel aware of any
21 bias or prejudice towards either the State or to the
22 Defense in this case? If so, please stand.

23 (No response.)

24 THE COURT: I find that there is noone standing.

25 Does any member of the jury panel know of any reason

1 whatsoever why he or she should not serve as a juror in
2 this case, with a particular emphasis being placed on your
3 ability to be fully fair and impartial to both the State
4 and to the Defense? If so, please stand.

5 (No response.)

6 THE COURT: I find that there is noone standing.

7 Ladies and gentlemen, that would conclude the list of
8 questions before we begin the jury selection in this case.

9 Mr. Clerk, do you need a few minutes?

10 THE CLERK OF COURT: Yes, ma'am.

11 THE COURT: Okay. Bear with us just one minutes,
12 ladies and gentlemen of the jury.

13 (Briefly off the record.)

14 THE COURT: Counsel, ready to proceed?

15 MR. LUPTON: The State's ready, Your Honor.

16 MR. FARLEY: Yes, Your Honor.

17 MR. LEIENDECKER: Yes.

18 THE COURT: All right. Mr. Clerk?

19 THE CLERK: State strikes ---

20 THE COURT: Ladies and gentlemen, before -- when --
21 if your name is called, if you'd please come forward and
22 then face the back and bring your personal belongings with
23 you in case you're selected on the jury. Then we'll go
24 ahead and seat you in the jury box.

25 So when the clerk calls your name, again, if you'd

1 please come forward and face the back of the courtroom to
2 see whether or not you're seated on the jury or excused
3 from the jury.

4 And again, please don't take any offense whether
5 you're seated or not. There's many methods to the -- to
6 the madness.

7 So you may proceed, Madam Clerk.

8 THE CLERK: State strikes ---

9 MR. STEVENS: Gotta call -- you gotta call their
10 names.

11 THE CLERK: Oh.

12 MR. STEVENS: Then bring them forward.

13 THE CLERK: Shane McCarson.

14 (A white male steps forward.)

15 MR. STEVENS: Turn around.

16 THE COURT: Face the back.

17 (The juror complies.)

18 THE COURT: Thank you.

19 MR. STEVENS: Please present the juror.

20 THE CLERK: What says the Defense?

21 THE COURT: Mr. Leiendecker, we'll make you Defendant
22 One, and Mr. Farley, we will do Defense Two.

23 MR. LEIENDECKER: Okay. I would say seat the juror.

24 THE COURT: All right.

25 THE CLERK: Defense Two?

1 MR. FARLEY: Please seat the juror.

2 THE COURT: Please have a seat, Mr. McCarson.

3 (The juror complies.)

4 THE CLERK: Connie Bonnette.

5 (A white female steps forward.)

6 MR. LUPTON: Please present the juror.

7 THE CLERK: Defense?

8 MR. LEIENDECKER: Please excuse the juror. Thank
9 you.

10 (The juror returns to the panel.)

11 THE CLERK: Michael Vandalen.

12 (A white male steps forward.)

13 MR. LUPTON: What says the State?

14 THE COURT: Hold on one second.

15 (Brief pause.)

16 MR. LUPTON: Please present the juror.

17 THE CLERK: What says Defense One?

18 MR. LEIENDECKER: Seat the juror.

19 (To the juror) But I'm sorry, I'm only one of three.
20 So you gotta wait for one more. Come on -- come on back.

21 THE COURT: Hold on, sir.

22 MR. LEIENDECKER: Come back, I'm one person. I'm
23 sorry.

24 THE CLERK: What says Defense Two?

25 MR. FARLEY: Please present the juror.

1 Now, you may be seated, sir.

2 (The juror complies.)

3 THE CLERK: Austin Hill.

4 (A white male steps forward.)

5 THE CLERK: What says the State?

6 MR. LUPTON: Please present the juror.

7 THE CLERK: What says Defense One?

8 MR. LEIENDECKER: Please excuse the juror.

9 THE BAILIFF: You can have a seat back outside, sir.

10 (The juror returns to the panel.)

11 THE CLERK: Norman Andrews.

12 (A white male steps forward.)

13 THE CLERK: What says the State?

14 MR. LUPTON: Please present the juror.

15 THE CLERK: What says Defense One?

16 MR. LEIENDECKER: Present the juror.

17 THE CLERK: What says Defense Two?

18 MR. FARLEY: Please excuse this juror.

19 (The juror returns to the panel.)

20 THE CLERK: Stephanie Burnette.

21 (A white female steps forward.)

22 THE CLERK: What says the State?

23 MR. LUPTON: Please present the juror.

24 THE CLERK: What says Defense One?

25 MR. LEIENDECKER: Please excuse the juror.

1 (The juror returns to the panel.)

2 THE CLERK: Lakenya Gleaton.

3 (A black female steps forward.)

4 THE CLERK: What says the State?

5 MR. LUPTON: Please present the juror.

6 THE CLERK: What says the Defense One?

7 MR. LEIENDECKER: Present the juror, please.

8 THE CLERK: What says Defense Two?

9 MR. FARLEY: Please present the juror.

10 THE BAILIFF: Have a seat in the jury box, ma'am.

11 (The juror complies.)

12 THE CLERK: Ervin Stanley Wright.

13 (A black male steps forward.)

14 THE CLERK: What says the State?

15 MR. LUPTON: Please excuse the juror.

16 THE BAILIFF: You can have a seat. Go back and have
17 a seat, Stanley.

18 (The juror complies.)

19 THE CLERK: Ta'rique Frederick.

20 (A black male steps forward.)

21 THE CLERK: What says the State?

22 MR. LUPTON: Please present the juror.

23 THE CLERK: What says Defense One?

24 MR. LEIENDECKER: Please present the juror.

25 THE CLERK: What says Defense Two?

1 MR. FARLEY: Please present the juror.

2 THE BAILIFF: Have a seat in the jury box, sir.

3 (The juror complies.)

4 THE CLERK: Tydamekia Guinyard.

5 (A black female steps forward.)

6 THE CLERK: What says the State?

7 MR. LUPTON: Please present the juror.

8 THE CLERK: What says Defense One?

9 MR. LEIENDECKER: Please excuse the juror, thank you.

10 (The juror returns to the panel.)

11 THE CLERK: Justin Crider.

12 (A white male steps forward.)

13 THE CLERK: What says the State?

14 MR. LUPTON: Please present the Juror.

15 THE CLERK: What says Defense One?

16 MR. LEIENDECKER: Present the juror, please.

17 THE CLERK: What says Defense Two?

18 MR. FARLEY: Please excuse this juror.

19 (The juror returns to the panel.)

20 THE CLERK: Marquette Seawright.

21 (A black female steps forward.)

22 THE CLERK: What says the State?

23 MR. LUPTON: Please present the juror.

24 THE CLERK: What says Defense One?

25 MR. LEIENDECKER: Present the juror.

1 THE CLERK: What says Defense Two?

2 MR. FARLEY: Please present the juror.

3 THE BAILIFF: Have a seat in the jury box, ma'am.

4 (The juror complies.)

5 THE CLERK: Sherry Rucker.

6 (A white female steps forward.)

7 THE CLERK: What says the State?

8 MR. LUPTON: Please present the juror.

9 THE CLERK: What says Defense One?

10 MR. LEIENDECKER: Present the juror.

11 THE CLERK: What says Defense Two?

12 MR. FARLEY: Present the juror.

13 THE BAILIFF: Have a seat in the jury box, ma'am.

14 (The juror complies.)

15 THE CLERK: Vincent Joyner.

16 (A black male steps forward.)

17 THE CLERK: What says the State?

18 MR. LUPTON: Please present the juror.

19 THE CLERK: What says Defense One?

20 MR. LEIENDECKER: Present the juror.

21 THE CLERK: What says Defense Two?

22 MR. FARLEY: Please excuse this juror.

23 (The juror returns to the panel.)

24 THE CLERK: Chairman Colter -- Charmain, excuse me.

25 (A black female steps forward.)

1 THE CLERK: What says the State?

2 MR. LUPTON: Please present the juror.

3 THE CLERK: What says Defense One?

4 MR. LEIENDECKER: Present the juror, please.

5 THE CLERK: What says Defense Two?

6 MR. FARLEY: Please present the juror.

7 THE BAILIFF: Have a seat in the jury box, ma'am.

8 (The juror complies.)

9 THE CLERK: Nathan Buckman.

10 (A black male steps forward.)

11 THE CLERK: What says the State?

12 MR. LUPTON: Please present the juror.

13 THE CLERK: What says Defense One?

14 MR. LEIENDECKER: Excuse the juror, please.

15 (The juror returns to the panel.)

16 THE CLERK: Sonja McGee.

17 (A black female steps forward.)

18 MR. LUPTON: Please excuse the juror. That's her --

19 I'm sorry, what name did you call?

20 THE CLERKS: Sonja McGee.

21 MR. LUPTON: Thank you.

22 THE COURT: Ms. McGee, you -- you can just have a
23 seat.

24 (The juror complies.)

25 THE CLERK: Amyaha Bennett.

1 (A black male steps forward.)

2 THE CLERK: What says the State?

3 MR. LUPTON: Please excuse the juror.

4 THE BAILIFF: Have a seat back in the audience, sir.

5 (The juror returns to the panel.)

6 THE CLERK: Ronald Bailey.

7 (A white male steps forward.)

8 THE CLERK: What says the State?

9 MR. LUPTON: Please present the juror.

10 THE CLERK: What says Defense One?

11 MR. LEIENDECKER: Please excuse the juror.

12 (The juror returns to the panel.)

13 THE CLERK: Colton Poole.

14 (A white male steps forward.)

15 THE CLERK: What says the State?

16 MR. LUPTON: Please present the juror.

17 THE CLERK: What says Defense One?

18 MR. LEIENDECKER: Please excuse the juror.

19 (The juror returns to the panel.)

20 THE CLERK: Marion Curry.

21 (A black male steps forward.)

22 THE CLERK: What says the State?

23 MR. LUPTON: Please present the juror.

24 THE CLERK: What says Defense One?

25 MR. LEIENDECKER: Present the juror.

1 THE CLERK: What says Defense Two?

2 MR. FARLEY: Please excuse this juror.

3 (The juror returns to the panel.)

4 THE CLERK: Jonathan Sikes -- Johnathan Sikes.

5 (A white male steps forward.)

6 THE CLERK: What says the State?

7 MR. LUPTON: Please present the juror.

8 THE CLERK: What says Defense One?

9 MS. EARLE: Present the juror.

10 THE CLERK: What says Defense Two?

11 MR. FARLEY: Please excuse this juror.

12 THE CLERK: You may be seated.

13 (The juror returns to the panel.)

14 THE CLERK: Brian Walker.

15 (A white male steps forward.)

16 THE CLERK: What says the State?

17 MR. LUPTON: Please present the juror.

18 THE CLERK: What says Defense One?

19 MR. LEIENDECKER: Please excuse the juror.

20 (The juror returns to the panel.)

21 THE CLERK: Tammy Huggins, Tammy Huggins.

22 (A white female steps forward.)

23 THE CLERK: What says the State?

24 MR. LUPTON: Please present the juror.

25 THE CLERK: What says Defense One?

1 MR. LEIENDECKER: Present the juror.

2 THE CLERK: What says Defense Two?

3 MR. FARLEY: Please excuse this juror.

4 (The juror returns to the panel.)

5 THE CLERK: Marqui Davis.

6 (A black male steps forward.)

7 THE CLERK: What says the State?

8 MR. LUPTON: Please present the juror.

9 THE CLERK: What says Defense One?

10 MR. LEIENDECKER: Present the juror.

11 THE CLERK: What says Defense Two?

12 MR. FARLEY: Please excuse this juror.

13 (The juror returns to the panel.)

14 THE CLERK: Christine Collins.

15 (A white female steps forward.)

16 THE CLERK: What says the State?

17 MR. LUPTON: Please present the juror.

18 THE CLERK: What says Defense One?

19 MR. LEIENDECKER: Present the juror.

20 THE CLERK: What says Defense Two?

21 MR. FARLEY: Please excuse the juror.

22 (The juror returns to the panel.)

23 THE CLERK: Joshua Colter -- Joshua Colter.

24 (A black male steps forward.)

25 THE CLERK: What says the State?

1 MR. LUPTON: Please present the juror.

2 THE CLERK: What says Defense One?

3 MR. LEIENDECKER: Present the juror.

4 THE CLERK: What says Defense Two?

5 MR. FARLEY: Please present the juror.

6 THE BAILIFF: Have a seat in the jury box, sir.

7 (The juror complies.)

8 THE CLERK: Charlene Slaughter.

9 (A black female steps forward.)

10 THE CLERK: What says the State?

11 MR. LUPTON: Please present the juror.

12 THE CLERK: What says Defense One?

13 MR. LEIENDECKER: Excuse the juror, please.

14 (The juror returns to the panel.)

15 THE CLERK: Ashley Jeffcoat.

16 (A black female steps forward.)

17 THE CLERK: What says the State?

18 MR. LUPTON: Please present the juror.

19 THE CLERK: What says Defense One?

20 MR. LEIENDECKER: Present the juror.

21 THE CLERK: What says Defense Two?

22 MR. FARLEY: Please present the juror.

23 THE BAILIFF: You can sit in the jury box, ma'am.

24 (The juror complies.)

25 THE CLERK: Allen Shuler.

1 (A white male steps forward.)

2 THE CLERK: What says the State?

3 MR. LUPTON: Please present the juror.

4 THE CLERK: What says Defense One?

5 MR. LEIENDECKER: Excuse the juror, please.

6 (The juror returns to the panel.)

7 THE CLERK: Anthony Snider.

8 (A black male steps forward.)

9 THE CLERK: What says the State?

10 MR. LUPTON: Please excuse the juror.

11 (The juror returns to the panel.)

12 THE CLERK: William Etheridge.

13 (A white male steps forward.)

14 THE CLERK: What says the State?

15 MR. LUPTON: Please present the juror.

16 THE CLERK: What says Defense One?

17 MR. LEIENDECKER: Present the juror.

18 THE CLERK: What says Defense Two?

19 MR. FARLEY: Please excuse the juror.

20 (The juror returns to the panel.)

21 THE CLERK: Mark Oglesby

22 (A white male steps forward.)

23 THE CLERK: What says the State?

24 MR. LUPTON: Please present the juror.

25 THE CLERK: What says Defense One?

1 MR. LEIENDECKER: Present the juror.

2 THE CLERK: What says Defense Two?

3 MR. FARLEY: Please present the juror.

4 THE BAILIFF: You can go to the jury box, sir.

5 (The juror complies.)

6 THE CLERK: Melissa Kaiser.

7 (A white female steps forward.)

8 THE CLERK: What says the State?

9 MR. LUPTON: Please present the juror.

10 THE CLERK: What says Defense One?

11 MR. LEIENDECKER: Please present the juror.

12 THE CLERK: What says Defense Two?

13 MR. FARLEY: Please excuse the juror.

14 (The juror returns to the panel.)

15 THE CLERK: Lashelle Simpson.

16 (A black female steps forward.)

17 THE CLERK: What says the State?

18 MR. LUPTON: Please present the juror.

19 THE CLERK: What says Defense One?

20 MR. LEIENDECKER: Please present the juror.

21 THE CLERK: What says Defense Two?

22 MR. FARLEY: Please present the juror.

23 THE BAILIFF: Have a seat in the jury box, ma'am.

24 (The juror complies.)

25 THE CLERK: Tracey Woodrow.

1 (A white female steps forward.)

2 THE CLERK: What says the State?

3 MR. LUPTON: Please present the juror.

4 THE CLERK: What says Defense One?

5 MR. LEIENDECKER: Please present the juror.

6 THE CLERK: What says Defense Two?

7 MR. FARLEY: Please present the juror.

8 THE BAILIFF: Have a seat in the jury box, ma'am.

9 (The juror complies.)

10 THE CLERK: Mark Mizzelle.

11 (A white male steps forward.)

12 MR. LEIENDECKER: Is that 12, Your Honor?

13 THE COURT: Alternate.

14 THE CLERK: Oh. That's 12. You good alternate?

15 THE COURT: Yes, ma'am.

16 MR. LEIENDECKER: What are the strikes?

17 THE COURT: One and two.

18 MR. LEIENDECKER: Total?

19 THE COURT: Each.

20 MR. LEIENDECKER: May we approach?

21 THE COURT: Yes, sir.

22 (Bench conference.)

23 MR. LUPTON: Please present.

24 THE CLERK: What says Defense One?

25 MR. LEIENDECKER: Madam Clerk, what was this

1 gentleman's name?

2 THE CLERK: Mark Mizzelle.

3 MR. LEIENDECKER: Present.

4 THE CLERK: What says Defense Two?

5 MR. FARLEY: Please present the juror.

6 THE BAILIFF: Have a seat in the jury box.

7 (The juror complies.)

8 THE CLERK: Sarah Ellisor.

9 (A white female steps forward.)

10 THE CLERK: What says the State?

11 MR. LUPTON: Please present.

12 THE CLERK: What says Defense One?

13 MR. LEIENDECKER: Please excuse the juror.

14 (The juror returns to the panel.)

15 THE CLERK: Rebecca Chilcutt.

16 (A white female steps forward.)

17 THE CLERK: What says the State?

18 MR. LUPTON: Please present the juror.

19 THE CLERK: What says Defense One?

20 MR. LEIENDECKER: Please excuse the juror.

21 (The juror returns to the panel.)

22 THE COURT: Counsel, approach.

23 (Bench conference.)

24 THE COURT: Any exceptions or objections for the
25 selection of this jury from either the State or the

1 Defense?

2 MR. LUPTON: None from the State, Your Honor.

3 MR. LEIENDECKER: None, Your Honor.

4 MR. FARLEY: No, Your Honor

5 THE COURT: Thank you, gentlemen.

6 Ladies and gentlemen of the jury panel that was not
7 selected for the trial of this case, you have fulfilled
8 your jury duty and you are free to go. If you need an
9 excuse for work or anything, the Clerk's office will be
10 happy to help you that. You may exit the courtroom.

11 (The remaining panel exits the courtroom.)

12 THE COURT: Good afternoon, ladies and gentlemen of
13 the jury that has been selected for the trial of this case.
14 I certainly appreciate your patience with us this morning.
15 I know it's about 12:40, so you're probably starving and
16 it's a good time for us to take a brief -- or lunch break.

17 I'm going to advise you that while you're on your
18 break and during this entire trial process, please do not
19 talk to anyone about this case, including amongst
20 yourselves.

21 (Addresses courtroom persons) Excuse me. Everybody
22 needs to be quiet in the courtroom until everybody's
23 excused. Have a seat.

24 Ladies and gentlemen of the jury panel, please, it's
25 very important that you not discuss this case with anyone.

1 That includes amongst yourselves or with anyone else.

2 If you see anybody coming in and out of the
3 courthouse, if they don't speak to you, they're not being
4 rude. They're following the Court's instructions as you're
5 not to make any determination from anything you hear
6 outside of this courtroom, but solely from what you hear
7 from the witness stand and what you hear in this courtroom
8 and -- after these instructions on the law.

9 I'm going to ask you to return to your jury room at
10 two o'clock. That should give you sufficient time to go
11 grab some lunch, figure out where your jury room is, and
12 our kind bailiff here will show you where you are to go.
13 If you need recommendations as to where to go, I'm sure
14 they'll help you out in that regard as well. Have a nice
15 lunch. We'll see you at 2 o'clock.

16 (Jury exits at 12:38 p.m.)

17 THE COURT: And for those of you in the gallery,
18 we're certainly happy that all of you are present with us
19 today and certainly appreciate you being here; however,
20 it's very important not to disrupt the proceeding. So if
21 the Court is talking or engaging with the jury or if any of
22 the attorneys are doing anything, it's very important that
23 you maintain your seat and not move about the courtroom
24 until I have excused everyone from the courtroom.

25 All right. Counsel, at this juncture are you ready

1 to proceed with the pre-trial motions or do you want to
2 wait 'til right before lunch -- after the lunch break?

3 MR. LUPTON: I think I am, Your Honor. I don't think
4 it will take too terribly long.

5 THE COURT: Okay.

6 MR. FARLEY: Did you say pre-trial motions, Your
7 Honor?

8 THE COURT: Yes, sir.

9 MR. FARLEY: Okay. I just want to --

10 MR. LUPTON: I think you may want to --

11 MR. FARLEY: You want me to start with the severs
12 first, Your Honor?

13 THE COURT: Sure.

14 MR. FARLEY: And Your Honor, we had filed a motion
15 to sever on behalf of Quintin Mills in this matter.

16 MR. LEIENDECKER: I'm sorry, Your Honor.

17 MR. FARLEY: Oh, I'm sorry.

18 MR. LEIENDECKER: Be -- before we get started I need
19 to make something -- the Court aware of something on the
20 record. We've already let Scan Graham -- Captain Graham
21 know my client was being held or detained to pre-trial in
22 the jury room. He left all of his paperwork in the jury
23 room when he came out for selection.

24 THE COURT: Did they -- did they grab it? Okay.

25 MR. VANICEK: Yeah. I had already moved it. Your

1 Honor, I had already moved it from the jury room to another
2 room.

3 MR. LEIENDECKER: All right.

4 THE COURT: All right. So there was no interaction
5 with --

6 MR. VANICEK: No, ma'am.

7 THE COURT: -- paperwork in the --

8 MR. VANICEK: They'd left it in that room, so I --

9 THE COURT: All right, sir. Thank you.

10 MR. VANICEK: -- when you brought them out here, I
11 went in and moved it.

12 THE COURT: And just for the record, so the record's
13 clear, can you please state your full name for the record?

14 MR. VANICEK: Yes, ma'am. Larry Vanicek.

15 THE COURT: All right, sir. And so you removed those
16 items from the jury room before the jury was in that room;
17 is that correct?

18 MR. VANICEK: Yes, ma'am.

19 THE COURT: All right, sir. Anything further on that
20 Mr. Leiendecker?

21 MR. LEIENDECKER: No, I don't think so. Thanks.

22 THE COURT: All right. Mr. Farley?

23 MR. FARLEY: Thank you, Your Honor. Again, Your
24 Honor, we had filed a motion to sever the trials of Derrick
25 and Quintin Mills on behalf of Mr. Quintin Mills, and we

1 certainly feel that this motion is justified and that we
2 think it would be very prejudicial to Mr. Quintin's --
3 Quintin Mills' case if he had not been able to hear his
4 case alone and a jury that could decide his own case.

5 We feel like the presence of Mr. Derrick Mills in
6 this case could potential color any jury towards an
7 unfairly prejudiced jury toward Mr. Quintin Mills.
8 Certainly we also think 'cause of the reasons of the jury
9 pool, it would be easier if we could try the Defendants
10 separately and let -- just let them select the jury in this
11 matter.

12 Again, those are the reasons why we filed this
13 motion. We would ask that the Court grant this motion to
14 sever the two trials. And we -- we don't think that this
15 would be such a disadvantage to you to do judicial
16 accommodate, Your Honor. We serve -- we think it would
17 actually be easier to have these in two separate in
18 different trials.

19 THE COURT: Thank you, Mr. Farley. Mr. Leiendecker,
20 do you have a position on that?

21 MR. LEIENDECKER: Your Honor, although I didn't make
22 the motion, and certainly I'm not arguing Mr. Farley's
23 case, but there ultimately will come a decision regarding
24 testimony of the Defendants, and I do know that my
25 Defendant selects to testify. Not only will his testimony

1 come in, but his record will come in, which Mr. Mills will
2 also have to deal with the fact that my client has some
3 most serious convictions. And in fact, the State has
4 served him with life without parole notice and Mr. Mills
5 -- Mr. Quintin would then be painted with that record as
6 well of my client.

7 He has convictions for a -- entering a bank for
8 robbery -- robbed armory in that bank and for kidnap --
9 kidnaping, for which he's served time in the state
10 penitentiary.

11 THE COURT: All right. Thank you, Mr. Leiendecker.
12 Mr. Lupton?

13 MR. LUPTON: Yeah. Your Honor, with regards to the
14 record issue, I -- I don't think that the jury's going to
15 hold one person's record against another and certainly the
16 Court will tell them that they can't do that.

17 As far as the motion to sever, generally *State v*
18 *Dennis*, 337 SC 275; *State v Halcomb*, H-a-l-c-o-m-b --
19 section -- it's 382 SC 432 -- *State v Spears*, 393 SC 466,
20 and various other cases all talk about that motion to
21 sever's the discretion of the Court. Generally, just --
22 generally not given unless there is a specific trial right
23 to which the Defendant can point to will be prejudiced.

24 There's no specific trial right that anybody can
25 point to in this case that would prejudiced, antagonistic.

1 Defenses are not sufficient to justify a motion to sever.
2 There's no root issue as one of the specifics that was
3 cited in the case law is -- would be part of -- would
4 require a motion to sever.

5 There is going to be no root issues in this case and
6 that the State -- while each Defendant did give statements
7 to police, the State does not intend to try and produce at
8 trial these statements. It's not going to, rather,
9 introduce those statements at trial as they are -- both of
10 those statements are basically self-serving and hearsay
11 without them testifying.

12 Of course, if they do testify -- either or both of
13 them do testify, then there would be no prejudice because
14 they would be subject to cross-examination.

15 THE COURT: All right. Gentlemen, based upon my
16 understanding of the allegations contained in the
17 indictments, I understand that the indictments arise out
18 of a single chain of circumstances and are proved by the
19 same evidence or the same general nature and I don't find
20 that any real right of the Defendants would be prejudiced.
21 They're of, again, the same general nature and the crimes
22 arise out of the same circumstances.

23 Regarding the painting of your client's record, Mr.
24 Leiendecker, to the co-defendant, certainly I believe the
25 jury instruction would clear that and the jury will be

1 certainly instructed that they're not to use a record of
2 one Defendant versus another Defendant if they were to
3 testify and it was used against them. So your motion is
4 respectfully denied.

5 Any other motions we can handle at this time?

6 MR. STEVENS: Yes, Judge. At this time Defendant,
7 Derrick Mills, likewise at the pre-trial motions, I
8 believe we have approximately seven motions. Five are
9 relatively simple, the other two I think are relatively
10 simple as well, but we just want to touch upon them all.

11 THE COURT: Yes, sir?

12 MR. STEVENS: And -- may I approach, Your Honor?

13 THE COURT: Absolutely.

14 (Mr. Stevens approaches the bench.)

15 MR. STEVENS: Thank you. And just so the record
16 reflect, I did give a copy to opposing counsel as well.

17 First and foremost, Judge, the Defense respectfully
18 requests that the Government go ahead and confirm on the
19 record that its fully complied with it's discovery
20 obligations pursuant to both *Brady v Maryland* and rule 5
21 of the rules of South Carolina --

22 THE COURT: Rule 5 and *Brady*.

23 MR. STEVENS: I apologize.

24 The Defense respectfully requests and moves that the
25 Government confirm on the record that it is in full

1 compliance with its *Brady* and rule 5 obligations.

2 MR. LUPTON: I certainly believe I am. And if
3 there's anything that does come up, I would hand it over.

4 THE COURT: So it's the State's position that you
5 have complied with all the --

6 MR. LUPTON: Yes.

7 THE COURT: -- *Brady* and rule 5 materials --

8 MR. LUPTON: Yes.

9 MR. STEVENS: Thank you, Judge. Next, the Defense
10 respectfully moves to -- just basically prohibit the
11 admission of opinion testimony, unless or until the
12 witness is properly qualified pursuant to *Rules of*
13 *Evidence* under 701/702, as well as allowing the Court to
14 keep it's gate keeping functions as explained by the
15 Supreme Court in *Watson v Ford* and other cases as well,
16 Judge.

17 THE COURT: Any objection to that, Solicitor?

18 MR. LUPTON: Obviously, for somebody to testify as a
19 expert they'd have to be qualified first. So --

20 THE COURT: Yes, sir.

21 MR. LUPTON: -- we intend to comply with that.

22 MR. STEVENS: And if there is any *voir dire*, we
23 respectfully request that that occur outside the presence
24 of the jury so that they would not be tainted during the
25 course.

1 THE COURT: Certainly. We'll handle that as -- as
2 the matters come up regarding each witness and potential
3 expert testimony.

4 MR. STEVENS: Yes, ma'am. Thank you. And along that
5 similar vein, Judge, we'd also respectfully request to
6 basically prohibit any 404(b) or any bad character
7 evidence unless and until, obviously, foundation is
8 properly met. And again, anytime that there is an attempt
9 to admit that type of evidence by the Government, we'd ask
10 that it actually be heard outside the presence of the jury
11 beforehand.

12 THE COURT: Any objections, Solicitor?

13 MR. LUPTON: Not per se; although, obviously we may
14 differ on what's considered 404(b) evidence. I -- I don't
15 intend to go into any of his past record or anything like
16 that if that's what they're asking about. I don't intend
17 to try and talk about his prior crimes and I --

18 (The Court and Mr. Lupton interrupt each other.)

19 THE COURT: So obviously, unless the door is opened
20 and then ---

21 MR. LUPTON: Unless ---

22 THE COURT: --- and then you can cross that bridge
23 when we get to it.

24 MR. LUPTON: Obviously, if the door is open or you
25 know, impeachment, which would be not 404(b). It would be

1 under impeachment and we'd ---

2 THE COURT: And if ---

3 MR. LUPTON: --- follow all the rules for that.

4 MR. STEVENS: Yes, ma'am. I understand.

5 THE COURT: And prior to that happening, too, we'll
6 have the matter heard regarding any 609 issues as far as
7 what comes in and what doesn't so everyone's well aware of
8 what -- what can -- convictions come in if the Defendants
9 testify.

10 MR. LUPTON: Yes, ma'am. I appreciate it. My
11 understanding is if -- if one the Defendants did wish to
12 testify, especially Mr. Mills, we'd just ask that he be
13 allowed to, again, have the 609 hearing and ask the Court
14 to walk through -- for factors.

15 THE COURT: Sure.

16 MR. LUPTON: Right.

17 THE COURT: And if y'all would -- during the break if
18 y'all could get together and just see if you can at least
19 -- if you can agree as to -- to what convictions you think
20 are appropriate to come in if he should decide to testify
21 or not, That might save us a little bit of time on the
22 record.

23 MR. STEVENS: Yes, ma'am. Thank you. Next, Judge,
24 we respectfully request to place the State's prior plea
25 offer again, the Defendant's rejection on the record,

1 pursuant to *Frye* with The United States Supreme Court
2 decision, that's *Missouri v Fry*, 132 US 1399, from 2012.

3 THE COURT: All right.

4 MR. STEVENS: My understanding is that the offer from
5 the Government was for Mr. Mills to plead guilty to
6 voluntary manslaughter pursuant to *Alford v North Carolina*
7 for a negotiated sentence of twelve-and-a-half years
8 incarceration.

9 MR. LUPTON: The armed robbery was included, Your
10 Honor. But ---

11 MR. STEVENS: Yeah.

12 MR. LUPTON: --- essentially --

13 THE COURT: Right. So Mr. Mills, if you'd please
14 stand. Would you please --

15 (The Defendant complies.)

16 MR. LUPTON: And that offer's already been withdrawn.
17 There were some issues --

18 THE COURT: Yes, sir. I think he's ---

19 MR. LUPTON: --- there with the ---

20 THE COURT: --- just asking that we put that on the
21 record that it was withdrawn and I just want to question
22 the Defendant and make sure that he -- he understands that
23 it was withdrawn and it was placed on the record.

24 MR. STEVENS: Thank you, Your Honor.

25 THE COURT: So would you please swear in Mr. Mills?

DIRECT EXAMINATION BY THE COURT - QUINTIN DEASEAN MILLS74

1 Mr. Clerk.

2 THE CLERK: Yes, ma'am.

3 QUINTIN DESEAN MILLS, after
4 having first been duly sworn, testifies as follows:

5 MR. MILLS: Quintin D. Mills.

6 THE CLERK: Thank you, sir.

7 DIRECT EXAMINATION

8 BY THE COURT:

9 Q Mr. Mills, your attorney has asked me to place on the
10 record the fact that you were previously offered a plea
11 offer in this deal which you -- in this case actually,
12 which you have declined; is that correct?

13 A Yes, ma'am.

14 Q And you were made aware of the plea offer which had
15 now been revoked; you understand that?

16 A (No audible response.)

17 Q Now, of course, at this juncture, the State does not
18 make any plea offers and they don't have to; you
19 understand that?

20 A Yes, ma'am.

21 Q All right, sir. And you've talked to your attorney
22 about that plea offer and had had sufficient time to
23 discuss it with him?

24 A Yes, ma'am.

25 Q Do you need anymore time to talk to him about that?

1 Obviously, it's been revoked, but if you needed anymore
2 time I'd be happy to give it to you.

3 A No, ma'am.

4 THE COURT: All right. Anything further on that?

5 MR. STEVENS: No, ma'am. I believe that's
6 sufficient.

7 THE COURT: You can have a seat.

8 MR. STEVENS: Thank you, Judge.

9 (The Defendant complies.)

10 MR. STEVENS: Yes, ma'am. Next, we do have a motion
11 to dismiss pursuant to violation of due process pursuant
12 to *Youngblood* and *Cheeseboro*. While it is a --

13 THE COURT REPORTER: *Youngblood* and?

14 MR. STEVENS: I *apologize*, ma'am.

15 THE COURT REPORTER: *Youngblood* and?

16 MR. STEVENS: *Cheeseborough*, C-h-e-e-s-e-b-o-r-o.

17 While the standard is therein our -- especially when
18 it comes to the standard required for showing the bad
19 faith prong; nevertheless, Judge, our position is that
20 there is evidence of an exculpatory nature that was in the
21 possession of the Sheriff's Office, namely video footage
22 from an El Cheapo gas station.

23 We understand, after speaking with the Government's
24 prosecutor, that obviously there's a disagreement
25 regarding the -- the date/time stamp on there and what

1 time period it covers.

2 If taken at face value, Judge, it does show multiple
3 parties at the El Cheapo gas station, Your Honor. First
4 it shows the Jeep driven by Mr. Charlie Brown, who is the
5 decedent in the case. And it shows them arriving at about
6 two minutes after 6 p.m. according to the timestamp on the
7 video. They stay for approximately 20 minutes and then
8 the vehicle leaves.

9 And then within that minute itself, you see a blue
10 sedan, a blue Buick, I believe, arriving. And that's
11 allegedly the vehicle driven that day, allegedly, by
12 Derrick Mills.

13 Within a minute after that even, you see Mr. Derrick
14 Mills as well as Quintin Mills walking up to other people
15 there. Mr. Derrick Mills goes inside the El Cheapo
16 convenience store, he comes on out, smoking and talking.
17 And the video abruptly ends at 8:30 or 18:30 hours, on the
18 video time stamp.

19 It doesn't show or continue to show or have any other
20 video footage of whenever Mr. Mills actually leaves the El
21 Cheapo gas station, and I'd argue that missing evidence is
22 absolutely critical to the defense, Judge, because this
23 incident allegedly occurred before 6:41 p.m. That's the
24 time when they leave and then the 911 call was made.

25 Now, again, I totally understand the Government's

1 position where the time/date stamp is off. Nonetheless,
2 that evidence itself and that question would be for a jury
3 to decide; and it's critical to the defense, especially
4 regarding alibi, which is what Mr. Mills is claiming: He
5 wasn't there.

6 Our position, Judge, is that police did -- from the
7 Sheriff's Office did go -- they did collect the evidence.
8 They did collect the information. We were informed after,
9 we actually had to file the specific *Brady* motion
10 demanding that. It was eventually turned over to us with
11 an explanation from the Government about some, I believe,
12 unexplained computer issue --

13 MR. LUPTON: And the loss of it.

14 MR. STEVENS: -- and the loss of it.

15 Our position, Judge, is that it's exculpatory on it's
16 face. Anyone known -- or should have known what it was
17 and should've taken the care necessary and proper to
18 actually keep that evidence and turn it over immediately
19 to the Defense. Nonetheless, that was not done.

20 Accordingly, Judge, when we look at the factors of
21 law for *Cheeseboro*, for *Youngblood* -- and again, I
22 understand it's the bad faith requirement -- our position,
23 Judge, is that this should meet that standard.

24 And as such, Judge, we do request for the --
25 respectfully request for the Court to dismiss the charges

1 against Mr. Derrick Mills, especially since we have done
2 our due diligence. We have sent out our private
3 investigator, Your Honor. He has attempted to reach out
4 and try and speak with the people who saw him there who
5 were on that video. Nonetheless, for the very, very few
6 people that our private investigator, Mr. John Tisdale,
7 was able to meet with, they don't recall.

8 And again, that just shows the frailty of human
9 memory when compared to the absolute certainty of a video
10 recording. And therefore, again, under the test for
11 *Youngblood* and *Cheeseboro*, we have no legitimate means,
12 even after exercising due diligence, to find acceptable
13 substitute.

14 THE COURT: Okay.

15 MR. STEVENS: So based on those reasons, Judge, we
16 would respectfully request the case to be dismissed.

17 THE COURT: Mr. Lupton?

18 MR. LUPTON: Your Honor, I -- I think that, one, we
19 turned over all the video we have. There was initially a
20 computer issue where the videos were saved on one computer
21 that was retired; but fortunately, prior to it being
22 retired, as this is a 2014 case, and as the Court I'm sure
23 is aware, frequently computers don't last that long. They
24 don't last but four or five years. So the computer was
25 retired.

1 But fortunately the videos from this case were saved
2 on another drive. We were able to recover those; we were
3 able to turn them over.

4 Now, with regards to the time stamp, the videos
5 -- half-hour block of video that was done was obtained
6 prior to interviewing witnesses. That half-hour video
7 that was obtained, without knowing the full context of the
8 case, was when Defendant was at the gas station.

9 The victims were there at the beginning, the
10 Defendant was there at the end. The time stamp on the
11 video the State would maintain is not correct. We will
12 obviously have to present evidence of that.

13 I would note that the Defendant's initial alibi was
14 that he was in Eastover when this happened. Now he's
15 changed that alibi to he was at the gas station, and it is
16 certainly something that we will have to deal with with
17 the testimony.

18 But there is no *Youngblood* violation. We gave them
19 what we had. The rest of the video wasn't taken from the
20 gas station for any reason to suppress evidence. It was
21 taken prior to having talked to any of the Defendants in
22 this case. There wasn't a reason to take more than what
23 they took and the remaining video was never in police
24 custody or control.

25 So it wasn't, obviously, exculpatory or inculpatory

1 at the time it was obtained and the State did not destroy
2 or lose -- albeit, the State did temporarily have trouble
3 get -- getting their hands on the video in it's
4 possession, it didn't lose or destroy it. So *Youngblood*
5 wouldn't apply. There was no exculpatory value. It's not
6 destroyed, there was no exculpatory value.

7 The rest of it is -- was ever -- was never in the
8 State's possession, so it wouldn't apply. And the rest of
9 the argument is going to go to, obviously, jury arguments.
10 Whether or not the jury believes that the time stamp was
11 correct, and we have an explanation for the time stamp
12 being incorrect. And --

13 THE COURT: Anything further, Mr. Stevens?

14 MR. STEVENS: Just simply, Judge, that we also rest
15 upon the written argument that we have in our motion that
16 we respectfully request to make it a Court's exhibit at
17 this time.

18 THE COURT: Certainly. We will make it a Court's
19 Exhibit.

20 Based up on what's been presented to the Court at
21 this juncture, it certainly does not meet the element of
22 the bad faith as far as establishing bad faith on the part
23 of the Government to suppress or to destroy that type of
24 evidence. Certainly it sounds as if they didn't have it
25 in their possession initially which would go to the

1 weight, not the admissibility of it, as -- as does the
2 time stamp. Most certainly that -- I think he can argue
3 as to the weight of the evidence not the admissibility of
4 it. So your motion is respectfully denied.

5 MR. STEVENS: Thank you, ma'am. And again, I
6 respectfully request that it is Court's Exhibit No. 1.

7 THE COURT: Yes, sir.

8 (Marked Court's Exhibit No. 1, motion to dismiss.)

9 MS. STEVENS: Finally, Judge, I believe -- this one's
10 already been partially resolved. It's just respectfully
11 requesting that the Government be prohibited from any
12 statements of the co-defendant either directly or
13 indirectly referencing Mr. Derrick Mills. And again,
14 that's pursuant -- not only to *Bruton*, but also to the
15 rules of hearsay.

16 Again, that's a -- a much more accurately and -- and
17 filled out and articulated in our written motion that we
18 do have, Judge. We would not want to belabor the Court's
19 time regarding every aspect of that.

20 Nonetheless, Judge, what I would like to point out --
21 I understand the Government had indicated they're not
22 going to admit -- or seek admission of his written or --
23 or his other statements, the video recorded statements.

24 Nonetheless, my understanding in reading *Burton* law
25 and all of it's progeny is that even when it comes to

1 statements by police on their direct examination, if they
2 actually make a reference, directly or indirectly, to
3 another person who, being present at that incident
4 location -- and obviously there's only one other person
5 sitting at the Defense table -- that in and of itself
6 would likewise violate *Bruton* and be causal grounds for
7 mistrial.

8 We would respectfully -- if -- if we are going
9 forward here in the joint trial, we would respectfully
10 request not only that the Government be prohibited from
11 soliciting anything like that whatsoever, but also an
12 admonition be given to especially law enforcement
13 personnel who are privy to those interrogations of Mr.
14 Quintin Mills, that he not -- did not make any answers
15 that would even indicate another person was a party to
16 this incident.

17 THE COURT: Mr. Lupton, it's my understanding that
18 you do not intend on putting any of those statements in or
19 as calling such testimony. I would just ask that during
20 the lunch break, prior to the witnesses testifying, please
21 go over those ground rule with them so that we don't have
22 any mishaps.

23 MR. LUFTON: Certainly.

24 MR. STEVENS: Thank you, Judge. And I would like to
25 make this written motion - it's about seven pages -- as

1 Court's Exhibit No. 2 if I may?

2 THE COURT: Yes, sir.

3 (Marked Court's Exhibit No. 2, prohibition motion.)

4 MR. STEVENS: Thank you, Judge. I -- I believe
5 that's all of the motions for Mr. Derrick Mills at this
6 time, Judge.

7 THE COURT: Okay, I saw one in there to
8 sequester the witnesses, which of course we would grant.
9 Other than the case officer and any immediate victim --

10 MR. STEVENS: Yes, ma'am.

11 THE COURT: -- the family.

12 Anything else from any party?

13 MR. FARLEY: No, Your Honor.

14 MR. LUPTON: Your Honor, just would ask that the
15 Court to take judicial notice, and I can --

16 (Brief pause.)

17 MR. LUPTON: Your Honor, we'd just ask the Court to
18 take judicial notice that the -- that sunset on December
19 13, 2014, was 5:16 p.m.

20 THE COURT: Okay.

21 MR. LUPTON: And I've shown both the opposing counsel
22 documentation from the Astronomical Applications
23 Department of the United States Naval Observatory in
24 Washington D.C., showing that that was the official sunset
25 for both Columbia and Orangeburg, which shows --

1 bracketing this area since St. Matthews isn't one of the
2 ones they posted.

3 THE COURT: Any objections from either party?

4 MR. FARLEY: No objection, Your Honor.

5 MR. LEIENDECKER: No objection to that information,
6 Your Honor.

7 THE COURT: All right. The Court will take judicial
8 notice of that fact.

9 MR. LUPTON: I'm sorry, Your Honor?

10 THE COURT: I said, I'll take judicial notice of that
11 fact.

12 MR. LUPTON: Thank you, Your Honor.

13 THE COURT: Anything further before we break for
14 lunch?

15 MR. FARLEY: No, Your Honor.

16 THE COURT: All right. Everyone have a nice lunch.
17 We'll see everyone at two o'clock.

18 (Off the record at 1:01 p.m.)

19 (On the record at 2:07 p.m.)

20 THE COURT: Thank you. Everyone please have a seat.

21 (The courtroom complies.)

22 (Brief pause.)

23 MR. LUPTON: Your Honor, may it please the Court?

24 THE COURT: Yes, sir.

25 MR. LUPTON: Your Honor, while the jury is out, we

1 just discussed -- Counsel and I discussed the fact that
2 the -- the *Bruton* motion would apply equally to the
3 Defense as well. I believe each attorney can open the
4 doors and the statements made against their client, but
5 could not ask what the co-Defendant said or what their
6 client said against the co-Defendant.

7 THE COURT: Counsel?

8 MR. LUPTON: Which everybody's in agreement about
9 that.

10 MR. LEIENDECKER: Under -- understood, Your Honor.

11 THE COURT: Mr. Farley?

12 MR. FARLEY: Yes, I understood, Your Honor.

13 MR. LUPTON: I don't -- I don't think there's going
14 to be an issue there.

15 THE COURT: All right. Any -- anything further
16 before I bring the jury out?

17 MR. LUPTON: No, Your Honor. I think we're both
18 ready for the opening arguments.

19 THE COURT: All right. Let's have our jury, please.

20 (Brief pause.)

21 (Jury enters at 2:09 p.m.)

22 THE COURT: Okay. Welcome back ladies and gentlemen
23 of the jury. We're now ready to proceed. Mr. Clerk, if
24 you'd please swear in the jury.

25 THE CLERK: Thank you, ma'am. Please the Court.

1 (The jury is sworn.)

2 THE COURT: Again, welcome ladies and gentlemen of
3 the jury. Thank you for accepting the important
4 responsibility of jury service and for your contribution
5 today to our system of justice.

6 What I will now say to you is intended to serve as an
7 introduction to the trial of this case. These remarks are
8 not a charge on the law in this case. I will instruct you
9 on the law applicable to this case at the end of the
10 trial, before you retire to consider your verdict. This
11 is merely an explanation of the procedure that we will
12 follow so you may better have a better understanding of
13 what is going on during the trial of this case.

14 You may not take notes during the trial of this case.

15 The Defendants are each charged by indictments filed
16 in this Court with -- each with a count of murder and a
17 count of armed robbery. The elements of the -- each of
18 those offense will be explained to you later. The
19 indictments are simply the charge by which the case is
20 brought into court and it is not in any sense evidence of
21 any of the allegations that they contain.

22 The Defendants have pled not guilty to these
23 indictments. The State, therefore, has the burden of
24 proving each of the elements of each of the indictments
25 beyond a reasonable doubt. It will be your duty, ladies

1 and gentlemen, to decide whether the State has met that
2 burden.

3 Your purpose as jurors is to find and determine the
4 facts. You are the sole judges of the facts. If at any
5 time I make any comment regarding the facts, you must
6 disregard that. You are to determine the facts from the
7 testimony that you hear and other evidence that is
8 introduced into court. It is up to you to determine the
9 inferences which you feel may be properly drawn from the
10 evidence.

11 It is especially important that you perform your duty
12 of determining the facts diligently and conscientiously
13 because ordinarily there's no way to correct an erroneous
14 determination of the facts by a jury.

15 On the other hand, and with equal emphasis, the same
16 law that makes you the judges of the facts makes me the
17 judge of the law. The law as given by the Court is the
18 only law that you may consider. You must accept it and
19 follow it even though you may disagree with it. I cannot
20 tell you what the facts are, and you cannot disagree with
21 me about what the law is or what the law should be. Your
22 job is to take the law as I give it to you and apply it to
23 the facts as you find them from the testimony of the
24 witnesses and any other evidence that is introduced.
25 After doing that, you will render your verdict under the

1 solemn oath that you just took as jurors.

2 Until I advise you to begin your deliberations, you
3 must not discuss this case with anyone. This includes
4 your fellow jurors, your friends, your family members, and
5 anyone involved in this case. This includes anything
6 that's face-to-face, anything by telephone, email, text,
7 blogs, or any other method of communication.

8 You may not use a computer, a cell phone, or any
9 other electronic device with communication capabilities at
10 any time while you're in the courtroom or during your
11 deliberations. During your breaks for meals or for
12 overnight, if necessary, of course you may use these
13 devices; however, you may not at any time use these
14 devices to get or send information about this case. This
15 includes any information about a party, a witness, any
16 attorney, any court officers, any potential news accounts
17 about the case or any research on any topics that may be
18 raised or any topics that you think might be helpful in
19 deciding the case, or any testimony that's presented by
20 any of the witnesses.

21 During the trial, please do not read, listen to, or
22 watch any potential news reports about this case. This
23 would include anything that's in the newspaper, TV,
24 internet, radio, or anywhere else that you could possibly
25 see anything about this case. You must not consider

1 anything you may have read or heard about the case outside
2 of this courtroom, whether before or during the trial of
3 this case.

4 After the case is submitted to you, you must discuss
5 it only in your jury room with your fellow jurors.

6 The attorneys and the parties in this case have been
7 advised not to talk to you. So again, if you see them
8 coming in and out of the courthouse and they don't speak,
9 again, they're not being unfriendly, they're just
10 following the Court's instructions.

11 It is important that you keep an open mind and not
12 decide any issue in the case until all of the evidence has
13 been presented, the parties have -- have made their
14 closing arguments, and I have instructed you on the laws
15 of this case. It is your solemn responsibility to
16 determine the guilt or the innocence of the Defendants and
17 your verdict must be based solely on the evidence as it is
18 presented to you in the trial and the law as I instruct
19 you during and at the close of the trial.

20 In just a moment, the Solicitor will make what is
21 called an "opening statement," in which the Solicitor will
22 explain to you what the issues in the case are -- what the
23 Solicitor thinks the issues in this case are. The
24 attorneys for the Defense may also make opening
25 statements, although they are not required to do so.

1 What the attorneys tell you during their opening
2 statements is not evidence in this case -- case. It is
3 only their contention as to what the issues are.

4 The evidence in this case will be presented to you by
5 the testimony of the sworn witnesses from the witness
6 stand and any exhibits that are properly introduced during
7 the trial of this case.

8 From time to time during the trial you may hear one
9 of the lawyers say something like, "Your Honor, I have a
10 matter of law," or "May we approach the bench?" Or
11 sometimes myself -- I might find it necessary to excuse
12 you from the courtroom for a short while so that the
13 attorneys and I can discuss a matter of law. The reason
14 for this is because you are the judges of the facts in the
15 case, and sometimes when I'm discussing matters of law
16 with the attorneys, it may be necessary for me to make
17 some comment as to the facts in connection with ruling
18 whether or not a particular law applies.

19 I'm not supposed to tell you what I think the facts
20 are. So I will excuse you from the courtroom for a short
21 while, while these discussions take place so that you in
22 no way will be influenced by anything I might say or do in
23 connection with the facts of this case.

24 In determining what the true facts are in this case,
25 you must decide whether or not the testimony of witnesses

1 is believable. It will be my responsibility to rule as a
2 matter of law whether or not certain testimony is
3 admissible at all or not, but once the testimony is
4 admitted, whether you -- whether or not you believe it is
5 entirely up to you.

6 In deciding whether or not to believe a witness, you
7 have the right to consider the interest of any witness,
8 the bias of any witness, the prejudice of any witness, the
9 opportunity for the witness to have seen the matters and
10 the things about which the witness may testify, and the
11 way that the witness acts on the witness stand.

12 You have the right to consider anything that is in
13 the record that will help you evaluate the testimony of
14 the witnesses. That means it is your duty to pay close
15 attention to the witnesses, to observe the witnesses, to
16 listen to the witnesses, and to pay close attention to the
17 attorneys and to the Court.

18 Please don't let your thoughts wander, and give
19 strict attention to the testimony in this case so that at
20 the end of the testimony, after the arguments of Counsel,
21 and I have instructed you on the law of this case, you
22 will then be in a position to determine the facts and
23 apply the law to those facts and thus render a verdict
24 under the solemn oath that you just took.

25 Ladies and gentlemen, before we begin, is there any

1 objections or exceptions to the opening remarks from me
2 from the State or the Defense?

3 MR. LUPTON: None from the State, Your Honor.

4 MR. LEINENDECKER: None from the Defense.

5 MR. FARLEY: No, Your Honor.

6 THE COURT: You need to approach?

7 (Bench conference.)

8 THE COURT: And ladies and gentlemen in the gallery,
9 I'm not sure which are -- if any are listed as potential
10 witnesses. If you're listed as a potential witness in
11 this case, you must exit the courtroom at this time.

12 MR. LEINENDECKER: Your Honor, with the exception of
13 Mr. Tisdale, our investigator, right?

14 THE COURT: Yes, sir. And the -- the main case
15 officer for the State and --

16 MR. LEINENDECKER: Yes.

17 MR. LUPTON: Thank you, Your Honor.

18 THE COURT: All right. Solicitor?

19 MR. LUPTON: Thank you, Your Honor. May it please
20 the Court.

21 THE COURT: Yes, sir.

22 MR. LUPTON: Ladies and gentlemen of the jury, in the
23 course of this trial, I'll prove to you by any reasonable
24 doubt, that the Defendants, Derrick Mills and Quintin
25 Mills, are guilty. Guilty of murder, guilty of armed

1 robbery.

2 Now, murder and armed robbery is basically exactly
3 what you would expect it to be. Murder is killing with
4 malice aforethought expressly implied.

5 The judge is going to go over the law at the end of
6 the case, but just briefly, killing a person with malice
7 aforethought, that just means malice aforethought was used
8 and you had ill will, you intended to kill them.

9 Aforethought doesn't require any long length of time.
10 It doesn't require a premeditated planning be formed as
11 you pull the trigger, just that at that time you were
12 acting to kill them, with such reckless disregard for
13 whether they lived or died, that it would be reasonable
14 for them to die; abandoned and malignant heart.

15 Armed robbery is just taking something of value from
16 somebody else while armed with a deadly weapon. Basically
17 just what you'd expect. Now, with that, it also counts as
18 armed robbery if somebody is murdered and then that
19 stuff's stolen from them immediately thereafter. You --
20 you take it -- it's all a part of the same problem, kill
21 them and then take it from them as they're dying or as
22 they lay dead.

23 Now, one thing that I want you to understand in the
24 law, we've got two Defendant's in this case. Obviously,
25 when you hear the testimony, you -- you'll find out what

1 happened, but we're not going to try and tell you that
2 they both pulled the trigger. One gun, one person with a
3 hand on the gun pulling the trigger.

4 But in South Carolina, we have something called "the
5 hand of one is the hand of all." It's called co-
6 conspirator liability. It says if two or more people act
7 together to commit a crime, then each is responsible for
8 the acts of the other in furtherance of that crime. So
9 even if one person has the gun, one person pulls the
10 trigger, if the two were acting together to commit that
11 robbery, then both are guilty of robbery and murder.

12 And that's going to be important in this case 'cause
13 what you're going to see, through the evidence from the
14 witnesses, is that that's exactly what happened here.
15 You're going to hear that here in Calhoun County, on
16 Saturday, December 13, 2014, that the Defendant, Quintin
17 Mills, set up to sell a motorcycle. He claimed to have an
18 R-1000 motorcycle that he was willing to sell for \$500 to
19 the victim in this case, Charles Brown. So he was going
20 to sell this motorcycle for \$500, and they set up to do
21 that.

