

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Edward W. Miller, Circuit Court Judge

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S.C. SUPREME COURT

PATRICK DEAN LOWRANCE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-000494

APPENDIX

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	:	2012-GS-23-1422
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	:	2012-GS-23-1425
VERSUS	)	2012-GS-23-1426
	:	2012-GS-23-1427
PATRICK DEAN LOWRANCE,	)	
	:	
DEFENDANT.	)	
	:	
	:	OCTOBER 8, 9, 10, 11, 2012
	:	GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE STEVEN H. JOHN, JUDGE, AND A JURY

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

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FOR THE DEFENSE:
BRIAN JOHNSON, ESQ.
JOHN CRANGLE, ESQ

PHYLLIS BARRETT
COURT REPORTER

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Scene Photo – Building [REDACTED]

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OCTOBER 8, 2012 – COURT IN SESSION

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The Court: This is the case of the State of South Carolina versus Patrick Dean Lowrance, 2012-GS-23-1422, 1423, 1425, 1426, 1427, those being indictments for possession of a stolen motor vehicle, failure to stop for a blue light, attempted murder, attempted murder, and possession of a weapon during the commission of a violent crime.

As I understand it, there is a motion on behalf of the defendant. Is that correct?

Mr. Johnson: Yes sir, Your Honor.

The Court: All right, sir.

Mr. Johnson: Your Honor, if it please the court. I'm here today speaking on behalf of my client before the trial is to commence. My client has concerns with regards to going forth today. The outline of his motion, primarily what he is asking for is a continuance. He would like an opportunity to hire an attorney that is not appointed, on one hand. He'd also like an opportunity potentially to make the bond that was set for him that was due to come into place on October 28, by order of Judge Stilwell.

For the record, Your Honor, whatever Your Honor's ruling is, I must say to the court that I am prepared to go forward if Your Honor does not see fit to grant my client's motion, but I do ask that you in all due course please hear it out. I would like for my client to speak at this time so that he may---

The Court: Mr. Lowrance, I'll be glad to hear from you, sir.

1 Mr. Lowrance: Thank you, Your Honor. I'd just like to say that last year I was granted
2 \$150,000 bond and it's gonna end in, like, twenty days. And I was trying to make that bond because
3 being incarcerated inside of the county jail I haven't had resources that I would like to get in contact
4 with. I can't even really even get anything about what I can do and who I can talk to. I have a job
5 that is willing to let me come back and work on the monetary funds that I need to come up with my
6 lawyer. And my uncle also is backing me on that, as far as making bond. Also, if I make bond I will
7 have a job to be able to come up with the money that I need to hire a private attorney. I just feel like
8 I am winging it to having a public defender versus having a hired attorney. I know it's like having
9 more research and more time.

10 The Court: All right, sir. Mr. Lowrance, have you talked to any attorney, private attorney
11 regarding this particular matter?

12 Mr. Lowrance: Yes sir.

13 The Court: Have you told him all the people that you felt it was necessary to get in touch
14 with?

15 Mr. Lowrance: No sir.

16 The Court: All right, sir. So, you understood his job was to help you and to represent you in
17 this matter. Correct?

18 Mr. Johnson: My client?

19 The Court: Yes sir, Mr. Johnson. Sir?

20 Mr. Lowrance: Yes sir.

21 The Court: So, you're telling me that you knew of people you wanted to get in touch with
22 that might help you in these charges and you didn't tell Mr. Johnson about it?

23 Mr. Lowrance: No sir, I didn't. I didn't actually know who I was gonna get to represent me.
24 I was---

1 The Court: Well, no sir. I appreciate that. I'm talking about witnesses in this case. All
2 right? People that could come forward and testify for you or people that would provide information
3 that would help Mr. Johnson in your defense. Did you tell him all those things?

4 Mr. Lowrance: No sir. I mean, I....

5 The Court: Well, why didn't you do that?

6 Mr. Lowrance: I don't have any.

7 The Court: All right, sir.

8 Mr. Lowrance: Only people I have is my family.

9 The Court: All right.

10 Mr. Lowrance. And this November 3, I'll be married five years. And I have a eight-year old
11 son, and this is his first year of having to ever be without me. I've never had to go through this in
12 my life. I don't have a... I don't have no kind of criminal record at all, other than speeding tickets
13 or something, maybe. And I just... This is really important to me. I mean this is my life over my
14 head. I'd just really like the opportunity and I appreciate that.

15 The Court: Mr. Johnson, let me ask you a couple of questions. Have you received all the
16 discovery in this matter from the Solicitor's Office?

17 Mr. Johnson: As far as I know, yes sir, Your Honor.

18 The Court: All right, sir. And have you gone through that and prepared yourself for the case
19 to be called for trial?

20 Mr. Johnson: Yes sir.

21 The Court: Thank you. I appreciate your request, Mr. Lowrance. From the matters
22 presented to me I do not find any grounds that have been presented by that would be in any way
23 sufficient to continue this matter. The bond has been set for an extended period of time. Mr.
24 Johnson has represented you. He says that he has prepared, he has done the things necessary to

1 prepare a defense for you in this particular matter. I do not find any grounds to continue the case to
2 allow any more time to proceed. Therefore, your request for continuance is denied.

3 All right. So, what we're gonna go is take a short break for about---

4 Mr. Marchant: Your Honor, I need to---

5 The Court: Yes sir, I'm sorry.

6 Mr. Marchant: --- check with the court to make sure the court is ruling properly under all the
7 information that's been provided.

8 At this time Mr. Lowrance does not have a bond. Okay? Back on---

9 The Court: Okay. I misunderstood. He said that Judge Stilwell had set a bond.

10 Mr. Marchant: Yes sir. What occurred was back on February, I believe, the 17th we had a
11 bond hearing and a Schmerber motion.

12 The Court: Okay.

13 Mr. Marchant: At that point in time the State presented all the evidence to Judge Stilwell
14 about why bond should be denied.

15 The Court: Okay.

16 Mr. Marchant: Judge Stilwell took that into consideration and he denied bond in its entirety
17 until one year from the incident date. So, on October 28 of 2012, Mr. Lowrance will receive a bond
18 of \$150,000 surety with gps monitoring.

19 The Court: So, I'm assuming that Judge Stilwell set that if the matter did not proceed to trial
20 and a trial had not taken place by that date, then the bond would go into effect.

21 Mr. Marchant: That is my understanding from the State's position which is why this matter
22 is on the trial docket prior to October 28.

23 The Court: Do you disagree with that, Mr. Johnson?

24 Mr. Johnson: No sir, Your Honor.

1 The Court: All right. Very good. Well, still, it seems clear that Judge Stilwell set a bond. It
2 was just when the bond would go into effect, but Judge Stilwell set a bond with terms and
3 conditions. Those terms and conditions have not yet expired. The matter is on the trial docket. It
4 has been called for trial. I did not find any grounds or reasons to continue the matter. Therefore, the
5 terms and conditions of bond not yet having been met, bond cannot be granted under those terms and
6 conditions. And the matter is for trial. It shall go forward to trial today.

7 Mr. Marchant: Thank you, Your Honor.

8 The Court: Thank you very much. We'll take a short break for about ten or fifteen minutes.

9 (Whereupon Court was in recess)

10 COURT IN SESSION

11 The Court: Madam Clerk.

12 Clerk of Court: Your Honor, the case of 2012-GS-23-1425, the State versus Patrick Dean
13 Lowrance, who is indicted for attempted murder, and he is pleading to the same. The case of 2012-
14 GS-23-1424, Mr. Lowrance is also indicted for attempted murder, and he is pleading to the same.
15 In the case of 2012-GS-23-1423, Mr. Lowrance is indicted for failure to stop for a blue light, and he
16 is pleading to the same. In the case 2012-GS-23- 1422, Mr. Lowrance is indicted for possession of
17 a stolen motor vehicle, and he is pleading to the same. And Your Honor, with a value of more than
18 \$10,000. In the case of 2012-GS-23-1426, Mr. Lowrance is indicted for possession of a weapon
19 during the commission of a violent crime and he is pleading to the same. Your Honor, these are all
20 true-billed.

21 The Court: Thank you, ma'am.

22 (Whereupon defendant is placed under oath)

23 The Court: Let me have your attention, please, sir. You have come before the court and
24 you are pleading guilty to two counts of attempted murder, one count of possession of a stolen

1 vehicle, the value greater than \$10,000; possession of a weapon during the commission of a violent
2 crime; and failure to stop for a blue light. Is that correct?

3 Mr. Lowrance: yes sir.

4 The Court: The potential sentence for attempted murder is thirty years. Do you understand
5 that?

6 Mr. Lowrance: Yes sir.

7 The Court: The possession of a stolen vehicle greater than \$10,000 is up to ten years. The
8 possession of a weapon during a violent crime is up to five years and the failure to stop for a blue
9 light is from ninety days up to three years. Do you understand that?

10 Mr. Lowrance: Yes sir.

11 The Court: The attempted murder is listed as a violent and most serious offense by the State
12 of South Carolina. Do you understand that?

13 Mr. Lowrance: Yes sir.

14 The Court: You have talked about that with your attorney, Mr. Johnson. Is that correct?

15 Mr. Lowrance: Yes sir, that's understand.

16 The Court: You understand that the crime being classified as violent and most serious has
17 consequences both as to the length of incarceration and any potential future offenses. Do you
18 understand that?

19 Mr. Lowrance: Yes sir.

20 The Court: All right, sir. As an example, attempted murder, the maximum sentence is
21 thirty years. If you would come before the court under some other most serious offense or serious
22 offense, the State could be asking for life in prison without the possibility of parole, if that happened
23 in the future. Do you understand that?

24 Mr. Lowrance: Yes sir.

1 The Court: All right, sir. The matters come before the court without negotiations or a
2 recommendation. Is that correct, Solicitor?

3 Mr. Marchant: That's correct, Your Honor.

4 The Court: Understanding all this, Mr. Lowrance, do you want to do forward with your
5 guilty pleas to these offenses?

6 Mr. Lowrance: Yes sir.

7 The Court: All right, sir. Are you currently under the influence of any drugs or intoxicants
8 of any kind or currently have them in your system?

9 Mr. Lowrance: No sir.

10 The Court: Are you suffering from any kind of physical, mental or emotional problem that
11 would keep you from understanding what you are doing here today?

12 Mr. Lowrance: No sir.

13 The Court: When you plead guilty, you give up certain constitutional rights. Among those is
14 the right to remain silent. When you talk to me, you give that right up. Do you understand that?

15 Mr. Lowrance: Yes sir.

16 The Court: Other rights are the presumption of innocence, the right against self-
17 incrimination at a trial. The State will have to prove your guilt beyond a reasonable doubt. When
18 you plead guilty you give those rights up. Do you understand that?

19 Mr. Lowrance: Yes sir.

20 The Court: You have the right to a jury trial. Twelve men and women would look at the
21 facts presented by the State to see if there is indeed enough facts to prove you guilty beyond a
22 reasonable doubt. When you plead guilty you give up your jury trial. Do you understand that?

23 Mr. Lowrance: Yes sir.

1 The Court: In that jury trial you have the right to confront your accusers with your attorney.
2 You can question the witnesses presented by the State; you can challenge the evidence presented by
3 the State. If you wanted to, you could present a defense. You could testify. You could call
4 witnesses in your behalf. But when you plead guilty you give up each and every one of those rights.
5 Do you understand that?

6 Mr. Lowrance: Yes sir.

7 The Court: You come before the court and you are pleading guilty to the two offenses of
8 attempted murder; the possession of a stolen vehicle greater than \$10,000; possession of a weapon
9 during a violent crime and failure to stop for a blue light. Are you pleading guilty to those offenses
10 freely and voluntarily?

11 Mr. Lowrance: Yes sir.

12 The Court: Is it your choice to plead guilty, Mr. Lowrance?

13 Mr. Lowrance: Yes sir.

14 The Court: All right, sir. And you are doing it of your own free will. Correct?

15 Mr. Lowrance: Yes sir.

16 The Court: Are you pleading guilty to these crimes because you are guilty of these crimes?

17 Mr. Lowrance: No sir.

18 The Court: Very good. I won't take your plea, then. We'll proceed to trial. Ask the jury to
19 come up. We'll be at ease until the panel gets upstairs. Thank you very much.

20 (Whereupon Court was in recess)

21 **COURT IN SESSION**

22 The Court: Thank you very much. You may be seated.

23 Mr. Johnson: Your Honor, may we approach?

24 The Court: Yes sir.

1 (Whereupon a bench conference took place)

2 Ladies and gentlemen, the first thing I want to do is apologize to you regarding the lengthy
3 delay. That's no normally how the court conducts business. There were some circumstances here
4 that mandated the delay. But I do want to apologize. I appreciate that we are occupying your time,
5 and I recognize that, and I'm sorry for that.

6 We're going to pick a jury in the case of the State of South Carolina, County of Greenville
7 versus Patrick Dean Lowrance, L-o-w-r-a-n-c-e. Now, the State of South Carolina has charged Mr.
8 Lowrance with a number of offenses. They have charged him with and are proceeding to trial on the
9 matters of two counts of attempted murder, one count of possession of a stolen vehicle greater than
10 \$10,000, the possession of a weapon during a violent crime, and failure to stop for a blue light.

11 Now, regarding the charges the State has listed, the defendant has plead not guilty to those
12 offenses and that puts the burden of proof on the State of South Carolina to prove the defendant
13 guilty of the crime or crimes charged beyond a reasonable doubt.

14 The first thing I'm going to do is read to you certain allegations that are contained in the
15 indictments. Now, regarding those allegations, those are the charges that are brought against by the
16 State of South Carolina against the defendant. The allegations are not evidence. The evidence will
17 come during the course of the trial. The only reason I would read to you these allegations in the
18 indictments is to see if you happen to have any knowledge about this case, have heard about it, or
19 know anything about this particular case, or there's something that you need to bring to the court's
20 attention regarding this particular matter.

21 So, regarding the first charge of attempted murder, the State charges that Patrick Dean
22 Lowrance did in Greenville County, on or about the 28th day of October, 2011, unlawfully, with
23 malice aforethought, with intent to kill, attempt to kill Officer Charles Lane by means of shooting at

1 him with a handgun, in violation of the code of laws of the State of South Carolina, 1976, as
2 amended.

3 Regarding the other charge of attempted murder, that Patrick Dean Lowrance did in
4 Greenville County, on or about the 28th day of October, 2011, unlawfully, with malice aforethought,
5 with intent to kill, attempt to kill Officer Taci, T-a-c-i, Cobb, by means of shooting at her with a
6 handgun, again in violation of the code of laws of the State of South Carolina, 1976, as amended.

7 Regarding the possession of a stolen vehicle greater than \$10,000 , that Patrick Dean
8 Lowrance did in Greenville County, on or about the 28th day of October, 2011, willfully and
9 unlawfully did receive, possess, conceal, sell and dispose of a motor vehicle belong to Delonda M.
10 Gresham, described as 2005 GMC Yukon valued at more than \$10,000; and that Patrick Dean
11 Lowrance was not entitled to possession of the vehicle and knew the vehicle to be either stolen or
12 converted under circumstances constituting a crime, again in violation of the code of laws of South
13 Carolina as amended.

14 Regarding the possession of a weapon during the commission of a violent crime, that Patrick
15 Dean Lowrance did in Greenville County, on or about the 28th day of October, 2011, possess or
16 visibly display a handgun during the commission or attempted commission of a violent crime; to-
17 wit: the two counts of attempted murder. This being in violation of the code of laws, 1976, as
18 amended.

19 And the failure to stop for a blue light, , that Patrick Dean Lowrance did in Greenville
20 County, on or about the 28th day of October, 2011, willfully, knowingly and unlawfully commit the
21 offense of failure to stop for a law enforcement vehicle in that the defendant was driving on a road,
22 street or highway of this state and did intentionally fail to stop when signaled to do so by law
23 enforcement using either blue lights and/or siren, in violation of the code of laws, 1976, as amended.

1 Is there any member of the jury panel that knows anything about this particular case, has
2 heard about it, has any information they need to bring to the court's attention at this time. If so,
3 please stand.

4 (no response from jury)

5 I'm going to go over the possible or the potential witnesses in this case. There will be
6 a number of them. That does not mean that all of these persons will be called as witnesses, but they
7 are possible witnesses, they are potential witnesses, and I need to go over them with you. Detective
8 Tim Conroy, Greenville Police Department; Detective David Garrison, Greenville Police
9 Department; Detective Collis Flavell, F-l-a-v-e-l-l, Greenville Police Department; Officer Brittany
10 Cruell, Greenville Police Department; Officer Charles Lane, Greenville Police Department; Officer
11 Taci Cobb, Greenville Police Department; Kelly Riggs, retired Greenville Police Department officer;
12 Kara Bennick, Greenville County Department of Public Safety; James Armstrong, Greenville
13 County Department of Public Safety; Sergeant Dar Shaw, Greenville County Department of Public
14 Safety; Sergeant Ron Lendway, Greenville County Department of Public Safety; Jon Derby,
15 Greenville County Department of Public Safety; Jonathan Hamilton, Greenville County Department
16 of Public Safety; Chris Gary, Greenville County Department of Public Safety; Doctor Jagannadha
17 Kandala, last name is K-a-n-d-a-l-a, Greenville County Department of Public Safety; Brian
18 Browning, Greenville County Department of Public Safety; Benjamin Scott Duke; James Antonio
19 Mangle; Jarvis Tremain Tucker; Sherrail, S-h-e-r-r-a-i-l, Burdine; Toni Smith,
20 T-o-n-i; Norman Pearson III; William T. Brockman; Cierra Alyssa Lowrance; Patrick Dean
21 Lowrance.

22 Any member of the jury panel that's related by blood or marriage, close personal friend,
23 acquaintances of, know any of these possible or positional witnesses? If so, please stand.

24 (juror stands)

1 Yes sir. Tell us first your name and juror number, please.

2 Juror: Charles McDonald, 156.

3 The Court: And you might know which possible defense witness?

4 Juror: The very first one you named, Tim Conroy, if it's the same one.

5 The Court: Greenville Police Department?

6 Juror: I don't know if---

7 The Court: Let's just assume it is the person that you know, that this is the witness. With
8 that, my question to you is, can you give to the state of South Carolina and to the defendant a fair
9 and impartial trial? Can you be a fair and impartial juror in this case?

10 Juror: Yes, Your Honor.

11 The Court: Thank you very much. Anybody else?

12 (juror stands)

13 Yes ma'am. Your name and juror number first.

14 Juror: Melinda Jessup, 122.

15 The Court: Yes ma'am.

16 Juror: I believe I knew the-- I don't know his first name, but it was the one named Mangle.

17 The Court: James Antonio Mangle, M-a-n-g-l-e.

18 Juror: Yes sir.

19 The Court: Again, let's just assume it is the person that you know, that this is the witness.
20 With that, my question to you is, can you give to the state of South Carolina and to the defendant a
21 fair and impartial trial? Can you be a fair and impartial juror in this case?

22 Juror: Yes, Your Honor.

23 The Court: Thank you very much. Anybody else?

24 (no response)

1 The next question is: Is there any member of the jury panel that either you or a member of
2 your immediate family has ever had any matter of any kind handled by the Thirteenth Circuit
3 Solicitor's Office? And remember, it's Greenville and Pickens County is the Thirteenth Circuit. So,
4 either you, yourself, or a member of your immediate family has ever had any matter of any kind, in
5 any way touch or handled by the Thirteenth Circuit Solicitor's Office. If so, please stand.

6 (jurors stand)

7 All right, sir. Your name and juror number first, please, sir.

8 Juror: Michael Pitts, 182.

9 The Court: Was it yourself or a family member?

10 Juror: I guess both. What---

11 The Court: Very good. I don't want you to explain to me what it was. I'm just asking a
12 qualification question. Can you give to the state of South Carolina and to the defendant a fair and
13 impartial trial? Can you be a fair and impartial juror in this case?

14 Juror: Yes sir.

15 The Court: Thank you very much. Yes ma'am, your name and juror number, please.

16 Juror: Lacy Bridgers, juror number 35.

17 The Court: Was it yourself or a family member?

18 Juror: Well, my parents, and this was---

19 The Court: Okay. I don't want you to explain to me what the situation was. So, it was a
20 family member?

21 Juror: Yes, and I was---

22 The Court: Very good.

23 Juror: It was some cousins, but I can be fair and---

1 The Court: I appreciate that you want to jump ahead, but I have to go on the record as to a
2 qualification question. Thank you, ma'am. Can you give the state of South Carolina and to the
3 defendant a fair and impartial trial? Can you be a fair and impartial juror in this case?

4 Juror: Yes sir.

5 The Court: Thank you very much, ma'am. Yes, ma'am, your name and juror number first,
6 please.

7 Juror: Natatash Blandin, number 32.

8 The Court: Was it yourself or a family member?

9 Juror: Family member.

10 The Court: Can you give the state of South Carolina and to the defendant a fair and impartial
11 trial? Can you be a fair and impartial juror in this case?

12 Juror: Yes.

13 The Court: Thank you very much, ma'am. Is there any member of the jury panel, either you,
14 yourself, or a member of your immediate family has ever had any matters of any kind in any way
15 handled by the Greenville County Public Defender's Office? If so, please stand.

16 (no response)

17 The Court: Is there any member of the jury panel that's related by blood or marriage, close,
18 personal friends, acquaintances of anybody employed at the Thirteenth Circuit Solicitor's Office,
19 either here in Greenville or in Pickens County? If so, please stand.

20 (no response)

21 Is there any member of the jury panel that's related by blood or marriage, close personal
22 friends, acquaintances of anybody employed in the Greenville County Public Defender's Office? If
23 so, please stand.

24 (no response)

1 Solicitor, if you would stand, identify yourself and the members of the staff that area with
2 you, please, sir.

3 Mr. Marchant: If it please the court. My name is Lucas Marchant. I'm a prosecutor here in
4 the Thirteenth Circuit. And next to me is my investigator, Melita Graham, as well as Andrew
5 Colbert, who is a prosecutor in my circuit.

6 The Court: Thank you very much. Mr. Johnson, if you would stand, identify yourself and
7 any member of your staff that's here, please sir.

8 Mr. Johnson: My name is Brian Johnson. I'm actually a private attorney, but I'm
9 contracting with the Public Defender's Office to handle cases. Sitting here with me is the full-time,
10 Public Defender and attorney, John Crangle, and my client, Patrick Lowrance.

11 The Court: Thank you. That brings me to the next question. Mr. Johnson, being a private
12 attorney, has a private practice of law. Is there any member of the jury panel that has been a client
13 of his in the past or currently? If so, please stand.

14 (no response)

15 Thank you very much. Is there any member of the jury panel that you believe you have any
16 kind of personal, political, religious, philosophical belief, that you believe would prevent you from
17 being a fair and impartial juror in this case? If so, please stand.

18 (no response)

19 The Court: All right. This next question I'm going to ask, whether you, yourself, were a
20 former law enforcement officer, or you've got any current family members who are now in law
21 enforcement or were in the past in law enforcement. So, for any member of the jury panel, either
22 you, yourself, were formerly in law enforcement or currently you have a family member who was, is
23 in law enforcement now, or you've got a family member in the past who was in law enforcement. If
24 any of that applies to you, please stand.

1 (no response)

2 Very good. Is there any member-- This is probably a part of the first question, but I've read
3 to you the facts and allegations of the indictments. But, is there any member of the jury panel that
4 has heard, seen, or read anything about this matter? If so, please stand.

5 (juror stands)

6 Yes sir, your name and juror number, please.

7 Juror: Joshua Ashe, 21.

8 The Court: All right, sir. I don't want you to explain to me, but you have heard, read or seen
9 something about this in the past. Is that correct?

10 Juror: Yes.

11 The Court: Understanding that, can you give-- And, understand, your job as a juror to make
12 your decision based solely and completely on the facts and evidence you hear in this courtroom and
13 from no other source. Do you understand that?

14 Juror: Yes sir.

15 The Court: Understanding that, can you give the state of South Carolina and to the defendant
16 a fair and impartial trial? Can you be a fair and impartial juror in this case?

17 Juror: Yes.

18 The Court: Thank you very much. Is there any member of the jury panel, either you,
19 yourself, or a member of your immediate family, is a member of any kind of victims' rights or law
20 enforcement support organization? Let me just give you some examples. It's not going to be an
21 exhaustive list of any kind. I'm just trying to give you some examples of what I'm talking about.

22 Mothers Against Drunk Driving, Citizens Against Violent Crime, The South Carolina Law
23 Enforcement Officers Association, the South Carolina Sheriffs Association. Just some kind of

1 victims' rights or law enforcement support organization. If you, yourself, or a member of your
2 immediate family. If so, please stand.

3 (no response)

4 Very good. This next question, ladies and gentlemen, I'm going to ask you whether you,
5 yourself, or a member of your immediate family has ever been the victim of a crime. I am not going
6 to ask you what occurred. I do not want you to volunteer any information to me about what
7 occurred. The question's gonna be straightforward. Was it yourself or a family member, and then I
8 will ask the qualification question.

9 So, has any member of the jury panel, either you, yourself, or a member of your immediate
10 family has ever been the victim of a crime. If so, please stand.

11 (jurors stand)

12 All right. We'll start on this side of the courtroom, ma'am, up front, your name and juror
13 number, please.

14 Juror: Kenya Williams, 134.

15 The Court: Ma'am, was it yourself or a family member.

16 Juror: Father.

17 The Court: Can you give to the state of South Carolina and to the defendant a fair and
18 impartial trial? Can you be a fair and impartial juror in this case?

19 Juror: Yes.

20 The Court: Thank you very much. Right behind her. Sir?

21 Juror: Joshua Fitzwater, number 83.

22 The Court: Yourself or a family member?

23 Juror: Self.

1 The Court: Can you give to the state of South Carolina and to the defendant a fair and
2 impartial trial? Can you be a fair and impartial juror in this case?

3 Juror: Yes sir.

4 The Court: Thank you very much. Yes sir, right here.

5 Juror: Juror 127, family member.

6 The Court: Can you give to the state of South Carolina and to the defendant a fair and
7 impartial trial? Can you be a fair and impartial juror in this case?

8 Juror: No sir.

9 The Court: Thank you very much. Yes sir?

10 Juror: Michael Pitts, 182.

11 The Court: Yourself or a family member?

12 Juror: Myself.

13 The Court: Can you give to the state of South Carolina and to the defendant a fair and
14 impartial trial? Can you be a fair and impartial juror in this case?

15 Juror: I hope so.

16 The Court: I need for you to---

17 Juror: Yes sir.

18 The Court: Yes ma'am?

19 Juror: Angela Schwartz.

20 The Court: Your juror number, do you know?

21 Juror: 199.

22 The Court: Thank you, ma'am. Was it yourself or a family member?

23 Juror: Self.

1 The Court: Can you give to the state of South Carolina and to the defendant a fair and
2 impartial trial? Can you be a fair and impartial juror in this case?

3 Juror: Yes.

4 The Court: Thank you very much. Yes ma'am, right here on the front row.

5 Juror: Melinda Jessup, 122.

6 The Court: Yourself or a family member?

7 Juror: Myself.

8 The Court: Can you give to the state of South Carolina and to the defendant a fair and
9 impartial trial? Can you be a fair and impartial juror in this case?

10 Juror: Yes.

11 The Court: Thank you very much. Yes ma'am, right behind her.

12 Juror: Lacy Bridgers, number 35.

13 The Court: Yourself or a family member.

14 Juror: Both.

15 The Court: Can you give to the state of South Carolina and to the defendant a fair and
16 impartial trial? Can you be a fair and impartial juror in this case?

17 Juror: Yes sir.

18 The Court: Thank you very much. Yes sir?

19 Juror: Kim Summers, number 228.

20 The Court: Was it yourself or a family member?

21 Juror: My son.

22 The Court: Can you give to the state of South Carolina and to the defendant a fair and
23 impartial trial? Can you be a fair and impartial juror in this case?

24 Juror: Yes.

1 The Court: Thank you very much. Yes ma'am?

2 Juror: Karen Csizmadia, I'm number 59, myself.

3 The Court: Can you give to the state of South Carolina and to the defendant a fair and
4 impartial trial? Can you be a fair and impartial juror in this case?

5 Juror: Yes.

6 The Court: Thank you very much, ma'am. Yes sir.

7 Juror: Derek Pederson, 177

8 The Court: Yourself or a family member?

9 Juror: Myself.

10 The Court: Can you give to the state of South Carolina and to the defendant a fair and
11 impartial trial? Can you be a fair and impartial juror in this case?

12 Juror: Yes sir.

13 The Court: Thank you very much. Yes sir.

14 Juror: Lewis Arnold, number 20.

15 The Court: Yourself or a family member?

16 Juror: Family member.

17 The Court: Can you give to the state of South Carolina and to the defendant a fair and
18 impartial trial? Can you be a fair and impartial juror in this case?

19 Juror: Yes sir.

20 The Court: All right, ladies and gentlemen. My last question, I generally call that as a
21 general or catch-all question. Do you know of any reason, have any question in your mind, any
22 doubt in your mind that you believe you cannot give to the state of South Carolina and to the
23 defendant a fair and impartial trial. If for any reason whatsoever, you believe you cannot be a fair
24 and impartial juror in this case. If so, please stand.

1 (no response)

2 Further questions from the state?

3 Mr. Marchant: None, Your Honor.

4 The Court: Further questions from the defense?

5 Mr. Johnson: None, Your Honor.

6 The Court: Very good. All right, ladies and gentlemen. The way we are going to proceed is
7 the clerk of court in a random order will call out a name of a juror. If and when your name is called
8 you will come forward. You will come to a place basically right in front of the bench her and you
9 will turn and you will face to the back of the courtroom. At that point in time the clerk of court will
10 inquire of the state to present or excuse the juror. If you are presented by the state the clerk will
11 inquire of the defense to seat or excuse the juror. If you are excused by the state or the defense you
12 will go back to your seat from whence you came. If you are presented by the state and you are
13 seated by the defense, the clerk of court will instruct to go to the jury box and have a seat in the jury
14 box.

15 If you brought with you any of your personal items, a purse, book, or some other type of
16 item, please bring that with you if and when your name is called, in case you are seated you can go
17 directly to the jury box.

18 You may proceed, madam.

19 Clerk of Court: Juror 246, Michael Whitaker. What says the state?

20 Mr. Marchant: Please present the juror.

21 Clerk of Court: What says the defendant?

22 Mr. Johnson: Please excuse this juror.

23 Clerk of Court: Mr. Whitaker, please take your seat. You are excused from this jury. Juror
24 21, Joshua Ashe. What says the state?

1 Mr. Marchant: Please excuse the juror from the trial of this case.

2 Clerk of Court: Mr. Ashe, please return to your seat. You are excused from this case. Juror
3 257, Nathaniel Robinson. What says the state?

4 Mr. Marchant: Please excuse the juror from the trial of this case.

5 Clerk of Court: Mr. Robinson, please be seated. You have been excused from this case.

6 Juror 157, James McLemore. What says the state?

7 Mr. Marchant: Present the juror.

8 Clerk of Court: What says the defendant?

9 Mr. Johnson: Please seat the juror.

10 Clerk of Court: Mr. McLemore, please have a seat in the jury box. Juror 49, Michael
11 Chapman. What says the state?

12 Mr. Marchant: Present the juror.

13 Clerk of Court: Mr. Chapman, have a seat in the jury box. Juror 59, Karen Csizmadia.
14 What says the state?

15 Mr. Marchant: Present the juror.

16 Clerk of Court: What says the defense?

17 Mr. Johnson: Please excuse the juror.

18 Clerk of Court: Please return to your seat. You have been excused from this case. Juror
19 177, Derek Pederson. What says the state?

20 Mr. Marchant: Present the juror.

21 Clerk of Court: What says the defense?

22 Mr. Johnson: Please excuse the juror.

23 Clerk of Court: You've been excused from this case, Mr. Pederson. Please return to your
24 seat. Juror 228, Tim Summers. What says the state?

1 Mr. Marchant: Present the juror.

2 Clerk of Court: What says the defense?

3 Mr. Johnson: Please excuse the juror.

4 Clerk of Court: Mr. Summers, you are excused from this case. Please return to your seat.

5 Number 101, Angela Gosnell. What says the state?

6 Mr. Marchant: Please present the juror.

7 Clerk of Court: What says the defense?

8 Mr. Johnson: Please seat the juror.

9 Clerk of Court: Ms. Gosnell, have a seat in the jury box. Juror 108, Betty Harvey. What
10 says the state?

11 Mr. Marchant: Please excuse the juror from the trial of this case.

12 Clerk of Court: Ma'am, you've been excused. Please return to your seat. Juror 24, Hashem
13 Bassam. What says the state?

14 Mr. Marchant: Present the juror.

15 Clerk of Court: What says the defense?

16 Mr. Johnson: Excuse me, what number again?

17 Clerk of Court: Number 24.

18 Mr. Johnson: Please excuse the juror.

19 Clerk of Court: Mr. Bassam, please return to your seat. You are excused from this case.

20 Juror 89, Diane Furmanski. What says the state?

21 Mr. Marchant: Please present the juror.

22 Clerk of Court: What says the defense?

23 Mr. Johnson: Please seat the juror.

1 Clerk of Court: Ma'am, please have a seat in the jury box. Juror 182, Michael Pitts. What
2 says the state?

3 Mr. Marchant: Please present the juror.

4 Clerk of Court: What says the defense?

5 Mr. Johnson: Please excuse the juror.

6 Clerk of Court: Mr. Pitts, you may return to your seat. Juror 206, Lateria Sibert. What says
7 the state?

8 Mr. Marchant: Please present the juror.

9 Clerk of Court: What says the defense?

10 Mr. Johnson: Please seat the juror.

11 Clerk of Court: Ma'am, please have a seat in the jury box. Juror 77, Bruce Edwards. What
12 says the state?

13 Mr. Marchant: Please present the juror.

14 Clerk of Court: What says the defense?

15 Mr. Johnson: Please seat the juror.

16 Clerk of Court: Please have a seat in the jury box. Juror 241, Belinda Breazeale-Vance.
17 What says the state?

18 Mr. Marchant: Please present the juror.

19 Clerk of Court: What says the defense?

20 Mr. Johnson: Please seat the juror.

21 Clerk of Court: Ma'am, take your seat in the jury box. Juror 36, Shelley Brown-Davies.
22 What says the defense?

23 Mr. Marchant: Present the juror.

24 Clerk of Court: What says the defense?

1 Mr. Johnson: Please seat the juror.

2 Clerk of Court: Ma'am, please take your seat in the jury box. Juror 156, Charles McDonald.

3 What says the state?

4 Mr. Marchant: Please present the juror.

5 Clerk of Court: What says the defense?

6 Mr. Johnson: Please excuse this juror.

7 Clerk of Court: You are excused. Please return to your seat. Juror 197, Judy Sanders. What
8 says the state?

9 Mr. Marchant: Please present the juror.

10 Clerk of Court: What says the defense?

11 Mr. Johnson: Please seat the juror.

12 Clerk of Court: Ma'am, take a seat in the jury box. Juror 203, Laura Shaw. What says the
13 state?

14 Mr. Marchant: Present the juror.

15 Clerk of Court: What says the defense?

16 Mr. Johnson: Please seat the juror.

17 Clerk of Court: Ma'am, please take your seat in the jury box. Juror 111, Elizabeth Head.

18 What says the state?

19 Mr. Marchant: Present the juror.

20 Clerk of Court: What says the defense?

21 Mr. Johnson: Please excuse this juror.

22 Clerk of Court: Ma'am, please return to your seat. Juror 45, Douglas Center. What says the
23 state?

24 Mr. Marchant: Please present the juror.

1 Clerk of Court: What says the defense?

2 Mr. Johnson: Please excuse this juror.

3 Clerk of Court: Sir, you have been excused. Please return to your seat. Juror 63, Gregory

4 Davis. What says the state?

5 Mr. Marchant: Please present the juror.

6 Clerk of Court: What says the defense?

7 Mr. Johnson: Please seat the juror.

8 Clerk of Court: Sir, take your seat in the jury box. Juror 65, Mary Davis. What says the
9 state?

10 Mr. Marchant: Please excuse the juror from the trial of this case.

11 Clerk of Court: Ms. Davis, you are excused. Please return to your seat. Juror 65, Jayne
12 Cleveland. What says the state?

13 Mr. Marchant: Please present the juror.

14 Clerk of Court: What says the defense?

15 Mr. Johnson: Please excuse this juror.

16 Clerk of Court: Ma'am, you are excused. Please return to your seat. Juror 122, Melinda
17 Jessup. What says the state?

18 Mr. Marchant: Please present the juror.

19 Clerk of Court: What says the defense?

20 Mr. Johnson: Please seat the juror.

21 Clerk of Court: Have a seat in the jury box, ma'am.

22 The Court: We'll have two alternates, please. And there will be one and two on each
23 alternate.

24 Clerk of Court: Juror 20, Lewis Arnold. What says the state?

1 Mr. Marchant: Present the juror.

2 Clerk of Court: What says the defense?

3 Mr. Johnson: Please seat the juror.

4 Clerk of Court: Mr. Lewis, please take your seat in the jury box. Juror 28, Geraldine Bell.

5 What says the state?\

6 Mr. Marchant: Please present the juror.

7 Clerk of Court: What says the defense?

8 Mr. Johnson: Please seat the juror.

9 Clerk of Court: Ma'am, please take your seat in the jury box.

10 The Court: Any objection to the jury as empanelled from the State?

11 Mr. Marchant: None from the state, Your Honor.

12 The Court: Any objection to the jury as empanelled from the Defendant?

13 Mr. Johnson: No objection.

14 The Court: Very good. I find the jury's been properly empanelled pursuant to Batson versus
15 Kentucky and Jebb versus Alabama.

16 Ladies and gentlemen, I'm going to ask you to go back into your jury room in just a few
17 minutes and do one thing for me, and that's gonna be, select your foreperson for this particular jury.

18 Let me tell you very briefly what the foreperson's duties and responsibilities are. If we're
19 here in the courtroom and some matter comes up, the witness needs to speak up, the lawyers need to
20 speak up, whatever the matter is, the foreperson will raise their hand, get the court's attention, and
21 we'll handle the matter, whatever it is.

22 If you're back in the jury room, the foreperson will take the pad and pen provided and will
23 write out a note, sign it, hand it to the bailiff, it'll come to me, and again, we'll handle the matter,
24 whatever it might be.

1 Once we have gone through the evidentiary portion of the trial, you've heard all the
2 witnesses and seen all the evidence that's gonna be presented in this matter; we've heard the closing
3 arguments from the attorneys in this case; and then I have given you the law that you will apply to
4 the facts and the evidence you find to be true in this particular case, I will then submit the case to
5 you for your deliberations and your unanimous decision on the charges levied against the defendant
6 by the state of South Carolina.

7 During this process, during the deliberation process the foreperson's going to act like the
8 chairman at a meeting. An important duty that the foreperson has is to make sure that everybody
9 that wants to have an opportunity to speak, everybody's voice has an opportunity to be heard.

10 Now, the foreperson's voice and vote carries no more weight than any other member of the
11 jury. Everybody's on an equal plane in that regard. But somebody does need to be in charge,
12 necessary to guide the discussions.

13 And, again, if there's some matter that needs the court's attention, the foreperson'll write out
14 that note, again sign it, hand it to the bailiff, and it'll come to the court, and we'll handle the matter,
15 whatever it is.

16 The final duty and responsibility of the foreperson is once the jury has well and truly
17 deliberated in this case and reached its unanimous decision on each and every charge levied against
18 the defendant by the state of South Carolina, the foreperson will take the verdict form, check the
19 appropriate block or write the appropriate word, thereafter sign their name as the foreperson
20 indicating that that indeed is the unanimous verdict of the jury in this particular matter on each
21 charge.

22 So, understanding the duties of the foreperson, I will tell you this, Mr. Arnold and Ms. Bell,
23 the alternates in this case, you can vote on who the foreperson is, but you cannot be the foreperson
24 since you are the two named alternates in this matter. Everyone else is eligible to be the foreperson.

1 With that I would ask that you retire to the jury room with the bailiff, select your foreperson,
2 knock on the door and let the bailiff know who the foreperson is, please.

3 (the selected jury exited the courtroom)

4 The Court: Ladies and gentlemen, I'm going to ask that you go back downstairs to the jury
5 assembly. Hopefully, very shortly, I'll be able to excuse you for the balance of the day. There's one
6 other issue I have to address. If you will accompany the bailiff downstairs to the jury assembly area,
7 please. Thank you very much.

8 (the remaining jury panel exited the courtroom)

9 The Court: Mr. Johnson, there's a motion in this case that we have to hear?

10 Mr. Johnson: I think we have a couple of them.

11 The Court: All right.

12 Mr. Johnson: At least.

13 The Court: Considering the time, gentlemen, do you want me to excuse the jury in this case
14 for the rest of the afternoon and have them come back tomorrow morning, or what do you want me
15 to do?

16 Mr. Marchant: I think I need fifteen minutes, maybe.

17 The Court: All right. I'm sure y'all would like to have lunch at some point. At best, what
18 we're going to have happen is do probably the opening arguments. Because no matter how long--
19 Just assume, you know, an hour. I don't know that we're going to get to any testimony. Have the
20 jury back at 3:30, tell them to come back at 3:30. And for your information, Mr. Gregory Davis,
21 number 63, is the foreperson.

22 Gentlemen, y'all want to be excused. I have you come back in an hour, please. And
23 hopefully, we can get the motions done. Be back at 2:45.

24 (the court was in recess for lunch)

COURT IN SESSION

1

2 The Court: I understand that we have some motions in this particular case, Solicitor?

3 Mr. Marchant: Yes, briefly, Judge, Jackson v. Denno, for the statement being made to the
4 lead officer while she was at the hospital.

5 The Court: Okay.

6 Mr. Marchant: Additionally, what has not been discussed, I believe, here in open court. At
7 this time, the defendant has two other incidents that occurred prior to this incident. He had pending
8 charges that arrest warrants were active at the time that this incident took place. And wanted to get a
9 pre-trial ruling from His Honor. It's the State's intention for the detective to inform the jury that the
10 defendant had pending arrest warrants while this incident took place. I think it is important for the
11 jury to understand the posture in which, at least, the state will be arguing the defendant's mental,
12 state what his mental capacity was at the time.

13 If we were to look at this particular incident in a vacuum, would it very difficult for the jury
14 to grasp and understand how a person charged with possibly only an improper tag as this case
15 started, then to subsequently end up shooting and firing at law enforcement.

16 So, one of my detectives tomorrow, I intend on asking him did the defendant have active
17 warrants at the time this incident took place. I intend to go no further. But I think it is appropriate
18 and extremely probative to the jury for them to be able to process and be able to understand how an
19 incident and event such as this could take place. That's the first matter that needs to be addressed.

20 The Court: Mr. Johnson, what's your position?

21 Mr. Johnson: Well, with regards to the charges, I think probably the most important fact we
22 have here is that my client has not been served with warrants. As I understand it the warrants were
23 signed on the 27th. Excuse me, the 28th. So, he did not get served with those warrants. I think it is

1 suggested that they're trying to show some sort of motive for him acting in such a manner. And with
2 him not being served with the warrants I don't see how, you know, that would play there.

3 Another issue is I think its probative value is substantially outweighed by unfair prejudice
4 saying someone is on trial for criminal charges had other pending criminal charges. People are
5 going to assume that he actually committed these acts, and that's the biggest problem. That's the
6 point of my objection.

7 The Court: Solicitor, I appreciate the State's position. If-- I'm not gonna allow you to bring
8 it up on direct examination the has because he was not stopped, the officer that-- The failure to stop
9 for a blue light doesn't arrive out of the reason that they're trying to stop him to serve him with these
10 warrants, or they're trying to catch him because of these warrants. The failure to stop for a blue light
11 arises out of some other matter, a traffic incident. And so, if they tried to stop him because of the
12 outstanding warrants then it might be background as to what has transpired.

13 Now, I will say, Mr. Johnson, you're gonna have to be careful in how you examine the
14 detective and the officers. Depending on how you might pose the question it might very well be a
15 proper response either to your question or I might allow the State on re-direct did he have
16 outstanding warrants. Maybe not go any further, but did he have outstanding warrants. You're
17 gonna have to be careful about how you posit your questions to the State's witnesses.

18 But since it's not part of the reason for stopping him I'm not going to do it. You know, if the
19 defense in their questions, start posing, you know, it doesn't make any sense why you would fire,
20 you know, at the officer, or some question that could be construed in that manner, then it might be
21 very well be proper, that they know he's got outstanding warrants.

22 But if they're not gonna bring it up, questioning why the individual would do such a thing,
23 then it may be that, or I would find it's not proper to bring it up initially. So, I'm not gonna allow
24 just in your direct at this point in time to bring it up again. It might very well need to be answered,

1 the question to be answered, or it can be re-direct. Or, depending upon if the defendant testified, or
2 there's presentation of evidence by the defendant, it could be then proper reply. I don't know. But
3 right now, I mean, your answer is no as far as being able to ask that question.

4 Mr. Marchant: Thank you, Your Honor. The next question that they have objected to in our motion,
5 comments that were made to the lead investigator in this case. The defendant did make other
6 comments. They were made to lay people, many of whom were friends and/or family of his. He
7 was not under arrest at the time those statements were made. So,

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

1 it's the State's position we don't need a Denno hearing for those. But to the extent that he
2 made comments to the lead investigator in the case, we believe that we need to proceed with the
3 Denno hearing.

4 The Court: Very good. If you want to call your first witness, then.

5 Mr. Marchant: The State would call Detective Tim Conroy.

6 The Court: Come around and be sworn, sir.

7

8 **TIM CONROY**, duly sworn, testified as follows:

9 Clerk of Court: Please state your name for the record.

10 A Timothy Michael Conroy.

11 **DIRECT EXAMINATION BY MR. MARCHANT:**

12 Q Detective Conroy, where are you employed?

13 A Greenville Police Department.

14 Q In what capacity?

15 A I'm in the Violent Crimes Unit, Detective Division.

16 Q How long have you been with the Greenville Police Department?

17 A Approximately sixteen years.

18 Q During that course of time how many interviews have you roughly conducted, if you
19 can even put a number on it?

20 A Hundreds.

21 Q Hundreds, all right. Were you assigned as the lead investigator in this case?

22 A Yes sir.

23 Q At some point in time did you go to the hospital where the defendant was being
24 treated for his injuries?

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

1 A Yes sir.

2 Q Prior to initiating any conversation or contact with him, questions with him, if you
3 will, how long were you able to observe medical personnel performing treatment on the
4 defendant?

5 A Approximately ten, fifteen, twenty minutes.

6 Q Prior to your entering the room where he was being treated, did you have any contact
7 with him?

8 A No sir.

9 Q Had any member of the Greenville Police Department had any contact with him prior
10 to that time?

11 A Prior to him entering the room?

12 Q Yes.

13 A Yes, they did.

14 Q The first time you'd seen him, though, was inside the hospital room?

15 A That's correct.

16 Q Where was he in the hospital?

17 A He was in the Trauma Base emergency room.

18 Q Approximately how many folks with the Trauma Base staff were present and
19 attending then?

20 A Fifteen.

21 Q Out of those roughly fifteen people, how many were asking him questions?

22 A A quarter to a third of them.

23 Q The questions that medical personnel were asking him, was he responding?

24 A He was.

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

- 1 Q Did he appear to understand their questions?
- 2 A Yes, he did.
- 3 Q Did he appear coherent?
- 4 A He did.
- 5 Q Did he appear to understand where he was and what was going on?
- 6 A Yes sir.
- 7 Q Again, before you initiated any questioning of him, what period of time was this you
- 8 observed?
- 9 A Ten to twenty minutes.
- 10 Q And during this period of time medical personnel were speaking with him?
- 11 A That's correct.
- 12 Q At some point in time after that ten to twenty minutes, did you initiate contact with
- 13 the defendant?
- 14 A Yes, I did.
- 15 Q What was the purpose of initiating contact with him?
- 16 A I wanted to speak with him about the incident.
- 17 Q At that time was the defendant under arrest?
- 18 A Yes, he was.
- 19 Q So, as he finished getting treated, could he get up and walk out of there?
- 20 A No, he could not.
- 21 Q Was he under arrest for this particular incident?
- 22 A No sir.
- 23 Q Were you able to determine how old the defendant was prior to questioning?
- 24 A I was.

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

1 Q Were you able to speak with him and determine whether or not he understood who
2 you were and what you were there for?

3 A I did talk to him about that.

4 Q And how many questions, approximately how long did you spend with him
5 explaining to him who you were and what your job was?

6 A A couple minutes.

7 Q And did you have any concerns or reservations that he did not understand who you
8 were?

9 A No sir.

10 Q How were you dressed that day?

11 A I believe I was wearing khakis and a Polo shirt.

12 Q Did you have your law enforcement badge?

13 A I did have a badge and my firearm.

14 Q Your firearm, was it on your belt or was it hidden?

15 A It was on my belt.

16 Q It was visible?

17 A Correct.

18 Q And you said you did have you badge?

19 A Correct.

20 Q Was it around your neck or was it on your belt?

21 A On my belt as well.

22 Q Did the Polo that you were wearing, did it have the Greenville Police Department
23 badge or emblem on it?

24 A No sir.

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

1 Q Just a regular Polo shirt?

2 A Yes.

3 Q Could you determine when medical personnel was speaking with this defendant as
4 well as you, whether or not he was intoxicated?

5 A He did not appear to be.

6 Q Do you know whether or not he had been administered any pain or medications prior
7 to you speaking with him?

8 A He was not.

9 Q And again, the period of time before you spoke to him, he was answering, he was
10 responding to questions asked by medical personnel?

11 A Yes sir.

12 Q And clearly understood what they were asking?

13 A Yes.

14 Q At some point in time did you Mirandize the defendant?

15 A I did.

16 Q And how was it that you Mirandized him?

17 A I had a waiver of rights in my folder. I pulled a sheet from it and read it to him.

18 Q I'm going to show you what's been marked as State's exhibit number 69. If you
19 would review that, and do you recognize that?

20 A Yes sir, I do.

21 Q The form that you have, how is it that you administered the rights to the defendant?

22 A I asked him to listen to what I was gonna read. I read each line out loud to him and
23 asked if he understood. He acknowledged, yes, he did understand after each line I read to
24 him.

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

1 Q So, the first line you read to him was what?

2 A "Before I ask you any questions you must understand your rights."

3 Q And he acknowledged in the affirmative, meaning verbally or just nodding his head?

4 A Verbally, yes.

5 Q And the second line that you read?

6 A "You have the right to remain silent." He again answered yes, he understood.

7 Q The third line?

8 A "Anything you say can be used against you in court." Again, he answered yes, that
9 he understood it. I went on to "You have the right to talk to a lawyer for advice before you
10 answer any questions and have him with you during questioning." He again answered he
11 understood it. It goes on to say "If you have no money to pay a lawyer, the court will appoint
12 one to represent you without cost if you wish." He answered yes, he understood that
13 question as well. Then I read "If you decide to answer questions now without a lawyer
14 present, you will still have the right to stop answering at any time. You also have the right to
15 stop answering at any time until you talk to a lawyer." And he answered yes, he understood
16 that, as well.

17 Q Did you subsequently have him sign or initial any of this information?

18 A No, I did not.

19 Q Why is that, that you did not do that in this circumstance?

20 A He was handcuffed to the bed and he had blood on him.

21 Q Typically, when you're interviewing someone, are you interviewing them at the
22 hospital?

23 A No sir.

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

1 Q If you were not in the hospital setting, would you have had them initial and sign on
2 those points you gave?

3 A Yes, beside each line.

4 Q But, was there any question in your mind whatsoever whether or not he understood,
5 one, who you were?

6 A No.

7 Q Two, what you had read to him?

8 A He understood that.

9 Q And then three, what you subsequently engaged in conversation with him about?

10 A Yes.

11 Q He understood what he was doing, he was coherent and didn't appear to be
12 intoxicated to you in any manner?

13 A No sir.

14 Q After you read those rights to him what was his response about whether or not he
15 wanted to engage in conversation with you?

16 A After I read the rights to him, I also read the waiver of rights, which is also on this
17 form.

18 Q What does that say?

19 A It says, "I have read this statement of my rights and understand what my rights are. I
20 am willing to make a statement and answer questions. I do not want a lawyer at this time. I
21 understand and know what I am doing. No promises or threats have been made to me and no
22 pressure or coercion of any kind has been used against me."

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

1 He advised that he understood that by a verbal yes. And I also asked him if he knew
2 what the word, coercion, meant. I explained to him that it meant force that no one had used
3 any mental or physical force, to persuade him to say something.

4 Q He understood all those rights?

5 A That's correct.

6 Q Did he have any questions of you of any of those rights that you read to him?

7 A No, he did not.

8 Q Did he ask you any questions before y'all engaged in conversation?

9 A No, he did not.

10 Q How did he respond when you asked him whether or not he wanted to give up his
11 rights as read to him and speak with you?

12 A He stated he would talk. I advised him what I was there to talk to him about. I
13 advised him that I couldn't make him any promises and he uttered his statement to me.

14 Q What is the information that you told him that you had, or you believed to have in
15 your possession prior to speaking with him, the evidence, if you will?

16 A I advised him that we had his luggage outside the apartment. We were processing the
17 vehicle for latent prints. That we had his driver's license as well; I may have stated that.

18 Q Following that, did you ask him what happened, or did he just begin to discuss with
19 you what he recalled?

20 A He began discussing.

21 Q So you never asked him what happened?

22 A That's correct.

23 Q What is it that he told you?

TIM CONROY-DIRECT EXAMINATION BY MR. MARCHANT

1 A He stated that he was shot, laying in the woods, passed out till it was dark, and
2 walked to a friend's house where he was picked up by the police.

3 Q Did he make any other comments to you about what occurred in this incident?

4 A No sir.

5 Q Did you ask him any other questions after he indicated, I walked to where y'all got
6 me?

7 A No, I didn't. He stated he wanted an attorney and at that point I stopped asking
8 questions.

9 Q He indicated to you that he wanted a lawyer?

10 A That's correct.

11 Q How did you receive that, whether or not the conversation could then continue?

12 A I didn't ask him any more questions. We stopped the conversation.

13 Q Did you leave the hospital at that point in time?

14 A I did.

15 Q I have no further questions. Please answer any questions Mr. Johnson may have.

16 The Court: Mr. Johnson.

17 Mr. Johnson: Thank you, Your Honor.

18 The Court: Mr. Johnson.

19

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON**1 CROSS EXAMINATION BY MR. JOHNSON:**

2 Q Now, Detective Conroy, what was the purpose of that form?

3 A To advise the interviewee of their rights.

4 Q But why-- You did everything verbally and he answered yes or no. You have
5 testified he said yes?

6 A Yes.

7 Q Now, I assume you pretty much do that a hundred percent of the time when you talk
8 to persons if there's been an incident. Is that correct?

9 A That's correct.

10 Q So, why is it that there's a form that is so meticulously put together where you have
11 initial and sign? What's the purpose of that?

12 A To have the person you're interviewing protected.

13 Q Isn't it true-- Isn't it true that you have that form so as to make sure you're on the
14 same page? Somebody can read something, they can initial it, and they can sign it. And you
15 know what they're initialing and you know what they're signing. Isn't that true?

16 A That's correct.

17 Q Now, when you came to see my client he was at Greenville Memorial Hospital and he
18 was in the Trauma Base. Is that right?

19 A Yes sir.

20 Q Now, you did a report, and I know that you don't have it before you, but you probably
21 remember most of what's in it. Is that right?

22 A That's correct.

23 Q Now, you say he was in the Trauma Base. He was handcuffed to the bed?

24 A Yes sir.

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON

1 Q Which arm?

2 A I don't recall.

3 Q Was it possibly the right because, I believe he was shot in the left shoulder? Was it
4 the right?

5 A More than likely.

6 Q And he was handcuffed to the bed because he was under arrest?

7 A He was.

8 Q For these particular charges or for prior charges?

9 A Prior charges.

10 Q For the prior charges, okay. Now, he was not released.

11 A Correct.

12 Q And he had been, or was he operated on?

13 A He had already been treated.

14 Q Yes. Now, you were involved in the incident and he would have been injured around
15 ten or eleven o'clock that morning?

16 A Yes sir.

17 Q What time was it you spoke to him?

18 A I believe it was shortly after nine o'clock.

19 Q 9:00 p.m.?

20 A Correct.

21 Q So, that's a difference of about ten hours or so?

22 A Roughly yes.

23 Q Where he had a bullet in his arm, where he had lost blood, fluids. He was otherwise
24 protected by the wounds. Is that right?

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON

1 A I don't know. He was injured, yes sir.

2 Q He was cuffed to the bed when you were there. You heard the medical personnel
3 talking to him and discussing things. Did they indicate that he was injured and they give him
4 IV fluids or anything?

5 A He was obviously injured, yes.

6 Q Now, you said you also had your gun on your waist and that was there for him to see.
7 Did you show him your badge?

8 A No sir. The gun was not there for him to see. The gun was just---

9 Q You didn't have the gun with you?

10 A I did. It was there for him to-- He would see it, I'm sure,---

11 Q Okay.

12 A ---with my badge, yes sir.

13 Q So, where was the gun? Was it on your waist?

14 A Yes sir, on my right side.

15 Q So, the gun was apparent, people could see your gun. And what about our badge, was
16 it on your belt, too?

17 A Yes sir.

18 Q Now, a gun in general, is that something that intimidates people when people see
19 guns? Or are they just otherwise, just something that's there?

20 A I guess depending on the manner it's displayed in.

21 Q Would you think somebody who'd just been shot would have felt intimidated by
22 seeing a gun?

23 A Not in that setting.

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON

1 Q Not in that setting. Now, you stated that he didn't appear to be intoxicated. Did you
2 find out? Did you ask medical personnel if they had administered any drugs?

3 A He was answering questions coherently to me.

4 Q To you?

5 A As well as medical personnel.

6 Q Did you ask medical personnel if they had administered any drugs, any pain killers of
7 any sort?

8 A No sir.

9 Q But you had the ability to do so. Right?

10 A I could have.

11 Mr. Johnson: Your Honor, I have nothing further of this witness.

12 The Court: Any re-direct?

13 Mr. Marchant: Nothing further, Your Honor.

14 The Court: Further witnesses on behalf of the state?

15 Mr. Marchant: That would be it, Your Honor.

16 The Court: Any arguments you want to make, Mr. Johnson?

17 Mr. Johnson: Yes, briefly, Your Honor. I argue that the statement wasn't freely and
18 voluntarily given. As testified by Detective Conroy, he was being held there, he was not free to
19 leave. I think under the totality of the circumstances with him being shot, being shot over ten hours
20 ago, with the wound being festering up until that point, with the badge and gun being ever present, I
21 think there would be signs there of intimidation, making under a, under the totality of the
22 circumstances argument. Intimidation, therefore, and the statement was not voluntary.

23 The Court: All right, sir. Solicitor, anything you want to argue?

24 Mr. Marchant: Yes sir. It's the State's position that this is a, certainly unusual and

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON

1 atypical scenario to be speaking with folks in a case such as this. Obviously, if Detective
2 Conroy had the ability to take him back to the law enforcement station, I'm sure he would
3 have done that.

4 However, with respect to the argument of the intimidation, I'd say in ninety-nine
5 percent of case like these, most likely the officer is gonna have his gun and badge with him. And
6 Detective Conroy was dressed in plain clothes which I guess, in my opinion, goes against the
7 intimidation factor. He was dressed in the daily attire that the police department wears, I mean, of
8 the detectives. He did have a badge and gun in place.

9 However, if you listen to the statements and questions that the defendant answered for
10 medical personnel, including the period of ten of twenty minutes before he then engaged with him.
11 So, it's the State's position that it was voluntarily, it was knowingly, and the was intelligently was
12 made aware of his rights and then waived those rights and made this two to three statement of
13 admission to Detective Conroy about what had occurred that day.

14 Once the defendant decided not to talk any further, he invoked his rights. So, that would be
15 State's, shows that he definitely knew what was going on, because he said I'm not gonna talk to you
16 any further without my lawyer. He knew what he was doing and he gave those statements
17 knowingly and intelligently to Detective Conroy.

18 The Court: Thank you.

19 Mr. Marchant: Thank you, Judge.

20 The Court: Regarding this particular matter, regarding a statement made that the State has
21 the burden of establishing the voluntariness of the confession, and the Court makes the initial
22 determination as to the voluntariness on the preponderance of the evidence standard. If I allow it
23 into evidence, then, of course, the jury will make another determination based upon beyond a
24 reasonable doubt standard. But the court's determination is the preponderance of evidence standard.

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON

1 In this particular case, clearly the defendant was in custody and of necessity would then have to be
2 read his Miranda warnings and rights, which he was.

3 The court finds that the defendant understood the rights that were explained to him, that he
4 voluntarily waived those rights and spoke to the officer freely and voluntarily; that it is an indication
5 that the defendant clearly understood his rights when he invoked the right to have an attorney present
6 after he had made that initial statement to the detective. And the interview was properly terminated
7 at that point in time when he said he wanted to speak to an attorney.

8 Therefore, the court finds, again, under the preponderance of evidence standard that it is the
9 voluntary statement of the defendant that was freely given with knowledge of his constitutional
10 rights, and he voluntarily waived those rights to the extent that he made that statement thereafter,
11 obviously invoking them, which he was observed by the police detective at the time.

12 Therefore, I will allow the statement to come into evidence in this case. Again, it will then
13 be up to the jury to make the final determination as to voluntariness according to the beyond a
14 reasonable doubt standard.

15 Any further motions on behalf of the State?

16 Mr. Marchant: None on behalf of the State, Your Honor.

17 The Court: From the defense?

18 Mr. Marchant: Yes sir, Your Honor. Briefly, I-- Now, I'll say before I-- Two of my
19 motions, it might be necessary to do those at the time the witnesses is here. I'm not sure that all--
20 I'm pretty sure that all witnesses are not here currently.

21 The Court: Okay.

22 Mr. Johnson: I don't know if there needs to be a proffer of it or what. I don't know what the
23 State would like to do.

24 The Court: Well, why don't you just give me an idea of what it is you're talking about?

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON

1 Mr. Johnson: Sure, Your Honor. First of all, there has been a DNA report produced in this
2 case where they test to see whether my client's DNA is on several items of evidence. What concerns
3 us, certain of the findings I think that them being allowed into evidence would do more to create
4 confusion than-- They wouldn't offer any probative value at all.

5 For example, one of the results, the conclusion says that, indicates that my client is a possible
6 contributor to the DNA. Possible contributor, I'm not sure what that means. I think that would tend
7 to create confusion. And without the expert here, I'm not sure that we could collaborate on that or
8 we could clean that up. But a possible contributor, I mean, what does that mean. I think that would
9 do more, would more or less create confusion rather than have any probative value with helping with
10 the findings of facts to decide this case.

11 Beyond, the other thing, was any in-court identification or any attempt to make any in-court
12 identification of my client.

13 The Court: Let's stop there, and we'll go---

14 Mr. Johnson: Yes sir, Your Honor.

15 The Court: ---into that in just a second. On the DNA matter, obviously we'll need to hear
16 the background testimony about how the matters were collected, and then, you know, that they were
17 then tested by whatever authority tested them, whether it's SLED or Greenville County did it, or
18 whomever did the testing. And then we'll hear about that person's qualifications and whether or not
19 the court will qualify them to give their opinion. And if they are so qualified, then they'll be able to
20 give their opinion about the test.

21 And it may very well be that the opinion is that there might be, you know, more than one
22 possible contributor to it. I don't see how that could be harmful to the defense, honestly. But if that
23 was the results of the examination and all the other steps had been taken properly and are show to
24 have been taken properly before that, then it'll be proper testimony for the jury to hear.

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON

1 But all that, at the time that the opinion is offered, if you have any objections, then I'll expect
2 you to raise them at that time.

3 Mr. Johnson: Yes sir, Your Honor. If I may, when the witness is being called, may we
4 proffer testimony first?

5 The Court: Well, I'll hear from you. I'm not sure that---

6 Mr. Johnson: I guess-- Excuse me, I don't mean to cut you off, Your Honor. But if it
7 comes in, like, if I've been arguing with them while he's on the stand, I'm worried that---

8 The Court: And I appreciate that. And I understand that it might very well-- We'll see.
9 When the person comes to testify and we receive the other background information as necessary, and
10 the person's been qualified at that point in time to give their opinion, their expert opinion, then we'll
11 see if certain questions need to be asked outside of the presence of the jury, voir dire. I'll be glad to
12 hear from you after the person's qualified. If they are qualified, then I may very well take some
13 matter up outside of the jury's presence. They've got to be qualified to give their opinion first.

14 Mr. Johnson: Thank you, Your Honor.

15 The Court: The other issue that you had?

16 Mr. Johnson: The other issue was as a result of the incident and the chase through most of
17 Greenville, or some portions of Greenville, or some places were on lock-down, I'd like to contest the
18 relevancy of that being brought up in court today. I worry-- Not only that, but the probative value,
19 seriously I worry about undue prejudice on my client. With the search itself, Greenville being shut
20 down, it sounds like a big deal. And I'm concerned that that may confuse the finder of facts into
21 rendering a decision that may not otherwise come about.

22 The Court: Solicitor, do you expect that we will hear some testimony?

23 Mr. Marchant: I don't expect to go into it in the degree of which Mr. Johnson is concerned
24 about. I'm going to ask one of the detectives in the situation something to the effect of what is the

TIM CONROY-CROSS EXAMINATION BY MR. JOHNSON

1 typical course and procedure that y'all do when you're tracking somebody with a dog; how do you
2 maintain the area; how do you maintain the scent of the trial; how do you preserve that trial. I'm not
3 gonna get into I-85 from Mauldin was shut down and from Mauldin to Laurens Road was shut down.

4 The Court: Generally secured the area that they searched?

5 Mr. Marchant: A general overview of what was going on at the time, Judge.

6 The Court: Again, Mr. Johnson, if you've got an objection to a particular question, I'll be
7 glad for you to raise it at that point in time. But it appears from what the Solicitor says that I don't
8 see any problem with that type of question and answer at this point in time.

9 Mr. Johnson: Yes sir, Your Honor. The very last thing is a in-court identification of my
10 client.

11 The Court: Yes sir.

12 Mr. Johnson: I worry about the violation of his due process or any undue suggestiveness of
13 the identification. The only ones that I really see, and I don't know if the Solicitor intends on
14 introducing any more evidence, but what was produced to me in the discovery process, I know that
15 one of the officers, Cruell, did later identify my client the one whom she was chasing or saw at a
16 hotel after looking at some sort of mug shot. And this was, of course, after my client was
17 apprehended and at the hospital and otherwise handcuffed to the bed at this point. So, I worry about
18 the suggestiveness after her signing her oath, this is the person we ended up catching, let me see if
19 it's the person that's the same, and she said yes. So, I'm concerned about that.

20 The Court: All right. So, Officer Brittany Cruell, her testimony, you anticipate there to be
21 some type of identification of the defendant from her testimony, Solicitor?

22

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 Mr. Marchant: Judge, she, following the defendant's arrest, she went, as he indicated, either
 2 his mug shot or his driver's license and confirmed that that was the individual that she had seen at
 3 the---

4 The Court: Okay. So, do you think we need a Neil versus Biggers hear on that, then, on that
 5 particular issue? I would assume that would you ask her in court, you know, do you see that person
 6 that you identified from the lineup or the mug shot or whatever it is in court today, and she says yes,
 7 and---

8 Mr. Marchant: Yes sir.

9 The Court: ---can you point him out?

10 Mr. Marchant: I don't know what she going to say right now.

11 The Court: Okay. Where is she in the---

12 Mr. Marchant: She would be the first witness.

13 The Court: Then we probably need to do-- Just to be safe, then, we probably need to do a
 14 Neil versus Biggers hearing.

15 Mr. Marchant: Very good, Your Honor. We'll do that right now.

16 The Court: All right.

17 **BRITTANY CRUELL**, duly sworn, testified as follows:

18 The Court: Could you, please, ma'am, after you state your name, could you spell it, please?

19 A Brittany Cruell, B-r-i-t-t-a-n-y C-r-u-e-l-l.

20 The Court: Very good. Solicitor.

21 Mr. Marchant: May it please the court.

22 **DIRECT EXAMINATION BY MR. MARCHANT:**

23 Q Officer Cruell, where are you employed?

24 A Greenville City Police Department.

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 Q Briefly, what was the nature of your involvement in this case?

2 A It began as a investigation, as a suspicious vehicle. It led to a short chase of that
3 vehicle in which the defendant was driving. And resulted in the shooting of the other officers
4 who found the vehicle later.

5 Q Your involvement started where?

6 A At the Comfort Inn at 2756 Laurens Road.

7 Q At the Comfort Inn, at some point in time did you go inside and speak with the clerk
8 or manager?

9 A Yes, I did.

10 Q At some later point in time while you were visiting with the clerk or trying to
11 ascertain who the owner of the vehicle was, did you have an opportunity to view what
12 subsequently you found out to be the defendant?

13 A Yes.

14 Q Where were you in the Comfort Inn when you were able to view the defendant?

15 A In the lobby.

16 Q How is the lobby laid out? Is it wide open or---

17 A Wide open.

18 Q If I walk in through the front door, where is the counter?

19 A To your right.

20 Q How much room to the left and ahead of you is there before you run into either a
21 banquet hall or restrooms?

22 A It's about as big as this courtroom, and there's a door. If you're standing where I am,
23 to the back of the courtroom, there's a walkway that leads to the rooms in the back.

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 Q Do you recall where you were standing, sitting at the time that you were able to
2 observe the defendant?

3 A I was on the same side as the check-in counter on the, it would be the right side from
4 when you come in the front door.

5 Q How close is that counter from the front door?

6 A Just a few feet.

7 Q Is that front door an automatic sliding door, or is it ---

8 A Yes.

9 Q So, how close would you estimate the defendant was to you when he walked by you?

10 A A few feet.

11 Q Where you-- At the time when he walked by, were you standing at the counter facing
12 the manager or were you turned around?

13 A I don't recall.

14 Q How was it that you were able to see the defendant in the lounge at the motel?

15 A He was walking by, out through the front door.

16 Q And how long would you say you were able to get a glimpse of him?

17 A Five minutes.

18 Q Five minutes? What time of the day was this?

19 A It was morning.

20 Q Was this inside or outside of the front door when you got a glimpse of the defendant?

21 A Inside.

22 Q And the lighting inside, is it fluorescent lighting, or are there lamps that illuminate the
23 inside?

24 A It's just like the light in here.

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 Q Did you have any conversation with him?

2 A No.

3 Q Was there anyone else that you were talking to when the defendant walked by?

4 A Officer Lane.

5 Q Where was Officer Lane standing? If you're standing at the counter, where was he
6 standing?

7 A I believe he was to my left.

8 Q Who brought it to your attention that the defendant was walking by?

9 A One of the employees inside said that the vehicle was leaving, that I was
10 investigating.

11 Q We're not quite that far. How is it that you were brought to the attention of the
12 defendant?

13 A I just noticed him.

14 Q Did he say anything to you?

15 A No.

16 Q Did you say anything to him?

17 A No.

18 Q So, all he did was cruise by you?

19 A Yes.

20 Q How much attention did you pay to him when he walked by?

21 A Just briefly. I believe he was the only one in there except for us and the employees at
22 the hotel.

23 Q So, the entire time you're in the Comfort Inn check-in-lounge area, he's the only
24 person you saw come through that area that was not an employee, or not Officer Lane?

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

- 1 A Yes.
- 2 Q And were you able to tell whether or not he was male or female?
- 3 A Male.
- 4 Q What his race was?
- 5 A Black male.
- 6 Q And approximate age?
- 7 A I wasn't sure. He looked older, maybe about thirty, but I wasn't sure.
- 8 Q How long, again, \do you think you were able to observe him when he walked by?
- 9 A Maybe about a minute.
- 10 Q After this occurred as you started in behind him on 85, did you call out a description
- 11 to your other officers, or did you call dispatch?
- 12 A I don't recall.
- 13 Q At some point in time did you speak with Officer Cobb about who you thought you
- 14 were looking for?
- 15 A I don't recall.
- 16 Q Do you recall what you believe he was wearing at that time?
- 17 A I believe it was a gray shirt.
- 18 Q And following your pursuit up 85, did you ever see the defendant, or whoever was in
- 19 the vehicle at any point in time?
- 20 A No.
- 21 Q After this defendant was apprehended, did you subsequently view a photograph of
- 22 him?
- 23 A I did.
- 24 Q Was it that day or was it the following day?

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 A It was the following day.

2 Q Did you only view the picture of him because you knew at that point in time because
3 you knew at that point in time who the suspect was?

4 A Yes.

5 Q The person that we have in custody, Mr. Lowrance, is that the same person you saw
6 the day before?

7 A Yes.

8 Q That person, do you recognize them in the courtroom here today?

9 A Yes.

10 Q Would you point him out for the court and describe what they're wearing?

11 A Blue collar shirt, and a yellow tie.

12 Q To make sure I'm clear, you were inside the motel with Officer Lane and other
13 employees of the motel. No other patrons came or went during the period of time with which
14 you were in the motel?

