

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM DORCHSTER COUNTY
Court of General Sessions

Diane S. Goodstein, Circuit Court Judge

Appellate Case No. 2018-000393

James Alfonza Biggs III.....Petitioner,

v.

The State of South Carolina.....Respondent.

APPENDIX

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TABLE OF CONTENTS

Record on Appeal.....	1
Final Brief of Appellant.....	533
Final Brief of Respondent.....	552
<i>State v. James Alfonza Biggs III</i>	572
Petition for Rehearing.....	575
Order on Petition for Rehearing.....	591

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Appellate Case No.2018-000393

Diane S. Goodstein, Circuit Court Judge

The State of South Carolina.....Respondent,

v.

James Alfonza Biggs III.....Appellant.

RECORD ON APPEAL

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INDEX

TRIAL TRANSCRIPT, FEBRUARY 20-24, 2018	1
VOIR DIRE	8
JURY SELECTION	34
STATE'S OPENING	61
DEFENSE OPENING	69
JUSTIN JENKINS	
Direct Examination	72
Cross Examination	88
Redirect Examination	89
BRANDON STANCIL	
Direct Examination	94
Cross Examination	112
Redirect Examination	117
JAZZMIN WILLIAMSON	
Direct Examination	118
Cross Examination	138
TIFFANY BOWENS	
Direct Examination	141
Cross Examination	148
HUNTER EADIE	
Direct Examination	158
Cross Examination	167
BRANDON WOODALL	
Direct Examination	169
Cross Examination	184
Redirect Examination	189
Recross Examination	191
EMILY ROBBINS	
Direct Examination	192

Cross Examination	205
Redirect Examination	211
Recross Examination	213
ALEXANDER COUTU	
Direct Examination	214
Cross Examination	219
JEFF SCOTT	
Direct Examination	228
Cross Examination	250
Redirect Examination	252
Recross Examination	253
MATTIE INGALLS	
Direct Examination	254
Cross Examination	261
Redirect Examination	264
MICHAEL HOLT	
Direct Examination	266
Cross Examination	271
CHAD SMITH	
Direct Examination	277
Cross Examination	291
CATHERINE LEISY	
Direct Examination	296
Cross Examination	304
BRANDON BERG	
Direct Examination	307
VIANN BRANTLEY	
Direct Examination	311
Cross Examination	317
Redirect Examination	318
CLINTON BRANTON	
Direct Examination	319
Cross Examination	325

ADAM SMITH	
Direct Examination	328
Cross Examination	364
NICHOLAS BATALIS, MD	
Direct Examination	399
Cross Examination	442
STATE RESTS	443
DEFENSE RESTS	454
STATE'S CLOSING ARGUMENT	456
DEFENSE'S CLOSING ARGUMENT	470
JURY CHARGES	482
VERDICT	505
SENTENCING	510
TRIAL EXHIBITS	
State's Exhibit 1- Photo	
Marked into Evidence	6
Admitted into Evidence	81
State's Exhibit 2- Map	
Marked into Evidence	6
Admitted into Evidence	75
State's Exhibit 3- Photo	
Marked into Evidence	147
Admitted into Evidence	148
State's Exhibit 4- Eadie Statement	
Marked into Evidence	155
State's Exhibit 5- Woodall Statement	
Marked into Evidence	175

State's Exhibit 6- Shell Casing	
Marked into Evidence	227
Admitted into Evidence	238
State's Exhibits 7-10- Shell Casings	
Marked into Evidence	227
Admitted into Evidence	241
State's Exhibit 11- Live Round	
Marked into Evidence	227
Admitted into Evidence	241
State's Exhibit 12- Projectile	
Marked into Evidence	227
Admitted into Evidence	241
State's Exhibit 13- Projectile	
Marked into Evidence	227
Admitted into Evidence	238
State's Exhibits 14-16- Projectiles	
Marked into Evidence	227
Admitted into Evidence	243
State's Exhibit 17- Cell Phone	
Marked into Evidence	227
Admitted into Evidence	245
State's Exhibits 18-32- Photos	
Marked into Evidence	227
Admitted into Evidence	232
State's Exhibit 33- Mason Jar	
Marked into Evidence	227
Admitted into Evidence	248
State's Exhibit 34- Photo	
Marked into Evidence	227
Admitted into Evidence	232
State's Exhibit 35- Mason Jar	
Marked into Evidence	227
Admitted into Evidence	248

State's Exhibit 36- Tickets	
Marked into Evidence	227
Admitted into Evidence	246
State's Exhibit 37- SLED Report	
Marked into Evidence	227
Admitted into Evidence	315
State's Exhibit 38- Printout	
Marked into Evidence	276
Admitted into Evidence	315
State's Exhibit 39- AT&T Records	
Marked into Evidence	276
Admitted into Evidence	321
State's Exhibit 40- Printout	
Marked into Evidence	276
Admitted into Evidence	323
State's Exhibit 41- Photo	
Marked into Evidence	327
Admitted into Evidence	337
State's Exhibit 42- Photo	
Marked into Evidence	327
Admitted into Evidence	332
State's Exhibit 43- Cell Phone Report	
Marked into Evidence	327
Admitted into Evidence	348
State's Exhibit 44- Cell Phone Report	
Marked into Evidence	327
Admitted into Evidence	349
State's Exhibit 45- Bullets	
Marked into Evidence	396
Admitted into Evidence	417
State's Exhibit 46- Bullets	
Marked into Evidence	396

Admitted into Evidence	434
State's Exhibit 47- Bullets	
Marked into Evidence	396
Admitted into Evidence	434
State's Exhibits 48-52- Photos	
Marked into Evidence	396
Admitted into Evidence	410
State's Exhibits 53-61- Photos	
Marked into Evidence	396
Admitted into Evidence	425
State's Exhibit 19 (Photo)	521
State's Exhibit 44 (Call Log)	522
Indictment	523
Sentencing Sheet	525

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER 2016-GS-18-00111
2016-GS-18-00112

STATE OF SOUTH)
CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
VS.)
FEBRUARY 20-24, 2018
ST. GEORGE, SC
JAMES ALFONZA BIGGS,)
III,)
DEFENDANT.)

B E F O R E:

HONORABLE DIANE SCHAFER GOODSTEIN, JUDGE,
AND A JURY.

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Attorneys for the Defendant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

I N D E X

Page

VOIR DIRE 8

JURY SELECTION 34

OPENING STATEMENT

BY MR. SORENSON 61

BY MR. BYRD 69

<u>WITNESS</u>	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>

Justin Jenkins	72	88	89	

Brandon Stancil	94	11	117	

Jazzmin Williamson	118	138		

Tiffany Bowens	141	148		

Hunter Eadie	158	167		

Brandon Woodall	169	184	189	191

Emily Robbins	192	205	211	213

Alexander Coutu	214	219		

Jeff Scott	228	250	252	253

Mattie Ingalls	254	261	264	

Michael Holt	266	271		

Chad Smith	277	291		

Catherine Leisy	296	304		

Brandon Berg	307			

Viann Brantley	311	317	318	

Clinton Branton	319	325		

1	Adam Smith	328	364
2	Nicholas Batalis, MD	399	442
3			
4			
5	STATE RESTS	443	
6	DEFENSE RESTS	454	
7			
8	CLOSING ARGUMENTS		
9	BY MS. MIMS	456	
10	BY MR. BYRD	470	
11			
12	CHARGE OF THE COURT	482	
13			
14	VERDICT	505	
15			
16	SENTENCING	510	
17			
18			
19			
20			
21			
22			
23			
24			
25			

		E X H I B I T S	
		<u>MARKED</u>	<u>ADMITTED</u>
1			
2			
3	1-photo	6	81
4	2-map	6	75
5	3-photo	147	148
6	4-Eadie statement	155	
7	5-Woodall statement	175	
8	6-shell casing	227	238
9	7-10-shell casings	227	241
10	11-live round	227	241
11	12-projectile	227	244
12	13-projectile	227	238
13	14-16-projectiles	227	243
14	17-cell phone	227	245
15	18-32-photos	227	232
16	33-mason jar	227	248
17	34-photo	227	232
18	35-mason jar	227	248
19	36-tickets	227	246
20	37-SLED report	227	315
21	38-printout	276	315
22	39-AT&T records	276	321
23	40-printout	276	323
24	41-photo	327	337
25	42-photo	327	332

1	43-cell phone report	327	348
2	44-cell phone report	327	349
3	45-bullets	396	417
4	46-bullets	396	434
5	47-bullets	396	434
6	48-52-photos	396	410
7	53-61-photos	396	425
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 (The following proceedings were held
2 February 20, 2018, Dorchester County, South
3 Carolina, @ 2:30 p.m.)

4 THE COURT: Good afternoon. Anything
5 from the State before we invite our jury up?

6 MR. SORENSON: No, ma'am, Your Honor.

7 THE COURT: From the defense?

8 MR. BYRD: No, Your Honor.

9 THE COURT: Very well. All right. Did
10 you all have a chance to look at the indictment?

11 MR. BYRD: We did, Your Honor.

12 MS. MIMS: Yes, ma'am.

13 THE COURT: Would you pass your
14 proposed voir dire up?

15 (Thereupon, the jurors were brought to
16 the courtroom at 2:40 p.m.)

17 THE COURT: Counsel, do you want to
18 approach?

19 (Off-the-record conference.)

20 (STATE'S EXH. 1-2 were marked for
21 identification.)

22 THE CLERK: Juror No. 17, Mrs. Sherry
23 Day Brown, and Juror No. 51, Norman Gillmore, if
24 you would come forward, please.

25 (Sidebar conference.)

1 THE DEPUTY: Come up front one at a
2 time.

3 THE COURT: I'm going to say the exact
4 same thing to both of you.

5 THE DEPUTY: Come on down. The price
6 is right.

7 THE COURT: Thank you. Thank you for
8 being here. My wonderful colleague Judge Jefferson
9 has protected you all for doctor's appointments
10 which is absolutely appropriate. The problem that
11 I have in this case is that you have to be excused
12 from the trial if you are selected and just that's
13 something she wouldn't have known. So I'm going to
14 excuse both of you and thank you so much for being
15 here.

16 JUROR NO. 17: For the rest of the
17 week?

18 THE COURT: For the rest of the week.
19 What they would do is if you would be so kind as to
20 let us transfer your service I would be grateful.
21 If you can pick a week in the future. If you will
22 just come and pick a week it would be great. Thank
23 you.

24 (Thereupon, the sidebar conference
25 ended.)

1 THE COURT: Ladies and gentlemen, I
2 want to thank you for being here. Let me begin by
3 introducing myself. I'm Diane Goodstein. And I am
4 one of the two resident judges from the First
5 Judicial Circuit. I am so happy to report to you
6 that you live in the First Judicial Circuit. We
7 also have another judge who is in this courthouse.
8 She is an at-large judge, Judge Murphy. You had an
9 opportunity to meet my colleague and friend Judge
10 Jefferson this morning. She is actually one of the
11 resident judges from the Ninth Judicial Circuit.
12 And it's interesting that as judges, as circuit
13 court judges not only do we rotate around our own
14 circuit, but we also have the opportunity to rotate
15 to other circuits around the State. So Judge
16 Jefferson is actually, her circuit is the Ninth,
17 she is here in the First Circuit this week and this
18 week I am home.

19 So I'm home in my circuit in the First
20 Circuit. I want to tell to every one of you, and I
21 know that Judge Jefferson did it as well, we are a
22 citizen based judicial system. And if you weren't
23 here there would be no reason for any of us to be
24 here. You are the heart and the soul of our
25 judicial system. And we call on jurors to come

1 into court and help fellow -- help resolve disputes
2 with citizens. We are about to select a jury for
3 what's called general sessions or criminal court.
4 And we know that one side of the equation, if you
5 will, is the State who is alleging that a citizen
6 has violated one or more of the criminal laws of
7 the State of South Carolina. We call on jurors to
8 come in to court to make a determination whether
9 the State has met its burden of proof in those
10 cases.

11 Those of you that serve on a jury I
12 will explain a whole lot more about that to you,
13 but I wanted to just give you an overview at this
14 moment about what we're about to do. And that is
15 we're about to select the jury for our first case
16 for trial in general sessions. And at this time I
17 am going to call on the solicitor's office, and let
18 me tell me you who that is. In most states, I
19 think in all states in the United States the state
20 attorney, the prosecuting attorney, they are
21 typically called the district attorneys, sometimes
22 they are called the state's attorney; here in South
23 Carolina they are called our solicitors. And I'm
24 going to call on our solicitor's office to call the
25 first case for trial this week.

1 MS. MIMS: Thank you, Your Honor. The
2 State of South Carolina calls the case of the State
3 versus James Alfonza Biggs, III on indictment
4 number 2016-GS-18-0111 which is indictment for
5 murder, and 2016-GS-18-0112 which is indictment for
6 murder.

7 THE COURT: Thank you, Ms. Mims. Now,
8 ladies and gentlemen, let me tell you what has just
9 occurred. What has just happened is that Ms. Mims
10 who is an assistant solicitor here in the First
11 Circuit, she has called to trial our first case for
12 trial this week. Now, what did she do? She
13 mentioned an indictment. I want to tell you what
14 an indictment is and what an indictment is not. An
15 indictment is a charging document. First and
16 foremost it is a piece of paper. There are two
17 indictments involved in this matter. There are two
18 pieces of paper.

19 Now, ladies and gentlemen, on this
20 piece of paper there are allegations, there are
21 allegations. The State of South Carolina is
22 alleging that the Defendant in this case, Mr.
23 Biggs, James Alfonza Biggs, III, they are alleging
24 that he has violated the criminal law of the State
25 of South Carolina. And each of those indictments

1 make that allegation. I want to hasten to tell you
2 that to these indictments that Mr. Biggs has pled
3 not guilty which places the burden on the State to
4 prove guilt beyond a reasonable doubt which means
5 the State must prove each and every allegation of
6 each of these indictments. Ladies and gentlemen,
7 before the Defendant could be found guilty of
8 murder, and that applies equally to each and
9 independently to each of these indictments. Now,
10 let me tell you what an indictment is not. An
11 indictment is not evidence of any of the
12 allegations that it contains. It is a notice
13 document. It is a document that informs the
14 citizen that the State is alleging that the citizen
15 has violated one or more of the criminal laws of
16 the State of South Carolina.

17 Now, as I say, Mr. Biggs has pled not
18 guilty to each -- to both of these indictments.
19 Now, ladies and gentlemen, the way that we are
20 going to be proceeding is in a few moments I am
21 going to be reading to you the allegations of these
22 indictments. The reason that I'm going to be
23 reading to you the allegations of these indictments
24 is that I will be asking whether or not any of you
25 know or think you may know or have you heard or

1 think you may have heard, to include today,
2 anything about these allegations.

3 So that's the reason I'm going to be
4 reading to you some of the allegations and all of
5 the allegations of these indictments.

6 Now, once I have done that, then I'm
7 going to be introducing you to some folks and I'm
8 going to be asking some questions. And then we are
9 going to get our jury for this first case for trial
10 this week.

11 Now, ladies and gentlemen, well, I did
12 not do it and I know it was done, I'm going to ask
13 you to stand at this time and raise your right hand
14 so that I may swear you in.

15 (Prospective jurors sworn.)

16 THE COURT: If there is anyone who
17 failed to take the oath please stand. I find no
18 one standing. All right. Now, ladies and
19 gentlemen, you are going to hear me use a term or
20 phrase acquainted with. Are you acquainted with so
21 and so and I want to define that phrase for you
22 because I intend a very, very general definition of
23 acquainted with. I'm trying to find out if you
24 have any connection with the folks that I'm going
25 to be asking you about. Let me give you some

1 examples. It may be that you went to school with
2 someone 20 years ago that I'm going to be asking
3 you about and you haven't seen the person in
4 20 years, but you know you went to school with this
5 person 20 years ago. Well, believe it or not, that
6 relationship as old as it is would be encompassed
7 within my very broad and general definition of
8 acquainted with and you would simply stand and tell
9 me you went to school with this person 20 years
10 ago. It may be that you simply work at the same
11 location with someone who I will ask you about.
12 You wave at each other across the parking lot and
13 that's the extent of your relationship. Well,
14 believe it or not, that relationship as limited as
15 it is would be encompassed within my definition of
16 acquainted with.

17 I am simply trying to find out if you
18 have any connection with these folks that I'm going
19 to be asking you about. So please keep that
20 definition of acquainted with in your mind as we go
21 through this process.

22 Now, ladies and gentlemen, in a moment
23 I'm going to be reading to you the allegations
24 contained in each of these two indictments and when
25 I have done that my question to you is going to be

1 on the other side, if you will, do any of you know
2 or think you may know or have you heard or think
3 you may have heard anything about these
4 allegations. That would be the question that I
5 will ask.

6 Now, ladies and gentlemen, indictment
7 2016-GS-18-0111 alleges that in Dorchester County
8 on or about November the 30th, 2015, with malice
9 aforethought the Defendant, James Alfonza Biggs,
10 III, did shoot and kill one Jamal Armstrong, the
11 victim did die as a proximate result thereof. This
12 being in violation of the common law in Section
13 16-3-10 of the South Carolina Code of Laws as
14 amended. Indictment 2016-GS-18-0112 alleges that
15 in Dorchester County on or about November the 30th
16 2015, with malice aforethought the Defendant, James
17 Alfonza Biggs, III, did kill one Tyrell Myles by
18 shooting him multiple times. The victim did die as
19 a proximate result thereof. This offense being in
20 violation of the common law in Section 16-3-10 of
21 the South Carolina Code of Laws as mended.

22 Ladies and gentlemen, again, I will
23 tell you that Mr. Biggs has pled not guilty to each
24 and to both of these indictments. My question to
25 you is do you know or think you may know or have

1 you heard or think you may have heard to include
2 today anything about these allegations? If so,
3 please stand at this time. I find no one standing.

4 Ladies and gentlemen, allow me to
5 introduce you to our solicitors here today. Ms.
6 Sheila Mims, Mr. Donald Sorenson and one of them
7 will go over with you the lawyers in their office.

8 MS. MIMS: Thank you, Your Honor. Our
9 -- the solicitor in charge of our circuit court is
10 Mr. David Pascoe. He is the solicitor of
11 Dorchester County, Calhoun County and Orangeburg
12 County. The other assistant solicitors in our
13 office are Mr. Don Sorenson here with me today,
14 Mike Speers, Ryan Tempelton, Heather Huckabee,
15 Virgil Dees and George Smythe.

16 THE COURT: Thank you so much. Ladies
17 and gentlemen, are you related by blood or marriage
18 or acquainted with Ms. Mims, Mr. Sorenson, or any
19 of the members of the solicitor's office that Ms.
20 Mims just mentioned? If so, please stand at this
21 time. And I find no one standing.

22 Now, ladies and gentlemen, please allow
23 me to introduce you to Mr. James Alonzo Biggs, III.
24 If he would -- thank you, Mr. Biggs. If you would
25 stand and face our jury panel. Thank you so much,

1 Mr. Biggs, and you may be seated. And I think I
2 said Alonzo instead Alfonza and I apologize.
3 Ladies and gentlemen, are you related by blood or
4 marriage or acquainted with Mr. James Alfonza
5 Biggs, III? If so, please stand at this time. And
6 I find no one standing.

7 Now, Mr. Biggs is represented by Mr.
8 Brian Byrd and Mr. Byrd is going to stand and he is
9 going to introduce his co-counsel and any members
10 of his firm.

11 MR. BYRD: Thank you, Your Honor. As
12 Your Honor said, my name is Brian Byrd. Co-counsel
13 today is Michael Nelson. Associates of my office
14 are Daniel Mellow and Rosa Weisburg.

15 MR. NELSON: I am a solo practitioner.
16 I work for myself.

17 THE COURT: Thank you very much.
18 Ladies and gentlemen, are you related by blood or
19 marriage or acquainted with or have you or any
20 member of your immediate family to your knowledge
21 been represented by Mr. Byrd, Mr. Nelson or any
22 attorneys at the Byrd Law Firm? If so, please
23 stand at this time. And I find no one standing.

24 Now, ladies and gentlemen, in just a
25 moment I'm going to be going over with you a list

1 of potential witnesses. The lawyers give me a list
2 of potential witnesses because this is my
3 opportunity to ask if anyone knows any of the
4 potential witnesses. My question as to each of
5 these individuals is are you related by blood or
6 marriage or acquainted with any of these
7 individuals? Now, I will ask if any of these folks
8 happen to be here, I'm going to ask you to please
9 stand because it is so much easier to put a face
10 with a name and recognize someone than just the
11 name alone.

12 Now, ladies and gentlemen, are you
13 related by blood or marriage or acquainted with
14 Officer Justin Jenkins, Detective Adam Smith?
15 Thank you. Deputy Michael Holt, Sergeant Brandon
16 Berg, Brandon Stancil, way in the back. Thank you.
17 Wayne Mood, there is Mr. Mood. Thank you, Mr.
18 Mood. Mr. Mood, could you stand again? Some folks
19 as you were seated they were turning around.
20 Alexander Coutu, Jazzmin Williamson. Thank you,
21 Ms. Williamson. Emily Robbins, Brandon Woodall,
22 Hunter Eadie, Ms. Tisa.

23 MS. MIMS: Whack.

24 THE COURT: Tisa Whack. Thank you.
25 Tiffany Bowens. This is Ms. Bowens, Ms. Armstrong.

1 Do you have the first name of Ms. Armstrong?

2 MS. MIMS: Laquetta.

3 THE COURT: Thank you. You may be
4 seated. Dr. Nick Batalis, Charles Taylor, Clinton
5 Branton, Mattie Ingalls, Viann Brantley, Clinton
6 Branton, Jeff Scott, Tyler Sturkie, Chad Smith and
7 Catherine Leisy.

8 Are you related by blood or marriage or
9 acquainted with any of those individuals? If so,
10 please stand at this time.

11 MS. MIMS: Your Honor, I apologize.
12 There would be a Frederick Williams that should be
13 on the list as well.

14 THE COURT: Frederick Williams, Mr.
15 Frederick Williams. Related by blood or marriage
16 or acquainted with Mr. Fredrick Williams or any of
17 the folks whose names I just mentioned? If so,
18 please stand at this time. Yes, ma'am. Your juror
19 number or your name?

20 JUROR NO. 71: Rose Mary Jackson.

21 THE COURT: Ms. Jackson. Now, I'm
22 going to be asking you some very specific
23 questions. I just need you to answer the question
24 that I am asking. I am right here. Tell me who
25 you know.

1 JUROR NO. 71: Mood.

2 THE COURT: Mr. Mood. Do you visit any
3 in each other's homes? That would be a yes or no?

4 JUROR NO. 71: No.

5 THE COURT: Would you describe your
6 relationship as one that is an acquaintanceship or
7 a friendship?

8 JUROR NO. 71: It's my first cousin.

9 THE COURT: He is your first cousin.
10 Do you visit in each other's homes?

11 JUROR NO. 71: No.

12 THE COURT: Do you see each other maybe
13 at family gatherings?

14 JUROR NO. 71: No.

15 THE COURT: All right. Very well.
16 Now, Ms. Jackson, Mr. Mood is going to be involved
17 in this matter. Do you believe that the fact that
18 he may be involved in this matter as a witness
19 might, that could that have an impact, have an
20 effect in any regard in any respect to your ability
21 to be completely fair and impartial both to the
22 State as well as to the Defendant?

23 JUROR NO. 71: No, ma'am.

24 THE COURT: Can you set that
25 relationship completely aside and make up your mind

1 based upon what you hear in court while court is in
2 session?

3 JUROR NO. 71: Yes.

4 THE COURT: All right. Very well. And
5 would you describe your relationship with this
6 particular gentleman as one that is a close
7 relationship or more like an acquaintanceship?

8 JUROR NO. 71: Acquaintanceship.

9 THE COURT: Okay. Very well. Thank
10 you. Yes, ma'am. Please be seated.

11 Ladies and gentlemen, I have a few
12 additional questions to ask of you. And if you
13 need to respond to this question let me just share
14 with you I'm going to ask you to stand and
15 approach. And the question is have you or any
16 member of your immediate family been the victim of
17 or charged with a crime, been the victim of or
18 charged with a crime? And let me say what I am
19 talking about being charged with a crime, something
20 more than a traffic ticket. If so, please stand
21 and come forward at this time.

22 Counsel, you can come forward as well.

23 (Following proceedings were held at the
24 bench.)

25 THE BAILIFF: Juror No. 83.

1 THE COURT: Hi. Yes.

2 JUROR NO. 83: I was raped and I have
3 also been a victim of domestic violence.

4 THE COURT: Okay. Let me ask you this
5 question: As a result of those experiences do you
6 feel that they might or could interfere with your
7 ability to be completely fair and impartial both to
8 the State as well as to the Defendant?

9 JUROR NO. 83: No.

10 THE COURT: Do you think you can set
11 those experiences completely aside and make up your
12 mind based solely on what you hear in court while
13 court is in session?

14 JUROR NO. 83: No.

15 THE COURT: Thank you. She said no.

16 MR. BYRD: What was the offense?

17 THE COURT: Rape and domestic violence.

18 MR. BYRD: Okay.

19 THE BAILIFF: Juror No. 169.

20 THE COURT: Hi.

21 JUROR NO. 169: I had a nephew-in-law
22 that was shot and killed.

23 THE COURT: Okay. How long?

24 JUROR NO. 169: A year ago.

25 THE COURT: As a result of that -- let

1 me ask where?

2 JUROR NO. 169: In Beaufort County.

3 THE COURT: As a result of that
4 experience do you believe that might or could
5 interfere with your ability to be completely fair
6 and impartial both to the State as well as to the
7 Defendant?

8 JUROR NO. 169: I don't think that
9 would.

10 THE COURT: Do you believe that you can
11 set that experience aside and make up your mind
12 based upon what you hear in court while court is in
13 session completely unaffected by that?

14 JUROR NO. 169: Yes.

15 THE COURT: Thank you. Very well. You
16 can stay with us. 169.

17 THE BAILIFF: Juror No. 176.

18 THE COURT: Yes.

19 JUROR NO. 176: My son was charged with
20 robbery, now in prison.

21 THE COURT: And how long ago?

22 JUROR NO. 176: Seven years ago.

23 THE COURT: And where?

24 JUROR NO. 176: In Pennsylvania.

25 THE COURT: In Pennsylvania. As a

1 result of that experience might that or could that
2 interfere with your ability to be completely fair
3 and impartial both to the State as well as to the
4 Defendant?

5 JUROR NO. 176: Absolutely.

6 THE COURT: All right. I'm going to
7 ask you to sit this one out. Don't leave me. I
8 will ask you not to discuss, not that you would,
9 but not to discuss this with your fellow jurors.

10 JUROR NO. 176: Okay.

11 (Thereupon, the sidebar conference
12 ended.)

13 THE COURT: All right, ladies and
14 gentlemen, this is going to be my concluding
15 question. It is going to sound very general
16 primarily because I intend it to be very general.
17 And the question is this: Do you know any reason
18 why you ought not, should not, could not be a juror
19 in this case being ready, willing and able to
20 listen to the Court and to the lawyers and to the
21 witnesses and to make up your mind based solely on
22 what you hear in court while court is in session
23 being completely unaffected by matters and the
24 cases, talking about matters extraneous, matters
25 outside the court, in other words, can you make up

1 your mind based solely on what you hear in court
2 while court is in session being completely
3 unaffected by matters outside the Court while court
4 is in session? Can you be fair and impartial
5 completely to the State and to Mr. Biggs?

6 Now, ladies and gentlemen, if you have
7 any concern whatsoever with your ability to do
8 that, if you have remembered that you need to share
9 with me perhaps something even that you thought
10 about and it's like I should have told Judge
11 Jefferson that this morning because now I have
12 thought about my trip to Tahiti I am supposed to
13 leave on Thursday afternoon, I forgot to tell her
14 this morning, if something happened over the lunch
15 break, you called home and somebody is standing at
16 your door with big old roses and balloons and
17 they're waiting on you to arrive home for the
18 Publishers Clearing House man, if there's anything
19 that is going on, if you have remembered a doctor's
20 appointment, if you have concerns about this
21 particular kind of case quite frankly, and you have
22 concerns about being able to serve on a jury where
23 the allegations are as they are in this case, I'm
24 going to ask you to approach at this time and give
25 us an opportunity to discuss that.

1 I don't mind sharing with you that we
2 reached this point in jury qualification two years
3 ago and there was a young man right in that area
4 who stood up and said, Judge, may I please go back
5 with my wife while she delivers our child down at
6 Trident Hospital? Now, is anyone in labor?
7 Anyone's loved one in labor? I thought I was going
8 to keel over, okay?

9 THE BAILIFF: Juror No. 168.

10 (Following proceedings were held at the
11 bench.)

12 JUROR NO. 168: So I have a difficult
13 time judging based on evidence. If there is a
14 chance that someone is innocent I have a conscience
15 that I can't put someone in prison over that. So I
16 can't be partial.

17 THE COURT: Say that one more time.

18 JUROR NO. 168: I have a difficult time
19 judging someone guilty when I wasn't present.

20 THE COURT: I got you.

21 JUROR NO. 168: If there's a chance
22 they're innocent I have a difficult time putting
23 them in prison.

24 THE COURT: Okay. And so I'm going to
25 explain to you one of the instructions that I give

1 to the jury. A juror's role is to listen to the
2 evidence and to make up the juror's mind based
3 solely on what they hear in court while court is in
4 session. The State has the burden of proving guilt
5 beyond a reasonable doubt.

6 JUROR NO. 168: I understand.

7 THE COURT: It is the juror's role to
8 determine whether or not the State has met its
9 burden. Now, hearing that you have -- am I hearing
10 that you have -- articulated that very well.
11 Hearing that does that --

12 JUROR NO. 168: Doesn't change my mind.

13 THE COURT: Doesn't clarify. In other
14 words, you are telling me you have concerns about
15 your ability even if you thought that the State had
16 met its burden.

17 JUROR NO. 168: Because there is still
18 a potential doubt in my mind.

19 THE COURT: All right. Very well. I'm
20 going to do what my momma would think was rude and
21 probably give me a fussing at for, I'm going to ask
22 you to go back behind that swinging gate so that I
23 can talk about you.

24 (Juror left the bench.)

25 THE COURT: I think if he said he can't

1 find guilty he's got to go.

2 MR. NELSON: He did say if he had
3 doubts he wouldn't find him.

4 THE COURT: He said he wouldn't.

5 MS. MIMS: He said --

6 MR. NELSON: I am trying.

7 THE COURT: That was very good. I'm
8 going to ask you to sit this one out. Juror 168,
9 correct?

10 JUROR NO. 168: Yes.

11 THE COURT: Out.

12 THE CLERK: Yes, ma'am.

13 THE BAILIFF: Juror No. 83.

14 THE COURT: Hi.

15 JUROR NO. 83: Hello again. 83. I
16 feel like I could not facilitate sending to prison
17 black youth. I could not facilitate the pipeline
18 of black youth in our prison systems. I am just
19 not comfortable with this. And I taught his
20 brother. I don't know him. But I taught his
21 brother so it's -- I'm not comfortable and I would
22 not be fair in that aspect.

23 THE COURT: Okay.

24 JUROR NO. 83: A hundred percent
25 honest.

1 THE COURT: Listen, I appreciate that.
2 I appreciate your absolute candor. So let me just
3 share with you what the role of the juror is so
4 that I know that I am being completely clear. The
5 burden to prove guilt is on the State. The State
6 must prove guilt with regard. It is a juror's
7 responsibility to determine whether the State has
8 met its burden. Hearing that you continue with
9 those concerns?

10 JUROR NO. 83: Yes.

11 THE COURT: Okay. You mentioned that
12 you were concerned that you would have difficulty
13 being fair.

14 JUROR NO. 83: Yes.

15 THE COURT: Very well. I'm going to
16 ask you to sit this one out. Out. 83.

17 THE CLERK: Yes, ma'am.

18 THE BAILIFF: Juror 21.

19 JUROR NO. 21: So this is to your
20 previous question. I don't know. When I was in
21 Ohio in 2011 I had been arrested for a misdemeanor
22 possession of drug abuse instruments and a felony
23 possession of the actual narcotics. The
24 misdemeanor was thrown out and the felony got no
25 billed. I don't know if that affects anything at

1 all or not.

2 THE COURT: Okay. I can understand
3 why, because arrested and charged, I can understand
4 why you would have felt compelled to come forward.
5 Although I didn't actually ask you that, I can
6 understand that confusion. So let me ask you this
7 as a followup question. As a result of having had
8 that experience, because I gather it was one time,
9 whatever happened happened?

10 JUROR NO. 21: Yes, ma'am.

11 THE COURT: Two charges came out of it
12 or two allegations came out of it. As a result of
13 that experience in your life do you believe that it
14 might or could interfere with your ability to be
15 completely fair and impartial both to the State as
16 well as to the Defendant?

17 JUROR NO. 21: I don't believe so at
18 all.

19 THE COURT: Can you set that experience
20 aside and make up your mind based on what you hear
21 in court while it is in session?

22 JUROR NO. 21: Yes, ma'am.

23 THE COURT: How long, you know,
24 everybody looks like they are 12 to me. So tell me
25 how old you are?

1 JUROR NO. 21: I'm 26.

2 THE COURT: How long ago did that
3 occur?

4 JUROR NO. 21: It was in 2011.

5 THE COURT: All right. Long time ago,
6 seven years ago. I would share with you that --
7 actually I won't share that with you. I don't know
8 the answer to that. What is interesting and would
9 be interesting for you to know would be whether or
10 not your record has been expunged. It should have
11 been.

12 JUROR NO. 21: Actually still shows up.
13 Like I had an issue when Boeing was running a
14 background check it came up.

15 THE COURT: You are at Boeing?

16 JUROR NO. 21: I was.

17 THE COURT: You may want to -- it's in
18 another state so I can't tell you precisely what to
19 do. You might want to do a little bit of research
20 about what you might be able to have that expunged
21 or taken off.

22 JUROR NO. 21: Yes, ma'am.

23 THE COURT: Wonderful. Thank you.
24 Please stay with us. Anyone else?

25 THE BAILIFF: Juror 41.

1 THE COURT: Yes.

2 JUROR NO. 41: Judge, I wanted to share
3 with you that I have a stomach condition that
4 doesn't always cooperate.

5 THE COURT: I understand.

6 JUROR NO. 41: Doesn't matter what my
7 diet is.

8 THE COURT: I'm with you.

9 JUROR NO. 41: So when the time comes I
10 can't be sitting there waiting for a break. Got to
11 go. I don't want to be disruptive.

12 THE COURT: You won't disrupt. You
13 just raise your hand and we will take a break,
14 okay? Give me like three minute warning and I'm
15 good.

16 JUROR NO. 41: Three minutes is pushing
17 it sometimes.

18 THE COURT: I understand.

19 JUROR NO. 41: I have to deal with it
20 every day.

21 THE COURT: I understand. These
22 bailiffs watch folks and make sure they're okay and
23 we will communicate together, okay?

24 JUROR NO. 41: Okay. I didn't want to
25 disrupt.

1 THE COURT: You will not disrupt.

2 JUROR NO. 41: Timing.

3 THE COURT: I understand. If you are
4 on the jury we will take more frequent breaks. All
5 right.

6 (Thereupon, the sidebar conference
7 ended.)

8 THE COURT: Now, let me tell you what
9 happens next. In just a few moments our clerk is
10 going to begin to call numbers one at a time and if
11 your number is called just exit your row, come
12 through the gates and stand here. I would like to
13 tell you that about 25 years ago I sat in the old
14 courthouse in the audience as a juror. My name got
15 called and all I could remember is thinking gee, I
16 wish I could have left my hands on my seat and
17 stood up here. Yes, it's a little awkward
18 especially for the first person, but I will be
19 right here with you.

20 So you will stand here and you will
21 first hear from one of the attorneys for the State
22 and they are going to say one of two things.
23 Excuse the juror, if you hear excuse the juror, I
24 want you to take your seat back in the audience or
25 you will hear present the juror. Then you are

1 going to hear from one of the attorneys for Mr.
2 Biggs. And you are going to hear one of two things
3 from them. You are going to hear either seat the
4 juror, that means you go take your seat which means
5 if you brought a book or anything with you today
6 just bring it with you. You will take the seat in
7 the box.

8 If you hear excuse the juror then you
9 will take your seat in the audience. Now, here's
10 what I want you to know. I was not seated on the
11 jury. But I did have an opportunity to come and
12 stand as I am going to ask you to do.

13 Ladies and gentlemen, here's what I
14 want you to know. If you are excused and this is a
15 comment I would like to make, there are hundreds of
16 considerations that go into the lawyers' thought
17 processes in jury selection. Let me tell you one
18 that does not go into their consideration and that
19 is any intention, any desire at all to embarrass
20 anyone. That's not considered. It's a process we
21 have used in the state since we were in college and
22 so please understand that if you are excused no one
23 is trying to embarrass you at all, it's just
24 hundreds of considerations go through their minds.

25 Now, counsel, five strikes State, ten

1 for defense. And we will keep going. I would like
2 to get two alternates.

3 THE CLERK: We have enough for one.

4 THE COURT: I still want to have more
5 than that. So we will keep them. I'm going to
6 stand here with the first person.

7 THE CLERK: Juror No. 41, James Egger.
8 What says the State?

9 MS. MIMS: Please present the juror.

10 THE CLERK: Defense?

11 MR. BYRD: Please seat the juror.

12 THE CLERK: Have a seat in the jury box
13 to the left.

14 THE COURT: Now I'm going to be seated.
15 You know what to do now.

16 THE CLERK: Juror No. 57, Leighann
17 Green. What says the State?

18 MS. MIMS: Please present the juror.

19 THE CLERK: Defense.

20 MR. BYRD: Please seat the juror.

21 THE CLERK: If you will have a seat in
22 the jury box to the left. Juror No. 74, Ketrell
23 Jenkins. What says the State?

24 MS. MIMS: Please present the juror.

25 THE CLERK: Defense?

1 MR. BYRD: Please seat the juror.

2 THE CLERK: If you will have a seat.

3 Juror No. 7, Candace Askew. What says the State?

4 MS. MIMS: Please present the juror.

5 MR. BYRD: Please excuse the juror.

6 THE CLERK: Please have a seat back in
7 the audience. Juror No. 130, Leroy Pinckney. What
8 says the State?

9 MS. MIMS: Please seat the juror.

10 THE CLERK: Defense.

11 MR. BYRD: Please seat the juror.

12 THE CLERK: If you will have a seat in
13 the jury box. Juror No. 160, Daniel Ulino, Jr.
14 What says the State?

15 MS. MIMS: Please present the juror.

16 THE CLERK: Defense?

17 MR. BYRD: Please excuse the juror.

18 THE CLERK: Have a seat back in the
19 audience. Juror No. 118, James Osborne. What says
20 the State?

21 MS. MIMS: Please seat the juror.

22 THE CLERK: Defense.

23 MR. BYRD: Please excuse the juror.

24 THE CLERK: Have a seat back in the
25 audience. Juror No. 1, Shaunna Ahern. What says

1 the State?

2 MS. MIMS: Please seat the juror.

3 THE CLERK: Defense?

4 MR. BYRD: Please excuse the juror.

5 THE CLERK: Have a seat back in the
6 audience. Juror No. 37, Mary Difederico. What
7 says the State?

8 MS. MIMS: Please seat the juror.

9 THE CLERK: Defense?

10 MR. BYRD: Please seat the juror.

11 THE CLERK: Have a seat in the jury
12 box, please. Juror No. 20, Kimberly Burditt. What
13 says the State?

14 MS. MIMS: Please seat the juror.

15 THE CLERK: Defense?

16 MR. BYRD: Please seat the juror.

17 THE CLERK: If you will have a seat in
18 the jury box to the left, please. Thank you.
19 Juror No. 107, William Milam, Jr. What says the
20 State?

21 MS. MIMS: Please seat the juror.

22 THE CLERK: Defense?

23 MR. BYRD: Please excuse the juror.

24 THE CLERK: Have a seat back in the
25 audience. Juror No. 132, Brandy Piscatella. What

1 says the State?

2 MS. MIMS: Please seat the juror.

3 THE CLERK: Defense?

4 MR. BYRD: Please seat the juror.

5 THE CLERK: Have a seat in the jury
6 box. Juror No. 26, David Chambers. What says the
7 State?

8 MS. MIMS: Please seat the juror.

9 THE CLERK: Defense?

10 MR. BYRD: Please seat the juror.

11 THE CLERK: Have a seat in the jury box
12 to the left. Juror No. 127, Loren Pfeffer. What
13 says the State?

14 MS. MIMS: Please seat the juror.

15 THE CLERK: Defense?

16 MR. BYRD: Please excuse the juror.

17 THE CLERK: Have a seat back in the
18 audience, please. Juror No. 169, Edward Williams.
19 What says the State?

20 MS. MIMS: Please seat the juror.

21 THE CLERK: Defense?

22 MR. BYRD: Please excuse the juror.

23 THE CLERK: Have a seat back in the
24 audience. Juror No. 104, Michael Meyer. What says
25 the State?

1 MS. MIMS: Please present the juror.

2 THE CLERK: Defense?

3 MR. BYRD: Please seat the juror.

4 THE CLERK: Have a seat in the jury box
5 to the left. Thank you. Juror No. 75, David
6 Jennings. What says the State?

7 MS. MIMS: Please strike the juror.

8 THE CLERK: Have a seat back in the
9 audience. Juror No. 10, Nancy Barnwell. What says
10 the State?

11 MS. MIMS: Please present the juror.

12 THE CLERK: Defense?

13 MR. BYRD: Please seat the juror.

14 THE CLERK: Have a seat in the jury box
15 to the left, please. Juror No. 21, Matthew Burns.
16 What says the State?

17 MS. MIMS: Please present the juror.

18 THE CLERK: Defense?

19 MR. BYRD: Please seat the juror.

20 THE CLERK: Have a seat in the jury box
21 to the left. Juror No. 56, Diane Gorman. What
22 says the State?

23 MS. MIMS: Please present the juror.

24 THE CLERK: Defense?

25 MR. BYRD: Please excuse the juror.

1 THE CLERK: Have a seat back in the
2 audience. Juror No. 30, Elizabeth Colson. What
3 says the State?

4 MS. MIMS: Please present the juror.

5 THE CLERK: Defense?

6 MR. BYRD: Please present the juror.

7 THE CLERK: Have a seat. That's 12.

8 THE COURT: First alternate, one strike
9 for the State, two for the defense.

10 THE CLERK: Juror No. 44, Shaquevia
11 Felder. What says the State?

12 MS. MIMS: Please present the juror.

13 THE CLERK: Defense?

14 MR. BYRD: Please seat the juror.

15 THE CLERK: Have a seat in the jury box
16 to the left.

17 THE COURT: And let's have another
18 alternate.

19 THE CLERK: For alternate No. 2 Juror
20 No. 164, Theresa Ward. What says the State?

21 MS. MIMS: Please present the juror.

22 THE CLERK: Defense?

23 MR. BYRD: Please seat the juror.

24 THE CLERK: Have a seat in the jury box
25 to the left. Alternate No. 2. Thank you.

1 THE COURT: All right. Counsel, are
2 there any matters involving the qualification or
3 the selection of the jury from the State?

4 MS. MIMS: None.

5 THE COURT: From the defense?

6 MR. BYRD: None.

7 THE COURT: All right. Ladies and
8 gentlemen, those of you who are now in our audience
9 are now known as our remaining jurors. I am going
10 to ask you to please call the jury information
11 line. There was a little card that was in your
12 packet that you received. If you do not have your
13 card or you're concerned that you don't have your
14 card that is not a problem. We have lots of them
15 and our bailiffs have it for you if you need one.
16 Take one or take a couple if you need to. I'm
17 going to ask you please call the jury information
18 line after 6:00 this evening. At that time, ladies
19 and gentlemen, one of two things will happen. You
20 will either be asked to call back at a particular
21 time or you will be asked to return to the
22 courthouse at a particular time. I have no way of
23 knowing what the recording will be. But the reason
24 we ask to wait until after 6:00 is so that we can
25 have an opportunity to know what our schedule is

1 going to be for tomorrow and to place the recording
2 on the machine for you. So please do not call
3 until after six.

4 Having said that, you can call at 6:01,
5 7:25. If you are up walking the floor tomorrow
6 morning call the jury information line. Please
7 give us until 6:00 to know what our schedule is to
8 place the recording on the machine for you.

9 Ladies and gentlemen, we have taken so
10 much of your dear and precious time today. And I
11 want to tell you that we are all grateful for each
12 and every second and tic of the clock that you have
13 given to us as we have gone through the process.
14 And if you would do so for me quietly, you are free
15 to go. Remember to call in the jury information
16 line.

17 (Remaining jurors excused from the
18 courtroom.)

19 THE COURT: Counsel, let me see you for
20 just a second.

21 (Off-the-record conference.)

22 THE COURT: Ladies and gentlemen, let
23 me tell you what now is going to occur. In just a
24 moment I'm going to ask you to step to your jury
25 room with this instruction. Do not discuss this

1 matter or allow anyone to discuss it with you and I
2 could certainly understand if at this moment you
3 are like wait a minute, we haven't started the
4 trial. Why are you telling us this? Well, ladies
5 and gentlemen, it is going to be so important that
6 as a juror that you are able to listen open
7 mindedly to everything and that you not make up
8 your mind about anything until you have heard
9 everything.

10 One of the things that we know about
11 jurors, about ourselves, is that if we are talking
12 about something, then we are forming an opinion
13 about it. So I'm going to give you that
14 instruction each and every time that you leave me
15 here in the courtroom.

16 Now, why would I give it to you now?
17 Well, you have got a little bit of information. I
18 read some of the allegations. I have introduced
19 you to some folks. I have asked you some questions
20 so you have some information. And so because of
21 that it's very, very important even at this moment
22 that you understand and that you guard against
23 discussing this matter at all. That means with
24 your family, friends or anyone that has anything to
25 do with this case. And so that's why I give you

1 you that instruction at this time.

2 Now, ladies and gentlemen, you cannot
3 have a cell phone with you while you are serving on
4 the jury. And so during this short break that we
5 will take in just a moment if your cell phone came
6 in here with you, after lunch I'm going to ask you
7 please relinquish it to one of our bailiffs and
8 they will take the best of care of it until we
9 leave each other for the evening.

10 But please do not keep your cell phone
11 with you while you are serving on the jury panel.
12 You're not allowed to do that by order of our chief
13 justice. So if you happen to have it with you, if
14 you will just please give it to one of the bailiffs
15 that will take good care of it. If you think you
16 can hold onto it because you turned it off and you
17 put it on vibrate, if you think it won't turn
18 itself back on and ring right in the middle of
19 everything, don't take that chance. If you just go
20 ahead and relinquish it if you have it with you.
21 And we will give it back to you at the end of the
22 day.

23 Ladies and gentlemen, when you return
24 from this short break, it is going to be a very
25 short break, I have a few preliminary remarks that

1 I'm going to make to you and then we are going to
2 get right into the trial of this case.

3 So if you will step to your jury room,
4 do not discuss this matter or allow anyone to
5 discuss it with you. One of the esteemed bailiffs
6 will take you to your jury room. Thank you so
7 much.

8 (Thereupon, the jury exited the
9 courtroom at 3:37 p.m.)

10 THE COURT: Yes. Motion.

11 MR. BYRD: If it please the Court, at
12 this time we ask for sequestration of the witnesses
13 in this case.

14 THE COURT: All right.

15 MS. MIMS: We are not opposed to that,
16 Your Honor. Our first witness today would be
17 Justin Jenkins who was an officer at the time of
18 this incident occurred. Would the Court be okay
19 with allowing him to stay in through opening
20 statements?

21 MR. BYRD: No objection to that, Your
22 Honor.

23 THE COURT: Very well. It's my
24 understanding of course the case officer would
25 remain present and normally the victim's family

1 certainly -- I would not sequester the victims'
2 family, but in this instance it's my understanding
3 that there are two witnesses from the victims'
4 family.

5 MS. MIMS: Yes, ma'am.

6 THE COURT: His mother, his wife. And
7 while they would be sequestered it's my
8 understanding they are very early witnesses in this
9 proceeding and they would be sequestered until
10 after they testify and then, of course, they would
11 remain.

12 MS. MIMS: If that please the Court
13 that's what we would like.

14 MR. BYRD: No objection, Your Honor.

15 THE COURT: Very well. So I think you
16 all have to speak with someone. What that means is
17 that those who are anticipated they will be
18 witnesses, I need you to just take your leave from
19 the courtroom. Once you have testified unless
20 there's some reason you think you could be recalled
21 then you certainly are welcome to stay after you
22 have testified. All right.

23 Anything else from the State before we
24 bring the jury out?

25 MR. SORENSON: No, ma'am.

1 THE COURT: From the defense?

2 MR. BYRD: Nothing, Your Honor.

3 THE COURT: All right. Let's have the
4 jury, please.

5 (Whereupon the jury entered the
6 courtroom at 3:59 p.m.)

7 THE COURT: All right. Ladies and
8 gentlemen, I have some housekeeping matters that I
9 wanted to go over with you and then I have a few
10 preliminary remarks for you.

11 And, Mr. Pinckney, and ladies and
12 gentlemen, our law dictates that there should be
13 one of your number who serves as the presiding
14 juror. It's as though you knew it. You have the
15 presiding juror's chair, Mr. Pinckney. And you are
16 actually the person that I was going to ask to
17 serve as our presiding juror. And you think that
18 probably I would have said that to anybody that
19 took the seat. No. I'm going to ask you to serve
20 as the presiding juror. Really easy. Really easy.
21 I will tell you what the additional tasks are.

22 First of all, you sit in that seat
23 throughout the trial and that might be the most
24 difficult part. Because you have to remember what
25 seat to go to. And the presiding juror is the

1 scrivener, the writer. When this case is over and
2 the jury has finished its deliberation you will
3 have to write on the piece of paper, you are just
4 the writer, you don't make the determination. You
5 join in as a juror, but somebody got to write it.
6 That's you. And the presiding juror we ask just to
7 be sure that everybody has a chance to talk during
8 deliberations. And finally if the jury needs to
9 communicate with me for whatever reason, you need
10 me to speak up or slow it down, whatever, whatever
11 the jury might need to share with me you just write
12 it down, give it to one of the bailiffs who will
13 get it to me. That's it. I got it. Thank you.

14 Now, with regards to other assigned
15 seating, Ms. Felder, Ms. Ward, you are our
16 alternates. I would like you to keep those two
17 seats. But if y'all wanted to switch them because
18 you are tired of sitting that's fine between those
19 two seats. That way I can keep up with our
20 alternates. It's assigned seating. However, when
21 you return to your seats there were note pads on
22 your seat.

23 What I want you to do for me is to take
24 your pad and on the cover sheet write your juror
25 number. If you don't remember your juror number

1 don't worry about it. We will tell you what your
2 juror number is. Anybody need the number? Got it?
3 Okay. Wonderful. And then turn that sheet over.
4 That becomes your cover sheet for your notes.

5 Now, why did I give you a note pad?
6 Well, ladies and gentlemen, I will tell you that
7 there is a long-standing debate about whether or
8 not jurors ought to be given pads and pencils. And
9 the debate goes like this. There is a concern that
10 as a juror takes a note they can miss something as
11 it is coming from the witness stand. I'm going to
12 tell you if you choose to take notes, this is only
13 to give you something if you choose to take notes.
14 Don't feel compelled to. If you are not a note
15 taker goodness, don't worry about it. But if you
16 are a note taker, I'm a note taker. And it helps
17 me to concentrate because most of the time when I
18 go back and look at my notes they are not
19 particularly complete. But I have seen people
20 whose notes are very complete.

21 When I take notes it almost is though
22 it helps me concentrate. So if you are a note
23 taker, a person who jots a word or two down to help
24 themselves concentrate, great. If you are not a
25 note taker please don't feel compelled to do that.

1 Those note pads are simply there if taking notes
2 would be of assistance to you.

3 Now, your notes are for you and just
4 for you. That's the reason there is a cover sheet.
5 While there is no assigned seating there are
6 assigned note pads so I do need you to get your
7 note pad because when you leave the courtroom
8 whether it's during one of our breaks or a lunch
9 break or over the evening you will leave your note
10 pads in your seats. We will secure your note pads
11 while you are out of the courtroom and we will lock
12 them up overnight and then put them back in the
13 seats or also stack them up so that you can
14 retrieve your note pads when you come back from
15 overnight. And then you be sure you have your note
16 pad after the breaks.

17 Now, we don't have assigned seating.
18 That ends up having your note pad in a seat, seems
19 to end up being somewhat your seat. You don't have
20 to stay in this seat, just keep your note pad when
21 you are in court so that your notes will be on your
22 note pad.

23 I tried a case once and the jury -- I
24 wasn't clear about that and notes weren't very
25 helpful because one day one person took notes on

1 one pad and the next day they had taken notes on
2 another pad so it wasn't particularly helpful. Try
3 to keep those if you are a note taker and you
4 choose to take notes that you will have them if you
5 choose to use them during deliberations.

6 Now, ladies and gentlemen, let me tell
7 you that your notes are for you only. When the
8 time for deliberation has come, and there will be
9 no question in your mind when the time is because I
10 will tell you now the time for deliberations has
11 come, please use your notes to refresh your
12 recollection. Please don't use them and say I'm
13 right because I wrote it down. That's not the
14 purpose of notes. Purpose of notes is to serve you
15 in any way that they might.

16 Now and also I would warn you please do
17 not let the taking of notes keep you from being
18 able to listen to the witnesses as they are
19 testifying. It is much more important to listen to
20 the witnesses, observe them than it is to take a
21 note. Please don't let your taking of a note allow
22 you to miss something coming from the witness
23 stand.

24 Now, that's enough about notes. That's
25 not enough because there is one more thing. At the

1 conclusion of the trial, at the conclusion of this
2 trial, jurors what to know what happened to their
3 notes. When you have completed your deliberations
4 and the trial is over you can take your notes with
5 you if you wish. If you do not take your notes
6 with you let me tell you what happens. The note
7 pads are immediately brought to my chambers and I
8 destroy your notes. So if you happen to leave your
9 notes here please know that I destroy them myself.
10 That is my policy. You have secrecy, if you will,
11 in your notes. So please know that. All
12 right.

13 Now, ladies and gentlemen, at this time
14 I am going to call on our esteemed clerk to swear
15 you in as the jury in this case. Please stand and
16 raise your right hand.

17 (Jury sworn by clerk.)

18 THE COURT: Ladies and gentlemen, the
19 Defendant in this case, Mr. James Alfonza Biggs,
20 III is charged with two indictments. Each of these
21 two indictments charges Mr. Biggs with murder.
22 Ladies and gentlemen, Mr. Biggs has pled not guilty
23 to each of these two indictments. That plea places
24 the burden on the State to prove each and every
25 element of each of these indictments and the State

1 has the burden to prove guilt beyond a reasonable
2 doubt.

3 It will be your decision to determine
4 whether the State has met its burden. Ladies and
5 gentlemen, please keep in mind that the indictment,
6 each of these indictments, are the charge by which
7 the case is brought into court. An indictment is
8 not in any sense evidence of any of the allegations
9 it contains. As I have said, the Defendant, Mr.
10 Biggs, if I say Mr. Biggs I mean or if I say the
11 Defendant I mean Mr. Biggs, the Defendant, Mr.
12 Biggs, has pled not guilty to each of these
13 indictments. The State therefore has the burden of
14 proving each of the elements of these indictments
15 beyond a reasonable doubt. It will be your duty to
16 decide whether the State has met that burden.

17 Ladies and gentlemen, you, of course,
18 consider these indictments independently and
19 separately. It is your purpose as jurors to find
20 and to determine the facts, the facts. You are the
21 sole, the only judge of the facts. If at any time
22 I make any comment regarding the facts you must
23 disregard it. I will not intend at any time to
24 make a comment on the facts. The law doesn't allow
25 me to have an opinion regarding these facts. I

1 have no opinion. That's a matter solely for you to
2 determine.

3 You are to determine the facts from the
4 testimony you hear and the other evidence which is
5 introduced into court. It is up to you to
6 determine what, if any, inferences you feel may
7 properly be drawn from the evidence. It is
8 especially important that you perform your duty of
9 determining the facts diligently and
10 conscientiously. You see, under our system there
11 is ordinarily no way to correct an erroneous
12 determination of the facts by a trial jury. The
13 facts as determined by you will be the facts for
14 all time. That is why it is critically important
15 that you give the closest attention to the
16 witnesses. Listen to them, observe them. Please
17 do not let your thoughts wander.

18 On the other hand and with equal
19 emphasis, the same law that makes you the judge of
20 the facts makes me the judge of the law. The law
21 as given to you by the Court is the only law that
22 you may consider. You must accept and follow the
23 law as I give it to you even though you may
24 disagree with it even if you had a preconceived
25 idea regarding what the law is or what it ought to

1 be.

2 Now, maybe you want to go have a
3 meeting with your legislator at some point. But
4 for our system to work correctly you must accept
5 and apply the law as I state it to you.

6 Ladies and gentlemen, I can't tell you
7 what the facts are or comment or intimate in any
8 regard my opinion regarding the facts. I can't
9 comment on those. That is your task, your duty, to
10 determine the facts. You cannot disagree with me
11 about what the law is or what it should be. Your
12 job is to find the facts as you find them to be and
13 to take the law as I give it to you and apply it to
14 the facts as you have found them to be. That is
15 how you will reach your verdict under your oath
16 that you just took. Until I advise you to begin
17 your deliberations you must not discuss this case
18 with anyone, including your fellow jurors,
19 including your fellow jurors, your friends, your
20 family members, or anyone involved in the case.
21 This includes discussions face to face and those by
22 telephone, e-mail, text, blogs or any other method
23 of communication.

24 You may not use a computer, cell phone,
25 or other electronic device with communication

1 capabilities at any time while in the courtroom or
2 during your deliberations. During your breaks for
3 meals or overnight if necessary you may use these
4 devices, however, you may not at any time use these
5 devices to get or send information about the case.
6 This includes information about a party, a witness,
7 an attorney or court officer. You may not research
8 news accounts about the case. You may not research
9 any topics raised, any topics you think would be
10 helpful in deciding the case or any testimony
11 presented by any witness. During this trial do not
12 read, listen to or watch any news reports about the
13 case. This includes anything that may be in the
14 newspapers or on the internet, the radio, the
15 television.

16 You must not consider anything you may
17 have read or heard about the case outside the
18 courtroom whether before or during the trial.

19 After the case is submitted to you you
20 must discuss it only in the jury room with your
21 fellow jurors. The attorneys and the parties in
22 this case have been advised that they are not to
23 talk to you at all. So if you see anyone involved
24 in the case and they do not even say hello, please
25 know they are not being rude, they are simply

1 following my instructions.

2 It is important that you keep an open
3 mind and that you not decide any issue in this case
4 until all of the evidence has been presented, the
5 parties have made their closing arguments and I
6 have instructed you on the law applicable to the
7 case. It is your solemn responsibility to
8 determine whether the Defendant is guilty or not
9 guilty and your verdict must be based solely on the
10 evidence as it is presented to you in the trial and
11 on the law as I instruct you during and at the
12 close of the trial.

13 Now, in just a moment the solicitor,
14 one of our solicitors who are here, will make what
15 is called an opening statement in which the
16 solicitor will explain to you what the solicitor
17 believes the issues are in this case. One of the
18 attorneys for Mr. Biggs will then have an
19 opportunity to likewise make an opening statement.
20 Opening statements are not true arguments. Those
21 arguments will come at the conclusion of the case
22 after you have heard all of the evidence and prior
23 to my charge on the law. Those are called closing
24 arguments and those are true arguments.

25 Ladies and gentlemen, once the opening

1 statements have been given then each side will have
2 an opportunity to present evidence to you.

3 Evidence in this case will be presented to you from
4 the testimony of sworn witnesses from this witness
5 stand, and/or by exhibits that may be introduced
6 into evidence. No doubt, ladies and gentlemen,
7 from time to time you are going to hear the lawyers
8 say something like, Your Honor, we have a question
9 of law or a matter of law to discuss with you or,
10 Your Honor, may we approach and sometimes I may
11 find it necessary to excuse you from the courtroom
12 for a short while so that I may discuss a matter
13 with the attorneys.

14 The reason for this is that because you
15 are the judges of the facts in this case and
16 sometimes when I am discussing matters of law with
17 the attorneys it may be necessary for me to make a
18 comment with regard to the facts in connection with
19 ruling on whether or not a particular law applies.
20 I am not allowed to comment to you with regards to
21 the facts so you will be excused from the courtroom
22 because it allows me the opportunity to discuss the
23 matter with the attorneys and I would not want
24 anything that I may say when ruling on the matter
25 of law to be considered by you as a comment on the

1 facts. It lets me do my job if you will.

2 Now, ladies and gentlemen, you may hear
3 the attorneys say objection. And I want to talk
4 about that. Ladies and gentlemen, as you now know,
5 as in sports, business or any other structured
6 activity, and a trial is a structured activity,
7 there are certain rules that both sides must obey
8 when presenting evidence and they are called the
9 rules of evidence.

10 If the lawyers believe that there is a
11 possible violation of these rules it is their duty
12 to call that possible violation of the rules to my
13 attention. They will do that by saying objection.
14 Ladies and gentlemen, ruling on the admissibility
15 of evidence, that's a matter of law. If you hear
16 the objection sustained that means that I believe
17 that there may be or there is a violation of the
18 use of evidence and that piece of evidence cannot
19 be received in that fashion.

20 If you hear overruled that means that I
21 do not believe that there is a violation of the
22 rules of evidence and that piece of evidence can be
23 received. Now, it is my duty to rule on the
24 admissibility of evidence. And because it is the
25 lawyer's duty to raise those possible violations to

1 my attention, you must not hold an attorney's
2 objection against the attorney's client, nor should
3 you conclude from my ruling on the objection that I
4 favor one side or the other. I can assure you I do
5 not. It is simply their duty to raise those
6 possible violations and it is my duty to rule on
7 them as a matter of law.

8 Now, once evidence is admitted whether
9 you believe it, the weight you give to it and the
10 inference you draw from it, those are matters
11 solely for you to determine. Now, ladies and
12 gentlemen, in determining what the true facts are
13 in this case you must decide whether or not the
14 testimony of the witnesses is believable. As I
15 have said, it is my responsibility to rule as a
16 matter of law as to whether certain testimony is
17 admissible at all or not, but once it is admitted
18 whether you believe it or not is solely for you to
19 decide, to determine.

20 In deciding whether to believe a
21 witness you have the right to consider the interest
22 of any witness, the bias of any witness, the
23 prejudice of any witness, the opportunity for
24 witness to have seen or heard the things about
25 which the witness may testify and you may consider

1 the way in which the witness acts on the witness
2 stand. You have the right to consider anything
3 that is in the record that will help you evaluate
4 the testimony of the witnesses. That means it is
5 your duty to pay close attention to these
6 witnesses, observe them, listen to them and pay
7 close attention to the attorneys and to the Court,
8 to not let your thoughts wander and give the
9 strictest attention to the testimony in this case
10 so that at the end of all the testimony and after
11 the arguments of counsel and the charge on the law
12 by the Court you will be in a position to perform
13 your solemn duty to determine the facts, then to
14 apply the law to those facts and thus render your
15 verdict.

16 Now, ladies and gentlemen, I'm going to
17 ask that you do me a kindness. But to explain it
18 to you fully I have to tell you a story. When I
19 was a little girl when we would go to services, I
20 have two older brothers, but for some reason I was
21 the one that my mother always had sit next to her.
22 And there would be those moments when my mother
23 would always put her fingers here and close her
24 eyes. I thought she was sleeping. So I would
25 start squirming because I was a squirmer. And

1 inevitably her hand would slide over and pinch me.
2 It was a sign. It was not a happy sign. I thought
3 she was sleeping. Her eyes were closed. Well, as
4 I learned the hard way some people concentrate with
5 their eyes shut. We have just met this afternoon.
6 I do not want to make that same mistake with you.
7 I'm going to ask you as a kindness to me
8 concentrate with your eyes open so that I will not
9 make the mistake like I made with my own mother
10 that she was sleeping. So if you will do me that
11 kindness I would be grateful.

12 Ladies and gentlemen, to preserve
13 everyone's rights I will give the parties an
14 opportunity to object to anything that I have said
15 up to this point. Any exceptions from the State?

16 MS. MIMS: No, Your Honor.

17 THE COURT: From the defense?

18 MR. BYRD: None, Your Honor.

19 THE COURT: Ladies and gentlemen, at
20 this time I'm going to ask you to please draw close
21 as you listen to opening statements. Mr. Sorenson.

22 MR. SORENSON: Please the Court, Your
23 Honor. Good afternoon, ladies and gentlemen. Back
24 on November 30th of 2015 at 6:00 in the evening the
25 Dorchester County Sheriff's Office was dispatched

1 out to 102 Larson Drive located in the Greenhurst
2 Subdivision here in Dorchester County. Calls had
3 come in about shots being fired over in that
4 vicinity. Officers arrived on the scene. They
5 found a white Pontiac Grand Am in the front yard of
6 that residence at 102 Larson Drive. Inside that
7 vehicle the two front doors were open. In that
8 front passenger seat they found 23-year-old Terrell
9 Miles. Terrell had suffered three gunshot wounds,
10 one to the back right part of his head, neck area,
11 two to the back. He was pronounced dead at the
12 scene there by EMS. They found 22-year-old Jamal
13 Armstrong on his knees outside of the driver's seat
14 leaning over into the driver's seat of that
15 vehicle. Jamal had been shot four times. Been
16 shot one time in the face, gone through his cheek
17 out his chin and into his chest, been shot one time
18 in the right shoulder, went into his chest, another
19 time in the chest that had exited over on the left
20 part of his chest. The fourth time point blank to
21 the back of his head. Jamal was still alive on the
22 scene, but ultimately he was pronounced dead in a
23 couple of hours at Trident Medical Center.

24 As a result of what happened to those
25 two young men that night, as a result of the

1 investigation by the Dorchester County Sheriff's
2 Office, as you have heard they ultimately charged
3 that man right there, James Biggs, with Terrell and
4 Jamal's murder. I want to take just a couple
5 minutes of your time this afternoon. I know it's
6 been a long, long day, long afternoon for y'all,
7 but I want to talk to you just a little bit about
8 some of the law involved in this case, give you
9 kind of a brief kind of framework about the
10 evidence that you are going to hear from these
11 witnesses that I submit to you proves James Biggs
12 not only guilty beyond a reasonable doubt, but I
13 submit to you guilty beyond any doubt of Jamal and
14 Terrell's murder.

15 As you have heard, Mr. Biggs is charged
16 with two counts of murder. The most serious crime
17 we have in South Carolina, but also has probably
18 one of the most simplest definitions. Murder in
19 South Carolina is defined very simply as the
20 unlawful killing of another human being with malice
21 aforethought. That could be either express or
22 implied. I want to talk to you just a little bit
23 and break that down. The first part of that is
24 malice. What is malice? Malice is ill will or
25 hostility towards another person. The intentional

1 doing of a wrongful act without just cause or
2 excuse. That malice, you heard that other part
3 that I said right after malice is aforethought.
4 What that doesn't mean is there's no such thing as
5 premeditated murder in South Carolina. We don't
6 have to prove that somebody was planning something
7 for any period of time. But it does have to be
8 aforethought. In other words, that at the time
9 like in this case the fatal shots were fired, that
10 malice, that evil, ill will, that hostility has to
11 be within James Biggs's heart and mind at the time
12 that that trigger was pulled. I submit in this
13 case over and over and over and over again. That's
14 the aforethought part of it.

15 And that malice, ladies and gentlemen,
16 you can find in two ways, can be express, you can
17 have occasionally a situation where somebody said I
18 am going to kill you. That's express malice. Or
19 it can be as often is the case in this case, nobody
20 heard exactly what happened prior to that, to the
21 shooting. So it can be inferred or implied from
22 the facts and circumstances, from the use of a
23 deadly weapon, from the circumstances surrounding
24 the use of that deadly weapon. In this case the
25 fact that you have one young man that I submit to

1 you you are going to hear the evidence was shot
2 three times basically in the back. Evidence that
3 the other young man, Mr. Armstrong, was shot
4 multiple times with the last one being almost a
5 point blank shot to the back of his head. Those
6 are facts and circumstances that you can infer that
7 that man had malice in his heart when he killed
8 Terrell and Jamal back on November 30th of 2015.

9 I want to talk to you just briefly
10 about how we are going to go about proving that to
11 you. We do that by calling witnesses to the
12 witness stand to have evidence about what happened
13 that night. I'm going to have photographs,
14 exhibits and things of that nature that we are
15 going to introduce. Ultimately, ladies and
16 gentlemen, what I submit to you in this case the
17 evidence is going to show that night at 102 Larson
18 Drive was the Defendant, he wasn't living there.
19 That's his mother's residence. That white Pontiac
20 Grand Am that I told you that two bodies were found
21 in is that man's car. You are going to hear
22 evidence about the fact that he was selling
23 marijuana from his mother's front yard. He had
24 made multiple sales to people that evening leading
25 up to this. The victims in this case, Mr. Miles

1 and Mr. Armstrong, were going over there for the
2 purpose of buying marijuana from James Biggs. You
3 are going to ultimately hear from multiple
4 witnesses that are going to put him on the scene at
5 the time the shots were fired, witnesses that saw
6 him after hearing those shots fleeing on foot from
7 the scene, hear how his cell phone is going to put
8 him and tie all that together, put him out there at
9 the time. A cell phone that I submit to you after
10 the shooting he left behind in that vehicle. You
11 are going to hear how 15 days later he turns
12 himself in on December 15th to law enforcement.
13 How he hadn't come forward in those 15 days in
14 between. The sheriff's office was looking for him.
15 Identified him as the suspect in this case.

16 You are gong to hear he never attempted
17 to get his vehicle back from the sheriff's office
18 that had been towed from the scene the sheriff's
19 office kept during that period of time. Never
20 attempted to come get his phone back. At the end
21 of the day, ladies and gentlemen, this isn't going
22 to be a whodunit. I submit to you there will be no
23 doubt the person that pulled the trigger seven
24 times that night was James Biggs.

25 You are going to hear about how when

1 they processed that scene, that crime scene, there
2 were no weapons found. The gun in this case has
3 never been recovered. He took off with that when
4 he fled the scene that night. I submit to you
5 there is no other weapons on the scene. You are
6 going to hear as I told you, the evidence I submit
7 is going to support that these two young men were
8 shot seven times. There were seven shell casings
9 found on the scene so no evidence of any other
10 weapon being fired out there but that one weapon
11 that killed the two of them. Seven bullets that
12 were found also corroborating that.

13 As I said, most importantly the fact
14 that his cell phone was still there, a cell phone
15 that he never attempted at any point in time to
16 come and get.

17 Now, ladies and gentlemen, I am just
18 about done and I will sit down. I want to take
19 this time ahead of time to thank you. I know that
20 this is probably the last place any of you expected
21 to be this Tuesday afternoon. But you have been
22 picked by both the State and the defense because we
23 feel that you are the best suited people to decide
24 this case. You may ask yourselves how on earth,
25 nobody -- didn't have a class before showing up

1 today, didn't give us any training down in the room
2 downstairs so what possibly makes us the best
3 suited people to decide what happened back on
4 November 30th of 2015? I submit to you it's
5 something that each and every one of you have been
6 training for every day of your lives.

7 As Her Honor told you what ultimately
8 this boils down to, just like she is the judge of
9 the law in this case, each and every one of you are
10 the judges of the facts. You have to determine
11 what the facts were, what happened that night.

12 You do that by judging the credibility
13 or in other words, believability of the witnesses
14 that come before you, the evidence that's presented
15 in this case, and that's something that you may not
16 realize it or not, but you do every day. Dealing
17 with your spouse, your children, coworkers,
18 friends. Ultimately in this case, ladies and
19 gentlemen, probably the biggest thing to keep in
20 mind that you didn't leave at the courthouse door,
21 you brought with you, you will have back in that
22 jury is your good old common sense. Good old
23 common sense. I am going to ask you to do just a
24 couple things for me when I sit down. The biggest
25 one, ladies and gentlemen, as you hear the defense

1 come up to give their opening statement and
2 ultimately as you hear the evidence throughout the
3 week is to keep an open mind, keep an open mind.
4 It's the way -- there's not going to be any one
5 witness that comes out and lays everything out.
6 Kind of like putting a piece of the puzzle
7 together. Each witness, each piece of evidence is
8 a piece of that puzzle. Keep an open mind. That
9 kind of goes then to weight, give us an opportunity
10 in this case, give Ms. Mims an opportunity at the
11 end of our case to come back up here and put that
12 puzzle together. The puzzle I submit to you will
13 show beyond all doubt back on November 30th of 2015
14 James Biggs murdered Jamal Armstrong and Terrill
15 Miles. Thank you.

