

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Honorable Brian M. Gibbons, Circuit Court Judge

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Oct 14 2020

S.C. SUPREME COURT

GERALD BERNARD HALTIWANGER, JR,
PETITIONER

V.

STATE OF SOUTH CAROLINA,
RESPONDENT

APPELLATE CASE NO 2020-000361

APPENDIX

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SATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIFTH JUDICIAL CIRCUIT
 COUNTY OF RICHLAND) CASE NO.: 2012-GS-40-5298

STATE OF SOUTH CAROLINA)
)
 vs.) TRANSCRIPT OF RECORD
) DAY 1
 GERALD BERNARD HALTIWANGER) (1 - 198)

NOVEMBER 12, 2013
 COLUMBIA, SC

BEFORE THE HONORABLE DIANE GOODSTEIN

APPEARANCES:

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 COLUMBIA, SOUTH CAROLINA

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 16TH Circuit Court Reporter

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1 (EXHIBITS PRE-MARKED BY MS. CAMPBELL FOR
2 IDENTIFICATION.)

3 THE COURT - Now, I need -- let me ask this
4 question. Has the defense read the indictment, because --
5 and unless you object, I will read it exactly as it's
6 written.

7 MS. CAMPBELL - Your Honor, we did agree to an
8 amendment on the indictment. The verbiage that's right up
9 in his name that says other co-defendant it refers to other
10 defendants and other co-defendants, we would just ask that
11 that be stricken from the ---

12 THE COURT - Will y'all do that, get together and
13 do that for me? That way I will know that it'll be like
14 you all want it. And is that right?

15 MR. SAWYER - Yes, Judge.

16 THE COURT - Okay, great. And with regards to
17 additional voir dire, is there any additional voir dire?

18 MS. CAMPBELL - The other thing we would ask, Your
19 Honor, is to make a couple of them reciprocal and some of
20 them I think are included in your standard ---

21 THE COURT - Yes. And do I have them?

22 MR. SAWYER - Your Honor, did we give you a copy?

23 THE COURT - I don't think so.

24 MR. SAWYER - I'm going to give you up a list.

1 MS. CAMPBELL - Your Honor, we've initialed the --
2 just marked through the language ---

3 THE COURT - Would you ask the defendant to do
4 that for me, too, please. And give him time to read, too.
5 Don't rush him. (Pause) And just so our record is very
6 clear, that doesn't -- his initials mean nothing more than
7 he consents to the alteration of that language and that's
8 it. All right. Let me tell you, with regards to number 5,
9 let me just tell you that I am not going to say the victim
10 of a violent crime. I'm going to say a victim of a crime,
11 and let me explain to you why actually. I was trying an
12 armed robbery case in another county and as the jury was
13 deliberating, the presiding juror actually came out and
14 said that they had a juror who had been the victim of an
15 armed robbery, and I brought the juror in and my question
16 to the juror was, did you not hear me ask if you had been
17 the victim of a violent crime. Her response to me was, it
18 wasn't violent. You know, it wasn't violent. I didn't get
19 hurt; I didn't get shot; it wasn't violent. So I learned
20 from that experience that what we mean does not necessarily
21 translate to the juror, so I'll just say crime instead of
22 violent crime, because then I'm into somebody's head and
23 their own personal definition to that. And -- yes?

1 MS. CAMPBELL - Could you do the same for number 6
2 then? Instead of saying convicted of a felony, say
3 convicted of a crime?

4 THE COURT - Yes. Oh, yes, because I don't -- I
5 don't know that anyone would know the difference. Okay.
6 Now, -- now, strikes, of course, ten, five; ten for the
7 defense, five for the State. And let's do three
8 alternates. Okay, of course, two and one; two for the
9 defense, and one for the State on the alternates. Do we
10 have enough people up here to do that? It's like a math
11 problem.

12 DEPUTY - We're going to have 45 coming up.

13 THE COURT - Okay. Great. All right, anything
14 else before we bring the jury in?

15 MS. CAMPBELL - The only thing I would ask, Your
16 Honor, in response to number 3, Your Honor, asking me about
17 groups with the promotion of law enforcement, we would just
18 also ask that you ask about any groups that work for
19 Prisoner's Rights and/or things such as the Innocence
20 Project.

21 THE COURT - And that would be -- I've got it.

22 MS. CAMPBELL - And I believe just several others
23 of these are also included I believe in your general
24 remarks.

1 THE COURT - Yes, Innocence Project and you had
2 another name.

3 MS. CAMPBELL - Prisoner's Rights -- The Innocence
4 Project is one -- it's a -- not Prisoner's Rights but they
5 are all Prisoner's Rights ---

6 THE COURT - Got it. Got it.

7 MS. CAMPBELL - Thank you, ma'am.

8 THE COURT - Got it. Will do. Now, let me just
9 share with defense counsel, I do not refer to you as the
10 public defender. If y'all choose to do it, you choose to
11 do it. I don't do it that way. I'll let you do it that
12 way, so you choose to handle it however you choose to
13 handle it. It is my practice just to refer to you as
14 counsel, anytime the -- the lawyers in your office is what
15 I'm going to -- is the way I handle it. However you refer
16 to yourselves, you refer to yourself. So I just share that
17 with you so you know that in advance. All right. Yes?

18 MS. CAMPBELL - Could you give us just one second
19 to get the list of lawyers from our office. We forgot to
20 bring it down. I apologize.

21 THE COURT - It's like a test. And you do know by
22 the time you get back downstairs, the person whose name you
23 didn't mention, they could know. Yes.

24 (Discussion is held regarding parties in the
25 courtroom receiving 403's.)

1 THE COURT - Okay. Then I think we can bring the
2 jury in. Ask them to come on down. (Pause)

3 (Jury enters the courtroom)

4 BAILIFF - Jury is seated, Your Honor.

5 THE COURT - Thank you so much. Well, good
6 morning, ladies and gentlemen. Are we still morning? Oh,
7 good afternoon, ladies and gentlemen. I'm Diane Goodstein,
8 and I actually am a Resident Judge from the 1st Judicial
9 Circuit. You all live in the 5th Judicial Circuit, and
10 because I'm a Circuit Judge, not only do I ride, if you
11 will, my circuit, which is Dorchester County, Orangeburg
12 County and Calhoun counties, but I also have the marvelous
13 opportunity to rotate around the State, and this week our
14 Chief Justice, Chief Justice Toal, has assigned me to this
15 term of General Sessions here in the 5th Circuit in Richland
16 Circuit, so I am so excited to be here in Richland County
17 with you this week. And, ladies and gentlemen, I want to
18 thank each and every one of you for being here this week.
19 In the United States we are a citizen-based judicial
20 circuit or judicial system, and quite frankly if you all
21 were not here, there would be no reason for any of us to be
22 here, so I am so grateful for each and every tick of the
23 clock that you are giving to us, and I promise you that we
24 will use no more of it than is absolutely necessary. And,
25 ladies and gentlemen, I want to give you an overview about

1 how we're going to be proceeding. Our task is to select a
2 jury for our first case for trial this week, and in just a
3 moment I'm going to call on our Solicitor's office to call
4 our first case for trial this week, but before we do that I
5 do want to give you just a little bit of information,
6 little bit of an overview. In just a moment I'm going to
7 call on the Solicitor and I want to tell you that a
8 Solicitor in South Carolina is a District Attorney or the
9 State's Attorney in every other State in the United States.
10 I think we are unique in that we call our prosecutors
11 Solicitor, just sort of trivia for you to know and sort of
12 a bit of interest for you to know. Our prosecutors are
13 called Solicitors. Just in a moment I'm going to call on
14 our Solicitor to call our first case for trial, and then
15 I'm going to read for you some of the allegations in the
16 Indictment, and the reason that I'm going to be doing that
17 is to find out whether or not any of you know or think you
18 may know or have heard or think you may have heard anything
19 about the matter, and I'm going to define for you what an
20 Indictment is and what it is not. And then I'm going to
21 introduce you to some folks, and then I'm going to ask you
22 some additional questions, and then, ladies and gentlemen,
23 we are going to select our jury for our first case for
24 trial this week. Now, ladies and gentlemen, as a part of
25 the jury qualification process I'm going to administer an

1 oath to you, so I'm going to ask you to please stand and
2 raise your right hand for me at this time.

3 (Whereupon, the Court administers the oath to the
4 jury panel)

5 THE COURT - If there's anyone who failed to take
6 the oath, I'm going to ask you to please stand.

7 (No response)

8 THE COURT - And I find no one standing. Now,
9 ladies and gentlemen, I'm going to call on our Solicitor's
10 office to please call our first case for trial this week.
11 Ms. Campbell?

12 MS. CAMPBELL - Thank you. Your Honor, it's the
13 State vs. Gerald Bernard Haltiwanger. He's charged with
14 Indictment Number 2012-GS-40-05298 with the offense of
15 murder.

16 THE COURT - Thank you for that, Ms. Campbell.
17 Ladies and gentlemen, now, let me tell you what an
18 indictment is and what it is not. Ladies and gentlemen, an
19 indictment, first of all, it's a piece of paper. It is a
20 document. It is a notice document. It is a document that
21 is used by the State of South Carolina to give notice to a
22 citizen that the State alleges that that citizen has
23 violated one or more of the criminal laws of the State of
24 South Carolina. It's a notice document. Now, let me tell
25 you what an indictment is not. It is not evidence of any

1 of the allegations that it contains. It is a notice
2 document. Now, why would I be reading to you some of the
3 allegations in the indictment? Well, just as I said, to
4 find out whether or not any of you know or think you may
5 know or have you heard or think you may have heard anything
6 about this particular matter. Now, I'm going to be doing
7 that in just a moment. Then I'm going to be asking you
8 this question. Are you related by blood or marriage or
9 acquainted with individuals, and I'm going to ask you about
10 a number of different individuals, and I need to define the
11 term acquainted with for you, because I intentionally have
12 adopted and mean a very, very general definition of the
13 term acquainted with. The reason that I have that very
14 general definition of the term acquainted with is that I'm
15 trying to find out if you have any connection with these
16 folks that I'll be asking you about, whether you had an
17 connection at all. Let me give you a couple of examples.
18 I may ask you are you related by blood or marriage or
19 acquainted with Mr. John Doe, and you know that 20 years
20 ago you went to kindergarten with John Doe, and you haven't
21 seen John Doe, nor have you thought about John Doe in 20
22 years. However, you know you went to school with John Doe,
23 so you would stand and say, I went to school with John Doe
24 20 years ago, I know John Doe. Again, I'm trying to find
25 out if you have any connection with these individuals at

1 all. You may simply work at the same location with
2 someone's name that I'll ask you about, John Doe. You work
3 at the same location, maybe you wave at each other across
4 the parking lot occasionally and that's the extent of your
5 relationship. Well, believe it or not, that relationship,
6 as limited as it is, would be encompassed within my
7 definition of acquainted with. Again, trying to find out
8 if you have any connection with these folks that I'll be
9 asking you about. Now, a good rule of thumb, if you will,
10 is if you are contemplating whether or not you need to
11 stand and disclose, you need to stand and disclose. That's
12 a good rule of thumb, just stand and disclose, and then if
13 I need to ask you additional questions, then I will do that
14 at that point. Now, ladies and gentlemen, in just a moment
15 I'm going to be reading to you some of the allegations of
16 the indictment. I want to hasten and tell you, to these
17 allegations -- to these allegations, Mr. Haltiwanger has
18 pled not guilty. What that does is that places the burden
19 of proof on the State to prove each and every allegation
20 beyond a reasonable doubt. Those of you that serve on the
21 jury, we will talk about that quite a bit more, but I want
22 -- on the other side of reading to you these allegations,
23 some of these allegations, my question to you is going to
24 be, do any of you know or think you may know or have you
25 heard or think you may have heard, to include today,

1 anything about these allegations. That's going to be my
2 question to you on the other side of reading to you some of
3 these allegations. Ladies and gentlemen, this indictment
4 reads -- Indictment Number 2012-GS-40-05298, alleges in
5 part, that Gerald Bernard Haltiwanger, Jr. did in Richland
6 County on or about August the 25th, 2012, willfully,
7 feloniously and intentionally kill the victim, Jimmy Moti,
8 M-O-T-I, with malice aforethought, either express or
9 implied by means of a gunshot wound, and the victim did die
10 as a proximate result thereof in violation in the section,
11 the code section 16-310 of the South Carolina Code of Laws
12 as amended. Ladies and gentlemen, do any of you know or
13 think you may know or have you heard or think you may have
14 heard to include today anything about these allegations to
15 which -- and let me hasten to say Mr. Haltiwanger has pled
16 not guilty? If so, please stand at this time.

17 (No response)

18 THE COURT-- And I find no one standing. Now,
19 ladies and gentlemen, please allow me to introduce you to
20 the members of the Solicitor's office who will be involved
21 in this matter. Let me introduce you first to Ms. Luck
22 Campbell, also Solicitor Meghan Walker and Solicitor Sandra
23 Vriesinga. And I'm so interested to know whose task it
24 will be to introduce for our jurors the other members of
25 the solicitor's office. I wandered.

1 MS. WALKER - Your Honor.

2 THE COURT - Yes.

3 MS. WALKER - Thank you, Your Honor. Dan Johnson,
4 Britton All, Brent Arant, Kristen Bales, William Bilton,
5 Margaret Bodman, Richard Cathcart, Kathryn Cavanaugh,
6 Daniel Coble, John Conrad, Kendall Corley, Vance Eaton,
7 Paulette Edwards, Molly Flynn, Dolly Garfield --

8 THE COURT - Oops, got to slow down just a little
9 bit.

10 MS. WALKER - I apologize.

11 THE COURT - That's okay.

12 MS. WALKER - Jessica Godwin, Dan Goldberg, Josh
13 Golson, Bryant Hersh, Curtis Hutchinson, Ivy Justice,
14 Foster Matthews, Joanna McDuffie, Jennifer McKellar, Hans
15 Pauling, Brett Perry, Carter Potts, April Sampson, Jeremiah
16 Shellenburg, Joseph Shenkar, Nicole Simpson, Anne Spears,
17 John Steadman and Saquisha Tobin.

18 THE COURT - Ladies and gentlemen, my question to
19 you is, are you related by blood or marriage or acquainted
20 with any of the individuals whose names were just mentioned
21 or if you need me to ask that they be read to you again.
22 I'll be happy to do that. I need you to stand.

23 (JUROR STANDS)

24 THE COURT - Yes. And tell me your number.

25 JUROR - I am 306.

1 THE COURT - 306? Yes. Who do you know or do you
2 need me to read the list again?

3 JUROR - I know Kendall Corley and I believe I
4 know Luck Campbell.

5 THE COURT - All right, now, would you describe
6 your relation -- well, let me ask it this way. Do you
7 visit in each other's homes?

8 JUROR - No.

9 THE COURT - And would you describe your
10 relationship as one that is more personal or professional?
11 And I really need you to just respond that way rather than
12 giving me an explanation. There's a reason for it.

13 JUROR - Okay, personal.

14 THE COURT - Personal? All right, and would you
15 describe your relationship as one that is more of an
16 acquaintanceship or a friendship? And designate on each --
17 with each. For example, Solicitor Campbell, is it a
18 acquaintance or friendship?

19 JUROR - An acquaintanceship.

20 THE COURT - Acquaintanceship. All right, and the
21 other person that you knew was?

22 JUROR - Kendall Corley.

23 THE COURT - All right.

24 JUROR - I would say more of a friendship.

1 THE COURT - More of a friendship. It is my
2 understanding that Solicitor Corley will not be involved in
3 this case. Is that correct?

4 MS. WALKER - Yes, Your Honor, that's correct.

5 THE COURT - All right, very well. Now, as a
6 result of your relationships just as you have described
7 them, either individually or together, might they, could
8 they in any respect interfere with your ability to be
9 completely fair and impartial both to the State as well as
10 to Mr. Haltiwanger?

11 JUROR - I feel I can be fair.

12 THE COURT - Can you set those relationships
13 completely aside, make up your mind based upon what you
14 hear in Court while Court is in sessions?

15 JUROR - Yes, ma'am. And I may know another
16 person on the list. Not know but more of an acquaintance,
17 not ---

18 THE COURT - And do you remember the name?

19 JUROR - Mr. Coble.

20 THE COURT - Mr. Coble.

21 JUROR - I mean I don't know ---

22 THE COURT - That's an acquaintanceship. The same
23 question. As a result of that acquaintanceship, either
24 separately or together, might that interfere with your
25 ability to be completely fair and impartial?

1 JUROR - No, ma'am.

2 THE COURT - Thank you. Please stay with us.

3 Anyone else?

4 (JUROR STANDS)

5 THE COURT - Yes, sir. Tell me your number.

6 JUROR - Number 9.

7 THE COURT - Yes, sir. Tell me who you know.

8 JUROR - I know Dan Goldberg, Dolly Garfield. I
9 think there was at least one other on that list that I know
10 as well. I'm an attorney, so I know some of them just in a
11 professional circumstance.

12 THE COURT - All right. Very well. If we have the
13 list, can we just pass the list so maybe he can review it
14 and get the other name. You do not think it was Ms.
15 Campbell or Ms. Walker ---

16 JUROR - It's none of the Solicitors seated at the
17 table right here.

18 THE COURT - None of the Solicitors here? If you
19 would like to look at the list, because I need to have the
20 name of the other Solicitor who you think you know.

21 JUROR - Richard Cathcart, Kendall Corley as well,
22 and ---

23 THE COURT - All right.

24 JUROR - -- and I said Dolly Garfield and Dan
25 Goldberg and that -- that's it.

1 THE COURT - Now, is there -- would you describe
2 your relationships as -- first of all I'll say professional
3 or personal?

4 JUROR - A little bit of both for some of them.

5 THE COURT - All right.

6 JUROR - Kendal Corley, I rarely ever see her but
7 actually went to her wedding years ago.

8 THE COURT - Okay.

9 JUROR - Dan Goldberg, I went to high school with
10 his sister.

11 THE COURT - Okay.

12 JUROR - So I see him at bar events from time to
13 time, know him that way.

14 THE COURT - Okay.

15 JUROR - I know Dolly mainly through her husband.
16 I had worked on cases with him before, ---

17 THE COURT - Okay.

18 JUROR - --- so I know her just ---

19 THE COURT - Okay. Derivatively if you will, yes.

20 JUROR - Yes. I think that -- I think that covers
21 it.

22 THE COURT - Very well. And I -- do you visit --
23 currently do you visit in each other's homes?

24 JUROR - No, never have.

1 THE COURT - Very well. Do you believe that those
2 relationships just as you have described them, individually
3 or together, might or could in any regard interfere with
4 your ability to be completely fair and impartial both to
5 the State as well as to Mr. Haltiwanger?

6 JUROR - I do not think it would have any effect.

7 THE COURT - Do you believe you could set those
8 relationships completely aside and make up your mind based
9 upon what you hear in Court while Court is in session?

10 JUROR - Yes, ma'am.

11 THE COURT - Thank you, sir. Please be seated.
12 Anyone else?

13 (JURORS STAND)

14 THE COURT - He beat you to it. Yes, sir? Tell
15 me your number.

16 JUROR - 220.

17 THE COURT - Who do you know?

18 JUROR - Coble and Goldstein from the list.

19 THE COURT - All right. And do you visit in each
20 other's homes?

21 JUROR - No.

22 THE COURT - Would you describe your relationship
23 as a -- one that is more professional or personal?

24 JUROR - Personal.

1 THE COURT - And would you describe your
2 relationship as to each as a friendship or an
3 acquaintanceship?

4 JUROR - Acquaintanceship.

5 THE COURT - All right. And as a result of those
6 relationships exactly as you've described them, either
7 individually or together, might they or could they
8 interfere with your ability to be completely fair and
9 impartial both to the State as well as to Mr. Haltiwanger?

10 JUROR - No.

11 THE COURT - Would not?

12 JUROR - No.

13 THE COURT - And can you set those relationships
14 completely aside and make up your mind based on what you
15 hear in Court while Court is in session?

16 JUROR - Yes, ma'am.

17 THE COURT - Thank you, sir. Please be seated.

18 (JUROR STANDS)

19 THE COURT - Yes, sir, your number?

20 JUROR - 265.

21 THE COURT - Yes, sir, who do you know?

22 JUROR - Dan Johnson.

23 THE COURT - Very well. Now, would you describe
24 your relationship as one -- I'll ask it this way. Do you
25 visit in each other's homes?

1 JUROR - No, we don't.

2 THE COURT - And would you describe your
3 relationship as one that is more professional or personal?

4 JUROR - More professional but it is personal as
5 well.

6 THE COURT - All right. And would you describe it
7 as more of an acquaintanceship or would you describe it
8 more as a friendship?

9 JUROR - Friendship.

10 THE COURT - As a friendship? As a result of that
11 relationship just as you have described it, just as it is,
12 do you believe that that relationship might or could in any
13 respect interfere with your ability to be completely fair
14 and impartial both to the State as well as Mr. Haltiwanger?

15 JUROR - I wouldn't have a problem with it.

16 THE COURT - And you can set that relationship
17 aside and make up your mind based on what you hear in Court
18 while Court is in session?

19 JUROR - Yes, ma'am.

20 THE COURT - Very well. Anyone else?

21 (No response)

22 THE COURT - Very well. Now, ladies and
23 gentlemen, please allow me to introduce you to Mr. Gerald
24 Bernard Haltiwanger. If he could please stand and face our

1 jury panel. And I believe that Mr. Haltiwanger is a Jr.?

2 Is that right?

3 MR. HALTIWANGER - Yes, ma'am.

4 THE COURT - Thank you. Ladies and -- and thank
5 you so much, and you may be seated. Ladies and gentlemen,
6 are you related by blood or marriage or acquainted with Mr.
7 Gerald Bernard Haltiwanger, Jr.? If so, please stand.

8 (No response)

9 THE COURT - And I find no one standing. Now,
10 ladies and gentlemen, Mr. Hatliwanger is represented by Mr.
11 Mark Sawyer, and this is Mr. Sawyer, Ms. Alicia Good and
12 Mr. Patrick Sharpe. And who's going to give me the names
13 of the other lawyers in your office? You going to do it
14 Mr. Sawyer?

15 MR. SAWYER - I could.

16 THE COURT - Wonderful.

17 MS. SAWYER - We have Ms. Cortney Gibbs in our
18 office. We also Ms. Khrist Hines, Ms. Jennifer Davis, Mr.
19 Doug Strickler, Ms. Fielding Pringle, Mr. Christopher
20 Shipman, Mr. Taylor Bell, Mr. Eric Staggs, Mr. Greg
21 Collins, Ms. Joanna Delaney, Ms. Jessamine Grice, Rebecca -
22 --

23 THE COURT - Going down the hall.

1 MR. SAWYER - Yes, that's exactly what I'm doing.
2 Jerry MacNeely, Tracy Pinnock, Jacqueline Bambach and Lucas
3 Hawks.

4 THE COURT - Wonderful. Thank you so much, Mr.
5 Sawyer. Ladies and gentlemen, are you related by blood or
6 marriage or acquainted with or have you or any member of
7 your immediate family to your knowledge ever been
8 represented by Mr. Sawyer, by Ms. Goode or Mr. Sharpe or
9 any of the lawyers in their office? If so please stand at
10 this time.

11 (JUROR STANDS)

12 THE COURT - And your number again?

13 JUROR - 306.

14 THE COURT - Who do you know?

15 JUROR - An acquaintance of ---

16 THE COURT - Very well.

17 COURT REPORTER - I'm sorry, I didn't hear her.

18 THE COURT - An acquaintance of Fielding Pringle.
19 Now, as a result of that acquaintanceship, could that,
20 might that interfere with your ability to be completely
21 fair and impartial both to the State as well as to Mr.
22 Haltiwanger?

23 JUROR - I could.

24 THE COURT - Thank you so much. Please stay with
25 us. Anyone else?

1 (No response)

2 THE COURT - All right. Now, ladies and
3 gentlemen, I am going to be reading to you a list of
4 potential witnesses. The lawyers helped me so much and
5 give to me a list of potential witnesses simply so that I
6 might ask if you know these folks. Now, ladies and
7 gentlemen I don't have -- I don't know whether or not all
8 these folks would be called, because what they do for me is
9 they give me the list of all the potential witnesses,
10 because this is my one opportunity to ask you if you know
11 any of these folks. So in a moment I'm going to be reading
12 to you the list. What I'm going to ask is if you happen to
13 be in the courtroom as your name is called, I want you to
14 please stand, because, ladies and gentlemen, it is so much
15 easier to put a face with a name than just a name. And so
16 if they happen to be here -- they don't have to be here at
17 this moment, but if they happen to be here I'm going to ask
18 the individuals to please stand as their name is called.
19 Now, again, my question as to each of these individuals is,
20 are you related by blood or marriage or acquainted with any
21 of these individuals: Jesus Macias or Macias. It's M-A-C-
22 I-A-S, Marc Morris, Lamar Ray, Roberto Cordoba, Zondra
23 Gilyard, Lucinda Jenkins, Kevin Lee, Kristina Nuttry,
24 Marquita Mobley or Mobley, Elisha Springs, Carlos Brown,
25 Cassandra Brown, Melvin Jackson, Larry Cornish, Laquandra

1 Isaac, Alvin Geathers, Pam Fields, Sea Gadston or Gaston,
2 Gaston, Pete Steele, Jessica Jeffords, Bill Hicks, Dr.
3 Bradley Marcus, Robert Waters, Jim Reese. So far anyone
4 need to respond? Related by blood or marriage or
5 acquainted with anyone whose names I've just read? If so,
6 please stand.

7 (JUROR STANDS)

8 THE COURT - And your number again?

9 JUROR - 103.

10 THE COURT - Yes, sir, 103, who do you know?

11 JUROR - I know multiple Melvin Jacksons.

12 THE COURT - Very well. Well, I want you to
13 assume for purposes of my question that this is the Melvin
14 Jackson that you know ---

15 JUROR - Yes, ma'am.

16 THE COURT - --- and or all of them that you know.
17 The relationships with your Melvin Jacksons that you know,
18 would you describe those as acquaintances or personal
19 relationships?

20 JUROR - Professional, Your Honor.

21 THE COURT - Professional relationships. As a
22 result of the professional relationships with the Melvin
23 Jackson, might that, could that interfere with your ability
24 to be completely fair and impartial?

25 JUROR - No, ma'am.

1 THE COURT - Can you set that relationship aside
2 and make up your mind based upon what you hear in Court
3 while Court is in session?

4 JUROR - Yes, ma'am.

5 THE COURT - Thank you so much. You may be
6 seated. Anyone else?

7 (No response)

8 THE COURT - All right, I'm going to continue,
9 ladies and gentlemen, with names of potential witnesses,
10 and again, the question is, are you related by blood or
11 marriage or acquainted with any of the following
12 individuals: Christine Benson, Gary Watts, Kerrie Klein,
13 Patricia Labbe or Labbe, L-a-b-b-e, Royden Lee, John
14 Barron, Tony Bass, Don McRae, William Cedarstaff, Dayle
15 Blackmon, David Collins, Brandon Rast, Christine
16 Barrickman, Mike Poole, Guillermo Salguero, Taima Jordan or
17 Taima Jordan, Stan Richards, Harold Bouknight, Dave Wilson
18 -- way in the back. Thank you so much. And I know someone
19 stood here. I'm so sorry, I was going so quickly.

20 Mr. Jordan - Jordan.

21 THE COURT - Thank you so much. Yvonne Woods,
22 Mardens Roc, Josh Mauldin, Chris Lindler, Kristen --

23 (Mr. Lindler stands)

24 THE COURT - Oh, good. Mr. Lindler. Thank you so
25 much. Reginald -- well, let me go back to Kristen Pollis,

1 Reginald Grant, Norman Fisher, John Sullivan, Zachary
2 Brunson, Armando Yut -- help ---

3 MR. YUTUERRIA - YUTUERRIA.

4 THE COURT - Yes, that's very easy, Yutuerria. My
5 Dillon roots just popped up. Yutuerria. Dr. Gray Amick,
6 Melody Galinski, Don Robinson, Robert Sears, Debra Goff,
7 Jennifer Clayton, Ila Simmons. Are you related by blood or
8 marriage or acquainted with any of those individuals? If
9 so, please stand at this time.

10 (JUROR STANDS)

11 JUROR - Mr. Lindler.

12 THE COURT - And tell me your number.

13 JUROR - Number 17.

14 THE COURT - Number 17. Now.

15 JUROR - Is this Mr. Christopher C. Lindler?

16 THE COURT - All right, now, I need you just to
17 give me information that I asked for. Don't need anymore
18 than I'm asking for. Is the nature of your relationship
19 one that you would say is professional or personal?

20 JUROR - I would say personal.

21 THE COURT - Personal. And do you visit in each
22 other's homes?

23 JUROR - No.

24 THE COURT - Would you describe your relationship
25 as one of friendship or acquaintanceship?

1 JUROR - Well, related by blood but
2 acquaintanceship.

3 THE COURT - Okay, related by blood -- okay, but
4 acquaintanceship. All right. Now, are you cousins ---

5 JUROR - Yes.

6 THE COURT - You're cousins. Do you know if
7 you're first, second or third cousins?

8 JUROR - First.

9 THE COURT - First cousins. Okay. Are you like
10 first cousins removed or just first -- first cousins.

11 JUROR - Removed.

12 THE COURT - Very well. Do you see each other at
13 reunions for family events?

14 JUROR - I haven't -- I did recognize him. I have
15 not seen him since he was about -- (indicating height).

16 THE COURT - Okay, well, were you in the crib
17 then. You don't remember. Okay, now as a result of that
18 relationship, might that, could that in any regard
19 interfere with your ability to be completely fair and
20 impartial both to the State as well as to Mr. Haltiwanger?

21 JUROR - No, ma'am.

22 THE COURT - Can you set that relationship
23 completely aside ---

24 JUROR - Yes, ma'am.

1 THE COURT - --- and make up your mind based on
2 what you hear in Court?

3 JUROR - (Indicating yes)

4 THE COURT - And that is a ---

5 JUROR - Yes.

6 THE COURT - Thank you. Please stay with us.

7 Now, ladies and gentlemen, are you related by blood or
8 married or acquainted with Mr. Terrell Vaughn, Jonathan
9 Sterling, Ty ---

10 (Mr. Sterling and Mr. Vaughn stand)

11 THE COURT - Oh, thank you. You're Mr. Sterling.

12 MR. STERLING - Yes, Your Honor.

13 THE COURT - And you're Mr. Vaughn?

14 MR. VAUGHN - Yes, ma'am.

15 THE COURT - Thank you so much, gentlemen. You
16 may be seated. Thank you for coming. Tyrobia Green,
17 Joseph Best. Related by blood or marriage or acquainted to
18 any of those individuals? If so, please stand at this
19 time.

20 (No response)

21 THE COURT - And I should also say Gerald Bernard
22 Haltiwanger, not Jr., Gerald Bernard Haltiwanger.

23 (No response)

24 THE COURT - And I find no one standing. All
25 right. Now, ladies and gentlemen, I have additional

1 questions to ask of you. Ladies and gentlemen, do we have
2 any members of our jury panel or member of your immediate
3 family that is currently or has been in the past employed
4 by any local, state or federal law enforcement agency
5 including but not limited to, including but not limited to,
6 the City of Columbia Police Department, the Richland County
7 Sheriff's Department, the State Law Enforcement Division,
8 also known as SLED, or the Federal Bureau of Investigation,
9 also known as the FBI or any other law enforcement agency?
10 If so, please stand at this time.

11 (JURORS STAND)

12 THE COURT - And what I'm going to ask you -- two
13 questions -- first of all your number and then was it you
14 or a member of your immediate family and what law
15 enforcement agency, if you know, and I don't need to know
16 any other information. We'll start with you, sir?

17 JUROR - 239, son-in-law with Irmo Police
18 Department.

19 THE COURT - Thank you.

20 JUROR - 271, nephew, Chief of Police in
21 Lexington.

22 THE COURT - Thank you. We'll start over here.

23 JUROR - 118, Chicago Police Department, uncle and
24 cousin.

1 JUROR - 265, Los Angeles Police Department,
2 worked with Richland County Sheriff's Department and I was
3 on loan to the DEA.

4 THE COURT - You.

5 JUROR - I.

6 THE COURT - Currently or in the past?

7 JUROR - No, the past.

8 THE COURT - Thank you, sir.

9 MS. SAWYER - Can we slow down a little bit,
10 Judge. I'm sorry. I'm trying to get their numbers.

11 THE COURT - Sure.

12 COURT REPORTER - And it would help if he would
13 repeat that, too.

14 THE COURT - Oh, your number? 268. Right?

15 JUROR - 265.

16 THE COURT - 265.

17 JUROR - 220, and my grandfather was City of
18 Columbia I believe.

19 THE COURT - Thank you. And with the gray
20 sweater.

21 JUROR - 196, my former husband was a federal
22 probation officer.

23 THE COURT - Okay.

24 JUROR - 278. I have a uncle that is part of the
25 Columbia Police Department. I have a ---

1 THE COURT - Currently or in the past?

2 JUROR - Currently.

3 THE COURT - Okay.

4 JUROR - I have a aunt that is a sheriff's
5 officer.

6 THE COURT - Okay. In Columbia?

7 JUROR - Columbia.

8 THE COURT - Okay, Richland County I should say.

9 JUROR - Yes, ma'am. I have a aunt that is a
10 warden at a prison.

11 THE COURT - Okay.

12 JUROR - And -- hold on ---

13 THE COURT - You're doing great.

14 JUROR - That's it.

15 THE COURT - Thank you. Thank you very much.

16 JUROR - 262. My sister is employed at SLED.

17 THE COURT - Thank you.

18 JUROR - Number 9. I think the attorneys here
19 realize that I'm employed by the City of Columbia as an
20 attorney. Obviously there's a law enforcement component to
21 that, but I'm not a law enforcement officer. I have no
22 family that is a law enforcement officer.

23 THE COURT - Thank you very much.

24 JUROR - Excuse me, Judge.

25 THE COURT - Your number?

1 JUROR - I'm sorry. 133.

2 THE COURT - Uh-hum, 153.

3 JUROR - 133.

4 THE COURT - I'm sorry. I think I'm half deaf.
5 133.

6 JUROR - Right. I have a ex-brother-in-law
7 retired from the County, Richland County.

8 THE COURT - Thank you very much. Thank you very
9 much. Anyone else?

10 (No response)

11 COURT REPORTER - Judge, I got all those but 265.
12 If he could repeat it again. I'm sorry.

13 THE COURT - That's okay, 265.

14 JUROR - Which part of ---

15 THE COURT - Just take it from SLED. 265, you are
16 on loan to the DEA. You are retired at this point, but
17 before then you were?

18 JUROR - I was a Los Angeles police officer, work
19 homicide and narcotics. Left there and went to Richland
20 County Sheriff's Department and I went on loan to DEA and
21 I'm retired.

22 THE COURT - What I want to ask is, did you drive
23 across country, but don't answer it. All right, very well.
24 Now, ladies and gentlemen, have you or any member of your
25 immediate family worked for or -- worked for either in the

1 past or currently for a security company called Black Ops,
2 Black Ops Security or any other security company? If so,
3 please stand.

4 (JUROR STANDS)

5 THE COURT - And your number?

6 JUROR - 137.

7 THE COURT - And who -- you or a member of
8 your family?

9 JUROR - Well, my company that I supervise as
10 direct security operations.

11 THE COURT - Okay. Thank you. That's it. And
12 you're -- uh, so popular. Just ---

13 JUROR - 103.

14 THE COURT - 103.

15 JUROR - I'm the accountant for Black Ops.

16 THE COURT - Okay, thank you.

17 JUROR - 148, my father works security at the
18 power plant in Seneca.

19 THE COURT - Okay.

20 JUROR - 314, my sister works for the federal ---

21 THE COURT - For what?

22 JUROR - Federal system, security.

23 THE COURT - For who?

24 JUROR - The Federal system.

25 THE COURT - The Federal system.

1 JUROR - Yes.

2 THE COURT - Okay.

3 JUROR - In the jailhouse.

4 THE COURT - In the -- okay. Thank you. You said
5 the jailhouse.

6 JUROR - SCDC.

7 THE COURT - South Carolina Department of
8 Corrections?

9 JUROR - Yes.

10 THE COURT - Okay. All right, ladies and
11 gentlemen, do we have any members of our jury panel who is
12 a member of or a contributor to, meaning you give money to,
13 any group which has as its primary concern the promotion of
14 law enforcement, such as DARE, CAVE, CADRA, MADD, SADD or
15 groups that have as their focus prisoner's rights groups
16 and groups such as The Innocence Project? If so, please
17 stand.

18 (JUROR STANDS)

19 THE COURT - All right. And I need to know your
20 number.

21 JUROR - 265.

22 THE COURT - Thank you, sir.

23 JUROR - I was on the board of directors for ---

24 THE COURT - No, you -- I don't need to know that.

25 JUROR - Oh, okay.

1 THE COURT - Now, ladies and gentlemen, I asked
2 you a little bit ago whether or not you were related by
3 blood or marriage or acquainted with individuals, and then
4 I asked you the question, whether you or a member of your
5 immediate family had ever worked or worked for law
6 enforcement agency. I'm now going to ask you -- I'm going
7 to expand that to this individual. Do you have a friend --
8 and let me describe this friend. This friend is so close
9 to you, so close to you that you like this friend better
10 than one of your brothers or sisters. That's how close
11 they are. In other words, you cannot differentiate between
12 this friend and a member of your family; you're really
13 close. So my question is, do you have a close personal
14 friend who is a member of any law enforcement agency? Now,
15 I'm not talking about somebody that, you know, you see
16 every once in a while, they all right. I'm talking about
17 somebody that is -- you like better than you like one of
18 your siblings, you know, maybe the one that's not as
19 popular as the other.

20 (JUROR STANDS)

21 THE COURT - Yes, sir, your number?

22 JUROR - Number 37.

23 THE COURT - Okay, that's it.

24 JUROR - I'm very, very close with the family of
25 Officer Brown, just recently married ---

1 THE COURT - Okay.

2 JUROR - -- this family member's daughter and we
3 see each other quite a bit.

4 THE COURT - Okay. Very well. Thank you. All
5 right. Might that, could that relationship interfere with
6 your ability to be completely fair and impartial both to
7 the State as well as to Mr. Haltiwanger?

8 JUROR - No, ma'am.

9 THE COURT - Can you set that relationship aside
10 and make up your mind based on what you hear in Court while
11 Court is in session?

12 JUROR - Yes, ma'am.

13 THE COURT - Thank you. Oh, are you related by
14 blood or marriage or that same kind of close personal
15 friend with anyone employed by the attorney general or any
16 other solicitor or prosecuting attorney's office? If so,
17 please stand. Want me to ask it again?

18 JUROR - Yes.

19 THE COURT - Yes. Okay. Are you related by blood
20 or marriage or if that close personal friend that I talked
21 about, to anyone who is employed by -- currently employed
22 by the attorney general's office or any solicitor's office
23 or any other prosecuting attorney's office? In other
24 words, any solicitor's office in South Carolina or any

1 district attorney's office or state's attorney's office
2 anywhere else in the country? If so, please stand.

3 (No response)

4 THE COURT - And I find no one standing. Ladies
5 and gentlemen, are you related by blood or marriage or do
6 you have anyone who is a close personal -- that same close
7 personal friend that I've been describing -- for someone
8 who's principal practice, law practice might be that
9 involving criminal defense, maybe they work with the public
10 defender's office or the like? If so, please stand.

11 (No response)

12 THE COURT - And I find no one standing. Ladies
13 and gentlemen, have you read or heard anything about this
14 case today or before today? Obviously, today before I
15 started asking you questions or reading you some of the
16 allegations from the indictment. Have you heard anything
17 about it or read anything about today? If so please -- or
18 today. If so, please stand.

19 (No response)

20 THE COURT - And I find no one standing. Have you
21 heard anybody talking about this case either before today
22 or today? If so, please stand.

23 (No response)

24 THE COURT - And I find no one standing. All
25 right, now I have two questions that I'm going to ask you

1 together. That's not exactly accurate. I'm going to ask
2 you three questions together. The first one is this, and I
3 don't want you to respond until I've asked all three, and
4 then I'm going to ask you to come forward. The first
5 question is, has any member of our jury panel or a member
6 of your immediate family ever been the victim of a crime?
7 That's the first question. Don't stand up yet. The second
8 question is, have you or any member of your immediate
9 family ever been arrested for or convicted of a crime? And
10 finally, and this is a very, very general question. Do you
11 know any reason why you ought not, should not, could not be
12 a juror in this case, being ready, willing and able to
13 listen to the evidence and make up your mind based upon
14 what you hear in Court while Court is in session, being
15 completely unaffected, being completely uninfluenced by
16 matters -- the term used is extraneous -- meaning matters
17 outside the Court, relationship or anything else going on
18 in your world so that you can listen to the evidence, make
19 up your mind based solely on what you hear in Court while
20 Court is in session? Maybe, ladies and gentlemen, during
21 your general qualification you really wanted to say
22 something and you didn't. Now, you've been around, you're
23 kind of warmed up to the process, little more comfortable
24 telling me what -- anything you didn't talk about earlier.
25 Maybe during the break someone ran up to you and told you

1 you need to get home quick because Publisher's Clearing
2 House is at your house with some balloons with like this
3 big old check and you kind of distracted. Maybe you've
4 forgot about the tickets to Tahiti and they're on the frig
5 at home and you supposed to leave Wednesday to go to Tahiti
6 and somehow that slipped your mind. In other words, is
7 there anything that is going on with you that you need to
8 share with me that could affect your ability to serve on
9 this jury? Maybe these issues are such that you feel as
10 though you need to discuss those with me or again, have you
11 or a member of immediate family been the victim of a crime
12 or been arrested or convicted of a crime? If so, I'm going
13 to ask you to stand and come forward if you need to respond
14 to any of those questions. And let me give you an example,
15 and this is a true example. This really happened. I got
16 to this point in the jury qualification in Dorchester
17 County, this point right here, and this darling young man
18 stood up and raised his hand and he stood up and he said,
19 Judge, my wife's in labor down at Trident Hospital with our
20 first child, can I go be with her. Is anybody in labor?
21 Okay. Or your loved one is in labor, if so, for goodness
22 sake, let me know. Anyway, if you need to respond to
23 anything that I've just asked, I want you to please come
24 forward, stand up and come forward. Counsel, y'all can
25 come up, too.

1 (JURORS APPROACH)

2 THE COURT - Now, we're going to do this one at a
3 time. We're going to be organized. Y'all come on up in
4 here. Don't worry about that. Just come on up. Y'all got
5 to gather around. Yes, ma'am, Ms. Pat?

6 DEPUTY CLERK - Number 9.

7 THE COURT - Great.

8 (JUROR APPROACHES)

9 THE COURT - Just need enough volume for our Court
10 Reporter.

11 JUROR - Good afternoon, Your Honor.

12 THE COURT - Hi.

13 JUROR - I've been arrested before. Twice for
14 underage possession of alcohol. Once for failure ---

15 COURT REPORTER - Speak up just a little bit. I
16 don't think anybody else can hear you.

17 JUROR - Okay. Twice for underage possession of
18 alcohol.

19 THE COURT - I don't -- I just want you to -
20 everybody else - they got to gather around.

21 JUROR - Once for failure to stop for a blue
22 light, once for a DUI. Those were all prior to 1995. The
23 Supreme Court knows about all of those arrests.

24 THE COURT - I'm sure they do. I'm sure they do.

1 JUROR - And no -- no conviction. Those are all
2 arrests.

3 THE COURT - Thank you so much. Thank you. Thank
4 you kindly.

5 JUROR - Thank you.

6 THE COURT - Yes.

7 DEPUTY CLERK - Number 220.

8 (JUROR APPROACHES)

9 THE COURT - Hi. Yes, sir. Come on a little bit
10 closer. I need the court reporter to hear you and
11 everybody else just gather around. Yes.

12 JUROR - I was arrested in July for DUI.

13 THE COURT - Okay. That's it. Thank you.

14 DEPUTY CLERK - Number 298.

15 (JUROR APPROACHES)

16 THE COURT - Come on a little bit closer. Hi.

17 JUROR - I was a victim of a crime back in '04. I
18 was shot. My brother-in-law got shot two months ago down
19 in the colonies and he's in critical condition. So ---

20 THE COURT - Okay. All right, now let me ask you
21 this question. You said down in the colony?

22 JUROR - (Indicating yes)

23 THE COURT - All right, and is that a place that's
24 here in Richland County?

25 JUROR - It's right off of Rosewood.

1 THE COURT - Right off of Rosewood.

2 JUROR - (Indicating yes)

3 THE COURT - As a result of those events, do you
4 believe that they might or could interfere with your
5 ability to be completely fair and impartial both to the
6 State as well as to Mr. Hatliwanger?

7 JUROR - In a way I believe so.

8 THE COURT - Sure. Very well. We've got lots
9 more work to do, so I'm going to ask you to sit this one
10 out. Okay. But stay with me because I think -- because I
11 don't know what the balance of the panel is going to be
12 doing at this moment. Okay?

13 JUROR - Okay.

14 THE COURT - Okay, thank you for candor. I
15 appreciate it. She's excluded. Pat?

16 JUROR - So I can leave?

17 THE COURT - Stay with me a little bit, because I
18 got to give you -- I got figure out what y'all do next, and
19 I don't know that yet, so hang with me a little bit longer.
20 Pat she's excluded. She's out.

21 DEPUTY CLERK - Number 238.

22 THE COURT - Hello. Come on up. Yes, sir.

23 (JUROR APPROACHES)

1 JUROR - I have pending charges for two resisting
2 arrests, a DUI, urinating in public and drunk and
3 disorderly.

4 THE COURT - Thank you so much.

5 DEPUTY CLERK - Number 55.

6 (JUROR APPROACHES)

7 THE COURT - Hello. How are you? Yes, sir?

8 JUROR - My father was convicted of murder in
9 1985-86, and my brother ---

10 COURT REPORTER - If he could speak up just a
11 little bit.

12 JUROR - My father was convicted of murder in 1985
13 or 1986; my brother was convicted of assault and battery in
14 like '06, '07.

15 THE COURT - Would either of those events
16 individually or together have an impact on your ability to
17 be completely fair and impartial both to the State as well
18 as to Mr. Haltiwanger?

19 JUROR - No.

20 THE COURT - Can you set those events aside and
21 make up your mind based on what you hear in Court while
22 Court is in session?

23 JUROR - Yes.

24 THE COURT - Thank you. Stay with us, please.

25 DEPUTY CLERK - Number 140.

1 (JUROR APPROACHES)

2 THE COURT - Hello. Yes, ma'am.

3 JUROR - My mother's house was broken into about
4 two years ago, and my brother has some DUI arrests in
5 Virginia.

6 THE COURT - Would that -- would either of those
7 events separately or together have an affect on your
8 ability to be completely fair and impartial?

9 JUROR - Not at all.

10 THE COURT - Thank you so much.

11 DEPUTY CLERK - Number 296.

12 (JUROR APPROACHES)

13 THE COURT - Hi.

14 JUROR - I was just the victim of a malicious act.
15 Our landlord was damaging my property, so I was just a
16 victim. So I don't know.

17 THE COURT - Okay. How long ago did that happen?

18 JUROR - What's this? 2013? 2012.

19 THE COURT - Would that have an affect on your
20 ability to be fair and impartial both to the State as well
21 as to Mr. Haltiwanger?

22 JUROR - No.

23 THE COURT - Thank you so much.

24 JUROR - All right.

25 DEPUTY CLERK - Number 212.

1 (JUROR APPROACHES)

2 THE COURT - Hello. Yes. Come on a little bit
3 closer. There we go.

4 JUROR - My mother was shot and murdered by
5 someone, so this is kind of difficult for me.

6 THE COURT - Yes, I understand. In other words,
7 do you believe that that could have an affect on your
8 ability to be fair and impartial?

9 JUROR - I'd like to say not, but I think maybe --
10 -

11 THE COURT - Yes.

12 JUROR - --- it's --- maybe ---

13 THE COURT - I do understand that completely. I'm
14 going to ask you to sit this one out, but stay with me
15 because I've got to give you some further instructions and
16 I don't know what it is yet.

17 JUROR - Okay. Okay. Thank you.

18 THE COURT - Thank you. Excluded.

19 DEPUTY CLERK - Number 304.

20 (JUROR APPROACHES)

21 THE COURT - Hello.

22 JUROR - I don't know if this is what you were
23 asking or not, but I was arrested back in college.

24 THE COURT - Okay.

1 JUROR - Never went to Court, though. Dismissed,
2 everything like that, but ---

3 THE COURT - I understand. Thank you so much.

4 DEPUTY CLERK - Number 109.

5 (JUROR APPROACHES)

6 THE COURT - Hi. How are you?

7 JUROR - Hi. I'm good. Thank you. My husband
8 has been arrested several times for DUI and resisting
9 arrest and all kinds of stupid silly stuff.

10 THE COURT - I understand. Would the fact that
11 he's had a number of encounters with law enforcement have
12 an affect on your ability ---

13 JUROR - No.

14 THE COURT - You can set his situations aside and
15 make up your mind based on ---

16 JUROR - Yes, ma'am.

17 THE COURT - --- what you hear in Court while
18 Court is in session?

19 JUROR - Yes, ma'am.

20 THE COURT - Thank you.

21 JUROR - You're welcome.

22 DEPUTY CLERK - Number 148.

23 (JUROR APPROACHES)

24 THE COURT - Hello. Yes, ma'am.

1 JUROR - I have a couple of delinquent family
2 members. My father was arrested for child abuse, and my
3 sister's been arrested for failure to pay child support to
4 the State.

5 THE COURT - Okay, as a result of their conduct,
6 arrests -- let's say arrests -- might that -- would have an
7 affect on your ability to be completely fair and impartial
8 both to the State as well as to Mr. Haltiwanger?

9 JUROR - No, it won't affect ---

10 THE COURT - Can you set all of that aside and
11 make up your mind based on what you hear in Court while
12 Court is in session?

13 JUROR - Yes.

14 THE COURT - Thank you.

15 DEPUTY CLERK - Number 36.

16 (JUROR APPROACHES)

17 THE COURT - Yes, sir.

18 JUROR - Hello, Your Honor.

19 THE COURT - Hi.

20 JUROR - I have a seven year old and a ten year
21 old. I work from home. My wife works outside the home and
22 -- that's probably not as important, but it makes it hard
23 for me to do this, this jury duty, and when the accused
24 turned around and looked at the crowd, he laughed, and that
25 kind of struck me as odd for somebody to be on trial for

1 murder to turn around and laugh, and I feel like I'm
2 already prejudiced towards that, I mean not that I can't
3 set it aside, but just concerns me a little bit.

4 THE COURT - Okay. Okay. All right. Very well.
5 I'm going to ask you I think to sit this one out and -- but
6 stay with me because I've got to give you some further
7 instruction.

8 JUROR - Okay. Thank you.

9 THE COURT - Thank you very much.

10 DEPUTY CLERK - Number 278.

11 THE COURT - He's excluded. And it was 278?

12 DEPUTY CLERK - That's correct.

13 THE COURT - Thank you.

14 (JUROR APPROACHES)

15 THE COURT - Hi. Yes, ma'am.

16 JUROR - I have a first cousin that's
17 incarcerated.

18 THE COURT - You have a first cousin that's
19 incarcerated. Do you know why?

20 JUROR - For robbery.

21 THE COURT - For robbery.

22 JUROR - Yes, I'm not -- if I'm not mistaken. I'm
23 not sure.

24 THE COURT - I understand. Would that have an
25 affect on your ability to be fair and impartial ---

1 JUROR - No.

2 THE COURT - --- both to the State as well as to
3 Mr. Haltiwanger?

4 JUROR - No.

5 THE COURT - All right, thank you so much. You
6 can stay with us.

7 DEPUTY CLERK - Number 34.

8 (JUROR APPROACHES)

9 THE COURT - Hello.

10 JUROR - Twenty years ago my oldest son was
11 convicted of breaking into a car and given probation.

12 THE COURT - Very well. Would that have an affect
13 on your ability to be fair and impartial?

14 JUROR - No.

15 THE COURT - Thank you so much.

16 DEPUTY CLERK - Number 239.

17 (JUROR APPROACHES)

18 THE COURT - Hi.

19 JUROR - Hello.

20 THE COURT - Yes, sir.

21 JUROR - Back in '78 I was robbed.

22 THE COURT - All right.

23 JUROR - Apartment, and my son has been locked up
24 in Richland County and in Lexington County and in Stafford
25 County.

1 THE COURT - For?

2 JUROR - Drunkenness, DUIs. He's now sober and in
3 Montana, but he spent a couple of years out in Kansas in
4 jail, so -- and the son-in-law is an ex-Irmo policeman
5 instead of just -- I mean it's - it was active and he also
6 worked two or three months with the highway patrol doing
7 procedures and stuff.

8 THE COURT - Okay. And as a result of your son's
9 situation, could that have an affect on your ability to be
10 fair and impartial?

11 JUROR - No, ma'am.

12 THE COURT - And as a -- and with regards to your
13 son-in-law's employment, would that have an affect on your
14 ability to be fair and impartial?

15 JUROR - No, ma'am.

16 THE COURT - All right, thank you, sir.

17 DEPUTY CLERK - Number 258.

18 (JUROR APPROACHES)

19 THE COURT - Yes.

20 JUROR - How you doing?

21 THE COURT - Hi. Good.

22 JUROR - That's good. Me and my girl we switch
23 off. You know, she work in the day time and I work in
24 afternoon, but I didn't know it was going to be all day,
25 and so my son he gets out at like 2:30, 3:00 o'clock off

1 the bus, and then her parents are keeping our -- she's
2 four, and so they're older and they really can't handle her
3 the whole day.

4 THE COURT - I understand.

5 JUROR - I didn't know I was going to be here the
6 whole day.

7 THE COURT - I got you. And so did you raise --
8 did you bring that up to the Judge this morning?

9 JUROR - No, I um -- I didn't -- like I say, I
10 didn't know it was going to be all day.

11 THE COURT - I understand.

12 JUROR - I thought they was going to like do a
13 jury selection.

14 THE COURT - (Indicating yes) Yes.

15 JUROR - They was going to pick the jury and then
16 we was going to be up out of here. I didn't know we was
17 going to be here all day, so - ---

18 THE COURT - I'm with you. I'm with you.

19 JUROR - And I didn't want to get fined for not
20 being here. You know what I'm saying, so ---

21 THE COURT - Oh, and I can appreciate that. So --
22 but one of your children is four.

23 JUROR - Yes.

24 THE COURT - And then the other is seven.

25 JUROR - Yes. No, no, no, he's ten.

1 THE COURT - He's ten. And he's about -- and he's
2 about to get off the bus in just a little bit.

3 JUROR - Yes, he gets off the bus at about 3:00
4 o'clock.

5 THE COURT - Okay, and when do you normally go to
6 work?

7 JUROR - In the afternoon. She gets off at 5:00
8 o'clock, because I'm a computer technician and I do calls
9 in the afternoon, and so we switch off like that.

10 THE COURT - Okay. I understand. And normally
11 your life is that you're there in the day with the four
12 year old.

13 JUROR - Yes.

14 THE COURT - I understand. You're entitled to an
15 exemption. You should've raised that this morning, but as
16 I understand what you're telling me, you're telling me that
17 you -- you were thinking that the selection would be
18 quicker.

19 JUROR - Yes, I didn't know we was going to be
20 here a whole day. And then I was going to fill out that
21 little slip ---

22 THE COURT - Yes.

23 JUROR - --- where it says -- because if you'll
24 see where I mailed it in, ---

25 THE COURT - Yes.

1 JUROR - --- I striked it out because I don't have
2 like -- we didn't go to Court or anything like that, like
3 custody, so that's why I struck that out and I went ahead
4 and came.

5 THE COURT - I understand. And you -- and this is
6 your child.

7 JUROR - Yes. Yes, he's our child.

8 THE COURT - And you share custody -- you and the
9 mom are together, so you both have custody.

10 JUROR - Yes, yes, yes.

11 THE COURT - The exemption applies to you. Now,
12 let me tell you what's going to happen. I'm going to
13 excuse you on the basis of the exemption, but let me tell
14 you. You ready for this? You're going to blink your eyes;
15 one's going to be 30 and one's going to be 25. But enjoy.
16 Enjoy these years. You're exempted.

17 JUROR - I know. Thanks a lot. I can go ahead
18 and go?

19 THE COURT - You're exempted. You can. You can -
20 - for the week; I'm going to exempt you. But blink your
21 eyes and they going to be grown. He's exempted.

22 DEPUTY CLERK - Number 306.

23 (JUROR APPROACHES)

24 THE COURT - Hello. Yes, ma'am.

1 JUROR - I'm not sure. I mean it's definitely not
2 a problem, but I have three children and don't have, you
3 know, regular childcare. I mean I can honestly probably
4 arrange it but ---

5 THE COURT - How old are the children?

6 JUROR - They're fourteen, twelve and nine.

7 THE COURT - Okay. All right.

8 JUROR - But I just -- I mean I can -- I just
9 wanted to let y'all know that. And what is your first
10 name?

11 MS. WALKER - Meghan.

12 JUROR - Okay, did you go to Heathwood?

13 MS. WALKER - I did.

14 JUROR - Okay. I used to -- I'm obviously much
15 older, but I remember you when you were there.

16 THE COURT - All right. So -- all right. So you
17 think you can arrange daycare or babysitting?

18 JUROR - If need be.

19 THE COURT - Okay. Great. Thank you. Thank you
20 for going that.

21 DEPUTY CLERK - NUMBER 9.

22 (JUROR APPROACHES)

23 THE COURT - He's back.

1 JUROR - Yes. I misspoke earlier; I said I had no
2 convictions. I was convicted of the two underage
3 possession charges.

4 THE COURT - Cool. All right.

5 JUROR - Wanted to clear that up.

6 THE COURT - All right.

7 JUROR - Thank you.

8 THE COURT - Where'd you go to undergrad?

9 JUROR - Clemson. I had a year or two there.

10 THE COURT - Yes, well, there you go. You and
11 every other student.

12 JUROR - Thank you.

13 DEPUTY CLERK - Number 265.

14 (JUROR APPROACHES)

15 THE COURT - Hello.

16 JUROR - How you doing?

17 THE COURT - Good.

18 JUROR - I wanted to I guess let you know, I was
19 shot in the line of duty with -- you know, from a drug
20 deal, so if this has anything to do with narcotics, I'm not
21 going to be good -- I'm not going to be able to be fair
22 about it.

23 THE COURT - I have no earthly idea. Assume it
24 does, it would be very difficult.

25 JUROR - It's going to be a problem.

1 THE COURT - It's going to be a problem for you.
2 I understand completely. Let me -- let me be candid with
3 you. I am concerned that even though you are being I think
4 incredibly candid, I'm a little bit concerned that the
5 conversation -- anyone being shot may have that affect on
6 you. What do you think about that?

7 JUROR - Yes, I think about -- yes.

8 THE COURT - Yes. I'm a little bit concerned
9 about that. We have lots more work to do. So I'm going to
10 ask you to sit this one out. We've got lots other work to
11 do.

12 JUROR - Thank you.

13 THE COURT - Very well. Just take your seat,
14 because I don't know where I'm going to send y'all next,
15 hopefully to lunch. He's excluded. Yes.

16 DEPUTY CLERK - Number 103.

17 (JUROR APPROACHES)

18 THE COURT - Yes, sir.

19 JUROR - How you doing, Your Honor?

20 THE COURT - I'm fine.

21 JUROR - I'm the accountant for Black Ops.

22 THE COURT - Okay.

23 JUROR - I felt like that was probably -- I don't
24 know in particular what we're here for, but ---

25 THE COURT - Me either.

1 JUROR - --- but I don't want to be in a situation
2 where either side would be concerned about my involvement
3 latter.

4 THE COURT - Okay. Very well. Thank you.

5 JUROR - What is the arrested, and/or arrested or
6 convicted.

7 THE COURT - Arrested or ---

8 JUROR - Arrested and? Arrested or?

9 THE COURT - (Indicating yes) I think it's or.
10 Isn't it or? I took it to be or. Yes.

11 JUROR - Okay. I was arrested in Kershaw County,
12 got dismissed, no evidence for class 4 felony discharging a
13 firearm.

14 THE COURT - Okay. Thank you. All right, anyone
15 else?

16 (No response)

17 THE COURT - All right, I find that our panel is
18 qualified. Ladies and gentlemen we are going to take a ten
19 minute break, and then when you return in ten minutes,
20 we're going to select our jury and I will go over that with
21 you. We will take a ten minute break. That's the official
22 time-keeping piece. Okay, so ten minutes, so it'll be a
23 quarter til -- I can't even read it. Quarter til 2:00.