22 You're going to hear how Charles Brown went to -- to
23 go get that. He brought his son with him and he brought a
24 -- a person, Vincent Kendrell Thompson -- goes by
25 "Kendrell" -- brought him there 'cause he has a motorcycle

1 license, and he was going to drive the motorcycle home
2 after he had bought it. Charles is driving the Jeep;
3 Kendrell's going to drive the motorcycle home.

4 You're going to hear about how Quintin kept putting
5 him off. It was supposed to take place in the afternoon,
6 during daylight, at a public location. They talked about
7 doing this over at Rolling Meadows, a neighborhood.

8 If you go out I-26, past Zeus, past I -- at the I-26
9 overpass, that bridge there, and keep going, that's right
10 there on the right. They were going to do it there. Kept
11 stalling, kept delaying.

12 Eventually, they end up -- you're going to hear
13 testimony about them ending up at that El Cheapo's there
14 at the 119 exit there at I-76, right over the other side
15 of I-26. And you're going to hear testimony about that,
16 how after they waited a little while, the victims, they
17 decided to go into that convenience store gas station and
18 get some food.

19 They go in there, they get some food, they're there
20 for a little bit, and as they're leaving to go back to
21 Rolling Meadows -- and then they see Defendant -- the two
22 Defendants pulling into the store in a car.

23 And they'll explain to you they saw them and they
24 figured they're going to get the motorcycle. So they --
25 they went back to Rolling Meadows, and after that they end

1 up getting more stalled or delayed -- and eventually they
2 ask to move it to Sugar Hill, a secluded park -- after
3 dark, a secluded park here in Calhoun County, secluded
4 area in Calhoun County.

5 Now, there's going to be talk about the videos at the
6 convenience store. So I'm going to explain to you up
7 front what you're going to be hearing. You're going to
8 see videos, you're going to hear testimony about videos.
9 You're going to see in the videos that there's videos from
10 the store that have a time stamp on them. What you're
11 going to see from the videos is it's clearly light out,
12 clearly light out.

13 Now, the Court's already taken judicial notice that
14 sunset here on that day was at 5:16 p.m., 5:16 p.m. You
15 will hear evidence that the crime occurred right around
16 6:30, a little bit after 6:30.

17 So you're going to have some potential evidence
18 coming in trying to say that the Defendant -- because he's
19 on video at this convenience store and there's video
20 showing the time stamp of 6:30, roughly the time the crime
21 happened, that he couldn't have been there.

22 But you're going to hear testimony that it was dark
23 when the crime happened, and you're going to see from that
24 video that it was clearly not dark in the video.

25 And ladies and gentlemen, I'll remind you that in

1 December, we have something called "daylight savings time"
2 in this country. You move the clocks back an hour. So
3 you're going to have to decide how you're going to deal
4 with that.

5 Now, getting back to the actual crime, you're going
6 to hear that after delay after delay, finally Quintin
7 wanted to do this on a secluded dirt road in the Sugar
8 Hill area, after dark.

9 You're going to hear that the Defendant -- that the
10 victims go into this location and you're going to hear
11 about how there's an argument over the motorcycle. It's
12 not -- the -- the motorcycle that's brought isn't the
13 motorcycle that was promised. You're going to hear that
14 the victim, Charles Brown, chose to buy one -- the money
15 was going there to buy the motorcycle and he says, "Do you
16 have the motorcycle you promised for the price you
17 promised? Call me and I'll buy it."

18 And at that point, rather than letting those people
19 leave with that money, you're going to hear Derrick pulled
20 out a gun, robbed the Defendant -- excuse me, robbed the
21 victim, Charles Brown, and shot him; and hear witnesses
22 explain to you saw him shoot him in the face.

23 And you're going to hear he kept shooting as he fell
24 down, kept shooting him while he was on the ground; that
25 Quintin, during all this, was grabbing one of the other

1 people, Kendrell. Dragged him out of the car, taking
2 stuff from his pockets.

3 You're going to hear how Jarvis Mack, the victim's
4 stepson -- when those two were doing that, he took off
5 running. He ran, he was scared. He got away and he
6 called for help, called 9-1-1, told them what happened,
7 called for help.

8 The police came. You're going to hear how, once the
9 police get there, they find the victim dead.

10 Ladies and gentlemen, you're going to hear how
11 Quintin turned himself in the next day, how Derrick wasn't
12 caught until April, 2017, and that brings us here to this
13 courtroom today.

14 In the course of this trial this week, you're going
15 to hear all the evidence in this case. And once you've
16 heard the evidence in this case and after you've heard the
17 arguments of counsel, after you've heard the judge tell
18 you what the law is, explain to you the law, you're going
19 to go back to that jury room that you were just in and
20 you're going to be asked to deliberate; and you're going
21 to ask -- be asked to return a verdict.

22 Ladies and gentlemen, all I ask -- all I ask of you
23 this week is that after you've heard the evidence, that
24 you return a just verdict. Thank you.

25 THE COURT: Counsel?

1 MR. STEVENS: Judge, may it please the Court?

2 THE COURT: Yes, sir.

3 MR. STEVENS: Mr. Prosecutor.

4 The discrepancies are reasonable doubts. He made a
5 note to say about it. There are discrepancies in the
6 Government's case.

7 I want you to listen to the testimony and the
8 physical evidence from the date of the incident 'cause
9 when you do, you'll agree there are discrepancies:
10 Discrepancies in the stories you're going to hear told by
11 Jarvis Mack and by Kendrell Thompson and the physical
12 evidence in the case, and discrepancies in the
13 Government's case are the reasonable doubts.

14 That's because Derrick Mills -- Derrick Mills is not
15 guilty. He is not guilty of murder, he is not guilty of
16 armed robbery. He stands before you an innocent man, and
17 he carries that presumption of innocence with -- he
18 carries that presumption today. He carries that
19 presumption of innocence with him throughout this whole
20 trial, and he even carries that presumption of innocence
21 at the end of this trial when you deliberate his fate in
22 that jury room.

23 He bears no burden of proving it at all. In fact,
24 there's only one party -- the one group of folks that have
25 any burden and that's the Government. And as this nation

1 was founded, that's as it should be, that the Government
2 be the sole bearer of the burden of proof.

3 And in this case, as in every felony case, it's the
4 highest burden of proof in our system of justice. It's
5 proof beyond a reasonable doubt. It is what is demanded
6 by the law. Not some "maybe" standard; not a
7 preponderance of the evidence standard where it's like
8 50/50, maybe a little bit more; not probably he did it.
9 No, that's a civil standard. That is not proof beyond a
10 reasonable doubt, the highest standard to meet, and the
11 heaviest burden to lift.

12 It's not even an intermediate standard of clear and
13 convincing evidence. That is not the burden of proof that
14 the Government bears. They bear the heaviest burden of
15 proof, the highest standard we have, proof beyond a
16 reasonable doubt; and the discrepancies in their evidence
17 are reasonable doubts.

18 So what is a reasonable doubt? Simply stated, it's a
19 doubt that should be reasonable like discrepancies in
20 their evidence. If something causes you to hesitate to
21 act, that is a reasonable doubt. The discrepancies in the
22 Government's evidence in their case are reasonable doubts.

23 I want you to pay attention to the testimony and the
24 physical evidence. When you do, you'll see that this
25 investigation into this homicide, off the jump, was

1 founded on the story they first heard; and there are
2 discrepancies in the stories, and the physical evidence
3 and discrepancies are reasonable doubts.

4 Ahead of this case -- remember -- come back up here
5 to this conversation, and we're going to ask you that you
6 apply your oath, that you hold the Government to its
7 burden of proof to prove beyond a reasonable doubt because
8 if you do, I'm confident you'll agree Derrick Mills is not
9 guilty; not guilty of murder, not guilty of armed robbery.
10 He is not guilty. Thank you.

11 THE COURT: Counsel?

12 MR. FARLEY: May I please the Court, Your Honor.

13 THE COURT: Yes, sir.

14 MR. FARLEY: Ladies and gentlemen of the jury, thank
15 you for being here today. I wanted to remind you -- my
16 name's Andrew Farley and I'm not a Public Defender. I'm a
17 private attorney and I only represent Mr. Quintin Mills,
18 and I just wanted to make that distinction between Quintin
19 and Derrick Mills. Okay?

20 They're equally charged with the murder and armed
21 robbery, and -- and I'm here to speak on his behalf, Mr.
22 Quintin Mills.

23 And they have -- really, the essential issues, if I
24 can just break that down for you, is whether Mr. Mills is
25 guilty of murder and armed robbery. In a nutshell, that's

1 what you have to decide here today.

2 Now, as we proceed with this trial, you're about to
3 see all the evidence and hear all the testimony of the
4 witnesses. And we believe that the evidence is going to
5 show that Mr. Quintin Mills did not have a firearm, Mr.
6 Quintin Mills did not rob anyone; and most importantly,
7 Mr. Mills is not a conspirator or co-conspirator with Mr.
8 Derrick Mills.

9 We believe that the evidence is going to show he did
10 certainly try to make a transaction of a motorcycle with
11 some of the victims, mostly Jarvis Mack, in this matter;
12 but whatever anyone else did in this has no relation to
13 Mr. Quintin Mills.

14 And we believe that after you hear the evidence,
15 after you hear the testimony of the witnesses, that this
16 is the same conclusion that you must come to.

17 So I would ask you and Mr. Mills would ask you to
18 please listen closely to the evidence, please listen
19 closely to these witnesses. And when you go back to that
20 jury room to deliberate, we believe that you can only
21 reach a just verdict here; and that verdict will be what
22 the evidence we'll show in here today, that Mr. Quintin
23 Mills is not guilty of these charges that the State has
24 brought against him.

25 The standard that Mr. Stevens pointed out earlier --

1 and I'll go over it just briefly 'cause I think he did a
2 great job.

3 The standard in any criminal case is reasonable
4 doubt, and as he pointed out, it's a very, very high
5 standard. It is an extremely high standard and that --
6 and -- that standard of reasonable doubt and it's -- the
7 -- the factors in it would make a reasonable person pause
8 and question what's going on. That's the standard that
9 you must apply, and the judge is going to rely on you to
10 do this part.

11 And we believe that, again, when you go back to that
12 jury room and you take all the evidence with you, you'll
13 reach the appropriate verdict of not guilty for Mr.
14 Quintin Mills. Thank you, ladies and gentlemen.

15 THE COURT: Solicitor, you may call your first
16 witness.

17 MR. LUPTON: Thank you, Your Honor. We call Dr.
18 Ross.

19 **DR. JANICE EDWARDS ROSS,**
20 after having first been duly sworn testifies as follows:

21 THE COURT: Your witness.

22 MR. LUPTON: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. LUPTON:

25 Q Dr. Ross, could you tell the jury who you are,

DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 104

1 please?

2 A Yes. I'm Janice Ross. I am a forensic pathologist,
3 which means I've been through four years of college, four
4 years of medical school, and five years of training in the
5 field of pathology.

6 Pathology is a discipline in medicine where we learn
7 how to do -- identify and diagnose diseases and cancers
8 using a micro -- microscope and laboratory work. We also
9 learn how to do an autopsy to find the cause of death.

10 A forensic pathologist is further trained to identify
11 patterns of injury, to document those injuries for the
12 court -- court of law, to cause -- draw fluids for
13 toxicology, and to form a cause and manner of death.

14 Q And how long have you been a doctor?

15 A Since 1972.

16 Q And ---

17 A 42 years.

18 Q And how much of that has been as a pathologist?

19 A 42 years.

20 Q And as part of your training, does it also include
21 removing foreign objects from a body during autopsy?

22 A Yes.

23 Q Does it include preserving that as evidence for use
24 in court cases?

25 A Yes.

DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 105

1 Q All right. And have you been qualified in other
2 courts as an expert in forensic pathology?

3 A Yes, I have, over 200 times.

4 Q Over 200 times?

5 MR. LUPTON: Your Honor, at this point we'd move to
6 qualify her as an expert in forensic pathology.

7 THE COURT: Any *voir dire*?

8 MR. STEVENS: If I may, Judge, briefly?

9 THE COURT: Sure.

10 MR. STEVENS: Thank you, ma'am.

11 VOIR DIRE

12 BY MR. STEVENS:

13 Q Good afternoon, Dr. Ross. How you doing?

14 A Doing fine.

15 Q All right. Breen Stevens, from the Public Defenders
16 Office. Obviously, this is not the first time we've had
17 the privilege of having a conversation together. I just
18 want to ask you just a few questions about your field of
19 pathology.

20 A Yes.

21 Q Okay. Now, in your field of pathology, you indicated
22 that for forensic pathology, not just regular pathology,
23 you do look at patterns of injury, correct?

24 A Correct.

25 Q Okay. And sometimes part of those patterns of injury

1 include basically stippling, tattooing, etcetera, from
2 gunshots?

3 A Correct.

4 Q Okay. So that is within your field of expertise?

5 A Yes.

6 Q Okay. I understand.

7 But it does not include, like, crime scene
8 reconstruction itself; would that be accurate to say?

9 A No.

10 Q Okay. Thank you, ma'am.

11 MR. STEVENS: No further questions, Judge.

12 THE COURT: Any voir dire?

13 MR. FARLEY: No, Your Honor.

14 THE COURT: Any objection to her qualification as an
15 expert?

16 MR. STEVENS: None from the Defense, Judge.

17 THE COURT: Okay. The Court finds ---

18 MR. FARLEY: None from the Defendant Quintin Mills.

19 THE COURT: --- finds that she's qualified as a
20 forensic pathologist.

21 Ladies and gentlemen of the jury -- jury, normally
22 when -- a person cannot give opinion testimony. Normally
23 when a person testifies, they must testify as to what they
24 either saw, heard, or sensed by smell or something of that
25 nature; however, there's an exception when someone is

DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 107

1 qualified because of education and experience. They're
2 permitted to give their opinion in certain areas if the
3 Court qualifies them that way.

4 Dr. Ross is qualified in the area of forensic
5 pathology to give an opinion that -- testimony in that
6 area. That does not mean that you must accept the
7 opinion, but it is evidence for you to use in any way that
8 you see fit and give it the weight and credibility that
9 you believe is appropriate.

10 (To Mr. Lupton) You may proceed.

11 MR. LUPTON: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. LUPTON:

14 Q Doctor, did you perform an autopsy on the victim in
15 this case, Mr. Charles Brown?

16 A Yes.

17 Q When did you do that?

18 A That was on December 15, 2014.

19 Q And would that have been a Monday?

20 A I'm not sure.

21 Q Okay. December 15th.

22 And I'll show you what's been marked as State's
23 Exhibit 1.

24 (Mr. Lupton hands a document to the witness.)

25 Q Doctor, do you recognize this?

DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 108

1 A Yes. This is my report on the autopsy from Charles
2 Brown.

3 Q And was it prepared contemporaneous -- or rather
4 shortly after the autopsy?

5 A Yes.

6 Q And is it correct and accurate?

7 A Yes.

8 MR. LUPTON: Your Honor, I'd move State's Exhibit 1.

9 THE COURT: Any objection?

10 MR. STEVENS: If I could just take a look at that
11 real quick first?

12 THE COURT: Certainly.

13 MR. STEVENS: I appreciate it.

14 (Brief pause.)

15 MR. STEVENS: Okay.

16 THE COURT: Without objection?

17 MR. STEVENS: Without objection, Judge.

18 MR. FARLEY: Without objection from Quintin Mills.

19 THE COURT: State's 1 is in.

20 (State's Exhibit No. 1, autopsy report, in evidence.)

21 Q And I'd like to go over your findings in that report
22 if ---

23 A Yes.

24 Q --- we could, please. What were your findings?

25 A I found that there were -- this patient was shot six

1 times.

2 Q And going over those -- you've got them labeled. And
3 I understand that you don't know what order the bullets
4 were fired; is that correct?

5 A That's correct. We organized the gunshot wounds from
6 the top to bottom, but that does not mean that's the
7 sequence that he received them in.

8 Q You just have to have some way to -- to talk about
9 ---

10 A Correct.

11 Q --- them; is that correct?

12 All right. So the first one that you list, what was
13 the first gunshot wound you ---

14 A The first one went in the -- basically the upper
15 neck, just below the -- just below the left ear; and it
16 went from left to right and it ended up in the maxillary
17 sinus over here in the -- the cheek.

18 Q So would that be consistent with somebody holding a
19 firearm in their right hand, firing it from -- or either
20 hand, but firing it from the left side of the -- the
21 person's head ---

22 MR. STEVENS: Judge, Judge --

23 Q --- towards the right?

24 MR. STEVENS: Calls for speculation of the crime
25 scene reconstruction essentially.

DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 110

1 THE COURT: Sustained.

2 Q It went from -- the entry wound was in the left side
3 of the neck -- left side of the neck and went towards the
4 right?

5 A That is correct.

6 Q All right.

7 A Bullets go straight. So it's going left to right.
8 It's going slightly upward.

9 Q And was that wound fatal?

10 A It was potentially fatal. It -- it hit the --
11 several blood vessels in the upper neck. It went just
12 above the voice box, the larynx.

13 Q So had something else not -- had he not died of
14 something else, he would've potentially died of that part
15 eventually?

16 A Potentially, yes.

17 Q All right. And then what was the second entry wound?

18 A The second wound we described went in the right
19 forearm on the --

20 Q What entry --

21 A -- what we call the "anterior surface."

22 Q What direction was the path that it's traveling?

23 A It was going slightly upward, but the bullet was not
24 too far inside.

25 Q And when you say "slightly upward", you're talking

1 about -- it was the right arm?

2 A Yes. It would be towards the head wound.

3 Q All right. Does that mean necessarily that it was
4 shot at an upward angle or just ---

5 A It just means -- there are two moving parts, the gun
6 and the arm. So all I can say is it went in the front of
7 the arm.

8 Q So the arm could've been raised and the bullet going
9 down?

10 A Correct.

11 Q What about the third?

12 A The third one went in the left arm, and again, it
13 went into the -- the back of the left forearm and
14 underneath the skin; but it also -- it went up --
15 continued underneath the skin, and then ended up near the
16 shoulder.

17 Q All right.

18 A So the gun would have to be toward -- well, in front
19 of the arm if the arm was outstretched.

20 Q All right. So for two and three, would that be
21 consistent with -- well, let me rephrase it. It -- it --
22 firing from this direction (indicates), going from this
23 direction from the left -- back of the left forearm
24 towards the shoulder?

25 A Correct.

DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 112

1 Q All right. So in that -- that general direction?

2 A Correct.

3 Q All right. And then what was the next one?

4 A The -- there were two in the back. The next one was
5 in the back in the right mid-back that went into the back
6 towards the front of the body slightly upward and then
7 went into the upper lobe of the right lung.

8 Q All right. And was that fatal?

9 A Yes.

10 Q And so basically somebody was shot in the back?

11 A Yes.

12 Q At slight upward angle?

13 A Yes.

14 Q And then No. 5?

15 A That was -- also went into the back and left, a
16 little lower than the -- the first one -- the previous one
17 in the left back. And it went into the spinal cord at
18 that point.

19 Q And was that fatal?

20 A Potentially.

21 Q Had he not died of the injury to his lung, he
22 could've died from that one, too?

23 A Right. He could've at least been paralyzed and
24 possibly died from laceration of the blood vessels.

25 Q And then the -- the -- the final gunshot wound?

DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 113

1 A That was just a graze wound. It just went across the
2 skin of the left knee.

3 Q All right. And so what was the cause of death?

4 A It was what we call "exsanguination," which means to
5 bleed out due to the gunshot wound to the back.

6 Q And in the process of doing your autopsy, did you
7 recover bullets and bullet fragments?

8 A Yes.

9 Q I'll show you what's marked as State's Exhibit 2.

10 (Mr. Lupton hands exhibit to the witness.)

11 Q Do you recognize those?

12 A Yes. I can't see all of them. These -- this is the
13 way we seal them and label them at the time of autopsy.
14 We label them according to where they were found.

15 Q And those are your labels?

16 A Yes.

17 Q Those are the bullets you recovered during this
18 autopsy?

19 A Yes.

20 MR. LUPTON: Your Honor, we move to admit this as
21 State's Exhibit 2.

22 THE COURT: Any objection?

23 MR. STEVENS: No objection, Judge, from Derrick
24 Mills.

25 MR. FARLEY: No objection from Quintin Mills.

DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 114

1 THE COURT: All right. They're in.

2 (State's Exhibit No. 2, bullets and fragments,
3 in evidence.)

4 Q All right. And when you recovered each of those
5 bullets -- and I think in your report is it -- is it
6 correct that you note in your report each bullet that you
7 recover?

8 A Yes.

9 Q All right. And the location from which you recovered
10 it?

11 A Yes.

12 Q All right. And what did you do once you recovered
13 those bullets or bullet fragments?

14 A We seal them and label them and I initial them, and
15 we submitted them to the SLED agent that was at the
16 autopsy, Tiffany Hazel, or something like that, who then
17 submitted them to SLED.

18 Q All right. And so the inner -- smaller inner sealed
19 envelopes are the ones that you sealed and handed over to
20 them?

21 A Yes. And then we subsequently seal them in a large
22 bag together.

23 Q All right.

24 A And did you tamper with them or alter them in any
25 way?

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 115

1 Q Just rinsed them off, that's all.

2 A All right.

3 Q So you didn't change the structure or anything of
4 that nature?

5 A No, sir.

6 Q And -- thank you. I have no further questions.

7 THE COURT: Cross-examination?

8 CROSS-EXAMINATION

9 BY MR. STEVENS:

10 Q Okay, Dr. Ross, just briefly. I want to first ask
11 you some questions about December 13, 2014, all right?

12 Now, quite obviously, you were not on the hill at [REDACTED]
13 Falcon Lane that night, right?

14 A Correct.

15 Q Okay. And that means you didn't see what happened
16 there?

17 A That's correct.

18 Q And you didn't see who was present there, right?

19 A Correct.

20 Q Okay. We got that out of the way. Thank you.

21 Let's talk about what you did do in this case again,
22 okay? Part of what you do is examine remains to determine
23 cause of death; would that be accurate?

24 A Yes.

25 Q Okay. And so you thoroughly -- when you actually

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 116

1 examine things, you -- you thoroughly examine the head,
2 correct?

3 A Yes.

4 Q Okay. And you examine the arms?

5 A Yes.

6 Q You examine the legs?

7 A Yes.

8 Q You examine the skin?

9 A Yes.

10 Q Okay. And you also wash up blood, too, because you
11 kind of need to do a thorough examination; would that be
12 accurate?

13 A To get a good view of the -- in the wounds, yes.

14 Q Okay. But then it's -- so then it's necessary for
15 you to properly perform your job?

16 A Correct.

17 Q Okay. I got you. And you write your findings in
18 your report, correct?

19 A That's right.

20 Q Okay. I got you. And here, obviously, you examined
21 the remains of Mr. Brown, right?

22 A Yes.

23 Q Okay. And that was on December 15, 2014?

24 A Yes.

25 Q And it's approximately two days after the incident

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 117

1 itself?

2 A Correct.

3 Q Okay. And when you did, you said you noticed there
4 were several holes in his body for that incident, right?

5 A Correct.

6 Q Okay. Essentially, like you told the prosecution,
7 five gunshot wounds and one graze wound?

8 A Yes.

9 Q Okay. Now, I'm a much more visual guy, and as of
10 today, we're provided a little bit more from your report,
11 which -- specifically, a diagram. If we actually showed
12 you those, would that be accurate?

13 A Yes.

14 Q Okay.

15 MR. STEVENS: Judge, may I approach?

16 THE COURT: Yes, sir.

17 Q Let's just go ahead and do me a favor and take a look
18 at that, please (indicating). Is that -- is that an
19 accurate picture? Is that the diagram that you produced
20 as part of your autopsy report?

21 A Yes. The only thing is, in the back of the -- I have
22 the one gunshot wound in the back of the left arm, which
23 should be in the back right arm.

24 Q Okay. I understand. Thank you, ma'am.

25 But with that correction to the diagram, I understand

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 118

1 that.

2 MR. STEVENS: The Defense would respectfully move to
3 -- move this into evidence. Any objection from the
4 Government?

5 MR. LUPTON: No objection, Your Honor.

6 THE COURT: Any objection?

7 MR. FARLEY: No objection from Quintin Mills, Your
8 Honor.

9 MR. STEVENS: I'd like to enter it as a Defense
10 Exhibit 7.

11 THE COURT: All right it's -- that's Defense 1?

12 MR. STEVENS: Actually, it's Defense No. 7. We had
13 others pre-marked, Your Honor. I apologize.

14 THE COURT: Okay.

15 MR. STEVENS: Thank you, ma'am.

16 (Defense Exhibit No. 7, Autopsy diagram, in evidence.)

17 Q Okay. So let's talk about some of those wounds,
18 okay? And you -- again, you indicated that one was
19 actually located in the head area?

20 A Yes.

21 Q Okay. Specifically, it was in the left side, right?

22 A Yes.

23 Q Okay.

24 A Below the left ear.

25 Q Just below the left ear, you said? I'm sorry.

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 119

1 A Yes.

2 Q Okay. And you said that wound was left to right?

3 A Correct.

4 Q Okay. It wasn't to the face, right?

5 A No.

6 Q It wasn't to the eye?

7 A No.

8 Q It wasn't to the nose?

9 A No.

10 Q Forehead?

11 A No.

12 Q Mouth?

13 A No.

14 Q The left side, correct?

15 A Correct.

16 Q Okay. And another was to the forearm? You said the
17 right forearm?

18 A Yes.

19 Q Okay. And that's right around the arm that had the
20 tattoo "Mob"?

21 A I believe so, yes.

22 MR. STEVENS: I apologize, Judge.

23 Q If it helps refresh -- refresh your recollection.

24 A I have.

25 Q Okay.

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 120

1 A Yes.

2 Q Okay. You said the third was in the left forearm?

3 A Yes.

4 Q Okay. And you said there was one in the lower back?

5 A One in the right mid-back --

6 Q Okay --

7 A -- that came in the left forearm.

8 Q But right in the mid-back? That's right below the
9 tattoo that says "100 percent player"?

10 A Yes.

11 Q Okay. I got you. And I know there's nothing in the
12 front of his chest.

13 A Correct.

14 Q Just like there's nothing in his face, right?

15 A Correct.

16 Q So that means there's nothing on his tattoo
17 that said "player for life"?

18 A Correct.

19 MR. LUPTON: Your Honor, objection to the -- all the
20 stuff about the tattoos. His tattoos are not on trial.

21 MR. STEVENS: Judge, respectfully, it's actually part
22 of the -- the exhibit in evidence.

23 THE COURT: I'll allow it.

24 MR. STEVENS: Thank you, Judge.

25 Q And like you told the Prosecution, you cannot say

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 121

1 exactly which one was created first, correct?

2 A I -- I'm sorry.

3 Q You cannot say with 100 percent certainty which wound
4 was created first?

5 A That's correct.

6 Q Okay. And your conclusion was that the cause of Mr.
7 Brown's death was exsanguination due to laceration of
8 lung, due to the gunshot wound to the back?

9 A Correct.

10 Q Correct? Okay. And as he indicated, exsanguination
11 is bleeding out to death, could've occurred within
12 minutes, right?

13 A Yes.

14 Q Okay. Now, you indicated during *voir dire* that part
15 of what you do as a forensic pathologist does include
16 knowledge and testimony and look for, really, stippling --

17 A Yes.

18 Q -- and tattooing?

19 A Yes.

20 Q We're not tacking -- talking about tattooing in ink,
21 right?

22 A That's a different type of --

23 Q We're talking about tattooing or stippling caused by
24 gunshot wounds, correct?

25 A Correct.

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 122

1 Q Specifically, if the gun is fired within a close
2 relative range to the skin; is that accurate?

3 A Yes.

4 Q Okay. Could you please describe to the jury how that
5 occurs?

6 A Sure. When a bullet comes out of a gun, also comes
7 out soot -- which only goes a certain distance -- and
8 particles of gun powder. Gun powder particles will go a
9 little further than the soot, but not as far as the bullet
10 obviously. So if you see -- if you see soot on the skin,
11 you can say that the -- the gun was fairly close to the
12 skin.

13 If you see tattooing, which is where the particles of
14 -- of burning powder hit the skin and make little marks,
15 then you would say that the gun was what we call
16 "intermediate range," within a couple of feet of the skin.
17 But if you don't see any of that, we call it the "distant
18 range wound," which is at least two feet or beyond.

19 Q Thank you. And I -- to be clear and fair, something
20 like a 12-gauge shotgun shell would have a far greater
21 range compared to something like a .22 or a .9 millimeter,
22 correct?

23 A Correct.

24 Q Okay. And like you said, you examined Mr. Brown's
25 remains?

CROSS-EXAMINATION BY MR. STEVENS - DR. JANICE ROSS 123

1 A Yes.

2 Q Including his skin, right?

3 A Yes.

4 Q And that also includes the skin around the wound
5 below his left ear?

6 A Yes.

7 Q Okay. And also the face kind of around that area
8 too, right?

9 A Yes.

10 Q Okay. And you did not find or see any stippling or
11 powder burns around the wound to the left side of the
12 head, correct?

13 A Correct.

14 Q Okay. Nor did you see any stippling or powder burns
15 found on the left side of his face --

16 A Correct.

17 Q -- correct? Okay.

18 MR. STEVENS: Court's indulgence.

19 (Brief pause.)

20 Q Now, when you spoke with the prosecution, you
21 indicated that you did find some bullet fragments in the
22 body, correct?

23 A Yes.

24 Q Okay. And I know you're not a ballistics expert, and
25 I'm not asking you to testify as such. But in your

1 experience, would you classify those as a smaller caliber?

2 A They appeared to be, but I -- I -- I leave that up to
3 the experts.

4 Q Okay. Yes, ma'am. When it comes to the wound sites
5 created by those holes -- or the holes in there, about
6 what size would you say those were? Was it approximately
7 .2?

8 A I believe so.

9 Q Take your time if you need to look at your report.

10 A Yes, .2.

11 Q Okay. And that's not like .2 meters, right?

12 A No. It's .2 centimeters.

13 Q Thank you. I appreciate it. Thank you.

14 A Any time. .2 centimeters --

15 Q That's all right.

16 A -- of an inch.

17 Q Yes, ma'am. Absolutely. And to be sure, that's not
18 consistent with, like, a 12-gauge shotgun or anything,
19 right?

20 A Correct.

21 Q It's more consistent with a smaller caliber --

22 A Right.

23 Q -- instrument?

24 A Correct.

25 Q Okay. Thank you, ma'am. No further questions.

CROSS-EXAMINATION BY MR. FARLEY - DR. JANICE ROSS 125

1 THE COURT: Cross-examination?

2 MR. FARLEY: Thank you. I'll be very brief with the
3 witness, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. FARLEY:

6 Q And Dr. Ross, I know this was covered by my
7 colleague, Mr. Stevens, but it is correct you're not a
8 ballistics expert -- expert; isn't that correct?

9 A Correct.

10 Q Okay. You don't match bullets with guns or -- or any
11 bullet fragments with other weapons or anything like that
12 --

13 A No, I do not.

14 Q --- do you? All right.

15 And you're only here to testify to the condition of
16 the victim; isn't that correct?

17 A Correct.

18 Q All right. And you certainly, in your -- even though
19 your knowledge is very extensive, you're not here to
20 testify to how -- potentially wielded the weapon or any of
21 that nature; isn't that correct?

22 A Correct.

23 Q All right. Thank you, Dr. Ross. I have no further
24 questions.

25 THE COURT: Any redirect?

RE-DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 126

1 MR. LUPTON: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. LUPTON:

4 Q Doctor, if a person has clothing covering a -- some
5 type of a gunshot wound, would that stop the stippling and
6 tattooing?

7 A It could, yes.

8 Q So especially heavier clothing would be more likely;
9 is that correct?

10 A Correct.

11 Q All right. Now, a .22 caliber firearm fired from a
12 foot or two, would that necessarily leave stippling and
13 tattooing?

14 A I would leave that to the ballistics expert.

15 Q All right.

16 A We sent the clothing to SLED. We -- so I don't know
17 what they did as far as analyzing them.

18 Q As far as your training, you testified about the
19 stippling and tattooing. As far as your training, if --
20 if -- if the barrel was a foot or two away, it is possible
21 that there wouldn't be stippling or tattooing?

22 A Correct.

23 Q All right. And then with regards to the order of
24 shots, is there anything inconsistent with the face or the
25 arms being shot prior to the back?

RE-DIRECT EXAMINATION BY MR. LUPTON - DR. JANICE ROSS 127

1 MR. STEVENS: Judge, he's beyond the scope of the
2 cross.

3 Q Medically?

4 THE COURT: She can testify to a reasonable degree of
5 medical certainty.

6 A There's no inconsistency to that.

7 Q No way to tell if the -- the -- the -- the head shot
8 could've been first, the shots to the arms could've been
9 first; is that correct?

10 A Correct.

11 Q But as far as the amount of blood that was present,
12 it could've been any one of them first?

13 A Yes.

14 MR. LUPTON: Nothing further.

15 THE COURT: You may step down, Doctor, thank you.

16 Any objection to her being released from her
17 subpoena?

18 MR. STEVENS: None from the Defense --

19 MR. LUPTON: Thank you, Your Honor.

20 MR. STEVENS: -- Judge.

21 MR. FARLEY: None from Derrick Mills, Your Honor.

22 THE COURT: You're free to go, Doctor.

23 MR. FARLEY: I mean, Quintin Mills.

24 THE COURT: Thank you.

25 MR. FARLEY: Sorry.

1 (The witness exits the stand.)

2 THE COURT: You may call your next witness.

3 (Brief pause.)

4 MR. LUPTON: Call Kendrell Thompson.

5 THE COURT: Come on up to the witness stand, sir.

6 (The witness complies.)

7 **VINCENT KENDRELL DAVON THOMPSON,**
8 after having first been duly sworn, testifies as follows:

9 (Brief pause.)

10 THE COURT REPORTER: Can you spell your middle name?

11 THE WITNESS: Which one?

12 THE COURT REPORTER: Kendrell.

13 THE WITNESS: Kendrell, K-e-n-d-r-e-l-l.

14 THE COURT REPORTER: And is there another name other
15 than Vincent?

16 THE WITNESS: Davon.

17 THE COURT REPORTER: How is that spelled?

18 THE WITNESS: D-a-v-o-n.

19 THE COURT: Your witness.

20 MR. LUPTON: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. LUPTON:

23 Q So you go by "Kendrell"?

24 A Yes, sir.

25 Q All right. Tell the jury who you are please.

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 129

1 A I'm somewhat family to Quintin Mills and Derrick
2 Mills, and I basically grew up around them in the same
3 neighborhood for a long time.

4 Q All right. So how do you know them?

5 A We basically grew up around each other.

6 Q All right. And you say somewhat family.

7 A I mean, we call -- everybody in that area call [sic]
8 each other family.

9 Q All right. So you've known them all your life,
10 family. So is there any question as to who they are, any
11 -- any ---

12 A No, sir.

13 Q --- difficulty recognizing who they are?

14 A No, sir.

15 Q And then when you say "the area," what area is that?

16 A Sugar Hill Lane.

17 Q Sugar Hill Lane and the Sugar Hill area?

18 A Yes, sir.

19 Q All right. And -- and is that here in Calhoun
20 County?

21 A Yes, sir.

22 Q All right. Let me see if I can --

23 MR. LUPTON: Beg the Court's indulgence just a
24 minute.

25 (Brief pause.)

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 130

1 Q I'd like to show you these (hands maps to the
2 witness.) See if you recognize this area. Do you
3 recognize the maps? Sugar Hill Road and 176?

4 A Uh-huh.

5 Q And then a little bit closer.

6 A That's the hill.

7 Q And so on State's 6, 7, and 8, you recognize that
8 area?

9 A My grandma stays in that area.

10 Q That -- that's what you're talking about, Sugar Hill?

11 A Yes, sir.

12 MR. LUPTON: Your Honor, if I can move 6, 7, and 8
13 into evidence.

14 THE COURT: Any objection?

15 MR. LEINENDECKER: No objection, Your Honor.

16 MR. FARLEY: No objection from Quintin Mills, Your
17 Honor.

18 THE COURT: All right. They're in.

19 (Marked State's Exhibit Nos. 6, 7, and 8, maps of
20 Sugar Hill area, in evidence.)

21 DIRECT EXAMINATION

22 BY MR. LUPTON:

23 Q All right. And then you say you grew up around that
24 area, you know the area, you're from that area. What
25 about Charles Brown?

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 131

1 A Charles Brown? I really came in contact with Charles
2 Brown through Jarvis and his brother. So that's how I got
3 closer to Charles Brown, and then as me and them was
4 hanging out more and more, I got more in contact with
5 Charles Brown. So we just got cool and we just basically
6 became best friends. I mean, after me and him met, from
7 the first time, me and him was just -- we just clicked.
8 We bond [sic].

9 Q "You and him" being you and Jarvis or you and
10 Charles?

11 A Me, Jarvis, and CB. All us together just basically
12 hanged [sic] out.

13 Q Okay. And you said who?

14 A Jarvis --

15 Q Oh, CB.

16 A CB.

17 Q Charles Brown.

18 A Charlie Brown.

19 Q Okay. And who is Charles Brown? How is he related
20 to Jarvis?

21 A That's his step-dad.

22 Q Okay. And then you talked about hanging around with
23 them. Did you spend time with them on Saturday, December
24 13, 2014?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 132

1 Q Okay. What were you doing hanging out with them that
2 day?

3 A That day ---

4 Q What was going on?

5 A --- they called me to ride a motorcycle back for them
6 home. And I was cool with it 'cause, I mean, that's what
7 I love to do. So ---

8 Q And -- and ---

9 A --- it wasn't no problem.

10 Q --- did you have a motorcycle license?

11 A Yes, sir.

12 Q And did they?

13 A No.

14 Q All right. So they needed you to ride the motorcycle
15 'cause you have a license.

16 A Yes, sir.

17 Q All right. And so you're supposed to be going to buy
18 a motorcycle.

19 A Yes, sir.

20 Q Well, I said "you." Who was supposed to buy the
21 motorcycle?

22 A Technically, in my eyes, I thought Charles Brown was
23 buying the motorcycle.

24 Q All right. And then who did you see dealing with --
25 trying to set up the transaction?

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 133

1 A Jarvis was trying to set up the transaction.

2 Q And then who all went to -- to do this?

3 A It was me, Charles Brown, and Jarvis.

4 Q And then about what time did you start this process?

5 About what time of day did you start -- did you go over to
6 do this?

7 A I say it was probably around -- maybe, like, going on
8 five 'cause you're getting ready to -- it was right before
9 dark.

10 Q And at -- at the very start, when you first got up
11 with Jarvis and Charles.

12 A 'Bout like -- like 5/5:30. Somewhere in there.

13 Q All right. Well, was [sic] there delays in trying to
14 get to this?

15 A There was [sic] delays.

16 Q All right. So let's -- let's talk about that. When
17 you first started this whole process of trying to buy this
18 motorcycle, where did you go?

19 A We went to the El Cheapos.

20 Q Did you start off somewhere before El Cheapos, in the
21 neighborhood?

22 A Rolling Meadows.

23 Q Okay. Rolling Meadows. Where is Rolling Meadows?

24 A That's Charleston Highway.

25 Q All right.

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 134

1 A On the other side of the interstate by the Exxon and
2 -- what is that?

3 Q Just on the other side of the interstate on 176?

4 A Yeah.

5 Q And then -- so you start out Rolling Meadows, and did
6 you at some point end up at El Cheapos?

7 A We went to El Cheapos and then we went back to
8 Rolling Meadows.

9 Q All right. And what did you go to El Cheapos for?

10 A We went there just for something to drink.
11 Cigarettes, Charles had needed cigarettes. We was
12 drinking, so we went and get [sic] some cigarettes and
13 then we went back and waited on them to call us.

14 Q All right. So you went and got -- you said Charles
15 was drinking. Was anybody drunk?

16 A That day Jarvis and him was drinking.

17 Q All right.

18 A Charles Brown was drinking. They was both drinking.

19 Q But were they --

20 A That was -- that was the main reason why I was
21 supposed to ride the motorcycle back because they was
22 totally drunk. They didn't want to drive it, wasn't going
23 to take a chance. I had the license, so I said, "Come get
24 me."

25 Q Now, you end up at El Cheapos. About what time of

1 day was that?

2 A I would say at least 5:45, going on 6 'cause it was
3 getting ready to be dark.

4 Q It was still light out?

5 A It was still light, but then it was getting ready to
6 be dark.

7 Q All right. And then in relation to the time that you
8 left El Cheapos until the time that you ended up on Sugar
9 Hill, about how long -- but first of all, where did you go
10 after you left El Cheapos?

11 A We met at Roll -- Rolling Meadows and we waited some
12 more while they was drinking and then we went from there
13 straight to Sugar Hill Lane.

14 Q All right. So you waited there for awhile. So about
15 how long from -- from the time you left until the time you
16 ended up at Sugar Hill?

17 A At least 45 minutes to a hour.

18 Q At least 45 minutes to an hour?

19 A At least.

20 Q All right. And when you left El Cheapos it was still
21 light out?

22 A It was still light.

23 Q All right. And you've already talked about there
24 were multiple delays. Where did you -- where were you --
25 what was your understanding where you were supposed to

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 136

1 meet ---

2 A To ---

3 Q --- to go?

4 A --- be honest, it -- it really wasn't no
5 understanding, when I got in the car, where they was going
6 to meet until after dark fall.

7 Q All right. So after dark, where did you end up
8 getting told where to meet Quintin?

9 A Sugar Hill.

10 Q And is that a -- the area where you were arrested, is
11 that an area that is public, populated?

12 A I mean, for us it was.

13 Q Well, let me rephrase it. It -- I'm assuming, open
14 to the public, but was there a lot of people around?

15 A Wasn't nobody out.

16 Q All right. And were there lights, was it well lit,
17 dark?

18 A It was dark.

19 Q All right. Was it at a house that somebody was
20 living at?

21 A No.

22 Q Was it an abandoned house?

23 A It was an abandoned house.

24 Q All right. And the location where you met, where
25 everything happened, you said that's in -- here in Calhoun

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 137

1 County, correct?

2 A Yes, sir.

3 Q And down a dirt road?

4 A Yes, sir.

5 Q Now, I showed you -- I showed you State's Exhibit 8.

6 (Indicates) Is this the road that it was on?

7 A Uh-huh.

8 Q And what's the name of that road?

9 A Falcon Lane.

10 Q All right. And the house that's pictured --

11 A (Indicates) Right here.

12 Q Is that where it happened?

13 A Yes, sir.

14 Q All right. And then, on State's Exhibit 7, that just
15 the same area pulled back a little?

16 A Yes, sir.

17 Q There's a -- and then going to 6, is that the same
18 area pulled back even further?

19 A Yes, sir.

20 Q All right. And then you said you had a grandma that
21 lived on there?

22 A Yes, sir.

23 Q Where exactly does she live?

24 A My grandma stay right here (indicates), the first
25 house.

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 138

1 Q All right. So the first house on Sugar Hill Lane.

2 THE COURT: Solicitor, I don't think the jury can see
3 where he's pointing.

4 MR. LUPTON: I'm sorry.

5 Q And this is a secluded area at night, correct?

6 A Yes, sir.

7 Q Now, what happened as you pulled up? Did -- did you
8 have any reaction to the location?

9 A As we pulled up, I told them off the jump, I told
10 them I was like, "Man, y'all be careful. Y'all be on
11 point. I know this area and I know where this house is.
12 I know what goes on right here."

13 From that point on, I thought they understood what I
14 was saying, to watch they [sic] back.

15 Q All right. And you were concerned about something
16 there?

17 A I was concerned from the pull up, from the time we
18 pull in the yard.

19 Q What ---

20 A I told them.

21 Q --- were you concerned about?

22 A I mean, just me knowing the area. I don't -- I
23 couldn't say I knew something was going to happen. I just
24 had a feeling that something wasn't right.

25 Q All right. And then who was there when you pulled

1 up?

2 A When we pull up, Quintin was there.

3 Q And who else?

4 A After we got out and -- then that's when Derrick
5 stepped up. He came from the side of the house.

6 Q All right. So were you expecting Derrick?

7 A Nobody was expecting Derrick.

8 Q And then what happened once Derrick stepped out?

9 A I mean, he didn't say nothing from the beginning. He
10 was just watching.

11 And then I walked up to the motorcycle and then when
12 I noticed it wasn't a 1000, I let Charles Brown know that
13 it wasn't a 1000, it was a 600. And they kept asking me
14 how I knew, and I showed them.

15 So it went from that to a diversion of that we
16 already had -- they -- they discussed it already that it
17 wasn't going to be a 1000, but Charles Brown didn't know
18 that. He always thought it was going to be a 1000.

19 Q All right.

20 A So we get into a argument of which bike was what and
21 how we was going to get this arranged. Quintin was
22 compliance [sic] to it and he was ready to give him the
23 bike that he wanted.

24 After that, Charles -- Charles Brown was -- was like,
25 "Okay. Can we get this done tonight, tomorrow?"

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 140

1 And Derrick just stepped in and was, like, "Nah.
2 Something going to go down today. I need my money today."

3 Q All right. Was Charles willing to buy the R-600 ---

4 A He was ---

5 Q --- for the price ---

6 A He didn't ---

7 Q --- of the 1000?

8 A --- want a 600.

9 Q All right. So did he -- you say he refused to buy
10 it?

11 A He refused.

12 Q All right. What did everybody do? Did -- did ---

13 A We got ready to leave.

14 Q All right.

15 A Everybody was getting in the car.

16 Q All right. Everybody's getting in the car.

17 Did anybody do anything in response to y'all trying
18 to get in the car -- to y'all getting in the car?

19 A No. It was just -- it was just arguments of when we
20 was going to get the right bike, when was -- when we was
21 going to get this right bike ---

22 Q All right.

23 A --- that he was told.

24 Q Did -- as -- as part of that, did Charles ever show
25 anything?

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 141

1 A He showed the money 'cause they didn't think there
2 was money involved.

3 Q All right. And once he showed the money, what
4 happened?

5 A Then that's when Derrick revealed the gun.

6 Q Derrick ---

7 Q He put it -- he put it in Charles Brown face. He
8 revealed the gun and put it in Charles Brown face.

9 A All right. Derrick -- and just so we're clear, are
10 you talking about somebody at this table over here?

11 Q (Indicates) Yeah.

12 MR. LUPTON: Your Honor, I ask that the record
13 reflect that he has identified the Defendant.

14 THE COURT: Can you just be more specific as to which
15 Defendant he pointed out?

16 THE WITNESS: Right of the table.

17 MR. FARLEY: He identified the specific Defendant.

18 MR. LUPTON: I -- let me rephrase.

19 Q What color shirt?

20 A He got [sic] a white shirt on.

21 THE COURT: And so the record will reflect that he
22 identified Derrick Mills.

23 Q And that's the person who pulled the gun?

24 A Yes.

25 Q All right. And once Derrick pulled the gun -- first

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 142

1 of all, did you see what kind of gun it was?

2 A It was a revolver.

3 Q All right. Do you know what caliber?

4 A It was a .32 or under it. Anything under a .38.

5 Q Smaller than a .38?

6 Q Do you know for certain what caliber?

7 A If I had to guess, I would say a .32, maybe a .36.

8 Q But you just know it was a smaller than a .38?

9 A Yeah. I know it was smaller than a .38.

10 Q All right. Now -- and it was a revolver?

11 A (No audible response.)

12 Q Now the -- what happened once he pulled that gun?

13 A Once he pulled the gun -- at that time I was already
14 out the car. Quintin grabbed me out the car and he
15 started pulling me to the side with the front of the jeep,
16 closest to the side of the house.

17 Q All right. So he pulled you out of the car?

18 A As I got pulled out, Jarvis ran.

19 Q All right. Then when you say, "Quintin," what color
20 shirt?

21 A I can't see his shirt.

22 (Brief pause.)

23 A He got a gray shirt on.

24 Q All right.

25 MR. LUPTON: Your Honor, I'd ask that the record

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 143

1 reflect the witness identified Quintin Mills.

2 THE COURT: Yes, sir. Quintin Mills.

3 Q All right. So Quintin Mills, as Derrick pulls you --
4 as Derrick pulls a gun, Quintin Mills then grabbed you in
5 what way?

6 A He just put his arm around my chest and had, like,
7 his hand on my side.

8 Q All right. And did he take anything from you?

9 A Well, to me it looked like Derrick gave him a eye --
10 gave him a head nod to check my pockets 'cause, like, they
11 know at -- at that time, I kept a -- I kept a gun on me
12 'cause I always had -- always somebody trying to do
13 something to me or try me in any kinda way. So they knew
14 I had a gun on me. That's why they grabbed me first.

15 Q All right. And the -- so you saw Derrick indicate
16 for Quintin to check you?

17 A Yeah.

18 Q And did he?

19 A Yeah.

20 Q Did ---

21 A He checked me.

22 Q Did he take stuff from you?

23 A He took the gun out my pocket and dropped it on the
24 ground.

25 Q All right. And do you know what happened ---

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 144

1 A After that ---

2 Q --- after that?

3 A After that it was just -- me and him walked -- he
4 basically pulled me to the side of the -- like, away from
5 whatever they -- that -- that was going to happen. He
6 pulled me away from it.

7 Q And did he take any other -- did he take any money
8 from you, Quintin Mills?

9 A He took -- he took everything out my pocket to make
10 sure I didn't have nothing in my pockets.

11 Q All right. So he took your stuff from you.

12 Did you see what Derrick and Charles were doing?

13 A He walked Charles to the back of the Jeep, and then
14 he shot him.

15 Q Who?

16 A Derrick shot him.

17 Q Derrick shot him. Any question about whether or not
18 Derrick shot him?

19 A No question at all.

20 Q All right. Did you see him shoot him?

21 A Yes.

22 Q All right. Did you see where he shot him?

23 A He shot him in the face at first.

24 Q And what happened after he was shot in the face?

25 A He started -- Charles Brown started to fall back and

1 he continues to shot him ---

2 Q Did Charles ---

3 A --- just continues to shoot.

4 Q --- fall ---

5 A As he fall back, he continued to shoot.

6 Q Derrick continued to shoot.

7 Did Derrick continue to shoot him after he was on the
8 ground?

9 A Yes.

10 Q All right. And then you talked about Jarvis. What
11 did he do when the gun came -- when Derrick pulled the
12 gun?

13 A He ran.

14 Q He ran?

15 A He ran. That's all I know.

16 Q All right.

17 A I ain't see [sic] Jarvis no more.

18 Q And then you said there was gunshots. Do you know if
19 anybody else shot anything?

20 A There wasn't nobody else shooting anything.

21 Q All right. And -- and did Charles Brown ever pull a
22 gun out?

23 A Charles Brown never fought, Charles Brown never -- he
24 never gave no [sic] restraint either to make him shoot
25 him. The man asked could he go home. He like [sic], "You

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 146

1 got the money, can I go home?"

2 Q He told that to -- to who [sic]?

3 A Derrick.

4 Q And how far away were you when the -- when Derrick
5 shot ---

6 A From me to you. Where he shot Charles?

7 Q Yes.

8 A Probably from here to that door.

9 Q What door?

10 A To the court doors.

11 Q So you were in the same yard, but you weren't real
12 close?

13 A Yes, sir.

14 Q All right. And did you see what Derrick did after he
15 shot Charles?

16 A He pulled his pants down and he went through his
17 stuff.

18 Q All right. And did -- what did he do after he took
19 off ---

20 A He ---

21 Q --- his pants?

22 A --- ran back towards me and Quintin, clicking the gun
23 at us.

24 Q Then what happened?

25 A I pushed Quintin and I ran.

DIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 147

1 Q Where'd you go?

2 A To my grandma [sic] house.

3 Q Did you hear anything as you were running to your
4 grandmother's house?

5 A No.

6 Q Did you hear a motorcycle?

7 A I heard the motorcycle, but that was it.

8 Q All right. That was while you were running back.
9 Where was the motorcycle?

10 A The motorcycle was still in the same spot the whole
11 time, it never moved.

12 Q Well, then as you were running, did you hear the
13 motorcycle go ---

14 A I heard it leaving away.

15 Q All right. Where did you hear it leave towards?

16 A To be honest, I really don't know.

17 Q Did it sound like it was going towards the road?

18 MR. LEINENDECKER: Objection, Your Honor.

19 Speculation. He said he doesn't know what direction the
20 motorcycle was going.

21 THE COURT: Only if you know that -- what you
22 personally know. You can't guess, okay?

23 A I -- I don't know.

24 Q It sound like it was getting further away or closer
25 towards you?

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 148

1 A Oh, it was going further away.

2 Q All right. Did you go to the police that night?

3 A No, sir.

4 Q Why not?

5 A To be honest, I don't know. I was scared, to be
6 honest. It was just too much for me to -- to actually
7 bring in that I seen all that in my face in a split
8 second.

9 Q Did you eventually come in?

10 A Yes, sir. I came in.

11 MR. LUPTON: Beg the Court's indulgence.

12 (Brief pause.)

13 Q Did you see Derrick take some money from Charles?

14 A The money out of the car that he had in his hand when
15 he was in the car still, yeah.

16 Q Okay.

17 MR. LUPTON: Nothing further, Your Honor.

18 THE COURT: Cross-examination?

19 MR. LEINENDECKER: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. LEINENDECKER:

22 Q Charles, I'm Mark Leinendecker, attorney for Mr.
23 Derrick Mills. I have a few questions for you today,
24 based on your testimony here today, okay? If I ask you
25 something you don't understand or it's not clear, please

1 ask me to make it clear to you. All right?

2 A Yes, sir.

3 Q And I need you to speak up so that she can record it,
4 All right?

5 A Yes, sir.

6 Q All right. Today, for the first time in over two
7 years of looking at the statements and evidence in this
8 case, I heard that you had a gun that day.

9 A Yeah.

10 Q You didn't tell the police ---

11 A I didn't.

12 Q --- that, right?

13 A No, sir.

14 Q And you never revealed that you came armed to this
15 event, right?

16 A No, sir.

17 Q And today is the first time you've made that
18 revelation, correct?

19 A Yes, sir.

20 Q And you also told us that when this event happened,
21 you ran to your grandmother's on the night of December 13,
22 correct?

23 A Yeah.

24 Q And in point of fact, you didn't call the police,
25 you didn't call the Sheriff, you didn't call anyone in law

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 150

1 enforcement and tell them that there had been a shooting
2 on Falcon Lane, correct?

3 A No, sir.

4 Q Okay. You didn't go to the police until they got in
5 touch with you and arranged for you to come in two days
6 later on the 15th, correct?

7 A Yes, sir.

8 Q But in between that time, you were in constant
9 contact with Jarvis Mack, right?

10 A Yes, sir.

11 Q You and Jarvis were talking from the time of the
12 incident until two days later when you went and met with
13 the police, correct?

