

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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1 the Mauldin Road. I pretty much lost sight of him.
2 After I made that right on Mauldin Road up near Parkins
3 Mill, I lost sight of him and I discontinued the pursuit
4 for the safety of civilians due to the fact that I did
5 not know, in fact, at that time, if the car was stolen.

6 Q Was your in-car camera operable that day?

7 A It was.

8 Q Was it running?

9 A It was running.

10 Q Have you had an opportunity to review what's
11 marked as State's Exhibit number 1?

12 A Yes.

13 Q And does it fairly and accurately depict what
14 occurred up 85 that day?

15 A It does.

16 MR. MARCHANT: Move number 1 into evidence.

17 THE COURT: Any objection?

18 MR. JOHNSON: No objection.

19 THE COURT: All right. Then it will be so
20 admitted.

21 (WHEREUPON, State's Exhibit 1 is admitted into the
22 record and played for the jury.)

23 BY MR. MARCHANT:

24 Q Officer Cruell, is there any audio associated
25 with this video?

1 **A** Not with this one. It was inoperable at the
2 time in that vehicle.

3 **Q** Officer Cruell, as the vehicle plays, if you
4 would, please use the laser pointer and describe to the
5 jury what you did and what you witnessed.

6 **A** Okay. At this point, the suspect vehicle is
7 still in the far right lane up here. I believe -- I
8 can't --

9 **Q** Hang on a second. (Pause.)

10 **A** The suspect vehicle is up here. (Pointing.)
11 Right now, I'm trying to get him between these
12 cars so that I can blue light it.

13 **Q** You have or have not activated your blue lights
14 yet?

15 **A** At this time, I don't believe I had. This is
16 the suspect vehicle and I should be initiating my blue
17 lights here in a second. As you can see, I initiated
18 them. (Pause.)

19 This is when he hit the left turn signal. He's
20 going to get in the far left lane. (Pause.)

21 The upcoming exit is the Mauldin Road exit.
22 (Pause.)

23 Here, at the last minute, he goes across the
24 lanes of traffic to get on this exit. This is where I
25 started losing speed to keep up with him.

1 **Q** What's the intersection that we're getting
2 ready to see?

3 **A** This is 85 and Mauldin. The 85 exit to Mauldin
4 Road. Here, the light's red. He goes through the light
5 to the left. (Pause.)

6 At this point on the camera, I don't even think
7 you can see the vehicle anymore. The next intersection
8 up is Parkins Mill Road. (Pause.)

9 Uh, here, I discontinued the pursuit. There
10 was a trucker actually you can see that needed help back
11 in the traffic, I believe. And Officer Lane and I
12 assisted him with that at that time.

13 **Q** Do you recall what time in the morning that you
14 started your pursuit of the vehicle on 85?

15 **A** I tried to initiate the traffic stop at 9:31
16 a.m.

17 **Q** After terminating the pursuit at the Hitachi
18 plant, what did you do next?

19 **A** Uh, we helped the trucker back out in traffic.
20 And I think dispatch was trying to send me a call on
21 Fairforest Road, which is near there. But Officer
22 Kellett told me he had already taken that call. So I
23 continued to kind of check the area for that vehicle. I
24 went down Mauldin Road to Cavalier Drive when another
25 call came out. I think it was at 9:39 for a suspicious

1 person or vehicle in the area of Wenwood Road from Christ
2 Church. So I headed to that area along with other
3 officers.

4 Q I'm going to show you what's been marked as
5 State's 108, 106 as well as State's 67. Do you recognize
6 106 and does it fairly and accurately depict that area?

7 A Yeah.

8 Q Also showing you here State's 67. Do you
9 recognize ---

10 A Yes.

11 Q --- 67 as well? Does it fairly and accurately
12 show the area?

13 A Yes.

14 Q As well as State's 108?

15 A Yes.

16 MR. MARCHANT: The State would move 67, 106,
17 108 into evidence.

18 THE COURT: Any objection?

19 MR. JOHNSON: No objection, Your Honor.

20 THE COURT: All right. They will be so
21 admitted.

22 (WHEREUPON, State's Exhibits 67, 106 and 108 are
23 admitted into the record.)

24 BY MR. MARCHANT:

25 Q All right. Officer Cruell, I'm showing you

1 what's been marked as State's 67. If you could, step
2 down and, if you would, show the jury approximately where
3 you traveled from Laurens Road to Mauldin Road and how
4 you traveled to help the truck.

5 **A** Was this way getting onto 85 down -- I think
6 this is Mauldin Road down here. Yeah. I got off here.
7 Wait a second. This is Mauldin Road? Wait. That's
8 Mauldin Road. Okay. This is the Hitachi plant right
9 here. This is where we stopped to help the trucker.
10 From there, I went down to -- I believe this is Cavalier
11 Drive. It's unmarked. Somewhere in here is when I got
12 the call of suspicious vehicle at Christ Church.

13 **Q** I'm going to show you what's in evidence as
14 State's 108.

15 **A** Uh, I headed --

16 **Q** Officer Cruell, if you would, step over here so
17 all the jurors can see.

18 **A** As I headed toward, uh, -- when we arrived --
19 Christ Church has two entrances. One here and here.
20 There was a security guard out on Wenwood Road somewhere
21 in here to flag me down. He said that he was listening
22 to their scanner and he heard the chase and they thought
23 that they had seen that vehicle. It was over here in the
24 apartment complex. It was about that time that I heard
25 Officer Taci Cobb say that she was out with that vehicle

1 and she asked me to go to Channel 4 to repeat some
2 information about it.

3 Q What is the name of the apartment complex where
4 Officer Cobb eventually found the vehicle?

5 A Berkeley Pointe.

6 Q And do you recognize Berkeley Pointe on that
7 Exhibit?

8 A Yeah. This is the one entrance. These are the
9 apartments. This is another entrance. There are
10 apartments in here as well.

11 Q I'm going to show you what's in evidence as
12 State's 106. Did you subsequently go to that apartment
13 complex?

14 A I did. Uh, not long after Officer Cobb had
15 confirmed with me that it was the same vehicle that had
16 ran from me, Officer Lane responded on the scene with
17 her. And he said shots fired shortly after that.

18 Q Officer Cruell, do you recall what time the
19 call came in from Christ Church?

20 A I believe it was 9:39.

21 Q And do you recall what time Officer Lane
22 indicated shots fired?

23 A 9:48.

24 Q In between 9:39 and 9:48, did you leave Wenwood
25 Road?

1 **A** No.

2 **Q** From Wenwood, did you go into the apartment
3 complex?

4 **A** I did.

5 **Q** When you went into the apartment complex, do
6 you recall where you parked?

7 **A** I do remember. At first, I was a little
8 disoriented because of my adrenaline. When you hear an
9 officer say shots fired, it's really serious. I did --
10 accidentally, I went into the other entrance, not this
11 one that we see here. I was trying to figure out where
12 the [REDACTED] building was at. For some reason, I just
13 couldn't remember. I finally was able to get in here. I
14 pulled in with some other officers. We came this way.
15 All I remember is parking in this general area here.

16 **Q** Once you exited your vehicle, where did you go
17 and what did you do?

18 **A** I walked up this way. This is the [REDACTED]
19 building. This is the [REDACTED] 4 [REDACTED] building. I saw Officer Lane
20 was behind the vehicle up here. This is the breezeway
21 where they told me that he was shooting from. Officer
22 Taci Cobb on the corner up here when I arrived.

23 **Q** As you are approaching the [REDACTED] and [REDACTED] 4 [REDACTED]
24 building, did you have your firearm out or did you get a
25 rifle, a shotgun out of your trunk or do you recall?

1 **A** I believe at first, I had my firearm. I don't
2 remember -- I think at some point, I did get my shotgun
3 out.

4 **Q** After --

5 **A** Because he told me that -- I'm sorry. He told
6 me that he thought the shooter had an automatic weapon.

7 **Q** You say "he", who are you referring to?

8 **A** The defendant.

9 **Q** I'm sorry. He told you --

10 **A** Oh, Officer Lane told me that the suspect had
11 an automatic gun.

12 **Q** Now, when you are meeting with Lane behind that
13 vehicle, what is it that you're doing?

14 **A** Uh, getting information from him, seeing if
15 he's okay. A few minutes later, some SWAT team members
16 came and relieved us of watching this building and they
17 kept eyes on that building that that time.

18 **Q** Do you recall at this point in time -- let me
19 rephrase. In between the time that you parked your
20 vehicle and the point in time the SWAT team members
21 arrived, do you recall seeing anyone in that apartment
22 complex that was not law enforcement?

23 **A** No.

24 **Q** Take the stand.

25 **A** (Witness complies.)

1 **Q** How long do you think or recall being out there
2 on the scene that day?

3 **A** We were there pretty much the whole day.
4 Eventually, the other -- the actually SWAT van arrived
5 and they evacuated that building to search for the
6 suspect. We set up a parameter at that time. It was a
7 large perimeter, but somehow, he got outside the
8 perimeter. We were there for the rest of our shift. We
9 worked 12 and a half hour shifts. We were there the
10 whole day searching for him. It wasn't until the next
11 day when I came in for roll call, which is our meeting
12 before shift, and I was advised that Patrick Dean
13 Lowrance had been arrested in the shooting.

14 **Q** Let's talk about that briefly. What time did
15 your shift start in the morning?

16 **A** You have to be there at 6:40.

17 **Q** And your shift starts roughly what time?

18 **A** 7 a.m.

19 **Q** And prior to starting your shift every morning,
20 is there some meeting you attend?

21 **A** It's roll call.

22 **Q** What's the purpose of roll call?

23 **A** Information from the previous shift, things
24 that have happened that we need to be aware of.

25 **Q** So the day that this event occurred on October

1 28th, 2011, what time do you remember finishing your
2 shift and going home?

3 **A** It was 7 p.m. or a little bit after.

4 **Q** You had worked your entire shift on this scene?

5 **A** Pretty much.

6 **Q** Did you go out and do any other patrol that
7 day?

8 **A** No.

9 **Q** You worked the following day?

10 **A** Yes.

11 **Q** Did you have the same type of meeting that
12 morning?

13 **A** Yes.

14 **Q** And the information you discovered that morning
15 was what?

16 **A** The defendant's name or the suspect's name in
17 the case, uh, that shot at Taci and Charles, that he was
18 apprehended in Greenville county and his name was Patrick
19 Dean Lowrance.

20 **Q** And with that information, what did you do?

21 **A** I went out to my car to my computer and checked
22 the records database for photographs and I pulled up his
23 picture. And I immediately recognized him as the same
24 male that had walked by myself and Officer Lane the day
25 before in Comfort Inn.

1 **Q** Did anyone tell you to do that?

2 **A** No.

3 **Q** You have a supervisor?

4 **A** Yes.

5 **Q** He didn't instruct you to go look into your
6 database?

7 **A** No.

8 **Q** Again, what database are we talking about?

9 **A** It's a record index of people who'd been
10 arrested.

11 **MR. JOHNSON:** Judge, objection.

12 **THE COURT:** Let's approach.

13 **(WHEREUPON, a bench conference is held off the**
14 **record.)**

15 **THE COURT:** Ladies and Gentlemen of the jury,
16 just so you won't be potentially misled by any of
17 the testimony you've just heard. You've heard
18 testimony that, uh, the defendant was apprehended
19 the night before and that's the reason that his
20 photograph would have been in such a database.

21 Does that comply with our discussions? All
22 right. Thank you.

23 Yes, sir.

24 **BY MR. MARCHANT:**

25 **Q** Once you pulled up the photograph, what was

1 your reaction?

2 **A** I immediately recognized him as the same male
3 that was at the Comfort Inn.

4 **Q** Do you recognize the person that was at the
5 Comfort Inn that day?

6 **A** Yes.

7 **Q** Are they here in this courtroom?

8 **A** Yes.

9 **Q** Where are they seated?

10 **A** To my right.

11 **Q** What are they wearing?

12 **A** White-collared shirt and a blue tie.

13 **MR. MARCHANT:** Let the record reflect that
14 she has identified Mr. Lowrance.

15 **THE COURT:** It will be so reflected.

16 **BY MR. MARCHANT:**

17 **Q** After conducting that business that morning,
18 did you go out on routine patrol and resume normal
19 duties?

20 **A** I did.

21 **Q** Did you also have an opportunity to confirm
22 whether or not that vehicle was stolen?

23 **A** I did, actually the day before I went in and
24 the shift. When forensics finished processing the scene
25 at Berkeley Pointe Apartments, that vehicle that

1 initially seen at the Comfort Inn was out there and they
2 were able to move the air freshener from the VIN and when
3 I ran it in my car, it came back stolen.

4 Q In -- take you back to the Comfort Inn, if you
5 will, just for a moment. The only opportunity that you
6 observed the defendant was in the lobby?

7 A Yes.

8 Q Did you see anyone get into the vehicle that
9 you pursued up 85?

10 A I did not.

11 Q While you were pursuing the vehicle up 85, were
12 you able to determine how many people were in the
13 vehicle?

14 A I couldn't. The back window was tinted.

15 Q Did you ever see anybody in or out of that
16 vehicle?

17 A No, I didn't.

18 MR. MARCHANT: Court's indulgence?

19 THE COURT: Yes.

20 MR. MARCHANT: Thank you, Officer Cruell.
21 Please answer any questions that Mr. Johnson may
22 have.

23 THE COURT: All right. Ladies and Gentlemen,
24 we've come to a good point for a lunch break. I'm
25 going to ask you to be back in your jury rooms at,

1 uh, 2:15. Be back in your jury room by 2:15. We'll
2 begin promptly right after that. Please don't
3 discuss this case with anyone. You'll get used to
4 hearing me say that.

5 And Officer Cruell, please don't discuss your
6 testimony with anyone over the break.

7 Thank you so much and I hope you have a good
8 lunch.

9 **(WHEREUPON, the jury exits at approximately**
10 1:02 p.m.)

11 **THE COURT:** All right. We'll be in recess
12 until 2:15.

13 **(WHEREUPON, a lunch recess is taken.)**

14 **(WHEREUPON, the Court resumes at approximately**
15 2:22 p.m.)

16 **MR. MARCHANT:** The State's ready, Your Honor.

17 **THE COURT:** All right. Officer Cruell, if
18 you want to retake the stand, you may. (Pause.)

19 To our jurors who are observing with us on the
20 back row, I appreciate your attention throughout the
21 trial. I've watched you throughout the trial this
22 morning. I appreciate your attention. I don't
23 think Judge Miller will mind, at the end of the day
24 today, you don't have to come back tomorrow for this
25 trial. Now, that's not to say that you might not

1 get picked for another trial, I don't know. But you
2 will need to call in after 6:00 for further
3 instructions. All right.

4 **(WHEREUPON, the jury enters at approximately**
5 2:24 p.m.)

6 **(WHEREUPON, there is a pause.)**

7 **THE COURT:** Ladies and Gentlemen, I'm going
8 to ask you to step to your jury room for just a
9 moment. If you will, be patient with me. I need to
10 take care of one matter that's been brought to my
11 attention.

12 **(WHEREUPON, the jury exits at approximately**
13 2:26 p.m.)

14 **THE COURT:** Will the attorneys approach?

15 **(WHEREUPON, a bench conference is held off the**
16 record.)

17 **THE COURT:** False alarm. It is, uh, -- the
18 person who overheard it has clearly identified that
19 it was a juror from courtroom number 8, not
20 courtroom number 4. So we're fine. Okay. Good.

21 **MR. JOHNSON:** Judge, you want to clarify?

22 **THE COURT:** I'll probably say something to
23 them. They had a juror come in. We just had her
24 come in and look around the room.

25 **MR. MARCHANT:** I think it would be wise that

1 maybe at every single break we have, reiterate that
2 point so we don't get caught in the same position.

3 **THE COURT:** Absolutely. Absolutely. The
4 person who reported it, they've now taken that
5 person to Courtroom 8. The guy's going to feel like
6 he's on trial.

7 **(WHEREUPON,** the jury enters at approximately
8 2:32 p.m.)

9 **THE COURT:** I'm going to explain to you what
10 was going on just a minute ago. You're probably
11 completely mystified. We had some concerns that
12 this case might had been being discussed in one of
13 the restrooms. It turns out there are multiple
14 trials going on in this courthouse and it is not
15 anyone on this jury that was discussing it. I never
16 doubted you for a minute. But, uh, we needed to
17 stop any discussions that jurors were having about
18 it. And the person mistakenly thought it was
19 courtroom number 4. They were incorrect. It was
20 clearly another courtroom. And certainly as I said,
21 there was no report about anyone in this courtroom.

22 All right. Where are we?

23 Mr. Johnson, you ready to proceed?

24 **MR. JOHNSON:** Yes, ma'am, Your Honor.

25 **THE COURT:** All right.

CROSS-EXAMINATION

BY MR. JOHNSON:

Q Officer Cruell, before I talk about your testimony, I just want to establish a couple of things. First of all, I notice you don't have it with you but you did do an incident report in this, didn't you?

A Yes, I did.

Q And the purpose of the incident report is basically like a memorandum or writing it down at the time of whatever happened so that you can remember it?

A Yes.

Q And this incident report is sent through like a channel of supervisors. Somebody approved his incident report, right?

A Yes.

Q And you just write it down because it's harder to remember something later because you remembered right at that time, so you try to write it down so you can remember?

A That's right.

Q All right. Now, you also testified at a prior hearing, is that true?

A Yes, I did.

Q And you answered questions from the Solicitor and myself, isn't that right?

1 **A** That's right.

2 **Q** Uh, now, the Comfort Inn, this was put on the
3 overhead projector. I want to make it clear. I'm
4 showing you what has been marked as State's Exhibit 88.
5 This was previously admitted into evidence. Does this
6 picture describe how -- the lighting that was in the
7 lobby at the time you were there in 2011?

8 **A** Yes.

9 **Q** Okay. I just want to -- I'm going to publish
10 this picture to the jury after we finish, but I just
11 wanted you to see it because you couldn't tell on the
12 projector. Now, I couldn't remember what you testified
13 to. How close -- you stated that you saw someone walking
14 to the lobby and one of the clerks pointed your attention
15 to that person. That's not what happened?

16 **A** No.

17 **Q** Okay. So your testimony right now is nobody
18 pointed your attention towards this person?

19 **A** No, when he walked through the lobby, I just
20 noticed him walking.

21 **Q** You just noticed him?

22 **A** Yes.

23 **Q** Okay. All right. But anyhow, how close were
24 you to this person when you saw him?

25 **A** I believe it was just a few feet away.

1 Q Just a few feet, so relatively close?

2 A Yes.

3 Q Okay. Now, I want to go to when you
4 essentially identified my client as that person that you
5 saw, is that true?

6 A Yes, sir.

7 Q You stated that someone called you, is that
8 right?

9 A No.

10 Q No one called you on the next day and informed
11 you a suspect had been arrested?

12 A The next day I was in roll call and someone I
13 worked with told me that someone had been arrested and
14 told me the name.

15 Q So someone just told you this?

16 A Yes.

17 Q You know who that person was?

18 A I don't remember.

19 Q Okay. But then at some point, you went and you
20 looked in the database to see if that was the same
21 person?

22 A I did.

23 Q And it was a picture taken of my client from
24 the night before?

25 A I'm not sure when the picture was taken.

1 **Q** But it was a picture taken of my client very
2 recently?

3 **A** Yes.

4 **Q** Uh, now, you described the person you saw in
5 the lobby as being older, approximately 40 years old,
6 being a black male with longer hair?

7 **A** Yes.

8 **Q** And when you say longer hair, we're talking
9 about like hair pulled back or are we talking about a
10 long type of hair? What are we talking about?

11 **A** I don't remember. I didn't pay a lot of
12 attention to exactly how his hair was at that time.

13 **Q** We talking long hair like mine or long hair
14 like he has here today?

15 **A** No.

16 **Q** We talking about -- what type of long hair are
17 we talking about?

18 **A** It looked like maybe he had it pulled back into
19 a ponytail or something. I'm not sure.

20 **Q** We're talking about long hair. And to you, it
21 looked like he had it pulled back into a ponytail?

22 **A** Possibly.

23 **Q** Okay. Now, on that picture that you saw that
24 was taken, what you, uh, identified as recently, did my
25 client have that hair?

1 **A** No.

2 **Q** And you also confirmed my client is not 40
3 years old?

4 **A** That's right.

5 **Q** Now, you stated that no one asked you to look
6 at the photo and basically get your approval that it was
7 the same person, is that right? Is that your testimony?

8 **A** Repeat the question.

9 **Q** Nobody asked you to confirm that my client was
10 the same person you saw?

11 **A** No.

12 **Q** But as we stated earlier, you said you did a
13 report, right?

14 **A** Yes.

15 **Q** And these reports, these reports are approved
16 by a supervisor, correct?

17 **A** Yes.

18 **Q** And you know this. Is this the first report
19 you've done?

20 **A** No.

21 **Q** So you knew when you did this report that this
22 was going to go to a higher chair than you, is that
23 right?

24 **A** Yes.

25 **Q** And are you generally required to do reports?

1 Is that a part of ordinary business with police or your
2 police department?

3 A Depending on the type of collar incident that
4 we do reports.

5 Q How many reports have you done?

6 A I couldn't count.

7 Q So many? It was a whole bunch of them that you
8 couldn't count it's so many?

9 A Yes.

10 Q So this is a relatively typical thing that you
11 do in incidents?

12 A Yes.

13 Q Now, you know the guy sitting right there,
14 that's Solicitor Lucas Marchant, correct?

15 A Yes.

16 Q Now, this isn't your first time seeing him,
17 right?

18 A No.

19 Q Before this trial here today, did you meet with
20 him?

21 A Yes.

22 Q Did you discuss what your testimony would be or
23 might be?

24 A Yes.

25 Q So you prepared for a trial?

1 **A** Yes.

2 **Q** Now, you mentioned earlier that you testified
3 at a prior hearing, is that correct?

4 **A** Yes.

5 **Q** Before that, you did the same thing?

6 **A** Yes.

7 **Q** Okay. Is it your testimony today that -- your
8 testimony today, is it the same as it was at the prior
9 hearing?

10 **A** As far as I know, yes.

11 **Q** As far as you know. You didn't discuss doing
12 anything differently?

13 **A** No.

14 **Q** Anything additional?

15 **A** No.

16 **Q** So are you saying that if I went and pulled the
17 transcript over here, I'd be able to go through it line
18 by line and see that the questions were the same and
19 everything?

20 **A** I don't know that everybody asked me the same
21 questions. I don't remember everything.

22 **Q** So I guess your testimony today is you don't
23 remember?

24 **A** No, I don't remember everything from the
25 previous testimony.

1 **Q** Could it be that you provided some additional
2 information or something different today than you did
3 previously?

4 **A** I don't believe so.

5 **Q** You don't believe so? I have nothing further
6 at this time.

7 **THE COURT:** Mr. Marchant.

8 **MR. MARCHANT:** No redirect, Your Honor.

9 **THE COURT:** All right. Ma'am, you can step
10 down.

11 **THE WITNESS:** Thank you.

12 **THE COURT:** Thank you.

13 **MR. MARCHANT:** Pleases the Court, the State
14 would call Arva Irby.

15 **THE COURT:** All right.

16 **THE CLERK:** If you would, come forward to be
17 sworn in please. Please place your left hand on the
18 Bible and raise your right.

19 **ARVA IRBY**

20 having first been sworn, testifies as follows:

21 **THE CLERK:** Thank you. You may be seated.
22 Would you please state your name for the record.

23 **THE WITNESS:** Arva Irby.

24 **THE CLERK:** Thank you.

25 **DIRECT EXAMINATION**

1 **BY MR. MARCHANT:**

2 **Q** Good afternoon, Ms. Irby. I'm going to have a
3 few questions for you here. Back on October 28th of
4 2011, where were you employed?

5 **A** The Comfort Inn on Laurens Road.

6 **Q** And were you present with Officer Cruell and
7 Officer Lane came in to investigate a vehicle in the
8 parking lot?

9 **A** Yes.

10 **Q** And what generally were your duties with the
11 Comfort Inn on that day?

12 **A** Breakfast -- breakfast attendant.

13 **Q** I'm just going to flip through a couple of
14 pictures here so you can get a frame of reference. I'm
15 going to show you State's 90. Do you recognize this
16 picture?

17 **A** Yes.

18 **Q** I'm going to show you State's 88. Do you
19 recognize that?

20 **A** Yes.

21 **Q** I'm going to show you State's 86. You
22 recognize that?

23 **A** Yes.

24 **Q** As well as State's 79.

25 **A** Yes.

1 Q What you will see right in front of you is a
2 laser pointer. If you would, please tell the jury in
3 State's 79 what are the items in that photograph and
4 what's your responsibility with your employment that
5 morning.

6 A This is where I, uh, have all the hot items and
7 danishes. My responsibilities was to keep this area
8 clean as well as this area.

9 Q Were you working in that area that morning when
10 these officers came in?

11 A Yes.

12 Q And did you know why they were inside?

13 A I overheard them talking.

14 Q Some point in time, did you inform them of
15 something?

16 A I informed them that the vehicle was leaving.

17 Q Did you see anyone get in the vehicle?

18 A No.

19 Q Did you see anyone in the vehicle?

20 A I saw one person in the vehicle.

21 Q Do you recall where that person was sitting in
22 the vehicle?

23 A In the front.

24 Q And do you recall whether or not it was a male
25 or female?

1 **A** No.

2 **Q** You recall what the race was?

3 **A** No.

4 **Q** Was there anything else that you recall about
5 the person that was sitting in front of the vehicle?

6 **A** Other than that they looked like they may have
7 had a hoodie or something on.

8 **Q** Where did you see the vehicle leaving from?

9 **A** From this area here. It went -- it left from
10 this area here.

11 **Q** Let me be a little more clear. Were you
12 looking out of this vehicle when the vehicle pulled up?

13 **A** Yes.

14 **Q** Thank you. Please answer any questions Mr.
15 Johnson may have.

16 **THE COURT:** Mr. Johnson?

17 **MR. JOHNSON:** Excuse me. Mr. Crangle.

18 **THE COURT:** Oh, I'm so sorry.

19 **MR. CRANGLE:** That's quite alright.

20 **CROSS-EXAMINATION**

21 **BY MR. CRANGLE:**

22 **Q** Thank you, Ms. Irby. Uh, you no longer work at
23 this Comfort Inn in, right? You are at another one?

24 **A** Yes.

25 **Q** All right. And, uh, you said on the day in

1 question, you were working there and it had been kind of
2 a slow morning, hadn't it?

3 **A** Yes.

4 **Q** Right. And you see this vehicle outside and
5 you see the police car pulling up beside the vehicle,
6 correct?

7 **A** The police cars were already there. The
8 officers were inside the lobby.

9 **Q** All right. But you noticed that the police
10 were interested in this vehicle, correct?

11 **A** Yes.

12 **Q** All right. But you didn't see anyone get in
13 that vehicle, did you?

14 **A** No.

15 **Q** All right. And you previously testified that
16 you don't know if it was a male or female, correct?

17 **A** Yes.

18 **Q** All right. And you don't know if that person
19 was black or white, correct?

20 **A** Yes.

21 **Q** And you don't know if they had long hair or
22 short hair, do you?

23 **A** No.

24 **Q** And, uh, you -- you're not sure that you could
25 see into the vehicle very well. You just saw a person in

1 the driver's seat, right?

2 A Yes.

3 Q All right. And, uh, could you approximate what
4 sort of distance it was that you were away from the
5 vehicle?

6 A From here to where that desk is from the
7 window.

8 Q All right. So it's from here to the desk.
9 That's inside the lobby. And then from the lobby out to
10 the parking lot, correct?

11 A At that window to the parking lot.

12 Q I see what you're saying. And in that vehicle,
13 let me ask you a little bit about the vehicle. Did the
14 vehicle have tint in the back?

15 A Yeah. The back passenger seat in the back
16 window.

17 Q All right. So the driver side windows have no
18 tint. The front windshield has no tint, correct?

19 A Correct.

20 Q But the passenger and the driver's side on the
21 second or I guess the back seat and all the way back is
22 tint, correct?

23 A Yes.

24 Q All right. And you can't see in that tint,
25 right? It's the factory dark tint. All right. So you

1 can't see in the back seat of the vehicle, correct?

2 **A** No.

3 **Q** So all you know is you saw a person getting
4 into that vehicle?

5 **A** Yes. I didn't see them get into the vehicle.

6 **Q** Let me rephrase. You saw a person driving that
7 vehicle?

8 **A** Yes.

9 **Q** But you can't tell the jury here today what
10 that person looked like and if it was male or female?

11 **A** No.

12 **Q** Okay. I have no further questions.

13 **THE COURT:** All right. Thank you.

14 **MR. MARCHANT:** No redirect, Your Honor. We
15 ask that the witness be excused from her subpoena.

16 **THE COURT:** Mr. Crangle, do you have any
17 objection to this witness being excused?

18 **MR. CRANGLE:** No, Your Honor.

19 **THE COURT:** All right. Thank you, ma'am, for
20 being here.

21 **MR. MARCHANT:** Please the Court. The State
22 calls Officer Taci Cobb.

23 **THE CLERK:** Officer Cobb, if you would, come
24 forward to be sworn in please. Please raise your
25 right hand.

1

TACI COBB

2

having first been sworn, testifies as follows:

3

THE CLERK: Thank you. You may be seated.

4

Would you please state your name for the record?

5

THE WITNESS: Taci Cobb.

6

THE CLERK: Thank you.

7

DIRECT EXAMINATION

8

BY MR. MARCHANT:

9

Q Officer, where are you employed?

10

A Greenville City Police Department.

11

Q And how long have you been with the City Police

12

Department?

13

A Four years next month.

14

Q Are you married?

15

A No.

16

Q Do you have any children?

17

A I do.

18

Q How many?

19

A I have four.

20

Q Prior to being employed with the Greenville

21

Police Department, do you have any other law enforcement

22

experience?

23

A I do not.

24

Q Prior to being employed with the Greenville

25

Police Department, what was your occupation?

1 **A** Uh, military.

2 **Q** And how long were you with the military?

3 **A** I been with the military for 13 years, Army
4 Reserves.

5 **Q** In October of 2011, what were your
6 responsibilities with the City Police?

7 **A** I worked in Uniform Patrol, which is, uh,
8 patrolling the area, uh, making traffic stops, serving
9 warrants.

10 **Q** Are you still in that same capacity with the
11 city today?

12 **A** I am not. I work for the -- I laterally
13 transferred in a Crime Response team.

14 **Q** Were you present when Officer Cruell testified?

15 **A** I was.

16 **Q** The training and experience that she discussed
17 with the Academy, you been through that same?

18 **A** I have.

19 **Q** Are your credentials up to date?

20 **A** They are.

21 **Q** On October 28th of 2011, were you working that
22 day?

23 **A** I was.

24 **Q** Do you recall where you were around 9:30 a.m.?

25 **A** I do.

1 Q Where were you?

2 A I was in the -- on the Augusta Street area.
3 There were several traffic accidents in that area. I was
4 helping assisting other officers.

5 Q At some point in time, did you hear Officer
6 Cruell come over the radio?

7 A I did.

8 Q And in response to her radio traffic, what did
9 you do?

10 A Officer Cruell at the time was my adjacent beat
11 partner. She stated she was in Bravo B. I was in
12 Charlie B. We were right next to each other. So I
13 started to head in the direction that she stated that she
14 was at.

15 Q And you are on Augusta Street. What direction
16 did you head?

17 A Toward Mauldin Road.

18 Q And did you at some point in time meet up with
19 Officer Cruell on Mauldin Road or Augusta Road?

20 A I did not.

21 Q Where did you go from Mauldin Road?

22 A I did not go to -- well, after she, uh, backed
23 off of the traffic stop because he didn't stop, I turned
24 around and I started heading down toward Cleveland
25 Street, uh, South Pleasantburg and Cleveland Street. I

1 heard the call come out about, uh, Christ Church about
2 the suspicious person that possibly matched the
3 description of the person that I was told had chased.
4 And I turned around and I headed back into that
5 direction.

6 Q Do you recall which road you traveled in order
7 to get over to Berkeley Pointe?

8 A I do. I was on 291, which is South
9 Pleasantburg Drive. I took a left onto Mauldin Road.
10 Then I took a left onto Wenwood Road.

11 Q I'll have you step down please.

12 A (Witness complies.)

13 Q If you would, please show the jury where you
14 turned off of Mauldin Road onto Wenwood Road.

15 A This is Mauldin Road here. I turned left here.
16 I headed down this way. There were several units in the
17 area. I just stopped at the very first turn off there
18 was. The complex, building, whatever it was, I turned
19 off to the first one, which was Berkeley Pointe
20 Apartments.

21 Q I'm now showing you State's 106. Is this that
22 apartment complex?

23 A Yes.

24 Q Please tell the jury where you went and why you
25 went where you went in the apartment complex.

1 **A** This was Wenwood Road. I made a left onto
2 Berkeley Pointe Apartments and went around this
3 roundabout and went to the back of this complex. This is
4 the very first place I went around to when I noticed the
5 vehicle backed into the parking spot.

6 **Q** And can you point out to the jury where that
7 vehicle was -- roughly where that vehicle was parked?

8 **A** In one of these spaces right here.

9 **Q** As you are pulling in to this apartment
10 complex, did you notice anyone walking around walking on
11 the sidewalks?

12 **A** I did not.

13 **Q** Have you previously worked on this side of town
14 and handled this apartment complex before?

15 **A** I been to this apartment complex several times
16 before. This is not my area but it's my adjacent beat.
17 I have assisted Officer Cruell in this area.

18 **Q** Do you feel comfortable telling the jury what
19 sort of racial composition there is in that apartment
20 complex?

21 **A** This, uh, is predominantly African-American in
22 this apartment complex.

23 **Q** Have a seat back on the...

24 **A** (Witness complies.)

25 **Q** Showing you what's been marked as State's 71,

1 101, State's 2, State's 3, State's 4, State's 5, State's
2 6, State's 7, State's 8, State's 9 and State's 10. I'd
3 like you to take a look at those and see if you can
4 identify those photographs.

5 **A** (Reviewing.)

6 Yes, sir. I recognize these photographs.

7 **Q** And do these fairly and accurately depict what
8 you initially encountered that day as well as the events
9 that occurred in that stairwell?

10 **A** They do.

11 **MR. MARCHANT:** I move State's 71, 101, 2, 3,
12 4, 5, 6, 7, 8, 9 and 10 into evidence.

13 **THE COURT:** Any objection?

14 **MR. JOHNSON:** No objection.

15 **THE COURT:** All right. They will be so
16 entered.

17 **(WHEREUPON, State's Exhibit's 2 thru 10, 71 and 101**
18 **are admitted into the record.)**

19 **BY MR. MARCHANT:**

20 **Q** Officer Cobb, I'm showing you State's number 2.
21 Can you identify the patrol vehicle in this photograph?

22 **A** Yes, that was my patrol vehicle at the time of
23 the incident.

24 **Q** And the other vehicle in the photograph, whose
25 vehicle was that?

1 **A** That was the vehicle that we believe the
2 defendant was driving.

3 **Q** And is this how you found that vehicle in that
4 roundabout area?

5 **A** It is.

6 **Q** When you arrived at that vehicle, was there
7 anyone with it?

8 **A** No.

9 **Q** Did you ever see anyone come or go from that
10 vehicle?

11 **A** No.

12 **Q** Showing you State's number 3. Is that the same
13 vehicle?

14 **A** It is.

15 **Q** As well as State's 71.

16 **A** Yes.

17 **Q** How is it that you identified this vehicle as
18 being the same vehicle that Officer Cruell was chasing?

19 **A** I checked the tag number on the vehicle. I ran
20 it on our database. It came back to a Honda out of
21 Easley. I called Officer Cruell on Channel 3, which is
22 our normal operating channel. I told her to go to
23 Channel 4. I asked her if this was the same vehicle.
24 She did say it was the same vehicle. I told her where it
25 was. I told her I was going back to Channel 3 to let

1 dispatch and everyone else know where I was and where the
2 vehicle was.

3 **Q** Now, you're talking Channel 3 and Channel 4.
4 Please explain to the jury why you would be operating on
5 one channel versus the other.

6 **A** Uh, there are several channels. Channel 3 is
7 primarily used for all communications when dispatch calls
8 out a call to any of us or when we have to call dispatch.
9 Channel 4 is not used for that. We use that mainly to
10 get in touch with someone at Records to check for things
11 like warrants. It's more of a quiet channel where
12 there's not a lot of traffic. We don't have to take away
13 from the traffic that's being put out on Channel 3. So
14 it was quiet and we could talk on that one and then I can
15 go back.

16 **Q** You've identified that you were at Berkeley
17 Pointe. Did you know which building you were near?

18 **A** Not at the time.

19 **Q** And leaving this vehicle, where did you go to
20 determine what building you were at?

21 **A** I went to the building to find out what
22 building number it was.

23 **Q** I'm showing you State's 4. Is that the
24 building you went to?

25 **A** It is.

1 **Q** And State's 5.

2 **A** Yes, it is.

3 **Q** And where is the building number located on
4 State's Exhibit number 5?

5 **A** It's on the right side of the building.

6 **Q** And was that building number located anywhere
7 else on the building to your recollection?

8 **A** Not that I know of.

9 **Q** How is it that you got from the vehicle down to
10 building [REDACTED]?

11 **A** There is a sidewalk that goes all the way
12 around the complex. I walked on the sidewalk to the
13 building.

14 **Q** Did you approach building [REDACTED] on the sidewalk
15 that leads from the building out to the parking area?

16 **A** Correct.

17 **Q** How close -- and if you use the pointer for me,
18 how close on State's number 5 did you get before the next
19 thing happened?

20 **A** I was looking up here. I was probably around
21 this area right where the threshold is.

22 **Q** When you approached this threshold, did you see
23 anyone?

24 **A** I did not.

25 **Q** Did you hear anyone talking?

1 **A** I did not.

2 **Q** On your way in to the roundabout area and as
3 you walked over to building [REDACTED], did you see anyone out
4 there?

5 **A** Not that I remember.

6 **Q** What channel were you on when you reached the
7 threshold of the [REDACTED] building?

8 **A** I was on Channel 3.

9 **Q** What was your intent when you reached that
10 threshold?

11 **A** I intended to inform dispatch that I was out on
12 a call, what building I was at and that I possibly or
13 that I had the vehicle that we were looking for.

14 **Q** And did you -- were you able to get that
15 information out to dispatch at that point in time?

16 **A** I believe I did. I don't think that I
17 completed my transmission.

18 **Q** What happened that you think prevented you from
19 completing that transmission?

20 **A** Well, I still had my hand on my mic. I was
21 looking up at the building number when I was calling out
22 where I was. I saw a muzzle flash coming from the
23 stairwell and I heard gunshots.

24 **Q** You recall how many gunshots you heard?

25 **A** I don't.

1 Q Before what you just described happened, did
2 you have your sidearm out?

3 A I did not.

4 Q Did you have your taser out?

5 A I did not.

6 Q Flashlight?

7 A I did not.

8 Q Anything in your hand?

9 A Other than my mic, no.

10 Q Why would you not have something out at this
11 point in time?

12 A From all that we knew, it was a minor traffic
13 violation having the wrong tag on the vehicle. So we
14 didn't know if the vehicle was stolen, why he ran or
15 anything like that. From all that we knew, it was just
16 simply wrong tag on the vehicle.

17 Q After your gunshots and the muzzle flashes,
18 those occurred, were you able to see where the shots were
19 coming from?

20 A I did.

21 Q I'm going to show you State's 6. If you would,
22 identify for the jury where those shots were coming from.

23 A They were coming from down below. There's a
24 stairwell that goes down. There's a stairwell that goes
25 up. It was coming from the stairwell that goes down.

1 **Q** I'm showing you State's 10. Is that the
2 stairwell?

3 **A** Yes, it is.

4 **Q** From the vantage point of this picture, do you
5 know how many apartments there are on this floor?

6 **A** On which floor?

7 **Q** From where this photograph was taken.

8 **A** Okay.

9 **Q** Do you know how many apartments are on this
10 floor?

11 **A** I believe there are four apartments on this
12 floor.

13 **Q** Do you know how many are on the bottom floor?

14 **A** At least two.

15 **Q** I'm showing you State's 8 and State's 9. Just
16 to be clear, Officer Cobb, there are various placards in
17 these pictures with numbers. Were those present before
18 the shooting occurred?

19 **A** No, they were not.

20 **O** All right. So moving back to State's 6. I
21 believe you testified you saw some shots coming from the
22 area of the stairwell leading down to the other
23 apartments?

24 **A** Correct.

25 **Q** And you saw a muzzle flash and heard gunfire?

1 **A** Correct.

2 **Q** Were you able to tell who was shooting at you?

3 **A** All that I could tell by the muzzle flash
4 because it was so dim light was that it was a black male.

5 **Q** Could you tell what sort of clothing the person
6 had on?

7 **A** I could not. The only thing that I -- that he
8 was possibly wearing a black hat.

9 **Q** I'm sorry. Could you say that again?

10 **A** Possibly wearing a black hat.

11 **Q** Could you see anybody other than this person?

12 **A** I did not.

13 **Q** Did you hear any conversation, talking or
14 arguing?

15 **A** I did not.

16 **Q** You see the muzzle flash, you hear the
17 gunshots, what do you do?

18 **A** Before I knew -- before I knew it, my weapon
19 was in my hand and I was returning fire. I was running
20 for cover. I ran this way firing. I was behind the
21 stairwell right here.

22 **Q** Do you remember how many times you discharged
23 your weapon before gaining cover behind the stairwell?

24 **A** I do not. I know I at least shot twice.

25 **Q** Showing you what's been marked as State's 7.

1 Excuse me. Yeah, State's 7. Please describe for the
2 jury what this shows.

3 A This is the area that I sought cover behind.
4 This is the stairwell going up. This right here where
5 these are is the stairwell going down.

6 Q You discharge your weapon. You take cover
7 behind the stairwell. What happens next?

8 A Uh, I think I hear a little movement down
9 below. So I come around looking down here. When I come
10 around, I get fired upon again and I return fire.

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

12 A I do not.

13 Q Do you recall how many times you discharged
14 your weapon at that point in time?

15 A I do not.

16 Q What happens after this second exchange of
17 gunfire?

18 A I retreat back behind the stairwell here.

19 Q And what do you do?

20 A I drop the clip out of my -- I drop my magazine
21 and I put another magazine into my weapon.

22 Q Why did you do that?

23 A It's from training, military, police, that you
24 never enter a gunfight if you don't know that you're
25 fully loaded. I had no idea how many times I shot.

1 Q Did you ever come back around and look down the
2 stairwell again?

3 A Uh, not until after Officer Lane -- not until I
4 was leaving the stairwell.

5 Q From the top of this exhibit, which is State's
6 number 7, what is behind this building?

7 A Wood. Wooded area. Behind there is a wooded
8 area.

9 Q Is the wall portrayed in State's 7 so high that
10 you could not see over it?

11 A I could see over the wall.

12 Q Did you ever look over the wall?

13 A I did.

14 Q And what did you see?

15 A I saw part of the concrete floor underneath and
16 I saw the woods.

17 Q Did you ever see anyone?

18 A I did not.

19 Q Did you ever hear anyone talking down below?

20 A I did not.

21 Q After you put your second clip in, were you
22 able to communicate with Officer Lane?

23 A No, uh, while I was behind the stairwell, I
24 heard Officer Lane come through. I saw him -- well, I
25 didn't really see him. He ran past. Then I heard more

1 gunfire. After that, I started calling out for the
2 suspect to come out. Not only did -- I wanted to let
3 Officer Lane know where I was. He had no idea where I
4 was in the stairwell. He wasn't there when all this
5 began. I started calling out for the suspect to come out.
6 so that he knew where I was and he knew that I was okay.

7 Q Did you ever get on the radio to call dispatch
8 to inform them what was going on?

9 A I attempted to. I believe I had a hard time
10 hearing. When you fire a weapon and you don't have any
11 ear protection, you get a little ringing sensation. And
12 there was a beep, when you key up on the mic, there's a
13 beep to let you know that you're on the net, which means
14 that you can talk on the radio without anyone talking
15 over you or it won't go through. And for some reason, I
16 couldn't hear the beep. So I couldn't tell whether or
17 not I was getting out on the radio.

18 Q The third round of shots that you described, do
19 you know whether or not they were coming at you?

20 A I don't believe they were coming at me. I
21 really don't know.

22 Q And at some point in time, were you able to
23 communicate with Officer Lane?

24 A I was.

25 Q You recall when that was?

1 **A** It was after I had called the -- tried to call
2 the defendant out. After that, we were able to
3 communicate better and he was able to back me out of the
4 stairwell so I could get out of the building.

5 **Q** Following the last shots, which would be the
6 third round of shots, were there any other shots fired by
7 you?

8 **A** No.

9 **Q** I want to be sure and clear, Officer Cobb, how
10 many times did you discharge your weapon?

11 **A** (No response.)

12 **Q** Let me rephrase. How many occasions did you
13 discharge, being the first occasion out on the breezeway?

14 **A** Not including the two times that I fired there?
15 The initial -- when I went through the threshold was the
16 first time that I fired. When I came around and I got
17 fired upon again through the spindles was the second time
18 I fired. After that, I did not fire in the area.

19 **Q** How many times, such as you just described, did
20 the other person fire?

21 **A** Three times.

22 **Q** Do you know how many times, meaning how many
23 shots, you fired?

24 **A** Not at the time.

25 **Q** Do you know how many times the other person

1 shot?

2 **A** Not at the time.

3 **Q** Now, were you carrying department issued
4 sidearm?

5 **A** I was.

6 **Q** Was it loaded with department issued
7 ammunition?

8 **A** It was.

9 **Q** And what sort of sidearm were you carrying that
10 day?

11 **A** A 9mm handgun.

12 **Q** Do you recall what sort of ammunition you were
13 carrying that day?

14 **A** It's the same as we're carrying now. I believe
15 it's Speer.

16 **Q** Once Officer Lane backs you out, referring to
17 Exhibit 106, could you step down and please show the jury
18 where you went.

19 **A** When he backed me out this entranceway, we
20 checked each other to see if either one of us was
21 injured. Because of all the adrenaline, we didn't know
22 if we were hit or not. After that, I left and I took
23 this corner right here of the building until, uh, some
24 members of SWAT and the K-9 unit came.

25 **Q** You recall where you went after you initially

1 covered that -- is that the front right or the front left
2 side?

3 **A** When you are looking at it, it's the right
4 side.

5 **Q** Do you recall where you went after you covered
6 the front right side of that building?

7 **A** There were actually several places that we went
8 during this time because of more units coming in. At one
9 point, we were behind these vehicles. At another point,
10 we were over here. I also took position over here.
11 There were several places.

12 **Q** Referencing back to the front right corner, did
13 you ever see anybody come or go?

14 **A** I did not.

15 **Q** You recall seeing anyone come out of the
16 apartment complex, specifically building [REDACTED] at that
17 time?

18 **A** There was one female that opened her door and I
19 yelled at her for her to go back inside.

20 **Q** I'm showing you State's 101. You can see a
21 placard in there labeled number 1. What is that?

22 **A** I believe that is my magazine.

23 **Q** Well, if I'm not mistaken, you testified that
24 you dropped a clip in the stairwell earlier.

25 **A** I did.

1 **Q** So how did the magazine get over here?

2 **A** That was one of my blunders. We are trained
3 that when we drop a magazine you leave it there. And for
4 some reason, I picked it up and I put it in my pocket.
5 When we started changing positions, when I went behind
6 this vehicle, it was stabbing me in my side. So I took
7 it out of my pocket and set it down. When I moved to
8 another position, I left it there.

9 **Q** Immediately surrounding the time that this
10 incident occurred, did you see anybody other than the
11 female resident of the building that you were at, [REDACTED]
12 come or go around building [REDACTED]?

13 **A** Other than law enforcement, no.

14 **Q** And how long would you estimate you were out
15 there on the scene that day?

16 **A** I believe we were at least on the scene at 6:30
17 or 7:00 that night.

18 **Q** At some point in time, did you ever get in the
19 car with Detective Flavell?

20 **A** I did.

21 **Q** Thank you, Officer Cobb. Please answer any
22 questions Mr. Johnson may have.

23 **THE COURT:** Yes, sir.

24 **MR. JOHNSON:** One second please, Your Honor.

25 **THE COURT:** Certainly.

1 And Ladies and Gentlemen, if you need a break
2 at any time, you just signal to me or you signal to
3 Ms. Katrina over here. We'll take a break
4 immediately. I did not tell you that. And if while
5 we are breaking between witnesses and whatnot, if
6 you need to stand and stretch, you can do that too.

7 **MR. JOHNSON:** All right. Your Honor, I
8 apologize.

9 **THE COURT:** No problem.

10 **CROSS-EXAMINATION**

11 **BY MR. JOHNSON:**

12 **Q** Officer Cobb, let's talk about --

13 Can I have some more light? Thank you.

14 You talked about a lot of stuff as far as when
15 you approached the scene and saw the car and things of
16 that nature. I want to talk specifically about the
17 shooting, okay?

18 **A** Okay.

19 **Q** Uh, now, you stated really when the first and
20 second shots were fired, you couldn't see anything except
21 for a muzzle flash, right?

22 **A** Correct.

23 **Q** So you could not see who was shooting at you?

24 **A** I could see that it was a black male.

25 **Q** You could see that was a black face?

1 **A** Correct.

2 **Q** But you didn't know -- you saw one person
3 shooting at you, but you don't know if it was just him or
4 if there was anyone else down there?

5 **A** I didn't see anyone else down there.

6 **Q** Okay. Now, you also couldn't see, say for
7 instance, where your bullets were going. You could see
8 that you were shooting down at the stairwell, but you
9 didn't know where the bullets were going specifically,
10 did you?

11 **A** No, I did not.

12 **Q** Now, you also testified at the prior hearing,
13 is that correct?

14 **A** I did.

15 **Q** Now, some of your testimony today is a little
16 bit different, isn't it?

17 **A** I'm sure it is.

18 **Q** Okay. Now, uh, one of the things you're
19 talking about today is the Solicitor asked you and you
20 answered, you didn't hear any talking or anything down
21 there, isn't that true?

22 **A** He asked me this time, yes.

23 **Q** He did ask you this time. He didn't ask you
24 that last time, did he?

25 **A** No.

1 **MR. JOHNSON:** I have nothing further at this
2 time, Your Honor.

3 **THE COURT:** All right. Anything else for
4 this witness?

5 **MR. MARCHANT:** No, Your Honor.

6 **THE COURT:** Ma'am, you can step down.

7 **THE WITNESS:** Thank you.

8 **MR. MARCHANT:** The State calls Officer
9 Charles Lane.

10 **THE CLERK:** Officer Lane, if you would, come
11 forward to be sworn in please. Place your left hand
12 on the Bible and raise your right. Thank you.

13 **CHARLES LANE**
14 having first been sworn, testifies as follows:

15 **THE CLERK:** Thank you. You may be seated.
16 Would you please state your name for the record.

17 **THE WITNESS:** My name is Charles Lane.

18 **THE CLERK:** Thank you.

19 **DIRECT EXAMINATION**

20 **BY MR. MARCHANT:**

21 **Q** Officer Lane, where are you employed?

22 **A** Greenville City Police Department.

23 **Q** And how long you been with the City?

24 **A** Uh, going on six years.

25 **Q** You been in here the entire time?

1 **A** Yes, I have.

2 **Q** You heard Officer Cruell testify about her
3 experiences at the Academy?

4 **A** I did.

5 **Q** And you had to go through those same training
6 classes?

7 **A** Yes, sir.

8 **Q** And your credentials are with the City Police
9 and your education -- your annual education,
10 certifications, are those up to date?

11 **A** Yes, sir. They are.

12 **Q** What are your responsibilities today with the
13 City Police Department?

14 **A** Today, I work on Uniform Patrol. My duties are
15 the same as Officer Cruell described earlier. We answer
16 calls for service, investigate crimes, uh, perform
17 traffic stops.

18 **Q** Back in October of 2011, were those duties any
19 different?

20 **A** No, sir. They weren't.

21 **Q** You recall whether or not you were on shift on
22 October 28th, 2011?

23 **A** I was.

24 **Q** Do you recall what you were doing when you
25 first communicated with Officer Cruell?

1 **A** I can't remember the exact area that I was at
2 when she gave me a phone call. But I was working in the
3 beat which was north of where she was working. Most of
4 the folks are familiar, it's off of Woodruff type area
5 near Verdae. She called me down at the Comfort Inn on
6 Laurens Road.

7 **Q** And we seen various photographs of the lobby as
8 well as this aerial which is State's 107. Do you recall
9 whereabouts the vehicle was when you got into the parking
10 lot?

11 **A** When I arrived, uh, I came into the parking lot
12 from Laurens Road here. I pulled it. It was somewhere
13 where this blue line was drawn between two and three
14 parking spaces right here.

15 **Q** If you would, with the orange marker, based off
16 of your recollection, please circle or underline where
17 you believe the car, vehicle to had been parked.

18 **A** Generally?

19 **Q** Generally, yes. So I'm clear, you don't recall
20 the exact parking spot?

21 **A** No, sir. I don't recall the exact parking
22 spot.

23 **Q** When you arrived, how did you find the vehicle?

24 **A** It was backed into the spot. Excuse me. It
25 was backed into the parking space. I had gotten out of

1 my vehicle and started kind of double checking around
2 where Officer Cruell stated the tag was coming back to a
3 Honda. I looked at the tag. I looked inside the vehicle
4 to see if their might have been anything that might have,
5 like an envelope or something of that nature that might
6 have a name or an address stating who the vehicle
7 belonged to. When I looked into the windshield area, I
8 was looking for the VIN. I saw a -- it was a black in
9 color tree air freshener blocking the VIN entirely. I
10 also saw a radar detector sitting there on the dash.

11 Q Following your inspection of the vehicle, what
12 did you do?

13 A For a moment, checked the DMV file to see if
14 the vehicle the tag belonged to, that same owner, see if
15 they might own a vehicle of similar description as the
16 2005 GMC Yukon. I didn't find anything to that. We also
17 checked with our dispatch to see if there's any vehicles
18 stolen recently to match that description. After we went
19 through that, we went over to -- went inside the hotel.

20 Q And the pictures that I showed Officer Cruell--

21 A I'm listening.

22 Q The pictures that I showed Officer Cruell of
23 the inside area, lobby area of the Comfort Inn, is that
24 how you recall the lobby being laid out?

25 A Yes, sir.

1 **Q** And she testified she saw an individual walk
2 through that was not an employee of that motel. Did you
3 see that individual walk through?

4 **A** I did not, sir.

5 **Q** Inside the lobby area, what were you thinking?
6 What were you focusing on? What are you trying to do?
7 What's the point of you being inside the lobby?

8 **A** At that point, we were trying to see if the
9 person who the tag belonged to might have been staying at
10 the hotel. I sat down for a moment. I don't recall
11 exactly the reason why I sat. But while I was sitting,
12 there was a refrigerator, small refrigerator sitting on a
13 countertop. The table was fairly close to there. There
14 was a window directly across from there. I was sitting
15 in the seat and kind of keep the back corner side of the
16 vehicle. I couldn't see the entire vehicle. I kept that
17 in view. I wasn't looking at it the entire time, but I
18 did keep it in my views between Officer Cruell and the
19 staff.

20 **Q** And at some point in time, Ms. Irby informed
21 y'all the vehicle was leaving?

22 **A** Yes, sir. I was, uh, seated. And she was
23 standing somewhere near the window. And she told us the
24 vehicle was leaving from the parking lot.

25 **Q** You're sitting -- are you sure you're sitting

1 at the table or standing up? I'm sorry.

2 **A** I do remember sitting specifically at a table.

3 **Q** And you are able to see the back?

4 **A** A very small portion of the vehicle. I wasn't
5 -- uh, like I said, I wasn't totally engaged in looking
6 at the vehicle the whole time. I wasn't looking in the
7 same direction as Officer Cruell the whole time. I was
8 kind of glancing and talking to folks and keeping a view.

9 **Q** Did you ever see anyone getting into that
10 vehicle?

11 **A** No, sir. I didn't.

12 **Q** Once Ms. Irby notified yourself and Cruell that
13 the vehicle was leaving, what did you do?

14 **A** I got up. I head towards the doors. And you
15 could see it right underneath there, the cover at the
16 front or off to the side where I could see in order to
17 tell Officer Cruell which direction the vehicle was going
18 when she got in her patrol car.

19 **Q** I'm going to show you what's been marked and in
20 evidence as State's number 82. Please explain to the
21 jury what this vantage point is.

22 **A** This is when you come out of the double glass
23 doors. Excuse me. That's when you come out from the
24 double glass doors from the hotel. This isn't too far
25 from that entrance. I'm standing somewhere in between

1 here when I was watching. You could see a car there on
2 Laurens Road. I was looking in that direction as the
3 vehicle passed. It passed here and went that way.

4 Q I'm understanding the Yukon came in front of
5 you?

6 A Yes, sir.

7 Q Did it come -- did it drive through, I guess,
8 the overhang or was it on the other side of the overhang?

9 A It's on the other side where you see that
10 vehicle parked right there. It came around that way.

11 Q I'm showing you State's 83. With respects to
12 State's 82, was that vehicle or was there a vehicle
13 parked there when this incident occurred?

14 A I don't recall there being one.

15 Q State's 83 and State's 84. Where did it -- how
16 did the vehicle exit and which way did it go?

17 A This is -- as you come out the -- sorry. As
18 you come out from the entrance, stopped at the left where
19 the vehicle was parked and came through the parking lot
20 and down this drive. Is that what you're asking?

21 Q Yes. Now, did it turn left or right out on
22 Laurens Road?

23 A It turned right on Laurens Road.

24 Q And did you inform Officer Cruell of this?

25 A Yes, I told her it turned right towards 85.

1 **Q** Once that occurred, where did you go? What did
2 you do?

3 **A** I went -- from where I was at I went in my
4 patrol vehicle, got in my patrol vehicle and tried to
5 catch up, listened to the radio. I learned that she'd
6 gone, gotten onto 85 southbound.

7 **Q** Did you also get on 85 southbound?

8 **A** Yes, I did.

9 **Q** And how far did you travel before you exited
10 off of 85?

11 **A** Uh, well, you're asking the next exit I got
12 onto?

13 **Q** How long were you on 85 and where did you get
14 off?

15 **A** Approximately two miles. I got off -- actually
16 onto 85 from Laurens Road, which is Exit 48. I got off
17 on Mauldin Road, which is Exit 46. So about two miles.

18 **Q** What's the purpose of you pursuing this vehicle
19 as well?

20 **A** I was trying to catch up with Officer Cruell --
21 typically a vehicle does stop when you try to stop it --
22 so she would have a backup officer there with her in
23 order to cover her while she's making contact with the
24 individual.

25 **Q** Let me get the lights back on for you. Once

1 you got onto Mauldin Road, what did you do?

2 **A** Once I made it to Mauldin Road, I learned
3 Officer Cruell actually exited. That's why I went the
4 same way. I made a lefthand turn which was going back
5 towards where the apartments are on Wenwood Road. I
6 passed right near where the old Hitachi plant is. There
7 was a white semi that was trying to back out in the road
8 and needed assistance. So I assisted the driver.
9 Officer Cruell was trying to help him back out and get
10 out of there.

11 **Q** After you helped the tractor trailer get out of
12 the road on Mauldin Road, how -- did you go about your
13 normal duties on that day? Were you continuing to patrol
14 for this vehicle?

15 **A** Yes, sir. What I did was went through the
16 parking lot at the old Hitachi plant and just started
17 checking around there. At some time while helping the
18 truck back out and go through the parking lot of the
19 plant, I heard the call come out over near Christ Church
20 about a suspicious person in the area.

21 **Q** Officer Lane, if you would, step down and show
22 the jury on State's 108 where the Hitachi plant is here
23 and how you patrolled through that morning.

24 **A** Okay. You can't see the entrance from over
25 here. Somewhere in this vicinity is where the, uh, truck

1 was backed out. Then I went in the entrance, came
2 through here, went around. I went through here as I
3 heard the call. I went all the way out through a parking
4 lot that cuts through back to Fairforest Way. I came
5 down there. Came down Fairforest Way. I started going
6 through all the apartments looking for this individual.
7 I don't remember an exact direction of the person who
8 called. I went through here. I just kept going up.
9 Going through these parking lots. Came up here.
10 Finally, I was going up here. This is where Officer Cobb
11 actually found the vehicle. I saw her car this way and
12 the vehicle backed in this way. As soon as I came up, I
13 parked my vehicle opposite hers.

14 Q Let me show you State's 1, Officer Lane.

15 A Yes. There's either -- it's in one of these
16 two or three spaces here where the vehicle was backed in.
17 I had my vehicle nose end to that one. As soon as I
18 pulled up, I did recognize the vehicle. It was the same
19 silver GMC Yukon. It had that radar detector sitting
20 there on the dash. When I went up, I also saw the -- I
21 saw the tree shaped air freshener.

22 Q Did you radio to dispatch and try to confirm
23 the same vehicle or did you converse with Officer Cobb
24 out there about that?

25 A I was talking to Officer Cobb. She was calling

1 Officer Cruell on the alternate channel trying to verify
2 that. I went and checked the tag. It was the same tag.
3 I started looking through the tinted windows trying to
4 see if I could see anything else, if there was somebody
5 that might have hid in the back. I didn't know. As I
6 was doing that, it was right about the back of the
7 vehicle when I heard the gunfire go off. It sounded like
8 it was coming somewhere in this direction. At the time,
9 I didn't immediately recognize it. I start walking that
10 way, then the second round of shots went off. I let
11 dispatch know that shots were being fired.

12 Q When you said you let dispatch know, how is it
13 that you did that?

14 A I used the radio.

15 Q Now, let's talk about when you arrived up at
16 that vehicle, did you see anybody come in or out of that
17 vehicle?

18 A No, I did not.

19 Q On your way in, driving up to that roundabout
20 where the vehicle was located, did you notice anyone
21 walking around or anyone running around?

22 A No, sir. I didn't see anybody.

23 Q Notice any residents at that point in time?

24 A No, sir. I didn't.

25 Q Okay. Officer Lane, after the first round of

1 shots, where did you go?

2 **A** After the first round of shots, I started
3 walking towards the building. After the second round of
4 shots, I started going more hurriedly to the [REDACTED]
5 building.