24 Thank you. Quarter til 2:00.

25 (Recess taken)

1 THE COURT - Counsel, while the jury is coming in,
2 any additional voir dire from the State?

3 MS. WALKER - None from the State, Your Honor.

4 THE COURT - From the defense?

5 MR. SAWYER - Nothing further, Judge.

6 THE COURT - okay.

7 (WHEREUPON, JURY ENTERS THE COURTROOM)

8 THE COURT - Thank you so much. I find that our
9 panel is now qualified, and ladies and gentlemen, let me
10 tell you what happens next. If your name is called, here's
11 what I want you to do, come up one way or the other and
12 then come on around and stand - as good a place is that you
13 stand here, and you're going to stand here, and I'm excited
14 to tell you in Dorchester County a million years ago I sat
15 in a jury panel and I got called up, and the only thing I
16 remember about it is, I didn't know what to do with my
17 hands when I got up here. I wish I could've left them at
18 my seat. It's okay. Bring your hands with you. Don't
19 leave them. Bring them up. And you'll stand her and
20 you're first going to hear from one of the attorneys for
21 the State and you're going to hear them say one of two
22 things. You're either going to hear them say, present the
23 juror, which means you stand here, or you will hear them
24 say, excuse the juror. If you hear them say excuse the
25 juror, then just go take your seat back in the audience.

1 Now, if you hear present the juror, then you'll stand here
2 and then you'll hear from one of the attorneys for the
3 defense and they will say one of two things, either seat
4 the juror. If they say seat the juror, you'll grab one of
5 these chairs. And if they say, excuse the juror, then you
6 will take your seat back in the audience. Now, here's what
7 I what you know. There are hundreds of considerations that
8 will go through these lawyers' minds as the jury is
9 selected. Let me tell you what one of the considerations
10 is not, and that is they do not wish to embarrass you. I
11 promise you that. So if you are excused, please do not be
12 embarrassed, because I promise you, that is one of their
13 considerations. There are many, many considerations that
14 go into jury selection, and that is not one of them, so
15 it's always fun to be the first person. That's why I come
16 down and do this so I get to be the first person, and know
17 I'm going to turn it over to Pat, and if your name is
18 called, if you will just please come forward.

19 DEPUTY CLERK - Ladies and gentlemen of the jury
20 panel if I call your number, please come to the microphone
21 at the center of the courtroom bringing any personal
22 belongings with you. State your number only and your
23 occupation, please. Number 128.

24 JUROR - 128, I'm a cashier.

25 DEPUTY CLERK - What say the State?

1 MS. WALKER - Your Honor, may we approach?

2 THE COURT - Sure.

3 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
4 PRESENCE OF THE JURY PANEL BUT OUT OF THE HEARING OF THE
5 PANEL WHICH WAS NOT REPORTED.)

6 MS. WALKER - Please present the juror.

7 DEPUTY CLERK - What says the defense?

8 MR. SAWYER - Please seat the juror.

9 DEPUTY CLERK - Please have a seat in the jury
10 box.

11 (JUROR SEATED)

12 DEPUTY CLERK - Number 64.

13 JUROR - Elron Davis, 911 dispatcher.

14 DEPUTY CLERK - What says the State?

15 MS. WALKER - Please present the juror.

16 DEPUTY CLERK - What says the defense?

17 MR. SAWYER - Please excuse the juror.

18 DEPUTY CLERK - Please have a seat in the back of
19 the courtroom. Number 306.

20 JUROR - I'm Mills James, and I'm a stay-at-home
21 mom.

22 DEPUTY CLERK - What says the State?

23 MS. WALKER - Please present the juror.

24 DEPUTY CLERK - What says the defense?

25 MR. SAWYER - Please excuse this juror.

1 DEPUTY CLERK - Please have a seat in the back of
2 the courtroom. When I call you up, just please state your
3 number only, not your name. Thank you. Number 119.

4 JUROR - 119, office manager.

5 DEPUTY CLERK - What says the State?

6 MS. WALKER - Please present the juror.

7 DEPUTY CLERK - What says the defense?

8 MR. SAWYER - Please seat the juror.

9 DEPUTY CLERK - Please have a seat in the jury
10 box.

11 (JUROR SEATED)

12 DEPUTY CLERK - Number 97.

13 JUROR - Number 97, Emergency Medical Technician.

14 DEPUTY CLERK - What says the State?

15 MS. WALKER - Please present the juror.

16 DEPUTY CLERK - What says the defense?

17 MR. SAWYER - Please seat the juror.

18 DEPUTY CLERK - Please have a seat in the jury
19 box.

20 (JUROR SEATED)

21 DEPUTY CLERK - Number 99.

22 JUROR - Number 99, I'm a manager.

23 DEPUTY CLERK - What says the State?

24 MS. WALKER - Please present the juror.

25 DEPUTY CLERK - What says the defense?

1 MR. SAWYER - Please seat the juror.

2 DEPUTY CLERK - Please have a seat in the jury
3 box.

4 (JUROR SEATED)

5 DEPUTY CLERK - Number 220.

6 JUROR - 220, Biomedical Equipment Technician.

7 DEPUTY CLERK - What says the State?

8 MS. WALKER - Please present the juror.

9 DEPUTY CLERK - What says the defense?

10 MR. SAWYER - Please excuse the juror.

11 DEPUTY CLERK - Please have a seat in the back of
12 the courtroom. Number 202.

13 JUROR - 202, commodity e-trader.

14 DEPUTY CLERK - What says the State?

15 MS. WALKER - Please present the juror.

16 DEPUTY CLERK - What says the defense?

17 MR. SAWYER - Please seat the juror.

18 DEPUTY CLERK - Please have a seat in the jury

19 box.

20 (JUROR SEATED)

21 DEPUTY CLERK - Number 103.

22 JUROR - 103, accountant.

23 DEPUTY CLERK - What says the State?

24 MS. WALKER - Please present the juror.

25 DEPUTY CLERK - What says the defense?

1 MR. SAWYER - Please strike the juror.

2 DEPUTY CLERK - Please have a seat in the back of
3 the courtroom. Number 304.

4 JUROR - 304, software developer.

5 DEPUTY CLERK - What says the State?

6 MS. WALKER - Please excuse the juror.

7 DEPUTY CLERK - Please have a seat in the back of
8 the courtroom. Number 109.

9 JUROR - 109, physical tech.

10 DEPUTY CLERK - What says the State?

11 MS. WALKER - Please present the juror.

12 DEPUTY CLERK - What says the defense?

13 MR. SAWYER - Please seat the juror.

14 DEPUTY CLERK - Please have a seat in the jury
15 box.

16 (JUROR SEATED)

17 DEPUTY CLERK - Number 238.

18 JUROR - 238, inside sales rep.

19 DEPUTY CLERK - What says the State?

20 MS. WALKER - Please excuse the juror.

21 DEPUTY CLERK - Please have a seat in the back of
22 the courtroom. Number 301.

23 JUROR - 301, advertising and public relations
24 director.

25 DEPUTY CLERK - What says the State?

1 MS. WALKER - Please present the juror.

2 DEPUTY CLERK - What says the defense?

3 MR. SAWYER - Please seat the juror.

4 DEPUTY CLERK - Please have a seat in the jury
5 box.

6 (JUROR SEATED)

7 DEPUTY CLERK - Number 214.

8 JUROR - 214, Winnsboro Petroleum.

9 DEPUTY CLERK - What says the State?

10 MS. WALKER - Please excuse the juror.

11 DEPUTY CLERK - Please have a seat in the back of
12 the courtroom. Number 24.

13 JUROR - Number 24.

14 DEPUTY CLERK - Give you occupation.

15 JUROR - I work for the South Carolina Bar.

16 DEPUTY CLERK - What says the State?

17 MS. WALKER - Please present the juror.

18 DEPUTY CLERK - What says the defense?

19 MR. SAWYER - Please strike this juror.

20 DEPUTY CLERK - Please have a seat in the back of
21 the courtroom. Number 17.

22 JUROR - 17, registered nurse.

23 DEPUTY CLERK - What says the State?

24 MS. WALKER - Please present the juror.

25 DEPUTY CLERK - What says the defense?

1 MR. SAWYER - Please strike this juror.

2 DEPUTY CLERK - Please have a seat in the back of
3 the courtroom. Number 9.

4 JUROR - Number 9, attorney.

5 DEPUTY CLERK - What says the State?

6 MS. WALKER - Please present the juror.

7 DEPUTY CLERK - What says the defense?

8 MR. SAWYER - Please seat this juror.

9 DEPUTY CLERK - Please have a seat in the jury
10 box.

11 (JUROR SEATED)

12 DEPUTY CLERK - Number 140.

13 JUROR - Number 140. I do In-home healthcare.

14 DEPUTY CLERK - What says the State?

15 MS. WALKER - Please present the juror.

16 DEPUTY CLERK - What says the defense?

17 MR. SAWYER - Please seat this juror.

18 DEPUTY CLERK - Please have a seat in the jury
19 box.

20 (JUROR SEATED)

21 DEPUTY CLERK - Number 148.

22 JUROR - 148, Examiner, business owner, dental
23 assistant, marketing manager.

24 DEPUTY CLERK - What says the State?

25 MS. WALKER - Please present the juror.

1 DEPUTY CLERK - What says the defense?

2 MR. SAWYER - Please seat this juror.

3 DEPUTY CLERK - Please have a seat in the jury
4 box.

5 (JUROR SEATED)

6 DEPUTY CLERK - Number 271.

7 JUROR - 271, retired.

8 DEPUTY CLERK - What says the State?

9 THE COURT - Retired from? Just a word or two.

10 JUROR - AT&T.

11 DEPUTY CLERK - What says the State?

12 MS. WALKER - Please present the juror.

13 DEPUTY CLERK - What says the defense?

14 MR. SAWYER - Please excuse this juror.

15 DEPUTY CLERK - Please have a seat in the back of
16 the courtroom. Number 93.

17 JUROR - 93, and I'm unemployed.

18 COURT REPORTER - I didn't hear her.

19 THE COURT - She's unemployed.

20 DEPUTY CLERK - What says the State?

21 MS. WALKER - Please present the juror.

22 DEPUTY CLERK - What says the defense?

23 MR. SAWYER - Please seat this juror.

24 DEPUTY CLERK - Please have a seat in the jury
25 box.

1 (JUROR SEATED)

2 DEPUTY CLERK - Number 55.

3 JUROR - 55, I work at Time Warner Cable.

4 DEPUTY CLERK - What says the State?

5 MS. WALKER - Please excuse the juror.

6 DEPUTY CLERK - Please have a seat in the back of
7 the courtroom. Strike count is four for the State and
8 seven for the defense. Number 34.

9 JUROR - 34, retired healthcare.

10 DEPUTY CLERK - What says the State?

11 MS. WALKER - Please present the juror.

12 DEPUTY CLERK - What says the defense?

13 MR. SAWYER - Please excuse the juror.

14 DEPUTY CLERK - Please have a seat in the back of
15 the courtroom. Number 49.

16 JUROR - 49, retired, Westinghouse.

17 DEPUTY CLERK - What says the State?

18 MS. WALKER - Please present the juror.

19 DEPUTY CLERK - What says the defense?

20 MR. SAWYER - Please excuse the juror.

21 DEPUTY CLERK - Please have a seat in the back of
22 the courtroom. Number 269.

23 JUROR - 269, software developer.

24 DEPUTY CLERK - What says the State?

25 MS. WALKER - Please present the juror.

1 DEPUTY CLERK - What says the defense?

2 MR. SAWYER - Excuse this juror.

3 DEPUTY CLERK - Please have a seat in the back of
4 the courtroom. Number 219.

5 JUROR - 219, beauty advisor.

6 DEPUTY CLERK - What says the State?

7 MS. WALKER - Please present the juror.

8 DEPUTY CLERK - Does the defense challenge for
9 cause?

10 MR. SAWYER - No.

11 DEPUTY CLERK - Please have a seat in the jury
12 box. Please proceed to strike an alternate. Strikes are
13 one for the State, two for the defense. Number 118.

14 JUROR - Number 118. I work for South Carolina
15 State Parks.

16 DEPUTY CLERK - What says the State?

17 MS. WALKER - Please present the juror.

18 DEPUTY CLERK - What says the defense?

19 MR. SAWYER - Please seat this juror.

20 DEPUTY CLERK - Please have a seat in the jury
21 box.

22 (JUROR SEATED)

23 DEPUTY CLERK - Number 37.

24 JUROR - 37, retired military, currently a program
25 manager.

1 DEPUTY CLERK - What says the State?

2 MS. WALKER - Please present the juror.

3 DEPUTY CLERK - What says the defense?

4 MR. SAWYER - Please excuse this juror.

5 DEPUTY CLERK - Please have a seat in the back of
6 the courtroom. Number 262.

7 JUROR - 262, administrative specialist.

8 DEPUTY CLERK - What says the State?

9 MS. WALKER - Please present the juror.

10 DEPUTY CLERK - What says the defense?

11 MR. SAWYER - Please seat the juror.

12 DEPUTY CLERK - Please have a seat in the jury
13 box.

14 (JUROR SEATED)

15 DEPUTY CLERK - Number 196.

16 JUROR - 196, contract administrator.

17 DEPUTY CLERK - What says the State?

18 MS. WALKER - Please present the juror.

19 DEPUTY CLERK - What says the defense?

20 MR. SAWYER - Please excuse this juror.

21 DEPUTY CLERK - Please have a seat in the back of
22 the courtroom. Number 1.

23 JUROR - 1, banker.

24 DEPUTY CLERK - What says the State?

25 MS. WALKER - Please present the juror.

1 DEPUTY CLERK - What says the defense?

2 MR. SAWYER - Please seat this juror.

3 DEPUTY CLERK - Please have a seat in the jury
4 box.

5 (JUROR)

6 THE COURT - All right, are there any matters
7 regarding the qualification of the selection of the jury
8 from the State?

9 MS. WALKER - Beg the Court's indulgence, Your
10 Honor.

11 THE COURT - Sure.

12 MS. WALKER - None from the State, Your Honor.

13 THE COURT - Very well. From the defense?

14 MR. SAWYER - None from defense.

15 THE COURT - Very well. Okay. Ladies and
16 gentlemen, those of you who are in our audience are now
17 known as our remaining jurors. What I'm going to ask you
18 to do is that I'm going to ask you to go back downstairs
19 and they'll have additional instructions for you. I'm sure
20 one of them is going to be go get lunch. I just don't know
21 when they're going to need for you to return, but I am
22 going to ask you to, if you'll be so kind, to go back down
23 to the jury assembly room and I'm going to say this quickly
24 because I know you all are hungry, so I'm going to get you
25 out quickly. Just know that we thank you for every single

1 solitary tick of the clock and I can't wait to see you
2 later in the week. Have a wonderful afternoon. If you'll
3 step back down to your jury assembly room, they'll tell you
4 your schedule. Thank you so much.

5 (Remaining jury panel exits the courtroom.)

6 THE COURT - Now, ladies and gentlemen, I know
7 y'all got to be like starving. Your little dinner bell's
8 going ding, ding, ding, ding, because mine is too. Now, I
9 do need to give you some instruction and I'm going to try
10 to do this as expeditiously as I can. Let me begin by, of
11 course, thanking you for your time. Secondly, let me tell
12 you that there are matters that I must tend to this
13 afternoon. I don't want you waiting, so we're going to get
14 those matters tended to this afternoon, and we're going to
15 begin trial in the morning at 9:00 o'clock, in the morning
16 at 9:00 o'clock. So what I'm going to ask you to do in
17 just a little bit is to go with your bailiff and they'll
18 show you where your -- this is your jury room, and then
19 they'll show you how to come and go from your jury room.
20 Now, I do have to give you a little bit of instruction and
21 it's this. Each and every time we leave each other, I'm
22 going to give you this instruction. Do not discuss this
23 matter or allow anyone to discuss it with you. I'm going
24 to tell you that every time we leave each other. Why?
25 Well, for this reason. It is going to be absolutely

1 critical and essential for you as you perform your duty as
2 jurors to be able to listen open-mindedly to all the
3 evidence that is presented to you and not make up your mind
4 about anything until you have heard everything. What we
5 know from trying cases in this country for two hundred plus
6 years is that whether we want to or not, when we begin to
7 talk about something, it is our nature to begin to form an
8 opinion about that thing. That's the reason for the
9 instruction not to discuss this matter or allow anyone to
10 discuss it with you. Now, that means your fellow jurors,
11 your family, your friends or anyone that you come in
12 contact with, you cannot talk about this case and, again,
13 I've explained the reason for that. Now, ladies and
14 gentlemen, I'm also going to tell you, don't do any social
15 media regarding this case. No Columbo. Don't bling, don't
16 link, don't Facebook, don't My Space, don't -- I don't even
17 know the rest of them. They're like any number of them.
18 Do not do any social media regarding this case, and the
19 reason for it is you have to receive all of the information
20 in which you will make up your minds here in Court while
21 Court was in session. So if you would go on the internet
22 and say, I didn't know what that word was, I'm going to go
23 look it up. Well, you'd been injected information that you
24 didn't receive in Court, and the case may have to be re-
25 done, so no social media regarding this matter, please.

1 Now, cell phones and laptops and other communication
2 devices, ladies and gentlemen, leave them somewhere other
3 than the courthouse. You must not have a cell phone or
4 laptop or iPad or any other communication device with you
5 while you're serving on the jury. Why you might ask?
6 Well, I will tell you. We can fuss at Charleston for that.
7 We had a jury in Charleston about five years ago. The jury
8 was deliberating and it got just to a moment where they
9 needed some work on the facts, and somebody said, ah, I got
10 a buddy I can ask and answer this five second hold-up, let
11 me call them. Well, the trial had to be scrapped, because
12 again there was information injected into the jury's
13 deliberation that was not received in Court while Court was
14 in session, hence, a new instruction, please leave your
15 cell phone or other communication device somewhere other
16 than the courthouse. Now, we are all tethered to these
17 things, and I know that, and we're so used to having them
18 with us, you may forget. If you forget, please let one of
19 our bailiffs know and they will take wonderful care of your
20 cell phone or communication device until either our next
21 break or lunch where you can then take it out of the
22 courthouse. Now, if you think for one moment you can turn
23 that puppy off and it won't turn itself back on and ring
24 right in the middle of Court, you know that'll happen.
25 It'll happen to you. So, please, if you -- if you forget

1 and you bring it with you, just let us know and we'll take
2 good care of it, but do not keep it your possession.
3 Please turn it over to one of our bailiffs if you forget
4 and bring it into the courthouse. Now, don't read
5 anything, listen to anything about this matter, and that's
6 the radio, the television, the newspaper or the internet.
7 I don't know if there will be any kind of news stories or
8 any other kind of publicity about this matter. I have no
9 idea, but I give you that instruction in an abundance of
10 precaution. Do not read anything about this matter, listen
11 to anything about this matter, and that's the radio, the
12 television, the newspaper or internet. Now, ladies and
13 gentlemen, should anyone try to approach you and talk to
14 you about this case, I'm going to ask you, please, try to
15 get that person's name, if not, please a description and
16 report that to me upon your return to the courthouse. That
17 will be highly inappropriate, so if anyone tries to contact
18 you about this case or talk to you about this case, please
19 let me know, because that's not appropriate. That is a
20 good segway, because lawyers by their very nature are
21 precarious creatures, and lawyers always want me to please
22 tell jurors that if they happen to see coming and going
23 from the courthouse or somewhere around the courthouse or
24 anywhere else and you see them shy away from you, please
25 know they are not being rude. They know that they are not

1 to interact with you at all. So if you happen to see them
2 and they don't even say hello, they're not being rude,
3 they're just following my instructions, because they know
4 they're not supposed to interact with you in any way. Now,
5 -- oh, does anybody work at night?

6 (JURORS RESPOND)

7 THE COURT - Ah, not tonight. I need you to rest
8 tonight. It is not fair to you to expect you to be a juror
9 and pay close attention during the day and work at night.
10 That is not fair to you. I need you to rest. Now, having
11 said that, sometimes employers don't understand that, so if
12 you happen to run into that, you just get me a phone number
13 and a name and I am excited to speak to them first thing in
14 the morning, because I do not want you going to work this
15 evening. I want you to rest so that you can pay close
16 attention to the evidence which is going to be presented
17 beginning in the morning. Now, ladies and gentlemen, --
18 oh, I wanted to mention this to you, a couple of other
19 things actually. Our law provides that there should be one
20 of your number who is your presiding juror. The presiding
21 juror has three additional tasks. Number one, the
22 presiding juror will actually take physical possession of
23 the verdict form at the conclusion of the case and will
24 write the verdict of the jury on the verdict form.
25 Secondly, the presiding juror will preside in the jury room

1 during the deliberations. There will be no question in
2 your minds when that time's come, because I will say, now
3 is the time to begin your deliberations. It will not be a
4 mystery. There will be a specific instruction to begin
5 your deliberations, but the presiding juror will preside
6 during those deliberations just to be sure everybody gets a
7 chance to talk. And finally, the presiding juror is your
8 spokesperson here in Court, which means if you need to
9 communicate with me for whatever reason, you know, gee,
10 we're hungry, gosh, it's hot, can you get people to speak
11 up, whatever, for whatever reason, if you need to
12 communicate with me, the presiding juror will take that
13 down in writing, no doubt give it to one of our bailiffs
14 who will give that then to me. So three tasks, write the
15 verdict, preside in the jury room, be the jury spokesperson
16 here in Court. Now, ladies and gentlemen, during one of
17 our breaks, I'm going to ask you to please select your own
18 presiding juror, and when that person has been selected,
19 they will take this seat and keep that seat throughout the
20 trial. That way I can keep up with you as the presiding
21 juror. Now, when the presiding juror's been selected, you
22 can let me know in one of three ways. You can give me a
23 little note, I have been selected as presiding juror and I
24 am juror number, hm, or you can just tell me, hi, I'm the
25 presiding juror when you come in, or you can just take the

1 seat and keep the seat and see if I'm smart enough to
2 figure it out. Any one of those is perfectly fine. I just
3 need you to have a presiding juror when the trial is
4 concluded. Now, our alternates -- you're our alternates.
5 Hi, alternates. Right? Let me go over that. Let's see.
6 Ms. Alimi? How'd I do? I'm okay?

7 JUROR - You did swell.

8 THE COURT - Yeah. All right, and let's see, Ms.
9 Thompson?

10 JUROR - (Indicating yes)

11 THE COURT - Thank you. I'm -- oh, I'm batting a
12 thousand. And Ms. Hurley?

13 JUROR - (Indicating yes)

14 THE COURT - Wonderful. Thank you. Y'all are our
15 alternates. Now, I need you to keep those seats on the
16 back row. Now, you don't have to keep those three seats.
17 If y'all want to swap around, that's fine, but just stay on
18 the back row for me. I really actually must keep up with
19 you as our alternates, so you can just keep -- y'all just
20 figure out where you want to sit on the back row, switch
21 around or whatever, it doesn't matter, just stay on that
22 back row so I can keep up with you as our alternates. Now,
23 there will not be any other assigned seating, so if you get
24 a seat that you like, keep it, if not, get here early and
25 get another seat. I do anticipate though that you all will

1 have note-taking ability. You don't have to worry about
2 it. I'll worry about it. I'll get note pads and pens or
3 pencils for you to write with, so -- we'll go over that in
4 the morning, and that might -- that might be a little more
5 restrictive because your notes will stay in the courtroom
6 when we take our breaks and then over the lunch and then
7 over the evening we secure those notes for you, so that
8 might mean that you'll probably come back to the same seat,
9 because that's where you will have left your notebook, so -
10 - but there really isn't assigned seating other than our
11 presiding juror and then our alternates. Ladies and
12 gentlemen, that will conclude what I wanted to tell you
13 this afternoon. In the morning here's what will happen.
14 You're going to be sworn in as the jury in this case. I
15 have a few preliminary remarks to make to you and then
16 we're going to get right into the trial of this case, so my
17 final concluding instruction will be this. Do not discuss
18 this matter or allow anyone to discuss it with you. Do not
19 read anything; do not listen to anything about this matter.
20 That means the radio, the television, the internet, the
21 newspaper. Do not discuss this matter with anyone. It's
22 fine to say you showed up for your jury service. It's fine
23 to say that you were selected to serve on the jury. It's
24 fine to just say it is a criminal matter as opposed to a
25 civil matter, but that is the extent which you may discuss

1 or comment on this matter. Have a fantastic afternoon and
2 evening. I can't wait to see you in the morning at 9:00
3 o'clock. If you will go with our bailiffs, they will show
4 you your jury room.

5 (Jury exits the courtroom)

6 THE COURT - Counsel, I know y'all are hungry.
7 Can y'all grab some lunch and be back at 3:00? Is that
8 cutting you too close? Tell me if it is, because I don't
9 mind extending it. I don't.

10 MS. CAMPBELL - Is 3:00 ---

11 THE COURT - We can go to 3:15. 3:00, 3:15.

12 MS. WALKER - 3:15.

13 THE COURT - 3:15 good for everybody?

14 (No response)

15 THE COURT - Yes? Okay. See you guys at 3:15.

16 MS. WALKER - Thank you, Judge.

17 (Lunch recess)

18 MS. CAMPBELL - Your Honor, if I may approach and
19 I could pre-mark some things to make things ---

20 THE COURT - Thank you so much.

21 (DOCUMENTS MARKED FOR IDENTIFICATION AS STATE'S
22 EXHIBIT 1 THROUGH 6.)

23 MS. CAMPBELL - Your Honor, as far as matters we
24 might need to take up, the only thing we -- is one of our
25 witnesses is Chief Wilson. He has been subpoenaed in Judge

1 Lee's courtroom. She is doing pre-trial motions for her
2 murder case this week, so he is tied up in there right now.
3 It's my understanding he's been told to come down here as
4 soon as he finishes. I don't think it will cause a
5 problem, but I just wanted to let the Court know.

6 THE COURT - Sure. Thank you. It's not a problem
7 at all. All right, now as I understand it, we have a Neil
8 vs. Biggers hearing and then a Jackson v. Denno hearing and
9 then some other matters. So how do you -- counsel, just
10 begin -- we'll get to all of it ---

11 MS. CAMPBELL - If we -- Your Honor, some of the
12 witnesses overlap ---

13 THE COURT - Sure.

14 MS. CAMPBELL - -- and then with the Court's
15 permission, if I could just take them up in whatever order,
16 if that suits, Your Honor?

17 THE COURT - It's fine with me. Now, we have a
18 motion for sequestration of witnesses from the defense. Do
19 you want witnesses sequestered to include during the motion
20 hearings?

21 MR. SAWYER - Just out of an abundance of caution,
22 Judge, I don't see why not.

23 THE COURT - Okay. Other than, of course, the
24 case agent and victim's family and, of course, the
25 defendant. So okay.

1 MS. CAMPBELL - Your Honor, as far as typically --
2 and the reason that we've been doing -- where we
3 sequestered the lay witnesses but law enforcement -- since
4 we having courts and everything (sic) haven't been
5 sequestering? (sic) Is that amenable to the defense?
6 Sequestering lay witnesses?

7 MR. SAWYER - No, Your Honor, I'd rather them all
8 be sequestered but the -- obviously the officer there for
9 just -- all due respect to Ms. Campbell -- always got them
10 -- all the officers sequestered just as well as ---

11 THE COURT - Okay.

12 MR. SAWYER - -- lay witnesses too and just -- I
13 think that's for fair trial.

14 THE COURT - An extra fair one. (sic) We like
15 extra fair. That's fine. Just -- now, if you had two case
16 agents ---

17 MS. CAMPBELL - We do have two case agents, Your
18 Honor.

19 THE COURT - The other ones will go and the two
20 will stay. And that's not unusual. As I have learned this
21 become -- that actually is becoming more and more common to
22 have more than one case agent quite frankly, kind of like
23 there's more than one lawyer typically trying a case. So -
24 - okay, everybody's sequestered then that needs to be
25 sequestered. Now, let me just -- let me zip through this

1 because there's a -- the Rule 5 Brady motion and I gather
2 that's just out of an abundance of precaution. You want to
3 be sure you have everything?

4 MR. SAWYER - Well, Your Honor, just -- my always
5 concern is -- not with the Brady motion but the real (sic)
6 motion, just obviously, Riddle vs. Ozmint, obviously
7 getting ready for trial; they're talking about the
8 witnesses, and Ms. Campbell at defense table talking the
9 other day, Elisha Springs just let me know that they got in
10 touch with just a witnesses, like is just an affirmative
11 statement from the State that they've gotten no new
12 inculpatory or exculpatory information to provide me during
13 the course of preparing for trial than Investigator Lindler
14 and Investigator Jordan, etcetera.

15 THE COURT - Okay. Any 411 for the defense that
16 has come up during your trial prep?

17 MS. WALKER - Your Honor, they've never filed a
18 Rule 5 in this case.

19 THE COURT - That can be a big of a snarl.

20 MS. WALKER - There was never a Rule 5. There was
21 a Brady motion filed; there was a motion to compel
22 discovery, but a Rule 5 has not been filed in this case.

23 THE COURT - Okay. All right. Is there then any,
24 what you would consider to be exculpatory -- could be

1 considered to be exculpatory information that has been
2 ascertained in your preparation for a trial?

3 MS. WALKER - No, Your Honor.

4 THE COURT - Okay. And you were looking for your
5 Rule 5, and when you find it let me know.

6 MS. WALKER - And we just checked the clerk's
7 office as well, Your Honor, just two minutes ago and it's
8 not in there.

9 THE COURT - Okay. And then we've got a motion to
10 settle the records of the witnesses; in other words, you
11 want to be sure that after the witness testifies that
12 you're given any record that the witness would have? Yes?

13 MR. SAWYER - Yes, Your Honor. Just as we go
14 along if there is any additional witnesses in there, and
15 Judge, I might be in my other file downstairs, ---

16 THE COURT - Sure, of course.

17 MR. SAWYER - I'll go check before we get done for
18 the day.

19 THE COURT - Okay. That'd be fine. And then a
20 motion to settle the record of the defendant. Does the
21 defendant have a record?

22 MS. CAMPBELL - Your Honor, it's my understanding
23 that as far as impeachable items he does have in 2005 a use
24 of vehicle without owner's permission and a burglary in the
25 second degree. In 2010 he has an ABHAN and a CDV, and I

1 believe only the ABHAN would be it. And then in 2011 an
2 assault and battery second. Correct me if I'm wrong, but
3 that's the extent of what is impeachable.

4 MR. SAWYER - Judge, obviously, I mean our
5 argument just for the sole -- that'd be my concern is that
6 ---

7 THE COURT - Right. Right.

8 MR. SAWYER - --- this is still subject to 403.

9 THE COURT - Right. Right. Right.

10 MR. SAWYER - I just think that ---

11 THE COURT - Right.

12 MR. SAWYER - Thank you.

13 THE COURT - Yes.

14 MR. SAWYER - Bernard here told me earlier when we
15 were going over this, he said that this 2011 arrest wasn't
16 him. He does have a father, Gerald Haltiwanger ---

17 MS. CAMPBELL - We can pull that paperwork. We
18 can take this up later.

19 THE COURT - Yes, I agree. Let's do that.

20 MS. CAMPBELL - Yes, but we -- we'll check that if
21 he disputes the 2011.

22 THE COURT - Yes. All right, and we did voir
23 dire. All right, and then we've got Neil v. Biggers.
24 Okay, good, ready to go.

1 MS. CAMPBELL - Thank you, Your Honor. State
2 calls Sergeant Chris Lindler.

3 CHRIS LINDLER, AFTER BEING FIRST DULY SWORN,
4 TESTIFIES AS FOLLOWS -

5 DEPUTY CLERK - Thank you. Please have a seat in
6 the witness stand and state your full name for the record.

7 MR. LINDLER - Chris Lindler.

8 DIRECT EXAMINATION

9 BY MS. CAMPBELL -

10 Q Sergeant Lindler, where are you employed?

11 A The Richland County Sheriff's Department.

12 Q And what do you do there, sir?

13 A I'm the sergeant over the major crimes unit and
14 assault division.

15 Q I want to turn your attention to August of last year.
16 Did you become involved in the investigation of a murder at
17 the El Toro Club?

18 A I did.

19 Q And when did you become involved?

20 A I was notified around 1:30 a.m. on the morning of the
21 25th.

22 Q And is that the date that the actual murder occurred?

23 A It was.

CHRIS LINDLER - DIRECT BY MS. CAMPBELL

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1 Q And once you had been notified, did you then
2 participate in the investigation over the next weeks,
3 months, whatever?

4 A I did, myself and Investigator Jordan.

5 Q And taking items chronologically, the first thing I
6 want to talk to you about over the course of the next
7 several days after you had been assigned to this murder,
8 did you develop a suspect in this case?

9 A We did.

10 Q And who was that?

11 A Gerald Bernard Haltiwanger, Jr.

12 Q And once you had developed him as a suspect, were
13 there any witnesses that you wanted to show some line-ups
14 to?

15 A There were.

16 Q And, specifically, I want to turn your attention to
17 August the 28th. Did you show a photo line-up in this case?

18 A I did.

19 Q And who did you show that photo line-up to, sir?

20 A Marquita Mobley.

21 Q And where did that take place?

22 A At the Richland County Sheriff's Department in my
23 office.

24 Q Tell the Judge how you showed her that line-up that
25 day.

1 A She was presented with a color photographic line-up of
2 six photographs, and they were placed in front of her.

3 Q And I want to show you what's been marked as State's
4 Exhibit 5 for ID purposes at this point and the second page
5 of that exhibit. Do you recognize that?

6 A I do.

7 Q And is that, in fact, the photographic line-up you
8 showed that day?

9 A It is.

10 Q What does that line-up show?

11 A It's six photographs of six African-American
12 gentlemen, and she picks picture number five.

13 Q And in that -- describe their appearance generally.

14 A All the -- all the individuals have a close-cut
15 haircut, goatees, mustaches and all of the individuals have
16 gold teeth.

17 Q And why did you decide to show all the individuals
18 with gold teeth?

19 A Because in Marquita's statement to us.

20 Q Is it in the photograph that you pulled?

21 A Correct.

22 Q Does it show gold teeth on Mr. Haltiwanger?

23 A Correct.

24 Q As well as the other five individuals?

25 A Correct.

1 Q Once you showed that photographic line-up to her,
2 what, if any, reaction did she have?

3 A She immediately picked picture number five.

4 Q Did you tell her who to pick?

5 A I did not.

6 Q Did you influence her in any way?

7 A I did not.

8 Q Did she hesitate?

9 A She did not hesitate.

10 Q And when you showed those six photographs, in fact,
11 what, if anything did she say to you?

12 A She -- she picked him out; she goes, that's the guy,
13 that's him.

14 Q Once she recognized the person as number five, did she
15 indicate where she recognized him from?

16 A She recognized him from the gas station parking lot
17 and from the club parking lot that night, the night of the
18 incident.

19 Q Once she indicated that to you, did you have her
20 memorialize it in any way on the actual photographic line-
21 up itself?

22 A I did. It's my practice to have -- when someone
23 identifies someone on a photographic line-up, to circle
24 that picture, to initial it and date it.

25 Q And that was done on this?

1 A Yes, ma'am, it was.

2 Q Whose initials are those?

3 A Those are Marquita Mobley's initials.

4 Q And what's the date indicated?

5 A 8/28/2012.

6 Q To further memorialize it, on the front page of this
7 State's Exhibit 5 for ID, did you fill out that document?

8 A We do. It's a photo line-up affidavit.

9 Q And who -- which person did she indicate she
10 recognized?

11 A She recognized picture number five.

12 Q And did she sign off indicating that?

13 A She signed it and it was notarized by me, myself.

14 MS. CAMPBELL - Your Honor, may I approach?

15 THE COURT - Yes. And obviously you all have a
16 copy of this.

17 MS. SAWYER - Yes.

18 MS. CAMPBELL - And I did show it right before the
19 hearing, Your Honor.

20 Q I'm going to turn your attention to the 29th of August
21 of last year. Did you actually make contact with the
22 defendant in this case?

23 A I did.

24 Q Where did that take place?

1 A His initial arrest location, which was at [REDACTED]
2 [REDACTED], and then when he was succinctly arrested
3 and brought back to headquarters on Two Notch.

4 Q So at that point did you already have an arrest
5 warrant for him?

6 A We did.

7 Q And once you made the arrest, you mentioned that he
8 was transported back to headquarters?

9 A He was.

10 Q And who was with you that day?

11 A It was myself and Investigator Tai Jordan.

12 Q And Investigator Jordan is sitting right there behind
13 our table?

14 A Yes, ma'am.

15 Q And once you made contact with him and transported him
16 back to headquarters, at any time while you're transporting
17 him, did you start the questioning in any way?

18 A We had advised him verbally of his rights.

19 Q And where did that take place?

20 A At -- there at Allen Benedict Court once he was
21 arrested and handcuffs were placed on him, and we started
22 asking questions there and then we transported him back to
23 headquarters.

24 Q You mentioned that he was verbally advised of his
25 rights. Who actually did that advice of rights that day?

1 A I did.

2 Q And so prior to taking him back to headquarters and
3 getting the actual written Advice of Rights, what rights
4 did you advise him of?

5 A I told him that before we ask him any questions, he
6 must understand his rights and he has the right to remain
7 silent and he has any -- that anything he can say can be
8 used against him in Court, and that he had the right to
9 talk to an attorney for advice before we ask him any
10 questioning and he could have one with him during any
11 questioning, and if he couldn't afford one, one would be
12 appointed to him, and I asked him if he understood that,
13 and he did.

14 Q What did he indicate?

15 A He did.

16 Q Once he indicated that he understood -- let me ask you
17 this. Did he appear to be coherent that day?

18 A He was.

19 Q Did he respond appropriately to your questions?

20 A He did.

21 Q And did he appear to be under the influence of any
22 intoxicating liquors or drugs?

23 A No, no, ma'am.

24 Q Did you promise him anything to make him talk to you?

25 A I did not.

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1 Q Did you threaten him in any way?

2 A I did not.

3 Q Was any coercion used?

4 A No, ma'am.

5 Q Any type of force of any manner used to make him talk
6 to you?

7 A No, ma'am.

8 Q In your opinion as an investigator, was he talking to
9 you voluntarily?

10 A He was.

11 Q Did you deprive him of any creature comfort such as
12 going to the bathroom or anything he might request as far
13 as to eat or drink?

14 A No, we did not. When we got back to headquarters, I
15 believe we bought him a soft drink out of the canteen and
16 gave him some water and let him use the bathroom.

17 Q There at the scene where you transported him, did you
18 start asking any questions?

19 A We did, just a few, where he was at on the night -- on
20 that Saturday night, the 25th, just some initial questions,
21 yes.

22 Q And who actually participated in the transporting of
23 him back to headquarters?

24 A That would've been myself and Investigator -- excuse
25 me, that would be myself and Chief David Wilson.

1 Q Once he was taken back to headquarters, did you again
2 advice him of his rights?

3 A We did.

4 Q And who was present for that, sir?

5 A That was myself and Investigator Tai Jordan.

6 Q Where did that take place?

7 A That took place at an office at 5623 Two Notch Road.

8 Q And there was no doubt he was in custody at this
9 point.

10 A Correct.

11 Q Once you got back to your office at headquarters, who
12 all was in the room when you advised him of his rights for
13 the second time?

14 A I was in the room; Investigator Tai Jordan was in the
15 room, and Mr. Haltiwanger was in the room.

16 Q And again, I show you what's been marked as State's
17 Exhibit Number 1. Do you recognize that?

18 A I do.

19 Q And what is that, sir?

20 A It's a written Advice of Rights form.

21 Q And I notice there is some handwriting at the top
22 indicating the name, the officer, the date, things of that
23 nature.

24 A Yes, ma'am.

25 Q And who filled out that part?

1 A I did.

2 Q And tell the Judge using State's Exhibit Number 1
3 exactly how you advised him of his rights once he had been
4 transported back to headquarters.

5 A Once we advise them of their rights, fill out their
6 name on the top, the place where it's done, the officers
7 that are present, the date and time that he was advised of
8 those rights, I -- I as a practice turn that Advice around
9 -- Advice of Rights around towards them and I mark off each
10 of those sentences as I read it to him.

11 Q And was that done in this case?

12 A It was.

13 Q And is that indicated on the piece of paper you're
14 holding?

15 A It is.

16 Q And for the record, what Advice of Rights did you give
17 him this second time at headquarters?

18 A We read through the complete statement of his rights,
19 before we ask you any questions, you must understand your
20 rights; you have the right to remain silent; anything you
21 say can be used against you in Court; you have the right to
22 talk to a lawyer for advice before we ask ---

23 THE COURT - Oop, oop, slow.

24 A You have the right to talk to a lawyer for advice
25 before we ask you any questions and to have a lawyer with

1 you during any questioning. If you cannot afford a lawyer,
2 one will be appointed for you before any questioning if you
3 wish. If you decide to answer questions now without a
4 lawyer present, you still have a right to stop answering at
5 any time. You also have the right to stop answering at any
6 time until you talk to an -- to a lawyer. And he signed
7 that he understood his rights.

8 Q And did you actually witness his signature that day?

9 A I did.

10 Q And who else was present when he signed off
11 acknowledging his rights?

12 A Investigator Tai Jordan.

13 Q Once he acknowledged understanding his rights, did you
14 go a step further?

15 A I do.

16 Q What was that?

17 A I read him a Waiver of his rights and that Waiver
18 reads as follows: I have read this statement of my rights
19 and understand what my rights are; I'm willing to talk and
20 answer questions; I understand and know what I'm doing; no
21 promises have been made to me and no pressure or coercion
22 of any kind has been used against me. And I also
23 underlined promises, pressure and coercion whenever I read
24 that to them.

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1 Q Did you explain any further about promises, pressure
2 or coercion?

3 A Asked him if he understood what all three of those
4 meant, that nobody was holding a gun to his head, nobody
5 was -- was using any force, and we weren't trying to coerce
6 him into telling anything and I asked him if understood
7 what coercion meant. He said he did.

8 Q And at that point did he indicate to you that he
9 understood and wanted to waive his rights?

10 A He did. He signed it with his signature.

11 Q So he signed it with his signature?

12 A Yes, ma'am.

13 Q And again who witnessed that?

14 A Myself and Investigator Tai Jordan.

15 Q At that point -- again, during this entire time, has
16 anyone promised him anything?

17 A No, ma'am.

18 Q Threatened him in anyway?

19 A No, ma'am.

20 Q Used any force or threats of force?

21 A No.

22 Q Did you promise him any kind of leniency or anything
23 to get him to talk to you?

24 A We did not.

25 Q Did you deprive him of any creature comforts?

1 A None.

2 Q And in your opinion, was he talking to you
3 voluntarily?

4 A He was.

5 Q And did he appear to understand what was going on?

6 A He did. He understood what was going on.

7 Q And at that point did he choose to talk to you?

8 A He did.

9 Q At any time when you were talking to him that day, did
10 he invoke any of his rights?

11 A He did not.

12 Q Did he ever tell you he didn't want to talk anymore?

13 A No, ma'am.

14 Q Did he ever ask for his lawyer?

15 A He did not.

16 Q And, in fact, did he talk to you?

17 A He did.

18 Q And I believe the time on the interrogation Advice of
19 Rights is what time?

20 A 1755 hours.

21 Q Which is what time?

22 A That would be 5:55 p.m.

23 Q And was a statement taken and reduced to write - a
24 typewritten form actually?

25 A It was.

1 Q And I show you State's Exhibit Number 2. Is that that
2 typewritten statement that you took on that day?

3 A It is.

4 Q And what time does it indicate that you started taking
5 that statement?

6 A At 1900 hours, which is 7:00 p.m.

7 Q And what's the difference in the proximate hour in
8 between the two?

9 A We -- basically when we start talking to someone, we
10 want to make sure we get as much information as possible
11 when we're asking them the questions, and then we go back
12 and put those questions down in written form on a statement
13 form.

14 Q So basically he gives you a version of events.

15 A (Indicating yes)

16 Q And then you go and reduce it to writing ---

17 A Right, we let him ---

18 Q -- into typewriting ---

19 A We let him carry us through his version through the
20 questions that we're asking.

21 Q Okay. Once you were able to get through his version
22 and then started typing it out, who's um -- who's actually
23 doing the typing in this case?

24 A That would be me.

25 Q And I notice here in bold it says, Q equals who?

1 A C. Lindler/Tai Jordon, T. Jordan.

2 Q Those were you and Investigator Jordan?

3 A Correct, and Jordan and I were both kind of asking
4 questions back and forth, but I was -- I was typing.

5 Q And then the answers are indicated by -- from whom?

6 A By the letter A and Gerald Bernard Haltiwanger.

7 Q Were you able to type out of his version of what he
8 wanted to tell you that day?

9 A I was.

10 Q And is that what's reflected in State's Exhibit Number
11 2.

12 A It is.

13 Q Once you typed out his version of what he told you
14 that day, the questions and the answers, was he allowed to
15 review it?

16 A He was.

17 Q And how did that take place?

18 A He was -- we read it back to him, and he's also given
19 a -- given a copy of it.

20 Q Would he be allowed to make any changes?

21 A He was. It was up on a computer and any changes that
22 needed to be made, he would've told us to make them and we
23 would've done it.

24 Q Once you got the version with changes that he made,
25 did you then print out that copy of it?

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1 A We did.

2 Q And at that point did he acknowledge that that was his
3 statement in any way?

4 A He did acknowledge that that was his statement?

5 Q And did you have him memorialize that?

6 A I did. He memorialized it twice on each page, once
7 stating that he had made the foregoing statement freely and
8 voluntarily without fear, threat, promise or reward or hope
9 of reward of any kind, and again just below that certifying
10 that he had read or had read to him that same statement and
11 he signed that and he was given a copy of that statement.

12 Q And then again, these were State's Exhibits 1 and 2
13 for ID purposes ---

14 A Yes, ma'am.

15 Q --- is what happened that day on the 29th.

16 A Yes, ma'am.

17 Q At that point ---

18 MS. CAMPBELL - Your Honor, may I approach?

19 THE COURT - Yes.

20 Q After that, was the defendant then transported to
21 jail?

22 A He was.

23 Q At any time when you were with him that evening, prior
24 to taking the statement, during the statement or after the
25 statement, did he ever invoke any rights?

1 A He did not.

2 Q I want to turn your attention to August the 31st. Had
3 there been new developments that y'all thought it would be
4 prudent to go back and talk to the defendant again?

5 A There were.

6 Q And just briefly what -- what had been reviewed?

7 A Over the last day and half since his initial arrest,
8 we had been able to locate his brothers and obtained
9 statements from all those brothers implicating Mr.
10 Haltiwanger further in the actual incident.

11 Q And, in fact, had you also reviewed some phone calls?

12 A We did.

13 Q After that, did y'all decide to go and get Mr.
14 Haltiwanger again and talk to him -- for the purpose of
15 talking to him?

16 A We did.

17 Q And where was he when you went and got him on the 31st?

18 A He was located at Alvin S. Glenn down at the county
19 jail and Investigator Jordan went down to pick him up.

20 Q And, in fact, was he transported back to headquarters
21 again?

22 A He was.

23 Q And I show you what's been marked as State's Exhibit
24 Number 3. Do you recognize that?

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1 A I do. It's another written statement of his rights
2 and it's my handwriting on the top filled out with Mr.
3 Haltiwanger's name, the place in which it was given, which
4 was 5623 Two Notch Road, myself and Investigator Jordan
5 being present, and it was dated August 31st, 2012, and it
6 was done at 10:00 a.m.

7 Q And that day when you re-advised him of his rights
8 again, who was present for the Advice of Rights?

9 A It was myself and Investigator Jordan again.

10 Q And going through, just as you explained to the Judge
11 before, just briefly go through how you advised him of
12 rights and what ---

13 A I read him verbatim from the sheet, his Advice of
14 Rights, turned it toward him so he could watch me check off
15 each of those as I read them. He signed that he understood
16 his rights. Went one step further, read him his Waiver of
17 his rights again, at which time I also underlined the word
18 promises, pressure and coercion again, and he signed those
19 with his signature stating that he understood those and
20 waived them as well.

21 Q And, again, did he sign in both places?

22 A He did.

23 Q And, again for the record, did you promise him
24 anything?

25 A I did not.

1 Q Did you make any threats?

2 A We did not.

3 Q Did you deprive him of any creature comforts on the
4 31st?

5 A We did not.

6 Q Did you use any force or threats of force against him?

7 A We did not.

8 Q And at any time did he invoke any of his rights?

9 A He did not.

10 Q Did he ever tell you he didn't want to talk anymore?

11 A He did not.

12 Q Did he ever tell you wanted a lawyer?

13 A He did not.

14 Q And, in fact, did he acknowledge that he wanted to
15 talk to you?

16 A He did.

17 Q And that's reflected in State's Exhibit Number 3?

18 A Yes, ma'am.

19 Q Then was Mr. Haltiwanger again questioned about his
20 role in this murder?

21 A He was. Um, we took this statement from him at 10:30
22 a.m. that morning. It would've been myself and my Deputy
23 Chief David Wilson.

24 Q And why was there a switch between Investigator Jordan
25 and Chief Wilson?

1 A Investigator Jordan had to leave to go out of town.

2 Q And at that point Investigator Wilson was present when
3 this statement was made?

4 A He was.

5 Q Chief Wilson?

6 A He was. He was.

7 Q And State's Exhibit Number 4, is that the statement
8 that was taken from him that day?

9 A It was, on August 31st of 2012.

10 Q And again, how was that statement reduced into a typed
11 form?

12 A We went through his initial version of the events, let
13 him tell it to us without interrupting him, and then
14 everything was put down on paper.

15 Q Did he have an opportunity to review it prior to
16 signing off on it?

17 A He did.

18 Q And were any changes made?

19 A None.

20 Q I note up here there's a handwritten spot about the
21 date.

22 A There is.

23 Q Who did that?

24 A I did that and those are my initials and my
25 handwriting, the -- on the -- I was using a different

1 computer than I had used the night prior and the date on
2 the statement form was August, 2010. I struck through 2010
3 and put 2012 above it, and those are my initials beside the
4 year 2012.

5 Q And where was this interview being -- taking place?

6 A 5623 Two Notch Road.

7 Q And what office? Do you remember?

8 A It was in Kevin Isenhoward's office.

9 Q Okay. Once he had reviewed the statement and made any
10 changes he wanted, did he, in fact, sign off on this?

11 A He did.

12 Q And did he sign off on all three pages?

13 A He did.

14 Q In the same manner as you've described before.

15 A He did.

16 Q And at any time did he ever tell you he didn't want to
17 talk anymore?

18 A He did not.

19 Q At any time did he tell you he wanted to talk to his
20 lawyer before completing the statement?

21 A He did not.

22 MS. CAMPBELL - Your Honor, may I approach?

23 THE COURT - You may.

24 Q Once you had completed the statement on the 31st, was
25 he then returned to the Allen S. Glenn Detention Center?

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1 A He was.

2 Q The person that you knew as Gerald Bernard Haltiwanger
3 and the person you took the statements from, do you see him
4 here in the courtroom?

5 A I do.

6 Q And can you point him out for the Judge?

7 A He's seated over at the defense table in a gray shirt.

8 Q In the gray shirt?

9 A Yes, ma'am.

10 MS. CAMPBELL - Your Honor, may the record reflect
11 he's identified the defendant.

12 THE COURT - All right.

13 MS. CAMPBELL - I have nothing further.

14 THE COURT - Cross examination?

15 MR. SAWYER - Thank you, Judge. May it please the
16 Court.

17 THE COURT - Yes, sir.

18 MR. SAWYER - Are those exhibits up there? Do you
19 still have the exhibits?

20 THE COURT - I've got them here.

21 MR. SAWYER - It's all right; I've got mine.

22 CROSS EXAMINATION

23 BY MR. SAWYER -

1 Q Investigator Lindler, with that statement, the first
2 date, I was just trying to find out right at the bottom
3 here, what does that say about the polygraph?

4 A He uh -- he asked if he was -- we asked him if he was
5 willing to take a polygraph as it pertains to this
6 statement, and he said, no, due to lawyer issues and that
7 was his words directly out of his mouth.

8 Q Okay, so he actually said lawyer issues?

9 A Correct.

10 Q Okay. He never asked for a lawyer before that point?

11 A He never asked for an attorney.

12 Q Okay. And the second time around, you said even after
13 he said about lawyers for the first time, he never asked
14 for attorney the second time around?

15 A Correct.

16 Q Okay. When you say they get to review their statement
17 and make changes to their statements, are they allowed to
18 sit at the computer to make those changes themselves?

19 A They are not.

20 Q Are they allowed to write down their own statement?

21 A They can -- no, we typewrite their statement out.

22 Q Okay. Do you audio record those statements?

23 A I'm sorry.

24 Q Do you audio record those statements at all?

25 A No, we do not.

1 Q Why don't you do that?

2 A Because it's not in our policy and procedure to audio
3 or videotape any interviews.

4 Q Okay. So your procedure is flat no audio, no video
5 for any confessions, any interviews.

6 A Correct.

7 Q Okay. And when you say they get an opportunity to
8 review them, do you have them read them out loud to you?

9 A We usually read them and turn to them and also provide
10 them a copy for them to read through before I let them sign
11 them.

12 Q Okay. And did he ask to make any changes to this at
13 all?

14 A Not that I can remember, no, sir.

15 Q Okay. Now, I believe Bernard was rather upset the
16 second time. Is that correct?

17 A He was.

18 Q Okay. He was crying, wasn't he?

19 A He was.

20 Q Okay. He was -- I mean the all the -- just balling as
21 far as what you put in there.

22 A He was -- he was crying, yes.

23 Q Okay. So when you handed him his statement, did he
24 take any time to read it or did he just sign it?

1 A He took some time to read it. He read over it. We
2 read it to him, myself and Chief Wilson, and we handed him
3 his statement for him to read over it, ---

4 Q Okay.

5 A --- and he told us he needed a pen so he could sign
6 it.

7 Q Okay. And this statement reflects everything that
8 y'all talked about to the letter, from the minute he sat
9 down to the minute that he signed the statement.

10 A Pretty much.

11 Q Okay, but there's chunks of this that are missing.
12 Correct?

13 A (Indicating no)

14 Q No?

15 A Not that I no know.

16 Q So this is everything in thirty some odd minutes the
17 first time around and everything in -- I'm sorry,
18 Investigator Lindler -- your handwriting's just like mine.
19 Is that 1755 right there?

20 A 1755, yes, sir.

21 Q Okay. Looks like one of my nine's so. So between
22 1755 and 1900 hours, so an hour and five minutes, that's
23 everything that y'all talked about on that one, too.

24 Correct?

25 A Pretty much.

1 Q Okay. And Investigator Jordan didn't participate at
2 all?

3 A He did.

4 Q He didn't have any questions?

5 A He did.

6 Q But his questions aren't put into any of these, are
7 they?

8 A I typewrote all of the -- I was sitting at the
9 computer. I was typing the questions, and Investigator
10 Jordan and I were asking questions.

11 Q Okay.

12 A If there was anything I missed, Investigator Jordan
13 would've interjected.

14 Q Okay. Now, going back to the issue of Marquita Mobley
15 -- bear with me again. You actually talked to her twice,
16 didn't you?

17 A I did.

18 Q Now, did you talk to her both times?

19 A I did talk to her both times.

20 Q Okay. Why did you talk to her twice?

21 A The first time was when we initially found her at the
22 hotel, The Red Roof Inn, over off of St. Andrews Road. I
23 brought them there to get their initial witness statements
24 as to what they had saw that night, any characteristics
25 about the individuals that approached them at the car, any

1 of those things just to get their side of the story down as
2 -- as possibly witnesses in the case. Once we got the
3 Crimestopper's tip that identified Mr. Haltiwanger and we
4 specifically asked for the photographic line-up from SLED,
5 we went back out and picked them up from the hotel so we
6 could show them the photographic line-up.

7 Q Okay. And why'd you interview them a second time?

8 A To make sure -- after we -- after she was shown the
9 photographic line-up, I took another statement from her so
10 we could have it done on paper that that was indeed the
11 individual she picked out, then I showed her the six
12 photographs and things of that nature just to go a little
13 bit further.

14 Q Okay. And how'd she describe him the first time
15 around?

16 A I don't have a copy of her statement up here.

17 Q Okay. Do you have your notes?

18 A I do. Give me a second. (Pause) All right.

19 Marquita would tell us that they were at the gas station
20 parking lot and they witnessed a fight in the club parking
21 lot. She states that she saw one of the guys hit the
22 officer in the parking in the mouth and the guard was
23 telling them to leave and just go. She states there was
24 one guy in red, about five nine with gold teeth at the top
25 and the bottom. He was arguing with the guard telling him

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1 what he was going to do with him. That guy hit the officer
2 -- excuse me -- the guy that hit the officer had dreads and
3 is the one in the video who falls down in the parking lot.
4 The guy who walked up to the car they were in told the
5 girls they were about to bust some rounds; he had gold
6 teeth as well. She said the two guys as they left she
7 watched two of the guys get in a black car that she
8 described as a two-door monte carlo style vehicle.

9 Q Okay. Didn't she also talk about there being a third
10 person in the parking lot, someone as tall, bald and
11 stocky?

12 A It -- it may be in her statement.

13 Q Did you take the statement?

14 A I did.

15 Q Want to refresh your recollection and look it over
16 again?

17 A Please.

18 Q All right. If I can just help you out there. There
19 was another guy in the parking lot.

20 A There was another guy in the parking lot with him; he
21 was bald and about six foot tall and stocky.

22 Q Okay. And what'd they say he did?

23 A He was arguing with the officer as well.

24 Q Okay. What'd they say that he did then in relation to
25 getting in cars?

1 A He got in a black car and pulled up.

2 Q Okay.

3 A And the black car did not have the light on. When he
4 pulled up, he got out and got into the passenger side. The
5 guy in the red with the gold teeth got in the driver's
6 side; he pushed the seat up and got a gun out.

7 Q Okay. And did she identify who that other person was?

8 A She did not.

9 Q Okay, did you show her a line-up for who the other
10 person was?

11 A We did not.

12 Q And what about for the first gentlemen, the guy with
13 the dreads, did you show them a photo line-up for that?

14 A We did not.

15 Q Okay, and she never identified who that was.

16 A No, sir.

17 Q Okay, so the only photo line-up showed was for Gerald
18 Bernard Haltiwanger?

19 A Correct.

20 Q So you knew there were other witnesses there who had
21 names of the brothers at this point. Correct?

22 A Yes.

23 Q And you didn't show them any pictures of anyone else
24 when you were at the scene that night, other than Gerald
25 Haltiwanger.

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1 A The only photograph -- the only photographic line-up
2 we had at the time was Gerald Bernard Haltiwanger, Jr.

3 Q That's the only one produced at the time. Correct?

4 A That's the only one we had at the time.

5 Q You didn't have the ability to get Tyrobia Green,
6 Jonathan Sterling or Trelvon's (phonetic) photographs?

7 A We didn't know they were involved at the time. We
8 didn't have their names.

9 Q Okay. Did you ever go show them a photo line-up
10 subsequent to that?

11 A No, we did not.

12 Q Okay. So once they identified him, you didn't
13 question them a second time around.

14 A The -- all of the brothers I believe gave us
15 statements admitting their involvement and Mr.
16 Haltiwanger's involvement, and there was no need at that
17 point.

18 Q Okay. But once you got your photo line-up, you just
19 never interviewed Ms. Mobley again. Correct?

20 A No, sir.

21 MR. SAWYER - Okay. All right, nothing further.

22 THE COURT - Re-direct?

23 MS. CAMPBELL - No, ma'am.

24 THE COURT - Okay. Come on down. Call your next
25 witness.

1 MS. CAMPBELL - State would call Investigator
2 Jordan.

3 TAIMA JORDAN, AFTER BEING FIRST DULY SWORN,
4 TESTIFIES AS FOLLOWS -

5 DEPUTY CLERK - Thank you. Please have a seat in
6 the witness stand and state your full name for the record.

7 MR. JORDAN - Taima Jordan.

8 THE COURT - Your Witness.

9 MS. CAMPBELL - Thank you.

10 DIRECT EXAMINATION

11 BY MS. CAMPBELL -

12 Q Investigator Jordan, where are you employed?

13 A Richland County Sheriff's Department.

14 Q And what do you do there, sir?

15 A I'm an investigator in the drug unit.

16 Q I'm going to turn your attention back to August the
17 25th of last year, did you become involved in the subsequent
18 investigation in the El Toro murder?

19 A I did.

20 Q And when did your involvement begin, sir?

21 A About 9:00 o'clock that morning.

22 Q And who was the lead investigator along with you that
23 day?

24 A Sergeant Lindler.

25 Q Sergeant Lindler?

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1 A Yes.