14 A Yes, sir.

15 Q You and Jarvis were talking about what happened,
16 correct?

17 A I'm not going to say we was talking about it, but we
18 was keeping in contact.

19 Q Sure. Jarvis told you what he had told the police.

20 A He didn't tell me what he told the police. He told
21 me he had went [sic] and talked to them.

22 Q Told you he went and talked to the police?

23 A Yes.

24 Q Okay. And did you and Jarvis discuss not mentioning
25 that you had a gun?

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 151

1 A Jarvis -- Jarvis never knew I had the gun. Charles
2 Brown never knew I had the gun.

3 Q Well, I'm -- I'm just ---

4 A I mean ---

5 Q I'm not ---

6 A --- other than what -- of knowledge of them knowing
7 me, yes, they knew I had the gun. But they -- you know,
8 me telling them or them seeing me that night with a gun,
9 they didn't know I had a gun.

10 Q Oh, I -- I misunderstood because you said everybody
11 knew you had a ---

12 A Yeah.

13 Q --- gun.

14 A Yeah. They knew I had a -- everybody know [sic] I
15 keep a gun.

16 Q So ---

17 A Because I'm a little person. I mean, I'm not -- I'm
18 not big at all. I'm not going to let nobody do me know
19 kinda way.

20 Q Okay. Isn't it true you told the Calhoun County
21 Sheriff's Office when you met with them that y'all went to
22 buy a motorcycle, and you went along because you got a
23 call from Jarvis?

24 A No.

25 Q Then why did you go along?

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 152

1 A I went ---

2 Q 'Cause -- 'cause we've got the video. When -- we'll
3 -- we'll tee it up if you don't remember ---

4 A I went along ---

5 Q --- that, too.

6 A --- when?

7 Q That you went along with Charles Brown and Jarvis
8 Mack ---

9 A Yeah.

10 Q --- to get a motorcycle ---

11 A Yeah.

12 Q --- and you told them that you did that because
13 Jarvis called you and said he wanted you to ride the
14 motorcycle.

15 A 'Cause they was [sic] drunk, they was drinking.

16 Q That's what Jarvis told you?

17 A Yeah. They was drinking.

18 Q I -- I'm not ---

19 A That they needed me to ride the motorcycle back.

20 Q I'm not asking you for the facts, I'm asking if
21 that's what they told you, "We need you to ride the
22 motorcycle 'cause we're drunk."

23 A Yes, sir.

24 Q So okay. You didn't tell the police that.

25 A Tell them what? That they was ---

1 Q That ---

2 A --- drunk?

3 Q You -- you didn't say they were drunk, but you didn't
4 say they asked you to come along 'cause ---

5 A I did ---

6 Q --- they were drunk?

7 A I did tell them that.

8 Q Okay. And you told the police that you didn't know
9 where you were going, that noone knew where you ---

10 A At first.

11 Q --- were going to meet regarding the motorcycle at
12 first, correct?

13 A Yes, sir.

14 Q And that the first communication was, "Meet us in
15 Rolling Meadows."

16 A From what -- from my understanding, yes, sir.

17 Q Okay. And who would've had that communication? Who
18 -- who was talking, texting, or phoning?

19 A Jarvis was talking and texting at the time.

20 Q With whom?

21 A With Quintin.

22 Q Okay. Quintin and Jarvis. This is a deal between
23 Jarvis and Quintin, correct?

24 A Yes, sir.

25 Q And so y'all are out looking to buy the motorcycle

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 154

1 and you get information from Quintin to go to Rolling
2 Meadows, correct?

3 A That's what Jarvis was told.

4 Q No. That --

5 A Yes, sir.

6 Q That's what you understood, that's all I'm asking.

7 A Yes, sir.

8 Q And your testimony is you go to Rolling Meadows and
9 you wait?

10 A Yes, sir.

11 Q For those of us who haven't been to Rolling Meadows,
12 describe it.

13 A I mean, it's a big trailer park.

14 Q Okay. It's -- it's such a big trailer park could you
15 be there and not find somebody ---

16 A Yeah, it ---

17 Q --- or could you find them?

18 A You can get lost.

19 Q Okay. So is it possible you thought Quintin was
20 there somewhere and you just couldn't find him?

21 A Technically, I didn't know where he was 'cause I
22 wasn't contacting him. So I didn't know nothing other
23 than who was meeting, and this is what was supposed to
24 have been going on, the motorcycle sale. That's it.

25 Q Okay. And your testimony was you were there awhile

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 155

1 and then you left, correct?

2 A Yeah. We left Rolling Meadows.

3 Q And how long do you think you were there while you
4 waited for Quintin and he never showed up?

5 A The least -- all together when we left, went to the
6 store and came back in --

7 Q No, no. The first -- I just talking about --

8 A The first --

9 Q -- that first time. You went --

10 A The first time when we went there it was probably,
11 like, 20 minutes.

12 Q Twenty minutes? And you left to go to the El Cheapo
13 gas station, right?

14 A Yes, sir.

15 Q And you told the police you left to go there to get
16 something to eat and something to drink.

17 A Get something to drink, some cigarettes, and
18 something to eat.

19 Q Some chicken?

20 A Yeah.

21 Q Okay. And y'all were at El Cheapos about how long?

22 A Probably, like, 10 minutes.

23 Q Okay. You told the police about 40 minutes.

24 A That we was at the store ---

25 Q Yeah.

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 156

1 A --- for 40 minutes?

2 Q That's what you told them.

3 A Well, to be honest, you have to think about it, sir.
4 It's been five years since this happened.

5 Q I -- I am completely with you. I'm just asking if
6 you were more accurate five years ago or more accurate
7 right now?

8 A Probably more accurate five years ago than now.

9 Q Okay. So you -- then you thought you were there
10 about 40 minutes?

11 A We'd been there -- we'd been sitting there for a
12 little minute.

13 Q Okay. And you left from there to go back to Rolling
14 Meadows, right?

15 A (No audible response.)

16 Q Why?

17 A I don't know. We was waiting.

18 Q You -- you don't know?

19 A All I know we was waiting.

20 Q But who -- who said, "Let's go back to Rolling
21 Meadows"? Jarvis did, right?

22 A Yes, sir.

23 Q And Jarvis was the one who communicated with Quintin,
24 right?

25 A Yes, sir.

1 Q And so you left out you went back to Rolling Meadows
2 a second time.

3 A Yes, sir.

4 Q To meet him to buy the bike, right?

5 A Yes, sir.

6 Q He didn't show up, did he?

7 A Nope.

8 Q He gave some reasons the first time you were at
9 Rolling Meadows why he hadn't gotten there, correct?

10 A From my understanding, he did.

11 Q And that reason was he had a flat tire and he needed
12 to -- to get it fixed. His girlfriend was following him,
13 right?

14 A I didn't know about that. I didn't -- I didn't hear
15 none of that.

16 Q Okay. Well, we're -- we're going to play your --
17 your -- your interview with the police, okay?

18 A You can play it. I don't remember that, though.

19 Q Okay. And then when you went back to Rolling
20 Meadows, Jarvis is still communicating with Quintin,
21 correct?

22 A Yes, sir.

23 Q And that's why you go to Sugar Hill, correct?

24 A Yes, sir.

25 Q And at Sugar Hill, which is in the Sandy Run section

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 158

1 ---

2 A Uh-huh.

3 Q --- of Calhoun County ---

4 A Yes, sir.

5 Q --- you meet to do this deal, correct?

6 A Yes, sir.

7 Q And you told the police that when this deal went bad,
8 it went bad when everybody was getting back in and
9 actually was back in the car, right?

10 A Yes, sir.

11 Q So you told them that Charles Brown was in the car,
12 not outside the car?

13 A He was in the car. Everybody was in the car.

14 Q Okay. And you told them that Derrick Mills, my
15 client, had appeared and he forced Charles Brown out of
16 the car, grabbed him and pulled him out of the car, right?

17 A He didn't have to grab him. He put the gun in his
18 face.

19 Q But he put the gun in and -- and forced him out of
20 the car?

21 A Yes.

22 Q Okay. And then you told the police that at that
23 time, when he did that, you were standing by the back ---

24 A Yes, sir.

25 Q --- driver's side door?

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 159

1 A When he forced him out of the car --

2 (Ringing sound is heard.)

3 Q Back again -- let -- let's start again. You were in
4 the Jeep behind Charles on the passenger's side in the
5 backseat?

6 A Yes, sir.

7 Q And when Charles got out of the car, you were outside
8 the car by the back door, correct?

9 A I was out by the front of the hood.

10 Q Okay. Where were you when you say Derrick Mills
11 fired the first shot into Charles Brown's face?

12 A Yeah.

13 Q Where -- where were you?

14 A We was in front of the Jeep.

15 Q How close?

16 A Directly in front of the Jeep. The jeep ---

17 Q No. Not how close ---

18 A --- was parked ---

19 Q --- to the Jeep, how close to Charles Brown?

20 A How close to Charles Brown? I told you, Charles
21 Brown -- they was at least from here to that door
22 (indicates).

23 Q So Charles Brown wasn't beside the Jeep anymore?

24 A No, he was behind the Jeep.

25 Q Way behind the Jeep?

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 160

1 A Yes.

2 Q That's not what you told the police that night, is
3 it?

4 A He was behind the Jeep when he got shot.

5 Q That's not what you told them, is it?

6 A What [sic] I tell them?

7 Q Well, we'll watch -- you told them that he pushed him
8 on the hood of the Jeep, and ---

9 A No.

10 Q --- you told them that he shot him in the face
11 multiple times.

12 A He shot him in the face multiple times.

13 Q And that he stood over him and kept shooting him in
14 the face.

15 A As he fall [sic] back, he was shooting.

16 Q So your story was that y'all went to the Hill that
17 night, in the dark, at a time that you testify you were
18 worried or nervous that something might happen that was
19 wrong or dangerous, correct?

20 A Yes. Everybody ---

21 Q You -- and you verbalized that.

22 A Everybody could feel it, though. I mean ---

23 Q Sure. Absolutely. But you went out there anyway,
24 correct?

25 A Yeah.

1 Q And your story was that Derrick came out and shot him

2 ---

3 A Yes.

4 Q Right?

5 A Yes, sir.

6 Q Did you see Jarvis that evening after the incident?

7 A What [sic] you mean after the incident?

8 Q After the shooting?

9 A Yes. Him and his brother came and got me from my
10 grandma house.

11 Q Okay. What -- describe Jarvis to me when he came,
12 physically.

13 A He was crying. He was hysterical. He was -- he
14 didn't -- he couldn't believe it.

15 Q How -- how did his clothing look?

16 A I can't remember how his clothing looked.

17 Q Covered in blood?

18 A I can't remember.

19 Q Oh. And how'd he get with his brother?

20 A I really don't know to be honest.

21 Q Had his brother been waiting somewhere for when this

22 ---

23 A No.

24 Q --- was over?

25 A I know that they had called his brother -- or he

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 162

1 called his brother and they -- they was [sic] all trying
2 to get in contact with me 'cause I didn't have a phone.

3 Q Why didn't you have a phone?

4 A I ain't had nothing. I didn't have nothing in my
5 pocket.

6 Q So how did they find you at your grandmother's?

7 A To be honest, I don't know. I guess they figured
8 that was the first place I'd went [sic].

9 Q And you didn't share that information with the
10 police, did you, when you talked to them?

11 A Share with them what?

12 Q That Jarvis came and got you from your grandma's,
13 that Jarvis and his brother met up.

14 A His brother came and got him from wherever he was at
15 on the Hill.

16 Q How do you know that?

17 A That's where he ran.

18 Q No. How do you know his brother came and got him?

19 A His brother came and got me after he got him.

20 Q So that's how you know that they were together.

21 A Yeah. They was together.

22 Q He had called his brother or had ---

23 A I don't ---

24 Q --- his brother been waiting for him?

25 A He called his brother. How could he ---

1 Q How do you know he called him?

2 A How could his brother be waiting if his brother
3 didn't even know what was going on? Everybody thought me
4 and his brother got shot ---

5 Q Oh.

6 A --- instead of CB and his brother.

7 Q It was ---

8 A Nobody knew the story.

9 Q Excellent point. How could his brother have known
10 unless ---

11 A He called.

12 Q --- he knew something was going on?

13 A He called him. Everybody was calling him trying to
14 get in contact with his brother because they thought he
15 had got shot.

16 MR. LEINENDECKER: Your Honor, if it would please the
17 Court, to continue my cross-examination and to try to
18 clarify some of the discrepancies, I'd like to -- at this
19 time, would like to show the tape recorded interview of
20 Kendrell Thompson on December 15, 2014.

21 THE COURT: Any Objection?

22 MR. LUPTON: No objection.

23 THE COURT: All right. Any objection?

24 MR. FARLEY: No objection, Your Honor.

25 THE COURT: You may do so. Mr. Leinendecker, you

1 going to mark that as an exhibit and introduce it first?

2 MR. LEINENDECKER: Yes.

3 THE COURT: It's marked "No. 6."

4 MR. LEINENDECKER: I think it's already marked as an
5 exhibit.

6 THE COURT: And are you moving it in ---

7 MR. LEINENDECKER: Yes.

8 THE COURT: --- before publishing? Thank you, sir.
9 It's in.

10 (Defense Exhibit No. 6, police interview with
11 Kendrell Thompson, in evidence.)

12 Q Can you see the TV from where you are, Kendrell?

13 A Yes, sir.

14 THE COURT: Can everyone on the jury see okay?

15 THE JURY: (No audible response.)

16 THE COURT: Mr. Lupton?

17 MR. LUPTON: (No audible response.)

18 THE COURT: Would y'all just approach briefly? Just
19 briefly. If ya'll would just break, briefly.

20 MR. LEINENDECKER: Oh, I'm sorry, Your Honor. I saw
21 you talking.

22 (Bench conference.)

23 (Brief pause.)

24 THE COURT: Do y'all need a brief recess to figure it
25 out?

1 MR. LEINENDECKER: Yes.

2 THE COURT: And maybe we can take a brief restroom --
3 recess ---

4 MR. STEVENS: Yeah. I don't want to ---

5 THE COURT: --- this afternoon,

6 MR. STEVENS: --- hold everybody.

7 THE COURT: Ladies and gentlemen of the jury, we're
8 going to just take a brief recess while we get everything
9 organized for you. It might be a good time to take an
10 afternoon break anyway. If you'd please to go your jury
11 room. Remember, don't discuss this case amongst yourself.
12 We'll be right back with you.

13 (The jury exits at 3:44 p.m.)

14 (Off the record at 3:45 p.m.)

15 (On the record at 4:02 p.m.)

16 THE COURT: Thank you. Everyone please have a seat.

17 (The courtroom complies.)

18 THE COURT: All right. Counsel, we ready to proceed?

19 MR. LEINENDECKER: Yes.

20 (Brief pause.)

21 THE COURT: All right. Let's have our jury, please.

22 (The jury enters at 4:03 p.m.)

23 (Brief pause.)

24 THE COURT: All right. Counsel, you may proceed.

25 MR. LEINENDECKER: Okay.

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 166

CROSS-EXAMINATION

BY MR. LEINENDECKER:

Q Mr. Thompson, before we get started, you've seen the picture, you recognize this video. This is the ---

A Yes, sir.

Q --- interview from the 15 of December, 2014, correct?

A Yes, sir.

Q At the Calhoun County Sheriff's Office?

A Yes, sir.

Q All right.

MR. LEINENDECKER: (To the jury) Y'all can hear?

(No audible response.)

(Video plays.)

MR. LEINENDECKER: Your Honor, if it would please the Court, I'm going to try and jump just a little bit because for some reason -- I don't understand this -- he asks him his Social Security number.

THE COURT: Oh, yes, sir.

MR. LEINENDECKER: So I -- I want to try to skip beyond that scene. Thank you.

(Brief pause.)

(Video plays.)

MR. LEINENDECKER: Unless the State wants to finish, I'm -- I've gotten what I need for -- to refresh him and finish the cross. But I'm happy to finish it. Whichever

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 167

1 y'all want to do.

2 THE COURT: Solicitor?

3 MR. LUPTON: No objection to stopping there.

4 THE COURT: Anything from the --

5 MR. LEINENDECKER: It's just that at this point if it
6 stops ---

7 MR. FARLEY: No objection to stopping there, Your
8 Honor.

9 THE COURT: All right. You may proceed, Mr.
10 Leinendecker.

11 MR. LEINENDECKER: Thank you.

12 CROSS-EXAMINATION

13 BY MR. LEINENDECKER:

14 Q So on that date in question, December 15, when you
15 finally went and talked to the Charleston -- Charleston --
16 the Calhoun County Sheriff's Office --

17 A Yes, sir?

18 Q -- you told them that you'd been out over three
19 hours, right?

20 A Yes, sir.

21 Q That you'd been to Rolling Meadows and waited and not
22 gotten anybody to arrive?

23 A Yes, sir.

24 Q You told them that you had gotten a message, either
25 through Jarvis or Jarvis telling you, that there'd been a

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 168

1 flat tire and it was going to be at least 30 minutes?

2 A Yes, sir.

3 Q You told him that then you went to the El Cheapo to
4 have some chicken and wait.

5 A Yes, sir.

6 Q You told them that then you got a text or a message
7 there that, "Where y'all at? Meet me at Rolling Meadows,"
8 right?

9 A Yes, sir.

10 Q You told them that you then -- after being there 40
11 minutes, you said -- you told him you went back to Rolling
12 Meadows and waited another 20 minutes or more?

13 A Yes, sir.

14 Q You told him then that the message came, "I'm on my
15 way. I'm just getting off the interstate. Meet me in
16 Sandy Run"?

17 A Yes, sir.

18 Q You told them that going to Sandy Run was a little
19 suspicious because it's much quieter and more private than
20 the public place that you thought you were going to meet?

21 A Yes, sir.

22 Q You told them a whole bunch of that, but you never
23 mentioned that you had a gun or that you'd been robbed of
24 a gun?

25 A No, sir.

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 169

1 Q You never mentioned that Jarvis and his, now, brother
2 came and got you at Grandma's house. You just ---

3 A No.

4 Q --- told them you got a ride?

5 A I just told them I had got a ride.

6 Q Yeah.

7 A They never asked specifically who came and gave me a
8 ride.

9 Q Okay. Because they didn't ask, you didn't -- you
10 didn't tell him that Jarvis ---

11 A No.

12 Q --- the other person involved in this case had come
13 and got you there?

14 A I mean, he -- we was both stuck.

15 Q I -- I'm just asking. You never told him that,
16 right?

17 A No.

18 Q Okay. And it wasn't until two days later and -- and
19 later on in that video you told him that nobody could get
20 a hold of -- or in the video you told him nobody could get
21 a hold of you 'cause you didn't have a phone?

22 A Yeah.

23 Q Your carry -- you -- you carried three cell phones?

24 A At that time I was.

25 Q Okay. You carried \$200 in cash?

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 170

1 A That's nothing.

2 Q Okay.

3 A What's \$200?

4 Q You sound like my child, always giving me that.

5 I'm just asking, that -- that's -- that was it?

6 A (No audible response.)

7 Q So really you had three cell phones, at least \$200 in
8 cash, and a gun?

9 A Yeah.

10 Q What else did you have?

11 A Keys.

12 Q Anything else you haven't told us about?

13 A Just keys.

14 Q That's it, nothing else in your pockets?

15 A No.

16 Q Okay. But you did tell them, when they said they
17 were able to get a hold of you because they're good
18 trackers, that you had been communicating with Jarvis and
19 you knew that Jarvis had spoke to them and Jarvis wanted
20 you to speak to them -- to the police?

21 A Yeah.

22 Q Correct?

23 A But at the time I wasn't -- I was so just bobulated
24 [sic] from what I'd just seen, I wasn't wanting to -- I
25 didn't want to talk to nobody.

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRELL THOMPSON 171

1 Q I understand discombobulation ---

2 A I mean ---

3 Q --- as you describe it. I'm just saying this is two
4 days later, two days later you go and talk to them, right?

5 A Yeah. I didn't want to, but I did.

6 Q You went because Jarvis encouraged you to go?

7 A I'm not going to say Jarvis encouraged me to go, but
8 my family encouraged me to go.

9 Q Jarvis didn't ask you to go?

10 A He -- he told me to go, but I mean, that ---

11 Q Okay.

12 A --- that wasn't why I went.

13 Q That's exactly what I asked you to do. Don't let me
14 put words in your mouth. Jarvis told you to go ---

15 A Yeah.

16 Q --- and then you went?

17 A Yeah.

18 Q Okay.

19 MR. LEINENDECKER: One minute.

20 (Brief pause.)

21 MR. LEINENDECKER: Thank you, Mr. Thompson. That --
22 that's all I have.

23 THE COURT: Mr. Farley?

24 CROSS-EXAMINATION

25 BY MR. FARLEY:

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 172

1 Q Mr. Thompson, I want to ask you several things that
2 you previously testified to and that were also in the
3 video.

4 A Yes, sir.

5 Q Okay. First, I wanted to roll back the time line a
6 little bit to the beginning when you stated that Jarvis
7 contacted you about going to pick up the motorcycle; is
8 that correct?

9 A Yes, sir.

10 Q Okay. And at that time what -- did he call you on
11 your cell phone?

12 A Yes, sir.

13 Q Did you know Charles Brown was coming?

14 A Did I know he was coming with him?

15 Q Yeah.

16 A Yes, sir.

17 Q So he said, "My step-dad and I are going to pick you
18 up"?

19 A Yep.

20 Q Okay. And so you went with them -- and I know you
21 testified pretty distinctly earlier about you went to
22 Rolling Hills, you went back and forth to El Cheapo, and
23 back and waited and ---

24 A Yes, sir.

25 Q --- waited. And they were drinking the entire time?

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 173

1 A We didn't -- I'm not going to say they was [sic]
2 drinking the entire time. From what I know, they didn't
3 start drinking until we got to Rolling Meadows.

4 Q Well, you testified earlier they were drunk.

5 A Yeah. They was drunk when we got to Rolling Meadows.
6 I didn't know they was drinking the whole time before they
7 came and got me until we got to Rolling Meadows and we
8 started ---

9 Q Uh-huh.

10 A --- chilling and waiting, and then they was like,
11 "Hey, you want a drink?" And we was like, "Cool, okay."
12 I drank ---

13 Q Were you drinking, Mr. Thompson?

14 A When?

15 Q Were you drinking?

16 A Yeah. I took a sip.

17 Q You just had a sip or did you have more than that?

18 A I took -- I took a little sip. I wasn't drunk. I
19 wasn't intoxicated like I didn't know what was going on.

20 Q You just had one sip or did you have a drink?

21 A I had a sip.

22 Q Okay. And you didn't have anymore than that?

23 A No.

24 Q So your testimony today is that you were sober, not
25 intoxicated.

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 174

1 A Yeah, I was functional.

2 Q Well, functional is a little bit different than
3 sober.

4 A I could drive a car or -- or move or do anything I
5 wanted to do without having anything happen to me.

6 Q Fair to say you were buzzed then?

7 A That's it.

8 Q So you had a buzz?

9 A That it.

10 Q But that's not sober, right? You -- you'd agree with
11 that?

12 A Yeah, I understand what you saying.

13 Q All right. So you had a little buzz, they were
14 drunk, and around 6:30 or so that's when Quintin wanted to
15 meet up?

16 A I'm guessing so, yes, sir.

17 Q You testified to that earlier, but you said that
18 you only had information because you were in the car and
19 he was communicating with Jarvis?

20 A That's it.

21 Q At any point did Quintin and Charles Brown
22 communicate?

23 A No.

24 Q So there was no communication between Mr. Brown and
25 Quintin Mills?

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 175

1 A No.

2 Q All right. And so at the last location that you went
3 to -- and that was that a -- abandoned house ...

4 A On Falcon Lane.

5 Q Right. Exactly. Right there. Did you have any
6 reason to suspect why they wanted to go there? You said
7 you had a funny feeling about it.

8 A I didn't have -- I didn't know why, but I did have a
9 funny feeling.

10 Q But earlier in the video testimony, you said if "Q"
11 was there, there won't be anything ---

12 A There won't be any funny business. I told them that.

13 Q I -- I know. Thank you Mr. -- Mr. Thompson, let me
14 just complete my sentence, though, okay? Before you
15 answer.

16 A Yes, sir.

17 Q All right. So on the video, even though you were
18 meeting in this secluded location, you said, "If Q's going
19 to be there, meaning Mr. Quintin Mills ---

20 A Yeah.

21 Q --- there would be no funny business?

22 A Yeah.

23 Q Okay. Then why did you have some kind of funny
24 feeling?

25 A I mean, it just -- I just get that vibe from that

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 176

1 area, period. When I'm going to an abandoned house where
2 I know has been plenty bad stuff going on around that
3 area, well, of course I'm going to get a bad feeling. I'm
4 not going to feel like ---

5 Q What was your understanding of why Mr. Mills wanted
6 to meet there?

7 A I don't know.

8 Q Did it ---

9 A But ---

10 Q --- have to do with the motorcycle?

11 A I don't know why he wanted to meet there.

12 Q Okay.

13 A I can't say.

14 Q Did you know if the motorcycle was legitimately
15 Quintin's or ---

16 A I don't ---

17 Q --- was it stolen or anything?

18 A I don't know who bike ---

19 Q You didn't know anything about the condition of the
20 ---

21 A I didn't.

22 Q Okay. That's fair enough.

23 So when you arrived, you said that Quintin Mills was
24 there; is that correct, and that's who you saw first?

25 A Yeah, I saw Quintin first.

1 Q Okay. And then Mr. Brown got out of the vehicle and
2 you got out of the vehicle --

3 A Yeah.

4 Q -- is that correct?

5 A We all got out.

6 Q Right. And Mr. Brown and Quintin Mills had a
7 discussion?

8 A Yeah.

9 Q And there was a misunderstanding?

10 A About which bike it was.

11 Q But earlier you said they had no communication with
12 each other.

13 A No, they didn't because Jarvis was communicating
14 everything.

15 Q So that -- is that why there was a miscommunication?

16 A Yes.

17 Q So nobody really had a clear understanding ---

18 A No, sir.

19 Q --- of what kind of transaction was going down?

20 A But Jarvis and Quintin.

21 Q Except Jarvis is drunk?

22 A Jarvis and Quintin.

23 Q So -- but I mean, Jarvis, as you testified earlier,
24 is drunk. So he's probably not relaying ---

25 A He probably wasn't ---

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 178

1 Q --- the best information ---

2 A No, he wasn't.

3 Q --- is that fair to say?

4 A He probably wasn't.

5 Q Well, I'm asking. You were there, so you tell me.

6 A I mean, to me he was just giving out -- the only
7 thing he was relating (sic) where we was going to meet.

8 Q Okay.

9 A From my understanding, from the time I got in, it was
10 a 1000.

11 Q But who'd you understand that from?

12 A From Jarvis.

13 Q Okay.

14 A I mean, that's what he was telling me, that's what he
15 was telling me and Charles Brown. It was a 1000 that he
16 wanted to sell for 500.

17 Q Okay. But Charles -- he had it -- he had only an
18 understanding through Jarvis ---

19 A That it was a 1000.

20 Q --- through Quintin? All right.

21 And then -- so is -- is that why there was confusion
22 ---

23 A Yes, sir.

24 Q --- as to what was going on?

25 A Yes, sir.

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 179

1 Q Okay. And both Mr. Brown and Jarvis were both drunk
2 at the time of this -- sort of this going down. Is that
3 still -- they're still inebriated; is that correct?

4 A Yes, sir.

5 Q All right. And then is that when Derrick Mills
6 appeared?

7 A He appeared -- as we was getting out of the car, he
8 appeared.

9 Q And you said that was kind of by that abandoned
10 house; is that right?

11 A Yes, sir.

12 Q All right. And -- but you said earlier -- you said
13 earlier that Mr. Quintin Mills said that it was getting
14 dark, he wanted just -- he wanted to just do it tomorrow?

15 A No.

16 Q And y'all -- please ---

17 A No.

18 Q --- hold on. Let me finish and make sure I have this
19 correctly from your previous ceremony -- testimony.

20 That Jarvis said, "No. We needed the bike tonight"?

21 A Him and Charles wanted the bike tonight. I told them
22 it was getting dark, we can just do it tomorrow, call him
23 and tell him we'll do it tomorrow. They wasn't going for
24 it. They wanted to ---

25 Q Okay. Okay. All right. I'm -- and so they were

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 180

1 insistent on meeting?

2 A Yeah.

3 Q Okay. And let me ask when -- a little bit of what
4 happened after that kind of disagreement about the
5 transaction. So that's when Mr. Charles Brown showed the
6 money; is that correct?

7 A Yes, sir.

8 Q Okay. And you had returned to the vehicle, the Jeep?

9 A Yes, sir.

10 Q Okay. Now, it seems like at that point that's when
11 Mr. Derrick Mills kind of came forward; is that correct?

12 A Yes, sir.

13 Q And I'm still a little confused about what happened
14 after that because it seems like your previous testimony
15 you said Quintin got you out of the vehicle?

16 A He did.

17 Q But in the video, you said it was kinda like he was
18 choking you, so which one?

19 A I mean, he had his hand around my throat, around my
20 chest area. But I'm just saying it's ---

21 Q And I -- I -- and ---

22 A --- like this (indicates.)

23 Q And again, I'm just trying to make sure that we get
24 that a little more precise because earlier, your live
25 testimony ---

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 181

1 A No. I said that he was choking me where I couldn't
2 breathe. He just had his hand around my chest.

3 Q Well -- and -- and Mr. Thompson, hold on one second
4 and just let me make sure we're clear, okay? So let me
5 finish my question first before you start.

6 So earlier in your testimony, you said that he pulled
7 you from the vehicle; is that correct?

8 A Yes, sir.

9 Q All right. But in the video you said he was choking
10 you.

11 A Yes, sir.

12 Q So now, please explain the discrepancy between those
13 two statements here, live and on that video, what did you
14 mean?

15 A He had his hand around my chest area.

16 Q In what kind of manner.

17 A Like this (indicates.)

18 Q Did you feel like -- I mean, now, as you test --

19 A He wasn't taking my breath, like, choking me as in
20 that (indicates). But if you look at it just strength
21 wise, he was choking me. He was pulling me back and ---

22 Q And how did you interpret that?

23 A I'm short, he's tall. So you got to understand, his
24 arms ---

25 Q Uh-huh.

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 182

1 A --- they're pulling up on me. So I'm already feeling
2 like ---

3 Q Well, how did you interpret that action?

4 A What you mean?

5 Q How -- what -- what did you think was happening?

6 A I didn't know what was going to happen.

7 Q What I'm saying is why do you think he pulled you out
8 of the car? What -- what ---

9 A I mean, to be honest, after I done [sic] look at it
10 after all these years and thought about it, I felt like he
11 saved me because if I was in that car and if he felt like
12 he wanted to shoot in that car, he could've killed all of
13 us in that truck.

14 Q Okay. So what happened after he got you out of the
15 vehicle, he was still holding you?

16 A He was holding me and we walked to the front.

17 Q Well, and how was -- was he still restraining you or
18 was he just ---

19 A He was ---

20 Q --- holding you?

21 A He was still restraining me the same way.

22 Q Okay.

23 A He walked to the front of the Jeep, close to the side
24 of the house ---

25 Q But your ---

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 183

1 A --- and the next thing ---

2 Q But your testimony is that he just had his arm around
3 you?

4 A Yes.

5 Q But not now that he's choking you; is that correct?

6 A When I said "choked" then, I wasn't saying that he
7 was trying to take my breath.

8 Q Okay.

9 A I was just saying he was restraining me.

10 Q Well, and that's the clarity that we need on that
11 'cause I -- I think that can be misunderstood. So okay.

12 So you got around in the beginning -- the front of
13 the vehicle; is that correct?

14 A Yes, sir.

15 Q All right. So at the front of the vehicle, you
16 testified earlier that he went through your pockets and
17 pulled out a pistol; is that correct?

18 A Yes, sir.

19 Q All right. And was that 'cause he was patting you
20 down or ...

21 A I guess so.

22 Q All right. And -- but you testified that he took the
23 pistol and he threw it on the ground.

24 A Yeah, he dropped it.

25 Q You mean he dropped it on the ground?

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 184

1 A I mean, he just -- when he seen what all I had, he
2 dropped the pistol and then he kept walking.

3 Q Okay. And then he went through your pockets?

4 A Yeah.

5 Q Okay. And -- and you testified earlier he removed
6 \$200 and three cell phones; is that correct?

7 A Yes, sir.

8 Q All right. And did he make any statements while he
9 was doing that?

10 A No, sir.

11 Q And what was your interpretation of that action?

12 A I was like, "Cuz, let me go."

13 Q No. I -- I'm not asking what you said ---

14 A Once he was in my pocket, I was like, "Man, why you
15 taking my stuff out my pocket?"

16 Q And what was your impression? What did you think was
17 happening? Did you think you were getting robbed or what?

18 A That's what it felt like.

19 Q But is that what you thought?

20 A It -- everything happened so fast, I didn't -- I
21 couldn't think fast enough to even ---

22 Q Mr. Thompson, let me ask you though, there -- there's
23 two -- two things here I'm trying to ---

24 A You asked me did I felt [sic] like I was getting
25 robbed.

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 185

1 Q Mr. Thompson, let me -- let me finish my sentence
2 because I'm trying to make sure I understand.

3 And in one moment you said you pulled him out -- he
4 pulled you out of the vehicle and he saved you; and then
5 in another minute, you said you felt like you may have
6 been getting robbed or something. So is ---

7 A I mean ---

8 Q --- he saving you ---

9 A If somebody go in ---

10 Q --- or ---

11 A --- how you going to feel?

12 Q I'm asking how you felt, sir. I'm asking your
13 impression.

14 A That just how I felt at the time.

15 Q How do you feel now?

16 A I don't -- like I say, I -- the way everything went
17 down that night and he had that gun ...

18 Q Who had the gun?

19 A The way Derrick had that gun and we were so close to
20 Derrick and he looked at me and Quintin --

21 Q Did Mr. -- did Mr. Quintin Mills hold your pistol --

22 A No.

23 Q -- to your head?

24 A No. I never said that.

25 Q But he said, "I'm taking your stuff to deprive you of

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 186

1 it"?

2 A No. When Derrick looked at him and he look -- when
3 Derrick looked at both of us while he's holding that gun
4 at Charles's face and doing this here (indicates), he knew
5 go in my pocket 'cause they already know if I had a gun, I
6 was going to shoot. They know that.

7 Q Okay. So what you're saying is your impression is -
8 --

9 A He looked at him like, "Yeah, check him."

10 Q Okay. And after he took everything out of the
11 pockets -- your pockets, I mean, you said, you -- you
12 testified earlier, not in the video, but live here, you
13 testified earlier that then Mr. Mills pointed the weapon
14 at you and Quintin ---

15 A He did. He did.

16 Q Okay. And what happened after that?

17 A We all split up. We all ran. Everybody went their
18 own way.

19 Q He just pointed a weapon at you?

20 A He pointed and clicked like he was trying to shoot
21 us.

22 Q He went -- he pointed the weapon at you ---

23 A And he ---

24 Q --- and he pulled the ---

25 A --- pulled the trigger and act like he was trying to

1 shoot us ---

2 Q I'm ---

3 A --- but it kept click, click, click.

4 Q I was going to say -- let me finish my sentence, Mr.
5 Thompson.

6 He pointed the weapon at you and he pulled the
7 trigger and you heard the hammer click; is that correct?

8 A Yes, sir.

9 Q Okay. And then the -- I was also a little confused
10 about what happened after that 'cause it seemed like at
11 one point you said you pushed Quintin and ran, and at
12 another point it sounded like you said ---

13 A He ---

14 Q --- Quintin ---

15 A --- pushed me or I pushed him. I don't know how it
16 went. We just -- all I know ---

17 THE COURT: Mr. Thompson, you gotta let him finish
18 and -- asking the question, then you can answer the
19 question.

20 Q I know you're eager to respond to my questions and I
21 understand that, Mr. Thompson. But just let me -- let me
22 finish my complete sentence before you answer, okay?

23 So what I'm asking is do you recall what happened
24 after that? Did Quintin push you or did you push Quintin
25 to get away; which was it?

CROSS-EXAMINATION BY MR. FARLEY - KENDRELL THOMPSON 188

1 A To be honest, I can't remember exactly, but I just
2 know I got away. I don't know if I push him, he push me.
3 I just know I got away.

4 Q Okay. And did you see Quintin later on that evening
5 or have any communication with him?

6 A Nope.

7 Q Then you -- did you try to, you know ---

8 A No.

9 Q --- contact anyone and ask where's my phone or
10 where's my money or anything?

11 A No. I didn't contact nobody until after he had got
12 lock up and I was asking where is my stuff.

13 Q Did you find your stuff?

14 A Nope.

15 Q Okay. But you -- you did testify earlier that you
16 felt like Quintin Mills saved your life when he pulled you
17 out of the car?

18 A If -- if I look at it over the years, yeah. Yes,
19 sir. After the years, I -- I -- after I look at it, yeah.
20 I feel like he saved me 'cause if I'd have got stuck in
21 that truck, I coulda got shot, too.

22 Q Okay. All right. Thank you, Mr. Thompson. No
23 further questions.

24 THE COURT: Any redirect?

25 MR. LUPTON: Thank you, Your Honor.

REDIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 189

REDIRECT EXAMINATION

BY MR. LUPTON:

Q Did -- you said that Quintin was the first one you saw when you got to the -- to the abandoned house?

A Yes, sir.

Q And then Derrick stepped out from behind the house?

A Yes, sir.

Q So he wasn't visible as you had first drove up?

A Not that I can remember.

Q All right. But when he did step out, did Quintin act surprised to see you?

A I can't say.

Q Well, he didn't go, "What are you doing here," or anything like that?

A I can't say.

Q Okay. At no point did he tell him to leave, did he?

A No.

Q All right. Now, there -- there was some questions about times and how long you were at Rolling Meadows, how long you were at the El Cheapos, how long after El Cheapos you were still waiting at Rolling Meadows. Do -- do -- do you -- were you maybe ---

A I wasn't watching.

Q You weren't checking your watch and ---

A No, sir.

REDIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 190

1 Q --- making notes of how much?

2 A No, sir.

3 Q You just know that from the time they picked you up -
4 - the time that Charles and Jarvis picked you up until the
5 time that you ended up at Sandy Run ---

6 A No, sir.

7 Q --- you said there was a few hours.

8 MR. LEINENDECKER: Objection, Your Honor. Leading.

9 THE COURT: Sustained.

10 Q Well, in the video you talked about a few hours.

11 A Yes, sir.

12 Q What is that "few hours" in reference to?

13 A I mean, we waited. We was waiting.

14 Q Okay. Was it from the time you first got picked up?

15 A From the time I got pick [sic] up and we went to
16 Rolling Meadows.

17 Q All right. So starting at the time you got picked up
18 --

19 A Yes, sir.

20 Q -- until the time this was all over was a few hours?

21 A Yes, sir.

22 Q All right. And would it surprise you if -- if maybe
23 some idea of the amount of time you think -- whether you
24 think something's 40 minutes it might be less?

25 A It could have.

REDIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 191

1 Q All right. So -- but you do know that at the time
2 you were at El Cheapos -- was it light or dark?

3 A It was light.

4 Q It was light out?

5 A Yeah.

6 Q It was still daytime?

7 A It was still daytime.

8 Q It was before sunset?

9 A Yep.

10 Q All right. And you said it was starting to get dark
11 when you were directed to go to ---

12 A Sandy Run.

13 Q --- Sandy Run. So it was -- you know, was it just at
14 sunset?

15 A (No audible response.)

16 Q Let me ask you this: Do you understand how, you
17 know, after sunset, there's a little bit of time where
18 it's still -- it's sort of twilight and you can still see
19 some?

20 A It was -- it was getting dark.

21 Q All right. It was getting dark. So it was in that
22 twilight time?

23 THE WITNESS: I can't hold it.

24 THE COURT: You need to go to the restroom?

25 MR. LUPTON: I'm almost done.

REDIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 192

1 THE WITNESS: I can't.

2 THE COURT: All right. He's almost -- he's almost
3 done. How many more questions do you have?

4 MR. LUPTON: Just --

5 THE WITNESS: I got to go.

6 THE COURT: He's got to go to the restroom. Take a
7 brief recess.

8 (To the bailiff) Will you escort him and come right
9 back?

10 MR. LUPTON: Thank you, Your Honor.

11 (Briefly off the record.)

12 THE COURT: All right. Solicitor, you may continue.

13 MR. LUPTON: Thank you, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. LUPTON:

16 Q And I apologize. I know you didn't get to step down
17 for a bathroom break when the rest of us did, but just let
18 me finish up here real quick.

19 So at the point where you -- you -- it's getting dark
20 when you're told to go to ---

21 A Sandy Run.

22 Q --- Sandy Run, all right, or Sugar Hill?

23 A Yes, sir.

24 Q Now, this event, from the time the guns started
25 coming out to the time it's all over, was it half an

REDIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 193

1 hour/45 minutes?

2 A It wasn't even that long.

3 Q Was it really quick?

4 A It was really quick.

5 Q Would you say it was just over in seconds?

6 A A minute maybe.

7 Q From the time the first gun came out until the time
8 you're running ---

9 A Maybe ---

10 Q --- off into the woods...

11 A Maybe a minute, if two.

12 Q So real short?

13 A Real short.

14 Q All right. And was it kind of -- was there some
15 confusion when you ---

16 A When?

17 Q Well, let me back up. Were you scared when -- when
18 guns are coming out ---

19 A Yeah, I was ---

20 Q --- and bullets are being fired?

21 A Yeah.

22 Q All right. Was -- was -- is there a possibility of,
23 you know, some of the details being a little bit confused?

24 A At the time, yeah.

25 Q Is there any question in your mind, though, who shot

REDIRECT EXAMINATION BY MR. LUPTON - KENDRELL THOMPSON 194

1 Charles Brown?

2 A No.

3 Q Who was that?

4 A That was Derrick Mills.

5 Q And it has been -- it's been five years almost since
6 this happened until now?

7 A Yes, sir.

8 MR. LUPTON: Nothing futher, Your Honor.

9 THE COURT: You may step down, sir. Thank you.

10 (The witness complies.)

11 MR. LUPTON: Your Honor, may we approach?

12 THE COURT: Yes, sir.

13 (Bench conference.)

14 THE COURT: Ladies and gentlemen of the jury, it's
15 almost five. I know you've had a long day and you
16 obviously have things to do at -- after five o'clock. I'm
17 sure you need to get home and take care of you normal
18 family activities. So it's a good time for us to break
19 for the evening.

20 If you would please report to your jury room at 9:30
21 in the morning, then we'll resume with the trial of the
22 case.

23 Ladies and gentlemen, again, please remember my
24 previous instruction not to discuss this case with anyone
25 including amongst yourselves or anyone else. Have a nice

1 evening. We'll see you in the morning.

2 (The jury exits at 4:52 p.m.)

3 THE COURT: All right. If everybody would please
4 remain quiet until the jury's completely out of the -- out
5 of the courtroom.

6 All right. We're adjourned until 9:30 in the
7 morning.

8 MR. LUTON: Thank you, Your Honor.

9 (Off the record at 4:53 p.m.)

10 **DAY 2**

11 (On the record at 9:44 a.m.)

12 THE COURT: Before we get started this morning, I do
13 want to make a note. We're certainly happy that everyone
14 in the gallery is present and here to support their loved
15 ones; however, we don't want any distractions obviously,
16 as it is an important case for both sides. So during the
17 testimony, you're not allowed to get up and leave the
18 courtroom.

19 Also nobody's to come in, in between testimony. If
20 you want to leave, please wait 'til the witnesses come in
21 and out of the -- the courtroom so that the jurors are not
22 distracted. And then again also if the jury's coming out
23 of the courtroom or into the courtroom, please keep your
24 seats and don't leave the courtroom until the door is
25 completely shut and the -- and the jury has left the

1 courtroom, otherwise I'm going to have to ask you to
2 leave.

3 But again, everybody's welcome. I just want everyone
4 to please follow the rules.

5 The parties ready to proceed this morning?

6 MR. LUPTON: State's ready, Your Honor.

7 MR. LEINENDECKER: We are, Your Honor.

8 MR. FARLEY: Yes, Your Honor.

9 THE COURT: All right. Let's have our jury, please.

10 (The jury enters at 9:46 a.m.)

11 THE COURT: Welcome back ladies and gentlemen of the
12 jury. I hope that you had a nice evening. We're ready to
13 proceed with the trial of this case.

14 Solicitor, you may call your next witness.

15 MR. LUPTON: Thank you, Your Honor. The State calls
16 Jarvis Mack.

17 **JARVIS MACK**, having been first duly
18 sworn, testifies as follows:

19 THE CLERK: Please state your full name for the
20 record.

21 THE WITNESS: Jarvis Mack.

22 THE CLERK: Thank you, sir. You may be seated.

23 THE COURT: Your witness.

24 MR. LUPTON: Thank you, Your Honor. May it please
25 the Court?

1 DIRECT EXAMINATION

2 BY MR. LUPTON:

3 Q Jarvis, can you tell the jury who you are please?

4 A Jarvis Mack.

5 Q And where are you from?

6 A I guess you could say Gaston, South Carolina.

7 Q All right. And how do you know Charles Brown?

8 A That's my father.

9 Q Is he your biological father?

10 A No, he not, but he been [sic] there since I was born.

11 Q So he's your step-dad, but he's raised you?

12 A Yes, sir.

13 Q So as far as you know, he's --

14 A That's my father.

15 Q He's your only father you've ever known?

16 A Yes, sir.

17 Q And how do you know -- first of all, do you know
18 Quintin Mills?

19 A I know him from around the way, not personally.

20 Q All right. And do you see him in the courtroom here?

21 A Yes, sir.

22 Q Which one is he?

23 A Dreads and glasses, far end, left.

24 Q All right. And do you know Derrick Mills?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 198

1 Q Which one is he?

2 A Lavender shirt, dark skin, short haircut.

3 Q The one without the jacket that's --

4 A One without the jacket.

5 Q Okay.

6 MR. LUPTON: Your Honor, I ask the Court record
7 reflect he's identified the two Defendants.

8 THE COURT: Yes, sir. It shall do so.

9 Q And you said you know Quintin from around?

10 A Yes, sir.

11 Q All right. So you hang out with him?

12 A No, sir.

13 Q But you know who he is?

14 A Yes, sir.

15 Q Okay. And how do you know his -- Derrick Mills?

16 A I don't know Derrick.

17 Q But do -- do you know who he is?

18 A I know who he is.

19 Q And how do --

20 A From his mother.

21 Q Derrick's ---

22 A I'm ---

23 Q --- is Quintin's father.

24 And do you know him from around as well?

25 A No.

1 Q All right. Have you -- do you know -- at that time,
2 did you know who he was by sight?

3 A Yes, by sight.

4 Q So you'd seen him enough to know who he was by sight?

5 A Yes, sir.

6 Q All right. And any question about your ability to
7 tell who he was?

8 A No. He was ---

9 Q You'd seen him enough --

10 A --- it was easy to identify him.

11 Q You'd seen him enough to know who he was?

12 A Yes, sir.

13 Q All right. And did you have dealings with those two
14 on Saturday December 13, 2014?

15 A With Quintin.

16 Q All right.

17 A Derrick was never to -- Derrick was never supposed to
18 be nowhere in the -- in the story. I ---

19 Q He wasn't supposed to be involved? You were trying
20 to deal with ---

21 A When we ---

22 Q --- him?

23 A --- pulled up, that's when we saw him.

24 Q All right.

25 A So it surprise -- to me, too.

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 200

1 Q Well, backing up to when you started dealing with
2 Quintin that day ...

3 A Uh-huh.

4 Q ... can you tell the jury how that happened?

5 A A couple days before, Quintin was riding a
6 motorcycle, a blue motorcycle. And I stopped him and I
7 asked him was it for sale. He said no, but he could get
8 another one. He -- well, he had another one for sale. So
9 I told him I would hit him up, you know?

10 So a couple days pass and I text him, and he was
11 like, "Yeah, I can get you the motorcycle. I got the
12 motorcycle. I'm across town right now," or something like
13 that. "I'm working," or something, "but I'll be down
14 there." He didn't, like, say a time, but it ended up
15 being about that time.

16 So it was -- I seen him at a store riding a
17 motorcycle and I wanted to buy the motorcycle. My step-
18 father actually was looking for a motorcycle at the time.

19 Q All right. So ---

20 A But I didn't call him the next day for the
21 motorcycle. It was probably a couple of days when I
22 remembered.

23 Q Okay. So it was -- you -- you see him a couple of
24 days before that Saturday riding the motorcycle?

25 A Yes, sir.

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 201

1 Q All right. Then on Saturday is when you called him
2 up asking if he still had the motorcycle for sale?

3 A Yes, sir.

4 Q All right. Did you -- what kind of motorcycle was it
5 supposed to be?

6 A A 1000.

7 Q An R-1000?

8 A An R-1000.

9 Q And was there a price that it was supposed to be sold
10 for?

11 A A thousand dollars.

12 Q Was it a thousand or was it something different?

13 MR. LEINENDECKER: Objection, Your Honor. Question
14 asked and answered. He's now leading the witness.

15 THE COURT: If you can just rephrase your question,
16 please.

17 Q Are you sure about the price?

18 A I'm not sure about the price. But it was somewhere
19 around 500 to, like, 1,000.

20 Q Okay.

21 A Yeah.

22 Q So it could've been for 500?

23 A Could've been.

24 Q All right. It has been five years; is that correct?

25 A Yes, sir. Long time.

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 202

1 Q All right. But there was a price agreed upon between
2 -- and -- and first of all, were you buying this or was
3 your father buying this?

4 A My father was buying it.

5 Q And you were -- were you involved in the transaction?

6 A As far as the cash transaction?

7 Q No. As far as setting anything up.

8 A Yes. I contact Quintin for the motorcycle.

9 Q All right. So you -- acting as the middle man?

10 A Yes, sir.

11 Q All right. So you're setting up buying it and you
12 called him. Do you remember about what time Saturday?

13 A It's five years ago. It's hard to say.

14 Q All right.

15 A It had to have been earlier in the day.

16 Q Earlier in the -- earlier in the day?

17 A It had to have been earlier in the day 'cause he
18 waited so long to meet up with me. It was, like, that
19 night.

20 Q All right. And then did y'all go to -- to -- to try
21 and buy this motorcycle?

22 A Yes.

23 Q All right. Who went?

24 A Me, Charles Brown, and Kendrell Thompson.

25 Q All right. And then where was the meeting -- was

1 there a location for where the meeting was supposed to be
2 set initially?

3 A Yes, sir. It was supposed to have been at a store,
4 then it turned into Rolling Meadows, then they [sic]
5 location. They were going to come to our location which
6 was in public, but they stalled so long 'til we had to
7 meet them in their location.

8 Q And then, Rolling Meadows, I think we've already
9 established that's a trailer park up past 26 on 177 --

10 A Yes, sir.

11 Q -- 176? Now, at some point, did y'all end up going
12 to El Cheapos?

13 A Yes, sir.

14 Q And what was the reason for that?

15 A Just to get something to drink.

16 Q All right. And when you got there -- well, first
17 off, let me -- let me back up. You say you were -- you
18 say you were calling, and were you just calling or did you
19 do texts too?

20 A Yeah, did text too.

21 Q All right. And -- excuse me one second. (Hands
22 exhibits to the witness) Show you what's marked as State's
23 Exhibits 3, 4 and 5. Do you recognize these?

24 A Yes, sir.

25 Q And what are these?

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 204

1 A Text messages from my phone.

2 Q Pictures of your phone with the text messages pulled
3 up?

4 A Yes, sir, that they took that night.

5 Q All right. And if you look at it, is there some
6 overlap that you can see where ---

7 A Yeah.

8 Q --- like, where --

9 A Charles Brown.

10 Q Yeah. The ---

11 A Yes, sir.

12 Q Where there's a little bit of overlap between the --
13 the texts?

14 A Yes, sir.

15 Q So that you have to just put it together sort of like
16 that to be able to see the ---

17 A Yes, sir.

18 Q All right.

19 MR. LUPTON: Your Honor, at this point, I'd like to
20 ask to admit the State's 3, 4, and 5.

21 THE COURT: Any objection?

22 MR. LEINENDECKER: No objection.

23 MR. FARLEY: No objection, Your Honor.

24 THE COURT: All right. They're in.

25 MR. LUPTON: All right.

1 (State's Exhibit Nos. 3, 4, and 5, photos, in evidence.)

2 Q And so they have to be overlapped like that to -- to
3 see the progression, correct?

4 A Yes, sir.

5 Q And these are -- these are the texts between y'all?

6 A Yes, sir.

7 Q And there were additional phone calls; is that
8 correct?

9 A Yes, sir.

10 Q Then you ended up -- this was going on throughout the
11 day?

12 A Yes, sir.

13 Q You ended up at the gas station?

14 A Yes, sir.

15 Q Now, I want to talk about that. At the gas station,
16 was it light or dark out?

17 A It had to have been light.

18 Q Had to have been? You -- you remember or ...

19 A It was probably -- I really don't remember, but it --
20 it had to be kinda light. It had to have been some type
21 of light, but it wasn't dark, dark. I know that.

22 Q All right. But was it still daytime?

23 A I would like to say it was daytime. Maybe the sun
24 was setting. Probably daytime.

25 MR. LEINENDECKER: Objection, Your Honor. Obviously

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 206

1 we're speculating at this point, and the Solicitor's
2 assisting that. He said he doesn't remember.

3 THE COURT: If you don't remember, that's fine. But
4 just do the best you can.

5 (To Mr. Lupton) And please don't lead the witness.

6 Q All right. After you left the gas station --

7 A Yes, sir.

8 Q -- where'd you go?

9 A Rolling Meadows.

10 Q And did -- how long were you there?

11 A I'd say a hour-and-a-half, maybe two.

12 Q All right.

13 A Still waiting -- still waiting for a response. Still
14 waiting.

15 Q All right. And are you certain -- were you looking
16 at your watch during all these times?

17 A Yes. Because when you're trying to buy -- when
18 you're trying to buy something, you know, you're trying to
19 buy something; and the later it gets, you know, you -- you
20 know what I'm saying?

21 Q You start getting anxious?

22 A Exactly.

23 Q So ---

24 A So --

25 Q --- were you noting the times? Do you have any notes

1 where you say what time you -- you did what?

2 A I don't. And I don't have that phone anymore. But I
3 was texting him.

4 Q All right.

5 A Like, "I'm in Rolling Meadows. Where you at? Where
6 you at? Where you at?"

7 Q And so that -- the texts show when you were doing it,
8 but you don't recall how much. You just know it was some
9 amount of time?