15 A No.

16 Q You had the opportunity to be just a few feet away from the defendant. And after this
17 whole incident was wrapped up and an arrest was made, you viewed a photograph of the
18 defendant and that's the same person you saw that day at the motel.

19 A Yes.

20 Q And that person you saw at the motel is in fact the person sitting next to his lawyer,
21 Mr. Johnson?

22 A Yes.

23 Q Thank you. Please answer any questions Mr. Johnson may have for you.

24 The Court: All right, Mr. Johnson.

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 Mr. Johnson: Thank you.

2

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 Mr. Johnson: Thank you.

2 **CROSS EXAMINATION MR. JOHNSON:**

3 Q Officer Cruell, did you do reports in this incident?

4 A Yes.

5 Q How many reports did you do, one or two, do you remember?

6 A How many reports?

7 Q Yes.

8 A An original and a supplemental, I believe.

9 Q Do you have those with you?

10 A Yes.

11 Q Let me make sure that these are those. Do you ratify that those are your two reports,
12 the original and supplemental?

13 A Yes.

14 Q Okay. Well, I'm gonna let you refer to those as I ask you some questions. Now,
15 Officer Cruell, now, you did not identify my client as the one you saw in that hotel until after
16 you got his name. Is that right?

17 A Yes.

18 Q So, you didn't go of your own accord and start looking through some mug shot
19 identifications or anything of that nature that you go to help identify him. Is that right?

20 A That's right.

21 Q So, you actually got a name and then you went and got that page of pictures?

22 A Yes.

23 Q And then that's when you confirmed that that was the person you saw at the motel?

24 A Yes.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 Q Now, on the first page of that form, if I may. I'm gonna point out to that paragraph
2 there, that's the third paragraph. You give a description of the person who you saw at the
3 motel. Is that right?

4 A Yes.

5 Q Can you read that description for us, please?

6 A A male walked by with longer hair. He looked to be about thirty-five or forty years,
7 but could have been younger of age, wearing a gray shirt.

8 Q Now, in that description you said somebody who was about thirty-five or forty years
9 old, and with longer hair. Now, when you went and verified that my client was the person
10 you saw, did he have long hair?

11 A No.

12 Q He didn't have long hair. Was he thirty-five or forty years old?

13 A No.

14 Mr. Johnson: Your Honor, I have nothing further.

15 The Court: Any re-direct, Solicitor?

16 Mr. Marchant: No, Your Honor.

17 The Court: You may step down, ma'am. Any arguments, Mr. Johnson?

18 Mr. Johnson: Yes, Your Honor. I believe especially with due process and the Fifth
19 Amendment, undue suggestiveness is the key here. And for her to make a identification after
20 somebody gave her a name, I think is the definition of undue suggestiveness. As I asked her on the
21 stand, she didn't go through mug shots, so she wasn't herself given any sort of lineup, not that
22 they're required to do so. But I think undue suggestiveness is-- You know, you can't have that
23 there for her to be able to make that sort of identification.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 Another thing we know, another reason why I think there is undue suggestiveness there or
2 improper identification is the fact that the description she gives of the man, thirty-five to forty, with
3 long hair, I mean, I can understand maybe thirty-five to forty, but long hair is long hair. And long
4 hair is not something that my client has now, or has never had with regards to this.

5 So, I do think the identification is improper and I think there was the-- The fact that she was
6 given the name of the person who was, they had captured created a substantial likelihood that he
7 would be singled out for identification.

8 The Court: Well, y'all didn't really-- It's not my job to ask questions. But y'all didn't really
9 ask her questions about how this identification took place. Nobody asked her where she was, was
10 she at the police department, who was the person who showed it to her, did it look like this was a
11 photograph from, you know, previous incarceration, what they said, you know, is this the guy you
12 saw at the motel, suggesting that's the answer. Nobody asked her any of those questions.

13 So, at this point in time I don't think I have enough information to look at the suggestiveness
14 of the procedure. Now, Mr. Johnson, if you want to call her back in here and you want to ask her
15 some questions, I'll be glad for you to do that.

16 Mr. Johnson: Sure.

17 The Court: Bring her back in.

18 Mr. Johnson: If I may, briefly. I do believe she stated that she was, someone told her who
19 was arrested.

20 The Court: Well, I appreciate that. I don't know who that person was.

21 Mr. Johnson: Okay, very well, Your Honor.

22 The Court: Was it somebody off the street? Was it the lead detective in the case? I don't
23 know who it is.

24 Mr. Johnson: Very well, Your Honor.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 The Court: All right. You need to come back and take the witness stand, ma'am. Please
2 remember that you remain under oath. Okay.

3 Brittany Cruell: Okay.
4

5 **BRITTANY CRUELL**, having been reminded by the court of
6 previous oath, testified as follows:

7 The Court: Mr. Johnson, I'll be glad to hear from you.

8 **CROSS EXAMINATION BY MR. JOHNSON:**

9 Q Now, Ms. Cruell, you testified earlier that someone told you that my client was
10 apprehended as, he was a suspect in this case. Is that right?

11 A Yes.

12 Q Do you remember who called you?

13 A I don't recall.

14 Q You don't remember who called you? Do you know the circumstances about when
15 you were called? Were you at the police station, were you at home?

16 A I came in for my next shift and someone in the roll call for four shift told me.

17 Q What sort of database were you looking in?

18 A It's a internal database where we look at the recent photographs from, I believe it's
19 the detention center.

20 Q So, these are photographs where people are arrested and taken to the detention center?

21 A Yes.

22 Q And it keeps a record of any arrest or just one arrest? How does that work?

23 A I'm not sure.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 Q You're not sure. Is there more than one picture of my client in there? Or would there
2 be more than one picture of a defendant where he was arrested multiple times?

3 A Possibly.

4 Q Now, when they told you to, that my client was arrested, they asked you to see if it
5 was him?

6 A I was.

7 Q I mean, did you do that of your own accord, or did somebody ask you to do that?

8 A I did it of my own accord.

9 Q You did it of your own accord. Did you then-- After you made the decision that it
10 was my client, did you tell anybody this, or what?

11 A I went to sign a warrant, to sign two warrants.

12 Q So, you signed a warrant based on saying in your opinion that he was the same
13 person?

14 A Yes.

15 Q Now, did you have a superior in this incident, a superior officer?

16 A Yes, I have a superior.

17 Q Did you have someone who advised you with regard to signing the warrants---

18 A No.

19 Q --- with information that you---

20 A No.

21 Q So, you were the lead as far as that was concerned

22 A Yes.

23 Q Now, based on identification, did you print anything out in order to document the
24 identification that this was the picture that you saw?

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 A No.

2 Q So, to this day, you don't know which-- If you went in the database you're not sure
3 which picture it would be?

4 A Yes.

5 Q And you wouldn't be sure because there was just one picture?

6 A I don't recall if there was more than one picture.

7 Q Okay. So, you're not sure if there was just one picture. You don't know if you saw a
8 picture or more than one picture?

9 A Yes.

10 Q You looked up this information in the database for your own, in your own database,
11 on your own?

12 A Yes.

13 Mr. Johnson: Your Honor, I have nothing further.

14 The Court: Officer, let me see if I understand the situation.

15 **QUESTIONS BY THE COURT:**

16 Q You reported for duty the next day after you had seen an unknown black male at the
17 Comfort Inn and chased the car down the interstate for some period of time before y'all lost
18 him. Correct?

19 A Yes sir.

20 Q And then you report to duty the next day and you hear that a person was arrested
21 regarding the incident involving Officer Traci Cobb and other officers?

22 A Yes sir.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 Q Based upon that, did anybody tell you to go look at the website or look up the
2 photographs, or you decided for your own investigation, I'm gonna find out if it's the same
3 person or not?

4 A Yes sir.

5 Q Which one?

6 A I decided I was gonna find out if it was the same person or no

7 Q And so, you went to the detention center website then. Correct?

8 A Yes sir.

9 Q And you looked up that information and you saw displayed a photograph at that
10 point in time?

11 A Yes sir.

12 Q Did anybody tell you that, isn't that the same fellow you saw at the hotel or anything
13 like that?

14 A No.

15 Q All right. So, you were there alone, by yourself?

16 A Yes.

17 Q And when you saw the photograph did you have some kind of instantaneous
18 recognition or whatever?

19 A I immediately recognized him.

20 Q You immediately recognized him as the person you saw at the Comfort Inn?

21 A Yes sir..

22 The Court: Very good. Further questions, Solicitor?

23 Mr. Marchant: No, Your Honor.

24 The Court: Further questions, Mr. Johnson?

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 Mr. Johnson: No sir, Your Honor.

2 The Court: Thank you, ma'am. You may step down. Further arguments, Mr. Johnson?

3 Mr. Johnson: It sounds like from her testimony she was the lead as far as the city was
4 concerned, so I guess along the lines of somebody getting someone to do a lineup for
5 identification, some obvious, some obvious levels of supervision were skipped, considering she
6 was, you know, the level of supervision, she was the person.

7 The Court: All right.

8 Mr. Johnson: Anyhow, I add that to my previous argument that, meaning the description was
9 off and they told-- She was called and she was told. She doesn't remember who told her, but this
10 was the person. And I do think that it was probably suggestive and whoever told her that she
11 probably she should verify that this person was the same person.

12 The Court: Thank you, sir.

13 Mr. Johnson: Yes sir, Your Honor.

14 The Court: Regarding this particular matter of identification, the standard for determining
15 admissibility of identification is whether the identification procedure was so impermissively
16 suggestive as to give rise to a very substantial likelihood of irreparable misidentification. The
17 criminal defendant may be deprived of due process of law by the identification procedure that is
18 unnecessarily suggestive and conducive to irreparable mistake and identification. The standards to
19 determine whether identification is reliable, the factors as set forth in Neil versus Biggers is the
20 opportunity of the witness to view the person at the time of the crime, the witness' degree of
21 attention, the accuracy of the witness' description, the level of certainty demonstrated by the witness
22 at the time of the viewing, here viewing a photograph or a confrontation, and the amount of time
23 between the crime and the identification or confrontation.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 I do find in this, taking all of those factors and the facts as described, that I will allow the in-
2 court identification of the defendant by the witness. Again, it will be ultimately a matter for the jury
3 to decide and the court will give proper instructions to the jury at the time of the closing of the case
4 regarding their duties and responsibilities regarding an identification of the defendant.

5 Anything else, Mr. Johnson?

6 Mr. Johnson: Not from the defense, Your Honor.

7 The Court: Very good. I understand, Solicitor, you may have some-- You have a few
8 witnesses that you believe you could get into today?

9 Mr. Marchant: Yes, Your Honor.

10 The Court: What we'll do, is we'll take a very short break. Y'all get organized. We'll come
11 back and we'll have the jury come in, we'll do the opening statements and we'll see what testimony
12 we can get done today.

13 Mr. Marchant: How long are you going to go today, Your Honor?

14 The Court: Probably, I'll go-- I'm not going much past five, certainly not any longer than
15 five-thirty. This jury has been....

16 Mr. Marchant: Yes sir.

17 The Court: We've tested their patience today in the amounts of time we've had them sitting
18 around basically doing nothing. I don't want to keep them too long. We'll have them come back
19 tomorrow morning. I'll have them come back sometime around nine-fifteen or nine-thirty in the
20 morning. All right?

21 Mr. Johnson: Thank you, Your Honor.

22 The Court: We'll take a very short break and we'll come back and get started. Thank you
23 very much.

24 (court was in recess)

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1

COURT IN SESSION

1

2 The Court: Solicitor, are you ready for the jury?

3 Mr. Marchant: Yes, Your Honor.

4 The Court: Mr. Johnson?

5 Mr. Johnson: Yes sir, Your Honor.

6 The Court: Ask the jury to come in, please.

7 (the jury entered the courtroom)

8 All right, ladies and gentlemen. Mr. Davis, the jury has selected you to be the foreperson for
9 this particular jury. Is that correct?

10 Juror: Yes sir.

11 The Court: And the two alternates, y'all are seated right here. Correct?

12 (non-verbal response)

13 Very good. Y'all will always occupy those particular seats when you come back. The rest of
14 you just fill in wherever it is that you have when you come in from the jury room. The very first
15 thing that's gonna happen is the clerk's gonna administer your oath to you. So, if you would all
16 please stand at this time.

17 (the clerk of court administered oath to jury)

18 The Court: All right, ladies and gentlemen. What we're going to do now, let me just tell you
19 very briefly how the process of the trial will go. Right now, we're gonna have, when I get done with
20 these brief statements, we'll have the opening statements of the attorneys. Now, these opening
21 statements are not evidence in the case. The evidence will come to you from persons that come
22 before you under oath to testify, as well as any kind of documentary evidence or maybe some other
23 type of written or physical evidence that may come into play in this particular matter and be properly
24 admitted as evidence in the case.

1 The opening statements, though, of the attorneys are important. They are each side's initial
2 statement to you, initial presentation to you, what they hope to show you during the course of the
3 trial, remembering, of course, that it's not evidence. When we get done with that we will have the
4 actual presentation of witnesses and evidence in this case.

5 When we conclude the evidentiary portion of the trial, I anticipate probably sometime
6 tomorrow, we will then go into the closing arguments of the attorneys. Again, those closing
7 arguments are not evidence, cannot be considered by you as evidence. But they're important.
8 They're each side's summation to you of what they believe the evidence has shown to you during
9 the course of the trial, remembering, of course, that you are the judges of the facts of this particular
10 matter.

11 And then I will give you the law that you will apply to the law that I give you, and you'll take
12 the facts that you believe to be true and put those together and come up with your unanimous verdict
13 in this particular matter.

14 Your job, or basic job and duty in this case is to be the judges of the facts of this case. The
15 court will not suggest to you in any way what I think the facts of this case are because that's not my
16 job, not my responsibility. It's your job and your responsibility to listen to the facts and evidence in
17 this case, find that evidence which convinces you of its truth, and then you take that evidence you
18 find to be true and you weigh it against the State's burden to prove the defendant guilty of the crimes
19 charges beyond a reasonable doubt.

20 Each charge is a separate matter, so you'll make a separate decision on each charge. The
21 State has to prove the elements of the crime to you beyond a reasonable by the facts and evidence. I
22 told you at the very beginning the defendant plead not guilty to the charges levied or brought against
23 him by the state of South Carolina. That puts the burden of proof on the state of South Carolina to
24 prove the defendant guilty beyond a reasonable doubt. That burden of proof stays with the state of

1 South Carolina throughout the trial until you reach a unanimous decision as to whether or not the
2 State has proved to you beyond a reasonable doubt the guilt of the defendant of the crimes charged.

3 The defendant has nothing to show to you. The defendant has nothing to prove to you. In a
4 criminal trial the defendant need not even show up for trial because they don't have any duties or
5 responsibilities. The State has to prove their case to you beyond a reasonable doubt. The defendant
6 is presumed innocent of the charges levied or brought against them by the state of South Carolina.
7 And that presumption of innocence stays with the defendant if and until the State can prove to you
8 the guilt of the defendant beyond a reasonable doubt.

9 As the judges of the facts, it will be your duty and your job responsibility to judge the
10 credibility and the believability of the witnesses that come before you and testify in this case. You
11 may be thinking how do I judge somebody's credibility and believability. If you think about it, it's
12 something you do every single day of your life. When somebody tells you something, you
13 automatically judge them whether or not you believe them. And how do you do that? You use your
14 good, common sense. You use your good judgment that you use in conducting your own affairs and
15 that's what we're asking you to do here today and during the course of the trial. Use your good,
16 common sense. Listen to the facts and evidence. Find that evidence that convinces you of its truth.
17 And then that evidence you find to be true, you weigh it against the state's burden to prove the
18 defendant guilty beyond a reasonable doubt on each of the charges the State has brought against the
19 defendant.

20 During the course of the trial the attorneys may raise certain motions or objections. If I rule
21 on them in your presence, and I don't send you back to the jury room so I can discuss it more fully
22 with the lawyers about their particular issue, remember you're the judges of the facts. However my
23 ruling is I am merely telling the lawyers how the case will be conducted, how the trial will be
24 conducted. I'm not telling you what's believable or credible or you should believe that witness over

1 another. That's your job and your responsibility. It's my job to govern what is properly admissible
2 as evidence, what is proper to come into evidence. Then it's your job to judge that evidence.

3 With that, I will let the attorneys give you their opening statements in this matter.
4 Solicitor.

5 Mr. Marchant: If it please the court. Counselor. Imagine the day of October 28, a day not
6 like today, a little overcast, a little nip in the air. Officer Lane and Officer Cobb and Officer Cruell
7 with the city police department are out on routine patrol. At some point in time that morning, Officer
8 Cruell was checking on a suspicious vehicle at the Comfort Inn on Laurens Road. She runs the tag
9 on the vehicle. That tag does not come back to that vehicle. She goes inside the Comfort Inn to
10 investigate. She subsequently is alerted from the clerk that that vehicle is leaving.

11 So, in an effort to determine whether that tag belongs to that vehicle she gets in her patrol car
12 and gets on I-85 heading towards Atlanta. She gets off on the Laurens Road exit, heads up 85,
13 catches up with the vehicle, she hits her blue lights. The vehicle doesn't stop. What does it do? It
14 speeds up, shifts lane, attempts to evade her.

15 Eventually that vehicle whips off on Mauldin Road, runs a red light. She gets up to the red
16 light and checks to determine whether or not the coast is clear for her to go through and proceed
17 through that red light. At that time she loses the vehicle. She terminates the pursuit because at that
18 point in time all she knows is that there is an improper tag.

19 Officer Cobb and Officer Lane hear the call. They're patrolling in another area of town.
20 They're over hear the Hitachi plant off 85 and Mauldin Road. Officer Cobb, with the city police
21 departments, ends up in the Berkeley Point apartment complex. She's just rolling through to see if
22 the car's pulled over there so she can determine who's in the vehicle and whether or not that tag
23 belongs to that vehicle.

1 She finds the vehicle. She finds it up near Building [REDACTED]. She gets out of her car, she gets
2 on the side radio, she talks with Officer Cruell. She determines the tag matches. She then proceeds
3 over to Building [REDACTED]. She does this so she can inform dispatch where she is and where that vehicle
4 is located.

5 She struts in her full, police department-issued attire, long sleeves. She's got her side arm
6 on, it's holstered. She's walking over to Building [REDACTED]. She gets her mike. She steps into the
7 breezeway where the stairwell is and she looks up. She says to dispatch, I'm at Building [REDACTED]. And
8 what does she hear? Boom-boom-boom. All she sees and all she hears is a muzzle flash from that
9 direction. She charges towards the defendant. She gets herself in the stairwell. She's on the second
10 floor. It's a split level. She returns fire. Somebody is struck. Somebody still has a bullet in their
11 left shoulder. That person is the defendant, sitting at this table.

12 She's calling out for help but nobody can hear because of the serious exchange of gunfire.
13 Eventually Officer Lane, who was up there checking on the car as well, comes over to that same
14 building to render aid. He cannot see into the stairwell because it was so dark. He's not sure where
15 she is, whether or not she's been hit. So, he decides not to fire. He steps into the stairwell. What
16 happens? Boom-boom-boom. He's fired at as well. He steps back out. He attempts to enter the
17 building. He eventually hears her voice. He calls dispatch for backup. At some point in time, Mr.
18 Lowrance was able to get out the back and a hunt ensues for him. He is subsequently located seven
19 or eight hours later over on Mormon Avenue at a friend's of his. Located in that house is the gun
20 that was used.

21 Ladies and gentlemen, this was a traumatic day for the Greenville City Police. They did not
22 sign up to be ambushed that morning.

23 Now, you've heard a lot of words and phrases and terms from the judge about reasonable
24 doubt and standards of proof and things of that nature. What I can tell you, and I stand here

1 confidently before you, that you are not going to have any doubt, you're not going to have any
2 reservation. There will be no question in your mind once the case is closed and you go back and
3 deliberate whether or not the man sitting at this table in the white shirt and the yellow tie is the one
4 who shot at Officer Lane and Officer Cobb that day.

5 I'm going to ask you at the close of this case of those two charges, attempted murder on both
6 of them. I'm also going to ask you to find him guilty of possession of a weapon during the
7 commission of a violent crime, of which attempted murder is a violent crime. I'm also going to ask
8 you to find him guilty of failure to stop from running from Officer Cruell. And I'm lastly going to
9 ask you to find him guilty of possession of a stolen vehicle valued at more than \$10,000.

10 Now, the judge is going to tell you there's certain evidence that you may hear about certain
11 testimony and it really doesn't matter what I say or the opposite says, it's just chatter from us, it
12 really doesn't make a hill of beans. But what you've got to do is consider the evidence and the
13 testimony that comes from this stand. And the evidence, the papers, the documentation that goes
14 back to the jury room.

15 Something that I want you to pay careful attention to is what does come from the witness
16 stand. There's gonna be a lot of shuffling back of papers and what you may think is evidence that
17 comes back with you. A lot of times statements and police officers' reports are not evidence and
18 they can't come back to the jury room with you. So, I would ask you to pay particular attention
19 because you're not gonna be real sure what you're gonna have back there. That's why it's so
20 important that you pay attention to the witnesses and pay attention to what exactly they say.
21 Because you may not have their report and you may not have the statement. So, you're gonna have
22 to rely on what you hear and what you remember comes from the witness stand.

23 Now, Judge John indicated that obviously it's late in the day and he expects this to go well
24 into tomorrow. We've got quite a bit of evidence to cover. So, we're probably gonna take another

1 day or day and a half of you, at least in this case. But I think realistically we're gonna go into
2 Wednesday morning. I would ask for your patience. This is an important day. It's an important day
3 for the defendant. He's got the right to be here and have the state prove to you beyond a reasonable
4 doubt. But it's also an important day for these two officers. They're the victims in this case, of Mr.
5 Lowrance attempting to kill them while they were performing their duties for the Greenville Police
6 Department.

7 So, I'm gonna ask you again, when we get to the close of this case, I'm gonna come back
8 before you. I'm gonna try to tie it up and put all the puzzle pieces together. I submit to you it's
9 gonna be crystal clear. You ain't gonna have any doubt that that man is guilty of the five charges
10 that I've described to you. And I'm gonna ask that you go back there and I'm gonna ask that you
11 give him the time that you need to deliberate and I'm gonna ask that you find him guilty on all five
12 counts. Thank you.

13 The Court: Mr. Johnson.

14 Mr. Johnson: Thank you, Your Honor. May it please the court.

15 The Court: Yes sir.

16 Mr. Johnson: Solicitor. Ladies and gentlemen, as the Judge said, as I'm standing here right
17 now, what the Solicitor has just said is not evidence. You're gonna get the evidence here. You're
18 gonna get that shortly. The evidence is the meat and potatoes of which you're gonna look at and
19 decide if my client is guilty or not guilty of those charges. Until that time I can only suggest things,
20 the Solicitor can only suggest things.

21 And I'd like to suggest a small, just a couple of small items just before we get started.
22 Primarily I'm doing that, and as the State, this isn't evidence, too. The main thing that we have to
23 keep in mind here is that my client at this point is not guilty. It is up to the State to prove he's guilty.
24 He's still not guilty right now. He's innocent. He's innocent until proven guilty. And the only

1 people who can say he's guilty is you, not the Solicitor, not what he just said to you. That's your
2 decision.

3 Now, as far as the evidence is concerned, you're gonna get it, and like I told you, that's the
4 meat and potatoes. One of the things that I want you to keep in mind is when the police are looking
5 for a suspect, they are looking for a certain someone. They're looking for, if they don't know who it
6 is initially, a description. I submit to you there was a description in this case. I want you to find out
7 what that description was. I can't tell you. I can't testify. Somebody will.

8 What was that description? Was there anything unique about that description? And does my
9 client fit that description? Did my client shoot a gun? Is there any sort of residue test or anything
10 to prove that he shot a gun?

11 Ladies and gentlemen, this trial, I guess, could be considered to be long, but the evidence will
12 keep us all interested, and just pay attention, pay attention to the description. Does my client fit it?
13 Does he fit the description of the person committing these crimes?

14 I get to talk to you again at the end. At that point I get to argue. That's when the evidence is
15 given to you. And I'll have a whole lot more to say. But for now, I just want some things to you,
16 and that's just to be patient with us. This could be a rather long trial, maybe Wednesday, Tuesday,
17 depends on how things go. But I just ask you to keep your attention and I'll talk to you again at the
18 end. Thank you.

19 The Court: Call your first witness, Solicitor.

20

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 Mr. Marchant: If it please the Court. The State calls Officer Brittany Cruell.

2 **BRITTANY CRUELL**, duly sworn, testified as
3 follows:

4 Clerk of Court: Please state your name for the record.

5 A Brittany Cruell.

6 **DIRECT EXAMINATION BY MR. MARCHANT:**

7 Q Officer Cruell, where are you employed?

8 A Greenville City Police Department.

9 Q How long have you been employed with the city police department?

10 A Five years.

11 Q And in what capacity are you employed with the department?

12 A Patrol.

13 Q What does that mean?

14 A We answer calls for service, traffic stops, warrant service.

15 Q Have you been in that capacity for the last five years?

16 A For a brief period I worked with the crime response team, but I've primarily
17 been in uniformed patrol.

18 Q Prior to joining the police department did you work for another agency?

19 A No.

20 Q What sort of training and accreditation and certification do you have to go
21 through in order to be employed with city police department?

22 A South Carolina Criminal Justice Academy.

23 Q What does that consist of?

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 A At the time I went it was nine weeks of training, firearms, criminal law,
2 driving.

3 Q Did you complete that?

4 A Yes.

5 Q Do you have continuing education or classes that you must take each year to
6 keep up with those certifications?

7 A Yes.

8 Q And you're current on all those certifications?

9 A Yes sir.

10 Q Back on October 28, 2011, were you in the patrol capacity with the city?

11 A Yes.

12 Q Were you working that day?

13 A Yes.

14 Q At some point in time that morning did you end up at the Comfort Inn?

15 A Yes.

16 Q Why were you at the Comfort Inn?

17 A I typically patrol this hotel on Laurens Road because we've had a lot of stolen
18 vehicles there in the past and drug activity. I was checking the license plates on
19 pretty much every vehicle in the parking lot there when I came across a Chevy Tahoe
20 that had a wrong tag on it. The tag came back to Honda, I believe.

21 When I looked at the vehicle identification number in the windshield it was
22 covered up by a, I believe it was a air freshener. It was completely covered. So, that
23 made suspicious that the tag was wrong and the VIN was covered. I called Officer

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 Lane to meet with me to speak with the clerk at the Comfort Inn to see if maybe they
2 knew who the vehicle was registered to or who was driving the vehicle.

3 Q Do you recall what the tag number was on the vehicle?

4 A I believe it was EWN [REDACTED].

5 Q I'm sorry, I didn't hear you earlier. Was it a Yukon or a Tahoe?

6 A I believe it was a Chevy Tahoe.

7 Q Following your getting in touch with Officer Lane, what did you do once
8 Officer Lane arrived?

9 A We spoke to the clerk there and she said that she did not know who was
10 driving that vehicle. Her and another lady who worked there were in the lobby area
11 with us at that time. While we were standing there talking with her, a black male
12 walked by us a few feet away. He looked to older. I thought maybe he was about
13 thirty-five to forty years of age, had a green shirt on. He walked by us briefly. And
14 as we were still talking to the employees there, one of the ladies said the vehicle
15 you're asking about, he's in the parking lot.

16 Q Let's talk about the set-up of that lobby area, if you would. How do you enter
17 the lobby? Is a double door, is it a sliding door, is the door glass, solid?

18 A It's a double glass, sliding door.

19 Q So, it's one of those automatic deals that senses your presence and opens up?

20 A Uh-huh.

21 Q And once you walked into, through this sliding door, where is the manager's
22 or reception desk located as soon as you step through?

23 A Just a few feet to your right.

24 Q And what else is located in that lobby area?

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

- 1 A To the left there's a, like, a dining room area, a ballroom. And straight ahead
2 to the right there's, like, a breakfast, continental breakfast area. And straight back is a
3 doorway that leads to rooms on the first floor and the elevator.
- 4 Q Roughly, how large would you say that room is?
- 5 A Just the main room is about as big as this courtroom.
- 6 Q Now, while you and Officer Lane are inside speaking with hotel staff, did
7 anybody come or go that was not either law enforcement or an employee of the hotel?
- 8 A The male that I mentioned that walked by.
- 9 Q Anyone else?
- 10 A No.
- 11 Q And how long would you said that you were inside the lobby?
- 12 A I can't say, maybe five minutes.
- 13 Q Well, when the individual, the sole individual walked by you, how close to
14 you were they, were you?
- 15 A A few feet.
- 16 Q Were you able to tell whether or not it was male or female?
- 17 A It was a male.
- 18 Q What was the determining direction?
- 19 A It was a black male.
- 20 Q Do you remember approximately how tall they were?
- 21 A Not sure, maybe about five-eight or six feet. I'm not that good of a judge of
22 height.
- 23 Q Were you able to determine what they were wearing?
- 24 A I remember a gray shirt.

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 Q Were you able to get a look at the face?

2 A Yes.

3 Q Do you remember whether or not they were wearing sunglasses or glasses or
4 had anything concealing the face?

5 A No.

6 Q Do you remember what sort of clothing they were wearing?

7 A Just a gray shirt. I don't remember anything else.

8 Q Once hotel management alerted you to the vehicle that was leaving, what did
9 you do?

10 A I immediately went out to my patrol vehicle in an attempt to stop the vehicle
11 for the violation and investigate further if the vehicle was in fact stolen.

12 Q At that point in time did you begin pursuit of the vehicle?

13 A I turned right out of the parking lot following the vehicle. The vehicle turned
14 right onto 85 south, heading toward Atlanta. I also turned right heading southbound
15 on 85. There were a few cars in between myself and the suspect vehicle so I had to
16 catch up to it, and initiated my blue lights.

17 At which time I did, I followed them for a little ways. They put on their left
18 turn signal, went all the way over to the far lane near the wall, speeding up some. I
19 followed them. Right before you get to the Mauldin Road exit, the vehicle abruptly
20 went across all lanes towards the exit. I believe around this time I initiated my siren
21 as well. I informed dispatch that the vehicle wasn't stopping, but that I didn't know if
22 it stolen, it was a wrong tag.

23 The vehicle on the exit began to increase speed suddenly. There was a red
24 light at the end of the exit at Mauldin Road. The suspect vehicle made a left,

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 disregarding that red light and continued to increase speed. I lost sight of the vehicle
2 when I reached Mauldin Road and Parkins Mill Road and I terminated the pursuit.

3 Q How fast do you recall going up 85?

4 A How fast I was going?

5 Q How fast you were going.

6 A Sixty-five, increasing up to about eighty miles an hour.

7 Q Am I clear that you activated your blue lights initially and not your siren?

8 A That's correct.

9 Q At what point in time did you activate your siren?

10 A When I realized the vehicle wasn't stopping.

11 Q Is your car equipped with audio camera, video camera?

12 A Yes.

13 Q Does it have audio?

14 A The audio wasn't working at the time.

15 Q Did you record this incident and have an opportunity to review it prior to
16 coming to trial today?

17 A Yes, I did.

18 Q I'll show what I've had marked previously as State's Exhibit Number One. Is
19 that a fair and accurate depiction of what occurred that day?

20 A Yes.

21 Mr. Marchant: I offer State's Number One in evidence and publish it to the jury,
22 Your Honor.

23 The Court: Any objection to that?

24 Mr. Johnson: No objection.

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 The Court: In evidence without objection. You may publish.

2 (State's Exhibit Number One was admitted into evidence without
3 objection.)

4 (Court Reporter's note: The following testimony is elicited during the publication of
5 State's Exhibit Number One)

6 Q Please describe to the jury where your vehicle is right now and where you're
7 traveling.

8 A I'm traveling southbound on 85. This would be me in the center lane behind
9 the truck.

10 Q Were you able to determine where that suspect vehicle is at the time?

11 A That's gonna be it, I believe, this one, right here to the right. I'm behind it
12 now.

13 Q Again, is your siren on at this point in time?

14 A No.

15 Q Why did you terminate pursuit right here?

16 A I didn't know if in fact the vehicle was stolen. And due to our departmental
17 policy I would only be pursuing for a wrong tag on the vehicle. And his speeds were
18 increasing. It was becoming dangerous to continue the pursuit.

19 (End of publishing to jury State's Exhibit Number One)

20 Q What do you do from here?

21 A At this point I discontinued the pursuit. As I headed down Mauldin Road
22 there was a trucker stopped at the Hitachi plant. He needed help. I stopped and
23 talked to him for a few minutes. And then dispatch was sending me to another car in
24 the area of Fairforest Way.

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

1 As I was heading in that direction, another call came out that someone had
2 seen the suspect vehicle near 500 Windwood Road, which is Berkeley Point
3 Apartments. And I headed in that direction.

4 When I was on Windwood Road a security officer at Christ School stopped
5 me and said that they'd heard it go out over their scanner and they'd seen that vehicle
6 go into the apartment complex there.

7 Q So, at some point in time did you end up talking to Officer Cobb about that
8 vehicle?

9 A Yeah. Other officers responded to the area. Officer Cobb and Officer Lane
10 were also in route. Officer Cobb went up to Berkeley Point apartments and she did
11 find the suspect vehicle at that time. And she asked me to go to another channel.
12 And I went over to another channel and I radioed, and she was asking me to confirm
13 the tag on the vehicle, at which time I did. And she said she was gonna be out with
14 that vehicle. At that time Officer Lane arrived on the scene with her.

15 Q I'll jump ahead just a little bit. Were you subsequently able to determine the
16 make and model of the vehicle and whether or not it was stolen?

17 A Yes, I did.

18 Q I'll ask you to look at page one of one of the report that you wrote on 10/29
19 and ask you to confirm the make and model of the vehicle, if you would.

20 A It's a 2005 GMC Yukon, with a value of \$20,000.

21 Q This is the vehicle that you confirmed that was stolen?

22 A Yes.

23 Q Now, after you talked with Officer Cobb on the scene at the apartment
24 complex, did you eventually go over to the apartments?

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

- 1 A I did. A few seconds later after she said that she was out with that vehicle
2 Officer Lane came across the radio and said shots fired. We all went over to the area.
3 When I arrived, the two of them were on each side of the [REDACTED] building and they
4 advised me that the suspect had fired upon both of them.
- 5 Q At that point in time, didn't have any idea who was shooting at you guys?
- 6 A I gave the description from the Comfort Inn of the male that I saw walk by us
7 in the lobby. At that time I didn't know his name or anything else.
- 8 Q Subsequently you were given his name the following day?
- 9 A He wasn't apprehended that night. A search ensued and the city discontinued
10 inside the city limits that day. We went back to the law enforcement center and
11 completed our reports. The next day on shift we were informed that he'd been
12 apprehended. I was given the name of the defendant and I looked up a recent
13 photograph and I did immediately identify as the male who I saw walk by us in the
14 Comfort Inn the day before, and subsequently signed warrants.
- 15 Q What were the two warrants that you signed?
- 16 A The failure to stop for a blue light and the possession of a stolen vehicle.
- 17 Q Did any supervisor or anyone ask you to take a look at that photograph or did
18 you do that of your own accord? How did that happen?
- 19 A No. When I was given the name, I looked that in the database, and I did that
20 on my own accord.
- 21 Q And you subsequently signed two warrants against him for failure to stop and
22 possession of a stolen vehicle---
- 23 A That's right.
- 24 Q ---greater than \$10,000?

BRITTANY CRUELL – DIRECT EXAMINATION BY MR. MARCHANT

- 1 A That's right.
- 2 Q And the value of that vehicle was listed in the Blue Book as what?
- 3 A \$20,000.
- 4 Q You say you pulled up a picture of him from the name you were given. The
- 5 name that you were given was what?
- 6 A Patrick Dean Lowrance.
- 7 Q The person that you immediately recognized in the photograph, are they here
- 8 in the courtroom today?
- 9 A Yes.
- 10 Q Please point them out to the court.
- 11 A (indicating defendant)
- 12 Q And describe what they are wearing?
- 13 A A collared shirt, yellow tie.
- 14 Q It's your testimony that the defendant is the same person that you saw at the
- 15 Comfort Inn that day?
- 16 A That's right.
- 17 Q And the Comfort Inn, what's the address of that?
- 18 A 2756 Laurens Road.
- 19 Q Is that here within the county?
- 20 A Yes.
- 21 Q Please answer any questions Mr. Johnson may have.
- 22

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON**1 CROSS EXAMINATION BY MR. JOHNSON:**

2 Q Ms. Cruell, the Solicitor previously approached you with one of your reports. Isn't
3 that true?

4 A Yes.

5 Q Do you have a copy of your reports with you?

6 A No.

7 Q Well, why do y'all do reports? What's the purpose of that?

8 A To document what happened and to refer to at a later time.

9 Q Yes. Is that-- You do that because, I guess, it's common sense that you write things
10 down so you can remember it later. Isn't that true?

11 A Yes.

12 Q So, what you wrote down at the time would be more accurate than maybe what you
13 remember?

14 A Yes.

15 Q Okay. Now you don't have those today. Right?

16 A No.

17 Q Now, you were called for this trial and you knew about it, but you didn't bring your
18 reports with you?

19 A No.

20 Q Now, you previously testified that the person you saw in the lobby of the hotel was
21 the same person whose name you were given at a later point, which happened to be my
22 client, Mr. Lowrance. Is that right?

23 A That's right.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 Q Now, when you did a report on this thing, in that report you listed your description of
2 the person you saw in that hotel, didn't you?

3 A Yes.

4 Q Now, is this that report where you listed that?

5 A Yes.

6 Q Which paragraph is it listed in?

7 A The third one on the first page.

8 Q Can you please portray to the jury what description that you gave to describe that
9 person that you saw?

10 A While in the lobby a male walked by who I caught a brief look of, with longer hair,
11 looked to be about thirty-five to forty years, but could have been younger, of age, wearing a
12 gray shirt.

13 Q And that's the total of the description. Right?

14 A Yes.

15 Q Now, you say long hair. Is that right?

16 A Yes.

17 Q Long hair. Was it pulled back into a pony tail or how was that long hair?

18 A I don't recall.

19 Q You don't remember?

20 A (no verbal response)

21 Q You also say thirty-five, forty years old. Is that right?

22 A Yes.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

- 1 Q Now, would you say that when you-- Well, let me go back. So, the next day you
2 looked into the computer and you tried to identify the person, the name you were given was
3 Patrick Lowrance, the person that you saw. Is that right?
- 4 A Yes.
- 5 Q Now, how'd you get that information? Who called you?
- 6 A I don't recall.
- 7 Q You don't remember who called you?
- 8 A No.
- 9 Q And gave you that information?
- 10 A No.
- 11 Q Why would they call you and give you that information?
- 12 A I believe it was, the incident was known from the day before, and on my next shift I
13 was told the name of the suspect that was apprehended.
- 14 Q They knew you were involved in the incident?
- 15 A Sir?
- 16 Q They knew you were involved in the incident?
- 17 A Yes.
- 18 Q So they called you?
- 19 A Yes.
- 20 Q And when they called you, probably you wanted to go, okay, I got a name, look him
21 up. Is that right?
- 22 A Yes.
- 23 Q So they suggested to you to look at this picture and see if it was him. Isn't that true?
- 24 A Yes.

BRITTANY CRUELL – CROSS EXAMINATION BY MR. JOHNSON

1 Q And then you obliged. You said, okay, that's him. Right?

2 A Yes.

3 Q Now, you signed a warrant for failure to stop for a blue light and possession of a
4 stolen vehicle. Isn't that true?

5 A Yes.

6 Q Now, did you serve those warrants personally?

7 A No.

8 Q So, you didn't actually go to where my client was located and present him with those
9 warrants?

10 A No.

11 Q At that point in time you didn't get a chance to take a look at him and see what he
12 really looked like, did you?

13 A No.

14 Q So, you didn't even know what he looked like or what condition he was in at the point
15 in time when he were served with the warrants, did you?

16 A No.

17 Mr. Johnson: Your Honor, I have nothing further for this witness.

18

BRITTANY CRUELL – RE-DIRECT BY MARCHANT/RE-CROSS BY JOHNSON

1 The Court: Re-direct?

2 Mr. Marchant: Briefly, Your Honor.

3 **RE-DIRECT EXAMINATION BY MR. MARCHANT:**

4 Q I just want to be clear, Officer Cruell. The person that you saw on the photograph or
5 whatever it is that you're looking at, that's the person that's here in the courtroom today?

6 A That's right.

7 Q There's not a sergeant or a lieutenant or somebody that said, Officer Cruell, this is the
8 guy that you saw at the motel.

9 A No.

10 Q You looked at the picture and determined that was the person?

11 A Yes.

12 Q Not the other way around?

13 A Yes.

14 Mr. Marchant: No further questions.

15 The Court: Anything on those questions, Mr. Johnson?

16 Mr. Johnson: Briefly, Your Honor.

17 **RE-DIRECT EXAMINATION BY MR. JOHNSON:**

18 Q You were called, though. Right? Somebody did call you and tell you that they had a
19 suspect?

20 A Yes.

21 Q And they told you that person's name?

22 A Yes.

23 Q And you looked that person's name up in the computer database?

24 A Yes.

BRITTANY CRUELL – RE-DIRECT BY MARCHANT/RE-CROSS BY JOHNSON

1 Q And that person was in your opinion my client?

2 A Yes.

3 Q But that person did not fit the description that you gave?

4 A Not the hair.

5 Q Thank you.

6 The Court: Do you wish for the witness to be excused?

7 Mr. Marchant: Yes, Your Honor.

8 The Court: All right. You may step down and you are excused to go back to your
9 regular activities, ma'am.

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 Could y'all come over and talk to me for just a second, Solicitor and Mr. Johnson?

2 (Whereupon a bench conference occurred)

3 Ladies and gentlemen, we're going to stop for the evening. The next witness I
4 anticipate will be probably a good bit longer than this particular witness. And I know you
5 knew you were gonna be on jury duty, but I don't know that you knew you were actually
6 gonna serve on a jury. So, with that, we'll let you go home for the evening. I want you back
7 in your jury room by, let's say, 9:25, so we hope to get started tomorrow morning at 9:30,
8 right at 9:30. So, y'all be back in your jury room by 9:25.

9 Now, when you go home for the evening, you see your husband, wife, boyfriend,
10 girlfriend, person down the street, they happen to know you got summonsed for jury duty,
11 that's fine. You may not discuss this case with them. I will ask you not to discuss this cases
12 among yourselves in the jury room until I send it to you at the very end for your
13 deliberations and your unanimous decision. The reason for that is if you start discussing the
14 case after you've heard one witness or two witnesses, you may form an opinion and the very
15 next witness might change your opinion. And since you've expressed it, it might be hard to
16 go back on that. So, we're not gonna talk about this case till the very end. You're gonna
17 have all the time that you deem necessary to talk about it before you reach your unanimous
18 decision at the end. You can talk about anything else but that.

19 Now, again, you go home, obviously people at home don't have an opinion about the
20 case. So, don't talk about it. Unintentionally, they'll give you their opinion and we don't
21 need that.

22 Remember what I told you when I was talking about the cell towers. You're not

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 Investigators. You're not to go looking up anything. You're not gonna go see if I can find the
2 Comfort Inn or whatever it is. You're going to decide this case solely and completely on the facts
3 and evidence you hear in the courtroom and no other source.

4 So, with that, I'll see you back tomorrow morning 9:25. Thank you very much. Everybody
5 else remain seated while the jury retires, please.

6 (Whereupon the jury exited the courtroom)

7 Solicitor, is there anything we need to take care of before we recess for the evening?

8 Mr. Marchant: Nothing from the State, Your Honor.

9 The Court: All right. Mr. Johnson?

10 Mr. Johnson: Nothing from the defense, Your Honor.

11 The Court: All right, gentlemen. Y'all will please be back by at least 9:15 to make sure if
12 you've got any issues we can cover those before we get started at 9:30. So, let's make sure we have
13 the defendant here in plenty of time before that. Have the defendant here by 9:00 in case Mr.
14 Johnson needs to speak to him ahead of time about this particular matter. And then we'll get started
15 at 9:30 on this unless y'all need to speak to me ahead of time. All right?

16 Mr. Johnson: Thank you.

17 Mr. Marchant: Thank you, Your Honor.

18 (Whereupon court was in recess for the evening)

19 **OCTOBER 9, 2012 - COURT IN SESSION**

20 The Court: Solicitor, are you ready to proceed?

21 Mr. Marchant: Yes, Your Honor.

22 The Court: And the defense?

23 Mr. Johnson: Yes, Your Honor.

24 The Court: Let's bring the jury in.

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 (Whereupon the jury entered the courtroom)

2 Good morning, ladies and gentlemen. We are now ready to proceed with our next witness.

3 Solicitor, call your next witness, please, sir.

4 Mr. Marchant: If it please the court. The State calls Officer Taci Cobb.

5 The Court: Come around and be sworn, ma'am.

6 **TACI COBB**, duly sworn, testified as follows:

7 Clerk of Court: Please state your name for the record.

8 A Taci Cobb.

9 The Court: Could you spell your first name, please, ma'am?

10 A T-a-c-i.

11 The Court: Very good. Go ahead, Solicitor.

12 **DIRECT EXAMINATION BY MR. MARCHANT:**

13 Q Officer Cobb, where are you employed?

14 A At Greenville City Police Department.

15 Q How long have you been with the city police?

16 A Approximately three years.

17 Q Where were you, what were you doing prior to being employed with the city police
18 department?

19 A Military. I had pretty much gone off of deployment. And I did a little customer
20 service at a hotel.

21 Q Prior to joining the department, did you go through the Academy and complete all the
22 course work and requirements that Officer Cruell discussed yesterday?

23 A I did.

24 Q Are you current and up to date on all your credentials?

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 A I am.

2 Q What capacity are you presently working with the city police? What are your duties
3 and responsibilities as a patrol officer?

4 A Answering calls for service, working collisions, riding, community patrol, basically.

5 Q Essentially the same responsibilities that Officer Cruell talked about yesterday?

6 A Yes.

7 Q Are y'all in the same platoon, or do you ride the same beat?

8 A We are in the same platoon. We are adjacent beat partners.

9 Q Were you working in the capacity that you're describing right now back on October
10 28 of 2011?

11 A Yes.

12 Q So, essentially performing the same responsibilities with the city police?

13 A Yes.

14 Q Were you working on October 28, 2011?

15 A I was.

16 Q At some point in time did you have the opportunity to hear the call, the BOLO that
17 officer Cruell did?

18 A I did.

19 Q What did you do in response to her putting out that information?

20 A Even though it wasn't in my area I headed that way. It's just something that we do.
21 Whenever there's a call we head over toward the officer that's calling these out, just for
22 assistance if it's needed.

23 Q Specifically, what area of town did you head to, and what particular road?

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 A I work-- At the time I worked Augusta Street area. That was my adjacent beat and
2 that was Mauldin Road, Windwood Road area that I was going to.

3 Q Are you familiar with the location that Officer Cruell spoke of earlier, the Comfort
4 Inn?

5 A I am.

6 Q And had you been to that Comfort Inn before?

7 A Yes.

8 Q Looking at what's marked as State's Exhibit Number 67, this aerial map, do you
9 recognize that map and the locations that are marked on there?

10 A I don't recognize Lamar Avenue, that's in the county. But I do recognize Comfort
11 Inn and Windwood Road.

12 Q With respect to the Comfort Inn and Windwood Road, you recognize those locations,
13 you've been to those two before?

14 A Yes.

15 Mr. Marchant: The State would move 67 into evidence, Your Honor.

16 The Court: Any objection?

17 Mr. Johnson: No objection.

18 The Court: All right. State's 67 is in evidence without objection.

19 (Whereupon State's Exhibit Number 67 was admitted into evidence without objection)

20 Q Officer Cobb, for the benefit of the jury, where exactly did you respond to when you
21 found the vehicle in question?

22 A Berkeley Point Apartments, 500 Windwood Road.

23 Q When you arrived at Berkeley Point, is there more than one entrance into that
24 apartment complex?

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

- 1 A Yes sir. I entered the very first entrance off of Mauldin Road. I was coming from
2 Mauldin Road.
- 3 Q Roughly, how far is that first entrance from Mauldin Road?
- 4 A I'm really not sure.
- 5 Q Half a mile, a mile?
- 6 A Maybe half a mile.
- 7 Q If you were coming down Mauldin Road, before you were to turn left on Windwood,
8 would it be a plant or industry on the left side of the road that you would have to pass before
9 you turned left onto Windwood Road?
- 10 A The Hitachi plant.
- 11 Q So, you turn into the first entrance at Berkeley Point and what do you do when you
12 enter the apartment complex?
- 13 A I went off to the left. It goes off to the right and off to the left. I went off to the left
14 and I went all the way to the back of the complex.
- 15 Q And what did you find when you reached the back of the complex?
- 16 A There was a roundabout there, not really a parking area. I went around the
17 roundabout and there was a vehicle parked and it was backed in and it was the only vehicle
18 parked in that immediate area. So, it looked sort of suspicious and it looked like the vehicle
19 that Officer Cruell had called out on the radio.
- 20 Q Upon arriving at that, where you said, circular parking area, what did you do?
- 21 A I got out of my vehicle. I approached the vehicle. I looked inside the vehicle. There
22 was no one inside the vehicle. I went around to the back of the vehicle. It was backed in, so
23 I went around to the back of the vehicle and I observed the tag. I couldn't remember what
24 she called out on the radio. So, I called her on the radio on channel three, which is our

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 normal operating channel and I told her that a four. I gave her the tag number and it came
2 back to a Honda when I ran it first, and she said yes, that's the tag.

3 Soon after, Officer Lane arrived and I told him that that was the vehicle. And I told
4 Officer Cruell that I was gonna go back on three and call out my location.

5 Q I'm showing you what's been marked as State's 2, 3, 4, 5, 6, 7, 8, 9, and 10. I'd like
6 you to take a look at those and see if you recognize what they depict.

7 A (pause to examine exhibits) I do.

8 Q Do they fairly and accurately depict the condition of the parking lot as well as the
9 apartment building that you went into that day?

10 A Yes.

11 Mr. Marchant: The State would move 2 through 10 into evidence, Your Honor, and
12 publish them for the jury.

13 The Court: Any objection?

14 Mr. Johnson: No objection.

15 The Court: All right. State's 2 through 10 are in evidence without objection. You
16 may publish them to jury.

17 (Whereupon State's Exhibit Numbers 2 through 10 were admitted into evidence without
18 objection)

19 Q Officer Cobb, I'm going to ask you to step down so we can demonstrate.

20 (Whereupon witness exited witness stand for demonstration with exhibits)

21 I'm going to give you this pointer, and as we go through these photographs, if you can
22 describe to the jury what you saw, what you observed and where you went that day. Okay?
23 And we're gonna start with State's Number 2, if you would describe to the jury what this
24 shows.

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 A This is the roundabout I was talking about and my vehicle right here, and this is the
2 vehicle I was approaching.

3 Q And what does State's Number 3 show?

4 A This is the vehicle and the tag number that I ran that came back to the same vehicle
5 that Officer Cruell called in on the radio.

6 Q Now, at this point in time, what is y'all's sort of standard operating procedure? What
7 are thinking? What are you trying to do at this point in time now that you have confirmed
8 that it's the same vehicle?

9 A There were several officers in the area. After I verified with Officer Cruell that this
10 was the same vehicle I notified headquarters to let them know what my location is and that
11 we have the vehicle.

12 Q How was it that you're going to notify dispatch of where your location is?

13 A Our Channel 3, I called to dispatch or headquarters and let them know what the
14 address is and what building where I am.

15 Q At the time you were looking at this vehicle did you know what the exact address or
16 the building you were at?

17 A I knew the address, but I did not know what building I was at.

18 Q So, what steps did you take to determine what building you were at?

19 A The roundabout would be over here, and the vehicle would be over here. So, I
20 walked over to the building to see what building number it was.

21 Q How did you approach the building? Did you walk through the parking lot? Did you
22 take the sidewalk? Did you cut through the grass?

23 A I took the sidewalk.

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 Q And so, once you reached the front of the building, you're on the sidewalk walking
2 behind the blue car. Is that right?

3 A Yes, I am. I'm coming through here.

4 Q And it's showing State's Number 5, please show the jury and if you could
5 demonstrate for them. You were dressed the same way then as you are today?

6 A Yes.

7 Q Microphone is on the same side, sidearm is on your right side?

8 A Yes.

9 Q When you approached the breezeway to go into [REDACTED] did you have your sidearm
10 unclasped? Was it in your hand? Was it drawn? Did you have your taser out?

11 A I didn't have anything in my hand.

12 Q Why did you not have your gun out or your taser out?

13 A We didn't know why this person didn't stop. For all that we knew it was the wrong
14 tag on the vehicle. All we were trying to do is find the vehicle and find out why the vehicle
15 had a wrong tag on it. So, at the time it didn't seem like a situation where I needed that.

16 Q So, you enter the breezeway here at [REDACTED]. At what point in time, and show the jury,
17 if you will, where you were standing when you were radioing to dispatch the building you
18 were in front of.

19 A I was coming around and standing about here and looking up at the building number.
20 And I'll say that right here is the threshold, right there. And I was coming around the corner
21 and had my mike up, that I was looking up and telling headquarters that that building was
22 [REDACTED]. And I started to come through the threshold.

23 Q Did you actually make your way across the threshold of that building before anything
24 else occurred?

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 A I'm really not sure.

2 Q After calling out Building [REDACTED] to dispatch, what is the next thing you remember?

3 A Well, I still had my hand on my mike when I was looking up. I came-- I focused
4 down into the right area, with the stairway going down. I was trying to-- It was very dark in
5 there, so it was really hard to see. So, I was looking in and before I got my hand off my mike
6 I saw a muzzle flash and I heard gunshots.

7 Q Do you recall how many shots?

8 A At least two.

9 Q Definitely more than one?

10 A Yes.

11 Q From what direction did the muzzle flash come?

12 A It was coming at me.

13 Q Do you recall where in the breezeway or the stairwell that it was coming from?

14 A I think it's the other picture.

15 Q Okay. I'm showing you what's been marked as State's 6 here.

16 A It was-- All I could see right here is someone on the left here, and that's where the
17 muzzle flash was coming from.

18 Q Were you able to determine the height of the person that was shooting at you?

19 A I could not. He was standing on the stairwell. He wasn't all the way up the stairs.

20 Q And you say it was he. How do you know, or why do you say it was a he?

21 A From the muzzle flash I could see the face, but I really couldn't tell what he looked
22 like. I knew it was a male and I knew it was a black male.

23 Q So, to give the jury a little more perspective of the stairwell, how many apartments
24 are on this floor that you entered?

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 A There are four; one here and one behind the stairs, one here and one here.

2 Q And then the stairwell that leads down, how many apartments are there on what I'm
3 going to refer to as the first floor?

4 A I'm not sure.

5 Q Is there anything above what this ground floor---

6 A There are apartments above the ground.

7 Q So, you say the person came partially up the stairs and from the muzzle flash you
8 could determine it was a black man?

9 A Correct.

10 Q Do you have any idea who the person is who was firing at you that day?

11 A I do not.

12 Q So, after the first or second shot, what did you then do, and where did you go?

13 A It was all kind of a blur. Before I knew it my gun was in my hand and I was firing
14 back. From here I ran to take cover behind the stairwell here.

15 Q I'm going show you State's 7. Do you recall how many times you discharged your
16 weapon before making your way to cover behind the stairwell?

17 A It was at least-- I knew I fired-- When I said that, I realized that my gun was in my
18 hand and I'd already fired a shot. And I know I fired at least one more on my way to take
19 cover behind the stairwell.

20 Q At this point in time do you know where Officer Lane is?

21 A I really don't. I really don't. I figured that he was still in his vehicle.

22 Q Did you attempt to radio out to him or dispatch to inform your colleagues that shots
23 had been fired?

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 A I couldn't. For some reason I really couldn't hear anything, I couldn't talk. It was...
2 I'm not sure how to explain it. I just...

3 Q What did you---

4 A I knew I was keying up. When I was behind there I was trying to key up. And when
5 we key up the radio it beeps to let you know that you're on the net, that you have the net.
6 And I kept keying up and I felt like I couldn't hear the beeping or there's a rrrr sound and if
7 you're watching, if someone's on the radio, they have the net. And I couldn't hear anything.
8 I knew my radio was on because I was talking, you know. I couldn't hear the radio. I
9 couldn't even hear myself. All I could hear was gunshots and I was trying to take cover.

10 Q Prior to getting back here behind the stairwell for cover, when you called out
11 Building [REDACTED] to dispatch, did they respond to you before those first shots came at you?

12 A No.

13 Q Don't know or don't remember?

14 A I don't know. I---

15 Mr. Johnson: Your Honor, she answered the question.

16 The Court: I appreciate that. I'll allow the question and the answer.

17 Q Officer Cobb, do you recall whether or not they responded to you or do you not
18 remember whether or not they responded?

19 A I don't remember.

20 Q So, you made your way back to the stairwell here. And at this point in time, what are
21 you thinking, what are you feeling?

22 A I'm behind the stairwell. I don't know how many people are down there. I don't
23 know how many weapons they have, how much ammo they have. I don't know how much I
24 have. So, I don't know how much they basically it. It was fear, basically.

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 Q From behind the stairwell, did you then at some later point in time see the person that
2 you initially saw from the muzzle flash?

3 A (inaudible)

4 The Court: I'm sorry, ma'am. I didn't hear you. You need to speak up.

5 A Can you repeat that?

6 Q You're at the stairwell for cover. At some point in time after that did you reengage
7 with the person who had fired at you?

8 A I did. I was here and I came around over here and I was looking down through the
9 bars, and you could see down through the stairs below.

10 Q Going back to State's 6.

11 A I could see the stairs below here, and when I walked up, I got fired upon again, and I
12 returned fire.

13 Q Do you recall how many times you were shot at?

14 A I do not.

15 Q Do you recall how many times you shot?

16 A I do not.

17 Q Following that exchange-- I'm going show you State's 10 here. If you could show
18 the jury on the left side there, how far did you come back towards the front of the building
19 before the second exchange of gunfire occurred?

20 A About here, I was standing about here.

21 Q When you say you were standing there, are you standing up against the rail or are you
22 standing up against the wall where the doors to the apartments are?

23 A About in the middle because I was trying to come around and look.

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 Q I'm showing you State's Number 9. Were you able to determine how far up the
2 stairwell the individual came before firing at you the second time?

3 A It would be-- I was right there; it would be right about here, firing at me.

4 Q At that point in time were you able to see his face or his clothing description, what
5 sort of shoes or jeans he was wearing?

6 A No.

7 Q The only description that you were able to say is from the initial muzzle flash of a
8 black male?

9 A Correct.

10 Q And finally, State's Number 8 is just a reverse shot of Number 9. After the second
11 exchange of gunfire what did you do?

12 A I retreated back to the, behind the stairwell and took cover.

13 Q I'm showing you State's 6.

14 A Yes. I retreated back here and I dropped my magazine. I don't know how many
15 rounds I'd fired, but I knew that I had an unloaded weapon. I knew the firing had used a lot.
16 I dropped my clip and put another clip in my weapon.

17 Q Officer Cobb, why would you exchange magazines if you had still had ammo?

18 A It's training. They taught us at the Academy in our training, as well as in the military,
19 you never go into a gunfight unless you have a loaded weapon and you want to make sure it's
20 fully loaded. And, like I said, I don't know how many shots I fired.

21 Q What sort of ammunition were you carrying that day?

22 A Nine millimeter.

23 Q Do you recall the head stamp or brand of shell?

24 A I don't. Same thing I'm carrying right now.

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 Q Department issue?

2 A Yes.

3 Q How many rounds do you carry in each magazine?

4 A Fifteen.

5 Q Can you load your sidearm and then load the magazine such that there would be
6 sixteen rounds available for you to discharge?

7 A Correct.

8 Q So you exchanged clips out and then what did you do from there? What are you
9 thinking at that point in time?

10 A I'm thinking that I probably don't have-- Like I said, I don't know how many people
11 are down there. And I'm thinking, you know, possibly the worst. There are several people
12 or he's got several rounds and I'd just dropped a clip. So, I'm down now and I possibly only
13 have about thirty left.

14 I was behind the stairwell here and right here is a wall. And I turned a little bit over it
15 to see if I could see anybody or if anyone was running or anything. After the second
16 exchange when I was looking over it was quiet here.

17 Q Did you ever call out for the suspect or individual to surrender or give up, put down
18 their weapon?

19 A After I heard Officer Lane coming through-- I heard him coming through and he ran--
20 - I was peeking around and I could see him running across here and I heard more gunshots
21 come out from down below. And at that time I knew that I had to let at least him know that I
22 was still alive because he didn't know, he couldn't see me back there. So, I started calling
23 out for the suspect to come out, you know, drop his weapon, come out with his hands up.

24 Q At some point in time were you then able to communicate with Officer Lane?

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 A I was. Soon after there were other officers on the scene. I could hear them
2 downstairs coming around. I could hear them everywhere. And Officer Lane was standing
3 over here and we could see each other. And he watched down here as I backed out of the
4 breezeway.

5 Q On this third exchange of gunfire did you ever return fire after that exchange?

6 A I did not. I was going to say that if I had come out Officer Lane would have seen me
7 and saw a movement and shot at me. So, I stayed behind until he knew that I was okay.

8 Q Do you know from being in the stairwell right there whether or not Officer Lane
9 discharged his weapon?

10 A I don't know.

11 Q Now, you had the initial exchange where you entered the breezeway, where you
12 discharged your weapon. And then there was a second exchange through the spindles of the
13 stairwell.

14 A Correct.

15 Q Following that, you never discharged your weapon again. Is that correct?

16 A Correct.

17 Q So, once you made your way back out to the front of the building - I'm showing you
18 State's 4 - please tell the jury what you did.

19 A I backed out and Officer Lane was still here and rechecked my position. I checked
20 him and he checked me to make sure we knew where the other was.

21 Q Where did you go? Did you go back to your car, radio dispatch?

22 A At that time when there were other officers in the area and they were asking
23 questions, like, you know, a description of them, what were they wearing, did they have
24 anything. And I gave them as much as I could. And after I took this position here I walked

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 over-- I believe Officer Lane-- Someone was over here, I'm not sure who it was. There
2 were officers covering this area. I walked to the opposite area, to the right, to where the
3 woods there. And I took cover there on the right side of the building. We didn't know
4 where the suspect was.

5 Q I'm showing you State's 2. Where did you post?

6 A Right here.

7 Q At any point in time did you see anyone come around the building, leave the building
8 that was not uniformed patrol or with law enforcement?

9 A This is a resident opening their door trying to figure out what was going on.

10 Q Do you recall any resident opening their door that was a black male?

11 A No.

12 Q Thank you. Have a seat back on the stand.

13 (Whereupon witness returned to witness stand)

14 And as you took cover on the right side of the building did other officers respond?

15 A Yes.

16 Q Did you subsequently end up speaking with Detective Flavell of the city police
17 department?

18 A Yes.

19 Q And did you de-brief him?

20 A I did.

21 Q Did you turn over your service weapon and magazine to him at that time?

22 A Not immediately after. He was-- The person that shot at me, we didn't know where
23 he was. They started a dog tracking with Officer Flavell and they had to go out with the
24 tracker to try to locate him. They didn't take my service weapon because of the fear that he

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 would come out of anywhere, or that he was anywhere. He might have been in the building.
2 Until we deemed, until they deemed it, that it was, you know, as safe as possible, they took
3 my service weapon and immediately gave me another weapon.,

4 Q At this time, what are you thinking, how are you feeling?

5 A Shock, basically. It was a numbing feeling. My adrenalin was still pumping. So, it
6 wasn't until probably an hour later that I adrenalin dumped.

7 Q How long did you stay out at Building [REDACTED], Berkeley Point that morning?

8 A It was several hours that we stayed there. We still had to maintain our position
9 because we didn't know where he was.

10 Q And in your responsibilities with the city, is there any investigatory follow-up that
11 you were tapped to do, or was that passed on to another department within the city police?

12 A Once any type of major crime, which this was, and especially since it involved me, I
13 would not handle the case.

14 Q And Detective Conroy was tapped to be the team leader on this case?

15 A Correct.

16 Q Did you end up going back to the law enforcement center and typing your report,
17 speaking with superiors? Is this scenario any different, handled any different with you than,
18 say, a normal traffic stop that you would have made?

19 A it was handled differently because I was under investigation. Because when a police
20 officer is involved in an investigation, the Greenville City Police Department as well as
21 SLED are to make sure all the policies are followed correctly.

22 Q What was the determination of that investigation?

23 A I was cleared through our department through IA. I was also cleared through SLED.

24 Q How long did that process take before you were cleared?

TACI COBB – DIRECT EXAMINATION BY MR. MARCHANT

1 A The department cleared me before SLED cleared me. Probably a month I got a
2 letter from the department saying I was cleared of fault in the incident.

3 Q So, during that month, three weeks to a month period, were you back out on the road
4 or were you on suspension? How does the department handle this type of scenario?

5 A For three days-- It was on Friday that this happened and we worked Friday, Saturday
6 and Sunday. They gave me the weekend off with administrative pay. And then for a month I
7 was on administrative duty. I still got to carry my firearm. I could not drive my patrol
8 vehicle. And I had to-- They wouldn't let me work the front desk, either. They had me
9 upstairs helping out the detective with what they do, basically.

10 Q After you were cleared you were allowed to go back to your normal duties?

11 A Yes.

12 Q Approximately after a month you hit the road?

13 A Correct.

14 Q And have been in that capacity since that month investigation period ran?

15 A Correct.

16 Q Officer Cobb, please answer any questions Mr. Johnson may have.

17 The Court: Cross examination.

18 Mr. Johnson: Thank you, Your Honor.

19

TACI COBB – CROSS BY JOHNSON/RE-DIRECT BY MARCHANT**1 CROSS EXAMINATION BY MR. JOHNSON:**

2 Q Officer Cobb, I'd like to talk a little bit about the shooting itself. You recently just
3 testified that when you got to the building and you were coming down the breezeway that
4 you initially saw some muzzle flash. Is that correct?

5 A Yes.

6 Q And that was someone shooting at you?

7 A Yes.

8 Q And you stated that the breezeway itself was dimly lit. Is that correct?

9 A Yes.

10 Q And you really couldn't see anything because it was very, very dark?

11 A Correct.

12 Q And for that reason the only thing you could tell from the muzzle flash that the person
13 had a black face?

14 A Yes.

15 Q But you couldn't tell if there was anyone with him or how many people there were?

16 A Yes.

17 Q Were you ever given the initial of what the person who was driving the vehicle was a
18 black individual. Did you ever hear that from dispatch?

19 A I heard it on the radio, yes.

20 Q Did you ever document what that description was separate in a report?

21 A No, I did not.

22 Q Now, can you tell the court, what is an incident recall? What would that be? Do you
23 know what that is?

24 A Can you rephrase the question?

TACI COBB – CROSS BY JOHNSON/RE-DIRECT BY MARCHANT

1 Q The police produce a report that normally has a incident recall.

2 A I'm not sure what incident recall is.

3 Q Okay, all right. Now, Officer Cobb, what I'm pointing to there, is that the vantage
4 point from which you shot the second round of shots?

5 A Yes.

6 Q So, you came around and you shot down, down that area?

7 A I did.

8 Q Now, you really couldn't see where the bullets were going necessarily, could you?

9 A I could see that they were going down into the stairwell.

10 Q But you couldn't see necessarily where they hit or where they ended up, could you?

11 A No.

12 Mr. Johnson: I have nothing further of this witness, Your Honor.

13 The Court: Any re-direct?

14 Mr. Marchant: Briefly, Your Honor.

15 **RE-DIRECT EXAMINATION BY MR. MARCHANT:**

16 Q Officer Cobb, just for a point of clarification, how many people did you see that day
17 in the stairwell that were firing at you?

18 A All I saw was one.

19 Q Thank you.

20 Mr. Marchant: I have no further questions.

21 The Court: Do you wish for the witness to be excused?

22 Mr. Marchant: I do, Your Honor.

23 The Court: Any objection?

24 Mr. Johnson: No objection.

TACI COBB – CROSS BY JOHNSON/RE-DIRECT BY MARCHANT

1

CHARLES LANE - DIRECT BY MARCHANT

1 Mr. Marchant: The State would call Officer Charles Lane.

2 The Court: Please come around and be sworn, sir.

3 **CHARLES LANE**, duly sworn, testified as follows:

4 Clerk of Court: State your name for the record.

5 A My name is Charles Lane.

6 The Court: Could you spell your last name, please, sir?

7 A Yes sir. L-a-n-e.

8 The Court: Very good. All right, Solicitor.

9 **DIRECT EXAMINATION BY MR. MARCHANT:**

10 Q Officer Lane, where are you employed?

11 A Greenville City Police Department.

12 Q And in what capacity are you employed with the city police department?

13 A I work on uniformed patrol.

14 Q How long have you been with the city?

15 A I've been with the city five, going on six years.

16 Q Have you gone through the certification courses, Criminal Justice Academy, just like
17 Officers Cruell and Cobb?

18 A Yes sir.

19 Q Prior to working with the city department, what's your education experience?

20 A I have a high school diploma. I used to work in a restaurant before I came with the
21 police department.

22 Q And your duties and responsibilities today, were they the same back on October 28,
23 2011?

24 A Yes sir.

CHARLES LANE - DIRECT BY MARCHANT

1 Q And those duties are?

2 A I answer calls for service, work wrecks, when possible do patrol an area that needs
3 patrol.

4 Q The same sort of thing as Cobb and Cruell?

5 A Yes sir.

6 Q On October 28, of '11, were you working that day?

7 A I was.

8 Q At some point in time did you have occasion to respond to the Comforter Inn?

9 A I did.

10 Q And why did you respond got the Comfort Inn?

11 A Officer Cruell called me concerning a silver-in-color GMC Yukon that she had been
12 checking, said that the tag that was on it was coming back to a Honda. And that the VIN, the
13 vehicle identification number, covered up by a tree-shaped air freshener.

14 Q Did you witness that yourself?

15 A Yes sir. She asked me to come out there and when I did I took a look around the
16 vehicle to see if there might be anything in the vehicle that might identify who the owner is.
17 I looked on the dash and saw what she was talking about. It was a black, tree-shaped air
18 freshener, covering the VIN and the dash.

19 Q Did you notice anything else inside the passenger console that you took note of in
20 your report?

21 A I did. There was also-- I forget if it was actually facing window, if it was on the
22 dash. It was what looked like a radar detector just right there in the middle that I noticed.

23 Q Did you go inside the Comfort Inn with Officer Cruell?

24 A Yes sir, I did.

CHARLES LANE - DIRECT BY MARCHANT

1 Q Were you here previously as she testified to the dimensions and the lay-out of the
2 Comfort Inn?

3 A I was.

4 Q Do you have anything that is different from what she testified to?

5 A No.

6 Q When you were inside did you witness someone other than law enforcement or an
7 employee exit the lobby area that day?

8 A I did not. When we were in the lobby area, I was looking actually out the window
9 seeing just a portion of the vehicle that we were talking about. And at some point one of the,
10 I think it was an employee, said that the person who drives that car just walked out. And
11 Officer Cruell, I guess, had actually seen him. So, she went out to her car. Since she knew it
12 was a wrong tag on the vehicle she was gonna try to stop the car and I stood by the front
13 seeing which direction it went, the vehicle went out because it's a long drive to Laurens
14 Road. And I stood there and watched until I saw him turn right and told her.

15 Q Were you able to see who got in the car?

16 A I did not see anybody actually get into the car. When the car passed me I noticed it
17 was a male driver.

18 Q So what did you do after informing Officer Cruell the direction of the travel of the
19 vehicle?

20 A Could you repeat that?

21 Q What did you do after you informed Officer Cruell of the direction of travel of that
22 Tahoe, Yukon?

23 A I got in my patrol vehicle, listening to the radio. I heard that they got on 85
24 southbound, going towards Mauldin Road. And I also got on 85 south and I'm trying to

CHARLES LANE - DIRECT BY MARCHANT

1 catch up with her. On the way there she was calling out her traffic stop and she was saying
2 the vehicle was not stopping. I don't remember her exact words, but it was the vehicle
3 wasn't stopping.

4 Q Were you able to see once you hit 85, Officer Cruell or the Yukon?

5 A It wasn't until I was approaching Mauldin Road I remember seeing that vehicle come
6 to the traffic light and then going over the bridge.

7 Q Did you ever see that Yukon running up 85?

8 A I don't remember seeing it, no sir.

9 Q At some point in time that chase was terminated?

10 A It was.

11 Q What did you do once you terminated the chase?

12 A I got off at the Mauldin Road exit and I was going over the bridge. When I went over
13 the bridge there was a truck that was topped in the road that was needing assistance backing
14 out and I helped him back out from the Hitachi plant.