2 Q Okay. Over the course of the next several days, did
3 y'all develop a suspect in the case?

4 A We did.

5 Q And who did you develop as a suspect?

6 A Gerald Haltiwanger, Jr.

7 Q I want to turn your attention to the 29th of August.

8 Were y'all able to make contact with Mr. Haltiwanger?

9 A Yes.

10 Q And at that point was there a warrant for his arrest?

11 A It was.

12 Q Tell the Judge how y'all found Mr. Haltiwanger that
13 day?

14 A Once we developed him as a suspect I was tasked with
15 going to a particular location to scout it out for a search
16 warrant, and in doing so, I observed Mr. Haltiwanger out in
17 the courtyard with some other gentlemen. I notified
18 Sergeant Lindler that I believe I see him out in the
19 courtyard. I stayed and conducted surveillance until other
20 units came.

21 Q Once other units came, did y'all make contact with Mr.
22 Haltiwanger?

23 A We did.

24 Q And, in fact, was he under arrest at that point or was
25 an arrest made or what happened?

1 A Yes, he was taken into custody and everybody else was
2 detained and at that time he was placed under arrest.

3 Q And were you out there that day when Investigator
4 Lindler advised him of his rights verbally out there at the
5 scene?

6 A I was.

7 Q How did Mr. Haltiwanger get transported back to
8 headquarters?

9 A I believe Sergeant Lindler and Chief Wilson took him
10 back.

11 Q And once he got back to headquarters, where did you go
12 or where were you?

13 A I met Sergeant Lindler there and he went into Sergeant
14 Strange's office.

15 Q And once you went into that office, what, if anything,
16 happened?

17 A We read -- well, Sergeant Lindler read his Miranda
18 Rights, which I witnessed.

19 Q Okay. And the Advice of Right's form that we've
20 referred to earlier, I believe it's State's Exhibit 1 for
21 ID purposes, was that the form that was used that day?

22 A It was.

23 Q And were you there when the rights were explained to
24 him?

25 A Yes, I was.

- 1 Q Were you there when he acknowledged his rights?
- 2 A Yes, I was.
- 3 Q Were you there when he waived his rights?
- 4 A I was.
- 5 Q Without going through the whole litany again, at any
- 6 point did he ever invoke any of his rights?
- 7 A He did not.
- 8 Q And did he agree to talk to y'all?
- 9 A He did.
- 10 Q And in your opinion, was he understanding his rights
- 11 and agreed to talk to you voluntarily?
- 12 A Yes.
- 13 Q While you were present with him on that day on the
- 14 29th, at any point did anyone ever threaten him?
- 15 A No.
- 16 Q Did anyone ever promise him anything?
- 17 A No.
- 18 Q Were there any -- any type of force used to make him
- 19 talk?
- 20 A No.
- 21 Q Did you deprive him of any creature comforts?
- 22 A No, ma'am.
- 23 Q And in your opinion, was he talking to you
- 24 voluntarily?
- 25 A Yes.

1 Q And at that point, tell -- tell the Judge just briefly
2 how y'all went about taking the statement.

3 A The question and answer, Sergeant Lindler was actually
4 typing and he would ask a question and whatever I thought
5 he may have missed, I may have interjected and asked them.

6 Q Prior to actually reducing the statement into a
7 typewritten form, was there a period of time where y'all
8 just asked some questions and generally got information?

9 A Yes.

10 Q And then did y'all then go back and reduce the
11 pertinent information into writing?

12 A Correct.

13 Q Once the statement had been reduced to a typewritten
14 form, was the defendant allowed to review it prior to
15 signing it?

16 A He was.

17 Q And, in fact, was it read to him?

18 A Yes.

19 Q And, in fact, if he wanted to, he could make any
20 changes?

21 A Yes.

22 Q And at some point was a written or paper form printed
23 out for him to review?

24 A Yes, it was.

25 Q And did he acknowledge that was his statement?

- 1 A He did.
- 2 Q And how did he acknowledge that?
- 3 A He signed his name.
- 4 Q On each page?
- 5 A He did.
- 6 Q And were you there when that occurred?
- 7 A I was.
- 8 Q After the statement was taken, was he then transported
- 9 to the Alvin S. Glenn Detention Center?
- 10 A Yes, he was.
- 11 Q And did you have any further contact with him that
- 12 day?
- 13 A I did not.
- 14 Q I want to turn your attention to two days later on
- 15 August the 31st. Did y'all become aware of some information
- 16 that y'all wanted to talk to the defendant about?
- 17 A We did.
- 18 Q And what type of information was that, sir?
- 19 A Information in regards to the homicide where some
- 20 phone calls were listened to and information that we
- 21 believe that helped develop the case even more and we
- 22 needed to speak to him to get information.
- 23 Q To get his version of this?
- 24 A Yes.

1 Q And at that point did you try to make contact with the
2 defendant that day?

3 A I did.

4 Q And where did you make contact with him?

5 A At the county jail.

6 Q And what did you do with him?

7 A Picked him up and drove him to 5623 Two Notch Road,
8 sheriff's department.

9 Q And during the course of driving him from the county
10 jail to the sheriff's department, did you question him in
11 any detail about what was going on?

12 A I did not.

13 Q Once you got him to headquarters, what, if anything
14 happened?

15 A I met with Sergeant Lindler and Chief Wilson. At that
16 point I had to go out -- out of town for a personal --
17 personal leave, so I left at that time.

18 Q Prior to you leaving -- you weren't there for the
19 statement, but prior to you leaving, did you actually
20 witness anything coming on that day?

21 A Sergeant Lindler actually read him his Miranda Rights
22 again before questioning.

23 Q Before questioning?

24 A Yes.

25 Q And were you there for that?

- 1 A I was.
- 2 Q And at any time while you were there, did anyone
- 3 promise him anything or threaten him in any way?
- 4 A No, ma'am.
- 5 Q Did anyone deprive him of any creature comforts?
- 6 A No, ma'am.
- 7 Q Did he appear to voluntarily want to talk?
- 8 A He did.
- 9 Q And did he actually acknowledge that by his signature?
- 10 A He did.
- 11 Q In the same manner he had before?
- 12 A Yes, ma'am.
- 13 Q And then as a statement was being taken, you left and
- 14 Chief Wilson came in?
- 15 A Yes, ma'am.
- 16 Q Because you had to leave town.
- 17 A Yes, ma'am.
- 18 Q The person that you took the statement from on the 29th
- 19 and that you witnessed the Advice of Rights on the 31st, do
- 20 you see him in the courtroom?
- 21 A I do.
- 22 Q Could you point him out for the Judge?
- 23 A In the middle, the young black male.
- 24 Q Seated between his attorneys?
- 25 A Yes.

1 MS. CAMPBELL - Your Honor, may the record reflect
2 he's identified the defendant. Thank you, sir.

3 THE COURT - Very well. Cross examination?

4 MR. SAWYER - Thank you, Your Honor. May it
5 please the Court.

6 THE COURT - Okay.

7 CROSS EXAMINATION

8 BY MR. SAWYER -

9 Q Just briefly, Investigator Jordan. Again, when you
10 take these statements, it's your policy not to audio record
11 them. Correct?

12 A Right. We do not record or videotape.

13 Q Okay, and it's your testimony that from 755 (sic)
14 until 1900 hours -- 1755 to 1900 hours, the entirety of
15 that statement from the first moments everything was talked
16 about.

17 A Pertinent to the case, yes.

18 Q Okay. So there was information that was not added
19 into that statement that you felt was inappropriate to the
20 case.

21 A Like his, maybe his age, where he lives, stuff like
22 that, yes, but nothing else.

23 Q But there are items that are missing from what you
24 talked about. Right?

25 A Not pertinent to the case, no.

1 Q And you didn't witness any of his statement from the
2 second time around ---

3 A I did not.

4 Q Were you actually present too for the photo
5 identification with Ms. Mobley?

6 A I was not.

7 Q Okay, were you present with her the first time around?

8 A I assisted in picking -- picking them up on both
9 occasions, but as far as the interview is concerned, I was
10 with another witness.

11 Q Okay. Did you talk to either of them prior to them
12 coming to station to talk to Investigator Lindler?

13 A General conversation.

14 Q Okay. Did you feel like from your statement that you
15 didn't think either of them were being truthful about what
16 was going on that day?

17 A Afterwards somewhat I felt they were maybe hiding some
18 stuff.

19 Q Okay. Did you ever find out what that stuff was?

20 A No.

21 Q You didn't?

22 A (No response)

23 Q Did you in your statement say -- do you have your
24 whole summary in front of you? Would that help?

25 A I do. Say it again.

1 Q Does that help refresh your recollection?

2 A I have my follow-up.

3 Q You got to it.

4 A (Indicating yes)

5 Q Can you go to the second page. Third page. I'm
6 sorry. Third page.

7 A I'm sorry?

8 Q Right toward the bottom there where a couple females -
9 -

10 A On what page?

11 Q Third page.

12 A Okay.

13 Q Toward the bottom there -- fourth paragraph maybe --
14 is that where you decide to go interview them again?

15 A Okay.

16 Q Is that right?

17 A (No response)

18 Q And you didn't think they were telling the truth?

19 A Right.

20 Q You threatened them with obstruction of justice
21 charge?

22 A No, sir, not a threat, sir. We just merely told them
23 that if we found out they were not telling the truth and we
24 could prove that, then they would be charged with that.

1 Q Okay. And that's the point at which you did a
2 forensic service to come and talk with Ms. Nuttry, I
3 believe. Is that right?

4 A Correct.

5 Q Did you talk with Ms. Marquita again?

6 A No, at the time the forensic artist stated that she
7 only needed one of them to help in conducting that
8 composite sketch.

9 Q Okay, let's go down to page four down to the second
10 paragraph. I then spoke with Marquita while Kristina was
11 in with forensic sketch artist.

12 THE COURT - You need to speak up just a little
13 bit.

14 MR. SAWYER - I'm sorry. I'm -- please tell me;
15 I'm bad. I know.

16 THE COURT - No, you can just -- that microphone
17 might be able to help you if you can point it your way a
18 little bit.

19 Q You see where I'm talking about?

20 A Okay.

21 Q Okay. So you did talk with Marquita. Right?

22 A (Indicating yes)

23 Q Okay, and that's when they talked about the issues
24 about prostitution and being fully truthful?

25 A (Indicating yes)

1 Q And ---

2 THE COURT - That's a yes?

3 A Yes, I'm sorry.

4 Q Okay. But in the second time around you were at the
5 photo line-up. Correct?

6 A When them -- starting them (sic) to show her the line-
7 up?

8 Q Yes.

9 A I was not there, sir.

10 Q So when you're talking about -- you informed the - the
11 photo line-up show ---

12 THE COURT - You've got to ---

13 Q Both shown the photo line-up and Marquita identified
14 Bernard Haltiwanger from the photo line-up and you put that
15 in your incident report, you were not there for that?

16 A No, sir, I did not witness that. I actually showed
17 Ms. Nuttry the line-up.

18 Q Okay. But again, just to make it clear, you talked
19 about obstruction of justice charges and truthfulness
20 before they were shown a second photo line-up. Correct?

21 A That was because of the initial interview, what we
22 thought that they may have been not telling the full truth
23 about the incident or things of that nature, so that if we
24 found out that they were lying that that could be a
25 possible charge, not to threaten them, no.

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1 MR. SAWYER - Thank you. No further questions.

2 THE COURT - Re-direct?

3 MS. CAMPBELL - No, ma'am.

4 THE COURT - All right, you can come down. Call
5 your next witness, please.

6 MS. CAMPBELL - Can we see if Chief Wilson is
7 here?

8 THE COURT - Sure.

9 MS. CAMPBELL - Your Honor, may we switch? I was
10 trying to go with investigators once, but can we switch
11 over to a lay witnesses?

12 THE COURT - Yes. Any objection?

13 MR. SAWYER - None, Your Honor.

14 LAMAR RAY, AFTER BEING FIRST DULY SWORN,

15 TESTIFIES AS FOLLOWS -

16 DEPUTY CLERK - Thank you. Please have a seat in
17 the witness stand, and state your full name for the record.

18 THE COURT - You know what? I've never done this.
19 This is a first for me in 15 years. He's got to go out and
20 reverse his t-shirt. It's just offensive to this process
21 and to the seriousness of these matters. Go and out and
22 have him turn his t-shirt wrong-side out.

23 MS. CAMPBELL - We'll have him do that, Your
24 Honor.

1 THE COURT - And so the record is clear, this
2 gentlemen -- stop a minute, sir. His t-shirt says in
3 bright -- well, white on a black background and bright
4 pink, And the God said let there be -- in very large
5 letters -- sexy people so he may -- and even bigger -- Me.
6 It's just offensive to the seriousness of these
7 proceedings. Thank you. Go out and turn it inside-out.

8 (Witness complies)

9 (Brief recess)

10 MS. CAMPBELL - Thank you, Your Honor.

11 THE COURT - Yes, thank you.

12 DIRECT EXAMINATION

13 BY MS. CAMPBELL -

14 Q Mr. Ray, ---

15 A Yes.

16 Q --- how old are you?

17 A 37.

18 Q And where do you -- do you live here in Columbia?

19 A Lexington.

20 Q How long have you lived in the Midlands?

21 A Eight years.

22 Q Are you currently employed?

23 A Not right the second.

24 Q Back in August of last year, where did you work?

25 A El Toro's.

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1 Q And what did you do for El Toro?

2 A We promoted. I helped do a little bouncing here and
3 there.

4 Q So you were actually one of the bouncers there?

5 A I was running the door that night.

6 Q Did you know a guy named Jimmy Moti?

7 A Yes.

8 Q And how did you know Mr. Moti?

9 A Working with him.

10 Q And what was Mr. Moti's job there at El Toro?

11 A We was security.

12 Q That night were you working the door when this
13 incident occurred?

14 A Yes, I was.

15 Q And can you tell -- were you there when the defendant
16 and his group actually approached the first time?

17 A Yes.

18 Q And can you tell the Judge just briefly what you
19 observed happened?

20 A I was standing at the podium, and I witnessed a guy
21 trying to get in with a false ID.

22 Q And who was confronting him as far as the bouncer or
23 the person at the door?

24 A Jimmy.

1 Q And how far away from them were you when you saw this
2 person with the false ID?

3 A From about here to that stand right there.

4 Q To this stand where I'm standing?

5 A Yes, ma'am.

6 Q So it's a matter of feet?

7 A Yes, ma'am.

8 Q And as you observed, was anything blocking your view -

9 --

10 A No, ma'am.

11 Q --- of what was going on?

12 A No, ma'am.

13 Q Were you able to see?

14 A Yes, ma'am.

15 Q What was the lighting like that night?

16 A It was light.

17 Q And was there artificial light that was actually
18 there?

19 A Artificial ---

20 Q Like light bulbs?

21 A It was a bright light out there.

22 Q Bright light?

23 A It was on a pole, yes.

24 Q Okay. And were you paying attention to what was going
25 on?

1 A Yes.

2 Q And what was Jimmy trying to get the guy to do?

3 A To turn around. The guy offered him a hundred
4 dollars, and he told him no.

5 Q And at that point did you get a good look at his face?

6 A Yes, I did.

7 Q And did you continue to pay attention to what he
8 looked like?

9 A Yes.

10 Q And was anything obstructing your view in any way?

11 A No, ma'am.

12 Q Was there basically -- or how would you describe what
13 was going on between Jimmy and the person with the fake ID?

14 A The guy with the fake ID was actually trying to get
15 in. He tried to pay Jimbo. Well, we call him Jimbo, but -
16 --

17 Q Jimbo.

18 A --- he tried to pay him and Jim told him, no, he
19 wasn't letting him in with a fake ID, so when Jim asked for
20 the ID, he gave Jim the ID, and um Jim asked him to leave.
21 He was still there trying to consist (sic) on getting in.

22 Q Okay. So there was a conversation that was going ---

23 A It was going back and forth.

24 Q Back and forth?

25 A Yes.

1 Q And were you able to get a good look at this guy's
2 face?

3 A Yes.

4 Q And approximately how long was it that you were
5 actually looking at this guy's face when you were within a
6 matter of feet?

7 A I actually watched it for a few minutes.

8 Q Few minutes?

9 A Yes, ma'am.

10 Q Eventually, what happened?

11 A Eventually, the guy and Jimbo started walking off.

12 Q In which direction were they going in?

13 A Going towards the parking lot.

14 Q Okay, what did you observe next?

15 A I walks to the door and the guy turned around, and
16 Jimbo sprayed him with mace.

17 Q Okay. And was Jimbo trying -- what was Jimbo trying
18 to do with the guy?

19 A He was trying to get him to leave.

20 Q And was that proper protocol as far as what security's
21 supposed to do?

22 A Yes, with a fake ID, actually supposed to ask them to
23 leave and take the ID and call -- that's what -- normally
24 what we did when I worked for the security office.

1 Q Were you able to get a look at this guy a second time
2 when he turned around and confronted Jimmy in the parking
3 lot?

4 A Yes, I did.

5 Q And were you able to see his face clearly?

6 A Yes.

7 Q And once Jimmy pulled out the mace, what happened?

8 A The guy turned around and threw his hand up and say
9 okay I'm leaving.

10 Q Okay. And which direction did he go in?

11 A He walked towards the gas station.

12 Q And did you observe him anymore that night?

13 A Yes.

14 Q Tell the Judge when you saw him again next.

15 A Um, when he was standing down by the gas station, he
16 crossed the plane and then that's the last time I took
17 notice of him, then we had some more guys started to coming
18 and I said, Jimbo, watch out. You know, there was guys
19 coming and then -- and another guy came and hit him from
20 the back.

21 Q So you actually witnessed Jimbo getting hit from the
22 back?

23 A Yes, a guy with dreads.

24 Q And that was different from ---

25 THE COURT - A guy with what?

1 MS. CAMPBELL - A guy with dreads.

2 A Guy with dreads.

3 THE COURT - Dreads.

4 Q And what was different from the guy that he had the
5 confrontation with at the front door.

6 A Yes.

7 Q What happened next?

8 A Um, well, I walked down with Jimbo and I told him, no,
9 I'm not going to let y'all jump him.

10 Q And you were talking to the guys that were ---

11 A I was talking to the other guys.

12 Q Okay.

13 A So I started noticing a lot of guys started going to
14 their cars. They was parked and backed up at El Toro's
15 back in the back by the garbage can or whatever was over
16 there. So I told, Jimbo, come on, let's go.

17 Q And where did y'all go?

18 A We started walking back towards the porch. Jimbo was
19 on the phone. He had drew his gun, because the guys
20 started running up from across the parking lot. There was
21 a car pulled up, and one of the guys fell down. So I
22 started walking back into the porch, and I see guys popping
23 their truck in a black crown vic and a white crown vic and
24 going in their hoods and all that, so I told Jimbo to come
25 on.

1 Q And where were those cars located?

2 A They was located to the left-hand side of El Toro's
3 parked in the parking lot, so I goes and get on the porch,
4 and I'm telling Jimbo to come on. I walked back in, get to
5 the podium, pow pow, turn around and Jimbo laying on the
6 ground.

7 Q So did you actually see who did the shooting?

8 A I actually seen who did the shooting.

9 Q And who did you see doing the shooting that day?

10 A It was a black guy had gold teeth in his mouth.

11 THE COURT - With what?

12 MS. CAMPBELL - Gold teeth.

13 A Gold teeth.

14 Q And had you seen that guy earlier that evening?

15 A Yes, I did, because I called him ratchet.

16 Q And was this the same guy that he had been having the
17 confrontation with at the front door?

18 A That was the guy.

19 Q You said you called him ratchet. Why did you call him
20 racket?

21 A Because he was loud and ratchet, talking tough and
22 drunk.

23 Q And what did that guy look like, the guy with gold
24 teeth that did the shooting?

25 A He was dark skin.

1 Q When did you get a look at him earlier that night?

2 A When he walked in, because I called him ratchet.

3 Q And how -- was anything obstructing your view of him?

4 A No.

5 Q And you're sure this was different from the other guy
6 you got the good view of?

7 A The other guy was taller.

8 Q And did you get a good look at his face that night?

9 A Yes, I did.

10 Q Had you ever seen him before?

11 A No, ma'am.

12 Q But that night how close did he get to you when you
13 saw him?

14 A The guy on the outside?

15 Q The guy that did the shooting?

16 A He got from where we are.

17 Q From where you and I are now?

18 A Right.

19 Q So within a -- two or three, four feet?

20 A Yes.

21 Q And so you got a good look at his face that night?

22 A Yes, ma'am.

23 Q And you were able to see actually, you mentioned his
24 gold teeth?

25 A Yes, ma'am.

1 Q And there was no problem with you seeing what he
2 looked like?

3 A No, ma'am.

4 Q And approximately how long was that you had an
5 opportunity to observe him?

6 A Just a few minutes. It was a whole crowd coming in,
7 so ---

8 Q A few minutes?

9 A Yes.

10 Q But when you looked up and saw the person actually
11 shooting, you recognized him from seeing him earlier?

12 A Yes.

13 Q And that was the guy you just described?

14 A Just described.

15 Q When the -- after the shooting that night, did the
16 police come?

17 A Yes, they did.

18 Q Did you give them a description of the guy that did
19 the shooting?

20 A Not that night. I don't believe -- I gave the guy --
21 I gave the officer my number. I did -- I'm trying to
22 think. It was so much going on, because I was actually
23 standing right there with Jimbo asking what he want me to
24 do. I was trying to actually get his stuff and, you know,
25 -- so ---

1 Q Pretty emotional.

2 A Yes.

3 Q So you don't know if you talked to him that night or
4 later.

5 A I know I talked to the police later regardless. I
6 know I did.

7 Q And at that point did you give them a description of
8 the guy that came up to the front door as well as the guy
9 that did the shooting?

10 A Yes.

11 Q And you were able to give them information?

12 A Yes.

13 Q As far as the guy that gave him (sic) the shooting, do
14 you remember how you described him?

15 A Dark skin, gold in is mouth.

16 Q General build?

17 A Yes. He was a shorter guy. The other guy was taller.

18 Q At some point did the police make contact with you in
19 order to take a statement?

20 A Yes.

21 Q Written statement.

22 A Yes.

23 Q And did you give them a statement?

24 A Yes, ma'am.

1 Q And at some point did they also make contact with you
2 about showing you some photographs?

3 A Yes, ma'am.

4 Q Where did that take place, sir?

5 A It was at the office on -- what was that, Two Notch
6 Road?

7 Q That would be the sheriff's office?

8 A Yes, ma'am.

9 Q And you went there that day?

10 A Yes, ma'am.

11 Q And did you sit down with an investigator?

12 A Yes, ma'am.

13 Q And at that point did he show you some photographs?

14 A I think so. I'm trying to remember back. I know I
15 did a statement and stuff and ---

16 Q I'm going to show you this, what's been marked as
17 State's Exhibit Number 6. Do you recognize this? It's two
18 pages.

19 A Yes, ma'am.

20 Q Do you recognize that?

21 A Yes, ma'am, I do.

22 Q And when he showed you the photographs that are
23 depicted of the second page of State's Exhibit Number 6,
24 was there any handwriting on there?

25 A No, ma'am.

1 Q When he showed you the photographs, tell the Judge how
2 he showed them to you, and what, if anything, he said to
3 you.

4 A He just asked me do I see the suspect.

5 Q Did he tell you that he had to be in there?

6 A No.

7 Q Did he tell you you had to pick one?

8 A No, ma'am.

9 Q At any point -- and when you saw these six
10 photographs, did you look at all six of them?

11 A Yes, ma'am.

12 Q And did you recognize anyone?

13 A Yes, ma'am.

14 Q And who did you recognize?

15 A I picked him, number five.

16 Q And what did you pick him?

17 A That's who I seen.

18 Q Seen do what?

19 A That's who I seen at the door and that's who I seen do
20 the shooting.

21 Q Doing the shooting?

22 A Yes, ma'am.

23 Q Any doubt in your mind?

24 A No, ma'am.

1 Q And you recognized him based on what you saw that
2 night?

3 A Yes, ma'am.

4 Q And, again, approximately how long was it that you had
5 the opportunity to view him that night, the one you call
6 racket?

7 A Few minutes at the door, and I seen him on the outside
8 in the shooting.

9 Q And nothing was obstructing your view?

10 A Nothing.

11 Q And you paid attention to what he looked like?

12 A Yes, ma'am.

13 Q And did you get a good look at his face that night?

14 A Yes, ma'am.

15 Q And you remembered it.

16 A Yes, ma'am.

17 Q Did anyone tell you who to pick?

18 A No, ma'am.

19 Q Did anyone tell you you had to pick anyone?

20 A No, ma'am.

21 Q And you recognized him because of what you saw that
22 night?

23 A Yes, ma'am.

24 Q Once you had indicated to the officer who it was, did
25 he have you write on that in any way?

1 A He had me initial.

2 Q And those are your initials?

3 A Yes, ma'am.

4 Q As well as the date?

5 A Yes, ma'am.

6 Q And that's your handwriting.

7 A That's my handwriting.

8 Q After that on the first page of State's Exhibit Number
9 6, the photo line-up, labeled photo line-up, did you again
10 indicate which one you recognized?

11 A Yes, ma'am.

12 Q And is that your signature?

13 A Yes, ma'am, it is.

14 Q And that was the person.

15 A Yes.

16 MS. CAMPBELL - May I approach?

17 THE COURT - Yes.

18 Q So there were two different people you got a good look
19 at that night and you could distinguish between the two.

20 A I actually got a good look at three.

21 Q At three, excuse me. And that photo line-up I've
22 shown to you I believe on the 28th which would've been
23 approximately three days after this happened?

24 A Yes, ma'am.

LAMAR RAY - DIRECT BY CAMPBELL / CROSS BY SAWYER

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1 Q The person that you saw do the shooting, do you see
2 him here in the courtroom?

3 A Yes, ma'am.

4 Q Can you point him out for the Judge?

5 A Yes, ma'am. (Indicating)

6 Q What is he wearing?

7 A Gray shirt.

8 Q And where is he seated?

9 A In between two lawyers I guess.

10 Q You guess?

11 A (No response)

12 MS. CAMPBELL - Your Honor, may the record reflect
13 he's identified the defendant.

14 THE COURT - Very well.

15 MS. CAMPBELL - That's all I've have.

16 THE COURT - All right, cross examination.

17 MR. SAWYER - Thank you, Your Honor. May it
18 please the Court.

19 THE COURT - Yes, sir, Mr. Sawyer.

20 CROSS EXAMINATION

21 BY MR. SAWYER -

22 Q Mr. Ray, where'd you see him when he was shooting?

23 A In the car.

24 Q Which car?

25 A Black crown vic.

- 1 Q The what?
- 2 A Black crown vic.
- 3 Q Black crown vic or the white crown vic?
- 4 A It wasn't a white crown vic; it was a black crown vic.
- 5 Q There was only one car there that night?
- 6 A There was two.
- 7 Q Okay. What was the other car?
- 8 A It was a white crown vic.
- 9 Q Okay. Now, do you remember talking to Investigator
- 10 Lindler?
- 11 A I don't remember the name. I remember talking to
- 12 investigators.
- 13 Q Okay. Actually you and Vince (sic) talked to
- 14 Investigator Mauldin that day, but you talked to an
- 15 investigator at Richland County. Right?
- 16 A Yes.
- 17 Q Okay. And that was about the same time you did this
- 18 statement was when you did that photo line-up. Correct?
- 19 A I can't see it from here.
- 20 Q I'm sorry. Do you remember signing this statement?
- 21 A Yes, sir.
- 22 Q Okay. And that was the statement the Richland County
- 23 investigator took from you when they interviewed you?
- 24 A Yes, sir.

1 Q And that was the statement that you made when you did
2 the photo line-up, too.

3 A Yes.

4 Q Okay. Do you remember actually telling the
5 investigator at the time that you did not witness the
6 shooting?

7 A I do not remember that.

8 Q Do you remember telling him that you had went inside
9 for a minute and that you'd came running outside because
10 you had heard someone saw that he had been shot?

11 A I heard them say it, yes, I did.

12 Q Okay. So you were inside when the shooting occurred.

13 A I walked in as soon as it happened, turned around like
14 at said, because the podium is right there. El Toro's got
15 glass right there. You can see the outside.

16 Q Okay. Do you see right here what you said about
17 whether or not you witnessed the shooting?

18 THE COURT - That needs to be marked for
19 identification purposes if it has not already been marked.

20 MR. SAWYER - I certainly will, Judge.

21 Q And what is it that you stated to the investigator
22 whether you witnessed the shooting or not?

- 1 A Oh, I did. I know what I said here, too.
- 2 Q Okay.
- 3 A I heard the girl say it, too.
- 4 Q What is that question that he asked you right there?
- 5 A Which one?
- 6 Q That question right there.
- 7 A Did you ever hear ---
- 8 Q Right there.
- 9 A Did you actually witness the shooting and I said, no.
- 10 Q Okay.
- 11 A Yes. I know.
- 12 Q So now you're saying you did witness the shooting?
- 13 A Yes, I did.
- 14 Q And now you're saying you did see the person who did
- 15 the shooting?
- 16 A Yes, I did.
- 17 MR. SAWYER - Nothing further, Judge.
- 18 THE COURT - All right. You've got to mark that
- 19 for ID though.
- 20 MR. SAWYER - That's fine.
- 21 (WHEREUPON, DOCUMENT IS MARKED FOR IDENTIFICATION
- 22 AS DEFENDANT'S EXHIBIT NUMBER 1.)
- 23 THE COURT - All right, any re-direct?
- 24 RE-DIRECT EXAMINATION
- 25 BY MS. CAMPBELL -

LAMAR RAY - RE-DIRECT BY MS. CAMPBELL

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1 Q And this was the same guy that had been in the club
2 that night that you called ratchet.

3 A Yes, I said no, because I knew the people that was
4 throwing the party, and I -- I was really said no because
5 of my safety, because I throw parties for them.

6 Q But no doubt that was the person you saw that night?

7 A Yes, ma'am.

8 MS. CAMPBELL - Thank you. I have no further
9 questions.

10 THE COURT - Re-cross?

11 MR. SAWYER - No, Your Honor.

12 THE COURT - All right. Very well. You may come
13 down. Call your next witness.

14 MS. WALKER - State calls Marquita Mobley. She's
15 outside. She'll be right in.

16 MARQUITA MOBLEY, AFTER BEING FIRST DULY SWORN,
17 TSETIFIES AS FOLLOWS -

18 DEPUTY CLERK - Thank you. Please have a seat in
19 the witness stand, and state your full name for the record.

20 MS. WALKER - May it please the Court, Your Honor.

21 THE COURT - Yes. Yes, yes.

22 DIRECT EXAMINATION

23 BY MS. WALKER -

24 Q Good afternoon.

25 A Good afternoon.

1 DEPUTY CLERK - State your name for the record,
2 ma'am.

3 MS. MOBLEY - Marquita Mobley.

4 Q Ms. Mobley, where do you live?

5 A Garner's Ferry Road.

6 Q Here in Columbia?

7 A (Indicating yes)

8 Q How long have you lived here in Columbia?

9 A Five years.

10 Q So you were living here last summer?

11 A (Indicating yes)

12 THE COURT - That's a yes?

13 A Yes, ma'am. I'm sorry.

14 Q She's going to take down everything you say, so you
15 have to say yes or no so she can understand. Okay?

16 A Okay.

17 Q You were living here last summer.

18 A Yes, ma'am.

19 Q And do you work?

20 A No, ma'am.

21 Q Last -- in August of last year -- I want to kind of
22 take your attention to why we're here today.

23 A Okay.

24 Q Were you over in the St. Andrews Road area?

25 A Yes, ma'am.

- 1 Q What were you doing over there?
- 2 A At the store, at a motel ---
- 3 Q At ---
- 4 A Yes. I was living at a motel over there.
- 5 Q Who were you living there with?
- 6 A My friend.
- 7 Q What's your friend's name?
- 8 A Kristina Nuttry Payne (sic).
- 9 Q Kristina Nuttry?
- 10 A (Indicating yes)
- 11 Q And at some point in time that night, did y'all try to
- 12 go to El Toro?
- 13 A Yes, ma'am.
- 14 Q Tell me about what happened when y'all got to El Toro?
- 15 A We tried to get inside the club, but she couldn't get
- 16 in because she didn't have her ID, so we turned around and
- 17 this gentleman had picked us up and took us to the room,
- 18 and then we went to the room and came back to the store.
- 19 Q All right, let me slow you down one second. A
- 20 gentleman picked -- when you said picked us up, who you
- 21 talking about?
- 22 A Me and my friend, Kristina.
- 23 Q Kristina?
- 24 A (Indicating yes)

1 Q And took you back to the hotel room you were staying
2 in?

3 A (Indicating yes)

4 THE COURT - That's a yes?

5 A Yes, ma'am, I'm sorry. This is my first time in Court
6 so ---

7 THE COURT - That's okay.

8 Q I understand. You're a little nervous?

9 A Yes, I am.

10 Q Just take a deep breath. She -- y'all went back to
11 your hotel room?

12 A (Indicating yes)

13 THE COURT - That's a yes?

14 A Yes, ma'am.

15 Q And at some point in time did y'all leave the hotel
16 room?

17 A Yes, ma'am.

18 Q And why did y'all leave?

19 A To go back to the store.

20 Q What store are you talking about?

21 A The Gazbah?

22 Q Gazbah ---

23 A (Indicating yes)

24 Q --- on St. Andrews Road?

25 A Yes, ma'am.

1 Q Where is that in relation to El Toro where y'all tried
2 to go that night?

3 A Where is that in relation?

4 Q Is it close to it?

5 A Yes, it's right next door to it.

6 Q It's right next door?

7 A (Indicating yes) ---

8 THE COURT - That's a yes?

9 A Yes, ma'am, I'm sorry.

10 Q That's okay. Try to calm down. When you were at the
11 Gazbah, what happened?

12 A We was at the Gazbah and the gentleman that who we was
13 with, he went inside the store to purchase some beers and
14 cigarettes, and while we was sitting outside, she called a
15 gentleman over ---

16 Q She -- Kristina did?

17 A (Indicating yes) -- to the car.

18 THE COURT - That's a yes?

19 A Yes, ma'am. She called the gentleman over to the car
20 and he was telling us where he -- what happened at the
21 club.

22 Q Did you see anything that happened at the club?

23 A Yes, ma'am.

24 Q Tell me what you saw that happened at the club.

1 A Well, we -- while we was sitting in the vehicle, he
2 went inside the store and it was a lot of commotion going
3 on out there, because we couldn't get in the club, so we
4 went back to the room and came back to the store, and while
5 we was at the store, a gentleman came -- well, she called
6 the gentleman over to the car because they was arguing with
7 the police, security officer.

8 Q Did you see them arguing with the security officer?

9 A (Indicating yes) yes, ma'am.

10 Q Do you remember how many people you saw arguing with
11 the security officer?

12 A It was a couple, like a few.

13 Q More than one?

14 A (Indicating yes)

15 THE COURT - That's a yes?

16 A Yes, ma'am.

17 Q And the people that you saw arguing, where did they go
18 after they finished arguing with the security guard?

19 A Got in the car and left after the shooting occurred.

20 Q Did you talk to those people?

21 A No. One -- my -- Kristina did.

22 Q Kristina did?

23 A (Indicating yes)

24 THE COURT - That's a yes?

25 A Yes, ma'am.

1 Q And that's the guy that came over to the car?

2 A Yes, ma'am.

3 Q What -- did that guy say anything?

4 A Yes.

5 Q What did he say?

6 A That he was going to shoot the rounds; the guy maced
7 him with the mace at the club, and I guess he didn't like
8 it, so he said he was going to shoot rounds, so we better
9 get out of the way, and I told him I had a child, and after
10 that he was like he had three kids or whatever, told him I
11 had nothing to do with that, so I went in the store and got
12 the guy who we drove to the store with and we proceeded to
13 leave while the shooting was occurring.

14 Q All right, let me back you up a little bit. You saw -
15 - did you see -- you saw a commotion.

16 A (Indicating yes)

17 THE COURT - That's a yes.

18 A Yes, ma'am. I'm just nervous.

19 Q I understand.

20 THE COURT - And the only -- let me tell you. I
21 know what you mean. So when I remind you, it's just so you
22 can answer for the record, because what happens is, our
23 court reporter then has to interpret what you mean, even
24 though I think I know what you mean.

25 MS. MOBLEY - Okay. I got you.

1 THE COURT - That's the only reason that I'm doing
2 that is so that the record will reflect ---

3 MS. MOBLEY - I got you.

4 THE COURT - So I'll keep reminding you when you
5 forget just so our record will be clear. Okay?

6 MS. MOBLEY - Okay.

7 THE COURT - So if you forget, don't worry about
8 it. I'll remind you. Okay?

9 MS. MOBLEY - Okay.

10 THE COURT - Okay.

11 Q You saw commotion at the El Toro.

12 A (Indicating yes)

13 THE COURT - And that's a yes.

14 A Yes, ma'am. I'm sorry.

15 Q And what -- the guy that came over and talked to the
16 car (sic) -- talked to your friend in the car ---

17 A (Indicating yes)

18 Q --- was he involved in that commotion?

19 A (Indicating yes)

20 THE COURT - And that is a ---

21 A Yes, ma'am, sorry.

22 Q And he said what now about busting rounds?

23 A He was going to let rounds go, so you need to get out
24 of the way, and I told him I had a child.

25 Q And he said he had how many?

- 1 A Three kids.
- 2 Q And he said he was going to bust rounds because ---
- 3 A Yes.
- 4 Q What was his reason for busting rounds?
- 5 A Because -- I guess because of the mace incident.
- 6 Q So you were warned ---
- 7 A Yes.
- 8 Q --- that a shooting was about to go down.
- 9 A (Indicating yes) yes, ma'am.
- 10 Q And once you got that warning, what did you do?
- 11 A I went in the store and got the guy, told him
- 12 whatever, and then that's when the round -- well, that's
- 13 when the shooting occurred and then we was leaving.
- 14 Q Did you see the actual shooting?
- 15 A No, I didn't see the actual shooting, but the -- the
- 16 guys who was shooting, yes.
- 17 Q You saw the guy shooting?
- 18 A (Indicating yes)
- 19 THE COURT - And that is a ---
- 20 A Yes, ma'am.
- 21 Q And did you -- you gave all this information to police
- 22 officers?
- 23 A Yes, ma'am.
- 24 Q And at some point in time did they show you what's
- 25 called a photo line-up?

- 1 A Yes, ma'am.
- 2 Q And who were they asking you to pick out of that photo
3 line-up?
- 4 A The one who was shooting.
- 5 Q I want to show you State's Exhibit Number 5 ---
- 6 MS. WALKER - May I approach the witness, Your
7 Honor.
- 8 THE COURT - You may.
- 9 Q --- and ask you if you recognize this.
- 10 A (Indicating yes) yes, ma'am.
- 11 Q Do you recognize this?
- 12 A Yes, ma'am.
- 13 Q And is this the photo line-up they showed you?
- 14 A (Indicating yes)
- 15 THE COURT - And that is a ---
- 16 A Yes, ma'am.
- 17 Q When they showed you this photo line-up, did they tell
18 you who to pick?
- 19 A No, ma'am.
- 20 Q Did they suggest to you in any way who you were
21 supposed to pick?
- 22 A No, ma'am.
- 23 Q Did they tell you you had to pick anyone?
- 24 A No, ma'am.
- 25 Q And why did you pick number 5?

MARQUITA MOBLEY - DIRECT BY MS. WALKER

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1 A Because that's the guy who came to the vehicle where
2 we was.

3 Q Is this the guy who did the shooting?

4 A (Indicating yes)

5 THE COURT - And that is a ---

6 A Yes, ma'am.

7 MS. WALKER - Your Honor, for the record I'm
8 referring to State's Exhibit Number 5.

9 THE COURT - Thank you.

10 Q And all that information you shared with police
11 officers and you picked -- and you picked number 5 out of
12 Exhibit 5.

13 A Yes, ma'am.

14 THE COURT - And ---

15 A Yes, ma'am. Sorry.

16 THE COURT - That's okay.

17 Q So the reason you picked out that person is because of
18 what you saw that day?

19 A Yes, ma'am.

20 MS. WALKER - Thank you. I don't have any further
21 questions.

22 THE COURT - Cross examination?

23 MR. SAWYER - Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. SAWYER -

1 Q Did your friend hear everything that you heard that
2 night?

3 A Yes, ma'am, yes, sir.

4 Q And did she supposedly see everything that you saw
5 that night?

6 A No, she didn't.

7 Q Why not?

8 A I'm not sure. Like her story was different from
9 mines.

10 Q Okay. Who was facing the club in the car?

11 A Who was facing the club?

12 Q Yes, ma'am.

13 A To my -- like talking to the guy?

14 Q Your car was -- the car was parked facing the Gazbah.
15 Correct?

16 A (Indicating yes) to the store, facing the store.

17 Q Okay, and which seat were you sitting in?

18 A I was in the front seat, passenger side.

19 Q Front passenger side.

20 A (Indicating yes)

21 THE COURT - And that is a ---

22 A Yes, sir.

23 Q And from that front passenger side you were able to
24 see the shooting?

25 A (Indicating yes)

MARQUITA MOBLEY - CROSS BY MR. SAWYER

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1 THE COURT - And that's a ---

2 A Yes, sir.

3 Q And from that front passenger side you were able to
4 get a good view of the person you picked out.

5 A Yes, sir.

6 Q But he approached the rear driver's side.

7 A (Indicating yes)

8 Q Okay.

9 A Yes, sir.

10 Q And the shooting took place on the driver's side of
11 the car. Correct?

12 A Yes, sir.

13 MR. SAWYER - Thank you.

14 THE COURT - Any re-direct?

15 MS. WALKER - No, ma'am.

16 THE COURT - Okay, thank you. You can come down.

17 MS. MOBLEY - That's it? Thank you.

18 THE COURT - All right, call your next witness,
19 please.

20 MS. CAMPBELL - Your Honor, our last witness -- I
21 don't know -- I think he's downstairs -- would be Chief
22 Wilson who basically saw different parts, he is still on
23 the stand is my understanding in another courtroom.

24 THE COURT - Okay.

1 MS. CAMPBELL - We can go check again. We checked
2 about ten minutes ago.

3 THE COURT - Sure. We'll just be at ease.

4 THE COURT - Counsel, let me see you for a second.

5 (WHEREUPON, BENCH CONFERENCE WAS HELD WHICH WAS
6 NOT REPORTED.)

7 (WHEREUPON, PARTIES EXIT THE COURTROOM FOR THE
8 FOLLOWING EX PARTE HEARING):

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(WHEREUPON, EX PARTE HEARING IS CONCLUDED)

5

(WHEREUPON, THE PROSECUTION AND OTHER PARTIES

6

ENTER THE COURTROOM)

7

THE COURT - We have someone here. I have a

8

suspicion that it might be Investigator Wilson. All right,

9

call your next witness.

10

MS. CAMPBELL - State calls Chief Wilson.

11

THE COURT - I meant Chief Wilson. I'm sorry.

12

DAVID WILSON, AFTER BEING FIRST DULY SWORN,

13

TESTIFIES AS FOLLOWS -

14

DEPUTY CLERK - Thank you. Please have a seat in

15

the witness stand, and state your full name for the record.

16

THE COURT - Were you able to switch your files

17

out, because I understand you're having a busy afternoon.

18

MR. WILSON - Just got off the stand, ma'am.

19

THE COURT - Your witness.

20

MS. CAMPBELL - Thank you, Your Honor.

21

DIRECT EXAMINATION

22

BY MS. CAMPBELL -

23

Q Chief Wilson, where are you employed?

24

A The Richland County Sheriff's Department.

25

Q What do you do there, sir?

1 A I'm the Deputy Chief over investigations.

2 Q Did you become involved in the investigation of the
3 murder at the El Toro ---

4 A I did.

5 Q --- back in I believe it was August of last year?

6 A Yes, ma'am.

7 Q And I want to just talk about some specific things you
8 did. On August the 28th of 2012, I want to show you what's
9 been marked as State's Exhibit Number 6 for ID purposes.
10 Do you recognize that?

11 A Yes, ma'am.

12 Q And is that a photo line-up that you actually showed
13 that day?

14 A That is correct.

15 Q And who did you show that line-up to, sir?

16 A To Mr. Ray.

17 Q And do you remember where that took place?

18 A It took place at a location over in West Columbia,
19 Casey. The -- I believe his son had a ball practice there,
20 and we met in my car there at the ball field.

21 Q And that day when you showed him the line-up, can you
22 tell the Judge basically how you presented the line-up?

23 A I handed him the line-up and asked him if he
24 recognized anybody that was involved in the case at the El
25 Toro Club.

1 Q Okay, and when you showed him the line-up, did you
2 indicate who he should pick out?

3 A No.

4 Q Did you influence him in any way?

5 A No.

6 Q And in the manner when you showed him the line-up, was
7 he able to look at all six pictures?

8 A Yes.

9 Q And once ---

10 A And I told him that ---

11 Q Sorry.

12 A --- the subjects may not be in the line-up.

13 Q Okay. And at that point when you showed it to him,
14 what, if anything, was his reaction?

15 A He identified the number 5 photograph.

16 Q And did you have him memorialize that in any way once
17 he identified the photograph?

18 A I had him initial and date and put the time that he --
19 on the actual line-up and also on a sworn affidavit.

20 Q And that's attached on State's Exhibit Number 6?

21 A That is correct.

22 Q And did he additionally sign off on the affidavit that
23 that was who he recognized?

24 A That is correct.

1 Q And while you were there and showing him the line-up,
2 did anyone influence him in any way?

3 A It was just the two of us.

4 Q And did he hesitate any about his identification?

5 A No.

6 Q And did he indicate -- which one again did he
7 identify?

8 A Number 5.

9 Q And that's when you had him memorialize it.

10 A That is correct.

11 MS. CAMPBELL - Your Honor, may I approach?

12 THE COURT - You may.

13 Q During the course of the investigation did y'all
14 develop a suspect in this case?

15 A We did.

16 Q And who was that, sir?

17 A The Defendant, Mr. Haltiwanger.

18 Q Mr. Haltiwanger?

19 A (No response)

20 Q And was a warrant obtained for his arrest?

21 A It was.

22 Q And were you aware that he was actually arrested I
23 believe on the 29th?

24 A Yes, I was there.

1 Q Were you there when Investigator -- or Sergeant
2 Lindler actually advised him of his rights at the scene or
3 where he was arrested?

4 A I don't think so.

5 Q Over the course -- after -- were you aware that a
6 statement was taken from him that day by Investigator
7 Jordan and Sergeant Lindler?

8 A Yes.

9 Q After that, over the course of the next couple of
10 days, did y'all develop additional information in the case?

11 A We did.

12 Q And what kind of information did y'all develop?

13 A I listened to some jail phone calls and there were
14 some phone calls in there that aroused our suspicion they
15 were trying to get rid of evidence. I notified Sergeant
16 Lindler and Investigator Jordan. They went back and
17 interviewed the wife who was the recipient of the phone
18 calls. She then gave a statement implicating the defendant
19 in the shooting at the El Toro Club.

20 Q Then on the 31st did y'all think it was prudent to re-
21 interview the defendant?

22 A Yes.

23 Q And do you know who actually went and got the
24 defendant from the Alvin S. Glenn Detection Center?

25 A I'm assuming it was Tai Jordan and Sergeant Lindler.

- 1 Q Do you know where they took him that morning?
- 2 A They took him to Sergeant Isenhoward's office.
- 3 Q There at headquarters?
- 4 A Yes.
- 5 Q And were you there for the actual Advice of Rights?
- 6 A No, I was not.
- 7 Q However, did you become involved in the taking of the
- 8 statement that day?
- 9 A I did. Investigator Jordan had to leave for a family
- 10 situation, so I stepped into the room and assisted Sergeant
- 11 Lindler.
- 12 Q And at that point were you aware he'd already been
- 13 advised of his rights?
- 14 A Yes.
- 15 Q Were you aware that he had waived his rights?
- 16 A Yes.
- 17 Q And was cooperative.
- 18 A Yes.
- 19 Q During the time period when you were in there, at any
- 20 point did he invoke any of his rights?
- 21 A No.
- 22 Q Did anyone threaten him?
- 23 A No.
- 24 Q Promise him anything?
- 25 A Not at all.

- 1 Q Was he coerced in any manner?
- 2 A No, ma'am.
- 3 Q And did he appear to be talking to you voluntarily
- 4 that day?
- 5 A Absolutely.
- 6 Q And eventually was that statement on the 31st reduced
- 7 into a typewritten form?
- 8 A It was.
- 9 Q And was he allowed to review it?
- 10 A Yes.
- 11 Q And sign off on it.
- 12 A Yes.
- 13 Q And I show you what's been marked as State's Exhibit
- 14 Number 4. Do you recognize that?
- 15 A I do.
- 16 Q And is that, in fact, the typewritten statement that
- 17 was ultimately taken after speaking to the defendant that
- 18 day?
- 19 A That is correct.
- 20 Q And whose signature is that on the bottom of each
- 21 page?
- 22 A It is the defendant's; Sergeant Lindler notarized it
- 23 and I signed it as a witness on each page.
- 24 Q And does that contain the actual information he gave
- 25 you?

DAVID WILSON - DIRECT BY MS. CAMPBELL

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1 A That is correct.

2 Q And at any point during that period of time did he
3 invoke any of his rights, ask for an attorney, tell you he
4 didn't want to talk or anything of that nature?

5 A No.

6 Q And, in fact, what was his demeanor like that day? Do
7 you recall?

8 A He was cooperative.

9 MS. CAMPBELL - Beg the Court's indulgence.

10 THE COURT - All right.

11 Q The person that you took the statement from, do you
12 see him here in the courtroom?

13 A Yes.

14 Q And can you just identify him for the Judge?

15 A He's sitting at the defense table with a gray shirt
16 on.

17 Q With a gray shirt on?

18 A (No response)

19 MS. CAMPBELL - Your Honor, ---

20 THE COURT - Yes.

21 MS. CAMPBELL - --- I don't have anything further
22 for purposes of this hearing, Your Honor.

23 THE COURT - Cross examination?

24 MR. SAWYER - Thank you, Your Honor. May it
25 please the Court.

1 THE COURT - Yes, sir.

2 MR. SAWYER - Just be briefly.

3 CROSS EXAMINATION

4 BY MR. SAWYER -

5 Q Captain? Chief?

6 A Deputy Chief.

7 Q Deputy Chief? Chief Wilson, just going back to
8 Bernard's statement, he had no opportunity to use the
9 computer himself to type it up. Correct?

10 A No, we don't do that.

11 Q Okay. And he had no opportunity to hand-write it
12 himself. Correct?

13 A No.

14 Q Okay. And you guy's as a policy don't audio record or
15 video record any person's statement. Correct?

16 A That is correct.

17 Q Okay. And you are above Sergeant Lindler and
18 Investigator Jordan?

19 A I am.

20 Q Could you make the decision to audio or video record
21 or is that policy higher up from you?

22 A It's policy higher up than me.

23 Q Okay.

24 A Discussed it with the sheriff many times.

25 Q I'm sorry?

DAVID WILSON - CROSS BY MR. SAWYER

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1 A I've discussed it with my boss many times.

2 Q Sheriff Lott?

3 A Yes.

4 Q Okay. Let me if I could -- do you have your report in
5 front of you? I know you've been between two courtrooms.

6 I ---

7 A I do.

8 Q Okay. Page 2, do you remember talking with Lamar Ray
9 when you showed him that photo line-up?

10 A Yes.

11 Q Okay. Do you remember if that could help you out or
12 just from your memory for what purpose he picked Bernard as
13 that day -- what he said he had done at the club?

14 A I don't remember exactly what he said he'd done. He
15 picked him out as the man wearing the red shirt and being
16 involved in the fight and so.

17 Q All right. You don't remember him picking him out as
18 the shooter?

19 A No, I don't.

20 MR. SAWYER - Thank you, Your Honor. Nothing
21 further.

22 THE COURT - Re-direct?

23 MS. CAMPBELL - Nothing. We're good.

24 THE COURT - Very well. Thank you. All right.

25 Any other witnesses?

1 MS. CAMPBELL - None from the State?

2 THE COURT - All right. From the defense?

3 MR. SAWYER - None, Your Honor.

4 THE COURT - Very well. All right. Mr. Sawyer,
5 do you wish to be heard?

6 MR. SAWYER - I do, Your Honor.

7 THE COURT - I'm listening.

8 MR. SAWYER - All right. Your Honor, just in
9 relation to Lamar Ray's statement, I'd just ask that you --
10 or out-of-Court identification, I'd just ask that you'd
11 limit it to an out-of-Court identification as Bernard being
12 the person who was in the fight that day. Obviously, when
13 he was with Captain Lindler or Captain Wilson, the only
14 purpose he identified him with through Captain Wilson that
15 day was the person who was in the fight, not the person as
16 the shooter. Today I think we're all hearing for the first
17 time that Lamar Ray saw him shot (sic). Because of
18 contemporaneous situation, when that line-up was taken, I
19 believe it would be proper to only enter it in, if you're
20 going to enter it in, for purposes of Bernard just being
21 the person who was arguing with Jimmy Moti that day.

22 THE COURT - Let me ask you this question. Tell
23 me why that doesn't go to the weight, as opposed to the
24 admissibility, if you will, of the evidence.

1 MR. SAWYER - Well, Your Honor, I would argue that
2 when he identified someone in that photo line-up, ---

3 THE COURT - Yes.

4 MR. SAWYER - --- it was for the purpose and what
5 he told the person who was performing the line-up, they
6 asked, do you recognize the person who was at the club that
7 day.

8 THE COURT - Right.

9 MR. SAWYER - Do you recognize the person who was
10 involved in the fight.

11 THE COURT - Right.

12 MR. SAWYER - Never mentioned at all, this is the
13 person that did the shooting. That was the limited scope
14 I'd say law enforcement was engaging in that day. To allow
15 it for more, that would essentially be expanding the scope
16 of what that line-up's purpose was at the time it was made.
17 For that our reason, Your Honor, that's what ---

18 THE COURT - Okay. Yes?

19 MS. CAMPBELL - Your Honor, that's a creative
20 argument. I think it goes again to the weight, not the
21 admissibility as far as it goes more to a credibility
22 issue. He has identified him. He has told him the reason
23 that he didn't identify him as the actual shooter on that
24 occasion, that he was scared of retribution. That came out
25 during the thing. He can, of course, cross him

1 extensively, bringing an investigator possibly if he denies
2 it, cross him on that too about how he identified him at
3 the time. He is one of the persons that was involved in
4 the altercation at the club, then he's also the one that
5 was the shooter. He does identify him and he indicates now
6 that the reason he didn't say he was the shooter, that he
7 didn't witness the shooting at the time is because he was
8 afraid. I think it goes to weight, not admissibility.

9 THE COURT - Okay.

10 MS. CAMPBELL - And, of course, he can cross him
11 extensively on you just said at the time ---

12 THE COURT - Oh, I -- yes, yes. Absolutely.

13 MR. SAWYER - Your Honor, if I just may ---

14 THE COURT - I'm listening. I'm listening.

15 MR. SAWYER - I believe, you know, obviously, the
16 reliabilities and major issue in Biggers I believe that
17 this deems into reliability of that photo line-up. When he
18 comes and tells a different story today in Court than he
19 did to the Captain who administered it, I think that, you
20 know, just brings into the question of the reliability of
21 his identification.

22 THE COURT - Well, I think -- here's the
23 difference, the -- in the Neil v. Biggers, what the Court
24 is trying to ascertain, is trying to ascertain the
25 identity, do you know who it -- do you know who it was that

1 you saw. And listening to the witness and listening to
2 that portion of examination, I'm satisfied that there's no
3 question in his mind but that he identified the person on
4 the line-up that he saw, and his testimony is fairly
5 compelling in that regard. Your issue then becomes not
6 whether or not this is the person that you saw, but it has
7 to do with, okay, so what did you see him do. And it is at
8 that point that there -- from your perspective clearly
9 there's a change of story, clearly there's a change of
10 story, and today he seeks to explain, I was intimidated and
11 now I'm not intimidated, if you will. So I don't think the
12 issue is one of identification. I think the one -- I think
13 that the issue then gets to be one of credibility what did
14 he see, more-so than who he saw. And the purpose of Neil
15 v. Biggers is really to do a couple of things, number one,
16 is the line-up unduly suggestive, and I don't think it's --
17 I think it's actually one of the better line-ups that I've
18 actually seen, and -- but secondly -- then it gets to be
19 one of identification even if it is unduly suggestive, and
20 I think in terms of Neil v. Biggers, I'm satisfied that
21 he's -- he made an out-of-court identification, can make an
22 in-court identification, I think that -- I think that it
23 goes to his change in -- it's not who he saw but what he
24 saw, and I think that goes -- I think that goes to his
25 credibility and it goes to the weight, rather than going to

1 the identification, is really being two different issues.
2 So I would -- I would not limit the State's ability to ask
3 him what did you -- is this the person and what did you see
4 him do, and then I would suspect you going to have a quite
5 a very strong cross examination, which I would not be
6 particularly inclined to limit a whole lot, if at all.

7 MR. SAWYER - Thank you, Judge.

8 THE COURT - So I think -- noting your exception
9 for the record, by the way. Anything else on that line?

10 MS. WALKER - Briefly, Your Honor. The witness
11 that we're talking about, Mr. Ray, when I was walking him
12 out of the Court -- of the courthouse to the elevators, he
13 told me -- I want to turn this over to Mr. Sawyer and
14 defense counsel, you know, I was afraid that night, and I
15 said, okay, and he said, because I know the defendant --
16 because I -- I thought the defendant was friends with the
17 people that were throwing the party that night and they're
18 all gang members. So if there is -- that's going to be the
19 reason for why he said, no, I didn't see it that night,
20 because he was fearful from some sort of gang retaliation
21 because of the defendant and his connections. And that was
22 just turned over to me after he got off the stand.

23 THE COURT - I am not inclined to let him do that.
24 I'm not inclined at this late stage -- I am not inclined to
25 allow him to make that next leap.

1 MS. CAMPBELL - Could he -- at least -- he'd said
2 on the stand which is clear that he was afraid ---

3 THE COURT - Obvi -- well, you heard ---

4 MS. CAMPBELL - --- but just keep the gang thing
5 out of the ---

6 THE COURT - Yes, but you heard -- he said I have
7 -- no, what he said was, I have assisted these individuals
8 in promotions and their parties before and I was concerned
9 for my safety. Nah, no problem with that. No problem with
10 that. And that is why I did not identify the defendant as
11 the shooter.

12 MS. CAMPBELL - Okay.

13 THE COURT - No problem -- I ---

14 MS. CAMPBELL - We'll instruct him not to mention
15 anything about the gang.

16 THE COURT - We walked across that -- we've walked
17 across the river already on that one. The piece of it that
18 I don't -- that I would limit him is to make the next two
19 leaps, and oh, by the way they, they're a gang, and oh, by
20 the way, I think the defendant is a member of that gang,
21 and because I think that that -- the defendant is a member
22 of that gang, that's why I didn't say it. (Indicating no)

23 MS. CAMPBELL - We'll instruct him he cannot
24 mention gangs.

1 THE COURT - We -- but we -- you know, what, we
2 can go up to what he testified to, and I don't want him to
3 say gang.

4 MS. CAMPBELL - I got it.

5 THE COURT - But what he said was, I had promoted
6 parties with these individuals before, and I was concerned
7 for my safety.

8 MS. CAMPBELL - I'll get it from the court
9 reporter, Your Honor, just to make sure.

10 THE COURT - Well, yes, whatever, yes, I think
11 that's fairly close, but yes.

12 MR. SAWYER - Thank you, Your Honor, just as part
13 of when I talked with Ms. Campbell, she said she'd be able
14 to have Investigator Mauldin who was basically involved for
15 a minute or so in the investigation before he handed it off
16 to Investigator Jordan. He was the one who actually took
17 Mr. Ray's statement that day. I didn't think he'd be
18 necessary until obviously we're in this right now. Ms.
19 Campbell said she was going to have the investigator ---

20 MS. CAMPBELL - I'll be glad to try to get in
21 touch with him and make sure he's available for the defense
22 later in the week.

23 THE COURT - Great. Probably, -- you know, just -
24 - well, you can let him know where he is in the morning or
25 this afternoon.