16 THE COURT: Thank you, Mr. Sorenson.

17 MR. BYRD: Ladies and gentlemen, you
18 have heard what Mr. Sorenson said. You heard very
19 well what James Biggs is charged with. The crimes
20 he is charged with are very serious crimes. I'm
21 going to submit to you that today and this week,
22 this is his day and his week in court. He has
23 carried that burden, that label for two years. Two
24 years being labeled as a murderer. Up to and
25 including today in front of you Mr. Sorenson turned

1 and pointed at him and called him a murderer in
2 front of you.

3 It's a serious charge. I'm going to be
4 very brief with you all up here. I don't want to
5 take a bunch of your time. I want you to consider
6 what does it mean to you, what do you need, what do
7 you need to hear, what does the prosecutor need to
8 present to you to prove beyond a reasonable doubt
9 that James Biggs is, in fact, a murderer, that he
10 did, in fact, commit these crimes? It's a hard
11 burden beyond a reasonable doubt. And they have to
12 prove that right now. As you know as the judge has
13 put it much better than I could, right now Mr.
14 Biggs is an innocent man. And I ask you to please
15 consider him as an innocent man as we move forward.
16 He has been charged. And as I said to you, he has
17 had to carry that.

18 You are going to hear testimony, you're
19 going to see exhibits from the State. I would ask
20 you to please consider what kind of testimony do
21 you need to hear to prove that burden to you? What
22 kind of evidence do you need to see? Do you need
23 eyewitnesses? Do you need scientific evidence?
24 What kind of testimony would be credible? You are
25 going to consider the credibility of the witness, I

1 will tell you that right now. Everyone has their
2 own requirements, each of you do. That's why you
3 are here, to put your own standard on the evidence
4 that's going to be presented and determine if what
5 is presented should become facts, if those facts
6 should be something you can consider and if it is
7 compelling enough for you to find James Biggs
8 guilty beyond a reasonable doubt of murder and I am
9 here to tell you I don't think you will. I don't.
10 I have a pretty good idea what's coming. I have a
11 pretty good idea about credibility of the witnesses
12 involved. I have a pretty good idea about the
13 scientific and forensic testimony you are going to
14 hear.

15 As Mr. Sorenson asked you to keep an
16 open mind, I ask you to do the same. We all want
17 the same thing, consider the evidence, determine
18 what is acceptable to you and what you need to find
19 this man not guilty or not guilty, and I am very
20 confident that at the end of this week, at the end
21 of this trial and I'm positive it will be a few
22 days, but I am very confident that at the end of
23 this time you are going to find him not guilty.

24 THE COURT: Thank you. Counsel, let me
25 see you just a second.

(Off-the-record conference.)

THE COURT: Call your first witness,
please.

MS. MIMS: State calls Justin Jenkins.

JUSTIN JENKINS

having been duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MS. MIMS:

Q. Good afternoon, Mr. Jenkins.

A. Good afternoon.

Q. Could you please start by telling the
jury what you do for a living?

A. Currently I'm a truck driver. I
deliver materials in the local area for houses that
are being built.

Q. How long have you done that?

A. About six months.

Q. Okay. And what did you do before that?

A. Prior to that I worked with the
Dorchester County Sheriff's Office as a patrol
deputy.

Q. What were your duties as a patrol
deputy with Dorchester County?

A. Respond to any calls I was dispatched
to within the area that I worked, whether it be

1 Ashley Phosphate, Ladson Road, up here in the St.
2 George area within the County of Dorchester.

3 Q. And what type of calls did you
4 typically respond to?

5 A. It could be anything from loud noise
6 complaint, barking dogs, vehicle accidents, even
7 checking to see if there's anything going on in the
8 area because there's a concerned citizen.

9 Q. How long have you been with Dorchester
10 County, how long were you there?

11 A. I was there just over two years.

12 Q. Okay. Let me take you to November 30th
13 of 2015. Were you working on that day?

14 A. I was.

15 Q. Okay. And were you working around
16 6:00 that evening?

17 A. I was. I had been on shift about two
18 hours.

19 Q. Okay. And around that time do you
20 recall where you were, what your location was?

21 A. I was actually working a vehicle
22 accident in front of Greenhurst in one of the
23 entrances off of Miles Road.

24 Q. What is Greenhurst?

25 A. It's one of the communities in the

1 lower end of Dorchester County off of Miles Jamison
2 Road.

3 Q. Okay. Did you happen to respond to a
4 call at 102 Larson Drive that evening?

5 A. I did.

6 Q. And was that in Dorchester County?

7 A. It is.

8 Q. And can you tell me what type of call
9 you were responding to?

10 A. I was responding to a call of possible
11 shots fired meaning that we did not know yes or no
12 at the time.

13 Q. Okay. Your Honor, may I approach the
14 witness?

15 THE COURT: You may.

16 BY MS. MIMS:

17 Q. I am going to show you what's been
18 marked as State's Exhibit No. 2. Do you recognize
19 that area?

20 A. I do.

21 Q. What's that a picture of?

22 A. This is a picture of part of the area
23 of Greenhurst.

24 Q. Subdivision?

25 A. Yes.

1 Q. And can you tell me what the names of
2 these streets are that you see?

3 A. This is going to be Lisa and this is
4 Larson that comes across and connects to Lisa.

5 Q. Do you see 102 Larson Drive?

6 A. I do, right here.

7 Q. And does that map actually reflect what
8 the Greenhurst subdivision looked like on
9 November 30th of 2015?

10 A. It does.

11 MS. MIMS: Your Honor, at this time I
12 will ask to introduce Exhibit No. 2 into evidence.

13 THE COURT: Any objection?

14 MR. BYRD: No objection, Your Honor.

15 THE COURT: Very well. State's 2 in
16 evidence.

17 (STATE'S EXH. 2 in evidence.)

18 MS. MIMS: May I publish, Your Honor?

19 THE COURT: You certainly may.

20 BY MS. MIMS:

21 Q. Can you tell this jury where -- again
22 can you please point out 102 Larson Drive.

23 A. Will be right here.

24 MR. SORENSON: There is a pointer
25 there.

1 BY MS. MIMS:

2 Q. If you will please point out 102 Larson
3 Drive for me.

4 A. Right here.

5 Q. Okay. And you said that you were at
6 another call right before the call came in for 102?

7 A. Correct.

8 Q. Do you recall where you were? Is that
9 -- can you see it on the map?

10 A. You can't see it on the map. It's
11 going to be out toward the front off of Miles Road.

12 Q. How far away do you think you were from
13 102 Larson Drive that night?

14 A. Approximately two minutes.

15 Q. And which direction did you come in?

16 A. I came in from Lisa Drive right here
17 and stopped right here, this curbing right here on
18 Larson.

19 Q. Okay. And do you know exactly what
20 time that call came in that evening?

21 A. Not exactly. It was approximately
22 6:00.

23 Q. Okay. How long did it take you I guess
24 to get to 102 Larson?

25 A. Approximately two to three minutes. I

1 was looking through the area to see if I saw
2 anything that would alert me that shots indeed had
3 been fired.

4 Q. Okay. And when you arrived at the
5 scene can you tell the jury what you saw when you
6 got there?

7 A. Yes. When I arrived on scene I
8 observed a dark in color gray sedan that was
9 running, but not occupied. That's where I stopped,
10 behind that vehicle.

11 Q. Can you show the jury where that might
12 have been on the property line?

13 A. It would have been facing towards the
14 residence around this area right here.

15 Q. Okay. You parked behind it?

16 A. Yes.

17 Q. Okay. Go ahead.

18 A. At that time it was later in the year
19 so it was already dark. I observed the vehicle. I
20 looked to make sure that I did not see anybody in
21 the dark colored sedan. At that time out of the
22 corner of my eye I observed a black male in the
23 driveway of the residence. I challenged that
24 individual and he relayed to me that he was one of
25 the callers. I just told him please stay where he

1 was at, no sudden movements so that I could do what
2 I needed to assure everybody's safety. At that
3 time I noticed the white sedan off to my right in
4 the yard of the residence. That's when I
5 approached that vehicle, let my dispatch center
6 know what I had at that time and that I was going
7 to check that vehicle.

8 Upon approaching that vehicle the
9 passenger side was facing toward me coming from
10 Larson where I observed two feet outside of the
11 vehicle hanging below the passenger side door. I
12 positioned myself around the door where I could see
13 and get a better view of what was going on.

14 At that time I observed a black male
15 who was slumped over in the passenger seat
16 basically with their head into the floorboard. I
17 again told my dispatcher what I needed, what I had
18 going on, that I had at least one victim at the
19 time and that I was going to be checking for any
20 signs of life. At that point I went up and checked
21 for signs of life on the individual where I had no
22 signs of life.

23 While I was checking that individual I
24 observed a second black male at the driver side of
25 the vehicle who was in a kneeling position with

1 their head in the driver's seat. I observed at
2 least one gunshot wound to the passenger. As I
3 made my way around to the driver's side I checked
4 for signs of life with the driver. At that point I
5 observed also a gunshot wound to their head. Again
6 while checking for signs of life that individual
7 took a gasp of breath for air which gave me signs
8 of life. At that point I relayed to the dispatch
9 center that I had at least one patient or at least
10 one victim with signs of life and that we needed
11 emergency medical services to come in.

12 And at that point again while keeping
13 the initial individual that was in the driveway at
14 bay I held the scene down until my backup arrived
15 and EMS was able to come in.

16 Q. And when EMS got there what happened?

17 A. EMS immediately went to the victim that
18 was in the driver's seat with the immediate signs
19 of life. There was multiple EMS units in route.
20 That was the one that they went to first and
21 initially and began to try to do what they could to
22 save the person's life, meaning they were extremely
23 fast in getting to him and getting him out of the
24 area off of the scene to the hospital due to the
25 nature of what they felt the wounds were. The

1 second unit came in. They also were not able to
2 notice any signs of life on the victim in the
3 passenger seat where they said that he was deceased
4 on scene and maintained the integrity of the crime
5 scene.

6 Q. Okay. So the victim that had already
7 passed, was he left in the spot that he was found?

8 A. Correct.

9 Q. Okay. And was the person that was
10 still breathing in the driver's seat, he was taken
11 away?

12 A. Yes.

13 Q. Okay. Your Honor, may I approach?

14 THE COURT: You may.

15 BY MS. MIMS:

16 Q. I would like to show you what's been
17 marked as State's Exhibit No. 1. What is this a
18 picture of?

19 A. That is a picture of the crime scene at
20 102 Larson Drive.

21 Q. And does this picture accurately
22 reflect what the scene looked like when you arrived
23 that night on November 30th of 2015?

24 A. It does.

25 MS. MIMS: Your Honor, at this point I

1 will ask to introduce State's Exhibit 1.

2 MR. BYRD: No objection.

3 (STATE'S EXH. 1 in evidence.)

4 MS. MIMS: Permission to publish, Your
5 Honor?

6 THE COURT: Yes.

7 BY MS. MIMS:

8 Q. So I'm going to put this up on the
9 easel also and Larson Drive -- Your Honor, may the
10 witness stand up?

11 THE COURT: He may.

12 Q. So I want to take you back a little bit
13 if you could. What is this picture of for the
14 jury?

15 A. This is a picture of the incident
16 scene.

17 Q. And is this what it looked like when
18 you arrived on the scene that night?

19 A. It is.

20 Q. Was this the same level of darkness
21 when you arrived on the scene?

22 A. Yes.

23 Q. And, again, can you please tell the
24 jury when you arrived where you parked your car?

25 A. My car would have been positioned to

1 the rear of this gray sedan right here.

2 Q. And what's going on with the gray sedan
3 right there? Is anyone in that car?

4 A. No.

5 Q. And was that car running?

6 A. Car was running.

7 Q. Were the lights on like they are in the
8 picture when you arrived?

9 A. Yes.

10 Q. Okay. And just take the jury into what
11 you do next, where you moved, where you walked?

12 A. I exited my vehicle from the driver's
13 side obviously. As I came around cautiously to the
14 driver's side of the sedan is when I noticed that
15 it was running, it was not occupied. From there I
16 made my way towards the white vehicle right here.

17 As I made my way to the curb line right
18 here I observed an individual right here in the
19 driveway. And that's when I instructed him to stay
20 where he was at, don't make any sudden moves so
21 that we can figure out what was going on. He was
22 very compliant, stayed right there. I made my way
23 towards the passenger side door of the white sedan
24 right here. When I got right around these trees is
25 when I noticed the two feet that were below the

1 passenger side door. That's when I cautiously made
2 my way to the passenger side of the vehicle and
3 checked for the signs of life on the passenger.

4 While standing right here in the
5 doorway checking for signs of life is when I
6 noticed the second victim on the driver's side. At
7 that time I made my way around the back of the
8 sedan to the driver's side in order to do the same
9 for the driver.

10 Q. Okay. And once EMS came and took the
11 one victim away, what happened next? What are you
12 doing next in terms of your investigation?

13 A. At that time there is --

14 Q. First was anyone else on the scene
15 besides the person you encountered in the driveway?

16 A. Upon my initial arrival, no. At that
17 point my assisting officers showed up and once they
18 got there the three of us were in this area along
19 with EMS meaning that we were not letting anybody
20 come in to where EMS was trying to work on the
21 victim. Once they got the victim out of the crime
22 scene we began setting up our crime scene cordon
23 from roughly this area here and around to the end
24 of the street so that we could maintain the
25 integrity of it.

1 Q. Why is that important?

2 A. It limits the possibilities and the
3 foot traffic. There's a variety of reasons, but
4 the main thing is keeps everything as fresh as the
5 way it was when the incident itself occurred.

6 Q. Okay. Thank you very much. When you
7 had finished cordoning off the scene, what is your
8 role after that?

9 A. At that point I maintain just kind of a
10 support role. I am the initial officer on scene.
11 At that point I start crime scene logs, maintaining
12 who was in, who was out, what department they were
13 from, who may have been responding, and then type
14 the initial report to provide to the investigations
15 division. And then once investigations and crime
16 scene arrived on the scene I then release the scene
17 over to them and assist with what they may need.

18 Q. Okay. So after you had done your
19 preliminary work did crime scene and investigations
20 arrive?

21 A. They did.

22 Q. Did they arrive rather quickly?

23 A. They did.

24 Q. Okay. And you mentioned that you did a
25 report as well?

1 A. Yes.

2 Q. Okay. And why did you do a report?

3 A. To document the call for service.

4 Whether -- no matter -- it is to document when we
5 respond out to calls of service and what I as the
6 initial responding officer found or dealt with.

7 Q. And through your initial investigation
8 from what you saw at the scene did you see any
9 weapons at the scene when you first got there?

10 A. I did not.

11 Q. Okay. And you mentioned you saw no one
12 else at the scene?

13 A. Correct.

14 Q. When you first arrived. Through the
15 course of your investigation did you note in your
16 report what the names of the victims were?

17 A. I did. And I noted that the one victim
18 was a Jamal Armstrong and another one was a Terrill
19 Miles.

20 Q. Beg the Court's indulgence, Your Honor.

21 THE COURT: All right.

22 Q. You mentioned when you first got on the
23 scene there was one person in the driveway and you
24 spoke to them?

25 A. Yes.

1 Q. Was that person James Biggs?

2 A. Could not define whether it was or was
3 not. It was just an individual who was there.

4 Q. Okay. Beg the Court's indulgence. Do
5 you have your report in front of you?

6 A. I do.

7 Q. Do you indicate that you talked to
8 anybody else or any other witnesses on the scene in
9 your report?

10 A. I do; I indicate that I had spoke to a
11 Brandon Stancil.

12 Q. Would that have been somebody at the
13 scene that you would have spoken to?

14 A. Yes, that would have been one of the
15 callers.

16 Q. Okay. Do you know if Brandon Stancil
17 was the person you spoke to?

18 A. I do not know for sure.

19 MS. MIMS: I have no further questions,
20 Your Honor.

21 THE COURT: All right.
22 Cross-examination.

23 CROSS-EXAMINATION

24 BY MR. BYRD:

25 Q. Mr. Jenkins, I don't have a ton of

1 questions for you. You have mentioned there was a
2 Brandon Stancil there, correct? And you saw a
3 single black male there, correct?

4 A. Right.

5 Q. Can you describe him now?

6 A. No.

7 Q. Okay. Is that because it was dark or
8 time has passed?

9 A. Little of both. It was dark and time
10 has passed, been a couple of years.

11 Q. Sure. Was the individual that you
12 spoke with taken into custody?

13 A. While I was on scene, no.

14 Q. Okay. And you say you got there about
15 three or four minutes after the call went out?

16 A. Yes.

17 Q. And if you don't -- may I approach the
18 witness, Your Honor?

19 THE COURT: You may.

20 BY MR. BYRD:

21 Q. If you would just for me show me here
22 which direction you came?

23 A. Came this direction here.

24 Q. What is that?

25 A. This is me. I came up Lisa, made a

1 left behind the corner here.

2 THE COURT: Keep your voice up for us.
3 When you don't have the microphone you still need
4 to keep your voice up.

5 THE WITNESS: Sorry.

6 BY MR. BYRD:

7 Q. And this photograph here, this is not
8 like a panoramic shot from one single time? This
9 is a composite; is that correct?

10 A. I believe so.

11 Q. Of several different? Did you take
12 them?

13 A. No.

14 Q. Okay. You do feel that that accurately
15 represents the scene as you came upon it?

16 A. Yes.

17 Q. Okay. And since you got there about
18 three or four minutes after the call went out you
19 don't know who was there prior, correct?

20 A. Correct.

21 Q. And you don't know who left, who may
22 have stayed, you have no knowledge who was there,
23 what happened prior to your arrival?

24 A. Correct.

25 Q. Thank you. Beg the Court's indulgence

1 for one moment.

2 THE COURT: All right.

3 MR. BYRD: No further questions, Your
4 Honor.

5 THE COURT: Redirect?

6 MS. MIMS: Just real quick, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. MIMS:

9 Q. Mr. Jenkins, if you had spoken to
10 someone at the scene would you have put that in
11 your initial report, any witness that at the scene?

12 A. Yes, ma'am. Anyone who was given as an
13 initial caller or that I positively identified.

14 Q. Yes. Did you put the name down of
15 James Biggs in your report?

16 A. I did not.

17 Q. Thank you.

18 THE COURT: Recross?

19 MR. BYRD: No, Your Honor.

20 THE COURT: All right. Is this witness
21 free to leave?

22 MS. MIMS: Yes, ma'am.

23 MR. BYRD: No objection.

24 THE COURT: You are free to go. Ladies
25 and gentlemen, that is going to conclude the work

1 that we are going to do today. We are going to
2 reconvene in the morning at 9:30 a.m., 9:30. But I
3 do need to give you some instructions before we
4 leave each other. The first instruction that I
5 want to give to you is you cannot discuss this
6 matter or allow anyone to discuss it with you. You
7 cannot blog, text, e-mail, tweet, Facebook, My
8 Space, Linked In. Social media. No social media.
9 No matter what it is called. You must not allow
10 anyone to discuss it with you.

11 Now, I don't want to put you in this
12 position. Where have you been today? I can't tell
13 you. What have you been doing? I can't tell you.
14 Somehow that doesn't seem quite fair. Certainly
15 you can say when you go home to whoever is curious
16 I showed up for jury summons today. I went through
17 jury selection. Yes, I was asked to serve on a
18 jury.

19 And then the next question is what kind
20 of case? You can certainly say it is a criminal
21 matter as opposed to a civil matter. Beyond that
22 you must not discuss the matter or allow anyone to
23 discuss it with you. But you put it on the judge.
24 You say the judge has told you that you are not to
25 discuss the matter.

1 Now, when this case is over when you
2 have been discharged from your service on this jury
3 by me you will be at liberty to talk about the
4 case. There will be no question in your mind when
5 that time has come because we are going to
6 specifically talk about that. Until that time you
7 must not discuss it with anyone or allow anyone to
8 discuss it with you. Does somebody normally go to
9 work at night? Not tonight. Anyone else? The
10 reason for that is you cannot work at night and do
11 your duty during the day.

12 Now, if anyone is concerned get their
13 name and their number and I will make a phone call.
14 Just let me know.

15 Now, ladies and gentlemen, I'm going to
16 ask you to now take your cover sheet, turn it back
17 and just leave your note pads in your seats. We
18 will secure them over the evening and we will place
19 them where Ms. Catherine says. I think you stack
20 them up and then help you get them as you come into
21 the courtroom tomorrow.

22 Remember the admonition about your cell
23 phone. Leave your cell phone somewhere other than
24 the courthouse. If you forget about it, because we
25 are tethered to these things, just remember to give

1 your cell phone or other communication device to
2 one of our bailiffs who will take good care of it.
3 You must not have your phone with you while you are
4 serving on the jury. And I think that concludes
5 what I had to share with you. Have a pleasant
6 evening and I look forward to seeing you in the
7 morning at 9:30. I think let me ask you -- I'm
8 going to caucus because the fog this morning was
9 supposed to be so terrible. I didn't find it
10 particularly bad. But they are saying we are going
11 to have fog in the morning. I watched this
12 morning, it went out to sea and now it will come
13 back in.

14 This is what we are going to do.
15 Ladies and gentlemen, I'm going to say 9:30 in the
16 morning. If you wake up and if someone is driving
17 is below the swamp, Summerville way, if you set out
18 tomorrow morning and it is extremely foggy take
19 your time. Because I will know it is foggy also.
20 We will all be traveling down, but just take your
21 time. We will intend to start at 9:30, but if the
22 fog is very thick you take your time. And I will
23 know that that's what's going on. Have a pleasant
24 evening. Leave your notebooks in your seat.
25 Please remember do not discuss the matter. Do not

1 allow anyone to discuss it with you. Go with the
2 bailiffs and they will show you how to exit the
3 courthouse.

4 (Thereupon, the jury exited the
5 courtroom at 5:03 p.m.)

6 THE COURT: Anything from the State
7 before we adjourn for the evening?

8 MS. MIMS: No, ma'am.

9 THE COURT: From the defense?

10 MR. BYRD: No, Your Honor.

11 THE COURT: All right. Very well. See
12 you all in the morning.

13 (These proceedings were adjourned at
14 5:04 p.m. February 20, 2018, Dorchester County,
15 South Carolina.)

16 (The following proceedings were held
17 February 21, 2018, Dorchester County, South
18 Carolina, @ 10:01 a.m.)

19 THE COURT: Anything from the State
20 before we bring the jury out?

21 MR. SORENSON: No ma'am.

22 MR. BYRD: No, Your Honor.

23 THE COURT: Thank you, Mr. Byrd. Let's
24 have the jury, please.

25 (Whereupon the jury entered the

1 courtroom at 10:03 a.m.)

2 THE COURT: Good morning, ladies and
3 gentlemen. Everybody has their note pads.
4 Wonderful. Wonderful. At this time we will
5 continue with the State's case. Call your next
6 witness.

7 MR. SORENSON: Your Honor, State calls
8 Brandon Stancil.

9 BRANDON STANCIL

10 having been duly sworn, testifies as follows:

11 THE CLERK: State your name for the
12 record.

13 THE WITNESS: Brandon Stancil.

14 THE COURT: I'm going to ask you to
15 state your full name and spell your last name.
16 This is a bit of a sound check.

17 THE WITNESS: Brandon Darnell Stancil,
18 last name is spelled S-T-A-N-C-I-L.

19 THE COURT: Thank you. Your witness.

20 DIRECT EXAMINATION

21 BY MR. SORENSON:

22 Q. Mr. Stancil, if you would tell us,
23 please, how old you are?

24 A. Thirty-four.

25 Q. And what do you do for a living?

1 A. I'm an industrial driver.

2 Q. And where are you currently living?

3 A. 102 Larson.

4 Q. And let me ask you this: Back in
5 November of 2015 where were you living at that
6 time?

7 A. Living in my own apartment on the other
8 side of Summerville, 1 Boswick Court.

9 Q. Okay. Tell the jury who do you
10 currently live with at 102 Larson?

11 A. With Latasha Marion.

12 Q. Do you know the Defendant, James Biggs?

13 A. Yes, I do.

14 Q. How is Mr. Biggs related to Ms. Marion
15 that you are currently living with?

16 A. It's the son of Ms. Marion.

17 Q. Okay. So back in November of 2015 you
18 were living in your own apartment at that time,
19 right?

20 A. Correct.

21 Q. Was Ms. Marion living at 102 Larson at
22 that time?

23 A. Correct.

24 Q. Who else was living there with her back
25 in November of 2015?

1 A. Jaylin, Ashanti and Tyra.

2 Q. Those are all her children?

3 A. All children.

4 Q. Okay. That's -- Jaylin is a boy?

5 A. Correct.

6 Q. And two younger sisters?

7 A. Sisters, correct.

8 Q. Do you remember back in 2015 about how
9 old the three of them were? Do you know how old
10 they are now?

11 A. So that would be 17, 15 and 21 now. So
12 Jaylin is 21 so he would be 19, Ashanti would be --

13 Q. The girls were teenagers back then?

14 A. Yes.

15 Q. Not going to make you do any other
16 math. Let me ask you this: Do you know what -- so
17 you were dating Ms. Marion at the time?

18 A. Correct.

19 Q. You are obviously still dating her
20 right now?

21 A. Correct.

22 Q. Okay. And do you know Latasha, the
23 Defendant's mother, what her cell phone number was
24 then?

25 A. Yes.

1 Q. Tell the jury what that was.

2 A. It's 843-714-9570.

3 Q. And let me ask you back in November of
4 2015 was the Defendant, James Biggs, was he living
5 at 102 Larson?

6 A. Not at the time.

7 Q. Do you know where he was living back
8 then?

9 A. I believe in Lakes of Summerville.

10 Q. Was that with another relative?

11 A. Yes.

12 Q. Who was that?

13 A. That was his grandmother, Latasha
14 Marion's mom.

15 Q. May I approach the witness?

16 THE COURT: You may.

17 BY MR. SORENSON:

18 Q. Mr. Stancil, let me show you what's in
19 evidence as State's Exhibit No. 1. You have seen
20 this diagram?

21 A. Correct.

22 Q. Earlier today. Actually can I have him
23 step down, Your Honor?

24 THE COURT: You certainly may. Do you
25 need the pointer?

1 MR. SORENSON: That might help.

2 THE COURT: Ladies and gentlemen, when
3 people want to point to a diagram and not block it
4 at the same time you almost need to hang folks from
5 the ceiling so they don't do that.

6 It is so important that you are able to
7 see. If you cannot see or hear at any point I need
8 you to raise your hand because we need you to be
9 able to see and hear. For those who can't see me,
10 hi.

11 Q. Mr. Stancil, if you could kind of using
12 the laser pointer can you point out 102 Larson?

13 A. This laser is not all that accurate.

14 Q. I think it's hitting probably at an
15 angle. Is that it?

16 A. That's the residence.

17 Q. Okay. Obviously there are a handful of
18 vehicles that are in that photograph?

19 A. Yes.

20 Q. Okay. And if you could kind of start I
21 guess going left to right, can you kind of point at
22 and tell the jury if you know whose vehicles those
23 are?

24 A. The dark colored sedan from far left is
25 Omar's vehicle.

1 Q. Who is -- tell the jury who is Omar?

2 A. Omar is the brother of Jaylin and
3 James.

4 Q. Is Omar older than Jaylin and James or
5 do you even --

6 A. I'm not sure. I think he's in between
7 Jaylin and James, I believe.

8 Q. Okay.

9 A. The red vehicle, red Dodge truck is
10 mine. That's what I drove up to the residence in.
11 The white car on the other side of the tree is the
12 Infinity in question. That's Jaylin's vehicle and
13 the other white vehicle that's closest to the road
14 is James Biggs's vehicle.

15 Q. So that's the Defendant's vehicle?

16 A. Yes.

17 Q. Okay. And then there is a vehicle kind
18 of all the way to the right there with the
19 headlights on. Do you know whose vehicle that was?

20 A. I'm not sure whose vehicle that is.

21 Q. You can sit down.

22 A. (Witness complies with request.)

23 Q. I want to turn your attention if I
24 could, Mr. Stancil, to the evening of November 30th
25 of 2015. Did you ultimately go over to 102 Larson

1 that evening?

2 A. Yes, sir, I did.

3 Q. Do you know about what time you got
4 there?

5 A. Few minutes to six.

6 Q. And what was the purpose of you heading
7 over there that evening?

8 A. That's my second home. I was doing
9 laundry and all there. So I was there pretty much
10 all afternoon. Actually it was Cyber Monday so I
11 was going over there to do my last little Christmas
12 shopping.

13 Q. And let me ask you this: Was Ms.
14 Marion there when you got there?

15 A. No, sir.

16 Q. Where was she at that evening?

17 A. She was finishing her shift at her job
18 about to start her evening classes at Trident Tech.

19 Q. And let me ask you this: When you got
20 to the home that evening tell the jury kind of what
21 happened when you pulled up to the house that
22 evening.

23 A. Pulling up to the house normally
24 typically always back into the driveway. The white
25 Pontiac Grand Am was in the driveway.

1 Q. That's the Defendant's vehicle?

2 A. The Defendant's vehicle, correct. It
3 was front end to the driveway like the front of the
4 vehicle facing out.

5 Q. You pulled straight in?

6 A. At which time I was proceeding to start
7 backing into the driveway and I ended up parking
8 into the grass because the driveway was taken up.
9 At that point once I parked the vehicle the Grand
10 Am had started backing out of the driveway, backed
11 out to -- was backing out to its left. And I got
12 out of the vehicle, walked a few paces to the front
13 door and kind of waved and walked inside the house.

14 Q. Did you interact at that point in time
15 with whoever was in that Grand Am at all?

16 A. No.

17 Q. Have any conversation with them, go up
18 to the vehicle?

19 A. No, just to wave.

20 Q. Do you even know exactly who or how
21 many people may have been in the vehicle?

22 A. No. I couldn't tell. The windows were
23 tinted.

24 Q. But you knew at that point in time that
25 that was James Biggs's car?

1 A. Yes, I could ID his vehicle, correct.

2 Q. Did you at that point in time go to the
3 house?

4 A. Yes.

5 Q. I guess from looking at the picture
6 where you backed up your driver's door was just a
7 few feet from your front door?

8 A. Few paces, that's correct.

9 Q. And so when you went inside was there
10 anybody inside the house when you went in?

11 A. Two younger daughters, Ashanta and
12 Tyra.

13 Q. Did the Defendant ever come in the
14 house when you were there that evening?

15 A. No, sir.

16 Q. Ever see him again that evening?

17 A. No.

18 Q. How about either of his brothers, Omar
19 or Jaylin, either one of them around?

20 A. I didn't see any of them.

21 Q. Tell the jury went you get inside the
22 house a little before 6:00 in the evening, tell the
23 jury what were you doing then when you got there.

24 A. Pretty much went to the room, sat my
25 stuff down, keys, cell phone, et cetera, and then

1 walked to the laundry room to grab the laundry that
2 Latasha had put in the dryer on her way to work.
3 So I went to go in the bedroom, master bedroom, and
4 start folding clothes.

5 Q. And did you at some point in time talk
6 to anybody on the phone then when you were there?

7 A. Yes, I was on the phone with Latasha at
8 the time because her shift ended. She talked to me
9 in transition from.

10 Q. She had a few minutes in between work
11 and class?

12 A. Correct.

13 Q. And tell the jury then did something
14 happen while you were on the phone with Ms. Marion?

15 A. Well, while I was on the phone with
16 her, I don't know how much time passed, may have
17 been just general conversation for five to ten
18 minutes or so. I heard one gunshot which she was
19 able to hear it through the phone as well.

20 Q. Could you tell kind of where that
21 gunshot came from?

22 A. In the picture the master bedroom is
23 that window to the far right like if you are
24 looking at the house. So I was in the master
25 bedroom pretty much behind where the vehicles are

1 pretty much.

2 Q. That window right there?

3 A. That is where the master bedroom is.

4 Q. You said you heard one gunshot?

5 A. Correct.

6 Q. And I guess go back to my question.

7 Could you tell generally where that gunshot
8 appeared to come from?

9 A. Directly right out front of the window.

10 Q. All right. You hear anything after
11 that?

12 A. I heard like two bloodcurdling screams
13 or hollers as I guess you could say.

14 Q. And what did you do then kind of after
15 initially that one gunshot and those screams? What
16 did you do?

17 A. At that point I said Tasha, I heard a
18 gunshot out front. She said I heard it as well.
19 So the girls kind of jumped up and I told them to
20 stay in the far back bedroom and at that point I
21 grabbed my firearm which I am licensed to carry and
22 I started to proceed towards the front door. Once
23 I got to the front door then I heard repetitive, at
24 least five or six more shots.

25 Q. All right. And when you got to the

1 front door and heard those five or six more shots
2 did you at that point in time open the door and go
3 outside?

4 A. Yes. At that point it took a while
5 because after I heard the repetitive five or six it
6 was kind of fight or flight and was a little bit of
7 hesitation, but then at that point once I opened up
8 the door I heard a person. I couldn't tell if this
9 is a male or female voice, I believe it was a male,
10 I'm not sure, say go, go and then a vehicle back
11 out of the driveway. That was at the nose of the
12 driveway closest to the street back out of the
13 driveway and then pull to the left.

14 Q. So you see -- just to make sure we
15 understand, so when you come outside you see a
16 vehicle in the driveway?

17 A. Yes, correct. So it backed out that
18 way and then --

19 Q. Went that way?

20 A. So back to the left and then pulled off
21 to the right.

22 Q. Do you remember anything about that?
23 Could you tell anything about that vehicle?

24 A. At that time the dusk had kind of
25 started to fall, the porch light was on. It was a

1 dark colored vehicle rounded in back. I couldn't
2 make out the make or the model.

3 Q. Got you. Was that a vehicle that you
4 recall seeing when you first arrived there?

5 A. No.

6 Q. Did you see anybody else outside at
7 that point in time?

8 A. No, sir.

9 Q. And let me ask you, at some point in
10 time I know you were on the phone with your
11 girlfriend when you first hear the gunshot. Do you
12 at this point in time call anybody else?

13 A. I call 911. Shortly after I got off
14 the phone with her I dialed 911.

15 Q. Okay. So you look outside. Do you
16 ultimately go outside?

17 A. On the front porch and I was on the
18 phone with 911 via Bluetooth on the front porch.

19 Q. And do you see anybody else out in the
20 yard at that point in time?

21 A. No, nobody else was in the yard. The
22 car that backed out of the driveway was new to me
23 and then the vehicle in the diagram with the
24 parking lights running was new to me.

25 Q. That vehicle right there?

1 A. Yes, that was new to me as well.

2 Q. That one, when you arrived home shortly
3 before 6:00, that vehicle right there was not --

4 A. Present.

5 Q. -- present?

6 A. Was not present.

7 Q. And when you come out then out the
8 front door the rest of the vehicles that are in
9 this diagram, was that there when you came outside?

10 A. That's where they were when I came out.

11 Q. So obviously that Grand Am had moved
12 from when you first got home; is that correct?

13 A. Correct. Because it was in the
14 driveway when I walked up to the house and it
15 proceeded to back out. My back was turned when I
16 walked in the door so where it went after that I'm
17 not sure.

18 Q. So when you come outside did you at any
19 point in time go over to that white Pontiac Grand
20 Am?

21 A. No. The furthest I came was to the
22 trunk of the Infinity closest to the residence.

23 Q. Right about there?

24 A. Correct.

25 Q. Could you see anything about who

1 happened to be in at that point in time the white
2 Grand Am?

3 A. Only thing I could see is the backs of
4 the deceased.

5 Q. So at that point in time could you tell
6 there were how many people were in the vehicle?

7 A. It was two bodies, two people.

8 Q. And could you tell anything about the
9 two of them? Could you get close to see anything
10 about either one of them moving or anything?

11 A. I know the one in the passenger seat
12 was still. He did not make a move and I was
13 calling the boys names because obviously one was
14 James's car. So I called for James, Jaylin and
15 Omar. The driver was kind of sitting like fighting
16 for breath, but the passenger was not moving.

17 Q. And let me ask you this: So you were
18 on the phone with 911. Did at some point in time
19 police show up out there?

20 A. Yes, sir.

21 Q. Were they there quickly, take a long
22 time?

23 A. Didn't take long, two to five minutes.

24 Q. Do you remember the first officer that
25 showed up on the scene?

1 A. I wouldn't be able to ID him, but yes,
2 I do remember him. He showed up and he showed up
3 and he actually parked on the farthest corner of
4 Larson, like on the corner of Larson and --

5 Q. Lisa?

6 A. Correct.

7 Q. That would be kind of behind this car
8 that was running here?

9 A. Yes, sir.

10 Q. And where were you at when that officer
11 pulled up, then got out of his patrol car?

12 A. At that point I was in the yard near my
13 truck.

14 Q. Did you have some interaction with that
15 officer?

16 A. At that point I told him secure the
17 vehicle that I hadn't seen before, the one with the
18 parking lights on to the street because I said I
19 don't know whose car that is. There's two bodies
20 in there. He immediately went over to the I
21 believe Honda Accord, walked over and verified
22 there was nobody in it. Put on his gloves and
23 immediately went to go give aid to the driver, the
24 one that was in the driver's seat shall I say.

25 Q. Did he tell you to do anything?

1 A. Told me to stay put in the driveway.

2 Q. Ultimately some other officers show up
3 out there?

4 A. Correct.

5 Q. Ultimately you talked to them that
6 night?

7 A. I believe the gentleman was the
8 supervisor. He showed up and once he kind of came
9 on the other side and secured the area, he came and
10 did the initially asked me who I was, did I make
11 the 911 call and so on and so forth.

12 Q. Got you. And ultimately did Latasha
13 Marion show up out there?

14 A. Yes, she showed up way later.

15 Q. And are you aware of whether you were
16 ever able to get ahold of James Biggs to find out
17 where he was?

18 A. No, I am not aware.

19 Q. Did you have any contact with James
20 Biggs that night at all?

21 A. I never even had his cell phone number.

22 Q. Okay. He didn't come back to the scene
23 out there?

24 A. No.

25 Q. When you first came outside he didn't

1 come up asking you for help or anything like that
2 or --

3 A. No, I didn't see him at all throughout
4 the course of that day like I said.

5 Q. Just so we are clear, when you come
6 outside and you said the closest you got was
7 basically to the trunk of Jaylin's car, that other
8 white car?

9 A. Correct.

10 Q. Was there anybody else out in the yard
11 at that time?

12 A. No, sir.

13 Q. Nobody else around the Pontiac at all
14 when you were outside until the police got there?

15 A. No, sir.

16 Q. And you had ended up giving kind of a
17 little bit more detailed statement a couple of days
18 later to the police also?

19 A. Yes, correct.

20 Q. On December 3rd I think that was, about
21 three days later?

22 A. Yes.

23 Q. And in the interim between
24 November 30th or December 3rd had James Biggs come
25 -- had you seen him at all during that time or

1 heard from him at all?

2 A. No, sir.

3 Q. Beg the Court's indulgence.

4 (Off-the-record conference.)

5 MR. SORENSON: Thank you, Mr. Stancil.
6 Please answer any questions Mr. Byrd or Mr. Nelson
7 may have for you.

8 (Attorney confers with client.)

9 CROSS-EXAMINATION

10 BY MR. BYRD:

11 Q. Good morning, Mr. Stancil.

12 A. Good morning.

13 Q. I have a couple questions for you. You
14 mentioned first of all, that the white Pontiac is
15 James Brigg's vehicle?

16 A. Correct.

17 Q. Would you know if that vehicle was
18 actually registered to his mother Latasha?

19 A. Yes, it's registered to his mom.

20 Q. So it's actually his mother's vehicle,
21 correct?

22 A. Correct. He's the operator of it as
23 you can say, but it's registered to his mom,
24 correct.

25 Q. Got you. And you said you arrived on

1 the scene -- when you arrived to your home or Ms.
2 Marion's home at that time, your home now, but you
3 saw the white Pontiac pulling out?

4 A. Correct.

5 Q. Is that correct?

6 A. Yes.

7 Q. And you didn't see whose actually in
8 the vehicle, correct?

9 A. No, sir.

10 Q. It was one person, more than one
11 person?

12 A. I couldn't tell anything about either
13 occupant, any occupants at all whatsoever at that
14 point.

15 Q. Okay. And you said they were -- it was
16 definitely exiting?

17 A. Correct.

18 Q. Okay. And now, you said you heard one
19 gunshot and you got your gun which you are licensed
20 to carry?

21 A. Correct.

22 Q. And you hesitated at the door?

23 A. Correct.

24 Q. That was because you heard more
25 gunshots?

1 A. Yes. Happened quick. Was one gunshot,
2 secured the girls in one room. Moved to the front
3 door, then I heard repetitive five or six more and
4 then it was obviously the hesitation, then the door
5 opened.

6 Q. You mentioned fight or flight?

7 A. Right.

8 Q. Most people don't run into gunfire,
9 correct, they try to avoid that?

10 A. Correct.

11 Q. Now, you said you walked out to the
12 trunk -- as far as the trunk of the Infinity,
13 correct? That is Jaylin's vehicle?

14 A. Yes.

15 Q. And Omar's vehicle was also there,
16 correct?

17 A. Yes, at the end of the street in the
18 common area in the street in front of the
19 neighbor's house.

20 Q. Okay. You recognized that as his
21 vehicle though?

22 A. Yes.

23 Q. And you called out all three of their
24 names, correct?

25 A. Yes, sir.

1 Q. Were you concerned about them? You
2 didn't see them there; is that correct?

3 A. No, I just know that was their three
4 vehicles and they are in relation to my girlfriend
5 so --

6 Q. Okay. And when you and Latasha are not
7 home, and I know you said you had just gotten
8 there, in your statement you stated that Jaylin
9 usually stays with the girls?

10 A. Yes. At the time I believe Jaylin had
11 graduated so normally Jaylin is there with them in
12 between one of us getting to the residence.

13 Q. Okay. And I know that -- I don't want
14 to belabor this point, when you called out all
15 three names, were you concerned about their safety?

16 A. Yes.

17 Q. Okay. I am asking you this question
18 because, and it's related to the question I just
19 asked you, if your chief concern was their safety
20 at that time. Are you familiar with the three boys
21 from your time dating their mother?

22 A. At different levels familiarity, yes.

23 Q. Okay. Are you fairly familiar with
24 James Biggs?

25 A. Fairly familiar. More familiar with

1 Jaylin at the time and Omar not so much.

2 Q. Okay. And given the fact that you went
3 out there and you're concerned about them as a
4 result of gunshots I have to ask you have you ever
5 seen James Biggs with a gun?

6 A. No.

7 Q. You see him fairly frequently, correct?

8 A. I see him fairly frequently. He helped
9 me move some furniture in my apartment at the time.

10 Q. Beg the Court's indulgence, Your Honor.

11 THE COURT: All right.

12 (Off-the-record conference.)

13 BY MR. BYRD:

14 Q. And you didn't see anyone outside when
15 you walked out, right?

16 A. No, sir.

17 Q. You didn't see anyone -- you did not
18 see anyone else other than the individuals
19 obviously in the car?

20 A. No, sir. I heard vocally a go go and
21 then a vehicle pull off, but as far as seeing a
22 person, no.

23 Q. You don't know how many people possibly
24 could have been out there prior to that moment you
25 stepping outside, correct?

1 A. No, sir.

2 Q. Okay. And you assume when you called
3 that the boys may have been there just simply
4 because their cars were there?

5 A. Correct.

6 Q. Okay.

7 MR. BYRD: Nothing further, Your Honor.

8 THE COURT: Redirect?

9 REDIRECT EXAMINATION

10 BY MR. SORENSON:

11 Q. Couple of things, Your Honor.
12 Obviously the only -- out of those -- you said you
13 called out three names because obviously all three
14 of the boys' vehicles were at the house; is that
15 correct?

16 A. Correct.

17 Q. The only one of those vehicles that you
18 saw move at any point in time was whose?

19 A. Was James's vehicle.

20 Q. And Mr. Byrd asked you about being
21 familiar with James Biggs; is that correct?

22 A. Yes, he did.

23 Q. You never resided with James; is that
24 correct?

25 A. No.

1 Q. He asked you you never saw him with a
2 gun; is that correct?

3 A. No, sir.

4 Q. Let me ask you this: Were you aware of
5 the fact that he was selling marijuana in his mom's
6 front yard?

7 A. No, sir, I was not aware.

8 MR. SORENSON: That's all I have, Your
9 Honor. Thank you.

10 THE COURT: Recross?

11 MR. BYRD: No questions, Your Honor.

12 THE COURT: All right. Is this witness
13 free to leave?

14 MR. SORENSON: He's free, he can.

15 THE COURT: Any objection?

16 MR. BYRD: No objection, Your Honor.

17 THE COURT: Thank you, sir. You are
18 free to go. Call your next witness.

19 MS. MIMS: State calls Jazzmin
20 Williamson.

21 JAZZMIN WILLIAMSON

22 having been duly sworn, testifies as follows:

23 THE CLERK: Please state your full
24 name.

25 THE WITNESS: Jazzmin Williamson.

1 THE COURT: I will ask you to state
2 your full name again.

3 THE WITNESS: Jazzmin Williamson.

4 THE COURT: How do you spell Jazzmin?

5 THE WITNESS: J-A-Z-Z-M-I-N.

6 DIRECT EXAMINATION

7 BY MS. MIMS:

8 Q. May it please the Court, good morning,
9 Ms. Williamson.

10 A. Hey.

11 Q. Could you tell the jury how old you
12 are?

13 A. Twenty-three.

14 Q. And what do you do for a living?

15 A. I'm a server at Cracker Barrel.

16 Q. Okay. And do you know the victims in
17 this case?

18 A. Yes.

19 Q. Can you -- do you know both of them?

20 A. Yes. Tyrell is my first cousin on both
21 sides and Jamal was my boyfriend at the time.

22 Q. Okay. And do you know James Biggs?

23 A. Yes.

24 Q. How do you know him?

25 A. I went to school with him.

1 Q. Okay. I'm going to take you to the day
2 of November the 30th of 2015. Do you recall that
3 day?

4 A. Yes, like it was yesterday.

5 Q. Can you tell the jury what was going on
6 that day? What were you doing that day?

7 A. Earlier that day we were at an aunt's
8 house. We decided we were going to cook some
9 seafood. I was there with my cousin Tyrell, Jamal
10 and my cousin's wife and their son. We all decided
11 to go back to my mother's house and we started
12 cooking some seafood and I left to go to my
13 friend's house.

14 Q. Okay. Let me take you back and just go
15 back through all the people that you were with that
16 day. Can you say that again? You were with Jamal
17 and Tyrell.

18 A. Me, Jamal, Tyrell, my cousin's wife
19 Tiffany and their son were all at my aunt's house
20 and we decided that we were wanted to cook some
21 seafood and we all came back to my mother's house.

22 Q. About what time was that?

23 A. By the time we all got there it was
24 probably like 4:00 or 4:30.

25 Q. Okay. You were altogether all going to

1 cook seafood. What happened next?

2 A. Well, we started cleaning the fish and
3 talking hanging out and then my friend Courtney was
4 out at the house as well. She needed to get back
5 home so me and her left to go take her back to West
6 Ashley.

7 Q. Were your intentions to stay with her
8 or were you going to return to the house?

9 A. I was coming back after I dropped her
10 off.

11 Q. Okay. So what were the plans for the
12 evening?

13 A. Just all of us hang out, spend time,
14 quality time together, watch some TV, eat some
15 food.

16 Q. Okay.

17 A. Chill.

18 Q. Who was cooking that night?

19 A. Tyrell and Jamal. Jamal was standing
20 at the kitchen sink cleaning some scallops the last
21 time I saw him.

22 Q. So you left to take Courtney home?

23 A. Um-hmm.

24 THE COURT: Yes?

25 A. Yes, ma'am.

1 Q. Tell the jury what happened next?

2 A. I took Courtney home and on my way to
3 taking her home I got a phone call from my mother
4 stating that Jamal and Tyrell --

5 MR. BYRD: Objection, Your Honor,
6 hearsay.

7 THE COURT: Sustained.

8 BY MS. MIMS:

9 Q. I will rephrase. Okay. So you
10 received a phone call from your mom?

11 A. Yes.

12 Q. What did you do after that?

13 A. I started calling Tyrell and Jamal
14 because no one could get ahold of them so I started
15 calling them to figure out what was going on and
16 when no one would answer I turned around. Told
17 Courtney sorry, you are not going home right now
18 and came back home to figure out what was going on.

19 Q. And where was home?

20 A. I lived in Summerville Place off Miles
21 Road.

22 Q. Who was at your house at the time?

23 A. My mother and Tiffany.

24 Q. Tiffany who?

25 A. Bowens.

1 Q. Who was she?

2 A. Tyrell's wife.

3 Q. So you got back home. What happened
4 then?

5 A. We all were trying to figure out what
6 happened. We had heard there was a shooting at
7 Greenhurst. Tiffany had said that they were
8 supposed to go to Greenhurst. Nobody was answering
9 the phone. We were freaking out. I started trying
10 like to look for them anyplace that I think they
11 may be, but I didn't think of anything that they
12 would be dead. And we just were trying to find
13 answers that whole time.

14 Q. Right. Right. Did you get in your
15 car?

16 A. Yes.

17 Q. Did you drive to Greenhurst?

18 A. Yes.

19 Q. Where did you go?

20 A. I went into the area where I knew Biggs
21 lived at and when I got there there was a lot of
22 police everywhere. Stuff was taped off. We really
23 couldn't get in to where it was at.

24 Q. Who were you with when you were
25 driving?

1 A. The first time I went was with Tiffany
2 and I didn't really want her to get too close
3 because I kind of had a feeling what was going on.
4 So I went back to my mom's house and dropped her
5 off and then me and Courtney got in the car and we
6 went there and we parked on the side of the road
7 and walked up to the scene and by that time
8 everything was started to clear up and I showed
9 pictures to people standing around and they told me
10 yes, that's the person who died. They were like
11 yes, that's the boy who was in the car, that's the
12 boy that they took to the hospital and referring to
13 Jamal as the boy they took to the hospital.

14 Q. What happened then?

15 A. I broke down.

16 Q. I understand. Jazzmin, do you know why
17 the boys were in Greenhurst?

18 A. Get some weed.

19 Q. Okay. And did you -- did you know who
20 they were going to go get the weed from?

21 A. James Biggs.

22 Q. Okay. How did you know that?

23 A. Because the day before we had bought
24 weed from him.

25 Q. Who is we?

1 A. Me and Jamal.

2 Q. Okay. And when you bought weed from
3 Mr. Biggs where did you -- where were you when you
4 bought it?

5 A. It is now called Summerville Station
6 Apartments. He told me to meet him there and
7 that's when I got it from him.

8 Q. Can you tell the jury about that? How
9 did that all go down when you got there to meet
10 him? How did the transaction take place?

11 MR. BYRD: Objection, Your Honor,
12 relevance.

13 MS. MIMS: Your Honor, this goes to --

14 THE COURT: Approach.

15 (Off-the-record conference.)

16 THE COURT: Ladies and gentlemen, there
17 is a matter that I must take up outside your
18 presence. I'm going to ask you to leave your note
19 pads in your seats. Please step to the jury room.
20 Don't discuss this matter or allow anyone to
21 discuss it with you. Take a little bit of your
22 morning break.

23 (Thereupon, the jury exited the
24 courtroom at 10:38 a.m.)

25 THE COURT: Go ahead.

1 BY MS. MIMS:

2 Q. Ms. Williamson, again, when you were
3 buying the marijuana from Mr. Biggs was this the
4 day before the murders?

5 A. Yes.

6 Q. Okay.

7 A. The murder happened Monday. I bought
8 weed from him Sunday like late afternoon.

9 Q. Okay. And can you tell the Court
10 exactly how that transaction took place?

11 A. Yes. I pulled up. I called him.
12 Asked him to meet me in Churchill Commons. Came
13 in.

14 THE COURT: Just start over. Talk
15 really slow.

16 A. Okay. I called him that Sunday. Asked
17 him for some weed. He told me he was straight and
18 to come to Churchill Commons in the back of the
19 neighborhood. When I pulled up he was backed into
20 the parking spot and I pulled directly in. I got
21 out of the car, got into the back seat. He was
22 sitting in the driver seat and there was a female
23 in the passenger seat. He weighed the weed out,
24 put it in a baggie, I handed him the money and he
25 gave me the weed. I got out of the car. And I

1 left.

2 Q. Okay. Where was Jamal when this was
3 taking place?

4 A. Jamal was in my car at that time
5 waiting for me to get back in the car.

6 Q. And what did Mr. Biggs have the
7 marijuana in?

8 A. A jar, a clear jar, mason jar.

9 Q. Okay. And did he weigh the weed?

10 A. Yes, on a scale.

11 Q. And did he have the bags to put the
12 weed in?

13 A. Yes.

14 Q. And where was he sitting in the car?

15 A. In the driver's seat.

16 Q. Okay. Have you ever purchased weed
17 from Mr. Biggs before?

18 A. Yes.

19 Q. How many times?

20 A. Like three or four times.

21 Q. Okay. And how did the transaction go
22 down each time?

23 A. Either I get in the car and he handed
24 it to me or he walked up to my car and handed it to
25 me through the window.

1 Q. Had -- besides the day before the
2 murder had you ever been -- had you ever been in
3 another -- done another transaction with Mr. Biggs
4 involving sitting in the car?

5 A. Maybe once.

6 Q. Where did you sit that time?

7 A. Back seat every time.

8 Q. Where was the weed?

9 A. In the jar.

10 Q. Okay. Did he weigh it and put it in a
11 baggie again as he had done before?

12 A. Yes.

13 Q. What type of car was Mr. Biggs driving?

14 A. White Pontiac Grand Am.

15 Q. Was he in that car every single time
16 you bought the weed from him?

17 A. Every time.

18 Q. Did you ever know Mr. Biggs to drive a
19 different car?

20 A. No.

21 MS. SIMS: That would be what I would
22 proffer, Your Honor.

23 THE COURT: Okay. Cross-examination.

24 CROSS-EXAMINATION

25 BY MR. NELSON:

1 Q. You mentioned you bought marijuana from
2 Mr. Biggs several times. How many times, three or
3 four?

4 A. Three or four.

5 Q. And out of the three or four times it
6 wasn't in the car every time?

7 A. Not every time.

8 Q. So it wasn't the same every time?

9 A. No.

10 Q. Sometimes he would go to your car?

11 A. Yes.

12 Q. Sometimes you would go to his car?

13 A. Yes.

14 Q. Court's indulgence. Nothing further,
15 Your Honor.

16 THE COURT: All right. The objection
17 is relevance?

18 MR. NELSON: Yes, Your Honor. He's
19 selling weed the same every time. She flat out
20 says she has bought three or four times, at least
21 once or she didn't say exactly how many times, but
22 he's not doing it the same every time.

23 THE COURT: Thank you.

24 MS. MIMS: Your Honor, the question --
25 I am sorry, did you want me to respond? The

1 question goes -- the questioning that they had on
2 the witness before this one on Mr. Stancil gave
3 some indication that it could be the other boys who
4 were at that home. We're using it to prove
5 identity because we not only -- we are setting a
6 stage. We not only have this witness, we have
7 other witnesses in that Grand Am bought the same
8 way and again we have the bodies found in that car
9 with marijuana on the floor. This is going to
10 prove identity in a mason jar. He sells different
11 ways. Witnesses will say that. He will also go to
12 a window and sell. He will sell in his car. We
13 have people who will talk about the different ways
14 that he will sell, but it becomes important because
15 it does go to his identity and what was happening
16 at that time this murder takes place because all
17 that apparatus is in that car. The marijuana is
18 there, the mason jar is there. And those boys are
19 in that car which is where he conducted
20 transactions. It's very, very relevant to our
21 case.

22 THE COURT: What was her testimony with
23 regards to the mason jar? I just heard it on that
24 the Sunday before that she discussed that he took
25 the marijuana out of the jar and weighed it and

1 then gave it. Was there any other testimony
2 elicited with regards to the mason jar?

3 MS. MIMS: Not yet, Your Honor.

4 THE COURT: From this witness?

5 MS. MIMS: Yes, ma'am.

6 THE COURT: Okay.

7 MS. MIMS: I can ask that now if you
8 would like to clarify.

9 THE COURT: I was just trying to get it
10 straight. Here's what is relevant I believe from
11 the day before on the issue of identity. The car,
12 the fact -- because she has testified that he was
13 in the white Grand Am four times, three to four
14 times, that's certainly relevant. And I have got
15 mason jar one time. And let me ask you this
16 question: With regards to what you believe will
17 occur, based on your understanding you would
18 proffer other witnesses who would talk about mason
19 jars?

20 MS. MIMS: Yes, ma'am. I can proffer
21 that testimony just to make sure if you would like
22 before they testify in front of the jury. But it
23 is my understanding that other witnesses will
24 testify to a mason jar.

25 THE COURT: Okay.

1 MS. MIMS: Again, that mason jar is at
2 the scene when they find them.

3 THE COURT: I understand. Well, I have
4 got mason jar once, but I have got each time Grand
5 Am, he's in the Grand Am. I'm going to allow the
6 Grand Am.

7 MR. NELSON: I don't believe the
8 testimony is each time he was in the Grand Am.
9 Several times she went to -- are you saying the
10 transaction was in the Grand Am?

11 THE COURT: No. No, no.

12 MR. NELSON: I misunderstood.

13 THE COURT: Just that he was driving
14 the white Grand Am.

15 MR. NELSON: I apologize.

16 THE COURT: That's okay. It's my
17 failure to be clearer. Thank you for helping me be
18 clear. So Grand Am, that he was in the Grand Am,
19 and one mason jar. At this point I'm concerned
20 about allowing that in at this point. I will tell
21 you that I certainly may allow you to recall her if
22 mason jar is important after I have already heard
23 mason jar because I got one mason jar event.

24 MS. MIMS: Yes, ma'am. She has already
25 testified to one mason jar event and just leave it

1 at that?

2 THE COURT: Yes. In other words, I
3 don't want you to elicit that at this point, but
4 you may recall her later to talk about mason jar if
5 I hear it enough times.

6 MS. MIMS: Yes, ma'am.

7 THE COURT: All right. I am concerned
8 about that because she has talked about mason jar
9 one time and one transaction involving the mason
10 jar.

11 MS. MIMS: Can I clarify with the
12 witness, Your Honor, that there was more than one?

13 THE COURT: Yes.

14 BY MS. MIMS:

15 Q. Ms. Williamson, was there ever another
16 transaction with Mr. Biggs where you saw a mason
17 jar used in the transaction?

18 A. One other time.

19 Q. One other time. What time was that, do
20 you remember?

21 A. Out of the three or four times I have
22 seen him, day before and one other time prior when
23 I got in the car; and as I stated, when I got in
24 the back seat same as what I did Sunday I did
25 previously. I have seen this mason jar more than

1 one time.

2 Q. And how did he use the mason jar again?

3 A. To store weed in it.

4 Q. Did you see him take the weed out of
5 the mason jar?

6 A. Put it on the scale, put the weed that
7 he put on the scale, he put it in a plastic baggie
8 and handed it to me after I handed him the money.

9 Q. It was on two occasions?

10 A. Yes.

11 Q. Thank you, Your Honor.

12 THE COURT: Okay. Hold on. Let me
13 check.

14 (Brief pause.)

15 THE COURT: All right. Let me go
16 through these factors. I'm going to address
17 allowing the instances of prior bad acts to come in
18 for the purpose of establishing identity. I think
19 that, first of all, that is the reason that the bad
20 act is offered or bad acts, the four times that the
21 Defendant was in the white Grand Am. That's been
22 established. It is relevant for the -- on the
23 issue of identity because there was a white Grand
24 Am at the residence as has been testified to by the
25 prior witness Mr. Stancil. So it is relevant.

1 The evidence of the fact that the
2 Defendant was driving a white Grand Am I find to be
3 substantially more probative than prejudicial and
4 because identity clearly is at issue at this point
5 in the trial to me. And obviously identity is an
6 essential element of the offense. All right.

7 With regards to the mason jar, I would
8 make this determination: That all the others are
9 true, however, in that it is two occasions I
10 believe that the prejudicial effect does not
11 outweigh -- or the prejudicial effect is not
12 outweighed by the probative value at this point. I
13 may change my opinion based on other proffered
14 testimony later for that limited purposes, okay?
15 Very well. Thank you. So clear how far you can
16 go? Transaction occurred, he was in this white
17 Grand Am each time, four times each time. And that
18 she bought marijuana.

19 MS. MIMS: No mention of a mason jar.

20 THE COURT: Not at this point.

21 MS. MIMS: And we can ask more about
22 that when we have got a second witness, but there
23 is a second witness that would come up and they
24 would say that. So if you don't -- do we just wait
25 and see what they say, Your Honor, or do you want

1 me to tell them not to say that mason jar?

2 THE COURT: Don't say mason jar, not
3 this witness.

4 MS. MIMS: It would be a subsequent.

5 THE COURT: Yeah.

6 MS. MIMS: Timing is a little bit
7 different on the second witness. It's the day of,
8 minutes before the murder. I think it would be a
9 different argument at that point.

10 THE COURT: I understand. Well, the
11 timing, I have considered the fact that one of them
12 is the day before, but it goes beyond that. There
13 are four transactions each time Grand Am. This is
14 on identity.

15 MS. MIMS: Yes, ma'am. I understand.
16 So the Grand Am, marijuana.

17 THE COURT: Grand Am, marijuana
18 transaction.

19 MS. MIMS: Yes, ma'am. Got it.

20 THE COURT: Okay? Do y'all want to
21 take a two-minute break? Let's take five minutes
22 and, Ms. Williamson, you can take a break too. You
23 can't talk about your testimony with anyone. When
24 you walk out just don't talk about your testimony
25 at all, okay?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: Put it on me so they won't
3 be upset with you.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Take about five minutes.

6 THE WITNESS: Yes, ma'am.

7 (A recess transpired.)

8 MS. MIMS: May we approach, Your Honor?

9 THE COURT: Sure.

10 (Off-the-record conference.)

11 THE COURT: Let's put this on the
12 record. The State does not intend to call.

13 MS. MIMS: Yes, ma'am. Your Honor, at
14 this point the State does not intend to call the
15 victim's mother in this case. She is now back in
16 the courtroom.

17 THE COURT: Very well. She should be
18 in the courtroom if she's not going to be called as
19 a witness. So thank you for that and we had a
20 sidebar and the defense just expressed, of course,
21 if she's not going to be a witness they certainly
22 have no objection. Can't have an objection. They
23 just wanted to confirm that she was not going to be
24 called as a witness. Let's have the jury, please.

25 (Whereupon the jury entered the

1 courtroom at 11:16 a.m.)

2 THE COURT: Ladies and gentlemen, at
3 this time we will continue with the State's case
4 and the direct examination of Ms. Williamson.

5 BY MS. MIMS:

6 Q. Thank you, Your Honor. Ms. Williamson,
7 going back to where we were a little bit ago, have
8 you ever bought marijuana from Mr. James Biggs?

9 A. Yes.

10 Q. Do you know how many times you have
11 done that?

12 A. Three to four.

13 Q. Okay. And was he driving the Grand Am?

14 A. Yes, every time.

15 Q. Every time. Beg the Court's
16 indulgence.

17 THE COURT: All right.

18 (Off-the-record conference.)

19 MS. MIMS: No further questions.

20 THE COURT: Very well.

21 Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. NELSON:

24 Q. Good morning, Ms. Williamson. How are
25 you doing? I know this is tough for you. I will

1 try to get through it quickly. I want to be clear
2 so I know exactly. Who was with you before all
3 this happened?

4 A. The day that it happened?

5 Q. Yes, ma'am.

6 A. I was with Tyrell, Jamal, Tiffany and
7 Dion which was his son, and then around 4:00 or
8 4:00 there was me, Jamal and Courtney. 4:30
9 Tiffany and Tyrell and Dion got to my house. About
10 5:00, 5:30 I left with Courtney to go to West
11 Ashley to take her home.

12 Q. Okay. And you said that's when you say
13 that Jamal and Tyrell were going to buy weed?

14 A. I did not know about it. I left to go
15 take Courtney home.

16 Q. You didn't know where they went?

17 A. I didn't know what was going on.

18 Q. You didn't know?

19 A. I got a phone call saying something
20 happened and I'm calling, calling, calling. No one
21 is answering. So I turn around and come back home
22 to figure out what was going on.

23 Q. You didn't know what happened that day
24 after you left?

25 A. Not until I got a phone call.

1 Q. You still don't know what happened at
2 the scene, what transpired?

3 A. No.

4 Q. You didn't know who was there?

5 A. No.

6 Q. You don't know how many people were
7 there?

8 A. No.

9 Q. You don't know if Mr. Biggs was driving
10 the car that day, do you?

11 A. No.

12 Q. Who was Charles Taylor?

13 A. Charles Christopher Taylor? An ex
14 boyfriend of mine.

15 Q. When did y'all date?

16 MS. MIMS: Object to the relevance.

17 THE COURT: Approach.

18 (Off-the-record conference.)

19 BY MR. NELSON:

20 Q. Who is Charles Taylor?

21 A. An ex-boyfriend of mine.

22 Q. Have you talked to him about this case
23 at all?

24 A. No. I haven't seen him since he tried
25 to kill me years ago.

1 Q. Tried to kill you years ago?

2 A. Yeah.

3 MR. NELSON: I have no other questions,
4 Your Honor.

5 THE COURT: All right. Very well. If
6 you wish to remain in the courtroom at this point
7 you may. Very well. Call your next witness.

8 MS. MIMS: State calls Tiffany Bowens.

9 THE CLERK: Please state your name for
10 the record.

11 THE WITNESS: Tiffany Bowens.

12 TIFFANY BOWENS

13 having been duly sworn, testifies as follows:

14 DIRECT EXAMINATION

15 BY MS. MIMS:

16 Q. Good morning, Ms. Bowens.

17 A. Good morning.

18 Q. Did you say your name for the record
19 already?

20 A. Yes, Tiffany Bowens.

21 Q. Thank you. Can you tell the jury how
22 old you are?

23 A. Twenty-five.

24 Q. And what do you do for a living?

25 A. I go to school full time.

1 Q. What are you going to school for?
2 A. Medical assistant.
3 Q. Okay. And are you married?
4 A. Well, widowed.
5 Q. Who were you married to?
6 A. Tyrell Miles.
7 Q. And when did you marry Tyrell Miles?
8 A. July 2015.
9 Q. Do you have any children?
10 A. I have a five-year-old now, yes.
11 Q. And did Tyrell have a nickname that you
12 knew of?
13 A. Butta.
14 Q. How do you spell it?
15 A. B-U-T-T-A.
16 Q. Okay. And what was his phone number
17 back in 2015?
18 A. 324-1762.
19 Q. Was the area code 843?
20 A. Um-hmm.
21 Q. Okay.
22 THE COURT: That's a yes?
23 THE WITNESS: Yes.
24 BY MS. MIMS:
25 Q. Let me take you to November the 30th of

1 2015. Do you recall that day?

2 A. Um-hmm, yes.

3 Q. And what were you doing that day?

4 A. Prior to it happening we were at
5 Tyrell's aunt's house getting ready to cook
6 seafood.

7 Q. Can you tell me whose Tyrell's aunt?

8 A. Nesa.

9 Q. Does she have a daughter?

10 A. Jazzmin.

11 Q. And about what time of day were you all
12 over there?

13 A. Around five.

14 Q. Okay. Who had bought the seafood?

15 A. Me and Tyrell did.

16 Q. And who all was with you?

17 A. It was me, Tyrell, our son, Jazzmin and
18 Jamal.

19 Q. What is Jamal's last name?

20 A. I'm not sure.

21 Q. That's okay. And so around 5:00 you
22 were all over there?

23 A. Yes.

24 Q. Okay. Well, just tell me what was
25 happening there when you were there in the house.

1 A. We just watching TV and the guys were
2 actually cooking the seafood and just hanging out
3 and Jamal came and asked if Tyrell could run me to
4 the car to run him to get weed from Greenhurst.

5 Q. He wanted to use the car?

6 A. Um-hmm.

7 Q. What car was that?

8 A. Me and Tyrell shared a car, Honda
9 Accord.

10 Q. What color was it?

11 A. Like a blueish green.

12 Q. Okay. Jamal asked if they could borrow
13 the car. And what were they going to do with it?

14 A. Go buy weed.

15 Q. Where were they going to do that?

16 A. Greenhurst.

17 Q. Do you know who they were going to buy
18 it from in Greenhurst?

19 A. No. From what they told me it was
20 either --

21 MR. BYRD: Objection, Your Honor.

22 Q. That's okay. I will withdraw the
23 question, Your Honor. Did -- do you know about
24 what time it was that they were leaving to go do
25 this?

1 A. Around -- we got there around five so
2 around 5:30.

3 Q. Okay. All right. And had you already
4 eaten at that point?

5 A. No, they were actually still cooking
6 and they asked me to hold the car -- they asked me
7 to watch the food until they got back.

8 Q. Okay. So did they borrow your car?

9 A. Yes.

10 Q. Okay. And when they left what was
11 their mood like?

12 A. It was normal I mean.

13 Q. Were they planning to come right back?

14 A. Yes.

15 Q. How do you know that?

16 A. Because they said they would be right
17 back. They didn't -- I mean it was their idea to
18 cook so I wouldn't -- I was assuming that I
19 wouldn't be doing it.

20 Q. They were going to come back and finish
21 cooking?

22 A. Um-hmm.

23 THE COURT: That's a yes?

24 A. Yes.

25 Q. Tiffany, did Tyrell own a gun?

1 A. No.

2 Q. Did you see Jamal with a gun?

3 A. No.

4 Q. Did you see either one of them with a
5 gun that day?

6 A. No.

7 Q. Did you have a gun?

8 A. No.

9 Q. So after they left what happened next?

10 A. After they left I saw Tyrell's cousin,
11 I don't even know how long it was, but one of his
12 other cousins posted something on Facebook Live and
13 it was --

14 MR. BYRD: Objection, Your Honor,
15 hearsay.

16 THE COURT: Sustained.

17 BY MS. MIMS:

18 Q. Yes, ma'am. What is the next thing you
19 heard about Tyrell? Was he gone for a long time?

20 A. I started calling him and he didn't
21 answer. But I didn't find anything out until like
22 ten or 11:00 that night.

23 Q. What happened then?

24 A. The coroner came over to us.

25 Q. What did she say?

1 A. That he passed away, he was deceased.

2 Q. Okay. Beg the Court's indulgence, Your
3 Honor.

4 (Off-the-record conference.)

5 (STATE'S EXH. 3 marked for
6 identification.)

7 MS. MIMS: Your Honor, may I approach
8 the witness?

9 THE COURT: Have you shown this to
10 counsel?

11 MS. MIMS: Sorry. May I approach the
12 witness, Your Honor?

13 THE COURT: You may.

14 BY MS. MIMS:

15 Q. Ms. Bowens, do you recognize the car
16 from the picture?

17 A. That's our car.

18 Q. Is that your car?

19 A. Um-hmm.

20 Q. Okay. And does that accurately
21 represent what it looked like in November of 2015?

22 A. Yes.

23 Q. Okay. Is that your license plate on
24 the back?

25 A. Yes.

1 MS. MIMS: Okay. Your Honor, at this
2 time the State would move to move Exhibit No. 3
3 into evidence.

4 MR. BYRD: No objection.

5 THE COURT: Very well. Defendant's 3
6 is in evidence. That is a photo.

7 MS. MIMS: That would be State's.

8 THE COURT: I am so sorry. State's,
9 yes, of course.

10 (STATE'S EXH. 3 in evidence.)

11 MS. MIMS: Thank you, Your Honor. No
12 further questions.

13 MR. BYRD: Court's indulgence one
14 moment, please, Your Honor.

15 (Brief pause.)

16 CROSS-EXAMINATION

17 BY MR. BYRD:

18 Q. Ms. Bowens, I only have a few quick
19 questions for you. First, you don't know exactly
20 who Tyrell was going to see that night, do you?
21 You said you didn't know?