15 Q Following assisting this trucker get back out on the road, did you just back out to the
16 routine patrol duties or did you---

17 A No. Right around that same time there was a call that went out over at Christ Church,
18 which is one of the exits that's off Windwood Road. The third call that arrived was a similar
19 description that was given over the radio about a suspicious person walking in the area.

20 Q Are you familiar with Windwood Road, ---

21 A Right.

22 Q ---Rocky Point, Christ Church?

23 A Yes sir.

24 Q At some point in time have you been assigned to this area of town?

CHARLES LANE - DIRECT BY MARCHANT

1 A Probably on a few occasions, but I've worked out there answering calls.

2 Q So, hearing this other information come out, what did you do?

3 A I went through the Hitachi plant. Well, I went through the Hitachi plant. There's a
4 back entrance that goes to Terry Drive, and cut over to Windwood Road. And I started going
5 up each apartment complex. There's Windwood Circle, Avalon Apartments, and then the
6 first entrance to Berkeley Point because there's a few parts to it. And after going through
7 that first one I came to the second and went towards the [REDACTED] building where I saw Officer
8 Cobb's car, noticed that the front of the Yukon, the same vehicle that I'd seen over at the
9 Comfort Inn.

10 Q I'm showing you what's in evidence as State's 2. Is this where you found Officer
11 Cobb's vehicle parked as well as the suspect vehicle?

12 A Yes sir.

13 Q And were you parked somewhere in the vicinity of the suspect vehicle?

14 A I was.

15 Q Does this picture depict where your vehicle was parked?

16 A My vehicle's not in that picture.

17 Q Why is that?

18 A Because after the incident I was called down to another part of the apartment complex
19 and I drove my vehicle over there.

20 Q I'm showing you what's been put into evidence as State's 3. Is this the suspect
21 vehicle that you checked out at the apartment complex?

22 A Yes sir.

23 Q And what are the things that you noticed about the vehicle in the apartment complex
24 that were similar to what you observed at the Comfort Inn?

CHARLES LANE - DIRECT BY MARCHANT

1 A Immediately, when I was walking up, I saw the same radar detector, or what I thought
2 was a radar detector. And as I went to the driver's side of the vehicle where the VIN is, and
3 the dash, I saw the same air freshener the VIN. And the tag, it was the same tag.

4 Q Officer Lane, I'm going to have you step down and do the same thing Officer Cobb
5 did a minute ago.

6 (Whereupon witness exited witness stand for demonstration with exhibits)

7 Office Lane, looking at State's Number 2, when you arrived, where did you park your
8 vehicle, understanding that it's not depicted in this photograph?

9 A I parked my vehicle right about there. I had it nosed towards the, directly up there
10 towards the passenger side of the vehicle.

11 Q And were you and Officer Cobb parked such that the vehicle, if someone were to get
12 into it, could not leave?

13 A I think they could have gotten around ours.

14 Q You didn't have them pinned in?

15 A No.

16 Q So, how long did you and Officer Cobb talk up here at the vehicle before she made
17 her way over to [REDACTED]?

18 A It was a short period of time. When I walked up, she was on the radio and she was
19 talking-- She was either on the phone or the radio talking to Officer Cruell, and just trying to
20 verify the vehicle. I spoke with her for a short period of time and I started looking around the
21 car, seeing, you know, the windows are kind of tinted. So, I started looking to make sure
22 there wasn't anybody in there. Officer Cobb had actually looked in there.

23 Q Where were you standing when Cobb is walking over to the breezeway at [REDACTED]?

CHARLES LANE - DIRECT BY MARCHANT

1 A Until I heard shots fired I didn't know that she was walking over there. But when I
2 heard the shots fired I was right around the back side of the vehicle over there. I was looking
3 into the back of the vehicle.

4 Q Do you recall how many shots you heard?

5 A No, I just heard a gun being fired. I don't remember how many shots there was.

6 Q Do you recall any radio traffic from her at that time?

7 A Not at all, no sir.

8 Q After the first couple of shots, what's the next thing you heard?

9 A The next heard after the first one?

10 Q Yes sir.

11 A I forget whether or not I heard-- I did hear a clip drop at some point. I forget if it
12 was right after the first exchange or if it was after the second exchange.

13 Q Backing up to the first exchange, what did you do and where did you go?

14 A After the first exchange, I was standing around the back of that vehicle there. And
15 when I heard it go off I started going forward.

16 Q I'm showing you State's 4.

17 A I started coming down towards the apartment building and I heard the second
18 exchange. At that point I called out to dispatch saying shots were fired. And I heard it long.
19 I drew my service weapon and I was calling for Officer Cobb and I wasn't getting a response.

20 Q Are you calling for her over the radio or are you just hollering?

21 A I was hollering for her.

22 Q Did she or did she not respond?

23 A She did not respond.

24 Q What were you able to see in the breezeway once you hit that threshold?

CHARLES LANE - DIRECT BY MARCHANT

- 1 A When she didn't respond I came here into the breezeway.
- 2 Q And is your service weapon drawn?
- 3 A Yes, it is.
- 4 Q Ready to fire?
- 5 A Yes sir.
- 6 Q Racked, all you gotta do is pull the trigger?
- 7 A Yes sir, it is.
- 8 Q It's drawn in the ready position?
- 9 A Yes sir.
- 10 Q And you entered that threshold as she described earlier?
- 11 A Yes sir. I entered through here. I believe I started going in the breezeway. As I did, I
- 12 saw a figure---
- 13 Q Let me show you State's 5.
- 14 A Okay. So, I'm coming in right here and I'm entering the breezeway. And then
- 15 coming up the stairs, right here, I see a figure and there's an opening. I just remembering
- 16 hearing gunshots and seeing muzzle flash.
- 17 Q Do you remember how many shots?
- 18 A I do not.
- 19 Q Can you tell from where you were standing which direction those shots were going
- 20 towards or to?
- 21 A I was standing right around here. And the first one, I could see right about there.
- 22 And the shots looked as if they were coming towards me.
- 23 Q Do you recall how many shots came your way?
- 24 A No.

CHARLES LANE - DIRECT BY MARCHANT

1 Q Did you return fire?

2 A No, I did not.

3 Q Why did you not return fire?

4 A I didn't know if Officer Cobb, where she was. I didn't know if she was behind the
5 person in the stairwell. I didn't know if she was behind the stairwell at that point. She
6 hadn't responded to me and I didn't know where she was.

7 Q How long did it take for you to determine where she was?

8 A I'm not sure on that exact time. It wasn't long.

9 Q Going back to State's 4, after the shots came at you, what did you do, where did you
10 go?

11 A The shots came at me. I went to this wall making cover behind here. I holstered my
12 service weapon. I checked myself because I thought I might have been shot. I didn't see any
13 blood from my head or my body, so I drew my service weapon back out. I was covering here
14 seeing if anyone was there. Coming back up, I didn't see anybody.

15 Q Did you ever see anyone else ever again?

16 A No, I did not; no, not anybody that wasn't law enforcement.

17 Q At what point in time did you determine or find Officer Cobb? How did y'all
18 communicate?

19 A When I was standing here, she started to call she was coming out and then I knew that
20 she was alive.

21 Q And what did you do to cover her as she made her way out of that breezeway?

22 A Well, from the stairwell here, she back out from behind the stairwell here.

23 Q I'll show you State's 6.

CHARLES LANE - DIRECT BY MARCHANT

1 A There you go. She was behind the stairwell, coming out this way. And I was
2 covering the hallway. What I mean by that is I had my gun drawn and pointing towards the
3 stairwell.

4 Q As she's backing out did you ever see the suspect?

5 A No, I didn't.

6 Q Did you ever discharge your weapon throughout the course of this entire event?

7 A No sir, I did not.

8 Q You can re-take the stand now.

9 (Whereupon witness returned to witness stand)

10 Q Once you entered that breezeway after shots were fired, were you able to determine
11 whether or not it was a male or female that had fired the shots?

12 A I wouldn't have. I just saw a dark, very dark silhouette and muzzle flash.

13 Q Were you able to determine the race of the individual?

14 A No sir. Everything appeared very dark to me. I couldn't tell whether it was-- I
15 couldn't tell the race or anything else.

16 Q Any idea what sort of clothing?

17 A No sir.

18 Q Once Officer Cobb was safely out of that breezeway, what was your next course of
19 action?

20 A Well, we covered the two corners of the building that Officer Cobb was describing
21 earlier. I was actually where I had taken cover at before. I went to the far corner of that
22 building and she went to the one opposite.

23 Q Now, as a road officer, do you have any responsibilities to investigate or follow-up
24 when an incident like this occurs?

CHARLES LANE - DIRECT BY MARCHANT

1 A Any type of incident where you're the one that's affected, you are the one to do the
2 follow-up on it.

3 Q As we heard Officer Cobb describe earlier, she was put behind the desk for a few
4 weeks. Is that the same thing that happened to you?

5 A No sir. I was given the weekend off just as she was. I returned on Monday. I
6 completed my incident report. I'm sorry. I don't remember if it was Monday. I apologize.
7 I know a few days after I did complete my incident report. And I did come back to work, I
8 think it was on Wednesday, because they were giving us the choice whether, as Officer Cobb
9 did, it was an investigation or stay on our same rotation. And I decided to stay on the same
10 rotation because I watch my son on my days off because my wife works. So, I watched--
11 I'm sorry. I just stayed with dispatch for two to three days. Then I was cleared and they
12 wanted me back on the road, or go back on the chart.

13 Q And you've been back on the road since?

14 A Yes sir.

15 Q Normal course of business?

16 A Yes sir, I have.

17 Q Going back to the stairwell. When you were fired at were you able to know what sort
18 of weapon was shooting at you? Automatic weapon, revolver, shotgun?

19 A You're asking at the time when it happened? It sounded like several shots were going
20 at once. I couldn't count them. Just by listening, I would say automatic. But I didn't know
21 for certain. It wasn't like a single shot. It was several at one time.

22 Q Does the department issue everybody who works for the city ammunition?

23 A Yes.

24 Q Were you and Officer Cobb using the same ammunition that day, or do you know?

CHARLES LANE - DIRECT BY MARCHANT

1 A I don't know for certain. But whenever they do change, I would know. They buy the
2 same brand.

3 Q Do you recall what kind of brand you were carrying back then?

4 A Yes sir. It's Speer nine millimeter.

5 Q Following the report that you generated, do you have, did you have any other dealings
6 with this case besides coming to court and preparing for this trial?

7 A No sir.

8 Q No further questions. Please answer any questions Mr. Johnson may have.

9 A Yes sir.

10 The Court: Cross examination.

11 Mr. Johnson: Thank you, Your Honor.

12

CHARLES LANE – CROSS BY JOHNSON**1 CROSS EXAMINATION BY MR. JOHNSON:**

2 Q Officer Lane, if I recall correctly, you were at the Comfort Inn with Officer Cruell?

3 A Yes sir.

4 Q Now, you say that the suspect was-- Officer Cruell stated earlier that you saw
5 someone walking through that looked like a suspicious person. Is that true?

6 A At what time, sir?

7 Q When y'all were talking to the hotel employees.

8 A She didn't say that to me.

9 Q She didn't say it to you?

10 A No. She did call in a suspicious person.

11 Q Okay. But she saw someone walking through who wasn't a hotel employee and
12 wasn't a police officer?

13 A Yes sir.

14 Q But you didn't see this person?

15 A No sir, I did not.

16 Q But the whole time you kind of kept the car in your view?

17 A I did.

18 Q Because you wanted to see if there was someone with the car?

19 A That's correct.

20 Q Now, after the fact, did y'all-- I understand Officer Cruell believed that person could
21 have been my client. Are you aware of that fact?

22 A I am.

23 Q Now, did y'all, after the fact, did y'all go and pull, see if there were hotel videos or
24 anything at the Comfort Inn?

CHARLES LANE – CROSS BY JOHNSON

1 A As I stated earlier, sir, I didn't have anything to do with the investigation after the
2 shooting incident.

3 Q So, that's not something you followed up on?

4 A No.

5 Q You stated when you saw the car leaving from the Comfort Inn, the only thing you
6 could see was there was a black gentleman inside?

7 A I could tell there was a male inside.

8 Q You could tell there was a male inside. And then once the chase began, at some
9 point, Officer Cruell gave out the description of the suspect?

10 A Uh-huh.

11 Q And the description she gave out was a black male, six feet, 170 pounds, with his hair
12 pulled back. Is that true?

13 A That's what I remember, yes.

14 Q You stated that once you got to the apartment building and after you saw the Yukon it
15 was hard, you had to get up on it because it was hard to see inside. Isn't that true?

16 A In the rear compartment.

17 Q In the rear compartment?

18 A Like, from the rear passenger seat on back.

19 Q You couldn't see inside of it, or it was hard to see inside of it?

20 A From the vantage point of the window, yes.

21 Q Okay. So, how close did you have to get up to see inside that portion of the car?

22 A Are you asking about the back, sir?

23 Q Yes sir.

24 A Right near the window.

CHARLES LANE – CROSS BY JOHNSON

1 Q Right near the window. So, you couldn't see from a distance; you had to get up on it.

2 Correct?

3 A Yes sir.

4 Q Okay. Now, when you got to the apartment, and after you looked in the car you

5 stated that you heard gunfire. Is that true?

6 A Yes sir.

7 Q Now, at some point you drew your weapon and then you walked up to where you

8 heard the gunfire. Correct?

9 A Yes sir.

10 Q Okay. And then at that point you, yourself, saw a muzzle flash and then everything

11 kind of went dark to you?

12 A That's how things looked to me.

13 Q That's how things looked to you. So, you couldn't tell if there was one person or two

14 people or three people that was there, could you?

15 A What I saw was a single silhouette of a person and I saw a muzzle flash aimed

16 towards me.

17 Q So, as far as you were concerned, you saw one person shooting?

18 A Yes sir. That's---

19 Q So, could you tell---

20 A ---what I saw.

21 Q Could you tell if anyone else was down there?

22 A No, I couldn't.

23 Mr. Johnson: I have nothing further of this witness.

24 The Court: Re-direct?

CHARLES LANE – CROSS BY JOHNSON

1 Mr. Marchant: No, Your Honor. We ask that this witness be released from his
2 subpoena.

3 The Court: Any objection?

4 Mr. Johnson: No objection.

5 The Court: All right, sir. You are released from your subpoena. You may go back to
6 your regular duties, sir.

7 A Thank you, Your Honor.

8

COLLIS FLAVELL – DIRECT BY MARCHANT

1 The Court: Next witness, please.

2 Mr. Marchant: The State calls Detective Collis Flavell.

3 The Court: Come around and be sworn.

4 **COLLIS FLAVELL**, duly sworn, testified as follows:

5 Clerk of Court: Please state your name for the record.

6 A Collis Flavell.

7 The Court: Could you spell your name, please, sir?

8 A First name is C-o-l-l-i-s; last name is F-l-a-v-e-l-l.

9 The Court: Thank you very much.

10 **DIRECT EXAMINATION BY MR. MARCHANT:**

11 Q Detective Flavell, where are you employed?

12 A Greenville City Police Department.

13 Q How long have you been employed with the city?

14 A A little over twenty years.

15 Q Do you have any other law enforcement experience?

16 A No.

17 Q Currently, what is your assignment with the city police?

18 A I'm assigned to the detective division and the crimes against persons unit.

19 Q Basically, what does that mean?

20 A We work all violent crimes.

21 Q And the case that we're here about today, is this a violent crime such that your
22 department in the city would handle it?

23 A Yes.

24 Q Were you the lead investigator on this particular case?

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A I was not.

2 Q Why is it that there is more than one investigator that would typically work a case like
3 this?

4 A We have five investigators in our unit and any time we have a major incident the
5 whole unit works it. There's one investigator out of the five that will be designated as the
6 lead investigator. They're basically responsible for the case file, kind of managing what's
7 going in, the information coming in to make sure everything's completed that needs to be
8 completed.

9 Q In this particular instance, was that Detective Conroy?

10 A It was.

11 Q So, while you're assisting this case are you taking direction from him, or are y'all
12 kind of working in concert?

13 A Yes. Basically anything he needs at that point, he calls one of us and it's in our unit.
14 As far as that goes, anybody in the detective division. You know, gives us direction on what
15 he needs done, and we go follow up on it.

16 Q Do you recall back on October 28, of 2011, where you were when the call came out
17 that shots were fired?

18 A I do. I was in my office.

19 Q Where is your office?

20 A At the law enforcement center located downtown right beside 385 on McGee Street.

21 Q When a call of this nature goes out, is it something you immediately respond to?

22 A We do. Immediately, I notified the other investigators in the office that we had an
23 officer involved in a shooting and we all headed in that direction.

24 Q Do you recall whether or not you rode by yourself or was another---

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A Detective Garrison rode with me.

2 Q Where exactly did y'all go initially?

3 A On our initial response we heard, as we were trying to get to them, there were officers
4 setting up a perimeter around that area. And so, we filled in the perimeter. I believe it was
5 the Perago plant off of Dairy Road, is where we actually initially set up on our arrival.

6 Q What's the purpose of setting up a perimeter?

7 A To try to seal the area. Whenever we have a suspect on foot, then we just try to seal
8 off the area where that person can't get outside that perimeter where we can contain that
9 person in that area.

10 Q In this particular case was the person contained?

11 A No.

12 Q Do you recall how long you stayed at that plant prior to making your next move,
13 approximately?

14 A I'm gonna say forty-five minutes, thirty to forty-five minutes.

15 Q Where did you go after leaving that post at the Perago plant?

16 A I went to the Comfort Inn on Laurens Road.

17 Q And what was the purpose of you going to the Comfort Inn on Laurens Road?

18 A I received a telephone call from my lieutenant who was at the command center and
19 requested that I go to the Comfort inn to see what information I could obtain on possible
20 occupants of the Comfort Inn at time.

21 Q And did you obtain a list of occupants from the manager of the Comfort Inn that day?

22 A Yes, I did.

23 Q What did you do with that list at that time?

24 A I held onto it.

COLLIS FLAVELL – DIRECT BY MARCHANT

1 Q Did you know who you were looking for at that time?

2 A I did not.

3 Q During that visit did you speak with the manager about any video equipment they had
4 in the Comfort Inn?

5 A I did.

6 Q And is the Comfort Inn equipped with video surveillance?

7 A They are.

8 Q Was the equipment operable at that time?

9 A The surveillance system was inoperable at the time of my request.

10 Q So, you get this list of registered guests at the direction of your lieutenant and then
11 you go where?

12 A I went back to Berkeley Point Apartments and I met with Detective Conroy at the
13 actual shooting incident scene.

14 Q At some point in time did y'all both speak with Officer Cobb---

15 A I did.

16 Q ---and check her service weapon?

17 A I did.

18 Q Do you recall at that point in time the ammunition she was carrying?

19 A Speer nine millimeter.

20 Q Is that department issued?

21 A It is.

22 Q And as she described earlier, she exchanged magazines. Do you recall how many
23 rounds were left in the magazine that she initially was carrying?

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A I do not. When I collected her firearm it had fifteen, sixteen rounds; fifteen in the
2 magazine and one in the chamber, which was after we got her a replacement weapon that I
3 took her firearm.

4 Q After conducting your duties at the scene, and while you were conducting your duties,
5 did you have the opportunity to talk with forensic officer, Dar Shaw?

6 A I did.

7 Q And out at the scene, did he give you some information about a potential suspect or
8 some belongings that he found at the scene?

9 A Yes, he did.

10 Q Did you make your way down to what I consider the first floor, which is the very
11 bottom floor at the bottom of the stairwell, and observe the scene down there?

12 A I did.

13 Q And what if anything did you notice out of the apartment that's located at the bottom
14 of the stairs to the left?

15 A I actually-- I didn't go down the steps. I went around the building and came in from
16 the back. And when I came in, the forensics officers, there was actually-- Actually, when I
17 entered it would have been on my right. If I had come down the steps it would have been on
18 my left. There were several suitcase, duffel bag-type bags in breezeway up against the wall
19 under that right side apartment door.

20 Q Did forensic officer Shaw provide you with some information that came out of that
21 luggage?

22 A He did.

23 Q Detective, did you physically step into the concrete area down there and walk over to
24 the bag, or did you remain outside?

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A I was, physically stepped in and was standing there beside Sergeant Shaw.

2 Q Were you standing there as he went through---

3 A I was.

4 Q Detective Flavell, I'm going to ask you to look at State's 35, 37, 38, 39, 40, and 41;
5 35 through 41, excluding number 36. And I'll ask you if you recognize what those
6 photographs show.

7 A (pause to review exhibits) I do.

8 Q Do they fairly and accurately depict the condition with which you observed those
9 items on October 28 of 2011?

10 A Yes, they do.

11 Mr. Marchant: The State would move 35, 37, 38, 39, 40 and 41 in evidence,
12 Your Honor.

13 The Court: Any objection?

14 Mr. Johnson: No objection.

15 Mr. Marchant: Publish to the jury, Your Honor.

16 The Court: In evidence without objection. You may publish.

17 (Whereupon State's Exhibit Number 35, 37, 38, 39, 40 and 41 were admitted into evidence
18 without objection.)

19 Q Detective, I think you'll be all right sitting right there. If you find it to be more
20 comfortable to step down here, please do so. Do you want to step down?

21 A I'm fine.

22 Q Looking at State's 35, what is the vantage point this picture is taken from?

23 A This is from the, actually would be from the rear of the breeze-, of the building,
24 which is where I entered, on the woods line, coming into the breezeway here. This step

COLLIS FLAVELL – DIRECT BY MARCHANT

1 actually goes up to what would be, I guess, really the first level, parking level of the parking
2 lot.

3 Q What's shown directly in your line of sight, I see a door next to the stairwell. Do you
4 know where that door goes?

5 A This was like a utility/storage-type closet.

6 Q And what is shown sitting next to that utility closet?

7 A This would be a duffle bag or a suitcase that was left there.

8 Q And State's 37 showing that same duffle bag?

9 A Yes. I don't actually see the bag. This is, like, the clothes. There were clothes kind
10 of strewn out, like somebody had actually been going through it. It wasn't nice and neat.
11 This is, like, a small bag that ha DVD's and videos in it. And these were some of the clothes.

12 Q I'm showing you 37, showing you the difference between 37 and 38. What's the
13 difference between the two of those?

14 A This is just the close-up of that bag containing the DVD's and the wallet.

15 Q Were you standing with Sergeant Shaw when he was going through the bag?

16 A I was.

17 Q Did you see him pull this wallet out?

18 A I did.

19 Q And is what's depicted in State's 39, did that come out of that wallet?

20 A It did.

21 Q What about State's 40?

22 A Yes, it did.

23 Q And do you recall where State's 41, what did that come out of?

24 A Out of the wallet.

COLLIS FLAVELL – DIRECT BY MARCHANT

1 Q So, State's 41 shows, what is this exactly?

2 A It's a pawn ticket from, I believe it's... That's Easy Money Pawn Shop in
3 Spartanburg.

4 Q Who is the person that was pawing?

5 A Patrick Dean Lowrance.

6 Q With respect to State's Number 40, what is this?

7 A It's a health card for Patrick Dean Lowrance.

8 Q And State's 39?

9 A It's a Social Security card for Patrick Dean Lowrance.

10 Q So, at the time you saw Sergeant Shaw remove this information from that wallet,
11 what was the next step you took with that information? Did you then have a suspect or
12 somebody you were focusing in on?

13 A Yes, we did.

14 Q Did you take the information, the Social Security card, and the health card and
15 compare it to the list that you retrieved from the motel room?

16 A I did.

17 Q Was an individual identified by you as being registered at the motel?

18 A On the occupancy list from the motel located, I believe it was Room 247, the room
19 was registered to Dean Lowrance on the registration that I had.

20 Q Did you subsequently return back to the motel room?

21 A I did.

22 Q Do you recall what time of the day you made your way back to the motel?

23 A I want to say it was around 4:00, 4:30, 4:20, around in there.

24 Q And you spoke with the manager again at that time?

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A I did.

2 Q Was the occupant of Room [REDACTED] still in Room [REDACTED]?

3 A No.

4 Q Did the manager allow you into Room [REDACTED]?

5 A I obtained a consent to search form from the manager.

6 Q I'm showing you what's been marked as 65 and 66. Are you able to know at those
7 items are? Before we get to part of you opening State's 65 and 66, it appears that there's
8 some red evidence tape as well as a signature on the packages. What's the significance of
9 that?

10 A Whenever we enter items into our property and evidence section, we seal it with
11 evidence tape for the intake to enter that piece of evidence. I initial, put the case number and
12 the initial and the date. The red tape has my initials, the date, 10/31/11, that I actually put the
13 seal on it and entered it into evidence. And any time someone opens this evidence, because
14 it's sealed, they will have to re-seal it, initial and date it.

15 Q Has that been in this case? Has the package been opened?

16 A State's Exhibit 65 has not been opened. It still has my original seal. Actually it has
17 on the side. And State's Exhibit 66 has been opened and re-sealed.

18 Q Are you able to determine who opened 65? Do you recognize the initials on that
19 package?

20 A There are no initials on 65. It's unsealed.

21 Q Sorry, 66.

22 A Actually, this was opened by our property and evidence section on September 20,
23 2012 for discovery by Tabitha Fricks

24 Q Who is Tabitha?

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A She is one of the personnel in property and evidence.

2 Q Has it been opened or altered by anybody else that you could tell?

3 A No.

4 Q So, referring to 66, the reason you put your name – excuse me – your initials and sign
5 it is to insure the integrity of that piece of evidence?

6 A Yes.

7 Q And once you take that evidence and secure it, where does it physically go?

8 A It goes into the basement of our law enforcement center. It's what we call property
9 and evidence section. Anything, any item seized, found, recovered, safekeeping, anything
10 that I physically take from someone or somewhere I have to account for. So for that item I
11 complete a property and evidence sheet which tracks the chain of custody on that item, and I
12 place it into the property and evidence room, which is a sealed, locked room that only
13 employees in that section are allowed to go in.

14 Q So, State's 66, has this been opened on any other occasion other than by Tabitha
15 Fricks?

16 A No.

17 Q Detective Flavell, would you open it and determine if what's inside is what you put
18 inside when you originally sealed it?

19 A (opening State's Exhibit 66) It appears to be.

20 Mr. Marchant: The State would move 66 in evidence, Your Honor.

21 The Court: Any objection to State's 66?

22 Mr. Johnson: No objection.

23 The Court: In evidence without objection

24 (Whereupon State's Exhibit Number 66 was admitted into evidence without

COLLIS FLAVELL – DIRECT BY MARCHANT

1 objection.)

2 Q Detective Flavell, there are various things in here outside of that paperwork. Would
3 you describe to the jury what you found in Room [REDACTED] at the Comfort Inn on October 28,
4 2011?

5 A This is in regards to this?

6 Q Yes sir.

7 A There was a Jan sport-type backpack in the room. When I actually, when I entered
8 the room, there were still suitcases or clothing, personal items in that room. So, I asked the
9 manager to verify that they had not re-rented that room. His checkout was eleven o'clock.
10 He went back to the desk, verified the room had not been re-issued. Once he verified that,
11 then I went in the room. And inside the Jan sport backpack I located the driver's license of
12 Patrick Dean Lowrance and miscellaneous, different, like, key cards, Quality Inn. I'm not
13 sure where this one goes, just a welcome guest, motel key card.

14 Q What does the key card sleeve there, where is it from, what room?

15 A Comfort Room for Room [REDACTED]

16 Q After visiting with the motel staff at the Comfort Inn, where did you go next?

17 A I think that's when I returned back to the scene. I can't remember if I had seized
18 Officer Cobb's gun prior to me leaving or after I returned. Ultimately I returned to LEC
19 briefly and then I met with the Greenville County Sheriff's Office at the Home Depot on 291.

20 Q Why is it that you met with the Sheriff's Office?

21 A We were going to [REDACTED] Mooremont Avenue located in Greenville County.

22 Q Give the jury an idea, a time frame of how long it's been from the time you initially
23 responded to the Perago plant to the Comfort Inn, back to the scene, back to the Comfort Inn,
24 to the LEC, and then back out to the Home Depot to meet with the Sheriff's Office.

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A At the time that I arrived at the Home Depot, I'm gonna say probably eleven hours.

2 Q During the course of that eleven hours, you'd been conducting business and
3 investigation, some of which is discussed today, but you certainly had done some other
4 things?

5 A Yes.

6 Q What is the reason that you were going to meet with the Sheriff's Office at the Home
7 Depot?

8 A We had information that Patrick Dean Lowrance was possibly at [REDACTED] Mooremont
9 Avenue, which is located in the county, outside my jurisdiction, so that the Sheriff's Office,
10 who had been involved in this investigation from the beginning assisting us. We were
11 getting ready to go to [REDACTED] Mooremont, so I met with them prior to going to the house. We
12 met at Home Depot, discussed what was going on, discussed our plan. And then we left the
13 Home Depot and drove to Mooremont Avenue.

14 Q I'm showing you State's 67. Is [REDACTED] Mooremont Avenue accurately reflected on
15 State's 67?

16 A Yes.

17 Q So, during the course of your investigation, you traveled to the apartment complex, to
18 the Comfort Inn, to Mooremont Avenue?

19 A Correct.

20 Q And all these things are located within the county of Greenville?

21 A Yes.

22 Q When you physically arrive at Mooremont Avenue, why did you go there and what
23 purpose did you have at [REDACTED] Mooremont?

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A We went because we had information that Patrick Dean Lowrance was in the house.

2 And I was there as an investigator for the city. The county was assisting us.

3 Q Did you speak at some point in time prior to apprehending the defendant with the
4 homeowner of [REDACTED] Mooremont?

5 A No, not prior to.

6 Q Did you speak to him after?

7 A I did.

8 Q Did you obtain his consent to search the residence?

9 A Yes, I did.

10 Q Inside the residence were you present when evidence which is specific in this case
11 was located?

12 A I was.

13 Q Detective Flavell, I'm going to show State's 44, 45, and 46. See if you recognize
14 what those photographs depict?

15 A I do.

16 Q Were you present when-- Was it the city or the sheriff's office that actually turned
17 the bed?

18 A I was present in the room.

19 Q You were present. Did you witness everything that occurred which is depicted in
20 this room?

21 Mr. Marchant: I move State's 44, 45, and 46 into evidence.

22 The Court: Any objection?

23 Mr. Johnson: No objection as applies to the pictures, Your Honor.

24 Mr. Marchant: Publish to the jury, Your Honor.

COLLIS FLAVELL – DIRECT BY MARCHANT

1 The Court: All right. We'll allow State's 44, 45, and 46 into evidence without objection.

2 You may publish.

3 (Whereupon State's Exhibit Numbers 44, 45, and 46 were admitted into evidence without
4 objection.)

5 Q Detective Flavell, I'm referring to State's 44, what does this picture show?

6 A After Mr. Lowrance was taken into custody, I spoke with the homeowner and he
7 indicated-- After speaking with him, he indicated the back, right bedroom. When you enter
8 Mooremont Avenue, the door, the front door goes into, like, a living room, and there's a side
9 door that comes through a carport that goes into the kitchen, and then a hallway. Down that
10 hallway on the right, this is the back, right bedroom with entry doors about right here. This
11 is the bed. There was a window. I believe there was a window there and here.

12 After I obtained consent to search for this residence we went in that back, right
13 bedroom, flipped the mattress and located a firearm between the mattress and boxed springs.

14 Q What does State 45 show?

15 A That's a close-up picture of the firearm that we recovered.

16 Q State's 46?

17 A This was, like, a sweatshirt-type, overcoat that was, had suspected blood on it.

18 Q Did you take possession of these items?

19 A I did not. We called for our forensics division. After we located this, we stepped out
20 and called forensics and our forensics division actually came and collected these items.

21 Q Upon locating the firearm, to the best of your knowledge, did anybody touch that
22 weapon before forensics arrived and took possession of it?

23 A I don't believe they did.

COLLIS FLAVELL – DIRECT BY MARCHANT

1 Q Could you explain to the jury just briefly, what is the purpose for forensics to step
2 into a scenario such as this as opposed to you taking possession of those items?

3 A There's actually several issues. It would be chain of custody. Just try to limit the
4 number of people in the chain of custody on a piece of evidence. And we're, of course,
5 going to, on an item like this, request forensic processing. Our forensics division are the
6 ones that are gonna do that processing and they'll come collect it, take it back to their office,
7 complete whatever processing is requested and then they package that item and they put it
8 into our property and evidence room. So you actually have one chain of custody on that piece
9 of evidence versus three or four.

10 Q Outside of the things that you took custody of at the Comfort Inn did you take
11 possession of any other items in this case?

12 A I did.

13 Q But nothing at the home?

14 A No, nothing at the home.

15 Q One of the other items you took possession of would be Officer Cobb's service
16 weapon?

17 A Correct.

18 Q When you arrived at the home at [REDACTED] Mooremont, what sort of efforts did it take to
19 get the defendant to come out of the residence?

20 A The Greenville County Sheriff's Office had several deputies in this team of people
21 that were going to [REDACTED] Mooremont. They basically, would basically just pull up in front of
22 the house. They got on their PA, the PA speaker and started calling into the house asking
23 him to come out. The homeowner and two other people actually came out of the house and
24 then Mr. Lowrance walked out and surrendered.

COLLIS FLAVELL – DIRECT BY MARCHANT

1 Q The consent to search for the home, did you also get a statement from that
2 homeowner as well?

3 A I did.

4 Q Can you explain to the jury how law enforcement takes statements and the process of
5 transcribing everything down that is relayed to law enforcement.

6 A Basically, he was, we were questioning him because he, at the time was basically
7 harboring somebody that we were looking for. So, we wanted to talk to him to find out
8 exactly what he knew, how Patrick Lowrance got to [REDACTED] Mooremont, to see what he knew
9 that transpired after the shooting earlier that day. So, we basically set down at the kitchen
10 table and I obtained a written statement from what he told me. Basically, it's his words. I
11 just asked him to tell me what he knew and he told me and I wrote it down.

12 Q What was that individual's name?

13 A Herman... I'm not sure of his last name. (pause to search notes) It's Mr. Brockman.

14 Q I'm going to show you what's been marked as State's Number 70. Is that the
15 statement you took from Mr. Brockman?

16 A Yes, it is.

17 Q You took that with him at his home at the kitchen table?

18 A Yes.

19 Q Did he write the statement or did you?

20 A I wrote it.

21 Q And why did you write it as opposed to him?

22 A Just it's easier. As he's telling me what he's saying I'm writing, I'm transcribing it
23 down on paper. I then re-read it. If he agrees with it or doesn't want to make any changes,
24 he signs it.

COLLIS FLAVELL – DIRECT BY MARCHANT

1 Q Did he do those things?

2 A He did.

3 Q He signed it?

4 A Yes.

5 Q Do you recall what date and time you took this statement?

6 A It's on October 28, 2011 at 21:30.

7 Q 21:30 is what time?

8 A 9:30.

9 Q How long did it take for you and the sheriff's office to get the defendant to come out
10 of the home?

11 A I'm gonna say less than five minutes.

12 Q When he came out what did you observe?

13 A He walked out. Of course, I was kind of in the background. I wasn't-- The sheriff's
14 office unit, the team that went to do that, approached, made contact. EMS was called. He
15 was loaded into an ambulance and taken to the hospital.

16 Q Why was EMS called?

17 A He was suffering from a gunshot wound.

18 Q Do you recall the location of that wound?

19 A I don't. I didn't see him after---

20 Q Did you speak with him?

21 A I did not.

22 Q Following him being transported to the hospital and outside of you completing any
23 other reports from this incident did you have any further investigation responsibilities? Did
24 you do any further follow-up in the case?

COLLIS FLAVELL – DIRECT BY MARCHANT

1 A No.

2 Q Does that typically fall on the lead investigator?

3 A Yes.

4 Q At the house where the defendant was apprehended was there any exchange or
5 gunfire between any law enforcement and anybody from inside the house?

6 A No.

7 Q Thank you. Please answer any questions Mr. Johnson may have.

8

COLLIS FLAVELL – CROSS BY JOHNSON

1 The Court: Cross examination.

2 Mr. Johnson: Thank you, Your Honor.

3 **CROSS EXAMINATION BY MR. JOHNSON:**

4 Q All right, detective. On the items that you took from the hotel room, the first thing we
5 have here, what are these here, as far as you can tell?

6 A They are Quality Inn swipe cards, door keys.

7 Mr. Marchant: Your Honor, for the benefit of the record, can we identify the item
8 we're discussing?

9 The Court: Yes, the exhibit number, please.

10 Mr. Johnson: We're talking about State's Exhibit 66, the package with the contents inside.

11 The Court: Thank you, very much.

12 Q Again, I'm sorry. Would you answer the question again?

13 A Quality Inn swipe door keys, swipe door cards.

14 Q How many of them do you have?

15 A Three.

16 Q Now, these key cards obviously belong to three different people because one person
17 wouldn't need three key cards, would they?

18 A Potentially yes, they could.

19 Q So, it's possible more than one person was staying in that room?

20 A Possible.

21 Q Another thing in here is a driver's license. Correct?

22 A That's correct.

23 Q Can you describe the picture on the license? What does the young man look like in
24 the picture? Obviously, he-- Or, what does the young man look like?

COLLIS FLAVELL – CROSS BY JOHNSON

- 1 A Are you asking, like, race?
- 2 Q Is he a black male?
- 3 A Yes, a black male.
- 4 Q What's his hair like?
- 5 A Short.
- 6 Q Short haircut. What's the date of the picture?
- 7 A The driver's license was issued on [REDACTED]/2008.
- 8 Q [REDACTED]/2008?
- 9 A I'm not sure of the date of the picture.
- 10 Q Okay. But if this picture was taken on [REDACTED]/2008, at that point in time my client
- 11 would have had short hair?
- 12 A Yes.
- 13 Q Now, you stated you went o Mooremont Avenue because you had learned that Mr.
- 14 Lowrance was there, my client was there?
- 15 A Yes.
- 16 Q Okay. Now, you say that there was no difficulty in getting him to come out of the
- 17 house.
- 18 A No.
- 19 Q He came out. Nobody came out shooting, my client or anyone came out shooting out
- 20 of the house, anything of that nature?
- 21 A No, he did not.
- 22 Q In fact, you had initially spoke to Mr. Brockman, and this was after, after he had came
- 23 out. Is that true?

COLLIS FLAVELL – CROSS BY JOHNSON

1 A I spoke with Mr. Brockman after your client came out of the house. We entered the
2 house. I obtained a consent to search and then we went to the bedroom.

3 Q Now, when you got into the house and got a consent to search, Mr. Brockman says
4 okay, he took you back to where he was?

5 A No.

6 Q Or where he had been?

7 A We were sitting at the kitchen table and he told us that Patrick was in the right, back
8 bedroom. He didn't walk-- We didn't let him-- He wasn't allowed to walk around the
9 house while we were in there. He stayed at the kitchen table.

10 Q Anyhow, he told you, he said he's back there?

11 A Yes.

12 Q Obviously, in between that time you weren't in the house with Mr. Brockman or Mr.
13 Lowrance, so you don't know how his action was, do you?

14 A Prior to me entering the house?

15 Q Yes sir.

16 A No, I do not.

17 Mr. Johnson: I have nothing further, Your Honor.

18 The Court: Re-direct.

19 Mr. Marchant: No, Your Honor. I ask that this witness be excused.

20 The Court: Any objection?

21 Mr. Johnson: No objection.

22 The Court: All right, sir. You are released from your subpoena. You may go back to
23 your regular duties, sir.

24 Ladies and gentlemen, we're going to take a short break. If y'all will go back to the

COLLIS FLAVELL – CROSS BY JOHNSON

1 jury room we will resume the case at that time. Everyone else remain seated while the jury
2 retires, please.

3 (Whereupon the jury exited the courtroom)

4

JONATHAN HAMILTON-DIRECT BY MARCHANT/CROSS BY JOHNSON

1 We'll be at ease for about ten minutes. Thank you very much.

2 (Whereupon court was in recess)

3 **COURT IN SESSION**

4 The Court: Solicitor, are you ready for the jury?

5 Mr. Marchant: Yes sir.

6 The Court: We need the defendant.

7 Mr. Johnson: Ready, Your Honor.

8 The Court: Bring the jury in.

9 (Whereupon the jury entered the courtroom)

10 Solicitor, your next witness, please.

11 Mr. Marchant: The State calls Jonathan Hamilton.

12 The Court: Come forward, please, sir.

13 **JONATHAN HAMILTON, duly sworn, testified as**

14 follows:

15 Clerk of Court: State your name for the record.

16 A Jonathan Hamilton.

17 **DIRECT EXAMINATION BY MR. MARCHANT:**

18 Q Mr. Hamilton, where are you employed?

19 A Greenville County Department of Public Safety Forensics Division?

20 Q In a nutshell, what does the forensics division do?

21 A The forensics division, we go out to process scenes. We collect evidence,
22 photographs. We try to collect and preserve any evidence of a crime.

23 Q How long have you been with the department of public safety?

24 A I've been with them for almost six years.

JONATHAN HAMILTON-DIRECT BY MARCHANT/CROSS BY JOHNSON

1 Q Generally, have your jobs and responsibilities been the same over the course of those
2 years?

3 A During the six years in law enforcement, yes sir.

4 Q Were you working October 28, October 29, 2011, and did you work on this case?

5 A Yes sir.

6 Q Do you recall what involvement you had in the collection or processing of any
7 evidence in this case?

8 A Yes. We have a vehicle unit attached to our office and that happens quite frequently
9 during cases. And we process once a search warrant has been obtained for that vehicle.

10 Q I'm going to show what's marked as State's Number 71. Not the location, but do you
11 recognize the vehicle in the picture?

12 A Yes sir. It appears to be the same vehicle that was in our bay.

13 Yes.

14 Mr. Marchant: I offer State's Number 71 in evidence.

15 The Court: Any objection to that?

16 Mr. Johnson: No objection.

17 The Court: In evidence without objection. You may publish.

18 (Whereupon State's Exhibit Number 71 was admitted into evidence without
19 objection.)

20 Q You said it appears to be the same vehicle that was in your bay?

21 A Yes sir.

22 Q What do you mean, bay, and where is the bay?

23 A Our forensics division is at Greenville Tech. At Greenville Tech we have the actual
24 vehicle bay that we tow vehicles that are sealed – as you can see on the doors – sealed and

JONATHAN HAMILTON-DIRECT BY MARCHANT/CROSS BY JOHNSON

1 preserved at a scene, so that when it comes to our office we know that it has not been
2 tampered and it is stored and only personnel from the forensics division have access to it.

3 Q What sort of procedures or steps did you take when you received this vehicle in your
4 bay over at Greenville Tech?

5 A We had a request for processing of latent prints or any kind of DNA evidence or
6 evidence that would pertain to the crime.

7 Q So, did you print the vehicle?

8 A Yes sir, I did.

9 Q Do you recall where you attempted to retrieve prints from the vehicle?

10 A Whenever I have a search warrant on a vehicle I normally do it the same, exact way
11 every time: hood, quarter panels, doors, inside and out, rear compartment door, any smooth
12 surfaces on the interior of the vehicle that would hold a latent print.

13 Q Why would you process those particular areas as opposed to the bumper, the wheel
14 well, the tires?

15 A It's normal areas that you touch. Whenever you go to a vehicle, you know, getting in
16 and out of the vehicle, you're putting the groceries in the back. It's normal areas that
17 someone would touch.

18 Q I believe you made a comment, any smooth areas?

19 A Uh-huh.

20 Q Why would you process only smooth as opposed to rough?

21 A Well, it depends on the texture of the things being processed. You take sandpaper
22 and you put a latent print on sandpaper, you know. Can you get it off? If you can I have not
23 been able to do it yet. But anything that is smooth will hold a latent print, which is an oil

JONATHAN HAMILTON-DIRECT BY MARCHANT/CROSS BY JOHNSON

1 from your finger applied to a surface. The smoother the surface, the easier and better the
2 print looks and that we can retrieve.

3 Q Do you recall, did you retrieve any possible prints?

4 A Yes sir.

5 Q What did you do once you retrieved those prints? What's the next step of that
6 procedure?

7 A When we dust for prints we use a brush and we use a powder. Fingerprint powder
8 sticks to the oils left behind by the fingerprint. And then we use a tape to lift those prints off
9 of the surface, whatever surface it may be. Then we take the tape and put it on a white piece
10 of paper. So, that way you have the contrast. You can see the oily print with the powder on
11 it on the white surface. It's more contrast to where you can see it. You can examine it.

12 Q Did you process any item from inside the vehicle for fingerprints?

13 A No sir, I don't believe I did.

14 Q Out of the items that you processed from the exterior did you present those in the
15 normal course of business to latent examiners?

16 A Yes. Latent examiners is the next step after I retrieve those prints.

17 Q How is that you end up packaging those items to be submitted to latent?

18 A When I put it on that white piece of paper, like I said earlier, we write down some
19 information. The information where we got the print, case number, what the crime is, what
20 the case code is, the address that I got. And then we take those prints and we put them into a
21 manila envelope where we seal the back of it.

22 Q Do you recall from this incident how many prints you covered?

23 A I believe I have it on my-- It's either on my report or listed on the latent examiners.

JONATHAN HAMILTON-DIRECT BY MARCHANT/CROSS BY JOHNSON

1 Q So, the prints that are submitted to latent, are they submitted individually, on a piece
2 of paper, index card? How is that done?

3 A They're cards, latent cards. And they're actually entitled, I believe it's Greenville
4 County Department of Public Safety Forensics Division. It's a long name, but it's us.

5 Q How many prints do you put on each card?

6 A Whatever the tape may hold. We can use one strip of tape or we can use two, or
7 sometimes even three; it depends.

8 Q Do you somehow sign or initial each item when it's submitted to latent?

9 A Yes sir. On the front, the information that I was speaking of earlier, on the very
10 bottom, it's gonna have the vehicle information of where I retrieved that print, from what
11 vehicle. And also underneath it, it's gonna have my name and it's gonna have my unit
12 number. I put my unit number on every card, so that way I know that it is my latent print.

13 Q Once it goes to latent, do you have any further involvement with the processing or the
14 comparison of the prints?

15 A No sir. Once I submit them, another division takes hold of that.

16 Q In this incident, did you have any other involvement in this case except for the
17 evidence you collected?

18 A I believe I collected a tape lift from inside the vehicle, from the driver's side seat.

19 Q Fingerprints on the exterior of the doors, what you discussed earlier, and the tape
20 from the inside?

21 A Yes sir.

22 Q Any other involvement in this case?

23 A No sir.

JONATHAN HAMILTON-DIRECT BY MARCHANT/CROSS BY JOHNSON

1 Q I don't have any further questions. Please answer any questions Mr. Johnson may
2 have.

3 The Court: Cross examination.

4 Mr. Johnson: Yes sir.

5 **CROSS EXAMINATION BY MR. JOHNSON:**

6 Q You only took the prints outside of the car. Is that true?

7 A I processed the outside and the inside, whatever I can on the inside, yes sir.

8 Q Okay, all right. Thank you.

9 The Court: Any re-direct?

10 Mr. Marchant: No, Your Honor.

11 The Court: Do you wish the witness to be excused?

12 Mr. Marchant: Yes, Your Honor.

13 The Court: Any objection?

14 Mr. Johnson: No objection.

15 The Court: All right, sir. You are released from your subpoena and may go back to
16 your regular duties, sir.

17 A Thank you, sir.

18

JON DERBY-DIRECT BY MARCHANT

1 The Court: Thank you. Next witness, please.

2 Mr. Marchant: The State calls Jon Derby.

3 **JON DERBY**, duly sworn, testified as follows:

4 Clerk of Court: Please state your name for the record.

5 A Jon Derby.

6 The Court: Could you spell your name, please, sir?

7 A J-o-n D-e-r-b-y.

8 The Court: Thank you very much. You may proceed, Solicitor.

9 **DIRECT EXAMINATION BY MR. MARCHANT:**

10 Q Mr. Derby, where are you employed?

11 A Greenville County Forensics.

12 Q And what Officer Hamilton discussed earlier, you have essentially the same type
13 work with the county?

14 A Correct.

15 Q How long have you been with them?

16 A A little over four years now.

17 Q Going back to October of last year, did you have the occasion to respond to [REDACTED]
18 Mooremont Avenue?

19 A Yes, I did

20 Q What was the purpose of you responding to Mooremont Avenue?

21 A This location was where the suspect was taken in custody. He was located in the
22 back bedroom, as well as a weapon that was used in the incident.

23 Q I'm referring you to State's 44, 45, and 46, entered into evidence. Do you recognize
24 those photos?

JON DERBY-DIRECT BY MARCHANT

1 A Yes, I do.

2 Q Did you take these photos?

3 A Yes.

4 Q Now, there is a picture that depicts a firearm. Did you end up taking possession of
5 that firearm?

6 A Yes, I did.

7 Q I'm going to show you what's been marked as State's 53. Would you open that up
8 and see if you recognize it?

9 A (pause to open package)

10 Q Do you recognize that item?

11 A Yes.

12 Q Is that the same item you retrieved from [REDACTED] Mooremont Avenue---

13 A Yes sir.

14 Q ---on the twenty-eighth? And once you took possession of it, what steps did you take
15 to collect any fingerprints or DNA or any other forensic evidence along with that gun?

16 A Once the item was photographed and collected, it was transported back to our office.
17 Once there, it was processed for DNA at the handle, trigger, and magazine area.

18 Q When you say processed, what does that mean? How do you go about processing
19 something?

20 A Taking DNA takes a sterile swab, distilled water in which you dip the swab. And the
21 tip of the swab is applied to the area that you desire to collect DNA from. And in this case,
22 was the handle, trigger and magazine. Once the DNA was collected, the item was processed
23 for fingerprints.

JON DERBY-DIRECT BY MARCHANT

1 Q Did you, or do you know, or do you recall whether you obtained any prints that were
2 suitable for comparison?

3 A No, negative for fingerprints.

4 Q I'm referring you to State's 57, 58 and 68. Do you recognize these items?

5 A (pause to examine items) Yes, I do.

6 Q You tried to collect DNA off of the gun?

7 A Yes sir.

8 Q What are these items?

9 A The actual swab is actually packaged in a manila envelope, as you can see. The swab
10 comes in a smaller paper container that's smaller to write on. So, we have to package that up
11 inside of envelopes. Either that or a cardboard box.

12 Q With regard to State's 57, 58 and 68, did you subsequently seal these items and place
13 the property in evidence?

14 A Correct.

15 Q And did you sign and initial and date the items?

16 A Correct.

17 Q Did you have any further dealing with these items until examining them here today?

18 A No sir.

19 Q Do you know where they were stored until being brought to court today?

20 A They're taken to P&E and kept there.

21 The Court: I didn't hear your answer.

22 A They're turned into Property and Evidence. That was the last time that I had any
23 action with those items.

24 The Court: Thank you.

JON DERBY-DIRECT BY MARCHANT

1 Q I'll show you State's 65 and ask you if you recognized what's packaged in there.

2 A This is item JD 2 that I collected at the scene at Mooremont, the black, hooded
3 sweatshirt, sized xl, and examined for blood and projectile dust.

4 Q Is that sweatshirt the same one that you photographed in State's 46?

5 A Correct.

6 Q Did you do any test on this items to examine for DNA?

7 A No sir. It was photographed. It had a projectile hole in the left shoulder, as well as a
8 speck of blood. That was photographed.

9 Q But you did not process this for DNA?

10 A No sir.

11 Q And once you collected this package, where did it go?

12 A That, with the swabs, was turned into Property and Evidence.

13 Q Have you had any further dealings with it before today?

14 A No sir.

15 Mr. Marchant: Beg the court's indulgence.

16 The Court: Yes sir.

17 (pause)

18 Q Once you finished up photographing and collecting these items at Mooremont, did
19 you have the occasion to respond to the hospital?

20 A Yes, I did.

21 Q What was the purpose of you responding to the hospital?

22 A The individual who was taken into custody at Mooremont was transported there with
23 a gunshot wound.

24 Q I'll show what's been marked as State's 47. Do you recognize that item?

JON DERBY-DIRECT BY MARCHANT

1 A Yes sir.

2 Q Does that picture clearly depict the condition of the defendant as you found him in the
3 hospital?

4 A Yes sir.

5 Yes.

6 Mr. Marchant: I offer State's 47 in evidence.

7 The Court: Any objection??

8 Mr. Johnson: No objection.

9 The Court: In evidence without objection. You may

10 (Whereupon State's Exhibit Number 47 was admitted into evidence without
11 objection.)

12 Q Now, at the hospital, did you do any treatment on the defendant? Did you take any
13 statements from him? Did he make any comments to you?

14 A I didn't take any statements there.

15 Q Is it part of your job to interview the suspects at the hospital?

16 A Not necessarily. When I visit a suspect or an individual at the hospital for injuries, I
17 ask them if they have any more injuries that I'm not aware that aren't present.

18 Q Out of everything that you were able to determine at the hospital, was that the only
19 injury that you were able to find

20 A Yes sir.

21 Q I'll show you what's been marked as State's 56. Do you recognize that item?

22 A It's item JD 3 which I collected from the hospital. It's a gray tee shirt, size xl, with a
23 speck of blood.

24 Q Again, once you collected it, did you submit it to Property and Evidence?

JON DERBY-DIRECT BY MARCHANT

- 1 A Yes sir, I did.
- 2 Q Did you have any further dealing with it prior to today?
- 3 A No sir.
- 4 Q I'm showing you what's been marked as JD 1-A, which is State's 54. Do you
5 recognize that?
- 6 A Yes sir.
- 7 Q What is that?
- 8 A This is the five empty shells that was taken out of the magazine that collected at
9 Mooremont.
- 10 Q Is that ammunition come out of the magazine that is included in State's 53?
- 11 A Yes sir.
- 12 Q What did you do with it once you took it out and packaged it?
- 13 A It was processed for latent fingerprints.
- 14 Q Do you recall whether or not you were able to obtain any prints that were positive for
15 comparison purposes?
- 16 A No sir.
- 17 Q So, whatever's in here, there was not sufficient information to you to compare it to a
18 known fingerprint?
- 19 A That's correct.
- 20 Q Where did you put JD 1 once you collected it?
- 21 A Property and Evidence.
- 22 Q So, you did some work at ■ Mooremont and you also went to the hospital---
- 23 A That's correct.

JON DERBY-DIRECT BY MARCHANT

1 Q ---and collected some evidence that we've already discussed. And did you also
2 process any items that came out of the vehicle that Officer Hamilton talked about?

3 A Yes sir, I did.

4 Q I'm going to show you what's been marked as State's 48, 49, 50, and 51. See if you
5 recognize those.

6 A (pause to examine items) Yes, I do.

7 Q Do those fairly and accurately depict how you found the vehicle and the contents
8 inside the vehicle as you were processing it?

9 A Yes sir.

10 Q What particularly of significance is depicted in these photographs?

11 A Exhibit 48 and 49 are pictures of an ammunition box and their location inside the
12 vehicle. The next two pictures are the actual items without the vehicle photographed on our
13 table.

14 Yes.

15 Mr. Marchant: The State would move 48, 49, 50 and 51 in evidence.

16 Your Honor.

17 The Court: Any objection?

18 Mr. Johnson: No objection.

19 The Court: In evidence without objection.

20 (Whereupon State's Exhibit Number 48, 49, 50 and 51 was admitted into evidence without
21 objection.)

22 Q Officer Derby, would you please explain to the jury what-- Can you see the
23 photographs are showing on the screen?

24 A Yes sir.

JON DERBY-DIRECT BY MARCHANT

1 Q If you need to, you can step down. Explain to the jury what is shown in these
2 photographs.

3 A This is the rear passenger door, open. A photograph of the rear of the vehicle. This
4 orange item there I'm trying to show in relationship in the vehicle to the items that I
5 collected, the empty box.

6 Q That's State's 48 and 49.

7 A This would be a closer, mid-range photograph of the same empty box.

8 Q State's 50.

9 A And this is the box pulled out of the vehicle and then placed on our table.

10 Q State's 51.

11 A Same box, just the tray pulled out.

12 Q Now, with respect to the box and the tray, did you do any processing of those items?

13 A Yes, I did.

14 Q What exactly did you?

15 A It was processed for latent fingerprints.

16 Q And do you know whether or not you retrieved a print that was of sufficient quality to
17 be compared?

18 A Yes sir, I did.

19 Q From where exactly did you retrieve that?

20 A The black tray and the cover of the box.

21 Q I'm showing you what's been marked as State's 52. Do you recognize that item?

22 A This is item JD 11, the box that was collected from the vehicle.

23 Q And once you collected it, was it placed into evidence as previously discussed, with
24 the other items?

JON DERBY-DIRECT BY MARCHANT

1 A Once it was processed, yes.

2 Q Can you tell from the packaging whether or not it's been tampered with or been
3 opened?

4 A Actually, this envelope's not mine. This is what Property and Evidence-- We
5 switched over to the bar code system. And here, these two have their own envelopes. My
6 items are still in their original packaging.

7 Q Has anybody opened this or tampered with it?

8 A My seal's still attached. The next person that opened it, initialed it and resealed it
9 back.

10 Q Do you recognize the initials of the person from Property and Evidence?

11 A The initials, PF, but no.

12 Yes.

13 Mr. Marchant: The State would move 52 into evidence.

14 The Court: Any objection?

15 Mr. Johnson: No objection.

16 The Court: In evidence without objection.

17 (Whereupon State's Exhibit Number 52 was admitted into evidence without
18 objection.)

19 Q Open State's 52 for the jury, please.

20 A (Whereupon State's Exhibit 52 was opened by witness)

21 Q So, State's 52, that's the same thing that you found in the Tahoe that was in the bay
22 that y'all processed, that's also depicted in photographs 48, 49, 50, and 51?

23 A That's correct.

24 Q If you would put it back inside the envelope.

JON DERBY-DIRECT BY MARCHANT

1 A (Whereupon State's Exhibit 52 was returned to envelope)

2 Q With respect to State's 54, again, were you able to determine whether or not that's
3 been opened or tampered with?

4 A Again, my seal's still intact, but it appears to have been opened at a different location
5 and resealed back, marked with the same initials as the other one, PF.

6 Q If you would open Item 54.

7 A (Whereupon State's Exhibit 54 was opened by witness)

8 Q What's in the bag?

9 A These are live ammunition bullets.

10 Q Again, where did those come from?

11 A They came from the magazine.

12 Q Do you recall how many you pulled out of the magazine?

13 A I believe thirteen; no, I'm sorry, twenty-five.

14 Q And that magazine is the magazine that you recovered with the gun from Mooremont
15 Avenue that's identified as JD 1, and also marked as State's 53. Is that correct?

16 A Correct.

17 Mr. Marchant: The State moves 54 into evidence.

18 The Court: Any objection?

19 Mr. Johnson: No objection.

20 The Court: In evidence without objection.

21 (Whereupon State's Exhibit Number 54 was admitted into evidence without
22 objection.)

23 Mr. Marchant: Beg the court's indulgence.

24 The Court: Yes sir.

JON DERBY-DIRECT BY MARCHANT

1 (pause)

2 Q Officer Derby, as I asked Officer Hamilton, once you collect fingerprints or any
3 potential swabs for DNA, do you do any further testing or does that go to a different
4 department?

5 A It goes to, the fingerprints go to our Latent section, and DNA will go to Property and
6 Evidence.

7 Q And as Officer Hamilton discussed the collection procedures, is there anything
8 different that you would have done as far as the collection and maintaining the integrity of
9 those fingerprints?

10 A There's different ways we do it. You know, photograph after collecting the actual
11 latents. Both are sufficient; one is electronically and the other one is through hard copy.

12 Q Would you have put the actual print on that card that he discussed?

13 A This one here was submitted to me on a flash drive, I believe, or a zip drive.

14 Q You initialed and marked and indicated those things as you collected them, as you
15 submitted them?

16 A Yes.

17 Q I have no further questions. Please answer any questions Mr. Johnson may have.

18 The Court: Cross examination

19 Mr. Johnson: Yes, Your Honor, briefly.

20

JON DERBY-CROSS BY JOHNSON/ RE-DIRECT BY MARCHANT**1 CROSS EXAMINATION BY MR. JOHNSON:**

2 Q Officer Derby, for example, when you opened those packages, you put on gloves.

3 Now, why did you do that?

4 A In this case because they're fingerprint powder on them.

5 Q Fingerprint powder on them?

6 A Yes.

7 Q If you are dealing with either fingerprints or DNA, you have to be careful. Right?

8 A That's correct.

9 Q First I'll ask you, the fingerprints, do they transfer? Can you transfer one fingerprint
10 from an item to another?

11 A No sir.

12 Q What about DNA, can that transfer?

13 A Yes, it can.

14 Mr. Johnson: I have nothing further.

15 The Court: Any re-direct?

16 Mr. Marchant: One last question, Your Honor.

17 RE-DIRECT EXAMINATION BY MR. MARCHANT:

18 Q Officer Derby, when you were collecting these items were you wearing gloves?

19 A Yes, I was.

20 Q Why were you wearing gloves?

21 A To prevent contamination and cross-- I'm sorry. Cross-contamination of items.

22 Q Very good. Thank you.

23 Mr. Marchant: I have no further questions. I ask that this witness be excused.

24 The Court: Any objection?

JON DERBY-CROSS BY JOHNSON/ RE-DIRECT BY MARCHANT

1 Mr. Johnson: No objection.

2 The Court: You may be released from your subpoena and released to go back to your
3 regular duties, sir. Next witness, please, sir.

4

DARWIN SHAW -DIRECT BY MARCHANT

1 Mr. Marchant: The State calls Sergeant Dar Shaw.

2 **DARWIN SHAW**, duly sworn, testified as follows:

3 Clerk of Court: Please state your name for the record.

4 A Darwin Shaw.

5 The Court: Please spell your first name.

6 A D-a-r-w-i-n.

7 The Court: Very good. Go ahead, Solicitor.

8 **DIRECT EXAMINATION BY MR. MARCHANT:**

9 Q Sergeant Shaw, where are you employed?

10 A Greenville County Forensic Division.

11 Q What are your responsibilities with the Forensic Division?

12 A I'm a Sergeant, so I have supervisory duties such as going over reports with officers,
13 assisting them with working scenes, and I also work crime scenes myself.

14 Q How long have you been doing that here in Greenville County?

15 A I've been a Sergeant for thirteen years and have been with Forensics for going just
16 short of fourteen years.

17 Q What sort of training or experience does one need or have to have in order to begin
18 working with the Forensics Department?

19 A I had twenty-one years with another agency, seven years working the road and
20 fourteen years as an investigator prior to being hired on by the Forensic Division.

21 Q Throughout the course of your employment with the Forensic Division do you
22 continuously go to classes and keep up with the latest technology and scientific discoveries
23 as related to DNA, latents, things of that nature?

DARWIN SHAW -DIRECT BY MARCHANT

1 A There's ongoing education as far as, in our online courses, one-day seminars, reading
2 up, which is all part of the job. I've also attended numerous schools dealing with death
3 investigations, shooting reconstruction, blood pattern analysis, that type of thing.

4 Q Back in October of 2011, were you working in the capacity then as you have
5 described today?

6 A Yes, I was.

7 Q Did you respond to Berkeley Point Apartments, specifically Building [REDACTED] in
8 reference to this case?

9 A Yes, I did.

10 Q And once you arrived at Berkeley Point, Building [REDACTED], what did you first do?

11 A I met with the officers, investigators or detectives or who were gonna be working the
12 scene. I had them briefly describe to me what had occurred. And then I did an initial walk-
13 through of the scene to see what type of evidence would be there for collection and for
14 photographing.

15 Q Did y'all put up crime scene tape around the location of an incident?

16 A Well, that is always, that's done by the law enforcement agency prior to our
17 responding.

18 Q Once you arrived, do you have a kit, if you will, that you pull out and start marking
19 evidence to indicate where particular pieces of items are located?

20 A We do. Normally, it's a matter of once we make the observations we will take
21 photographs of the scene as it is and then we'll start putting placards down and try to identify
22 potential evidence by using placards. Again, photograph, and then later, during the
23 collection of the evidence, it can be corresponded to the placards.

24 Q Did you do that in this case---

DARWIN SHAW -DIRECT BY MARCHANT

1 A Yes, I did.

2 Q ---as you would in any other case? I'm gonna go through a lot of numbers here. I'm
3 going to show you what's been marked as State's 11, 12, 15, 17, 18, 19, 20, 21, 22, 23, 24,
4 26, 25, 27, 28, 29, 30, 31, 32, 33, 34, 36, 42, and 43.

5 I'll ask you to take a look at these and see if these fairly and accurately depict the
6 incident location as you found it that afternoon.

7 A (pause to review exhibits) Yes sir, they do.

8 Mr. Marchant: The State would move State's 11, 12, 15, 17, 18, 19, 20, 21, 22, 23,
9 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 42, and 43 into evidence.

10 The Court: Any objection?

11 Mr. Johnson: No objection, Your Honor.

12 The Court: In evidence without objection.

13 (Whereupon State's Exhibits Numbers 11, 12, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25,
14 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 42, and 43 were admitted into evidence without
15 objection.)

16 Mr. Marchant: Publish to the jury, Your Honor.

17 The Court: You may publish.

18 Q Sergeant Shaw, I think because of the number of photographs here, it's probably
19 going to be easier for you to step down here and describe to the jury what we're looking at
20 and what we're talking about.

21 (Whereupon witness exits witness stand for demonstration with exhibits)

22 Sergeant Shaw, let's start with State's 42. Please tell the jury what this shows.

DARWIN SHAW -DIRECT BY MARCHANT

1 A This is a photograph that was taken in which placards were put in place. There's a
2 placard, number 18, placard number 19. It also shows two impact areas on the steps, on the
3 base of the second step as well as the base on the fourth step.

4 It also shows an impact, projectile impact on the side of the wall. These are the steps
5 leading down to the main floor and the basement level. And this is the main floor as you
6 come in from out of the parking lot.

7 Q I'll show you what's been marked as State's 24.

8 A These, again, are-- Once the photographs were taken I put the arrows in to help
9 visualize to show the impact areas. Again, this is an impact area on the step, on the base of
10 the step that did not penetrate the metal. It just put an indentation in the metal. This is the
11 actual hole where a projectile penetrated the base of the step. And a projectile, lead core,
12 flattened out, was actually found directly underneath.

13 On this side is a stairwell -- I'm sorry -- a door that leads to a closet. There's a closet
14 that leads under here and it's hollow under these steps. And a projectile was found on the
15 floor actually inside underneath the step area.

16 Q I'll show you State's 25.

17 A That is the one that shows the impact which is on the base of the fourth step.

18 Q State's 26.

19 A This is the-- It's hard to see, you've got the writing. But there is a hole right there
20 where it actually, the projectile penetrated the metal and went clear through.

21 Q Referencing back to State's 42, what does State's 43 show?

22 A This is a photo that was taken of the impact area on the wall of the building
23 downstairs on the main floor to the bottom level. And that is a piece of tape showing the
24 directionality of which that projectile struck the side wall and entered into the wood.

DARWIN SHAW -DIRECT BY MARCHANT

1 Q And what items or things do you look for to determine impact area, directionality,
2 final resting?

3 A One of the first things that we look at is try to find out where the projectile may have
4 struck. If it's like a ricochet, most of the time you're going to find a, it's called a slice, which
5 is where a projectile first makes impact with a wall. In this particular area there will be, like,
6 a groove. And again, with lead that is actually transferred onto to there.

7 We're also looking at this pattern. It's basically a vee pattern which starts small and
8 goes out. The farther out it goes, the more paint, the more wood is going to be disbursed to
9 the area opposite of where the projectile hits.

10 Q We had previously discussed the stairwell and the closet area. Let me show—Please
11 describe what we are seeing in State's 33.

12 A These are the steps that lead up from the ground floor up to the main floor. As I said,
13 it was hollow underneath. This is the floor of the bottom level, and there's a door that's
14 open. What you're seeing is the opening that leads out to the breezeway on the bottom level.

15 Q Frame of reference, this is 35.

16 A This is the door I was referring to. When that door was opened up there was a
17 projectile that was found on the floor just inside the door.

18 Q State's 34.

19 A That's a close-up of the projectile that was recovered.

20 Q When you say recovered, what do you mean?

21 A I mean that I collected it.

22 Q What did you once you collected it?

23 A It was packaged and put into Property and Evidence.

24 Q Did you process any of the projectile for fragments or fingerprints?

DARWIN SHAW -DIRECT BY MARCHANT

1 A No.

2 Q Or DNA?

3 A No.

4 Q I'm showing you what has been marked as State's 18.

5 A This is a photograph of some impact areas on the ceiling. Again, this is the main
6 floor coming in from the parking lot. The steps go down to the grown floor level. These
7 steps are actually leading up to the third floor. So, it's on the main level. And there were
8 some impact areas on the ceiling.

9 Q State's 19.

10 A Again, these are impact areas. There are times when projectiles will separate. You
11 might get fragments of lead that come apart. The copper jacket may separate. This, I don't
12 believe, was from a bullet itself, but from fragments of a projectile, either the jacket or the
13 lead core in that. There were some found out, in front of the apartment building. There were
14 projectile fragments found out on the sidewalk.

15 Q Please explain to the jury the difference between the jacket and the projectile.

16 A The projectile, if it's intact, I refer to that as a projectile. Once it separates you're
17 gonna have a lead core on the inside, and on the outside of that core is a copper jacket. A lot
18 of times if you see, like the one that he showed down in the closet.

19 Q Referring back to State's 34.

20 A Yes. This did not strike anything enough to tear this copper jacket off, so it was fully
21 recovered. Had that jacket come off there would be a lead core underneath it. If it hits metal,
22 if it hits certain things that are, very porous objects, that jacket can come off. Like a nail, that
23 type of thing, it can rip it and then those pieces will come off.

DARWIN SHAW -DIRECT BY MARCHANT

1 Q For frame of reference, the door that's shown in State's 18, is that the same door
2 that's depicted in State's 15?

3 A Yes, it is.

4 Q And what is this showing?

5 A This is showing impact area. The photo does not show, at least in this photo, is a
6 projectile that went from low to high through the door frame. It would be the same as-- This
7 sticks out about two inches. There's an impact area here. On the left side there's this frame
8 just like that a projectile went through from the bottom and exited the inside of the frame on
9 the left side, struck the door, ricocheted off the door and penetrated through that frame.

10 Q Showing you State's 17.

11 A That is, again, a close-up photo showing the vee pattern, showing the direction in
12 which that projectile was traveling.

13 Q I'm going to move to State's 20.

14 A Once the photographs are taken and I start to look for impact areas where projectiles
15 would have struck. There is one on this railing, on this metal spindle. You can see the
16 spindle where it's bent and there was an impact on that spindle.

17 There is an arrow pointing in this direction which would-- Again, these are steps
18 leading downstairs to the basement level. This is the main floor. A projectile went through
19 the top rail of this 2x6 rail, and exited off the back side.

20 Q I'm showing you State's 22.

21 A This is the opposite side of that 2x6 rail. The bullet actually penetrated the top. And
22 it's hard to see with this photo that the wood---

23 Q Showing you State's 23. Excuse me.

DARWIN SHAW -DIRECT BY MARCHANT

1 A The wood is splintered to the outside which is the direction in which the projectile
2 was traveling.

3 Q State's 27.

4 A This photo shows two impacts. This is the one that you were just shown where a
5 projectile came through the top and exited out the inside of this rail. And this is another
6 impact area that was from the bottom up.

7 Q State's 28?

8 A This is that lead swipe that I had referred where the impacts, the wood is going to
9 leave a mark and it also-- In this particular hole, it went from low to high, but I could not
10 recover projectile because it penetrated through that header, and I was unable to, without
11 doing damage, be able to recover the projectile.

12 Q State's 21 and 29.

13 A This, again, these are photographs showing the directionality of the projectile. It
14 struck the rail and part of that determination was because of the damage done to the rail you
15 have the indentation and then where the projectile separated you can see where the damage
16 was done to the top of this rail from the jacket, or possibly from that lead core.

17 Q State's 30.

18 A This was an impact area on a wall. To orient you, this is the parking lot, this is the
19 main level coming in. The stairwell was off on this side. A projectile went from low to high.

20 Q State's 31, State's 36.

21 A The photograph prior shows that from standing on the stairwell of the basement level
22 of this, this hole was visible. Again, because of being in siding, no projectile was recovered.
23 But, again, we're looking at the impact being up this side and then going out the fabric, or the
24 wood of the wall there.

DARWIN SHAW -DIRECT BY MARCHANT

1 Q State's 36.

2 A That's a photograph of-- There are droplets of suspected blood that was on the
3 basement level or in the breezeway. There was a photograph-- A swab was actually
4 conducted, and I believe that's 35.

5 Q Who pulled the swab off of 35?

6 A I did.

7 Q Is that depicted in State's 62?

8 A Yes.

9 (Whereupon witness returned to witness stand)

10 Q So, referring back to State's 62, which is depicted in the photograph showing 5
11 through 35, how is it that you collected what you believed to be suspected blood down at the
12 bottom of the stairwell?

13 A The blood was dried, and so we take a Q-tip, take distilled water, moisten the Q-tip
14 and then take a swab of the blood.