1 MS. CAMPBELL - That's fine.

2 THE COURT - He can come on in either this evening
3 or in the morning. That would be best.

4 MR. SAWYER - Thank you, Your Honor. And then,
5 Judge, just for the Denno hearing ---

6 THE COURT - I want to be absolutely certain that
7 everybody's clear, because this is one of those issues that
8 just -- oh -- be a mess. I have never known Ms. Campbell
9 to be somebody reluctant to lead, but in that little
10 window, I'm probably going to let her lead a little bit,
11 but you object now. Don't miss the opportunity to object
12 on leading, but I'm probably going to let her get away with
13 a little -- because I don't -- because I don't want that
14 popping out, you know. And it's like every time in my
15 experience that somebody's been told not to pop something
16 out, it pops out. No matter what -- I don't know why --
17 it's my like one of my children, if you tell them, do not
18 touch this plate because it's hot, it's going to get
19 touched. You know, if I'd said it was cold, it'd be fine,
20 but if I tell them it's hot, they going touch it. And so
21 often if you say, don't say, it, bam, it's out there, so
22 you object, but in that little place, I don't -- you know,
23 I don't want to have a problem. We going to kind of lean
24 across that bridge, because I don't want -- don't want it
25 coming out about gangs, and I don't want it coming out that

1 I thought this gentleman was a member of that gang. Now,
2 having said that, he said I put on parties with these
3 people before and I was concerned for my safety, and
4 whatever else was testified to. Okay. Now, what else?

5 MR. SAWYER - Sorry, Your Honor, just briefly with
6 the Denno hearing. Obviously, you heard me get into that
7 and I just -- I believe they said the proper words to get
8 the Denno hearing in. Judge, you know, I just -- I have a
9 problem in 2013 that they're going to be able to enter in
10 his statement into evidence saying that this is Bernard
11 Haltiwanger's words, and I've got a cell phone in my pocket
12 that were his words. I think that it's misleading to the
13 jury to be able be -- to say that you are going to rule
14 that these are his words.

15 THE COURT - And here's what's going to happen at
16 some point. Don't know when, Mr. Sawyer, and it may be
17 this case, but what's going to happen is that the jury
18 because of the development of technology is going to walk
19 that path with you, but again that does go to the weight
20 rather than to the admissibility and it will happen one
21 day. I have no question in my mind.

22 MR. SAWYER - Judge, it can be the jurist to bring
23 that to the Supreme Court for the first time ---

24 THE COURT - Thank you so much for that
25 opportunity. You know, I am such a stare decisis kind of

1 girl. I would respectfully not walk down that path, but I
2 do -- I genuinely mean what I say. I do think that
3 ultimately because of the development and technology, Mr.
4 Sawyer, because it does go to the weight, at some point
5 that's going to happen because juries are going to become
6 suspect, but it doesn't go to the -- again, it doesn't go
7 to the admissibility; it goes to the weight, I think.

8 MR. SAWYER - Thank you, Your Honor.

9 THE COURT - Yes. All right. All right, now --
10 so I think -- we've done Jackson v. Denno; we've done
11 Biggers. We've got Mauldin coming. We've got records that
12 are going to be shown. I think that's it. What else we
13 got? We've got sequestration we dealt with. I think
14 that's everything. And one thing I do want to do before we
15 end today, is that -- let me tell you what I know. What I
16 know is that obviously a case of this magnitude is
17 heartbreaking. It is absolutely heartbreaking for family,
18 and I'm well aware of that. And counsel, I know that we
19 have several family members who are present, and I know
20 you'll passed onto Mr. Haltiwanger's family as well,
21 counsel, but this -- this is -- this is sort of if-you-will
22 what I'm going to ask for cooperation, and I want to
23 explain why. Particularly during openings and closings and
24 most assuredly during the charge, I don't like for people
25 to be moving around. And the reason for that is that I

1 want the jurors not to be distracted and be able to listen
2 to counsel. I think that's so important. Obviously when
3 I'm delivering the charge I want them to be able to listen
4 to the charge on the law, because they've got to be able to
5 focus. Having said that, family members, when it gets to
6 be a lot, you all are welcome to leave. If you feel
7 yourself becoming overwhelmed and you very well -- it's
8 going to happen. There are going to be moments when that
9 happens. It just -- just does. It's human nature. Please
10 take your leave. And that goes for both families. Take
11 your leave. When you can gather yourself together, you
12 come back. That doesn't apply to anybody other than
13 families. Like, young lawyers, you either in or you not.
14 You either in or you not in. And sometimes young lawyers
15 will want to come and watch wonderful lawyers like these
16 lawyers try cases, but when they -- they can only leave
17 during certain periods. That does not hold true to
18 families. You come and go as you need to. If you feel
19 yourself becoming just overwhelmed, take your leave. When
20 you're together you don't have to wait for anything, you
21 come on back. Does that -- does that make sense what I'm
22 saying? And please share that with Mr. Haltiwanger's
23 family. And the reason for that is that a jury must do its
24 work outside of the -- the term is passion and prejudice.
25 What it means is without the emotion. We need to protect

1 jurors from the emotional impact, which is obvious in a
2 case like this is full of. So I need -- I need everyone's
3 cooperation in that regard. And I don't know who's going
4 to be on the back door, but y'all help me -- Pat, you'll
5 help me do that.

6 DEPUTY CLERK - Yes, Your Honor.

7 THE COURT - Just make that explanation, because I
8 don't -- what applies for family doesn't apply to anybody
9 else. Now, that -- now, having said that, counsel's got to
10 have stuff coming and going and I know that. They've got
11 work that's got to -- and that doesn't apply to them,
12 because they may need something that's coming back -- you
13 may need information and I'm not limiting y'all at all.
14 What the limitation would be -- I don't know -- it might be
15 -- it might be like Mr. Sharpe's might have a friend that
16 want to come in and see him participate for the first trial
17 or something like that. Those people certainly are
18 limited. They have a different limitation. Those that
19 might want to come in -- Ms. Campbell, I've heard a couple
20 lawyers around the courthouse that want to come observe
21 you, and so, you know, we going to have some people coming
22 and going and that's how lawyers get better is to observe,
23 but they are under a whole different set of rules than the
24 family. So I hope y'all understand that and that makes
25 sense. If y'all need me to make any additional

1 explanation, y'all just let me know, and I'm happy to do
2 that. All right, now, I have all I have, I think. Yes?

3 MS. CAMPBELL - Your Honor, we did run raps sheets
4 on these last two witnesses. They don't have anything. We
5 would run the rest of them tonight. Okay? So we will turn
6 that over, and usually Mr. Sawyer and I can work through it
7 and decide what's impeachable.

8 THE COURT - Great.

9 MS. CAMPBELL - So hopefully we will have that
10 done and back in trial in morning.

11 THE COURT - Super. And we will -- we're going to
12 try to start around 9:00 in the morning, because I know
13 we've got a lot of work that we want to do, so I will see
14 y'all bright and early.

15 MS. CAMPBELL - Thank you, Your Honor.

16 MR. SAWYER - Thank you, Judge.

17 (Court in recess for the day at 5:30 p.m.)
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STATE OF SOUTH CAROLINA)
)
vs.) TRANSCRIPT OF RECORD
) DAY 2
GERALD BERNARD HALTIWANGER) (199 - 457)

NOVEMBER 13, 2013
COLUMBIA, SC

BEFORE THE HONORABLE DIANE GOODSTEIN

APPEARANCES:

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16TH Circuit Court Reporter

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1 THE COURT - All right, anything from the State
2 before we begin this morning?

3 MS. CAMPBELL - The only thing I would note, Your
4 Honor, is this morning the defense did hand me a Rule 5
5 Motion, however, I -- at this point, Your Honor, I just
6 want to put on the record and be clear that we have turned
7 over all discovery and he has reviewed all the evidence, so
8 he has, in fact, had everything that we have or access to
9 it, just to make sure the record is clear on that.

10 THE COURT - Crystal clear, wonderful, wonderful.

11 MR. SAWYER - And, Your Honor, I'll just
12 supplement that by adding much to my shock after I looked
13 at it last night, we actually had filed a Brady notice,
14 hadn't filed a Rule 5. We do that every time. I got this
15 case four months after he was arrested, but it's my case
16 and no excuse so -- just we did file that out of an
17 abundance of caution again today. I agree with Ms.
18 Campbell; I think we've gotten everything but ---

19 THE COURT - Well, and I want to be -- let me take
20 a minute. In other words, the Brady motion was filed.
21 Rule 5 was not filed, however, because of the working
22 relationship between the two offices, you are satisfied
23 that you have seen everything that the State has.

1 MR. SAWYER - And I think we both agree that we
2 were surprised there wasn't one filed in this case.

3 THE COURT - Sure. Well, you all have a good and
4 on-going relationship and I'm aware of that all the way to
5 the country, and so just for purposes of our record, you
6 all have shared information and you're satisfied that you,
7 in fact, have everything. And -- yes?

8 MR. SAWYER - Yes, ma'am.

9 THE COURT - All right. And you've had an
10 opportunity to go over that with your client.

11 MR. SAWYER - Yes, ma'am.

12 THE COURT - Okay, great, great. Thank you so
13 much for that. Let me ask this question of everyone, and
14 if family members need to share anything, I want them to
15 please share that with either counsel or the victim's
16 advocate, but it is my understanding that one of our jurors
17 walked through the courtroom this morning rather than going
18 the route that as I understand it the jurors were
19 instructed to go yesterday. They just came straight
20 through the courtroom. I don't have any information at
21 this point that there was any communication between that
22 juror and anyone. However, I will be sure that I express
23 and emphasize to the jurors that they must go the route
24 that was set out for them by our bailiffs. And I just ask
25 and I'll ask first of the State and then of the defense,

1 has it come to your attention that there was any sort of
2 interaction with the juror and are there any concerns that
3 the State wishes to put on the record and I'll ask y'all?

4 MS. CAMPBELL - No, Your Honor. Mr. Sawyer and I
5 were actually over at our table talking at the point he
6 observed the juror first and alerted me and I do not
7 believe she had over -- I mean there was nothing going on
8 at the time that I think would influence her in any way
9 that I'm aware of.

10 THE COURT - Okay. Yes, sir?

11 MR. SAWYER - As soon as I saw her walk down the
12 aisle, pretty much hushed up everyone. We were just kind
13 of quiet so ---

14 THE COURT - That was the information that came to
15 me, so you all just simply confirmed what I understood. I
16 will try to emphasize they must go -- they must go the
17 route that's been explained to them without any further
18 explanation. I will share also with you that we have a
19 juror 148 that came in with a laptop bag. That's been
20 removed by our bailiffs. They have it in their possession
21 and control. You know, I think I'm a nag. You know, I
22 think I told them, what, three or four times yesterday
23 about no communication devices, no cell phone. Maybe I
24 need to bring in my children to explain to them that, you
25 know, I've got all kind of levels of nag, and they just got

1 to pick one. I started out with the lowest one, but they
2 may want the highest one. But anyway, I will again tell
3 them not to bring in cell phone, laptops, computers, other
4 communication devices. I don't know -- I was watching the
5 news last night and apparently, I don't know, one of the
6 tech companies has asked for permission to do tech tattoos,
7 so apparently, we're all going to now be tattooed and we
8 won't need our cell phones or computers anymore, so there
9 you have it. Don't know what we will do then, but I'm sure
10 we will get the news from an administrative order about
11 that as well. But anything other -- anything additionally
12 from the State before we begin?

13 MS. CAMPBELL - No, ma'am.

14 THE COURT - And ---

15 MR. SAWYER - No, Your Honor.

16 THE COURT - Very well. Let's have our jury.

17 (Discussion is held between the Court Reporter
18 and the Judge whereby the Court Reporter is asking the
19 Judge to ask the attorneys to speak up.)

20 (Whereupon, the jury enters the courtroom)

21 THE COURT - Good morning, ladies and gentlemen.
22 I have a couple of announcements that I want to remind you
23 of, and then I'm going to get your pads and your writing
24 implements for you and I'm going to -- I'm going to give
25 you some instructions about that, and then I have some

1 preliminary remarks to make and you're going to be sworn in
2 as the jury, and then we're going to get right into the
3 trial of this matter. First of all, ladies and gentlemen,
4 and I think -- I think the error is mine -- when --
5 yesterday I mentioned that our bailiffs would take you to
6 your jury room and show you how to come and go from your
7 jury room, probably what I should have added to that is
8 that you needed to follow the path that was set out for you
9 by our bailiffs, and the reason for that is that -- there
10 actually is a reason for everything that we do. And the
11 reason that we do that is that we don't want jurors walking
12 through the courtroom because it is a controlled
13 environment, and there may be things that are ongoing in
14 the courtroom as we prepare for you that we need to be able
15 to do outside your presence quite frankly. So that's the
16 reason that the path that is given for you to come and go
17 to your jury room has been set out for you by your
18 bailiffs. I'm going to ask that you follow that path. To
19 do otherwise really could cause us concern, so I'm going to
20 ask you to please keep that in mind. If you have any
21 question or if you forget about how is it that you're
22 supposed to come and go from the courtroom, if you would
23 just stop and ask one of the bailiffs, they will be happy
24 to guide you. I get lost in this courthouse, and I have
25 gotten lost in this courthouse for 15 years. So if you

1 need a little assistance in getting that pathway, I
2 completely understand it, but if you could help me in that
3 regard and not walk through the courtroom, that would be
4 wonderful and I would be so grateful to you for that. Now,
5 secondly, just a reminder to leave your cell phones,
6 communication devices, laptops and the like away from the
7 courthouse, and again, I want to thank you so much. I
8 think someone forgot and brought a laptop and am so very
9 grateful to you for letting us know that. We will take
10 good care of it until our morning break or lunch, whichever
11 is your preference when you can take it somewhere other
12 than the courthouse, and thank you so much for letting us
13 know that you had it so that we could take good care of it
14 and so you would not have it in your possession while
15 you're serving on the jury. So thank you for letting us
16 know that, but for everyone, please try to remember to
17 leave your cell phones, laptops, iPads and other
18 communication devices away from -- we used to say beepers.
19 Does anybody carry a beeper anymore? So -- away from the
20 courthouse while you're serving on the jury, and again,
21 thank you so much for letting us know that you had it with
22 you, and that way we can take good care of it until you're
23 able to take it away from the courthouse. Now, that was
24 one of -- that was a wonderful que -- I just -- we're going
25 to get the pads and the notes for you momentarily, but at

1 this time I'm going to call on Pat -- Pat, if you'd be so
2 kind to please swear our jury.

3 (WHEREUPON, THE DEPUTY CLERK SWEARS THE JURY
4 PANEL)

5 THE COURT - And was there anyone who failed to
6 take the oath? If so, please stand.

7 (No response)

8 THE COURT - All right, and notebooks, pads.

9 DEPUTY CLERK - We're working on it.

10 THE COURT - Wonderful, wonderful. Very well. So
11 they will be here very, very shortly. Now, ladies and
12 gentlemen, the case that we are about to try is the case of
13 the State of South Carolina versus Mr. Gerald Bernard
14 Haltiwanger, Jr. who is the defendant. You may hear me use
15 the term defendant. When I say defendant, I mean Mr.
16 Haltiwanger, Jr. Now, ladies and gentlemen, before we
17 begin this trial, I want to tell you that this trial
18 probably will be different from what you might expect.
19 Many people, most people, do not have the chance to attend
20 actual court sessions as you are now doing and may think
21 from watching television, from movies or reading books or
22 from the internet, that trials are all always full of high
23 drama, intense action and riveting circumstances. I will
24 tell you, ladies and gentlemen, while all of these things
25 may be true at times, this trial, of course, is not for

1 entertainment. It is a fundamental part of our democracy.
2 It may be the fundamental part of our democracy. It is a
3 search for the truth in an effort to make sure that justice
4 is done between the parties before the Court. Searching
5 for the truth and making sure that justice is done is often
6 slow, deliberate and repetitive, the opposite of what you
7 may have seen on television or in movies or read in books.
8 Ladies and gentlemen, this courtroom is a place of honor
9 dedicated to the protection and the preservation of
10 citizens' rights through what many have called and I submit
11 to you the greatest system of justice that people have ever
12 created. Ladies and gentlemen, the attorneys who are
13 appearing before you are advocates for the parties they
14 represent, but I want you to know that first and foremost,
15 they are officers of the Court and they were first sworn to
16 uphold the integrity and the fairness of our judicial
17 system before they were ever allowed to represent even one
18 client, and they are sworn to help you in the search for
19 the truth. You should expect them to be professional,
20 competent and ethical in the representation of their
21 client's interests and to remember now that you have taken
22 an oath to try this case and reach a fair and just verdict,
23 and you are also expected to be professional, reasonable
24 and ethical. I want to thank you for accepting this most
25 important responsibility of jury service and for your

1 contribution to our justice system. Now, ladies and
2 gentlemen, what I will explain to you and talk to you a
3 little bit about is intended to serve as an introduction to
4 the trial of this case. These remarks are not a charge on
5 the law in this case. I will instruct you regarding the
6 law applicable to this case at the end of the trial before
7 you retire to consider your verdict. These remarks are
8 simply an explanation of the procedure that we will follow
9 so that you may better understand what may be happening.
10 In other words, I am going to try to put the procedure in
11 context for you so that you'll know where we are and what
12 is coming next for you. Ladies and gentlemen, in a moment
13 you are going to be giving notes and a notepad and a
14 writing implement and I'll talk to you and walk you through
15 the process, but what you will first do is that you're
16 going to -- on your first page you're going to write your
17 juror number, and then you're going to take that page and
18 then you're going to turn that page over and that's going
19 to be for you to use, if you choose, to take notes. I want
20 to tell you about note taking, because there is an on-going
21 debate about note taking, and it's this. There is a real
22 concern about note taking. The concern is that a juror can
23 miss something as it's coming from the witness stand
24 because they're taking a note. Oh, it's so easy for me,
25 because I'm going to say, don't miss anything that's coming

1 from the witness stand while you're taking a note. In
2 other words, genuinely, it's much more important to pay
3 attention to the witnesses than it is to take note, but the
4 reality is is that there are people who are note-takers.
5 I'm a note-taker. It helps me pay attention; it helps me
6 focus, and I will often go back and look at my notes, and
7 they make absolutely no sense at all, but somehow it helps
8 me focus to be able to jot down a word or two. And so the
9 reason that you're going to be given note pads is for those
10 of you who are note-takers. Some of you may take notes
11 that really are and would be of assistance to you to allow
12 you to refresh your recollection prior to your
13 deliberations. For those of you who are not note-takers,
14 do not worry about taking a note; don't take notes, because
15 I'm going to tell you that it is more important that you
16 listen to the witnesses and that you observe them than it
17 is to take a note. The reason that I'm going to give you
18 the note pads and the pens, quite frankly, is just for
19 those of you who that's how you listen as you take a note
20 or two, but you mustn't feel any pressure at all to take a
21 note. I will also tell you that if you do take a note,
22 your notes are for -- there was an old James Bond movie
23 called, For Your Eyes Only. Some of y'all don't remember
24 that. I do. It's a great movie actually. But in any
25 event, it's called For Your Eyes Only. Your notes are for

1 your eyes only. They're not to be shared with anyone.
2 Certainly during deliberations they're not to be held up
3 and say, I have this note. No, no, no, no. They're just
4 for your eyes. They're for you to be able to refresh your
5 own recollection to assist you in your deliberations but
6 not to be shared with anyone else. Now, ladies and
7 gentlemen, your notes will be left here in the courtroom
8 each time you leave the courtroom. You'll leave them in
9 your chair, and over the lunch-break and over the evening
10 we're going to secure those notes for you and then they'll
11 be given back to you in the morning. Just so you know, you
12 don't take them with you to the jury room; you leave them
13 here in the courtroom. And -- oh, finally, and I tell you
14 this way in advance. At the conclusion of the case, and
15 again, you'll know when that time has come, if you wish to
16 take your notes with you, that will be perfectly fine. If
17 you don't take your notes with you, let me tell you what
18 happens to them so you will know. Those notes are
19 immediately brought to my chambers and I destroy them. In
20 other words, they don't go anywhere else; they don't go to
21 anyone else's eyes. They come to me and I immediately
22 destroy them. How do I do that? Oh, you'd be -- I sit
23 there and I, you know, tear them up. Old fashioned -- I'm
24 an old-fashioned shredder, and I tear them up where they
25 cannot be read, so for your knowledge, if you wonder what

1 happens to them if you choose not to take them, that's what
2 happens to them. But again, there should be no pressure on
3 your part to take a note. It's much more important that
4 you listen and that you observe the witnesses because you
5 mustn't allow the taking of a note to keep you from being
6 able to listen and observe the witnesses. Now, ladies and
7 gentlemen, the defendant in this case, Mr. Haltiwanger, is
8 charged by an indictment with the crime of murder, the
9 elements of which will be explained to you later. Ladies
10 and gentlemen, an indictment is simply the notice document.
11 It's a piece of paper. It's the procedure by which a case
12 is brought into this Court. It is not in any sense
13 evidence of any of the allegations it contains, and as I
14 told you yesterday, Mr. Haltiwanger has pled not guilty to
15 this indictment, and the State, the State of South Carolina
16 has the burden of proving each of the elements of the
17 indictment beyond a reasonable doubt. And it will be your
18 duty, ladies and gentlemen, to decide whether the State has
19 met that burden. Now, ladies and gentlemen, your purpose
20 as jurors is to find and to determine the facts. You will
21 make the determination, what are the facts, you are the
22 sole, the only finders of the facts. Ladies and gentlemen,
23 if at any time I make any comment which appears to be to
24 you a comment regarding the facts, I ask you in advance,
25 please, disregard that. Our law doesn't allow me to have

1 an opinion regarding the facts. I don't have an opinion
2 regarding the facts, so if I do or say something during the
3 course of this trial that you think appears to be a comment
4 on the facts, please disregard that, because I can assure
5 you it is not. Ladies and gentlemen, you are to determine
6 the facts from the testimony that you hear and other
7 evidence which is introduced into Court. Introduced into
8 Court means made exhibits into the Court. It is up to you
9 to determine what, if any, inferences you feel may properly
10 be drawn from the evidence. Ladies and gentlemen, it is
11 especially important that you perform your duty of
12 determining the facts diligently and conscientiously,
13 because under our system of justice, there is ordinarily no
14 way to correct an erroneous determination of the facts by a
15 trial jury. The determination of the facts by a trial jury
16 are the facts for all time. Now, ladies and gentlemen, on
17 the other hand and with equal emphasis, the same law that
18 makes you the Judges of the facts makes me the Judge of the
19 law. The law as given to you by the Court is the only law
20 that you may consider. You must accept and you must follow
21 the law as given to you by the Court even though you may
22 disagree with it. I cannot tell you what the facts are,
23 and you cannot disagree with me about what the law is or
24 what it ought to be. Your job is to make the facts -- to
25 find the facts as you find them to be, take the law as I

1 give it to you, apply it to those facts and that is how you
2 will reach your verdict, which will then be a true and just
3 verdict under the oath that you just took. Now, until I
4 advise you to begin your deliberations, you must not
5 discuss this case with anyone, including your fellow
6 jurors, friends, family members and anyone involved in this
7 case. This includes discussions face-to-face and those by
8 telephone, e-mail, text, blogs or any other method of
9 communication. You may not use a computer, a cellular
10 phone or other electronic device with communication
11 capabilities at any time while in the courtroom or during
12 your deliberations, during your breaks for meals or over
13 night. You -- if necessary, you may use these devices for
14 other purposes, however, you may not at any time use these
15 devices to get or send information about the case. This
16 includes information about a party, a witness, an attorney
17 or a Court officer, news accounts about the case or
18 research on any topics raises or any topics you think would
19 be helpful in deciding the case or any testimony by any
20 witness. Now, during the trial do not read, listen to or
21 watch any news reports about this case. This includes
22 anything that may be in the newspapers or on the internet,
23 the radio or the television. You must not consider
24 anything you may have read or heard about the case outside
25 the courtroom, whether before or during the trial. After

1 the case is submitted to you -- and there'll be no question
2 in your minds when that time as come, because I'm going to
3 tell you, now is the time to begin your deliberations --
4 you must discuss it only in your jury room with your fellow
5 jurors, and all 12 of you must be present for you to
6 deliberate. Please know that the attorneys and the parties
7 in this case have been advised they are not to talk to you
8 at all. So if you see anyone involved in the case and they
9 do not even say hello, they are not being unfriendly.
10 They're just following my instructions. Ladies and
11 gentlemen, it is important that you keep an open mind and
12 that you not decide any issue in this case until all of the
13 evidence has been presented, the parties have made their
14 closing arguments and I have instructed you on the law
15 applicable to this case. It is your solemn responsibility
16 to determine whether Mr. Haltiwanger is guilty or not
17 guilty, and your verdict must be based solely, solely, on
18 the evidence as it is presented to you in this trial and on
19 the law as I instruct you during and at the close of the
20 trial. Now, in just a moment one of the solicitors will
21 make what is called an opening statement in which the
22 solicitor will discuss with you what the solicitor thinks
23 the issues are in this case. Following the opening
24 statement of the solicitor, one of the attorneys for the
25 Defendant, Mr. Haltiwanger, will also make an opening

1 statement to you. Now, what the attorneys tell you during
2 their opening statements is not evidence in this case. It
3 is their contention to what the issues are in this case.
4 Now, ladies and gentlemen, once the opening statements are
5 finished, then each side will have an opportunity to
6 present evidence to you with the State once again going
7 first. The evidence in this case will be presented to you
8 by the testimony of sworn witnesses from the witness stand
9 and or by exhibits, which may be introduced into evidence.
10 No doubt from time to time during the trial you are going
11 to hear one or more attorneys say, objection, or Your
12 Honor, I believe we have a question of law or a matter of
13 law to discuss with you, or, Your Honor, may we approach
14 the bench, and sometimes I myself may find it necessary to
15 excuse you from the courtroom for a short while so that the
16 attorneys and I can discuss a matter of law. The reason
17 for this is because you are the Judges of the facts in this
18 case and sometimes when I am discussing matters of law with
19 the attorneys, it may be necessary for me to make some
20 comment with regards to the facts in connection with ruling
21 on whether or not a particular law applies. I am not
22 supposed to tell you what I think the facts are, so I will
23 excuse you from the courtroom while these discussions take
24 place so that I in no way will influence you by anything
25 that I might say or do in connection with the facts. Now,

1 ladies and gentlemen, in determining what the true facts
2 are in this case, you must decide whether or not the
3 testimony of the witnesses is believable. It will be my
4 responsibility to rule as a matter of law as to whether
5 certain testimony is admissible at all or not, but once the
6 testimony is admitted, whether or not you believe it is a
7 matter solely for you to determine. And in deciding
8 whether to believe a witness, you have the right to
9 consider the interest of any witness, the bias of any
10 witness, the prejudice of any witness, the opportunity for
11 the witness to have seen the matters about which the
12 witness may testify and, of course, the way the witness
13 acts on the witness stand. You have a right to consider
14 anything that is in the record that will help you evaluate
15 the testimony of the witnesses. That means it is your duty
16 to pay close attention to these witnesses, observe them,
17 listen to them and pay close attention to the attorneys and
18 to the Court. Please do not let your thoughts wander, but
19 give the strictest attention to the testimony in this case
20 so that at the end of all the testimony, after the
21 arguments of counsel and the charge on the law by the
22 Court, you will then be in a position to determine what the
23 true facts are and to apply the law to those facts and
24 thus, render a true and just verdict. Now, ladies and
25 gentlemen, at this time we have writing implements and

1 pads. Bless your heart. If you would distribute them, I
2 would be so grateful. (Pause) Wonderful. Now, on that
3 front sheet if you will please write your juror number, and
4 then take that sheet and folder it over, because that's
5 your coversheet. Now, ladies and gentlemen, please let me
6 know if you need additional paper or, you know, if your pen
7 runs out of ink, if you need just additional paper or pen,
8 let me know and we'll be happy to provide you with
9 additional paper and pen. Now, I'm going to ask you to do
10 this for me. That's your pad and use that one. It was so
11 funny -- Dorchester County I -- I guess I was confusing and
12 one time we just had jurors just using whatever pad they
13 had and that separated the juror from the juror's notes, so
14 please use that note pad throughout the trial. That's why
15 you identified the pad on the front with your juror number,
16 so when you return just be sure you have your pad. If you
17 find that your pad's been moved from the seat, just let us
18 know and we'll just get you together with your pad, because
19 I want you to continue throughout the trial to use your --
20 your pad, your note pad. Ladies and gentlemen, in order to
21 preserve everyone's rights, it is now important that I give
22 the parties an opportunity to object to anything that I
23 have said. Any exceptions on behalf of the State?

24 MS. WALKER - None from the State, Your Honor.

25 THE COURT - Very well. From defense?

1 MR. SAWYER - None, Your Honor.

2 THE COURT - Ladies and gentlemen, at this time I
3 ask that you please draw close as we listen to the opening
4 statements. Yes?

5 MS. VRIESINGA - May it please the Court.

6 THE COURT - Yes.

7 MS. VRIESINGA - Good morning. Jimmy Moti was a
8 licensed security guard. Jimmy Moti was working to provide
9 a living for his family, and Jimmy Moti was killed on
10 August 25th, 2012 while he was doing his job. We are here
11 today, because the Defendant, Mr. Gerald Haltiwanger, is
12 charged with his murder. On the night of August 25th, the
13 defendant his brothers decided to go out. They decided to
14 go to the El Toro Restaurant and Bar, which is where Jimmy
15 was working that evening. They attempted to get into the
16 bar using a false ID. Jimmy, doing what he was hired to
17 do, denied them entrance to the bar, and they were angry.
18 They were very angry that they were not allowed in. Jimmy
19 asked them to leave the property. He actually escorted
20 them to the edge of the property, and Jimmy, who had the
21 authority of law to do anything that a uniformed officer
22 would do to protect the property, maced the defendant in
23 the back of the head when they got to the edge of the
24 property, and in response, the defendant's brother hit
25 Jimmy in the head. Now, the altercation didn't end there.

1 The defendant and his brothers went next door to a gas
2 station, and while there, they warned the people at the gas
3 station. The defendant noted that something was about to
4 go down next door, said he was going to shoot rounds. He
5 and his brothers got into their cars after that and as they
6 were driving out front past the El Toro Restaurant, he got
7 out his gun, rolled down the window and the defendant shot
8 Jimmy square in the chest. Jimmy died on the operating
9 table less than an hour later. Ladies and gentlemen, my
10 name is Sandra Vriesinga, and along with Meghan Walker and
11 Luck Campbell, we represent the State of South Carolina for
12 the Fifth Judicial Circuit and the people of Richland
13 County and Kershaw County. It's our job to prosecute
14 crimes, and as I said, we're here today because the
15 defendant was charged with the murder of Jimmy Moti.
16 Murder is defined as the unlawful killing of a human being
17 with malice aforethought whether express or implied, and in
18 this case we have both. Malice is defined as ill will,
19 hatred, and in South Carolina malice aforethought can be
20 found in the moment the trigger is pulled. As the State we
21 carry the burden. We carry the burden of proving each and
22 every element of the crime beyond a reasonable doubt.
23 Doesn't mean beyond any doubt or beyond all doubt, just
24 means a reasonable amount of doubt, proof that leaves you
25 firmly convinced of the defendant's guilt, and we welcome

1 that burden. Your job today is to listen to the facts. I
2 know when you came in here this morning, no one sat you
3 down and gave you an instruction manual on how to be a
4 juror, and that's because you have, each and every one of
5 you already has all the skills that you need to judge
6 people's character, and that's what you're going to be
7 doing this week. You're going to be listening to the
8 testimony of witnesses that take this stand, and use your
9 common sense. Judge people as you would outside of the
10 courtroom. Judge them for their credibility, their
11 credibility and their believability. It's your job to
12 determine who is telling the truth, and when you do that,
13 keep in mind what they have at stake, why they're here, why
14 they're coming in to testify, and at the end of the trial
15 we'll ask you to apply, to analyze that evidence and apply
16 it to the facts of the case in order to find a verdict.
17 Now, throughout the trial we're going to hear a lot of
18 testimony. You're going to hear evidence in two different
19 forms, direct and circumstantial. Direct is eyewitness
20 testimony, anyone who has first-hand knowledge of the
21 incident. And circumstantial is anything else that leads
22 you to a conclusion. During the course of this trial
23 you're going to hear from many different witnesses. You're
24 going to hear from Deputy Brunson who was the first
25 responding officer on the scene; he was actually the first

1 person there. He's going to tell you what he heard, what
2 he saw and how he secured the scene. You're also going to
3 hear from the EMS worker that drove Jimmy to the hospital.
4 You're going to hear from Investigator Woods who
5 photographed the scene. You're going to hear also from
6 Lamar Ray who was actually a security guard there that
7 night and he witnessed the defendant trying to get in using
8 a false ID. You're also going to hear from Marquita Mobley
9 who was at the gas station that evening. She saw what was
10 going down across the street. She heard the defendant
11 warning people that something was about to go down. But
12 you're not just going to hear from people that were there
13 at the scene at the time of the incident. You're going to
14 hear from people that analyzed the scene from a forensic
15 perspective. What I mean by that is you're going to hear
16 from people that studied DNA, studied gunshot residue for a
17 living. You're going to hear from people like John Barron
18 who analyzed the DNA on the ID card and actually found the
19 defendant's -- his DNA on that card. You're also going to
20 hear from Dr. Marcus, the Chief Medical Examiner for
21 Richland County. He's going to tell you about the bullet
22 that hit Jimmy and how it killed him. Finally, you're
23 going to hear from Sergeant Lindler, Investigator Jordan
24 and Chief Wilson. They're going to tell you about their
25 investigation from beginning to end. They're going to tell

1 you about how they first brought the defendant in and he
2 denied everything. And then they're going to tell you
3 about how they learned that he was trying to hide the gun.
4 And you're going to hear that when the defendant was
5 confronted with the overwhelming evidence against him, how
6 he ended up confessing. Ladies and gentlemen, this case
7 may sound fairly straightforward, fairly simple, but let me
8 remind you that this case is still important. This case is
9 important to us; this case is important to Jimmy's family;
10 this case is important to the defense; this case is
11 important to the State of South Carolina. Ultimately, it's
12 your job as the jurors, it's your job to decide who to
13 believe and what to believe. We'll come back before you at
14 the end of this trial and we're going to ask you to hold
15 the defendant responsible for his actions and for the only
16 verdict that speaks the truth in this case, a verdict of
17 guilty for the murder of Jimmy Moti. Thank you.

18 THE COURT - Thank you. Mr. Sharpe?

19 MR. SHARPE - Thank you, Your Honor. May it
20 please the Court.

21 THE COURT - Yes, sir.

22 MR. SHARPE - Good morning, ladies and gentlemen.
23 Before I introduce myself and my co-counsel, I just want to
24 go ahead and try to save everyone some time and let the cat
25 out of the bag. On August 25th, 2012, Bernard Haltiwanger

1 shot Jimmy Moti. That's just a fact. Now, ladies and
2 gentlemen, my name's Pat Sharpe. It's a pleasure to be in
3 front on you and to defend Bernard. My co-counsel, Alicia
4 Dyar, Mark Sawyer and, of course, Bernard Haltiwanger.
5 Now, ladies and gentlemen, Bernard is very nervous over
6 there. He understands the seriousness of what's going on
7 here. And I'd be lying if I told you that he was the only
8 one that's nervous over there. This is my first trial; I'm
9 pretty nervous. But what I would ask you is to, please,
10 don't hold my inexperience against Bernard, because Bernard
11 is not guilty of murder. Now, Ms. Campbell, she's been
12 doing this for over 25 years. She's great. Now, I've
13 heard that she's got a bunch of tricks up her sleeve. I've
14 never seen these tricks.

15 MS. VRIESINGA - Objection, Your Honor.

16 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
17 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
18 WHICH WAS NOT REPORTED.)

19 THE COURT - Overruled. You may proceed.

20 MR. SHARPE - So anyway like I was saying, Ms.
21 Campbell's been doing this for 25 years and I've heard that
22 she has a lot of tricks up her sleeve. I've never seen
23 these tricks, but I've heard about them. What I ask you is
24 is to don't fall for these tricks. This is a -- you heard
25 Ms. Vriesinga say that they have the burden of proof.

1 Well, they say they welcome that burden of proof, but we
2 ask you to please hold them to that. We don't think that
3 they can meet that burden. You know, in the morning you
4 might wake up, turn on the tv, turn on the coffee, watch a
5 little morning news, you know, there might be some crime
6 that has been committed that everyone's, you know, on edge
7 waiting for the perpetrated to be arrested. Well, you see
8 that and, you know, you feel good about it, and that's
9 normal. Ordinary citizen, feel good about that. But today
10 you took an oath that you're a juror, and that oath means
11 that you're not an ordinary citizen anymore. You took that
12 oath that says you're going to follow the law. The law
13 says that Bernard is innocent until proven guilty beyond a
14 reasonable doubt. What that means is is that you're
15 supposed to assume that they've made a mistake; they have
16 the wrong person here. We ask you if you can't look over
17 at Bernard and look at him as an innocent man, then you're
18 not doing what you've been sworn in to do. Now, the
19 State's going to bring up witnesses and put them on the
20 stand to try to convince you of what happened. Well, I'll
21 just ask you to listen intently, because none of the
22 witnesses that they're going to put up saw everything that
23 happened that night from the beginning until the end, and I
24 -- so what I ask you to do is just listen intently, because
25 you're going to have to piece this story together, and at

ZACHARY BRUNSON - DIRECT BY MS. VRIESINGA

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1 the end of this Mr. Sawyer's going to get up here and he's
2 going to wrap it all up and piece it together, and he's
3 going to present it to you and we believe that that's going
4 to enable you to put not guilty on the verdict form. Now,
5 we thank you and we look forward to presenting our case.

6 THE COURT - Thank you, Mr. Sharpe. If you'd call
7 your first witness, please.

8 MS. VRIESINGA - Yes, Your Honor. Deputy Brunson.

9 DEPUTY ZACHERY BRUNSON, AFTER BEING FIRST DULY
10 SWORN, TESTIFIES AS FOLLOWS -

11 DEPUTY CLERK - Thank you. Please have a seat in
12 the witness stand and state your full name for the record.

13 DEPUTY BRUNSON - Deputy Zach Brunson.

14 THE COURT - And how do you spell Zach?

15 DEPUTY BRUNSON - Z-a-c-h.

16 THE COURT - Your witness.

17 MS. VRIESINGA - Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS. VRIESINGA -

20 Q Deputy Brunson, will you please state your name for
21 the jury?

22 A Zach Brunson.

23 Q And can you please tell the Court what you do for a
24 living?

1 A I work for the Richland County Sheriff's Department;
2 I'm assigned to the Uniform Division, patrol; my area that
3 I'm assigned to what's Region 4, which is Broad River Road,
4 Dutch Fork, Irmo area. My main responsibilities are to
5 patrol and respond to calls of distress such as alarms,
6 assaults, thefts, things of that nature.

7 Q How long have you been working for Richland County?

8 A Approximately three and a half years.

9 Q Okay. What did you do before that?

10 A Before that I was in school at the University of South
11 Carolina, Criminal Justice major. I also worked at SLED
12 for a year while in college.

13 Q So you were employed by Richland County in August of
14 2012?

15 A Yes, ma'am.

16 Q Okay. I'm going to turn your attention back to August
17 25th of 2012. Did you receive a call that evening?

18 A I did.

19 Q Okay. What was that call for?

20 A The initial call was for a civil disturbance in
21 progress at the El Toro Bar and Grill which was located at
22 806 St. Andrews Road.

23 Q Okay. Is that in Richland County?

24 A Yes, ma'am, it is.

25 Q Okay. Was that call ever upgraded?

ZACHARY BRUNSON - DIRECT BY MS. VRIESINGA

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1 A Yes, as I was responding to the call, as I was en
2 route, it was updated to a shooting incident with a
3 security guard that was possibly hit and shot.

4 Q Okay. Were you the first responder on the scene?

5 A I was.

6 Q And what did you see when you got that there?

7 A When I first arrived ---

8 MS. DYAR - Objection, Your Honor.

9 MS. VRIESINGA - And he's using -- he's using his
10 report as extrinsic evidence to testify.

11 THE COURT - Lay a proper foundation.

12 MS. VRIESINGA - Yes, Your Honor.

13 THE COURT - All right.

14 Q Deputy, if I show you a copy of your report, would
15 that help refresh your memory?

16 A Yes, ma'am.

17 MS. VRIESINGA - Your Honor, may I approach the
18 witness?

19 THE COURT - You may. Now, let's mark it for
20 identification purposes, please.

21 MS. VRIESINGA - Okay. Your Honor, what I'm
22 showing the deputy is his incident report.

23 Q If you'd just tell us what that is exactly.

24 A This is the Richland County Sheriff's Department
25 incident report that I wrote on the night of the incident.

1 THE COURT - Okay. Have it marked, please, for
2 identification purposes.

3 (Whereupon, document is marked for identification
4 as State's Exhibit Number 70.)

5 MS. VRIESINGA - And Your Honor, for the record
6 I'm showing the witness what's been previously marked as
7 State's Exhibit 70 for identification purposes only.

8 THE COURT - Very well.

9 Q Deputy Brunson, if you would just tell us what you saw
10 when you arrived on the scene.

11 A When I first arrived on scene I observed the victim,
12 Mr. Moti, the security guard, lying on the ground at the
13 front of the steps leading up to the front of the entrance.
14 He appeared to have a bullet wound in his abdomen area. I
15 was trying to question him. He wouldn't -- he wasn't able
16 to answer any of my questions at the time.

17 Q What was the atmosphere like?

18 A It was pretty chaotic atmosphere. There was people --
19 there was an outside deck. There was some people on the
20 outside deck, couple of other security guards around,
21 pretty chaotic. It was a pretty busy night at the club, so
22 ---

23 Q Okay. Roughly how many people were out front at the
24 club?

1 A I would say approximately 20 people including patrons
2 on the deck.

3 Q Did you have a chance to speak to anyone?

4 A Yes, I spoke with a couple of people on the scene.

5 Q Okay. What did you learn?

6 A I learned that there was three subjects who were
7 attempting to gain entry into the club. I learned that
8 they were denied because they were trying to use someone
9 else's identification. After they couldn't gain access in
10 the club, I learned that Mr. Moti attempted to escort them
11 to their vehicle and advised them to leave the property. I
12 also learned that there was a physical altercation that
13 occurred near their vehicles where Mr. Moti was struck in
14 the back of the head. At that time I learned that there
15 was a vehicle that was leaving the area and there was shots
16 fired and that a black older marquis vehicle was possibly
17 involved and it was traveling on St. Andrews towards Broad
18 River Road.

19 Q Okay. I'm going to take you back to when you first
20 arrived on the scene. What are your typical duties when
21 you first arrive?

22 A When I initially arrive on a call like this where
23 someone is possibly been shot, first responsibility is to
24 secure the scene, make sure no one else is in danger, get
25 aid to the person who's been injured. After that try to

1 gain information on what had happened from witnesses or
2 people who had seen what happened, then secure the crime
3 scene, put up crime scene tape, try to secure evidence.

4 Q Did you do all those things?

5 A I did, yes, ma'am.

6 Q Okay. Did any other deputies arrive on the scene
7 while you were there?

8 A There were other deputies that arrived on scene, yes,
9 ma'am.

10 Q Okay. And did you start a crime scene log while you
11 were there?

12 A I did.

13 Q Did you pick up any of the potential evidence that was
14 at the scene?

15 A I did.

16 Q Okay. Can you tell us about that?

17 A The tactical vest that Mr. Moti was wearing.

18 Q Okay. And was there anything else? Any other objects
19 laying around the scene?

20 A Nothing that I recall other than the stuff that was in
21 his tactical vest.

22 Q Okay, what -- what was the stuff in his tactical vest?

23 A I believe his gun and some other items that he would
24 use for his job.

25 Q Flashlight ---

ZACHARY BRUNSON - DIRECT BY MS. VRIESINGA

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1 A Yes, flashlight, handcuffs, maybe.

2 Q Okay. All right. Did he have any weapons?

3 A I believe he did have a gun, yes, ma'am.

4 Q Do you remember what kind of gun it was?

5 A No, I don't. It was a -- it was a handgun. I don't
6 know model or make.

7 Q Okay. And what did you do with those items?

8 A I turned them over to Investigator Woods when she
9 arrived on scene.

10 Q Okay, who is Investigator Woods?

11 A She is a crime scene investigator with Richland
12 County.

13 Q Okay, so that's protocol.

14 A Yes, ma'am.

15 MS. VRIESINGA - Beg the Court's indulgence.

16 THE COURT - All right.

17 MS. VRIESINGA - No further questions. Please
18 answer any questions the defense has.

19 THE COURT - Cross examination?

20 MS. DYAR - Thank you, Your Honor. May it please
21 the Court.

22 THE COURT - Yes.

23 CROSS EXAMINATION

24 BY MS. DYAR -

1 Q All right, so you're the very first person on the
2 scene.

3 A Yes, ma'am.

4 Q EMS at this point?

5 A No, they got there right after I did.

6 Q Okay. About how long would you say?

7 A Couple minutes at the most.

8 Q Okay. And it's a chaotic scene; there's about 20
9 people or so. Is that ---

10 A Correct. There's a couple of people around and then
11 more people on the deck. There's an outside deck.

12 Q All right. And you say you secure the scene.

13 A Right.

14 Q Okay, what -- does that include putting up any sort of
15 tape or crime scene tape?

16 A Put up crime scene tape, start a log, anyone going in
17 and out of the crime scene.

18 MS. DYAR - Beg the Court's indulgence.

19 THE COURT - All right.

20 Q And you weren't the only one that responded that
21 night. Correct?

22 A That's correct. There was multiple deputies.

23 Q And what were their -- I mean what were their roles?

24 A Just to assist in the scene, crowd control, try to
25 identify other witnesses, things of that nature.

- 1 Q And you said you spoke to some people that night?
- 2 A I did.
- 3 Q Did you take any witness statements?
- 4 A Just verbal statements.
- 5 Q And because you're the first responder, you're in
- 6 charge of the scene ---
- 7 A That's correct.
- 8 Q --- from start to finish?
- 9 A That's correct.
- 10 Q And you maintain a log of everybody that comes in and
- 11 out.
- 12 A Yes, ma'am. Those are my responsibility until I turn
- 13 it over to the scene -- to the Crime Scene Investigator,
- 14 Investigator Woods.
- 15 Q And of the 20 or so people that you say are at the
- 16 scene on the porch, no witness statements were taken from
- 17 anybody there.
- 18 A No, most of them were uncooperative.
- 19 Q Okay. Possible witnesses that would've seen anything
- 20 -- none of these people gave any statements.
- 21 A Correct.
- 22 Q And EMS is -- EMS arrived you say about three minutes
- 23 after you do?
- 24 A Couple minutes, yes, not sure exactly.

1 Q Couple minutes. Okay. And you say you picked up the
2 tactical vest.

3 A Yes.

4 Q Okay, I mean where's that in -- is that taken off of
5 him when EMS was there?

6 A Yes, I believe EMS took it off of them to care for him
7 and then I secured it.

8 Q And Mr. Moti didn't say anything to you when you first
9 got there.

10 A No, he couldn't really make any statements. He was
11 kind of groaning.

12 Q And can you give me the names of each person that came
13 to the crime scene, to the incident location?

14 A That I logged on the crime scene?

15 Q (Indicating yes)

16 A I don't remember all the names. I'd have to look at
17 the crime scene. (sic)

18 Q Do you have a copy of your crime scene log?

19 A I don't.

20 MS. DYAR - Just want to refresh his recollection,
21 Your Honor.

22 THE COURT - Certainly.

23 Q Can you tell me what this is?

24 A It's the crime scene log.

25 Q And there's names on there.

1 A Yes, my name, Deputy Sullivan or Master Deputy
2 Sullivan, Deputy Grant, Klein and Labbe or EMS,
3 Investigator Woods, the crime scene and Lindler,
4 Investigator Lindler of Richland County.

5 Q Thank you. And all these people are at the scene at
6 the same time as you that -- and all of this is going on,
7 and all these officers, investigators, EMS workers, all in
8 the crime scene.

9 A Yes, not all -- not necessarily all at the same time,
10 but eventually they did come to the crime scene.

11 MS. DYAR - Beg the Court's indulgence.

12 THE COURT - All right.

13 MS. DYAR - I have no further questions.

14 THE COURT - All right, re-direct?

15 MS. VRIESINGA - Just a few, Your Honor.

16 THE COURT - All right.

17 RE-DIRECT EXAMINATION

18 BY MS. VRIESINGA -

19 Q Deputy Brunson, those individuals who were listed on
20 the crime scene log, does that encompass everyone that was
21 there?

22 A Just the people that went into the crime scene, not --
23 -

24 Q Okay, so they're already people ---

1 A Not necessarily people on the outside of the crime
2 scene. If they went inside the tape, that's considered the
3 crime scene.

4 Q Were there people that were already in the crime
5 scene, inside the tape?

6 A The tape? Well, the tape was kind of around the
7 entrance of the -- like guarding the doors, I guess.

8 Q Okay.

9 A So there were people inside the restaurant that -- but
10 they weren't really part of the crime scene because the
11 crime scene was outside the entrance.

12 Q Right. Could you tell us exactly where the crime
13 scene was, just describe it?

14 A There's a parking lot and then there's some small
15 stairs in kind of an entrance that lead up to the doors,
16 that area right there. There's some guard rails -- there's
17 some rails. There's a vehicle that got struck, so that was
18 inside the crime scene as well.

19 MS. VRIESINGA - Beg the Court's indulgence.

20 THE COURT - All right.

21 MS. VRIESINGA - No further questions, Your Honor.

22 THE COURT - All right, re-cross?

23 RE-CROSS EXAMINATION

24 BY MS. DYAR -

BRUNSON - RE-CROSS/DYAR - PATRICIA LABBE - DIRECT/WALKER 236

1 Q Deputy Brunson, were there more officers that where
2 there that weren't listed on your crime scene log?

3 A There were.

4 MS. DYAR - Nothing further.

5 THE COURT - All right. Is this witness free to
6 leave?

7 MS. VRIESINGA - Yes, Your Honor.

8 THE COURT - Any objection?

9 MS. DYAR - No, Your Honor.

10 THE COURT - Very well. You are free to go. Call
11 your next witness, please.

12 MS. WALKER - Thank you, Your Honor. The State
13 calls Patricia Labbe.

14 PATRICIA LABBE, AFTER BEING FIRST DULY SWORN,
15 TESTIFIES AS FOLLOWS -

16 THE COURT - Thank you. Please have a seat in the
17 witness stand and state your full name for the record, and
18 please spell your last name.

19 MS. LABBE - My last name is Labbe, L-a-b-b-e.

20 THE COURT - Your witness.

21 MS. WALKER - Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. WALKER -

24 Q Good morning, ma'am. Where are you currently
25 employed?

1 A Richland County EMS.

2 Q And how long have you been with Richland County EMS?

3 A Almost two years this time.

4 Q And can you kind of tell us what you do for EMS?

5 A I'm a paramedic crew chief, which means I'm
6 responsible for an ambulance and all the equipment on it
7 and all the patient care that would be rendered with it.

8 Q And what -- do y'all respond to, I guess, 9-1-1 calls?

9 A Yes, ma'am, only 9-1-1 calls.

10 Q And that's within -- throughout Richland County?

11 A Yes, ma'am.

12 Q I want to take your attention to August 25th of last
13 year. Did you respond to the El Toro Restaurant and night
14 club?

15 A Yes, ma'am, I did.

16 Q Why did you respond to that location?

17 A We were summons for a gunshot.

18 Q When you -- do you remember what time you arrived?

19 A I believe it was just a little before midnight if I'm
20 not mistaken.

21 Q And when you arrived, what -- what did you see?

22 A When we pulled into the parking lot, sheriff's
23 department was already on the scene. They had pretty much
24 pushed all the bystanders and such back and there was a

1 gentleman -- one gentleman laying on the ground in the
2 asphalt, supine.

3 Q Did you make contact with that gentleman?

4 A I did.

5 Q Tell us what happened when you -- when you got to him.

6 A I left the unit, went to the gentleman while my ---

7 Q When you say the unit, are you referring to the
8 ambulance?

9 A The ambulance, yes, ma'am.

10 Q Okay, go ahead. I'm sorry.

11 A I left the ambulance; I was on the passenger side. I
12 told my partner to get the spine board and the other spinal
13 equipment and to bring the stretcher, and then I went
14 directly to where he was laying on the ground, and I began
15 to assess him at that point.

16 Q And when you're assessing, I guess, the person you're
17 responding to, what are you looking for? What do you mean
18 by assessing him?

19 A I was assessing initially what we call ABC's. I was
20 making sure he was conscious, making sure his airway was
21 open, that he was breathing and that he had circulation, as
22 in had a pulse.

23 Q And did he have those things at that time?

24 A Yes, ma'am, he did.

25 Q Were you able to communicate with him?

1 A He did answer questions, but it was only like in very
2 small answers, one or two words.

3 Q Was he ---

4 A Only directly if asked.

5 Q Was he having difficulty speaking?

6 A Yes.

7 Q Did you -- after I guess the ABC evaluation, what did
8 you do?

9 A I removed his vest to assess what wounds he may have,
10 and I found a gunshot wound.

11 Q Do you remember how many wounds you found?

12 A I found two. There was one on the anterior side on
13 his abdomen, and then there was one posteriorly.

14 Q After noting the two gunshot wounds, what did you do?

15 A We -- I handed over his vest to some -- one of the
16 sheriff's deputies, I'm not sure which one on scene, and
17 then we immediately put him into spinal precautions and
18 loaded him on the spine board onto the stretcher and then
19 we immediately left the scene.

20 Q And where did y'all go?

21 A Palmetto Health Richland.

22 Q And was he conscious that whole time?

23 A He was, all the way til I brought him into the trauma
24 bay.

PATRICIA LABBE - CROSS BY MS. DYAR

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1 Q And once you take -- once you took him into the trauma
2 bay, what did you do? Did you leave him with a ---

3 A I gave the report to the receiving physicians that
4 were in the trauma bay and nurses, and then I immediately
5 after that left out of there.

6 Q And that's y'all's protocol?

7 A Yes, ma'am.

8 Q Was that the end of your interaction with the victim?

9 A Yes.

10 MS. WALKER - Thank you, ma'am. I don't have any
11 further questions.

12 THE COURT - Cross examination?

13 MS. DYAR - Thank you, Your Honor.

14 THE COURT - Okay.

15 CROSS EXAMINATION

16 BY MS. DYAR -

17 Q You say that Mr. Moti answered your questions that
18 night. What did he say to you?

19 A I only asked him his name, asked him if he had any
20 medical history, but by that point he wasn't answering very
21 much at all. I had a very short interaction with him.

22 Q Did you ask him what happened?

23 A No, ma'am, I did not. I was not concerned at that
24 time about that, was concerned about his health at that
25 point.

1 MS. DYAR - No further questions.

2 THE COURT - Re-direct?

3 MS. WALKER - None, Your Honor.

4 THE COURT - All right, is this witness free to
5 leave?

6 MS. WALKER - Yes, Your Honor.

7 THE COURT - Any objection?

8 MS. DYAR - None.

9 THE COURT - Very well. You are free to go. Call
10 your next witness, please.

11 MS. CAMPBELL - State would call Yvonne Woods.

12 YVONNE WOODS, AFTER BEING FIRST DULY SWORN,
13 TESTIFIES AS FOLLOWS -

14 DEPUTY CLERK - Thank you. Please have a seat in
15 the witness and state your full name for the record and
16 please spell your first name.

17 MS. WOODS - Yvonne Woods. Y-v-o-n-n-e.

18 DIRECT EXAMINATION

19 BY MS. CAMPBELL -

20 Q Investigator, where are you employed?

21 A Richland County Sheriff's Department.

22 Q What do you do there, ma'am?

23 A Crime Scene Investigator.

24 Q And as a crime scene investigator for the Richland
25 County Sheriff's Department, what do your duties include?

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 A We search and identify physical evidence and collect
2 and preserve it.

3 Q Can you tell this jury a little bit about your
4 education and your training as a crime scene investigator?

5 A Yes, and I'm going to have to refer to my book on
6 this. I -- we have a 24 in-house training -- 24-hour in-
7 house training that we do, but also I also have other
8 education, interview techniques, basic blood pattern
9 analysis, crime scene investigation, latent prints
10 development, photography, tracking evidence, enhancement of
11 footwear recovery of track evidence, history of
12 introduction of blood stain patterns, interpretation of
13 blood stain patterns, photography, crime scene
14 reconstruction.

15 Q Have you been qualified before as an expert in crime
16 scene investigation?

17 A Yes.

18 MS. CAMPBELL - Your Honor, at this time we'd
19 offer her as an expert in crime scene investigation.

20 THE COURT - Any voir dire?

21 MR. SAWYER - None, Your Honor.

22 THE COURT - Any objection?

23 MR. SAWYER - None, Your Honor.

24 THE COURT - Ladies and gentlemen, let me explain
25 to you what has just occurred. Normally, under our rules

1 of evidence witnesses are not allowed to testify regarding
2 their opinions or the reasons for those opinions. There is
3 an exception and that is when by virtue of someone's
4 knowledge, training, experience or profession they have
5 become an expert in a particular field, and it might be a
6 field of science or art, and our rules allow that
7 individual to testify regarding their opinions and the
8 reasons for those opinions within their designated area of
9 expertise. Now, ladies and gentlemen, I will give you some
10 more instruction when I give you the concluding
11 instructions, but for now I will tell you that an expert
12 testimony is given for the purpose of helping you
13 understand the evidence and not for the purpose of
14 controlling your judgment. Thank you for that. You may
15 proceed.

16 MS. CAMPBELL - Thank you, Your Honor.

17 THE COURT - No problem.

18 Q I want to turn your attention to August of last year.
19 Did you respond to a shooting at the El Toro Restaurant and
20 Bar?

21 A Yes, ma'am.

22 Q And, approximately, what time was it when you got
23 there that night?

24 A I arrived at 12:37.

25 Q 12:37 in the morning?

1 A Yes, ma'am.

2 Q And who was already there when you got there?

3 A Responding deputies.

4 Q Once you got to the scene, what, if anything, did you
5 do?

6 A I spoke with the officer on the scene, the first
7 officer on the scene ---

8 Q Who was that?

9 A Brunson.

10 Q Brunson?

11 A Yes, ma'am.

12 Q And is that normal protocol?

13 A Yes, ma'am.

14 Q And what kind of information are you trying to gather
15 at that point before you do your crime scene investigation?

16 A What all was collected, who they spoken with and what
17 all they preserved for me.

18 Q When you got to the scene that day, had it already
19 been secured?

20 A Yes, ma'am.

21 Q And explain to this jury what you mean when you say a
22 scene has been secured.

23 A They secured the scene and they do a crime scene log,
24 tells me who's going in and who's going out.

1 Q Typically when a crime scene is secured, how is that
2 done?

3 A They set up tape, evidence tape, around the scene to
4 preserve the area.

5 Q What area of the business was the actual crime scene
6 in this case?

7 A In the parking lot.

8 Q Once you had spoken to Deputy Brunson, what, if
9 anything, did you proceed to do?

10 A I started collection. I walked around and observed
11 where the evidence was at.

12 Q Was the victim still there when you got there?

13 A No, ma'am, he had already left.

14 Q And do you know how he had left?

15 A EMS prior to my arrival.

16 Q Tell the jury what you observed there at the crime
17 scene as you did your walk-through.

18 A I observed clothing at the steps going into the
19 business. I observed a projectile and a car that had been
20 hit by a projectile.

21 Q The clothing that you observed, you said at the steps?

22 A Yes, ma'am.

23 Q And was that consistent with what had been happening
24 before you got there?

25 A Yes, ma'am.

1 Q What had happened before you got there?

2 A Prior to my arrival, per the deputy, the victim had
3 been shot in the mid-section.

4 Q And the clothing that you observed there at the scene,
5 do you know how it had gotten there?

6 A Per EMS.

7 Q Thank you. And they had already come and gone when
8 you got there.

9 A Yes, ma'am.

10 Q You also mentioned a projectile that you observed
11 there at the scene.

12 A Yes, ma'am.

13 Q And where was the projectile that you were able to
14 recover?

15 A On the deck.

16 Q And then you also mentioned another car I believe.

17 A A car that was parked at the steps on the right-hand
18 side was hit.

19 Q What was significant about it?

20 A It was parked close to where the clothing and the
21 projectile was at.

22 Q What had happened to the car that caught your
23 attention?

24 A It had an impact point on it.

1 Q When you say an impact point on it, what -- explain to
2 the jury what you mean.

3 A When I say an impact point's where a possible shot had
4 went into the vehicle, whether it be on the side or in the
5 glass. And on this case it was on the side.

6 Q Prior to collecting any evidence, did you photograph
7 the general area as well as the specific items?

8 A Yes, ma'am, we -- I photograph all areas prior to
9 collecting.

10 Q And I want to show you what's been marked as State's
11 Exhibit 7 through 19 and first ask, do you recognize those?

12 A Yes, ma'am.

13 Q And what are those?

14 A Those are pictures that I took that night.

15 Q And do those fairly and accurately depict the scene as
16 it was when you got there that night?

17 A Yes, ma'am.

18 MS. CAMPBELL - Your Honor, at this time we'd
19 offer State's Exhibits 7 through 19 into evidence.

20 THE COURT - Have you shown it to counsel?

21 (WHEREUPON, EXHIBITS SHOWN TO DEFENSE COUNSEL)

22 MR. SAWYER - No objection.

23 THE COURT - Very well. So entered. And those
24 were Exhibits ---

25 MS. CAMPBELL - 7 through 19, Your Honor.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 THE COURT - Thank you.

2 (WHEREUPON, DOCUMENTS MARKED INTO EVIDENCE AS
3 STATE'S EXHIBITS 7 THROUGH 19.)