22 A. No.

23 Q. And you don't know who it was wherever
24 he was when he got where he was going?

25 A. No.

1 Q. You don't know what happened?

2 A. No.

3 Q. Thank you. Ms. Mims asked about a gun.

4 Do you know if Jamal has a gun or had a gun?

5 A. No.

6 MR. BYRD: Thank you very much.

7 Nothing further, Your Honor.

8 THE COURT: All right. Redirect?

9 MS. MIMS: No, ma'am.

10 THE COURT: Very well. You may come
11 down. Call your next witness, please.

12 MS. MIMS: State calls Hunter Eadie.

13 THE CLERK: Please state your name for
14 the record.

15 THE WITNESS: Hunter Eadie.

16 HUNTER EADIE

17 having been duly sworn, testifies as follows:

18 MS. MIMS: Your Honor, may we approach?

19 THE COURT: You may.

20 (Off-the-record conference.)

21 THE COURT: You all are getting your
22 exercise. I'm going to ask you to please step to
23 your jury room. This is a matter I must hear and
24 do not discuss this matter or allow anyone to
25 discuss it with you. Leave your note pads on your

1 seat.

2 (Thereupon, the jury exited the
3 courtroom at 11:32 a.m.)

4 MS. MIMS: Mr. Eadie is getting ready
5 to testify for us regarding buying marijuana from
6 Mr. Biggs very shortly before this incident
7 happens. He was not given an advisement of rights
8 by the sheriff's department, but the State does not
9 plan on prosecuting him for purchasing that
10 marijuana that day. That is not our intention, but
11 I want to make sure we put that on the record that
12 we will not be prosecuting him for that purchase of
13 marijuana from Mr. Biggs on November 30th of 2015.

14 THE COURT: Okay. I'm going to give an
15 instruction, but is there anything from defense
16 before I do that?

17 MR. NELSON: I don't believe so, Your
18 Honor. No, Your Honor.

19 THE COURT: You're Mr. Eadie.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Hi, I'm Diane Goodstein.
22 Obviously I am the judge presiding over this
23 matter. You can tell by my robe. It is my
24 understanding, Mr. Eadie, that you intend to
25 testify regarding a transaction?

1 THE WITNESS: Yes.

2 THE COURT: I'm going to advise you
3 that you have the right to remain silent. You have
4 the Fifth Amendment Right under the United States
5 Constitution and under the Constitution of the
6 State of South Carolina. Obviously you heard what
7 the assistant solicitor said. There is no
8 intention to prosecute you with regards to this
9 matter, but I must tell you that you have the right
10 to remain silent pursuant to the South Carolina and
11 the United States Constitutions. Do you
12 understand?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Also, I'm not going to be
15 giving you full the Miranda warning, but it's
16 important that you understand that no one can
17 compel you to testify and if you wish to have
18 counsel we can certainly give you time to do that.
19 Do you understand what I am telling you?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Okay. Do you wish to go
22 forward and testify?

23 THE WITNESS: Sure, I guess.

24 THE COURT: Okay. Very well. You are
25 over the age of 18?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: All right. Anything from
3 the State?

4 MS. MIMS: No, ma'am.

5 THE COURT: Defense?

6 MR. BYRD: Nothing, Your Honor.

7 THE COURT: All right. Bring in the
8 jury, please.

9 MS. MIMS: Your Honor, we didn't get to
10 the point that I was up there for.

11 THE COURT: Hold on. I got carried
12 away.

13 MS. MIMS: I did too.

14 THE DEPUTY: Hold up on the jury.

15 (Off-the-record conference.)

16 THE COURT: All right. Just because I
17 proffered the other I'm going to proffer this as
18 well, please.

19 MS. MIMS: Yes, ma'am.

20 BY MS. MIMS:

21 Q. Mr. Eadie, did you say your name for
22 the record, I am sorry.

23 A. Hunter Eadie.

24 Q. Thank you. Mr. Eadie, do you know
25 James Biggs?

1 A. Yes.

2 Q. I'm going to take you to November 30th
3 of 2015. Do you recall that day?

4 A. Yes, ma'am.

5 Q. Okay. And did you come to 102 Larson
6 Drive that day?

7 A. Yes.

8 Q. Why did you go there?

9 A. To purchase marijuana.

10 Q. Can you tell the Court about the
11 transaction, how that went down?

12 A. Yes. I pulled over, was waiting on Mr.
13 Biggs. Got a phone call. He said he was on his
14 way. Seen him pull in. I followed him to his
15 driveway. He pulled up, backed into the driveway.
16 I pulled over on the side of the road. He called
17 me, said come get in the car. Walked over there,
18 got in the car. He weighed out I think it was like
19 an eighth ounce that I bought. Paid him. Bagged
20 it up, told him see you later, got back in my truck
21 and I left.

22 Q. Okay. What did he have the marijuana
23 in?

24 A. Plastic bag. It was in a jar, then he
25 wrapped it in a plastic bag.

1 Q. Do you know what kind of jar?

2 A. Mason jar.

3 Q. Okay. And after that he weighed it?

4 A. Yes, ma'am.

5 Q. Did you have bags or did he have bags?

6 A. He had the bag.

7 Q. He put the marijuana in the bag or did
8 you put the marijuana in the bag?

9 A. He did.

10 Q. Okay. And what kind of car were you
11 in?

12 A. A black GMC 2500 truck.

13 Q. Whose car was that?

14 A. I am sorry, during the transaction? We
15 were in a white Pontiac Grand Am.

16 Q. The car you just described, what is
17 that?

18 A. His car or the other one? That's my
19 truck. That's what I came in.

20 Q. That's not where the drug transaction
21 took place?

22 A. No.

23 Q. Which car did it take place in?

24 A. The white Pontiac Grand Am.

25 Q. Okay. And was it November 30th of

1 2015?

2 A. Yes.

3 Q. Do you recall what time that was?

4 A. Afternoon sometime.

5 Q. Okay. May I approach the witness, Your
6 Honor?

7 THE COURT: You may.

8 BY MS. MIMS:

9 Q. I'd like to show you, Mr. Eadie --

10 THE COURT: First mark it and show it
11 to counsel.

12 (STATE'S EXH. 4 marked for
13 identification.)

14 BY MS. MIMS:

15 Q. Mr. Eadie, I'd like to show you what's
16 been marked for identification purposes as State's
17 Exhibit No. 4. Do you recall that document?

18 A. Yes.

19 Q. Okay. Do you know what that is?

20 A. My statement.

21 Q. And do you see -- is your signature at
22 the bottom of the page?

23 A. Yes.

24 Q. What is the date on that statement?

25 A. 12-10-2015.

1 Q. Do you recall giving that statement to
2 the police?

3 A. Yes.

4 Q. Is that your handwriting?

5 A. Yes.

6 Q. Would you take a minute to look over
7 that statement for a minute.

8 A. (Witness complies with request.)

9 Q. Does that statement say what time you
10 arrived at the scene that day?

11 A. 5:30.

12 Q. Do you recall that being about the time
13 you arrived?

14 A. Yes, ma'am.

15 Q. Was it dark outside when you got there?

16 A. No, ma'am.

17 Q. Okay.

18 THE COURT: All right.
19 Cross-examination.

20 MR. NELSON: Nothing, Your Honor.

21 THE COURT: Okay. Under 404 (b) I
22 believe that while this certainly is evidence of
23 another crime, I believe that the testimony is
24 relevant on the issue of identity which is as I
25 understand the reason why this testimony is being

1 offered, not to prove character or propensity. And
2 the items which are relevant, No. 1, the white
3 Grand Am, No. 2, the fact that this marijuana was
4 in a mason jar and I make the determination
5 regarding the mason jar based upon the
6 representation of the State that there was a mason
7 jar found at the scene.

8 It is important to note that this
9 transaction occurred at 5:30 as identified by this
10 witness so it is very close in the time to these
11 events. So I think that the other bad act of the
12 crime is offered for a proper purpose and that is,
13 of course, to establish identity. It is relevant.
14 Again, the car, mason jar, and with regards to the
15 mason jar, the admission which I will get to in a
16 moment is conditional because the State must tie up
17 the mason jar having been at the scene. And the
18 probative value still outweighs the prejudicial
19 effect on the issue of identity based upon what
20 certainly what I have heard up to this point.

21 As I understand it from the State this
22 will be -- and from the defense this is a
23 circumstantial case and identity obviously goes to
24 the heart of the case. And given the elements that
25 I have already relayed for that reason I believe

1 that the probative value outweighs its prejudicial
2 effect. Anything from the State?

3 MS. MIMS: No.

4 MR. NELSON: Nothing, Your Honor.

5 THE COURT: All right. That was called
6 an in camera hearing which obviously means outside
7 the presence of the jury.

8 Mr. Eadie, you are going to be asked
9 questions now in front of the jury. You have
10 already been sworn in so that won't happen. Yes,
11 ma'am.

12 (Whereupon the jury entered the
13 courtroom at 11:45 a.m.)

14 THE COURT: All right. Ladies and
15 gentlemen, at this time we will continue with the
16 State's case and the direct examination of Mr.
17 Eadie. Yes, ma'am.

18 DIRECT EXAMINATION

19 BY MS. MIMS:

20 Q. Thank you, Your Honor. May it please
21 the Court. Good morning, Mr. Eadie.

22 A. Good morning.

23 Q. Could you tell the jury how old you
24 are?

25 A. Twenty-four.

1 Q. And what do you do for a living?

2 A. I work with vacuum trucks at a paper
3 mill.

4 Q. And, Mr. Eadie, do you know James
5 Biggs?

6 A. Yes.

7 Q. Can you please tell the jury how you
8 know him?

9 A. We went to school together.

10 Q. Where did you go to school?

11 A. Ashley Ridge High School.

12 Q. Did you graduate at the same time?

13 A. Yes.

14 Q. Do you remember when you first met him?

15 A. Yes, ma'am. I had a class with him
16 like 10th grade.

17 Q. Did you stay in touch with him after
18 high school?

19 A. No, ma'am. But he worked at the
20 Zaxby's in Summerville so I'd see him in there.

21 Q. Okay. Had you ever been to his house?

22 A. No, ma'am.

23 Q. Okay. Have you ever had any other
24 types of contact with him after besides this
25 Zaxby's? Did you ever have any type of contact

1 with him after high school?

2 A. No, ma'am, not really.

3 Q. Okay. Have you ever seen Mr. Biggs in
4 -- what type of car did Mr. Biggs drive?

5 A. The white Pontiac Grand Am.

6 Q. Okay. Had you ever been in the Grand
7 Am?

8 A. One time.

9 Q. Okay. Can you tell the jury about that
10 time? Do you know what day that was that you were
11 in this Grand Am?

12 A. November 30th.

13 Q. Of what year?

14 A. 2015.

15 Q. Okay. Can you please tell the jury
16 about that day?

17 A. Yes. I went and texted Mr. Biggs about
18 getting some weed and I met him at his house.

19 Q. Had you bought weed from him before?

20 A. One time before.

21 Q. Okay. I am sorry. Go ahead.

22 A. And pretty much went there. Got in the
23 car. He weighed it out. Bought a little bit of
24 weed from him. Got back in my truck and left.

25 Q. Okay. Let me take you back just a

1 little bit, Mr. Eadie. You mentioned texting with
2 Mr. Biggs prior to that?

3 A. Yes.

4 Q. Okay. And what did your text involve?
5 What did you say in your text?

6 A. I texted him and asked him if I could
7 buy a little bit of weed from him. And he sent me
8 an address.

9 Q. What was the address?

10 A. 104 Larson Drive.

11 Q. Larson?

12 A. 102.

13 Q. Okay. I'm going to show you, Mr.
14 Eadie, what's been marked as State's Exhibit No. 2.
15 May I approach the witness, Your Honor?

16 THE COURT: You may.

17 Q. Have you seen this map before?

18 A. Yes.

19 Q. Okay. And can the witness get up, Your
20 Honor?

21 THE COURT: Sure.

22 Q. Do you recognize this area?

23 THE COURT: Be careful. We need for
24 everyone to be able to see.

25 Q. Right. Yes, ma'am. What is this area

1 a map of?

2 A. Greenhurst.

3 Q. Okay. And --

4 A. So --

5 Q. So tell me about November 30th, what
6 happened.

7 A. Tried to get in touch with him. I
8 think the address he originally sent me was to this
9 house here, 106.

10 Q. And what street is that?

11 A. Lisa Drive. I pulled over. I waited
12 on him right here for a while. Called him a couple
13 of times. Where you at? He said coming, I'm
14 coming, I'm coming. And finally he did show up and
15 he came here, backed up in the driveway here. So I
16 backed up, pulled down here, pulled over on the
17 side of the road right here. Called me again, said
18 come on, hop in the car.

19 Q. Let me ask you a question. When he
20 came over here to meet you he was in a car?

21 A. Yes. Well, I seen him drive by. He
22 had to come over and meet me.

23 Q. And what car was that again?

24 A. White Pontiac Grand Am.

25 Q. Okay. And you can have a seat now, Mr.

1 Eadie. Thank you very much.

2 A. (Witness complies with request.)

3 Q. And so I'm going to show you now what's
4 been marked as State's Exhibit No. 1. Come on back
5 up for me, Mr. Eadie.

6 A. (Witness complies with request.)

7 Q. Do you recognize this photo?

8 A. Yes.

9 Q. What is that a picture of?

10 A. That's the house right there.

11 Q. Whose house is that?

12 A. I guess his house, James.

13 Q. Okay. So can you show the jury where
14 you pulled up, where he parked and where you pulled
15 up?

16 A. I was parked here. Car was backed up
17 right here in the driveway facing the road.

18 Q. Okay. And what did he say?

19 A. Come and hop in the passenger side of
20 the car and that's where we made the exchange.

21 Q. Okay. Thank you very much. You can
22 have a seat.

23 A. (Witness complies with request.)

24 Q. And when you say you made the exchange,
25 can you be very specific about exactly what

1 happened with that.

2 A. He pulled marijuana out of a jar, put
3 it on a scale. Weighed out one-eighth ounce and I
4 paid him \$60 for one-eighth.

5 Q. Okay. And what kind of jar did he use?

6 A. A mason jar.

7 Q. And where were you sitting and where
8 was he sitting?

9 A. I was in the passenger seat; he was in
10 the driver seat.

11 Q. Okay. Where was the mason jar in the
12 car?

13 A. I think it was in the center console.

14 Q. Okay. And did he weigh out the
15 marijuana?

16 A. Yes.

17 Q. What happened next?

18 A. And he bagged it up, gave it to me, I
19 gave him the money, shook hands, got out of the
20 car, got back in my truck and left.

21 Q. And did all this happen in the Grand
22 Am?

23 A. Yes.

24 Q. Okay. Mr. Eadie, when this happened
25 when he first told you to follow him over to the

1 house, was there anyone else in the car with him?

2 A. No.

3 Q. Was there anyone in the yard at the
4 time?

5 A. No, ma'am.

6 Q. Could you recall approximately what
7 time this happened?

8 A. Between 5:30 and 5:40 p.m.

9 Q. Okay. Beg the Court's indulgence, Your
10 Honor.

11 THE COURT: All right.

12 (Off-the-record conference.)

13 BY MS. MIMS:

14 Q. Mr. Eadie, back on November 30th of
15 2015 what was your phone number?

16 A. 843-297-0144.

17 Q. Thank you very much. I have no further
18 questions. I am sorry, Your Honor. Just, Mr.
19 Eadie, I'm going to -- may I approach the witness?

20 THE COURT: You may.

21 Q. I'm going to show you what's been
22 marked as State's Exhibit No. 4. Do you recognize
23 that document?

24 A. Yes.

25 Q. What is that?

1 A. My statement.

2 Q. Okay. Tell me about that statement.

3 When did you give that statement?

4 A. On December 10th, 2015.

5 Q. What was that statement about?

6 A. The incident.

7 Q. What you just testified about?

8 A. Yes, what I just testified about.

9 Q. Do you recall giving that statement to
10 the police?

11 A. Yes.

12 Q. Is that your signature on the bottom of
13 that statement?

14 A. Yes.

15 Q. Okay. Can you look over your statement
16 and anywhere on the statement do you give a number
17 for Mr. Biggs?

18 A. Yes.

19 Q. Can you tell me what that number was?

20 A. 843-291-1086.

21 Q. And is that the number that you used to
22 call Mr. Biggs the day that this transaction
23 happened?

24 A. Yes.

25 Q. And was that November 30th of 2015?

1 A. Yes.

2 MS. MIMS: Thank you, Mr. Eadie. No
3 further questions, Your Honor.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. NELSON:

7 Q. Good morning, Mr. Eadie. How are you
8 doing?

9 A. I'm all right.

10 Q. Just a few questions for you. You
11 understand possession or purchasing marijuana is
12 illegal, right?

13 A. Yes.

14 Q. And you have been told you are not
15 going to be prosecuted for going to buy marijuana
16 that day, right?

17 A. Yes.

18 Q. That was by the State, the solicitor's
19 office?

20 A. Sure.

21 Q. Let's talk about you going to Larson
22 Street that day. You said you bought marijuana
23 from Mr. Biggs?

24 A. Yes.

25 Q. And you got in the back of his car or

1 front of his car? You can't remember?

2 A. Passenger seat.

3 Q. Passenger seat. And how long were you
4 in the car? Very quickly? Very shortly?

5 A. Less than five minutes.

6 Q. And you just gave him the money, he
7 gave you the weed and you took off?

8 A. Yes.

9 Q. Actually shook hands, right?

10 A. Yep.

11 Q. You didn't see a gun on him that day?

12 A. No.

13 Q. He didn't pull a gun on you that day?

14 A. No.

15 Q. He didn't shoot you, did he?

16 A. No.

17 MR. NELSON: Court's indulgence.
18 Nothing further, Your Honor.

19 THE COURT: All right. Any redirect?

20 MS. MIMS: No, Your Honor.

21 THE COURT: Very well. Is this witness
22 free to leave?

23 MS. MIMS: Yes, ma'am.

24 THE COURT: Any objection?

25 MR. BYRD: No objection, Your Honor.

1 THE COURT: Thank you. You are free to
2 go. Call your next witness, please.

3 MS. MIMS: State calls Brandon Woodall.

4 THE CLERK: State your full name.

5 THE WITNESS: Brandon Woodall.

6 BRANDON WOODALL

7 having been duly sworn, testifies as follows:

8 THE COURT: I think what I am going to
9 ask you to do is to state your full name again and
10 spell your last name.

11 THE WITNESS: Brandon Woodall,
12 W-O-O-D-A-L-L.

13 DIRECT EXAMINATION

14 BY MS. MIMS:

15 Q. May it please the Court, Mr. Woodall,
16 how are you?

17 A. Good.

18 Q. Good. Could you tell the jury your
19 age, please?

20 A. Twenty-four.

21 Q. And where are you employed?

22 A. Currently unemployed.

23 Q. Okay. And do you know Mr. James Biggs?

24 A. Yes, ma'am.

25 Q. Can you please tell the jury how you

1 know him?

2 A. Went to school together, Ashley Ridge.

3 Q. And did you have him in a class or did
4 you -- were you friends in high school or did you
5 just know him?

6 A. Yes, ma'am.

7 Q. Which one?

8 A. We played basketball together.

9 Q. Okay. And did you keep in touch with
10 him after high school?

11 A. Yes, ma'am.

12 Q. Did you know where he lived?

13 A. Yes, ma'am.

14 Q. Where did he live after high school?

15 A. With his grandmother.

16 Q. With his grandmother. Did he also stay
17 with his mom sometimes, do you know?

18 A. I'm not sure.

19 Q. Okay. Do you recall where his mother
20 lived?

21 A. In Greenhurst, yes, ma'am.

22 Q. Do you remember the name of the street
23 she lived on?

24 A. Larson.

25 Q. Okay. Do you know back in 2015 what

1 kind of car Mr. Biggs drove?

2 A. Yes, ma'am.

3 Q. What kind?

4 A. Pontiac.

5 Q. Do you know what color it was?

6 A. White.

7 Q. Did you have any contact with Mr. Biggs
8 after high school?

9 A. Yes, ma'am.

10 Q. Okay. What type of contact did you
11 have with him after high school?

12 A. Playing basketball and going to the
13 mall.

14 Q. Did you have any other types of contact
15 with him?

16 A. Yes, ma'am.

17 Q. What kind?

18 A. To purchase marijuana.

19 Q. Did you know Mr. Biggs to sell
20 marijuana?

21 A. Yes, ma'am.

22 Q. And have you bought marijuana from him
23 before?

24 A. Yes, ma'am.

25 Q. Okay. Do you know how many times?

1 A. No, ma'am.

2 Q. Did you happen to purchase any
3 marijuana from him on November 30th of 2015?

4 A. No, ma'am.

5 Q. You didn't purchase any marijuana from
6 Mr. Biggs?

7 A. No, I was there to, but I didn't
8 actually get it.

9 Q. Okay. So you saw Mr. Biggs on
10 November 30th of 2015?

11 A. Yes, ma'am.

12 Q. Can you tell me a little bit -- do you
13 recall that day?

14 A. Yes, ma'am.

15 Q. Can you tell me a little bit about that
16 day what were you doing?

17 A. Me and my girlfriend was actually in
18 the midst of moving that day.

19 Q. Whose your girlfriend?

20 A. Emily Robbins.

21 Q. Go ahead.

22 A. Yes, ma'am. And we were on the way to
23 the old house to go pack some things and stuff and
24 on the way I was -- I stopped in Greenhurst to grab
25 the marijuana.

1 Q. Okay. Did you call Mr. Biggs before
2 you came?

3 A. No, ma'am.

4 Q. Do you recall around what time you
5 stopped by to see Mr. Biggs?

6 A. No, ma'am.

7 Q. Okay. And when you said you stopped by
8 where did you go?

9 A. I came -- I went to James's house, his
10 mother's house.

11 Q. Okay. So do you know the address of
12 James's mother's house?

13 A. No.

14 Q. Okay. I'm going to show you what's
15 been marked as State's Exhibit No. 1. May I
16 approach the witness, Your Honor?

17 THE COURT: You may.

18 Q. Have you seen this picture before? Do
19 you recognize that exhibit?

20 A. Yes, ma'am.

21 Q. What is that a picture of?

22 A. His mother's house.

23 Q. James's mother's house, okay. I'm
24 going to show you what's been marked as State's
25 Exhibit No. 2. May I approach, Your Honor?

1 THE COURT: You may.

2 Q. Do you recognize this map? Take a
3 minute to familiarize yourself if you need to. Do
4 you know what this is a map of?

5 A. No, ma'am.

6 Q. You don't recognize the neighborhood?

7 A. Yes, ma'am.

8 Q. Okay. Can you tell me, do you
9 recognize these streets?

10 A. Yes, ma'am.

11 Q. Okay. Are you familiar with this area?

12 A. Yes, ma'am.

13 Q. Okay. Could you point to this map to
14 where Mr. Biggs lived.

15 A. (Witness complies with request.)

16 Q. What street is this one here?

17 A. Larson.

18 Q. Larson Street.

19 A. Yes, ma'am.

20 Q. Thank you. And, again, if I am looking
21 at State's Exhibit No. 1, is this the house you
22 went to purchase the marijuana?

23 A. Yes, ma'am.

24 Q. Beg the Court's indulgence, Your Honor.

25 (STATE'S EXH. 5 marked for

1 identification.)

2 MS. MIMS: May I approach the witness?

3 BY MS. MIMS:

4 Q. Mr. Woodall, I'd like to show you
5 what's been marked as State's Exhibit No. 5. Do
6 you recognize that document?

7 A. Yes, ma'am.

8 Q. What is that document?

9 A. My first statement.

10 Q. Okay. Your first statement about what?

11 A. About being there at the time of the
12 gunshots.

13 Q. Okay. Could you please look at that
14 statement and familiarize yourself with it for just
15 a moment. Is that your signature on the bottom of
16 that page?

17 A. Yes.

18 Q. Do you recall giving that statement to
19 police officers?

20 A. Yes, ma'am.

21 Q. And what is the date on that statement?

22 A. The 4th of December.

23 Q. Okay. Can you look over that statement
24 and see -- familiarize yourself with it and see if
25 you recall now what time it was that you were over

1 at Mr. Biggs's house?

2 A. Around 5:45-ish.

3 Q. Around 5:45. And what date was that
4 again?

5 A. December 4th.

6 Q. That's the date that you gave the
7 statement; is that right?

8 A. Yes.

9 Q. What date were you at Mr. Biggs's house
10 at 5:45?

11 A. The 30th, November 30th.

12 Q. Okay. Thank you. And can you please
13 tell the jury about that day a little bit? You got
14 there around 5:45. Can you tell us what happened
15 when you arrived?

16 A. When I arrived James Biggs was actually
17 outside on the phone and I pulled my window down a
18 little bit and he told me -- he pointed towards the
19 direction of the driveway, told me to pull in the
20 driveway and he came and he grabbed ten dollars
21 from me and literally within a second or two I
22 started talking to my girlfriend because she was in
23 the car with me. I heard noises and the screaming
24 and yelling and I heard gunshots and I was just
25 scared. I didn't want any part of it so I left.

1 Q. Okay. Let me back you up a little bit,
2 Mr. Woodall. When you first pulled up at Mr.
3 Biggs's house again I'm going to -- may I approach?

4 THE COURT: You may.

5 Q. This is State's Exhibit No. 1. I am
6 going to ask you to step down real quick. Which
7 direction were you coming from, Mr. Woodall? Were
8 you coming from this direction or this direction
9 over here?

10 A. This direction.

11 Q. Okay. And when you first spoke to Mr.
12 Biggs where were did you park?

13 A. I was in the middle of the street. I
14 was on the side of the road.

15 Q. And where was Mr. Biggs?

16 A. Towards the grass, edge of the grass.

17 Q. Okay. And did he walk up to your car?

18 A. Yes, ma'am.

19 Q. What happened when he walked up to your
20 car?

21 A. I gave him the \$10 and he told me to
22 pull in the driveway.

23 Q. Okay. And did you pull in here?

24 A. Yes, ma'am.

25 Q. Okay. Thank you. You can have a seat.

1 Once you pulled into the driveway did you talk to
2 him again?

3 A. No, ma'am.

4 Q. Okay. Tell me about whose in the car
5 with you?

6 A. My girlfriend Emily Robbins and my
7 puppy, my pit bull puppy was in the back seat.

8 Q. And very meticulously and slowly tell
9 me what you heard next.

10 A. I heard a lot of like beating, sounded
11 like someone was like beating, like someone was
12 getting beat really bad. Like the sound effects,
13 it was really loud, it was very loud.

14 Q. Did you see anything?

15 A. No, ma'am.

16 Q. Were you facing sitting in the driver's
17 seat or the passenger seat?

18 A. The driver's seat.

19 Q. Where was Mr. Biggs at that time?

20 A. He was outside of the car.

21 Q. Outside of the car. You were parked in
22 the driveway, correct?

23 A. Yes, ma'am.

24 Q. And he was outside of the car?

25 A. Yes, ma'am.

1 Q. Okay. Was he towards the yard or was
2 he --

3 A. Yes, ma'am.

4 Q. Who was sitting closer to the yard, you
5 or your girlfriend?

6 A. My girlfriend.

7 Q. So you heard fighting. Did you see
8 anything?

9 A. No, ma'am.

10 Q. Was it dark outside?

11 A. Yes, ma'am.

12 Q. Okay. What happened next?

13 A. And I heard screaming, like screams for
14 help, like loud screams for help, like hey, hey,
15 hey, like pow, pow, pow.

16 Q. What did you hear next?

17 A. I heard gunshots.

18 Q. And did you -- how many gunshots did
19 you hear?

20 A. Was about four or five.

21 Q. Were they one after the other?

22 A. Simultaneously.

23 Q. Okay. What happened next?

24 A. After we heard the gunshots my
25 girlfriend ordered me to leave and I put my car in

1 reverse and didn't think about it and I left.

2 Q. Was the window down? Did you have any
3 windows down at all?

4 A. It was cracked, the passenger side
5 window was cracked.

6 Q. So did you back out the drive and
7 leave?

8 A. Yes, ma'am.

9 Q. Did you look back?

10 A. No, ma'am.

11 Q. Did you see anything when you were
12 leaving?

13 A. I seen -- the only thing I seen was
14 James in the yard.

15 Q. Did you see James near the Grand Am?

16 A. No, ma'am.

17 Q. You didn't see Mr. Biggs anywhere near
18 the Grand Am?

19 A. He was closer towards the street in the
20 middle of the yard.

21 Q. Was anyone else in the yard?

22 A. I couldn't see.

23 Q. Was he the only person you saw in the
24 yard?

25 A. Yes.

1 Q. Was he moving away from the Grand Am?

2 A. Yes.

3 Q. And what did you do after you left?

4 A. Me and my girlfriend went off to Big
5 Lots to grab something for her father. Then we
6 went to the old house to grab things, finish
7 packing up so we could move.

8 Q. Were you scared?

9 A. Yes, ma'am, very.

10 Q. Did you know what you had just seen?

11 A. No, ma'am, just --

12 Q. Did you hear from anyone later about
13 what you had seen?

14 A. Yes.

15 Q. Tell me about that.

16 A. I got a phone call when we were at the
17 old house and I was outside and Emily was inside
18 packing up. I got a phone call and I heard a voice
19 say you don't know anything, you don't know
20 anything, you don't know anything. I heard another
21 voice that said one of the people got shot said
22 they seen a gold Honda.

23 Q. Okay. Did you recognize either of
24 those voices?

25 A. Not the first voice.

1 Q. Did you recognize the second voice?

2 A. Yes.

3 Q. Whose voice was that?

4 A. James.

5 Q. And did you call law enforcement?

6 A. No, ma'am.

7 Q. Did law enforcement ever contact you?

8 A. Yes, ma'am.

9 Q. Okay. And when they talked to you what
10 happened? Did you tell them what you saw?

11 A. I came in to give a statement.

12 Q. Okay. And did you tell the police what
13 happened that night?

14 A. Yes, ma'am.

15 Q. Did you tell them everything you saw?

16 A. No, ma'am.

17 Q. Okay. Did you leave some things out?

18 A. Yes, ma'am.

19 Q. What did you leave out?

20 A. The fact that I was -- I did see James
21 Biggs at the scene and the fact that I wasn't there
22 when the gunshots went off.

23 Q. What did you tell initially -- where
24 did you initially tell the police you were?

25 A. I had left the neighborhood whenever

1 the gunshots went off.

2 Q. Okay. Was that the truth?

3 A. No, ma'am.

4 Q. Why did you tell the police that story
5 that wasn't completely true?

6 A. I was -- I was scared and I didn't want
7 any part of it.

8 Q. Okay. Were you contacted by law
9 enforcement again later?

10 A. Yes, ma'am.

11 Q. Okay. What happened then?

12 A. I went up to meet with them and provide
13 additional information.

14 Q. Okay. What was the additional
15 information?

16 A. That James Biggs was indeed there and
17 that I was indeed there at the time of the gunshots
18 going off.

19 Q. Did you provide a second statement?

20 A. Yes, ma'am.

21 Q. Did that statement essentially say what
22 you told the jury today?

23 A. Yes, ma'am.

24 Q. Is that the truth?

25 A. Yes, ma'am.

1 Q. Did you get in any trouble for saying a
2 different statement to law enforcement?

3 A. Yes, ma'am.

4 Q. What happened?

5 A. I got charged with obstruction of
6 justice.

7 Q. Is that charge still pending?

8 A. Yes, ma'am.

9 Q. Are you telling the truth here today?

10 A. Yes, ma'am.

11 Q. Why again did you lie in your first
12 statement?

13 A. Because I was scared. I didn't want
14 any part of it.

15 Q. Beg the Court's indulgence.

16 (Off-the-record conference.)

17 MS. MIMS: I have no further questions,
18 Your Honor.

19 THE COURT: All right.
20 Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. BYRD:

23 Q. Thank you very much, Your Honor. How
24 are you doing, Mr. Woodall?

25 A. Good.

1 Q. I have got a few questions for you.

2 A. Yes, sir.

3 Q. I would like to go back if I could to
4 your first statement. You stated that a dark
5 skinned guy was the individual who handled the
6 marijuana transaction with you, correct?

7 A. Yes.

8 Q. Okay. Someone you didn't know?

9 A. Correct.

10 Q. And that individual was not, in fact,
11 James Biggs?

12 A. Correct.

13 Q. In your second statement you stated
14 that, in fact, now it is Mr. Biggs whose there,
15 correct, and that you pull in, you see him walking
16 towards the white car; is that correct?

17 A. Yes, sir.

18 Q. In your second statement. Did you see
19 him with a gun at that time?

20 A. No, sir.

21 Q. Did you see who else was in the car at
22 that time, the white car?

23 A. No, sir.

24 Q. And then you say you heard sounded like
25 safe to say a fight?

1 A. Correct.

2 Q. Do you know how many people were in
3 that car?

4 A. No, sir.

5 Q. You heard screams for help?

6 A. Yes.

7 Q. Did you recognize the voice?

8 A. I am assuming was James screaming for
9 help.

10 Q. And after that you say that you heard
11 or assume -- you saw -- excuse me -- you saw James
12 Biggs moving away from the Grand Am; is that
13 correct?

14 A. Yes, ma'am -- yes, sir.

15 Q. That's okay. I don't take it personal.
16 Did you -- was he running away, walking?

17 A. He was kind of -- I was so much in a
18 rush of backing my car up and leaving I just saw a
19 glimpse of James just going to the street.

20 Q. Did you see a gun on him at that time?

21 A. No, sir.

22 Q. Did you see him carrying anything else?

23 A. No, sir.

24 Q. You said you received a phone call
25 afterwards and actually let me back up a second.

1 You said that in your second statement there was
2 no -- you didn't see anyone else there besides
3 James Biggs, correct?

4 A. Yes, sir.

5 Q. Whereas in your first statement there
6 was another person present, a dark skinned
7 individual who sold you marijuana, that was in your
8 first statement?

9 A. Correct.

10 Q. You received a phone call later and you
11 heard multiple voices talking to you, correct?

12 A. Correct.

13 Q. Not just one?

14 A. Right.

15 Q. You have been charged with obstruction
16 of justice you stated?

17 A. Yes, sir.

18 Q. Correct? Is it your expectation that
19 that charge will go away as a result of your new
20 statement and as a result of testifying here today?

21 A. No, sir.

22 Q. You don't believe they are going to
23 help you out with that?

24 A. No, sir.

25 Q. They have told you -- do you have an

1 attorney?

2 A. Yes, sir.

3 Q. Your attorney hasn't given you any
4 indication that anything might happen whatsoever?

5 A. No, sir.

6 Q. He hasn't said that maybe in most cases
7 the solicitor's office will sometimes try to help
8 you out on the back end, anything of that nature?

9 A. No, sir.

10 Q. So you are just hoping for the best?

11 A. Yes, sir.

12 Q. All right. But it wasn't until you
13 were threatened with obstruction that you did alter
14 your statement, correct?

15 A. Yes, sir.

16 Q. Court's indulgence.

17 THE COURT: All right.

18 (Off-the-record conference.)

19 BY MR. BYRD:

20 Q. The first statement you gave as you
21 stated there was a dark skinned individual who sold
22 you marijuana. You don't know whether that
23 individual had a gun on them at that time, do you?

24 A. No, sir.

25 Q. We obviously have a problem because you

1 have two statements, some which they line up, some
2 which they don't. So we don't really know if you
3 were lying then or if you are lying now, correct?

4 A. No, sir.

5 Q. Thank you.

6 THE COURT: Anything further?

7 MR. BYRD: Nothing further.

8 THE COURT: Redirect?

9 REDIRECT EXAMINATION

10 BY MS. MIMS:

11 Q. Mr. Woodall, are we talking about just
12 one person here, are we talking in both these
13 statements?

14 A. Yes, ma'am. There was two different
15 people.

16 Q. Two different people. Two different
17 people sold you marijuana?

18 A. No, I was going to get weed from one
19 person.

20 Q. And who was that?

21 A. James Biggs.

22 Q. Who sold you marijuana on November 30th
23 of 2015?

24 A. I didn't get it.

25 Q. Okay. I am sorry. Who were you

1 expecting to sell you marijuana on --

2 A. James Biggs.

3 Q. Who did you give your money to on
4 November 30th of 2015?

5 A. James Biggs.

6 Q. Was there anybody else in the yard on
7 November 30th of 2015?

8 A. No, ma'am.

9 Q. And in your first statement to police
10 were you just not indicating who you were going to
11 purchase the marijuana from?

12 A. Yes, ma'am.

13 Q. In your second statement did you
14 identify who it was you were purchasing marijuana
15 from?

16 A. Yes, ma'am.

17 Q. Who was that person?

18 A. James Biggs.

19 Q. Mr. Woodall, you mentioned you heard
20 fighting. And you testified that you assumed that
21 the voice you heard asking for help was Mr. Biggs?

22 A. Yes.

23 Q. Are you a hundred percent sure of that?

24 A. Yes.

25 Q. Okay.

1 MS. MIMS: No further questions.

2 THE COURT: Recross?

3 RECROSS-EXAMINATION

4 BY MR. BYRD:

5 Q. Very briefly, Judge. Mr. Woodall, you
6 just said that you did not purchase weed at that
7 time. But in your first statement you did give a
8 sworn signed statement stating that you did
9 purchase weed from a dark skinned individual who
10 was present at that time, correct?

11 A. Yes, sir.

12 Q. And you know that that individual that
13 you stated the first time in your sworn signed
14 statement was not Mr. Biggs, correct?

15 A. Yes, sir.

16 MR. BYRD: Nothing further.

17 THE COURT: Okay. Very well. And is
18 this witness free to leave?

19 MS. MIMS: No objection, Your Honor.

20 THE COURT: Very well. Sir, you are
21 free to go. Call your next witness, please.

22 MS. MIMS: State calls Emily Robbins.

23 THE CLERK: State your full name.

24 THE WITNESS: Emily
25 Robbins.

1 EMILY ROBBINS

2 having been duly sworn, testifies as follows:

3 THE COURT: Counsel, let me see
4 you a second, please.

5 (Off-the-record conference.)

6 DIRECT EXAMINATION

7 BY MS. MIMS:

8 Q. Good morning, Ms. Robbins. Could you
9 please tell the jury how old you are?

10 A. I'm 23.

11 Q. What do you do for a living?

12 A. I work for a plumbing company.

13 Q. Okay. And do you know Mr. James Biggs?

14 A. I do.

15 Q. Can you please tell the jury how you
16 know him?

17 A. We went to high school together.

18 Q. Where did you go to high school?

19 A. Ashley Ridge.

20 Q. And were you friends in high school?

21 A. We were.

22 Q. Okay. Were you good friends in high
23 school?

24 A. We were pretty good friends. We helped
25 each other in some of our classes.

1 Q. Okay. And who are you dating?

2 A. Brandon Woodall.

3 Q. And did you know Mr. Woodall in high
4 school?

5 A. I did not, no.

6 Q. And was Mr. Woodall friends with Mr.
7 Biggs?

8 A. From my knowledge, yes.

9 Q. Did you see Mr. Biggs after high
10 school?

11 A. Um-hmm.

12 Q. How did you see him?

13 A. He was friends with Brandon so I seen
14 him passing a couple of times. He also lived in
15 the same neighborhood.

16 THE COURT: I need you to slow down
17 just a little bit so we can understand you, please.
18 If you would ask that question again.

19 Q. Yes, ma'am. So how long have you been
20 dating Brandon?

21 A. Five years.

22 Q. Did you know Brandon to be good friends
23 with James Biggs?

24 A. Yes.

25 Q. And would he go to his house?

1 A. Yes.

2 Q. Would they hang out?

3 A. Yes.

4 Q. And I'm going to take you to November
5 of 2015. Did you know what kind of car Mr. Biggs
6 drove around that time?

7 A. I did.

8 Q. What kind?

9 A. It was a Pontiac. Was white.

10 Q. I'm going to take you to November 30th
11 of 2015. Do you recall that day?

12 A. I do.

13 Q. Can you tell me about what you were
14 doing on that day?

15 A. We were moving.

16 Q. Moving, okay. Where did you live at
17 that time?

18 A. The Lakes of Summerville.

19 Q. Okay. And what was happening a little
20 later in the evening that day?

21 A. Brandon and I were going back to our
22 old house to get some things and we stopped at
23 James's house to get some weed on the way.

24 Q. Okay. And do you know where James
25 lived?

1 A. I do, yes.

2 Q. Do you know the address?

3 A. I know it was Larson Drive.

4 Q. Okay. And what kind of car were you
5 in?

6 A. A gold Honda.

7 Q. Was that your car or James's car?

8 A. It was mine.

9 Q. Or Brandon's car. Were you driving
10 that day?

11 A. I was not.

12 Q. Who all was in the car with you?

13 A. Just Brandon, myself and our dog.

14 Q. And do you remember driving into --
15 where did James live? What neighborhood did he
16 live in?

17 A. Greenhurst.

18 Q. Do you remember driving into Greenhurst
19 that day?

20 A. I do.

21 Q. I'm going to -- may I approach the
22 witness?

23 THE COURT: You may.

24 Q. I am showing you what's been marked as
25 State's Exhibit 2. Do you recognize what that is a

1 map of?

2 A. Yes.

3 Q. What is that?

4 A. It's a map of the street where the
5 incident occurred.

6 Q. Okay. May I publish, Your Honor?

7 THE COURT: You may.

8 Q. If you could step down for me, Ms.
9 Robbins.

10 THE COURT: I need you to keep your
11 voice up so everyone can hear you because you don't
12 have the microphone. And this is really difficult.
13 But you got to point to something potentially and
14 not block the jury. I think there's a juror right
15 behind you.

16 BY MS. MIMS:

17 Q. So could you please identify these
18 streets and maybe which -- do you see what street
19 this is?

20 A. Yes.

21 Q. What street is this?

22 A. That's Larson.

23 Q. Do you know what street this is?

24 A. Yes.

25 Q. What is that?

1 A. Lisa.

2 Q. Which direction did you come from on to
3 Larson?

4 A. From Lisa.

5 Q. And --

6 A. Was actually from this side.

7 Q. Can you tell the jury exactly what your
8 ride in was like?

9 A. I do remember there was a car behind us
10 the whole way as we came from this direction. We
11 stopped right here in the middle of the road.

12 Q. Okay. And why did you stop right here
13 in the middle of the road?

14 A. Because that's when James approached
15 our car.

16 Q. Where was he coming from?

17 A. From the yard.

18 Q. Okay. You mentioned there was a car
19 behind you. What was happening with that car?

20 A. It was just following us the whole way
21 in.

22 Q. Okay. And when you made that turn did
23 it go straight or what did it do?

24 A. It stopped behind us as well.

25 Q. And where did it stay?

1 A. Towards this side over here.

2 Q. And you pulled in right here?

3 A. Um-hmm. Well, more like up here
4 towards the middle of the yard.

5 Q. What happened at the middle of the
6 yard?

7 A. James approached our car and we gave
8 him ten dollars and he told us to pull into the
9 driveway.

10 Q. What did you do then?

11 A. We pulled just right up in the
12 driveway.

13 Q. Did you see James's car when you pulled
14 into the driveway?

15 A. I did.

16 Q. And where was it?

17 A. It was in the middle of the yard.

18 Q. Okay. About where?

19 A. Here.

20 Q. Thank you very much.

21 A. You're welcome.

22 Q. Once you pulled into the driveway,
23 again, where were you sitting in the car?

24 A. In the passenger seat.

25 Q. Who all was in the car with you?

1 A. Brandon and our dog.

2 Q. So when you pulled into that driveway
3 what happened next?

4 A. We waited for a minute and then I saw
5 what looked like a flash of someone running past me
6 towards James's car and when I looked over I didn't
7 see anything else. So Brandon and I kept talking
8 and then about 15 seconds later there was some
9 screaming of somebody saying hey a couple times
10 like someone fighting, then the emergency flashers
11 in the car came on.

12 Q. So the emergency flashers on which car?

13 A. The Pontiac.

14 Q. Show you what's been marked as
15 State's Exhibit No. 1. May I approach the witness,
16 Your Honor?

17 THE COURT: You may.

18 Q. Do you recognize this exhibit?

19 A. I do.

20 Q. What is it a picture of?

21 A. The house that we were at.

22 Q. Was it James's house?

23 A. It was.

24 Q. Do you see James's car in this picture?

25 A. Yes.

1 Q. Is that where the car was parked when
2 you were in the driveway?

3 A. Yes.

4 Q. And you said you saw a flash of someone
5 run by?

6 A. Yes, ma'am.

7 Q. Do you know who that is?

8 A. I don't know.

9 Q. Do you see anyone else in the yard?

10 A. No.

11 Q. Was your window up or down?

12 A. It was cracked.

13 Q. You heard -- I want to back you up just
14 a little bit. Can you be very explicit about what
15 you heard coming from the car?

16 A. It sounded like someone was screaming
17 hey I would say four or five times.

18 Q. Hey?

19 A. Um-hmm. Over and over again. And then
20 it sounded like skin hitting skin like punches and
21 then the emergency flashers after that.

22 Q. And what car was that on in again?

23 A. The Pontiac.

24 Q. Okay. What did you think was happening
25 in the Pontiac?

1 A. I wasn't really sure at that time. I
2 just knew it sounded like a fight.

3 Q. Okay. What did you hear next?

4 A. The gunshots.

5 Q. How many did you hear?

6 A. Five or six of them.

7 Q. What did you do then?

8 A. I told Brandon to go.

9 Q. Did you see anything?

10 A. I did see James run towards the street,
11 but nothing other than that.

12 Q. What direction was he running from?

13 A. From his car.

14 Q. And he was running towards the street.
15 What did you all do?

16 A. We left.

17 Q. What direction did you leave when you
18 left?

19 A. When we backed out the driveway we went
20 to the left and through the cul-de-sac.

21 Q. So if you came out of the driveway did
22 you go back to the direction you had come?

23 A. No.

24 Q. You went the other direction?

25 A. Yes.

1 Q. Did you know what had just happened?

2 A. No.

3 Q. Were you scared?

4 A. Very.

5 Q. Did you call law enforcement?

6 A. We did not.

7 Q. Why didn't you?

8 A. Because we were very scared. We did
9 not know what happened and we didn't know what to
10 do.

11 Q. Were you there for a good reason?

12 A. No.

13 Q. What were you there for?

14 A. Marijuana.

15 Q. Okay. And what happened next? What
16 did you do?

17 A. We went to the store to buy some things
18 that my dad had left and then back to our townhouse
19 to continue getting our things to go home.

20 Q. Did you hear anything about this case
21 later in the day?

22 A. Not until that evening when we got home
23 and saw it on the news.

24 Q. Did you receive any calls about the
25 case?

1 A. I did not personally, no.

2 Q. Did Brandon?

3 A. Yes.

4 Q. Did the call concern you?

5 A. Very.

6 Q. Did you hear from law enforcement after
7 that?

8 A. Yes, ma'am.

9 Q. Tell me about that?

10 A. They went to Brandon's grandmother's
11 house and when he went to be questioned they
12 approached the car and came and got me as well.

13 Q. Okay. And, Emily, did you end up
14 talking to law enforcement?

15 A. I did.

16 Q. Did you end up giving a statement to
17 law enforcement?

18 A. Yes, ma'am.

19 Q. And did you tell law enforcement
20 exactly happened?

21 A. I did not.

22 Q. What did you tell them?

23 A. I told them that we went to the scene,
24 that I did not see James Biggs and that we were
25 gone before the gunshots happened.

1 Q. Why did you tell them that?

2 A. Because we did not want to be involved
3 because we were scared.

4 Q. Was that statement the whole truth?

5 A. It was not.

6 Q. Did you get contacted later by law
7 enforcement?

8 A. Yes, ma'am.

9 Q. What happened then?

10 A. We gave a second statement and were
11 charged with obstruction of justice.

12 Q. Are those charges still pending against
13 you?

14 A. Yes, ma'am.

15 Q. And did you give a second statement?

16 A. Um-hmm.

17 Q. In your second statement what did you
18 tell the police?

19 A. That we did, in fact, see James there
20 and that we were there when the gunshots happened.

21 Q. Did you see anyone else in the yard
22 that day, Emily?

23 A. I did not.

24 Q. Was your second statement to the police
25 what you told this jury?

1 A. Yes, ma'am.

2 Q. And is what you told this jury today
3 the truth?

4 A. Yes.

5 Q. Beg the Court's indulgence, Your Honor.

6 THE COURT: All right.

7 MS. MIMS: No further questions.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. NELSON:

11 Q. Good afternoon, how are you doing?

12 A. How are you?

13 Q. Good. Thank you. All right. Let's
14 get into this. So you say on the November 30th you
15 went to James's house?

16 A. Correct.

17 Q. And on December 4th of 2015 or six days
18 later you gave a statement to the police?

19 A. Correct.

20 Q. Which they asked you if this was the
21 truth, you swore to them it was?

22 A. That is correct.

23 Q. Okay. And in that statement -- you
24 know James? You see him right now, recognize and
25 can describe him?

1 A. Yes.

2 Q. There is no doubt when you see him you
3 go hey, that's James?

4 A. Yes.

5 Q. And you also know him as Rainy, right?

6 A. Um-hmm.

7 Q. In that statement you gave five days
8 later that you swore to the police was true you
9 said you went there and bought weed from a
10 different guy?

11 A. Correct.

12 Q. Okay. And you actually gave a
13 description about him too?

14 A. Correct.

15 Q. Okay. And you didn't say it was James?

16 A. Correct.

17 Q. And you were asked if you know the
18 person who actually handled the transaction with
19 you and Brandon, you said no, sir, dark skinned,
20 African-American, probably close to six feet?

21 A. Correct.

22 Q. And you know James?

23 A. Yes, sir.

24 Q. And the person in this statement wasn't
25 James?

1 A. Correct.

2 Q. And then you're saying -- you are lying
3 in that statement?

4 A. Omitting the truth, yes, sir.

5 Q. You lied. Let's not split hairs. You
6 either told the truth in the first statement or
7 told the truth in the second statement? You can't
8 have both, right?

9 A. Yes.

10 Q. So you are saying you lied? But then
11 you gave two statements, right?

12 A. Correct.

13 Q. And the prosecutor said gave a
14 statement later. Later was actually over a year
15 later?

16 A. Correct.

17 Q. In September of 2016. That's when the
18 police came back to you and in between that time
19 you gave a statement and you said there was a
20 disturbing phone call you all got?

21 A. Correct.

22 Q. And then you gave a second statement.
23 And in the second statement you don't mention the
24 other random guy, right?

25 A. No, sir.

1 Q. You mentioned James specifically?

2 A. Correct.

3 Q. And in this statement you say that you
4 saw James doing a transaction with some other
5 people or get in a car and then you heard the
6 screaming?

7 A. In the car? Yes, sir.

8 Q. And you said you heard it. Sounded
9 like people were fighting?

10 A. Yes.

11 Q. You didn't see it, you just --

12 A. No.

13 Q. Sounded like a fight?

14 A. Yes.

15 Q. And you were charged with obstruction
16 of justice?

17 A. I was.

18 Q. And that carries some time possibly and
19 you're testifying here in hopes of getting a deal?

20 A. No, sir.

21 Q. You don't want a deal?

22 A. That would be nice, but I didn't ask
23 for one, didn't get promised one.

24 Q. Of course they did not promise you one,
25 but you were hoping because you testified that they

1 will help you out later?

2 A. Well, I didn't get a choice on whether
3 or not I testified.

4 Q. I am sure you got a subpoena. But you
5 are hoping because you are helping out the State
6 that they will help you out later? Is that fair to
7 say?

8 A. Sure. Yes, sir.

9 Q. I don't think that's a bad thing.
10 That's what most people would think. But once
11 again we go back to you giving two statements and
12 the statement you gave shortly after this incident
13 you're saying is a lie?

14 A. I am sorry?

15 Q. You are saying the first statement you
16 gave shortly after is a lie?

17 A. Immediately after, yes, sir.

18 Q. That would be when the incident is
19 fresh in your mind, right? But then in November
20 September of 2016, ten months later when -- your
21 memory is not as good ten months later about
22 things?

23 A. Yes, sir.

24 Q. But that's when you remember
25 everything, go into more details and you leave out

1 the first guy you talked to, you made a deal with?

2 A. That's correct.

3 Q. And then that's when you put James as
4 the one making the deal?

5 A. Correct.

6 Q. Court's indulgence.

7 THE COURT: All right.

8 (Off-the-record conference.)

9 BY MR. NELSON:

10 Q. You say you have known James since high
11 school. About how tall is he?

12 A. I don't know. He's taller than me. He
13 played basketball, I'm about five-six.

14 Q. How much taller is he?

15 A. I would say a couple inches.

16 Q. Okay. And you describe in your second
17 statement a year later that the person that ran by
18 had a small body?

19 A. Yes, sir.

20 Q. Was about five-seven?

21 A. About my height.

22 Q. Court's indulgence.

23 (Off-the-record conference.)

24 BY MR. NELSON:

25 Q. In your second statement after you

1 heard what you described as fighting sounds and
2 after you heard gunshots, you were assuming
3 gunshots, you saw James running away?

4 A. I wouldn't say away, but he wasn't by
5 his car anymore. He was in the street.

6 Q. Was he by any other cars?

7 A. There was a car in the yard or right in
8 front of the car in the street that he was near,
9 but again I was already leaving.

10 Q. Do you know what kind of car the person
11 in the first statement was driving?

12 A. Which person?

13 Q. The person that sold you weed in the
14 first statement?

15 A. No.

16 Q. Do you know where he went?

17 A. No.

18 MR. NELSON: Nothing further, Your
19 Honor.

20 THE COURT: All right. Redirect?

21 REDIRECT EXAMINATION

22 BY MS. MIMS:

23 Q. Ms. Woodall, is the person in the first
24 statement James Biggs?

25 A. Yes, ma'am.

1 Q. Is the person in the second statement
2 James Biggs?

3 A. Yes, ma'am.

4 Q. Are they the same person?

5 A. Yes.

6 Q. Okay. Is the difference that you just
7 didn't give the name of James Biggs in the first
8 statement?

9 A. Yes.

10 Q. Okay. And, Ms. Woodall, to be clear,
11 the disturbing phone call you received, was that
12 the day of this incident?

13 A. It was.

14 Q. November 30th of 2015?

15 A. Yes, ma'am, that evening.

16 Q. That evening. It wasn't in between
17 your statements, correct?

18 A. No.

19 Q. It was the day of the incident that you
20 received this phone call?

21 A. Correct.

22 Q. Did that call scare you?

23 A. Well, Brandon is the one who actually
24 received the phone call. But, yes, ma'am, whenever
25 he told me about it it did.

1 MS. MIMS: No further questions.

2 THE COURT: Recross?

3 RECROSS-EXAMINATION

4 BY MR. NELSON:

5 Q. Two questions, Your Honor. You said
6 the person in the first statement and the second
7 statement were the same people, James?

8 A. Yes.

9 Q. When you were asked in the first
10 statement do you know the person who actually
11 handled the transaction with you and Brandon what
12 did you answer?

13 A. I said no.

14 Q. Okay. Thank you.

15 THE COURT: All right. Is this witness
16 free to leave?

17 MS. MIMS: No objection.

18 THE COURT: Very well. Any objection?

19 MR. BYRD: No objection.

20 THE COURT: Free to go. Call your next
21 witness, please.

22 MR. SORENSON: State calls Alexander
23 Coutu.

24 THE CLERK: Please state your name.

25 THE WITNESS: Alexander Coutu,

1 C-O-U-T-U.

2 ALEXANDER COUTU

3 having been duly sworn, testifies as follows:

4 DIRECT EXAMINATION

5 BY MR. SORENSON:

6 Q. You go by Alex?

7 A. Yes, sir.

8 Q. Speak up nice and loud for us, all
9 right? Back in November of 2015, Alex, could you
10 tell us where were you living at that time?

11 A. 231 Brantly Drive.

12 Q. What subdivision is that located in?

13 A. Greenhurst.

14 Q. And the incident location where all
15 this happened on Larson Drive, are you familiar
16 with that area?

17 A. Yes, sir.

18 Q. How far is that from where you were
19 living back in November of 2015?

20 A. About a block from the backyard
21 distance.

22 Q. Couple turns basically and you're
23 there?

24 A. Driving, yes.

25 Q. And I want to turn your attention now

1 back to the evening of November 30th of 2015 right
2 kind at dusk or so. Do you recall what you were
3 doing?

4 A. Yes, sir. I was in the backyard about
5 to do some yardwork clean up.

6 Q. And tell the jury did you hear
7 anything?

8 A. Yes. That's when I heard two young
9 boys start screaming, yelling no before shots start
10 going off.

11 Q. So you heard somebody yelling no?

12 A. Yes, sir.

13 Q. And then shots. About how many shots
14 do you think you ended up hearing?

15 A. I believe on the report I said
16 somewhere around seven.

17 Q. Okay. And could you tell where all
18 that what was coming from?

19 A. Directly from the backyard instead of
20 facing the house directly the other way so I knew
21 in the general area and I went over there.

22 Q. After hearing all that, hearing
23 somebody screaming, hearing all of those gunshots
24 what do you do at that time?

25 A. Immediately I grabbed my phone as I was

1 calling 911 driving around the corner.

2 Q. Hopped in your vehicle?

3 A. Yes, sir, my truck.

4 Q. And where did you end up going?

5 A. Larson Drive.

6 Q. Okay. And were you on the phone kind
7 of that whole time as you were driving over there
8 with 911?

9 A. Yes, dispatch.

10 Q. Okay. And how long do you think did it
11 take you to get from your house over to ultimately
12 where you discovered this shooting that occurred?

13 A. About a minute.

14 Q. And would you describe for the jury
15 then kind of you also ultimately come over to
16 Larson Drive?

17 A. No, sir, not all the time.

18 Q. That night you got over there to Larson
19 Drive?

20 A. Yes, sir.

21 Q. Showing you State's Exhibit No. 1. Do
22 you recognize that diagram?

23 A. Yes, sir. That's how it was when I
24 arrived.

25 Q. Tell the jury what direction did you

1 come from? The right side of the diagram?

2 A. Right side.

3 Q. So came in this way.

4 A. Yes, sir.

5 Q. And as you came up to that residence
6 there tell the jury what it is that you observed?

7 A. I observed one young African-American
8 laying on the seat of the passenger white Grand Am
9 and no one else was visible at the time, but
10 apparently the other person was laying on the
11 driver's side.

12 Q. Could you see the driver's side?

13 A. No, sir. The way I was parked parallel
14 with the road I wasn't getting out.

15 Q. So you were in the truck driving at
16 that time?

17 A. Yes, sir.

18 Q. Were you on the phone with 911 kind of
19 telling them what you were observing?

20 A. Yes, sir.

21 Q. And when you first kind of turn on to
22 Larson and observe the person in the passenger side
23 of that white car do you see anybody else at that
24 time outside?

25 A. Not at the time, but after a few

1 minutes on the phone with 911 someone came out the
2 residence.

3 Q. Out of the front door of that
4 residence?

5 A. Yes, sir.

6 Q. And did you see what they did?

7 A. They just came out not really talking
8 with anyone, but I don't know. They just -- I
9 think they went back in right after and then that's
10 when all the policemen came up.

11 Q. Where was it that you -- did you end up
12 parking somewhere?

13 A. Coming from the right of the diagram on
14 the left side. I was parked in the cul-de-sac
15 which you can see maybe three houses down.

16 Q. Stayed a little bit in the distance?

17 A. Yes, sir.

18 Q. And did you see -- other than the
19 person that you observe coming out of the home did
20 you see anybody else running around the yard?

21 A. No one was running around, but two kids
22 also came out after the adult came out.

23 Q. Out of the same house?

24 A. Yes.

25 Q. And ultimately you saw law enforcement

1 arrive?

2 A. Yes, from the same way I came.

3 Q. And did you ultimately sometime after
4 they kind of got the scene secured, did you end up
5 talking to them that night out there?

6 A. Yes. When the officer came and got me
7 and I did a report. He made me come closer from
8 out of the vehicle.

9 Q. Beg the Court's indulgence.

10 THE COURT: All right.

11 (Off-the-record conference.)

12 MR. SORENSON: That will be all I have.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MR. NELSON:

16 Q. I'm going to mispronounce your last
17 name. Is it Coutu?

18 A. Coutu.

19 Q. You don't know what happened before you
20 got there?

21 A. No, sir, I do not know exactly what
22 happened.

23 Q. You don't know how many people were
24 there?

25 A. No.

1 Q. You didn't see anybody running with a
2 gun?

3 A. No.

4 Q. You didn't see James Biggs?

5 A. No, sir.

6 Q. You just heard gunshots and --

7 A. I just heard the two young boys
8 screaming their last words and then gunshots.

9 Q. And you gave a statement that evening?

10 A. Yes.

11 Q. At the scene and you wrote it?

12 A. Um-hmm.

13 Q. And swore it's the truth?

14 A. Yes, sir.

15 Q. In your statement you say that you
16 heard two different guns?

17 A. Possibly, but then thinking maybe if it
18 was fired out the window it could have been just
19 muzzle from the sound.

20 Q. But that night you said you think it's
21 a second weapon?

22 A. I thought so, but I'm not too sure.

23 Q. I understand. I understand. But you
24 didn't see anybody at the scene other than the
25 unfortunately two deceased people?

1 A. No.

2 MR. NELSON: Nothing further.

3 THE COURT: Redirect?

4 MR. SORENSON: No, Your Honor.

5 THE COURT: Very well. Is this witness
6 free to leave?

7 MR. SORENSON: No objection.

8 THE COURT: Any objection?

9 MR. BYRD: No, Your Honor.

10 THE COURT: You are free to go. Call
11 your next witness, please.

12 MR. SORENSON: May I approach?

13 THE COURT: You may.

14 (Off-the-record conference.)

15 THE COURT: Ladies and gentlemen, we
16 are going to break at this time for lunch. Now, we
17 are going to reconvene at 2:00. That gives us an
18 hour and 15 minute lunch. And everybody is from
19 below the swamp, right? You had a chance to go to
20 lunch in St. George yesterday. Today is your
21 second chance to go to lunch in St. George. But I
22 did not have an opportunity to give you my travel
23 advice and my culinary advice regarding St. George
24 here.

25 When you exit courthouse grounds you

1 will turn right on Highway 78. All of your
2 culinary lie along Highway 78 in St. George.
3 That's pretty easy. Now, there is a Hardy's and a
4 McDonalds, there's Georges from Beverly Hills,
5 there's Shuggs, but I think they are just open on
6 the weekends, right? We have Kentucky Fried, we
7 have Pizza Hut, we have a grocery store. We have
8 Denny's at the truck stop. Is everybody excited
9 yet? Okay.

10 When you come to I-95 and if you
11 proceed under I-95 you only have one more culinary
12 opportunity on the left. It is the Taco Bell at
13 the gas station. If you go beyond Taco Bell at the
14 gas station you are out of luck until you get to
15 Orangeburg. I don't know that you have enough time
16 to get to Orangeburg and back or Summerville and
17 back. I think probably St. George is going to be
18 your culinary opportunity for today. Did I leave
19 anybody out?

20 THE CLERK: I don't think so
21 unfortunately.

22 THE COURT: I know. I have been
23 contemplating getting me a little umbrella and a
24 Chick-fil-A bag.

25 But, ladies and gentlemen, I do need to

1 remind you do not discuss this matter. Do not
2 allow anyone to discuss it with you. Do not do any
3 kind of communications about this case. That's
4 with your fellow jurors, any family or friends,
5 anyone that has anything to do with the matter or
6 anyone. Do not do any research, don't go to the
7 internet. Don't seek any information just as we
8 talked about last night. If you access your cell
9 phone over the lunch break do not use it for any
10 purposes of finding out information. Don't read
11 anything or listen to anything about the matter,
12 that includes the internet, radio, television,
13 newspapers or internet. Remember to leave your
14 cell phones somewhere outside the courthouse. If
15 it follows you back in let one of the bailiffs know
16 and they will take good care of it for the
17 afternoon for you. Leave your notes in your seats.
18 We will secure them over the lunch, protect them
19 over the lunch break. Have a great lunch. I look
20 forward to seeing you at 2:00. Thank you.

21 (Thereupon, the jury exited the
22 courtroom at 12:50 p.m.)

23 THE COURT: Anything before we take our
24 break?

25 MS. MIMS: Nothing.

1 MR. BYRD: Nothing, Your Honor.

2 THE COURT: All right. I just want to
3 take this opportunity and I am really speaking to
4 our audience and I know that we have family members
5 on both sides. And I want to, first of all,
6 express to all of you that I know and I am aware of
7 how very difficult these matters are. They are
8 heart breaking. And I want to, first of all,
9 acknowledge the emotional component of the trial.
10 So I want all of you who are here in support of
11 loved ones to know that first and foremost.

12 Secondly, I want to commend all of you
13 for the way that you have conducted yourself and I
14 want to thank you for that. I have noticed that
15 you all have shown to each other an awful lot of
16 consideration and I want to thank you for that.

17 I'm going to -- of course I want to
18 encourage you to continue in that mode of behavior
19 and again I want to thank you for that. Our
20 bailiffs who are all here are certainly mindful
21 that as well. They are charged with the
22 responsibility of maintaining order. If you have
23 any concerns or needs if you just let them know we
24 will certainly be happy to hear from you.

25 So I want to thank you everyone for

1 that. With regards to both sides I want to express
2 this. Normally I do that at the beginning of the
3 case. I did not do that this morning. I am going
4 to do that now. If -- well, let me begin by saying
5 it is my intention and my bailiffs all know,
6 security knows that it's really important to keep
7 the activity elsewhere in the courtroom to keep it
8 to a minimum so that we don't distract the jury
9 because it is so important so that they are able to
10 listen and to see and pay attention.

11 Having said that, if you become upset,
12 because these matters are upsetting, I'm going to
13 ask you to take your leave from the courtroom.
14 With regards to family members and family members
15 of these decedents, family members of the
16 Defendant, if you feel yourself becoming
17 overwhelmed with emotion please feel free to get up
18 and leave the courtroom. It's important actually
19 that you get up and leave the courtroom and collect
20 yourself and then you can come back when you have
21 had a chance to collect yourself.

22 I have been noticing all of you and you
23 have done, both sides, an excellent job of
24 maintaining your emotions. But going forward I
25 want you to know if you feel yourself really

1 becoming overwhelmed it's okay to leave and when
2 you have just collected yourself then come back in.
3 The bailiffs will certainly help you do that. Our
4 security will help you do that. They may ask you
5 to wait just a moment or two so that there's
6 perhaps a more appropriate time, but they will help
7 you in that regard.

8 So you all just so you will remember we
9 are going to start at 2:00. Please be mindful that
10 St. George is real little. There is a lot of you
11 folks. I know you all need time to get some lunch
12 as well. If you happen to come to a place where
13 the jurors happen to be eating lunch please
14 remember do not have any interchange with them at
15 all to include saying hello. That would not be
16 appropriate and may cause them some concern and St.
17 George is small. There are not that many places to
18 dine and you very well may see one or more of the
19 jurors over lunch. Just be mindful not to interact
20 with them. And we will just allow the victims
21 families to go out first. You all please move as
22 quickly as you can. Mr. Biggs's family, they can
23 move on out.

24 Anything from the State? Defense?

25 MR. BYRD: Nothing, Your Honor.

1 THE COURT: Very well. You all have a
2 good lunch.

3 (A luncheon recess transpired.)

4 (STATE'S EXH. 6-36 marked for
5 identification.)

6 THE COURT: Anything from the State
7 before we bring the jury out?

8 MR. SORENSON: I don't believe so, Your
9 Honor. I think we have three witnesses left this
10 afternoon.

11 THE COURT: Three witnesses today.

12 MR. SORENSON: Yes, ma'am.

13 THE COURT: And then the State will
14 rest?

15 MR. SORENSON: No, ma'am.

16 THE COURT: Okay. Got you.

17 (Whereupon the jury entered the
18 courtroom at 2:06 p.m.)

19 THE COURT: Ladies and gentlemen, I
20 hope that you had a very pleasant lunch. At this
21 time we will continue with the State's case. Call
22 your next witness, please.

23 MR. SORENSON: Thank you, Your Honor.
24 State calls Investigator Jeff Scott.

25 THE CLERK: Please state your full name

1 for the record.

2 THE WITNESS: Jeff Scott.

3 JEFF SCOTT

4 having been duly sworn, testifies as follows:

5 THE COURT: Your witness.

6 DIRECT EXAMINATION

7 BY MR. SORENSON:

8 Q. Thank you, Your Honor. Investigator
9 Scott, can you please tell the jury where it is
10 you're employed?

11 A. I'm employed with the Dorchester County
12 Sheriff's Office.

13 Q. And how long have you been -- I guess
14 initially been in law enforcement?

15 A. I am sorry. Say that again.

16 Q. How long have you been in law
17 enforcement?

18 A. Started my law enforcement career in
19 August of 2003 with the Colleton County Sheriff's
20 Office.

21 Q. How long have you been employed with
22 the Dorchester County Sheriff's Office?

23 A. Since February of 2013.

24 Q. And what are your current duties and
25 responsibilities there?

1 A. I'm a deputy currently assigned to the
2 crime scene division within Dorchester County
3 Sheriff's Office.

4 Q. How long have you been employed at the
5 crime scene division at the sheriff's office?

6 A. Since October of 2014.

7 Q. And if you would just kind of tell the
8 jury a little bit about what training you have had
9 with regards to processing crime scenes.

10 A. Certainly. After being moved into the
11 crime scene division I received numerous training
12 to include latent print classes, death and homicide
13 classes, crime scene processing classes, forensic
14 photograph classes, marijuana analysis classes and
15 shooting reconstruction classes and some minor
16 touches of blood stain pattern analysis classes.

17 Q. And I want to turn your attention now,
18 Investigator, did you have an opportunity to
19 respond out to 102 Larson Drive the evening of
20 November 30th of, 2015?

21 A. Yes, sir, I did.

22 Q. And is that residence located in
23 Dorchester County?

24 A. Yes, it is.

25 Q. What was the purpose of your responding

1 out there that evening?

2 A. I received a call from Dorchester
3 County dispatch center in reference to a shooting,
4 possible two deceased males on scene at 102 Larson
5 Drive. At which time I notified one of the other
6 crime scene techs within our division and we both
7 responded out to that area in an attempt to process
8 the scene.

9 Q. Okay. Who was that that responded out
10 with you from the crime scene division?

11 A. Then Sergeant Brad Mullis.

12 Q. Is he still employed with the
13 Dorchester Sheriff's Office?

14 A. No, sir, he is not.

15 Q. So he has moved out of state at this
16 point in time?

17 A. He took a federal job out of state.

18 Q. And ultimately did the two of you
19 respond out there and together process that crime
20 scene that night?

21 A. Yes, sir, we did.

22 Q. If you would describe for the jury kind
23 of what the scene was that you encountered when you
24 got out there that evening?

25 A. Certainly. When I arrived on scene

1 that evening actually was already dark when I got
2 there. Scene was already roped off. Detective
3 Mullis was already there. Basically what we found
4 when I arrived was directly in front of 102 Larson,
5 we found a white Pontiac vehicle with a deceased
6 male sitting in the passenger seat with his feet
7 hanging out of the passenger side door, his head
8 slumped over in the direction of the floorboard on
9 the passenger side. At that point I then started
10 to identify potential pieces of evidence for later
11 collection and processing.

12 Q. And may I approach the witness, Your
13 Honor?

14 THE COURT: Yes.

15 BY MR. SORENSON:

16 Q. If I can show you what's been marked as
17 State's Exhibits 18 through 32 and then 34, ask you
18 if you recognize those photograph?

19 A. Certainly, one moment, please. Yes,
20 sir, I recognize these photographs.

21 Q. Do those fairly and accurately depict
22 that scene out there that evening?

23 A. Yes, sir, they do.

24 MR. SORENSON: At this time we will
25 offer those, 18 through 32 and 34 into evidence.

1 MR. BYRD: No objection.

2 THE COURT: Very well.

3 (STATE'S EXH. 18-32 and 34 in
4 evidence.)

5 BY MR. SORENSON:

6 Q. Let me show you State's Exhibit No. 3.
7 This is already in evidence. Is that another photo
8 that was taken out there at the scene that night?