15 Q Were you wearing gloves when you collected this?

16 A Yes.

17 Q Why were you wearing gloves?

18 A It prevents cross-contamination.

19 Q And how is the Q-tip stored and maintained once you take the sample?

20 A I believe that the Q-tip that we have, had at that time in a plastic cap. You pop the
21 top, slide the Q-tip out, moisten it, take your swab, and it gets retracted into the capsule and it
22 has a cap on it that you secure it, and it has holes in the side to allow it to dry.

23 Q Once you secured it in that package, did you then submit it to Property and Evidence?

24 A Yes, I did.

DARWIN SHAW -DIRECT BY MARCHANT

1 Q Did you seal the evidence in State's 62?

2 A I did.

3 Q Do you indicate that by your initials?

4 A I do.

5 Q Are your initials located on State's 62?

6 A Yes, they are.

7 Q Following you sealing it, what do you do with it, where do you take it?

8 A Each technician has an evidence locker assigned to them. We each have a key and
9 it's put into our temporary locker until such time as it can be packaged and put in Property
10 and Evidence.

11 Q Did you do anything else with it, as far as processing that swab?

12 A I did not.

13 Q You don't do the DNA analysis, do you?

14 A No sir.

15 Q Also located and depicted in a number of these photographs shown earlier are various
16 shell casings and other placards. Were all of the placards put down by you?

17 A Yes.

18 Q And the significance of putting those placards down and taking the photographs is
19 what?

20 A You can correspond the placard with the piece of evidence collected. Also, because
21 some of the items being very small, trying to take a photograph without a placard, you can't
22 see them. So, we use a placard, which helps identify. If you're taking a overall photograph,
23 it shows the area of where those were collected from. It makes them more visible.

DARWIN SHAW -DIRECT BY MARCHANT

1 Q Showing what's been marked as State's 60, do you recognize this packaging and
2 what's contained within?

3 A I do.

4 Q And you collected those?

5 A Yes, I did.

6 Q Were you wearing gloves when you collected it?

7 A Yes, I was.

8 Q What is it that you collected?

9 A There are-- These are bar coded items. Each piece of evidence that I collect is
10 assigned a number. Normally, what we use is our initials. Mine being DS, I will start with
11 DS-1, and it'll be specific as to what I collected.

12 These particular items are shell casings that were collected at the scene of different
13 manufacturers, but there are nine of them, as there are nine bar codes. So, there is one bar
14 code that is assigned to each spent casing.

15 Q Why would you package these nine together?

16 A I was aware of the brand and the manufacturer of the shell casings found that should
17 have been the same type as what the officer had fired from her weapon. These were an off-
18 brand that I felt were probably those fired from a different weapon other than the officer's, so
19 I packaged them separately.

20 Q Once you packaged them, did you seal and initial them and submit them to Property
21 and Evidence?

22 A Yes, I did.

23 Q Did you do any analyzation (sic) on those?

24 A No, I did not.

DARWIN SHAW -DIRECT BY MARCHANT

1 Q I'm showing you what's been marked as State's 59.

2 A Yes sir.

3 Q What does State's 59 depict?

4 A These are bar coded numbers indicating they are shell casings that have a stamp,
5 Speer 9 millimeter Luger, which is consistent with the brand the officer had in her weapon.

6 Q How many shell casings did you find?

7 A Fourteen.

8 Q How many of the off-brand did you find?

9 A Nine.

10 Q Again, once you packaged and sealed them, initialed them , you submitted them to
11 Property and Evidence?

12 A That's correct.

13 Q Did you do any analyzing of these items?

14 A No sir.

15 Q Taking what you have in State's 59 and 60, the shell casings, did you subsequently
16 take measurements and do a schematic of the scene and where you located those particular
17 items?

18 A Yes, I did.

19 Q I'm showing you what's been marked as State's 63. Do you recognize that
20 schematic?

21 A Yes sir, I do.

22 Mr. Marchant: I offer State's 63 into evidence.

23 The Court: Any objection?

24 Mr. Johnson: No objection.

DARWIN SHAW -DIRECT BY MARCHANT

1 The Court: In evidence without objection.

2 (Whereupon State's Exhibit Number 63 was admitted into evidence without

3 objection.)

4 Q Sergeant, if you will, step down and continue to speak loudly and please explain to
5 the jury what you have done with State's 63.

6 (Whereupon witness exits witness stand for demonstration of exhibit)

7 A I did a diagram showing the location of the Speer 9 millimeter Luger which was, I
8 believe, identified as the officer's shell casings that came from her weapon. And they were
9 marked with a red asterisk. As you can see, there are red marks on the corners which are the
10 areas which I used to, I measured from so that I could put the evidence back in place. It's
11 triangulation. I go from Point A. I measure that distance. From B I measure that distance. I
12 write that information down.

13 When it comes to doing the diagram I put the measurements, the outside
14 measurements here. The overall measurements that I triangulated because of the overall
15 distance. I triangulated these three items, using these two. The rest of these shell casings
16 that were recovered, those were the two permanent markers that I used to measure to put the
17 shell casings back in place.

18 Again, this is the main level. On the steps leading downstairs to the bottom level, this
19 is the breezeway. These are the stairs going up to this main level. The off-brand ammunition
20 that I found which was a 9 millimeter, I can go to that by marking that in green just to be able
21 to separate and make more visible, as to the location of them. Plus, separating them between
22 officer and possible suspect's shell casings.

23 Q Thank you, sir. You can take the stand again.

24 (Whereupon witness returns to witness stand.

DARWIN SHAW -DIRECT BY MARCHANT

1 Q I'm going to show you what's marked as State's 61 and ask if you recognize that?

2 A Yes, I do.

3 Q What is contained in State's 61?

4 A These are bar coded pieces of evidence that I had collected at the scene, either
5 projectiles, a lead core, the jacket fragments. Because they're collected in different areas, I
6 collected them separately and then assigned a, as far as whether it be a lead fragment and
7 where it was located. Each one of those pieces of evidence was given a number and was bar
8 coded.

9 Q I want to talk specifically about two of those items that were recovered out of that
10 package. Is there a DS 14 that's contained in that package?

11 A Yes sir, it is.

12 Q Where did you located DS 14 out there at the scene?

13 A That was out of the sidewalk in front of the apartment complex between the building,
14 Building [REDACTED] and the parking lot.

15 Q I'm showing you State's Exhibit Five. Which one of these was Item 14?

16 A It was marked with placard number 14. I believe that's correct, yes.

17 Q In that package as well was there DS 41?

18 A Yes, there is.

19 Q Again, where did you find 41?

20 A This was the projectile that I talked about earlier. This jacket was found just inside of
21 the door to the closet that would be in this area.

22 Q Lastly, Sergeant, looking at State's Number 11. What does this depict?

23 A I was advised by the officers on scene that a vehicle that was parked in front of the
24 [REDACTED] Building appeared to have been hit by a projectile. This is a photograph showing where

DARWIN SHAW -DIRECT BY MARCHANT

1 the paint had been dislodged from this vehicle, and it's in a parking stall directly in front of
2 the apartment complex.

3 Q State's 12?

4 A That's just another photograph putting a scale on it just to show the dimensions,
5 length and width of the impact area.

6 Q Sergeant Shaw, did you do any of the processing of the vehicle back at y'all's bay?

7 A No, I did not.

8 Q So, your involvement in this case was confined or limited to Building [REDACTED] out at
9 Berkeley Point?

10 A That's correct.

11 Q Again, Forensics collects but does not analyze or compare any evidence or
12 information that's collected at the scene, just than take it to another department here in the
13 county. Is that correct?

14 A That's correct.

15 Q Thank you, Sergeant Shaw. Please answer any questions Mr. Johnson may have.

16 The Court: Cross examination.

17 Mr. Johnson: Thank you, Your Honor.

18

DARWIN SHAW –CROSS BY JOHNSON**1 CROSS EXAMINATION MR. JOHNSON:**

2 Q Sergeant Shaw, why don't, say, for instance, just like an officer in this courtroom,
3 how come they don't take evidence? Except compared to you? What is the difference
4 between the two of you?

5 A There's an agreement made with the county and the city for several years that a
6 separate agency-- We're no different than SLED. We are requested by agencies throughout
7 Greenville County. The county, the city, all of the municipalities, federal, state, we are
8 requested to do the photographing and collection of evidence. That was just a decision that
9 was made several years ago.

10 Q Is there a difference in the training that you receive in order to do what it is that you
11 do? I supposed I'm asking you: Do you receive any special training to be a forensics
12 officer?

13 A Yes, we do.

14 Q You talked a little bit about that earlier. Is it some of that training that teach you how
15 to be careful, or how to very meticulously collecting from the scenes, and is that how you
16 conducted yourself in this situation?

17 A Yes sir.

18 Q And the reason why you do that, as you mentioned earlier, things could easily be
19 contaminated or otherwise just evidence destroyed?

20 A Potentially, yes sir.

21 Q Yes sir. So, say, for instance, a layman, such as myself, might not know what he is
22 doing if I handle a certain piece of evidence. If I came in contact with it, I could potentially
23 destroy or otherwise contaminate the evidence?

24 A That's correct.

DARWIN SHAW –CROSS BY JOHNSON

1 Mr. Johnson: Your Honor, I have nothing further.

2 The Court: Any re-direct?

3 Mr. Marchant: No, Your Honor.

4 The Court: Do you wish for the witness to be excused?

5 Mr. Marchant: Yes, Your Honor.

6 The Court: Any objection?

7 Mr. Johnson: No objection.

8 The Court: You are released from your subpoena and you may go back to your

9 regular duties, sir.

10 A Thank you.

11 The Court: Ladies and gentlemen, we're going to break for lunch at this point in time. I

12 would ask that you be back in your jury room at 2:00, please. Thank you.

13 (Whereupon the jury exited the courtroom)

14 The Court: Solicitor, is there anything we need to before we break for lunch?

15 Mr. Marchant: No, Your Honor.

16 The Court: Anything from the defense?

17 Mr. Johnson: No sir, Your Honor.

18 The Court: Y'all be ready to go at 2:00 and we'll resume at that time.

19 (Whereupon court was in recess for the lunch break)

20

NORMAN PEARSON – DIRECT BY MARCHANT

1

COURT IN SESSION

2

The Court: Solicitor, are you ready? Do we have any issues about the expert or no?

3

Mr. Marchant: Your Honor, he is gone to Anderson.

4

The Court: Okay.

5

Mr. Marchant: Supposed to be testifying at 2:00.

6

The Court: Okay.

7

Mr. Marchant: And so, should be back here---

8

The Court: Great.

9

Mr. Marchant: ---3:30 or 4:00.

10

The Court: Okay.

11

Mr. Marchant: He should be one of the last witnesses of the day.

12

The Court: All right, great.

13

Mr. Johnson: One second, please, Your Honor. Can I discuss something with the Solicitor?

14

The Court: Sure.

15

(Whereupon, a conference between Defense counsel and the Solicitor took place)

16

Mr. Johnson: We're ready, Your Honor.

17

The Court: Ask the jury to come in, please.

18

(Whereupon the jury entered the courtroom)

19

The Court: Solicitor, your next witness, please, sir.

20

Mr. Marchant: The State calls Norman Pearson.

21

The Court: Mr. Pearson, come around and be sworn, please.

22

NORMAN PEARSON, duly sworn, testified as follows:

23

Clerk of Court: Please state your name for the record.

24 A

Norman Pearson.

NORMAN PEARSON – DIRECT BY MARCHANT

1 The Court: All right, Solicitor.

2 **DIRECT EXAMINATION BY MR. MARCHANT:**

3 Q Mr. Pearson, where do you live?

4 A ████ Pine Creek Drive.

5 Q On what side of town is Pine Creek?

6 A In Bellview Community.

7 Q Is that near Mooremont Avenue?

8 A Yes.

9 Q Do you know William Brockman?

10 A Yes.

11 Q Do you know where William Brockman's house is?

12 A Yes.

13 Q Do you know the defendant in this case, Patrick Lowrance?

14 A Yes.

15 Q How do you know him?

16 A We're, like, cousins, grew up together, and my cousins his cousins.

17 Q Can you give a little more detail on how y'all might be related?

18 A Well, we're not related, not blood cousins. My mom and his mom are real close, so
19 we all grew up together.

20 Q Back in October of last year, 2011, when this incident happened, had you seen him or
21 been around him---

22 A Yes.

23 Q ---about that time?

24 A Yes.

NORMAN PEARSON – DIRECT BY MARCHANT

1 Q And prior to October, had he in fact stayed and lived with you?

2 A Yes.

3 Q That was at your house at Pine Creek?

4 A Right.

5 Q Roughly, how long or how frequently was he staying with you?

6 A It was during the summertime. I'd say it started about-- It was just a couple of
7 months during the summertime.

8 Q Was it continuous? Did he stay with you every night or was it on and off?

9 A On and off.

10 Q On October 28, when this incident happened, was he staying with you the night
11 before this occurred?

12 A No sir.

13 Q Do you know where he was staying?

14 A At the Comfort Inn.

15 Q Why do you say that he was staying at the Comfort Inn?

16 A I had talked to him on the phone and he was at the room.

17 Q Do you know how he got the money to pay for that room?

18 A I had loaned him some money.

19 Q Did you actually go to that hotel?

20 A No sir.

21 Q So, the night before this happened, he did not stay with you?

22 A No sir.

23 Q Did you see him the night before this happened?

24 A Yes sir.

NORMAN PEARSON – DIRECT BY MARCHANT

1 Q Where did you see him?

2 A At my house.

3 Q What were y'all doing at the house?

4 A Just hanging around.

5 Q The day that this happened he did not-- The night before the day this happened he
6 did not stay with you?

7 A No sir.

8 Q He stayed at the Comfort Inn because that's what he told you?

9 A Yes sir.

10 Q The morning that this incident occurred did he call you?

11 A Yes sir.

12 Q Did you speak to him on your cellular phone or house phone or what?

13 A My cell phone.

14 Q How do you know that it was him that had called you?

15 A I know his voice and his name popped up.

16 Q And how did the conversation go that morning with him?

17 Mr. Johnson: Your Honor, this is hearsay.

18 The Court: Rephrase your question, Solicitor.

19 Q The morning that this incident occurred---

20 A Right.

21 Q ---you spoke to him on your cell phone?

22 A Right.

23 Q His number popped up?

24 A Right.

NORMAN PEARSON – DIRECT BY MARCHANT

1 Q Did you ask him where he was or what he was doing?

2 A He had told me he---

3 Mr. Johnson: Objection, Your Honor.

4 The Court: I'm gonna allow that.

5 A He had told me he needed a ride. He had run from the police.

6 Q Did he tell you why?

7 A No.

8 Q Did he tell you where he was?

9 A Yes.

10 Q Where did he tell you?

11 A He was in the woods by Berkeley Point.

12 Q Did he tell you in what condition he was in?

13 A He said just he was shot.

14 Q Did he say by whom?

15 A No.

16 Q Did he say anything else about the shooting?

17 A No sir.

18 Q Did you go pick him up?

19 A No sir.

20 Q At some point in time later that morning did you end up talking to Detective Conroy?

21 A Yes sir.

22 Q Did you give him a written statement?

23 A Yes sir.

NORMAN PEARSON – DIRECT BY MARCHANT

1 Q Did Detective Conroy threaten you or make you any promises about giving that
2 written statement?

3 A No sir.

4 Q I'm gonna show what's been marked as State's 53. I'm gonna ask you to take a look
5 at this, and do you recognize that?

6 A Yes sir.

7 Q How is it that you recognize State's 53?

8 A I seen Pat with it.

9 The Court: I'm sorry, sir. I didn't hear your answer.

10 A I seen Patrick with it before.

11 Q When you say Patrick, who are you talking about?

12 A The defendant.

13 Q Where is that person sitting in this courtroom?

14 A (indicating defense counsel's table)

15 Q What are they wearing?

16 A White shirt, tie.

17 Q When was the last time you saw the defendant with State's 53?

18 A The day before this happened.

19 Q You didn't pick him up that day?

20 A No sir.

21 Q Did you ever see him, again,-- Let me rephrase that. When was the last time you saw
22 him on the street the night it happened?

23 A The night before it happened.

24 Q Thank you. Please answer any questions Mr. Johnson may have.

NORMAN PEARSON – DIRECT BY MARCHANT

- 1 The Court: Cross examination.
- 2 Mr. Johnson: Thank you, Your Honor.
- 3

NORMAN PEARSON – CROSS BY JOHNSON**1 CROSS EXAMINATION BY MR. JOHNSON:**

2 Q Mr. Pearson, how old are you?

3 A 32.

4 Q How long you been growing that hair?

5 A Going on five years now.

6 Q Seems like it would take longer than that to grow hair that long.

7 A My hair grow fast.

8 Q You what?

9 A My hair grow fast.

10 Q How do you know Mr. Brockman?

11 A From the neighborhood.

12 Q from the neighborhood?

13 A Uh-huh.

14 Q Where does he live in relation to where you live?

15 A Across Crestfield.

16 Q Let me get you to put it in miles or feet or half a mile.

17 A Couple of block over.

18 Q Couple of blocks over?

19 A Yeah.

20 Q So, you could walk to his house?

21 A Yeah.

22 Q If you wanted to?

23 A Yeah.

24 Q How long have y'all known each other, you and Mr. Brockman?

NORMAN PEARSON – CROSS BY JOHNSON

- 1 A I couldn't say how long. I'd say about five years.
- 2 Q About five years. How long have you known Patrick? All your life, you said?
- 3 A Yes.
- 4 Q Now, you have spoken with Mr. Brockman about this today?
- 5 A Sir?
- 6 Q You haven't spoken with Mr. Brockman?
- 7 A No.
- 8 Q You never spoke with him about anything here today?
- 9 A No sir.
- 10 Q So, y'all weren't trying to get your stories straight or anything?
- 11 A No sir.
- 12 Q Now, you stated you saw that State's exhibit-- You said you saw my client with that
- 13 State's exhibit yesterday. Is that right?
- 14 A Yesterday?
- 15 Q Well, the day before-- Excuse me. The day before the incident.
- 16 A Yes sir, I did.
- 17 Q What were y'all doing? Were y'all playing with it?
- 18 A No.
- 19 Q Were you playing with it?
- 20 A No, it was in the car.
- 21 Q It was in the car? I mean-- I guess what I'm trying to say is, Norman, is why would
- 22 you be there playing with his gun?
- 23 A I didn't say I was playing with his gun.
- 24 Q Well, you were looking at it?

NORMAN PEARSON – CROSS BY JOHNSON

1 A It was in the car, laying on the console.

2 Q You say you're telling the truth about this whole thing?

3 A Yeah.

4 Q When the police came to talk to you, did you think you were gonna be in trouble?

5 A No.

6 Q You didn't think you were gonna be in trouble?

7 A No, I didn't have nothing to do with that, what was going on.

8 Q But you testified that you spoke with Patrick, and you testified that he asked you to
9 help him. Is that right?

10 A Right.

11 Q And you helped him, didn't you?

12 A No.

13 Q So, you didn't help him?

14 A No.

15 Q What would Mr. Brockman say about that? Would Mr. Brockman say that you spoke
16 with him about Patrick that day?

17 A I didn't talk to Brockman that day.

18 Q You didn't talk to Mr. Brockman?

19 A No.

20 Mr. Johnson: I have nothing further.

21 The Court: Re-direct.

22

NORMAN PEARSON – RE-DIRECT BY MARCHANT/RE-CROSS BY JOHNSON**1 RE-DIRECT EXAMINATION BY MR. MARCHANT:**

2 Q Mr. Pearson, Mr. Johnson asked you where you saw the gun and you said in the car.

3 Whose car are you talking about?

4 A Patrick's.

5 Q What sort of vehicle was that?

6 A Tahoe.

7 Q What color?

8 A Champagne, brownish color.

9 Q Very good, thank you.

10 Mr. Marchant: I have no further questions.

11 The Court: Anything on those questions, Mr. Johnson?

12 Mr. Johnson: Briefly, Your Honor.

13 RE-CROSS EXAMINATION BY MR. JOHNSON:

14 Q So, Mr. Pearson, you were in his car?

15 A Was I in the car?

16 Q Yeah.

17 A Yeah.

18 Q You were riding in the car?

19 A Yeah, he took me to the store.

20 Mr. Johnson: Nothing further.

21 Mr. Marchant: I ask that this witness be excused, Your Honor.

22 The Court: Any objection?

23 Mr. Johnson: No objection, Your Honor.

24 The Court: You are released from your subpoena. You may go back to your regular

NORMAN PEARSON – RE-DIRECT BY MARCHANT/RE-CROSS BY JOHNSON

1 activities, sir. Next witness, Solicitor.

2

WILLIAM BROCKMAN - DIRECT BY MARCHANT

1 Mr. Marchant: The State calls William Brockman.

2 **WILLIAM BROCKMAN**, duly sworn, testified as

3 follows:

4 Clerk of Court: Please state your name for the record.

5 A William Theodore Brockman, Jr.

6 **DIRECT EXAMINATION BY MR. MARCHANT:**

7 Q Mr. Brockman, where do you live?

8 A Right now, I'm at [REDACTED] East Dorchester Boulevard.

9 Q Where were you living back in October of 2011?

10 A [REDACTED] Mooremont Avenue.

11 Q Did anybody else live in that residence with you at that time?

12 A No sir.

13 Q Did you own the house?

14 A No, my grandmother owned the house.

15 Q Is she still living?

16 A No, she died.

17 Q Did she leave it to you?

18 A She-- It's-- She left it with my mama.

19 Q Do you know the defendant in this case, Patrick Lowrance?

20 A Yes sir.

21 Q How do you know him?

22 A I met him in the neighborhood. You know, I don't really know him too-- I'm not
23 really close to him, like that. I just know him from the neighborhood.

24 Q About how long had you known him prior to this incident happening?

WILLIAM BROCKMAN - DIRECT BY MARCHANT

- 1 A About three weeks.
- 2 Q The day this event occurred, did you see him?
- 3 A No. I seen him-- Yeah, I seen him later on that day.
- 4 Q Do you recall whether or not it was around lunch time or dinner time?
- 5 A It was round about five-thirty.
- 6 Q Where did you see him?
- 7 A He was walking on Ridge, I think it was Ridgeway Avenue in my neighborhood.
- 8 Q How far is Ridgeway from your house?
- 9 A Probably about a block over.
- 10 Q Do you recall what he was wearing?
- 11 A A black hoodie and some black shorts.
- 12 Q How is it that you recognized him walking on the street?
- 13 A I just seen somebody walking on the street with a black hood on his head. I looked
- 14 back and it was him. So, he flagged me down and I stopped for him.
- 15 Q Did you let him get in the car with you?
- 16 A Yes sir.
- 17 Q Where did you go?
- 18 A He asked me to take him to Norman's house, so I took him to Norman's house.
- 19 Q When you say Norman, who are you talking about?
- 20 A Mr. Pearson.
- 21 Q What if anything was the defendant carrying with him when he got in the car with
- 22 you/
- 23 A He wasn't carrying nothing when he got in the car with me.
- 24 Q I'll show you State's 53. Did he have this with him?

WILLIAM BROCKMAN - DIRECT BY MARCHANT

1 A I've seen it, you know. He wasn't carrying it, wasn't holding it, but I've seen it, you
2 know.

3 Q He didn't have it that day?

4 A He didn't have it that day, you know, but I've seen it.

5 Q Did you let him in the car with it?

6 A Yeah, I let him in the car with it. I didn't know he had it.

7 Q All right. Let's back up. He's walking down the street and he flagged you down and
8 you picked him up?

9 A Yes, but he wasn't carrying anything.

10 Q Okay.

11 A In his hands or anything.

12 Q When did you see this, State's 53, that day?

13 A I kinda seen it in the car. I seen it when I got to my house.

14 Q And this is your car that you were driving?

15 A Yes sir.

16 Q Is that right?

17 A Yes sir.

18 Q Do you know whether he brought this into your house?

19 A All I'm saying, I didn't bring it in the house. I know he brought it in the house, you
20 know.

21 Q When he came into the house what sort of condition was he in? Was he injured?

22 A Yeah, he was injured.

23 Q How do you know he was injured?

24 A He showed me. He had a bullet hole in his shoulder.

WILLIAM BROCKMAN - DIRECT BY MARCHANT

1 Q Did he tell you how that occurred?

2 A We didn't even talk about it, you know.

3 Q Mr. Brockman, I'm going to show you what's been marked as State's Number 70.

4 It's a statement that you gave to Detective Flavell. I want you to take a look at it and read a
5 couple of these lines and see if that refreshes your memory.

6 A Which lines?

7 Mr. Johnson: Your Honor, he's asked the questions. I don't think this is an
8 appropriate question for him to---

9 The Court: I appreciate it. It's possible for a witness to be shown a statement to see
10 if it refreshes their memory. He's not gonna read it out loud. He's just gonna read it.

11 Q Read it to yourself and see if it refreshes your recollection of what occurred that
12 afternoon. Start right there and read it to yourself for just a minute.

13 A I'll read it. (pause to read statement) Okay

14 Q So, did the defendant---

15 The Court: Solicitor, why don't you ask him if that helps him to refresh his memory.

16 A Yes sir.

17 Q Are you clear now? Do you remember or recall what occurred that day and what you
18 told the detectives?

19 A Yes sir.

20 Q What did he tell you about being shot?

21 A He told me he shot at them, they shot at him first.

22 Q What did he tell you about whether or not he shot at the police?

23 A He just-- We didn't really talk about it. He just told me that he was shot and they
24 had shot at him first.

WILLIAM BROCKMAN - DIRECT BY MARCHANT

1 Q Mr. Brockman, I'm going to ask you to look at this again, and see if it clears up---

2 Mr. Johnson: Your Honor, again?

3 The Court: I appreciate that. Under-- Y'all come over here and talk to me a
4 second.

5 (Whereupon a bench conference took place)

6 Q Mr. Brockman, so we don't have to revisit the statement again, I just want you to read
7 the whole thing, top to bottom, and then I'll ask you some questions.

8 A Read it out loud?

9 Q No sir. Read it to yourself.

10 (pause for witness to read statement)

11 Mr. Brockman, does that help you recall what you told law enforcement that day?

12 A Yes, but it's saying the same thing I said, that he told me he was shot, and that the
13 lady shot him. We didn't never talk about anything about what happened, you know. He just
14 told me this, you know, and, you know, that's what I read.

15 Q Where did you take him once y'all got in the car?

16 A I took him to Norm's house and that's where I took him.

17 Q Did he get out of the car and go in Norm's house?

18 A He tried to, but Norm's people didn't want him there.

19 Q What happened next?

20 A He jumped back in the car with me.

21 Q Where did you go?

22 A He asked me to take him to my house, so, you know, I took him to my house, you
23 know, and that's basically it.

24 Q What happened once you go to your house? Did you let him stay there?

WILLIAM BROCKMAN - DIRECT BY MARCHANT

1 A Yeah, I let him stay there for a minute. I didn't know what to do, so I let him stay
2 there for a minute. And I left. Basically, I stayed there for a minute and talked to him for a
3 second, but I didn't stay long.

4 Q Well, did you end up talking to some people that he knows?

5 A I called his family. I called somebody that he had called from my phone. I told him
6 when they would come get him.

7 Q Did you subsequently meet them somewhere and carry them back to your house?

8 A Yes sir.

9 Q Did they come in a different car there?

10 A Yeah, they was in a different car.

11 Q Where did he go inside your house?

12 A Well, first he was in the kitchen. When I left he went back to my back bedroom, the
13 one fartherest to the back.

14 Q I'm showing you what's in evidence as State's 44, 45, and 46. Do you recognize the
15 location where that picture was taken?

16 A Yes, my back bedroom.

17 Q That's your bedroom?

18 A Yes sir.

19 Q Is that your gun?

20 A No, it's not my gun.

21 Q Is that your sweatshirt?

22 A No, it's not my sweatshirt.

23 Q That's in reference to State's 44. What about State's 45? Is that yours?

24 A No, it's not my gun; it's my mattress.

WILLIAM BROCKMAN - DIRECT BY MARCHANT

- 1 Q And State's 46, is that your sweatshirt?
- 2 A No sir.
- 3 Q When law enforcement arrived that afternoon, did you cooperate with them?
- 4 A Yes sir.
- 5 Q Did you allow the detectives into your house to search the house?
- 6 A Yes sir.
- 7 Q Please answer any questions Mr. Johnson may have.
- 8

WILLIAM BROCKMAN – CROSS BY JOHNSON

1 The Court: Cross examination.

2 Mr. Johnson: Thank you, Your Honor.

3 **CROSS EXAMINATION BY MR. JOHNSON:**

4 Q Mr. Brockman, on October 28, 2011, the date of the incident, it's your testimony that
5 you saw my client walking down the street?

6 A Yes sir.

7 Q And that's how you encountered him?

8 A Say what?

9 Q And that's how you encountered my client, he was walking the street?

10 A He was walking down the street.

11 Q It just happened by chance that you saw him walking down the street?

12 A Yeah.

13 Q Now, with regard to Norman, you took him over to his house?

14 A Yes sir.

15 Q Initially?

16 A Yes sir.

17 Q I'm sorry, but I can't remember correctly if you stated. But did he go up to the door
18 to see Norman?

19 A I don't think Norman was there. He went in the yard and Norman's family was in the
20 yard.

21 Q Norman's family was in the yard?

22 A Yes sir.

23 Q Okay. Did they turn him away?

24 A Yes sir.

WILLIAM BROCKMAN – CROSS BY JOHNSON

1 Q Now, earlier the Solicitor had showed you your statement. Is that right?

2 A Yes sir.

3 Q And in fact, in that statement, you told the detectives, I believe it was Flavell, that

4 Norman told you the jeep was stolen. Is that right?

5 A Yes, I told him that.

6 Q So, Norman actually told you the jeep was stolen?

7 A Nah. Norman actually didn't tell me, but somebody that my best friend, that be with

8 Norman told me Norman said the jeep was stolen.

9 Q Okay. Now, you stated earlier when he got in your car you didn't see him carrying
10 anything?

11 A He wasn't carrying anything in his hand, that's what I'm saying, not in his hand.

12 Q When he got into your house did you keep an eye on him the whole time, or was this
13 something where you just kind of told him this is my house and it's yours?

14 A I kept a eye on him. We sat there and talked for a long time.

15 Q How long did y'all talk?

16 A Probably about thirty, forty minutes before I left.

17 Q Mr. Brockman, you ever been in trouble before?

18 A Yes, I been in trouble before.

19 Q In fact, didn't you get a thirty-year sentence once for trafficking?

20 A Yes sir.

21 Q Trafficking drugs?

22 A Yes sir.

23 Mr. Johnson: I have nothing further at this time.

24 The Court: Any re-direct?

WILLIAM BROCKMAN – CROSS BY JOHNSON

1 Mr. Marchant: None, Your Honor. Ask that this witness be excused.

2 The Court: Any objection?

3 Mr. Johnson: No objection.

4 The Court: You're excused, sir, released from your subpoena. You may go back to
5 your regular activities, sir.

6

CHRIS GARY – DIRECT BY MARCHANT

1 Mr. Marchant: The State calls Chris Gary, Your Honor.

2 The Court: Please come around and be sworn.

3 **CHRIS GARY**, duly sworn, testified as follows:

4 Clerk of Court: Please state your name for the record.

5 A My name is Christopher Adam Gary, and the spelling of the last name is

6 G-a-r-y

7 The Court: You may proceed, Solicitor.

8 **DIRECT EXAMINATION BY MR. MARCHANT:**

9 Q Mr. Gary, where are you employed?

10 A I work for the Greenville County Department of Public Safety in the Forensic
11 Division.

12 Q In particular, what are your duties with the Forensic Division?

13 A I work in the latent fingerprint section where I receive latent fingerprint evidence as
14 well as tire tracking, footwear impression evidence.

15 Q How long have you been in that position with the county?

16 A I've been with Greenville County for approximately, a little over three years actually
17 full-time. But prior to that I was at three years where I worked in an apprentice-style
18 learning experience, and also with the North Charleston Police Department for about a year.

19 Q What sort of education do you have in order to hold this position with the county?

20 A I have a bachelor's degree in biology from the College of Charleston.

21 Q What sort of additional training and specialization do you have in fingerprint analysis
22 and impression analysis?

23 A In 2009, I actually got to take part in a program that was sponsored by the National
24 Institute of Justice. They sent me and fourteen other people from around the country to

CHRIS GARY – DIRECT BY MARCHANT

1 Florida for approximately ten weeks. In those ten weeks we underwent on-in exercises,
2 practical exercise, anything that had to do with fingerprint and fingerprint examination. That
3 course concluded in 2010.

4 After that course I also went to a class sponsored by Marshall University in
5 collaboration with the FBI where I also underwent forty hours of training at that institute as
6 well.

7 Q Are you a member of any organizations relating to the field of Forensics?

8 A Yes. I am a member of the International Association for Identification, as well as the
9 South Carolina Chapter of the IAI.

10 Q Do you currently hold any certifications in the field of Forensics?

11 A Yes. I'm a certified latent fingerprint examiner from the International Association for
12 Identification.

13 Q How long did it take you to become certified?

14 A It's actually a multi-step process in order to become a certified latent print examiner.
15 You have to start out with a minimum of two years of actual field work before you can even
16 start the process to become certified. Once you have that two years of experience under your
17 belt you then can apply for a testing process. In the testing process you have three phases,
18 the first being actual exercises where you actually have to take latent fingerprints and
19 compare them and demonstrate you are capable of doing that.

20 You also have a written test, and then you have a pattern test that you have to
21 complete in order to achieve a passing grade to get certified by the IAI.

22 Q Do you also have continuing education that you have to keep up each year to keep
23 your certification current?

CHRIS GARY – DIRECT BY MARCHANT

1 A Yes. We're annually proficiency tested. And with the IAI we're given different
2 journal articles to read and given different training opportunities around the country as they
3 become available to take part in those training opportunities.

4 Q Are you able to put an estimate on how many fingerprints you've analyzed through
5 the course of your career?

6 A I've done tens of thousands of examinations.

7 Q Have you ever testified in court before?

8 A Yes, I have, multiple times.

9 Q Have you ever been qualified as an expert witness here in this courtroom?

10 A Yes sir, multiple times.

11 Mr. Marchant: The State would move to qualify him as an expert witness, Your
12 Honor, in fingerprint examination and identification.

13 The Court: All right. Does counsel wish to voir dire the witness as to his
14 qualifications or question him about the experience?

15 Mr. Johnson: Just briefly, Your Honor.

16 The Court: Very good.

17 **VOIR DIRE BY MR. JOHNSON:**

18 Q You stated that you've testified in court multiple times. Can you quantify that?

19 A Approximately six times.

20 Q Six times. Was there ever a time when you were not qualified?

21 A No sir.

22 Q So, six times up, six times down?

23 A Yes sir.

24 Q On that examination was your, what was your pass rate? Was it 100%?

CHRIS GARY – DIRECT BY MARCHANT

1 A There was actually not given a score of, a numerical score; it was a pass/fail grade.

2 So you have to achieve at least 80% in order to pass the test.

3 Q So, based upon what you just said there, you don't have to be perfect in order to be
4 qualified?

5 A No sir. It's not a numerical score. I could have achieved a perfect score, but you're
6 not given a numerical score.

7 Q But---

8 A In order to pass the---

9 Mr. Johnson: Your Honor, would he allow me to ask him questions, please.

10 The Court: Well, just-- Yes sir. He was answering your question. Go ahead and
11 finish your answer and I'll be glad to you to ask him some more questions.

12 Mr. Johnson: Yes sir, Your Honor.

13 A Like I said, in order to pass the practical exercise you do have to be perfect. You
14 cannot make a misidentification on that section. Whereas, the practical exercise is what I
15 would be doing every day. There were no errors in that area.

16 Q You state practical exercise. What is the test in total?

17 A Sir?

18 Q Other than a practical exercise, what else is there?

19 A There is also pattern recognition. And there is also a test in terms of just general
20 knowledge about fingerprints, practical examinations.

21 Q And they tested you on those items because they believe it to be perfect towards your
22 qualifications?

23 A Yes sir.

24 Mr. Johnson: Your Honor, I have nothing further.

CHRIS GARY – DIRECT BY MARCHANT

1 The Court: I find the witness to be qualified to give his opinion. You may proceed,
2 Solicitor.

3 **RESUMPTION OF DIRECT EXAMINATION BY MR. MARCHANT:**

4 Q Mr. Gary, what type of equipment do you use in the comparison of fingerprints and
5 how is it used?

6 A Unlike television, it's not like we can put it on a computer and ship it out and it brings
7 back answers. We actually use a magnifier that is especially made for fingerprint
8 identification. And we use the magnifier and compare these one-on-one to make
9 identifications.

10 Q Would you explain to the jury what a latent print is?

11 A A latent fingerprint is just the term that we use for a fingerprint that is found at a
12 crime scene. If you look on the surface of your hand, you actually have raised ridges, and
13 these ridges act just like rubber stamps that you may have had as a kid, or may have now.
14 And sweat, oil, and other, you know, dirt and grime, they act as the ink for that stamp. So,
15 when you come in contact with other objects you're leaving behind a replication of that skin.

16 Once a crime scene technician comes along, they actually can develop it with powder,
17 and that powder adheres to that sweat and dirt in order to lift the fingerprint. If it is a
18 fingerprint that cannot be lifted, it can be captured with a camera or photo system.

19 Q How are fingerprints subsequently compared and identified?

20 A Once those fingerprints are lifted, we actually compare them to known prints. And
21 what know prints are, are fingerprints from the individuals that we know who they are. We
22 have them in front of us and we roll their fingers onto a card, along with all their identifying
23 information, such as their name, race, gender, and other, Social Security numbers, other
24 person identification, to identify that person with the fingerprints that we have on file.

1 Q Is it possible for two people to have the same fingerprints?

2 A Absolutely not. Twins actually share some of the same DNA, but twins have
3 different fingerprints. Fingerprints are unique to every individual.

4 Q Did you have the occasion to examine any latent prints in this case?

5 A Yes, I did.

6 Q I'll show you what's been marked as State's 72, 73, 74, 75, and 76, as well as 77.

7 Can you take a look at those and see if you recognize those?

8 A (pause to examine exhibits) Yes, I do.

9 Q Who provided those, or submitted those prints to be analyzed?

10 A Forensic Investigator Derby as well as Forensic Investigator Hamilton.

11 Q Once you received those prints, did you have a potential suspect or a person of
12 interest to match them with?

13 A Yes. I was given information for a Patrick Lowrance to compare these prints.

14 Q And out of State's-- With respect to State's 72 through 77, what, if any, were found
15 matches and where did the match come from on those fingerprints?

16 A On State's Exhibit 72, from Item JD 11, which was a plastic tray inside a cardboard
17 box of ammunition, I identified that as being the number seven, which is the left index finger,
18 of Patrick Lowrance.

19 On State's Exhibit 73, from the exterior of the hood, I identified the number nine,
20 which is the left index finger (sic) of Patrick Lowrance.

21 On State's Exhibit 74, from the exterior of the hood, I identified the number three
22 finger, which is the right, middle finger of Patrick Dean Lowrance.

23 On State's Exhibit 75, from the exterior facing side of the driver's side, rear door, I
24 identified the number ten finger, which is the little, left finger, to Patrick Dean Lowrance.

CHRIS GARY – DIRECT BY MARCHANT

1 On State's Exhibit 76, from the exterior, facing side of the passenger's side front door
2 window, I identified the number seven, which is the left index finger, to Patrick Dean
3 Lowrance.

4 And State's Exhibit 77, from the exterior of the hood, I identified the number two
5 finger, which is the right index, the number seven finger, which is the left index, and the left
6 palm, to Patrick Dean Lowrance, with all of those fingerprints coming from either the
7 ammunition box or a 2005 GMC Yukon.

8 Q Mr. Gary, you've talked about a number of numbers, what fingers mean. Can you
9 explain to the jury-- You talked about number one, number ten, number seven. Which way
10 do you count fingers?

11 A It's actually international, everywhere uses the same formula. You start with the right
12 thumb, and it's number one, two, three, four, five. And then with the left thumb, six, seven,
13 eight, nine, ten.

14 Q You've indicated that on six of the State's exhibits you've made a comparison and
15 match to the defendant. What steps did you do to insure that you've got the right person of
16 Mr. Lowrance? How many points, or how did you go about determining these prints belong
17 to this man?

18 A There's no point standard. That's kind of a misunderstanding. Once I finish my
19 examination and I determine that this is in fact the individual I say it is, Patrick Dean
20 Lowrance, those prints are then peer-reviewed by another qualified examiner and then the
21 report is issued.

22 Q Maybe I wasn't very clear in my question. How were you able to determine that
23 what's on these cards belong to this man?

CHRIS GARY – DIRECT BY MARCHANT

1 A Because we compare the known standards to the questioned prints and make an
2 identification and they are Patrick Dean Lowrance.

3 Q Did you have the occasion to compare any other prints in this case?

4 A Yes, I did.

5 Q Out of all the other prints that were submitted, are these the only ones that come back
6 to the defendant?

7 A Yes, they are.

8 Mr. Marchant: The State would move into evidence 72, 73, 74, 75, 76, and 77 into
9 evidence

10 The Court: Any objection?

11 Mr. Johnson: No objection.

12 The Court: In evidence without objection.

13 (Whereupon State's Exhibit Numbers 72, 73, 74, 75, 76, and 77 were admitted into evidence
14 without objection.)

15 Q Now, Mr. Gary, in the course of your examination, did you find through your analysis
16 and comparison that there were some prints that did not come back to the defendant, but
17 came back to someone else?

18 A Yes, I did.

19 Q And how many of those prints came back to someone else?

20 A I'll refer to my notes. (pause to refer to notes) There were three fingerprints that
21 came back to a different individual, or to different individuals.

22 Q Thank you. Please answer any questions Mr. Johnson may have.

23 The Court: Cross examination.

24

CHRIS GARY – CROSS BY JOHNSON

1 Mr. Johnson: Thank you, Your Honor.

2 **CROSS EXAMINATION BY MR. JOHNSON:**

3 Q Officer Gary, you went through that kinda fast, so I'd like to go over again briefly
4 where you found the prints. Is that okay?

5 A That's fine.

6 Q Okay. If you don't mind-- I think I have your report, so I'm gonna try to go by them
7 and if you can confirm for me and make sure I get it right. Okay?

8 A Okay.

9 Q So, with regards to my client, we're talking about the exterior, passenger's side door,
10 as one. We're talking about the front, exterior, driver's side rear door. We're talking about
11 the hood from the exterior. We're talking about the passenger's side exterior. And again,
12 from the passenger's side exterior. And that's as far as the exterior of the car. Is that
13 correct?

14 A Yes sir.

15 Q Now, you also mentioned an ammunition box. There was also another young man's
16 prints on that box. Is that correct?

17 A Yes, there were.

18 Q And then as far as other individuals there was another male and then a female print in
19 the car. Is that correct?

20 A On the vehicle, that is correct.

21 Q Yes sir. Did you get a name for the other male on the ammo box?

22 A No sir, I was not given that name.

23 Q You were not given the name?

24 A No, I was not.

CHRIS GARY – CROSS BY JOHNSON

1 Q Would it refresh your memory if I gave you a copy of your report?

2 A Yes, it would. (pause to review report) Yes sir.

3 Mr. Johnson: Thank you, Your Honor. Nothing further.

4 The Court: Any re-direct?

5 Mr. Marchant: No, Your Honor. We ask that this witness be excused.

6 The Court: Any objection?

7 Mr. Johnson: No objection.

8 The Court: All right, sir. You are released from your subpoena and may go back to
9 your regular activities, sir. Your next witness, Solicitor.

10 Mr. Marchant: The State would call Doctor Kandala.

11

J. KANDALA – DIRECT BY MARCHANT

1 **JAGANNADHA KANDALA**, duly sworn, testified as
2 follows:

3 Clerk of Court: Please state your name for the record, and please spell it for the record.

4 A My name is Jagannadha Chkryun Kandala.

5 Clerk of Court: Would you spell it, please?

6 A My first name is J-a-g-a-n-n-a-d-h-a. My middle name is C-h-k-r-y-u-n. And last
7 name is Kandala, K-a-n-d-a-l-a.

8 The Court: Go ahead, Solicitor.

9 **DIRECT EXAMINATION BY MR. MARCHANT:**

10 Q Doctor Kandala, where are you employed?

11 A I am employed by the Greenville Department of Public Safety in the Forensic
12 Division as a DNA technical leader.

13 Q As a DNA technical leader?

14 A Yes.

15 Q What does a DNA technical leader do?

16 A The DNA technical leader takes care of the DNA lab, and also is a DNA analysis, and
17 takes care of the evidence.

18 Q The DNA lab that you're referring to, is that here in Greenville, or is it somewhere
19 else?

20 A It is in Greenville.

21 Q How long has this been open?

22 A 2008, May, I joined the lab and I started the lab.

23 Q Who is responsible for getting the lab certified?

24 A There are two certifications, one is for quality and one is for technical accuracy.

J. KANDALA – DIRECT BY MARCHANT

1 Q Were you an integral part of getting that certification?

2 A Yes.

3 Q Let's talk about your education for a moment. Where were you educated and what
4 degrees do you hold?

5 A I got educated in India. And I have a bachelor's degree in biology and chemistry, and
6 a master's degree in chemistry and a master's degree in macro-biology, and a PhD in
7 biochemistry.

8 Q When did you move to the United States?

9 A In 1978.

10 Q Have you resided here since 1978?

11 A Yes.

12 Q What sort of employment have you had here in the U. S. since 1978?

13 A I worked doing research in forensic and academic institutions and I did instruction in
14 DNA for twenty-five years. Then in 1997, I joined the St. Louis police department as a
15 DNA analyst. And in 2008-- In 2004, I moved to San Bernardino Sheriff's Department. I
16 work as a DNA analyst there. And from there I moved here in 2008 and joined the
17 Greenville Department of Public Safety as DNA technical leader.

18 Q Have you authored any articles or publications in peer research journals?

19 A Yes.

20 Q Approximately how many?

21 A Thirty-nine publications.

22 Q Thirty-nine?

23 A Yes.

24 Q Were you the lead author on some of those or a second-tier author or a combination?

J. KANDALA – DIRECT BY MARCHANT

1 A Combination.

2 Q Were the majority of those publications related to DNA?

3 A Yes.

4 Q Do you have any teaching experience?

5 A I did teach while I was doing the research, mostly for the graduate students.

6 Q To obtain the qualifications and certifications to get this lab up and running, are you
7 required to participate in continuing education?

8 A I was already certified before joining this lab. I was a DNA analyst and worked with
9 other labs. And then I have gone through DNA training and education in St. Louis and also
10 in San Bernardino before being qualified.

11 Q Approximately how many samples have you analyzed through the course of your
12 career?

13 A Probably four, five thousand minimum.

14 Q Have you been qualified as an expert in DNA analysis before?

15 A Yes.

16 Mr. Marchant: The State would move to qualify him as an expert in forensic DNA
17 analysis.

18 The Court: Do you wish to voir dire the witness as to his qualifications or challenge
19 the offer by the State?

20 Mr. Johnson: No charges; very brief voir dire.

21 The Court: Yes sir.

22

23 VOIR DIRE BY MR. JOHNSON:

24 Q How many times have you testified in court?

J. KANDALA – DIRECT BY MARCHANT

1 A About three times.

2 Q Has anyone ever failed to qualify you in court?

3 A Pardon?

4 Q Has anyone ever failed to qualify you in court?

5 A No.

6 Mr. Johnson: That's it, Your Honor. Thank you.

7 The Court: Very good. I'm going to qualify the witness to give his opinion. You may
8 proceed, sir.

9 **RESUMPTION OF DIRECT EXAMINATION MR. MARCHANT:**

10 Q Doctor Kandala, what is DNA?

11 A DNA is a blueprint that is seen in cells that make up our existence.

12 Q How is DNA used for forensic purposes?

13 A DNA is used as a unique marker for DNA purposes because DNA differs from human
14 being to human being, except identical twins.

15 Q I'm sorry. What was that last part?

16 A Identical twins.

17 Q Identical twins?

18 A Yes.

19 Q So, are you saying identical twins can have the same DNA?

20 A Yes.

21 Q What type of DNA analysis do you perform here in the Greenville County lab?

22 A We do the method called the STR DNA analysis. STR stands for short tandem
23 repeat.

24 Q What is a short tandem repeat?

J. KANDALA – DIRECT BY MARCHANT

1 A DNA is made up of what is called nucleotides, like beads in a chain. And the number
2 of beads in a human being is about three times, times about nine; that is, three billion. In
3 this DNA we use specific, small portions of DNA that are unique to those seen in a human
4 being.

5 Q What types of human body fluids or tissues can a DNA sample or profile be
6 developed from?

7 A DNA is found in the human body in the living organs, in the living cells except red
8 blood cells and the knees.

9 Q Did you have the occasion to examine and perform an analysis on some evidence in
10 this case?

11 A Yes.

12 Q Do you recall reviewing what's been marked as State's 57, 58, and 68.

13 A Yes.

14 Q Did you also subsequently review State's 53 for analysis?

15 A Yes.

16 Q Where did you pick up State's 53?

17 A From the Property and Evidence.

18 Q Did it remain with you the entire time?

19 A Yes, during the examination of the evidence.

20 Q How many people work in the DNA lab here in Greenville?

21 A Three people including me.

22 Q Does anyone else have access to your lab except the three of you?

23 A No.

J. KANDALA – DIRECT BY MARCHANT

1 Q So, with respect to State's 53, did you obtain a sample off of the-- Did you obtain a
2 sample off the gun, itself, and the magazine?

3 A Yes.

4 Q And did you compare that against a known standard?

5 A Yes.

6 Q And is that known standard State's 64?

7 A Yes.

8 Q Based on your analysis and comparison of State's 53 to the known standard, 64, who
9 is the known standard of?

10 A The standard is Patrick Lowrance.

11 Q What were your results from analyzing this firearm?

12 A Let me see my papers. (pause to review papers) The DNA, the mixture, but then the
13 major contributor, the major contributor of the DNA matches the DNA of Patrick Lowrance.
14 And I have statistical analysis done on that and it is one in twenty-three billion in the
15 Caucasian population, and one in fifty-six million in the African-American population and
16 one in sixty-one billion in the Hispanic population.

17 Q Doctor Kandala, you're talking about one in such and such billion.

18 A Yes.

19 Q What do you mean when you're using these statistical numbers about one in what?
20 What does one in what means?

21 A That means if you take so many people you can see this for five-twenty in one person.

22 Q And with respect to the handgun in this case, you're saying that the defendant is a
23 major contributor?

24 A Yes.

J. KANDALA – DIRECT BY MARCHANT

1 Q Are there other people that potentially handled?

2 A But they are within trace-- The DNA that I obtained from the other people is in very,
3 very small amounts.

4 Q Does that mean more than one person has touched this gun?

5 A Yes.

6 Q And the possibility that someone else that touched the gun that is Caucasian is one in?

7 A One in twenty-three billion.

8 Q Twenty-three billion?

9 A Yes.

10 Q And someone who happens to be African-American touched the gun?

11 A No. I take back. I'm not talking about other people. I'm talking about only the
12 major contributor who is the providing DNA. I could not get statistics for the minor string of
13 beads.

14 Q Let me make sure I'm clear.

15 A Yes.

16 Q The major contributor to the gun---

17 A Yes.

18 Q ---is Patrick Lowrance?

19 A Yes. I would say that yes, the profile I got from Patrick Lowrance.

20 Q The profile you got---

21 A Yes.

22 Q ---that is State's 64?

23 A Yes.

J. KANDALA – DIRECT BY MARCHANT

1 Q And what are the chances that someone else has the exact, same DNA profile as the
2 sample that you were given for Patrick Lowrance?

3 A That is if it is a Caucasian is one in twenty-three billion. If it is African-American, it
4 is one in fifty-six million. And if it is Hispanic it is one in sixty-one billion.

5 Q African-American is fifty-six million, with an m?

6 A Yes.

7 Q These other two were billions with a b?

8 A Yes.

9 Q Did you have the occasion to examine in State's 53, the magazine as well?

10 A Yes.

11 Q What were your findings on the magazine?

12 A That showed at least three people and the major contributor is an unknown male.

13 Q So, you can't say who the major contributor is on the magazine?

14 A Yes. I don't have a standard sample for that.

15 Q You have the defendant's sample?

16 A Yes. And he is not the contributor, as a major contributor for the magazine DNA.

17 Q Once you finished analyzing the gun, where did you take it?

18 A After the analysis is done we return it to Property and Evidence.

19 Mr. Marchant: Your Honor, at this time the State would offer 53, 57, 58, and 68 into
20 evidence.

21 The Court: Tell me those numbers again, please.

22 Mr. Marchant: 53. Your Honor, court's indulgence?

23 The Court Yes sir.

24 Mr. Marchant: State's 57, 58, and 68 into evidence.

J. KANDALA – DIRECT BY MARCHANT

1 The Court: Any objection?

2 Mr. Johnson: No objection.

3 The Court: In evidence without objection, 53, 57, 58 and 68.

4 (Whereupon State's Exhibits Numbers 53, 57, 58 and 68 were admitted into evidence

5 without objection.)

6 Q Doctor Kandala, I'm showing you what's been marked as State's 62. Did you have
7 the occasion to pick that up from the evidence locker in the evidence, Property and Evidence
8 room, and do some analysis on that as well?

9 A Yes.

10 Q I'm also going to show what's been marked as State's 55 and 56.

11 A Yes.

12 Q Did you have the occasion to compare-- Let's start with State's 55. With respect to
13 State's 55, where did you retrieve that piece of evidence to conduct your analysis?

14 A All, everything is taken from the Property and Evidence.

15 Q And is brought to where?

16 A To the DNA lab.

17 Q The DNA lab is where you do all this analysis?

18 A Yes.

19 Q And then once you're done with it, where does it go?

20 A It goes back to the Property and Evidence.

21 Q So, you did analysis on 55, 56, and 62?

22 A Yes.

23 Q Let's talk about State's 55.

24 Mr. Marchant: Your Honor, before I publish it to the jury, I would move 55 into

J. KANDALA – DIRECT BY MARCHANT

1 evidence.

2 The Court: Any objection?

3 Mr. Johnson: No objection.

4 The Court: In evidence without objection.

5 (Whereupon State's Exhibit Number 55 was admitted into evidence without
6 objection.)

7 Q Doctor Kandala, when you received this sweatshirt, which is State's 55, did you pull
8 a sample of DNA off of it?

9 A Yes.

10 Q Where did you pull that sample from?

11 A I think about the area here.

12 Q How did you mark it, and did you initial it?

13 A Yes, I mark it as 4-1 and then my initial and then I made my serology sample off
14 there.

15 Q So, on State's 55, you pulled a sample off there, and did you compare it to the known
16 standard of Patrick Lowrance, which is State's 64?

17 A Yes.

18 Q What were your results?

19 A The comparison shows that it is a match with the provider, Patrick Lowrance. And
20 the location we say that Patrick Lowrance is the contributor to this DNA, as to Item 4-1 to a
21 reasonable degree of scientific certainty. It is a match.

22 Q So, as close as to a hundred percent as you can say, that's your standard of reasonable
23 degree of scientific certainty?

24 A Yes.

J. KANDALA – DIRECT BY MARCHANT

1 Q The sample that you pulled on State's 55 is as close of a match as you're able to call
2 it to the known standard in 64?

3 A Right. This particular way of expressing it is when we have a minimum number of
4 one in three hundred billion, that is what the calibration, at least one in three hundred billion.
5 Then only we say to a reasonable degree of scientific certainty.

6 Q Is another way of saying that is that the possibility of someone else having the same
7 profile is one in three hundred billion?

8 A Yes.

9 Q I'll show you what's been marked as State's 56.

10 Mr. Marchant: Move 56 into evidence, Your Honor.

11 The Court: Any objection?

12 Mr. Johnson: No objection.

13 The Court: In evidence without objection.

14 (Whereupon State's Exhibit Number 56 was admitted into evidence without
15 objection.)

16 Q Did you have the occasion to analyze State's 56?

17 A Yes.

18 Q Did you make markings on---

19 A The shirt, yes.

20 Q Are these your markings up here?

21 A Yes.

22 Q And you pulled a sample from the front, left shoulder of this shirt?

23 A Right.

24 Q What were your results/

J. KANDALA – DIRECT BY MARCHANT

1 A I compared the sample to the one that I got from here also and the DNA, Patrick
2 Lowrance is the contributor of this DNA from this Item 5-1 to a reasonable degree of
3 scientific certainty.

4 Q Same analysis, same procedure, ---

5 A Yes.

6 Q ---same results as the sweatshirt?

7 A Yes.

8 Q And lastly, did you have the occasion to analyze what's been marked as State's 62,
9 which is also identified as DS 35?

10 Mr. Marchant: The State would move 62 into evidence, Your Honor.

11 The Court: Any objection?

12 Mr. Johnson: No objection.

13 Mr. Marchant: As well as 64.

14 Mr. Johnson: No objection.

15 The Court: All right. State's 62 and 64 in evidence without objection.

16 (Whereupon State's Exhibits Numbers 62 and 64 were admitted into evidence without
17 objection)

18 Q Did you have the occasion to analyze State's 62, which is DS 35?

19 A Yes.

20 Q What exactly is this?

21 A This is the swab that they have got from the blood.

22 Q This is blood?

23 A Yes.

24 Q What were your results on DS 35?

J. KANDALA – DIRECT BY MARCHANT

1 A This is also very similar to the one I got from the shirt and Patrick Lowrance is the
2 contributor of this DNA to a reasonable degree of scientific certainty. And if you want the
3 exact number on statistics, I can give you.

4 Q Please, Doctor Kandala.

5 A It is 8.7 times about eighteen. Anything that is times about nine is the figure, and this
6 is times about eighteen. Times about twelve is a trillion.

7 Q So, this is more than one in one trillion. Is that what you're saying?

8 A Yes. It is a trillion trillion.

9 Q And did you analyze any other evidence in this case?

10 A No.

11 Q Please answer any questions Mr. Johnson may have.

12 The Court: Cross examination.

13 Mr. Johnson: Thank you, Your Honor.

14

J. KANDALA – CROSS BY JOHNSON**1 CROSS EXAMINATION BY MR. JOHNSON:**

2 Q Is it Doctor Kandala?

3 A Yes.

4 Q Okay. I wanted to be sure. First of all, the Solicitor went into on direct testimony
5 and then I asked you just a couple of questions, but we went into how much education, et
6 cetera, that you have. Now, you said you initially learned in India. Is that where you got
7 your PhD?

8 A Yes.

9 Q And then you came over here and you got some additional training?

10 A It is not training, it is a job.

11 Q It's a job?

12 A Yes.

13 Q Now at the time, and especially with regard to DNA or DNA testing, can you go over
14 some of the safeguards? Just like how careful-- Is it really-- On a level of one to ten, just
15 how careful with regard to these tests?

16 A This is laid down by-- We get the gradation on these tests. It is laid down. And we
17 are constant checks on us. They look at all of our records here. And this goes on
18 periodically and they check this whole thing. And we have a quality assurance system in
19 place and we have to follow it, the quality assurance system.

20 Q And the quality assurance system is to make sure there is no contamination, that
21 you're very careful in what you're doing?

22 A Yes.

23 Q And those assurances were followed in this instance as well?

24 A Yes.

J. KANDALA – CROSS BY JOHNSON

1 Q Now, with regard to DNA, I believe you stated earlier, it can come in many different
2 forms. Is that true? DNA can be found in many different, whether it's hair, saliva, semen or
3 anything like that?

4 A Yes.

5 Q Is that an exhaustive list or is there anything else?

6 A It is found in every, in every organ in the body except red blood cells and knees. So,
7 any place you take in the body, any organ, any tissue you will see, you will see DNA. So,
8 there is DNA everywhere, yes.

9 Q Now, you said except for---

10 A Red blood cells.

11 Q What did you mean by red blood cells?

12 A There are, in the blood there are cells, white cells and red cells, two kinds of cells.

13 Q So, the cells in the blood?

14 A Yes.

15 Q You have your report with you. Right?

16 A Yes.

17 Q I'd like to talk about DNA testing. When you test something can you tell how it got
18 there? Do you have any idea of how the DNA actually got there?

19 A You mean, what are you asking the question?

20 Q Say, for instance, my DNA is on this pen, and you test it and you find my DNA. Can
21 you tell how my DNA got on that pen?

22 A It is by touch.

23 Q It is always by touch?

24 A In that case.

J. KANDALA – CROSS BY JOHNSON

1 Q In that case it is. But let's say, for instance, you didn't know I touched it.

2 A Yes?

3 Q I can rephrase my question. I apologize. Let's say you tested this cup here at the
4 bottom. I apologize. This is far away. I'll pick it up. This cup here at the bottom. So, you
5 didn't see-- I didn't touch this. Now, let's say my DNA is on that cup. How can you tell
6 how it got there?

7 A The DNA testing is done by finding DNA on or in the object that is there by any
8 means. It can be saliva, it can be other body fluids, it can be touch that is sweat. But to
9 know whose DNA that is, we have to have a standard. And without that we cannot say that it
10 is belong to this person or this person.

11 Q Now, Doctor Kandala, I'm not talking about whether DNA is somebody versus
12 another person.

13 A Yes.

14 Q I'm talking about how the DNA was actually deposited on the item you're testing.
15 Can you tell-- When you test can you tell how the DNA was deposited on the item?

16 A It's different ways. If it is blood that has come off and then drop on the floor, the
17 blood has DNA.

18 Q Now, is that something that you always know or is that something that's unknown to
19 you when you test it?

20 A When we test it, we do testing to know what kind of body fluid is there.

21 Q Okay.

22 A Then from there we extract DNA and then we determine whether that DNA is human
23 DNA or not and then analyze whatever, with the STR analysis. We do that after the
24 extraction of DNA.

J. KANDALA – CROSS BY JOHNSON

- 1 Q Okay. You talk about first you identify what type of body fluid, ---
- 2 A Yes.
- 3 Q ---except for red blood cells, obviously.
- 4 A Through forensics.
- 5 Q Okay. Now, can you tell how that body fluid got there?
- 6 A DNA-- The purpose of DNA testing is any material, any material that comes to the
- 7 lab we check for DNA one of two ways by different means and then we get it. We're not
- 8 saying how it got there.
- 9 Q Okay.
- 10 A All we're saying is there DNA and does that DNA belong to somebody that I have
- 11 their standard.
- 12 Q So, you're saying-- So, when you test something you cannot say how the DNA got
- 13 there.
- 14 A Because I'm not there.
- 15 Q That's right, because you don't know how it got there.
- 16 A Yes.
- 17 Q All right. Related to that, DNA can get on surfaces in many ways. Isn't that right?
- 18 A Yes.
- 19 Q And isn't one of those ways transfer?
- 20 A Yes.
- 21 Q Can you explain to us what transfer is?
- 22 A When you hold an object, your DNA is transferred onto that object.
- 23 Q So, say, for instance, this pen, my DNA's on this pen and I can transfer it just like
- 24 that, potentially?

J. KANDALA – CROSS BY JOHNSON

- 1 A Potentially.
- 2 Q Yes. And that applies to everyday life or anything. Any material can be tested.
- 3 A Yes.
- 4 Q It comes into contact with something and it's transferred to different place?
- 5 A Yes, depending on how hard it has touched that material or something.
- 6 Q Yes sir.
- 7 A Yes sir.
- 8 Q Now, another-- All-- You can't always tell-- Or, you cannot tell when something
- 9 got there, when the DNA got there, can you?
- 10 A That's not the purpose of DNA testing in the lab because we are not testing for when
- 11 it has it.
- 12 Q Okay.
- 13 A The purpose of the DNA lab is to get anything that comes into the lab, test for any
- 14 things that are present, any fluids that are present, any touch DNA that are present. And then
- 15 get the DNA and the likely.
- 16 Q But overall, you cannot how and when the DNA got there?
- 17 A That's not our purpose. That is not the point of DNA lab. The DNA lab is not
- 18 looking for how it got there. The DNA lab is looking for is there DNA, any body fluid. And
- 19 get the DNA out and the likely and then compare it to your standard battery of tests.
- 20 Q So, considering you're not even looking for how or when it got there, say, for
- 21 instance, with these tests, you're not given, you're not giving a conclusion on how and when
- 22 the DNA got there.
- 23 A I told you that.
- 24 Q Okay, all right, fine.

J. KANDALA – CROSS BY JOHNSON

1 A Yes.

2 Q But that's what you're saying?

3 A Yes.

4 Q Okay, all right. Now let me-- Can I make sure we have the same statements? Can I
5 see what you're---

6 A Yes.

7 Q This is the same thing. Right?

8 A Yes.

9 Q Okay. I know the Solicitor referred to the items with regard to their evidentiary
10 numbers. I'd like to refer to these, what they were. So, I'm gonna refer you to page three of
11 your report.

12 A Yes.

13 Q Now, one of the things you tested and one of the things you went over with the
14 Solicitor was you swabbed the handgun?

15 A Yes.

16 Q And you said that my client was a major contributor and there were two minor
17 contributors?

18 A Yes.

19 Q Okay. Now, and then you swabbed the magazine that was also submitted to you. Is
20 that right?

21 A Yes.

22 Q And the major contributor was an unknown person?

23 A Yes.

24 Q Unknown male person?

J. KANDALA – CROSS BY JOHNSON

1 A Yes.

2 Q And you weren't able to conclude whether my client was involved in that magazine
3 or not?

4 A Yes.

5 Q Now, Doctor Kandala, tell me again, like, who was-- Who was-- Who was the
6 sample that you were given to for comparison again? What was his name?

7 A On the evidence it is Patrick Lowrance.

8 Q All right. Can you spell out his name for me, please?

9 A It's in here, is L-o-w-r-e-n-c-e.

10 Q L-o-w-r-e-n-c-e, is that what you just said?

11 A That is what is in here, yes.

12 Q Now, you testified about how you got to have all these qualities and you were very
13 careful. Is that true?

14 A Yes.

15 Q And y'all are taught to be careful. Y'all have people double-checking you and that's
16 to make sure that y'all don't screw anything up. Is that right?

17 A Yes.

18 Q Are you aware that you don't have his name spelled right?

19 A We spell it as we see it from the report.

20 Q So, somebody went and took this stuff and didn't even know whose name they were
21 spelling. They didn't even do that right, did they?

22 A But here we are not-- I'm not really concerned with the person. I am looking at the
23 profile that I get from the bucal swab.

J. KANDALA – CROSS BY JOHNSON

1 Q Oh, I know you're not concerned with; you were just reading what was written. Isn't
2 that true?

3 A Yes.

4 Mr. Johnson: Nothing further.

5 The Court: Re-direct?

6 Mr. Marchant: No, Your Honor.

7 The Court: Do you wish the witness to be excused?

8 Mr. Marchant: Yes, Your Honor.

9 The Court: Any objection?

10 Mr. Johnson: No, Your Honor.

11 The Court: You are released from your activities and may go back to your regular
12 activities, sir.

13 Mr. Marchant: May we approach, Judge?

14 The Court: Yes.

15 (Whereupon a bench conference took place)

16 Ladies and gentlemen, we are going to take a short break. If you will, go to your jury
17 room and later we will resume the trial. Everyone else remain seated, please.

18 (Whereupon the jury exited the courtroom)

19 We'll be at ease for about ten minutes. Thank you very much.

20 (Whereupon the court was in recess)

21 **COURT IN SESSION**

22 The Court: State ready to proceed?

23 Mr. Marchant: State's ready, Your Honor.

24 The Court: Defense?

J. KANDALA – CROSS BY JOHNSON

1 Mr. Johnson: Defense is ready, Your Honor.

2 The Court: Bring in the jury.

3 (Whereupon the jury entered the courtroom)

4

JAMES ARMSTRONG – DIRECT BY MARCHANT

1 The Court: Solicitor, your next witness, please.

2 Mr. Marchant: If it please the court, the State calls James Armstrong.

3 The Court: Please come around and be sworn, sir.

4 **JAMES ARMSTRONG**, duly sworn, testified as follows:

5 Clerk of Court: Please state your name for the record.

6 A James William Armstrong.

7 The Court: Go ahead, Solicitor.

8 **DIRECT EXAMINATION BY MR. MARCHANT:**

9 Q Mr. Armstrong, where are you employed?

10 A I am employed with the Greenville Division of Public Safety, Forensic Division,
11 Crime Laboratory.

12 Q Where is your office located?

13 A I'm located in the basement of the law enforcement center here in Greenville.

14 Q How long have you been employed by the county?

15 A A little over sixteen and a half years.

16 Q How long have you been in the position that you currently hold today?

17 A I've been employed by the crime laboratory for sixteen and a half years. I've been a
18 firearms examiner for about twelve years.

19 Q What are your official duties with the county in the position that you're in?

20 A I have the dual responsibilities of forensic drug chemist and a firearms examiner.

21 Q Do you analyze marijuana, crack cocaine, cocaine---

22 A Yes.

23 Q ---as well as firearms examiner? What does a firearms examiner do?

JAMES ARMSTRONG – DIRECT BY MARCHANT

1 A Compare any fire cartridge casings, projectiles and link those to a particular firearm if
2 it is submitted. And then also identify projectiles and try to link that projectile to a specific
3 firearm if there are any questions about it.

4 Q What is your formal education?

5 A A bachelor of science degree in chemistry from Erskine College. I trained as a
6 firearms examiner as an apprentice-type training for two years under a retired firearms
7 examiner from Philadelphia PD. I've attended numerous courses sponsored by ATF, or
8 Alcohol Tobacco and Firearms, in the area of firearm identification. I also attended courses
9 by FBI as well for firearms identification and tracking. And I've testified in federal and state
10 courts in the area of firearms identification twenty-nine times as an expert.

11 Q You've testified in this court, though not particularly in this courtroom, in this
12 courthouse before?

13 A Yes, I have.

14 Q Have you testified in the field of your expertise of firearms identification?

15 A Yes, I have.

16 Q Approximately how many times?

17 A Approximately twenty-nine times total in this courtroom as well as in a federal
18 courtroom.

19 Mr. Marchant: The State would offer Mr. Armstrong as an expert in firearms
20 identification.

21 The Court: Do you wish to voir dire the witness as to qualifications or challenge

22 The offer by the State?

23 Mr. Johnson: Brief voir dire.

24 The Court: Yes sir.

JAMES ARMSTRONG – DIRECT BY MARCHANT**1 VOIR DIRE BY MR. JOHNSON:**

2 Q You say you've testified twenty-nine times?

3 A Yes sir, I have.

4 Q When did you first start testifying?

5 A First testifying about firearms, I believe was in 2000.

6 Q So, you have that documented?

7 A (referring to notes) First testimony for firearms identification was November, 2003.

8 Q Oh, you've actually kept that documented in that folder?

9 A I actually have, basically, this is a whole, a copy of my CV, yes sir.

10 Mr. Johnson: Thank you, Your Honor.

11 The Court: All right. I will qualify the witness to give his opinion in the field of
12 firearms identification. You may proceed, sir.

13 RESUMPTION OF DIRECT EXAMINATION BY MR. MARCHANT:

14 Q Mr. Armstrong, were you submitted some evidence in this case to do some analysis?

15 A Yes, I was.

16 Q Specifically, Mr. Armstrong, you-- We'll start with State's 59. Were you able to
17 determine what that is? It's in evidence. You need to look in the inside.

18 A I do recognize it. It has my initials and the date placed on the red evidence tape.

19 Q How many pieces of evidence are in that bag?

20 A Fourteen.

21 Q Those items are DS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 22, and 29. Is that correct?

22 A That's correct.

23 Q What does the DS stand for?

24 A That'd be one of the officer's initials that submitted it.

JAMES ARMSTRONG – DIRECT BY MARCHANT

1 Q What did you do with these fourteen items when they got back down to the lab?

2 A Once I received the items I inventoried the contents of the sealed container. I then
3 identified each, individual item, gave each an item number as well, or described the item
4 number inside the case of the fired cartridge casing. And then made notes of that and then
5 compared them to each other and then to firearms in reference to the case.

6 Q What exactly are items DS 1 through 12, 22 and 29?

7 A DS 1 through 12, 22 and 29, are caliber nine millimeter Luger fired cartridge casings.

8 Q Now, with respect to the shells that have been unspent, what is exactly the casing?
9 Can you explain that to the jury?

10 A The casing is basically a body which holds the projectile in the mouth area, and it has
11 a power charge and then a live primer on the base. The base is then struck by a firing pin,
12 which then ignited the powder which pushes the projectile down the barrel and now what is
13 left is a piece of brass.

14 Q You've opened DS 1. Can you explain to the jury what's left once you've fired a
15 gun?

16 A This is DS 1. It is nickel-plated brass, has a mouth where the projectile would have
17 been placed, and the firing pin impression on the primer region of the cartridge case.

18 Q So, are you able to know just from looking at this item what sort of weapon was
19 fired?

20 A Just by looking at it, I can tell it would be one that was capable of firing a nine
21 millimeter Luger.

22 Q Did you have the occasion to compare these fourteen shells to Officer Taci Cobb's
23 gun, which would be – sorry – identified as Item TC-1. It's not present in the courtroom
24 today, James. Did you compare it to Officer Cobb's gun?