10 A Yes, sir.

11 Q All right. And then did you eventually get a
12 location change?

13 A Yes, sir.

14 Q To where?

15 A Sandy Run, Sugar Hill.

16 Q All right. And by the time you get to Sugar Hill --

17 A Yes, sir.

18 Q -- was it light out or dark out?

19 A It was dark.

20 Q All right. And did you have a little bit of trouble
21 finding where you -- they were --

22 A Yes, sir.

23 Q -- where Quintin was directing you to meet?

24 A Yes, sir.

25 Q And did you ultimately find the location?

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 208

1 A Yes, sir. Falcon Drive, Falcon Lane, whatever.

2 Q Falcon Lane? And that was in the Sugar Hill area in
3 -- up there in Sandy Run?

4 A Yes, sir.

5 Q In Calhoun County?

6 A Yes, sir.

7 Q All right. And I'll show you what's already been
8 marked -- already in evidence, State's Exhibit 7. (Hands
9 exhibit to the witness) Is this -- is that a picture of
10 the Sugar Hill area where you were meeting?

11 A Yes, sir.

12 Q All right. And where exactly did you meet?

13 A It's an abandoned house. Some type of house on
14 Falcon Lane. (Indicates) I think ---

15 Q Right where you're pointing?

16 A --- right here. Right there.

17 Q All right. So right there, that house on Falcon
18 Lane?

19 A Yeah.

20 Q Now, what was it like there when you showed up?

21 A What was it like?

22 Q Yeah. What was -- what was the area -- can you
23 describe the area?

24 A Dark. He had told me that was someone's house, but
25 you know, when you pull up and look, you can tell a

1 abandoned house from abandoned house.

2 Q It was an abandoned house is what ---

3 A It was an abandoned house.

4 Q --- you're --

5 A So it was still pretty much dark out. It's dark out.

6 Soon as I pull up, them two standing by a motorcycle.

7 Q All right. And was this a populated area?

8 A No. No.

9 Q No? You sound real insistent.

10 A No. They was off in the cut. Like, away from the

11 road, away from houses.

12 Q Secluded?

13 A Secluded. Very, very secluded.

14 Q All right. And so you get there. Who were you

15 expecting to be there?

16 A Just Quintin.

17 Q All right. Did you ever talk about him bringing

18 anybody with him?

19 A No.

20 Q Who showed up?

21 A Nobody showed up. He was there. Derrick was there

22 with Quintin.

23 Q All right. So Quintin and Derrick were --

24 A Were --

25 Q -- out there?

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 210

1 A -- standing there.

2 Q Oh, okay. Now, let me back up a second. Well, no,
3 let -- let's go ahead. Once you got there, you see who's
4 there?

5 A Yes, sir.

6 Q What happened?

7 A We got out the car, my step-father, Charles, was
8 talking. So from -- from the view from the image, that's
9 the 600, that's not a 1000. That's not what we come to
10 buy. He's the only one doing all the talking.

11 Q Who?

12 A My step-father, Charles.

13 Q Okay.

14 A So actually, Quintin was -- Quintin was pretty
15 lenient about it. Quintin was like, "Well, you know what?
16 I will go get the bike. I'll go get the bike." You know,
17 "I'll get the bike for you."

18 Derrick said, "Naw. Somebody's buying something,"
19 but we kinda, like, threw it off, got in the car. When we
20 got in the car, Quintin and Charles were just talking.
21 They was just talking.

22 Q All right.

23 A I'm guessing Derrick didn't like the way the
24 conversation went.

25 MR. LEINENDECKER: Objection, Your Honor.

1 Speculation.

2 A Let me back up. When we got in the car, Charles told
3 me to give him the money.

4 Q All right.

5 A Now, at this point in time, when he grabbed the money
6 from me, Quintin was talking to him ---

7 Q Who grabbed the money from you?

8 A Charles.

9 Q All right. So you give the money to your dad?

10 A My step-dad.

11 Q And then what does he do with that money?

12 A He's telling them, like, you know, "I didn't come to
13 play games. I got the money and that's not the
14 motorcycle." Like I said, Quintin was pretty lenient
15 about it. Quintin didn't argue, it was nothing like that.

16 Before you knew it, a long barrel comes in the car.
17 Derrick Mills put the gun in the car, first on me, then on
18 Charles. Told me, "Don't move."

19 Q All right. It -- it -- long barrel. Did you see
20 what kind of ---

21 A It was a revolver.

22 Q All right.

23 A I know that. Black.

24 Q Okay. And do you know what caliber it was?

25 A I can't say which caliber.

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 212

1 Q All right. You just know it was a long barrel, black
2 ---

3 A Revolver.

4 Q --- revolver. And then -- so Derrick sticks that in
5 the car and is pointing it at the two of y'all --

6 A "Nobody move."

7 Q And he tells you, "Nobody move." What happens then?

8 A I seen a chance to get away. He was, like,
9 demanding, and you know, "Don't move. Don't move. Don't
10 move."

11 I'd like to say he tried to open Charles door, and
12 that's when I seen a chance to break ---

13 Q All right.

14 A --- so I broke. When I broke, I glimpsed back. I
15 can't confirm whether Quintin had a gun or not. I
16 honestly can't confirm he had a gun 'cause Quintin was
17 standing at Kendrell's window. Derrick had a gun. He put
18 the gun in the car.

19 Q All right. Did ---

20 A I seen it.

21 Q --- did Kendrell point something?

22 A Did Kendrell point something?

23 Q Not Kendrell, I'm sorry, Quintin.

24 A I -- I can't -- I don't -- I can't confirm he pointed
25 something. I don't -- I can't ---

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 213

1 Q Did he -- did he act as if he had a gun?

2 MR. FARLEY: Objection. Leading, Your Honor.

3 A He didn't ---

4 THE COURT: Can you state whether or not ---

5 THE WITNESS: I mean, he ---

6 THE COURT: Hold -- hold on a second.

7 THE WITNESS: I'm sorry.

8 THE COURT: Please rephrase your question.

9 Q Can you tell whether or not -- do you recall whether
10 or not he acted as if he had a gun ---

11 A He --

12 Q --- in some way?

13 A He didn't act towards me ---

14 MR. FARLEY: Your Honor, objection. I'm ---

15 THE COURT: Don't say what he witnessed. Just act --
16 just ask who, what, when, where.

17 A He didn't act like he was pointing at me. I couldn't
18 confirm a gun from Quintin. All I can -- all I know is
19 Quintin was standing at Kendrell's door and that Derrick
20 was at the driver's door.

21 Q Okay.

22 A By the time I broke and glimpsed -- and glimpsed back
23 to rewind, he was still at the door.

24 You know, they were at the truck. I -- I'm on the
25 passenger's side of the truck. So when I jump out, only

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 214

1 thing I still can see through the window is Derrick, mad.

2 So I can't confirm whether Quintin had a gun. I can't
3 confirm that.

4 Q All right.

5 A I can't confirm he pointed a gun at me. And I jumped
6 out the car and I heard, "He's running."

7 Q From who?

8 A Quintin.

9 Q Quintin said, "He's running. He's running."

10 A (No audible response.)

11 THE COURT REPORTER: Is that a "yes"?

12 Q All right.

13 THE WITNESS: Yes, ma'am.

14 Q So as Derrick's pulling Charles, your father, out of
15 the car, you saw a chance; you take off, and you hear
16 Quintin say, "He's running. He's running."

17 MR. LEINENDECKER: Objection, Your Honor. Leading.

18 A Yes, sir.

19 MR. LEINENDECKER: That's --

20 THE WITNESS: That's what I did.

21 MR. LEINENDECKER: That's -- I'm sorry. That's a
22 leading question and you can't answer it.

23 THE COURT: Don't lead the witness, solicitor.

24 MR. LUPTON: All right.

25 Q What did Derrick do with Charles?

1 A I mean, evidently, he killed him. But ---

2 Q Well, like --

3 A --- I just --

4 MR. LEINENDECKER: Objection, Your Honor. Calls for
5 speculation.

6 A At the time I ---

7 THE COURT: Hold ---

8 THE WITNESS: At the time ---

9 THE COURT: Hold on.

10 THE WITNESS: I'm sorry.

11 THE COURT: When there's an objection, I've got to
12 listen ---

13 THE WITNESS: Okay.

14 THE COURT: --- to his objection ---

15 THE WITNESS: Yes, ma'am.

16 THE COURT: --- and rule on it ---

17 THE WITNESS: Yes, ma'am.

18 THE COURT: --- before you answer, okay? So hold on
19 --

20 MR. LEINENDECKER: It's just that he's already
21 reveled that he ran. So he's now speculating.

22 THE COURT: What -- you can ---

23 MR. LUPTON: Let me rephrase --

24 THE COURT: --- ask him what he knows and what he saw
25 or what he served -- or what he perceived.

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 216

1 MR. LUPTON: Well, let me clarify it.

2 THE COURT: But he can't speculate.

3 MR. LUPTON: Yes, Your Honor. Let me clarify it.

4 DIRECT EXAMINATION

5 BY MR. LUPTON:

6 Q At the point you talked to -- you testified earlier
7 --

8 A Uh-huh.

9 Q -- about opening a door. What happened at that
10 point?

11 A I jumped out and ran and take a chance.

12 Q All right. What happened between Derrick and your
13 father?

14 A At the time he was -- by the time I was running, he
15 was pulling him out the car.

16 Q All right. So Derrick's pulling your father out of
17 the car?

18 A That's what gave me a chance to run.

19 Q All right. And that's ---

20 A And then he ---

21 Q --- that's where you saw your chance to run?

22 A Yes, sir.

23 Q Now, as you run what do you hear?

24 A I'd say I ran about -- about a 100 -- about a 100
25 yards -- about a 100 feet somewhere in the woods, but all

1 I can hear is, I'd say, six/seven shots.

2 Q All right. So you heard Quintin say something, is
3 that ---

4 A Uh-huh.

5 Q --- you testified to that.

6 A Uh-huh.

7 Q And then ---

8 THE COURT: Is that a "yes"?

9 THE WITNESS: Yes, sir. Yes, ma'am. Yes.

10 Q And then you heard gunshots?

11 A Yes.

12 Q And what did you do as a response to all of that?

13 A Just kept running.

14 Q Where did you run to?

15 A I ran up that -- I ran up Sugar Hill, not to the
16 nearest house 'cause I was still afraid somebody would
17 come behind me. So I ran just up to a friend house -- a
18 friend of the family's basically.

19 Q So it was somebody you knew?

20 A Uh-huh.

21 Q You ran to their house?

22 A Yes, sir.

23 Q Did you know anybody else on Sugar Hill?

24 A No, sir.

25 Q All right. So you ran to the one house you knew?

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 218

1 A Yes, sir.

2 Q And what did you do there?

3 A Called 911.

4 Q All right.

5 MR. LUPTON: Your Honor ---

6 Q And you called 911?

7 A Yes, sir.

8 Q And you know it was recorded?

9 A Yes, sir.

10 MR. LUPTON: Your Honor, at this time I'd move to
11 admit the 911 call.

12 THE COURT: Any objection?

13 MR. LEINENDECKER: No objection.

14 THE COURT: What's the exhibit number, Solicitor?

15 MR. LUPTON: State's Exhibit 9, Your Honor.

16 THE COURT: It's in.

17 (Marked State's Exhibit No. 9, 911 recording,
18 in evidence.)

19 MR. LUPTON: I beg the Court's indulgence while we
20 set this up.

21 (Brief pause.)

22 (911 recording plays.)

23 DIRECT EXAMINATION

24 BY MR. LUPTON:

25 Q So that was you calling ---

1 A Yes, sir.

2 Q -- 911?

3 A Yes, sir.

4 Q And after you got off the phone with 911, what did
5 you do?

6 A Went back to the scene to check on my father.

7 Q All right. Then what happened when you got there?

8 A I found his body.

9 Q What did you do?

10 A Kiss him and hug him and hold him and just sat with
11 him. My brother came down there.

12 Q Well, before your brother came and got you, we'll --
13 we'll talk about that in a minute. But you -- basically,
14 you -- you said you hugged him, kissed him?

15 A Yes, sir.

16 Q Did you alter the scene?

17 A No, sir.

18 Q Take anything from the scene?

19 A No, sir.

20 Q All right.

21 A My brother loaded up the gun in the car and him, and
22 he wanted to take him away from the scene before they say
23 it's a drug deal issue.

24 Q All right.

25 A And then I had to come back to meet the investigator.

DIRECT EXAMINATION BY MR. LUPTON - JARVIS MACK 220

1 Q So the police came and you talked to them?

2 A Yes, sir.

3 Q All right. And you told them what happened --

4 A Yes, sir.

5 Q -- as best you could?

6 A Yes, sir.

7 Q And then where did you go after you finished with the
8 police? Well, first of all ---

9 A Home.

10 Q Did that take awhile?

11 A It took a long time.

12 Q And where did you go afterwards?

13 A Home.

14 Q Did you pick anybody else up?

15 A You mean, did my brother pick anybody else up?

16 Q Well, your brother, I guess he was the one driving.

17 A We picked Kendrell up.

18 Q All right. Now, is it any question in your mind who
19 pulled the gun on your father?

20 A It's no question, Derrick Mills.

21 Q And pulled him out of the car?

22 A Yes and the motion of pulling him out of the car. By
23 the time -- yes -- pulling.

24 Q All right. And as you were running, what did you
25 hear?

1 A Six or seven gunshots.

2 MR. LUPTON: Beg the Court's indulgence.

3 (Brief pause.)

4 MR. LUPTON: Nothing further, Your Honor.

5 THE COURT: Cross-examination?

6 MR. LEINENDECKER: Thank you, Your honor.

7 CROSS-EXAMINATION

8 BY MR. LEINENDECKER:

9 Q Mr. Mack, my name's Mark Leinendecker. I'm
10 representing Mr. Derrick Mills.

11 A Yes, sir.

12 Q I have probably a few questions for you.

13 A Yes, sir.

14 Q Not a lot, all right?

15 A Yes, sir.

16 Q The 911 call we heard, it said at the beginning that
17 that call came at 6:41 p.m. I believe. Did you hear that?

18 A I didn't -- I -- I can't confirm the time.

19 Q Okay. But you didn't hear it when we were listening
20 to the audio?

21 A I don't know.

22 Q Yes or no?

23 A I didn't hear it. No, sir.

24 Q Okay. All right.

25 A About the time.

CROSS-EXAMINATION BY MR. LEINENDECKER - JARVIS MACK 222

1 Q You -- you ran to a friend's house who lived on Sugar
2 Hill; is that correct?

3 A Friend of the family.

4 Q But --

5 A Yeah.

6 Q -- is that correct?

7 A Yes, sir. Uh-huh.

8 Q Okay. And that friend of the family's, what's their
9 name?

10 A Ms. Gwen.

11 Q Ms. Gwen? Do you know Ms. Gwen's last name?

12 A No, sir.

13 Q Okay. And as far as in proximity to the abandoned
14 house on Falcon Lane --

15 A Uh-huh.

16 Q -- Ms. Gwen's house was down at the end of Sugar
17 Hill; is that correct?

18 A It was down at the end. Down -- down the hill or up
19 the hill.

20 Q Up the hill.

21 A Yes, sir.

22 Q Okay. And that's where you ran because you knew her?

23 A Yes, sir.

24 Q You -- you met with the police on the evening of the
25 event, December 13, correct?

1 A That same night?

2 Q Yes, sir.

3 A Yes, sir.

4 Q And you met with them again, two days later, on
5 Monday the 15 at the Sheriff's Office, correct?

6 A Yes, sir.

7 Q And at that time -- you gave them written statements
8 both times about what happened, didn't you?

9 A Yes, sir.

10 Q Okay. You said that in the first statement, on the
11 13th, just like on the 911 call, you were there with
12 Charles Brown?

13 A Yes, sir.

14 Q That you were there to buy a motorcycle from Quintin
15 Mills?

16 A Yes, sir.

17 Q That you went to Sugar Hill to do this?

18 A Yes, sir.

19 Q That Charles Brown looked at the motorcycle and told
20 Quintin Mills that he wasn't interested in the motorcycle?

21 A Yes, sir. It's not the right motorcycle.

22 Q Okay.

23 A They he didn't bring the right motorcycle.

24 Q That it wasn't the bike he wanted to buy? I think
25 you --

CROSS-EXAMINATION BY MR. LEINENDECKER - JARVIS MACK 224

1 A Yes, sir. Almost like false advertising.

2 Q Okay. That's how you wrote it?

3 A Yeah.

4 Q It wasn't the bike?

5 A Yes, sir.

6 Q Okay. And then you told them that before any
7 gunshots happened, you ran?

8 A Yes, sir.

9 Q And this was your running to Ms. Gwen's house up the
10 hill, correct?

11 A Yes, sir.

12 Q All right.

13 A Actually, I was in the woods running at the time I
14 heard the gunshots.

15 Q Okay.

16 A Not too far.

17 Q A hundred yards or a hundred feet you said?

18 A Yes, sir.

19 Q Okay. But you didn't see, you just heard the
20 gunshots?

21 A Yes, sir.

22 Q And then you told them that this had all started at
23 about 4 p.m. when you began communicating with Quintin
24 about the motorcycle, correct?

25 A It was five years ago. I can't confirm a time

1 exactly. So if it's documented, then, yeah.

2 MR. LEINENDECKER: May -- may I approach the witness?

3 THE COURT: You may.

4 Q (Hands document to the witness) Show you this and
5 just ask you to hold it.

6 A Uh-huh.

7 Q Do you recognize that?

8 A It's my statement.

9 Q Okay. Is that your handwriting?

10 A Yes, sir, and signature.

11 Q Very good. On the second page, you started telling
12 them about when you and Quintin began communicating on the
13 day of the event, correct?

14 A Yes, sir. Like I say, it was five years ago. So I
15 don't remember it exactly word for word.

16 Q Absolutely. And I --

17 A But yes, sir.

18 Q That's why I'm handing it to you.

19 A Yes, sir.

20 Q Okay. So -- but that's what you told them that day,
21 right?

22 A (No audible response.)

23 Q Then on the 15th, two days later, you met with the
24 police -- or the Sheriff?

25 A Yes, sir.

CROSS-EXAMINATION BY MR. LEINENDECKER - JARVIS MACK 226

1 Q And you talked with them about what happened,
2 correct?

3 A Yes, sir.

4 Q Did they Mirandize you at that time? Give you --

5 A Clarify "Mirandize."

6 Q Did they give you your Miranda warnings? You have
7 the right to remain silent, anything you say can and will
8 be used against you ...

9 A It was five years ago. I can't confirm.

10 Q You -- you don't remember?

11 A No, sir.

12 Q Did they Mirandize you the -- the night of the
13 incident when they spoke to you?

14 A It was five years ago. I --

15 Q You -- you -- you don't remember?

16 A It was a emotional time. So I just told ---

17 Q Okay.

18 A --- the truth of what happened and that's --

19 Q On -- the statement you gave them on the 15th, you
20 give them a little more detail, don't you, because you've
21 had a couple of days to settle down?

22 A Say that again. You asking --

23 Q I'm asking. You -- you gave them a little more
24 detail, didn't you?

25 A I guess you could say that.

1 Q Okay.

2 A Yeah. Full statement. After -- after I had a longer
3 time to talk to them, yes, sir.

4 Q You told them that you ran to the street and called
5 the police. You ran to the street, meaning up the street,
6 to Ms. Gwen's house I assume, correct?

7 A Yes, sir.

8 Q You also told them that you ran in the house --

9 A Uh-huh.

10 Q -- and grabbed the gun?

11 A That's -- that's -- I wrote that down?

12 MR. LEINENDECKER: May I approach the witness?

13 THE COURT: You may.

14 (Mr. Leinendecker hands document to the witness.)

15 A But I did, I grabbed a shotgun -- I grabbed a shotgun
16 that was in the room. Where is -- where's that at?

17 Q Doesn't say "shotgun." It says (as read:) "Called
18 the police" --

19 A Yes. 'Cause I told them. You're right.

20 Q -- "and grabbed the gun."

21 A Uh-huh.

22 Q Okay. And then you said you went and found Mr. Brown
23 and that he was dead, and you got yourself covered in
24 blood because you -- you hugged him or grabbed him?

25 A No. Not -- I didn't say I covered myself in blood.

CROSS-EXAMINATION BY MR. LEINENDECKER - JARVIS MACK 228

1 Q Okay.

2 A But yes, I did sat there and hug and --

3 Q Did you get blood on yourself?

4 A I didn't -- I wasn't covered in blood. I mean, blood
5 on my hands.

6 Q On your -- on your clothes?

7 A Maybe.

8 Q All right.

9 A Not too much on my clothes.

10 Q Okay. You said you told him everything would be
11 okay?

12 A Uh-huh.

13 Q And then you told the police (as read): "I got
14 pulled off him and walked back towards the road. And
15 that's when I went down the street, got my cigarettes, and
16 a beer."

17 A Yeah. That's -- by that time, my brother came and
18 got me.

19 Q That -- you don't mention your brother in this
20 statement.

21 A Nah. I told the investigators that, though.

22 Q You told the investigators that, but you didn't write
23 it in your statement?

24 A No.

25 Q Okay.

CROSS-EXAMINATION BY MR. LEINENDECKER - JARVIS MACK 229

1 A My brother came and pick me up after it, at the scene
2 after the incident, after everything. Of course my
3 brother's going to come pick me up. I'm crying, I'm
4 emotional, he picks up the phone asks what's wrong. So
5 yeah. My brother didn't question to come get me, come
6 back and make sure I'm okay. Yes, he picked me up.

7 Q I'm just asking.

8 A Uh-huh. I know.

9 Q You didn't put it in your statement or tell anybody
10 until today, correct?

11 A I mean --

12 Q Correct?

13 A No. Not correct. I told you I told the
14 investigators. Is any of the investigators -- is --

15 THE COURT: Sir, you can't ask questions. You can
16 answer the question ---

17 THE WITNESS: Oh, sorry.

18 THE COURT: --- what you did, but you can't ask
19 questions.

20 THE WITNESS: That's fine.

21 Q All right. Thank you.

22 A Okay. No problem.

23 MR. LEINENDECKER: One moment, Your Honor.

24 (Brief pause.)

25 Q Mr. Mack, do you remember when you showed up on the

CROSS-EXAMINATION BY MR. LEINENDECKER - JARVIS MACK 230

1 15th, you also spoke to a Kendra Williams, who's the
2 victim's advocate?

3 A I can't recall. I can't recall.

4 Q Do you remember telling them that day, when you were
5 there, that you ran to Ms. Gwen's house because you were
6 familiar with her, correct?

7 A I can't confirm that I told them. I -- I -- I can't
8 -- you keep asking did I talk to a Kendra Williams?

9 Q Yeah. Did -- did you tell anybody at the Sheriff's
10 Office you ran to Ms. Gwen's house because you're familiar
11 with her? That -- that's what you told them, correct?

12 A I can't confirm that I told them that. When I told
13 them I ran to a house, I wouldn't say a name 'cause they
14 never asked a name. They just ---

15 Q Okay. Didn't you tell them that you called 911 and
16 then Ms. Gwen and her daughter took you back to the scene?

17 A No.

18 Q You advised them that you hugged your father at the
19 scene?

20 A Uh-huh.

21 Q You also told them, didn't you, that you picked up
22 two cell phones from the ground at the scene?

23 A No. I don't know where that come from.

24 Q Okay. Did you get a receipt that day for the \$172
25 that were in Mr. Brown's pocket?

1 A No, sir. Did I get a receipt?

2 Q Yeah.

3 A No, sir.

4 Q Was it given to your mom?

5 A I -- I can't recall. I --

6 Q Your mom's name is Shannon Mack-Brown; is that
7 correct?

8 A Yes, sir.

9 Q Okay. All right.

10 MR. LEINENDECKER: No further questions.

11 THE COURT: Cross-examination?

12 CROSS-EXAMINATION

13 BY MR. FARLEY:

14 Q Hello, Mr. Mack. How are you doing?

15 A All right.

16 Q So, I wanted to ask you -- I didn't want to go over
17 the testimony that you just did with the -- with Mr.
18 Leinendecker, But I wanted to ask you some different
19 questions.

20 A Uh-huh.

21 Q So the transaction that you were trying to set up
22 with Mr. Mills --

23 A Uh-huh.

24 Q -- that began around 4 p.m. according to your
25 statement, is --

1 A According to my statement, uh-huh.

2 Q So -- so all of this transpired in probably about a
3 two-and-a-half hour window; is that correct?

4 A I would like to say.

5 Q Well, I mean, if -- you been --

6 A In my statement I wrote down "four o'clock," but it's
7 still an emotional state. I would probably think it
8 woulda been longer than that. Probably a little bit
9 earlier in the day I'd been trying to get in touch with
10 him as far as the transaction.

11 Q But it's fair to say, Mr. Mack, closer in time to the
12 incident, when you wrote your statement, you put four
13 o'clock.

14 A That's -- that's the statement.

15 Q And the 911 call came in at 6:40.

16 A If that's what documented.

17 Q So it's about two-and-a-half hours of this entire
18 transaction.

19 A Uh-huh.

20 Q Is that fair to say?

21 A Okay.

22 Q All right.

23 A Uh-huh.

24 Q And while you were waiting for Quintin to show up at
25 the -- with the motorcycle, what were you doing at that

1 time?

2 A Which time? It was plenty of times he was supposed
3 to come.

4 Q That's what I'm saying. The -- the time that it took
5 between --

6 A Uh-huh.

7 Q -- when you began to set the transaction at four
8 o'clock --

9 A Uh-huh.

10 Q -- and the time that you arrived at the location --

11 A Uh-huh.

12 Q What were you doing in all -- in that waiting period?

13 A Riding with my step-dad. Just talking. You know,
14 just riding. Just waiting.

15 Q But you guys were also drinking, too, right?

16 A I can't confirm we were drinking. We both were
17 drinking? No.

18 Q No?

19 A No.

20 Q Okay. I mean, we heard from -- testimony yesterday
21 from Mr. Kendrell --

22 MR. LUPTON: Objection. Pitting.

23 A I don't --

24 THE COURT: I'll allow it on cross-examination.

25 Q We heard from Mr. Thompson. He said that you and --

1 A Uh-huh.

2 Q -- Mr. Brown were both inebriated and that he had
3 also had some drinks.

4 A No.

5 Q Do you recall that?

6 A No, I don't recall that.

7 Q Okay. So you -- your testimony is you were just
8 riding around with your dad?

9 A Uh-huh.

10 Q Okay.

11 THE COURT: Is that a "yes"?

12 THE WITNESS: Yes, ma'am.

13 Q So you finally get with Mr. Mills, and -- but -- but
14 you're texting back and forth this entire time --

15 A Yes, sir.

16 Q Is that correct?

17 A Yes, sir.

18 Q And at no time did your step-dad, Mr. Brown --

19 A Uh-huh.

20 Q -- and Quintin Mills communicate, right?

21 A No.

22 Q Everything was through you?

23 A Uh-huh. Yes, sir.

24 Q Okay. And is it fair to say that's probably how the
25 misunderstood -- misunderstanding about the motorcycle

1 could've occurred?

2 A No.

3 Q Okay. So --

4 A 'Cause he told me he had a 1000.

5 Q Uh-huh.

6 A If I'd have told my step-dad that he had a 600, deal
7 would've been off. No transaction. He kept pushing the
8 issue of a 1000, which is what my step-dad wanted.

9 Q And you had 1000 -- or your step-dad had a \$1000?

10 A Probably say total, yeah.

11 Q All right.

12 A I don't remember the exact price or what he was
13 charging, but I'm pretty sure somewhere -- if it was the
14 1000, it would've probably been a 1000.

15 Q All right.

16 A I'm thinking that's what he said.

17 Q When you arrived on Falcon Lane and you arrived there
18 to meet Quintin and his -- and -- isn't that correct?

19 A Yes, sir.

20 Q And then --

21 A Took awhile for him to get to Falcon Lane. But yes,
22 sir. But eventually.

23 Q Sometime after six o'clock at least?

24 A I'm guessing. I can't be --

25 Q Well, if the 911 call --

1 A Right.

2 Q If the 911 call came in at 6:40, then that's fair to
3 say, right?

4 A Fair to say.

5 Q All right.

6 A Can't confirm it, but ...

7 Q And then earlier in your testimony with the State,
8 you said that Quintin was very understanding and was
9 willing to go get the correct motorcycle?

10 A Yes, sir.

11 Q Okay. So you feel like he was there to do a
12 legitimate transaction?

13 A I'd like to think so. I really would. I really
14 would.

15 Q Okay. But that was your impression --

16 A Uh-huh.

17 Q Is that correct?

18 A Yes, sir.

19 Q You -- he was there to do a transaction just like you
20 guys were there to do a transaction?

21 A Yes, sir.

22 Q There was a misunderstanding, he was willing to
23 rectify it by getting the correct motorcycle?

24 A Yes, sir.

25 Q All right. And you also testified that he -- you

1 couldn't confirm he had a weapon. You -- you don't know
2 if he had a weapon or not?

3 A I can't confirm it.

4 Q All right.

5 A Kendrell would be more --

6 Q We heard from --

7 A He was there, but --

8 Q That's all right. We heard from him yesterday.

9 A Okay.

10 Q That's all right. I'm asking what you ---

11 A Yes, sir.

12 Q --- remember.

13 A I can't confirm he had a gun.

14 Q Right. So you don't remember seeing a gun is
15 basically what you're saying?

16 A I remember seeing Derrick [sic] gun.

17 Q Yeah. I under -- I understand.

18 A Okay.

19 Q I -- I'm asking you about Mr. Quintin Mills.

20 A Okay. I'm sorry.

21 Q You know -- I -- I mean, I think you covered the --

22 A Okay.

23 Q -- other testimony --

24 A Yes, sir.

25 Q With them. I'm asking you about Mr. Quintin Mills.

1 A Yes, sir.

2 Q And again, once that -- once that incident occurred
3 with your father -- Mr. Brown and -- and Derrick Mills,
4 you opened the car door and you ran?

5 A Yes, sir.

6 Q Right? And you just heard -- you just heard, "He's
7 running. He's running"?

8 A Yes, sir.

9 Q Could you be sure who that came from?

10 A Quintin.

11 Q And could you be sure he said, "He's running"?

12 A I'm positive.

13 Q Because a lot of other things -- you just said it was
14 a very emotional time and you don't remember.

15 A I can -- that's after my step-dad got killed.

16 Q How do you know that?

17 A The -- all the emotional times he was talking about
18 is after my step-dad got killed.

19 Q But --

20 A As far as statements and testimonies, this is before
21 the fact --

22 Q But Mr. --

23 A So I was aware. I'm -- I know what I heard.

24 Q But Mr. Mack, you -- you testified earlier that you
25 were already 100 yards away by the time you heard shots.

1 A Gunshots.

2 Q Exactly.

3 A I testified earlier also when I jumped out the car, I
4 heard, "He's running. He's running." It's in my
5 statement.

6 Q I -- I -- that's what I'm saying. But you said --

7 A Uh-huh.

8 Q You just said that was after your step-dad got
9 killed.

10 A No. Uh-uh. You're trying to imply that I was
11 emotional. I'm telling you I was -- basically what he was
12 talking about an emotional state, I was telling him --
13 he's talking about these statements at the time of my
14 father being killed and all this. I'm telling you, before
15 -- during the robbery when I jumped out the car, I heard,
16 "He's running. He's running," from Quintin.

17 Q But you said ---

18 A I wasn't even a hundred feet from the car when I
19 heard that. I ---

20 Q But you said ---

21 A --- wasn't but two feet/three feet.

22 Q You said that was after your step-father got killed;
23 isn't that correct?

24 A No.

25 Q Isn't that what you just testified to?

1 A No.

2 Q All right. So you said you ran a hundred yards --

3 A Uh-huh.

4 Q -- 'cause -- but then after that hundred yards, you
5 heard the shots and that's when you decided --

6 A I said I ran about a hundred yards and then --

7 Q You heard the shots?

8 A Yes, sir.

9 Q That's when you went to Ms. Gwen's house --

10 A Yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q Okay. And then you didn't see anyone after that; is
14 that correct?

15 A No, sir.

16 Q Not Mr. Thompson?

17 A No.

18 Q Not Quintin Mills?

19 A No. Not Derrick.

20 Q Noone except your brother, who came and picked you
21 up; is that correct?

22 A Yes, sir. Basically.

23 Q All right.

24 A And my step-father dead body when I had to be there,
25 so ...

1 Q That was much later; isn't that correct?

2 A Uh-huh.

3 Q Okay. All right. But you -- did you communicate
4 with Mr. Mills, Mr. Quintin Mills?

5 A Afterwards?

6 Q Yeah.

7 A No.

8 Q Okay. But I mean, you weren't -- in -- in any kind
9 of contact with him?

10 A No.

11 Q All right. I -- and I just want to get a little bit
12 of understanding.

13 A Uh-huh.

14 Q State's evidence, which you've previously looked at,
15 right? Isn't that -- let's see.

16 MR. FARLEY: Give me -- beg the Court's indulgence.

17 Q Just one second.

18 A Uh-huh.

19 (Brief pause.)

20 Q So let me ask you this then: Was there -- before
21 this occurred --

22 A Uh-huh.

23 Q Right? Was there any history between Mr. --

24 A Not that --

25 Q I'm sorry?

1 A Go ahead. I'm sorry.

2 Q I didn't finish my question.

3 A Go ahead.

4 Q Was there any history between your step-father, Mr.
5 Charles Brown, and Mr. Derrick Mills?

6 A Not that I know of.

7 Q I mean, did they know each other?

8 A I don't -- wouldn't know.

9 Q I mean, he -- you grew up with Mr. Brown as your
10 step-father, right?

11 A That's who raised me. Yes, sir.

12 Q But you don't know if -- 'cause they were the same --
13 they were roughly the same -- they're contemporaries,
14 right, Mr. Derrick Mills and your step-father?

15 A What -- what -- clarify that.

16 Q Grew up at the same time, about the same age?

17 A I wouldn't know. They're obviously not the same man.
18 Obviously.

19 Q I'm -- I --

20 A But I don't think they would know each other.

21 Q Okay.

22 A I mean, I -- I don't know.

23 Q All right.

24 A I mean, I don't know his name, so I can't tell you
25 that, "yes." I can't --

CROSS-EXAMINATION BY MR. FARLEY - JARVIS MACK 243

1 Q The -- I just wanted to know if you were aware if
2 they were contemporaries or not.

3 A I don't.

4 Q All right. All right. Thank you, Mr. Mack.

5 MR. FARLEY: No further questions.

6 THE COURT: Any redirect?

7 MR. LUPTON: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. LUPTON:

10 Q A couple of things, Jarvis. There were some
11 questions about where it is you ran to.

12 A Yes, sir.

13 Q And I -- I'll show you State's Exhibit 7 again, and
14 there's a marker on there, a red marker.

15 A Yes, sir.

16 Q Do you recognize where that -- what that's marking?

17 A The house.

18 Q The house what?

19 A I ran to.

20 Q Okay. So that's the house you ran to?

21 A Yes, sir.

22 Q All right. And you -- you -- you testified you were
23 very emotional the night your father was killed, right
24 after he was killed?

25 A Yes, sir. Yes, sir.

CROSS-EXAMINATION BY MR. FARLEY - JARVIS MACK 244

1 Q And that's when you wrote the statement that Mr.
2 Leinendecker showed you --

3 A Yes, sir.

4 Q -- with four o'clock on it?

5 A Yes, sir.

6 Q Did you give a different time on Monday?

7 A I'm trying to say so. Yes, three o'clock.

8 Q All right. So on Monday, after you had time to calm
9 down, you said three o'clock.

10 A Yes, sir.

11 Q And Quintin's attorney asked you about what you said
12 in your statement. At the time, on that Monday --

13 A Yes, sir.

14 Q -- what did you say about whether or not Quintin had
15 a gun?

16 A In my statement I said he pointed the gun in the car.

17 Q All right.

18 MR. LUPTON: Nothing further, Your Honor.

19 THE COURT: You may step down, sir. Thank you.

20 THE WITNESS: Yes, ma'am.

21 (The witness exits the stand.)

22 MR. LUPTON: And Your Honor, I ask that this witness
23 be excused.

24 THE COURT: Any objection?

25 MR. LEINENDECKER: No.

DIRECT EXAMINATION BY MR. LUPTON - RICHARD HERRON 245

1 MR. FARLEY: No objection, Your Honor.

2 THE COURT: He's free to go. You may call your next
3 witness.

4 MR. LUPTON: Your Honor, the State calls Richard
5 Herron.

6 THE COURT: Come on up, sir.

7 RICHARD HERRON, having been first duly
8 sworn, testifies as follows:

9 THE CLERK: Please state your full name for the
10 record.

11 THE WITNESS: Richard Boyd Herron.

12 THE CLERK: Thank you, sir. You may be seated.

13 THE COURT: Your witness.

14 MR. LUPTON: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. LUPTON:

17 Q Richard, you're a civilian now; is that correct?

18 A Yes, sir.

19 Q At -- finally?

20 A The agency finally ran me off.

21 Q All right. How old are you?

22 A 74, sir.

23 Q 74. Can you tell this jury a little bit about your
24 background? How did you get to be a deputy in -- in your
25 70's?

DIRECT EXAMINATION BY MR. LUPTON - RICHARD HERRON 246

1 A Well, I had 25 years military experience and after I
2 got out of the military I started a repossession business
3 and then I had to stay healthy for that and fortunately I
4 was born with good genes. And --

5 Q Well, what do -- did you have -- did you have a job
6 that required physical activity prior to joining the
7 military?

8 A I was born and raised in the mountains in East
9 Tennessee. And we --

10 MR. STEVENS: Judge, relevance?

11 THE WITNESS: Sorry.

12 THE COURT: He can get a little background
13 information.

14 A We lived off of -- of what we could farm and catch
15 and kill.

16 Q Did you ever -- ever work in the rodeo?

17 A Yes, sir. Rode rodeo. That's how I left home.
18 That's how I got out of East Tennessee.

19 Q As a professional rodeo rider?

20 A Yes, sir. I had a sponsor in Knoxville.

21 MR. STEVENS: Judge --

22 MR. LUPTON: And I'll move along, Your Honor.

23 MR. STEVENS: He's a bull rider, that's fine. It has
24 nothing to do with the case.

25 THE COURT: Let's move on, Solicitor.

DIRECT EXAMINATION BY MR. LUPTON - RICHARD HERRON 247

1 Q And so you end up going through these various jobs
2 and you ultimately end up as a law enforcement officer; is
3 that correct?

4 A Yes, sir.

5 Q And when did you start that job?

6 A In 2000, sir.

7 Q All right. And did you get trained for that?

8 A I did. I went to the police academy.

9 Q All right. And were you a -- and who hired you?

10 A Thomas Summers, sir.

11 Q All right.

12 A Served with Thomas Summers.

13 Q All right. And that's what department?

14 A With the Sheriff's Office in Calhoun County

15 Q Calhoun County Sheriff's Department. And were you a
16 Calhoun County Sheriff's Deputy back in -- on December 13,
17 2014?

18 A I was, sir.

19 Q And what were you doing at around 6:40 that night?

20 A I had just finished my shift. I was working on day
21 shift and I'd gone to Exit 19, the Exxon station, to put
22 gas into my patrol vehicle so that it would be ready for
23 the next day's duty.

24 Q And when you say "19," you --

25 A Exit 19 off of 26.

DIRECT EXAMINATION BY MR. LUPTON - RICHARD HERRON 248

1 Q You talking about 119?

2 A Yes, sir.

3 Q All right. So you were up there. Did something
4 happen? Did -- did you get a --

5 A Right --

6 Q -- any kind of a radio call?

7 A Right after I left and started back home, it came out
8 a shooting on Falcon Lane.

9 Q All right. And did you end up responding to that?

10 A I did. I responded based on -- I knew where Falcon
11 Lane was. I used to be the resident deputy up there
12 before, and I know the -- some of the people up there and
13 I responded to see what was going on.

14 Q All right. So you go to the scene. And that area --
15 is that in Calhoun County?

16 A It is, sir. It is in our jurisdiction.

17 Q All right. And when you got there, were you the
18 first officer on the scene?

19 A I arrived at the scene first. Yes, sir. About 90
20 seconds before other people got there.

21 Q All right. And as the first officer on the scene,
22 can you describe what you saw once you got there?

23 A When I turned off of Falcon onto the driveway into
24 the old road, a partially torn down residence -- pardon
25 me. There was a female waving at -- at me. She recognized

1 the patrol car and she come to the patrol car and told me
2 that the -- there had been a shooting.

3 Q Okay.

4 A So I'm not sure exactly the words she used. So --

5 Q Were there people already out on the -- all right.
6 First of all, the -- the road, Falcon Lane, is that a
7 paved road or a dirt road?

8 A It's a dirt road, sir. It's a one-lane dirt road.

9 Q All right.

10 A Up off Sugar Hill.

11 Q And where were the people?

12 A This lady was up in the yard, the one that came to
13 the patrol car. Now, they [sic] was other people coming
14 down the -- the -- the dirt road, Falcon Lane, walking
15 behind it; but when I got there, I stopped them. I would
16 not let them go into the driveway up in -- into the yard.

17 Q All right. And you said you were familiar with Sugar
18 Hill area?

19 A Yes, sir.

20 Q Would it be fair to say that that's an area where
21 everybody knows everybody, most everybody's related?

22 A A lot of family connections can -- either blood or
23 married kin primarily reside in that area.

24 Q And what did -- is that an area where word travels
25 fast?

DIRECT EXAMINATION BY MR. LUPTON - RICHARD HERRON 250

1 A Absolutely. With Facebook and -- and cell phones and
2 everybody's talking or -- or they know what's going on
3 really fast.

4 Q So people started showing up.

5 A Yes, sir.

6 Q All right. Once you get to the scene, what did you
7 do?

8 A I had positioned my patrol car with the lights shined
9 on the person on -- laying on the ground, okay? Refer to
10 him as the "victim." And -- and I had the people that was
11 in the yard -- the lady that was in the yard, I had her
12 get near my patrol car. I locked the car and left it
13 running with the lights on and I walked around outside the
14 lights to secure the area with my hand-held light looking
15 for suspects or evidence and I found none.

16 Q All right. And when you say "suspects or evidence
17 and you found none," are you referring to -- I mean,
18 obviously you already testified that there was a body
19 there.

20 A Yes, sir. I'm talking about in -- in a 40/50 feet
21 circle around the body.

22 Q Right.

23 A Now, naturally the body and other things I did not
24 touch, all right? And --

25 Q You were looking for --

1 A -- I had a supervisor I knew right behind me and
2 other deputies also right behind me. And I waited for the
3 supervisor to get there, and EMS had already been called.

4 Q All right. EMS had been called, but were they there?

5 A No, sir.

6 Q All right. So you secured the area --

7 A Yes, sir.

8 Q And as part of that, would you have allowed people to
9 tamper with the crime scene?

10 A No, sir. Okay. I wouldn't let them go up near it.

11 Q All right. And so at the point where you got there,
12 you -- you secured it and it stayed secure from there on
13 out --

14 A Yes, sir.

15 Q -- until just -- everything was done?

16 A Everyone that went up there was a authorized person
17 with a purpose. Not just people looking and -- and seeing
18 what's going on.

19 Q Other than medical and investigation, you kept
20 everybody out?

21 A Yes, sir.

22 Q All right. And you talked about the -- the -- the
23 way the crime scene -- I'd like to show you -- and show
24 you State's 10, 11, 12, and 13. (Hands photos to the
25 witness) Can you take a look at those?

DIRECT EXAMINATION BY MR. LUPTON - RICHARD HERRON 252

1 (The witness complies.)

2 Q And you recognized those?

3 A Yes, sir.

4 Q And what is that?

5 A That is the crime scene. That's where the victim was
6 laying in the yard there.

7 Q All right. And obviously there's evidence markers?

8 A Yes, sir.

9 Q But other than the evidence markers, is anything
10 changed from when you first walked up?

11 A One of those pictures is by the car, but the back
12 gate open. It wasn't there when I got there.

13 Q Well, do you recall the -- the victim's car being
14 there?

15 A Yes, sir.

16 Q Is -- is that the victim's car?

17 A Yes, sir.

18 Q Okay. So other than the evidence markers, the yellow
19 evidence markers, is this substantially accurate, show
20 what was the condition when you showed up?

21 A It is, sir.

22 MR. LUPTON: Your Honor, move 10, 11, 12, and 13 into
23 evidence.

24 THE COURT: Any objection?

25 MR. STEVENS: Not from Derrick Mills, Judge.

DIRECT EXAMINATION BY MR. LUPTON - RICHARD HERRON 253

1 MR. FARLEY: Not from Quintin Mills, Your Honor.

2 THE COURT: All right. They're in.

3 (Marked State's Exhibit Nos. 10, 11, 12, and 13,
4 photos, in evidence.)

5 Q And -- all right. And you talked about securing the
6 area and looking around for evidence. As part of that,
7 were you looking for any firearms that might be on the
8 ground?

9 A I was looking for anything pertaining to the crime
10 that I perceived had -- had occurred. Firearms, a
11 suspect, blood, thinking maybe that the person that had
12 committed the crime may have also been injured. I was
13 looking for blood trails leaving there, and I was looking
14 for firearms that may have been discarded. And --

15 Q Okay --

16 A -- just typical securing the area and -- and looking
17 for evidence.

18 Q All right. So one of the things you would have noted
19 was if you had seen any firearms present?

20 A I -- I feel ---

21 MR. STEVENS: Objection. Leading.

22 THE COURT: Please rephrase.

23 MR. LUPTON: Okay.

24 Q You -- you stated you looked for evidence.

25 A Uh-huh.

CROSS-EXAMINATION BY MR. LUPTON - RICHARD HERRON 254

1 Q Wouldn't firearms be evidence?

2 A A firearm would definitely be evidence, and something
3 that I would have needed to bring to the attention of my
4 supervisor who arrived right behind me; and get an
5 evidence marker out there and get it recorded. And I feel
6 sure that I would have found it if it had been in that
7 yard or at the edge of that yard or behind that old house.

8 Q And did you find any firearms that were --

9 A I did not.

10 Q -- that were visible?

11 A No, sir.

12 MR. LUPTON: Beg the Court's indulgence.

13 (Brief pause.)

14 MR. LUPTON: Nothing further, Your Honor.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MR. STEVENS:

18 Q How you doing today, Deputy Herron?

19 A I'm good. Thank you, sir.

20 Q Very well. My name's Breen Stevens and I represent
21 Derrick Mills in this matter. I'm just going to ask you a
22 few questions starting with the night of December 13,
23 2014, okay?

24 Now, when the Government was asking you questions,
25 the Prosecutor was asking, they said you got a call around

1 6:40 p.m. about the incident on the radio, right?

2 A I don't remember the exact times. I know that it was
3 dark already and -- and that I had got off. I -- I worked
4 a different shift than most of them did --

5 Q Okay.

6 A -- so I was -- the way I was working.

7 Q Okay. Well, we'll just start. The answer you gave
8 the prosecutor was, "Yes. It was approximately 6:40 p.m."
9 correct?

10 A Yes, sir. It's very possible.

11 Q Okay.

12 A I'm guesstimating on that.

13 Q I gotcha. Would it help to refresh your recollection
14 a little bit if I showed you your incident report on the
15 matter?

16 A It might would.

17 MR. STEVENS: May I approach, Judge?

18 THE COURT: Yes, sir.

19 MR. STEVENS: Thank you, ma'am.

20 Q (Hands document to the witness.) There you go,
21 Richard.

22 A Thank you.

23 Q And my reading of this is -- take your time. I'm
24 sorry. I don't want to rush you.

25 A Not a problem, sir.

1 Q Okay. Now, my understanding is this part here
2 (indicates), that's the estimated time when the incident
3 may have occurred. But over here (indicates), it actually
4 shows the date and about the time from when y'all would've
5 responded. Would that have -- is that an accurate
6 statement -- or responded to the call, under "Duration"
7 over here, when you're specifically dispatched out?

8 A Correct.

9 Q Okay. So that's roughly -- and -- and I'm sorry.
10 This is in military time, right?

11 A Yes, sir.

12 Q So they don't say "6 p.m. or 6:40 p.m." It's 18:00
13 hours or 18:40 or 18:43 or whatnot, right?

14 A Correct.

15 Q Okay. And you'd agree that even though it's in
16 military time, that's -- from what you confirmed before to
17 the Prosecutor, to be around 6:40 p.m., a little after,
18 you were dispatching there?

19 A Yes, sir. That's --

20 Q You were dispatched?

21 A -- when the call came out from Dispatch.

22 Q Okay. And the approximate time of the incident was
23 from 18:30 to 18:41, sometime in that range?

24 A Correct.

25 Q Okay. Translation for the rest of us civilian folk,

1 at least from when I was in the military, I would convert
2 that to 6:30 to 6:41 p.m.?

3 A Correct.

4 Q Okay. And again, that's the estimated time of the
5 incident itself, right?

6 A Right.

7 Q Okay. Now, you said you were familiar with the area,
8 right?

9 A Yes, sir.

10 Q Okay. And so you did what any good deputy would do,
11 you responded, right?

12 A Yes, sir.

13 Q Excellent. Now, I understand that the Prosecution
14 jumped straight to the incident location of Sugar Hill
15 when they questioned you; but from what you wrote in your
16 report, it wasn't the first stop you made, right?

17 MR. LUPTON: Your Honor, can we approach?

18 THE COURT: Yes, sir.

19 (Bench conference.)

20 Q Deputy Herron, can I see that, please?

21 A Uh-huh.

22 Q I appreciate it.

23 (The witness hands a document to Mr. Stevens.)

24

25 (Bench conference continues.)

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1 Q (Hands document to the witness.) Here you go,
2 Richard.

3 Okay. If we look at that report, your name is at the
4 very bottom of the report, correct?

5 A Uh-huh.

6 Q Okay. And then it's listed under "reporting
7 officers," correct?

8 A Uh-huh. Yes, sir.

9 Q Okay. Were you one of the reporting officers for
10 that report?

11 A Yes, sir.

12 Q Okay. Thank you, sir. Now, when we look at --

13 MR. LUPTON: Your Honor, if he wants to clarify
14 whether or not this officer wrote that report ...

15 THE COURT: Well, I think it would -- the next
16 question will depend on whether or not he wrote it, and he
17 can certainly ask what -- you said he was one of the
18 officers on the report, not specific language in the
19 report. If there's a specific language that you're
20 questioning on, obviously, he can ask him specifically.

21 MR. STEVENS: Yes, ma'am.

22 CROSS-EXAMINATION

23 BY MR. STEVENS:

24 Q Richard, did you specifically type that report?

25 A Negative, sir.

1 Q No. But you are one of the reporting officers for
2 that specific report, correct?

3 A I am, sir.

4 Q Okay. So you do have knowledge about that report --

5 A Yes, sir.

6 Q Correct?

7 THE COURT: Yes, sir.

8 MR. STEVENS: Thank you.

9 Q So if we examine the report about which you have
10 knowledge and about which you are a reporting officer,
11 when we look at it, it says that the first place you went
12 to and stopped at would've been [REDACTED] Sugar Hill Lane; is
13 that accurate?

14 A Uh-uh. That's where my supervisor stopped.

15 Q Okay. So he's the one who stopped there first --

16 A Correct.

17 Q -- before he made his way to Sugar Hill Lane?

18 A Up -- up to --

19 Q I'm sorry. Up to --

20 A -- Falcon --

21 Q -- Falcon Lane, [REDACTED] Falcon Lane.

22 A Right.

23 Q Okay. Good enough. And then he met you up there,
24 like you said, shortly after?

25 A He was -- just shortly -- he was -- he was pulling

1 into ■9 when I was pulling into the driveway of Falcon
2 Lane --

3 Q Okay.

4 A -- according to what I heard on the radio.

5 Q Okay.

6 A He told everybody else to turn their lights --

7 Q Okay.

8 A -- and sirens off. Yeah.

9 Q So to your knowledge, he was meeting with folks down
10 there while you went up to the lane --

11 A Yes.

12 Q -- or up to the scene?

13 A Yes, sir.

14 Q Fantastic. Okay. Well, let's talk about what you
15 did when you were up there, okay, at Falcon Hill -- I'm
16 sorry -- at Falcon Lane. Now, you said you saw Mr. Brown
17 on the ground?

18 A I saw a body on the ground. Yes, sir.

19 Q Right. You didn't know exactly who it was, right?

20 A Correct.

21 Q And --

22 MR. STEVENS: If I may approach, Judge?

23 THE COURT: Yes, sir.

24 Q Okay. (Indicates) I'm showing you Court's Exhibit
25 No. -- I'm sorry, State's Exhibit No. 12, and that's an

1 accurate reflection of the condition of the body when you
2 saw it, correct?

3 A Yes, sir.

4 Q Okay. And you'd agree that that body is laying on
5 it's back, correct?

6 A The body is -- is laying on -- on its back.

7 Q Right.

8 A With the primary weight on the left shoulder on -- on
9 the right shoulder right here.

10 Q Okay. Thank you, sir. There we go.

11 MR. STEVENS: May I approach to the jury, Judge?

12 THE COURT: You may.

13 Q And when you went up there, you said, first, you
14 parked your car so the lights would be on the area,
15 correct?

16 A On -- on the body.

17 Q The body. Okay.

18 A Headlights on bright, shining across the body.

19 Q Okay. Now, the first thing you do is not to
20 immediately check for signs of life, right?

21 A No, sir.

22 Q Okay. Because you wanted to check the house first?

23 A No, sir. I wanted to secure the people that was
24 there first, to ensure that they were not dangerous to me
25 or other officers.

1 Q Okay. But you secured the area, right?

2 A Then I went and shined my light on the body. And it
3 turned out I would have not the skills to check this body,
4 but I do have the skills to secure the area and --

5 Q Okay.

6 A -- I did so.

7 Q Fair enough. So you checked the area and you secured
8 it, right?

9 A Yes, sir.

10 Q Same thing with the Jeep, right?

11 A Yes, sir.

12 Q Okay. Didn't find anybody in the house?

13 A No, sir.

14 Q Didn't find anybody else in the Jeep?

15 A Correct.

16 Q All right. And you said your supervisor was coming
17 later as well, right?

18 A He was right behind me.

19 Q Right. And that was Captain Trentham?

20 A It was.

21 Q And you observed Captain Trentham then check Mr.
22 Brown's body?

23 A When he came in the yard, I quickly briefed him on
24 what I did and why I had the people standing by my car.
25 He sent me to the driveway to control the people. He went

1 to the body.

2 Q Okay. I understand. Now, just to be clear, you
3 never seized a motorcycle in this case, correct?

4 A I never seized anything, no evidence at all.

5 Q Excellent. Well, not that night, right?

6 A Not that night.

7 Q Okay. So let's talk about your later involvement in
8 this case as well, all right? Because you retrieved a
9 wallet in this case, right?

10 A Yes, sir. Okay. I -- I -- transferred control of a
11 wallet that had been recovered by another county, our
12 adjoining county, Lexington.

13 Q Excellent. And that was not on the night of the
14 incident, right?

15 A No, sir.

16 Q Okay. And so it was about a week later you were able
17 to retrieve it, right?

18 A Correct, sir.

19 Q And like you said, Lexington County deputies?

20 A Yes, sir.

21 Q Because it was previously found in a ditch?

22 A Yes, sir.

23 Q Off 176?

24 A Correct, sir.

25 Q Okay. And now, just to be clear, you didn't

1 personally witness anything that happened during the
2 incident itself?