9 A. Yes, sir, that is.

10 Q. Let me go through these in a second
11 with you, Investigator. Let me show you State's
12 Exhibit No. 1. You have seen that diagram before?

13 A. Yes, sir, I have.

14 Q. Is that -- some of these photographs
15 that are here actually kind of put together for
16 that panoramic view of the crime scene?

17 A. Yes, sir, that's correct.

18 Q. Does that kind of accurately depict
19 that scene in that front yard when you arrived that
20 night?

21 A. Yes, sir, it does.

22 Q. Could I publish these for the jury?

23 THE COURT: Yes.

24 Q. Show you State's Exhibit No. 3. If you
25 would tell the jury what's depicted in State's

1 Exhibit No. 3.

2 A. State's Exhibit No. 3 you will notice
3 there is a dark color four door vehicle to the
4 left, bottom left of the picture. You will notice
5 right there to the middle of the picture is a white
6 Pontiac with the door open. At the base of that
7 you can see feet touching the ground. This is the
8 incident location, the residence of 102 Larson.
9 This is the Pontiac in question where the scene,
10 the bulk of the scene and the bulk of the evidence
11 was located where we were processing the crime
12 scene.

13 Q. Showing you State's Exhibit No. 18.
14 Just kind of moving around I guess?

15 A. Yes, sir. This is actually more of a
16 90 degree frontal shot of the incident location.
17 Again you will notice right there in the right
18 middle right of the picture you'll notice the white
19 Pontiac with the deceased male sitting in the
20 passenger seat partially out of the vehicle.

21 Q. And State's Exhibit No. 20?

22 A. Again State's Exhibit 20, here is the
23 -- basically the other side of the vehicle. You
24 will notice again there's the white Pontiac. You
25 will notice in the background there's the Honda

1 that I spoke about just a second ago. So to orient
2 you I pull up and you look off to the right there
3 is a scene, we took a straight on 90 degree shot
4 and we moved past that and took a shot coming back
5 towards the scene which would put the incident
6 location on our left. So just past the scene
7 shooting back towards the vehicle, the rear of the
8 vehicle.

9 Q. State's Exhibit No. 19?

10 A. Basically State's Exhibit 19 is a
11 little further down the road from the previous
12 photograph. You will still notice that Pontiac in
13 the background right there. Not sure exactly what
14 this Chevrolet vehicle is or who it belonged to or
15 if we found out -- we never found out who that was
16 or not, but the scene itself. Again you notice the
17 Pontiac and then this is the residence of 102
18 Larson.

19 Q. And then you described that. When you
20 arrived on scene both of the victims were still
21 there or had one of them been transported?

22 A. Prior to my arrival one of the victims
23 had been transported. I don't know which hospital.

24 Q. And so which seat was the victim still
25 there on when you arrived?

1 A. The passenger side.

2 Q. Showing you State's Exhibit No. 25,
3 does that depict?

4 A. Yes, sir. That's State's Exhibit 25
5 again just a close-up view. You will notice a
6 deceased male lying partially in and partially out
7 of his vehicle wearing looks like some type of dark
8 colored jeans and a red hooded sweatshirt. In the
9 bottom of the photograph right there is generally
10 when EMS arrived on scene they tried to obtain a
11 heartbeat. I believe that's one of the leads they
12 used to do that with.

13 Q. Did you have an opportunity to
14 ultimately kind of not only out there at that
15 scene, but also kind of subsequent to that back at
16 the sheriff's office have an opportunity to process
17 that scene for any items of evidentiary value?

18 A. Yes, sir, we did.

19 Q. And I want to start with I guess just
20 kind of outside of the vehicle initially. Did you
21 find any items that might relate to the gunshot
22 wounds that the two victims received outside of the
23 vehicle?

24 A. Yes, sir, we did. We located a spent
25 cartridge casing as well as a fired projectile,

1 which basically a projectile is the piece that
2 detaches from the bullet once it's fired and then
3 ultimately travels down the barrel of the gun until
4 it impacts or loses energy and falls to the ground.

5 Q. And the spent shell casing that you
6 found, where was that item located at?

7 A. Was under the driver's side of the
8 vehicle.

9 Q. Showing you State's Exhibit No. 22 I
10 believe that is, does that show in that picture
11 where that is?

12 A. Yes, sir. If you will notice
13 underneath the vehicle kind of right there to the
14 middle, this right here you'll notice a little bit
15 of a yellow. That's called a photo placard.
16 That's generally what we use to mark possible
17 pieces of evidence so we can preserve them and
18 ultimately collect them. It's kind of difficult to
19 see, but that's placard No. 10.

20 Q. Show you State's Exhibit No. 23. Is
21 that a close-up of that photo placard?

22 A. Yes, sir. That's a close-up of the
23 Photograph No. 10, has the spent cartridge casing.

24 Q. Can you see in the picture there?

25 A. Yes, sir. It's right there.

1 Q. Was that item collected?

2 A. Yes, sir, it was.

3 Q. Show you that in a minute, okay? And
4 then you had indicated that a projectile was found
5 also?

6 A. That is correct.

7 Q. And where was that located at?

8 A. That was located on the passenger side
9 of the vehicle.

10 Q. Showing you State's Exhibit 21, does
11 that show that item?

12 A. Yes, sir, in State's Exhibit 21 again
13 you will notice the legs of the deceased male. You
14 will notice the yellow photo placard within No. 21,
15 that's indicating that is where that item of
16 evidence was located.

17 Q. State's Exhibit 32. That prior was one
18 31. I may have said 21. State's Exhibit 32, is
19 that now a close-up of that item, photo placard 21?

20 A. Yes, sir, it is. And you will notice
21 the photograph there's the projectile right there.

22 Q. That was collected also?

23 A. Yes, sir, that was.

24 Q. Let me show you those just so we -- may
25 I approach the witness, Your Honor?

1 THE COURT: You may.

2 Q. This is State's Exhibit No. 6. Showing
3 you kind of going in order, you talked about marker
4 No. 10. Is State's Exhibit No. 6 the item that you
5 collected from placard No. 10?

6 A. Yes, sir, it is.

7 Q. And State's Exhibit No. 13, is that the
8 projectile that was collected from out there by you
9 or Detective Mullis from marker 21?

10 A. May I open this?

11 Q. Does it indicate that's what it is on
12 the envelope at least?

13 A. Yes, on the outside of the envelope the
14 indication that this was No. 21 which is a
15 projectile and I know this to be true because there
16 is my handwriting.

17 MR. SORENSON: At this time we would
18 offer State's 6 and 13 into evidence.

19 THE COURT: Any objection?

20 MR. BYRD: No objection.

21 THE COURT: Very well.

22 (STATE'S EXH. 6 and 13 in evidence.)

23 BY MR. SORENSON:

24 Q. Any other items kind of relating to the
25 shooting that you collected outside of the vehicle

1 that you're aware of?

2 A. We did collect a few different items
3 not necessarily related to the shooting, but again
4 in the area at the time and could hold potential
5 evidentiary value so we did collect a few items,
6 few other items.

7 Q. Were those some bottles and trash and
8 things like that nature in the yard?

9 A. Yes, sir, bottles, plastic bags, trash,
10 wrappers, things of that nature.

11 Q. Moving on to the interior of the
12 vehicle did you have an opportunity to process not
13 only out there at the scene, but yet again once the
14 vehicle was towed to process the interior of that
15 Pontiac Grand Am?

16 A. That is correct.

17 Q. And let me ask to back you up here real
18 quick before I get on to the interior. State's
19 Exhibit No. 22 that I showed you that showed the
20 photo placard No. 10 kind of under the kind of
21 driver's side in between the two doors?

22 A. Yes.

23 Q. Is there also anything that was
24 collected kind of off of the vehicle that's
25 depicted in that photograph?

1 A. Yes, sir. You will notice in this
2 general vicinity right here -- is there any way we
3 can roll in on that?

4 Q. Let me show you State's Exhibit 24 and
5 ask you if that is a close-up of that?

6 A. Perfect. Yes, sir. This is a close-up
7 of what I just circled indicating on the rear
8 driver's side door of the vehicle. You will notice
9 in the picture again it's some type of reddish
10 brown stain, does have the appearance of blood and
11 swabs were taken from this particular location on
12 the vehicle.

13 Q. Moving on to the interior of the
14 vehicle, initially let me ask you did you recover
15 any shell casings inside the vehicle?

16 A. Yes, sir. There was some cartridges,
17 spent cartridge casing.

18 Q. Showing you State's Exhibits 7, 8, 9,
19 11 and 12, may I approach the witness, Your Honor?

20 THE COURT: You may.

21 Q. Actually I am sorry, also No. 10. 7
22 through 12, show you 7 through 11 initially, ask
23 you about 12 in a second. Do you recognize State's
24 Exhibits 7 through 11?

25 A. One moment, please.

1 Q. Yes.

2 A. (Looking at exhibits.) Yes, sir, I do
3 recognize these.

4 Q. And first of all, what are State's
5 Exhibits 7 through 11?

6 A. State's 7 through 11 are spent or fired
7 cartridge casings.

8 Q. And those were all located where?

9 A. They were all located at the different
10 locations within the interior of the vehicle.

11 Q. And where they are located, is that
12 noted on each of the envelopes?

13 A. Yes, sir, it is.

14 Q. Those were all collected out there that
15 evening?

16 A. They were actually collected during the
17 search warrant.

18 Q. We will offer State's Exhibits 7
19 through 11 into evidence at this time.

20 THE COURT: Any objection?

21 MR. BYRD: No objection.

22 THE COURT: Very well.

23 (STATE'S EXH. 7-11 in evidence.)

24 BY MR. SORENSON:

25 Q. 7 through 11, that's five items; is

1 that correct?

2 A. Yes, sir.

3 Q. How many shell casings are there out in
4 those five envelopes?

5 A. There are six.

6 Q. One of them, State's Exhibit No. 9,
7 actually has two shell casings?

8 A. Yes, sir, that's correct.

9 Q. Were these six shell casings along with
10 the shell casings that was recovered out there,
11 were they sent off to State Law Enforcement
12 Division for analysis?

13 A. I believe so, yes, sir.

14 Q. Now, how about did you find any spent
15 projectiles or fired projectiles inside the
16 vehicle?

17 A. Yes, sir, we did.

18 Q. And how many of those did you recover?

19 A. Inside the vehicle I believe we
20 recovered I want to say four from inside, four
21 projectiles from inside the vehicle.

22 Q. Let me hand you State's Exhibits 14
23 through 16.

24 A. So we recovered, yes, sir, correct.

25 Q. That would be three that were recovered

1 in the vehicle?

2 A. Yes.

3 Q. There is a fourth that we have talked
4 about that was recovered out of the vehicle?

5 A. That's correct.

6 Q. And those are all collected from
7 searching the vehicle also?

8 A. Yes, sir.

9 Q. Does it note on there where they were
10 located at?

11 A. Yes, sir, it does.

12 MR. SORENSON: At this time we would
13 offer State's Exhibits 14 through 16 into evidence.

14 THE COURT: Any objection?

15 MR. BYRD: No objection.

16 THE COURT: State's Exhibits 14
17 through 16 in evidence without objection.

18 (STATE'S EXH. 14-16 in evidence.)

19 BY MR. SORENSON:

20 Q. I also handed to you earlier State's
21 Exhibit No. 12. What is that item?

22 A. State's Exhibit No. 12 is a live round
23 that was also recovered during the search warrant.

24 Q. What caliber round that was?

25 A. Per State Law Enforcement Division with

1 the stamp it's a .9-millimeter round.

2 Q. Is that the same caliber that is the
3 shell casings that were recovered?

4 A. That is correct.

5 MR. SORENSON: At this time we will
6 offer State's 12 into evidence.

7 THE COURT: Any objection?

8 MR. BYRD: No objection.

9 THE COURT: Very well.

10 (STATE'S EXH. 12 in evidence.)

11 BY MR. SORENSON:

12 Q. Let me show you State's Exhibit No.
13 27. What part of the vehicle is that and do you
14 see what's depicted in the middle of that
15 photograph?

16 A. Yes, sir, you are looking from the
17 outside of the driver's door. This is facing in
18 toward the vehicle. You will notice in the picture
19 there are a set of keys and also a cell phone with
20 a white and purple case.

21 Q. Showing you State's Exhibit No. 28, is
22 that one of y'all holding that phone up?

23 A. Yes, sir. That's the phone we
24 recovered from the driver's side.

25 Q. That was collected and taken into

1 evidence?

2 A. Yes, sir.

3 Q. And show you State's Exhibit 17. May I
4 approach, Your Honor?

5 THE COURT: Yes.

6 Q. Is that the phone that's depicted in
7 these photographs?

8 A. Yes, sir, it is.

9 MR. SORENSON: At this time we would
10 offer State's Exhibit 17 into evidence.

11 THE COURT: Any objection?

12 MR. BYRD: No objection.

13 THE COURT: All right. Very well.

14 (STATE'S EXH. 17 in evidence.)

15 BY MR. SORENSON:

16 Q. Did you find any paperwork in the
17 vehicle related to the Defendant in this case,
18 James Biggs?

19 A. Yes, sir, we did.

20 Q. Showing you State's Exhibit 36. May I
21 approach?

22 THE COURT: You may.

23 Q. Do you recognize State's Exhibit No.
24 36?

25 A. Yes, sir, I do.

1 Q. What is State's Exhibit 36?

2 A. State's Exhibit 36 is two uniform
3 traffic tickets made out to James Alfonza Biggs. I
4 believe these are Lincolnville Police Department.

5 Q. Those were found in that Pontiac Grand
6 Am?

7 A. Yes, sir, they were.

8 MR. SORENSON: At this time we would
9 offer State's 36 into evidence.

10 THE COURT: Any objection?

11 MR. BYRD: No objection, Your Honor.

12 THE COURT: Very well.

13 (STATE'S EXH. 36 in evidence.)

14 BY MR. SORENSON:

15 Q. And let me ask you did you find any
16 items in there that appeared from your experience
17 to potentially be marijuana?

18 A. Yes, sir, we did.

19 Q. Where was that stuff located at?

20 A. We located a mason jar in the passenger
21 side floorboard containing a plastic bag with a
22 green plant material, had the appearance of
23 marijuana and we also located another mason jar in
24 the driver's side floorboard with a plastic bag in
25 it again containing green plant material, the

1 appearance of marijuana and we recovered probably
2 approximately a handful of green plant material
3 laying loose on the driver's side floorboard as
4 well.

5 Q. Showing you State's Exhibit No. 30, is
6 that the passenger side floorboard that you are
7 talking about?

8 A. Yes, sir, that is.

9 Q. Does that show that mason jar?

10 A. Yes, sir, it does.

11 Q. Can you circle that for the jury.

12 A. (Witness complies with request.)

13 Q. That had a green plant-like material
14 consistent with marijuana in it?

15 A. Yes, sir.

16 Q. And then State's Exhibit No. 34, does
17 that show the driver's side floorboard that you are
18 talking about?

19 A. Yes, sir, it does. You will notice the
20 loose green plant material right there, then you
21 will see the mason jar right there and kind of
22 orient you, this is the seat right here.

23 Q. And is that jar sealed?

24 A. No, sir, it is not.

25 Q. Was the top to it there also, just not

1 in the picture?

2 A. You can't see it from the photograph,
3 but yes, sir, it's actually located, it would be in
4 this general vicinity.

5 Q. Were those items then taken into
6 evidence?

7 A. Yes, sir.

8 Q. As far as the two mason jars, show you
9 State's Exhibit 33 and 35. May I approach?

10 THE COURT: Yes. Any objection?

11 MR. BYRD: No objection.

12 THE COURT: All right.

13 BY MR. SORENSON:

14 Q. State's Exhibit 33?

15 A. State's Exhibit 33 is the mason jar
16 collected from the passenger floor.

17 Q. And State's Exhibit 35?

18 A. State's 35 is the mason jar collected
19 from the driver's side floor.

20 MR. SORENSON: At this time I would
21 offer State's Exhibit 33 and 35 into evidence.

22 MR. BYRD: No objection.

23 THE COURT: There is no objection.

24 (STATE'S EXH. 33 and 35 in evidence.)

25 BY MR. SORENSON:

1 Q. Let me ask you in searching that scene
2 out there, then also in the searching of that
3 Pontiac Grand Am did you find any firearms?

4 A. No, sir, we did not.

5 Q. Now, you talked earlier about this
6 Honda Accord that's parked kind of with the lights
7 on down here?

8 A. Yes, sir.

9 Q. Did y'all have an opportunity to -- did
10 you become aware that that was the victim's
11 vehicle?

12 A. I personally was never made aware of
13 whose vehicle it was. I believe there was some
14 talk that it could have been involved, but
15 ultimately we did take it back to the office with
16 us.

17 Q. And was that vehicle also searched then
18 after getting a search warrant?

19 A. Yes, sir, it was.

20 Q. Any weapons found in that vehicle?

21 A. No, sir, there were not.

22 Q. Any drugs found in that vehicle?

23 A. No, sir.

24 Q. Ultimately this phone would have been
25 turned over to investigators to follow up with

1 anything as to whose phone this is and stuff of
2 that nature?

3 A. Yes, sir.

4 Q. Beg the Court's indulgence.

5 THE COURT: All right.

6 (Off-the-record conference.)

7 MR. SORENSON: Thank you, Detective
8 Scott. Please answer any questions defense has.

9 THE COURT: Cross-examination.

10 MR. BYRD: Court's indulgence for one
11 moment.

12 THE COURT: All right.

13 (Off-the-record conference.)

14 CROSS-EXAMINATION

15 BY MR. BYRD:

16 Q. May I approach the witness, Your Honor?

17 THE COURT: You may.

18 Q. Detective Scott, I'm going to show you
19 what was marked as State's Exhibit 30. Would you
20 please describe that?

21 A. Yes, sir. State's Exhibit No. 30 was
22 the mason jar that was located in the passenger
23 floorboard.

24 Q. What else is in there?

25 A. I think several different items, water

1 bottles, lottery tickets, without being able to --
2 I assume general trash.

3 Q. Okay, thank you. And did you attempt
4 to take fingerprints from these items?

5 A. I wasn't involved in the latent print
6 process on the case so I can't testify to that.

7 Q. Who was?

8 A. That would have been Detective Sergeant
9 Mullis.

10 Q. Who is no longer here and now lives out
11 of state?

12 A. Correct.

13 Q. Did you collect DNA from the scene?

14 A. There was some swabs taken, yes.

15 Q. From any of the items we have
16 mentioned?

17 A. Again, that would have been something
18 that was done in the lab and that would have been
19 Sergeant Detective Mullis who was involved in that
20 process.

21 Q. And you said you saw a blood smear on
22 the door, correct? You said there was something
23 collected from that?

24 A. There would have been a swab collected
25 from the stain on the passenger side rear.

1 Q. Did you do that?

2 A. Yes, sir, I did.

3 Q. You did. And are you aware of the
4 results of that?

5 A. Again, once it was collected it was
6 turned over to Detective Mullis to determine if it
7 needed to go to SLED for analysis.

8 Q. Okay. Court's indulgence, please.

9 (Off-the-record conference.)

10 BY MR. BYRD:

11 Q. And just to reiterate, there was no gun
12 found at the scene, correct?

13 A. That is correct.

14 Q. You don't know the origin or any of
15 these shells or any of these casings, projectiles,
16 any of it?

17 A. I can only testify to where they were
18 located.

19 MR. BYRD: Nothing further, Your Honor.

20 THE COURT: Redirect?

21 REDIRECT EXAMINATION

22 BY MR. SORENSON:

23 Q. Beg the Court's indulgence.

24 THE COURT: Sure.

25 Q. Are you aware of whether they were able

1 to -- Sergeant Mullis was able to lift any prints
2 off of those jars that could be matched to anybody?

3 A. Just looking at the jars I notice there
4 was some scale tape on them, some stickers.
5 Generally we only do that when we develop latent
6 prints. Whether or not there was prints that were
7 viable enough to make an analysis and make a
8 comparison, I can't testify to that because I don't
9 know.

10 Q. You are not aware that he was able to
11 match anything to anybody?

12 A. As far as I know --

13 MR. BYRD: Objection, Your Honor. He
14 just testified he didn't know, Your Honor.

15 THE COURT: Very well.

16 MR. SORENSON: That would be all.

17 THE COURT: All right. Recross?

18 RECROSS-EXAMINATION

19 BY MR. BYRD:

20 Q. Detective Scott, briefly. In your
21 investigation I know that you were collecting
22 evidence. Did you try to do any blood spatter
23 analysis?

24 MR. SORENSON: I'm going to object,
25 Your Honor. I asked him one question about

1 processing this jar. This is clearly outside the
2 scope of my redirect.

3 THE COURT: You wish to be heard?

4 MR. BYRD: Your Honor, I will withdraw
5 the question.

6 THE COURT: All right. Very well. All
7 right. Any other questions?

8 MR. BYRD: Nothing, Your Honor.

9 THE COURT: Thank you. Is this witness
10 free to leave? Any objection?

11 MR. BYRD: No.

12 THE COURT: Thank you, sir. You may
13 go. Call your next witness, please.

14 MS. SIMS: State calls Mattie Ingalls.

15 THE CLERK: State your full name.

16 THE WITNESS: Madelyn Arlett
17 Ingalls.

18 MATTIE INGALLS

19 having been duly sworn, testifies as follows:

20 DIRECT EXAMINATION

21 BY MS. MIMS:

22 Q. Hi, Ms. Ingalls, how are you?

23 A. Fine. How are you?

24 Q. Good, thank you. Could you tell the
25 jury where you're employed?

1 A. I am a retired law enforcement officer.
2 I retired from the Colleton County Sheriff's
3 Office.

4 Q. And let me take you back to November
5 30th of 2015. Where were you employed then?

6 A. I was working as a police officer for
7 the Town of Lincolnville.

8 Q. And what were your duties as a police
9 officer for the Town of Lincolnville?

10 A. Basically to serve and protect, I did a
11 lot of traffic.

12 Q. Um-hmm. Did you respond to any calls
13 in the area regarding crimes?

14 A. Yes, ma'am, I did.

15 Q. Did you investigate those type of
16 things?

17 A. Yes, ma'am.

18 Q. All right. Have you ever had an
19 occasion to come in contact with Mr. James Biggs?

20 A. Yes, I have.

21 Q. Okay. And can you tell us on what date
22 you came in contact with him?

23 A. Approximately November 30th, 2015, at
24 approximately 12:58 p.m. I was running radar on
25 Dunmiller Hill Road. I observed a white in color

1 vehicle coming toward me at a high rate of speed.
2 My radar just went off the richter. Looked at my
3 radar and it was registering 100 miles an hour and
4 that was a 30 mile-an-hour zone --

5 Q. In what mile per hour zone?

6 A. -- thirty mile-an-hour zone.

7 Q. So he was going 100 miles an hour?

8 A. Yes, ma'am.

9 Q. And what did you do?

10 A. I initiated a traffic stop. I had to
11 turn around. I had to catch him. I caught him
12 coming him into Socahotchi Subdivision which is off
13 of Lincoln Boulevard.

14 Q. Did you activate blue lights?

15 A. I did. My blue lights and my siren.
16 Charleston County was behind me like that. I had
17 two deputies behind me.

18 Q. So Charleston County was there also?

19 A. Yes, ma'am.

20 Q. Is that normal course of business that
21 Charleston County would show up at your stop?

22 A. No, because I told consolidated
23 dispatch that I had a vehicle at a high rate of
24 speed, approximately 100 miles an hour, and when
25 they heard that they headed my way.

1 Q. Got you. Do you remember the officers
2 who showed up at the scene with you?

3 A. I do. Deputy Holt was one and the
4 other I really can't remember his name. I can
5 describe him.

6 Q. That's fine. And so what happened when
7 you approached Mr. Biggs's car?

8 A. I approached the vehicle, asked him for
9 his driver's license, registration, proof of
10 insurance. I could smell an odor of marijuana
11 about the vehicle. He gave me his license and
12 registration. We pulled him out of the vehicle.
13 He was over with the deputies. I looked through
14 the vehicle. We searched the vehicle. Found some
15 baggies and several items that indicated to us that
16 there was some drug activity going on.

17 Q. Okay. Do you recall what kind of car
18 he was driving?

19 A. Appeared to be a white in color Pontiac
20 Grand Am.

21 Q. And you said you did look inside the
22 vehicle?

23 A. Yes, ma'am, we did.

24 Q. Okay. And specifically do you remember
25 what exactly you found again?

1 A. We found some baggies. Like I said,
2 smelled an odor of marijuana. There was a cell
3 phone. Kind of odd cell phone for a man to have,
4 either purple or pink case. Mostly I was focused
5 on, you know, just looking through the vehicle to
6 see if there was anything in there that was any
7 kind of contraband.

8 Q. I would like -- may I approach the
9 witness, Your Honor? Show you what's been marked
10 or introduced as State's Exhibit No. 17. Do you
11 recognize that phone?

12 A. It looks like the phone, yes, ma'am.

13 Q. Is that the phone that you saw in the
14 vehicle?

15 A. Yes, ma'am, I believe so.

16 Q. And, Ms. Ingalls, did you ultimately
17 end up giving Mr. Biggs a citation that day?

18 A. I did. I gave him two, I gave him one
19 for reckless driving and I gave him one for simple
20 possession of marijuana.

21 Q. May I approach again, Your Honor? I
22 would like to show you what's been entered as
23 State's Exhibit No. 36. Do you recognize that
24 item?

25 A. Yes, ma'am.

1 Q. What is that?

2 A. That is my handwriting.

3 Q. That's your ticket?

4 A. Yes.

5 Q. And who are those tickets made out to?

6 A. James Alfonza Briggs, III.

7 Q. What is the date on that ticket?

8 A. November 30th, 2015.

9 Q. What is the time that ticket was
10 issued?

11 A. Approximately 12:56.

12 Q. Does that ticket tell you what type of
13 car Mr. Biggs was driving?

14 A. Yes.

15 Q. What does it say?

16 A. Pontiac.

17 Q. Does it give a license plate number?

18 A. Yes, ma'am, South Carolina 6014
19 November Charlie.

20 Q. And what were those tickets issued for?
21 What were those citations for?

22 A. One was issued for simple possession
23 and the other one was issued for reckless driving.

24 Q. Is that simple possession of what?

25 A. Marijuana.

1 Q. And reckless driving?

2 A. Yes, ma'am.

3 Q. Is there some writing on the bottom of
4 that ticket?

5 A. Yes, ma'am.

6 Q. Can you tell me what those numbers
7 mean?

8 A. 100, 30. I usually put how fast they
9 were going first and then zone which is 30.

10 Q. And, Ms. Ingalls, after that traffic
11 stop that day did you have an occasion to hear
12 anything else about dealing with this car later in
13 the day?

14 A. Yes, ma'am, I got home and my husband
15 had the TV on. And I happened to look up at Live
16 Five News and I saw the vehicle and I am like oh,
17 my gosh. And I said to my husband I stopped that
18 vehicle today. And he spun around. He said it was
19 involved in a double homicide. Are you aware of
20 that? I'm like no. And then the next day I called
21 Sergeant Peters and let them know what evidence I
22 had.

23 Q. Who was Sergeant Peters?

24 A. He's a criminal investigator for the
25 Dorchester County Sheriff's Office. I had seen on

1 the news that he was the lead investigator on this.

2 Q. Okay. Beg the Court's indulgence, Your
3 Honor. I have no further questions.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. NELSON:

7 Q. You prefer officer or Ms. Ingalls?

8 A. Ms. Ingalls is fine. I'm retired.

9 Q. I know some police officers are always
10 police officers.

11 A. That's fine.

12 Q. Ms. Ingalls, did you write a report?

13 A. No, I did not.

14 Q. And you say you stopped Mr. Biggs?

15 A. Yes, sir.

16 Q. And you searched his car?

17 A. Yes, sir.

18 Q. You find these?

19 A. No, I didn't find those.

20 Q. If you would have found those you would
21 you have arrested him?

22 A. Absolutely.

23 Q. And he did not have an ID?

24 A. He did not.

25 Q. But somebody eventually came and you

1 wouldn't let somebody leave without an ID?

2 A. No, sir. We called somebody to come
3 pick the car up.

4 Q. So somebody picked up the car?

5 A. Yes.

6 Q. So at 1:00-ish I guess after the stop
7 after doing the search of the car someone else
8 drove away with his car?

9 A. Only on our scene. That's all I can
10 attest for.

11 Q. No, I understand. But the person who
12 left driving the car was Mr. Biggs?

13 A. He left with someone else. We called
14 somebody.

15 Q. Somebody else was driving the car?

16 A. Yes, sir.

17 Q. There was also a gold sedan there?

18 A. I can't remember that, Your Honor or
19 sir. I can't remember that, sir, sorry.

20 Q. Very little chance of me becoming Your
21 Honor.

22 A. You never know.

23 Q. You didn't write a police report?

24 A. No, I did not.

25 Q. Shouldn't you have written a police

1 report?

2 A. Absolutely. The agency that I work for
3 didn't -- was not equipped at that time to have me
4 write reports which is very unorthodox, I know, but
5 I can't.

6 Q. Paper and pen?

7 A. Well, yeah, but got to have paper.

8 Q. So do you remember all this from a year
9 and-a-half ago from off the top of your head?

10 A. I cannot forgot that, no, sir.

11 Q. Do you remember a traffic stop for
12 speeding and a small bit of marijuana from November
13 of 2015?

14 A. Yes, sir.

15 Q. Court's indulgence.

16 THE COURT: All right.

17 (Off-the-record conference.)

18 BY MR. NELSON:

19 Q. You've never been to Larson Street?

20 A. I have been all over that town.

21 Q. You weren't there on November 30th of
22 2015?

23 A. No, sir.

24 Q. You don't know what happened?

25 A. No, sir.

1 Q. When you saw Mr. Biggs I assume you
2 searched Mr. Biggs, patted him down?

3 A. Absolutely.

4 Q. For officer safety?

5 A. Absolutely.

6 Q. Find a gun?

7 A. No.

8 Q. Find a gun in the car?

9 A. No, sir.

10 MR. NELSON: Nothing further.

11 THE COURT: All right. Redirect?

12 MS. MIMS: Yes, ma'am.

13 REDIRECT EXAMINATION

14 BY MS. MIMS:

15 Q. Ms. Ingalls, why do you remember the
16 stop?

17 A. You just don't get someone going 100
18 miles in a 30 mile-an-hour zone and you just don't
19 forget that night seeing that your life could
20 possibly have been in danger. And that's exactly
21 what crossed my mind. That could have been me.

22 Q. Okay. Let me ask you this: Mr. Biggs
23 was cited with reckless driving; is that right?

24 A. Yes, ma'am.

25 Q. So did someone come to give him a ride?

1 A. Yes, because he did not have his
2 license with him.

3 Q. Okay. And so you wouldn't have let him
4 leave?

5 A. No, ma'am.

6 Q. And was that someone that came someone
7 that you called to come or someone he called to
8 come?

9 A. I really don't remember that.

10 Q. Would you traditionally have called
11 somebody you wanted?

12 A. Yes, ma'am, I would.

13 Q. How would you have handled that, called
14 like a wrecker service?

15 A. I would have called a wrecker service,
16 but being courteous I would have allowed somebody
17 with a license, valid license, to come pick up the
18 vehicle and save all the paperwork and but usually
19 call a wrecker on rotation, absolutely.

20 Q. But if you didn't have that you would
21 have let them call someone to pick them up that
22 they chose?

23 A. Yes, ma'am.

24 MS. MIMS: No further questions.

25 THE COURT: All right. Is this witness

1 free to leave?

2 MS. MIMS: Yes, ma'am.

3 THE COURT: Any objection?

4 MR. BYRD: No objection, Your Honor.

5 THE COURT: Very well. Thank you. You
6 are free to go. Call your next witness, please.

7 MS. MIS: State would call Deputy
8 Michael Holt.

9 THE CLERK: Please state your full name
10 for the record.

11 THE WITNESS: Michael
12 Holt.

13 MICHAEL HOLT
14 having been duly sworn, testifies as follows:

15 THE COURT: Your witness.

16 DIRECT EXAMINATION
17 BY MS. MIMS:

18 Q. Good afternoon, deputy. How are you?

19 A. Doing well.

20 Q. Can you tell the jury where you work?

21 A. On November 30th?

22 Q. No, today.

23 A. Today I was sitting outside.

24 Q. Where do you work now?

25 A. Right now I work for Charleston County

1 Sheriff's Office.

2 Q. And what are your duties with the
3 Charleston County Sheriff's Office?

4 A. Currently I'm assigned to the traffic
5 division. That's where I am currently assigned.

6 Q. Okay. And as traffic division what
7 exactly would you do?

8 A. We deal with investigations, do
9 collision, speeding enforcement and things of that
10 nature.

11 Q. And now I will take you back to
12 November 30th of 2015. Where were you employed
13 back then?

14 A. I was still employed with Charleston
15 County. And I was on patrol division at that time.

16 Q. I understand. Did you -- during your
17 work on patrol division did you ever provide backup
18 duties for other officers when they were at traffic
19 stops?

20 A. Yes, ma'am, routinely.

21 Q. Did you happen to do that on
22 November 30th of 2015 with Lincolnville police
23 officer named Mattie Ingalls?

24 A. Yes, ma'am.

25 Q. And do you recall who you had stopped

1 that day?

2 A. I believe it was Mr. Biggs.

3 Q. Okay. Tell me what you remember about
4 that stop if you will?

5 A. I remember initially that it was
6 reported that he was doing in excess of 100 miles.
7 She requested backup so once we got there she
8 immediately made the determination to pull him out
9 of that vehicle and I could remember smelling an
10 odor of raw marijuana coming out of the vehicle.
11 Once he was detained a search of the vehicle was
12 conducted.

13 Q. Were you a part of that search?

14 A. Yes, ma'am.

15 Q. Can you tell me what you found in the
16 vehicle?

17 A. I remember finding in the back seat I
18 believe it was a backpack. Inside of that backpack
19 there was Ziplock bags that had the top zipper
20 removed off them, there was also a gallon size bag
21 back with a green plant-like material at the base
22 of it and it all smelled of raw marijuana.

23 Q. So after you had him outside of the car
24 did you find anything else of interest in that
25 vehicle?

1 A. There was a cell phone in the car that
2 was in a black case. One of the other things that
3 we -- I remember distinctly was a cell phone that
4 he had in his hand when he came out of the vehicle.
5 The cell phone was in a white case and either pink
6 or purple colors on the side of it and I know that
7 he was on the phone with somebody that showed as
8 Mia. And once he was put in handcuffs I believe we
9 set the phone down on top of the front of the car
10 and we were conducting a search Mia was calling
11 that phone.

12 Q. And I'm going to -- may I approach the
13 witness Your Honor?

14 THE COURT: Yes.

15 Q. Show you what's been marked as No. 17.
16 Do you recognize that phone?

17 A. Yes, ma'am.

18 Q. And what is that?

19 A. That was the cell phone that Mr. Biggs
20 had in his hand.

21 Q. And what makes you recall the cell
22 phone?

23 A. It just didn't seem to fit his
24 character when we were talking with him. Just
25 seemed out of place, that it was a very feminine

1 phone case that was found.

2 Q. Did you all make comments about it?

3 A. I remember talking a little bit about
4 it with him.

5 Q. During that stop was he issued any
6 citations?

7 A. I believe the Lincolnville police
8 officer issued him two citations. As an assisting
9 officer I did not issue any citation.

10 Q. You were there as backup?

11 A. Yes, ma'am.

12 Q. Do you recall if he was free to leave
13 in his own vehicle?

14 A. I believe we did allow him to leave in
15 his own vehicle. The problem though was he did not
16 have a valid driver's license so we had to wait for
17 somebody to come pick him up and transport him away
18 in his vehicle.

19 Q. Okay. What kind of vehicle was he
20 driving?

21 A. He was driving a white Pontiac Grand
22 Am, I believe.

23 Q. And someone did show up at the scene?

24 A. Yes, ma'am.

25 Q. Did they have to present you a valid

1 driver's license?

2 A. They did.

3 Q. And did they get in his car and drive
4 it away?

5 A. Yes, ma'am.

6 Q. Was he in the car with them?

7 A. Passenger seat, yes, ma'am.

8 Q. Beg the Court's indulgence, Your Honor.

9 THE COURT: Okay.

10 MS. MIMS: No further questions.

11 THE COURT: All right. Cross.

12 CROSS-EXAMINATION

13 BY MR. BYRD:

14 Q. Please the Court, Deputy Holt, how are
15 you doing?

16 A. Doing well, sir. How about yourself?

17 Q. All right. Thank you. Couple
18 questions for you. You started off by saying you
19 believe it was Mr. Biggs that was pulled over that
20 evening. He didn't have an ID on him, he didn't
21 have a driver's license, no ID of any kind?

22 A. No, sir, not to my knowledge.

23 Q. You said you conducted a search of the
24 vehicle. And I understand you find plastic bags.
25 Did you find scales?

1 A. I don't recall scales, no, sir.

2 Q. Mason jars?

3 A. I don't recall, no.

4 Q. In your search did you find a gun?

5 A. No.

6 Q. And I understand that Mr. Biggs you
7 said left and do you remember what he left in, the
8 type of vehicle?

9 A. I believe it was white Pontiac.

10 Q. What about a gold sedan?

11 A. There was a gold sedan there as well as
12 I think a blue SUV.

13 Q. Several people arrived on the scene to
14 try to transport the vehicles?

15 A. There was one person that approached
16 and I believe there were a couple others that
17 parked off in the distance a little bit.

18 Q. So you allowed him to drive away in the
19 vehicle even though he didn't have his driver's
20 license?

21 A. He did not drive away in the vehicle to
22 my knowledge.

23 Q. He was on the passenger side of that?

24 A. Yes.

25 Q. And then someone else drove away in the

1 gold sedan that came and then a blue SUV as well
2 drove away?

3 A. I don't understand the question.
4 Repeat it.

5 Q. Sure. You stated Mr. Biggs left in the
6 passenger seat of the white Grand Am, correct?

7 A. That is my understanding.

8 Q. Obviously someone else was driving that
9 vehicle?

10 A. Correct.

11 Q. And the gold sedan had arrived on the
12 scene and then that vehicle left as well?

13 A. Correct.

14 Q. And apparently there was an SUV that
15 arrived on the scene that also left as well?

16 A. Correct.

17 Q. Were they all going the same direction?

18 A. Yes, sir.

19 Q. Thank you very much. Court's
20 indulgence.

21 THE COURT: All right.

22 (Off-the-record conference.)

23 MR. BYRD: No further questions, Your
24 Honor.

25 THE COURT: All right. Redirect?

1 MS. MIMS: No, ma'am.

2 THE COURT: Is this witness free to
3 leave? Is there any objection?

4 MS. SIMS: Free to leave.

5 MR. BYRD: No objection.

6 THE COURT: Yes. Call your next
7 witness. Done? All right. All right. Ladies and
8 gentlemen, as you're aware because you have been
9 here and I have noticed that you have been paying
10 very close attention the State has called a number
11 of witnesses and we are about to conclude the work
12 that we are going to do today. And we are going to
13 pick up in the morning at 9:30 in the morning.

14 Let me share with you the same
15 admonitions that I did yesterday. Don't go to
16 work, got to rest. So we will start in the morning
17 at 9:30. As I understand there is no fog that is
18 anticipated for tomorrow morning so everyone should
19 be fine. I am going to ask you please be mindful
20 that you are not to discuss this matter or allow
21 anyone to discuss it with you, although I am going
22 to tell you that whoever is curious is going to be
23 even more curious, but if they should press you to
24 discuss the matter don't and put it on the judge.
25 Tell them the judge told you you can't discuss the

1 matter or allow anyone to discuss it with them. No
2 research, do not go to the internet, do not look
3 for definitions, do not look for any sort of news
4 accounts or anything else. You must, you must
5 receive all of the information which you will make
6 up your mind here in the courtroom when court is in
7 session.

8 We will take good care of your notes
9 over the balance of this evening. We will secure
10 them when you leave. Remember with regard to your
11 cell phone or other communication device, please
12 leave that device somewhere other than the
13 courthouse tomorrow. If you forget and it follows
14 you in, remember to give that to one of the
15 bailiffs and they will take good care of it.
16 Remember no blogging, no Tweeting, no social media,
17 do not communicate with each other face to face or
18 over social media or anyone else with regards to
19 this matter. That has to do with any kind of
20 research related to this matter. Again, you must
21 receive all of the information from which you will
22 make up your minds here in court while court is in
23 session.

24 You had biscuits this morning. Ms.
25 Catherine, they might want doughnuts tomorrow. I

1 look forward to seeing you in the morning. Have a
2 very pleasant evening.

3 (Thereupon, the jury exited the
4 courtroom at 2:57 p.m.)

5 Anything from the State?

6 MR. SORENSON: No, Your Honor.

7 THE COURT: From the defense?

8 MR. BYRD: No, Your Honor.

9 THE COURT: Very well. I will see you
10 all in the morning.

11 (These proceedings were adjourned at
12 2:58 p.m., February 21, 2018, Charleston County,
13 South Carolina.)

14 (The following proceedings were held
15 February 22, 2018, Charleston County, South
16 Carolina, @ 10:14 a.m.)

17 (STATE'S EXH. 37-40 marked for
18 identification.)

19 THE COURT: Anything before we bring
20 the jury out?

21 MR. SORENSON: No.

22 MR. BYRD: Nothing, Your Honor.

23 THE COURT: Thank you.

24 (Whereupon the jury entered the
25 courtroom at 10:15 a.m.)

1 THE COURT: I am so sorry to have kept
2 you in your jury room this morning. We are trying
3 to go over some scheduling things. I apologize to
4 you. But I hope you enjoined your doughnut and I
5 am looking forward to the leftovers. Ladies and
6 gentlemen, at this time we will continue with the
7 State's case. Call your next witness, please.

8 MR. SORENSON: Thank you, Your Honor.
9 State calls Chad Smith.

10 THE CLERK: State your name for the
11 record.

12 THE WITNESS: Chad Smith.

13 CHAD SMITH

14 being first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SORENSON:

17 Q. If you would, Agent Smith, please tell
18 the jury where it is you're employed?

19 A. Employed with the South Carolina Law
20 Enforcement Division which is commonly known as
21 SLED. Specifically I work in SLED's forensic
22 services laboratory in Columbia.

23 Q. What department do you work in at SLED?

24 A. I work in the firearms department as a
25 firearms and tool mark examiner.

1 Q. Could you tell the jury a little bit I
2 guess initially about your educational background?

3 A. I attended Clemson University where I
4 earned a Bachelor of Science Degree in Biological
5 Sciences. When I came aboard with SLED in November
6 of 2008 I began my training as a firearms and tool
7 mark examiner. The training program lasted for
8 between three to five years. It is supervised by
9 court qualified examiners of the firearms
10 department and involves extensive reading and
11 studying multiple examinations and tests given
12 during that period. I attended various classes and
13 seminars. And later in my training I was able to
14 help other examiners prepare their own case work.
15 At the end of the training I received my
16 comprehensive multi-part examination which I
17 successfully passed and I began to receive my own
18 case work.

19 Q. So basically over the last nine years
20 or so has that been the department you've worked in
21 that entire time, the firearms and tool mark
22 examination department?

23 A. Yes.

24 Q. And have you had an opportunity over
25 the course of that time to come testify in court

1 about some of your work at SLED?

2 A. Yes, sir.

3 Q. And been qualified as an expert
4 witness?

5 A. Yes, sir.

6 Q. Approximately how many times?

7 A. Over 40 times.

8 Q. Okay. At this time I would offer Agent
9 Smith as an expert in the field of firearms
10 analysis.

11 THE COURT: Any voir dire?

12 MR. BYRD: No voir dire, Your Honor.

13 THE COURT: Any objection?

14 MR. BYRD: No objection.

15 THE COURT: All right. Let me just
16 explain to the jury. Ladies and gentlemen, I want
17 to tell you where we are and what's just occurred.
18 Ordinarily under our rules of evidence individuals,
19 people are not allowed to testify regarding their
20 opinions or the reasons that they have for those
21 opinions that they hold. There is an exception and
22 that is when by virtue of someone's knowledge or
23 training or experience they have become an expert
24 in some field, some profession in which those
25 people have been so qualified as an expert in that

1 field. Then they are allowed to testify regarding
2 their opinions and the reasons for those opinions
3 within that field of expertise.

4 Now, ladies and gentlemen, Mr. Smith,
5 Agent Smith has just been qualified as an expert in
6 the field of firearms --

7 MR. SORENSON: Analysis.

8 THE COURT: -- analysis. And he will be
9 allowed to testify regarding his opinions and the
10 reason for those opinions within that field of
11 expertise.

12 Now, when I give you the concluding
13 instruction I will give you some instructions
14 regarding that, but at this point I will tell you
15 that expert testimony is given for the purpose of
16 helping you understand the evidence. It is not
17 given for the purpose of controlling your judgment.
18 And I will further just talk about that in the
19 concluding instruction that you consider the
20 testimony of an expert witness as you do other
21 testimony and you will give it the weight that you
22 believe it ought to be given and we will talk about
23 that more in the concluding instruction. But I did
24 want you to understand that this witness will be
25 allowed to because he is an expert and qualified as

1 an expert will be allowed to give you his opinions
2 and the reasons for those opinions. Yes, sir. You
3 may proceed.

4 BY MR. SORENSON:

5 Q. Thank you, Your Honor. Agent Smith, if
6 you would tell the jury briefly what specifically
7 with regards to firearms analysis what kind of your
8 capabilities are at SLED.

9 A. The majority of what I do is try to
10 determine if a specific firearm fired a particular
11 ammunition component such as a bullet or cartridge
12 case. Other examinations include firearms in
13 general and ammunition in general. And I also do
14 serial number restorations, obliterated serial
15 numbers of firearms and with the tool mark analysis
16 that comes into play with studying crowbars and
17 screwdrivers and pliers and things like that used
18 on different items to see if that particular tool
19 made a particular mark. Again, the majority of
20 what I do is try to determine if a specific
21 ammunition component such as bullets or a cartridge
22 case was fired by a particular firearm.

23 In the absence of a firearm what I can
24 try to do is determine if a group of cartridge
25 cases or bullets are fired by one gun or possibly

1 more than one gun.

2 Q. And if you would just explain just for
3 those of us that may not be familiar with the
4 different terms you used, ammunition components of
5 cartridge case as opposed to a projectile. If you
6 could give us a little background on how they come
7 about.

8 A. Sure. A unit of ammunition is called a
9 cartridge. Lot of times you see on TV and just
10 common place people use the word bullet for a whole
11 unit of ammunition. But technically that's not
12 correct. A cartridge is a whole unit of
13 ammunition. So you have got a cartridge case which
14 is basically a container for all the other
15 components of the cartridge. Inside the cartridge
16 case is the gunpowder itself and then on top of it
17 would be the projectile or the bullet and then at
18 the bottom of the cartridge case you have what's
19 called a primer. A primer is what is used when it
20 is struck by the firing pin of the firearm, used to
21 ignite the gunpowder and then again that forces the
22 bullet out of the cartridge case and down the
23 barrel.

24 So you have got the bullet which is
25 actually the projectile and then the cartridge case

1 left over and that's again the spent container of
2 the ammunition itself.

3 Q. Okay. And I guess if you came upon a
4 crime scene that had a handful of shell casings or
5 cartridge casings like we have in this case can you
6 explain to the jury kind of how they end up there,
7 difference between a revolver as opposed to a
8 semi-automatic handgun?

9 A. Yes, sir. Typically those are the two
10 different types of handguns we encounter. A
11 revolver, if you are watching any of the old west
12 films typically kind of firearm that they would
13 use. Revolver has a cylinder and inside the
14 cylinder are chambers. So the chamber holds a unit
15 of ammunition, sometimes it can be six or more, and
16 then the cylinder actually turns with each firing
17 of the gun. So everything is left, the cartridge
18 cases are left inside the cylinder when you are
19 done firing. Semi-automatic pistol typically uses
20 what is called a magazine. And the magazine has
21 the cartridges loaded into it. And then during the
22 operation of the firearm it extracts and ejects
23 that spent cartridge case and then loads another
24 unfired round of ammunition into the gun. So every
25 time you fire it would expel that spent cartridge

1 case and then you would have a leftover pile of
2 cartridge cases.

3 Q. So theoretically if at a scene if you
4 fired a semi-automatic handgun seven times you
5 would expect to find seven cartridge casings on the
6 scene?

7 A. Yes, unless they are either picked up
8 or something is wrong with the gun and the
9 cartridge case actually jammed in the gun or
10 something like that. But if a firearm is working
11 properly and you fire seven times with the
12 semi-automatic you would have seven cartridge cases
13 left over.

14 Q. And ultimately let me turn you now,
15 Agent Smith, to this case at hand here. Did you
16 receive some items that were submitted by the
17 Dorchester County Sheriff's Office in this case?

18 A. Yes, sir. I received seven fired
19 .9-millimeter caliber cartridge cases and six of
20 those cartridge cases were marked .9-millimeter
21 NATO and one cartridge case was marked
22 .9-millimeter Luger. How I know that they are
23 marked that different way is the bottom of a
24 cartridge case you have got what is known as the
25 headstamp area. A lot of times that has the

1 manufacturer of the ammunition and the caliber
2 itself. So I could tell that six of those had
3 markings that's consistent known as .9-millimeter
4 NATO which is a military-type ammunition. And then
5 the .9-millimeter Luger would have been a more
6 commercial loading of ammunition.

7 Q. May I approach the witness, Your Honor?

8 THE COURT: You may.

9 BY MR. SORENSON:

10 Q. Let me show you, Agent Smith, State's
11 Exhibits No. 6 through 11 and ask you if those are
12 those seven cartridge casings that you received?

13 A. Ladies and gentlemen, what I am looking
14 at is -- well, first of all, this is the packaging
15 that I sent back to the submitting agency.

16 Originally it would have been -- each cartridge
17 case would have been inside an envelope, but when
18 we send it back to the agency we call it what is
19 known as courtroom packaging. So we put it inside
20 a Ziplock bag and with the items that you can
21 actually see the cartridge case or bullet or
22 whatever you have with the original packaging. And
23 at the top here is my initials and the seal date.
24 So I heat sealed each of these Ziplock bags and
25 none of them have been tampered with.

1 And also, too, on the cartridge case
2 itself, some of them may be hard for you to see,
3 but I would have marked it with a SLED lab number
4 which is here, the SLED lab number then also my
5 initial. So each piece of evidence would be marked
6 that way. Yes, these are the cartridge cases that
7 I received for examination.

8 Q. Okay. And did you have an opportunity
9 then at SLED to look at and analyze those seven
10 cartridge casings?

11 A. Yes, sir.

12 Q. I think you testified earlier they are
13 all .9-millimeter casings, so the same caliber?

14 A. Right. And, again, going back to what
15 I was talking about the headstamp, may be hard for
16 you guys to see, but on the base of the cartridge
17 case is the headstamp area. So it has markings on
18 it. Typically the manufacturer and/or the caliber
19 itself. So six those cartridge cases had similar
20 markings and from those markings I could tell that
21 it is known as what's called .9-millimeter NATO
22 which is the military organization. And then one
23 of them, just State's Exhibit No. 8, had actually a
24 .9-millimeter Luger mark on the headstamp. So it
25 was just marked differently, but each of these

1 .9-millimeter NATO or .9-millimeter can be used in
2 the firearm chamber for either or interchangeably.

3 Q. Did you have an opportunity then to
4 analyze those seven cartridge casings and compare
5 them to each other to see whether they were all
6 fired by the same firearm?

7 A. Yes, sir.

8 Q. What were the results of that analysis?

9 A. I was able to conclude that during my
10 examinations -- how I do that exam is I have got
11 what's known as a comparison microscope. It's an
12 expensive piece of equipment which is basically two
13 microscopes which are connected by optical systems
14 so I can view each sample simultaneously and
15 manipulate the stages of the microscope to look for
16 marks that would be consistent and individual and
17 across the board. So I would compare each
18 cartridge case with each other and I was able to
19 determine that all the cartridge cases were fired
20 by the same firearm.

21 Q. Okay. Just briefly if you could just
22 kind of tell the jury a little bit about what --
23 how are those markings that you're looking at on
24 the casings to compare them to each other, how are
25 they left on there and how unique are they from

1 firearm to firearm?

2 A. Yes, sir. In this instance with a
3 semi-automatic firearm, you have got what's known
4 as the slide which is the top part of the
5 semi-automatic firearm. So the slide has on the
6 back of it a breach face. So that basically
7 supports the rear headstamp area of the cartridge
8 as it is being fired. So when it is being fired,
9 the projectile moves down the barrel, forces the
10 cartridge case back against that breach face area.
11 So they're markings that are placed on the
12 cartridge case headstamp area from the breach face
13 of that as well. And also you have markings that
14 are created from the firing pin of the firearm when
15 it strikes that primer area that I referred to
16 earlier so it leaves an impression. So you can use
17 the markings inside the firing pin impression and
18 on a breach face area left onto the cartridge case
19 to try to determine what sort of markings are there
20 that are individual in nature. So I am looking for
21 basically fine scratches that are microscopic in
22 nature. That's why we have to use a microscope to
23 look at it and try to determine if those
24 characteristics are individual in nature and if
25 they match with the cartridge cases within the

1 group to see if they were all fired by the one gun
2 or by different guns.

3 Q. Once again, your findings with regards
4 to those seven cartridge casings was what?

5 A. That they were all fired by the same
6 firearm.

7 Q. Let me ask you this: Did you have a
8 firearm submitted to you for comparison to see
9 whether a particular firearm fired those seven
10 cartridge casings?

11 A. No, sir. No firearm was submitted.

12 Q. If a gun was recovered would you have
13 been able to compare those casings to see if they
14 were fired by a firearm if it was recovered?

15 A. Yes, sir. If a firearm was submitted
16 to me, for example I can test fire it and then get
17 those recovered cartridge cases from my test fires
18 and compare those with the actual evidence itself
19 to determine if it was fired by that particular
20 firearm.

21 Q. May I approach?

22 THE COURT: You may.

23 Q. Let me show you State's Exhibit No. 12
24 and ask you if you had an opportunity to look at
25 that item here in court this morning.

1 A. This wasn't submitted for analysis to
2 the laboratory. So this is an unfired cartridge.
3 Again you got the cartridge case, here's the bullet
4 or the projectile. This appears to be consistent
5 with a .9 millimeter NATO or .9 millimeter Luger
6 cartridge.

7 Q. So is that cartridge in the headstamp,
8 is that consistent with any of the seven cartridge
9 casings that were submitted to you for analysis,
10 State's Exhibits 6 through 11?

11 A. Yes, sir. The six cartridge casings
12 that were marked .9-millimeter NATO, this is
13 consistent with that. It has the NATO cross symbol
14 which is a circle with a little cross in the middle
15 of it and then WMA which stands for Winchester
16 Military Ammunition, has a 15 stamped on there
17 which is a date code meaning it was manufactured in
18 2015.

19 Q. That would be a .9-millimeter
20 cartridge?

21 A. Yes, sir, a .9-millimeter NATO is the
22 actual stamp, but it could be a .9-millimeter Luger
23 as well as because they are used interchangeably.

24 Q. Let me just ask you, the gun that fired
25 those seven cartridge casings that you analyzed,

1 State's Exhibits 6 through 11, could that same gun
2 fire that live round that you have right there,
3 that live cartridge?

4 A. Yes, sir.

5 Q. Court's indulgence. Agent Smith, I
6 appreciate it. That's all I have. Please answer
7 any questions that Mr. Byrd has for you.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. BYRD:

11 Q. Good morning, Agent Smith. How are
12 you?

13 A. Fine.

14 Q. I will have a couple quick, few
15 questions for you. The live round we just
16 discussed, it was a .9-millimeter, what you said
17 was the same as the casings that you --

18 A. Right. Six of those cartridge casings,
19 the headstamp was marked like the one that
20 Solicitor Sorenson handed me.

21 Q. Got you. And this would have come from
22 a semi-automatic .9-millimeter, correct?

23 A. There are some revolvers that can shoot
24 .9-millimeter ammunition or some rifles that can
25 shoot .9-millimeter ammunition. It's a popular

1 caliber throughout the world. Typically we see it
2 in semi-automatic pistols.

3 Q. And does the fact that the casings were
4 recovered around the car give you some indication
5 as whether it would have been a revolver or
6 semi-automatic?

7 A. Well, again, typically you would have
8 to unload a revolver right there to get those
9 cartridge casings out into a pile and then you
10 would have to reload cartridges back into the
11 firearm to fire it. Typically when we see a pile
12 of cartridge cases it is indicative of being fired
13 from a semi-automatic.

14 Q. So just if you don't mind, walk me
15 through what does it mean to unload a revolver?

16 A. Well, typically depending on what kind
17 of revolver it is, a lot of them have a swing out
18 cylinder, that cylinder I referred to earlier. So
19 you would have to unlatch it, swing out the
20 cylinder, then push the ejector rod to get those
21 cartridge cases out and then load ammunition back
22 in and then lock the cylinder back in place.

23 Q. And in that type of scenario if they
24 are all coming out the cylinder, they are all
25 coming out at once and would probably fall

1 essentially in kind of a pile in the same area,
2 correct?

3 A. They could, yes.

4 Q. And given what you said earlier based
5 on the scattering of the shell casings, seems like
6 probably semi-automatic. I have one other question
7 for you regarding that. A semi-automatic, my
8 understanding is, please correct me if I'm wrong,
9 if I pull and maybe I should go a little bit more
10 into it. Semi-automatic works with a magazine
11 inside of the handle; is that correct?

12 A. Depending on what type of firearm it
13 is, correct. Typically we see a semi-automatic
14 pistol use what is called a detachable box magazine
15 and that fits up inside the grip area.

16 Q. And how does one get a bullet from that
17 grip area into the chamber?

18 A. You would have to reciprocate the slide
19 back and then let it go and it's under spring
20 tension and then it would strip around off from the
21 top of the magazine into the chamber of the barrel.

22 Q. You said reciprocate. That means pull
23 the action back, right, and let it go?

24 A. Yes.

25 Q. And that because of the spring moves

1 the bullet up into the chamber and has it ready for
2 -- to be fired?

3 A. That's right.

4 Q. And if in circumstances there is
5 already a round in the chamber, a cartridge in the
6 chamber, and if someone in your opinion was not
7 aware of that fact and they then pull back that
8 action to get a bullet into the chamber what would
9 happen to the cartridge that's already in that
10 chamber?

11 A. Well, it would still stay in the
12 chamber, but the round trying to come up behind it
13 basically would cause -- induce a jam or
14 malfunction-type situation where the round behind
15 it would get stuck probably between the slide and
16 the cartridge already in the chamber.

17 Q. Is it possible by engaging in that
18 action and having the cartridge come up that it
19 could force out the live round that's already in
20 the chamber?

21 A. I guess it is possible. When it's
22 already in the chamber it's inside the barrel, the
23 rear portion of the barrel. So to get that out you
24 would have to have basically the extractor which is
25 the part that extracts and pulls out the unfired

1 cartridge or fired cartridge case out of the
2 chamber ready for ejection. So that part would
3 have to probably engage that cartridge case itself
4 to get it out. So it just probably wouldn't do it
5 on its own.

6 Q. Right. But just let's say tilt it this
7 way to where the chamber is now facing down,
8 gravity is going to help out there, right, to try
9 to get that bullet out?

10 A. Yes, I suppose it is possible. There
11 are different situations that can happen.

12 Q. Okay. I don't think I have any more
13 technical questions for you. Couple of quick
14 questions. You don't know the specific gun that
15 this fired from, that the shell casings originated
16 from?

17 A. No, sir.

18 Q. Okay. And obviously because of that
19 you wouldn't know who actually fired that firearm,
20 correct?

21 A. Correct.

22 Q. So you don't actually know what
23 happened on the scene that's in question in the
24 trial, correct?

25 A. No, sir.

1 Q. Thank you very much. Court's
2 indulgence.

3 THE COURT: All right.

4 MR. BYRD: Nothing further, Your Honor.

5 THE COURT: Any redirect?

6 MR. SORENSON: No, Your Honor.

7 THE COURT: Is this witness free to
8 leave?

9 MR. BYRD: No objection, Your Honor.

10 THE COURT: Thank you. Call your next
11 witness, please.

12 MR. SORENSON: State calls Catherine
13 Leisy.

14 THE CLERK: Please state your full
15 name.

16 THE WITNESS: Catherine
17 Leisy.

18 CATHERINE LEISY

19 having been duly sworn, testifies as follows:

20 DIRECT EXAMINATION

21 BY MR. SORENSON:

22 Q. Agent Leisy, if you would tell the jury
23 where it is you're employed?

24 A. I work for the South Carolina Law
25 Enforcement Division more commonly referred to as

1 SLED.

2 Q. And how long have you been employed at
3 SLED?

4 A. For just short of 12 years.

5 Q. And what department do you work in?

6 A. I am assigned to the DNA case work
7 department.

8 Q. And are you a supervisor at this time
9 in that department?

10 A. I am not.

11 Q. And your 12 years, I guess first of
12 all, tell us what your educational background is?

13 A. I have a Bachelor of Science Degree in
14 Genetic Engineering from Cedar Crest College in
15 Allentown, Pennsylvania. Prior to my time at SLED
16 I spent approximately four years working at a
17 private DNA testing facility where I did the same
18 types of testing and analysis that I perform at
19 SLED. And I am required to perform continuing
20 education which consists of conferences and
21 training seminars to keep up with current
22 technologies available to us. And I was trained by
23 other court qualified analysts in all the different
24 types of testing and analysis I am required to
25 perform.

1 Q. So in your 12 years at State Law
2 Enforcement Division have you been in the DNA
3 department that entire time?

4 A. Yes, I have.

5 Q. And have you had an opportunity over
6 the course of those 12 years while employed at SLED
7 to testify regarding DNA analysis?

8 A. I have.

9 Q. Been qualified as an expert?

10 A. Yes, sir.

11 Q. About how many times has that occurred?

12 A. Over 50 occasions.

13 Q. Fifty?

14 A. Yes, sir.

15 Q. At this time we would offer Agent Leisy
16 as an expert in the field of DNA analysis.

17 THE COURT: Any voir dire?

18 MR. BYRD: No voir dire and no
19 objection, Your Honor.

20 THE COURT: Very well. So qualified.
21 BY MR. SORENSON:

22 Q. Agent Leisy, if you will just kind of
23 give the jury just kind of a brief kind of
24 background of what DNA is I guess start with?

25 A. DNA stands for deoxyribonucleic acid.

1 It's the genetic material found in all our of body
2 cells with the exception of our red blood cells.
3 DNA is packaged into structures called chromosomes
4 which contain our genes. And genes are simply
5 strands of DNA that code our physical
6 characteristics such as our height or our eye
7 color. We inherit one copy of DNA from our mother,
8 one from our father and they are two copies of
9 every gene. Approximately 99.9 percent of an
10 individual's DNA is identical to that of everyone
11 else's. And it's the variation in the remaining
12 .1 percent that we test to be able to tell
13 different people apart.

14 Q. And ultimately that .1 percent that
15 differs from you and me and jurors, is that that
16 one percent kind of unique to me?

17 A. The overall profile that we are -- an
18 individual overall's DNA would be unique to them
19 with the exception of identical twins.

20 Q. And ultimately then you said that what
21 bodily fluids or portions of our body are you
22 typically able to get DNA from?

23 A. You can really obtain DNA from any part
24 of the body. Typically what we are looking for is
25 going to be blood, semen or saliva. We can also

1 test for touch DNA or the presence of skin cells
2 that have been left on a particular item.

3 Q. And I assume if you had blood from one
4 person and you got a -- let's say a saliva sample,
5 would that DNA be the same if it's from the same
6 person?

7 A. It would be, yes.

8 Q. Ultimately in this case did you have
9 several items that were submitted to you for your
10 analysis to see if you could develop DNA from them?

11 A. Yes, I did.

12 Q. And what items were submitted to you in
13 this case?

14 A. I received what was identified as SLED
15 Item 12 which is a set of fingernail clippings from
16 Jamal Armstrong, SLED Item 13 which were
17 fingerprint clippings from Tyrell Miles. I also
18 received what was identified as SLED 18, swab from
19 driver's side rear of car. I also received four
20 sets of what we refer to as known standards, so
21 items that have been collected from a known
22 individual for the purpose of developing their DNA
23 profile for comparison. I received blood spots
24 from both Jamal Armstrong and Tyrell Miles as well
25 as sets of buccal swabs from Tiffany Bowens and

1 James Biggs.

2 Q. And obviously a blood spot is just a
3 blood sample that's typically I guess a homicide
4 victim collected at the autopsy?

5 A. It can be. We do sometimes see blood
6 spots also from living individuals. It's just a
7 collection of blood that is then placed on to
8 filter paper and allowed to dry. It stores more
9 stable and allows for testing at a later time.

10 Q. Typically the idea would be you would
11 be able to develop a DNA profile of that person?

12 A. That's correct.

13 Q. And then you said with regards to Ms.
14 Bowens and the Defendant James Biggs that you
15 received buccal swabs?

16 A. Correct.

17 Q. Tell the jury what a buccal swab is?

18 A. A buccal swab is a sterile cotton swab
19 which looks like a Q-tip. It's rubbed against the
20 inside of the cheek to collect cells. Those cells
21 are then used to develop a DNA profile for
22 comparison from that individual.

23 Q. Ultimately with those blood spots from
24 the two victims and then the buccal swabs were you
25 able to develop a DNA profile from each of those

1 items?

2 A. I was.

3 Q. So they weren't contaminated in any way
4 or anything like that?

5 A. There was no indication of that, no,
6 sir.

7 Q. And then were you able to then --
8 starting initially with what you indicated as your
9 No. 12, the fingernail clippings from Mr.
10 Armstrong, were you able to attempt to develop a
11 DNA profile from those fingernail clippings from
12 both his left and right hands?

13 A. I was.

14 Q. And what were the results of that from
15 his fingernail clippings from his left hand and his
16 right hand?

17 A. The DNA profile developed from the left
18 and right hand fingernail clippings of Jamal
19 Armstrong is attributable to Jamal Armstrong.

20 Q. No indication that he had scratched
21 anybody and gotten anybody else's DNA under his
22 fingernails?

23 A. No, there was no indication of a second
24 contributor on those samples.

25 Q. How about with regards to your No. 13,

1 the fingernail clippings from the left and right
2 hands of Tyrell Miles?

3 A. The DNA profile developed from those
4 clippings from Tyrell Miles is attributed to Tyrell
5 Miles.

6 Q. So yet again just like with Jamal no
7 indication he had scratched anybody, had anybody
8 else's DNA under his fingernails?

9 A. That's correct. There was no
10 indication of a second contributor to the sample.

11 Q. And how about then you had indicated
12 the last item was item 18, and that was -- how was
13 that listed?

14 A. That was identified as a swab from
15 driver's side rear of car.

16 Q. And showing you State's Exhibit No. 22,
17 may I approach the witness, Your Honor?

18 THE COURT: You may.

19 Q. Is where that red stain is on the
20 vehicle, is that consistent with the description
21 that you were given as the driver's side rear of
22 the vehicle?

23 A. I would say that's consistent, yes,
24 sir.

25 Q. And were you able to develop a DNA

1 profile from that swab that was taken from the
2 driver's side rear of a vehicle?

3 A. I was.

4 Q. And did you compare that DNA profile to
5 Tyrell Miles, Jamal Armstrong, Tiffany Bowens and
6 James Biggs?

7 A. Yes, sir.

8 Q. What were the results of that
9 comparison?

10 A. The DNA profile developed from the swab
11 from the rear of the car matched the DNA profile of
12 Jamal Armstrong.

13 Q. And any doubt in your mind about that?

14 A. No, sir.

15 Q. And it was just a sole -- wasn't a
16 mixture, it was entirely Jamal Armstrong's DNA?

17 A. That's correct. It was what we will
18 consider a single source profile meaning it was
19 consistent with being from one individual. There
20 was no indication of a mixture.

21 MR. SORENSON: That would be all I
22 have, Your Honor.

23 THE COURT: Cross-examination.

24 CROSS-EXAMINATION

25 BY MR. NELSON:

1 Q. May it please the Court, briefly, Your
2 Honor. Morning, Agent Leisy?

3 A. Yes, sir.

4 Q. I'm bad with names. You did a report
5 in this case as you do in every case?

6 A. That's correct.

7 Q. And I'm sure you've reviewed it. I'm
8 not sure if you have it up there?

9 A. I do.

10 Q. And at the end of it you signed your
11 name?

12 A. Yes, sir.

13 Q. To say that's your findings. On the
14 front page on the top left, who submits this to
15 you?

16 A. It was submitted by the Dorchester
17 County Sheriff's Office.

18 Q. And on the top left what's that name?

19 A. The report was addressed Bradley
20 Mullis.

21 Q. Who was that? Was he the person that
22 sent it to you?

23 A. I would have to check my chain of
24 custody to see who it was that actually physically
25 submitted the evidence. He would be the

1 investigating officer listed on the paperwork who
2 was to receive the report.

3 Q. You only test what's sent to you,
4 correct?

5 A. That's correct.

6 Q. You didn't go to the scene?

7 A. I do not process crime scene, no.

8 Q. And let's talk about the fingernails.
9 To get DNA under the fingernails you mentioned
10 scratching?

11 A. That is one possible method of transfer
12 from someone's skin or blood that may be found
13 under fingernails.

14 Q. If your hands were closed the
15 likelihood of getting scratching under the
16 fingernails would be low?

17 A. I would say it would certainly be less,
18 yes.

19 MR. NELSON: Court's indulgence.

20 (Off-the-record conference.)

21 MR. NELSON: Nothing further, Your
22 Honor.

23 THE COURT: All right. Redirect?

24 MR. SORENSON: Nothing further, Your
25 Honor.

1 THE COURT: Is this witness free to
2 leave?

3 MR. SORENSON: No objection from the
4 State.

5 MR. BYRD: No objection.

6 THE COURT: Very well. Thank you. You
7 are free to go. Call your next witness, please.

8 MS. MIMS: State calls Detective
9 Brandon Berg.

10 THE CLERK: Please state and spell your
11 name for the record.

12 THE WITNESS: Brandon Berg, B-E-R-G.

13 BRANDON BERG

14 having been duly sworn, testifies as follows:

15 DIRECT EXAMINATION

16 BY MS. MIMS:

17 Q. Good morning, Detective Berg.

18 A. Good morning.

19 Q. Can you please tell this jury where
20 you're employed?

21 A. Dorchester County Sheriff's Office.

22 Q. How long have you been with Dorchester
23 County Sheriff's Office?

24 A. About eight years.

25 Q. And what do you do there?

1 A. I'm a crime scene investigator.

2 Q. What is a crime scene investigator?

3 A. We get called out to any major crime
4 just to collect evidence, preserve evidence, bring
5 it back, document the scene, reconstruct if
6 necessary.

7 Q. Okay. Were you familiar or associated
8 in any way with a crime scene or a murder that took
9 place on November 30th of 2015 at 102 Larson Drive?

10 A. Yes, ma'am.

11 Q. Can you tell the jury how you were
12 involved with that case?

13 A. I was advised by my supervisor that we
14 had a cell phone that a search warrant was obtained
15 on. That cell phone needed to be taken up to the
16 SLED computer crimes unit. I transported the phone
17 along with the search warrant up to the computer
18 crime scene unit where they could extract the data.

19 Q. Okay. Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 Q. Detective Berg, do you recognize what's
23 been marked as State's Exhibit No. 17?

24 A. I do.

25 Q. Is that the cell phone that you took up

1 to SLED?

2 A. Yes, ma'am.

3 Q. Do you remember the date that you did
4 that?

5 A. I believe I have -- December 10th,
6 2015.

7 Q. December 10th of 2015.

8 A. Yes, ma'am.

9 Q. And you mentioned that you had a search
10 warrant?

11 A. I did.

12 Q. And when you got to SLED do you
13 remember who you spoke to when you got there?

14 A. Ms. Brantley, Viann Brantley I believe
15 her name was.

16 Q. When you got there did she perform a
17 cell phone extraction for you?

18 A. She did.

19 Q. All right. Did you wait while she
20 performed that extraction?

21 A. I did.

22 Q. All right. And when she finished with
23 that extraction did she give you something to take
24 back?

25 A. She did. She presented me with a disk

1 with the data on it.