6 **Q** I'm going to show you what's in evidence as
7 State's 4.

8 **A** Yes, sir.

9 **Q** If you would, use the laser pointer and show
10 the jury -- well, is it visible on here where you were
11 when the second round of shots came?

12 **A** Uh, I can't remember exactly where I was. I
13 was somewhere between the vehicle which would have been
14 somewhere over here. And the corner of the building is
15 about right here. I may have been at this point or kind
16 of close to this point where you can see in the picture
17 when the second round of shots went out.

18 **Q** At some point in time, did you make your way to
19 the breezeway?

20 **A** Yes, I did.

21 **Q** And showing you State's 5. Where were you
22 standing when the third exchange of gunfire occurred?

23 **A** I had been calling for Officer Cobb. I didn't
24 get a response. So where I was at, I crossed here. I
25 started looking for her because I wasn't getting a

1 response. I was somewhere right around here in the hole,
2 in the breezeway when the third round of shots went off.

3 Q Had you crossed the threshold?

4 A I believe I had. Again, I can't be for
5 certain. I believe I had. After I was shot at, I went
6 and slammed against this wall and retreated behind this
7 wall to gain cover.

8 Q Did you exchange any fire?

9 A No, sir. I didn't. I didn't know where
10 Officer Cobb was. I didn't know if she was down the
11 stairway. I didn't know if she was behind the staircase.
12 I didn't know her location. Everything became very dim
13 and dark to me. So I didn't fire back out of fear of
14 striking her.

15 Q The person that was shooting at you, were you
16 ever able to see who it was?

17 A Uh, nothing distinct other than -- I saw the
18 silhouette of a person. I saw a muzzle flash. I could
19 see the teeth of the person.

20 Q Do you know how many shots were coming at you?

21 A No, I don't.

22 Q Could you tell if it was more than one?

23 A Yes.

24 Q What kind of firearm do you carry?

25 A I carry a 9-millimeter.

1 Q Is that the same as Officer Cobb?

2 A Yes, it is.

3 Q Department issued?

4 A Yes, sir.

5 Q With department ammunition?

6 A Yes.

7 Q What sort of ammunition do y'all carry?

8 A Speer.

9 Q And the caliber is?

10 A 9-millimeter.

11 Q Can you tell whether or not it was a male or
12 female down the stairwell?

13 A No, sir.

14 Q Black or white?

15 A No.

16 Q Hispanic?

17 A No.

18 Q You could just tell -- you said a silhouette?

19 A Yeah. The silhouette of a person.

20 Q A person?

21 A Yes.

22 Q Could you tell if there was more than one
23 person down there?

24 A No, I couldn't. I could just see the
25 silhouette of one person.

1 **Q** Could you hear Officer Cobb at that point in
2 time?

3 **A** Not at that point, no.

4 **Q** Could you hear any other talking at that point
5 in time?

6 **A** I didn't. After the second round of gunfire,
7 the only thing I remember hearing was the drop of a clip.
8 I didn't hear anybody talking, yelling, moving. Anything
9 of that nature.

10 **Q** The shots that -- the third round of shots when
11 you stepped in the threshold, could you tell if those
12 were coming at you or going in another direction?

13 **A** I believe that they had -- they were coming
14 after me. When I retreated behind this wall, I patted
15 myself down, checked my head, checked my body to see if
16 there's any blood coming from me.

17 **Q** Were you struck?

18 **A** No, I wasn't.

19 **Q** Was Officer Cobb struck?

20 **A** No, sir.

21 **Q** Did you discharge your weapon?

22 **A** I did not.

23 **Q** You backed out to take cover. What'd you do
24 next?

25 **A** After taking cover behind here, I was there --

1 I really don't know the length of time, how long I was
2 there. At one point, what I did was I came from here and
3 took the far corner of the building.

4 Q I'm showing you State's 101.

5 A Where I come was here. I took cover right
6 here. After a short time, I took this corner right here
7 so I could see what's down this way and across this way
8 so I could see anybody if they came out of the breezeway
9 or if they tried to come out the back side of the
10 building to go in this direction.

11 Q From that vantage point, did you see anybody
12 come around?

13 A No, sir. I did not.

14 Q At that point in time, do you recall whether or
15 not you had backed Officer Cobb out?

16 A Shortly after me being here, other officers
17 started arriving. They started taking different
18 positions. I came here. I helped. I covered the
19 hallway so Officer Cobb could come out.

20 Q Do you recall what time you informed dispatch
21 of shots fired?

22 A I have no clue.

23 Q Do you recall how long after you arrived on the
24 scene?

25 A No.

1 **Q** I guess what I'm asking is once you pulled up
2 and parked your vehicle, approximately how long do you
3 think it was before the first round of shots you heard?

4 **A** Two to three minutes at the most.

5 **MR. MARCHANT:** Court's indulgence.

6 **THE COURT:** Yes, sir.

7 (WHEREUPON, there is a pause.)

8 **BY MR. MARCHANT:**

9 **Q** Where you able to tell what sort of firearm is
10 being used to shoot at you?

11 **A** Not exactly. I just knew that I could hear
12 several shots going off at once. I assumed that it was a
13 fully automatic weapon. That's what I assumed. I didn't
14 know for certain.

15 **Q** Thank you, Officer Lane. Please answer any
16 questions Mr. Johnson may have.

17 **THE COURT:** Yes, sir.

18 **MR. JOHNSON:** Thank you, Your Honor.

19 **CROSS-EXAMINATION**

20 **BY MR. JOHNSON:**

21 **Q** Officer Lane, you testified that you were at
22 the hotel with Officer Cruell, is that correct?

23 **A** Yes, I was.

24 **Q** At some point in time, -- well, obviously,
25 y'all were investigating this car at this point, right?

1 **A** Yes, sir.

2 **Q** At some point in time, you spoke with some of
3 the employees at the hotel?

4 **A** Yeah.

5 **Q** But you spoke with some of the employees?

6 **A** Yes.

7 **Q** At some point, you asked the employees about
8 the car, correct?

9 **A** I don't remember if it was me or Officer Cruell
10 who asked about the other vehicle.

11 **Q** But one of you did?

12 **A** Yes.

13 **Q** And at some point, one of the employees told
14 you the driver of the vehicle, that's him?

15 **A** That somebody was getting into the car or
16 somebody had gotten into the car.

17 **Q** They didn't tell you the driver of the vehicle,
18 that's him, the officer who saw him?

19 **A** At which time, sir.

20 **Q** The person was walking through the lobby, okay.
21 And then at some point, the employee told you or Officer
22 Cruell one, I guess you overheard it, that the person
23 that's driving the car, that's him.

24 **A** As the person walked through the lobby, no one
25 said anything about him being the driver of the vehicle.

1 Q Now, you testified at the prior hearing,
2 correct?

3 A Yes, sir. I had.

4 Q Now, you know that there was a transcript done
5 for that hearing?

6 A Yes, sir.

7 Q Had you seen that transcript?

8 A In its entirety, no, sir.

9 Q Now, Officer Lane, I'm handing you what is a
10 question of the transcript, okay? I highlighted a
11 portion for you. I want you to read it.

12 A Okay. (Reading.)

13 Uh, --

14 Q I'll ask you a question if you don't mind.

15 A You want me to read it out loud?

16 Q No.

17 A Okay.

18 Q I'm going to read the portion now. I'd like
19 for you to tell me if I read it correctly. At some
20 point, I think it was an employee said the person who
21 drives that car just walked out. And Officer Cruell, I
22 guess, had actually seen him, is that right?

23 A That is what it said.

24 Q I read that correctly, right?

25 A Yes, sir. You read it correctly.

1 **Q** And this is the transcript of the prior
2 hearing. During some of this time that you were at the
3 hotel, you were kind of nonchalantly keeping an eye on
4 the vehicle, correct?

5 **A** (Nods head.)

6 **Q** I'm sorry. You have to answer audibly.

7 **A** Uh, yes, sir.

8 **Q** All right. So you didn't see anyone get in or
9 get out of the vehicle?

10 **A** I did not.

11 **Q** So you have no idea how many people could have
12 been in that vehicle?

13 **A** All I know is when the lady who was taking care
14 of the bar area, when she told me that, uh, the person
15 had just gotten in the vehicle and they were leaving, she
16 was standing near the window. It wasn't while the person
17 was still in the dining hall area.

18 **MR. JOHNSON:** Beg the Court's indulgence.

19 **THE COURT:** Yes, sir. Yes, sir.

20 **BY MR. JOHNSON:**

21 **Q** I'm not sure at what point in the time line
22 this happened, but at some point, Officer Cruell gave out
23 a description of the suspect that she saw, isn't that
24 true?

25 **A** Yes, sir.

1 Q She said that that subject was a black male, is
2 that correct?

3 A Yes, sir.

4 Q Six feet tall?

5 A Yes, sir.

6 Q About 170 pounds?

7 A Yes, sir.

8 O With his hair pulled back?

9 A Yes, sir.

10 Q Now, you encountered the car again at Berkeley
11 Pointe, isn't that right?

12 A Yes, sir. I did.

13 Q At that point, you kind of went and you
14 inspected the car.

15 A I was looking through the windows.

16 Q Looking through the windows and you had to kind
17 of get up on the car, isn't that true?

18 A The way the lighting was, yes, sir, and tree
19 cover and some shadows there. Yeah.

20 Q And isn't it also due to the tinted nature of
21 the car?

22 A Yes.

23 Q Isn't it true that the front of the car is kind
24 of light and the back of the car is pretty much black.
25 You have to get really up on it to see, is that right?

1 **A** I can't recall exactly.

2 **Q** Now, it's been testified that there were three
3 rounds of shots, is that correct?

4 **A** Correct.

5 **Q** And you heard two and you believe that you were
6 involved in a third?

7 **A** I know I was involved in a third, yes, sir.

8 **Q** So your testimony is someone was shooting at
9 you?

10 **A** Yes, sir.

11 **Q** You believe someone was shooting at you?

12 **A** Yes, sir. I know someone was shooting at me.

13 **Q** And that's because you saw a muzzle flash?

14 **A** Yes.

15 **Q** And you stated -- you testified today you
16 couldn't tell what that person looked like?

17 **A** No, I couldn't.

18 **Q** And that's because it was dark out there? It
19 was dark where that muzzle flash was coming from.

20 **A** It's either that or I got tunnel vision. I'm
21 not sure.

22 **Q** Well, it would be easy to see a flash in a dark
23 place, wouldn't it?

24 **A** Yes, sir.

25 **Q** If we turn the lights off and I got a

1 flashlight, it would be easier to illuminate, isn't that
2 true?

3 **A** Yes, sir.

4 **Q** Now, as far as you could tell, you saw the
5 muzzle flash when you saw a person shooting at you but
6 you don't really have a description, is that right?

7 **A** Yes.

8 **Q** Now, also as far as you know, you didn't really
9 know if someone else was down there either, did you?

10 **A** I could only see one silhouette of one person.

11 **Q** You couldn't only see the silhouette of one
12 person but you didn't know -- it could have been someone
13 else down there, you just didn't know?

14 **A** I could only see one silhouette of one person.

15 **MR. JOHNSON:** Your Honor, could we ask the
16 witness to answer my question.

17 **THE COURT:** Will you ask your question again
18 and I will allow it.

19 **MR. JOHNSON:** Sure. Isn't it true that it
20 could have been someone else down there? It's a yes
21 or no question.

22 **THE COURT:** Could you answer his question?

23 **THE WITNESS:** It's a possibility.

24 **MR. JOHNSON:** Okay.

25 **THE COURT:** All right.

1 **MR. JOHNSON:** Nothing further at this time,
2 Your Honor.

3 **THE COURT:** Anything else for this witness?

4 **MR. MARCHANT:** No redirect, Your Honor.

5 **THE COURT:** All right. Sir, you can step
6 down.

7 **THE WITNESS:** Thank you, Your Honor.

8 **THE COURT:** Ladies and Gentlemen, we've come
9 to a good point for a break. I'll ask you to step
10 to your jury room and please don't discuss this case
11 with anyone. Thank you.

12 **(WHEREUPON, the jury exits at approximately**
13 3:52 p.m.)

14 **THE COURT:** All right. Let's be in recess
15 for about 10 minutes.

16 **(WHEREUPON, a short recess is taken from**
17 approximately 3:52 p.m. to 4:23 p.m.)

18 **THE COURT:** All right. First the jurors
19 needed to smoke. And then, one by one, they needed
20 to use the phone. So we've been waiting and waiting
21 and waiting. All right.

22 **MR. MARCHANT:** Your Honor, I have a matter, I
23 believe, that we need to address before the jury
24 comes back in. My investigator brought it to my
25 attention that one of the jurors that are sitting on

1 the front row, that she felt like she had gone to
2 sleep earlier and wasn't paying attention. She's
3 been keeping her eye on her for a little bit. She
4 is Juror Number 132. Her name is Linda Harper.
5 That's not the issue.

6 In September of '12, Detective Conroy responded
7 to her residence, so less than 120 days ago.
8 Approximately her son, Charles Harper committed
9 suicide. He spoke with her husband that night,
10 Isaac Harper. If you will look at her juror card,
11 the address on her card corresponds with the
12 incident location as well as her husband being Isaac
13 Harper.

14 Approximately a week, 10 days, two weeks later,
15 she came down to the Law Enforcement Center and met
16 with Detective Conroy along with her husband.
17 Detective Conroy had seized or taken her computer,
18 house computer to determine whether or not there
19 might have been a suicide note that was left. He
20 returned the computer to them at that point in time.
21 I believe the case was closed out and ruled a
22 suicide.

23 I felt like Her Honor was very clear and we
24 asked a variety of questions in a variety of
25 different manners about dealings with the City

1 Police Department, the City Police Department, did
2 she recognize anybody's name on that list. I don't
3 recall her standing up and indicating anything. I
4 certainly don't have any notes that she was one of
5 the ones that addressed the bench.

6 **THE COURT:** I think the way I was asking the
7 questions, I thought about it, other than having any
8 kind of relationship with anybody, I think I asked
9 them to respond to have you ever been the victim of
10 a crime. I think I couched it more like that. So
11 she probably didn't see this situation as a criminal
12 situation and probably didn't respond because of
13 that. But it is concerning that she didn't -- that
14 with that much contact, she didn't respond.

15 **MR. MARCHANT:** And it's contact with
16 Detective Conroy specifically who was the first
17 witness that you read out to the entire panel.
18 Obviously, we didn't know this at the time. I can't
19 tell you that I would have used a strike if I had
20 one at the time. Our record reflects that she was
21 the sixth juror that was selected. I don't know
22 what the remedy is. But the State would ask that she
23 be removed because of this unusual circumstance and
24 one of the alternates take her place.

25 **THE COURT:** Mr. Johnson?

1 **MR. JOHNSON:** I --

2 **THE COURT:** I mean I don't know if her
3 feelings are positive or negative to the police
4 department. I don't know if she appreciated their
5 responding in the situation or didn't appreciate it.
6 It's hard to know. But it is perplexing that she
7 wouldn't mention that contact.

8 **MR. JOHNSON:** My only concern is, and I'll
9 express it to the court, that it seems as if this
10 jury has been through a decent amount more than what
11 I'm accustomed to. And just removing one of them, I
12 just don't know how that plays. I leave it in Your
13 Honor's discretion. I just want to express that
14 concern to the Court. I don't know. Whatever Your
15 Honor rules, I'll leave it in Your Honor's hands.

16 **THE COURT:** What's her name again?

17 **MR. MARCHANT:** Her name is Linda Harper,
18 number 132. I believe she was the sixth juror
19 selected.

20 **THE COURT:** Bring her in please.

21 **MR. MARCHANT:** Your Honor, Detective Conroy
22 informs me that the cause of death was a shotgun
23 wound to the head area. It's only been 120 days,
24 not even 120 days. This is significant information
25 that should have been divulged prior to now. We

1 don't know if she could be rehabilitated. She seems
2 particularly disinterested here. At that point in
3 time, knowing this information, I can assure the
4 Court I would have used a strike.

5 **THE COURT:** Sure.

6 **(WHEREUPON, Juror Number 132, Linda Harper, enters**
7 **at approximately 4:28 p.m.)**

8 **THE COURT:** Hey there.

9 Will the attorneys approach for a moment?

10 **(WHEREUPON, a bench conference is held off the**
11 **record.)**

12 **(WHEREUPON, the juror exits at approximately**
13 **4:33 p.m.)**

14 **THE COURT:** All right.

15 **MR. MARCHANT:** Your Honor, I've also just
16 been informed that Officer Cobb spoke with her that
17 afternoon, that evening, Officer Cruell, I'm sorry,
18 Officer Fiedler who we have not yet got to and
19 Officer Kellett, Officer Calhoun. It's an unusual
20 situation, but I feel like the proper remedy is to
21 remove her. We've got two alternates. That's the
22 reason we draw the alternates. It's the State's
23 position and request that we remove her and fill her
24 with the first alternate.

25 **THE COURT:** Mr. Johnson, anything in

1 response?

2 **MR. JOHNSON:** No objection, I suppose.

3 **THE COURT:** I'll tell you based on our
4 conversations with her, if anything, I feel like she
5 has a positive view of the police department. I
6 worried, to be frank with you, a little bit more
7 about that than I do -- if she begins to piece
8 things together, I worry about that a little bit
9 more than even her having a negative, any kind of
10 negative view towards the Police Department. All
11 right.

12 Joelle, will you write our two alternates names
13 down and let's draw one?

14 **THE CLERK:** Yes.

15 **THE COURT:** Will y'all bring her back out?
16 Bring her back out in the hall. I'll be right back.

17 (WHEREUPON, the Court exits at approximately
18 4:35 p.m.)

19 (WHEREUPON, the Court resumes at approximately
20 4:36 p.m.)

21 **THE COURT:** All right. We will seat Faydra
22 Pyles. Faydra Pyles. All right. Let's see what
23 the juror number is. Juror Number 244.

24 **MR. MARCHANT:** Your Honor, I just wanted to
25 inquire how long you think you're going to run this

1 evening.

2 **THE COURT:** I was maybe going to try to go
3 til about 5:15 or 5:30 and break about that time if
4 that's acceptable to everybody.

5 **MR. MARCHANT:** Yes, ma'am.

6 **THE COURT:** I think some of the jurors made
7 calls to make arrangements thinking it would be a
8 little bit later. What are you planning on doing
9 this afternoon, Mr. Marchant?

10 **MR. MARCHANT:** Your Honor, I've got three
11 other officers that responded to the scene that day.
12 Then Detective Flavell will be my next witness. I
13 expect his testimony to probably be about 45
14 minutes. So maybe just get to these three. I don't
15 believe they would be very lengthy.

16 **THE COURT:** Okay.

17 **MR. MARCHANT:** Five or ten minutes a piece.

18 **THE COURT:** All right. Well, we may just do
19 that and break for the evening and then come back.
20 You're right. They have been through the ringer.

21 **(WHEREUPON, the jury enters at approximately**
22 **4:39 p.m.)**

23 **THE COURT:** Ms. Pyles, is that you?

24 **THE JUROR:** Yes, ma'am.

25 **THE COURT:** You will now serve as one of our

1 12 jurors. I thank you so much for your service.

2 And Ms. Coleman, you will still stay as our
3 alternate. All right.

4 And let me just, uh, clarify that you can not
5 discuss this case with anyone even each other. I
6 know that that seems a little counterintuitive at
7 this point. You ought to be able to. But let me
8 explain to you we want you to have the full picture
9 before you start hearing anyone else's opinion or
10 anything like that. Then, when the case is over,
11 you will be free to discuss it in the jury room as
12 much as you would like with one another. But for
13 right now, do not discuss the case with anyone. All
14 right.

15 Yes, sir.

16 **MR. MARCHANT:** Thank you, Your Honor. Please
17 the Court. The State calls Officer Corey Kellett.

18 **THE CLERK:** Officer Kellett, if you would,
19 come forward to be sworn in please. Please place
20 your left hand on the Bible and raise your right.

21 **COREY KELLETT**

22 having first been sworn, testifies as follows:

23 **THE CLERK:** Thank you. You may be seated.
24 Would you please state your name for the record.

25 **THE WITNESS:** Corey, C-O-R-E-Y, Kellett,

1 K-E-L-L-E-T-T.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MR. MARCHANT:

5 Q Officer Kellett, where are you employed?

6 A The Greenville City Police Department.

7 Q And how long have you been with the City
8 Police?

9 A Since August 23rd, 2002.

10 Q Were you employed with law enforcement in some
11 other capacity at another agency prior to the City
12 Police?

13 A No, sir.

14 Q You go to the Academy?

15 A Yes, sir.

16 Q You take all the courses?

17 A Absolutely.

18 Q Are your credentials up to date?

19 A Yes, sir.

20 Q What are your duties and responsibility today
21 with the City Police Department?

22 A Patrol, basically patrol, answering calls,
23 assisting any way I can.

24 Q Back in October 28th, 2011, were the duties
25 that you just described the same back then?

1 **A** Yes.

2 **Q** Going back to October 28th, 2011, did you hear,
3 uh, the call across the radio about Officer Cruell
4 chasing a vehicle up 85?

5 **A** Yes.

6 **Q** Do you recall where you were? On what side of
7 town that is that you were working at the time?

8 **A** At that time, I worked the Haywood Road area,
9 Laurens Road, that area, was close to the Comfort Inn as
10 all of it was going on actually.

11 **Q** Do you recall whether or not you were
12 responding to a call when you heard?

13 **A** I was not at that time. I was available for
14 calls and went to assist Officer Cruell.

15 **Q** Do you recall exactly how you got from the area
16 you were, Haywood Road, over to eventually Berkeley
17 Pointe Apartment Complex?

18 **A** Yes. I took, uh, Laurens Road to Duvall Drive.
19 From there, to Ridge Road to Fairforest to Wenwood.

20 **Q** I'm going to have you step down very briefly
21 what's in evidence at State's 108. I need you to speak
22 loudly so the Court Reporter can take it down. Please
23 show the jury on State's 108 how you came into the area
24 and subsequently made your way over to the apartment
25 complex.

1 **A** Yes. Duvall Drive is labeled actually up here.
2 It continues up top where you run into Ridge Road. From
3 Duvall, turn a left onto Ridge. Went to a light at Ridge
4 and Fairforest Way. Came down Fairforest and made a
5 right onto Wenwood Road and proceeded down that
6 direction.

7 **Q** Do you recall where you were when you heard the
8 description of the individual she was looking for?

9 **A** I don't recall exactly where I was when she
10 gave out the description.

11 **Q** Well, on Wenwood Road, did you encounter
12 someone who was not law enforcement at this time that you
13 responded?

14 **A** Yes.

15 **Q** And can you tell the jury you came off of
16 Fairforest onto Wenwood?

17 **A** Yes.

18 **Q** So you are traveling, as this map indicates,
19 west?

20 **A** Yes.

21 **Q** Did you encounter someone on Wenwood Road?

22 **A** Yes.

23 **Q** Can you indicate to the jury whereabouts you
24 came in contact with that person?

25 **A** It would have been actually right about where

1 the second entrance to 500 Wenwood Road is. Right here
2 where it actually says Wenwood Road, it would have been
3 in that area.

4 Q If you would, circle that area please, sir.

5 A (Drawing.)

6 Q The individual that you came into contact with,
7 do you remember what they look like? Were they male or
8 female?

9 A It was a black male wearing an all gray jogging
10 suit.

11 Q When you say jogging suit, can you be a little
12 more specific in your description?

13 A Sweatshirt material. There was a full zip up
14 as well as grey sweat pants.

15 Q Can you recall whether or not the individual
16 was listening to music or...

17 A Yes, he did. I actually had to physically go
18 up to get his attention. He could not hear me asking him
19 to stop to talk to me. He had on earphones that were
20 hooked up to some kind of mp3 player.

21 Q How is it that you were trying to get his
22 attention? Were you in your vehicle? Had you gotten out
23 of your vehicle?

24 A I had stopped my vehicle and had gotten out and
25 was yelling at him towards his direction trying to get

1 his attention. Yelling hey, hey man, hold up a second.
2 At that point, had to approach him. Had to actually run
3 after him to catch up to him.

4 Q And which direction was he coming on Wenwood?
5 Was he going towards Fairforest or away from Fairforest?

6 A He was going away from Fairforest.

7 Q Did you subsequently make contact with him? I
8 believe you mentioned the second entrance to Berkeley
9 Pointe?

10 A Yes.

11 Q And had a conversation with him?

12 A Yes.

13 Q And you turned him loose, hold him for a while,
14 talk to him a while, what?

15 A Based on the description that I had been given,
16 he did not fit that description. He told me that he was
17 exercising. He was drenched in sweat, appeared to have
18 been running. Breathing heavy. Obviously was running
19 when I got out with him. At that point, I checked his
20 information.

21 Q Are you -- when you say exercising, running
22 away from you, was he exercising or was he fleeing?

23 A He appeared to be exercising. It was not a
24 fast-paced sprint. It was more of a job. Just like
25 people on a treadmill. Just a nice steady pace.

1 **Q** Do you recall what time you got out with him?

2 **A** I believe it was right around 9:40 in the
3 morning.

4 **Q** You can have a seat.

5 **A** (Witness complies.)

6 **Q** After you contact with him, where did you go?

7 **A** At that point, my contact with him had actually
8 been called in by Christ Church. I proceeded back the
9 opposite direction down towards Fairforest to make
10 contact with them to let them know that that was not who
11 we were looking for in case they see him still in the
12 area. I actually proceeded away from Berkeley Pointe
13 towards Fairforest.

14 **Q** Did you speak with somebody at Christ Church
15 first?

16 **A** Yes.

17 **Q** Did you personally speak with someone?

18 **A** Yes.

19 **Q** Not over the telephone, not over the radio.

20 **A** No, in person.

21 **Q** After the contact with Christ Church, where did
22 you then go?

23 **A** At that point, at Christ Church, Officer Cruell
24 actually pulled up along side me. I recall being,
25 hearing over the radio that Officer Cobb was out with the

1 vehicle at Berkeley Pointe. I turned my vehicle around
2 and proceeded back.

3 Q Let me show you what's been marked as State's
4 106. I'm going to ask you to step down and describe to
5 the jury how you came into the Berkeley Pointe Apartment
6 Complex.

7 A From this area, this would be the entrance
8 point. I was coming -- Fairforest would be running down
9 this area. I was coming left and turned into Berkeley
10 Pointe by making a right-hand turn.

11 Q And what do you recall occurring or hearing on
12 the radio as you were coming into Berkeley Pointe?

13 A As I was getting very close to the entrance, I
14 heard Officer Lane on the radio advising that shots had
15 been fired at himself.

16 Q And coming into that apartment complex, where
17 did you go and where did you park?

18 A I came into the complex. I made the left hand
19 turn. As I made this right hand turn, this white line
20 that you can see is a speed bump. I straddled the speed
21 bump with my patrol car blocking this entire parking lot
22 so that no cars could exit and no cars could enter.

23 Q Okay. Officer Kellett, if you would, on that
24 map plan with that pen, draw a rectangle indicating where
25 you parked your vehicle.

1 **A** (Drawing.)

2 **Q** All right. As you are pulling in and you are
3 getting out of your vehicle, did you notice or recognize
4 any residents in the complex?

5 **A** No. At that point, it was early morning. I
6 didn't notice anybody.

7 **Q** Parked your car. Did you get anything out of
8 the truck or did you just charge forward?

9 **A** I did not. At that point, I parked my car, uh,
10 went in front of my vehicle towards the direction of the
11 [REDACTED] building.

12 **Q** Was your sidearm drawn?

13 **A** Yes.

14 **Q** And where did -- where exactly did you go or
15 what area did you go to around the [REDACTED] building?

16 **A** At that time, I went to this very front corner
17 right here to take post that way I could see the entrance
18 as well as back down towards the woodline in between the
19 -- I believe this is the 1 [REDACTED] building and the [REDACTED]
20 building.

21 **Q** As you are going from your car to that corner,
22 did you see anybody that was not law enforcement?

23 **A** No, sir.

24 **Q** Did you see a male, female, white, black,
25 Hispanic?

1 **A** Nobody.

2 **Q** Do you recall how long you held that corner?

3 **A** Uh, at that time, I held it until obviously
4 other officers from our agency as well as other agencies
5 arrived on the scene. As a specific time, I do not know.

6 **Q** Okay. You do a report in this case?

7 **A** Yes.

8 **Q** Take the stand.

9 **A** (Witness complies.)

10 **Q** Do you recall how long you were out at the
11 complex that afternoon?

12 **A** Several hours. Not an exact time.

13 **Q** Did you have any responsibilities while inside
14 the complex once SWAT and other command staff arrived?

15 **A** As far as holding positions, I actually moved
16 from that corner across the parking lot towards the other
17 building. As SWAT arrived, once the building was cleared
18 out completely, we were advised by SWAT that no one was
19 there. The only other responsibility I had was assisting
20 the crime scene tape as well as following the vehicle
21 once it was towed from there to Greenville county.

22 **Q** The vehicle you were referring to is ---

23 **A** The SUV?

24 **Q** --- the SUV. And you left with that vehicle
25 and followed it to where?

1 **A** Greenville Tech to the forensics office.

2 **Q** The forensics division is located at Greenville
3 Tech?

4 **A** Yes.

5 **Q** After you left Greenville Tech, where did you
6 go?

7 **A** At that point, I then went back towards the
8 area of, I believe it was Rockingham and Parkins Mill.

9 **Q** And what was the purpose or significance of you
10 going to the Rockingham/Parkins Mill area?

11 **A** At that time, I was told that, uh, the track
12 from the dog had headed in that direction and the --

13 **MR. JOHNSON:** Your Honor, this is hearsay.

14 **THE COURT:** You want to respond?

15 **BY MR. MARCHANT:**

16 **Q** Officer, why did you go --

17 **THE COURT:** Sustained.

18 **BY MR. MARCHANT:**

19 **Q** Why were you directed to go? Don't say what
20 anybody else might have told you about the investigation.

21

22 **A** I was directed to go to that area.

23 **Q** Subsequently, did you respond to Sara Collins?

24 **A** Yes.

25 **Q** And what was the purpose at Sara Collins?

1 **A** To assess (inaudible)

2 **Q** Do you recall what time you were cleared from
3 Sara Collins?

4 **A** Not a specific time. It was once the school
5 was completely cleared out.

6 **MR. JOHNSON:** Your Honor, may we approach?

7 **THE COURT:** Yes.

8 **(WHEREUPON, a bench conference is held off the**
9 **record.)**

10 **BY MR. MARCHANT:**

11 **Q** Officer Kellett, with respect to Sara Collins,
12 the school released at their normal time that afternoon?

13 **A** Yes.

14 **Q** Thank you. Please answer any questions Mr.
15 Johnson may have.

16 **THE COURT:** All right. Yes, sir.

17 **MR. JOHNSON:** Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 **BY MR. JOHNSON:**

20 **Q** Officer Kellett, you were aware there was a
21 previous hearing, are you?

22 **A** Yes.

23 **Q** You didn't testify at that hearing, did you?

24 **A** No.

25 **Q** Uh, I'd like you -- can you see this from where

1 you are?

2 **A** A little bit.

3 **Q** You were right there, you said?

4 **A** That's where I parked my patrol vehicle.

5 **Q** That's where you parked your vehicle. Do you
6 know -- can you -- do you remember where the other
7 vehicles could have been?

8 **A** I know there were two patrol vehicles up by the
9 SUV.

10 **Q** I'm sorry. I'm going to ask you to step down
11 to kind of point. You don't have to use the marker for
12 this.

13 **A** Okay. I remember there were two patrol
14 vehicles up in this area. I was actually the first one
15 on the scene after that. So all the other vehicles were
16 behind mine.

17 **Q** Okay. Was there anybody over here?

18 **A** Not at the time I arrived.

19 **Q** Okay. So as far as you know, there was
20 somebody up here but not something -- not that you know
21 at least?

22 **A** No.

23 **Q** Okay. Now, how far away is that? What type of
24 distance, is that something where you can look and see
25 who was over there or how far away is that?

1 **A** Yeah. It's within physical, I mean, physical
2 range for me to see ---

3 **Q** For you to see it?

4 **A** --- if there's anybody there.

5 **Q** Yeah, that way. Nobody was right here?

6 **A** That I saw.

7 **Q** That you saw. Okay. But there was somebody
8 right here, you're right there and nobody right there
9 that you saw?

10 **A** No.

11 **Q** Okay. I'm sorry. And, uh, you stated you
12 encountered the black male. Correct me if I have the
13 description wrong. But in a full grey jogging suit?

14 **A** Yes.

15 **Q** Okay. And then you talked to him and you ended
16 up letting him go. Were you determined that he wasn't
17 the person you were looking for?

18 **A** Yes.

19 **Q** And one of those reasons is because he didn't
20 fit the description given?

21 **A** Yes.

22 **Q** Thank you. Nothing.

23 **THE COURT:** Anything else?

24 **MR. MARCHANT:** No, Your Honor. We ask that
25 the witness be excused.

1 **THE COURT:** Sir, you can step down. Any
2 objection to his being excused?

3 **MR. JOHNSON:** No objection, Your Honor.

4 **THE COURT:** Thank you, sir, for being here.

5 Ladies and Gentlemen, just to let you know,
6 we're going to try, uh, if possible to go maybe to
7 about 5:15, 5:20 or something like that. We've got,
8 my understanding is, two other fairly short
9 witnesses that we're going to try to get in this
10 afternoon.

11 **MR. MARCHANT:** Please the Court. The State
12 calls Officer Gaines Fiedler.

13 **THE CLERK:** Officer Fiedler, please come
14 forward to be sworn in. Place your left hand on the
15 Bible and raise your right.

16 **GAINES FIEDLER**
17 having first been sworn, testifies as follows:

18 **THE CLERK:** Thank you. You may be seated.
19 Would you please state your name for the record.

20 **THE WITNESS:** Gaines Fiedler.

21 **THE CLERK:** Thank you.

22 **DIRECT EXAMINATION**

23 **BY MR. MARCHANT:**

24 **Q** Officer Fiedler, where are you employed?

25 **A** Greenville Police Department.

1 **Q** And what's your capacity with the Police
2 Department?

3 **A** Right now, I work for selective enforcement in
4 our Collision Reconstruction Unit.

5 **Q** How does that differ from these other officers
6 who testified of routine patrol and responding to calls?

7 **A** Basically, we are a traffic unit. When there's
8 a vehicle collision involved, serious bodily injury or
9 death, we're notified and respond to reconstruct the
10 collision to find out what happened.

11 **Q** Back in October of 2011, were you working in
12 the capacity as you mentioned now or more of routine
13 patrol as what these other officers testified to?

14 **A** I was working in routine patrol.

15 **Q** Do you recall back on October 28th of '11 what
16 area of town beat you were working?

17 **A** Yes, sir. I worked the Charlie beat with
18 Officer Cobb. That's the Augusta Street area.

19 **Q** Do you recall on that day Officer Cruell
20 calling out a Failure to Stop up 85?

21 **A** Yes, sir.

22 **Q** What did you do in response to that call?

23 **A** I was on Augusta Street near the Starbucks. I
24 responded with my lights and siren on towards Officer
25 Cruell and attempted to assist her in the vehicle

1 pursuit.

2 **Q** And at some point in time, did you make contact
3 with her?

4 **A** No, sir.

5 **Q** And why not?

6 **A** Because she terminated the pursuit and I turned
7 my blue lights and siren off.

8 **Q** Where did you go after you turned off your blue
9 lights and siren?

10 **A** I continued to head towards an area of Mauldin
11 and I-85.

12 **Q** Did you subsequently cross 85 and head towards
13 the area we've been discussing here today?

14 **A** Yes, sir.

15 **Q** And do you recall on that day how you made your
16 way over to the Berkeley Pointe Apartment complex?

17 **A** Yes, sir.

18 **Q** I'm referencing State's 108. Please describe
19 to the jury which roads you took to make your way over to
20 the Berkeley Pointe Apartment complex.

21 **A** I came across I-85 on Mauldin Road. When I got
22 to the intersection of Mauldin Road and Wenwood Road, I
23 turned left at the red left and then subsequently turned
24 left into the apartment complex.

25 **Q** You made a left on Wenwood?

1 **A** Yes, sir.

2 **Q** You recall where your vehicle was, how far
3 along you had made it when you heard shots fired come
4 across the radio?

5 **A** I was waiting to turn left on the Wenwood Road
6 at the red light.

7 **Q** And then from the intersection of Wenwood and
8 Mauldin, did you go directly to a first entrance or the
9 second entrance of Berkeley Pointe?

10 **A** I turned on my blue lights and siren to clear
11 traffic to turn left. I went straight to the first
12 entrance and turned left into the first entrance. I
13 turned left again going up towards the [REDACTED] building.

14 **Q** Officer Fiedler, I'm going to have you step
15 down and indicate on State's 106, describe for the jury
16 how you made your way in there and where you parked your
17 car.

18 **A** The red light is actually right in this right
19 here. When I was sitting here, I heard Officer Lane on
20 the radio yelling shots fired, that he was being shot at.
21 I turned on my equipment. I turned left. I came down
22 Wenwood. I actually came in this entrance. I came all
23 the way up to the left towards the [REDACTED] building. It was
24 up and to the left. I came to right here is where I
25 parked my patrol vehicle.

1 Q Please draw a rectangle where you parked your
2 patrol vehicle.

3 A (Drawing.)

4 Q Once you parked your patrol vehicle, what did
5 you do?

6 A Uh, I went to my trunk to pull out my patrol
7 rifle.

8 Q After getting your rifle out of the trunk,
9 where did you go?

10 A I could see Officer Kellett was standing up
11 against the building. I could see Officer Cruell and
12 Officer Lane behind the vehicle in the parking lot. I
13 went to the, if you are facing the 1█ building, it
14 would be the front right corner, so that I could see down
15 to where they told me the shots were coming from or where
16 I felt the shots were coming from.

17 Q All right. Officer, if you would, step down
18 and indicate -- put your initials where you initially
19 posted up on the 1█ building.

20 A It's right here on the front right corner.

21 Q From the time you got out of your car to the
22 time you made your way to that post, did you see anybody
23 in that apartment complex that was not law enforcement?

24 A No, sir.

25 Q Did you see any residents out there?

1 **A** No, sir.

2 **Q** Did you see any male, any female?

3 **A** No, sir. I didn't see anyone.

4 **Q** From the post up on the corner of the 1 ■■■
5 building, how long do you recall holding that post and
6 where did you go once you moved from that area?

7 **A** I stayed right here on this corner for maybe a
8 minute. Then I realized I couldn't see the back of the
9 building. What I could see on this side of the building,
10 there was no one who could. So I began to inch up the
11 side of the building. There's actually an air
12 conditioner right here covered by some bushes. I moved
13 down to here and squatted down behind the bushes against
14 the air conditioner trying to get as much cover as I
15 could where I could see the back of the building.

16 **Q** On your way down there, did you see anyone
17 running away from the scene?

18 **A** No, sir.

19 **Q** Did you remain there the entire time?

20 **A** No, sir.

21 **Q** Where did you go after you moved from the air
22 conditioner unit?

23 **A** Where these buildings are made, they kind of
24 jet out a little bit. I couldn't see if there was anyone
25 here. Just the way the angle is. So I actually came

1 back around and came all the way through this 1 [REDACTED]
2 building down to the bottom floor. Once I came down the
3 bottom floor, I came more to the back of the building.
4 This one.

5 Q Were you by yourself this entire time or was
6 there any other officers with you?

7 A Uh, Officer Calhoun was with me.

8 Q Making your way through the 1 [REDACTED] building and
9 down to the back corner, did you see anybody come or go
10 that was not law enforcement?

11 A No, sir.

12 Q Did you notice or recognize anything down in
13 between the 1 [REDACTED] and [REDACTED] building?

14 A Yes, sir. When I came around to the air
15 conditioner, I noticed there was a black baseball cap
16 that was in the -- it was in this area right here in
17 between the two buildings. It was lying on the ground.

18 (WHEREUPON, State's Exhibits 109 and 110 are marked
19 for identification purposes.)

20 BY MR. MARCHANT:

21 Q Officer Fiedler, I'm showing you what's been
22 marked as State's 109 and 110. I'd like you to take a
23 look at those and see if you recognize that.

24 A Yes, sir.

25 Q Do they fairly and accurately depict what you

1 saw out there that day?

2 **A** Yes, sir.

3 **MR. MARCHANT:** Move State's 109 and 110 into
4 evidence.

5 **THE COURT:** Any objection?

6 **MR. JOHNSON:** No objection, Your Honor.

7 **THE COURT:** They will be so entered.

8 (WHEREUPON, State's Exhibits 109 and 110 are
9 admitted into the record.)

10 **BY MR. MARCHANT:**

11 **Q** All right. Officer Fiedler, this is, uh,
12 Exhibit 110. Please describe for the jury where this
13 photograph is taken from and the items that are portrayed
14 in it.

15 **A** Uh, basically, it was taken from -- in this
16 area here. That's the [REDACTED] building that you are looking
17 at. This would be pretty much the angle where I was
18 right here on this back corner. You can see the little
19 black thing right along the wood line on the left side of
20 the picture. That's the baseball cap that was lying on
21 the ground.

22 **Q** And in State's 109?

23 **A** This is taken from the view of the back of the
24 [REDACTED] building which is right here looking down towards
25 where I was at. You could actually see the air

1 conditioner where I was first to the left of the power
2 boxes. Then, when you go along the wood line, you can
3 again see the little black spot, which is the baseball
4 cap lying on the grass.

5 Q Officer Fiedler, if you would, there's a laser
6 pointer right there.

7 A Oh, okay.

8 Q If you would, use that and please reexplain to
9 the jury with the laser pointer as you are walking
10 through it.

11 A Basically, the person who took this photograph,
12 their back is standing to the [REDACTED] building. Right there
13 is the air conditioner where I took cover first
14 initially. I noticed the baseball cap, which is right
15 there, is lying along the woodline.

16 Q You recall how long you held your position on
17 the back of the 1 [REDACTED] building until you were cleared?

18 A Yeah. I stayed there. Our SWAT team,
19 Greenville county SWAT team.

20 Q How long did you stay on the back corner?

21 A A couple of hours.

22 Q You were in the back corner the entire time or
23 did you have other --

24 A I was from the back corner to the middle. When
25 the dogs came by, I moved.

1 **Q** All right. Once the scene ended up being
2 cleared, did you go and resume normal duties or directed
3 to go somewhere else?

4 **A** I was directed to move over to the area of Sara
5 Collins Elementary to assist with their dismissal.

6 **Q** Okay. Thank you. Please answer any questions
7 Mr. Johnson may have.

8 **MR. JOHNSON:** Please the Court.

9 **THE COURT:** Yes, sir.

10 **MR. JOHNSON:** Thank you.

11 **CROSS-EXAMINATION**

12 **BY MR. JOHNSON:**

13 **Q** Officer Fiedler, I didn't get to see where you
14 drew the box.

15 **A** You want me to show you?

16 **Q** Yes, please.

17 **A** Right there.

18 **Q** Okay. Now, what's that?

19 **A** That's the 1 ■■■ building.

20 **Q** What building is that?

21 **A** It has to be the ■1■■ building.

22 **Q** Where is the ■■■?

23 **A** Right here.

24 **Q** And that's where the incident --

25 **A** That's where the shooting happened.

1 Q Okay. You posted up here?

2 A No, that's where I parked at.

3 Q And where did you post?

4 A I parked there. I got out of my car in here
5 originally. Then, I walked to right here. Then I came
6 back through the building and walked through here.

7 Q At that point, you have a good view of that
8 building?

9 A This building.

10 Q Okay. Now, if you don't mind, can I turn --

11 **THE BAILIFF:** Okay. Go ahead. I'll get
12 them.

13 **BY MR. JOHNSON:**

14 Q This is State's Exhibit 110. And that black
15 spot there is the hat, right?

16 A (No response.)

17 Q Is that the hat?

18 A Yeah, right there.

19 Q From your vantage point, you could see that
20 area from your vantage point?

21 A Yes, sir.

22 Q Now, the question is did you see anybody drop
23 that hat?

24 A No, sir.

25 Q So the hat was there when you got there?

1 **A** Yes, sir.

2 **Q** So whoever had the hat was gone?

3 **A** Yes, sir.

4 **Q** So you don't know if it was just one person or
5 it could have been -- you don't know how many people were
6 there or who dropped the hat or anything?

7 **A** No, sir.

8 **Q** All right. All right. Uh, now, obviously,
9 somebody dropped the hat, correct? And somebody shot at
10 Officer Cobb and Lane. But when you got there, whoever
11 that, however many of them there were, they were gone?

12 **A** I assume so, yes, sir.

13 **Q** Okay. Nothing further at this time.

14 **THE COURT:** Anything else?

15 **MR. MARCHANT:** No redirect, Your Honor. We
16 ask that this witness be excused.

17 **THE COURT:** Any objection?

18 **MR. JOHNSON:** No objection.

19 **THE COURT:** Thank you, sir, for being here.
20 Yes, sir.

21 **MR. MARCHANT:** Beg the Court's indulgence.

22 (Pause.)

23 Your Honor, I believe we're at a point that
24 that's all I've got for today.

25 **THE COURT:** All right. All right then.

1 Ladies and Gentlemen, we're at a breaking point
2 for the evening. We'll begin tomorrow morning at 9
3 a.m. I hope -- of course, nothing that happened
4 today to slow us down was any of these attorney's
5 fault. I hope that we'll be moving a little bit
6 tomorrow. I thank you so much for your patience
7 with us. Please don't discuss this case with anyone
8 or do any independent research. I hope you have a
9 good evening.

10 (WHEREUPON, the jury exits at approximately
11 5:11 p.m.)

12 THE COURT: All right. Anything else we need
13 to take up before we break up for the evening?

14 MR. MARCHANT: Nothing from the State, Your
15 Honor.

16 MR. JOHNSON: Nothing from the defense.

17 THE COURT: All right then. We'll start
18 tomorrow morning at 9 a.m. Thank ya'll.

19 (WHEREUPON, the Court goes off the record.)

20 THE COURT: Let's go back on the record.

21 MR. MARCHANT: Your Honor, there's a
22 potential witness in the case, Starr Taylor, she was
23 a resident of Berkeley Pointe when this incident
24 occurred. She was served by the Moose Creek Police
25 Department. We have the return. I have had

1 telephone contact with her. We've gone back and
2 forth about is she going to get a right or are we
3 going to get her a bus ticket. Things of that
4 nature. She indicated she would be able to make her
5 way up here, if you will, but is not really giving
6 me the assurances I would expect. I called and left
7 her several messages today as have Investigator Jeff
8 Smith who works for us now. He's prepared and
9 gassed up to drive down there and pick her up. I
10 indicated that to her in the last voicemail. She
11 will not pick up the phone and would not return
12 calls this afternoon. I really don't want to go
13 through the hoops of having her detained.
14 Obviously, that would cause a delay in the trial.
15 I'm at a bit of a lost and certainly open to some
16 suggestions or direction from the Court. But I
17 believe that she would be a necessary witness. Your
18 Honor, I'm almost willing to go through having her
19 locked up.

20 **THE COURT:** I'm happy -- I was about to say,
21 I'm happy to lock her up if that's what we need to
22 do. That's really the only thing I've got short of
23 you calling her and leaving her yet another message
24 and let her know I'm going to have her locked up.
25 But that may not be the desired effect either. She

1 may just take off.

2 **MR. MARCHANT:** I guess my question is if we
3 are not able to make contact and resolve this issue
4 this evening, I don't know if tomorrow is too late.
5 I hate to making it to resting -- well, the State
6 may rest tomorrow afternoon.

7 **THE COURT:** Okay.

8 **MR. MARCHANT:** So I don't know how the court
9 goes about signing a bench warrant or arrest warrant
10 for an individual who fails to appear when they are
11 properly served with a subpoena. Of course, --

12 **THE COURT:** If you'll just give -- if you'll
13 just do an order for bench warrant and just say that
14 she's being held as a material witness at the
15 Greenville County Detention Center. And I put in
16 there who is directed to be able to pick her up. I
17 guess the Greenville Police or if you want to bring
18 the Goose Creek people in it too, that's fine too.

19 **MR. MARCHANT:** Okay.

20 **THE COURT:** I mean, I'll stay around and sign
21 it this evening.

22 **MR. MARCHANT:** Is Your Honor going home? I
23 have your fax number if that will suffice.

24 **THE COURT:** Sure. Will a faxed copy, you
25 think, suffice for purposes of --

1 **MR. MARCHANT:** I think it's probably going to
2 have to be faxed down to Goose Creek.

3 **THE COURT:** Okay.

4 **MR. MARCHANT:** I don't know that the fax of a
5 fax is --

6 **THE COURT:** Any different. Yeah. Okay.
7 Yeah. You can fax it to that fax number that I
8 provided to the Solicitor's office in the past.

9 **MR. JOHNSON:** Your Honor, I'm inclined to ask
10 how is she so material that we're getting a bench
11 warrant for her if she hadn't even been called yet?

12 **THE COURT:** She hadn't been what, now?

13 **MR. JOHNSON:** She hadn't been called. She
14 hasn't been --

15 **THE COURT:** When did you notice her to be
16 here?

17 **MR. MARCHANT:** I'm sorry, Your Honor?

18 **THE COURT:** When did you notice her to be
19 here?

20 **MR. JOHNSON:** I thought they spoke with her
21 and told her that she didn't have to come until they
22 -- I mean, a bench warrant.

23 **THE COURT:** I've had a witness picked up
24 before we started trial, the night before trial.

25 **MR. MARCHANT:** Your Honor, she was served on

1 12/31/2012 by David Watson, Investigator with the
2 Goose Creek Police Department.

3 **UNIDENTIFIED SPEAKER:** That investigator is
4 from the 9th Circuit Solicitor's office.

5 **THE COURT:** Okay. All right. When was she
6 noticed? What time was she told to be here?

7 **MR. MARCHANT:** Yes, ma'am. The subpoena
8 indicated Monday, January the 7th at 9:30 a.m. It
9 says it will remain in full force and effect. I try
10 my best to accommodate all lay person as well as law
11 enforcement schedules. She's been giving me a bit
12 of a run around, Your Honor. I've tried to be
13 accommodating to her up to this point in time. I
14 just can't be accommodating any more.

15 **THE COURT:** Prepare a bench warrant. If she
16 was noticed to be here on Monday, I definitely don't
17 have any qualms about it.

18 **MR. MARCHANT:** Thank you, Your Honor.

19 **THE COURT:** Thank you. All right. Thank
20 you.

21 **(WHEREUPON, the Court recesses for the day at**
22 **approximately 5:12 p.m.)**
23

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 9th day of January, 2013 at approximately 9:09 a.m.)

THE COURT: Mr. Marchant, you look like you have something on your mind.

MR. MARCHANT: Yes, Your Honor. I don't know if Mr. Johnson is ready to address it or handle it. I failed to bring up when we had our pretrial discussions, in the first trial with Judge Johns, Mr. Johnson moved, I guess, to suppress any discussion about a, quote, manhunt, schools being locked down and things of that nature. During the first trial, I indicated to His Honor that it was not my intention to make it appear as though the entire side of 85 and Mauldin was locked down, that it was deemed or classified a manhunt or use those words, that schools were locked down, et cetera. Due to some testimony from the defense last time, it has put me in a position where on this go around, it is necessary for my case-in-chief, uh, to describe what agencies were involved, how many individual officers were out there and what side of town were they working on to contain or conceal, uh, the perimeter. I failed to mention it. It was one of the things on my list, Your Honor. Mr. Johnson and

1 I talked about it in the hallway before coming in
2 here. We didn't address it pretrial.

3 **THE COURT:** The number of officers that were
4 involved are the number of officers that were
5 involved. And the side of town it was on, it was on
6 that side of town. Manhunt, I think we can leave
7 that word out. I don't know that manhunt needs to
8 be used.

9 **MR. JOHNSON:** Your Honor, I guess this is
10 what I'm struggling with. I just learned something
11 right now that I didn't know. That's kind of my
12 issue. Apparently, there's going to be testimony
13 that the FBI, transport police and some other police
14 agency and all this stuff was involved. I have no
15 idea. I mean, I'm just now learning about it.

16 **THE COURT:** What's the relevance of the
17 transport police and the FBI being involved?

18 **MR. MARCHANT:** Your Honor, maybe it's not so
19 relevant to maybe mention their names, but the
20 number of people that are involved that are looking
21 for the individual. Late last week, either Thursday
22 or Friday after discussing with Detective Flavell
23 and Conroy again in our pretrial preparations that -
24 - and I'll tell the court this is not, I don't
25 believe it's listed anywhere in the discovery that

1 the ATF, FBI, DEA, Highway Patrol, State Transport
2 Police, DNR ---

3 **THE COURT:** DNR?

4 **MR. MARCHANT:** --- is listed in any discovery
5 anywhere. I think it just probably happened to be
6 who was in the area and responded at that time.

7 **THE COURT:** Right. Sure.

8 **MR. MARCHANT:** The range for the city, the
9 rifle range is directly across the street on the
10 side of the Water Treatment Plant. I believe there
11 were folks there that were conducting training
12 exercises.

13 **THE COURT:** Okay.

14 **MR. MARCHANT:** Your Honor, what I'm getting
15 at is I don't know whether or not the defendant is
16 going to testify or not. It's really irrelevant at
17 this stage in the game. But the information that I
18 gained from the last trial is that he's indicated
19 that there was more than him on the scene.
20 Obviously, whoever was there escaped. It's clear
21 that he escaped. He got outside the perimeter. So
22 I need to show the jury that law enforcement was
23 present and nobody picked up anybody --

24 **THE COURT:** I'll bet there's no need to say
25 ATF, FBI and all these agencies. The number of

1 folks involved, I'm going to allow him to present
2 testimony with regards to how many folks were
3 involved and of course what period of time and over
4 what area. But I'm going to specifically instruct
5 you to have your witnesses avoid the word "manhunt"
6 and to -- I don't think there's any need to bring up
7 particular agencies that were involved. I mean, you
8 can say -- I'll allow you to say that other agencies
9 were involved. But just I don't think we need to
10 list all these different agencies that were involved
11 because it does -- uh, I think that could be
12 prejudicial. Anything else, Mr. Johnson? Anything
13 you want to say in regards to that?

14 **MR. JOHNSON:** I guess I would be interested
15 to know how many people were involved because I
16 guess I don't know.

17 **THE COURT:** Do you have a count of how many
18 people were involved?

19 **MR. MARCHANT:** Your Honor, we don't have a
20 list of the actual number of people from all those
21 agencies. I will submit to the court that Detective
22 Flavell or Conroy will testify that between their
23 agency to include the SWAT team, the county's agency
24 which was the SWAT team as well, as well as Vice and
25 Narcotics that surrounded where the defendant was

Remarks

1 apprehended is somewhere between 70 to 100 officers.

2 **THE COURT:** Okay.

3 **MR. MARCHANT:** If it would make the Court
4 feel uncomfortable, we'd certainly stick with the
5 low end of that number. There were roughly 70
6 officers. There were, at a minimum, 70 officers.

7 **THE COURT:** All right. All right. Fair
8 enough. All right. Anything else we need to take
9 up before we bring the jury back in?

10 **MR. JOHNSON:** I don't think so, Your Honor.

11 **THE COURT:** All right. We can go ahead and
12 bring the jury back in.

13 (WHEREUPON, the jury enters at approximately
14 9:16 a.m.)

15 **THE COURT:** Good morning, Ladies and
16 Gentlemen. I appreciate you being so prompt here
17 today. I'll tell you these attorneys were here
18 early this morning. We've been working on a couple
19 of legal matters that we had to take care of before
20 we got going today.

21 All right. Mr. Marchant, you ready to proceed?

22 **MR. MARCHANT:** Yes, Your Honor. May it
23 please the Court?

24 **THE COURT:** Yes, sir.

25 **MR. MARCHANT:** The State calls Officer

1 Hammett to the stand.

2 **THE CLERK:** Officer, please come forward to
3 be sworn in. Place your left hand on the Bible and
4 raise your right.

5 **MICHAEL HAMMETT**

6 having first been sworn, testifies as follows:

7 **THE CLERK:** Thank you. You may be seated.
8 Would you please state your name for the record.

9 **THE WITNESS:** Michael James Hammett.

10 **THE CLERK:** Thank you.

11 **DIRECT EXAMINATION**

12 **BY MR. MARCHANT:**

13 **Q** Officer Hammett, where are you employed?

14 **A** With Greenville City Police Department.

15 **Q** And presently today, what are your
16 responsibilities with the City Police?

17 **A** I'm a detective with the Vice and Narcotics
18 Bureau.

19 **Q** What exactly does that mean?

20 **A** Drug investigations, purchasing narcotics from
21 suspected drug dealers and things of that nature.

22 **Q** There's been some prior testimony about routine
23 patrol and responding to calls and complaints and other
24 things of that nature. Is that something that you do on
25 a daily basis today?

1 **A** Yes, it is.

2 **Q** Back in October of 2011, were you working in
3 the capacity that you are talking about now?

4 **A** No, I was not.

5 **Q** What capacity were you working with City Police
6 then?

7 **A** I was a K-9 handler at the time.

8 **Q** What does that mean?

9 **A** I was assigned to patrol a narcotics detection
10 dog in the city. I respond to high priority calls or if
11 an officer calls for a dog for a certain situation.

12 **Q** The dog that you're running, is that dog
13 trained and certified?

14 **A** Yes, sir. He is.

15 **Q** And please explain to the jury the nature and
16 course of the training for the dog and the certifications
17 that it has to go through before it can become employed,
18 if you will, with your office.

19 **A** Me and my dog went to a five-week course in
20 Wilmington, North Carolina. We trained for narcotics,
21 uh, trained on articles that someone may discard from a
22 scene, trained on area searches for people and trained on
23 tracking for suspects of a crime.

24 **Q** I'm not sure if you mentioned it. How many
25 hours?

1 **A** 200.

2 **Q** You and your dog were present doing this at the
3 same time?

4 **A** Yes, sir.

5 **Q** Following that, is there a test or
6 certification that pass/fail?

7 **A** We certify with the city every year through the
8 North American Police Work Dog Association. That's a
9 pass or fail two-day test that we take for narcotics,
10 article, building search, area search and tracking.

11 **Q** Did you pass all your classes?

12 **A** I passed every time.

13 **Q** Did you ever fail to pass any part of your
14 classes?

15 **A** No, I did not.

16 **Q** What about your dog?

17 **A** My dog never failed.

18 **Q** And what is your dog's name?

19 **A** Chinko.

20 **Q** And when did all of these things occur
21 initially? I guess what I'm asking you is what year and
22 how long did you run that dog.

23 **A** I ran the dog for three years. I got him from
24 a handler that was promoted. I got him in December of
25 2009.

1 Q And what's your dog's name?

2 A Chinko.

3 Q And is Chinko still active with the police
4 department?

5 A No, he's since retired.

6 Q Why would you retire a dog?

7 A He was having medical issues with his back.

8 Q Throughout the -- how many years did you run
9 Chinko?

10 A Three.

11 Q Throughout the three years, do you have a
12 number, a specific number of times that you used him to
13 either identify narcotics or track people?

14 A I don't have a specific time.

15 Q Can you ballpark for the jury?

16 A Doing different searches with him and different
17 call outs, probably at least 1000 times.

18 Q So we are clear, the dog is certified for
19 narcotics, as well as tracking?

20 A Yes, sir.

21 Q Are the behaviors that the dog would indicate
22 on a piece of dope different than that of a trail?

23 A They have certain behaviors that they will
24 indicate and some that are different. For narcotics,
25 they'll tail will wag. They are using their nose and

1 sniffing real hard like they would on a track. But for
2 narcotics, more than likely they are going to come to a
3 final response when they locate the source of the odor.
4 And my dog was an aggressive alert dog. So he would
5 scratch at the source of the odor.

6 Q How is the dope or the narcotics indication
7 different from a human track?

8 A On a human track, my dog is going to put his
9 head down. Once he commits that track, his paws are
10 going to dig down and he's going to start gnawing. His
11 tail is going to be wagging. As he gets closer, you can
12 start to see the hackles or the hair on his back will
13 start standing up. And a lot of times, especially if the
14 suspect is hidden, the dogs will get there a lot further
15 than we do because we use a 30 foot leash in front of us.
16 If the dog does encounter the suspect, he will bite him.

17 Q On October 28th of '11, did you have the
18 occasion to respond to Berkeley Pointe?

19 A Yes, sir. I did.

20 Q And why did you do that?

21 A There was a radio call of shots fired at
22 officers.

23 Q Were you in your vehicle?

24 A Yes, sir. I was.

25 Q Was anybody else in your vehicle with you?

1 **A** My dog.

2 **Q** All right. If you would, step down. I'm going
3 to have you identify on State's 106. And if you would,
4 mark where you parked your vehicle at Berkeley Pointe
5 that day.

6 **A** I parked my vehicle --

7 **Q** If you would, speak up please so the Court
8 Reporter can hear you.

9 **A** I parked my vehicle right in this area right
10 here.

11 **Q** Stand to the side. We're going to talk about
12 State's 106 for a minute. Once you parked your vehicle,
13 what did you do?

14 **A** I went to the back of my truck and got my
15 harness out. Put my harness around the dog. I brought
16 him out of the vehicle and came around from this building
17 up towards here.

18 **Q** Who did you speak to once you got up to the
19 parking lot area?

20 **A** Officer Cobb.

21 **Q** And with the information that she told you,
22 what did you then do?

23 **A** I waited cause we needed to start a track. And
24 I went around to -- there was a vehicle backed in here.
25 I went around that vehicle to clear back behind this

1 building to where a hat was.

2 (WHEREUPON, State's Exhibit 111 is marked for
3 identification purposes.)

4 BY MR. MARCHANT:

5 Q I'm going to show you what's already in
6 evidence as State's number 109. Do you recognize where
7 the vantage point to this photograph was taken?

8 A That's the area behind the apartment.

9 Q Let me show you State's 110 and see if, uh, you
10 recognize that.

11 A I do.

12 Q Okay. I'm now going to show you what's been
13 marked as State's 111 and see if you recognize this item.

14 A Yes, I do.

15 Q Does this fairly and accurately depict how you
16 found that item that night?

17 A Yes, it does.

18 MR. MARCHANT: I move 110 -- excuse me -- 111
19 into evidence, Your Honor.

20 THE COURT: Any objection?

21 MR. JOHNSON: No objection.

22 THE COURT: It will be so admitted.

23 (WHEREUPON, State's Exhibit 11 is admitted into the
24 record.)