JAMES ARMSTRONG – DIRECT BY MARCHANT

1 A Yes sir, I did.

2 Q What analysis did you do to insure that the results that you obtained was that both of
3 these items were fired by her gun?

4 A In order to do my comparison for that, I took the TC-1 pistol, test-fired it, and
5 collected the test-fired specimens and then compared the knowns from the test fires to the
6 unknowns I had with the items DS 1 through 12, and 22 and 29. I compared them under the
7 microscope in a side-by-side comparison to look at any kind of tool mark impression that
8 were left behind in the firing of that location and then rendered my opinion.

9 Q Do you know or recall what sort of gun she was carrying that day?

10 A It was a Sig Sauer Model T-226.

11 Q So, if we had two Sig Sauers Model T-226, are you able to look at the tool marking
12 strikes from the back of the shell casings and say with certainty it came from this one as
13 opposed to this one?

14 A Correct.

15 Q So, all of these items, 1 through 12, 22 and 29, came from Officer Taci Cobb's gun?

16 A Yes sir.

17 Q Now, I'm gonna show State's Exhibit 60, which has been marked and is in evidence
18 as Frederickson DS 21, 25, 26, 27, 28, 31, 32, 33, and 30. And I'm going to open DS 21.

19 Mr. Armstrong, just like the other packaging that you did your analysis on, did you do
20 the same thing with this one?

21 A Yes sir, I did.

22 Q Did you in fact compare those spent shell casings to what was collected by Jon
23 Derby, labeled as JD-1 and is State's 53?

24 A Yes sir, I did.

JAMES ARMSTRONG – DIRECT BY MARCHANT

1 Q And what were the results of your analysis on those nine items?

2 A DS 21, 25, 26, 27, 28, 30, 31, 32, and 33, fired cartridge casings, were fired in the
3 item JD-1 pistol.

4 Q After your examination, viewing the strikes and the tool marks as well, those nine
5 shells were fired by that gun?

6 A That's correct.

7 Q You also had the opportunity to examine various projectiles pertaining to this case as
8 well, DS 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 40, 41, 42, 43, 44, and 45?

9 A Yes sir, I did.

10 Q With the exception of DS 14 and DS 41, were you able to determine or eliminate out
11 of the two guns that we're talking about here today where the fragments came from?

12 A Some of the fragments I was not able to because they were not suitable for
13 microscopic comparison purposes, but I was able to rule out or eliminate from other firearms.

14 Q Well, let's talk about DS 14. Were you able to eliminate which firearm DS 14 came
15 from?

16 A Yes sir. It was not fired from item TC-1 pistol.

17 Q If you would, hold that up and show the jury as best you can, with the fragment in the
18 condition that it is, how were you able to look at that projectile and compare it to something
19 that had come out of Officer Cobb's gun and say with certainty that that did not come from
20 her gun?

21 A Well, one is the difference in the general rifling characteristics. The number of lands
22 and grooves and the direction of twists. By looking at the number of lands and grooves, I
23 could actually rule case one are out. And plus the dimensions of some. The dimensions on
24 this are definitely different from the ones from Officer Cobb's gun.

JAMES ARMSTRONG – DIRECT BY MARCHANT

1 Q I'm also going to show you DS 41. Did you do a similar analysis on that?

2 A Yes sir, I did.

3 Q Were you able to determine or eliminate which firearm DS 41 came from?

4 A Yes sir. I was able to determine that DS 41, was fired from the item JD-1 pistol.

5 Q So, you're no doubt about it, one hundred percent clear, certain this projectile came
6 from that gun?

7 A That's correct.

8 Q With respect to the other fragments were they of sufficient quality that you were able
9 to determine which one they came from or at least which one they did not come from?

10 A I'll have to see all the results to verify.

11

12 Mr. Johnson: Your Honor, I'm gonna object to this line of questioning. I don't think
13 that this---

14 The Court: All right, sir. I'm going to allow the question and the answer. Thank you.

15 A (pause to examine items) The item DS 18, 19-A, 23, 40, 42, 43, and 45, I was able to
16 determine that they were not fired from the item JD-1 pistol, but they bear similar marks to
17 render identification to that of TC-1 pistol.

18 Q So, all these you just talked about you can say for certainty were not fired from this
19 one?

20 A Correct.

21 Q But they are of insufficient quality to determine whether or not they came from
22 Officer Cobb's gun?

23 A Right. There are similarities, but not enough to make a confirmation.

24 Q Mr. Armstrong, where did you get these from for your analysis?

JAMES ARMSTRONG – DIRECT BY MARCHANT

1 A Received from the Property and Evidence room in the basement of the law
2 enforcement center.

3 Q And once you got done with them, where were they returned?

4 A Back to the Property and Evidence room for storage.

5 Mr. Marchant: Move State's 59, 60 and 61 into evidence.

6 The Court: Any objection?

7 Mr. Johnson: No objection.

8 The Court: State's 59, 60 and 61 in evidence without objection.

9 (Whereupon State's Exhibits Numbers 59, 60 and 61 were admitted into evidence without
10 objection)

11 Q Mr. Armstrong, please answer any questions Mr. Johnson may have.

12 The Court: Cross examination.

13 Mr. Johnson: Thank you, Your Honor.

14

JAMES ARMSTRONG – CROSS BY JOHNSON

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11 a power charge and then a live primer on the base. The base is then struck by a firing pin,
12 which then ignited the powder which pushes the projectile down the barrel and now what is
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14 Q You've opened DS 1. Can you explain to the jury what's left once you've fired a
15 gun?

16 A This is DS 1. It is nickel-plated brass, has a mouth where the projectile would have
17 been placed, and the firing pin impression on the primer region of the cartridge case.

18 Q So, are you able to know just from looking at this item what sort of weapon was
19 fired?

20 A Just by looking at it, I can tell it would be one that was capable of firing a nine
21 millimeter Luger.

22 Q Did you have the occasion to compare these fourteen shells to Officer Taci Cobb's
23 gun, which would be – sorry – identified as Item TC-1. It's not present in the courtroom
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21 A Yes sir, I did.

22 Q Did you in fact compare those spent shell casings to what was collected by Jon
23 Derby, labeled as JD-1 and is State's 53?

24 A Yes sir, I did.

JAMES ARMSTRONG – CROSS BY JOHNSON

1 Q And what were the results of your analysis on those nine items?

2 A DS 21, 25, 26, 27, 28, 30, 31, 32, and 33, fired cartridge casings, were fired in the
3 item JD-1 pistol.

4 Q After your examination, viewing the strikes and the tool marks as well, those nine
5 shells were fired by that gun?

6 A That's correct.

7 Q You also had the opportunity to examine various projectiles pertaining to this case as
8 well, DS 13, 14, 15, 16, 17, 18, 19, 20, 23, 24, 40, 41, 42, 43, 44, and 45?

9 A Yes sir, I did.

10 Q With the exception of DS 14 and DS 41, were you able to determine or eliminate out
11 of the two guns that we're talking about here today where the fragments came from?

12 A Some of the fragments I was not able to because they were not suitable for
13 microscopic comparison purposes, but I was able to rule out or eliminate from other firearms.

14 Q Well, let's talk about DS 14. Were you able to eliminate which firearm DS 14 came
15 from?

16 A Yes sir. It was not fired from item TC-1 pistol.

17 Q If you would, hold that up and show the jury as best you can, with the fragment in the
18 condition that it is, how were you able to look at that projectile and compare it to something
19 that had come out of Officer Cobb's gun and say with certainty that that did not come from
20 her gun?

21 A Well, one is the difference in the general rifling characteristics. The number of lands
22 and grooves and the direction of twists. By looking at the number of lands and grooves, I
23 could actually rule case one are out. And plus the dimensions of some. The dimensions on
24 this are definitely different from the ones from Officer Cobb's gun.

JAMES ARMSTRONG – CROSS BY JOHNSON

1 Q I'm also going to show you DS 41. Did you do a similar analysis on that?

2 A Yes sir, I did.

3 Q Were you able to determine or eliminate which firearm DS 41 came from?

4 A Yes sir. I was able to determine that DS 41, was fired from the item JD-1 pistol.

5 Q So, you're no doubt about it, one hundred percent clear, certain this projectile came
6 from that gun?

7 A That's correct.

8 Q With respect to the other fragments were they of sufficient quality that you were able
9 to determine which one they came from or at least which one they did not come from?

10 A I'll have to see all the results to verify.

11

12 Mr. Johnson: Your Honor, I'm gonna object to this line of questioning. I don't think
13 that this---

14 The Court: All right, sir. I'm going to allow the question and the answer. Thank you.

15 A (pause to examine items) The item DS 18, 19-A, 23, 40, 42, 43, and 45, I was able to
16 determine that they were not fired from the item JD-1 pistol, but they bear similar marks to
17 render identification to that of TC-1 pistol.

18 Q So, all these you just talked about you can say for certainty were not fired from this
19 one?

20 A Correct.

21 Q But they are of insufficient quality to determine whether or not they came from
22 Officer Cobb's gun?

23 A Right. There are similarities, but not enough to make a confirmation.

24 Q Mr. Armstrong, where did you get these from for your analysis?

JAMES ARMSTRONG – CROSS BY JOHNSON

1 A Received from the Property and Evidence room in the basement of the law
2 enforcement center.

3 Q And once you got done with them, where were they returned?

4 A Back to the Property and Evidence room for storage.

5 Mr. Marchant: Move State's 59, 60 and 61 into evidence.

6 The Court: Any objection?

7 Mr. Johnson: No objection.

8 The Court: State's 59, 60 and 61 in evidence without objection.

9 (Whereupon State's Exhibits Numbers 59, 60 and 61 were admitted into evidence without
10 objection)

11 Q Mr. Armstrong, please answer any questions Mr. Johnson may have.

12 The Court: Cross examination.

13 Mr. Johnson: Thank you, Your Honor.

14

TIM CONROY – DIRECT BY MARCHANT

1 **TIM CONROY**, duly sworn, testified as follows:

2 Clerk of Court: Please state your name for the record.

3 A Timothy Michael Conroy.

4 **DIRECT EXAMINATION BY MR. MARCHANT:**

5 Q Detective Conroy, where are you employed?

6 A Greenville Police Department.

7 Q How long have you been with the Greenville Police Department?

8 A Sixteen years.

9 Q Did you work anywhere in law enforcement prior to becoming employed with the
10 city police?

11 A No, I did not.

12 Q What is your current position with the city police department?

13 A I work in the Detective Division as a Crime Scene Investigator.

14 Q We heard earlier from Detective Flavell. Is Detective Flavell one of your colleagues,
15 contemporaries in that same department?

16 A Yes, he is.

17 Q How many investigators, detectives are with that division?

18 A There are five of us.

19 Q Now, on the day of this incident were you working?

20 A I was.

21 Q Do you recall where you were when the call went out that shots had been fired?

22 A I was at the law enforcement center in my office.

23 Q Where did you go once that call went out?

24 A I went directly to 500 Windwood Road.

TIM CONROY – DIRECT BY MARCHANT

1 Q What did you do when you got there?

2 A I met with Officer Cruell and Lane.

3 Q At some point in time, which has been testified to, that you were the lead officer in
4 this case. What exactly does that mean?

5 A Usually as your lead officer, all the information comes through you and you filter
6 them out to other investigators so they can be investigated.

7 Q How long did you stay at the Berkeley Place Apartments before going back to the law
8 enforcement center?

9 A I stayed there till after the scene was cleared which was roughly four o'clock, five
10 hours.

11 Q At that time, once you cleared the scene and the investigation is underway, did you
12 have a suspect at the time you went back to the law enforcement center?

13 A Yes, we did.

14 Q And how long between the time you left the law- excuse me - between the time you
15 left Berkeley Place Apartments, was the suspect apprehended, roughly?

16 A Three or four hours.

17 Q For that entire time were you back at the law enforcement center after you left the
18 apartments?

19 A Yes, I was.

20 Q And you were interviewing people or?

21 A I was.

22 Q Did you write any report at that time?

23 A I was interviewing people and talking with other investigators.

TIM CONROY – DIRECT BY MARCHANT

1 Q At some point in time were you informed that there may be, that they have a suspect
2 and the location where he was?

3 A Yes.

4 Q So, did you go to Mooremont Avenue?

5 A No, I stayed at the law enforcement center.

6 Q As the lead investigator why did you not go to where the suspect was potentially
7 apprehended?

8 A Just in case there was something else that came up. There were plenty of units out at
9 that scene.

10 Q At some point in time did you come to understand that the suspect had been
11 apprehended?

12 A I did.

13 Q And where did you go once you determine he had been apprehended?

14 A Once he was apprehended, I learned he had gone to the hospital. So, I went to the
15 hospital.

16 Q Why would you go to the hospital?

17 A To speak with him and see if there was any evidence there I could gather.

18 Q When you got to the hospital where did you locate the defendant?

19 A I got to the hospital and he was brought into a trauma bay in the emergency room.

20 Q Did you immediately go up and speak with the defendant at that time?

21 A No sir. I allowed him to be treated first and then I spoke with him.

22 Q How long were you in the hospital room before you spoke with the defendant?

23 A Approximately twenty minutes. He was being treated and then I spoke with him.

24 And then-- Shortly after that I spoke to him.

TIM CONROY – DIRECT BY MARCHANT

1 Q During the course of his treatment were the nurses and doctors and other medical
2 personnel asking him questions?

3 A Yes, they were.

4 Q Did he seem to understand the questions they were asking him?

5 A He did, and he seemed to answer them.

6 Q He responded verbally?

7 A Correct, he did.

8 Q While you were there did you notice, or were you informed of any medication that the
9 defendant had been given?

10 A I was not aware of any.

11 Q Do you know if he was on any pain medication?

12 A Not that I'm aware of.

13 Q During this-- How long were you there before you spoke with him?

14 A Twenty minutes.

15 Q During this period of time, you overheard medical personnel ask him numerous
16 questions?

17 A Yes, I did.

18 Q And he responded verbally?

19 A Correct.

20 Q In your opinion, did he appear to understand their questions?

21 A He did.

22 Q Now, following the roughly twenty-minute period, did you decide to speak with the
23 defendant?

24 A I did after the majority of the medical personnel cleared out, pretty much.

TIM CONROY – DIRECT BY MARCHANT

1 Mr. Johnson: Your Honor, over pre-trial, my prior objection.

2 The Court: All right, Sir. I will allow this to continue. Your objection is noted.

3 Q The defendant, when you were speaking with him, where did you first make contact?

4 A In the trauma center.

5 Q The photograph that we've already seen and has been shown to the jury is State's 47.

6 Is that basically how you found him?

7 A That's correct.

8 Q Was he under arrest at that time?

9 A He was.

10 Q So, if he wanted to get up and walk out of the hospital room, could he have done so?

11 A No sir.

12 Q Once you decided to speak with him, what was the normal course of action that you
13 and the detective division, as well as other officers with the city go through to make sure that
14 the defendant is speaking with you freely and voluntarily?

15 A Prior to talking to him about the incident I advised him of his rights.

16 Q And why do you advise somebody of their rights?

17 A It's their constitutional right.

18 Q I'm showing you what's been marked as State's 59. Do you recognize this
19 document?

20 A Yes, I do.

21 Q Please explain to the jury what that document is and what you did with it before you
22 spoke or asked the defendant any questions.

23 A This is a waiver of rights. Correction. It's his rights and then a waiver of rights.

24 Prior to talking to him I advised him of, read his rights to him. I read each line out loud to

TIM CONROY – DIRECT BY MARCHANT

1 him and he acknowledged-- I asked him to acknowledge if he understood what I read to him,
2 and he stated he did.

3 Q What's the specifics? How exactly did you inform him of his rights? And how did
4 he indicate to you whether or not he understood those rights?

5 A I read the form to him. The first line reads: "Before you answer any questions you
6 must understand your rights." He acknowledged verbally that he understood that. I
7 continued with the next line which read, "You have the right to remain silent." Again, he
8 responded that he understood. "Anything you say can be used against you in court." He
9 responded he understood that as well. I went on to say, "You have the right to talk to a
10 lawyer for advice before we ask you any questions and have them with you during
11 questioning." He acknowledged he understood that. "If you have no money to pay a lawyer
12 to be here the court will appoint one to represent you without cost if you wish." He advised
13 he understood that. It goes on to say---

14 Q Detective Conroy, how did he advise you that he understood? Was it verbal or
15 written? Did he nod his head?

16 A Verbal.

17 Q But after each line you read he indicated he knew, yes, I understand? Or how was it
18 that he---

19 A After I read each line, do you understand, yes.

20 Q Once you got through all those rights is there a second portion of that form that you
21 read to people who you are interviewing?

22 A There is.

23 A And what is that? What is the purpose of that second section and how did you deliver
24 that information to the defendant?

TIM CONROY – DIRECT BY MARCHANT

1 A I read the waiver of rights. It reads: "I have read this statement of my rights and
2 understand what my rights are. I am willing to make a statement and answer questions. I do
3 not want lawyer at this time. I understand and know what I am doing. No promises or
4 threats have been made to me, and no pressure or coercion has been used against me."

5 Q Did you explain to him what the word, coercion, means?

6 A I did. I explained to him it meant force; could be mental or physical force to try to get
7 him to do or say something that he didn't want to do. He advised he understood.

8 Q Did you make him any promises about if he talked to you, you would---

9 A I told him I could not promise, make any promises or deals with him.

10 Q Did he indicate to you that he understood that portion of his rights and then he waived
11 those rights?

12 A Yes, he did.

13 Q And did he indicate that he wanted to speak with you?

14 A After I advised him, he did indicate he wanted to speak.

15 Q Now, was the defendant handcuffed at the time?

16 A He was.

17 Q Do you recall how or where he was handcuffed?

18 A He was handcuffed to the bed or stretcher he was on.

19 Q And what I would consider more of a normal setting, someone is at your office and
20 you're interviewing them. How would you go about reading their rights and advising them
21 of what their rights are?

22 A I would have them-- After they have read their rights or had them read to them, I
23 would have them initial on each line and sign the form.

24 Q Did you do that in this case?

TIM CONROY – DIRECT BY MARCHANT

1 A I didn't, due to his condition.

2 Q When you say due to his condition, can you elaborate a little bit on that?

3 A Yes. He was handcuffed to the bed. He also had a wound to his left arm, to the
4 shoulder area, and blood on him. So, he was immobile.

5 Q With respect to State's 69, you read the line-by-line, read him the waiver portion and
6 you believe that he understood his rights and what he was doing?

7 A Yes sir.

8 Q And did he agree to waive those rights and speak with you?

9 A Yes, he did.

10 Mr. Marchant: Move State's 69 into evidence.

11 The Court: Any objection?

12 Mr. Johnson: Over prior objection, Your Honor.

13 The Court: All right. In evidence over the objection of defense.

14 (Whereupon State's Exhibit Number 69 was admitted into evidence over objection)

15 Q Now, Detective Conroy, did you ask him any questions?

16 A No, I didn't ask him any questions. I explained to him that we found several items at
17 the apartments, his Social Security card, his personal belongings, and we were gonna process
18 the vehicle that he was in for latent prints. At that time he made the statement that he was
19 shot and passed out in the woods and that's, the next thing he remembered was waking up,
20 walking towards the police tape.

21 Q That statement was in response to you informing of the evidence that you believe you
22 had at that time---

23 A That's correct.

24 Q ---that was being processed?

TIM CONROY – DIRECT BY MARCHANT

- 1 A That's correct.
- 2 Q Did you ask him any further questions?
- 3 A I did not ask him any further questions.
- 4 Q Why?
- 5 A Because at that point he stated he wanted an attorney.
- 6 Q Well, why did you terminate the conversation at that point in time?
- 7 A Because he requested an attorney and that's his right, so I terminated the questioning.
- 8 Q Subsequently, some days down the road, did you have the occasion to speak with him
- 9 again and get a DNA sample from him?
- 10 A I did.
- 11 Q I'm showing you what's been marked as TMC-5, State's Exhibit 64. Did you get that
- 12 sample from the defendant?
- 13 A Yes.
- 14 Q Can you please explain to the jury how you went about retrieving that sample?
- 15 A I met with Mr. Lowrance. I handed him a sealed packet in a plastic envelope, or a
- 16 plastic, sealed envelope and explained to him how to open it. He opened it up. Inside there,
- 17 there was a swab on a stick with a capsule around it. I explained to him to open the capsule,
- 18 slide it down on the stick and wipe it on the inside of his mouth. Which, he opened the
- 19 package himself, swabbed the inside of his mouth, closed the capsule up and then put it in an
- 20 evidence box.
- 21 Q So, what you just described is what's located in here?
- 22 A That is correct.
- 23 Q And did you seal the ends of this?
- 24 A I did.

TIM CONROY – DIRECT BY MARCHANT

1 Q And subsequently submitted it for testing for Doctor Kandala?

2 A That's correct.

3 Q And the handwriting on the side of this, is that your handwriting?

4 A It is.

5 Q So, the only statement the defendant made to you was in the hospital prior to invoking
6 his right to a lawyer?

7 A That's correct.

8 Q Now, as lead investigator, you've been here through a lot of other testimony. I don't
9 want to minimize your involvement in the case, but is there anything else that you collected
10 in this case, or were there other officers, forensic officers, other detectives that retrieved the
11 majority of the information in this case?

12 A That's correct. Evidence was collected by a number of people.

13 Q Please answer any questions Mr. Johnson may have for you.

14 The Court: Cross examination.

15 Mr. Johnson: Thank you, Your Honor.

16

1 Q So, the only statement the defendant made to you was in the hospital prior to invoking
2 his right to a lawyer?

3 A That's correct.

4 Q Now, as lead investigator, you've been here through a lot of other testimony. I don't
5 want to minimize your involvement in the case, but is there anything else that you collected
6 in this case, or were there other officers, forensic officers, other detectives that retrieved the
7 majority of the information in this case?

8 A That's correct. Evidence was collected by a number of people.

9 Q Please answer any questions Mr. Johnson may have for you.

10 The Court: Cross examination.

11 Mr. Johnson: Thank you, Your Honor.

12 **CROSS EXAMINATION BY MR. JOHNSON:**

13 Q Detective Conroy, I want to show you what's been marked as State's Exhibit 47.

14 Now, that's the picture of my client in the hospital. Correct?

15 A That's correct.

16 Q And that's the condition he was in when he got there?

17 A When he got there, he had his shirt on and medical personnel cut his shirt off and
18 started treating him. This was after he was treated. Forensics showed up after he was treated
19 and I left the hospital.

20 Q So, you were already gone by the time that picture was taken?

21 A That's correct.

22 Q Detective, that's the picture I just showed you. Correct?

23 A Yes sir.

24 Q And that's my client after you say Forensics had cut off his shirt?

25 A Medical personnel---

- 1 Q Medical personnel, excuse me.
- 2 A ---cut his shirt off. Yes sir.
- 3 Q Excuse me. Then Forensics collected his shirt?
- 4 A Yes sir.
- 5 Q Now, you testified earlier that you went to see my client and you questioned him. Is
- 6 that true?
- 7 A I never asked him a question. I wanted to talk to him. I wanted to question him, yes
- 8 sir.
- 9 Q So, you went to question him, but you stated that you never asked him a question?
- 10 A No sir. I explained the facts that were found. He uttered something, then requested
- 11 an attorney.
- 12 Q Now, when you said those facts as you portrayed them, did you expect a response?
- 13 A Not necessarily.
- 14 Q Then why did you say it? You said you wanted to question him. Then why did you
- 15 say this stuff if you didn't expect it would elicit a response?
- 16 A I was hoping he would speak with me about the case, but I didn't expect him to utter
- 17 a response.
- 18 Q Now, you guys in the Academy and otherwise, are taught how to interrogate and
- 19 otherwise question people, aren't you?
- 20 A I have been to interrogation schools, yes sir.
- 21 Q Yes sir. Now, and besides the shirt-- I mean, this is the virtual condition he was in
- 22 when you wanted to talk to him, isn't it?
- 23 A It is.
- 24 Q He looks in pain, doesn't he?
- 25 A I can't-- I mean, I'm sure he was in pain, yes sir.

1 Mr. Johnson: (inaudible)

2 The Court: Re-direct, Solicitor?

3 Mr. Johnson: Your Honor, I'm not—

4 The Court: Oh, I'm sorry.

5 Mr. Johnson: My apologies.

6 The Court: Continue on.

7 Mr. Johnson: Thank you.

8 Q Now, Detective Conroy, you did a report in this issue, in this incident?

9 A Yes sir.

10 Q Do you have that with you?

11 A I do not.

12 Q I'm going to hand you what has been provided to me. If you will, please confirm to
13 me whether or not that's your report that you made.

14 A (pause to examine document) Yes sir.

15 Q May I have that back, please?

16 A Yes sir.

17 Q Now, you were involved in all this except for what folks testified as to what happened
18 at the Comfort Inn and the chase. You were pretty much involved as far as coming to the
19 scene at Berkeley Point. And past that point you were not involved in processing the scene
20 and things of that nature, but you were involved in the investigation from that point on?

21 A Yes sir.

22 Q Okay. Now, when you first got there, you talked to a Hispanic male, didn't you?

23 A I did.

24 Q Alright. And you learned from that Hispanic male that he observed two black males
25 quickly away from the [REDACTED] Building, that they were both six feet, 200 pounds. Once was

1 The Court: All right, ladies and gentlemen. I assume, Mr. Johnson, there are certain
2 matters of law you need to take up with the court at this point in time?

3 Mr. Johnson: Yes sir, Your Honor.

4 The Court: Very good. All right, ladies and gentlemen. At the present time, when
5 the State rests its case or ends its case there are certain matters of law the court will have to
6 review with the attorneys. It will take some time. Looking at the clock, I'm not gonna keep
7 you here in the hopes that we would continue on with at least some more of the case before
8 we conclude it.

9 As far as your participation for today, that's gonna be over with. I'm gonna send you
10 home with the instructions I gave you last night. You can't go home and talk about this case with
11 anybody. Again, y'all shouldn't be talking about this case because I have not submitted it to you for
12 your deliberations and your unanimous decision yet.

13 So, again, you aren't investigators. Don't look up anything. Don't do any research. Don't
14 read any reports or watch any reports about this particular matter. You decide the case solely and
15 completely on the facts and evidence you hear in the courtroom, and from now other source.

16 So, with that, I will see you back, please be back in your jury room by 9:25 tomorrow so we
17 can start at 9:30 please. Thank you very much. Have a good evening. Everyone else remain seated.

18 (Whereupon the jury exited the courtroom)

19 I'll be glad to hear any motions that you have at this point in time, Mr. Johnson.

20 Mr. Johnson: Thank you, Your Honor. At this time, the-- First of all, the defense wishes to
21 renew all prior objections, including the objection to the testimony from Officer Conroy of the
22 statement given by my client and the waiver of rights form.

23 Your Honor, I think the evidence has revealed that---

24 The Court: Well, let's deal with them one at a time.

25 Mr. Johnson: Yes sir.

1 The Court: Your renewal of that particular matter as to the statement of the defendant, I will
2 reaffirm my prior ruling that it was, clearly the defendant was under arrest. I do find that he was
3 partly given his Miranda warnings. He waived those Miranda warnings and he voluntarily gave a
4 statement to the detective at that time with the full knowledge of his rights and having waived those
5 rights. I reaffirm that prior ruling. All right.

6 Mr. Johnson: Your Honor, I would also like to renew my prior objection to the identification
7 made by Officer Brittany Cruell as a violation of my client's due process for unduly suggestiveness.

8 The Court: All right, sir. Regarding that particular issue, I'll reaffirm the prior ruling of the
9 court that I found under the standards that I set forth at that time when we conducted the Neil versus
10 Biggers hearing. I did not find the circumstances to be such that it was unduly suggestive or that the
11 defendant was pointed out to the officer or any way tainted her identification of the officer (sic), and
12 therefore, respectfully decline to grant your motion. I reaffirm the prior ruling.

13 Mr. Johnson: Your Honor, at this point in time I'd like to make a motion for a directed
14 verdict on all charges. Your Honor, more specifically with regards to the failure to stop and the
15 possession of a stolen vehicle over \$10,000. I do not believe Officer Cruell or the other officer
16 testified that they saw my client get into said vehicle. It was also further testified by Officer Lane
17 that he could only tell it was a black male. And the chase video does not reveal who is the driver of
18 that car.

19 I do know-- I do acknowledge that there was evidence presented that placed my client on the
20 outside or in and around the vehicle with fingerprints. However, it does not prove that he was in the
21 vehicle in that specific chase. Especially, with the element of failure to stop driving and the element,
22 and no one testified that they saw my client driving the vehicle.

23 With regards to the possession of a weapon and the two attempted murder charges, I do
24 believe that the evidence is largely circumstantial and attempted to be pieced together in order to

1 make a substantial case. I think that fails under State versus-- Excuse me. State versus Williams.
2 And this is not substantial circumstantial evidence as required to survive a directed verdict.

3 The Court: Thank you. Solicitor, any arguments you want to make?

4 Mr. Marchant: Your Honor, the court's familiar with the burden of proof. At this stage of
5 the game, Judge, we believe there's sufficient evidence on all charges to allow the case to go
6 forward and deny the directed verdict motion. There is in fact the existence of evidence. Of course,
7 the court's not concerned with the weight. The jury will weigh that out at the end of the trial. So,
8 based on the standards in Williams, there is plenty of evidence in this case for the jury to consider
9 the defendant's innocence or guilt on those five charges.

10 The State would move respectfully that defendant's motion for a directed verdict be denied.

11 The Court: All right, sir. Regarding the directed verdict motion on the charges against the
12 defendant, the standard is the defendant is entitled to a directed verdict when the State fails to
13 produce evidence of the offense or offenses charged. As the trial judge I'm concerned with the
14 existence of evidence, not with its weight; not its credibility, believability. That's the job of the jury.
15 My job is only to decide whether or not the evidence does exist.

16 If there's any direct evidence or substantial circumstantial evidenced reasonably tending to
17 prove the guilt of the accused, the case is properly submitted to the jury, the motion for directed
18 verdict is properly denied.

19 Only when I would find the evidence merely raises a suspicion that the accused is guilty of a
20 particular crime would it be proper for the court to grant a directed verdict motion. So, if I would
21 find that the jury was merely speculating as to the guilt of the accused or where the evidence is
22 sufficient only to raise a mere suspicion of guilt, then a directed verdict motion would be proper.

23 As to the two charges you mentioned first, failure to stop for a blue light, and possession of a
24 stolen vehicle, I do find that there is more than sufficient, certainly substantial circumstantial
25 evidence that would show the defendant was driving the vehicle, there was a failure to stop for the

1 blue light. When you combine the testimony of Officer Cruell, Officer, the other officer that was
2 present, Lane, I believe. Hold on one second.

3 All right. And then you combine it with the evidence that was found regarding the
4 defendant's fingerprints on the vehicle, the vehicle being found shortly after the chase by Officer
5 Cruell. I do find there's substantial circumstantial evidence to find that there was a failure to stop
6 for a blue light.

7 Regarding possession of a stolen vehicle, again, I find there's substantial circumstantial
8 evidence. It's clear from the testimony provided that the vehicle as testified to was a stolen vehicle.

9 And the other evidence that was introduced regarding the attempted murder charges and the
10 possession of a weapon during the commission of a violent crime, again, I do find there is direct
11 evidence and substantial circumstantial evidence that reasonably tends to prove the guilt of the
12 accused as testified by the numerous witnesses in this case.

13 And therefore, your motion for a directed verdict at this stage of the proceedings is denied.

14 As far as proceeding on with the trial of this matter, Mr. Johnson, do you at this time plan to
15 present evidence in this case?

16 Mr. Johnson: Your Honor, I think that I probably will. I think-- At this time I'm not sure. I
17 guess I'll ask that if you will prepare the proper questioning for my client, but I believe he may
18 testify in this matter.

19 The Court: All right, sir. If you-- Do you want to have until first thing in the morning to
20 review the matter with your client and make that decision, or are y'all prepared to make that decision
21 right now?

22 Mr. Johnson: I prefer to make the decision in the morning, Your Honor.

23 The Court: All right, sir. I don't have a problem with doing that. What I would ask of you
24 in the morning is if you intend to produce evidence in the case or bring forth evidence in the case
25 that would not be that of your client; that is, not your client testifying, then what we would do is

1 proceed with that particular part of the trial. When you're done with all of your presentation except
2 the possibility of your client testifying, we'll take a short break and then I'll go over his
3 constitutional rights with him and his decision whether or not he wants to testify in this particular
4 case or not.

5 So, when we reconvene in the morning, you need to let me know where it is and what your
6 intentions are regarding your presentation of evidence, so I'll know how we're gonna proceed.

7 Mr. Johnson: Yes sir, Your Honor.

8 The Court: All right, very good. If y'all have any requests to charge that would like to
9 submit, I would ask that if there are any you want me to consider you bring those in the morning and
10 give those to me in the morning.

11 Mr. Johnson: Yes sir, Your Honor.

12 The Court: Both the State and the Defense. All right. Anything else from the State before
13 we recess for the evening?

14 Mr. Marchant: Nothing from the State, Your Honor.

15 The Court: From the Defense?

16 Mr. Johnson: Nothing from the Defense, Your Honor.

17 The Court: Very good. I'd appreciate it if y'all would be here shortly after 9:00 so if there
18 are any matters we need to go over, anything that comes up, we can discuss those prior to the jury
19 coming in and we can get started at 9:30.

20 Mr. Johnson: Yes sir, Your Honor.

21 (Whereupon court was adjourned for the day)
22

TIM CONROY - DIRECT BY MARCHANT

1 OCTOBER 10, 2012 – COURT IN SESSION

2 The Court: All right, counsel, I've thought about this matter overnight. I want to-- I believe
3 this is the issue of the defendant's motion for a directed verdict on the possession of a stolen vehicle.
4 At the present time the testimony that has been presented to the court, there's no testimony from
5 anyone saying that the vehicle was stolen. There is testimony that there was an improper tag and the
6 VIN number was obscured. There was testimony from any officer of who actually owned the
7 vehicle. The police had the custody and control of the vehicle, they towed it in. They had plenty of
8 opportunity to take the air freshener off the VIN number, check the VIN number, communicate with
9 the owner of the vehicle, find out if the defendant had permission to use the vehicle or be in
10 possession of the vehicle.

11 There's no testimony before the court of the person that owned the vehicle, whoever that
12 person may be, saying it is their car, that defendant did not have permission of the vehicle.

13 Therefore, at the present time, I, under the authority that I have as presiding judge in a
14 criminal matter, I can and will offer to the State to re-open their case to present further evidence on
15 the issue of possession of stolen vehicle, if they so choose to do so. If they decline to do so, then the
16 court will grant the defendant's motion for a directed verdict as to the possession of a stolen vehicle.

17 The Court: What's your position, Solicitor?

18 Mr. Marchant: Your Honor, at this time the State would move to reopen the case and call
19 Detective Conroy back to the stand to clarify the issue at hand.

20 The Court: Very good. Hold on one second.

21 (pause)

22 Under the-- As I said, under the authority the court has, I'll just cite a few cases that cite it's
23 in the trial judge's discretion to allow the state to reopen its case to prove the

TIM CONROY - DIRECT BY MARCHANT

1 essential element of the offense charged. That's found at State versus Humphrey, 274 SE 2nd 918,
2 1981 decision of the South Carolina Supreme Court; State versus Wren, 470 SE 2nd 111, South
3 Carolina Court of Appeals decision, 1996; State versus Greene, 567 SE 2nd 505, 2002 decision of the
4 South Carolina Court of Appeals.

5 Yes sir, Mr. Johnson?

6 Mr. Johnson: Your Honor, I-- Actually, I suppose you just ruled. However, I would like to
7 object for the record, understanding the motion and otherwise the practice of objecting. I understand
8 that's your ruling, but I'd like to-- I don't think I ever said objection. So, I would like that on the
9 record.

10 The Court: Well, I appreciate that. If you want to put your grounds on the record, I'll be
11 glad for you to do so.

12 Mr. Johnson: Yes sir, Your Honor, just briefly. The Solicitor had closed their case. We
13 actually were prepared to start-- We possibly could have started our case yesterday, if it weren't for
14 logistical reasons as far as time was concerned.

15 I would like to object for the record to the State being able to reinstitute this testimony and
16 ask that you grant my motion for a directed verdict on that charge once again, Your Honor.

17 The Court: All right. Well, I'm gonna allow the State to reopen the case. As I indicated, I
18 will obviously hear from you again after we've heard any further testimony as to the matter. We'll
19 see if there is or can be produced sufficient evidence regarding the charge of possession of a stolen
20 vehicle.

21 With that, is the State ready for the jury?

22 Mr. Marchant: Yes, Your Honor.

23 The Court: And the Defense?

24 Mr. Johnson: Yes sir, Your Honor.

TIM CONROY - DIRECT BY MARCHANT

1 The Court: Ask the jury to come in, please.

2 (Whereupon the jury entered the courtroom)

3 All right, ladies and gentlemen. Yesterday, the State rested. There was a matter brought to
4 the court's attention. In my discretion I am allowing the State to reopen its case on a certain matter.
5 And therefore, Solicitor, you may call your next witness.

6 Mr. Marchant: If it please the court, the State calls Detective Tim Conroy to the stand.

7 The Court: Detective, please remember that you under oath, remain under oath in this
8 particular matter. Thank you very much.

9 **TIM CONROY**, having been reminded of previous
10 oath by the court, testified as follows:

11 DIRECT EXAMINATION BY MR. MARCHANT:

12 Q Detective Conroy, after the arrests were made in this case did you have the
13 opportunity or occasion to speak with the owner of the Yukon?

14 A Yes, I did.

15 Q Did you confirm what the owner of the Yukon's name was?

16 A Yes, I did.

17 Q What was that?

18 A Delana Grisham.

19 Q Do you recall on what date you spoke with her and how you spoke with her?

20 A I spoke with her on November 2 by phone, and then again on the fourth in person.

21 Q I'm sorry. The second date was?

22 A November 4.

23 Q Where did you visit with her on November 4?

24 A At Elgin Body Shop.

TIM CONROY - DIRECT BY MARCHANT

1 Q Why did you meet with her at Elgin Body Shop?

2 A To return her vehicle to her.

3 Q How did that exchange go at Elgin Body Shop?

4 A I had her vehicle identification number with her vehicle information. I checked it
5 with the VIN on the car, as well as her driver's license to confirm that she was the rightful
6 owner.

7 Q Where did the registration information come from?

8 A Off a printout run through dispatch.

9 Q Did she indicate to you whether or not anyone had permission to be drive her vehicle?

10 A She stated no one had permission.

11 Mr. Johnson: Judge, this is hearsay.

12 The Court: As far as the last statement by the Detective, I'll strike that and ask the
13 jury to disregard the last statement. Continue on, Solicitor.

14 Q You took the VIN number off of the vehicle or off a piece of paper?

15 A I compared the two, off of the printout from dispatch to the one on the vehicle.

16 Q And is there a case file or jacket concerning this vehicle out of Spartanburg County?

17 A Yes, there is.

18 Q Did you do any investigation into that case in Spartanburg County?

19 A No, I did not.

20 Q Please answer any questions Mr. Johnson may have you.

21 The Court: Cross examination.

22 Mr. Johnson: No questions, Your Honor.

23 The Court: Thank you very much. You may step down, sir. Further presentation by
24 the State?

TIM CONROY - DIRECT BY MARCHANT

1 Mr. Marchant: None from the State, Your Honor.

2

PATRICK LOWRANCE – COURT EXAMINATION

1 The Court: Very good. All right, ladies and gentlemen. I appreciate your patience.
2 You just came in the courtroom. Again, I assume, Solicitor, you're telling me then that the
3 State rests?

4 Mr. Marchant: Yes, Your Honor, the State rests.

5 The Court: Very good. All right. I'll have to again talk to the lawyers for about five
6 minutes. Y'all go back to your jury room and we'll call you back in and we'll resume the
7 case. Thank you very much.

8 (Whereupon the jury exited the courtroom)

9 All right, Mr. Johnson, I'll be glad to hear from you, sir.

10 Mr. Johnson: Yes sir, Your Honor. I'd like to renew my motion for a-- First of all,
11 Your Honor, permission to approach?

12 The Court: Yes sir.

13 (Whereupon a bench conference took place)

14 So, the record is clear, I allowed the State to reopen its case only on the issue of the
15 possession of a stolen vehicle, having brought that to the attention of counsel in this matter.

16 Previously the State had rested. The Defense had made its motions for a directed
17 verdict on the other charges, the failure to stop for a blue light, possession of a weapon
18 during the commission of a crime, the attempted murder charges. Those were heard and
19 ruled on by the court at that point in time. The Court states to the Defense counsel it's not
20 necessary to reassert those motions for a directed verdict. You've made those, the Court's
21 ruled on them. The only matter that was reopened was on the issue of possession of a stolen
22 vehicle. So, I'll be glad to hear from you, Mr. Johnson on the issue of a renewed motion for
23 directed verdict on the possession of a stolen vehicle.

24 Mr. Johnson: Thank you, Your Honor. Based upon the testimony we just heard the

PATRICK LOWRANCE – COURT EXAMINATION

1 only testimony that we heard as far as did anyone have permission to use this car was struck
2 as hearsay. So, therefore, without any testimony on the record as far as if anyone else had
3 permission to drive the car, that does not exist in the record. Therefore, I am renewing my
4 motion for a directed verdict on this charge.

5 The Court: All right, sir. One second.

6 (pause)

7 Regarding the motion for possession of a stolen vehicle, the evidence, I believe,
8 under directed verdict, I do find there is substantial circumstantial evidence regarding the
9 particular matter. There's, kind of coincides with the failure to stop for a blue light. You
10 have the officer, Officer Cruell, finding the GMC Yukon at the Comfort Inn with an
11 improper tag and the vehicle identification number being obscured.

12 They go inside to investigate the matter further. Officer Cruell sees the defendant,
13 whom she later identifies through the records of this defendant and identified him in court,
14 walked by her. The police and persons at the hotel immediately see that vehicle leaving the
15 Comfort Inn. Officer Cruell attempts to stop the vehicle. It's clear that the vehicle, GMC
16 Yukon will not stop. I mean, you can see the blue lights reflected on the back of the vehicle
17 in the video. So, it's clearly not stopping for a blue light.

18 Thereafter, the vehicle was located at the apartment complex. There is substantial
19 circumstantial evidence that shows the defendant was there at the complex. His fingerprints
20 are all over the Yukon in any number of places; driver's side, passenger's side, all over the
21 vehicle.

22 He is linked to the scene by other evidence. You have the officer-- I'm sorry.
23 Detective Conroy checking the VIN number, vehicle identification number, finding its
24 rightful owner, returning the vehicle to the proper owner of the vehicle, who is not the

PATRICK LOWRANCE – COURT EXAMINATION

1 defendant, who is someone outside the area, and has the proper paperwork for the ownership
2 of the vehicle.

3 Therefore, the substantial circumstantial evidence reasonably tends to prove the guilt
4 of the defendant of the crime of possession of a stolen vehicle. And therefore, I would
5 respectfully decline to grant your motion for a directed verdict.

6 Mr. Johnson: Your Honor, may I make a second motion?

7 The Court: Sure.

8 Mr. Johnson: Your Honor, also in the testimony it was mentioned by Detective
9 Conroy that there was a case out of Spartanburg. I am concerned with that testimony itself. Based
10 upon that I am going to ask the court to rule for a mistrial in this matter.

11 Mentioning some case out of Spartanburg I believe is unduly prejudicial and I don't know
12 that a curative instruction would fix that. Mentioning a case out of Spartanburg indicates that
13 my client was involved in a case out of Spartanburg and therefore, the jury could deduce
14 because of that he is guilty of this charge here.

15 That concerns me greatly. And as I mentioned previously I don't know that
16 instructing the jury on the matter would fix the issue.

17 The Court: All right, sir. Solicitor?

18 Mr. Marchant: Your Honor, there's no way to talk about being in possession of a
19 stolen vehicle without talking about where the vehicle was stolen, if there is a case, or a
20 report about the vehicle being stolen. We can't talk about possession of stolen property if
21 it wasn't stolen from someone somewhere. There's no indication our information has been
22 put forth on the testimony of Detective Conroy about any facts or circumstances of that case
23 other than there was a report from the victim, Delana Gresham, that he vehicle was stolen in
24 Spartanburg County.

PATRICK LOWRANCE – COURT EXAMINATION

1 The Court: I appreciate that. He did not even say that. He said he, there was a
2 matter in Spartanburg and he did not investigate. He did not-- There was no statement by
3 the detective that the defendant was involved, that there was any connection to the defendant.

4 Also, it was not objected to at the time that the statement was made, allowing the
5 Court, if there was time, to talk to the jury at this point in time.

6 I do not find the matter rises to the standard necessary for a mistrial. If you wish, I
7 will tell the jury that any matters in Spartanburg are not at issue here, do not affect this
8 defendant and we are only here about the matters the State has charged the defendant with. If
9 you want me to tell the jury that or something to that effect, I'll be glad to do so, Mr.
10 Johnson. But I'm not going to declare a mistrial. I do not find that there is any reason, nor
11 has the proper standard been met to declare a mistrial in this matter.

12 Do you want me to say that to the jury?

13 Mr. Johnson: No sir, Your Honor, but I accept your ruling as made. I would not
14 think a curative instruction would be appropriate. But I respect your ruling as made, Your
15 Honor.

16 The Court: Very good. As I understand it, then, we are now at the point where the
17 defense may produce testimony or evidence. Is it your intention, Mr. Johnson, to produce
18 evidence on behalf of the defendant in this matter?

19 Mr. Johnson: Yes sir, I believe my client will testify.

20 The Court: Very good. If you would, stand up, Mr. Lowrance, please. Madam
21 Clerk, place him under oath.

22 PATRICK DEAN LOWRANCE, duly testified as
23 follows:

24 QUESTIONS BY THE COURT:

PATRICK LOWRANCE – COURT EXAMINATION

1 Q Mr. Lowrance, let me talk to you about certain of your constitutional rights. First, as
2 far as strategy, before we go into that, you understand at this point in time your attorney on
3 your behalf has not introduced evidence such that you would lose your right to the last
4 argument to the jury. At the present time that is preserved.

5 What will happen in the closing argument, the State would have to give its full and
6 complete argument, then your attorney would be allowed to make the last presentation to the
7 jury.

8 If there is any presentation of evidence by the defendant you lose that and the State,
9 having the burden of proof to prove you guilty beyond a reasonable doubt of the charges
10 brought against you, would have the last argument.

11 Do you understand that?

12 A Can you say that one more time?

13 Q Yes sir. Right now, there hasn't been any evidence that you have officially put in the
14 case. All right? Your attorney's cross-examined the witnesses, but you have not introduced
15 any evidence. You haven't introduced any documents. You haven't presented a witness.

16 So, since that has occurred so far, your attorney now possesses the right to have the
17 last argument before the jury when the attorneys do their closing arguments. All right?
18 That's not normally the case, but since you have not introduced evidence you have that right.
19 You now possess it.

20 If you go forward and produce any evidence in this case, if you decide to testify or
21 you've brought forth any witness, or you produce a document, you would lose that right.
22 What would happen then would be depending upon the Defense's position, the State may be
23 required to open as to certain legal matters. Your attorney would make his full and complete

PATRICK LOWRANCE – COURT EXAMINATION

1 argument. And then the State would have the last opportunity to close; that is, to speak to the
2 jury before they go back to the jury room and deliberate. All right? So, that's the situation.

3 So, I want you to understand that in making your decision. All right, sir?

4 A Yes sir.

5 Q Now, do you understand what we've talked about here?

6 A Yes sir.

7 Q All right. Do you need a minute before we talk about whether or not you're gonna
8 testify in this case? Do you need a minute or two to talk to your attorney about that
9 particular issue? Do you want to talk to him about that, sir?

10 A Yes sir.

11 The Court: Very good. Mr. Johnson, if you would---

12 Mr. Johnson: We just need a minute.

13 The Court: You just need a minute right there?

14 Mr. Johnson: Yes sir.

15 The Court: Very good.

16 Mr. Johnson: Thank you, Your Honor.

17 The Court: Y'all take a minute to do that.

18 (pause for attorney/client conference)

19 Mr. Johnson: We're finished.

20 The Court: Very good.

21 Q All right, Mr. Lowrance. You've had an opportunity now to talk about that with your
22 attorney. Correct?

23 A Yes sir.

PATRICK LOWRANCE – COURT EXAMINATION

1 Q So, understand you have that particular right, let me go over your constitutional rights
2 as far as you testifying in this case.

3 If at any point in time during our discussion you don't understand anything we're
4 talking about, you've got a question about it in any way, I want you to stop me. I want you
5 to indicate that to me. You can raise your hand, you can tell your attorney, Mr. Johnson.
6 But in some way tell me that you've got a question or you don't understand. Are we on the
7 same page there?

8 A Yes sir.

9 Q We've reached the stage of the trial where you can present your defense. You have
10 the right guaranteed to you by the Fifth Amendment of the Constitution of the United States
11 of America that says no person shall be compelled in any criminal case to be a witness
12 against themselves.

13 That means nobody can make you testify. Nobody can force you to come into court
14 and testify in the case. You can testify if you want to, but it's your decision. You get to
15 choose whether or not you want to testify in the case.

16 Do you understand that?

17 A Yes sir.

18 Q All right. Now, if you decide to testify you're gonna be subject to the same rules that
19 govern all the other witnesses that have testified in this case. What would happen would be
20 you will be called to the witness stand by your attorney. He'd ask you questions about the
21 case. The court would allow the State to cross examine you about all matters that are
22 relevant to this particular case.

23 The Court: As I understand it, at the present time, Mr. Lowrance does not have a
24 criminal record. Is that correct or is that not correct?

PATRICK LOWRANCE – COURT EXAMINATION

1 (no response)

2 The Court: Solicitor, are there any matters that you would be requesting to cross
3 examine him on the issue of credibility or believability?

4 Mr. Marchant: No, Your Honor.

5 The Court: Very good.

6 Q So, there are no conditions regarding dishonesty or false statement or crimes
7 punishable by imprisonment by more than one year. If you had those, then the State could
8 ask you whether or not you've been convicted of them, but that's not gonna be an issue. All
9 right?

10 So, you'll just be subject to the cross examination by the State as to all of the facts of
11 this case or all of the matters the court finds to be relevant to the charges that have been
12 brought against you.

13 Do you understand that?

14 A Yes sir.

15 Q All right. If you decide to testify, it's gotta be your decision, understanding the rights
16 where you are in this case, the protections given to you by the Fifth Amendment of the
17 Constitution of the United States of America.

18 Now, if you decided not to testify, I would have an instruction to the jury. It would
19 say in essence that they cannot talk about that in the jury room. They can't consider it in the
20 jury room. They can't mentally use it to make their determination. The fact that you didn't
21 testify in this case is not a part of this case whatsoever. I'll make that clear to them---

22 A Yes sir.

PATRICK LOWRANCE – COURT EXAMINATION

1 Q ---through the instructions. It being your decision, now, to decide whether or not you
2 want to testify. You can obviously ask your attorney any questions. Or if you've got a
3 family member you wanted to ask a question of before you decide.

4 Do you want to do either of that?

5 A No sir.

6 Q All right, sir. Do you understand everything we've talked about?

7 A Yes sir.

8 Q All right, sir. Do you want to testify in this case?

9 A Yes sir.

10 Q Very good. Thank you very much. Y'all have a seat.

11 The Court: With that, Mr. Johnson, are you ready for the jury to come in?

12 Mr. Johnson: Yes sir.

13 The Court: Ask the jury to come in, please.

14 (Whereupon the jury entered the courtroom)

15 All right, Mr. Johnson, witnesses on behalf of the defense?

16 Mr. Johnson: The Defense calls Patrick Lowrance.

17

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 **PATRICK DEAN LOWRANCE**, duly testified as
2 follows:

3 Clerk of Court: Please state your full name for the record.

4 A Patrick Lowrance.

5 The Court: All right, Mr. Johnson, I'll be glad to hear from you, sir.

6 Mr. Johnson: Thank you, Your Honor.

7 **DIRECT EXAMINATION MR. JOHNSON:**

8 Q Now, Patrick, make sure you speak loudly enough in the microphone so everyone can
9 hear you. Okay?

10 A Okay.

11 Q Now, what's your middle name?

12 A Dean.

13 Q Patrick Dean Lowrance. Where are you from?

14 A Woodruff, South Carolina. That's where I first stay at. Then I moved to Duncan.

15 Q All right. I want you to speak a little bit louder than that, just so you know.

16 A I lived-- When I was in elementary school I lived in Woodruff. Then my mom got a
17 house in Duncan, so we moved to [REDACTED] Spring Street.

18 Q Do you have any brothers and sisters?

19 A I have one sister.

20 Q What's her name?

21 A Louisa.

22 Q What about your other family? Do you have any other family that's close to you, any
23 aunts, uncles, cousins, grandparents?

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 A Yes. I have aunts, uncles, cousins. A lot of people seen them the other day when
2 they came.

3 Q So, you went to elementary school in Woodruff. Where'd you do, do you remember?

4 A Woodruff Elementary.

5 Q And what about middle school?

6 A I went to Beech Springs Intermediate, and then I went to D. R. Hill Middle School
7 before attending Burns High School.

8 Q Past high school, did you go to college?

9 A After I graduated Burns High School, I attended Universal Technical Institute in
10 Houston, Texas. I became a auto collision technician there.

11 Q How long a program is that, two years, four years?

12 A Like, a year and a half.

13 Q So, what did you learn there that prepared you for a job?

14 A I rebuild and construct cars and made collision repairs.

15 Q What do you mean by rebuild and construct? I don't know anything about that stuff.
16 Can you tell us about that?

17 A I restore cars. I worked at Image's Collision three years doing insurance work.
18 Anything with a car pretty much I can do.

19 Q So, if I had a car that was raggedy and needed to be fixed up, could you make it new?

20 A Yes.

21 Q How long does it take you?

22 A Just depending on the condition of the car.

23 Q So, you said you worked where for three years?

24 A Image Collision.

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 Q Image Collision, and that's where you restore cars?

2 A I did insurance work at Image Collision and my work was sufficient enough it
3 enabled me to go to a custom shop and do customs. That's where I began restoring cars and
4 doing on frame-on, frame-off work.

5 Q What's frame-on, frame-off?

6 A Taking the car completely off the frame, building it from the ground up, restoring it.

7 Q What's the most exclusive car you ever worked on?

8 A I guess, like, a '67 Chevy GT, Mustang.

9 Q Now, we've talked about your work life a little bit and your school. I'd like to talk a
10 little bit about, what is it you like to do. Do you have any type of hobbies? Do you like
11 sports?

12 A I just enjoy spending time with my son and my wife and just playing with him a lot.

13 Q What's your son's name?

14 A Fabian.

15 Q How old is he?

16 A He's eight years old.

17 Q What's your wife's name?

18 A Sierra Lowrance.

19 Q Do you have any other family that you are close to and can speak of?

20 A Yes. We spend a lot of time with my mom, with her mom, my sisters. I have two
21 nieces my sister and her husband has together. And we go up to Durham Christmas or either,
22 they come down. We spend a lot of time together.

23 Q Do you have any other friends that mean a lot to you, or did you meet anyone there
24 like most people do?

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 A Yes, I do have very close friends. They came on two days ago, on the eighth. My
2 friend, Kim, my friend, April, they came to support me.

3 Q Were they in the same program as you?

4 A Yes sir. We graduated together from UTI in Houston.

5 Q Patrick, how old are you?

6 A I'm 26. I'll be 27 this [REDACTED].

7 Q [REDACTED]?

8 A Of this year, I'll be 27. I'm 26 right now.

9 Q Now, I know you said you lived in Woodruff. Were you born in Spartanburg as well?

10 A I was born in Mary Black Hospital, [REDACTED]/85.

11 Q You mentioned your mother and your sister. Is your father also close to you?

12 A My father lives with my aunt.

13 Q Now, Patrick, I'd like to now go into the days of October 27, 28, of 2011. Do you
14 remember those days?

15 A The 27th, that's the date before the incident happened?

16 Q Yes sir.

17 A I was hanging out with my older cousin.

18 Q Who's your older cousin?

19 A Norman Pearson. I had been-- Really, just, he had kinda took me in because this
20 November 3rd, will be my fifth anniversary of being married, and this, the beginning of this
21 year was the first time me and my wife ever started to have problems, or whatever. And I
22 was kinda just hanging out with him at the time because me and my wife were having
23 problems at the time. And so, on the 27th, I was, it was just a normal just hanging out with
24 Norman, just chilling out.

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 Q Now, you were obviously in the courtroom when Norman testified. Isn't that right?

2 A Yeah.

3 Q Now, he mentioned that he saw you from the car, in the Yukon in question here, and
4 saw you with, otherwise with a gun. You heard him mention that. Is that true or is that not
5 true?

6 A He did see me in the car. Whether I know or not he seen the gun, I don't know
7 because I don't even know if the gun was in the car.

8 Q So, you don't remember the gun being in the car?

9 A No, I don't recall it.

10 Q Whose gun is it?

11 A He goes by the name of Meat. I don't know his government last name, but I believe
12 his first name, his government name is Lametrius or Lometrius. It's, like, I just heard a
13 female pronounce his name one time.

14 Q Now, that's kind of odd to be hanging out with somebody that you don't know
15 actually their government name. Why is that? What's going on? How long have you known
16 this man?

17 A Maybe going on three weeks. I don't hang out with people because I mean, I'm a
18 married man. I just normally go to work, come home, go to work, come home, spend time
19 with my family.

20 Q Now, the vehicle, the Yukon, when you were with Norman, were you driving this?
21 You and Norman riding together? What was going on there?

22 A I would drive the car sometimes. Norman would drive the car sometimes. I thought
23 that it belonged to – I can't even call him a friend, just an acquaintance – Lametrius, because,
24 I mean, he had several cars. So, that's definitely the way he presents himself.

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 Q Now, what was-- Did y'all have any other friends that y'all like to hang out with it,
2 or that you were hanging out with other than Lametrius?

3 A No. Most of the time I'm with my cousin. I was just with Norman. When I go to my
4 mom's house. And whenever was being around the house I didn't want her to know that me
5 and my wife was having problems. So, I'd leave and then go to my cousin's house and hang
6 out with him.

7 Q I mean, what would y'all do together when y'all hung out??

8 A We was doing stuff that I didn't normally do, going to clubs, going to bars, just
9 hanging out.

10 Q What did y'all do at the clubs and bars?

11 A Socialize, meet people, all of that. And I think the name of the club is Dollar Bill
12 down White Horse Road, way down White Horse Road on the left. I'm not from Greenville,
13 so I'm not that familiar with it. But I just think it's down White Horse Road. That's where I
14 met Lametrius at.

15 Q Did y'all drink, do any drugs? What was going on?

16 A Yes.

17 Q Yes, as in?

18 A As in yes, we did drink and we did the drugs.

19 Q What type of drugs did you do?

20 A Just smoke marijuana.

21 Q Who would have the drugs?

22 A Most of the time Lametrius would have all the drugs.

23 Q Is that why you hung out with him?

24 A I think that's why everybody hung out with him.

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 Q Well, let's go back to that date. You stated that you didn't know Norman saw some
2 gun in there. Obviously, he has testified that he saw the gun. Whose gun was it? Was it
3 yours, or whose was it?

4 A It was Lametrius' gun. That's one of several I know of him having.

5 Q So, you knew it was in the car?

6 A When?

7 Q When you were driving you knew it was in the car?

8 A Whenever he would be in the car I knew that it was a gun present.

9 Q That was on the 27th when you were Norman. Norman stated that he gave you money
10 for a hotel room. Is that true?

11 A Yes. Actually he owed me money, but he said he let me borrow it. It's all the same.
12 I mean, we-- Sometimes I give him money and sometimes he gives me money.

13 Q But, anyhow, you got to the hotel. How did you get in the hotel room?

14 A Quality Inn on-- I believe it was on-- I think it's the Motor Mile, something like that.

15 Q Now, I believe it's been testified to previously by officers that-- Well, she said that
16 she saw you at a Comfort Inn. Did you stay at the Comfort Inn?

17 A Yeah.

18 Q Were you there by yourself or was there anyone with you?

19 A There were several people in and out of the room. The night of-- The night that I
20 was with Norman, the day before the incident happened, we had a party at the hotel.

21 Q Now, can you tell me who was at the party with you?

22 A Lametrius was at the party. He had a good friend named Tee. I don't really know his
23 name other than Tee. And some people I just, it's kinda just like this, hey, how you doing,

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 places. Or you know, like, you know, what's up, man. I really didn't know anybody else
2 like that. There's men and there's females.

3 Q Now, you stayed at the-- Now, obviously, you don't know government names as far
4 as Lametrius and Tee. Can you describe and tell us what they looked like?

5 A Lametrius is, he's way taller than me; I guess six foot-two, something like that, long
6 hair.

7 Q Six foot-two?

8 A Something like that. I know he's over-- I mean, I'm, like, five eight, five nine. So,
9 he's gotta be like six foot something, or six two, something like that.

10 Q Go on. I apologize. I cut you off.

11 A He does have long hair. He has dreads similar to my cousin's, Norman Pearson. He
12 has-- He's kinda stocky.

13 Q What about-- You mentioned a man by his nickname, Tee. What about Tee, what
14 did he look like?

15 A Tee is brown-skinned, just like caramel or honey brown, if you want to call it. He's
16 also, stands maybe a little shorter than Lametrius.

17 Q Now, after the party was over-- What time did your party end?

18 A It really didn't. We was-- I mean, we were up all night. We stayed up the whole,
19 entire night, hanging out and smoking and drinking.

20 Q At what point did y'all either leave or decide this party was over? What happened?

21 A Some people start leaving and I guess, falling asleep around, like four. Some people
22 fell asleep, some people left. And then in the morning time the rest of the people got up and
23 left. And there was still just me, Lametrius and Tee at the hotel.

24 Q At what point did y'all leave the hotel?

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 A I can't really recall the time. The only thing I know is, when we left, I got a bath
2 because the was gonna take me to a friend's house.

3 Q Who was gonna take you?

4 A Lametrius.

5 Q Now, what vehicle were y'all gonna take to this friend's house?

6 A He was driving the Yukon.

7 Q You say this Yukon. You've heard testimony about it was stolen. Did you know it
8 was stolen?

9 A No. I found out that the vehicle was stolen once I was in custody because prior to the
10 incident ever happened, I mean, we was riding around on a regular basis, going to the mall,
11 going, hanging with the mall. I thought everything was checked out fine with the car. I had
12 never had-- I did not have an involvement with a stolen car. I have not had involvement
13 with a stolen car in my life.

14 Q Now, you state that y'all went-- Well, they were gonna take you somewhere is what
15 you stated. Where was it that you were gonna say that they were gonna take you?

16 A Yeah. I was on the way to go chill with a friend of mine.

17 Q So, y'all were in the Yukon. And who's driving and where are they going to, and
18 what's going on?

19 A Tee and myself were in the back watching TV in the truck, and Lametrius was
20 driving.

21 Q Oh, he was driving the car?

22 A Yes.

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 Q Now, Officer Cruell stated earlier that she saw either a suspect of a certain
2 description. Actually, she said that she saw you walking through the lobby. Do you
3 remember seeing police officers, or what was the deal there?

4 A No, I don't remember seeing a officer. I would have noticed. I would have seen the
5 officer and recognized them.

6 Q Okay. Now, y'all are in the car and obviously y'all are driving. What happens next?

7 A Meat, Lametrius-- I call him Meat, that's what I know him by. He proceeds to get on
8 the interstate. Everything seemed fine at the time. He heads up the interstate, heads up 85,
9 and then the lights turned on.

10 Q What do you mean by lights?

11 A Police lights.

12 Q What happened next?

13 A When the police lights turned on, he punched it.

14 Q What do you mean by punched it?

15 A He proceeded to run away from the police, the police officer that was trying to pull us
16 over.

17 Q What was going on in the car at the time that he did that? What was going on?

18 A At the time me and Tee began questioning him why was he not pulling over. We
19 was---

20 Q What did you ask him that?

21 A Because I didn't think-- I was wondering why did he have to run from the police
22 officer, you know. There was no question in my mind that he should be, that he should have
23 to run from the police for any reason.

24 Q Now, you know he may have had a gun in the car. Was that a question to you?

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 A Yeah. And once we started arguing about that he did say that he had a gun in the car
2 and he also had drugs on him.

3 Q So, where did y'all go? I mean, during the chase, where'd y'all go?

4 A We got off on the next exit and I read that it was Mauldin Road that he got off on, and
5 he veered off and went to a place called Berkeley Point.

6 Q When you get to Berkeley Point, where'd you go?

7 A When he came into the apartment complex he immediately went to the left. I thought
8 he knew somebody over there at first, or something, because he pulled in, backed the truck in
9 and got out.

10 Q So, he gets out and what happens next?

11 A While he was getting out, I was getting out, too.

12 Q Okay. And did Tee stay in the car or did he get out?

13 A No, Tee got out. Tee got out also.

14 Q What did y'all do when y'all got out?

15 A At the point in time, all three of us was arguing, but Meat had the gun in his hand.

16 Q Why were y'all arguing?

17 A Because he had ran-- I was arguing with him because he had ran from the police, and
18 Tee also was doing the same.

19 Q I know you told me you were arguing because he ran from the police. What were the
20 type of things that you were saying? You can say what they said, but what type of things
21 were you saying?

22 A I was telling him that he should not have did that, the only thing he had to do was pull
23 over for the officer and let her run his license and we probably would have kept going. He
24 probably would just get a speed ticket or something. And after that he was telling me, well, I

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 got, I had the drugs on me and I have this gun and he was saying that he didn't have time to
2 deal with that lady.

3 Q Okay, so, y'all were arguing. And then what happens next? Do y'all stand there or
4 do y'all-- What did y'all do?

5 A I'm arguing with him, but at the same time I'm trying to be calm because he does
6 have the gun in his hand and he is kind of intimidating.

7 Q What about him is intimidating?

8 A Like, just the way he acts around people. Like, at parties, like, there was a little
9 incident with a guy and I guess he pretty much, like, just like punched him around,
10 something like that, you know.

11 Q So, let's go back. You said y'all got out of the car. where did y'all do, where did
12 y'all go? Where did you go?

13 A I had my duffel bag with me and I was telling him, well, you know, I was standing
14 there looking at him. We got to arguing. I don't know what he had and I started walking
15 towards the breezeway, just trying to get out of the open because we was in the open and he
16 was out there with a gun in his hand. And Tee also was doing the same thing. I was actually
17 following Tee because Tee led the way. So, I started walking behind Tee.

18 Q And so y'all proceeded towards the breezeway?

19 A Yeah.

20 Q Do you remember what building it was?

21 A I don't remember what building it was.

22 Q Anyway, y'all proceeded towards the breezeway. Where did y'all go?

23 A I was following Tee down the stairs.

24 Q What happened next?

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 A We was still arguing in the breezeway as far as how-- I was trying to tell him and I
2 was trying to call somebody to come get me. You know what I was saying. I was gonna
3 call somebody to come get me. And by this time I guess the police had figured out where the
4 vehicle had went to. And then I heard a radio--

5 Q Excuse me. Let me stop you. Radio, what radio?

6 A Like, a intercom, you know, like a walkie-talkie.

7 Q Like a walkie-talkie. Okay. So, you heard the radio and then what happened?

8 A Once I heard that I heard shots being fired.

9 Q Now, let's talk about where you were when you heard the radio. Were you on the
10 stairs? Were you down the stairs? Were you still in the breezeway?

11 A Yes. I-- Meat was-- Tee went down there first. I was behind Tee and Meat was
12 above me.

13 Q And that's when you heard the radio?

14 A Yes.

15 Q And then you said you heard shots fired. Who was shooting---

16 A Yes.

17 Q ---or what was going on?

18 A I don't actually know who shot first. I don't know who shot first. The only thing I
19 remember is a loud popping noise of the gun, the noise of the gun.

20 Q What did you do?

21 A When the first shots went off I had turned around because we had been arguing. I
22 didn't know if Meat tried to shoot me or what was going on. So, once I turned around, I seen
23 him shooting in the officer's direction.

24 Q So, when you figured out he was doing that, what did you do?

PATRICK LOWRANCE -- DIRECT BY JOHNSON

1 A I was-- I didn't-- I did not have a gun, so I was trying to stay behind him when
2 everything first started happening.

3 Q Okay. So, you stand behind him. Then what happened after that?

4 A I had been shot for the first time in my life and it took effect quickly because I was
5 shot and when I was shot I was stunned, in a tremendous amount of pain. It hit real fast. I
6 didn't know if Tee had shot me. I mean, I didn't know if Meat had shot me or who had shot
7 me, whoever Meat was shooting hit me in the conflict.

8 Q What happened after that? Did the gun battle end? What did you do?

9 A No, once I was shot, I went down to the bottom, went down to the bottom of the steps
10 and I dropped my bag, like that, and I was trying to gather myself. And it was a pause and a
11 stop in the shots being fired and then they started again.

12 Q Where was Tee during this? What was Tee doing during all this?

13 A He was hiding behind the building.

14 Q What happened next?

15 A Once the shots kept going I started to run for my life. I was afraid of being shot
16 again.

17 Q Where'd you run?

18 A I just took off into a wooded area.

19 Q Where was Meat and Tee?

20 A Before I started running I tried to figure out which direction Tee had went into, but I
21 did not see which direction he had went into.

22 Q So, did y'all ever meet up again, or what happened?

23 A Honestly, Meat seen the direction I ran in, because after I guess I-- While I laying
24 was in the woods, I was laying there bleeding and in a tremendous amount of pain. I heard

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 somebody coming through the woods. I didn't know who it was. I tried to hide as best I
2 could and I heard Lametrius call my name.

3 Q So, he called your name. What happened after that?

4 A He said, Pat, and I said-- I didn't saying nothing at first. And then he called me
5 again, and I was, like, yeah, man. He was, like,-- He was actually-- He was, like, you
6 good, you good? I was, like, no, man, I'm not good. I think you shot me, or I don't know
7 who shot me. So, then after that we started arguing again. And I was just telling him, you
8 know, this is crazy, man; the only thing you had to do was just pull over and none of this
9 would have ever happened.

10 Q So, after y'all were arguing what happened next? Did y'all stay together, or what
11 happened?

12 A After that he was trying to tell me that he had a way for us to leave, but I would not
13 go with him because I was scared to go with him. I just wanted to go my own, separate way.

14 Q Did you eventually leave, or did y'all leave?

15 A Yeah, he eventually left and he-- Before he left-- Before he left me in the woods he
16 left the gun with me and told me that I needed to keep the gun because he thinks the lady or
17 whoever was shooting him seen him, seen his face.

18 Q Why would you-- I mean, why would you even agree to do that?

19 A It was a stupid decision. I thought he was my friend and I just took the gun. I didn't
20 grab it with my hand or anything. He put the gun on me and I just took it on me.

21 Q Now, he-- When Meat said, I thought she saw me, what-- Did he tell you-- Was he
22 more specific, or did he give you any details?

23 A He was-- He just-- He just stated that the lady that he had shot at, he thought that she
24 had shot, had saw his face.

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 Q So, now Meat's gone and you have the gun?

2 A Yes.

3 Q What did you do after that?

4 A I began walking. And I was just beginning walking towards-- I was trying to go to
5 my cousin's house.

6 Q Okay.

7 A I didn't know where else to go.

8 Q All right. We're talking about time periods here. I mean, I need some time periods. I
9 mean, say, for instance, when you were found at, in your cousin's residence, the area and the
10 incident. What was going on during that period of time?

11 A Well, before-- I was down in the woods. After-- After Meat had left me I passed out
12 and-- Because I was just laying there and I passed out. And when I woke up I just began
13 walking.

14 Q Now, did you-- I mean, before you passed out did you ever call for help or try to get
15 away? Or what did you?

16 A Yes, I was. I was trying to call-- I was trying to-- I had called my cousin's mom's
17 house and I was trying to get him or somebody to come get me because I was shot at the
18 time.

19 Q Which cousin is this?

20 A Norman.

21 Q Norman. Were they the only people you called?

22 A I also called my wife, but she-- She go-- She attend school. She goes to USCS and I
23 believe she's in class at the time.

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 Q So, at some point you passed out. About how long were you passed out? Do you
2 remember any, seeing any, hearing any police or anything of that nature?

3 A No, I can't remember.

4 Q So, at some point you wake up, I suppose?

5 A Yes.

6 Q Then what'd you do?

7 A I just-- I just started walking towards my cousin house.

8 Q Now, there was testimony earlier from a Will Brockman. Do you know who Will is?

9 A Yes, I know-- I know-- I know him as just Will. I don't know-- I don't even know
10 his last name. I never knew his last name until I got the motion for discovery.

11 Q Now, how did you find Will? Did you call Will? Or, how did you end up running
12 into Will?

13 A I seen Will going by and I know his car, 'cause he's been over my cousin's house a
14 couple times when I was over there, and I flagged him down.