2 Q. Your Honor, may I approach?

3 THE COURT: You may.

4 Q. Show you what's been marked as State's
5 Exhibit No. 37. Do you recognize that disk?

6 A. I do.

7 Q. And is that the disk that Ms. Brantley
8 gave you?

9 A. Yes, ma'am.

10 Q. Did she also return the phone to you?

11 A. Yes, ma'am.

12 Q. What did you do next?

13 A. Transported both items back to the
14 Dorchester County crime scene unit where they were
15 placed into evidence.

16 Q. Beg the Court's indulgence.

17 THE COURT: Okay.

18 MS. MIMS: I have no further questions,
19 Your Honor.

20 THE COURT: All right.
21 Cross-examination.

22 MR. BYRD: No questions for this
23 witness, Your Honor.

24 THE COURT: All right. Thank you. Is
25 the witness free to leave? Any objection?

1 MS. MIMS: Yes, ma'am.

2 THE COURT: Free to go. Thank you,
3 sir. Call your next witness, please.

4 MS. MIMS: State would call Viann
5 Brantley.

6 THE CLERK: State your full name for
7 the record.

8 THE WITNESS: Viann
9 Brantley.

10 VIANN BRANTLEY

11 having been duly sworn, testifies as follows:

12 THE COURT: Your witness.

13 DIRECT EXAMINATION

14 BY MS. MIMS:

15 Q. Good morning.

16 A. Good morning.

17 Q. Ms. Brantley, could you please tell the
18 jury where you are employed?

19 A. I am employed with the South Carolina
20 Law Enforcement Division in our computer crimes
21 department.

22 Q. And can you tell us how long you have
23 been working with the computer crimes division?

24 A. Since January 2014.

25 Q. And have you been at the South Carolina

1 Law Enforcement Division longer than that?

2 A. I got hired in August 2006 in our IT
3 department.

4 Q. And could you explain to the jury what
5 you do part as of your job?

6 A. I do extractions of computers, cell
7 phones, DVR's, get the electronic data off of them.

8 Q. And so you get the data out of them?

9 A. Yes.

10 Q. Okay. So are you able to get data off
11 of cell phones?

12 A. Yes, ma'am.

13 Q. Okay. I want talk to you about
14 December the 10th of 2015. Did you happen to meet
15 a detective from the Dorchester County Sheriff's
16 Department on that day requesting an extraction?

17 A. I did.

18 Q. And did he provide to you court
19 documents asking for you to perform an extraction?

20 A. Yes, he did.

21 Q. And do you know what the phone number
22 was for the phone that he was asking for there to
23 be an extraction from?

24 A. 843-291-1086.

25 Q. Okay. I'm going to show you what's

1 been marked as State's Exhibit 17. May I approach
2 the witness, Your Honor?

3 THE COURT: You may.

4 Q. Do you recognize that phone, Ms.
5 Brantley?

6 A. Yes, ma'am.

7 Q. Does this look like the phone that was
8 given to you on December 10th?

9 A. Yes.

10 Q. Of 2015. Ms. Brantley, do you remember
11 the name of the detective that you met with that
12 day?

13 A. I don't remember the name.

14 Q. That's fine. May I approach the
15 witness?

16 THE COURT: You may.

17 Q. I'd like to show you what's been marked
18 as State's Exhibit No. 37, Ms. Brantley. Do you
19 recognize this?

20 A. I do.

21 Q. What is that?

22 A. This is our DVD, a copy of the cell
23 phone extraction.

24 Q. Have you been able to review this disk
25 before your testimony today?

1 A. I have.

2 Q. And does this disk that you reviewed
3 accurately reflect the information that you pulled
4 off of this cell phone on December the 10th of
5 2015?

6 A. Yes, it does.

7 THE COURT: Both of you are talking,
8 it's just because both of -- I know you know what
9 you are being asked before the questions, and you
10 probably can fairly anticipate what the next
11 question might be. But my court reporter, I want
12 her to come back tomorrow if needed. So would you
13 help me by not speaking over each other.

14 THE WITNESS: Yes.

15 MS. MIMS: Thank you, Your Honor. Ms.
16 Brantley -- may I approach th witness, Your Honor?

17 THE COURT: Yes.

18 BY MS. MIMS:

19 Q. I am showing you what's been marked as
20 State's Exhibit No. 38. Do you recognize that
21 document?

22 A. I do.

23 Q. And can you tell the jury what these
24 documents are?

25 A. That's a printed form of the Cellebrite

1 report extracted off the cell phone.

2 Q. And did this document come off of this
3 disk?

4 A. It did.

5 Q. And were you able to look at these
6 documents this morning to verify that?

7 A. Yes.

8 MS. MIMS: Your Honor, at this time I
9 would ask State's Exhibit No. 37 and 38 be
10 introduced into evidence.

11 THE COURT: Any objection?

12 MR. BYRD: No objection.

13 THE COURT: Very well.

14 (STATE'S EXH. 37-38 in evidence.)

15 MS. MIMS: Beg the Court's indulgence,
16 Your Honor.

17 (Off-the-record conference.)

18 BY MS. MIMS:

19 Q. Ms. Brantley, me ask you briefly, may I
20 approach the witness more time, Your Honor?

21 THE COURT: Yes.

22 Q. Could you take a look at those
23 documents.

24 A. (Witness complies with request.)

25 Q. Can you tell me what those documents

1 show?

2 A. It shows the physical extraction, the
3 time it was extracted, date and time it was
4 extracted, the Apple ID of the person.

5 Q. What's the --

6 A. Phone number.

7 Q. I am so sorry. What's the Apple ID?

8 A. Apple ID is JamesBiggs32@yahoo.com.

9 Q. Do you also have another sheet on there
10 that would show you any phone calls that come in?

11 A. Yes.

12 Q. Okay. Does that sheet show you the
13 phone numbers that are --

14 A. Shows you phone numbers and date and
15 time and the duration, how long the phone call
16 lasted.

17 Q. Yes, ma'am. Does the cell phone
18 extraction also include information regarding text
19 messaging?

20 A. It does.

21 Q. And will that also provide you with the
22 same --

23 A. Same type of information, date and time
24 and the phone number from your phone to whoever you
25 are texting to.

1 Q. It will give you the number coming and
2 the number --

3 A. Yes.

4 Q. Thank you very much.

5 A. You're welcome.

6 MS. MIMS: I have no further questions,
7 Your Honor.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. NELSON:

11 Q. You wouldn't know who specifically made
12 the phone calls?

13 A. No, I would not.

14 Q. You wouldn't know who specifically made
15 the texts?

16 A. No, I would not.

17 Q. It would just be whoever had the phone?

18 A. Yes.

19 Q. Could be anybody?

20 A. It could be.

21 MR. NELSON: Nothing further, Your
22 Honor.

23 THE COURT: Any redirect?

24 MS. MIMS: Just very briefly, Your
25 Honor.

REDIRECT EXAMINATION

BY MS. MIMS:

Q. Ms. Brantley, do you know why the cell phones generally have to come to you to get the information out of them?

A. Because we have the tools to extract it. It is considered forensically sound where it doesn't get contaminated to extract the data.

Q. Okay. And what was the phone number that was being extracted?

A. 843-291-1086.

Q. Thank you very much.

THE COURT: Recross?

MR. NELSON: No, Your Honor.

THE WITNESS: Is this witness free to leave?

MS. MIMS: Yes.

THE COURT: Any objection?

MR. BYRD: No objection, Your Honor.

THE COURT: Thank you, you are free to go. Call your next witness, please.

MS. MIMS: State would call Clinton Branton.

THE CLERK: Please state your full name for the record.

1 THE WITNESS: Clinton
2 Branton.

3 CLINTON BRANTON

4 having been duly sworn, testifies as follows:

5 THE COURT: Your witness.

6 DIRECT EXAMINATION

7 BY MS. MIMS:

8 Q. May it please the Court, good morning,
9 Mr. Branton. How are you?

10 A. I'm well. Good morning.

11 Q. Good. Mr. Branton, could you please
12 tell the jury where you are employed?

13 A. AT&T Mobility.

14 Q. And how long have you worked for AT&T?

15 A. Three years.

16 Q. And what do you do at AT&T?

17 A. I'm a retail store manager at the store
18 in Summerville.

19 Q. And what are some of your duties as a
20 retail manager?

21 A. I interact with customers, bills, new
22 lines of service, TV, et cetera.

23 Q. Are any of your duties record keeping?

24 A. I'm a custodian for AT&T so yes, ma'am.

25 Q. And what does that mean to be a

1 custodian? What are your duties as a custodian?

2 A. To validate the validity of any records
3 that are turned over to law enforcement in the
4 course of a subpoena or any other court actions.

5 Q. Okay. Was AT&T asked to provide any
6 records for a particular phone number in December
7 of 2015 from the Dorchester County Sheriff's
8 Department?

9 A. They were.

10 Q. Do you know what that phone number was
11 that you were asked to provide?

12 A. 843-291-1086.

13 Q. Okay. And let me ask you this: Is it
14 the regular practice of AT&T when you are providing
15 service to make and keep records pertaining to your
16 customers and your clients?

17 A. Yes, ma'am, it is.

18 Q. May I approach the witness, Your Honor?

19 THE COURT: Yes.

20 Q. I would like to show you what's been
21 marked as State's Exhibit No. 39. Do you recognize
22 this?

23 A. Yes, ma'am, I do.

24 Q. What is this?

25 A. This is a record that was turned over

1 to the solicitor's office with records from that
2 telephone number that was mentioned previously.

3 Q. Okay. And do you see any writing on
4 the outside of the envelope holding that disk?

5 A. I do.

6 Q. What is that?

7 A. That is the time and date with my
8 initials and indicating that this was the records
9 that were turned over.

10 Q. Were you able to review this disk
11 earlier today?

12 A. Yes, ma'am, I was.

13 Q. And do those records accurately reflect
14 what AT&T turned over to the sheriff's department
15 in December of 2015?

16 A. They do, ma'am.

17 Q. And are these the records that are kept
18 in the regular course of business of AT&T?

19 A. They are, yes, ma'am.

20 MS. MIMS: Your Honor, at this time I
21 would offer State's Exhibit No. 39 into evidence.

22 THE COURT: Any objection?

23 MR. BYRD: No objection.

24 THE COURT: Very well.

25 (STATE'S EXH. 39 in evidence.)

1 MS. MIMS: May I approach again, Your
2 Honor?

3 THE COURT: You may.

4 BY MS. MIMS:

5 Q. Mr. Branton, I will show you what's
6 been marked as State's Exhibit No. 40. Do you
7 recognize those records?

8 A. Yes, ma'am, I do.

9 Q. Okay. And can you please tell the jury
10 what those records are?

11 A. So the first page is the financial
12 liability, the billing information and the name of
13 the person who took out the line of service.

14 Q. And are those records associated with
15 this disk?

16 A. Yes, ma'am, they are.

17 Q. Can you tell us how?

18 A. So the case number or the file phone
19 number for AT&T is listed in the top left corner.
20 Any time we are subpoenaed we make a time or a
21 stamp of those records. That way they are
22 identifiable for any court cases that we may have
23 to go to.

24 Q. Did those records come off of the
25 information on this disk?

1 A. They did.

2 Q. And they accurately reflect the
3 information that was on this disk?

4 A. Yes, ma'am, they do.

5 Q. Did you verify that before you came in
6 to testify today?

7 A. I did, ma'am.

8 MS. MIMS: Your Honor, at this time I
9 would ask to introduce State's Exhibit 40 into
10 evidence.

11 THE COURT: Any objection?

12 MR. BYRD: No objection, Your Honor.

13 THE COURT: Very well.

14 (STATE'S EXH. 40 in evidence.)

15 BY MS. MIMS:

16 Q. Thank you, Your Honor. Mr. Branton,
17 would you please tell the jury the phone number
18 again that you were asked to pull records from?

19 A. 843-291-1086.

20 Q. And can you please tell the jury who
21 the subscriber is for that phone number?

22 A. James Biggs.

23 Q. And can you tell the jury what the
24 address is associated with that account?

25 A. 102 Larson Drive, Summerville, South

1 Carolina, 29485.

2 Q. Mr. Branton, can you tell us a little
3 bit about how -- what your printout would show that
4 we have just gotten from this disk. What exactly
5 are they seeing -- when that goes back to the jury
6 room what exactly are they seeing on the printout?

7 A. On the first page here they are going
8 to see just your normal name, address and so forth
9 for billing. On the secondary pages which would be
10 that we have pulled from the larger set of page 181
11 through 183 would show you the incoming, outgoing
12 call records for that telephone number.

13 Q. Okay. And what date do those records
14 specifically show?

15 A. November the 30th of 2015.

16 Q. Okay. Do those records show you the
17 number of the calls coming into that phone?

18 A. They do, ma'am.

19 Q. Would they also show you the number of
20 calls that the person who had that phone would
21 call?

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

23 Q. Does it show you the duration of the
24 call?

25 A. It does.

1 Q. Does it also show you the time the call
2 was made?

3 A. It does.

4 Q. And does it show you the time in
5 Eastern Standard Time?

6 A. It shows the calls in what we call
7 UTC which is a universal time standard that's based
8 out of Greenwich.

9 Q. It's Greenwich time?

10 A. Yes, ma'am.

11 Q. Beg the Court's indulgence, Your Honor.

12 THE COURT: Yes.

13 (Off-the-record conference.)

14 MS. MIMS: I think that's all I have,
15 Mr. Branton. Please answer any questions from
16 defense.

17 THE COURT: Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. BYRD:

20 Q. Good morning. How are you doing today?

21 A. I'm well, sir.

22 Q. Good. I know you said the numbers that
23 the jury is going to see is essentially almost like
24 a little list or chart showing numbers called from
25 that phone number?

1 A. Yes.

2 Q. That is attributed to AT&T?

3 A. Yes.

4 Q. And numbers come and calls coming into
5 that phone number from AT&T, correct?

6 A. Yes, sir.

7 Q. But obviously it doesn't show us who is
8 actually making the call, it is just saying that is
9 being called by that number, correct?

10 A. Yes, sir.

11 Q. Or called to that number?

12 A. Yes.

13 Q. So I could hand my phone to my brother
14 and my brother can make a call, but you wouldn't
15 know if it was me that actually made the call, you
16 just know it was the actual phone number, correct?

17 A. Correct.

18 MR. BYRD: Nothing further, Your Honor.

19 THE COURT: Redirect?

20 MS. MIMS: No, ma'am.

21 THE COURT: Is this witness free to
22 leave?

23 MR. BYRD: No objection.

24 THE COURT: Thank you. You are free to
25 go.

1 MR. NELSON: May we approach one
2 second?

3 THE COURT: Sure.

4 (Off-the-record conference.)

5 THE COURT: Ladies and gentlemen, we
6 are going to take our morning break. Please step
7 to your jury room. Remember do not discuss this
8 matter, do not allow anyone to discuss it with you.
9 Leave your note pads in your seat. We will take
10 about 15 minutes. It will be our morning break.
11 Thank you.

12 (Thereupon, the jury exited the
13 courtroom at 11:08 a.m.)

14 THE COURT: Anything from the State
15 before we take our break?

16 MS. MIMS: No.

17 THE COURT: From the defense?

18 MR. BYRD: Nothing, Your Honor.

19 THE COURT: Take 15.

20 (A recess transpired.)

21 (STATE'S EXH. 41-44 were marked
22 identification.)

23 THE COURT: All right. Anything from
24 the State before we bring the jury out?

25 MS. MIMS: No, Your Honor.

1 THE COURT: From the defense?

2 MR. BYRD: Nothing, Your Honor.

3 THE COURT: All right.

4 (Whereupon the jury entered the
5 courtroom at 11:35 a.m.)

6 THE COURT: All right. Ladies and
7 gentlemen, at this time we will continue with the
8 State's case. If you would please call your next
9 witness.

10 MS. MIMS: The State would call
11 detective Adam Smith.

12 THE CLERK: State your name for the
13 record.

14 THE WITNESS: Adam Smith.

15 ADAM SMITH

16 having been duly sworn, testifies as follows:

17 DIRECT EXAMINATION

18 BY MS. MIMS:

19 Q. Good morning, Detective Smith.

20 A. Good morning.

21 Q. Can you tell me where you're employed?

22 A. I work for the Dorchester County
23 Sheriff's Office.

24 Q. How long have you been with Dorchester
25 County?

1 A. It will be 12 years this year.

2 Q. And what do you do with the Dorchester
3 County Sheriff's Department?

4 A. Currently I'm a sergeant over the
5 criminal investigations division.

6 Q. And can you tell the jury some of your
7 duties as a sergeant over there?

8 A. Right now my role is to supervise so I
9 approve reports, assign case files, I also handle
10 cases, respond to scenes. Normal duties for an
11 investigator is when we have a patrol deputy they
12 respond to a call for service. They take an
13 incident report and that report gets forwarded to
14 investigations. Calls that are more serious in
15 nature we actually send an investigator out to the
16 scene while it is actually going on.

17 Q. Back in November of 2015 were you
18 working as an investigator with the Sheriff's
19 Department?

20 A. Yes, I was.

21 Q. Okay. During that year on
22 November 30th of 2015 did you respond to a homicide
23 at 102 Larson Drive?

24 A. Yes, I did respond there.

25 Q. Was that in Dorchester County?

1 A. It was in Dorchester County.

2 Q. And when you arrived on the scene that
3 day can you tell this jury what you observed when
4 you got there? What was happening?

5 A. When I first got the call and responded
6 to the scene and when I arrived on scene I noticed
7 that there was a crime scene perimeter. The patrol
8 deputies had roped off a section of the roadway and
9 a residence to prevent any persons from coming and
10 going. When I first got there there was a
11 supervisor for the patrol division on scene as well
12 as another deputy. I met with them, obtained the
13 details as to what was going on. We were informed
14 that there was two males that had been shot at the
15 residence, one of which was pronounced deceased at
16 the scene and the other one had been transported to
17 the hospital.

18 Q. Where were they shot?

19 A. There was -- in the yard of that
20 residence at 102 Larson Drive there was a white
21 Pontiac Grand Am. The passenger side door was open
22 and there was one male that was deceased who was
23 kind of partially laying in and out of the vehicle.
24 The other male had been found in the kind of
25 kneeling over the driver's seat in and out of the

1 vehicle and he had been removed by EMS prior to my
2 arrival.

3 Q. And can you tell the jury what type of
4 vehicle the individuals were in?

5 A. It was a white in color Pontiac Grand
6 Am sedan.

7 Q. May I approach the witness, Your Honor?

8 THE COURT: You may.

9 Q. I will show you what's been marked as
10 State's Exhibit No. 42. Do you recognize that
11 picture?

12 A. Yes, I do.

13 Q. What is that a picture of?

14 A. That's the picture of the white Pontiac
15 Grand Am that was in the front yard at 102 Larson
16 Drive.

17 Q. And does this picture accurately
18 represent that Grand Am on November 30th of 2015?

19 A. Yes, it does.

20 Q. Does it accurately represent what was
21 going on when you arrived at the scene that night?

22 A. Yes, it does. It was -- as I arrived
23 that's how I found it.

24 MS. MIMS: Your Honor, at this time I
25 would ask to introduce State's Exhibits 42 into

1 evidence.

2 THE COURT: Any objection?

3 MR. BYRD: No objection.

4 THE COURT: Very well.

5 (STATE'S EXH. 42 in evidence.)

6 BY MS. MIMS:

7 Q. Would you please read the license plate
8 number on that Grand Am?

9 A. It's 6014HC, that's for South Carolina.

10 Q. When you were on the scene were you
11 checking out the scene as well?

12 A. Yes. So when we get to a scene it's
13 kind of a very fluid investigation with multiple
14 people there, multiple things going on at the same
15 time. So my job as the lead investigator, I was
16 obtaining all the information from the patrol
17 deputies that were on scene. Also we had other
18 investigators that were there. We had crime scene
19 investigators so we were starting to canvass the
20 area. We actually had another agency that was
21 helping us go door to door and speaking with
22 neighbors and we were also talking with the actual
23 homeowners that lived at 102 Larson Drive as well.

24 Q. As an investigator at a crime scene are
25 some of the other deputies who are there and some

1 of the crime scene personnel, are they reporting to
2 you as they find information?

3 A. Correct, yes. Once we would assign
4 everybody a task, patrol deputies per say would be
5 crime scene perimeter. Also crime scene log
6 maintaining who was coming and going. They would
7 also be canvassing the area. So once everybody
8 gets the information back they bring it back to me
9 so it can be compiled into one place.

10 Q. And the bodies were found in the car,
11 correct?

12 A. Correct, the car in the front yard of
13 the residence.

14 Q. Were there ever any weapons found in
15 that car?

16 A. No, there was no weapons found in the
17 car.

18 Q. Did you end up talking to any of the
19 people yourself at the scene?

20 A. Yes, I did. Made contact with Brandon
21 Stancil who was on scene at the time deputies
22 arrived there. And also I made contact with
23 Latasha Marion who arrived on scene afterwards and
24 she was the homeowner at that residence.

25 Q. Latasha Marion, do you know if she's

1 related to Mr. Biggs?

2 A. She is the mother of James Biggs.

3 Q. Was James Biggs present at the scene
4 when you arrived?

5 A. James Biggs was not present when I was
6 on scene.

7 Q. I'm going to show you what's been
8 marked as State's Exhibit No. 1. Do you recognize
9 this photo?

10 A. Yes, I do.

11 Q. What is that a photo of?

12 A. That's a compilation of photographs
13 that were taken by our crime scene investigators
14 which depict the crime scene at 102 Larson Drive
15 that night.

16 Q. May I publish, Your Honor?

17 THE COURT: You may if it is in
18 evidence. Do you need to ask him questions about
19 it?

20 MS. MIMS: Yes, ma'am.

21 THE COURT: All right. Let me see.
22 Thank you.

23 BY MS. MIMS:

24 Q. Could the witness step up?

25 THE COURT: Absolutely. As you know,

1 if you can keep, please, both of you from blocking
2 our jurors being able to see the board.

3 THE WITNESS: It's little faint, but it
4 should work.

5 THE COURT: It's a cat toy.

6 BY MS. MIMS:

7 Q. Detective Smith, is this the crime
8 scene as it appeared that night before you arrived
9 November 30th of 2015?

10 A. Yes, it is.

11 Q. Okay. As a part of your investigation
12 were you able to determine -- there are a lot of
13 vehicles in that yard?

14 A. Correct.

15 Q. Were you able to determine who were the
16 owners of these vehicles?

17 A. Correct. After I spoke with Brandon
18 Stancil and Latasha Marion we were able to
19 determine the owner of these four vehicles here.
20 This black sedan was registered to Omar Biggs.
21 Brandon Stancil was driving of the red truck,
22 Jaylin Biggs was the white Infinity sedan and then
23 James Biggs was the operator of the white Pontiac
24 Grand Am.

25 Q. And is the white Pontiac Grand Am the

1 one in the front facing the yard?

2 A. It is the closest one right here with
3 the passenger side door open.

4 Q. Were you able to determine the car that
5 the victims arrived in that day?

6 A. Yes. This dark sedan down here that
7 was running, it still had its lights on. Even when
8 I arrived on scene it was still the same. And we
9 were able to identify that it was registered to
10 Tiffany Bowens.

11 Q. So the vehicle was still running with
12 the lights on when you arrived?

13 A. That's correct.

14 Q. Is that the way that everyone found --
15 the initial responders found that vehicle?

16 A. Yes, that is.

17 Q. You can have a seat, I am sorry.

18 A. (Witness complies with request.)

19 Q. Your Honor, may I approach the witness?

20 THE COURT: You may.

21 Q. I am showing you what is marked as
22 State's Exhibit No. 41. Do you recognize that
23 exhibit?

24 A. Yes, I do.

25 Q. What is that a picture of?

1 A. That is a picture of the Honda sedan
2 that was in the roadway that was running with the
3 lights on that the victims had arrived on scene in.

4 Q. Does this picture accurately represent
5 what that vehicle looked like on November 30th of
6 2015?

7 A. Yes, it does.

8 Q. And does it still show the headlights
9 on at the time?

10 A. Yes, it does.

11 MS. MIMS: Your Honor, at this time I
12 would ask to introduce State's Exhibit 41 into
13 evidence.

14 THE COURT: Any objection?

15 MR. BYRD: No objection.

16 THE COURT: Very well.

17 (STATE'S EXH. 41 in evidence.)

18 BY MS. MIMS:

19 Q. As the lead investigator did you take
20 any evidence yourself from the scene that night?

21 A. Yes. When I was there we obtained a
22 search warrant for the residence at 104. We also
23 obtained a search warrant for the Pontiac Grand Am
24 that was out there. A search of the Pontiac Grand
25 Am yielded a cell phone that was found partially on

1 the driver's seat that had a white and a pink-ish
2 or blue or purple in color case. Also we were able
3 to find a cell phone on the person of Tyrell Miles.

4 Q. I'm going to show you what's marked as
5 State's Exhibit 17. Do you recognize that phone?

6 A. Yes, I do.

7 Q. Where was this phone found?

8 A. That phone was found in the white
9 Pontiac Grand Am. It was found on the driver's
10 side seat of the vehicle.

11 Q. Okay. And did you ever end up finding
12 out who this phone belonged to?

13 A. Yes, we did. Through the course of the
14 investigation it was found out the phone was owned
15 by James Biggs.

16 Q. You mentioned that Mr. Miles had a
17 phone on him as well?

18 A. Yes.

19 Q. Was there any evidence -- did anyone
20 search the victims' car in this case?

21 A. Yes, there was.

22 Q. Was any evidence taken out of their
23 car?

24 A. Not to my knowledge, no.

25 Q. There were no drugs found in the car?

1 A. No.

2 Q. Were there any guns found in their car?

3 A. No.

4 Q. You mentioned in addition there was a
5 phone on Tyrell Miles?

6 A. Yes, that is correct.

7 Q. Did you end up taking that phone into
8 evidence?

9 A. I did. It was turned over to me
10 through chain of custody and at that point in time
11 I departed the scene with the cell phone so that I
12 could go back to our office and perform an
13 extraction of the data from that cell phone.

14 Q. So you performed an extraction of that
15 cell phone?

16 A. Of the phone from Tyrell Miles, that is
17 correct.

18 Q. Okay. You have been sitting here
19 throughout the entire trial so far, Detective
20 Smith?

21 A. Yes.

22 Q. Would you please explain to the jury
23 why SLED would have to perform an extraction of
24 this phone versus you being able to perform an
25 extraction of the victim's cell phone?

1 A. Yes. I have been through specialized
2 training with the Cellebrite device which is a
3 device that extracts data from cell phones. In
4 this case -- I have been extracting data from
5 phones since about 2012. In this case the phone
6 from Tyrell Miles was not protected by either a
7 password or some kind of security feature so we
8 were able to gain access to it at that time. When
9 this case occurred our department did not have the
10 technology to get into phones that have pass codes,
11 but the South Carolina Law Enforcement Division did
12 in their computer lab so we had to send it there
13 because they did have the technology to do that.

14 Q. So on what date did you perform the
15 extraction on this phone?

16 A. I performed it that night.

17 Q. That night?

18 A. Yes.

19 Q. Were you able to determine that it was
20 indeed Mr. Tyrell's phone?

21 A. Yes, I did.

22 Q. And were you able to -- what were you
23 looking for when you performed the extraction?

24 A. So when we hook the phone up to the
25 Cellebrite device it extracts the data and what

1 that does is provide us with phone data. It
2 provides us with the contacts, their phone book,
3 provides us with call logs, text messages, we can
4 get pictures, videos, there's a bunch of data that
5 is extracted from there.

6 Q. Were you able to determine any phone
7 calls that Mr. Miles may have made that night?

8 A. Yes.

9 Q. Okay. Were you interested in any of
10 the phone calls he had made that night?

11 A. Yes. Because as an investigator what
12 we like to do is make a timeline if we have -- in
13 this case we had two deceased victims. So we need
14 to know and backtrack from where we found them and
15 what did they do before this so we can lead up if
16 they had any contact with persons so we can speak
17 to those persons as well.

18 Q. Did you do anything else that night in
19 terms of investigation?

20 A. We just spoke to other persons in the
21 neighborhood just trying to get information.

22 Q. Okay. Did you later talk to any other
23 law enforcement agency that had information about
24 this case?

25 A. Yes. The following day we were

1 contacted by the Lincolnville Police Department,
2 advised that they had stopped a vehicle matching
3 the description of the one in our homicide and they
4 provided us with information.

5 Q. Do you remember the name of the
6 detective you spoke to?

7 A. It was my supervisor, Sergeant Peters
8 actually spoke with the Chief of Lincolnville.

9 Q. Did you meet with her personally after
10 that?

11 A. Yes, we did.

12 Q. Was she able to give any information
13 regarding a stop that she had made or that same day
14 of the murder?

15 A. Yes. She advised us that she had
16 stopped that same white Pontiac Grand Am, that it
17 was being driven by James Biggs. It was on the
18 earlier afternoon hours of November 30th. She
19 advised us she stopped it for speeding and had
20 issued him two citations as well and we learned
21 during the course of that she had also witnessed
22 him with a cell phone that had a white and pink or
23 purplish in color case on it, that he was using
24 that phone during the time of the stop.

25 Q. And as the lead investigator on the

1 case you mentioned that other officers report their
2 findings to you. Were you able to determine if any
3 items that were made from that stop earlier in the
4 day were found at the scene that day?

5 A. Yes. During the course of this search
6 warrant of the vehicle, the white Pontiac Grand Am,
7 they did locate those two traffic tickets that were
8 issued by Lincolnville Police Department to James
9 Biggs. Those were found inside the vehicle.

10 Q. I would like to show you what's been
11 marked as State's Exhibit No. 36. Can you tell the
12 jury what that is?

13 A. They are the two citations that were
14 obtained from the white Pontiac Grand Am during the
15 course of this search warrant.

16 Q. Beg the Court's indulgence, Your Honor.

17 THE COURT: Yes.

18 BY MS. MIMS:

19 Q. You mentioned earlier that you had
20 collected the phone found in between the two
21 victims?

22 A. Yes, it was found during the search
23 warrant.

24 Q. During the search warrant between the
25 victims. And what happened with this phone after

1 it was collected?

2 A. The phone after -- we had attempted to
3 do the extraction and found out the cell phone was
4 protected by a security feature. It was placed
5 back into evidence. And then we made contact with
6 the South Carolina Law Enforcement Division in
7 computer crimes and we arranged a time for them to
8 extract the data from the phone and they required a
9 court document from us which would be a search
10 warrant for them to extract the data.

11 Q. Were you able to determine what service
12 provider was actually providing service for this
13 phone?

14 A. Yes, it was AT&T Wireless.

15 Q. Were you able to get a search warrant
16 for that information as well?

17 A. Yes. During our normal duties if we
18 have a phone we most of the time will do two search
19 warrants. We will do a search warrant to extract
20 the data and we will also send it to the actual
21 cell phone providers as well so we can match the
22 data records up.

23 Q. I would like to show you what's been
24 introduced as State's Exhibit No. 40. May I
25 approach the witness, Your Honor? Can you tell the

1 jury what that is?

2 A. State's Exhibit 40 is a subscriber
3 information document. Whenever we send a court
4 order off to cell phone providers they will provide
5 us with subscriber information. And in this case
6 it lists the subscriber as James Biggs with the
7 address of 102 Larson Drive, Summerville, South
8 Carolina. It shows that the plan had been
9 activated since about March of 2015.

10 Q. And you mentioned that you were also
11 able to perform -- also sent the phone to SLED
12 because it had a lock on it; is that correct?

13 A. That's correct.

14 Q. Okay. And were you present for the
15 testimony of Ms. Brantley earlier from SLED
16 regarding that extraction?

17 A. Yes, I was.

18 Q. May I approach the witness, Your Honor?

19 THE COURT: You may.

20 Q. Showing you what is State's Exhibit No.
21 38, do you recognize those documents?

22 A. Yes, I do. This would have been a --
23 this is an excerpt from the actual extraction
24 report when they used the Cellebrite device and the
25 data is extracted and is placed into a PDF report

1 for us and the PDF reports can be sometimes several
2 thousand pages long depending on the amount of data
3 that's on the phone.

4 Q. And are those -- can you tell the jury
5 what the time frame are for the records that are in
6 front of you right now?

7 A. When SLED did the extraction on this
8 cell phone in this case the times were placed in
9 UTC which is universal time code which is also the
10 same thing as Greenwich Mean Time. So that would
11 be in this case when this homicide occurred, the
12 UTC would be five hours ahead of actually Eastern
13 Standard Time. So in the records provided for both
14 the AT&T records as well as the extraction report
15 you have to subtract five hours from that to
16 actually get Eastern Standard Time.

17 Q. I would like to now show you what's
18 been marked as State's Exhibits 43 and 44. Do you
19 recognize those documents?

20 A. Yes, I do.

21 Q. What are those documents?

22 A. These documents are excerpts from
23 the SMS which are text messages and call logs from
24 the extraction that was done by SLED on the phone
25 belonging to James Biggs in the pink and white

1 colored case.

2 Q. So specifically what is State's Exhibit
3 No. 43 showing you there?

4 A. Four excerpts of text messages that
5 were from the extraction report and what we have
6 done here is the original data that was extracted
7 from the phone and beside that I have written out
8 the actual Eastern Standard Time. I converted it
9 from UTC to Eastern Standard and then based on our
10 investigation, the extraction report will list the
11 actual phone number that the person corresponded
12 with. And it will list the date and time they
13 corresponded and so from the investigation just
14 have gone back and identified the actual phone
15 number to the actual user of that.

16 Q. So, Investigator Smith, are the records
17 that you are referring to which is Exhibit 43, are
18 those same things the cell phone records that we
19 have just shown you?

20 A. Yes. Same records that were in the
21 extraction report, it is just I have written on
22 there actual Eastern Standard Time to make it
23 easier to read as well as actually identifying the
24 user of the phone call or the phone number that
25 they corresponded with.

1 MS. MIMS: Your Honor, at this time I
2 would ask to introduce State's Exhibit 43 into
3 evidence.

4 MR. BYRD: No objection.

5 THE COURT: Very well.

6 (STATE'S EXH. 43 in evidence.)

7 BY MS. MIMS:

8 Q. Could you please explain to the jury
9 State's Exhibit No. 44. What exactly is that as
10 well?

11 A. 44 is basically the same thing,
12 however, this is an excerpt of the call logs. So
13 when the Cellebrite downloads the data from the
14 cell phone it shows the actual incoming calls,
15 outgoing calls, missed calls. It will provide us
16 with the phone number that the person corresponded
17 with and if the phone number they corresponded with
18 is in the phone book itself or the contact it will
19 place what the actual name is from the person's
20 contacts. It also has the date and time on there
21 and the actual date that it uses here is UTC. Also
22 lists the duration of the phone call that the
23 person had either incoming or outgoing at that
24 time. And so with this one this is the actual
25 records that were here and then on the side here I

1 have done the same where I have written out the
2 actual person's name who they were corresponding
3 with and then converted the time to Eastern
4 Standard Time.

5 Q. So have you altered the phone records
6 from SLED in any way?

7 A. They weren't altered. I just added
8 that other information to make it easier to read.

9 Q. For clarification?

10 A. Correct.

11 MS. MIMS: Your Honor, at this time I
12 would ask State's Exhibit 44 be admitted into
13 evidence.

14 MR. BYRD: No objection.

15 THE COURT: Very well.

16 (STATE'S EXH. 44 in evidence.)

17 MS. MIMS: Permission to publish, Your
18 Honor?

19 THE COURT: Yes.

20 BY MS. MIMS:

21 Q. Detective Smith, through your
22 investigation or while listening to the testimony
23 have you heard from the witnesses who were in
24 contact with the Defendant that day?

25 A. Yes, I have.

1 Q. Okay. So can you start by describing
2 what we are looking at right now? What is this?

3 A. This is the call logs. They were taken
4 from the cell phone during the extraction at SLED.
5 And this will start from the most recent and then
6 we will go back further in time.

7 Q. To begin with can you tell referring to
8 State's Exhibit No. 44, can you tell us is this --
9 what document are we looking at?

10 A. This is the document that I have
11 written on that I have written the actual caller ID
12 or caller's name on there as well as Eastern
13 Standard Time and came from the extraction report.

14 Q. So these are calls that are coming in?

15 A. They could be either missed calls,
16 incoming or outgoing calls.

17 Q. And so that first column is showing --
18 is that first column showing us what type of call
19 that is?

20 A. Yes. Actually the first column is just
21 the line number that corresponds with the data.
22 The second column would be the missed call or
23 outgoing call or incoming call and the next line
24 over. That would be the parties. So it's missed
25 call, who the missed call is from and their phone

1 number, and if that phone number is in the phone
2 book it would then input that data as well. And
3 then the next column would be the time stamp which
4 would be the date and the time and that time is in
5 UTC which is five hours in this case ahead of
6 Eastern Standard and the duration of the call.

7 Q. And you have created the other two
8 columns?

9 A. Correct.

10 Q. And other caller is going to be?

11 A. The person's name that corresponds with
12 the phone number and then the Eastern Standard Time
13 would be just the conversion from UTC to Eastern
14 Standard.

15 Q. You have heard from -- do you recall
16 while you were sitting here and through your
17 investigation hearing Mr. Hunter Eadie?

18 A. Yes, I do.

19 Q. And are the records that are on the
20 call log reflecting incoming or outgoing calls from
21 him?

22 A. Yes. There's numerous calls on
23 November 30th, 2015, that are missed calls,
24 outgoing calls and incoming calls from Hunter
25 Eadie.

1 Q. And what time are we starting out with
2 Hunter Eadie?

3 A. It would be about 5:08 p.m. Eastern
4 Standard time and UTC is 10:08.

5 Q. And just to remind the jury, could you
6 tell us one more time what time did the 911 calls
7 come in about this murder?

8 A. The 911 calls time in about 6:02 p.m.
9 and that would be Eastern Standard Time.

10 Q. And so we have a few calls from Hunter
11 Eadie. Are they incoming or outgoing or both?

12 A. The very bottom call is a missed call,
13 that's from Hunter Eadie about 5:08 p.m. and goes
14 to outgoing to Hunter Eadie and then there would be
15 another incoming call from Hunter Eadie 5:22 p.m.
16 and then go back up to another incoming call from
17 Hunter Eadie at 5:26 p.m. A missed call from
18 Hunter Eadie at 5:28 p.m. Another incoming call
19 from Hunter Eadie at 5:32 p.m. and there's an
20 outgoing call to Hunter Eadie at 5:40 p.m.

21 Q. Through your investigation of this case
22 were you able to come in contact with Brian Woodall
23 and Emily Robbins?

24 A. Yes, both Brandon Woodall and Emily
25 Robbins.

1 Q. Were you able to determine their phone
2 numbers as a part of your investigation?

3 A. Yes, we were.

4 Q. And what were their phone numbers?

5 A. The one phone number was 843-714-1645.
6 And that was for Emily Robbins and then the other
7 phone number that we had was 843-412-3437 for
8 Brandon Woodall.

9 Q. And through the course of your
10 investigation and listening to testimony did you
11 see if there were any calls made to or from Brandon
12 or Emily?

13 A. Yes.

14 Q. On that day?

15 A. Yes.

16 Q. Do you have any on this call log in
17 front of you right now?

18 A. Not on this. The phone calls were
19 early in the day. But, however, there were text
20 messages with them.

21 Q. We will get to that in just a minute.
22 No problem. Were you able to determine through the
23 course of your investigation who else may have
24 called Mr. Biggs during that hour before the murder
25 that day?

1 A. Yes.

2 Q. Who else did you -- you have a Jazzmin
3 Scott there. Who is that?

4 A. Jazzmin Scott was identified as the
5 girlfriend of James Biggs during the investigation.

6 Q. What was her phone number?

7 A. Her phone number was 843-310-9357.

8 Q. What time did she call?

9 A. There was an incoming call from Jazzmin
10 Scott about 5:40 p.m. and then there was also
11 another call at 5:53 p.m. that was an outgoing call
12 to Jazzmin Scott.

13 Q. And do you have any phone calls from
14 Tyrell Miles?

15 A. Yes, we do.

16 Q. And through the course of your
17 investigation what did you figure out that his
18 phone number was?

19 A. The phone number that Tyrell Miles was
20 using at the time was 843-324-1762.

21 Q. Was Tyrell Miles one of the victims in
22 this case?

23 A. Yes, he was.

24 Q. And can you tell us about the phone
25 calls between Mr. Miles and Mr. Biggs on

1 November 30th of 2015?

2 A. Yes. There's an incoming call from
3 Tyrell Miles at approximately 5:43 p.m., there's a
4 missed call from Tyrell Miles about 5:57 p.m.
5 There's another missed call from Tyrell Miles just
6 right after 5:57 p.m. and there's an incoming call
7 from Tyrell Miles at 5:58 p.m.

8 Q. Okay. And an incoming call from Tyrell
9 Miles at 5:58?

10 A. That's correct.

11 Q. And what's the duration of that call?

12 A. About 35 seconds.

13 Q. And so that means essentially that
14 Tyrell Miles was calling who?

15 A. That was an incoming call from Tyrell
16 Miles to James Biggs, the owner of this phone.

17 Q. Were you present for the testimony of
18 Tiffany Bowens in this case?

19 A. Yes, I was.

20 Q. Who was she?

21 A. She was the wife of Tyrell Miles.

22 Q. And did you hear her talk about a
23 nickname for Tyrell?

24 A. Yes.

25 Q. What was that?

1 A. His nickname was Butta.

2 Q. Is that name on this phone log?

3 A. It is. As I said earlier, the
4 Cellebrite will extract the contacts from the phone
5 and it places that with a phone number. In this
6 case it was in the phone as Butta, B-U-T-T-A.

7 Q. And is there someone else that calls
8 Mr. Biggs that night? Through the course of your
9 investigation were you able to determine who
10 Latasha Marion is?

11 A. Yes. Latasha Marion is the mother of
12 James Biggs. That was the first missed call at
13 6:05 p.m. which would have been just several
14 minutes after the first 911 calls.

15 Q. Several minutes after. Was that a
16 missed call?

17 A. That was a missed call, yes.

18 Q. So the last call that Mr. Biggs made
19 from that phone was to who?

20 A. It was -- the last completed call was
21 an incoming call from Tyrell Miles at 5:58 p.m.

22 Q. And from 5:58 p.m. until the first 911
23 calls come what was the duration, the lapse of time
24 in there?

25 A. Sorry?

1 Q. What's the distance in time from 5:58
2 until the first 911 calls come in?

3 A. About four minutes.

4 Q. I would also like to show you what's
5 been marked as State's Exhibit No. 43. Could you
6 please tell us what we are looking at here?

7 A. This is the extraction report. This is
8 an excerpt from the text messages that were found
9 on the cell phone that was completed by SLED. And
10 in this case also has the -- each line
11 corresponding one received text message, got the
12 party, the phone number that it either came from or
13 was sent to and then got their name if they were in
14 the contacts and got the date and time if it was
15 sent or received and that time is in Universal Time
16 Code and then if the message was able to be
17 extracted by the device then it displays that
18 message on the side.

19 Q. So is this your handwriting on the
20 side?

21 A. Yes, it is. I've written in the time
22 in Eastern Standard, converted it and then wrote
23 down the person whose name corresponds with the
24 phone number and those lines of data.

25 Q. If I am looking at the very top of that

1 page would you instruct me what those lines are
2 showing me? There is folder and party and time.
3 It says sent. Can you explain to me that what
4 means?

5 A. Yes. If the device is able to
6 determine if the text message was sent or received
7 it would put that information there. And then the
8 party would be the party that they are
9 corresponding with. So if the text was from
10 somebody or if it was to somebody it would place
11 that information there being the phone number and
12 the contact and the date and time. And then the
13 status. Status would be if it was completed or if
14 in this case some of them were unknowns. The
15 machine didn't determine whether it was completed
16 or not.

17 Q. Unknown just means that they couldn't
18 figure it out?

19 A. Right. Sometimes the data may not be
20 there whenever the device extracts the information.

21 Q. Okay. Through the course of your
22 investigation from what you've seen from the
23 records were you able to determine whether Mr.
24 Biggs had any texts or corresponded with Hunter
25 Eadie through text message or SMS?

1 A. Yes.

2 Q. What time was that?

3 A. That occurred on November 30th, 2015,
4 first one being about 5:10 p.m. and then again on
5 5:18 p.m.

6 Q. Okay. And through your investigation
7 were you able to determine if he corresponded with
8 Emily Robbins?

9 A. Yes. That occurred November 30th,
10 2015, about 5:30 p.m. then again and about
11 5:31 p.m.

12 Q. And finally did he correspond with
13 Tyrell Miles?

14 A. Yes. On November 30th, 2015, about
15 5:46 p.m. and then shortly thereafter 5:46 p.m.
16 again.

17 Q. So the last column is for what again?

18 A. It's for messages if the device is able
19 to extract the data and then decipher that into
20 what this actual message was, then it would input
21 that into the report.

22 Q. Are we able to see any of the messages?

23 A. The one message that it was able to
24 extract was the one sent to Tyrell Miles on
25 November 30th, 2015, about 5:46 p.m. and the

1 message was 104 Lisa Drive.

2 Q. 5:46 p.m. was how many minutes before
3 the 911 call came in?

4 A. It was 15 minutes.

5 Q. And it says 104 Lisa Drive?

6 A. That's correct.

7 Q. I'm going to show you what's been
8 marked as State's Exhibit No. 2. Do you recognize
9 this?

10 A. Yes, I do.

11 Q. What is this?

12 A. That's an aerial map of the section of
13 the Greenhurst neighborhood that includes Larson
14 Drive and Lisa Drive.

15 Q. I'm going to put this here. May the
16 witness step down, Your Honor?

17 THE COURT: Yes.

18 Q. Detective Smith, could you show us
19 where 104 Lisa Drive is?

20 A. 104 Lisa Drive would be there.

21 Q. Could you show us where 102 Larson is?

22 A. Right there.

23 Q. And is that where the murder took
24 place?

25 A. The murder occurred at 102 Larson

1 Drive.

2 Q. How far would you say it is from 104 to
3 102 Larson?

4 A. Possibly 50 yards, if that.

5 Q. Have you been sitting here through the
6 course of this trial?

7 A. Yes, I have.

8 Q. Have you heard the testimony of Hunter
9 Eadie?

10 A. Yes, I have.

11 Q. Do you recall if he was also told to go
12 somewhere on Lisa Drive?

13 A. Yes, he also told us that he was
14 instructed to meet James Biggs at 104 Lisa Drive as
15 well.

16 Q. Beg the Court's indulgence, Your Honor.

17 THE COURT: All right.

18 BY MS. MIMS:

19 Q. Detective Smith, going back to the rest
20 of your investigation, did you ever talk to anyone
21 who found out if anyone had actually been present
22 at that scene or seen anything when the murder took
23 place?

24 A. Yes. We identified Brandon Woodall and
25 Emily Robbins through the course of the

1 investigation and identified them as being parked
2 in the driveway of 102 Larson Drive at the time of
3 the shooting.

4 Q. And how were you able to determine that
5 they were there at that time?

6 A. We had information from Brandon Stancil
7 who said that he was inside the house at the time
8 of the shooting, waited after he heard the last
9 gunshots and then looked outside and saw a vehicle
10 in the driveway. At that time we had also found
11 their phone numbers corresponding with James Biggs
12 on the day of the incident as well.

13 Q. Did you -- were you able to contact
14 Emily and Brandon?

15 A. Yes. We contacted both of them and
16 they both came in and spoke to us at our office.

17 Q. Did you get statements from them?

18 A. Yes, we obtained written statements and
19 verbal statements from both of them.

20 Q. Were you able to figure out if they
21 were telling you the absolute truth in those first
22 statements?

23 A. Yes. After we spoke to them the first
24 time we talked to them, the information they
25 provided didn't match up with the information that

1 we had obtained during the course of the
2 investigation and actually contradicted some
3 information. So it was determined that they had
4 either withheld or misinformed us when they talked
5 to us.

6 Q. So what did you do?

7 A. At that point in time we obtained
8 arrest warrants for both Emily Robbins and Brandon
9 Woodall for obstruction of justice. We contacted
10 both of them and advised them of the warrants and
11 then asked them to come back in and speak with us
12 about the case.

13 Q. And did they do that?

14 A. Yes, they did.

15 Q. And when they spoke to you they gave
16 you a second statement?

17 A. They did give us a second statement.

18 Q. Was that second statement that they
19 gave you pretty much what they testified to here in
20 court?

21 A. Yes, it is.

22 Q. Did you attempt to talk to everyone
23 that you thought had something to do with this
24 scene?

25 A. Yes.

1 Q. Or this crime?

2 A. Yes, we did.

3 Q. Did you attempt to talk to James Biggs?

4 A. Yes. Through the course of the
5 investigation we didn't know how James Biggs
6 factored into this incident if at all. But we did
7 try to locate him. Tried to speak to him at his
8 mother's house, his grandmother's house and then
9 also tried to track him down at his girlfriend's
10 house all of which we weren't able to locate him.

11 Q. So in the two-week period from the
12 murders until he was arrested did you have any
13 contact with him?

14 A. We had no contact with James Biggs
15 during that time.

16 Q. Did he contact you to get his phone
17 back?

18 A. No, he did not.

19 Q. Did he contact you to get his car back?

20 A. No, he did not.

21 Q. Beg the Court's indulgence, Your Honor.

22 THE COURT: All right.

23 MS. MIMS: No further questions, Your
24 Honor.

25 THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. BYRD:

Q. Good morning, how are you doing?

A. Well.

Q. Sorry, good afternoon. Apologize. I want to go through a few things with you if I could.

A. Sure.

Q. Now, you said you were the lead detective on this case; is that correct? I am using the right terminology there?

A. Yes, sir, that's correct.

Q. Supervisor.

A. I wasn't a supervisor at the time, but I was the lead investigator for the case.

Q. Thank you. And as such you said that all the information that anyone working under you and involved in this investigation, all of it would come to you, correct?

A. Yes, that's correct.

Q. Thank you. When you arrived at the scene obviously you said you collected evidence and testimony -- not testimony, but interviewed a number of people in the area, correct?

A. That's correct.

1 Q. Did you get any indication of any other
2 individuals being on the scene at that time other
3 the ones you have mentioned in your testimony so
4 far?

5 A. No.

6 Q. Did you get information about other
7 vehicles leaving the scene other than that vehicle
8 you attributed to Mr. Woodall and Ms. Robbins?

9 A. We spoke to several neighbors who
10 described several vehicles. They weren't specific
11 about it, but they said they saw some vehicles
12 leaving, but those were never identified.

13 Q. And did you receive information there
14 was a tan Chevy Impala leaving the area very
15 quickly that night immediately after the incident?

16 A. Yes, something of that sort, yes.

17 Q. And the phone records you discussed, I
18 may have to stumble through this technology a
19 little over here. Court's indulgence one second
20 while I try to figure this out.

21 I'm looking at these SMS messages up
22 here. Zoom out a little further if I could. There
23 is one that we know was sent to you have listed as
24 phone of Tyrell Miles, correct, at the top there?

25 A. Yes, that's correct.

1 Q. And under that I see five listed and
2 unknown status. What does that mean?

3 A. Just from my training and use of the
4 device it would be that either the data was not
5 present when it extracted from the device or the
6 actual analyzer that they used to create the report
7 didn't interpret the data properly because the type
8 of extraction that they would have used this would
9 have taken the 1's and 0's of the cell phone and
10 then the program then creates it back into readable
11 data.

12 Q. Okay. And I want to also draw your
13 attention if I could to -- I was looking at the
14 phone calls. We have obviously the ones from
15 Hunter Eadie, but in the middle there we have a
16 number that you did not identify. It's
17 843-879-3077. Do you know who that is?

18 A. No, I do not. There was actually two
19 on this sheet that were not identified.

20 Q. So we don't know who that is?

21 A. They weren't identified through the
22 course of the investigation.

23 Q. Thank you very much. Now, obviously
24 you spoke to a great number of people, large number
25 of people dealing with this case, right,

1 investigating it?

2 A. Yes.

3 Q. And at any point did you investigate
4 this case as a robbery?

5 A. No, it was a homicide.

6 Q. Did you investigate any other angles
7 that would have indicated that a robbery was
8 involved?

9 A. We took other factors into play during
10 the course of investigation, yes.

11 Q. Did you receive any information that
12 would indicate that a robbery was, in fact,
13 involved?

14 A. There was an allegation, but it was
15 uncorroborated.

16 Q. And what allegation was that?

17 MS. MIMS: Your Honor, I object to
18 hearsay.

19 MR. BYRD: I am not asking to tell me
20 what any particular individual said. I am just
21 asking what the allegation was, Judge.

22 THE COURT: You are eliciting hearsay.
23 If you have an exception I am happy to hear from
24 you.

25 MR. BYRD: Not at this time, Judge.

1 THE COURT: Sustained.

2 BY MR. BYRD:

3 Q. We will move on for just a second for
4 that, Your Honor. You said that all the
5 information that's been collected in the course of
6 the investigation is brought to you?

7 A. That is correct.

8 Q. Would that include gunshot residue?

9 A. Yes.

10 Q. Any investigation into gunshot residue
11 on the Defendant or on the victims?

12 A. The reports would be provided to me,
13 yes.

14 Q. Do you recall seeing those?

15 A. I would have to look back at the
16 reports to tell you any information about that.

17 Q. You don't recall whether gunshot
18 residue was extracted?

19 A. I don't recall off the top of my head,
20 no.

21 Q. Is this your official report what I am
22 -- may I approach?

23 THE COURT: You may.

24 THE WITNESS: Yes, that is.

25 BY MR. BYRD:

1 Q. Thank you. Obviously you are trained
2 to keep reports because it's hard to remember
3 things later?

4 A. That's correct.

5 Q. And if your report contained
6 information that gunshot residue wasn't taken that
7 would be accurate information?

8 A. Yes, it would.

9 Q. Your Honor, if I might use this to
10 refresh recollection.

11 THE COURT: Sure.

12 BY MR. BYRD:

13 Q. If I may approach. Let me give you the
14 whole thing. If you will please focus for a moment
15 on the final page right at the very end, half last
16 page of the report. Do you see anything there --

17 A. What page?

18 Q. The very last page. Do you see
19 anything there on the last page indicating whether
20 gunshot residue was taken?

21 A. Yes, I do.

22 Q. And was it?

23 A. It was SLED or the SLED lab report was
24 completed and said that there was both Tyrell
25 Miles --

1 MS. MIMS: I will object to the
2 hearsay. It is hearsay testimony.

3 THE COURT: That's not how you use a
4 report to refresh his recollection. I sustain the
5 objection.

6 MR. BYRD: Thank you, Your Honor.
7 BY MR. BYRD:

8 Q. Do you recall -- I'm going to go
9 through a couple other things with you, but if you
10 don't recall that's absolutely fine. I just want
11 to bring them up if I could. Do you recall if
12 fingerprints were taken from the scene?

13 A. Yes.

14 Q. DNA samples?

15 A. Yes.

16 Q. Do you remember if bullet trajectory
17 was analyzed at the scene?

18 A. It wasn't at the scene. They processed
19 the vehicle later on.

20 Q. But that was analyzed later?

21 A. Yes.

22 Q. Thank you. You said that Mr. Biggs did
23 not contact you to recover the vehicle, correct?

24 A. That's correct.

25 Q. And you gave the license plate number.

1 The vehicle is not registered to Mr. Biggs,
2 correct?

3 A. It's registered to his mother.

4 Q. But not to him. Would that make it
5 impossible for him to recover the vehicle?

6 A. Not impossible, no. He would have to
7 come with his mother.

8 Q. She would also have to come?

9 A. That's correct.

10 Q. Or she could just come?

11 A. She could, yes.

12 Q. He couldn't do it by myself is my
13 point?

14 A. Yes, he would have to show the title
15 and the registration information.

16 Q. Thank you. Beg the Court's indulgence,
17 Your Honor.

18 THE COURT: All right.

19 (Off-the-record conference.)

20 BY MR. BYRD:

21 Q. Detective, circle back one second. You
22 stated that in your investigation you received an
23 allegation of a robbery that was not corroborated,
24 correct?

25 A. Yes.

1 Q. And in the course of investigating that
2 allegation did you speak with Kelvin DeAndre
3 Armstrong?

4 A. Yes.

5 Q. Who is Kelvin DeAndre Armstrong?

6 A. It's the brother of Jamal.

7 Q. Does he go by any other name that you
8 know?

9 A. Too Hot I believe.

10 Q. And did you ask him -- your words, did
11 you ask him if he felt guilty because he said --

12 MS. MIMS: Object, Your Honor.

13 MR. BYRD: His words, Your Honor.

14 THE COURT: Come up.

15 (Off-the-record conference.)

16 THE COURT: Ladies and gentlemen, this
17 is a matter I must take up outside your presence.
18 Why don't I let you go to lunch. No, you had
19 doughnuts. Ladies and gentlemen, I think we will
20 take our lunch -- I'm going to ask you to step to
21 your jury room. Do not discuss this matter or
22 allow anyone to discuss it with you. There is a
23 matter I must take up outside your presence. If
24 it's going to be a little more lengthy I will let
25 you go to lunch. If you will step to the jury

1 room, please.

2 (Thereupon, the jury exited the
3 courtroom at 12:28 p.m.)

4 THE COURT: Okay. Go ahead, put your
5 -- you may need your report back.

6 MR. BYRD: Thank you, Your Honor.

7 THE COURT: Do you want to -- just ask
8 him the question?

9 MR. BYRD: Yes, Your Honor.

10 THE COURT: All right.

11 BY MR. BYRD:

12 Q. Detective Smith, what I asked you is
13 did you ask Mr. Armstrong, Kelvin DeAndre
14 Armstrong, if he felt guilty because he set up
15 Jamal and Terrell to do the robbery and it caused
16 them to get shot and killed?

17 A. Yes.

18 Q. Did you further state or believe that
19 -- did you believe that Kelvin DeAndre Armstrong
20 may have had some complicity to the incident?

21 A. I am sorry. Are you asking a question
22 as what I asked him?

23 Q. Did you feel that way?

24 A. I felt that he was being evasive to us
25 in answering the questions.

1 Q. If I may, in your report it says he may
2 have had some complicity to the incident?

3 A. Direct me.

4 Q. Top of page 20.

5 A. Top of page 20. That's the information
6 that's in my report, yes.

7 Q. And by complicit do you mean that they
8 possibly could have robbed him?

9 A. Possibly. It was uncorroborated
10 because the original complainant who called us
11 about this information never came forward to
12 officially speak with us.

13 Q. My question would be what's complicit
14 mean to you?

15 A. Means he could have either known about
16 it beforehand or set it up or could have proceeded
17 from something afterwards.

18 Q. Thank you.

19 MR. BYRD: Thank you.

20 THE COURT: Okay. Yes.

21 MS. MIMS: Can I ask him a question,
22 Your Honor?

23 THE COURT: Absolutely.

24 BY MS. MIMS:

25 Q. Detective, reviewing your report do you

1 make -- when you are talking about dealing with
2 Kelvin Armstrong on the top of page 19 what is the
3 very first line of page 19?

4 A. Said made a note that we had received
5 uncorroborated information that Kelvin DeAndre
6 Armstrong may have set up the robbery which in turn
7 got his brother killed.

8 Q. Did you say uncorroborated?

9 A. That's correct.

10 Q. Did you ever corroborate?

11 A. No, we did not.

12 Q. Were you able to?

13 A. No.

14 Q. Did you receive other information in
15 this case about this incident?

16 A. That was the only information that we
17 received about that.

18 Q. But you were not able to corroborate
19 anything like that?

20 A. No.

21 Q. Did you ask Kelvin Armstrong about
22 that?

23 A. I did.

24 Q. And did he admit it?

25 A. He denied it.

1 Q. He denied it. So it remained
2 uncorroborated?

3 A. That's correct.

4 Q. And what is the date -- I am looking at
5 where you talk about what your thoughts are on
6 Kelvin Armstrong at that time. What's the date
7 that you made that note?

8 A. December 15th, 2015.

9 Q. Had Mr. Biggs even been arrested at
10 that point?

11 A. Not at the time.

12 Q. This is early in your investigation?

13 A. Yes.

14 Q. Okay. Is this just where you were on
15 the December 15th?

16 A. That's correct.

17 Q. Were you still trying to figure things
18 out on December 15th?

19 A. Yes.

20 MS. MIMS: No further questions, Your
21 Honor.

22 BY MR. BYRD:

23 Q. We have established uncorroborated.
24 Was it completely ruled out?

25 A. I mean it was ruled out. We couldn't

1 -- we did not have any evidence or any other
2 witnesses or information to support it.

3 Q. You still felt at that point that he
4 was complicit, correct?

5 A. Well, I had to track it down because
6 the information was provided to me. That was part
7 of the investigation.

8 Q. Thank you.

9 THE COURT: All right. Here's what
10 concerns me. It is in the record at this point the
11 question that Mr. Byrd asked this witness did you
12 investigate this as a robbery or did you receive
13 information that at some point that this was a
14 robbery. That is in this record without objection.
15 And he indicates that there was uncorroborated
16 information that was received. So the question
17 that I am considering is whether that certainly
18 opens the door for fair examination on
19 cross-examination about that part of the
20 investigation and that's the basis that you all are
21 seeking to ask him these questions; is that right,
22 Mr. Byrd?

23 MR. BYRD: That's correct, Your Honor.

24 THE COURT: All right. Tell me why he
25 is not entitled to do that.

1 MR. SORENSON: My position on that,
2 Your Honor, would be, you know, the very limited
3 question did you investigate an allegation of a
4 robbery. Yes, but it was uncorroborated. You're
5 saying that opened the door. Well, that's his
6 question. So he is asking the question to open the
7 door to then let him get what would be otherwise
8 inadmissible testimony in?

9 THE COURT: Tell me why it is
10 inadmissible.

11 MR. SORENSON: Because I think -- well,
12 it is hearsay, part of it. I don't see how it is
13 relevant for one thing. He is asking him basically
14 just to get into what he asked the person. I mean
15 it implies that it's true if you're saying what did
16 you ask him when he's got all throughout his
17 report. Yet again this is pre him even being
18 arrested, all through his report that it's
19 uncorroborated. So just every tip that comes in
20 they are allowed to just ask him what -- there's no
21 -- if somebody had called in and said that, you
22 know, John Doe did it. And they followed it up and
23 asked John Doe and then they are going to use that
24 basically to argue then that John Doe did it even
25 though he put in his report it's uncorroborated

1 that John Doe did it. I did follow up and ask did
2 you do it. That's basically what they are trying
3 to get in is that.

4 How is that admissible? I mean it's --
5 the fact that he asked Kelvin Armstrong, I mean
6 they thought he was holding something back at that
7 point in time. You go through and read the whole
8 report there's more to it than that. They thought
9 he was under the influence of something and just
10 kind of acting not quite right when they were
11 talking to him. So that kind of played into it,
12 but nothing -- they were unable to ever corroborate
13 that information, any of that information
14 afterwards. I think it would be different maybe if
15 they are calling the person they had gotten this
16 information from and they had some first-hand
17 knowledge to testify about. That's a different
18 story. Could be some other objection we might
19 have, but that would be different than just trying
20 to get that in through part of the investigation.
21 I think it would be different if maybe we had asked
22 these questions to start with on direct.

23 THE COURT: I understand.

24 MR. SORENSON: I don't see how they can
25 open the door themselves to get into evidence.

1 THE COURT: I understand. I guess what
2 concerns me is that it got responded to and the
3 response was it was uncorroborated and so the
4 question is do we end there. It was
5 uncorroborated. I don't know, I haven't looked at
6 the report. Maybe one of the things I need to do
7 is just take a second and look at this report. I
8 have got these two pages. If these are the only
9 two pages you all think I need to look at, I am
10 happy to just look at these two pages.

11 MR. SORENSON: And I think I will agree
12 with you, Your Honor, that it would be different if
13 there was -- he testified it was uncorroborated.
14 If there was information was that different from
15 that that corroborated it, then obviously I think
16 they can cross-examine him on that. But guess
17 what? This and this and this. It was information
18 that a witness provided that had nothing else that
19 corroborated it. They attempted to follow up with
20 the one person. They have never gotten anything
21 else that has -- that has corroborated that.

22 MR. BYRD: Your Honor, I think a lot of
23 Mr. Sorenson's concerns could be cured and
24 clarified on their redirect. I also believe it is
25 more important, as important, not more important,

1 that the detective in the course of his
2 investigation believed that that particular
3 individual was complicit in the incident. I think
4 that is very important to part of his investigation
5 that the Defendant was, in fact, being robbed.

6 MR. SORENSON: We can turn around and
7 ask him the same question. It is your belief that
8 he is guilty? That's basically what they are
9 asking him. That's --

10 THE COURT: Here's what I think you can
11 do. I think you can ask him -- I agree with this
12 part of Mr. Sorenson's argument. I think that you
13 can certainly cross-examine him fully on why do you
14 say it is uncorroborated. Did you look for any
15 corroboration. Isn't this something that
16 corroborates it. But the reality is that this
17 officer's, this detective's impressions, it's
18 interesting, but it isn't relevant. But whether or
19 not he feels like somebody is telling him the truth
20 or not is of no moment. I don't think -- I
21 certainly don't want to get into the business of
22 allowing detectives to testify regarding whether or
23 not someone is telling the truth. That invades the
24 purview of the jury. The jury's got to figure out
25 whether or not folks are telling the truth or not.

1 I think, though, you certainly can go into you say
2 it's uncorroborated. Doesn't this corroborate it.
3 Did you look for further whatever. And I think you
4 can certainly get into that. I agree with that
5 part of what Mr. Sorenson has argued in that if you
6 have information that it, in fact, was
7 corroborated, it being the allegations of robbery,
8 if that was or they failed or law enforcement
9 failed to investigate that aspect you can certainly
10 ask that of him. Do you want him to do that off
11 the record?

12 MR. SORENSON: I think I would like to
13 see.

14 THE COURT: You are welcome to go into
15 that. His impressions are not relevant. They are
16 not relevant because that's the purview of the
17 jury. But go ahead if you want to ask him about
18 the corroboration or lack thereof.

19 MR. BYRD: Give me one second, Judge.

20 THE COURT: Sure.

21 BY MR. BYRD:

22 Q. In investigating this case did you at
23 any point investigate it as a robbery or that a
24 robbery was involved in the incident?

25 A. That was investigated, yes.

1 Q. Okay. Did you receive information from
2 various individuals which furthered that
3 investigation for a time?

4 A. It was only one phone call that was
5 received by Detective Carson that the person never
6 came forward with, didn't provide their name and we
7 tried to trace the call back and never were able to
8 identify who this person was.

9 Q. And did that phone call involve any
10 particular individual's involvement in the robbery?

11 A. Yes.

12 Q. Whose?

13 A. They named Kelvin Armstrong.

14 Q. Did you receive a call from an
15 individual named Nicholas?

16 A. Yes.

17 Q. And what did Nicholas -- I apologize.
18 Withdraw that, Your Honor. Did that information
19 further the investigation of a robbery?

20 A. The information from Nicholas was
21 basically to identify Brandon Woodall and Emily
22 Robbins or identify Brandon Woodall.

23 Q. Is it true that --

24 THE COURT: Let me ask you to answer
25 that yes or no.

1 THE WITNESS: I have to look back at
2 which page you are referring to.

3 MR. BYRD: I'm on 10 of 27.

4 THE COURT: Because I think the
5 question was did that phone call from Nichols
6 further the --

7 MR. BYRD: Investigation into a robbery
8 from Nicholas.

9 THE COURT: Okay. That was the
10 question.

11 THE WITNESS: No, it did not.
12 BY MR. BYRD:

13 Q. Did not. And you stated that the
14 information related to the robbery was
15 uncorroborated as to Kelvin DeAndre Armstrong,
16 correct?

17 A. That's correct.

18 Q. And is uncorroborated the same as ruled
19 out for you?

20 A. At that time -- well, that was earlier
21 in the investigation, but obviously at the end of
22 it yes, it was.

23 Q. You didn't follow up on it in other
24 words?

25 A. We did follow up. We spoke with Kelvin

1 Armstrong about it and we tried to track down the
2 actual caller who gave the information, but never
3 identified them or tracked them down.

4 Q. Okay. Thank you. Court's indulgence?

5 THE COURT: Okay.

6 Q. The Nicholas individual, that was
7 Nicholas Ravenel?

8 A. He wished to remain anonymous during
9 the course of the investigation and would never
10 come forward.

11 THE COURT: Ask that question again. I
12 am sorry.

13 MR. BYRD: The Nicholas individual, I
14 mentioned his full name, Your Honor.

15 THE COURT: Okay.

16 MR. BYRD: And I am happy to stop
17 beating around the bush if it helps, Judge. The
18 question here is that did or did not this
19 individual indicate that the victims in this case
20 were, in fact, there to rob James Biggs?

21 THE WITNESS: He never used the word
22 rob that I have in my report. I said that they
23 grabbed James Biggs, but he never used the word
24 robbery or rob.

25 BY MR. BYRD:

1 Q. But specifically says grabbed him from
2 behind and starting going through his pockets?

3 A. Yes, he did say that.

4 MR. BYRD: Nothing further.

5 THE COURT: Okay. Well, let me just --
6 here is my concern. I have let you do that outside
7 the presence of the jury. There are going to be --
8 I am confident there are going to be hearsay
9 objections. You didn't make those because it's
10 obviously a proffer about the tip because it's an
11 anonymous tip. I gather they tried to make it not,
12 but it was anonymous. It was an anonymous tip and
13 what gets said in the anonymous tip is inadmissible
14 because you could give me some other indicia of
15 reliability. Because I know of no hearsay
16 exception that would apply. You can ask him and I
17 think you perhaps have, but you can certainly ask
18 him as a result what did you do, we investigated
19 it. But what got said is not admissible.

20 And then Nicholas, this person
21 Nicholas, that might be Nicholas, might not be
22 Nicholas, that's hearsay. You could ask did you
23 get a call from Nicholas. He could say yes. What
24 did you do as a result of the call. We
25 investigated it. What did you investigate. The

1 case. Whatever he says he says. But what Nicholas
2 says is inadmissible. So I think that's where we
3 are and where we are with it.

4 MR. BYRD: So essentially, Judge, in my
5 questioning when the jury is back I am essentially
6 asking if there was, in fact, an investigation, as
7 part of the investigation if he investigated it as
8 a robbery being part of this incident. Obviously
9 we have gone through that. He says yes, it was
10 uncorroborated.

11 THE COURT: Right.

12 MR. BYRD: And then at that point I
13 want to make sure I am not stepping on any toes.
14 Am I allowed to ask the nature of that
15 investigation or say did it indicate any particular
16 individual and if he says yes this particular
17 individual, but it was uncorroborated, then done.

18 MR. SORENSON: That's already been
19 asked and answered.

20 THE COURT: You have asked -- as I
21 recall you asked him was it investigated. Did you
22 investigate this as a robbery and he said yes, but
23 it was uncorroborated.

24 MR. BYRD: Okay. I apologize. I have
25 gone through it three times. I can't remember

1 where I left it.

2 THE COURT: If you need to follow that
3 up, I don't know follow up what did you do, you can
4 ask him what did you do. He will tell you what he
5 did.

6 MR. BYRD: As part of the
7 investigation.

8 THE COURT: Sure. I did everything I
9 could possibly do. We heard that. Did everything
10 I possibly knew. Tried to reach anybody I could,
11 tried to corroborate. There was nothing there
12 essentially, but you can ask that if you want to.

13 MR. BYRD: Thank you, Judge.

14 THE COURT: Jury, please.

15 (Whereupon the jury entered the
16 courtroom at 12:52 p.m.)

17 THE COURT: All right. You may
18 proceed.

19 BY MR. BYRD:

20 Q. Thank you very much, Your Honor. Last
21 question on the subject we were on. In your
22 investigation of a robbery of Mr. Biggs being part
23 of this incident you said -- was that corroborated?

24 A. No, it was not.

25 Q. Thank you. And with Brandon Woodall

1 and Emily Robbins, are you the one that brought the
2 obstruction charges against them?

3 A. Yes.

4 Q. And it was after the charges came that
5 they changed their story, correct?

6 A. Yes.

7 Q. Okay.

8 A. They didn't change it. They told us
9 what actually happened.

10 Q. Fair enough. My question would be
11 regarding that they signed a sworn statement
12 stating that the first statement was what actually
13 happened, correct?