25 BY MR. MARCHANT:

1 Q So here's State's 111. What did you do when
2 you came to this item?

3 A This is, uh, what I was told that the suspect
4 had on. I brought my dog where the hat was and laid him
5 down.

6 Q When you say laid him down, what do you mean?

7 A I had him lay down on the ground.

8 Q Why is that?

9 A That's how I start a track. As soon as I did
10 that, I gave him his command to track.

11 Q And now I'm going to have you -- Officer
12 Hammett, if you would, indicate on State's 108 where you
13 started your track.

14 A That was right here.

15 Q If you would draw -- if you would, put your
16 initials where you located that item.

17 A (Drawing.)

18 Q All right. Officer Hammett, what I want you to
19 do for the benefit of the jury is draw me a line of where
20 you started that track from that ball cap and where it
21 lead to.

22 A Roughly down this way into the woods and around
23 up towards the top here. Started going this way. At
24 which point, I stopped.

25 Q You stopped the dog or did the dog stop you?

1 **A** I stopped the dog.

2 **Q** Why did you stop the dog?

3 **A** Because of the nature of the call and a large
4 wooded area behind us, for the safety of the officers, I
5 felt like I needed to clear that whole wooded area to
6 make sure there was nobody in there.

7 **Q** Now the route that you drawn on that map,
8 that's the route the dog took?

9 **A** Yes, sir.

10 **Q** And that's the route the dog led you, is that
11 correct?

12 **A** Yes, sir.

13 **Q** At any point in time, did you Chinko indicate
14 to you that he picked up on another track or trace?

15 **A** No, sir. He did not.

16 **Q** How would Chinko indicate to you if he had
17 picked up on something else?

18 **A** He would have lifted his head up and started
19 looking around. And I would know he was off the track we
20 were on.

21 **Q** Am I understanding from this part of the track
22 that you covered, he never indicated?

23 **A** His head stayed down the whole time.

24 **Q** And you stopped him. What did you do once you
25 stopped him?

1 **A** I relayed to the people that were with me on
2 the track that before we went any further, we were going
3 to need to go back and clear through all these woods. So
4 keeping Chinko on that line, we started to clear back and
5 forth and up and down all through all the woods back
6 there to make sure that nobody was laying down, there
7 weren't any other suspects or stuff like that.

8 **Q** Officer Hammett, if your dog stayed down on the
9 initial track and never wavered, why was it necessary to
10 go back and clear the woods?

11 **A** That was a judgement call I made because of the
12 nature of it and in case there was anything about other
13 suspects hiding in there. I didn't want to take that
14 risk for the officers out on the perimeter. They had
15 already been shot at. I wanted to make 100 percent sure
16 before we kept going that there was nobody laying down in
17 these woods.

18 **Q** Did you find anybody else in the woods down
19 there?

20 **A** No, sir.

21 **Q** Did your dog ever indicate on any other track?

22 **A** No, sir. He did not.

23 **Q** Approximately how long would you say you were
24 back in the woods clearing behind building [REDACTED]?

25 **A** A good 20, 25 minutes.

1 **Q** What did you do after you cleared that area
2 behind the apartments?

3 **A** I came back out to where I stopped my track,
4 laid my dog back down and then gave him his command to
5 track again.

6 **Q** Did Chinko indicate to you that he had regained
7 that scent and started tracking again?

8 **A** Yes, sir. He did.

9 **Q** Approximately how far did he go?

10 **A** We probably went to right here in the woods.
11 From doing all that, I could tell he was tired out. His
12 tongue was sticking out. He was panting real heavy. At
13 that time, I stopped him.

14 **Q** Okay. What sort of dog was Chinko, what is his
15 breed?

16 **A** He's a German Shepard.

17 **Q** So after you stopped that track, where did you
18 then go?

19 **A** I turned it over to somebody else. I brought
20 Chinko back to my patrol vehicle and gave him water.

21 **Q** How long did Chinko stay in your patrol vehicle
22 before the next time you brought him back out?

23 **A** About 20 minutes.

24 **Q** Once you brought Chinko back out, where did you
25 go?

1 **A** I went across the street, across Wenwood Road
2 to where these woods are over here.

3 **Q** What was the purpose of you doing that?

4 **A** I wanted to run Chinko across the woodline to
5 see if I would pick up any other track into the wooded
6 area over there.

7 **Q** Where exactly did you start -- you recall
8 exactly where you started Chinko on the other side of
9 Wenwood Road?

10 **A** I came right in this area over here. I just
11 brought him out of my car and came across the street.

12 **Q** On the road?

13 **A** No, sir.

14 **Q** Let me rephrase. Where did you start the
15 track? Was it on the road, was it on the side of the
16 road, was it in the woods?

17 **A** Right there next to where the woods are.

18 **Q** Can you recall how far from the road, the
19 actual pavement you were when you started your track?

20 **A** 10, 15 feet.

21 **Q** So you took Chinko from the east? Tell you
22 what, if you would, indicate on State's 108 with your
23 initials where you started the track on this side of
24 Wenwood Road. And which way did you track and how far
25 did you go?

1 **A** I gave him his command to track. We came all
2 the way down past where I was here.

3 **Q** And at that point in time, for that period of
4 track, did he ever indicate that he picked upon
5 something?

6 **A** He never picked up after that.

7 **Q** Did you use the dog any further that day on
8 this scene?

9 **A** No, sir. I did not.

10 **Q** Now, this line that you've drawn indicate the
11 track on the south side of Wenwood Road. I'm going to
12 ask you if someone was walking down the roadway, on the
13 actual road, would your dog have picked up on that scent?

14 **A** No.

15 **Q** Why not?

16 **A** I'm not saying I ever pushed down that way but
17 I was walking down the wooded area here to track for
18 someone darting into the woods.

19 **Q** Again, did Chinko ever indicate?

20 **A** He never did.

21 **Q** Did Chinko ever indicate on any track other
22 than the ball cap?

23 **A** No, sir. He did not.

24 **Q** Thank you. Please take the stand.

25 **MR. JOHNSON:** Your Honor, permission to

1 cross-examine?

2 **MR. MARCHANT:** Court's indulgence just for a
3 moment.

4 **MR. JOHNSON:** Oh, you're not done?

5 **MR. MARCHANT:** Just a moment, Mr. Johnson.

6 (Pause.)

7 All right. Thank you, Mr. Johnson.

8 Please answer any questions Mr. Johnson may
9 have.

10 **THE COURT:** Yes, sir.

11 **MR. JOHNSON:** Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 **BY MR. JOHNSON:**

14 **Q** Officer Hammett, did you do a report in this
15 incident?

16 **A** Yes, I did.

17 **Q** Do you have that with you?

18 **A** I don't have it with me.

19 **Q** You don't have it with you?

20 **A** No, sir.

21 **Q** Is this the entirety of it? I just want to
22 make sure.

23 **A** Yes, sir.

24 **Q** That's it?

25 **A** Yes, sir. It is.

1 **Q** Now that -- that's a -- read over it one second
2 for me if you don't mind.

3 **A** Greenville Police Department K-9 usage report.
4 Case number 11000 --

5 **Q** Excuse me. Let me make sure. I don't want you
6 to read it out loud. I want you to read it to yourself.

7 **A** (Reading.)

8 **Q** Okay. Now your report's a great deal shorter
9 than your testimony today, isn't it?

10 **A** Yes, sir. There is.

11 **Q** And there's a great deal of information that
12 you did not include in this as far as what you testified
13 today. The report compared to what you testified today,
14 your testimony has a great deal more information then you
15 provided in that report, isn't that true?

16 **A** Uh, yes, sir.

17 **Q** Now, were you aware that there was a prior
18 hearing?

19 **A** I know there was a prior hearing.

20 **Q** You do know. But you didn't testify at that
21 prior hearing, did you?

22 **A** No, sir. I did not.

23 **Q** Now, I wrote it down the best I could
24 considering it wasn't in your report. Do you remember
25 how soon you got to the scene after you got on the radio

1 shots fired?

2 **A** Very quick. I was actually at Mauldin Road and
3 Pleasantburg Drive right there. So the call was straight
4 down Mauldin Road for me. So it took me probably two
5 minutes running lights and sirens to get there.

6 **Q** Okay. So it took you about less than two
7 minutes after you heard the call on the radio?

8 **A** As soon as I heard the officers yelling that
9 shots were fired, I immediately turned my lights and
10 sirens on and got there as fast as I could and safely as
11 I could.

12 **Q** And at this point, do you remember was he set
13 up or being set up?

14 **A** Yes, sir.

15 **Q** And at some point, you found the hat?

16 **A** I was told the hat was back there.

17 **Q** You were told the hat was back there. Then you
18 went back there. The dog used the hat as a source of
19 scent?

20 **A** I laid the dog down where the hat was, yes,
21 sir, I did.

22 **Q** And based upon that scent, the dog began
23 looking for whoever had been wearing that hat?

24 **A** The dog began to track for whoever was wearing
25 that hat.

1 **Q** Okay. And when you tracked, at least as I
2 understand it, there were three separate tracks. One was
3 directly from the hat, is that right? And two, it was
4 when you went back through the woods.

5 **A** That was not a track, sir. That was an area
6 search.

7 **Q** Okay. It was just a search?

8 **A** Yes, sir.

9 **Q** Is it a type of track? I'm sorry I don't know
10 so much about it.

11 **A** No.

12 **Q** It's not?

13 **A** No, sir.

14 **Q** Okay. And the third is you began to look for
15 another scent over by Wenwood Road?

16 **A** Yes, sir. I did.

17 **Q** Anyhow, in either of those tracks, did you find
18 that source of the person wearing that hat?

19 **A** No, sir. I did not.

20 **Q** And you stated that you got there very quickly
21 after the radio said shots fired?

22 **A** Yes, sir.

23 **Q** So whoever, whoever was there was gone?

24 **A** The area I searched, yes.

25 **Q** Yes. Nothing further at this time.

1 **THE COURT:** Any redirect?

2 **MR. MARCHANT:** Briefly, Your Honor.

3 **REDIRECT EXAMINATION**

4 **BY MR. MARCHANT:**

5 **Q** About the ball cap, Officer Hammett, how long
6 does the scent stay or how fresh does the scent need to
7 be or item need to be for your dog to be able to pick up
8 on it and start a track?

9 **A** As I can tell you when we certify through
10 NAPWDA, the national certification for our dogs every
11 year, when the master trainer lays a track for our dog,
12 we don't even go to that track until it's an hour old.

13 **Q** Okay. Are you saying that a dog can not pick
14 up on a track if it's more than an hour?

15 **A** I'm not saying that. He could.

16 **Q** Okay. Thank you.

17 **THE COURT:** Anything else?

18 **MR. JOHNSON:** No, ma'am, Your Honor.

19 **THE COURT:** Sir, you can step down.

20 **MR. MARCHANT:** Your Honor, we ask the witness
21 be excused.

22 **THE COURT:** Any objection?

23 **MR. JOHNSON:** No objection.

24 **THE COURT:** Thank you, sir, for being here.

25 **THE WITNESS:** Thank you.

1 **MR. MARCHANT:** Please the Court. The State
2 calls James Mangle.

3 **THE CLERK:** Sir, if you would, come forward
4 to be sworn in. Place your left hand on the Bible
5 and raise your right.

6 **JAMES MANGLE**
7 having first been sworn, testifies as follows:

8 **THE CLERK:** Thank you. You may be seated.
9 Would you please state your name for the record.

10 **THE WITNESS:** My name is James Antonio
11 Mangle.

12 **THE CLERK:** Thank you.

13 **THE COURT:** If you need some water, there's
14 some water right there.

15 **THE WITNESS:** Yes, ma'am.

16 **DIRECT EXAMINATION**

17 **BY MR. MARCHANT:**

18 **Q** Good morning, Mr. Mangle.

19 **A** Good morning.

20 **Q** You don't have to give me the address, but what
21 side of town do you live on now?

22 **A** Uh, I stay in Simpsonville right now.

23 **Q** Back in October of 2011, where were you living?

24 **A** ■ 22 Berkeley Pointe.

25 **Q** And who were you living with at Berkeley

1 Pointe?

2 **A** Uh, the mother of my child.

3 **Q** And if you would for me real quick, step down.

4 State's Exhibit 106, please show me which apartment
5 building is the ■4■.

6 **A** Right here.

7 **Q** And what was the apartment number again?

8 **A** ■22. So it would be in the front right side.

9 **Q** And is it on what I would consider the ground
10 floor, which is the floor you enter from the parking lot?

11 **A** No, it's the top floor.

12 **Q** And how many floors are in this particular
13 building?

14 **A** Two floors.

15 **Q** So it would be in this front right building?

16 **A** Yes, sir.

17 **Q** Is there a porch or patio on that building?

18 **A** Yes, sir.

19 **Q** If you would for me, sir, if you would, put
20 your initials on that building where your apartment is.

21 And where exactly is the porch or patio that you are
22 referring to?

23 **A** Right here.

24 **Q** All right. Have a seat. Were you familiar
25 with the neighbors that lived around you?

1 **A** Yes, sir. Pretty much.

2 **Q** Who lived upstairs next door to you on the
3 front of that building?

4 **A** A friend of mine's Jarvis Tucker.

5 **Q** And how long had he been staying in that
6 complex?

7 **A** Uh, --

8 **Q** Let me back up, Mr. Mangle, excuse me. How
9 long had you been staying there when this incident
10 occurred back on October the 28th of 2011?

11 **A** Three years.

12 **Q** And how long had Mr. Tucker been staying there?

13 **A** About a year and a half.

14 **Q** You say he was -- did you say friend? Did I
15 hear what you said correctly?

16 **A** Well, to be honest, somebody that I was getting
17 to know pretty good that I could trust with my son. So
18 pretty much I would call that person a friend.

19 **Q** So he watched your son from time to time?

20 **A** Uh, if I wanted to or I needed him to, he
21 would.

22 **Q** And how old is your son?

23 **A** Three now.

24 **Q** You have any other children?

25 **A** No, sir.

1 **Q** So you lived next door to him for roughly a
2 year and a half ---

3 **A** Yes, sir.

4 **Q** --- when this incident occurred?

5 **A** Yes, sir.

6 **Q** After this incident occurred, how long did you
7 stay in the apartments before moving out?

8 **A** Uh, until March.

9 **Q** Mr. Mangle, how tall are you?

10 **A** 6'3.

11 **Q** How much do you weigh?

12 **A** At this moment, I weigh 230.

13 **Q** Back in October of 2011, did you --

14 **A** I was a big guy.

15 **Q** Did you weigh more back in 2011?

16 **A** Yes, sir. Yes, sir.

17 **Q** How much more?

18 **A** Maybe 30 pounds more.

19 **Q** What did Mr. Tucker look like? How tall was
20 he?

21 **A** Mr. Tucker is 6'4. He's taller than me. He
22 look like he might be a little heavier than me but he
23 just weigh bigger clothes.

24 **Q** What's his race?

25 **A** He's African-American.

1 Q What sort of hair does he have?

2 A He has dreads too.

3 Q You say too. Why do you say too?

4 A Because I have dreads.

5 Q Very good. The morning this incident occurred,
6 do you remember what you were doing?

7 A I was supposed to be at work. I was actually
8 on my way to work. I was waiting on the mother of my
9 child to come so she could be there with my son. And a
10 car had went by. I didn't pay no attention to it. And
11 shortly after the car went by, another car went by. I
12 paid attention to that because I heard the brakes. I
13 don't know what time it was. So I was sitting there. I
14 was watching Sports Center. And I get up. I see an
15 officer. The only reason why I paid attention to the
16 officer is because I thought it was the officer that was
17 dealing with the case of my car being stolen.

18 Q Was your car stolen from this apartment
19 complex?

20 A Yes, sir.

21 Q Do you recall what the officer looked like that
22 day that you are referring to?

23 A Yes, sir.

24 Q Okay. Please describe him for the jury.

25 A Uh, he's a white male, short hair, real clean

1 cut.

2 Q How is it that you saw that officer?

3 A Because he was walking across the parking lot
4 from my building.

5 Q I guess what I'm asking you, Mr. Mangle, is how
6 is it that you're inside your apartment and you see him?

7 A Cause I'm 6'3. My couch is sitting up pretty
8 high. I could see over my balcony.

9 Q And so you're sitting on your couch. You're
10 looking out -- is it a window or a sliding glass door?

11 A It's a wide sliding glass door.

12 Q Did you have any curtains or drapes on that?

13 A You have patio blinds that you could turn and
14 pull.

15 Q Were they --

16 A They were open.

17 Q You say open, were they swiveled open or were
18 they drawn all the way back?

19 A They were swiveled and pulled all the way to
20 the right.

21 Q Once you saw this white, clean cut officer,
22 what did you do?

23 A I immediately came outside of the patio and I
24 looked at him. It was like weird. I knew something
25 crazy was going on. He was like on the side of the

1 building. About time I turned around to go back in, I
2 heard what are you doing. And before I could turn back
3 around, I heard shots were fired. And this whole time, I
4 couldn't see in the breezeway across from me. I never
5 knew it was a second officer was there. I never knew.
6 It seemed like it took forever. I was hearing shots
7 fired. But it had to be very fast. Because I come -- I
8 came back in the house. I grabbed my son. I went
9 downstairs. I went towards the second Berkeley Pointe
10 apartments. I went to my friend house. I left my son
11 there.

12 Q Mr. Mangle, I'm going to stop you real quick.
13 You said the second Berkeley Pointe apartments, what do
14 you mean?

15 A The complex that we are in is a complex with
16 itself. Then it has a second entrance completely totally
17 different from -- they are not jointed together. You
18 have to leave out the entrance to go to the other side
19 into another entrance to get there.

20 Q How long after these shots fired was it that
21 you took your son over there?

22 A It was -- after the shots were fired, I didn't
23 see any other cops. That's how quick it was. Shots
24 fired. And I didn't see any other cops. When I came
25 downstairs, I actually seen an SUV and it was a police

1 car by the SUV. It tripped me out because I didn't know
2 it was any other cops until I got -- until I left my son
3 with my friend and I was coming back over to my apartment
4 complex. That's when it was like -- it was chaos
5 outside.

6 Q Okay. Mr. Mangle, I'm going to have you step
7 down. If you would, on State's 106, please indicate for
8 the jury the path that you took when you went and took
9 your son to the second set of apartments. And please
10 state with your apartment. Did you come out the front or
11 the back of that apartment?

12 A I come out of the front.

13 Q And what route did you take to get over to this
14 second set of apartments?

15 A About -- down through here. This is the rent
16 office. It's a trail right here you can take. I took
17 the trail.

18 Q Okay. Mr. Mangle, I show you State's 108
19 that's in evidence. I'm showing you Berkeley Pointe. If
20 you would, indicate on this map the route you took to the
21 second set of apartments.

22 A This is my apartment complex right here. I
23 come down this way going towards the swimming pool. I
24 come down. And it's a trail right here that takes you
25 straight through here. Then you come out of here to the

1 other side.

2 Q Now, the trail, are you talking --

3 A It's actually a trail. It has a bridge that
4 goes over the creek.

5 Q Is it something that the apartment complex put
6 there?

7 A Yes, sir. Yeah, they own it.

8 Q How long would you estimate that you stayed
9 over here dropping your son off?

10 A Well, I stayed over there long enough to gather
11 my thoughts and long enough that they shut down all of
12 this. So I stayed at least 15 or 20 minutes.

13 Q After you dropped your son off, where did you
14 then go?

15 A Right back down this pathway. And when I got
16 up here, I was immediately stopped and brought into the
17 rental office.

18 Q What did you do inside the rental office?

19 A I talked to a detective. She wanted to know
20 what I was doing, my name, full name, did I have my
21 wallet on me and could I give a statement.

22 Q Did you, in fact, give her a statement?

23 A Yes, sir. I gave her a statement.

24 Q How long were you at the rental office that
25 morning?

1 **A** About another 20 minutes.

2 **Q** How long was it before you were able to get
3 back into your apartment?

4 **A** Uh, I was asking could I go back. They made
5 some calls. After the calls, I asked them again. They
6 said things were clear. Then they let me go.

7 **Q** Did you go get your son before you went back to
8 your apartment?

9 **A** No, sir.

10 **Q** How long did you then stay in your apartment
11 before you went and got your son?

12 **A** Probably about two hours.

13 **Q** I'm sorry?

14 **A** Like two hours. Two or three hours.

15 **Q** Please have a seat back on the stand.

16 **A** Yes, sir.

17 **Q** Let's go back to when you first saw the white
18 male officer that was clean cut. Did you see anybody
19 else out in the parking lot?

20 **A** No, sir.

21 **Q** Any other residents?

22 **A** No, sir.

23 **Q** I'm going to point to this gentleman over here
24 that's sitting between the two men in the suits ---

25 **A** Uh-huh.

1 **Q** --- in the middle. You ever seen him before?

2 **A** Never. And what's crazy --

3 **Q** Whoa.

4 **A** Okay.

5 **MR. MARCHANT:** Court's indulgence?

6 **THE COURT:** Yes, sir.

7 **MR. MARCHANT:** All right. Thank you, Mr.

8 Mangle. Please answer any questions Mr. Johnson may
9 have.

10 **THE COURT:** Mr. Johnson.

11 **MR. JOHNSON:** Permission to approach briefly?

12 **THE COURT:** Yes.

13 **(WHEREUPON, a bench conference is held off the**
14 **record.)**

15 **CROSS-EXAMINATION**

16 **BY MR. JOHNSON:**

17 **Q** Mr. Mangle, you have a criminal record, right?

18 **A** Yes, sir.

19 **Q** Uh, you testified earlier, the Solicitor
20 approached you with it, you gave a statement?

21 **A** Yes, sir.

22 **Q** Do you remember when you gave that statement?
23 Was it on the same date of the incident?

24 **A** Yes, sir.

25 **Q** When was the next time you spoke with someone

1 on behalf of the police or the Solicitor's office?

2 **A** Exactly, I couldn't tell you. But they tried
3 to notify me. I guess it was like --

4 **MR. MARCHANT:** Your Honor, can we approach?

5 **THE COURT:** Yes.

6 **(WHEREUPON, a bench conference is held off the**
7 **record.)**

8 **BY MR. JOHNSON:**

9 **Q** When is the next time you had contact from the
10 Greenville Police Department or the Solicitor's office,
11 law enforcement?

12 **A** I haven't.

13 **Q** You haven't?

14 **A** No, sir.

15 **Q** Okay. Uh, did you get a -- did you get a
16 subpoena to come to trial today?

17 **A** Yes, sir.

18 **Q** Okay. When did you get that?

19 **A** Last week.

20 **Q** Last week. Prior to coming in here today, did
21 you talk to someone?

22 **A** I talked to someone this morning.

23 **Q** This morning?

24 **A** Yes, sir.

25 **Q** When you got here?

1 **A** Yes, sir.

2 **Q** How did you know to come today versus Monday?

3 **A** Uh, I talked to the Solicitor office.

4 **Q** So you talked to them prior?

5 **A** I talked to a secretary.

6 **Q** Okay. And you got in contact when them to know
7 when to come?

8 **A** Yes, sir.

9 **Q** Okay. Now, when you -- after you heard the
10 shots, you stated earlier that you took your son
11 somewhere?

12 **A** Uh-huh. I didn't put it in my statement. I
13 just wanted you to know that because I see you brought
14 that up. And more than likely, you do have the
15 statement. So you bringing it up because it wasn't in my
16 statement.

17 **Q** Well, I really wasn't. Can I ask you a
18 question?

19 **A** Yes, sir.

20 **Q** Let me ask you a question. You had your son
21 with you?

22 **A** Yes, sir.

23 **Q** And you took your son somewhere?

24 **A** Yes, sir.

25 **Q** And that's -- if there was another person you

1 were with, it was your son?

2 A Yes, sir.

3 Q Okay. All right. You stated your son was
4 three years old?

5 A Uh, at the time -- he's three now.

6 Q Three now.

7 A Yes, sir.

8 Q At the time, he was one or two?

9 A Uh, two.

10 Q And it was just you and him?

11 A Just me and him.

12 MR. JOHNSON: I have nothing further at this
13 time.

14 THE COURT: Just one second.

15 MR. MARCHANT: May we approach?

16 THE COURT: Of course.

17 (WHEREUPON, a bench conference is held off the
18 record.)

19 REDIRECT EXAMINATION

20 BY MR. MARCHANT:

21 Q What is your son's date of birth?

22 A 10/6 -- I mean [REDACTED]/09. [REDACTED], I mean,
23 [REDACTED], '09.

24 Q All right. And Mr. Johnson had asked you if
25 you have a prior record. Were you convicted for

1 Shoplifting back in 2011?

2 **A** Uh, yes, sir.

3 **Q** Thank you. I have no further questions.

4 **MR. JOHNSON:** Judge, can we approach?

5 **THE COURT:** Yes, sir.

6 Just to tell you, Ladies and Gentlemen, most
7 attorneys would ask if y'all would step out which
8 takes so much more time. How they are doing it is
9 very efficient.

10 **(WHEREUPON, a bench conference is held off the**
11 **record.)**

12 **THE COURT:** All right. Any other questions
13 for this witness?

14 **MR. MARCHANT:** None from the State, Your
15 Honor. And we ask that he be relieved of his
16 subpoena.

17 **THE COURT:** Any --

18 **MR. JOHNSON:** No objection.

19 **THE COURT:** Anything from the defense?

20 All right. Sir, thank you so much for being
21 here.

22 **THE WITNESS:** Yes, ma'am.

23 **MR. MARCHANT:** Court's indulgence one moment,
24 Your Honor.

25 **THE COURT:** Of course. Remember what I said

1 yesterday. Now, listen, I'm going to stand because
2 y'all might not stand up and stretch if I don't.
3 But if y'all at any time want to stand and stretch
4 or do anything you need to do especially while we're
5 on break like this from a witness, you do that. If
6 you need a break, you let Ms. Katrina know.

7 They won't move. They just act like they're
8 chained to their seats.

9 **MR. MARCHANT:** Please the Court?

10 **THE COURT:** Yes, sir.

11 **MR. MARCHANT:** The State would call, uh,
12 Detective -- excuse me -- Detective Collis Flavell.

13 **THE CLERK:** Detective Flavell, please come
14 forward to be sworn in.

15 **COLLIS FLAVELL**

16 having first been sworn, testifies as follows:

17 **THE CLERK:** Thank you. Please be seated.

18 Would please you state your name for the record?

19 **THE WITNESS:** Collis Flavell, F-L-A-V-E-L-L.

20 **THE CLERK:** Thanks.

21 **DIRECT EXAMINATION**

22 **BY MR. MARCHANT:**

23 **Q** Detective Flavell, where are you employed?

24 **A** Greenville City Police Department.

25 **Q** And how long have you been employed with the

1 City Police Department?

2 **A** A little over 20 years.

3 **Q** You have any other law enforcement experience
4 prior to being employed with the City Police?

5 **A** No.

6 **Q** You been in here the whole time?

7 **A** I have.

8 **Q** You heard Officer Cruell testify about the
9 Academy?

10 **A** Yes.

11 **Q** Did you go through the Academy 20 years ago?

12 **A** I did.

13 **Q** And throughout your experience and tenor with
14 the Police Department, have you gone through all the
15 certification classes you need to attend to to be in
16 compliance?

17 **A** Yes, I have.

18 **Q** Now, please explain for the jury what's the
19 difference between an officer and a detective.

20 **A** Uh, the obvious difference is our clothing. I
21 don't wear a uniform. I wear plain clothes. I invest --
22 we follow up and investigate on cases of -- major cases
23 that basically the uniform officers just don't have time
24 to follow upon. We've got the time and the resources to
25 follow up on cases and investigate.

1 Q Are you always dressed in a suit?

2 A No.

3 Q Plain clothes, what would you typically be
4 wearing today if you weren't here testifying?

5 A Khakis and a polo.

6 Q On October the 28th of 2011, were you working
7 that day?

8 A I was.

9 Q You recall where you were when radio traffic
10 indicated shots fired from Officer Lane?

11 A I was in my office.

12 Q What did you do?

13 A I was in my office working. I actually heard
14 the initial traffic of the attempted vehicle stop, the
15 pursuit. I was kind of listening to see what was going
16 to happen. Officer Cruell terminated pursuit.
17 Everything kind of went back to normal. Then I heard
18 Officer Lane on the radio saying shots fired. I
19 immediately got up, notified other unit -- guys in my
20 unit. We left the LEC and headed towards Berkeley
21 Pointe.

22 Q You say guys in your unit. How many people are
23 in your unit?

24 A Five in my unit. We worked violent crimes.

25 Q Detective Conroy who is seated here, is he in

1 the same unit as you are?

2 **A** Yes, he is.

3 **Q** Where is the Law Enforcement Center? Where is
4 your office?

5 **A** It's on 385, at the end of 385 right before you
6 get to the BiLo Center on the right where the Greenville
7 County Jail is located. Our office is right beside the
8 jail.

9 **Q** And did you take your car that day?

10 **A** I did.

11 **Q** Did anybody ride with you?

12 **A** Detective Garrison.

13 **Q** Detective Garrison, is he one of your
14 colleagues along with Detective Conroy?

15 **A** He is.

16 **Q** Y'all rode together?

17 **A** We did.

18 **Q** And where -- when you left the Law Enforcement
19 Center otherwise known as the LEC, is that correct?

20 **A** Correct.

21 **Q** Once you left the LEC, where did you go and how
22 did you travel to get there?

23 **A** I went down Laurens Road, all the way down
24 Laurens Road to Fairforest. Took a right on Fairforest.
25 Then took a right on Wenwood. And we came up to the

1 apartments.

2 **Q** Do you recall where you parked when you got to
3 the apartments?

4 **A** I didn't actually park. Once we got in the
5 area, we were trying to figure out -- we could hear the
6 radio traffic. They were trying to get a perimeter set
7 up. There was a lot going on. We stopped at the
8 entrance of Berkeley Pointe. There were officers on that
9 roadway, on Wenwood. We stopped there and tried to
10 figure out where the perimeter was. And myself and
11 Detective Garrison went through Hitachi. There were
12 officers lining the woods at the Hitachi plant. We kept
13 going around Dairy Road, which is actually the frontage
14 road for 85 to the Perrigo Plant. We pulled in behind
15 the Perrigo Plant, which actually backs up to Wenwood
16 Road Apartments. There was a deputy already back there
17 covering one corner of the Perrigo Plant parking lot.
18 Myself and Detective Garrison parked and got out of our
19 vehicles and kind of spread out along that wood line.

20 **Q** All right. Detective Flavell, I'm going to ask
21 you step down. On State's 108, if you could for the
22 jury, put your initials where you parked at the Perrigo
23 Plant off Dairy Drive that day.

24 **A** (Drawing.)

25 **Q** Please take the stand. Was there anyone else

1 with you out there at that location besides Detective
2 Garrison?

3 **A** Yes.

4 **Q** Who else was with you at the back of the
5 Perrigo Plant?

6 **A** With me specifically?

7 **Q** Yes, sir.

8 **A** No one.

9 **Q** Just at that initial time, it was just you and
10 Detective Garrison?

11 **A** When we arrived, there was already a deputy. A
12 Greenville county deputy was in one corner of the Perrigo
13 Plant.

14 **Q** When you say deputy, is that somebody employed
15 with your agency?

16 **A** The sheriff's office.

17 **Q** When you pulled up, did you see anybody in the
18 area that was not law enforcement?

19 **A** No.

20 **Q** Why did you go to the Perrigo Plant instead of
21 going to Berkeley Pointe?

22 **A** There were -- at that time, we were trying to
23 contain the suspect. At that point, there was -- there
24 were already plenty of officers at the Wenwood Road
25 apartment complex where the incident occurred. And

1 basically what we did, what I did was drove the perimeter
2 until I found a gap. And I filled in that gap.

3 Q The time you are driving this perimeter, did
4 you ever encounter anybody walking on the road, male or
5 female?

6 A No.

7 Q How long did you stay at the plant until you --
8 well, what did you and Detective Garrison do back there?

9 A Stood perimeter.

10 Q You armed?

11 A Yes.

12 Q You are in street clothes. But you had your
13 side arm?

14 A I actually pulled my shotgun and put on my
15 outer vest that's clearly marked POLICE on front and
16 back.

17 Q How long did you and Detective Garrison hold
18 that position?

19 A Probably 45 minutes to an hour.

20 Q At some point in time, you left that location?

21 A I did.

22 Q Did you leave with Detective Garrison?

23 A I did.

24 Q Where did y'all go?

25 A I went to the Comfort Inn on Laurens Road.

1 **Q** What was the purpose for you to go to the
2 Comfort Inn at that point in time?

3 **A** We know that the incident, the pursuit of the
4 vehicle in question started at the Comfort Inn. So I
5 went to the Comfort Inn to meet with the management. I
6 obtained a tenant list or an occupant list of basically
7 who was in the motel that night.

8 **Q** You been in here long enough to see the
9 photographs of the Comfort Inn lobby?

10 **A** I did.

11 **Q** Is that where you went to obtain the list?

12 **A** Yes, I did.

13 **Q** When you entered the Comfort Inn that morning,
14 did you notice whether or not the lobby area was equipped
15 with video surveillance?

16 **A** It was.

17 **Q** Did you inquire whether or not that video
18 surveillance was operable at that time?

19 **A** I did.

20 **Q** And was it operable?

21 **A** It was not.

22 **Q** The person you were speaking with at the
23 Comfort Inn that day, what was their position with that
24 motel?

25 **A** He was the manager.

1 **Q** You obtained a list of occupants for the night
2 of 27th, the morning of the 28th?

3 **A** Yes, I did.

4 **Q** Roughly how long do you estimate you stayed at
5 the Comfort Inn before leaving?

6 **A** 15, 20 minutes.

7 **Q** Did you walk the perimeter of the building?
8 Did you walk the hallway?

9 **A** No.

10 **Q** Your sole reason for being there and where you
11 met with the manager is in the lobby area?

12 **A** In the pictures, it showed the front desk.
13 Right past the front desk is the office. The manager was
14 actually in that office. I actually spoke with the desk
15 clerk first. She got her manager. Then I went in his
16 office to talk to him. Of course, explained what we were
17 doing and why we were asking for this. I didn't want
18 everybody out in the lobby to hear.

19 **Q** So you were in the Comfort Inn for roughly 15
20 minutes. You left.

21 **A** Yes.

22 **Q** And where did you go?

23 **A** I went back to -- this time, I went to the
24 actual incident scene at Berkeley Pointe.

25 **Q** And we've been discussing building [REDACTED]. Did

1 you go directly to [REDACTED]? Did you go to the office?

2 **A** I did. I went to [REDACTED].

3 **Q** And how long would you say you stayed there
4 before you went somewhere else? Detective Flavell, I'm
5 asking how long did you stay at the [REDACTED], the roundabout
6 area up there before you went somewhere.

7 **A** Probably 30 to 45 minutes.

8 **Q** At that point in time, did SWAT unit arrive?

9 **A** They had.

10 **Q** Did you get in the SWAT vehicle?

11 **A** No, I did not.

12 **Q** Following the 30 to 45 minutes you spent up
13 there near [REDACTED], where did you go after that?

14 **A** I actually, uh, -- we were waiting. There was
15 still a lot going on. The K-9 teams were tracking.
16 Forensics were there starting to process the scene.
17 There was a lot of down time at that point. The [REDACTED]
18 building already had cleared. SWAT team cleared that
19 building. The residents were actually standing out in
20 the parking lot. So there was a lot of down time as far
21 as what my responsibilities were from that point on.
22 Actually, Officer Cobb was standing in the parking lot.
23 I actually put her in my vehicle and just drove her
24 around the perimeter just to get her away from the scene.

25 **Q** How long would you estimate you drove Officer

1 Cobb around?

2 **A** Roughly 20 minutes, 15, 20 minutes.

3 **Q** After you circled the perimeter, did y'all go
4 back to the Law Enforcement Center?

5 **A** No, actually, we got a call from the command
6 post that was requesting Officer Cobb. So I dropped her
7 off down at the -- the rent office was set up as a
8 command post. I dropped her off at the rent office.

9 **Q** Okay. Please explain to the jury what do you
10 mean when you say command post.

11 **A** They had -- do to the magnitude of what was
12 going on, they had set up a command post, basically a
13 communication center in the office of Berkeley Pointe.
14 Due to other agencies being involved communication-wise,
15 uh, leaders or heads of those agencies were in the
16 command center relaying information on their radios to
17 their officers.

18 **Q** Essentially, a central point of communication
19 and then to funnel out information?

20 **A** Correct.

21 **Q** Did you spend some time with Sergeant Shaw and
22 Lieutenant Lendway of Forensics?

23 **A** I did. After I dropped Officer Cobb back off
24 at the command center, I went back to the crime scene and
25 stood by with Forensics as they started the processing,

1 photographing and videoing of the crime scene.

2 **Q** And what's the purpose of calling Forensics out
3 to a scene like this?

4 **A** In Greenville county, we have a -- they are
5 actually a separate agency. They are the Department of
6 Public Safety. They are a support agency for all
7 agencies in Greenville county. They have a Forensics
8 division that basically responds to our crime scenes.
9 Their crime scene technicians are trained more in depth
10 that we are on protecting, collecting evidence,
11 documenting evidence, packaging evidence. They also
12 perform all of our forensics tests as far as fingerprint,
13 DNA, uh, stuff of that nature, they do it. So they
14 collect evidence. They take it back to their lab where
15 they process that evidence in their crime lab. Then they
16 package it and place it in our Property and Evidence
17 section.

18 **Q** Is that typical, in an incident such as this,
19 to have Forensics there?

20 **A** Yes.

21 **Q** Now, this Forensics collect all evidence?

22 **A** Pretty much. They do not collect drugs or
23 money. We have to collect those items.

24 **Q** On occasion, do you have to collect evidence
25 yourself?

1 **A** I do.

2 **Q** And when evidence is collected, please explain
3 to the jury what's done with it initially, where does it
4 go, where is it housed, who keeps it.

5 **A** Down in the basement of the LEC, we have what's
6 called a Property and Evidence section. It's a secure
7 area. They have four or five employees that work in that
8 section. Actually, if you walk up to a window, much like
9 a counter right here, any evidence, property, found
10 property, safekeeping property, inmate property, anything
11 that I physically take from somebody or somewhere that I
12 have to account for. So I -- that item is then placed in
13 our Property and Evidence section via Property and
14 Evidence sheet which tracks, the date, time of
15 collection, what was collected and who had touched it
16 after I collected, where does that property go. Anyone
17 who touches that property has to fill out or sign their
18 name on the chain of custody sheet for that to be able to
19 view or take that property somewhere. It's stored in
20 that property section until it's disposed of.

21 **Q** Did you, in fact, in this particular case, take
22 position of some property?

23 **A** I did.

24 **Q** And where did you take possession of that
25 property?

1 **A** First, I took Officer Cobb's gun. That was
2 actually occurred at Berkeley Pointe in the command
3 center. I took possession of her firearm, a magazine and
4 ammunition that was in her, uh, gun at the time. I
5 collected it.

6 **Q** Detective Flavell, why is it necessary for you
7 to do that?

8 **A** Just -- that gun was used, was fired. And
9 until we get ballistics testing and something done on
10 that particular firearms, we have to have the firearms
11 actually complete the ballistics testing.

12 **Q** So the process you described to the jury
13 earlier about Property and Evidence, you took that
14 firearm?

15 **A** I did.

16 **Q** And seized it. Did you put it into Property
17 and Evidence?

18 **A** I did.

19 **Q** I'm going to show you several items, State's
20 98, 35, 99, 100, 37, 38, 39, 40 and 41. If you would,
21 take a look at those please, sir.

22 **A** (Reviewing.)

23 **Q** Do you recognize the items depicted in these
24 photographs?

25 **A** I do.

1 **Q** And do they fairly and accurately show how you
2 and Sergeant Shaw found those items on October 28th,
3 2011?

4 **A** Yes, I do.

5 **MR. MARCHANT:** The State would move, uh, --
6 the State would move 41, 40, 39, 38, 37, 100, 99, 35
7 and 98 into evidence.

8 **THE COURT:** Any objection?

9 **MR. JOHNSON:** No objection, Your Honor.

10 **THE COURT:** All right. They will be so
11 admitted.

12 **(WHEREUPON, State's Exhibits 35, 37, 38, 39, 40, 41,**
13 **98, 99 and 100 are admitted into the record.)**

14 **BY MR. MARCHANT:**

15 **Q** All right. Detective Flavell, if you would,
16 with the pointer right there, we're going to walk through
17 some of these pictures. I want you to explain the
18 vantage point from where the photographs were taken and
19 what you saw. I'm showing what's been marked as State's
20 98. On State's 98, please describe for the jury what's
21 being depicted here.

22 **A** That's the rear of the [REDACTED] building on the
23 woodline.

24 **Q** Showing you State's 35.

25 **A** If you -- that's the rear bottom. This was

1 actually a split level. The parking lot level is up
2 those steps. The back level is split level on the
3 woodline. That's standing in the breezeway at the back
4 of the building looking into the breezeway.

5 Q Now all of these yellow placards that you see,
6 did you put those down?

7 A I did not.

8 Q Okay. Do you recall who did?

9 A Sergeant Shaw of Forensics.

10 Q Would you please describe for the jury what is
11 shown up their next to the door in the middle right of
12 that photograph?

13 A That was a, uh, like a duffle bag that was
14 sitting -- there was actually two apartments on the
15 bottom level. That was a storage closet. Sitting in
16 that corner was a duffle bag with clothing kind of like
17 it had been pulled out the top of the bag.

18 Q Showing you State's 100.

19 A That's just a close up, a closer photo of that
20 pile of clothes.

21 Q State's 99.

22 A Same photograph, just a different angle.

23 Q Now, referencing back to State's 100. Uh, did
24 you go into this bag of clothing?

25 A I did not.

1 Q Who did?

2 A Sergeant Shaw.

3 Q Were you present when he did?

4 A I was.

5 Q I'm going to show you what's in evidence as
6 State's 37.

7 A That's after Sergeant Shaw started kind of
8 going through that pile. He's removed clothes off the
9 top. That's just the photograph depicting, once he moved
10 those clothes, what was there, what was present at the
11 time.

12 Q Do you recall whether Sergeant Shaw found a
13 wallet in --

14 A He did.

15 Q Showing you State's 38.

16 A That's the wallet right there.

17 Q Sergeant Shaw subsequently pulled out
18 information from that wallet?

19 A He did.

20 Q And you were present when he did that?

21 A Uh-huh.

22 Q I'm showing you State's 39.

23 A That's the Social Security card that was in the
24 wallet.

25 Q State's 40.

1 **A** It's a South Carolina Health Department card
2 that was also in the wallet.

3 **Q** State's 41.

4 **A** That's a pawn ticket from, I think it's Easy
5 Money Pawn in Spartanburg, that was also folded up in the
6 wallet.

7 **Q** With the information we just saw between the
8 Social Security card and the health card or birth
9 certificate, did you have a name at that time?

10 **A** I did.

11 **Q** And what was the name?

12 **A** Patrick Dean Lowrance.

13 **Q** With that information, did you compare that
14 name to the hotel list that you received from the Comfort
15 Inn manager earlier that day?

16 **A** I did.

17 **Q** Did you find that name on the list?

18 **A** I found Dean Lowrance. It was registered 4/27.

19 **Q** At that point in time, what did you do?

20 **A** I returned to the Comfort Inn.

21 **Q** What was the nature or purpose for you to go
22 back to the Comfort Inn?

23 **A** Just to get further information about that room
24 and to see if anyone was in that room.

25 **Q** Do you recall what time it was when you went

1 back to the Comfort Inn?

2 **A** It's roughly 4:30ish, 4:20, 4:30 that
3 afternoon.

4 **Q** And spoke with the manager?

5 **A** I did.

6 **Q** And did you subsequently enter room 4■?

7 **A** I did.

8 **Q** Would you please describe for the jury how you
9 get to Room 4■ from that lobby area.

10 **A** The hallway -- I think it was talked about
11 earlier. The hallway that leads down the breakfast area
12 was to the right. There was a hallway that goes down the
13 -- basically down the motel. Just past that breakfast
14 area, if you turn right, there's an elevator. Went up
15 the second floor. I'm sorry. Fourth floor. Went right
16 off the elevator and then right down the hallway and the
17 room was on the left.

18 **Q** Detective Flavell, I'm going to ask you to step
19 down. On State's 107, if you would, circle the area of
20 the Comfort Inn roughly where that room is located.
21 Which side of the building that room was located?

22 **A** I don't know exactly how far down the motel I
23 walked. The room was on this side of the building.

24 **Q** Is there a -- are there other rooms -- excuse
25 me, are there other rooms on this side of the building?

1 **A** Yes, sir. Basically, it's a -- basically a
2 center hallway with rooms on both sides.

3 **Q** Okay. Thank you. Please have a seat.

4 **A** (Witness complies.)

5 **Q** All right. Detective, uh, -- Detective
6 Flavell, I'm going to show you what's been marked as
7 State's 60 -- I'm going to show you what's been marked as
8 State's 66. Do you recognize the packaging on this
9 envelope?

10 **A** I do.

11 **Q** And how is it that you recognize it?

12 **A** It's -- for one, it's my handwriting on the
13 front. And then it's sealed with evidence tape with the
14 case number, the date and my initials.

15 **Q** Okay. Once you took that information, where
16 did it go?

17 **A** Once I sealed this?

18 **Q** Once it was sealed, where has it been stored
19 and kept until court?

20 **A** Property and Evidence.

21 **Q** If you'd open that item.

22 **A** (Witness complies.)

23 **Q** Look at the contents that are inside State's
24 66.

25 **A** (Reviewing.)

1 **MR. MARCHANT:** Move State's 66 into evidence.

2 **THE COURT:** Any objection?

3 **MR. JOHNSON:** No objection, Your Honor.

4 **THE COURT:** All right.

5 (WHEREUPON, State's Exhibit 66 is admitted into the
6 record.)

7 **BY MR. MARCHANT:**

8 **Q** All right. Detective Flavell, please tell the
9 jury what you found and where you found that information
10 that's in evidence from State's 66.

11 **A** This was items that once I entered Room 4 [REDACTED] at
12 the Comfort Inn, there were a couple of bags, like a
13 duffle bag with clothing and a Jansport backpack. Inside
14 that Jansport backpack were items that I collected. It's
15 a South Carolina Driver's License of Patrick Dean
16 Lowrance. Several Quality Inn room key cards to the
17 Quality Inn. Another room key swipe card for, I'm not
18 sure. It's a welcome guest card. It's generic, so I
19 don't know which motel it goes to. Uh, there's actually
20 a key card holder for Room 4 [REDACTED] at the Comfort Inn.
21 There's other paperwork. Handwritten phone numbers.
22 This is a receipt, uh, for a motel in Spartanburg to
23 Patrick Dean Lowrance. And this is another receipt for
24 Quality Inn in Spartanburg under the name Evelyn Alvarez.
25 **Q** Detective Flavell, where did you find those

1 items in State's 66?

2 **A** These items were in that Jansport backpack.

3 **Q** I'm showing you what's been marked as State's
4 103. Do you recognize this?

5 **A** I do.

6 **MR. MARCHANT:** I move State's 103 into
7 evidence.

8 **THE COURT:** Any objection?

9 **MR. JOHNSON:** No objection.

10 **THE COURT:** All right. It will be so
11 admitted.

12 **(WHEREUPON, State's Exhibit 103 is admitted into the**
13 **record.)**

14 **BY MR. MARCHANT:**

15 **Q** Is this the backpack which, uh, State's 103 is
16 showing that the items in State's 66 came out of?

17 **A** It is.

18 **Q** Detective Flavell, did you also find some other
19 personal effects in the room?

20 **A** I did.

21 **Q** You recall where you found them and how they
22 were -- how they were stored when you located them?

23 **A** There was a black duffle bag of clothing.

24 **Q** Show you what's marked as State's 104. Do you
25 recognize this?

1 **A** I do.

2 **Q** It seems to be some red evidence tape on it.

3 Did you seal this?

4 **A** I did.

5 **Q** Has it been down to P&E since you sealed it?

6 **A** Yes.

7 **MR. MARCHANT:** Move State's 104 into
8 evidence.

9 **THE COURT:** Any objection?

10 **MR. JOHNSON:** Your Honor, may I approach on
11 this?

12 **THE COURT:** Yes.

13 **(WHEREUPON, a bench conference is held off the**
14 **record.)**

15 **THE COURT:** Ladies and Gentlemen, we've
16 probably come to a good point for our morning break.
17 Please don't discuss this case with anyone. I do
18 not mind if you go out and smoke. Just remember
19 that you do have to be with the bailiff at all times
20 when you do that. Thank you.

21 We'll probably break about 10, 15 minutes if we
22 need to to get all the smokers back in.

23 **THE BAILIFF:** Okay.

24 **(WHEREUPON, the jury exits at approximately**
25 **10:31 a.m.)**

1 **THE COURT:** We'll be in recess for 10
2 minutes.

3 (WHEREUPON, a short recess is taken.)

4 **THE COURT:** All right. We ready to bring the
5 jury back in?

6 **MR. JOHNSON:** I think I'm good with the bag,
7 yes.

8 THE COURT: Okay. All right.

9 (WHEREUPON, the jury enters at approximately
10 10:53 a.m.)

11 BY MR. MARCHANT:

12 Q Let's get back on track, Detective Flavell. We
13 were talking about State's number 104. Where did you
14 locate this item?

15 **A** It was in the Room 4 [REDACTED].

16 Q Did you take possession of it?

17 | **A** I did.

18 Q Where did you take it once you took possession
19 of it?

20	A Back to the LEC.

21 Q Do you recall what items, if any, you took out
22 of 104?

23 | **A** I do.

24 Q Are they packaged and stored in a separate
25 container that's not here at the moment?

1 **A** Yes.

2 **MR. MARCHANT:** 104, we'd move that into
3 evidence.

4 **MR. JOHNSON:** No objection.

5 **THE COURT:** Okay then. It will be so
6 admitted.

7 **(WHEREUPON, State's Exhibit 104 is admitted into the**
8 **record.)**

9 **BY MR. MARCHANT:**

10 **Q** Detective Flavell, I'm not going to go through
11 this at this time. But roughly, what's inside that
12 duffle bag?

13 **A** Clothing. Mostly clothing.

14 **Q** At the motel roughly 4:30, go to the room,
15 collect this evidence that we talked about and given to
16 the jury, what'd you do after that?

17 **A** I returned at that point to the Law Enforcement
18 Center to the Detective division.

19 **Q** What was the purpose of you going back to the
20 Detective division?

21 **A** To transport all this property back and to meet
22 with Detective Garrison.

23 **Q** Now, let's go back and talk about yourself and
24 Detective Garrison at the Perrigo Plant. Did you stay
25 with Detective Garrison the whole time in between the

1 Perrigo Plant and the time that you just described going
2 back to the Law Enforcement Center?

3 **A** No, I did not.

4 **Q** And why would y'all separate?

5 **A** After I returned, he went to the motel with me
6 originally to get the printout of the tenant list. Once
7 we returned to the apartment complex, I then started kind
8 of following it through the role of the crime scene and
9 Detective Garrison went back to the Law Enforcement
10 Center.

11 **Q** Do you know, uh, why Detective Garrison went
12 back to the Law Enforcement Center?

13 **A** I do.

14 **Q** And what was the nature or direction provided
15 to him to go back to the Law Enforcement Center?

16 **A** He was going back to start working with the
17 cell phone companies, obtained search warrants and
18 obtained orders to start pinging cell phones.

19 **Q** You say ping cell phones. Please describe to
20 the jury what you mean by pinging.

21 **A** When we have a cell phone that we know that --
22 if you are carrying a cell phone and we're looking for
23 you, we contact the cell phone company. We request a
24 ping, which requires a search warrant. Unless it's an
25 exigent circumstance, like a missing person or a missing

1 child, they'll do it for us on basically our signature,
2 but we have to follow up with a search warrant. That
3 phone company then sets up a system through their network
4 that pings, sends a signal to your phone that comes back
5 to them and tells them basically longitude and latitude
6 or gray coordinates of where that phone is located within
7 -- between towers. And they set it up to where I get
8 that ping on my email or my cell phone.

9 Q To be clear, Detective Garrison is the one who
10 is conducting this part of the investigation?

11 A He did. Correct.

12 Q Were you in communication with Detective
13 Garrison throughout the course of the day?

14 A I was.

15 Q You also in communication with Detective
16 Conroy?

17 A Yes.

18 Q Now, following your returning back to the Law
19 Enforcement Center and putting this stuff back in
20 Property and Evidence, what was your next course of
21 action?

22 A I met with Greenville County Sheriff's Office
23 at Home Depot on 291.

24 Q Approximately -- let me show you what's been
25 marked and put into evidence. (Pause.)

1 That's State's 67. I'd ask you to step down.

2 **A** (Witness complies.)

3 **Q** If you would for me, Detective Flavell, if you
4 would initial where the Home Depot is on this map and
5 place your initials on that.

6 **A** (Drawing.)

7 **Q** You indicate that you gathered -- you can take
8 the stand.

9 **A** (Witness complies.)

10 **Q** You indicated that you gathered with the
11 Sheriff's Office. Why were you now, uh, communicating or
12 coordinating with the sheriff's office?

13 **A** We had information on a possible location where
14 Patrick Lowrance was. We were meeting because it was
15 outside of our jurisdiction, outside the city limits. I
16 don't have jurisdiction in the county. This location was
17 actually in the county. So the sheriff's office was
18 assisting us.

19 **Q** What was the location that you had, uh, been
20 provided that the defendant was at?

21 **A** [REDACTED] Mooremont Avenue.

22 **Q** And with the sheriff's office, do you recall
23 approximately -- you are at the motel, the Comfort Inn
24 motel at 4:30. You'd gone back to the Law Enforcement
25 Center, is that right?

1 **A** Yes.

2 **Q** From the Law Enforcement Center, you leave and
3 go directly to the Home Depot?

4 **A** Yes.

5 **Q** You recall roughly how long you stayed at the
6 Law Enforcement Center before going to the Home Depot?

7 **A** I'm going to say roughly 6:30, 6:45, we started
8 getting this information. I was probably at the Home
9 Depot, I'm going to say, uh, 7:00.

10 **Q** You recall roughly how long you stayed at the
11 Home Depot before y'all made your way over to [REDACTED]
12 Mooremont?

13 **A** Probably 30 to 45 minutes.

14 **Q** Now, the locations that you discussed going to,
15 the Comfort Inn, Berkeley Pointe Apartments and then
16 Mooremont Avenue, are all those within Greenville county?

17 **A** Yes.

18 **Q** You go with the Sheriff's Office to [REDACTED]
19 Mooremont?

20 **A** I did.

21 **Q** And once you got to [REDACTED] Mooremont, please
22 explain to the jury what occurred.

23 **A** Basically, at that point, uh, -- we stayed at
24 Home Depot for a while trying to figure out the game plan
25 on how we are going to do this, what we're going to do.

1 Once the Sheriff's Office Vice and Narcotics team was
2 assisting us, their commander or lieutenant made a
3 decision that we're just going to go call them out of the
4 house. We went to [REDACTED] Mooremont. Sheriff's Office
5 personnel basically surrounded the house. They had
6 uniform deputies and, of course, their K-9 deputies were
7 there to assist. They started calling him out on the PA
8 system.

9 Q Who was the first person that came out of the
10 residence?

11 A It was a female and I believe it was the
12 resident or the occupant of the house, William Brockman.

13 Q I'm sorry. Is Mr. Brockman male or female?

14 A Male. There was a female with him.

15 Q Mr. Brockman and the female came out of the
16 residence?

17 A Yes.

18 Q Were you able to identify who the female was?

19 A Later, she was identified as Patrick Lowrance's
20 wife.

21 Q Do you recall her name?

22 A I do not.

23 Q Did anyone else come out of the residence?

24 A Yes.

25 Q You got those two folks who had come out. Who

1 else came out of the residence?

2 **A** Patrick Lowrance.

3 **Q** And did you detain him at that point in time?

4 **A** I did not.

5 **Q** Why not?

6 **A** Sheriff's Office personnel did that.

7 **Q** Were you able to observe him?

8 **A** Yes.

9 **Q** Once the Sheriff detained him, where did he go?

10 **A** Into a Greenville County EMS ambulance.

11 **Q** Why did he get into an EMS ambulance?

12 **A** He was suffering from a gunshot wound.

13 **Q** Do you recall at what point in time
14 specifically at that time in the evening when the
15 defendant was called out of the house?

16 **A** Time-wise?

17 **Q** Time-wise. What time in the evening is it?

18 **A** I'm going to say 8:00. Not specifically. I'm
19 going to say around 8:30, 8:45 p.m.

20 **Q** Now, I'm going to show you what's already been
21 put into evidence as State's 46, 45, and 44. Did you
22 subsequently go into the residence?

23 **A** I did.

24 **Q** With respect to State's 45, 44 and 46, starting
25 with, uh, -- I'm going to show you State's 44, 45 and 46

1 and see if you recognize those.

2 **A** I do.

3 **Q** And they fairly and accurately depict what you
4 found that evening around 8:30?

5 **A** Yes, I do.

6 **MR. MARCHANT:** The State would move 44, 45,
7 and 46 into evidence.

8 **THE COURT:** Any objection?

9 **MR. JOHNSON:** No objection.

10 **THE COURT:** All right. They will be so
11 admitted.

12 **(WHEREUPON, State's Exhibits 44 thru 46 are admitted**
13 **into the record.)**

14 **BY MR. MARCHANT:**

15 **Q** All right. Detective Flavell, I'm showing you
16 what's been marked as State's 44. What does this picture
17 show?

18 **A** That's the back of -- what I would label as the
19 back right bedroom at [REDACTED] Mooremont Avenue.

20 **Q** And what does this picture show?

21 **A** When we entered that room, we flipped the
22 mattress. That was a Cobra 8 M-11 9-millimeter handgun
23 that was under the bed. This right here was a black or
24 dark colored like a hooded sweatshirt with suspected
25 blood all over it and a pair of tennis shoes.

1 Q Showing you State's 45.

2 A That's a close up of the firearm.

3 Q State's 46.

4 A That's just a close up of the hooded
5 sweatshirt.

6 Q Detective Flavell, I'm showing you what's been
7 marked as State's 53 and ask and see if you recognize
8 this item.

9 A I do.

10 Q And how is it that you recognize it?

11 A That's the Cobra 8 9-millimeter pistol that we
12 collected from [REDACTED] Mooremont.

13 Q Did you collect it or did Forensics?

14 A No, we called Forensics. Forensics collected
15 that item.

16 Q Now, it's laying right there in between the
17 mattresses when you got there. Why didn't you pick it up
18 and collect it?

19 A As I advised earlier, Forensics -- number one,
20 Forensics was already very involved in this
21 investigation. Evidence like this that could potentially
22 obtain fingerprints, DNA, whatever forensic testing, it's
23 just better to let them collect it, package it, handle it
24 so it's not contaminated. Also, it cuts down on chain of
25 custody of how many people actually touched that piece of

1 evidence.

2 **Q** The condition that it's in today, it's in the
3 same condition that it was then?

4 **A** Yes, other than the lock and all that's been
5 placed on it.

6 **MR. MARCHANT:** Move 53 into evidence.

7 **THE COURT:** Any objection?

8 **MR. JOHNSON:** No objection.

9 **THE COURT:** It will be so admitted.

10 **(WHEREUPON, State's Exhibit 53 is admitted into the**
11 **record.)**

12 **BY MR. MARCHANT:**

13 **Q** Detective Flavell, if you would be so kind to
14 pull 53 out of the box. And please do not point it at
15 anybody. Show the jury what we have.

16 **A** Basically, a Cobra 8 make, M-11 9-millimeter
17 pistol with a, uh, extended magazine. I'm not sure how
18 many rounds. Probably 30. Probably a 30 round magazine.

19 **THE COURT:** Let me just reiterate to the
20 jury. This gun has a gun lock on it.

21 **THE WITNESS:** Yes.

22 **THE COURT:** And it also has the magazine
23 removed from it. So there is no danger from this
24 gun whatsoever. All right.

25 Yes, sir.

1 BY MR. MARCHANT:

2 Q Put it back please.

3 A (Witness complies.)

4 Q Now, when the defendant was carried out of the
5 house and you found this weapon, was he still on the
6 scene? Do you recall?

7 A No. I believe he had already been transported
8 to the hospital.

9 Q You know that you were investigating a
10 shooting.

11 A Yes.

12 Q At roughly 8:30, you had the defendant in
13 custody?

14 A Yes.

15 Q Did you conduct or ask to have conducted
16 gunshot residue tests on the defendant's hands?

17 A I did not.

18 Q Why not?

19 A The amount of time that had passed, uh, SLED
20 will not except any test of gunshot residue that is
21 collected after six hours at the time of the actually
22 shooting. Due to the nature of the test, it's basically
23 useless to do a test that way.

24 Q You recall what time the shooting occurred that
25 morning?

1 **A** Roughly 9:30, 9:45.

2 **Q** And it's what time at night now?

3 **A** 12 hours later.

4 **Q** Does -- Ms. Fryar.

5 **THE BAILIFF:** Sims.

6 **MR. MARCHANT:** Sims. I did the same thing
7 Judge Verdin did to you. Sorry.

8 **THE COURT:** You don't have to bring it up.

9 **BY MR. MARCHANT:**

10 **Q** Uh, Detective Flavell, you mentioned that SLED
11 does the testing on the residue.

12 **A** Yes.

13 **Q** Does Greenville County also conduct that test?

14 **A** We do not.

15 **Q** After the house has been cleared, the
16 defendant's gone from the scene, did you have an
17 opportunity to talk with a William Brockman?

18 **A** I did.

19 **Q** And is he the homeowner or does he reside in
20 that residence at [REDACTED] Mooremont?

21 **A** Yes, he does.

22 **Q** Okay. And did you have an opportunity to take
23 a written statement from him?

24 **A** I did.

25 **Q** All right. I'm showing you what's been just

1 marked as State's 102. I'm going to ask you to take a
2 look at that and see if you identify and recognize that
3 statement.

4 **A** I do.

5 **Q** And when you take a statement from someone who
6 is not a suspect in the case, how is it that you go about
7 taking that statement and dictating to them?