15 Q When you say your cousin's house, you're talking about Norman?

16 A Yeah, Norman.

17 Q So, you say you flagged him down?

18 A Yes.

19 Q What happened when you flagged him down?

20 A He asked me, why you up here? He was, like, man, you all right? He was, like,-- He
21 was, like, -- He say-- He was, like, man, they saying that you shot at the police, or shot at
22 some lady cop, or whatever. And I was, like, I didn't shoot at nobody. And after that we
23 really didn't talk about it no more. I was, like, I don't want to talk about it no more. I just
24 want to-- I'm trying to get to my cousin's house.

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 Q Now, did you get to your cousins' house?

2 A Yes, I did.

3 Q What happened when you got to your cousins' house?

4 A I proceeded to go in, and his sister, Via, told me that I needed to get out of the yard
5 and I didn't to be there.

6 Q What'd you do after that?

7 A Will was getting ready to pull off and I ran back to the car and he let me back in the
8 car.

9 Q Then where'd y'all go?

10 A Went to Will's house.

11 Q Did you get inside Will's house?

12 A Yes.

13 Q What'd you do when you got to Will's house?

14 A I was trying to call to see if I could get somebody to come get me to see if I could
15 help, and that's when I contacted some of my family members.

16 Q What happened after that? Did your family members end up helping you, or what
17 happened?

18 A Yes. Once I-- I got in contact with my wife and she was at my mom's house, I
19 believe. And they was just telling me that everything would be all right if I would turn
20 myself in. And they was just asking me to do that for my safety. And so, after that I told--
21 I told Will would he go meet my family, my sister, so she could come, so they could come
22 get me.

23 Q Now, were you afraid that you were in trouble?

PATRICK LOWRANCE – DIRECT BY JOHNSON

1 A I was-- I was really scared for my life. I didn't-- This is the first-- This is the first
2 time anything like this had happened to me.

3 Q So, what did you-- What happened after Will met your family?

4 A He brung them-- He brung them there.

5 Q So, what happened at the house when they got there?

6 A When they got there, they were there for about ten, fifteen minutes, maybe, just
7 talking with me. And then the police came.

8 Q What happened when the police came?

9 A When the police came Will and - I think it was a cousin or his friend, I don't know
10 his name -- left out first. And then my wife was there, she came out and then they told me to
11 come out. I came out.

12 Q At that point what's going through your mind?

13 A I was wanting to get to the hospital to see if I was okay.

14 Q Did you get to the hospital?

15 A Yes.

16 Q Do you remember seeing Detective Conroy at all?

17 A No. I did not recognize Detective Conroy until I had seen-- I did not recognize him
18 yesterday. The first day this trial started is the first time seeing him. I don't remember him
19 talking to me. I remember somebody talking in my ear, but I don't remember looking in his
20 face.

21 Q Patrick, at this time, I have nothing further. Please answer any questions the Solicitor
22 has for you.

23 A All right.

24

PATRICK LOWRANCE – CROSS BY MARCHANT

1 The Court: Cross examination.

2 Mr. Marchant: If it please the court.

3 **CROSS EXAMINATION BY MR. MARCHANT:**

4 Q All right, Mr. Lowrance. You talked about your wife and yourself having difficulties.

5 What were those difficulties?

6 A We were having personal problems, I guess.

7 Q Okay. Please elaborate for me. What kind of personal problems were you having?

8 A Relationship problems.

9 Q Well, what was long with the relationship? You can't pay the bills? Or, what's going
10 on that caused you to move out of the house and move down with your cousin?

11 Mr. Johnson: Your Honor, I'm gonna object on relevance. I'm not sure what the
12 relevance is.

13 The Court: I appreciate that. It was brought up in direct examination and I'm gonna
14 allow it in cross. Thank you very much.

15 Mr. Johnson: Yes sir, Your Honor.

16 The Court: Go ahead, Solicitor.

17 Q Mr. Lowrance, what were the problems that you were having?

18 A I guess, like, infidelity. She thought I was cheating. I thought she was cheating.

19 Those type problems. It wasn't any one, particular problem, or anything like that.

20 Q So, she thought you were having an affair?

21 A Yes.

22 Q You thought she was having an affair?

23 A Yes.

24 Q So, you moved down and lived with your cousin, Norman Pearson, for a little while?

PATRICK LOWRANCE – CROSS BY MARCHANT

1 A Yes, I would stay there from time to time.

2 Q And Mr. Pearson, as he described the relationship, is that accurate, that his sister
3 married one of your cousins?

4 A Yes.

5 Q Now, you were also staying at the Comfort Inn on Laurens Road the day this
6 happened. Right?

7 A The day what happened?

8 Q The day that you got shot you were staying at the Comfort Inn?

9 A Yes.

10 Q You rented a room there?

11 A Yes.

12 Q Under the name, Dean Lowrance?

13 A Yes.

14 Q Room [REDACTED]?

15 A Yes.

16 Q And you had at least one bag that you left in the room once you claim you got in the
17 car with this person named Lametrius and Tee?

18 A Because you heard Detective Flavell testify that he found your driver's license in a
19 backpack in room [REDACTED], approximately 5:00 p.m. on the 28th?

20 A Yes.

21 Q So, you got-- You rented the room for one night?

22 A Yes.

23 Q You got in the car with some of your friends and you decide to go to another friend's
24 house?

PATRICK LOWRANCE – CROSS BY MARCHANT

- 1 A Yes. I was just getting dropped off.
- 2 Q And you'd been drinking and smoking marijuana the night before?
- 3 A Yes.
- 4 Q Basically had a party in the room?
- 5 A Yes.
- 6 Q Tell me again who all was there.
- 7 A Myself, Lametrius, Tee, and there was several other people.
- 8 Q I'm sorry. Tell me that last part again.
- 9 A Several other people.
- 10 Q How many are we talking, two, four, six?
- 11 A I don't remember.
- 12 Q Where'd they come from?
- 13 A They-- Different places. I mean, I don't know exactly where they came from.
- 14 Q You rented the room. Right?
- 15 A Yes.
- 16 Q Did you invite them into the room?
- 17 A Yes, I let them in the room.
- 18 Q I mean, you say different places. What sort of different places? I mean, did y'all
- 19 club-hop that night or something?
- 20 A Yeah. We had-- We had been to a couple of clubs.
- 21 Q Okay. And so, where and how did you get to-- I believe you referred to as Dollar
- 22 Bill. How did you get to the Dollar Bill out on White Horse Road?
- 23 A We didn't go to Dollar Bill that night. That's where I met Lametrius at.
- 24 Q Where you met---

PATRICK LOWRANCE – CROSS BY MARCHANT

- 1 A Yeah.
- 2 Q Okay. So, where'd you go on the 27th, the day before you got shot?
- 3 A I-- Went to a couple places, a couple, like, bars.
- 4 Q What side of town were they on?
- 5 A Went to Godiva's.
- 6 Q Where's Godiva's?
- 7 A I don't really know. Only place I really know of in Greenville is really how to get to
- 8 my uncle's house. I mean, get to my cousin's house.
- 9 Q I can appreciate you don't know where these places are. How many places did you go
- 10 to the day before you got shot?
- 11 A Just really two, Godiva's, and we went to a couple of other peoples' houses.
- 12 Q Where do these other people fix into the mix? Was this Lametrius' house or Tee's
- 13 house?
- 14 A I don't know whose house it was. I mean, it's....
- 15 Q How'd you get there?
- 16 A I was riding with Lametrius.
- 17 Q Was Tee with you as well?
- 18 A Yes.
- 19 Q Let's go back and talk about the description you gave of Lametrius. You said you'd
- 20 known him for about three weeks.
- 21 A Yes.
- 22 Q And you met him at Club Dollar Bill.
- 23 A Yes.
- 24 Q Who were you at Club Dollar Bill with when you met him?

PATRICK LOWRANCE – CROSS BY MARCHANT

1 A I was with my cousin.

2 Q Norman?

3 A Yes.

4 Q Who introduce you to him?

5 A Nobody introduced us. We kinda just said a little something to each other, and then
6 kinda just started talking to each other.

7 Q So, just from that you established a relationship with him---

8 A Yes.

9 Q ---such that you would get in the car and roll around town with him and start smoking
10 weed and drinking and club-hopping. Is that the lifestyle that you were living at that time?

11 A At that time.

12 Q Only smoking marijuana, nothing else?

13 A No.

14 Q You ever been to Lametrius' house?

15 A No, I have not.

16 Q So, the only information that you can provide us here today is that Lametrius is, you
17 say, a black male, about six foot, with long hair like Norman's?

18 A Yes, that's the best way I know to describe him to you because he has dreads.

19 Q You told your lawyer this information before you testified today?

20 A Yes.

21 Q And you understand that the defense attorney has investigators that work for him?

22 A I do. I do understand that.

23 Q Do you realize that they did a lot to try to find the gun---

24 Mr. Johnson: Judge, I want to object to this line of questioning.

PATRICK LOWRANCE – CROSS BY MARCHANT

1 A I didn't know that.

2 The Court: We're gonna move along, Solicitor.

3 Mr. Marchant: Yes sir.

4 Mr. Johnson: Thank you, Your Honor.

5 Q Let's talk about Tee. What's he look like? You said honey-brown, or something like
6 that?

7 A Yeah. He's maybe a little shorter than Lametrius.

8 Q You never heard even his first name?

9 A No. The same as Will. I would have never knew Will's last name until this
10 happened. I mean, Will doesn't even know my last name. He never knew my last name until
11 till. That's just-- I call him Will and he calls me Pat.

12 Q You're saying that you don't know these people that you're hanging out with for
13 some period of time; you don't know where they live?

14 A No sir.

15 Q You don't even know their real names?

16 A No sir.

17 Q You don't know anything about them but you're smoking weed with them. Correct?
18 And club-hopping?

19 A Yes sir.

20 Q The family member that you mentioned that lives in Durham, who's that?

21 A My sister.

22 Q Your sister?

23 A Yes.

24 Q What's her name?

PATRICK LOWRANCE – CROSS BY MARCHANT

- 1 A Alicia.
- 2 Q Alicia?
- 3 A Yes.
- 4 Q What's her last name?
- 5 A Alicia Davis.
- 6 Q Is she here today?
- 7 A Yes, she is.
- 8 Q Would you point her out for the jury?
- 9 A (witness indicates spectator area of courtroom)
- 10 Q What's she wearing?
- 11 A Black.
- 12 Q Is she on the front row, second row, or third row over here?
- 13 A Front row.
- 14 Q And third person in, next to the gentleman in the suit, wearing black?
- 15 A Yes.
- 16 Q You ended up speaking with her over at Mr. Brockman's house, didn't you?
- 17 A Yes.
- 18 Q And you talked to her for a few minutes, kind of told her what was doing on, didn't
- 19 you?
- 20 A Yeah. I told her that the shooting had happened. I said the police had shot at me.
- 21 And I don't know who shot, who shot at who first. I told her that I had been shot and-- But--
- 22 And I also told her that Meat had shot at the police.
- 23 Q Just a minute ago when you testified on direct, you said you never saw these officers.

PATRICK LOWRANCE – CROSS BY MARCHANT

1 A At this time when I told her that it's because I had talked with Will and Will had
2 informed me of everything that was going on. He had said that it was a person that was
3 involved in the shooting had shot at the police. That's how I knew that at that time.

4 Q You also talked to your wife, Sierra, that day. Isn't that right?

5 Mr. Johnson: Judge, I'm gonna object to any---

6 The Court: I'm going to allow him to ask the question. I'm gonna see if anything
7 go further than that.

8 Mr. Johnson: Yes sir, Your Honor.

9 A Yeah. Just about-- That night-- Yeah, I was just trying to get her to come to where I
10 was at.

11 Q And you told her---

12 Mr. Johnson: Your Honor.

13 A I told her the same thing I told the family.

14 The Court: I'm not going to allow anything that she states. Okay? He can say what
15 he said. I'm going to allow that. Go ahead.

16 Q Mr. Lowrance, you told her that a female had shot you. Isn't that right?

17 A I told her the same thing that I had told my sister. At this time Will, Will had told me
18 that a lady officer had been shot at. And I told her that Meat had shot at the police, and I
19 wasn't sure if Meat or whoever it was that was shooting at Meat, wasn't sure it was the
20 police had shot me.

21 Q The vehicle that you were riding in, where were you sitting?

22 A I was sitting in the back seat.

23 Q Were you sitting behind the driver or the passenger?

24 A I don't remember.

PATRICK LOWRANCE – CROSS BY MARCHANT

1 Q Well, now, the cops are following you up I-85 and you're telling this jury that you're
2 trying to convince somebody named Lametrius to stop because he's done nothing wrong, and
3 you don't remember where you're sitting?

4 A I was sitting in the back seat.

5 Q Where were you sitting?

6 Mr. Johnson: Your Honor, he's badgering the witness.

7 Mr. Marchant: I'm trying to get him to answer.

8 The Court: I appreciate that. I'm going to allow him to ask the question and the
9 defendant can answer it if he can; if he can't he can say he doesn't know.

10 A I was sitting in the back seat. I think I was sitting on the left side, the same side
11 behind Lametrius.

12 Q Okay. And how is it that you ended up being on the left side of that vehicle, but you
13 end up placing the box of shells on the right sides?

14 A I mean, I had been in and out of the car.

15 Q So, you had touched that shell box a number of times before, is what you're telling
16 this jury?

17 A Yes, I have touched the..

18 Q And you've loaded this gun before.

19 A No, I have not loaded the gun.

20 Q You have not loaded the gun, but you touched the gun. Right? You testified about
21 State's 53 that Mr.-- What's his name?

22 A Meat.

23 Mr. Johnson: Your Honor, he's answered the question.

PATRICK LOWRANCE – CROSS BY MARCHANT

1 Q Meat, that Meat gave you this gun and told you that you should keep it because the
2 lady cop saw it. Right?

3 A That's the last thing I remember-- That's the last thing I remember him saying before
4 I had passed out in the woods.

5 Q And you had your cell phone with you. Right?

6 A Yes, I did.

7 Q You didn't do anything wrong this day. You're an innocent victim of Officer Cobb
8 shooting. Right?

9 A I don't know if she shot me or if Lametrius shot me.

10 Q Okay. But either way, you didn't do anything wrong?

11 A I don't believe so.

12 Q And, are you familiar with three numbers called 911?

13 A Yes, I am.

14 Q And you had your phone with you. Right?

15 A Yes.

16 Q And you laid in the woods for roughly five, six, seven hours before you went to
17 Norm's house. Right?

18 A Yes. And at the time I was shot and that's the first time that has ever happened to me
19 in my life, and I panicked.

20 Q Your phone was working. Correct? Your battery was charged, you could make
21 calls?

22 A I believe so.

23 Q Well, you either did or you didn't. Did you call your family later that day on that
24 same phone or did you use a different phone?

PATRICK LOWRANCE – CROSS BY MARCHANT

1 A No, I called, I called on that phone.

2 Q And you were turning your phone on and off that day, weren't you?

3 A No.

4 Q You weren't?

5 A I don't-- I don't recall turning it on and off.

6 Q And for somebody that didn't do anything wrong you show up at your cousin's house
7 that you been staying with for a little while and they turned you away. They your family.
8 Right?

9 A I thought so.

10 Q You've got no idea why they turned you away?

11 A No, I-- No, I did not. I was wondering why they did do that.

12 Q And this officer that testified yesterday, Officer Taci Cobb, you've never seen her
13 before?

14 A No sir.

15 Q You heard her on her radio.

16 A I just heard a walkie-talkie. I don't-- I don't remember hearing a distinctive voice or
17 necessarily her voice. My first time ever seeing her when she came in the courtroom, the
18 same as, I believe, as Detective Conroy, Mr. Conroy.

19 Q And where exactly, tell us again, in the stairwell or the breezeway did you get shot?
20 I'll be happy to pull those pictures up if that would help you show the jury.

21 A Okay.,

22 (Whereupon overhead projector was put in use)

23 Mr. Marchant: Beg the court's indulgence. It takes a moment for it warm up here.

24 The Court: Yes sir.

PATRICK LOWRANCE – CROSS BY MARCHANT

1 (interval allowing overhead projector to become operable)

2 Q Mr. Lowrance, it's been testified to that the ground floor of that apartment complex,
3 if you will, the ground floor being right here at the entrance to the parking area. I'm going to
4 give you this pointer and you tell the jury where you got shot, where you were standing when
5 you got shot.

6 A Where is this?

7 Q This is the parking lot level. You're walking in from where the parking lot is.

8 A Well, this right here is, like, coming in from the parking lot?

9 Q Yes sir. Let me get you a large shot. Mr. Lowrance, what I'm showing is State's
10 Number 5, is from the parking lot, and State's Number 6 of that stairwell-breezeway. Where
11 were you when you got shot?

12 A I was downstairs.

13 Q Okay. And I'm gonna show you what's been marked as State's 35. Where were you
14 when you got shot?

15 A Somewhere on-- Somewhere on-- Somewhere on the steps. I was right behind Tee.
16 Tee was right around in here. Lametrius was right around in here. And I was really, almost
17 directly right behind him because I was-- We was talking at the time.

18 Q Let me be sure I'm clear. The fellow who you keep talking about, Tee, was already
19 down here on this landing area.

20 A Yes.

21 Q Where all those numbered placards are?

22 A Yes.

23 Q Okay. You're how many steps down before you reach the bottom, roughly?

24 A I really can't remember exactly where I was. I just know I was on the steps.

PATRICK LOWRANCE – CROSS BY MARCHANT

- 1 Q Okay. You're on the steps; fair enough. And this other fellow who you claim shot at
2 the police, Demetrius-- Is it Demetrius with a D or with a L?
- 3 A I believe it's a L. I heard a female call him Lametrius.
- 4 Q Lametrius with a L. Okay. So, he's behind you. Is that right?
- 5 A No, he's in-- I was behind him.
- 6 Q Okay. So, it's Tee, Lametrius and then you.
- 7 A Tee, me, Lametrius. You understand what I'm saying?
- 8 Q I got you. So, you're saying you're standing between the two of them?
- 9 A Yes.
- 10 Q Okay. So, Lametrius is further up the stairs, closer to the top of the stairwell than you
11 are?
- 12 A Yes. He's closer to the top than I am.
- 13 Q So, you're walking-- You're walking downstairs with all this luggage that you've got
14 that you're over to chill at your homeboy's house. Right?
- 15 A (no response)
- 16 Q Right here.
- 17 A (no response)
- 18 Q This is all your stuff. Right? You dropped a birth certificate, Social Security card,---
19 A Yeah, I just had the one duffel bag.
- 20 Q You had one duffel bag. But out of that duffel bag came your wallet that contained
21 your Social Security card, your health card, and a pawn ticket for, that's marked as State's
22 41, the pawn ticket as well. Right?
- 23 A (No response)

PATRICK LOWRANCE – CROSS BY MARCHANT

1 Q Let's see. You pawned a man's small diamond chip band on, looks like, July 14 of
2 2011. Right?

3 A Yeah.

4 Q So, that's your stuff. That's your information. That's your---

5 A I'm not denying that.

6 Q Okay. So, were you carrying that bag with that stuff down the stairs when you got
7 shot?

8 A Yes.

9 Q So, you got shot from behind. Is that what you're saying?

10 A No, I didn't-- I didn't-- I didn't get shot from behind.

11 Q But Lametrius has the gun. Right?

12 A Yes.

13 Q Lametrius has the gun. He is behind you as y'all are walking down the stairs.

14 A Yes.

15 Q You get shot on the stairs.

16 A Yes.

17 Q Lametrius has the gun.

18 A Yes.

19 Q How do you get shot in the front?

20 A Once I heard the first shot going off I didn't know who was shooting and where the
21 shot was coming from. So, I could see what's in front of me, so I'm trying to turn around to
22 adjust myself to see what's going on behind me. And that's when everything occurred.

23 Q Is it your testimony to the jury that you got shot on that first round of shots or that the
24 second round that you heard?

PATRICK LOWRANCE – CROSS BY MARCHANT

1 A I can't-- I can't remember if it was... I mean, I've never been-- I haven't been in a
2 shootout before.

3 Q Thank you, Mr. Lowrance. I don't have any further questions.

4

1 The Court: Very good. All right, ladies and gentlemen. That concludes the
2 evidentiary portion of this trial. Obviously, that does not end the matter. We still have
3 before us the closing arguments of the attorneys and then the charge on the law where I
4 explain to you the law that you will apply to the facts and evidence you find to be true in this
5 particular case.

6 At this point in time I'm going to ask you to go back to your jury room for about ten
7 minutes. There are some matters of law I need to talk to the lawyers about at this point in
8 time. Then I'll call you back out and we'll go into the closing arguments and the charge on
9 the law. Thank you very much. Everyone else remain seated.

10 (Whereupon the jury exited the courtroom)

11 All right, Mr. Johnson, I'll be glad to hear from you, sir.

12 Mr. Johnson: Your Honor, the defense would like to renew any prior objections.
13 Excuse me, Your Honor. (pause) Including the identification made by Officer Cruell.
14 Also, including the statement as admitted prior, pre-trial motion, Your Honor, given by my
15 client to Officer Conroy.

16 Finally, I'd like to move for a directed verdict on arms charges, especially after my
17 client's testimony if there was, and Your Honor's view, prior substantial, circumstantial evidence. I
18 believe that that evidence has been cleared, cleared up. On the possession of a stolen vehicle over
19 \$10,000, again, specifically, I don't believe the officer testified that, testified to anything that was
20 admissible as far as--- That the owner of the vehicle said that she had not allowed someone to drive
21 it. I believe that testimony was objected to by myself as hearsay and stricken from the record by
22 Your Honor in front of the jury.

23 And that's the motions we have at this time, Your Honor.

24 The Court: Thank you, Mr. Johnson. Just a second. (pause) Let me ask you a question,
25 Solicitor. 16-21-80, the receiving, possession, concealing, selling, or disposing of a stolen vehicle.

1 Subsection one sets forth the dollar amount. Subsection two sets forth the dollar amount. I don't
2 recall any testimony, word one, about the value of the vehicle.

3 Mr. Marchant: Your Honor, I believe the record should reflect that Officer Cruell, in my
4 examination, indicated that the Blue Book value of that 2000, either 5 or 6, GMC Yukon came back
5 at \$20,000.

6 The Court: All right. Let me look back at the testimony, and see if I can see that in my
7 notes. (pause) All right, very good.

8 Regarding the-- Let's start off with the first motion, the renewed motion regarding the
9 identification in-court and because of the identification out-of-court by Officer Cruell, I'm going to
10 reaffirm and reiterate the ruling I previously made that the in-court identification was not the result
11 of any outside force indicating to Officer Cruell that this was, the defendant was the person that she
12 saw. She stated her identification was based upon her observations and then her matching that based
13 that -- based on her own independent actions -- matching that with a photograph that she looked up of
14 the defendant and then, of her own, believed those to be the same person, and was not the result of
15 someone else telling her or suggesting to her the identity of the defendant.

16 Regarding the statements to the detective, Detective Conroy at the hospital, I found that it
17 was a voluntary statement of the defendant after being advised of his Miranda rights and voluntarily
18 made a statement. And then the, any further conversation between the detective and the defendant
19 ceased when he invoked his rights to have an attorney.

20 As to the directed verdict motions, again, I do find that there is direct evidence and
21 substantial circumstantial evidence reasonably tending to prove the guilt of the defendant of the
22 crimes charged that have been presented in this case.

23 In the cases of the possession of a stolen vehicle and the failure to stop for a blue light, those
24 are the most, mostly by, what the Court believes to be substantial circumstantial evidence, there

1 being more direct evidence on the other charges. And therefore, the Court would respectfully
2 decline to grant your motions for directed verdict.

3 Anything else, Mr. Johnson?

4 Mr. Johnson: No sir. Just for the record, if I-- Oh. The objection to the admission of the
5 testimony allowing the State to reopen---

6 The Court: I'm sorry. Allowing the State to reopen its case to recall Detective Conroy?

7 Mr. Johnson: Yes sir, Your Honor.

8 The Court: All right, sir. Again, that was in the Court's discretion, and I believe it was
9 proper and was proper at the time, the Defense not having started its case, the State having stated it
10 rested, but it was still before the Defense had presented any type of evidence in this matter. And
11 therefore, I found that it did not unduly prejudice the defendant. The purpose of a trial is to put forth
12 all the relevant facts to the jury and I found it was proper to do so.

13 Anything else, Mr. Johnson?

14 Mr. Johnson: No sir, Your Honor.

15 The Court: Thank you very much. All right, gentlemen. I didn't get any that I know of any
16 requests to charge from the State or the Defense.

17 Mr. Johnson: No sir, Your Honor. The Solicitor, is it turn, does he go first, or should I?

18 The Court: Well, we're gonna get to that. I thought I would tell y'all what I was gonna
19 charge the jury just so that y'all would know that, so that you'd have that information. And go over
20 the verdict forms with you.

21 I'm definitely gonna talk to them as we have and always do about their job as the finders of
22 fact, credibility believability, direct and circumstantial evidence; charge on expert opinion, it's not
23 given any greater weight than any other witness; you judge all the witnesses the same. There was
24 one witness that had a prior record, so I will tell the jury that's introduced only as to the issue of
25 credibility and no other purpose.

1 There was the issue of the statement of the defendant, and as I indicated it's up to the jury to
2 decide whether that he made the statement voluntarily, freely. There are certain factors they can
3 consider regarding the statement. And obviously, again saying the State has the burden of proof to
4 prove that the statement was a voluntary statement of the defendant.

5 The issue about the identification, again, is for the jury's determination and I will so instruct
6 them about that.

7 The presumption of innocence, finding reasonable doubt, the kind of doubt that would call a
8 reasonable to hesitate to act.

9 I will charge the law on attempted murder. What about in the attempted murder charge, and
10 any inference regarding a deadly weapon. What's the State's position on that?

11 Mr. Marchant: Judge, are you referring to whether or not---

12 The Court: Malice.

13 Mr. Marchant: That it can be inferred?

14 The Court: Yes.

15 Mr. Marchant: I would request that that be charged, Your Honor, and I believe also in the
16 Factualness (phonetic) case would show that it's also expressed. I'm going to argue both, but I
17 would request that the court charge that it can be inferred simply by the use of a deadly weapon.

18 The Court: What's your position, Mr. Johnson?

19 Mr. Johnson: One second, please, Your Honor.

20 The Court: Yes sir.

21 Mr. Johnson: Your Honor, we would object to the instruction being that you can infer malice
22 with a deadly weapon. I do believe that there's case law that says that that's no longer required.

23 The Court: Well, if we had evidence that, in a case that would mitigate the use of it or
24 excuse it in some way, or justify it, you know, such when somebody is claiming self-defense, or, you

1 know, the Castle Doctrine or something of that nature, I think that would be proper here. As I
2 understand your client's argument – you correct me if I'm wrong – is he didn't do it.

3 Mr. Johnson: Now, Your Honor, I do think-- And I'm trying to put myself in the shoes of
4 the jury, I think they could infer that potentially my client was the shooter but he didn't shoot first. I
5 think that can, that is an inference that could be logically made from the evidence presented and the
6 jury may be able to decide based upon that despite what my argument is.

7 The Court: What testimony would you point to regarding that he didn't shoot first, if that's
8 to be a reasonable inference from the jury? What testimony would that come from? What evidence
9 would that come from?

10 Mr. Johnson: Well, Judge, obviously, they're judging, they're gonna have to judge the
11 credibility of the officers. But I would-- I think they could determine, and it can be suggested that it
12 didn't happen the way the she portrayed to the jury. But the Solicitor elicited testimony about an
13 investigation as far as officer involved in a shooting. And I think based upon those things they could
14 infer that maybe the police themselves were wondering whether she shot first.

15 The Court: What's your argument, Solicitor?

16 Mr. Marchant: Your Honor, I don't believe there's any testimony in the record other than
17 what Officer Cobb testified to about who shot first. And the defendant did indicate that he knew
18 who shot first. The evidence that the jury has to consider from the stand is that she was the one that
19 was fired upon first. So, it's the State's position and argument that the inference charge should be
20 made. He's claiming he didn't do it, wasn't him. This is not one of those situations where just
21 because somebody possessed what could be considered a deadly weapon. There is a subsequent or a
22 subsequent step that was made with that deadly weapon. So, it's our position that the inference
23 charge should be given to the jury for their consideration.

24 The Court: All right, sir. I'll think about that. Thank you. Obviously, I'll need to talk to
25 them about the possession of a weapon during the commission of a violent crime. And I will tell

1 them that attempted murder is defined as a violent crime by the state of South Carolina. The charge
2 about failure to stop for a blue light. And receiving, possessing, concealing, ... Probably won't use
3 the rest of the statute; probably will stick with possessing of a stolen vehicle.

4 The verdict form that I have prepared is fairly straightforward. It just has the caption of the
5 case. Regarding each indictment, it has one, actually two of them for attempted murder. On the
6 charge of attempted murder of Officer Taci Cobb, we the jury by unanimous consent find the
7 defendant, Patrick Dean Lowrance, and they've got two choices, put one before the other, not guilty
8 or guilty.

9 Same thing for the charge of attempted murder of Officer Charles Lane. We the jury by
10 unanimous consent find the defendant, Patrick Dean Lowrance, not guilty or guilty.

11 Possession of a weapon during a violent crime of the charge of possession of a weapon
12 during a violent crime, we the jury by unanimous consent find the defendant, Patrick Dean
13 Lowrance, not guilty or guilty.

14 Failure to stop for a blue light, same type of form. And also the possession, possessing of a
15 stolen vehicle.

16 Is there anything else, any other verdict form or any other charge that the State would request
17 or ask for?

18 Mr. Marchant: No, Your Honor.

19 The Court: From the Defense?

20 Mr. Johnson: Your Honor, I can't remember correctly, so I'll apologize.

21 The Court: That's all right.

22 Mr. Johnson: Are you going to charge intent?

23 The Court: I'm sorry. The inferred intent?

24 Mr. Johnson: No, what I'm talking about, the-- Basically, what I'm referring to is my client
25 testified---

1 The Court: Yes, intent to commit a crime, general intent.

2 Mr. Johnson: Yes sir.

3 The Court: I'll be glad to do so.

4 Mr. Johnson: Yes sir, Your Honor.

5 The Court: I'll be glad... And... Based upon his testimony would you be asking for at least
6 some modification of a mere presence charge, ---

7 Mr. Johnson: Yes sir, You Honor.

8 The Court: ---where a crime's being committed, mere presence is, that in and of itself is not
9 a crime.

10 Mr. Johnson: Yes sir, Your Honor.

11 The Court: Very good. I'll do that.

12 Mr. Johnson: The last thing, Your Honor, do you know which circumstantial evidence
13 language you'll use?

14 The Court: I'll tell you that in one second. Hold on just one second.

15 Mr. Johnson: Thank you, Your Honor.

16 The Court: All right. It's real short. I'll just read it to you. Two types of evidence which
17 are generally presented during the trial, direct and circumstantial evidence. Direct evidence is
18 testimony of the person who asserts a claim to have actual knowledge of the fact. Circumstantial
19 evidence is proof of a chain of facts and circumstances indicating the existence of a fact. The law
20 doesn't make any distinction between direct and circumstantial evidence. A greater degree of
21 certainty is not required of one over the other. You weigh all the evidence the same and find that
22 evidence which convinces you of its truth. And after weighing all the evidence, if you are not
23 convinced of the guilt of the defendant beyond a reasonable doubt of the crime or crimes charged,
24 you must find the defendant not guilty.

25 Mr. Johnson: Your Honor, that is the Griffon language. Correct?

1 The Court: Yes, it is.

2 Mr. Johnson: Would you consider using an Edwards instruction?

3 The Court: What language would you like me to add to this?

4 Mr. Johnson: All the circumstances so proven to be consistent with each other and taken
5 together point conclusively to the guilt of the accused to the exclusion of every other reasonable
6 hypothesis. Maybe that language from Edwards.

7 The Court: From the dissent. Correct?

8 Mr. Johnson: Yes sir, Your Honor.

9 The Court: From the dissent in---

10 Mr. Johnson: Edwards.

11 The Court: And also in Griffon. Right?

12 Mr. Johnson: Yes sir, Your Honor.

13 The Court: I would respectfully decline to grant your request to so additionally to find
14 circumstantial evidence as suggested by the dissent in those, in that case.

15 Mr. Johnson: Thank you, Your Honor.

16 The Court: Thank you very much. Anything else, Mr. Johnson?

17 Mr. Johnson: No sir, Your Honor.

18 The Court: Very good. Let's take a very short break and we'll come back in and start with
19 the closing arguments.

20 (Whereupon court was in recess)

21 **COURT IN SESSION**

22 The Court: Is the State ready?

23 Mr. Marchant: The State is ready, Your Honor.

24 The Court: Is the Defense?

25 Mr. Johnson: Yes sir, Your Honor.

1 The Court: All right. Now, regarding the arguments to the jury, obviously, the State has the
2 last argument. Is there any request for an initial opening by the State from the Defense?

3 Mr. Johnson: No sir, Your Honor.

4 The Court: Very good. So, what we'll do, we'll have them come in, I'll speak to them
5 briefly. Then I'll call upon you, Mr. Johnson, and we'll turn to the State. All right?

6 Mr. Marchant: Yes sir.

7 The Court: Ask the jury to come in.

8 (whereupon the jury entered the courtroom)

9 All right, ladies and gentlemen. As I indicated to you, we have concluded the evidentiary
10 portion of the trial. Also, as I have indicated to you that's not the conclusion of the matter. What's
11 we're going to do now is we're going to have the closing argument of the attorneys. The State
12 having the burden of proof in proving the defendant guilty of the crime or crimes charged will go
13 last, the Defendant will go first, in their closing arguments.

14 I remind you closing arguments are not evidence. We have received all the evidence in this
15 case. But closing arguments are important. They're each side's summation to you of what they
16 believe the evidence that's show to you during the course of the trial, remembering, of course, you
17 are the judges of the facts and evidence in this case.

18 So, with that, Mr. Johnson.

19 Mr. Johnson: Thank you, Your Honor. May it please the court.

20 The Court: Yes sir.

21 Mr. Johnson: Ladies and gentlemen, we've all been in a restaurant in our lifetime. We go to
22 a restaurant and we do all the time. It's one of America's favorite pastimes, whether it's done at
23 night with your family or whether it's going on the weekend. And for whatever reason, going to the
24 restaurant versus staying at home, cooking, just relaxes you a little bit more, we enjoy it. And for
25 whatever reason the food tastes a little bit better there.

1 Now, we all like going to restaurants and at restaurants we know what to order from the
2 menu. Now, the menu is essentially-- And I don't mean to break it down like this because I know
3 you know what it is. But a menu is essentially, it breaks down to what it is that their restaurant has
4 to offer you to eat. It could be steak and eggs. It could be macaroni and cheese. It could be chicken
5 parmesan with noodles on the side.

6 Anyhow, when you order that specific thing, what that description says, that's what you
7 expect to get. Right? If you order the spaghetti and meatballs, you don't want chicken parm. If you
8 order a hamburger, you don't want a hot dog. Whatever is described. Sometimes they have a
9 picture and a description, lettuce, tomato, mayonnaise, two buns, cheeseburger. That's what you
10 want.

11 And what happens when you don't get what you order? Because you're paying for it, it isn't
12 free. You send it back. When you don't get what's described on the menu, when they don't bring
13 you what it is that you ordered, you send it back.

14 Ladies and gentlemen, this applies here. We have a description, long hair. My client doesn't
15 have long hair. Send it back. Make them send it back. Make them go find where this person is.

16 Now, I'd like to go into the charges themselves and kind of go over what the evidence is and
17 what we believe the evidence says. Obviously you're gonna make your own decision, but I'd like to
18 go into myself and break it down from my point of view.

19 Now, first of all, with the possession of a stolen vehicle, that is what is in doubt. First of all,
20 I noticed the State saying, obviously, Norman saw him in the vehicle or that Cruell stated, said she
21 saw him walking through the lobby and didn't see him get in the vehicle. But I guess everyone can
22 make the assumption that he got in this vehicle.

23 Well, first of all, remember once again, we're talking about description. We're talking about
24 a menu. Cruell says, 35-40 years old, long hair. Lane said pulled back into a pony tail. Look at my
25 client. He's not 35-40 years old. He's never had long hair. Look at the pictures. This is a picture of

1 him from the hospital. Now, it's pretty obvious that during that time of the day he didn't go to the
2 barber shop, he didn't go get a haircut. He probably needed one, in my opinion. This is not long
3 hair. This is not long hair. He's not 35-40 years old. He's not even six feet tall.

4 Now, I know it's probably very easy for someone, especially if you're an officer and you
5 know a fellow officer's been in a incident and somebody calls you and tells you, we have a suspect,
6 his name is this. So, she looks it up and says, oh, yeah, he's the person. That's easy. That's very
7 suggestive, in my opinion. Somebody calls them and tells her, well, the guy looks like that, and that
8 is as suggestive as it comes. I mean, that's just-- That's like throwing down in basketball. That's
9 just, you know, here it is, this is what it is and this is what it is. And I think that's why that
10 happened. I think that's why that's happened. So, that's how we get lost along the way.

11 Now, my client also admitted okay, yeah, I was in and around that car, I drove that car. I
12 mean, Norman can say that, but you know Norman drove the car. Did my client drive the car?
13 Yeah, he drove the car, and he admitted that.

14 Now, he said that he didn't know it was stolen. The young man, Lametrius, who had this car,
15 he thought he had some money. Now, I know he admittedly stressed that Lametrius was a shady
16 character, and he didn't really want to know too much about him. I mean, he had a life away from
17 these people. But Lametrius was-- They did drugs, they went to clubs and they drank together.
18 That's what they did. Anyhow, he said that it was his car and that he had driven that car and that he
19 did not know it was stolen.

20 We also know the description of Lametrius as given by my client. He was a young man with
21 long hair. Now, compare that with this. Now, think about this, now. Detective Conroy testified that
22 when he arrived at Berkeley Point he learned from a resident there-- We're talking about
23 independent witnesses, that they saw two young men, two black males walking away, or leaving the
24 complex in a swift manner. One of them had long hair. He never followed it up. Why not? This is

1 a young man who could fit the description, you know, of Lametrius and Tee, as described by my
2 client.

3 Another thing we know is that, at least from my client, who admitted that who did it, the
4 other person in the car, the other male persons. The fingerprint guy – excuse me – his name leaves
5 me occasionally. But two other male persons in the car that they found in addition to my client.
6 Ladies and gentlemen, my client's testimony corroborates this. This is corroborated by the evidence.

7 Another thing we know is-- Excuse me a second. This is what they found in the hotel room.
8 And there's some interesting things here that they went there because I think that also corroborates
9 with my client. The first thing you got is this: you got a whole bunch of room keys. Why did he
10 need three room keys, or why did he need more than one? Why? Because there was nobody else
11 looking at the room, somebody else needs the key. That's what you do. I think it's customary,
12 maybe they give you two. Maybe two. But three? That's why I believe my client's story.

13 Another thing you got is the driver's license. The Solicitor wants you to believe that my
14 client's been driving around in the car. So, I guess he's been driving around for three weeks and not
15 gone get caught. Right? What about the license? Somebody pulls you over, there's a tag on it,
16 wouldn't you need your license? If that was my client got in that car and drove, what about his
17 license? He took some other stuff, some other stuff he probably needed. But he didn't need his
18 license because he wasn't driving. And you will have access to this. Y'all will be able to go
19 through this just as much as you want.

20 Anyhow, again, possession of stolen vehicle, he admitted he was driving it, but I don't
21 believe he had the intent there. He didn't-- He didn't-- He did not know it was stolen.

22 Now, as far as the failure to stop, again and again, my client gave a description as far as how
23 that went. Detective Cruell said a young man with long hair went to the car and then they say the car
24 pull out. She didn't see that young man get into the car. My client stated that he got into the car and
25 was watching the TV in the backseat. Meat was driving. Officer Lane said that he didn't see inside

1 the vehicle because of the tinted windows and the only thing he knows is from the driver's side. I
2 have a SUV, and what it is, up front it's tinted, but it's not quite as tinted in the back. In the back
3 there's a lot of tint and you can see that on the video, and y'all will have access to that video. Y'all
4 can take a look at that and you can see what you can see in that in-car video. It's important. You
5 can't see anything, which I believe will corroborate my client's story as well.

6 Now, I'd like to go into what I consider the most serious charges, and that's attempted
7 murder, and along with that-- Well, two counts of attempted murder and along with that possession
8 of a weapon during the commission of a violent crime.

9 Now, first of all, I'd like to talk about the testimony about Officer Cobb and Officer Lane.
10 They stated that while somebody was shooting at them, they could not see who that was. Now, I
11 suppose that's unfortunate, but I do think it's in my client's favor. Okay, they can say Mr. Lowrance
12 was shooting at me. They said a young man was shooting at me. And I know based upon the
13 description they want to make him out to be the same person with the long hair. And again, we
14 know, based upon my client's testimony that the long hair was on Lametrius.

15 Now, Lane-- Not Lane, Detective Cobb also said that the reason she was scared, or why she
16 was conducting herself as she did, which was very well, was that she didn't know how many people
17 were down there. The place was dimly lit. You can see from this video it was dark down there from
18 the perspective of the outside of the complex, and from the perspective of the pictures. And you can
19 pull those up, you can see those.

20 But she said she didn't know how people were down there. It just so turns out, based on my
21 client's testimony, there was more than one person down there. There were three: him, Lametrius
22 and Tee, with Lametrius being the shooter.

23 Now, again, I'd like to bring up the testimony from Conroy that was not followed up on, two
24 people leaving the complex very quickly, one of them with long hair. One with long hair back in

1 braids. I mean, we-- That just corroborates his story, fitting right into it. These are things they
2 didn't know. This is things that my client put together for you.

3 Another thing we know is the gun situation. Now, the first thing I'd like to talk about is the
4 gun magazine. First of all, the magazine is what carries the bullets. You got the gun and you got
5 this. This thing is to shoot. It won't shoot without it. And you can't-- The bullets won't come out
6 of it without this. And what we all know best, and I'm not meaning to fictionalize it, but I think it
7 puts together a good point. This magazine was tested for DNA by Doctor Kandala. He testified that
8 there were three peoples' DNA found on the magazine. One major contributor was not my client.
9 Two others could not conclude it was my client.

10 Ladies and gentlemen, how you gone shooting without putting the magazine in the gun?

11 Officer Armstrong said what you do is you grip it, you grab it, you grip it, you put your
12 hands all over it. You grip and then you take it like this, and you take it, and you got to stick it in
13 like this. That's what you do. But you gotta test it. You gotta test it, ladies and gentlemen, and my
14 client's DNA was not it.

15 Now, we also know my client's DNA was found on the gun. Now, they didn't say, okay, we
16 can test it, you know, we went on there and we found some prints. That's not what they said. They
17 said they found it on the gun and my client explained how he got the gun. Now, you know, I don't
18 know because I wasn't there, and I've never been put in a position with a crazy man like Lametrius
19 is. But I don't know. I guess that's for you to figure out.

20 But we also know that there was two other peoples' DNA on the gun. Now, that's not a
21 coincidence, ladies and gentlemen. It's not a coincidence that two other peoples' DNA was on that
22 gun. It's just not. The reason is somebody else had this gun. That person was Lametrius and that
23 person fired at the police officers.

24 Now, I think what's also important is that we had to struggle with this, because I don't think
25 he necessary understood my question. But DNA, you cannot tell how DNA gets there. You don't

1 know what type of situation happens in order for somebody's DNA to get on a surface. So, you
2 don't know how and when my client's DNA got there. The fact that he's the major contributor or a
3 minor contributor does not determine that he touched it last, that he touched it last, or touched it first
4 or touched it the most. Now, as he told you, he's the one who touched it last. He told you that. But
5 otherwise, you can't tell how or when other peoples' DNA got there. And I suggest to you that if
6 they'd have tested it, if they'd had some, a basis to compare it to, they would have found that person
7 and that person would have came out to be the guy that my client's description.

8 Ladies and gentlemen, that's what's on the menu. Send it back. It's not what we ordered.
9 Send it back.

10 Now, he also said that he got shot, you know. And he got shot, where he got shot, and
11 there's blood and everything and that. He explained that. He got shot. He had himself-- He threw
12 himself down. He took off. He wasn't sure who shot him or-- Who shot him or who-- The gunfire
13 was going on. He wasn't sure. He scared. He's ran. That's a reasonable reaction in my opinion. If
14 I'm shot and I'm not sure what's going on, I'm gone run, too. And I think anyone could associate
15 with that. Anyone can emphasize with that sort of reaction.

16 Now, the last thing I think is interesting-- Now, we started with the gun and all the other
17 things, like CSI or Law and Order, what stuff like that is. There's one piece of evidence they didn't
18 produce, no testimony on it at all. But no gunshot residue. They can't even prove he shot a gun.
19 We all know the test exists. Test was not done. Probably the same reason why the two gentlemen of
20 interest by individual witnesses who were walking away from the incident location very quickly
21 were not interviewed or otherwise pursued. I don't know. But it wasn't done. No gunshot residue
22 test, no gunshot residue on my client. He's in the hospital. I got the picture here. They got him
23 chained to the bed. They taking pictures of the man. Take the test.

24 Again, I told you at the beginning, I said I didn't want to show my cards, I was trying to play
25 it a little close to the vest, but at the same time pointing out what I thought was the major issue,

1 which was the description. That is the basis of our case and I've revealed that to you. But what I
2 was waiting for and anticipating that my client testified and put stuff together, tell you what he told
3 me. Tell you guys why we're here. My client's testimony puts all the pieces together.

4 Now, I know there was a little bit made of it now, but there is a right to remain silent as you
5 all know. Because there was a little bit made of the fact that-- I don't know. Maybe he didn't tell
6 Detective Conroy. But, you know, think about Conroy and his business at the hospital with-- He's
7 got a couple of things. My client's shot. He's handcuffed to the bed. He's handcuffed to the bed.
8 He's not free to leave. They've made their decision.

9 Why would they think there was anything he was gone tell this man. He's handcuffed to the
10 bed. They've already-- I mean, this guy, I don't know if he's going into surgery, I don't know if
11 he's hurt or not, I don't know if he's taking medicine. This man is cuffed to the bed. This man
12 come here and ask me what you got to say. I mean, seriously? I mean, I'm handcuffed to the bed.
13 What you mean? Here I am handcuffed to the bed and you want to come ask me some questions.

14 Their minds were made up, ladies and gentlemen. They were going to charge him even
15 though they didn't know him. Not six foot, no long hair. Neither of those apply to my client.
16 You're talking about unique things. Look at his face. Did Detective Cruell, did Officer Cruell say
17 goatee, scruffy facial hair? This is not no little, old mustache; that's facial hair. Take a look at this
18 thing when you get back there. Is this the man she saw? Not only does he not have long hair, he has
19 unique characteristics of his own.

20 Take a look at this picture. Earrings, goatee, scruffy facial hair coming down from his chin.
21 That's unique, ladies and gentlemen. That's something that she should have seen if she saw my
22 client.

23 Ladies and gentlemen, I don't know how else to say it. Send it back. Send it back. This is
24 not what we ordered. This is not what this is about. My client didn't do this. And I just witness that
25 the witness that Conroy learned that information from, I just wish that we at least had that

1 information so we could know a little bit more. We might have captured these people and we
2 wouldn't be here before you today. And of course, that's what we wish, because, you know, my
3 client's life is on the line here. So, send it back.

4 Now, the last thing I want to talk to you about because I think it's important and I think-- I
5 think it's to my client's benefit, and the Judge is going to charge you on it. And what he says, he
6 charges you on the law, so what he says goes. But I'd like to talk to you a little bit about what
7 reasonable doubt is. I believe he's gone tell you that reasonable doubt is the kind of doubt that
8 causes someone to hesitate to act. Hesitate. Hesitate to find-- Hesitate to find someone guilty.

9 Now, I'd like to compare that to some other types of court cases. You know, in a civil case
10 you have what's called the preponderance of the evidence. Preponderance of the evidence is, say,
11 for example, majority. Fifty-one percent versus forty-nine percent. Or if you want to be really
12 technical about it, 50.1. That's a civil case. That's, oh, well, it's more than likely, and that's all you
13 need.

14 Reasonable doubt is higher than that. In fact, in between reasonable doubt and
15 preponderance is clear and convincing evidence. Clear and convincing evidence is the type of
16 evidence that's used in Family Court cases, such as when you take someone's right to a child. Clear
17 and convincing, and listen to that language, clear and convincing evidence. And that's more than
18 reasonable doubt.

19 Reasonable doubt is the kind of doubt that causes someone to hesitate to act. Ladies and
20 gentlemen, if you have those types of doubts, this case needs to be resolved in favor of my client.
21 That's the law and that's been for a very long time. And I would be a poor lawyer if I did not ask for
22 you to consider these standards.

23 Ladies and gentlemen, I'm gone sit down now. You're going to hear from the Solicitor. I'm
24 not gone get to speak to you again, but remember these things I said. And most of all, go through
25 the evidence. See if the evidence can back this up. Use your common sense and look at the

1 evidence and make your decision and that will be what will happen for the best. But, ladies and
2 gentlemen, send this back. This isn't what you ordered. Send it back. Thank you.

3 The Court: Solicitor.

4 Mr. Marchant: If it please the court.

5 The Court: Yes sir.

6 Mr. Marchant: Ladies and gentlemen, as I mentioned to you at the beginning, I wanted to
7 thank for what you've actually done, and how you've paid particular attention that's been provided
8 up here on the stand. And you're going to get some of that information back in the jury room.
9 That's all the evidence. And some of that stuff we've talked about is on papers that were passed and
10 forth in court, and you're not gonna have. What you will have is the opportunity, if you cannot
11 recall some particular point of information, to ask the Judge to let you re-hear some testimony.

12 I appreciate Mr. Johnson giving you his side of the story, what he claims occurred that day.
13 He's given you that recitation of information based on what his client told you today. I'm not gonna
14 rehash all the information, but I do want to go through some particular points.

15 I think one thing we can all agree about at this stage of the game is that there are five charges
16 before you and those five charges did occur. No question about there being in dispute that
17 somebody got in a car that was reported stolen, a GMC Yukon, either a 2005 or 2006. The owner
18 was Delana Gresham. You heard Investigator Conroy indicate that he spoke with her. He compared
19 the VIN numbers of her vehicle and she was the registered owner of that vehicle. You also heard
20 from Officer Cruell that the value of that vehicle was \$20,000. What the State is alleging is that the
21 defendant was in possession of a stolen vehicle valued at more than \$10,000. And the Blue Book
22 value that testified to was \$20,000.

23 As you can see from the video that we saw and we watched, and you're certainly welcome to
24 watch it again. You can see Officer Cruell get on 85, start heading up towards Mauldin Road. You
25 can see the blue lights reflecting on the green traffic road signs as well, right off the back of the

1 Yukon. What you can also see if the defendant move from lane three over to lane one, which is the
2 inside lane. He actually puts his blinker on. He then speeds up and attempts to evade Officer Cruell.
3 He then shifts across all three lanes, go through the protective median up onto Mauldin Road, and
4 clear as day, runs the red light. And then turns left onto Mauldin Road, goes past the Hitachi plant.
5 And as Officer Cruell testified, at that point in time she terminated the chase because she could not
6 confirm at that time the vehicle was stolen.

7 What I would ask you to consider is what happens next. He's out of sight. What is the next
8 road past Hitachi? Windwood Road. What is the first left turn off of Windwood Road? Berkeley
9 Point. We hear Officer Cobb and Officer Lane talk about kind of cross-checking various roads,
10 various apartments to see if they can find the car.

11 Officer Cobb shows up at that top parking lot. She comes towards the vehicle. It is backed
12 in, the exact, same vehicle that Officer Cruell talked about seeing at the hotel. Officer Lane, he
13 would confirm that when he walked up to the vehicle he saw the same air freshener concealing the
14 VIN number. He saw the radar detector. It was sitting on the dashboard or on the window; he could
15 not recall. And guess what? The tag comes back to that same vehicle.

16 What's convenient about that? Well, it's just in the chase from the Comfort Inn where this
17 defendant has admitted to you that he rented the room the night before; that it was Room [REDACTED]; that
18 he was registered under the name, Dean Lowrance, at the hotel. He's got the key sleeve that you
19 keep your key in, in his room, which Detective Flavell went back to the Comfort Inn and found.

20 Well, he'd apparently been staying somewhere else because he also testified that he was
21 staying at the Quality Inn. He's got some keys from there as well. That's the reasonable inference
22 that y'all can draw from the information you have.

23 The driver's license is in the motel room as well. Now, why did he not take his driver's
24 license with him? I suggest to you a reasonable conclusion that you can draw from that particular
25 information is that he saw law enforcement checking the car out. He saw them in the lobby. So, as

1 opposed to having some identification on him when he walks by Officer Cruell so she cannot
2 confirm who he is if she were to ask him, he leaves his driver's license in the motel.

3 He told us that he was gonna go to one of his friend's or homeboy's house, and didn't tell us
4 where they lived, didn't tell us what their name was. You know, we kind of had this little dance that
5 we were doing. Any time I asked him a question, he had another question, he had another
6 explanation of what occurred. If I'd asked him something else and we went down that path, we
7 could have stayed here all day.

8 I don't know if you picked up on it, but I think something's that's significant is that he kept
9 referring to my motion for discovery. I didn't know whose name was what until I got my motion for
10 discovery. In the motion for discovery, ladies and gentlemen, that the State is required to give the
11 Defense, there's incident reports, there's witness statements, there's DNA analysis, there's firearms
12 examination. Did you notice that every time that I asked him about the case he had an answer. It's
13 convenient that today he gives you two gentlemen who he says were the two in the car; that in fact
14 the one that was driving is a fellow by the name of Lametrius, maybe goes by Meat, that he met
15 three weeks' prior at a club. That's all he knows. It's just one coincidence or convenience that he
16 has produced the name to you today, because that's the man he alleges shot at Officer Cobb. He also
17 testified about a gentleman by the name of Tee.

18 You've got to again evaluate what comes from the stand and whether or not you believe the
19 information that you hear off of the stand and the evidence that y'all take back into the jury room.

20 This is why it's attempted murder at the apartment complex: Officer Cobb testified to you
21 that she parked her car, checked out the vehicle, and then she had to walk to Building [REDACTED]. She did
22 that so she could tell dispatch that she possibly had the location of the vehicle Officer Cruell
23 reported. She went over to Building [REDACTED] and she told you, she got up there to the breezeway. She
24 was stepping through the threshold, looking up, calling out on her microphone [REDACTED], and she was
25 fired upon. She couldn't tell you if it was once, twice, or three times. But he she heard a gunshot

1 and she saw muzzle flash. What she saw from that muzzle flash was the face and silhouette of a
2 black male. That's all that she could see. And at that point in time she goes into survival mode.

3 I wish we had the ability to go back and have some video or other evidence at the scene that
4 would allow her to come in here and tell you, yes, I saw this man on the stairs shooting. Again, the
5 motion for discovery. Isn't it now convenient that Mr. Lowrance wants you to believe that a fellow
6 by the name of Lametrius is the one who shot at Officer Cobb?

7 He testified on the stand that he was shot during the first exchange of gunfire, but he can't
8 tell you which one shot him. He testified that he was the second person walking down the stairs; that
9 the shooter, Lametrius, was behind him, carrying this gun. And that he doesn't know, but he think
10 Lametrius may have shot him.

11 Two or three steps potentially behind him, and if he'd have shot in the left shoulder, it would
12 have to come from the back. You can see the picture, he's shot in the front, left arm. What was his
13 explanation to you when I asked him if they're behind you, both of them, the man he claims had the
14 gun and was shooting at Officer Cobb, how did you get shot in the front. What was his response?
15 Oh, I turned around to see what the shooting was about. Again, convenience, the motion for
16 discovery. He's able to attempt to fill in all of these potential gaps that the Defense is telling you, if
17 it can, that it's amending. Don't take what we're presenting to you in the facts.

18 Convenience, because he's had the opportunity to review every document that we've talked
19 about and to tell you what it ain't him. He doesn't know this Lametrius. It's just convenient that
20 he's roughly-- The exact description which they claimed Officer Cruell was talking about, got long
21 hair, braids, dreads, all that good stuff. It's convenient.

22 Black hooded sweatshirt. Now, you heard Officer Cruell's testimony, so you've got to take it
23 for what it's worth. Is it possible that he's got his head covered up with the sweatshirt. You've also
24 heard Officer Lane and Officer Cobb's testimony, they saw a black silhouette. Is it possible that he
25 had the hoodie pulled up? I submit to you that it's very possible. Why is that? He's trying to

1 conceal his identity. He didn't want Officer Cruell to know who he was. He didn't want Officer
2 Lane to know who he was, or Officer Cobb.

3 His blood, which is where the bullet went through, is on the sweatshirt. The sweatshirt found at Mr.
4 Brockman's house.

5 What else is found at Mr. Brockman's house? This gun that he so conveniently wants you to
6 believe was given to him by the alleged shooter after the alleged shooter had shot at Officer Cobb
7 and Officer Lane. Does it makes sense for a man who has just fired nine rounds at two different
8 officers to give up the only survival weapon that he may have? Does it make sense? Is it logical?
9 That this Lametrius, who is the shooter, has decided that he's gonna fire upon two officers and
10 ambush them. They don't know he was there. They didn't know he was down there when the shots
11 were fired. Officer Cobb again stepped through the threshold and looked up. Does it make sense for
12 that man, who was apparently, according to the Defendant, has drugs and is now all of a sudden in
13 possession of this stolen vehicle, going to give up the firearm which holds twenty-five rounds and
14 give it to him after he's been shot?

15 And he ain't done nothing at all. He told you he did nothing wrong. He is a victim of
16 circumstance. He told you he laid down in the woods, roughly six or seven hours. He was calling
17 his family, never called law enforcement, never called 911. Got back over to his cousin's house.
18 What'd his cousin do? His cousin turned him away. Why did his cousin turn him away? He had
19 previously accepted him in various nights and weeks before. There's some dispute about who owed
20 who what money. But he turned him away. His own family turned him away. Why? And if he
21 didn't do nothing wrong, why wouldn't they let him into the house? Why wouldn't they let him get
22 treatment? Why wouldn't they let him call 911? It's convenient, very convenient.

23 You've heard testimony from the stand from the forensic side. You heard Officer Shaw
24 come in and go over this schematic about where the shots – excuse me – where the shell casings
25 landed. What makes the information that the State has presented credible? Officer Cobb told you

1 she entered the breezeway and fired a couple of rounds. One, two, three. I submit to you those are
2 probably the first couple of rounds that she fired. She then charges up to gain cover behind the
3 stairwell. She then indicated that fired several more times. One, two, three, four, five, six, seven,
4 eight, nine, ten, eleven, twelve.

5 She told you her clip, her clip held fifteen and she had one previously in the chamber.
6 Thirteen, fourteen. When they retrieved her clip after the fact she told you she still had one in the
7 magazine and one in the chamber. There's sixteen. She told you she dropped her clip and reloaded.
8 At that point in time she heard the third exchange of gunfire.

9 And if you listen to what Officer Lane testified to, that third exchange of gunfire is the last
10 exchange of gunfire. Officer Lane testified he stepped into the breezeway. About midway up he got
11 fired at a couple of times. In fact, he thought he was shot. He went back outside and eventually they
12 ended up both checking each other for any wounds.

13 Now, Officer Shaw testified about the number of rounds that were not consistent with what
14 Officer Cobb carried. He testified that she carried Speer ammunition. Everyone of these red is
15 Speer ammunition. The other ones are Winchester or RWS. There were nine; one, two, three, four,
16 five, six, seven, eight, nine rounds, nine spent shells found. This is the bottom stairwell where the
17 clothing-- Where'd Officer Cobb tell you? The person got about halfway up the steps. Here are
18 several rounds that would have ejected and potentially landed down here. Also, there's several
19 rounds down here.

20 Now, if you'll go back and look at some of the photographs you will see that there are either
21 direct entry points or ricochets that Officer Shaw talked about. They're on the left side. If you're
22 walking from the very bottom, here, up, they're on the left side. In fact, one entered the door and
23 scraped the door of this apartment right here. There's another one or two that came across this 2x6
24 frame. There's in fact one that went all the way into the siding of the apartment in between, roughly
25 about here, in between these two apartments.

1 Lastly, if you were walking up the stairs, there's going to be overhang from the stairs that go
2 up to the third floor. We showed you at least three strike marks that are on the overhang.

3 Mr. Lowrance was not trying just to kill the officers; he was just trying to buy some time.
4 He sure did a bad job about spreading around the different places he was shooting. The officer tells
5 you that we found, I believe it was DS 41. That's the projectile that I asked Officer Armstrong,
6 who's the firearms examiner, talking about that projectile came from this gun. No question about it.
7 He also tells you that DS 14, which if you'll look in the photographs, there's a fragment of a
8 projectile that he eliminated Officer Cobb's gun from. So, Mr. Lowrance was taking every
9 opportunity he could and to shoot in every possible place that he thought Officer Cobb may have
10 been.

11 You heard her testify about the exchange coming back and forth and in between the spindles.
12 You can see the spindles. You can see how many dings and dents, damage there is to it. You can
13 see where the projectiles initially struck various places in this stairwell. There were twenty-three
14 shots fired between the two of them.

15 All he had to do was at the bottom of those stairs walk out. All he had to do was walk out.
16 He didn't have to engage in this.

17 Seven hours later, seven, eight hours later, we found him. And he gives up, I suspect, and I
18 submit to you that he gave up because he was hurt pretty bad. He has that bullet in his shoulder,
19 going through pretty severe pain.

20 You heard Mr. Brockman tell you that he picked him up as he was walking down the road.
21 And I admit Mr. Brockman probably wasn't the best witness to tell you he didn't want to be
22 involved. He didn't want it known that he would probably snitch on somebody he'd been hanging
23 out with. As Mr. Brockman told you, he's been to prison. Mr. Johnson asked him, what you been to
24 prison for; trafficking crack cocaine. This is the individual that Mr. Lowrance hangs out with. This
25 is the individual that he got a ride from. This is the individual whose house he went to gain cover.

1 Law enforcement arrives and Detective Flavell went back to Comfort Inn and found all the
2 information about Mr. Lowrance registered to the room, found his information. This didn't occur
3 until 9:45, 10:00 in the morning. Why didn't Mr. Lowrance take all of these personal belongings
4 and not take the rest of the stuff in the room? We know it was roughly 11:00 when Officer Cobb
5 and Officer Lane got to the motel, and he knew he had to get the heck out. And what did he do? He
6 got in that stolen vehicle and he went up 85 and he ran from them. And he stopped at the first place
7 he could to get his stuff out of the car.

8 How do we know he was in the car? You heard Officer Gary, who's with Forensics, works
9 with the Forensics Department as well, talk about these latent prints. There are six prints, five of
10 which come from the vehicle. Let's talk about where these were found in the vehicle. You have one
11 that was found on the exterior, facing side of the passenger side door. So, it's from the exterior side
12 of the passenger door.

13 Remember, Gary talked about how you count the fingers, one, two, one, two, three, four,
14 five, six, seven, eight, nine, ten. Let's talk about what fingers we found on the car prints. On that
15 passenger side door he indicated he found number seven, left index finger. He then told you that on
16 the exterior side of the driver's side, rear door he found number ten, the left pinky finger. He also
17 told you on center of the hood he found the right, middle finger. Then on the exterior side of the
18 passenger side of the vehicle, he found number nine, the left ring finger.

19 Lastly, the exterior side, he found both again, the right, the right index finger and the left
20 index finger. So, there were five prints. But what he also found was the left palm print. And that
21 came off the exterior side of the passenger side.

22 So, potentially, five out of ten prints were the ones that were lifted that were able to be
23 compared. That's not to say there weren't other prints. They were just the ones that were of
24 sufficient quality for Officer Gary to compare. Five prints on the outside of the car from various
25 places on the car.

1 Why is that significant? Both sides of the doors were used. What I submit to you is that the
2 defendant had taken his stuff out of the car and walked down to that bottom landing and then he had
3 to go back up and get some more stuff out of the car. What else was left in the car?

4 Jon Derby, another forensic tech, testified that he found this ammunition box, which was
5 underneath the front, passenger's seat. What sort of ammunition is this. I suggest that you look
6 inside. The box says RWL. What else in there? WIN. That's the exact, same ammunition that was
7 fired at Officer Cobb in these nine shots.

8 Derby tells you he pulled the tray out and he tested the tray and what comes off the tray?
9 The defendant's left, index finger. So, he's handled ammunition. Of course, when I asked him,
10 how'd your fingerprint get on there? Oh, well, I touched it. Again, he got his motion for discovery
11 and he answering, or attempting to answer every piece of evidence against him. He's got an
12 explanation. He's come up with it and I suggest to you it's not credible and it is not believable.

13 Mr. Derby also told you that he removed out of this clip these rounds. What are these
14 rounds? They're RWL, WIN, GFL, FC, four random pieces of ammunition. Twenty-five rounds.
15 How many were fired? Nine. Somebody had to reload this thing. And Mr. Johnson's trying to
16 make a big deal about there's not DNA on it. It doesn't mean that just because he's touched it we're
17 gonna be able to get DNA. He laid up in the woods for six or seven hours, over at Mr. Pearson's
18 house – excuse me – Mr. Brockman's house. We don't know if he's washed his hands. We don't
19 know if he's been to the river. Somebody's obviously picked him up at some point in time and
20 carried him up the road. There's an extended period of time there, ladies and gentlemen, anything
21 could have happened. But that clip unloaded twenty-five rounds after nine rounds had been
22 discharged. All the same ammunition at the scene, the same ammunition in the car, the same
23 ammunition in this photo.

24 Now, you heard from Doctor Kandala. The Doctor is a very educated man. He's a little
25 difficult to understand because he's from India. He is the technical leader here in Greenville County.

1 It's his job to take what has been submitted to him and compare it with potential pieces of evidence.
2 What does he tell you about the results? He tells you that Mr. Lowrance is a major contributor to the
3 test. He tells you there's not information. Again, he's got his motion for discovery. He's come up
4 here and made this fantastic story about it had to be some guys named Meat and Tee. I suggest
5 that's the menu they want you to believe.

6 This is the sample that the defendant was handed by Detective Conroy. The defendant took
7 it himself, twirled it up, capped it. Detective Conroy put it back in the Property and Evidence.
8 There was no cross-contamination. You can see Detective Conroy's handwriting on the side. That's
9 where Doctor Kandala got his information to identify Mr. Lowrance.

10 He indicated yesterday when I was talking to Mr. Kandala about the blood that was found at
11 the scene. He told you it is a one hundred percent, or to a reasonable degree of scientific certainty
12 match with Mr. Lowrance. The blood is the same. His blood is on the sweatshirt. His blood is on
13 the tee shirt, the tee shirt is gray. What did Officer Cruell tell you? Wearing a gray shirt. Who was
14 wearing a gray shirt? The Defendant. The car leaves, goes up the highway and ends up at Berkeley.
15 That's where the exchange of gunfire came from Mr. Lowrance and Officer Cobb.

16 Now, his friends, we were not able to hear from today. But we did hear from Mr.
17 Brockman and his cousin, Mr. Pearson. What does Mr. Pearson tell you? Mr. Pearson told you, he's
18 been staying with me on and off, he was having marital difficulties. Mr. Lowrance got there and
19 discussed those marriage difficulties. While at his house and the day before this occurred, he saw
20 him driving that car, that Yukon. What does he have with him? He has this gun.

21 Again, he knows. He's seen the statement that Mr. Pearson gave. I mean, this ain't
22 something that you're just gonna be able to hide in your pocket. This is not really considered a
23 concealed weapon. This is not something that you go and get your license about so you can carry it
24 around in your pocket. I mean, it's pretty dern obvious what this is. It's gonna be hard to hide. And

1 Mr. Pearson tells you that he saw it the day before. And the defendant's driving that stolen vehicle
2 and he had this with him.

3 He's got a motion for discovery and he's trying to counter all of this evidence, giving you an
4 explanation. And he wants you to believe that it was Meat or Tee. And any testimony that you have
5 that we found Meat or Tee's driver's license, credit card, ID, Social Security card, any receipts
6 anywhere, anywhere? We didn't find anything, ladies and gentlemen, because they don't exist.
7 They may have been two people that he was hanging out with, drinking booze, smoking weed, but
8 they weren't in the car with him that day.

9 Mr. Lowrance was very intentional in his actions. He knew what he was gonna do. He left
10 the hotel, he got in that stolen vehicle, he tried to get away from the police. He did a pretty good job
11 until Officer Cobb found the vehicle at Berkeley Point. Thank goodness that she is all right, as well
12 as Officer Lane. And over at Berkeley Point, he ambushed them. They didn't stand a chance. He's
13 got a weapon that carries twenty-five rounds, appeared to be fully automatic to Officer Lane.

14 I submit to you that Officer Cobb shot him. He goes, lays up in the woods for seven or eight
15 hours, doesn't call law enforcement, doesn't call 911. And he had the ability to do so, but he was
16 scared. He'd never been in a situation. What you got to be scared about, ladies and gentlemen, if
17 you ain't done nothing wrong?

18 He did several things wrong. He ran from the police in a stolen vehicle. He shot at both
19 Officer Cobb and Office Lane. And not just shot at them. He was trying to kill them. No other
20 explanation. He was in possession of this firearm.

21 The Judge is going to go over the charge with you and the elements that the State must meet
22 beyond a reasonable doubt in order for you to find him guilty. As I told you in my opening
23 statement, you're not going to have any hesitation. There's no question. Mr. Lowrance did these
24 things. And I'm going to ask you to find him guilty of each and every count. Thank you.

1 The Court: All right, ladies and gentlemen. It's my duty and responsibility now to give you
2 the law that you are going to apply to the facts and evidence you find to be true in this particular
3 case. I told you at the very beginning that I wouldn't indicate to you at any time what I believe the
4 facts of this case are because it wasn't my job, not my responsibility. It's your job, it's your
5 responsibility to find the facts and evidence you believe to be true in this particular case.

6 Now, in that same vein that you are the judges of the facts, if you came into this courtroom
7 with any preconceived ideas on what the law is, what it ought to be, what it should be, what you
8 hope it would be, you'll disregard that. You will take the law as I now give it to you and apply it to
9 the facts and evidence you find to be true.

10 I remind you that one of your jobs and duties and responsibilities in this matter is to judge the
11 credibility and the believability of the witnesses that have presented themselves to you under oath in
12 this matter. In doing so, you can believe one witness against several, several against one. You can
13 believe a portion of what a witness says, and disregard the remaining portion of it. If you've got a
14 good and sound reason for doing so, you can disregard in its entirety the testimony of a particular
15 witness.

16 You look at whether or not that witness has exhibited to you any kind of interest, motive,
17 bias, prejudice that they might have in giving you the testimony they gave you from the witness
18 stand. You obviously consider the opportunity for knowledge, how they come about that
19 information they gave you. You can even consider the demeanor of the witness, how did the witness
20 appear when they were testifying before you.

21 You remember I told you at the very beginning in judging credibility and believability, that's
22 something you do every, single day of your life. You automatically judge what somebody's telling
23 you, whether it's true or not, when they're telling it to you during your ordinary, normal course of
24 business. You use your good, common sense. You use your good judgment. You apply it to the
25 facts and evidence you heard in this case and find that evidence which convinces you of its truth.

1 You don't have any friends to reward. You don't have any enemies to punish. Your verdict
2 can't be the result of any kind of passion, prejudice or sympathy. It has to be an examination of the
3 facts and evidence and to find that evidence which convinces you of its truth.

4 In this case there was presented two types of evidence that's presented in virtually every case
5 that's tried, called direct and circumstantial evidence. Direct evidence, that's the testimony of a
6 person who asserts or claims to have actual knowledge of a fact. What they saw, heard, observed;
7 what took place in their presence. Circumstantial evidence, that's proof of a chain of fact indicating
8 the existence of a fact.

9 The law doesn't make any distinction between the two. A greater degree of proof is not
10 required of one over the other. You must examine all the facts and evidence in the case and find that
11 evidence which convinces you of its truth. After weighing all the evidence, if you are not convinced
12 of the guilt of the defendant of the crime or crimes charges beyond a reasonable doubt, you must
13 find the defendant not guilty.

14 In this case, I qualified several witnesses to give their opinion. Now, normally we don't
15 allow witnesses to give their opinion. They've got to tell you what they saw and what they heard,
16 what they observed in their presence. Sometimes a witness by their scientific knowledge, training,
17 education, work in a special area, we allow them to give their opinion. Just because the court does
18 that doesn't give them any special status.

19 You judge all the witnesses the same. You look at all the evidence. You find that evidence
20 which convinces you of its truth.

21 The rules of evidence provide that a testimony of a witness may be discredited or impeached
22 by showing that witness has been convicted of a crime for which they could have been in prison for
23 more than one year, or a crime involving dishonesty. Now, as to that evidence, it's only on the issue
24 of credibility and believability and for no other purpose.

1 A person who has a past criminal record can testify during a trial. Their past record doesn't
2 affect their ability to testify. It's only considered by you, if at all, in determining the witness'
3 believability or credibility, remembering, of course, that you are the sole judge of the facts in this
4 case.