3 A I did not. I wasn't there, sir.

4 Q That's right. Because you were not present at -- on
5 the hill at [REDACTED] Falcon Lane that night, right?

6 A I --

7 Q During the incident.

8 A I was not during the incident.

9 Q There we go. So that means you didn't see what
10 happened immediately before the incident at that location
11 either, right?

12 A No, sir.

13 Q Okay. And that means you didn't even see who was
14 present during the incident, right?

15 A I did not.

16 Q Okay.

17 MR. STEVENS: Court's indulgence.

18 Q Thank you, deputy Herron.

19 MR. STEVENS: No further questions.

20 THE COURT: Cross-examination?

21 MR. FARLEY: Very briefly, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. FARLEY:

24 Q Deputy Herron, you -- you testified earlier that you
25 didn't find any weapons; is that correct?

1 A I --

2 Q Or you found one?

3 A I did not find a weapon.

4 Q You didn't find any weapons?

5 A I did not find any weapons.

6 Q Just the body and the personal affects of what seemed
7 -- what appeared to be the victim's?

8 A What was scattered in the yard there. Okay.

9 Q Right. Thank you.

10 MR. FARLEY: No further questions.

11 THE COURT: Any redirect?

12 MR. LUPTON: No, Your Honor.

13 THE COURT: You may step down, sir. Thank you.

14 MR. LUPTON: I ask that this witness be excused, Your
15 Honor.

16 THE COURT: Any objection to him being released?

17 MR. FARLEY: No objection from Quintin Mills.

18 MR. LEINENDECKER: None from Derrick Mills.

19 THE COURT: You're free to go. Thank you.

20 (The witness exits the stand.)

21 THE COURT: Ladies and gentlemen of the jury, y'all
22 need a quick restroom break?

23 (No audible response.)

24 THE COURT: All right. Let's take about a quick 15
25 minute break. We'll be right back with you. Again,

1 duly sworn, testifies as follows:

2 THE CLERK: Please state your full name for the
3 record.

4 THE WITNESS: Tiffany Hezel Edwards.

5 THE CLERK: Thank you, ma'am.

6 THE COURT REPORTER: Can you spell your middle name?

7 THE WITNESS: H-e-z, as in zebra, e-l.

8 THE COURT: Your witness.

9 MR. LUPTON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. LUPTON:

12 Q And what were you known back -- as back in December,
13 2014?

14 A I was Special Agent Tiffany Edwards or -- I'm sorry.
15 Tiffany Hezel. That was before I got married.

16 Q Okay. And where did you work?

17 A I was employed with the South Carolina Law
18 Enforcement Division assigned to the Crime Scene Unit.

19 Q All right. And were you a sworn law enforcement
20 officer?

21 A Yes, I was.

22 Q Had you been trained as such?

23 A Yes, I was.

24 Q And were you trained -- did you receive evidence
25 handling training as part of that?

DIRECT EXAMINATION BY MR. LUPTON - TIFFANY EDWARDS 268

1 A Yes, I did.

2 Q All right. And on Monday December 15, 2014, were you
3 working in that capacity?

4 A Yes, I was.

5 Q What did you do?

6 A On that date, I was asked to attend an autopsy on
7 behalf of Special Agent James Tallon who had a crime
8 scene; and I responded to Newberry County Memorial
9 Hospital for that autopsy.

10 Q And who performed that autopsy?

11 A It would've been Dr. Janice Ross.

12 Q And were you there for the autopsy?

13 A Yes, I was.

14 Q And did you observe her recovering some bullets from
15 the victim's body?

16 A Yes, I did.

17 Q And did she seal those?

18 A Yes.

19 Q And did she turn those over to you?

20 A Yes, via chain of custody.

21 Q All right. And had -- were they sealed at the time
22 they were turned over?

23 A At the time that I re -- I took possession of them
24 from the Newberry pathology staff, they were sealed.

25 Q Would you have accepted them had they not been

1 properly sealed?

2 A No, I would not.

3 Q And once they were sealed, were you or anyone else
4 able to tamper with them?

5 A No.

6 Q Did you or anyone else tamper with them while they
7 were in your custody?

8 A No.

9 Q And what did you do with those?

10 A Upon signing over all of the evidence that was
11 collected at autopsy by the Newberry pathology staff, I
12 transported all of the items back to the SLED forensics
13 laboratory where I then turned them over to Special Agent
14 Tallon via chain of custody.

15 Q All right. And I'll show you what's marked as
16 State's Exhibit 2. (Hands exhibit to the witness) It's in
17 evidence as State's Exhibit 2. Do you recognize that?

18 A This is what the packaging looks like when you
19 receive it from autopsy with the labeling.

20 Q And are those bullets that you would've received?

21 A I would have received them, yes.

22 Q And -- no further questions.

23 THE COURT: Cross-examination?

24 MR. STEVENS: Yes, ma'am. Thank you.

25 CROSS-EXAMINATION

CROSS-EXAMINATION BY MR. STEVENS - TIFFANY EDWARDS 270

1 BY MR. STEVENS:

2 Q How you doing, Ms. Edwards?

3 A I'm good.

4 Q Thank you for clarifying the matter regarding your
5 last name. My wife appreciates that as well. She went
6 through a similar matter when she was -- changed her name
7 to "Stevens."

8 My name's Breen Stevens. I represent Derrick Mills
9 in the matter. I just want to ask you a couple of brief
10 questions ---

11 A Okay.

12 Q --- if that's all right. First, just right out of
13 the gate, quite obviously on the night of December 13,
14 2014, you were not present when the incident happened at
15 the incident location, right?

16 A I was not.

17 Q Okay. And you didn't see anybody who was there that
18 night, right?

19 A No. I have no knowledge of the actual scene at all.

20 Q Fantastic. Okay. So let's talk about the 15th then.
21 You said you went to Newberry pathology in Newberry County
22 itself?

23 A Correct.

24 Q And you observed the autopsy and then they gave you
25 the sealed items, correct?

1 A Correct.

2 Q One of those groups of sealed items were the bullet
3 fragments?

4 A Correct.

5 Q Okay. There -- and you said there -- indicated there
6 were other items as well that were taken and transported
7 by you?

8 A Yes.

9 Q Okay. So just clothing and items such as that?

10 A Clothing, a yellow metal bracelet. There would've
11 been autopsy specimens to include tubes of blood,
12 vitreous; like, fingernail clippings; and I took post-
13 mortem autopsy face sheets which is protocol.

14 Q Fantastic. And you took those back to SLED, right?

15 A Correct.

16 Q And --

17 A They were taken back to the SLED forensic laboratory
18 and signed over to Special Agent Tallon via chain of
19 custody.

20 Q Excellent. Thank you.

21 MR. STEVENS: No further questions, Judge.

22 THE COURT: Any cross-examination?

23 MR. FARLEY: I don't have any questions for this
24 witness, Your Honor.

25 THE COURT: Any redirect?

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1 MR. LUPTON: I ask that she be released, Your Honor.

2 THE COURT: Any objection?

3 MR. FARLEY: No objection from Quintin Mills.

4 MR. STEVENS: None from Derrick Mills, Judge.

5 THE COURT: You're free to go, ma'am.

6 THE WITNESS: Thank you.

7 THE COURT: Thank you.

8 (The witness exits the stand.)

9 THE COURT: You may call your next witness.

10 MR. LUPTON: Call Agent Tallon.

11 **JAMES TALLON**, having been first duly
12 sworn, testifies as follows:

13 THE CLERK: Please state your full name for the
14 record.

15 THE WITNESS: My name is James Tallon. Tallon, T-a-
16 l-l-o-n.

17 THE CLERK: Thank you, sir.

18 THE COURT: Your witness.

19 MR. LUPTON: Thank you, Your Honor. May it please
20 the Court?

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION

23 BY MR. LUPTON:

24 Q Could you tell the jury briefly who you are, where
25 you work, and how you got there?

1 A My name is Agent James Tallon. I am a -- employed
2 with the South Carolina Law Enforcement Division, also
3 known as SLED, and I am assigned to the Crime Scene
4 Department.

5 Q And did you receive training for that?

6 A Yes, sir. In 2009, I attended the South Carolina
7 Criminal Justice Academy; and 2010, I became a detective
8 with the City of Sumter Police Department where I was
9 placed in the Crime Scene Unit there as well.

10 Through that whole time there, which was five years,
11 I spent many hours in classes throughout South Carolina
12 and some out of state in reference to various crime scene
13 areas.

14 Q All right. And were you working at SLED on -- in
15 December, 2014?

16 A Yes, I was.

17 Q Specifically, December 13, 2014, what were you doing
18 that day?

19 A That night, I believe it was, I was called to Calhoun
20 County in reference to a homicide.

21 Q All right. And did you go to a specific location?

22 A Yes, sir.

23 THE WITNESS: May I refer to my notes, Your Honor?

24 THE COURT: Yes, you may.

25 A On December 13, 2014, I was sent to ■■■3 Falcon Lane

1 in Gaston, South Carolina.

2 Q All right. And is that an area you're familiar with?

3 A Only from that night.

4 Q Only from that night. And -- but you did see it that
5 night?

6 A Yes, sir. I was there with several officers.

7 Q All right. And I'll show you what's been marked as
8 -- what's been admitted as State's 10 through 13. See if
9 you recognize those.

10 (Mr. Lupton hands exhibits to the witness.)

11 A Yes, sir. These are photographs from the actual
12 scene.

13 Q Do they correctly and accurately represent what you
14 saw when you got there?

15 A Yes, sir, they do.

16 Q And once you got there -- what happened when you
17 first got there?

18 A Once we arrived on scene, we talked with the local
19 agency and got kind of a idea of what may have happened.
20 At that point, we start taking photographs and locating
21 evidence to collect.

22 Q And do you do anything -- you take photographs and
23 you said "locating evidence"?

24 A Yes, sir.

25 Q Do anything with regards to once you find a piece of

1 evidence?

2 A Once we find the evidence, and -- or what we believe
3 may be evidence, we'll place markers on it, numbered
4 markers or lettered markers, depending on the
5 circumstance. In this case I placed numbered markers --
6 markers.

7 Q All right. And do you do anything to determine the
8 location of those items?

9 A We have a laser measurer that -- it shoots out a
10 laser and it comes back and tells you how far away from a
11 specific point in space you are. And we take measurements
12 using what's called "reference points," which, we'll pick
13 the corner of a house or a light pole or something like
14 that so that if we have to go back and put it back in the
15 scene, we can get a very good general idea of where it was
16 located.

17 Q All right. And I'm guessing you would pick items
18 that aren't likely to move for your reference points?

19 A Yes, sir.

20 Q All right. And as part of that, did you prepare a
21 diagram of the crime scene?

22 A Yes, sir. I did.

23 Q I'll show you what's marked as State's Exhibit 14.

24 (Mr. Lupton hands exhibit to the witness.)

25 Q Do you recognize that?

DIRECT EXAMINATION BY MR. LUPTON - JAMES TALLON 276

1 A Yes, sir, that is my diagram.

2 Q All right. And does that fairly and accurately show
3 what you found that night?

4 A Yes, sir.

5 Q Is it to scale?

6 A No, sir.

7 Q Are there place were the measurements are listed?

8 A Yes, sir. The ---

9 Q Show that to ---

10 A --- measurements are on here.

11 Q --- the jury?

12 A It's ---

13 THE COURT: Sorry. Before you show it to the jury,
14 you need to introduce it into evidence.

15 MR. LUPTON: Your Honor, at this point I'd move to
16 admit State's 14.

17 THE COURT: Any objection?

18 MR. STEVENS: None from Derrick Mills.

19 MR. FARLEY: None from Quintin Mills.

20 THE COURT: Thank you.

21 (State's Exhibit No. 14, diagram, in evidence.)

22 DIRECT EXAMINATION

23 BY MR. LUPTON:

24 Q All right. Can you show the jury where the
25 measurements are located?

1 A Okay. So up in the top right-hand corner, under the
2 word "measurements," there's different marker numbers; and
3 then next to those, there will be the different
4 measurements to the specified reference point listed next
5 to it.

6 Q All right. And so that's these right here
7 (indicates)?

8 A Yes, sir.

9 Q And this page has some things other than the diagram
10 on it; is that correct?

11 A Yes, sir.

12 Q And obviously one is the evidence marker; but at the
13 top, it's got a SLED lab number, a date, page numbers, a
14 -- a footer at the bottom?

15 A Yes, sir.

16 Q Is -- where did those come from?

17 A When we print the diagrams out from our report it
18 automatically adds -- (coughs)-- that information on it.

19 Q All right. So this would be part of a report that
20 you did?

21 A Yes, sir.

22 Q This is just one part of your report?

23 A Yes, sir.

24 Q All right. Now, when you got there did you see a --
25 a body?

1 A Yes, sir. I did.

2 Q Can you describe the condition of the body?

3 A There was a gentlemen on his back, facing up. There
4 was what I would consider to be a lot of blood on the
5 face, the pants of the -- the victim were missing, and I
6 think there was also a sock off and they didn't have on
7 any shoes.

8 Q The pants that were missing -- well, first of all,
9 you said the pants were missing from the victim, one sock
10 was missing, and both shoes were missing?

11 A Yes, sir.

12 Q And that's off of the victim's body?

13 A Correct.

14 Q All right. Were you able to locate the missing sock
15 on scene?

16 A Yes, sir. The sock was on scene.

17 Q What about the boots?

18 A The boots were also on scene.

19 Q Did you ever find his pants?

20 A No, sir. We were never able to locate the pants.

21 Q All right. Now, as the body was being examined, did
22 you find any -- first of all, what was -- what was the
23 victim wearing on his top part of his body?

24 A I believe it was a -- like, a gray sweater type and
25 then there was a shirt underneath it as well.

1 Q All right. And it's not real clear, but this right
2 here, the -- the picture No. 12, State's Exhibit 12, does
3 that show --

4 A Yes, sir. That's the gray sweater. It's a long-
5 sleeve sweater, obviously, on -- on him.

6 Q This was December. What was the -- and I'm not
7 asking specific temperature, but what was the weather that
8 night?

9 A The ---

10 Q Or you may actually ---

11 A --- weather was clear and the temperature was
12 approximately 38 degrees fahrenheit.

13 Q All right. Cold?

14 A It was cold, yes, sir, to me.

15 Q The sweater. Was it a light sweater? heavy sweater?
16 How would you describe it?

17 A I would say more of a heavy -- heavier sweater.

18 Q All right. And was there anything inside of it?
19 Well, first of all, did it have pockets?

20 A Yes, sir, it did.

21 Q Was there anything in those pockets?

22 A Yes, sir. There was a -- there was a firearm, a
23 revolver. It was a Taurus 357.

24 Q All right. And was that visible just at -- looking
25 at the body?

DIRECT EXAMINATION BY MR. LUPTON - JAMES TALLON 280

1 A No, sir. As we were checking pockets, it was
2 located.

3 Q All right. So it was not out?

4 A No, sir.

5 Q All right. Was there any cash, anything of that
6 nature?

7 A I believe there was. I did not count the cash
8 personally, but the amount of cash was told to me.

9 Q All right. And it was -- what was told -- well, let
10 me rephrase. When you saw it, were you able to tell was
11 it a large amount or just small amount?

12 A It'll be more than I would carry in my wallet.

13 Q Was it hun -- was it 5/\$6000?

14 A I don't remember at this point.

15 Q All right. And as you continued to examine the body,
16 were there any other -- when you turned the body over --
17 did you turn the body over?

18 A Yes, sir. We roll the body over and take photographs
19 of the back of ---

20 Q Was there anything found?

21 A --- all of our victims.

22 There was a defect in the back, asuspected projectile
23 hole from a bullet.

24 Q How many?

25 A Just one.

1 Q You sure about that?

2 A That's the only one that I remember seeing from that
3 night in the back.

4 Q Could it possibly have been two?

5 A It may have been two close together.

6 MR. STEVENS: Judge, asked and answered.

7 THE COURT: Can you repeat the question? What was
8 the question?

9 MR. LUPTON: I was asking if it could possibly have
10 been two bullet holes.

11 THE COURT: I'll allow it.

12 A May have been, if they were close together.

13 And when we do photograph, we don't completely take
14 all the clothes off of a victim. We just pull the --
15 kinda pull the shirt up and take pictures because that is
16 something that is done at autopsy. That's not something
17 we would ---

18 Q Okay.

19 A --- mess with.

20 Q So there could've been one you didn't find?

21 A Yes, sir. It's very possible.

22 Q Okay. And what ultimately happened with the body?

23 A The body was transported. After we photographed the
24 victim, he was transported I assume to the morgue.

25 Q All right. Somebody come collect -- who --

DIRECT EXAMINATION BY MR. LUPTON - JAMES TALLON 282

1 A Yes, sir. It was -- the victim was taken, Coroner
2 Porth contacted --

3 Q Coroner took the body?

4 A Yes, sir.

5 Q All right. And that would be standard?

6 A Yes, sir.

7 Q Is that correct?

8 A That's very common.

9 Q And -- all right. You checked the body. Did you
10 check around the rest of the scene?

11 A Yes, sir, we did. We walked the scene and searched
12 for other evidence.

13 Q And did you find -- you -- you talked about the sock
14 and the shoes already. Did you find anything else of
15 note?

16 A There was a cartridge case that we located and also a
17 glove.

18 Q All right. I'll show you what's marked State's
19 Exhibit 15. Do you recognize that?

20 A Yes, sir. That is the cartridge case that was
21 located.

22 Q And does it fairly and accurately show the condition
23 it was found in?

24 A Yes, sir.

25 MR. LUPTON: Your Honor, State's 15 moved into

1 evidence.

2 THE COURT: Any objection?

3 MR. STEVENS: None from Derrick Mills, Judge.

4 MR. FARLEY: No objection.

5 THE COURT: All right. It's in.

6 (State's Exhibit No. 15, cartridge case photo,
7 in evidence.)

8 DIRECT EXAMINATION

9 BY MR. LUPTON:

10 Q All right. And what was the condition -- oh, well,
11 first of all, what caliber was that cartridge case?

12 A I believe it was a .45 caliber.

13 Q All right. And what condition was it in?

14 A It was in the condition -- I would say that it -- you
15 can't put a time frame on how long it had been there, but
16 I would say that it hadn't been there very long because it
17 was just on top of the ground.

18 It wasn't covered with any dirt or covered with
19 anything. We could see it with the naked eye and it was
20 still shiny. So it hadn't been tarnished by the sun or
21 weather.

22 Q And you generally process the scene -- you've already
23 testified about that. You did your processing of the
24 scene, correct?

25 A Yes, sir.

1 Q And what did you do with the evidence you collected
2 at the scene?

3 A Well, once we take all the evidence and we collect
4 it, after it's been photographed and properly documented
5 and measured from reference points, we'll take it and
6 place it either into paper bags or whatever type of
7 container is appropriate for that specific type of
8 evidence; and we will transport it back to the SLED
9 forensics laboratory, at which point it will get logged
10 into the computer system and then sent to the various
11 areas within SLED, whether it be latent prints, firearms,
12 DNA ...

13 Q And did you -- as part of that, do you secure it so
14 that it is not tampered with?

15 A Yes, sir. Once it's collected by me, it will be
16 evidence -- evidence tape is played -- or is placed on it,
17 which is also called "tamper proof tape," so that when you
18 pull the tape off, it breaks in such a way that it's hard
19 to be able to show that you weren't inside of it, to show
20 that somebody had tampered with it. And then also, for
21 certain evidence, like firearms evidence, it would go into
22 a heat-sealed pouch where it is heat-sealed, closed, and
23 we will sign and date -- or initial and date it.

24 Q All right. And did you properly secure all the
25 evidence you collected at the scene?

1 A Yes, sir.

2 Q And did you transport it back to SLED?

3 A Yes, sir.

4 Q And specifically, the firearms related evidence, did
5 you -- who'd you turn that over to?

6 A That was given to Special Agent Michele -- I'm trying
7 to say her last name. I --

8 Q I have trouble pronouncing it too.

9 A Eichenmiller.

10 Q That's how I pronounce it.

11 A Okay.

12 Q So Michele Eichenmiller?

13 A Yes, sir.

14 Q And did you maintain the security of the evidence
15 while it was in your custody?

16 A Yes, sir.

17 Q Did you or anybody else tamper with it or alter it?

18 A No, sir.

19 Q Did you also receive some bullets and bullet
20 fragments from Tiffany?

21 A Yes, sir. I did.

22 Q And when was that?

23 A That would've been on -- I believe that was on the --
24 I'm trying to find the chain of custody.

25

DIRECT EXAMINATION BY MR. LUPTON - JAMES TALLON 286

1 (Phone rings.)

2 THE COURT: Hold on one second.

3 (To bailiff) Sir, would you please confiscate that
4 phone?

5 (The bailiff complies.)

6 THE WITNESS: May I proceed?

7 THE COURT: Hold -- you may proceed. I just wanted
8 to make sure that he took the phone into custody.

9 A That would've been December 15.

10 Q All right. And who did you receive -- let me show
11 you what's in evidence as State's Exhibit 2. Do you
12 recognize that?

13 A Yes, sir. This is the fragments that was [sic]
14 transferred from Agent Hezel, at the time, to me and it
15 was placed in the evidence pouch and -- and heat-sealed
16 with my initials and the date.

17 Q All right. Was it properly sealed when you received
18 it from ---

19 A From ---

20 Q --- Tiffany?

21 A Yes, sir, it was.

22 Q Would you have accepted it if it wasn't?

23 A No, sir, I would not have.

24 Q And you -- was that part of what you turned over?

25 A To Agent Eichenmiller, yes, sir.

1 Q And while it was in your custody, was it damaged,
2 tampered with, altered in any way?

3 A No, sir.

4 MR. LUPTON: Nothing further, Your Honor.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION

7 BY MR. STEVENS:

8 Q How you doing, Agent Tallon?

9 A Good, sir.

10 Q All right. My name's Breen Stevens and I represent
11 Mr. Derrick Mills in the matter. I'm just going to ask
12 you a few questions.

13 I'm going to focus on just a couple of different
14 areas, okay? Let's first start with the night of December
15 13, 2014, okay?

16 A Uh-huh.

17 Q Now, you said you were called out and that was a
18 little after 8 p.m.?

19 A Yes, sir.

20 Q You know --

21 A -- 8:11 p.m. when I received a call from our
22 dispatch.

23 Q Fantastic. And that was a call to help the Colleton
24 County Sheriff's Office, right?

25 A Correct.

CROSS-EXAMINATION BY MR. STEVENS - JAMES TALLON 288

1 Q All right. And so you went to Falcon Lane?

2 A Yes, sir.

3 Q And you got there around 10 after 9 p.m., right?

4 A Yes, sir.

5 Q Okay. And you said you met with other officers
6 there?

7 A Yes, sir.

8 Q Okay. And that would also include, you know, folks
9 like Captain Trentham and others familiar with the case?

10 A Correct.

11 Q And you spoke with them, right?

12 A Yes, sir.

13 Q And they told you about the investigation to that
14 point, right?

15 A Yes, sir.

16 Q Okay. And so -- just so I'm sure, that was before
17 you had even started collecting evidence or taking
18 photographs, right?

19 A Correct.

20 Q Okay. So let's now talk about and focus on what you
21 did see while you were there, okay? Your team was there
22 and took pictures?

23 A Yes, sir.

24 Q Okay. And that included a picture of a gun, right?

25 A I'm sure there was a photograph of the firearm.

1 Q Right. And that firearm was a revolver?

2 A Yes, sir.

3 Q Okay. Specifically, you said -- I believe you said
4 it was a .357?

5 A Yes, sir.

6 Q Okay. Now, I'm going to show you a picture, okay?

7 MR. STEVENS: May I approach, Your Honor?

8 THE COURT: You may.

9 MR. STEVENS: Thank you, Judge.

10 Q (Hands exhibit to the witness) I'm showing you
11 Defense Exhibit 2. Is that a picture of what you saw --

12 A Yes.

13 Q -- on Mr. Brown that night?

14 A Yes, sir.

15 Q Okay. And that does accurately reflect the gun as
16 you saw it, correct?

17 A Yes, sir.

18 Q Okay.

19 MR. STEVENS: Judge, if I may offer for admission
20 Defense Exhibit No. 2.

21 THE COURT: Any objections?

22 MR. LUPTON: None.

23 MR. FARLEY: No objection, Your Honor.

24 THE COURT: All right. It's in.

25 (Marked Defense Exhibit No. 2, photograph, in evidence.)

CROSS-EXAMINATION BY MR. STEVENS - JAMES TALLON 290

1 MR. STEVENS: And may I publish to the jury?

2 THE COURT: You may.

3 (Mr. Stevens shows exhibit to the jury.)

4 CROSS-EXAMINATION

5 BY MR. STEVENS:

6 Q And again, this is the silver .357 caliber revolver
7 that was found on Mr. Charlie Brown, correct?

8 A Oh. Yes, sir.

9 Q Okay. Now, do you know whether the firearm was
10 loaded?

11 A Yes, sir. So there was one spent cartridge case and
12 one unspent cartridge case.

13 Q Now, when you say a "spent cartridge case," you mean
14 that cartridge was already fired?

15 A It had been fired, correct.

16 Q Okay. And you also indicated to the prosecution you
17 found another shell casing as well?

18 A Yes, sir.

19 Q Except that shell casing -- when you say that, you
20 mean also that was fired at some point?

21 A Yes, sir. It was a fired cartridge case.

22 Q Okay. Except this one was on the ground, right?

23 A Correct.

24 Q Okay. And it was of a different caliber, right?

25 A Correct.

1 Q Specifically, I believe you mentioned it was a .45
2 caliber bullet ---

3 A Correct.

4 Q --- by ACP? Okay. And so you also swabbed Mr.
5 Brown's hands?

6 A For gunshot residue. I believe that was taken.

7 Q Okay.

8 A Yes, sir.

9 Q I gotcha. And just during your investigation, to be
10 clear, you never swabbed the hands of other folks like Mr.
11 Jarvis Mack or anybody else affiliated with the case?

12 A I don't believe anybody else was on scene that was
13 advised to me that -- or at least not within my scene.

14 Q Okay. Okay. Now, let's find -- I want to talk about
15 what else you found on Mr. Brown, all right? Specifically
16 you said he was wearing a shirt?

17 A Yes, sir.

18 Q Okay. And that shirt had a pocket?

19 A Yes, sir.

20 Q Okay. And that's where you found cash on his body,
21 right?

22 A I did not find the cash. The cash was located by
23 someone else who counted it, and then they told me about
24 it. So that was not ---

25 Q I understand.

CROSS-EXAMINATION BY MR. STEVENS - JAMES TALLON 292

1 A --- me.

2 Q That's fine. But that was from Mr. Brown, right?

3 A Yes, sir.

4 Q Okay. Now, let's turn around and talk about the Jeep
5 Grand Cherokee, okay?

6 A Okay.

7 Q Now, as you've indicated, the Jeep Grand Cherokee was
8 present in your scene?

9 A Yes, sir.

10 Q Okay. And you collected fingerprints from it,
11 correct?

12 A Yes, sir.

13 Q Okay. And you actually collected fingerprints from
14 several locations, right?

15 A On the vehicle, yes, sir.

16 Q Okay. Including the exterior of the driver's door?

17 A Yes, sir.

18 Q And the passenger door?

19 A Yes, sir.

20 Q And those were sent with everything else for testing
21 at SLED, right?

22 A Correct.

23 Q Okay. And you also swabbed items for DNA, right?

24 A Yes, sir.

25 Q Okay. Now, let's also talk about some of the things

1 that a -- that you did not find, okay? So for example,
2 you looked at the hood of the Jeep, obviously, while you
3 were there?

4 A Yes, sir.

5 Q Okay. And you did not find any blood on that Jeep,
6 right, on the hood of the Jeep?

7 A Not to my recollection.

8 Q Okay. And you -- you looked on the outside of the
9 driver doors, obviously.

10 A Yes, sir.

11 Q The driver's side and both sides, right? And you
12 didn't see any blood on the outside of the doors either,
13 right?

14 A Not that I noted.

15 Q Okay. 'Cause if you did, you would've collected
16 samples of that, right?

17 A Correct.

18 Q That's right. But you didn't collect any 'cause
19 there wasn't any to collect?

20 A Correct.

21 Q All right. You also looked on the ground at the
22 area, all around in your scene?

23 A Yes, sir.

24 Q Okay. And you did not collect any tire impressions,
25 correct?

CROSS-EXAMINATION BY MR. STEVENS - JAMES TALLON 294

1 A No, sir.

2 Q Okay. And you did not recover a motorcycle in this
3 case at all either, correct?

4 A No, sir.

5 Q Okay. Let's talk about the following day, the 15th.
6 You indicated that Ms. -- at the time, Ms. Hezel, now, Ms.
7 Edwards --

8 A Right.

9 Q -- was at the autopsy?

10 A Yes, sir.

11 Q And she collected evidence from that autopsy?

12 A Yes, sir.

13 Q Okay. And that included, you know, bullet fragments?

14 A Yes, sir. It did.

15 Q And -- and clothing as well?

16 A Yes, sir.

17 Q Okay. And the clothing, was that sent to a lab for
18 testing as well?

19 A No, sir. It's just photographed and then placed in a
20 container where it is either returned to the agency or
21 kept in our storage.

22 Q I understand. Thank you, sir.

23 MR. STEVENS: Court's indulgence?

24 THE COURT: Yes, sir.

25 (Brief pause.)

1 MR. STEVENS: No further questions from Mr. Derrick
2 Mills. Thank you, Judge.

3 Q Thank you, Agent Tallon.

4 THE COURT: Cross-examination?

5 MR. FARLEY: You honor, I believe Mr. Stevens did
6 such a thorough job, I don't have any questions for this
7 witness.

8 THE COURT: All right, sir. Thank you. Any
9 redirect, Mr. Lupton?

10 MR. LUPTON: Beg the Court's indulgence.

11 (Brief pause.)

12 MR. LUPTON: No redirect, Your Honor.

13 THE COURT: All right, sir. You may step down, sir.
14 Thank you.

15 THE WITNESS: Thank you, Your Honor.

16 MR. LUPTON: And Your Honor --

17 THE COURT: Counsel, please approach.

18 MR. LUPTON: -- request that the witness be excused.

19 THE COURT: Any objection?

20 MR. STEVENS: No objection.

21 MR. FARLEY: No objection.

22 THE COURT: You're free to go. Thank you.

23 (The witness exits the stand.)

24 (Bench conference.)

25 THE COURT: You may call your next witness.

DIRECT EXAMINATION BY MR. LUPTON - MICHELE EICHENMILLER 296

1 MR. LUPTON: The State calls Kendra Williams.

2 Oh, Your Honor, I apologize. Wait -- getting ahead
3 of myself, Your Honor. I've got one more before Kendra.
4 Your Honor, I apologize.

5 The State calls Agent Eichenmiller.

6 MICHELE EICHENMILLER, having been first
7 duly sworn, testifies as follows:

8 THE CLERK: Please state your full name for the
9 record.

10 THE WITNESS: My name is Michele Eichenmiller, E-i-c-
11 h-e-n-m-i-l-l-e-r.

12 THE COURT REPORTER: Spell Michele, too.

13 THE WITNESS: M-i-c-h-e-l-e.

14 THE COURT: Your witness.

15 MR. LUPTON: Thank you, Your Honor. May it please
16 the Court?

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. LUPTON:

20 Q Agent, you're -- you said you're with SLED?

21 A Correct.

22 Q And could you tell the jury what is SLED and what do
23 you do there?

24 A It's the South Carolina Law Enforcement Division. I
25 work in the forensic lab in the firearms department.

1 Q And in lay terms, that's what people commonly call
2 "ballistics"?

3 A Yes.

4 Q Something of a misnomer; is that correct?

5 A Correct.

6 Q But your job is to do what?

7 A I examine any fired evidence on bullets or cartridge
8 cases, along with firearms that are seized in crimes.

9 Q All right. And what is your law enforcement training
10 and experience?

11 A I started with SLED in 2006. I went through the in-
12 house training program to be a firearms examiner. You
13 can't go to a college anywhere to get that training. You
14 have to do an apprenticeship program.

15 I do have a Master's Degree in Forensic Science, was
16 hired at SLED, did their training program. At the end,
17 you complete a competency, and then they deem you able to
18 do casework on your own.

19 Q All right. And did you also -- are you a sworn law
20 enforcement officer?

21 A I am a Class 3 law enforcement officer, yes.

22 Q And did you get law enforcement training as well?

23 A I went to the academy -- the South Carolina Criminal
24 Justice Academy legal class.

25 Q All right. And have you ever been qualified as a

DIRECT EXAMINATION BY MR. LUPTON - MICHELE EICHENMILLER 298

1 firearms examiner? Firearms/tool marks examiner in the
2 past?

3 A Yes.

4 Q Okay. How many times?

5 A Approximately 80 times in the State of South
6 Carolina.

7 MR. LUPTON: Your Honor, at this time, I move to
8 qualify her as a expert in fire marks and tool mark
9 examiner.

10 THE COURT: Any *voir dire*?

11 MR. LUPTON: Firearms and tool marks examiner.

12 MR. STEVENS: Firearms and tool marks examiner.

13 MR. FARLEY: No objection, Your Honor.

14 THE COURT: She's qualified.

15 MR. LUPTON: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. LUPTON:

18 Q Were you involved in testing evidence in this case?

19 A I was.

20 Q And specifically, what items did you test?

21 THE WITNESS: May I refer to my notes?

22 THE COURT: Yes, ma'am.

23 A I received one revolver. I also received a fired .45
24 auto-caliber cartridge case, and I received five items
25 from autopsy.

1 Q All right. And show you what's marked as State --
2 excuse me, Defense's Exhibit 2. Is that the --

3 A It corresponds with the firearm I examined.

4 Q (Shows picture to the witness) And State's Exhibit
5 15, does that appear to be a .45 caliber shell casing?

6 A Well, I can't really tell from the picture, but ...

7 Q Can't tell for certain, but that's --

8 A Right.

9 Q -- consistent with it?

10 A It could be.

11 Q All right. And then Defense -- excuse me, State's
12 Exhibit 2, this one (indicates). Do you recognize that as
13 the ...

14 A Yes. This is the evidence I examined. I have my
15 heat-seal on there with my initials and the date of when I
16 sealed it back up.

17 Q All right. Specifically, on State's Exhibit 2, those
18 are the bullets and bullet fragments recovered from the
19 autopsy; is that correct?

20 A Correct.

21 Q And when you received that, who'd you receive it
22 from?

23 A I received them from James Tallon.

24 Q All right. And were those items -- was State's
25 Exhibit 2, those bullets, were they sealed when you

DIRECT EXAMINATION BY MR. LUPTON - MICHELE EICHENMILLER 300

1 received them?

2 A Yes.

3 Q Okay. Would you have taken them had they not been
4 sealed?

5 A No. I wouldn't have been able to accept them.

6 Q Or what if there had been evidence of tampering with
7 them?

8 A No. We would not have taken them then.

9 Q Right. In fact, on any of the evidence you received,
10 would you accept it for testing if there was any signs of
11 tampering?

12 A No. I always check the seals to make sure they're
13 sealed when I get them. Also, the log-in department will
14 check those or the agent that gives it to me. So they
15 were all sealed.

16 Q Okay. Now, I want to talk specifically about the
17 bullets and the bullet fragments. What did you do with
18 those?

19 A Whenever I receive evidence in a case, I'll open it,
20 take photographs; I'll do worksheets which just records
21 the condition I received them in; and title, make or
22 anything like that.

23 So in this case, I received the bullets, I took
24 pictures of them. I had to decontaminate them since they
25 were from autopsy, and then I was able to examine them

1 under my comparison microscope.

2 Q All right. Can you explain what a comparison
3 microscope is?

4 A It's basically two microscopes connected by an
5 optical bridge which looks like a pair of binoculars. I
6 can put one bullet on one side, one on the other side,
7 rotate them around, and try to determine if the marks I
8 see are anything I could use for identification.

9 Q All right. And then were you able to examine any or
10 all of the bullets and fragments?

11 A I examined them all.

12 Q All right. What were you able to determine about
13 them?

14 A The first one I looked at was a bullet fragment. I
15 also examined another fired bullet, two more bullet
16 fragments, and then two more fired bullets.

17 I was able to determine the caliber on two of the
18 bullets and one of the fragments, and the other items I
19 was unable to determine a caliber.

20 Q All right. And what caliber -- of -- of the things
21 that you were able to identify, what caliber?

22 A They were consistent with being .22 caliber.

23 Q All right. And the -- you said, one fragment you
24 could identify as coming from a .22?

25 A Correct.

DIRECT EXAMINATION BY MR. LUPTON - MICHELE EICHENMILLER 302

1 Q And then the other fragment you could not?

2 A Correct.

3 Q Was the fragment you could not identify smaller or
4 larger than the one you identified?

5 A It was smaller.

6 Q The bullets that you could not identify, why could
7 you not identify them?

8 A Bullets tend -- sometimes will break apart on impact,
9 and so these were so small and didn't have any marks that
10 I could tell anything about them to be caliber or anything
11 else.

12 Q Can you explain bullets deforming?

13 A Whenever bullets hit an object, they can deform,
14 depending on their composition.

15 These were smaller bullets, they didn't have much of
16 a jacket on them. A jacket usually protects the lead from
17 deforming. In this case, it was a very thin jacket and
18 the lead deformed on impact.

19 Q All right. And the ones that -- the bullets that you
20 were not able to identify, were they in a -- in a
21 substantially -- the same or substantially different size?
22 How were they, size-wise, compared to the ones you were
23 able to identify?

24 A They were smaller.

25 Q Did any of the bullets -- were they a size consistent

1 with a .38 or .357 or a .45?

2 A No, they were not.

3 Q Smaller or larger?

4 A Much smaller.

5 Q All right. Now, the bullets that you were able to
6 identify, were you able to tell whether or not they were
7 fired from a -- any particular firearm?

8 A I was not. They were also damaged. They weren't
9 damaged so much that I couldn't tell the caliber, but they
10 were damaged enough that I couldn't use them for
11 identification.

12 Q So even -- did you have a .22 to compare them to?

13 A I did not. I just compared them to each other.

14 Q Even if you had a .22, would you have been able to
15 identify them to a particular firearm?

16 A It depends on the firearm. I may or may not have
17 been able to. It just depended if I were able to receive
18 a firearm if I could do anything.

19 Q In the condition they were in, would you have been
20 able to identify them?

21 A I may or may not.

22 Q Okay. Now, with regards to the evidence you
23 received, you said it was -- at least some of it was .22
24 caliber?

25 A Correct.

DIRECT EXAMINATION BY MR. LUPTON - MICHELE EICHENMILLER 304

1 Q I'd like to -- firearms, generally, are there .22
2 caliber revolvers?

3 A There are.

4 Q How common are those?

5 A Fairly common.

6 Q Fairly common? Can you explain to the jury the
7 difference between a revolver and an automatic?

8 A A revolver -- if you're familiar with the cowboy
9 movies, it has a cylinder that rotates around an axis,
10 each cylinder will have a cartridge in it, and every time
11 the firearm is fired, will rotate and fire the next round
12 until they're all fired.

13 A semi-automatic has a magazine that you insert into
14 a well. That firearm will fire every time you pull the
15 trigger as long as there's cartridges in the magazine. A
16 semi-automatic usually ejects its cartridge cases, and a
17 revolver will hold them in the chambers.

18 Q All right. So somebody with a revolver -- that would
19 -- would there be shell casings at the scene of where it
20 was fired?

21 A Typically we don't see cartridge cases from revolvers
22 at the scene.

23 Q So unless they dumped them out there, they would not
24 stay at the scene ---

25 A Right.

1 Q --- is that correct? All right. What about an
2 automatic?

3 A An automatic -- semi-automatic pistol, we usually see
4 cartridge cases at -- at a scene.

5 Q All right. Now, the -- a .22 caliber bullet, can it
6 be fired from a .357 or a .38 caliber?

7 A It cannot.

8 Q Could it be fired from a .45 caliber pistol?

9 A No, it can't.

10 Q Can you fire a .45 from either a .357 or a .22?

11 A No.

12 Q Can you fire any of those -- with the exception of
13 .38s and .357s, can you fire any of those from each other?

14 A No. None of those chamber -- calibers are
15 interchangeable.

16 Q All right. Now, I want to talk about size versus
17 caliber. Is there a -- a -- is size and caliber -- size
18 of the physical size of a firearm the same as its caliber?

19 A No.

20 Q Can a .22 caliber pistol have a large frame, be a big
21 firearm?

22 A Yes, it can be.

23 Q Can it have a long barrel?

24 A It can.

25 Q And can you explain exactly what caliber is?

DIRECT EXAMINATION BY MR. LUPTON - MICHELE EICHENMILLER 306

1 A Caliber's the diameter of the bullet, so the size
2 around. It's usually measured in inches, so it's just how
3 big the bullet is.

4 Q So what would point 2-2 mean?

5 A That's usually --

6 Q A .22 caliber?

7 A .22 caliber is usually point 2-2 of an inch.

8 Q So a -- what is a -- a .38?

9 A .38 is around point 3-5-5 of an inch.

10 Q All right. Well, it -- specifically, the number --
11 the point 4-5 caliber, or .45 caliber, is that -- the
12 measurement is related to an inch?

13 A Yes. That point 4-5 is the diameter of a .45 caliber
14 bullet.

15 Q So any of those, .22, .32, .44, any of that stuff,
16 that's just means the -- how many hundredths of an inch;
17 is that correct?

18 A In most cases. Like a .38 caliber is actually point
19 3-5-5. A .9 millimeter is 9 millimeters, but it's also
20 point 3-5-5 inches.

21 Q All right. So generally speaking, is there anything
22 more than a very slight difference between the nominal
23 caliber and the actual diameter?

24 A In some cases there is, but not -- in general, most
25 of the common calibers --

1 Q Okay.

2 MR. LUPTON: Beg the Court's indulgence.

3 (Brief pause.)

4 MR. LUPTON: Nothing further, Your Honor.

5 THE COURT: Cross-examination?

6 MR. STEVENS: Judge, may it please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. STEVENS:

10 Q Agent Eichenmiller, how are you doing today?

11 A Fine.

12 Q My name's Breen Stevens, I'm with the Defense, and I
13 represent Mr. Derrick Mills in the matter. I'm just going
14 to ask you a few questions, largely about what you did in
15 the case.

16 Just to get it out of the way, I'm just going to ask
17 you a real quick question about December 13, 2014, okay?
18 You were not there at the scene when the incident
19 happened, right?

20 A I was not.

21 Q Didn't personally see anything happen, you just
22 tested items at SLED for the case, right?

23 A Correct. The evidence is brought to SLED.

24 Q Okay. Good. So let's focus on what you were able to
25 do in the case, all right? I hear you analyzed these

CROSS-EXAMINATION BY BREEN STEVENS - MICHELE EICHENMILLER 308

1 items for SLED. That included a handgun, right?

2 A Correct.

3 Q Okay. And as you indicated it was a revolver?

4 A Yes.

5 Q Okay. And as you also indicated that -- how a
6 revolver operates, right? Generally, after it's fired,
7 the cylinder moves and the cartridges typically stay
8 inside, right?

9 A Correct.

10 Q Not always, though, like you also indicated, right?

11 A We have seen it that there are some at the scene,
12 yes.

13 Q Right. Okay. And here the revolver's also a chamber
14 for a .357 magnum, right?

15 A Yes.

16 Q Which can also -- oftentimes, use .38 caliber ammo?

17 A Yes.

18 Q Shells, right? Okay. And here it actually had an
19 unfired bullet, right?

20 A It did.

21 Q Okay. And the unfired bullet that you examined
22 could've been used by that revolver, right?

23 A Yes, it was correct.

24 Q Okay. And also had a fired shell casing in it as
25 well, right?

CROSS-EXAMINATION BY BREEN STEVENS - MICHELE EICHENMILLER 309

1 A Correct.

2 Q And that was also its proper caliber that could've
3 been used by that revolver, right?

4 A Correct.

5 Q Okay. You said that you also examined another shell
6 casing, correct?

7 A Correct.

8 Q Okay. And that was the .45 ACP?

9 A Correct.

10 Q Or .45 caliber, it's --

11 A Right.

12 Q Okay. And you indicated on your report that the .45
13 ACP had marks of evidentiary value, right?

14 A Yes.

15 Q Okay. So basically, if you had something to compare
16 it with, you could compare those marks to other .45 shell
17 casings, right?

18 A Or a firearm, either one.

19 Q Or the firearm. Exactly. Basically to see if the
20 gun that fired them was the same, right?

21 A Yes.

22 Q But here you did not have any other casings from a
23 .45 caliber to compare it with, right?

24 A Correct.

25 Q Or a .45 caliber handgun to compare it with, right?

CROSS-EXAMINATION BY BREEN STEVENS - MICHELE EICHENMILLER 310

1 A I did not receive a .45 caliber -- caliber --

2 Q Okay.

3 A -- firearm.

4 Q Okay. So let's talk about the fragments and other
5 bullets you did examine, okay? Now, you said you examined
6 five of them?

7 A Yes.

8 Q Okay. And most of those were fragments, right?

9 A Yes.

10 Q Okay. And you examined everything microscopically?

11 A Correct.

12 Q Okay. And you indicated that they were damaged,
13 right?

14 A Yes.

15 Q Okay. And some of them -- or actually several of
16 them were damaged to the point that you really could not
17 even conclusively compare them with each other, right?

18 A Right.

19 Q Okay. Now, the closest you could come was that three
20 of the fragments were most consistent with, and I think
21 I'm quoting, "nominal .22 caliber cartridges", correct?

22 A Correct.

23 Q Okay. And when we're talking about that, does it say
24 -- I'm sorry. And since the others were most consistent
25 with bullets loaded into some nominal .22 caliber

CROSS-EXAMINATION BY BREEN STEVENS - MICHELE EICHENMILLER 311

1 cartridges, right?

2 A Yes.

3 Q Okay. So that's not A 100 percent conclusion -- what
4 your report doesn't say, it just uses the language we just
5 discussed, right?

6 A Correct.

7 Q Okay. Excuse me. And again, you were never provided
8 with another gun to test in this case?

9 A I was not.

10 Q Okay. And just to be clear, when it come to semi-
11 automatic handguns in general, like you said, have a
12 magazine put in the well of the handgun, right?

13 A Yes.

14 Q Someone fires, typically they're going to eject on
15 the other side, right?

16 A They usually do.

17 Q And that's why you indicated that quite often you're
18 going to find some shell casings at a scene, right?

19 A Correct.

20 Q But it's also quite possible for someone to pick up
21 shell casing from a scene as well, right?

22 A It's possible.

23 Q Okay. Thank you.

24 MR. STEVENS: Court's indulgence.

25 (Brief pause.)

REDIRECT EXAMINATION BY MR. LUPTON - MICHELE EICHENMILLER 312

1 MR. STEVENS: No further questions from Mr. Derrick
2 Mills. Thank you, Agent Eichenmiller.

3 THE COURT: Cross?

4 MR. FARLEY: I don't have any questions for this
5 witness.

6 THE COURT: Any redirect?

7 MR. LUPTON: Briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. LUPTON:

10 Q A revolver, after a cartridge is fired, how long does
11 it stay in the cylinder? The spent shell casing, how long
12 does it stay in there?

13 A It'll stay indefinitely until someone manually
14 extracts it.

15 Q So is there any way to tell how long that spent shell
16 casing -- how long that it had been prior to --

17 MR. STEVENS: Beyond the scope, Judge.

18 THE COURT: I -- I'll allow it. That's a fair
19 question.

20 Q Is there any way to tell how long it had been in that
21 firearm?

22 A No, there isn't.

23 Q So is there -- is it possible that it had been there
24 for days or --

25 MR. STEVENS: Judge, calls for speculation.

REDIRECT EXAMINATION BY MR. LUPTON - MICHELE EICHENMILLER 313

1 THE COURT: If she knows.

2 A There's no way to tell how long it was in there.

3 Q All right. Indefinitely?

4 A Indefinitely.

5 Q All right. Now, there's talk about the nominal .22.

6 What is the actual diameter of a .22 caliber round --.22
7 caliber bullet?

8 A It's point 2-2.

9 Q All right. Is there point 2-2-3 calibers as well?

10 A Yes. They're all in the same caliber family.

11 Q All right. So then realistically, was this a .22
12 caliber bullet?

13 A Yes.

14 MR. LUPTON: Nothing further.

15 THE COURT: You may step down, ma'am. Thank you.

16 MR. LUPTON: I ask that his witness be excused, Your
17 Honor.

18 THE COURT: Any objections?

19 MR. FARLEY: No objection, Your Honor.

20 MR. STEVENS: None from Mr. Derrick Mills.

21 THE COURT: You're free to go. Thank you.

22 (The witness exits the stand.)

23 THE COURT: Ladies and gentlemen of the jury, it's
24 about 12:30. It's a good time for us to take our lunch
25 break. If you would please be back in your jury room at

1 1:30, that should give everyone sufficient time to grab
2 some lunch and be back in the jury room.

3 Please remember my previous instruction not to
4 discuss the case with anyone or allow anyone to discuss
5 the case with you. Have a nice lunch.

6 (The jury exits at 12:22 p.m.)

7 THE COURT: All right. We'll be at -- adjourned in
8 this matter until 1:30.

9 Lady with the cell phone issue, ma'am, we'll address
10 the issue about your cell phone after lunch. If you'd be
11 back in the courtroom at 1:25, then we'll address your
12 issue on the cell phone before the Court. Are you
13 listening, ma'am?

14 UNKNOWN FEMALE: Yes ma'am.

15 THE COURT: If you would be back in the courtroom at
16 1:25, we'll address your issue about your phone going off
17 in the courtroom in this Court, at 1:25. So please be
18 back in the courtroom.

19 Everyone else in the courtroom, there are no -- there
20 are signs of our Chief Justice's order. There are not to
21 be any cell phones in the courtroom other than the
22 attorneys are allowed to have cell phones.

23 Do not bring your cell phone back in this courtroom,
24 or you're going to be found in contempt of court if we
25 find it and/or if it goes off.

1 I'm making myself very clear, ma'am. I'll see you at
2 1:25. Court adjourned.

3 (Off the record at 12:24 p.m.)

4 (On the record at 1:32 p.m.)

5 THE COURT: Counsel, ready to proceed?

6 MR. LUPTON: The State's ready, Your Honor.

7 MR. LEINENDECKER: Yes.

8 MR. FARLEY: Yes, Your Honor.

9 THE COURT: All right. Let's have our jury, please.

10 (The jury enters at 1:34 p.m.)

11 THE COURT: Welcome back ladies and gentlemen of the
12 jury, I hope you had a nice lunch. Before we continue,
13 I'm going to go ahead and appoint a foreperson.

14 Gentlemen on the end there, in the blue shirt, your
15 name, sir, please?

16 THE JUROR: Shane McCarson.

17 THE COURT: Sir, since you are sitting in that seat,
18 I'm going to appoint you as the foreperson of the juror.
19 And I'll explain it to your -- your duties later as far as
20 that's concerned.

21 But you may proceed, Solicitor. You may call your
22 next witness.

23 MR. LUPTON: Thank you, Your Honor. State calls
24 Kendra Williams.

25 KENDRA WILLIAMS, having been first duly

DIRECT EXAMINATION BY MR. LUPTON - KENDRA WILLIAMS 316

1 sworn, testifies as follows:

2 THE CLERK: Please state your full name for the
3 record.

4 THE WITNESS: Kendra Williams.

5 THE CLERK: Thank you, ma'am. Have a seat. Pull
6 that mic back to you.

7 THE COURT: Your witness.

8 MR. LUPTON: Thank you, Your Honor. May it please
9 the Court?

10 THE COURT: Yes, sir.

11 DIRECT EXAMINATION

12 BY MR. LUPTON:

13 Q Investigator, can you tell the jury who you are?

14 A Kendra Williams, I am the victim's advocate, former
15 investigator, at Calhoun County Sheriff's Office.

16 Q All right. Back in December, 2014, what was your job
17 there at Calhoun County?

18 A I was an investigator and a victim's advocate.

19 Q All right. So you had the dual role of investigator
20 -- as a criminal investigator and you were a victim
21 advocate --

22 A Yes, sir.

23 Q -- for the Sheriff's Department? All right. And did
24 -- were you a sworn law enforcement officer?

25 A Yes, sir.

1 Q Did you receive training for that?

2 A Yes, sir.

3 Q All right. Briefly go over that.

4 A Started in 2004, Orangeburg County Sheriff's Office,
5 I went to the academy in 2004, South Carolina Criminal
6 Justice Academy. I worked in Orangeburg County
7 approximately five years, worked at South Carolina State
8 University almost five years, and I've been at Calhoun
9 County Sheriff's Office since July, 2013, and I've been an
10 investigator since October, 2013.

11 Q All right. And were you doing that dual role,
12 investigator and victim advocate back December 13, 2014?

13 A Yes, sir.

14 Q And as part of that, did you end up responding --
15 going out to the murder scene here in Calhoun County?

16 A Yes, sir.

17 Q And can you tell the jury about that?

18 A I was working a basketball game at Calhoun County
19 High School. Chief Smalls of St. Matthews P.D. advised me
20 that a shooting call had just come out over the radio. I
21 made a phone call, and I'm not sure if -- it was either to
22 Captain Graham or to Deputy Chief Trentham -- I was told
23 there was a shooting and went en route from the high
24 school.

25 Q All right. So you go out to where?

DIRECT EXAMINATION BY MR. LUPTON - KENDRA WILLIAMS 318

1 A Falcon Lane off of Sugar Hill Road -- or Sugar Hill
2 Lane.

3 Q So you -- you go out to the Sugar Hill area --

4 A Yes, sir.

5 Q -- where the murder scene is --

6 A Yes, sir.

7 Q -- and you get -- when did you get there?

8 A I'm not exactly sure.

9 Q Well let me rephrase. Did you get there -- were you
10 one of the first officers there or did you get there a
11 little bit later?

12 A I was one of the first.

13 Q And once you got there, what did you do?

14 A I secured the crime scene with Deputy Herron and
15 Deputy -- Deputy Chief Trentham. Then me and Chief Deputy
16 Trentham processed the scene. We took pictures and waited
17 for Captain Graham.

18 Q All right. And so you moved around the crime scene?

19 A Yes, sir.

20 Q All right. Were there any firearms visible when you
21 got there?

22 A No, sir.

23 Q When you got there, were there any cell phones
24 visible?

25 A No, sir.

1 Q The -- did you end up talking to anybody?

2 A Yes, sir.

3 Q Who'd you talk to?

4 A Jarvis Mack.

5 Q All right. And was that before or after you helped
6 process the crime scene some?

7 A It was after.

8 Q Okay. So going back to processing the crime scene,
9 as part of that, did you look at the body?

10 A Yes, sir.

11 Q And did you find anything -- first of all, can you
12 describe the condition of the body?

13 A He was laying on his back. I -- I -- unknown how
14 many, but there were gunshots. I do believe his shoes and
15 pants were pulled off several feet from the body. And he
16 appeared to be deceased.