8 **A** Basically, in this particular case, uh, Mr.
9 Brockman identified himself as the resident of [REDACTED]
10 Mooremont Avenue. He actually stated that his -- it was
11 his grandmother's house. She recently passed away and
12 he'd been living there ever since.

13 **Q** Detective Flavell, let's not get into what Mr.
14 Brockman said.

15 **A** Okay.

16 **Q** But how is it that you go about actually taking
17 down a written statement from somebody. Just tell me
18 typically what is the normal course of procedure.

19 **A** I sat down at his kitchen table and asked him
20 to tell me what he knew about the Patrick Lowrance and
21 what happened today. As he was telling me, I was writing
22 it down.

23 **Q** Are you writing word-for-word what he's saying?

24 **A** Probably not word-for-word. I'm trying to keep
25 up with what he's saying. But I'm getting what his story

1 is on paper.

2 Q And once, uh, you take down the statement, do
3 you give him the opportunity to review it?

4 A I do. Either -- depending on the person, I
5 either read the statement back to that person or have
6 them read it. If they agree with what the statement
7 says, I ask them to sign it.

8 Q Did you have that talk with Mr. Brockman this
9 day?

10 A I did.

11 Q And did he have the opportunity to read?

12 A He did.

13 Q How many pages is that statement?

14 A It's two -- two pages and not even a paragraph.

15 Q Did he make any corrections to what you wrote
16 down?

17 A He did not.

18 Q How is it indicated on each one of those pages
19 that he acknowledged that that information in there is
20 true and correct?

21 A With his signature.

22 Q All right. Detective Flavell, I'm going to
23 jump back on you here for a minute and move back to, uh,
24 State's 104, which is the black duffle bag.

25 (WHEREUPON, State's Exhibit 112 is marked for

1 identification purposes.)

2 **BY MR. MARCHANT:**

3 **Q** If you would, take a look at State's 112 and
4 see if you recognize those items.

5 **A** I do.

6 **Q** How is it that you recognize 112?

7 **A** Same as before. It has my handwriting, the
8 evidence tape on the back is sealed with the date and my
9 initials.

10 **Q** All right. Detective Flavell, I would ask that
11 you open State's 112 and see if you recognize the
12 contents therein.

13 **A** (Witness complies.)

14 I do.

15 **MR. MARCHANT:** Move, uh, State's 112 into
16 evidence.

17 **THE COURT:** Any objection?

18 **MR. JOHNSON:** Your Honor, I just want to see.

19 (Pause.)

20 **MR. MARCHANT:** State's 112 into evidence,
21 Your Honor.

22 **THE COURT:** Any objection?

23 **MR. JOHNSON:** No objection.

24 **THE COURT:** All right. It is so admitted.

25 **(WHEREUPON, State's Exhibit 112 is admitted into the**

1 record.)

2 **BY MR. MARCHANT:**

3 **Q** Detective Flavell, you don't have to go through
4 all of those CDs. But please describe for the jury the
5 items that you pulled out of the black duffle bag from
6 the Comfort Inn, which is State's 104.

7 **A** Just items that I pulled out of that back that
8 I packaged separately was miscellaneous DVDs, CDs, like
9 homemade, store bought, uh, published. And a patient
10 information sheet from Lewis Blackmon hospital --
11 Greenville Hospital System for Patrick Dean Lowrance.

12 **MR. MARCHANT:** Court's indulgence?

13 **THE COURT:** Yes.

14 (WHEREUPON, there is a pause.)

15 **MR. MARCHANT:** Thank you, Detective Flavell.
16 Please answer any questions Mr. Johnson may have.

17 **THE COURT:** Mr. Johnson.

18 **MR. JOHNSON:** Thank you, Your Honor.

19 **CROSS-EXAMINATION**

20 **BY MR. JOHNSON:**

21 **Q** Detective Flavell, I kind of what to start -- I
22 guess we'll back up a little bit. First of all, when you
23 encountered my client at that home ---

24 **A** Yes.

25 **Q** --- when the home was surrounded, when my

1 client came out, he didn't come out shooting?

2 **A** No, he did not.

3 **Q** Okay. He didn't come out in any sort of
4 hostile manner, did he?

5 **A** He did not.

6 **Q** Now, we do know -- now at the time that you
7 heard "shots fired" -- now I'm going back again -- you
8 didn't have a suspect at that point?

9 **A** No, we did not.

10 **Q** Okay. And that person, whenever Officer Cobb
11 encountered that person, that person shot at her?

12 **A** Yes.

13 **Q** Okay. Now, going back to, uh, Mr. Brockman's
14 mother's home, is that right?

15 **A** He originally stated it was his grandmother's
16 residence until she recently passed away. I'm not sure.
17 I guess his mother got it.

18 **Q** From his grandmother, is that right?

19 **A** Yeah, he said he had been living there since
20 she had passed.

21 **Q** Okay. Now, you interviewed Mr. Brockman, and
22 you have that statement?

23 **A** Yes, I do.

24 **Q** And, uh, you basically interviewed him because
25 he was cooperating or a potential suspect of the person

1 who potentially shot at Officer Cobb and Officer Lane?

2 **A** Correct.

3 **Q** And if that was true, if he was harboring or
4 helping somebody of that nature, that could be a crime,
5 isn't it?

6 **A** It is.

7 **Q** Now, he wasn't charged with the crime, was he?

8 **A** He was not.

9 **Q** This has been entered into evidence as State's
10 66. This is the stuff you collected, right?

11 **A** Yes, it is.

12 **Q** Will you pull it out for us?

13 **A** (Witness complies.)

14 **Q** Okay. Go to the -- I believe you pulled out --
15 one of the things you pulled out was my client's driver's
16 license?

17 **A** That's correct.

18 **Q** Will you go to that please?

19 **A** Okay.

20 **Q** Okay. When was that license issued?

21 **A** Uh, August 12, 2008.

22 **Q** Now, uh, there's a picture on the license
23 obviously.

24 **A** Yes.

25 **Q** In that picture, does my client have long or

1 short hair?

2 **A** Short hair.

3 **Q** Okay. Now, you don't know when that picture
4 was taken obviously.

5 **A** No.

6 **Q** But if it was taken on the day the license was
7 issued, his hair would have been short?

8 **A** Yes.

9 **Q** Uh, how tall is he in that picture?

10 **A** Uh, 5'8.

11 **Q** 5'8. How many pounds?

12 **A** 160.

13 **Q** Okay. You can put the license down. Another
14 thing I want to call your attention to is how many key
15 cards do you have?

16 **A** I have three for the Quality Inn and one
17 generic card that I don't know where -- it doesn't have
18 any markings of what hotel it belongs to.

19 **Q** Okay.

20 **A** But there is a key, guestroom folder, binder
21 for Room 4█, the Comfort Inn.

22 **Q** Uh-huh. When you took those cards, now, I
23 understand that they may not have Comfort Inn, but you
24 could pretty much verify that more than one person may
25 have been in that room, is that right?

1 **A** No.

2 **Q** Is that a possibility? I'm saying is that a
3 possibility?

4 **A** Possibility, yes.

5 **MR. JOHNSON:** Okay. One second please, Your
6 Honor.

7 **THE COURT:** Yes.

8 (WHEREUPON, there is a pause.)

9 **BY MR. JOHNSON:**

10 **Q** That stuff, the key card and the driver's
11 license, all that stuff, that was found at the hotel?

12 **A** Yes.

13 **Q** As far as you know, that driver's license, is
14 it valid? Would it have been valid at the time?

15 **A** I didn't run it. I'm not sure if it's a valid
16 license or not.

17 **Q** Okay. Would it -- excuse me -- when does it
18 expire?

19 **A** December 11, 2018.

20 **MR. JOHNSON:** Okay. I have nothing further
21 for this witness at this time.

22 **THE COURT:** Anything else from the State?

23 **MR. MARCHANT:** Briefly, Your Honor.

24 **REDIRECT EXAMINATION**

25 **BY MR. MARCHANT:**

1 **Q** Detective Flavell, with respect to those two
2 pieces of paper, where are those receipts, where did they
3 come from or at least on that information, where is the
4 hotel located?

5 **A** One of them is that on the receipt it says USA
6 Economy Lodge, 7136 Asheville Highway, Spartanburg, South
7 Carolina with Patrick D. Lowrance being the guest. For
8 the Quality -- there's one for Quality Inn at 160 -- I'm
9 not sure -- Simule, S-I-M-U-L-E, Road, Spartanburg, South
10 Carolina with a guest being an Evelyn Alvarez.

11 **Q** Detective Flavell, with respect to the Economy
12 Lodge receipt, what is the date of the transaction on
13 that receipt?

14 **A** The, uh, arrival is Wednesday, September 28th,
15 2011.

16 **Q** 9/28/2011. All right. With respect to the
17 Quality Inn?

18 **A** September 25th, 2011.

19 **Q** The last question I have is Mr. Johnson was
20 talking about his client being called out of the house
21 and being cooperative. Did his client just come out
22 voluntarily or did he have to be called out?

23 **A** No, he was called out.

24 **Q** Thank you. I have no further questions.

25 **THE COURT:** Anything else?

1 MR. JOHNSON: Briefly.

2 THE COURT: Yes, sir.

3 **RECROSS-EXAMINATION**

4 BY MR. JOHNSON:

5 Q So basically you called out to him to let him
6 know you were out there?

7 A Yes.

8 Q All right. Nothing further.

9 THE COURT: Anything else, Mr. Marchant?

10 MR. MARCHANT: No, Your Honor.

11 THE COURT: Sir, you can step down.

12 MR. MARCHANT: The State calls Dar Shaw.

13 THE CLERK: Sergeant Shaw, come forward to be
14 sworn in please.

15 **DARWIN SHAW**

16 having first been sworn, testifies as follows:

17 THE CLERK: Thank you. You may be seated.

18 Would you please state your name for the record.

19 THE WITNESS: Darwin Shaw, S-H-A-W.

20 THE CLERK: Thank you.

21 **DIRECT EXAMINATION**

22 BY MR. MARCHANT:

23 Q Good morning, Sergeant Shaw. Where are you
24 employed?

25 A The Forensic Division in Greenville County.

1 **Q** What exactly is the Forensic Division?

2 **A** We assist agencies with crime scene processing,
3 which includes fingerprints, photographs, collection of
4 evidence and preparing reports for court purposes.

5 **Q** Why is it that, uh, whatever law enforcement
6 agency is working the case, why is it that they can't do
7 that themselves?

8 **A** It was, uh, several years ago. There was an
9 agreement made between the Police Department and the
10 county that an independent agency would be the ones to
11 actually process the crime scenes for each agency. It's
12 progressed on to the Department of Public Safety where
13 our department, we process scenes for not only the city
14 and the county, but all the municipalities, federal,
15 state, uh, for any agency that request.

16 **Q** How long have you been working with the
17 Department of Public Safety here in Greenville county?

18 **A** Uh, 14 years.

19 **Q** Have you other law enforcement experience prior
20 to that?

21 **A** I do. 21 years with another police department,
22 seven years as a road officer and 14 years as an
23 investigator.

24 **Q** On October the 28th of 2011, were you working
25 in the capacity then as you described to the jury today?

1 **A** Yes, I was.

2 **Q** And did you have the occasion to respond to the
3 Berkeley Pointe Apartments on Wenwood Road in Greenville
4 county?

5 **A** I did.

6 **Q** And why did you do that?

7 **A** I was requested by the, uh, by City Dispatch
8 advising an officer-involved shooting in which a subject
9 had been struck. And I responded at the request of the
10 Police Department to assist in processing that scene.

11 **Q** Do you recall what time you left? Where is
12 your office?

13 **A** We are actually located on the Greenville Tech
14 campus.

15 **Q** Is that on Pleasantburg and Cleveland Street,
16 Faris?

17 **A** That's correct. Yes.

18 **Q** Now, you left the office approximately what
19 time?

20 **A** Received the call at about 11:50, which is 10
21 minutes to 12:00. By the time I contacted Sergeant
22 Lendway, he and I both responded. I think we left at
23 about five minutes til. I believe we responded or got to
24 the apartments at somewhere around five after 12:00 in
25 the afternoon.

1 Q And what sort of vehicle do you drive?

2 A We have a -- it's an unmarked vehicle. It does
3 have FORENSICS on the side but it's a Trailblazer.

4 Q And what sort of items or equipment do you
5 carry with you in order to perform your duties when you
6 arrive at a crime scene?

7 A Each technician has their own fingerprint kit.
8 We have our own cameras. We have a major kit which
9 includes paper bags, plastic bags, phenylalanine for
10 testing for suspected blood. Anything that we need to
11 work a scene that is readily available, uh, like a metal
12 detector and so on, those we leave at the office. We
13 have to pick those up. But we each have our own personal
14 kit.

15 Q All right. Did you have the need to carry any
16 of that additional stuff with you on this day?

17 A I did not have anything other than what I took.

18 Q You and Sergeant Lendway drive together?

19 A We did.

20 Q And when you arrived, do you recall where you
21 parked?

22 A The area was taped off with security tape. An
23 officer there lifted the tape up. We actually pulled
24 inside of the taped area.

25 Q All right. Sergeant Shaw, I'm going to ask you

1 to take a look at State's Exhibit 92, 91, 43, 42, 36, 34,
2 33, 32, 31, 30, 29, 28, 27, 26, 25, 24, 23, 22, 21, 20,
3 19, 18, 17, 16, 15, 14, 13, 12 and 11.

4 **A** (Reviewing.)

5 Yes, sir.

6 **Q** Those photographs fairly and accurately depict
7 the conditions of the items contained therein?

8 **A** Yes, they are.

9 **MR. MARCHANT:** Your Honor, we move these
10 exhibits into evidence.

11 **THE COURT:** Any objection?

12 **MR. JOHNSON:** No objection.

13 **THE COURT:** All right then. So admitted.

14 (WHEREUPON, State's Exhibits 11 thru 34, 36, 42, 43,
15 91 and 92 are admitted into the record.)

16 **MR. MARCHANT:** Your Honor, if it pleases the
17 Court, I realize it's going to take a minute, but I
18 need for the record to identify the ones that are in
19 evidence.

20 **THE COURT:** Okay.

21 **MR. MARCHANT:** State's 91, 92, 43, 42, 36,
22 34, 33, 32, 31, 30, 29, 28, 27, 26, 25, 24, 23, 22,
23 21, 20, 19, 18, 17, 16, 15, 14, 13, 12 and 11.

24 Thank you, Your Honor.

25 **THE COURT:** Thank you.

1 **BY MR. MARCHANT:**

2 **Q** First, you get to the scene. You are lead
3 inside the evidence tape. Please explain to the jury
4 what are some of the first things you did to begin
5 processing the scene that you have.

6 **A** The first thing that we do is notify, we
7 contact the detective or who is working the scene. We
8 ask them to give us a rundown or scenario of what they
9 had, information they found. With that then, walked
10 through the scene with the officer making observations as
11 to typical evidence or evidence that I believe will
12 probably be located and collected related to the issue.

13 **Q** The detective that you spoke of, is that
14 Detective Conroy and Detective Flavell?

15 **A** Yes, it was.

16 **Q** Now, we're going to -- I'm going to walk you
17 through a series of photographs. If you would, identify
18 for the jury what we're looking at and the significance
19 of each photograph. (Pause.)

20 All right. Sergeant, I'm showing you some that
21 are already in evidence. If you would, uh, describe for
22 the jury what's depicted in State's 6 and essentially why
23 you did what you did in this photograph.

24 **A** This is a photograph that was taken from the
25 front of the parking lot at the front of the building.

1 **Q** Sergeant, let me stop you real quick. If you
2 would, use the laser pointer to describe to the jury the
3 particular items there. Please continue.

4 **A** Once the, uh, -- once I identified what
5 potential evidence was there, placards were put down.
6 They are numbered to -- these items were marked not in
7 sequential order. We didn't know which order they were
8 fired. This is a photograph showing from the front of
9 the parking lot out towards the woods, which is in the
10 back. You got a stairwell that's up to the second floor
11 or the third floor. This is the main, uh, the main
12 floor. There is a stairwell here that leads down onto
13 the ground level.

14 **Q** Sergeant, I'll show you State's 10. To be
15 clear, do you take pictures of the scene before and after
16 you put the placards down?

17 **A** That's correct.

18 **Q** I'm showing you State's 10.

19 **A** This is a photograph showing the stairwell
20 going downstairs -- from the top going down to the ground
21 level.

22 **Q** State's 8.

23 **A** That is the same photograph but it's once the
24 placards were put in place.

25 **Q** State's 9.

1 **A** We have a, uh, -- there's a piece of evidence
2 labeled 18. There's also a hole that's in front of the
3 step, which would be on the second step, which was made
4 from a projectile which was later found under the
5 stairwell behind where that impact area was at.

6 **Q** State's 7.

7 **A** This again is the -- it's at the back of the
8 main level. There's the woods back in the back. These
9 are placards that were put down next to shell casings
10 that were recovered.

11 **Q** Moving to State's 14.

12 **A** This again is the beginning of the stairwell
13 going down to the ground level. There are pieces of tape
14 that are put on here showing an impact area where an
15 impact or projectile came through this door frame,
16 ricocheted off of the door and impacted into the right
17 side of the door frame.

18 **Q** State's 13.

19 **A** That is just another photograph at a different
20 angle showing that a rod had been put through the side of
21 the frame showing the direction in which the projectile
22 went, impacted the door and then again --

23 **Q** State's 15.

24 **A** I guess a closer photograph showing the impact
25 area on the door where it ricocheted off and then

1 impacted in the door frame.

2 Q State's 17.

3 A Again, it's a closer photograph again showing
4 the directionality from left to right from low to high.

5 Q State's 16.

6 A This is another impact area on the side wall
7 showing the direction in which the projectile went. It
8 went from low to high, left to right.

9 Q State's 20.

10 A This is the, uh, main level. These are the
11 stairs going down to the ground level. These are showing
12 areas on the spindles on the railing that had been struck
13 by projectiles.

14 Q 21.

15 A It's another photograph basically showing the
16 same thing, showing directionality where this projectile
17 struck. It went from high to low from the main floor
18 down to the ground level. This is also an impact area in
19 the railing at the spindles.

20 Q State's 22.

21 A It's not marked. This is an exit hole. This
22 is taken from the stairwell leading from the ground level
23 up to the main level. There's an impact on the side wall
24 here where a projectile struck and actually went into the
25 wall. This is an exit where --

1 **Q** State's 23.

2 **A** Excuse me. This is a showing the wood is
3 splintered. And it's going -- it's coming out. It was
4 later determined that the entrance was on the top of the,
5 uh, of this two by six.

6 **Q** State's 27.

7 **A** Again, we're looking at the same incident. We
8 have an impact on the side wall which the, uh, -- this is
9 a main floor up here that the photograph was taken from
10 the stairwell itself. This again is showing the exit
11 where a projectile came out that two by six.

12 **Q** State's 28.

13 **A** This is also a closer photograph showing this
14 is on that side wall again taken from the stairwell going
15 upstairs. Also, it's showing an area of a lead swipe
16 which is the -- it's where the projectile impacts first.
17 As you can see, it entered and went into the wood and was
18 not retrieved.

19 **Q** State's 29.

20 **A** This is the photo, two photos. One is an
21 impact on the spindles where the projectile struck from
22 high to low. This is the stairwell going downstairs.
23 This is the impact area where the projectile entered the
24 wood. This little piece here is that splintered piece of
25 wood that was projected out.

1 **Q** State's 42.

2 **A** Again, this is a photograph taken from the
3 basement level up to the main level. This is going out
4 into the front of the parking lot. Again, it's showing
5 an impact to the face of the second step as well as the
6 fourth step.

7 **Q** State's 43.

8 **A** This is a staircase going -- leading
9 downstairs. It was taken from the top showing there was
10 an impact area on the sidewall going from top down
11 towards the bottom.

12 **Q** State's 30.

13 **A** The parking lot is out in the front. This is
14 the hallway that goes down and the stairwell is off to
15 your left. There was an impact area where a projectile
16 went into this wall and was not recovered.

17 **Q** State's 31 and State's 32.

18 **A** Those are the same photographs, just a close up
19 -- taken at a closer, uh, vantage point. Plus it showed
20 the directionality in which that projectile entered the
21 wall.

22 **Q** State's 24.

23 **A** In taking photographs, a lot of times, it's
24 difficult to see the area that you're looking at. So we
25 put tape, I put pieces of tape up to show the impact area

1 on the front or the face of the second step as well as
2 the fourth step.

3 Q State's 25.

4 A This is a closeup of, I believe, one of the
5 fourth step. This is one that impacted the face of the
6 step but did not penetrate the metal. And the projectile
7 probably recovered later.

8 Q State's 26.

9 A You can see there there is an entrance hole
10 right here in the front of the step. That's on the
11 second step.

12 Q State's 18.

13 A There were three impact areas on the top on the
14 ceiling. This is the front of the apartment complex, the
15 front of the building. There were three impacts where
16 probably a projectile fragmented and was either struck by
17 lead core or by a jacket.

18 Q State's 19.

19 A Again, these are photographs of the same areas.
20 They were impacted. They did not penetrate. But it was
21 insufficient. There was no evidence there, nothing
22 collected or retrieved out of those marks.

23 Q I'm going to show you State's 35.

24 A These are the steps leading from the main floor
25 down to the ground level floor. This is a photograph

1 taken from where the woods were at. They were taken in
2 the direction of out towards the front of the apartment
3 complex. Placards had already been put down next to the
4 evidence.

5 Q And in State's 99, what is placard 35
6 identifying?

7 A 35, there was a stack of clothes, there's a
8 closet door right behind here. This is one of the
9 apartments. In the corner was a stack of clothes that
10 had -- it was like a bag that had contents. Also, there
11 were jeans and tennis shoes in that stack.

12 Q I'm going to ask you to take a look at State's
13 105 and see if you recognize the items collected.

14 A (Reviewing.)

15 I do.

16 MR. MARCHANT: Move State's 105 into
17 evidence.

18 THE COURT: Any objection?

19 MR. JOHNSON: No objection.

20 THE COURT: All right then.

21 (WHEREUPON, State's Exhibit 105 is admitted into the
22 record.)

23 BY MR. MARCHANT:

24 Q All right. Serg, I'm not going to have you
25 pull all this stuff out. This -- State's 105 are the

1 items that you collected at the bottom of the stairwell
2 that are identified as your placard 35, is that correct?

3 **A** That's correct.

4 **Q** I'm going to move to, uh, State's 33.

5 **A** This is a photograph -- the closet -- this is
6 inside of the closet, the floor inside the closet. These
7 are actually the stairs that lead up from the ground
8 level up to the main floor. Higher up on the wall was --
9 a projectile had penetrated the hole in the wall and was
10 recovered on the floor just inside the door.

11 **Q** State's 34.

12 **A** That was identified as item 41. That is the
13 projectile that had penetrated the wall and was found on
14 the floor inside of the closet.

15 **Q** I'm now showing you State's 11.

16 **A** This vehicle was parked in front of building
17 [REDACTED]. It's hard to see but --

18 **Q** I'm showing you State's 12.

19 **A** This is an impact area that was found. It was
20 a ricochet that was on the hood of this vehicle.

21 **Q** Serg, you're throwing a lot of big words out
22 here like projectile and ricochet and trajectory and
23 shells. Can you go into a little detail with the jury
24 what the difference between a shell is and what a
25 projectile is.

1 **A** If you have an unfired cartridge, people would
2 call it a bullet. It's unfired. It's a cartridge. Once
3 the weapon has been fired, the projectile comes out,
4 comes out of the end. What's left over is the cartridge
5 casing. When you have a projectile, a lot of times, it
6 would strike a hard object. If it was jacketed, which
7 means it has a copper jacket around the outside of this
8 projectile. As you would see, it was in one of the prior
9 photos, the projectile that was on the floor in the
10 closet, that had a copper jacket on it, which means that
11 it penetrated through the wall. But it was not -- it has
12 a copper jacket on the outside. On the inside, that
13 jacket can tear off. The jacket can tear off and there's
14 lead on the inside of that. If that jacket fragments,
15 there could be pieces of copper jacket. Then if it also
16 strikes like a nail or some type of hard object, even
17 pieces of lead can shave off and can be recovered.

18 **Q** State's, uh, 35, there are a number of placards
19 there. You described some of them. Some of them are
20 shown in the other pictures, but there's a whole lot of
21 placards on the bottom level here. What are they
22 depicting?

23 **A** 39, of course, was the clothing. You can see
24 like on the stairs coming down to the ground level, there
25 are numbers there. There were copper jacket. There were

1 fragments. There were lead fragments. There were shell
2 casings. There was like a phone charger. There was an
3 area of suspected blood on the floor. I believe that
4 was, uh, on 35.

5 Q I'm showing you State's 36, Serg. Is that what
6 you are referring to?

7 A Yes. Placard 35, there are drops of blood on
8 the floor.

9 Q Serg, going back to, uh, State's 35.

10 A Again, this is just a closer -- it's a closer
11 photograph. Again, if you don't use placards, if you try
12 to take a photograph without placards in place, you could
13 not see a lot of these smaller objects that are either on
14 the steps or on the ground. It shows also the proximity
15 of these items to each other rather than being scattered
16 from one end of the hall to the other. It shows that
17 these are mainly found in the same area.

18 Q Serg, going back and talking about 18 very
19 briefly, you talked about, uh, lead swipe and direction
20 of travel. How is it that you are able to determine that
21 in this photograph that those items were traveling in
22 that direction?

23 A Looking at the impact area, it tore out a --
24 tore out some of the paint in the wood. Again, that
25 showed the direction. Also out on the sidewalk in front

1 of which would be in the same direction these arrows are
2 going out in the front of the apartment building. Excuse
3 me. There were fragments of projectiles, which would be
4 copper jacket fragments and lead fragments out about on
5 the sidewalk in front of the complex.

6 Q I'm going to show you State's 5.

7 A We have number 13 and 14, which were marked
8 with placards. Those are fragments from projectile.
9 This is the, uh, the breezeway going into the apartments.
10 They are the woods back in behind as well as the stairs
11 going down, leading down to the ground level. The impact
12 area would have been up here on the ceiling where these
13 lights are at. That's why these items were found out on
14 the sidewalk.

15 Q Now, the directionality of the lead swipe and
16 the arrows that are indicated in the other photos, does
17 the same principle apply to those photographs as to the
18 impact area of what we just discussed?

19 A They are. You're looking at -- at lot of
20 times, there will be a V-pattern. It goes from narrow --
21 excuse me -- narrow to wide. You also look at the wood
22 to see which way the wood is splintered out. That will
23 also show directionality. As well as you find where the
24 projectile has actually penetrated the wood. When you
25 recover it, you can tell in which direction the

1 projectile was traveling.

2 **Q** All right. Serg, did you collect a specimen
3 sample which is depicted in State's 36 and identified in
4 your placard 35?

5 **A** Yes, I did.

6 **Q** I'm showing you what's been marked as State's
7 62 and ask if you recognize State's 62.

8 **A** I do.

9 **MR. MARCHANT:** I move State's 62 into
10 evidence.

11 **THE COURT:** Any objection?

12 **MR. JOHNSON:** No objection.

13 **THE COURT:** It is so admitted.

14 **(WHEREUPON, State's Exhibit 62 is admitted into the**
15 **record.)**

16 **BY MR. MARCHANT:**

17 **Q** Sergeant Shaw, please explain to the jury what
18 is in State's 62.

19 **A** This is a blood swab kit that we use. It's a
20 capsule. Inside of this capsule is a Q-tip. What we do
21 is we feed the end of the Q-tip out of the -- out of the
22 end of the capsule. Use distilled water. And then we,
23 which I did a list and I took a swab, took a sample of
24 the blood on the floor. Retracted the Q-tip back into
25 the capsule. Closed the lid on it. Let it dry. Then it

1 was collected as a piece of evidence.

2 Q While you are collecting this particular piece
3 of evidence as well as the other items that are marked,
4 what safeguards and procedures do you go through to
5 ensure that there's no contamination of the evidence?

6 A First, I make sure that this package -- these
7 are sealed packages. I make sure the package is sealed.
8 I open it, uh, open the seal to make sure that it hasn't
9 been tampered with. I also wear gloves, latex gloves
10 when performing the test to make sure that I don't
11 accidentally rub against the Q-tip or transfer any
12 contaminants onto the Q-tip.

13 Q You wear gloves just when you are collecting
14 blood or the entire time that you're processing --
15 processing the scene?

16 A Most of the time, we wear it all the time. It
17 depends on the type of scene that we're working. If
18 there's a possibility of there being contamination, then
19 we'll wear gloves. Yes.

20 Q Serg, I'm going to show you, go back to State's
21 number 5. Now, when you and Sergeant Lendway were out
22 there, I guess what I want to know is was there a flash
23 used when the pictures were being taken?

24 A I'm sorry.

25 Q Was there a flash on the camera that was being

1 used when the picture was taken?

2 **A** On the interior, we would use a flash. On the
3 exterior, you may not. The problem is on manual mode,
4 when you get out into the sunlight, your camera may be on
5 a lower setting. The aperture will close a little
6 slower which lets more light in which can wash out that
7 type of an area, not only on the front, on the sidewalk,
8 anything that's white. Your camera need to be adjusted.
9 We try not to use automatic mode. We try to use manual.
10 So it's possible that the, uh, the flash may not have
11 been on for that, but the setting on the camera may not
12 have been correct.

13 **Q** What about State's 35?

14 **A** With that there and because of being inside and
15 having limited lighting, a flash would have been used.

16 **Q** State's 24.

17 **A** Again, yes, the flash would have been used.
18 You can see the reflection off of the front of the
19 stairs. That was the level in which the flash impacted
20 the front of the steps.

21 **Q** Sergeant, I'm going to show you what's in
22 evidence as, uh, -- excuse me. I'm going to show you
23 what's been marked as 91 and 92 that's in evidence. I'm
24 going to publish these for the jury. If you would,
25 describe for the jury what this is, where it came from

1 and where the photograph was taken. This is with respect
2 to State's 92.

3 **A** This is a, uh, -- it's a sweatshirt. Item 39,
4 which had the stack of clothes in the hallway down on the
5 ground level, all those clothing items were collected.
6 Before I put all the evidence into Property and Evidence,
7 I went and inventoried all of the clothing. This
8 sweatshirt was actually the top piece of clothing on that
9 stack of clothes that was in the hallway. When I looked
10 inside, of course, I always check the pockets and so on
11 to see if there's any -- anything in there. When I
12 opened up the jacket, I found what looked like an area of
13 suspected blood or saturated blood on the inside of the
14 sweatshirt.

15 **Q** State's 91?

16 **A** That is just another photograph. It is showing
17 -- this is the same area that you just looked at where it
18 was saturated. There's also another small area on this
19 side of the sweatshirt. But from what I could tell, it
20 appears that this part of the sweatshirt had closed over
21 top and laid actually on top of this blood. It was
22 transferred onto the other side.

23 **Q** All right. Thank you, Serg. We're going to
24 move just a little bit towards the collection of some
25 evidence that you did that day. I'm going to show you

1 State's 59, 60 and 61. Ask you to take a look at those
2 and see if you recognize them.

3 **A** (Reviewing.)

4 Yes, I do.

5 **Q** Are those items you collected on the scene at
6 Berkeley Pointe that day from the parking lot area down
7 through the stairwell?

8 **A** Yes, they are.

9 **MR. MARCHANT:** Move State's 59, 60 and 61
10 into evidence.

11 **THE COURT:** I'll tell you what. Before you
12 go any further, let's take a quick break.

13 Uh, Ladies and Gentlemen, please don't discuss
14 the case with anyone.

15 **(WHEREUPON, the jury exits at approximately**
16 **12:06 p.m.)**

17 **THE COURT:** We'll be in recess for five
18 minutes.

19 **(WHEREUPON, a short recess is taken.)**

20 **THE COURT:** Ready to bring the jury back in?

21 **MR. MARCHANT:** Yes, Your Honor.

22 **(WHEREUPON, the jury enters at approximately**

23 **THE COURT:** All right. Mr. Marchant, you
24 ready to proceed?

25 **MR. MARCHANT:** Yes, Your Honor. Please the

1 Court?

2 THE COURT: Yes, sir.

3 MR. MARCHANT: We move State's 59, 60 and 61
4 into evidence.

5 THE COURT: Any objection?

6 MR. JOHNSON: Those were the -- excuse me.

7 MR. MARCHANT: Yes.

8 MR. JOHNSON: No objection.

9 THE COURT: All right. They'll be so
10 admitted.

11 (WHEREUPON, State's Exhibits 59, 60 and 61 are
12 admitted into the record.)

13 BY MR. MARCHANT:

14 Q All right. Sergeant, I want to start with 59.
15 Would you please explain to the jury that items that are
16 contained in 59 and the item numbers, meaning the placard
17 number that you associate with 59.

18 A Each piece of evidence that is collected is
19 assigned a number. We use our initials, mine being DS.
20 I would use DS-1 through whatever the last piece of
21 evidence is. What we normally try to do is to match the
22 placard with the number of the piece of evidence that is
23 collected. DS-1 is depicted as a shell casing Speer 9-
24 millimeter Luger. In this bag, there's 14 of those.
25 There's DS-1, DS-2, DS-3, DS-4, DS-5, DS-6, DS-7, DS-8,

1 DS-9, DS-10, DS-11, DS-12, DS-22 and DS-29. Now, those
2 numbers would correspond with the placards that were
3 placed not only on the top level but also either on the
4 steps or down on the ground level.

5 Q Uh, with respect to all of the items that you
6 just described, what are those items?

7 A These are 9-millimeter shell casings. All of
8 them had a head stamp of Speer 9-millimeter Luger, which
9 was the same caliber as being carried by the officer.

10 Q And there are 14 of those?

11 A That's correct.

12 Q And inside this bag, are they all packaged --
13 are these pieces of evidence packaged individually?

14 A Each piece is packaged. Each one is labeled
15 DS-1 through, I think, DS-28 or 29. Also the times are
16 on each piece as far as when they were collected.

17 Q Moving to, uh, State's 60, please identify the
18 pieces of evidence that you collected and what's
19 contained therein, commenting, Serg, if you will on the
20 number that you assigned each piece of item, each piece
21 of evidence.

22 A DS-21 is a shell casing. It had an head stamp
23 of RWS 9-millimeter Luger. DS-25 was also a shell
24 casing, Winchester 9-millimeter. DS-26 was a shell
25 casing with a head stamp of RWS 9-millimeter. DS-27 was

1 also a shell casing, Winchester 9-millimeter. The DS-28
2 was a Winchester 9-millimeter Luger. DS-31, again, a
3 shell casing with a head stamp of Winchester 9-
4 millimeter. DS-30 was a shell casing with a head stamp
5 of Winchester 9-millimeter Luger. DS-32 was a shell
6 casing with a head stamp of Winchester 9-millimeter. And
7 DS-33 was also a shell casing with a head stamp of
8 Winchester 9-millimeter Luger. There were nine of these
9 shell casings collected that had a different head stamp
10 as that was what the officer was carrying.

11 Q That's referencing State's 60. They are all
12 packaged separately?

13 A Again, each one is packaged individually.
14 Labeled with the item number as well as the item that was
15 collected.

16 Q I'm showing what's been marked as State's 61.

17 A These are items that were collected. They were
18 either bullet fragments. Most of them were labeled
19 bullet fragments. These were collected from various
20 areas either on the steps from the floor at the bottom of
21 the stairs inside of the storage closet. Anything other
22 than a projectile or a cartridge or casing, they are
23 separated. They are labeled individually as a fragment
24 because it's not an entire projectile. There are --
25 there are 16 that are collected. And each one of them

1 would also be an individual coin envelope and labeled as
2 the projectile or fragment and from which location it was
3 collected.

4 Q Serg, all for the record, would you identify
5 the items that are contained at State's 60.

6 A DS-13, a bullet fragment, which is a lead
7 fragment from the walkway in front of building [REDACTED]. DS-
8 14, a copper jacket from the walkway in front of building
9 [REDACTED]. DS-15 is a copper lead fragment from the walkway
10 in front of building [REDACTED]. DS-16 is a copper fragment
11 from the walkway in front of [REDACTED]. DS-17 is the lead
12 fragment from the base of the doorway of apartment [REDACTED] 11.
13 DS-18 is a projectile from the second step from the top.
14 DS-19 is a lead and copper fragments from the seventh
15 step from the top. There were 14 steps from the top to
16 the bottom. DS-20 was lead and copper fragments from the
17 ninth step from the top. DS-23 was a copper fragment
18 from the 11th step from the top. DS-24 was a lead
19 fragment from the 12th step from the top. DS-40 was a
20 lead fragment from the floor at the bottom of the steps.
21 DS-41, a projectile from the storage closet. DS-42 was a
22 copper jacket that was embedded under the handrail that
23 lead from the ground floor up to the main floor. DS-43
24 is a copper and lead fragment from behind the railing.
25 DS-44 is a lead fragment from inside the storage closet

1 which was under the steps. And DS-45 was a copper and
2 lead fragment from in front of apartment ■14.

3 **Q** Now, Sergeant Shaw, does your division, the
4 Forensics Division at Greenville Tech, uh, analyze shell
5 casings and projectiles to determine what they were fired
6 from?

7 **A** No, we do not.

8 **Q** I'm going to move to -- Serg, you prepared a
9 schematic diagram in this case of the stairwell and the
10 breezeway?

11 **A** Yes, I did.

12 **Q** And I'm showing you what's been marked as
13 State's 63. Is that that schematic?

14 **A** It is. There are two of them that were drawn.

15 **MR. MARCHANT:** Move 63 into evidence.

16 **MR. JOHNSON:** No objection.

17 **THE COURT:** All right. It will be so
18 admitted.

19 **(WHEREUPON, State's Exhibit 63 is admitted into the**
20 **record.)**

21 **BY MR. MARCHANT:**

22 **Q** All right. Sergeant, if you would, step down
23 for me. Please continue to speak loudly -- loudly so the
24 reporter can hear you. I want to start with the
25 schematic on the left side here. Would you please

1 indicate for the jury what you've done here and how you
2 have determined the location of the particular items that
3 are contained therein.

4 **A** Okay. What I did was I did -- it's not a full
5 diagram, but a partial diagram dealing with -- it starts
6 here on the front. This is the front of the building of
7 building [REDACTED]. This is the main floor. You can see the
8 red asterisk where it says Speer 9-millimeter Luger. The
9 items that are marked in red are where the 14 shell
10 casings were recovered from that were fired from the
11 officer's weapon. Again, I take the measurement from the
12 width of the hallway. I just took an overall.

13 Now as far as the overall, this is an overhang
14 of the main level. Before that is actually this part --
15 this is actually on the ground level. What I did was I
16 took the measurement from the end wall or the back wall
17 out to the front of the building which was building [REDACTED]
18 and just determined the overall length. I also wanted to
19 find out the distance from the front of the building to
20 where the steps are leading down to the ground level.

21 **Q** Serg, how far is it from what I consider the
22 threshold of the [REDACTED] building to the steps?

23 **A** It's, uh, 24.04 feet. It's right around 24
24 feet.

25 **Q** How far is it from the threshold of building

1 [REDACTED] back to the half wall that looks out behind building

2 [REDACTED]?

3 **A** It was 47.46 feet. It's a little over 47 feet.

4 **Q** I want to be clear. The items that are
5 depicted in red, those are Speer 9-millimeter?

6 **A** That's correct.

7 **Q** So on the floor, the breezeway where the
8 officer entered where the parking lot is down here on the
9 bottom, on that main, what I consider the main floor, you
10 only found shell casings for Speer 9-millimeter?

11 **A** That's correct.

12 **Q** Okay. All right. Serg, if you would, move to
13 the right half of State's 63 and explain to the jury just
14 as you did what the main floor, what the bottom floor is
15 and the items contained therein.

16 **A** This is a diagram showing the ground level
17 area. If you were to take this and reverse it and turn
18 it upside down, it would set in directly under there
19 meaning this would be the front leading out to the
20 parking lot. And this is the back or going out into the
21 woods. What I did because of their being multiple head
22 stamps of the same caliber, they just had a different
23 head stamp, I then also marked in green any shell casings
24 that were found and their location on that bottom floor
25 that were other than the Speer 9-millimeter which were

1 fired by the officer.

2 Q So did you, in fact, find any Speer either on
3 the stairs or on that bottom floor?

4 A I did. There was one Speer on this 11th step
5 and also one on the floor. It could be from balancing
6 down the stairs. It could have been from getting kicked.

7 Q But where you found specifically, uh, 22 and
8 29, that's where you located them when you first started?

9 A That's correct. When I arrived on the scene,
10 that's where -- nothing was moved after the photographs
11 were taken, the placards were put in place. None of the
12 evidence was moved until measurements were taken.

13 Q And that goes for all of the items that are
14 identified in green as well?

15 A That's correct.

16 Q Serg, what is the distance from the rear, from
17 the bottom floor where you entered the woods down there
18 to that closet door?

19 A What I did was I measured, I measured from the
20 closet door at the base of the steps out to the edge of
21 the concrete. It was 24.24 feet. The overhang, which
22 would be this area actually extended out to beyond 1301.
23 It was about 18 feet, between seven and eight feet from
24 this wall out to beyond 1301. That is where this
25 overhang actually came out to.

1 **Q** Did you take a measurement or is a measurement
2 depicted on this exhibit of how far it is from the front
3 of the building to the back of the building?

4 **A** I didn't get a -- I didn't take those exact
5 measurements. Using the 47.46 and the 24 -- you can take
6 off another approximately eight feet. You are still
7 looking at about 60 feet from the front to the back.

8 **Q** And how wide is the breezeway?

9 **A** 7.73 feet.

10 **Q** Thank you. Please take the stand.

11 **A** (Witness complies.)

12 **MR. MARCHANT:** Court's indulgence?

13 **THE COURT:** Yes, sir.

14 **MR. MARCHANT:** Thank you, Sergeant. Please
15 answer any questions Mr. Johnson may have.

16 **THE COURT:** Mr. Johnson.

17 **MR. JOHNSON:** Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 **BY MR. JOHNSON:**

20 **Q** Sergeant Shaw, kind of reiterate. You work in
21 Forensics Division ---

22 **A** Yes, sir. That's correct.

23 **Q** --- of the Sheriff's Office.

24 **A** We're actually an independent agency. We're
25 with the Department of Public Safety.

1 **Q** Okay. You are with Public Safety but you have
2 a deal or some sort of system, some sort of deal in place
3 where you do their crime scene investigations.

4 **A** That's correct.

5 **Q** Okay. Can you elaborate that a little bit
6 more? How does that work? Something happens, do you
7 automatically show up or does somebody show up? How does
8 that work?

9 **A** Well, what will happen is a call will come in,
10 a victim will call, somebody will call the agencies to
11 say that we have an incident that has occurred. An
12 officer will go out on the scene and see if there's
13 something that needs to be done as far as either
14 photographs, fingerprinting, collection of evidence. And
15 then they will then request the Forensic Division to
16 respond to assist them with the investigation.

17 **Q** Okay. So somebody calls you out to the scene
18 -- well, first of all, let me ask you this. I believe
19 you may have testified to this. But what type of things
20 are you able to collect or what type of things are you
21 certified or what type of things have they taught you to
22 collect?

23 **A** Uh, I -- I work anything from an auto break-in
24 which is, I guess you say the least severe. I've worked
25 multiple homicides.

1 Q So from the smallest thing to the largest
2 thing, you would know how to process a scene?

3 A Yes, sir.

4 Q Now, when you get to the scene, I suppose they
5 brief you a little bit about at least what they think
6 happened, right?

7 A That's correct.

8 Q And based upon that information, do you then
9 decide how to process the scene or are you told how to
10 process the scene?

11 A What I have done, my experience is once I am
12 told what has occurred, then I'm looking to try to
13 corroborate or refute that, uh, information to try to
14 corroborate that a weapon has been fired. If I find a
15 shell casing, if I find a projectile, that pretty much
16 corroborates the fact that that did happen. Typically,
17 as I work several of them, I will normally work the
18 scene. Before leaving the scene, we'll go over it with
19 the investigators or the detectives and say here's what
20 we've collected, here's what we've done. We'll do a walk
21 through. Is there anything else you think you need. The
22 decision is made. And when everybody is comfortable that
23 we've done all we can do, then we clear the scene.

24 Q In other words, you make -- you make the -- so
25 based upon your experience, you make the decision on what

1 you are going to collect?

2 **A** Typically, yes, sir.

3 **Q** And that includes any type, whether it's bullet
4 fragments or whether it's blood, whether it could be
5 potentially semen or gunshot residue. You make the
6 decisions to collect evidence?

7 **A** That's correct, yes.

8 **Q** Okay. Sergeant, did you ever respond, uh, --
9 did you ever respond with regards to this incident to the
10 hospital?

11 **A** No, sir.

12 **Q** Okay. So you didn't have anything to do with
13 -- if something happened in the hospital, you didn't have
14 anything to do with it?

15 **A** Not in this case.

16 **Q** Okay. Now, Sergeant, you testified at the
17 previous hearing in this incident?

18 **A** I did, yes.

19 **Q** Okay. Your testimony as far as some things
20 that are presented in evidence are a little bit
21 differently, aren't they?

22 **A** I'm sorry.

23 **Q** Some of the items that are entered into
24 evidence are a little bit different, aren't they?

25 **A** Yes.

1 Q And that's after, of course, talking with the
2 Solicitor. Y'all decided which things you were going to
3 add.

4 A I was told that there were going to be some
5 other --

6 Q Okay. So you were told these things?

7 A Yes, sir.

8 Q Uh, now, one of the things is, uh, I'm holding
9 what was marked as State's Exhibit 91 and 92. Do you
10 remember these?

11 A From today?

12 Q Yes.

13 A Yes, sir.

14 Q Okay. And this was a part of the pile of
15 clothes that you found at the bottom of the stairs?

16 A That's correct.

17 Q Now, do you remember when you found it or you
18 found this specific thing, was the drug buy -- was the
19 blood dry or wet?

20 A It was dry.

21 Q It was dry. It was dried blood. And how soon
22 did you respond to the scene?

23 A Uh, I got to the scene about five after 12.

24 Q Okay. Do you recall how quickly that is in
25 comparison to the incident time?

1 **A** Within a short time.

2 **Q** Within a short time?

3 **A** Yes, sir.

4 **Q** Now, when you collect things, I believe that
5 you are very meticulous about it, isn't that right?

6 **A** Yes, sir.

7 **Q** You are very careful so as not to contaminate
8 certain pieces of evidence?

9 **A** That is correct.

10 **Q** You wouldn't trust someone such as myself or
11 even, say for instance, Officer Conroy to collect
12 evidence because we're not trained to do so, are we?

13 **A** Depends on the type of evidence.

14 **Q** Okay. But, uh, for, uh, processing the scene
15 as far as bullet fragments, for example, would you trust
16 me to do it?

17 **A** No, sir. I believe I am more trained.

18 **MR. JOHNSON:** Okay. Your Honor, that's all I
19 have for this witness.

20 **THE COURT:** Any redirect for this witness?

21 **MR. MARCHANT:** Briefly, Your Honor.

22 **REDIRECT EXAMINATION**

23 **BY MR. MARCHANT:**

24 **Q** Serg, Mr. Johnson asked you when you responded
25 to the scene. What time was that?

1 **A** I think we got there about five minutes after
2 12:00.

3 **Q** And how long did you stay on the scene until
4 you left?

5 **A** We left at four o'clock.

6 **Q** Do you recall at what point in time while at
7 the scene you were there that you found the sweatshirt
8 with blood?

9 **A** The time would be on the, uh, -- would be on
10 the P&E sheet or would be on the evidence. Actually, it
11 would be on the report as far as when it was, uh,
12 collected.

13 **Q** Serg, if I were to show you your report, would
14 you be able to locate that information?

15 **A** I could. (Reviewing.)

16 This specific piece of evidence, it does not
17 have the time in which it was collected. We had an
18 initial -- we went -- we looked through the clothing
19 prior to it being collected. We looked -- we found the
20 driver's license, found a birth certificate. Once those
21 were found, they were put back in place. Then the
22 evidence was collected in the same time frame as when the
23 other shell casings were collect -- when the shell
24 casings were collected.

25 **Q** Uh, the sweatshirt that Mr. Johnson held up,

1 which is State's 91 and 92, where was this photograph
2 taken?

3 **A** That photograph -- because we get enough calls,
4 we get several calls, we don't have the opportunity to
5 put things in Property and Evidence right away. On, I
6 believe, November 7th, my report says, uh, is when I had
7 the time to package everything to put it into Property
8 and Evidence. At that time, I went through all the
9 clothes, inventoried all the evidence. When I was
10 inventorying that shirt or the sweatshirt, I saw the
11 blood on the inside. It looked like blood on the inside.
12 That would have been on the 7th of November, I believe,
13 which was a week after the, uh, items were collected.

14 **Q** Sergeant, there had been a lot of discussion
15 about Property and Evidence and where things are stored.
16 Where do you store things at Greenville Tech until you
17 have time to process everything and take it to Property
18 and Evidence?

19 **A** Each technician has a locker that is secured
20 with a lock. When we come back from the scene, we put
21 those -- put the items into our locker until such time as
22 we can either photograph additional items that are there,
23 package them and put them into Property and Evidence.

24 **Q** Who else has access to that locker besides you?

25 **A** It's mine. I have a key to it.

1 Q No one else has another key.

2 A My lieutenant.

3 Q Very good. Thank you, Sergeant Shaw.

4 MR. JOHNSON: Briefly?

5 THE COURT: Yes, sir.

6 **RECROSS-EXAMINATION**

7 **BY MR. JOHNSON:**

8 Q Sergeant Shaw, as far as collecting evidence,
9 you're pretty much an expert. You classify yourself as
10 an expert?

11 A I never been qualified as an expert. I worked
12 several -- 6000 cases.

13 Q 6000 cases. Okay. So I'm going to ask you a
14 slightly speculative question. Say for instance you have
15 a pile of clothes like the one you had here --

16 MR. MARCHANT: Your Honor, I'm going to
17 object off of the basis of the question already is
18 speculative.

19 THE COURT: I'll tell you what, y'all
20 approach and let me hear the question.

21 (WHEREUPON, a bench conference is held off the
22 record.)

23 THE COURT: All right. I'll allow it.

24 **BY MR. JOHNSON:**

25 Q Sergeant Shaw, like I said, slightly

1 speculative. Anyhow, if you encounter a pile of clothes
2 like you did in this instance, if you would have been
3 looking through it like you did and you found something
4 that appeared to be wet or something, would you
5 potentially pull it out or make some sort of markings to
6 notify or to remember that that item was found initially
7 wet or that document was found initially with blood or
8 something of that nature?

9 **A** If it was wet, it would be packaged separately.
10 It would have to be laid out or hung out to dry and it
11 would still be packaged and put into Property and
12 Evidence.

13 **Q** So you would have pulled that out?

14 **A** Had it been seen, yes.

15 **Q** Also just briefly, I know you said that you
16 looked in some stuff and you found some stuff. I know
17 you said you found a driver's license. Are you sure you
18 found the driver's license in that stuff?

19 **A** I could certainly refresh my memory in my --

20 **Q** Sure.

21 **A** -- on my report.

22 **Q** Sure.

23 **A** (Reviewing.)

24 I will stand corrected. It was actually a
25 Social Security card with the name Patrick Dean Lowrance

1 or Lowrance and a South Carolina birth certificate.

2 Q But not a driver's license, correct?

3 A That's correct. Sorry. I apologize.

4 Q Thank you.

5 MR. MARCHANT: Your Honor, I ask this witness
6 be excused.

7 THE COURT: Any objection?

8 MR. JOHNSON: No objection.

9 THE COURT: Thank you, sir, for being here.

10 All right. We've come to a good point to
11 break. Uh, Ladies and Gentlemen, I have one little
12 matter of business I need to take up over the lunch
13 hour. So we're going to take a little bit longer
14 break than normal. I ask you to be back in your
15 jury room just before 2:30 because we will begin
16 promptly at 2:30. Thank you so much and please
17 don't discuss this case with anyone.

18 (WHEREUPON, the jury exits at approximately
19 12:55 p.m.)

20 THE COURT: Mr. Marchant, how many more
21 witnesses do you think you have and what do you
22 anticipate when you'll finish your case?

23 MR. MARCHANT: Frankly, the way we're going,
24 I don't think I'm going to finish today.

25 THE COURT: Okay. All right. That's fine.

1 I just needed to know whether I needed to start
2 talking to Mr. Lowrance about whether or not he's
3 going to testify. All right.

4 **MR. MARCHANT:** Probably got a half a dozen to
5 a dozen, give or take, depending on how things go.

6 **THE COURT:** All right. Okay. All right.
7 We'll be in recess until 2:30.

8 **MR. MARCHANT:** Thank you, Judge.

9 **MR. JOHNSON:** Thank you, Your Honor.

10 (WHEREUPON, a lunch recess is taken.)

11 (WHEREUPON, the Court resumes at approximately
12 2:38 p.m.)

13 **THE COURT:** We ready to bring the jury back
14 in?

15 **MR. MARCHANT:** Yes, Your Honor.

16 **MR. JOHNSON:** I believe so.

17 **THE COURT:** All right. All right.

18 (WHEREUPON, the jury enters at approximately
19 2:41 p.m.)

20 **THE COURT:** Mr. Marchant, you ready to
21 proceed?

22 **MR. MARCHANT:** Please the Court, Your Honor.
23 The State would call Starr Taylor.

24 **THE CLERK:** Ms. Taylor, if you would, come
25 forward to be sworn in please. If you would, place

1 your left hand on the Bible and raise your right.

2 **STARR TAYLOR**

3 having first been sworn, testifies as follows:

4 **THE CLERK:** Thank you. You may be seated.

5 Would you please state your name for the record?

6 **THE WITNESS:** Starr Taylor.

7 **THE CLERK:** Thank you.

8 **THE COURT:** If you would scoot up just a
9 little bit. Thank you.

10 **DIRECT EXAMINATION**

11 **BY MR. MARCHANT:**

12 **Q** Ms. Taylor, you don't have to give us an
13 address. But, uh, where are you living today?

14 **A** In Charleston.

15 **Q** Prior to moving to Charleston, did you live in
16 Greenville?

17 **A** Correct.

18 **Q** And where did you live in Greenville?

19 **A** ██████ Berkeley Pointe.

20 **Q** Do you recall the dates when you lived in
21 Greenville at Berkeley Pointe?

22 **A** From February of 2011 til November of 2011.

23 **THE COURT:** Okay. Here's what I want you to
24 do. Will you move that microphone just a little bit
25 so it's right in your face? There you go. I think

1 when you turn and speak to the attorney, it's --
2 we're not picking you up to well. Okay. Thank you.

3 **BY MR. MARCHANT:**

4 **Q** I'm sorry. Ms. Taylor, what were those dates
5 again?

6 **A** From February of 2011 to the end of November
7 2011.

8 **Q** In November of 2011, is that when you moved to
9 Charleston?

10 **A** Correct.

11 **Q** And you indicated that you lived at [REDACTED]
12 Berkeley Pointe?

13 **A** Correct.

14 **Q** I'd like you to step down just for a minute,
15 ma'am. And you're going to need to keep your voice up.
16 I'm going to ask you to mark on State's 106. The
17 building you were living in and the side of the building
18 you were living in in Berkeley Pointe Apartment.

19 **A** (Drawing.)

20 **Q** All right. Take a seat.

21 **A** (Witness complies.)

22 **Q** You recall whether or not you were living on
23 the ground floor or the second floor?

24 **A** The bottom floor.

25 **Q** Living on the bottom floor?

1 **A** Yeah. The ground floor.

2 **Q** And who did you live on the bottom floor with?

3 **A** Me, my daughter and my baby daddy.

4 **Q** Now, we are here today concerning some things
5 that happened on October the 28th of 2011. Do you
6 remember law enforcement being over at the apartment
7 complex that day?

8 **A** Yes.

9 **Q** Do you recall what you were doing that morning?

10 **A** Yeah. I just had put my daughter on the bus.
11 Then I went to go pick up my (inaudible).

12 **THE COURT:** Will you speak in the microphone
13 for me? You've just got a -- you've just got a real
14 sweet voice.

15 **BY MR. MARCHANT:**

16 **Q** I'm causing you to speak that way. All right.
17 You remember what you were doing that morning?

18 **A** Yes. I just put my daughter on the school bus
19 and went to speak to a friend who lived in another
20 building.

21 **Q** All right. I'm going to have you step down one
22 more time, ma'am. If you would, please indicate to the
23 jury, and if you can, if you would use this marker and
24 draw how you came out of your building and went to your
25 friend in the ■1■ building.

1 **A** (Drawing.)

2 **Q** Now, did you actually go inside the ■■■
3 building?

4 **A** No, cause she was standing outside.

5 **Q** And where did you meet her outside the ■■■
6 building?

7 **A** (Drawing.)

8 **Q** On your way down to speak with her, did you see
9 anybody else out in the area of the parking lot that
10 morning?

11 **A** No, not when I was speaking to her. No, not
12 when I'd gone and speak to my friend.

13 **Q** How long do you remember speaking with your
14 friend that morning?

15 **A** About two to three minutes at the most. It was
16 brief.

17 **Q** And then where did you go after you spoke with
18 her for two to three minutes?

19 **A** I went back home after that. I went back to
20 the building where I saw -- where me and another person
21 in the building was standing in the front speaking
22 approximately right there.

23 **Q** Do you recall the person that you were talking
24 to outside the front of your building?

25 **A** Yeah.

1 Q Who was that?

2 A Tuck -- Tucker. I don't -- Jarvis.

3 Q And do you know which building he lived in?

4 A He lived about -- directly above me.

5 Q Now, from the time -- did you take the same
6 path that you've drawn back to your building?

7 A Yes.

8 Q At some point in time, did you see a vehicle
9 drive through, uh, that was law enforcement?

10 A I didn't see the police right then. But when I
11 was walking back to the apartment, that's when I saw him
12 at the car.

13 Q You saw law enforcement at the car. You say
14 the car, where are you talking about?

15 A The car that was parked right here by the
16 building.

17 Q Okay. When they are up here looking at the
18 car, had you send that car before on that day?

19 A Yeah. When I was going down to speak to my
20 friend.

21 Q When you were leaving your building and walking
22 to your friend's building, you saw ---

23 A The car.

24 Q --- that vehicle?

25 A The vehicle was coming.

1 Q Ms. Taylor, if you would, put your initials on
2 the map here of where you saw that vehicle. Let me --

3 A The car was coming in as I was walking out. So
4 we probably met approximately right here. That's
5 probably where I saw him coming down.

6 Q So this circle, is that indicating where the
7 vehicle was when you saw it?

8 A Yeah. I was looking, yeah.

9 Q Was there anybody walking with you to your
10 friend's house that day?

11 A No.

12 Q This picture was taken at some point in time,
13 not on the day of question. Do you recall whether or not
14 there were any vehicles parked here?

15 A They were -- most people were leaving to go to
16 work. So it wasn't a lot of cars in the parking lot that
17 day.

18 Q I guess, Ms. Taylor, what I'm asking, was there
19 a car in between where you were standing and where that
20 vehicle came through?

21 A I don't remember.

22 Q Well, when you saw the vehicle driving, uh,
23 this direction towards the roundabout, was there anything
24 blocking your view from the windshield of that vehicle?

25 A No.

1 Q Were you able to see into the interior of the
2 vehicle?

3 A From the front.

4 Q You could see through the front?

5 A Uh-huh.

6 Q Were you really -- were you paying close
7 attention to the vehicle?

8 A No, I didn't.

9 Q So you looked inside --

10 A I just glanced at the -- just glanced and kept
11 walking.

12 Q Okay. Do you recall whether or not someone was
13 in the driver's seat?

14 A I can honestly say it was one person. I'm not
15 sure other people was in the car.

16 Q Do you remember if anybody was in the driver's
17 seat?

18 A Yes.

19 Q Somebody was in the front seat?

20 A Yes.

21 Q Do you recall whether that person was male or
22 female?

23 A I know it was a male, yes.

24 Q Okay. And you recall whether that person was
25 black, white, Hispanic, Asian?

1 **A** I could tell he was a black male, yes.

2 **Q** From your vantage point on the sidewalk here
3 into the vehicle, that vehicle, y'all were walking, y'all
4 were traveling at different directions?

5 **A** Correct.

6 **Q** You looked through the front window and you saw
7 one black male?

8 **A** Correct.

9 **Q** Did you see anyone else inside that vehicle?

10 **A** No, not that I could remember.

11 **Q** All right. Once you got back to your apartment
12 and you already testified you noticed the officer, what
13 did you do?

14 **A** I stand in the front and me and Tuck spoke for
15 a couple of minutes watching the police.

16 **Q** And why is it that you were interested in what
17 the police were doing?

18 **A** Cause police don't be in the area.

19 **Q** What did you observe the police do that day?

20 **A** They were looking around the car taking
21 pictures.

22 **Q** Do you recall the officers, what their race
23 were and what their sex was?

24 **A** Yeah, they was a white -- excuse me. Both of
25 those officers were white. One was a male and one was a

1 female.

2 Q After you saw them around the vehicle, did you
3 see those officers go anywhere else?

4 A They started looking around the premises.
5 That's when they went in the house.

6 Q You say went in the house. What do you mean
7 went in the house?

8 A I stepped in the house to get something to
9 drink. That's when I heard the shots.

10 Q You recall how many shots you heard?

11 A About 8 to 10.

12 Q Did you see who was shooting?

13 A Yeah. Well, I saw the lady officer shooting
14 and the male officer was taking cover.

15 Q You recall where he was taking cover?

16 A Behind the -- well, in front of the building by
17 like the banister part.

18 Q And the building that you are talking about, if
19 you would step down very briefly again, please explain to
20 the jury which building you are talking about.

21 A The [REDACTED] building.

22 Q That's the building where the officers were?

23 A Yes. The male officer was like right here,
24 like in front of the balcony. And she was like in the
25 hallway.

1 Q Besides Mr. Tucker who lives in that apartment
2 with you and your friend that you spoke with that
3 morning, did you see any other residents out there in the
4 area between the building up there?

5 A Yeah. I saw one lady who used to stay in my
6 apartment building. She was going to work.

7 Q After the shooting started, did you see anybody
8 come or go out of building [REDACTED] that was not law
9 enforcement?