14 A. Yes.

15 Q. And the second statement they also
16 signed a sworn statement saying that what they are
17 saying now is what actually happened, correct?

18 A. Yes.

19 Q. Okay. Thank you. Nothing further,
20 Judge.

21 THE COURT: All right. Redirect?

22 MS. MIMS: No, Your Honor.

23 THE COURT: You can come back down.
24 Call your next witness, please.

25 MR. SORENSON: May I approach?

1 THE COURT: Yes.

2 (Off-the-record conference.)

3 THE COURT: Ladies and gentlemen, I
4 want to tell you where we are in the State's case.
5 And when I explain this I need to tell you that
6 it's just occasionally this will happen. And we
7 have to accommodate because obviously it is the
8 appropriate thing to do.

9 One of the witnesses for the State has
10 been called, was called out of town and as I
11 understand it is unavailable. I think is all the
12 way across the country. And that witness is
13 traveling back and will be with us in the morning.
14 And at this moment things in a trial, one of the
15 interesting things in a trial, many things can
16 change as it develops.

17 But as I understand it this individual
18 is at least at this moment anticipated to be the
19 last witness for the State, correct?

20 MR. SORENSON: Yes, Your Honor.

21 THE COURT: Otherwise they would
22 certainly call those witnesses now. It is
23 appropriate that we adjourn in a few moments to
24 give the State an opportunity to call that witness
25 in the morning. People are across the country they

1 are across the country and they are not in control
2 of that.

3 So we are about to adjourn for the
4 afternoon. We will reconvene in the morning. And
5 so but I wanted to explain to you that that happens
6 sometimes in a trial even with the best of planning
7 and certainly the best of intentions. That just
8 simply happens from time to time.

9 So, ladies and gentlemen, with that in
10 mind, I'm going to give you the instruction that I
11 gave you yesterday afternoon before we left one
12 another. And I don't know, does anybody remember
13 that show Allie McBeal? Say it with me and repeat
14 it. I almost feel like that because I have told
15 you all so many times. Do not discuss the case or
16 allow anyone to discuss it with you. Do not read,
17 do not listen to any reports about this matter,
18 that's the radio, the television, newspaper and the
19 internet. Do not do any Columbo, don't do any
20 research, don't look up any words. Do not use
21 social media to communicate about this case. Don't
22 communicate about it face to face.

23 And when you go home, and let me tell
24 you now, you do realize that the curiosity is going
25 to be even more heightened today than it was

1 yesterday. Remember to put it on the judge. Tell
2 whoever is curious that you have been instructed by
3 me not to discuss this matter or allow anyone to
4 discuss it with you. Don't let anybody get upset
5 with you. Put it on me and got to sleep tonight.
6 You can work on the honey do list this afternoon.
7 They will be excited that you are home and alert
8 during the day. Please forebear going to work this
9 evening so that you are rested tomorrow and ready
10 to continue with these matters. Leave your cell
11 phone away from the courthouse. If you forget and
12 it follows you into the courthouse just give it to
13 one of the bailiffs and they will take good care of
14 it while you are on the jury tomorrow. I should
15 include or other communication devices as well.
16 Your note books again will be secured over the
17 duration from now until in the morning. And then
18 they will be placed back in your seats for you when
19 you return in the morning at 9:30. Have a very
20 pleasant evening and look forward to seeing in the
21 morning at 9:30. Thank you so much.

22 (Thereupon, the jury exited the
23 courtroom at 1:00 p.m.)

24 THE COURT: All right. Let me just ask
25 this question. I have my charge that I am putting

1 together. Will there be any particular requests?
2 Don't recreate the wheel, you don't need to do
3 that, but if you have special requests I would like
4 to get them. I think you have time maybe this
5 afternoon to give those to me by e-mail. It would
6 be good to go because I am going to be working this
7 afternoon without my law clerk. We will see if I
8 know how to put a charge together.

9 MR. BYRD: Absolutely.

10 THE COURT: Very well.

11 MR. SORENSON: Do you want to -- so he
12 will have overnight to think about it?

13 THE COURT: I thought about that, but
14 you haven't rested. I don't know procedurally if
15 that is issue. I certainly don't mind doing that
16 now, but I have actually never done one prior to
17 the State resting. I thought about that, what else
18 can I do to make use of the good time while we are
19 here, but I think it's probably premature. What do
20 you think?

21 MR. BYRD: I agree, Your Honor.

22 THE COURT: Okay. I know you all are
23 continuing to have conversations and obviously I'm
24 going to be in chambers this afternoon if you need
25 any assistance in that regard or whatever. In

1 terms of your preparation, I know you are
2 continuing to prepare. If you need any kind of
3 assistance as you do that this afternoon just let
4 me know. Very well. And before you leave me, come
5 forward. Let me just ask a question.

6 (Off-the-record conference.)

7 THE COURT: All right. Now, we are
8 adjourned in this matter. And I don't want to
9 presume on behalf of the solicitor's office, but I
10 know y'all haven't been in touch, you have been
11 attending to this case, but there's nobody hanging
12 outside.

13 MR. SORENSON: I don't think we have
14 anyone from the public defender. They haven't been
15 here today.

16 THE COURT: Well, I can understand
17 that.

18 MR. SORENSON: I know they have their
19 probation revocation scheduled in the morning so I
20 assume they will just hang out and if we put our
21 witness up, especially if they put anything up in
22 close, they probably could be ready to do that
23 stuff while they are deliberating maybe. I don't
24 know. I know they have probation revocation
25 scheduled in the morning.

1 THE COURT: Exactly. If you will just
2 call them and say don't be here at 9:30 because
3 it's clearly not going to be ready for them until I
4 would say 12:30.

5 MR. SORENSON: Probably lunchtime.

6 THE COURT: Probably be after lunch.
7 But we will be available. They will be prepared to
8 start around noon, maybe 12:30-ish. They have an
9 early lunch and we can keep going because I don't
10 need to eat.

11 (These proceedings were adjourned at
12 1:04 p.m., February 22, 2018, Charleston County,
13 South Carolina.)

14 (The following proceedings were held
15 February 23, 2018, Charleston County, South
16 Carolina, @ 10:04 a.m.)

17 (STATE'S EXH. 45-61 were marked for
18 identification.)

19 THE COURT: Good morning. Yes, Mr.
20 Sorenson.

21 MR. SORENSON: Thank you, ma'am.
22 Please the Court, Your Honor, I guess obviously
23 they are going to have to object at the appropriate
24 time, but we did have a brief conference back in
25 chambers where I brought back and showed Your Honor

1 what had been marked as State's Exhibits No. 48
2 through 61 which are photos taken during the
3 autopsies of Mr. Miles and Mr. Armstrong that we
4 intend to seek to introduce with this next witness.

5 THE COURT: I understand. Thank you
6 for letting me see those photos. And I know that
7 counsel interposed an objection and intends to do
8 so on the record and as you know you must do that
9 on the record contemporaneously when they are
10 offered. I appreciate so much counsel, both of
11 you, giving me or all of you giving me an
12 opportunity to see them. I have reviewed them and
13 the ones that I have seen are not objectionable.
14 And I would like to talk a little bit about them
15 now, what I have observed, the ones that I have
16 seen.

17 They do not appear to be duplicates of
18 the same wound. It does appear that each one of
19 them is a picture of a wound. This is one that is
20 a picture of an x-ray. And let me just say since
21 the jury is not in here, I wanted to address the
22 families because I want all of you to know, both
23 sides again, particularly during the testimony of
24 the pathologist if you need to leave please feel
25 free to do that. If you are overcome with emotion,

1 please feel free to do that, take your leave.
2 That's one of the times of a trial such as this
3 it's extremely difficult for family members.
4 Please feel free to take your leave if you feel
5 yourself being overwhelmed.

6 But I would say that these photographs
7 obviously were taken without any blood present.
8 While they are in color, and while they are wounds,
9 they are clean wounds if you will. And I think
10 they are done, obviously the photographs were done
11 -- shot with a camera obviously probably by the
12 pathologist or an assistant and they are -- it is
13 conservatively done I think as possible. Obviously
14 where these wounds were, and I gather this is to
15 assist demonstratively the pathologist in
16 testifying with regards to the location of the
17 wounds is important and an issue in the case with
18 regards to these two young men.

19 So at this time I want to put that on
20 the record because I don't want to go into that in
21 front of the jury. But I understand the need to
22 make the objection contemporaneous when they are
23 offered.

24 What I will do just very, very briefly
25 is just quickly review them to be sure that they

1 are the same, and I know they will be, but I will
2 do that.

3 Now, I think that's everything.

4 MR. SORENSON: Yes, ma'am.

5 THE COURT: Okay. Jury.

6 (Whereupon the jury entered the
7 courtroom at 10:10 a.m.)

8 THE COURT: All right. Ladies and
9 gentlemen, good morning. Do you have your note
10 pads? Wonderful. At this time we will continue
11 with the State's case. Please call your next
12 witness.

13 MR. SORENSON: Thank you. May it
14 please the Court, Your Honor. State calls Dr.
15 Nicholas Batalis.

16 THE CLERK: Please state your full name
17 for the record.

18 THE WITNESS: Nicholas Ike Batalis.

19 THE CLERK: Spell your name.

20 THE WITNESS: B-A-T-A-L-I-S.

21 NICHOLAS BATALIS

22 having been duly sworn, testifies as follows:

23 DIRECT EXAMINATION

24 BY MR. SORENSON:

25 Q. Good morning, Dr. Batalis.

1 A. Good morning.

2 Q. If you would please tell the jury where
3 you're currently employed.

4 A. I work at the Medical University of
5 South Carolina down in Charleston.

6 Q. How long have you been -- is that
7 commonly referred to as MUSC?

8 A. It is.

9 Q. How long have you been at MUSC?

10 A. It will be ten years here in July,
11 almost ten years.

12 Q. What are your current duties and
13 responsibilities there at MUSC?

14 A. I'm employed there as a professor in
15 the Department of Pathology and Laboratory
16 Medicine. So I do education for medical students,
17 for pathology trainees and then my main work is as
18 a forensic pathologist.

19 Q. If you will tell us if you would, Dr.
20 Batalis, a little bit about your educational
21 background.

22 A. Sure. I obtained my undergraduate
23 degree at Butler University in Indianapolis,
24 Indiana. After obtaining that I then went on to
25 medical school at Indiana University School of

1 Medicine. After graduating medical school I then
2 came back to MUSC for residency training. So
3 training in general pathology. General pathology
4 is a field of medicine that deals with diagnosing
5 diseases, so a general pathologist if you had a
6 tumor taken out, you had a biopsy performed, the
7 pathologist would be the one that interprets that
8 and tells the surgeon, tells the clinician what
9 sort of disease occurs. General pathologist also
10 runs the clinical laboratory. So if you have any
11 blood work done a pathologist would be running that
12 laboratory.

13 After completing those four years of
14 training I passed a national certification exam to
15 be board certified in anatomic and clinical
16 pathology. Then went on to do one more year of
17 fellowship training in forensic pathology. So
18 forensic pathology is a subspecialty of medicine
19 that deals with the legal aspects, predominantly
20 performing autopsies.

21 So after finishing a one-year
22 fellowship again passed another examination to
23 become board certified and then at that point about
24 ten years ago I took my current position.

25 Q. So you have been board certified as a

1 forensic pathologist approximately ten years now?

2 A. Just about.

3 Q. And so obviously as you just kind of
4 alluded to part of your current duties now is that
5 involves performing autopsies?

6 A. It does.

7 Q. About how many, do you know, autopsies
8 you have performed over your ten years at MUSC?

9 A. I don't have an exact number, but
10 probably at this point somewhere a little over
11 2,000 autopsies I would guess.

12 Q. And have you had an opportunity then,
13 Dr. Batalis, to come and testify in court regarding
14 any of those autopsies that you have performed?

15 A. Yes. Probably more than 50 times in
16 South Carolina, I believe twice in North Carolina
17 and once in Texas.

18 Q. Been qualified as an expert on those
19 occasions?

20 A. In every occasion, yes.

21 MR. SORENSON: Your Honor, at this time
22 we would offer Dr. Batalis as an expert in the
23 field of forensic pathology.

24 THE COURT: Any voir dire?

25 MR. NELSON: No objection.

1 THE COURT: Very well. So qualified.
2 You have proceed.

3 BY MR. SORENSON:

4 Q. Dr. Batalis, you talked a little bit
5 about what pathology is and then the subfield of
6 forensic pathology. Can you tell the jury a little
7 bit about what an autopsy consists of?

8 A. Sure. So when our office -- we perform
9 autopsies at our office, perform them for several
10 different counties across the state and also
11 individuals who die within our hospital or some
12 other local hospitals. Autopsies are generally
13 performed the same. The first thing we do is we
14 receive the body, we take a set of pictures. We
15 call them our as is pictures before we have done
16 any manipulations to the body. We then note any
17 clothing, any medical therapy, anything that's on
18 the body. We note that down and then remove those
19 items. Get the body cleaned up and then take
20 another set of photographs after the body is
21 cleaned up and nude so we can see everything. Then
22 we begin our external exam. So that's basically
23 looking at the body from head to toe, some basic
24 things such as how long the person is, how much
25 they weigh, hair color, eye color, basic

1 identifying information. And then also looking for
2 more details that could indicate natural disease or
3 trauma that could help us figure out why that
4 person died.

5 After we complete the external exam
6 then we move to the internal exam where we make
7 surgical-type incisions into the body and into each
8 of the organs again looking for evidence of natural
9 disease or any evidence of trauma. During the
10 course of the autopsy if there are gunshots or stab
11 wounds we would often perform x-rays before we
12 begin our examination to locate any bullet, any
13 fragments, anything like that. We also generally
14 collect some tissues or fluids to send off for
15 toxicology testing is part of it. At the
16 conclusion of the autopsy, then we put together a
17 report to document all those findings.

18 Q. And ultimately what are you attempting
19 to determine through the conducting of an autopsy?

20 A. We are there to determine the cause of
21 death and the manner of death. So simply put, how
22 the person died.

23 Q. If you would just briefly, what's the
24 difference between cause of death and manner of
25 death?

1 A. So cause of death is truly how a person
2 died. It's a heart attack. It's a gunshot wound.
3 It's a stab wound, something like that. And manner
4 of death is how that comes about. So probably the
5 easiest example would be a gunshot wound. If I had
6 a gun and I shot myself that would be a suicide
7 because I took my own life. If I pointed it at
8 someone else and shot them and took their life that
9 would be a homicide, death at the hands of another.
10 If we're out shooting at some targets out in the
11 field and we didn't have any idea and somebody
12 jumps up from behind the hill and gets shot that
13 would be an accidental manner of death. We also
14 have undetermined is our other one where we cannot
15 fit it into one of those other holes.

16 Q. Now let me turn to your attention now,
17 Dr. Batalis, to the two victims in this case,
18 Tyrell Miles and Jamal Armstrong. Did you have an
19 occasion to perform autopsies on both Mr. Miles and
20 Mr. Armstrong?

21 A. Yes, we did on December 2nd of 2015.

22 Q. And did they ultimately both get kind
23 of assigned separate kind of autopsy numbers to
24 deal with to keep kind of evidence straight on
25 those two cases?

1 A. Yes. Every case that comes through our
2 office is assigned a unique identifier based on the
3 year and then the number of autopsy for that
4 particular. So each case is uniquely identified.

5 Q. I guess the easy way to kind of go
6 through is just to take them kind of in your
7 numerical order. I believe that would be Tyrell
8 Miles would be the first, is that correct, out of
9 the two of them?

10 A. Yes.

11 Q. And if you could, Dr. Batalis, tell the
12 jury kind of your initial kind of when Mr. Miles
13 was brought to you and you began his autopsy kind
14 of I guess the initial overall general external
15 exam that you did. What were the results of that?

16 A. Sure. So Mr. Miles came to us. At
17 that point he was still fully clothed so we
18 documented the clothing in that instance and then
19 removed the clothing. Again at that point we did
20 see what appeared to be some injuries. Performed a
21 set of x-rays. Once we got the body cleaned up
22 there were three major findings in his case which
23 were three different gunshot entrance wounds.

24 Q. And let me back you up. Initially you
25 also said part of that is doing kind of height and

1 weight and taking kind of that general kind of
2 measurements and so forth?

3 A. Yes.

4 Q. Was that done with Mr. Miles?

5 A. Yes, we measured him at 72 inches in
6 length, so approximately six-foot. And he weighed
7 180 pounds.

8 Q. Was it noted that -- his age noted at
9 23 years of age? Is that what was provided to you?

10 A. Yes.

11 Q. Appear to be consistent with that?

12 A. It did.

13 Q. And then you had noted that he had
14 three gunshot wounds; is that correct?

15 A. Yes, three gunshot entrance wounds.

16 Q. And as a result of him having -- let me
17 ask you this: Were you able -- so three gunshot
18 wounds entrances. Were you able to determine if
19 there were any exit wounds on his body?

20 A. Yes, there were. There were two exit
21 wounds.

22 Q. And briefly if you would describe for
23 the jury how can you tell the difference between
24 dealing with a gunshot wound an entrance wound as
25 opposed to an exit wound? How can you tell the

1 difference on those two?

2 A. Sure. So when a bullet is fired it
3 comes out of the chamber spinning. To me it's like
4 a spiral football. It's spinning perfectly so when
5 the bullet hits the skin if the bullet hasn't hit a
6 door or window anything else before it gets to the
7 skin it essentially kind of drills its way in.

8 So entrance wounds tend to be very
9 circular, kind of an edge of abrasion right around
10 this surface where it's kind of drilling through
11 the skin. Once the body -- the bullet hits the
12 body, whether it's muscle, tissue, bone, organs,
13 instead of like a perfect spiral now it starts kind
14 of tumbling. And then so when the bullet exits the
15 body it just pushes its way out. So exit wounds
16 for the most part tend to be more irregular as
17 opposed to very circular and kind of drilled out
18 like an entrance wound.

19 Q. And let me ask you in this case you had
20 noted earlier that part of an autopsy consists of
21 taking x-rays; is that correct?

22 A. In certain cases, especially those
23 where we have gunshot or stab wounds.

24 Q. And was that done in Mr. Miles case?

25 A. Yes.

1 Q. You had indicated there were three
2 entrance wounds, two exit wounds. Were you able to
3 locate that third bullet through using the x-rays?

4 A. We did. We performed an x-ray and it
5 showed a single bullet remained in the body at the
6 kind of upper left side of the neck.

7 Q. Then additionally did you take
8 photographs of the three gunshot wounds and the
9 exit wounds to Mr. Miles?

10 A. I did.

11 Q. Your Honor, may I approach the witness?

12 THE COURT: You may.

13 Q. Let me show you what has been marked as
14 State's Exhibits 48 through 52. Ask you do you
15 recognize those documents?

16 A. I do.

17 Q. And are those photographs that were
18 taken during the -- I believe one is a photograph
19 of the x-ray, but the other ones, are those
20 photographs that were taken depicting those gunshot
21 entrance wounds and exit wounds to Mr. Miles?

22 A. Correct. There is one x-ray and then
23 photographs I took during the course of autopsy.

24 Q. Do those fairly and accurately
25 represent the location of those wounds?

1 A. Yes, they do.

2 Q. Would they assist in kind of
3 illustrating kind of not only where the wounds are,
4 but kind of how the entrance and exit wounds relate
5 to each other in explaining that stuff to the jury?

6 A. I believe so.

7 Q. At this time we will offer State's 48
8 through 52 into evidence.

9 MR. NELSON: Objection, Your Honor.

10 THE COURT: Overruled. 48 through 52
11 are in evidence as photographs.

12 (STATE'S EXH. 48-52 in evidence.)

13 MR. SORENSON: Thank you, Your Honor.
14 May I publish?

15 THE COURT: You may.

16 BY MR. SORENSON:

17 Q. The first one is State's Exhibit
18 No. 58, Dr. Batalis. You had indicated a few
19 moments ago --

20 THE COURT: I think it's 48.

21 Q. Sorry. I said 58. 48. I believe you
22 had indicated earlier that when you did the x-ray
23 of Mr. Miles that you were able to determine that
24 there was still a bullet inside of his body?

25 A. Yes.

1 Q. In State's 48 does that depict where
2 that bullet is located at?

3 A. It does.

4 Q. You can actually circle I believe with
5 your finger on the screen.

6 A. Sure. So this is an x-ray of the
7 decedent. Down towards the middle part there's an
8 R showing the right side of his body and an upside
9 down L showing the left side of the body for
10 orientation. So essentially you would be lying on
11 the table under looking down at him. So those are
12 just markers so we can orient how the body was.
13 The bullet in this case is very high up at the top
14 here at the top edge of the photo, again the upper
15 left side of the neck.

16 Q. Now, you had indicated that there were
17 three gunshot wounds; is that correct?

18 A. Yes, three entrance wounds.

19 Q. I guess do you have them kind of
20 numbered in your report?

21 A. I do. We order them just for purpose
22 of description so we can relay what we are talking
23 about. The numbers don't mean that happened first
24 or anything, but I did number them.

25 Q. Typically is there any way really to

1 determine if you have a victim such as Mr. Miles
2 with multiple gunshot wounds, is there any way for
3 you to typically to be able to tell the order that
4 those wounds were received?

5 A. Not usually.

6 Q. What is the first wound that you -- I
7 guess we will go through your report.

8 A. Sure. The first wound I have described
9 as a gunshot wound at the neck.

10 Q. Showing you State's Exhibit 49, does
11 that depict that wound?

12 A. Yes, it does.

13 Q. And I know you had talked earlier about
14 entrance wounds typically being very circular.
15 Explain to the jury why looking at this wound it
16 obviously doesn't appear to be particularly
17 circular. What is the difference with this wound?

18 A. Sure. So this wound is a little bit
19 different based on where it is located. So if you
20 can see here this is the kind of back of his
21 hairline and this would be at his right ear at the
22 top. So essentially this is on the kind of back
23 right side of the neck kind of right down where the
24 crease is. And then the wound itself is located
25 here. As you mentioned, this one doesn't appear

1 quite as typical with the perfect drill down
2 circle. It is because it's in the crease of the
3 neck. So we do have still a circular wound here in
4 the middle, but then on the sides here are where
5 the pink area is, that's an abrasion. So it's just
6 the skin of the neck being pushed together near
7 where the bullet came through. So it kind of
8 scraped both sides of that before entering the body
9 there.

10 Q. And looking at the wound were you
11 ultimately able to determine was there an exit
12 wound associated with that gunshot wound?

13 A. Yes. This bullet traveled through the
14 body and then exited the left side of the chest so
15 kind of the left flank area.

16 Q. Showing you State's Exhibit No. 51,
17 does that illustrate that exit wound?

18 A. It does. So again we are now looking
19 at the left side of the decedent's body. So his
20 hip is down here. His head would be up towards the
21 top and here on the midportion is the exit wound.

22 Q. So that wound -- let me -- I guess
23 ultimately you end up then doing kind of an
24 internal exam to determine I guess what damage that
25 gunshot wound did to Mr. Miles?

1 A. Yes. So again the first part with the
2 external exam we find the entrances and exits.
3 Sometimes it's clear which is associated with
4 which. Other times we need to go through
5 internally and kind of trace the bullet through the
6 body. So in this case we did trace it through
7 basically from again the kind of back right side of
8 the neck to his exit point.

9 Q. Tell the jury then what that internal
10 examination, what were your findings as far as what
11 damage that gunshot wound to Mr. Miles back of his
12 right neck ended up doing to his body?

13 A. Yes. So this bullet again entered the
14 side of the neck here and went through the deep
15 soft tissues of the neck and then went into the
16 left chest cavity. After entering the left chest
17 cavity it went through the left lung and then went
18 through one of the ribs before exiting in the wound
19 that we see here. As a result of injuring or
20 perforation that left lung there was a significant
21 amount of hemorrhage that accumulated within the
22 body.

23 Q. Ultimately that wound in and of itself,
24 would that wound have been fatal to Mr. Miles?

25 A. It very well could have given the

1 perforation of the lung and the abundant bleeding.

2 Q. And what is the second wound that
3 you've got noted?

4 A. The second one I have is a gunshot
5 wound of the right side of the back.

6 Q. Showing you State's Exhibit No. 52,
7 does that depict that gunshot wound?

8 A. It does. So State's Exhibit 52
9 actually has the last two wounds that we will talk
10 about, specifically the one on the right side of
11 the back would be the one up there.

12 Q. And was that -- ultimately were you
13 able to trace that during your internal examination
14 and just so we are oriented I guess his head would
15 be what direction?

16 A. The head would be up top here.

17 Q. And were you able to then during your
18 internal examination trace the path of that bullet?

19 A. Yes. So after the bullet entered the
20 right side of the back there it went through some
21 of the right side ribs, went through the right
22 lung, then crossed the body, went through the
23 spine, went through the upper part of the left lung
24 and then this is the bullet that we saw in the
25 x-ray. So this one traveled across the body kind

1 of moving upward and then from right to left and
2 also from back to front.

3 Q. So that ultimately ended up with what
4 you showed the jury earlier in State's Exhibit 48?

5 A. Correct, and again as a result of
6 perforation of the lungs there was abundant
7 bleeding in both chest cavities.

8 Q. As a result of that would that have
9 potentially been a fatal wound also?

10 A. Certainly given the perforations to the
11 lungs.

12 Q. And obviously since that bullet was
13 found inside of Mr. Miles was that bullet then
14 collected?

15 A. Yes, we collected the bullet. Get it
16 cleaned up, take a photograph of it and then sealed
17 it in an envelope to be sent or transferred to
18 authorities.

19 Q. May I approach the witness, Your Honor?

20 THE COURT: You may.

21 Q. Showing you State's Exhibit No. 45, Dr.
22 Batalis, is that the bullet that was recovered from
23 Mr. Miles's left neck?

24 A. It is.

25 MR. SORENSON: Your Honor, at this time

1 we will offer State's 45 into evidence.

2 MR. BYRD: No objection.

3 THE COURT: Very well.

4 (STATE'S EXH. 45 in evidence.)

5 BY MR. SORENSON:

6 Q. And then the third gunshot wound to Mr.
7 Miles, Dr. Batalis, I think you had indicated it is
8 noted in front of 52; is that correct?

9 A. Yes. So the third one is a gunshot
10 wound to the middle back located here almost in the
11 middle of this spine.

12 Q. And again were you able to trace that
13 gunshot wound during your internal examination and
14 either find or locate the bullet or the exit wound
15 that relates to that wound?

16 A. Yes, we were. We traced this bullet.
17 Again it entered the right side of back here and
18 then passed through the lower part of the right
19 chest cavity. This one missed the lung it was so
20 low, but then went through the liver and then
21 exited the front side of the chest or front side of
22 the abdomen almost exactly on the other side of the
23 body, so predominantly from back to front.

24 Q. Showing you State's Exhibit No. 50,
25 does that indicate the entrance wound to Mr. -- I

1 mean the exit wound that related to gunshot wound
2 No. 3?

3 A. Yes. Gunshot exit wound for No. 3
4 would be here kind of the upper abdomen or lower
5 right side of the chest.

6 Q. And yet again as to that wound you had
7 indicated that it perforated his diaphragm and his
8 liver. Would that have potentially been a fatal
9 wound?

10 A. Potentially. The liver doesn't bleed
11 quite as briskly as the lungs do. But certainly
12 penetrating the liver can be considered a fatal
13 wound.

14 Q. And would any of these wounds -- kind
15 of the combination of three gunshot wounds, Dr.
16 Batalis, how long would Mr. Miles have been able to
17 survive after suffering these three gunshot wounds?

18 A. It's hard to say an exact time, but
19 given the perforation of both lungs with the amount
20 of bleeding that accumulated generally we say a
21 matter of several minutes.

22 Q. Would he have lost consciousness during
23 that period of time also or --

24 A. Most likely, yes.

25 Q. Dr. Batalis, you had indicated that

1 part of the autopsy consists of taking toxicology
2 samples to be sent off to the State Law Enforcement
3 Division?

4 A. Yes.

5 Q. Was that done in this case?

6 A. It was.

7 Q. Do you know what the result of that
8 was?

9 A. Yes, I do. The toxicology testing
10 performed at the state lab tests for a couple
11 hundreds different drugs. Some are medications you
12 will take, some would be illegal drugs. In this
13 case the only thing that was positive for was
14 THC or marijuana and then some of the breakdown
15 products of marijuana.

16 Q. Now, Dr. Batalis, so you have testified
17 about these three gunshot wounds and essentially I
18 guess the entrance wounds were all basically to the
19 rear of Mr. Miles; is that correct?

20 A. Yes. The neck was on the kind of back
21 right side of the neck and then the two as we saw
22 were definitely on the back.

23 Q. Any other evidence of injury that you
24 noted to Mr. Miles?

25 A. He did have a small abrasion or scrape

1 on his left knee and then on the right leg there
2 were two healing abrasions. So those probably
3 happened prior to the incident.

4 Q. And how about any injury to his hands?
5 Knuckles, anything like that?

6 A. No.

7 Q. Any evidence of disease that was found
8 that would have contributed to Mr. Miles's death?

9 A. No, he appeared to be a healthy
10 23-year-old.

11 Q. Something I neglected to ask you
12 earlier we when talked about the three gunshot
13 wounds. Can you explain to the jury what stippling
14 is?

15 A. Sure. So when a gun is fired obviously
16 the bullet comes flying out. But then there is a
17 couple of other things that come out of the barrel
18 of the gun that can help us determine how far the
19 gun was from the body when it was fired. So one of
20 the things that comes out is basically a cloud of
21 smoke or what we call soot. So when a gun is fired
22 an explosion happens and this cloud of soot will
23 come out of the gun. So depending on the type of
24 ammunition and the type of gun this would go out
25 six to twelve inches, so about a foot out is the

1 furthest you will see soot on the body.

2 The other thing that can come out are
3 pieces of gunpowder that instead of being totally
4 consumed and just part of that soot or smoke there
5 is still burning or unburnt flakes of gunpowder
6 that are part of that bullet. So when they fly
7 through the air they can strike the skin and cause
8 little scrapes on the skin, what we call stippling.
9 And again that will vary between the ammunition and
10 the gun, but most people say after two or three
11 feet, maybe up to four feet to see that stippling.

12 Q. And did you find any evidence of soot
13 or stippling on any of the three gunshot wounds to
14 Mr. Miles?

15 A. No, I did not.

16 Q. And tell the jury what effect can
17 clothing have on whether you can find soot or
18 stippling when looking at a gunshot wound? Let's
19 say with Mr. Miles's case, I mean if he's got a
20 shirt on as I believe you testified when you
21 received him and shirt and a hoodie I believe on?

22 A. Yes. I believe he had two t-shirts on,
23 a sweatshirt is what we had documented. So the
24 soot and stippling, again they are just basically
25 smoke or little tiny pieces of gunpowder so I have

1 seen stippling go through maybe a light T-shirt and
2 strike the skin and cause little scrapes. Soot
3 will almost always be stopped by the first layer of
4 clothing. So in a case with essentially three
5 shirts the gun could have been essentially right
6 next to the body, but those layers of clothing
7 would eliminate that evidence on the body itself.

8 Q. Ultimately, Dr. Batalis, as to Tyrell
9 Miles, do you have an opinion within a reasonable
10 degree of medical certainty as to the cause of
11 death for Mr. Miles?

12 A. Yes. It was the gunshot wounds in the
13 neck and trunk and specifically the bleeding that
14 resulted from them.

15 Q. How about manner of death for Mr.
16 Miles?

17 A. Manner of death is the death occurred
18 at the hands of another individual. It is
19 considered a homicide.

20 Q. I will turn now if we could to Mr.
21 Armstrong, Jamal Armstrong. What is his autopsy
22 number that was assigned to him?

23 A. He is FA15-822.

24 Q. Tell the jury did you get a measurement
25 as far as height and weight on Mr. Armstrong?

1 A. Sure. We measured him at 70 inches in
2 length, so that would be approximately five foot
3 ten inches and he weighed 251 pounds.

4 Q. And he appeared to be his stated age of
5 22 years old? Is that consistent?

6 A. He did.

7 Q. And tell the jury -- you had indicated
8 when Mr. Miles -- when you came into contact with
9 Mr. Miles he was fully clothed; is that correct?
10 Tell the jury was Mr. Armstrong in that same
11 situation?

12 A. No. He evidently had showed some signs
13 of life at the scene and was taken to a hospital.
14 They attempted resuscitation for approximately two
15 hours before death was pronounced. He came in, we
16 did not have any clothing that we received with
17 him, just some hospital effects and the treatment
18 that he had at that point from the hospital.

19 Q. And tell the jury kind of then the
20 initial general examination of Mr. Armstrong. What
21 evidence of trauma did you observe on Mr.
22 Armstrong?

23 A. Sure. Again so after getting him
24 cleaned up and again same thing as before, doing
25 x-rays, doing our general external exam, what we

1 found in this case was that there were five
2 different gunshot wounds on the body.

3 Q. And any gunshot exit wounds that were
4 noted on the body?

5 A. Yes. There were three exit wounds and
6 again five entrance wounds.

7 Q. And did you ultimately -- yet again are
8 there pictures showing the x-rays that were taken
9 of Mr. Armstrong?

10 A. There are.

11 Q. And ultimately were there any bullets
12 that were recovered from Mr. Armstrong?

13 A. Yes, we recovered two bullets.

14 Q. Are those noted in the photographs of
15 the x-rays?

16 A. Yes, they are.

17 Q. And there are also then photos taken of
18 those entrance and exit wounds that you just
19 described?

20 A. Yes.

21 Q. Your Honor, at this time may I approach
22 the witness?

23 THE COURT: You may.

24 Q. Show you, Dr. Batalis, State's
25 Exhibits 53 through 61, ask you to take a look at

1 those.

2 A. (Witness complies with request.)

3 Q. And do those State's Exhibits 53
4 through 61 fairly and accurately depict not only
5 the injuries to Mr. Armstrong, but also the
6 evidence that was recovered from his body?

7 A. Yes.

8 Q. Just like with Mr. Miles would those
9 assist you in kind of illustrating your findings to
10 the jury?

11 A. I think they would.

12 MR. SORENSON: Your Honor, at this time
13 we would offer 53 through 61 through evidence.

14 MR. NELSON: Objection.

15 THE COURT: Overruled. 53 through 61
16 in evidence.

17 (STATE'S EXH. 53-61 in evidence.)

18 MR. SORENSON: May I publish to the
19 jury?

20 THE COURT: You may.

21 BY MR. SORENSON:

22 Q. You had indicated earlier, Dr. Batalis,
23 that there were basically five gunshot entrance
24 wounds to Mr. Armstrong?

25 A. Yes.

1 Q. And just like with Mr. Miles obviously
2 I guess you had to -- they have to be listed in
3 some order in your report; is that correct?

4 A. Correct.

5 Q. And is there any way with him to tell
6 kind of which one may have come first, any order to
7 them?

8 A. Not specifically.

9 Q. Specifically let's talk about No. 1 in
10 your report.

11 A. Okay.

12 Q. Where is that wound located?

13 A. Yes. Gunshot wound No. 1, again this
14 is for the purpose of description, was located
15 almost in the middle of the back of the head.

16 Q. Showing you State's Exhibit No. 57,
17 does that document that wound?

18 A. It does, and for orientation, this
19 would be the top of the head, kind of toward the
20 end and this would be like his back would be down
21 this way. So again essentially entrance wound,
22 circular entrance wound right to the middle of the
23 back.

24 Q. Can you turn and show the jury on your
25 head where we are.

1 A. Back here.

2 Q. And obviously around that gunshot wound
3 the hair is -- there is no hair around the gunshot
4 wound. Was that how Mr. Armstrong presented to you
5 or is that as a result of something that was done
6 during the autopsy?

7 A. After identifying the wound there I
8 then shaved away the hair to better expose the
9 wound so we could photograph it and examine it more
10 closely.

11 Q. As a result of doing that did you have
12 an opportunity then to observe this wound more
13 closely?

14 A. Yes.

15 Q. Tell the jury what other findings did
16 you make upon observing that wound a little closer.
17 Try to enlarge it. Might lose too much resolution.

18 A. Obviously in the middle we have our
19 circular entrance wound here. But the other thing
20 that this wound had that we talked briefly a minute
21 ago was stippling. So these little black marks
22 that we're seeing here, these are just from where
23 the hair was shaved. But in between them there's
24 several little pink dots or little abrasions
25 consistent with that stippling that we mentioned a

1 minute ago. So he had several of these stippling
2 abrasions clustered in about a one-inch area around
3 the entrance wound. It also appeared once we got
4 deeper there was some soot that had been extended
5 into the entrance wound.

6 So again these two things together
7 would tell us if the gun was very close to the
8 decedent's head when the trigger was fired.

9 Q. By very close, I know you can't give an
10 exact --

11 A. Likely within a matter of inches in
12 this case.

13 Q. And ultimately then as to that gunshot
14 wound No. 1 that you noted in State's Exhibit 57
15 were you able to track the path that that wound
16 took?

17 A. Yes. So again the entrance wound is in
18 the back of the head just a little bit right at
19 midline. The bullet then exited the left side of
20 the forehead. So essentially as it went through it
21 perforated essentially most of the right side of
22 the brain and then a little bit of the left side of
23 brain towards the front before it exited on the
24 left side of the forehead.

25 Q. Showing you State's Exhibit No. 58,

1 does that show -- State's Exhibit No. 58 show that
2 exit wound to Mr. Armstrong's left forehead?

3 A. It does. There's this lesion here just
4 above the left eyebrow that represents the exit
5 wound.

6 Q. And yet again as to that wound would
7 that gunshot wound to the back of Mr. Armstrong's
8 head, would that have ultimately proved fatal to
9 Mr. Armstrong?

10 A. Certainly.

11 Q. And obviously the jury has heard and
12 you touched on that he was transported to Trident
13 Medical Center and was pronounced dead a couple
14 hours later. Would that wound typically be one
15 that where life could have been -- could that have
16 been survivable, that wound in your opinion?

17 A. I highly doubt it again given the
18 amount of brain tissue that it traveled through.
19 Again it's almost shocking he didn't die more
20 quickly. But again the bullet went through more
21 the top part of the brain that does -- is not going
22 to be immediately fatal as other parts of the
23 brain. There wasn't a ton of bleeding that built
24 up right away. But certainly a wound that travels
25 almost the entire length of the brain would be

1 fatal.

2 Q. Would that have pretty much
3 incapacitated him?

4 A. This one I think more than the last
5 case where we had bleeding so that the last
6 individual would have died or became unconscious
7 eventually because of the bleeding elsewhere. This
8 case it would have happened much more quickly.
9 Again just the shock to the brain with that bullet
10 traveling through would have incapacitated him.

11 Q. What do you have noted, Dr. Batalis, as
12 your wound No. 2 to Mr. Armstrong?

13 A. Gunshot wound No. 2 is a gunshot wound
14 of the right side of the face.

15 Q. Let me show you State's Exhibit No. 56.
16 What is State's Exhibit 56?

17 A. Sure. So this exhibit we are again
18 looking at the right side of his face. This here
19 is just the corner of the mouth. So what we are
20 seeing here is the entire gunshot wound complex.
21 The entrance wound is going to be up top here. So
22 that's the nose is kind of just next to it. It
23 traveled just through the very subcutaneous
24 tissues, just through the skin, didn't hit the jaw
25 or anything. And then exited the kind of lower

1 corner here again right near the beard line. So
2 kind of came in around here and came out around
3 here.

4 Q. And is that the kind of obviously
5 entrance wound and exit wound both to his face,
6 would that wound have bled a decent amount?

7 A. Yes, generally anything that affects
8 the scalp, the face is just very vascular so those
9 things tend to bleed quite a bit even if you don't
10 hit a major blood vessel.

11 Q. Obviously in this picture he has been
12 cleaned up before these pictures are taken that
13 we're dealing with here?

14 A. Yes.

15 Q. And let me ask you, you talked about
16 the stippling to the wound to the head. Do you
17 note any stippling or soot present on this gunshot
18 wound?

19 A. Yes. This one also had quite a bit of
20 the stippling. I did not see any of the soot in
21 this case. I don't think it's clearly shown much
22 here. Most of it was kind of up above again with
23 the bullet traveling from downward. We know that
24 the gun was somewhere in this area related to the
25 body. So the stippling was really more on the

1 upper part of the face which is not really shown on
2 the picture there. There may be one or two dots up
3 top there.

4 Q. And I want to skip over your gunshot
5 wound No. 3 and talk about No. 4 if I could. Let
6 me show you State's Exhibit No. 55. First of all,
7 do you see the exit wound from the face, the wound
8 that we just talked about in State's Exhibit 55?

9 A. I do.

10 Q. Where is that?

11 A. So the exit wound from the gunshot
12 wound in the face is right here so that was the
13 corner of the jaw. So the exit wound from the
14 second gunshot wound.

15 Q. And then is this another entrance wound
16 that is basically right below that exit wound to
17 Mr. Armstrong's jaw?

18 A. Yes. So what I have described as
19 gunshot No. 4 is this one right here. So it's
20 essentially in the same vertical plane as the
21 jawline and again you can see the picture very
22 close proximity.

23 Q. Potentially, I know you can't say with
24 absolute certainty, but consistent with that wound
25 No. 2 entering by his nose, exiting his kind of

1 chin area and then entering his right chest?

2 A. Yes. It is definitely very similar
3 between the two wounds. As I mentioned when I
4 first started talking about gunshot wounds,
5 generally when a bullet travels through any sort of
6 tissues it start to wobble and then will cause more
7 irregular wounds. This one since it just went
8 through the skin, didn't strike the bone, there's
9 no muscle, there's no organs, here it is very
10 possible that it still maintained that nice tight
11 spin and then could have continued on through that
12 next wound.

13 Q. And ultimately were you able to upon
14 performing your internal examination locate either
15 an exit wound that related to that right upper
16 chest wound or locate a bullet that related to
17 that?

18 A. Yes. We were able to trace the bullet
19 through the body as it grazed both the heart and
20 the liver and then it came to rest in the skin of
21 the lower abdomen.

22 Q. Showing you State's Exhibit No. 54.
23 Does that show where that bullet was recovered
24 from?

25 A. It does. Again so just for reference

1 here this person is kind of lying on their side so
2 the head would be up here. The feet would be down
3 here. This thing is the spine down the middle.
4 What we are seeing down here is the bullet. So
5 this kind of dark area around there is the pelvis.
6 So x-ray is just two dimensional. Doesn't mean it
7 was deep inside the body, it just means it was the
8 lower abdomen kind of overlying where the pelvis
9 would be.

10 Q. And ultimately was that bullet that was
11 found down in his abdomen near his pelvis, was that
12 bullet recovered also?

13 A. It was.

14 Q. May I approach, Your Honor?

15 THE COURT: You may.

16 Q. Showing you State's Exhibit 47, is that
17 the bullet that was located and recovered from Mr.
18 Armstrong depicted in State's Exhibit 54?

19 A. It is.

20 MR. SÖRENSEN: At this time we will
21 offer State's 47 into evidence.

22 THE COURT: Any objection?

23 MR. NELSON: None, Your Honor.

24 THE COURT: Very well.

25 (STATE'S EXH. 47 in evidence.)

1 BY MR. SORENSON:

2 Q. And you talked a moment ago about that
3 gunshot wound going through and grazing Mr.
4 Armstrong's heart; is that correct?

5 A. Yes.

6 Q. What other organs did it hit?

7 A. It also went through some ribs, again
8 it grazed the heart, went through the diaphragm
9 which separates the chest from the abdomen and then
10 again grazed the liver before coming to rest.

11 Q. And that wound, would it have been a
12 fatal wound?

13 A. Certainly any wound that injures the
14 heart could be fatal. Again, these were more graze
15 wounds so instead of going all through the organ
16 kind of just injured the surface of it, both the
17 liver and the heart. So maybe not quite as
18 immediately as going through the lung like we saw
19 in the last case, but certainly given enough time
20 these could have bled out enough.

21 Q. And then back now to your wound No. 3,
22 okay? Dr. Batalis, where was that wound located?

23 A. So gunshot wound No. 3 is on the right
24 shoulder so kind of the outer aspect of right
25 shoulder.

1 Q. Showing you State's Exhibit No. 59,
2 does that depict that gunshot would?

3 A. Could you -- the number is reading
4 upright. One more time. This is the table behind
5 here so again is the kind of outer aspect of the
6 shoulder shot from this side showing that very
7 circular entrance wound there.

8 Q. And ultimately were you able to track
9 that gunshot wound to see where it went, either
10 exiting Mr. Armstrong or the bullet was recovered?

11 A. Yes, we were able to do so.

12 Q. And tell the jury where did that bullet
13 go through Mr. Armstrong?

14 A. Sure. Again after coming through the
15 right shoulder here went through kind of the deep
16 soft tissues of the shoulder. Went through the
17 upper right ribs through the right lung and then
18 kind of buried itself just behind the spine and the
19 upper chest, upper back area.

20 Q. Showing you State's Exhibit No. 53,
21 does that show that bullet?

22 A. It does. So the bullet here again is
23 in the midline right along where the spine is, and
24 again just for relationships, the entrance wound
25 would have been somewhere right over here. So

1 again this one is predominantly coming kind of
2 straight right to left across the body.

3 Q. May I approach the witness?

4 THE COURT: You may.

5 Q. Show you State's Exhibit No. 46. Is
6 that the bullet that's recovered from that?

7 A. Yes.

8 MR. SORENSON: At this time we would
9 offer State's Exhibit 46 into evidence.

10 THE COURT: Any objection?

11 MR. NELSON: None, Your Honor.

12 THE COURT: Very well.

13 (STATE'S EXH. 46 in evidence.)

14 BY MR. SORENSON:

15 Q. And that wound, you had indicated that
16 it was found in the soft tissue around his
17 vertebrae?

18 A. Yes.

19 Q. Is that correct? And would that have
20 done any damage to Mr. Armstrong's spinal cord?

21 A. So it didn't actually go through the
22 vertebrae and spinal cord. It does cause enough
23 again kind of shock to the system there was some
24 bleeding around the cord itself, but the cord
25 itself was not injured, but it could have caused

1 some dysfunction by the fact we do see bleeding
2 around the cord.

3 Q. Could have potentially kind of
4 incapacitated him?

5 A. It is possible could have stunned him,
6 yes.

7 Q. Let me ask you as to that wound,
8 State's Exhibit 54, did you observe any soot or
9 stippling around that wound?

10 A. There was no stippling directly around
11 the wound. But there was a complex -- very well
12 may have been stippling a couple inches below where
13 that wound is located.

14 Q. Show you State's Exhibit No. 65. Does
15 that --

16 A. So this one again we have a lot of
17 these little, tiny abrasions that would be
18 consistent with that stippling. So the burning or
19 unburnt gunpowder that strikes the skin. This is a
20 little bit lower on the arm. You can see the elbow
21 is down here and our entrance would have been
22 probably just off the top of the picture so it is
23 separated by some space.

24 Q. And would that be consistent let's say
25 if I was -- if somebody shot me in the right

1 shoulder where Mr. Armstrong was shot and I was
2 wearing a T-shirt when I was -- it went through the
3 T-shirt, would this finding be consistent with that
4 as far as not finding any stippling directly around
5 the wound, but finding stippling kind of below
6 where my T-shirt would have been?

7 A. Yes. If there was a barrier such as a
8 shirt, to some aspect that could have definitely
9 blocked it and prevented it from occurring directly
10 around the wound.

11 Q. I think we got one left here, No. 5,
12 Dr. Batalis.

13 A. Yes.

14 Q. Where was that wound located?

15 A. So this one is on the mid chest or the
16 left side of the chest.

17 Q. Show you two pictures here, State's
18 Exhibit 55. Used this one earlier with the gunshot
19 wound to the upper right chest. Does it also show
20 that gunshot wound No. 5 to the other portion of
21 his chest?

22 A. Yes. So the one we are referencing now
23 is this one that's more on the left of the chest
24 right here.

25 Q. And show you State's Exhibit No. 61.

1 Does that then show that same gunshot wound in
2 State's 61?

3 A. Yes. So again we are just moved over a
4 little bit. So up here higher up is going to be
5 where the entrance is and then over here around
6 just near the left nipple would be the exit. These
7 are both in the same photo and much like we saw on
8 the face, this one went just through the skin and
9 subcutaneous tissues. So this one did not enter,
10 did not hit any ribs, hit any lungs, anything like
11 that so essentially again just crossed from right
12 to left and as you can see going a little bit
13 downward as well.

14 Q. Just like I asked you with Mr. Miles,
15 was a toxicology sample done on Mr. Armstrong?

16 A. It was.

17 Q. What were -- do you have the results of
18 Mr. Armstrong's?

19 A. Yes. Again like the previous case he
20 was positive for THC or marijuana and some of the
21 breakdown products and nothing else.

22 Q. And with Mr. Armstrong any other
23 evidence, evidence of other injury that was noted
24 on Mr. Armstrong?

25 A. He had a little less than a quarter

1 inch size scrape or abrasion on the left side of
2 the neck.

3 Q. Any injury to his knuckles or hands?

4 A. No.

5 Q. Any evidence of disease that you found
6 that would have contributed to his death?

7 A. Nothing significant. His heart was
8 enlarged, but most of that was because he was a
9 bigger person. I think he weighed 250 pounds so
10 his heart was a little bit big, but again it wasn't
11 life threatening or anything like that.

12 Q. Ultimately, Dr. Batalis, within a
13 reasonable degree of medical certainty were you
14 able to determine a cause and manner of death for
15 22-year-old Jamal Armstrong?

16 A. Yes. This was gunshot wounds of the
17 head and chest and again the manner as it was at
18 the hands of another, was homicide.

19 Q. Beg the Court's indulgence.

20 THE COURT: Yes.

21 (Off-the-record conference.)

22 MR. SORENSON: That would be all.
23 Thank you, Dr. Batalis. Please answer any
24 questions Mr. Nelson has.

25 THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. NELSON:

Q. I will be brief and get you out of here. Just to be clear, you can't tell the order of the shots for any of this, just that they happened?

A. I can't tell the order they occurred. I think we can tell a little more than just they that happened but --

Q. In your investigation you can't tell who fired the shots?

A. No.

Q. You can't tell why or the circumstances surrounding the shots being fired?

A. No. The coroner when they report a case sometimes they will give us a little case caption, but no.

Q. You couldn't tell what was happening when the shots were fired?

A. No.

MR. NELSON: Nothing further, Your Honor.

THE COURT: All right. Any redirect?

MR. SORENSON: No, Your Honor. May he be excused?

1 THE COURT: Yes. Any objection?

2 MR. NELSON: No, Your Honor.

3 THE COURT: Thank you. You are free to
4 go. All right. Call your next witness, please.

5 MS. MIMS: The State would rest, Your
6 Honor.

7 THE COURT: All right. Very well.
8 Ladies and gentlemen, you have now heard the
9 witnesses and received the evidence which you will
10 hear from the State and the State's case in chief.
11 That signifies to me that there are matters that I
12 must take up outside your presence. I'm going to
13 ask you to please leave your note pads in your seat
14 and step to your jury room. Do not discuss this
15 matter or allow anyone to discuss it with you and
16 we will be with you shortly. Thank you.

17 (Thereupon, the jury exited the
18 courtroom at 11:00 a.m.)

19 THE COURT: Any motions?

20 MR. BYRD: Motion for directed verdict,
21 Your Honor.

22 THE COURT: Very well. I am listening.

23 MR. BYRD: Your Honor, murder as we
24 know carries several elements, killing of another
25 with malice either express or implied. The State

1 has failed to prove at this point that Mr. Biggs
2 has done those things. In the light most favorable
3 to the State, we know that there was, in fact, a
4 killing in this matter. There are -- there is
5 evidence to show that and we just heard some
6 stating that death was caused by firearm, by
7 bullets. The forensic pathologist has ruled it a
8 homicide, however, there has been no evidence
9 testimonial, no evidence scientific, no forensic
10 evidence to show that Mr. James Biggs, in fact, had
11 a gun at any given point, that he used a gun at any
12 given point. In fact, all the testimonial
13 evidence, all the scientific evidence points to the
14 contrary.

15 Regarding malice, Your Honor, as stated
16 this can be shown through either express or implied
17 malice. There is absolutely no showing whatsoever
18 of express malice in this case. There has been no
19 testimony of prior bad history between Mr. Biggs
20 and the victims in this case. There has been no
21 showing of an immediate issue between them. We
22 actually don't even have any testimonial evidence
23 of an interaction between them at the time of the
24 incident. He was there. He was in the area. We
25 know that if we take again in the light most

1 favorable to the State the testimony of Ms.
2 Robbins and Mr. Woodall.

3 In fact, Your Honor, regarding express
4 malice, we even heard testimony from Ms. Williamson
5 stating that there was a prior drug transaction
6 between one of the victims and Mr. James Biggs days
7 before and there was no testimony of any ill will
8 or malice at that point. In the light most
9 favorable to the State again, Judge, we can look at
10 implied malice. Case law tells us that malice can
11 be inferred through the use of a firearm or another
12 deadly weapon. Again I will reiterate what I have
13 stated previously, that there has been no evidence
14 testimonial or scientific, no forensic evidence
15 showing that Mr. Biggs at any time used or
16 possessed a firearm. None.

17 Further, again, in the light most
18 favorable to the State, Judge, there is the
19 suspicion and I would assert also, Your Honor, that
20 suspicion of a firearm is all we have here as well.
21 Use of a firearm. There is also the suspicion that
22 there was a fight inside of the vehicle. However,
23 that is nothing more than suspicion at this point
24 as well. What we do know is that from the
25 testimonial evidence Mr. Biggs yelled for help

1 three times. We had three separate witnesses say
2 they heard yelling, one specifically say 100
3 percent that he heard Mr. Biggs yelling for help.
4 That is not malicious, Your Honor, it's actually
5 quite the opposite.

6 I would submit to you, Judge, that
7 based on the fact that there has been no showing of
8 a killing by Mr. Biggs, there has been no showing
9 of malice of any sort that we would then request a
10 directed verdict of not guilty in this matter.

11 THE COURT: Thank you so much, Mr.
12 Byrd. As you know, the Court is charged with the
13 responsibility of determining whether or not there
14 is evidence on each and every element of the
15 offense and I find that there is evidence on each
16 and every element of the offense of murder with
17 regards to each of these victims.

18 The malice is the use of a weapon,
19 which certainly there's evidence that there was a
20 weapon used, these two gentlemen died of gunshot
21 wounds and the gunshot obviously came from a lethal
22 weapon, a firearm of some sort. And therefore,
23 even though we do not have the gun, it's clear that
24 a firearm was used and that as you know under our
25 law can be determined by the jury to be evidence of

1 implied malice.

2 And with regard to the other argument
3 that there's no evidence that anyone saw the
4 Defendant with the gun, this is a circumstantial
5 case and circumstantially I think that the State
6 has put down evidence from which this jury could
7 reasonably make the determination that the
8 Defendant is guilty of murder with regards to both
9 individuals. As you know, I don't weigh the
10 evidence. I just make a determination whether or
11 not it exists and I would respectfully deny your
12 motion noting your exception thereto.

13 MR. BYRD: Thank you, Your Honor.

14 THE COURT: All right. Now, anything
15 further from the State at this point?

16 MS. MIMS: No, Your Honor.

17 THE COURT: Now, I turn to the defense.
18 I need to hear from you and are you ready to
19 proceed?

20 MR. BYRD: Your Honor, I was wondering
21 if we might take a short break to confer with the
22 client.

23 THE COURT: Absolutely. Tell me how
24 long you need.

25 MR. BYRD: Five minutes, Judge.

1 THE COURT: Five minutes. Not a
2 problem. Let's take 15 minutes. Very well. Let
3 me just say to folks to the audience, I noticed
4 there were a number of folks that had to leave. I
5 certainly understand that. And I want to say to
6 both families that I appreciate the way that you
7 have conducted yourself. You have done exactly as
8 I asked you to do. Those of you that needed to
9 leave you left and I thank you for that. And I
10 thank you for your continuing sensitivity to the
11 jury's needs to be able to listen to the evidence
12 and I just want to tell both sides, both families
13 how much I appreciate the way that you have
14 conducted yourself.

15 I am delighted for all of you now to be
16 able to take a break and I urge all of you to do
17 that. Stretch your legs. If you need to take a
18 break please do. And we are going to take
19 15 minutes once y'all have exited. So it will be a
20 little closer to probably 17 or 18 minutes, but we
21 will take our break. All right.

22 (A recess transpired.)

23 THE COURT: All right. Mr. Biggs, I'm
24 going to ask you to raise your right hand for me.

25 (Defendant sworn.)

1 THE COURT: Now, I'm going to explain
2 certain of your rights. And if you do not
3 understand anything that I say, I want you to let
4 me know. And if you want me to explain anything
5 and in more detail, I want you to let me know. Do
6 you understand that?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: We have reached the stage
9 of the trial where you may present your defense.
10 You have the right to claim the protections given
11 to you by the Fifth Amendment to the Constitution
12 of the United States which reads in part that no
13 person shall be compelled in any criminal case to
14 be a witness against himself. This means that you
15 cannot be required to testify in this case. You
16 have the right to testify on your own behalf;
17 however, no one can make you testify. This is a
18 personal right and no one can waive this right
19 except for you. If you decide to testify you will
20 be subject to the same rules that govern our
21 witnesses and you may be examined or cross-examined
22 on any relevant issues in this case.

23 And it is my understanding that the
24 colloquy that we often use goes on to say this: In
25 addition, if you have any convictions involving

1 dishonesty or false statement or for crimes
2 punishable by imprisonment for more than one year,
3 and this Court determines that the proactive value
4 of admitting the evidence outweighs its prejudicial
5 effect to you this solicitor will be able to
6 introduce your record to attack your credibility.
7 That's part of a typical colloquy, but I asked, Mr.
8 Biggs, because I wanted you to know what the
9 solicitor's office position is regarding whether or
10 not you have a record. You do not have a record.
11 Do you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Okay. So while I have gone
14 over that with you, if you were to testify there
15 would be no record to talk about. Do you
16 understand that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: No criminal record to be
19 absolutely crystal clear. Now, if you decide to
20 testify this decision on your part must be freely,
21 voluntarily and intelligently made with knowledge
22 of the protections given to you by the Fifth
23 Amendment and the consequences of your decision to
24 testify. Of course those consequences are that you
25 would be cross-examined about any relevant matter.

1 If you decide not to testify, I will instruct the
2 jurors that they cannot, cannot give the fact that
3 you did not testify any consideration whatsoever
4 and that there is to be absolutely no prejudice to
5 you because you did not testify.

6 In fact, if you choose not to testify,
7 I will tell the jury that they cannot even talk
8 about the fact that you did not testify, that they
9 can't even talk about it in the jury room during
10 their deliberations, okay? It is left, it being
11 the decision whether to testify or not testify, is
12 a decision that is left entirely up to you. You
13 may talk with your attorneys. I believe you have
14 been talking with your lawyers because we just took
15 a break to give you that opportunity to continue
16 this conversation.

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: You can talk to your family
19 or friends or anyone else whose advice, whose
20 judgment you trust, however, it's really important
21 that you understand that the final decision whether
22 to testify or not testify is left entirely up to
23 you. Do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you have any questions

1 about what we have just went over?

2 THE DEFENDANT: No.

3 THE COURT: Do you have any questions
4 that maybe you don't want to ask me but you want to
5 ask your attorneys?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: And have you discussed
8 fully and to your satisfaction, have you discussed
9 with your lawyers the issue of whether you should
10 testify or not?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you need to talk with
13 them now?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Did you need to talk to
16 them further?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Have you talked to them
19 fully?

20 THE DEFENDANT: Yes, I did.

21 THE COURT: All right. And do you wish
22 to talk to them now?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: All right. Do you wish to
25 testify?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Very well. Now, counsel,
3 any additional questions you want me to ask of Mr.
4 Biggs regarding that issue?

5 MR. BYRD: No ma'am.

6 THE COURT: All right. Now, will you
7 be calling any witnesses?

8 MR. BYRD: We will not, Your Honor.

9 THE COURT: All right. Very well.
10 Well, I think what I'm going to do is ask you to go
11 ahead and rest.

12 MR. BYRD: Absolutely, Judge. At this
13 point the defense would rest.

14 THE COURT: Motions?

15 MR. BYRD: At this point, Your Honor,
16 renew all our prior objections.

17 THE COURT: And your prior motion?

18 MR. BYRD: And we would of course at
19 this point renew our directed verdict motion, Your
20 Honor.

21 THE COURT: Very well. And for the
22 reasons that I mentioned very shortly ago I would
23 respectfully deny your motion noting your exception
24 thereto.

25 MR. BYRD: Thank you, Your Honor.

1 THE COURT: Now, anything further from
2 the State before we bring the jury out, because I'm
3 ready to go right into closing.

4 MS. MIMS: Nothing from the State, Your
5 Honor.

6 THE COURT: All right. Anything from
7 the defense?

8 MR. BYRD: Nothing, Your Honor.

9 THE COURT: Now, the arguments will be
10 obviously that counsel for Mr. Biggs will have the
11 concluding argument and who is going to argue, you?

12 MS. MIMS: Yes, ma'am.

13 THE COURT: And?

14 MR. BYRD: I will, Your Honor.

15 THE COURT: Very well. I just let the
16 jury know what to anticipate. Anything further
17 from either side before we bring the jury out?

18 MS. MIMS: No, Your Honor.

19 MR. BYRD: No, Your Honor.

20 THE COURT: Great. Let me have the
21 jury, please.

22 (Whereupon the jury entered the
23 courtroom at 11:55 a.m.)

24 THE COURT: All right, ladies and
25 gentlemen. I'm going to turn to you, Mr. Byrd.

1 MR. BYRD: At this time the defense
2 would rest, Your Honor.

3 THE COURT: Very well. Ladies and
4 gentlemen, you have now heard the witnesses and
5 received the evidence which you will hear in this
6 case. What remains for us are the arguments of
7 counsel and then my charge or instruction on the
8 law. In just a moment we are going to be hearing
9 from the lawyers in their closing arguments. You
10 will first hear from Ms. Mims in her closing
11 argument on behalf of the State, Solicitor Mims,
12 and then you will hear from Mr. Byrd in his closing
13 argument on behalf of Mr. Biggs.

14 Now, once the closing arguments are
15 concluded, then we will have a very short break
16 which will be self-explanatory at that point. I
17 will then explain to you the law applicable to this
18 case. There will then be another break which I
19 will explain to you at that time and then, ladies
20 and gentlemen, once I have instructed you regarding
21 the law applicable to this case and we have taken
22 that last short break, then you will receive this
23 case for your deliberations.

24 Ladies and gentlemen, at this time I
25 ask that you please draw close as we listen to the

1 closing arguments. Ms. Mims.

2 MS. MIMS: Thank you, Your Honor, may
3 it please the Court. Good morning, ladies and
4 gentlemen. I want to start by taking a moment to
5 thank you for your service. This has been a long
6 week, this has taken you out of your habit. This
7 has taken you out of your jobs and out of your
8 lives, but you are such a critical part of our
9 judicial system. You are such a huge part of it.
10 We couldn't do our jobs without you. Our democracy
11 would not work without you. We thank you for being
12 here. We thank you so much for your attention.
13 You have all paid close attention to what you have
14 heard. This has been a difficult case. You have
15 heard some tough facts, seen some tough exhibits.
16 You have been attentive and we do appreciate that.
17 We appreciate your time.

18 It's very important for the family of
19 Jamal Armstrong and Tyrell Miles. It is very
20 important for Mr. Biggs and his family as well. So
21 thank you very much for that.

22 This is an interesting case. This is a
23 murder case. But it's a case where for a few short
24 minutes we don't exactly what happened. On
25 November the 30th of 2015 between the time of

1 5:58 p.m. and 6:02 p.m. something very tragic
2 happened. We may not know exactly what transpired
3 between Jamal Armstrong, Tyrell Miles and James
4 Biggs, but we know that he murdered them. We know
5 those three were together. And we know two of them
6 didn't go home because he murdered them. So while
7 there's some things we may not know, there is a lot
8 we do. And the stuff that we do lets us know and
9 understand for sure without a doubt that Mr. Biggs
10 is the murderer of those two men. So I would like
11 to take some time to go over what we do know about
12 this case.

13 The first thing we know is that James
14 Biggs sold drugs. He sold marijuana out of his
15 Grand Am, out of his Pontiac Grand Am. I want you
16 to think about the testimony that you heard this
17 week. You heard from Jazzmin Williamson who got up
18 here and testified to you that she had bought
19 marijuana from Mr. Biggs three to four times. On
20 at least one of those occasions she bought it from
21 him sitting in the white Pontiac Grand Am. She
22 explained how he would sit in the driver's seat.
23 She sat in the passenger seat. He would take a
24 mason jar, take the marijuana out of the mason jar.
25 He would measure it and he would put it in a

1 baggie. You heard from Hunter Eadie. Hunter Eadie
2 took the witness stand and he told you he has
3 bought marijuana from Mr. Biggs before also. In
4 fact, the day of the murder, November the 30th of
5 2015, he told you how he showed up, where he was
6 told to go to 104 Lisa Drive which will come up
7 later, how Mr. Biggs met him and said follow me,
8 took him back to 102 Larson where our murders take
9 place. He will tell you how he got out of his car,
10 got into the white Pontiac Grand Am. Mr. Biggs sat
11 in the driver's seat. He sat in the passenger
12 seat. Mr. Biggs took a mason jar, took out the
13 marijuana, weighed it, put it in a baggie.

14 Brandon Woodall and Emily Robbins the
15 day of the murder, he testified to you yep, I
16 bought marijuana from James Biggs before. He was
17 at that house where the white Grand Am was to buy
18 marijuana from James Biggs. We know that he sold
19 marijuana. But what I think is really compelling,
20 really interesting is on the day of the murder
21 12:56 p.m. in the afternoon, about five hours
22 before the killings, he was stopped by the
23 Lincolnville Police Department for going 100 miles
24 an hour in a 35 mile per an hour zone. She
25 approaches the car. She smells marijuana. She

1 searches the car. She finds marijuana. In a white
2 Pontiac Grand Am. The license plate is the same as
3 the license plate that is at the scene of the
4 crime. Same Grand Am. Marijuana inside.

5 And the night of the murder, ladies and
6 gentlemen, marijuana in the Grand Am. In a mason
7 jar described to you by Hunter Eadie and Jazzmin
8 Williamson before.

9 The second thing that we do know is
10 that Tyrell and Jamal were going to Greenhurst the
11 day of the murder to buy marijuana. We know that
12 because Tiffany Bowens sat up here and told you
13 about how they were all getting together for a fish
14 fry, the boys had actually bought it. They were in
15 the middle of frying the fish. Jamal came up to
16 her and said hey, he said can we use your car to go
17 to Greenhurst to buy some marijuana.

18 Jazzmin Williamson testified when I
19 heard what they were doing that I knew they were
20 going to see Biggs. He is the only one I knew in
21 Greenhurst selling marijuana. So we know they were
22 heading that way. But more importantly than that,
23 we know from this cell phone. We know they were
24 going to Greenhurst to buy marijuana from James
25 Biggs. We know that from the cell phone records,

1 ladies and gentlemen. The cell phone that was
2 found between the two victims bodies in the Grand
3 Am. That's how we know they were going to meet
4 James Biggs.

5 I would like to take a minute to show
6 this to you. I'm not really good at setting up so
7 bear with me just a second. But these cell phone
8 records are so important because they show you the
9 communication that was happening right before the
10 murder and that is critical. This is a timeline of
11 the calls that are coming in and going out from
12 James Biggs's phone. This is the timeline. You
13 start up here with 12:56 when he's at the traffic
14 stop by Lincolnville. 1:03 calling his mom. Come
15 down here. The first contact with Tyrell Miles is
16 at what time? 5:43 p.m. That's approximately
17 20 minutes before the 911 calls are dispatched,
18 20 minutes before. Incoming call. I submit to you
19 Tyrell is calling to say hey, can we come over and
20 buy marijuana? You have another incoming call.
21 You have text messages. The last text message
22 that's sent to Tyrell is at 5:46. 5:46.
23 Approximately 15 minutes before the murder. We
24 know what that text message said. It said 104 Lisa
25 Drive. Does that sound familiar? 104 Lisa Drive,

1 ladies and gentlemen, is where Hunter Eadie told
2 you he was supposed to go too. That's where James
3 Biggs told him to go. He is sending the text
4 message to Tyrell telling him the same address.

5 Let's look at 104 Lisa Drive. Here is
6 Larson, here is 102 where the murders occur, here
7 is 104 Lisa Drive, how close this is.

8 Detective Adams told you that's about
9 50 yards. So he is telling people to show up right
10 here. I don't know why. Maybe keep it away from
11 his house a little bit. But the last text message
12 to Tyrell is the same thing it was to Hunter Eadie,
13 104 Lisa Drive because Tyrell Miles was coming to
14 see James Biggs.

15 The last phone call, ladies and
16 gentlemen, which is so critical to the case,
17 5:58 p.m. Incoming call from Tyrell Miles. Look
18 at those phone records. That's a 30 second phone
19 call. They connect. They are talking. They are
20 talking. And maybe they are talking because Tyrell
21 is sitting over at 104 Lisa. Maybe they are
22 talking going where are you, where do you live. We
23 know he ends up pulled up right in the front yard.
24 This is 5:58 p.m. Ladies and gentlemen, that is
25 four minutes before the dispatch 911 calls are

1 received. Four minutes before. So that's how we
2 know that those boys are coming to see James Biggs
3 right before they were killed.

4 The third thing we know, this is
5 definitely James Biggs's cell phone. You heard
6 from AT&T. You have got the subscriber information
7 that's going to go back with you. This was
8 registered to James Biggs. His address is listed
9 at 102 Larson Drive, the place where the murders
10 are.

11 Ladies and gentlemen, who goes anywhere
12 without their cell phone? Leaves their cell phone
13 behind? Who leaves their cell phone behind? Maybe
14 somebody who is panicked because they just shot two
15 people in the car or maybe they cannot find it
16 because Jamal Armstrong was lying down head first
17 in that seat dead on top of the cell phone? Either
18 way James Biggs's cell phone is found in James
19 Biggs's car in James Biggs's yard.

20 The fourth thing we know, we know that
21 James Biggs killed them because no one else was
22 there. No one else was present at the scene. How
23 do we know that? From the witnesses, ladies and
24 gentlemen. Got up on the witness stand and told
25 you that. Hunter Eadie, he said I got to the

1 house. We know that -- check out the phone calls
2 with Hunter Eadie. He starts calling about 5:08.
3 Lots of text messages coming back and forth. I
4 kept calling because I didn't know where he was.
5 He finally drives up and meets me. The last phone
6 call with Hunter Eadie is at 5:40 p.m. The last
7 phone call. So after that he is getting into that
8 Grand Am to make that marijuana purchase. That is
9 a very short time before these victims show up.
10 Very short time. But Hunter Eadie tells you no one
11 is in the yard. The only person I saw was James
12 Biggs. That's it. He's the only one that was
13 there.

14 More importantly than that, we have the
15 testimony of Brandon Woodall and Emily Robbins.
16 What do they tell you? They tell you that we were
17 there at the time and nobody else was there besides
18 James Biggs. This is the picture of the crime
19 scene, ladies and gentlemen. Brandon and Emily
20 pull up to the front here in front of the house.
21 They said James Biggs walked to their car, they
22 hand him \$10, he said pull in the driveway. They
23 pull in right here. According to Emily that Grand
24 Am was right to her right. They pull in right
25 here. I said was anyone else in the yard? No. No

1 one else was there. What happened while Brandon
2 and Emily are present? Shots. Shots are fired.
3 They testified to they hear shots. After they hear
4 shots there's yelling. And they hear five more
5 shots. They start backing out of the drive to get
6 out of there. They both testified they were
7 backing, they see James Biggs going to the road.
8 James Biggs. Is that the only person you saw?
9 Yes. We have James Biggs at the murder scene with
10 two dead bodies because he's the one who killed
11 them. He's it. No one else is there. No other
12 testimony of anybody else being present except the
13 murderer, James Biggs.

14 You have heard some testimony from
15 Brandon Woodall. He told you that I heard a shot,
16 and then I heard help, help, help. And then heard
17 five more shots. I submit to you that's not
18 exactly true. Here's why. Brandon told you that
19 he was a reluctant witness. He did not tell the
20 truth the first time the police came to him because
21 he had received a phone call. He said it was James
22 Biggs and it was a threatening phone call. He did
23 not want to testify. But he also told you he was
24 his friend. He said they went to high school
25 together. I hung out with him after school. We're

1 friends.