4 Q In addition to 7 through 19, did you also take some
5 closer up photographs of the evidence that you've been
6 discussing, the projectiles as well as a shirt?

7 A Yes, ma'am.

8 Q I'm going to show you what's been marked as State's
9 Exhibits 20 through 25. I'm going to ask if you recognize
10 those?

11 A Yes, ma'am.

12 Q And what do those show?

13 A Showed the shirt at the steps and the projectile on
14 the deck.

15 Q And do those fairly and accurately represent the
16 evidence to you collecting it that night?

17 A Yes, ma'am.

18 MS. CAMPBELL - Your Honor, at this time we'd
19 offer these items into evidence 20 through 25.

20 THE COURT - And if you'll show them to counsel,
21 please.

22 MS. CAMPBELL - Yes, I just showed them to him.

23 MR. SAWYER - She did your and no objection.

24 THE COURT - You saw those? All right, any
25 objection?

1 MR. SAWYER - No objection.

2 THE COURT - All right, photos - exhibits 20
3 through 25 which are State's Exhibits in evidence without
4 objection.

5 (WHEREUPON, DOCUMENTS MARKED INTO EVIDENCE AS
6 STATE'S EXHIBITS 20 THROUGH 25.)

7 Q And then I'm going to show you State's Exhibits 26
8 through 34.

9 A Yes, ma'am.

10 Q And are those also photographs from the scene that you
11 took that night?

12 A Yes, ma'am.

13 MS. CAMPBELL - Your Honor, I've shown these to
14 defense counsel as well.

15 THE COURT - Any objection?

16 MR. SAWYER - No objection.

17 THE COURT - Very well, 26 through 34 State's
18 Exhibits in evidence without objection. They're
19 photographs.

20 MS. CAMPBELL - Thank you, Your Honor.

21 (WHEREUPON, PHOTOGRAPHS MARKED INTO EVIDENCE AS
22 STATE'S EXHIBIT 26 THROUGH 34.)

23 MS. CAMPBELL - Your Honor, may the witness step
24 down?

25 THE COURT - Certainly.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 MS. CAMPBELL - Thank you.

2 Q If you'll come up on this side and have you speak up
3 really loud.

4 THE COURT - Are you going to have her demonstrate
5 things from the photos?

6 MS. CAMPBELL - Yes, ma'am.

7 THE COURT - What you're going to have to do
8 probably is to do that at least in two, if not three
9 different sections, so everyone can see.

10 MS. CAMPBELL - Yes, ma'am.

11 THE COURT - Ladies and gentlemen, what's about to
12 occur is that there's going to be some questions asked
13 about photographs. My concern is when that happens that
14 you've got to be able to see what is being demonstrated.
15 If you cannot see, I need you to let me know. Just raise
16 your hand. Do we have an easel that we can use? Is there
17 any possibility of that.

18 MS. CAMPBELL - I think because the photographs
19 are just this size, Your Honor, an easel would be
20 difficult. I can walk around as she talks about them and
21 make sure everyone sees them.

22 THE COURT - Very well. If you cannot see or you
23 cannot hear, I need you to raise your hand. Thank you.

24 MR. SAWYER - And, Your Honor, may I stand over
25 here?

1 THE COURT - Yes. Please, absolutely.

2 Q I want to show you first State's Exhibit 7 and 8. What
3 areas does that show?

4 A That's the roadway, St. Andrews Road.

5 THE COURT - Now, I can't hear.

6 A St. Andrews Road.

7 Q And what part of the club do you actually see in these
8 two photographs?

9 A The right-hand side is the club.

10 Q And is that, in fact, how you enter into the club
11 parking lot?

12 A Yes, ma'am.

13 Q I'm going to show you State's Exhibit Number 9 and 10.
14 What does that show?

15 A That is going into the parking lot.

16 Q And what building is actually depicted in 9 and 10?

17 A That is El Toro's.

18 Q And what is across the front of the building?

19 A You're going to have to let me look ---

20 Q This area.

21 A That's El Toro's. That's the front of the building.

22 Q And where is the actual entrance to the building?

23 A Front. Where the car's parked at.

24 Q Right here?

25 A Yes, ma'am.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 Q And is that the area that was the actual crime scene
2 that night?

3 A Yes, ma'am.

4 Q And again, had the victim's body already been removed
5 prior to you getting there?

6 A The victim had been moved.

7 COURT REPORTER - She needs -- I can't hear her,
8 Judge.

9 THE COURT - I know.

10 Q You're going to have to speak up.

11 THE COURT - Got to keep your voice up.

12 A Okay.

13 Q I show you State's Exhibit 11. What does that show?

14 A In front of the El Toro's.

15 Q State's Exhibit 12 and 13 is from a different angle?

16 A Yes, ma'am, it's the parking lot.

17 Q Coming -- if you were standing where and this shows
18 the parking lot area?

19 A If you go into the drive, it's to the right and to the
20 left because both picture shows both.

21 Q And I note here in State's Exhibit Number 13 and
22 better depicted in State's Exhibit 14 in the background, do
23 you know what type of business that was?

24 A A station, Exxon station, gas station.

1 Q And where is that located in relation to the parking
2 lot?

3 A To the right.

4 Q I show you State's Exhibit 15. What area does that
5 show?

6 A Roadway going toward the station.

7 Q And when you say the station, where is it located?

8 A Exxon station is to the right.

9 Q And can you see the actual sign in front of the Exxon
10 station in this picture?

11 A Yes, ma'am.

12 Q State's Exhibit 16 shows what area?

13 A The roadway.

14 Q You mentioned -- I'm sorry, State's Exhibit 18, again,
15 shows what area?

16 A It's the roadway.

17 THE COURT - Can't hear you.

18 A Roadway.

19 THE COURT - Thank you.

20 Q State's Exhibit 17 shows what?

21 A Fired cartridge casings in the roadway.

22 Q And when you say in the roadway, are we referring to
23 the area in State's Exhibit 18?

24 A Yes, ma'am.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 Q And I notice there's a piece of paper next to it; had
2 someone marked it prior to you getting there?

3 A Yes, ma'am.

4 Q Was that unusual?

5 A No, ma'am.

6 Q And State's Exhibit 19 shows what?

7 A A fired cartridge casing in the roadway.

8 Q And I notice in State's Exhibit 17 and 19 there are
9 two different numbers put there. Who put those numbers
10 there?

11 A I did.

12 Q What's the purpose in doing that?

13 A To show how many cartridge casings were in the
14 roadway.

15 Q And I believe in State's Exhibit Number 16 and 18, do
16 those show the actual two different numbers?

17 A Yes. Yes, ma'am.

18 Q And what are those numbers?

19 A 2 and 3.

20 Q And does this show the different areas of the roadway
21 where you found those shell casings?

22 A Yes, ma'am.

23 Q And the roadway where this is located, where was it
24 located in relation to the El Toro Club?

1 A St. Andrews Road in front of El Toro's Club at the
2 drive.

3 Q And, again, for the record, 17 and 19 shows those
4 close up.

5 A Yes, ma'am.

6 Q Were those shell casings collected by you that night
7 after you photographed them and marked them?

8 A Yes, ma'am.

9 Q While you're down here, I'm going to talk to you about
10 State's Exhibit Number 20 and 21. What areas does that
11 show?

12 A In front of El Toro's.

13 Q And is that how it appeared when you got there that
14 night?

15 A Yes, ma'am.

16 Q And I notice there's something there on the steps.
17 What is that item?

18 A That is the shirt that I collected.

19 Q State's Exhibit Number 22 shows what?

20 A The shirt and the car.

21 Q And was that how the car was there that night when you
22 got there?

23 A Yes, ma'am.

24 Q And was that car significant in your investigation?

25 A Yes, ma'am.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 Q Why?

2 A That was the car that had the impact point on it that
3 had been hit.

4 Q I want to show you State's Exhibit 23 and 24. What do
5 those show, ma'am?

6 A Projectile marked as 1.

7 Q When you say projectile versus shell casing, what are
8 you talking about?

9 A The point of the shell casing.

10 Q Are you familiar with the term bullet?

11 A Bullet.

12 Q And that was where you located that actual projectile
13 that night?

14 A Yes, ma'am.

15 Q I believe State's Exhibit 25 -- what number is on
16 that?

17 A Number 1.

18 Q And is that one -- who put that marker there?

19 A I did.

20 Q And does that show the projectile?

21 A Yes, ma'am.

22 Q The car that was parked right next to the entrance
23 that have been seen in some of these photographs, did you
24 take additional pictures of it in State's Exhibits 26 and
25 27?

1 A Yes, ma'am.

2 Q And I notice there is some tape there. Was that tape
3 already there when you got there?

4 A Yes, ma'am.

5 Q And what kind of tape is that?

6 A Crime scene tape.

7 Q State's Exhibit 28 and 29 show what areas of that car?

8 A The side and the front.

9 Q State's Exhibit 30 and 31 show which side of the car?

10 A Driver's side.

11 Q And is there anything of significance on that driver's
12 side car?

13 A Yes, ma'am, there was damage to the vehicle.

14 Q Is my finger in the right place?

15 A Yes, ma'am.

16 Q It's shown in both pictures. Were you able to
17 determine what type of damage that was?

18 A That is the impact point.

19 Q When you say impact point, explain that to the jury.
20 What do you mean?

21 A That's where it had been shot.

22 Q I show State's Exhibit 32 and 33 as well as 34 -- 32
23 and 34.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 A That is the impact point on the right -- in her right
2 hand. It does not show the projectile. It was imbedded in
3 the vehicle.

4 Q Once you had photographed the actual impact point,
5 later did you go back and attempt to retrieve the
6 projectile?

7 A Yes, ma'am.

8 Q And were you able to?

9 A Yes, ma'am.

10 Q And, in fact, in State's Exhibit 32 ---

11 A That is the projectile.

12 Q After you pulled it out?

13 A Yes, ma'am.

14 Q Which is different from State's Exhibit 34.

15 A Yes, ma'am.

16 Q That was before.

17 A Yes, ma'am.

18 Q Thank you, ma'am. You can sit back down.

19 (WHEREUPON, THE WITNESS RE-TAKES THE STAND)

20 Q Once you had photographed the scene, did you then go
21 about and collect certain items?

22 A Yes, ma'am.

23 Q And there at the scene that day, what all did you
24 collect?

1 A I collected the fired shell casings in the roadway,
2 the projectile on the deck, the t-shirt and items from
3 Brunson through a chain of custody.

4 Q And specifically what items did you get from Deputy
5 Brunson that day?

6 A A security vest with a flashlight, badge, magazines
7 with 11 unfired .40 caliber cartridges, baton, knife,
8 marker, handcuff and keys, note pad and pen, gloves, taser,
9 Beretta firearm .40 caliber and ID card.

10 Q Okay. Did you also collect the shirt there at the
11 scene?

12 A Yes, ma'am.

13 Q I'm going to show you what's been marked as State's
14 Exhibit 63. Do you recognize that?

15 A Yes, ma'am.

16 Q And what is that, ma'am?

17 A That is the button down shirt that was at the steps,
18 the black shirt that was at the steps.

19 Q That would be the item that was on the front steps
20 there in the photographs we just showed the jury?

21 A Yes, ma'am.

22 Q And you collected that that night properly?

23 A Yes, ma'am.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 Q And what measures do you take -- when you collect
2 evidence, what do you do to insure the integrity if it's
3 later tested?

4 A I take it and I actually fold it in brown paper and to
5 carry it back to the lab.

6 Q And did you do that in this case?

7 A Yes, ma'am.

8 MS. CAMPBELL - Your Honor, at this time we'd
9 offer State's Exhibit 63 into evidence.

10 MR. SAWYER - Your Honor, I think we need to --
11 more than just in a cardboard box in evidence. I think we
12 need to see what's inside.

13 MS. CAMPBELL - Your Honor, he told me that he
14 reviewed all the evidence and is good with it.

15 MR. SAWYER - I did, but we just ---

16 THE COURT - You want to open it and take a look
17 at it -- you know what? This is a great time for our
18 morning break while you do that. Ladies and gentlemen,
19 we'll now take our morning break. Please remember, do not
20 discuss this matter. That means amongst yourselves. Do
21 you not discuss this matter or allow anyone to discuss it
22 with you. We will take about, oh, probably closer to 20
23 minute break, just to -- noting a number of folks that we
24 have that need to take a comfort break. If you'll please

1 go to your jury room. Leave your pads in your seats.

2 Thank you.

3 (Jury exits the courtroom)

4 THE COURT - Thank you. Of course, just if you
5 will not discuss your testimony please with anyone during
6 the break, but you get to take a break, too.

7 MS. WOODS - Thank you.

8 THE COURT - Thank you. All right, counsel if you
9 can open the box and take a look at the exhibit. If we
10 have other exhibits like that that are sealed that you need
11 to see or ---

12 MR. SAWYER - Your Honor, that's not -- my concern
13 is not what's -- I just -- I won't give the jury an
14 unopened box just to say ---

15 THE COURT - I'm with you. I know.

16 MR. SAWYER - --- this is inside of there. I
17 think they should be able see ---

18 THE COURT - I have no criticisms. That's why we
19 - also gave me an opportunity to take a break. But if it's
20 -- things like that that are sealed, go ahead and unseal
21 them and put them in and let him take a look.

22 MS. CAMPBELL - Can we take up another matter,
23 Your Honor?

24 THE COURT - Sure.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 MS. CAMPBELL - In opening argument the defense,
2 and we objected to it, basically said that I had tricks up
3 my sleeve and that I've been doing this for 25 years, don't
4 believe -- things of that nature. We objected to that,
5 Your Honor. You allowed him to proceed with that. Under
6 State v. Lunsford, which quotes Cummings vs. Tweed, State
7 v. Durden, Office Equipment vs. Smerk and generally some
8 other out-of-state cases, I believe that would be improper
9 commenting on an attorney involved in the case or in Kline
10 -- I believe in that one, the -- they said that counsel was
11 one of the finest defense attorneys. They've held that
12 that was improper. They cannot express arguing to a jury a
13 personal judgment about opposing counsel, including
14 opposing counsel's standing in the legal community. We
15 feel like he has violated that. Your Honor, at this point
16 we would just ask that you admonish them. We're not asking
17 for sanctions at this point, but that was highly improper.
18 We did object contemporaneously with that, Your Honor. We
19 do find that ethically -- well, it's a problem, and we
20 would just ask that you admonish them and make that ---

21 THE COURT - Very well, and I will do that. Just
22 be mindful of that. One of my problems -- and I don't mind
23 telling you, one of my problems with ruling on the
24 objection is that there was so much conversation about the
25 objection, I couldn't even hear what was being said.

1 MS. CAMPBELL - Yes, Your Honor.

2 THE COURT - So I need to ask you all to -- and
3 really it's a little bit on both sides, but especially on
4 your side, I couldn't hear what he was saying because of
5 the conversation going on with -- at your table about the
6 objection, quite frankly. So please, I know you've got
7 young lawyers and everybody needs a little bit of help, but
8 when you get so loud that I can't hear what you're
9 objecting to, it puts me in quite -- quite a difficult
10 position. Got the point -- and that would go certainly for
11 both sides, so please be advised of that. Certainly I
12 expect there to be certainly argument, although that's an
13 opening statement, within the bounds -- do be mindful of
14 that, and when that comment came out, I was certainly
15 concerned about that, so I would admonish that. In closing
16 there will be no mention of anybody tricking anybody and
17 the like, comment about counsel.

18 MS. CAMPBELL - Your Honor, at this point, though,
19 he then repeated it in front of the jury after I believe we
20 approached, and at this point we may be responding to it at
21 some point just to the extent of what they said.

22 THE COURT - I understand. Just let me know so I
23 can have a little bit of a preview of how ---

24 MS. CAMPBELL - I'm just saying it's in front of
25 the jury now. I can't unring that bell.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 THE COURT - --- how much has -- I understand.
2 I'm with you, but just let me know so I need to know how
3 much it's going to be in advance. Very well. And I know
4 we have young lawyers, and one of the most difficult -- one
5 of the most difficult things as a seasoned lawyers is to --
6 is to assist a young lawyer. I've done that before, and
7 it's -- and while it's a wonderful process and I actually
8 love watching it, you all have got to kind of try to do
9 that as quietly as you can, because it -- because all of
10 you are aggressive and so that help comes out -- can come
11 out to where it's not only distracting to me but
12 distracting to the jury, and I know you don't mean to do
13 that. I know you don't. And it's just a reminder to try
14 to keep your voices as low as you possibly can, but -- we
15 just need to be mindful of that. That would be very
16 helpful. Although I am excited that we have new lawyers
17 and honored that we're having new lawyers do that, and I
18 find that thrilling and exciting but -- and I know that
19 takes a little more communication. Just be mindful that
20 the jurors have got to be able to pay attention to what's
21 being said. All right, thank you all so much, and enjoy
22 your break.

23 (Recess taken)

24 THE COURT - Thank you, and please be seated.
25 Okay, we good? We good? Yes?

1 MR. SAWYER - Yes.

2 THE COURT - Let's have the jury.

3 (Jury returns to the courtroom)

4 THE COURT - All right, ladies and gentlemen, at
5 this time we will continue with the State's case and direct
6 examination.

7 MS. CAMPBELL - Thank you, Your Honor. Your
8 Honor, at this time we'd offer State's Exhibit 63 into
9 evidence again.

10 THE COURT - Any objection?

11 MR. SAWYER - No objection.

12 THE COURT - Very well. So admitted.

13 (WHEREUPON, ITEM IS MARKED INTO EVIDENCE AS
14 STATE'S EXHIBIT NUMBER 63.)

15 Q You also mentioned that there at the scene you
16 collected a vest ---

17 A Yes, ma'am.

18 Q --- from Deputy Brunson.

19 A Yes, ma'am.

20 Q I want to show you what's been marked as State's
21 Exhibit Number 62, and first ask, do you recognize that?

22 A Yes, ma'am.

23 Q And is that the vest you collected that night?

24 A Yes, ma'am.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 Q And in included with that vest was there also a gun
2 collected?

3 A Yes, ma'am.

4 Q And I'm going to show you State's Exhibit 52 and ask
5 if you recognize that?

6 A Yes, ma'am.

7 MS. CAMPBELL - Your Honor, at this time we'd
8 offer State's Exhibits 62 and 52 into evidence.

9 THE COURT - Any objection?

10 MR. SAWYER - Without objection.

11 THE COURT - 62 AND 52 in evidence without
12 objection.

13 MS. CAMPBELL - And, Your Honor, I would note that
14 there is a gun lock properly on the gun.

15 THE COURT - Thank you very much, because I had
16 one if you needed one.

17 MS. CAMPBELL - Yes, I got one. Okay. Just for
18 the Court's ---

19 THE COURT - Thank you.

20 (WHEREUPON, ITEMS MARKED INTO EVIDENCE AS STATE'S
21 EXHIBITS 62 AND 52.)

22 Q State's Exhibit Number 62 -- there were several other
23 items you mentioned that you received from Deputy Brunson.
24 Were those all included in this?

25 A Yes, ma'am.

1 Q And you mentioned certain items. What types of items
2 were those?

3 A There was a badge, the magazines with the 11 unfired
4 .40 caliber cartridges, knives, marker, handcuff and key, a
5 taser.

6 Q And I show you one of the items that was attached. Is
7 this the taser you're talking about?

8 A Yes, ma'am, that's the taser.

9 Q And this is what that looked like? And this was
10 included in what was turned over to you?

11 A Yes, ma'am.

12 Q And on the front of the vest, is there a badge?

13 A Yes, ma'am.

14 Q And what does that badge say on it?

15 A Security Officer.

16 Q State's Exhibit Number 52, what's included in this
17 box?

18 A It's the weapon and the magazine and the unfired
19 cartridge casings.

20 Q So the ---

21 A Cartridge.

22 Q --- would've been the ammunition within the gun?

23 A Yes, ma'am.

24 Q And those were also turned over to you at the time.

25 A Yes, ma'am.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

268

1 Q I want to show you what's been marked as State's
2 Exhibit Number 56. Do you recognize that?

3 A Yes, ma'am.

4 Q What is that?

5 A That's a ID card or a driver's license identification
6 purpose only.

7 Q And did you also receive that from Deputy Brunson?

8 A Yes, I did.

9 MS. CAMPBELL - Your Honor, at this time we'd
10 offer State's Exhibit Number 56 into evidence.

11 THE COURT - And if you'd show it to counsel,
12 please. Any objection?

13 MR. SAWYER - No. Without objection.

14 THE COURT - Oh, okay. All right, 56 in evidence
15 without objection.

16 MS. CAMPBELL - Your Honor, I believe he's had an
17 opportunity to view all the evidence that we're talking
18 about right now.

19 (WHEREUPON, ITEM MARKED INTO EVIDENCE AS STATE'S
20 EXHIBIT NUMBER 56.)

21 Q As far as this item -- can you open it and take it out
22 of the actual wrapper, please?

23 A Yes, ma'am.

24 Q And is that -- what type of ID is that?

25 A South Carolina ID.

- 1 Q And what information is on the front of this ID?
- 2 A His name, address, height, weight.
- 3 Q And whose name is on this?
- 4 A Carlos Brown.
- 5 Q And what address does it show?
- 6 A [REDACTED].
- 7 Q In what city?
- 8 A Rock Hill, South Carolina.
- 9 Q And that was turned over to you there at the scene
- 10 that day.
- 11 A Yes, ma'am.
- 12 Q When you collected this, what, if -- how did you
- 13 collect it and what did you do with it?
- 14 A I collected it, carried it back to the lab and took a
- 15 swab.
- 16 Q And I'll get back to that in a minute. You also, as
- 17 you previously testified, photographed some shell casings
- 18 that were collected.
- 19 A Yes, ma'am.
- 20 Q I show you what's been marked for ID purposes as
- 21 State's Exhibits 71 and 72. Do you recognize those?
- 22 A Yes, ma'am.
- 23 Q And are those the two shell casings you collected that
- 24 night?
- 25 A Yes, ma'am.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

270

1 Q And on the front I note that there are two different
2 numbers on the front, 2 and 3?

3 A Yes, ma'am.

4 Q And what does that designate?

5 A The casings that were in the roadway that was marked.

6 Q And -- that were marked?

7 A Yes, ma'am.

8 Q With those numbers.

9 A Yes, ma'am.

10 MS. CAMPBELL - Your Honor, at this time we'd
11 offer State's Exhibits 71 and 72 into evidence.

12 MR. SAWYER - No objection.

13 THE COURT - Very well.

14 (WHEREUPON, ITEMS MARKED INTO EVIDENCE AS STATE'S
15 EXHIBITS 71 AND 72.)

16 Q Just using State's Exhibit 72 -- if I can make it come
17 out of here -- is that one of the shell casings?

18 A Yes, ma'am.

19 Q And again, that was found where?

20 A In the roadway.

21 Q And there at the scene, State's Exhibit 73 and 74, do
22 you recognize those?

23 A Yes, ma'am.

24 Q What are those, ma'am?

1 A This is projectile that I took from the vehicle and
2 the one on the front deck.

3 MS. CAMPBELL - Your Honor, at this time we'd
4 offer State's Exhibit 73 and 74 into evidence.

5 MR. SAWYER - Without objection.

6 THE COURT - Very well.

7 (WHEREUPON, ITEMS MARKED INTO EVIDENCE AS STATE'S
8 EXHIBITS 73 AND 74.)

9 Q This is State's Exhibit 74; this is the projectile
10 from where?

11 A Off the deck.

12 Q From the deck?

13 A Yes, ma'am.

14 Q State's Exhibit Number 73 is the projectile from
15 where?

16 A From the vehicle, that was embedded in the vehicle.

17 Q And that's what you collected that day?

18 A Yes, ma'am.

19 Q Once you collect the items, specifically, the shell
20 casing and the projectiles, do you do any further testing
21 on them?

22 A No, ma'am.

23 Q Once all the items were collected there at the scene
24 and you'd finished doing your photographing, did you then
25 process certain items at a later date?

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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- 1 A Yes, ma'am.
- 2 Q And when did that take place?
- 3 A Excuse me. 8/26/12.
- 4 Q That would've been later that day?
- 5 A Yes, ma'am.
- 6 Q And approximately what time was it when you did that
- 7 processing?
- 8 A 2039.
- 9 Q Which would be what time of day?
- 10 A I'm sorry. 8:39.
- 11 Q That evening?
- 12 A Yes, ma'am.
- 13 Q And what items did you actually process and what type
- 14 of processing did you do?
- 15 A Fired .40 caliber cartridge casing and the Beretta .40
- 16 caliber firearm.
- 17 Q And I show you State's Exhibit 72 and 71. Were those
- 18 those items?
- 19 A Yes, ma'am.
- 20 Q As well as a Beretta firearm?
- 21 A Yes, ma'am.
- 22 Q State's Exhibit Number 52?
- 23 A Yes, ma'am.
- 24 Q What processing were you doing?
- 25 A Processing looking for latent prints.

1 Q Tell the jury how a print is left, say, on a piece of
2 evidence and what you're looking for.

3 A You have oils in your hands and your palms, fingertips
4 and it leaves the oil on the cartridge casing or
5 projectile.

6 Q And if I necessarily pick up this cartridge casing as
7 I just did, am I necessarily going to leave a fingerprint?

8 A No, ma'am, not necessarily.

9 Q Why not?

10 A Not all the time. Sometimes people don't have the
11 oils in their fingers.

12 Q Are there other factors that play into whether or not
13 a fingerprint will be able to be used?

14 A Re-state the question.

15 Q Are there other factors that play into whether a
16 fingerprint will be able -- will be left on an item?

17 A Yes, ma'am.

18 Q And what are some of those items?

19 A If there's damage to the hands, to the fingers, they
20 will not leave prints on the item.

21 Q Is it unusual for you not to find a print on an item,
22 even if it's been handled?

23 A No, ma'am.

- 1 Q And in this case, when you did your testing for the
2 presence of any fingerprints or known prints, were you able
3 to get any results?
- 4 A No, ma'am.
- 5 Q And, again, is that unusual?
- 6 A No, ma'am.
- 7 Q Once you had tested those items for the presence of
8 fingerprints, did you collect any DNA spots in this case?
- 9 A Yes, ma'am.
- 10 Q And what items did you collect DNA spots from?
- 11 A From the casings and the gun.
- 12 Q Was there any other item you collected the DNA spot
13 from?
- 14 A I'm sorry, let me lift -- get to that page.
- 15 Q Okay.
- 16 A ID card.
- 17 Q And specifically you collected a DNA swab from the
18 casings, which again would be State's Exhibits 71 and 72?
- 19 A Yes, ma'am.
- 20 Q The gun?
- 21 A Yes, ma'am.
- 22 Q And finally ---
- 23 A The ID card.

1 Q Which is State's Exhibit 56. And tell the jury how
2 you collect a DNA swab and what -- what purpose that can
3 serve.

4 A I took a sterile swab and took sterile water and I
5 swabbed it back and front.

6 Q Once you take the swab, what, if anything, do you do
7 with it?

8 A I submit it into evidence, place ---

9 Q And do you do any further testing on it?

10 A No, ma'am.

11 Q Is that done by a different person in your department?

12 A Yes, ma'am.

13 Q And again, when you swab it, are you necessarily going
14 to get DNA?

15 A No, ma'am.

16 Q I want to show you some more photographs finally. The
17 items that you processed once you got back that evening --
18 and where did the processing take place?

19 A At the lab.

20 Q At the lab at headquarters?

21 A Yes, ma'am.

22 Q Did you photograph those items?

23 A Yes, ma'am.

24 Q And I want to show you what's been marked as State's
25 Exhibits 64, 65, 66 first. Do you recognize those?

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 A Yes, ma'am, that's the shirt I collected at the scene.

2 Q And then State's Exhibit 45, 47, 67, are those
3 additional photographs of that shirt?

4 A Yes, ma'am, it is.

5 Q And those were taken by you?

6 A Yes, ma'am.

7 Q And also State's Exhibit 68, 69, 46, 48 and 49, those
8 are photographs of additional items?

9 A Yes, ma'am.

10 Q Some of which were processed and some of which
11 weren't.

12 A Correct.

13 MS. CAMPBELL - Your Honor, at this time we'd
14 offer them into evidence.

15 MR. SAWYER - Without objection.

16 THE COURT - Very well.

17 COURT REPORTER - I need the numbers one more
18 time, please.

19 MS. CAMPBELL - Yes, ma'am. The first numbers
20 were 64, 65, 66, 47, 45, 67, 68, 69, 46, 48 and 49.

21 COURT REPORTER - Thank you.

22 MS. CAMPBELL - We're good?

23 COURT REPORTER - Yes.

24 MS. CAMPBELL - Thank you.

1 (WHEREUPON, ITEMS MARKED INTO EVIDENCE AS STATE'S
2 EXHIBITS 64, 65, 66, 47, 45, 67, 68, 69, 46, 48 AND 49.)

3 Q State's Exhibit Number 64, what does that show?

4 A The shirt -- front of the shirt.

5 Q And 65. And I notice in State's Exhibit 65, are there
6 some numbers there?

7 A Yes, ma'am, that was damage to the shirt.

8 Q And what type of damage were you looking for?

9 A That was a hole in the shirt.

10 Q And does this show the location of the hole that was
11 in the shirt?

12 A Yes, ma'am.

13 Q And where was this shirt collected?

14 A At the scene.

15 Q Did you also photograph the back of this shirt?

16 A Yes, ma'am.

17 Q And I show you State's Exhibit Number 66. Does that
18 show the back of the shirt?

19 A Yes, ma'am.

20 Q And again, what type of damage does that show?

21 A That shows reddish-brown stains on the back of the
22 shirt.

23 Q Did you do some close-ups, take some close-ups of the
24 holes that were noted to the front of the shirt?

25 A Yes, ma'am, I did.

YVONNE WOODS - DIRECT BY MS. CAMPBELL

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1 Q And I show you State's Exhibit 45 and 47. Does that
2 show it and then with a marker?

3 A Yes, ma'am.

4 Q You also photographed the other items that you
5 collected which have just been admitted into evidence.

6 A Yes, ma'am.

7 Q I show you 68. What does that show?

8 A The vest, the weapon.

9 Q And the items?

10 A Yes, ma'am.

11 Q Took over by you?

12 A Yes, ma'am.

13 Q And 69 is just the serial number on the gun.

14 A That is correct.

15 Q Then items 46 and 48, what do they show?

16 A Those are the holes that I noted in the vest, the
17 bottom of the vest.

18 Q In your experience, were those consistent with a
19 bullet hole?

20 A Yes, ma'am.

21 Q And 49 I believe is just another shot of that.

22 A Yes, ma'am.

23 Q And the jury can see for themselves, but these are the
24 holes that are in this vest.

25 A Yes, ma'am.

1 Q Once you collected the DNA swabs, what, if anything
2 did you -- well, let me back up. When you collected the
3 DNA swabs and the time that they were in your possession,
4 did you alter them or tamper them in any way?

5 A No, ma'am.

6 Q And I show you State's Exhibit Number 54. Do you
7 recognize that?

8 A Yes, ma'am, those are the swabs.

9 Q That you actually collected?

10 A Yes, ma'am.

11 Q And would those have been submitted into evidence?

12 A Yes, ma'am.

13 Q And during the time period they were with you, no one
14 altered them or tampered with them in any way.

15 A That is correct.

16 MS. CAMPBELL - Your Honor, at this time we'd
17 offer State's Exhibit 54.

18 MR. SAWYER - DNA?

19 MS. CAMPBELL - DNA.

20 MR. SAWYER - No objection.

21 THE COURT - Very well. So entered.

22 MS. CAMPBELL - Thank you.

23 (WHEREUPON, ITEM MARKED INTO EVIDENCE AS STATE'S
24 EXHIBIT NUMBER 54.)

25 Q And again, would you have done the DNA testing?

YVONNE WOODS - CROSS BY MR. SAWYER

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1 A No, ma'am.

2 MS. CAMPBELL - Thank you. I don't have anything
3 further.

4 THE COURT - Cross examination.

5 MR. SAWYER - Yes, Your Honor. May it please the
6 Court.

7 THE COURT - Yes.

8 CROSS EXAMINATION

9 BY MR. SAWYER -

10 Q Investigator Woods ---

11 A Yes.

12 Q Investigator?

13 A Yes, sir.

14 Q Again, just if you would, how long have you been doing
15 this for?

16 A About little -- five years.

17 Q Okay. What'd you do before this?

18 A I was an investigator, ---

19 Q Okay.

20 A --- sexual crimes.

21 Q Okay, so you've been doing essentially crime scene
22 investigation for quite a while.

23 A Yes, sir.

24 Q Okay. And again, if we could just kind of go through
25 some of the training that you had to go through.

1 A Would you like for me to read them off again?

2 Q You got to get your CV back out again?

3 A Just give me a second.

4 Q No problem.

5 A Blood -- basic pattern analysis, crime scene
6 investigation of physical evidence, latent print
7 development, photography and track evidence, enhancement of
8 footwear and track evidence, recovery of track evidence by
9 lifting, forensic anthropology and archaeology, crime scene
10 reconstruction, homicide question death scene, basic crime
11 scene photography, blood pattern analysis I.

12 Q So in other words, when you go to a crime scene, you
13 can pretty much do anything to try to sort of reconstruct
14 what happened that day?

15 A Attempt, yes, sir.

16 Q Okay. Now, were you asked to do that at all when you
17 got there that day?

18 A That's something that we normally do.

19 Q Okay. Now, is there any way to figure out from -- let
20 me back up a little bit. When you're -- when you're there
21 with -- when you got on the scene, you get briefed by the
22 officer a little bit. Correct?

23 A That's correct.

24 Q And that's so you kind of have an idea of what
25 might've gone on.

YVONNE WOODS - CROSS BY MR. SAWYER

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1 A That's correct.

2 Q And so you have an idea of sort of where to start your
3 investigation and where to go.

4 A That's correct.

5 Q Okay. What did -- did you talk to just Deputy Brunson
6 that day?

7 A No, I did not.

8 Q Okay. Who else do you remember talking to that day?

9 A Master Deputy Sullivan.

10 Q Okay. Anyone else?

11 A An investigator. CID Investigator.

12 Q Who was that?

13 A Investigator Lindler.

14 Q Were there any other deputies on scene, do you know?

15 A I didn't speak with any other ones.

16 Q Okay. Were there other ones on scene?

17 A Yes, sir, there was.

18 Q Do you know exactly who all they were?

19 A No, sir, I do not.

20 Q Okay. Could you take a guestimate how many other
21 deputies were on scene?

22 A I cannot.

23 Q All right. So Deputy Brunson told you what exactly
24 had transpired that day, at least from his investigation.

25 A What he observed.

1 Q What he had observed?

2 A Yes, when he arrived on the scene.

3 Q Okay. Did anyone describe to you about the events
4 prior?

5 A No, sir.

6 Q Okay. So you had no idea what had happened up until
7 Deputy Brunson arrived.

8 A That's correct.

9 Q Okay. So you had no information as to how this
10 shooting might've taken place.

11 A That's correct.

12 Q Okay. Do you not get that information to try to help
13 you with your investigation?

14 A Once I arrive on scene and speak with the officer on
15 the scene, he lets me know what he saw and observed on the
16 scene, and I base it on that and I looked and observed.

17 Q Okay. So you're at this point trying to reconstruct
18 then sort of independently without outside influence of
19 what happened that day.

20 A Yes, sir.

21 Q Okay. Are you able to do -- and I'm going to get
22 these words wrong, so just help me out with this -- sort of
23 bullet trajectory analysis, from what direction bullets
24 might've come from?

25 A I am able to do so, but I did not do it this scene.

YVONNE WOODS - CROSS BY MR. SAWYER

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1 Q Okay. Is there any reason why?

2 A No, sir. I cannot answer that.

3 Q You are looking for evidence as well. Is that
4 correct?

5 A That's correct.

6 Q Okay. And you search more than just in the crime
7 scene. Correct?

8 A That's correct.

9 Q Do you search the whole parking lot area?

10 A I searched the whole parking lot area and the roadway.

11 Q Okay. And for all the rounds -- you just found two
12 rounds. Right?

13 A That is correct.

14 Q And you just found the two shell casings. Correct?

15 A That is correct.

16 Q Okay. Let me talk about these shell casings for a
17 second. This isn't normally what they look like when they
18 come out. Correct?

19 A That is correct.

20 Q Okay. What would've caused this to have occurred?

21 A Possibly could've been ran over.

22 Q Ran over?

23 A Yes, sir.

1 Q So in other words, wherever you actually found these
2 shell casings more than likely weren't where they
3 originally were dropped.

4 A That is correct.

5 Q Okay. And this bullet was found on the ---

6 A The projectile?

7 Q Yes.

8 A Was on the deck.

9 Q Okay. Can you tell where this projectile struck?

10 A No, I cannot.

11 Q Okay. Can you tell if it struck something?

12 A It hit something. I can't tell you what it hit.

13 Q Okay. And you weren't able to determine that from
14 looking at anything on the deck?

15 A No, sir.

16 Q Okay. Let's get to all these items that were
17 recovered here. Now, these were already sort of, I guess,
18 prepared for you. Is that right?

19 A They were in Deputy Brunson's possession.

20 Q Okay. And so they -- they had already -- I mean
21 basically you got them from someone else.

22 A Yes, that is correct.

23 Q Okay. And so you don't know what condition they were
24 in prior to Deputy Brunson getting them?

25 A That's correct.

YVONNE WOODS - CROSS BY MR. SAWYER

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1 Q Okay. Did you happen to find any mace on scene that
2 night?

3 A No, sir, I did not.

4 Q Okay. I mean searched everywhere and couldn't find a
5 can of mace anywhere?

6 A That is correct.

7 Q Did you do or try to find anything with say tire
8 marks? You can check to see if tire marks were left.
9 Correct?

10 A That is correct.

11 Q And if a car is leaving at a high rate of speed,
12 sometimes it'll leave tire marks?

13 A You can leave tire marks.

14 Q Okay, did you find any that night?

15 A No, I did not.

16 Q And then once you collected all this evidence, you
17 just logged it in at that point?

18 A I processed and I submitted it to evidence.

19 Q Okay, but at that point your job's essentially done
20 once you check for fingerprints, DNA ---

21 A That is correct.

22 Q Just backing up a minute. When you -- secured crime
23 scene is what? Explain that to me and the jury if you
24 could.

1 A That's when it is taped off and nobody is allowed in
2 and log is kept of who goes in and out.

3 Q Okay. And the only section of it was right where Mr.
4 Moti was found?

5 A In the parking lot.

6 Q But not the whole parking lot.

7 A No. No, sir.

8 Q Were you told at all that some of the activity
9 happened in other parts of the parking lot?

10 A I was told that the shooting could've occurred from
11 the driveway, the entrance.

12 Q Okay. Were you told that any other activity was worth
13 investigating that might've occurred elsewhere in the
14 parking lot?

15 A No, sir.

16 Q And once you, for lack of a better term, leave the
17 crime scene, is it not unsecured? Do you remove that tape,
18 break down the items ---

19 A That is correct. After I speak with the CID
20 Investigator.

21 Q Okay. And so once that's done, the crime scene has
22 been contaminated, so we can't go back and do this all
23 over.

24 A That is correct.

25 Q Okay.

MARQUITA MOBLEY - DIRECT BY MS. WALKER

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1 MR. SAWYER - Beg the Court's indulgence briefly.

2 THE COURT - All right.

3 MR. SAWYER - Nothing further.

4 THE COURT - Re-direct?

5 MS. CAMPBELL - No, Your Honor.

6 THE COURT - And is this witness free to leave?

7 MS. CAMPBELL - Thank you, Your Honor.

8 THE COURT - Any objection?

9 MR. SAWYER - None, Your Honor.

10 THE COURT - You are free to go. Call your next
11 witness, please.

12 MS. WALKER - Your Honor, the State calls Marquita
13 Mobley.

14 MARQUITA MOBLEY, AFTER BEING FIRST DULY SWORN,
15 TESTIFIES AS FOLLOWS -

16 DEPUTY CLERK - Thank you. Please have a seat in
17 the witness stand and state your full name for the record
18 and please spell your first name.

19 MS. MOBLEY - Okay. It's M-a-r-q-u-i-t-a,
20 Marquita.

21 THE COURT - Your witness.

22 MS. WALKER - Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MS. WALKER -

25 Q Ms. Mobley ---

1 A (Indicating yes)

2 Q --- where do you -- just say yes or no when I ask you
3 a question. Okay?

4 A Okay.

5 Q So the court reporter will be able to take down your
6 answers.

7 A Okay.

8 Q Where do you live now?

9 A Garner's Ferry Road.

10 Q Is that here in Columbia?

11 A (Indicating yes)

12 THE COURT - Is that a yes?

13 A Yes, ma'am.

14 Q And how long have you lived here in Columbia?

15 A Five years.

16 Q Do you work now?

17 A No, ma'am.

18 Q I want to talk to you about last August, August of
19 2012.

20 A Yes, ma'am.

21 Q Did you go to the El Toro nightclub?

22 A Yes, ma'am.

23 Q Do you remember who you went with?

24 A Yes, ma'am.

25 Q And who was that?

- 1 A Kristina.
- 2 Q Kristina? Do you know her last name?
- 3 A Yes, ma'am, Payne.
- 4 Q And how did you know Kristina?
- 5 A She's my best friend.
- 6 Q And where were you living at that time?
- 7 A At the hotel.
- 8 Q What hotel?
- 9 A Red Roof.
- 10 Q The Red Roof Inn?
- 11 A Off St. Andrews Road.
- 12 Q And how did you and Kristina get to the club that
- 13 night?
- 14 A Walk.
- 15 Q Did y'all walk down St. Andrews Road?
- 16 A Yes, ma'am.
- 17 Q Did y'all actually go inside the club?
- 18 A No, ma'am, they wouldn't let us get in, because she
- 19 didn't have an ID.
- 20 Q She didn't have an ID and so they wouldn't let y'all
- 21 in.
- 22 A Yes, ma'am.
- 23 Q Do you remember who you talked to?
- 24 A The security officer that got shot.
- 25 Q You talked to him that night?

1 A (Indicating yes)

2 THE COURT - That is a yes?

3 A Yes, ma'am.

4 Q When he told you that he wouldn't let you in, was he
5 rude?

6 A No, ma'am, not at all.

7 Q And that's because someone didn't have an ID.

8 A Yes, ma'am.

9 Q What did y'all do once y'all got denied entry to the
10 club?

11 A Walked back down St. Andrews Road going towards the
12 room.

13 Q The Red Roof Inn?

14 A Yes, ma'am.

15 Q Did y'all make it to the Red Roof Inn?

16 A Yes, ma'am.

17 Q How did y'all get there?

18 A A guy gave us a ride.

19 Q While y'all were walking down the street?

20 A Yes, ma'am.

21 Q Did you know his guy?

22 A No, ma'am.

23 Q Did Kristina know him?

24 A No, ma'am.

25 Q But he gave y'all a ride.

1 A (Indicating yes)

2 THE COURT - Is that a yes?

3 A Yes, ma'am.

4 Q And like I said the only -- the only reason is so that
5 she can take down yes or no, because uh hum can get kind of
6 confusing. Okay?

7 A Okay.

8 Q And when y'all got to the hotel room, was the guy
9 still with y'all that gave y'all a ride?

10 A Yes, ma'am.

11 Q And how long did y'all stay there?

12 A To the room? For like 15 minutes and went straight
13 back to the store.

14 Q What store did y'all go to?

15 A The Gazbah next to the club, the bar.

16 Q Was that still on St. Andrews Road?

17 A Yes, ma'am.

18 Q So how close are the El Toro that you tried to go to
19 and the gas station that you ended up going to?

20 A It was like right next to it.

21 Q Next door to each other?

22 A Yes, ma'am.

23 Q And how long -- how long were y'all -- what did you do
24 when you got to the gas station?

1 A The guy who we was with, he went inside the store to
2 purchase some beers and cigarettes.

3 Q Did you notice anything while he was inside the store?

4 A Yes, ma'am.

5 Q And what was that?

6 A It was commotion going on with the security officer
7 and some other guys.

8 Q Where was that commotion?

9 A At the club.

10 Q And could you see this?

11 A (Indicating yes) Yes, ma'am. I'm sorry.

12 Q That's okay. Are you nervous?

13 A Yes.

14 Q All right. You need some water?

15 A Yes, that'll be fine.

16 Q Okay. Let me get you some water. Just take a deep
17 breath. Okay?

18 A Okay. And a napkin. Thank you.

19 Q Here you go.

20 A Thank you.

21 Q You said you were at a gas station and you saw a
22 disturbance.

23 A Yes, ma'am.

24 Q Will you describe that for me?

1 A I was sitting in the car and the guy that who we was
2 with, he went inside the store, and while we was sitting in
3 the car, Kristina Payne called that young gentleman to the
4 car while we was sitting outside.

5 Q When you say the young gentleman, what young
6 gentleman?

7 A That's sitting over there.

8 Q Okay. But the young gentleman, where was he before he
9 got called over?

10 A Arguing with -- arguing with the security officer.

11 Q Okay. And then what happened when he got called over
12 to the car?

13 A They was talking and he stated he was going to --
14 somebody got maced and ---

15 Q Did he say who got maced?

16 A I guess it was him. Or I think it was the other guy.

17 Q So somebody got maced.

18 A (Indicating yes)

19 Q And then what did he say?

20 A We need to get out of the way. He was telling us we
21 needed to get out of the way, because he about to, I guess,
22 shoot the place up.

23 Q What were his exact words, Marquita?

24 A That he about to let rounds go and we need to go ---

25 Q He said ---

1 A Yes.

2 Q You need to go, because I'm about to let rounds go.

3 A Yes, ma'am.

4 Q What did that mean to you?

5 A Shoot.

6 Q Did you say anything to him about him shooting up the
7 club?

8 A Yes, I said I got a child, so I was like, I'm about to
9 go in here and get the guy who we rode to the store with.

10 Q Because you didn't want to get caught in his fight.

11 A Yes, ma'am.

12 Q What did he say about that?

13 A Once I told him I had a child, he said he got three
14 kids and ---

15 Q And he was going to shoot the club up.

16 A Yes. Yes, ma'am.

17 Q Did you go inside and get the guy?

18 A Yes, ma'am.

19 Q And did the guy come back out to the car?

20 A Yes, ma'am.

21 Q What happened next?

22 A We drove off. The guy that we drove with, he had a
23 couple of words with him. It was like it ain't worth it to
24 the defendant over there.

25 Q They were telling him it's not worth in the ---

1 A (Indicating yes) Yes, ma'am.

2 Q Keep going.

3 A And so we was getting -- getting ready to pull off, so
4 they had done pulled their cars to the entrance where they
5 can go.

6 Q When you say they, who are you talking about?

7 A It was like a couple of more guys and him.

8 Q And they were at -- what entrance were they at?

9 A Like getting ready to go out of the club. They got
10 like two entrance, so they parked their cars right there,
11 told him to get in the car, so he went in the car and got a
12 gun and started shooting out the window.

13 Q And you saw that?

14 A (Indicating yes) because we was driving off at the
15 time.

16 Q And what did you do when they started shooting?

17 A We left.

18 Q I understand. Did you talk to the police about this?
19 Did you talk to the investigators of the sheriff's
20 department about this?

21 A (Indicating yes) Yes, ma'am.

22 Q And did they show you a photo line-up of people?

23 A Yes, ma'am.

24 MS. WALKER - Your Honor, may I approach the
25 witness?

1 THE COURT - You may.

2 Q I want to show what's been marked as State's Exhibit
3 Number and ask you if you recognize this?

4 A Yes, ma'am.

5 Q And -- one moment -- and how do you recognize this?

6 A How do I recognize? Because he was right there to the
7 car.

8 Q No, the -- the actual document. Did you sign it?

9 A Yes, ma'am.

10 Q And when they showed you this photo line-up, did they
11 tell you who to pick out?

12 A No, ma'am, not at all.

13 Q Did they suggest to you ---

14 A No, ma'am.

15 Q --- any of the pictures?

16 A No, ma'am.

17 Q Did you circle one of these?

18 A Yes, ma'am.

19 Q And which one was that?

20 A Number 5.

21 Q And why'd you circle number 5?

22 A Because it was him.

23 Q When you say it was him, what do you mean?

24 A It was him shooting outside the car.

MARQUITA MOBLEY - DIRECT BY MS. WALKER

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1 MS. WALKER - Your Honor, at this point the State
2 seeks to admit Exhibit Number 5 in evidence.

3 MR. SAWYER - No objection.

4 THE COURT - Very well.

5 (WHEREUPON, DOCUMENT MARKED INTO EVIDENCE AS
6 STATE'S EXHIBIT NUMBER 5.)

7 Q It was number 5 that was shooting outside the club?

8 A Yes, ma'am.

9 Q The person who you talked to and said that he was
10 going to bust some rounds ---

11 A (Indicating yes)

12 Q --- do you see him in the courtroom?

13 A Yes, ma'am.

14 Q The person who was told to calm down because it wasn't
15 worth it, do you see him in the courtroom?

16 A Yes, ma'am.

17 Q The person who fired the gun at El Toro, do you see
18 him in the courtroom?

19 A Yes, ma'am.

20 Q Can you point that person out?

21 A Right there.

22 MS. WALKER - Your Honor, may the record reflect
23 that the witness has identified the defendant. Which one
24 is he?

25 A The one at the end right here.

1 THE COURT - The one with the what?

2 MS. WALKER - She said the one at the end.

3 A The one at the end right there with the tie on.

4 MS. WALKER - Your Honor, may the record reflect
5 that the witness has identified the defendant.

6 THE COURT - Very well.

7 MS. WALKER - Your Honor, I don't have any further
8 questions.

9 THE COURT - Cross examination.

10 MR. SHARPE - Your Honor, may it please the Court.

11 CROSS EXAMINATION

12 BY MR. SHARPE -

13 Q Good morning, Ms. Mobley.

14 A Good morning.

15 Q Afternoon.

16 A Afternoon.

17 Q All right, now let me back up -- back you up a little
18 bit. So y'all originally went to the club ---

19 A (Indicating yes)

20 Q --- and you couldn't get in.

21 A Yes, sir.

22 Q And so then you're walking back to the hotel?

23 A (Indicating yes)

24 COURT REPORTER - Is that a yes?

25 A Yes, sir.

- 1 Q A gentleman picks you up.
- 2 A Yes, sir.
- 3 Q And you didn't know this gentleman?
- 4 A No, sir.
- 5 Q Why'd you get in the car with him?
- 6 A Because he tried to talk with one of us.
- 7 Q Oh, yes?
- 8 A (Indicating yes) Yes, sir.
- 9 Q And then where did you go?
- 10 A Back to the room.
- 11 Q Back to the room?
- 12 A Yes, sir.
- 13 Q How long do you think you were there for?
- 14 A Like 10 or 15 minutes.
- 15 Q And then -- and then what'd you after that?
- 16 A Went back to the store.
- 17 Q And what'd you do that for?
- 18 A We bought some beers, and that's when the incident
- 19 happened at the store, at the club.
- 20 Q Now, when you -- when you got to the gas station, what
- 21 -- what happened when y'all pulled in?
- 22 A When we pulled in, we noticed there was commotion at
- 23 the gas station.
- 24 Q And did you see -- did you see what was going on?
- 25 A (Indicating yes) Yes, sir.

1 Q You could see it all?

2 A Yes, sir.

3 Q And could you see the security officer?

4 A Yes, sir.

5 Q Now, can you kind of describe what -- what all you
6 said you saw? I mean you said there was two or three
7 people ---

8 A (Indicating yes) There was some ---

9 Q --- and the security officer ---

10 A Yes, sir. Because one of them even hit the security
11 guard in the face, punched him.

12 Q And which one was that?

13 A It was -- the one I guess got sprayed with the mace in
14 the back of the head.

15 Q The same -- the same one that got ---

16 A Yes, sir.

17 Q --- punched the officer?

18 A (Indicating yes) Yes, sir.

19 Q Now, was it like he -- he got maced and then he swung
20 at the officer?

21 A No, it was inside the club.

22 Q Inside the club?

23 A (Indicating yes)

24 Q So you were inside the club?

25 A No. They came out saying that that's what happened.

1 Q And this was a different person than the one who came
2 up to the car. Is that right?

3 A Yes, sir.

4 Q So what were the other guys doing while the gentleman
5 was talking to you at the car?

6 A Walking around -- they was walking around like just
7 spazzing out, like ---

8 Q Waiting -- waiting for to get the cars.

9 A (Indicating yes)

10 Q Could you ---

11 A They went and got the cars and parked them like they
12 was about to do something ---

13 Q They were ---

14 A --- and ready to go.

15 MS. WALKER - Objection, Your Honor. May the
16 witness be allowed to finish her answer?

17 THE COURT - Yes.

18 MR. SHARPE - I apologize, Your Honor. I'm sorry
19 about that.

20 A Um, they went and got the cars and parked them at the
21 entrance, both entrances so they could get ready to go, and
22 they had their lights off -- lights off also when they
23 pulled off.

24 Q Okay. And what kind of cars were they? Did you see
25 that?

1 A It was like a monte carlo and -- I'm not sure. I
2 forgot about that.

3 Q And -- well, what was y'all's plan after you were
4 getting the beer?

5 A To go back to the room and drink and have some fun.

6 Q Did y'all have any plans after that?

7 A No, sir.

8 Q Just go drink.

9 A (No response)

10 MR. SHARPE - Beg the Court's indulgence.

11 THE COURT - All right.

12 Q Can you tell me what the gentleman that came to the
13 car, what he was wearing that night?

14 A A white shirt.

15 Q And can you describe what the other -- the other
16 gentleman that he was with looked like?

17 A He had braids or either dreads, and one of them had a
18 red shirt on. I remember that much.

19 Q Which one was the one that was -- that punched the
20 officer and maced him?

21 A That's the one with the braids or dreads or whatever
22 he had in his head.

23 Q Now, did y'all make it back to the hotel that night?

24 A Yes, sir.

1 Q Could you describe what color the cars were the
2 gentlemen got into?

3 A Black and -- I think black and white.

4 Q And you didn't see which car the gentleman that spoke
5 to y'all got into?

6 A He got in a black car.

7 Q Black car?

8 A (No response)

9 Q What -- was there a lot of people in the parking lot
10 and at the club that night?

11 A Yes, sir.

12 Q There were a lot of people? So there were a lot of
13 cars in the parking lot?

14 A (Indicating yes) Yes, sir. I'm sorry.

15 Q Did you see what seat the gentleman that was speaking
16 to y'all got into in the car?

17 A Passenger.

18 Q Passenger's side?

19 A Yes, sir.

20 Q Okay. And he told you he had three kids?

21 A (Indicating yes)

22 THE COURT - That's a yes?

23 A Yes.

24 MR. SHARPE - Beg the Court's indulgence.

25 THE COURT - Sure.

1 Q Now, Ms. Mobley, do you remember giving -- meeting
2 with the police on Oct -- excuse me -- August 27th about two
3 days after the incident?

4 A Yes, sir.

5 Q And do you remember giving a statement?

6 A Yes, sir.

7 Q Now, do you remember telling Investigator Lindler --
8 is that -- do you remember who gave -- who you gave a
9 statement to?

10 A Yes, sir.

11 Q Are they in this courtroom?

12 A Yes, he is.

13 Q Was it more than one officer?

14 A Yes, sir.

15 Q Now, do you -- when you're talking to them, do you
16 remember telling them that -- that you didn't remember or
17 that you didn't see which car the defendant got into?

18 A (Indicating no) No, sir.

19 Q If I showed you your statement, would that refresh
20 your memory?

21 A Yes, sir.

22 MR. SHARPE - May I approach?

23 MS. WALKER - Could I see --

24 MR. SHARPE - May I approach the witness, Your
25 Honor?

1 THE COURT - You may.

2 Q Do you want to look over this for a second?

3 A (No response)

4 Q And now, you said -- do you remember telling the
5 officers that the man wearing the red was the one that
6 fired the shots and that you'd definitely seen it?

7 A I'm not sure. It was a year ago. I'm not sure about
8 that.

9 Q Okay. Now, this -- this wasn't the -- this wasn't the
10 only statement you gave though, was it?

11 A I think so.

12 Q You think so. So you don't remember them interviewing
13 you the day after you gave this first statement?

14 A I'm not -- I don't remember.

15 MR. SHARPE - Beg the Court's indulgence.

16 THE COURT - All right.

17 Q All right. Now, do you remember telling them that the
18 guy in the red was about five nine with a low haircut and
19 gold teeth?

20 A (Indicating no)

21 Q No?

22 THE COURT - And that is a ---

23 A No, sir. I'm sorry.

24 THE COURT - It's all right.

1 MR. SHARPE - May I approach the witness with the
2 statement?

3 THE COURT - Yes.

4 Q Now, you see -- you see in there where you said that?

5 A Yes, sir.

6 Q It's a -- second question?

7 A Yes, sir.

8 Q And he's the one that hit the officer. Is that right?

9 A Who are you referring to?

10 Q The guy in the red. Is that what you say?

11 A I'm not sure, because it -- it done been a while so --

12 -

13 Q But isn't that what you told them?

14 A Yes.

15 Q Okay. Now, what -- what -- now you told them that the
16 guy said that he was going to bust some rounds?

17 A Yes, sir.

18 Q And he told you that -- you told him you had a kid, so
19 you didn't want to be involved ---

20 A (Indicating yes) yes, sir.

21 Q --- and he told you that he had three children. Is
22 that right?

23 A Yes, sir.

24 Q Now, do you remember -- you see -- now, I asked you
25 earlier, do you remember telling them that you -- that the

1 guy in the red was the one that definitely fired the
2 rounds?

3 A Yes, sir.

4 Q Do you see that in your statement? Could you read
5 that part off for the jury?

6 A The guy in the red with the gold teeth got in the
7 driver's side.

8 Q No, I'm -- I'm sorry. I'm on the second page of the
9 statement at the very top.

10 A Okay.

11 Q It's the third -- looks like the third sentence, the
12 guy in the red ---

13 A Okay.

14 Q --- definitely fired the rounds.

15 A You said the third one?

16 Q It's the -- it's the very top. It's the third
17 sentence.

18 A Okay. The guy in the red ---

19 Q It said we're ---

20 A Yes, sir.

21 Q And can you read that out loud to the jury?

22 A We were almost beside them. The guy in the red
23 definitely fired the rounds. The other guy with the dreads
24 got in the white car. I don't know which car the guy who
25 was talking to us got in. Yes, I remember it.

1 Q And then they came to talk to you again the day after
2 that. Is that correct?

3 A Yes, sir.

4 Q And they were coming to talk to you because they
5 didn't think you were being truthful with them. Isn't that
6 right?

7 A No.

8 Q They -- didn't they tell you that if -- that they
9 could charge you with obstruction of justice if you weren't
10 being truthful with them?

11 A I don't remember.

12 Q Okay. Now, ---

13 MR. SHARPE - Beg the Court's indulgence.

14 THE COURT - Yes.

15 Q Now, Ms. Mobley, do you remember Investigator Jordan
16 picking you and Kristina up a second time ---

17 A (Indicating yes) Yes, sir.

18 Q --- and telling you that -- telling you that, you
19 know, they didn't think you were being truthful with them?

20 MS. WALKER - Objection, Your Honor, asked and
21 answered.

22 THE COURT - Let me hear the question, and
23 don't respond until I've have a chance to rule.

24 Q Well, I was saying, do you remember him picking you up
25 and do you remember him telling you that they didn't think

MARQUITA MOBLEY - CROSS BY MR. SHARPE

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1 you were being truthful with them and saying that if you
2 weren't truthful with them, that they could charge you with
3 obstruction of justice.

4 A They told Kristina that.

5 THE COURT - Oh, oh, ---

6 A Oh, I'm sorry.

7 THE COURT - That's three questions. Which one do
8 you want to ask? All three? That was three.

9 MR. SHARPE - Right.

10 THE COURT - Ask one at a time.

11 MR. SHAPRE - Okay.

12 Q Do you remember Mr. Jordan -- Investigator Jordan
13 picking you and Kristina up?

14 A Yes, sir.

15 Q Do you remember him telling you that they didn't think
16 you were being truthful?

17 A No, sir.

18 Q Okay. Do you remember him telling you that if you
19 weren't being truthful, that they could charge you with
20 obstruction of justice?