10 A No. Well, when they started taking people
11 outside of the building after the fact.

12 Q And at some point in time that morning, did you
13 take a statement to law enforcement?

14 A I did.

15 Q Ms. Taylor, the individual, Mr. Tucker, that
16 stayed in that building, what did he look like? Was he
17 male, female, black, white?

18 A Male, tall, dark skin, dreads.

19 Q What was the last part?

20 A With dreads.

21 Q Dreads. He was a black male?

22 A Correct.

23 Q Okay. Thank you. Please answer any questions
24 Mr. Johnson may have. Excuse me, Mr. Crangle.

25 THE COURT: Mr. Crangle.

CROSS-EXAMINATION

BY MR. CRANGLE:

Q Thank you, ma'am. You gave a statement to police, correct?

A Correct.

Q And that was, I guess, on the day of the incident, correct?

A Correct.

Q I'm going to ask you to look at this statement. May I approach?

THE COURT: Oh, certainly. I give you blanket permission to approach the witness.

BY MR. CRANGLE:

Q Take a look at that for me.

A Uh-huh.

Q That's your statement, correct?

A Correct.

Q All right. Same statement as the day of incident, correct?

A Correct.

Q All right. There was a previous hearing. And you did not testify at that previous hearing, did you?

A No.

Q All right. Now, uh, I guess it's been a while about 14 months since October of 2011 to now, correct?

1 **A** Correct.

2 **Q** That's quite a long time, isn't it, right?

3 **A** It is.

4 **Q** And it would be accurate to say today that you
5 don't remember everything obviously as clearly as you did
6 that day, right?

7 **A** Correct.

8 **Q** And you reviewed the statement to help you kind
9 of refresh your recollection, correct?

10 **A** I did.

11 **Q** All right. Now, uh, in your statement, you
12 talk about a male driving by in a truck. You testified
13 earlier on direct examination that you just kind of
14 glanced at the truck, right?

15 **A** I did.

16 **Q** So it wouldn't be -- you weren't really staring
17 at it and looking around. You just kind of saw it out of
18 the corner of your eye really.

19 **A** No, it was in front of me. So I saw in the
20 front view.

21 **Q** Okay. Now, when you saw in the front view, you
22 described a black male. But you can't tell the jury here
23 today if that black male had long hair or short hair, can
24 you?

25 **A** No, I can't.

1 Q You don't -- can you tell the jury anything
2 about the clothing they were wearing?

3 A No, I can't.

4 Q Can you tell the jury if there was someone in
5 the passenger seat of the vehicle, do you remember?

6 A No, I can't.

7 Q So you don't remember if anyone is in the
8 passenger seat?

9 A No, I don't remember.

10 Q But the vehicle was moving when it was coming
11 in, correct?

12 A Correct.

13 Q So I guess it was kind of what, 5 to 10 miles
14 an hour probably?

15 A Uh-huh.

16 Q In the parking lot?

17 A Yeah.

18 Q So you don't know if there's someone in the
19 passenger seat?

20 A Yeah.

21 Q And you don't know if there's someone in the
22 back seat, do you?

23 A No. No, I can't recollect none of that
24 information.

25 Q All right. So all you know is that there was

1 someone driving the vehicle, but you don't know if anyone
2 else is in the vehicle, correct?

3 **A** Correct.

4 **Q** And you just happened to see the vehicle come
5 in, but you can't give a physical description of the
6 driver, correct?

7 **A** Correct.

8 **Q** All right. Did you see anyone get out of that
9 car?

10 **A** No.

11 **Q** You didn't?

12 **A** I didn't see when the car parked either.

13 **Q** All right. And you didn't see anyone at the
14 building [REDACTED] did you?

15 **A** No, I didn't.

16 **Q** So you didn't -- all you saw was the vehicle
17 moving and you know that there is a black male driver,
18 correct?

19 **A** Correct.

20 **Q** But no physical description?

21 **A** No.

22 **MR. CRANGLE:** One moment, Your Honor.

23 **THE COURT:** All right.

24 **MR. CRANGLE:** I have no further questions.

25 **THE COURT:** Any redirect?

1 **MR. MARCHANT:** Briefly, Your Honor.

2 **REDIRECT EXAMINATION**

3 **BY MR. MARCHANT:**

4 **Q** Ms. Taylor, is it that you don't remember
5 whether or not anyone was in the front seat or there was
6 not someone in the front seat?

7 **A** I don't remember.

8 **Q** And as far as the back seat goes?

9 **A** The window was tinted so I wouldn't be able to
10 -- like, I know the window was tinted. I didn't pay
11 attention.

12 **Q** To be clear though, you can only -- you're only
13 testifying that you saw one person in that vehicle?

14 **A** Correct.

15 **Q** Thank you. I have no further questions.

16 **THE COURT:** All right. Any followup?

17 **RECROSS-EXAMINATION**

18 **BY MR. CRANGLE:**

19 **Q** But it's your testimony today that you don't
20 know if other people were in the car, correct?

21 **A** Correct.

22 **Q** All right. And you only saw the driver, right?

23 **A** Right.

24 **Q** All right. And, uh, the man with dreads that
25 you saw or with braids --

1 **MR. MARCHANT:** Your Honor, I would object.

2 This is outside --

3 **THE WITNESS:** That was the person I was
4 speaking to.

5 **THE COURT:** Hold on just one second.

6 What's that?

7 **MR. MARCHANT:** I object. This is outside the
8 scope of my redirect.

9 **THE COURT:** All right. Mr. Crangle?

10 **MR. CRANGLE:** It was in the direct testimony.
11 I just wanted to clarify the point. But I
12 understand it's outside of the scope of redirect.

13 **THE COURT:** All right. I'll allow you to
14 complete this question.

15 **MR. CRANGLE:** All right. Thank you.

16 **BY MR. CRANGLE:**

17 **Q** Uh, that gentleman with the dreads, that was
18 your neighbor that you testified earlier about, right?

19 **A** Correct.

20 **Q** You said he was a tall African-American
21 gentleman?

22 **A** Correct.

23 **Q** Was he with anyone else?

24 **A** No.

25 **Q** All right. By himself?

1 **A** Right.

2 **Q** Thank you, ma'am.

3 **MR. MARCHANT:** Your Honor, I've got to ask
4 one followup.

5 **THE COURT:** Absolutely.

6 **REDIRECT EXAMINATION**

7 **BY MR. MARCHANT:**

8 **Q** Ms. Taylor, the vehicle that was parked that
9 the police were looking at, was that Mr. Tucker's
10 vehicle?

11 **A** No.

12 **THE COURT:** Anything else?

13 **MR. CRANGLE:** No further questions.

14 **THE COURT:** Ma'am, you can step down.

15 **MR. MARCHANT:** Your Honor, we ask that the
16 witness be excused from her subpoena.

17 **THE COURT:** Any objection?

18 **MR. CRANGLE:** No objection, Your Honor.

19 **THE COURT:** Thank you, ma'am, for being here.

20 **MR. MARCHANT:** Please the Court. The State
21 would call Officer John Derby.

22 **THE COURT:** All right.

23 **THE CLERK:** Officer Derby, if you would, come
24 forward to be sworn in.

25 **JOHN DERBY**

1 having first been sworn, testifies as follows:

2 **THE CLERK:** Thank you. You may be seated.

3 Would you please state your name for the record?

4 **THE WITNESS:** John Derby.

5 **THE CLERK:** Thank you.

6 **MR. MARCHANT:** Beg the Court's indulgence for
7 just a moment.

8 **THE COURT:** Certainly.

9 (WHEREUPON, there is a pause.)

10 **MR. MARCHANT:** Thank you, Your Honor.

11 **THE COURT:** Thank you.

12 **DIRECT EXAMINATION**

13 **BY MR. MARCHANT:**

14 **Q** Officer Derby, where are you employed?

15 **A** Greenville County Forensics.

16 **Q** And what is your capacity with the Forensics
17 department?

18 **A** I'm in the crime scene section.

19 **Q** And what does that mean?

20 **A** Our job is to document, collect and preserve
21 physical evidence at crime scenes.

22 **Q** How long have you been with the crime scene
23 unit?

24 **A** A little over four years now.

25 **Q** I'm going to take you, uh, back to October the

1 28th of 2011. Were you working that day?

2 A Yes, I was.

3 Q And when y'all are working, what sort of shifts
4 do you typically work?

5 A 7:00 to 7:00 day shift or night shift.

6 Q Okay. You recall whether or not this occurred
7 during the day or evening?

8 A My part?

9 Q Yes, sir.

10 A Uh, at nighttime.

11 Q Did you work last night?

12 A Uh, no.

13 Q Do you have to work this evening?

14 A Yes.

15 Q What time do you go on shift this evening?

16 A I have to be there at 6:30.

17 Q Do you recall whether or not you responded to
18 the crime scene that day or did you just process items at
19 the Greenville Tech campus where your office is located?

20 A I responded to the secondary scene, not the
21 original.

22 Q Now, when you say secondary, let's talk about
23 it that way. You had the occasion to respond to [REDACTED]
24 Mooremont?

25 A That's correct.

1 **Q** I'm showing you some items that are already in
2 evidence as 44, 45, and 46. Did you take possession of
3 those items?

4 **A** Yes, I did.

5 **Q** And specifically item 53, did you collect this
6 item?

7 **A** Yes, I did.

8 **Q** Now, as this item was shown, uh, in State's 44
9 underneath the mattress, is that where you collected it?

10 **A** Uh, yes.

11 **Q** Okay. Please tell the jury how you collected
12 that item and what safeguards or procedures you used to
13 ensure that the evidence was not contaminated.

14 **A** Using sterile, used gloves. The items were
15 collected and placed into either a bag or box at the
16 scene. The item was then transported to our office.
17 From there, it's processed for possible DNA.

18 **Q** When you -- tell the jury what you did to make
19 sure you didn't contaminate this item with any of your
20 sweat, saliva, fingerprints, anything of that nature.

21 **A** Using latex gloves.

22 **Q** Over on Mooremont when you collected this gun,
23 you were wearing gloves?

24 **A** That's correct.

25 **Q** The procedure that you used to collect this gun

1 to make sure that there's no contamination, is the same
2 procedure you would use on other items of evidence that
3 you collect?

4 **A** That's correct.

5 **Q** Now, once you collected this gun, did you
6 subsequently swab the firearm for potential DNA?

7 **A** Yes, that's correct.

8 **Q** Show you what's been marked as State's 57, 58
9 and 68.

10 **A** (Reviewing.)

11 **MR. MARCHANT:** Move 57, 58 and 68 into
12 evidence.

13 **THE COURT:** Any objection?

14 **MR. JOHNSON:** No objection.

15 **THE COURT:** It will be so admitted.

16 (WHEREUPON, State's Exhibits 57, 58 and 68 are
17 admitted into the record.)

18 **BY MR. MARCHANT:**

19 **Q** All right. Officer Derby, tell the jury what
20 these are and how you use them to collect evidence.

21 **A** These are sterile cotton tip swabs we use.
22 Once the tip is moistened, it's wiped over for possible
23 touch DNA collection. Each one must taken from their own
24 individual area. One of the handle, one of the trigger,
25 and once on the magazine.

1 **Q** And from here, how is it stored? How is the
2 integrity of that piece of item maintained?

3 **A** Once the item's been swabbed, it's placed back
4 into it's own capsule, put in an envelope and transported
5 to the Property and Evidence section.

6 **Q** Now, were you wearing these latex gloves when
7 you conducted this as well?

8 **A** That's correct.

9 **Q** Did you do any other evidence collection at the
10 scene that day other than that firearm and the black
11 sweatshirt that was depicted in the previous exhibit I
12 showed you?

13 **A** There's other items beside the sweatshirt. I
14 can't recall immediately.

15 **Q** I'm showing you what's been marked as State's
16 55. You recognize that?

17 **A** Uh, yes, I do.

18 **MR. MARCHANT:** Move 55 into evidence.

19 **THE COURT:** Any objection?

20 **MR. JOHNSON:** No objection.

21 **THE COURT:** It will be so admitted.

22 **(WHEREUPON, State's Exhibit 55 is admitted into the**
23 **record.)**

24 **BY MR. MARCHANT:**

25 **Q** Officer Derby, what, if anything, did you do

1 with any further testing on this item?

2 **A** It was photographed by our office.

3 **Q** Did you swab it?

4 **A** No, sir.

5 **Q** Let me get a set of gloves here. I'm going to
6 ask you to move 55 from its bag and please show the jury
7 what you found on that item, the black sweatshirt.

8 (Pause.)

9 Officer Derby, it might be more beneficial for
10 the jury if you would step down here. Continue to speak
11 loudly and please describe how you found the condition of
12 that black sweatshirt.

13 **A** Uh, after I got to office, I laid out. I was
14 able to determine two possible projectile holes in the
15 top of the shoulder.

16 **Q** There's some what looks like to me is chalk or
17 white outline of that lapel area of that. What does that
18 indicate? Is that your markings?

19 **A** No, sir.

20 **Q** So you found this sweatshirt at [REDACTED] Mooremont
21 in this condition except for the white markings?

22 **A** That's correct.

23 **Q** Okay. Put it back in the bag please, sir.

24 **A** (Witness complies.)

25 **Q** All right. Officer Derby, I'm going to show

1 you what's been marked as State's 56 and see if you
2 recognize that item.

3 **A** Yes, I do.

4 **Q** Do you recall where you retrieved that item?

5 **A** At the hospital.

6 **Q** You said the hospital. Which hospital?

7 **A** Uh, sorry. Greenville Memorial.

8 **Q** All right. You recall approximately what time
9 you were at the hospital that evening?

10 **A** Uh, I have to look at my notes. (Pause.)

11 It was right after Mooremont.

12 **Q** I'm sorry?

13 **A** It was right after Mooremont.

14 **Q** Yes, sir. You know what time you responded to
15 Mooremont? Let's start there.

16 **A** Uh, around 9:00, 10:00 o'clock.

17 **Q** And this item, State's 56, when did you take
18 possession of that article?

19 **A** At 2:45.

20 **Q** And did you also take possession of any other
21 items at the hospital that day?

22 **A** Uh, athletic shorts.

23 **Q** And do you recall the description of those
24 athletic shorts?

25 **A** Black athletic shorts.

1 **MR. MARCHANT:** Move State's 56 into evidence.

2 **THE COURT:** Any objection?

3 **MR. JOHNSON:** No objection.

4 **(WHEREUPON, State's Exhibit 56 is admitted into the**
5 **record.)**

6 **BY MR. MARCHANT:**

7 **Q** Mr. Derby, if you would, review State's 56 from
8 it's packaging and please describe for the jury how you
9 found, how you recovered that from the hospital.

10 **A** This -- these items were underneath the victim
11 -- I'm sorry -- the individual at the hospital. And it's
12 typical to cutting of clothing like this. It's done by
13 EMS. This also here shows suspected projectile holes,
14 the top left side.

15 **Q** Would you please put it back in the packaging.

16 **A** (Witness complies.)

17 **Q** Did you encounter the defendant at the
18 hospital?

19 **A** You mean speak to him?

20 **Q** Not did you speak to him, did you see him?

21 **A** Yes. Yes.

22 **Q** You recall whether or not he had any wounds?

23 **A** Uh, yes.

24 **Q** You recall where that wound was?

25 **A** In the upper left shoulder.

1 **Q** And do you recall whether there was an entrance
2 or an exit wound?

3 **A** Uh, all I saw is one hole.

4 **Q** Did you collect the projectile from him at that
5 time?

6 **A** Uh, no.

7 **Q** Why not?

8 **A** There was not one available.

9 **Q** Go to Mooremont. Go to the hospital. At some
10 point in time, do you go back to the forensics office to
11 conduct further tests and examine other evidence in this
12 case?

13 **A** That's correct.

14 **Q** At some point in time, did you inspect an SUV?

15 **A** Yes, I did.

16 **Q** Officer Derby, I'm showing you what's been
17 marked as State's 50 and 51, 49, 48, 93, 94, 95, 96, and
18 97. If you would, take a look at those and see if you
19 recognize them.

20 **A** (Reviewing.)

21 Yes, I do.

22 **Q** And does these fairly and accurately depict the
23 vehicles you found that day and the items within?

24 **A** Uh, yes.

25 **MR. MARCHANT:** Move State's 51, 52 -- excuse

1 me -- 51, 50, 49, 48, 93, 94, 95, 96 and 97 into
2 evidence.

3 THE COURT: Any objection?

4 MR. JOHNSON: No objection.

5 THE COURT: It will be so entered.

6 (WHEREUPON, State's Exhibits 48 thru 51 and 93
7 through 97 are admitted into the record.)

8 BY MR. MARCHANT:

9 Q Officer Derby, there's a laser pointer on
10 there. Before we talk about these pictures, previous
11 testimony that the vehicle was towed to y'all's bay. Who
12 has access to y'all's bay?

13 A Just us.

14 Q When you say just us?

15 A Greenville County Forensics.

16 Q And how many people are in your unit?

17 A 10 officers, two sergeants and a lieutenant.

18 Q I'm showing you State's 71. Is this the
19 vehicle that you photographed and processed back at the
20 forensics bay?

21 A Yes, it is.

22 Q I would ask you to pay particular attention to
23 the doors there. What is that on the front door and the
24 back door, that red and white --

25 A That is crime scene tape that we seal over the

1 doors for transport to ensure that nobody goes inside the
2 vehicle besides us.

3 Q Did you put that tape on there?

4 A No, I did not.

5 Q Back at the bay, was that tape in tact before
6 you entered the vehicle?

7 A Yes, it was.

8 Q Did you take various photographs of the
9 interior of the vehicle that day?

10 A At the office, yes, I did.

11 Q I'm showing you what's been marked as State's
12 94. As we walk through these, please explain to the jury
13 what it is that you are seeing and what you are
14 photographing.

15 A This is at our office inside that vehicle on
16 the driver's side behind the steering wheel.

17 Q State's 95.

18 A This is going to be the driver's seat on the
19 same side.

20 Q State's 97.

21 A The front passenger side towards the
22 floorboard.

23 Q State's 96.

24 A This is going to be the rear seats in between
25 on the floorboard.

1 **Q** State's 49.

2 **A** This is going to be the rear floorboard behind
3 the front passenger seat.

4 **Q** State's 48.

5 **A** This is another angle of the same area.

6 **Q** There's an item underneath the front passenger
7 seat. Did you pull that item out of the car?

8 **A** After photographs, yes.

9 **Q** Let me show you what's been marked as State's
10 50. Is this that item?

11 **A** That's correct.

12 **Q** And State's 51?

13 **A** This is the ammunition inside that box pulled
14 out.

15 **Q** And you recall what the head stamps are on that
16 ammunition?

17 **A** I have to look back at my notes.

18 **Q** I'll tell you what, Officer, let's do it this
19 way. I'll show you what's been marked as State's 52.
20 You recognize that item?

21 **A** Yes.

22 **MR. MARCHANT:** Move State's 52 into evidence.

23 **THE COURT:** Any objection?

24 **MR. JOHNSON:** No objection.

25 **THE COURT:** It's so admitted.

1 **(WHEREUPON, State's Exhibit 52 is admitted into the**
2 **record.)**

3 **BY MR. MARCHANT:**

4 **Q** Officer Derby, if you would, remove State's 52
5 and explain to the jury what's contained therein.

6 **A** You have gloves?

7 **Q** Yes, I do.

8 **A** This is going to be my actual packaging of the
9 item. This is the item JD-11 that was recovered in the
10 rear floorboard. And head stamps to three different
11 kinds; one, being Winchester, which on the top is WIN 9-
12 millimeter Luger; two, RWS 9-millimeter Luger; and one R-
13 P 9-millimeter Luger.

14 **Q** With respect to this box of shells and the
15 plastic container inside, did you process that for
16 fingerprints?

17 **A** Yes, I did.

18 **Q** Which parts of that did you process for
19 fingerprints?

20 **A** Both sides.

21 **Q** Do you recall whether or not you believe you
22 found something of sufficient quality to be compared?

23 **A** Yes, sir.

24 **Q** Does your department do that comparison?

25 **A** Yes, we do.

1 **Q** Okay. Your department at Greenville Tech does
2 the fingerprint analysis?

3 **A** Uh, no, sir. Our latent fingerprint division,
4 which is located at the Law Enforcement Center downtown.

5 **Q** Show you what's been marked as JD-1A, State's
6 54. You recognize that?

7 **A** Yes.

8 **MR. MARCHANT:** Move State's 54 into evidence.

9 **THE COURT:** Any objection?

10 **MR. JOHNSON:** No objection.

11 **THE COURT:** It's so admitted.

12 (WHEREUPON, State's Exhibit 54 is admitted into the
13 record.)

14 **BY MR. MARCHANT:**

15 **Q** Officer Derby, if you would, open that and tell
16 the jury where you retrieved those items.

17 **A** JD-1A is going to come for JD-1, which is the
18 weapon down at Mooremont. These are the five rounds.

19 **Q** Just so we're clear, Officer Derby, this is
20 State's Exhibit 53 is JD-1?

21 **A** That's correct.

22 **Q** Please hold up and show the jury where you
23 pulled those 25 rounds out of.

24 **A** The magazine.

25 **Q** Did you attempt to fingerprint the rounds?

1 **A** Yes, I did.

2 **Q** And were you successful in lifting any prints
3 for comparison on those rounds?

4 **A** Yes, sir.

5 **Q** Did you inventory these 25 rounds and determine
6 what kind of rounds they were?

7 **A** Different kinds actually, but all of them were
8 9-millimeter.

9 **Q** I need to know what sort of -- who is the
10 manufacture on those 25 rounds?

11 **A** Uh, one is going to be GFL 9-millimeter;
12 Another one is going to be FC 9-millimeter; 15 of them is
13 going to be WIN, W-I-N, 9-millimeter Luger; and eight of
14 them is going to be RWS 9-millimeter Luger.

15 **Q** Lastly, Officer Derby, I'm going to show you
16 93. What does that picture depict?

17 **A** This is the rear trunk cargo area of that SUV
18 that will be processed at our office.

19 **Q** Now, with respect to some of the items that we
20 seen inside, for example, that yellow container, did you
21 take possession of that?

22 **A** No, I did not.

23 **Q** Did it stay in the vehicle?

24 **A** Yes, sir.

25 **Q** And where would the vehicle had gone once it

1 left your bay?

2 **A** Either another facility until trial or returned
3 to the victim.

4 **Q** Thank you, Officer Derby. Please answer any
5 questions Mr. Johnson may have.

6 **THE COURT:** Mr. Johnson?

7 **MR. JOHNSON:** One second please, Your Honor,

8 **THE COURT:** Certainly.

9 (WHEREUPON, there is a pause.)

10 **CROSS-EXAMINATION**

11 **BY MR. JOHNSON:**

12 **Q** Sounds like you were -- pretty much, you were
13 involved in several arenas with regards to this incident,
14 is that true?

15 **A** I'm sorry.

16 **Q** Several arenas.

17 **A** Yes. Yes.

18 **Q** You were at the hospital with my client. Then
19 you also processed the truck or the SUV. Then you also
20 took some swabs later on from several pieces of evidence.
21 And also tried to secure some fingerprints, is that
22 right?

23 **A** That's correct.

24 **Q** Now, the first thing is, when you were at the
25 hospital, was my client there?

1 **A** Yes, sir.

2 **Q** And in addition to collecting some of his
3 clothes, did you take pictures?

4 **A** Yes, sir.

5 **Q** So you did take pictures of my client?

6 **A** Yes, sir.

7 **Q** I don't suppose you remember what those
8 pictures looked like, do you? Or you just know that you
9 took pictures?

10 **A** Very general, but yes.

11 **Q** Okay. All right. Now, when you got to the
12 hospital, did you begin to collect evidence yourself or
13 were you directed by anyone to do so?

14 **A** They advised me what was collected or removed
15 from the individual.

16 **Q** And then you collected that item, those items?

17 **A** That's correct.

18 **Q** And then you took photographs. Did you do
19 anything else?

20 **A** No, sir.

21 **Q** Okay. Now, as far as the, uh, prints were
22 concerned, you took prints on several different places,
23 didn't you?

24 **A** Yes, sir.

25 **Q** How many potential prints do you think you

1 took?

2 **A** Two, I believe, of significant value for
3 comparison.

4 **Q** Okay.

5 **A** One from the tray, one from top of the box.

6 **Q** And we're talking about the shells, shell
7 cartridges.

8 **A** Yes.

9 **Q** You also took several others for examination,
10 isn't that true?

11 **A** Other items to process?

12 **Q** Yes.

13 **A** Yes.

14 **Q** Well, let me -- you have a, uh, -- well, let me
15 ask you this because this will clear this up. Did you
16 work with Hamilton or did you -- did you work with
17 Hamilton separately or did y'all work together?

18 **A** Together.

19 **Q** Y'all did work together?

20 **A** Yes.

21 **Q** So did Hamilton take several different
22 fingerprints from a car?

23 **A** From the actual vehicle, yes.

24 **Q** He took a whole bunch of them, didn't he?

25 **A** That's correct.

1 **Q** For potential comparison?

2 **A** That's correct.

3 **Q** The other thing you did was you swabbed the gun
4 and magazine, correct?

5 **A** That's correct.

6 **Q** And you were looking for potential DNA?

7 **A** That's correct.

8 **Q** And you also, uh, -- you submitted those to
9 Property and Evidence for safekeeping, is that correct?
10 Is that how that works?

11 **A** Yes, sir.

12 **MR. JOHNSON:** Your Honor, I have nothing
13 further for this witness at this time.

14 **THE COURT:** Okay.

15 **MR. MARCHANT:** No redirect, Your Honor. We
16 ask that the witness be excused from his subpoena.

17 **THE COURT:** All right. Any objection to his
18 being excused?

19 **MR. JOHNSON:** No.

20 **THE COURT:** Thank you, sir, for being here.

21 **MR. MARCHANT:** Please the Court. The State
22 calls --

23 **THE COURT:** You've got a witness ready?

24 **MR. MARCHANT:** Yes, ma'am..

25 **THE COURT:** Okay.

1 **MR. MARCHANT:** Please the Court. The State
2 calls Norman Pearson.

3 **THE CLERK:** Mr. Pearson, please come up to be
4 sworn in. If you would, place your left hand on the
5 Bible and raise your right.

6 **NORMAN PEARSON**
7 having first been sworn, testifies as follows:

8 **THE CLERK:** Thank you. Would you please
9 state your name for the record.

10 **THE WITNESS:** Norman Pearson.

11 **THE CLERK:** Thank you.

12 **DIRECT EXAMINATION**

13 **BY MR. MARCHANT:**

14 **Q** Good afternoon, Mr. Pearson. Where do you
15 live?

16 **A** I stay in Belle Mead. It's in Greenville
17 county.

18 **Q** What street do you live in Belle Mead?

19 **A** Pine Creek Drive.

20 **Q** Did you live there back on October the 28th of
21 2011?

22 **A** Yes.

23 **Q** Now, we're here on this case. There are
24 several charges against Mr. Lowrance. Do you know him?

25 **A** Yes.

1 Q How is it that you know him?

2 A Well, I been knowing him all my life. We
3 consider ourselves cousins. You know, we grew up
4 together.

5 Q Is there actually -- is there any actual blood
6 relation between you and him?

7 A No, sir.

8 Q Back in the summer of 2011, did he stay with
9 you?

10 A Yes, sir.

11 Q Did he stay with you continuously or was it on
12 and off?

13 A It was on and off.

14 Q Did you have the occasion to see him the day
15 before this incident happened?

16 A Yes, sir.

17 Q Where did you see him?

18 A We was at my house.

19 Q What were you doing at your house?

20 A Nothing. Sitting around.

21 Q You recall what time of the evening it was when
22 you last saw him?

23 A Uh, it was in the evening. The exact time, I
24 don't know.

25 Q You say the evening. This is October 28th or

1 close to Halloween. Is the sun up or down?

2 **A** The sun was down.

3 **Q** You recall whether or not you had already eaten
4 supper?

5 **A** I don't know.

6 **Q** The last time you saw him was in the evening?

7 **A** Yes.

8 **Q** Did you subsequently talk to him later that
9 evening?

10 **A** Yes, I did.

11 **Q** Where did he tell you he was?

12 **A** He was at the hotel room. He was sitting in a
13 car at the hotel room.

14 **Q** Did he tell you which hotel?

15 **A** Comfort Inn.

16 **Q** How is it that he called you or how is it that
17 y'all spoke when he was at the Comfort Inn and you are at
18 Pine Creek?

19 **A** He called my cell phone.

20 **Q** You recall what number he called you from?

21 **A** It was his cell phone.

22 **Q** You recall the exact number?

23 **A** Well, my numbers is stored in by name so when
24 someone call, the name will show up. The exact number, I
25 don't know the exact number, but his name popped up.

1 Q Did you give a statement to Detective Conroy on
2 the day this incident happened?

3 A Yes.

4 Q Do you think if you looked at that statement it
5 would refresh your memory as to what his phone number
6 was?

7 A Yeah. I know it start with a 5.

8 (WHEREUPON, State's Exhibit 113 is marked for
9 identification purposes.)

10 BY MR. MARCHANT:

11 Q Mr. Pearson, I'm showing you what's been marked
12 as State's number 113 for identification only. Take a
13 look at that and see if it refreshes your memory what his
14 phone number was.

15 A Yes, it do.

16 Q Okay. What's his phone number?

17 A [REDACTED]-4082.

18 Q You remember the area code?

19 A [REDACTED]

20 Q Mr. Pearson, what is your home telephone on
21 Pine Creek?

22 A [REDACTED]-8942.

23 Q Did you also have a cell phone at that time?

24 A Yes, I did.

25 Q What was the phone number of that cell phone?

1 **A** [REDACTED]-7970.

2 **Q** Okay. So you spoke to him later that evening
3 and he was at the Comfort Inn?

4 **A** Yeah.

5 **Q** And he called you from ---

6 **A** His phone.

7 **Q** --- his cell phone?

8 **A** Right.

9 **Q** Was it your cell phone or the house?

10 **A** My cell phone.

11 **Q** What did he tell you he was doing at the
12 Comfort Inn?

13 **A** Nothing. He just got to the room. He was
14 sitting in the car. We was just talking.

15 **Q** Mr. Pearson, you keep talking about he got to
16 the room. Why is he at the Comfort Inn if he's staying
17 with you?

18 **A** I couldn't -- I can't tell you that. I don't
19 know.

20 **Q** You know where he got the money to pay for the
21 room?

22 **A** I had loaned him some money.

23 **Q** Did you speak to him again that evening?

24 **A** No, sir.

25 **Q** Did you speak to him the next day?

1 **A** Yes, sir.

2 **Q** You recall approximately what time you spoke
3 with him the next morning?

4 **A** The exact time, I don't know. It was after
5 9:00. It was after 9:00, after 9:30, I think.

6 **Q** You recall what number he called you from?

7 **A** Yes, his cell phone.

8 **Q** Did he call your cell phone or the house?

9 **A** He called my cell phone.

10 **Q** You remember whether or not he ever called the
11 house that morning?

12 **A** I can't -- I can't really recall.

13 **Q** When he called you that morning, how did your
14 conversation go?

15 **A** He asked what I was doing. I told him waking
16 up. He had told me --

17 **MR. JOHNSON:** Talking about hearsay now.

18 **MR. MARCHANT:** Your Honor, exception to the
19 hearsay rule. Statement against interest.

20 **THE COURT:** Anything in response to that?

21 **MR. JOHNSON:** Can I hear the statement
22 please?

23 **THE COURT:** All right. Let's approach.

24 **(WHEREUPON, a bench conference is held off the**
25 **record.)**

1 **THE COURT:** Overruled.

2 **BY MR. MARCHANT:**

3 **Q** All right. Mr. Pearson, he calls you on your
4 cell phone. How does your conversation go?

5 **A** He was like, cuz, what's up, what you doing. I
6 was like nothing, just waking up. I said what's going
7 on. He was like he had to run from the police. The
8 police got behind him and he had to run from the police
9 and he needed a ride. I was like, where you at. He told
10 me he was in the woods by Berkeley and he had been shot.

11 **Q** Did he tell you where he had been shot?

12 **A** He didn't say where. He just said he been
13 shot.

14 **Q** Did you speak to him ---

15 **A** That was it.

16 **Q** --- any further?

17 **A** That was it.

18 **Q** Did you speak to him again that day?

19 **A** No. I tried to call back numbers of times, but
20 couldn't get through.

21 **Q** Who is Marlina?

22 **A** That was my girlfriend at the time.

23 **Q** You recall what her phone number is?

24 **A** Yeah.

25 **Q** What's that?

1 **A** Uh, I ain't good with numbers. Like I said,
2 things programmed in my phone. [REDACTED]-6036.

3 **Q** And who is Sonya?

4 **A** That's my little sister.

5 **Q** You recall what her phone number is?

6 **A** Yeah, [REDACTED] 8440.

7 **Q** Mr. Pearson, I'm going to show you what's in
8 evidence as State's Exhibit 53. Have you seen this
9 before today?

10 **A** Yes, sir.

11 **Q** And where have you seen it?

12 **A** Patrick.

13 **Q** You say Patrick. When did you see him with it
14 and where did you see him with it?

15 **A** I had saw it in the car.

16 **Q** Which car are you referring to?

17 **A** The Tahoe.

18 **Q** You recall when you saw this gun last prior to
19 this incident happening?

20 **A** The last time I saw him. The day before.

21 **Q** So the day before the shooting happened, you
22 saw him with the Yukon and the gun was in the Yukon?

23 **A** Yes.

24 **Q** You recall where the gun was in the Yukon?

25 **A** It was just laying on the console.

- 1 Q Was there anybody else in the vehicle with you?
- 2 A Well, he had took me and my uncle to the store.
- 3 Q What's your uncle's name?
- 4 A My uncle Steve. Steve Kelley.
- 5 Q How do you spell the last name?
- 6 A K-E-L-L-E-Y.
- 7 Q And how old is Mr. Kelley?
- 8 A I don't know. My mom baby brother.
- 9 Q How old are you, Mr. Pearson?
- 10 A I'm 32.
- 11 Q Mr. Kelley older than you?
- 12 A Oh, yeah. Late 40s, probably early 50s or so.
- 13 Q Do you know a fellow by the name of William
- 14 Brockman?
- 15 A Yes.
- 16 Q How do you know Mr. Brockman?
- 17 A From the neighborhood.
- 18 Q You know where Mr. Brockman lived back in
- 19 October of 2011?
- 20 A Yes, sir.
- 21 Q You know what street that was?
- 22 A Yes, sir.
- 23 Q What's that?
- 24 A Mooremont.
- 25 Q And how far is Mooremont from Pine Creek?

1 **A** Uh, it's about three or four blocks over.

2 **Q** Going back to the time that Mr. Lowrance
3 started staying with you, this incident occurred on
4 October 28th, almost Halloween. How long had he been
5 staying with you?

6 **A** At the beginning of the summer. He had started
7 coming down and hanging around and staying overnight. I
8 would say around the middle of June.

9 **Q** Would y'all have an occasion to go out?

10 **A** Yes.

11 **Q** Where would you typically go?

12 **A** Swag. It's a bar up the street from the house.

13 **Q** You recall what street that's on?

14 **A** It's White Horse Road.

15 **Q** The vehicle that you described earlier, the
16 Yukon, do you know who's vehicle that was?

17 **A** No, I don't.

18 **Q** Mr. Lowrance was in that vehicle the day before
19 this happened?

20 **A** Yes.

21 **Q** That's where you saw the gun?

22 **A** Yes, sir.

23 **Q** How long had he had that vehicle at that point
24 in time?

25 **A** About three weeks I guess I would say.

1 **Q** Mr. Pearson, did Mr. Lowrance say anything to
2 you about anyone that was with him that day this event
3 happened?

4 **A** What day?

5 **Q** When the shooting happened, did he tell you
6 anything about anyone else being with him?

7 **A** Oh, no, sir.

8 **Q** Thank you, Mr. Pearson. Please answer any
9 questions ---

10 **THE COURT:** Yes, sir.

11 **MR. MARCHANT:** --- Mr. Johnson may have.

12 **MR. JOHNSON:** Thank you, Your Honor.

13 **CROSS-EXAMINATION**

14 **BY MR. JOHNSON:**

15 **Q** Mr. Pearson, to be clear, this vehicle, you
16 rode in this vehicle?

17 **A** Yes.

18 **Q** Now, also to be clear, you told the Solicitor
19 that you spoke with Patrick and he said he had been shot?

20 **A** Yeah.

21 **Q** But you didn't really get any other information
22 from that other than that?

23 **A** No, he said he been shot and like the phone
24 went dead.

25 **Q** The phone went --

1 **A** I kept trying to call back but couldn't get
2 through.

3 **Q** So you couldn't get through so you weren't able
4 to speak with him again?

5 **A** Huh-uh.

6 **Q** Okay. Mr. Pearson, now at your house, who
7 lives at your house?

8 **A** Me, my mom, my sister, my niece at the time --
9 she's at college now -- my nephew.

10 **Q** And how old are these -- how old are the
11 youngest of these folks?

12 **A** How old is the youngest?

13 **Q** Yeah.

14 **A** My nephew just turned three January 1st.

15 **Q** Now, Mr. Pearson, would your family let you
16 party at the house?

17 **A** What you mean party at the house?

18 **Q** Do drugs, drink alcohol or anything like that?

19 **A** Uh, well, I am over 21 so if I want to drink at
20 home, I drink at home.

21 **Q** I'm not sure what you're saying.

22 **A** What are you saying?

23 **Q** I'm asking you did you party at home.

24 **A** What do you mean party at home? Party like
25 loud music, thump, thump?

1 Q I mean, alcohol, drugs?

2 A You talking about smoking weed and drinking
3 beer?

4 Q Uh-huh.

5 A Is that what you want to ask me?

6 Q Uh-huh.

7 A Yeah, I do it.

8 Q Do you do it around your --

9 A No.

10 Q You don't do it around them, do you?

11 A No.

12 Q Okay. You would go someplace else to do that,
13 wouldn't you?

14 A I go in the back yard or something.

15 Q Would you let Patrick do that?

16 A What you mean let him? He a grown man.

17 Q You let him smoke weed in front of your nephew?

18 A No.

19 Q All right. I have nothing further at this
20 time.

21 **REDIRECT EXAMINATION**

22 **BY MR. MARCHANT:**

23 Q Mr. Pearson, you ever seen Mr. Lowrance smoke
24 weed?

25 A Yeah.

1 **Q** You smoke weed with him?

2 **A** Yeah.

3 **Q** You done anything else with him?

4 **A** Huh-uh.

5 **Q** Any other drugs?

6 **A** Huh-uh.

7 **Q** The night before this incident happened when
8 y'all were at your house, were you smoking marijuana?

9 **A** I'm pretty sure we did smoke.

10 **Q** Thank you, Mr. Pearson. That's all the
11 questions I have.

12 **MR. MARCHANT:** I ask that the witness be
13 excused.

14 **THE COURT:** All right, sir. You can step
15 down.

16 **THE WITNESS:** All right.

17 **THE COURT:** Is it alright for him to be
18 excused?

19 **MR. JOHNSON:** Yes, ma'am, Your Honor.

20 **THE COURT:** Thank you for being here. All
21 right.

22 I'll tell you what, let's take a brief break
23 before we continue going. We'll take a break for
24 about 10 minutes.

25 **(WHEREUPON,** the jury exits at approximately

1 3:44 p.m.)

2 THE COURT: All right. Let's be in recess
3 for 10 minutes.

4 (WHEREUPON, a short recess is taken.)

5 THE COURT: We ready to bring the jury back
6 in?

7 MR. MARCHANT: Yes, Your Honor. I'm sorry.

8 MR. JOHNSON: Your Honor, actually --

9 THE COURT: Oh, I'm sorry.

10 MR. CRANGLE: Just a quick issue that we may
11 need to address. I can't recall if the witnesses
12 have been sworn in or under oath. Maybe they have
13 been and I've been missing it. But I haven't heard
14 any testimony swearing the witnesses in. I could be
15 mistaken.

16 THE COURT: Oh, you mean the witnesses who
17 have testified in this trial?

18 MR. CRANGLE: Uh-huh.

19 THE COURT: They've all been sworn. Is that
20 what you're asking is are they being sworn here?

21 MR. CRANGLE: Yeah.

22 THE COURT: Gone up and put their hand and --
23 Joelle's quiet and sweet about it, but yeah, she's
24 been swearing them all in.

25 MR. CRANGLE: All right. I just wanted to

1 make sure. Okay.

2 **THE COURT:** Thank you.

3 **(WHEREUPON,** the jury enters at approximately
4 4:05 p.m.)

5 **THE COURT:** All right.

6 **MR. MARCHANT:** Please the Court. The State
7 calls Officer Jonathan Hamilton.

8 **THE CLERK:** Officer Hamilton, if you would,
9 come forward to be sworn in.

10 **THE BAILIFF:** Officer, place your left hand
11 on the Bible. Raise your right hand and face the
12 judge.

13 **JONATHAN HAMILTON**

14 having first been sworn, testifies as follows:

15 **THE CLERK:** Thank you. You may be seated.
16 Would you please state your name for the record.

17 **THE WITNESS:** Officer Jonathan F. Hamilton.

18 **DIRECT EXAMINATION**

19 **BY MR. MARCHANT:**

20 **Q** Officer Hamilton, where are you employed?

21 **A** The Greenville County Department of Public
22 Safety, Forensics Division.

23 **Q** Now, we just heard from Officer Derby.

24 **A** Uh-huh.

25 **Q** Y'all have essentially the same

1 responsibilities and duties?

2 **A** Yes. Yes, we do.

3 **Q** And Sergeant Shaw?

4 **A** He is our supervisor over us. Same job.

5 **Q** With respect to the collection of evidence and
6 the preservation of items, same duties?

7 **A** Yes, sir.

8 **Q** Did you have the occasion to work on this
9 particular incident that occurred at Berkeley Pointe?

10 **A** Uh, yes, I did.

11 **Q** Do you recall whether or not you responded to
12 Berkeley Pointe that day?

13 **A** No, I didn't.

14 **Q** You remember whether or not you did any
15 processing on what's in evidence as State's 71?

16 **A** Yes.

17 **Q** Please explain to the jury what it is that you
18 did on this vehicle and what your results were?

19 **A** Uh, I assisted Officer Derby with processing a
20 search warrant issued for the vehicle shown. Officer
21 Derby already collected digital photographs and whatnot
22 of it. So I came in to relieve him and complete the
23 actual processing of the vehicle. The first thing I did
24 was I collected a tape lift. Basically, it's a water
25 soluble tape. It collects -- put it just like duck tape.

1 We put it on the driver's side, at this point, driver's
2 side front seat. We try to collect any kind of fibers,
3 hairs, debris, that kind of thing that may be caught on
4 the seat. Uh, after --

5 Q Officer --

6 A Sorry.

7 Q Officer Hamilton, did you also process the
8 vehicle for any potential fingerprints?

9 A Yes, I did.

10 Q And where are those areas that you processed?

11 A Basically the entire exterior of the vehicle,
12 the hood, the quarter panels front and back. The doors
13 inside and outside of the doors, the rear hatch door.
14 Anywhere there is a smooth surface that a latent print
15 could be retrieved from.

16 Q You say smooth surface, why is it important
17 that there be a smooth surface?

18 A You know, rough -- a really rough textured
19 surface, it's hard for the latent print to be developed
20 and collected on. I mean, not all surfaces, but most
21 textured surfaces. So when I refer to smooth surface,
22 surfaces that we know we can retrieve prints from.

23 Q Let me show you what's been marked as 72, 73,
24 74, 74, 75, 76 and 77. Do you recognize those cards from
25 the latent division?

1 **A** Yes. I recognize them as latent cards that we
2 use in the office.

3 **Q** And what do you do with those cards with
4 respect to fingerprint lifts?

5 **A** Uh, when we pull the print, 9 times out 10,
6 what we do is pull the print with the tape. A latent
7 print is a print we can't see. We add powder and then we
8 put tape on top of that print, pull it off and then put
9 it on a white card. That way, the contrast, you have a
10 white backing, tape and then the latent print sticks out
11 to where you can see it. Then we put them on those
12 cards. We fill them out and forward them to our latents
13 division.

14 **Q** How is it that latent receives those cards?

15 **A** They come to our office. At that time, we have
16 a locked box. They come in. They lock it. I drop them
17 in. Nobody else has a key to it except for the latents
18 division and they retrieve those prints, those latent
19 cards.

20 **Q** And those cards -- excuse me. Can the prints
21 also be sent electronically?

22 **A** Uh, yes, they can now. Yes, sir.

23 **Q** Officer Derby has testified various things that
24 he did on the vehicle as well. Did you do anything else
25 in addition to that vehicle than what you described to

1 the jury today?

2 **A** The only thing I did was I collected the
3 license plate off the back, which I processed it as well.
4 That's the entire thing I did. I processed the prints,
5 the vehicle itself, retrieved the license plate and
6 collect the tape lift that I spoke of.

7 **MR. MARCHANT:** Thank you, Officer Hamilton.
8 Please answer any questions Mr. Johnson may have.

9 **THE COURT:** Mr. Johnson.

10 **CROSS-EXAMINATION**

11 **BY MR. JOHNSON:**

12 **Q** Officer Hamilton, you pretty much processed the
13 entire vehicle?

14 **A** The places where you would touch the vehicle,
15 yes, sir.

16 **Q** So that includes front, uh, driver's side door,
17 front passenger side door, back doors and all that?

18 **A** The exterior and interior, yes, sir.

19 **Q** Okay. I have nothing further.

20 **THE COURT:** Anything else for this witness?

21 **MR. MARCHANT:** No, Your Honor. I ask that
22 the witness be relieved of his subpoena.

23 **THE COURT:** All right. Any objection?

24 **MR. JOHNSON:** No objection, Your Honor.

25 **THE COURT:** Thank you, sir, for being here.

1 **THE WITNESS:** Thank you.

2 **MR. MARCHANT:** The State would call Chris
3 Gary.

4 **THE CLERK:** Mr. Gary, please come forward to
5 be sworn in.

6 **THE BAILIFF:** Sir --

7 **THE CLERK:** Please place your left hand on
8 the Bible and raise your right.

9 **CHRIS GARY**

10 having first been sworn, testifies as follows:

11 **THE CLERK:** Thank you. You may be seated.
12 Would you please state your name for the record.

13 **THE WITNESS:** Christopher Adam Gary.

14 **THE CLERK:** Thank you.

15 **MR. MARCHANT:** Your Honor, may Mr. Johnson
16 and I approach briefly?

17 **THE COURT:** Certainly.

18 **(WHEREUPON, a bench conference is held off the**
19 **record.)**

20 **MR. MARCHANT:** All right. May it please the
21 Court?

22 **THE COURT:** Yes, sir.

23 **DIRECT EXAMINATION**

24 **BY MR. MARCHANT:**

25 **Q** Sir, what was your name again?

1 **A** Christopher Adam Gary.

2 **Q** And Mr. Gary, where do you work?

3 **A** I work for the Greenville County Department of
4 Public Safety in the Forensics Division.

5 **Q** What do you specifically do in the Forensics
6 Division?

7 **A** I observed a container of latent fingerprints.
8 I also do tire track analysis as well as footwear
9 analysis.

10 **Q** How long have you been doing fingerprint
11 analysis?

12 **A** I been with Greenville County full-time for
13 about three years now or little over three years. It
14 will be four years in July. Before that, I actually had
15 the ability to intern with them for three years and kind
16 of learn the ins and outs, the foundation of the science
17 of fingerprints while I was in college. Once I graduated
18 from there, I was able to come on with Greenville County
19 full-time and almost hit the ground running so to speak
20 doing full-time duties.

21 **Q** You testified in this courthouse before?

22 **A** Yes, I have.

23 **Q** You been qualified as an expert in fingerprint
24 analysis before?

25 **A** Yes, I have.

1 **MR. MARCHANT:** The State would move to
2 qualify him again as an expert, Your Honor.

3 **THE COURT:** All right. Any objection?

4 **MR. JOHNSON:** No objection.

5 **THE COURT:** Ladies and Gentlemen, normally a
6 witness can only testify to what he or she has
7 actually seen or heard or observed themselves.
8 There is an exception for a witness we call an
9 expert witness. That witness, because of, uh,
10 education or experience, if qualified by the court
11 can give their opinion in certain areas. This
12 witness is going to be qualified -- again, tell me.
13 I'm so sorry.

14 **MR. MARCHANT:** Fingerprint analysis.

15 **THE COURT:** In fingerprint analysis. And
16 will be qualified to give his opinion in that area.
17 You may use his opinion in any way that you see fit.
18 Yes, sir.

19 **MR. MARCHANT:** Thank you, Your Honor.

20 **BY MR. MARCHANT:**

21 **Q** Mr. Gary, I'm going to show you State's 72, 73,
22 74, 75, 76 and 77. Do you recognize those?

23 **A** Yes, I do.

24 **Q** And did you do some analysis on those items?

25 **A** Yes, I did.

1 **MR. MARCHANT:** The State would move 72, 3, 4,
2 5, 6 and 7 into evidence.

3 **THE COURT:** Any objection?

4 **MR. JOHNSON:** No objection.

5 **THE COURT:** They will be so admitted.

6 **(WHEREUPON,** State's Exhibits 72 thru 77 are admitted
7 into the record.)

8 **BY MR. MARCHANT:**

9 **Q** Mr. Gary, if you would, starting with State's
10 72, please describe to the jury what you analyzed and the
11 result that you found.

12 **A** State's Exhibit 72 was a fingerprint image from
13 Item JD-11, which was a plastic tray inside of a
14 cardboard box of ammo. I identified that as being made
15 by the number 7, which is the left index finger of
16 Patrick Lowrance.

17 **Q** With respect to State's 73?

18 **A** State's Exhibit 73 was from the exterior
19 passenger side of the hood of a 2005 GMC Yukon. I
20 identified as being made by the number 9, which is the
21 left ring finger of Patrick Dean Lowrance.

22 **Q** State's 74?

23 **A** State's Exhibit 74 from the exterior center of
24 the hood of a 2005 GMC Yukon was identified as being made
25 by the number 3, which is the right middle finger of

1 Patrick Dean Lowrance.

2 Q State's 75.

3 A State's Exhibit 75, which is from the exterior
4 facing side of the driver's side rear door is identified
5 as being made or from a 2005 GMC Yukon is identified as
6 being made by the number 10, which is the left little
7 finger of Patrick Dean Lowrance.

8 Q State's 76.

9 A State's Exhibit 76 is from the exterior facing
10 side of the passenger side front door window of a 2005
11 GMC Yukon is identified as being made by the number 7,
12 which is the left index finger of Patrick Dean Lowrance.

13 Q State's 77.

14 A State's Exhibit 77 from the exterior passenger
15 side of the hood of a 2005 GMC Yukon is identified as
16 being made by the number 7, which is the left index, the
17 number 2, which is the right index, and the left palm of
18 Patrick Dean Lowrance.

19 Q Mr. Gary, did you analyze any other prints in
20 this case that came back to Patrick Dean Lowrance?

21 A No, sir. I did not.

22 Q Did you analyze other prints in this case?

23 A Yes, I did.

24 Q And the print that is identified as JD-11 in
25 your report, who did that print come back to?

1 **A** May I refer to my notes?

2 **Q** Please.

3 **A** (Reviewing.)

4 There's a latent lift number 2 from item JD-11,
5 which was the plastic tray inside card box of ammo was
6 identified as a Tron Jermaine Hines.

7 **Q** Officer Gary, I'm going to ask you to look at
8 latent lift number 15 from Jonathan Hamilton.

9 **A** Yes, sir.

10 **Q** Who did that print come back to?

11 **A** That print was number -- it was latent lift 15
12 that Officer Hamilton submitted from the exterior facing
13 side of the passenger side front door window of a 2005
14 GMC Yukon was identified as being made by the number 1,
15 which is the right thumb, the number 2, which is the
16 right index, number 3, which is the right middle and
17 number 4, which is the right ring fingers as well as the
18 right palm of Evelyn Loaiza-Alvarez. And that spelling
19 is L-O-A-I-Z-A-hyphen-A-L-V-A-R-E-Z.

20 **Q** Lastly, you referred to Officer Hamilton's
21 latent lift number 2. Where did that print come from and
22 who did it belong to?

23 **A** Latent lift number 2 from the exterior facing
24 side of the passenger side front door of a 2005 GMC Yukon
25 was identified as belonging to Joel Antwan Pringle cause

1 that was his left palm.

2 **Q** Officer Gary, with respect to the other
3 fingerprints that you examined, did you find any other
4 matches to those prints?

5 **A** There were -- no identifications were made.

6 **Q** Officer Gary, when you were analyzing these
7 items, how is it that you are making the comparison from
8 the lift that you have to a known print and how is it
9 that you are confident that what you have from the lift
10 from that vehicle matches who you've indicated it's come
11 back to?

12 **A** Well, we have two parts of the puzzle so to
13 speak. We have the latent fingerprints, which in this
14 case Officer Hamilton and Officer Derby submitted. And
15 those latent fingerprints, they come from the crime scene
16 or other items that were processed as a result as they
17 related to the crime scene. We also have a set of known
18 prints. What known prints are, if you ever seen on TV or
19 anything like that, is where fingerprints are placed in
20 black ink and then placed onto a white backing
21 fingerprint card. Now, they also have digital
22 fingerprint recording as well. Once those fingerprints
23 are placed onto a card, all the information of that
24 person is also put on the card so that we don't mistake
25 that person for any other individual. Their name, Social

1 Security, date of birth, race, sex, any other identifiers
2 unique to that individual. So we know that those
3 fingerprints belong to that person.

4 Once we do that -- sometimes we're often
5 requested to compare an individual to some fingerprints
6 that were found at a crime scene. What we do there, we
7 first analyze that fingerprint that is from the crime
8 scene. We'd look at it for its quality. How much
9 detail is really there. Not all fingerprints are of
10 great quality, you know, like we see on TV sometimes.
11 Sometimes they are poor quality. Sometimes they have
12 other factors that affect the quality such as how much an
13 individual sweats or how much movement was placed when
14 that fingerprint was put down. So we compare that
15 fingerprint from the crime scene. Then, we compare it to
16 the person that we were requested to analyze. And we
17 look and we make sure that that fingerprint does or does
18 not belong to the person on that known fingerprint card.

19 **Q** You spoke that you had the race and the sex of
20 the individuals. What is the race and sex of the three
21 other people that you identified here today?

22 **A** Evelyn Loaiza-Alvarez was listed as being a
23 white female. Joel Antwan Pringle was listed as being a
24 black male. And Tron Hines was listed as being a black
25 male.

1 **Q** Thank you, Officer Gary. Please answer any
2 questions Mr. Johnson may have.

3 **THE COURT:** Mr. Johnson?

4 **MR. JOHNSON:** Thank you, Your Honor.

5 **CROSS-EXAMINATION**

6 **BY MR. JOHNSON:**

7 **Q** Officer Gary, uh, first thing -- if I
8 understand correctly, what you do is, uh, I believe you
9 say you get the crime scene -- prints processed from a
10 crime scene that are given to you?

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

12 **Q** And there's also a sample that the suspects
13 give to you.

14 **A** Yes, that's correct.

15 **Q** And if you make that comparison from the ones
16 they took from any potential crime scenes to that of the
17 suspect. You make a match or don't make a match?

18 **A** Yes, sir. That's correct.

19 **Q** Now, you also made several other matches in
20 this situation. Is that true?

21 **A** Yes, that is correct.

22 **Q** Where did you get the standards from those
23 prints?

24 **A** We have a database that's maintained by SLED.
25 We can use that to search from fingerprints that are

1 different. People have been printed under different
2 situations. So sometimes, we can use that as a tool to
3 come back with more individuals.

4 Q So you plug the ones that didn't match to my
5 client in the database. And those are some of the names
6 that you got?

7 A Yes, sir. Yes.

8 Q Now, how many specimens do you think you had?

9 A Could you repeat the question?

10 Q How many prints did you have for comparison?

11 A Initially?

12 Q Initially.

13 A Uh, we didn't have any.

14 Q As far as -- I guess I should rephrase my
15 question. For example, Officer Hamilton and Officer
16 Derby took prints from a vehicle or something of that
17 nature and they brought it back to you, right?

18 A Yes, sir.

19 Q How many of those?

20 A We had a total of 26 latent lift cards.

21 Q You had 26 latent lift cards. As it stands
22 now, you got about what, nine matches to somebody?

23 A Yes, sir. I believe that is correct.

24 Q Okay. So that's 17 that you weren't able to
25 match with anyone at this point?

1 **A** Roughly, yes, sir.

2 **Q** Okay. Now, I want to talk about, uh, -- a
3 little bit about your results. Now, you had two
4 different sets of prints on the ammo box. One my
5 client's and one's somebody else's. Is that correct?

6 **A** Could you repeat the question?

7 **Q** You had two sets of prints on the ammo box, one
8 from my client and one from someone else?

9 **A** Yes, sir. That's correct.

10 **Q** Uh, then you had, uh, several prints matched to
11 the outside of the vehicle?

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

13 **Q** Now, you weren't able to match anything that
14 may have been taken from the insides except for the ammo
15 box?

16 **A** Yes, sir. That's correct.

17 **Q** Okay. Now, with regards to my client on the
18 exterior, can you go to that part of your report?

19 **A** Yes. One second. (Pause.)

20 Yes, sir.

21 **Q** Okay. The first one we have is from the
22 passenger side front door window?

23 **A** Yes, sir.

24 **Q** And then there's the driver's side rear door?

25 **A** Yes, sir.

1 **Q** Then there's the hood. Then there's the
2 passenger side hood. And then from the exterior
3 passenger side of the hood, is that right?

4 **A** Yes, sir.

5 **Q** So we're talking about, uh, the passenger side
6 front door, the driver's side rear door, the hood, the
7 passenger side hood and from the exterior of the hood?

8 **A** Yes, sir. That's correct.

9 **MR. JOHNSON:** I have nothing further at this
10 time, Your Honor.

11 **THE COURT:** All right. Redirect?

12 **MR. MARCHANT:** Yes, Your Honor.

13 **REDIRECT EXAMINATION**

14 **BY MR. MARCHANT:**

15 **Q** These 17 other, uh, lifts that you were unable
16 to match, is it -- was the print of sufficient quality
17 such that you feel that you would be able to get a match
18 if you had a known print or were some of them -- was
19 there enough of a lift -- I guess what I'm asking is
20 there enough of a lift on those prints for you to compare
21 if you had a known print?

22 **A** Like I was mentioning earlier, fingerprints,
23 like from crime scenes, they aren't all of the same
24 quality. You have various wide range of qualities from
25 very usable, you know, very -- prints that are in perfect

1 conditions. And then you also have prints that are not
2 usable at all. So in that range, you could have any
3 number of different situations that you have prints from
4 that are not good enough to compare to prints that, you
5 know, you can compare and you can easily identify.

6 In this case, there were some prints that were
7 not able to be identified. Not because of the condition
8 of the people that we were comparing, but because the
9 prints were not of good quality enough themselves to
10 actually compare to anyone.

11 Q Out of those remaining 17 prints, how many of
12 those were of not sufficient quality for you to be to
13 make a comparison?

14 A Uh, we don't write that information down. So
15 that's something that I would have to redo an examination
16 and look at those cards.

17 Q So out of the 17 that are left, you're not sure
18 how many are of not sufficient quality and how many are
19 of sufficient quality that couldn't be compared?

20 A Yes, sir. That's correct. Let me, uh, compare
21 our reports. We prepare the report based on the people
22 that we have identified. A lot of the fingerprints are
23 left that are not good enough to either make an
24 identification or that just weren't usable at all.

25 Q Thank you, Mr. Gary.

1 **THE COURT:** Mr. Johnson?

2 **MR. JOHNSON:** No redirect, Your Honor. No
3 recross.

4 **THE COURT:** That's fine.

5 **MR. MARCHANT:** We ask that the witness be
6 excused from this case.

7 **THE COURT:** All right. Any objection?

8 **MR. JOHNSON:** No objection, Your Honor.

9 **THE COURT:** Thank you for being here.

10 **MR. MARCHANT:** Please the Court. The State
11 would call Joel Pringle.

12 **THE CLERK:** Mr. Pringle, if you would, come
13 forward to be sworn in. Please place your left hand
14 on the Bible and raise your right.

15 **JOEL PRINGLE**

16 having first been sworn, testifies as follows:

17 **THE CLERK:** Thank you. You may be seated.
18 Would you please state your name for the record?

19 **THE WITNESS:** My name is Joel Antwan Pringle.

20 **THE CLERK:** Thank you.

21 **DIRECT EXAMINATION**

22 **BY MR. MARCHANT:**

23 **Q** Mr. Pringle, what's your full name?

24 **A** Joel Antwan Pringle.

25 **Q** You were in here just a moment ago when Mr.

1 Gary testified?

2 A Yes.

3 Q And did you hear that he found your print on
4 the exterior passenger side front door?

5 A Yes, sir.

6 Q Now, let me show you State's 71. You recognize
7 this vehicle?

8 A Yes.

9 Q How is it that you recognize this GMC Yukon?

10 A Uh, I was out at a local bar in Greenville.
11 The defendant, he was, uh, in possession of the vehicle.

12 Q You recall what the name of the bar was?

13 A Swag.

14 Q You know where that establishment is located?

15 A White Horse Road.

16 Q You recall the day, the specific day that you
17 saw that vehicle?

18 A I don't know the actual date.

19 Q This incident that we are here about today
20 occurred on October the 28th, 2011. Was it before or
21 after this incident occurred?

22 A Uh, when I seen the vehicle?

23 Q Yeah. When is the last time you saw the
24 vehicle before this incident occurred?

25 A It was the night before.

1 **Q** Is that where you were the night before at the
2 Sway?

3 **A** Yes.

4 **Q** You referenced the defendant over here. Who
5 are you talking about?

6 **A** Mr. Patrick Lawrence.

7 **Q** Please tell the jury what he's wearing.

8 **A** A blue shirt and a striped tie.

9 **Q** Is he wearing a jacket?

10 **A** No, sir.

11 **MR. MARCHANT:** Please let the record reflect
12 he's identified the defendant.

13 **THE COURT:** So reflects.

14 **BY MR. MARCHANT:**

15 **Q** You are at Club Swag. Did you go to Club Swag
16 with him?

17 **A** No, sir.

18 **Q** Did you leave Club Swag with him?