2 So, ladies and gentlemen, I recommend
3 you believe the independent witnesses. Let's talk
4 about those people. The first one was Brandon
5 Stancil. What did Brandon Stancil tell you? He's
6 not really an independent witness. But I tend to
7 believe him because he's corroborated by another
8 independent witness. Brandon Stancil is the
9 boyfriend of James Biggs's mother and he tells you
10 this. He was at the house when these murders
11 occurred. He pulled into the driveway shortly
12 before the victims arrive. He goes into the house.
13 What does he say? I hear shots. I grab my own
14 gun. I hear a bloodcurdling scream and then I hear
15 five to six more shots. I call 911. A
16 bloodcurdling scream. Alexander Coutu, do you
17 remember him? He's the witness who lived about two
18 blocks away? He said I'm in my backyard. I hear
19 one shot and I hear somebody screaming for their
20 life and then I hear five to six more shots. That
21 was enough to make me get in my car and drive over
22 to Larson and call 911 at the same time. Those two
23 completely verify each other. They corroborate
24 each other. They don't know each other.

25 But I submit to you if you have got a

1 gun and have already shot once you already hit
2 somebody. You don't need to scream. The people
3 that need to scream are the person that did scream,
4 was one of the victims who either was shot or
5 either saw their friend get shot. That's the
6 person who screamed. The man with the gun didn't
7 have to scream.

8 And what's the final thing we know,
9 ladies and gentlemen. We know that gun was from
10 James Biggs. We know that James Biggs had that
11 gun. And how do you know that? Because of the
12 testimony again. Tiffany Bowens got up here and
13 told you we were at a fish fry. Boys had bought
14 the fish. They were cooking it. They said hey,
15 don't let the fish burn. We are going to go over
16 to Greenhurst real quick, buy some marijuana. We
17 will be right back. Don't let the fish burn. Last
18 thing he said. Does that sound like two boys who
19 are getting ready to come over and shoot up
20 anything? No, it doesn't.

21 Ladies and gentlemen, think about this.
22 This is where you get to use your common sense.
23 Who is more likely to bring a gun or have a gun?
24 The boys who are at a fish fry with their mom or
25 with their girlfriend and their wife and their son

1 or the drug dealer? Who do you think is more
2 likely to have a gun? I submit to you it's a drug
3 dealer.

4 But the most important piece of
5 evidence I want you to consider, and the beauty of
6 this trial is all this gets to go back with you.
7 You're the trier of the facts. You get to see all
8 the evidence. I ask you pay close attention to it.

9 Do you remember the testimony of Jeff
10 Scott? He was the crime scene investigator from
11 Dorchester County. He told you about how they
12 collect evidence at crime scenes and how meticulous
13 they have to be and if they take a piece of
14 evidence they have to write down where they got
15 that evidence from. They do that so that two years
16 later they can remember that at trial, they can
17 testify to it.

18 Do you remember him testifying that
19 there was one live round found? There was one
20 bullet that had not been shot? How he testified to
21 that? Well, when he bagged that bullet he
22 indicated where the live round was found. Was
23 found under the driver's floor mat. Under the
24 driver's floor mat, ladies and gentlemen. How did
25 it get under the floor mat? I will tell you how I

1 think it got under the floor mat. I think it had
2 been under the floor mat from earlier. I don't
3 think it happened the night of the killing. I
4 think it had already been there. I think it had
5 been dropped earlier by its owner who is also the
6 owner of the gun who is also James Biggs. That's
7 his gun. That's from an earlier occasion.

8 And, ladies and gentlemen, Mr. Biggs
9 has been charged with two counts of murder. And
10 Her Honor will instruct you on the law. She is
11 going to explain to you what murder is. But very
12 briefly murder is the intentional killing of
13 another person with malice aforethought express or
14 implied. Malice is that intentional wrongdoing to
15 another person. There is definitely malice here,
16 intentional wrongdoing. I submit to you shooting
17 people is definitely an intentional wrongdoing.
18 Malice aforethought, however, does not necessarily
19 mean that you have to consider this hours, days,
20 weeks ahead. As Her Honor will instruct you malice
21 aforethought can actually occur at the moment the
22 fatal blow is struck. The moment it is struck. If
23 there is malice in your heart at the moment you
24 strike the fatal blow, that's malice aforethought.
25 And we definitely have malice aforethought in this

1 case. I want you to take the testimony of the
2 pathologist that you just heard this morning. He
3 testified to you about the way these boys were
4 killed. And I want you to think about that very
5 carefully when you go back to the jury room.

6 Tyrell Miles is found like this in the
7 car. His legs are on the outside of the car. He
8 is folded over almost completely with his head into
9 the floor board. He has a shot to the back of his
10 neck. He has a shot to the middle of his back and
11 a shot along his spine. All in the back, ladies
12 and gentlemen. All in the back. That's malice.
13 That's malice.

14 I want you to think about Jamal
15 Armstrong. Shot in the face and think about this
16 too. They're shot three times with Tyrell Miles,
17 four, possibly five times with Jamal Armstrong if
18 the bullet didn't go through. Five times with
19 Jamal Armstrong. That's malice. Let's go to Jamal
20 Armstrong. If you really want to see the intent
21 and the maliciousness of the fatal blow, Jamal
22 Armstrong. Head shot. Back of the head. He shot
23 him in the back in the head, ladies and gentlemen.
24 If that's not malice I don't know what is. There
25 is an evil intent at the time you strike that blow.

1 He had to have already been dead to get the shot in
2 the back of the head the way he did. That is a
3 leave no witness. That is cold blooded murder.
4 Cold blooded murder.

5 Ladies and gentlemen, this is not only
6 a cold blooded murder. Two people at the crime
7 scene. It's the murder of a father, of a husband,
8 of a son. Please find this man guilty of these
9 crimes. Thank you.

10 THE COURT: Thank you. Mr. Byrd.

11 MR. BYRD: Thank you, Your Honor. May
12 it please the Court. Good afternoon, ladies and
13 gentlemen. About 15, 20 minutes ago, the
14 prosecution told you we don't know what happened,
15 but we know James Biggs murdered the two
16 Defendants. I don't think I can sum up this case
17 any better if I tried. Honestly I should probably
18 go sit back down. I don't know if I can do better
19 than that. The problem is I am a lawyer. I spent
20 some time thinking about what I want to tell you so
21 you don't get off that easy. You got to hear from
22 me for a few more minutes. What the State needs
23 you to believe is that James Biggs decided from out
24 of nowhere to murder two individuals in his car in
25 the front yard of his momma's house. Why? Does

1 that make sense to y'all? That's their hypothesis.
2 It's their theory of the case. Are there other
3 theories of how these young man could have died? I
4 sure hope so because that one doesn't make any
5 sense to me.

6 When we first spoke I asked y'all to
7 please keep an open mind. I asked y'all to please
8 consider all the evidence that was presented to
9 you. This is an emotional case. This morning was
10 emotional. You saw pictures of bullet holes in
11 bodies. That's emotional. And I understand
12 completely, I understand the need to find someone
13 to blame. I do. But that person is not James
14 Biggs. It's not. There's no evidence. When we
15 first met I asked you to think about what is
16 important to you, what do you need to hear in terms
17 of evidence, what do you need to see in terms of
18 evidence to force the State to prove their burden,
19 because it is their burden. They have to prove it
20 to you beyond a reasonable doubt. They have to use
21 evidence. What have we seen?

22 I suggest to you some of the things you
23 might look for a weapon, murder weapon. Do we have
24 that? We don't. We don't have a gun. We know a
25 gun was used. That much we know. We know from

1 speaking to agent Chad Smith from SLED that it is
2 most likely that a .9-millimeter semi-automatic was
3 used. That's what we learned from him. We know
4 this because of the shell casings that were in the
5 car on the floor scattered about. We know this
6 because there was a live round, one that had not
7 been fired yet also found there in the vehicle.
8 Also a .9-millimeter. We don't have a gun.

9 We also don't have a firearm seen by
10 anyone, anyone, that you heard from. You heard
11 testimony of people who saw James Biggs during the
12 day prior. You heard testimony of people who saw
13 him moments before the incident. Moments before.
14 No firearm. No firearm after. At no point does
15 anyone see a gun on him. I also mention to you
16 that you might want to consider scientific evidence
17 as you move forward. Forensics, ballistics, things
18 of that nature. We just went over the ballistics
19 somewhat.

20 What type of scientific evidence would
21 you like to see? Fingerprints? Sure. We have
22 shell casings everywhere from a .9-millimeter,
23 correct? You heard again agent Chad Smith from
24 SLED describe to you how an automatic works. There
25 was a magazine. You have to load bullets into that

1 magazine. They go into the grip of a gun. You can
2 put that in the chamber. Folks, the gun doesn't
3 load itself. Someone has to put fingerprints on it
4 to put it in. No fingerprints on these shell
5 casings and I think just as important if not more
6 important, no fingerprints on the live round found.
7 When I say no fingerprints, let's be very clear.
8 They checked for fingerprints. You heard that.
9 Fingerprints were checked. Don't you think if
10 James Biggs's fingerprints were on any of those
11 items you would have heard about it? That's the
12 first thing they would have told you? His
13 fingerprints are all over the bullets. There we
14 go. They're not.

15 What else did they have? DNA. They
16 tested for DNA. Right? Did we hear any evidence
17 of James Biggs's DNA being anywhere on that scene?
18 We did not. We know they tested for it. We know
19 they took buccal swabs which you already heard when
20 they take a swab they go inside the mouth to get a
21 sample of your DNA. They tested it against the
22 evidence collected at the scene. None. Gunshot
23 residue. Did we hear about any gunshot residue on
24 Mr. Biggs's hand indicating that he had used a
25 firearm at any point? We did not. Did we hear

1 about it being on the victim? We did.

2 Now, I want you to understand this
3 isn't the type of situation, not the type of case
4 where I am faulting law enforcement for not doing
5 their job. I think they did a very thorough job.
6 I think they did a very good job. They did quite
7 frankly all that scientific evidence that I know I
8 would look for, but at the end of the day in spite
9 of all of that and as a result of all of that there
10 is absolutely no scientific evidence showing that
11 James Biggs had any part of these murders. None.
12 Just not there.

13 Let's talk a little bit about
14 testimonial evidence because that was the third
15 thing I mentioned to you. What would you like to
16 do? What do you need to hear? Testimonial
17 evidence. Witnesses. We heard from a lot of
18 witnesses. By my count probably somewhere 18-ish
19 or 20 I believe. I'm not 100 percent sure, but it
20 was a lot. Of all those witnesses who were asked
21 the question do you know what happened during that
22 incident. Do you know what happened that night. I
23 do not. I don't know. I don't know. I don't
24 know. Ladies and gentlemen, how many I don't know
25 does it take to form reasonable doubt? I would

1 submit to you it takes one. It takes yours.
2 Because I will tell you right now at any given
3 point when you are deliberating if you are sitting
4 there and you say I just don't know, I don't know
5 what happened, I just don't know if I can believe
6 these witnesses, I just don't know, then you don't
7 have a choice but to find James Biggs not guilty.
8 I don't mean to be arrogant with you when I say you
9 don't have a choice, but that is just where it is.
10 That's the situation. If you have to say to
11 yourself and say I just know, I'm just not sure, if
12 you have to guess, then you have to find him not
13 guilty.

14 So let's get a little into some of
15 these witnesses, okay? We heard from Brandon
16 Stancil who we know is James Biggs's mother's
17 boyfriend. He was there in his home, in her home
18 at the time when he heard gunshots. What did he
19 do? He walks outside. Did he see anybody there?
20 He did not. I asked him you have known James Biggs
21 for quite a long time. He said yes. Have you ever
22 seen him with a gun? You see him all the time.
23 Have you seen him with a gun? He said no. The
24 night in question he says he hears bloodcurdling
25 screams outside. Bloodcurdling screams. Folks, I

1 don't know about you, when I hear bloodcurdling
2 screams I immediately think scary movies, people in
3 a scary situation screaming in fear. We heard from
4 other witnesses and I will get more into them in a
5 minute, but we heard Emily Robbins who claims to
6 have been at the scene shortly before the incident.
7 We heard from Brandon Woodall claiming to be there
8 at the scene at the same time with her. She also
9 hears screams. Brandon Woodall tells you he hears
10 James Biggs screaming help. There's no screaming
11 we know about. Hears screaming. You connect the
12 dots. Bloodcurdling screams. What are the
13 screams? Those are bloodcurdling screams for help.
14 That's James Biggs screaming for help.

15 That's the testimony, and folks, all of
16 these witnesses, this is all the testimony of the
17 State's witnesses. These aren't people we called.
18 These are their witnesses. Let's go through a
19 couple of these if you don't mind. Jazzmin
20 Williamson. What did she tell you? They went
21 there to buy weed. State thinks that important
22 because he's a drug dealer they said. He sells
23 weed. Sells weed to a lot of different people.
24 This particular time someone got murdered according
25 to them. Why? What's the motive? Why would he do

1 that? Jazzmin Williamson tells you that she bought
2 marijuana from him three or four times in the past.
3 Most recently just several days before that
4 incident. Did she testify to him having a firearm?
5 Did she testify to him threatening them in any way?
6 She was there with one of the victims buying
7 marijuana just days before. Nothing. We are
8 supposed to believe that suddenly he went off the
9 rails. That's what we are supposed to believe with
10 no motive, with no reason. Does not make sense.

11 Brandon Woodall. Him and Emily Robbins
12 were there apparently also to buy weed which they
13 had done in the past. They bought marijuana from
14 him. You heard it. No prior issues. No sign of
15 aggression, never saw a gun, nothing. But now it
16 is different. Today is different according to the
17 State. Emily Robbins and James Woodall are an
18 interesting couple of witnesses. I mentioned to
19 you in opening you are going to have witnesses with
20 questionable credibility, okay? I would certainly
21 think that they would qualify. The State to their
22 credit has done a good job of picking what they
23 like out of their statements and using them. I
24 credit them for it. What do we believe from them?
25 They had an original statement in which they said

1 there was another individual there who sold them
2 marijuana on November 30th, 2015. Then they get
3 arrest warrants served on them for obstruction of
4 justice and the story changes a bit, right? At
5 this point they say okay, the guy who sold us
6 marijuana was, in fact, James Biggs, but actually
7 he didn't really sell us marijuana. He told us to
8 wait while he walked over to the white Pontiac.

9 What did they tell you they heard?
10 Sounds of fighting. She told you skin on skin
11 fighting. Brandon Woodall told you it sounded bad.
12 Then what? Now we have Emily Robbins telling you
13 she sees in the midst of this a flash as of someone
14 running toward that Pontiac. This is after she
15 tells you Mr. Biggs walked over in that direction.
16 See a flash of someone running in that direction.
17 Not even just a flash. She gives you about an
18 average height. Slim build, about five-seven she
19 said. Why did she say five-seven? She was basing
20 it on how tall she is. She said she's about
21 five-six. She said the individual was about
22 five-seven, ladies and gentlemen. Right? Stand
23 up, James. Five-seven is the individual she saw
24 running over there.

25 (Defendant stood.)

1 MR. BYRD: I feel like some of you are
2 probably acquainted with about what five-seven,
3 five-six is. That's not it. So there is testimony
4 of at least one other person there. Let me move on
5 to that. I want to talk to you all a little bit
6 about Hunter Eadie. Hunter Eadie claims that he
7 was there buying marijuana about a half hour before
8 the incident. Right? He tells you he buys
9 marijuana. No problems. Does not see a gun. No
10 issues of any kind. He tells you they shake hands
11 and he leaves. Shakes hands and leaves.

12 Folks, there is absolutely no
13 indication of malice in this case. Just not there.
14 It's not. The State would like you to believe that
15 since a gun was used in this crime that means that
16 James Biggs had malice towards the victims. We
17 don't see that. We don't. You cannot connect
18 those dots that easily. Sure. Clearly a gun was
19 used. Clearly. I want to again point out there's
20 no evidence connecting that gun to James Biggs.
21 None. None. What do we hear he did? He walked to
22 the Pontiac. Heard the sound of a fight. Heard
23 him screaming bloodcurdling screams for help. We
24 see him run away. He runs away. State wants you
25 to believe it's odd that he left his cell phone.

1 If he's running because he is scared of course he
2 was leaving his cell phone. He's leaving his car.
3 Leaving his car. Do you know what happened to make
4 him so scared, to make him run, leave his car,
5 leave his cell phone? You don't. I don't. They
6 don't. They have told you they don't. If we don't
7 know we cannot convict him of murder. We cannot.

8 I want to circle back to one thing if I
9 can real quick. The traffic stop when he got
10 tickets. He got a ticket for marijuana. Ticket
11 for speeding. He was going fast obviously. Deputy
12 Holt from the Charleston County Sheriff's Office
13 testified that as a result of this stop he searched
14 Mr. Biggs's car. Did not find a gun. Searched the
15 car, no gun. Nothing. It is just not there. I
16 told you when we first spoke that I wanted you to
17 keep an open mind and I wanted you to consider the
18 evidence and whether or not the State would present
19 the evidence that you would need for them to meet
20 their burden. And it's frankly not there. It's
21 not. And I cannot overemphasize to you that if you
22 have to sit there and you have to guess and you
23 have to say well, what if this or very simply as so
24 many of the testimony, so many of the witnesses
25 have testified, if you have to say to yourself I

1 don't know what happened just like they did, just
2 like they did, then you absolutely have to find
3 James Biggs not guilty. Thank you very much. I
4 know it's been a long week. Appreciate all of your
5 service.

6 THE COURT: Thank you, Mr. Byrd. All
7 right. Ladies and gentlemen, I'm going to stand
8 up. Is anybody in need to take a quick break?
9 Very well. It will take me probably about
10 30 minutes to deliver the charge to you. Here's
11 what we are going to do. In a moment I'm going to
12 ask you to step back to your jury room. Do not
13 discuss this matter. Do not allow anyone to
14 discuss it with you because you have not heard any
15 charge on the law and you are not prepared to
16 deliberate. Leave your note pads in your seats.
17 Take your break. When everybody has had the break
18 that you need, knock on the door and you will
19 return. We will be waiting your knock to return.
20 When you return I will deliver the charge on the
21 law to you. If you will go with the bailiff.

22 (Thereupon, the jury exited the
23 courtroom at 12:31 p.m.)

24 THE COURT: Counsel, if you wish to
25 take a quick break, but don't go far because I need

1 you back here for the charge.

2 (Brief recess.)

3 THE COURT: Those of you in the
4 audience, let me just share with you that once I
5 begin the charge I don't want anyone to leave. So
6 if you would like to leave and not be present for
7 the charge, you probably want to leave now. And
8 the reason for that is I need the jury to be able
9 to listen to me uninterrupted. So once the charge
10 has begun then you have got to remain until the
11 charge is over. So if you want to leave it is
12 perfectly fine. I just ask you to do that now.

13 (Whereupon the jury entered the
14 courtroom at 12:39 p.m.)

15 THE COURT: All right. Ladies and
16 gentlemen, you have now heard the witnesses,
17 received the evidence and you have heard the
18 closing arguments of the attorneys. It is now my
19 duty to explain to you the law applicable to this
20 case. Ladies and gentlemen, there are two
21 indictments involved in this case. Each of these
22 two indictments charge the Defendant, Mr. Biggs,
23 with murder. I remind you that the fact that Mr.
24 Biggs, the Defendant, was arrested, charged and
25 indicted in this case is not evidence in this case

1 and it cannot be considered by you as evidence of
2 guilt in this case, nor does it create any
3 presumption or inference of guilt.

4 Ladies and gentlemen, these documents,
5 these indictments are simply the formal written
6 instruments which contain the charge made against
7 the Defendant. They are the formal documents by
8 which a case is brought into court. Ladies and
9 gentlemen, each indictment charges a separate and
10 distinct offense. You must decide each indictment
11 separately and the evidence and the law applicable
12 to it uninfluenced by your decision as to any other
13 indictment. The Defendant may be convicted or
14 acquitted on any or all of the offenses charged.

15 You will be asked to write a separate
16 verdict of guilty or not guilty for each
17 indictment. Ladies and gentlemen, I am now going
18 to read to you the allegations of each of the
19 indictments. It is the State that has the burden
20 of proving each element of each of these
21 indictments. Ladies and gentlemen, 2016-GS-18-0111
22 alleges that in Dorchester County, on or about
23 November the 30th, 2015, with malice aforethought
24 the Defendant, James Alfonza Biggs, III did shoot
25 and kill one Jamal Armstrong. The victim did die

1 as a proximate result thereof, this offense being
2 in violation of common law Section 16-3-10 of the
3 South Carolina Code of laws as amended.

4 Indictment 2016-GS-18-0112 alleges that
5 in Dorchester County, on or about November 30th,
6 2015, with malice aforethought the Defendant, James
7 Alfonza Biggs, III did kill one Tyrell Miles by
8 shooting him multiple times, the victim did die as
9 a proximate result thereof, this offense being in
10 violation of the common law in Section 16-3-10 of
11 the South Carolina code of laws as amended.

12 Ladies and gentlemen, the Defendant,
13 Mr. Biggs, has pled not guilty to these indictments
14 and that plea puts the burden on the State to prove
15 the Defendant guilty. A person charged with
16 committing a criminal offense in South Carolina is
17 never required to prove himself or herself not
18 guilty. I charge you that it is an important rule
19 of law that the Defendant in a criminal case no
20 matter the seriousness of the charge or charges
21 will always be presumed to be innocent of the
22 crimes for which the indictment or indictments were
23 issued unless guilt has been proven by evidence
24 satisfying you of that guilt beyond a reasonable
25 doubt. This presumption of innocence does not end

1 when you begin your deliberations, but it
2 accompanies the Defendant throughout the trial
3 until you reach a verdict of guilt based on
4 evidence satisfying you of that guilt beyond a
5 reasonable doubt. And you do this analysis for
6 each of these indictments separately and
7 independently.

8 The presumption of innocence is not
9 merely a legal theory or legal phrase. It is a
10 substantial right to which every Defendant is
11 entitled unless you, the jury, are satisfied from
12 the evidence of the Defendant's guilt beyond a
13 reasonable doubt.

14 The State has the burden of proving the
15 Defendant guilty beyond a reasonable doubt. What
16 then is reasonable doubt in the law? Ladies and
17 gentlemen, a reasonable doubt is the kind of doubt
18 that would cause a reasonable person to hesitate to
19 act. The State has the burden of proving the
20 Defendant guilty beyond a reasonable doubt. Some
21 of you may have served as jurors in civil cases
22 where you were told that it is only necessary to
23 prove that a fact is more likely true than not such
24 as by the greater weight of the evidence or the
25 preponderance of the evidence. In criminal cases

1 the State's proof must be more powerful than that.
2 It must be beyond a reasonable doubt.

3 Proof beyond a reasonable doubt is
4 proof that leaves you firmly convinced of the
5 Defendant's guilt. There are very few things in
6 this world that we know with absolute certainty and
7 in criminal cases the law does not require proof
8 that overcomes every possible doubt if based on
9 your consideration of the evidence you are firmly
10 convinced that the Defendant is guilty of the
11 crimes charged -- of the crime charged. In other
12 words, you will do this for each of these
13 indictments. If you are convinced that the
14 Defendant is guilty of the crime for which you are
15 considering, you must find the Defendant guilty of
16 that crime that you are considering.

17 If, on the other hand, you think there
18 is a real possibility that the Defendant is not
19 guilty, you must give the Defendant the benefit of
20 the doubt and find him not guilty of the charge
21 that you are considering. I remind you that during
22 this trial you and I have certain duties to
23 perform. As the trial judge it is my
24 responsibility to preside over the trial of this
25 case and I also have the duty to rule on the

1 admissibility of the evidence which has been
2 offered during the trial. I have the additional
3 duty to charge you regarding the law applicable to
4 this trial and to this case. As the presiding
5 judge I am the sole judge of the law of this case
6 and it is your duty as jurors to accept and to
7 apply the law as I now state it to you.

8 If you already have any idea as to what
9 the law is or what it should be and it does not
10 agree with what I tell you the law is, you are by
11 your oath obligated and must abandon that
12 preconceived idea because you are sworn to accept
13 the law and apply the law exactly as I state it to
14 you. In every case tried in this court before a
15 jury the jury, you, become the sole, the exclusive,
16 the only judge of the facts. A trial judge cannot
17 intimate, comment on or make any statement to a
18 trial jury about the facts in the case since you,
19 the jury, are the sole judges of the facts in this
20 case. You are not to infer from what I may have
21 said during the progress of this trial or ruling on
22 the admissibility of evidence or otherwise or
23 anything that I say now during the course of this
24 instruction to you that I have any opinion about
25 the facts in this case. The law does not allow me

1 to have an opinion about the facts in this case.

2 This is a matter solely for you, the
3 jury, to determine. As jurors it is your duty to
4 determine the effect, the value, the weight and
5 believability of the evidence presented during this
6 trial.

7 Now, there are normally two types of
8 evidence which are generally presented during a
9 trial. One is called direct evidence. The other
10 is called circumstantial evidence. Direct evidence
11 proves the existence of a fact and does not require
12 deduction. Circumstantial evidence is proof of a
13 chain of facts and circumstances indicating the
14 existence of a fact.

15 Crimes may be proven by circumstantial
16 evidence. The law makes no distinction between the
17 weight or value to be given to either direct or
18 circumstantial evidence; however, to the extent the
19 State relies on circumstantial evidence all of the
20 circumstances must be consistent with each other
21 and when taken together point conclusively to the
22 guilt of the accused, of the Defendant, beyond a
23 reasonable doubt.

24 If these circumstances merely portray
25 the Defendant's behavior as suspicious the proof

1 has failed. The State has the burden of proving
2 the Defendant guilty beyond a reasonable doubt and
3 this burden rests with the State regardless of
4 whether the State relies on direct evidence,
5 circumstantial evidence or some combination of the
6 two. You should weigh all the evidence in the
7 case. After weighing all the evidence in the case
8 if you are not convinced of the guilt of the
9 Defendant beyond a reasonable doubt you must find
10 the Defendant not guilty.

11 I'm going to give you examples of what
12 I am talking about with direct and circumstantial
13 evidence. Let's go back to February. It's cold.
14 Snow is forecast. You walk outside. You look up
15 and snow hits you right in the face. You go back
16 in say and it's snowing outside. You are an
17 eyewitness to the snow. You know it through your
18 senses. That is direct evidence. It is testimony.
19 Your statement is that you observed it snowing. It
20 is direct evidence perceived with one of your
21 senses.

22 Circumstantial evidence. It's
23 February. It's cold. Snow is forecast. Outside
24 before you turn in for the evening and all you see
25 is your poor, pitiful, brown, crunchy grass. You

1 wake up in the morning and snow covers everything.
2 But the sky is blue. Well, here's what you know.
3 You know that it's February. Snow is forecast.
4 Last night all you saw was brown, crunchy grass
5 when you turned in and in the morning the sun is
6 shining, but there's snow that covers everything.
7 What you know through inference and all of the
8 collateral facts that you do know point to
9 conclusively that it snowed overnight.

10 So when you say it snowed overnight you
11 didn't perceive it with your senses. You didn't
12 see it snow overnight, but you know it snowed
13 overnight because of what you know from the
14 circumstances. That's circumstantial evidence
15 because you know it snowed through inference from
16 what you do know.

17 Now, ladies and gentlemen, necessarily
18 you must determine what we call the credibility of
19 witnesses who have testified in this case.
20 Credibility simply means believability.
21 Believability. It becomes your duty as jurors to
22 analyze and to evaluate the evidence and determine
23 which evidence convinces you of its believability.
24 In determining the believability of witnesses who
25 have testified in this case you may believe one

1 witness over several witnesses or several witnesses
2 over one witness, you may believe a part of the
3 testimony of a witness and reject the remaining
4 part of the testimony of that same witness. You
5 may believe the testimony of a witness in its
6 entirety or you may reject the testimony of a
7 witness in its entirety.

8 You may consider whether any witness
9 has exhibited to you any interest or bias or
10 prejudice or other motive in this case, and you may
11 also consider the appearance and the manner of a
12 witness while on the witness stand.

13 Now, ladies and gentlemen, the rules of
14 evidence ordinarily do not permit witnesses to
15 testify to their opinions or conclusions. An
16 exception to this rule exists for witnesses we call
17 expert witnesses. A witness who by education and
18 experience has become an expert in some art or
19 science, profession or calling and those witnesses
20 may state an opinion as to relevant and material
21 matters in which the witness claims to be an expert
22 and that witness may also state the reasons for the
23 opinion. You should consider any expert opinion
24 received in evidence in this case and like any
25 other evidence give it the weight you think it

1 deserves. If you decide that the opinion of an
2 expert witness is not based on sufficient education
3 and experience or if you conclude that the reasons
4 given in support of the opinion are not sound or
5 that the opinion is outweighed by other evidence,
6 you may disregard the opinion entirely. An expert
7 witness's opinion is to be given no greater weight
8 than that of other witnesses simply because the
9 witness is an expert. Further, you are not
10 required to accept an expert's opinion even though
11 it is not contradicted.

12 Now, ladies and gentlemen, I instruct
13 you and I emphasize that the fact that the
14 Defendant did not testify is not, is not, a factor
15 to be considered by you in any way in your
16 deliberations or in your consideration on the issue
17 of whether the Defendant is not guilty. It must
18 not be considered by you in any manner whatsoever.
19 A Defendant has the constitutional right to remain
20 silent and the assertion of this right must not be
21 considered by you in your deliberations. I repeat,
22 on your oath you are to draw no conclusion
23 whatsoever from the fact that the Defendant in this
24 case did not testify. In fact, the fact that the
25 Defendant did not testify should not, should not,

1 even be discussed in the jury room.

2 The burden of proof as I have stated to
3 you is and remains on the State. The Defendant is
4 not required to prove himself not guilty. The
5 burden of proof remains on the State to prove guilt
6 beyond a reasonable doubt. This again applies to
7 each indictment individually.

8 Now, in order to establish criminal
9 liability criminal intent is required. For
10 example, the mental state required to be proven by
11 the State for a particular crime might be purpose,
12 intent, knowledge, recklessness, criminal
13 negligence. Criminal intent must be proven by the
14 State beyond a reasonable doubt. Criminal intent
15 is always a matter that must be determined by the
16 jury from the circumstances surrounding the
17 situation. There is no way to prove intent to a
18 mathematical certainty. There is no way medical
19 science could dissect a person's brain and
20 determine what the person had in mind so the law
21 says that criminal intent may be inferred from the
22 circumstances shown to have existed. This is how
23 you make a determination of whether or not the
24 element requiring intent was present. It is not
25 necessary to establish intent by direct and

1 positive evidence, but intent may be established by
2 inference in the same way as any other fact by
3 taking into consideration the act of the parties
4 and all the facts and circumstances of the case.

5 Criminal intent is a mental state, a
6 conscious wrongdoing. It is up to you to determine
7 what the Defendant intended to do based on the
8 circumstances shown to have existed. Criminal
9 intent can arise from an act, failure to act. It
10 may arise from -- depending upon the crime charged
11 it can arise under the law in different ways. It
12 can arise from recklessness, indifference to duty
13 or consequences that are considered by the law to
14 be the equivalent of criminal intent depending, of
15 course, on the law applicable to the crime charged.

16 Now, ladies and gentlemen, I am going
17 to define for you the crime of murder. I'm going
18 to define it for you and then I'm going to talk
19 about and define certain of the words used in the
20 definition or words used in the offense.

21 Ladies and gentlemen, the State must
22 prove beyond a reasonable doubt that the Defendant
23 killed another person with malice aforethought.
24 Those are the elements of murder. Malice is
25 hatred, ill will or hostility towards another

1 person. It is the intentional doing of a wrongful
2 act without just cause or excuse and with an intent
3 to inflict an injury or under circumstances from
4 which the law will infer an evil intent.

5 Malice aforethought does not require
6 that malice exists for any particular amount of
7 time before the act is committed. But malice
8 aforethought, meaning malice, must exist in the
9 mind of the Defendant just before and at the time
10 the act is committed. Therefore, there must be a
11 combination of the previous evil intent and the
12 act. Malice aforethought may be express or
13 implied. Inferred I should say. Malice
14 aforethought may be express or inferred. These
15 terms, express and inferred, do not mean different
16 kinds of malice, but merely the manner in which
17 malice may be shown to exist. That is either by
18 direct evidence or by inference from the facts and
19 circumstances which are proved. Express malice is
20 shown when a person speaks words which express
21 hatred or ill will for another or when the person
22 prepared beforehand to do the act which was later
23 accomplished, for example, lying in wait for a
24 person or any other act or preparation going to
25 show that the deed was within the Defendant's mind

1 would be express malice.

2 Malice may be inferred from conduct
3 showing a total disregard for human life. Inferred
4 malice may arise when the deed is done with a
5 deadly weapon. A deadly weapon is any article,
6 instrument or substance which is likely to cause
7 death or great bodily harm. Whether an instrument
8 has been used as a deadly weapon depends on the
9 facts and circumstances of each case. The
10 following are examples and just examples of
11 instruments which may be deadly weapons. A dagger,
12 a knife, a slingshot, metal knuckles, a razor,
13 gasoline, a fire bomb, a Molotov, these are merely
14 examples of deadly weapons.

15 Now, ladies and gentlemen, there are --
16 I am now going to go over with you the verdict
17 form. But before I do that there is a couple of
18 things I want to tell you about the verdict form.
19 The first thing I want to tell you is that your
20 verdict must be unanimous. This verdict must be
21 the verdict of each and every one of you. This is
22 not a verdict for the majority. This is not a
23 verdict of any one. This verdict must be
24 unanimous. That means, again, it must be the
25 verdict of each and every one of the 12 of you.

1 Which brings me to my alternates. When my jury
2 leaves me on this case if y'all will remain here in
3 the courtroom for me I would appreciate it. All
4 right.

5 Now, the next matter that I want to
6 mention to you before I go over the verdict form is
7 that there are two indictments. For each of the
8 two indictments there are two possible verdicts.
9 And the two possible verdicts have been written on
10 this paper. You are to take no hidden meaning from
11 the order in which the two possible verdicts have
12 been placed on paper. It's just reality if there
13 are going to be two things put on a piece of paper
14 one has to be first and one has to be second. So
15 please do not take or have the belief or the
16 thought that there's any comment on or intimation
17 what ought to be your verdict from the order in
18 which these matters are put on paper. I just as
19 easily could put what is now the second possible
20 verdict first or what is now the first possible
21 verdict second.

22 Now, ladies and gentlemen, I hope you
23 can see me. The top of this is called a caption,
24 if you will, just the title of the case. It has
25 the indictment numbers written here and where we

1 are and then the caption of the case or the title
2 of the case. The instructions say please circle
3 the appropriate verdict below and follow the
4 accompanying instructions carefully. No. 1, as to
5 the charge of murder of Jamal Armstrong we the jury
6 unanimously find the Defendant, and with regard to
7 this indictment there are two possible verdicts.
8 Whichever is your unanimous verdict you will circle
9 that verdict so that it is clear which of these two
10 possible verdicts is the verdict of this jury with
11 regards to this indictment. The two possible
12 verdicts are guilty and not guilty.

13 No. 2, as to the charge of murder of
14 Tyrell Miles, we the jury unanimously find the
15 Defendant, and there are two possible verdicts,
16 irrespective of which is the unanimous verdict of
17 this jury, you will circle that verdict so it is
18 clear which of these two possible verdicts on the
19 second indictment is the unanimous verdict of this
20 jury. And the two possible verdicts are guilty and
21 not guilty.

22 When you have completed your
23 deliberations and you have circled your two
24 verdicts, one with regards to No. 1, one with
25 regards to No. 2, you will stop. You will end your

1 deliberations. You will sign the verdict form, and
2 you know who you are, Mr. Presiding Juror, and then
3 you will date the verdict form and for your
4 informational purposes today is the 23rd of
5 February, 2018. I will ask you to date the verdict
6 form as well.

7 Now, in a moment -- and once you have
8 reached your verdicts return to the courtroom, you
9 are going to pass the verdict form to our bailiff
10 who will pass it to me. You do not publish the
11 verdict. Now, in just a moment I'm going to ask
12 the 12 of you to step to your jury room. I'm going
13 to instruct you don't discuss the matter or allow
14 anyone to discuss it with you. But I'm going to
15 tell you why. When you step to your jury room on
16 this case I'm going to turn to these lawyers and
17 I'm going to ask two questions. Have I given this
18 jury all of the law that they may need for their
19 deliberations and have I stated it for them
20 correctly. In the event that I need to bring you
21 back out because I have stated something
22 incorrectly I'm going to ask you in advance to
23 please allow me to correct my error in your minds.
24 In the event that I need to bring you back out
25 because I have failed to give you an instruction

1 that you may need for your deliberations I am going
2 ask you please don't consider that instruction with
3 any emphasis. Just know this is my one chance to
4 give you all of the law may you need for your
5 deliberations and state it to you correctly.

6 In the event that I do not need to
7 bring you back out you will be brought the verdict
8 form, the exhibits and an instruction to begin your
9 deliberations along with your notes. Remember, as
10 you deliberate your notes are for your eyes only.
11 They are not to be used in any way other than to
12 refresh your recollection.

13 Now, ladies and gentlemen, I'm going to
14 leave you with one concluding thought and it's
15 this: The word verdict comes from the Latin phrase
16 veredicto which means to speak the truth which is
17 now your task. Please step to your jury room.
18 Leave your note pads in your seat. Do not discuss
19 this matter or allow anyone to discuss it with you
20 and we will be with you shortly except for my
21 alternates. They are going to stay here with me.

22 (Thereupon, the jury exited the
23 courtroom at 1:15 p.m.)

24 THE COURT: All right. Ms. Felder, Ms.
25 Ward, you both acknowledged to me that you are of

1 course my alternates by your names as I called
2 them. I appreciate that. What I'm going to ask
3 you to do for me is I'm going to ask you to give me
4 15 minutes more once the deliberations have begun.
5 Because should something happen to one of our
6 jurors I think I can stop the deliberations and
7 seat one of you and start them anew and save the
8 trial. So once the deliberations have begun I'm
9 going to ask you for that 15 minutes. And y'all
10 can keep the count if you wish and we have lunch.

11 So I would like you to have a little
12 something to eat as well. What is going to happen
13 is my bailiffs, I don't know which one, but they
14 are going to put you in another room. I need to
15 keep you separate from the jury panel. All right.
16 Very well. If you will step with our bailiffs you
17 are going into another area. And likewise they
18 will hold on to your notes. Don't lose them. Any
19 addition or exceptions from the State?

20 MS. MIMS: No, Your Honor.

21 THE COURT: From the defense?

22 MR. BYRD: Briefly, Your Honor. Just
23 object to the exclusion of a mere presence charge.

24 THE COURT: Yes.

25 MR. BYRD: To the jury. And an

1 objection to the exclusion of a voluntary
2 manslaughter on the verdict form.

3 THE COURT: Thank you. I would cite
4 for you with regard to the mere presence charge,
5 with regards to mere presence, it is a charge that
6 is used where there is some doubt over whether a
7 person is guilty of a crime by virtue of accomplice
8 liability, arising out of accomplice liability.

9 Secondly, mere presence is generally an
10 issue where the State intends to establish a
11 Defendant's possession of contraband such as drugs
12 because the Defendant is present where the
13 contraband is found. In other words, some sort of
14 constructive possession. There's a case called
15 State v. Stokes 339 S.C. 154 528 S.E. 2d 430 that
16 says where the State's view of the evidence was the
17 Defendant was the only person present and committed
18 the crime alone the charge of mere presence on the
19 basis of accomplice liability is unnecessary.

20 And I also state for you State v.
21 Dennis that says where the Defendant's position is
22 that the Defendant was not there and did not do the
23 act charged there is no issue regarding whether the
24 Defendant was an aider or abettor. I share that
25 with you.

1 With regards to voluntary manslaughter,
2 of course, the elements of voluntary manslaughter
3 are that a charge on voluntary manslaughter is not
4 appropriate where there is no evidence that the
5 Defendant shot the victims in the heat of passion
6 upon sufficient legal provocation. Of course, the
7 definition of voluntary manslaughter is the
8 unlawful killing of a human being in sudden heat of
9 passion upon sufficient legal provocation and there
10 is simply is no evidence to support that charge. I
11 would note that even in your argument your
12 statement was no one knows why he was scared. All
13 right. Now, so thank you for that noting your
14 exception for the record. Anything else?

15 MS. MIMS: No, ma'am.

16 MR. BYRD: Nothing, Your Honor.

17 THE COURT: Very well. If you would
18 both of you please look at the exhibits, look at
19 the verdict forms and please assure that what is
20 going to the jury is what is supposed to go to the
21 jury. And once you have done that, Ms. Catherine,
22 you are going to take the exhibits and the verdict
23 form back to the jury and their note pads. And if
24 you would remember to give the jury, please, an
25 instruction to begin their deliberations. And then

1 share with the alternates that the jury has begun
2 their deliberations so they can start keeping the
3 15 minutes.

4 (Discussion off the record.)

5 THE COURT: Bring the jury back out.

6 (Whereupon the jury entered the
7 courtroom at 1:24 p.m.)

8 THE COURT: I did forget to give you
9 one short instruction. I actually remembered just
10 as you were leaving. All 12 of you must be present
11 to deliberate. So in the event that you need to
12 take a break, somebody needs to take a comfort
13 break, that's fine. Stop your deliberations, take
14 your break and resume your deliberation when 12 of
15 you are together again. That's so y'all -- the 12
16 of you can be there for all of the deliberation.
17 That's the reason for that instruction. Lunch has
18 been delivered. It is perfectly fine to have some
19 lunch and deliberate. Not a problem with that at
20 all. When you step back to your jury room you are
21 going to be given the exhibits, your note pads and
22 the verdict form and you are to begin your
23 deliberations. I hope your lunch is to your
24 liking. If you will please step to the jury room
25 and begin your deliberations.

1 (Thereupon, the jury exited the
2 courtroom at 1:25 p.m.)

3 (Thereupon, the jury began deliberating
4 at 1:30 p.m. and reached a verdict at 2:29 p.m.)

5 THE COURT: Anything from the State
6 before we bring the jury out?

7 MS. MIMS: No, Your Honor.

8 THE COURT: Thank you. Anything from
9 the defense before we bring our jury out?

10 MR. BYRD: No, Your Honor.

11 THE COURT: Let's have the jury,
12 please.

13 (Whereupon the jury entered the
14 courtroom at 2:52 p.m.)

15 THE COURT: All right. Mr. Presiding
16 Juror, it is my understanding the jury has reached
17 its verdict; is that correct?

18 THE FOREPERSON: Yes, ma'am.

19 THE COURT: If you will pass it,
20 please, to Ms. Catherine.

21 (Verdict handed to The
22 Court.)

23 (Brief pause.)

24 THE COURT: All right.

25 THE CLERK: In the matter of State of

1 South Carolina versus James Alfonza Biggs, III,
2 indictment numbers 2016-GS-18-0111 and
3 2016-GS-18-0112. As to the charge of murder of
4 Jamal Armstrong we the jury unanimously find the
5 Defendant guilty. As to the charge of murder of
6 Tyrell Miles we the jury unanimously find the
7 Defendant guilty. Signed by foreperson Leroy
8 Pinckney dated February 23rd, 2018.

9 THE COURT: Ladies and gentlemen, if
10 this was your verdict when you were in the jury
11 room and it continues to be your verdict here in
12 the courtroom please indicate by raising your right
13 hands.

14 Let me observe that all my jurors have
15 their hands raised or right hands raised. Thank
16 you so much. Anything from the State before we
17 dismiss the jury?

18 MS. MIMS: No, Your Honor.

19 THE COURT: From the defense?

20 MR. BYRD: No, Your Honor.

21 THE COURT: Very well. Ladies and
22 gentlemen, I want to thank you for your service on
23 this jury and on this jury panel this week. You
24 are now at liberty to discuss this matter should
25 you chose to do so. So when you go home this

1 evening and that person who has been more and more
2 curious, tonight you are at liberty to talk about
3 this case if you want to. And let me share this
4 with you. The practice of law is an art. It is
5 not a science. Sometimes lawyers want to reach out
6 to jurors as they improve what they do and they may
7 ask what can I do better, I am learning, what was
8 helpful, what wasn't helpful. Do you have any
9 constructive criticism for me. If you are
10 comfortable talking about it that's fine. If you
11 are not just let them know you don't want to talk
12 about it. These lawyers are not going to press you
13 to do that.

14 Ladies and gentlemen, let me remind you
15 that you have an exemption for your service should
16 you choose to exercise that exemption in a court of
17 record, not magistrate court or municipal court,
18 but Common Pleas, General Sessions should you
19 choose to exercise that exemption and those years
20 would be for 2019 and 2020. You are now not
21 eligible to serve on a jury for the balance of
22 2018. So should you happen to receive a summons,
23 and sometimes that will occur, just call the
24 clerk's office and let them know because they will
25 be able to look it up and excuse you so that you

1 don't have to come to St. George.

2 And those of you who might be dashing
3 off to work tonight, do not do it on my account.
4 It is up to you. But you might be tired so it is
5 up to you. Now, those for whatever reason need
6 something today to give to your employer, we are
7 getting that for you. Ms. Catherine, you got them,
8 right? They will get those for you either today or
9 the weekend or Monday, whenever it is that you
10 might need that.

11 I want you to know that your service on
12 this jury panel is critical and has been critical
13 to our way of life, to our system of justice. We
14 are a citizen based judicial system. And I want
15 you to know that on behalf of me and behalf of all
16 of us involved in the judicial system we are so
17 grateful for every single tick of the clock and you
18 have given us so many ticks of the clock this week.
19 We are so grateful for your time.

20 I will share with you that in just a
21 moment I will be hearing from counsel and then I
22 will proceed to sentencing. Sometimes jurors want
23 to know if they are curious and want to remain,
24 that is perfectly fine. If you are ready to go
25 that is also perfectly fine. You just leave with

1 all of our gratitude. I used to tell folks that
2 your jury check is in the mail and the clerk of
3 court said don't tell them that. You can't tell
4 them that. Your check is not in the mail. But it
5 will be shortly. I always talk about when I
6 qualify jurors we talk about the fact that if you
7 had anything unusual going on like a trip to Tahiti
8 please let me know and I will transfer your
9 service. I didn't do qualifications this week so
10 y'all didn't get to hear about the trip to Tahiti.
11 But if you had I would tell you that your jury
12 check will get you to Jedburg on your trip to
13 Tahiti as you travel. It is a very small token of
14 all that you have given to us which is of course
15 your dear and precious time. We are very grateful
16 for that.

17 Ladies and gentlemen, I have now
18 completed my comments. I thank you for your
19 service at this time. You are free to go or
20 remain. If you wish to remain in the jury box for
21 sentencing that is perfectly fine. If you want to
22 go that's fine. Probably want to remain here
23 because there is a lot of people in the courtroom
24 so if you wish to remain you can certainly remain
25 here in the jury box. Otherwise have a very good

1 weekend. Thank you so much.

2 (Thereupon, the jury was excused at
3 3:00 p.m.)

4 THE COURT: Mr. Byrd, anything further
5 at this time?

6 MR. BYRD: Nothing, Your Honor.

7 THE COURT: Mr. Byrd, Mr. Nelson, if
8 you would please come forward with Mr. Biggs. All
9 right. Now, on behalf of the State do the victims'
10 families wish to be heard?

11 MS. MIMS: Yes, ma'am. One person is
12 representing the victims' families and would like
13 to be heard.

14 THE COURT: Be delighted to hear from
15 them. Identify yourself for our record.

16 MS. WHACK: Tisa Whack.

17 THE COURT: And spell your last name.

18 MS. WHACK: W-H-A-C-K.

19 THE COURT: I am listening.

20 MS. WHACK: I am the mother of Tyrell
21 Jamal Miles. And I just want to speak on behalf of
22 my family and the Armstrong family. Through our
23 horrible situation we have become connected. It's
24 like we now two families bound in one. And the
25 fact that Tyrell was taken from us, a new husband,

1 the father of a three-year-old at the time of the
2 murder, a day shy of his son's third birthday, for
3 me to be able to pick my grandson up now and for
4 him to ask me where is daddy at? Daddy's in
5 heaven? For his classmates that daddies come pick
6 them up and he doesn't have a father to pick him
7 up. And for a kid in his class to say oh, Dion is
8 the one with no father. Kids don't know the
9 difference.

10 (Thereupon, the Defendant began to
11 faint.)

12 THE COURT: Hold on. All right. We
13 need to call EMS. If you can please place a phone
14 call. What we need to do at this point, because
15 the Defendant is entitled to hear what you have to
16 say, we are going to be at ease right now. Okay?

17 (Brief pause.)

18 THE COURT: Let me just tell you while
19 they are coming, I'm going to step in chambers.
20 When they have had a chance to attend to him just
21 please let me know. We will be at ease.

22 (Brief recess.)

23 MR. NELSON: Your Honor, is it all
24 right if he sits down?

25 THE COURT: Absolutely. And she can

1 come back around.

2 MS. MIMS: Yes, ma'am.

3 THE COURT: We are back on the record
4 in the sentencing of Mr. Biggs, and Ms. Whack, I am
5 listening.

6 MS. WHACK: Okay. Just to reiterate
7 what I said before, two families bonded by one
8 senseless tragedy. We lost sons, brothers, dads,
9 husbands, cousins, nephew gone too soon. Parents
10 is not supposed to the bury their children,
11 especially at the hands of another. Tyrell was my
12 only child. So therefore when he left this earth a
13 part of me left and I don't have anybody else to
14 take that place. He was a father, he was a son.
15 His dad's only baby, his baby boy. He was married
16 July of that same year. His son was about to turn
17 three. He had lots of plans for his future, but
18 those plans were cut off at the senseless act of
19 this murderer. Jamal, the son of Laquetta and
20 Sean. Their baby boy. Preparing to get his
21 diploma and surprise his mother to say I finally
22 got it. I finished school. Cut off. No wife, no
23 child she will ever see from Jamal because that's
24 gone. He will be in jail, but guess what? His
25 family still gets to see him, contact him, talk to

1 him. We will be talking to our children in a grave
2 trying to keep a memory of my son to his child so
3 that way he doesn't forget him. How many
4 three-year-olds you know -- do you remember at
5 three? Much people don't remember things at that
6 age. So we have to instill that in him. Jamal and
7 Tyrell were taken too soon and for the wrong
8 reason. Such a tragedy to such young people. I
9 don't know what's going on in this world people
10 don't value life, but they don't give life so they
11 have no right to take life. There's only one
12 person that does that. That's God. And if it was
13 from him I could accept it. But at the hands of
14 another person to take my child away from me with
15 no explanation? That's just cruel. And three
16 years later we going through reliving the whole
17 thing over again? I walk into an empty room. His
18 same trophies, his same anything is in his room.
19 Laquetta, me and her, we became the best of friends
20 through this. But I surely wish I would have met
21 her under different circumstances.

22 I don't even know what to say after
23 that. I just ask you to give the punishment due to
24 the crimes that were committed to the fullest of
25 your ability. And I thank you for allowing me to

1 speak.

2 THE COURT: Thank you for speaking.

3 MS. TUCKER: Judge, Your Honor, I'm
4 Reverend Mary Tucker and I have known Tisa since
5 she was a little girl, over 40 years. I have known
6 Tyrell because he grew up with my granddaughter. I
7 have a granddaughter that age. Young men get in
8 different things, but I saw him blossoming and
9 become a father, a loving father and a husband. I
10 saw him in a phase of his life that he had gotten
11 where he knew he was going and what he was doing.
12 Much tragedy from an accident that I know he knew
13 it was God that brought him through. My heart is
14 heavy, but for both families, for all three
15 families, because of the evil, but the pain is
16 greater because I know they have lost, someone has
17 been taken from them, someone that I loved, a young
18 man that I think was on his way to great things to
19 be that for his wife and to honor his mother and
20 his grandmother that he loved so dearly that went
21 home. But I thank God for the person he had
22 become, but short lived because his life was taken.
23 And I pray that you will do justice for him. It
24 won't bring him back, but would help with some
25 closure during this grieving, painful time for his

1 family and his loved ones, for his church and the
2 community.

3 THE COURT: Thank you.

4 MS. MIMS: That's all, Your Honor.

5 THE COURT: Mr. Byrd, Mr. Nelson.

6 MR. BYRD: Your Honor, please the
7 Court, I know that Mr. Biggs's mother and aunt
8 would like to be heard.

9 THE COURT: Sure. Just identify
10 yourself for our record.

11 MS. MARION: Latasha Marion. I'm the
12 mother of James Biggs.

13 THE COURT: Yes, ma'am.

14 MS. MARION: James is 24 years old
15 currently. He's never been in any trouble. Never
16 had a criminal background. He's never known
17 violence. He's never had any issues with anyone.
18 Everyone loved James. The verdict was really not
19 what we expected. I do not believe the verdict.
20 However, it is what it is. I just -- I also -- I
21 mean I guess I want you to know for the families I
22 mean I understand and I feel sorry for them. You
23 know, it is not like I'm just being mean or
24 anything, but I know my son. I have lived with him
25 all my life. He graduated from high school, went

1 to Trident Tech College. He worked. He always
2 maintained a job always. He was a good citizen.

3 THE COURT: Thank you.

4 MS. MCDANIEL: Your Honor, my name is
5 Harriet McDaniel. I am the aunt of James Biggs.
6 Today is not a good day for anyone pretty much. I
7 do sympathize with the bereaved family here. There
8 is not a win/win. But in my heart I know for a
9 fact my nephew did not do this. There's no way he
10 could have simultaneously did what was said or what
11 was implied. There was no proof to say that he was
12 beyond a shadow of a doubt that he did it. He is a
13 reputable, good character, well mannered. I have
14 some family members that don't give me that
15 respect. They may not say yes, ma'am to me, but
16 this young man has always, never, ever has
17 disrespected me, my sisters, his grannie or anyone.
18 He is a well, good standing man. I hope and pray
19 that God's will be done that you will search for
20 the true killer who did this.

21 THE COURT: Ma'am, I'm going to stop
22 you there. Because this jury has spoken, a jury of
23 12 people unbiased from the community selected to
24 serve on this jury. They have found him guilty.
25 And I cannot allow you in front of the victims'

1 family to say that. To say that, that's not
2 appropriate for me to add to their pain in that
3 regard.

4 MS. MCDANIEL: Yes, ma'am.

5 THE COURT: So I'm going to stop you
6 from telling me what you are telling me because
7 this case has been tried. The jury has spoken. I
8 won't allow you to make those comments,
9 particularly in front of the family.

10 MS. MCDANIEL: I do apologize. I
11 apologize to the family as well. Please know it
12 was not my intention. We all have emotions right
13 now that we are having to accept. So just know God
14 as my witness I mean no harm to not one person in
15 here.

16 THE COURT: Yes, ma'am. If you will
17 direct your comments to me.

18 MS. MCDANIEL: I am sorry. I am
19 learning. First time. I apologize. But just know
20 that we just pray that God will have mercy upon us.

21 THE COURT: Thank you. Thank you very
22 much. Mr. Byrd or Mr. Nelson.

23 MR. BYRD: Thank you, Your Honor.
24 Latasha Marion, James's mother, told you some about
25 him, told you he graduated from high school.

1 Attended Trident Tech, doing really well there. He
2 was getting his associate degree in
3 entrepreneurship, had dreams of opening up his own
4 business. As she said, he was a hard worker,
5 working two jobs when he got arrested, Your Honor.
6 I will tell you on a personal level I have also
7 enjoyed speaking with James. Any time I visited
8 with him he was a very soft-spoken man. He's a
9 smart guy. I enjoyed all of our visits working
10 with him. I hate it was under these circumstances
11 to be frank. They didn't mention, Your Honor, he
12 does and has always since he was a child attended
13 Mt. Moriah Baptist Church. He has a daughter I
14 believe five years old now.

15 Regardless of whatever sentence Your
16 Honor imposes she will be a grown woman when he
17 sees her. I would ask he is still a young man,
18 25 years old. I would ask that you give him the
19 opportunity to be able to at some point later in
20 his life and in his daughter's life to have a
21 relationship. Give him a chance at that life, Your
22 Honor. I would ask that you give him the minimum
23 sentence in this matter so he does have that
24 opportunity. Thank you, Judge.

25 THE COURT: Thank you so much.

1 Anything.

2 MR. NELSON: Nothing.

3 (Brief pause.)

4 THE COURT: All right. Anything from
5 anyone before I pass sentence on Mr. Biggs?

6 MS. MIMS: No, ma'am.

7 MR. BYRD: No, Your Honor.

8 THE COURT: Very well. With regards to
9 2016-GS-18-111 which is the indictment for murder,
10 Mr. Biggs, I'm going to sentence you and place you
11 in the South Carolina Department of Corrections for
12 the balance of your life. With regards to
13 2016-GS-18-112 which is the indictment for murder,
14 I'm going to commit you to the state Department of
15 Corrections for the balance of your life. These
16 sentences will run concurrent.

17 Very well. That will conclude these
18 matters. I would appreciate it and I would like
19 for the Defendant's family if they would exit first
20 please. And then the victim's family will meet
21 with the solicitor's office. You may take your
22 leave.

23 (These proceedings were concluded at
24 3:37 p.m., February 23, 2018, Dorchester County,
25 South Carolina.)

CERTIFICATE OF REPORTER

I, Ruth C. Weese, Registered Diplomat
Reporter for the State of South Carolina at Large,
do hereby certify that the foregoing transcript is
a true, accurate, and complete record.

I further certify that I am neither related
to nor counsel for any party to the cause pending
or interested in the events thereof.

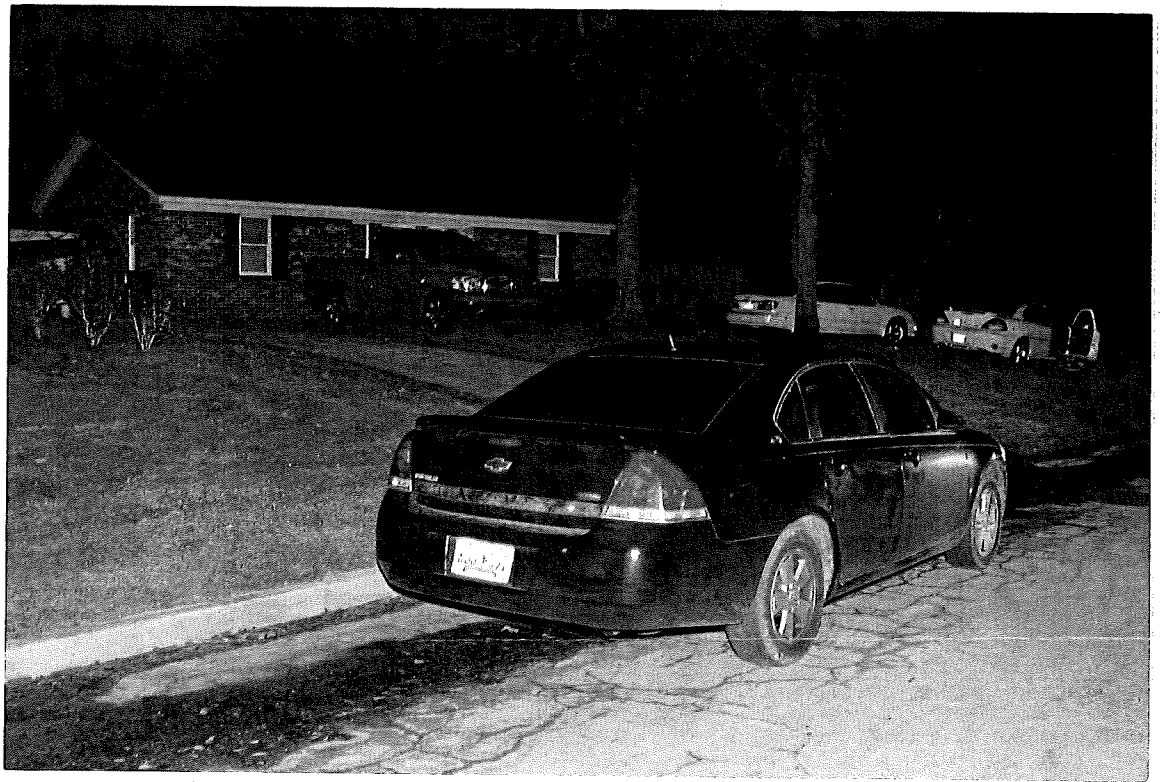
Witness my hand, I have hereunto affixed my
official seal this 17th day of May, 2018 at
Charleston, Charleston County, South Carolina.



Ruth C. Weese

Registered Diplomat

Reporter



Call Log (169)

* These details are cross-referenced from this device's contacts

#	Type	Parties	Timestamp	Duration	OTHER CALLER	EST.
19	Missed	From: 8437149570 Ma*	11/30/2015 11:05:32 PM(UTC+0)	00:00:00	Latosha morion	6:05:32 PM
20	Incoming	From: 8433241762 Butta*	11/30/2015 10:58:49 PM(UTC+0)	00:00:35	Tyrell Miles	5:58:49 PM
21	Missed	From: 8433241762 Butta*	11/30/2015 10:57:35 PM(UTC+0)	00:00:00	Tyrell miles	5:57:37 PM
22	Missed	From: 8433241762 Butta*	11/30/2015 10:57:07 PM(UTC+0)	00:00:00	Tyrell miles	5:57:07 PM
23	Outgoing	To: 8433109357 Jasssi *	11/30/2015 10:53:38 PM(UTC+0)	00:06:25	Jasmine Scott	5:53:38 PM
24	Incoming	From: 8433241762 Butta*	11/30/2015 10:43:57 PM(UTC+0)	00:01:33	Tyrell miles	5:43:57 PM
25	Incoming	From: 8433109357 Jasssi *	11/30/2015 10:40:49 PM(UTC+0)	00:00:38	Jasmine Scott	5:40:49 PM
26	Outgoing	To: 8432970144 Eddie Jay Homie *	11/30/2015 10:40:39 PM(UTC+0)	00:00:07	Hunter Eadie	5:40:39 PM
27	Incoming	From: 8438793077	11/30/2015 10:36:12 PM(UTC+0)	00:00:24		
28	Incoming	From: 8432970144 Eddie Jay Homie *	11/30/2015 10:32:54 PM(UTC+0)	00:01:25	Hunter Eadie	5:32:54 PM
29	Missed	From: 8432970144 Eddie Jay Homie *	11/30/2015 10:28:56 PM(UTC+0)	00:00:00	Hunter Eadie	5:28:56 PM
30	Incoming	From: 8432970144 Eddie Jay Homie *	11/30/2015 10:26:41 PM(UTC+0)	00:00:29	Hunter Eadie	5:26:41 PM
31	Incoming	From: 8435979180 Fendi *	11/30/2015 10:25:56 PM(UTC+0)	00:00:11		
32	Incoming	From: 8432970144 Eddie Jay Homie *	11/30/2015 10:22:03 PM(UTC+0)	00:00:11	Hunter Eadie	5:22:03 PM
33	Outgoing	To: 8432970144 Eddie Jay Homie *	11/30/2015 10:08:40 PM(UTC+0)	00:00:37	Hunter Eadie	5:08:40 PM
34	Missed	From: 8432970144 Eddie Jay Homie *	11/30/2015 10:08:24 PM(UTC+0)	00:00:00	Hunter Eadie	5:08:24 PM



WITNESSES

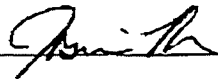
A Smith

Dorchester County Sheriff
15-012670

ARREST WARRANT NUMBER
2015A1810301101

Arrested: December 16, 2015

ACTION OF GRAND JURY



Foreperson of Grand Jury
Date: May 4, 2017

VERDICT

COPIED BILL

Foreperson of Petit Jury
Date:

DOCKET NO. 2016GS18-0111

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE
vs.

James Alfonza Biggs III

Indictment for

Murder

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORDS
2017 MAY -4 PM 2:57
CHERYL GRIFFIN
CLERK OF COURT
DORCHESTER COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

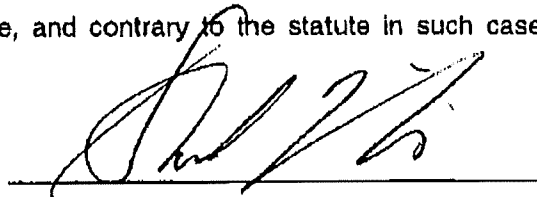
INDICTMENT
2016GS18-0111

As a Court of General Sessions, convened on May 4, 2017 the Grand Jurors of DORCHESTER County present upon their oath:

MURDER

That In Dorchester County on or about November 30, 2015, with malice aforethought, the defendant, James Alfonza Biggs III did shoot and kill one Jamal Armstrong. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, 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 dark ink, appearing to read 'Sheila Mims', is written over a horizontal line.

Sheila Mims, Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
STATE VS.James Alfonza Biggs III

AKA:

Race: BLACK Sex: M Age: 24DOB: [REDACTED] SS#: [REDACTED]Address: 102 Larson DrCity, State, Zip: Summerville, SC 29485-5308DL#: 101961143 SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS18-0111A/W#: 2015A1810301101Date of Offense: 11/30/2015S.C. Code §: 16-3-10CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-3-10 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Mims, Sheila

15784

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 Life ~~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: 2-23-18☐ 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 the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.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 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

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,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 2115Sentence Date: 2-23-2018

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Appellate Case No.2018-000393

Diane S. Goodstein, Circuit Court Judge

The State of South Carolina.....Respondent,

v.

James Alfonza Biggs III.....Appellant.

FINAL BRIEF OF APPELLANT

Elizabeth Franklin-Best
Blume Franklin-Best & Young, LLC
900 Elmwood Avenue, Suite 200
Columbia, South Carolina 29201
(803) 765-1044
betsy@blumelaw.com

Attorney for Appellant

RECEIVED
JUN 03 2019
SC Court of Appeals

TABLE OF AUTHORITIES

Cases

<i>Dempsey v. State</i> , 363 S.C. 365, 610 S.E.2d 812 (2005)	15
<i>State v. Arnold</i> , 361 S.C. 386, 605 S.E.2d 529 (2004)	14
<i>State v. Bostick</i> , 392 S.C. 134, 708 S.E.2d 774 (2011)	13
<i>State v. Knoten</i> , 3487 S.C. 296, 555 S.E.2d 391 (2001).....	15
<i>State v. Manis</i> , 214 S.C. 99, 51 S.E.2d 370 (1949)	13
<i>State v. Mitchell</i> , 341 S.C. 406, 535 S.E.2d 126 (2000).....	13, 14
<i>State v. Pittman</i> , 373 S.C. 527, 647 S.E.2d 144 (2007)	15
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STATEMENT OF THE CASE

James Alfonza Biggs III was tried between February 20-24, 2018 before the Honorable Diane S. Goodstein and a jury for two counts of murder, 2016-GS-18-00111, 2016-GS-18-00112. He was represented by Brian Byrd and Michael Nelson. The State was represented by Sheila Mims and Don Sorenson. He was convicted of both counts and sentenced to life in prison.

This appeal timely follows.

STATEMENT OF RELEVANT FACTS

James Alfonza Biggs III, the Appellant, was convicted of murdering two young men the evening of November 30, 2015 in Dorchester County, South Carolina. The State's case against him was entirely circumstantial, and based on telephone calls made by one of the victim's phones to Biggs's telephone immediately before the shooting. The victims were found, deceased, in Biggs's car. But there was no physical evidence, or eyewitness testimony tending to show that Biggs was responsible for their deaths. The State offered the following evidence at trial.

The State's Circumstantial Case Against Biggs

The State called Justin Jenkins. Now a truck driver, Jenkins was previously with the Dorchester County Sheriff's Office as a patrol deputy. ROA 72. On the night of November 30, 2015, at approximately 6:00pm, he responded to 102 Larson Drive to a call of possible shots fired. ROA 76, 74. It took him about 2-3 minutes to respond. ROA 76. When he arrived, he saw a dark colored sedan. He saw a black male in the driveway of the residence who indicated he was one of the people who called the police. Jenkins told him to stay where he was. ROA 77. Jenkins also noticed a white sedan in the yard of the residence. Approaching that car from the passenger side, he saw two feet hanging outside, below the passenger side door. ROA 78. He saw a black male, slumped over in the passenger seat with his head into the floorboard. ROA 78. He checked for signs of life, but did not find any. ROA 78. While checking this first person, he also saw a second black male on the driver side of the car in a kneeling position with his head in the driver's seat. He saw at least one gunshot wound to that

person. He also checked for signs of life, and heard him gasp for air. He told dispatch they needed emergency medical services. ROA 79. EMS took that person to the hospital. ROA 80. Jenkins testified that the gray car was running, and the lights were on. ROA 82. Shortly afterwards, the crime scene investigators arrived. ROA 84.

Jenkins indicated he did not see any weapons at the scene when he arrived. ROA 85. Nor did he see any other people. ROA 85.

The State called Brandon Stancil, a 34 year old man who, at the time of trial, lived with Latasha Marion at 102 Larson. Ms. Marion is James Biggs' mother. ROA 95. Before that, and at the time of these events, he lived elsewhere in Summerville, South Carolina. ROA 95. He was dating Ms. Marion at the time. In November 2015, Biggs was not living at home with his mother, but with his grandmother in Summerville. That night Stancil arrived at the house a little before 6:00pm. ROA 100.

Stancil testified that Biggs' white Pontiac Grand Am was in the driveway. ROA 100. As Stancil parked his car, the Grand Am backed out of the drive way. Stancil waved to the person in the Grand Am, but they did not speak. He could not see who was in the car because the windows were tinted. ROA 101. Stancil then entered the house. ROA 102. Biggs did not come into the house while Stancil was there. ROA 102. He did not see Biggs' brothers, Omar or Jaylin there either. ROA 102. In the house, Stancil grabbed the laundry and started folding clothes. ROA 103. He spoke to Ms. Marion on the phone as her work shift ended and she was about to go to class. ROA 103. While on the phone with her, Stancil heard a gunshot. Ms.

Marion was able to hear it too. He thought the sound came from where the cars were located. ROA 103-04. He then heard two "bloodcurdling screams or hollers." ROA 104, ll. 12-13. Stancil then grabbed his firearm and headed to the front door. When he got to the door, he heard at least 5 or 6 more shots. ROA 104. He opened the door and then heard a voice say "go, go" and then a car backed out of the driveway. ROA 105, l. 10. It was a dark colored car, rounded in the back and it pulled away. It was dusk, and Stancil was unable to make out the make or model of the car. ROA 105-06. It was not the same car that was there when he initially arrived. ROA 106. He did not see anyone else outside. ROA 106. After he got off the phone with Ms. Marion, Stancil called 911. ROA 106. Stancil saw the two decedents in the white Grand Am. ROA 108. When Officer Jenkins arrived, Stancil told him to secure the car on the street with the parking lots because he did not know who that car belonged to. ROA 109. Jenkins told him to stay put in the driveway. ROA 110. Stancil did not have any contact with Biggs that night. ROA 110. From the night of the incident, until Stancil gave a statement to law enforcement three days later, Stancil did not see Biggs. ROA 111-12. Stancil noted that Biggs's brothers cars were also in the in vicinity of where these events occurred. ROA 114-15. Stancil testified that he has never seen Biggs with a gun. ROA 116.

Jazzmin Williamson also testified. ROA 118. One of the decedents was her first cousin, and the other was her boyfriend. She knew Biggs because she went to school with him. ROA 119. Earlier that day she was with Jamal, Tyrell, her cousin's wife, Tiffany and her son, and they were at her aunt's house. They decided they

wanted to cook seafood so they went to Jazzmin's mother's house. ROA 120. They got there around 4:00-4:30pm. ROA 120. Jazzmin left to take a friend home. ROA 121. Jamal and Tyrell stayed to cook the fish. As she was taking Courtney home, she received a call from her mother. ROA 122. Based on that call, she started calling Tyrell and Jamal to see what was going on. She told Courtney she could not take her home, and she turned around to return to her house. Her mother and Tiffany Bowens, Tyrell's wife, were there. ROA 123. They tried to figure out what happened. They heard there was a shooting at Greenhurst. ROA 123. Jazzmin got into her car and drove to Greenhurst. ROA 123. She took Tiffany back to her mother's house and then she and Courtney went to Biggs' mother's house. ROA 124. She knew that Jamal and Tyrell went to Greenhurst to buy marijuana. They were supposed to get it from Biggs. She knew that because the day before she and Jamal had bought marijuana from him. ROA 124-25. The day before, they bought it from him at the Summerville Station Apartments. ROA 125. She testified that she had purchased marijuana from him three or four times before.