21 A They told my friend, Kristina, that. Yes.

22 Q Okay. And they told you that this was a serious ---

23 A Matter, yes, sir.

24 Q And were you -- now, do you remember him mentioning
25 anything to you about prostituting?

1 A Who?

2 Q About you being a prostitute?

3 A No.

4 Q No?

5 A (No response)

6 Q Okay. So you never told him that you were ---

7 A No.

8 Q --- a prostitute? Okay. Were you drinking that
9 night?

10 A Yes, sir.

11 Q Before this incident?

12 A (Indicating yes) Yes, sir.

13 Q Were you doing any drugs?

14 A Probably some marijuana.

15 Q Okay.

16 MR. SHARPE - Beg the Court's indulgence, Your
17 Honor.

18 THE COURT - Okay.

19 Q Now, Ms. Mobley, when you talked to Investigator
20 Jordan and Investigator Lindler -- Sergeant Lindler -- that
21 was short -- I mean that was -- the events of that night
22 were fresh in your mind, weren't they?

23 A Say that again.

24 Q The events of that night, they were fresh in your
25 mind. Right?

MARQUITA MOBLEY - RE-DIRECT BY MS. WALKER

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1 A So-so.

2 Q I mean it -- it was right -- I mean recently after
3 that night. Correct?

4 A What was recently?

5 Q When you talked to Investigator Jordan and Sergeant
6 Lindler.

7 A (Indicating yes)

8 Q Right?

9 THE COURT - And that was a ---

10 A Sorry. Yes, sir.

11 MR. SHARPE - Nothing further.

12 THE COURT - All right, re-direct?

13 MS. WALKER - Thank you, Your Honor.

14 RE-DIRECT EXAMINATION

15 BY MS. WALKER -

16 Q You had two conversations with law enforcement?

17 A I'm not sure. It's been a year ago.

18 Q Well, I don't want to mislead you, so I ---

19 MS. WALKER - Your Honor, may I approach the
20 witness?

21 THE COURT - You may.

22 Q I want to show you both of your statements that you
23 gave. Okay? I think you only got showed one last time.

24 On your second statement, are you asked if you saw the guy
25 who shot leave?

1 A (Indicating yes) Yes, ma'am. I'm sorry.

2 Q And what was your answer to that?

3 A Yes.

4 THE COURT - Counsel, let me see you a second,
5 please.

6 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
7 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
8 WHICH WAS NOT REPORTED.)

9 Q Did you have a chance to read your -- that last
10 sentence?

11 A Yes, ma'am. Yes, ma'am.

12 Q Does that refresh your memory?

13 A Yes. Yes, ma'am.

14 Q The guy who did the shooting, which car did he get
15 into?

16 A The black car.

17 Q And the guy who did the shooting, is he in the
18 courtroom?

19 A Yes, ma'am.

20 Q Can you point him out?

21 A Right here at the end, at his table.

22 MS. WALKER - Thank you, Your Honor. I have no
23 further questions.

24 THE COURT - All right, re-cross?

25 MR. SHARPE - Nothing, Your Honor.

LAMAR RAY - DIRECT BY MS. CAMPBELL

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1 THE COURT - Very well. Is this witness free to
2 leave?

3 MS. WALKER - Yes, Your Honor.

4 THE COURT - Any objection?

5 MR. SHARPE - No objection, Your Honor.

6 THE COURT - You are free to go. Call your next
7 witness, please.

8 MS. CAMPBELL - State calls Lamar Ray. (Pause)
9 I'm sorry, Your Honor, the witness has been sequestered.

10 THE COURT - I know that. Yes, y'all have done a
11 wonderful job of relaying.

12 MS. CAMPBELL - Thank you.

13 LAMAR RAY, AFTER BEING FIRST DULY SWORN,

14 TESTIFIES AS FOLLOWS -

15 DEPUTY CLERK - Thank you. Please have a seat in
16 the witness stand and state your full name for the record.

17 MR. RAY - Lamar Ray.

18 THE COURT - And can you spell -- can you spell
19 that for us, please.

20 MR. RAY - L-a-m-a-r R-a-y.

21 THE COURT - Thank you very much.

22 MR. RAY - You're welcome.

23 THE COURT - Your witness.

24 MS. CAMPBELL - Thank you, Your Honor.

1 DIRECT EXAMINATION

2 BY MS. CAMPBELL -

3 Q Mr. Ray, how old are you?

4 A Thirty-seven.

5 Q Do you live here in the Columbia area?

6 A Yes, ma'am.

7 Q How long have you lived in the Columbia area?

8 A Eight years.

9 Q Back in August of last year, where were you working?

10 A El Toro.

11 Q And what did you do at the El Toro?

12 A We worked the front desk. We threw parties and event.

13 Q Okay, can you get a little closer to that microphone?

14 It's just hard to hear in here.

15 A We worked the front desk and we run parties and events

16 and I sometimes helped with security.

17 Q And sometimes help with security?

18 A Yes, ma'am.

19 Q And when you say we run parties and events, who did --

20 who was that?

21 A Me and my nephew.

22 Q And did y'all actually own the club?

23 A No, ma'am.

24 Q Y'all just helped run the club.

25 A No, we just threw events.

LAMAR RAY - DIRECT BY MS. CAMPBELL

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1 Q And I want to turn your attention back the evening of
2 the 25th, that evening. Were you working at El Toro?

3 A Yes, ma'am.

4 Q And what were your duties that night? What were you
5 doing?

6 A I be at the front door.

7 Q You were at the front door?

8 A Yes, ma'am.

9 Q Was anybody else working the front door with you?

10 A Yes.

11 Q And who was working the front door with you that
12 night?

13 A Jimmy.

14 Q And do you know Jimmy's whole name?

15 A Not by -- no.

16 Q Did you call Jimmy by something other than Jimmy?

17 A Jimbo.

18 Q Jimbo?

19 A Yes, ma'am.

20 Q So when you refer to Jimmy or Jimbo, that's the same
21 person?

22 A Yes.

23 Q And what was Jimbo's duties that night? What was he
24 doing?

25 A He was outside and searching and getting ID's.

1 Q And what kind of establishment is El Toro?

2 A El Toro's -- it was like a bar, sit down and eat.

3 Q Sit down and what?

4 A Sit down and eat.

5 Q You can eat?

6 A Yes, ma'am.

7 Q And can you get liquor there?

8 A Yes, ma'am.

9 Q Beer?

10 A Yes.

11 Q Wine?

12 A Yes.

13 Q Things of that nature?

14 A (No response)

15 Q That evening Jimbo was working the front door along
16 with you?

17 A He was outside; I was inside that particular time.

18 Q So what would his duties have been that night as the
19 outside door guy?

20 A Check ID's, search.

21 Q And when you say the outside door guy, would he have
22 been out in the parking lot or where outside would he have
23 been?

24 A Right on the porch.

LAMAR RAY - DIRECT BY MS. CAMPBELL

318

- 1 Q I'm going to show you what's been marked as State's
2 Exhibit Number 20. Do you recognize that?
- 3 A Yes, ma'am.
- 4 Q And what does that show, sir?
- 5 A El Toro's front.
- 6 Q And where would Jimmy have been out there?
- 7 A On the porch.
- 8 Q Am I in the right place?
- 9 A Yes, ma'am.
- 10 Q Am I pointing at the right place?
- 11 A On the porch.
- 12 Q And what was (sic) his duties have been that night out
13 there on the porch?
- 14 A He was searching and get -- checking for ID's.
- 15 Q And when you say searching, what was he searching for?
- 16 A Weapons, anything illegal.
- 17 Q Anything illegal?
- 18 A Yes.
- 19 Q Is that standard procedure?
- 20 A Yes.
- 21 Q Before anybody could enter the establishment, is there
22 a requirement that they produce certain identification?
- 23 A You have to have a ID. You must be 21.
- 24 Q And what were your duties as the inside door guy?

1 A If it was a crowd I -- I help out with searching
2 people and collecting the money.

3 Q That night getting on towards midnight, did you
4 observe events as they took place out on that front porch?

5 A Yes, ma'am.

6 Q And can you tell the jury what first caught your
7 attention that evening?

8 A Well, it was a guy at the front door trying to get in
9 with a fake ID, and Jimbo wouldn't let him in, so he
10 started arguing with Jimbo about getting in, trying to pay
11 him an extra hundred dollars or whatever.

12 Q Trying to pay him an extra hundred dollars?

13 A Yes, and Jimbo still didn't let him in.

14 Q And was that what Jimbo was supposed to do?

15 A Yes, ma'am.

16 Q Where were you when you were observing this going on?

17 A I was at the front desk.

18 Q And how could you see what was going on out on the
19 porch?

20 A Because El Toro's got a window in the front door you
21 could -- I mean a door -- in the front door; you can see it
22 as you're looking out.

23 Q And that's the window that's shown in State's Exhibit
24 Number 20 again?

25 A Yes, ma'am.

LAMAR RAY - DIRECT BY MS. CAMPBELL

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1 Q So you were inside just inside there so you can see
2 out on the front?

3 A Yes.

4 Q And were you able to hear anything that was going on?

5 A Yes, ma'am.

6 Q And what exactly did you hear the man with the false
7 ID doing?

8 A Well, he was doing a lot of raising sand, man, I --
9 you know, we wanted to get in. He was doing a lot of
10 cussing and Jimbo was like, you know, telling him no you
11 can't get in with a fake ID, you know, you can leave. And
12 he was consistent (sic) on staying there arguing with Jimbo
13 trying to get in, trying to pay him.

14 Q Do you remember what type of clothing Jimbo had on
15 that night?

16 A He had on all black.

17 Q And do you remember whether or not he had no a vest
18 with certain ---

19 A He had on a vest - it looked like a vest to me.

20 Q Okay. What happened next that you remember?

21 A Um, -- well, uh, Jimbo starting escorting the guy off
22 and the guy turned around and, you know, Jimbo started
23 spraying mace.

24 Q Where did that take place?

25 A In the parking lot.

1 Q In which parking lot?

2 A El Toro.

3 Q And what part of the parking lot did that take place
4 in? Do you remember?

5 A It was right in the front.

6 Q I'm going to show you ---

7 MS. CAMPBELL - Beg the Court's indulgence while
8 I go through these pictures.

9 Q --- State's Exhibit Number 7. Does that show the
10 front?

11 A Yes.

12 Q Can you see the area where Jimbo pulled out his mace
13 or is it even on this one?

14 A I can see it better from the other one.

15 Q State's Exhibit 20?

16 A Yes. He started to walk down. It was a little path
17 right there. It was more by the cars.

18 Q More towards the cars?

19 A Yes, ma'am.

20 Q So further out in the parking lot.

21 A Further out in the parking lot. Okay.

22 Q Would that be right?

23 A I'll show you from there, because that one don't have
24 it.

25 COURT REPORTER - I'm having trouble hearing him;

LAMAR RAY - DIRECT BY MS. CAMPBELL

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1 I think he's kind of mumbling.

2 A I'll show you from here. It was like down in this
3 area here, but ---

4 Q Down in that area there?

5 A Yes, ma'am.

6 Q Where I'm pointing?

7 A It's not exactly right here, but it's over in this
8 area.

9 Q Over in this area of the parking lot.

10 A (No response)

11 Q And what was Jimbo doing when he pulled out the mace?

12 What was he trying to get the people to do?

13 A He was trying to escort the guy off.

14 Q And was Jimbo an actual security guard?

15 A Yes.

16 Q And part of his duties is if somebody gave him -- what
17 were his duties?

18 A His duties was to try to escort them off and he called
19 the police also.

20 Q When you saw him pull the mace out, what happened
21 next?

22 A I walked out and I stood on the porch and I watched to
23 make sure, you know, nobody's coming in without paying and
24 showing their ID.

1 Q Okay. And what happened next as far as where Jimmy
2 and -- and how many guys were around him at that point?

3 A It was just one guy at that point.

4 Q One guy at that point?

5 A Yes.

6 Q And do you remember what he looked like?

7 A He was tall, slender built.

8 Q What happened next?

9 A Then the guys started to come out.

10 Q When you say guys started to come out, what do you
11 mean?

12 A They just started coming out the club.

13 Q Which direction were they going in?

14 A One guy -- the guy with the dreads went towards the
15 car, then he came back around.

16 Q And what happened next?

17 A Then he swung on Jimbo from behind and I seen some
18 other guys coming, so I walk out and I say, no, ya'll not
19 going to jump on Jimbo, so I walked down there with him.

20 Q And at this point how many guys do you see around
21 Jimbo?

22 A By that point it was at least about three or four.

23 Like I said, it was -- people just was coming out, and then
24 that's -- another car pulled up on the parking lot of the

LAMAR RAY - DIRECT BY MS. CAMPBELL

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1 gas station and Jimbo pulled his gun on the guy and the guy
2 backed up and fell.

3 Q And fell?

4 A Yes.

5 Q And where was -- and what part of the parking lot did
6 that take place?

7 A That was at the end of the parking lot, but the guy
8 ended up crossing to the gas station.

9 Q And what gas station is next door to the El Toro?

10 A Oh, what is it.

11 Q If you don't know the name, that's all right.

12 A No, I ---

13 Q Is there a gas station next door?

14 A Yes.

15 Q And that's the parking lot you're now referring to as
16 gas station parking lot?

17 A Yes, ma'am.

18 Q What happened next?

19 A So um, Jimbo was on his phone with his gun out. I'm
20 telling Jimbo come on let's go, because I start seeing guys
21 going to their car popping their hoods and trunks and
22 stuff, so my instinct is they about to get their guns, so
23 I'm telling Jimbo to come on. He still on the phone. He
24 walked back up but he still on the phone calling the
25 police, so I walks in.

1 Q You walk in?

2 A I walk in. I go back to where I was standing at all
3 time watching, and um, the girl yell out, pow, somebody's
4 shooting. I looked; I seen who it was.

5 Q Let me back up for a minute. Are you just inside the
6 door?

7 A I'm right inside the door.

8 Q And then you hear somebody yell?

9 A Yes, the girl say, yes, they shooting, they shot the
10 security. I heard the gun shots as I walk in and I turned
11 around.

12 Q And what did you see?

13 A I seen a black crown vic.

14 Q Where was it?

15 A It was driving off.

16 Q And what road? Is there a road in front of the ---

17 A He was going out the parking lot.

18 Q In a black car?

19 A Black car.

20 Q What kind?

21 A And it was a white car had pulled up -- crown vic.

22 Q There was a separate white car?

23 A Yes.

24 Q But the shots you saw were coming from which car?

25 A Black car.

1 Q And could you see who was doing the shooting?

2 A Yes.

3 Q Was it somebody you'd seen earlier that night?

4 A Yes.

5 Q And tell the jury how you'd seen him earlier that
6 night.

7 A Well, I seen him earlier in that night because I
8 called him Rachet.

9 Q What does that mean?

10 A That means he was -- he was real loud. I said he was
11 possessed with something so ---

12 Q And where had you seen him earlier in the night?

13 A In the line.

14 Q In the line?

15 A Yes.

16 Q And do you remember what he looked like?

17 A Yes.

18 Q What'd he look like?

19 A He had gold teeth. He was dark skinned.

20 Q Dark skin with gold teeth?

21 A Yes. He was shorter than me, so he was short to me.

22 Q And you say that when you looked up, you actually saw
23 the car where the shots came from?

24 A Yes, ma'am.

25 Q Did you actually see the shots or did you see the car?

- 1 A I seen both.
- 2 Q And what direction were the shots going?
- 3 A Towards the building, towards Jimbo.
- 4 Q Did anybody get hit?
- 5 A Yes.
- 6 Q Who got hit?
- 7 A Jimbo did.
- 8 Q Did you actually see that?
- 9 A I seen it and I seen the bullet wound and all.
- 10 Q And where was he when he got hit?
- 11 A He was like right on by the porch, porch area, because
- 12 he laid down.
- 13 Q State's Exhibit 20, where was he?
- 14 A Like right up in here.
- 15 Q (Indicating) Right in that area?
- 16 A Yes, ma'am.
- 17 Q And you say that he laid down?
- 18 A Yes, ma'am.
- 19 Q Was he up on the steps or on the ground or what?
- 20 A He was closer to the steps.
- 21 Q Which direction did the car go?
- 22 A I don't -- at that time I wasn't even paying
- 23 attention. I was asking -- trying to get out there and see
- 24 about Jimbo. He was laying on the ground, and I was asking
- 25 him did you need me to do something. He just told me to

1 move back and get his stuff and give it to Jesus and Jesus
2 was calling the ambulance, so they pulled his vest apart
3 and I got a chance to see the bullet wound and all.

4 Q What happened next?

5 A The ambulance came and, you know, -- I don't know.

6 Q Did they take Jimbo away?

7 A Yes.

8 Q Did you ever see him again?

9 A No.

10 Q Did the police come?

11 A Yes.

12 Q Did you talk to them that night?

13 A A little. I was upset, so I was really not trying to
14 even ---

15 Q Okay. Did they later come and take a statement from
16 you?

17 A Yes.

18 Q And did you tell them everything when you first talked
19 to them?

20 A No.

21 Q What part did you not tell them?

22 A I told them I didn't see the shooting. I was going to
23 say I didn't say anything, but -- and that was just for
24 safety reasons.

25 Q For your safety?

1 A Yes.

2 Q But did you describe to them all the people you saw
3 that night involved?

4 A Yes, I did.

5 Q And did that include the person that you actually knew
6 to be the shooter?

7 A Yes.

8 Q But you just didn't tell them you saw the shooter?

9 A No.

10 Q For your own safety.

11 A Yes.

12 Q And a couple days later did they come back and show
13 you some photographs?

14 A Yes, ma'am.

15 Q I'm going to show you what's been marked as State's
16 Exhibit Number 5. Excuse me. I've got the wrong one.

17 Excuse me.

18 MS. CAMPBELL - Beg the Court's indulgence.

19 Q Let me show you State's Exhibit 6. Do you recognize
20 that?

21 A Yes, ma'am.

22 Q Is that your signature on the first page?

23 A Yes, ma'am.

24 Q And on the second page, what does that show?

25 A A line-up and I got my initials on here.

LAMAR RAY - DIRECT BY MS. CAMPBELL

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1 Q When they showed you the line-up, did they tell you
2 who to pick?

3 A No, ma'am.

4 Q Did anyone ever indicate to you that you had to pick
5 anybody?

6 A No, ma'am.

7 Q And did you recognize someone out of these six photos?

8 A Yes, I did.

9 Q And which one did you recognize?

10 A Number 5.

11 Q And who did you recognize him to be?

12 A The shooter.

13 Q Did you tell them at the time it was the actual
14 shooter?

15 A No, I just told them that he was real racket, he was
16 one of the guys.

17 MS. CAMPBELL - Your Honor, at this time
18 I'd offer State's Exhibit 6 into evidence.

19 MR. SAWYER - Just renew our prior objection.

20 THE COURT - Very well. Yes, I understand.
21 Overruled.

22 (WHEREUPON, DOCUMENT MARKED INTO EVIDENCE AS
23 STATE'S EXHIBIT NUMBER 6.)

24 Q When you saw State's Exhibit Number 6 out of these
25 guys, you recognized him?

- 1 A Number 6?
- 2 Q I'm sorry. State's Exhibit 6, the Exhibit Number 6,
3 but it's number 5 on the Exhibit. I'm sorry.
- 4 Q Okay. Yes, I recognized him.
- 5 Q And did you put your initials by it?
- 6 A Yes, ma'am.
- 7 Q Did anybody tell you who to pick?
- 8 A No, ma'am.
- 9 Q The other guys you saw that night, what did they look
10 like?
- 11 A I know the one with dreads, because he the one that
12 walked up behind Jimbo and hit him.
- 13 Q Okay. But that wasn't the one that was the shooter?
- 14 A No.
- 15 Q The one that was at the front door arguing, was that
16 the shooter?
- 17 A No.
- 18 Q Was that a different guy?
- 19 A Yes.
- 20 Q Were all those people together?
- 21 A I don't know.
- 22 Q You mentioned that you saw two cars out there that
23 night.
- 24 A Yes, ma'am.
- 25 Q And what were the two cars?

LAMAR RAY - DIRECT BY MS. CAMPBELL

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1 A A black crown vic and white crown vic.

2 Q And where were they located? Did you see?

3 A They was -- they was on the left-hand side of the club
4 backed in.

5 Q And which parking lot?

6 A In El Toro's parking lot.

7 Q In the back part?

8 A Yes.

9 Q And you didn't actually witness what happened at the
10 gas station, other than the guy fell?

11 A No, ma'am.

12 Q Did you see the guy fall?

13 A Yes, I was standing right there.

14 Q The person that you identified in the photo line-up --

15 -

16 A Yes, ma'am.

17 Q --- who was he?

18 A He was ---

19 MR. SAWYER - Objection. Asked several times now.

20 THE COURT - I understand. You may proceed.

21 Overruled.

22 Q What did he do that night?

23 A Say that -- say the question again.

24 Q The guy that you identified in the photo line-up, what
25 did he do that night?

1 A That was the guy that came in that I called Rachet;
2 that's the guy that I seen doing the shooting.

3 Q Do you see him here in the courtroom?

4 A Yes, ma'am.

5 Q Can you point him out for the jury?

6 A Yes, ma'am. Right there.

7 Q And what's he wearing?

8 A Grey shirt, white collar.

9 Q With a white collar?

10 A Yes, ma'am.

11 MS. CAMPBELL - Your Honor, may the record reflect
12 he's identified the defendant.

13 THE COURT - Yes, ma'am.

14 MR. CAMPBELL - Thank you, sir.

15 THE COURT - Cross examination.

16 MR. SAWYER - Your Honor, can we approach for a
17 second?

18 THE COURT - Sure.

19 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
20 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
21 WHICH WAS NOT REPORTED.)

22 THE COURT - Ladies, and gentlemen, we are going
23 to take lunch. It's about 1:00 o'clock. Yes. I look at
24 that clock and it's like, I need numbers. In any event,
25 we're going to take an hour and fifteen minutes for lunch,

1 and so I'm going to remind you, please, do not discuss this
2 matter or allow anyone to discuss this matter with you over
3 lunch. Don't do any sort of research; don't do any sort of
4 central networking about this matter; don't listen to
5 anything about this matter, radio, television, internet,
6 newspapers and the like. I know, put your coat on. Can
7 y'all believe it? It was amazing last night how the
8 temperature dropped. But any event, have a pleasant lunch
9 and we will reconvene at 2:15, 2:15. Now, remember, if you
10 don't know the path, we will drop bread crumbs for you so
11 you can make your way back, but anyway, have a good lunch.
12 Go with your bailiff, please.

13 (Jury exits the courtroom)

14 THE COURT - Thank you so much. And yes, sir,
15 I'll ask you to be back at 2:15. Now, you can talk about
16 anything except your testimony. You can't talk about your
17 testimony to anyone. Okay?

18 MR. RAY - Okay.

19 THE COURT - Very well. Thank you, and we'll see
20 you at 2:15. All right, now, anything before we take our
21 lunch. From the State?

22 MS. CAMPBELL - No, ma'am.

23 THE COURT - From the defense?

24 MR. SAWYER - No, Your Honor.

1 THE COURT - Very well. Y'all -- we will be at
2 ease. I've got to do something real quick. Y'all -
3 everybody enjoy your lunch. I'll see you at 2:15.

4 (Lunch recess taken)

5 THE COURT - Thank you and please be seated.
6 Looking for our witness.

7 MS. WALKER - He's outside, Your Honor, because he
8 didn't know he could come back in. Can we take up one
9 thing, though, before he comes in.

10 THE COURT - Sure.

11 MS. WALKER - Tivis Sutherland represents one of
12 the co-defendants. He's in the courtroom, Your Honor, --
13 him right here -- represents one of the co-defendants who
14 is Terrell Vaughn who is this defendant's brother.

15 THE COURT - Okay.

16 MR. SUTHERLAND - He's not going to testify at
17 all, Your Honor.

18 THE COURT - Okay.

19 MS. WALKER - He was in the courtroom. I pointed
20 that out to Mr. Sawyer. He left the courtroom. Mr.
21 Sutherland called me to tell me that his client was
22 concerned because someone from the defense team approached
23 him about taking the stand for the purpose of invoking the
24 Fifth Amendment in front of the jury. I just wanted to
25 make sure that that wasn't a road that we were planning on

1 going down at any point in time. I just wanted to bring it
2 to the Court's attention.

3 THE COURT - Okay.

4 MS. WALKER - Thank you.

5 MR. SUTHERLAND - And, Your Honor, if I may, might
6 he be able to watch his brother's trial since he's not
7 testifying in any way shape or form ---

8 COURT REPORTER - Can he speak up? I'm having
9 trouble hearing him.

10 THE COURT - He just asked if he could watch his
11 brother's trial since he is not going to testify. And I
12 would just ask the defense team, is that correct? You all
13 have no intentions of calling -- and his name is Mr. ---

14 MR. SUTHERLAND - It's Terrell Vaughn.

15 THE COURT - Terrell.

16 MR. SAWYER - And, Judge, at this point, since our
17 impression is that he's invoking his Fifth Amendment right,
18 I mean we can't call him, so ---

19 THE COURT - Okay. All right. Then everyone's on
20 the same sheet of music I think.

21 MS. CAMPBELL - Except potentially if he were to
22 change his mind and testify, that would -- since the
23 witnesses are sequestered, we would just ask that he be
24 sequestered out of an abundance of caution in case
25 something changes, because the State could use him as well.

1 THE COURT - In other words, you're not absolutely
2 certain that the State would not ---

3 MS. CAMPBELL - If he were to change his mind.

4 THE COURT - If he was to change his mind.

5 MS. CAMPBELL - I'm not saying that's not a remote
6 possibility, but I would hate to be precluded then from
7 calling him because of that.

8 THE COURT - There you have it.

9 MR. SUTHERLAND - I understand, Judge. Thank you.

10 THE COURT - All right. Thank you. Okay,
11 anything else from the State?

12 MS. WALKER - Nothing, Your Honor. I'll go get
13 the witness and then ---

14 THE COURT - That'd be fabulous, and I appreciate
15 that. Anything from the defense?

16 MR. SAWYER - Our only thing, Judge, and I talked
17 to Ms. Campbell about this. I know they're intent on
18 entering some phone calls from the jail at some point ---

19 THE COURT - Okay.

20 MR. SAWYER - -- I was supposed to find out --
21 usually dealt with six something -- number like that. I
22 know Ms. Walker told me last night they're only going to
23 use three or four. Luck said she was going to get in touch
24 with me at lunch, said they're only going to use a couple -
25 - so I'd know what those are.

1 THE COURT - Okay.

2 MR. SAWYER - I don't know when they're planning
3 on calling their jail phone person.

4 MS. CAMPBELL - Well, my paralegal is missing and
5 we don't know where she is. She went to lunch and she's
6 never been late to Court before, so I -- we're looking for
7 her.

8 MR. SAWYER - And that's fine. My only point of
9 contention I guess just for scheduling for the rest of the
10 afternoon is I would want to yet again listen through all
11 of them outside the purview of the jury just to know which
12 ones they're using.

13 THE COURT - They won't use them until you have an
14 opportunity to (a) know and (b) listen to them. And we can
15 take a ---

16 MR. SAWYER - And that's fine.

17 THE COURT - --- little break when it's
18 convenient. Don't worry about. Now, I'm worried about
19 your paralegal.

20 MS. CAMPBELL - I am too, Your Honor.

21 MR. SAWYER - And I was trying to make it easier,
22 Judge. If I'd just know before the day's out and if we
23 wait til tomorrow, then I'll have more than enough time for
24 it.

1 THE COURT - Well, don't you worry about it,
2 because I'm going to make sure you have time to (a) know
3 and (b) listen to them. Not to worry.

4 MR. SAWYER - Thank you, Judge.

5 THE COURT - And if I forget, just chalk it up to
6 age and remind me.

7 MR. SAWYER - All right.

8 THE COURT - So where did she go to -- now, I'll
9 worry.

10 MS. CAMPBELL - There she is.

11 THE COURT - We just worry. You can't go to lunch
12 now, any -- and all these people have to know where you go
13 to lunch now, because we like worry.

14 MS. WALKER - Thank you, Your Honor.

15 THE COURT - Okay, there you are. You're back.
16 Our witness is back.

17 MR. RAY - Yes.

18 THE COURT - Good. Thank you. All right. Let us
19 have the jury.

20 (Jury returns to the courtroom)

21 BAILIFF - Jury is seated, Your Honor.

22 THE COURT - Thank you so much. Ladies and
23 gentlemen, I certainly hope that you had a very pleasant
24 lunch. At this time we will continue with the State's case
25 and the cross examination.

LAMAR RAY - CROSS BY MR. SAWYER

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1 MR. SAWYER - May it please the Court.

2 THE COURT - Yes, sir.

3 CROSS EXAMINATION

4 BY MR. SAWYER -

5 Q All right, Mr. Ray, let's kind of back up, because we
6 -- I think we've kind of glossed over a lot of how this day
7 went for you, so let's back up to the -- I guess the start
8 of your day. What time do you normally get to the club
9 when you're working?

10 A About 10:00.

11 Q 10:00. AM or PM?

12 A PM.

13 Q And just -- we keep calling it Club El Toro. This is
14 actually, in fact, just like a run-of-the-mill restaurant
15 pretty much 24/7. Right?

16 A Yes.

17 Q Mexican Restaurant like you go to that's everywhere in
18 the city. Right?

19 A Right.

20 Q And so it just becomes a club how many nights a week?

21 A I don't know that answer.

22 Q Okay. And again when we're saying it's a club, do
23 y'all clear tables out for a dance floor or anything?

24 A They do have a dance floor.

25 Q Okay, y'all have ---

1 A And a stage?

2 Q I'm sorry.

3 A And a stage.

4 Q And a stage?

5 COURT REPORTER - If he could lean up towards the
6 mic, that might help.

7 Q And a what?

8 A And a stage.

9 Q And y'all have acts and such some nights of the week?

10 A Yes, we do.

11 Q Okay. Did you have a act this night?

12 A Yes, we supposed to have.

13 Q Okay, but it got cancelled I assume?

14 A Yes.

15 Q Okay. Now, you got to the club about 10:00. Your
16 job, I guess, for lack of a better term is to collect cover
17 charge?

18 A Cover charge and I also help with security sometimes.

19 Q Okay. But -- I mean at least at that point where you
20 were sitting you were collecting cover charge. Right?

21 A I was standing there helping with security at that
22 time.

23 Q Okay. Let's -- you said you were inside the club to
24 start out with. Correct?

25 A Inside, yes.

LAMAR RAY - CROSS BY MR. SAWYER

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1 Q Okay. Let's find a good picture here. This is about
2 as good as any. So we don't have any of the interior of
3 the club. So you're not anywhere on this patio. Right?

4 A No. I'm right here in the door.

5 Q Okay. Is the door open or closed?

6 A It's closed.

7 Q Okay. Are you directly in front of the door? Are you
8 standing off to one side?

9 A I'm standing over to the side but kind of like in
10 front.

11 Q Okay. And how many feet away are you from the door?

12 A From about here to that stand right there.

13 Q Okay. From here to the stand is how far you were away
14 from the door?

15 A Yes, probably a little bit farther from ---

16 Q A little bit farther.

17 A Yes.

18 Q --- where you are at the door?

19 A About there.

20 Q Okay. And you're off to one side. Right?

21 A Yes.

22 Q Okay. And you're off to the this -- this side over
23 here. Right?

24 A Yes.

1 Q Now, you said your nephew was working with you that
2 night?

3 A Yes, he was.

4 Q Okay. Was he inside that same place with you?

5 A He was in the inside.

6 Q Okay. Did -- do you think he could probably see
7 everything you saw that night?

8 A He was on the inside of the club period.

9 Q Okay. So once you're on the inside, you can't see
10 what's going on outside?

11 A Not if you downstairs like on the dance floor.

12 Q Oh, so he was further inside.

13 A Yes, he was on the inside inside.

14 Q Okay. So about what time did this whole situation get
15 started?

16 A Um, I can't tell you a time. I don't remember. It's
17 been a while.

18 Q How full was the restaurant?

19 A It -- it was a pretty good crowd.

20 Q Okay. Like all the tables were full, half full?

21 A I can't tell you if the tables were full or not at the
22 door.

23 Q Okay. Now, are you watching stuff going on inside at
24 the same time too?

25 A I'm at the front door at all times.

LAMAR RAY - CROSS BY MR. SAWYER

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- 1 Q Okay, but you don't pay attention to anything inside
2 at all?
- 3 A I don't -- I didn't go inside at the particular time,
4 you know, but I do go inside.
- 5 Q But you were inside today. Right?
- 6 A I was inside the doorway.
- 7 Q Okay. Okay. And you said Mr. Moti was at the top of
8 the steps. Is that right? Right about here?
- 9 A Yes.
- 10 Q So how far were you from him do you think? I guess
11 here's the door. Right?
- 12 A Yes.
- 13 Q So tell me when.
- 14 A Stop.
- 15 Q Okay, so you're about right here.
- 16 A Yes.
- 17 Q You got a pillar right here.
- 18 A You got the door with glass ---
- 19 Q Door frame ---
- 20 A Right.
- 21 Q --- then you got the door. Right?
- 22 A Right.
- 23 Q So you're looking out through the ---
- 24 A Yes.
- 25 Q --- tinted glass I guess?

- 1 A It's not tinted.
- 2 Q And you see how many people approach Jimmy initially
- 3 when this situation started?
- 4 A Um, when the situation started?
- 5 Q (Indicating yes)
- 6 A I only see him and Jimmy.
- 7 Q Okay. And him being Bernard?
- 8 A I don't know his name so -- the guy that had the ID,
- 9 that's who I seen.
- 10 Q Okay. Is that him?
- 11 A I can't recall if that was him or not. I know what I
- 12 seen on the inside of the club.
- 13 Q Okay.
- 14 A The guy I was talking about.
- 15 Q Okay, but you think -- what you're saying is the guy
- 16 who presented the ID, you're thinking that's not him.
- 17 A I -- I seen the guy and that's it. I mean -- I wasn't
- 18 really paying attention, like paying attention on details,
- 19 but I know what I seen.
- 20 Q Okay. All right, so when then did you actually see
- 21 Bernard for the first time?
- 22 A Um, coming in the club.
- 23 Q Coming in the club.
- 24 A Yes.
- 25 Q How was ---

LAMAR RAY - CROSS BY MR. SAWYER

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1 A I -- when he came in the club, that's when I said the
2 guy is Ratchet.

3 Q So he came in the front door.

4 A Yes, he came in the front door.

5 Q He got into the interior of the club.

6 A No.

7 Q How far'd he get in?

8 A He -- when Jimmy is at the door, he's outside of the
9 door.

10 Q Okay.

11 A Jimmy's checking ID's.

12 Q Okay. All right, again I'm -- when did you actually
13 see him for the first time?

14 A I seen him in the car shooting. Okay?

15 Q I understand that. I'm trying to get back to where we
16 first began.

17 A When we first began, I -- I always said the guy at the
18 door was trying to get in with a fake ID.

19 Q Okay.

20 A I never said anything else, but the guy at the door
21 had a fake ID.

22 Q Okay. And that was him.

23 A That's who did the shooting.

24 Q All right. Let's try this again, Mr. Ray. Was
25 Bernard the person you saw trying to get in with a fake ID?

1 A I said Bernard -- if that's his name -- I don't know
2 his name.

3 Q Okay.

4 A The guy at the door with the fake ID -- I'm going to
5 say it how I said it.

6 Q Okay.

7 A I don't know his name. That's the guy that I seen.

8 Q Okay. The guy that you identified in the pictures.

9 A Yes.

10 Q Okay. Now, what guy were you just talking about then
11 that you said you only just saw the guy but you didn't
12 recognize him?

13 A I saw the guy with the fake -- I mean the fake ID. I
14 don't know his name. You telling me Bernard or whatever.
15 I don't know his name. I just said the guy.

16 Q Okay. You just said you seen him, you didn't
17 recognize him.

18 A I seen him.

19 Q Okay. So how many people approached the door to try
20 to get in?

21 A Um, it's a lot of people approached the door to try to
22 get in.

23 Q At this point ---

24 A But at that point it was just him and Jimbo, and then
25 when Jimbo and him walked off, I walked out.

LAMAR RAY - CROSS BY MR. SAWYER

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1 Q Why did you walk out at that point?

2 A Because when Jim walks out, I seen him following the
3 guy off.

4 Q Okay. So he had already started to walk away?

5 A Yes, and Jim was escorting him out.

6 Q How far away were they from each other?

7 A It wasn't that far.

8 Q Normally when he's escorting them out, does he just
9 escort them to their car?

10 A No, not -- that -- that wasn't the case. Yes.

11 Q Okay. So where does he normally escort them to?

12 A He normally asks anybody else to leave and they leave.

13 Q Okay. Did Mr. Moti have anything in his hands at this
14 point?

15 A I don't know who you speaking of.

16 Q Mr. Moti. Jimbo. I'm sorry.

17 A Jimbo.

18 Q Jimbo. Did he have anything in his hands at this
19 point?

20 A He had his mace can out.

21 Q Okay. So he already had his mace can out.

22 A Yes.

23 Q Okay. And you said at some point you thought you saw
24 this gentlemen turn around.

25 A Yes.

1 Q Okay. Did you hear what he said?

2 A No, I didn't.

3 Q Okay. How far away were you from them ---

4 A I came out to the stairway then, from the balcony.

5 Q And what was -- whatever he said, what was Jimbo's
6 response?

7 A I didn't hear them talking or any words they was
8 saying.

9 Q Did he have any -- take any actions at this point?

10 A Yes, I seen Jimbo spray him with mace.

11 Q Okay. How'd he spray him?

12 A He sprayed him in the front, because he did turn
13 around, then he sprayed him from the back.

14 Q So he sprayed him in front and the back?

15 A Yes.

16 Q Because he had said something to him. Correct?

17 A I don't know what it was. I don't ---

18 Q But that was your impression, was he said ---

19 A Yes.

20 Q --- something to him, so he sprayed him in his front.

21 A Either he said something -- I don't know.

22 Q Now, at what point do you see -- I know you were
23 questioned about other individuals being involved. Well,
24 let actually even back up. Do you remember what -- this is
25 Bernard, okay, the guy you picked out.

LAMAR RAY - CROSS BY MR. SAWYER

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1 A Okay.

2 Q Right. That's his name. Do you remember what he was
3 wearing that night?

4 A Not right now. No.

5 Q All right. At what point did you see other
6 individuals approaching to him?

7 A When Jimbo got down on, um, in the driveway, he um --
8 another guy with the dreads come up running.

9 Q Okay. Now, the driveway -- these things are all mixed
10 up. Can you point out the driveway from here?

11 A No. It's not the driveway. It's the parking lot. I
12 just said driveway.

13 Q How about from here? Can you kind of point out where
14 everyone was on this picture?

15 A This here.

16 Q Yes.

17 A I can't see it like this.

18 Q Bear with me if you would, Mr. Ray. Let me see if I
19 can find a better one for you. Any of these work any
20 better? That's looking out that way from the front door.

21 A I can see it from this one.

22 Q Okay. All right, and what's that number that's down
23 at the bottom there?

24 A 14.

1 Q So looking at State's Exhibit 14. I'm going to put
2 this back in order. All right, Mr. Ray, can you kind of
3 point out now where everyone is? If you'd point it toward
4 the jury so they can see.

5 A It's somewhere up in this area here.

6 Q Okay. Is that where you see them actually mace
7 Bernard?

8 A No, he was back up in here.

9 Q Okay. So he gets maced back here, and then it's up
10 here where you actually see people coming at him?

11 A This is where the guy with the dreads coming from over
12 here and hit Jimbo and then ---

13 Q Just got to turn it this way.

14 A Yes. And the other guy was over on this side, because
15 Jim pulled his gun out and he fell.

16 Q Okay. And this -- I'll get to the -- a little more of
17 what was going on. So he was about halfway between the
18 club door and the parking lot when he was maced. Right?
19 And the gas station.

20 A He was in the parking lot, yes.

21 Q And then after he was maced, what did he do? Bernard.

22 A He kept walking.

23 Q Okay. So he turned around and kept going.

24 A Yes.

LAMAR RAY - CROSS BY MR. SAWYER

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1 Q And are you still on the steps of the club this whole
2 time?

3 A When he's getting maced?

4 Q Yes, sir.

5 A I walk out, yes.

6 Q So you're sort of slowly walking toward them as
7 they're walking further away from him?

8 A Yes, I am.

9 Q So the first time you notice anyone else get involved
10 is when they're essentially on the border between the
11 Gazbah and the El Toro?

12 A Yes.

13 Q And how many people did you see at that point coming
14 toward Jimbo and Bernard?

15 A I seen guy from the gas station and the guy with the
16 dreads coming.

17 Q The guy from the gas station. What did he look like?

18 A I didn't get a good look at him.

19 Q And what direction was he coming from?

20 A He was coming from the gas station.

21 Q So he was already in the gas station ---

22 A Yes, I don't know if he was even with them. All I
23 know is I knew the guy from -- with the dreads coming to
24 hit him.

1 Q Okay. Do you remember what the guy with the dreads
2 was wearing that night?

3 A No. I know he had on like a baseball hat -- I mean
4 cap.

5 Q Okay. So you see him hit Jimbo.

6 A Yes.

7 Q Do you kind of run toward them at this point?

8 A I come out and said I'm not going to let y'all jump on
9 him.

10 Q Well, I understand. How far are you away from them
11 when you get up to them?

12 A I come off the stairway then.

13 Q Okay.

14 A And I come all the way down with Jimbo.

15 Q Okay. So did you meet at where their location was ---

16 A Yes.

17 Q --- when he hit him, after he hit him, before ---

18 A When he hit him, yes.

19 Q How far away were you ---

20 A I come down -- when he hit Jimbo, I ran down.

21 Q Okay. And you said that's the point at which Jim
22 pulls his firearm.

23 A Yes.

24 Q Did he point at anyone?

25 A He just pulled -- he had it pointed down.

LAMAR RAY - CROSS BY MR. SAWYER

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- 1 Q Was he saying anything?
- 2 A Jimbo?
- 3 Q (Indicating yes)
- 4 A He was telling them to go ahead on, leave.
- 5 Q What happened next?
- 6 A I told Jimbo they going to they cars, let's go,
- 7 because people started coming out of the club and um, I
- 8 said, Jimbo, let's go, let's get back in, let's go on the
- 9 porch.
- 10 Q And where were their cars parked?
- 11 A To the left.
- 12 Q So if you're facing ---
- 13 A In the El Toro's parking lot.
- 14 Q Okay. Where -- where would you be facing in El Toro's
- 15 parking lot when you say to the left?
- 16 A Towards the gas station.
- 17 Q Okay, so -- so they go off into the left or ---
- 18 A The gas station is here, my left.
- 19 Q Okay. Do they all go in that direction?
- 20 A Um, the guy with the dreads and other guy.
- 21 Q Who's the other guy?
- 22 A I don't know who the other guy is.
- 23 Q Okay. Was it Bernard?
- 24 A Yes, he went that way, too. So I told Jim, you know,
- 25 let's go.

1 Q And so both of them -- the guy with the dreads and
2 Bernard went back to their car.

3 A Yes.

4 Q And you saw both of them arrive at two cars. Correct?

5 A I can't say who got in what car at that particularly
6 time, because I was going back on the inside. I was trying
7 to get Jim to go back in.

8 Q I'm not wondering who got in where. I'm ---

9 A I seen people go in both cars.

10 Q That's fine. That -- all I'm asking is, you saw both
11 of them arrive at two cars. Correct? Just arrive. Just
12 getting ---

13 A Both of who arrive at two cars?

14 Q The two -- the guy with the dreads and Bernard. You
15 saw them both arrive at their cars.

16 A I don't know who went to what car if you're asking me
17 that question. I don't know who went to what car, ---

18 Q Okay.

19 A --- but I know I seen somebody get in the black crown
20 vic. I don't know who got in the white one.

21 Q And the black crown -- were they parked next to each?

22 A Yes.

23 Q And you and Jim went back to the steps.

24 A I went back to the steps. Jim stayed outside.

25 Q Where was he standing when he stayed outside?

LAMAR RAY - CROSS BY MR. SAWYER

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1 A Um, I can't answer that, because I went back inside.
2 I had my back turned at that time. And when I got inside
3 and turned around, Jim was standing by the porch.

4 Q So he was still in the parking lot at that point?

5 A Yes.

6 Q All right, what did you do then?

7 A Me? I walked back in.

8 Q Okay.

9 A Went inside the door and I was -- as I was telling my
10 partner, you know, I turned around and checked back on Jim
11 and I was talking, shots fired, girl said, he shot the
12 security, so I -- I seen the cars -- I made a look (sic).

13 Q So a girl informed you that Jimbo had been shot.

14 A I heard the girl yelling they shot security and they
15 was still shooting at that time.

16 Q How many shots do you think you heard that night?

17 A I know I heard more than one.

18 Q Can you help me out a little more?

19 A About four or six I guess.

20 Q But you didn't see Jim actually get shot. Correct?

21 A Yes. I was standing right there in the doorway. In
22 the doorway you can see the parking lot. You can see
23 outside.

24 Q Okay. Well, you said just now that you heard a girl
25 yell that he had been shot.

1 A I heard a girl yell; there was people on the balcony,
2 too.

3 Q Okay. But -- so you didn't actually you see it; you
4 saw after he was already down.

5 A I seen -- I didn't actually see the bullet go in him,
6 no. I seen the shooting when he fell.

7 Q He fell on his back?

8 A Yes.

9 Q Where were -- you said you saw these cars. Where were
10 they at that point?

11 A They was pulling out.

12 Q Okay. Where were -- pulling out -- were they pulled
13 out? Were they not pulled out? Were ---

14 A They wasn't pulled out; they was pulling out.

15 Q So they were not on the scene after he was hit?

16 A No.

17 Q Now, if we can just back up a bit. The last time
18 before you saw Jim, he was -- you said he was on the phone.
19 Right?

20 A Yes.

21 Q And you saw his gun. Right?

22 A Yes.

23 MR. SAWYER - Beg the Court's indulgence, briefly.

24 THE COURT - All right.

1 Q All right. Now, you talked with Investigator Mauldin
2 I believe after this. Right?

3 A I guess. I don't remember everybody's name.

4 Q Down at Richland County headquarters you talked with
5 someone ---

6 A Yes.

7 Q --- Two Notch, I think?

8 A Yes. Yes.

9 Q Okay. And how long were you talking with them?

10 A We talked for a while. I can't say how long it was.

11 Q Is a while a minute, ten minutes, ---

12 A It was farther (sic) than ten minutes. It was over
13 that. About a half an hour to a hour maybe.

14 Q Okay. And then you later met with a Chief Wilson for
15 the photo ID. Right?

16 A Yes.

17 Q I think you were out at a soccer field or something
18 that day.

19 A Football field.

20 Q Football field. Okay. How did you meet with him?

21 A He came out.

22 Q He came up to you?

23 A Yes.

24 Q Where'd y'all go then?

25 A To the truck.

1 Q Did y'all get in?

2 A Yes.

3 Q Okay. How long did the two of you talk?

4 A Just for a few minutes.

5 Q And he showed you a photo line-up?

6 A Yes.

7 Q And you told Investigator Wilson that you picked out
8 the guy who was, I think you termed it, calling him Rachet
9 or racket.

10 A Rachet.

11 Q Rachet?

12 A Yes.

13 Q And that's just what your made-up nickname was that
14 night?

15 A Yes.

16 Q And that was who you were identifying for him was the
17 guy you saw yelling out front?

18 A Yelling out front, yes.

19 Q Okay. And when was this that he was yelling out
20 front?

21 A This is the guy that I seen with the photo (sic) ID.

22 Q Okay.

23 MR. SAWYER - All right. Beg the Court's
24 indulgence again.

25 THE COURT - All right.

KRISTEN POLIS - DIRECT BY MS. VRIESINGA

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1 MR. SAWYER - That's all, Judge. Thank you,
2 Judge.

3 THE COURT - Re-direct?

4 MS. CAMPBELL - No, Your Honor.

5 THE COURT - All right, is this witness free to
6 leave?

7 MS. CAMPBELL - Yes, Your Honor.

8 THE COURT - All right. Any objection?

9 MR. SAWYER - No, Your Honor.

10 THE COURT - You are free to go. Please call your
11 next witness.

12 MS. VRIESINGA - The State calls Kristen Polis.

13 KRISTEN POLIS, AFTER BEING FIRST DULY SWORN,

14 TESTIFIES AS FOLLOWS -

15 DEPUTY CLERK - Thank you. Please have a seat
16 in the witness stand and state your full name for the
17 record and please spell your first and your last name.

18 MS. POLIS - My name is Kristen Polis. It's
19 K-r-i-s-t-e-n P-o-l-i-s.

20 DIRECT EXAMINATION

21 BY MS. VRIESINGA -

22 Q Good afternoon, Ms. Polis.

23 A Good afternoon.

24 Q Ms. Polis, where do you work?

1 A I work for the Richland County Sheriff's Department in
2 the crime scene unit.

3 Q Okay. And how long have you worked there?

4 A I've been with the sheriff's department for eleven
5 years, and I've been in crime scene for seven.

6 Q What exactly do you do for Richland County?

7 A We respond out to all types of crime scenes in
8 Richland County that we're requested to, usually by
9 deputies or maybe investigators who request us,
10 occasionally by the coroner's office or another entity, but
11 they'll request that we come out and when we respond, we
12 are responsible for the physical evidence in the case, so
13 we may be searching to try to locate items of evidence.
14 Anything that we find we're going to document that, and
15 then we're also going to try to collect it and preserve the
16 condition that it's in so that further testing can be done
17 on it, and then there are times when we'll try to analyze a
18 case based on the information that we're able to collect
19 and process.

20 Q Would you tell us a little bit about your training and
21 your education?

22 A I have a bachelor's degree in criminal justice, a
23 bachelor's in psychology and a master's degree in social
24 work. When I joined the crime scene unit at the sheriff's
25 department, we have an in-house training program that we

1 all have to work through, and it's rather extensive. It's
2 something that took me twenty months from beginning to end
3 to complete, and as we are going through each area of that
4 processing, we're taking written and practical tests on
5 each area of processing to show that we're competent to be
6 able to perform those tests in every area. So those
7 include things like photography, processing for
8 fingerprints, footwear and tire track collection and
9 documentation and also things like trajectory analysis and
10 blood stain analysis. Once we have completed that entire
11 program, we additionally seek certification through the
12 International Association for Identification, and that's
13 the professional body that guides forensic science, right
14 now one of the leading professional bodies, and I am
15 certified as a crime scene investigator through that
16 organization, and that's an additional written test that
17 you take that covers all areas of crime scene processing.

18 Q Do you take any continuing education classes?

19 A We do. We are proficiency tested in each area of
20 processing each year, and in addition to that, we are often
21 attending different conferences and trainings on different
22 areas just to further our skills and keep up to date with
23 anything new that's coming in the field.

24 Q Have you been qualified as an expert before?

25 A I have.

1 Q Okay, what in?

2 A In crime scene processing.

3 MS. VRIESINGA - At this time, Your Honor, I'd ask
4 that the witness be qualified as an expert in crime scene
5 processing.

6 THE COURT - All right, any voir dire?

7 MR. SAWYER - No, Your Honor.

8 THE COURT - Any objection?

9 MR. SAWYER - No, Your Honor.

10 THE COURT - So qualified.

11 MS. VRIESINGA - Thank you, Your Honor.

12 Q Ms. Polis, I'd like to draw your attention back to
13 September 4th of 2012. Did you attend an autopsy on that
14 date?

15 A I attended an autopsy on August the 26th.

16 Q August 26th. I'm sorry.

17 A Yes, ma'am, 2012.

18 Q What did you observe that day?

19 A Our autopsies are performed at Palmetto Health
20 Richland, and when I arrived there was a victim there in --
21 that was in a body bag that was opened. I observed that
22 there were some medical devices that were still in place
23 from where medical treatment had been attempted. No other
24 clothing ---

25 Q Whose autopsy was it?

1 A The name that I was given was a Jimmy Moti.

2 Q And how long do these typically take? How long were
3 you there?

4 A It really depends on what has to be done. This
5 particular autopsy I arrived at 8:15 and I -- it was
6 completed at 10:25. Sometimes they're longer and sometimes
7 they're shorter.

8 Q And what do you usually collect while you're there?

9 A Sometimes it depends on the case. Typically and
10 almost any autopsy that we go to we try to get a set of
11 fingerprints from the person. We'll also take hair samples
12 and we'll take a buccal swab which is a swab from the mouth
13 so that we have a sample of DNA. In this case I also
14 collected some fingernail scrapings which is just scraping
15 any material that may be underneath the fingernails, and I
16 also collected gunshot residue kit, which is a kit that's
17 designed to collect any trace evidence that may be on the
18 hands, and anytime there's a shooting incident, we try to
19 collect it from any parties that may be involved just to
20 establish any type of debris that might be on their hands.
21 So in this case it's a kit that contains some -- we call
22 them sticky tabs. They're just little -- little round
23 vials that have sticky ends on them, and you use it just
24 pressing the hand, and they're labeled for each part of
25 each hand, and we'll use those to collect anything that may

1 be on the surface of the skin, and then we go back
2 secondarily with a swab and then we'll also rub the swab
3 over the same sections of the hand. Each one's kept
4 separately, and then that kit is packaged, and it can be
5 submitted to be analyzed for any gunshot residue.

6 MS. VRIESINGA - Your Honor, may I approach the
7 witness?

8 THE COURT - You may.

9 Q Now, Ms. Polis, I'm going to show you what's been
10 previously marked as State's Exhibit 50. Do you recognize
11 this?

12 A Yes.

13 Q Okay, can you tell us what this is?

14 A This box is labeled to contain several different
15 clothing items. These were note worn by the victim. They
16 were in a bag that apparently had been removed at some
17 point during the medical treatment, and they stayed there
18 with him. It contains a pair of black boots, two black
19 socks, one black hat, black belt and a clasp from a belt, a
20 pair of black pants and a pair of underwear.

21 Q So that's all contained in this box.

22 A Yes, ma'am.

23 Q Okay. What do you usually do after you collect these
24 items?

1 A Any -- any items that we think may be wet, we have a
2 secure drying chamber that we will use to dry them, because
3 we cannot submit any evidence that's wet. So these items
4 of clothing just as a precaution were dried first in the
5 drying chamber, and then they were packaged in this box and
6 we submit those to our evidence section after the box is
7 closed and sealed.

8 Q So this went to the evidence room afterwards.

9 A Yes.

10 Q Okay.

11 MS. VRIESINGA - Your Honor, at this time the
12 State would seek to enter this, State's Exhibit Number 50,
13 into evidence.

14 MR. SAWYER - No objection.

15 THE COURT - Very well.

16 MS. VRIESINGA - Thank you, Your Honor.

17 (WHEREUPON, ITEM IS MARKED INTO EVIDENCE AS
18 STATE'S EXHIBIT NUMBER 50.)

19 Q I'm now going to show you what has been previously
20 marked as State's Exhibit 55. Can you tell us what that
21 is?

22 A This is the packaging for the set of fingerprints. We
23 call them post-mortem prints, but a set of fingerprints
24 collected at the autopsy.

25 Q Okay. Do you know how many are in there?

1 A It would be a print from each finger, and it's all
2 packaged there, placed -- they're on a strip, so the right
3 hand is on one strip, and the left hand is on another
4 strip. Those strips are placed on a card, so it should be
5 one card with all the impressions.

6 Q Okay, and just for the record, whose fingerprints?

7 A They belong to Mr. Moti.

8 Q Okay. And what did you do with this after you were
9 done?

10 A It was packaged and submitted to our evidence section.

11 MS. VRIESINGA - Again, Your Honor, at this point
12 I would seek to enter this into evidence as State's Exhibit
13 Number 55.

14 THE COURT - Yes. Counsel?

15 MR. SAWYER - No objection.

16 THE COURT - Very well.

17 MS. VRIESINGA - Thank you, Your Honor.

18 (WHEREUPON, ITEM IS MARKED INTO EVIDENCE AS
19 STATE'S EXHIBIT NUMBER 55.)

20 Q The next item I'm going to show you is State's Exhibit
21 Number 57. Do you recognize this?

22 A This is the packaging for the gunshot residue kit that
23 I described that was taken from Mr. Moti.

1 Q Okay. So this was actually from the victim in this
2 case, Mr. Moti. If you could just briefly go over again
3 what you do with the GSR kit, exactly how you collect it.

4 A These come -- we buy them prepackaged so all the items
5 are already contained in an envelope. It's only opened
6 when we're ready to use it, so everything that's contained
7 in there is not contaminated in any way. We would open
8 that. There is a sticky tab which is actually a vial with
9 an adhesive portion, one for the left palm, the front of
10 the left hand -- or the back of the left hand, and then for
11 the right palm and the back of the right hand, and that
12 adhesive portion is just pressed over the skin to collect
13 anything that may be left behind. Once we do that for each
14 area of each hand, then we go back a second time and use a
15 swab, a moistened swab, and collect anything else that may
16 remain on the skin, and those swabs are also packaged
17 separately for each portion of the hand, and then
18 everything goes into that kit to be submitted.

19 Q Thank you.

20 MS. VRIESINGA - And again, the State would move
21 State's Exhibit Number 57 into evidence.

22 MR. SAWYER - No objection.

23 THE COURT - Very well, no objection.

24 (WHEREUPON, ITEM IS MARKED INTO EVIDENCE AS
25 STATE'S EXHIBIT NUMBER 57.)

1 Q The next one I'm going to show you is State's Exhibit
2 Number 59. Would you tell us what this is?

3 A This is the packaging for a sample of hair and also
4 the fingernail scrapings that I described that I collected
5 that day.

6 Q Okay, and whose hair was collected?

7 A Mr. Moti's.

8 Q How does this work with the fingernail scrapings?
9 What exactly do you collect?

10 A What we have is like a wooden stick, small wooden
11 stick, and we collect anything. We place paper under the
12 hand and then use that stick to scrape anything, any debris
13 that may be underneath the fingernails. That becomes
14 relevant if you think about people engaged in a struggle
15 that maybe there would be some tissue or something that may
16 be exchanged. So really we don't -- it's nothing -- a lot
17 of times it's nothing that you can see, but we're just
18 trying to collect that as trace evidence if it may become
19 relevant, and it's literally just scrapped underneath the
20 nails. There are times that we actually clip the nails,
21 but in this case I think we just did -- I just did the
22 scrapings, and all of that's packaged -- there's one
23 package for the right hand and one package for the left
24 hand.

25 Q Okay.

KRISTEN POLIS - DIRECT BY MS. VRIESINGA

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1 MS. VRIESINGA - And, Your Honor, the State would
2 seek to enter Exhibit -- State's Exhibit Number 59 into
3 evidence.

4 MR. SAWYER - No objection.

5 THE COURT - Very well. Entered into evidence
6 without objection.

7 MS. VRIESINGA - Thank you, Your Honor.

8 (WHEREUPON, ITEM MARKED INTO EVIDENCE AS STATE'S
9 EXHIBIT NUMBER 59.)

10 Q And finally we have State's Exhibit Number 60. Would
11 you tell us what this is?

12 A This is the buccal swab. This just gives us a DNA
13 standard for someone. It's collected with swabs that are
14 just used usually inside the mouth, which is why they're
15 called the buccal swabs, but collected inside the mouth,
16 and that would give us what we would need for DNA standard.

17 Q Okay, so it's typically collected from the mouth.

18 A In -- a buccal swab, yes.

19 Q Okay, and what did you do with that after you received
20 it?

21 A It was packaged and submitted to our evidence section.

22 Q Okay. Did it remain in evidence until ---

23 A I don't know if anybody -- I haven't done anything
24 with it since that time. I don't know that there's been
25 anything else.

1 MS. VRIESINGA - And, Your Honor, we'd also like
2 to move State's Exhibit Number 60 into evidence.

3 MR. SAWYER - No objection.

4 THE COURT - Very well.

5 (WHEREUPON, ITEM IS MARKED INTO EVIDENCE AS
6 STATE'S EXHIBIT NUMBER 60.)

7 Q Ms. Polis, was there anything else that you did with
8 this investigation?

9 A No.

10 Q Nothing additional? Just what you've been through?

11 A That's correct.

12 MS. VRIESINGA - All right, no further questions,
13 Your Honor.

14 THE COURT - Cross examination?

15 MR. SAWYER - Nothing from defense, Your Honor.

16 THE COURT - Very well. Is this witness free to
17 leave?

18 MS. VRIESINGA - Yes.

19 THE COURT - Any objection?

20 MR. SAWYER - No objection.

21 THE COURT - Very well. You are free to go. Call
22 your next witness, please.

23 MS. WALKER - Thank you, Your Honor. The State
24 calls Investigator Jordan.

TAIMA JORDAN - DIRECT BY MS. WALKER

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1 TAIMA JORDAN, AFTER BEING FIRST DULY SWORN,
2 TESTIFIES AS FOLLOWS -

3 DEPUTY CLERK - Thank you. Please have a seat in
4 the witness stand and state your full name for the record
5 and spell your first name.