19 **A** No, sir.

20 **Q** You recall what time you got to Club Swag that
21 evening?

22 **A** I have no recollection.

23 **Q** How is it that you remember the vehicle from
24 Club Swag that evening?

25 **A** I sat in the vehicle.

1 Q You recall when you sat in the vehicle?

2 A In the parking lot.

3 Q Did you see the defendant drive up in the
4 vehicle?

5 A No, I did not.

6 Q Did he have the keys to the vehicle?

7 A Yes.

8 Q When y'all left the club and went out in the
9 parking lot, did he open the car for you?

10 A He had the doors open, yes, sir.

11 Q Where did you get when you got in the vehicle?

12 A I sat in the passenger seat.

13 Q In the front or the back?

14 A In the front.

15 Q Where did the defendant sit?

16 A In the driver's seat.

17 Q Was anyone else in the vehicle with you?

18 A No, sir.

19 Q Did you recognize or recall seeing anyone with
20 the defendant at the club that night?

21 A No, sir.

22 Q Do you know if he came with anyone?

23 A No, sir.

24 Q You know if he left with anyone?

25 A No, sir.

1 Q How long did you stay in the vehicle?

2 A Not long. Maybe five minutes at the most.

3 Q Where did you go after you got out of the
4 vehicle?

5 A I went to my car and I left.

6 Q You know where the defendant went?

7 A No, sir.

8 Q Did you ever see him again?

9 A No, sir.

10 Q Please answer any questions Mr. Johnson -- Mr.
11 Crangle may have.

12 THE COURT: All right.

13 MR. CRANGLE: One moment, Your Honor.

14 THE COURT: Sure.

15 (WHEREUPON, there is a pause.)

16 MR. CRANGLE: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. CRANGLE:

19 Q Mr. Pringle, isn't it true that you have a, uh,
20 criminal conviction for Criminal Domestic Violence of a
21 High and Aggravated Nature?

22 A Yes.

23 Q Isn't it also true that you have four pending
24 charges with the 13th Circuit Solicitor's office,
25 correct?

1 **A** Yes, sir.

2 **Q** That's this circuit, right? Pickens and
3 Greenville, correct?

4 **A** Yes, sir.

5 **Q** And those charges are pending?

6 **A** Yes, sir.

7 **Q** Now, you mentioned earlier on direct
8 examination that you met my client at Club Swag, correct?

9 **A** Yes.

10 **Q** All right. Now, you don't know what time you
11 arrived?

12 **A** No.

13 **Q** But while you were at the Club, uh, how --
14 would you say it was packed out, pretty crowded?

15 **A** Yes, it was a pretty packed night.

16 **Q** Is it a small place or is it a big place?

17 **A** Roughly around the size of this courtroom right
18 here with bars and tables.

19 **Q** Were people standing up around the bar area so
20 that -- waiting on drinks and stuff like that?

21 **A** Yes.

22 **Q** So very crowded?

23 **A** Yes.

24 **Q** You said that you saw my client at the club.
25 You remember where you saw him?

1 **A** Not actually. I don't remember where. I met
2 him inside -- I seen him inside first. Yes.

3 **Q** All right. And, uh, when he was in there, was
4 he in the crowded area of the club?

5 **A** The whole place was crowded, so yes.

6 **Q** Do you remember if he was standing up or
7 sitting down?

8 **A** I don't remember.

9 **Q** All right. So you don't know if he was with
10 anyone else then?

11 **A** No, I do not.

12 **Q** But it was, uh, -- you don't know -- uh, all
13 right. Now, y'all got in the car. After you got out of
14 the car, did you see my client drive away?

15 **A** No, I did not.

16 **Q** All right. Did you see him go back into the
17 club?

18 **A** No, I did not.

19 **Q** All right. Where did you go?

20 **A** I left. I got in my car and I left.

21 **Q** All right. So you don't know where he went
22 after the vehicle?

23 **A** No, sir.

24 **MR. CRANGLE:** All right. I have no further
25 questions.

1 **MR. MARCHANT:** No redirect, Your Honor.

2 **THE COURT:** All right. Sir, you can step
3 down.

4 **MR. MARCHANT:** Take a quick peek out in the
5 hallway, Your Honor.

6 **THE COURT:** All right.

7 (WHEREUPON, there is a pause.)

8 **MR. MARCHANT:** The State would call James
9 Armstrong.

10 **THE CLERK:** Mr. Armstrong, if you would,
11 please come forward to be sworn in. Please place
12 your left hand on the Bible and raise your right.

13 **JAMES ARMSTRONG**

14 having first been sworn, testifies as follows:

15 **THE CLERK:** Thank you. You may be seated.
16 Would you please state your name for the record?

17 **THE WITNESS:** James William Armstrong.

18 **THE CLERK:** Thank you.

19 **DIRECT EXAMINATION**

20 **BY MR. MARCHANT:**

21 **Q** Good afternoon, Mr. Armstrong.

22 **A** Good afternoon.

23 **Q** Where are you employed?

24 **A** For the Greenville County Department of Public
25 Safety, Forensics Division, Crime Laboratory.

1 **Q** And we've had several forensics officers in and
2 out yesterday and today. What exactly do you do in the
3 Forensics Division?

4 **A** I have a dual responsibility as a firearm
5 examiner and a forensic drug chemist.

6 **Q** What does a forensic drug chemist do?

7 **A** I analyze suspected control substances, white
8 powders, plant materials and such and report my findings
9 of those.

10 **Q** What does a firearms examiner do?

11 **A** A firearm examiner examine any firearm related
12 evidence such as fire cartridge casings, projectiles,
13 firearms and report findings to see if the firearm had
14 been used in a certain crime and identify the firearm by
15 make, model, serial numbers and even restore serial
16 numbers if need be and even do tool mark comparisons.

17 **Q** How long you been doing that?

18 **A** Uh, approximately 12 years.

19 **MR. MARCHANT:** Move to have Mr. Armstrong
20 qualified as an expert in firearms examination.

21 **MR. JOHNSON:** No objection.

22 **THE COURT:** All right then. Ladies and
23 Gentlemen, you heard that this witness will be
24 qualified as an expert witness in that area. I
25 previously explained to you what an expert witness

1 is that he can give his opinion in that area and you
2 can use that testimony in any way that you see fit.

3 Yes, sir.

4 **MR. MARCHANT:** Thank you, Your Honor.

5 **BY MR. MARCHANT:**

6 **Q** Mr. Armstrong, I'm going to show you what's
7 been marked and is in evidence as State's number 59.
8 Would you take a look at this piece of evidence and see
9 if you recognize it?

10 **A** Yes, sir. I do.

11 **Q** Please tell the jury what is in State's 59.

12 **A** State's 59 was marked as items DS-1, DS-2, 3,
13 4, 5, 6, 7, 8, 9, 10, 11, 12, 22 and 29. They are fired
14 cartridges casings.

15 **Q** Did you have the occasion to examine these
16 fired cartridge casings?

17 **A** Yes, sir. I did.

18 **Q** What sort of cartridge casings are those?

19 **A** They are all 9-millimeter Luger fired cartridge
20 casings.

21 **Q** You recall what the head stamp is on them?

22 **A** DS-1 through 12, 22 and 29 are marketed by
23 Speer.

24 **Q** In this case, did you have the occasion to
25 compare these shells to Officer Taci Cobb's gun?

1 **A** Yes, sir. I did.

2 **Q** And please tell the jury what your findings
3 were and how you were able to determine whether or not
4 they belong to that gun.

5 **A** In order to do my examination, I've taken the
6 questionable firearm, uh, the officer's firearm and went
7 and test fired it and collected test fires by way of
8 shooting into a ballistic retrieval device or actually a
9 water tank. Upon test firing it and then marked the test
10 fires and went back to my office and then did a
11 microscopic examination to compare the unknowns, which
12 are these items, to the knowns of the firearm. By doing
13 a microscopic comparison, I was able to determine that
14 items DS-1 through DS-12, DS-22 and 29 were fired in item
15 TC-1 pistol.

16 **Q** If you could, go into just a little bit more
17 detail if you would for m, Mr. Armstrong. How is it that
18 you can say with certainty that those items were fired
19 from that gun? What is unique about those items?

20 **A** On the items when they are fired, the firing
21 pin strikes the primer. When the firing pin strikes that
22 primer, it then sends a shock sensitive compound into the
23 ampule that cause a spark. That spark goes into the
24 powder charge of the case. It sparks a burn. Then
25 pressure builds which expands the casing in all

1 directions as well as around the sides and out backwards.
2 As it does that, any microscopic imperfection that is on
3 that firearm is then transferred to that casing. Then
4 when the projectile actually gets right at and exits the
5 barrel, the casing is then ejected. It then also has
6 ejector and chamber marks as well. When I actually test
7 fire the firearm, I can then compare my test fires that I
8 know that I created from shooting the firearm and then
9 compare it to the unknowns.

10 Q In this case, those items, every single one of
11 them came back to her gun?

12 A Yes, they did.

13 Q You're certain?

14 A Certain.

15 Q Mr. Armstrong, I'm going to ask you to look at
16 State's 60 that's in evidence and see if you recognize
17 that.

18 A Yes, sir.

19 Q And did you have the occasion to do some
20 examination on those items?

21 A Yes, sir. I did.

22 Q What are those items?

23 A They are listed as items DS-21, 25, 26, 27, 28,
24 30, 31, 32, 33. They are also fired cartridge casings.
25 Caliber 9-millimeter.

1 **Q** You recall what the head stamp is on those nine
2 items that you just described to the jury?

3 **A** Yes, sir. One moment. (Pause.)

4 DS-21 -- DS-21, 26, they are head stamp of RWS
5 over 9-millimeter Luger. DS-25, 27, 28, 30, 31, 32 and
6 33 bear Winchester head stamp.

7 **Q** RWS and WIN?

8 **A** Yeah, Winchester, yes, sir.

9 **Q** On those nine?

10 **A** Yes, sir.

11 **Q** Did you have the occasion to compare those
12 items to State's 53?

13 **A** Yes, sir. I did.

14 **Q** What was the result of your analysis?

15 **A** The items DS-21, 25, 26, 27, 28, 30, 31, 32, 33
16 fired cartridge casings were fired in this firearm.

17 **Q** So those nine came out of that gun?

18 **A** Yes, sir.

19 **Q** And the other 14 came out of the other gun?

20 **A** That's correct.

21 **Q** Did you have -- did you have the occasion to
22 examine any other shell casings with respect to this
23 case?

24 **A** Not that I recall.

25 **Q** I'm going to show you State's 61 that's in

1 evidence. (Pause.)

2 I'm going to ask you to take a look in there
3 and see if you recognize those items.

4 **A** (Reviewing.)

5 **Q** I want to talk specifically about DS-14 and DS-
6 41. Let's start with DS-14. You can open it.

7 **A** DS-14 is a copper fired bullet jacket fragment.

8 **Q** What analysis did you do with respect to 14 to
9 determine, uh, which firearm that came from?

10 **A** Basically, it was the same with the fired
11 cartridge casings. I did a side-by-side comparison on a
12 comparison microscope. On item DS-14, it's a fired
13 bullet jacket fragment. It was not fired from item TC-1
14 pistol. Very similar but insufficient microscopic marks
15 to admit identification to the item JD-1 pistol.

16 **Q** Now, moving to item DS-41. Mr. Armstrong, if
17 you would bear with me just a moment. For the jury's
18 clarification, item JD-1 that you referred to ---

19 **A** Yes.

20 **Q** --- which firearm is that?

21 **A** This is the 9-millimeter.

22 **Q** So back up just a second. DS-14, are you
23 saying it did or did not come from this gun?

24 **A** It is possible. There are similar markings
25 that indicate it may have come from this firearm.

1 **Q** What about the other firearm, the officer's
2 gun?

3 **A** It was not from that firearm.

4 **Q** You're certain?

5 **A** Certain.

6 **Q** DS-41, did you conduct the same analysis on
7 that item as well?

8 **A** Yes, sir. I did.

9 **Q** What was your finding with respect to that
10 item?

11 **A** Item DS-41, fired bullet specimen was fired
12 from the item JD-1 pistol.

13 **Q** How sure are you?

14 **A** I'm 100 percent positive.

15 **Q** You're positive that that came from this?

16 **A** It was fired from that firearm.

17 **Q** You are positive that this one did not come
18 from Officer Cobb's gun?

19 **A** Correct.

20 **Q** With respect to all of the other fragments that
21 were recovered by Officer Shaw that day, did you conduct
22 the same analysis on those items?

23 **A** Yes, sir. I did.

24 **Q** Were you able to determine with certainty
25 whether or not they came from Officer Cobb's gun or item

1 JD-1, which is the M-11?

2 **A** Yes, sir. They were determined that the item
3 DS-18, 19A, 23, 40, 42, 43 and 45 fired bullet specimens
4 and fragments were not fired from the item JD-1 pistol,
5 but very similar but insufficient microscopic marks to
6 permit identification to the item TC-1 pistol.

7 **Q** So just like the last item we talked about, I'm
8 sorry, the first item we talked about, insufficient on
9 Officer Cobb's gun on DS-14 but similar characteristics
10 to this gun? I'm backing up on you just a second. The
11 individual one we discussed.

12 **A** 14 and 41.

13 **Q** 14 ---

14 **A** Right.

15 **Q** --- bared -- you are certain that 14 did not
16 come from Officer Cobb's gun?

17 **A** That's correct.

18 **Q** But it bared similar characteristics to this
19 gun?

20 **A** That's correct.

21 **Q** Now, these others that you talked about, they
22 definitely -- those definitely did not come from this
23 gun?

24 **A** That's correct.

25 **Q** You can not say with certainty that they came

1 from Officer Cobb's gun.

2 **A** Right. They are special similarities.

3 **Q** Now, the other items that you analyzed, were
4 you able to tell either way?

5 **A** There were several items that were not suitable
6 for microscopic comparison purposes. There were some
7 fragments and bullet cores which did not bare any lands
8 and grooves or striations from the barrel for comparison
9 purposes.

10 **Q** Several items you just don't know one way or
11 another because there's not enough of a sample?

12 **A** Correct.

13 **Q** Now, you spoke earlier about the second set of
14 shells that we talked about. There were nine of them.
15 They bared a head stamp of WIN and RWS. Do you recall
16 the caliber of those?

17 **A** 9-millimeter Luger.

18 **Q** Can you help explain to the jury how two
19 different types of ammunition, whether or not they can go
20 through the same gun?

21 **A** There are hundreds of ammunition manufacturing
22 facilities and plants and they all bare a different head
23 stamp. They all make a same caliber cartridge that can
24 go in a variety of different handguns or rifles.

25 **Q** Thank you, Mr. Armstrong. Please answer any

1 questions the defendant may have.

2 **MR. JOHNSON:** Thank you, Your Honor.

3 **THE COURT:** Yes, sir.

4 **CROSS-EXAMINATION**

5 **BY MR. JOHNSON:**

6 **Q** Mr. Armstrong, a gun like this, how does the
7 bullet get in there?

8 **A** They are loaded into a magazine. It's loaded
9 by hand and inserted. There's a bolt that is pulled back
10 to charge the firearm.

11 **Q** Now, I see you doing all these hand motions.
12 Let's slow down a little bit. Let's start from the
13 beginning.

14 **A** First, you have the magazine. Then you load it
15 with cartridges. While you're holding the magazine, you
16 place the cartridges into the mouth of the handgun. Then
17 you load them. Once the magazine is loaded, you insert
18 it into the firearm into the magazine well. Then to
19 actually load the gun is a charge handle that you pull.
20 You pull that back, then let it go. Now, the firearm is
21 ready for firing.

22 **Q** So the bullets are in the magazine. You stick
23 the magazine in the gun. You do that by hand.

24 **A** Yes, sir.

25 **Q** Is it difficult to do?

1 **A** No, sir.

2 **Q** But you stick it in there?

3 **A** It has to be shoved in.

4 **Q** You shove it in there and then the gun is
5 loaded?

6 **A** Yes, it's ready to go.

7 **Q** Okay. Nothing further at this time.

8 **THE COURT:** Any other questions for this
9 witness?

10 **MR. MARCHANT:** No, Your Honor. We ask that
11 he be excused and relieved of his subpoena.

12 **THE COURT:** Any objection?

13 **MR. JOHNSON:** No objection.

14 **THE COURT:** Thank you, sir, for being here.

15 **MR. MARCHANT:** Please the Court.

16 **THE COURT:** Let me just ask you -- do y'all
17 mind approaching?

18 **(WHEREUPON, a bench conference is held off the**
19 **record.)**

20 **THE COURT:** Thank you. Thank you for
21 standing up. Here's the situation we're in. We're
22 going to call one more witness. They don't
23 anticipate this to be a long witness at all. After
24 that, we may or may not have one other short witness
25 but don't know at this point. But we think this is

1 going to be a real short witness. All right.

2 Everybody good?

3 **MR. MARCHANT:** Please the Court. The State
4 calls William Brockman.

5 **THE CLERK:** Mr. Brockman, please come around
6 to be sworn in. Would you please place your left
7 hand on the Bible and raise your right?

8 **THE BAILIFF:** Face the judge.

9 **THE CLERK:** Face me please.

10 **WILLIAM BROCKMAN**

11 having first been sworn, testifies as follows:

12 **THE CLERK:** Thank you. You may be seated.
13 Would you please state your name for the record?

14 **THE WITNESS:** William Brockman.

15 **THE CLERK:** Thank you.

16 **DIRECT EXAMINATION**

17 **BY MR. MARCHANT:**

18 **Q** Good afternoon, Mr. Brockman. It's obvious you
19 are in the detention center. What are you in the
20 detention center for?

21 **A** Failure to pay child support.

22 **Q** Child support, not criminal charges.

23 **A** No, sir.

24 **Q** Let me just get right to it. Do you know the
25 defendant in this case?

1 **A** Yes, sir.

2 **Q** How do you know him?

3 **A** Uh, I met him a couple of times.

4 **Q** Who did you meet him through?

5 **A** His cousin and a couple of friends.

6 **Q** You met him through his cousin?

7 **A** I met him through some friends of his cousins.

8 **Q** Who was that?

9 **A** His cousin is Norman Peterson.

10 **Q** How do you know Mr. Pearson?

11 **A** Oh, Norman Pearson. We had -- we from the same
12 neighborhood.

13 **Q** Back in October of 2011, where were you living?

14 **A** [REDACTED] Mooremont Avenue.

15 **Q** This incident occurred on October 28th of 2011.

16 How long had you known the defendant?

17 **A** Probably about three or four weeks.

18 **Q** And what did you know him by?

19 **A** Patrick, Pat.

20 **Q** You know his last name?

21 **A** Uh, Pat -- well, I didn't know it then. I know
22 it now. Patrick Lowrance.

23 **Q** The person you are talking about is seated here
24 in the courtroom?

25 **A** Yes.

1 Q Please identify how you are talking about as
2 Pat.

3 A Patrick Lowrance.

4 Q What's he wearing?

5 A Uh, blue shirt and tie.

6 Q Does he have a jacket on?

7 A No, sir.

8 **MR. MARCHANT:** Please let the record reflect
9 he's identified the defendant.

10 **THE COURT:** It will so reflect.

11 **BY MR. MARCHANT:**

12 Q How long would you say you knew him before this
13 incident occurred?

14 A Probably about three weeks.

15 Q Had you seen him driving a vehicle over that
16 course of three weeks?

17 A I seen him drive a few vehicles.

18 Q I'm going to show you what's been put into
19 evidence as State's number 71. You seen him in that
20 vehicle?

21 A Yes, sir.

22 Q You seen anybody else with him in that vehicle?

23 A Yeah. I seen somebody else with him.

24 Q Who is that?

25 A I seen Norman Peterson with him. Pearson.

1 Yeah, Norman Pearson.

2 **Q** The day this incident occurred, did you come in
3 contact with the defendant?

4 **A** I seen him after it happened.

5 **Q** You recall where you saw him?

6 **A** He was walking up the street in my
7 neighborhood.

8 **Q** Did you pick him up?

9 **A** Yeah. I had stopped. He had flagged me down,
10 kind of stepped out in front of the road. So I stopped.

11 **Q** What sort of vehicle were you driving?

12 **A** I was driving my vehicle, a Crown Victoria.

13 **Q** Did you let him in your car?

14 **A** He had got in my car.

15 **Q** You recall if he got in the car with any
16 firearms?

17 **A** Uh, he didn't have nothing visible in his
18 hands.

19 **Q** Did you subsequently see something in your
20 vehicle?

21 **A** Later on, after I got through driving, I seen
22 something.

23 **Q** I'm showing you what's in evidence as State's
24 53. Do you recognize this as the gun that he had with
25 him?

1 **A** Yes, sir.

2 **Q** Was there anybody else with him when you picked
3 him up?

4 **A** No, sir.

5 **Q** Once you got in your vehicle, where did you go?

6 **A** He asked me to take him to Norman's house,
7 Norman Pearson's house.

8 **Q** Did you take him there?

9 **A** Yes, sir.

10 **Q** Did he get out of the vehicle?

11 **A** Yes, sir.

12 **Q** Did he go in the house?

13 **A** No, Norman's family was out there. They didn't
14 want him over there.

15 **Q** Where did he go then?

16 **A** Came back to the car.

17 **Q** You let him back in the car?

18 **A** Yes, sir.

19 **Q** Where did y'all go after y'all got back in the
20 car?

21 **A** He asked me could we go to my house.

22 **Q** Did you go to your house?

23 **A** Yes, sir.

24 **Q** What was the address of your house at that
25 time?

1 **A** [REDACTED] Mooremont Avenue.

2 **Q** Once you got back to your house, what were
3 y'all doing?

4 **A** We was just sitting there talking.

5 **Q** And did he tell you where he had been?

6 **A** No. He just never really told me where he was
7 at. We never really discussed too much about the matter
8 as far as that, as far as where he was at.

9 **Q** Could you tell whether or not he was injured?

10 **A** He had an, uh, -- he had a hole in his
11 shoulder.

12 **Q** Did he tell you from what?

13 **A** He just said he had got shot.

14 **Q** Did he tell you where he was shot?

15 **A** What you mean? As far as?

16 **Q** Location.

17 **A** In his body?

18 **Q** I'm sorry. Where in Greenville or --

19 **A** Oh, no. He never told me where he was shot at.

20 **Q** Where was he shot in his body?

21 **A** Uh, in his right shoulder. I believe it was
22 his right shoulder.

23 **Q** Could you tell whether or not he was shot
24 anywhere else?

25 **A** No, sir.

1 Q Did he indicate to you whether or not he was
2 shot anywhere else?

3 A No, sir.

4 Q What did he tell you about who shot him?

5 A He just said he was shot. He was like the
6 police had shot first.

7 Q What did he tell you about whether or not he
8 shot?

9 A We didn't discuss too much about he was
10 shooting. He just told me that he was shot and the
11 police had shot at him first.

12 Q Did he tell you the police, what the sex of the
13 person was that shot at him?

14 A She. She.

15 Q Female?

16 A Yes, female. Yes, sir.

17 Q Now, how long did y'all stay at the residence
18 before law enforcement arrived?

19 A I'm not really sure. I had left and I came
20 back. Probably -- I'm not really sure at all. I left
21 and came back. Probably about an hour or an hour and a
22 half.

23 Q Where did you go when you left?

24 A Uh, I went over to a friend's house.

25 Q At some point in time, did you speak with

1 members of his family?

2 **A** Yes. Well, I had let him use my cell phone.
3 He had called somebody in his family. So when I left and
4 went over to a friend's house, I had called that person
5 back. I was kind of concerned. I knew they wanted him
6 to get some help. I asked them to come and get them.

7 **Q** Did you subsequently meet with some of his
8 family members?

9 **A** Yes, sir. Later on that night, I did.

10 **Q** Did you bring them back to your house?

11 **A** Yes, sir.

12 **Q** Did some of those members come into your house?

13 **A** A girl did.

14 **Q** Do you recall her name?

15 **A** No, sir.

16 **Q** Do you know who she was in relation to the
17 defendant?

18 **A** I think she was his wife.

19 **Q** After law enforcement showed up, did you come
20 out of the house?

21 **A** Yes, sir.

22 **Q** Were you called out of the house or did you
23 know that you needed to come out?

24 **A** I heard a lot of engines running fast. So I
25 ran out the house.

1 Q And while you were inside the house with Mr. --
2 with the defendant, were y'all in the den, the kitchen,
3 bedroom area, what?

4 A When we started out, we were in the kitchen. I
5 left. He went back to my back room. He asked me to go
6 back to the back room.

7 Q I'm going to show you what's been put into
8 evidence already as State's 44. It depicts a mattress
9 that has that gun underneath it. Whose room is that?

10 A That's my room.

11 Q Is that where you sleep?

12 A Yes, sir.

13 Q What's been shown is a black sweatshirt that
14 was located on the floor. Is that yours?

15 A No, sir.

16 Q Was the defendant wearing that when you picked
17 him up?

18 A Yes, sir.

19 Q At some point in time, did the defendant come
20 out of the house?

21 A Yes, sir.

22 Q At some later point in time, did you talk with
23 Detective Flavell that is seated her on the second row?

24 A Yes, sir.

25 Q And did you give him consent to enter your

1 home?

2 **A** Yes, sir.

3 **Q** Did you also sit down with him at your house
4 and give him a written statement?

5 **A** Yes, sir.

6 **Q** Did you have the opportunity to review that
7 statement and sign that statement after you wrote it?

8 **A** Yes, sir.

9 **Q** And you indicated by signing the statement that
10 it was true and correct?

11 **A** Yes, sir.

12 **Q** I'm going to ask you to take a look at what's
13 been marked for identification only as State's 102. I'm
14 going to ask you to read through this statement. I'm
15 going to ask you to pay particular attention to this line
16 right here. Read it to yourself.

17 **A** (Reading.)

18 Which one you want me to have, uh, --

19 **Q** Read it to yourself. Don't read it out loud.
20 Pay particular attention to these two lines that you
21 talked with Detective Flavell about.

22 **A** (Reading.)

23 **Q** Mr. Brockman, you had enough time to review
24 that? Does that help you refresh your memory of what you
25 told Detective Flavell that day?

1 **A** I really don't recall that day. You know what
2 I'm saying? But I see what's written on here.

3 **Q** Those were your words. You gave them to
4 Detective Flavell, right?

5 **A** They on here. I guess so.

6 **Q** So after reviewing what's been marked for
7 identification only as State's number 102, what did you
8 tell Detective Flavell about what the defendant told you
9 in whether or not he shot the police?

10 **MR. JOHNSON:** Now, Judge, I'm going to object
11 on the basis of it seems like his memory was not
12 refreshed. He didn't acquiesce to that.

13 **THE COURT:** I'll allow him to answer the
14 question. If he remembers and it is refreshed, then
15 he could testify to it. If it's not, then he can
16 say it's not.

17 **THE WITNESS:** I really don't recall what I
18 told him. I'm reading what I read on that paper.
19 It says it's true and correct, you know.

20 **BY MR. MARCHANT:**

21 **Q** Mr. Brockman, are you denying that what you
22 told Detective Flavell that he didn't write down what you
23 said?

24 **A** He wrote down what I said. You know, I guess
25 that's what I said right there. I know I had -- I know I

1 said that he was shot and she shot him first, just what
2 he said, you know. But that was so long ago, I really
3 don't recall what I said. I see what's on there.

4 Q You would agree with me that the reason
5 Detective Flavell took this information down at the time
6 because it was fresh in your mind, right?

7 A Yes, sir.

8 Q Again, you signed down here that this
9 information is true and correct, right? Correct?

10 A Yes, sir. But I really thought I signed behind
11 each and every line or something like that. I really
12 don't recall this. It's been so long.

13 Q You are in the kitchen with Detective Flavell,
14 right?

15 A Yes, sir.

16 Q He's writing -- this is his handwriting. He's
17 writing it down and you're telling him, right? And he
18 wrote three pages, right?

19 A Yes, sir.

20 Q I need you to answer verbally please, sir. At
21 the end of each page, there's a place for you to sign
22 whether or not what's in the information provided is true
23 and accurate.

24 A Yes, sir.

25 Q You had the opportunity to review what he wrote

1 before you signed it, correct?

2 **A** Yes, sir.

3 **Q** You didn't make any changes to this statement
4 on any one of those three pages?

5 **A** No, sir.

6 **Q** Are you denying that you made the statements?

7 **A** I'm not denying it. I just don't recall making
8 the statement. But I'm not denying it.

9 **Q** Well, does reviewing this statement help you
10 remember what you said?

11 **MR. JOHNSON:** Your Honor, he's asked this
12 question three times.

13 **THE COURT:** I'm going to allow him to ask it.
14 Go ahead.

15 **THE WITNESS:** I got some type of memory. But
16 like I said, I know that he told me that she had
17 shot him first and he was shot by the police. I'm
18 not saying I'm denying anything. I just said I
19 don't recall. But reading, you know, it says it's
20 original.

21 **BY MR. MARCHANT:**

22 **Q** Are you denying that you made the statement to
23 Detective Flavell?

24 **A** I'm not denying it.

25 **Q** Yes or no.

1 **A** I'm not denying it.

2 **Q** You're saying you don't remember it?

3 **A** I just don't remember, you know. I had to read
4 the whole thing just to, you know, recall the
5 information. But I'm not denying it.

6 **Q** Mr. Brockman, we seem to be going in circles
7 just a little bit here. You've reviewed the statement?

8 **A** Yes, sir.

9 **Q** What did you tell Detective Flavell about
10 whether or not the defendant told you that he shot at the
11 police?

12 **A** I'm saying you want me to read it back? I can
13 read it off there but I don't recall what I said.

14 **Q** I'll have to call Detective Flavell back. All
15 right. Mr. Brockman, we also had a, uh, prior hearing in
16 this matter before today. You testified at that hearing,
17 isn't that correct?

18 **A** Oh, a hearing.

19 **Q** Yes, sir. We had a hearing in a courtroom
20 similar to this and you testified up here on the stand,
21 right? And there was a nice lady sitting right here
22 taking everything down, isn't that correct?

23 **A** Yes, sir.

24 **Q** At that hearing, do you recall when I asked you
25 this exact same question what you told the court reporter

1 and the judge about whether or not the defendant had told
2 you if he had shot at the police?

3 **A** I know exactly what I said when you asked me
4 that question.

5 **Q** Well, what was your response to that question?

6 **A** I had told you that he was shot by the police
7 and she had shot him first. I know exactly what I said.
8 That's exactly what I said. I was pulling it up every
9 day on Fox Carolina 21 News and watching it myself. I
10 know what I said.

11 **Q** Mr. Brockman, do you recall testifying and do
12 you recall answering my question about whether or not you
13 told Detective Flavell that the defendant did or did not
14 shot at the officer?

15 **A** I don't recall telling him.

16 **Q** I'm going to show you your prior testimony.

17 **MR. JOHNSON:** Permission to approach?

18 **THE COURT:** Sure.

19 **(WHEREUPON, a bench conference is held off the**
20 **record.)**

21 **BY MR. MARCHANT:**

22 **Q** I'm showing you a page out of the transcript
23 from that day. I'm going to ask you to read line 20,
24 which is the question I asked you, which is what did he
25 tell you about being shot. I want you to read what line

1 21 says word for word.

2 A Out loud?

3 Q Yes, sir.

4 A He told me he shot at them. They shot at him
5 first.

6 Q Thank you, Mr. Brockman.

7 MR. MARCHANT: Court's indulgence?

8 THE COURT: Yes, sir.

9 MR. MARCHANT: Please answer any questions
10 Mr. Johnson may have.

11 THE COURT: Mr. Johnson.

12 MR. JOHNSON: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. JOHNSON:

15 Q Mr. Brockman, you just read something off the
16 transcript of the last hearing, is that right?

17 A Yes, sir.

18 Q Were you given a copy of that?

19 A No, sir.

20 Q You ever seen it before?

21 A Yes, sir.

22 Q When did you see it?

23 A I seen it Sunday morning. Mr. Marchant came to
24 see me. He came to see me at the detention center.

25 Q So Mr. Marchant came to visit you with the

1 transcript?

2 **A** Yes, sir.

3 **Q** And y'all went over it?

4 **A** Yes, sir.

5 **Q** How much of it did he have with him? Did he
6 have just that one paper that he showed you or did he
7 have several sheets?

8 **A** Several sheets.

9 **Q** Because indeed, obviously your testimony would
10 have been several sheets, wouldn't it?

11 **A** Yes, sir.

12 **Q** About this thing that my client said -- I guess
13 the truth of the matter is you're not sure what you said,
14 are you?

15 **A** I know what I said on the stand last time.

16 **Q** Now, you are aware that there was a reporter
17 like this one here. She takes this stuff down and she
18 takes it down as she hears it. Are you aware of that?

19 **A** Yes, sir.

20 **Q** I've got a little bit more of the transcript.
21 As I suggested, you said several things. What I would
22 like to do is let you read some of it.

23 **A** You want me to read it aloud?

24 **Q** Well, I guess hold on one second. Okay?

25 (Pause.)

1 **MR. MARCHANT:** Your Honor, if we could, I
2 don't believe I have any objection, but if Mr.
3 Johnson could just let me know the page that he's
4 referring to, I would appreciate it.

5 **THE COURT:** Sure.

6 **MR. JOHNSON:** I'm on 199, 200 and 201 right
7 here.

8 **BY MR. JOHNSON:**

9 **Q** Okay. Now, is it true at the prior hearing, he
10 approached you again with that statement, when the
11 statement you gave Officer Flavell?

12 **A** Yes, sir.

13 **Q** Now, Officer Flavell, he wrote that statement,
14 right?

15 **A** Yes, sir.

16 **Q** Then you signed it?

17 **A** Yes, sir.

18 **Q** Okay. So you didn't write it yourself?

19 **A** No, sir.

20 **Q** You may have remembered it better if you had
21 wrote it yourself, wouldn't you?

22 **A** Yes, sir.

23 **Q** Uh, obviously when talking to someone, it's
24 possible that they misheard you just like you suggested
25 the court reporter did?

1 **A** Yes, sir.

2 **Q** All right. First thing, I'm on page -- hold on
3 a second. I'm on page 199. The page after 199 is 200.
4 I want you to start there from line 24 to 25, 1 and 2. I
5 want you to read that to yourself for just a moment.
6 Okay.

7 **A** (Reading.)

8 **Q** You got that one? I'm going to read it aloud.
9 Tell me if I read it wrong. Okay? How do you know he
10 was injured. You answered he showed me. He had a bullet
11 in his shoulder. Did he tell you have that occurred?
12 And you stated we didn't even talk about it, you know.
13 Did I read that right?

14 **A** Yes, sir.

15 **Q** And then again, I said in a prior hearing that
16 he approached you with that statement with the officer.
17 I'm going to go to another section of the transcript. I
18 am now on page 201. I've highlighted something. I just
19 want you to read that to yourself for a moment. Okay.

20 **A** (Reading.)

21 Yes, sir.

22 **Q** Okay. Now, this time, I'm going to read it
23 aloud. This is the Solicitor asking you a question. Mr.
24 Brockman, does that help you recall what you told law
25 enforcement that day. That's when you were confirming

1 your statement with Officer Flavell. And you answered
2 yes, but it's saying the same thing I said. He told me
3 he was shot and that the lady shot him. He never talked
4 about anything about what happened, you know. He just
5 told me this. You know, that's what I read. Did I read
6 that correctly?

7 A Yes, sir.

8 Q All right. I'm going to move on from that,
9 Your Honor. Now, you stated you'd known my client for
10 about three weeks?

11 A Yes, sir.

12 Q In that period of time, you had seen him?

13 A Yes, sir.

14 Q You met him through his cousin Norman and a
15 couple of more friends. Uh, now, Mr. Brockman, you
16 stated that you are in jail for child support right now,
17 is that correct?

18 A Yes, sir.

19 Q But you had previously been incarcerated for
20 actually crimes, is that correct?

21 A Yes, sir.

22 Q Is it true that you served prison time for
23 trafficking cocaine, crack cocaine?

24 A Yes, sir.

25 Q Now, when Officer Flavell when he talked to

1 you, did he mention, uh, -- did he mention that obviously
2 they wanted Patrick and he was potentially a fugitive or
3 something to that nature?

4 **A** What you mean, that day?

5 **Q** Yeah. That he was suspect in a crime?

6 **A** Yes, sir.

7 **Q** Now, you stated that you picked him up on the
8 side of the road, right?

9 **A** Yes, sir.

10 **Q** And then he got in your car?

11 **A** (No response.)

12 **Q** He got in your car?

13 **A** Yes, sir.

14 **Q** You took him to your house?

15 **A** Yes, sir.

16 **Q** So you helped him?

17 **A** Yes, sir.

18 **Q** Uh, you haven't been in here through the trial
19 but are you aware that harboring a suspect or something
20 of this nature could be construed as a crime?

21 **A** Yes, sir.

22 **Q** Did you and Officer Flavell, did y'all discuss
23 this at all?

24 **A** No, sir.

25 **Q** Had you been, uh, -- had you been charged or

1 anything in association with this?

2 **A** No, sir.

3 **Q** Are you expecting a charge to come?

4 **A** No, sir.

5 **MR. JOHNSON:** I have nothing further at this
6 time.

7 **THE COURT:** Anything else from -- All right.
8 Sir, you can step down.

9 One more very short witness, is that correct?

10 **MR. MARCHANT:** Yes, Your Honor.

11 **THE COURT:** All right.

12 **MR. MARCHANT:** The State would ask permission
13 to recall Detective Collis Flavell to the stand.

14 **THE COURT:** All right. Detective Flavell, I
15 will remind you that you are still under oath.

16 **COLLIS FLAVELL**

17 having previously been sworn, testifies as follows:

18 **DIRECT EXAMINATION**

19 **BY MR. MARCHANT:**

20 **Q** Detective Flavell, you been doing this 20
21 years?

22 **A** Correct.

23 **Q** How many statements have you taken in that 20
24 year time period?

25 **MR. JOHNSON:** Your Honor, permission to

1 approach briefly.

2 **THE COURT:** Sure.

3 **(WHEREUPON,** a bench conference is held off the
4 record.)

5 **BY MR. MARCHANT:**

6 **Q** Had time to think about it. How many
7 statements? Hundreds? Thousands?

8 **A** Probably close to a thousand.

9 **Q** And how important is it in your duties and
10 responsibility to take down, transcribe, notate what a
11 witness exactly says?

12 **A** Very important. That's where we gain, in
13 investigation, most of our investigative leads and
14 information that we obtain. That's how we obtain it is
15 from talking to witnesses, gathering their information
16 and going from there.

17 **Q** We've already been through this one time. You
18 took the statement at Mr. Brockman's house?

19 **A** I did.

20 **Q** In his kitchen?

21 **A** Did you take down word for word what he said?

22 **A** Pretty much word for word.

23 **Q** At the end of that time, did you allow Mr.
24 Brockman to review that statement?

25 **A** I did. I asked him to read it. If there were

1 any discrepancies or anything that he did not agree with,
2 I pointed out that we would change it. He agreed with it
3 and signed it.

4 Q Did he sign it?

5 A He did.

6 Q And there is a line under the signature page
7 that indicates the number of pages that you took.

8 A That's correct.

9 Q What else is significant about typed
10 information down there?

11 A It's basically a statement that I had read, I
12 had read or had read to me the above statement of, and
13 it's got a place for the page number. This one is one of
14 three pages. And it is true and correct as best I
15 recall. I received a copy of this statement.

16 Q Mr. Brockman read that?

17 A Yes.

18 Q Did he sign each page individually?

19 A Yes, he did.

20 Q Detective Flavell, I'm going to ask you to read
21 what Mr. Brockman told you from here to here.

22 MR. JOHNSON: Your Honor, I'd just like to
23 make a contemporaneous objection. It's hearsay
24 within hearsay.

25 THE COURT: All right. And your objection is

1 noted for the record. We can put it more fully on
2 the record as a later time. And your objection is
3 overruled.

4 **THE WITNESS:** It says Pat told me he was
5 shot. He told me he had shot at the police and the
6 lady shot at him first.

7 **MR. MARCHANT:** Thank you, Detective Flavell.
8 I have no further questions.

9 **THE COURT:** Any questions for this witness?

10 **MR. JOHNSON:** Briefly.

11 **CROSS-EXAMINATION**

12 **BY MR. JOHNSON:**

13 **Q** Now, you have the statement in front of you ---

14 **A** I do.

15 **Q** --- obviously. Now, y'all talk a little bit
16 about the peculiar pieces of the statement. It says City
17 of Greenville, County of Greenville, State of South
18 Carolina, correct?

19 **A** Correct.

20 **Q** And some other language that you and Lucas went
21 over, you and Solicitor Marchant went over that said I
22 have read the above statement and it's true and correct
23 as the best I recall and I received a copy and things of
24 that nature?

25 **A** Yes.

1 Q All right. Was this statement witnessed?

2 A Yes.

3 Q Now, there's a spot down there that says
4 witnesses. Who was it witnessed by?

5 A It was one of the deputies that was in the
6 house.

7 Q So it was a deputy at his house and who else?

8 A I'm sorry.

9 Q Who else was a witness?

10 A Myself.

11 Q Wait a minute. You wrote the statement, right?

12 A Yes.

13 Q And then you witnessed it?

14 A Yes.

15 Q Now, uh, there's also something else at the
16 bottom here. What's that? What's this before me this
17 something day of 1990-something?

18 A That's a notary seal.

19 Q That's a notary seal?

20 A Uh-huh.

21 Q Is this notarized?

22 A No, it is not.

23 Q Now, there's three pages of this and all this
24 has the same stuff that we just went over. It has the
25 same notary seal and you witnessed every page and you

1 wrote every page?

2 **A** That's correct.

3 **MR. JOHNSON:** I have nothing further at this
4 time.

5 **THE COURT:** Anything else for this witness?

6 **REDIRECT EXAMINATION**

7 **BY MR. MARCHANT:**

8 **Q** Detective Flavell, why was this statement
9 unnotarized?

10 **A** In my 20 and a half years at the Police
11 Department, I've never had a statement notarized.

12 **Q** Thank you.

13 **MR. JOHNSON:** Briefly, Your Honor.

14 **RECROSS-EXAMINATION**

15 **BY MR. JOHNSON:**

16 **Q** It's on there, right?

17 **A** It is on there.

18 **Q** Where does this form come from?

19 **A** I'm sorry.

20 **Q** Where did the form come from?

21 **A** It's a Greenville Police Department form.

22 **Q** It's your form.

23 **A** Yes.

24 **Q** So nobody ever intended for any of these to be
25 notarized.

1 **A** The intent was in my career, I've never had a
2 statement notarized.

3 **Q** All right. Nothing further.

4 **MR. MARCHANT:** That's it, Your Honor.

5 **THE COURT:** All right. Sir, you can step
6 down.

7 Well, Ladies and Gentlemen, we've come to the
8 end of a long day. I appreciate your patience with
9 us as we've tried to push through some of this
10 testimony. We'll start tomorrow morning at 9 a.m.
11 Please don't discuss this case with anyone. Again,
12 please try to avoid any media or news reports if
13 there are any about this case. Thank you so much.
14 I hope you have a good evening.

15 **(WHEREUPON, the jury exits at approximately**
16 **5:28 p.m.)**

17 **THE COURT:** Mr. Marchant, what do you have
18 left tomorrow?

19 **MR. MARCHANT:** Bare with me just one second.
20 (Pause.)

21 Your Honor, I would think that I would have no
22 more than about an hour and 15, possibly an hour and
23 a half ballpark.

24 **THE COURT:** All right. Mr. Lowrance,
25 tomorrow, we're going to get to the part of this

1 trial where you're going to have to make a decision
2 whether or not you want to testify. I'm not asking
3 you to make this decision now. You have an
4 excellent attorney who I know has gone over whether
5 or not you should testify in the trial of this case
6 with you thoroughly. But just so it's not a
7 surprise to you tomorrow, it looks like maybe
8 midmorning, we're going to get to the part where I'm
9 going to have some questions for you. I want you to
10 think about it over the evening. Talk to your
11 attorney. If you -- as much as you need to. And
12 then we'll -- I'll have some questions for you about
13 it tomorrow. One thing I want to stress to you
14 before you make your decision is this must be your
15 decision. It can not be your attorney's decision.
16 It can not be your family's decision. It -- you can
17 take advice from all of them. It must be your
18 decision. You understand that?

19 **MR. LOWRANCE:** Yes, ma'am.

20 **THE COURT:** Okay. All right. Mr. Johnson,
21 anything else we need to take up?

22 **MR. JOHNSON:** Not at this point, Your Honor.
23 I don't believe so. I assume any objections I will
24 just do it at the end.

25 **THE COURT:** You can do it now if you want to

1 or you can do them at the end.

2 MR. JOHNSON: I think I'll prefer to do it at
3 the end.

4 THE COURT: That will be fine.

5 MR. JOHNSON: Thank you, Your Honor.

6 THE COURT: That will be just fine. We'll
7 also talk tomorrow morning about the charge in this
8 case. Is there anything peculiar or unusual? Did
9 y'all have any issues with Judge John's charge on
10 the law in this case? I probably won't charge
11 exactly what he charges because I don't think any
12 two judges charge the jury the same. But, were
13 there any issues about whether to charge or not
14 charge something?

15 MR. MARCHANT: I don't know if Judge Young
16 charged mere presence. That's the only one that's
17 coming to mind at the moment. I would ask Your
18 Honor what charge she intends to use for reasonable
19 doubt. Hesitate to act or firmly convinced. Either
20 way, the State would request firmly convinced.

21 THE COURT: All right. I do both. I think
22 we -- I think Mr. Johnson and I crossed this bridge
23 before. He's asked me to put both in and I have.
24 Uh, anything else y'all can think of that we need to
25 take up especially with regards to the charge?

1 **MR. JOHNSON:** Not right now, Your Honor. I
2 suppose -- I probably will ask for mere presence but
3 we will see what transpires over the next couple of
4 weeks.

5 **THE COURT:** Okay. All right. All right.
6 We'll -- all right then. We, for the most part,
7 have the charge completed. But we'll go over that.
8 Another thing to think about -- and I think, Mr.
9 Johnson, you and I talked about this before too is -
10 - but Mr. Marchant, I don't think you and I have
11 talked about this. I normally give my written
12 charge to the jury. But I'll only do it if both
13 sides consent. It's -- I will tell you, you let me
14 know what you want to do. But normally -- well, in
15 cases that I sent the written charge back, we don't
16 have very many questions. In cases that I don't
17 send the written charge back, we have a bunch of
18 questions. You know, think about it. But I won't
19 do it unless you both consent.

20 **MR. MARCHANT:** Your Honor, I can't imagine
21 that I'd have any objection. Is there any way I
22 could get what your proposal is at this point in
23 time so I can review it this evening in case there
24 is any question?

25 **THE COURT:** Uh, my clerk will email it to

1 you. I will tell you have not fully reviewed the
2 charge at this point. So there may be some changes
3 to it.

4 **MR. MARCHANT:** I understand.

5 **THE COURT:** But she'll email it to both of
6 you if that's alright.

7 **MR. MARCHANT:** That would be great.

8 **THE COURT:** I don't mind if you have it. I
9 don't mind if you argue from it. I do give an
10 instruction on how to use the charge in the jury
11 deliberation room and I probably will give each of
12 the jurors their own copy of the charge. Of course,
13 I take it back up as a Court's Exhibit at the end.

14 **MR. MARCHANT:** Very good.

15 **THE COURT:** All right. Thank you.

16 **MR. MARCHANT:** Thank you, Your Honor.

17 **MR. JOHNSON:** What time you said we're
18 starting back?

19 **THE COURT:** Nine o'clock.

20 **MR. JOHNSON:** Okay.

21 (WHEREUPON, the Court recessed for the day at
22 approximately 5:33 p.m.)

23

24

25

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 10th day of January, 2013 at approximately 9:08 a.m.)

MR. JOHNSON: One second, Your Honor.

THE COURT: Sure.

(WHEREUPON, there is a pause.)

THE COURT: Yes, sir.

MR. JOHNSON: We're ready, Your Honor.

THE COURT: You're ready. Okay. All right.

MR. MARCHANT: Your Honor, scheduling-wise, the inmate is not up from the detention center yet. Tron Hines.

THE COURT: Okay. You have another --

MR. MARCHANT: Yes, sir. We'll call Dr. Kandala, but then my other witness will be my lead investigator in the case who we need to call last to ---

THE COURT: Sure.

MR. MARCHANT: --- tie everything together. In the event that Mr. Hines is not here after Dr. Kandala testifies, ---

THE COURT: We may have to take a little break?

MR. MARCHANT: Very brief break.

MR. JOHNSON: Your Honor?

1 **THE COURT:** Yes, sir.

2 **MR. JOHNSON:** I do have one request.

3 **THE COURT:** Yes, sir.

4 **MR. JOHNSON:** I know the rules as far as

5 prior convictions are to be within 10 years.

6 **THE COURT:** Yes, sir.

7 **MR. JOHNSON:** But I do believe with good

8 cause, Your Honor can potentially override those

9 rules and allow us to use another conviction.

10 **THE COURT:** What conviction is -- is it on

11 Mr. Hines?

12 **MR. JOHNSON:** Yes.

13 **THE COURT:** Is that the guy's name that's

14 coming?

15 **MR. JOHNSON:** Yeah.

16 **THE COURT:** All right. Is it --

17 **MR. JOHNSON:** It's from 8/5/2002.

18 **THE COURT:** Okay.

19 **MR. JOHNSON:** So it's ---

20 **THE COURT:** Pretty close.

21 **MR. JOHNSON:** --- a little bit over 10.

22 **THE COURT:** Pretty close.

23 **MR. JOHNSON:** And it's possession by a

24 certain person and stolen pistol.

25 **THE COURT:** What else he got on his record

1 that could be used against him?

2 **MR. JOHNSON:** He's got -- he's in jail right
3 now for a burglary and grand larceny. Burglary
4 second degree.

5 **THE COURT:** Has he been convicted of that?

6 **MR. MARCHANT:** Yes, ma'am.

7 **MR. JOHNSON:** Yes, ma'am.

8 **THE COURT:** Okay. I'm probably going to just
9 -- I'm probably not going to go outside the 10
10 years. He's got the big one right there with
11 burglary. Of course, there's -- I got to think that
12 you probably -- that you probably have a strategic
13 reason for wanting to get that particular conviction
14 in. It might not have to do with his credibility,
15 but rather his, uh, potential involvement in another
16 way. So I'm going to leave it at that -- at the 10
17 years. Of course, you can bring up the burglary and
18 the grand larceny. I don't know what else is on the
19 record.

20 **MR. JOHNSON:** Yes, ma'am, Your Honor.

21 **THE COURT:** But that's a pretty big one right
22 there. All right.

23 (WHEREUPON, the jury enters at approximately
24 9:11 a.m.)

25 **THE COURT:** I first want to take a minute to

1 tell you that the bailiffs who have been working
2 with you this week had just said that y'all have
3 been an absolute pleasure to work with. Just the
4 nicest jury to deal with. And I want to thank you
5 for that. They don't always give you that report.
6 I am -- really do appreciate how great you've been
7 and how punctual you've been.

8 I also have failed to introduce a couple of
9 people in the courtroom to you. I won't go all the
10 way around the room. But I will tell you our Clerk
11 of Court here, Joelle. Teresa is my court reporter.
12 She's taking down everything that's said so if
13 you've wondered why there's somebody sitting there
14 with a mask, that's what she's doing. And she's the
15 best in the business.

16 And next to me, this lovely lady is my law
17 clerk, Kelly Teague. She is a recent law school
18 graduate. She's here helping me get together my
19 charge on the law to you at the end. So if you see
20 us talking throughout these proceedings, I promise
21 you we're not talking about, uh, anything else.
22 We're talking about getting the charge ready for
23 you. All right.

24 All that being said, you ready to begin, Mr.
25 Marchant?

1 **MR. MARCHANT:** The State is ready, Your
2 Honor.

3 **THE COURT:** All right.

4 **MR. MARCHANT:** The State's going to call Dr.
5 Kandala.

6 **THE CLERK:** Dr. Kandala, if you would, come
7 forward and be sworn in please. Please place your
8 left hand on the Bible and raise your right.

9 **JAGANNADHA KANDALA**
10 having first been sworn, testifies as follows:

11 **THE CLERK:** Thank you. You may be seated.

12 **THE WITNESS:** Good morning.

13 **THE CLERK:** Would you please state your name
14 for the record.

15 **THE WITNESS:** My name Jagannadha Kandala.

16 **THE CLERK:** Thank you.

17 **DIRECT EXAMINATION**

18 **BY MR. MARCHANT:**

19 **Q** Good morning, Dr. Kandala.

20 **A** Good morning.

21 **Q** Where are you employed?

22 **A** I'm employed with the Department of Public
23 Safety, Forensic Division.

24 **Q** I'm sorry. What division?

25 **A** Forensic Division.

1 **Q** Forensic Division. Where is your office
2 located?

3 **A** My office is located in the Greenville Tech.

4 **Q** How long have you been working in the Forensic
5 Division at Greenville Tech?

6 **A** Four and half years.

7 **Q** Four and a half years?

8 **A** As a DNA technical leader. Yes, here in South
9 Carolina.

10 **Q** Here in South Carolina. What are your duties
11 as the DNA technical leader at Greenville Tech?

12 **A** I am foremost an analyst in the beginning. And
13 then also I take care of the technical problems and the
14 validation of the lab and any of the improvements.

15 **Q** Is it fair to say that you are in charge of the
16 DNA lab?

17 **A** Yes.

18 **Q** And are you responsible for the accreditation
19 of the DNA lab here in Greenville?

20 **A** Yes.

21 **Q** And you've been in charge of that lab for the
22 last four and a half years?

23 **A** Yes.

24 **Q** How long has the lab been opened?

25 **A** It has been op -- when I came, uh, there was

1 nothing there. When I started the lab by validating the
2 procedures and also the instruments. And, uh, I have
3 trained couple of people. Then we had validated in March
4 of 2011. Since then, we are actively pursuing cases.

5 Q So you are responsible for the lab here in
6 Greenville county, getting its accreditation?

7 A Yes.

8 Q And you've been accredited since March of 2011?

9 A Yes.

10 Q Prior to coming to Greenville, what is your
11 education with respect to chemistry, biology, bio-
12 chemistry and DNA?

13 A I have a Bachelors degree in Biology and
14 Chemistry, a Masters degree in Chemistry, a Masters in
15 Microbiology and a PhD in Biochemistry. I work in
16 different institutions for about 25 years and published
17 about 40 papers in journals. Then I work in St. Louis
18 Police Department for seven years as a DNA analyst. Then
19 three years, and then I came here.

20 Q So your education consists of a Bachelors
21 degree in biology?

22 A And chemistry.

23 Q And chemistry. And a Masters degree in?

24 A Chemistry.

25 Q Chemistry. And a PhD in --

1 **A** And a Masters in Microbiology.

2 **Q** A Masters in Chemistry, a Masters in
3 Microbiology --

4 **A** And a PhD in Biochemistry.

5 **Q** A PhD in Biochemistry.

6 **A** Yes.

7 **Q** And you've been working with DNA for roughly
8 how many years?

9 **A** Probably 40 years.

10 **Q** For 40 years?

11 **A** Yes.

12 **Q** You been to this courthouse before?

13 **A** Yes.

14 **Q** You testified in prior hearings?

15 **A** Yes.

16 **Q** And were you qualified as an expert prior to
17 today ---

18 **A** Yes.

19 **Q** --- in DNA analysis?

20 **A** Yes.

21 **MR. MARCHANT:** The State would move at this
22 time to have him qualified as an expert in DNA
23 analysis.

24 **THE COURT:** Any objection?

25 **MR. JOHNSON:** No objection.

1 **THE COURT:** Ladies and Gentlemen, I spoke to
2 you yesterday about an expert witness. This witness
3 will be qualified in the area of DNA analysis, able
4 to give his opinion testimony to you. You may use
5 that testimony in any way you see fit.

6 Yes, sir.

7 **BY MR. MARCHANT:**

8 **Q** Dr. Kandala, can you please explain to the jury
9 in layman's terms what is DNA.

10 **A** DNA is the blueprint found in all the cells in
11 the living organisms. And it's not found in the human
12 body only in the red blood cells and the fingernails.

13 **Q** DNA is the blueprint. And it's found in the
14 human body except for red blood cells and fingernails?

15 **A** Yes.

16 **Q** Does that include toenails?

17 **A** All nails that are present.

18 **Q** Okay. Now, why is it that it is not found in
19 red blood cells but could be found in white blood cells?

20 **A** The function of red blood cells is, uh,
21 basically taking the oxygen that we breathe and help, uh,
22 give us energy in the system.

23 **Q** The DNA that you analyzed at your lab, roughly
24 how many items have you analyzed since being here in
25 Greenville?

1 **A** In this particular case you want or in general?

2 **Q** In general.

3 **A** I must have done a few hundred samples.

4 **Q** And how many other people work with you?

5 **A** Uh, two more people.

6 **Q** Are there any other people that have access to
7 that laboratory?

8 **A** No.

9 **Q** What sort of procedures and safeguards do the
10 three of you have in place to ensure that there's no
11 contamination of samples within your lab?

12 **A** The basic, uh, point of qualifications is to
13 have a accreditation program. And that accreditation
14 program takes care of all of the minute details of all
15 the necessary precautions we have to take in order to do
16 the DNA analysis in the lab.

17 **Q** Are you saying that your accreditation is
18 reliant on the safeguards and procedures that you have in
19 place with your lab?

20 **A** That is one of the parts for the, uh,
21 accreditation.

22 **Q** Well, with respect to that part of the
23 accreditation, what is it that you and the other two
24 employees do to ensure that you comply with the
25 accreditation standards?

1 **A** The lab is prepared. All the system -- like we
2 all the time wear gloves. We don't touch any other
3 stuff. In order to keep the -- any saliva when we are
4 talking or anything, we have hoods in the lab. We work
5 in the hoods. And we take the caution not to talk while
6 working and get away from the work bench if we have to
7 talk something.

8 **Q** Some of the procedures you have in place are to
9 work with only one sample at a time, is that correct?

10 **A** Yes. No -- at any time, we don't work on two
11 in the labs. We keep the known samples and the question
12 samples separate. We do it at separate times. And in
13 between the cases, we clean the benches with bleach so
14 that no DNA is present on the benches.

15 **Q** And in between working with Sample 1 and Sample
16 2, do you use the same pair of gloves or do you switch
17 gloves?

18 **A** We switch gloves if they belong to different,
19 uh, locations, uh, different situations.

20 **Q** So in addition to only working with one sample
21 at a time, wearing gloves while working with that one
22 sample, you said you also wear a hood?

23 **A** We keep our DNA under the hood when we do the
24 -- what you call is chain reaction.

25 **Q** So the hood is a piece of equipment that you

1 work under?

2 **A** Yes. It's a box with a UV lamp. When we work
3 with DNA, we turn the UV lamp for about an hour so that
4 all the DNA that is in that box is destroyed. Then we
5 only see through a glass out of plastic material. Only
6 our hands go in. We have gloves over our hands so that
7 no saliva from the DNA or anything, any material can get
8 onto the DNA.

9 **Q** So you've got some sort of piece of equipment
10 or machine that you only stick your hands into to touch
11 and handle the piece of evidence?

12 **A** Yes.

13 **Q** And if you need to speak with someone, you
14 don't talk with them in the lab, you step out?

15 **A** Yes. We get away from the samples.

16 **Q** What sort of items come from humans that
17 contain DNA that you would be able to test in your lab?

18 **A** All kinds of body fluids including the sweat.

19 **Q** Semen?

20 **A** Semen, blood, urine, uh, cells.

21 **Q** Saliva?

22 **A** Saliva.

23 **Q** And I'm holding this pen.

24 **A** Yes.

25 **Q** And I'm touching this pen.

1 **A** Right.

2 **Q** What sort of DNA would I deposit on this pen?

3 **A** It is basically your skin cells when you are
4 holding it tight in your hand.

5 **Q** Skin cells?

6 **A** Yes.

7 **Q** Uh, would you also be able to pull saliva off
8 of this pen?

9 **A** No. If it is there -- unless somebody was
10 putting it in their mouth prior to holding it.

11 **Q** Now, I'm going to show you what's already in
12 evidence as State's 57, 58 and 68. These are swabs that
13 Officer Derby with the Forensics Division took of State's
14 Exhibit 53, which is the M-11. Did you have an
15 opportunity to review those three items?

16 **A** Yes, I have worked with all the three.

17 **Q** And with respect to those three items, did they
18 contain enough information in order for you to make a
19 comparison with the known sample that you were provided
20 by Detective Conroy?

21 **A** I have worked on all of these. Then I have to
22 go back and then get swabs from the gun and the magazine
23 myself.

24 **Q** So with respect to what Officer Derby did, was
25 there enough information for you to make a comparison to

1 the sample that Detective Conroy provided to you?

2 **A** What is that material? Can you -- can I look
3 at my notes please?

4 **Q** Would it help you refresh your memory, Dr.
5 Kandala, to review your notes?

6 **A** Yes.

7 **THE COURT:** All right then.

8 **THE WITNESS:** The swabs initially supplied to
9 me from the gun handle and the trigger of the gun, I
10 did not get any DNA.

11 **BY MR. MARCHANT:**

12 **Q** All right. Let's go over that real quick.

13 **A** Yes.

14 **Q** You did not receive any DNA off of which
15 sample?

16 **A** Off the swab from gun handle.

17 **Q** And what item was that listed that Officer
18 Derby --

19 **A** That is called the JD-A.

20 **Q** So you didn't get anything off of JD-A?

21 **A** Uh, I have to check that. I got some DNA, but
22 the DNA was very, very low in quantity for me to proceed
23 with the analysis on that.

24 **Q** So there was some DNA ---

25 **A** Yes.

1 **Q** --- on JD-A.

2 **A** Yes.

3 **Q** And that quantity from JD-A was not a
4 sufficient amount of DNA for you to do any analysis?

5 **A** Yes.

6 **Q** And that was from the handle of the gun?

7 **A** Yes.

8 **Q** Now, the next item that Officer Derby gave to
9 you is in evidence as State's 58. It's item JD-B, which
10 is swab of the trigger. What are the results of that
11 analysis?

12 **A** That also did not yield much DNA. So I
13 couldn't do any analysis on that.