17 Q All right. Show you State's Exhibit 12 that's in
18 evidence.

19 A Yes, sir.

20 Q Is that the condition of the body when you got there?

21 A Yes, sir.

22 Q All right. And the -- what's on his top? What's
23 covering his top?

24 A I believe he had on a sweater and a sweatshirt. I --
25 I do remember that he had a sweater on, but I believe it

DIRECT EXAMINATION BY MR. LUPTON - KENDRA WILLIAMS 320

1 was several layers.

2 Q Okay. And the sweater, do you recall the color?

3 A I want to say a light -- maybe a light brown or I
4 think it was multi-colored but I'm not exactly sure.
5 Maybe gray or ...

6 Q Maybe gray?

7 A Yeah.

8 Q All right. And then was it heavy or light? How
9 would you describe it?

10 A It was --

11 Q If you don't recall, then --

12 A I mean, I -- I want to say it was probably medium. I
13 mean, it was not a real heavy sweater, but it was a -- a
14 long sleeve. I mean, it wasn't rolled down.

15 Q Well, what was -- what was the temperature out there
16 that night?

17 A I do not recall.

18 Q Hot, cold?

19 A I believe it was hot. I'm -- I'm not sure. I really
20 don't remember.

21 Q Well, this was in December.

22 MR. FARLEY: Objection. Asked and Answered.

23 MR. STEVENS: Objection, Your Honor.

24 THE COURT: All right. Sustained. Can we move on?

25 Q If somebody else reported that -- do you have a

DIRECT EXAMINATION BY MR. LUPTON - KENDRA WILLIAMS 321

1 specific recollection of what the temperature was?

2 A I do not, sir.

3 Q All right. So if somebody else reported the
4 temperature, you would defer to them?

5 MR. LEINENDECKER: Objection, Your Honor.

6 MR. LUPTON: I'll move on.

7 MR. LEINENDECKER: At this point, it's a reverse
8 pitting of witnesses by trying to bolster testimony.

9 MR. LUPTON: I'll -- I'll move on.

10 THE COURT: He's moving on. He's moving on.

11 DIRECT EXAMINATION

12 BY MR. LUPTON:

13 Q All right. So did you look through the sweater the
14 victim was wearing?

15 A After the coroner got there, yes, sir.

16 Q All right. And did you recover anything from that
17 sweater?

18 A Yes, sir.

19 Q What did you recover?

20 A There was a firearm in one of the pockets.

21 Q And I'll show you what's marked as State's Exhibit --
22 excuse me, Defense Exhibit 2. Is that the firearm that
23 was in his pocket?

24 A Yes, sir.

25 Q All right. Was it visible from the outside?

DIRECT EXAMINATION BY MR. LUPTON - KENDRA WILLIAMS 322

1 A No, sir.

2 Q Was there also some cash in the pockets?

3 A Yes, sir.

4 Q Did you count that cash?

5 A I did.

6 Q How much was that?

7 A It is \$172 and there was some change also, but it was
8 \$172.

9 Q All right. And after you'd done all that, did you --
10 you said you talked to Jarvis Mack?

11 A Yes, sir.

12 Q Where did you talk to him?

13 A It was in one of the Sheriff's Office vehicles.

14 Q All right. And show you one of the -- State's
15 Exhibit 3. A picture of Jarvis Mack's cell phone. What's
16 that in the background?

17 A Oh, that's the console of the vehicle that I was in.

18 Q All right. So this was taken inside that car?

19 A Yes, sir.

20 Q All right. So you talked to him that night on the
21 scene; is that correct?

22 A Yes, sir.

23 Q And did he try and tell you what happened?

24 A Yes, sir. He did.

25 Q What was his demeanor that night? How was he acting?

1 A He was upset, very upset. I don't want to say scared
2 'cause I'm -- I'm not sure, but he -- he was shaking
3 visibly physically. He was just physically very
4 distraught and upset.

5 Q And did he try and tell you what happened?

6 A Yes, sir.

7 Q Was he being -- how clear was he being that night?

8 A He was -- he was very clear. He was talking and -- I
9 say a mile a minute, but he kept -- he kept saying the
10 same thing. He kept repeating himself. But he was -- he
11 was upset while he was talking.

12 Q And did he ultimately write his statement that night?

13 A Yes, sir, he did.

14 Q All right. Did he give a more detailed statement
15 later?

16 A Yes, sir, he did.

17 Q As part of him talking and telling you what happened,
18 did you have occasion to look at his cell phone to confirm
19 any of what he was saying?

20 A Yes, sir.

21 Q And specifically, did you have the opportunity to
22 look at his cell phone to see if there were calls back and
23 forth between him and Quintin Mills?

24 A Yes, sir. I looked at the call logs and --

25 Q All right.

DIRECT EXAMINATION BY MR. LUPTON - KENDRA WILLIAMS 324

1 A -- the text messages.

2 Q And do you recall, from your own memory at this
3 point, what all those times were?

4 A No, sir. I don't.

5 Q Did you record the times at the time?

6 A Yes, sir, I did.

7 Q Contemporaneous with looking at that phone?

8 A Yes, sir.

9 Q And was it -- did you write them down accurately?

10 A Yes, sir, I did.

11 Q And you have you notes with you today?

12 A I do.

13 Q And can you look at that and tell -- when was the
14 first call?

15 A 3:16 p.m.

16 Q All right. And when -- when was the last call?

17 A It was 6:30.

18 Q All right. And you said you also looked at texts; is
19 that correct?

20 A Yes, sir.

21 Q And did you also, in your notes, start writing down
22 the times of the texts?

23 A Yes, sir, I did.

24 Q At some point did you stop?

25 A I did.

1 Q All right. And when you stopped writing down the
2 times of the texts, why did you stop?

3 A I took screen shots. I took my phone and took actual
4 pictures of the text messages on his phone

5 Q All right. So at -- at some point after you wrote a
6 few down, you just decided to get pictures of it instead?

7 A Yes, sir.

8 Q All right. I'm going to show you State's Exhibits 3,
9 4 and 5. Are those the -- those the pictures you took?

10 A Yes, sir.

11 Q And that was what was on his phone?

12 A Yes, sir.

13 Q Now, did you make note of how long the calls were?

14 A I did not.

15 Q So do you have any idea of how long those calls were?
16 If they even were answered?

17 A No, sir.

18 Q Now, in talking with Jarvis Mack, did he -- well, did
19 anybody ever tell you anything about taking any kind of
20 evidence away from that scene?

21 A No, sir.

22 Q Cell phones? Anything?

23 A No, sir.

24 Q Would that have been significant enough for you to
25 note it?

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRA WILLIAMS326

1 A Yes, sir.

2 MR. LUPTON: Beg the Court's indulgence.

3 (Brief pause.)

4 MR. LUPTON: Nothing further, Your Honor.

5 THE COURT: Cross-examination?

6 MR. LEINENDECKER: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. LEINENDECKER:

9 Q Deputy Williams, I'm Mark Leinendecker and I
10 represent Derrick Mack. I have a few questions for you
11 about your investigation and the things that you did,
12 okay?

13 A Yes, sir.

14 Q You -- in the course of your investigation, you spoke
15 with -- over there on two occasions when Mr. Mack was
16 interviewed concerning the events of the 13th; is that
17 correct?

18 A Yes, sir.

19 Q At least two occasions. I'm not certain if there
20 were others. You also witnessed his statement on the 13th
21 that you say now, was made in the -- in a patrol car or a
22 cruiser, correct?

23 A Yes, sir.

24 Q And you were there on the 15th when he came to the
25 Sheriff's Office and expanded on that -- the events -- or

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRA WILLIAMS327

1 the statement, correct?

2 A Yes, sir.

3 Q So you also witnessed that, right?

4 A Yes, sir.

5 Q Okay. So you met with him that day and you received
6 the statement that was on the 13th. You also were able to
7 visually recount to the State what he looked like, right?

8 A Yes, sir.

9 Q Did you notice any blood on his hands or his
10 bracelets or his sleeves?

11 A Who are we talking about, Mr. Brown or Mr. Mack?

12 Q Mr. Mack.

13 A I believe he had some on his hands, I'm ...

14 Q Okay. As the investigator and the person dealing
15 with Mr. Mack, did you swab his hands for gunshot residue?

16 A No, sir. I did not.

17 Q Did you do anything to investigate whether he had
18 participated in the crime that evening?

19 A No, sir. I took his statement.

20 Q You just took his word that he was the victim,
21 correct?

22 A Yes, sir.

23 Q And you didn't investigate that any further?

24 A No, sir, not after that night.

25 Q Okay. He had a cell phone on him. How many other

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRA WILLIAMS328

1 cell phones; did you ask him?

2 A I don't believe I did.

3 Q So you only know about the cell phone that he showed
4 you, correct?

5 A Yes, sir.

6 Q Did he pull the cell phone out and offer it to you?

7 A I don't -- I don't recall. I -- I don't know if he
8 had it in his hand or --

9 Q Did he show you the text messages on it or did you
10 ask him to look at them?

11 A He showed me, yes, sir.

12 Q So he's the one that said, "I've got text messages"?

13 A And I believe so. I don't remember exactly.

14 Q And then after he showed them to you, you took
15 photographs of those, correct?

16 A Yes, sir.

17 Q And you've already identified the State's Exhibits
18 No.'s 4 -- or 3, 4, and 5. And those are the pictures of
19 the text messages you took that night, on the 13th,
20 correct?

21 A Yes, sir.

22 Q And they accurate -- accurately reflect what you saw
23 that day, correct?

24 A Yes, sir.

25 Q When you did this -- when you do your work, you don't

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRA WILLIAMS329

1 just take the statements, but you also keep a file where
2 you make reports and supplemental reports based on every
3 event that you undertake in the investigation, correct?

4 A Yes, sir.

5 Q Did you make a supplemental report on the 15th of
6 December when Mr. Mack came and spoke with y'all?

7 A Yes, sir. I did.

8 Q Do you have the report with you?

9 A Yes, sir. It's actually dated the 16th, but it was
10 on December 14th -- or I mean, December 15th.

11 Q Okay. And it's dated 12/16/14 at 10:26 a.m.?

12 A 10:28. Yes, sir.

13 Q You're right. And I probably need new glasses.

14 Thank you.

15 Would you read over that report about what you were
16 told that day, and let me know when you've completed it.

17 (The witness complies.)

18 A Yes, sir.

19 Q And point of fact, Mr. Mack did tell you he took some
20 stuff from the scene, didn't he?

21 A Yes, sir. He did.

22 Q He actually told you he picked up two cell phones
23 beside Mr. Brown's body and took them, correct?

24 A Yes, sir.

25 Q He hadn't told you that on the 13th, had he?

CROSS-EXAMINATION BY MR. LEINENDECKER - KENDRA WILLIAMS330

1 A To be honest, I don't recall.

2 Q Okay. You weren't actually at Falcon Lane 'til after
3 the incident occurred, correct?

4 A Yes, sir.

5 Q You don't know what happened. You were only told by
6 the individuals who said they were there when it happened,
7 Mr. Mack and Mr. Thompson, correct?

8 A Yes, sir.

9 Q You didn't see what happened?

10 A No, sir.

11 Q And you relied on their testimony as to what
12 happened, correct?

13 A Yes, sir.

14 Q You didn't follow that up or investigate that any
15 further by a gunshot residue test to see if Mr. Mack had,
16 in fact, fired a gun that night, did you?

17 A No, sir.

18 MR. LEINENDECKER: Court's indulgence.

19 (Brief pause.)

20 MR. LEINENDECKER: No further questions.

21 Q Thank you.

22 A Yes, sir.

23 THE COURT: Cross-examination?

24 MR. FARLEY: I don't have any questions for this
25 witness.

1 THE COURT: Any redirect?

2 MR. LUPTON: No, Your Honor.

3 THE COURT: You may step down, ma'am. Thank you.

4 (The witness exits the stand.)

5 MR. LUPTON: Your Honor --

6 THE COURT: You may call your next witness.

7 MR. LUPTON: Call Stanley Graham.

8 STANLEY GRAHAM, having been first duly
9 sworn, testifies as follows:

10 THE CLERK: Please state your full name for the
11 record.

12 THE WITNESS: Stanley Adam Graham.

13 THE CLERK: Thank you, sir. Have a seat.

14 THE WITNESS: Thank you.

15 THE COURT: Your witness.

16 MR. LUPTON: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. LUPTON:

19 Q Can you tell the jury who you are, please?

20 A My name is Stanley Graham. I'm with the Calhoun
21 County Sheriff's Office as a patrol supervisor currently.

22 Q All right. And that's a sworn law
23 enforcement position?

24 A It is.

25 Q Would you tell the jury about your law enforcement

DIRECT EXAMINATION BY MR. LUPTON - STANLEY GRAHAM

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1 training and background?

2 A I started in the Orangeburg Department of Public
3 Safety at the end of 2000 - 2001, stayed there for five
4 years; and since 2005, I've worked for the Calhoun County
5 Sheriff's Office.

6 Q And have you received -- been through the Academy and
7 received training?

8 A Yes, sir.

9 Q And were you working -- were you with the Calhoun
10 County Sheriff's Office back December 13, 2014?

11 A Yes, sir.

12 Q And were you involved in the investigation in this
13 case?

14 A Yes, sir.

15 Q All right. How did you become involved?

16 A I received a phone call either from one of the
17 deputies on scene or from dispatch, I don't remember how,
18 that evening that I responded out that night.

19 Q All right. And do you recall about what time that
20 was?

21 A No, sir.

22 Q Before or after dark?

23 A By the time they called me it was probably after dark
24 'cause it was way after the original crime scene took
25 place when I got there.

1 Q Well, let's talk about that, dark.

2 A Okay.

3 Q There's already been judicial notice of the sunset.

4 Do you recall what sunset time was?

5 A I want to say originally 17:15. I'm sorry. 5:15 or
6 5:20 or something like that

7 Q And 5:16 sound right?

8 A Yes, sir, somewhere in there.

9 Q And that's already been subject to judicial notice.

10 A Yes, sir.

11 Q All right. So now, sunset, after sunset, is there a
12 period of twilight where you can still see?

13 A Yes, sir.

14 Q About how long does that last?

15 A I would say anywhere from 45 minutes to an hour I
16 would think.

17 Q So less than an hour?

18 A Yes, sir.

19 Q All right. And daylight savings time, talk about
20 that. If a clock is set during the summer, what happens
21 as you go into fall here in South Carolina?

22 A It goes forward an hour.

23 Q For summer into winter?

24 A In summer. In the winter it goes back an hour.

25 Q And --

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1 A You lose an hour a day.

2 Q Okay. So when -- December would be an hour behind
3 summer?

4 A Correct.

5 Q So now --

6 MR. STEVENS: Objection. There's no notice
7 whatsoever of the specific date for fall back time or
8 spring forward time.

9 THE COURT: It's just general knowledge if he -- if
10 he knows. Is it spring forward or fall back?

11 MR. STEVENS: When it comes to this specific date
12 etcetera.

13 Q Was it fall back already by December 13th?

14 A Yes, sir.

15 Q All right. Now, I want to talk -- go back to Sugar
16 Hill. That's where the incident took place, correct?

17 A Yes, sir.

18 Q And that's here in Calhoun County?

19 A Yes, sir.

20 Q Now, when a -- when a murder takes place, is there a
21 command response?

22 A Yes, sir. But normally it's long after the original
23 patrol response.

24 Q So you -- you get out there because the supervisor
25 gets called out?

1 A Correct.

2 Q Now, when you get out there what do you do?

3 A Original request was a call to SLED which was done by
4 another member of the command staff that was already on
5 scene, Captain Trentham. Well, he's GW now --

6 Q All right.

7 A -- but he was one of the first ones to arrive --

8 Q All right.

9 A -- on my way, SLED's protocol is that they have a
10 search warrant before they start doing anything. So my
11 job on the way to the crime scene was to provide a search
12 warrant for SLED.

13 Q All right. So did you get warrants of any kind?

14 A Yes, sir.

15 Q What kind of warrants did you get?

16 A Arrest warrants.

17 Q For?

18 A Murder and armed robbery.

19 Q For who?

20 A Derrick and Quintin Mills.

21 Q And what else did you get if anything?

22 A A search warrant for SLED.

23 Q For what?

24 A To search their -- their property and just the crime
25 scene.

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1 Q All right. So -- and did you respond back with that
2 search warrant?

3 A I did.

4 Q And go back to the scene? All right.

5 And was the search completed under that warrant?

6 A Yes, sir.

7 Q And did you start looking for Quintin and Derrick
8 Mills?

9 A Initially, yes, sir. We searched the immediate area
10 after the crime scene cleared, which was, I think, well
11 after midnight. But of course, we resumed the next day.

12 Q Were you able to find either of them that night?

13 A No, sir.

14 Q Did either of them contact you that night?

15 A No, sir.

16 Q Did you find or hear from either of them the next
17 day?

18 A Yes, sir.

19 Q Which one?

20 A Mr. Quintin Mills contacted us the next day.

21 Q All right. And was that to arrange to turn himself
22 in?

23 A Yes, sir.

24 Q And did you go pick him up?

25 A Yes, sir.

1 Q Where did you pick him up?

2 A I want to say it was 9 ■ Old State Road, Thompson
3 Road area.

4 Q All right. And I'll show you -- and this is -- is --
5 show you what's marked as State's Exhibit 16. Do you
6 recognize that?

7 A Yes, sir.

8 Q What is that?

9 A This is the area of Sugar Hill that we responded that
10 night and this is his family's property, or we know it as
11 his family's property.

12 Q When you say "this"?

13 A 9 ■ Old State.

14 Q All right. And is that indicated anywhere on the --
15 the map.

16 A It is, by a red marker.

17 Q All right. So that red marker is -- is Mills - is
18 family property for the Mills?

19 A Correct.

20 Q And that's where you picked up Quintin?

21 A Correct.

22 MR. LUPTON: Your Honor, at this time we move State's
23 16 into evidence.

24 THE COURT: Any objection?

25 MR. STEVENS: None from Derrick Mills.

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1 MR. FARLEY: Not from Quintin Mills.

2 THE COURT: All right. It's in.

3 (Marked State's Exhibit No. 16, photo, in evidence.)

4 Q Now, about how far is that from where the actual
5 crime took place?

6 A If you'd -- if you go through the power line right-
7 of-way which runs along the property, it's probably less
8 than a quarter of a mile.

9 Q Basically from here to Hardee's?

10 A Yes, sir.

11 Q All right. So you pick him up that next day?

12 A Yes, sir.

13 Q Did you hear from Derrick Mills that next day?

14 A No, sir.

15 Q Phone call or him coming in?

16 A No, sir.

17 Q And what did you do after that, after you get
18 Quintin?

19 A We continued to search, following up leads that we
20 had.

21 Q All right. Did you continue looking for Derrick?

22 A Yes, sir, we did.

23 Q And did you do anything to put out the word that you
24 were looking for him?

25 A Yes, sir. And we enlisted the help of the State Law

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1 Enforcement Division and I think the U -- U.S. Marshall's
2 Task Force was involved in helping us as well.

3 Q Did you let his family know that you were looking for
4 him?

5 A Yes, sir.

6 Q Did he contact you that Monday?

7 A No, sir.

8 Q Or Tuesday?

9 A No, sir.

10 MR. STEVENS: Judge, at this point he's getting into
11 comment on rights. May we approach?

12 THE COURT: Yes, sir.

13 (Bench conference.)

14 Q And did y'all continue looking for him over the --

15 A Yes, sir. We did.

16 Q And were y'all ultimately able to capture him in
17 April, 2017?

18 A Yes, sir.

19 Q All right. And as part of that investigation, did
20 you go -- did law enforcement go on -- well, let me back
21 up. Did you -- the murder happened Saturday night,
22 correct?

23 A Correct.

24 Q Sunday, did law enforcement go up to the El Cheapos
25 at -- that we've heard about at Exit 119, did law

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1 enforcement go up there and get some video from El
2 Cheapos?

3 A Yes, sir.

4 Q And what was the purpose of getting that?

5 A To verify the statement that they were actually at
6 the location to see who was at -- at the location.

7 Q All right. And was video obtained that showed the
8 Defendants at some point at -- at the gas station?

9 A Yes, sir.

10 Q All right. Now, do you know if the -- and is that
11 video included on State's 17?

12 A Yes, sir.

13 Q And --

14 MR. LUPTON: Move to have that in evidence.

15 THE COURT: Any objection?

16 MR. STEVENS: No objection from Quintin Mills.

17 MR. FARLEY: No objection, Your Honor.

18 (Marked State's Exhibit No. 17, video from El Cheapos,
19 in evidence.)

20 Q Now, with regards to that video, on the -- from the
21 gas station, do you have any idea -- first of all, is
22 there a time stamp on some of the video?

23 A Yes, sir.

24 Q Do you have any idea how far off of accurate that
25 time stamp is?

1 A No, sir.

2 MR. STEVENS: Judge, assumes that it is off in the
3 first place.

4 THE COURT: Ask if -- if you know whether or not it
5 is, if you have personal knowledge?

6 A The time stamp after basing -- after I'd watched the
7 video, it's still daylight which would throw it off quite
8 a bit.

9 Q All right. So --

10 MR. STEVENS: Objection. Speculation again.

11 THE COURT: He can testify if he saw it was daylight
12 or not. I'll allow it.

13 THE COURT: Thank you, Judge.

14 THE COURT: Your objection is noted for the record.

15 (To Mr. Lupton) Move on, Counsel.

16 Q Now, did you ask for any specific length of time --
17 did anybody from the Sheriff's Department ask for any
18 specific length of time to be provided on the video that
19 was given by the gas station?

20 A No, sir.

21 Q All right. And did you receive, basically, a half-
22 hour block of video?

23 A Yes, sir.

24 MR. LUPTON: Nothing further, Your Honor.

25 THE COURT: Cross-examination?

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1 MR. STEVENS: Court's indulgence.

2 (Brief pause.)

3 MR. FARLEY: Your Honor, may I move over to the --

4 THE COURT: Yes, sir. You may.

5 MR. LEINENDECKER: We're going to need this, but not
6 at this second. So I'm going to move it out of --

7 THE COURT: That's fine.

8 MR. LEINENDECKER: -- the way. Okay.

9 CROSS-EXAMINATION

10 BY MR. STEVENS:

11 Q How you doing, Captain Graham?

12 A Good, sir.

13 Q All right. As you know, my name's Breen Stevens, I
14 represent Derrick Mills in this matter.

15 A Yes, sir.

16 Q I'm just going to ask you -- just a -- some questions
17 based on what you and the department did -- or the
18 Sheriff's Office did throughout the investigation --

19 A Yes, sir.

20 Q Okay? So as you indicated, on the night of December
21 13, 2014, you were called to work that night essentially,
22 right?

23 A Yes, sir.

24 Q Okay. And when you did, it was in reference to a 911
25 call?

1 A Or actually a shooting. Yes, sir.

2 Q Well, the shooting, somebody actually called 911
3 about the shooting?

4 A Yes, sir.

5 Q Okay. And so you responded and that was to [REDACTED]
6 Falcon Lane, correct?

7 A I'm not sure what the exact address is.

8 Q Okay. Well, take your time and examine your -- your
9 report there.

10 A I think the actual incident report is over there.

11 Q Okay. Well, I've got a copy of it here.

12 MR. STEVENS: May I approach?

13 THE COURT: Yes, sir.

14 Q (Hands document to the witness) Okay. Should be the
15 -- your investigative report.

16 A No. The actual incident report's got the actual
17 incident location on it.

18 Q Oh. Okay. I see. So you didn't have that in your
19 --

20 A No, not in mine.

21 Q -- report then?

22 A That's the supplement. The actual incident report's
23 there (indicates).

24 Q Okay. Generally speaking, you went out into the area
25 -- the Sugar Hill area, specifically, around Falcon Lane

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1 --

2 A Yes, sir.

3 Q -- where the incident occurred?

4 A Correct.

5 Q Okay. And you noticed that the Jeep Cherokee was
6 present?

7 A Yes, sir.

8 Q Okay. And there was a body nearby as well?

9 A Yes, sir.

10 Q And just for clarification, were you the lead
11 investigator in this case?

12 A Eventually, yes, sir.

13 Q Okay. Eventually. About what time did they make you
14 lead investigator?

15 A I was the actual only investigator who -- supervisor
16 that responded that night because the captain that was
17 there --

18 Q Yeah?

19 A -- was actually working patrol that night.

20 Q Okay. So it's Captain Trentham?

21 A He -- he was working on patrol slot, and I -- so --

22 Q Okay. So you were the investigating --

23 A Correct. I --

24 Q -- lead investigator for the case?

25 A Correct.

1 Q Okay. Making sure. Okay.

2 And as you indicated, you -- you obtained a search
3 warrant for the Jeep and the surrounding area, right?

4 A Yes, sir.

5 Q Okay. And then you returned to the scene and
6 executed it, right?

7 A Yes, sir.

8 Q Okay. And several items you collected, as we've
9 already heard in this case, including a .357 revolver
10 found on Mr. Charlie Brown?

11 A Yes, sir.

12 Q Okay. Now, during the course of your investigation,
13 just to be clear, you never took possession of the
14 motorcycle, correct?

15 A Correct.

16 Q All right. You never found and really preserved any
17 motorcycle tire impressions, correct?

18 A Correct.

19 Q Okay. Or any other tire impressions for that matter?

20 A Correct.

21 Q Was there, like -- okay. Let's also talk about what
22 else was done with the witnesses, okay? That night,
23 personnel from this investigation did speak with Mr.
24 Jarvis Mack?

25 A Yes, sir.

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1 Q Okay. And so that would've been within six hours --
2 four to six hours of the incident, correct?

3 A I would say so. Yes, sir.

4 Q Okay. And to your knowledge as lead investigator, no
5 one had ever collected any swabs for purposes of GSR from
6 any part of his hands or body, correct?

7 A No, sir.

8 Q Okay. Excuse me. Pardon me.

9 Okay, let's talk about what you did after that night,
10 okay?

11 A Yes, sir.

12 Q You interviewed Mr. Kendrell Thompson?

13 A Yes, sir.

14 Q And that was on December 17th, I believe he was
15 interviewed, or was it also on the 15th?

16 A I have it under the 15th.

17 Q Okay. So you spoke with him on the 15th, and Captain
18 Trentham was with you at the time as well?

19 A Yes, sir.

20 Q Okay. And that's when you actually showed him the
21 video, during that interview, correct?

22 A Correct.

23 Q Okay. And that was -- it was video footage from the
24 El Cheapo gas station?

25 A Yes, sir.

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1 Q Okay. And that's because, as you've indicated
2 already, your office took the information it had up to
3 that point, and --

4 A Correct.

5 Q -- went to the El Cheapo gas station to see if they
6 had video, right?

7 A Correct.

8 Q And the idea, what you said on direct, was to see if
9 they had video of the people involved, right?

10 A Correct.

11 Q Okay. And that would be ideal for an investigation,
12 right?

13 A Yes, sir.

14 Q Okay. Excuse me. All right.

15 MR. STEVENS: Court's indulgence.

16 (Briefly off the record.)

17 Q Okay. So Captain Graham, what I'm going to turn
18 around and show you here is video footage from the El
19 Cheapo gas station on the evening of December 13, 2014. I
20 apologize for the screen saver of the United States Navy
21 aircraft carrier. Okay. Okay.

22 Now, just so everyone is aware, including me, you
23 agree that this is a camera angle from the El Cheapo gas
24 station, looking outwards from where the door's opening,
25 correct?

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1 A Yes, sir.

2 Q Okay. And obviously first you can see some parking
3 slot areas right there, immediately in front of the door
4 area?

5 A Yes, sir.

6 Q And then after that you can see the pumps for the gas
7 station?

8 A Yes, sir.

9 Q And then beyond that, you can see the road behind it,
10 correct?

11 A Yes, sir. That's correct.

12 Q Okay. Just wanted to make sure we're clear for the
13 record and it's in order.

14 And then at the bottom of the camera, that's going to
15 be Camera 4, it shows the date and time stamp, correct?

16 A That's correct.

17 Q And the time stamp is 18:00:13, correct?

18 A That's correct.

19 Q Okay. And for those who don't speak military time,
20 24 hour -- the time stamp would indicate 6 p.m., correct?

21 A That's correct.

22 Q Okay. Now -- okay. So for the purposes of making
23 sure we proceed things along, I'm going to advance to
24 approximately 18:20 -- I'm sorry -- 18:02, okay?

25 What we're eventually watching here, and I apologize,

1 this is going to take some time, as we watch the video.

2 Just going to sit back and watch the video.

3 (Video plays.)

4 Q Now, right there, you can see -- do you agree that's
5 the Jeep Cherokee coming in?

6 A Yes, sir.

7 Q Okay.

8 (Video plays.)

9 Q (Indicates) And here it is parking almost right in
10 front of the camera, just to the right hand side, correct?

11 A Correct.

12 Q Okay. And does that resemble at all the Jeep that
13 was also later found at [REDACTED] Falcon Lane?

14 A Yes, sir.

15 Q Okay.

16 (Brief pause.)

17 MR. STEVENS: I'm sorry. I'd like to just go ahead
18 and let this play and let it speak for itself.

19 (Video plays.)

20 Q Okay. Now, someone's opening the passenger door and
21 stepping out, correct?

22 A That's correct

23 Q Okay. Do you recognize that individual?

24 A That appears to be Mr. Mack.

25 Q Mr. Mack, as in Jarvis Mack?

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 350

1 A As in Jarvis Mack.

2 Q Okay. Thank you, sir. And that's been time stamped
3 at approximately 18:03, so 6:03 p.m., correct?

4 A Correct.

5 (Video plays.)

6 Q Right before we just saw it, it looked like him kind
7 of passing in toward the area that would be where the
8 doors are located?

9 A Yes, sir. Like, back --

10 Q Okay.

11 A There he is.

12 Q Okay.

13 (Video plays.)

14 Q Other heads and faces walking around in a clearly
15 busy area, correct?

16 A Yes, sir.

17 Q Okay.

18 (Video plays.)

19 Q Okay. And at about 18:08, looks like Mr. Kendrell
20 gets -- I'm sorry, Mr. Jarvis gets back into the passenger
21 door?

22 A Yes, sir, that's correct.

23 Q And the door's still open, right?

24 A Yes, sir.

25 Q And now it's closed?

1 A That's correct.

2 Q And yet the vehicle doesn't leave, correct?

3 A Correct.

4 Q Okay. All right.

5 (Video plays.)

6 Q Okay. At 18:13 hours, you see Mr. Mack get out of
7 the vehicle again?

8 A That's correct.

9 Q And walk to the store?

10 A Yes, sir.

11 Q Okay. But I know it's not the most exciting video to
12 watch since there's no audio, but to your knowledge, when
13 you actually recovered this, there was no audio on these
14 videos when you recovered them as well; is that accurate?

15 A That's correct.

16 Q Okay. Thank you for that.

17 (Video plays.)

18 Q And again we see Mr. Mack running back to the car?

19 A That's correct.

20 Q Not getting in this time, just kinda looking and
21 talking through the window?

22 A Yes, sir.

23 Q Okay.

24 (Video plays.)

25 Q It looks like his bag is passed out, correct?

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1 A Yes, sir.

2 Q And that's what he took when he walked back into --
3 towards the store?

4 A Yes, sir.

5 Q I'm sorry. When I say "bag," the smaller black
6 backpack, correct?

7 A Correct.

8 (Video plays.)

9 Q Okay. He just passed through the bottom corner of it
10 at 18:17 hours. It looked like Mr. Mack with a white box,
11 correct?

12 A Correct.

13 Q And his backpack was still on his back?

14 A Yes, sir.

15 Q All right. But he did not get in the passenger side
16 of the Jeep, right?

17 A Correct.

18 (Video plays.)

19 Q And there he is again at 18:18 hours. He is getting
20 in the passenger side of the Jeep with that white box?

21 A That's correct.

22 Q Okay.

23 (Video plays.)

24 Q There's a person walking up to the Jeep, knocking on
25 the window --

1 A Yes, sir.

2 Q -- window's rolled down and having a conversation.

3 (Video plays.)

4 Q He goes into his pockets?

5 A Yes, sir.

6 Q Hands something inside the Jeep, reaching back in the
7 Jeep, right?

8 A Correct.

9 Q Going back out, he's putting something in his pocket,
10 right?

11 A Yes, sir.

12 Q Okay. Still talking?

13 A Yes, sir.

14 Q It's at 18:19 now?

15 A That's correct.

16 (Video plays.)

17 Q Everyone's still at the Jeep?

18 A That's correct.

19 Q And that's somewhat totally unrelated to, you know,
20 that went through your investigation, you've seen at the
21 incident scene itself on Falcon Lane?

22 A Yes, sir. That's correct.

23 Q All right.

24 (Video plays.)

25 Q So just for clarification, a man walked out of the

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 354

1 store, pointed toward the back of the Jeep, and then kept
2 on going, right?

3 A That's correct.

4 Q Okay.

5 (Video plays.)

6 Q Passenger door opens up again, opens at 8:20?

7 A Yes, sir.

8 Q Okay. I'm sorry. 18:20. I apologize.

9 (Video plays.)

10 Q Now, at 18:21, Mr. Mack gets back out again?

11 A Yes, sir. That's correct.

12 Q Okay. He's over in there smoking with people just
13 off camera, correct?

14 A That's correct.

15 Q Okay. And a little dark to tell?

16 A Yes, sir.

17 (Video plays.)

18 Q And at 8:20/21, he gets back in the Jeep?

19 A That's correct.

20 (Video plays.)

21 Q Okay. So 18:22, or at 6:22, the Jeep starts to pull
22 back, correct?

23 A That's correct.

24 Q And it looks like it's starting to depart. It's
25 headlights are on, correct?

1 A No, sir. It doesn't appear to be on.

2 Q Okay. Up above, on the top part, does it look like
3 it's lighter than it was before?

4 A It does. It looks like the -- the lights are
5 starting to come on.

6 Q The lights are on?

7 A Yes, sir.

8 Q Okay. And the Jeep is leaving --

9 A Yes, sir.

10 Q -- out of the El Cheapo gas station, correct?

11 A That is correct.

12 Q Okay. 18:22:30?

13 A Correct.

14 Q 18:22:38, you see a blue, large sedan rolling in,
15 correct?

16 A That's correct.

17 Q Okay. And you said, in your investigation, were you
18 looking for a blue Buick sedan?

19 A No, sir.

20 (Video plays.)

21 Q That person right there (indicates) in the white hat
22 who just walked past, were you aware that that was Mr.
23 Derrick Mills?

24 A At the time, yes, sir. When -- when a different
25 camera angles -- we saw him.

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1 Q Okay. But -- so from a different camera angle you
2 could tell?

3 A Yes, sir.

4 Q Okay. That's a -- roughly at 8:23 is when he walked
5 past this camera view, correct?

6 A Correct.

7 Q Okay. And there's another person right there in the
8 very left corner?

9 A Yes, sir.

10 Q And that is whom?

11 A Mr. Quintin Mills.

12 Q Okay. And he's speaking with other individuals there
13 in front of the El Cheapo gas station, right?

14 A That's correct.

15 (Video plays.)

16 Q Also, in that scene again, we can see that white hat,
17 again you indicated was from a different camera angle,
18 worn by Mr. Derrick Mills?

19 A That's correct.

20 Q And that's also in a group of folks talking in front
21 of the El Cheapos at this time, at 18:24?

22 A That's correct.

23 (Video plays.)

24 Q And they're all just up front talking and smoking
25 cigarettes?

1 A Yes, sir. That's correct.

2 Q All right.

3 (Video plays.)

4 Q For the sake of expediency on this video, do you
5 agree that you do not see the blue -- blue Buick Skylark
6 and Mr. Mills leaving the El Cheapo gas station by the end
7 of this video, correct?

8 A That's correct.

9 Q Okay.

10 MR. STEVENS: Judge, at this time, would it be all
11 right for a comfort break?

12 THE COURT: Sure.

13 MR. STEVENS: Thank you, ma'am. It won't take too
14 much longer ---

15 THE COURT: Ladies and gentlemen of the jury, we're
16 going to take a brief restroom break. If -- we'll be back
17 with you in about 10 minutes.

18 Again, please remember my previous instruction not to
19 discuss the case amongst yourselves.

20 MR. STEVENS: Thank you, Your Honor.

21 (The jury exits at 2:41 p.m.)

22 THE COURT: All right. We'll be at ease for a few
23 minutes.

24 (To the witness) Sir, are -- are you okay? Do you
25 need to take a break?

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1 THE WITNESS: No. I'm fine.

2 THE COURT: Okay.

3 (Off the record at 2:42 p.m.)

4 (On the record at 2:56 p.m.)

5 THE COURT: Thank you. Everyone please have a seat.

6 (The courtroom complies.)

7 MR. STEVENS: Is this in your way, Judge? I can slide
8 it to the side.

9 THE COURT: Are you done with the video?

10 MR. STEVENS: Apparently.

11 MR. LEINENDECKER: There's 12 cameras, so I only have
12 about one ---

13 THE COURT: How about -- and just let me ask you
14 this, as far as for planning purposes. I don't like to
15 interrupt if there's a strategy behind it, but is there
16 any way to fast forward to relevant parts?

17 MR. LEINENDECKER: We're going to show one more
18 camera, and we're just going to jump to the marked places
19 where something happened. But they have the full context
20 of the time now, so --

21 THE COURT: I figured there was a strategy behind
22 your method. I didn't want to interrupt that --

23 MR. LEINENDECKER: Yes, ma'am.

24 THE COURT: -- but I just wanted to make sure we
25 could --

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1 MR. LEINENDECKER: There's mostly madness. There's
2 -- there's some --

3 THE COURT: I wasn't going to say it.

4 MR. LEINENDECKER: -- there's some method.

5 THE COURT: All right. We ready for our jury?

6 MR. STEVENS: Yes, ma'am.

7 MR. LUPTON: State's ready, Your Honor.

8 MR. FARLEY: Ready, Your Honor.

9 THE COURT: Let's have our jury, please.

10 (The jury enters at 2:58 p.m.)

11 THE COURT: You may proceed.

12 MR. STEVENS: Thank you, Judge. May it please the
13 Court?

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. STEVENS:

17 Q All right, Captain Graham. How are you doing?
18 Comfortable?

19 A Yes, sir.

20 Q Okay. Get the screen back on here. Okay. Can you
21 see the screen from here or --

22 A Yes, sir.

23 Q Okay. Now, I'm --

24 THE COURT: Mr. Stevens, can you scoot it back just a
25 tad?

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 360

1 MR. STEVENS: Yes, ma'am.

2 THE COURT: Thank you. That's good.

3 MR. STEVENS: There we go. Can everyone see now?

4 (No audible response.)

5 MR. STEVENS: Okay. Excellent.

6 Q Now, what we're going to show now is video Camera
7 Angle 2 from the video provided to you by El Cheapo.

8 A Yes, sir.

9 Q Okay. And was subsequently given to us. Obviously,
10 just for purposes of the record, which -- of just black
11 and white, you'd agree that this camera angle is looking
12 kind of sideways at the front of the store itself and can
13 also encompass that parking area we previously discussed,
14 right?

15 A Yes, sir.

16 Q And it also can -- kinda see a little bit toward the
17 corner of the -- the far right entrance to the El Cheapo
18 gas station and the highway going that direction, right?

19 A That's correct.

20 Q Okay. And as we look at the video now, we have not
21 yet played it, but essentially, right here at the very
22 beginning of it -- just press play so we can get a time
23 frame on there. The time stamp indicates 18:00:13,
24 correct?

25 A That's correct, sir.

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 361

1 Q And so for civilian time that would be 6 p.m., right?

2 A Yes, sir.

3 Q Okay. And you'd agree that there are lights there on
4 the ceiling area just above the overhang?

5 A Yes, sir.

6 Q And those lights are on, correct?

7 A That's correct.

8 Q Okay. Now, I'm not going to have us all sit here for
9 the full solid 30 minutes like we did last time, but at
10 least we have some context, okay?

11 A Yes, sir.

12 Q Instead, what I'd like you to do is just go ahead and
13 kinda skip forward a little bit to some of those other
14 moments we saw on the original, okay?

15 A Yes, sir.

16 Q Okay. So first I'm going to go forward to
17 approximately 6:03 p.m. for the time stamp. Stopping just
18 short, start -- here we go.

19 (Video plays.)

20 Q And again, in this video you can see this is
21 18:03:09. Here we actually see the Jeep, correct?

22 A That's correct.

23 Q And that's the same Jeep we saw driving before that
24 had Mr. Jarvis Mack exiting and entering, right?

25 A Yes, sir.

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 362

1 Q Okay. And again, here we see Jarvis Mack exit and
2 also from the driver's side, we see somebody exit as well,
3 correct?

4 A That's correct.

5 Q Okay. Do you know who that person is?

6 A From this angle I can't verify, but I would think
7 that's Mr. Brown because that was what he was driving that
8 night.

9 Q Okay. I understand. And then we can see them taking
10 across back and forth to each other, right?

11 A Yes, sir.

12 Q Okay.

13 (Video plays.)

14 Q And he's just kinda standing outside there at the
15 door while Mr. Jarvis Mack goes over and stands in front
16 of the El Cheapo. And then he walks up and talks to an
17 individual, hand shake?

18 A That's correct.

19 Q And then the other person goes inside and Jarvis goes
20 to the left and the other guys follow him, right?

21 A Correct.

22 Q Okay. Now, we're going to advance to 18:08 or 6:08.

23 (Video plays.)

24 Q This is where we see Mr. Mack again walking in,
25 pumping fists with somebody outside and getting into his

1 Jeep, correct?

2 A That's correct.

3 Q Okay. Now, we're going to advance to 18:13 or 6:13
4 p.m.

5 (Video plays.)

6 Q And again -- pause this real quick. We can see a car
7 exiting over there toward the exit at the top right,
8 correct?

9 A That's correct.

10 Q Okay. If we look, it has -- its reverse lights are
11 off and it's going forward. And it's lights are on, it's
12 tail lights you can see, correct?

13 A Or brake lights.

14 Q If they're riding their brake throughout the whole
15 time, it's moving forward, right?

16 A Correct.

17 (Video plays.)

18 Q Okay. As we see right here, Mr. Mack exits the Jeep
19 again, right?

20 A That's correct.

21 Q And also if you look at the back, there's a pickup
22 truck that's on the road?

23 A Yes, sir.

24 Q And the headlights of the pickup truck are on,
25 correct?

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 364

1 A Correct.

2 Q Again, Mr. Mack is definitely hand shaking the person
3 in front of there, passes by or know them, I don't know --

4 A Yes, sir.

5 (Video plays.)

6 Q And even more cars are passing, a truck's coming in,
7 headlights are on, correct?

8 A That's correct.

9 Q I'm going to skip forward now to 13 -- I do
10 apologize, let me just -- move to 18:15.

11 (Video plays.)

12 Q Okay. Here we can see, at 18:14:45, Mr. Mack is at
13 that position we saw before, looking and talking through
14 the back window to somebody there, correct?

15 A That's correct.

16 Q And he just goes back to that person and the window
17 will roll up and Mr. Mack walks inside with his backpack
18 on, correct?

19 A That's correct.

20 Q Okay.

21 (Video plays.)

22 Q And obviously they're in the store, right?

23 A That's correct.

24 Q Next, we're going to advance to 18:17. It's at
25 18:16:51 now.

1 (Video plays.)

2 Q Okay. Here we see Mr. Mack move back out of the
3 store at 18:17:51 and pull something out of his pocket.
4 The other individual -- individual we saw before, that
5 walked up to the Jeep, is pulling stuff out of his pocket.
6 Things change hands and Mr. Mack get back into the Jeep,
7 correct?

8 A That's correct.

9 (Video plays.)

10 Q Then the individual comes back up there again, and
11 you can see it from the window, his hand is out by Mr.
12 Mack to that man again.

13 A Yes, sir.

14 Q And the man took it, and we have them finishing a
15 conversation through the window, right?

16 A Correct.

17 Q Let's go to 18:23. I'm sorry. 18:22.

18 (Video plays.)

19 Q Here at 18:22, we can actually see the Jeep starting
20 to back out, right?

21 A That's correct.

22 (Video plays.)

23 Q Go to 18:23. And here we have again probably the
24 better angle you described before.

25 A Yes, sir.

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 366

1 Q And the individual walking on the white half is whom?

2 A Mr. Derrick Mills.

3 Q Mr. Derrick Mills. Okay. And he goes inside in the
4 El Cheapo?

5 A Yes, sir.

6 Q Okay. And you'd agree the lights are definitely on,
7 correct? Outside?

8 A Yes, sir. That's correct.

9 (Video plays.)

10 Q And a person who just walked up from the side there
11 with their hat on backwards, that's Mr. Quintin Mills?

12 A Yes, sir, that's correct.

13 Q And everybody's just there talking in front?

14 A Yes, sir.

15 Q Okay.

16 (Video plays.)

17 Q All right. Let's move forward. We can see through
18 here Mr. Mills comes back up -- Quintin Mills comes back
19 up front, right?

20 A Yes, sir.

21 Q Looks like he's opening up a brand new box of
22 cigarettes in his hand and he's about to smoke one, right?

23 A Correct.

24 Q Okay. And that says he's having a conversation with
25 everybody out there, right?

1 A Yes, sir.

2 Q Scoot forward here.

3 (Video plays.)

4 Q 18:25 and you can still see Mr. Mills on the camera,
5 correct?

6 A That's correct.

7 Q Walked off for a moment at 18:26, almost 27. Now
8 he's back on the camera. He goes back inside, goes to the
9 right, --

10 A That's correct.

11 Q Right?

12 A Yes, sir.

13 (Video plays.)

14 Q And at 18:28, he's back outside, smoking another
15 cigarette?

16 A That's correct.

17 (Video plays.)

18 Q He's still on the edge of the camera at 18:28 and a
19 half he's going on. He's having a drink, correct?

20 A That is correct.

21 Q Going to go more toward the end here.

22 (Video plays.)

23 Q Here we have -- it's 18:29, almost 18:30 for the time
24 stamp, and Mr. Mills is still on the camera, correct?

25 A That's correct.

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 368

1 Q Okay. There it's fully 18:30 and you can still see
2 the back of Mr. Mills, correct?

3 A Yes, it's correct.

4 Q Okay.

5 (Video plays.)

6 Q And then at 18:30:11, the footage ends, correct?

7 A That's correct.

8 Q Okay. Now, we're not belaboring everyone with 12
9 videos that are half an hour long each. You'd agree that
10 other videos from inside the gas station also show Mr.
11 Quintin Mills going inside the convenience store section
12 and making purchases, correct?

13 A Mr. Derrick Mills. Yes, sir.

14 Q Yeah. I'm sorry, Mr. Derrick Mills. Absolutely.
15 Okay.

16 MR. STEVENS: I'm just going to close this down, okay
17 Judge?

18 THE COURT: Yes, sir.

19 Q Now, the investigation itself -- the invest --
20 through the investigation -- well, as of the first night,
21 on the 13th, your office had already spoken with Mr.
22 Jarvis Mack, correct?

23 A Correct. Yes, sir.

24 Q Okay. And through that conversation and interview
25 with Mr. Mack you had already established that you had

1 suspects in your mind, correct?

2 A Yes, sir --

3 Q Who --

4 A That's correct.

5 Q And by the next day, you'd gotten this video from the
6 El Cheapo gas station, correct?

7 A Correct.

8 Q Okay. And on that video it showed -- you can see his
9 vehicle?

10 A Yes, sir.

11 Q It showed Mr. Mack coming out the vehicle -- in and
12 out the vehicle, right?

13 A That's correct.

14 Q As well as other activities. And it also showed the
15 people you were looking for at the time, correct?

16 A Correct.

17 Q Okay. And yet they abruptly stopped at 6:30 p.m.
18 according to the time stamp, correct?

19 A Yes, sir.

20 Q Okay. Did you ever collect more than what you
21 actually got from those videos?

22 A No, sir.

23 Q Okay. Would it have been helpful to have known
24 exactly what time -- or just according to the time stamp
25 or watch, what time the vehicle had left the El Cheapo gas

CROSS-EXAMINATION BY MR. STEVENS - STANLEY GRAHAM 370

1 station for purposes of your investigation?

2 A Correct.

3 Q Okay. But you didn't acquire this video?

4 A No, sir.

5 Q Okay. Excuse me. Okay. Now let's talk briefly
6 about your efforts to locate the individuals.

7 A Yes, sir.

8 Q All right. You said you were able to locate Mr.
9 Quintin Mills on the day?

10 A Yes, sir.

11 Q Okay. I gotcha. And you said that you and others
12 were looking for actually both the Mills the night of the
13 incident?

14 A Yes, sir. In -- initially, when we left the scene,
15 we started trying to figure out where to go and start
16 looking.

17 Q Okay. I gotcha. And at any time relatively soon
18 around the date of the incident, did anybody check where
19 Mr. Mills lived?

20 A I didn't personally. I'm not sure if anybody else
21 from the patrol side did or not.

22 Q Okay. And when -- when -- I'm just saying, you're
23 the lead investigator on the case, right?

24 A Correct.

25 Q Okay. So to your knowledge, did anybody go out to

1 Eastover where he lived?

2 A Not that night, no, sir.

3 Q Okay.

4 A We did not.

5 Q Okay. Well -- and not just that night, I mean, we'll
6 say the week after?

7 A I'm not sure.

8 Q Okay. But when your office did find him they located
9 him in Eastover, South Carolina, right?

10 A That's correct.

11 Q Not Mexico?

12 A No, sir.

13 Q Not Bora Bora?

14 A No, sir.

15 Q Not Canada?

16 A Correct.

17 Q Eastover, South Carolina?

18 A Correct.

19 Q And that's pretty much just over the border in
20 Richland County, right?

21 A Correct.

22 Q Okay.

23 MR. STEVENS: Court's indulgence.

24 (Brief pause.)

25 Q One final question. You weren't there on the hill

REDIRECT EXAMINATION BY MR. LUPTON - STANLEY GRAHAM 372

1 when the incident occurred, correct?

2 A This is correct.

3 Q Okay. So you could not have seen who specifically
4 was there and did what at the time it happened, right?

5 A That's correct.

6 Q Okay. Thank you, sir. I appreciate it.

7 A Thank you.

8 MR. STEVENS: No further questions, Judge.

9 THE COURT: Cross-examination?

10 MR. FARLEY: I -- I think Mr. Stevens covered
11 everything. I don't have any questions.

12 THE COURT: Any redirect?

13 MR. LUPTON: Yes, Your Honor. Thank you

14 REDIRECT EXAMINATION

15 BY MR. LUPTON:

16 Q All right. There's been a lot of talk about the time
17 stamp. Do you know what the actual time that those videos
18 were recorded at was?

19 A No, sir.

20 Q Now -- and you saw the videos both back then and --
21 and today in court, correct?

22 A Yes, sir.

23 Q Would it be fair to say that you can see the
24 background clearly on the other side of the street?

25 A Yes, sir.

1 Q All right. At the beginning of the videos?

2 A Yes, sir.

3 Q Does it become less clear as the video goes on?

4 A No, sir.

5 Q They talked about some of the lights on the cars
6 being on. And some of them were on, correct?

7 A Correct.

8 Q Were there others where the lights were off?

9 A Yes, sir.

10 Q As a police officer, are you familiar with cars and
11 how they work?

12 A Yes, sir.

13 Q Is it common for modern cars to have daytime running
14 lights?

15 A Yes, sir.

16 Q And what would those be?

17 A Those are lights that run all the time during the
18 daylight driving hours.

19 Q All right. And with regards to the video, if that
20 time stamp were correct, it would show Quintin Mills and
21 Derrick Mills there at the El Cheapos at the same time as
22 the murder occurred; is that correct?

23 A Approximately. Yes, sir.

24 Q All right. So they would both be there?

25 A Yes, sir.

REDIRECT EXAMINATION BY MR. LUPTON - STANLEY GRAHAM 374

1 Q And then I want to think about who was not there.

2 Did any of those videos show Deputy Richard Herron or his
3 patrol car at the El Cheapos at 6:30?

4 A No, sir.

5 Q One last point, they asked you about searching for
6 Derrick Mills. As lead investigator, you're aware that
7 both SLED and U.S. Marshalls were hunting for them; is
8 that correct?

9 A That's correct.

10 Q All right. So it -- was it a situation where nobody
11 just bothered to go and -- and knock and see if he was
12 home?

13 A Not at all.

14 Q It was an active manhunt?

15 A Yes, sir.

16 MR. STEVENS: Objection, Judge. Can't speak for the
17 Marshall service and whatever they said.

18 MR. LUPTON: Your honor --

19 THE COURT: If he has knowledge of it, he can
20 probably answer.

21 MR. LUPTON: Thank you, Your Honor. Nothing further.

22 THE COURT: You may step down, sir. Thank you.

23 (The witness exits the stand.)

24 MR. LUPTON: Your Honor, the State rests.

25 THE COURT: All right. Ladies and gentlemen of the

1 jury, at this juncture we must take a brief recess. If
2 you would please go to your jury room, we'll be right back
3 with you. Again, please do not discuss this matter
4 amongst yourselves.

5 (The jury exits at 3:16 p.m.)

6 THE COURT: Any motions?

7 MR. LEINENDECKER: Your Honor, at this time we would
8 move on behalf of Derrick Mills for a directed verdict
9 because of the State's lack of evidence establishing that
10 he was even at the scene of the crime at the time.

11 In fact, the only evidence that they bring comes from
12 two -- two witnesses who, I would suggest to the Court,
13 certainly have self-serving interests to testify the way
14 that they do.

15 There's also the fact that there's been video
16 evidence to demonstrate that he wasn't there.

17 And I also believe that the State has failed to meet
18 their burden, even to go as far as beyond the presentation
19 of the case, and we move for a directed verdict.

20 THE COURT: Yes, sir?

21 MR. FARLEY: Your Honor, and on behalf of Quintin
22 Mills, I would move to preserve all of our previous
23 motions and objections.

24 In addition, I would also join in a motion for a
25 directed verdict. We also believe that giving the light

1 most favorable to the Defendant, the State has been unable
2 to show that they were at the murder scene at the time of
3 the murder. We certainly believe that with the
4 corroboration of this video evidence, that the Court should
5 grant a directed verdict at this time. Thank you.

6 THE COURT: All right. Thank you, sir.

7 Solicitor?

8 MR. LUPTON: Your Honor, the standard would be a
9 light most favorable to the State, and then the State
10 believes that there is sufficient evidence to make it a
11 jury issue. There is evidence that money was taken from
12 the victim as well as other items of value, including his
13 pants.

14 Your Honor, there was also -- and it was taken by the
15 two acting together, while at least one, if not both, were
16 armed with a firearm.

17 There is evidence that the Defendant, Derrick Mills,
18 fired shots from that firearm, killing the victim, Charles
19 Brown.