The State called Tiffany Bowens. ROA 141. She was married to one of the decedents, Tyrell Miles. ROA 142. She testified his phone number was 843-324-XXXX. She corroborated Ms. Williamson's testimony about cooking seafood with Jamal and Tyrell. At some point, Jamal approached her and asked if he and Tyrell could use the car to go purchase marijuana in Greenhurst. ROA 144. He wanted to use their Honda Accord. ROA 144. They left around 5:30pm. ROA 145. Apparently Tyrell's cousin posted something on Facebook Live and then she started calling

Tyrell. He did not answer his phone. She did not find out anything about him until 10:00 or 11:00 that night. ROA 146.

Hunter Eadie and Biggs attended Ashley Ridge High School together. ROA 159. On November 30 2015, Eadie sent Biggs a text message asking to purchase some marijuana. He had done so one time earlier. ROA 160. Biggs sent him a text message telling him to meet him at 102 Larson Drive. ROA 161. The address he originally sent him was 106 Larson Drive. ROA 162. Biggs had Eadie get into the passenger side of the car and that is where he purchased the marijuana. ROA 163. According to Eadie, Biggs pulled the marijuana out of a mason jar and put it on a scale. He weighed out 1/8 of an ounce, and Eadie paid him \$60. ROA 164. Eadie's telephone number was 843-297-0144. Eadie did not see a gun on Biggs. ROA 168.

The State called Brandon Woodall to testify. ROA 169. Woodall and Biggs were friends from high school; they played basketball together. ROA 170. He too would purchase marijuana from him. ROA 171. Woodall saw Biggs on November 30, 2015. ROA 172. Woodall gave a statement to law enforcement indicating that he was at Larson street around 5:45pm that evening. ROA 175-76. When he got to Biggs's house, Biggs was outside on the phone. Woodall pulled in the driveway and Biggs took \$10 from him. "Literally within a second or two" he heard noises, screaming, yelling, and gunshots and left. ROA 176, l. 21. It was dark outside, so he did not see anything. ROA 179. After he heard the gunshots, his girlfriend ordered him to leave. ROA 179. He backed his car out of the driveway and left. ROA 180. As he was leaving, he saw Biggs in the yard. He was not near the Grand Am. He was closer

towards the street. He could not see if anyone else was in the yard. ROA 180. Later, he got a phone call from someone who told him, “you don’t know anything, you don’t know anything, you don’t know anything.” Then he heard a voice say that one of the people who got shot said they saw a gold Honda.

Woodall testified did not recognize the first voice, but said the second voice was Biggs. ROA 181-82. He did not call law enforcement. ROA 182. Later, he gave law enforcement a statement, but he was not entirely truthful. He left out the fact that he saw Biggs at the scene, and he said he was not present when the gunshots started. ROA 182. Woodall gave a second statement that included those facts. ROA 183. At the time of this trial, he was charged with obstruction of justice. ROA 184. On cross-examination, Woodall admitted that, in his first statement, he said he handled the marijuana transaction with a dark-skinned guy, someone he did not know. ROA 185. Woodall admitted that he did not see Biggs with a gun, or did he see who else was at the white car when he arrived. He admitted that he heard a fight. ROA 185. He thought he heard Biggs screaming for help. ROA 186. He testified he was “a hundred percent sure” of that. ROA 190. It was after he was threatened with obstruction of justice that Woodall changed his statement. ROA 188.

Emily Robbins, Brandon Woodall’s girlfriend, also testified. ROA 192. She attended high school with Biggs. ROA 192. She testified that a car followed her and Woodall on their way to Biggs’s house that night. It stopped, too, when they stopped to purchase marijuana from Biggs. ROA 197. After they gave \$10 to Biggs, they waited for a minute. Then she saw what “looked like a flash of someone running past

me towards" Biggs's car. ROA 199, ll. 5-6. She and Woodall were talking, and then she heard screaming, fighting, and then emergency flashers on Biggs's car came on. Tr. 199. She heard what sounded like a fight at the white Pontiac. ROA 201. Then she heard 5 or 6 gunshots. ROA 201. She told Woodall to go, and then she saw Biggs run towards the street. ROA 201. She also gave a statement to law enforcement. ROA 203. She too told them that she did not see Biggs at the scene, and that they departed prior to the gunshots being fired. ROA 204. She was charged with obstruction of justice, and gave a second statement. ROA 204.

The State called Alexander Coutu to testify. He lived in the neighborhood. ROA 214. When he gave his initial statement to law enforcement, he said that he thought he heard two different guns. ROA 220.

Investigator Jeff Scott of the Dorchester County Sheriff's Office testified. ROA 228. He responded to the scene that night. ROA 231. Exhibit #19 shows a Chevrolet car at the scene that law enforcement never identified who it belonged to. ROA 234, 521. He found a spent shell casing located under the driver's side of the car. ROA 236. There was also a projectile located on the passenger side of the car. ROA 237. There were also 6 spent cartridge casings found. ROA 240-41. Four were located from inside the car. ROA 243. A phone was recovered from the driver's side of the car. ROA 244. He found marijuana in a mason jar in the passenger side floorboard and another mason jar with marijuana in the driver's side floorboard. ROA 246. He did not find any firearms at the scene. ROA 249. The lead detective involved in the forensic side of the investigation was Detective Mullis, who is no longer with the department and

was not called by the State to testify. ROA 251. Detective Mullis was responsible for taking latent fingerprints, collecting DNA, and the analysis of the blood stain that was found on a door. It was Detective Mullis's decision whether to turn the blood stain over to SLED. ROA 251-52.

Mattie Ingalls was working as a police officer for the Town of Lincolnville in November 2015. ROA 255. She pulled him over for speeding on November 30, 2015. ROA 257. She said she could smell marijuana and they searched the car. ROA 257. She gave him two citations—one for reckless driving and one for possession of marijuana. ROA 258. She patted Biggs down and did not find a gun either on him, or in the car. ROA 264. Michael Holt was the backup officer. He testified that he saw Biggs using a phone that was in a “very feminine phone case.” ROA 269, l. 25. ROA 270, l. 4. After the stop, someone came to the scene and drove away with Biggs and the car because Biggs did not have a valid driver's license. ROA 270. According to Holt, there were two other cars there, too—a gold sedan and an SUV. They also left, and went in the same direction as Biggs and the driver of his car. ROA 273.

Chad Smith with the firearms department of SLED testified. ROA 277. He received 7 fired .9 millimeter caliber cartridge cases. Six of them were marked NATO, and one cartridge case was marked Luger. ROA 284. The NATO is a military-type ammunition; the Luger is a more commercial brand. ROA 285. He concluded that all seven cartridge casings were fired by the same firearm. ROA 289. No firearm was submitted to SLED. ROA 289.

The State called Detective Brandon Berg of the Dorchester County Sheriff's Office to testify. ROA 307. He is a crime scene investigator. A cell phone extraction was performed pursuant to a search warrant by Viann Brantly. ROA 309. Ms. Brantly also testified she performed the extraction. ROA 312. The State moved Biggs's phone records into evidence without objection. ROA 323.

Detective Adam Smith of the Dorchester County Sheriff's Office testified. ROA 328. He was a first responder to the scene. ROA 330. A cellphone was taken from one of the decedents. ROA 339. Law enforcement performed a data extraction from Tyrell Miles's phone. ROA 339.

The State introduced Exhibit #44, an excerpt of the phone logs. The exhibit shows incoming and outgoing calls. It also shows missed calls. It provides the phone number with whom the caller corresponded with and that person's contact information if it is stored in the user's phone. It also includes date and time, and the duration of the call. ROA 522.

Calls to 911 started coming in at 6:02pm. ROA 352. The detective noted that Biggs's girlfriend called Biggs around 5:40pm, and Biggs returned her call at 5:53pm. Tr. 354. Tyrell Miles also called Biggs at 5:43pm, 5:47 and 5:58pm. ROA 355. The call at 5:58 had a duration of 35 second. ROA 355. Biggs' last completed call that night was with Miles at 5:58pm. ROA 356. About four minutes later, the first calls to 911 occur. ROA 357. Biggs also corresponded by text with Hunter Eadie and Emily Robbins. ROA 359-360.

Brandon Woodall and Emily Robbins were parked in the driveway at 102 Larson Drive at the time of the shooting. ROA 361-62. They were not truthful with law enforcement:

Q: Were you able to figure out if they were telling you the absolute truth in those first statements?

A: Yes. After we spoke to them the first time we talked to them, the information they provided didn't match up with the information that we had obtained during the course of the investigation and actually contradicted some information. So it was determined that they had either withheld or misinformed us when they talked to us.

Q: So what did you do?

A: At that point in time we obtained arrest warrants for both Emily Robbins and Brandon Woodall for obstruction of justice. We contacted both of them and advised them of the warrants and then asked them to come back in and speak with us about the case.

ROA 362, l. 20- 363, l. 12.

They each gave a second statement to law enforcement. ROA 363.

Detective Smith acknowledged on cross-examination that there were "several vehicles" that left the scene, "but those were never identified." ROA 366, ll.9-12.

Q: And did you receive information there was a tan Chevy Impala leaving the area very quickly that night immediately after the incident?

A: Yes, something of that sort, yes.

ROA 366, ll. 13-16.

There were also telephone numbers from the cell phone extraction that the Detective could not identify. ROA 367.

Detective Smith also admitted asking Kelvin DeAndre Armstrong if “he felt guilty because he set up Jamal and Terrell to do the robbery ad it caused them to get shot and killed?”

ROA 374, ll. 12-17. The detective’s notes showed that he received information that Kelvin DeAndre Armstrong may have set up the robbery that got his brother killed. ROA 376.

The State’s last witness was Dr. Nicholas Batalis, a forensic pathologist. ROA 399. Mr. Miles had three gunshot wounds. ROA 412. A toxicology report showed Miles had THC or marijuana in his system at the time of his death. ROA 419. Mr. Armstrong had 5 gunshot wounds to the body. ROA 424. Mr. Armstrong also had THC in his system at the time of his death. ROA 440.

The State rested. ROA 443. Trial counsel then motioned for a directed verdict. ROA 443. The trial court denied the motion. ROA 447. Biggs did not testify or offer any evidence on his behalf.

ARGUMENTS

- I. **The trial court erred, and violated Biggs’s right to due process, by not granting his motion for a directed verdict when the State did not offer substantial evidence which reasonably tended to prove his guilt, and where the evidence only raised a mere suspicion that he murdered the two victims.**

The evidence presented at trial was insufficient to support Biggs’s conviction. The most it shows is that the victims attempted to speak with Biggs by cell phone just prior to their deaths. The evidence does not prove that Biggs had his telephone on him, or that he received the calls. It is clear from the evidence that other people

were in the area when the victims were killed, but law enforcement neither investigated them, nor even knew who they were.

A case should be submitted to the jury when the evidence is circumstantial “if there is any substantial evidence which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced.” *State v. Mitchell*, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000). *See also State v. Williams*, 321 S.C.327, 332, 468 S.E.2d 626, 629 (1996). “the jury weighs the evidence but when there is an absence of evidence, it becomes the duty of the trial judge to direct a verdict...” *State v. Schrock*, 283 S.C. 129, 134, 322 S.E.2d 450, 452-53 (1984). Evidence must constitute positive proof of facts and circumstances which reasonably tends to prove guilt. *Id.* at 133, 322 S.E.2d at 452 (citing *State v. Manis*, 214 S.C. 99, 51 S.E.2d 370 (1949).

In *State v. Bostick* 392 S.C. 134, 708 S.E.2d 774 (2011), the South Carolina Supreme Court, analyzing the evidence in the light most favorable to the State, found that the State’s evidence only raised a suspicion of guilt that Bostick committed the crime. The State’s case consisted of the following evidence: (1) the decedent’s car keys, calculator, and other items from her home were found in the Bostick family’s burn pile; (2) the fire in the burn pile was accelerated with either kerosene or diesel fuel, and Bostick’s mother did not use those accelerants when she burned things in the pile; (3) Bostick had a pattern that matched gasoline on his shoes and gasoline was the accelerant used for the house fire; and (4) while the DNA from the blood found on Bostick’s jeans excluded about ninety-nine percent of the population, the

blood could not be matched to the decedent's DNA. Also, the weapon used to kill the decedent was never introduced into evidence, and there was no evidence introduced to show that Bostick had knowledge the decedent may have had money in the briefcase or if any money was, in fact, in the briefcase on that date. *Id.* at 141-42, 708 S.E.2d 778.

In *Schrock, supra*, a double-homicide case, the South Carolina Supreme Court reversed a conviction where the State did not offer any evidence that the defendant was at the scene of the crime, could not definitely testify that the footprint found at the scene was made by shoes allegedly owned by the defendant, the State could not establish that cigarettes found at the scene had been smoked by the defendant, a hand print found at the scene was not the defendant's, and shoes presented in evidence were not identified by any witness who had seen the defendant actually wearing the shoes.

Also, in *State v. Arnold*, 361 S.C. 386, 605 S.E.2d 529 (2004), the South Carolina Supreme Court found evidence insufficient when the defendant's fingerprint on a coffee cup lid tab established that he was in the borrowed BMW on the same day the victim was last seen, and that the BMW was abandoned in Tennessee where the defendant stayed after his stay in Savannah, Georgia only raised a suspicion of guilt and was not sufficient to uphold the conviction. *Also see Mitchell, supra* at 409 ("The only evidence linking respondent to the burglary is the fingerprint"). Respectfully, this Court should enter a judgement of acquittal because the evidence was insufficient to support the conviction and sentence.

II. The trial court erred by refusing to charge the jury with voluntary manslaughter jury instruction.

The trial court declined to charge the jury with voluntary manslaughter:

With regards to voluntary manslaughter, of course, the elements of voluntary manslaughter are that a charge on voluntary manslaughter is not appropriate where there is no evidence that the Defendant shot the victims in the heat of passion upon sufficient legal provocation. Of course, the definition of voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation and there is simply is no evidence to support that charge. I would note that even in your argument your statement was no one knows why he was scared. All right. Now, so thank you for that noting your exception for the record.

Tr. 503, ll. 1-14.

Voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation. *State v. Wharton*, 381 S.C. 209, 214, 672 S.E.2d 786, 788 (2009). To warrant the court eliminating the charge of manslaughter, there must be no evidence whatsoever tending to reduce the crime from murder to manslaughter. *Id.* If there is any evidence from which it could be inferred the lesser, rather than the greater, offense was committed, the defendant is entitled to such charge. *Dempsey v. State*, 363 S.C. 365, 371, 610 S.E.2d 812, 815 (2005). *Also see State v. Knoten*, 3487 S.C. 296, 307, 555 S.E.2d 391, 397 (2001) (“There can be little argument that an unprovoked knife attack constitutes sufficient legal provocation to warrant the requested [voluntary manslaughter] charge.”); *State v. Pittman*, 373 S.C. 527, 573, 647 S.E.2d 144, 168 (2007) (“This Court has previously held that an overt, threatening act or a physical encounter may constitute legal provocation.”).

Various witnesses testified that they heard screaming and yelling just prior to the gunshots being fired. Brandon Stancil testified he heard two “bloodcurdling screams or hollers”, Tr. 104, ll. 12-13, just prior to hearing five or six gunshots. Brandon Woodall heard noises, screaming, yelling, and then gunshots. Tr. 176, l. 21. He also testified he thought he heard Biggs screaming for help. Tr. 186. Emily Robbins also testified she heard screaming and fighting. Tr. 199. All of this supports an inference that Biggs was frightened and shot a gun to protect himself. Additionally, Detective Smith admitted asking Kelvin Armstrong if “he felt guilty because he set up Jamal and Terrell to do the robbery and it caused them to get shot and killed.” Tr. 374, ll. 12-17. It was up to the jury to either make the inference Biggs was frightened and shot the victims, or not make it. The trial court erred in refusing to give the jury the opportunity. Respectfully, this Court should reverse the conviction and sentence and remand for a new trial.

CONCLUSION

As to Issue I, Biggs respectfully asks this Court to enter a judgment of acquittal. As to Issue II, Biggs respectfully asks this Court to reverse his convictions and sentence, and remand for a new trial.

Respectfully submitted,

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May 29, 2019.

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Appellate Case No.2018-000393

Diane S. Goodstein, Circuit Court Judge

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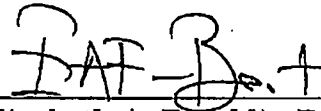
The State of South Carolina.....Respondent,

v.

James Alfonza Biggs III.....Appellant.

CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule 211(b),
SCACR.



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Dated this 30th day of May, 2019.

ORIGINAL

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Dorchester County

The Honorable Diane S. Goodstein, Circuit Court Judge

THE STATE,

Respondent,

v.

JAMES ALFONZA BIGGS, III.,

Appellant.

Appellate Case No. 2018-000393

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TABLE OF CONTENTS

TABLE OF AUTHORITIES	iii
APPELLANT'S STATEMENT OF ISSUES ON APPEAL.....	1
RESPONDENT'S COUNTERSTATEMENT OF ISSUES ON APPEAL.....	1
STATEMENT OF THE CASE.....	2
RESPONDENT'S STATEMENT OF FACTS.....	3
ARGUMENT	6
I. The circumstantial evidence presented by the State was sufficient to overcome the Defense's motion for a directed verdict.....	6
II. Trial court did not abuse its discretion in refusing to instruct the jury on voluntary manslaughter because the evidence presented failed to support that Appellant shot the victims in a heat of passion upon sufficient legal provocation.	9
CONCLUSION.....	15
DESIGNATION OF MATTER	
CERTIFICATE OF SERVICE	

TABLE OF AUTHORITIES

State Cases

<i>Dempsey v. State</i> , 363 S.C. 365, 610 S.E.2d 812 (2005).....	10
<i>Gilchrist v. State</i> , 364 S.C. 173, 612 S.E.2d 702 (2005).....	11
<i>Medlock v. One 1985 Jeep Cherokee</i> , 322 S.C. 127, 470 S.E.2d 373 (1996).....	11
<i>State v. Arnold</i> , 361 S.C. 386, 605 S.E.2d 529 (2004).....	8
<i>State v. Belcher</i> , 385 S.C. 597, 685 S.E.2d 802 (2009).....	14
<i>State v. Blassingame</i> , 271 S.C. 44, 244 S.E.2d 528 (1978).....	13
<i>State v. Bostick</i> , 392 S.C. 134, 708 S.E.2d 774 (2011).....	8
<i>State v. Brayboy</i> , 387 S.C. 174, 691 S.E.2d 482 (Ct.App.2010).....	9
<i>State v. Burdette</i> , 335 S.C. 34, 515 S.E.2d 525 (1999).....	6
<i>State v. Byrd</i> , 323 S.C. 319, 474 S.E.2d 430 (1996).....	9
<i>State v. Cherry</i> , 361 S.C. 588, 606 S.E.2d 475 (2004).....	6, 7
<i>State v. Childers</i> , 373 S.C. 367, 645 S.E.2d 233 (2007).....	11, 13
<i>State v. Cole</i> , 338 S.C. 97, 525 S.E.2d 511 (2000).....	9, 10, 12, 13
<i>State v. Cottrell</i> , 421 S.C. 622, 809 S.E.2d 423 (2017).....	13
<i>State v. Gaster</i> , 349 S.C. 545, 564 S.E.2d 87 (2002).....	6
<i>State v. Gibson</i> , 390 S.C. 347, 701 S.E.2d 766 (Ct. App. 2010).....	9
<i>State v. Harris</i> , 351 S.C. 643, 572 S.E.2d 267 (2002).....	6
<i>State v. Harrison</i> , 343 S.C. 165, 539 S.E.2d 71, (Ct. App. 2000).....	11
<i>State v. Knoten</i> , 347 S.C. 296, 555 S.E.2d 391 (2001).....	9, 10
<i>State v. McKerley</i> , 397 S.C. 461, 725 S.E.2d 139 (Ct.App.2012).....	8
<i>State v. Niles</i> , 412 S.C. 515, 772 S.E.2d 877 (2015).....	11

<i>State v. Patterson</i> , 367 S.C. 219, 625 S.E.2d 239 (Ct.App.2006).....	10
<i>State v. Pittman</i> , 373 S.C. 527, 647 S.E.2d 144 (2007).....	10
<i>State v. Poindexter</i> , 314 S.C. 490, 431 S.E.2d 254 (1993).....	6
<i>State v. Rogers</i> , 405 S.C. 554, 748 S.E.2d 265 (Ct. App. 2013).....	7
<i>State v. Salisbury</i> , 343 S.C. 520, 541 S.E.2d 247 (2001).....	7
<i>State v. Schrock</i> , 283 S.C. 129, 322 S.E.2d 450 (1984).....	6, 8
<i>State v. Starnes</i> 388 S.C. 590, 698 S.E.2d 604 (2010).....	11, 12
<i>State v. Venters</i> , 300 S.C. 260, 387 S.E.2d 270 (1990).....	6
<i>State v. Walker</i> , 324 S.C. 257, 478 S.E.2d 280 (1996).....	10
<i>State v. Whitesides</i> , 397 S.C. 313, 725 S.E.2d 487 (2012).....	14
<i>State v. Wright</i> , 269 S.C. 414, 237 S.E.2d 764 (1977).....	8

Federal Statutes

18 U.S.C. § 924(c)	14

State Statutes

S.C. Code Ann § 16-3-50.....	13

APPELLANT'S STATEMENT OF ISSUES ON APPEAL

- I. The trial court erred, and violated Biggs's right to due process, by not granting his motion for a directed verdict when the State did not offer substantial evidence which reasonably tended to prove his guilt, and where the evidence only raised a mere suspicion that he murdered the two victims.
- II. The trial court erred by refusing to charge the jury with voluntary manslaughter jury instruction.

RESPONDENT'S COUNTERSTATEMENT OF ISSUE ON APPEAL

- I. Did the prosecution, during its case-in-chief, present sufficient evidence to overcome the Defense's motion for a directed verdict?
- II. Did the trial court abuse its discretion in refusing to instruct the jury on voluntary manslaughter where evidence did not support that Appellant shot the victims in a heat of passion upon sufficient legal provocation?

STATEMENT OF THE CASE

James Biggs (“Appellant”) was indicted by the Dorchester County grand jury on two counts of murder. (R. p. 10, ll. 1-6). Appellant was tried before the Honorable Diane S. Goodstein from February 20, through February 23, 2018. (R. p. 1). He was represented by Brian Byrd, Esquire. (R. p. 1). Assistant Solicitors Sheila Mims, Esquire, and Don Sorenson, Esquire, prosecuted the case on behalf of the First Circuit Solicitor’s Office. (R. p. 1). At the conclusion of the trial, the jury found Appellant guilty as indicted. (R. p. 505, l. 25 – p. 506, l. 8). Following the conviction, Judge Goodstein sentenced Appellant to life in prison for each murder. (R. p. 519, ll. 8-16). Appellant filed notice of appeal on February 27, 2018, and Attorney Franklin-Best submitted Appellant’s Initial Brief on November 19, 2018. This Brief of Respondent follows.

RESPONDENT'S STATEMENT OF THE FACTS

During the evening of November 30th, 2015, victims Jamal Armstrong and Tyrell Miles were spending time with family preparing a seafood dinner. (R. p. 120, ll. 7-13; p. 143, ll. 3-6). As the meal neared completion, Jamal and Tyrell left their residence to go purchase marijuana from James Biggs (Appellant). (R. p. 124, ll. 16-24; p. 143, l. 24 – p. 144, l. 16). Appellant instructed Jamal and Tyrell to come to the neighborhood where Appellant's mother lived. (R. p. 359, l. 23 – 360, l. 1). Shortly after arriving at Appellant's mother's residence, Appellant shot killed both Jamal and Tyrell as they sat in Appellant's Pontiac Grand Am. (R. p. 176, l. 16 – p. 179, l. 22; p. 441, ll. 12-18; p. 422, ll. 15-19). Appellant fled from the scene immediately thereafter, leaving behind his car and cellphone. (R. p. 179, l. 21 – p. 181, l. 2; 110, l. 15 – p. 111, l. 4).

During trial, the State submitted multiple witnesses to support its murder case against Appellant. The State presented Jazzmin Williamson, girlfriend of victim Jamal Armstrong, who testified that she had bought marijuana from Appellant three to four times. (R. p. 119, ll. 20-21; 124, l. 16 – p. 125, l. 1; p. 127, ll. 16-20). On at least one of those occasions she bought it from Appellant while sitting in his Pontiac. (R. p. 126, l. 2 – p. 127, l. 15). Hunter Eadie also testified that he had bought marijuana from Mr. Biggs, including on the day of the murder. (R. p. 160, 3-18). That day he was instructed by Appellant to meet at Appellant's mother's house. (R. p. 160, l. 18 – p. 161, l. 12). Once there, he was instructed to get into Appellant's car, where the transaction took place. (R. p. 162, l. 5 – p. 164, l. 23). The transaction with Mr. Eadie took place shortly before the murders, and Eadie testified that there was no one else there at that time. (R. p. 165, ll. 3-8).

The State presented additional testimony from former Lincolnville Police Officer Mattie Ingalls , who had pulled over Appellant in his Pontiac for doing over 100 mph in a 35 mph speed zone the day before the murder. (R. p. 255, l. 18 – p. 256, l. 4). Once pulled over, Ingalls smelled marijuana. Appellant's car was searched and a small amount of marijuana was located. Appellant was written a ticket for the minor possession and reckless driving, and was allowed to leave. (R. p. 255, l. 4 – p. 260, l. 2; p. 261, l. 23 – p. 262, l. 5).

The State also presented cell phone records from Appellant, showing a phone conversation between Appellant and victim Tyrell Miles, and a text message summoning him to Appellant's mother's neighborhood approximately fifteen minutes before the murder. (R. p. 347, l. 2 – p. 361, l. 4).

The State also presented Brandon Stancil. Stancil is the boyfriend of Appellant's mother, and was at the house at the time of the murder. He testified that he pulled into the driveway of Appellant's mother's home during the evening of November 30th. (R. p. 94, l. 22 – p. 100, l. 12). Upon arrival, he saw Appellant's Pontiac Grand Am departing the driveway. He testified that he waved and proceeded inside. (R. p. 100, l. 19 – p. 101, l. 13). Shortly after, he hears shots and screaming. (R. p. 102, l. 21 – p. 104, l. 24). After calling 911, Stancil testified that he went outside and discovered the victims dead inside Appellant's Pontiac. (R. p. 104, l. 25 – p. 108, l. 20). Appellant was nowhere to be found. (R. p. 110, l. 15 – p. 111, l. 15). Alexander Coutu, a nearby neighbor, testified that he too heard shots. He then heard someone screaming for their life, which was quickly followed by additional shots. (R. p. 214, l. 4 – p. 219, l. 2).

The State's key testimony came from Brandon Woodall and Emily Robbins. They too were summoned to Appellant's mother's house the evening of November 30th, after contacting Appellant to purchase marijuana. (R. p. 170, l. 19-21; p. 171, l. 14 – p. 173, l. 22; p. 194, l. 21 –

p. 195, l. 20). Brandon and Emily testified that they pulled up to the front of the house and Appellant walked out to their car. (R. p. 177, ll. 11-18; p. 197, ll. 7-15). They testified they handed Appellant \$10, he told them to pull in the driveway. (R. p. 176, l. 16-20; 177, ll. 19-22; p. 198, ll. 5-9). Appellant then walked away. They testified they could make out Appellant standing outside his car. (R. p. 178, ll. 16-20). Soon after, the couple heard gun shots followed by yelling. (R. p. 179, ll. 7-22; p. 199, ll. 4-11). They testified that they immediately started backing out to escape the violence. (R. p. 176, l. 20-25; p. 179, l. 24 – p. 180, ll. 6-8; p. 201, ll. 14-25). As they did, they testified that they saw Appellant moving toward the road. (R. p. 180, ll. 11-20; p. 181, ll. 1-2; p. 201, ll. 10-13). They did not see anyone else. (R. p. 180, ll. 23-25; p. 200, ll. 9-10). Brandon Woodall also testified that he later received a threatening phone call from Appellant and another unknown individual. (R. p. 181, l. 12 – p. 182, l. 4).

ARGUMENT

I. The Circumstantial Evidence Presented By The State Was Sufficient To Overcome The Defense's Motion For A Directed Verdict.

Standard of Review

“On appeal from the denial of a motion for directed verdict, this Court must view the evidence in a light most favorable to the State.” *State v. Burdette*, 335 S.C. 34, 46, 515 S.E.2d 525, 531 (1999) (citing *State v. Schrock*, 283 S.C. 129, 322 S.E.2d 450 (1984)). “If there is any direct evidence or any *substantial circumstantial evidence* reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury. *State v. Cherry*, 361 S.C. 588, 593–94, 606 S.E.2d 475, 478 (2004) (citing *State v. Harris*, 351 S.C. 643, 653, 572; S.E.2d 267, 273 (2002)) (emphasis added); *State v. Venters*, 300 S.C. 260, 264, 387 S.E.2d 270, 272-73 (1990)); *see also State v. Gaster*, 349 S.C. 545, 564 S.E.2d 87 (2002) (holding that on an appeal from trial court's denial of a motion for a directed verdict, appellate court may only reverse the trial court if there is no evidence to support the trial court's ruling).

Legal Analysis

Appellant argues the trial court erred in denying his motion for a directed verdict because the State failed to present substantial evidence which reasonably tended to prove his guilt. “When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight.” *Cherry*, at 593, 606 S.E.2d at 477–78. “If the State presents any evidence which reasonably tends to prove defendant's guilt, or from which defendant's guilt could be fairly and logically deduced, the case must go to the jury.” *Burdette*, at 46, 515 S.E.2d at 531 (citing *State v. Poindexter*, 314 S.C. 490, 431 S.E.2d 254 (1993)). The

record in the present case supports the trial judge's denial of Appellant's directed verdict motion because the State presented substantial circumstantial evidence supporting Appellant's guilt.

The State acknowledged at trial that the case was based on circumstantial evidence. "Circumstantial evidence [. . .] is proof of a chain of facts and circumstances from which the existence of a separate fact may be inferred." *State v. Rogers*, 405 S.C. 554, 563, 748 S.E.2d 265, 270 (Ct. App. 2013) (citing *State v. Cherry*, 361 S.C. 588, 596, 606 S.E.2d 475, 479 (2004)). "Circumstantial evidence is 'based on inference and not on personal knowledge or observation,' *Black's Law Dictionary* 636 (9th ed.2009), and establishes 'collateral facts from which the main fact may be inferred.'" *Id.* (citing *State v. Salisbury*, 343 S.C. 520, 524 n. 1, 541 S.E.2d 247, 249 n. 1 (2001)).

The State presented the following circumstantial evidence at trial:

1. Brandon Stancil's testimony confirming that Appellant's Pontiac Grand Am was parked at the murder scene minutes before the murder (R. p. 94-111);
2. Jazzmin Williamson and Tiffany Bowens attesting that the victims went to Appellant's mother's house to purchase marijuana from Appellant and that neither victim owned guns (R. p. 119-127; p. 145-146).
3. Hunter Eadie's testimony that he purchased marijuana from Appellant at the murder scene minutes before the murder and that Appellant was the only person present (R. p. 160-165);
4. Brandon Woodall's and Emily Robbins's testimony placing Appellant at the murder scene immediately prior to and immediately after the murder (R. p. 170-201);
5. Alexander Coutu's testimony affirming that he heard gunshots followed by an individual screaming for their life (R. p. 214-219; and

6. Detective Smith's testimony highlighting the phone calls and text messages between Appellant and the victims, in which Appellant summons them to his mother's house to purchase marijuana (R. p. 347-361).

Despite the weight of the circumstantial evidence, Appellant relies to *State v. Bostick*, 392 S.C. 134, 708 S.E.2d 774 (2011), for the proposition that the State's evidence was inadequate to survive a directed verdict motion. There, the South Carolina Supreme Court reversed upon finding that the State's evidence raised only a suspicion of guilt. Appellant's argument fails to recognize that the evidence submitted by the State in the present case rose to a higher standard than mere suspicion. The State presented substantial circumstantial evidence of guilt, including: cell phone records in which Appellant summons the victims to the crime scene (R. p. 347, l. 2 – p. 361, l. 4), multiple eye witness testimony placing Appellant at the scene immediately before, during, and after the murders (R. p. 160, l. 18 – p. 161, l. 12; p. 177, l. 5 – p. 181, l. 2; p. 198, l. 2 – p. 201, l. 25), and testimony describing a threatening phone call made by Appellant to a witness immediately after the murder (R. p. 181, l. 12 – p. 182, l. 4). Appellant also attempts to attack the credibility of witnesses Brandon Woodall and Emily Robbins. However, "[t]he assessment of witness credibility is within the exclusive province of the jury." See *State v. McKerley*, 397 S.C. 461, 464, 725 S.E.2d 139, 141 (Ct.App.2012) (citing *State v. Wright*, 269 S.C. 414, 417, 237 S.E.2d 764, 766 (1977)). Clearly the jury found the credibility Woodall's and Robbins's testimony sufficient to convict Appellant.

Appellant also cites to *State v. Schrock*, 283 S.C. 129, 134, 322 S.E.2d 450, 452-53 (1984), *State v. Arnold*, 361 S.C. 386, 605 S.E.2d 529 (2004), to suggest that the trial court must grant a directed verdict if the State fails to present evidence placing the defendant at the scene of the crime. In *Schrock* and *Arnold*, the Court held that the State did not produce substantial

circumstantial evidence of the defendant's guilt and noted that the State presented no evidence that the defendant was at the scene. In this case, unlike *Arnold* and *Schrock*, the State offered substantial circumstantial evidence of Appellant's presence at the murder. Hunter Eadie, who purchased marijuana from Appellant immediately prior to the murder, confirmed that they met at the scene shortly before the murder. *See* R. p. 160, l. 18 – p. 161, l. 12. Moreover, Brandon Woodall and Emily Robbins both testified that they were approached by Appellant at the murder scene mere seconds prior to the shooting and witnessed Appellant fleeing from the vehicle immediately after. *See* R. p. 160, l. 18 – p. 161, l. 12; p. 177, l. 5 – p. 181, l. 2; p. 198, l. 2 – p. 201, l. 25. Considering the depth of the circumstantial evidence presented by the State, the trial court was proper in denying Appellant's directed verdict motion.

II. Trial Court Did Not Abuse Its Discretion In Refusing To Instruct The Jury On Voluntary Manslaughter Because The Evidence Presented Failed To Support That Appellant Shot The Victims In A Heat Of Passion Upon Sufficient Legal Provocation.

Standard of Review

“The law to be charged must be determined from the evidence presented at trial.” *State v. Knoten*, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001). “In determining whether the evidence requires a charge of voluntary manslaughter, the Court views the facts in a light most favorable to the defendant. *Id.* (citing *State v. Byrd*, 323 S.C. 319, 474 S.E.2d 430 (1996)). “Declining to charge the lesser included offense is warranted when it ‘very clearly appear[s] that ... no evidence whatsoever [exists] tending to reduce the crime from murder to manslaughter.’” *State v. Gibson*, 390 S.C. 347, 355–56, 701 S.E.2d 766, 770–71 (Ct. App. 2010) (quoting *State v. Brayboy*, 387 S.C. 174, 179, 691 S.E.2d 482, 485 (Ct.App.2010); *State v. Cole*, 338 S.C. 97, 101, 525 S.E.2d 511, 513 (2000). “In order to amount to reversible error, the failure to give a

requested charge must be both erroneous and prejudicial.” *Id.* (citing *State v. Patterson*, 367 S.C. 219, 232, 625 S.E.2d 239, 245 (Ct.App.2006).

Legal Analysis

The Trial Court did not err in refusing to instruct the jury on voluntary manslaughter because there was no direct evidence that Appellant acted in a sudden heat of passion under sufficient legal provocation. In *State v. Cole*, the Supreme provided the following definition of voluntary manslaughter:

Voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation. Heat of passion alone will not suffice to reduce murder to voluntary manslaughter. Both heat of passion and sufficient legal provocation must be present at the time of the killing. “The sudden heat of passion, upon sufficient legal provocation, which mitigates a felonious killing to manslaughter, while it need not dethrone reason entirely, or shut out knowledge and volition, must be such as would naturally disturb the sway of reason, and render the mind of an ordinary person incapable of cool reflection, and produce what, according to human experience, may be called an uncontrollable impulse to do violence.”

State v. Cole, 338 S.C. 97, 101–02, 525 S.E.2d 511, 513 (2000) (internal citations omitted).

In his initial brief, Appellant cites to *Dempsey v. State*, 363 S.C. 365, 371, 610 S.E.2d 812, 815 (2005), *State v. Knoten*, 3487 S.C. 296, 307, 555 S.E.2d 391, 397 (2001), and *State v. Pittman*, 373 S.C. 527, 573, 647 S.E.2d 144, 168 (2007) to support *provocation*. However, Appellant fails to address the lack of evidence indicating that he killed the victim’s in a *heat of passion*. See *State v. Walker*, 324 S.C. 257, 260, 478 S.E.2d 280, 281 (1996) (“Both heat of passion and sufficient legal provocation must be present at the time of the killing.”). It would appear from the Record that the lack of evidence reflecting heat of passion was the reason the Trial Court refused to charge voluntary manslaughter. Specifically, the Trial Court reasoned:

With regards to voluntary manslaughter, of course, the elements of voluntary manslaughter are that a charge on voluntary manslaughter is not appropriate where there

is no evidence that the Defendant shot the victims in the heat of passion upon sufficient legal provocation. Of course, the definition of voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation and there is simply no evidence to support that charge. I would note that even in your argument your statement was no one knows why he was scared.

(R. p. 503, ll. 1-12).¹

The trial court made a correct assessment that the evidence did not support Appellant's charge request because being "scared" does not conform with voluntary manslaughter charge. "Voluntary manslaughter, by definition, requires a criminal intent to do harm to another." *State v. Niles*, 412 S.C. 515, 523, 772 S.E.2d 877, 881 (2015) (quoting *State v. Childers*, 373 S.C. 367, 375-76, 645 S.E.2d 233, 237 (2007)). As suggested by the record, if Appellant fired at the victims, it was out of fear. However, this allegation would insinuate a lack of criminal intent. Under Appellant's theory, the defense of self-defense would have been more appropriate under these circumstances. Nevertheless, the issue preserved and now raised by Appellant is the lack of voluntary manslaughter.

In the South Carolina Supreme Court case *State v. Starnes*, the petitioner claimed error from the trial court's refusal to charge the jury on voluntary manslaughter during his double murder trial. *State v. Starnes*, 388 S.C. 590, 599-600, 698 S.E.2d 604, 609 (2010). In that case, the South Carolina Supreme Court provided a thorough explanation on the evidence necessary to

¹ This is the only portion of the trial record that reflects Appellant's argument as to why he was entitled to a voluntary manslaughter charge. While this testimony insinuates that an off the record conference occurred, the record fails to show Counsel's argument in support of the charge request. See *State v. Harrison*, 343 S.C. 165, 539 S.E.2d 71, (Ct. App. 2000) (Numerical references made by appellant during his post charge objection "reveal either a charge conference took place or defense counsel presented the judge with various numbered charge requests prior to the judge's instruction to the jury."); but see *Gilchrist v. State*, 364 S.C. 173, 178, 612 S.E.2d 702, 705 (2005) ("When given the opportunity, counsel must articulate a reason for the requested charge."); *Medlock v. One 1985 Jeep Cherokee*, 322 S.C. 127, 470 S.E.2d 373 (1996) (The appellant has the burden of presenting a record sufficient to allow the appellate court to make a decision).

entitle a voluntary manslaughter charge and its relationship to self-defense. The Court provided the following:

Turning to the facts of this case, viewing the evidence in the light most favorable to Appellant, there is no evidence to support a voluntary manslaughter charge. Appellant testified when he turned around and saw Bill pointing a gun at him, "I shot Bill Welborn and then turned and shot Jared Champlin." He added, "I was scared and I was frightened. When Jared pulled the gun on Jody, it scared me." While this testimony is evidence that Appellant was in fear, there is no evidence Appellant was out of control as a result of his fear or was acting under an uncontrollable impulse to do violence. The only evidence in the record is that Appellant deliberately and intentionally shot Jared and Bill and that he either shot the men with malice aforethought or in self-defense.

Again, we emphasize self-defense and voluntary manslaughter are not mutually exclusive, and had there been evidence to support a finding of heat of passion upon sufficient legal provocation, Appellant would have been entitled to a voluntary manslaughter charge. The record is simply devoid of such evidence. In our view, to hold that Appellant was entitled to a voluntary manslaughter charge under the facts of this case would impermissibly blend the elements of voluntary manslaughter and self-defense. In effect, such a holding would render voluntary manslaughter a lesser-included offense of self-defense, for where there is an intentional killing based on fear alone, a defendant would be entitled to a voluntary manslaughter charge.

For these reasons, we hold the trial court properly refused to charge voluntary manslaughter.

Starnes, 388 S.C. at 599, 698 S.E.2d at 609.

Similarly, in *State v. Cole*, the petitioner claimed error from the trial court's refusal to charge voluntary manslaughter. At trial the petitioner testified that he shot at the victim out of fear. *Cole*, 338 S.C. at 102, 525 S.E.2d at 513. Again, the Court held:

[T]here was no evidence presented that Appellant was overcome by a sudden heat of passion as would produce an uncontrollable impulse to do violence. On the contrary, by Appellant's own testimony, he shot at the men to scare them away. Appellant's testimony appears designed to support a charge of self defense, not heat of passion.

Id. (internal quotations omitted).

Like *Starnes* and *Cole*, there is no evidence in the Record that Appellant acted in a "heat of passion." The defense did not present *any* witnesses at trial. Furthermore, none of the

testimony presented during that State's case reflected that Appellant acted in a heat of passion. *See Cole*, 338 S.C. at 102, 525 S.E.2d at 513, ("The trial court did not err in refusing to instruct the jury on voluntary manslaughter because there was no evidence of sudden heat of passion or sufficient legal provocation.").

Despite Appellant's argument, the Record also lacks evidence reflecting sufficient provocation. *See State v. Childers*, 373 S.C. 367, 373, 645 S.E.2d 233, 236 (2007) (citing *State v. Cole*, 338 S.C. 97, 101, 525 S.E.2d 511, 512 (2000) ('The law to be charged must be determined from the evidence presented at trial')). While several witnesses testified that they heard screaming prior to the shooting, nobody directly witnessed any type of physical altercation between Appellant and the victims. Appellant seeks support by the fact that law enforcement investigated the possibility that the shooting resulted from a robbery attempt. This was presented to the jury through testimony of Detective Adam Smith who acknowledged that it was initially a theory, but was uncorroborated do to the lack of supporting evidence. (R. p. 372, l. 21 – p. 389, l. 24). Moreover, evidence presented at trial contradicted this robbery theory. Tiffany Bowens testified that neither victim possessed a firearm, and the responding officer, Jeff Scott, testified that no firearms were found at the scene or on either of the victims. (R. p. 145, l. 25 – p. 146, l. 5; 249, ll. 1-4).

Alternatively, Appellant's possession of a firearm during the drug deal, and the ballistics conducted on the victims, supports a finding of malice which would exclude voluntary manslaughter. *See S.C. Code Ann § 16-3-50* (defining Manslaughter as "the unlawful killing of another without malice, express or implied."); *State v. Blassingame*, 271 S.C. 44, 46, 244 S.E.2d 528, 529 (1978) ("Voluntary manslaughter, of course, is an offense which does involve intent on the part of the perpetrator but lacks the element of malice."); *see also State v. Cottrell*, 421 S.C.

622, 643–44, 809 S.E.2d 423, 435 (2017) (citing *State v. Belcher*, 385 S.C. 597, 685 S.E.2d 802 (2009) (*Belcher* does not “restrict the State from arguing to the jury for a finding of malice from the use of a deadly weapon . . .”). The evidence presented at trial supports that Appellant was the only party who possessed a weapon at the time of the murder. Agent Chad Smith, a firearms expert with SLED, testified that all the expended bullets that were recovered from the victims were fired by the same firearm. (R. p. 277, ll. 17-25; p. 287, ll. 3-20). The South Carolina Supreme Court’s opinion in *State v. Whitesides* reflects a position that possession of a weapon while dealing drugs is inherently malicious. *State v. Whitesides*, 397 S.C. 313, 725 S.E.2d 487 (2012). In *Whitesides* the Court ruled in the context of possession of a firearm during commission of a violent crime. The Court concluded, “[a] nexus may be established by showing that the firearm furthered, advanced, or helped in the commission of the crime. A nexus between possession of a firearm and drug trafficking would exist if the firearm is accessible to the trafficker and thereby provides defense against anyone who may attempt to rob the trafficker of his drugs or drug profits.” *Id.*, 397 S.C. at 319, 725 S.E.2d at 490 (internal quotations omitted). Federal law shares a similar position in that it has long found individuals who bring a firearm to a drug deal to be criminally culpable under 18 U.S.C. § 924(c). In regards to the ballistics, Dr. Nicholas Batalis, forensic pathologist, testified that Miles had been shot three separate times: two to his back, and once in the backside of his head. (R. p. 419, ll. 16-22). Dr. Batalis further testified that Jamal Armstrong had been shot four separate times: one to the back of his head, one to the right side of his face, one to the right side of his jaw, one to his right shoulder, and one to the left side of his chest. (R. p. 425, l. 22 - 439, l. 16). The quantity of rounds found in each victim, along with the fact that nearly all rounds impacted Miles and Armstrong in the back of their bodies clearly reflects a level malice existed at the time Appellant opened fire. For this

reasons the Trial Court did not err in declining to instruct the jury on voluntary manslaughter. There was evidence of malice but no evidence of heat of passion.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the appeal be dismissed.

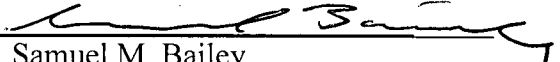
Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

June 18, 2019.

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Dorchester County

The Honorable Diane S. Goodstein, Circuit Court Judge

RECEIVED
JUN 18 2019
SC Court of Appeals

THE STATE,

Respondent,

v.

JAMES ALFONZA BIGGS, III.,

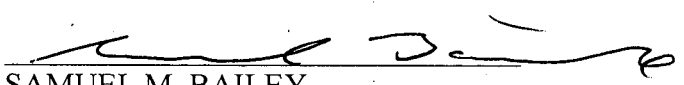
Appellant.

Appellate Case No. 2018-000393

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the April 15, 2014, Order of the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 18th day of June, 2019.


SAMUEL M. BAILEY
Assistant Attorney General

ATTORNEY FOR RESPONDENT

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

James Alfonza Biggs, III, Appellant.

Appellate Case No. 2018-000393

Appeal From Dorchester County
Diane Schafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2020-UP-169
Submitted May 1, 2020 – Filed June 3, 2020

AFFIRMED

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Franklin-Best, P.C., of Columbia, for Appellant.

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Attorney General W. Jeffrey Young, Deputy Attorney
General Donald J. Zelenka, Senior Assistant Deputy
Attorney General Melody Jane Brown, and Assistant
Attorney General Samuel Marion Bailey, all of
Columbia, for Respondent.

PER CURIAM: James Alfonza Biggs, III appeals his two convictions of murder and concurrent sentences of life imprisonment. On appeal, Biggs argues the trial court erred by denying his motion for a directed verdict. He further contends the trial court erred by refusing to provide a jury instruction for voluntary manslaughter. We affirm pursuant to Rule 220(b)(2), SCACR, and the following authorities:

1. We hold the trial court did not err in denying Briggs's motion for a directed verdict because the State produced substantial circumstantial evidence of Biggs's guilt to warrant submission of the case to the jury. *See State v. Weston*, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006) ("When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight."); *id.* ("When reviewing a denial of a directed verdict, [the appellate c]ourt views the evidence and all reasonable inferences in the light most favorable to the [S]tate."); *id.* at 292-93, 625 S.E.2d at 648 ("If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the [c]ourt must find the case was properly submitted to the jury."); S.C. Code Ann. § 16-3-10 (2015) (defining murder as "the killing of any person with malice aforethought, either express or implied"). Specifically, the State produced witnesses who testified they saw Biggs's car at the scene of the murder and saw Biggs flee the scene after the witnesses heard gunshots.

2. We hold the trial court did not err in refusing to instruct the jury on the law of voluntary manslaughter because the evidence adduced at trial did not establish Biggs acted in the sudden heat of passion under sufficient legal provocation. *See State v. Cole*, 338 S.C. 97, 101, 525 S.E.2d 511, 512 (2000) ("The law to be charged must be determined from the evidence presented at trial."); *id.* at 101, 525 S.E.2d at 513 ("To warrant a court's eliminating the offense of manslaughter, it should very clearly appear that there is no evidence whatsoever tending to reduce the crime from murder to manslaughter."); *State v. Gibson*, 390 S.C. 347, 356, 701 S.E.2d 766, 770-71 (Ct. App. 2010) ("In order to amount to reversible error, the failure to give a requested charge must be both erroneous and prejudicial."); *Cole*, 338 S.C. at 101, 525 S.E.2d at 513 ("Voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation."); *id.* ("Heat of passion alone will not suffice to reduce murder to voluntary manslaughter."); *id.* ("Both heat of passion and sufficient legal provocation must be present at the time of the killing.").

AFFIRMED.¹

WILLIAMS, KONDUROS, and HILL, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

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Jun 05 2020

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of General Sessions

Appellate Case No.2018-000393

Diane S. Goodstein, Circuit Court Judge

The State of South Carolina.....Respondent,

v.

James Alfonza Biggs III.....Appellant.

PETITION FOR REHEARING

Pursuant to Rule 221, undersigned counsel respectfully asks this Court to rehear this case. Counsel submits this Court overlooked or misapprehended points relevant to the disposition of this appeal. Specifically, counsel submits that the evidence adduced at trial was not sufficient to allow the case to be submitted to the jury. Additionally, the record shows there was evidence in the record to support the trial court's giving an instruction on voluntary manslaughter.

STATEMENT OF RELEVANT FACTS

James Alfonza Biggs III, the Appellant, was convicted of murdering two young men the evening of November 30, 2015 in Dorchester County, South Carolina. The State's case against him was entirely circumstantial and based on telephone calls made by one of the victim's phones to Biggs's telephone immediately before the shooting. The victims were found, deceased, in Biggs's car. But there was no physical

evidence, or eyewitness testimony tending to show that Biggs was responsible for their deaths. The State offered the following evidence at trial.

The State's Circumstantial Case Against Biggs

The State called Justin Jenkins. Now a truck driver, Jenkins was previously with the Dorchester County Sheriff's Office as a patrol deputy. ROA 72. On the night of November 30, 2015, at approximately 6:00pm, he responded to 102 Larson Drive to a call of possible shots fired. ROA 76, 74. It took him about 2-3 minutes to respond. ROA 76. When he arrived, he saw a dark colored sedan. He saw a black male in the driveway of the residence who indicated he was one of the people who called the police. Jenkins told him to stay where he was. ROA 77. Jenkins also noticed a white sedan in the yard of the residence. Approaching that car from the passenger side, he saw two feet hanging outside, below the passenger side door. ROA 78. He saw a black male, slumped over in the passenger seat with his head into the floorboard. ROA 78. He checked for signs of life but did not find any. ROA 78. While checking this first person, he also saw a second black male on the driver side of the car in a kneeling position with his head in the driver's seat. He saw at least one gunshot wound to that person. He also checked for signs of life and heard him gasp for air. He told dispatch they needed emergency medical services. ROA 79. EMS took that person to the hospital. ROA 80. Jenkins testified that the gray car was running, and the lights were on. ROA 82. Shortly afterwards, the crime scene investigators arrived. ROA 84.

Jenkins indicated he did not see any weapons at the scene when he arrived. ROA 85. Nor did he see any other people. ROA 85.

The State called Brandon Stancil, a 34 year old man who, at the time of trial, lived with Latasha Marion at 102 Larson. Ms. Marion is James Biggs' mother. ROA 95. Before that, and at the time of these events, he lived elsewhere in Summerville, South Carolina. ROA 95. He was dating Ms. Marion at the time. In November 2015, Biggs was not living at home with his mother, but with his grandmother in Summerville. That night Stancil arrived at the house a little before 6:00pm. ROA 100.

Stancil testified that Biggs' white Pontiac Grand Am was in the driveway. ROA 100. As Stancil parked his car, the Grand Am backed out of the driveway. Stancil waved to the person in the Grand Am, but they did not speak. He could not see who was in the car because the windows were tinted. ROA 101. Stancil then entered the house. ROA 102. Biggs did not come into the house while Stancil was there. ROA 102. He did not see Biggs' brothers, Omar or Jaylin there either. ROA 102. In the house, Stancil grabbed the laundry and started folding clothes. ROA 103. He spoke to Ms. Marion on the phone as her work shift ended and she was about to go to class. ROA 103. While on the phone with her, Stancil heard a gunshot. Ms. Marion was able to hear it too. He thought the sound came from where the cars were located. ROA 103-04. He then heard two "bloodcurdling screams or hollers." ROA 104, ll. 12-13. Stancil then grabbed his firearm and headed to the front door. When he got to the door, he heard at least 5 or 6 more shots. ROA 104. He opened the door and then heard a voice say "go, go" and then a car backed out of the driveway. ROA 105, l. 10. It was a dark colored car, rounded in the back and it pulled away. It was

dusk, and Stancil was unable to make out the make or model of the car. ROA 105-06. It was not the same car that was there when he initially arrived. ROA 106. He did not see anyone else outside. ROA 106. After he got off the phone with Ms. Marion, Stancil called 911. ROA 106. Stancil saw the two decedents in the white Grand Am. ROA 108. When Officer Jenkins arrived, Stancil told him to secure the car on the street with the parking lots because he did not know who that car belonged to. ROA 109. Jenkins told him to stay put in the driveway. ROA 110. Stancil did not have any contact with Biggs that night. ROA 110. From the night of the incident, until Stancil gave a statement to law enforcement three days later, Stancil did not see Biggs. ROA 111-12. Stancil noted that Biggs's brothers cars were also in the in vicinity of where these events occurred. ROA 114-15. Stancil testified that he has never seen Biggs with a gun. ROA 116.

Jazzmin Williamson also testified. ROA 118. One of the decedents was her first cousin, and the other was her boyfriend. She knew Biggs because she went to school with him. ROA 119. Earlier that day she was with Jamal, Tyrell, her cousin's wife, Tiffany and her son, and they were at her aunt's house. They decided they wanted to cook seafood so they went to Jazzmin's mother's house. ROA 120. They got there around 4:00-4:30pm. ROA 120. Jazzmin left to take a friend home. ROA 121. Jamal and Tyrell stayed to cook the fish. As she was taking Courtney home, she received a call from her mother. ROA 122. Based on that call, she started calling Tyrell and Jamal to see what was going on. She told Courtney she could not take her home, and she turned around to return to her house. Her mother and Tiffany

Bowens, Tyrell's wife, were there. ROA 123. They tried to figure out what happened. They heard there was a shooting at Greenhurst. ROA 123. Jazzmin got into her car and drove to Greenhurst. ROA 123. She took Tiffany back to her mother's house and then she and Courtney went to Biggs' mother's house. ROA 124. She knew that Jamal and Tyrell went to Greenhurst to buy marijuana. They were supposed to get it from Biggs. She knew that because the day before she and Jamal had bought marijuana from him. ROA 124-25. The day before, they bought it from him at the Summerville Station Apartments. ROA 125. She testified that she had purchased marijuana from him three or four times before.

The State called Tiffany Bowens. ROA 141. She was married to one of the decedents, Tyrell Miles. ROA 142. She testified his phone number was 843-324-XXXX. She corroborated Ms. Williamson's testimony about cooking seafood with Jamal and Tyrell. At some point, Jamal approached her and asked if he and Tyrell could use the car to go purchase marijuana in Greenhurst. ROA 144. He wanted to use their Honda Accord. ROA 144. They left around 5:30pm. ROA 145. Apparently Tyrell's cousin posted something on Facebook Live and then she started calling Tyrell. He did not answer his phone. She did not find out anything about him until 10:00 or 11:00 that night. ROA 146.

Hunter Eadie and Biggs attended Ashley Ridge High School together. ROA 159. On November 30 2015, Eadie sent Biggs a text message asking to purchase some marijuana. He had done so one time earlier. ROA 160. Biggs sent him a text message telling him to meet him at 102 Larson Drive. ROA 161. The address he originally

sent him was 106 Larson Drive. ROA 162. Biggs had Eadie get into the passenger side of the car and that is where he purchased the marijuana. ROA 163. According to Eadie, Biggs pulled the marijuana out of a mason jar and put it on a scale. He weighed out 1/8 of an ounce, and Eadie paid him \$60. ROA 164. Eadie's telephone number was 843-297-0144. Eadie did not see a gun on Biggs. ROA 168.

The State called Brandon Woodall to testify. ROA 169. Woodall and Biggs were friends from high school; they played basketball together. ROA 170. He too would purchase marijuana from him. ROA 171. Woodall saw Biggs on November 30, 2015. ROA 172. Woodall gave a statement to law enforcement indicating that he was at Larson street around 5:45pm that evening. ROA 175-76. When he got to Biggs's house, Biggs was outside on the phone. Woodall pulled in the driveway and Biggs took \$10 from him. "Literally within a second or two" he heard noises, screaming, yelling, and gunshots and left. ROA 176, l. 21. It was dark outside, so he did not see anything. ROA 179. After he heard the gunshots, his girlfriend ordered him to leave. ROA 179. He backed his car out of the driveway and left. ROA 180. As he was leaving, he saw Biggs in the yard. He was not near the Grand Am. He was closer towards the street. He could not see if anyone else was in the yard. ROA 180. Later, he got a phone call from someone who told him, "you don't know anything, you don't know anything, you don't know anything." Then he heard a voice say that one of the people who got shot said they saw a gold Honda.

Woodall testified did not recognize the first voice, but said the second voice was Biggs. ROA 181-82. He did not call law enforcement. ROA 182. Later, he gave law

enforcement a statement, but he was not entirely truthful. He left out the fact that he saw Biggs at the scene, and he said he was not present when the gunshots started. ROA 182. Woodall gave a second statement that included those facts. ROA 183. At the time of this trial, he was charged with obstruction of justice. ROA 184. On cross-examination, Woodall admitted that, in his first statement, he said he handled the marijuana transaction with a dark-skinned guy, someone he did not know. ROA 185. Woodall admitted that he did not see Biggs with a gun, or did he see who else was at the white car when he arrived. He admitted that he heard a fight. ROA 185. He thought he heard Biggs screaming for help. ROA 186. He testified he was “a hundred percent sure” of that. ROA 190. It was after he was threatened with obstruction of justice that Woodall changed his statement. ROA 188.

Emily Robbins, Brandon Woodall’s girlfriend, also testified. ROA 192. She attended high school with Biggs. ROA 192. She testified that a car followed her and Woodall on their way to Biggs’s house that night. It stopped, too, when they stopped to purchase marijuana from Biggs. ROA 197. After they gave \$10 to Biggs, they waited for a minute. Then she saw what “looked like a flash of someone running past me towards” Biggs’s car. ROA 199, ll. 5-6. She and Woodall were talking, and then she heard screaming, fighting, and then emergency flashers on Biggs’s car came on. Tr. 199. She heard what sounded like a fight at the white Pontiac. ROA 201. Then she heard 5 or 6 gunshots. ROA 201. She told Woodall to go, and then she saw Biggs run towards the street. ROA 201. She also gave a statement to law enforcement. ROA 203. She too told them that she did not see Biggs at the scene, and that they departed

prior to the gunshots being fired. ROA 204. She was charged with obstruction of justice, and gave a second statement. ROA 204.

The State called Alexander Coutu to testify. He lived in the neighborhood. ROA 214. When he gave his initial statement to law enforcement, he said that he thought he heard two different guns. ROA 220.

Investigator Jeff Scott of the Dorchester County Sheriff's Office testified. ROA 228. He responded to the scene that night. ROA 231. Exhibit #19 shows a Chevrolet car at the scene that law enforcement never identified who it belonged to. ROA 234, 521. He found a spent shell casing located under the driver's side of the car. ROA 236. There was also a projectile located on the passenger side of the car. ROA 237. There were also 6 spent cartridge casings found. ROA 240-41. Four were located from inside the car. ROA 243. A phone was recovered from the driver's side of the car. ROA 244. He found marijuana in a mason jar in the passenger side floorboard and another mason jar with marijuana in the driver's side floorboard. ROA 246. He did not find any firearms at the scene. ROA 249. The lead detective involved in the forensic side of the investigation was Detective Mullis, who is no longer with the department and was not called by the State to testify. ROA 251. Detective Mullis was responsible for taking latent fingerprints, collecting DNA, and the analysis of the blood stain that was found on a door. It was Detective Mullis's decision whether to turn the blood stain over to SLED. ROA 251-52.

Mattie Ingalls was working as a police officer for the Town of Lincolnville in November 2015. ROA 255. She pulled him over for speeding on November 30, 2015.

ROA 257. She said she could smell marijuana and they searched the car. ROA 257. She gave him two citations—one for reckless driving and one for possession of marijuana. ROA 258. She patted Biggs down and did not find a gun either on him, or in the car. ROA 264. Michael Holt was the backup officer. He testified that he saw Biggs using a phone that was in a “very feminine phone case.” ROA 269, l. 25- ROA 270, l. 4. After the stop, someone came to the scene and drove away with Biggs and the car because Biggs did not have a valid driver’s license. ROA 270. According to Holt, there were two other cars there, too—a gold sedan and an SUV. They also left, and went in the same direction as Biggs and the driver of his car. ROA 273.

Chad Smith with the firearms department of SLED testified. ROA 277. He received 7 fired .9 millimeter caliber cartridge cases. Six of them were marked NATO, and one cartridge case was marked Luger. ROA 284. The NATO is a military-type ammunition; the Luger is a more commercial brand. ROA 285. He concluded that all seven cartridge casings were fired by the same firearm. ROA 289. No firearm was submitted to SLED. ROA 289.

The State called Detective Brandon Berg of the Dorchester County Sheriff’s Office to testify. ROA 307. He is a crime scene investigator. A cell phone extraction was performed pursuant to a search warrant by Viann Brantly. ROA 309. Ms. Brantly also testified she performed the extraction. ROA 312. The State moved Biggs’s phone records into evidence without objection. ROA 323.

Detective Adam Smith of the Dorchester County Sheriff’s Office testified. ROA 328. He was a first responder to the scene. ROA 330. A cellphone was taken from

one of the decedents. ROA 339. Law enforcement performed a data extraction from Tyrell Miles's phone. ROA 339.

The State introduced Exhibit #44, an excerpt of the phone logs. The exhibit shows incoming and outgoing calls. It also shows missed calls. It provides the phone number with whom the caller corresponded with and that person's contact information if it is stored in the user's phone. It also includes date and time, and the duration of the call. ROA 522.

Calls to 911 started coming in at 6:02pm. ROA 352. The detective noted that Biggs's girlfriend called Biggs around 5:40pm, and Biggs returned her call at 5:53pm. Tr. 354. Tyrell Miles also called Biggs at 5:43pm, 5:47 and 5:58pm. ROA 355. The call at 5:58 had a duration of 35 second. ROA 355. Biggs' last completed call that night was with Miles at 5:58pm. ROA 356. About four minutes later, the first calls to 911 occur. ROA 357. Biggs also corresponded by text with Hunter Eadie and Emily Robbins. ROA 359-360.

Brandon Woodall and Emily Robbins were parked in the driveway at 102 Larson Drive at the time of the shooting. ROA 361-62. They were not truthful with law enforcement:

Q: Were you able to figure out if they were telling you the absolute truth in those first statements?

A: Yes. After we spoke to them the first time we talked to them, the information they provided didn't match up with the information that we had obtained during the course of the investigation and actually contradicted some information. So it was determined that they had either withheld or misinformed us when they talked to us.

Q: So what did you do?

A: At that point in time we obtained arrest warrants for both Emily Robbins and Brandon Woodall for obstruction of justice. We contacted both of them and advised them of the warrants and then asked them to come back in and speak with us about the case.

ROA 362, l. 20- 363, l. 12.

They each gave a second statement to law enforcement. ROA 363.

Detective Smith acknowledged on cross-examination that there were “several vehicles” that left the scene, “but those were never identified.” ROA 366, ll.9-12.

Q: And did you receive information there was a tan Chevy Impala leaving the area very quickly that night immediately after the incident?

A: Yes, something of that sort, yes.

ROA 366, ll. 13-16.

There were also telephone numbers from the cell phone extraction that the Detective could not identify. ROA 367.

Detective Smith also admitted asking Kelvin DeAndre Armstrong if “he felt guilty because he set up Jamal and Terrell to do the robbery and it caused them to get shot and killed?”

ROA 374, ll. 12-17. The detective’s notes showed that he received information that Kelvin DeAndre Armstrong may have set up the robbery that got his brother killed.

ROA 376.

The State’s last witness was Dr. Nicholas Batalis, a forensic pathologist. ROA 399. Mr. Miles had three gunshot wounds. ROA 412. A toxicology report showed Miles had THC or marijuana in his system at the time of his death. ROA 419. Mr.

Armstrong had 5 gunshot wounds to the body. ROA 424. Mr. Armstrong also had THC in his system at the time of his death. ROA 440.

The State rested. ROA 443. Trial counsel then motioned for a directed verdict. ROA 443. The trial court denied the motion. ROA 447. Biggs did not testify or offer any evidence on his behalf.

ARGUMENTS

- I. **The trial court erred, and violated Biggs’s right to due process, by not granting his motion for a directed verdict when the State did not offer substantial evidence which reasonably tended to prove his guilt, and where the evidence only raised a mere suspicion that he murdered the two victims.**

The evidence presented at trial was insufficient to support Biggs’s conviction. The most it shows is that the victims attempted to speak with Biggs by cell phone just prior to their deaths. The evidence does not prove that Biggs had his telephone on him, or that he received the calls. It is clear from the evidence that other people were in the area when the victims were killed, but law enforcement neither investigated them, nor even knew who they were.

A case should be submitted to the jury when the evidence is circumstantial “if there is any substantial evidence which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced.” *State v. Mitchell*, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000). *See also State v. Williams*, 321 S.C.327, 332, 468 S.E.2d 626, 629 (1996). “the jury weighs the evidence but when there is an absence of evidence, it becomes the duty of the trial judge to direct a verdict...” *State v. Schrock*, 283 S.C. 129, 134, 322 S.E.2d 450, 452-53 (1984). Evidence must constitute positive proof of facts and circumstances which reasonably

tends to prove guilt. *Id.* at 133, 322 S.E.2d at 452 (citing *State v. Manis*, 214 S.C. 99, 51 S.E.2d 370 (1949)).

In *State v. Bostick* 392 S.C. 134, 708 S.E.2d 774 (2011), the South Carolina Supreme Court, analyzing the evidence in the light most favorable to the State, found that the State's evidence only raised a suspicion of guilt that Bostick committed the crime. The State's case consisted of the following evidence: (1) the decedent's car keys, calculator, and other items from her home were found in the Bostick family's burn pile; (2) the fire in the burn pile was accelerated with either kerosene or diesel fuel, and Bostick's mother did not use those accelerants when she burned things in the pile; (3) Bostick had a pattern that matched gasoline on his shoes and gasoline was the accelerant used for the house fire; and (4) while the DNA from the blood found on Bostick's jeans excluded about ninety-nine percent of the population, the blood could not be matched to the decedent's DNA. Also, the weapon used to kill the decedent was never introduced into evidence, and there was no evidence introduced to show that Bostick had knowledge the decedent may have had money in the briefcase or if any money was, in fact, in the briefcase on that date. *Id.* at 141-42, 708 S.E.2d 778.

In *Schrock, supra*, a double-homicide case, the South Carolina Supreme Court reversed a conviction where the State did not offer any evidence that the defendant was at the scene of the crime, could not definitely testify that the footprint found at the scene was made by shoes allegedly owned by the defendant, the State could not establish that cigarettes found at the scene had been smoked by the defendant, a

hand print found at the scene was not the defendant's, and shoes presented in evidence were not identified by any witness who had seen the defendant actually wearing the shoes.

Also, in *State v. Arnold*, 361 S.C. 386, 605 S.E.2d 529 (2004), the South Carolina Supreme Court found evidence insufficient when the defendant's fingerprint on a coffee cup lid tab established that he was in the borrowed BMW on the same day the victim was last seen, and that the BMW was abandoned in Tennessee where the defendant stayed after his stay in Savannah, Georgia only raised a suspicion of guilt and was not sufficient to uphold the conviction. *Also see Mitchell, supra* at 409 ("The only evidence linking respondent to the burglary is the fingerprint"). Respectfully, this Court should enter a judgement of acquittal because the evidence was insufficient to support the conviction and sentence.

II. The trial court erred by refusing to charge the jury with voluntary manslaughter jury instruction.

The trial court declined to charge the jury with voluntary manslaughter:

With regards to voluntary manslaughter, of course, the elements of voluntary manslaughter are that a charge on voluntary manslaughter is not appropriate where there is no evidence that the Defendant shot the victims in the heat of passion upon sufficient legal provocation. Of course, the definition of voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation and there is simply is no evidence to support that charge. I would note that even in your argument your statement was no one knows why he was scared. All right. Now, so thank you for that noting your exception for the record.

Tr. 503, ll. 1-14.

Voluntary manslaughter is the unlawful killing of a human being in sudden heat of passion upon sufficient legal provocation. *State v. Wharton*, 381 S.C. 209, 214,

672 S.E.2d 786, 788 (2009). To warrant the court eliminating the charge of manslaughter, there must be no evidence whatsoever tending to reduce the crime from murder to manslaughter. *Id.* If there is any evidence from which it could be inferred the lesser, rather than the greater, offense was committed, the defendant is entitled to such charge. *Dempsey v. State*, 363 S.C. 365, 371, 610 S.E.2d 812, 815 (2005). *Also see State v. Knoten*, 3487 S.C. 296, 307, 555 S.E.2d 391, 397 (2001) (“There can be little argument that an unprovoked knife attack constitutes sufficient legal provocation to warrant the requested [voluntary manslaughter] charge.”); *State v. Pittman*, 373 S.C. 527, 573, 647 S.E.2d 144, 168 (2007) (“This Court has previously held that an overt, threatening act or a physical encounter may constitute legal provocation.”).

Various witnesses testified that they heard screaming and yelling just prior to the gunshots being fired. Brandon Stancil testified he hear two “bloodcurdling screams or hollers”, ROA. 104, ll. 12-13, just prior to hearing five or six gunshots. Brandon Woodall heard noises, screaming, yelling, and then gunshots. ROA. 176, l. 21. He also testified he thought he heard Biggs screaming for help. ROA. 186. Emily Robbins also testified she heard screaming and fighting. ROA. 199. All of this supports an inference that Biggs was frightened and shot a gun to protect himself. Additionally, Detective Smith admitted asking Kelvin Armstrong if “he felt guilty because he set up Jamal and Terrell to do the robbery and it caused them to get shot and killed.” ROA. 374, ll. 12-17. It was up to the jury to either make the

inference Biggs was frightened and shot the victims, or not make it. The trial court erred in refusing to give the jury the opportunity.

CONCLUSION

Respectfully, this Court should grant rehearing.

Respectfully submitted,

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June 5, 2020

The South Carolina Court of Appeals

The State, Respondent,

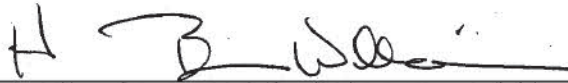
v.

James Alfonza Biggs, III, Appellant.

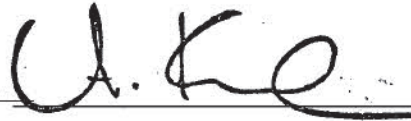
Appellate Case No. 2018-000393

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.



J.



J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire

Melody Jane Brown, Esquire

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W. Jeffrey Young, Esquire

Donald J. Zelenka, Esquire
The Honorable Diane Schafer Goodstein