14 **Q** Then lastly, with respect to State 68, which is
15 JD-C, which is a swab on the magazine, what was your
16 analysis of that?

17 **A** That particular item did not yield any DNA
18 under the conditions.

19 **Q** Let's back up and make sure we're clear. The
20 magazine, no DNA?

21 **A** Yes.

22 **Q** The swab from the magazine, no DNA?

23 **A** Yes. The initial swabs that are supplied to
24 me.

25 **Q** Swab of the trigger, there was not enough

1 information for you to compare?

2 **A** To extract.

3 **Q** To extract. So there's not enough for you to
4 begin doing any analysis?

5 **A** Right.

6 **Q** And then lastly, on JD-A, State's 57, the swab
7 on the handle --

8 **A** Yes.

9 **Q** What was your analysis?

10 **A** That swab that is supplied to me did not have
11 enough DNA to work with.

12 **Q** So in a situation, Dr. Kandala, when forensics
13 has collected a sample, a swab off a particular item that
14 does not yield enough DNA for you to test, what do you
15 do?

16 **A** Uh, probably -- what I do is normally look at
17 the particular item and I go back to that item myself and
18 then take swabs of it.

19 **Q** Okay.

20 **A** And do the DNA analysis.

21 **Q** So you would take a swab yourself?

22 **A** Yes.

23 **Q** So did you subsequently go to Property and
24 Evidence and pick up State's 53, which is the M-11 in
25 this case?

1 **A** Yes.

2 **Q** Did you swab the item yourself?

3 **A** Yes.

4 **Q** Were you able to obtain enough information to
5 compare those samples to the known standard that
6 Detective Conroy gave you, which is State's 64?

7 **A** Yes.

8 **Q** Please tell the jury how you went about
9 collecting the sample and what your analysis revealed on
10 the gun.

11 **A** On the gun, I took swabs from the trigger and
12 from the handle of the gun and also from the magazine.

13 **Q** Let's start with the magazine. What was your
14 -- let me back up, you have a known standard from the
15 defendant, correct?

16 **A** Yes.

17 **Q** So you know what you're looking for to compare?

18 **A** I'm looking for the DNA that's obtained.

19 **THE COURT:** Excuse me, Doctor. Just one
20 moment.

21 You can approach.

22 **(WHEREUPON, a bench conference is held off the**
23 **record.)**

24 **THE COURT:** Thank you, sir.

25 **MR. MARCHANT:** May I proceed?

1 **THE COURT:** You may proceed.

2 **BY MR. MARCHANT:**

3 **Q** All right. Dr. Kandala, I believe we were
4 taking about the magazine.

5 **A** Yes.

6 **Q** Would you explain to the jury how you went
7 about swabbing the magazine to get a sample.

8 **A** Yeah, I hold this magazine with my glove hands
9 and then swab it all around on the sides.

10 **Q** And were you able to obtain a DNA sample off
11 the magazine?

12 **A** Yes.

13 **Q** Now, you've got Mr. Lowrance's DNA?

14 **A** Yes.

15 **Q** Are you able to say whether or not Mr.
16 Lowrance's DNA comes off of that magazine?

17 **A** The DNA that I got is of two people. It's
18 inconclusive whether the DNA belongs to him.

19 **Q** So you've got Mr. Lowrance's sample?

20 **A** Yes.

21 **Q** You pulled the sample from the magazine?

22 **A** Yes.

23 **Q** The result from the magazine is two people?

24 **A** Yes.

25 **Q** Once you extracted, you compared to the known

1 sample?

2 **A** Yes.

3 **Q** And you are saying that you can not say that it
4 is and you can not say that it isn't Mr. Lowrance?

5 **A** Yes, it is inconclusive.

6 **Q** Now, were you able to determine who the other
7 individual was that DNA showed up on the magazine?

8 **A** I could not recommend that because I didn't
9 have a known sample other than the one that is supplied
10 to me which is from Patrick Lowrance. I don't have any
11 other sample to compare.

12 **Q** The only sample you have for comparison is the
13 defendant's?

14 **A** Yes. The name Patrick Lowrance.

15 **Q** Now, were you able to determine with the other
16 DNA that comes off of the magazine, either the sex or the
17 race of the person that would have handled, potentially
18 handled the magazine?

19 **A** It is a -- from the analysis, I can say it is a
20 male.

21 **Q** Were you able to determine the race of that
22 individual?

23 **A** No.

24 **Q** Why is that?

25 **A** It is -- because most of the DNA, the results

1 that we get are very common. 98.5 percent of the DNA in
2 all human beings is almost same.

3 Q Okay. So 98 and a half percent of all --

4 A Almost 98 or 98 and a half.

5 Q So my DNA and your DNA are going to match about
6 98 percent of the time?

7 A Right.

8 Q All over the world, people have done work on
9 the DNA from the different people and they look at many
10 of the DNA is from many people. Almost 98 percent of the
11 DNA looks very similar. Only the difference, like two
12 percent. But two percent is significant in this case
13 because DNA is huge. It's a very, very big molecule. To
14 separate person to person -- to differentiate person to
15 person, that two percent is enough. But 98 percent.

16 Q So if I hear you, the standard for the DNA
17 examination community for yourself and other
18 professionals, the two percent that is different in
19 between you and I and myself and the judge and you and
20 the defendant, the two percent is significant enough
21 information to determine that either I touched it or you
22 touched it?

23 A Yes.

24 Q Thank you. Now, I'm going to move to the
25 firearm itself. Please explain to the jury where you

1 took a sample off of this firearm.

2 **A** On the trigger. On the trigger and also on the
3 sides, both sides and sides of this handle here.

4 **Q** So the trigger and the sides?

5 **A** Yes.

6 **Q** And did you do the same analysis on the
7 trigger, the sides, with that sample, did you compare it
8 to the known standard that Detective Conroy provided you?

9 **A** Yes.

10 **Q** What was your findings?

11 **A** We got enough DNA to compare in the analysis.
12 And, uh, what I did was, uh, I calibrated what is the
13 probability of that profile of the DNA that I got from
14 this DNA and compared it to the DNA from the known
15 sample. It is, uh, 2.3 times (inaudible), that means 10
16 billion. One in 10 billion. 2.3 times in times
17 (inaudible). That is 23 billion in Caucasian population.
18 And it is --

19 **Q** Dr. Kandala, I think you're getting a little
20 ahead of me, if you will.

21 **A** Yes.

22 **Q** You compared the known sample that ---

23 **A** Yes.

24 **Q** --- the defendant provided ---

25 **A** Yes.

1 Q --- Detective Conroy, okay?

2 A Yes.

3 Q You compared it to the magazine and you didn't
4 get a result?

5 A Yes.

6 Q You can't say either way?

7 A I mean, I got it. The results shows that there
8 is a known male and a second person.

9 Q You then swabbed the handle and the trigger?

10 A Yes.

11 Q And you compared it -- well, let's talk about
12 the sample that you got. How many people did you extract
13 from that sample?

14 A That shows three people.

15 Q Are you able to determine the sex of those
16 three people?

17 A Not all the three people because in the -- in
18 this DNA that I got in this mixture, one is a major
19 contributor. That means that person's DNA is the most
20 when compared to the other two which are just trace
21 amounts of DNA. So I have the major contributor as a
22 male.

23 Q So the sample you pulled from the trigger and
24 the handle, you have classified as the major contributor?

25 A Yes.

1 **Q** And there are two other people who are minor
2 contributors?

3 **A** Yeah. Very trace amounts.

4 **Q** Very trace contributors?

5 **A** Yes.

6 **Q** And with respect to the major contributor ---

7 **A** Yes.

8 **Q** --- who did you determine is the major
9 contributor?

10 **A** The major contributor in this DNA is the DNA
11 from Patrick Lowrance.

12 **Q** Do you know who the two trace contributors
13 belong to?

14 **A** We can not make any determination on that
15 because it's very, very small amount. Also, we don't
16 have any other known samples that is supplied.

17 **Q** Now, I cut you off a minute ago when you were
18 talking billions and millions of numbers, things of that
19 nature, what is the probability of selecting an
20 individual at random that would be a Caucasian that would
21 have this same DNA profile?

22 **A** Yes, in this case, this major profile that we
23 obtained is one in 23 billion in the Caucasian
24 population.

25 **Q** One in 23 billion?

1 **A** Yes.

2 **Q** What about with respect to the African-American
3 population?

4 **A** It is, uh, 56 million in the African-American
5 population.

6 **Q** One in 56 million?

7 **A** Yes.

8 **Q** And what about the Hispanic population?

9 **A** It is, uh, 61 billion.

10 **Q** One in 61 billion?

11 **A** Yes.

12 **Q** Dr. Kandala, through your course in studies and
13 research, are you familiar with how many people populate
14 the earth?

15 **A** The present population is about seven billion.

16 **Q** Seven million or billion with a B?

17 **A** Billion. Seven billion.

18 **Q** With a B?

19 **A** Yes.

20 **Q** Just to be clear, 23 -- one in 23 billion with
21 a B in Caucasian?

22 **A** Yes.

23 **Q** One in 56 million with an M for African-
24 American?

25 **A** Yes.

1 **Q** Now, did you have the opportunity as well to
2 examine State's -- photograph as State's Exhibit 111
3 which depicts item number 37 that was collected by
4 Sergeant Shaw?

5 **A** Yes, I did check this.

6 **Q** What is that -- what does State's 111 show that
7 you tested?

8 **A** (No response.)

9 **Q** What is the item?

10 **A** It is a baseball cap.

11 **Q** A baseball cap?

12 **A** Yes.

13 **Q** And what were your results from that
14 examination?

15 **A** In this case, I swabbed this cap. In general,
16 what we look at in the cap is normally the -- the cap
17 that is touching, also the back, also the visor where
18 people touch the cap when putting on or taking off.

19 **Q** Dr. Kandala, you swabbed the front where your
20 forehead would be?

21 **A** Yes.

22 **Q** The back?

23 **A** Yes.

24 **Q** The one on the hairline as well as the bill
25 area or the visor area?

1 **A** Right.

2 **Q** Were you able to obtain a sample large enough
3 to do some analysis?

4 **A** I did not get the DNA from any of the areas.
5 And so no further analysis was done.

6 **Q** So whatever sample you swabbed yourself was not
7 large enough to conduct an analysis?

8 **A** Right.

9 **Q** I'm also going to show you what's in evidence
10 as State's 55. Did you have the opportunity to conduct
11 some analysis on this item?

12 **A** Yes.

13 **Q** And this white ring here, is that your
14 information?

15 **A** Yes. That is the area that I looked at and
16 have put my initials on that part.

17 **Q** So you took the sample yourself?

18 **A** Yes.

19 **Q** And what was the result of your sample in
20 comparison to the known standard that Detective Conroy
21 gave?

22 **A** Let me check. (Pause.)

23 The DNA that match to the sample that I swabbed
24 from the area.

25 **Q** A match to who?

1 **A** To the DNA I got from Patrick Lowrance.

2 **Q** How certain are you, Dr. Kandala?

3 **A** It is beyond a reasonable degree of scientific
4 certainty. We say this statement beyond a reasonable
5 degree of scientific certainty when we have a probability
6 that is one in 300 billion or more. In this case, we
7 have almost a billion trillion kind of thing. That is why
8 we use the wording beyond reasonable degree of scientific
9 certainty.

10 **Q** And the phrase that you're referencing, beyond
11 a reasonable degree of scientific certainty, is that a
12 phrase that is used throughout your profession with other
13 labs?

14 **A** Yes.

15 **Q** That's the standard language that's used?

16 **A** Yes.

17 **Q** Dr. Kandala, I'm going to show you State's 56,
18 which is item JD-3. Did you have the occasion to do the
19 same analysis on this grey t-shirt that you did on the
20 black hooded sweatshirt?

21 **A** Yes.

22 **Q** You did it yourself?

23 **A** Yes.

24 **Q** You swabbed it?

25 **A** Yes.

1 **Q** And you compared it to the known standard?

2 **A** Yes.

3 **Q** And what were your findings?

4 **A** This is a match to a reasonable degree of
5 scientific certainty.

6 **Q** Same analysis you did on the sweatshirt, you
7 did on the t-shirt. The results were the same?

8 **A** The results were the same.

9 **Q** Dr. Kandala, I'm showing you State's 36, which
10 is a photograph of a placard labeled 35, which Sergeant
11 Shaw collected. Did you also do some analysis on this
12 suspected blood in the stairwell?

13 **A** Yes, I did.

14 **Q** Did you take this sample?

15 **A** I got this already.

16 **Q** So the sample had already been pulled?

17 **A** Yes.

18 **Q** So you took DS-35?

19 **A** The swab that is prepared.

20 **Q** And did you compare it to the known standard
21 that you had from the defendant?

22 **A** Yes. I did compare it. I did the same
23 analysis. This sample I also give beyond this number to
24 degree of scientific certainty in match to the DNA that I
25 got from the sample of Patrick Lowrance.

1 **Q** Now, did you do any other analysis on items of
2 evidence that John Derby submitted to you or submitted
3 into Property and Evidence?

4 **A** No, I just had the samples that we have. I
5 didn't touch any other samples. We did only the samples
6 that we described right now.

7 **Q** Dr. Kandala, do you have your report before
8 you?

9 **A** Yes.

10 **Q** If you would, take a look at item number 2.

11 **A** Yes.

12 **Q** Did you analyze anything else?

13 **A** The -- those are not done for DNA. They are
14 only done for testing only if there's any body fluids or
15 any.

16 **Q** So you took some other samples?

17 **A** Right.

18 **Q** And did some testing to determine whether or
19 not there was any body fluid?

20 **A** Yes.

21 **Q** And did you find any?

22 **A** No.

23 **Q** Where were those items -- where did they come
24 from?

25 **A** The swabs I got from the, uh, -- the -- excuse

1 me. The swabs from the -- no testing was done but we did
2 try for the DNA. There was no DNA in those swabs, so no
3 further analysis was done on that.

4 Q So you had how many samples from the vehicle?

5 A Uh, let me get my notes. On that particular --
6 from the vehicle, we had four swabs. All the four swabs
7 did not show any DNA in the analysis. So no further
8 testing was done on them.

9 Q So I understand that you do an initial
10 presumptive test to determine if there's any present
11 before you then attempt to extract it.

12 A These, uh, swabs, uh, by visual examination did
13 not show any kind of color to suspect any blood on it.
14 So what is done is to look for any other kind of DNA that
15 we can get so -- we went to the step of getting the DNA
16 out of the swabs. There's no DNA in the swabs at all so
17 no further analysis is done.

18 Q The swabs that Officer Derby collected ---

19 A Yes.

20 Q --- did not contain any DNA?

21 A No.

22 Q And where did Officer Derby take those swabs?

23 A Uh, they are from the vehicle and different,
24 uh, -- the swabs that I got was fro the driver's door and
25 the other one is from steering wheel and one from the

1 gear shift and one from the driver's side headrest.

2 Q The driver's door, the steering wheel, the
3 gearshift and the headrest ---

4 A Yes.

5 Q --- those samples yielded no DNA?

6 A Yes.

7 Q Now, we previously talked about you going back
8 and testing the gun in this case. Did you go back and
9 test these areas as well?

10 A No.

11 Q Thank you, Dr. Kandala, please answer any
12 questions the defense may have.

13 MR. JOHNSON: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. JOHNSON:

16 Q Now, Doctor, you testified at the previous
17 hearing in this case, didn't you?

18 A Yes.

19 Q Okay. Now, in that -- well, I'd like to talk a
20 little bit more about DNA testing and what it is that you
21 are trying to find out with it, okay?

22 A Yes.

23 Q Now, if I understand your testimony correctly,
24 essentially what you're trying to do is to test to find
25 some sort of body fluid that would contain the DNA on any

1 certain sample that you're given?

2 **A** Yes.

3 **Q** Now, it's, uh, -- you are not testing to see
4 how the DNA got there, are you?

5 **A** No, because it is difficult -- I am not at the
6 scene. I'm not present at the time of anything that has
7 happened there.

8 **Q** So basically, you would need to be privy to the
9 actual transfer to see how it happened?

10 **A** All I see is -- all I do is when the sample
11 comes, test basically if there is any body fluid. And
12 then take a sample from it and extract DNA and do the
13 analysis.

14 **Q** So when you do all that stuff, part of your
15 analysis is not to see how the DNA got there, correct?

16 **A** Yes.

17 **Q** Now, you also similarly don't test to see when
18 the DNA got there either, do you?

19 **A** Those are all hypothetical questions. There
20 are a lot of things that happen in between. So, uh, I do
21 is to see only in the lab -- if the material comes into
22 the lab, to see if there is any material, body fluids or
23 otherwise and get any DNA off it and compare it with the
24 known sample that is provided. And we look into the
25 circumstances of the cases. We look at what is a

1 positive that some of material can get the DNA. That's
2 all.

3 Q And that's all you test for. You don't test
4 for how or when, right?

5 A No.

6 Q Okay. Now, in this instance, you testified
7 just a second ago that you took some swabs from a hat, is
8 that right?

9 A Pardon?

10 Q You took some swabs from a hat?

11 A Hat.

12 Q Let me see if I can -- which -- you classified
13 -- you looking at your paperwork. Are you looking at the
14 same -- are you looking at the reports -- let me just
15 make sure we're looking at the same things. You have
16 those?

17 A Yes.

18 Q If you have that with you, could you pull it
19 out for me so I could get you to consult it while I ask
20 you questions?

21 A Yes.

22 Q Now, you're looking at the one, the DNA report
23 for the hat, is that right?

24 A Yes.

25 Q And what is the date that you did this

1 examination?

2 **A** On 10/25.

3 **Q** 10/25 what?

4 **A** 10/25/2012.

5 **Q** Okay. Now, do you have the other report with
6 you as well?

7 **A** Yes.

8 **Q** Now, I'd like for you to look and see what date
9 you did that analysis.

10 **A** That was, uh, -- I started the analysis on May
11 31st, 2012.

12 **Q** When did you complete it?

13 **A** It was done -- on the first time, it was done
14 on August 3rd, 2012.

15 **Q** Is that July?

16 **A** I'm sorry. Yeah.

17 **Q** Okay. July. You don't decide when you are
18 going to test them, do you? When you are going to test
19 items, you don't make that decision, do you?

20 **A** I do decide when I get the information from the
21 Property and Evidence that the case is sitting here with
22 all the samples. We go through the case and take
23 necessary samples and then analyze.

24 **Q** Okay. And to rephrase, before you test
25 something, does somebody have to make a request or does

1 somebody have to submit the items for testing?

2 **A** Yes. They have submit the material into
3 Property and Evidence and then make a request for the DNA
4 analysis.

5 **Q** In this instance, it's apparent that they
6 submitted these items.

7 **A** I think so.

8 **Q** With regards to the test for the hat, now this
9 was -- this hat was submitted or the test was done --
10 this hat was submitted after the prior hearing, is that
11 right?

12 **A** Yes.

13 **Q** And then you did the test?

14 **A** Pardon?

15 **Q** Then you tested?

16 **A** Yes.

17 **Q** Okay. Now, I'd like you to look at the first
18 DNA report. Would you pull that out for me?

19 **A** Yeah.

20 **Q** Okay. Now, there was something that confused
21 me earlier. I was just going according to your report
22 now. I believe your prior testimony was that you did
23 your own -- first of all, you did your swabs from the
24 magazine of the gun, from the gun magazine?

25 **A** Yes. That is after the fact that the swabs

1 that I supplied from the same material did not yield
2 enough DNA.

3 Q When I say magazine, this is what I'm talking
4 about, right?

5 A Yes.

6 Q Okay. Now, you stated earlier that you found
7 two people's DNA. Now is that true or did you find
8 three?

9 A Which one we are talking about?

10 Q We are talking about item 721.

11 A Magazine. I have three people.

12 Q So three people, not two people?

13 A Yes.

14 Q And you state that there's one major
15 contributor?

16 A Yes.

17 Q And two trace contributors?

18 A Yes.

19 Q The major contributor is an unknown male?

20 A Yes.

21 Q When you say unknown male, you already have my
22 client's sample, right?

23 A Yes.

24 Q For comparison?

25 A Uh, I would say I had a sample from Patrick

1 Lowrance.

2 Q You had that sample for comparison to the
3 samples that you take from items like this, swabs like
4 this?

5 A Right.

6 Q All right. And so what you're telling is that
7 that major contributor is not my client?

8 A The major contributor is not the DNA from
9 Patrick Lowrance.

10 Q All right. Now, then there were two trace
11 contributors?

12 A Right.

13 Q And you couldn't conclude if that was my client
14 or not?

15 A It's inconclusive. Although we see some
16 comparisons, we can say yes or no. But this is
17 inconclusive ---

18 Q Okay.

19 A --- at this point.

20 Q But you also said that you did swabs from the
21 handgun and those were -- you did two of those, one from
22 the trigger area and the other from the side of the gun,
23 is that right?

24 A Yeah.

25 Q And you stated that this also have a mixture of

1 three people?

2 **A** Yes.

3 **Q** So the major contributor was my client?

4 **A** Patrick Lowrance.

5 **Q** Patrick Lowrance. And then there were two
6 other trace contributors, right?

7 **A** Yes.

8 **Q** Now, in addition, you, uh, state that it's
9 possible that the major contributor on the magazine is
10 one of the trace contributors on the swab from the
11 trigger and the swab from the side of the gun. Is that
12 true? I guess I'm pointing to the...

13 **A** Yes. The -- what I'm saying is the DNA that we
14 got -- the unknown male from the magazine is a possible
15 contributor to the -- to this contributor.

16 **Q** Okay. And that's -- that person is not my
17 client, right?

18 **A** (No response.)

19 **Q** That person is not the sample of Patrick
20 Lowrance?

21 **A** Yes. I would have said that earlier that it is
22 an unknown male. The major contributor from the magazine
23 is an unknown male because we don't have a comparison of
24 that.

25 **(WHEREUPON, there is a pause.)**

1 **MR. JOHNSON:** All right. I think nothing
2 further at this time.

3 **THE COURT:** All right.

4 **MR. MARCHANT:** No redirect, Your Honor. We
5 ask that the witness be excused and relieved of his
6 subpoena.

7 **THE COURT:** Do you have any objection to
8 that?

9 **MR. JOHNSON:** No objection.

10 **THE COURT:** Thank you, Doctor, for being
11 here.

12 **THE WITNESS:** Thank you.

13 **THE COURT:** If anybody needs a break at any
14 time, just let me know.

15 **MR. JOHNSON:** Your Honor?

16 **THE COURT:** Yes, sir.

17 **MR. JOHNSON:** May we approach briefly?

18 **THE COURT:** Certainly.

19 (WHEREUPON, a bench conference is held off the
20 record.)

21 **THE COURT:** Ladies and Gentlemen, we're going
22 to take a quick break, maybe about, you know, five
23 to ten minutes. If you would, step to your jury
24 room. Don't discuss the case.

25 (WHEREUPON, the jury exits at approximately

1 10:08 a.m.)

2 **THE COURT:** Let's take a recess.

3 (WHEREUPON, a short recess is taken.)

4 (WHEREUPON, the jury enters at approximately

5 10:28 a.m.)

6 **THE COURT:** Mr. Marchant.

7 **MR. MARCHANT:** Please the Court?

8 **THE COURT:** Yes, sir.

9 **MR. MARCHANT:** The State calls Tron Hines.

10 **THE CLERK:** Mr. Hines, if you would, come
11 around to be sworn in. Please place your left hand
12 on the Bible and raise your right.

13 **TRON HINES**

14 having first been sworn, testifies as follows:

15 **THE CLERK:** Thank you. You may be seated.

16 Would you please state your name for the record.

17 **THE WITNESS:** Tron Jermaine Hines.

18 **THE CLERK:** Thank you.

19 **DIRECT EXAMINATION**

20 **BY MR. MARCHANT:**

21 **Q** Mr. Hines, it's pretty obvious that you are
22 incarcerated at this time. What are you incarcerated
23 for?

24 **A** Burglary second degree, non-violent, and Grand
25 Larceny.

1 Q Okay. Have you been convicted of those charges
2 or are you awaiting trial?

3 A I've been convicted.

4 Q Do you know the defendant seated over here at
5 the table, Mr. Lowrance?

6 A Yes, sir.

7 Q And how is it that you know him?

8 A I met him through his cousin. Me and his
9 cousin did time at a federal bureau prison in Edgefield.
10 Patrick used to come and see him all the time.

11 Q Did you see him somewhere else other than
12 Edgefield?

13 A Uh, when I got out on the street, yeah.

14 Q Where did you see him when you got on the
15 street?

16 A Carwash.

17 Q Where was that carwash?

18 A On East Main Street.

19 Q East Main Street where?

20 A Uh, --

21 Q What city?

22 A Spartanburg. Spartanburg.

23 Q Are you from Spartanburg?

24 A Yes, sir.

25 Q What were you doing at the carwash that day?

1 **A** I was washing my car.

2 **Q** Had you seen him prior to the carwash?

3 **A** About two or three months before.

4 **Q** You recall where you saw him then?

5 **A** Just passing by. He was at a red light. Him
6 and his son was in a car together. I just spoke to him.

7 **Q** What was the nature of your business with the
8 carwash?

9 **A** He had some rims on his car and I knew somebody
10 that wanted to buy them.

11 **Q** What sort of car are we talking about?

12 **A** A Cutlass.

13 **Q** What sort of rims are we talking about?

14 **A** Uh, 24s.

15 **Q** I want to show you what's in evidence as
16 State's 71 and ask you if you ever been in this vehicle.

17 **A** No, sir.

18 **Q** You ever seen Mr. Lowrance in this vehicle?

19 **A** No, sir.

20 **Q** Mr., uh, Hines, there's been testimony by an
21 expert fingerprint analysis that pulls your left thumb
22 print off of this plastic shell box. You know how your
23 print got there?

24 **A** No, sir.

25 **Q** You recall touching this box?

1 BY MR. CRANGLE:

2 Q All right. Thank you, Mr. Hines. Uh, when
3 did, uh, the Solicitor's office last contact you -- or
4 first contact you, I should say?

5 A When I was in Spartanburg County Jail.

6 Q What month was that?

7 A End of October, beginning of November.

8 Q And what year was that?

9 A 2012.

10 Q All right. So about what, two or three months
11 ago?

12 A Yes, sir.

13 Q All right. And uh, what did they ask you
14 about?

15 A The same thing he just asked me.

16 Q Basically, fingerprints on the ammo box, right?

17 A Yes, sir.

18 Q And you can't tell this jury here today how
19 your fingerprints ended up on that box?

20 A I can't recall.

21 Q And you never saw Patrick Lowrance, my client
22 over there, with a weapon, did you?

23 A No, sir.

24 Q And you never saw him with State's Exhibit 71,
25 this SUV, right?

1 **A** No, sir. I never seen him in it.

2 **Q** All right. And State's Exhibit 53, I'll show
3 it to you. Do you recognize this Exhibit?

4 **A** No, sir.

5 **Q** You ever seen Patrick with this exhibit?

6 **A** No, sir.

7 **MR. CRANGLE:** All right. I have no further
8 questions, Your Honor.

9 **THE COURT:** All right. Thank you.

10 **MR. MARCHANT:** No redirect, Your Honor. I
11 ask that the witness be excused.

12 **THE COURT:** All right. Any objection to
13 that, Mr. Crangle?

14 **MR. CRANGLE:** No objection, Your Honor.

15 **THE COURT:** All right. Thank you, sir, for
16 being here.

17 **MR. MARCHANT:** The State would call Detective
18 Tim Conroy.

19 **THE CLERK:** Detective Conroy, if you would,
20 come forward to be sworn in. Place your left hand
21 on the Bible and raise your right. Thank you.

22 **TIMOTHY CONROY**
23 having first been sworn, testifies as follows:

24 **THE CLERK:** Thank you. You may be seated.
25 Would you please state your name for the record.

1 **THE WITNESS:** Timothy Michael Conroy.

2 **THE CLERK:** Thank you.

3 **DIRECT EXAMINATION**

4 **BY MR. MARCHANT:**

5 **Q** Detective Conroy, where are you employed?

6 **A** Greenville Police Department.

7 **Q** How long have you been with City Police
8 Department?

9 **A** 16 years.

10 **Q** You have any other law enforcement experience
11 prior to your employment with City Police Department?

12 **A** No, I don't.

13 **Q** Been through this before with the other
14 officers, did you go to the Academy?

15 **A** I did.

16 **Q** Are your credentials up to date?

17 **A** Yes, sir.

18 **Q** How long have you been in the detective
19 division?

20 **A** Uh, a little over seven years.

21 **Q** One of your colleagues testified yesterday,
22 Detective Flavell?

23 **A** Yes.

24 **Q** As well as Detective Garrison who was mentioned
25 as well?

1 **A** Correct.

2 **Q** Show you what has been marked as State's 64 and
3 ask that you take a look at this and see if you recognize
4 that item.

5 **A** Yes, I do.

6 **MR. MARCHANT:** Move 64 into evidence.

7 **THE COURT:** Any objection?

8 **MR. JOHNSON:** No objection.

9 **THE COURT:** It's so admitted.

10 **(WHEREUPON, State's Exhibit 64 is admitted into the**
11 **record.)**

12 **BY MR. MARCHANT:**

13 **Q** Detective Conroy, if you would for the benefit
14 of the jury, please explain what 64 is and how you
15 retrieved that sample.

16 **A** 64 is a buccal swab. I retrieved it from the
17 defendant, Mr. Lowrance. I met with him one afternoon
18 and handed him a sealed envelope containing a Q-Tip on a
19 stick with a capsule over the Q-Tip part. I asked him to
20 open the sealed envelope, slide the capsule down the
21 stick and rub the Q-Tip on the interior of his cheeks.
22 At that point, he then slid the capsule back up, closed
23 the cap on it. I had a box that he put it in that was
24 later taped and placed into evidence.

25 **Q** You handed it to him and he did all of the

1 work, if you will, and sealed it back up?

2 A That's correct, so I wouldn't contaminate it.

3 Q All right. You're the lead investigator in
4 this case?

5 A Yes, sir.

6 Q And explain for the jury what the lead
7 investigator means in connection with an event such as
8 this.

9 A In the detective division, everybody is
10 assigned cases. As a lead investigator, all the
11 information comes through you so that it's not
12 duplicated. If you need something done or somebody's not
13 busy, you can ask them to do it and they will assist you.

14 Q On this particular incident, we talked about
15 three different crime scenes. Did you go to the Comfort
16 Inn on October the 28th, 2011?

17 A No, I did not.

18 Q Did you go to Berkeley Pointe?

19 A I did.

20 Q Did you go to [REDACTED] Mooremont?

21 A No.

22 Q Do you recall where you were when Officer Lane
23 called out "shots fired" on the radio that morning?

24 A Yes, I was in my office at the Law Enforcement
25 Center.

1 **Q** And is that the same office Detective Flavell
2 works in?

3 **A** Yes, sir.

4 **Q** And if you would for the benefit of the jury,
5 describe those offices. Do you have a door to your
6 office? Is it a cubicle? Or how is the detective
7 division set up?

8 **A** The detective division is -- in our office in
9 the violent crimes unit, there are three cubicles and
10 then two offices within one big room. Detective Flavell
11 and I have our own office. The cubicles are directly
12 outside that.

13 **Q** There are five members of your unit?

14 **A** Yes, sir.

15 **Q** And y'all investigate --

16 **A** Violent crimes.

17 **Q** Strictly violent crimes?

18 **A** No, sir. Violent crimes, missing persons, just
19 a variety of cases.

20 **Q** You conduct routine patrol and do traffic stops
21 on a daily basis?

22 **A** No, sir.

23 **Q** Can you?

24 **A** I can.

25 **Q** So you are at the Law Enforcement Center when

1 the "shots fired" call comes from Lane. What did you do?

2 **A** I run down the steps, jump in my car and ride
3 down Laurens Road to 291 to Mauldin Road and enter
4 Berkeley Pointe through that first entrance from Mauldin
5 Road.

6 **Q** Did you ride by yourself or did someone ride
7 with you?

8 **A** By myself.

9 **Q** You recall where you parked when you arrived at
10 Berkeley Pointe?

11 **A** I do.

12 **Q** Do you recall how long it took you to get to
13 Berkeley Pointe?

14 **A** Uh, five to ten minutes.

15 **Q** Detective Conroy, if you would, step down for
16 me please, sir.

17 **A** (Witness complies.)

18 **Q** With this green Sharpie, please indicate where
19 you parked when you arrived at Berkeley Pointe.

20 **A** I parked right on this side.

21 **Q** You didn't exactly pull into that spot?

22 **A** No.

23 **Q** You recall how many law enforcement vehicles
24 you saw when you arrived?

25 **A** There were numerous vehicles there. That's why

1 I couldn't pull any further. The parking lots were
2 congested with vehicles.

3 Q Now, as the lead investigator in this case,
4 what was the first thing that you did when you arrived at
5 Berkeley Pointe?

6 A I spoke with Officer Cruell and Officer Lane
7 and got the information, as much information from that as
8 I could.

9 Q Why would you speak with the two of them?

10 A Just so I could get firsthand information.

11 Q And with the information that they gave you,
12 who did you call or what did you do to start directing
13 that investigation?

14 A At that point, there was -- I wanted to make
15 sure that the descriptions were fresh in their mind and
16 they could give me everything that I could take down. At
17 that point, there was -- the same description was going
18 out over the radio. Several other people were arriving
19 and command post was being set up through all this area.

20 Q Did you have the opportunity to go up to
21 Building [REDACTED] at that time?

22 A Not at that time.

23 Q When was the first time you went up to [REDACTED]?

24 A It was approximately 11:30.

25 Q How is it that you approached the [REDACTED]

1 Building?

2 **A** In the SWAT vehicle.

3 **Q** Please describe for the jury what a SWAT
4 vehicle is and what's on the inside of that vehicle and
5 the purpose for you and the department to use that
6 vehicle.

7 **A** A SWAT vehicle is an armor vehicle that houses
8 -- it's got platforms on the side where officers can ride
9 up to a location and deploy quickly and safely. It's got
10 communication within, a PA system to speak with people
11 inside the residence.

12 **Q** Roughly, how many individuals were in that
13 vehicle at 11:30?

14 **A** In that vehicle, there are approximately 8 to
15 10 of us.

16 **Q** What happened when y'all reached building [REDACTED]?

17 **A** Somebody got on the PA and started calling the
18 occupants of the [REDACTED] Building out so it could be
19 searched.

20 **Q** Did they call them out one by one?

21 **A** They called the occupants of [REDACTED] to come out.
22 People were staggering out. There was an older lady that
23 needed some assistance getting out. But eventually, we
24 confirmed who everybody was out of the apartment
25 building.

1 **Q** The team searched each residence in that
2 building?

3 **A** Yes. At that point, SWAT members had a master
4 key or a key to each apartment and went in and made sure
5 that nobody was hiding in the building.

6 **Q** Did you find anyone hiding in the building?

7 **A** No, sir.

8 **Q** Were you present when Forensics arrived?

9 **A** I was.

10 **Q** And we've seen some photographs earlier and
11 some evidence of items of clothing that were found at the
12 bottom of the stairwell. Were you present with Detective
13 Flavell and Sergeant Shaw when y'all went through those
14 items?

15 **A** Yes, I was.

16 **Q** Were you also present when you found the Social
17 Security card and birth certificate of the defendant?

18 **A** I was.

19 **Q** At that point in time, what did you and
20 Detective Flavell do?

21 **A** We spoke about, uh, what we were going to do,
22 how we were going to try to get -- uh, identify Mr.
23 Lowrance and capture him, uh, locate him. He went back
24 and looked at his list that he got previously from the
25 Comfort Inn. We -- I stayed on the scene until Forensics

1 was done processing the scene.

2 Q At that point in time, you had the birth
3 certificate and Social Security card and other personal
4 effects. Did you believe that you had a suspect?

5 A We did.

6 Q Did you focus on Mr. Lowrance?

7 A Yes, we did.

8 Q Did you have any reason to believe that it was
9 anyone else you needed to be focusing on?

10 A There was never any information of another
11 person.

12 Q What did you do throughout the course of the
13 time forensics was there? Did you do any collection of
14 evidence?

15 A I did not do any collection. I was with
16 Forensics and watching where they were collecting the
17 items and relaying to them what the officers told me
18 occurred.

19 Q Why is it necessary for you to stay there the
20 entire time while forensics is collecting the evidence if
21 you are not collecting it yourself?

22 A Just so I have firsthand knowledge of where it
23 was collected from. If there was any other evidence that
24 was collected, I would know about it immediately.

25 Q You recall how long you stayed out there with

1 Forensics?

2 **A** I stayed there until 4:00, 4:15.

3 **Q** Where did you go at 4:00 or 4:15?

4 **A** I went back to the office.

5 **Q** We've heard testimony earlier that Detective
6 Flavell went back to the Comfort Inn and retrieved some
7 evidence around 4:30. Why didn't you go with him back to
8 the Comfort Inn?

9 **A** I was trying to get in touch with Mr. Norman
10 and interview him. On the way to his house to interview
11 him, I was contacted and told he was at the office.

12 **Q** So Mr. Pearson subsequently met you at the Law
13 Enforcement Center?

14 **A** That's correct.

15 **Q** And the testimony that he provided, he gave you
16 a statement that afternoon as well?

17 **A** Yes.

18 **Q** You recall what time you took that statement
19 from Mr. Pearson?

20 **A** It was roughly 4:40.

21 **Q** Now, after you retrieved that statement from
22 Mr. Pearson, what did you do -- where did you take that
23 statement from Mr. Pearson?

24 **A** In my office.

25 **Q** In your office. And that's in the division

1 that you described earlier?

2 A Yes, sir. That's correct.

3 Q So you get finished with Mr. Pearson, what did
4 you do then?

5 A Uh, I spoke with other investigators and we
6 were able to, uh, investigate the possible whereabouts of
7 Mr. Lowrance.

8 Q Did you have, uh, the phone number that Mr.
9 Pearson provided to you earlier?

10 A I did.

11 Q And yourself and Garrison and Flavell, were
12 y'all working on getting phone obtained on this
13 individual --

14 A Yes, sir.

15 Q -- phone number? Where you able to determine
16 which mobile carrier that was?

17 A We were. It's T-Mobile.

18 Q And did y'all, in fact, make contact with T-
19 Mobile?

20 A We did.

21 Q Was a trace started?

22 A Yes, it was.

23 Q Now, at some point in time, did you use the
24 information from T-Mobile to determine the location of
25 that cell phone?

1 **A** Yes, we did.

2 **Q** Now, you earlier heard testimony from Detective
3 Flavell that he went to the Home Depot, did you go to the
4 Home Depot?

5 **A** No, sir. I did not.

6 **Q** Why is it that you did not go to Home Depot?

7 **A** There were numerous other units out there with
8 Detective Flavell. I stayed back at the office.

9 **Q** Now, I'm going to jump back on you just a
10 minute, Detective Conroy. You indicated when you arrived
11 over there at Berkeley Pointe, you had to park down low
12 because there were a number of law enforcement vehicles
13 present. Were you able to give this jury a conservative
14 estimate of the number of officers that were either on
15 this scene or the Mooremont scene that were involved in
16 this incident throughout the day with your agency as well
17 as other agencies here in the county.

18 **A** There was -- there was roughly 70 law
19 enforcement officers investigating in this case.

20 **Q** Now, we briefly touched on it earlier with
21 other witnesses. What's the purpose of attempting to set
22 up the perimeter when an incident like this occurs?

23 **A** To capture the suspect quickly.

24 **Q** Was the suspect contained within the perimeter
25 that y'all set up that day?

1 **A** No, sir. He was not.

2 **Q** Now, we heard the testimony of Detective
3 Hammett and the dog track that he started and
4 subsequently stopped. He even testified that the county
5 took over. Are you aware of whether or not the county's
6 track resulted in locating anyone?

7 **A** It did not locate anybody.

8 **Q** As Detective Flavell heads over to Mooremont,
9 did you go with him?

10 **A** No, sir.

11 **Q** Why not?

12 **A** I wanted to stay in the office in case other
13 information came in.

14 **Q** And did some other information come in?

15 **A** Uh, after he was located at Mooremont.

16 **Q** Were you made aware that the defendant was
17 apprehended?

18 **A** Yes, I was.

19 **Q** Were you made aware of where he was being
20 taken?

21 **A** I was.

22 **Q** And where was that?

23 **A** Greenville Memorial.

24 **Q** Did you go to Greenville Memorial?

25 **A** Yes, I did.

1 **Q** What was the purpose of your visit to
2 Greenville Memorial?

3 **A** To see if there was any evidence at the
4 hospital that needed to be collected.

5 **Q** And did you locate any evidence at the hospital
6 that needed to be collected?

7 **A** I did not collect any evidence at the hospital.
8 Forensics later collected clothing.

9 **Q** Did you see the defendant at the hospital?

10 **A** I did.

11 **Q** Did you see whether or not he was wounded?

12 **A** I did.

13 **Q** Did you recall the location of that wound?

14 **A** He had the -- it appeared to be a bullet wound
15 to his left shoulder.

16 **Q** Was there an exit wound?

17 **A** There was no exit wound.

18 **Q** Were you with, uh, medical personnel when they
19 went and x-rayed him?

20 **A** I was.

21 **Q** Were you able to determine whether or not the
22 projectile was lodged in his shoulder?

23 **A** Projectile traveled down his left arm and was
24 lodged in his arm just above his elbow.

25 **Q** Have you subsequently retrieved that

1 projectile?

2 **A** No, sir.

3 **Q** Why is that?

4 **A** To the best of my knowledge, it's still in his
5 arm.

6 **Q** When is the last time you checked?

7 **A** I checked with medical personnel the last
8 Friday before.

9 **Q** The vehicle that's involved in this case, did
10 you speak with the owner of that vehicle?

11 **A** I did.

12 **Q** Did you subsequently meet with her and return
13 it to her?

14 **A** Yes, I did.

15 **Q** What was her name?

16 **A** Delonda Grisham.

17 **Q** Where did you meet with her and return her --
18 that vehicle?

19 **A** I met with her at Elgin's Body Shop on Main
20 Street.

21 **Q** And do you recall the date when you returned
22 that vehicle to her?

23 **A** I believe it was November 4th, 2011.

24 **Q** And what was the date of this incident?

25 **A** October the 28th.

1 Q My last question for you, Detective Conroy, you
2 were with the defendant at the hospital.

3 A Yes, sir.

4 Q He was on a bed or stretcher being treated?

5 A Yes, sir.

6 Q Did you take a GSR sample from him?

7 A No, sir. I did not.

8 Q Why not?

9 A SLED standards are that it has to be collected
10 within six hours of the incident or they won't process
11 it.

12 Q Does Greenville County have the ability to
13 process?

14 A They do not.

15 Q It wasn't my last question, Detective Conroy.
16 This is it. Did you talk with Jarvis Tucker that day?

17 A I did.

18 Q Did you talk with him on the scene?

19 A I did.

20 Q Did you take a statement from him?

21 A I did not. I took a verbal statement. I took
22 a written statement from him.

23 Q And please describe to the jury the physical
24 characteristics of Mr. Tucker.

25 A Mr. Tucker was tall, thin, six-foot, long

1 dreads, long hair.

2 **Q** Lastly, Detective Conroy, when you met with Mr.
3 Grisham, did she indicate to you that all the items in
4 her vehicle were hers?

5 **A** No, sir. I asked her to look through the
6 vehicle and tell me if something was in there that was
7 not hers. There was some stereo equipment in the car and
8 also a medicine bottle that was in the driver's door
9 panel that was not hers. Those are placed in Property
10 and Evidence.

11 **Q** Thank you, Mr. Conroy. Please answer any, uh,
12 questions the defense may have.

13 **THE COURT:** All right, Mr. Johnson.

14 **CROSS-EXAMINATION**

15 **BY MR. JOHNSON:**

16 **Q** Detective Conroy, you testified at the prior
17 hearing, is that correct?

18 **A** Yes, sir.

19 **Q** And ask you stated today, you are the lead
20 investigate -- you are the lead investigator on this
21 case.

22 **A** Yes, sir.

23 **Q** And all the information came through you?

24 **A** Correct.

25 **Q** Now, with regards to this trial, at the prior

1 hearing, there was some additional, uh, pieces of
2 evidence that you could -- that weren't put in today, is
3 that true?

4 **A** Evidence?

5 **Q** Let me say this. When you went to the -- when
6 you went to see my client at the hospital, correct, you
7 went there to see him at the hospital?

8 **A** Yes, sir.

9 **Q** And then you called somebody from, uh, Property
10 and Evidence to come take these clothes and do other
11 things, is that right?

12 **A** Forensics.

13 **Q** You called Forensics. Excuse me.

14 **A** Forensics.

15 **Q** And Forensics took a picture of my client,
16 didn't they?

17 **A** That's correct.

18 **Q** And at the prior hearing, that picture was
19 submitted, wasn't it?

20 **A** Yes, sir.

21 **Q** Now, you didn't submit that picture here today,
22 did you?

23 **A** It was not submitted.

24 **Q** Now, let me, uh, -- let me talk about the
25 picture since it wasn't submitted. Now, on that picture,

1 did my client have long or short hair?

2 **A** Short hair.

3 **Q** Now, -- now, Detective Conroy, did you
4 investigate any of the suspects in association with this?

5 **A** What do you mean by suspects?

6 **Q** Suspects such as -- I guess described as the
7 person who shot at Officer Cobb and Officer Lane.

8 **A** Did I interview them?

9 **Q** Yes.

10 **A** Investigate?

11 **Q** Interview, investigate, either/or, both.

12 **A** Yes, sir.

13 **Q** Okay. Uh, can you tell me who?

14 **A** I spoke with several individuals out there at
15 the complex that day.

16 **Q** Did you speak with anybody else before or
17 afterwards? I guess afterwards really.

18 **A** Other than your client?

19 **Q** Yeah.

20 **A** No, sir.

21 **Q** Okay. And you haven't, had you?

22 **A** No, sir.

23 **Q** Uh, now, isn't it true -- now, I, uh, -- you
24 testified earlier with the Solicitor. You said when you
25 got to the Berkeley Pointe, you parked your car and then

1 you proceeded towards the [REDACTED] Building?

2 **A** I proceeded that way. I didn't make it to the
3 [REDACTED] Building.

4 **Q** Okay. Uh, remind me. What did you make it to?

5 **A** I made it to -- would you like me to point to
6 it?

7 **Q** Sure.

8 **A** I was met by Officer Cruell and Lane right
9 around this portion right here by the white car.

10 **Q** Okay. And then what did you do?

11 **A** I stayed there. I saw that there are numerous
12 officers up there on the scene that were secured, it was
13 a secured location up there. I stayed there for a while.
14 Then I went back towards my car.

15 **Q** Okay.

16 **A** And towards the SWAT vehicle.

17 **Q** When you went towards the SWAT vehicle, what
18 did you do after that?

19 **A** After I got in the SWAT vehicle, I drove up
20 towards the [REDACTED] Building.

21 **Q** And then when you got to the [REDACTED] Building,
22 what happened again?

23 **A** The occupants of the [REDACTED] Building were called
24 out.

25 **Q** Now, after everybody came out, what did you do?

1 **A** We spoke with them, found out what apartment
2 number they were in and SWAT went in and cleared it.

3 **Q** Now, did you stay on the scene then or did you
4 leave?

5 **A** I stayed on the scene.

6 **Q** How long did you stay?

7 **A** Until about four o'clock or a little after.

8 **Q** Now, the reason why I ask you that question is
9 you did a report in this incident, didn't you?

10 **A** That's correct.

11 **Q** You have a copy of that?

12 **A** No, sir. Not with me.

13 **Q** I'll let you see mine. I'm sorry. I did some
14 highlighting on it. Just look through it and see if this
15 is what your report is.

16 **A** Yes, sir.

17 **Q** Okay. All right. I'd like to see it back.
18 Now, I'd like to point your attention at -- let me find
19 the right spot. I'm going to point you to the first
20 page. As stated, you see this part right here where it
21 says I then spoke to Officer Cruell?

22 **A** Yes, sir.

23 **Q** I want you to read that through the end of
24 where I finished highlighting. I want you to read that
25 to yourself, okay?

1 **A** (Reading.)

2 **Q** Okay. Did you read that to yourself?

3 **A** Yes, sir.

4 **Q** And that's your report, right?

5 **A** That's correct. Just the highlighted part.

6 **Q** Just the highlighted part. Okay. Now, I'm
7 going to read it loud. I want you to tell me if I read
8 it wrong, okay?

9 **A** Okay.

10 **Q** It says I was walking towards the entrance of
11 the complex. I observed the Hispanic male in the window.
12 I asked if he saw anything. His name was Jose Alberto
13 Alesia-Caballero. And his phone number is -- I'm not
14 going to read that aloud. Jose stated as he was
15 installing carpet that he looked out the window and
16 observed two black males walking quickly away from the
17 ■■■■■ Building. They were both six feet and 200 pounds.
18 One was wearing a striped red, black and white shirt with
19 long twisted hair. The other was wearing all black. You
20 passed this information on and then approached the ■■■■■
21 Building in the SWAT vehicle. Did I read that correctly?

22 **A** Yes, sir.

23 **Q** Now, you testified earlier -- now, you
24 testified earlier that you are the lead investigator and
25 all information came through you, right?

1 **A** That's correct.

2 **Q** Okay. All right. I'm going to hand you a
3 report from another officer, okay? And this is Officer
4 -- it looks like R.C. Gamble. And, uh, I've also
5 highlighted a section there. I want you to read it to
6 yourself.

7 **A** Just the highlighted portion?

8 **Q** Yeah. Read it -- yeah, that paragraph, if
9 you'd like.

10 **A** Okay. (Reading.)

11 **Q** I'm going to take that back. I'm going to read
12 this aloud. I want you to tell me if I read it
13 correctly.

14 **MR. MARCHANT:** Your Honor, I object to him
15 reading aloud someone else's report who's not here.

16 **MR. JOHNSON:** He says that he's the lead
17 investigator. He knows everything about everything,
18 Judge. He testified to that.

19 **THE COURT:** Well, I don't think you can read
20 somebody else's report and ask him if -- I mean, if
21 he's familiar with it and he's refuted, that's just
22 one thing.

23 **MR. JOHNSON:** Okay. Okay. Understood, Your
24 Honor. I'll rephrase it. Understood.

25 **BY MR. JOHNSON:**

1 **Q** Had you seen this report before?

2 **A** Yes.

3 **Q** You have seen it before. And in this report,
4 isn't it true that Officer Gamble also got a lead on
5 suspects?

6 **A** Yes.

7 **Q** Isn't it true that he got a lead that maybe,
8 that somebody called him and they knew the suspects where
9 they identified them by name?

10 **A** Possible suspects.

11 **Q** Possible suspects. And they stated that these
12 people were at the Camelot Inn?

13 **A** Correct.

14 **Q** Are you familiar with the Camelot Inn?

15 **A** I am.

16 **Q** Isn't that a place with high drug activity?

17 **A** Yes, sir.

18 **Q** And high crime activity? Now, you was sitting
19 there this whole trial, right?

20 **A** Correct.

21 **Q** At the prior hearing, you were present the
22 whole time?

23 **A** Yes, sir.

24 **Q** At that point, you heard everything that was
25 said by everyone at that hearing?

1 **A** Right.

2 **Q** Now, since you are the lead investigator, isn't
3 it true that you coordinate with the Solicitor on things
4 like trial strategy?

5 **A** We discussed the case, yes, sir.

6 **Q** Y'all discussed this trial?

7 **A** Yes, sir.

8 **Q** And isn't it true that based on testimony at
9 the prior hearing, you made adjustments for this trial,
10 isn't that true?

11 **A** I wasn't asked the same questions. My
12 testimony or --

13 **Q** Your testimony or every -- let me rephrase.
14 Uh, did you coordinate, did you help coordinate the
15 Solicitor speaking with witnesses?

16 **A** Yes, sir.

17 **Q** And I talked about what it is that you want to
18 ask them, isn't that true?

19 **A** We go -- their knowledge of the case, yes, sir.

20 **Q** Of your knowledge of the case and what you may
21 potentially want to ask.

22 **A** Correct.

23 **Q** And isn't it true, based upon the testimony
24 from the prior hearing, you adjusted testimony for this
25 trial?

1 **A** The testimony is not the same.

2 **Q** It's not the same.

3 **A** Correct.

4 **Q** So you will agree it's not the same. And you
5 guys are the ones who helped formulate the questions to
6 ask?

7 **A** Yes, sir.

8 **Q** And you helped prepare them for what you were
9 going to ask them?

10 **A** We don't prepare them. We go over the
11 questions, yes, sir.

12 **Q** You go over the questions. I say prepare. I'm
13 not suggesting anything. I'm just saying that you help
14 -- you talk to them about what you're going to ask them
15 and what type of information that you were eliciting
16 based upon the reports that they write?

17 **A** Correct.

18 **MR. JOHNSON:** I beg the Court's indulgence.

19 **THE COURT:** Oh, yes, sir.

20 **BY MR. JOHNSON:**

21 **Q** Now, you were here obviously when James Mangle
22 testified.

23 **A** Correct.

24 **Q** James Mangle was a resident at the apartment
25 complex?

1 **A** That's correct.

2 **Q** And, uh, he testified that he knew Mr. Tucker?

3 **A** Yes, sir.

4 **Q** He also testified that he was, he was out
5 walking on that day, right?

6 **A** Yes, sir.

7 **Q** He was with his three-year old son?

8 **A** Two-year old son.

9 **Q** Two-year old son. Pardon me. Okay.

10 **MR. JOHNSON:** I have nothing further, Your
11 Honor.

12 **THE COURT:** Any redirect?

13 **MR. MARCHANT:** Yes, Your Honor.

14 **REDIRECT EXAMINATION**

15 **BY MR. MARCHANT:**

16 **Q** Since we're talking about Mr. Man -- excuse me
17 -- Mr. Mangle and the Hispanic male, Detective Conroy, if
18 you would step down and circle the building and the
19 location of where you spoke with that Hispanic male.

20 **A** He was peeking out of this apartment right
21 here, this window.

22 **Q** And where did you -- how is it that you came
23 into contact with him?

24 **A** I was at my car getting ready to move for the
25 SWAT vehicle to come by cause the road was blocked. I

1 moved my car, my vehicle. And I saw him. And I asked if
2 he saw anything.

3 Q Where did you see him in building?

4 A He was on the top floor.

5 Q How is it that you communicated with him on the
6 top floor?

7 A From the parking lot to the top floor.

8 Q Where were you standing when you're having this
9 conversation?

10 A In my car.

11 Q Secondly, Mr. Johnson's asked you some
12 questions about Mr. Gamble's, uh, report. Did you have
13 the opportunity to review the whole report when he was
14 discussing it with you?

15 A Not entire.

16 Q Okay.

17 A (Reviewing.)

18 Okay.

19 Q Detective Conroy, he's asking you about a lead
20 that Gamble had. What happened with the information that
21 Mr. Gamble had, Officer Gamble? Did it turn into a lead?

22 A No, sir.

23 Q So there was follow up on that call?

24 A There was.

25 Q And did that lead go anywhere?

1 **A** No, sir.

2 **Q** I have no further questions.

3 **THE COURT:** Anything else?

4 **MR. JOHNSON:** Brief recross.

5 **RECROSS-EXAMINATION**

6 **BY MR. JOHNSON:**

7 **Q** Now, you talked about that y'all followed up on
8 him from Gamble, is that right?

9 **A** That's correct.

10 **Q** Now, I asked you previously about the Camelot
11 Inn and what type of place it is.

12 **A** Uh-huh.

13 **Q** And you replied that it is a place of high drug
14 activity?

15 **A** Correct.

16 **Q** High crime activity?

17 **A** It's not my jurisdiction.

18 **Q** You are familiar with the Camelot Inn and
19 everything. A lot of people are there.

20 **MR. MARCHANT:** Your Honor, I'm going to
21 object. It's outside the scope of my redirect
22 examination of Detective Conroy.

23 **THE COURT:** Mr. Johnson, anything in
24 response?

25 **MR. JOHNSON:** The only thing I say, Judge, is

1 they are trying to say they followed up a lead. I'm
2 trying to, uh, --

3 **MR. MARCHANT:** Your Honor, may we approach?

4 **MR. JOHNSON:** Yes.

5 **(WHEREUPON, a bench conference is held off the**
6 **record.)**

7 **THE COURT:** All right. I will allow it.

8 **MR. JOHNSON:** Okay. Thank you, Your Honor.

9 **BY MR. JOHNSON:**

10 **Q** Anyhow, you stated that you are aware about the
11 reputation of the place?

12 **A** Yes, sir.

13 **Q** Now, per your knowledge, did anyone go out
14 there?

15 **A** No, sir.

16 **Q** No one went out there and tried to interview
17 any potential witnesses or anything of that nature,
18 right?

19 **A** Not in person.

20 **Q** Okay. Now, again, with regards to the Hispanic
21 male, the Solicitor just asked you where he was and
22 things of that nature. I want to ask you, uh, --

23 **MR. MARCHANT:** Your Honor, object. This is
24 not with respect to the redirect that I had on
25 Detective Conroy.

1 **MR. JOHNSON:** Yes, it was. He asked about
2 where he saw the guy.

3 **MR. MARCHANT:** The question I asked was the
4 location, Your Honor.

5 **THE COURT:** All right. I'll give you a
6 little leeway to ask him some questions about that.

7 **MR. JOHNSON:** That's what I'm going to ask
8 him about, Your Honor.

9 **BY MR. JOHNSON:**

10 **Q** With regards to the Hispanic male, uh, he
11 stated that he looked out the window and observed two
12 black males quickly walking away from the [REDACTED] Building,
13 is that correct?

14 **A** That's correct.

15 **Q** So based upon that statement, he's portraying
16 to you that he can see -- that he saw what he saw.

17 **A** I didn't inquire what time he saw him walking
18 from the [REDACTED] Building.

19 **Q** Okay. But he was aware that -- you stated
20 there were all these cars.

21 **A** Right.

22 **Q** And he did see the cars?

23 **A** Yes, sir.

24 **Q** So he knew something was going on?

25 **A** Yes, sir.

1 **MR. JOHNSON:** Okay. I have nothing further,
2 Your Honor.

3 **THE COURT:** Okay.

4 **REDIRECT EXAMINATION**

5 **BY MR. MARCHANT:**

6 **Q** Detective Conroy, you indicated there was no
7 in-person followup with the Camelot, what sort of
8 followup was there?

9 **A** Phone call.

10 **Q** With respect to the Hispanic male, did he tell
11 you whether or not those two individuals were walking
12 together?

13 **A** No, sir.

14 **THE COURT:** Mr. Johnson, ---

15 **MR. MARCHANT:** No further questions.

16 **THE COURT:** --- anything else?

17 **REXCROSS-EXAMINATION**

18 **BY MR. JOHNSON:**

19 **Q** Just to clarify that statement. I just want to
20 clarify the statement. In your report, it says Jose
21 stated that he was installing carpet and looked out the
22 window and observed two black males walking away from the
23 [REDACTED] Building. They were both about six feet and 200
24 pounds. Did I read that correctly?

25 **A** You did.

1 **MR. JOHNSON:** Nothing further, Your Honor.

2 **THE COURT:** Anything else?

3 **MR. MARCHANT:** No, Your Honor.

4 **THE COURT:** All right, sir. You can step
5 down.

6 Mr. Marchant.

7 **MR. MARCHANT:** May it please the Court. I
8 had a number of exhibits marked that are identified.
9 I believe I moved them all into evidence. But if I
10 have not, at this time, if they were identified by
11 any witnesses, I would move those exhibits in. And
12 with that, the State would rest its case, Your
13 Honor.

14 **THE COURT:** All right. Ladies and Gentlemen,
15 I need to take up a legal matter outside your
16 presence. I'm going to ask you to step to the jury
17 room. We'll have about a 10 or so minute break if
18 anybody wants to smoke or anything like that.

19 **(WHEREUPON,** the jury exits at approximately
20 11:12 a.m.)

21 **THE COURT:** Mr. Johnson?

22 **MR. JOHNSON:** Your Honor, at this time, I
23 think it would be appropriate to make motion for
24 directed verdict. I'd like to separate the charges.

25 **THE COURT:** All right.

1 **MR. JOHNSON:** One for Failure to Stop and the
2 other one, Attempted Murder.

3 **THE COURT:** Yes, sir.

4 **MR. JOHNSON:** Uh, first of all, the Failure
5 to Stop. There's been no testimony that -- no
6 testimony provided that my client was driving the
7 car on the date of the incident by anyone. No one
8 can identify him in the car. No one -- Norman
9 Pearson testified he was driving the car the prior
10 day. No one can put him in the car on that specific
11 day.

12 **THE COURT:** Okay.

13 **MR. JOHNSON:** So that's my motion based upon
14 that. There's no evidence of material fact that
15 supports the Failure to Stop.

16 Now, Your Honor, with regards to Attempted
17 Murder, Officer Cobb testified that they could not
18 see the face of the person who was shooting at them.
19 They saw a hat. Kandala tested it. The tests were
20 inconclusive. Meaning, again, my client was not
21 identified as wearing the hat. They did touch the
22 gun. They established that my client was holding
23 the gun. As Dr. Kandala testified, you could not
24 tell how or when his DNA got there.

25 Based upon those items, I'm asking for directed

1 verdict. Those cases are entirely circumstantial.
2 I believe there was a recent case, uh, State versus
3 Odoms or something of that nature that required more
4 than just a substantial circumstantial evidence on
5 that. And also with regards to officers not being
6 able to see him, with regards to not being able to
7 put the gun in his hand at that certain time, that's
8 my request based on Attempted Murder at this time,
9 Your Honor.

10 **THE COURT:** All right. Thank you. I
11 appreciate your argument.

12 **MR. JOHNSON:** And I'd like to renew any and
13 all prior objections, Your Honor. I think I should
14 say this. A lot of things in the previous trial that
15 I didn't say anything in this trial because I
16 understand res judicata applied.

17 **THE COURT:** Yes, sir.

18 **MR. JOHNSON:** Therefore, Your Honor, I'd like
19 to preserve any objections made there as well.

20 **THE COURT:** They are so preserved. Your
21 objections are noted for the record and reiterated
22 for the record and denied.

23 Mr. Marchant, in regards to the motion for
24 directed verdict.

25 **MR. MARCHANT:** The State's position, as the

1 Court is well aware, at this stage of the game to
2 concern itself of the weight of -- excuse me, the
3 existence of the evidence, not the weight of the
4 evidence referenced in Williams. I can go through
5 what the State's position would be with respect to
6 each of those charges if Your Honor would like me
7 to.