6 MR. JORDAN - Taima Jordan, T-a-i-m-a.

7 THE COURT - Your witness.

8 MS. WALKER - Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. WALKER -

11 Q Investigator Jordan, where do you work?

12 A Richland County Sheriff's Department

13 Q And how long have you been at the sheriff's
14 department?

15 A Ten years.

16 Q And is there a particular division that you're
17 assigned to?

18 A The burglary unit.

19 Q And are there times when you get involved in cases
20 that aren't burglaries?

21 A Yes.

22 Q And how does that happen?

23 A Normally when we have a homicide, there are multiple
24 investigators assigned, the lead and then myself, I'll be
25 secondary, so I will assist the lead in that investigation.

- 1 Q And I want to turn your attention to this homicide
2 investigation. Who was the lead investigator?
- 3 A Sergeant Lindler.
- 4 Q And you became a secondary investigator?
- 5 A I did.
- 6 Q How did you become involved?
- 7 A I was contacted by Sergeant Lindler that I need to
8 meet with him and Chief Wilson in Chief Wilson's office in
9 regards to the homicide that took place.
- 10 Q And what is the purpose of those meetings?
- 11 A To go over what happened initially and to formulate a
12 plan to start the investigation.
- 13 Q Do you remember when that initial meeting was?
- 14 A About 9:00 o'clock on the 27th I believe.
- 15 Q And are you receiving information from I guess the
16 events that transpired?
- 17 A Correct.
- 18 Q Who was present at that meeting?
- 19 A Myself, Chief Wilson and Sergeant Lindler.
- 20 Q Was there anyone else present?
- 21 A (No response)
- 22 Q Do you have -- do you have a follow-up in this case?
- 23 A I do. Yes.
- 24 Q Would it help to refresh your memory to ---
- 25 A It's myself, Chief Wilson, Sergeant Lindler ---

1 Q And that's Sergeant ---

2 A Sergeant Lindler.

3 Q Yes.

4 A Audra Linfert.

5 Q And who is Audra Linfert?

6 A She does our intel. (sic)

7 Q Okay.

8 A Sergeant Linford, Gray Amick who is in ID in the
9 forensic, and Sergeant Vince Goggins who is over our gang
10 unit.

11 Q And at that point in time can you tell me what steps
12 in the investigation y'all took at that point?

13 A Initially I guess the evening shift when they went out
14 they took statements or talked to witnesses, had that
15 information available, had gave to Sergeant Lindler. They
16 were -- we were actually viewing it during this -- during
17 this meeting to determine where we need to go, who we need
18 to maybe re-interview or try to find to help further the
19 investigation.

20 Q And did you become aware of a possible video in this
21 case?

22 A We did.

23 Q And kind of -- tell me how you became aware of that.

24 A We were told that there was a possible video from the
25 Exxon Station that was, I guess, next door to the El Toro

1 Club and that we needed to pull their video to see if it
2 captured the events that took place in the El Toro's
3 parking lot.

4 Q And at that point did y'all develop possible suspects?

5 A No, but we did develop possible witnesses from that
6 video.

7 Q Possible witnesses.

8 A Correct.

9 Q What was the next -- what was your next step in terms
10 of this investigation?

11 A Once we developed a possible witness, we got in
12 contact with that witness, and the witness agreed to meet
13 with us at the Applebee's off of Broad River Road.

14 Q And who was that witness?

15 A Mr. Kevin Lee.

16 Q And how'd you become aware of him as a possible
17 witness?

18 A I believe the gentleman came into head -- came into
19 headquarters.

20 Q Do you need to review your follow-up to refresh your
21 memory?

22 A Yes, if you mind if (sic) ---

23 Q Go ahead. (Pause) Do you recall how y'all got in
24 touch with Mr. Lee?

TAIMA JORDAN - DIRECT BY MS. WALKER

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1 A We actually got -- made a phone call to him, tried to
2 get him to come to headquarters, but he was reluctant to
3 come. He stated that he would meet us at the Applebee's
4 parking lot.

5 Q In terms of your experience with investigations, are
6 witnesses at times, especially in homicide cases, reluctant
7 to talk to you?

8 A Yes.

9 Q Why is that?

10 A Fear of retaliation.

11 Q Did you, in fact, meet him at Applebee's?

12 A We did.

13 Q And was he able to give you -- don't tell me what he
14 said, but was he able to give you information about the
15 murder that took place?

16 A He was; he was able to.

17 Q Did you meet again -- okay, after speaking with Mr.
18 Lee, what was your next step in the investigation?

19 A We actually went to the Red Roof Inn because he gave
20 us information that led us there, and there we spoke to the
21 clerk at the front desk and told her -- told her why we
22 were there. We looked for two females; we did not have a
23 name but a possible room. We told them what the possible
24 room may have been. She gave us a possible room number --
25 excuse me -- gave us possible room number and once we went

1 to the door, Sergeant Lindler actually recognized one of
2 the females from the video.

3 Q Do you -- from the video at the gas station.

4 A Correct.

5 Q Do you remember the names of the females that y'all
6 had contact with at Red Roof Inn?

7 A Marquita Mobley and Kristina Nuttry.

8 Q Ms. Mobley, is that the same lady that testified this
9 morning?

10 A Yes.

11 Q And did y'all talk to them about this investigation?

12 A We did.

13 Q Were you able to get information from them regarding
14 what, if anything, they saw that night?

15 A Yes, we were.

16 Q And was that the only time that y'all talked to them?

17 A No, we talked to them a second time.

18 Q Why was it important to talk to these two witnesses
19 twice?

20 A Ms. Kristina for -- that she could identify the
21 suspect if she saw him again in a photo line-up.

22 Q Which one could?

23 A Kristina.

24 Q Nuttry?

25 A Nuttry.

1 Q Go ahead.

2 A And also Marquita as well. So we felt that if we were
3 able to develop a suspect, that we could show them a photo
4 line-up so that they could identify the possible suspect.

5 Q Was there additional information that you were trying
6 to get out of them with a second interview?

7 A Correct.

8 Q And why is it important to interview people more than
9 once?

10 A Sometimes the first time they may be, once again, a
11 little more reluctant to tell you what -- what they know,
12 and they may feel more comfortable a second time around.

13 Q And did you have a conversation with them a second
14 time about the importance of truthfulness?

15 A I did.

16 Q And is that when you showed the photo line-up? Or
17 were you present for that?

18 A I was not.

19 Q You were not present for the photo line-up.

20 A (No response)

21 Q Can you tell me what you did next?

22 A Once we -- are you talking about the second time or
23 the first time?

24 Q The second time.

1 A Second time. We actually called in a SLED forensic
2 artist to come in. Ms. Nuttry actually sat down with the
3 forensic artist to come up with a composite sketch of the
4 possible suspect.

5 Q How many -- did you know at that point in time how
6 many people were involved in this?

7 A Yes, I think it was maybe three or four, but it was
8 on-going situation, but maybe three or four.

9 Q And the sketch that she drew was not of the defendant;
10 it was of another person?

11 A Correct.

12 Q After -- were you present for the sketch?

13 A Somewhat. I left her with the forensic artist and I
14 sat with Ms. Mobley.

15 Q I want to turn your attention to August 28th. Did you
16 get information at that point that became pertinent in this
17 investigation?

18 A Yes, I believe we received a Crimestopper's tip.

19 Q I'm sorry, you ---

20 A Crimestopper's tip stating that Mr. Gerald Haltiwanger
21 was the person responsible for the shooting that took place
22 at ---

23 MR. SAWYER - Objection.

24 THE COURT - You want to be heard?

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1 MS. WALKER - I didn't understand -- I didn't hear
2 what the objection was.

3 THE COURT - I believe that the objection is
4 hearsay. Correct?

5 MR. SAWYER - Yes, Your Honor.

6 THE COURT - Yes.

7 MR. WALKER - Your Honor, I think over the course
8 of his investigation he can talk about what information he
9 relied upon.

10 THE COURT - Sustained.

11 MR. SAWYER - Your Honor, I just - argue - this
12 would be a Crawford violation as well.

13 COURT REPORTER - He needs to speak up.

14 MR. SAWYER - This will be a Crawford violation as
15 well, as we have no ability to cross examine anyone he
16 might have got in touch with ---

17 THE COURT - I sustained your objection.

18 MR. SAWYER - Oh.

19 THE COURT - Did you know that?

20 MR. SAWYER - Sorry, Your Honor.

21 THE COURT - Okay. You may proceed.

22 Q Don't tell me what the Crimestopper's tip said. What
23 is Crimestopper's?

1 A It is a hotline where people can call in with
2 anonymous information in regards to various crimes that
3 happened within Richland County or wherever they live.

4 Q And don't tell me what was said, but did you get
5 Crimestopper's information?

6 A We did.

7 Q And was that information useful in helping solve this
8 case?

9 A It was.

10 Q After receiving the Crimestopper's information, what
11 did you do?

12 A We then followed up on that information, started
13 conducting more research on that particular individual to
14 determine if that person matched the information or the
15 identity that we had for witnesses.

16 Q And did it?

17 A It did.

18 Q Can you kind of describe for the jury the process that
19 you go through in terms of trying to see if that
20 information is corroborated by other information you have?

21 A Pull photographs to see if they matched, then it's put
22 into a line-up and then it is shown to the witnesses to see
23 if they are able to identify the possible suspect and they
24 all were identical in some form or identical to each other.

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1 Q The -- was there something, I guess, significant about
2 the pictures you were pulling?

3 A Gold teeth in the mouth.

4 Q And was gold teeth in the mouth a recurring thing
5 throughout your investigation?

6 A Yes, it was.

7 Q Can you tell me -- at some point in time did your
8 investigation narrow to a particular individual?

9 A Yes, it did.

10 Q And who was that individual?

11 A Mr. Haltiwanger.

12 Q Did you use - and I guess that was using -- at that
13 point in time had you gotten the photo line-ups back?

14 A Not quite sure. It was -- it all kind of happened
15 around the same time as a sketch was being time, kind of --
16 kind of come together all at one time, so it was all like
17 the same time.

18 Q Did you try to make contact with Mr. Haltiwanger?

19 A No, we did not. Well, actually we did. We did try to
20 go to a residence out in Hopkins with another law
21 enforcement agency, but was unable to make contact with
22 him.

23 Q How many times did you go to that residence?

24 A Just one.

25 Q And you were unable to make contact with him?

- 1 A Correct.
- 2 Q At some point were -- did you actually make contact
- 3 with him?
- 4 A We did.
- 5 Q And where was that?
- 6 A Allen Benedict Court.
- 7 Q And can you kind of -- can you describe for the jury
- 8 where that is?
- 9 A It's a housing -- apartment complex off of Hardin
- 10 Street near Benedict College.
- 11 Q And were you actually present when contact was made?
- 12 A I was.
- 13 Q Explain what happened.
- 14 A I was sent there to do -- do surveillance to get a
- 15 description of the residence for a possible search warrant.
- 16 As I pulled into the courtyard, I observed who I believed
- 17 to be Mr. Haltiwanger in the courtyard. I parked my
- 18 vehicle, conducted surveillance, notified Sergeant Lindler
- 19 that I think I see him out in the courtyard and he rounded
- 20 up more investigators and deputies to come to Allen
- 21 Benedict Court.
- 22 Q When you're identifying a suspect in a murder case
- 23 such as this one, is there a -- once you identify them, is
- 24 there a group effort to kind of make contact with them?
- 25 A Yes.

1 Q And why is that?

2 A Because of the possible danger that one officer could
3 be in and the seriousness of the case, of the crime.

4 Q And when you made contact with him, what did you do?

5 A He was placed into custody and placed into a vehicle
6 and he was read his Miranda rights.

7 Q Did you read him his Miranda rights?

8 A Sergeant Lindler did.

9 Q Sergeant Lindler read him his Miranda rights?

10 A Yes.

11 Q And where did y'all take him after that?

12 A To headquarters on Two Notch Road.

13 Q And what was the purpose of taking him to
14 headquarters?

15 A For further questioning.

16 Q Were you present for the questioning?

17 A I was.

18 MS. WALKER - Your Honor, may I approach the
19 witness?

20 THE COURT - You may.

21 MS. WALKER - Thank you.

22 Q I want to show you what's been marked as State's
23 Exhibits 1 and 2. Were you present for his rights being
24 read to him?

25 A I was.

1 Q Do you recognize this?

2 A Yes.

3 Q And how do you recognize it?

4 A It's our Richland County Sheriff's Department Advice
5 of Right's form.

6 MS. WALKER - Your Honor, at this point State
7 seeks to move Exhibit 1 into evidence.

8 MR. SAWYER - Your Honor, I renew my objection to
9 that.

10 THE COURT - Indeed. Over the objection of
11 defense ---

12 (WHEREUPON, DOCUMENT WAS MARKED INTO EVIDENCE AT
13 STATE'S EXHIBIT NUMBER 1.)

14 MS. WALKER - I'm sorry, and State's Exhibit 2. I
15 just want to show that to him as well.

16 THE COURT - You want to move them both in at the
17 same time. Is that what we're doing?

18 MS. WALKER - Well, I was over here. I just
19 wanted to let the record reflect that I was showing both
20 Exhibits 1 and 2.

21 THE COURT - All right. You're being efficient.

22 MS. WALKER - Trying to, Your Honor.

23 THE COURT - Very good.

24 Q State's Exhibit 1, where was this -- where was the
25 questioning taking place?

1 A In Sergeant Strange's office.

2 Q And that's at headquarters?

3 A Yes, 5623 Two Notch Road.

4 Q And how is that office set up?

5 A It's a small office with a desk and two chairs -- I'm
6 sorry, three chairs, one chair behind the actual desk and
7 then two chairs in front.

8 Q And was the defendant, in fact, advised of his rights?

9 A He was.

10 Q What were the rights that the defendant was advised
11 of?

12 A Before we ask you any questions, you must understand
13 your rights. You have the right to remain silent; anything
14 you say can be used against you in a Court; you have the
15 right to talk to a lawyer for advice before we ask you any
16 questions and to have a lawyer with you during any
17 questioning. If you cannot afford a lawyer, one will be
18 appointed before any questioning if you wish. If you
19 decide to answer questions and not have a lawyer present,
20 you have the right to stop answering at any time. You also
21 have the right to stop answering at any time until you talk
22 to your lawyer.

23 Q And did the defendant sign that Advice of Rights?

24 A He did.

25 Q And when they sign, what does that acknowledge?

1 A That they understand those rights and they were read -
2 - the rights were read to them.

3 Q And are their check boxes to the left of each of those
4 rights?

5 A Yes.

6 Q And are those check boxes actually checked?

7 A Yes, they are.

8 Q Indicating what?

9 A That they were read and he understood them.

10 Q Okay, if you'll continue with that form.

11 A At the bottom is the waiver of rights. I have read
12 the statement of my rights. I understand what my rights
13 are. I am going to talk and answer questions. I
14 understand and know what I am doing. No promises have been
15 made to me and no pressure or coercion of any kind have
16 been used against me.

17 Q And is that signed as well?

18 A Yes, it is.

19 Q And is there a box to the left of that?

20 A Yes.

21 Q And is that checked?

22 A It is.

23 Q The underlining of promises, pressure or coercion,
24 what does that indicate?

1 A That those words were explained to him or reiterated
2 to him, and he stated he understood.

3 Q Did he agree to talk to you?

4 A He did.

5 Q In your opinion, was he agreeing to talk to you
6 freely?

7 A Yes.

8 Q Voluntarily?

9 A Yes.

10 Q Did y'all threaten him in any way to get him to talk
11 to you?

12 A We did not.

13 Q Did promise him anything if he talked to you?

14 A No, we did not.

15 Q Did he seem to understand the conversation that y'all
16 were having?

17 A Yes, he did.

18 Q Did he answer questions appropriately?

19 A Yes.

20 Q And this is the Advice of Rights that he signed before
21 giving a statement?

22 A Yes.

23 Q I want to show you State's Exhibit 2 and ask if you
24 recognize that.

25 A Yes, I do.

1 Q And how do you recognize it?

2 A It's the statement of Mr. Haltiwanger.

3 Q And whose signature is this?

4 A My statement as a witness.

5 Q That's your signature?

6 A Yes. Excuse me, my signature, sorry.

7 MS. WALKER - Your Honor, at this point State's
8 seeks to admit Exhibit 2 into evidence.

9 MR. SAWYER - Your Honor, over our earlier
10 objection, Your Honor.

11 THE COURT - All right. Admitted ---

12 MS. WALKER - Thank you, Your Honor.

13 THE COURT - --- over the objection of the
14 defense.

15 (WHEREUPON, DOCUMENT MARKED INTO EVIDENCE AS
16 STATE'S EXHIBIT NUMBER 2.)

17 Q I want to ask you to publish that to the jury.

18 A All right. There's a Q for myself and Sergeant
19 Lindler, and there's a A for Mr. Haltiwanger.

20 Q Will you start actually at the top?

21 A Okay. Today's -- the date of this statement is -- or
22 excuse me -- at the very top is his name and then [REDACTED]

23 [REDACTED], then there's Columbia,
24 South Carolina, and the date which is 29th of August, 2012,
25 at 7:00 p.m. in the presence of Sergeant Lindler and

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1 myself, then it has his name, then it has his rights again
2 which we read to him all the way -- or excuse me -- of the
3 Advice of Right's form.

4 Q So the rights are listed twice?

5 A Yes.

6 Q Okay.

7 A Then at the very bottom it says, do you make the
8 following statement, then there's a Q for Sergeant Lindler
9 and myself, and then a A for Mr. Haltiwanger. First
10 question, do you a brother by the name of Carlos Brown.
11 Mr. Haltiwanger answered yes, he's not my real brother, but
12 I call him my brother. He answer ro (sic) -- my real - my
13 real brother's -- my real brother or brother's Terrell and
14 I have the same father.

15 Q Terrell and I do have the same father?

16 A Terrell and Mr. Haltiwanger have the same father from
17 what the statement said. Well, wait a minute. Terrell and
18 he had the same father, excuse me. Terrell and I have the
19 same mother. Terrell and Carlos' father always treated me
20 like I was one of theirs. Next question, did you go to a
21 party a couple of weeks ago where Carlos lived? Yes, sir,
22 he had just got out of prison and I had not seen my brother
23 in several years; I wanted to see him. Did you -- did you
24 drive to a party? Yes, sir, I drove a little Toyota. It
25 was a crack rental. I ain't got to lie to you. My car's

1 in the shop. Who was with you? It was me and Terrell. We
2 went down there to see him. How long did y'all stay? We
3 stayed a little while and there was an altercation and we
4 left. Have you spoken to Carlos since? I've spoken to
5 Carlos -- I have spoken to him once. He told me the police
6 was coming to get him about some homicide. He said he
7 didn't know what was going on. Did you pick his ID up
8 while you were there? No.

9 Q That's the -- the next question is what?

10 A Did you pick his ID up while you were there? No. His
11 answer was no. Do you know if anyone did? No. Were you -
12 - where were you the last -- this past Saturday? At home,
13 back and forth to Benedict talking with girls. Did you go
14 anywhere else Saturday night? No. Where were you -- where
15 were you with your brother's Saturday? No, excuse me --
16 were you with your brothers Saturday night? Yes. Which
17 ones? Terrell, Tyrobia and Larry stopped by for a little
18 while. Larry's not my brother, but he's always out there.
19 What were you wearing Saturday night? A t-shirt and
20 basketball shorts. Does any one of your brothers have a
21 white crown victoria? Yes, John Sterling, III has one. It
22 looks like a newer model, but you can tell it has age on
23 it. Was he with you Saturday night? No. Who is John
24 Sterling the III's father? John Sterling, Jr., and John
25 Sterling, the III have the same father. He's also Terrell

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1 and Carlos' father. His name is John Sterling. Did you go
2 to any club on Saturday on Broad River Road that night?
3 No, sir. Did your brothers? No, sir. Terrell and Tyrobia
4 were with me. Did you try to present an ID that wasn't
5 yours at the club Saturday night? No -- well, nope. Did
6 you get into an altercation at a club Saturday night? No.
7 Did you fire any shots out of a car Saturday night? No.
8 Were you at an Exxon gas station next to El Toro Saturday
9 night talking with two girls? No. Were you in the Broad
10 River Road area anywhere Saturday night? No. Is
11 everything you told me the truth? Yes.

12 Q Let me stop you right there.

13 MS. WALKER - Your Honor, may we approach?

14 THE COURT - Okay.

15 (WHEREUPON, BENCH CONFERENCE WAS HELD IN THE
16 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
17 WHICH WAS NOT REPORTED.)

18 Q Keep going. What's the -- what's the last line of the
19 statement?

20 A Are you willing to take a polygraph as it pertains to
21 this statement? No, due to lawyer issues.

22 Q So he was offered that opportunity.

23 A Yes.

24 Q After -- after taking that statement from the
25 defendant, were y'all able to refute a great deal of that?

1 A Yes.

2 Q And what, if anything, was done with the defendant
3 after he gave that statement?

4 A He was taken to the jail and once again placed under
5 arrest for the crime, for murder.

6 Q And are there -- the phone calls at the jail, are
7 those recorded?

8 A Yes, they are.

9 Q And as part of the investigation, were certain phone
10 calls that the defendant made recorded?

11 A Yes, they were.

12 Q And with that information did y'all make contact with
13 the defendant a second time?

14 A We did.

15 Q And how was that done?

16 A I was asked to go to the jail to pick him up, which I
17 did, and I brought him back to headquarters at 5326 (sic)
18 Two Notch Road.

19 Q And when you were transporting him from the jail to
20 headquarters, did you have any conversation with him?

21 A Just general conversation.

22 Q Was it anything pertaining to the case?

23 A No.

24 Q And were you present for -- do you know if he gave
25 another statement?

1 A He did.

2 Q Were you present for that statement?

3 A I was not.

4 Q I want to take you back to his statement. The first
5 question that you got to ask about Carlos Brown -- were
6 y'all able to identify -- why was Carlos Brown, that name
7 significant to you?

8 A That was the actual person on the ID that was tried to
9 -- that was presented at the club the night of the
10 incident.

11 Q And the defendant I guess admitted knowing him. And
12 there was a term in here that I'm not familiar with; it was
13 crack rental. What's a crack rental?

14 A Normally drug dealers will give their client's, if you
15 will, crack in return for them letting them use their car
16 to ride around or to do whatever they need to do.

17 Q And did you, after making contact with the defendant a
18 second time, did you have any further involvement with this
19 investigation?

20 A I was present when Sergeant Lindler read him his
21 Miranda rights and then I had to -- to leave for a personal
22 matter.

23 Q And were those Miranda rights the same ones that we've
24 been over before?

25 A Yes.

1 Q The first statement, do you remember when that one was
2 made?

3 A For Mr. Haltiwanger?

4 Q Yes.

5 A One the 29th of August.

6 Q And the second statement, when was that one made?

7 A The 31st.

8 Q And did he waive his rights at that time as well?

9 A He did.

10 MS. WALKER - Your Honor, may the witness step
11 down?

12 THE COURT - He may. I'm going to ask you all to
13 use the laser pointer because it is absolutely impossible
14 for you to point to things on the board and not block the
15 jury's view while you're doing that, so.

16 MS. WALKER - Yes, Your Honor.

17 Q Let me ask you, do you recognize State's Exhibit 75?

18 THE COURT - For identification purposes. Right?

19 MS. WALKER - For identification purposes.

20 A It's a aerial map of the Club El Toro, the gas station
21 and this is Motel 6 St. Andrews Road ---

22 COURT REPORTER - He needs to speak up, Judge. It
23 would help if he would switch places ---

24 Q Why don't we flip. You talk going towards the court
25 reporter and I'll -- if you'll just stand over here.

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1 COURT REPORTER - Thank you.

2 Q This is State's Exhibit 75.

3 MS. WALKER - Your Honor, at this point the State
4 seeks to move Exhibit 75 into evidence.

5 MR. SAWYER - Without objection.

6 THE COURT - Any objection?

7 MR. SAWYER - Without objection.

8 THE COURT - Very well.

9 (WHEREUPON, DOCUMENT MARKED INTO EVIDENCE AS
10 STATE'S EXHIBIT NUMBER 75.)

11 Q Can you show me where El Toro is on this map? That's
12 the club?

13 A Yes, it is.

14 Q And this is where the murder happened?

15 A Yes.

16 Q And what building is this?

17 A Exxon gas station.

18 Q And how did the Exxon gas station become relevant in
19 this case?

20 A The defendant walked over for -- the incident kind of
21 spilled over into the parking lot where he met Marquita and
22 Ms. Kristina.

23 Q And I guess what -- what street is this?

24 A St. Andrews Road.

25 Q And this is ---

1 A I-26.

2 Q And this is all in Richland County?

3 A Yes, it is.

4 Q State's Exhibit 77, do you recognize this?

5 A Yes, I do.

6 Q And how do you recognize it?

7 A It's El Toro and also the gas station along with St.
8 Andrews Road.

9 MS. WALKER - At this point, Your Honor, the State
10 seeks to admit Exhibit 77 into evidence.

11 THE COURT - Any objection?

12 MR. SAWYER - Without objection.

13 THE COURT - Very well.

14 COURT REPORTER - Your Honor, I have it as 76. If
15 you want to look at this.

16 (DISCUSSION IS HELD REGARDING NUMBERING OF
17 EXHIBITS WHICH WAS NOT REPORTED.)

18 (DOCUMENT MARKED INTO EVIDENCE AS STATE'S EXHIBIT
19 NUMBER 77.)

20 MS. WALKER - Permission to publish to the jury,
21 Your Honor?

22 THE COURT - Yes.

23 MS. WALKER - Thank you.

24 THE COURT - Ladies and gentlemen, can you all see
25 what's being pointed to? Can everyone see? Yes?

1 (Jurors indicating yes)

2 THE COURT - All right.

3 Q Exhibit 77, is this I guess a closer view?

4 A Yes, it is.

5 Q And can you kind of describe where the incident
6 spilled over?

7 A Kinda in here -- where they kind of had their first
8 altercation. When Mr. Moti pulled his weapon, you could
9 see another subject kind of fall over here and then they
10 kind of went over here in this area.

11 Q And do you know where Marquita Mobley was at that
12 time?

13 A She was in the vehicle I believe somewhere within this
14 area.

15 Q Okay. Thank you, sir. You can step back in the
16 stand.

17 A (Witness complies)

18 Q The person that gave you that first statement that
19 denied being anywhere near El Toro that night, do you
20 recognize him in the courtroom?

21 A I do.

22 Q Can you point him out?

23 A Mr. -- on the corner with the gray shirt with the
24 white collar.

1 MS. WALKER - Your Honor, may the record reflect
2 that he's identified the defendant?

3 THE COURT - Yes.

4 MS. WALKER - I don't have any further questions
5 of Investigator Jordan. Thank you.

6 THE COURT - Cross examination.

7 MR. SAWYER - Thank you, Your Honor. May it
8 please the Court.

9 THE COURT - Yes.

10 CROSS EXAMINATION

11 BY MR. SAWYER -

12 Q All right, Investigator Jordan, you got started on
13 this investigation about a day later. Is that right?

14 A Yes, sir.

15 Q Was there a reason why you were -- got assigned a day
16 later?

17 A I was just told on the day I told to assist with the
18 investigation. I have no clue on that.

19 Q Okay. Now, obviously, I guess, about a little over 24
20 hours of work had been done before you got involved. Is
21 that correct?

22 A About that, yes, sir.

23 Q Okay. So at that point you had developed a gentleman
24 by the name of -- I believe his name's Kelvin Lee or Kevin
25 Lee?

1 A Kelvin, Kevin, I -- maybe Kevin. I believe it was
2 Kevin.

3 Q As being an eyewitness in this case?

4 A A possible witness. Maybe not eyewitness but a
5 possible witness.

6 Q Okay. And you later did interview him.

7 A We did.

8 Q And from what you gleaned from that he was at least
9 present.

10 A Yes.

11 Q All right. And once you talked with him that's what
12 helped develop you into talking to Ms. Mobley and Ms.
13 Nuttry. Is that correct?

14 A Correct.

15 Q Okay. And you had gotten some information that they
16 were also present with him. Correct?

17 A Correct.

18 Q And you got some information that they were also
19 possible eyewitnesses. Correct?

20 A Possible.

21 Q Okay. And that later proved to be true. Correct?

22 A Yes.

23 Q Now, where did you find them when you went to go
24 interview them?

25 A They were at the Red Roof Inn.

1 Q Do you know if that was their residence at the time?

2 A I believe so. I'm not sure. I can't recall that.

3 Q And you -- at that point they both agreed to come talk
4 to you. Right?

5 A Correct.

6 Q And you went back to Richland County headquarters at
7 Two Notch. Correct?

8 A Correct.

9 Q And at that point did you actually interview both of
10 them?

11 A I interviewed Ms. Kristina and Sergeant Lindler
12 interviewed Ms. Mobley.

13 Q Okay. And just to help me out, I'm looking at a copy
14 of your report which you have with you as well. Whenever
15 you use the terms I slash O, you're essentially -- you're
16 referring to yourself and your actions you were taking.
17 Correct?

18 A Myself. If it says I O's, it's myself and Sergeant
19 Lindler.

20 Q And did you -- were you present for Ms. Mobley's
21 interview?

22 A I was not.

23 Q And you -- looking at your report, about a day later
24 you met with Sergeant Lindler about 9:00 o'clock in the

1 morning and decided you needed to interview them again.

2 Correct?

3 A We did.

4 Q And why was that?

5 A Once again, normally in homicide cases, witnesses are
6 reluctant, somewhat hesitant to maybe be -- to maybe give
7 you all the information, so we felt we needed to re-
8 interview them again to see if we missed anything.

9 Q Okay. You have your incident report in front of you?
10 About the third page on it about two-thirds of the way
11 down.

12 A Okay.

13 Q You actually wrote down there that at that point you -
14 - you and Sergeant Lindler didn't believe they were being
15 fully truthful, being honest with you. Correct?

16 A Well, we felt that maybe Ms. Nuttry wasn't being a
17 hundred percent honest because she called the young man
18 over who was being Rachet as Mr. Lee explained and was --
19 seemed to be agitated, so we felt that normally people
20 don't get involved in stuff like that. They're more
21 reluctant to leave that kind of stuff alone, so we felt
22 maybe she knew him in some kind of way, so that's why I
23 felt that maybe she wasn't being completely truthful.

24 Q That wasn't the only reason why you didn't think they
25 were being completely truthful. Right?

1 A That's the only reason why, sir.

2 Q Can we go again about halfway down that same
3 paragraph? You also received information that they
4 might've been engaged in prostitution that night. Is that
5 correct?

6 A But that didn't reflect -- still didn't mean that they
7 were not telling the truth about what they saw. That
8 didn't have anything to do with the actual case.

9 Q Okay. But you felt like interviewing them for that
10 purpose would help to see if they were telling the truth?

11 A No, interviewing them again to see if they left
12 anything out initially. The prostitution had nothing to do
13 with the case. That wasn't our main focus.

14 Q Okay. You ended up bringing them back -- ended up
15 bringing them back later that day. You told both of them
16 that their cooperation was greatly needed. Correct?

17 A Correct.

18 Q You told them that they -- especially important that
19 they needed to be telling the truth. Correct?

20 A Correct.

21 Q And you actually told them that you'd charge them with
22 obstruction of justice if they were lying to you.

23 A I did not tell them that. I told that they -- that
24 more-so -- it was more-so for Ms. Kristina, because we felt
25 that she was the one that was more-or-less being

1 untruthful, but it was -- it was -- the comment was made in
2 the presence of both of them, and it was that they could be
3 charged, not that they would be charged, that they could be
4 charged if we were to find out that they were lying.

5 Q Okay. And you sent Ms. Kristina off to a forensic
6 sketch artist to talk. Right?

7 A Actually the sketch artist came to headquarters to
8 meet with us.

9 Q Okay. But she was in a separate room while they were
10 making this sketch?

11 A Just her and the artist.

12 Q Okay. And at that point you asked Ms. Marquita about
13 the prostitution allegation?

14 A We discussed that, yes.

15 Q And she had said that that was true, they were
16 engaging in prostitution that day.

17 A Yes.

18 Q She said both of them were. Correct?

19 A Correct.

20 Q All right, now after you had them go through the photo
21 line-up later -- and if it helps, I'm on the next page of
22 your report where it has 1900 hours -- you found another
23 witness. Correct?

24 A Yes, we did.

1 Q Okay. And that was another witness who saw the entire
2 incident take place. Correct?

3 A I believe so. I'm not sure if he was interviewed
4 before. Now, we use a standard interpreter, so I'm not
5 sure if he was interviewed that night or not so we could
6 communicate with him.

7 Q But you interviewed him -- I mean it says right here
8 that you ---

9 A I was present when the interpreter and myself and
10 Sergeant Lindler both were present when interpreter
11 interviewed him per myself and Sergeant Lindler.

12 Q And what was his name?

13 A I may be pronounce it wrong.

14 Q Just give it your best.

15 A Roberto Gomez Cordoba.

16 Q Okay. And additionally while you were interviewing
17 him, you got the name of another witness. Correct?
18 Halfway down that paragraph.

19 A Actually while we were there had someone approach me
20 and Sergeant Lindler while we were sitting with Mr. Cordoba
21 and stated that you need to talk with her.

22 Q Okay, and what was her name?

23 A Ms. Springs, Elisha Springs.

24 Q And she was another eyewitness to the incident?

25 A She saw some of the events that took place.

- 1 Q Okay. So she saw the events that happened that night.
- 2 A Yes, some of it, yes.
- 3 Q Now, when you went to go arrest Bernard, he didn't
- 4 struggle or anything? He came with you?
- 5 A No, he didn't ---
- 6 Q Okay. And you sat down and you interviewed him.
- 7 Right?
- 8 A Myself and Sergeant Lindler. Correct.
- 9 Q Okay. And that was that interview you just read
- 10 through. Correct?
- 11 A Yes, the first one.
- 12 Q Okay. And do you have the other one with you? The
- 13 Exhibit. There you go. Thank you. All right. And what
- 14 time does he show you just began the Advice of Rights?
- 15 A That would be 5:55 p.m.
- 16 Q Okay. And you have it in military hours here?
- 17 A Yes, 1755.
- 18 Q Okay. And then when did you actually write down his
- 19 statement?
- 20 A 1900 hours, which is 7:00 p.m.
- 21 Q Okay. So that was about an hour and five minutes in
- 22 between?
- 23 A Yes, sir.

1 Q Okay. And you're saying that everything y'all talked
2 about in that hour and five minutes is all recorded within
3 this statement.

4 A No, sir, it was not.

5 Q Okay. What's not in there?

6 A His family history, his girlfriend, his kids, things
7 about his life, nothing pertinent. You know, everything in
8 that statement is about the case itself but not where he
9 went yesterday or the day before that, anything like that.
10 It was all pertinent to that case.

11 Q Okay. Did you -- I can have you reading -- time me
12 again -- but would you believe me it took you about four
13 minutes to read that entire statement?

14 A About.

15 Q So four minutes to read all the pertinent information
16 and then another hour and a minute of non-pertinent
17 information that day?

18 A Well, sir, you have to realize that we like to get to
19 know the people that we're talking with, so that may take
20 some time. We don't just jump in and start asking
21 questions. We like to try to get to know them, if you
22 will, so that may take a little bit of time.

23 Q Okay. Did you try to determine if Bernard could read
24 and write that day before you started taking a statement?

25 A I'm sure we asked him if he could.

TAIMA JORDAN - CROSS BY MR. SAWYER

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1 Q Okay. And was he able to read and write the Advice of
2 Rights?

3 A I don't recall him saying he couldn't.

4 Q Okay. Didn't he read them aloud to you?

5 A We actually read them to him.

6 Q Okay. Was he given the opportunity to hand-write his
7 own statement?

8 A We don't do that?

9 Q You don't do that? What -- you're not allowed to,
10 just policy of the sheriff's department?

11 A No, that's not a practice that we do; we type and asks
12 questions and then afterwards they are -- they -- either
13 read it back to them or then read it themselves, and if
14 there's any changes that need to be made, they let us know
15 it before we print it out, and they're allowed to make
16 changes.

17 Q Okay. Could he get on the computer and make changes
18 himself?

19 A No, sir, he just tell us that -- for example, this
20 question is not what you asked -- this is not the answer
21 that I won't in this particular -- to this particular
22 question; we would then change it.

23 Q Okay. Were you ever a patrol officer at any point?

24 A I was.

25 Q Okay. Did you ever engage in a police chase?

1 A Yes.

2 Q Okay. You are -- even better, did you ever give a DUI
3 field sobriety?

4 A Maybe once or twice.

5 Q Okay. You know your cars are equipped with audio and
6 visual recording equipment. Right?

7 A It is.

8 Q How about cars do you think y'all have?

9 A Oh, ---

10 Q More than a hundred?

11 A Yes.

12 Q Okay. Y'all didn't audio/visual record his statement?

13 A No, it's not in our policy and procedures to do so.

14 Q Okay. So you're -- actually your policy strictly
15 forbids you from audio and visual recording a statement.

16 A Yes, sir.

17 MR. SAWYER - Beg the Court's indulgence briefly.

18 THE COURT - All right.

19 MR. SAWYER - Nothing further, Judge.

20 THE COURT - Re-direct?

21 MS. WALKER - No, Your Honor.

22 THE COURT - All right. You may come down.

23 Ladies and gentlemen, we're going to take our afternoon

24 break at this time. We're going to take about 15 minutes.

25 During our afternoon break, please remember, do not discuss

1 this matter or allow anyone to discuss it with you and,
2 please leave your note pads in your seats, and again we'll
3 take about 15 minutes.

4 (Jury exits the courtroom)

5 THE COURT - All right, anything before we take
6 our break, from the State?

7 MS. WALKER - (Indicating no)

8 THE COURT - From the defense?

9 MR. SAWYER - No, Your Honor.

10 THE COURT - All right, take 15.

11 (Recess taken)

12 THE COURT - All right. Anything before we bring
13 the jury in, from the State?

14 MS. WALKER - (Indicating no)

15 THE COURT - From the defense?

16 MR. SAWYER - No, Your Honor.

17 THE COURT - Let's have the jury, please.

18 (Jury returns to the courtroom)

19 BAILIFF - Jury is seated, Your Honor.

20 THE COURT - Thank you so much. All right,
21 Call your next witness, please.

22 MS. CAMPBELL - May it please the Court.

23 THE COURT - Yes.

24 MS. CAMPBELL - State calls John Barron.

1 JOHN BARRON, AFTER BEING FIRST DULY SWORN

2 TESTIFIES AS FOLLOWS -

3 DEPUTY CLERK - Thank you. Please have a seat in
4 the witness stand and state your full name for record, and
5 please spell your last name.

6 MR. BARRON - My name is John Barron, B-a-r-r-o-n.

7 DIRECT EXAMINATION

8 BY MS. CAMPBELL -

9 Q Sir, where are you employed?

10 A Richland County Sheriff's Department.

11 Q And what do you do there?

12 A I am presently a DNA analyst at the sheriff's
13 department.

14 Q As a DNA analyst at the sheriff's department, what do
15 your duties include?

16 A Mainly include analyzing evidence brought in by our
17 investigators and our crime scene individuals, to ascertain
18 whether or not DNA is present, to develop a DNA profile, to
19 put any evidence profiles into the what we call CODIS which
20 is a combined DNA indexing system, which is a system that
21 is a national system that has convicted offenders and some
22 states arrestees for comparison to see whether or not that
23 evidence profile may have matched a convicted offender or
24 felony arrestee, also to run known DNA samples from
25 individuals that may involved in a case. We develop their

1 profile and to see whether or not that evidence profile
2 matches that individual and if it does, then I issue
3 reports stating the conclusion, whether it matches or does
4 not match or in the case of DNA mixtures, whether someone's
5 included or not included.

6 Q Okay. Can you tell this jury a little bit about your
7 education and training in the field of DNA?

8 A Yes. I have a bachelor of science degree in
9 microbiology from Clemson University. I've also received
10 or -- yes, attended the University of South Carolina
11 graduate level courses in molecular biology and statistics.
12 I was originally trained in DNA at South Carolina Law
13 Enforcement Division or SLED. Beginning in the year 1999 I
14 was part of the original group that was trained in this
15 particular DNA technology. I completed all kinds of
16 training classes from individuals that offer the equipment
17 and supplies necessary to do DNA testing. I have been
18 competency tested, proficiency tested every year, at least
19 twice a year for the last 14 years. In 2004 after being
20 qualified as an expert in DNA at SLED, I came to Richland
21 County along with another individual to set up the DNA
22 laboratory at Richland County and have been there ever
23 since.

24 Q Have you been qualified before as an expert in DNA
25 analysis?

1 A Yes, I have.

2 Q And approximately how many times have you been
3 qualified?

4 A Approximately 60 times.

5 Q Sixty?

6 A Correct.

7 MS. CAMPBELL - Your Honor, at this time we'd
8 offer him as an expert in DNA analysis.

9 THE COURT - Any voir dire?

10 MR. SAWYER - No, Your Honor.

11 THE COURT - All right, any objection?

12 MR. SAWYER - No, Your Honor.

13 THE COURT - So qualified.

14 Q Sir, can you explain to the jury typically how DNA may
15 be left at a crime scene?

16 A Typically some type of body material that has a
17 cellular cells in it from the individual. That could be
18 blood; it can be tissue; it can be skin cells; it could be
19 -- in a case of sexual assault it can be semen or vaginal
20 fluid, some type of cell from the body that has a nucleus.
21 Most every cell in the body has a nucleus, and so any --
22 any cell in your body that does have one will contain your
23 DNA, and it will be consistent, you know, hair -- I mean
24 DNA from your hair would be the same as DNA from your blood
25 or your saliva. Any time you put your mouth on something

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1 or wear something, your perspiration, your skin cells can
2 sluff off and your DNA profile can be found on that.

3 Q Are you familiar with the term that's called touch
4 DNA?

5 A Yes, that's a term that is referred to as DNA that
6 could be left by handling something, in other words,
7 touching something. So if I handle a gun or if I handle,
8 you know, any type of material, there's a possibility that
9 you could sluff enough skin cells off to get your DNA
10 profile on that item. It doesn't take that many cells to
11 get DNA, but it does take, you know, at least some to get a
12 profile. Now, there is situations where we may not get
13 enough, but very often we do get some, but we don't know
14 from skin cells how much is there. We just basically test
15 the item and see whether or not your DNA is present.

16 Q So if I walk up and say I pick up State's Exhibit
17 Number 60 and handle it and even it rub it all over, am I
18 necessarily going to leave DNA on this package?

19 A Not necessarily but you certainly could.

20 Q Okay, explain that, could you?

21 A Well, there's a lot of unknown factors involved in
22 that. They're -- based upon my experience of what I've
23 seen, I think some individuals shed their skin cells quite
24 readily and some don't, so it's just -- there's a - and it
25 also has to do with how roughly you treat the item, so the

1 question is, do you yourself shed a lot of skin cells or
2 not, and if you do shed your skin cells, did you handle an
3 item long enough or roughly enough to scrape off enough of
4 your skin cells to leave it there.

5 Q In your experience I believe you also mentioned that
6 one way you find DNA at crime scenes is through body
7 fluids?

8 A That's correct.

9 Q And, in fact, say if someone's bleeding at a crime
10 scene or something of that nature, is it typically easier
11 to get a result?

12 A Yes, and one very minute drop of blood about the size
13 of a dot of ink, there are so many DNA cells in that blood
14 that is plenty of DNA, but when we're talking about the few
15 skin cells, it's not nearly as prevalent as far as getting
16 a profile.

17 Q I want to turn your attention to this case. Were
18 there certain items that were submitted for you to do
19 analysis on?

20 A Yes, there were.

21 Q And we've heard the term buccal swab in this
22 courtroom. What does that mean, sir?

23 A That's a swab from the inside of your mouth. The
24 cells in your cheek are called buccal cells, but basically
25 there are many, many cells in your mouth that contained --

1 that are shared through your saliva. That's why it's so
2 easy for us to get DNA from a drink bottle that you drink
3 or a cigarette that you smoke, but that's what it is. It's
4 just a way of collecting a known sample from individual
5 without being invasive and drawing their blood.

6 Q And is it very helpful when you're running your
7 analysis to have known standards from say, the victim and
8 the defendant in a case?

9 A Yes, it is.

10 Q And with the DNA, is it kind of an science of
11 inclusion or exclusion?

12 A Yes, it is. DNA profiles when they are a single
13 source, in other words, it's by itself and it's a complete
14 profile, it's very, very unique. We develop statistics to
15 show how rare that profile is. And when those statistics
16 are so astronomical that there are thousands of times
17 beyond the population of planet Earth, then we can with a
18 reasonable scientific certainty that DNA belongs to that
19 individual.

20 Q In this case did you receive a buccal swab from the
21 victim, Jimmy Moti?

22 A Yes, I did.

23 Q Did you also receive a buccal swab from the suspect,
24 Gerald Bernard Haltiwanger?

25 A Yes, I did.

1 Q And in doing your analysis, basically explain to the
2 jury how you have to have a known standard as well as your
3 forensic evidence and how you do that comparison.

4 A Well, again, there are -- the profiles are developed
5 independently. The -- the profiles from the victim and the
6 suspect are developed at separate time in space so there's
7 no contamination, especially the evidence in the case; the
8 suspect's standard is developed separately. It is a
9 profile that's basically a chart on a piece of paper that I
10 look at. It contains a lot of numbers. That -- those
11 numbers represent fragments of DNA that have been sized and
12 given a value if you will based upon the size of that DNA,
13 and it's compared to a known DNA ladder if you will or a
14 ruler, and so each point on that ruler has a particular
15 number, and so when we get a profile, we have in essence a
16 series of numbers, and so we're looking at the numbers or
17 the profile from the evidence and see if it matches the
18 individual or in the case of a mixture where we have
19 multiple DNA -- multiple incidents of DNA from more than
20 one person on the same object, which is very possible,
21 especially in touch DNA when you're dealing with objects
22 that may be handled by more than one person, then we would
23 do what we call a mixture analysis. In other words, is
24 this individual included or is he excluded from that
25 mixture, and if he's included, you know, what percent of

1 the population would be excluded or included in that
2 mixture, and whether or not he's in it or not, whether he's
3 a possible inclusion or is he an exclusion. Most of the
4 time we can -- we make a determination for that.

5 Q In this case did you also receive a buccal swab from
6 Investigator Chris Lindler as well?

7 A Yes, I did.

8 Q And as far as evidence from any scene or anything, I
9 want to show you what's been marked as State's Exhibit
10 Number 54. Were these the swabs that were submitted for
11 your analysis?

12 A Yes, they were.

13 Q And can you tell the jury where those three swabs came
14 from?

15 A These swabs came from item 7, which is a swab from a
16 fired .40 caliber cartridge casing. There was a swab from
17 an ID card and there was also a swab from a Beretta pistol
18 that I did not analysis.

19 Q Explain that to the jury. Prior to doing any kind of
20 analysis, do you consult with investigator to see whether
21 or not -- probative ---

22 A Yes, that's correct. Crime scene individuals when
23 they go collect evidence or officers collect evidence,
24 often they are collecting everything, and not everything is
25 probative, so that's up to an investigator and sometimes we

1 work with the investigator to determine, you know, what
2 would be a probative DNA sample, so whatever reason that
3 sample was not analyzed. I don't remember exactly the
4 cause, but there was no request to analyze that particular
5 sample.

6 Q But item number 7, the swab from the fired .40 caliber
7 shell casing, that was requested to be analyzed?

8 A Yes, it was.

9 Q And finally, I believe you mentioned that item number
10 9, the swab from the ID card, was also requested to be
11 analyzed.

12 A Yes.

13 Q May I see that item? And on the front of this, when
14 it says the swab of the ID card, does it say what name was
15 on the ID card?

16 A Carlos Brown.

17 Q Thank you, sir. What -- did you perform an analysis
18 on those two swabs?

19 A Yes, I did.

20 Q What were the results of your analysis of those two
21 swabs?

22 A Well, the swab from the fired .40 caliber cartridge
23 casings did contain a very, very small amount of DNA, but
24 the results are too weak to make any type of determination.

1 Q Is that unusual with fired shell casings in your
2 experience?

3 A Not unusual at all. Most of the time ---

4 Q Can you explain that to the jury if you will?

5 A There -- I've just analyzed enough fired cartridge
6 casings to know that most of the time I either get nothing
7 or very little. I have developed full DNA profiles from
8 cartridge casings and actually gotten hits to convicted
9 offenders from cartridge casings, so it's possible, and
10 that's why it's submitted for analysis, but I would say
11 probably at least 90 percent of the time I don't get any
12 type of decent results from cartridge casings.

13 Q And in this case there was DNA present, but it was
14 just too weak to do any analysis?

15 A It was too weak to make any match determination.

16 Q I'm sorry. That's a better term. To make any matched
17 determination.

18 A Right.

19 Q What were the results when you ran the DNA from the
20 swab from the ID card of Carlos Brown?

21 A That DNA analysis got more of -- a better result.
22 There was a mixture which is not unexpected from an ID
23 card. There were at least three individuals involved, and
24 I was able to determine that the victim, Jimmy Moti, and

1 our investigator, Chris Lindler, were excluded from that
2 mixture.

3 Q So none of the DNA present matched either Lindler or
4 the victim, Mr. Moti.

5 A That's correct.

6 Q And that was from the ID card, the swab from the ID
7 card.

8 A Correct.

9 Q Did you compare it to the known sample you had from
10 Mr. Haltiwanger?

11 A Yes, I did.

12 Q And what were the results of that?

13 A I was not able to exclude Mr. Haltiwanger from that
14 mixture, and therefore, he -- it is possible that the DNA I
15 found is from -- or some of the DNA from the card is from
16 him.

17 Q And when you say you were not able to exclude, that
18 means he was included as matching at least some of the DNA
19 you found?

20 A That's correct. He was included in matching the DNA
21 that was found. Now, I was saying there was DNA from at
22 least three people.

23 Q And how did you know there was DNA from at least three
24 people? Explain that to the jury.

1 A Okay. We copied the DNA and each point -- we copy 15
2 points plus the sex chromosome. So each point of a DNA
3 molecule, if it's a single source will only have one or two
4 -- the DNA term is called alleles or one or two peaks on a
5 graph. If it is more than that -- well, let's put it this
6 way. There can only be two, one or two. You either ---
7 because you get half of your DNA from your mom and you get
8 half of it from your dad, so you're going to have a peak or
9 an allele from your mom, and you're going to have a peak or
10 an allele from your dad. So that's maximum of two at each
11 point that is copied, so if there's more than two, we know
12 we have a mixture. So if there's more than four, we know
13 we have more than two people, because two plus two is four.
14 So if I have -- if four is the maximum that I have at each
15 point on the DNA molecule that I analyzed, then it will be
16 a mixture of two people, but if there's more than that,
17 then it's at least three or more. So in this case I had
18 more than four alleles, at least one locus so I know there
19 was more than two people.

20 Q As far as your analysis comparing this to Mr.
21 Haltiwanger, as you said that you were not able to exclude
22 him, which means he was included as a possible known?

23 A That's correct.

24 Q And were you able to exclude any percentage of the
25 population based on your findings?

1 A Yes, and that's part of a -- one way of doing the
2 mixture calculation is what we call probability of
3 exclusion, how much of the population would be excluded,
4 and we know from the frequency of these alleles that we can
5 calculate that, and so in this case greater than 99.0
6 percent of caucasians or white individuals or 97.49 percent
7 of African American individuals.

8 Q So there are two different data basis that you use in
9 your calculations?

10 A That's correct. These allele frequencies are slightly
11 different depending upon which racial origin we're dealing
12 with, so we develop -- there is statistics for more than
13 one racial database. Typically we in South Carolina these
14 are the majority of the people we're involved with. We can
15 also get statistics for Hispanics or Asians, if necessary,
16 but generally speaking in South Carolina we're dealing with
17 the African American and the caucasian race.

18 Q And in the African American database you can exclude
19 what percentage of the population as possibly contributing
20 to this mixture that you found matched at least some of
21 Gerald Haltiwanger's ---

22 A Right, 97.49 percent. It would be greater than that,
23 slightly greater than that. I'm just giving you a minimum
24 number.

1 Q So in the mixture found from the ID card, there were
2 alleles that matched the defendant's DNA.

3 A That's correct. So he is -- he could be or is a very
4 good chance that he is one of the three people on the card.

5 Q And with the mixture you're limited as far as your
6 determination to exclude the 97.49 ---

7 A Right. In this particular situation, that statistical
8 calculation was all that I could perform.

9 Q But your findings definitely included his on the list.

10 A That's correct.

11 MS. CAMPBELL - Thank you, sir. I don't have
12 anything further.

13 THE COURT - Cross examination.

14 MR. SAWYER - Thank you, Your Honor. May it
15 please the Court.

16 THE COURT - Yes, sir.

17 CROSS EXAMINATION

18 BY MR. SAWYER -

19 Q Dr. Barron or Mr. Barron?

20 A Mr. is fine.

21 Q Okay. I wasn't sure. Just -- you got that pack in
22 front of you. Can you tell me again what items were tested
23 or what items you were requested to test on there?

24 A Yes, there was swabs from the fired .40 caliber
25 cartridge casing and swab from an ID card, as well as the

1 buccal swabs that were mentioned, the victim, Mr.

2 Haltiwanger and our investigator, Chris Lindler.

3 Q Was there anything that you did not test that was
4 found?

5 A That was in that package, there was a swab from a
6 Beretta pistol.

7 Q You didn't test that at the request of the State?

8 A Well, I depend upon the request of our investigators
9 and they fill out a request form telling me which items to
10 analyze. They did not request that item, but because it
11 was in the same package as the other two items, then I had
12 to inventory it.

13 Q Just again, I submit to you that wasn't requested by -
14 - who -- who would that submit that to you? I'm sorry.
15 What was the name on there? Do you remember?

16 A Yvonne Woods. She was a crime scene ---

17 Q And they didn't request the Beretta to be tested.
18 Correct?

19 A Ms. Woods would've collected the samples and packaged
20 them, then the investigators involved in the case, homicide
21 investigators, would've decided to fill out a request form
22 and give it to me, and I would go to the evidence or my
23 technician would go to the evidence room and pick up the
24 sample. Now, they're not going to take two out of three
25 samples out of the package, because the package is sealed.

1 That would be inappropriate. They just collect the whole
2 package, bring it up, and we analyze two of the three that
3 are in there that were requested.

4 Q I guess just what I'm getting at, you only do what
5 they ask you to test and nothing more. Just because I'm
6 sure you're backlogged; you've got a lot of DNA to be
7 profiled ---

8 A We run a lot of DNA, yes, we do.

9 Q Just out of curiosity too -- my boss is a lot better
10 with this DNA stuff than I am -- we got, what, about 2.5
11 percent give or take of people that we could be looking at?

12 A That's about right.

13 Q Okay. Would those people include any individuals that
14 would share Mr. Haltiwanger's parents?

15 A That's correct.

16 Q Okay. So any of his brothers and his sisters would be
17 included in that population.

18 A That's possible, yes. It's just a percentage. About
19 two and a half percent would be included, so if you
20 randomly picked individuals from the African American
21 population, about two and a half percent of them I would
22 say could be included in the mixture as well.

23 Q If they share the same father as Mr. Haltiwanger or
24 the same mother, they're squarely in that two and a half
25 percent though. Right?

1 A They may or may not be.

2 Q But more likely ---

3 A More than likely they would be, yes.

4 Q Okay.

5 MR. SAWYER - Thank you.

6 MS. CAMPBELL - Just a couple of questions.

7 THE COURT - Yes, re-direct?

8 RE-DIRECT EXAMINATION

9 BY MS. CAMPBELL -

10 Q Maybe I should've said this. As far as when you're
11 testing for DNA, can you say how long the DNA has been on
12 that item?

13 A No, I cannot.

14 Q And finally, he asked you about brothers and siblings
15 and things of that nature, say, if I have four or five
16 sisters or brothers, is our DNA going to be individual or
17 is all alike?

18 A Oh, it's going to be individual, but because you have
19 the same mother and father you will have some what we
20 called shared alleles, share some DNA, but there will be
21 enough differences to differentiate individuals.

22 Q And, in fact, who are the only people who have the
23 same DNA?

24 A Identical twins.

1 Q And other than that, even if I have four brothers and
2 sisters that aren't my identical twin, is my DNA going to
3 be different than theirs?

4 A It is going to be different. In some cases you can
5 have a brother and a sister and they can be totally
6 different. In other cases you may share a lot of alleles,
7 but you will have differences.

8 MS. CAMPBELL - Thank you, sir. I don't have
9 anything further.

10 THE COURT - Re-cross?

11 MR. SAWYER - Nothing further.

12 THE COURT - Is this witness free to leave?

13 MS. CAMPBELL - Thank you, Your Honor.

14 THE COURT - Very well. Yes, sir, you are free to
15 go. Call your next witness, please.

16 MS. CAMPBELL - State would call David Collins.
17 Your Honor, may we approach about one matter?

18 THE COURT - Sure.

19 (WHEREUPON, BENCH CONFERENCE IS HELD IN THE
20 PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY
21 WHICH WAS NOT REPORTED.)

22 MS. CAMPBELL - Thank you.

23 DAVID COLLINS, AFTER BEING FIRST DULY SWORN

24 TESTIFIES AS FOLLOWS -

25 DEPUTY CLERK - Thank you. Please have a seat in

1 the witness stand and state your full name for the record.

2 MR. COLLINS - David Collins.

3 DIRECT EXAMINATION

4 BY MS. CAMPBELL -

5 Q Investigator Collins, where are you employed?

6 A I'm employed by the Richland County Sheriff's
7 Department.

8 Q What do you do there, sir?

9 A I work in the forensics sciences laboratory as a
10 firearms and toolmarks examiner.

11 Q And as a firearms and toolmarks examiner, what do you
12 duties include?

13 A My duties include the examination of any firearm or
14 tool mark related evidence that might be submitted to the
15 laboratory in a case. This could be anything from a
16 firearm to a projectile to may include tools that are not
17 firearms related as well.

18 Q Can you tell this jury a little bit about your
19 education and your training in the field of firearm and
20 toolmark examination? Did I get that right?

21 A I have a bachelor's degree from The Citadel which I
22 received in 1984. I went to work at the State Law
23 Enforcement Division commonly known as SLED in 1990 where I
24 entered in was is essentially an on-the-job training
25 program into becoming a firearms and toolmarks examiner.

DAVID COLLINS - DIRECT BY MS. CAMPBELL

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1 There are no schools that you can go to that will fully
2 train you into being a firearm examiner. After completion
3 of that course and instruction at SLED I was certified by
4 SLED as a firearms examiner and then began working cases on
5 my own. And I also have attended various continuing
6 education classes and armorers courses through the course
7 of my career to keep my education level current. During
8 the course of my career I have testified as a firearms
9 examiner in the course of South Carolina in excess of two
10 hundred times, so I've also qualified in the Courts in
11 North Carolina and Georgia as a firearms examiner as well
12 as the military and federal court system.

13 MS. CAMPBELL - Your Honor, at this time we'd
14 offer him as expert for this case in firearms examination.

15 THE COURT - Is there any voir dire?

16 MR. SAWYER - No, Your Honor.

17 THE COURT - Objection?

18 MR. SAWYER - No, Your Honor.

19 THE COURT - So qualified.

20 Q I want to ask you a few questions about just firearms
21 in general. When handguns are involved, are there
22 different types of handguns?

23 A Yes, there are.

24 Q And typically what types of handguns are there?

1 A The two general types of firearms that we see most
2 often are revolvers and semi-automatic firearms.

3 Q And what's the difference between a revolver and a
4 semi-automatic firearm?

5 A From the standpoint of the investigation of a shooting
6 incident, the primary difference between the two is that a
7 revolver does not leave a fired cartridge case at the scene
8 unless it is opened and manually ejected by the shooter at
9 the scene. A semi-automatic firearm will eject a fired
10 cartridge case from the gun each time it is fired if it is
11 functioning properly.

12 Q What do a revolver -- typically when you watch those
13 old westerns when you see that little round thing that they
14 whiz around ---

15 A Yes.

16 Q You know what I'm talking about?

17 A That is correct.

18 Q Is that typically how a revolver is loaded?

19 A Yes, a revolver will be loaded by opening the cylinder
20 -- or exposing the cylinder and loading cartridges into the
21 individual chambers of the -- that are in the cylinder and
22 then either closing it -- some of them have a gate on the
23 side that you close. The ammunition capacity of the
24 revolver is determined by how many chambers are in the
25 cylinder. A semi-automatic is loaded differently in that

1 you would typically load a magazine and then insert the
2 magazine into the firearm. You would then pull a slide or
3 bolt to the rear and release it which would then load a
4 round into the chamber, and it would then be ready to fire.