20 There's evidence sufficient for a jury to conclude
21 that they were acting together under hand of one, hand of
22 all, including statements and testimony concerning acts
23 that appeared to be actions where they were -- where
24 Derrick was directing Quintin and where they were acting
25 together. Obviously, the weight is for the jury to

1 decide.

2 THE COURT: I agree. Considering the circumstances
3 and the evidence that has been presented, at this
4 juncture, there is direct and circumstantial evidence
5 tending to establish the guilt of each of the Defendants
6 and the case will go to the jury. The motion is denied.

7 I think -- have you discussed with your clients
8 whether or not they wish to testify?

9 MR. LEINENDECKER: We've had initial discussions,
10 Your Honor. But based on the conclusion of the State's
11 case, we'd need a little more in-depth time to -- before
12 we --

13 MR. STEVENS: I would agree that is also the position
14 of Mr. Quintin Mills.

15 THE COURT: All right. How long do y'all need?

16 MR. STEVENS: 10/20 minutes.

17 MR. FARLEY: Yeah. 10/20 minutes, Your Honor?

18 THE COURT: Yeah. Just let me know when you're ready
19 to proceed.

20 MR. LUPTON: Your Honor, if -- if I may? To assist
21 in the -- their discussion, settle the record so that
22 they'll have that information available to them ...

23 THE COURT: Yes, sir.

24 MR. LUPTON: With regards to Derrick Mills, provided
25 he does not open the door, if he opens the door, there's

1 numerous convictions dating back to 1989. However, under
2 609, I think we would be entitled to impeach him with
3 convictions from a 2001 armed robbery/car
4 jacking/kidnaping and 2002 entering a bank with intent to
5 steal.

6 I think that provided that there is not a door opened
7 to the nature of the offenses specifically, for example,
8 the Defendant testifying that because he had done similar
9 stuff or because of his record that he wouldn't be
10 believed because of the specifics of his record, that --
11 and just as a general impeachment -- because of the
12 similar nature, that case law would require us to impeach
13 by simply inquiring if he was convicted of felonies for
14 those events.

15 And they are older than 10 years; however under the
16 rule, because he was incarcerated until 2012 on those
17 charges and started probation December 31, 2012, it would
18 be within the time frame for impeachment.

19 THE COURT: All right.

20 MR. LUPTON: With regards to Quintin Mills, he has a
21 number of minor charges such as driving under suspension,
22 simple possession. The only charges that I think would be
23 -- I think would be impeachable a 2012 conviction for
24 false information, a 2013 conviction for false information
25 which I believe are absolutely admissible for impeachment.

1 He also has a 2012 assault and battery second degree,
2 use of vehicle without permission, unlawful carrying of a
3 pistol. I think that the unlawful carry of pistol does
4 not qualify. I will concede that.

5 The use of vehicle without permission I think is --
6 it would depend on whether it was the one year or three
7 year statute. I can't say which it is. So out of an
8 abundance of caution, I will conceded that the appropriate
9 answer would be that I -- I would not be able to use it
10 for impeachment.

11 The assault and battery second degree I believe would
12 be -- as a three year charge would be impeachable.

13 THE COURT: What year again was that?

14 MR. LUPTON: That was 2012, Your Honor.

15 THE COURT: Counsel?

16 MR. LEINENDECKER: I -- I agree with the State's
17 representation concerning Derrick Mills. And I agree
18 that, you know, if he doesn't go into details, they can
19 impeach with the relevant conviction.

20 THE COURT: Yes, sir. Mr. Farley?

21 MR. FARLEY: Your Honor, I agree with Mr. Lupton's
22 assessment of Mr. Quintin Mills's record and the sole
23 charges he said would be impeachable.

24 THE COURT: All right. Thank you, gentlemen. Let me
25 know when you're ready to proceed.

1 MR. FARLEY: Yes, ma'am.

2 MR. LEINENDECKER: Thank you.

3 MR. STEVENS: And Judge, if I may at this time,
4 briefly, just to put on the record that the brief
5 conversation we had about judgement. At the time the
6 prosecution was inquiring of Mr. Stanley Graham about
7 their efforts in trying to locate Mr. Derrick Mills, it
8 wasn't just questions regarding where -- where did you
9 look? Did you go here? Did you find them? It went to,
10 did the Defendant contact you?

11 Our position is that would actually violate *Doyle v*
12 *Ohio* and actually a Supreme Court opinion regarding the
13 comment on -- exercising their rights. I understand the
14 Government has pointed to State case law saying, you know,
15 they would like to comment on pre-trial silence.

16 Our position is this goes beyond that since he wasn't
17 even in custody at the time. No one has to speak with any
18 officer or any authorities if they don't want to,
19 especially if they're actually told that. And to say
20 otherwise is insinuating that, yes, that in itself is
21 nefarious, number one.

22 Point No. 2, it would be a comment on his record not
23 to even have talked to anybody to this point. He would
24 have been -- that's why we were waiting to see if that's
25 where the question was leading, would've been able to

1 comment on, "Yes, they did look in place X or place Y on
2 date X and date Y." That's not the where it was, that's
3 where our objection is --

4 THE COURT: Mr. Solicitor?

5 MR. LUPTON: Your Honor, *Doyle* concerns post-arrests,
6 post-Miranda silence. *Doyle* has been extended to post-
7 arrests but pre-Miranda silence as well.

8 However, the case law that's clear is pre-arrest
9 silence under conditions where a person would have spoken
10 is subject to comment. I'd cite *State v McIntosh*, a South
11 Carolina Supreme Court case, 358 SC 432, 2004 Supreme
12 Court case, South Carolina Supreme Court, that is; and 275
13 SC 464, a 2007 Court of Appeals case in South Carolina.

14 Both of these are very clear that *Doyle* does not
15 extend to pre-arrest silence. There's also many other
16 cases, both State and Federal, that discuss the fact that
17 the prohibition on commenting about Defendant's silence is
18 based on the fact that once they're arrested and advised
19 of their rights to remain silent, to comment on that right
20 to remain silent is inadmissible because they've been told
21 they have that right and that there should be nothing
22 adverse inferred from the fact that they have exercised
23 the right; however, prior to the arrest, that's fair game.
24 And then -- and the case law is very clear on that.

25 THE COURT: Anything further that y'all would like to

1 place on the record regarding that?

2 MR. STEVENS: Just simply that a person's right to
3 remain silent is not traded just because someone tells him
4 he has the right to be silent. It's a right.

5 And No. 2, as he indicated in his argument, Judge --
6 or to you, Judge, that especially if they're looking for
7 him and they're silent when they don't really have a
8 reason to be.

9 Clearly, if the Government's allegations have any
10 merit whatsoever, he would not be likely to want to go
11 ahead and have the conversation immediately anyway.
12 Regardless, Judge, our position is simply as we stated.

13 THE COURT: Yes, sir. I understand your position.
14 And again, the ruling remains the same. That it did not
15 violate what is allowable under the law. So your motion
16 is again placed on the record, but overruled.

17 MR. STEVENS: Thank you, Judge.

18 THE COURT: All right. Let me know when you're ready
19 to proceed.

20 MR. STEVENS: Yes, ma'am.

21 (Off the record at 3:27 p.m.)

22 (On the record at 3:52 p.m.)

23 THE COURT: All right. Counsel, have you each had an
24 opportunity to discuss with your clients whether or not
25 they wish to testify?

1 MR. LEINENDECKER: We have, Your Honor.

2 MR. FARLEY: I have, Your Honor.

3 THE COURT: And are they both ready to be placed on
4 the record?

5 MR. LEINENDECKER: Yes, Your Honor.

6 MR. FARLEY: Yes, Your Honor.

7 THE COURT: All right. Gentlemen, if you would
8 please stand.

9 (The Defendants comply.)

10 THE COURT: And could you please swear them in, Mr.
11 Clerk?

12 THE CLERK: Yes, ma'am

13 **QUINTIN MILLS** and **DERRICK MILLS**, having both
14 been first duly sworn, testify as follows:

15 THE CLERK: Please state your full name for the
16 record.

17 MR. QUINTIN MILLS: Quintin Mills.

18 MR. DERRICK MILLS: Derrick Mills.

19 THE CLERK: Thank you, gentlemen.

20 THE COURT: All right. Mr. -- both Mr. Mills's, if
21 y'all would please continue to stand.

22 (The Defendant's comply.)

23 THE COURT: All right. Gentlemen, I'm going to go
24 through this with both of you at the same time. So
25 Quintin Mills, if you would please respond first when

1 there's a question asked; then you, Mr. Derrick Mills, if
2 you would then respond. That way the record is clear as
3 to whose speaking. Okay.

4 MR. QUINTIN MILLS: Yes, ma'am.

5 THE COURT: All right. Gentlemen, at this time I'm
6 going to explain to you certain of your rights. If you do
7 not understand anything that I say, please let me know.
8 If you want me to explain anything in more detail, also
9 please let me know. Do you understand?

10 MR. QUINTIN MILLS: Yes, ma'am.

11 MR. DERRICK MILLS: Yes, ma'am.

12 THE COURT: We have now reached the stage of the
13 trial where you may present your defense. You have the
14 right to claim the protections given to you by the Fifth
15 Amendment of the Constitution of the United States. This
16 amendment states in part that no person shall be compelled
17 in any criminal case to be a witness against himself.

18 This means that you cannot be required to testify in
19 this case. You have the right to testify on your own
20 behalf; however, no one can make you testify.

21 This is a personal right and no one can waive this
22 right except for you. If you decide to testify, you will
23 be subject to the same rules that govern other witnesses
24 and you may be examined and cross-examined on any relevant
25 issue in this case.

1 In addition, if you have any convictions involving
2 dishonesty or for false statement or for crimes punishable
3 by imprisonment for more than one year and I determine
4 that the probative value of admitting this evidence
5 outweighs it's prejudicial effect to you, the Solicitor
6 will be able to introduce your record and attack your
7 credibility.

8 If you decide to testify, this decision on your part
9 must be made freely, voluntarily, and intelligently with
10 the knowledge of the protections given to you by the Fifth
11 Amendment and the consequences of your decision to
12 testify.

13 If you decide not to testify, I will instruct the
14 jurors that they cannot give the fact that you did not
15 testify any consideration whatsoever and that there is to
16 be absolutely no prejudice to you because you did not
17 testify.

18 You may talk with your attorney, your family, your
19 friends, anyone you'd like to; but ultimately the decision
20 whether or not you wish to testify is completely up to
21 you. Do you understand what I have explained to you?

22 MR. QUINTIN MILLS: Yes, ma'am.

23 MR. DERRICK MILLS: Yes, ma'am.

24 THE COURT: Do you -- have you discussed with your
25 attorneys whether or not you wish to testify?

1 MR. QUINTIN MILLS: Yes, ma'am.

2 MR. DERRICK MILLS: Yes, ma'am.

3 THE COURT: Do you need anymore time to discuss with
4 your attorneys whether or not you wish to testify?

5 MR. QUINTIN MILLS: No, ma'am.

6 MR. DERRICK MILLS: No, ma'am.

7 THE COURT: Do you wish to testify?

8 MR. QUINTIN MILLS: No, ma'am.

9 MR. DERRICK MILLS: No, ma'am.

10 THE COURT: All right. Sir -- gentlemen, you have a
11 seat.

12 (The Defendants comply.)

13 THE COURT: Counsel, will the Defense be presenting
14 any evidence on either side?

15 MR. FARLEY: Beg the Court's indulgence.

16 THE COURT: Yes, sir.

17 (Brief pause.)

18 MR. LEINENDECKER: On behalf of -- of Derrick Mills,
19 we do not wish to put up anything beyond what's already
20 been presented from the witness stand and -- and Defense
21 would rest.

22 We would, of course, renew our directed verdict
23 motion at this time, which is required ---

24 THE COURT: Yes, sir. And again, for the same
25 reasons, it is respectfully denied. Mr. Farley?

1 MR. FARLEY: Your Honor, for the record, we would
2 also just -- the Defense for Quintin Mills would rest on
3 the evidence that has already been presented. We would
4 also renew our directed verdict motion.

5 THE COURT: Yes, sir. And again, for the same
6 reasons, the motion is respectfully denied. Gentlemen,
7 what I think I'll do is I'll bring the jury out and I'll
8 allow you to rest in front of the jury.

9 And then I'll in -- instruct them that, obviously,
10 it's four o'clock. It's a little late to go into closing
11 arguments and the instructions before I give them the --
12 the case for their deliberations.

13 So I'll let them go for the evening, but I just
14 wanted to explain that to them out here and allow you to
15 rest in front of the jury.

16 Anything before I bring the jury out?

17 MR. LUPTON: None from the State, Your Honor.

18 MR. LEINENDECKER: The only thing that I would ask,
19 Your Honor, that I don't believe it's necessary nor
20 appropriate for us to discuss the motions. We'll just
21 rest our case --

22 THE COURT: Yes, sir.

23 MR. LEINENDECKER: -- in front of the -- in -- in
24 front of the jury.

25 THE COURT: Yes, sir. And -- and that's what I had

1 anticipated.

2 MR. LEINENDECKER: Okay. Yeah. I just wanted to
3 make sure everything's preserved and I'm not doing
4 something.

5 THE COURT: Absolutely.

6 MR. FARLEY: I concur.

7 THE COURT: Okay. All right. Let's have our jury,
8 please.

9 (The jury enters at 3:57 p.m.)

10 THE COURT: Welcome back ladies and gentlemen of the
11 jury.

12 Does Counsel for the Defense intend on presenting any
13 evidence?

14 MR. LEINENDECKER: On behalf of Mr. Derrick Mills, we
15 do not intend to present anything. We will rely on the
16 testimony that's been presented and we would rest at this
17 time.

18 THE COURT: Thank you, Mr. Leinendecker. Mr. Farley?

19 MR. FARLEY: On behalf of Quintin Mills, we would not
20 present any defense at this time. We would also rest on
21 the very same thing. Thank you, Your Honor.

22 THE COURT: Thank you, Counsel.

23 Ladies and gentlemen of the jury, both sides have
24 rested their cases in this matter. It's four o'clock in
25 the afternoon. It's a little bit late for us to do -- go

1 into closing arguments, to charge on the law, and give you
2 the case to deliberate.

3 I understand that you have places to be. So at this
4 juncture it's a good time for us to take our evening
5 recess.

6 Although both sides have rested their case, again,
7 please remember my previous instruction that it is very
8 important that you not discuss this case with anyone in --
9 including amongst yourselves or with anyone else.

10 I'm going to ask you to return to your jury room
11 tomorrow at 9:30 so that we can then proceed with the
12 closing arguments of counsel, the instruction on the law,
13 and then you will have the case to deliberate.

14 Have a nice evening. We'll see you in the morning.

15 (The jury exits at 3:59 a.m.)

16 THE COURT: Anything further on this matter before we
17 adjourn for the day on this case?

18 MR. LEINENDECKER: Nothing further from the Defense
19 of Derrick Mills.

20 MR. FARLEY: Nothing further from the Defense of
21 Quintin Mills.

22 MR. LUPTON: No, Your Honor.

23 THE COURT: Thank you, gentlemen.

24 Ma'am in -- that we confiscated your cell phone
25 earlier. We will have your hearing tomorrow at 9:30. I

1 had asked you to be present in the courtroom prior to us
2 resuming the trial of this case this afternoon at 1:25.

3 We started the trial at 1:35 and you did not enter
4 the courtroom 'til after -- shortly after 2:00. So we
5 will have your hearing tomorrow sharply at 9:30 if you
6 would wish to be heard regarding the return of your cell
7 phone. All right.

8 We're adjourned for the day. Have a nice day.

9 (Off the record at 3:59 p.m.)

10 **DAY 3**

11 (On the record at 9:43 a.m.)

12 THE COURT: All right. And Counsel, we have had an
13 opportunity to have a charge conference in chambers
14 regarding the proposed jury instructions. It is my
15 understanding that all parties have reviewed the proposed
16 jury instructions that are to be given by the Court and
17 have a -- and have no objections. Is that correct from
18 the State?

19 MR. LUPTON: Yes, Your Honor.

20 MR. LEINENDECKER: Yes, Your Honor.

21 MR. FARLEY: Yes, Your Honor.

22 THE COURT: The parties ready to proceed?

23 MR. LUPTON: The State's ready, Your Honor.

24 MR. LEINENDECKER: The Defense is ready.

25 MR. FARLEY: Defense is ready, Your Honor.

1 THE COURT: All right. Let's have our jury, please.

2 (The jury enters at 9:46 a.m.)

3 THE COURT: Good morning, ladies and gentlemen of the
4 jury. Thank you for your patience this morning. We're
5 now ready to proceed with the closing arguments of
6 counsel. Please pay close attention.

7 Solicitor?

8 MR. LUPTON: Thank you, Your Honor. May it please
9 the Court?

10 THE COURT: Yes, sir.

11 MR. LUPTON: Ladies and gentlemen, it's real easy
12 here in this peaceful, well-lit courtroom to forget about
13 the difference between order and chaos. Here in this
14 courtroom everything is geared towards order and clarity.
15 Everybody here is trying to make sure you see, hear and
16 understand what's going on. The judge is trying to make
17 sure that you see everything, that you hear everything.
18 The participants are doing the same. Only one person is
19 up and moving at a time and only one person talks at a
20 time. If there's an objection, the person whose talking
21 stops talking and the judge hears the objection and rules
22 and then people move on.

23 You even saw when I had a witness up here and was
24 pointing to some stuff on a map, and it wasn't real clear
25 from where the person was pointing to y'all. The judge

1 says, "The jury can't see that." and made me get out and
2 show you what he was pointing to so that it would be
3 clear. So that it would **. So that you could see what
4 was going on and understand clearly what was going on.

5 Ladies and gentlemen, it was very, very different out
6 there on Falcon Lane in the dark, a secluded wooded area
7 and an abandoned house back on December 13, 2014. And as
8 you listened to this testimony I hope you understood that.
9 And as you deliberate, and I hope you remember that.
10 They're going to nit-pick the testimony. But remember,
11 you had two witnesses that had everything going on all at
12 once around them. They had fear. People with guns.
13 People being shot. They were afraid for their life, there
14 was the trauma of seeing or hearing a friend or a loved
15 one killed. Coming back and finding the body of your
16 father. There was not order and clarity out there.

17 So if in that fear, in that everything happening at
18 once, everything being over very quickly, if there was a
19 little bit of confusion, it's understandable. That is not
20 reasonable doubt. Reasonable doubt, ladies and gentlemen,
21 is one of those legal concepts that the law struggles to
22 define. What is it? You -- you -- the law has come up
23 with all sorts of definitions that it has tried to use to
24 explain. One you may have heard of, an old Manning
25 charge, says reasonable doubt is the kind of doubt that

1 causes a reasonable person to hesitate to act.

2 The Supreme Court is -- both the US Supreme Court and
3 the South Carolina Supreme Court both have adopted more
4 recently another definition that says that there are very
5 few things -- if you are firmly convinced of the
6 Defendant's guilt, then you should find him guilty. It
7 goes on to say that there aren't very many things in this
8 world that we know with absolute certainty. And the law
9 does not require that level of certainty. That after
10 you've seen all of the evidence -- heard all the evidence,
11 if you are firmly convinced that the Defendant is guilty,
12 you should vote guilty. But if you believe that there is
13 a real possibility that he is not guilty, then you should
14 find him not guilty.

15 Ladies and gentlemen, I would submit to you that what
16 you're going to be asked to do, is when you go back,
17 you're going to be asked to decide what do you believe
18 really happened? What do you believe really happened that
19 night? What do you think really happened that night? And
20 if -- as you're back there in that jury room, if you
21 believe what really happened is that Derrick and Quintin
22 Mills robbed and killed Charles Brown, then you should
23 vote guilty.

24 Now, ladies and gentlemen, I would submit to you that
25 that's what the evidence shows. If you look at it, that

1 is what the evidence shows. So let's look at that
2 evidence. What is the evidence that Derrick Mills
3 murdered Charles Brown? Very clear. You have Kendrell
4 Thompson. After the doctor, he was the first witness that
5 first day of the trial. And when you look at him, he told
6 you, "I saw Derrick shoot Charles Brown." he knew who
7 Derrick was. There's no question he didn't seem ** or
8 confused about who they saw. These people who knew each
9 other for years. He saw him shoot Charles Brown. Saw him
10 shoot him in the face, saw him continue to shoot him when
11 he fell down, saw him shooting him on -- standing over him
12 and shoot him on the ground.

13 Charles's son -- well, step-son, but he said, "You
14 know, he raised me since I was a baby and he's my only
15 father I've ever known." His son, Jarvis Mack, saw
16 Derrick pull Charles out of the car at gunpoint and as he
17 ran heard the gunshots. And then we got the fact that for
18 two-and-a-half years, with the Calhoun County Sheriff's
19 Office, SLED and US Marshalls looking for him, Derrick's
20 on the run. The evidence of murder has been proven. What
21 about the evidence of armed robbery? The evidence of
22 armed robbery, Kendrell says he saw him take the money.
23 Derrick take the money from Charles Brown. The money to
24 buy the motorcycle.

25 You got Jarvis saying the same thing. They took the

1 money at gunpoint. KT -- excuse me, Kendrell Thompson, he
2 heard the victim tell him as he was begging for his life,
3 "You've already got my money. You've already got the
4 money. Let me live." You got the fact that that money
5 wasn't found at the scene. There was some more money in
6 his pocket, but the money for the motorcycle wasn't found
7 at the scene. You got the fact that you know there was a
8 gun because the victim was shot to death. They both saw
9 the gun and he was shot to death. Can't get shot to death
10 without a gun being present. That's a deadly weapon.

11 And even without that money that Kendrell saw him --
12 saw Derrick taking the victim's pants. We know that the
13 pants weren't found at the scene. We know there was an
14 armed robbery. So that gets us to Quintin. How do we
15 know if he was involved? We've already talked about hand
16 of one, hand of all. The judge will explain that law to
17 you in more detail during her explanation of the law. But
18 basically, hand of one, hand of all, if two people act
19 together to commit a crime, then what one does both of
20 them are responsible for. Two people go together to do
21 something, you're responsible for what each of you do. So
22 the hand of one, hand of all. How do we know that Quintin
23 was involved? Well, how else did Derrick know about the
24 location? Derrick wasn't involved in any of the texting
25 or calls. He wasn't involved in setting it back --

1 setting any of this up. Jarvis didn't contact him.

2 Didn't talk to him. He had to find out through Quintin.

3 And when he showed up with Quintin, you heard,
4 Quintin didn't act surprised. He was expecting him there.
5 They were together. They were standing next to each other
6 during the transaction. Quintin never said, "What are you
7 doing here?" anything like that. They were acting
8 together. And so what happens when the guns come out?
9 Derrick pulls his gun, what does Quintin do? He pulls a
10 gun. Now, that got a little bit unclear in the testimony.
11 You know, you heard, I'd like to think that Quintin didn't
12 have a gun. They both said, at the time that Quintin had
13 a gun. Now they're, "Well, I'm not sure if I actually saw
14 a gun or he was just holding his hamd -- holding something
15 that -- that I thought was a gun." but regardless, he was
16 doing something as if he had a gun.

17 And even if he didn't have a gun, what did he do once
18 Derrick pulls his gun out? He drags Kendrell out of the
19 car in a choke hold. Kendrell showed you, with the arm
20 around the neck, said choking, pulling him up. Pulls him
21 out of the car with a choke hold and starts taking stuff
22 out of his pocket. I think he showed it with the left
23 arm. And he's taking stuff out of the pocket. He told
24 you Quintin was taking stuff out of his pockets. He also
25 told you that he was doing this stuff after Derrick gave

1 him a nod. So he gives him that nod, you know, towards
2 Kendrell. If Derrick is giving him a nod telling him what
3 to do, they're working together. They're in it together.
4 So even if he didn't have that gun, they're working
5 together. It's clear.

6 And what does he do when Jarvis takes off? He yells
7 to warn Derrick. "He's running. He's running." They're
8 working together. This falls under hand of one hand of
9 all. So let's back up and ask ourself, "Well, how do we
10 know this is all true?" well, a few things. One, I'd
11 submit to you, look at the defense that was started for
12 Quintin. When you look at -- listen to his opening
13 statement, you heard him talking about being out there for
14 a legitimate motorcycle sale, not a robbery. That he was
15 out there without the gun. He wasn't going out there with
16 a gun. That he was just there to sell a motorcycle.

17 Look at the cross-examination. Evidence that he got
18 out during cross-examination. This is evidence that his
19 lawyer was asking during cross. Asking questions about my
20 client grabbed you and pulled you away from Derrick,
21 didn't he? Trying to make it sound like he wasn't
22 involved. That, my client was there for a legitimate
23 motorcycle sale. My client tried to make it right.
24 They're going for all this evidence. He's admitting to
25 being there, essentially. Putting in evidence that he was

1 there and just not asking --

2 MR. FARLEY: Objection. The -- opening statements
3 are not evidence.

4 THE COURT: The jury will be instructed that what the
5 attorneys say is not evidence. That's his contention as
6 to what the evidence showed.

7 MR. LUPTON: And let me -- and let me be clear.
8 Openings aren't evidence; cross-examination is evidence.
9 When his lawyer asks the question and gets evidence in
10 through that question, that is evidence. And that was the
11 evidence he was getting in about his client saving
12 Kendrell by pulling him away from Derrick.

13 Now, the other thing we gotta look at is this is a
14 pretty simple case when you get down to it. I mean,
15 Jarvis and Kendrell both told you Derrick pulls him out --
16 pulls Charles out at gunpoint; Jarvis ran, but hears the
17 gunshots as he's running; and Kendrell sees Derrick shoot
18 Charles After -- as Charles is begging for his life after
19 being robbed.

20 There is no question this was a murder and an armed
21 robbery. This isn't some legal issue about whether or not
22 it was self-defense or whether or not there was -- you
23 know, this might be some lesser voluntary -- or an
24 accident or anything like that. This was a clear murder,
25 And if you believe that they're telling the truth, there's

1 no question about that. I don't even think the defense is
2 going to question it if you believe they're telling the
3 truth, But that was a murder and that was an armed
4 robbery.

5 So if you believe that those two are not guilty, you
6 have to believe that Jarvis and Kendrell set up a murder
7 -- Jarvis set up to murder his own dad to steal \$500?
8 Does that make any sense to you, That he murdered his own
9 dad over \$500?

10 And then if he did that, he either -- he had to have
11 concocted this whole thing and set up this whole thing
12 with Quintin about this motorcycle buy expecting to be
13 able to pin blame on Quintin because he just knew Quintin
14 was going to be late and that Quintin was going to want to
15 change the location? Does that make any sense?

16 Or that once Quintin wasn't there, somehow just on
17 the -- a whim, he decides I'm just going to shoot my dad
18 and rob him of \$500 and blame it on Quintin since he's not
19 here; and while I'm at it, I might as well throw in his
20 dad, too. Does that make any sense?

21 Now, you heard the 911 call. You heard his voice,
22 You heard the distress; you heard that hurt, that turmoil
23 in his voice. That is real. That was a man who had just
24 run from seeing his father dragged out at gunpoint and
25 hearing those gunshots. That's the voice of a man who

1 knows his father just got shot.

2 Now, they want to make this big deal about the fact
3 that when he goes back to the scene -- and first of all,
4 it makes sense that he'd go back to the scene to check on
5 his dad. Wouldn't any reasonable person want to go back
6 to try and help their dad?

7 But he makes this big deal about how he hugs him when
8 he gets back to the scene, and they sort of scoff at this
9 idea that he would tell him, "Get up."

10 My goodness, somebody comes back and sees their
11 father laying bloody on the ground, the emotional reaction
12 of wanting to grab them and hug them and say, "Please, get
13 up," of wanting it to be okay. That kind of emotional
14 reaction, there's nothing unreasonable about that. To say
15 otherwise it just doesn't make any sense. It defies
16 sense.

17 What does make sense is that this is what they said:
18 That in the chaos of that night, they got a few details
19 wrong, got confused on a couple of things; but there's no
20 question they have said from the start Derrick did this
21 and Quintin was with him. That makes sense.

22 You heard about Derrick being so adamant about
23 wanting that money that night. That makes sense. But
24 they're going to try and say you gotta ignore all of that
25 and assume, without any evidence -- and none of this

1 evidence point to -- to Jarvis and -- and Kendrell doing
2 it. But despite the fact that that theory doesn't make
3 any sense, they're going to try and tell you, you gotta
4 believe it because there's a time stamp on a video.

5 So let's talk about that time stamp. All right.
6 There is no question that the video from the El Cheapos
7 shows Quintin and Derrick at that gas station at 6:30
8 according to that time stamp, at the time the crime
9 happened, roughly.

10 If that time stamp were correct, we wouldn't be here
11 'cause there'd be no way that they could've committed this
12 crime. So why do we know it wasn't right? Well, we've
13 talked about it this whole trial.

14 Judge took judicial notice, that means it's a fact,
15 sunset was at 5:16 that night. And we all know how sunset
16 works, ain't [sic] a one of us hasn't been around to see a
17 sunset before. We know how sunset works. The sun goes
18 down and you got a little bit of twilight, maybe about
19 half an hour; and as that half hour goes it's getting
20 darker and darker the whole time, but you can still see a
21 little bit for that -- a little bit after sunset.

22 But you don't see stuff for an hour and a quarter/
23 two hours after sunset or anything like that. Once the
24 sun goes down, it starts getting dark quick. If the sun
25 goes down -- and we know that sun went down. That's one

1 thing we know with absolute certainty. The sun went down
2 at 5:16. Hour and a quarter later, it is dark. December
3 -- in December, here in Calhoun County, it is dark at
4 6:30. We know that. But in that video you can see it is
5 not dark.

6 Now, they talked about, "Oh, the lights at the gas
7 station were on." Well, of course the lights in the gas
8 station are on. Businesses like that, they leave their
9 lights on to look at the cars. You see in that video --
10 you saw in that video -- when I say "you see," during your
11 deliberation, you have a right to ask to see any of the
12 evidence. They'll -- they'll send back the -- the paper
13 and all that stuff with you, but the videos you're not
14 going to be able to look at back there 'cause you won't
15 have TV. But if you ever want to see them, they'll bring
16 you back out so you can listen to the 911 call or see any
17 of the videos.

18 But you look at those videos. You can watch the cars
19 going by. Some of them do have their lights on, but at
20 least half of them -- more than half of them don't. If it
21 was 6:30 at night, they'd all have their lights on.

22 Now, we talked about daytime running lights. You
23 understand how those work, and you know that some people
24 have their lights on even in the daytime, but most of them
25 didn't. More importantly, you can see all the way across

1 the street. If it was dark out, you know you can't see
2 that far on video. Even if the lights were lighting up
3 that parking lot way on the other side of the street, it
4 ain't [sic] going to be light over there. You're not
5 going to see that area. It's going to be dark over there
6 and it wasn't.

7 Now, another thing, you heard Richard Herron, the --
8 the first officer that got to the scene. Sat there, an
9 old guy, a 70-year-old deputy at the time, finally
10 retired. And he told you -- I asked him where was he
11 before. He was at the El Cheapos at 6:30.

12 MR. LEINENDECKER: Objection, Your Honor. Not only
13 mis-characterizes his statement, but it's not what the
14 witness said on the stand and he can't comment on
15 something that wasn't testified to. He said he was at the
16 Exxon station.

17 THE COURT: That will be for the jury to determine
18 what they recollect and they can certainly replay the
19 testimony for the -- the testimony that was presented.
20 You may proceed.

21 MR. LUPTON: Thank you, Your Honor. All right.

22 If you want to clarify, he said he was at the gas
23 station there at Exit 119, and everybody talked about the
24 Exit 119 gas station is the El Cheapos. And I think
25 anybody from here in Calhoun County knows what gas station

1 is there at Exit 119.

2 He wasn't there. He would've been there on that
3 video if it had been 6:30.

4 But you know, even the Defendant's car, you watch it,
5 as it pulls up it -- it says "18:22" on the -- the video.
6 The translation, 6:22. When you see the Defendant pull
7 in, he doesn't have lights on. It wasn't dark. Now, why
8 was the time stamp off? I don't know. But we all have
9 lived long enough that we've seen VCR's or microwaves,
10 whatever, with the clock isn't set right. Maybe it was
11 because it was set during the summer and it's an hour
12 behind that -- at that point in the year 'cause it was
13 never reset. Maybe it was never right to begin with. I
14 don't know.

15 What I do know is that there is no way you should let
16 these people get away with murder because someone didn't
17 set the timer on their VCR correctly, and that is
18 ultimately what they're asking for is for you to take this
19 mistake and turn it into letting them get away with
20 murder. If you look at the evidence in this case, it all
21 points to them committing this murder and this armed
22 robbery, and the fact that the time stamp is messed up is
23 not reasonable doubt. It is not reasonable doubt.

24 Ladies and gentlemen, at the start of this case, I
25 asked you when you go back to that jury room and you

1 deliberate, come back with a just verdict. Ladies and
2 gentlemen, after all the evidence in this case, a just
3 verdict in this case is guilty. Thank you.

4 THE COURT: Counsel?

5 MR. LEIENDECKER: Thank you, Your Honor.

6 Ladies and gentlemen of the jury, we're done, you
7 start working. You've been watching, you've been
8 listening, you've been seeing testimony from the witness
9 stand.

10 We told you in our opening statement that what you
11 were going to see were inconsistencies, were inaccuracies,
12 were holes, were gaps. What we explained to you was those
13 are reasonable doubts.

14 Counsel for the State suggested that reasonable doubt
15 is hard to define. It's not hard to define. You -- you
16 know what it is; I -- I know what it is. We may be like
17 Justice Byron White when he was talking about pornography,
18 "It's hard to define, but I know it when I see it."

19 Maybe in words it's hard to define, but you know
20 reasonable doubt when you see it.

21 Our Supreme Court has said -- and the judge will
22 instruct you on the law and so I encourage you to listen
23 to what she says.

24 But I -- I'm trying to tell you what I think she's
25 going to say on that, and one of the definitions she's

1 going to give you is reasonable doubt is a doubt that
2 makes you hesitate to act.

3 I have a six-year-old Labrador Retriever. I love
4 that dog. All my days, except at 2:30 to 3:30 in the
5 morning, every day of my life, when she wants to go
6 outside. I have no idea why. She stays home all day by
7 herself. She doesn't make accidents in the house, but
8 when I'm home and sleeping in my bed, she can't make it
9 eight hours while I'm sleeping. She's gotta get me up to
10 take her out.

11 I know how many steps there are on my front porch to
12 the ground. I think I do. I think there's four, counting
13 the last one to the ground. But every time I get up to
14 take her out at 3:00 in the morning, I turn on that porch
15 light because I hesitate to act in the dark. I know
16 they're there, but I hesitate to act. That's an important
17 fact.

18 And also, what the Court is going to tell you and
19 what we told you in opening statement is that the
20 allegations of murder and armed robbery have elements,
21 and that each of those elements must be proven by the
22 State beyond a reasonable doubt. And it must be proven
23 that my client, Derrick Mills, committed those crimes.

24 When I listen to the State's opening statement -- or
25 - and now their closing statement is they want to shirk

1 some of that responsibility of proving that case. They
2 want to ask you to fill in the gaps. They want to ask you
3 to jump over the reasonable doubt that exists in this
4 case, and they want you to solve this crime for them by
5 returning a guilty verdict.

6 Don't you do that. Don't you let them off the hook.
7 Don't you fail to hold them responsible for proving their
8 case beyond a reasonable doubt. The State has a burden.
9 No one else has a burden. No one else has to prove
10 anything. No one else has to fill in the blanks and the
11 gaps in the State's case, especially not you.

12 The State tells us, "We know what happened. We heard
13 from the two people that were there." Do we? Do we know
14 what happened because those two young men said that? Do
15 we know that that's what happened? I don't believe we do.

16 "Oh, we've got evidence that that's what was going
17 on. We've got evidence. We, the State, have put in that
18 evidence."

19 And part of that evidence is going to be with you.
20 The State has given us State Exhibit 3, photographs of the
21 cell phone text messages; State Exhibit No. 4,
22 photographs of the cell phone text messages; Number 5
23 photographs of the cell phone text messages. From whose
24 phone? Jarvis Mack.

25 Hey, we've all had cell phones long enough to

1 understand how they work, at least to a -- a degree. We
2 understand that they allow us to communicate with people
3 all over because there are cell phone towers everywhere
4 because messages bounce off those towers and relay it to
5 our phone from someone else's phone.

6 We know that if Jarvis Mack has text messages that
7 his phone say are with Quintin Mills, that those messages
8 aren't just going nowhere, right? They're going to a
9 phone owned by Quintin Mills.

10 We also know that if somebody's investigating this
11 case and trying to -- to put it together and not just take
12 somebody's word about what happened, that -- that can
13 easily be tested because two day later, the State of South
14 Carolina, through its investigator with the Calhoun County
15 Sheriff's Office, spoke to Quintin Mills.

16 So we can match it up, right? All we need are the
17 pictures of Quintin Mills cell phone showing that Quintin
18 Mills was out there trying to sell a motorcycle and meet
19 these guys. Now, let me get it for you. Oh, that's
20 right. That's a gap. We don't have that. That's not a
21 gap just, that's a reasonable doubt.

22 Who was Jarvis Mack texting with? Why don't we have
23 Quintin Mills cell phone records because if he was texting
24 with him, his cell phone was being used. Why don't we
25 have information showing towers which would give us a

1 general location of where Quintin Mills and Jarvis Mack
2 were? Why don't any of these text messages, three pages,
3 mention a motorcycle? Why don't any of these text
4 messages, three pages, mention Falcon Lane, mention an
5 abandoned house, mention Sugar Hill Lane? You know what
6 that is? That's a gap. And it's not just a gap, it's a
7 reasonable doubt.

8 You heard that dramatic 911 call, and -- and I'm not
9 belittling the 911 call, that the voice sounded dramatic.
10 But the more dramatic voice, really, was the lady that was
11 talking and had to fill in the gaps.

12 But what did you hear? Let me tell you what you
13 heard. At the beginning, you heard someone who's
14 identified as Jarvis Mack saying, "All I know is I'm in
15 Calhoun County. I'm not from around here. I don't know
16 anything about this area. I'm from Gaston. I don't -- I
17 just know I'm in Calhoun County in the woods."

18 "Well, what's happened?"

19 "My friend has been shot." Over and over "my
20 friend."

21 "What's your friend's name?"

22 "My friend's name is Charles Brown."

23 In his statement, his written statement to the police
24 on December 13th, he says, "My friend, Charles Brown."
25 Charles Brown. There's no dad. Not until the 15th, when

1 he comes in to talk to them, is there a dad referenced.

2 That's weird. That's suspicious. Why is he
3 unwilling to call Charles Brown his dad on the -- or what
4 happened in those woods that has stressed him bad?

5 And not only that, but we found out from the witness
6 stand and we found out in the -- in the statements to the
7 police, he knew where he was because the family friend,
8 Ms. Gwen, lived right down the street. He didn't suggest
9 that he went to Ms. Gwen's house before. He said, "When I
10 ran out of the woods in a panic, I ran up the street
11 because Ms. Gwen's house was there. I knew where she
12 lived. I ran up the street."

13 And in his statement, he said, "I got the gun." Not
14 a gun, not her gun, I got the gun. That's weird. He
15 didn't know where he was or he did know where he was?
16 There was a motorcycle, there wasn't a motorcycle.

17 There's no evidence from the investigation from --
18 SLED or Calhoun County have found any evidence that
19 there'd been a vehicle up there, any tire tracks, anything
20 to suggest that a motorcycle was there. None. That's the
21 gap. That's reasonable doubt.

22 What else did you find out, not just from Jarvis but
23 from Kendrell, the other witness who really knows what
24 happened in those woods? We know that an unknown person
25 that was not mentioned 'til we got to court, four and a

1 half years after the fact, was also there almost
2 immediately, Jarvis's brother. Jarvis's brother? Jarvis
3 suggests he called him, but I don't buy that. If he's in
4 Gaston, how'd he get there in a crack unless he was
5 waiting there?

6 I am a lot more skeptical than the Solicitor. I
7 believe there have been times and instances in the world
8 in which we live where step-sons have killed their father
9 or seen someone kill their father. I believe that you saw
10 a whole lot more than was going on in this case than
11 anybody ever wanted you to see when the State of South
12 Carolina obtained surveillance video from the El Cheapo
13 gas station. I believe you saw those three people in the
14 Jeep spend a fair amount of time at that El Cheapo, and
15 they weren't just buying chicken.

16 MR. LUPTON: Objection, Your Honor. May we approach?

17 THE COURT: Yes, sir.

18 (Bench conference.)

19 MR. LEINENDECKER: Thank you, Your Honor.

20 They weren't just buying chicken. You saw that.

21 You saw Jarvis get out of the Jeep. You saw Jarvis
22 go into the store. You saw Jarvis talking. For some
23 reason, you saw Jarvis go back to the Jeep and get a black
24 back -- a small black backpack out of the Jeep. You saw
25 Jarvis come out of the store and talk to one of the

1 patrons out front, slap hands and exchange something in
2 front of the Jeep. You then saw that person approach the
3 Jeep and lean in through the window, not once, but twice,
4 and put something in his pockets. There's no testimony
5 about what happened because no one investigated what
6 happened.

7 The people who picked up that video never looked into
8 what happened. So we're left to draw our own conclusions
9 about what those three men were doing that day, about who
10 those three men were really going to meet that day, about
11 whether they were buying a motorcycle or doing something
12 else that day, and about whether they were involved in any
13 other kind of activity that day. We don't have any
14 evidence except their word that that's what they were up
15 to.

16 What the State wants you to believe is what Jarvis
17 and Kendrell said from the witness stand because that's
18 what they've clung to for four and a half years. That's
19 what they decided on the night of December 13, 2014.

20 I am just an attorney. But I handle a lot of
21 criminal cases in my career; and when a case comes to my
22 desk, it requires me to not just read the paper, but to do
23 investigations.

24 I am so thankful that over the course of the years, I
25 not only just have myself to rely on to do that, but I

1 have people like my investigator, Mr. Tisdale, who was
2 identified to you at the beginning, who I can give tasks
3 to and he can go out and interview witnesses. He can talk
4 to people. He can visualize the scenes by going to
5 scenes. He can collect data like videos from a
6 surveillance at -- at a convenience store to try to help
7 me analyze the case for my client. Don Tisdale's one guy
8 and unfortunately, he's all I got. Ted's only shown you a
9 couple of what he's got. The State has an army compared
10 to what I've got.

11 But what did Stanley Graham tell us from the witness
12 stand? He stopped at the Magistrate's office, on the way
13 to the scene of the crime before the lead investigator had
14 spoken to one witness, to pick up a search warrant for the
15 Jeep and arrest warrant for my client, Derrick Mills, and
16 for Mr. Farley's client, Quintin Mills. That ain't an
17 investigation. Even my one investigator shop wouldn't
18 consider that an investigation.

19 What we had was someone at the scene of the crime,
20 someone who denied having any knowledge of the area yet
21 later admits that he's got a family friend that lives at
22 the end of the street. We got that someone, Jarvis Mack,
23 with blood on him, blood on his hands, blood on his
24 bracelets, blood on his shirt.

25 Maybe it happened the way he said, he went up and

1 hugged his friend, later it was dad, while he was on the
2 ground; or maybe -- maybe it's an explanation of why he
3 had blood on him. Do we have any investigation of that?
4 We asked were gunshot residues taken from Jarvis Mack's
5 hands which would've demonstrated that he never handled a
6 firearm or fired a gun that night that would help us
7 believe what Jarvis Mack had to say. No.

8 Ladies and gentlemen, it's the State's burden to
9 prove the case. It's not the State's burden to accept the
10 statement of witnesses. That's reasonable doubt. I gotta
11 build a bridge over that to get to guilty, abig one.

12 What else did we find on the witness stand that was
13 those inconsistencies that we talked about in opening
14 statement? Kendrell told us for the first time, "I had a
15 gun in the car, a gun small enough to fit in my front
16 pocket; a small gun in my pocket, and someone pulled it
17 out and dropped it on the ground."

18 He says Quintin was the one who dropped it on the
19 ground: "I didn't know. I didn't ever mention that
20 before."

21 What else did he have? Three cell phones and \$200 in
22 cash. Okay.

23 Why did Jarvis go back to the scene? To hug his
24 daddy or to pick up two cell phones that were there?
25 Okay. Why did he only show us the one cell phone? Why

1 didn't he show us all the cell phones? Okay. Why didn't
2 anybody investigate when they heard about this multiple
3 phone issue? I don't know. Well, I do know. It doesn't
4 really fit the theory of the case that would develop
5 before we ever investigated the case, the theory being
6 Derrick Mills, a person who was fingered by the two men on
7 the witness stand, a person who had served time in prison
8 we heard, and is easily a simply target. I mean, he's
9 been to prison, golly, he must've done it, right? That's
10 reasonable doubt.

11 Where's Kendrell's gun? What was Kendrell's gun? By
12 the time they get to Kendrell, it would've been worthless
13 to do GSR on his hands.

14 Why weren't we told about Kendrell? Why wasn't he
15 interviewed? He was there the whole time 'cause he didn't
16 leave 'til Jarvis left. He didn't leave 'til Jarvis left.

17 Jarvis obviously knew where he was 'cause he picked
18 him up at his Grandmama's, who lives on Sugar Hill Lane.

19 Why didn't Jarvis tell the police about Kendrell?
20 "You need to hear from my friend about what happened, too,
21 because I ran. He might know more than I know. You need
22 to hear from him."

23 I suggest we didn't hear from him that night because
24 Jarvis needed two days to talk with him about what he
25 needed to say; needed two days to make certain that their

1 stories at least closely matched up; needed two days to be
2 certain that Derrick Mills was the one who did this;
3 needed to be certain that the motorcycle was involved;
4 needed to be certain that all the stuff we have absolutely
5 no evidence existed was explained to the police. Burden
6 of proof, ladies and gentlemen, but no evidence.

7 And we get down to the State's attempt to get you to
8 say, "I don't care what the time stamp says on the gas
9 station video. It's wrong. We don't know how wrong it
10 is, but it's wrong so you should ignore it." Really? You
11 should ignore it?

12 You should ignore that on the 14th or 15th of
13 December, two days after the crime, Charleston --
14 Charleston. I keep saying that -- the Calhoun County
15 Sheriff's Office had the surveillance video on disc. You
16 should ignore that they looked at it and they showed it to
17 Kendrell Thompson on the 15th when he was there and he
18 looked at it.

19 And they never thought about, "Hey, it says it's six
20 o'clock. You know, that's problematic with our case.
21 That's so problematic with our case, what we need to do is
22 we need to go back over to that El Cheapo and we need to
23 check that time stamp 'cause we're just a day or two down
24 the -- the road from that crime. We need to go walk over,
25 we need to look at our watch and say, "It's 20 minutes

1 'til 11. What time does your video say it is?" 'Cause
2 guess what, that would be actually proof. We wouldn't be
3 trying to guess. The sun went down, gotta be dark. Ted
4 said it's gotta be dark in 30 minutes. Stanley said it's
5 gotta be dark in an hour. Somebody else said, "Well,
6 maybe 45 minutes." Somebody else could've said an hour
7 and 15 minutes. I know that I don't know.

8 I know I have a house in Orangeburg, a small cabin
9 really, with a dock on the lake. And I know my 13-year-
10 old son lives to fish when he's not playing baseball. I
11 wish that boy would concentrate a little more on school.
12 But these are the focuses -- I know that we don't even get
13 the John boat out to bass fishing until the sun has set.

14 And I know we have plenty of time to fish the coast,
15 to fish the shoreline, until we actually have to turn a
16 light on on the boat to get back in. I can't tell you
17 how, but know sunset has nothing to do with the dark. It
18 has to do with it's going to get dark.

19 But that's not the point. The point is they want you
20 to jump the gap. They want you to ignore reasonable doubt
21 because the State itself said to you, "If that time
22 stamp's correct, there's no way they did it. There's no
23 way they did it, but we want you to convict them anyway.

24 We want you to convict them anyway? Because we -- we
25 don't believe that time stamp is correct. December, 2014,

1 is when you prove that time stamp isn't correct, not May
2 of 2019, in a courthouse, in Calhoun County. Don't you
3 let them ask you to do that. Don't you dare let them ask
4 you to do that.

5 It's not your fault they didn't bring you proof.
6 It's not your fault there's no evidence that either of the
7 Mills's were there. It's not your fault that text
8 messages were never matched up to show that anybody named
9 "Mills" was texting with them. It's not your fault
10 there's not cell phone records to demonstrate where
11 Quintin Mills was.

12 We're the only one who knows where he was 'cause we
13 saw him on the video, and that video says at 6:30 p.m., he
14 was at the El Cheapo gas station off 176.

15 Don't let the State mislead you by saying, "If he was
16 out there, we would've seen the police officer because the
17 police officer was at the Exxon station."

18 Don't you let them encourage you to ignore reasonable
19 doubt. Don't you do it.

20 And after you hold them to their burden of proof and
21 you fully recognize, as difficult as it might be, that
22 they have not met that burden of proof, you return a
23 verdict of Derrick Mills not guilty. Thank you.

24 THE COURT: Mr. Farley?

25 MR. FARLEY: May it please the Court, Your Honor?

1 THE COURT: Yes, sir.

2 MR. FARLEY: Ladies and gentlemen, thank you for
3 being here today.

4 And I wanted to start by saying I am extremely lucky
5 today, and the reason why I'm extremely lucky is because
6 my good friend and colleague, Mr. Leinendecker, argued so
7 capably that he didn't leave a whole lot for me to cover
8 because he did it so capably.

9 That being said, I do want to cover some -- some
10 points that I think I just want to bring right back out
11 because we have a very interesting case here today.

12 And I know the Solicitor brought up the fact that
13 there's clarity and there's chaos, you know? There's
14 clarity and there's, you know, things that weren't clear.
15 That happens in a lot of criminal cases, you know, that's
16 why we rely on testimony. That's why we rely on evidence,
17 right, trying to make things a little clearer.

18 You know, in this case though, we're very lucky
19 because I think we have something that's extremely weird
20 and you don't have to ignore that. And that's the video
21 tape that you saw at the El Cheapo gas station. It's the
22 one thing that's really, really, clear in this case. If
23 the time's date stamp is correct, they couldn't have been
24 at the scene of the murder. We have that one
25 incontrovertible fact.

1 Now, we saw several witnesses take that stand.
2 Actually we saw a bunch of witnesses, but there's two in
3 particular I want to focus on and Mr. Leinendecker focused
4 on; and I think they are the principles of the Solicitor's
5 case and that was Mr. Jarvis Mack and Mr. Kendrell
6 Thompson.

7 And I would reiterate what Ms. Leinendecker -- Mr.
8 Leinendecker pointed out, which is, you know, kind of in a
9 general sense, their stories kinda line up. But he
10 pointed -- that we tried to bring out to you is that if
11 they're pressed on their story, if you really, really get
12 into the weeds and the details of their story, that's
13 kinda where the wheels start coming off the car because
14 that's where the consistencies don't match up. That's
15 where things don't mesh together.

16 I mean, and just one example 'cause Mr. Leinendecker
17 brought up some great examples, but I -- I was going to
18 bring out another. I found it very interesting that Mr.
19 Kendrell Thompson was so adamant that Charles Brown and
20 Jarvis Mack were so inebriated that they couldn't even
21 operate the motorcycle. They thought it was too dangerous
22 to drive the motorcycle that they were so inebriated
23 because they had been drinking all day long. And yet, Day
24 2, when Mr. Mack took the stand, he was specifically
25 asked, "Were you drinking?" "Not even a little bit. Maybe

1 just a little bit of a buzz, but I was perfectly fine. We
2 could've operated everything. No, no, no. Not even a big
3 deal."

4 That's a big, glaring inconsistency. I mean, that's
5 very, very different than what exactly was occurring at
6 the time. That's just one example.

7 I mean, they didn't agree on how much money they were
8 bringing. Was it a 1,000, was it 500, was it -- and
9 wasn't exactly sure how much time they spent. I mean,
10 there's just a lot of -- a lot of inconsistencies when you
11 really get down to how the details match up.

12 And I mean, I understand that there's been some time
13 that's passed, but still, I mean, with such a traumatic
14 event, you would think that you would remember those
15 things.

16 I would also point out it doesn't seem to be the
17 weapon that shot Charles Brown was never found. And I'd
18 also point out that Mr. Kendrell Thompson said that his
19 weapon had been taken out of his pocket and thrown on the
20 ground, but I don't remember law enforcement saying they
21 discovered that. It certainly seems, again, that there is
22 a lot -- a lot of inconsistencies that are going on
23 between this testimony.

24 But one thing that's not inconsistent is if you
25 recall the video tape -- or the video recording of the El

1 Cheapo gas station, the time date stamps are very clear.
2 I'd also point out in all the testimony, I mean, all the
3 text messages that were provided, there doesn't seem to be
4 any -- because if they were in constant communication,
5 there wasn't any communication about the El Cheapo gas
6 station and it seemed highly coincidental to me in
7 watching the video there's only a -- roughly a minute --
8 30 minute, 40 second gap of time where you see Jarvis Mack
9 and Charles Brown pull away from the El Cheapo and Derrick
10 Mills and Quintin Mills pull in.

11 Now, if they were in constant communication with each
12 other, it seems like that would be an affable place to
13 meet up; and yet they don't seem to be aware they're just
14 missing each other.

15 Another thing -- this is a point of clarity -- they
16 were there at 6:30. If the time stamp is to be believed,
17 they can't be at the scene of the murder.

18 Now, the State had a chance to bring maybe a clerk or
19 -- at the convenience store to say, "Well, we never set
20 the clock on the camera," or "There was a malfunction," or
21 "There was some issue that we had at the convenience
22 store."

23 They had that opportunity, but there wasn't any
24 evidence to provide, you know, that the camera wasn't set
25 correctly or there's some -- the time was off. Again,

1 very clear. And that's what is a beacon that shines out
2 in all this inconsistencies is if the time stamp is
3 correct and if you believe it, and I see no reason why
4 you shouldn't, then they could not be at the scene of the
5 murder.

6 Now, what happened to Mr. Brown? Obviously Mr. Brown
7 is the decedent and something horrible, horrible happened
8 to Mr. Brown. I understand that, but I don't know what
9 happened to Mr. Brown. If the time stamp is to be believed,
10 they could not be at the scene of the murder. And if we
11 don't know what happened to Mr. Brown and we're not sure
12 what happened to Mr. Brown, if we don't know who's
13 responsible for what happened to Mr. Brown, that is
14 reasonable doubt.

15 Now, the Judge is going to instruct you on the law,
16 and you're going to take that information back with you to
17 the jury room and you can look at all the other
18 information that has been presented. But again, I think
19 the one clear fact that should stick out in your mind is
20 if the time stamp is to be believed, they can't be at the
21 scene of the murder.