8 **THE COURT:** Why don't you summarize it very
9 briefly?

10 **MR. MARCHANT:** Long and short, Your Honor.
11 Officer Cruell testified she saw him at the Comfort
12 Inn. A car chase ensued. The car ended up in
13 Berkeley Pointe. His fingerprints were found both
14 inside and outside of the vehicle. His DNA was
15 found at the scene. He's caught with the gun at
16 Mooremont Avenue several hours later. DNA comes off
17 the gun. There's no indication of any witnesses at
18 any point in time that there's anyone else involved
19 in this incident. While it is circumstantial and
20 there is a large amount, tremendous amount of
21 circumstantial evidence, it would be the State's
22 position that it was more than sufficient for Your
23 Honor to deny the motion for directed verdict.
24 That's what we'd respectfully ask.

25 **THE COURT:** Certainly at this point, as I'm

1 sure you are aware, Mr. Johnson, at this point, the
2 State need on produce a mere scintilla of evidence
3 that would support a conviction. Therefore,
4 although you've made excellent arguments on behalf
5 of your client, I'm going to respectfully deny your
6 motions.

7 Uh, let's now turn to whether or not Mr.
8 Lowrance believes he will testify. Do you need some
9 more time to speak with him about that?

10 **MR. JOHNSON:** No, ma'am, Your Honor.

11 **THE COURT:** Okay. Mr. Lowrance, would you
12 stand and raise your right hand please.

13 **(WHEREUPON, Patrick Lowrance is first duly sworn.)**

14 **THE COURT:** Okay. You can put your hand
15 down. If you would, remain standing though please.
16 You and I spoke yesterday briefly about the fact
17 that you're going to make a decision now as to
18 whether or not you will testify in the trial of this
19 case. Do you remember that conversation you had
20 with me?

21 **MR. LOWRANCE:** Yes, ma'am.

22 **THE COURT:** Have you had ample time to
23 discuss with your attorney whether or not you will
24 testify?

25 **MR. LOWRANCE:** Yes, ma'am.

1 **THE COURT:** And have you had as much time as
2 you'd like to to discuss it with your attorney?

3 **MR. LOWRANCE:** Yes, ma'am.

4 **THE COURT:** All right. You understand that
5 you have an absolute right to remain silent in this
6 trial. You understand that?

7 **MR. LOWRANCE:** Yes, ma'am.

8 **THE COURT:** In other words, if you choose not
9 to take the stand in this case, I will instruct the
10 jury that they can not discuss in any way that you
11 have exercised your right to remain silent. I will
12 tell them that it can not be discussed in the jury
13 room and they can not consider it in any way. Do
14 you understand that?

15 **MR. LOWRANCE:** Yes, ma'am.

16 **THE COURT:** And the other side of that coin
17 is this is your one opportunity to tell your side of
18 the story. This is -- this is your day in court.
19 If you want to tell your side of the story, you have
20 an absolute right to do that as well. You
21 understand that?

22 **MR. LOWRANCE:** Yes, ma'am.

23 **THE COURT:** Uh, are there prior convictions
24 that the State would intend to use against Mr.
25 Lowrance?

1 **MR. MARCHANT:** Your Honor, he was convicted
2 out of this incident of Possession of Stolen Vehicle
3 greater than \$10,000. If my memory serves, the
4 penalty for that is 10 years. Judge Johns sentenced
5 him to three years suspended on the time that he had
6 spent in the detention center and a period of
7 probation after. So it would be the State's
8 intention that if he does take the stand that he use
9 that conviction.

10 **THE COURT:** Anything else?

11 **MR. MARCHANT:** No, Your Honor.

12 **THE COURT:** Okay. All right. And you
13 understand that I don't -- I have not discussed with
14 your attorney yet whether or not I will allow the
15 State to cross-examine you about that. I probably
16 will. They will be able to ask you about that.
17 I've already informed the jury that you admitted
18 your guilt on that or admitted that anyway.

19 Has anybody forced you or pressured you in this
20 decision today?

21 **MR. LOWRANCE:** No, ma'am.

22 **THE COURT:** Has anybody promised you anything
23 to get you to testify or not testify in this case
24 today?

25 **MR. LOWRANCE:** No, ma'am.

1 **THE COURT:** Are you under the influence of
2 drugs or alcohol here today?

3 **MR. LOWRANCE:** No, ma'am.

4 **THE COURT:** And you feel like you understand
5 the weight of the decision that you are facing?

6 **MR. LOWRANCE:** Yes, ma'am.

7 **THE COURT:** Are you satisfied with the
8 services of your attorney thus far and the advice
9 that he's given you with regards to whether or not
10 you will testify?

11 **MR. LOWRANCE:** Yes, ma'am.

12 **THE COURT:** You understand this has to be
13 your decision and your decision alone?

14 **MR. LOWRANCE:** Yes, ma'am.

15 **THE COURT:** And have you made that decision?

16 **MR. LOWRANCE:** Yes, ma'am.

17 **THE COURT:** And what is your decision?

18 **MR. LOWRANCE:** To testify.

19 **THE COURT:** All right. All right. Very
20 well.

21 **MR. MARCHANT:** Your Honor, if we could, point
22 of clarification since he indicated he's indicated
23 he's going to testify. My recollection of Mr.
24 Johnson's --

25 **THE COURT:** You can have a seat.

1 **MR. LOWRANCE:** Thank you.

2 **THE COURT:** Thank you.

3 **MR. MARCHANT:** My recollection of Mr.
4 Johnson's opening is that, uh, he indicated that his
5 client was convicted. I believe those were the
6 terms. That verbiage is what you used as well. I
7 don't know at this point in time what Mr. Lowrance
8 is going to say. I've got a good idea. I feel like
9 we're very clean thus far ---

10 **THE COURT:** Yeah.

11 **MR. MARCHANT:** --- through the retrial. I
12 certainly don't want that to become an issue at this
13 point in time. Mr. Lowrance has appealed that
14 conviction. What that indicates to me is that he
15 does not believe that he is guilty of this offense.
16 I don't know how he's going to testify about it or
17 what he's going to testify. But I believe it would
18 be improper for him to take the stand and admit that
19 he was in possession of that stolen vehicle on the
20 day in question since he has not admitted it. He
21 was convicted. Now, he has subsequently appealed.

22 **THE COURT:** Didn't he testify to it last
23 time? He testified last time that he was in
24 possession of the stolen vehicle?

25 **MR. MARCHANT:** Not on the day in question,

1 Your Honor.

2 **THE COURT:** Okay.

3 **MR. MARCHANT:** I have a true billed copy of
4 the indictment that says on or about the 28th day of
5 October, 2011.

6 **THE COURT:** So what do you think the harm is
7 of him getting up and admitting -- I mean, it might
8 be fatal to his appeal.

9 **MR. MARCHANT:** That's what -- it certainly
10 needs to be addressed and protected. I want to be
11 sure that that is addressed at this stage in time.
12 If he wants to surrender the right of his appeal and
13 potentially be -- you know, his appeal be granted
14 or --

15 **THE COURT:** Well, he could have other grounds
16 for an appeal.

17 But Mr. Lowrance, you understand that if you
18 take the stand and you admit that you are guilty of
19 this possession of a stolen vehicle, you understand
20 that if you admit that you are guilty of it, that
21 might have some impact on your -- on your appeal. I
22 don't know what impact it would have on your appeal.
23 I don't know the specifics of your appeal. But you
24 understand it could have some impact?

25 **MR. JOHNSON:** Judge, if I may clarify.

1 **THE COURT:** Sure.

2 **MR. JOHNSON:** I think you'll find that his
3 testimony is not quite that cut and dry ---

4 **THE COURT:** Okay.

5 **MR. JOHNSON:** --- as far as that's concerned.

6 **THE COURT:** Okay.

7 **MR. JOHNSON:** I don't think you'll find that
8 he'll say that at the time he knew the vehicle was
9 stolen.

10 **THE COURT:** Okay.

11 **MR. JOHNSON:** Uh, I don't want to --

12 **THE COURT:** He's going to say that he's --

13 **MR. JOHNSON:** I don't want to give away --

14 **THE COURT:** Is it something to the effect, if
15 I can guess, that he was in the vehicle that turned
16 out later to be stolen, but he didn't know it?

17 **MR. JOHNSON:** Yeah.

18 **THE COURT:** Okay. Okay. All right.

19 **MR. MARCHANT:** Your Honor, I guess I want to
20 -- what I'm getting at is it's going to be improper
21 for him to take the stand and indicate any form,
22 shape or fashion that he's taking responsibility for
23 being in possession of a stolen vehicle when, in
24 fact, that is not the case.

25 **THE COURT:** Right. Well, I don't think he's

1 going to say he plead guilty to it.

2 MR. JOHNSON: No. No.

3 THE COURT: Clearly, that will be a lie. Uh,
4 but -- and you would then have the opportunity to
5 cross him on it. But -- all right. Have we
6 addressed everything you think we needed to?

7 MR. MARCHANT: That's everything from the
8 State, Your Honor.

9 MR. JOHNSON: Everything from the defense.

10 THE COURT: All right. We'll take -- let's
11 just take a short break. Maybe about five minutes.
12 That will give the jury time.

13 (WHEREUPON, a short recess is taken.)

14 THE COURT: We ready to bring the jury back
15 in?

16 MR. JOHNSON: Yes, ma'am, Your Honor. Well
17 -- yes, ma'am, Your Honor.

18 THE COURT: We missing something?

19 MR. MARCHANT: One point of clarification.
20 When I made my motion in the beginning right before
21 I rested, the Court Reporter informed me of two
22 items that were marked for identification that I
23 handed to the witnesses, that being specifically
24 State's 102, which is a statement of Mr. Brockman,
25 and State's 113. Those were for identification

1 purposes. And just so the record's clear, I do not
2 intend that those exhibits be moved into evidence.
3 There are other pieces of evidence that were not put
4 in. I did not intend for these either. It's
5 State's 47, 65, 69, 70, 81 and 89.

6 **THE COURT:** Okay.

7 **MR. MARCHANT:** Thank you, Your Honor.

8 **THE COURT:** All right. All right then.
9 Anything else we need to take up?

10 (No response.)

11 **(WHEREUPON, the jury enters at approximately**
12 11:43 a.m.)

13 **THE COURT:** Mr. Johnson, you ready to
14 proceed?

15 **MR. JOHNSON:** Yes, ma'am, Your Honor. I'd
16 like to call my client, Patrick Lowrance, to the
17 stand.

18 **THE COURT:** All right, sir. If you would,
19 come forward to be sworn.

20 **THE CLERK:** Sir, please place your left hand
21 on the Bible and raise your right.

22 **PATRICK LOWRANCE**
23 having first been sworn, testifies as follows:

24 **THE CLERK:** Thank you. You may be seated.

25 **THE WITNESS:** Thank you.

1 **THE CLERK:** Would you please state your name
2 for the record.

3 **THE WITNESS:** Patrick Dean Lowrance.

4 **THE CLERK:** Thank you.

5 **DIRECT EXAMINATION**

6 **BY MR. JOHNSON:**

7 **Q** I'm over here. The first thing I'd like to do.
8 Introduce yourself to the jury for me.

9 **A** My name is Patrick Dean Lowrance.

10 **Q** How old are you?

11 **A** 27 now. Turned 27 last December.

12 **Q** Where are you from?

13 **A** I grew up in Welford. My mom was able to
14 afford a house and move to Duncan.

15 **Q** Now, when you say Welford and Duncan, what
16 county is that in South Carolina?

17 **A** It's still in Spartanburg county.

18 **Q** Okay. Now, how far did you go in school?

19 **A** I graduated Burns High School. Then I went to
20 Houston to attend UTI, University Technical Institute.

21 **Q** What did you study there?

22 **A** I studied how to be an auto collision
23 technician.

24 **Q** Did you get your degree?

25 **A** Yes, I got my certification, ASE certified.

1 Q Uh, now what type of -- were you able to --
2 what type of work have you done? What type of work are
3 you able to do?

4 A Once I graduated college, I moved back here. I
5 worked for three years doing insurance work, fixing
6 wrecked cars.

7 Q Now, during the time of this incident, October
8 28th, 2011, were you working?

9 A Uh, at this time, I was doing part-time work at
10 place called Pop's Body Shop that's in Lyman.

11 Q What did you do there?

12 A I painted -- I painted most of the police cars
13 and the Crown Vics for a place.

14 Q About your immediate family, your mom and your
15 dad. Can you tell me about the relationship you had with
16 your mom, dad, brothers, sisters, anything of that
17 nature?

18 A Uh, yeah. My mom raised me and my sister. My
19 dad...

20 Q What is your sister's name?

21 A Walisha Davis.

22 Q And your dad -- I'm sorry. You didn't say
23 anything audible, so I'm going to ask you to say
24 something. What's the relationship with your dad?

25 A He left right when I was around, about seven.

1 Q So it was you, your mom and your sister?

2 A Yes.

3 Q You have any extended family that you are close
4 with or anything like that?

5 A Me, my wife, my son, we spend time with my mom.
6 We spend time with my sister. We got to Durham for
7 Christmas and stuff like that. My cousins, my grandma
8 and my grandpa.

9 Q I'm going to ask you more about your grown up
10 family. Are you married?

11 A Yes.

12 Q What's your wife's name?

13 A Ciera.

14 Q Did y'all have any children?

15 A Yes. We had one, one eight-year-old together.

16 Z [REDACTED].

17 Q You and your wife, are y'all currently
18 together?

19 A Yes.

20 Q What's y'all's status?

21 A Uh, last November the 3rd, that was our fifth
22 year anniversary. Before that, we was having a little
23 bit of problems, you know what I'm saying. But we just
24 worked through it.

25 Q All right. Now, I'm going to go ahead and go

1 to the incident date. I'm going to go to October 27th
2 and 28th. Okay.

3 A Okay.

4 Q Do you remember those dates?

5 A Uh, the 27th and the 28th?

6 Q Yes.

7 A Yes.

8 Q Of 2011.

9 A Yes.

10 Q Now, you were in the room when Norman Pearson
11 testified, right?

12 A Yes.

13 Q And you heard what he had to say?

14 A Yes.

15 Q Do y'all know each other?

16 A Yes, it's my cousin. We grew up together.

17 Q Now, in association with this case, he talks
18 about -- I'm not going to go to the exhibit at this point
19 -- but a Yukon, a car. Are you familiar with that car?

20 A Yes.

21 Q Now, is that a car that you had been in any
22 point in your life? How is that -- you have any
23 relationship with that car?

24 A Yes. I would drive it.

25 Q Okay. When did you drive the car?

1 **A** When Meat would let me drive it, I would drive
2 the car.

3 **Q** Okay. Now, you said Meat. Who is Meat?

4 **A** Uh, I don't know his last name. I know his
5 first name is Lemetrius. I heard a female call him that
6 one time.

7 **Q** Okay. Now, you call him -- today, you called
8 him something. What's his name?

9 **A** He goes by Meat.

10 **Q** Okay. Now, you are saying, you are testifying
11 to the court that that was his car?

12 **A** Yes.

13 **Q** Okay. Now, Norman also testified that, uh, he
14 saw you in the car the day before. Is that right?

15 **A** Yes, he did.

16 **Q** Could you tell me -- tell the Court what were
17 your interactions with Norman on the 27th.

18 **A** We was just hanging out together. We normally
19 just hang out with each other. I was at his house. I
20 was actually -- we went to the store. Me, him and his
21 uncle went to the store. We was just sitting around the
22 house, just socializing and drinking, smoking.

23 **Q** Socializing and drinking. Smoking? Smoking
24 what?

25 **A** Smoked weed. Smoked marijuana.

1 Q Now, we're talking about October 27th. Were
2 you with Norman all day?

3 A No, not all day. The majority of the day.

4 Q Now, Norman states that he gave you some money
5 for a hotel room. Did he do that?

6 A Yeah. He gave me some money. He kind of owe
7 me. But I mean, we always give each other money. It's
8 all the same.

9 Q Now, he also stated when he rode in the car
10 with you that he saw, you been in the courtroom. You
11 seen that gun. He said he also saw that gun in the car.
12 Was that gun in the car with you when y'all was driving
13 around?

14 A No.

15 Q Okay.

16 A I didn't know there was a gun in the car. I
17 didn't see a gun in the car.

18 Q Now, he said it was in the console. Do you
19 believe it was there?

20 A No, it was on the console. I was driving the
21 console. It was right there beside me. I didn't know a
22 gun was there.

23 Q Now, you are familiar with the gun, is that
24 right?

25 A Yes.

1 Q Okay. Now, whose -- is that your gun or whose
2 gun is it?

3 A It's not my gun. The gun belongs to me.

4 Q Okay. Now Meat, this guy that you classify as
5 Lemetrius?

6 A Yes.

7 Q Now, I'd like to go a little bit about -- I
8 want to go back to the, uh, Norman giving you money for
9 the hotel room. You stated you were with Norman all day.
10 What did you do after you got the room?

11 A Uh, later on that night, I mean, we kind of had
12 a get together at the room, like a party.

13 Q Okay. Was that the only place that y'all went
14 that day or did y'all do other stuff? I mean, first of
15 all, who is y'all? Were you with anybody? Were you by
16 yourself?

17 A No, I was with my cousin most of the day.
18 After I left my cousin's house, I went and met with
19 Lemetrius and Tee.

20 Q Now, Tee is a new name. Who is Tee?

21 A That's Lemetrius' good friend. He's just a
22 dude that's with him most of the time.

23 Q How long -- first of all, how long have you
24 known Lemetrius?

25 A We only known each other for like a month or

1 something like that.

2 Q So you only known him for a month, but he let
3 you drive his car?

4 A Yeah. He just kind of like looked at me -- he
5 was just always telling me from the time I met him, he
6 was like, I'm going to look out for you. I met him at a
7 place called -- a club called Dollar Bill.

8 Q How did y'all meet?

9 A Uh, me and Norman went to Dollar Bill one
10 night. We were just in there just socializing, hanging
11 out and, uh, I was -- we were in the area of Lemetrius.
12 I was smoking a cigarette. He was like, man, you -- he
13 asked me if I wanted to smoke. I was like yeah.

14 Q He asked you if you want to smoke a cigarette?

15 A No, he asked me did I want to -- he said do you
16 want to hit a blank. So I was like yeah. I smoked with
17 him. That's how we first got acquainted.

18 Q Okay. From that point on, what happened? Did
19 y'all become friends or how did that work?

20 A Yeah. We just -- from now on, we just kind of
21 started hanging out. That's where we started building
22 from.

23 Q Okay. So let's go back. The night before, you
24 stated you were with your cousin. At some point, you
25 left your cousin. We talking about Norman, right?

1 **A** Yes, I did.

2 **Q** All right.

3 **A** He stayed at the house. I left.

4 **Q** Okay. Where did you -- what did you do next?
5 Where did you go?

6 **A** Once I got together with Meat and Tee, we went
7 to a couple of places. We went to Godiva's. I also had
8 went to Swag that night.

9 **Q** Okay.

10 **A** That's where I seen Joel there.

11 **Q** What are you talking about about Joel? Who is
12 that?

13 **A** Uh, it's just a friend that I met through my
14 cousin.

15 **Q** Which cousin?

16 **A** Norman.

17 **Q** Does he go by Joel? Do you know him as Joel?

18 **A** Yeah. He goes by Joel. Most people call him
19 T.P.

20 **Q** So some people call him T.P.?

21 **A** Yeah.

22 **Q** Do you remember how late out you stayed and
23 what y'all were doing? Were y'all partying? What were
24 y'all doing?

25 **A** No. I guess he thought I was in there by

1 myself. We just stepped out for second. He let me in
2 the car. That was it. Then he left.

3 Q Okay. Now, when, uh, -- after you went to
4 Swag, what did y'all -- we still on October 27th, is that
5 right?

6 A Yes.

7 Q What did y'all do after that?

8 A Uh, went to the room.

9 Q What room -- we stated earlier the room. But
10 where was the room? Where did you get the room at?

11 A I believe it's called -- I don't even know if
12 it's still called the same thing. But at the time, it
13 was called the Comfort Inn.

14 Q That's actually the Comfort Inn in question
15 that they been talking about in this trial, is that
16 right?

17 A Yes.

18 Q Same place?

19 A Yes.

20 Q And you got a room there?

21 A Yes.

22 Q And you stated that y'all went back and partied
23 at the room?

24 A Yes.

25 Q Was it just -- who was with you?

1 **A** It was just myself, Tee and Lemetrius. Several
2 other people were there. Several other people was in and
3 out of the room all night.

4 **Q** And what were y'all doing in there?

5 **A** Uh, just hanging out. Smoking and drinking.

6 **Q** Smoking what and drinking what?

7 **A** I mean, drinking liquor and smoking weed and
8 just socializing and talking to females. I mean, it was
9 other guys there too. But it was just kind of like a
10 little mini bar if you want to say.

11 **Q** Now, at some point, I suppose the party ends?

12 **A** Yes. I mean, it really didn't ever end. Some
13 people like started to fall asleep around 4:00 or 5:00
14 and kind of leave or whatever. The next morning, the
15 majority of the people left. The rest of the people left
16 that were still there. The only people that were still
17 there was Tee and Lemetrius and myself.

18 **Q** Okay. So now we are on October the 28th, is
19 that right?

20 **A** Yes, that morning or whatever.

21 **Q** That morning. So that morning, what did y'all
22 do? Did y'all stay at the room?

23 **A** No, I had asked Meat to take me to a friend of
24 mine's house. So I took a shower and got ready to get
25 ready to let him take me over there.

1 **Q** You talking about a friend of your's house.

2 Can you be more specific than that?

3 **A** A friend girl of mine.

4 **Q** You have a name?

5 **A** Yeah. Here name is Laila. I don't know her
6 last name. I wasn't on a first and last name basis with
7 people cause I'm married. At the time, I really didn't
8 want nobody going back telling my wife anything I was
9 doing. I was wanting to still be with her and work it
10 out.

11 **Q** Okay. So you trying to kind of hide it from
12 her?

13 **A** Yes.

14 **Q** Okay. So you needed a ride. What do you mean
15 you needed a ride? At what point -- you couldn't drive
16 yourself over there? What was the deal?

17 **A** No, I had been riding with Lemetrius the night
18 before when I left my cousin. So I just asked him would
19 he take me over there.

20 **Q** In what car was he going to take you over
21 there?

22 **A** In his Yukon.

23 **Q** Okay..

24 **A** The tinted truck.

25 **Q** The one they been referring to?

1 **A** Yes.

2 **Q** All right. You heard, uh, you heard Officer
3 Cruell today -- not today. I guess in this trial --
4 state, uh, that, uh, somebody was onto the car and said
5 somebody walked through the lobby. Did you hear that?

6 **A** Yes. I heard them say that.

7 **Q** Can you tell the Court today -- how did all of
8 y'all get out of the car? It was three of y'all. Maybe
9 she should have see three of you. Tell me how did this
10 work?

11 **A** What are you talking about? Like when did we
12 get out of the car?

13 **Q** When y'all went down to the car when he was
14 going to take you someplace?

15 **A** I guess Meat must have had to walk through the
16 lobby. Me and Tee left out the side. When you come down
17 the long hallway, you can make the left. And it's like a
18 waiting room right there. The side door goes out right
19 there.

20 **Q** Is that over by where the coffee and stuff is
21 or is that somewhere else?

22 **A** Uh, not as far as I can remember. When you are
23 coming down, uh, -- like if you was coming in the front
24 door and pass where the coffee and stuff was and you
25 start going down the long hallway, you can make that

1 right and go right out on the side of the door right
2 there.

3 Q Now, as far as you know, I guess you know what
4 you look like. What does Meat look like?

5 A He's about 6 -- 6'2. He's six something. He's
6 way taller than me. I'm like 5'8 or 5'9. He has long
7 hair. I guess the best way to describe him is like
8 similar to my cousin Norman's long dreads.

9 Q Dreads or like -- I'm sorry. I don't know too
10 much about it. Dreads? Dreads or braids? How does that
11 work? What's the difference?

12 A It's just similar to my cousin's hair.

13 Q What about Tee? What does he look like?

14 A He's a little shorter than, uh, -- he's a
15 little shorter than Meat. He's caramel, like a honey
16 brown color.

17 Q Okay. So you stated that y'all went out
18 through the side. Where was Meat when y'all went out to
19 the side?

20 A In the room, he was like I'm going to go ahead
21 and head out or whatever. I was in there getting the
22 rest of my stuff ready or whatever. Then, me and Tee
23 left out. Meat left out before we did.

24 Q Now, did y'all get in the car?

25 A Yeah, we went and got in the car.

1 **Q** How did y'all get -- where was everybody
2 sitting?

3 **A** Uh, Lemetrius was driving and me and Tee was
4 sitting in the back seat watching TV, watching videos.

5 **Q** Watching videos? Well, first of all, I guess
6 it's strange that y'all would be sitting in the back seat
7 rather than somebody sitting in the front seat. Explain
8 further why you would be sitting in the back seat. What
9 about the car made you sit back there?

10 **A** The truck had a -- it's a drop down screen DVD
11 player. A lot of times when we ride, we just sit back
12 there and watch videos while we ride.

13 **Q** What videos were y'all watching?

14 **A** Some music videos. It's a DVD with a whole lot
15 of hip-hop music videos on it.

16 **Q** Okay. And I'm skipping ahead, a whole lot
17 ahead. But by the time, whenever y'all got out of the
18 car, did y'all leave the DVD in there? Was it still in
19 the car?

20 **A** Yeah. I would think the DVD would still be in
21 there. We didn't take it out. I didn't take it out.

22 **Q** Okay. At this point, y'all are in the car.
23 What did y'all do? Where were y'all going?

24 **A** We was on the way to take Meat and drop Meat
25 off at my friend's house. We leave out the hotel parking

1 lot and proceed over 85.

2 Q Okay. So you're going up 85. At this point,
3 have you noticed any police cars or anything of that
4 nature?

5 A No, I mean, everything seemed regular. We were
6 heading up 85 towards Atlanta. All of a sudden, the
7 lights came on.

8 Q When you say lights come on, what are you
9 referring to?

10 A Police lights.

11 Q Now, when y'all saw the police lights, what
12 happened? Was there any dialog going on in the truck?

13 A When the lights came on, I mean, he just
14 punched it.

15 Q Who is he?

16 A Meat.

17 Q Why -- were y'all talking about this? Why did
18 he punch it?

19 A I don't know. When he first --

20 MR. MARCHANT: Your Honor, I'm going to
21 object to anything this Lemetrius fellow says, it's
22 hearsay, as well as Tee that occurred in the
23 vehicle.

24 THE COURT: Mr. Johnson?

25 MR. JOHNSON: I can rephrase the question.

1 **THE COURT:** All right. Thank you.

2 **BY MR. JOHNSON:**

3 **Q** When y'all were in the car, what was the topic
4 of discussion?

5 **A** I again asked him why don't he just pull over.
6 Tee was doing the same.

7 **Q** Okay. Now, did you ever find out why he
8 wouldn't pull over?

9 **A** While we was having a discussion or whatever or
10 arguing if you want to say. He told me I got this gun on
11 me and I got these drugs on me. I don't got time to deal
12 with the police.

13 **MR. MARCHANT:** Your Honor --

14 **THE COURT:** Objection?

15 **MR. MARCHANT:** Objection to hearsay.

16 **THE COURT:** All right. You can develop that
17 a little bit more.

18 **MR. JOHNSON:** Just a little bit more. Okay.

19 **BY MR. JOHNSON:**

20 **Q** At that point in time, did you know -- did
21 y'all know about this gun? Did y'all know he had this
22 gun on him?

23 **A** No. I mean, most of the time he was around, I
24 know he probably had a gun on him. You know what I'm
25 saying? I had seen him with a couple of guns.

1 Q Okay. And what about the drugs?

2 A Yeah, he -- that's pretty much why everybody
3 hang around with him, I guess.

4 Q Why?

5 A Cause he always got weed.

6 Q So we at the point where you guys are in the
7 car. You've been blue lighted. You said he punched it.
8 Then what happened after that?

9 A He proceeded to run away from the police. When
10 he veered off, I looked up at the sign. It said we got
11 off on Mauldin Road or whatever. The only thing I know
12 is he took us into this apartment complex. I didn't even
13 know the name of it until everything that occurred that
14 it was Berkeley Pointe.

15 Q Now, did y'all have any connection to Berkeley
16 Pointe or anybody?

17 A No, I never been to Berkeley Pointe. I thought
18 he just knew somebody over there. He went in. When he
19 went in, he immediately like went to the left and went
20 and parked the car, backed the truck in and got out.

21 Q So you thought y'all were going -- you thought
22 he knew somebody over there?

23 A Yeah. I thought he knew somebody over there or
24 something.

25 Q When y'all got there, what did y'all do after

1 that?

2 **A** When he was getting out, Tee and myself were
3 getting out too. We just sat there in the parking lot
4 and kind of argued a little bit and asked him, you know
5 what I'm saying, like man why you ain't just pull over or
6 whatever. We was still trying to stay cool, stay calm
7 cause he was right there with a gun in his hand.

8 **Q** What did y'all do after that? Did y'all stay
9 out there? Did y'all leave? Did you go somewhere else?

10 **A** Well, we was trying to get out in the open. So
11 I mean, I started following Tee in. That's when we went
12 to the breezeway in the apartment complex.

13 **Q** Why were y'all trying to get out in the open?

14 **A** I mean, I was just trying to clear myself. We
15 was out there arguing and he had the gun in his hand. I
16 really didn't want nobody to see us out there like that.

17 **Q** So you stated that Tee started to leave. Then
18 what happened?

19 **A** I followed -- I was following him. I thought
20 he knew where he was going. So we went into the
21 breezeway. He started going down the steps. That's why
22 -- I was following right behind him. Meat was right
23 behind me.

24 **Q** So talking about Tee in front and you in the
25 middle and then Meat is in the back of you?

1 **A** Yes.

2 **Q** Then where did y'all go?

3 **A** I was right there on the stairwell. I was
4 trying to call somebody to come get me. I had tried to
5 call my cousin. I was just trying to call somebody to
6 come get me because of what had just happened.

7 **Q** Now, at that point, I want you to elaborate a
8 little further. What happens after that?

9 **A** After that when I was trying to make the phone
10 call and we was kind of arguing in the hallway still a
11 little bit. That's when I heard, I guess, the police had
12 figured out where the vehicle had went to. That's when I
13 heard the walkie-talkie or whatever.

14 **Q** You heard the walkie-talkie? What type of
15 walkie-talkie did you hear?

16 **A** Like a radio or scanner or whatever, like a
17 police scanner or like a CB or something like that.

18 **Q** Okay. What happened after y'all hear that?

19 **A** After that, that's when everything occurred.

20 **Q** What is "everything occurred"? Please
21 elaborate.

22 **A** Shots started going off.

23 **Q** Did you know who was shooting?

24 **A** Nah. I didn't know who was shooting. I could
25 see what was going on in front of me. Tee was right

1 there in front of me. I was trying to turn around to
2 adjust myself to see if Meat was shooting at us or
3 shooting at me because we was arguing or whatever. So
4 that's when it happened.

5 **Q** What happens after the shooting starts? Did
6 y'all stay there? Did y'all run? What happened?

7 **A** Uh, when I turned around, I seen that Meat was
8 shooting at somebody. I heard the fire being returned or
9 whatever. I was kind of behind him for a second. That's
10 when it happened. For the first time in my life, I got
11 shot.

12 **Q** So you got shot. Where were you shot?

13 **A** In my shoulder.

14 **Q** After you were shot, what happened? Did you
15 run?

16 **A** When I got shot, I went down to the bottom of
17 the stairwell. I was trying to gather myself. I was in
18 a whole lot of pain. I didn't really know how to react
19 to it. I was panicking. I was trying to gather myself.
20 Things stopped for a second.

21 **Q** Okay. Now, you were here when the testimony, I
22 believe, of Dar Shaw and some of the other officers
23 testified that they found some of your stuff, like your
24 wallet and things in a bag down there.

25 **A** Yes, I had my duffle bag with me. When I went

1 down to the bottom of the steps, that's when I dropped my
2 bag right there.

3 Q Why did you drop your bag?

4 A I was shot. I was in a whole lot of pain.

5 Q So after you were shot, you stated there were
6 two parties, somebody looks like they were shooting at
7 each other, what did you do?

8 A When I was at the bottom of the steps, they
9 started shooting again. When they started shooting
10 again, I was just -- I started running for my life
11 because I didn't want to get shot no more. I was afraid
12 of being killed.

13 Q What about Tee? Where did he go?

14 A Tee, I guess Tee had already took off behind
15 the building somewhere. I didn't really see which
16 direction he had went into.

17 Q Where did you run to?

18 A I just ran to a wooded area. I ran towards the
19 woods.

20 Q What happened after you were in the woods? Did
21 you hide? Were you just running?

22 A Yeah. I was in the woods laying down. I was
23 bleeding a whole lot. I was sitting there just laying
24 down praying. I didn't know what was going to happen to
25 me. You know what I'm saying? I didn't really know

1 exactly where I got shot at the time. When I got shot,
2 it just felt like this whole area was -- I don't know.
3 It was just hurting. And shortly after that, I heard
4 somebody coming through the woods. I was trying to hide
5 myself.

6 Q So you were hiding from somebody that was
7 coming through the woods?

8 A Yes. I didn't know who it was that was coming
9 through the woods.

10 Q Did you end up ever seeing that person? Who
11 was that?

12 A Well, it was Lemetrius. I guess he had seen
13 the direction I had went into. So he called my name. He
14 was like Pat. But I ain't answered him the first time.
15 I was still scared. Then he called me again. He was
16 like Pat. I was like yeah, man. He was like you good?
17 And I was like nah, man, I been shot.

18 Q What did y'all do next? Did y'all stay there
19 and talk?

20 A I was just trying to tell them. I was like if
21 you wouldn't never did this, none of this would have ever
22 happened. The only thing you had to do was just pull
23 over for the police. You probably just would have got a
24 ticket or something. She probably would have let you go
25 or something. The officer would have let you go.

1 **Q** At that point in time, what did y'all do?

2 Y'all talked a little bit about the incident. Did y'all
3 stay there any longer? Did y'all leave? Or what have
4 you?

5 **A** Nah, he was like, uh, he had a way for us to
6 leave. I didn't want to go with him. I just wanted to
7 go home. He was telling me he think the officer had seen
8 his face that he had shot at him.

9 **Q** What happened next?

10 **A** I mean, I was trying to call -- I was trying to
11 call for help. He was just standing over me just trying
12 to tell me what I needed to do. He asked me to do
13 something for him. He asked me to keep the gun or
14 whatever because he said the police seen my face. They
15 ain't see you. So he put the gun on me.

16 **Q** You took it?

17 **A** Nah. He put the gun on me. I mean, this is
18 right before I passed out. This is the last thing I
19 remember him saying.

20 **Q** So what happened next? Are you saying that as
21 soon as it happened, you passed out or you seen him leave
22 or what happened?

23 **A** I mean, I can't even recall him leaving. The
24 only thing I know is when I woke up, I was in the woods
25 by myself. I was in there a long time.

1 Q How long had you been there?

2 A I don't know. I know it was daylight before my
3 eyes closed. When I woke up, it was almost dark.

4 Q When you woke up and it was almost dark, what
5 did you do with it?

6 A I got up and gathered myself. I just started
7 heading towards my cousin house. I was trying to go to
8 my cousin's house for some help.

9 Q Now, did you still have the gun?

10 A The gun was on me.

11 Q You didn't try to throw it or get rid of it or
12 nothing?

13 A No, I mean, I wasn't the person that was
14 shooting so I just figured I didn't have to do that.

15 Q So anyway, you woke up. It was almost dark.
16 What did you do?

17 A When I woke up, I started walking towards my
18 cousin house, trying to get to my cousin house for some
19 help. On the way there, that's when I seen Will.

20 Q Okay. So you saw Will. What did you do when
21 you saw Will?

22 A I flagged him down. I said hey, man. I
23 flagged him down. He stopped for me. He was like, man,
24 you alright. I was like nah, I need to get to my
25 cousin's house. I got in. He let me in the car.

1 Q Okay. Did y'all talk about anything else? Did
2 y'all talk about the shooting itself?

3 A He was like -- he was like man -- he was like,
4 man, what's up, man. He was like, uh, they say you shot
5 at a police or shot at some lady. They got you on the
6 news or whatever. I was like, man, I ain't shot at
7 nobody, man. I ain't even want to talk about it no more.
8 I didn't want to say nothing else to him. We didn't talk
9 about that matter anymore.

10 Q So after you were in the car, where did y'all
11 go?

12 A He took me to my cousin Norman's house.

13 Q You went to Norman's house. Did you go in?

14 A Yeah. I was walking up to the door again.
15 That's when Norman's sister came out. She was like I
16 don't need to be there.

17 Q Why do you think she turned you away?

18 A I don't know. I guess from what we was talking
19 about, I guess they had seen the stuff on the news. I
20 guess they left like it was a danger for me to be at the
21 house or something.

22 Q What did you do next?

23 A He was getting ready to pull out of the yard.
24 I flagged him back down. He let me back in again and he
25 took me to his house.

1 **Q** What did y'all do once y'all got to Will's
2 house?

3 **A** Will was like, man, I don't want to see you
4 like that. He let me go to his house or whatever. When
5 I got to my house, I was trying to call people. I ended
6 up getting in contact with my wife. She was at my mom's
7 house. That's when I -- my family was like, man, just
8 turn yourself in cause you ain't did nothing. So just do
9 that for your safety.

10 **Q** At this point, were you going to turn yourself
11 in? I mean, was that a thought in your mind?

12 **A** Yeah. I wanted to turn myself in. I just
13 wanted to talk to my family to make sure I was alright.
14 Because I mean, I had panicked. This my first time ever
15 being in a shootout. I didn't really know what to do.

16 **Q** Okay. Now, when you, uh, -- when you were
17 talking to your family, what happened next? Did the
18 police come? How did that work?

19 **A** I was talking to my wife. I was just trying to
20 get her to come to where I was. So that's when I told
21 Will, I was like, Will, go meet my -- go meet my family
22 so he could bring them to me or whatever. Then I was
23 going to work on turning myself in.

24 **Q** What happened next?

25 **A** I mean, Will got my family and brought my

1 family to me at the house. They came in. I was talking
2 to my wife. My wife and my sister came in. She left
3 back out. They was trying to see if I was alright and
4 everything. And then I wasn't there for about 20 minutes
5 or something. That's when the police came.

6 Q What did y'all when the police came?

7 A When the police came, Will and, I think, his
8 cousin left out first. They called everybody out. My
9 wife came out. Then I came out and surrendered.

10 Q What happened after you did that?

11 A Uh, the officers yanked me up and put me on the
12 stretcher. That's when I went to the hospital.

13 Q Now, do you remember anything at the hospital?
14 Do you remember Detective Conroy or anything like that?

15 A No. The first time I seen Detective Conroy was
16 in the last trial or whatever. In the court day or
17 whatever.

18 Q Now, I have to ask you and I have to ask you
19 point blank, did you shoot at those officers, Officer
20 Lane and Officer Cobb?

21 A No, I did not shoot at Officer Lane or Officer
22 Cobb.

23 MR. JOHNSON: I have nothing further at this
24 time, Your Honor.

25 THE COURT: Mr. Marchant.

1 **MR. MARCHANT:** Please the Court.

2 **THE COURT:** Yes, sir.

3 **CROSS-EXAMINATION**

4 **BY MR. MARCHANT:**

5 **Q** Mr. Lowrance, you're saying you went to Club
6 Swag the night before this happened?

7 **A** Yes, sir.

8 **Q** Your cousin, Mr. Pearson was not with you at
9 Club Swag?

10 **A** No.

11 **Q** But you're saying he was with you when you met
12 this fellow by the name of Lemetrius?

13 **A** Yeah. He was with me but we was separated in
14 the club. We weren't together in the club. When we go
15 to the club sometimes, we break off from each other.

16 **Q** So he never saw this person that you met called
17 Lemetrius at the club?

18 **A** No, he's never met Lemetrius at all. Norman
19 was like I need to chill. He knew I was having problems
20 with my wife or whatever. So he knew I was just trying
21 to hang out and stuff. He was just be aware if you going
22 to hang around. So I didn't want him to think that I
23 wasn't listening to him. They never met each other.

24 **Q** He never met this person you claim was in the
25 vehicle with you by the name of Tee, has he?

1 **A** No.

2 **Q** The night that you were with, uh, Mr. Pringle
3 who is seated back here on the back row, you went out to
4 the car that you were driving which is that SUV. It's a
5 Yukon, right?

6 **A** Yes. He was like come by and let me in the
7 car. I'm like hold up, man. He went on out. That's
8 when I went and got the keys from Meat. Then I came on
9 out. He was just standing outside. That's when he went
10 to the car.

11 **Q** You got in the front. He got in the passenger
12 side?

13 **A** Yeah. Then after that, he just -- he left.

14 **Q** Okay. While you were inside the vehicle, y'all
15 did some cocaine, isn't that true?

16 **MR. JOHNSON:** Judge, -- Judge --

17 **THE WITNESS:** No.

18 **THE COURT:** Can y'all approach?

19 **(WHEREUPON, a bench conference is held off the**
20 **record.)**

21 **THE COURT:** Sustained.

22 **BY MR. MARCHANT:**

23 **Q** So you and he separated?

24 **A** Yes.

25 **Q** You went back inside?

1 **A** Yeah. He just got in his car and left. I went
2 back in the club.

3 **Q** And from there, you claim that you and
4 Lemetrius and Tee go back to the Comfort Inn?

5 **A** Yes.

6 **Q** Did you go anywhere else before you went back
7 to the Comfort Inn besides what you testified to,
8 Godiva's?

9 **A** Yeah. We went -- we went to Swag. We went to
10 Godiva's. And we went to a couple of other pieces --
11 people houses.

12 **Q** Who are these people?

13 **A** I don't know. They was just acquaintances of
14 Lemetrius. I was just with Lemetrius just riding with
15 him.

16 **Q** How far were these people's houses from either
17 Club Swag or Godiva's?

18 **A** I really don't know. I was drug. I was just
19 riding. I don't know my way around Greenville like that.

20 **Q** I'm going to show you what's in evidence as
21 State's 107. I want you to step down for me, if you
22 will, Mr. Lowrance.

23 **A** Yes, sir.

24 (Witness complies.)

25 **Q** You agree with the testimony we've already had

1 that this is the Comfort Inn on Laurens Road?

2 A Yes, sir.

3 Q And that's where you stayed that evening?

4 A Yes, sir.

5 Q And the room that you rented was up here on the
6 fourth floor, number 4█?

7 A Yes, sir.

8 Q And that room looks out towards the pool area?

9 A Yes, sir.

10 Q And the vehicle that y'all were in that day,
11 the Yukon, the next morning on the 28th, it was parked
12 over here?

13 A It was parked over here.

14 Q I want you to show on the map and I want you to
15 indicate, if you remember, where you claim you walked out
16 of the Comfort Inn that day with Tee.

17 A Uh, you come in from right here. (Pointing.)

18 Coming out right here, it's like a little side
19 door. You can come right here and make this left and
20 come out through the side door right here.

21 Q If you would for me, please, sir, put your
22 initials where you believe the door to be.

23 A (Drawing.)

24 Q And you would agree with me that this door that
25 you are talking about, it does not go through the lobby

1 area?

2 **A** No, it's right before you, uh, get to the
3 lobby.

4 **Q** So the lobby area is here?

5 **A** Yeah. You come pass the lobby. You can make
6 an immediate right and go down that hall and go outside.

7 **Q** And you seen the photographs of the lobby
8 area ---

9 **A** Yes, I have.

10 **Q** --- where the continental breakfast area is?

11 **A** Yes.

12 **Q** And then there's a window that looks out into
13 the parking lot this way, correct?

14 **A** Yes, sir.

15 **Q** Okay. Please have a seat.

16 **A** (Witness complies.)

17 **Q** Back up chronologically in time briefly. You
18 were with Mr. Pearson before you and Lemetrius and Tee
19 went to -- what was the name of the club again?

20 **A** Swag.

21 **Q** Swag. You were with Mr. Pearson earlier in the
22 evening the day before this happened?

23 **A** Yeah. We was just around the house or just
24 hanging out.

25 **Q** And the photographs that they've seen and we've

1 been showing, that silver Yukon, you were driving it that
2 day?

3 **A** On the 27th?

4 **Q** Yes, sir.

5 **A** Yes, sir.

6 **Q** And you went to Mr. Pearson's house by
7 yourself?

8 **A** Yes, sir.

9 **Q** Mr. Pearson got in the car with you?

10 **A** Yeah, he got -- him and his uncle, we, uh, --
11 we went to the store.

12 **Q** And you heard Mr. Pearson's testimony about
13 seeing the gun on the console?

14 **A** Yeah. He said he seen the gun on the console.
15 But I mean, if it was a gun on the console, I would have
16 been aware that there was a gun to my immediate right on
17 the console.

18 **Q** Mr. Pearson is not quite blood to you but he's
19 like a cousin to you. Isn't that correct?

20 **A** Yeah. We grew up -- he knew me since I was
21 small. His mom knows my mama. We all go over to each
22 other house for Sunday dinner and stuff like that.

23 **Q** Good relationship with him?

24 **A** Yes, sir.

25 **Q** So you leave the Comfort Inn and you say you go

1 to a number of places, residences house that you are not
2 familiar with. Eventually, you end up back at the
3 Comfort Inn?

4 **A** Yes, sir.

5 **Q** And you were in the room that you rented?

6 **A** Yes, sir.

7 **Q** And the room that you rented, you were staying
8 by yourself in that room, isn't that correct?

9 **A** Yeah. I rented it, uh, by myself. But I mean,
10 I wasn't in the room by myself. Me, Tee and several
11 other people were in and out of the room. We had a party
12 that night.

13 **Q** These other people come from Swag or the houses
14 you went to?

15 **A** They come from different places.

16 **Q** Mr. Lowrance, I need you to elaborate on that
17 for me. You say different places. We talking
18 Greenville? We talking Spartanburg? Columbia?

19 **A** Nah. I mean, people that we were associating
20 with, you know what I'm saying, we was telling them we
21 was having a little get together. That's the places they
22 came from.

23 **Q** You don't know where they came from?

24 **A** I can't -- I can't distinctly say I know where
25 this individual right here came from. I know where this

1 individual right here came from.

2 Q They didn't come from the club with you?

3 A Some of them may have come from the club.

4 Q May have. You admit to being up all night,
5 smoking weed and drinking and you basically had a party
6 in the room is what you testified to, is that correct?

7 A Yeah. I mean, that --

8 Q You wake up the next morning and you're telling
9 this jury it's you, this fellow by the name of Lemetrius
10 and Tee?

11 A Yes, sir.

12 Q And the only description you can give of Tee is
13 that he's a little shorter than Lemetrius and he's
14 caramel or honey brown?

15 A Meat a lil -- Meat kind of built, you know what
16 I'm saying. Tee just --

17 Q I'm asking you about Tee, sir. The description
18 you gave to Mr. Johnson was a little shorter than
19 Lemetrius.

20 A Yeah, a little shorter than Meat. He's like a
21 caramel or honey brown. And he's kind of -- he's got a
22 little weight on him.

23 Q And you claim Lemetrius is taller than you,
24 heavier than you and you claim that he's got long hair?

25 A Yes, sir.

1 Q And it's your testimony that it was his car,
2 not yours?

3 A Yes, sir.

4 Q And did you know that the car was stolen?

5 A No, sir. I found out the car was stolen once I
6 was in custody. I thought that the car was fine. I
7 mean, we would be going to the mall, driving everywhere
8 in the car.

9 Q But you have, in fact, been convicted of being
10 in possession of a stolen vehicle?

11 A The last trial I was in. Other than that, I
12 had never been convicted of it.

13 Q But you would admit to this jury and this court
14 that you were convicted?

15 A Of what?

16 Q Yes or no. Convicted of possession of that
17 stolen vehicle.

18 A Yeah. In the last trial, they found me guilty
19 of being in possession of a stolen vehicle of the day
20 prior to the incident.

21 Q This fellow, Lemetrius, you are indicating to
22 this jury that he let you drive it whenever you wanted?

23 A He wouldn't let me drive it all the time.
24 Whenever I asked could I get together with him, whenever
25 he had time, he would let me.

1 **Q** Whenever you needed it, he let you roll around?

2 **A** Whenever I could get in touch with him and call
3 him and talk to him, he would let me drive it.

4 **Q** The morning you claim you were with him and
5 Tee, you and Tee leave out the side entrance that you've
6 indicated at the Comfort Inn?

7 **A** Yes, sir.

8 **Q** You get in the vehicle. You get in the front
9 seat or the back seat?

10 **A** Me and Tee was sitting in the back seat.

11 **Q** What side of the vehicle were you sitting on in
12 the back seat?

13 **A** I was sitting -- it would be the left side
14 because I was sitting behind Meat.

15 **Q** Behind the driver?

16 **A** Yes, sir.

17 **Q** And Mr., uh, -- what's his last name?
18 Lemetrius?

19 **A** I don't know his last name. I just know him by
20 Meat. The only reason I know Lemetrius is because I
21 heard a female calling him one time.

22 **Q** So Meat is going to take you to -- what's her
23 name's house?

24 **A** A friend girl of mine's house. Her name is
25 Laila.

1 **Q** Okay. And you've heard the testimony from the
2 officer. And you've seen the vehicle that that car chase
3 of Officer Cruell's is time stamped at 9:30 or 9:31 in
4 the morning.

5 **A** Yes, sir.

6 **Q** You agree that that was the time of the morning
7 that y'all left?

8 **A** I don't really recall the time. I mean, if
9 it's on record, I'll know by that, just by what's been
10 said in the courtroom. But that morning, it wasn't like
11 it was nine o'clock and I got to be somewhere, like that.

12 **Q** Were you still intoxicated from the evening
13 before?

14 **A** I was still a little, a little woozy or
15 whatever.

16 **Q** When is the last time you smoked marijuana on
17 the day of this incident? You said y'all were up
18 partying until like 4:00 or 5:00 in the morning?

19 **A** That night?

20 **Q** You didn't smoke any that morning?

21 **A** Uh, when I got up.

22 **Q** So you smoked a joint of some marijuana when
23 you woke up in the morning?

24 **A** Yeah. We was smoking all that night.

25 **Q** When you get in the car, you get in the back

1 seat behind Meat?

2 **A** Yes, sir.

3 **Q** You get on 85 to go to your friend Laila's
4 house?

5 **A** Yeah, that's where he was going to take me to.

6 **Q** Where does she live?

7 **A** She live near my cousin. I don't know the name
8 of the neighborhood or nothing. I just know she lives
9 near my cousin.

10 **Q** She lives near Norman?

11 **A** Yes, sir.

12 **Q** You talking about that cousin?

13 **A** It's a, uh, -- you get off on Augusta Road to
14 go to my cousin's house. You past the -- you turn right
15 there at Pandora's box. She lives over in that area.

16 **Q** The cousin you are referring to, I'm asking
17 you, is Norman Pearson?

18 **A** Yes, sir. Norman Pearson.

19 **Q** That area of town. I'm going to show you
20 State's 66, which is Detective Flavell described a
21 Quality Inn motel receipt from -- it's dated 9/25. There
22 was a female listed on that receipt. Is that the same
23 person you are talking about?

24 **A** No. That's not the same -- that's not the same
25 person I'm talking about. The person I'm talking about

1 is Laila.

2 **Q** Laila. Okay. So the person on that receipt
3 that was found on the hotel room that you rented in your
4 duffle bag, who is that?

5 **A** It's a different female that I had dealings
6 with.

7 **Q** She white, black, Hispanic?

8 **A** Uh, she's like Colombian or something. I don't
9 know.

10 **Q** So you are in the car. You're telling this
11 jury you're getting on 85 because Meat's taking you up to
12 -- over back towards your cousin's house. The police get
13 behind you?

14 **A** Yes, sir.

15 **Q** You see the blue lights?

16 **A** The lights -- I seen when the lights came on.

17 **Q** How did you see the lights?

18 **A** The screen was down. The lights from the
19 police car was reflecting off the screen. I turned
20 around. That's when I knew the police was behind us.

21 **Q** Let me make sure I'm clear. You're sitting in
22 the back left passenger seat.

23 **A** Yes, sir.

24 **Q** The lights turn on because the DVD player is
25 down.

1 **A** I mean, it's so tinted back there. Once the
2 lights came on --

3 **Q** You saw the lights because they were flashing
4 in the DVD player?

5 **A** I mean any time, like, a police car has ever
6 pulled me over, I been pulled over for speeding, you know
7 when the lights come on. They are bright.

8 **Q** There's no question that the police were behind
9 you and were signaling the vehicle to stop?

10 **A** Yeah.

11 **Q** No question?

12 **A** Yeah, it's no question. I just thought the
13 police might have been pulling him over for maybe
14 speeding or something like that.

15 **Q** So you are sitting in the back seat. You
16 turned around in your chair and look out the back window?

17 **A** I just took a glance. It wasn't like I turned
18 around and stayed around or nothing like that.

19 **Q** Tee and Lemetrius recognized that there was
20 lights on behind them?

21 **A** Yeah.

22 **Q** They turned around and looked as well?

23 **A** Me and Tee was like, hey, man, the police
24 behind you.

25 **Q** Tee turned around and looked as well?

1 **A** Yeah.

2 **Q** So you claim Meat punches it and y'all go up
3 85. You get off on Mauldin Road and head over at
4 Berkeley Pointe?

5 **A** Yes, sir.

6 **MR. MARCHANT:** Your Honor, may we approach
7 briefly?

8 **THE COURT:** Yes.

9 (WHEREUPON, a bench conference is held off the
10 record.)

11 **BY MR. MARCHANT:**

12 **Q** So you get off on Mauldin Road and go to
13 Berkeley Pointe. You never been in this area of town
14 before?

15 **A** No, sir.

16 **Q** You don't know anything about it?

17 **A** No, sir.

18 **Q** Showing you what's in evidence as State's 106.
19 Can you see this, Mr. Lowrance?

20 **A** No, I can't see it.

21 **Q** Come on and step down.

22 **A** (Witness complies.)

23 **Q** Showing you what's in evidence as State's 106.
24 You seen the other photograph. You're parked up here.

25 **A** Yes, sir.

1 Q Okay. And you get out of the car and you take
2 what's been shown in all those photographs of the clothes
3 at the bottom of the stairwell, that's all your stuff, is
4 that right?

5 A The stuff was in the duffle bag.

6 Q Just to be clear, we're talking about State's
7 105. Everything in this bag is what was found at the
8 bottom of the stairs. That's been the testimony of
9 Sergeant Shaw. All this stuff is yours?

10 A Yes, sir.

11 Q Is that right?

12 A Yes, sir.

13 Q None of this is Lemetrius' and none of it is
14 Tee's?

15 A No, sir.

16 Q All right. Take the stand again.

17 A (Witness complies.)

18 Q You carried all of that stuff in one trip from
19 the car?

20 A Yeah. I had it. It was packed down in my
21 duffle bag.

22 Q All that stuff was in the duffle bag that was
23 in the box?

24 A That was in the bag that I had.

25 Q These are your papers, right?

1 **A** Yes, sir.

2 **Q** We haven't opened this. But this has indicated
3 this is a gray hooded sweatshirt that was found down at
4 the bottom of the stairs. Got one brown jacket. This is
5 yours, right?

6 **A** Yes, sir.

7 **Q** Another gray hooded sweatshirt.

8 **A** Yeah, I mean everything in the box is mine.

9 **Q** I just want to be clear. Pair of blue jeans?

10 **A** Yes, sir.

11 **Q** Dress shirt?

12 **A** Yes, sir.

13 **Q** Black t-shirt?

14 **A** Yes, sir.

15 **Q** Blue t-shirt?

16 **A** Yes, sir.

17 **Q** Pair of Polo boots?

18 **A** Yes, sir.

19 **Q** Pair of Nike's?

20 **A** Yes, sir.

21 **Q** Several adult DVDs?

22 **A** Yes, sir.

23 **MR. JOHNSON:** Your Honor, where are we going
24 with this?

25 **THE COURT:** I'm going to allow him to

1 continue.

2 **BY MR. MARCHANT:**

3 **Q** Various CDs, DVDs?

4 **A** Yes, sir.

5 **Q** GPS?

6 **A** Yes, sir.

7 **Q** Black stocking cap?

8 **A** I don't recall that being mine.

9 **Q** Looks like, uh, a men's wallet.

10 **A** Yeah, that's my wallet.

11 **Q** That's where your Social Security card and
12 birth certificate came out of, correct?

13 **A** Yeah, that's where y'all took it out of.

14 **Q** Cell phone charger, watch, cigarettes, lotion,
15 what I would describe as a cell phone clip?

16 **A** Yes, sir.

17 **Q** More lotion, toothbrush, hairbrush.

18 **A** Yes, sir.

19 **Q** All right. Okay. And 1, 2, 3, 4, 5 black hair
20 -- air tree fresheners.

21 **A** Yeah, that wasn't in my bag though.

22 **Q** All right. You say these weren't in your bag?

23 **A** No, I don't recall them being in my bag.

24 **Q** You say this wasn't in your bag?

25 **A** I don't recall that.

1 Q All of this other stuff fit in this bag?

2 A Yeah. I put the shoes in and just laid the
3 other stuff on top of it.

4 Q So you claim that Tee is in front of you
5 walking down the stairs --

6 A Yes, sir.

7 Q -- the breezeway of [REDACTED]?

8 A Yes, sir.

9 Q Tee's in front. You're in the middle.
10 Lemetrius is behind you?

11 A Yes, sir.

12 Q Y'all argued?

13 A Yes, sir.

14 Q You're arguing because you claim Lemetrius
15 wouldn't stop for the police?

16 A No. We was just trying to tell him the only
17 thing we had to do is just pull over. At the time, we
18 didn't know nothing was wrong.

19 Q So the three -- you claim the three of you were
20 arguing?

21 A Yes, sir.

22 Q And you hear the walkie-talkie chirp?

23 A No, I heard -- I just heard somebody talking on
24 the radio.

25 Q So you heard somebody talking on the radio?

1 **A** Yes, sir. I heard the radio talk.

2 **Q** And you saw Officer Cobb?

3 **A** No, I never seen her. The first time I ever
4 seen her was in the first trial when she came to court
5 the first day. That's the first time I ever seen her.

6 **Q** So y'all are arguing. You're on the steps in
7 between Lemetrius that you claim is carrying this?

8 **A** Yes, sir.

9 **Q** And you telling this jury that he shot first or
10 the officer shot first?

11 **A** I don't know who shot first. Only thing I know
12 is shots start being fired.

13 **Q** Who shot you?

14 **A** I don't know who shot me. I mean, I don't know
15 if Lemetrius shot me or whoever he was shooting shot me.
16 I don't know who shot me. To this day, I don't know who
17 shot me.

18 **Q** But you were shot on the stairs?

19 **A** Yes, sir.

20 **Q** Then you testified that you took all of this
21 stuff, which you claim was in this bag down to the
22 landing area?

23 **A** Yes, sir. I had it on my side. I had this
24 stuff laid up on my side. When I got shot, I went down
25 to the bottom of the steps and was trying to gather

1 myself.

2 Q Let's talk about you being shot. You obviously
3 went to the hospital later that evening?

4 A Yes, I went to the hospital.

5 Q And the bullet is still in your arm?

6 A Yes, sir.

7 Q Now, you get shot. You continuing to argue
8 with Tee and Meat?

9 A Not once I had got shot. Before I got shot, --
10 I mean, before I got shot, we was on the stairwell, you
11 know, trying to see what was really going on. That's
12 when the radio and all this -- I mean, everything just
13 turned in to pandemonium. It went crazy real fast.

14 Q And you claim that Tee leaves out the back
15 first?

16 A Yes, sir.

17 Q And then you leave after him, but you don't
18 know --

19 A After the shots kept being fired, that's when I
20 started running. While they were still shooting.

21 Q And Lemetrius was still in that area when you
22 left out of that breezeway?

23 A Yes, sir. When I left out of the breezeway, I
24 guess he must have seen which way I went. He just came
25 in the woods and started calling my name.

1 **Q** So how far did you run out in the woods?

2 **A** I really can't remember. I was in a lot of
3 pain, man.

4 **Q** You told several friends and relatives that you
5 were behind Berkeley Pointe.

6 **A** I didn't tell them -- the only thing I knew was
7 I went into the woods. I didn't even know where we were
8 at the time.

9 **Q** You didn't know that you had pulled into
10 Berkeley Pointe Apartments?

11 **A** No. I never been to Berkeley Pointe.

12 **Q** Mr. Lowrance, you keep talking about your prior
13 testimony. I'm going to show you, uh, two pages and I'm
14 going to ask you to read this to yourself for a minute.
15 This is the examination last time. Starting here with
16 this question and the answer there.

17 **A** (Reading.)

18 **Q** I'm going to ask you again, Mr. Lowrance, did
19 you know where you were going?

20 **A** The reason I knew it was Berkeley Pointe was
21 because of everything that had happened.

22 **Q** So you run out the back and you start making
23 phone calls?

24 **A** Yes, sir.

25 **Q** The first person you called is Norman, isn't

1 that right?

2 **A** Yes, sir.

3 **Q** And you called him from your cell phone.

4 **A** Yes, sir.

5 **Q** Your cell phone number is [REDACTED]-4086?

6 **A** Yes, sir.

7 **Q** And that cell phone is actually registered to
8 your mother-in-law, is that correct?

9 **A** Yes, sir.

10 **Q** And what's her name?

11 **A** Alyssa McCollough.

12 **Q** So you call Norman. Did you get him?

13 **A** Uh, just for -- just for a second.

14 **Q** You start calling his girlfriend Marlene, isn't
15 that right?

16 **A** Uh, yes, sir.

17 **Q** You called her a total of 19 times that day,
18 isn't that correct?

19 **A** I don't recall the number of times I called
20 her.

21 **MR. CRANGLE:** Your Honor, may we approach?

22 **THE COURT:** Yeah. Well -- yes.

23 Mr. Johnson, are you the one to argue it since
24 you've been the one questioning?

25 **MR. JOHNSON:** Uh, okay. Give me one second.