5 Q When we refer to terms as shell casings and I say
6 bullets -- I don't know if that's the correct term -- but
7 can you talk to the jury a little bit about how once
8 ammunition is loaded into a gun, what part goes out and
9 what the shell casings purpose and what it does.

10 A A single unfired unit of ammunition we refer to most
11 commonly as a cartridge. A cartridge consists of a
12 container usually made of brass or some brass type material
13 filled with gunpowder. You will have a primer in the base
14 that is used to ignite the gunpowder, and a bullet would be
15 seated into the opposite end. When it is fired, the powder
16 burns inside the cartridge case creating expanding gases
17 which then force the bullet out of the cartridge. The
18 bullet then moves down the barrel and exits from the gun at
19 the end of the barrel or the muzzle. The cartridge case
20 then is either ejected from the gun, if it's a semi-
21 automatic firearm, or remains in the cylinder of the
22 revolver.

23 Q And when the cartridge is ejected, say from a semi-
24 automatic firearm, can you tell -- unless you recover the
25 gun which wasn't in this case -- exactly how far or where

1 the cartridge casing is going to go once it comes out of
2 the side of the gun?

3 A No, without actually testing the specific firearm
4 involved with the specific ammunition involved, we do not
5 have a means of accurately determining exactly how far and
6 in what direction the firearm will eject a cartridge case.

7 Q And with cartridge cases that are left typically in
8 crime scenes, in your experience, are those easily moved or
9 kicked around in certain areas?

10 A Yes, they can be.

11 Q And again, where they are and where the firing person
12 is depends on whether a cartridge casings may be left, even
13 if it's a semi-automatic.

14 A I'm sorry, could you repeat the question?

15 Q The circumstances surrounding the shooting itself,
16 like what, if it's an enclosed area, how the gun is held,
17 things of that nature, can that affect even if a semi-
18 automatic is used, whether a cartridge casing may be found
19 at a scene?

20 A Yes, it can affect whether one is found at the scene
21 or where it might be found at the scene.

22 Q And so far as the recovery of the actual what I call
23 the projectile -- that's the part that comes out of the
24 gun? Is that a correct term?

25 A That is correct. The bullet or projectile.

1 Q Bullet or projectile. And that's the part that
2 actually inflicts harm.

3 A That's the part that is designed to -- to go forward
4 and strike the target, perhaps inflict harm.

5 Q And even if there are multiple shots at a scene, are
6 you necessarily going to be able to, or in fact even very
7 often able to find all the projectiles?

8 A It is not uncommon to be unable to locate all the
9 projectiles at a scene. Where they go -- if you're not
10 there, if you're not watching the shooting that's going on,
11 you don't know where they actually may have ended up. They
12 may strike an object. Damage may actually be hidden by
13 some of the features of the object, so there are many ways
14 by which a projectile can be lost at the scene.

15 Q And typically with a gun, regardless -- and I'll talk
16 about calibers in a minute -- regardless of the caliber, is
17 a projectile if it's unobstructed able to travel the
18 longest distance?

19 A Yes.

20 Q And when you talk about long distances, what type of
21 distances are we talking about?

22 A It's not uncommon for a projectile fired at the
23 optimum angle to travel well over one mile.

24 Q There are different calibers of weapons. Is that
25 correct?

1 A That is correct.

2 Q And what does that mean when I say caliber of a
3 weapon?

4 A The caliber of a weapon can be referred to in two
5 specific ways. One, the general caliber of a gun is
6 described as the diameter of the barrel, the bore of the
7 firearm. That dictates the diameter or size a projectile
8 that is fired. A .9 millimeter caliber firearm, for
9 instance, would have a barrel that is 9 millimeters in
10 diameter across of the bore and would fire a bullet of
11 approximately the same diameter. Inside of that there may
12 be different cartridge designs that all use the same
13 diameter projectile. For instance a .38 special revolver,
14 a .9 millimeter semi-automatic pistol and a .380 auto
15 caliber semi-automatic pistol all shoot bullets of
16 approximately the same diameter, but the firearms that are
17 firing those cartridges, they're not interchangeable. You
18 cannot use the ammunition from one in another. So firearms
19 are designs to fire a cartridge that is a specific shape to
20 fit that specific firearm and that shape is referred to as
21 a caliber design.

22 Q I want to turn your attention to this case. In this
23 case did you receive certain items that you were asked to
24 analyze?

25 A I did.

1 Q And the first thing I want to show you is State's
2 Exhibit 52, which is the victim's gun, a magazine and some
3 unfired ammunition.

4 A Yes, these are the items I examined in this case.

5 Q In addition to that, I'm going to show you State's
6 Exhibits 72, 71, 73 and 74. Are those additional items
7 that you were asked to examine?

8 A Yes, these are all items I've examined in this case.

9 Q And finally I show you State's Exhibit 58. Was this
10 an additional round that was submitted for your
11 examination?

12 A Yes, I -- I can identify this as another item that I
13 examined in this case. All of these -- all these firearm -
14 or firearm ammunition components, they are markings that I
15 placed on them in the laboratory so that I could identify
16 them later in Court and also the packages are marked on the
17 side.

18 Q So you actually marked the actual items after you
19 examined them?

20 A Yes, whenever possible.

21 Q And that was done in this case?

22 A Whenever possible or practical, yes.

23 Q How do you mark those?

1 A I can mark them in ink or I can -- sometimes I scribe
2 them depending on the type of evidence that is involved.

3 The firearms themselves typically we mark with ink.

4 Q Starting with the actual gun that was submitted for
5 your examination, what was the first thing you did with it?

6 A The first thing we do with any type of evidence that
7 we receive in the laboratory such as this is we take notes
8 as to its condition as we received it. This would involve
9 the use of a worksheet. We document any unusual
10 characteristics about the firearm, its physical
11 characteristics, the firearm, we note its caliber, make,
12 model, serial number and as the examination progresses, we
13 will make notes as to how well it functions during testing.
14 In a case of a -- the magazine that might be submitted with
15 a firearm, we'll determine if it functions properly in that
16 firearm or was designed for use in that firearm. Once we
17 have moved beyond the initial testing process with the
18 documentation, we will move into the test-firing
19 procedures.

20 Q And did you actually test fire this?

21 A If I could refer to my notes for a moment.

22 Q Sure.

23 A Yes, I did. I test-fired it three times.

24 Q And what were the results of you test-firing it?

1 A Test-fire revealed that the firearm functioned
2 properly.

3 Q And did you make any further determinations about the
4 magazine that was submitted as well as the unfired
5 ammunition that was submitted with it?

6 A The magazine is the correct magazine for use in this
7 particular firearm. In fact, it was used during the
8 testing of the firearm, and the ammunition that was
9 received in it was also the correct caliber for use of that
10 firearm.

11 Q And what caliber firearm was that?

12 A This is a .40 Smith and Wesson caliber firearm that's
13 manufactured by Beretta. It's a model 96.

14 Q And so this is a semi-automatic gun.

15 A Yes, it is.

16 Q We're talking about the unfired cartridge casings that
17 were submitted in this case. Just so I can show the jury,
18 can you pull one of those out?

19 A Yes.

20 Q Talk about the components before we get to talking
21 about these items.

22 A This is what an unfired cartridge would look like. If
23 you look in the end of it, there's a copper-shaped, copper-
24 colored item, which is the bullet itself. That is the
25 projectile that would come out of the barrel of the

1 firearm. The brass-colored portion of it is the cartridge
2 case, which would be ejected from the gun as a --
3 essentially a waste product once it has been fired. The
4 bullet is -- it would pass through the barrel of the
5 firearm and exit through the muzzle. The cartridge case
6 would go a different direction. It would go from the
7 ejection port of the firearm.

8 Q When you are doing comparisons in cases such as this,
9 when you ammunition -- or not ammunition -- but shell
10 casings and then projectiles that are found at the scene,
11 what kind of determinations are you able to make?

12 A When we get to the point of making comparisons, what
13 we're looking for are microscopic marks left on the bullet
14 or the cartridge case by the firearm. When a firearm is
15 manufactured, there are various machining processes
16 employed that leave behind microscopic defects on various
17 portions of the firearm. These defects will scratch or
18 otherwise mark the surface of any bullet or cartridge case
19 that is fired in that gun and leave a pattern of scratch
20 marks or impressions. This pattern of scratch marks or
21 impressions can be as unique to that particular firearm as
22 a fingerprint is to a person. Likewise, at times we can
23 exclude a firearm as having fired a particular item based
24 on the presence of gross differences in those rifling marks
25 or other marks left by the firearm. So what we'll do in

1 the laboratory, if we have a firearm submitted, is we will
2 test-fire the firearm as we did in this case and retrieve
3 the fired bullets or cartridge cases from the gun and use
4 those as test standards from the gun, and we compare those
5 microscopically using a comparison microscope that allows
6 us to view them side by side with evidence bullets and
7 cartridge casings, and we're looking for areas where these
8 markings left by the firearm match or don't match. If we
9 find sufficient agreement between the markings left on the
10 two items, then we can conclude that they were fired by the
11 same gun.

12 Q In this case I want to show you State's 73 and 74.
13 And again the caliber of this gun is what?

14 A It's a .40 -- it's Smith and Wesson caliber firearm.

15 Q And taking a look at 73 and 74, were you able to make
16 any determinations -- or tell the jury what determinations
17 you were able to make.

18 A Looking at State's Exhibit 73, because this projectile
19 was badly damaged, I was unable to determine the exact
20 original caliber of this projectile. It's not ---

21 Q And that has two parts to it?

22 A It has two parts to it. It has the copper jacket,
23 which is the outer sheathing of the bullet, and there is a
24 lead core which would be the interior portion of the bullet,

1 and it is not uncommon for the jacket to separate from the
2 core when it impacts some hard surface.

3 Q What determinations were you able to make even though
4 it's in such bad shape?

5 A I was able to determine that based on differences
6 between the rifling -- the actual type of rifling used in
7 the barrel that fired this projectile and this firearm that
8 this bullet was not fired by this firearm.

9 Q So the victim's gun did not fire this bullet.

10 A That is correct.

11 Q And were you able to determine what caliber it was
12 consistent with?

13 A I was unable to determine which caliber this
14 particular projectile was consistent with. The examination
15 of State's Exhibit 74, which was also submitted, I was able
16 to determine that this projectile is consistent with being
17 a .40 caliber projectile. It has similar rifling
18 characteristics to the State's Exhibit 73 projectile,
19 although I was unable to determine if they were, in fact,
20 fired from the same gun. Both of these bullets were filed
21 from a barrel that has what we call polygonal rifling.
22 Polygonal rifling does not leave many of the types of
23 markings that we need on the surface of the bullet for
24 comparison purposes. Conventional rifle firearm leaves
25 much better markings on the surface of the bullet. By

1 virtue of that of being able to determine that this did
2 have polygonal rifling as did State's Exhibit 73, I was
3 also able to conclude that that particular projectile was
4 also not fired by this firearm, but again I was unable to
5 determine if it had been fired from the same gun that fire
6 -- the other projectile, fragmented. They -- I was able
7 determine on the in-tact bullet that it is consistent with
8 being form a .40 Smith and Wesson or possibly .10
9 millimeter auto caliber firearm.

10 Q But it wasn't fired -- neither one of these were fired
11 by this gun.

12 A That is correct.

13 Q As far as the shell casings, items number 72 and 71,
14 what, if any, determinations were you able to make about
15 those?

16 A Both of these cartridge casings are .40 Smith and
17 Wesson caliber cartridge casings and I was un -- I was able
18 to determine based on matching markings left on them by the
19 firearm that fired them that they were fired from one
20 firearm.

21 Q And were both fired by the same gun?

22 A They were fired by one gun. I was able to exclude
23 them as having been fired from this firearm that has been
24 submitted.

1 Q So both these shell casings you were able to determine
2 what?

3 A They were fired from one gun and they were not fired -
4 - however, they were not fired from State's Exhibit 52.

5 Q Of the victim. And finally on State's Exhibit 58 ---
6 MS. CAMPBELL - Your Honor, at this time I'd offer
7 State's Exhibit 58.

8 THE COURT - Any objection?

9 MR. SAWYER - Without objection.

10 THE COURT - All right, very well.

11 (WHEREUPON, ITEM MARKED INTO EVIDENCE AS STATE'S
12 EXHIBIT NUMBER 58.)

13 Q What determinations were you about make by that?

14 A This particular cartridge case was submitted as a -- a
15 little bit later in the investigation. It is a fired .380
16 auto caliber shell casing. It is -- it was submitted in a
17 small brown envelope with a label from the factory. What
18 this is consistent with being is a fired cartridge case
19 that was test fired at the factory and submitted and
20 transported with the firearm. Currently, most firearms
21 that are sold in the United States when they are
22 manufactured, a test-fired cartridge case from them is sent
23 with them in the box. There are some states that require
24 that a test-fired cartridge case from those guns be entered
25 into a database. That is not the requirement in South

1 Carolina, however, because they do not know when they leave
2 the factory exactly where they may end up, they have to do
3 this. So this is simply a test-fired cartridge case from
4 the factory for a .380 auto caliber firearm.

5 Q And did it relate to any of the other evidence in this
6 case?

7 A No, it did not.

8 Q And, in fact, it's not even the same caliber?

9 A It's not the same caliber as any of the fired evidence
10 in this case.

11 Q And it wasn't fired by this gun or anything like that.

12 A Could not have been fired by that gun.

13 Q And, in fact, it ended up having nothing to do with
14 this case.

15 A That is correct.

16 Q Is your laboratory accredited?

17 A Yes, it is.

18 Q And how is it accredited, sir?

19 A We're accredited by the Association of Crime Lab
20 Directors or As-Crime. We -- it's an international
21 accreditation. We're held to an ISO 17025 standard.

22 Q Did investigators ever submit to you the actual
23 handgun that did fire those shell casings or these
24 projectiles?

25 A No, they did not.

1 Q And is that unusual in your line of work?

2 A No, it is not.

3 Q Why is that?

4 A Often after an incident a firearm is -- just may be
5 disposed of by the individuals who used it or simply if a
6 suspect is not developed, they -- you know, they don't have
7 the opportunity to retrieve it from them.

8 MS. CAMPBELL - Thank you, sir. I have nothing
9 further.

10 THE COURT - Cross examination?

11 MR. SAWYER - Thank you, Your Honor. May it
12 please the Court.

13 THE COURT - (Indicating yes)

14 CROSS EXAMINATION

15 BY MR. SAWYER

16 Q I'm sorry. Again, was it Dr. or Mr. Collins?

17 A Investigator is fine.

18 Q I always like to give you the proper title if you've
19 earned the degree. Backing up, this is the .380 I believe.
20 Correct?

21 A That is correct.

22 Q Okay. And your explanation of this is that
23 essentially this never would've been fired in any public
24 setting, forum or situation.

1 A It does not have any indication of having that
2 would've been from a factory or is consistent with having
3 come from the factory. Would've been test-fired at the
4 factory and simply placed in that envelope until it was
5 recovered by law enforcement.

6 Q Okay, so the only place it would've been fired at is
7 wherever this bullet was manufactured or wherever the gun
8 was manufactured.

9 A Where the firearm was manufactured, yes.

10 Q Okay. These two shell casings ---

11 A Yes.

12 Q Talk to me a little bit about their condition. Is
13 that sort of what normal shell casing looks like when it
14 comes out of a gun?

15 THE COURT - I need you to identify the Exhibit
16 Number.

17 MR. SAWYER - I'm sorry. This is State's Exhibit
18 71 and 72.

19 THE COURT - Thank You.

20 A Actually, these two cartridges cases are badly
21 damaged. This is not the condition that we would expect
22 them to be in when they're immediately ejected from the
23 firearm. These show a considerable amount of crushing and
24 abrasion.

1 Q Could that be caused by, say, a car or cars running
2 over them several times?

3 A Yes, it could.

4 Q Could you actually even say that's probably what
5 caused them?

6 A This is -- this is the type of damage that I have seen
7 from that type of activity, yes.

8 Q Okay. Thank you and -- Thank you, sir. And just to
9 make clear, this round that was from the clip associated
10 with this handgun -- correct?

11 A Yes, that was all received together ---

12 Q Okay.

13 A --- with the magazine, yes.

14 Q And this round is basically the same -- I kind of
15 understand what you're saying -- the same size barrel that
16 the other rounds you actually tested were.

17 A Yes, it -- the -- that cartridge -- this unfired
18 cartridge which was received in the magazine of this
19 firearm is the same caliber as the two fired cartridge
20 casings, the two damaged cartridge casings I was showing
21 you earlier. They would've been designed to have been
22 fired from the same caliber firearm.

23 Q Okay. So basically the -- again, I'm probably getting
24 this wrong -- the same physical size of the bullet.

25 A Yes.

1 Q Okay. I'm just curious, too. Is that -- is that
2 normal for the tip of that to be hollowed out like that?

3 A Yes, that is a jacketed hollow point bullet. It is a
4 common designed bullet used for various purposes.

5 Q Okay. Why would you use that rather than just a
6 standard sort of rounded soft led-type ---

7 A Jacketed hollow point bullets are largely used for
8 defensive purposes or for law enforcement purposes, and
9 they are quite frankly just simply designed to cause more
10 tissue damage on impact. They're designed to expand and
11 deposit more energy in the target or the person that --
12 when they're fired and just generally cause more damage.

13 MR. SAWYER - Thank you. Nothing further, Judge.

14 THE COURT - All right, re-direct?

15 MS. CAMPBELL - Just a couple of questions.

16 THE COURT - All right.

17 RE-DIRECT EXAMINATION

18 BY MS. CAMPBELL -

19 Q Again, that's a type of ammunition who uses?

20 A Either law enforcement or individuals desiring to use
21 them for personal defense or they're commonly available to
22 any of those.

23 Q And just so we can be sure, the -- he talked about
24 these being the same size, 72 and 71, the fired cartridge
25 casings?

1 A Yes.

2 Q Did the victim's gun fire these two cartridge casings?

3 A No, they did not.

4 Q Did the victim's gun fire the two projectiles?

5 A No, it did not.

6 MS. CAMPBELL - I'm sorry, Your Honor.

7 Q 73 and 74.

8 A No.

9 Q Those were from another gun.

10 A That is correct.

11 MS. CAMPBELL - Thank you. I have no further
12 questions.

13 THE COURT - Re-Cross?

14 MR. SAWYER - Just briefly.

15 THE COURT - All right.

16 RE-CROSS EXAMINATION

17 BY MR. SAWYER -

18 Q Just to expound a little bit. Anyone can buy the
19 hollow pointed round in the United States of America.

20 A Anybody who is of legal age to buy it, yes.

21 MR. SAWYER - Thank you. Nothing further.

22 THE COURT - All right, is this free to leave?

23 MS. CAMPBELL - Thank you, Your Honor.

24 THE COURT - Any objection?

25 MR. SAWYER - No, Your Honor.

1 THE COURT - You are free to go. Ladies and
2 gentlemen, that will conclude the work that we're going to
3 do for today. Those of you who informed your employers
4 that I needed you to rest last evening, I hope they were
5 cooperative. I presume they were cooperative, since I
6 didn't hear otherwise. I need that cooperation of course
7 to continue, because I need you to rest this evening as
8 well. We're going to begin in the morning again at 9:00
9 o'clock and the same admonition that we went over last
10 evening of course applies. Do not discuss this matter or
11 allow anyone to discuss it with you. Do not read anything;
12 do not listen to anything about this matter, and that of
13 course is the radio, the television, the internet,
14 newspapers. Do not do any sort of research. Don't blog;
15 don't go to facebook; don't go to Wikipedia; don't do any
16 type of research. Don't research any of these individuals
17 or anyone that has anything to do with this particular
18 matter and don't now try to research matters that you may
19 have heard about today. You must receive all of the
20 information from which you will make up your minds here in
21 Court while Court is in session. I ask that you please
22 remember that. And further, please remember tomorrow to
23 leave your cell phones, to leave your communication
24 devices, your iPads, your laptops and the like at home, but
25 of course, if you forget, please let one of our bailiffs

1 know and they will be happy to keep that for you until you
2 are able to return it either to your car or perhaps your
3 home. Ladies and gentlemen, have a very pleasant evening,
4 bundle up, and I'll see you in the morning at 9:00 o'clock.
5 Oh, yes and leave your note pads in your seat. Thank you
6 so much.

7 (Jury exits the courtroom)

8 THE COURT - All right, anything from the State
9 before we adjourn for this evening. No? From the defense?

10 MR. SAWYER - Yes, Your Honor.

11 THE COURT - Okay.

12 MR. SAWYER - Audio recordings.

13 MS. CAMPBELL - That's what we were just
14 Discussing.

15 MS. WALKER - You have all the jail phone calls.
16 Right?

17 MR. SAWYER - I've got everything you gave me ---
18 can you tell me which one's you're using, which dates?

19 MS. WALKER - I can as soon as I talk to my law
20 clerk and see what has been transcribed - I can tell you
21 that. I can e-mail you tonight.

22 THE COURT - Do you not know which ---

23 MS. WALKER - I know I have one definitely. I
24 just don't want to not be able to expand on that at some
25 point. I know he's had all the jail phone calls that we

1 were planning on offering. He's been given that in
2 discovery. I know that there is the one that's referenced
3 -- that was referenced today, Your Honor, and I think, but
4 I'm not a hundred percent certain, that this
5 P651672520120829222928.

6 THE COURT - And that's one.

7 MS. WALKER - That's one. I don't want to give
8 him -- whenever I get -- this isn't exhaustive. I just
9 need to double-check the numbers to see -- so I can give
10 him numbers, but any and all jail phone calls that will be
11 introduced he's had in discovery.

12 THE COURT - I got that. I understand that, but
13 I'm sure he's --

14 MS. WALKER - I guess I'm just confused then.

15 THE COURT - I'm sorry?

16 MS. WALKER - I'm confused as ---

17 THE COURT - Well, you must not have been here at
18 lunch.

19 MS. WALKER - No, I may not have been in the
20 courtroom.

21 THE COURT - You may not have been, and what was
22 represented to the Court is that there were two telephone
23 calls they would be introduced and that those two telephone
24 calls would be provided to the defense for the purpose of

1 cooperation and for time-saving purposes, and so I think
2 that's what he's waiting.

3 MS. WALKER - Okay, I ---

4 MS. CAMPBELL - If I said two, Your Honor, I --
5 could've been three or four. I didn't mean to limit it to
6 two. I'm just saying ---

7 THE COURT - And that's perfectly wonderful.
8 Three or four. It doesn't matter. I'm not going to limit
9 you but he was told two at lunch, so can we start with two.
10 We're back to one.

11 MS. WALKER - I can give him another ---

12 THE COURT - That way he can start it and then as
13 you're working this evening, you just need to e-mail him or
14 whatever either first thing in the morning or this evening,
15 as when you get it, so-be-it, but if you've got the two, I
16 would appreciate it if you would go ahead and give it to
17 the defense.

18 MS. CAMPBELL - We'll do that.

19 MS. WALKER - Your Honor, there were multiple
20 transcripts of the same jail phone call. I think they have
21 been the confusion.

22 THE COURT - Gotcha, gotcha. If you'd be so kind
23 as to just -- I know you've got each other's e-mail, just
24 if you work on it tonight and you can get it this evening,
25 fine. If not, we'll just address it in the morning, just

1 whenever you get it would be great. It just let's them
2 limit what they're looking at ---

3 MS. WALKER - Okay.

4 THE COURT - --- and I'd appreciate that and it
5 just makes it more efficient. All right.

6 MR. SAWYER - The only other issue I have is just
7 ---

8 THE COURT - Yes.

9 MR. SAWYER - --- is just scheduling one. Ms.
10 Campbell was gracious enough to insure that Investigator
11 Mauldin's going to be available for us for impeachment
12 purposes during our case in chief. Looking prospectively I
13 -- I think we'll have a lengthy charging conference. Just
14 throwing that out there, that I think when it comes down to
15 the jury charges I think that I'm going to be asking for
16 quite a bit. I've got a lot of case law that depending on
17 the facts come out I'll be presenting and asking as a
18 charge.

19 THE COURT - Sure.

20 MR. SAWYER - That being said, of course, my
21 concern is all defense attorneys are, is you never want to
22 charge a jury 5:00 o'clock on Friday, because normally 5:00
23 o'clock on Friday one thing the jury is thinking is, got
24 that Florida game the next, when can I get out of here to
25 start getting my stuff ready to go tailgate. You know, I

1 guess what I'm trying to say is, I'm just trying to get an
2 idea of maybe if we're going to go all day long tomorrow
3 with just the State's case they're thinking, if we aren't,
4 you know, want Mauldin to be here before my case in chief.
5 If we are, that's fine, we can do it Friday. I just -- you
6 know, unless he maybe wants to just be hanging out for two
7 days in a row ---

8 MS. CAMPBELL - I originally told him that you
9 would probably need him Friday morning. I was just
10 estimating on when your chief case would go up. I can
11 double-check with him. I'll be glad to do that if you want
12 him earlier.

13 MR. SAWYER - I mean I'm just -- I'm just trying
14 to save him some time. That's all. I mean if he -- if my
15 case -- y'all rest tomorrow. You think you're going to
16 rest tomorrow?

17 MS. CAMPBELL - We're very hopeful.

18 MR. SAWYER - Okay. Let's plan on getting him
19 maybe tomorrow afternoon.

20 MS. CAMPBELL - I'll check and see how -- I made
21 sure he was available on Friday, Your Honor, just
22 anticipating Friday morning ---

23 MR. SAWYER - Okay.

24 MS. CAMPBELL - --- but I will double-check with
25 him tonight.

1 MR. SAWYER - Because I'm only going to use him
2 for may ten minutes at the most.

3 THE COURT - Okay.

4 MS. CAMPBELL - Is there anyone else you want me
5 to get?

6 MR. SAWYER - I don't think so. I think that does
7 it.

8 MS. CAMPBELL - And just as far as scheduling,
9 that same thing, how long do you think your case will take
10 as far as -- or number of witnesses, or do you know?

11 MR. SAWYER - Probably -- I mean two to three at
12 the most. One will be lengthy.

13 MS. CAMPBELL - That's fine.

14 THE COURT - Now, if you have charges and case law
15 that you wish to submit, I'll take them whenever you have
16 it. At this moment -- I'm not aware of anything that's
17 earth-shattering or different, but if you've got some
18 earth-shattering stuff, go ahead and give it to us so that
19 we can be studying it. You know, it's looking pretty like
20 normal stuff ---

21 MR. SAWYER - Yes.

22 THE COURT - -- so - but I'm excited to get it if
23 you would like to submit it.

1 MR. SAWYER - Okay, I've got a little outline so
2 far I haven't really gone through what wording I want.
3 Could I at least submit ---

4 THE COURT - Well, done give it -- don't do the
5 normal stuff, because, you know, do the rest instead of
6 worrying about that, because I got the normal stuff. It's
7 the abnormal stuff that you might be ---

8 MR. SAWYER - That's exactly my ---

9 THE COURT - --- more inclined to do. Okay. Like
10 -- you know what I mean?

11 MR. SAWYER - Oh, yes.

12 MS. CAMPBELL - If we could just get a copy so we
13 can start -- just to expedite things.

14 THE COURT - Absolutely. I don't want anything
15 that you don't have. I want you to have it before I have,
16 in fact. All right, anything else?

17 MR. SAWYER - That's it.

18 THE COURT - Have a very please evening, everyone.
19 I'll see you in the morning at 9:00.

20 (Court in recess for the day at 5:25 p.m.)
21
22
23
24
25

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIFTH JUDICIAL CIRCUIT
 COUNTY OF RICHLAND) CASE NO.: 2012-GS-40-5298

STATE OF SOUTH CAROLINA)
)
 vs.) TRANSCRIPT OF RECORD
) DAY 3
 GERALD BERNARD HALTIWANGER) (458 - 687)

NOVEMBER 14, 2013
 COLUMBIA, SC

BEFORE THE HONORABLE DIANE GOODSTEIN

APPEARANCES:

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 COLUMBIA, SOUTH CAROLINA

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SHIRLEY BROOM
 16TH Circuit Court Reporter

I-N-D-E-X

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Chris Lindler				
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Brandon Rast			
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Kristina Nuttry			
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Harold Bouknight			
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1 THE COURT - I have two notes from my jurors this
2 morning. I have -- we'll, of course, mark these as Court's
3 Exhibits. One of the notes says on Friday, November the
4 15th, 2013 my son is having all four of his wisdom teeth
5 pulled at 7:45 Friday morning. Is it okay (sic) I can be
6 excused for Friday morning. I could have sworn that I
7 asked him was there anything else -- was there any reason
8 why they wouldn't be able to serve. We have that. And
9 then we have, Good morning, Judge, -- well, it was -- I am
10 confused about the testimony of one of the witnesses.
11 Thank you. Ta-dah. So, I - you know, with regards to the
12 jury who wants to be excused in the morning about her child
13 have her wisdom teeth -- or his wisdom -- I don't know --
14 I'm not quite sure why that wasn't brought up. I would've
15 brought it was. I don't know why it wasn't brought up. So
16 it seems to me that -- you can tell I'm not happy about it,
17 but aside from my not being happy about it, aside from the
18 fact that this juror absolutely should have disclosed that
19 early on, I don't know how I hold onto a juror whose child
20 is having surgery. I just don't think that appropriate,
21 but I'm not happy about it. So I guess -- and I don't want
22 to delay the trial while we go through, well, how long's
23 the surgery going to be etcetera, etcetera. Let me hear

1 from the State and then from the defense about what you
2 would propose to do about that issue.

3 MS. CAMPBELL - I think, Judge, I mean I agree
4 with you, if they're having surgery -- I agree that I don't
5 why they didn't bring it up before, but I don't think we
6 can delay the trial to have her excused for the morning.

7 THE COURT - Well, because -- I don't know -- we
8 don't know how long it's going to be. I mean then we're at
9 the mercy of the doctor, when is the doctor going to start
10 it. They have the child there at 7:45 in the morning.
11 They may choose to start at 11:00 and then it takes an hour
12 and then they will have the child in recovery for three --
13 we could be all day waiting on -- so even though she says
14 morning, she doesn't know if it's morning. But I'm fairly
15 irritated to be honest with you. That's why we ask the
16 question, and so I'm fairly irritated by the fact that the
17 juror didn't tell us that, but I'm not going to delay this
18 trial while we wait for some indeterminate time while these
19 events occur. I mean, counsel, let me hear from you about
20 that.

21 MR. SAWYER - We'll leave it your discretion,
22 Judge.

23 THE COURT - Thank you kindly. I just -- I'm just
24 -- I'm not happy about it. Now, with regards to the juror
25 who is confused, um -- I'm not going to engage in a

1 conversation. That at this point would be highly
2 inappropriate. What I intend to do is to tell the jurors
3 that testimony and evidence comes in one piece at a time
4 and that that is why I give them the instruction to listen
5 open-mindedly to everything, because it can only come in
6 one piece at the time, and that there may be points during
7 any trial when a juror may find less clarify there, but --
8 but that it all comes together, and that that's the nature
9 of a trial and that it simply shows that this particular
10 juror is simply paying attention, and so that that --
11 hopefully that laser-like attention must remain but that
12 testimony and evidence comes in one piece at the time and
13 that there's no -- I mean you can't give the whole picture
14 before you give the picture and it can only come in one
15 piece at a time, and that's the only way that I know to
16 address that. I'm not -- certainly not going to stop at
17 this point and say, well, gee whiz golly, who was it and
18 replay it or whatever. I mean we're not -- we're not going
19 there. I'm simply going to tell the jurors that that is
20 not uncommon, that it is the nature of the beast that it
21 comes in one piece at a time, and that's why it's
22 absolutely critical that jurors listen with riveted
23 attention to every moment of a trial. That's the way I
24 intend to handle that. Any concern about that on behalf of
25 the State?

1 MS. CAMPBELL - No, Your Honor. Do you have a
2 problem with us looking at the notes at some point?

3 THE COURT - You can look at them right now. Come
4 on. Come on forward. How about the defense?

5 MR. SAWYER - Your Honor, the only thing that we
6 just ask that you add is just remind them they're not
7 supposed to be deliberating or forming an opinion yet, so
8 obviously if they're confused it means that they're sort of
9 starting I guess to try to form an opinion about ---

10 THE COURT - In other words -- in other words you
11 want to be sure -- and I agree with you. You want to be
12 sure she's just sharing that with me and not everybody
13 else.

14 MR. SAWYER - Exactly, Judge.

15 THE COURT - Right. It's interesting because I
16 did -- recently I've had a jury that did to that and my
17 note as the jurors were leaving after deliberation was that
18 I needed to be clear that they can't talk amongst their
19 selves but I think I've told them that. I tend to nag, and
20 I think I've told them that several times, don't talk and
21 that means amongst yourselves, don't discuss this case. So
22 I think I've done that, but you're right, I think I'll do
23 that again. Yes, I agree. We want to be sure he or she is
24 just sharing with me. Yes. And I -- I don't -- now, let
25 me ask this question. The juror with the child having the

1 surgery tomorrow, I'm inclined to perhaps even at this
2 moment have that juror come out, do an examination, if
3 necessary excuse them and go ahead and seat the alternate
4 so that if there's any difference between how riveted the
5 alternate is, that whatever alternate becomes the juror,
6 that they're in it now. If I'm going to lose them
7 tomorrow, I might as well lose them today, seat the
8 alternate, let the alternate know you're now a juror. What
9 do you -- I want to hear from the State about that.

10 MS. CAMPBELL - Sounds greats.

11 MR. SAWYER - Yes, Your Honor.

12 THE COURT - Okay, very well. So I need juror
13 262.

14 (Juror number 262 enters the courtroom)

15 THE COURT - Good morning.

16 JUROR - Good morning.

17 THE COURT - All right, and you are juror 262. Is
18 that right?

19 JUROR - Correct.

20 THE COURT - And your son is having surgery in the
21 morning.

22 JUROR - (Indicating yes) 7:45.

23 THE COURT - At 7:45. I -- and I really asked if
24 for no other reason for my own edification going forward,
25 because I asked the question, was there any reason why a

1 juror would be concerned about the ability to serve as a
2 juror. Tell me why -- and really it's just to help me as I
3 go forward asking questions of jurors -- what I would have
4 needed to ask to elicit that information when we were
5 qualifying our jury for this trial to get that from you
6 then.

7 JUROR - I kind of thought that -- I tried to work
8 it out with my mother to see if she could do it, if she
9 thought that she would be able to do it, but she has to go
10 to South Carolina (sic) on call.

11 THE COURT - How kind. That was so kind.

12 JUROR - So that's why. So that's why I ---

13 THE COURT - In other words you tried -- oh, how
14 kind.

15 JUROR - Oh, yes, I tried. That's why I didn't --
16 thought it was going to be worked out.

17 THE COURT - So it was your intention to stay with
18 us.

19 JUROR - Oh, yes. I was trying to work it out.

20 THE COURT - How kind. All right, and of course
21 you are one of our alternates.

22 JUROR - Yes.

23 THE COURT - And ---

24 JUROR - I mean I can just -- I don't know how
25 long the jury will last.

1 THE COURT - I know.

2 JUROR - They say it shouldn't last long. I mean

3 ---

4 THE COURT - I know that but you -- you know what,
5 if I've learned anything about -- you never know, and you
6 know that.

7 JUROR - (Indicating yes)

8 THE COURT - You could show up thinking your son's
9 procedure is going to start at 7:45 and it ends up being
10 11:45. You never know.

11 JUROR - Right. You right.

12 THE COURT - So I think what's appropriate is to
13 thank you so much for trying to work that out.

14 JUROR - Oh, yes, I did. (Indicating yes)

15 THE COURT - And I understand perfectly your
16 circumstance and what I would do though, I think at this
17 point is to go ahead and just excuse you at this point
18 because you're not in control how long it's going to take.

19 JUROR - Right.

20 THE COURT - If -- you know, if it was going to be
21 9:30, we could do that, but you don't know that.

22 JUROR - Right.

23 THE COURT - There's no way for you to control it.

1 JUROR - Yes, because I was going to try to go and
2 then try to get back by 9:00 and see if somebody else can
3 be there with him to bring him home.

4 THE COURT - That's so kind. That's so kind of
5 you to do that.

6 JUROR - I was trying to work it out hard.

7 THE COURT - That's so kind of you to do that.

8 JUROR - Yes.

9 THE COURT - But you know if something -- if
10 something happened we would all feel just awful, so I'm
11 going to thank you so much for your service ---

12 JUROR - Oh, okay.

13 THE COURT - --- and you take with you our
14 heartfelt gratitude ---

15 JUROR - Thank you so much.

16 THE COURT - --- and I wish your son good luck.

17 JUROR - Me too.

18 THE COURT - Absolutely. Well, I'm sure with your
19 tender-loving care he's going to do fine.

20 JUROR - Oh, yes.

21 THE COURT - And just -- and ice cream and
22 whatever else he wants that won't hurt his back ---

23 JUROR - Yes.

24 THE COURT - Thank you so kindly.

25 JUROR - Thank you.

1 THE COURT - Yes, ma'am. Thank you. And Pat's
2 telling me what she needs to tell you.

3 DEPUTY CLERK - Just report downstairs and turn in
4 your name badge and if you need a work excuse, she'll get
5 you one.

6 JUROR - Thank you so much.

7 THE COURT - All right, thank you kindly. And
8 then we'll have the jury.

9 MS. WALKER - Your Honor, before the jury comes in
10 -- can I ask one thing before the jury comes in?

11 THE COURT - Yes.

12 MS. WALKER - The Court Reporter said that the
13 Advice of Rights was not admitted into evidence. I thought
14 -- it was not?

15 THE COURT - Hold on one second?

16 MS. WALKER - Okay, thank you, Your Honor.

17 THE COURT - It was not. I made a note
18 interestingly enough when that happened that it was --
19 actually it was not.

20 MS. WALKER - Okay.

21 MR. SAWYER - And, Your Honor, I just have a
22 couple of quick things for this morning.

23 THE COURT - Sure.

24 MR. SAWYER - They did give me the jail phone
25 calls. I had an opportunity to listen to them.

1 COURT REPORTER - Could you speak up?

2 MR. SAWYER - Yes, ma'am. They did give the jail
3 phone calls. Had an opportunity to listen to them. We're
4 fine with them coming in without authentication. So they
5 don't have to call their record-keeper from Alvin S. Glenn.
6 Then Ms. Campbell just disclosed I guess additional
7 evidence last night they had talked with two of other
8 witnesses, just if you want to let her know what you told
9 me, just ---

10 MS. CAMPBELL - Basically I talked to Mr. Lee. He
11 -- his testimony would be exactly the same as what was in
12 the statement except that he doesn't recall seeing -- he
13 says he didn't see the part about him getting hit -- that
14 sentence, that part of his statement. He didn't see what
15 happened next door. In addition to that, Your Honor, I did
16 talk to Kristina Nuttry, and she said she saw the shots
17 coming from the car but she couldn't see who was in the car
18 shooting.

19 MR. SAWYER - Okay.

20 MS. CAMPBELL - That's the extent of any little --
21 or any variation at all -- that -- and I just talked to
22 those two witnesses. One mid-day yesterday afternoon, and
23 one last night so I could I turn it over now.

24 THE COURT - Thank you.

25 MR. SAWYER - And that's all from me, Your Honor.

1 THE COURT - Thank you both very, very much.

2 Okay. Anything else?

3 (No response)

4 THE COURT - No, no? Now, I have the jury.

5 (WHEREUPON, NOTES ARE MARKED AS COURT'S EXHIBITS
6 1 AND 2.)

7 (Jury returns to the courtroom)

8 BAILIFF - Jury is seated, Your Honor.

9 THE COURT - Thank you so much. Now, ladies and
10 gentlemen, I have a note from one of you and it is
11 addressed to me, and I'm going to try to in general terms
12 respond. Now, the first thing that I wanted to remind each
13 and every one of you is that during the course of the trial
14 until I give you a specific instruction to begin your
15 deliberations, you must not discuss this matter with anyone
16 to include your fellow jurors. So I want to remind you of
17 that. That is absolutely critical. We went over those
18 reasons the other day and the reason, of course, for those
19 reasons is that because when we begin to discuss something
20 we begin to make up our minds about it. You must not make
21 up your mind about anything until you have heard all of the
22 evidence, the arguments of counsel and then my charge on
23 the law. You must not discuss this matter with anyone to
24 include your fellow jurors, your family, your friends or
25 anyone that has anything to do with this matter. I want to

1 emphasize that. Now, I want to remind you that evidence
2 comes into a trial one piece at the time. That happens
3 throughout the trial. It is impossible to give to a jury
4 everything, the whole picture, and then go back and then
5 give it to them piece by piece by piece. So I'm a little
6 bit excited about the note that I received, because it says
7 to me that my jurors are paying riveted attention. I want
8 to encourage you in every way that I know to give to these
9 matters your absolute undivided attention. I would like to
10 observe that that's what you are doing, because while I try
11 not to look at a jury and I really do that intentionally,
12 because I wouldn't want my -- maybe I had too much lunch or
13 something and I have an expression, and I wouldn't want
14 that expression from my face to be communicated to you and
15 you take that as being a comment on the facts, even by my
16 facial expression. So I don't look at jurors. I don't
17 stare at jurors, but every once in a while I do a little
18 peaky peak to be sure that you can see; if there's a board,
19 I want to be sure you're able to see, or I'll do a little
20 peaky peak to be sure that folks are paying attention.
21 Y'all have been riveted, and for that I am so incredibly
22 grateful. So hang tight, keep with it, keep listening.
23 Understand that there are going to be moments that you're
24 going to go (indicating gesture). Pay attention. These
25 lawyers, they will -- they can only do it the way they can

1 do it, and that is to present to you pieces of evidence
2 moment by moment, piece by piece. And so let me just
3 assure you that the fact that you may find yourself
4 intellectually a little frustrated from moment to moment,
5 it's okay. It's normal. It's normal because of the --
6 because, if you will, that is what a trial -- that is how
7 it is done. Evidence can only come in piece by piece.
8 That's why I gave that instruction as we began to please
9 give to this trial your undivided attention. You've been
10 doing that. For that I am grateful. Just hang with it.
11 Hang with it. But I did want to remind you that you must
12 not discuss this matter with anyone to include your fellow
13 jurors and that would be very difficult, but you have to --
14 you have to keep that in mind, and the reason for it is to
15 leave you with yourself, to leave you with your own
16 processing capabilities, your own mind as you listen to
17 these matters, and all I can tell you it's worked like
18 magic for two hundred plus years in this country, and I got
19 no reason to think it's going to be different in this
20 trial. So just keep to your own counsel, listen
21 attentively, do not let your thoughts wander, give the
22 riveted kind of attention to this trial that you have been
23 doing, and I am satisfied that at the conclusion of all of
24 the evidence and the arguments of counsel and my charge on
25 the law, then you will be in a position at that time to

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1 deliberate and to render a true and just verdict. I have
2 no question of your ability to do that, ladies and
3 gentlemen. But at this moment -- at this moment, what you
4 just do is to give to these witnesses, to the Court, to
5 these attorneys your undivided attention. Any objection or
6 addition from the State to those comments?

7 MS. CAMPBELL - None, Your Honor.

8 THE COURT - From the defense?

9 MR. SAWYER - None, Your Honor.

10 THE COURT - Ladies and gentlemen, at this time we
11 will continue with the State's case. Please call your next
12 witness.

13 MS. WALKER - Your Honor, the State calls Dr.
14 Bradley Marcus.

15 THE COURT - Very well.

16 DR. BRADLEY MARCUS, AFTER BEING FIRST DULY SWORN,
17 TESTIFIES AS FOLLOWS -

18 DEPUTY CLERK - Thank you. Please have a seat in
19 the witness stand, and state your full name for the record
20 and please spell your last name.

21 DR. MARCUS - Dr. Bradley J. Marcus, M-a-r-c-u-s.

22 THE COURT - Your witness.

23 MS. WALKER - Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MS. WALKER -

1 Q Good morning, Dr. Marcus. Where are you currently
2 employed?

3 A I'm employed at Professional Pathology Services here
4 in Columbia. It's a private practice pathology group.

5 Q And what do you do at Pathology Services?

6 A I'm basically -- I'm a pathologist. I do -- I do
7 autopsies. I look at pap smears, and I look at any
8 surgical specimen that comes from somebody's body, like a
9 breast biopsy, you know, colon cancers, breast cancers. I
10 look at that under the microscope and make diagnosis so
11 they can then be treated by an oncologist and so forth like
12 that.

13 Q And how long have you been doing that?

14 A I've been doing this for -- doing the private practice
15 for five years.

16 Q And can you tell us about any specialized training or
17 education that you have in the field of forensic pathology?

18 A Yes. I went to medical school. After medical school
19 I spent six years down at the Medical University of South
20 Carolina. That's called residency and fellowship training
21 where I learned -- I was a doctor but then I learned to
22 become a pathologist. Okay? So it took six years. During
23 that time I worked with pathologist looking at specimens,
24 cases, doing hundreds and hundreds of autopsies. After
25 that six years was up, I did that, I actually then sat and

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1 took my board examinations in pathology. I took several --
2 several board exams. I'm actually certified in four --
3 board certified in four aspects of pathology. I took an
4 exam for anatomic pathology. So I'm board certified in
5 that. I'm board certified in clinical pathology which
6 deals with blood and, you know, all the chemistries, you go
7 get a blood test -- a doctor has to run that lab, so I'm
8 board certified in that. I'm also board certified in
9 forensic pathology and also in cytopathology which is
10 looking at the pap smears.

11 Q And have you been qualified as an expert in forensic
12 pathology before?

13 A Yes.

14 Q How many times?

15 A Approximately 20 to 25 times.

16 MS. WALKER - Your Honor, at this point we offer
17 Dr. Marcus as an expert in forensic pathology.

18 THE COURT - Is there any voir dire?

19 MR. SAWYER - No, Your Honor.

20 THE COURT - Any objection?

21 MR. SAWYER - No, Your Honor.

22 THE COURT - So qualified.

23 MS. WALKER - Thank you, Your Honor.

24 Q When you perform an autopsy, can you explain to the
25 jury how that works?

1 A Sure. So in Richland County and all of South Carolina
2 there is a coroner system. So the coroner investigates any
3 sudden and unexpected deaths. Now, the coroner is not a
4 medical doctor. He's just -- he's the elected official and
5 he -- that's his department. He investigates any sudden
6 and unexpected deaths. In this case, Richland County
7 Coroner, Gary Watts, he has hired our group, particularly
8 me and my colleague to do all forensic cases of all of
9 Richland County. So basically I was notified of an autopsy
10 to perform, a forensic autopsy to perform here in this case
11 by a deputy coroner involving a shooting.

12 Q And did you, in fact, perform the autopsy of Jimmy
13 Moti?

14 A I did. I did. I was notified by a deputy coroner,
15 Jim Reese, of a shooting, and I sat up the autopsy for the
16 following day at 8:30 a.m. on August 27th, 2012.

17 Q And where was the autopsy done?

18 A Autopsy was performed at Palmetto Health Richland
19 Hospital in the morgue in the basement.

20 Q Is that where y'all usually do autopsies?

21 A Yes, that's where all the Richland County autopsies
22 are performed.

23 Q Can you walk the jury through the initial steps of the
24 autopsy?

1 A Sure. What happens in an autopsy is the body arrives
2 and generally I'm there in the room while another coroner's
3 assistant is with me and law enforcement are with me, and
4 then we open the body bag and we see how the body arrived,
5 and during this time photographs are taken and so forth.
6 So then I'm basically -- I'm -- sometimes the victims come
7 in unclothed; sometimes they have clothing on; so I
8 document if they have clothes on and so forth, whether
9 they're unclothed. And then from there I start the process
10 of, you know, identifying and make sure this is the body,
11 you know, this is the one. Usually it's on the body bag,
12 the name. From there I then go and I start looking for any
13 injuries or lack of injuries and I make -- while the
14 coroner's assistants and the police that are there in the
15 autopsy room are -- are taking photos, I'm actually
16 documenting everything in a diagram just in case something
17 happens with the photos, they get lost. In the old days
18 with 35 millimeter film, I've been the victim of the film
19 being exposed, so I have to have a diagram to back up
20 everything that I see. And from there I deduce if there's
21 any injuries and so forth on the body, and then I start
22 from there.

23 Q And is that what you did in this case?

24 A That's what I did in this case, yes.

1 Q And when Mr. Moti arrived, was he clothed or
2 unclothed?

3 A My understanding was that he was unclothed because he
4 was -- had been in surgery.

5 Q And your initial examination, I guess the overview
6 that you do of the body to look for injuries and things
7 like that, can you describe how Mr. Moti presented?

8 A Yes, Mr. Moti presented with a lot of evidence of
9 resuscitation efforts, such as he had a neck collar on; he
10 had a sutured surgical incision going along his front
11 abdomen area. He had multiple IV lines in his body. He
12 had a foley catheter in his -- going into his bladder,
13 blood pressure cuff on his arm, so it had looked -- it
14 appeared that Mr. Moti had actually been aggressively
15 resuscitated and had had surgery, because there was a
16 sutured surgical incision along his abdomen. So -- and
17 then in addition to that I noticed two wounds on his body
18 that were consistent with a gunshot wound.

19 Q And did you note those on the diagram that you
20 discussed earlier with the jury?

21 A Yes, I did. I did note that.

22 Q Dr. Marcus, I want to show you State's Exhibit 81 and
23 ask you if you recognize this?

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1 A Yes, that's a -- an enlarged diagram that I made
2 during the autopsy. This was the one and that's just
3 blown-up.

4 MS. WALKER - Your Honor, at this point the State
5 seeks to admit Exhibit 81 into evidence.

6 THE COURT - Any objection?

7 MR. SAWYER - No objection.

8 THE COURT - Without objection.

9 MS. WALKER - Your Honor, may the witness step
10 down?

11 THE COURT - Yes.

12 (WHEREUPON, DOCUMENT MARKED INTO EVIDENCE AS
13 STATE'S EXHIBIT NUMBER 81.)

14 Q If you'll get on this side of me, Dr. Marcus, and
15 speak back towards the court reporter so she can hear you.

16 A No problem.

17 Q With the diagram can you explain to the jury the
18 things that you just told them?

19 A Sure. So when the body arrives in the room -- again,
20 the police were taking photographs -- I do a diagram. This
21 is -- you know, it's old school but this is the way I do
22 things, so basically general things, your weight, length,
23 temperature, his eyes and so forth like that, but basically
24 this is the diagram that I make, anything I see on his
25 body, so for instance I had said he had foley urinary

1 catheter, that's the tube there. I had said he had a neck
2 collar. I wrote that. He had an endotracheal tube going
3 into his throat; he had a nasal-gastric tube going up his
4 nose into his stomach. He had an IV going here; he had an
5 IV here; he had an IV here; he had an IV right there. He
6 had these tags on that said trauma. That's pretty typical
7 of someone comes into the ER, you know, wouldn't know their
8 name and all that's -- they are given a trauma number, get
9 a medical record number on them. This here was a blood
10 pressure cuff still attached to his left arm. Here I
11 notice there's a tattoo. Multiple punctures in this area,
12 which that indicates to me that someone -- the -- one of
13 the doctors was trying to get a subclavian line in there.
14 I mean they can be -- tend to be a little tricky, so you go
15 in multiple times until you get the line.

16 Q What exactly is a subclavian line?

17 A It's a -- it's just a line that you want to dump
18 fluids in them. It's a large bore catheter and they can
19 dump fluids -- they can actually run a liter of fluid in
20 very fast if need be, but he had one -- they gave up on
21 that side and they got one in right here on the other side,
22 which is pretty classic the way it worked. And then I
23 noticed that there's a -- this is that sutured surgical
24 incision right along the abdomen here, and then I notice a
25 hole right there, and then I noticed another hole right

1 there. Those two right there are correspondent -- those
2 are the -- that's a gunshot wound, one being the entrance
3 and one being the exit wound.

4 Q Were you able to determine which gunshot wound was the
5 entrance wound and which one was the exit wound?

6 A I was.

7 Q And how did you do that?

8 A Okay, so I basically -- before I -- once I saw the
9 holes down in him, like that, the nother (sic) thing I do
10 to make sure I don't miss anything is I take an x-ray of
11 the body to make sure that there's no bullets left in
12 there, because sometimes the bullets will go in; they can
13 break apart, part of it exits and so forth, so I took an x-
14 ray and -- to make sure that there's no bullet left in him,
15 and there wasn't. Okay? So then I determined from these
16 gunshots which is the entrance and which is the exit.
17 Okay, and that tends to be pretty easy; sometimes it can be
18 tricky, but it tends to be pretty easy. So but basically
19 what happens is when I bullet gets fired out of a weapon,
20 it's spinning at a very, very -- spinning. Okay? And when
21 that bullet goes into the skin, it can make a very
22 characteristic abrasion, because the skin is soft. Think
23 of skin being soft. It goes in; the bullet's spinning at a
24 high rate of speed and it goes in and it makes a very
25 characteristic abrasion on the skin. Sometimes you don't

1 get an abrasion, but most of the time you do, and it's very
2 characteristic, and that tells me that a bullet was shot
3 straight at that point and struck something, made an
4 abrasion. With an exit wound though, once that bullet
5 strikes any type of object, your body, glass or anything
6 like that, it changes the ballistics of the bullet. The
7 bullet can then not -- it won't be spinning perfectly like
8 it's supposed to. It could be wobbling; it could be
9 tumbling, and then the exit wounds tend to be different
10 looking. You don't get that abrasion on it. Sometimes you
11 do -- you -- sometimes you can in certain circumstances,
12 but you just don't get that abrasion on it, so that's the
13 way I'm able to determine entrance and exit wounds by the
14 way the wounds look, and again, it's something that takes
15 experience. All right? It just takes experience to
16 understand what you're looking at.

17 Q So they're visually different?

18 A Yes, they're visually -- they're different. They can
19 look every similar, but again that's where experience comes
20 into play.

21 Q And in this case, which one was the entrance wound and
22 which one was the exit wound?

23 A The entrance wound appeared to be right here. Gunshot
24 wound A. This right here was gunshot wound B. Again,

1 they're labeled for identification purposes only. All
2 right?

3 Q So -- so he was shot in the back?

4 A Yes. This was the entrance wound. The bullet entered
5 the body right here, and a bullet then exited right about
6 there, right about here. Okay, then you're shot -- again,
7 this is not to scale, so right about in this region about
8 here.

9 Q Regarding -- you mentioned doing x-rays to see if you
10 could find bullets that may remain in the body. Did you
11 find any projectiles or bullets in Mr. Moti?

12 A No, there were no bullets or projectiles in him which
13 makes perfect sense, because I have an entrance wound and
14 an exit wound.

15 Q And is it uncommon not to be able to find a projectile
16 or a bullet inside someone who's been shot?

17 A Right, that's -- it's not uncommon. Basically I x-ray
18 the entire body. The gunshot wounds all have to -- at the
19 end of the autopsy everything has to make perfect sense.
20 If it doesn't, I'm missing something; there's a bullet
21 someone in their body, and again, bullets are a lot easier
22 said than done to get out of a body, so I -- I'm very, very
23 cautious about this.

1 Q I want to show you State's Exhibit 62. This is a vest
2 that the victim was wearing that night. Have you seen this
3 before?

4 A I saw it just 30 minutes ago here for the first time.

5 Q And the perforation in the vest, were you able to note
6 those when you looked at it?

7 A I did.

8 Q And can you show the jury where those are?

9 A Okay, so -- can I hold this ---

10 Q You want me to put it on?

11 A I'll put it on.

12 Q Okay.

13 A Actually, you put it on. That'll be actually better.
14 And if you could zip it up, that'd be good, too.

15 Q Give me one second.

16 A Okay, so back of the vest here -- you see this little
17 fraying area right here? That's where a bullet -- that's
18 from a gunshot wound. That right there corresponds to that
19 area right there. Okay? Then we have right here --
20 there's another hole right here just left of the zipper
21 area. That looks like the exit wound right there, and that
22 corresponds to that gunshot wound right there.

23 Q And Mr. Moti was how -- how tall?

24 A He's got a length of 69 inches, 5 foot 9.

25 Q And how much did he weigh?

1 A He weighed approximately 155 pounds.

2 Q And the -- the holes in this vest, do they correspond
3 with what you found on Mr. Moti?

4 A They do.

5 Q You can take the witness stand.

6 (WHEREUPON, MR. MARCUS RE-TAKES THE WITNESS
7 STAND)

8 Q After documenting all of what we just went over, what
9 else did you do during this autopsy?

10 A I obtained toxicology. The next thing to do is we get
11 the blood -- blood out of him. Let me see -- I didn't need
12 to get blood out of him. What happened was, when he went
13 to the -- came to the hospital, someone had done a blood
14 draw on him, so in that case that's our best blood, because
15 the fact is that when he was being aggressively
16 resuscitated, they gave him red blood cells, so that would
17 give us kind of spurious results in my opinion, so in that
18 case we had the admission blood before he got packed red
19 blood cells. Okay? We had the admission blood already, so
20 the coroner's office obtained that blood and that's what
21 they sent off for toxicology testing.

22 Q And what were the results of the toxicology testing?

23 A Basically on him it was completely negative, no
24 ethanol, no alcohol in his blood at all and no drugs of

1 recreational abuse or appeared to be no prescription meds
2 from what I could tell. You know, it was all negative.

3 Q And were you able to -- did you note anything else
4 during the autopsy in terms of Mr. Moti's health?

5 A Yes, he had -- he had a heart defect. Okay? He had a
6 heart defect that I noticed in his chest. It was called a
7 ventricular septal defect in his heart. Okay? So I --
8 Palmetto Health Richland has a heart hospital there, so I
9 figured if this guy was in Richland County there was a
10 chance he might've gone to, you know, Richland Hospital to
11 get treated sometimes, so what I did was I went into his
12 medical records, and sure enough, yes, he had been treated
13 at some point at Richland, so I was able to read about his
14 heart -- his heart issues, and he had a syndrome called
15 Eisenmenger Syndrome. Okay? And it's congenital. He was
16 born with it. Okay? And so what happened here is
17 basically in his heart, the heart is basically -- you know,
18 the muscle that pumps all the blood in the body, he had a -
19 - basically a hole in his heart between the left ventricle
20 and the right ventricle. So basically -- is there any way
21 I can draw on this board ---

22 Q Yes, sir.

23 A --- to try and explain this to you?

24 MS. WALKER - Your Honor, may the witness step
25 down again?

1 THE COURT - He may. Sort of step up beside the -

2 --

3 MS. WALKER - Yes, Your Honor.

4 A Okay, so I'm going to make this really simple. To
5 think of the heart being in four boxes, four boxes and
6 making four -- these are the chambers of the heart. You've
7 got the atrium's are up here; the ventricles are down here.
8 The atrium's receive blood from the top of the heart. So
9 this is the heart. Again, it's not square; it's round, but
10 I'm just - for simplistic sake, say here. From here the
11 atriums receive blood; unoxygenated blood goes here, gets
12 pumped into the lungs. Okay? Then it comes back into the
13 -- into this atrium, then it goes down into the -- into the
14 left ventricle here, which pumps the blood. This is the
15 left ventricle. It's very thick. It's a very thick wall
16 muscular tissue right here. All right? And it pumps the
17 blood to your entire body, the left ventricle does. But
18 basically this -- this -- there's a chamber here. This
19 should be closed all the way. Mr. Moti did not have that.
20 He had a defect in this heart and he had a hole right here.
21 So what you have is you have oxygenated blood here. It
22 mixes with the unoxygenated blood that's going to the
23 lungs. This ventricle pumps into the lungs and then it
24 comes back to that ventricle, so basically he had a mixing
25 of oxygenated and unoxygenated blood, so he would have some

1 problems, you know, with -- with being -- turning almost
2 blue in color, because he'd get lack of oxygen. The
3 problem with this syndrome is that -- we really don't see
4 this syndrome anymore because it's corrected at -- these
5 types of defects are noted at the -- when the baby's in the
6 womb. If you do an ultrasound you can see these things and
7 they're corrected immediately. But in this case he was
8 living with this. He was functional and living with his --
9 with his congenital heart defect. But over time what
10 happens is the blood eventually goes this way. If it
11 starts going that way, the unoxygenated blood starts going
12 into the heart this way, and what that happens does is
13 (sic) this becomes a very high pressure system also here
14 and basically it leads to very high blood pressures in the
15 pulmonary -- in the -- in the chest, in the lungs. Okay?
16 So eventually both these ventricles are very large, because
17 they're pumping under very high pressure and eventually --
18 this heart would've failed eventually. There's no question
19 about it. Mr. Moti was able to live with this defect for
20 many, many years, many years. I think that -- hopefully
21 that explains things a little better, but I have a feeling
22 I might've confused you more.

23 Q Well, let me ask you this. Did this contribute to his
24 death?