5 A statement alleged to have been made by the defendant was admitted by the court as
6 evidence in this case. Now, while I determined that the statement was admissible as evidence, you
7 the jury make the ultimate decision of several things: whether or not the defendant, indeed, made
8 the statement. If the defendant made the statement you must determine whether the statement was
9 made by the defendant voluntarily and of their own free will. That means the statement was not
10 caused by pressure, force, fear, threats, coercion, or intimidation; or by hope or promise of leniency
11 or reward of any kind.

12 In determining whether or not the statement was voluntary you take into consideration the
13 details of the questioning, the facts surrounding the questioning. Some of the things you can
14 consider are the age of the defendant, the defendant's education or lack thereof, the defendant's
15 mental ability and capacity, his physical makeup and presence at the time of the questioning, his
16 intelligence or IQ, background and environment, the nature of the questioning. The advice or lack
17 thereof to the defendant of his constitutional rights, including but not limited to the right to remain
18 silent, that any statement can and will be used against you in a court of law; you have the right to
19 have a lawyer present; if you cannot afford one, one will be appointed to represent you; and you can
20 stop making a statement at any time that you wish.

21 You carefully consider all surrounding circumstances before you give any weight to the
22 alleged statement.

23 I told you – and I'll go over this in just a minute – the State has the burden of proof, of
24 proving everything to you beyond a reasonable doubt. That goes with all of these things that I'm
25 talking to you about.

1 So, regarding this statement and all the characteristics and everything I'm talking about, the
2 State has to prove that to you beyond a reasonable doubt because the State has the burden of proof.

3 You decide what weight, if any, you give that alleged statement. If you determine that the
4 statement was not a free and voluntary statement of the defendant, you don't consider it at all.

5 Identification. At issue in the case is identification of the defendant as the person who
6 committed the crime. The State, again, has the burden of proof, of proving the identity of the
7 defendant as the person who committed the crime beyond a reasonable doubt. The State has the
8 burden of proof on everything. You must be satisfied beyond a reasonable doubt the accuracy of the
9 identification of the defendant before you may convict the defendant. And, again, it has to be
10 beyond a reasonable doubt.

11 Identification testimony is the expression, believe, impression of a witness. You must
12 determine the accuracy of the identification of the defendant. You must consider the believability of
13 each identification person in the same way you would any other witness. You may consider whether
14 the witness had adequate opportunity to observe the offender at that time. This will be affected by
15 things like how long or short a time was available to observe the person; how far or close the witness
16 was; the lighting conditions; whether the witness had a chance to see or know the person in the past.

17 The burden of proof is on the State and extends to every element of the crimes charged. And
18 this includes the burden of proving beyond a reasonable doubt the identity of the defendant as the
19 person who committed the crime. If, after examining the testimony, you have a reasonable doubt as
20 to the accuracy of the identification, you must find the defendant not guilty.

21 Presumption of innocence. I told you at the very beginning the defendant plead not guilty to
22 the charges levied or brought against him by the state of South Carolina, and that puts that burden of
23 proof on the state of South Carolina to prove the defendant guilty of the crime or crimes charged
24 beyond a reasonable doubt. As I told you, the defendant has nothing to prove to you. The defendant
25 has not a thing to show you. I told you at the very beginning, the defendant need not even show up

1 to trial because they don't have to prove a thing to you or show anything to you. The State must
2 prove the guilt of the defendant beyond a reasonable doubt.

3 This is an important rule of law regarding any defendant in a criminal case, no matter the
4 seriousness of the charge. The defendant is always presumed to be innocent of the crime for which
5 the indictment or the charge was issued, unless guilt is proven to you by evidence satisfying you of
6 that guilt beyond a reasonable doubt.

7 Now, this presumption of innocence didn't end at the beginning of the trial. It hasn't ended
8 now. It only ends if and when you believe by the evidence you find to be true, the State has proved
9 the guilt of the defendant of the crime charged beyond a reasonable doubt.

10 This presumption of innocence is likened to a robe of righteousness. It is placed on the
11 shoulders of the defendant and it stays on the shoulders of the defendant until it's ripped from the
12 shoulders of the defendant by evidence which convinces you of its truth and its evidence that you
13 believe the defendant has committed the crime or crimes charged beyond a reasonable doubt.

14 This isn't just legal theory or some legal phrase. It's a substantial right to which this
15 defendant, and to which every American is entitled, unless and-- They're entitled to it unless you
16 are satisfied from the evidence of the defendant's guilt beyond a reasonable doubt.

17 So, what's reasonable doubt? The kind of doubt that would causes an ordinary, reasonable
18 person to hesitate to act. The State has the burden of proving the defendant guilty beyond a
19 reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the
20 defendant's guilt.

21 Now, there are very few things we can know with absolute certainty, and the State isn't
22 required to give you that kind of degree of proof. What is required is based upon your consideration
23 of the evidence. If you are firmly convinced that the defendant is guilty of the crime charged, you
24 must find the defendant guilty.

1 On the other hand, based upon your view of the evidence, the evidence you find to be true,
2 you are not firmly convinced of the defendant's guilt of the crime or crimes charged, you must give
3 the defendant the benefit of the doubt and find him not guilty.

4 In order to establish criminal liability, criminal intent is required. Criminal intent must be
5 proven to you by the State beyond a reasonable doubt. Criminal intent is always a matter that must
6 be determined by the jury from the circumstances surrounding the situation. There's no way to
7 prove it to you by a mathematical certainty. The law says that criminal intent may be inferred from
8 the circumstances that existed. It's not necessary to establish intent by direct and positive evidence,
9 but intent may be established by inference the same way by taking into consideration the acts of the
10 parties and all the facts and circumstances of the case.

11 Criminal intent is a mental state, a conscious wrongdoing. It's up to you to determine what
12 the defendant intended to do, if anything, based on the circumstances shown to have existed. Mere
13 presence at the scene of a crime is not sufficient to prove somebody guilty of the crime. A
14 defendant's presence where a crime is being committed or mere association with the person who
15 commits the crime does not make a defendant an accomplice or aider or abettor of the person
16 committing the crime. The burden is on the State to prove every element of the crime charge.

17 If you find after reviewing all the evidence that the State has proved that the defendant was
18 only present at the scene of a crime and they have not proved beyond a reasonable doubt his
19 participation in the crime, then you must find the defendant not guilty. Mere presence at the scene of
20 a crime is not sufficient to prove somebody guilty of a crime.

21 So, the defendant is charged with several offenses. What are the elements of those offenses?
22 The most serious being attempted murder. A defendant being charged with attempted murder, in
23 order to prove this crime the State has to prove to you that the defendant attempted to kill another
24 person with malice aforethought, either expressed or implied.

1 Now, malice is hatred, ill will, hostility towards another person. It's the intentional doing of
2 a wrongful act without just cause or excuse. And with an intent to inflict an injury or under
3 circumstances that the law would infer this evil intent.

4 Now, malice aforethought doesn't require that malice exists for any particular time before the
5 act is committed, but it has to exist in the mind of the defendant just before and at the time the act is
6 committed, the attempted murder. Therefore, there has to be this combination of the evil intent and
7 the act.

8 Now, malice aforethought can be expressed or implied. It's merely the manner in which they
9 may be shown to exist. It can be shown by direct evidence or inference from the facts and
10 circumstances proved. Expressed malice is shown when a person speaks words which express
11 hatred or ill will for another or when a person prepared beforehand to do the act which was later
12 accomplished. Or some other act of preparation going to show that the deed was within the
13 defendant's mind to be expressed malice.

14 Malice can also be inferred from conduct showing a total disregard for human life. That
15 inferred malice can arise when the deed is done with a deadly weapon, a deadly weapon being any
16 kind of article, instrument or substance which is likely to cause death or great bodily harm. Whether
17 or not an instrument is used as such depends on the facts and circumstances of the case.

18 Now, regarding the facts, if they are proved beyond a reasonable doubt sufficient to raise
19 some inference of malice, this inference of malice is just an evidentiary fact, one of the facts you
20 consider and you give it the weight you think it should receive, if any.

21 A specific intent to kill is not an element of attempted murder, but there has to be a general
22 intent to commit serious bodily injury. Intent means intending the result which actually occurred,
23 not by accident or involuntarily. Intent may be shown by the act and conduct of the defendant from
24 which you could infer intent. Evidence of a character of the act; the character of the instrument
25 used; the manner in which it was used; the purpose to be accomplished.

1 Intent may also be inferred when it is demonstrated that the defendant voluntarily and
2 willfully committed an act of which the natural tendency of which would be to destroy another's life.

3 He's also-- There's two counts of attempted murder, and we'll talk about that in just a
4 second.

5 Possession of a weapon during the commission or attempt to commit a violent crime.
6 Defendant, having been charged with this crime, the State has to prove to you beyond a reasonable
7 doubt that the defendant was in possession of a firearm or visibly displayed what appeared to be a
8 firearm during the commission of a violent crime.

9 Again, a firearm is any kind of weapon which is designed to or may readily converted to
10 expel a projectile. In order to find the defendant guilty of possession during the commission of a
11 violent crime you must find the defendant guilty of committing the violent crime or attempting to
12 commit a violent crime. In this matter it'd have to be, you would have had to have found him guilty
13 of one or both of the attempted murders. If you find him not guilty of those, he cannot be in
14 possession of a weapon during the commission or attempt to commit a violent crime.

15 The violent crime that's been alleged against the defendant is attempted murder. And the
16 State also has to prove to you beyond a reasonable doubt that the weapon further advanced or helped
17 in the commission of the crime.

18 The possession of a stolen vehicle. A person is not entitled to possess a vehicle knowing it to
19 be stolen or converted under circumstances constituting a crime. To prove possession the State has
20 to prove to you beyond a reasonable doubt that the defendant had both the power and the intent to
21 control the disposition or the use of the vehicle. It could be actual possession, meaning that he was
22 in actual, physical custody of the vehicle. Or he had constructive possession, he had the dominion
23 and control, or the right to exercise the dominion and control over the vehicle. The State, therefore,
24 has to prove to you beyond a reasonable doubt he possessed the vehicle, it was a stolen vehicle and
25 he knew it to be stolen.

1 Failure to stop for a blue light. Defendant being charged with failure to stop for a blue light.
2 In order to prove the crime the State has to prove to you beyond a reasonable doubt that the
3 defendant was driving a motor vehicle. That the defendant was driving this motor vehicle on a road,
4 street, or highway of the state of South Carolina. That the defendant was signaled to stop by law
5 enforcement by means of a siren or flashing light and the defendant did not stop for a blue light.
6 You may consider the actual road conditions, the actual roadside conditions, other conditions, such
7 as lighting, weather, officer-driver-passenger safety, any other circumstances you believe to
8 reasonably mitigate the violation.

9 An official signal requiring a motorist to stop may be a siren or a flashing light. It does not
10 have to be both. The attempt to increase the speed of a vehicle or in some other manner avoid the
11 pursuing law enforcement vehicle when signaled by siren or flashing light may be considered as
12 evidence. However it is merely an evidentiary fact to be taken in consideration by you along with all
13 the other evidence in the case and given the weight for you to decide.

14 So, he has to be driving the vehicle. He has to be driving the vehicle on a road, street, or
15 highway of the state. He has to be signaled by law enforcement to stop and he doesn't stop.

16 The last one that he's charged with-- I'm sorry. That was the last one he was charged with.

17 Going through the verdict forms. Let me go through the verdict forms. There are five
18 decisions you have to make because there are five charges. Two of them are attempted murder. And
19 you've got possession of a weapon during a violent crime, possession of a stolen vehicle and failure
20 to stop for a blue light. Each one of them is a separate charge. Each one of them is a separate case.
21 Each one of them the State has to prove to you every element of the crime and the facts to back up
22 every element of the crime beyond a reasonable doubt. So, you're making five separate decisions;
23 you're not just making one. You're making five, separate decisions. You make a separate,
24 independent decision on each and every charge.

1 The verdict forms are very straightforward. On the charge of attempted murder of Officer
2 Taci Cobb, we the jury by unanimous consent, find the defendant, Patrick Dean Lowrance, you've
3 got two boxes, check one or the other, not guilty or guilty. I put one before the other, obviously
4 don't assign anything to that.

5 When you decide that, you go on to attempted murder. On the charge of attempted murder
6 of Officer Charles Lane, we the jury by unanimous consent, find the defendant, Patrick Dean
7 Lowrance, you've got two choices, not guilty or guilty. Pick one and go on to the next charge.

8 Possession of a weapon during a violent crime. On the charge of possession of a weapon
9 during a violent crime, we the jury, by unanimous consent, find the defendant, Patrick Dean
10 Lowrance, again, not guilty or guilty. Remember, you have to have had found him guilty of one or
11 both the attempted murders to find him guilty of possession of weapon during a violent crime. If
12 you find him not guilty, you've got to find him not guilty of this one because the only violent crime
13 is attempted murder.

14 Possession of a stolen vehicle. He's charged with possession of a stolen vehicle. We the
15 jury, by unanimous consent, find the defendant, Patrick Dean Lowrance, two choices, not guilty or
16 guilty.

17 Failure to stop for a blue light. He's charged with failure to stop for a blue light. We the
18 jury, by unanimous consent, find the defendant, Patrick Dean Lowrance, not guilty or guilty.

19 When you've reached a unanimous verdict on all of those matters, every, single one of those
20 matters, you knock on the door and let the bailiff know that the jury's reached a unanimous verdict
21 on all the matters presented.

22 Now, I have said unanimous I don't know how many times. It means exactly what you think
23 it means. It means twelve-zero. It doesn't mean eleven-one, ten-two, or any combination thereof.
24 So, Mr. Foreman, you check the appropriate block, whatever the block is, not guilty or guilty.
25 Whatever it is, when you check that, you sign your name, you put the date on there, you are telling

1 the court every, single member of the jury agrees, that's their verdict. All twelve of them say, yes
2 sir, that's my verdict, including yourself, obviously.

3 So, when you sign it, you date them, you check the blocks and you knock on the door and
4 you let the bailiff know you have a unanimous verdict on all these matters.

5 What I'm going to ask that you do is, Mr. Foreman, and the other eleven members of the
6 regular jury, I'm going to ask that you go back to the jury room at this point in time. I'm going to
7 ask the two alternates to stay with us, please. Do not, do not begin your deliberations until the bailiff
8 hands to you the verdict form and they bring all the exhibits into the jury room for your use. When
9 that occurs you may begin your deliberations.

10 The Clerk of Court has ordered lunch. Hopefully, it will be there. If it's not, it should be
11 there very shortly. Take the time to enjoy that and then resume your deliberations.

12 So, Mr. Foreman, take your regular members of the jury to the jury room, please.

13 (Whereupon the jury exited the courtroom)

14 At this time, is there any reason from the State or the Defendant that the court should not
15 excuse the two alternates in this particular matter? From the State?

16 Mr. Marchant: No, Your Honor.

17 The Court: From the Defense?

18 Mr. Johnson: No sir, Your Honor.

19 The Court: Very good. Mr. Arnold and Ms. Bell. The court can release you from your
20 service in this particular case. So, I'm going to excuse you. You've sat through this trial for a
21 couple of days. I'm going to excuse you from your jury service for the week. Your job was to step
22 in the shoes of the regular members of the jury if they were unable to go forward by reason of
23 sickness or some other matter. They are all here ready, willing, and able to go forward with their
24 duties. So, I am going to excuse you from your jury service for this week. Thank you for your

1 service, and you are now excused. Just give your badges to the bailiff when you leave. And if you
2 need any statements for your work, the Clerk of Court can get that for you. Thank you very much.

3 (Whereupon alternate jurors exited the courtroom)

4 All right. Exceptions, deletions to the charge from the State?

5 Mr. Marchant: None, Your Honor.

6 The Court: From the Defense?

7 Mr. Johnson: No sir, Your Honor.

8 The Court: Very good. Gentlemen, first I want to tell you the way that you, Solicitor, and
9 you, Mr. Johnson, you tried this case. In the court's estimation you did everything that the court
10 would expect of you, and you did everything that you should on behalf of your respective clients to
11 present this matter properly and eloquently to the jury. I commend you both for your work in this
12 particular case.

13 Mr. Johnson: Thank you, Your Honor.

14 Mr. Marchant: Thank you, Your Honor.

15 The Court: If you would, get with the Court Reporter and make sure we've got all the proper
16 exhibits going into the jury room.

17 Mr. Johnson: Yes sir.

18 Mr. Marchant: Yes, Your Honor.

19 The Court: And with that we will be in recess

20 (Whereupon court was in recess at 1:00 p.m.)

21 **COURT IN SESSION – 1:58 P.M.**

22 The Court: All right, Solicitor and Mr. Johnson. We've got a note that the jury wanted to
23 watch the video again. I believe we've got it cued up. Is that correct?

24 Mr. Marchant: Ready to go, Your Honor.

25 The Court: As soon as they bring the defendant out, we'll call the jury in. Okay?

1 (pause for defendant to enter courtroom)

2 (Whereupon jury entered courtroom)

3 The Court: All right, Mr. Foreman, we got your note about seeing the video. I believe we
4 have it cued up to the very beginning of the video. As I recall, I don't believe it's very long, so we'll
5 play it in its entirety.

6 Go ahead, Solicitor.

7 (Whereupon State's Exhibit Number One, the in-car video, was played for the jury)

8 The Court: All right. That's the video. If there's anything else you need of us, please ask.

9 Jury Foreman: Thank you.

10 (Whereupon jury exited courtroom at 2:02 p.m. to resume deliberations)

11 The Court: All right, gentlemen. We'll just be at ease until the jury needs us. Thank you.

12 (Whereupon court was in recess)

13 **COURT IN SESSION – 4:55 P.M.**

14 The Court: All right, Solicitor and Mr. Johnson. I've gotten a note from the jury that I have
15 reviewed with you. It is the intention of the court at this time to ask the jury to come out and I'm
16 going to give them an Allen charge as to the first question that they asked. And as to the second one,
17 as we've discussed I believe they would be asking me to make a comment on the facts which the
18 court cannot do, and I'll so explain that to them.

19 So, if you'll ask the jury to come in, please.

20 (Whereupon the jury entered the courtroom)

21 All right, ladies and gentlemen. Regarding the notes that you have sent to me, I'm going to
22 discuss these matters with you at the present time. What I would classify as the second question on
23 the first note, that was about the possession of a stolen vehicle charge. The way the question is
24 worded would require the court to comment on the facts. As I've explained to you I cannot do that.
25 You have heard all the evidence to be produced in this case. You must make your decision based on

1 the facts and evidence to be produced, that have been produced. For me to answer your question
2 would be making a comment on the facts and guiding you on the facts and I cannot do that. That is
3 your job and your responsibility. So, I cannot answer that particular question.

4 Regarding your first question, I understand, the participants in this trial understand, we have
5 asked you collectively to do a very difficult thing; that is, get twelve people to unanimously agree on
6 something, on a verdict. If any of y'all are in a relationship you understand it's difficult to get two
7 people to agree on a particular subject or idea.

8 I can tell you that it's not unusual during the stage of proceedings for there to be discussions
9 and for jurors to disagree. You have a duty, an obligation under your oath to listen to each other, to
10 let each other explain and fully develop their particular view of the evidence and the facts and their
11 particular position.

12 I would never ask anyone to give up a firmly held belief. And these instructions are not told
13 to you in that fashion. But I am asking you and I am requiring you to make sure that you keep an
14 open mind. You listen with an open mind to each other's position. You allow everyone to fully
15 explain their position. And when you've done that, to examine your particular position and to see if
16 what someone else has said has made any sense to you or allowed you to see things in a different
17 light.

18 Again, I'm not asking nor directing anybody to give up a firmly held belief. I do want you to
19 continue to deliberate, continue to examine the facts and try and reach a unanimous verdict on all the
20 matters that are presented to you.

21 If you are unable to reach a unanimous verdict on one or any combination of the matters that
22 have been presented to you, understanding that, as you do understand, each one of them is a separate
23 decision. If you are unable to reach a unanimous decision on one or more, what will happen is after
24 being so informed by the jury the court would declare a mistrial.

1 What that means is that particular issue will be held over for the future. At another time and
2 place in the future another panel will be summoned downstairs in the Greenville County Courthouse.
3 We'll call out another panel. We'll qualify that jury. We'll bring them in the courtroom. We'll go
4 through all those questions that I asked each of you. All these same witnesses will come before the
5 court, come before the jury, come before the assembled, and testify just as they have in this
6 particular matter. It's not gonna be anything different than what y'all have heard. There will be
7 another trial on any issue that you do not unanimously decide.

8 I can't believe that there are gonna be twelve other jurors that we select from some future
9 panel that are gonna be more wise and more observant and more knowledgeable and able to reach a
10 decision than the twelve of you. You were selected by the State and the Defense for your very
11 background, what you brought to this matter, and in the parties' belief that you would well and truly
12 try the case, listen to the facts and evidence presented and come to a unanimous conclusion in this
13 matter, if you were able to do so.

14 Again, I'm not saying to give up some firmly held belief. I am telling you to please resume
15 your deliberations. Please discuss the matter fully. Do your utmost, do your best that you can if it is
16 possible to arrive at a unanimous verdict on all of the matters presented. If you cannot, then report
17 back to the court and we will move forward from there.

18 The other matter that you presented, Mr. Foreman, regarding Norman Pearson, William
19 Brockman, what the court can do, and from the defendant, what the court can do is through the
20 auspices of the court reporter is to play back testimony. It's up to you to decide what you want to
21 hear. We could play back the first two sentences of a particular witness' testimony and that might be
22 all you wanted to hear. You could tell the court that's good, let's go on to the next one. Or if you
23 wanted to hear every, single, last word of what that witness said on direct and cross examination,
24 that's what we'll do. We're here at your pleasure.

1 So, regarding that, obviously, we don't have the ability to give you a written transcript at this
2 point in time. That's a huge undertaking by the court reporter to listen to that and type it all out.
3 That takes an inordinate amount of time and that's not possible.

4 So, any testimony can be replayed for you so that you can hear it. You're able to decide how
5 much of it you want to, or all of it, whatever it is that collectively you want to do. So, if you want to,
6 Mr. Foreman, if you want to go back in the jury room and discuss that with other members of the
7 jury and decide what you want to do, and tell us, just write a note and let us know and the court
8 reporter will find those areas or find the entire testimony and we'll call you back in and replay it,
9 whatever it is that y'all want to do.

10 So, if you'll go back and let us know, please. Thank you very much.

11 (Whereupon the jury exited the courtroom to resume deliberations)

12 Is there any exceptions, deletions, additions to the court's charge and comments to the jury
13 from the State?

14 Mr. Marchant: None from the State, Your Honor.

15 The Court: From the Defense?

16 Mr. Johnson: None from the Defense, Your Honor.

17 The Court: Thank you very much. We'll be at ease until the jury tells us what they want to
18 do.

19 (Whereupon jury notes were marked as Court's Exhibits One and Two)

20 (Whereupon court was at ease)

21

22

23 **COURT IN SESSION – 5:38 P.M.**

24 The Court: All right, Solicitor and Mr. Johnson. The jury sent a note that they want to hear
25 some portion of- and I obviously will guided by the jury as to what it is – of the testimony of Officer

1 Cruell, Officer Lane. They do want to hear all of Mr. Pearson and Mr. Brockman. And they
2 apparently want to hear from Officer Cruell and Officer Lane about what transpired at the Comfort
3 Inn when they were there.

4 Ask the jury to come in, please.

5 (Whereupon the jury entered the courtroom)

6 All right, Mr. Foreman and ladies and gentlemen of the jury. As a result of your note, I
7 believe the Court Reporter has located the portions of the testimony. Remember that when we get to
8 a point in the testimony, if this is what y'all want to do, you want to stop and go on to the next one,
9 you can just raise your hand or indicate in some way that you've heard what it is that you wanted to
10 hear and we'll proceed on to the next one.

11 Ma'am, if you would, start with the testimony of Officer Cruell, please, ma'am.

12 (Whereupon testimony of witnesses, Officer Cruell, Officer Lane, Norman Pearson and
13 William Brockman was played back for the jury)

14 Mr. Foreman and ladies and gentlemen of the jury. That does conclude the testimony that
15 you requested. Obviously we're here for your convenience, if you need any other instruction or
16 replaying of the testimony. Thank you very much.

17 (Whereupon the jury exited the courtroom to resume deliberations)

18 All right, gentlemen. We'll be at ease until the jury needs us. Thank you very much.

19 (Whereupon court was at ease)

20

21

22

23

COURT IN SESSION – 6:45 P.M.

24 The Court: We have informed the jury about their wishes. They informed us that they would
25 like to come back tomorrow morning and resume deliberations. So, I'm going to call them in, send

1 them home, give them the usual instructions and tell them that, ask them to be back tomorrow
2 morning at 9:00 to resume their deliberations at that time. All right? Thank you.

3 (Whereupon the jury entered the courtroom)

4 The Court: All right, ladies and gentlemen. We are going to send you home for the evening.
5 I'm going to ask that you be back tomorrow morning at 9:00 and be in your jury room and resume
6 your deliberations at that point in time.

7 Please remember the instructions I have given you. Don't talk about the case. Don't allow
8 anybody to talk to your about it. It's especially important, and if for some reason you would happen
9 to run into one of your fellow jurors, that you not talk about the case. You cannot deliberate unless
10 all twelve of you are present to continue the deliberations.

11 With that, I'll see you back in your jury room tomorrow morning at 9:00. Thank you very
12 much.

13 (Whereupon the jury exited the courtroom for the evening recess)

14 All right. Before we recess, is there anything from the State?

15 Mr. Marchant: Nothing from the State, Your Honor.

16 The Court: From the Defense?

17 Mr. Johnson: Nothing from the Defense, Your Honor.

18 The Court: All right, gentlemen. See you back tomorrow morning at 9:00.

19 (Whereupon court was in recess)

20

21

22 **THURSDAY, OCTOBER 11, 2012 – COURT IN SESSION**

23 The Court: I understand, and counsel, I've talked to you, we've received a note from the jury
24 indicating that they have reached resolution in one of the charges and cannot reach resolution on the
25 others. So, I'm going to call them in and speak to them for a minute to see if there's anything the

1 court can do, or anything that can be done to assist them in their deliberations. If not, then as I
2 indicated to them yesterday, the court would-- Obviously I've received the decision of the matter
3 that they have reached agreement on, and we have a mistrial on the other matters.

4 Ask the jury to come in, please.

5 (Whereupon the jury entered the courtroom)

6 All right, Mr. Foreman. The court has received your note where you have indicated you've
7 reached agreement on one matter, and have not yet reached resolution on the others. My question to
8 you is: Is there anything that you believe the court could help you with as far as the replaying of any
9 testimony or any further instructions on the law? Or do you believe further deliberations would help
10 you in this regard?

11 Jury Foreman: No, Your Honor.

12 The Court: Thank you very much. The verdict forms, do you have those with you?

13 Jury Foreman: I wasn't sure whether to bring them.

14 The Court: That's all right. The bailiff will get them. I should have instructed you to do
15 that, so I apologize.

16 (pause for bailiff to retrieve verdict forms from jury room)

17 Mr. Foreman, you indicate you reached agreement on one matter. Is that correct?

18 Jury Foreman: Yes, Your Honor.

19 The Court: (instructing bailiff) If you can hand all them to the Foreman and let him fill out
20 the matter, regarding the one matter that you have agreement. Once you've done that, if you want to
21 just pass that one among the other members of the jury so they are clear that what you have written
22 down and indicated is....

23 (pause for Jury Foreman to fill out verdict form and jury members to review same)

1 The Court: All right. All members of the jury having viewed the verdict form that the
2 Foreperson filled out, is there any member of the jury that disagrees or has a problem with what has
3 been indicated on the verdict form? If so, indicate by raising your right hand.

4 (no response)

5 No one so indicates. Madam Clerk of Court, if you would publish this verdict, please,
6 ma'am.

7 Clerk of Court: In the case of 2012-GS-23-1422, the State of South Carolina versus Patrick
8 Dean Lowrance, possession of a stolen vehicle. On the charges of possessing a stolen vehicle, we
9 the jury, by unanimous consent, find the defendant, Patrick Dean Lowrance, guilty. This is signed
10 by Mr. Davis, the Foreperson.

11 The Court: The other matters are the ones that the jury was unable to reach a unanimous
12 conclusion on the other matters. Is that correct?

13 Jury Foreman: That's correct.

14 The Court: Very good. As to the jury itself, at this point in time, are there any matters from
15 the State as to the jury itself?

16 Mr. Marchant: No, Your Honor.

17 The Court: From the Defense?

18 Mr. Johnson: No sir, Your Honor.

19 The Court: Regarding the verdict, let me just ask one more question. Regarding the verdict
20 that has been rendered does the Defense wish the jury polled on that particular verdict?

21 Mr. Johnson: Sure, Your Honor, yes.

22 The Court: All right, sir. Very good. Madam Clerk, if you would poll the jury on that
23 verdict, please, ma'am.

1 Clerk of Court: The verdict which was just published was the verdict you reached in your
2 jury room. I ask you was it your verdict then and is it your verdict now. When I call your name,
3 please answer yes or no. James McLemore?

4 James McLemore: Yes.

5 Clerk of Court: Michael Chapman?

6 Michael Chapman: Yes.

7 Clerk of Court: Angela Gosnell?

8 Angela Gosnell: Yes.

9 Clerk of Court: Diane Furmanski?

10 Diane Furmanski: Yes.

11 Clerk of Court: Lateria Sibert?

12 Lateria Sibert: Yes.

13 Clerk of Court: Bruce Edwards?

14 Bruce Edwards: Yes.

15 Clerk of Court: Belinda Vance-Breazeale?

16 Belinda Vance-Breazeale: Yes.

17 Clerk of Court: Shelley Brown-Davies?

18 Shelley Brown-Davies: Yes.

19 Clerk of Court: Judy Sanders?

20 Judy Sanders: Yes.

21 Clerk of Court: Laura Shaw?

22 Laura Shaw: Yes.

23 Clerk of Court: Gregory Davis?

24 Gregory Davis: Yes.

25 Clerk of Court: And Melinda Jessup?

1 Melina Jessup: Yes.

2 The Court: All the jurors having affirmed the verdict, anything further as to the jury from the
3 Defense?

4 Mr. Johnson: No sir, Your Honor.

5 The Court: All right, very good. All right, ladies and gentlemen. I'm going to discharge you
6 from your duties for this particular week. I appreciate your service. You worked at your duties
7 diligently. You did everything the court asked you to do, to well and truly try the case, to do your
8 utmost to reach a unanimous conclusion in this matter. I told you and I appreciate the difficult
9 nature of the task. Please do not take it as any type of disappointment or failure on your part. You
10 did exactly what the jury is supposed to do, to try the case and try to come to a unanimous
11 conclusion and if not, then as I indicated, then we'll try the matter again at some future date.

12 With that, I'm going to discharge you for the week. I appreciate it very much. Thank you
13 for your service.

14 (Whereupon the jury exited the courtroom)

15 All right. As to the charges of two counts of attempted murder, the possession of a weapon
16 during the commission of a violent crime, and the failure to stop for a blue light, the court would
17 declare a mistrial in those matters and they are returned to the Solicitor's office for further
18 consideration and prosecution again in the future if that is the choice of the Solicitor.

19 As to the matter of the possession of a stolen vehicle, do we have a sentencing sheet for that
20 particular offense, Madam Clerk?

21 Clerk of Court: Yes sir.

22 The Court: Very good. Hand me the sentencing sheet and the indictment, please. Solicitor,
23 I'll be glad to hear from you.

24 Mr. Marchant: May it please the court. Your Honor's heard the testimony in this case. The
25 jury found a unanimous verdict with respect to possession of a stolen vehicle. As Your Honor's

1 aware, the charge carries up to ten years. I will inform the court that Mr. Lowrance has been
2 incarcerated for 349 days. He does not have a prior record.

3 The Court: Thank you very much. All right, Mr. Johnson, I'll be glad to hear from you, sir.

4 Mr. Johnson: Thank you, Your Honor. As the Solicitor said, you've been here during this
5 trial. I would like you to take into respect the fact that the jury has declined to decide another four
6 charges of not guilty.

7 The Court: Those matters are not before me.

8 Mr. Johnson: Yes sir, Your Honor. Therefore, I ask that you consider my client is a first-
9 time offender. He has come before the court with a clean slate and I ask you to consider that when
10 you sentence him. I actually think that he be entitled to time served or a probationary sentence based
11 upon this charge only and with him being a first-time defendant.

12 Your Honor, to a certain extent, he has a wonderful family. If you will please stand up.

13 (Whereupon members of defendant's family stood in the courtroom)

14 There were more here earlier, but---

15 The Court: Yes, of course, I saw that.

16 Mr. Johnson: Yes sir, Your Honor. But they are here in support of Patrick, his Uncle
17 Johnny, his mother, his sister. They are all here in support of him.

18 The Court: Yes sir, thank you. Y'all can sit down.

19 Mr. Johnson: And as Your Honor heard his testimony, he does have a college education and
20 has skills to work. So, I do think he would be a candidate for whenever Your Honor thinks he may
21 be readmitted to society.

22 The Court: Thank you very much.

23 (pause)

24 All right. Regarding 2012-GS-23- 1422, State of South Carolina, County of Greenville
25 versus Patrick Dean Lowrance, regarding the possession of a stolen vehicle, the court has taken into

1 consideration several factors. I cannot take into consideration the charges that he is facing in these
2 other matters. The jury did not return a verdict in that. What I am considering is the fact that he
3 does not have a prior criminal record. He has been in jail for 349 days. The offense is possession of
4 a stolen vehicle. The sentence, therefore, is the defendant is committed to the state department of
5 corrections for a determinate term of three years, suspended, placed on probation for one year. The
6 defendant is given credit for 349 days he's already spent in jail.

7 Special terms and conditions of probation, you must undergo random drug and alcohol
8 testing, seventy-five hours' public service employment, or maintain full-time employment. Thank
9 you very much.

10 Mr. Johnson: Thank you, Your Honor.

11 The Court: Gentlemen, while y'all are here let's deal with the order of bond. Bail on the
12 matters of the two counts of attempted murder, the possession of a weapon during the commission of
13 a violent crime, and the failure to stop for a blue light.

14 I do have here a order of bail. Y'all tell me that Judge Stilwell heard this apparently on
15 February 17, 2012, and he considered those charges, obviously the one that the defendant was just
16 convicted of, and a number of other charges.

17 Looking at it, the written order of Judge Stilwell, though it sets a date for it to be effective,
18 did not say there has to be a trial in any of the matters, because there were more matters dealt with in
19 the bond other than this.

20 Let me ask you, and I'll ask for comments from the Solicitor and you, Mr. Johnson. The
21 purpose of bond basically is to make sure that the person accused of a crime comes to trial when the
22 matter is called for court. It has already now been called to court regarding some of these charges.
23 Not all of these charges, but some of them. The two counts of attempted murder, possession of a
24 weapon during the commission of a violent crime, and failure to stop for a blue light. It would
25 appear that the terms of the bond as to those charges only have been met and therefore a bond should

1 be issued just on those charges. Not on the other charges. Bond's already set. The matters have not
2 come to court. They have not been presented to court. The defendant has not been called to court on
3 those charges. So, the bond would stay in effect on the matters that have not been called to court.

4 What would be the State's position? Do you agree, disagree? What do you believe,
5 Solicitor?

6 Mr. Marchant: Your Honor, it would be the State's position that Judge Stilwell initially set
7 the terms and conditions of the bond, I believe, to encourage both the State and the Defense to work
8 on a resolution of all matters. We were unable to do so. If we were unable to do so a bond would be
9 put into effect for all of these charges.

10 As Your Honor's aware, we're here. We've reached an impasse on several of the charges.
11 The State's position at the time in February was that no bond should be issued on any charges. And
12 the State's position was that the defendant was a significant flight risk, based off of the facts and
13 evidence that His Honor has heard on these charges as well as an incident that occurred
14 approximately five days prior to this incident.

15 As well as that incident there was an incident that occurred on July 6. All three incidents
16 alleging charges against the defendant involved firearms. The initial incident was a traffic stop in
17 Mauldin where the defendant admitted to being in possession of a stolen Greenville County Sheriff's
18 Office firearm.

19 The second incident is an attempted armed robbery, attempted murder times four, attempted
20 kidnapping times three, conspiracy and possession of a weapon during a violent crime. The
21 allegations of that incident are on October 23, 2011, at a Wendy's here, up on Mills Avenue near the
22 Greenville Memorial Hospital where employees were trapped inside the business and the manager
23 was outside. The alleged suspect was trying to get into the safe. The manager attempted to flee and
24 six or seven rounds were discharged at the Wendy's. that was five days before what we've tried this
25 case for.

1 The Court: But, you know, Judge Stilwell-- I appreciate what you're saying.

2 Mr. Marchant: Yes sir.

3 The Court: Judge Stilwell heard that and he issued his bond on those matters. The only
4 question I'm positing to the State and the Defense here is, the matters that came to court, he
5 answered the call to court. Therefore, does a new bond need to be set for the two counts of
6 attempted murder, possession of a weapon during the commission of a violent crime and failure to
7 stop for a blue light.

8 Judge Stilwell has dealt with the other matter. They has not been called to trial. They are not
9 before the court. Those are done and over with. Judge Stilwell issued an order. That's what's in
10 effect for all those matters.

11 My question is do I have to now set a new bond since answered the call of the court to come
12 to trial on the four charges that the jury couldn't reach a decision on. Or does Judge Stilwell's order
13 still remain in full force in effect on every matter that has not been resolved by a jury?

14 Mr. Marchant: Your Honor, I do believe that you do need to set bond on the charges that
15 we're for today.

16 The Court: Okay.

17 Mr. Marchant: And I guess my-- The intent of me explaining to you what I would need to
18 consider at that time is flight risk and danger to the community.

19 The Court: Okay.

20 Mr. Marchant: So, it would be the State's position, if those things are still the most relevant
21 for the court to consider. He's facing, of course, a number of years on this incident as well as a
22 prior, too. I explained the position to the court at the bond hearing in February that there was
23 nothing, there were no terms, there was no amount of bond, there were no conditions, there were no
24 safeguards that Judge Stilwell could put in place at that time to assure the community that if this man
25 was out on bond that he would not be a danger to them and would not be a flight risk.

1 And so, it's my position, the State's position that we believe Judge Stilwell fashioned that to
2 encourage us to reach that resolution and put it on the trial docket, which the State has done. That
3 being said, and the jury not being able to reach verdict, I respectfully am asking the court to deny
4 bond for at least another ninety days so this matter can be placed back on the trial docket for
5 resolution.

6 The Court: Thank you. All right, Mr. Johnson, what's your position as to the question that I
7 posited first, and then I'll hear you.

8 Mr. Johnson: Yes sir, Your Honor. We certainly believe that my client is entitled to a bond
9 on these charges that were declared a mistrial today, Your Honor. In addition, I guess it's a matter
10 of semantics whether, or would it not be a matter of semantics whether Judge Stilwell's order comes
11 into play here or he set the bond in question. We do know the initial bond was \$150,000. And we
12 would ask that combined it not go past that point.

13 As far as what the Solicitor said about the other conditions, I do believe that Judge Stilwell
14 initially also put in the condition that he get bond.

15 The Court: He put in here no victim contact and then house arrest with GPS monitoring, is
16 what he said.

17 Mr. Johnson: Yes sir, Your Honor. In addition, you have sentenced my client today to
18 supervised probation. And I believe they further provide safeguards against any potential damage
19 and any flight risk that my client my pose to the community.

20 So, Your Honor, I guess, to sum it up, in our opinion, he is entitled to bond. As to your
21 question, we just ask that however you do it, we ask that it not exceed what the original bond was set
22 by Judge Stilwell.

23 The Court: Thank you. All right. I take into consideration that the matter came before
24 Judge Stilwell and he had a hearing on February 17, 2012, in which he fully explored the issue of
25 danger to the community and the flight risk. Those matters were presented in some detail to Judge

1 Stilwell at that point in time by the State and the Defense and he took all those matters into
2 consideration and issued his order, the terms of which we have discussed.

3 I find that since the defendant answered the call of the court regarding the charges that we
4 have talked about that were not resolved by the jury that he fulfilled the terms and conditions of that
5 bond. Therefore, a bond should be set. I do find that the bond for the two counts of murder,
6 possession of a weapon during the commission of a violent crime, failure to stop for a blue light will
7 be the same terms and conditions that Judge Stilwell issued on February 17, 2012.

8 I set this with the fact that the defendant is under supervision by the Probation Department
9 regarding the possession of a stolen vehicle. He is under house arrest with GPS monitoring.
10 Regarding this, I do not see any exceptions that Judge Stilwell set forth. He didn't set any
11 exceptions regarding any release from house arrest and it's defined here. It may be a matter, since
12 Judge Stilwell is on active duty with the United States Army in Kosovo, that he's not available to
13 address the terms and conditions. You might have to address that with your Chief Administrative
14 Judge, who would have the power, duty and authority to modify the bond in the absence of Judge
15 Stilwell.

16 But it appears there are no terms and conditions that he can be out of the house. It says house
17 arrest. I understand that to be in the house. Not any conditions to go to work, church, anything. So,
18 you probably need to get that addressed by the Chief Administrative Judge regarding that. Because
19 if I dealt with it now, I'd only be dealing with it partly. I can't affect his terms.

20 Mr. Johnson: Your Honor, may I comment on your ruling?

21 The Court: Yes sir.

22 Mr. Johnson: Considering the general order, say, for instance, when a Judge orders GPS
23 monitoring, or house arrest, I guess my question is that we keep it as normal as-- Say, for example, I
24 believe the Department of Public Safety or the people down at LED, that do these programs, I just
25 ask that whatever the programs are normally also be applied to my client.

1 The Court: On the bond that I issued, I don't have a problem with your request. I can't
2 modify Judge Stilwell's order.

3 Mr. Johnson: Yes sir, Your Honor.

4 The Court: And it's not, that's not in his order. Okay? He hand-wrote bond to be effective
5 October 28, 2012, no victim contact, house arrest with GPS monitoring. He put the terms.

6 Mr. Johnson: Yes sir, Your Honor.

7 The Court: It's not modified. So, your only recourse there is to go to the Chief
8 Administrative Judge for General Sessions for this circuit since Judge Stilwell, again, is unavailable
9 due to active duty in Kosovo.

10 Mr. Johnson: One last question.

11 The Court: Yes sir.

12 Mr. Johnson: As far as the date that it comes in place?

13 The Court: I see no reason to change the terms and conditions of Judge Stilwell's order in
14 that regard as to the effective date.

15 Mr. Johnson: Thank you, Your Honor.

16 The Court: Thank you very much.

17 Mr. Marchant: Thank you, Your Honor.

18 (Whereupon the matter was concluded)

19

Greenville County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Steven H. John

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : JOHN 10/8/2012

DESCRIPTION : JOHN 10/8/2012

Trial

NAME	REF NUMBER	JUROR NBR	PLAINTIFF		DEFENDANT		Court	Remarks
			Chal	Strk	Chal	Strk		
1 Whitaker, Michael D - WM	246	343322	()	()	()	(1)	()	
2 Ashe, Joshua R - WM	21	9970	()	(1)	()	()	()	
3 Robinson, Nathaniel A - BM	257	273916	()	(2)	()	()	()	
4 Mclemore, James L II - WM	157	216835	()	()	()	()	()	1
5 Chapman, Michael A - WM	49	57139	()	()	()	()	()	2
6 Csizmadia, Karen W - WF	59	74729	()	()	()	(2)	()	
7 Pedersen, Derek D - WM	177	249437	()	()	()	(3)	()	
8 Summers, Kim A - WM	228	313591	()	()	()	(4)	()	
9 Gosnell, Angela D - WF	101	123360	()	()	()	()	()	3
10 Harvey, Betty R - BF	108	140116	()	(3)	()	()	()	
11 Bassam, Hashem - WM	24	18558	()	()	()	(5)	()	
12 Furmanski, Diane Fesler - WF	89	111515	()	()	()	()	()	4
13 Pitts, Michael T - WM	182	255210	()	()	()	(6)	()	
14 Sibert, Lateria D - BF	206	292170	()	()	()	()	()	5
15 Edwards, Bruce W - WM	77	94279	()	()	()	()	()	6
16 Vance-Breazeale, Belinda I - BF	241	330298	()	()	()	()	()	7
17 Brown-Davies, Shelley A - WF	36	38495	()	()	()	()	()	8
18 McDonald, Charles E III - WM	156	213196	()	()	()	(7)	()	
19 Sanders, Judy G - WF	197	281803	()	()	()	()	()	9
20 Zihlavy, Matthew A	259	360602	()	()	()	()	()	
21 Shaw, Laura N - WF	203	289168	()	()	()	()	()	10
22 Head, Elizabeth M - WF	111	142742	()	()	()	(8)	()	
23 Center, Douglas R - WM	45	55563	()	()	()	(9)	()	
24 Davis, Gregory W - WM	63	79160	()	()	()	()	()	11
25 Davis, Mary A - WF	65	79854	()	(4)	()	()	()	

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Greenville County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Steven R. John

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : JOHN 10/8/2012

DESCRIPTION : JOHN 10/8/2012

Trial

NAME	REF NUMBER	JUROR NBR	PLAINTIFF		DEFENDANT		Court	Remarks
			Chal	Strk	Chal	Strk		
26 Cleveland, Jayne A-WF	53	62260	()	()	()	()	()	
27 Jessup, Melinda R-WF	122	165758	()	()	()	()	()	12
28 Arnold, Lewis B-BM	20	9352	()	()	()	()	()	13
29 Bell, Geraldine G-BF	28	21691	()	()	()	()	()	14
30 Sanchez, Yony O	196	281532	()	()	()	()	()	
31 Gaylo, Melissa L	92	116220	()	()	()	()	()	
32 Blandin, Natatash M	32	27722	()	()	()	()	()	
33 Hightower, Michael R SR	115	148142	()	()	()	()	()	
34 Fitzwater, Joshua S	83	104011	()	()	()	()	()	
35 Jones, Joe	127	170880	()	()	()	()	()	
36 Bridgers, Lacy D	35	35455	()	()	()	()	()	
37 Goodspeed, Denise L	99	122719	()	()	()	()	()	
38 Schwartz, Angela L	199	285329	()	()	()	()	()	
39 Joe, Kenya N	124	166091	()	()	()	()	()	
40 Richards, Elisa K	189	269131	()	()	()	()	()	

Total Number of Jurors:

40

** END OF REPORT **

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I, the undersigned Phyllis S. Barrett, Court Reporter, do hereby certify that the foregoing is a true, complete and accurate transcript of record of the trial in the captioned case, relative to appeal, heard in the Court of General Sessions for Greenville County, South Carolina, Thirteenth Judicial Circuit, on the 8th, 9th, 10th, and 11th days of October, 2012.

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


Phyllis S. Barrett

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s) .: 2012GS2301423;
	)	2012GS2301425;
State of South Carolina,	)	2012GS2301426
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Patrick Dean Lowrance,	)	
	)	
Defendant.	)	
	)	

January 7-10, 2013
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

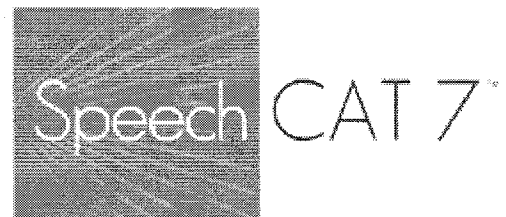
A P P E A R A N C E S:

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Attorneys for the Defendant

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Greenville, S.C. 29602

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P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 7th day of January, 2013 at approximately 11:59 a.m.)

(WHEREUPON, State's Exhibits 1 through 77 were premarked for identification purposes.)

(WHEREUPON, State's Exhibit 78 through 101 are marked for identification purposes.)

THE COURT: Well, here's the news. Y'all may already know this, but it may be a little while before we have a -- before we have a panel that they can send up. We're the shortest of three cases going on today. Going on today or starting today. So we're third up. I think -- I know Miller just went to his courtroom. Judge Young is here. He just started with his. So we're probably realistically not looking at picking a jury for at least another hour. That's the latest I got, the latest I got just now from Judge Miller.

All right. Now that I've been the bearer of bad news.

MR. MARCHANT: I think there's several probably pretrial matters we could ---

THE COURT: I thought there might be.

MR. MARCHANT: --- handled.

THE COURT: Okay.

1 **MR. MARCHANT:** I think Your Honor is aware
2 that this is a retrial from October the 8th of
3 2012. I have the prior transcript.

4 **THE COURT:** Okay.

5 **MR. MARCHANT:** Mr. Johnson and I agreeable
6 to, uh, adopt Judge John's pretrial rulings ---

7 **THE COURT:** All right.

8 **MR. MARCHANT:** --- with respect to the Deno
9 hearing, the Biggers hearing and there was a motion
10 by me to allow the State to, uh, reference, not
11 introduce but reference that the defendant had
12 active warrants at the time. Judge John denied
13 that motion with respect to my direct examination.
14 He said of course if the door gets open, we'll
15 revisit it at that point in time.

16 **THE COURT:** I understand. Okay.

17 **MR. MARCHANT:** So Mr. Johnson, have I stated
18 that accurately? We're going to adopt the Deno,
19 the Biggers and then Judge John's ruling with
20 respect to active warrants?

21 **MR. JOHNSON:** As I understand it, res
22 judicata applies.

23 **THE COURT:** I think I am bound by his prior
24 rulings unless there's something materially
25 different about this trial. All right.

1 **MR. MARCHANT:** All right. During the first
2 trial, the jury had five indictments before them,
3 Failure to Stop, receiving stolen good over 10,000
4 -- Receiving Stolen Vehicle over \$10,000, two
5 counts of Attempted Murder and one charge of
6 Possession of a Weapon during a Violent Crime. We
7 had a mistrial on four of those five charges. The
8 jury returned a verdict of guilty on the Possession
9 of Stolen Vehicle. Not sure what the best way to
10 handle that particular charge. My proposal to the
11 court would be that it's so intertwined. The
12 information about it is so intertwined in the case
13 that I should be allowed to talk about, the officer
14 should be allowed to testify that the vehicle
15 failed to stop and she subsequently determined that
16 the vehicle was stolen, and just kind of stop at
17 that point. Not that warrants were signed. We
18 don't need to get into the value of the vehicle.
19 What I don't want happening is the jury to say,
20 okay, well, there was a warrant for the stolen
21 vehicle, why is it not before us today. What has
22 happened in the past? Almost kind of put it in
23 their mind that there has been a mistrial. There's
24 obviously going to be quite a bit of testimony as
25 well about prior testimony in the prior hearing.

1 Just my suggestion about how to handle it, I've
2 never been in this particular situation before with
3 a partial verdict if you will.

4 **THE COURT:** Right. So just so I understand,
5 when it could to the point in the trial where we
6 would talk about the stolen vehicle, it would just
7 be a vehicle that was found to be stolen but not
8 talk about the fact that a warrant was issued for
9 that and certainly not that there was a trial on
10 that matter.

11 **MR. MARCHANT:** Yes, Your Honor.

12 **THE COURT:** Okay. Let's hear your proposal.

13 **MR. JOHNSON:** Yeah, I'm not sure if I even
14 have a proposal. I'm not, uh, -- we just talked
15 about this a second ago. And I'm not sure what my
16 take is on it. The thing I fear is that, uh, you
17 know, we're still talking about him stealing the
18 vehicle. I'm just not -- I guess I -- I don't have
19 any organized thoughts on that at this point, Your
20 Honor, to be honest with you.

21 **THE COURT:** And I know nothing about the
22 facts of this case except if I had to piece
23 together what I think the facts of this case are is
24 maybe the police were in pursuit of him over a
25 stolen vehicle. Is that correct?

1 **MR. JOHNSON:** No, Your Honor. And I'll tell
2 you this. My client actually testified that he had
3 driven the stolen vehicle at some point. So I
4 guess he possessed it. He was found guilty of that
5 charge and not found guilty of the -- well, not
6 found guilty but they hung on the rest of the
7 issues. I think the stolen vehicle will probably
8 have to be talked about immediately.

9 **THE COURT:** Just tell me a little bit, give
10 me a little synopsis of the facts since I know so
11 little.

12 **MR. MARCHANT:** Officer Cruell with City
13 Police ---

14 **THE COURT:** Okay.

15 **MR. MARCHANT:** --- was just doing a routine
16 roll through of local motels.

17 **THE COURT:** Okay.

18 **MR. MARCHANT:** It's like 10:00 in the
19 morning on a Friday morning. She's just checking
20 her beat. She routinely does this because there's
21 sometimes illicit activity and stolen vehicles
22 found in motels. She checks the tag on a 2005 GMC
23 Yukon. It comes back to a Honda Accord. She and
24 another officer go into the motel to see if they
25 could find who it is registered to. In the

1 interim, the car leaves the parking lot and starts
2 heading up 85. She blue lights and siren. It
3 flees. It gets off on Laurens Road and runs the
4 red light. Goes down past the Hitachi plant and is
5 located in some apartments over there.

6 **THE COURT:** Okay.

7 **MR. MARCHANT:** Once we get to the apartment
8 is where exchange of gunfire is happening. So at
9 the point in time she's chasing it, she just
10 thought she had an improper tag. She did not know
11 it was stolen. She was trying to confirm. But
12 it's significant in the case that it is
13 subsequently stolen because had she known at the
14 time, she would have continued her pursuit.
15 According to her prior testimony, GPD policy and
16 procedure is that we're not going to chase just an
17 improper tag. So I don't think it can be -- they
18 are so intertwined, I don't think we can separate
19 out the fact that the vehicle was stolen.

20 **THE COURT:** Okay. Mr. Johnson, I can't
21 think of a way to get around doing that. I
22 certainly can see limiting it. The only other way
23 that I could think to do it, I think might be more
24 prejudicial to your client. That is for me to give
25 instructions to the jury that in another hearing,

1 it's determined that this vehicle was stolen or
2 something to that affect and this is not something
3 the jury needs to consider, uh, not something this
4 jury needs to determine. Now, I just think that's
5 probably more confusing to the jury and probably
6 more prejudicial to my client.

7 **MR. JOHNSON:** I don't know, Your Honor. My
8 client was going to admit to possession of the
9 vehicle at one point. The vehicle was stolen. At
10 some point, he's going to testify to that. He
11 testified to that previously. I mean, assuming he
12 testifies. He don't have to do it this time. I'm
13 just saying. So it's, uh, -- as long as I'm able
14 to elicit -- as long as I'm able to elicit
15 testimony about it myself, then, you know, that
16 would be an equalizer, I supposed. As long as he
17 doesn't really go in on them, I won't do the same.
18 I suppose. I understand this is a delicate
19 situation as far as that prior conviction. But I
20 think he needs to be able to talk about it as well
21 that he drove that car and things of that nature.

22 **MR. MARCHANT:** Your Honor, it's the State's
23 position if he testifies that we're in a completely
24 different posture because he's now got a conviction
25 for the possession of that stolen vehicle.

1 **THE COURT:** And that does -- he is backed up
2 on that one.

3 **MR. JOHNSON:** So we're talking about they're
4 going to start the trial. They are going to bring
5 it up and then we can't talk about it. I don't
6 understand how -- I mean, that's not fair.

7 **THE COURT:** No, he's just saying it's -- he
8 can talk about it. I'm not going to limit him from
9 talking about it. He's just -- at that point, he's
10 in a position to where I think he can cross it and
11 ask him you were convicted of that charge, were you
12 not?

13 **MR. JOHNSON:** I think that would be opening
14 the door to me talking about other stuff. Then
15 I'll be able to say there were these other charges.
16 You know, I think we're talking about a trial at
17 that point. That's what I think. I mean, I think
18 otherwise, it would be confusing to the jury.

19 **THE COURT:** Well, I can instruct the jury
20 that -- I can instruct the jury that warrants were
21 -- when we get to that part of the testimony, I can
22 instruct the jury that in another hearing, uh, it
23 was determined to be stolen. I don't know. I
24 don't know how to word it. I'm just sort of
25 thinking it through.

1 **MR. JOHNSON:** That's what I'm struggling,
2 Your Honor. I don't have an organized -- I really
3 don't have an organized opinion on this point.

4 **MR. MARCHANT:** Your Honor, I don't have any
5 opposition to us addressing it at another hearing
6 at that point in time. But with respect to direct
7 and cross, it's obviously very delicate that it
8 does not appear so it's wrapped up in this previous
9 trial. I don't know if the jury is educated enough
10 to know values. And possession of stolen goods
11 couldn't have been tried in magistrate court or
12 something like that.

13 **THE COURT:** Right.

14 **MR. MARCHANT:** I'd be surprised.

15 **MR. JOHNSON:** That's just a self-serving
16 argument, Judge. Of course, if I was in a position
17 if I could have it that way, that's the way I want
18 it. But that's not fair. It's not fair the way
19 you put it. I think if they want to talk about --
20 I think if we talk about it at all, maybe if we
21 talk about it at all because basically they are
22 alleging that all the incidents essentially
23 happened on the same date. Then he's going to be
24 able to proffer him on a prior condition that
25 happened on the same date as these charges. I just

1 -- that's in part of the same fact pattern. I
2 think we confused the jury regardless.

3 **THE COURT:** Here's what we're going to do.
4 On your case-in-chief, handle it just as you would
5 see it. And that is deal with it as part and
6 parcel of just your, uh, -- you have to be able to
7 talk about it to tell the complete picture and
8 story of your case. If we get in a situation where
9 we think we've crossed into talking about this
10 other trial, I'm just going to have to give some
11 instruction to the jury when we get around to
12 whether or not your client even decides to testify.
13 At this point, we don't know. So I hate to -- I
14 hate to even worry about it at this point. But we
15 need to be thinking about it. If we get into a
16 situation where your client testifies, I think I am
17 going to have to give some sort of instruction to
18 the jury. I think we're probably at that point
19 where we have to give some instructions. Now, if
20 that changes, uh, -- I think we're probably good
21 enough -- in the good enough position to avoid it
22 in the case-in-chief. We might be able to avoid it
23 totally. I don't know.

24 **MR. JOHNSON:** Your Honor, may I offer one
25 last suggestion?

1 **THE COURT:** Sure.

2 **MR. JOHNSON:** What if we simply say that my
3 client admit to possession of this stolen vehicle,
4 he was convicted of it.

5 **MR. MARCHANT:** If he wants to ask him
6 that, --

7 **THE COURT:** Then I don't think there's
8 anything else you can ask him. You can't cross him
9 or go any further than that anyway.

10 **MR. MARCHANT:** Yes, ma'am. I think that
11 clears up the issue. I just didn't want the jury
12 to become -- their minds start wondering why is
13 this not before us today. Okay. There was a
14 separate hearing or separate trial at some other
15 time. I think that --

16 **THE COURT:** You want to take care of it up
17 front? You want to take care of it at the very
18 beginning?

19 **MR. JOHNSON:** Sure.

20 **THE COURT:** I'll just give some instruction
21 to the jury. And what you're proposing I say is
22 that your client admitted that the vehicle was
23 stolen. He was convicted of that charge.

24 **MR. JOHNSON:** He admitted that he possessed
25 the stolen vehicle.

1 **THE COURT:** He admitted he possessed the
2 stolen vehicle and he had been convicted of that
3 charge and his guilt or innocence on that charge
4 need not be considered in this hearing today, in
5 this trial today. Does that sound fair?

6 **MR. MARCHANT:** Yes, Your Honor.

7 **THE COURT:** Okay. Anything else?

8 **MR. MARCHANT:** The last thing I had, Your
9 Honor, is there were two experts in the case.
10 Actually, three experts in this case, Dr. Kandala
11 who runs the DNA lab here. He was qualified as an
12 expert. There's Chris Gary who is the fingerprint
13 analyst. He was qualified as an expert. And there
14 was also James Armstrong who was qualified as an
15 expert as a firearms examiner.

16 **THE COURT:** Okay.

17 **MR. MARCHANT:** Mr. Johnson tells me he does
18 not object to them -- the Court just qualifying
19 them without us having to go through all those
20 qualifications.

21 **THE COURT:** Okay.

22 **MR. MARCHANT:** That might just save us a
23 little bit of time.

24 **THE COURT:** Okay. Great. You don't have
25 any -- you not going to have any further challenge

1 to any of their qualifications and they were
2 qualified in the last trial?

3 **MR. JOHNSON:** Yes, ma'am, Your Honor. As
4 long as they met the chain, of course, I don't know
5 what's happened between -- since then. As long as
6 we're still good, I'm good too.

7 **THE COURT:** Okay. All right. Okay. That
8 sounds good enough. All right.

9 **MR. MARCHANT:** I believe that's all I have,
10 Your Honor.

11 **MR. JOHNSON:** One more thing. (Pause.)
12 Uh, nothing at this time, Your Honor.

13 **THE COURT:** Okay. All right.

14 **MR. JOHNSON:** Did you get my submitted voir
15 dire?

16 **THE COURT:** I did. And I'm going to ask
17 something like every question. It's just not the
18 standard way that I normally put everything. I
19 probably will ask about the victim of a violent
20 crime. I probably will ask if any relatives by
21 blood or marriage or acquaintance or are acquainted
22 with anyone in the 13th Circuit Solicitor's Office.
23 And I'll explain what that is. The police
24 department. Uh, I'll ask about the Public
25 Defender's Office if you want me to ask about the

1 Public Defender's Office or I'll just ask about
2 your office.

3 MR. JOHNSON: Your Honor, the reason why I'm
4 so specific is because the victims in this case are
5 police. And then, I mean, you are the judge.
6 That's the only reason why I'm being this specific.
7 That's why I say just crime.

8 THE COURT: Victim of a crime because
9 somebody -- you thinking somebody might feel some
10 sort of special kinship with ---

11 MR. JOHNSON: Yeah, police.

12 THE COURT: --- police or the Solicitor's
13 office?

14 MR. JOHNSON: Yes, ma'am, Your Honor.

15 THE COURT: And then the fifth one, you know
16 I'm going to cover something like it.

17 MR. JOHNSON: Yeah. Yeah. And I assume
18 also there's been some publicity.

19 THE COURT: Yeah, I'll ask them about that.
20 I'll just read the indictments generally and say
21 that, you know, if there has been any publicity
22 about it, has anybody heard anything about it.
23 I'll ask them is there any reason they think that
24 they can not be a fair and impartial juror in the
25 trial of this case. All right. Does that cover

1 all your voir dire? Do you have any additional
2 witnesses?

3 **MR. JOHNSON:** Me? No.

4 **THE COURT:** Okay. All right.

5 **MR. JOHNSON:** Not -- Your Honor, not at this
6 point.

7 **THE COURT:** Okay.

8 **MR. JOHNSON:** I may call one of my
9 investigators.

10 **THE COURT:** If you do, I want to give the
11 jury pool their name.

12 **MR. JOHNSON:** Okay. All right.

13 **THE COURT:** The panel. Anything else?

14 **MR. MARCHANT:** The last thing I have is with
15 the transcript. It's roughly 372 pages from
16 Phyllis Barrett. She was the court reporter who
17 transcribed it. Her certification is in the back
18 of my documents. I don't know if Mr. Johnson got a
19 copy or not. I suspect he did. With respect to a
20 witness being cross-examined on their prior
21 testimony should that witness either not agree or
22 deny making a statement from the prior hearings,
23 which is the way I've instructed my witnesses to
24 talk about ---

25 **THE COURT:** Right.

1 **MR. MARCHANT:** --- during the prior hearing.
2 I'm not sure how to handle submitting that
3 information into evidence for the jury to consider.
4 It would be different if the statement had been
5 made to an officer or a written statement to an
6 officer. Obviously, it was the court reporter
7 transcribing.

8 **THE COURT:** You just cross-examine them
9 about it. Do you remember giving this statement
10 under oath? You were here. You remember there was
11 a court reporter here. You remember giving this
12 statement. And in this, I'd like for you to read
13 this question. Is it not the same question I asked
14 you? What was your answer?

15 **MR. MARCHANT:** Very good.

16 **THE COURT:** And let them read it.

17 **MR. MARCHANT:** Thank you, Judge.

18 **THE COURT:** That's what I'd do.

19 **MR. MARCHANT:** Thank you, Your Honor.

20 **THE COURT:** All right. Thank you. Okay.
21 Uh, I'll tell you what, y'all want to just kind of
22 hang around here. We'll see -- I'm going to find
23 out about the jury in just a second.

24 **MR. MARCHANT:** Thank you, Your Honor.

25 **(WHEREUPON, a break is taken at approximately**

1 12:19 p.m.)

2 (WHEREUPON, the Court resumes at approximately

3 2:50 p.m.)

4 (WHEREUPON, the jury panel enters at approximately

5 3:06 p.m.)

6 THE COURT: Good afternoon, Ladies and
7 Gentlemen. My name is Letitia Verdin and I'm a
8 Circuit Court Judge here in Greenville county. You
9 have -- were qualified this morning by Judge Miller
10 to serve as jurors generally this week in
11 Greenville county. Some of you probably have
12 either been to Judge Miller or Judge Young's
13 courtrooms already today. But this is my first
14 chance to get to see you. So if I forget to do it
15 later on, thank you so much for your serve this
16 week.

17 Now, you were qualified, as I said, generally
18 as jurors this week in Greenville county. I need to
19 see if you are qualified to serve on the trial of
20 this particular case. As such, I'm going to have
21 some questions for you. Uh, now, most of these
22 questions are dealing with if you know anything
23 about the particular case and if you know any of
24 the folks that are involved in the case, either
25 attorneys or potential witnesses or anybody like

1 that. I'll tell you our procedure. I'm going to
2 go through, ask these questions. If you think you
3 need to respond to any of the questions, if you
4 will, stand. When I call on you, if you will, give
5 me your name and juror number for the record. And
6 then we can talk about how you think you might have
7 some connection to this case or know something
8 about this case if you do.

9 If it's something of a personal nature, and I
10 don't think very many of my questions will be of a
11 personal nature, but if it is something of a
12 personal nature or you would prefer not to speak
13 about it out loud, then you just let me know you
14 want to approach the bench about it. Then you will
15 walk up here. The attorneys will get to hear what
16 you say and my Court Reporter will hear what you
17 say, but you won't have to say it in front of
18 everybody. As I said, I do not think very many of
19 these questions would be of a personal nature in
20 any way.

21 All right. All that being said, I will tell
22 you that this is the State of South Carolina versus
23 Patrick Lowrance. Did I say that correctly again?
24 Okay. All right. I just want to be sure. Patrick
25 Lowrance. First, I'm going to introduce you to the

1 prosecutor and have him to introduce the folks
2 involved in his case.

3 Mr. Marchant?

4 **MR. MARCHANT:** May it please the Court?

5 Good afternoon. My name is Lucas Marchant. I'm
6 the prosecutor in this case. Seated next to me is
7 Melita Graham. She's my investigator.

8 **THE COURT:** Ladies and Gentlemen of the jury
9 panel, is any member of the jury panel related by
10 blood or marriage to, uh, Mr. Marchant or Ms.
11 Graham or are you acquainted with in any way either
12 of these two folks? Either of these two folks.
13 Excuse me. If so, please stand. (No response.)

14 And none are standing. It would be a good
15 time for me to ask any member of the jury panel
16 related by blood or marriage or otherwise
17 acquainted with any person who works in the 13th
18 Circuit Solicitor's Office? And 13th Circuit is
19 Pickens and Greenville county. The Solicitor's
20 Office is what we might call the prosecutor's
21 office or the DA's office in other states. Any
22 member of the jury panel believe he or she is
23 related by blood or marriage or otherwise
24 acquainted with anyone in the 13th Circuit
25 Solicitor's office? If so, please stand.

1 (No response.)

2 And none are standing.

3 Mr. Johnson, I'm going to ask you to please
4 stand and introduce yourself and the folks at your
5 table including your client.

6 **MR. JOHNSON:** Thank you, Your Honor.

7 **THE COURT:** Thank you.

8 **MR. JOHNSON:** My name is Brian Johnson. I
9 work as an attorney for the Public Defender's
10 Office. This is my client, Patrick Lowrance. And
11 my co-counsel, John Crangle.

12 **THE COURT:** Is there any member of the jury
13 panel believe that he or she may be acquainted with
14 or related by blood or marriage to Mr. Johnson or
15 anyone involved in the case from his side of the
16 table? Anyone believe you are acquainted, uh, in
17 any way or related by blood or marriage to either
18 of these two attorneys involved in this case? If
19 so, please stand. (No response.)

20 I probably covered it with my question. But
21 any member of the jury panel believe you've ever
22 been represented by Mr. Johnson or ever been
23 adverse to Mr. Johnson in any type of case? If so,
24 please stand. (No response.)

25 And none are standing. Any member of the jury

1 panel related by blood or marriage or otherwise
2 acquainted with Patrick Dean Lowrance? And if so,
3 please stand. (No response.)

4 And none are standing. Any member of the jury
5 panel believe he or she is acquainted with anyone
6 in the Public Defender's Office in the 13th Circuit
7 or related by blood or marriage or have any type of
8 acquaintance whatsoever with anyone in the Public
9 Defender's Office here in the 13th Circuit,
10 Greenville and Pickens counties? And if so, please
11 stand. (No response.)

12 And none are standing. All right. I'm going
13 to read to you a list of potential witnesses in
14 this case. I will tell you that the witness list
15 in this case is kind of lengthy. I do not want to
16 scare anybody from the outset. Let me just say
17 that these excellent attorneys that are involved in
18 this case, they've included any possible witness
19 who might possibly come and testify in the trial of
20 this case. I don't want you to be absolutely
21 terrified when you hear the list. But if any
22 member of the jury panel believes he or she may be
23 acquainted with or related by blood or marriage in
24 any way to any of these potential witnesses, I ask
25 you to please stand. Now, some of these names on

1 this list are kind of common names. So if you
2 think you know someone by that name, let's stand
3 and talk about it and see if it's the same person
4 or not. But it's better to be safe than sorry.
5 All right.

6 All that being said, please stand if you are
7 related by blood or marriage or otherwise
8 acquainted with any of these potential witnesses.
9 Detective Tim Conroy of the Greenville Police
10 Department, Detective David Garrison of the
11 Greenville Police Department, Detective Collis
12 Flavell of the Greenville Police Department,
13 Officer Brittany Cruell of the Greenville Police
14 Department, Officer Charles Lane of the Greenville
15 Police Department, Officer Taci Cobb of the
16 Greenville Police Department, Officer Corey Kellett
17 of the Greenville Police Department, Officer Tim
18 Calhoun of the Greenville Police Department,
19 Officer Gaines Fiedler of the Greenville Police
20 Department, Officer Mike Hammett of the Greenville
21 Police Department, Kelly Riggs who is retired from
22 the Greenville Police Department, Kara Bennick of
23 the Greenville County Department of Public Safety,
24 James Armstrong of the Greenville County Department
25 of Public Safety, Sergeant Dar Shaw of the

1 Greenville County Department of Public Safety,
2 Lieutenant Ron Lendway of the Greenville County
3 Department of Public Safety, Jon Derby of the
4 Greenville County Department of Public Safety,
5 Jonathan Hamilton of the Greenville County
6 Department of Public Safety, Chris Gary of the
7 Greenville County Department of Public Safety, -- I
8 should have asked how to pronounce this one -- Dr.
9 Jagannadha Kandala of the Greenville County
10 Department of Public Safety, Brian Browning of the
11 Greenville County Department of Public Safety,
12 Benjamin Scott Duke, Starr Daishawn Taylor, James
13 Antonio Mangle, Javis Tremain Tucker, Arva Irby,
14 Joel Pringle, Tron Hines, Sherrail Burdine or
15 Burdine, Toni Smith, Norman Pearson, the third,
16 William T. Brockman and Delonda Gresham, J.C.
17 Starks, an investigator with the Public Defender's
18 Office or Norman Brockman.

19 All right. You've been -- you've been so
20 patient up there with the green sweater tell me
21 your name and juror number.

22 **THE JUROR:** I'm Samantha Cox, number 71.

23 **THE COURT:** All right. Tell me who you
24 think you might know.

25 **THE JUROR:** I know Gaines Fiedler.

1 **THE COURT:** You know Gaines Fiedler. Tell
2 me how you know Gaines Fiedler please.

3 **THE JUROR:** Uh, we grew up in the same
4 neighborhood.

5 **THE COURT:** Do you have regular contact with
6 -- with ---

7 **THE JUROR:** No.

8 **THE COURT:** --- Deputy Fiedler or Officer
9 Fiedler? Uh, when is the last time you think you
10 talked to him or her?

11 **THE JUROR:** Probably in high school.

12 **THE COURT:** High school. Okay. No. I
13 appreciate you letting us know. Tell me this. Is
14 the fact that Officer Fiedler might testify in the
15 trial of this case, do you believe you could still
16 be a fair and impartial juror in the trial of this
17 case?

18 **THE JUROR:** Yes.

19 **THE COURT:** All right. Thank you so much,
20 ma'am.

21 And yes, ma'am.

22 **THE JUROR:** Tenisha Marshall, Juror 73. I
23 think I know William Brockman from like elementary
24 school or middle school.