22 Knowing all this information, I believe that you're
23 going to return the only verdict that you can return given
24 what has been presented to you over the past two days, and
25 that is Derrick Mills and Quintin Mills are not guilty of

1 this armed robbery and murder by virtue of the fact that
2 they could not have been there. Thank you, ladies and
3 gentlemen.

4 THE COURT: Reply, Solicitor?

5 MR. LUPTON: Thank you, Your Honor. Ladies and
6 gentlemen, I want you to imagine a picture. It doesn't
7 matter what it's a picture of. It -- it could be a
8 picture of this courthouse. If a little bit of that
9 picture is missing or a little bit of it is blurred, you
10 can still look at that picture and tell it is a picture of
11 the courthouse.

12 And when we get down to it, that's what is going on
13 here. They want to tell you that because there's a little
14 bit of the corner of that picture of the courthouse is
15 ripped off and -- and there's a water stain, some blurring
16 in another part, that it's not a picture of the courthouse
17 anymore. You can look at it and you know what it is.

18 In this case, there are things that -- there are gaps
19 and there's no getting around it. But like the jury
20 charge says, there are very few things in life you know
21 with absolute certainty; and the law does not require
22 certainty. If you are firmly convinced then you should
23 vote guilty.

24 What do you believe really happened? In this case,
25 the time stamp, Mr. Leinendecker is absolutely right. I

1 admit to you that the officers had noticed that time stamp
2 back when this first happened -- when they first got it
3 and said, "Hey, this time stamp can't be right. It says
4 it's 6:30, but it's still light out in the video and we
5 know from talking to these people that they were there
6 earlier in the day, not at 6:30. Let's go check and see
7 what -- and let's go check."

8 They should've. I wish they had, it would've cleared
9 all this up, but they didn't and we cannot go back in time
10 and fix that.

11 But you do not have to let these people get away with
12 murder just because they didn't do that. You can look at
13 the evidence and see that it is clear that it was not 6:30
14 that night.

15 Now, you know, Mr. Leinendecker talks about being out
16 on the boat after sundown. Well, you know, sunset isn't
17 when the sun starts going down. Official sunset is when
18 that sun is below the horizon. And once that sun's below
19 the horizon, Mr. Leinendecker is wrong, sunset does have
20 everything to do with it being dark. He says sunset has
21 nothing to do with it being dark. It most certainly does.
22 We all know that.

23 When the sun goes down, it starts getting dark.
24 You've got a little bit of time when that sun is below the
25 horizon it's still shining, a little bit of light in the

1 sky, and you can see a little bit. But that doesn't last
2 for an hour and 15 minutes, and you know it. You know
3 that an hour and a quarter after sunset it is dark, but
4 it's not dark on that video. We know that that time stamp
5 is not accurate.

6 Now, he talks about hesitating to act and he talks
7 about his stairs, and "I know that there's four stairs in
8 my house and I still hesitate before I walk down there."

9 Ladies and gentlemen, taking time to go over the
10 evidence and deliberate and discuss it, that's not
11 hesitation to act. That's doing you job. That's what
12 you're supposed to do. So trying to say that because he
13 wants to turn on his light when he knows there's four
14 steps, there's no -- he -- he can turn on the light and he
15 can hesitate and check, but there's still no reasonable
16 doubt as to whether or not somehow there's four steps that
17 become twelve. We know it's still four.

18 Now, he talked about the text messages. You know,
19 come on, they didn't mention the motorcycle? How many
20 people text? And you can see the texts, a lot of
21 shorthand. "WYA," where you at? These are not writing
22 out an English paper to each other in texts. The -- the
23 whole topic sentence and body paragraph and the conclusion
24 sentence, this is texting.

25 They know they're meeting up to -- to talk about a

1 motorcycle. If they gotta do more than just send a quick
2 text they call.

3 And the investigator told you she looked at the call
4 -- the -- the call log and there were a lot of calls
5 between Quintin and Jarvis. They knew what -- Jarvis knew
6 what Quintin's number was. They -- they know the number.

7 The fact that they didn't get Quintin's phone is a
8 reasonable doubt. They didn't get him that night, they
9 arrested him the next day. They didn't get his phone.

10 Now, they -- they -- and Mr. Leinendecker talks about
11 the texts. Well, it doesn't mention a motorcycle so -- so
12 it can't have been about a motorcycle. Well, you know, he
13 was also trying to say that they -- they weren't between
14 them so which is it? Is it, it's not between them or is
15 it, you know, that they're not right because it doesn't
16 mention a motorcycle?

17 We know what the texts are and we know how people
18 text. We all text. You don't write a dissertation.

19 He talks about the issues related to the 911 call.
20 Now, I want you to think about this, the man's just seen a
21 robbery, he's just had a gun pointed at him, and he -- and
22 he thinks his step-dad has been killed, shot, that he
23 hears the gunshots as he leaving.

24 He's not from the Sugar Hill area, why would he set
25 something up at Sugar Hill if he's not from there?

1 Quintin and Derrick are, but he's not from there.

2 So he runs to the one place he knows. And he says,
3 you know, "There's one person I know. I go there."

4 It's clear, you look at the -- you look at the maps.
5 It's not very far, less than a quarter mile. He ran to
6 the one place he knows. It makes sense that she's the one
7 who has to give details. He is shook up. He wasn't
8 giving details about the place he's unfamiliar with.

9 But one thing -- one thing I want to touch on
10 regarding all that testimony, Mr. Leinendecker said
11 something to you that I would submit to you, if you go
12 back and you remember the testimony -- and you can ask to
13 hear it again if you need to -- that was not said is that
14 Jarvis's brother was there right away, like, crack. And
15 crack, he's there.

16 No, he wasn't. There's no testimony about that. The
17 testimony was that he eventually showed up and took him --
18 took Jarvis away from the scene. But you also heard
19 testimony about -- that Jarvis was there for hours. And
20 you heard testimony about this Sugar Hill, that everybody
21 knows everybody and word spreads fast. You know how
22 things are with cell phones. People texting, people
23 calling, word spreading. He called for his brother, his
24 brother came. Jarvis was there for hours.

25 They also talk about, "Well, you know, nobody told

1 anybody about Kendrell." He told them about Kendrell.

2 And how else did they find Kendrell?

3 Now, he makes a big deal about whether or not he
4 called his dad "step-dad," "dad," "friends," "Pops," you
5 know it.

6 I'm adopted, my dad, the only dad I've known, is not
7 my biological father. Most of the time I call him by his
8 name. I call him "Bill." Sometimes I call him "dad,"
9 especially when I'm talking to -- to people, and it's
10 easier to explain, you know, just say "dad" rather than to
11 talk about the whole how I got adopted and all that. That
12 doesn't matter.

13 You know, he said he raised him. Whether he calls
14 him "friend," calls him "dad," calls him "Pops," he saw
15 him shot. You heard how emotional he was. You heard from
16 the investigator who talked to him that night how
17 emotional, how distraught he was. That's real.

18 And he talked about the no evidence -- about this
19 motorcycle or was there evidence of that motorcycle. You
20 heard from the witness stand -- you heard Quintin's lawyer
21 asking, eliciting, on cross-examination, evidence about
22 this motorcycle transaction, about how Quintin was wanting
23 to make it right; how until the -- the water got kinda
24 muddy with the whole time stamp coming out, that was the
25 Defense he was heading toward with that. You could hear

1 it in the cross-examination.

2 So let's talk about the time stamp, finish, I think,
3 on that. They will have you let him go -- let these two
4 people go because that time stamp says "6:30." You have
5 that right. You can let them get away with murder because
6 somebody at that store --

7 MR. LEINENDECKER: Objection, Your Honor.
8 Personalizing the fact that the jury would be responsible
9 for ---

10 MR. LUPTON: I'll rephrase it.

11 MR. LEINENDECKER: --- letting someone get away with
12 ---

13 THE COURT: Wait.

14 MR. LEINENDECKER: --- murder is inappropriate.

15 MR. LUPTON: I'll re ---

16 THE COURT: Please rephrase.

17 MR. LUPTON: Ladies and gentlemen ---

18 MR. LEINENDECKER: It's not their responsibility.

19 THE COURT: Mr. Leinendecker, I've already ruled.

20 MR. LEINENDECKER: Oh, I'm sorry. I didn't hear
21 that, Your Honor.

22 THE LUPTON: Ladies and gentlemen, the evidence shows
23 they committed this murder and this armed robbery. Now,
24 that time stamp is not reasonable doubt when you look at
25 the evidence. Look at the evidence that was testified to

1 and the evidence in that video.

2 Video's, all of them, are in evidence. You were
3 shown a little bit of one, all of -- pretty much all of
4 another. You saw that it was daylight in those. There
5 are other videos that show the back of the store. They're
6 in evidence. You can ask to see one to show it was
7 daylight behind the store with all those lights on. It
8 was daylight. It wouldn't be daylight if it were 6:30.

9 Ladies and gentlemen, it was a mistake not to get
10 that clarified at the time, that is not reasonable doubt.
11 I mean, all the evidence shows that they committed this
12 murder, and I would ask that you return a just verdict of
13 guilty. Thank you.

14 THE COURT: Would Counsel please approach?

15 (Briefly off the record.)

16 THE COURT: Ladies and gentlemen of the jury, it's
17 now time for me to charge you on the law in this case. I
18 remind you that during this trial you and I have certain
19 duties to perform. As the trial judge, it's my
20 responsibility to preside over the trial of this case and
21 I also have the duty to rule on the admissibility of
22 evidence offered during this trial.

23 You are to consider only the competent evidence
24 before you. If there was any testimony ordered stricken
25 from the record in this case during this trial, you must

1 disregard that testimony. You are to consider only the
2 testimony which has been presented from the witness stand.
3 Any Exhibits which were made part of the record in this
4 case, and any stipulations of counsel.

5 I have the additional duty to charge you the law
6 applicable to this case. As the presiding judge, I'm the
7 sole judge of the law in this case and it is your duty to
8 accept and apply the law as I now state it to you. If you
9 already have any idea as to what the law is or what the
10 law ought to be and it does not agree with what I now tell
11 you the law is, you must abandon this idea because you are
12 sworn to accept the law and apply the law exactly as I
13 state it to you.

14 In every case tried in this court before a jury, the
15 jury becomes the sole and exclusive judge of facts in a
16 case. A trial judge cannot intimate, state, comment on,
17 or make any statement to a trial jury about the facts in a
18 case.

19 Since you the jury are the sole judges of the facts
20 in this case, you're not to infer from what I have said
21 during the progress of this trial in ruling upon the
22 admissibility of evidence or otherwise or anything that I
23 say now during the course of this instruction to you that
24 I have any opinion about the facts in this case. The law
25 does not allow me to have an opinion about the facts in

1 this case. This matter is solely for you, the jury, to
2 determine.

3 As jurors it is your duty to determine the effect,
4 value, weight, and truth of the evidence presented during
5 this trial; however, in this case, the -- the Court has
6 taken judicial notice of one fact: Sunset, on December
7 13, 2014, took place at 5:16 p.m.

8 Judicial notice is a ruling of law -- of evidence
9 that allows a fact to be introduced into evidence, that
10 the truth of the fact is so well known or so authoritative
11 -- authoritatively attested that it cannot be reasonably
12 doubted.

13 The indictments charge both Defendants with both
14 murder and armed robbery. I remind you that the fact that
15 the Defendants were arrested, charged, and indicted in
16 this case is not evidence in this case and cannot be
17 considered by you as evidence of guilt in this case. Nor
18 does it create any presumption of -- or inference of
19 guilt. These documents are simply the formal written
20 instrument which contains the charges against the
21 Defendants, the formal document with which the case is
22 brought into this Court.

23 As I mentioned before, the indictments in this case
24 allege two different offenses against both Defendants.
25 Each indictment charges a separate and a distinct offense.

1 You must decide each indictment separately on the evidence
2 and the law applicable to it, uninfluenced by your
3 decision as to any other indictment.

4 The Defendants may be convicted or acquitted on any
5 or all of the offenses charged. You will be asked to
6 write a separate verdict of guilty or not guilty for each
7 indictment. I charge you that our two Defendants in this
8 case, both of whom are charged with murder and armed
9 robbery -- the case of each Defendant, the evidence and
10 the law concerning the Defendants, should be considered
11 separately and individually. Your verdict does not have
12 to be the same for both Defendants. The fact that you may
13 find one Defendant guilty or not guilty should not control
14 your verdict as to the other Defendant.

15 Where more than one person is charged with a crime,
16 if the evidence warrants it, you may convict one and
17 acquit the other or you may acquit both or you may convict
18 both. It will be -- depend upon your view of the
19 testimony and the evidence. You must take each Defendant
20 and consider the evidence as to that Defendant and my
21 instructions to you on the law. You will then write a
22 separate verdict of guilty or not guilty on each
23 individual Defendant.

24 The Defendants have pled not guilty to these
25 indictments and that plea puts the burden on the State to

1 prove that the Defendants are guilty. A person charged
2 with committing a criminal offense in South Carolina is
3 never required to prove themselves innocent. I charge you
4 that it is an important rule of the law that the
5 Defendants in a criminal trial, no matter what the
6 seriousness of the charge may be, will always be presumed
7 innocence -- innocent of the crime for which the
8 indictment was issued unless guilt has been proven by
9 evidence satisfying you of that guilty beyond a reasonable
10 doubt.

11 The presumption of innocence does not end when you
12 being your deliberations, but it accompanies the
13 Defendants throughout the trial until you reach a verdict
14 of guilt based on evidence satisfying you of that guilt
15 beyond a reasonable doubt. The presumption of innocence
16 is like a robe of righteousness placed about the shoulders
17 of the Defendants which remains with the Defendants until
18 it has been stripped from the Defendants by evidence
19 satisfying you of the Defendants guilt beyond a reasonable
20 doubt.

21 The presumption of innocence is not just a mere legal
22 theory, it's not just a legal phrase. It is a substantial
23 right to which every Defendant is entitled and -- unless
24 you, the jury, are satisfied from the evidence of the
25 Defendants guilt beyond a reasonable doubt.

1 What is a reasonable doubt in the law? A reasonable
2 doubt is the kind of doubt that would cause a reasonable
3 person to hesitate to act.

4 The State has the burden of proving the Defendants
5 guilty beyond a reasonable doubt. Some of you may have
6 served as jurors in civil cases where you were told that
7 it is only necessary to prove it a fact, it is more likely
8 true than not true, such as by the greater weight or the
9 preponderance of the evidence. In criminal cases the
10 State's proof must be more powerful than that. It must be
11 beyond a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that leaves
13 you firmly convinced of the Defendants guilt. There are
14 very few things in this world that we know with absolute
15 certainty, and in criminal cases the law does not require
16 proof that overcomes every possible doubt. If, based on
17 your consideration of the evidence, you are firmly
18 convinced that the Defendants are guilty of the crimes
19 charged, you must find the Defendants guilty. If, on the
20 other hand, you think there is a real possibility that the
21 Defendants are not guilty, you must give the Defendants
22 the benefit of the doubt and find them not guilty.

23 There are two types of evidence which are generally
24 at -- presented during a trial, direct evidence and
25 circumstantial evidence. Direct evidence directly proves

1 the existence of a fact and does not require deduction.

2 Circumstantial evidence is proof of a chain of facts
3 and circumstances indicating the existence of a fact.

4 Crimes may be proven by circumstantial evidence.

5 The law makes no distinction between the weight, or
6 the value, to be given to either direct or circumstantial
7 evidence; however, to the extent that the State relies on
8 circumstantial evidence, all of the circumstances must be
9 consistent with each other and then, when taken together,
10 point conclusively to the guilt of the accused beyond a
11 reasonable doubt. If these circumstances merely portray
12 the Defendants behavior as suspicious, the proof has
13 failed.

14 The State has the burden of proving the Defendant's
15 guilt beyond a reasonable doubt. This burden rests with
16 the State regardless of whether the State relies on direct
17 evidence, circumstantial evidence, or a combination of the
18 two.

19 Necessarily you must determine the credibility of
20 witnesses who have testified in this case. Credibility
21 simply means believability. It becomes your duty as
22 jurors to analyze and to evaluate the evidence and
23 determine which evidence convinces you of its truth.

24 In determining the believability of witnesses who
25 have testified in this case, you may believe one witness

1 over several witnesses or several witnesses over one
2 witness. You may believe a part of a testimony of a
3 witness and reject the remaining part of the testimony of
4 that same witness. You may believe the testimony of a
5 witness in its entirety or reject the testimony of a
6 witness in its entirety. You may consider whether the
7 witness has exhibited to you any interest, bias, prejudice
8 or other motive in this case. You may also consider the
9 appearance and the manner of a witness while on the
10 witness stand.

11 There has been evidence presented that witnesses have
12 made prior statements which are not consistent with the
13 witness's present testimony. You may use this evidence to
14 decide whether to believe the witness. You may also use
15 evidence of the earlier contradictory statements to
16 determine the truth of those statements. It is up to you
17 to decide whether to believe the earlier statements or the
18 testimony given at trial. You may reject all of the
19 testimony of that witness or give all or part of the
20 testimony the weight that you think it deserves.

21 The rules of evidence ordinarily do not permit
22 witnesses to testify to opinions or conclusions. An
23 exception to this rule exists for witnesses that we call
24 "expert witnesses." A witness, who by education and
25 experience, has become expert in some art, science,

1 profession, or calling may state an opinion as to relevant
2 and material matter in which the witness claims to be an
3 expert. He may also state the reasons for that opinion.

4 You should consider any expert opinion receive --
5 received into evidence in this case, and like any other
6 evidence, give it the weight that you think it deserves.
7 If you decide that the opinion of an expert witness is not
8 based on sufficient education and experience or if you
9 conclude that the reasons given in support of the opinion
10 are not sound or that the opinion is outweighed by other
11 evidence, you may re -- regard -- disregard the opinion
12 entirely.

13 An expert witness's testimony is to be given no
14 greater weight than that of other witnesses simply because
15 the witness is an expert. Further, you're not required to
16 accept an expert's opinion even though it's not -- or
17 even though it's uncontradicted.

18 If a crime is committed by two or more people who are
19 acting together in committing a crime, the act of one is
20 the act of all. A person who joins with another to commit
21 an unlawful act is criminally responsible for everything
22 done by the other person which happens as a probable or
23 natural consequence of the acts done in carrying out the
24 common plan and purpose. If two or more people are
25 together, acting together, assisting each other in

1 committing the offense, the act of one is the act of all.
2 Or as it's sometimes said, the hand of one is the hand of
3 all.

4 Prior knowledge that a crime is going to be committed
5 without -- is not sufficient to make a person guilty of
6 that crime. Mere knowledge that another person is going
7 to commit a crime, even if the Defendant is present when
8 the crime is committed, is not sufficient to convict the
9 Defendant as a principle. Guilt, as a principal, is shown
10 by actual or constructive presence at the scene as a
11 result of prior arrangement; therefore, a finding of a
12 prior arranged plan or common scheme is necessary for
13 finding -- for a finding of guilt as a principal. The
14 State must prove beyond a reasonable doubt by competent
15 evidence the theory of the hand of one is the hand of all.

16 A principal in a crime is one who either actually
17 commits the crime or is present, aiding, abetting, or
18 assisting in committing the crime. When a person doesn't
19 act in the presence of and with the assistance of another,
20 the act is done by both.

21 Where two or more acting with a common plan or intent
22 are present at the commission of a crime, it does not
23 matter who actually commits the crime, all are guilty.
24 The hand of one is the hand of all.

25 "Present at the commission of a crime" means to be

1 sufficiently near to aid and abet and assist in the
2 commission of the crime; however, mere presence at the
3 scene of a crime is not sufficient to convict one as a
4 principal one the theory of aiding and abetting. Intent
5 is also necessary -- a necessary element, for there must
6 be a common design or intent to commit the crime, and the
7 crime must have been committed pursuant thereto, with the
8 person aiding and abetting by some overt act.

9 "Intent" means intending the result which actually
10 occurs, not accidentally or involuntarily. Intent may be
11 shown by acts and conduct of the Defendant or other
12 circumstances from which you may naturally and reasonably
13 infer intent. The State must prove these elements beyond
14 a reasonable doubt.

15 Mere presence at the scene is not sufficient to prove
16 someone guilty of a crime. A Defendant's presence where a
17 crime is being committed or mere association with a person
18 who commits a crime, does not make a Defendant an
19 accomplice -- an accomplice or an aider and abetter of the
20 person committing the crime. The burden is on the State
21 to prove every element of the crime charged. If you find,
22 after reviewing all of the evidence, that the State has
23 proved the Defendant was only present at the scene of a
24 crime, and they have not proved beyond a reasonable doubt
25 any other participation in a crime, then you must find the

1 Defendant not guilty.

2 The law is that proof of the -- of at the scene of
3 the crime is not sufficient to find someone guilty. An
4 issue in this case is the identification of the Defendants
5 as the persons who committed the crimes charged. The
6 State has a burden of proving identity beyond a reasonable
7 doubt. You must be satisfied beyond a reasonable doubt
8 the accuracy of the identification of the Defendants
9 before you may convict the Defendants. Identification
10 testimony is an expression of belief or impression by a
11 witness. You must determine the accuracy of the
12 identification of the Defendants.

13 You must consider the believability of each
14 identification witness in the same way as any other
15 witness. You may consider whether the witness has had an
16 adequate opportunity to observe the offenders at the time
17 of the offense. This will be affected by things like how
18 long or short a time was available, how far or close the
19 witness was, the lighting conditions, and whether the
20 witness has had a chance to see or know the persons in the
21 past.

22 Once again, I instruct you that the burden of proof
23 that -- on the State extends to every element of the crime
24 charged. In this specifically includes the burden of
25 proving beyond a reasonable doubt the identity of the

1 Defendants as the persons who committed the crimes. If,
2 after examining the testimony, you have a reasonable doubt
3 as to the accuracy of the identification, you must find
4 the Defendant not guilty.

5 In order to establish criminal liability, criminal
6 intent is required. For example, the mental state
7 required to be proven by the State for a particular crime
8 might be purpose, intent, knowledge, recklessness, or
9 criminal negligence. Criminal intent must be proven by
10 the State beyond a reasonable doubt.

11 Criminal intent is always a matter that must be
12 determined by the jury from the circumstances surrounding
13 the situation. There is no way to prove intent to a
14 mathematical certainty. There is no way medical science
15 can dissect a person's brain and determine what the person
16 had in mind. So the law says that criminal in -- intent
17 may be inferred from the circumstances shown to have
18 existed. This is how you make a determination of whether
19 or not the element requiring intent was present.

20 It is not necessary to establish intent by direct and
21 positive evidence, but intent may be established by
22 inference in the same way as any other fact by taking into
23 consideration the acts of the parties and all of the facts
24 and circumstances of the case.

25 Criminal intent is a mental state, a conscious

1 wrongdoing. It is up to you to determine what the
2 Defendant intended to do based up on the circumstances
3 shown to have existed. Criminal intent can arise from
4 action or a failure to act. It may arise from negligence,
5 recklessness or an indifference to duty or the
6 consequences. That is considered by the law to be the
7 equivalent of criminal intent.

8 Both Defendants are charged with Murder. The State
9 must prove beyond a reasonable doubt that the Defendants
10 killed another person with malice aforethought. Malice is
11 hatred, ill-will or hostility towards another person. It
12 is the intentional doing of a wrongful act without just
13 cause or excuse, and with the -- with an intent to inflict
14 an injury or under circumstances that the law will infer
15 an evil intent.

16 Malice aforethought does not require that malice
17 exist for any particular time before the act is committed,
18 but malice must exist in the mind of the Defendant just
19 before and at the time that the act is committed;
20 therefore, there must be a combination of the previous
21 evil intent and the act.

22 Malice aforethought may be express or inferred.
23 These terms, express and infer, do not mean different
24 kinds of malice, but merely the manner in which the malice
25 may be shown to exist, that is either by direct evidence

1 or by inference from the facts and circumstances which are
2 proved.

3 Express malice is shown when a person speaks words
4 which express hatred or ill will for another or when the
5 person prepared beforehand to do the act, which was later
6 accomplished. For example, lying in wait for a person or
7 any other acts of preparation, going to show that the deed
8 was within the Defendants mind would be express malice.

9 Malice may be inferred from conduct showing a total
10 disregard for human life. If facts are proved beyond a
11 reasonable doubt sufficient to raise an inference of
12 malice to your satisfaction, this inference would simply
13 be an evidentiary fact to be considered by you, along with
14 the other evidence in this case, and you may give it the
15 weight you decide it should receive.

16 If one intentionally kills another during the
17 commission of a felony, the inference of malice may arise.
18 If facts are proved beyond a reasonable doubt sufficient
19 to raise an inference of malice to your satisfaction, this
20 inference would simply be an evidentiary fact to be taking
21 into consideration by you, along with all other evidence
22 in this case, and you may give it the weight that you
23 decide it should receive.

24 Both Defendants are also charged with armed robbery.
25 In order to prove this offense, the State must first prove

1 beyond a reasonable doubt that the Defendants took
2 personal property from the person or presence of another
3 person, property, as in the presence of -- of a person if
4 it is within the persons reach, inspection, observation,
5 or control so that the person could, if not overcome with
6 violence or prevented by fear, keep possession of the
7 property.

8 The State must also prove beyond a reasonable doubt
9 that the Defendants carried the property away, intending
10 to permanently deprive the owner of the property, and to
11 keep the property for the Defendant's own use. The
12 slightest removal of the property or the complete
13 possession of the property even for an instant by the
14 Defendant is sufficient to show a taking and carrying away
15 of the property. The taking and carrying away of the
16 property must have been done with violence or by putting
17 the owner of the property in fear of violence.

18 Finally, the State must prove beyond a reasonable
19 doubt that the Defendants were armed with a deadly weapon
20 during the robbery. A deadly weapon is any article,
21 instrument, or a substance which is likely to cause death
22 or great bodily harm. Whether an instrument has been used
23 as a deadly weapon depends on the facts and circumstances
24 of each case.

25 The following are examples of instruments which may

1 be deadly weapons: A pistol, a shotgun, a rifle, a dirk,
2 a dagger, a knife, a slingshot, metal knuckles or a razor,
3 gasoline, a fire bomb or Molotov cocktail. A gun may be a
4 deadly weapon even if it -- even if it is not operating.

5 I instruct you and emphasize of the facts -- the fact
6 that the Defendants did not testify is not a factor to be
7 considered by you in any way in your deliberation and in
8 your consideration on the question of guilt or innocence
9 of the Defendants. It must not be considered by you in
10 any manner whatsoever. A Defendant has the constitutional
11 right to remain silent, and the assertion of this right
12 must not be considered by you in your deliberations. I
13 repeat, under your oath, you are to draw no conclusion
14 whatsoever from the fact that the Defendants in this case
15 did not testify. The fact that the Defense did not
16 testify should not even be discussed in the jury room.

17 The burden of proof, as I have stated to you, is on
18 the State and the Defendants are not required to prove
19 their innocence. The burden of proof remains on the State
20 to prove guilt beyond a reasonable doubt.

21 The Defendants have raised the defense of alibi. In
22 order to establish an alibi it must be shown that the
23 Defendants were at a -- were at another specified place at
24 the time the crime was committed, and that it was
25 therefore impossible for the Defendants to have been at

1 the scene of the crime. Mere denial of presence at the
2 scene of a crime does not constitute an alibi.

3 There is no burden on the Defendant to prove an
4 alibi. The burden is on the State to prove beyond a
5 reasonable doubt that the Defendant was actually present
6 at the scene of the crime, actually participated in it,
7 and was not somewhere else. In other words, the State had
8 the burden of disproving the Defendant's alibi defense.

9 Ladies and gentlemen of the jury, you will have the
10 verdict forms in the jury room with you. There are two
11 separate verdict forms, one for the Defendant Derrick
12 Mills and one for the Defendant Quintin Mills.

13 Mr. Foreman, you will be in charge of writing the
14 verdict on each of the verdict form. They're rather self-
15 explanatory. It goes through each charge and each
16 verdict.

17 When the 12 of you come to a decision, of course it
18 must be a unanimous decision. That means all 12 of you
19 must agree on the verdict, and then circle the appropriate
20 verdict, sign and date at the bottom of each verdict form.

21 You will also have in the jury room each of the -- a
22 copy of each of the indictments. On the front of the
23 indictment there is a section for each person that says
24 "verdict." If you would, write the appropriate verdict,
25 sign, and date the indictment.

1 Before I let you start your deliberations, I'm going
2 to ask you to go to your jury room. Before you -- again,
3 you may start your deliberations when you receive the
4 verdict forms, the indictments, and all of the exhibits in
5 this case. Once you receive those, then you may start
6 your deliberations. When you come to a verdict, please
7 knock on the door and we'll bring you back out to receive
8 your verdict.

9 Thank you. You may go to your jury room.

10 (Jury exits at 11:28 a.m.)

11 THE COURT: Any exceptions or objections to the
12 charge on the law from the State or from the Defense?

13 MR. LUPTON: None from the State.

14 MR. LEINENDECKER: None from the Defense for Mr.
15 Derrick Mills.

16 MR. FARLEY: None for -- from Quintin Mills, Your
17 Honor.

18 THE COURT: All right. Gentlemen, if you would
19 please get together and make sure we have all the
20 exhibits. And here are the verdict forms so we can give
21 them to the jury.

22 Please don't wander off so we can find you in case we
23 have a verdict. I'm going to go release the alternate.

24 (Off the record at 11:30 a.m.)

 (On the record at 3:43 p.m.)

1 THE COURT: We have received a couple of questions
2 from the jury. The first of which we had -- we marked as a
3 Court's exhibit.

4 We had discussed it in chambers and all parties were
5 okay with me responding in writing to the jury. I'll mark
6 that as a Court's Exhibit; is that correct from the State
7 and from the Defense?

8 (Marked Court's Exhibit No. 3, Juror note.)

9 MR. LUPTON: That is correct, Your Honor, from the
10 State.

11 MR. LEIENDECKER: Yes, Your Honor.

12 MR. FARLEY: Yes, Your Honor.

13 THE COURT: And we subsequently received the -- the
14 next note which indicated what happens if we can't come to
15 an agreement on one case. We responded we will receive
16 your verdict on one case and I will instruct you further on
17 the other case.

18 (Marked Court's Exhibit No. 4, Juror note.)

19 They are ready for us to do that, so I'll bring out
20 the jury. I will receive the verdict on whichever case
21 they came to a verdict on and then I will give them an
22 *Allen* charge.

23 Any objections to proceeding in that fashion from
24 either the State or the Defense?

25 MR. LUPTON: Not from the State, Your Honor.

1 MR. LEIENDECKER: None, Your Honor.

2 MR. FARLEY: No, Your Honor.

3 THE COURT: All right. Let's have our jury please.

4 Ladies and gentlemen of the gallery, no reaction when
5 this verdict is read.

6 (The jury enters at 3:44 p.m.)

7 THE COURT: Mr. Foreman, has the jury reached a
8 verdict on one of the cases?

9 THE JUROR: Yes, ma'am.

10 THE COURT: Do you have the verdict form for that
11 case? We'll receive that verdict if you have that.

12 THE JUROR: Yes, ma'am.

13 THE COURT: Will you please hand it to the bailiff?

14 (The juror complies.)

15 THE COURT: Please publish.

16 THE CLERK OF COURT: Will the defendant Quintin Mills
17 please rise?

18 (Defendant complies.)

19 THE CLERK OF COURT: (As read): In the *State of the*
20 *South Carolina versus Quintin Mills*, General Sessions No.
21 2017-GS-09-0111 and 2017-GS-09-1112, as to the charge of
22 armed robbery against Quintin Mills, we the jury
23 unanimously find the defendant guilty.

24 As to the charge of murder against Quintin Mills, we
25 the jury unanimously find the defendant not guilty.

1 Ladies and gentlemen of the jury, is this your
2 verdict; and if it is, so say you all, please indicate by
3 raising your right hand.

4 (Jurors comply.)

5 THE COURT: Let the record reflect that all the
6 jurors has -- have raised their right hand in regards to
7 this verdict. Thank you.

8 Mr. Mills, you may have a seat.

9 (The defendant complies.)

10 THE COURT: Ladies and gentlemen of the jury, I'm
11 also in receipt of your statement that you have not been
12 able to reach a verdict on the second case. You have
13 stated that you have been unable to agree on a verdict on
14 that case, and I had instructed you earlier the verdict
15 must be a unanimous verdict.

16 When a matter is in dispute, it isn't always easy for
17 even two people to agree. So when twelve people must
18 agree, it becomes even more difficult. In most cases,
19 absolute certainty cannot be reached or expected; however,
20 you have a duty to make every reasonable effort to reach a
21 unanimous verdict.

22 In doing this, you should consult with one another,
23 express your own views, and listen to the opinions of your
24 fellow jurors, tell each other how you feel and why you
25 feel that way, and discuss your differences with open

1 minds.

2 Although the verdict of the jury must be unanimous,
3 every one of you has the right to your own opinion. The
4 verdict you agree to must be your own verdict, the result
5 of your own convictions, and you should not give up your
6 firmly held beliefs merely to be in agreement with your
7 fellow jurors. The majority should consider the minority's
8 position and the minority should consider the majority's
9 position.

10 You should carefully consider and respect the
11 opinions of each other and re-evaluate your position for
12 reasonableness, correctness, and impartiality. You must
13 lay aside all outside matters and re-examine the questions
14 before you based on the law and the evidence in this case.

15 If you do not agree on a verdict in this case, I must
16 declare a mistrial. In that case, it does not mean anybody
17 wins; it just means that at some future time, we will try
18 this case with some other jury sitting here while -- where
19 you now sit. The same participants will come and the same
20 lawyers will ask basically the same questions and get
21 basically the same answers and we'll go through the whole
22 process again.

23 You were selected in the same manner and from the
24 same source as any future jury will be and there's no
25 reason for me to suppose that the case will ever be

1 submitted to 12 more intelligent, impartial, conscientious,
2 and competent jurors than you or that a more clearer
3 evidence will be produced on one side or the other. I,
4 therefore, ask you to return to your jury room and continue
5 your deliberations.

6 (Jury exits at 3:49 p.m.)

7 THE COURT: Do the parties wish to wait until we hear
8 back from the second verdict before we proceed to
9 sentencing?

10 MR. FARLEY: Give me a moment, Your Honor.

11 THE COURT: Certainly.

12 (Brief pause.)

13 MR. LUPTON: The State is willing to wait.

14 THE COURT: Okay.

15 MR. FARLEY: Your Honor, I think my client, if the
16 State were so inclined, would like to proceed with the
17 sentencing instead of waiting.

18 MR. LUPTON: State's fine with that, Your Honor.

19 THE COURT: Okay. Would you please stand, Mr. Mills?

20 (Defendant complies.)

21 (Brief pause.)

22 THE COURT: Solicitor?

23 MR. LUPTON: Your Honor, his prior record shows a
24 2012 conviction for simple possession of marijuana, a 2012
25 conviction for false information. He then has a 2012

1 assault and battery second, use of vehicle without
2 permission, and UCAP or unlawful carry of a pistol
3 conviction 2012; a 2013 false information to police, as
4 well as a pair of driving under suspensions, 2012, 2013.

5 He was placed on probation for the assault and
6 battery second degree, use of vehicle, and unlawful carry
7 of a pistol in 2012. That revocation -- that probation was
8 revoked in 2013.

9 He had pending a breach of trust in Lexington at the
10 time of this arrest. I'm not aware of the disposition of
11 that case though.

12 And Your Honor, you have seen the trial so ...

13 THE COURT: Does any of the victim's family wish to
14 be heard?

15 (Brief pause.)

16 MR. LUPTON: I'm not seeing any indication of that,
17 Your Honor.

18 Your Honor, as far as -- what -- and I believe the
19 Court is aware that he did get a -- have an interview the
20 day he was arrested in which he had much the same story as
21 the trial started out; that he was present, but that his
22 father was the one who committed the murder. And that's
23 been his position this whole time.

24 I think the -- I think the evidence is pretty clear
25 he went there to do an armed robbery, which the jury found

1 him guilty of, and was not expecting the murder to happen;
2 and he was only charged under the "hand of one, hand of
3 all."

4 THE COURT: Mr. Farley?

5 MR. FARLEY: Thank you, Your Honor, and I -- I was
6 just going to remind the Court my client has an eleventh
7 grade education. He's currently single. He does have a
8 little girl who is six years old.

9 Your Honor, we'd also like to point out -- and I'm
10 sure you're probably already aware because of the trial --
11 that Mr. Mills did turn himself in almost immediately after
12 this occurred and cooperated with law enforcement, gave a
13 statement, and has been incarcerated since December of
14 2014. And so obviously, all that time served we want
15 factored in as well.

16 But certainly we would say that in mitigation, Mr.
17 Mills was certainly cooperative and immediately responded
18 and has been incarcerated since that time. So we'd
19 certainly like that to be a mitigating factor, Your Honor.

20 THE COURT: Now, the sentencing sheet at the top it
21 says "pleads." I'm going to scratch that out and put
22 "convicted." Any objection?

23 MR. LUPTON: I apologize, Your Honor.

24 MR. FARLEY: I didn't see the sentencing sheet, Your
25 Honor.

1 THE COURT: I'll just -- would you like to look at
2 it?

3 MR. FARLEY: Let me look at it.

4 THE COURT: It just says "pleads" instead of
5 "convicted."

6 MR. LUPTON: I apologize, Your Honor. I'm just --
7 I've filled out so many sentencing sheets for pleas, that I
8 just checked it without even realizing it.

9 MR. FARLEY: Okay.

10 THE COURT: Any objection to that, Mr. Farley?

11 MR. FARLEY: No, ma'am.

12 THE COURT: Mr. Mills, it's certainly a shame. It
13 certainly appears that due to evidence, I agree with what
14 the verdict -- with what the -- the jury came back with it.

15 It sounds as if you were working with your father,
16 which is kind of a sad situation for both y'all all the way
17 around.

18 In indictment No. 2017-GS-09-112, you're hereby
19 committed to the State Department of Corrections for a
20 period of 20 years. You do get credit for the time that
21 you have served.

22 MR. LUPTON: Thank you, Your Honor.

23 THE COURT: Be at ease until we receive a verdict.

24 (Off the record 3:56 p.m.)

25 (On the record 4:00 p.m.)

1 THE COURT: For the record, we've received a
2 subsequent note from the jury that states (as read): "We
3 cannot reach an agreement, and no one will change their
4 mind."

5 I have shared this with both counsel for the State
6 and for the defense. Obviously, pursuant to the law, I
7 must declare a mistrial at this juncture. So I will bring
8 the jury out. and let them know we have declared a
9 mistrial.

10 Anything further before I bring the jury out?

11 MR. LUPTON: Not from State, Your Honor.

12 MR. LEIENDECKER: No, Your Honor.

13 THE COURT: Okay. Let's have our jury please.

14 (Jury enters 4:34 p.m.).

15 THE COURT: Mr. Foreman, I'm receipt -- in receipt of
16 your note that states you cannot reach an agreement, no one
17 will change their mind; is that correct?

18 THE JUROR: Yes, ma'am.

19 THE COURT: I have no option but to declare a
20 mistrial at this juncture.

21 Ladies and gentlemen of the jury, you are free to go
22 and you're excused. If you need an excuse or anything for
23 work, the Clerk's Office will be happy to assist you with
24 that.

25 (Jury exits 4:35 p.m.)

1 THE COURT: I'm going to mark that as a Court's
2 exhibit.

3 (Marked Court's Exhibit No. 4, juror note.)

4 THE COURT: All right, Counsel, we will be adjourned
5 on this matter. Obviously, Mr. Mills will remain in
6 custody until his case is called back to trial.

7 MR. LUPTON: Thank you, Your Honor.

8 (Off the record 4:36 p.m.)

9 (On the record 4:58 p.m.)

10 THE COURT: So the record is clear -- I'm not sure if
11 we've placed it on the record since we've received this
12 information -- once the jury was let go, in the jury room
13 was the verdict form, along with both indictments. The
14 verdict form states that the jury found the Defendant
15 guilty of armed robbery and there's nothing circled for the
16 charge of murder. That is not signed.

17 However, on the indictment for armed robbery, that is
18 signed and it does say "guilty" and is signed by the
19 foreperson and it is dated.

20 I've discussed the matter with Counsel. We've
21 brought the jury back so that they are in the jury room.

22 My intent is to bring the jury out and ask them if
23 they were able to reach a verdict on one of the two charges
24 and if they were just deadlocked on the second charge. If
25 that is a correct recitation of what had happened and they

1 were misunderstanding what the original instructions were,
2 I understand that the State has no objection to that.

3 The Defense, what is your position on that?

4 MR. LEIENDECKER: Your Honor, for the record, first
5 of all, I object to what we're doing here and in -- before
6 I even put those objections on the record, I would hope
7 that what the Court does, if you decide to follow this
8 course, is that you give them as little explanation or
9 offer, and then you just ask them the simple question: Did
10 you reach a verdict on one of the two charges?

11 Secondly, the jury, all 12, were in here, were
12 seated, and were asked, "Are you unable to reach a verdict
13 as to the Defendant Derrick Mills and you are unable -- are
14 you deadlocked; and being given an *Allen* charge, are you
15 still unable to reach a verdict," and they said "yes."

16 Not one person volunteered on the record to the Court
17 to that direct question that well, we reached a verdict on
18 one, but not on the other, that -- even after they had done
19 exactly that on the other defendant. So it's hard to
20 understand how they misunderstood "have you reached a
21 verdict."

22 The Court then properly granted a mistrial after the
23 question, "Have you reached a verdict?" That's my first
24 basis.

25 At that point, the case is done. Everyone is

1 dismissed, including the jury. We have a mistrial. This
2 case, no matter what happened back in that jury room which
3 is secret and sacrosanct, must go back on the docket for
4 retrial.

5 Further, my second motion is that not only did that
6 happen and is that the appropriate thing to do, but after
7 the fact, after the people had been dismissed, after they
8 were told their jury service was completed and done, they
9 were -- and -- and I wasn't there, so I don't want to use a
10 word that suggests any kind of, you know, improper action -
11 - but they -- they were chased down in the parking lot by
12 law enforcement and asked to return or told they needed to
13 return.

14 At least two of the people had successfully left and
15 were brought back, and are now are going to be brought out
16 of the jury room and told, "You're brought back because we
17 want to know this information."

18 And I think it rises to a level of not intentional,
19 but certainly a level of coercion. I'm not suggesting that
20 Your Honor or law enforcement or anybody else is trying to
21 coerce them. I just believe that that's the reality of
22 what's happening here.

23 It's an institutional form of coercion. They were
24 released, they were done; they were told when you can't
25 reach a verdict, someone else is going to have to reach a

1 verdict.

2 Good grief, if they had reached a verdict someone
3 would have said something, should have said something, and
4 it would be improper now for the Court to draw that back.

5 THE COURT: Mr. Leiendecker, I certainly understand
6 your argument and this is obviously somewhat of a novel
7 issue that doesn't come up every day.

8 MR. LEIENDECKER: It's only the second time I've had
9 it. Just kidding.

10 THE COURT: And in regards to your argument, as far
11 as the question of the jury, the question was: Were you
12 able to reach a verdict?

13 The question wasn't specific as to were you able to
14 reach a verdict on each of the indictments, and I think
15 that is where the difference comes as far as the co-
16 defendant because they were able to reach a verdict on each
17 of the indictments. They found a guilty and a not guilty.

18 On this case, it is differentiated by the fact that
19 they were -- it appears that they were able to reach a
20 verdict on one charge, but unable to reach a verdict on the
21 other charge and that's indicative from their question to
22 the Court as far as a case. It appears that they were
23 putting the case of one defendant as a whole rather than on
24 each separate and distinct offense.

25 I think it's appropriate that if they did reach a

1 verdict before they were released, as it appears to be on
2 the indictment -- which, again, is signed and dated by the
3 foreperson -- we have that accurate information because,
4 quite frankly, either way, if they reached a verdict and
5 they were able to do so, it would be a miscarriage of
6 justice if they were able to reach a verdict before they
7 were released and that's what they're called upon to do and
8 we just ignore that.

9 I think we have to question them as to whether or not
10 that's what happened, if they reached a verdict on one
11 indictment and were unable to reach a verdict on the second
12 indictment that was before a mistrial was declared and that
13 would have been what had happened.

14 I won't question them lengthy like you suggested. I
15 think I will just ask them if you were able to reach a
16 verdict on one of the two indictments and was that
17 indicated on -- on the indictment which was signed.

18 MR. LEIENDECKER: Okay. And Your Honor, not to play
19 with, but I respectfully disagree. I think Your Honor gave
20 them a very plain and very clear instruction regarding the
21 fact that they could find someone guilty on one of the
22 counts and not guilty on another count. They could find
23 them not guilty on both charges, or they could find them
24 guilty on both charges.

25 They never asked a question about that. That was

1 never their question, and -- and I, unfortunately, believe
2 that whatever answer we get here today is tainted by that
3 coercive nature I described of people being released and
4 then being brought back by law enforcement and held here
5 until they answer the Court.

6 THE COURT: Well, Mr. Leiendecker, I -- you know, I
7 tend to differ with your assertion with how they were
8 brought back by law enforcement. I think most of them,
9 other than two, were just outside of the courthouse and
10 were asked to return to the jury room.

11 It's not as they're being held in confinement in --
12 in a holding cell and certainly, I must say, being in
13 Calhoun County, we've got some of the nicest bailiffs and
14 security people in the -- probably in the country. I
15 certainly can't imagine that they would be coercive towards
16 a potential juror in this case, and I certainly don't have
17 any indication that that had happened.

18 The other two that had gotten in their cars were
19 simply called, and they -- they returned.

20 So unless they're in there shaking in their boots for
21 some reason or file some sort of complaint, I don't think
22 that's an accurate representation of how they were brought
23 back into this Court.

24 MR. LEIENDECKER: I agree, Your Honor. I wasn't
25 there, but obviously none of us in the court were there

1 when they were brought back.

2 THE COURT: Anything further before I bring the jury
3 out?

4 MR. LUPTON: No, Your Honor.

5 THE COURT: Let's have our jury please.

6 (Jury enters 5:12 p.m.)

7 THE COURT: Welcome back, ladies of gentlemen of the
8 jury. Thank you for your patience.

9 There's been a question. Once you were released, the
10 court personnel went into the court room and found the
11 verdict form, along with the indictments, which were in the
12 jury room while you were in there with your deliberations.

13 And on the verdict form, it does find that y'all
14 found a verdict as to one of the charges; and on the
15 indictment itself for the armed robbery, it appears that
16 Mr. Foreperson, Mr. McCarson, has signed the verdict of
17 guilty on the armed robbery and signed and dated on that.

18 My question to the jury is: Before you were
19 released, did you come to a verdict on one charge, but were
20 deadlocked on the second charge?

21 (No audible response.)

22 THE COURT: And I'm hearing and seeing that you're
23 all shaking your heads. I'm going to poll you just like we
24 did before.

25 If this is what happened in the jury room, were you -

1 - did you come to a verdict on the charge of armed robbery
2 prior to me releasing you for the mistrial and were
3 deadlocked as to the charge of murder? If that is what
4 happened and that is still what you believe, if you would
5 please stand and raise your hand.

6 (Jurors comply.)

7 THE COURT: Please let the record indicate that each
8 of the jurors have stood and acknowledged that that was
9 what happened in the -- in the jury room; that they had
10 reached a verdict on the armed robbery charge, but were
11 deadlocked on the murder charge.

12 MR. LEIENDECKER: Your Honor, the Defense would
13 request that the Clerk would actually individually poll
14 them and ask them that question.

15 THE COURT: Yes, sir, Mr. Clerk, do have them --

16 THE CLERK OF COURT: Yes, Your Honor.

17 MR. LEIENDECKER: Thank you.

18 THE CLERK OF COURT: Juror No. 1, Shane McCarter, is
19 this your verdict?

20 THE JUROR: It is.

21 THE CLERK OF COURT: Is it still your verdict?

22 THE JUROR: Yes, sir.

23 THE CLERK OF COURT: Juror No. 2, Michael Vandalen,
24 is this your verdict and still is your verdict?

25 THE JUROR: Yes, sir.

1 THE CLERK OF COURT: Juror No. 3, Lakenya Gleaton, is
2 this your verdict and still your verdict?

3 THE JUROR: Yes.

4 THE CLERK OF COURT: Juror No. 4, Ta'rque Frederick,
5 is this your verdict and still your verdict?

6 THE JUROR: Yes.

7 THE CLERK OF COURT: Juror No. 5, Marquette
8 Seawright, is this your verdict and still your verdict?

9 THE JUROR: Yes.

10 THE CLERK OF COURT: Juror No. 6, Sherry Rucker, is
11 this your verdict and still your verdict?

12 THE JUROR: Yes.

13 THE CLERK OF COURT: Juror No. 7, Sharnay Colton, is
14 this your verdict and still your verdict?

15 THE JUROR: Yes.

16 THE CLERK OF COURT: Juror No. 8, Joshua DiColter, is
17 this your verdict and is still your verdict?

18 THE JUROR: Yes.

19 THE CLERK OF COURT: Juror No. 9, Ashley Jeffcoat, is
20 this your verdict and is still your verdict?

21 THE JUROR: Yes.

22 THE CLERK OF COURT: Juror No. 10, Mark Oglesby, is
23 this your verdict and is still your verdict?

24 THE JUROR: Yes.

25 THE CLERK OF COURT: Juror No. 11, Lashawn White-

1 Simpson, is this your verdict and still your verdict?

2 THE JUROR: Yes.

3 THE CLERK OF COURT: Juror No. 12, Tracy Woodrow, is
4 this your verdict and still your verdict?

5 THE JUROR: Yes.

6 THE COURT: Thank you, ladies and gentlemen. Please
7 return to your jury room. I'll be in there momentarily to
8 release you.

9 (Jury exits at 5:15 p.m.).

10 THE COURT: Counsel, absent anything further I'm
11 going to ask the Clerk to go ahead and release the jury.

12 Mr. Clerk?

13 THE CLERK OF COURT: Yes, ma'am.

14 THE COURT: So, sir, do you want to prepare a
15 sentencing sheet? Oh, is there one already --

16 MR. LUPTON: Your Honor, there's already a sentencing
17 sheet in the file.

18 THE COURT: Parties ready to proceed?

19 MR. LEIENDECKER: We are.

20 MR. LUPTON: State's ready, Your Honor. Your Honor,
21 I believe the Court is aware the State is filing a notice of
22 intent to seek life without parole based on prior -- three
23 prior most serious convictions of kidnaping, car jacking,
24 and armed robbery, as well as a prior most serious of
25 entering a bank with intent to steal that was on a separate

1 date.

2 Based on that, we vote there's only one possible
3 verdict that was served upon him more than 10 days ago and
4 filed more than 10 days ago.

5 THE COURT: Anything from the Defense?

6 MR. LEIENDECKER: Your Honor, other than to renew my
7 -- my motions -- which I'm never certain if I have to do
8 that -- but I always want to do that out of an abundance of
9 caution that regarding the mistrial.

10 There really is no need for mitigating evidence
11 presented in a case where notice has been served pursuant to
12 the LWOP statute, and so I will not spend time or waste time
13 with the Court other than to say that my client is at this
14 time 47 years of age or will be 47 very soon.

15 THE COURT: Yes, sir. Anything further from anyone?

16 (No response.)

17 THE COURT: On Indictment 2017-GS-09110, for the
18 charge of armed robbery, you're hereby committed to the
19 State Department of Corrections for the remainder of your
20 natural life.

21 MR. LEIENDECKER: Thank you.

22 MR. LUPTON: Thank you, Your Honor.

23 (Off the record at 5:18 p.m.)

24

25 -- END OF TRANSCRIPT OF RECORD --

CERTIFICATE

I, the undersigned, Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Circuit Court for Calhoun County, South Carolina, on the 21st through the 23rd day of May, 2019.

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

E/Bonnie H. Kelly

Bonnie H. Kelly, CVR

Court Reporter

Columbia, South Carolina

December 9, 2019

DOCKET NO. 2017GS09-0112

WITNESSES

S Graham

The State of South Carolina
County of CALHOUN

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Calhoun County Sheriff

COURT OF GENERAL SESSIONS

March 26, 2018 TERM

ARREST WARRANT NUMBER

2014A0910200045

I hereby appear in my own proper person and plead guilty to the within indictment or to

Arrested: December 15, 2014

THE STATE
VS.

Quintin Deasean Mills

Defendant

FILED
ACTION OF GRAND JURY

Melissa Blumner

MAR 16 2018

Witness:

C.C.C. PLS. AND G.S.

Foreperson of Grand Jury
Date: March 16, 2018

VERDICT

Guilty

SC Code: 16-11-330(A)

Foreperson of Petit Jury
Date: 5-23-19
Shane McLane

FILED
2018 MAR 16 A 9:47
KENNETH HASTY
CLERK OF COURT
CALHOUN COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF CALHOUN

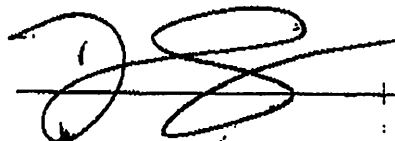
INDICTMENT
2017GS09-0112

As a Court of General Sessions, convened on March 16, 2018 the Grand Jurors of CALHOUN County present upon their oath:

ARMED ROBBERY

That on or about December 13, 2014, in Calhoun County, the defendant, Quintin Deasean Mills did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, Charles Brown, with the intent to permanently deprive the victim of possession of the goods or monies. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A handwritten signature in black ink, appearing to read 'Donald N. Sorenson', is written over a horizontal line.

Donald N Sorenson, Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Calhoun FILED

STATE

VS.

2019 MAY 24

INMATEMENT/CASE#: 2017-GS-09 112

AKA:

Race:

B

Sex:

M

Age:

KENNETH EAST
CLERK OF COURT
CALHOUN COUNTY
ST. MATTHEWS, SC

Date of Offense:

12-12-14

S.C. Code §:

16-11-330 (A)

CDR Code #:

2139

Address:

City, State, Zip:

DL#

SID#

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indolment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADS

TO:

In violation of §

Armed Robbery

of the S.C. Code of Laws, bearing CDR Code #

2139

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury.

(def.'s initials)

The plea is:

☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Theodore Houston 9517

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the

☐ State Department of Corrections☐ County Detention Center,

for a determinate term of

20

days/months/years or

☐ under the Youthful Offender Act not to exceed

years

and/or to pay a fine of \$

; provided that upon the service of

days/months/years and or payment

of \$; plus costs and assessments as applicable; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-136.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$47.12 requires \$600 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date

Nate Huff
2166
5/23/19

*Fees:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) (Conv. Surcharge)

§14-1-211 (A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§14-1-212 (Law Enforcement Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942 (J) (Vehicle Assessment)

Proviso 80.6 (SCOA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

Lakisha Moore
Bernie Kelly

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

RECEIVED

Jul 27 2020

SC Court of Appeals

s/ Sarah E. Shipe

Sarah E. Shipe

Appellate Defender

South Carolina Commission on Indigent Defense

Division of Appellate Defense

PO Box 11589

Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 27th day of July, 2020.