25 **THE COURT:** Okay. William T. Brockman?

1 **THE JUROR:** Yes.

2 **THE COURT:** All right. Tell me this, if Mr.
3 Brockman does testify in the trial of this case, do
4 you believe you could still be a fair and impartial
5 juror in the trial of this case?

6 **THE JUROR:** Yes, ma'am.

7 **THE COURT:** All right. You don't have
8 regular contact with Mr. Brockman it doesn't sound
9 like.

10 **THE JUROR:** Huh-uh.

11 **THE COURT:** All right. Thank you so much.
12 Anyone else need to respond to that? Do you
13 believe you are acquainted in any way to any of
14 these potential witnesses? And if so, please
15 stand. (No response.)

16 And no further are standing. All right.
17 Ladies and Gentlemen, I am going to read to you the
18 indictments in this case and I'm going to explain
19 to you what an indictment is and is not. If you
20 serve as a juror on this case, you will hear much
21 more about what an indictment is. Let me say for
22 our purposes here, an indictment is in no evidence
23 of the defendant's guilt in any manner whatsoever.

24 An indictment is simply the document by which
25 someone is charged with a crime and brought into

1 court. That's it. For our purposes here this
2 afternoon, right now, uh, this -- each of these
3 indictments contains a brief synopsis of the facts
4 that are alleged against the defendant in this
5 case. It lets me give you a brief synopsis of what
6 the State alleges against the defendant just to see
7 if you might know something about the facts of this
8 case in any way.

9 Now, I'm going to read to you these
10 indictments. I want you to tell me if any of you
11 have read any publicity about this case, have been
12 exposed to any publicity about this case, heard
13 anything about this case or know anything about
14 this case in any way whatsoever. All right. But
15 let me go through these indictments first.

16 The first indictment is for Attempted Murder.
17 And it alleges that Patrick Dean Lowrance did in
18 Greenville county on or about the 28th day of
19 October 2011 unlawfully with malice aforethought
20 and with the intent to kill attempt to kill Officer
21 Charles Lane by means of shooting him with a
22 handgun and that's in violation of the Code of Laws
23 of South Carolina.

24 The second indictment alleges that Patrick
25 Dean Lowrance did in Greenville county on or about

1 the 28th day of October 2011 unlawfully with malice
2 aforethought and with the intent to kill attempt to
3 kill Officer Taci Cobb by means of shooting her
4 with a handgun. This in violation of the Code of
5 Laws of South Carolina.

6 The third indictment alleges that Patrick Dean
7 Lowrance did in Greenville county on or about the
8 28th day of October 2011 willingly -- willfully,
9 knowingly and unlawfully commit the offense of
10 failure to stop for a law enforcement vehicle in
11 that the said defendant, while driving on a road,
12 street or highway of the state did intentionally
13 fail to stop when signaled to do so by law
14 enforcement vehicle using blue lights and/or siren
15 in violation of the Code of Laws of South Carolina.

16 And finally, the fourth indictment alleges
17 that Patrick Dean Lowrance did in Greenville county
18 or about the 28th day of October 2011 possess or
19 visibly display a handgun during the commission or
20 attempted commission of a violent crime, to wit:
21 attempted murder times two. This in violation of
22 the Code of Laws of South Carolina.

23 Do you mind -- I say to the attorneys, I
24 should have asked this. Whereabouts is this
25 alleged to have happened?

1 **MR. MARCHANT:** Your Honor, this occurred in
2 between Mauldin Road and Laurens Road for the
3 failure to stop and Berkeley Pointe Apartments on
4 Wenwood Road near Christ Church.

5 **THE COURT:** All right. You agree that
6 that's the allegations in the case?

7 **MR. JOHNSON:** Yes, ma'am. Your Honor.

8 **THE COURT:** All right. Any member of the
9 jury panel believe he or she knows anything about
10 the alleged facts in this case? Did you all hear
11 the attorneys in this case say where this is
12 alleged to have occurred? Anyone need that
13 repeated? (No response.)

14 All right. Uh, anyone know anything about
15 this case, think you've read anything about this
16 case, talked to anyone about this case in any way?
17 If so, please stand.

18 Yes, sir. In the navy blue jacket.

19 **THE JUROR:** I read the newspaper every day.

20 **THE COURT:** Okay. All right. So you've
21 read a newspaper article about this case?

22 **THE JUROR:** Yes.

23 **THE COURT:** All right. I'll tell you what,
24 I'm going to ask the attorneys and this potential
25 juror to please approach. Will you please come up

1 here?

2 **(WHEREUPON,** bench conferences with responding jurors
3 are held off the record.)

4 **THE COURT:** Anyone else believe he or she
5 needs to respond to that? Know anything about,
6 have heard anything about this case, know anything
7 about the potential facts to be presented at trial?
8 (No response.)

9 And no further are standing. Is there any
10 member of the jury panel or a member of your
11 immediate family been the victim of a crime
12 involving the Greenville Police Department? I mean
13 by that that it is a crime you would have reported
14 to the Greenville Police Department. If so, please
15 stand.

16 All right. Do you mind talking about it from
17 here, ma'am in the orange shirt?

18 **THE JUROR:** Uh, my name is Frankie Bonham,
19 Juror 33. May I approach the bench?

20 **THE COURT:** Of course. Certainly. I'll ask
21 the attorneys to approach.

22 **(WHEREUPON,** the bench conference is held outside of
23 the presence of the jury.)

24 **THE JUROR:** It's just that it's been a while
25 back. Me and my husband had a domestic violence.

1 **THE COURT:** I understand. I understand.
2 This case is going to have a lot of officers
3 testify from the Greenville Police Department. Do
4 you believe you could be fair and impartial to both
5 the State and the defendant?

6 **THE JUROR:** Yes, ma'am.

7 **THE COURT:** You believe you can?

8 **THE JUROR:** Yes, ma'am.

9 **THE COURT:** And you don't have any hard
10 feelings against the Police Department?

11 **THE JUROR:** Oh, no, ma'am.

12 **THE COURT:** All right. Any other questions
13 you want me to ask her?

14 **MR. JOHNSON:** No, ma'am.

15 **THE COURT:** I thank you so much. Thank you.

16 (WHEREUPON, the bench conference is concluded.)

17 **THE COURT:** Yes, ma'am.

18 **THE JUROR:** I'm Mary Floyd, 103.

19 **THE COURT:** Yes.

20 **THE JUROR:** My mother's house was broken
21 into.

22 **THE COURT:** And Greenville Police responded?

23 **THE JUROR:** Yes.

24 **THE COURT:** I'm so sorry. I'm doing two
25 things at once. I want to give you my full

1 attention. Your mother's home was burglarized and
2 Greenville Police responded to it?

3 **THE JUROR:** Yes. Several years ago.

4 **THE COURT:** Okay. Tell me this, you've
5 heard from my witness list, I'm sure you've
6 gathered we're going to have a number of law
7 enforcement testify. Do you believe you could give
8 a fair and impartial trial to both the State and
9 the defense in this case?

10 **THE JUROR:** Yes, ma'am.

11 **THE COURT:** All right. Thank you so much.
12 Anything else to ask her?

13 **MR. JOHNSON:** No, ma'am.

14 **THE COURT:** All right.

15 All right. Any member of the jury panel need
16 to respond to that about being the victim of a
17 crime or any member of your immediate family the
18 victim of a crime in which the Greenville Police
19 Department specifically responded? If so, please
20 stand.

21 Yes, ma'am. If you need to come up and speak
22 with me, that's fine. Or right there, that's fine
23 too. Tell me your name and juror number.

24 **THE JUROR:** Uh, Lori Durham, 325.

25 **THE COURT:** Yes, ma'am.

1 **THE JUROR:** Uh, I was working at a bar and
2 my car got broken into.

3 **THE COURT:** Okay How long ago was that?

4 **THE JUROR:** That was like in 2003 or '4.

5 **THE COURT:** 2003 or '4? All right. And
6 tell me this, do you believe you could be a fair
7 and impartial juror in the trial of this case, give
8 both the State and the defense a fair trial?

9 **THE JUROR:** Yes.

10 **THE COURT:** All right. I appreciate it.
11 You're Juror Number 25? Is that what you said?

12 **THE JUROR:** 325.

13 **THE COURT:** Okay. I'm sorry. Thank you so
14 much. Thank you.

15 Yes, sir.

16 **THE JUROR:** My name is Thomas Stone. I'm
17 juror 287. I called Greenville County the other
18 day on behalf of my daughter being abused by her
19 mother.

20 **THE COURT:** Okay.

21 **THE JUROR:** I don't know if that has
22 anything to do with it.

23 **THE COURT:** Okay. No, I'm glad you
24 responded to my question. Tell me this, you called
25 the Sheriff's Department, is that right?

1 **THE JUROR:** Well, I had my mother bring --
2 because I'm not allowed to pick her up.

3 **THE COURT:** I see.

4 **THE JUROR:** I had my mother take her down
5 there. The police called me and asked all kinds of
6 questions.

7 **THE COURT:** Okay. All right.

8 **THE JUROR:** Whether they did anything, I
9 don't know.

10 **THE COURT:** Okay. Based on that experience,
11 tell me this, do you believe you could be a fair
12 and impartial juror for both the State and the
13 defense?

14 **THE JUROR:** Yes, ma'am.

15 **THE COURT:** In other words, you wouldn't
16 have any strong positive or negative feelings
17 against law enforcement?

18 **THE JUROR:** No.

19 **THE COURT:** Okay. All right. I thank you
20 so much for letting me know that. Thank you, sir.

21 Anyone else need to respond as to Greenville
22 Police Department? (No response)

23 I'm going to ask you a more general question.
24 You or any member of your immediate family -- and
25 let me just define that. I think everybody who

1 responded based on immediate family. But let me
2 just say, immediate family, that would mean, uh,
3 anybody living in your household, your brother,
4 your sister, son, daughter, mother, father, that
5 sort of thing. All right. Any member of your
6 immediate family or you ever been the victim of a
7 violent crime? And if so, please stand.

8 All right. Anyone else need to respond to
9 that?

10 All right. Yes, ma'am. If you would like to
11 approach, you can.

12 **THE JUROR:** No, that's okay.

13 **THE COURT:** Okay.

14 **THE JUROR:** Lori Durham, 325. Uh, it was my
15 son's father. Christmas Eve of 2007. I took my
16 son over to his dad's house. And he -- he, uh, --
17 I wouldn't -- I wouldn't leave in a timely manner,
18 so he slapped me across the face and he threatened
19 to kill me.

20 **THE COURT:** All right. All right. Now,
21 you've heard the allegations in this case. Do you
22 believe you could be a fair and impartial juror in
23 the trial of this case knowing the nature of the
24 allegations?

25 **THE JUROR:** Yes.

1 **THE COURT:** Okay. All right. Thank you so
2 much. Anyone else need to respond to my question?
3 Member of immediate family.

4 Yes, ma'am.

5 **THE JUROR:** Can I approach?

6 **THE COURT:** Yes, ma'am. Is there anything
7 you need to add from what you told me last time?

8 **THE JUROR:** I may need to tell you this.

9 **THE COURT:** All right. Thank you. Come on
10 up.

11 **(WHEREUPON, a bench conference is held off the**
12 **record.)**

13 **THE COURT:** All right. Let me go just one
14 step further with that question. We -- all of us
15 have got friends that are like family to us. Is
16 there any member of the jury panel who might have a
17 close friend or relative who is like a member of
18 your immediate family that has been the victim of a
19 violent crime in such way that it would have
20 affected your life in some manner? Tell me if any
21 member of the jury panel has a close friend or
22 relative, someone they are very close to who has
23 been the victim of a violent crime. And if so,
24 please stand.

25 **THE JUROR:** May I approach?

1 **THE COURT:** Yes, ma'am. You certainly may.

2 **(WHEREUPON, a bench conference is held off the**
3 **record.)**

4 **THE COURT:** Yes, sir, in the leather jacket.
5 Do you need to come up here?

6 **THE JUROR:** No. Neddy Lake, juror 174.

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

8 **THE JUROR:** My nephew was shot a couple of
9 years back. I guess it was -- I don't know if it
10 was a gang-related thing or what.

11 **THE COURT:** All right. I see. Tell me this
12 -- and I'm sorry to hear that. But tell me this,
13 is the fact that you went through that incident, do
14 you believe you could still be a fair and impartial
15 juror in the trial of this case even knowing the
16 allegations in this case?

17 **THE JUROR:** Yes.

18 **THE COURT:** All right. Thank you so much,
19 sir.

20 Yes, ma'am, in the corner over there. Yes,
21 ma'am.

22 **THE JUROR:** Tracy Gaskins, number 116.

23 **THE COURT:** Yes, ma'am. Do you need to come
24 up here?

25 **THE JUROR:** Oh, no, ma'am.

1 **THE COURT:** Yes, ma'am.

2 **THE JUROR:** My aunt was shot back in May and
3 a friend of mine's daughter was shot and killed
4 about five years ago.

5 **THE COURT:** Oh, goodness. Well, I'm so
6 sorry to hear. Well, tell me this, do you believe
7 knowing the allegations in this case that you could
8 be a fair and impartial juror and give a fair trial
9 to both the State and the defense in this case?

10 **THE JUROR:** I have a thing against guns now.
11 I really -- I don't know.

12 **THE COURT:** I understand. I understand.
13 All right. Tell me your juror number again.

14 **THE JUROR:** 116.

15 **THE COURT:** Okay. Thank you so much, ma'am.
16 Yes, ma'am. You need to come up here? You
17 can come on up.

18 (WHEREUPON, a bench conference is held off the
19 record.)

20 **THE COURT:** Anyone else need to respond to
21 my question? All right. We've gone through the
22 potential witnesses in this case. You've met the
23 attorneys in the case. You've met the defendant in
24 this case. You've heard the allegations in this
25 case. Any juror -- any member of the jury panel

1 believe that he or she could not be a fair and
2 impartial juror in the trial of this case for any
3 reason whatsoever? And if so, please stand.

4 And I've got you noted. Thank you so much.
5 Thank you so much.

6 Anyone else believe he or she could, would not
7 be able to be a fair and impartial juror in the
8 trial of this particular case? And if so, please
9 stand. (No response.)

10 And no further are standing.

11 Any further voir dire from the State?

12 **MR. MARCHANT:** None from the State, Your
13 Honor.

14 **THE COURT:** Any further from the defense?

15 **MR. JOHNSON:** None from the defense, Your
16 Honor.

17 **THE COURT:** All right. Thank you.

18 All right. Ladies and Gentlemen, here's what
19 we're going to do. Here's how this is going to go.
20 This part's gone a little bit slowly. We'll really
21 speed up at this point. You're going to be called
22 up by your name and juror number and asked to come
23 forward. You're going to stand in between these
24 two attorney's tables, up just a little bit from
25 there. The bailiffs will show you, these fine folks

1 in the red jackets will show you exactly where to
2 stand. You turn and face your fellow jurors.
3 Don't face me.

4 You're going to hear the clerk ask the State
5 and then ask the defense if they want to strike you
6 or seat you as a juror. If you are seated as a
7 juror, that means you will serve as a juror. And
8 we'll show you exactly where to sit. If you are
9 struck as a juror, then you will just go right back
10 to your seat.

11 Now, a couple of quick things. First of all,
12 don't take it personally if you get struck as a
13 juror. Okay. I doubt too many of you will, but
14 for anybody who would, know that there's a million
15 different reasons that attorneys strike potential
16 jurors and almost none of them have anything to do
17 with anything personal about you. I promise you
18 that.

19 Next, bring all your possessions when you come
20 up. You don't know if you're going be seated or
21 not. I don't want you to have to go back and get
22 your things. So you can just go be seated.

23 All right. I'll go through it again. You
24 will hear your name and juror number called. You
25 will come forward, turn, face your fellow jurors.

1 You will hear the State say if they want to seat
2 you or not. You will hear the defense say it. And
3 then you will either take a seat in the jury box or
4 return to your seat here. As I said, that will go
5 through -- that will occur pretty quickly.

6 Once we get a jury in this case, I will tell
7 you this, we're going to excuse you for the rest of
8 the day and we're going to begin this trial
9 tomorrow morning. As I said, we're going to go
10 through this pretty quickly from here on out.

11 All right. Are we ready to begin?

12 **MR. MARCHANT:** Yes, Your Honor.

13 **THE COURT:** All right. Five and ten. One
14 and two. Two alternates. All right.

15 **THE CLERK:** Juror Number 302, Carrie Wade.
16 What says the State?

17 **MR. MARCHANT:** Present the juror.

18 **THE CLERK:** Thank you.

19 What says the defendant?

20 **MR. JOHNSON:** Please seat the juror.

21 **THE CLERK:** Seat the juror? Yes.

22 Ma'am, you may have a seat in the jury box.

23 **THE COURT:** This way.

24 Before you call the next one, will the
25 attorneys approach just very quickly?

1 You can have a seat. Thank you so much,
2 ma'am.

3 (WHEREUPON, a bench conference is held off the
4 record.)

5 **THE CLERK:** Juror Number 240, Melanie Pouch.
6 What says the State?

7 **MR. MARCHANT:** Present the juror.

8 **THE CLERK:** Thank you.
9 What says the Defendant?

10 **MR. JOHNSON:** Please seat the juror.

11 **THE CLERK:** Thank you. You may be seated in
12 the jury box.

13 Juror Number 51, Jacquelyn Chalk.

14 **MR. MARCHANT:** Present the juror.

15 **MR. JOHNSON:** What's the juror number?

16 **THE CLERK:** 51.

17 **MR. JOHNSON:** Please excuse this juror.

18 **THE CLERK:** Thank you. You may be seated.

19 You are excused from the trial of this case.

20 Juror Number 129, Thomas John Gilmore.

21 **THE JUROR:** 121 is what it says on the tag.

22 **THE CLERK:** Yeah. I'm sorry. I don't know
23 what I said. 121 is correct.

24 **MR. MARCHANT:** Please excuse the juror from
25 the trial of this case.

1 **THE CLERK:** Thank you. You may be seated.
2 You are excused from the trial of this case.

3 Juror Number 149, Christopher Hopkins.

4 **THE COURT:** I promise we don't try to call
5 from over against the wall.

6 **THE CLERK:** What says the State?

7 **MR. MARCHANT:** Present the juror.

8 **THE CLERK:** Thank you.
9 What says the defendant?

10 **MR. JOHNSON:** Please seat the juror.

11 **THE CLERK:** Thank you. You may be seated in
12 the jury box.

13 Juror Number 32, Cecil Boles. Boles.

14 What says the State?

15 **MR. MARCHANT:** Present the juror.

16 **THE CLERK:** Thank you.

17 **MR. JOHNSON:** Please excuse this juror.

18 **THE CLERK:** Thank you. You may be seated.
19 You are excused from the trial of this case.

20 Juror Number 254, Caleigh Riddlehoover.

21 What says the State?

22 **MR. MARCHANT:** Present the juror.

23 **THE CLERK:** Thank you.

24 What says the Defendant?

25 **MR. JOHNSON:** Please seat the juror.

1 **THE CLERK:** Thank you. You may be seated in
2 the jury box.

3 Juror Number 138, Delta Hattaway.

4 What says the State?

5 **MR. MARCHANT:** Present the juror.

6 **THE CLERK:** What says the Defendant?

7 **MR. JOHNSON:** Please excuse this juror.

8 **THE CLERK:** Thank you. You may be seated.

9 You are excused from the trial of this case.

10 Juror Number 253, Heather Rice.

11 **MR. JOHNSON:** Your Honor, may we approach?

12 **THE COURT:** Yes.

13 (WHEREUPON, a bench conference is held off the
14 record.)

15 **THE COURT:** Ms. Rice, we think we might run
16 over into your appointment so I'm going to excuse
17 you from the trial of this case. Thank you.

18 **THE CLERK:** Juror Number 199, James McCord.

19 What says the State?

20 **MR. MARCHANT:** Please excuse the juror from
21 the trial of this case.

22 **THE CLERK:** Thank you. You may be seated.

23 You're excused from the trial of this case.

24 Juror Number 163, Cathy Johnson.

25 What says the State?

1 **MR. MARCHANT:** Please excuse the juror from
2 the trial of this case.

3 **THE CLERK:** Thank you. You may be seated.
4 You are excused from the trial of this case.

5 Juror Number 124, Jimmy Green.

6 **MR. MARCHANT:** Present the juror.

7 **MR. JOHNSON:** Please excuse this juror.

8 **THE CLERK:** Thank you. You may be seated.
9 You are excused from the trial of this case.

10 Juror Number 12, Durrant Ashmore.

11 What says the State?

12 **MR. MARCHANT:** Please present the juror.

13 **THE CLERK:** Thank you. What says the
14 defendant?

15 **MR. JOHNSON:** Juror Number 12?

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

17 **MR. JOHNSON:** Please excuse the juror.

18 **THE CLERK:** Thank you. You may be seated.
19 You are excused from the trial of this case.

20 Juror Number 235, Hutch Piersons. Persons.
21 Sorry.

22 What says the State?

23 **MR. MARCHANT:** Please present the juror.

24 **THE CLERK:** Thank you.
25 What says the Defendant?

1 **MR. JOHNSON:** Please seat the juror.

2 **THE CLERK:** Thank you. You may be seated in

3 the jury box.

4 Juror Number 132, Linda Harper.

5 What says the State?

6 **MR. MARCHANT:** Please present the juror.

7 **THE CLERK:** Thank you.

8 What says the Defendant?

9 **MR. JOHNSON:** Please seat the juror.

10 **THE CLERK:** Thank you. You may be seated in

11 the jury box.

12 Juror Number 53, James Chancellor.

13 What says the State?

14 **MR. MARCHANT:** Please present the juror.

15 **MR. JOHNSON:** I'm sorry. What number?

16 **THE CLERK:** 53.

17 **MR. JOHNSON:** Please seat the juror.

18 **THE CLERK:** Thank you. You may be seated in

19 the jury box.

20 Juror Number 257, Paul Rivera.

21 What says the State?

22 **MR. MARCHANT:** Please present the juror.

23 **THE CLERK:** Thank you.

24 What says the Defendant?

25 **MR. JOHNSON:** Please excuse this juror.

1 **THE CLERK:** Thank you. You may be seated.

2 You are excused from the trial of this case.

3 Juror Number 83, Grace Dotson.

4 What says the State?

5 **MR. MARCHANT:** Please present the juror.

6 **THE CLERK:** Thank you. What says the

7 defendant?

8 **MR. JOHNSON:** Please excuse this juror.

9 **THE CLERK:** Thank you. You may be seated.

10 You are excused from the trial of this case.

11 Juror Number 14, Heather Avery.

12 What says the State?

13 **MR. MARCHANT:** Please excuse the juror from

14 the trial of this case.

15 **THE CLERK:** Thank you. You may be seated.

16 You are excused from the trial of this case.

17 Juror Number 103, Mary Floyd.

18 **MR. MARCHANT:** Please present the juror.

19 **THE CLERK:** Thank you.

20 **MR. JOHNSON:** Please excuse this juror.

21 **THE CLERK:** Thank you. You may be seated.

22 You are excused from the trial of this case.

23 Juror Number 174, Neddy Lake.

24 What says the State?

25 **MR. MARCHANT:** Please excuse the juror from

1 the trial of this case.

2 **THE CLERK:** Thank you. You may be seated.

3 You are excused from the trial of this case.

4 Juror Number 209, Daniel Melzer.

5 **MR. MARCHANT:** Please present the juror.

6 **THE CLERK:** Thank you.

7 Sir, just one moment please.

8 **MR. JOHNSON:** Please seat the juror.

9 **THE CLERK:** Thank you. You may be seated in
10 the jury box.

11 Juror Number 291, Larry Taylor.

12 What says the State?

13 **MR. MARCHANT:** Please present the juror.

14 **THE CLERK:** Thank you.

15 **MR. JOHNSON:** What number is this?

16 **THE CLERK:** 291.

17 **MR. JOHNSON:** Please seat the juror.

18 **THE CLERK:** Thank you. You may be seated in
19 the jury box.

20 Juror Number 287, Thomas Stone.

21 **MR. MARCHANT:** Please present the juror.

22 **THE CLERK:** Thank you.

23 **MR. JOHNSON:** Please seat the juror.

24 **THE CLERK:** Thank you. You may be seated in
25 the jury box.

1 Juror Number 73, Tenisha Marshall.
2 What says the State?
3 **MR. MARCHANT:** Please present the juror.
4 **THE CLERK:** Thank you.
5 What says the Defendant?
6 **MR. JOHNSON:** Please seat the juror.
7 **THE CLERK:** Thank you. You may be seated in
8 the jury box.
9 Juror Number 267, Joel Sakofsky.
10 **MR. MARCHANT:** Please present the juror.
11 **THE CLERK:** Thank you.
12 What says the Defendant?
13 **MR. JOHNSON:** Please excuse this juror.
14 **THE CLERK:** Thank you. You may be seated.
15 You are excused from the trial of this case.
16 Juror Number 15, Juston Bagwell.
17 What says the State?
18 **MR. MARCHANT:** Please present the juror.
19 **THE CLERK:** Thank you.
20 What says the Defendant?
21 **MR. JOHNSON:** Please seat the juror.
22 **THE CLERK:** Thank you. You may be seated in
23 the jury box.
24 **THE COURT:** Okay. One and two.
25 **THE CLERK:** Juror Number 269, Mark Sauvola.

1 **MR. MARCHANT:** Please present the juror.

2 **THE CLERK:** Thank you. You may be seated.

3 You are excused from the trial of this case.

4 Juror Number 61, Brenda Coleman.

5 **MR. MARCHANT:** What was the juror number?

6 **THE CLERK:** Uh, 61.

7 **MR. MARCHANT:** Please present the juror.

8 **MR. JOHNSON:** Please seat the juror.

9 **THE CLERK:** Seat?

10 **MR. JOHNSON:** Yes, ma'am.

11 **THE CLERK:** You may be seated in the jury

12 box.

13 Juror Number 33, Frankie Bonham.

14 What says the State?

15 **MR. MARCHANT:** Please excuse the juror from

16 the trial of this case.

17 **THE CLERK:** Thank you. You may be seated.

18 You are excused from the trial of this case.

19 Juror Number 71, Samantha Cox.

20 What says the State?

21 **MR. MARCHANT:** Please present the juror.

22 **MR. JOHNSON:** I'm sorry. The number again?

23 **THE CLERK:** Uh, 71.

24 **MR. JOHNSON:** Please excuse the juror.

25 **THE CLERK:** Thank you. You may be seated.

1 You are excused from the trial of this case.

2 Juror Number 172, Wayne Krause.

3 What says the State?

4 **MR. MARCHANT:** Please excuse the juror from
5 the trial of this case.

6 **THE COURT:** Attorneys want to approach?

7 (WHEREUPON, a bench conference is held off the
8 record.)

9 **THE CLERK:** Juror Number 84, James
10 Doughlas.

11 **MR. MARCHANT:** Please excuse the juror from
12 the trial of this case.

13 **THE CLERK:** Thank you. You may be seated.

14 **THE COURT:** Will the attorneys approach?

15 (WHEREUPON, a bench conference is held off the
16 record.)

17 **THE CLERK:** Juror Number 325, Lori Durham.
18 What says the State?

19 **MR. MARCHANT:** Present the juror.

20 **THE CLERK:** What says the defendant?

21 **MR. JOHNSON:** Please excuse the juror.

22 **THE CLERK:** Thank you. You may be excused
23 from the trial of this case.

24 Juror Number 319, Michael Wolf.

25 What says the State?

1 **MR. MARCHANT:** Please present the juror.

2 **THE CLERK:** Thank you.

3 What says the Defendant?

4 **THE COURT:** Brian -- Mr. Johnson, you've got
5 two.

6 **MR. JOHNSON:** Understood. Please excuse
7 this juror.

8 **THE CLERK:** Thank you. You may be seated.
9 You are excused from the trial of this case.

10 Juror Number 244, Faydra Pyles.

11 What says the State?

12 **MR. MARCHANT:** Please present the juror.

13 **THE CLERK:** Thank you.

14 What says the Defendant?

15 **MR. JOHNSON:** Please seat the juror.

16 **THE CLERK:** Thank you. You may be seated in
17 the jury box.

18 **THE COURT:** All right. Any objection to the
19 manner in which the jury was selected from the
20 State?

21 **MR. MARCHANT:** None from the State, Your
22 Honor.

23 **THE COURT:** Any from the defense?

24 **MR. JOHNSON:** None from the defense, Your
25 Honor.

1 **THE COURT:** All right then. Ladies and
2 Gentlemen who were not chosen to serve on this
3 particular jury, I'm going to ask you to call back
4 in tonight after six o'clock for further
5 instructions. If I do not see you for the
6 remainder of the week, thank you so much for your
7 service this week. I hope you have a good evening.
8 **(WHEREUPON,** the jury panel exits at approximately
9 4:04 p.m.)

10 **THE COURT:** Ladies and Gentlemen, you will
11 serve as our jurors for this particular case. I
12 look so forward to working with you. I need to
13 tell you a few things, then I'm going to let you go
14 for the remainder of the afternoon. We're actually
15 not going to start until about 11:30 tomorrow. I
16 want to explain to you why once I tell you a couple
17 of things.

18 First of all, we are, uh, -- this is a very
19 important case to the both the State and the
20 defense. We are fortunate to have two excellent
21 attorneys trying this case. You will see some of
22 the very best that the legal profession has to
23 offer by the end of this week. We believe that
24 this trial will probably go through maybe Thursday
25 morning. These attorneys are very good at judging

1 how long their case will be. I don't want to hide
2 the ball from you to tell you how long this case
3 will be or not be. We need to take up a matter
4 this afternoon.

5 Tomorrow morning, I have to do something
6 related to the Grand Jury, which I will tell you
7 lots of folks groan a little bit when they get
8 their jury service notification. Just be lucky.
9 You are one notification away from being called for
10 the Grand Jury that meets one time a month for up
11 to 18 months. I have to go qualify them tomorrow
12 morning. That's what I'm going to be doing.
13 That's why we are starting at 11:30. It has
14 nothing to do with these attorneys whatsoever or
15 any delay. They are ready to start this afternoon
16 if we could.

17 All right. I do not want you to -- I want you
18 to try as best as you can to avoid any type of
19 media whatsoever throughout this trial. If you do
20 see any publicity with regards to this trial, you
21 are to disregard it and you'll take an oath that
22 you will not read it, will not be exposed to any
23 publicity. Best as you can, if you will, try not
24 to be exposed to any publicity. I don't know that
25 there is going to be publicity about this case.

1 There may be.

2 I will tell you that if there is a camera in
3 the courtroom at any time, I can assure you that my
4 ruling is you are to never be photographed in any
5 way whatsoever.

6 You can not discuss this case with anyone. I
7 will talk to you more about that tomorrow. You can
8 not discuss this case with anyone. That's your
9 friends, your family, anyone, even your fellow
10 jurors. You can not put anything on your Facebook
11 page about it. You can't blog about it. You
12 can't, uh, be on twitter about it. I don't even
13 know what that is, but Columbia tells me I'm
14 supposed to tell you that you are not supposed to
15 do that. But you can not -- that would be the same
16 as discussing it in any way.

17 These attorneys would never, in a million
18 years, try to talk you about this case in any way.
19 They are just so professional. But if anyone else
20 tries to talk with you about this case, you are to
21 identify yourself as a juror. If that person does
22 not immediately quit talking to you about this
23 case, I want you to report it to Ms. Mozella --
24 excuse me, Ms. Katrina.

25 Oh, Katrina, forgive me. Forgive me. Forgive

1 me. It's late in the day.

2 Ms. Katrina here, she will report it to me
3 and I'll take care of it. I want you to have a
4 good evening but I do want you to try your very,
5 very best to avoid any kind of publicity in any way
6 that you can.

7 We're going to wait and administer the juror
8 oath in the morning. And, uh, our two alternates
9 will stay with us through the remainder of this
10 trial. If I have to remove a juror for some reason
11 or there is an emergency, you will step in their
12 place and serve as, uh, -- just as if you had been
13 one of the 12 jurors all along. If we get to jury
14 deliberations and your service is not needed,
15 before the jury go back to deliberate, I will
16 excuse you.

17 Mr. Persons -- Mr. Persons, tomorrow morning,
18 when you come back, I want you to sit where this
19 pretty lady in the pink is sitting. I want you to
20 sit in her seat and say there throughout the
21 remainder of the trial. You will act as our
22 foreperson. I will explain to you what a
23 foreperson does a little bit more tomorrow. You
24 may have some idea already but I will speak with
25 you about that tomorrow morning.

1 All right. All that being said, if you will,
2 please be back in your jury room. Katrina will
3 show you your deliberation room so you will know
4 where to come back to tomorrow. You will be there
5 maybe about 11:25 or so. We'll start promptly at
6 11:30. Thank you so much. Have a good evening.

7 (WHEREUPON, the jury exits at approximately
8 4:10 p.m.)

9 THE COURT: All right. Just to clarify on
10 the record a little bit about the strikes. I don't
11 know if you understood, Mr. Johnson, when I was
12 telling you you had two, I was giving you an
13 additional strike. I just wanted to be sure that
14 you understood that. I felt like that was the
15 fairest way to handle ---

16 MR. JOHNSON: I did understand that, Your
17 Honor.

18 THE COURT: --- that situation. Okay.
19 Good. I just didn't want to broadcast it to the
20 jury panel what we were doing. That's all.

21 All right. Any other matters we need to take
22 up?

23 MR. MARCHANT: None from the State, Your
24 Honor.

25 MR. JOHNSON: I suppose that we're still

1 going to address the prior conviction thing? Are
2 you still going to do that?

3 **THE COURT:** Oh, I'll do that. I'll do that
4 first thing. I wrote it down. Thank goodness. I
5 almost threw away my sheet of paper where I wrote
6 it down. So I'm glad you said that.

7 **MR. JOHNSON:** Okay.

8 **THE COURT:** I will speak with them about
9 that prior to opening statements.

10 **MR. JOHNSON:** Okay.

11 **THE COURT:** Just to apprise them of that. I
12 said 11:30 because if it's based on today,
13 everything took a little bit longer. It may take
14 me a little bit longer to qualify the Grand Jury
15 tomorrow morning.

16 **MR. JOHNSON:** Understood, Your Honor.

17 **THE COURT:** Anything else we need to take
18 up?

19 **MR. MARCHANT:** Nothing from the State,
20 Judge.

21 **THE COURT:** All right.

22 **MR. JOHNSON:** Nothing from the defense.

23 **THE COURT:** All right. Then I'll see you
24 tomorrow morning.

25 **MR. JOHNSON:** Yes, ma'am, Your Honor.

1

THE COURT: Thanks.

2

(WHEREUPON, the Court recesses for the day at

3

approximately 4:11 p.m.)

4

5

P R O C E E D I N G S

(WHEREUPON, the Court resumes on the 8th day of January, 2013 at approximately 11:53 a.m.)

(WHEREUPON, State's Exhibits 103 thru 108 are marked for identification purposes.)

THE COURT: We ready to bring the jury in?

MR. MARCHANT: Judge, just one thing I need to put on the record.

THE COURT: Yes, sir.

MR. MARCHANT: Mr. Johnson and I have conferred about this. With respect, specifically with the defendant's testimony, uh, it would be the State's position that I've got case law that I believe supports me that the testimony that was in the first trial of the defendant can not be discussed unless the defendant were to testify. For example, Mr. Lowrance, in the first trial, testified that there were two other people with him. What I would submit to the court would be a backway door -- a backdoor way of getting in that testimony and for Mr. Johnson to cross-examine Lead Investigator Conroy about didn't you learn of two other suspects in this case. That information was never made available until he testified.

THE COURT: Okay.

1 **MR. MARCHANT:** I would point the State --
2 point the Court to State v. Sweet, uh, 240 S.E. 2d,
3 648 and State v. Terry, 529 S.E. 2d, 274. Mr.
4 Johnson indicates he's not going to ask about it. I
5 just want the record to be clear and be protected,
6 uh, that that information does not come in up until
7 the defendant decides to testify, uh, if he does, in
8 fact, decide to testify.

9 **THE COURT:** All right. And I'm -- I know the
10 caliber lawyer Mr. Johnson is. I know he's probably
11 already crafted his examination to avoid that
12 completely. But it's noted for the record.

13 **MR. JOHNSON:** Yes, Your Honor. I'll tell
14 you, if they start to open the door, I reserve the
15 right. Of course, I won't do it right then.

16 **THE COURT:** Sure.

17 **MR. JOHNSON:** I will, of course, approach the
18 Court.

19 **THE COURT:** Okay.

20 **MR. JOHNSON:** But I understand that --

21 **THE COURT:** If we think, on either side, that
22 we've crossed any bridges, if we will just take the
23 side bar and discuss it.

24 **MR. MARCHANT:** Thank you, Your Honor.

25 **THE COURT:** All right. We ready to bring the

1 jury in?

2 **MR. MARCHANT:** The last thing I have, I know
3 there was some coverage last night. I don't know if
4 it would be prudent for the Court to inquire to make
5 sure they haven't rendered of any opinion. If they
6 happened to see that the news was on, they may have
7 mentioned retrial. Just to make sure we're all
8 where we needed to be from yesterday.

9 **THE COURT:** I will do it. All right.

10 (WHEREUPON, there is a pause.)

11 **MR. JOHNSON:** Your Honor, I was told by
12 Bernice that works down in the Public Defender's
13 Office that her best friend's son could be on the
14 jury. Apparently, he is. Justin Bagwell. I just
15 told the Solicitor. I'm not sure --

16 **THE COURT:** Let's bring Mr. Bagwell in.

17 **MR. JOHNSON:** I'm not sure if it's anything
18 of consequence or not.

19 **THE COURT:** Let's bring Mr. Bagwell in. I
20 appreciate more than I can tell you about that.

21 **MR. MARCHANT:** Your Honor, I don't believe
22 that he was on -- that he sent his card back in. In
23 any event, I was never provided any information with
24 respect to the jury as to his qualifications other
25 than what he would have mentioned in the voir dire

1 downstairs. I'm not exactly sure what he does.

2 **MR. JOHNSON:** He may not even know.

3 **THE COURT:** Tell me again what the relation
4 is with Bernice.

5 **MR. JOHNSON:** Bernice said that's her best
6 friend's son.

7 **THE COURT:** Okay. And what's Bernice's last
8 -- I called her Bernice for 15 years.

9 **MR. JOHNSON:** Boldecoff. She's right
10 outside.

11 **THE COURT:** Polikaff?

12 **MR. JOHNSON:** Boldecoff.

13 **THE COURT:** Boldecoff. Gosh, don't tell
14 Bernice.

15 **MR. JOHNSON:** It's alright.

16 **THE COURT:** Go ahead and bring Mr. Bagwell
17 in.

18 **(WHEREUPON, Juror Number 15, Justin Bagwell, enters**
19 **at approximately 11:57 a.m.)**

20 **THE COURT:** Hey there. I just have a
21 question, a quick question for you. Uh, my
22 understanding is that you are -- that, I believe,
23 maybe your mother may be good friends with a woman
24 in the Public Defender's Office by the name of
25 Bernice.

1 **THE JUROR:** Yes, ma'am.

2 **THE COURT:** You might not have even know
3 where she worked or what she did. Let me ask you
4 this question and this is under your oath that you
5 took yesterday. Knowing that there may be witnesses
6 from the Public Defender's Office, I don't believe
7 Bernice will be one of the, but knowing that there
8 may be witnesses from the Public Defender's Office,
9 would you still be able to be a fair and impartial
10 juror in the trial of this case even if you know
11 that Bernice Boldecoff works there?

12 **THE JUROR:** Uh, yes.

13 **THE COURT:** Okay. Any other questions?

14 **MR. MARCHANT:** None from the State, Your
15 Honor.

16 **MR. JOHNSON:** None from the defendant.

17 **THE COURT:** Thank you so much. I hate to
18 single you out.

19 **THE JUROR:** That's fine.

20 **(WHEREUPON, the juror exits the Court at**
21 approximately 11:59 a.m.)

22 **THE COURT:** All right. You can bring them
23 all in.

24 **(WHEREUPON, the jury enters at approximately**
25 12:00 p.m.)

1 **THE COURT:** Ladies and Gentlemen, I hate to
2 start a trial with an apology to you. But my
3 apology to you is I am so sorry that we are late in
4 starting today. We will attempt not to do this
5 again. This is not these attorneys fault. As I
6 told you, I did have some other responsibilities
7 this morning that I had to take care of. I'm very,
8 very sorry that we trespass on your time. We're
9 going to try not to do that.

10 All right. Before we begin, I need to give you
11 some initial instructions. And I'm going to do
12 that, the first thing I need to know is, uh, over
13 the evening, is there any juror who believes he or
14 she may have heard anything about this case that
15 anyone needs to call to my attention or speak with
16 me about in any way? If so, if you would, please
17 raise your hand. (No response.)

18 Any other inquiries that I would need to make?

19 **MR. MARCHANT:** No.

20 **THE COURT:** All right. Our first order of
21 business would be to swear you as jurors.

22 **THE CLERK:** Would you please stand and raise
23 your right hand? The response to the oath is "I
24 will". You shall well and truly try case 2012-Gs-
25 23-1424 and 1425 for -- the State versus Patrick D.

1 Lowrance -- Lowrance, indictment for Attempted
2 Murder and 2012-GS-23-1426 for Possession of a
3 Weapon during the Commission of a Crime and 2012-GS-
4 23-1423, indictment for Failure to Stop for a Blue
5 Light and a true verdict render according to the law
6 and the evidence so help you God?

7 (WHEREUPON, each juror responds.)

8 THE CLERK: Thank you.

9 THE COURT: Thank you so much.

10 Ladies and Gentlemen, what I will now say to
11 you is intended onto to be an introduction to the
12 trial of this case. I will instruct you on the law
13 applicable to this case at the end of trial before
14 you retire to consider your verdict. This is merely
15 an explanation of the procedure so you will know
16 what's happening.

17 The defendant is charged by indictments filed
18 with this court with the crimes of two counts of
19 Attempted Murder, Possession of a Weapon during the
20 Commission of a Violent Crime and Failure to Stop
21 for a Blue Light, the elements of which will be
22 explained to you later. The indictment is simply a
23 document by which someone is charged with a crime.
24 It is not evidence of anyone's guilt and should not
25 be considered to be so. It will serve a purpose at

1 the end, Mr. Foreperson, for you to write your
2 verdict. But other than that, it is merely the
3 document by which someone is charged with a crime.

4 The defendant in this case, Mr. Lowrance, has
5 pled not guilty to these indictments. The State,
6 therefore, has the burden of proving each of the
7 elements of the indictments beyond a reasonable
8 doubt. It will be your duty, Ladies and Gentlemen,
9 to decide whether or not the State has met its
10 burden.

11 Your purposes as jurors is to find and
12 determine the facts. You are the sole judge of the
13 facts in this case. If, at any time, I make any
14 comment about the facts of this case, I ask you to
15 disregard it. You may not consider any comment I
16 make on the facts of this case. The law does not
17 allow me to have an opinion on the facts of this
18 case and I do not. You are to determine the facts
19 from the testimony that you hear and other evidence
20 that is introduced in court. It is up to you to
21 draw the inferences that you feel may be properly
22 drawn from the evidence. It's especially important
23 that you perform your duty of determining the facts
24 diligently because ordinarily there is no way to
25 correct an erroneous determination of the facts by a

1 jury.

2 On the other hand and with equal emphasis, the
3 same law that makes you the judge of the facts in
4 this case makes me the judge of the law. The law as
5 given to you by the court is the only law which you
6 may follow. You must accept it and follow it even
7 though you might disagree with it. You might have a
8 different idea as to what the law is or what the law
9 should be, but you have to abandon those ideas and
10 follow the law exactly as I give it to you. Apply
11 the facts as you find them to the law and then you
12 will be able to render a true and just verdict.

13 Until I advise you to begin your deliberations,
14 you must not discuss this case with anyone. Since
15 we've had an overnight break, I talked to you about
16 this a little bit before we broke yesterday. You
17 must not discuss this case with anyone and that
18 includes with your fellow jurors. I ask you and
19 urge you under your oath as jurors, uh, to avoid any
20 media reports which may or may not be about this
21 case. I ask you to do that so that you may not be
22 influenced by anything outside of this courtroom in
23 any way. I also ask you in the overnight break that
24 we will have to not do any independent research in
25 this case about anybody involved in this case or any

1 independent research about the particular crimes
2 with which the defendant is charged. I'll explain
3 those elements to you at the end, I promise you
4 fully and completely.

5 It's important that you keep an open mind
6 throughout the trial of this case and not decide any
7 issue at all until all of the evidence has been
8 presented, until all the testimony is complete and
9 the parties have made their closing arguments to
10 you. It's your solemn responsibility to determine
11 the guilt or innocence of the defendant and your
12 verdict must be based solely on the evidence that is
13 presented to you.

14 In just a moment, the Solicitor will make what
15 is called an opening statement in which he will
16 explain to you what he believes the issues in this
17 case to be. The attorney for the defendant may also
18 make an opening statement although he is not
19 required to do so. What the attorneys tell you
20 during their opening statements to you is just their
21 contention as to what the issues are and is not
22 evidence for you to consider in any way.

23 From time to time, you may hear the attorneys
24 in this case say that they need to approach the
25 bench or that we need to take up a matter outside

1 your presence. I told you earlier today that we
2 will trespass on your time as little as possible.
3 But there may, from time to time, be matters of law
4 that I need to take up. I might need to comment on
5 the facts of the case in order to rule on the law
6 applicable in this case. If I need to do that, we
7 will take up the matter outside your presence so I
8 won't influence you in any way. But I will tell you
9 we are keeping it to a minimum. I do not want you
10 to think however that when these attorneys ask to
11 approach the bench or ask to speak with me outside
12 the presence of the jury that we are, in any way,
13 hiding the ball from you. They are just following
14 my instructions of what to do.

15 In determining what the true facts in this case
16 are, you must determine the believability of
17 witnesses in this case. Believability, or you must
18 determine the credibility, sometimes you hear it
19 called, of witnesses. You do that like you do in
20 your everyday lives. You look at how somebody acts
21 on the witness stand. You listen to what they say
22 and try to match it up with what other folks have
23 said or with the evidence that's presented. You
24 consider whether or not they have any bias or any
25 motive in this case for their testimony in any way.

1 You can believe one witness over many witnesses.
2 You can believe many witnesses over one witness.
3 You can believe part of a witness' testimony. You
4 can believe none of a witness' testimony. That is
5 up to you. You may consider anything in the record
6 that will help you to determine whether or not you
7 believe a witness is telling you the truth.

8 It is your added duty, Mr. Foreperson, to
9 preside in the jury room. That means when it comes
10 time to discuss your verdict, then when you discuss
11 your verdict, you will lead the discussions.
12 However, you must all determine, uh, whether or not,
13 uh, -- well, I'm sorry. I need to back up and
14 explain to you that your verdict must be a unanimous
15 one. All 12 of you must agree on your verdict. I'm
16 going to talk to you about that in great detail
17 shortly at the end of this trial.

18 Mr. Foreperson, your opinion is not going to be
19 any more important than any of the other folks on
20 the jury. It's just that I need somebody to lead
21 the discussions. Uh, you will be my person to do
22 that. You will also sign and date the verdict forms
23 or the indictments once you have determined your
24 verdict in this case.

25 I've spoken with the alternates about what your

1 responsibilities will be throughout this trial. You
2 will sit here and act just as if you were one of the
3 12 jurors. That way, if I need to replace one of
4 the jurors for one reason, you could just step right
5 in just as if you had been one of the 12 jurors all
6 along.

7 All right. Any objection to my opening
8 statement from the State?

9 **MR. MARCHANT:** None from the State, Your
10 Honor.

11 **THE COURT:** Anything from the defense?

12 **MR. JOHNSON:** None from the defense.

13 **THE COURT:** All right. If I don't choke
14 before we get going.

15 All right, Ladies and Gentlemen. We will now
16 begin with opening statements. Let me just tell you
17 I believe we're going to try to work until about one
18 o'clock. We'll take a break about one o'clock for
19 lunch and give you a good chance to go out and have
20 some lunch. Then we'll begin again probably about
21 2:15 or 2:30.

22 **MR. MARCHANT:** May it please the Court, Your
23 Honor, may we approach?

24 **THE COURT:** Yes. Uh-oh, I said something
25 wrong already.

1 **(WHEREUPON,** a bench conference is held off the
2 record.)

3 **THE COURT:** It's not what I said. It's what
4 I didn't say. Ladies and Gentlemen, you are going
5 to hear some testimony in this case, uh, about a
6 stolen vehicle. I will tell you that the defendant
7 in this case has admitted that he possessed a stolen
8 vehicle and has been convicted of that charge. You
9 need not determine his guilt or innocence on that
10 charge. You need not consider his guilt or
11 innocence in any way on that charge.

12 All right. Does that satisfy both sides?

13 **MR. MARCHANT:** It does, Your Honor.

14 **THE COURT:** Thank you. Thank you so much.
15 Yes, sir.

16 **MR. MARCHANT:** May it please the Court?

17 **THE COURT:** Yes.

18 **MR. MARCHANT:** Mr. Johnson.

19 Mr. Foreperson, Ladies and Gentlemen of the
20 jury, once again, my name is Lucas Marchant. I'm
21 the prosecutor. Seated at my table is Mr. Graham
22 who is my investigator and Detective Conroy, who is
23 the lead investigator with the Greenville Police
24 Department. He was tasked with the duties of
25 organizing all the events that occurred that day

1 from the City Police. And he's the main, lead
2 investigator on the case. You will hear from
3 several investigators with the City Police
4 Department as well as several other officers with
5 the City Police Department.

6 This is the gist of what happened on October
7 the 28th of 2011, Officer Brittany Cruell who is
8 seated here in the front row was patrolling the
9 Comfort Inn on Laurens Road. Laurens Road and 85,
10 there's a motel behind where the old BMW dealership
11 used to be. She will tell you she was rolling
12 through the parking lot and she started checking
13 vehicle tags.

14 She comes across a 2005 GMC Yukon. She checks
15 the Yukon. The tag that's on that Yukon comes back
16 to a Honda Accord. It raises her suspicion. She
17 radios dispatch and tries to get some information to
18 determine whether or not the vehicle was stolen or
19 if it's just an improper tag.

20 She calls her fellow officer, Officer Lane, who
21 is seated here on the front seat as well. He comes
22 to assist her. One of the things they do is they go
23 inside the Comfort Inn and speak with management.
24 While inside, the vehicle leaves.

25 Officer Cruell goes and gets in her vehicle as

1 does Officer Lane. Before Officer Lane gets in his
2 vehicle, he stands out front and tells Officer
3 Cruell which way the vehicle turned. The vehicle
4 turns right on Laurens Road. Gets onto I-85 and
5 heads towards Atlanta. Cruell begins to follow that
6 vehicle. She catches up with it. She turns her
7 blue lights on. The vehicle begins to evade her and
8 increases speeds. It eventually whips off the
9 highway at the Mauldin Road exit and runs the red
10 light turning left onto Mauldin Road. At that point
11 in time, Officer Cruell terminates the pursuit. All
12 she knows is she has an improper tag.

13 Several minutes later, Officer Cobb, who is
14 also seated on the front row here, was patrolling
15 for that vehicle in that area because she knew that
16 that vehicle had run from Officer Cruell. Officer
17 Cobb locates that vehicle at Berkeley Pointe
18 Apartments. She locates it near the [REDACTED] building.
19 She gets out, confirms that it is that vehicle and
20 walks over to the [REDACTED] building so she could tell
21 dispatch, Dispatch, I'm at [REDACTED]. I need you to send
22 some support over here. I don't know if I've got an
23 improper tag or stolen vehicle.

24 You will see in a minute from the photographs
25 that there is a breezeway that leads into building

1 [REDACTED]. On the right side of that breezeway is the
2 building. She walks up to the building number, puts
3 her hand on her mic, steps in the threshold, starts
4 to call out [REDACTED] and she is fired upon. She didn't
5 have her gun out. She didn't have her taser out.
6 She had her hand on her mic calling dispatch.

7 What does she do? She charges at the threat
8 and she returns fire. She gets pinned in the
9 stairwell. There is a second exchange of gunfire.
10 During that second exchange of gunfire, somebody is
11 struck. That somebody is the defendant. He's
12 struck in the left shoulder. He's still got the
13 bullet in his shoulder.

14 Once Officer Lane showed up at Berkeley Pointe,
15 he came over to that same vehicle before Cobb went
16 to that building. He heard the first rounds of
17 shots. Wasn't quite sure that's what he heard.
18 Begins to walk over to [REDACTED] Here's the second
19 round. He tells dispatch we've got shots fired.

20 Okay. He goes to the breezeway himself to see
21 what's going on. He steps in the breezeway and what
22 happens? He's fired at as well. He backs out and
23 tries to clear the building. Eventually, Officer
24 Cobb clears out of that building. What you will see
25 is we've got a few schematics of where there's

1 bullet fragments, shards, things of that nature to
2 show you how many rounds were exchanged between
3 Officer Cobb and the defendant. The defendant flees
4 out into the woods.

5 What happens next is they try to pursue him.
6 What does that consist of? Well, you will hear from
7 those officers as well as what efforts were made to
8 try to contain the defendant in the area. I'll tell
9 you that they were not able to contain him. But
10 they did continue to track him. And they found him
11 over at Mooremont Avenue which is here in Greenville
12 county as well at about 8:30 that evening. He was
13 apprehended at that house. What was with him? The
14 gun that fired at Officer Cobb and the gun that
15 fired at Officer Lane. You will see the gun, be
16 able to view it and there will be a ballistics
17 expert to tell you that those shots came from this
18 gun.

19 What else are you going to hear throughout the
20 course of this trial? You can see, if you can,
21 there are some things that are stacked around. I'm
22 going to tell you it's going to be lengthy because
23 of the number of exhibits we have. Primarily, the
24 number of exhibits are going to consist of aerial
25 photographs as well as photographs of all three

1 scenes. If you will, we have a scene at the Comfort
2 Inn where this event started. We have a scene at
3 Berkeley Pointe where the shots were fired. Then we
4 have a scene at Mooremont Avenue where the defendant
5 was apprehended. So I tell you that to tell you
6 that it's going to take a little while to go through
7 all these photographs in evidence. I would suggest
8 that it's probably going to be Thursday morning
9 before the State's done giving you everything. We
10 have about 100 pieces of evidence that I need to
11 show you so you can fully understand what occurred
12 that day, comprehend it and digest so you have the
13 best picture possible of the events.

14 Once we get done, Mr. Johnson and I are going
15 to both have an another opportunity to stand up and
16 speak with you. It's called closing arguments. As
17 you already heard the judge say, nothing that I say
18 is evidence. Nothing that the defense says is
19 evidence. The evidence comes from these items that
20 you are able to take back to your jury deliberation
21 room as well as the testimony that comes from the
22 stand.

23 Of course, I'm going to have my spin of
24 things. Mr. Johnson is going to have his spin of
25 things. But you need to let the evidence speak for

1 itself and determine if I have proven to you beyond
2 a reasonable doubt. Your Honor will tell you,
3 that's not every single possible doubt, but beyond a
4 reasonable doubt of whether or not this man is
5 guilty of running from law enforcement and shooting
6 at them and being in possession of that firearm
7 while he was shooting at those two officers. I
8 submit to you right now that is the case.

9 And I'm going to ask you again, Thursday
10 morning most likely, to come back with a verdict of
11 guilty. That verdict is a verdict that speaks the
12 truth. I want to thank you for your time and
13 patience and, uh, look forward to visiting with you
14 back again on probably Thursday morning. Thank you.

15 **THE COURT:** Thank you.

16 Mr. Johnson.

17 **MR. JOHNSON:** Your Honor, may it please the
18 Court?

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

20 **MR. JOHNSON:** Solicitor.

21 Whether it's sports, chess, anything that
22 involves strategy, the best strategies are those
23 where you don't show you next move. You don't let
24 them know your angles. I'm going to be brief here
25 so as not to blow my cover so to say. There are

1 certain things that I do want you to know going
2 forward. The first thing I want to say is plainly
3 stated. I think this is the most important thing.
4 My client didn't refuse or fail to stop his car for
5 those officers and my client did not shoot at those
6 officers. I want to make that clear.

7 Now, as the judge told you before we got
8 started, my client has admitted to possessing a
9 stolen vehicle. Now, what we're saying is -- and I
10 think you will see the testimony will be -- is that
11 he possessed it before. This incident happened on
12 October 28th of 2011. My client is -- I believe you
13 will find the evidence and I think you will find
14 that my client will testify that he possessed the
15 vehicle before this date.

16 Now, the second thing I want to address is just
17 as the Solicitor said, what he said and what I'm
18 saying right here is not evidence. The second thing
19 that he said was that this could go til Thursday.
20 So I'm also asking your patience.

21 We think we know what they'll say. We don't
22 know what they'll say until they say it before you
23 here today. You always think you're going to know
24 what somebody is going to say. We have reports and
25 things of that nature. But we're going to ask you

1 to base your opinions and your decisions based upon
2 that.

3 Another thing I'm going to ask you to do is, it
4 also involves patience is wait and hear all the
5 evidence. The nature of these things is that they
6 go first. We go last. We ask that you stay
7 patient. Keep an open mind until all the evidence
8 is in. As he said, we'll both get an opportunity to
9 argue.

10 The last thing I want to point out to you and
11 I'm going to ask you to look forward to this during
12 the trial and I think this will come out quickly is
13 there was an initial suspect in this case. This
14 suspect had a peculiar or a unique description. I
15 want you to ask yourself what was unique about that
16 description and does that description fit my client.
17 I think that will be very important going forward.
18 I just want to point your attention to it. Of
19 course, the testimony will come in shortly.

20 Anyhow, after all the evidence is in, after all
21 the cards are face up, all the cards are on the
22 table, I will be able to argue just as the Solicitor
23 will. At that point in time, I think you will find
24 my client not guilty of these charges of attempted
25 murder on these officers, possession of a weapon

1 during the commission of a violent crime and failure
2 to stop his car for those officers on October 28th,
3 2011. Thank you.

4 **THE COURT:** Thank you, sir.

5 All right. Ready to proceed?

6 **MR. MARCHANT:** Yes, Your Honor. May it
7 please the Court. The State would call Officer
8 Brittany Cruell.

9 **THE CLERK:** Officer Cruell, if you would
10 come forward. Please place your left hand on the
11 Bible and raise your right.

12 **BRITTANY CRUELL**

13 having first been sworn, testifies as follows:

14 **THE CLERK:** Thank you. You may be seated.
15 Would you please pull the mic in front of you and
16 state your name for the record.

17 **THE WITNESS:** Brittany Cruell.

18 **DIRECT EXAMINATION**

19 **BY MR. MARCHANT:**

20 **Q** Officer Cruell, where are you employed?

21 **A** Greenville City Police Department.

22 **Q** And what are your duties with the City Police?

23 **A** Answer calls for service, investigate crimes,
24 make traffic stops and serve warrants.

25 **Q** How long have you been employed with the City

1 Police?

2 **A** Going on six years in April.

3 **Q** Okay. You have any other law enforcement
4 experience other than the City Police?

5 **A** No. No, I don't.

6 **Q** Prior to joining the Greenville Police
7 Department, what were the requirements that you had to
8 face before being able to go out on the road and be an
9 officer?

10 **A** Had to complete the South Carolina Criminal
11 Justice Academy. It was a nine-week program at that
12 time. That was firearms training, legals training and
13 driving.

14 **Q** Did you complete the course?

15 **A** Yes, I did.

16 **Q** Are you responsible for continuing education
17 classes or courses during your employment with the City?

18 **A** Yes, I am.

19 **Q** Are you current? Are all those credentials up
20 to date?

21 **A** I am.

22 **Q** Back on October 28th, 2011, were you working
23 that day?

24 **A** Yes, sir.

25 **Q** In what capacity were you working?

1 **A** I was on patrol.

2 **Q** And what side of town were you working?

3 **A** It's called Bravo beat. It's the Laurens/85
4 area.

5 **Q** Did you have an occasion to go to the Comfort
6 Inn that morning?

7 **A** Yes, I did.

8 **Q** Why did you do that?

9 **A** I typically patrol that hotel. It's at 2756
10 Laurens Road. It's in my area. I still work in that
11 area now. We've had a lot of criminal activity there,
12 including stolen vehicles, prostitution and drug
13 activity.

14 **Q** You went to the motel that morning on the 28th?

15 **A** I did. I was driving through the parking lot.
16 I noticed that there was a vehicle backed in. It was a
17 2005 silver GMC Yukon. When I got out of the vehicle, my
18 patrol vehicle, I went over to the vehicle to check the
19 tag to see if it was stolen. I went back to my vehicle
20 to run it from DMV and it came back to a Honda. At that
21 time, I went back to the vehicle to check the VIN to see
22 if maybe it came back as stolen, but I couldn't check it
23 because it was covered by an air freshener.

24 **Q** I'm going to show you what's been marked as
25 State's number 107. Do you recognize this aerial?

1 **A** Yes, sir.

2 **Q** Is it a true and accurate depiction of the
3 area?

4 **A** It is.

5 **MR. MARCHANT:** The State would move 107 into
6 evidence.

7 **THE COURT:** Any objection?

8 **MR. JOHNSON:** No objection, Your Honor.

9 **THE COURT:** It will be so admitted.

10 **(WHEREUPON, State's Exhibit 107 is admitted into the**
11 **record.)**

12 **MR. MARCHANT:** Publish to the jury, Your
13 Honor?

14 **THE COURT:** Yes, sir. And I give you blanket
15 permission, once it's entered, to publish it in any
16 way you see fit.

17 **MR. MARCHANT:** Thank you, Your Honor.

18 **BY MR. MARCHANT:**

19 **Q** Officer Cruell, if you would, step down for me.
20 You're going to need to continue to speak clearly and
21 loudly. I'm giving you this, uh, blue highlighter. If
22 you would, write on top of the building for the Comfort
23 Inn, the name Comfort Inn.

24 **A** (Writing.)

25 **Q** I also want you to circle the parking area or

1 the spots that you recall seeing the vehicle that
2 morning.

3 **A** I'm not exactly sure which space that it was
4 backed into. But I'm pretty sure that it was in this
5 area.

6 **Q** You're not certain which particular spot?

7 **A** No.

8 **Q** Okay. Please take the stand again.

9 **A** (Witness complies.)

10 **Q** You run the tag. It comes back to a Honda. Do
11 you call any of the other officers?

12 **A** I did. Officer Lane was working the beat area
13 that's, uh, next to mine. I called him by cell phone and
14 asked him to meet with me to maybe see if we could find
15 out if the vehicle was stolen to investigate it further.

16 **Q** Was there anybody in the vehicle?

17 **A** No.

18 **Q** The vehicle was parked?

19 **A** Yes.

20 **Q** Why is it necessary to call another officer in
21 this particular situation?

22 **A** Typically, if the VIN hadn't been covered, then
23 I wouldn't have been more suspicious that it was possibly
24 stolen. But anytime there's a stolen vehicle, that's
25 going to warrant us to have a backup officer even though

1 I didn't know if it was stolen at that time. I just
2 wanted to be careful.

3 Q Do you recall what time that morning you
4 arrived at the Comfort Inn?

5 A It was probably somewhere around nine o'clock,
6 a little bit after.

7 Q After checking the tag on the vehicle, do you
8 recall what time Officer Lane arrived?

9 A I do not. It was probably just a few minutes.
10 He wasn't far away.

11 Q What did y'all do once he showed up?

12 A Once Officer Lane got there, we went inside the
13 lobby area of the Comfort Inn. I spoke with the clerk
14 there and asked her if she knew who was driving that
15 vehicle. She didn't know who was driving it and she also
16 said she didn't have a record of a person who had
17 registered a tag at the hotel at that time.

18 MR. MARCHANT: Court's indulgence.

19 THE COURT: Yes, sir.

20 (WHEREUPON, there is a pause.)

21 THE COURT: If you will, bear with us just a
22 moment. We took care of some matters regarding
23 exhibits yesterday. (Pause.)

24 I apologize, Mr. Marchant.

25 MR. MARCHANT: No problem. Thank you, Your

1 Honor.

2 (WHEREUPON, there is a pause.)

3 BY MR. MARCHANT:

4 Q All right, Officer Cruell. I'm going to show
5 you what's been marked as State's number 76, number 86,
6 number 79, number 85, number 84, number 83, number 82,
7 number 87 and number 88. I want you to take a look at
8 those.

9 A (Reviewing.)

10 Q You've had an opportunity to look at those
11 exhibits?

12 A Yes, I did.

13 Q Do they fairly and accurately depict the
14 parking lot of the Comfort Inn as well as the lobby?

15 A Yes, they do.

16 Q Except for the Christmas tree that we'll see in
17 a minute, do they accurately reflect the lobby and how
18 it's laid out?

19 A Yeah.

20 MR. MARCHANT: The State would move 88, 87,
21 82, 80, 83, 84, 85, 86, 78, and 79 into evidence.

22 THE COURT: Any objection, Mr. Johnson?

23 MR. JOHNSON: I don't believe so. I'd like
24 to clarify when the pictures were taken.

25 THE COURT: All right.

1 **BY MR. MARCHANT:**

2 **Q** Officer Cruell, did we roughly three or four
3 weeks ago go to the Comfort Inn?

4 **A** Yes.

5 **Q** Are these the photographs that we took that
6 day?

7 **A** They are.

8 **Q** Okay. So that would have been in December of
9 2012?

10 **A** Yes.

11 **THE COURT:** Any objection?

12 **MR. JOHNSON:** No objection.

13 **THE COURT:** All right then. They'll be so
14 admitted.

15 **(WHEREUPON, State's Exhibits 78 thru 80 and 82**
16 **through 88 are admitted into the record.)**

17 **BY MR. MARCHANT:**

18 **Q** Officer Cruell, if you would, on State's
19 Exhibit number 80, please explain to the jury where this
20 photograph was taken and approximately where you believe
21 you believe you saw the vehicle back then?

22 **A** This is taken at 2756 Laurens Road, the Comfort
23 Inn. As you go in to the right side of the building,
24 this is the parking area. I believe that the suspect's
25 vehicle, at that time, was parked in where you see the

1 patrol car, either that space or coming towards the
2 camera.

3 Q Officer Cruell, I've given you a laser pointer,
4 if you would, as we go through the remainder of these
5 photographs, please indicate to the jury what you're
6 referencing.

7 A Okay.

8 Q Show you what's marked as State's 81.

9 A There's an underhang here where you drive
10 through. I think this was Officer Lane's vehicle that
11 day. My vehicle is over this way. It was in one of
12 these spaces where the suspect's vehicle was backed in
13 that day.

14 Q State's 78.

15 A This is another view of those parking spaces.

16 Q You spoke of the overhang a minute ago. I'm
17 going to show you State's 82.

18 A This is actually the way -- uh, later when the
19 suspect vehicle drove through, it drove this way out to
20 Laurens Road.

21 Q State's 83.

22 A This is another picture of the overhang to the
23 right.

24 Q State's 84.

25 A The same.

1 **Q** Please describe for the jury the entrance into
2 the hotel. What sort of doors does it have?

3 **A** It has double glass sliding doors that open
4 automatically when you walk through.

5 **Q** Showing you -- I need you to take a look at
6 State's 90. Does that accurately reflect?

7 **A** Yes.

8 **Q** Officer Cruell, were you present when we took
9 those photographs as well?

10 **A** Yes, I was.

11 **MR. MARCHANT:** I move 90 into evidence.

12 **THE COURT:** Any objection?

13 **MR. JOHNSON:** No objection.

14 **THE COURT:** It will be so admitted.

15 **(WHEREUPON, State's Exhibit 90 is admitted into the**
16 **record.)**

17 **BY MR. MARCHANT:**

18 **Q** Please explain to the jury what you're seeing
19 in this photograph.

20 **A** This is the front door of the Comfort Inn, the
21 check-in lobby area, the front counter.

22 **Q** State's 88?

23 **A** Right here to the right, you can see that there
24 is a continental breakfast area. This is the front desk
25 to the right.

1 **Q** Please use the pointer and indicate to the jury
2 where you are referencing with the continental breakfast
3 area.

4 **A** This area. (Pointing.)

5 **Q** And State's 87?

6 **A** This is the back hallway that leads to the
7 rooms on the first floor and the elevator on the first
8 floor.

9 **Q** I'm showing you State's 85.

10 **A** This is the continental breakfast area. This
11 is the front check-in counter. The front door is this
12 way. The back hallway is back this way.

13 **Q** State's 86.

14 **A** Again, this is the breakfast area. The back
15 hallway is this way. The front door is to the right.

16 **Q** State's 79.

17 **A** This is a closer picture of the window that's
18 in the continental breakfast area.

19 **Q** Did you and Officer Lane go inside the motel at
20 the same time?

21 **A** I believe so. I believe he was already on the
22 scene and we both went inside and spoke to the clerk.

23 **Q** And after speaking with the clerk, what did you
24 do?

25 **A** Uh, from what I can recall, we were standing

1 somewhere to the right of the road. There was only two
2 employees. There was the clerk and there was the lady
3 who was doing the continental breakfast that morning in
4 the lobby besides myself and Officer Lane. And I noticed
5 a black male walk by me. I believe I was standing at
6 that time when he walked by me. I just barely noticed
7 him. I know he had a grey shirt on at that time. I
8 thought he looked to be older, maybe about 40. He could
9 have been younger. I didn't pay a lot of attention to
10 him.

11 Q Do you recall whether or not he was wearing
12 glasses, had tattoos, talking on the cell phone?

13 A No.

14 Q Do you recall, uh, what you believe the hair of
15 the individual looked like?

16 A At the time, I thought maybe it was longer. It
17 might have been pulled back.

18 Q Did you speak to this individual that walked
19 through?

20 A No.

21 Q Now, the lighting inside the Comfort Inn, what
22 sort of lighting do they have?

23 A It's just like the lighting in here,
24 florescent.

25 Q Now, do you recall where you were standing or

1 approximately where you were standing ---

2 **A** Not exactly.

3 **Q** --- when the individual passed?

4 **A** Not exactly, no.

5 **Q** Do you know which direction the individual came
6 from?

7 **A** From the direction of the back hallway that he
8 showed you to the front exit.

9 **Q** I'm showing you State's 88. If you would, use
10 the, uh, -- actually, if we could turn the other light
11 back on, I believe it's a better view. If you would, use
12 your laser pointer on State's 88. Please show the jury
13 where the individual came from and where they exited.

14 **A** He came from this way, exiting in the front
15 door.

16 **Q** If you were standing in this area, did the
17 individual walk in front of you or walk behind you?

18 **A** I don't really remember. I know that I looked
19 at him in the face. But as to how I was standing or
20 which way I was looking, I'm not sure.

21 **Q** You keep saying "he". How do you know that it
22 was a he?

23 **A** It was a black male. I could tell that it was
24 a male.

25 **Q** Once that individual walked by you, what did

1 you do?

2 **A** Uh, myself and Officer Lane continued to talk
3 about the car. I know at one point, we called our
4 dispatch to see if -- even though that tag came back to
5 just a Honda, we called to see if one of their files
6 showed that there was a 2005 Yukon that was stolen. And
7 it wasn't. We were also talking on and off with the
8 ladies there at the breakfast area.

9 **Q** At some point in time, did you leave the
10 Comfort Inn?

11 **A** It was when the lady who was working, uh, in
12 the breakfast area, she alerted us that that vehicle that
13 we were asking about was leaving. At that time, I exited
14 out the front doors that you saw and I went to my patrol
15 vehicle, which was actually parked on the same side as
16 the suspect vehicle. Officer Lane went out front to tell
17 me which way he was going. He said the vehicle went
18 right going toward, making a right on Laurens Road going
19 toward 85 South towards Atlanta.

20 **Q** Is 85 South depicted on State's 107?

21 **A** I think this is the ramp right here.

22 **Q** Is that how you enter, get on or get off 85?

23 **A** That's the way to go south on 85.

24 **Q** Is that the route you took?

25 **A** Yes.

1 Q And were you dressed as you are today?

2 A Except for the tie.

3 Q Were you in a marked unit?

4 A Yes, I was.

5 Q Blue lights and Greenville Police Department
6 identification?

7 A Yes.

8 Q You got in your car and you started following
9 this vehicle?

10 A Uh, I saw the vehicle, I believe it was about
11 three cars in front of me in the vehicle when I got on 85
12 southbound. So I had to give my blue lights to get
13 around those vehicles. When the vehicle, I guess, knew
14 that I was behind him, he continued at his pace of about
15 60 miles an hour, but then hit his left turn signal and
16 went all the way over to the wall on 85 South.

17 At that time, he started increasing speeds in
18 that lane. He abruptly then went across all lanes of
19 traffic over to the Mauldin Road exit to the right. I
20 hit my siren at some point in there and advised dispatch
21 that the vehicle wasn't stopping. Uh, he was gaining
22 speeds on me. I couldn't really keep up with him. He
23 got up to the exit and made a left on Mauldin Road.
24 There was a red light there. There were other cars
25 present that day and it was cloudy. He went on left on